



NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Regular City Council Meeting** will be held by the governing body of the City of Burnet on the **27th day of June, 2023**, at **6:00 p.m.**, in the City of Burnet Council Chambers located at 2402 S. Water Street (Hwy. 281 South, Burnet Municipal Airport) Burnet, TX.

The City of Burnet City Council Meeting will be available for live viewing via the following media connections.

City of Burnet Facebook Page: <https://www.facebook.com/cityofburnet>

City of Burnet Website via Zoom as follows:

<https://us02web.zoom.us/j/81278669602>

Or One tap mobile :

US: 8778535257,,81278669602# (Toll Free) or 8884754499,,81278669602# (Toll Free)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: 877 853 5257 (Toll Free) or 888 475 4499 (Toll Free)

Webinar ID: 812 7866 9602

International numbers available: <https://us02web.zoom.us/j/81278669602>

The Zoom connection is a live broadcast viewing option only. The option for comments will not be available.

This notice is posted pursuant to the Texas Government Code, Chapter §551-Open Meetings.

The following subjects will be discussed, to wit:

CALL TO ORDER:

ROLL CALL:

INVOCATION:

PLEDGES (US & TEXAS):

1. CONVENE TO DANGEROUS STRUCTURE BOARD OF APPEALS:

1.1) City Council shall recess from its regular meeting session and convene as the Dangerous Structure Board of Appeals to conduct a public hearing and consider whether the building located at 300 N. Water Street, Burnet Texas is a dangerous structure. The hearing shall be conducted as follows:

A) Staff Presentation: B. Lee

B) Public Hearing: To receive comments and testimony from the property owner, and other interested parties.

C) Discuss and consider action: An Order of the Dangerous Structure Board determining whether the building located at 300 N. Water Street, Burnet Texas, is a dangerous structure.

2. RECONVENE TO REGULAR SESSION:

3. SPECIAL REPORTS/RECOGNITION:

3.1) May 2023 Financial Report: P. Langford

3.2) Fire Department Quarterly Report: M. Ingram

4. CONSENT AGENDA: *(All of the following items on the Consent Agenda are considered to be self-explanatory and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Council when the Consent Agenda is opened for Council action.)*

4.1) Approval of the June 13, 2023 Council Regular Meeting minutes

4.2) Approval of the June 13, 2023 Council Workshop Meeting minutes

5. PUBLIC HEARINGS/ACTION:

5.1) Public hearing and consideration of the following items:

A) SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF ESTABLISHING THE FOLLOWING NEW RESIDENTIAL SINGLE-FAMILY ZONING CLASSIFICATIONS: "R-1-17"; "R-1-10"; "R-1-4"; "R-1-4E"; "R-1-3"; "R-1-3E"; "R-1-2"; AND "R-1-2E: D. Vaughn

(1) Staff Presentation:

(2) Public Hearing:

(3) Consideration and action:

6. ACTION ITEMS:

6.1) Discuss and consider action. SECOND AND FINAL READING OF A RESOLUTION BY THE CITY COUNCIL AUTHORIZING THE CONSTRUCTION OF A HOTEL AT THE CROSSING AT 281 SUBDIVISION AS A PROJECT THE BURNET ECONOMIC DEVELOPMENT CORPORATION MAY INCENTIVIZE THROUGH A PERFORMANCE AGREEMENT WITH THE HOTEL DEVELOPER: D. Vaughn

6.2) Discuss and consider action: SECOND AND FINAL READING OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS APPROVING THE CONSTRUCTION OF PUBLIC RESTROOMS ON THE PUBLIC PARKING LOT OWNED BY THE BURNET ECONOMIC DEVELOPMENT CORPORATION AS A PROJECT UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT AND APPROVING A CHAPTER 380 AGREEMENT WITH SAID CORPORATION TO PROVIDE THE FUNDING FROM HOTEL OCCUPANCY TAX REVENUE AND THE GENERAL FUND REVENUE TO COMPLETE THE PROJECT TO PROMOTE THE CREATION OF JOBS AND NEW AND EXPANDED BUSINESS OPPORTUNITIES IN THE CITY OF BURNET: D. Vaughn

6.3) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCE TO RECODIFY HISTORIC PRESERVATION REGULATIONS IN CHAPTER 118 (ENTITLED "ZONING") AND MAKING SUBSTANTIVE REVISIONS TO ESTABLISH THE POSITION OF HISTORIC PRESERVATION OFFICER TO ADMINISTER THE REGULATIONS AND ESTABLISHING A CERTIFICATE OF APPROPRIATENESS PERMIT FEE; MAKING REVISIONS TO CITY CODE CHAPTERS 2 (ENTITLED "ADMINISTRATION") AND CHAPTER 22 (ENTITLED "SIGNS") TO COMPORT WITH THE RECODIFICATION; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: C. Pearson

6.4) Discuss and consider action: SECOND AND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED SINGLE-FAMILY RESIDENTIAL – DISTRICT "R-1", LOCATED AT THE CORNER OF EAST BRIER LANE AND NORTH WOOD STREET, LEGALLY DESCRIBED AS: LOT 3-A, BLOCK 11, PETER KERR DONATION, WITH DUPLEX – DISTRICT "R-2": L. Kimbler

6.5) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF

THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED HEAVY COMMERCIAL – DISTRICT “C-3”, LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION, WITH LIGHT COMMERCIAL – DISTRICT “C-1”: L. Kimbler

6.6) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 AND THE OFFICIAL FUTURE LAND USE MAP OF THE CITY BY ASSIGNING THE PROPERTY LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES FROM ITS’ CURRENT DESIGNATION OF “AGRICULTURE” TO A DESIGNATION OF “GOVERNMENT”:
L. Kimbler

6.7) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED LIGHT COMMERCIAL– DISTRICT “C-1” AND AGRICULTURE – DISTRICT “A” LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES WITH GOVERNMENT – DISTRICT “G”:
L. Kimbler

6.8) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 98 (ENTITLED “SUBDIVISIONS”), BY AMENDING THE REQUIREMENT FOR BUILDING SETBACK LINES ON PLATS:
L. Kimbler

6.9) Discuss and consider action: Authorization and approval to purchase Sig Pro P320 handguns and related equipment:
B. Lee

6.10) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING A LETTER OF INTENT WITH CAREFLITE TO GROUND LEASE PROPERTY AT THE BURNET MUNICIPAL AIRPORT:
A. Feild

6.11) Discuss and consider action: Appointments to the Burnet Police Department Citizen Advisory Board:
K. Dix

6.12) Discuss and consider action: Burnet Economic Development Corporation (BEDC) board appointments:
K. Dix

6.13) Discuss and consider action: Appointment of members to the Burnet Airport Advisory Board:
K. Dix

6.14) Discuss and consider action: Appointment of members to the City of Burnet Planning and Zoning Commission:
K. Dix

6.15) Discuss and consider action: Appointment of members to the Burnet Historic and Preservation Board: K. Dix

6.16) Discuss and consider action: Appointment of members to the City of Burnet Zoning Board of Adjustments: K. Dix

6.17) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING AMERICAN RESCUE PLAN ACT GRANT (ARPA) FUNDING FROM THE FEDERAL AVIATION ADMINISTRATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION - AVIATION DIVISION; AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS AND TAKE ACTIONS TO FACILITATE SUCH ACCEPTANCE: A. Feild

6.18) Discuss and consider action: A RESOLUTION by THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH GRECO CONSTRUCTION, INC., FOR THE HILL COUNTRY CHILDREN'S ADVOCACY CENTER BUILDING AS A COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT: D. Vaughn

6.19) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE PLACEMENT OF ELECTRIC CONDUIT FOR FUTURE DEVELOPMENT OF CREEKFALL SUBDIVISION PHASE THREE AND FOUR AND THE ABUTTING R-3 ZONING CLASSIFICATION PROPERTY: D. Vaughn

5. REQUESTS FROM COUNCIL FOR FUTURE REPORTS: In accordance with Resolution 2020-28 Council Members may request the City Manager to prepare and present future reports on matter of public interest.

6. ADJOURN:

Dated this 23rd day of June, 2023

City of Burnet

Mayor Gary Wideman

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the governing body of the above named City, BURNET, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on June 23rd, 2023 at or before 6 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said meeting.

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City of Burnet Council Chambers is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.

RIGHT TO ENTER INTO EXECUTIVE SESSION:

The City Council for the City of Burnet reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code 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) and 551.087 (Economic Development).



Police Department

ITEM 1.1

Brian Lee
Chief of Police
512-756-6404
blee@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Discuss the City Code violations at the property located at 300 N. Water and provide direction to staff on how to proceed with enforcement action: B. Lee.
- Background:** On December 5, 2022, the building operated as Reagor Air Conditioning located at 300 N. Water street was destroyed by a catastrophic fire. Since that time, Code enforcement has noticed the current owners about the code violations. On 5/11/23 the city caused an inspection of the property due to the unsafe condition that was conducted by ATS engineers. Dondi Atwell of ATS inspected the property and determined the property was unsafe and should be barricaded from entry immediately until it is made safe. The structure has multiple issues that make it an unsafe structure that need to be addressed. The structure has been marked and secured and to this date no efforts have been made by the owners to mitigate the damage to the building.
- Information:** Dangerous structures fall under the purview of City Code Sec. 22-77. Pursuant to the section, City Council, after notice and hearing can adjudicate a structure to be dangerous, order its repair; and if not repaired in thirty days (or up to ninety days at Council's discretion) order its demolition. In this case staff feels the structure is in such a state of disrepair and the owners will not make the necessary repairs.
- Fiscal Impact** Should demolition be ordered the costs can be significant. The City can seek to recoup those costs from the property owners. And if payment is not made the City can lien the property.
- Recommendation:** Open Public Hearing



TBPE FIRM REG. #2487
TBPLS FIRM REG. #10126000

4910 West Hwy 290
Suite 300
Austin, Texas 78735
512.328.6995
512.328.6996. Fax

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& Plan Reviewers

Energy Code Consulting
& Inspections
Green Building Consulting
& Certification

Construction Consulting

To: City of Burnet
Attn: Leslie Kimbler
Re: Structure Fire
300 N. Water Street
Burnet, TX 78611

May 11, 2023

I Dondi Atwell, inspection department manager with ATS Engineers, Inspectors and Surveyors, performed a site inspection at 300 N. Water Street Burnet, TX 78611 on May 11, 2023.

The scope of this inspection was to determine life/safety and the general condition of the structure due to a recent fire.

This structure has suffered severe fire damage. Support columns, steel beams and purlins have melted with severe deflection, and some collapsed. Numerous wooded structural roof, ceiling, floor, and wall sections are severely damaged and or collapsed.

This structure is not safe. ATS recommends that this structure be barricaded from entry immediately until it is made safe.

Sincerely,

Dondi Atwell
Inspection Department Manager
Mobile 512-748-4986







Dangerous Structure

300 N. Water

Timeline

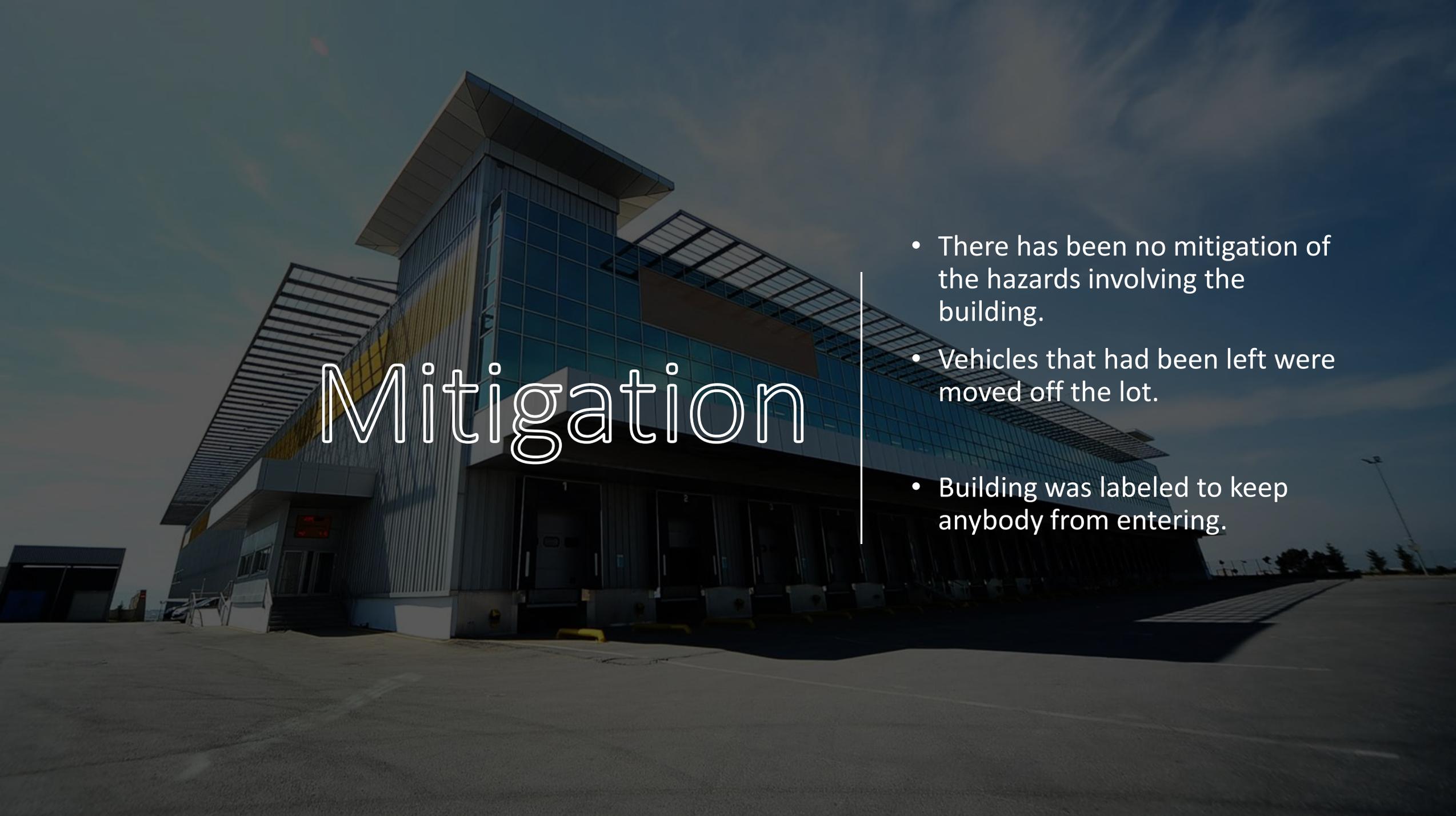
- December 5, 2022
 - Catastrophic fire took place at 300 n. Water
 - An investigation followed that took approximately one month.
 - The building was turned back to the owners on February 1, 2022.
- Code notifications
 - Code enforcement began sending notices to the Reagors on February 9, 2023.
 - February 17th, 2023
 - May 12th, 2023
 - May 31st, 2023
 - June 9th, 2023
- May 11, 2023, ATS survey deemed structure unsafe
 - I had verbal conversations with Mr. Reagor about the property, vehicles, and the restrictions on entering the property.
 - Meeting with Mr. Reagor prior to tonight's hearing to discuss the future of the property.
 - Possibly has a buyer who may want to demolish the building.
 - No further communication as to the status of the building.

ATS Inspection

- On 5/11/23 a structural inspection was conducted at 300 N. Water St. Burnet, TX.
 - The scope was to determine life/safety and general condition.
 - Defects noted included severe fire damage, support columns, steel beams, and purlins have melted with severe deflection with some collapse.
 - Numerous wooded structural roof, ceiling, floor, and wall sections are severely damaged and or collapsed.
- Conclusion
 - This structure is not safe. ATS recommends that this structure be barricaded from entry immediately until it is made safe.







Mitigation

- There has been no mitigation of the hazards involving the building.
- Vehicles that had been left were moved off the lot.
- Building was labeled to keep anybody from entering.

Questions





CITY OF BURNET

FINANCIAL REPORT

FYTD May 2023

Bluebonnet Capital of Texas - Lakes, Hills, History



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GENERAL FUND

The General Fund ended the period with a profit of \$1,691,712 and in total their revenues and expenses are performing well compared to the budget.

The General Fund's primary revenues include:

- **Property tax collections** – ended the period at 99% of budget and increased by \$489,519 over the same period last year.
- **Sales tax collections** – ended the period at 65% of budget and increased by \$30,001 over the same period last year.
- **EMS transfer collections** – ended the period at 59% of budget and decreased by (\$178,133) over the same period last year.
 - Collections are tracking under budget because EMS transfer call volume is down 12% mainly because of hospital staff shortages.
- **Transfers In from other funds** – ended the period at 64% of budget and increased by \$251,750 over the same period last year.

Total expenditures ended the period on track at 65% of budget.

GOLF COURSE

The Golf Course ended the period with a profit of \$374,004 which is a \$92,974 improvement over the same period last year because of increasing revenues.

Total revenues ended the period at 84% of budget and have increased by \$214,672 compared to last year mainly due to increases from green fees/cart rentals, new members, new tournaments, and other revenues which include rebates from early order chemical and fertilizer programs and interest income. Rounds played have increased by over 4% from last year and the average green fee revenue per round is \$39.46 which is an increase of \$2.05 over last year.

Total expenses ended the period on track at 66% of budget.

ELECTRIC FUND

The Electric fund ended the period with a profit of \$175,684.

Total revenues are on track and ended the period at 62% of budget. Compared to last year, consumption has decreased by almost 4% mainly because of milder temperatures.

Total expenses ended the period at 62% of budget which is on track for the period.



WATER/WASTEWATER

The Water/Wastewater fund ended the period with a profit of \$164,767.

Total revenues are on track and ended the period at 64% of budget. Compared to last year, water consumption has decreased by almost 2% mainly due to increased rain this year.

Total expenses are on track and ended the period at 65% of budget. Compared to last year, expenses have increased mainly because of personnel costs. Last year, the department had several vacancies but this year they have been closer to fully staffed for the majority of the year.

AIRPORT (Restricted Fund)

The Airport fund ended the period with a profit of \$83,601. Their revenues and expenses appear to be tracking as expected since the new Fixed Base Operator (FBO) contract went into effect on January 1, 2023.

Prior to January 1, the Airport Fund was operated under the “Interim” FBO contract. Because the original budget was based on the new FBO contract going into effect on October 1st, staff amended the budget to reflect the contract changes.

The fund’s net position is on track with the amended annual budget for the period.

CASH RESERVES

The total “Unrestricted” cash reserve balance for the city as of May 31, 2023, was \$6,735,448. That is **\$2,088,448** above our 90-day required reserve amount.

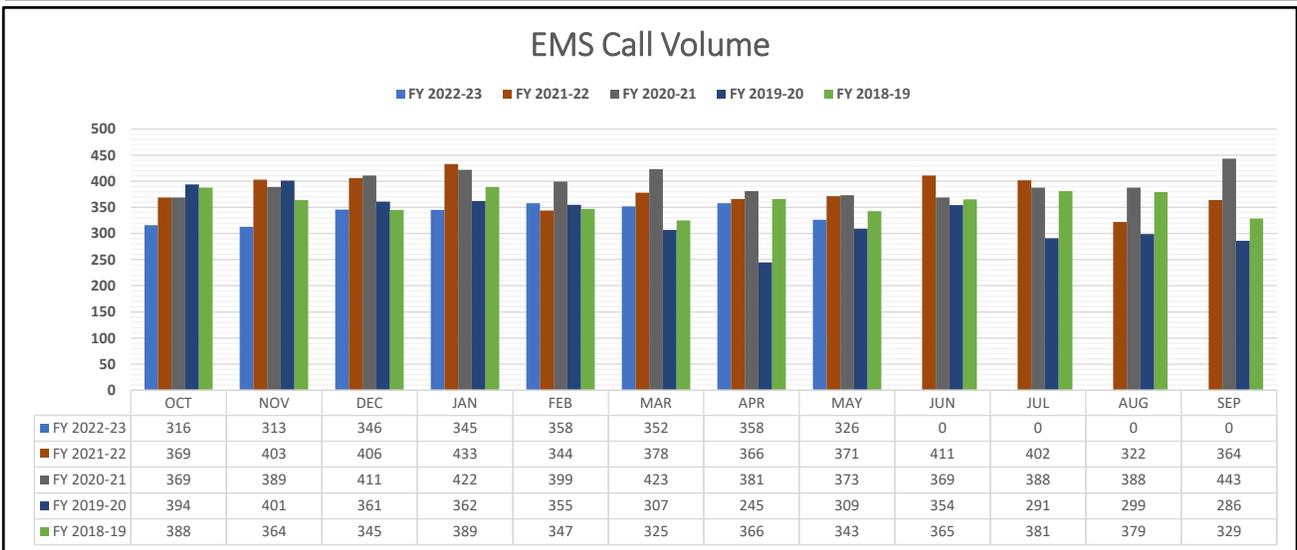
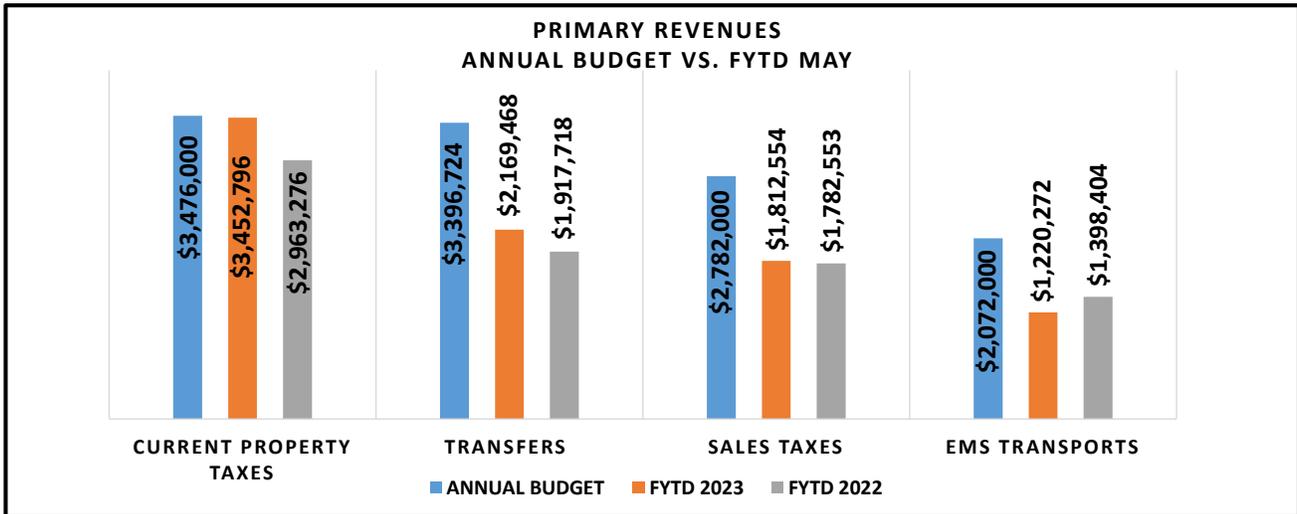
The total “Restricted by Council” cash reserve balance for the city as of May 31, 2023, was \$4,963,834.

GENERAL FUND DASHBOARD

FYTD MAY 2023

CURRENT RESULTS COMPARISON

| | ORIGINAL BUDGET | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | ACTUAL FYTD MAY 2022 | % OF BUDGET |
|---------------|-----------------|----------------------|-------------|---------------------|----------------------|-------------|
| REV | \$ 14,766,308 | \$ 11,060,581 | 75% | \$ 13,098,563 | \$ 10,075,127 | 77% |
| EXPENSES | 14,305,521 | 9,368,869 | 65% | 12,641,112 | 8,403,053 | 66% |
| PROFIT (LOSS) | \$ 460,787 | \$ 1,691,712 | | \$ 457,451 | \$ 1,672,074 | |



| | Transports | | |
|---------------------|------------|--------------|------|
| FYTD 2023 | | 2,714 | |
| FYTD 2022 | | 3,070 | |
| Increase (Decrease) | | <u>(356)</u> | -12% |

City of Burnet, Texas
 General Fund
 Revenues, Expenditures, and Changes in Fund Balance - Budget and Actual (Unaudited)
 FYTD MAY 2023

| 67% of year complete | | | | | | |
|--|------------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| | ORIGINAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
| REVENUE | | | | | | |
| Ad valorem taxes | \$ 3,476,000 | \$ 3,452,796 | 99% | \$ 2,980,000 | \$ 2,963,276 | 99% |
| Sales taxes | 2,782,000 | 1,812,554 | 65% | 2,438,000 | 1,782,553 | 73% |
| Interfund Transfers | 3,396,724 | 2,169,468 | 64% | 3,023,893 | 1,917,718 | 63% |
| EMS Transfers | 2,072,000 | 1,220,272 | 59% | 1,900,000 | 1,398,404 | 74% |
| Franchise and other taxes | 162,000 | 241,926 | 149% | 155,000 | 148,034 | 96% |
| Court Fines and Fees | 140,000 | 120,669 | 86% | 130,000 | 77,121 | 59% |
| Grants & Donations | 9,500 | 3,509 | 37% | 10,200 | 15,697 | 154% |
| Licenses & Permits | 153,300 | 145,925 | 95% | 132,200 | 166,659 | 126% |
| Charges for Services | 2,369,684 | 1,575,911 | 67% | 2,199,595 | 1,296,292 | 59% |
| Other Revenue | 205,100 | 317,551 | 155% | 129,675 | 309,372 | 239% |
| Use of Fund Balance | - | - | | 2,028,500 | 1,105,688 | 55% |
| Total Revenue | \$ 14,766,308 | \$ 11,060,581 | 75% | \$ 15,127,063 | \$ 11,180,815 | 74% |
| <i>Total Revenue less fund balance</i> | <i>\$ 14,766,308</i> | <i>\$ 11,060,581</i> | <i>75%</i> | <i>\$ 13,098,563</i> | <i>\$ 10,075,127</i> | <i>77%</i> |
| EXPENDITURES | | | | | | |
| Personnel Services | \$ 9,592,515 | \$ 6,165,140 | 64% | \$ 8,255,518 | \$ 5,304,282 | 64% |
| Supplies & Materials | 591,175 | 339,593 | 57% | 455,070 | 365,050 | 80% |
| Repairs & Maint | 612,211 | 460,753 | 75% | 505,700 | 392,312 | 78% |
| Contractual Services | 2,102,170 | 1,399,589 | 67% | 2,078,429 | 1,427,136 | 69% |
| Other Designated Expenses | 686,568 | 486,801 | 71% | 589,719 | 459,468 | 78% |
| Transfers to Self-funded | 514,037 | 342,691 | 67% | 486,909 | 324,605 | 67% |
| Capital Outlay | - | 19,280 | | - | 11,765 | |
| Transfers to Golf Admin | 206,845 | 155,022 | 75% | 269,767 | 118,436 | 44% |
| Sub-total | \$ 14,305,521 | \$ 9,368,869 | 65% | \$ 12,641,112 | \$ 8,403,053 | 66% |
| CAPITAL/OTHER EXP (USES OF FUND BAL) | | | | | | |
| Transfers - Capital/Other Uses of FB | - | - | | \$ 2,028,500 | \$ 1,105,688 | 55% |
| | \$ - | \$ - | | \$ 2,028,500 | \$ 1,105,688 | 55% |
| Total Expenditures | \$ 14,305,521 | \$ 9,368,869 | 65% | \$ 14,669,612 | \$ 9,508,741 | 65% |
| <i>Total Expenditures less Capital/Other</i> | <i>\$ 14,305,521</i> | <i>\$ 9,368,869</i> | <i>65%</i> | <i>\$ 12,641,112</i> | <i>\$ 8,403,053</i> | <i>66%</i> |
| NET CHANGE IN FUND BALANCE | \$ 460,787 | \$ 1,691,712 | | \$ 457,451 | \$ 1,672,074 | |

KEY VARIANCES - BUDGET vs ACTUAL (67% of Year Complete)

Revenues

- The majority of property taxes are collected in December and January of each year. Collections are strong and on track for the period.
- EMS Transfer Revenues are tracking below the average run rate because ems call volume is down by 356 calls or 12% compared to last year.
 Per the Fire Chief, there is a nursing shortage which is impacting the hospital transfer requests.
- Franchise fee revenues are tracking higher than expected because of the timing of collections (paid quarterly and annually) and increases in franchise fee revenues.
- Court fines and fees collections have increased mainly due to increased police and court activity this year.
- Grant revenues are tracking below the average run rate because of the timing of the grants. PD grants are not expected to be collected until June.
- Licenses & Permits are tracking higher than the average mainly because of an increase in Inspection fees from construction projects and subdivision inspection fees collected.
- Other Revenues are tracking higher than expected mainly because of increased interest income and insurance claim receipts.

Expenditures

- See Expenditures by Department/Category for more detail.

City of Burnet, Texas
 General Fund
 Expenditures by Department/Category
 FYTD MAY 2023

67% of year complete

| | ORIGINAL BUDGET | | | ACTUAL | | | PY BUDGET | | | |
|--|-----------------|------------------|--------|------------------|------------|--------|------------------|----|------------------|-------------|
| | 2022-2023 | | | FYTD MAY 2023 | | | 2021-2022 | | | |
| | | | | | | | | | | |
| | | | % OF | | | % OF | | | % OF | |
| | | | BUDGET | | | BUDGET | | | BUDGET | |
| EXPENDITURES (Less transfers to capital/other): | | | | | | | | | | |
| City Council | | | | | | | | | | |
| Supplies & Materials | \$ | 2,000 | \$ | 281 | 14% | \$ | 1,000 | \$ | 1,088 | 109% |
| Repairs & Maint | | 1,000 | | 126 | 13% | | 1,000 | | 834 | 83% |
| Contractual Services | | 7,020 | | 5,385 | 77% | | 6,720 | | 4,850 | 72% |
| Other Designated Expenses | | 8,575 | | 6,458 | 75% | | 5,575 | | 8,203 | 147% |
| Total Expenditures | | 18,595 | | 12,250 | 66% | | 14,295 | | 14,974 | 105% |
| General Administration | | | | | | | | | | |
| Personnel Services | | 1,277,069 | | 803,816 | 63% | | 1,168,369 | | 722,088 | 62% |
| Supplies & Materials | | 21,700 | | 14,259 | 66% | | 27,000 | | 15,271 | 57% |
| Repairs & Maint | | 91,000 | | 90,664 | 100% | | 80,000 | | 77,597 | 97% |
| Contractual Services | | 260,303 | | 196,805 | 76% | | 236,995 | | 166,882 | 70% |
| Other Designated Expenses | | 423,581 | | 305,398 | 72% | | 398,234 | | 291,412 | 73% |
| Transfers for Golf Admin | | 206,845 | | 155,022 | 75% | | 269,767 | | 118,436 | 44% |
| Total Expenditures | | 2,280,498 | | 1,565,962 | 69% | | 2,180,365 | | 1,391,686 | 64% |
| Municipal Court | | | | | | | | | | |
| Personnel Services | | 73,658 | | 49,129 | 67% | | 70,974 | | 48,916 | 69% |
| Supplies & Materials | | 675 | | 270 | 40% | | 750 | | 538 | 72% |
| Repairs & Maint | | 8,500 | | 6,296 | 74% | | 8,500 | | 6,347 | 75% |
| Contractual Services | | 15,300 | | 11,816 | 77% | | 14,800 | | 10,402 | 70% |
| Other Designated Expenses | | 5,050 | | 5,442 | 108% | | 4,350 | | 3,597 | 83% |
| Total Expenditures | | 103,183 | | 72,953 | 71% | | 99,374 | | 69,799 | 70% |
| Police/Animal Shelter/K-9 | | | | | | | | | | |
| Personnel Services | | 2,610,113 | | 1,671,548 | 64% | | 2,181,749 | | 1,419,812 | 65% |
| Supplies & Materials | | 138,200 | | 72,630 | 53% | | 111,000 | | 74,211 | 67% |
| Repairs & Maint | | 113,950 | | 97,586 | 86% | | 115,300 | | 58,865 | 51% |
| Contractual Services | | 228,350 | | 153,715 | 67% | | 202,500 | | 145,422 | 72% |
| Other Designated Expenses | | 99,162 | | 65,977 | 67% | | 74,000 | | 87,764 | 119% |
| Transfers to Self-funded | | 181,341 | | 120,894 | 67% | | 196,567 | | 131,045 | 67% |
| Capital Outlay | | - | | 8,680 | | | - | | - | |
| Total Expenditures | | 3,371,116 | | 2,191,031 | 65% | | 2,881,116 | | 1,917,119 | 67% |
| Fire/EMS | | | | | | | | | | |
| Personnel Services | | 3,584,056 | | 2,306,758 | 64% | | 3,263,222 | | 2,138,363 | 66% |
| Supplies & Materials | | 243,650 | | 139,245 | 57% | | 194,500 | | 149,729 | 77% |
| Repairs & Maint | | 174,500 | | 120,029 | 69% | | 144,000 | | 129,418 | 90% |
| Contractual Services | | 302,070 | | 184,773 | 61% | | 309,150 | | 188,777 | 61% |
| Other Designated Expenses | | 74,600 | | 54,754 | 73% | | 49,000 | | 40,506 | 83% |
| Transfers to Self-funded | | 267,868 | | 178,579 | 67% | | 254,786 | | 169,857 | 67% |
| Capital Outlay | | - | | 10,600 | | | - | | - | |
| Total Expenditures | | 4,646,744 | | 2,994,738 | 64% | | 4,214,658 | | 2,816,650 | 67% |
| Streets | | | | | | | | | | |
| Personnel Services | | 753,705 | | 528,853 | 70% | | 698,233 | | 438,200 | 63% |
| Supplies & Materials | | 77,300 | | 55,744 | 72% | | 41,500 | | 58,657 | 141% |
| Repairs & Maint | | 89,400 | | 51,964 | 58% | | 77,400 | | 40,756 | 53% |
| Contractual Services | | 8,750 | | 5,316 | 61% | | 8,500 | | 3,857 | 45% |
| Other Designated Expenses | | 5,000 | | 11,730 | 235% | | 2,350 | | 3,678 | 157% |
| Transfers to Self-funded | | 26,611 | | 17,741 | 67% | | 9,021 | | 6,013 | |
| Total Expenditures | | 960,766 | | 671,349 | 70% | | 837,004 | | 551,161 | 66% |
| City Shop | | | | | | | | | | |
| Personnel Services | | 78,439 | | 43,153 | 55% | | 76,326 | | 51,973 | 68% |
| Supplies & Materials | | 15,000 | | 10,768 | 72% | | 14,000 | | 8,188 | 58% |
| Repairs & Maint | | 12,500 | | 7,301 | 58% | | 13,000 | | 7,810 | 60% |
| Contractual Services | | 6,380 | | 4,102 | 64% | | 6,700 | | 4,389 | 66% |
| Other Designated Expenses | | 5,050 | | 3,367 | 67% | | 5,050 | | 2,683 | 53% |
| Total Expenditures | | 117,369 | | 68,691 | 59% | | 115,076 | | 75,044 | 65% |
| Sanitation | | | | | | | | | | |
| Contractual Services | | 974,947 | | 642,918 | 66% | | 921,194 | | 632,755 | 69% |
| Other Designated Expenses | | 25,000 | | 10,681 | 43% | | 25,000 | | 1,022 | 4% |
| Total Expenditures | | 999,947 | | 653,599 | 65% | | 946,194 | | 633,776 | 67% |
| PW Admin | | | | | | | | | | |
| Personnel Services | | 164,985 | | 109,264 | 66% | | - | | - | |
| Supplies & Materials | | 1,800 | | 1,104 | 61% | | - | | - | |
| Repairs & Maint | | 200 | | 273 | 136% | | - | | - | |
| Contractual Services | | - | | 569 | | | - | | - | |
| Other Designated Expenses | | 850 | | 3,047 | 358% | | - | | - | |
| Transfers to Self-funded | | - | | - | | | - | | - | |
| Total Expenditures | | 167,835 | | 114,257 | 68% | | - | | - | |

City of Burnet, Texas
 General Fund
 Expenditures by Department/Category
 FYTD MAY 2023

67% of year complete

| | ORIGINAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
|--|------------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| EXPENDITURES (Less transfers to capital/other): | | | | | | |
| Parks | | | | | | |
| Personnel Services | 589,046 | 359,087 | 61% | 502,241 | 307,376 | 61% |
| Supplies & Materials | 79,000 | 43,485 | 55% | 62,500 | 54,199 | 87% |
| Repairs & Maint | 101,650 | 66,369 | 65% | 57,250 | 63,120 | 110% |
| Contractual Services | 88,650 | 56,136 | 63% | 133,700 | 52,767 | 39% |
| Other Designated Expenses | 8,500 | 4,302 | 51% | 6,000 | 6,163 | 103% |
| Transfers to Self-funded | 28,069 | 18,712 | 67% | 26,535 | 17,690 | 67% |
| Total Expenditures | 894,915 | 548,091 | 61% | 788,226 | 501,315 | 64% |
| Galloway Hammond | | | | | | |
| Repairs & Maint | 5,000 | 13,626 | 273% | 5,000 | 1,885 | 38% |
| Contractual Services | 100,000 | 66,667 | 67% | 100,000 | 66,667 | 67% |
| Capital Outlay | - | - | 0% | - | - | 0% |
| Total Expenditures | 105,000 | 80,292 | 76% | 105,000 | 68,552 | 65% |
| Development Services | | | | | | |
| Personnel Services | 187,774 | 118,298 | 63% | 294,404 | 177,553 | 60% |
| Supplies & Materials | 5,650 | 668 | 12% | 2,820 | 3,170 | 112% |
| Repairs & Maint | 8,261 | 4,359 | 53% | 4,250 | 5,679 | 134% |
| Contractual Services | 99,050 | 68,209 | 69% | 138,170 | 150,369 | 109% |
| Other Designated Expenses | 28,200 | 12,249 | 43% | 20,160 | 14,440 | 72% |
| Capital Outlay | - | - | - | - | 11,765 | - |
| Total Expenditures | 328,935 | 203,782 | 62% | 459,804 | 362,976 | 79% |
| Engineering | | | | | | |
| Personnel Services | 273,670 | 175,235 | 64% | - | - | - |
| Supplies & Materials | 6,200 | 1,141 | 18% | - | - | - |
| Repairs & Maint | 6,250 | 2,160 | 35% | - | - | - |
| Contractual Services | 11,350 | 3,178 | 28% | - | - | - |
| Other Designated Expenses | 3,000 | 3,395 | 113% | - | - | - |
| Transfers to Self-funded | 10,148 | 6,765 | 67% | - | - | - |
| Total Expenditures | 310,618 | 191,873 | 62% | - | - | - |
| TOTAL EXPENDITURES | \$ 14,305,521 | \$ 9,368,869 | 65% | \$ 12,641,112 | \$ 8,403,053 | 66% |

KEY VARIANCES - BUDGET vs ACTUAL (67% of Year Complete)

| <u>Expenditures</u> |
|---|
| <i>CITY COUNCIL - Other Designated Expenses are tracking higher than the average run rate because they include travel for TML which was held in October 2022.</i> |
| <i>CITY COUNCIL - Contractual Services Expenses are tracking higher than the average run rate because they include advertising notice costs for the general election which was held in May.</i> |
| <i>ADMIN - Repairs and Maintenance are tracking higher than the average run rate because the annual Tyler/Incode software maintenance expense was paid in March. In total, expenses are still on track with the amount budgeted for the year.</i> |
| <i>ADMIN - Contractual Services are tracking higher than the average run rate because of the timing of the audit and actuary payments. Majority of audit work is done in December and January each year. In total, expenses are still on track with the amount budgeted.</i> |
| <i>ADMIN - Designated expenses are tracking higher than the average run rate because of the timing of the quarterly insurance payments, increases in Health & Wellness expenses because of the addition of Teledoc, and the timing of and increases in employee programs which include the City's annual Christmas party.</i> |
| <i>ADMIN - Transfers to cover the golf admin allocation are tracking higher than the average run rate because of higher than anticipated revenues at the golf course. Admin expenses are allocated to the enterprise funds based on revenues and number of employees.</i> |
| <i>COURT - Repairs and Maintenance are tracking higher than the average run rate because the annual Tyler/Incode software maintenance expense was paid in March. In total, services are still on track with the amount budgeted for the year.</i> |
| <i>COURT - Contractual Services are tracking higher than the average run rate because of the timing of payments for Municipal Judge Services. June's payment was posted early on 5/31. In total, services are still on track with the amount budgeted for the year.</i> |
| <i>COURT - Other Designated Expenses are tracking higher than the average run rate because credit card service fees collected have increased which is consistent with the increase in collected municipal court fees and fines.</i> |
| <i>PD - R&M expenses are tracking higher than the average run rate mainly because of fleet accident repairs and the payment of the annual software maintenance contract in April.</i> |
| <i>FIRE - Other Designated Expenses are tracking higher than the average run rate mainly because we under estimated the number of bunker gear sets needed. We budgeted for six but per the Fire Chief needed to purchase nine sets of new Bunker Gear.</i> |
| <i>STREETS - Personnel Expenses are tracking higher than the average run rate mainly because of the benefit pay out for a recent retiree and a retro pay adjustment that was done in December.</i> |
| <i>STREETS - Supplies and Material Expenses are tracking higher than the average run rate mainly because of the purchase of bulk salt for stock and increasing fuel costs.</i> |
| <i>STREETS - Designated Expenses include non-capital supplies which are tracking higher than the average because of the purchase of 45 8' hip barricades for \$10,125.00 mainly purchased for crowd control during public events.</i> |
| <i>CITY SHOP - Supplies and Materials are tracking higher than the average run rate mainly because of the purchase of bulk oil for in house oil changes.</i> |
| <i>PW ADMIN - Other Designated Expenses are tracking higher than the average run rate mainly because of increases for employee appreciation programs and employee travel.</i> |
| <i>GALLOWAY HAMMOND - R&M Expenses are tracking higher than expected because of water leak repairs, the replacement of a faulty winch on side court basketball structure, pylon sign repairs, and interior painting.</i> |
| <i>DEVELOPMENT SERVICES - Contractual Services Expenses are tracking higher than expected because of an increase in city inspections mainly for commercial projects.</i> |
| <i>ENGINEERING - Other Designated Expenses are tracking higher than budgeted mainly because of travel and training expenses. Travel was incurred for the TML Conference, Crack Seal Training, Infinity Training, and Staking Training.</i> |

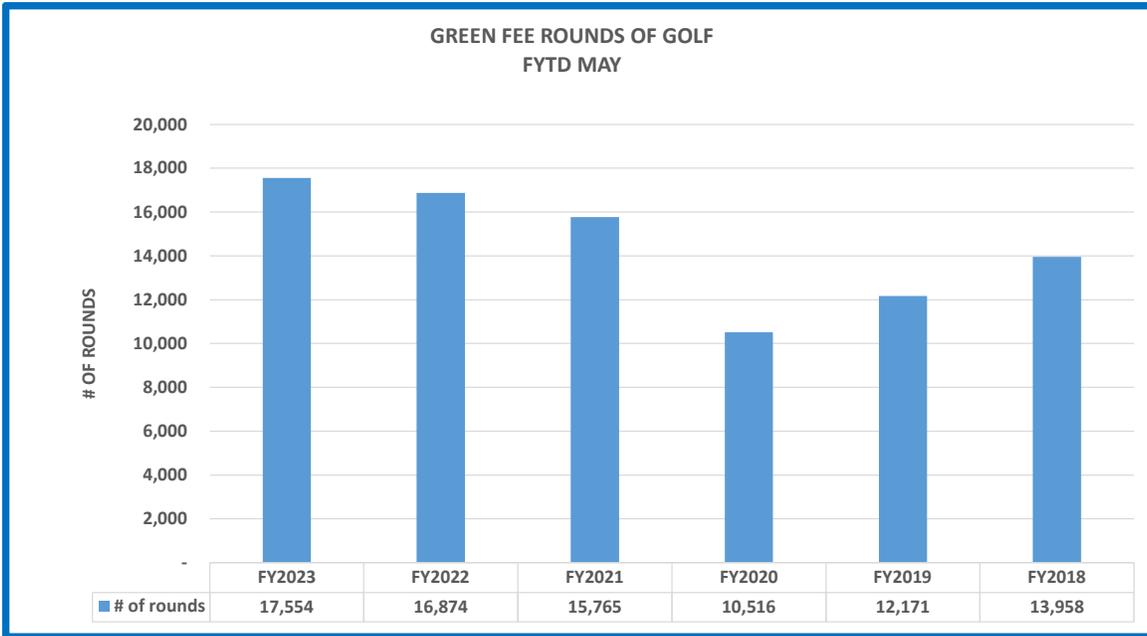
GOLF COURSE FUND DASHBOARD

FYTD MAY 2023

CURRENT RESULTS COMPARISON

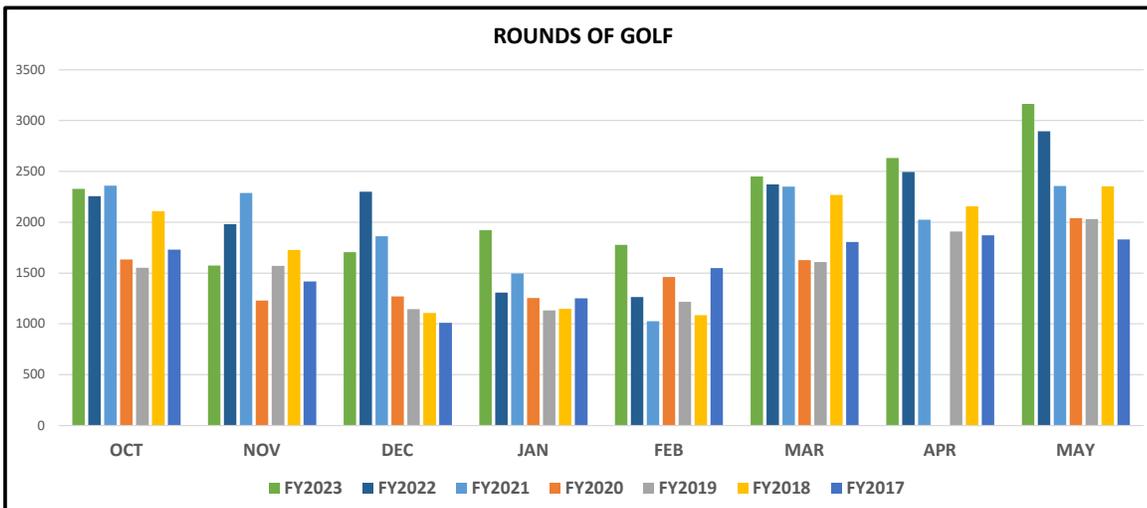
| | ORIGINAL | ACTUAL | % OF | PY BUDGET | ACTUAL | % OF |
|-----------------------------|--------------|---------------|--------|--------------|---------------|--------|
| | BUDGET | FYTD MAY 2023 | BUDGET | 2021-2022 | FYTD MAY 2022 | BUDGET |
| REV (net of cogs/tourn exp) | \$ 1,860,895 | \$ 1,554,751 | 84% | \$ 1,470,651 | \$ 1,340,079 | 91% |
| EXPENSES | 1,778,214 | 1,180,747 | 66% | 1,562,218 | 1,059,049 | 68% |
| PROFIT (LOSS) | \$ 82,681 | \$ 374,004 | | \$ (91,567) | \$ 281,031 | |

TABLES/CHARTS



| Rounds of Golf* | FYTD |
|-----------------|--------|
| 2022-2023 | 17,554 |
| 2021-2022 | 16,874 |
| OVER (UNDER) | 680 |
| | 4.03% |

*Does not include annual dues or tournament rounds played.



Notes:

April of 2020 golf course was closed for the month due to the Covid Pandemic.
Feb of 2021 golf course was closed for 11 days because of Severe Winter Storm.

City of Burnet, Texas
 Golf Fund (Delaware Springs)
 Revenues, Expenses, and Changes in Fund Net Position - Budget and Actual (Unaudited)
 FYTD MAY 2023

| | 67% of year complete | | | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
|-------------------------------------|------------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| | ORIGINAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | | | |
| Revenues | | | | | | |
| Charges for Services: | | | | | | |
| Green Fees/Cart Rentals | \$ 947,205 | \$ 692,680 | 73% | \$ 696,600 | \$ 631,265 | 91% |
| Member Charges | 232,000 | 250,530 | 108% | 224,000 | 220,498 | 98% |
| Net Tournament Fees | 144,000 | 170,203 | 118% | 112,000 | 131,143 | 117% |
| Driving Range | 62,000 | 41,988 | 68% | 53,000 | 40,788 | 77% |
| Net Charges for Services | 1,385,205 | 1,155,400 | 83% | 1,085,600 | 1,023,694 | 94% |
| Pro Shop Merchandise Sales (Net) | 72,655 | 56,093 | 77% | 48,750 | 53,527 | 110% |
| Snack Bar Sales (Net) | 147,744 | 123,898 | 84% | 129,600 | 103,005 | 79% |
| Transfer from GF (Admin/Use of FB) | 206,845 | 155,022 | 75% | 192,701 | 130,260 | 68% |
| Other Revenue | 48,446 | 64,339 | 133% | 14,000 | 29,594 | 211% |
| Total Revenues | 1,860,895 | 1,554,751 | 84% | 1,470,651 | 1,340,079 | 91% |
| Expenses | | | | | | |
| Personnel Services | 1,067,824 | 683,334 | 64% | 924,829 | 639,999 | 69% |
| Supplies & Materials | 129,550 | 77,953 | 60% | 119,050 | 68,387 | 57% |
| Repairs & Maint | 84,300 | 57,584 | 68% | 82,500 | 49,641 | 60% |
| Contractual Services | 67,600 | 50,588 | 75% | 59,000 | 44,741 | 76% |
| Other Designated Expenses | 52,750 | 43,368 | 82% | 45,050 | 35,452 | 79% |
| Transfers to Self-funded | 169,345 | 112,897 | 67% | 153,588 | 102,392 | 67% |
| Admin Allocation | 206,845 | 155,022 | 75% | 178,201 | 118,436 | 66% |
| Total Expenses | 1,778,214 | 1,180,747 | 66% | 1,562,218 | 1,059,049 | 68% |
| Change in Net Position | 82,681 | 374,004 | | (91,567) | 281,031 | |
| Operating Subsidy from General Fund | - | - | | 91,567 | - | |
| Net Position | 82,681 | 374,004 | | - | 281,031 | |
| Green Fee Rounds | | 17,554 | | | 16,874 | |
| Green Fee Rev Per Round | | \$ 39.46 | | | \$ 37.41 | |

KEY VARIANCES - BUDGET vs ACTUAL (67% of Year Complete)

| <u>Revenues</u> |
|--|
| -The majority of Member Charges which include pre-paid green fees, trail fees, annual cart rental and storage are collected in October and April of each year. Per Tony Nash, the course is seeing an increase in annual members this year over last year. |
| - Net Tournament Fees have increased due to additional tournaments and increased tournament rates. |
| -Transfer from General Fund (GF) is used to offset the admin allocation. |
| -Other revenues are tracking above the average run rate for the year because of increases in interest income, payment of ghin fees in January and because of chemical and fertilizer rebates received from the Early Order Program (EOP). |
| <u>Expenses</u> |
| - Contractual Services are tracking higher than the average run rate mainly because of professional services. The golf course contracted to aerate the greens this year. |
| - Other designated expenses include credit card service fees which are tracking higher than the average run rate mainly because of the increase in revenues. |
| - Admin allocation is offset by the Transfer from GF, therefore, net impact to the bottom line is 0. |

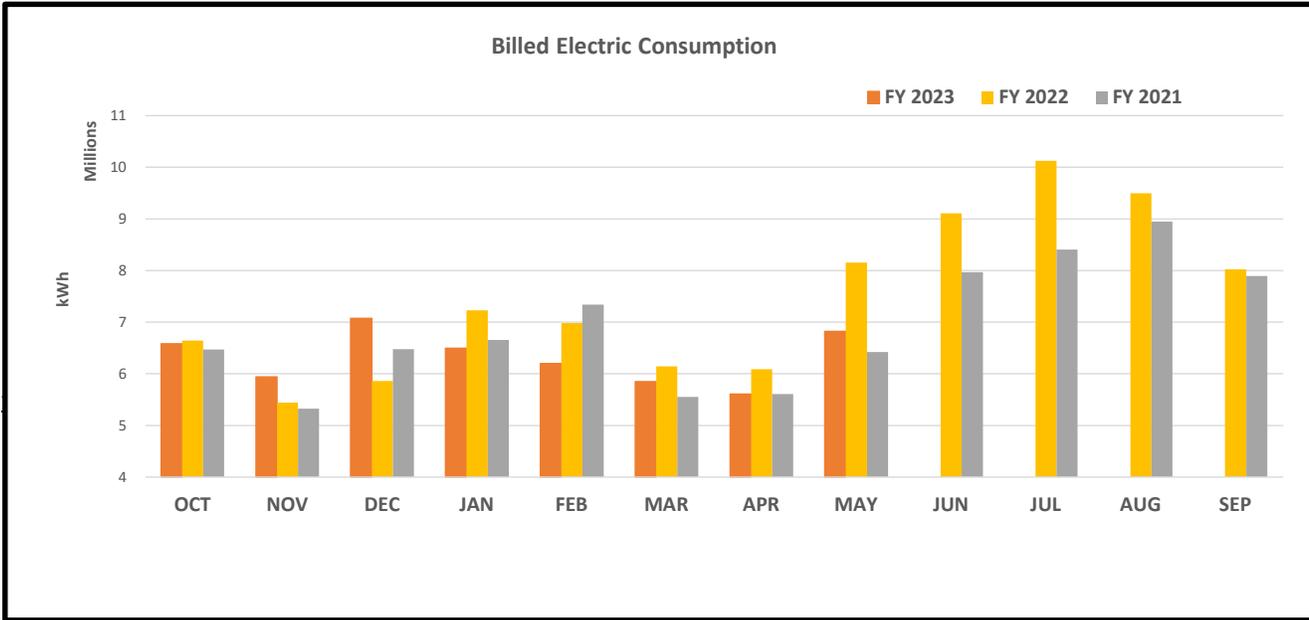
ELECTRIC FUND DASHBOARD

FYTD MAY 2023

CURRENT RESULTS COMPARISON

| | ORIGINAL BUDGET | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | ACTUAL FYTD MAY 2022 | % OF BUDGET |
|-------------------|-----------------|----------------------|-------------|---------------------|----------------------|-------------|
| REV (net of cogs) | \$ 4,089,298 | \$ 2,526,800 | 62% | \$ 4,034,144 | \$ 2,592,663 | 64% |
| EXPENSES | 3,786,446 | 2,351,116 | 62% | 3,635,322 | 2,331,208 | 64% |
| PROFIT (LOSS) | \$ 302,852 | \$ 175,684 | | \$ 398,822 | \$ 261,455 | |

TABLES/CHARTS



| | |
|--------------|-------------|
| FYTD 2023 | 50,567,977 |
| FYTD 2022 | 52,543,138 |
| ytd variance | (1,975,161) |
| % variance | -3.76% |

City of Burnet, Texas
 Electric Fund
 Revenues, Expenses, and Changes in Fund Net Position - Budget and Actual (Unaudited)
 FYTD MAY 2023

| | 67% of year complete | | | | | |
|--|------------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| | ORIGINAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
| REVENUES | | | | | | |
| Electric Sales | \$ 9,090,778 | \$ 5,785,210 | | \$ 9,000,000 | \$ 5,839,451 | |
| Less Cost of Power | 5,237,806 | 3,439,799 | | 5,166,000 | 3,420,315 | |
| Net Electric Sales | 3,852,972 | 2,345,411 | 61% | 3,834,000 | 2,419,136 | 63% |
| Penalties | 87,766 | 53,954 | 61% | 85,000 | 59,673 | 70% |
| Pole Rental | 48,400 | 48,631 | 100% | 47,000 | 48,397 | 103% |
| Credit Card Convenience Fees | 52,660 | 33,050 | 63% | 45,144 | 22,776 | |
| Other Revenue | 47,500 | 45,754 | 96% | 23,000 | 42,681 | 186% |
| Use of Fund Balance | - | - | | 230,000 | 57,395 | 25% |
| Total Revenue | \$ 4,089,298 | \$ 2,526,800 | 62% | \$ 4,264,144 | \$ 2,650,059 | 62% |
| <i>Total Revenue less fund balance</i> | <i>\$ 4,089,298</i> | <i>\$ 2,526,800</i> | <i>62%</i> | <i>\$ 4,034,144</i> | <i>\$ 2,592,663</i> | <i>64%</i> |
| EXPENSES | | | | | | |
| Personnel Services | 945,807 | 596,082 | 63% | \$ 1,000,827 | 605,284 | 60% |
| Supplies & Materials | 77,100 | 36,461 | 47% | 51,000 | 38,763 | 76% |
| Repairs & Maint | 191,000 | 114,477 | 60% | 180,000 | 121,230 | 67% |
| Contractual Services | 158,400 | 109,852 | 69% | 133,900 | 111,787 | 83% |
| Other Designated Expenses | 89,050 | 53,132 | 60% | 87,714 | 47,890 | 55% |
| Capital Outlay | 25,000 | 32,646 | 131% | 35,000 | 24,640 | 70% |
| Transfers to Debt Service | 53,000 | 35,333 | 67% | 49,350 | 32,900 | 67% |
| Transfers to Self-funded | 25,418 | 16,945 | 67% | 19,780 | 13,187 | 67% |
| Return on Investment | 1,678,174 | 1,011,567 | 60% | 1,639,441 | 1,051,224 | 64% |
| Admin Allocation | 432,742 | 273,982 | 63% | 409,541 | 265,543 | 65% |
| Shop Allocation | 29,342 | 17,173 | 59% | 28,769 | 18,761 | 65% |
| PW Admin Allocation | 50,351 | 34,277 | 68% | - | - | |
| Engineering Allocation | 31,062 | 19,187 | 62% | - | - | |
| Transfer to Capital | - | - | | 230,000 | 57,396 | 25% |
| Total Expenses | \$ 3,786,446 | \$ 2,351,116 | 62% | \$ 3,865,322 | \$ 2,388,604 | 62% |
| <i>Total Expenses less xfers to capital and other uses of fund balance</i> | <i>\$ 3,786,446</i> | <i>\$ 2,351,116</i> | <i>62%</i> | <i>\$ 3,635,322</i> | <i>\$ 2,331,208</i> | <i>64%</i> |
| Change in Net Position | \$ 302,852 | \$ 175,684 | | \$ 398,822 | \$ 261,454 | |

KEY VARIANCES - BUDGET vs ACTUAL (67% of Year Complete)

Revenues

- Pole Rental Charges are typically invoiced in February and received by April or May.
- Other revenues are tracking higher than the average because of insurance claim payments and increasing interest revenue.

Expenses

- Capital Outlay is tracking higher than the average run rate because they include the early purchase of Christmas decorations and line locates.
- The purchase of additional Christmas decorations was approved by council and will be included in the next quarterly budget amendment.

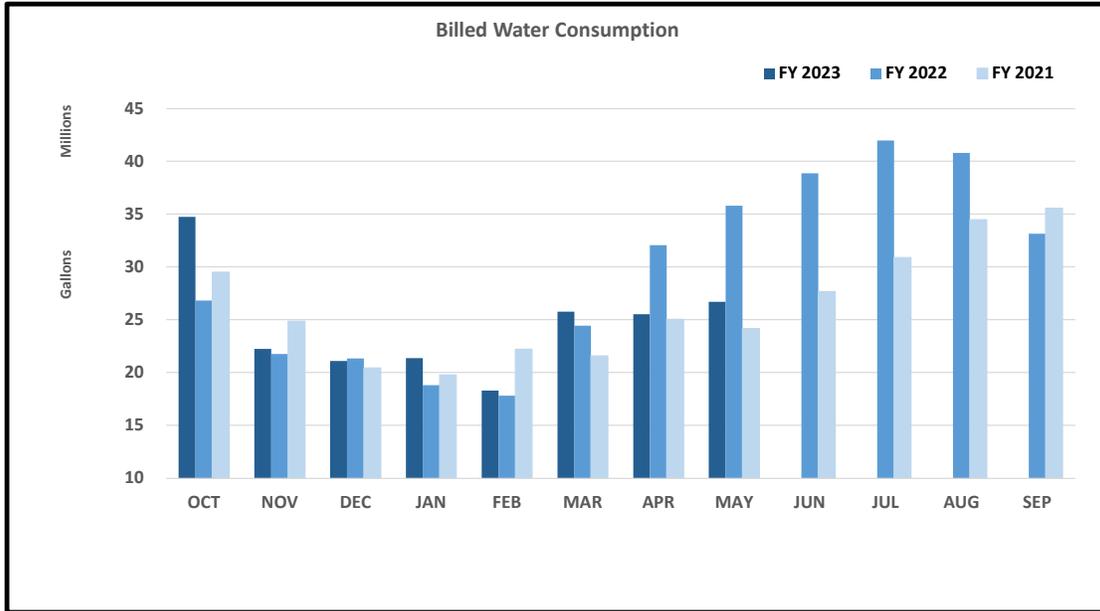
WATER/WW FUND DASHBOARD

FYTD MAY 2023

CURRENT RESULTS COMPARISON

| | ORIGINAL | ACTUAL | % OF | PY BUDGET | ACTUAL | % OF |
|---------------|--------------|---------------|------|--------------|--------------|------|
| | BUDGET | FYTD MAY 2023 | | BUDGET | 2021-2022 | |
| REV | \$ 4,624,417 | \$ 2,977,229 | 64% | \$ 4,500,420 | \$ 2,948,579 | 66% |
| EXPENSES | 4,330,936 | 2,812,462 | 65% | 4,039,275 | 2,479,950 | 61% |
| PROFIT (LOSS) | \$ 293,481 | \$ 164,767 | | \$ 461,145 | \$ 468,629 | |

TABLES/CHARTS



Billed Consumption in gallons:

| | |
|------------|-------------|
| FYTD 2023 | 195,707,725 |
| FYTD 2022 | 198,779,657 |
| Variance | (3,071,932) |
| % variance | -1.55% |

City of Burnet, Texas
 Water/Wastewater Fund
 Revenues, Expenses, and Changes in Fund Net Position - Budget and Actual (Unaudited)
 FYTD MAY 2023

| | 67% of year complete | | | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
|--|------------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| | ORIGINAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | | | |
| REVENUE | | | | | | |
| Water Sales | \$ 2,482,303 | \$ 1,578,536 | 64% | \$ 2,400,000 | \$ 1,582,386 | 66% |
| Wastewater Sales | 1,932,000 | 1,303,761 | 67% | 1,920,000 | 1,272,199 | 66% |
| Penalties | 45,072 | 28,822 | 64% | 46,000 | 29,804 | 65% |
| Water/Sewer Connects | 37,000 | 17,025 | 46% | 30,000 | 36,152 | 121% |
| Credit Card Convenience Fees | 25,042 | 17,799 | 71% | 19,920 | 11,669 | |
| Other Revenue | 28,000 | 31,286 | 112% | 9,500 | 16,368 | 172% |
| Use Impact Fees | 75,000 | - | 0% | 75,000 | - | 0% |
| Use of Fund Balance | 1,135,000 | - | 0% | 1,135,000 | 663,853 | 58% |
| Total Revenue | \$ 5,759,417 | \$ 2,977,229 | 52% | \$ 5,635,420 | \$ 3,612,432 | 64% |
| <i>Total Revenue less fund balance</i> | <i>\$ 4,624,417</i> | <i>\$ 2,977,229</i> | <i>64%</i> | <i>\$ 4,500,420</i> | <i>\$ 2,948,579</i> | <i>66%</i> |
| EXPENSES | | | | | | |
| Personnel Services | 1,410,682 | 899,327 | 64% | \$ 1,274,566 | 736,316 | 58% |
| Supplies & Materials | 190,300 | 153,892 | 81% | 171,750 | 121,220 | 71% |
| Repairs & Maint | 383,750 | 190,735 | 50% | 409,500 | 186,686 | 46% |
| Contractual Services | 300,050 | 208,171 | 69% | 317,500 | 216,952 | 68% |
| Cost of Water | 70,000 | 47,692 | 68% | 70,000 | 38,493 | 55% |
| Other Designated Expenses | 98,542 | 57,964 | 59% | 105,474 | 73,710 | 70% |
| Transfers to Debt Service | 930,125 | 620,083 | 67% | 944,764 | 630,276 | 67% |
| Transfers to Self-funded | 51,512 | 34,341 | 67% | 73,692 | 49,128 | 67% |
| In Lieu of Taxes | 363,953 | 238,178 | 65% | 354,034 | 235,886 | 67% |
| Admin Allocation | 305,298 | 202,552 | 66% | 289,227 | 167,107 | 58% |
| Shop Allocation | 29,342 | 17,173 | 59% | 28,768 | 18,761 | 65% |
| PW Admin Allocation | 67,134 | 45,703 | 68% | - | 5,414 | |
| Engineering Allocation | 124,248 | 76,749 | 62% | | | |
| Capital Outlay | 6,000 | 19,900 | | - | | 0% |
| Transfer to Capital | 1,135,000 | - | 0% | 1,135,000 | 663,853 | 58% |
| Total Expenses | \$ 5,465,936 | \$ 2,812,462 | 51% | \$ 5,174,275 | \$ 3,143,803 | 61% |
| <i>Total Expenses less Transfers to Capital and other uses of fund balance</i> | <i>\$ 4,330,936</i> | <i>\$ 2,812,462</i> | <i>65%</i> | <i>\$ 4,039,275</i> | <i>\$ 2,479,950</i> | <i>61%</i> |
| Change in Net Position | \$ 293,481 | \$ 164,767 | | \$ 461,145 | \$ 468,629 | |

KEY VARIANCES - BUDGET vs ACTUAL (67% of Year Complete)

Revenues

-Other Revenues are tracking higher than expected because of increased bulk potable water sales at public works.

Expenses

-Supplies and Materials are tracking higher than the average run rate mainly because of increasing chemical costs and purchases.

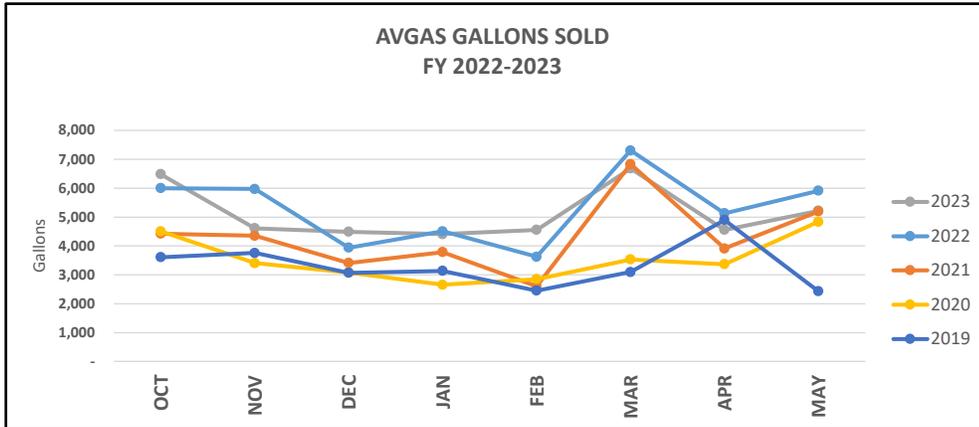
AIRPORT FUND DASHBOARD

FYTD MAY 2023

CURRENT RESULTS COMPARISON

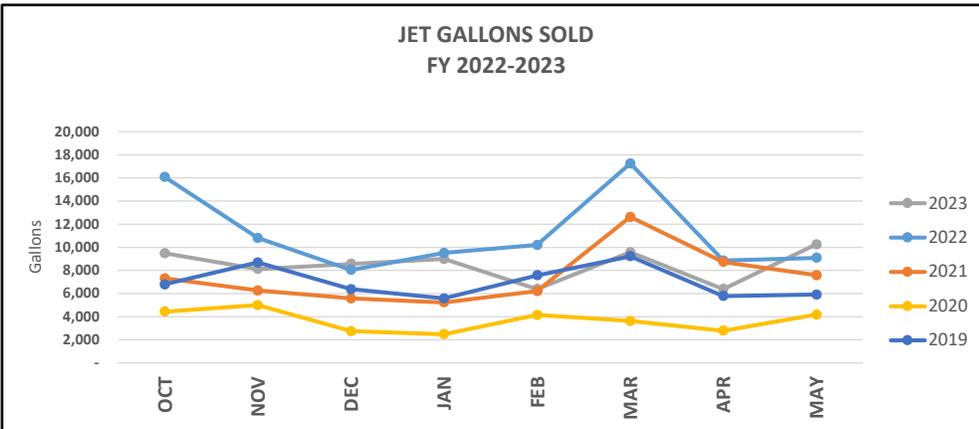
| | AMENDED BUDGET | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | ACTUAL FYTD MAY 2022 | % OF BUDGET |
|-------------------|----------------|----------------------|-------------|---------------------|----------------------|-------------|
| REV (net of cogs) | \$ 339,381 | \$ 283,339 | 83% | \$ 428,729 | \$ 346,033 | 81% |
| EXPENSES | 258,228 | 199,738 | 77% | 276,330 | 195,814 | 71% |
| PROFIT (LOSS) | \$ 81,153 | \$ 83,601 | | \$ 152,399 | \$ 150,219 | |

TABLES/CHARTS



Avgas Gallons Sold:

| | |
|--------------------|---------|
| FYTD 2023 | 41,002 |
| FYTD 2022 | 42,396 |
| Increase(decrease) | (1,395) |
| | -3.29% |



Jet Gallons Sold:

| | |
|--------------------|----------|
| FYTD 2023 | 67,813 |
| FYTD 2022 | 89,840 |
| Increase(decrease) | (22,027) |
| | -24.52% |

City of Burnet, Texas
 Airport Fund
 Revenues, Expenses, and Changes in Fund Net Position - Budget and Actual (Unaudited)
 FYTD MAY 2023

| | 67% of year complete | | | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
|---|------------------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| | AMENDED ANNUAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | | | |
| REVENUE | | | | | | |
| Av Gas Sales | \$ 89,525 | \$ 89,527 | | \$ 233,000 | \$ 219,617 | |
| Av Gas Purchases | 71,575 | 71,574 | | 174,750 | 171,504 | |
| Net Sales | 17,950 | 17,953 | 100% | 58,250 | 48,113 | 83% |
| Jet Gas Sales | 156,010 | 156,012 | | 367,000 | 436,749 | |
| Jet Gas Purchases | 102,775 | 102,772 | | 201,850 | 281,456 | |
| Net Sales | 53,235 | 53,240 | 100% | 165,150 | 155,294 | 94% |
| Avgas Flowage Fees | 3,140 | 1,752 | 56% | 450 | - | 0% |
| Jet Flowage Fees | 11,122 | 8,851 | 80% | | | |
| Penalties | - | - | | | 425 | |
| All Hangar Lease | 153,600 | 98,918 | 64% | 125,000 | 87,663 | 70% |
| CAF Admissions | 5,066 | 3,723 | 73% | 5,066 | 3,546 | 70% |
| McBride Lease | 48,748 | 29,028 | 60% | 45,893 | 30,671 | 67% |
| Thru the Fence Lease | 12,020 | 8,479 | 71% | 12,020 | 8,479 | 71% |
| Airport Parking Permit | 5,000 | (35) | -1% | 2,000 | 120 | 6% |
| Hangar Lease - FBO | 18,755 | 9,220 | 49% | 14,400 | 9,600 | 67% |
| Interest Earned | 10,745 | 52,108 | 485% | 500 | 1,762 | 352% |
| Other | - | 101 | | - | 360 | |
| Use of Fund Balance | 61,863 | 41,242 | 67% | 493,069 | 141,722 | 29% |
| Total Revenue | \$ 401,244 | \$ 324,581 | 81% | \$ 921,798 | \$ 487,755 | 53% |
| <i>Total Revenue less fund balance</i> | <i>\$ 339,381</i> | <i>\$ 283,339</i> | <i>83%</i> | <i>\$ 428,729</i> | <i>\$ 346,033</i> | <i>81%</i> |
| EXPENSES | | | | | | |
| Personnel Services | \$ 100,502 | \$ 67,132 | 67% | \$ 97,884 | \$ 64,981 | 66% |
| Supplies & Materials | 3,000 | 1,573 | 52% | 4,000 | 2,097 | 52% |
| Repairs & Maint | 3,675 | 1,198 | 33% | 3,000 | 3,945 | 132% |
| Contractual Services | 64,750 | 62,102 | 96% | 64,400 | 43,385 | 67% |
| Other Designated Expenses | 46,527 | 36,903 | 79% | 38,600 | 25,784 | 67% |
| Transfers to Debt Service | 61,863 | 41,242 | 67% | 58,069 | 38,713 | 67% |
| Admin Allocation | 31,874 | 22,930 | 72% | 39,646 | 36,423 | 92% |
| Av fuel truck lease | 3,350 | 3,350 | 100% | 12,000 | 8,000 | 67% |
| Jet fuel truck lease | 4,550 | 4,550 | 100% | 16,800 | 11,200 | 67% |
| Transfers to Capital | - | - | | 435,000 | 103,009 | 24% |
| Total Expenses | \$ 320,091 | \$ 240,980 | 75% | \$ 769,399 | \$ 337,536 | 44% |
| <i>Total Exp - xfers to capital and debt svc.</i> | <i>\$ 258,228</i> | <i>\$ 199,738</i> | <i>77%</i> | <i>\$ 276,330</i> | <i>\$ 195,814</i> | <i>71%</i> |
| Change in Net Position | \$ 81,153 | \$ 83,601 | | \$ 152,399 | \$ 150,219 | |

NOTE

Original budget was based on the new FBO contract going into effect October 1st. However, the new FBO contract did not go into effect until January 1, 2023. Therefore, staff amended the budget to match the contracts in place.

Under the new FBO contract:

- Net fuel sales are replaced by flowage fees.
- Fuel truck lease expenses are assumed by the FBO.
- FBO contract payments which were \$18,000 per month under the Interim FBO contract will be \$0 under the new FBO contract.

Notes:

REVENUES:

- Because the airport was operated under the interim contract for the 1st quarter, the airport had fuel sales and related expenses but no flowage fee revenues for that period.
- Interest rates and revenue have increased significantly over last year.

EXPENSES:

- Because the airport was operated under the interim FBO contract for the 1st quarter, the airport incurred "cost of fuel sold" expenses, fuel truck lease expenses, credit card service fees, FBO contract payments of \$18,000 from Oct - Dec, and increased admin allocation expenses for the period which were not included in the original budget but has since been amended.
- Designated expenses includes the annual insurance payment for the airport.

City of Burnet, Texas
Other Funds
Revenues, Expenses, and Changes in Fund Net Position - Budget and Actual (Unaudited)
FYTD MAY 2023

| | ANNUAL BUDGET 2022-2023 | ACTUAL FYTD MAY 2023 | % OF BUDGET | PY BUDGET 2021-2022 | PY ACTUAL FYTD MAY 2022 | % OF BUDGET |
|---|----------------------------|-------------------------|----------------|------------------------|----------------------------|----------------|
| HOTEL/MOTEL FUND | | | | | | |
| Revenues | \$ 191,900 | \$ 133,601 | 69.62% | \$ 171,281 | \$ 142,813 | 83.38% |
| Expenses | 168,795 | 101,002 | 59.84% | 147,465 | 50,283 | 34.10% |
| Net Profit (Loss) | <u>\$ 23,105</u> | <u>\$ 32,599</u> | | <u>\$ 23,816</u> | <u>\$ 92,530</u> | |
| BEDC | | | | | | |
| Revenues | \$ 4,015,333 | \$ 1,060,753 | 26.42% | \$ 4,009,417 | \$ 1,489,591 | 37.15% |
| Expenses | 3,722,497 | 802,494 | 21.56% | 3,795,481 | 1,252,388 | 33.00% |
| Net Profit (Loss) | <u>\$ 292,836</u> | <u>\$ 258,259</u> | | <u>\$ 213,936</u> | <u>\$ 237,203</u> | |
| SELF FUNDED EQUIPMENT FUND | | | | | | |
| Revenues | \$ 1,539,000 | \$ 1,320,207 | 85.78% | \$ 1,020,800 | \$ 509,947 | 49.96% |
| Expenses | 1,539,000 | 1,320,207 | 85.78% | 1,020,800 | 225,226 | 22.06% |
| Net Profit (Loss) | <u>\$ -</u> | <u>\$ -</u> | | <u>\$ -</u> | <u>\$ 284,721</u> | |
| DEBT SERVICE FUND | | | | | | |
| Revenues | \$ 1,046,528 | \$ 698,278 | 66.72% | \$ 1,052,683 | \$ 702,000 | 66.69% |
| Expenses | 1,046,328 | 791,794 | 75.67% | 1,052,183 | 794,353 | 75.50% |
| Net Profit (Loss) | <u>\$ 200</u> | <u>\$ (93,516)</u> | | <u>\$ 500</u> | <u>\$ (92,354)</u> | |
| INTEREST & SINKING DEBT FUND | | | | | | |
| Revenues | \$ 796,782 | \$ 779,938 | 97.89% | \$ 490,178 | \$ 524,386 | 106.98% |
| Expenses | 796,582 | 153,502 | 19.27% | 489,978 | 97,038 | 19.80% |
| Net Profit (Loss) | <u>\$ 200</u> | <u>\$ 626,436</u> | | <u>\$ 200</u> | <u>\$ 427,348</u> | |

City of Burnet, Texas
Cash and Investment Accounts
FYTD MAY 2023

| Acct # | Bank | Account Name | Account Type | Balance as of MAY 2023 |
|------------------------------|---------|---|--------------|------------------------|
| Unrestricted Accounts | | | | |
| 984/2410 | FSB | Operating Cash | Checking | \$ 2,467,227.89 |
| | | Add or Subtract Claim on Cash for Airport | | (2,464.28) |
| 2329 | FSB | Golf Course Petty Cash | Checking | 1,188.70 |
| 2711100002 | TexPool | Operating Reserve | Investment | 4,269,496.12 |
| Total Unrestricted | | | | \$ 6,735,448.43 |

| | |
|--|------------------------|
| <i>75 Day Reserve Requirement</i> | 3,873,000.00 |
| <i>Unrestricted Cash over 75 day reserve</i> | \$ 2,862,448.43 |
| <i>90 Day Reserve Requirement</i> | 4,647,000.00 |
| <i>Unrestricted Cash over 90 day reserve</i> | \$ 2,088,448.43 |

| | | | | |
|---|---------|---|------------|------------------------|
| Restricted by Council | | | | |
| 2711100011 | TexPool | Capital Equipment Reserve | Investment | \$ 635,924.75 |
| 2188 | FSB | Self Funded Equipment | M/M | 139,557.92 |
| 2711100014 | TexPool | Self Funded Equipment Reserve | Investment | 538,420.97 |
| 2711100021 | TexPool | YMCA/GHRC Capital Improvement | Investment | 102,851.14 |
| 2711100029 | TexPool | YMCA Land Sale Proceeds | Investment | 112,194.22 |
| 2711100022 | TexPool | Electric Capital Improvement | Investment | 411,404.07 |
| 2711100020 | TexPool | Street Rehab/Replacement Reserve | Investment | 411,371.91 |
| 2711100023 | TexPool | Water/WW Improvement | Investment | 102,851.14 |
| 2711100018 | TexPool | Golf Course Ops Reserve | Investment | 628,056.85 |
| 2711100019 | TexPool | Golf Course Capital Improvement Reserve | Investment | 274,612.11 |
| 2711100031 | TexPool | City Hall Reserve | Investment | 1,606,588.84 |
| Total Restricted by Council Action | | | | \$ 4,963,833.92 |

City of Burnet, Texas
Cash and Investment Accounts
FYTD MAY 2023

Restricted by Purpose or Law

| Acct # | Bank | Account Name | Account Type | Balance as of MAY 2023 |
|------------------------------|---------|---|--------------|-------------------------|
| 1453 | FSB | Bond Reserve | M/M | \$ 332,253.46 |
| 2402 | FSB | Hotel Motel | M/M | 56,301.69 |
| 2711100005 | TexPool | Hotel Motel | Investment | 202,736.12 |
| 2485 | FSB | PD Seizure | M/M | 121.22 |
| 2711100027 | TexPool | Municipal Court Special Revenue | Investment | 89,491.45 |
| 2711100025 | TexPool | Impact Fees - Water | Investment | 472,064.74 |
| 2543 | FSB | Airport Reserve | M/M | - |
| | | Add or Subtract Airport Claim on Cash | | 2,464.28 |
| 2711100009 | TexPool | Airport Reserve | Investment | 846,620.13 |
| 2711100030 | TexPool | Airport Bond Proceeds | Investment | 1,035,533.31 |
| 2576 | FSB | Interest & Sinking Acct | M/M | 748,100.71 |
| 2711100026 | TexPool | Impact Fees - Wastewater | Investment | 45,585.46 |
| 2592 | FSB | BEDC | Super NOW | 214,756.44 |
| 2711100010 | TexPool | BEDC | Investment | 1,471,401.36 |
| 70516 | FSB | BEDC Commercial Park Project | M/M | 188,966.80 |
| 2675 | FSB | Police Department Explorer Program | M/M | 6,138.69 |
| 2691 | FSB | Fire Department Explorer Program | M/M | 3,470.72 |
| 2711100028 | TexPool | Franchise Fee Account | Investment | 142,755.57 |
| 3053 | FSB | Parks Fund | M/M | 27,854.05 |
| 58776 | FSB | Fire Dept. Community Acct | M/M | 13,851.27 |
| 2711100007 | TexPool | TWDB | Investment | 1,233.59 |
| 2711100006 | TexPool | TWDB | Investment | 1,083.21 |
| 143033000 | US Bank | City of Burnet, Texas Combination Tax and Surplus | Investment | 3,294.66 |
| 82-020-01-0 | Bank of | City of Burnet 2012 TWDB Escrow | Investment | 20,758.93 |
| 2711100017 | TexPool | 2021 CO - City Hall | Investment | 4,886,783.96 |
| 62315 | FSB | BEDC Bond Fund | Checking | 121,391.61 |
| 2711100024 | TexPool | Street Bond Reserve | Investment | 3,984,478.76 |
| Total Restricted Cash | | | | \$ 14,919,492.19 |
| Total All Cash | | | | \$ 26,618,774.54 |

City of Burnet, Texas
 Capital Projects
 FYTD MAY 2023

| GENERAL CAPITAL PROJECT FUND | | | | | REMAINING BALANCE |
|---|---------|--------------------------|--------------------------|------------|---------------------|
| DESCRIPTION | | CURRENT BUDGET 2022-2023 | FYTD MAY ACTUAL EXPENSES | % complete | 2022-2023 |
| CAPITAL PROJECTS: | | | | | |
| HCHS MOBILE ADOPTION CONTRIBUTION* | ADMIN | \$ 100,000 | \$ 100,000 | 100% | \$ - |
| SERVER UPGRADE | ADMIN | 75,000 | - | - | 75,000 |
| INCODE 10 UPGRADE - COURT | ADMIN | 17,000 | - | 0% | 17,000 |
| COMP PLAN | ADMIN | 200,000 | 40 | 0% | 199,960 |
| NEW CITY HALL | ADMIN | 4,800,000 | 133,489 | 3% | 4,666,511 |
| PD ACCREDITATION PROGRAM | POLICE | 15,000 | 4,616 | 31% | 10,384 |
| PD MONUMENT SIGN | POLICE | 10,000 | - | 0% | 10,000 |
| PD DONATED FUNDS - GUN RANGE IMPR PROJ* | POLICE | 111,232 | 111,232 | 100% | 0 |
| FIRE COVID EXPENSES | FIRE | 30,000 | 114 | 0% | 29,886 |
| FD DONATED FUNDS PROJECT | FIRE | 50,000 | - | 0% | 50,000 |
| FIRE PROF SERVICES - TAASP PROGRAM | FIRE | 12,000 | 10,143 | 85% | 1,857 |
| FIRE TACTICAL GEAR* | FIRE | 18,534 | 18,534 | 100% | - |
| STREET EQUIPMENT CRACK SEAL MACHINE | STREETS | 125,000 | 99,730 | 80% | 25,270 |
| STREETS | STREETS | 4,000,000 | 146,271 | 4% | 3,853,729 |
| COMMUNITY CENTER IMPROVEMENTS | PARKS | 100,000 | 3,605 | 4% | 96,395 |
| DOWNTOWN RESTROOMS | PARKS | 150,000 | 10,838 | 7% | 139,162 |
| PARK IMPROVEMENTS | PARKS | 50,000 | 2,400 | 5% | 47,600 |
| GHRC TEEN CENTER | GHRC | 20,000 | 20,000 | 100% | - |
| GHRC CAPITAL MAINTENANCE | GHRC | 325,000 | 1,482 | 0% | 323,518 |
| TOTAL | | \$ 10,108,766 | \$ 662,496 | 7% | \$ 9,546,270 |

| BALANCE TO BE FUNDED FROM: | | |
|----------------------------|---------------------|---------------------|
| OPERATING RESERVES | OTHER SOURCES | TOTAL |
| \$ - | \$ - | \$ - |
| 75,000 | - | 75,000 |
| 17,000 | - | 17,000 |
| 199,960 | - | 199,960 |
| 766,511 | 3,900,000 | 4,666,511 |
| 10,384 | - | 10,384 |
| 10,000 | - | 10,000 |
| 0 | - | 0 |
| 29,886 | - | 29,886 |
| 50,000 | - | 50,000 |
| 1,857 | - | 1,857 |
| - | - | - |
| - | - | - |
| 25,270 | - | 25,270 |
| - | 3,853,729 | 3,853,729 |
| 96,395 | - | 96,395 |
| 139,162 | - | 139,162 |
| 47,600 | - | 47,600 |
| - | - | - |
| - | - | - |
| 223,518 | 100,000 | 323,518 |
| \$ 1,692,541 | \$ 7,853,729 | \$ 9,546,270 |

| GOLF COURSE CAPITAL PROJECT FUND | | | | | REMAINING BALANCE |
|----------------------------------|--|--------------------------|--------------------------|------------|-------------------|
| DESCRIPTION | | CURRENT BUDGET 2022-2023 | FYTD MAY ACTUAL EXPENSES | % complete | 2022-2023 |
| CAPITAL PROJECTS: | | | | | |
| GOLF COURSE EQUIPMENT | | \$ 51,311 | \$ 71,190 | 139% | \$ (19,879) |
| GOLF COURSE IMPROVEMENTS | | 215,689 | 22,612 | 0 | 193,077 |
| TOTAL | | \$ 267,000 | \$ 93,802 | 35% | \$ 173,198 |

| BALANCE TO BE FUNDED FROM: | | |
|----------------------------|-------------------|-------------------|
| OPERATING RESERVES | OTHER SOURCES | TOTAL |
| \$ - | \$ (19,879) | \$ (19,879) |
| - | 193,077 | 193,077 |
| \$ - | \$ 173,198 | \$ 173,198 |

| ELECTRIC CAPITAL PROJECT FUND | | | | | REMAINING BALANCE |
|--|--|--------------------------|--------------------------|------------|---------------------|
| DESCRIPTION | | CURRENT BUDGET 2022-2023 | FYTD MAY ACTUAL EXPENSES | % complete | 2022-2023 |
| CAPITAL PROJECTS: | | | | | |
| ELECTRIC RATE STUDY | | \$ 50,000 | \$ - | 0% | 50,000 |
| SOFTWARE - ELSTER UPGRADES (CARRYOVER) | | 46,500 | 37,157 | 80% | 9,343 |
| ENTEGRIS ELECTRIC FEEDER | | 500,000 | - | 0% | 500,000 |
| SCADA/RECLOSERS (CARRYOVER) | | 73,000 | 61,800 | 85% | 11,200 |
| SCADA/RECLOSERS | | 100,000 | - | 0% | 100,000 |
| SUBDIVISION ELECTRICAL COSTS | | 200,000 | - | 0% | 200,000 |
| DEVELOPMENT PROJECTS (CARRYOVER) | | 370,000 | 74,820 | 20% | 295,180 |
| TOTAL | | \$ 1,339,500 | \$ 173,777 | 13% | \$ 1,165,723 |

| BALANCE TO BE FUNDED FROM: | | |
|----------------------------|-------------------|---------------------|
| OPERATING RESERVES | OTHER SOURCES | TOTAL |
| \$ 50,000 | \$ - | \$ 50,000 |
| 9,343 | - | 9,343 |
| 250,000 | 250,000 | 500,000 |
| 11,200 | - | 11,200 |
| 100,000 | - | 100,000 |
| - | 200,000 | 200,000 |
| 295,180 | - | 295,180 |
| \$ 715,723 | \$ 450,000 | \$ 1,165,723 |

| W/WW CAPITAL PROJECT FUND | | | | | REMAINING BALANCE |
|--|--|--------------------------|--------------------------|------------|---------------------|
| DESCRIPTION | | CURRENT BUDGET 2022-2023 | FYTD MAY ACTUAL EXPENSES | % complete | 2022-2023 |
| CAPITAL PROJECTS: | | | | | |
| GENERATORS - WATER FUND BAL | | \$ 500,000 | \$ 90,000 | 18% | \$ 410,000 |
| GENERATORS - WATER IMPACT FEES | | 200,000 | - | 0% | 200,000 |
| WATER LINE OVERSIZE | | 155,000 | - | 0% | 155,000 |
| WATER SYSTEM IMPROVEMENTS | | 10,000 | - | 0% | 10,000 |
| WATER IMPR WELLS AND PUMPS | | 100,000 | - | 0% | 100,000 |
| WATER IMPR EAGLES NEST | | 200,000 | 4,280 | 2% | 195,720 |
| WATER IMPR EAST TANK | | 200,000 | 4,220 | 2% | 195,780 |
| WATER IMPR VALLEY ST WELL | | 50,000 | 1,053 | 2% | 48,947 |
| SEWER IMPROVEMENT - VFW | | 75,000 | 70,695 | 94% | 4,305 |
| SEWER IMPROVEMENT - RANCH LIFT STATION | | 150,000 | 4,220 | 3% | 145,780 |
| TRANSFER OUT WW IMPACT FEES | | 75,000 | - | 0% | 75,000 |
| TOTAL | | \$ 1,715,000 | \$ 174,468 | 10% | \$ 1,540,532 |

| BALANCE TO BE FUNDED FROM: | | |
|----------------------------|-------------------|---------------------|
| OPERATING RESERVES | OTHER SOURCES | TOTAL |
| \$ 410,000 | \$ - | \$ 410,000 |
| - | 200,000 | 200,000 |
| 155,000 | - | 155,000 |
| 10,000 | - | 10,000 |
| 100,000 | - | 100,000 |
| 195,720 | - | 195,720 |
| 195,780 | - | 195,780 |
| 48,947 | - | 48,947 |
| 4,305 | - | 4,305 |
| 145,780 | - | 145,780 |
| - | 75,000 | 75,000 |
| \$ 1,265,532 | \$ 275,000 | \$ 1,540,532 |

City of Burnet, Texas
 Capital Projects
 FYTD MAY 2023

| AIRPORT CAPITAL PROJECT FUND | | | | |
|----------------------------------|--------------------------|--------------------------|------------|-----------------------------|
| DESCRIPTION | CURRENT BUDGET 2022-2023 | FYTD MAY ACTUAL EXPENSES | % complete | REMAINING BALANCE 2022-2023 |
| CAPITAL PROJECTS: | | | | |
| CONSULTING FEES | \$ - | \$ 959 | | \$ - |
| C/O BLDG & FACILITY - JET HANGAR | 965,000 | 5,061 | 1% | 959,939 |
| C/O LAND - DECEL LANE | 100,000 | - | 0% | 100,000 |
| C/O IMPROVEMENTS | 200,000 | 122,500 | 61% | 77,500 |
| RAMP GRANT | 100,000 | 31,194 | 31% | 68,806 |
| | \$ 1,365,000 | \$ 159,714 | 12% | \$ 1,206,245 |

| BALANCE TO BE FUNDED FROM: | | |
|----------------------------|---------------------|---------------------|
| OPERATING RESERVES | OTHER SOURCES | TOTAL |
| \$ - | \$ - | \$ - |
| - | 959,939 | 959,939 |
| - | 100,000 | 100,000 |
| - | 77,500 | 77,500 |
| - | 68,806 | 68,806 |
| \$ - | \$ 1,206,245 | \$ 1,206,245 |

| TOTAL CAPITAL/OTHER PROJECTS | | | | |
|--------------------------------|--------------------------|--------------------------|------------|-----------------------------|
| DESCRIPTION | CURRENT BUDGET 2022-2023 | FYTD MAY ACTUAL EXPENSES | % complete | REMAINING BALANCE 2022-2023 |
| TOTAL CAPITAL/OTHER PROJECTS | \$ 14,795,266 | \$ 1,264,257 | 9% | \$ 13,631,968 |
| TRANSFER TO CAP EQUIP RESERVES | - | - | 0% | - |
| TOTAL CAPITAL/OTHER | \$ 14,795,266 | \$ 1,264,257 | 9% | \$ 13,631,968 |

| BALANCE TO BE FUNDED FROM: | | |
|----------------------------|---------------------|----------------------|
| OPERATING RESERVES | OTHER SOURCES | TOTAL |
| \$ 3,673,796 | \$ 9,958,172 | \$ 13,631,968 |
| - | - | - |
| \$ 3,673,796 | \$ 9,958,172 | \$ 13,631,968 |

* Council approved project but the budget has not been formally amended. Project will be included when the next quarterly budget amendment is presented to Council.



City of Burnet Financial Report

FYTD

MAY 2023

General Fund

| | Annual Budget | Actual FYTD May 2023 | % of Budget |
|---------------|---------------|----------------------|-------------|
| Revenues | \$14,766,308 | \$11,060,581 | 75% |
| Expenditures | 14,305,521 | 9,368,869 | 65% |
| Profit (Loss) | \$460,787 | \$1,691,712 | |

Revenues:

- Property Tax Collections = \$3,452,796
 - 99% of budget
 - Increased \$490K over last year
- Transfers from Utilities = \$2,169,468
 - 64% of budget
 - Increased \$252K over last year
- Sales Taxes = \$1,812,554
 - 65% of budget
 - Increased \$30K over last year
- EMS Transport collections = \$1,220,272
 - 59% of budget
 - Decreased (\$178K) over last year, and (\$161K) compared to the straight-lined budget

Expenses:

- In total and at the department level are on track with budget for the period.

Golf Fund

| | Annual Budget | Actual FYTD May 2023 | % of Budget |
|---------------|---------------|-------------------------|----------------|
| Revenues | \$1,860,895 | \$1,554,751 | 84% |
| Expenses | 1,778,214 | 1,180,747 | 66% |
| Profit (Loss) | \$82,681 | \$374,004 | |

Golf Fund Rounds

Rounds of Golf:

FYTD May 2023 – 17,554

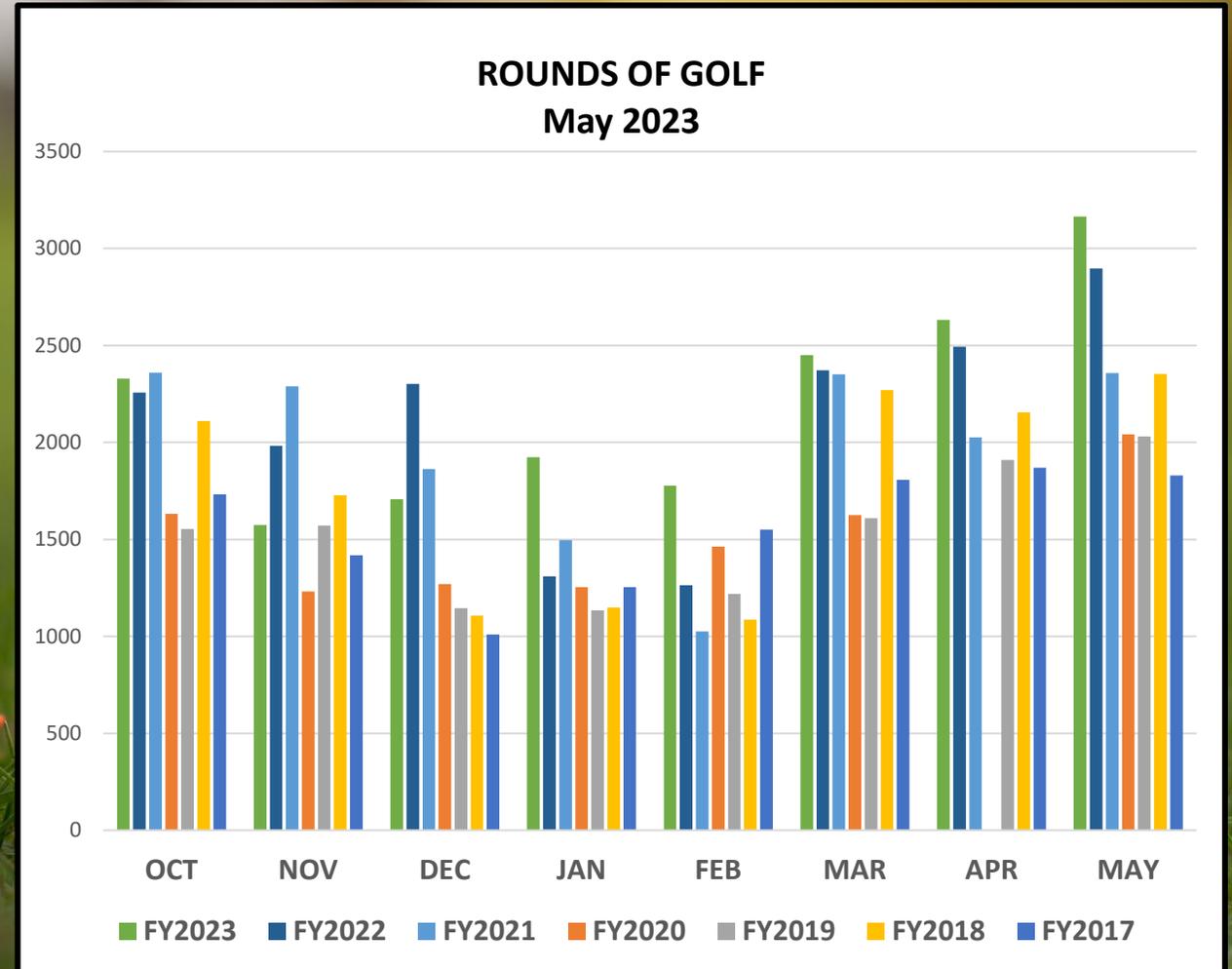
FYTD May 2022 – 16,874

➤ Increase 680 rounds, 4%

Average Revenue Per Round:

FYTD May 2023 \$39.46

FYTD May 2022 \$37.41

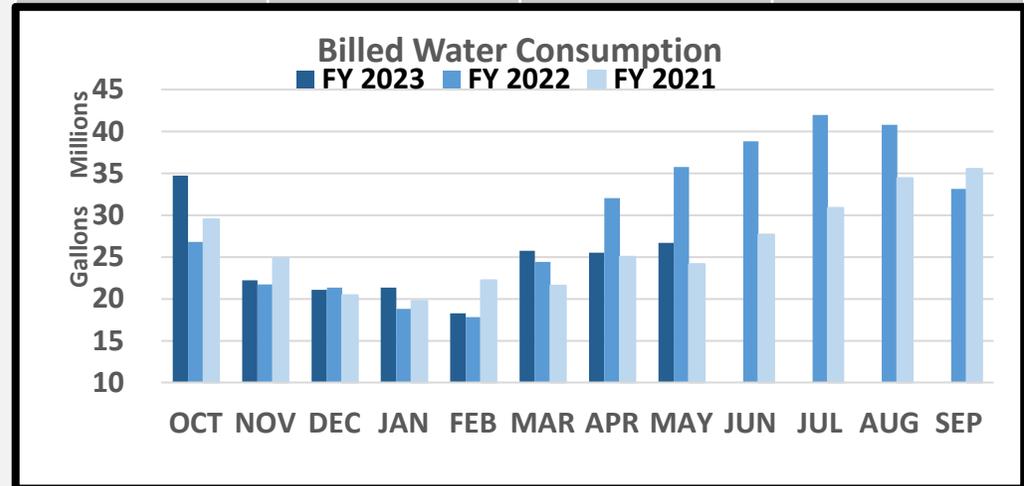
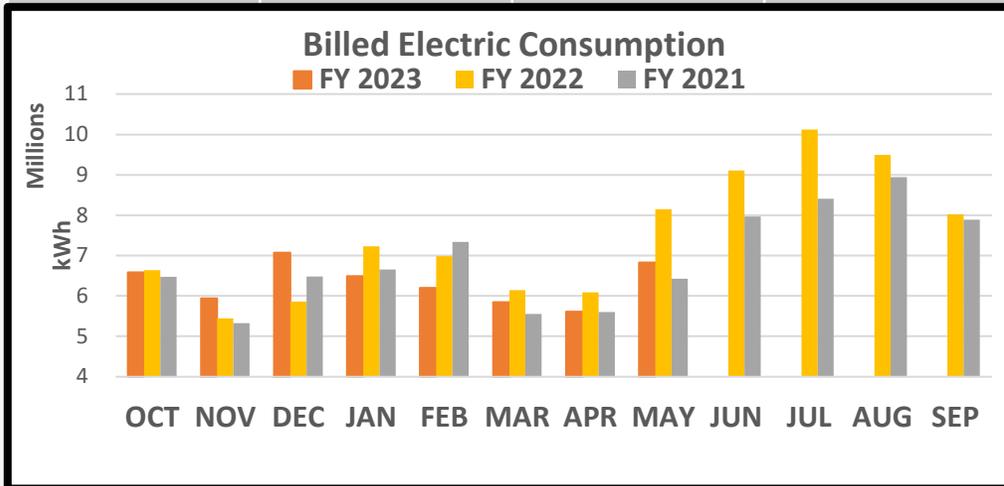


Note: April of 2020 the golf course was closed due to the Covid Pandemic.

Utility Funds

| ELECTRIC | Annual Budget | Actual FYTD May 2023 | % of Budget |
|--------------|---------------|----------------------|-------------|
| Revenues | \$4,089,298 | \$2,526,800 | 62% |
| Expenses | 3,786,446 | 2,351,116 | 62% |
| Profit(Loss) | \$302,852 | \$175,684 | |

| WATER/WW | Annual Budget | Actual FYTD May 2023 | % of Budget |
|---------------|---------------|----------------------|-------------|
| Revenues | \$4,624,417 | \$2,977,229 | 64% |
| Expenses | 4,330,936 | 2,812,462 | 65% |
| Profit (Loss) | \$293,481 | \$164,767 | |

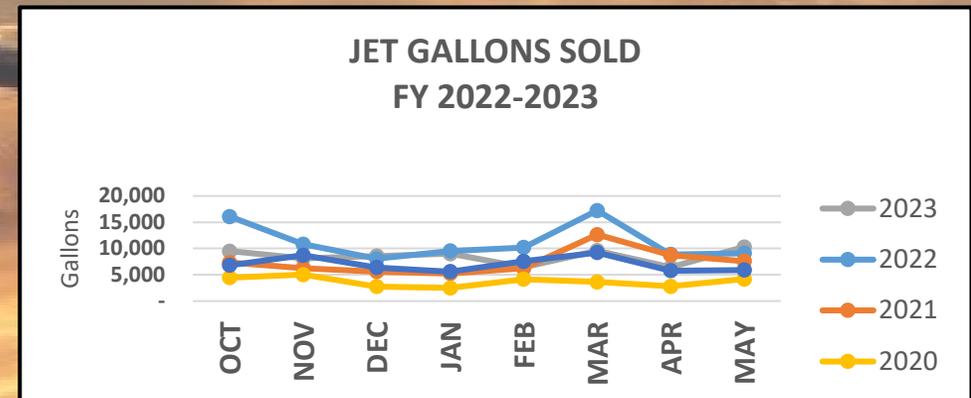
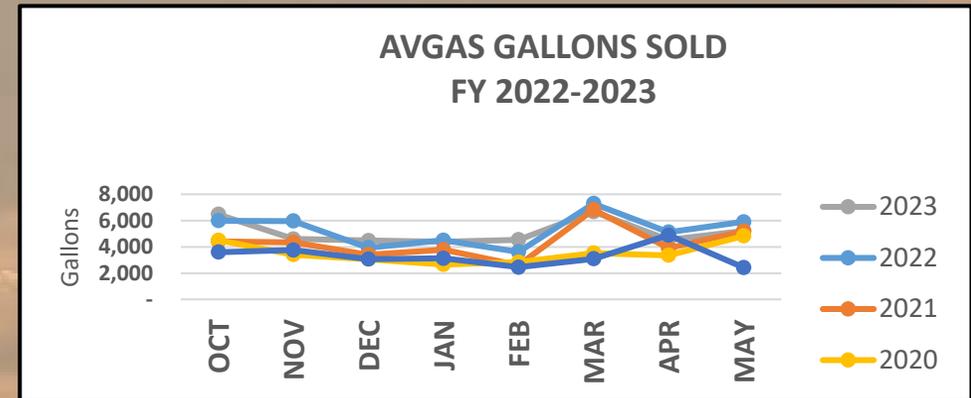


Consumption kWh:
 FYTD 2023 50,567,977
 FYTD 2022 52,543,138
 Decrease (1,975,161) 3.76%

Consumption - Gallons:
 FYTD 2023 195,707,725
 FYTD 2022 198,779,657
 Decrease (3,071,932) 1.55%

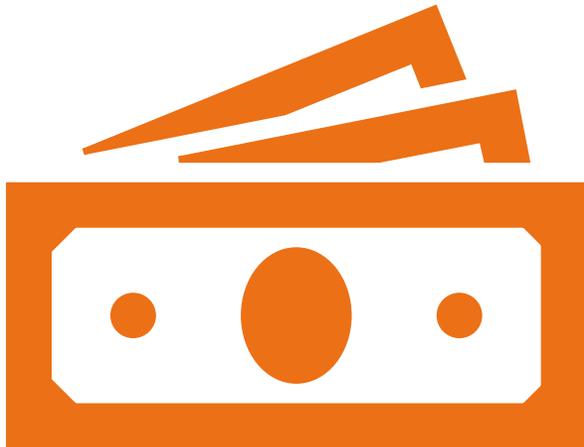
Airport Fund

| | Annual Budget (Amended) | Actual FYTD May 2023 |
|---------------|-------------------------|----------------------|
| Revenues | \$339,381 | \$283,339 |
| Expenses | 258,228 | 199,738 |
| Profit (Loss) | \$81,153 | \$83,601 |



Cash Reserves

As of May 31, 2023



| | |
|---|--------------------|
| Unrestricted Cash Reserve Balance | \$6,735,448 |
| 90 Day Reserve Requirement | <u>4,647,000</u> |
| Unrestricted Cash Balance over 90 Day Reserve | <u>\$2,088,448</u> |
| “Restricted by Council” Cash Balance | <u>\$4,963,834</u> |



Questions?



FIRE
DEPARTMENT
3rd Qtr.
Report

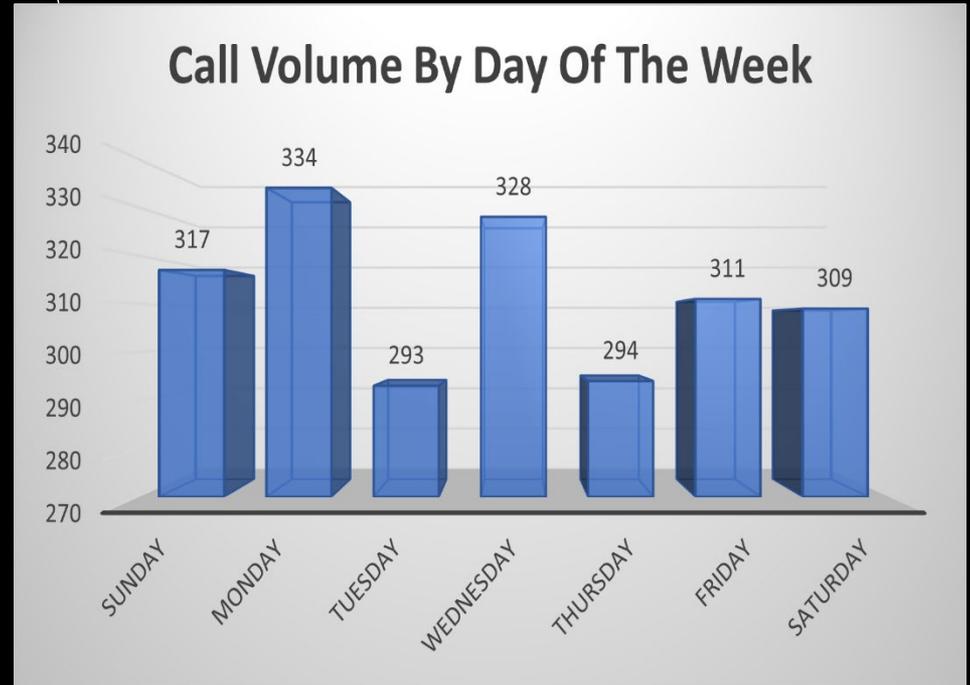




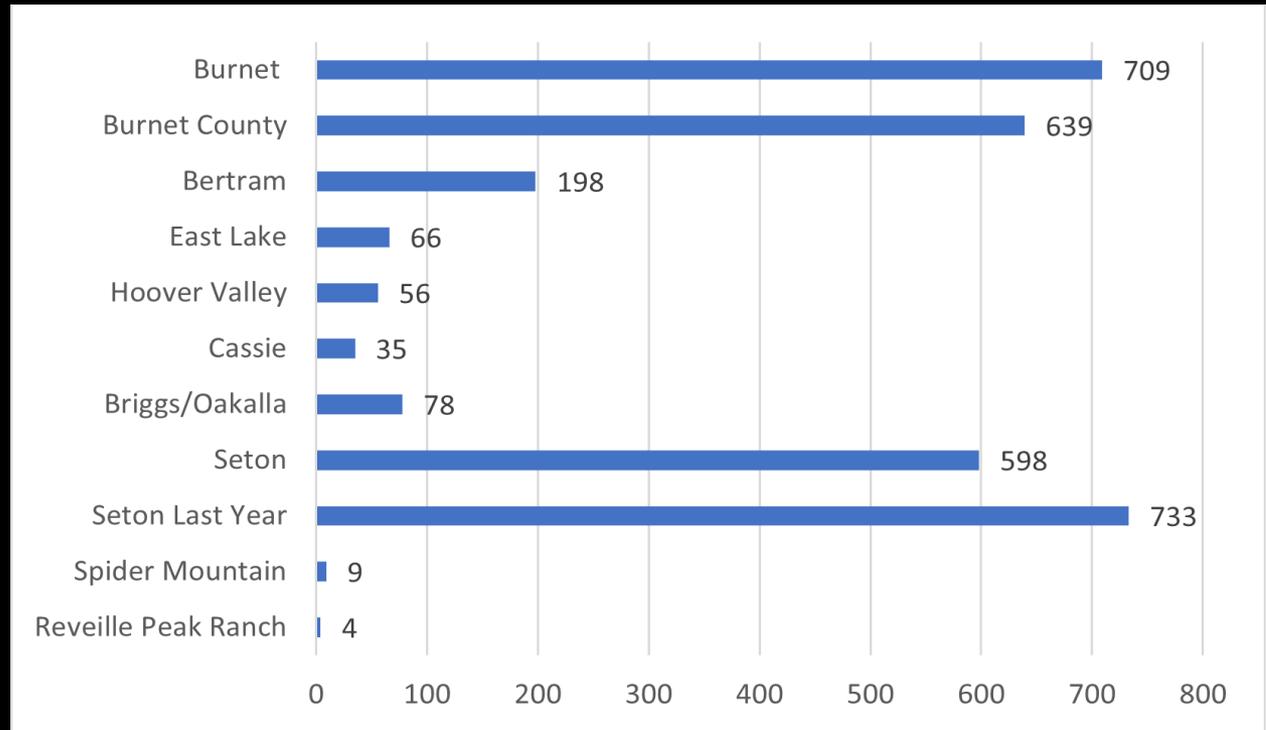
STAFFING



Call Volume by Day of Week



Call Volume by Area



BURNET
FIRE
DEPARTMENT

Total Loaded
Mileage Over The
last 6 Months.

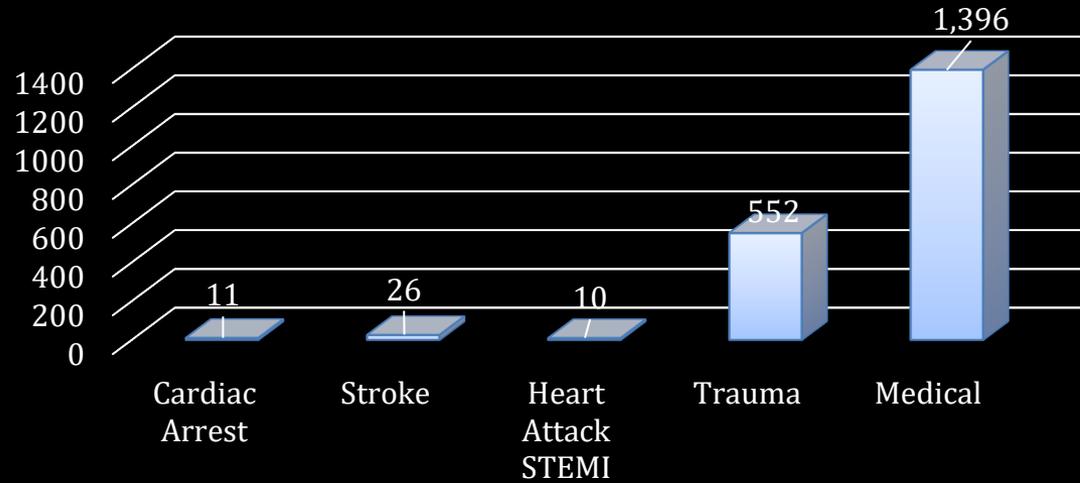
44,291

Average Loaded
Miles Per Call

31.05



Nature Of EMS Calls

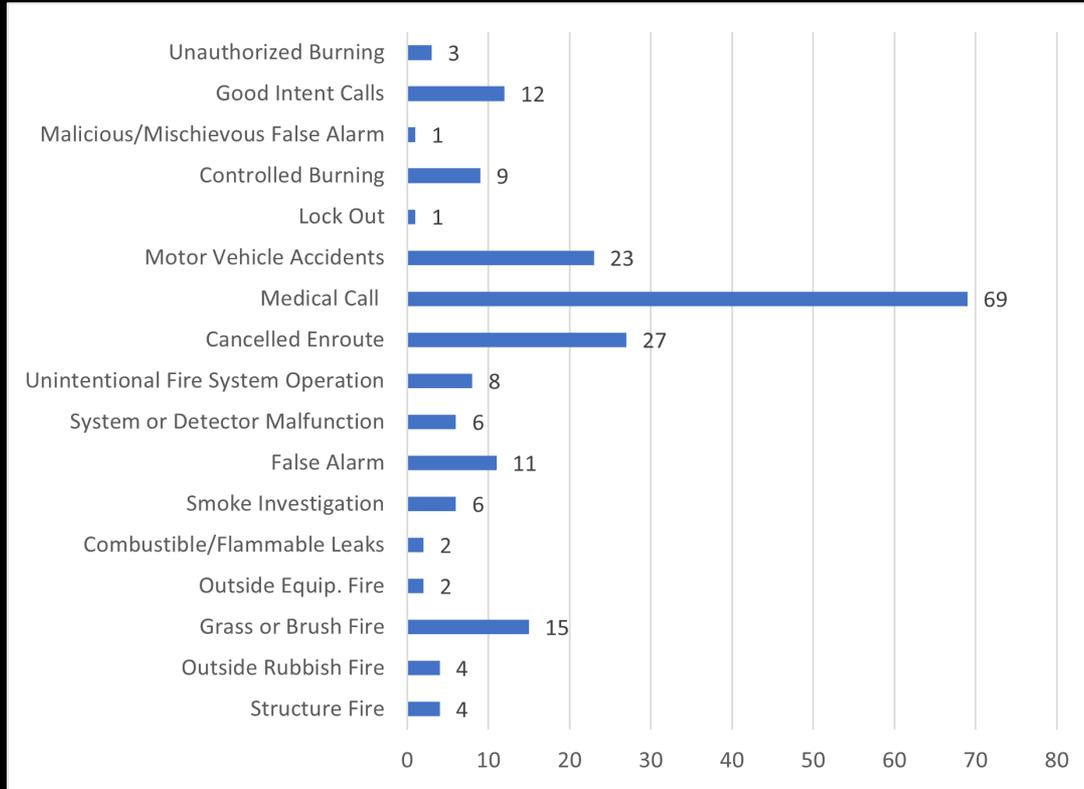


Fire Related calls

Total 203



Fire Calls By Type.





• Any Questions??

STATE OF TEXAS {}
COUNTY OF BURNET {}
CITY OF BURNET {}

On this the 13th day of June, 2023, the City Council of the City of Burnet convened in Workshop Session, at 5:00 p.m. the City of Burnet Council Chambers located at 2402 S. Water Street (Hwy 281 South, Burnet Municipal Airport) Burnet, Tx. thereof with the following members present, to-wit:

| | |
|-----------------|---|
| Mayor | Gary Wideman |
| Council Members | Dennis Langley, Ricky Langley, Philip Thurman, Tres Clinton, Mary Jane Shanes |
| Absent | Joyce Laudenschlager |
| City Manager | David Vaughn |
| City Secretary | Kelly Dix |

Guests:, Leslie Kimbler, Carly Pearson, Tony Nash, Adrienne Field, Brian Lee, Mark Ingram, Habib Erkan, Maria Gonzalez,

Call to Order: Mayor Wideman called the meeting to order at 3:00 p.m.

CONSIDERATION ITEMS:

Discuss and consider: Commemorative Air Force (CAF) lease extension/renewal: D. Vaughn: City Manager David Vaughn introduced Kirk Noaker, Squadron Leader for the Highland Lakes Squadron Commemorative Air Force (CAF), located at the Burnet Airport. Mr. Vaughn informed all present that the current lease for the CAF is due to expire in October and that City Council would need to decide on renewal/non-renewal of the lease and the terms should the lease be renewed. Mr. Noaker reviewed the squadron’s current membership, the success and growth rate of the Annual Bluebonnet Airshow and other activities the squadron has implemented and hosts annually as well as the Squadron’s plans for growth, increasing membership and financial support for the squadron. Mr. Vaughn informed the Council that there was an item on the agenda to appoint three Council Members to a Lease Renewal Committee on the regular meeting agenda.

ADJOURN: There being no further business, Mayor Wideman adjourned the City Council Workshop meeting at 5:46 p.m.

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

STATE OF TEXAS {}
COUNTY OF BURNET {}
CITY OF BURNET {}

On this the 13th day of June, 2023, the City Council of the City of Burnet convened in Special Session, at 5:00 p.m. the City of Burnet Council Chambers located at 2402 S. Water Street (Hwy 281 South, Burnet Municipal Airport) Burnet, Tx. thereof with the following members present, to-wit:

Mayor Gary Wideman
Council Members Dennis Langley, Mary Jane Shanes, Ricky Langley, Philip Thurman, Tres Clinton
Absent Joyce Laudenschlager
City Manager David Vaughn
City Secretary Kelly Dix

Guests: Patricia Langford, Eric Belaj, Maria Gonzales, Leslie Kimbler, Carly Pearson, Mark Ingram, Tony Nash, Adrienne Feild, Rita Gooch, Judy Humphrey, Anthony Murango, Darrell & Sam Greco, Brent Standerford, Kenny Adaif, Rod & Carol Griffin, Joy Biscotto, Mark Miller, Betha Kent, Gerardo Moline, Wade Langley

Call to Order: Mayor Wideman called the meeting to order at 6:00 p.m.

INVOCATION: Led by Mayor Wideman

PLEDGES (US & TEXAS): Led by Council Member Philip Thurman

SPECIAL REPORTS/RECOGNITION:

Police Department Quarterly Report B. Lee: Police Chief Brian Lee presented the Police Department Quarterly Report that consisted of an overview of the Criminal Investigation Department, Patrol, Safety Resource Officers, current training the officers are doing and Code Enforcement.

CONSENT AGENDA: *(All of the following items on the Consent Agenda are considered to be self-explanatory and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member, staff member or citizen requests removal of the item from the consent agenda for the purpose of discussion. For removal of an item, a request must be made to the Council when the Consent Agenda is opened for Council action.)*

Approval of the May 23, 2023 Council Regular Meeting minutes

Approval of the May 23, 2023 Council Workshop Meeting minutes

Approval of the May 31, 2023 Council Workshop Meeting minutes

Member Philip Thurman moved to approve the consent agenda as presented. Council Member Tres Clinton seconded. The motion carried unanimously.

PUBLIC HEARINGS/ACTION:

Public Hearing and consideration of the following items:

FIRST READING OF AN ORDINANCE OF THE CITY COUCIL OF THE CITY OF BURNET, TEXAS, AMENDING CODE OF ORDINANCES, CHAPTER 118 (ENTITLED “ZONING”) FOR THE PURPOSE OF ESTABLISHING THE FOLLOWING NEW RESIDENTIAL SINGLE-FAMILY ZONING CLASSIFICATIONS: “R-1-17”; “R-1-10”; “R-1-4”; “R-1-4E”; “R-1-3”; “R-1-3E”; “R-1-2”; AND “R-1-2E: D.

Vaughn: David Vaughn, City Manager, presented the item to Council to conduct the public hearing, discuss, and take action on the first reading of Ordinance 2023-17.

Public Hearing: Mayor Wideman opened the public hearing at 6:38 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 6:39 p.m.

Consideration and action: Council Member Philip Thurman moved to approve the first reading of Ordinance No. 2023-17 as presented. Council Member Dennis Langley seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCE TO RECODIFY HISTORIC PRESERVATION REGULATIONS IN CHAPTER 118 (ENTITLED “ZONING”) AND MAKING SUBSTANTIVE REVISIONS TO ESTABLISH THE POSITION OF HISTORIC PRESERVATION OFFICER TO ADMINISTER THE REGULATIONS AND ESTABLISHING A CERTIFICATE OF APPROPRIATENESS PERMIT FEE; MAKING REVISIONS TO CITY CODE CHAPTERS 2 (ENTITLED “ADMINISTRATION”) AND CHAPTER 22 (ENTITLED “SIGNS”) TO COMPORT WITH THE RECODIFICATION; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND

PROVIDING AN EFFECTIVE DATE: H. Erkan, Jr.: Habib Erkan, Assistant City Manager, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-18.

Public Hearing: Mayor Wideman opened the public hearing at 6:50 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one else wishing to speak, Mayor Wideman closed the public hearing at 6:51 p.m.

Consideration and action: Council Member Mary Jane Shanes moved to approve the first reading of Ordinance No. 2023-18 as presented. Council Member Philip Thurman seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY GRANTING A CONDITIONAL USE PERMIT TO ALLOW THE USE OF A “MINI STORAGE WAREHOUSE” IN A LIGHT COMMERCIAL – DISTRICT “C-1” FOR PROPERTY LOCATED AT THE CORNER OF NORTH US HIGHWAY 281 AND TAMI DRIVE, LEGALLY DESCRIBED AS: LOT NO. 1, BLOCK NO. 10, PHASE ONE, HIGHLAND OAKS:

L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-19.

Public Hearing: Mayor Wideman opened the public hearing at 7:06 p.m. and asked if anyone was interested in speaking, if so to approach the podium. Betha Kemp, Highland Oaks resident spoke in opposition of a storage unit facility being built on the proposed site due to concerns with increase traffic, interference with power lines and the affect it would have on the aesthetics of the Highland Oaks subdivision. Judy Humphrey also expressed opposition due to traffic concerns and aesthetics of the subdivision. There being no one else wishing to speak, Mayor Wideman closed the public hearing at 7:12 p.m.

Consideration and action: Council Member Ricky Langley moved to deny Ordinance No. 2023-19 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED SINGLE-FAMILY RESIDENTIAL – DISTRICT “R-1”, LOCATED AT THE CORNER OF EAST BRIER LANE AND NORTH WOOD STREET, LEGALLY DESCRIBED AS: LOT 3-A, BLOCK 11, PETER KERR DONATION, WITH DUPLEX – DISTRICT “R-2”:

L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-20.

Public Hearing: Mayor Wideman opened the public hearing at 6:53 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 6:54 p.m.

Consideration and action: Council Member Ricky Langley moved to approve the first reading of Ordinance No. 2023-20 as presented. Council Member Philip Thurman seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED HEAVY COMMERCIAL – DISTRICT “C-3”, LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION, WITH LIGHT COMMERCIAL – DISTRICT “C-1”:

L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-21.

Public Hearing: Mayor Wideman opened the public hearing at 6:55 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 6:56 p.m.

Consideration and action: Council Member Tres Clinton moved to approve the first reading of Ordinance No. 2023-21 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 AND THE OFFICIAL FUTURE LAND USE MAP OF THE CITY BY ASSIGNING THE PROPERTY LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES FROM ITS’ CURRENT DESIGNATION OF “AGRIGULTURE” TO A DESIGNATION OF “GOVERNMENT”:

L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-22.

Public Hearing: Mayor Wideman opened the public hearing at 6:57 p.m. and asked if anyone was interested in

speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 6:58 p.m.

Consideration and action: Council Member Tres Clinton moved to approve the first reading of Ordinance No. 2023-22 as presented. Council Member Philip Thurman seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED LIGHT COMMERCIAL – DISTRICT “C-1” AND AGRICULTURE – DISTRICT “A” LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES WITH GOVERNMENT – DISTRICT “G”: L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-23.

Public Hearing: Mayor Wideman opened the public hearing at 7:01 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 7:02 p.m.

Consideration and action: Council Member Mary Jane Shanes moved to approve the first reading of Ordinance No. 2023-23 as presented. Council Member Tres Clinton seconded. The motion carried unanimously.

FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 98 (ENTITLED “SUBDIVISIONS”), BY AMENDING THE REQUIREMENT FOR BUILDING SETBACK LINES ON PLATS: L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Ordinance 2023-24.

Public Hearing: Mayor Wideman opened the public hearing at 7:03 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 7:04 p.m.

Consideration and action: Council Member Ricky Langley moved to approve the first reading of Ordinance No. 2023-24 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Public Hearing and consider action: The City Council of the City of Burnet shall conduct a public hearing to receive public testimony and comments on the merits of a proposed “Preliminary Plat” for approximately 32.31 acres out of John Hamilton Survey No. 1503, Abs. No. 405. The proposed “Preliminary Plat” will establish Patriot Oaks Subdivision, consisting of 12 residential lots: L. Kimbler: Leslie Kimbler, City Planner, presented the item to Council to conduct the public hearing, discuss and take action on merits of a proposed “Preliminary Plat” for approximately 32.31 acres out of John Hamilton Survey No. 1503, Abs. No. 405. The proposed “Preliminary Plat” will establish Patriot Oaks Subdivision, consisting of 12 residential lots.

Public Hearing: Mayor Wideman opened the public hearing at 7:05 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 7:06 p.m.

Consideration and action: Council Member Philip Thurman moved to approve the preliminary plat to establish Patriot Oaks Subdivision as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Public Hearing and consider action: FIRST READING OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS APPROVING THE CONSTRUCTION OF PUBLIC RESTROOMS ON THE PUBLIC PARKING LOT OWNED BY THE BURNET ECONOMIC DEVELOPMENT CORPORATION AS A PROJECT UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT AND APPROVING A CHAPTER 380 AGREEMENT WITH SAID CORPORATION TO PROVIDE THE FUNDING FROM HOTEL OCCUPANCY TAX REVENUE AND THE GENERAL FUND REVENUE TO COMPLETE THE PROJECT TO PROMOTE THE CREATION OF JOBS AND NEW AND EXPANDED BUSINESS OPPORTUNITIES IN THE CITY OF BURNET: D. Vaughn: David Vaughn, City Manager, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Resolution R2023-40 as presented.

Public Hearing: Mayor Wideman opened the public hearing at 7:12 p.m. and asked if anyone was interested in speaking, if so to approach the podium. Joy Biscotto approached and stated that she was glad to see this project coming to fruition and was also pleased by the location of the new facility in the parking lot. There being no one wishing to speak, Mayor Wideman closed the public hearing at 7:15 p.m.

Consideration and action: Council Member Philip Thurman moved to approve the first reading of Resolution No. R2023-40 as presented. Council Member Ricky Langley seconded. The motion carried unanimously.

Public Hearing and consider action. FIRST READING OF A RESOLUTION BY THE CITY COUNCIL AUTHORIZING THE CONSTRUCTION OF A HOTEL AT THE CROSSING AT 281 SUBDIVISION AS A PROJECT THE BURNET ECONOMIC DEVELOPMENT CORPORATION MAY INCENTIVIZE THROUGH A PERFORMANCE AGREEMENT WITH THE HOTEL DEVELOPER: D. Vaughn: David Vaughn, City Manager, presented the item to Council to conduct the public hearing, discuss and take action on the first reading of Resolution R2023-42 as presented.

Public Hearing: Mayor Wideman opened the public hearing at 7:18 p.m. and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Wideman closed the public hearing at 7:19 p.m.

Consideration and action: Council Member Ricky Langley moved to approve the first reading of Resolution No. R2023-42 as presented. Council Member Philip Thurman seconded. The motion carried unanimously.

ACTION ITEMS:

Discuss and consider action: Appointment of three Commissioners to the Housing Authority of the City of Burnet: K. Dix: Council Member Tres Clinton moved to approve the appointments of James Herbort, Louise Lary and Roy Hallmark to the Burnet Housing Authority Board of Directors for a term of two years ending in June of 2025, as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING VARIANCES TO THE CODE OF ORDINANCES, SECTION 98-48 – BLOCKS AND LOTS AND SECTION 98-42 – TRANSPORTATION IMPROVEMENTS FOR THE PROPOSED PRELIMINARY PLAT OF PATRIOT OAKS SUBDIVISION: L. Kimbler: Council Member Philip Thurman moved to approve and adopt Resolution No. R2023-37 as presented. Council Member Ricky Langley seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE PRELIMINARY PLAT ESTABLISHING PATRIOT OAKS SUBDIVISION, CONSISTING OF 12 RESIDENTIAL LOTS ON APPROXIMATELY 32.31 ACRES OUT OF THE JOHN HAMILTON SURVEY, ABS. NO. 405: L. Kimbler: Council Member Mary Jane Shanes moved to approve and adopt Resolution No. R2023-38 as presented. Council Member Tres Clinton seconded. The motion carried unanimously.

Discuss and consider action: Direction to Staff on issuance of bids and funding source for the Delaware Springs Boulevard Reconstruction: E. Belaj: Council Member Philip Thurman moved to direct staff to proceed with the issuance of bids for the Delaware Springs Boulevard Reconstruction, with funding from the 2023 Street Bonds. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: Proposed contract with Burnet County for 2023/2024 Election Services: K. Dix: Council Member Tres Clinton moved to approve the contract with Burnet County for the 2023/2024 Election Services as presented. Council Member Ricky Langley seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AWARDING BID (RFP2023-004) TO GRECO CONSTRUCTION, INC., AS THE CONTRACTOR FOR THE TDHCA CDBG-CV PROJECT #70800001002 FOR THE HILL COUNTRY ADVOCACY CENTER PROJECT; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE A CONSTRUCTION CONTRACT WITH SAID CONTRACTOR FOR FUTURE COUNCIL CONSIDERATION: A. Field: Council Member Philip Thurman moved to approve and adopt Resolution No. R2023-39 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: Authorization and approval to purchase one (1) 2023 FORD RESPONDER 4WD for the Fire Department: B. Lee: Council Member Philip Thurman moved to authorize and approve the purchase of the 2023 Ford Responder 4WD for the Fire Department as presented. Council Member Tres Clinton seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS ESTABLISHING A COMMITTEE TO MAKE RECOMMENDATIONS RELATING TO THE HIGHLAND LAKES SQUADRON COMMEMORATIVE AIR FORCE PROPOSED LEASE RENEWAL; AND

APPOINTING UP TO THREE CITY COUNCIL MEMBERS TO THE COMMITTEE: A. Field: Council Member Mary Jane Shanes moved to approve and adopt Resolution No. R2023-41 appointing Council Members Philip Thurman, Dennis Langley and Tres Clinton to the CAF Lease Renewal Committee, as presented. Council Member Ricky Langley seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS REGARDING THE DEVELOPMENT OF DELAWARE SPRINGS SECTION 19 PHASE 4: L. Kimbler: Council Member Philip Thurman moved to approve and adopt Resolution No. R2023-43 as presented. Council Member Dennis Langley seconded. Council Member Ricky Langley filed an Affidavit of Conflict of Interest with the City Secretary and recused himself from the vote. The motion carried with five in favor, one absent and one abstention.

REQUESTS FROM COUNCIL FOR FUTURE REPORTS: In accordance with Resolution R2020-28 councilmembers may request the City Manager to prepare and present future report on matters of public interest: None.

ADJOURN: There being no further business a motion to adjourn was made by Council Member Philip Thurman at 7:54 p.m. seconded by Council Member Dennis Langley. The motion carried unanimously.

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary



Development Services

ITEM 5.1 A

David Vaughn
City Manager
512-715-3208
dvaughn@cityofburnet.com

Public Hearing and Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Public Hearing and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUCIL OF THE CITY OF BURNET, TEXAS, AMENDING CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF ESTABLISHING THE FOLLOWING NEW RESIDENTIAL SINGLE-FAMILY ZONING CLASSIFICATIONS: "R-1-17"; "R-1-10"; "R-1-4"; "R-1-4E"; "R-1-3"; "R-1-3E"; "R-1-2"; AND "R-1-2E: D. Vaughn
- Background:** On May 31st, City Council conducted a workshop to discuss single-family zoning district classifications. As a result of the workshop, City Council directed staff to present, for recommendation, additional single-family zoning classifications to provide for more flexibility in the development and planning of the City.
- Information:** This ordinance creates multiple zoning districts; each district will have a different requirement for lot size and minimum house size.
- Fiscal Impact:** No direct fiscal impact is anticipated.
- P&Z Report:** Planning and Zoning Commission met at their regular meeting on Monday, June 5th and recommended unanimously to approve Ordinance No. 2023-17 as presented. City Council approved the first reading on June 13, 2023.
- Recommendation:** Open the public hearing.
Pass and approve the second reading of Ordinance 2023-17 as presented.

ORDINANCE NO. 2023-17

AN ORDINANCE OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF ESTABLISHING THE FOLLOWING NEW RESIDENTIAL SINGLE-FAMILY ZONING CLASSIFICATIONS: "R-1-17"; "R-1-10"; "R-1-4"; "R-1-4E"; "R-1-3"; "R-1-3E"; "R-1-2"; AND "R-1-2E"

WHEREAS, On May 31, 2023, City Council conducted a workshop to discussed single-family zoning district classifications; and

WHEREAS, on June 5, 2023, the Planning and Zoning Commission conducted a public hearing to receive comments and testimony on the merits of the code amendments proposed by this ordinance; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed code amendments; and

WHEREAS, on June 27, 2023, City Council conducted a public hearing, to receive comments and testimony on the merits of the proposed code amendments; and

WHEREAS, The City Council, after due consideration of the Planning and Zoning Commission recommendation; the comments and testimony of public; and the recommendation of City staff; finds adoption of the proposed code amendments will promote the public health, safety, morals, and the general welfare; and

WHEREAS, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and.

WHEREAS, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 551 of the Texas Government Code; and the notice of the Public Hearing was published as required by Chapter 211 of the Texas Local Government Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Amendment. The City Code of Ordinances Sec. 118-20 (entitled "General Requirements and Limitations") is hereby amended by amending Chart 1 by adding the rows as shown below:

Sec. 118-20. General Requirements and Limitations.

Chart 1

| Zoning District | Front Yard Setback | Side Yard Setback | Street Side Yard Setback | Rear Yard Setback | Min. Lot S.F. Area | Min. Lot Width | Max. Height Limit |
|-----------------|--------------------|-------------------|--------------------------|-------------------|--------------------|----------------|-------------------|
| R-1-17 | 25 ft. | 7½ ft. | 15 ft. | 15 ft. | 9,000 | 75 ft. | 30 ft. |
| R-1-10 | 25 ft. | 7½ ft. | 15 ft. | 15 ft. | 10,890 | 75 ft. | 30 ft. |
| R-1-4 | 25 ft. | 7½ ft. | 15 ft. | 15 ft. | 10,890 | 75 ft. | 30 ft. |
| R-1-4E | 25 ft. | 7½ ft. | 15 ft. | 15 ft. | 10,890 | 75 ft. | 30 ft. |
| R-1-3 | 25 ft. | 10 ft. | 20 ft. | 20 ft. | 14,520 | 90 ft. | 30 ft. |
| R-1-3E | 25 ft. | 10 ft. | 20 ft. | 20 ft. | 14,520 | 90 ft. | 30 ft. |
| R-1-2 | 35 ft. | 20 ft. | 25 ft. | 25 ft. | 21,780 | 100 ft. | 30 ft. |
| R-1-2E | 35 ft. | 20 ft. | 25 ft. | 25 ft. | 21,780 | 100 ft. | 30 ft. |

Section two. Amendment. The City Code of Ordinances Sec. 118-20 (entitled “General Requirements and Limitations”) is hereby amended by amending Chart 2, therein, by adding to the second-row abbreviated zoning designations as shown in bold (**bold**) below:

Chart 2

| District | Coverage Main Buildings and all Accessory Buildings |
|--|---|
| OS, A, R1 E | 10% |
| R1, R2, R-2, R-6, R-1-17, R-1-10, R-1-4, R-1-4E, R-1-3, R-1-3E, R-1-2, R-1-2E , A, NC, M1 | 40% |
| M-2, C-1, C-2, G | 50% |
| C-3, I-1, I-2 | 60% |
| PUD | N/A |

Section three. Amendment. The City Code of Ordinances Sec. 118-21 (entitled “establishment of zoning districts”) is hereby amended by amending the table, found therein, by adding new rows therein stating the zoning district names for the abbreviated designations as shown in bold (**bold**) below:

| Abbreviated Designation | Zoning District Name |
|-------------------------|---|
| R-1-17 | Single-family residential —District "R-1-17" |
| R-1-10 | Single-family residential —District "R-1-10" |
| R-1-4 | Single-family residential —District "R-1-4" |
| R-1-4E | Single-family residential —District "R-1-4E" |
| R-1-3 | Single-family residential —District "R-1-3" |
| R-1-3E | Single-family residential —District "R-1-3E" |
| R-1-2 | Single-family residential —District "R-1-2" |
| R-1-2E | Single-family residential —District "R-1-2E" |

Note to publisher: Except as expressly amended in sections one, two and three of this ordinance, Section 118-20, and charts 1 and 2 therein; as well as Section 118-21, and the undesignated table therein, shall remain in full force and effect as stated prior to the adoption of this ordinance. This note shall not be published in Code.

Section four. Amendment. The City Code of Ordinances Sec. 118-25 (entitled “Single-Family Residential 1—District ‘R-1’”) is hereby amended by replacing subsection (a) in its entirety with the following:

Sec. 118-25. Single-family residential.

- (a) *Purpose and permitted uses.* The single-family residential districts stated in Table 118-25(1) permits detached single-family dwellings with a minimum living area and minimum lot size as follows:

Table 118-25(1)

| Single-Family Residential — District | Minimum living area: | Minimum lot size: |
|--------------------------------------|----------------------|-------------------------------|
| "R-1" | 1,350 square feet | 9,000 square feet |
| "R-1-17" | 1,750 square feet | 9,000 square feet |
| "R-1-10" | 1,350 square feet | 10,890 square feet (1/4 acre) |
| "R-1-4" | 1,750 square feet | 10,890 square feet (1/4 acre) |
| "R-1-4E" | 2,000 square feet | 10,890 square feet (1/4 acre) |
| "R-1-3" | 1,750 square feet | 14,520 square feet (1/3 acre) |
| "R-1-3E" | 2,000 square feet | 14,520 square feet (1/3 acre) |
| "R-1-2" | 1,750 square feet | 21,780 square feet (1/2 acre) |
| "R-1-2E" | 2,000 square feet | 21,780 square feet (1/2 acre) |
| "R-1E" | 2,100 square feet | 43,560 square feet (1 acre) |
| "R-6" | 1,100 square feet | 7,600 square feet |

Note to publisher: Section 118-25 subsections (b), (c) and (d) shall remain in full force and effect as stated prior to the adoption of this ordinance. This note shall not be published in Code.

Section five. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section six. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “general penalty”).

Section seven. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled “Repealer”) shall be controlling.

Section eight. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section nine. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section ten. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section eleven. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 13th day of June 2023

Passed, Approved and Adopted on the 27th day of June 2023

CITY OF BURNET

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary

SECOND READING OF AN ORDINANCE OF THE CITY OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF ESTABLISHING THE FOLLOWING NEW RESIDENTIAL SINGLE-FAMILY ZONING CLASSIFICATIONS: "R-1-17"; "R-1-10"; "R-1-4"; "R-1-4E"; "R-1-3"; "R-1-3E"; "R-1-2"; AND "R-1-2E: D. Vaughn





Staff incorporated setbacks as
directed by Council

No other changes since the first
reading



Administration

ITEM 6.1

David Vaughn.
City Manager
512-715-3208
dvaughn@cityofburnet.com

Public Hearing and Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action. SECOND AND FINAL READING OF A RESOLUTION BY THE CITY COUNCIL AUTHORIZING THE CONSTRUCTION OF A HOTEL AT THE CROSSING AT 281 SUBDIVISION AS A PROJECT THE BURNET ECONOMIC DEVELOPMENT CORPORATION MAY INCENTIVIZE THROUGH A PERFORMANCE AGREEMENT WITH THE HOTEL DEVELOPER: D. Vaughn

Background: The Burnet Economic Development Corporation desires to incentivize a Hotel Project to be developed and constructed within the Crossing at 281 Subdivision. Upon completion the hotel would include approximately 87 guest rooms, a swimming pool, and other amenities. The total costs for construction, finish-out and furnishing shall be \$13,000,000.00.

Information: The performance agreement provides the corporation shall sell a lot to the hotel developer for \$436,000.00; and shall refund the purchase price to the developer, as an incentive, upon completion of development and construction of the Hotel Project.

Fiscal Impact: This project shall have no direct financial impact on the budgets of the city or the corporation. Upon completion the project will have a positive impact on City ad valorem, personal property, hotel occupancy, and sales tax collections.

Recommendation: Approve and adopt the second and final reading of Resolution R2023-42 as presented.

RESOLUTION NO. R2023-42

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CONSTRUCTION OF A HOTEL AT THE CROSSING AT 281 SUBDIVISION AS A PROJECT THE BURNET ECONOMIC DEVELOPMENT CORPORATION MAY INCENTIVIZE THROUGH A PERFORMANCE AGREEMENT WITH THE HOTEL DEVELOPER

WHEREAS, the Section 505.158(a) Texas Local Government Code, authorizes a Corporation created by a municipality of 20,000 or less to fund a project that includes the land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements found by the Corporation's Board of Directors to promote new or expanded business development; and

WHEREAS, the BEDC is the owner of approximately 2.86 acres legally described as Lot 1B of the Replat of The Crossings at 281 Subdivision Lot 1, Block A recorded as Document No. 202304945 on May 24, 2023, in the Public Records of Burnet County Texas (the "Property"); and

WHEREAS, the Board of Directors of the BEDC, pursuant to BEDC Resolution No. 2023-08, took formal action to approve a real estate escrow agreement with the developer of a Hotel and approve a Performance Agreement incentivizing the development of a Hotel Project (the "Project") by refunding the real property purchase price of \$436,000.00 to the developer upon the City's issuance of a certificate of occupancy for the Hotel; and

WHEREAS, said Performance Agreement requires the Hotel to provide approximately 87 guest rooms, a swimming pool and other amenities at a total cost for construction, finish out and furnishing of \$13,000,000.00; and

WHEREAS, City Council finds and determines that Project is necessary and suitable to promote or develop new or expanded business enterprises within the City of Burnet, and further, that the proposed Project is an authorized project pursuant to Section 505.158 Texas Local Government Code; and

WHEREAS, City Council finds and determines the notice of the time, place, and subject matter of the first and second readings of this resolution fully complied with the notice requirements of the Texas Open Meetings Act, and that the meeting where the readings were heard was open to public comment as required by said Act.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The recitals to this Resolution are deemed to be the true and correct findings of city council and are incorporated herein for all purposes.

Section two. Authorization. The Burnet Economic Development Corporation is hereby authorized to incentivize a hotel project pursuant to the terms and conditions of the draft performance agreement attached hereto.

Section five. Effective Date. That this resolution shall take effect immediately upon its passage, and approval on second reading.

PASSED this the 13th day of June 2023.

PASSED AND APPROVED on second reading this the 27th day of June 2023.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

THE STATE OF TEXAS §
COUNTY OF BURNET §

Know all persons by these presents:

PERFORMANCE AGREEMENT

This Performance Agreement is entered into to be effective as of the 27th day of June, 2023, by and between the Burnet Economic Development Corporation, located in Burnet County, Texas, a Texas non-profit corporation incorporated under the TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act, and TEKMAK Burnet Hotel, LP, a Texas Limited Partnership formed under the laws of the State of Texas.

RECITALS

WHEREAS, the Act authorizes a development corporation to fund certain projects as defined by the Act and requires development corporations to enter into performance agreements to establish and provide for the direct incentive or make expenditures on behalf of a business enterprise under a project; and

WHEREAS, Section 501.158 of the Act requires a performance agreement to provide at a minimum for a schedule of additional payroll or jobs to be created or retained and capital investment to be made as consideration for any direct incentives provided or expenditures made by the corporation under the agreement and to specify the terms under which repayment must be made if the business enterprise does not meet the performance requirements specified in the agreement; and

WHEREAS, development of the Hotel, as proposed in this Agreement, will contribute to the Economic Development of the City of Burnet by creating new jobs, promoting and developing a new business enterprise, and tax revenue for the City of Burnet; as well as increasing property values and marketability of the lots within The Crossing at 281 Subdivision still held by the Corporation; and

WHEREAS, development of said Hotel, will therefore have both a direct and indirect positive overall improvement/stimulus in the local and state economy;

WHEREAS, Corporation desires to offer incentives to Developer to enable Developer to develop the Hotel pursuant to this Agreement in substantial conformity with the City of Burnet's economic development plan and the Act; and

WHEREAS, Corporation and Developer are executing and entering into this Agreement to set forth certain terms and obligations of the Corporation and Developer with respect to such matters; and

WHEREAS, the Parties recognize that all agreements of the Parties hereto and all terms and provisions hereof are subject to the laws of the State of Texas and all rules, regulations and interpretations of any agency or subdivision thereof at any time governing the subject matters hereof; and

WHEREAS, the Parties agree that all conditions precedent for this Agreement to become a binding agreement have occurred and been complied with, including all requirements pursuant to the Texas Open Meetings Act and all public notices and hearings; if any, have been conducted in accordance with Texas law; and

WHEREAS, on the Effective Date, the commitments contained in this Agreement shall become legally binding obligations of the Parties.

NOW, THEREFORE, in consideration of the mutual covenants, benefits and agreements described and contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and further described herein, Corporation, and Developer agree as follows:

Article One. Authorization

This Agreement is made pursuant to and is authorized by the Act.

Article Two. Term

Section 2.1 Term. Unless otherwise terminated as provided herein, this Agreement will terminate Five (5) years after Developer's Receipt of the Incentive.

Section 2.2 Failure to Close. If Developer fails to close on the purchase of the Real Property in accordance with the terms and conditions of the Unimproved Property Contract; such failure shall cause this Agreement to terminate and neither Party shall have any further obligation to the other under this Agreement.

Article Three. Purpose

The purpose of this Agreement is to formalize agreements between Developer and the Corporation regarding the terms and conditions by which Developer shall be entitled to receive the Incentive for the construction and operation of the Hotel, including the remedies to the Corporation should Developer's Performance Requirements not be met in whole or part.

Article four. Definitions

Capitalized terms and their definitions apply as follows:

“Actual Completion Date” means the actual Hotel Completion Date, which shall be on or before the Completion Date as defined herein.

“Agreement” means this Performance Agreement.

“Board” means the Corporation’s Board of Directors.

“City” means the city of Burnet, Burnet County, Texas.

“C of O” means a final certificate of occupancy issued through the City’s Development Services Department.

“Completion Date” means the date by which the Hotel shall be required to receive a final certificate of occupancy and is open for business to the general public.

“Corporation” means the Burnet Economic Development Corporation acting through its board of directors.

“Developer” means TEKMAK Burnet Hotel, LP a Texas Limited Partnership.

“Effective Date” means the date the Agreement becomes binding on the Parties such date stated in the first paragraph of this Agreement.

“Full-time Equivalent Employee” means: (i) an employee with a regular work schedule of at least 32 hours per week; or (ii) part-time employees with a regular work schedule that in the aggregate work at least 32 hours per week.

“Hotel” means a TownePlace Suites by Marriott Hotel, as more particularly described in in Exhibit “A”.

“Jobs Creation/Retention Report” means a report approved by the Corporation, showing the number of Full-time Equivalent Employees working at the Hotel during the year for which the report was created.

“Maximum Incentive Amount” means the maximum amount of incentive the Developer may receive under this Agreement.

“Purchase Price” means the amount of money Developer paid to Corporation to purchase the Real Property, which is \$436,037.00.

“Parties” means the Corporation and Developer collectively.

“Real Property” means **Lot 1B** of the **Replat of The Crossings at 281 Subdivision Lot 1, Block A** recorded as Document No. 202304945 on May 24, 2023, in the Public Records of Burnet County Texas, as further described and contemplated under the Unimproved Commercial Property Contract attached hereto as Exhibit “B”.

“Required Minimum Investment” means the amount Developer shall spend (in equity or in borrowed funds) to build, finish out, furnish, and equip the Hotel. Developer’s required minimum investment amount is stated in article six.

“The Act” means the Development Corporation Act of 1979, as codified in Title 12, Subtitle C1 Texas Local Government Code as same may be amended from time to time.

“Unimproved Commercial Property Contract” means the agreement the Parties shall enter to facilitate the conveyance of the Real Property, the form of which shall substantially comply with Exhibit “B”.

Article five. The Incentive.

Section 5.1 Incentive. In consideration for Developer’s completion of the Hotel on or before the Completion Date at a cost equal to or more than Developer’s Required Minimum Investment the Corporation shall reimburse to Developer the full Purchase Price amount within thirty (30) days of request (the “Incentive”). However, the failure of the Developer to complete construction of the Hotel on or before the Completion Date at a cost equal to or more than Developer’s Required Minimum Investment shall cause the Developer to forfeit any right to the Incentive under this Agreement; and in such case, the Agreement shall immediately terminate and neither Party shall have any further obligation hereunder.

Section 5.2 Maximum Incentive Amount. Notwithstanding any provision in this Agreement to the contrary, the Maximum Incentive Amount Developer may receive under this Agreement shall not exceed the Purchase Price.

Article six. Developer’s Performance Obligations.

Section 6.1 The Hotel.

- (a) *Description of the Hotel.* As more particularly described in Exhibit “A”, the scope of the project is the development of a Hotel with no less than Eighty-even (87) guestrooms furnished and maintained to the standard of a TownePlace Suites by Marriott hotel; and which shall include at least the amenities that follow: A pool, 3,000 square feet of special event/meeting space, complimentary hot breakfast, and internet access in-room and throughout hotel. Guest rooms offer spacious suites with full kitchens, closet systems and dedicated home office space.
- (b) *Completion Date.* The Parties agree that the Completion Date shall be June 1, 2026.
- (c) *Required Minimum Investment.* Developer will expend at least Thirteen Million 00/100 Dollars (\$13,000,000.00) of Developer’s own funds or borrowed funds to build, finish out, furnish, and equip the Hotel.

- (d) *Development and Construction.* The Hotel shall be completed in one phase and, subject to Force Majeure, the Hotel shall be fully developed on or before the Completion Date.

Section 6.2 Utilization of Local Contractors and Suppliers. Intentionally Deleted.

Section 6.3 Minimum Job and Salary Requirements. Developer commits, that within six (6) months after the Actual Hotel Completion Date to the occurrence of the following:

- (a) *Full-time Equivalent Employees:* a minimum of Ten (10) Full-time Equivalent Employees shall be employed at the Hotel. Any support staff or other employees that do not report to work at the Hotel shall not be counted towards this minimum Full-time Equivalent Employees requirement; and
- (b) *Annual Payroll:* Intentionally deleted.

During each year during the Term of this Agreement, Developer shall comply with the Full-time Equivalent Employees requirements stated herein.

Section 6.4 Required Reporting.

- (a) *Construction Cost Reports.* Within 60 days after the Actual Completion Date, Developer shall submit a final detailed cost breakdown detailing all costs incurred by Developer in building, finishing out, furnishing, and equipping the Hotel. The final report, subject to verification, shall be the basis for determining if Developer's Required Minimum Investment was achieved.
- (b) *Annual Reports.* The Developer shall submit an annual Jobs Creation/Retention Report. This Report may redact any employee-specific name, address, or full social security number in order to protect employee's privacy.

Section 6.5 Additional Information and Privacy.

- (a) *Maintenance of Records.* Developer shall be responsible for maintaining records evidencing compliance with all of Developer commitments required by this Agreement, during its entire term, and shall make such records available to the Corporation for examination at the Corporation's reasonable request within five business days of receipt of the request. All information required by this Agreement shall be submitted to the City Manager at the address specified for giving notice in this Agreement.
- (b) *Privacy.* All information provided by Developer to Corporation under the required reporting section shall be deemed confidential and shall not be provided to any

person outside City government, the Board, or its employees, and shall not be subject to public inspection in accordance with the exception provided in the Texas Public Information Act (section 552.110 Texas Government Code). In the event a request is made for such information, Corporation will not disclose the information unless required to do so by the Attorney General of Texas.

Section 6.6 Indebtedness Incurred by Developer. The payment of all indebtedness and obligations incurred by Developer in connection with the development and construction of the Hotel and the operation of the Hotel shall be solely the obligations of Developer. Corporation shall not be obligated to pay any indebtedness or obligations of Developer.

Article Seven. Zoning and Platting.

Section 7.1 Zoning.

The Real Property is currently assigned the zoning classification Commercial “C-3”. The operation of a Hotel is a permitted use in the Commercial “C-3” District.

Section 7.2 Subdivision Plat. Intentionally deleted.

Article eight. Conveyance of the Real Property.

Section 8.1 Market Value of the Property. The Parties agree that the market value of the Real Property is Four-Hundred Thirty-Six Thousand and Thirty-Seven Dollars (\$436,037.00).

Section 8.2 Unimproved Property Contract. Within 10 days after the date of execution of this Agreement by the Corporation and Developer shall execute an Unimproved Property Contract in substantial compliance with Exhibit “B”, which, with the escrow money, shall be escrowed with the Title Company pursuant to the terms of the Unimproved Property Contract.

Section 8.3 Closing on the Unimproved Property Contract. Closing on the Unimproved Property Contract shall occur when all conditions for closing set out in the Unimproved Property Contract have occurred.

Article nine. Penalties for Failure to Comply with Obligations.

Section 9.1. Hotel Completion Date Requirement. Should Developer fail to obtain a C of O on or before the Completion Date, for reasons other than delays resulting from “Force Majeure” events, Developer shall forfeit the right to receive the incentive and this Agreement shall terminate immediately and neither Party shall have any further obligation to the other upon such termination.

Section 9.2 Minimum Investment. If upon the Completion Date the Developer's actual cost of building, finishing out, furnishing and equipping the Hotel is less than Developer's Required Minimum Investment Amount, Developer shall forfeit the right to receive the incentive and this Agreement shall terminate immediately and neither Party shall have any further obligation to the other upon such termination.

Section 9.3 Jobs. Beginning the first calendar year at least six months after the Actual Hotel Completion Date, should Developer, in any year during the term of this Agreement, fail to meet the minimum Full-time Equivalent Employees requirements, for that year, Developer shall be required to pay Corporation One Thousand and 00/100 Dollars (\$1,000.00) per employee below the Minimum Full-time Equivalent Employees number. For example, should the Minimum Full-time Equivalent Employees number be 10 and Developer reports a total of 8 Full-time Equivalent Employees for any given year Developer shall be required to pay to Corporation Two Thousand and 00/100 Dollars (\$2,000.00).

Section 9.4 Payroll. Intentionally deleted.

Section 9.5 Penalty Payment Due. Any payment that becomes due under this Section shall be due 30 days after written demand by the Corporation and the past dues amount shall be subject to interest at the highest rate authorized by law.

Section 9.6 Maximum Penalty. The maximum cumulative penalty Developer shall be obligated to pay under this Section shall not exceed the amount of the Incentive received by Developer.

Article ten. Indemnification

IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT THE DEVELOPER, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND THE CORPORATION AND CITY ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH AND DEVELOPER AGREES TO INDEMNIFY AND HOLD HARMLESS THE CORPORATION AND CITY, THEIR OFFICERS, AGENTS, AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGEMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON EXPENSES OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY DEVELOPER'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF DEVELOPER, ITS OFFICER, AGENTS, ASSOCIATES, EMPLOYEES OR SUB-CONSULTANTS, IN THE PERFORMANCE OF THIS AGREEMENT; THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL APPLY TO ANY LIABILITY RESULTING FROM THE JOINT AND CONCURRENT NEGLIGENCE OF THE DEVELOPER, THE CITY AND THE CORPORATION; HOWEVER, THE

INDEMNITY PROVIDED FOR IN THE PARAGRAPH SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM THE SOLE NEGLIGENCE OF CORPORATION OR THE CITY AND THEIR OFFICER, AGENTS, EMPLOYEES OR SEPARATE CONTRACTORS, AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE CORPORATION OR THE CITY UNDER TEXAS LAW. THE PROVISIONS OF THIS PARAGRAPH ARE SOLELY FOR THE BENEFIT OF THE PARTIES HERETO AND NOT INTENDED TO CREATE OR GRANT ANY RIGHTS, CONTRACTUAL OR OTHERWISE, TO ANY OTHER PERSON OR ENTITY.

Article eleven. Miscellaneous.

This Agreement shall be subject to the terms and conditions which follow:

Section 11. 1. Additional Instruments. City and Developer agree and covenant to cooperate, negotiate in good faith, and to execute such other and further instruments and documents as may be reasonably required to fulfill the public purposes provided for and included within this Agreement.

Section 11.2. Amendments. This Agreement constitutes the entire understanding and agreement of the Parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment.

Section 11.3. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas without regard to choose-of-law rules of any jurisdiction.

Section 11. 4. Attorney's Fees. In any action or proceeding brought to enforce any provision of this Agreement or where any provision hereof is validly asserted as a defense, the successful party shall, to the extent permitted by applicable law, be entitled to recover reasonable attorney's fees and costs.

Section 11.5. Assignment. Developer understands and agrees that City expressly prohibits Developer from selling, transferring, assigning or conveying in any way any rights to receive the proceeds under this Agreement without City's prior written consent.

Section 11.6. Binding Obligation. This Agreement shall become a binding obligation on the signatories upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. Developer warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.

Section 11.7. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.

Section 11.8. Construction. The Parties acknowledge that the Parties and their counsel have reviewed and revised the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement.

Section. 11.9. Enforcement. The City Manager or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization.

Section 11.10. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the City Council.

Section 11.11. Exhibits Addenda, and Attachments. All Exhibits, Addenda and Attachments referenced in this Agreement are attached hereto and incorporated herein for all purposes. Exhibits to this Agreement include the following:

Exhibits:

| | |
|-------------|--|
| Exhibit "A" | Description of the proposed Hotel. |
| Exhibit "B" | Unimproved Commercial Property Contract. |

Section 11.12. Force Majeure. It is expressly understood and agreed by the Parties to this Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, inclement weather, fire or other casualty, or court injunction, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, governmental action, delay in issuance of permits or approvals (including, without limitation, fire marshal approvals), enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the obligated party and delays caused by the other party, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such party was delayed.

Section 11.13. Gender. The gender of the wording throughout this Agreement shall always be interpreted to mean either sex; or, where the context requires, the plural of any word shall include the singular.

Section 11.14. Immunities and defenses.

- (a) By entering into this Agreement, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of parties, and nothing contained herein shall ever be construed as a waiver of sovereign, statutory or official immunity by the Corporation with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.
- (b) No officer of the Corporation, employee of City or any councilmember or agent of City shall be personally responsible for any liability arising under or growing out of this Agreement.

Section 11.15. Mutual Assistance. City and Developer will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

Section 11.16. No Joint Venture. Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. It is understood and agreed that this Agreement does not create a joint enterprise, nor does it appoint either Party as an agent of the other for any purpose whatsoever. Except, as otherwise specifically provided herein, neither Party shall in any way assume any of the liability of the other for acts of the other or obligations of the other.

Section. 11.17. Notices. Any notice, statement and/or communication required and/or permitted to be delivered hereunder shall be in writing and shall be mailed by first-class mail, postage prepaid, or delivered by hand, by messenger, by facsimile, or by reputable overnight carrier, and shall be deemed delivered when received at the addresses of the Parties set forth below, or at such other address furnished in writing to the other Parties thereto:

DEVELOPER: TEKMAK Development
 3021 Ridge Rd, A-120
 Rockwall, TX, 75032
 Telephone: (214) 802-2964

CORPORATION Burnet Economic Development Corporation
 % City Manager
 City of Burnet
 P.O. Box 1369
 1001 Buchanan Drive, Suite 4
 Burnet, Texas 78611
 Telephone: (512) 715-3208
 Facsimile: (512) 756-8560

Section 11.18. Remedies. The Corporation's remedies for Developer's failure to comply with any obligation set forth in this Agreement are prescribed and limited to the remedies set forth under article nine herein. The Developer's remedies for Corporation's failure to comply with any obligation set forth in this Agreement are prescribed and limited to the remedies set forth under this section. Such remedies shall be limited to the enforcement of this Agreement by bringing an action for specific performance. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR LOST PROFITS OR REVENUE OR FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE, COST OF COVER, SPECIAL, RELIANCE OR EXEMPLARY DAMAGES, OR INDIRECT DAMAGES OF ANY TYPE OR KIND HOWEVER CAUSED, WHETHER FROM BREACH OF WARRANTY, BREACH OR REPUDIATION OF CONTRACT, NEGLIGENCE, OR ANY OTHER LEGAL CAUSE OF ACTION FROM OR IN CONNECTION WITH THIS AGREEMENT.

Section 11.19. Severability. In the event any provision of this Agreement is illegal, invalid, or unenforceable under the present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that in lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

Section 11.20. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 11.21. Undocumented Workers. Developer covenants and certifies that it does not and will not knowingly employ any undocumented worker as that term is defined by Section 2264.001(4) of the Texas Government Code. In accordance with Section 2264.052 of the Texas Government Code, if Developer is convicted of a violation occurring under 8 U.S.D. Section 1324A(F), Developer shall repay to the Corporation the full amount of the Reimbursement made under this Agreement, plus ten percent (10%) per annum penalty fee from the date the payment was made. Repayment shall be paid within one hundred twenty (120) days after Developer receives written notice of violation from the Corporation.

Section 11.22. Venue. All obligations of the Parties created hereunder are performable in Burnet County, Texas; and, therefore, any action arising under this Agreement shall lie in a court of competent jurisdiction in said county.

Section 11.23. Waiver. The failure of any party to insist in any one or more instances on the performance of any of the terms, covenants or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, or condition, or right with respect to further performance.

Remainder of this page was intentionally left blank. Signatures follow on the next page.

EXECUTED to be effective as of the date first stated above.

BURNET ECONOMIC DEVELOPMENT CORPORATION:

By: _____
Cary Johnson, President

ATTEST:

By: _____
Kelly Dix, Secretary

DEVELOPER: TEKMAK DEVELOPMENT COMPANY

By: _____
Glenn Decker, Manager

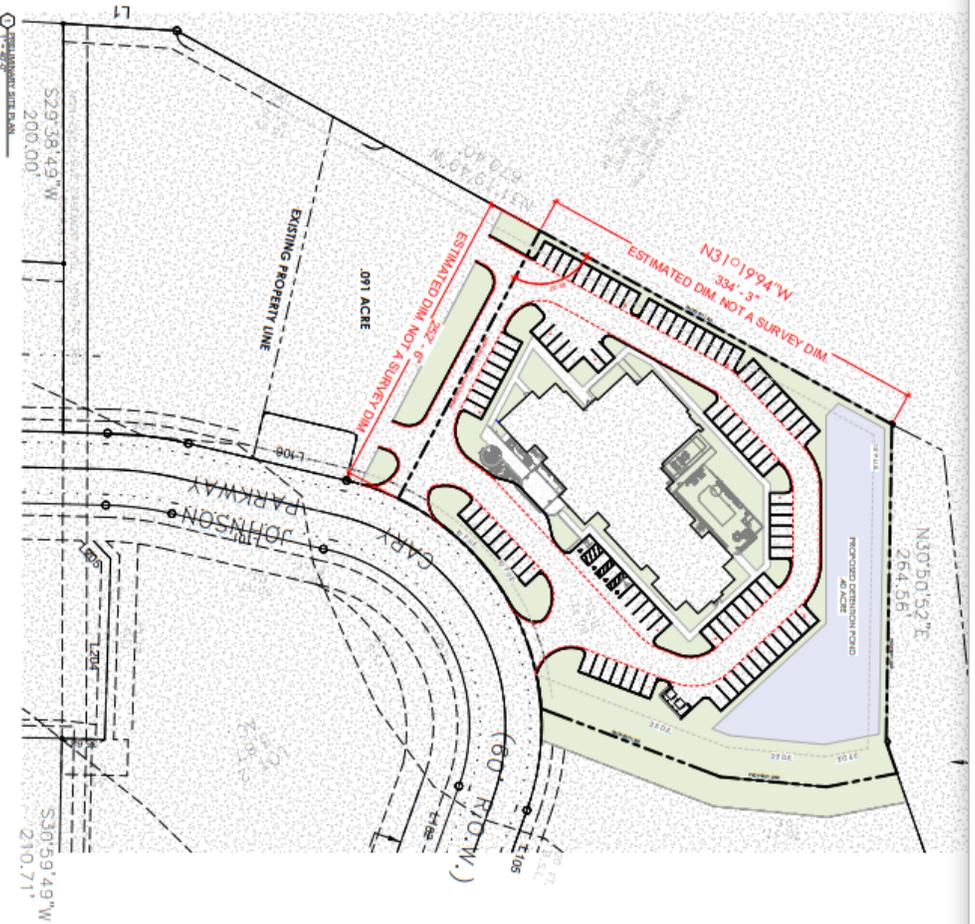
Exhibit "A"
Description of the Proposed Hotel



*Subject to Architectural Control Committee Approval

**CONCEPTUAL
SITE PLAN**

PROPOSED HOTEL DEVELOPMENT
BURNET TEXAS



AREA MAP:



OWNER INFORMATION:
PROPERTY OWNER: TEKMAT Development
EMAIL: tom@tekmatdevelopment.com

SITE INFORMATION:

PROPOSED ACREAGE: 2.859 ACRES

HOTEL INFORMATION:

TOWNSHIP SUITES BY MARRIOTT

4 STORY HOTEL
1,87 GUESTROOMS
2,000 SF MEETING ROOM

BUILDING SF:

BUILDING FOOTPRINT: 217,809 SQ FT
FULLY SPRINKLED - NFPA 13
OCCUPANCY: R1 HOTEL (AND NON SEPARATED USES
TYPE V-A WOOD FRAMED CONSTRUCTION)

PARKING SUMMARY:

1 PER 2,000 GUEST ROOMS AND 1 FOR EACH 2 EMPLOYEES
1 PER 1,000 SQ FT OF MEETING SPACE
BARBICUE REQUIRED: 497
PARKING PROVIDED: 1,103

THIS DOCUMENT IS
INCOMPLETE AND MAY
NOT BE USED FOR
REGULATORY APPROVAL,
PERMIT, OR
CONSTRUCTION.
HAYES HINKLE
26067

CONFIDENTIAL



Exhibit "B"
Unimproved Commercial Property Contract

UNIMPROVED COMMERCIAL PROPERTY CONTRACT

1. **PARTIES:** The parties to this contract are the Burnet Economic Development Corporation, a Texas non-profit corporation incorporated under the TEX. LOC. GOV. CODE chapters 501, 502 and 505 and the Texas Non-Profit Corporation Act, (hereinafter called "Seller") and TEKMAK Burnet Hotel, LP, a Texas Limited Partnership formed under the laws of the State of Texas (hereinafter called "Buyer"). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.
2. **PROPERTY:** As more particularly described in Exhibit "A", approximately 2.86 acres located within the corporate limits of the City of Burnet, Burnet County Texas, described as **Lot 1B of the Replat of The Crossings at 281 Subdivision Lot 1, Block A** recorded as Document No. _____ on _____, in the Public Records of Burnet County Texas, together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: claims, permits, strips and gores, easements, and cooperative or association memberships; save and except water rights, which have been severed from the Property by separate instrument.
3. **SALES PRICE:** Four Hundred Thirty-Six Thousand Thirty-Seven Dollars and no cents (\$436,037.00) (hereinafter the "Purchase Price").
4. **EARNEST MONEY:** Upon execution of contract by all parties, Buyer shall deposit Ten-Thousand Dollars and no cents (\$10,000.00) as Earnest Money with Attorney Abstract and Title Company, Attn: Trudy Collier, 117 E. Jackson Street, Burnet, TX 78611. If Buyer fails to deposit the Earnest Money within three days of Sellers deliver of this contract, Seller's offer to sell the Property shall be withdrawn, this Agreement shall not be effective and the Escrow Agent shall not accept the late deposit of the Earnest Money.
5. **TITLE POLICY AND SURVEY:**
 - A. **TITLE POLICY:** At closing Seller shall, at its sole costs, provide an Owner's Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter.
 - B. **COMMITMENT:** Seller shall, within 20 days of the Effective Date, provide to Buyer a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this contract.
 - C. **SURVEY:** Seller shall, within 20 days of the Effective Date at its sole costs, obtain an on-the-ground, staked plat of survey and metes-and-bounds description of the Property, prepared by a surveyor satisfactory to Title Company, dated after the Effective Date, and certified to: Seller, Buyer, and Title Company, to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category required for Title Company to issue an Owner's Policy.
 - D. **OBJECTIONS:** Buyer shall have 20 days after the later of Buyer's receipt of the Title Commitment and a copy of the Survey ("Title Objection Deadline") to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Title Objections"). Buyer will be deemed to have approved all matters reflected by the Survey, and Title Commitment, to which Buyer has made no Title Objection by the Title Objection Deadline. The matters that Buyer either approves or is deemed to have

approved are “Permitted Exceptions.” If Buyer notifies Seller of any Title Objections, Seller has five days from receipt of Buyer’s notice to notify Buyer whether Seller agrees to cure the Title Objections before closing (“Cure Notice”). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Title Objections before closing, Buyer may, within five days after the deadline for the giving of Seller’s Cure Notice, notify Seller that either this contract is terminated or Buyer will proceed to close, subject to Seller’s obligations to remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Title Objections that Seller has agreed to cure in the Cure Notice. At or before closing, Seller must remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Title Objections that Seller has agreed to cure

E. TITLE NOTICES:

- i. ABSTRACT OR TITLE POLICY: Buyer is advised to have the Title Policy Commitment reviewed by an attorney of Buyer’s choice due to the time limitations on Buyer’s right to object.
- ii. MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S): The Property is subject to a Declaration of Covenants, Conditions, and Restrictions filed as Document No. 202206551 of the Public Records of Burnet County, Texas. Said declaration requires mandatory membership in the property owners association established thereby.
- iii. STATUTORY TAX DISTRICTS: The Property is not situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, as those terms are reference in Texas Water Code Chapter 49.
- iv. TIDE WATERS: The Property does not abut tidally influenced waters of the state, as such term is referenced in Texas Natural Resources Code §33.135.
- v. ANNEXATION: The Property is located within the corporate limits of the City of Burnet, Burnet County, Texas.
- vi. PROPERTY LOCATED IN A CERTIFIED SERVICE AREA OF A UTILITY SERVICE PROVIDER: Notice required by §13.257, Water Code: The Property’s water or sewer service is provided by the City of Burnet and Buyer agrees to inquiry with the City regarding any conditions of service.
- vii. PUBLIC IMPROVEMENT DISTRICT: The Property is not in a Public Improvement District, as term is referenced in the Texas Property Code §5.014.
- viii. TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The property is not located in a Texas Agricultural District. (ix) TRANSFER FEES: The Property is not subject to a private transfer fee obligation as such term is referenced in Texas Property Code §5.205.

- ix. **PROPANE GAS SYSTEM SERVICE AREA:** The Property is not located in a propane gas system service area owned by a distribution system retailer, as such term is referenced in Texas Utilities Code §141.010.

6. **FEASIBILITY:**

- A. **FEASIBILITY PERIOD:** Buyer's feasibility period shall begin on the Effective Date and shall end 90 days after the Effective Date.
- B. **BUYER'S RIGHT TO TERMINATE DURING FEASIBILITY PERIOD:** During the Feasibility Period Buyer may, at its sole discretion, terminate this Agreement, for any reason; and, should Buyer timely exercise its right to terminate, as evidenced by written notification to the Corporation then neither Party shall have any further obligation to the other under this Contract. If Buyer terminates this contract before the end of the Feasibility Period, then unless Seller delivers notice of Seller's objection to Title Company's release of the Earnest Money to Buyer within five days after Buyer delivers Buyer's termination notice to Seller and Title Company, Title Company is authorized, without any further authorization from Seller, to deliver the Earnest Money to Buyer, less \$100, which will be paid to Seller as consideration for the right granted by Seller to Buyer to terminate this contract.

7. **PROPERTY CONDITION:**

- A. **ACCESS, INSPECITONS AND UTILITES:** Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer who are permitted by law to make inspections. **NOTICE:** Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.
 - i. **Buyer's Indemnity and Release of Seller**
 - a. **Indemnity.** To the fullest extent authorized by law, Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims arising out of Buyer's investigation of the Property, except those arising out of the acts or omissions of Seller and those for repair or remediation of existing conditions discovered by Buyer's inspection. The obligations of Buyer under this provision will survive termination of this contract and closing.
 - b. **Release.** Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.
- B. **ACCEPTANCE OF PROPERTY CONDITION:** "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer accepts the Property As Is. Buyer further agrees to accept the special warranty deed with the provision set out below:

GRANTEE ACKNOWLEDGES AND AGREES THAT THE CONVEYANCE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS, GRANTEE HEREBY WAIVES, RELEASES, ACQUITS AND FOREVER DISCHARGES GRANTOR,

GRANTOR'S EMPLOYEES, AGENTS AND ANY OTHER PERSON ACTING ON BEHALF OF GRANTOR, OF AND FROM ANY CLAIMS, ACTIONS, CAUSES OF ACTION, DEMANDS, RIGHTS, DAMAGES, LIABILITIES, COST AND EXPENSES WHATSOEVER (INCLUDING COURT COSTS AND ATTORNEY'S FEES), DIRECT OR INDIRECT, KNOWN OR UNKNOWN, OR FORESEEN OR UNFORESEEN, WHICH GRANTEE NOW HAS OR WHICH MAY ARISE IN THE FUTURE, ON ACCOUNT OF OR IN ANY WAY GROWING OUT OF OR IN CONNECTION WITH THE PHYSICAL CONDITIONS OF THE PROPERTY OR ANY LAW, STATUTE, ORDINANCE, RULE OR REGULATIONS OF ANY GOVERNMENTAL OR QUASI-GOVERNMENTAL AUTHORITY APPLICABLE THERETO.

GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE ANY AGREEMENTS OR GUARANTEES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS RESPECT TO (A) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY, (B) THE INCOME TO BE DERIVED FROM OR THE EXPENSES GENERATED BY THE PROPERTY, (C) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USED WHICH BUYER MAY CONDUCT THEREON, (D) THE COMPLIANCE OF OR BY THE PROPERTY FOR ITS OPERATION WITH ANY LAWS, RULES. ORDINANCE (INCLUDING ZONING ORDINANCE, IF ANY) OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY, (E) THE HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, OR (E) ANY OTHER MATTER WITH RESPECT TO THE PROPERTY, AND SPECIFICALLY, REPRESENTATIONS REGARDING ANY HAZARDOUS SUBSTANCE OR TOXIC MATERIALS (INCLUDING ANY ASBESTOS, UNDERGROUND STORAGE TANKS OR ANY OTHER SUBSTANCE WHICH IS PROHIBITED BY STATE OR FEDERAL LAW), OR SOLID WASTE AS DEFINED BY THE COMPREHENSIVE ENVIRONMENTAL RESPONSE COMPENSATION AND LIABILITY ACT OF 1980, AS AMENDED AND REGULATIONS PROMULGATED THEREUNDER. GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT GRANTEE IS EXPERIENCED IN THE OWNERSHIP AND OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY; AND, HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY, GRANTEE IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND NOT ON ANY INFORMATION PROVIDED BY GRANTOR. GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION PROVIDED WITH RESPECT TO THE PROPERTY WAS OBTAINED FROM A VARIETY OF SOURCES AND THAT GRANTOR HAS NOT MADE ANY INDEPENDENT INVESTIGATION OR VERIFICATION OF SUCH INFORMATION AND MAKES NO REPRESENTATIONS AS TO THE ACCURACY OR COMPLETENESS OF SUCH INFORMATION.

- C. COMPLETION OF REPAIRS: As the Property is unimproved this Paragraph is not applicable.

- D. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by the Texas Bar Association or otherwise agreed by the parties should be used in lieu of the disclosures stated in section E below.
- E. SELLER'S DISCLOSURES: Except as otherwise disclosed in this contract, Seller has no knowledge of the following:
- i. any flooding of the Property which has had a material adverse effect on the use of the Property;
 - ii. any pending or threatened litigation, condemnation, or special assessment affecting the Property;
 - iii. any environmental hazards that materially and adversely affect the Property;
 - iv. any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
 - v. any wetlands, as defined by federal or state law or regulation, affecting the Property; or
 - vi. any threatened or endangered species or their habitat affecting the Property.
8. **BROKERS' FEES:** As provided in a separate agreement, Seller shall pay a brokerage fee of 4% to David Drake (agent #531874) an individual whose address is 155 Lake Trail Drive, Double Oak, TX 75077. Other than the broker's fee so state, neither Buyer nor Seller has engaged a Broker in regards to this transaction. Buyer and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this contract, whether the claimant is disclosed to the indemnitee or not.
9. **CLOSING:**
- A. The closing of the sale shall occur at a mutually agreement time and date within 10 days after the end of Buyer's Feasibility Period.
 - B. At closing:
 - i. Seller shall execute and deliver a special warranty deed, in substantial conformance with Exhibit "B", conveying title to the Property to Buyer and showing only the Permitted Exceptions, and shall furnish tax statements or certificates showing no delinquent taxes on the Property.
 - ii. Buyer shall deliver for escrow the balance of the Sales Price.
 - iv. Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale.

- v. The Property will be conveyed to Buyer free and clear of any liens, assessments, or security interests against the Property, but subject to the Permitted Exceptions listed in the Title Commitment.
- vi. Seller will, at Seller's sole cost, cause the Title Company to issue an owner's title policy in favor of Buyer in the amount of the Purchase Price, insuring Buyer's good and indefeasible title to the Property, subject only to the Permitted Exceptions.

10. **POSSESSION:**

- A. Buyer's Possession: Seller shall deliver to Buyer possession of the Property in its present condition upon closing.
- B. Leases:
 - i. After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer's written consent.
 - ii. As of the effective date the Property is not subject to any lease agreements.

11. **SPECIAL PROVISIONS:**

- A. PLAT & ZONING REQUIREMENT. The Property shall be delivered by Seller to Buyer at closing as a platted subdivision lot ready for Buyer's submission of a building permit for the construction of the Hotel, with water and sanitary sewer utilities available at the property line.
- B. COVENANTS AND CONDITIONS. A declaration of covenants, conditions, and restrictions is on file as Document No. 202206551 in the Public Records of Burnet County, Texas.
- C. APPROVALS. The Execution of this contract on behalf of Seller has been authorized by the Burnet Economic Development Corporation Board of Directors; and by the Seller's Board of Directors.
- D. RESERVATION. The Special Warranty Deed shall reserve from conveyance and warranty "water rights" conveyed to the City of Burnet, by that certain Water Deed recorded as Document No. 202304450 in the Public Records of Burnet County, Texas.

12. **SETTLEMENT AND OTHER EXPENSES:**

- A. The following expenses must be paid at or prior to closing:
 - i. Expenses payable by Seller (Seller's Expenses): Release of existing liens, including prepayment penalties and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; escrow fees; premium for Title Policy; Seller's prorated portion of Ad valorem taxes; Seller's attorney fees and consultant fees; and other expenses payable by Seller under this contract.
 - ii. Expenses payable by Buyer (Buyer's Expenses): Premium for shortage of area endorsement or other endorsements that are not included in the Owner's Policy; all costs incurred by Buyer in obtaining a construction loan to construct the Hotel; Buyer's prorated portion of Ad valorem taxes and

special governmental assessments; courier fee; Buyer's attorney fees and consultant fees; and other expenses payable by Buyer under this contract.

13. **PRORATIONS AND ROLLBACK TAXES:**
 - A. **PRORATIONS:** Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the proration when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
 - B. **ROLLBACK TAXES:** Property is not subject to the possible assessment of rollback taxes.
14. **CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.
15. **DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.
16. **MEDIATION:** It is the policy of the States of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
17. **ATTORNEY'S FEES:** A Buyer, Seller, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
18. Intentionally deleted.
19. **REPRESENTATIONS:** All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate and accept back up offers.
20. **FEDERAL TAX REQUIREMENTS:** This Paragraph is not applicable as Seller is not a "foreign person," as defined by applicable law.

21. **NOTICES:** All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile as follows:

To Seller at:

BURNET ECONOMIC DEVELOPMENT CORPORATION

Attn. David Vaughn

P. O. Box 1369

Burnet, Texas 78611

Telephone: (512) 715-3208

Facsimile: (512) 756-8560

E-mail: dvaughn@cityofburnet.com

To Buyer at:

TEKMAK Development

3021 Ridge Rd, A-120

Rockwall, TX, 75032

Telephone: (214) 802-2964

22. **AGREEMENT OF PARTIES:** This contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Exhibits which are a part of this contract are:
- A. EXHIBIT "A": Description of the Property.
 - B. EXHIBIT "B": Form of Special Warranty deed.
23. **CONSULT AN ATTORNEY BEFORE SIGNING. READ THIS CONTRACT CAREFULLY AND CONSULT WITH YOUR ATTORNEY TO ANSWER ANY QUESTIONS.**

Signature pages to follow:

EXECUTED the _____ day of _____, 2023. (EFFECTIVE DATE.)

SELLER
BURNET ECONOMIC DEVELOPMENT
CORPORATION

By: _____
Cary Johnson, President

BUYER
TEKMAK Burnet Hotel, LP

By: _____
Glenn Decker, Manager

CONTRACT AND EARNEST MONEY RECEIPT

Receipt of Contract and \$10,000.00 Earnest Money in the form of
_____ is acknowledged.

Escrow Agent: Trudy Collier

Date: _____, 2023

By: _____

Attorney Abstract Title Company
117 E. Jackson Street
Burnet, TX 78611

City Council Regular
Meeting

June 27, 2023

SECOND AND FINAL READING OF A RESOLUTION BY THE CITY COUNCIL AUTHORIZING THE CONSTRUCTION OF A HOTEL AT THE CROSSING AT 281 SUBDIVISION AS A PROJECT THE BURNET ECONOMIC DEVELOPMENT CORPORATION MAY INCENTIVIZE THROUGH A PERFORMANCE AGREEMENT WITH THE HOTEL DEVELOPER; D. Vaughn

The Project

- The Land: 2.86 acres legally described as Lot 1B of the Replat of The Crossings at 281 Subdivision
- Purchase Price: \$436,000.00
- The Hotel Project: Town Place by Marriott: 87 guest rooms, a swimming pool and other amenities at a total cost for construction, finish out and furnishing of \$13,000,000.00
- The Incentive: Upon issuance of a certificate of occupancy for a Hotel as described in the Performance Agreement the BEDC shall refund the purchase price.

Pursuant to state law requirements this Resolution affirms the BEDC's Economic Development Project declaration.

Approval authorizes BEDC to enter into performance agreement.

State law requires this resolution receive two readings.

TOWNEPLACE SUITES
BY MARRIOTT





Questions



Administration

ITEM 6.2

David Vaughn
Assistant City Manager
512.715.3208
dvaughn@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: SECOND AND FINAL READING OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS APPROVING THE CONSTRUCTION OF PUBLIC RESTROOMS ON THE PUBLIC PARKING LOT OWNED BY THE BURNET ECONOMIC DEVELOPMENT CORPORATION AS A PROJECT UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT AND APPROVING A CHAPTER 380 AGREEMENT WITH SAID CORPORATION TO PROVIDE THE FUNDING FROM HOTEL OCCUPANCY TAX REVENUE AND THE GENERAL FUND REVENUE TO COMPLETE THE PROJECT TO PROMOTE THE CREATION OF JOBS AND NEW AND EXPANDED BUSINESS OPPORTUNITIES IN THE CITY OF BURNET: D. Vaughn

Background: The BEDC has taken action declaring the construction of a public restroom facility on the BEDC public parking lot located within the Burnet Historic Business District as an Economic Development Project (hereinafter "Project") and has requested the City to contribute financially to the Project.

Information: This resolution approves the Project and a Chapter 380 Agreement that shall provide City funding participation to the Project. The BEDC has set the Project budget at \$575,000.00. The Chapter 380 Agreement commits the City to contribute \$400,000.00 to the project. The BEDC shall be responsible for the balance of Project costs.

Fiscal Impact: The City's financial participation in the Project shall come from the General Fund (\$250,000.00) and Hotel Occupancy Tax (\$150,000.00).

Recommendation: Open Public Hearing
Approve the first reading of Resolution No. 2023-40 as presented.

RESOLUTION NO. R2023-40

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS APPROVING THE CONSTRUCTION OF PUBLIC RESTROOMS ON THE PUBLIC PARKING LOT OWNED BY THE BURNET ECONOMIC DEVELOPMENT CORPORATION AS A PROJECT UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT AND APPROVING A CHAPTER 380 AGREEMENT WITH SAID CORPORATION TO PROVIDE THE FUNDING FROM HOTEL OCCUPANCY TAX REVENUE AND THE GENERAL FUND REVENUE TO COMPLETE THE PROJECT TO PROMOTE THE CREATION OF JOBS AND NEW AND EXPANDED BUSINESS OPPORTUNITIES IN THE CITY OF BURNET.

WHEREAS, Article III, Section 52-a of the Texas Constitution and Chapter 380 of the Texas Local Government Code authorizes a local government to establish and provide for the administration of one or more programs, for making loans and grants and providing personnel and services of the municipality, to promote state or local economic development and to stimulate business and commercial activity in the municipality; and

WHEREAS, under Chapter 380 of the Texas Local Government Code, the City has adopted an economic development program to promote local economic development and stimulate business and commercial activity within the city limits; and

WHEREAS, Sec. 380.002(b) Texas Local Government Code, authorizes the City under contract with the Burnet Economic Development Corporation (the "Corporation") to grant public money for the development and diversification of the economy of the state, eliminate unemployment or underemployment in the state, and development and expansion of commerce in the state; and

WHEREAS, the Corporation is the owner of a public parking lot located at the intersection of South Pierce and East Jackson Streets (the "parking lot"), the Burnet Historic Business District, also known as the "historic square"; and

WHEREAS, the "historic square" is an area of the City where shops and restaurants cater to tourists and locals alike; and

WHEREAS, finds the construction of public restroom facilities on the parking lot as an Economic Development Project under the Economic Development Act codified as Title 12 Subtitled C1 Texas Local Government Code (hereinafter the "Project"); and

WHEREAS, the Corporation has established a budget of \$575,000.00 and requested financial incentives from the City to facilitate the development of the Project); and

WHEREAS, the City Council finds, that without the requested incentives, the Project cannot go forward and desires to financially participation in the Project for a total amount of \$400,000.00, with \$250,000.00 coming from the general fund and \$150,000.00 from the hotel occupancy tax fund; and

WHEREAS, the City Council finds that the Project promotes state and local economic development in the manner contemplated by Sec. 380.002(b) Texas Local Government Code; and

WHEREAS, the City of Burnet City Council finds that Sec. 351.101(a)(5) Texas Tax Code authorizes up to 50% of Hotel Occupancy Tax revenue to be provided to this Project as a Program encouraging tourists and convention delegates to visit preserved historic districts; and

WHEREAS, the Corporation has agreed, in exchange and as consideration for funding by City, to satisfy and comply with certain terms and conditions; and

WHEREAS, City Council finds and determines that the meeting at which this resolution was passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, Tex. Gov't Code.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section two. Authorization of Project. Pursuant to Section 505.158 Texas Local Government Code Project described in the recitals is hereby authorized as an Economic Development Project.

Section three. Approval. The attachment hereto labeled Chapter 380 Development Agreement is hereby approved.

Section four. Authorization to sign. The City Manager is hereby authorized and directed to execute an agreement, substantially similar to the attachment and to take such actions and execute such ancillary documents as may reasonably be necessary to accomplish the purposes of this resolution.

Section five. Effective Date. This resolution shall take immediate effect after approved on second reading.

PASSED on first reading this the day of 13th day of June 2023.

PASSED, APPROVED AND ADOPTED on second reading this the day of 27th day of June 2023.

CITY OF BURNET:

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

EXHIBIT "A"

CHAPTER 380 AGREEMENT

**CHAPTER 380 ECONOMIC
DEVELOPMENT AGREEMENT**

THIS AGREEMENT (“Agreement”) by and between the CITY OF BURNET, TEXAS, and the BURNET ECONOMIC DEVELOPMENT CORPORATION is entered into upon the “Effective Date,” as more clearly defined herein.

WHEREAS, the Corporation is the owner of real property located at 305 South Pierce, Burnet, Texas; and

WHEREAS, the Corporation has improved the real property as a public parking lot serving the historic square; and

WHEREAS, the Corporation proposes to construct the Project, which consists of public restroom facilities to be located on the public parking lot; and

WHEREAS, the Corporation has requested financial incentives from the City and has represented to the City that without financial incentives the Project would not be possible; and

WHEREAS, the Project would significantly contribute to the economic viability of the community and the historic square; and

WHEREAS, the grant of funds by the City for the Project is consistent with the City’s Economic Development Program promoting state or local economic development and stimulating business and commercial activity in the City; and

WHEREAS, Sec. 380.002(b) Texas Local Government Code, authorizes the city under contract with the Corporation to grant public money for the development and diversification of the economy of the state, eliminate unemployment or underemployment in the state, and development and expansion of commerce in the state; and

WHEREAS, Sec. 351.101(a)(5) Texas Tax Code authorizes up to 50% of Hotel Occupancy Tax revenue to be provided to this Project as a Program encouraging tourists and convention delegates to visit preserved historic districts; and

WHEREAS, the Corporation’s participation in the Project is authorized under the Act;

WHEREAS, the Corporation has agreed, in exchange and as consideration for funding by the City, to satisfy and comply with certain terms and conditions, (as more fully defined herein); and

WHEREAS, City Council has adopted Resolution No. R2023-40 on June 27, 2023, authorizing the City Manager to enter into this Agreement; and

WHEREAS, Corporation’s Board of Directors has adopted Resolution No. BEDC R2023-07 on June 13th, authorizing the President of the Board of Directors to enter into this Agreement.

NOW, THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the Parties hereby agree as follows:

ARTICLE I

RECITALS

Recitals. The recitals set forth above are declared true and correct by the Parties and are hereby incorporated as part of this Agreement.

**ARTICLE II
AUTHORITY AND TERM**

1. **Authority.** The City’s execution of this Agreement is authorized by Chapter 380 Texas Local Government Code and constitutes a valid and binding obligation of the City. The City acknowledges that the Corporation is acting in reliance upon the City’s performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the establishment of the Facility, as defined herein. The Corporation’s execution of this Agreement is authorized by the Act; and the Corporation acknowledges that the City is acting in reliance upon the Corporation’s performance of its obligations under this Agreement in making the decision to commit substantial resources and money to the Project.

2. **Term.** This Agreement shall become enforceable upon execution by the City Manager on behalf of the City after first being executed by the Board President on behalf of the Corporation, and shall remain in full force and effect until the Expiration Date unless terminated as provided for in Article VII of this Agreement. Notwithstanding the foregoing, the provisions of this Agreement that include the clause “shall survive termination” shall continue in effect until terminated by separate agreement of the Parties.

**ARTICLE III
DEFINITIONS**

As used in this Agreement, the following terms shall have the meanings ascribed below:

“The Act” shall mean the Economic Development Act codified in Title 12, Subtitle C1 Texas Local Government Code.

“Board of Directors” shall mean the Corporation’s governing body.

“City” shall mean the City of Burnet a Texas home-rule municipality.

“City Council” shall mean the governing body of the City.

“City Manager” shall mean the City Manager for the City of Burnet, Texas.

“Completion Date” shall mean the date described in Article V Section 1.

“Burnet Economic Development Corporation” shall mean the economic development corporation established by the City under the Act.

“Economic Development Program” shall mean a program established by City Council in accordance with Article III, Section 52-a Texas Constitution, and Section 380.001 Texas Local Government Code for the administration of a program for making loans and grants

Resolution approving BEDC Restroom Project and 380 agreement of public money to promote state or local economic development and to stimulate business and commercial activity in the City.

“*Effective Date*” shall mean the date of execution of this Agreement.

“*Expiration Date*” the Expiration Date of this Agreement shall be September 30, 2028.

“*Force Majeure*” shall mean an event beyond the reasonable control of a Party obligated to perform an act or take some action under this Agreement including, but not limited to, acts of God, earthquake, fire, explosion, war, civil insurrection, acts of the public enemy, act of civil or military authority, sabotage, terrorism, floods, lightning, hurricanes, tornadoes, severe snow storms or utility disruption, strikes and lockouts.

“*Grant(s)*” shall mean the payment of funds, up to the Maximum Grant Amount, as defined herein.

“*Maximum Grant Amount*” shall mean the dollar amount described in Article.

“*Parties*” shall mean the City and Corporation collectively.

“*Project*” shall mean the improvements made to the Property for the development of public restroom facilities, as provided for in Exhibit “A.”

“*Project Completion Date*” shall mean the date described in Article V Section 1.

“*Property*” shall mean the real property assigned the physical address of 305 South Pierce, Burnet, Texas, and Burnet Central Appraisal District Property ID No. 35369, and improvements thereon.

“*Required Use*” shall mean the continuous operation of a public parking lot with public restroom facilities.

“*State*” shall mean the State of Texas.

ARTICLE IV

ECONOMIC DEVELOPMENT INCENTIVES

Subject to the Required Use and continued satisfaction of all the terms and conditions of this Agreement, the City agrees to provide the Corporation with incentives as follows:

- (a) **Building Permits and Fee Waivers.** Subject to the conditions contained in this Agreement, the City agrees to waive building permit fees, standard water tap charges, standard sewer tap fees, and standard electrical connect fees for the Project. Nothing in this Agreement shall be deemed to waive the City requirements for the issuance of building permits and/or permit inspections, non-standard water taps fees, non-standard wastewater tap fees, non-standard electrical connect fees, other utility extension related costs, and/or impact fees. All construction of the Project shall be in full compliance with all state, federal and local rules and regulations including, but not limited to, the City’s Code of Ordinances and all Model Building and Development Codes adopted by City.

- (b) **Grants.** Subject to terms and conditions contained in this Agreement, the City agrees to provide Grants as follows:
- (1) *Maximum Grant Amount.* Within 30 days of the Effective Date, or such later date as determined by the City Manager, the City shall tender to the Corporation the Maximum Grant amount of FOUR-HUNDRED THOUSAND DOLLARS AND 00/100 (\$400,000.00) subject to the refunding provision stated in Article V.
 - (2) *Current Revenue.* The Grants made hereunder shall be paid solely from lawfully available funds that have been appropriated by the City. Under no circumstances shall the City's obligations hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. The Grant shall be paid solely from appropriations from:
 - (A) The general funds of the City in the amount of TWO-HUNDRED AND FIFTY THOUSAND DOLLARS AND 00/100 (\$250,000.00); and
 - (B) Hotel occupancy tax revenue of the City in the amount of ONE-HUNDRED AND FIFTY THOUSAND DOLLARS AND 00/100 (\$150,000.00), which is less than fifty percent (50%) of total hotel occupancy tax revenue;
 - (C) or from such other funds of the City as may be legally set aside for such purpose consistent with Article III, Section 52(a) of the Texas Constitution.

Further, the City shall not be obligated to pay any commercial bank lender or similar institution for any loan or credit agreement made by the Corporation. None of the City's obligations under this Agreement shall be pledged or otherwise encumbered in favor of any commercial lender and/or similar financial institution.

- (2) *Grant funds distribution.* The City shall make payment of the Project Contractor's pay draw requests approved by the City Engineer, pursuant to the terms of the Project's Construction Contract until such time as the Maximum Grant Amount is paid. Thereafter, the Corporation shall be responsible for all Project Costs as provided in the Article immediately below.

ARTICLE V CONDITIONS TO ECONOMIC DEVELOPMENT GRANTS

The obligation of the City to pay Grants shall be conditioned upon the Corporation's continued compliance with, and satisfaction of, each of the conditions set forth in this Agreement, including:

- (a) **The Project.** The Corporation agrees to expend the Grant funds for the construction of the Project in a manner substantially similar to that shown in Exhibit "A." Subject to Force Majeure, the Corporation agrees to have the Project substantially completed prior to the Expiration Date. Grant funds shall only be used to cover

Resolution approving BEDC Restroom Project and 380 agreement

expenses directly relating to the construction of the Project, including furniture, fixtures, and equipment.

- (b) **Project Costs.** The Project's costs are estimated to be FIVE-HUNDRED AND SEVENTY-FIVE THOUSAND DOLLARS AND 00/100 (\$575,000.00).
- (c) **Corporations Contribution.** The Corporation agrees to expend its own funds to cover the difference between the Project Costs and the Grant funds provided under this Agreement. Further, should the actual Project Costs exceed the estimated Project Costs the Corporation agrees to pay for any and all cost overruns.
- (d) **Local Vendors.** The Corporation agrees to make good faith efforts to give preference and priority to suppliers of goods and services located within the city of Burnet for the restoration/renovation of the Facility, except where not reasonably possible to do so without sacrificing quality, adding expense, or creating substantial inconvenience.
- (e) **Required Reporting.**
 - (1) *Cost Certification Report.* The Corporation shall submit the Cost Certification Report, in a form substantially similar to Exhibit "B", no later than thirty days after substantial completion of the Project.
 - (2) *Local Vendor Report.* The Corporation shall submit the Local Vendor Compliance Report, in a form substantially similar to Exhibit "C", demonstrating efforts to utilize suppliers of goods and services located within the city of Burnet, as provided for herein, no later than 30 days after substantial completion of the Project. Submittal of the Local Vendor Compliance Report shall be deemed as evidence of compliance with the Local Vendor provision of this Agreement.
 - (3) *Sales and Use Tax Grant Reports.* Intentionally deleted.
- (f) **Additional Information.**
 - (1) Upon written request by the City, the Corporation shall, within a reasonable time, provide additional information necessary to determine if the Corporation is in compliance with this Agreement. All information required by this Agreement shall be submitted to the City Manager at the address specified in this Agreement for giving notice.
 - (2) The City shall have the right, at its expense, to audit the Corporation's financial records in order to verify compliance with the Corporation's obligations under this Agreement.
 - (3) The payment of all indebtedness and obligations incurred by the Corporation in connection with the Property shall be solely the obligations of the Corporation. The City shall not be obligated to pay any indebtedness or obligations of the Corporation.

Resolution approving BEDC Restroom Project and 380 agreement

- (g) **Repayment of Grants.** The Corporation has an absolute obligation to repay to the City any funds received under this Agreement as follows:
- (1) *Completed Project repayment obligation.* Intentionally deleted.
 - (2) *Incomplete Project.* Should, subject to Force Majeure or any extensions agreed by the Parties, the Project not be completed by the Project Completion Date, the Corporation shall refund the City the Grant amount awarded under this Agreement within thirty days of demand by the City Manager.

This section six shall survive termination of this Agreement.

ARTICLE VI COVENANTS AND WARRANTIES

- (a) **The Corporation Covenants and Warranties.** The Corporation makes the following covenants and warranties to the City:
- (1) The Corporation is the owner of the Property and shall be solely responsible for the care, maintenance, repair or replacement of the parking lot and the public restroom facilities. This subsection shall survive termination of this Agreement.
 - (2) The Corporation shall timely and fully comply with all of the terms and conditions of this Agreement.
 - (3) The Corporation shall cooperate with the City in providing all necessary information to assist the City in complying with this Agreement.
 - (4) In accordance with Texas Government Code Section 2264.051, the Corporation certifies that it and all branches, divisions or departments of the Corporation do not and will not knowingly employ an undocumented worker.
 - (5) Any false or substantially misleading statements contained herein shall be an act of default by the Corporation.
- (b) **The City Covenants and Warranties.** The City makes the following covenants and warranties to the Corporation:
- (1) The City represents and warrants to the Corporation that this Agreement is within their authority, and that the City Manager is duly authorized and empowered to enter into this Agreement, on its behalf, unless otherwise ordered by a court of competent jurisdiction.
 - (2) Subject to the Corporation's compliance with all obligations herein, the City is obligated to pay the Corporation from sources contemplated by this Agreement.

Resolution approving BEDC Restroom Project and 380 agreement

- (3) Pursuant to a separate administrative services agreement between the Parties, the City may provide janitorial services to the public restrooms.

ARTICLE VII DEFAULT AND TERMINATION

(a) **Default.**

- (1) If either Party should default in the performance of any obligation of this Agreement, the other Party shall provide such defaulting Party written notice of the default, and a minimum period of thirty (30) days to cure such default, prior to instituting an action for breach or pursuing any other remedy for default.
- (2) In the event of any claim of default or the breach of any obligation, covenant, representation, or warranty contained herein, the Burnet City Council shall be the final arbiter of the validity of such claim and shall administer the appropriate remedy to the aggrieved Party.
- (3) Notwithstanding any provision to the contrary, the total liability either Party to the other under this Agreement shall not exceed the Maximum Grant Amount.

(b) **Term and Termination.**

- (1) The Term of this Agreement shall begin upon the Effective Date and shall terminate upon the Expiration Date as defined herein.
- (2) Notwithstanding the foregoing, this Agreement may terminate before the Expiration Date upon written agreement of the Parties.

ARTICLE VIII MISCELLANEOUS

- (a) **Binding Agreement.** The terms and conditions of this Agreement shall be binding on and insure to the benefit of the City, the Corporation, and their respective successors and assigns. The City Manager shall be responsible for the administration of this Agreement and the City Manager shall have the authority to execute any instruments duly approved by the City Council of the City of Burnet, Texas required by or relating to this Agreement.
- (b) **Force Majeure.** Neither Party shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons of Force Majeure.
- (c) **Mutual Assistance.** The City and the Corporation will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.

(d) **Independent Contractors.**

- (1) It is expressly understood and agreed by all Parties hereto that in performing their services hereunder, the Corporation at no time will be acting as an agent of the City and that all consultants or contractors engaged by the Corporation will be independent contractors of the Corporation; and nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties and any implication to the contrary is hereby expressly disavowed. The Parties hereto understand and agree that the City will not be liable for any claims that may be asserted by any third party occurring in connection with services performed by the Corporation under this Agreement, unless any such claims are due to the fault of the City.
 - (2) By entering into this Agreement, the Parties do not waive, and shall not be deemed to have waived, any rights, immunities, or defenses either may have, including the defense of Parties, and nothing contained herein shall ever be construed as a waiver of sovereign or official immunity by the City with such rights being expressly reserved to the fullest extent authorized by law and to the same extent which existed prior to the execution hereof.
 - (3) No employee of the City, or any Councilmember or agent of the City, nor any member of the Corporation's Board of Directors shall be personally responsible for any liability arising under or growing out of this Agreement.
- (e) **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed delivered by actual delivery, facsimile with receipt confirmation, or by depositing the same in the United States Mail, postage prepaid and certified with return receipt requested, addressed to the Party at the address set forth below:

If to the City: The City of Burnet
Attn: City Manager
P.O. Box 1369
1001 Buchanan Drive, Suite #4
Burnet, Texas 78611

If to the Corporation: The Corporation
Attn: Board President
P.O. Box 1369
1001 Buchanan Drive, Suite #4
Burnet, Texas 78611

Either Party may designate a different address at any time upon written notice to the other Party.

- (f) **Governing Law.** The Agreement shall be governed by the laws of the State of Texas, and the venue for any action concerning this Agreement shall be in Burnet County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of said court. In any action to enforce this Agreement, each Party shall

Resolution approving BEDC Restroom Project and 380 agreement
pay its own attorney's fees and costs, regardless of results.

- (g) **Amendment.** This Agreement may be amended by mutual written agreement of the Parties, as approved by the City Council and the Board of Directors.
- (h) **Legal Construction.** In the event any one or more of the provisions contained in this Agreement shall, for any reason, be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions of this Agreement, and it is the intention of the Parties to this Agreement that, in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision be added to this Agreement which is legal, valid and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.
- (i) **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral, oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement.
- (j) **Paragraph Headings.** The paragraph headings contained in this Agreement are for convenience only and will in no way enlarge or limit the scope or meaning of the various and several paragraphs.
- (k) **Number and Gender of Words.** Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other gender where appropriate.
- (l) **Counterparts.** This Agreement may be executed in multiple counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
- (m) **Exhibits.** Any Exhibits attached hereto are incorporated by reference for all purposes.
- (n) **Survival of Covenants.** Certain representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, shall survive termination as expressed herein.
- (o) **Indemnification.** Intentionally blank.

EXECUTED on this _____ day of _____, 2023.

CITY OF BURNET, TEXAS

By: _____
David Vaughn, City Manager

Resolution approving BEDC Restroom Project and 380 agreement

ATTEST:

By: _____
Kelly Dix, City Secretary

THE CORPORATION

By: _____
Cary Johnson, President

Exhibit “A” The Project

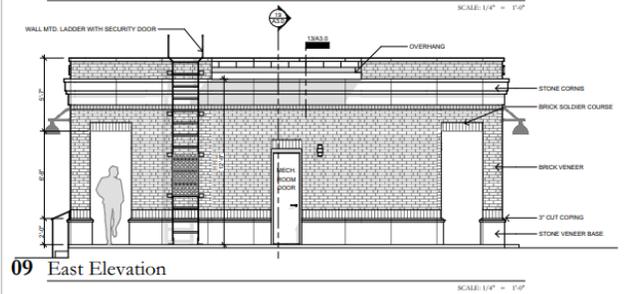
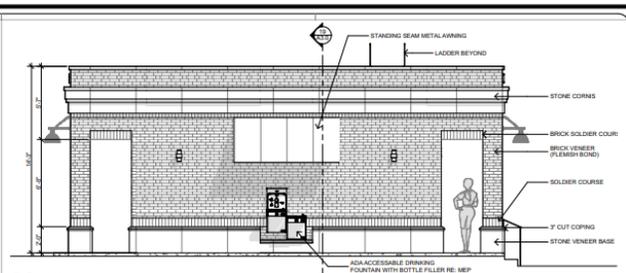
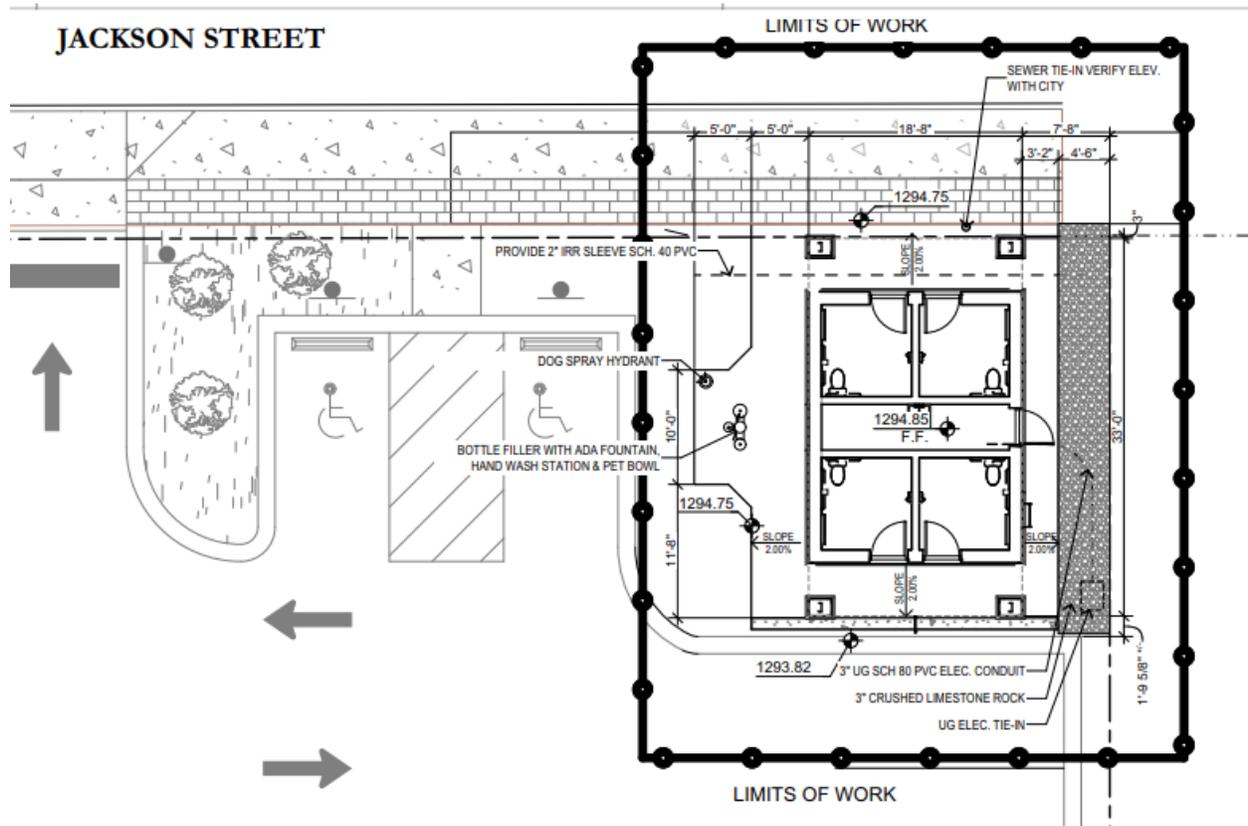


Exhibit “B”

Exhibit “C”

Resolution approving BEDC Restroom Project and 380 agreement

City Council Regular
Meeting
June 27, 2023

SECOND AND FINAL READING OF A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS APPROVING THE CONSTRUCTION OF PUBLIC RESTROOMS ON THE PUBLIC PARKING LOT OWNED BY THE BURNET ECONOMIC DEVELOPMENT CORPORATION AS A PROJECT UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT AND APPROVING A CHAPTER 380 AGREEMENT WITH SAID CORPORATION TO PROVIDE THE FUNDING FROM HOTEL OCCUPANCY TAX REVENUE AND THE GENERAL FUND REVENUE TO COMPLETE THE PROJECT TO PROMOTE THE CREATION OF JOBS AND NEW AND EXPANDED BUSINESS OPPORTUNITIES IN THE CITY OF BURNET: D. Vaughn

Background

- There is a lack of public restroom facilities within the Burnet Historic Business District (the “square”)
- The BEDC desire to construct public restroom facilities on its parking lot in the square.
- The BEDC has declared this to be a Economic Development Project and set a budget of \$575,000.00
- As this Project would benefit businesses, locals and tourist alike, the BEDC has requested City financial participation in the Project.

This Resolution

- In accordance with state law approves the Project
- Approves a Chapter 380 Agreement with the EDC
 - City's total financial obligation \$400,000.00
 - General fund: \$250,000.00
 - HOT: \$150,000





Questions



Development Services

ITEM 6.3

Habib Erkan Jr.
Assistant City Manager
512-715-3201
herkan@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCE TO RECODIFY HISTORIC PRESERVATION REGULATIONS IN CHAPTER 118 (ENTITLED "ZONING") AND MAKING SUBSTANTIVE REVISIONS TO ESTABLISH THE POSITION OF HISTORIC PRESERVATION OFFICER TO ADMINISTER THE REGULATIONS AND ESTABLISHING A CERTIFICATE OF APPROPRIATENESS PERMIT FEE; MAKING REVISIONS TO CITY CODE CHAPTERS 2 (ENTITLED "ADMINISTRATION") AND CHAPTER 22 (ENTITLED "SIGNS") TO COMPORT WITH THE RECODIFICATION; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: C. Pearson

Background: One of the city's most cherished assets is the historic business district. In furtherance of protecting the historic business district, its environs and other historic landmarks city council enacted historic preservation regulations by adoption of ordinance no. 2016-19, adopted August 9, 2019; and its predecessors Ord. No. 2012-27, §§ 2—18, adopted August 28, 2012; Ord. No. 2013-19, §§ 2—15, adopted November 12, 2013 and Ord. No. 2013-24, §§ 2—15, adopted January 14, 2014.

Information: The historic preservation rules were codified in Chapter 22 City Code. As the historic preservation rules are essentially zoning regulations this ordinance recodifies the rules as the Historic Preservation Code in the chapter of the code having purview over zoning (Chapter 118 City Code). Moreover, this ordinance authorizes the city manager to designate a historic preservation officer to administer the code and shortens the time period an applicant is required to wait for a decision on a certificate of

appropriateness certification. Additionally, this ordinance establishes a Certificate of Appropriateness application fee. And, finally, this ordinance amends Chapter 2 (entitled "Administration") and Chapter 21 (entitled "Signs") to harmonize with the Historic Preservation Code.

Fiscal Impact: Passage of this ordinance will have a positive fiscal impact as the establishment of a permit fee will allow the city to recover some of the costs associated with processing and administering permit applications.

Recommendation: Approve and adopt Ordinance No. 2023-18 as presented.

ORDINANCE NO. 2023-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCE TO RECODIFY HISTORIC PRESERVATION REGULATIONS FROM CHAPTER 22 (ENTITLED IN CHAPTER 118 (ENTITLED “ZONING”) AND MAKING SUBSTANTIVE REVISIONS TO ESTABLISH THE POSITION OF HISTORIC PRESERVATION OFFICER TO ADMINISTER THE REGULATIONS AND ESTABLISHING A CERTIFICATE OF APPROPRIATENESS PERMIT FEE; MAKING REVISIONS TO CITY CODE CHAPTERS 2 (ENTITLED “ADMINISTRATION”) AND CHAPTER 21 (ENTITLED “SIGNS”) TO COMPORT WITH THE RECODIFICATION; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in furtherance of protecting its historic business district, its environs and other historic landmarks city council enacted historic preservation regulations by adoption of ordinance no. 2016-19, adopted August 9, 2019; and its predecessors Ord. No. 2012-27, §§ 2—18, adopted August 28, 2012; Ord. No. 2013-19, §§ 2—15, adopted November 12, 2013 and Ord. No. 2013-24, §§ 2—15, adopted January 14, 2014; and

WHEREAS, as the statutory authority for the adoption of the historic preservation regulations included Chapter 211 Texas Local Government Code City Council deems it convenient and efficient to recodify the text in Chapter 118 City Code; and

WHEREAS, city council determines it appropriate and necessary to substantively amend the historic preservation regulations by designating the city representative who administers the regulations as the historic preservation officer; further defining the historic preservation officer’s authority and duties; establishing a Certificate of Appropriateness application fee; and providing a methodology to avoid delays caused by the historic board’s inaction; and

WHEREAS, after a duly notice public hearing held on the first Monday of June, 2023, the Planning and Zoning commission made a recommendation to approve the Ordinance; and

WHEREAS, at a duly notice public hearing, held on a date contemporaneous with the first reading, city council received comments and testimony on the merits of this Ordinance; and

WHEREAS, City Council, finds, determines, and declares that publication of notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas, was made by the City Secretary within the period prescribed by Section 3.14; and

WHEREAS, City Council, finds, determines, and declares that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given as required by Chapter 211 of the Texas Local Government Code and Chapter 551 of the Texas Government Code.

NOW THEREFORE; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS:

Section one. Code amendment. City Code Chapter 22 (entitled “buildings and building regulations”) Article X (entitled “historic preservation”) is hereby recodified and renumbered as Chapter 118 (entitled “zoning”) Article X (entitled “historic preservation”); and amended substantively by adding the text that is underlined (underlined) deleting the text that is stricken (~~stricken~~) as shown on the attachment hereto labeled “*Historic Preservation Code*”; said attachment being incorporated herein for all purposes.

Section two. Code amendment. City Code Chapter 2 (entitled “administration”), Article III (entitled “*Appointed bodies*”) Section 2-44 (entitled “*historic preservation board of directors*”) is hereby amended by adding the text that is underlined (underlined) deleting the text that is stricken (~~stricken~~) as follows:

Sec. 2-44. - Historic preservation board of directors.

The historic preservation board of directors is established and governed by Chapter 118, Article X, City Code ~~chapter 22, article X, division 2.~~

Section three. Code amendment. City Code Chapter 21 (entitled “signs”) Article III (entitled “*zoning district regulations*”) Section 21-25 (entitled “*signs in historic district*”) is hereby amended by adding the text that is underlined (underlined) deleting the text that is stricken (~~stricken~~) as follows:

Sec. 21-25. Signs in historic district.

All applications for construction, reconstruction, alteration, restoration, or rehabilitation of a sign for any historic landmark or any property within a historic district shall be considered and acted upon by the historic preservation officer in accordance with Chapter 118, Article X City Code. ~~proposed signs in the historic overlay district shall be reviewed, by both city historical board and the planning and zoning commission prior to consideration by the city council.~~

Section three. Code amendment. City Code Chapter 21 (entitled “signs”) Article VIII (entitled “*national branded signs*”) Section 21-101 (entitled “*genera*”) is hereby amended by adding the text that is underlined (underlined) deleting the text that is stricken (~~stricken~~) as follows:

Sec. 21-101. General.

Signs and sign plans utilized by national retail, commercial, and industrial outlets which do not meet the requirements of this section, may be permitted when, the city council

finds such signs are in conformance with the intent of this section and appropriate to the type of development or structure to which they are related. Signs requesting approval under this provision must meet the following requirements:

- (1) *Signage.* The trademark signs or sign formats or organization is generally standardized in cities nationally and redesign to comply with this section may detrimentally impact the nationally recognized company from locating in Burnet. The height of the sign shall conform with this section but the location, size and number may be approved to appear consistent with similar developments of the national chain.
- (2) *Permit approval.* Nationally branded signs, and/or planned unit developments, which do not conform to the regulations of this section may be granted approval by the city council after the planning and zoning commission has reviewed the sign(s) and site development plan. The planning and zoning commission shall make a recommendation to the city council for approval or denial based on their findings.
- (3) *Notification requirements.* Upon submittal of an application for a nationally branded signs exception, the city shall notify surrounding property owner in accordance with V.T.C.A., Local Government Code tit. 7, ch. 211.007.
- (4) *Historic district.* All applications for construction, reconstruction, alteration, restoration, or rehabilitation of a sign under this section for any historic landmark or any property within a historic district shall be considered and acted upon by the historic preservation officer in accordance with Chapter 118, Article X City Code. ~~All proposed signs requesting approval under this section within the historic overlay district shall be reviewed, by both the historical board and the planning and zoning commission prior to consideration by the city council.~~

Section five. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the City Council.

Section six. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "*General Penalty*").

Section seven. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled "*Repealer*") shall be controlling.

Section eight. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section nine. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section ten. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section eleven. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 13th day of June 2023.

Passed, Approved and Adopted on the 27th day of June 2023.

CITY OF BURNET

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

Historic Preservation Code

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ARTICLE X. HISTORIC PRESERVATION

Division 1. Title, Establishment, Goals, Purpose, and Funding

Sec. 118-231. Short title.

This article may be referred to as the “Historic Preservation Code”.

Sec. 118-232. Historic preservation program established.

The development and promotion of historic preservation is hereby established as a program and function of the city. The name of the organization and program is the "City of Burnet Historic Board".

Sec. 118-233. Goals and purposes.

The city council hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks and a district of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that areas of the city, including but not limited to the historic downtown area, represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This section is intended to:

- (a) Protect and enhance the landmarks and districts which represent distinctive elements of the city’s historic, architectural, and cultural heritage;
- (b) Foster civic pride in the accomplishments of the past;
- (c) Protect and enhance the city’s attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (d) Ensure the harmonious, orderly, and efficient growth and development of the city;
- (e) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- (f) Encourage stabilization, restoration, and improvements of such properties and their values.

Sec. 118-234. Funding.

The city may provide funding to the board as approved by the city council.

Division 2. Board of Directors and Historic Preservation Officer.

Sec. 118-235. Establishment, composition, and officers of the board.

- (a) There is hereby established a historic preservation board of directors (the "board).
- (b) The board shall consist of five members; one of which shall be a member of the city staff, one shall be a member of the city council, or a city staff member appointed in their stead, and three at-large members. The at-large members shall be appointed by the city council. For the initial terms, two at-large directors shall serve two-year terms and one shall serve a one-year term after which all terms for at-large members shall be two years. In the event a director leaves prior to the expiration of his/her term, the city council shall appoint a director to fill the un-expired term.
- (c) All at-large board members shall have a known and demonstrated interest or knowledge in historic preservation.
- (d) Officers of the board shall be the president, vice-president and secretary and shall be elected by and from the members of the board annually.
- (e) The board shall be subject to the city code of ethics.

- (f) The board shall meet at least monthly if business is at hand. Special meetings may be called at any time by the president, city staff member, or on the written request of any two board members.
- (g) A quorum of the board is required for the transaction of business and shall consist of not less than a majority of the currently sitting membership of the board.
- (h) The president shall be the executive officer for the board. He/she shall preside at board meetings and, with the approval of the board, appoint committees, task forces, and chairmen; act as a liaison to the code enforcement office, planning and zoning commission and/or the city council as needed to do the business of the board; serve on board committees as requested by the board and deemed appropriate; sign official documents on behalf of the board; and perform other such duties as may pertain to the office. The president shall submit an annual activity and progress report to the city council.
- (i) The vice-president shall preside at all meetings in the case of the absence of the president; he/she shall possess all of the duties and responsibilities of the president in the event of absence, resignation, or death of the president.
- (j) The secretary shall record the minutes of all the meetings; assist the president in arrangement and notification of meetings, necessary correspondence, and reports; where required, co-sign with the president where required, any contracts or instruments designated by the board as pertaining to the business of the board; perform any other duties normally pertaining to the office as requested by the board.
- (k) Committee chairmen shall lead their committee members in the execution of those tasks assigned to them by the board as they pertain to the business of the board.
- (l) No person may be appointed to the board who is related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) to any other member of board or city council. In the event that city council adopts nepotism rules generally applicable to boards and commissions the board shall comply with either this subsection or such general nepotism rules whichever is stricter.
- (m) All board meetings shall comply with the Texas Open Meetings Act.

Sec. 118-236. Duties, functions, and jurisdiction of the Board.

The board's duties functions and jurisdiction shall be determined by city council and shall include the following:

- (1) Recommend to the city council, criteria for the designation of historical, architectural, and cultural landmarks and delineation of historic district(s) of the city.
- (2) Conduct survey's and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the city.
- (3) Recommend to city council, the designation of landmarks and historic districts.
- (4) Create committees from among its membership to carry out the purposes of this article.
- (5) Maintain written minutes which record all actions taken by the board.

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- (6) Recommend to city council, the conferral of recognition upon the owners of landmarks or properties within historic districts by means of certificates, plaques and/or markers.
- (7) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- (8) Make recommendations to the city council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the city.
- (9) Review applications for certificates of appropriateness as provided for herein.
- (10) Prepare and submit a report summarizing the work completed as requested by the city and/or city council.
- (11) Recommend specific guidelines that, upon approval by city council, shall be the basis for the review of landmarks and districts.
- (12) With prior approval of the city council, research, and report on the possible acquisition of landmark structures by the city where its preservation is essential to the purpose of this article and/or where private preservation is not feasible.
- (13) Upon direction by the city council, review offers of the donation of preservation easements and development rights for the purpose of historic preservation, for consideration by the city council.

Sec. 118-237. Historic Preservation Officer.

The city manager, or in the absence of the city manager the person acting in his or her stead, is authorized and directed to administer this article as the historic preservation officer. The city manager may delegate such duties, and the title of historic preservation officer, to an employee under his or her supervision.

Sec. 118-238 through 118-250 are reserved.

Division 3. Designation of Historic Districts and Landmarks.

Sec. 118-251. Designation of historic landmarks and historic districts, generally.

- (a) The designation of a historic district or landmark is a change of zoning classification, which, in addition to the requirements of this division, shall comply with applicable provisions of this chapter 118 of this Code and V.T.C.A., Chapter 211 Texas Local Government Code Ch. 211 as stated in subsection (e) and (f).
- (b) The agenda, for any board meeting where the designation of a historic district or landmark shall be considered, shall include an agenda item describing the matter that will be considered, in accordance with the Texas Open Meetings Act.
- (c) At any hearing on the proposed designation of a historic district or landmark the owners of properties, subject to the proposed designation, city staff, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.
- (d) At the conclusion of a hearing on the proposed designation of a historic district or landmark, the board shall make a recommendation to the planning and zoning commission in favor or opposed to the proposed designation.
- (e) Upon receipt of the recommendation, the planning and zoning commission shall conduct a public hearing and make a recommendation to council in accordance with this chapter. proceed with consideration of the proposed designation as a zoning case and in compliance with Chapter 118 of this Code and V.T.C.A., Local Government Code Ch. 211.
- (f) Upon receipt of a report from the planning and zoning commission, the city council shall conduct a public hearing and may take final action on the proposed designation in accordance with this chapter by consideration of an ordinance after publication of notice and public hearing as required by Chapter 118 of this Code and V.T.C.A., Local Government Code Ch. 211.

Sec. 118-252. Designation of historic landmarks outside a historic district.

No property shall be considered by the board for designation as a historic landmark without the consent of the property owner(s) unless otherwise directed by the city council. For purposes of this article "property" shall mean any building, site, structure, or object that is deemed to meet the criteria for historical designation as provided for herein.

Sec. 118-253. Designation of historic landmarks within a historic district.

Any property located within a city designated historic district shall be eligible for designation as a historic landmark if it meets the criteria for historic landmark designation as provided for herein.

Sec. 118-254. Designation of historic districts.

- (a) These provisions pertaining to the designation of a historic district constitute a part of this Code.

- (b) The board may not take under consideration the historic designation of any area or district without the consent of the city council, which shall be memorialized by resolution or minute order considered and acted on in open session.

Sec. 118-255. Criteria for designation of historic landmarks and districts.

In order for a property to be designated a historic landmark or an area or district to be designated a historic district the city council, after consideration of the recommendations of the board and planning and zoning commission, shall proceed as follows:

- (a) City council must find that a property, area or district meets one or more of the criteria:
 - (1) Possesses significance in history, architecture, archeology, and culture; or
 - (2) Is associated with events that have made a significant contribution to local, regional, state, or national history; or
 - (3) Embodies the distinctive characteristics of a type, period, or method of construction, or section of the city; or
 - (4) Represents the work of a master designer, builder, or craftsman; or
 - (5) Represents a significant, established, and familiar visual feature of the city.
- (b) City council may reject a property for historic designation if it makes one or more of the findings that follows:
 - (1) The structure is in such condition that it is not a viable candidate for restoration; or
 - (2) Materials or craftsmen are no longer available or are prohibitive in cost; or
 - (3) The property cannot be adapted for any other use, whether by the current owner or by a purchaser; or
 - (4) Efforts to find a purchaser interested in acquiring the property and preserving it have failed; or
 - (5) Peculiar and unusual circumstances would prevent the reasonable use of the property; or
 - (6) The historic qualities or character of the property cannot be ascertained or are not historically appropriate with the character of the historic district and/or other properties in its proximity.

Sec. 118-256 through 118-270 are reserved.

Division 4. Certificates of appropriateness.

Sec. 118-271. Certificate of appropriateness for alteration or new construction affecting landmarks or historic districts and sign permits.

- (a) Exterior alteration. Unless otherwise provided for herein, no person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark, or any property within a historic district, nor shall any person make any material change in the light fixtures, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any historic landmark or any property within a historic district without having been issued a certificate of appropriateness.
- (b) Signs. No person shall carry out any construction, reconstruction, alteration, restoration, or rehabilitation of a sign for any historic landmark or any property within a historic district without having been issued a sign permit, in lieu of a

certificate of appropriateness, from the city manager, or his/her designee ("city representative"). Requests for signs for any historic landmark or any property within a historic district shall be historically compatible in size, scale, color, material and complementary to the character of the property, neighborhood or environment of the property or historic district. The ~~city representative~~ historic preservation officer shall have decision making authority for all such signs. Property owners who disagree with the decision of the city representative may appeal as provided for herein.

- (c) Exceptions. The following matters are hereby exempted from this section:
- (1) Landscaping; and
 - (2) Sidewalks, streets, signs, paving, or other fixtures located within the public right-of-way and owned by any governmental entity; and
 - (3) Remodeling and other alterations to the interior of a structure that does not affect the exterior of such structure.

Sec. 118-272. Criteria for approval of a certificate of appropriateness.

In making a recommendation on an application for a certificate of appropriateness to the historic preservation officer the board shall be guided by the following:

- (a) Minimal alteration of the building, structure, object, or site and its environment are encouraged.
- (b) The removal or alteration of any historic material or distinctive architectural features should be avoided where possible.
- (c) Changes which may have taken place in the course of time and are significant evidence of the history and development of a building, structure, object, or site and its environment may have acquired significance in their own right. In this event, the board may apply the criteria for approval to the changes in addition to the original design of the structure.
- (d) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, object, or site shall be kept where possible.
- (e) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
- (f) Contemporary design for new construction, alterations and additions to existing properties shall not be discouraged when such alterations and additions are compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
- (g) In the event of a building in a historic district that has not been individually designated as a historic structure and the historic qualities or character cannot be ascertained or are not historically appropriate with the character of the historic district, the owner of such building may request a certificate of appropriateness, to that effect, from the historic preservation officer after recommendation by the board.

Sec. 118-273. Certification of appropriateness application procedure.

- (a) Unless otherwise provided for herein, prior to the commencement of any work requiring a certificate of appropriateness the property owner shall file an application for such a certificate with the city representative. The application shall contain:

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- (1) Name, address, telephone number of applicant, detailed description of proposed work.
 - (2) Location and photograph of the property and adjacent properties.
 - (3) Elevation drawings of the proposed changes, if available.
 - (4) Samples of materials to be used, if applicable.
 - (5) Any other information, which the board may deem necessary, in order to demonstrate the proposed work.
- (b) Upon receipt of an administratively complete application the historic preservation officer shall submit same to the board for consideration and recommendation. The board's review procedures shall be as follows:
- (1) The board shall convene as soon as practicable after the submission of the application;
 - (2) After a city staff report and testimony and comments from the applicant and members of the public the board shall deliberate and render a recommendation to the historic preservation officer.
 - (3) The recommendation shall be in writing and may be a recommendation for approval, denial, or approval with modifications.
- (c) Upon receipt of the board's recommendation the historic preservation officer shall either issue a certificate of appropriateness; or issue a certificate of appropriateness with modifications; or deny the application.
- (d) In the event the board fails to take action on the application within thirty days after it is deemed administratively complete, the historic preservation officer may take final action on the application without recommendation from the board.
- (e) An applicant aggrieved by a decision of the historic preservation officer may appeal the decision as provided herein.
- ~~(b) The city representative shall submit the application to the board for review and recommendation. The board shall review the application within 45 days from the date the application is received by the board, at which time an opportunity will be provided for the applicant to be heard. The board shall make recommendation for the approval, denial, or approval with modifications, of the permit within 15 days after the review meeting. In the event the board does not make such recommendation within 60 days of the receipt of the application, an application may be acted upon by the city representative.~~
- ~~(c) Except as provided for herein, no building permit for a historic landmark or property within a historic district shall be issued for proposed work until a certificate of appropriateness has first been issued. The certificate of appropriateness required by this article shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the city.~~
- ~~(d) The board shall state its recommendations pertaining to the approval, denial, or with modification of the application in writing. The recommendation shall be returned to the city representative for action.~~
- ~~(e) In the event an applicant for a certificate of appropriateness is dissatisfied with the action of the city representative, the applicant shall have the right to appeal as provided for herein.~~

Sec. 118-274. Certificate of appropriateness required for demolition.

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- (a) Except as provided for herein, a permit for the demolition of a historic landmark or property within a historic district, including secondary buildings, shall not be granted by any department of the city without a certificate of appropriateness.
- (b) The procedures for processing a demolition certificate of appropriateness are stated in Sec. 118-258(b) through (e).
- (c) When considering its recommendation for a certificate of appropriateness for demolition, the board shall take into consideration:
 - (1) If the structure is in such condition that it is not a reasonably viable candidate for restoration; or
 - (2) If materials or craftsmen are no longer available or are prohibitive in cost; or
 - (3) If the property cannot be adapted for any other use, whether by the current owner or by a purchaser; or
 - (4) If efforts to find a purchaser interested in acquiring the property and preserving it have failed; or
 - (5) If peculiar and unusual circumstances prevent the reasonable use of the property; or
 - (6) If the historic qualities or character of the property cannot be ascertained or are not historically appropriate with the character of the historic district and/or other properties in its proximity.
- (d) In making its recommendation to the historic preservation officer the board shall make written findings stating whether or not the six factors set out in the subsection immediately above are true or false with regards to the demolition application at issue. ~~If any of the above criteria are applicable to the property, the board may issue a certificate of appropriateness for demolition.~~
- (e) Any structure built in the place of a demolished building shall meet the criteria herein for new construction and shall require a certificate of appropriateness.

Sec. 118-275 through 118-280 are reserved.

Division 5. Administration and enforcement.

Sec. 118-281. Demolition by neglect.

- (a) No owner or person with an interest in real property designated as a historic landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the board, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.
- (b) In the event the board makes a recommendation of demolition by neglect of a property to the ~~city representative~~ historic preservation officer, ~~the city representative may take action as provided for in this Code for any deteriorating structure.~~
- (c) Examples of such deterioration include:
 - (1) Deterioration of exterior walls or other vertical supports.
 - (2) Deterioration of roof or other horizontal members.
 - (3) Deterioration of exterior chimneys.

- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.
- (d) The historic preservation officer, on his or her own initiative, or upon receipt of a finding by the board may file a criminal complaint in the Burnet municipal court and request the city manager initiate demolition by neglect civil proceedings in accordance with this code and applicable state statutes.

Sec. 118-282. Appeals.

Any certificate of appropriateness or sign permit applicant aggrieved by a decision of the historic preservation officer may appeal the decision to the board of adjustment as provided in Section 211.010(a-1), (b), (c) and (d) Texas Local Government Code.

~~An applicant for a certificate of appropriateness or a sign permit, dissatisfied with the action of the city representative relating to the certificate of appropriateness or sign permit, shall have the right to appeal to the board of adjustment, within 90 days after receipt of notification of such action. The board of adjustment shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in section 118-74.~~

Sec. 118-283. Enforcement.

All work performed under a building permit issued pursuant to a certificate of appropriateness shall conform to any requirements included therein. It shall be the duty of the city representative to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the certificate of appropriateness or upon notification of such fact by the board and verification by the city representative, the city representative shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work is in effect.

Sec. 118-284. Ordinary maintenance.

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a historic landmark or property within a historic district which does not involve a change in design, material, or outward appearance. In-kind replacement or repair is included in this definition of ordinary maintenance.

Sec. 118-285. Bylaws.

Any and all by-laws enacted to date shall be repealed.

SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING THE CODE OF ORDINANCE TO RECODIFY HISTORIC PRESERVATION REGULATIONS IN CHAPTER 118 (ENTITLED "ZONING") AND MAKING SUBSTANTIVE REVISIONS TO ESTABLISH THE POSITION OF HISTORIC PRESERVATION OFFICER TO ADMINISTER THE REGULATIONS AND ESTABLISHING A CERTIFICATE OF APPROPRIATENESS PERMIT FEE; MAKING REVISIONS TO CITY CODE CHAPTERS 2 (ENTITLED "ADMINISTRATION") AND CHAPTER 22 (ENTITLED "SIGNS") TO COMPORT WITH THE RECODIFICATION; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: C. Pearson





Ord. 2016-19 created Historic Preservation Regulations – currently are codified in Chapter 22 entitled “Buildings and Building Regulations”

Recodifies the rules into the more appropriate Chapter 118 entitled “Zoning Districts and Regulations”



Historic Board currently considers all applications for Certificate of Appropriateness for all exterior alterations

Authorizes City Manager to designate a Historic Preservation Officer to administer the code more expediently. Appeals will still be to the Historic Board.



No building permit within a historic district shall be issued until a Certificate of Appropriateness has been issued.

Shortens approval time.

Establishes an application fee.

Updates Chapter 2 (“Administration”) & Chapter 21 (“Signs”) to reflect the updates within the Historic Preservation Code.



P&Z Report

- ▶ P&Z met on June 5th and recommended approval of Ordinance 2023-18 as presented.

Discussion

- ▶ Approve and adopt Ordinance 2023-18 as presented.



Development Services

ITEM 6.4

Leslie Kimbler
 Planner
 512-715-3215
 lkimbler@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider: SECOND AND READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED SINGLE-FAMILY RESIDENTIAL – DISTRICT “R-1”, LOCATED AT THE CORNER OF EAST BRIER LANE AND NORTH WOOD STREET, LEGALLY DESCRIBED AS: LOT 3-A, BLOCK 11, PETER KERR DONATION, WITH DUPLEX – DISTRICT “R-2”: L. Kimbler

Background: The property located at the corner of East Brier and North Wood, across the street from Hoover’s Building Supply, is an undeveloped property.

Information: Previously, as an un-platted property, this lot was utilized for two single-family residential homes and is zoned as such. The new owner has gone through the platting process to legally plat this property into one large lot and is requesting to rezone the property to Duplex – District “R-2” to potentially build a two- to four-unit residential building on the property.

Duplex – District “R-2” allows two-, three-, and four-unit residences with a minimum of 900 square feet per unit on a minimum lot size of 4500 square feet per unit with a lot width of 75 feet. The subject lot is 21,779 square feet with a lot width of 147 feet which meets the minimum requirements for the zoning district.

Staff Analysis: The Future Land Use Map (Exhibit B) designation for the area is residential; therefore, the requested Duplex zoning is appropriate.

Properties adjacent to the subject property are zoned as follows:

| | North | South | East | West |
|---------------|--------------|--------------|-------------|-------------|
| Zoning | “R-1” | “R-2” | “C-3” | “R-1” |
| FLUM | Residential | Residential | Commercial | Residential |

| | | | | |
|-----------------|--------------------|--------|--------------------------|--------------------|
| Land Use | Single-family home | Vacant | Hoover's Building Supply | Single-family home |
|-----------------|--------------------|--------|--------------------------|--------------------|

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on May 24, 2023, and written notices were mailed to 19 surrounding property owners within 200 feet of the subject property. There have been zero responses in favor and zero responses in opposition.

P&Z Report: Planning and Zoning met at their regular meeting on Monday, June 5th and did recommend approval of the requested rezone and Ordinance 2023-20 as presented.

Recommendation: Approve and adopt Ordinance 2023-20 as presented.

Exhibit "A"
Location & Current Zoning Map

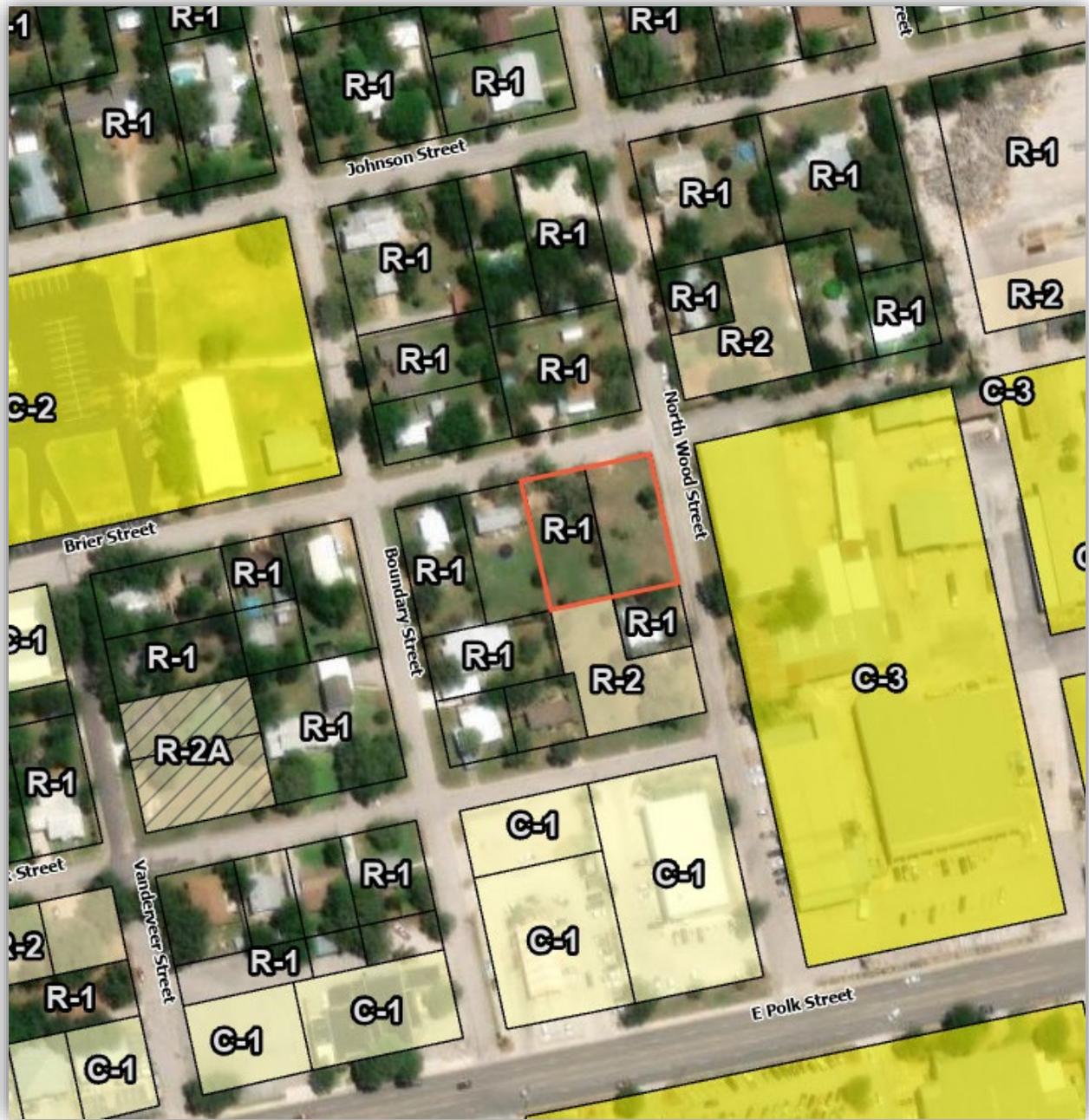


Exhibit "B"
Future Land Use Map



Government



Commercial



Residential



Open Space

ORDINANCE NO. 2023-20

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED SINGLE-FAMILY RESIDENTIAL – DISTRICT “R-1”, LOCATED AT THE CORNER OF EAST BRIER LANE AND NORTH WOOD STREET, LEGALLY DESCRIBED AS: LOT 3-A, BLOCK 11, PETER KERR DONATION, WITH DUPLEX – DISTRICT “R-2”; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2021-001, affixed the zoning classifications for each and every property located within the city in accordance with the Official Zoning Map as approved with said ordinance; and

WHEREAS, the purpose of this Ordinance is to amend the Official Zoning Map by amending the zoning classification of the Real Property (“Property”) described herein; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of zoning classification and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, it is further legislatively found that this proposed zoning reclassification of property does not require an amendment to the Future Land Use Plan; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted and made a part hereof for all purposes as findings of fact.

Section two. Property. The Property that is the subject to this Zoning District Reclassification is located at PROPERTY LEGALLY DESCRIBED AS: LOT 3-A, BLOCK 11, PETER KERR DONATION as shown on **Exhibit “A”** hereto.

Section three Zoning District Reclassification. Duplex – District “R-2” Zoning District Classification is hereby assigned to the Property described in section two.

Section four. Zoning Map Revision. The City Secretary is hereby authorized and directed to revise the Official Zoning Map to reflect the change in Zoning District Classification approved by this Ordinance.

Section five. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent of such conflict.

Section six. Severability. This Ordinance is severable as provided in City Code Section 1-7 as same may be amended, recodified or otherwise revised.

Section seven. Effective Date. This ordinance is effective upon final passage and approval.

PASSED on First Reading the 13th day of June 2023

PASSED AND APPROVED on this the 27th day of June 2023.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit A
SUBJECT PROPERTY



SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED SINGLE-FAMILY RESIDENTIAL – DISTRICT “R-1”, LOCATED AT THE CORNER OF EAST BRIER LANE AND NORTH WOOD STREET, LEGALLY DESCRIBED AS: LOT 3-A, BLOCK 11, PETER KERR DONATION, WITH DUPLEX – DISTRICT “R-2”



Information:



Current Zoning:

Single-Family Residential
– “R-1”

Previously utilized for two
single-family residential
homes



Requested Zoning:

Duplex – “R-2”

Applicant is requesting
Duplex zoning to allow
for a two-, three-, or
four-unit residential
building.



Future Land Use



| | North | South | East | West |
|-----------------|-------------------------|-------------|------------------------|-------------------------|
| Zoning | "R-1" | "R-2" | "C-3" | "R-1" |
| FLU | Residential | Residential | Commercial | Residential |
| Land Use | Single-Family residence | Vacant | Building Supply Retail | Single-family residence |

Public Notification



- ▶ Notices were mailed to 19 surrounding property owners.
- ▶ There have been zero responses in favor or opposition.



P&Z Report

- ▶ P&Z met on June 5th and recommended approval of Ordinance 2023-20 as presented.

Discussion

- ▶ Approve and adopt Ordinance 2023-20 as presented.



Development Services

ITEM 6.5

Leslie Kimbler
Planner
512-715-3215
lkimbler@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED HEAVY COMMERCIAL – DISTRICT “C-3”, LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION, WITH LIGHT COMMERCIAL – DISTRICT “C-1”: L. Kimbler

Background: The property is currently an undeveloped property located along Houston Clinton Drive just north of the Shell gas station and is currently zoned Heavy Commercial – “District C-3”. The subject property is owned by the Burnet Economic Development Corporation. The Burnet EDC is requesting the rezone of the property to encourage the right buyers for the property; as well as protect the surrounding development.

Information: The requested Light Commercial – District “C-1” is governed by code of ordinances, Sec. 118-45, and allows for a mix of light commercial uses including retail and office space. This use also allows uses permitted in the “NC” Neighborhood Commercial district (except for residential buildings and uses).

An example of some allowable uses would be:

- Banks
- Doctor or Dental Offices
- Lawyer’s Offices
- Personal Services uses including barber shops, beauty parlors, etc.
- Restaurant or other drive-in eating establishment
- Retail sale of goods and products

Staff Analysis: The Future Land Use Map (Exhibit B) designation for the area is residential; therefore, the requested Duplex zoning is appropriate.

Properties adjacent to the subject property are zoned as follows:

| | North | South | East | West |
|-----------------|--------------|--------------|-------------|-------------|
| Zoning | "C-3" | "R-2" | "C-3" | "C-3" |
| FLUM | Commercial | Commercial | Commercial | Commercial |
| Land Use | Vacant | Gas Station | Restaurant | Vacant |

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on May 24, 2023, and written notices were mailed to five (5) surrounding property owners within 200 feet of the subject property. There have been zero responses in favor and zero responses in opposition.

P&Z Report: Planning and Zoning met at the regular meeting on Monday, June 5th and did recommend approval of the requested rezone and Ordinance 2023-21 as presented.

Recommendation: Approve and adopt the first reading of Ordinance 2023-21 as presented.

Exhibit "A"
Location & Current Zoning Map

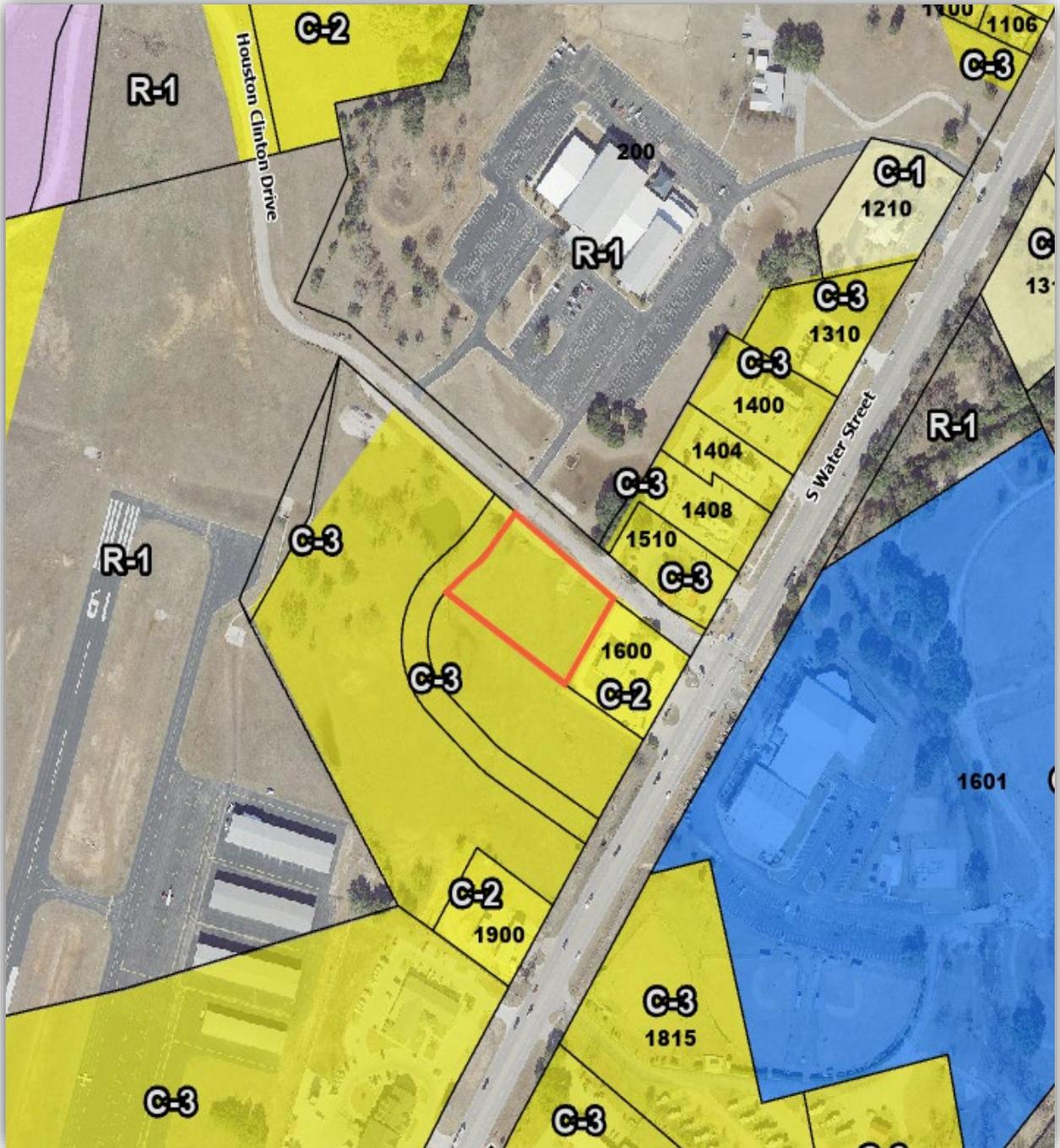
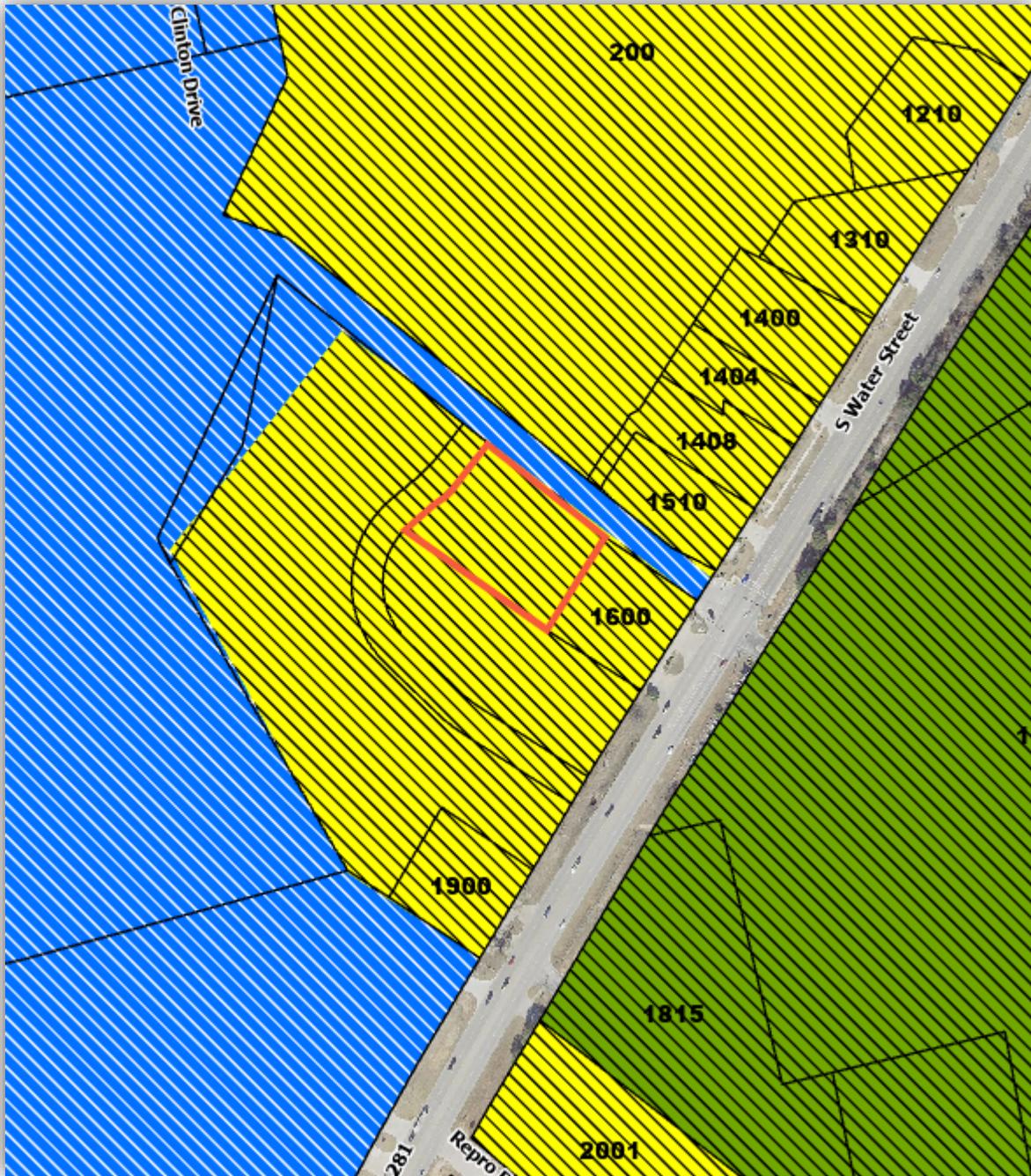


Exhibit "B" Future Land Use Map



-  Government
-  Commercial
-  Residential
-  Open Space

ORDINANCE NO. 2023-21

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED HEAVY COMMERCIAL – DISTRICT “C-3”, LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION, WITH LIGHT COMMERCIAL – DISTRICT “C-1”; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2021-001, affixed the zoning classifications for each and every property located within the city in accordance with the Official Zoning Map as approved with said ordinance; and

WHEREAS, the purpose of this Ordinance is to amend the Official Zoning Map by amending the zoning classification of the Real Property (“Property”) described herein; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of zoning classification and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, it is further legislatively found that this proposed zoning reclassification of property does not require an amendment to the Future Land Use Plan; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted and made a part hereof for all purposes as findings of fact.

Section two. Property. The Property that is the subject to this Zoning District Reclassification is located at PROPERTY LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION as shown on **Exhibit “A”** hereto.

Section three Zoning District Reclassification. Light Commercial – District “C-3” Zoning District Classification is hereby assigned to the Property described in section two.

Section four. Zoning Map Revision. The City Secretary is hereby authorized and directed to revise the Official Zoning Map to reflect the change in Zoning District Classification approved by this Ordinance.

Section five. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent of such conflict.

Section six. Severability. This Ordinance is severable as provided in City Code Section 1-7 as same may be amended, recodified or otherwise revised.

Section seven. Effective Date. This ordinance is effective upon final passage and approval.

PASSED on First Reading the 13th day of June 2023

PASSED AND APPROVED on this the 27th day of June 2023.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit A
SUBJECT PROPERTY



SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED HEAVY COMMERCIAL – DISTRICT “C-3”, LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION, WITH LIGHT COMMERCIAL – DISTRICT “C-1”



Information:



Current Zoning:

Heavy Commercial –
District “C-3”

Property is owned by
City of Burnet Economic
Development
Corporation

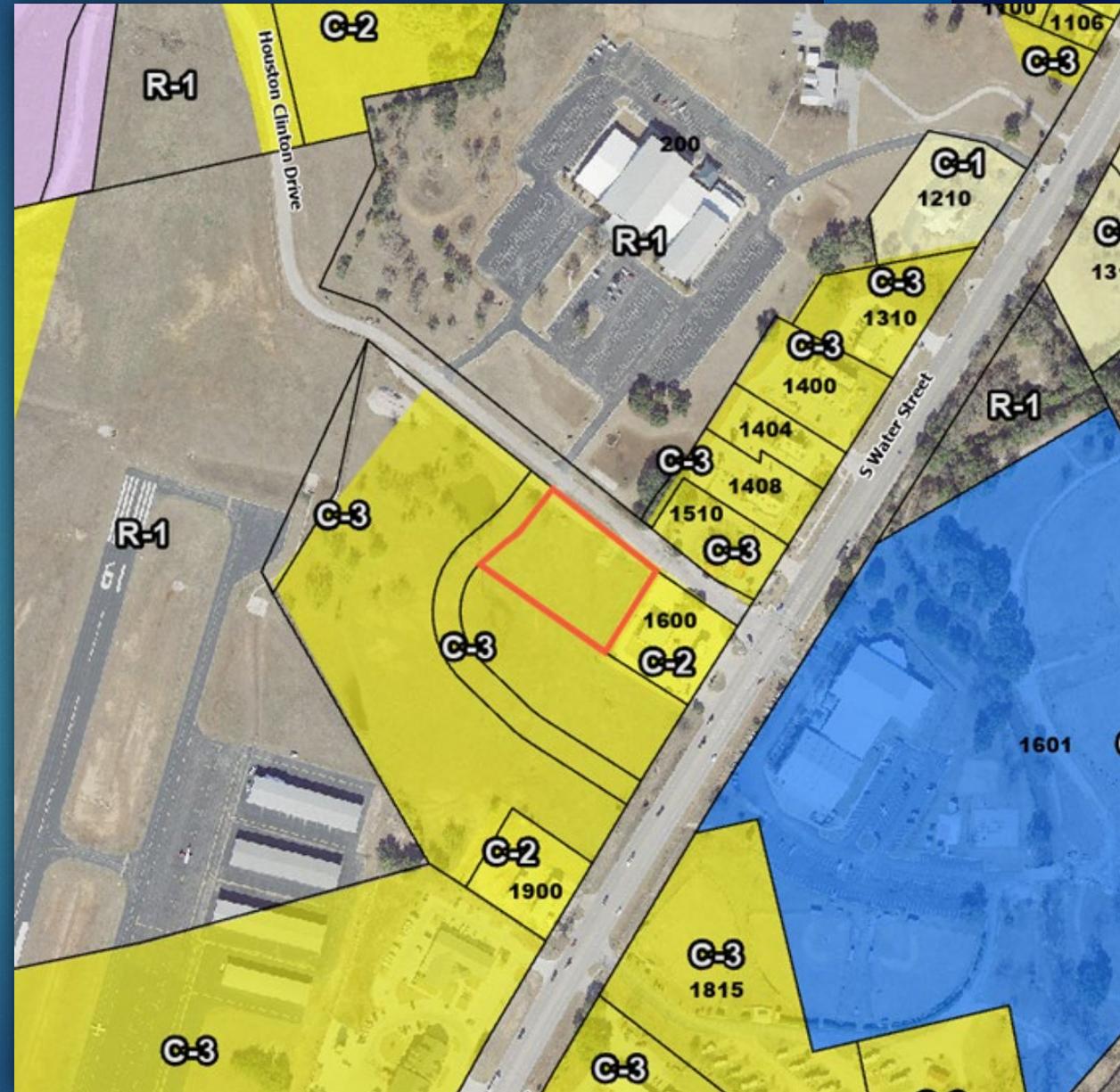


Requested Zoning:

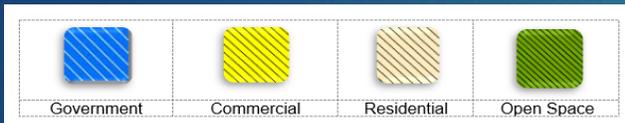
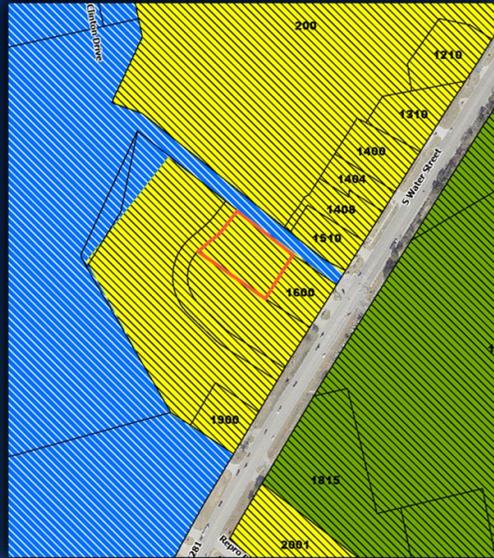
Light commercial- “C-1”

Allowable Uses:

- Banks
- Doctor or Dental Offices
- Lawyer’s Offices
- Personal Services uses including
barber shops, beauty parlors, etc.
- Restaurant or other drive-in eating
establishment
- Retail sale of goods and products



Future Land Use



| | North | South | East | West |
|----------|------------|-------------|------------|------------|
| Zoning | "C-3" | "R-2" | "C-3" | "C-3" |
| FLUM | Commercial | Commercial | Commercial | Commercial |
| Land Use | Vacant | Gas Station | Restaurant | Vacant |

Public Notification



- ▶ Notices were mailed to 5 surrounding property owners.
- ▶ There have been zero responses in favor or opposition.



P&Z Report

- ▶ P&Z met on June 5th and recommended approval of Ordinance 2023-21 as presented.

Discussion

- ▶ Approve and adopt Ordinance 2023-21 as presented.



Development Services

ITEM 6.6

Leslie Kimbler
Planner
512-715-3215
lkimbler@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 AND THE OFFICIAL FUTURE LAND USE MAP OF THE CITY BY ASSIGNING THE PROPERTY LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES FROM ITS' CURRENT DESIGNATION OF "AGRIGULTURE" TO A DESIGNATION OF "GOVERNMENT": L. Kimbler

Background: The property for consideration is owned by the City of Burnet. These properties are where the Fire Station #2 and the Wallace Riddell Park are located.

The City's Future Land Use Plan for this property is designated as Agriculture and the requested Future Land Use amendment must be approved before the zoning change request can be approved (next item on the agenda).

Staff Analysis: The Future Land Use Map calls for the subject tract to be Agriculture, however the property is owned and operated by the City of Burnet and would be more appropriate for the FLUM to accurately reflect this.

Public Notice: Notices were mailed to 30 surrounding property owners within 200' of the subject property and staff has received no comments in opposition to the proposed amendment to the City's Future Land Use Plan.

P&Z Report: Planning and Zoning met at their regular meeting on Monday, June 5th and did recommend approval of the requested rezone and Ordinance 2023-22 as presented.

Recommendation: Approve and adopt Ordinance 2023-22 as presented.

Exhibit A – Zoning Map

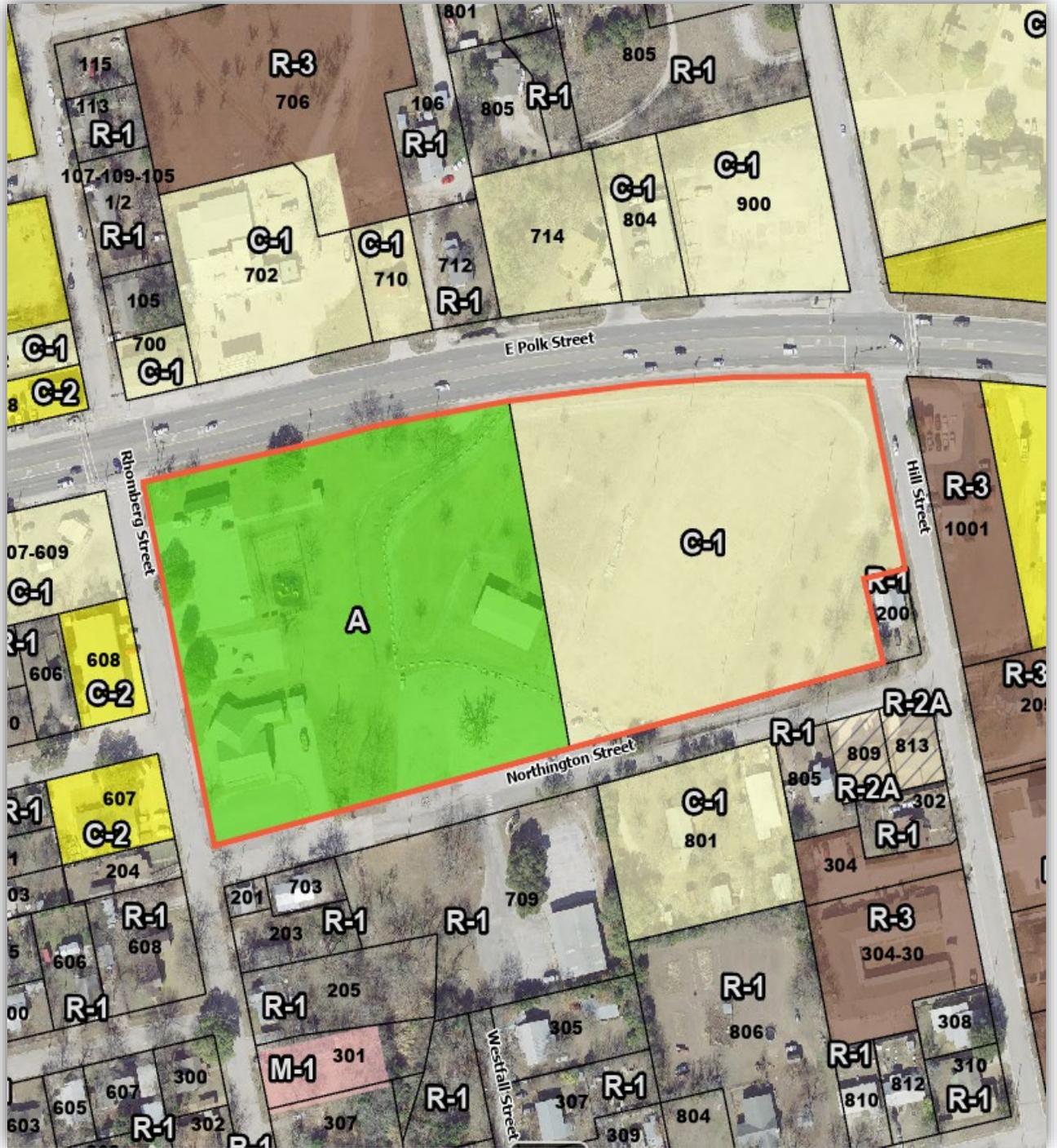
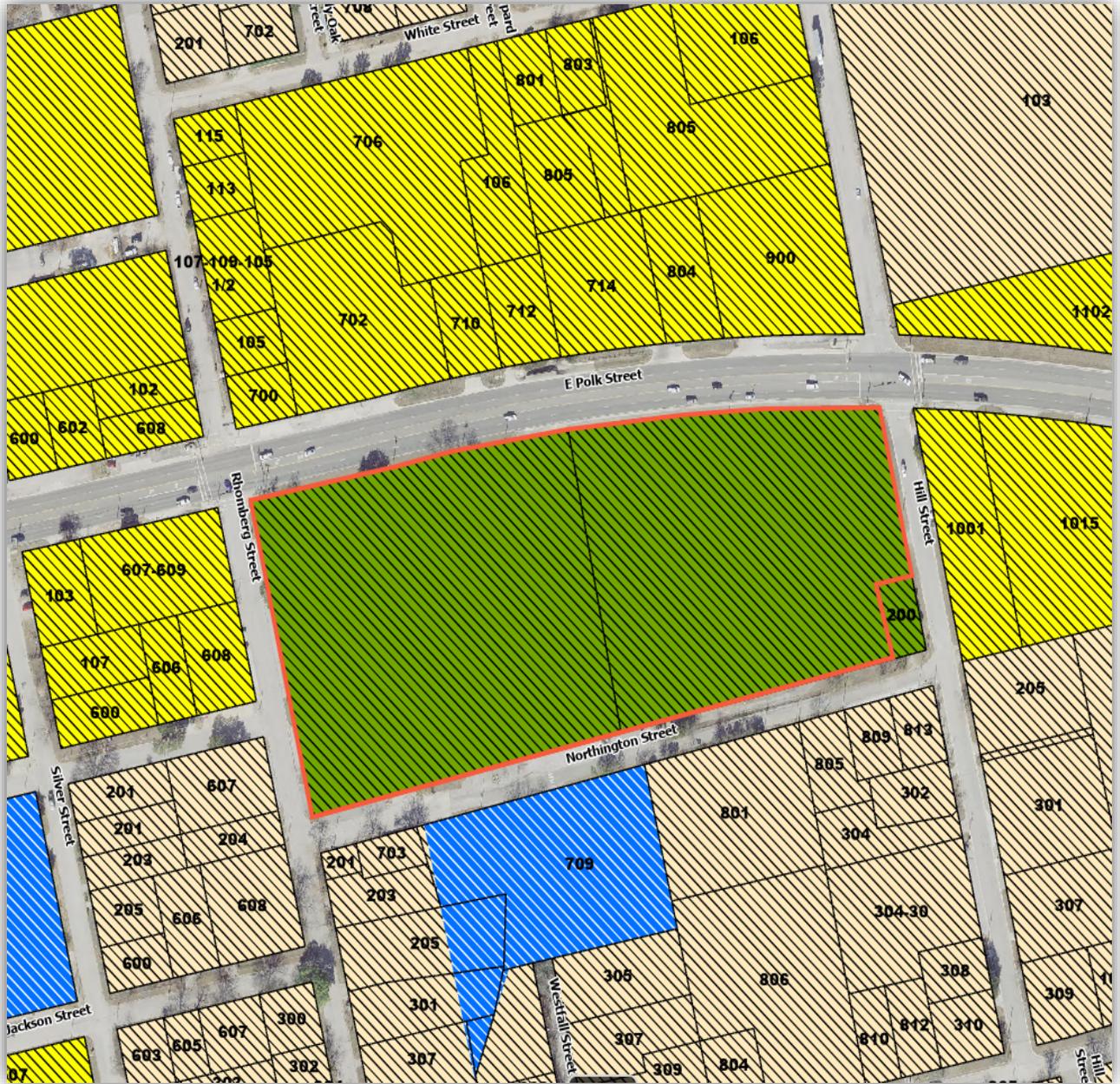


Exhibit B – Future Land Use Map



-  Government
-  Commercial
-  Residential
-  Industrial

ORDINANCE NO. 2023-22

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 AND THE OFFICIAL FUTURE LAND USE MAP OF THE CITY BY ASSIGNING THE PROPERTY LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES FROM ITS' CURRENT DESIGNATION OF "AGRIGULTURE" TO A DESIGNATION OF "GOVERNMENT"; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2012-09, did assign Future Land Use classifications for property located within the city in accordance with the Official Future Land Use Map as approved with said ordinance; and

WHEREAS, the purpose of this Ordinance is to amend the Official Future Land Use Map by amending the Future Land Use classification of the Real Property ("Property") described herein; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of Future Land Use classification and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted and made a part hereof for all purposes as findings of fact.

Section two. Property. The Property that is the subject to this Future Land Use Reclassification is LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES as shown on **Exhibit “A”** hereto.

Section three. Future Land Use Map. “Government” Future Land Use is hereby assigned to the Property described in section two.

Section four. Future Land Use Map Revision. The City Secretary is hereby authorized and directed to revise the Official Future Land Use Map to reflect the change in Future Land Use Classification approved by this Ordinance.

Section five. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent of such conflict.

Section six. Severability. This Ordinance is severable as provided in City Code Section 1-7 as same may be amended, recodified or otherwise revised.

Section seven. Effective Date. This ordinance is effective upon final passage and approval.

PASSED on First Reading the 13th day of June 2023.

FINALLY PASSED AND APPROVED on the 27th day of June 2023.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2012-09 AND THE OFFICIAL FUTURE LAND USE MAP OF THE CITY BY ASSIGNING THE PROPERTY LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES FROM ITS' CURRENT DESIGNATION OF "AGRIGULTURE" TO A DESIGNATION OF "GOVERNMENT"

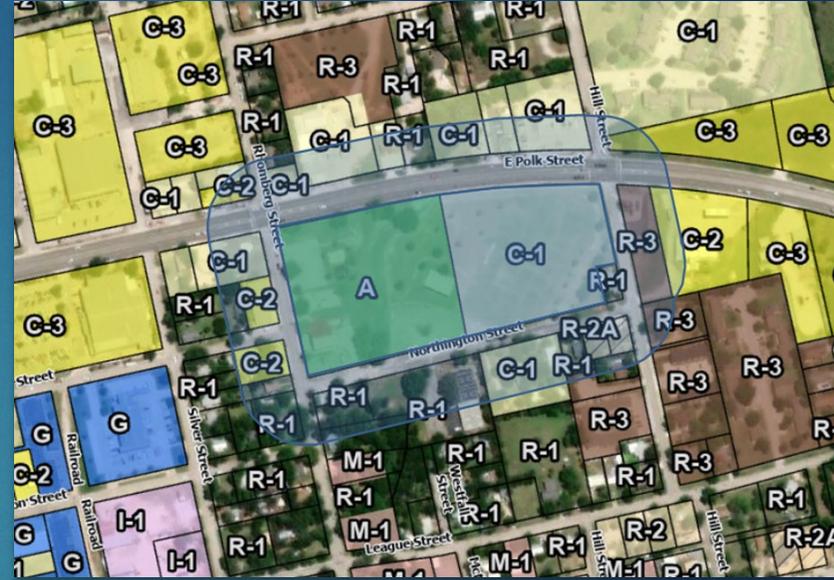


City Initiated Request



- ▶ Current FLUM:
 - ▶ Agriculture
- ▶ Requested FLUM:
 - ▶ Government
- ▶ Property is owned by the City of Burnet
– City initiated request to allow to rezone property to Government

Public Notification



- ▶ Notices were mailed to 30 surrounding property owners.
- ▶ There have been zero responses in favor or opposition.



P&Z Report

- ▶ P&Z met on June 5th and recommended approval of Ordinance 2023-22 as presented.

Discussion

- ▶ Approve and adopt Ordinance 2023-22 as presented.



Development Services

ITEM 6.7

Leslie Kimbler
Planner
512-715-3215
lkimbler@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED LIGHT COMMERCIAL-DISTRICT "C-1" AND AGRICULTURE – DISTRICT "A" LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES WITH GOVERNMENT – DISTRICT "G": L. Kimbler

Background: The property for consideration is owned by the City of Burnet. These properties are where the Fire Station #2, the Wallace Riddell Park are located.

Information: This request is a city-initiated request to bring the property into compliance with the current zoning code. The requested District "G" (Government and Public Institutional District) is for properties "intended to provide appropriate areas for uses that provide important community services often requiring large amounts of land." Permitted uses include facilities owned and operated by the federal government, the state, or local government entity, fire stations and public athletic fields and playgrounds.

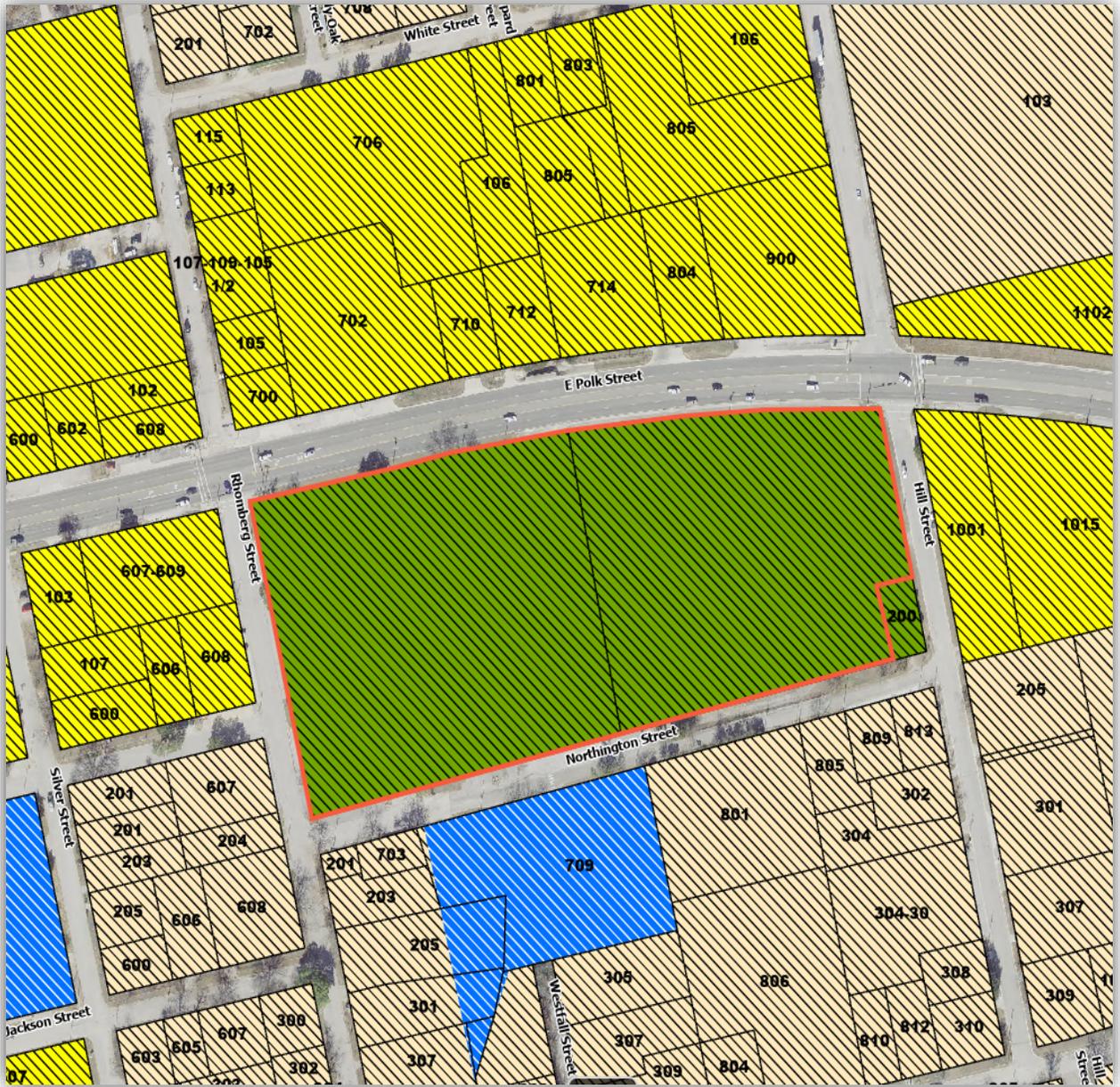
Staff Analysis: The Future Land Use Map (Exhibit B) designation for the area is Agriculture. The item prior to this item on the agenda is a request to amend the City's Future Land Use Map. If approved Government – District "G" would be appropriate for this area. Properties adjacent to the subject property are zoned as follows:

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on May 24, 2023, and written notices were mailed to 30 surrounding property owners within 200 feet of the subject property. There have been zero responses in favor and zero responses in opposition.

P&Z Report: Planning and Zoning met at their regular meeting on Monday, June 5th and did recommend approval of the requested rezone.

Recommendation: Approve and adopt 2023-23 as presented.

Exhibit "B" Future Land Use Map



-  Government
-  Commercial
-  Residential
-  Open Space

ORDINANCE NO. 2023-23

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED LIGHT COMMERCIAL – DISTRICT “C-1” AND AGRICULTURE – DISTRICT “A” LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES WITH GOVERNMENT – DISTRICT “G”; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2021-001, affixed the zoning classifications for each and every property located within the city in accordance with the Official Zoning Map as approved with said ordinance; and

WHEREAS, the purpose of this Ordinance is to amend the Official Zoning Map by amending the zoning classification of the Real Property (“Property”) described herein; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of zoning classification and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, it is further legislatively found that the required amendment to the Future Land Use Plan was, prior to this action, passed and approved by ordinance of this Council; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety, and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted and made a part hereof for all purposes as findings of fact.

Section two. Property. The Property that is the subject to this Zoning District Reclassification is located at PROPERTY LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 as shown on **Exhibit “A”** hereto.

Section three Zoning District Reclassification. GOVERNMENT – DISTRICT “G” Zoning District Classification is hereby assigned to the Property described in section two.

Section four. Zoning Map Revision. The City Secretary is hereby authorized and directed to revise the Official Zoning Map to reflect the change in Zoning District Classification approved by this Ordinance.

Section five. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent of such conflict.

Section six. Severability. This Ordinance is severable as provided in City Code Section 1-7 as same may be amended, recodified or otherwise revised.

Section seven. Effective Date. This ordinance is effective upon final passage and approval.

PASSED on First Reading the 13th day of June 2023

PASSED AND APPROVED on this the 27th day of June 2023.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED LIGHT COMMERCIAL – DISTRICT “C-1” AND AGRICULTURE – DISTRICT “A” LEGALLY DESCRIBED AS: S4150 KERR DONATION, BLOCKS 2 AND 7, 8.75 ACRES WITH GOVERNMENT – DISTRICT “G”



City Initiated Request



- Current Zoning:
 - Agriculture – District “A” and Light Commercial District “C-2”
 - Location of Fire Station #2 and Wallace Riddell Park
- Requested Zoning: District “G” – Government and Public Institutional District.
- Property is owned by the City of Burnet – City initiated request to allow to rezone property to Government

Future Land Use Map



- ▶ Request for FLUM amendment would allow for the proposed “G” – Government and Public Institutional District zoning to be appropriate for this area.

Public Notification



- ▶ Notices were mailed to 30 surrounding property owners.
- ▶ There have been zero responses in favor or opposition.



P&Z Report

- ▶ P&Z met on June 5th and recommended approval of Ordinance 2023-23 as presented.

Discussion

- ▶ Approve and adopt Ordinance 2023-23 as presented.



Development Services

ITEM 6.8

Leslie Kimbler
Planner
512-715-3215
lkimbler@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 98 (ENTITLED "SUBDIVISIONS"), BY AMENDING THE REQUIREMENT FOR BUILDING SETBACK LINES ON PLATS: L. Kimbler
- Background:** City Code, Chapter 98 governs the platting of land into two or more tracts of land within the jurisdiction of the City of Burnet. The current code requires the location of Zoning Ordinance building setback lines to be present on the submitted plat. The City wishes to update Chapter 98 to conform with the more common and user-friendly standard that will remove the requirement that applicants include Zoning Ordinance setback lines at the platting stage. Zoning Ordinance setback requirements may be changed periodically by City Councils or by variance request of applicants and so do not run with the land, thus are not typically included in City platting requirements. This eases the burden on current and future land owners by removing the unnecessary step of replatting if only the zoning of the property or Zoning Ordinance requirements ever change.
- Information:** This ordinance removes the requirement that Zoning Ordinance building setback lines be shown and included on the plat. The purpose of this is to ensure that, regardless of future zoning changes to the tract of land, the contemporary zoning regulations adopted by City Council are the required setbacks for the property without an applicant having to also amend the plat of the property unnecessarily. It should be noted that property owners will still have the option of including private CCR setback lines, which do run with the land and are not related to the City Code of Ordinances, on a plat if they so choose.
- Fiscal Impact:** No direct fiscal impact is anticipated.
- P&Z Report:** Planning and Zoning Commission did recommend approval of the proposed ordinance.
- Recommendation:** Approve and adopt Ordinance No. 2023-24

ORDINANCE NO. 2023-24

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 98 (ENTITLED "SUBDIVISIONS"), ARTICLE II (ENTITLED "PROCEDURES"), BY AMENDING THE REQUIREMENT FOR BUILDING SETBACK LINES ON PLATS; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, City Code, Chapter 98 governs the platting of land into two or more tracts of land within the jurisdiction of the City of Burnet; and

WHEREAS, the City Code requires the location of building setback lines to be present on submitted plats; and

WHEREAS, City Council sees it fit to update Chapter 98 to conform with the more common and user-friendly standard that will remove the requirement that applicants include the setback lines at the platting stage; and

WHEREAS, on June 5, 2023, the Planning and Zoning Commission conducted a public hearing to receive comments and testimony on the merits of the code amendments proposed by this ordinance; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on June 13, 2023, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section One. Amendment. The Code of Ordinances, Chapter 98 (entitled "Subdivisions"), Section 98-22 (entitled "Preliminary Plat"), Sub-Section 98-22(d)(3) (entitled "Improvements") is hereby amended by deleting the language that is stricken (~~stricken~~) as follows:

d. If applicable, the location of building setback lines indicated by dashed lines on the plat.

Note to Publisher: Existing subsections 98-22(3)(a) to 98-22(3)(i) shall be recodified as subsections 98-22(3)(a) to 98-22(3)(h)

Section Two. Amendment. The Code of Ordinances, Chapter 98 (entitled “Subdivisions”), Section 98-24 (entitled “Final Plat”), Sub-Section 98-24(c)(1) (entitled “General Information”) is hereby amended by deleting the language that is stricken (~~stricken~~) as follows:

h. Lot area, width and depth, public utility and drainage easements, ~~and setbacks~~ shall conform to the requirements as established for the designated land use.

Section Three. Amendment. The Code of Ordinances, Chapter 98 (entitled “Subdivisions”), Section 98-24 (entitled “Final Plat”), Sub-Section 98-24(c)(4) (entitled “Improvements”) is hereby amended by deleting the language that is stricken (~~stricken~~) as follows:

f. ~~The location of building setback lines, as required by the city's zoning ordinance and indicated by dashed lines on the plat, and the location, dimensions, and descriptions of all required easements within the subdivision, intersecting, or contiguous with its boundaries or forming such boundaries.~~

Section Four. Amendment. The Code of Ordinances, Chapter 98 (entitled “Subdivisions”), Section 98-48 (entitled “Blocks and lots”), Sub-Section 98-48(2)(n) (entitled “Building Setback Lines”) is hereby amended by adding the language that is underlined (underlined) and deleting the language that is stricken (~~stricken~~) as follows:

5. ~~All building setback lines shall be indicated on the subdivision plat. For non-residential developments, a **A plat** note stating that "all building setback lines shall be in accordance with the city's current zoning ordinance" shall be placed on the plat.~~

Section Five. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section Six. Penalty. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled “general penalty”).

Section Seven. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled “Repealer”) shall be controlling.

Section Eight. Repealer. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section Nine. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section Ten. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

Section Eleven. Publication. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section Twelve. Effective Date. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 13th day of June, 2023

Passed and Adopted on the 27th day of June, 2023

CITY OF BURNET

Gary Wideman, Mayor

ATTEST:

Kelly Dix, City Secretary

SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 98 (ENTITLED "SUBDIVISIONS") BY AMENDING THE REQUIREMENT FOR BUILDING SETBACK LINES ON PLATS





P&Z Report

- ▶ P&Z met on June 5th and recommended approval of Ordinance 2023-24 as presented.

Discussion

- ▶ Approve and adopt Ordinance 2023-24 as presented.



Police Department

ITEM 6.9

Brian Lee
Police Chief
(512)-756-6404
jblee@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Authorization and approval to purchase Sig Pro P320 handguns and related equipment: B. Lee
- Background:** The introduction of red dot sights on handguns in law enforcement is becoming the standard. The sight provides for a faster, more accurate shot than standard iron sights and offers better visual acquisition of the threat and background. Many agencies are adopting this as their standard issue to new recruits as they have learned the benefits of having the sight system. The change will require new holsters to accommodate the larger sight on top of the firearm, mounting plates, and the sights. Burnet Police have tested two systems set up in this manner and have had positive results in line with the research that is published.
- Information:** The purchase of the guns would include trade in or sale value of our current handguns and will put the entire department on the same platform.
- Fiscal Impact:** The total cost for the guns, holsters, and sights will be \$17,341. Staff is requesting approval for \$20,000 to purchase the items and additional spares.
- Recommendation:** Staff recommends approval of the purchase of the new handguns, holsters, and sights as presented.



512-827-7486

info@educatedarms.com

http://www.educatedarms.com

Estimate

ADDRESS

City of Burnet Police
Department

SHIP TO

City of Burnet Police
Department

ESTIMATE # 1606

DATE 06/20/2023

| | DESCRIPTION | QTY | RATE | AMOUNT |
|---|---|-----|--------|----------|
| Holosun HE509TRD X2 HE509T- RD X2 Titanium 0.66 x 0.9 2 MOA Red Dot/32 MOA Red Circle Multi Reticle | Holosun HE509TRD X2 HE509T- RD X2 Titanium 0.66 x 0.9 2 MOA Red Dot/32 MOA Red Circle Multi Reticle | 24 | 340.00 | 8,160.00 |

| | |
|--------------|-------------------|
| SUBTOTAL | 8,160.00 |
| TAX | 0.00 |
| TOTAL | \$8,160.00 |

Accepted By

Accepted Date



512-827-7486

info@educatedarms.com

http://www.educatedarms.com

Estimate

ADDRESS

City of Burnet Police
Department

SHIP TO

City of Burnet Police
Department

ESTIMATE # 1607

DATE 06/20/2023

| | DESCRIPTION | QTY | RATE | AMOUNT |
|---|---|-----|--------|----------|
| Safariland 6365RDS ALS/SLS Low- Ride Level-III Duty Holster, SIG Sauer P320 RX/SIG Sauer M17/SIG Saue | Safariland 6365RDS ALS/SLS Low-Ride Level-III Duty Holster, SIG Sauer P320 RX/SIG Sauer M17/SIG Sauer P320 X-Full, Right Hand, STX Plain, Black, 6365RDS- 4502-411 — Color: Black, Gun Make: SIG Sauer Model P320 Variations | 24 | 145.00 | 3,480.00 |

| | |
|--------------|-------------------|
| SUBTOTAL | 3,480.00 |
| TAX | 0.00 |
| TOTAL | \$3,480.00 |

Accepted By

Accepted Date



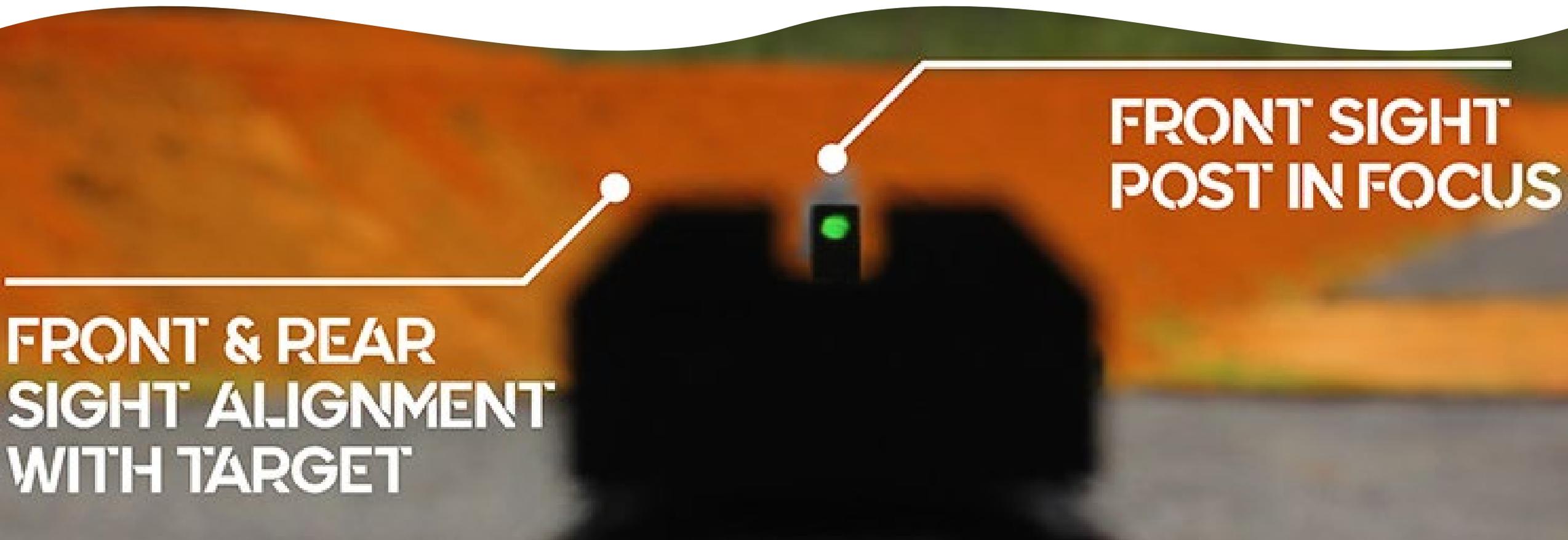
Red Dot Transition

Burnet Police Department

Red Dot Transition



Sight picture with iron sights





Reticle



Sight Picture with red dot



- Pros
 - Milled for acceptance of the sight
 - Focal field
 - Speed
 - Accuracy
- Cons
 - Batteries
 - Failure
 - Malfunctions

Conclusion

- Firearms are a high liability area of the department.
 - We have taken substantial steps to improve our training and equipment
 - Red Dots are becoming the standard in law enforcement
 - Provide for better target acquisition and analysis
 - Faster on target
 - Faster for rounds on target
- Investment in our officers and community



Questions



PUBLIC SAFETY SALES
 72 PEASE BOULEVARD
 NEWINGTON, NH 03801
 TEL: 603-610-3000
 FAX: 603-610-3003

| | | | |
|--------------|---|-----------------|--------------------|
| Bill To Name | BURNET POLICE DEPARTMENT | Created Date | 3/13/2023 |
| Bill To | 2000 South Water Street Burnet, TX 78611 US | Expiration Date | 6/11/2023 |
| | | Quote Name | 2023-TRASS-78611-1 |

Quote Lines

| Quantity | Product # | Product Description | Agency Price | Total Price |
|----------|----------------------|---|--------------|---------------|
| 24.00 | W320F-9-BXR3-PRO-SNS | P320, 9MM, 4.7, PRO, BLK, STRIKER, X-RAY 3 SUPP SIGHTS, MOD POLY X GRIP, (3) 17RD STEEL MAG, RAIL | USD 514.55 | USD 12,349.20 |

LESS TRADE

The AGENCY is responsible for transportation costs of NON-SIG SAUER trade weapons to the designated dealer or SIG SAUER weapons to the SIG SAUER manufacturing facility. Deduct \$15 for each missing magazine and 50% of trade value for firearms that are non-functional, missing critical components or aesthetically damaged beyond repair.

Trade ins

| QTY | Trade Description | Price | Trade Total |
|-----|---|-------------|---------------|
| 24 | P320F-9-BSS, night sights and 3 mags each | USD -325.00 | USD -7,800.00 |

TRADE WEAPONS SHIPPING ADDRESS:

The AGENCY is responsible for all applicable State, County and City taxes. Where applicable, please advise specific rate.

| | |
|---------------------------|---------------|
| Subtotal | USD 12,349.20 |
| Total Trade In Value | USD -7,800.00 |
| Quote Total Less Trade In | USD 4,549.20 |

IMPORTANT: Please specify your duty and training ammo types when submitting your purchase order.

PAYMENT TERMS: Net 30 Days - No further discounts

Todd Rassa

SIG SAUER is an ISO 9001 : 2015 Certified Company, Manufacturing in Newington, New Hampshire.

Please review and confirm the information is correct and thoroughly conveys all requirements (i.e. payment terms, product configuration (including unique product markings), inspection criteria, packaging and labeling requirements, or any delivery or logistics requirements). SIG SAUER commercial warranty provisions apply unless expressly defined elsewhere. SIG SAUER's standard Terms and Conditions of Sale (available at <https://www.sigsauer.com/termsandconditions>) are incorporated herein by reference.



Airport

ITEM 6.10

Adrienne Feild
Admin Services/Airport
Manager
512.715.3214
afeild@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING A LETTER OF INTENT WITH CAREFLITE TO GROUND LEASE PROPERTY AT THE BURNET MUNICIPAL AIRPORT: A. Feild

Background: Careflite, has offered to enter into a Letter of Intent to ground lease 0.972 +/- acres located at the south end of the Burnet Municipal Airport runway. The purpose of the ground lease would be the construction and operation of an airport hangar and office facilities.

Information: This Resolution authorizes the mayor to execute a Letter of Intent for the ground lease. The Letter of Intent provides the terms of the ground leases shall be 40 years. Moreover, the Letter of Intent provides that the City and Careflite will negotiate in good faith other terms and conditions including a provision that at the improvements on the leased premises would become the property of the City at the expiration of the leases. The term of the Letter of Intent is 90 days, and this Resolution authorizes the City Manager to extend the term an additional 90 days without further Council approval.

Should this resolution be approved, the City Manager would begin negotiations of the terms and conditions of the ground lease for presentation to Council for approval. Should the ground lease not be executed for whatever reason, during the term or extension of the Letter of Intent, neither party shall have any further obligation to the other.

Fiscal Impact: The fiscal impact will not be known unless and until Council approves Ground Lease.

Recommendation: Approve Resolution No. R2023-49 as presented.

RESOLUTION NO. R2023-49

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING A LETTER OF INTENT WITH CAREFLITE TO GROUND LEASE PROPERTY AT THE BURNET MUNICIPAL AIRPORT.

Whereas, Careflite, has offered to enter into a Letter of Intent to ground lease 0.972 +/- acres located at the south end of the Burnet Municipal Airport runway; and

Whereas, the Letter of Intent authorizes the City Manager to begin negotiations of the terms and conditions of ground leases for a term up to forty-years; and

Whereas, any ground lease negotiated by the City Manager would require Council approval before becoming binding on the City; and

Whereas, should the parties not come to an agreement as to the terms and conditions of the ground leases before the expiration of the term of the Letter of Intent, or any extension thereof, neither party shall have any further obligation to the other under the Letter of Intent.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. That the recitals to this Resolution are incorporated herein for all purposes.

Section two. Approval. The Letter of Intent attached hereto are hereby approved.

Section three. Authorization. The Mayor is hereby authorized to execute instruments in substantial form as the attachment and execute such ancillary documents and take such related actions reasonably necessary to facilitate the intent of this Resolution. The City Manager is authorized to extend the term an additional ninety days without further City Council action.

Section four. Direction. Upon full execution of the Letter of Intent the City Manager is directed to pursue negotiations of a Ground Lease with Careflite for future Council consideration and action.

Section five. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

Section six. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 27th day of June, 2023.

CITY OF BURNET, TEXAS

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary

CareFlite
3110 S. Great Southwest Parkway
Grand Prairie, TX 75052

June 4, 2023

Gary Wideman, Mayor
City of Burnet Texas
1001 Buchanan Drive, Suite 4
Burnet, Texas 78611

RE: Letter of Intent

The Honorable Gary Wideman Mayor, City of Burnet, Texas:

This letter will serve as a Letter of Intent (“LOI”) for ground lease for a parcel of land at the Burnet Municipal Airport by and between CareFlite, or assign (“Tenant”) and the City of Burnet, Texas (“Landlord”).

The following expresses our understanding with respect to the matters described herein, but, unless provided otherwise herein, it is expressly understood that this Letter of Intent does not constitute a complete statement of the terms of the ground lease.

1. Ground Lease. The Landlord and Tenant shall enter into a written ground lease on which Tenant shall have constructed an aircraft hangar.
 - a. Within ninety (90) days from the execution of this letter of intent, the parties hereto shall negotiate and enter into a ground lease for the Parcel described herein. The term of the lease shall be for forty (40) years, and any structure constructed thereon shall become the property of the City of Burnet at the expiration of the ground lease.
 - b. Tenant shall pay rentals and any other airport fees as provided in the ground lease.
 - c. The parties hereto shall negotiate other lease provisions that are mutually agreeable and typical of other ground leases at the Burnet Municipal Airport.
2. Earnest Money. Tenant shall pay to the City of Burnet a fully refundable earnest money fee of \$500.00 for the Landlord to hold the parcels for ninety (90) days or until the ground lease is executed, whichever first occurs.
3. Parcel. The parcel to be included under the separate ground lease between the parties are:
 - a. .972 +/- acres known as Lot 2A as found on the attached survey and located at the south end of the Burnet Municipal Airport runway.
4. Environmental Study. Landlord shall provide to Tenant a copy of any environmental study conducted at the Burnet Municipal Airport.
5. Broker’s Commission. Neither Landlord nor Tenant shall be represented by a broker for which a commission is paid based on the ground lease or otherwise.

6. Due Diligence Period. Tenant shall conduct due diligence on the parcel during the ninety (90) days commencing on the execution of this LOI by the City of Burnet.

Furthermore, Landlord agrees as follows: (i) no other third party has any contractual or other rights related to the Parcel; (ii) Landlord shall not market the parcel for lease or sale to any other third party during the Due Diligence Period noted above; (iii) at the end of the Due Diligence Period this LOI may be extend in writing by the parties for an additional ninety (90) days or this LOI shall automatically expire.

Should this LOI expire, neither party hereto shall have any liability arising under this LOI as to the other party. Upon execution of this LOI, it shall be binding on the parties during the Due Diligence Period or the execution of the ground leases, whichever first occurs.

Sincerely,

CareFlite

By: CareFlite



Kevin Reynolds

Chief Operating Officer

Read and Agreed to:

City of Burnet, Texas

By: _____

Gary Wideman, Mayor

Date: _____

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING A LETTER OF INTENT WITH CAREFLITE TO GROUND LEASE PROPERTY AT THE BURNET MUNICIPAL AIRPORT.



.972 acres
(approx.)

287



Questions?



Administration

ITEM 6.11

Kelly Dix
City Secretary
512-715-3209
kdix@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Appointments to the Burnet Police Department Citizen Advisory Board: K. Dix
- Background:** Buddy Coker, Bill Drake and Cindia Talamantez have completed their term of office on the Burnet Police Department Citizen Advisory Board. Buddy Coker and Cindia Talamantez and have requested re-appointment, Bill Drake has declined reappointment due to work commitments.
- Cindia Talamantez' s position was a Council appointed position that she would like to continue to serve in a non-council capacity. Therefore, it is the City Council's discretion to appoint a Council Member to this board.
- The BPD Citizen's Advisory board also has a vacant position that was previously held by Dana Delgado. Ms. Delgado has not attended a meeting since 2022, therefore, is ineligible to continue to serve. An application was received from Lance Gunn requesting appointment to the BPD Citizen's Advisory Board.
- Information:** The Burnet Police Department is recommending re-appointment of Buddy Coker and Cindia Talamantez to serve on the Burnet Police Department Citizen Advisory Board for a term of two years ending June 30, 2025.
- Staff is recommending appointment of one Council Member with the same term end date of June 30, 2025.
- Staff recommends appointment of Lance Gunn to fill the unexpired term of Dana Delgado that will end on June 30th, 2024.
- Fiscal Impact:** None
- Recommendation:** To be determined by Council.



BURNET POLICE DEPARTMENT CITIZENS ADVISORY BOARD

(As of: January 11, 2022)

| <u>NAME</u> | <u>ADDRESS</u> | <u>EMAIL</u> | <u>PHONE</u> | <u>APPOINTED</u> | <u>EXPIRES</u> |
|--|--|--|---------------------|--|----------------|
| Cindia Talamantez | 407 E. Johnson St. | ctalamantez@ Cityofburnet.com | (512) 755-5000 | 1/11/2022 | 6/30/2023 |
| Mike O'Hagen | 101 Alexander Ave. | ohaganmg@yahoo.com | (973) 897-5615 | 1/11/2022 | 6/30/2023 |
| Buddy Coker (Filled unexpired Term) | 104 Denny Fox Dr. | buddy.coker@gmail.com | (512) 756-5040 | 7/26/2022 | 6/30/2023 |
| Bill Drake | 601 Painted Horse Tr. | bill@bgc-hl.com | (512) 557-0769 | 1/11/2022 | 6/30/2023 |
| Vacant | Possible Council | | | 1/11/2022 | 6/30/2023 |
| Jeff Kneller | 117 Big Sky | jeffreykneller@sbcglobal.net | (815) 405-3855 | 1/11/2022 | 6/30/2024 |
| Vacant (unexpired term-Delgado) | | | | 1/11/2022 | 6/30/2024 |
| Glenn Labhart | 102 Mountain View | glenn@labhartriskadvisors.com | (281) 352-1256 | 1/11/2022 | 6/30/2024 |
| Martha R.Underwood | 105 Avery Spur | littlekatu@gmai.com | (512) 718-9143 | 1/11/2022 | 6/30/2024 |
| Police Chief Brian Lee | blee@cityofburnet.com | | Captain Jason Davis | jdavis@cityofburnet.com | |



City of BURNET TEXAS

Please return completed application to:
City Secretary's Office
1001 Buchanan Drive, Suite 4
P.O. Box 1369
Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

Economic Development Corporation Board

Airport Advisory Board

Historic Preservation Board

Charter Review Committee

Board of Adjustments and Appeals

Police Department Citizen Advisory Board

Planning & Zoning Commission

Name: Lance Gunn Telephone: 512-906-9281

Residential Address: 718 Oak Vista Drive, Burnet, TX 78611-3590

E-mail Address: gunn.lance@gmail.com DOB: 01-09-1970

Resident of the City of Burnet for .5 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. 1121636022

Occupation: PepsiCo Sales Director- Frito-Lay Division

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

N/A

Do you serve on any other board/commission at this time: If so, please list:

N/A

Special knowledge or experience applicable to City board or commission function: (please explain.)

I had the pleasure of serving on the Economic Development Board and the Community Development Board in the City of Cedar Park from 2017 to 2022

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

Please see attached resume

Applicant Signature: [Signature] Date: 5-10-2023

LANCE CAMERON GUNN

718 Oak Vista Dr. ▼ Burnet, TX 78611-3590

gunn.lance@gmail.com 512-906-9281

Multi-industry, award winning, experienced, sales and operations executive with a proven track record of producing top-line & bottom-line results.

- ▶ One of the Top Zones in the Company (FLNA) at controlling cost / expenses (Austin- 2014, 2017, 2020, 2021)
- ▶ One of the Top Zones in the Company (FLNA) at managing Account Receivables (Austin- 2016, 2018, 2019, 2020, 2021, 2022)
- ▶ Austin Zone (FLNA) has delivered Sales Plan 10 out of the last 11 Years, including each of the last 9 Years
- ▶ Top Quartile Overall Zone in the Company (FLNA) (Austin- 2012, 2014, 2015, 2017, 2019, 2020, 2021)
- ▶ Only Division in the Company (PulteGroup) to achieve closing plan in 2008 (Austin Division)
- ▶ Only Division in the Company (PulteGroup) to achieve net signup plan in 2009 (Central Texas Division)
- ▶ One of three Divisions in the Company (PulteGroup) to achieve net sign-up plan & closing plan 2010 (Mid-Atlantic Division)

Education & Community Involvement

Master of Business Administration, Texas A&M University, Spring 2006
Bachelor of Business Administration, Marketing, The University of Texas, Spring 1993

Rotary Club of Burnet, 2023

President, Board of Directors Vista Ridge H.S. Athletic Booster Club 2018-2022

City of Cedar Park Economic Development & Community Development Boards 2017-2022

Board of Directors Williamson County Y.M.C.A. 2012-2016

Board of Director Big Brothers Big Sisters of Central Texas 2006-2009

The University of Texas Football Team, 1988-1992

Southwest Conference Champion (1990); All-American (1992) 4x All-SWC Selection (1989-1992); Team Captain (1992),

Team Leadership Award (1992), Team Spirit Award (1991)

Longhorn Hall of Honor (2011)

Professional Experience

PEPSICO, FRITO-LAY DIVISION, Austin Zone April 2011 - Current

Zone Sales Director, Austin, TX, April 2011 – Current

- ▶ Profit and Loss responsibility \$210+ MM in revenue / \$45+ MM operating budget with 20+ Managers and 300+ Sales Representatives
- ▶ Responsible for delivering sales plan, executing key company initiatives and process development / implementation which includes the areas of sales, logistics, inventory, scheduling, hiring, training, performance management and people development

PULTEGROUP, Austin / Central Texas / Mid-Atlantic Divisions, January 2005 – March 2011

Vice-President of Sales and Marketing, Austin, TX, June 2007 – March 2011

Responsible for managing the activities of the sales department (hiring, training, motivating & evaluating sales managers, sales consultants and their performance). Instrumental in developing sales programs and executing the overall sales plan. Monitoring backlog status and customer satisfaction results.

- ▶ Responsible for \$200MM+ in revenue, \$10+ MM operating budget and \$8.7MM in pre-tax income, 8 Managers, 4 Admins, 60+ Sales Representatives

▶ Teams led Company in net signups and closings from Q4 2008 thru Q4 2010 (Austin, Central Texas, Mid-Atlantic Divisions)

▶ J.D. Power and Associates Customer Satisfaction winner (Austin & San Antonio Markets - 2009)

▶ CSMS Peak Performance Platinum Award winner (Austin & San Antonio Markets- 2009)

▶ Executing new POS standards, while maintaining focus on profitability, closings, sign-ups, PMC capture & customer satisfaction

▶ National Chair / Area Coach for Diversity / Inclusion Council (2006 –2011)

Vice-President of Customer Relations, Austin, TX, January 2005 – May 2007

Responsible for enhancing the customer's home buying experience. Managing and reducing exposure to litigation. Forecasting service trends, satisfaction levels, budgeting needs and expenses. Oversees employee training and development for all departments. In charge of on-campus recruiting / hiring for the entire Division.

- ▶ Two-time J.D. Power and Associates Customer Satisfaction Award winner (Austin Market- 2005 & 2006)
- ▶ Implemented processes that reduced OH cost by \$200 / closing, while maintaining World-Class Customer Service
- ▶ Two-time CSMS Peak Performance Award winner (Austin Market 2005 & 2006)

PEPSICO, FRITO-LAY DIVISION September 1996 – December 2004

Account Manager, Houston, TX, July 2004 – December 2004

▶ Developed and managed marketing and promotional activities for: Exxon, Valero, Target, Dollar and Drug Channel

▶ Target, Drug and Dollar Channel up 20+%; successfully executed CVS / Eckerd's transition

Business Manager, Houston, TX, January 2002 – June 2004

▶ Provided functional oversight in finance, HR, risk management and customer service

▶ Implemented financial and operational controls; improved inventory management. Launched employee training and recognition programs

District Sales Leader (DSL), Austin, TX, January 1998 – December 2001

▶ H.W. Lay Award Winner (1998)

▶ Top DSL in South Texas Region Q1 1999 & Q2 2000

▶ Responsible for sales growth and market execution for over 250 customers; provided leadership and direction to 19 Sales Representatives

Sales Representative, Austin, TX, September 1996 – December 1997

▶ Developed strong customer base; won Whatever It Takes Award for overall contributions to Zone's performance; Route Sales Trainer

NATIONAL FOOTBALL LEAGUE / NFL EUROPE April 1993 – July 1996

Professional Athlete

▶ Played professional football for the Cincinnati Bengals, New Orleans Saints & Frankfurt Galaxy

▶ Actively involved in charity events for The United Way, Special Olympics, Athletes in Action and Fellowship of Christian Athletes



Administration

ITEM 6.12

Kelly Dix
City Secretary
512-715-3209
kdix@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Burnet Economic Development Corporation (BEDC) board appointments: K. Dix
- Background:** The following Burnet Economic Development Corporation (BEDC) Board Members terms expire on June 30, 2023 for the following:

- Cary Johnson (position 1)
- Wayne Brown (position 2)
- Vacated Seat (position 3)
- David Vaughn (position 4)

Mr., Zehner has stated his desire to be re-appointed to the board for a term that will expire in June 2024.

Board Member Crista Goble Bromley filled a Council appointed position (position 3) on the BEDC Board and completed her term as Council Member therefore ending her term on the Burnet Economic Development Corporation Board as well.

The Bylaws of the Burnet Economic Development Corporation states **the Board of Directors will consist of not more than four (4) of such Directors shall be an employee, officer, or member of the governing body of the City of Burnet.** All Directors shall be designated as Director 1 through 7. The terms of Directors 1, 2, 3, and 4 shall expire on June 30th of odd numbered years. The terms of Directors 5, 6 and 7 shall expire on June 30th of even numbered years.

Local Government Code § 505.052 Sec. C states: Three directors of a Type B Corporation must be persons who are not employees, officers, or members of the governing body of the authorizing municipality.

Information:

Current BEDC Board Openings are two at-large positions currently held by Cary Johnson (position 1) and Wayne Brown (position 2), and two City Council appointed positions; the vacated seat of former Mayor Bromley(position 3) and and current held seat of City Manager David Vaughn (position 4).

Cary Johnson and Wayne Brown have both expressed their desire for re-appointment. City Manager David Vaughn (position 4) has indicated he is willing to continue to serve if requested to do so by City Council, but irrespectively will be involved in the ongoing operations of the BEDC.

Two applications requesting consideration to serve on the BEDC Board were received from:

- Mary A. Poche
- Juan Anthony Francisco, Jr.

Staff is seeking direction on appointments/re-appointments for the Burnet Economic Development Corporation Board of Directors.

Fiscal Impact:

None

Recommendation:

To be determined by Council



BURNET ECONOMIC DEVELOPMENT CORPORATION BOARD

(As of: May 15, 2023)

| <u>DIRECTOR</u> | <u>POSITION</u> | <u>NAME</u> | <u>ADDRESS</u> | <u>EMAIL</u> | <u>PHONE</u> | <u>APPOINTED</u> | <u>EXPIRES</u> |
|------------------------|-------------------------------|--------------------|---|--|--|-------------------------|-----------------------|
| 1. | Cary Johnson President | | P.O. Box 10 Burnet, TX 78611 | cjohnson1220@icloud.com | (830)265-8427 Home | 1/11/2022 | 6/30/2023 |
| 2. | Wayne Brown Vice President | | 4649 CR 200 Burnet, TX 78611 | sunnymark@wildblue.net | (512) 755-5458 Home | 1/11/2022 | 6/30/2023 |
| 3. | Vacant Secretary/Treasurer | | Burnet, TX 78611 | | | | 6/30/2023 |
| 4. | David Vaughn | | P.O. Box 1369 Burnet, TX 78611 | dvaughn@cityofburnet.com | (512) 715-3208 Office (830) 798-3974 Cell | 1/11/2022 | 6/30/2023 |
| 5. | Brad Zehner | | 512 CR 140 Burnet, TX 78611 | wbzehner@gmail.com | (512)-569-7675 Cell | 6/28/2022 | 6/30/2024 |
| 6. | Philip Thurman | | 104 Wallace Riddell Burnet, TX 78611 | pthurman@cityofburnet.com | (512) 656-9957 Cell | 6/28/2022 | 6/30/2024 |
| 7. | Mary Jane Shanes | | P.O. Box 677 Burnet, TX 78611 | mshanes@cityofburnet.com | (806) 292-6912 Cell | 6/28/2022 | 6/30/2024 |



City of BURNET TEXAS

Please return completed application to:
City Secretary's Office
1001 Buchanan Drive, Suite 4
P.O. Box 1369
Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Economic Development Corporation Board | <input type="checkbox"/> Airport Advisory Board |
| <input type="checkbox"/> Historic Preservation Board | <input type="checkbox"/> Charter Review Committee |
| <input type="checkbox"/> Board of Adjustments and Appeals | <input type="checkbox"/> Police Department Citizen Advisory Board |
| <input type="checkbox"/> Planning & Zoning Commission | |

Name: Mary A. Poche' Telephone: 512 947 6922

Residential Address: 313 yellow Ribbon Trail Burnet, Tx 78611

E-mail Address: mapoche216@gmail.com DOB: 2-16-57

Resident of the City of Burnet for 1.75 years.

Are you a registered voter of the City of Burnet? Yes No ** Have sent application to Burnet Council + waiting for confirm*

Occupation: Retired Executive Director of Economic Development Corporation S

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

Do you serve on any other board/commission at this time: If so, please list:

n/a

Special knowledge or experience applicable to City board or commission function: (please explain.)

Former marketing directors and Executive Directors for Temple EDC, Pflugerville EDC, Decatur EDC, Salado EDC + Jarrell EDC; 17 years Economic Type A+B Corp. experience; prior 15 plus years in private industry.

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

I have successfully run economic development organizations w/ an emphasis on marketing and industrial parks. I retired from Jarrell EDC on Mar. 31, 2022 and am looking to use my experience in the community in which I live.

Applicant Signature: Mary A. Poche' Date: 8/15/22



City of BURNET TEXAS

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By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Economic Development Corporation Board | <input type="checkbox"/> Airport Advisory Board |
| <input type="checkbox"/> Historic Preservation Board | <input type="checkbox"/> Charter Review Committee |
| <input checked="" type="checkbox"/> Board of Adjustments and Appeals | <input type="checkbox"/> Police Department Citizen Advisory Board |
| <input checked="" type="checkbox"/> Planning & Zoning Commission | |

Name: Juan Anthony Francisco Jr Telephone: 512-786-9021

Residential Address: 409 S Vandever, Burnet, TX 78611

E-mail Address: anthony@jaconsultingllc.com DOB: 08-07-1982

Resident of the City of Burnet for 29 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. _____

Occupation: Mortgage Broker, Real Estate Investor, Wealth Management Broker

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

Do you serve on any other board/commission at this time: If so, please list:

No

Special knowledge or experience applicable to City board or commission function: (please explain.)

My specialty and background is in real estate: mortgage brokering, commercial and residential development, residential remodels, portfolio rental brokering and managing. I generate wealth for my investors, as well as for myself. All areas take years of knowledge

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

I want apply my ability and potential to my hometown. This is the first step.

Applicant Signature: Juan Anthony Francisco Jr Digitally signed by Juan Anthony Francisco Jr Date: 2023.06.08 15:02:35 -05'00' Date: 06/08/2023

J. Anthony Francisco, Jr.

409 S Vandever St.
Burnet, TX 78611

(512) 786-9021
anthony@jaconsultingllc.com

PROFILE

- Fluent in Spanish, Reading & Writing
- Strong Computer Skills: Adobe Acrobat/Photoshop, AutoCad, Microsoft Word/Excel/PowerPoint/Publisher
- Stellar Data Keeping, Organizational, & Analytical Skills
- Established Network that compliments Liaisons abilities
- Cooperative Work Ethic & Mindset

EDUCATION

Saint Edward's University, Austin, TX September 2006-May 2007
Masters of Business Administration (*Uncompleted*)

Saint Edward's University, Austin, TX Graduated May 2004
Bachelor of Science in Biology

EXPERIENCE

Owner/Founder
Burnet, TX April 2012-Present

Mortgage Broker – Thess Mortgage
Consulting & Wealth Management Brokering – JA Consulting LLC
Loan Broker & Wholesaler – JA Consulting LLC
Cross Won LLC – Real Estate Development
P and L Insurance Agent 2012-2018

Seton Health Network
Austin, TX January 2009-April 2012
Charge Capture Analyst - Revenue Integrity Finances
Clinical Lab Assistant II

Stealth Products
Burnet, TX May 2006-December 2008
Inventory, Scheduler-Planner Manager
Return Authorization Manager
Standards of Operations Developer
ISO Certification Developer

The University of Texas MD Anderson Cancer Center Science Park Research
Division
Smithville, TX March 2002-June 2005
Research Assistant II
Carcinogenesis Extern

St. Edward's University
Austin, TX September 2002-May 2005
Teaching Assistant/Laboratory Assistant

Warden's Exxon
Burnet, TX May 1998-March 2002

Cashier/Self Service Attendant/Small Mechanic



Administration

ITEM 6.13

Kelly Dix
City Secretary
512.715.3209
kdix@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Appointment of members to the Burnet Airport Advisory Board: K. Dix
- Background:** Currently the following members of the Burnet Municipal Airport Advisory Board Dave Hargett (position 4) and James Wreyford (position 5) have completed their term on the Burnet Airport Advisory Board and are eligible for re-appointment.
- Information:** Dave Hargett declined to continue service on the board. James Wreyford has expressed his desire for re-appointment. There have been no applications received for prospective appointments.
- Staff recommends re-appointment of James Wreyford to the Burnet Municipal Airport Advisory Board for a term of two years that will expire on June 20, 2025.
- Fiscal Impact:** No fiscal impact
- Recommendation:** To be determined by Council



BURNET MUNICIPAL AIRPORT ADVISORY BOARD

(As of: June 29 2022)

| <u>NAME</u> | <u>ADDRESS</u> | <u>EMAIL</u> | <u>PHONE</u> | <u>APPOINTED</u> | <u>EXPIRES</u> |
|---|---|--|---------------------|-------------------------|-----------------------|
| 1. JoDean Perry (Chair) | 301 E. Marble St. Burnet, TX 78611 | cubbie@kbnq.net | (512) 507-4252 | June 2022 | June 2024 |
| 2. Charles F. Deitrich (Vice Chair) | 1601 Wofford Drive Burnet, Texas 78611 | cfd66@yahoo.com | (512) 756-6999 | June 2022 | June 2024 |
| 3. Robert Vossman | 409 Fox Crossing Burnet, TX 78611 | bvossman@austin.rr.com | (512) 366-2578 | June 2022 | June 2024 |
| 4. Dave Hargett | 118 Big Sky Burnet, TX 78611 | dave@dhargett.com | (713) 690-2620 | July 2021 | June 2023 |
| 5. James Wreyford | 50 Oxbow Trail Marble Falls, TX | jim.wreyford@gmail.com | (512) 756-3250 | July 2021 | June 2023 |

EX-OFFICIO MEMBERS

Adrienne Feild – Airport Manager
P.O. Box 1369, Burnet, TX 78611
afeild@cityofburnet.com 512-715-3217

Dale Faulkner – Fixed Base Operator
P.O. Box 1147, Burnet, TX 78611
dale@faulknersairshop.com 512-756-6655



Administration

ITEM 6.14

Kelly Dix
City Secretary
512.715.3209
kdix@cityofburnet.com

Action

- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Appointment of members to the City of Burnet Planning and Zoning Commission: K. Dix
- Background:** Current City of Burnet Planning and Zoning Commission Members Tommy Gaut (position 1) Herve Derek Fortin (Position 3) and Glen Teague (position 5) have completed their current term on the Commission.
- Information:** Tommy Gaut, Herve Derek Fortin and Glen Teague have all expressed their desire to continue to serve on the Burnet Planning and Zoning Commission. Two applications were received from Crista Bromley and Juan Anthony Francisco, Jr. requesting consideration for appointment to the City of Burnet Planning and Zoning Commission.
- Council will need to appoint three members from the following list to serve a term of two years ending June 30, 2025.
- Tommy Gaut
 - Herve Derek Fortin
 - Glen Teague
 - Crista Bromley
 - Juan Anthony Francisco, Jr.
- Fiscal Impact:** No fiscal impact
- Recommendation:** To be determined by Council.



PLANNING AND ZONING COMMISSION
(As of: June 29, 2022)

| <u>NAME</u> | <u>ADDRESS</u> | <u>EMAIL</u> | <u>PHONE</u> | <u>APPOINTED</u> | <u>EXPIRES</u> |
|---|--------------------------------|--|--|-------------------------|-----------------------|
| 1. Tommy J. Gaut (Chair) | 113 Canyon View | tjgaut@swbell.net | (713)-542-6087 | January 2021 | June 2023 |
| 2. Glen Gates (Member) | 228 Sunday Drive | gagates1952@gmail.com | (512)-234-8396 (H) (377)-540-0047 (C) | June 2022 | June 2024 |
| 3. Herve Derek Fortin (Secretary) | 115 Fox Circle P.O. Box 885 | hderek.Fortin@gmail.com | (512)-588-9180 (H) | January 2021 | June 2023 |
| 4. Calib Williams (Vice-Chair) | 245 Sunday Drive | calib@traxion82.com | (432)-296-2204 (H) (432)-687-9165 | June 2022 | June 2024 |
| 5. Glen Teauge (Member) | 100 Big Sky | glen@teaguecustomhomes.com | (512)-540-2222 | May 2021 | June 2023 |



City of BURNET TEXAS

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P.O. Box 1369
Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | |
|--|---|
| <input type="checkbox"/> Economic Development Corporation Board | <input type="checkbox"/> Airport Advisory Board |
| <input type="checkbox"/> Historic Preservation Board | <input type="checkbox"/> Charter Review Committee |
| <input type="checkbox"/> Board of Adjustments and Appeals | <input type="checkbox"/> Police Department Citizen Advisory Board |
| <input checked="" type="checkbox"/> Planning & Zoning Commission | |

Name: CRISTA BROMLEY Telephone: 512-715-8232

Residential Address: 207 CORDER LANE, BURNET, TX 78611

E-mail Address: CRISTABROMLEY@YMAIL.COM DOB: 08/11/1951

Resident of the City of Burnet for 72 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. 1012065750

Occupation: RETIRED

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

(NOTE: there is a glitch in this form, when you check "No" both "Yes" and "No" are checked. The answer is no.)

Do you serve on any other board/commission at this time: If so, please list:

I HAVE APPLIED FOR THE HISTORIC PRESERVATION BOARD

Special knowledge or experience applicable to City board or commission function: (please explain.)

WORKED FOR CITY FOR 15 YEARS, SERVED AS MAYOR FOR 6 YEARS

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

Applicant Signature:  Date: 5/14/23



City of BURNET TEXAS

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Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Economic Development Corporation Board | <input type="checkbox"/> Airport Advisory Board |
| <input type="checkbox"/> Historic Preservation Board | <input type="checkbox"/> Charter Review Committee |
| <input checked="" type="checkbox"/> Board of Adjustments and Appeals | <input type="checkbox"/> Police Department Citizen Advisory Board |
| <input checked="" type="checkbox"/> Planning & Zoning Commission | |

Name: Juan Anthony Francisco Jr Telephone: 512-786-9021

Residential Address: 409 S Vandever, Burnet, TX 78611

E-mail Address: anthony@jaconsultingllc.com DOB: 08-07-1982

Resident of the City of Burnet for 29 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. _____

Occupation: Mortgage Broker, Real Estate Investor, Wealth Management Broker

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

Do you serve on any other board/commission at this time: If so, please list:

No

Special knowledge or experience applicable to City board or commission function: (please explain.)

My specialty and background is in real estate: mortgage brokering, commercial and residential development, residential remodels, portfolio rental brokering and managing. I generate wealth for my investors, as well as for myself. All areas take years of knowledge

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

I want apply my ability and potential to my hometown. This is the first step.

Applicant Signature: Juan Anthony Francisco Jr Digitally signed by Juan Anthony Francisco Jr Date: 2023.06.08 15:02:35 -05'00' Date: 06/08/2023

J. Anthony Francisco, Jr.

409 S Vandever St.
Burnet, TX 78611

(512) 786-9021
anthony@jaconsultingllc.com

PROFILE

- Fluent in Spanish, Reading & Writing
- Strong Computer Skills: Adobe Acrobat/Photoshop, AutoCad, Microsoft Word/Excel/PowerPoint/Publisher
- Stellar Data Keeping, Organizational, & Analytical Skills
- Established Network that compliments Liaisons abilities
- Cooperative Work Ethic & Mindset

EDUCATION

Saint Edward's University, Austin, TX September 2006-May 2007
Masters of Business Administration (*Uncompleted*)

Saint Edward's University, Austin, TX Graduated May 2004
Bachelor of Science in Biology

EXPERIENCE

Owner/Founder
Burnet, TX April 2012-Present

Mortgage Broker – Thess Mortgage
Consulting & Wealth Management Brokering – JA Consulting LLC
Loan Broker & Wholesaler – JA Consulting LLC
Cross Won LLC – Real Estate Development
P and L Insurance Agent 2012-2018

Seton Health Network
Austin, TX January 2009-April 2012
Charge Capture Analyst - Revenue Integrity Finances
Clinical Lab Assistant II

Stealth Products
Burnet, TX May 2006-December 2008
Inventory, Scheduler-Planner Manager
Return Authorization Manager
Standards of Operations Developer
ISO Certification Developer

The University of Texas MD Anderson Cancer Center Science Park Research
Division
Smithville, TX March 2002-June 2005
Research Assistant II
Carcinogenesis Extern

St. Edward's University
Austin, TX September 2002-May 2005
Teaching Assistant/Laboratory Assistant

Warden's Exxon
Burnet, TX May 1998-March 2002

Cashier/Self Service Attendant/Small Mechanic



Administration

ITEM 6.15

Kelly Dix
City Secretary
kdix@cityofburnet.com
(512)-715-3209

Action

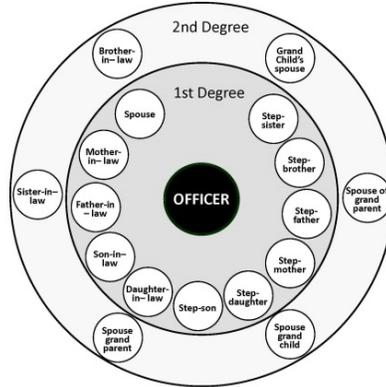
- Meeting Date:** June 27, 2023
- Agenda Item:** Discuss and consider action: Appointment of members to the Burnet Historic and Preservation Board: K. Dix
- Background:** The City of Burnet Historic Board and Preservation Board currently has two seats vacant. Jennifer Cowfer (Position 1) and Cheryl Howell (Position 2) both end their term on June 30, 2023 and are not eligible for re-appointment due to non-compliance of attendance requirements.
- Information:** Three applications have been received for consideration of appointment by the Council to the Burnet Historic Preservation Board as follows:
- Crista Bromley
 - Perry Goble
 - Jessica Haile

The City's Policy and Procedure for Advisory Boards and Commissions, lists the eligibility requirements as follows:

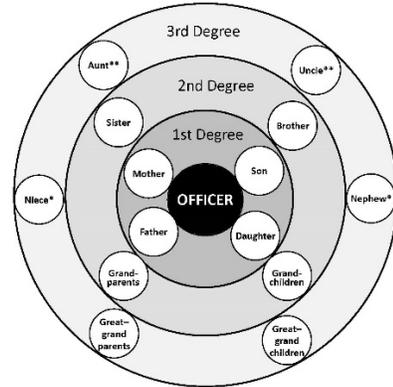
Applicant qualifications include the following:

- ▶ Must be a registered voter of the City Burnet to be eligible to serve on the Planning and Zoning Commission and the Board of Adjustments. Residency is not required for the other boards.
- ▶ All applicants will be required to comply with a background check. The results of this background check are public information and are available to the public for viewing. This information will also be provided to the City Council for consideration for the position being sought.
- ▶ May not apply to serve on a board with their immediate family members
- ▶ No persons within the second degree by affinity or within the third degree by consanguinity to a council member are

eligible to become a member of a board or commission. See charts below:



City of Burnet
Degrees of Affinity
(Marriage)



City of Burnet
Degrees of Consanguinity
(Blood)

* A niece or nephew is related to an officer by consanguinity only if he or she is the son or daughter of the officer's sister or brother.
** An aunt or uncle is related to an officer by consanguinity only if he or she is the sibling of the officer's mother or father.

► In the event, that State statute requires certain qualifications, those qualifications shall be required and will be delineated in the establishing ordinance for that board or commission.

Mrs. Bromley and Mr. Goble are related in the second degree of consanguinity and therefore only one of them may be appointed to one of the vacant positions.

Fiscal Impact:

None.

Recommendation:

To be determined by City Council



BURNET HISTORIC BOARD

(As of: December 14, 2022)

President: Renee Riddell

Vice President: To be appointed

Position 1. Jennifer Cowfer
ladyp8riot@yahoo.com

609 S. Main Street
Burnet, TX 78611

Hm. 254-319-0453
Wk. 254-616-3326

Appointed

June 2021

Term Expiration

June 2023

Position 2. Renee Riddell
mrenee825@gmail.com

208 N. Shepperd
Burnet, TX 78611

Hm. 512-755-0881
Wk. 890-693-5161

June 2022

June 2024

Position 3. Cheryl Howell
Czh51@gmail.com

502 N. Wood
Burnet, TX 78611

hm. 512-755-4893

July 2021

June 2023

Position 4. Habib Erkan, Jr.
herkan@cityofburnet.com

P.O. Box 1369
Burnet, TX 78611

wk. 512-715-3000

September 2022

June 2024

Position 5. Staff Position:

Carly Kehoe Pearson
ckehoe@cityofburnet.com

P.O. Box 1369
Burnet, TX 78611

DL: 512-715-3515
Cell: 866-924-1448

May 2022

Position 6. Council Position:

Kelly Dix, City Secretary
kdix@cityofburnet.com

P.O. Box 1369
Burnet, TX 78611

DL: 512-715-3209
Cell: 830-798-3972

January 2017



City of BURNET TEXAS

Please return completed application to:
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Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | | | |
|-------------------------------------|--|--------------------------|--|
| <input type="checkbox"/> | Economic Development Corporation Board | <input type="checkbox"/> | Airport Advisory Board |
| <input checked="" type="checkbox"/> | Historic Preservation Board | <input type="checkbox"/> | Charter Review Committee |
| <input type="checkbox"/> | Board of Adjustments and Appeals | <input type="checkbox"/> | Police Department Citizen Advisory Board |
| <input type="checkbox"/> | Planning & Zoning Commission | | |

Name: CRISTA BROMLEY Telephone: 512-715-8232

Residential Address: 207 CORDER LANE, BURNET TX 78611

E-mail Address: CRISTABROMLEY@YMAIL.COM DOB: 08/11/1951

Resident of the City of Burnet for 72 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. _____

Occupation: RETIRED

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

THIS QUESTION HAS A GLITCH. WHEN YOU CHECK EITHER BOX, BOTH BOXES HAVE CHECK MARKS. MY ANSWER IS NO.

Do you serve on any other board/commission at this time: If so, please list:

I HAVE ALSO APPLIED FOR THE PLANNING AND ZONING COMMISSION

Special knowledge or experience applicable to City board or commission function: (please explain.)

WORKED FOR THE CITY FOR 15 YEARS, SERVED AS MAYOR FOR 6 YEARS. PAST MEMBER OF THE HERITAGE SOCIETY AT FORT CROGHAN. STILL PARTICIPATE IN FORT CROGHAN EVENTS EVERY YEAR.

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

CREATED THE WALKING TRAIL BROCHURE OF THE HISTORIC DOWNTOWN AS WELL AS MANY OTHER HISTORIC RELATED DOCUMENTS.

Applicant Signature: *Crista Bromley* Date: 5/14/23



City of BURNET TEXAS

Please return completed application to:
City Secretary's Office
1001 Buchanan Drive, Suite 4
P.O. Box 1369
Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | | | |
|-------------------------------------|--|--------------------------|--|
| <input type="checkbox"/> | Economic Development Corporation Board | <input type="checkbox"/> | Airport Advisory Board |
| <input checked="" type="checkbox"/> | Historic Preservation Board | <input type="checkbox"/> | Charter Review Committee |
| <input type="checkbox"/> | Board of Adjustments and Appeals | <input type="checkbox"/> | Police Department Citizen Advisory Board |
| <input type="checkbox"/> | Planning & Zoning Commission | | |

Name: PERRY GOBLE Telephone: 512-234-0243

Residential Address: 802 SOUTH MAIN STREET, BURNET, TX 78611

E-mail Address: WPGOBLE@HOTMAIL.COM DOB: 01/15/53

Resident of the City of Burnet for 71 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. 1012065750

Occupation: RETIRED

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

(NOTE: there is a glitch in this form, when you check "No" both "Yes" and "No" are checked. The answer is no.)

Do you serve on any other board/commission at this time: If so, please list:

NO

Special knowledge or experience applicable to City board or commission function: (please explain.)

WORKED FOR CITY FOR OVER 30 YEARS, PAST MEMBER OF THE HERITAGE SOCIETY, HISTORIC RESTORATION AT FORT CROGHAN AND OTHER BURNET SITES, STILL PARTICIPATE IN FORT CROGHAN ACTIVITIES.

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

Applicant Signature: _____ Date: 5/14/23



CITY OF BURNET

P. O. Box 1369
1001 Buchanan Drive
Burnet, Texas 78611
Phone: 512-756-6093 Fax: 512-756-8560

COMMUNITY SERVICE APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | |
|---|---|
| <input type="checkbox"/> Economic Development | <input type="checkbox"/> Planning & Zoning Commission |
| <input checked="" type="checkbox"/> Corporation Board | <input type="checkbox"/> Airport Advisory Board |
| <input type="checkbox"/> Historic Board | <input type="checkbox"/> Charter Review Committee |
| <input type="checkbox"/> Board of Adjustments and Appeals | |

Name: Jessica Haile Email: Jhaile@burnetcountytxas.org

Home Address: P.O. Box 1132/CR340 Burnet, TX DOB: 9/8/71

Home Phone: (512)525-4308 Business Phone: (512)756-5458

Resident of Burnet for 35+ years. Voter Registration No.: 1013588912

Occupation: Burnet Co. 911 Addressing Coordinator

Education (Optional): _____

Special knowledge or experience applicable to City board or commission function:

- | | |
|--|--|
| <input type="checkbox"/> Banking/Finance | <input type="checkbox"/> Business Development |
| <input type="checkbox"/> Building/Construction | <input checked="" type="checkbox"/> Promotion/Marketing |
| <input type="checkbox"/> Real Estate/Development | <input type="checkbox"/> Manufacturing/Industrial Operations |
| <input type="checkbox"/> Industrial Training | <input type="checkbox"/> Law/Contract Administration |

Do you serve on any other board/commission at this time: If so, please list:

Bluebonnet Festival
Volunteer Hill Country Children's Advocacy

Other information (professional and/or community activities):

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Date: 10/24/2022 Signature: Jessica Haile

RETURN COMPLETED FORM TO THE CITY SECRETARY'S OFFICE



Administration

ITEM 6.16

Kelly Dix
City Secretary
512.715.3209
kdix@cityofburnet.com

Action

- Meeting Date:** June 28, 2022
- Agenda Item:** Discuss and consider action: Appointment of members to the City of Burnet Zoning Board of Adjustments: K. Dix
- Background:** Current City of Burnet Zoning Board of Adjustment (ZBOA) Members, Kim Winkler (position 2) and Calib Williams (position 5) will reach the end of their term on June 30, 2023.
- Cesar Arreaza serves as an alternate for the ZBOA and has requested to end his term. Position 1 on the board was held previously by Joy Taylor and is still vacant as Linda Frietag had requested to fill the spot of alternate on the Board.
- Information:** Kim Winkler (Position 2) and Calib Williams (position 5) have expressed their desire for re-appointment to the Burnet Zoning Board of Adjustments for a two year term that will end June 30, 2025.
- One application was received from Juan Anthony Francisco, Jr. requesting consideration of appointment to the ZBOA Board.
- Council will need to appoint three members from the following list to serve a term of two years ending June 30, 2025.
- Kim Winkler
 - Calib Williams
 - Juan Anthony Francisco, Jr.
- Fiscal Impact:** No fiscal impact
- Recommendation:** To be determined by Council.



ZONING BOARD OF ADJUSTMENTS
(As of: June1, 2023)

| <u>NAME</u> | <u>ADDRESS</u> | <u>EMAIL</u> | <u>PHONE</u> | <u>APPOINTED</u> | <u>EXPIRES</u> |
|--------------------------------------|-----------------------|--|----------------------------------|-------------------------|-----------------------|
| 1. Vacant (Joy Taylor) | | | | | Jun 2023 |
| 2. Kim Winkler (Secretary) | 208 Corder Ln. | kim@burnetchamber.org | 512-525-1008 (H) | Dec 2021 | Jun 2023 |
| 3. Herve Derek Fortin | 115 Fox Circle | hderek.fortin@gmail.com | 512-588-9180 (H) | June 2022 | Jun 2024 |
| 4. Tommy J. Gaut | 113 Canyon View | tjgaut@swbell.net | 713-542-6087 | June 2022 | Jun 2024 |
| 5. Calib Williams | 245 Sunday Drive | calib@traxion82.com | 432-296-2204 (H) 432-687-9165 | Dec 2021 | Jun 2023 |
| Aternates: | | | | | |
| Cesar E. Arreaza | 116 Big Sky | carreaza56@gmail.com | 713-826-9065 | Dec 2021 | Jun 2023 |
| Linda Freitag | 101 Corder Ln. | lindafreitag@verizon.net | 512-755-0583 (H) | June 2022 | Jun 2024 |



City of BURNET TEXAS

Please return completed application to:
City Secretary's Office
1001 Buchanan Drive, Suite 4
P.O. Box 1369
Burnet, TX 78611
By fax 512-756-8560
By email to kdix@cityofburnet.com

BOARDS AND COMMISSIONS APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Economic Development Corporation Board | <input type="checkbox"/> Airport Advisory Board |
| <input type="checkbox"/> Historic Preservation Board | <input type="checkbox"/> Charter Review Committee |
| <input checked="" type="checkbox"/> Board of Adjustments and Appeals | <input type="checkbox"/> Police Department Citizen Advisory Board |
| <input checked="" type="checkbox"/> Planning & Zoning Commission | |

Name: Juan Anthony Francisco Jr Telephone: 512-786-9021

Residential Address: 409 S Vandever, Burnet, TX 78611

E-mail Address: anthony@jaconsultingllc.com DOB: 08-07-1982

Resident of the City of Burnet for 29 years.

Are you a registered voter of the City of Burnet? Yes No Voter Registration No. _____

Occupation: Mortgage Broker, Real Estate Investor, Wealth Management Broker

I have attended one or more meetings of the board or commission for which I have applied. Yes No

Does any potential conflict of interest exist which may interfere or inhibit you to carry out the duties of the Board or Commission for which you have applied? Yes No (If Yes, please explain.)

Do you serve on any other board/commission at this time: If so, please list:

No

Special knowledge or experience applicable to City board or commission function: (please explain.)

My specialty and background is in real estate: mortgage brokering, commercial and residential development, residential remodels, portfolio rental brokering and managing. I generate wealth for my investors, as well as for myself. All areas take years of knowledge

Please provide any additional information you feel would be useful to the City Council in considering your application. Please use additional sheets as necessary. A cover letter and/or resume may also be submitted with the application.

I want apply my ability and potential to my hometown. This is the first step.

Applicant Signature: Juan Anthony Francisco Jr Digitally signed by Juan Anthony Francisco Jr Date: 2023.06.08 15:02:35 -05'00' Date: 06/08/2023

J. Anthony Francisco, Jr.

409 S Vandever St.
Burnet, TX 78611

(512) 786-9021
anthony@jaconsultingllc.com

PROFILE

- Fluent in Spanish, Reading & Writing
- Strong Computer Skills: Adobe Acrobat/Photoshop, AutoCad, Microsoft Word/Excel/PowerPoint/Publisher
- Stellar Data Keeping, Organizational, & Analytical Skills
- Established Network that compliments Liaisons abilities
- Cooperative Work Ethic & Mindset

EDUCATION

Saint Edward's University, Austin, TX September 2006-May 2007
Masters of Business Administration (*Uncompleted*)

Saint Edward's University, Austin, TX Graduated May 2004
Bachelor of Science in Biology

EXPERIENCE

Owner/Founder
Burnet, TX April 2012-Present

*Mortgage Broker – Thess Mortgage
Consulting & Wealth Management Brokering – JA Consulting LLC
Loan Broker & Wholesaler – JA Consulting LLC
Cross Won LLC – Real Estate Development
P and L Insurance Agent 2012-2018*

Seton Health Network
Austin, TX January 2009-April 2012
*Charge Capture Analyst - Revenue Integrity Finances
Clinical Lab Assistant II*

Stealth Products
Burnet, TX May 2006-December 2008
*Inventory, Scheduler-Planner Manager
Return Authorization Manager
Standards of Operations Developer
ISO Certification Developer*

**The University of Texas MD Anderson Cancer Center Science Park Research
Division**
Smithville, TX March 2002-June 2005
*Research Assistant II
Carcinogenesis Extern*

St. Edward's University
Austin, TX September 2002-May 2005
Teaching Assistant/Laboratory Assistant

Warden's Exxon
Burnet, TX May 1998-March 2002

Cashier/Self Service Attendant/Small Mechanic



Airport

ITEM 6.17

Adrienne Feild
Admin Services/Airport Manager
512.715.3214
afeild@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING AMERICAN RESCUE PLAN ACT GRANT (ARPA) FUNDING FROM THE FEDERAL AVIATION ADMINISTRATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION - AVIATION DIVISION; AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS AND TAKE ACTIONS TO FACILITATE SUCH ACCEPTANCE: A. Feild

Background: The American Rescue Plan Act of 2021 (H.R. 1319, Public Law 117-2), signed into law by President Biden on March 11, 2021, includes \$8 billion in funds to be awarded as economic assistance to eligible U.S. airports to prevent, prepare for, and respond to the coronavirus disease 2019 (COVID-19) pandemic. To distribute these funds, the Federal Aviation Administration (FAA) has established the Airport Rescue Plan Grants. The FAA made grants available to all airports that are part of the national airport system, including all commercial service airports, all reliever airports, and public-owned general aviation airports. Texas participates in the FAA's State Block Grant Program, wherein the Texas Department of Transportation (TxDOT) - Aviation Division acts as FAA's agent for the distribution of grant funds to general aviation airports in the state. TxDOT requested the federal funds on behalf of all eligible Texas General Aviation Airports.

Information: TxDOT has provided a request form (application) for ARPA grant funding. TxDOT has been authorized to issue grants by the approval of the Texas Transportation Commission. The ARPA grant amount allocated to Burnet Municipal Airport is \$32,000. The grant funding will be provided as a reimbursement for eligible expenses to be submitted to TxDOT with an ARPA Request for Reimbursement Form.

Fiscal Impact This acceptance would have a \$32,000 positive fiscal impact to the Airport Fund.

Recommendation: Approve Resolution No. R2023-50 as presented.

RESOLUTION NO. R2023-50

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING AMERICAN RESCUE PLAN ACT GRANT (ARPA) FUNDING FROM THE FEDERAL AVIATION ADMINISTRATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION - AVIATION DIVISION; AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS AND TAKE ACTIONS TO FACILITATE SUCH ACCEPTANCE.

Whereas, the American Rescue Plan Act of 2021 (H.R. 1319, Public Law 117-2), signed into law by President Biden on March 11, 2021, includes \$8 billion in funds to be awarded as economic assistance to eligible U.S. airports to prevent, prepare for, and respond to the coronavirus disease 2019 (COVID-19) pandemic; and

Whereas, to distribute these funds, the Federal Aviation Administration (FAA) has established the Airport Rescue Plan Grants. The FAA will make grants to all airports that are part of the national airport system, including all commercial service airports, all reliever airports, and public-owned general aviation airports. Texas participates in the FAA's State Block Grant Program, wherein the Texas Department of Transportation (TxDOT) - Aviation Division acts as FAA's agent for the distribution of grant funds to general aviation airports in the state. TxDOT requested the federal funds on behalf of all eligible Texas General Aviation Airports; and

Whereas, TxDOT has provided a request form (application) for ARPA grant funding. TxDOT has been authorized to issue grants by the approval of the Texas Transportation Commission. The ARPA grant amount allocated to Burnet Municipal Airport is \$32,000. The grant funding will be provided as a reimbursement for eligible expenses to be submitted to TxDOT with an ARPA Request for Reimbursement Form.

Whereas, City Council deems it in the public interest to apply for such assistance.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Recitals. The recitals, set out above, are incorporated herein for all purposes.

Section two. Application and acceptance approve. The application for a ARPA Act Grant, and acceptance of an award of funds from said grant, is hereby approved.

Section three. City Manager Authorization. The City Manager is hereby authorized and directed to execute such applications and ancillary documents and take such actions as is reasonably necessary to facilitate the purpose of this Resolution.

Section four. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

Section five. Effective Date. This resolution shall take effect upon approval and adoption by City Council.

PASSED AND APPROVED this 27th day of June, 2023.

CITY OF BURNET, TEXAS

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary

**TEXAS DEPARTMENT OF TRANSPORTATION
AIRPORT RESCUE PLAN ACT GRANT AGREEMENT**

PART I – OFFER

| | |
|--------------------------|--|
| Offer Date | <u>April 27, 2023</u> |
| Airport | <u>Burnet Municipal Airport - Kate Craddock Field</u> |
| Grant/Project Number | <u>22CVBRNET</u> |
| Unique Entity Identifier | <u>V3DRF9YK7MB5</u> |
| TO: | <u>City of Burnet, Texas</u> (herein called the "Sponsor") |

FROM: The State of Texas, acting through the Texas Department of Transportation (herein called the "State")

WHEREAS, the Sponsor has submitted to the State a Request for FY 2021 Airport Rescue Grant Program Funding, dated April 24, 2023, for a grant of Federal funds at or associated with Burnet Municipal Airport - Kate Craddock Field;

This Grant Agreement, (hereinafter called "Grant"), is made and entered into by and between the Texas Department of Transportation, (hereinafter referred to as the "State"), for and on behalf of the State of Texas, and City of Burnet, Texas, (herein called the "Sponsor").

WHEREAS, City of Burnet has accepted the terms of the State's Grant offer;

WHEREAS, in consideration of the promises, representations and assurances provided by the Sponsor, the State has approved the request for funding for Burnet Municipal Airport - Kate Craddock Field consisting of the following

WHEREAS, the purpose of this Grant is to prevent, prepare for, and respond to coronavirus. Funds provided under this Grant must only be used for purposes directly related to the airport and shall be provided to such covered airport using this Grant which include the terms, conditions, and assurances attached hereto. Such purposes can include the reimbursement of an airport's costs related to operations, personnel, cleaning, sanitization, janitorial services, and combating the spread of pathogens in accordance with the limitations prescribed in the Act and incurred no earlier than January 20, 2020. This Grant also may be used to reimburse a Sponsor's payment of debt service where such payments occur on or after March 11, 2021. Funds provided under this Grant will be governed by the same principles that govern "airport revenue." New airport development projects not directly related to combatting the spread of pathogens may not be funded with this Grant.

NOW THEREFORE, in accordance with the applicable provisions of the American Rescue Plan Act of 2021 ("ARP Act or the Act"), Public Law 117-2, the representations contained in Airport Rescue Grant Request for Funding, and in consideration of (a) the Sponsor's acceptance of this Offer; and, (b) the benefits to accrue to the United States and the public from the accomplishment of the Grant and in compliance with the conditions as herein provided,

THE TEXAS DEPARTMENT OF TRANSPORTATION, FOR AND ON BEHALF OF THE STATE OF TEXAS, HEREBY OFFERS AND AGREES to pay 100% percent of the allowable costs incurred as a result of and in accordance with this Grant.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$32,000

2. **Period of Performance.** The period of performance shall commence on the date the Sponsor formally accepts this Grant. The end date of the period of performance is August 19, 2025.

The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR § 200.309). Unless the State authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR § 200.343).

The period of performance end date shall not affect, relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant.
3. **Unallowable Costs.** The Sponsor shall not seek reimbursement for any costs that the State has determined to be unallowable under the ARP Act.
4. **Final Federal Share of Costs.** The United States' share of allowable Grant costs is 100%.
5. **Completing the Grant without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the Grant without undue delays and in accordance with this Grant, the ARP Act, and the regulations, policies, standards and procedures of the Secretary of Transportation ("Secretary"). Pursuant to 2 CFR § 200.308, the Sponsor agrees to report to the State any disengagement from funding eligible expenses under the Grant that exceeds three months and request prior approval from State. The report must include a reason for the stoppage. The Sponsor agrees to comply with the attached assurances, which are part of this Grant and any addendum that may be attached hereto at a later date by mutual consent.
6. **Amendments or Withdrawals before Grant Acceptance.** The State reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
7. **Offer Expiration Date.** This offer will expire and the State will not be obligated to pay any part of the costs unless this offer has been accepted by the Sponsor on or before June 30, 2025, or such subsequent date as may be prescribed in writing by the State.
8. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner, including uses that violate this Grant, the ARP Act or other provision of applicable law. For the purposes of this Grant, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement(s). The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the State. The Sponsor must furnish to the State, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts

taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the State.

9. **State of Texas Not Liable for Damage or Injury.** The State is not responsible or liable for damage to property or injury to persons which may arise from, or relate to this Grant, including, but not limited to, any action taken by the Sponsor related to or arising from, directly or indirectly, this Grant.
10. **Electronic Grant Payment(s).** The Sponsor must use the eGrants system to electronically submit each pay request, and associated support documentation. The State will provide payment request forms to upload with supporting documentation. The State will review invoices manually to ensure payment eligibility and is committed to processing payments in a timely manner.
11. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
12. **Buy American.** Unless otherwise approved in advance by the State, in accordance with 49 U.S.C. § 50101 the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured goods produced outside the United States to be used for any permitted use for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract under this Grant.
13. **Audits for Private Sponsors.** When the period of performance has ended, the Sponsor must provide a copy of an audit of this Grant prepared in accordance with accepted standard audit practices, such audit to be submitted to the State.
14. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. Upon request of the State, the Sponsor shall provide one copy of the completed audit to the State.
15. **Suspension or Debarment.** When entering into a “covered transaction” as defined by 2 CFR § 180.200, the Sponsor must:
 - A. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-federal entity attesting the entity is not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm is not excluded or disqualified from participating.
 - B. Require prime contractors and subcontractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions (e.g. sub-contracts).
 - C. Immediately disclose to the State whenever the Sponsor (1) learns the Sponsor has entered into a covered transaction with an ineligible entity, or (2) suspends or debar a contractor, person, or entity.

16. Ban on Texting While Driving.

- A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to this Grant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- B. The Sponsor must insert the substance of this clause on banning texting while driving in all contracts and subcontracts.

17. Trafficking in Persons.

- A. The Sponsor, as the recipient, and the Sponsor's employees, under this award, may not —
 - 1. Engage in severe forms of trafficking in persons during the period of time this Grant is in effect;
 - 2. Procure a commercial sex act during the period of time that the award is in effect; or
 - 3. Use forced labor in the performance of the Grant.
- B. The State as the awarding agency may unilaterally terminate this award, without penalty, if a Sponsor that is a private entity —
 - 1. Is determined to have violated a prohibition in paragraph A of this Grant term; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph A of this Grant term through conduct that is either—
 - a. Associated with performance under this award; or
 - b. Assigned to the Sponsor using the standards and due process for directing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by the FAA at 2 CFR Part 1200.
- 3. The Sponsor must inform the State immediately of any information received from any source alleging a violation of a prohibition in paragraph A during this Grant term.
- 4. The State's right to terminate unilaterally that is described in paragraph A of this section:
 - a. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
 - b. Is in addition to all other remedies for noncompliance that are available to the FAA and State under this Grant.

18. Employee Protection from Reprisal.

A. Prohibition of Reprisals –

1. In accordance with 41 U.S.C. § 4712, an employee of the Sponsor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
 - a. Gross mismanagement of a Federal grant;
 - b. Gross waste of Federal funds;
 - c. An abuse of authority relating to implementation or use of Federal funds;
 - d. A substantial and specific danger to public health or safety; or
 - e. A violation of law, rule, or regulation related to a Federal grant.
2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
 - a. A member of Congress or a representative of a committee of Congress;
 - b. An Inspector General;
 - c. The Government Accountability Office;
 - d. A Federal office or employee responsible for oversight of a grant program;
 - e. A court or grand jury;
 - f. A management office of the Sponsor; or
 - g. A Federal or State regulatory enforcement agency.
3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
4. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
5. Required Actions of the Inspector General – Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

19. Limitations. Nothing provided herein shall be construed to limit, cancel, annul, or modify the terms of any Federal grant agreement(s), including all terms and assurances related thereto, that have been entered into by the Sponsor and the State prior to the date of this Grant.

20. Air and Water Quality. The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the State and Sponsor fail to comply with this requirement, the State may suspend, cancel, or terminate this Agreement.

21. Face Coverings Policy. The Sponsor agrees to implement a face-covering (mask) policy to combat the spread of pathogens. This policy must include a requirement that all persons wear a mask, in accordance with Centers for Disease Control (CDC) guidelines and Transportation Security Administration (TSA) requirements, as applicable, at all times while in all public areas of the Airport property, except to the extent exempted under those requirements. This special condition requires the airport Sponsor continue to require masks until Executive Order 13998, Promoting COVID-19 Safety in Domestic and International Travel, is no longer effective.

SPECIAL CONDITIONS FOR USE OF AIRPORT RESCUE FUNDS

CONDITIONS FOR ROLLING STOCK/EQUIPMENT -

1. **Equipment or Vehicle Replacement.** The Sponsor agrees to treat the proceeds from the trade-in or sale of equipment being replaced with these funds as airport revenue.
2. **Equipment Acquisition.** The Sponsor agrees that for any equipment acquired with funds provided by this grant, such equipment shall be used solely for purposes directly related to the Airport.
3. **Low Emission Systems.** The Sponsor agrees that vehicles and equipment acquired using funds provided under this Grant:
 - a. Will be maintained and used at the Airport for which they were purchased; and
 - b. Will not be transferred, relocated, or used at another airport without the advance consent of the State.

The Sponsor further agrees to maintain annual records on individual vehicles and equipment, project expenditures, cost effectiveness, and emission reductions.

CONDITIONS FOR UTILITIES AND LAND -

1. **Utilities Proration.** For purposes of computing the Sponsor's share of the allowable airport operations and maintenance costs, the allowable cost of utilities incurred by the Sponsor, as applicable, to operate and maintain airport(s) included in this Grant must not exceed the percent attributable to the capital or operating costs of the airport.
2. **Utility Relocation in Grant.** The Sponsor understands and agrees, that:
 - a. The State will not participate in the cost of any utility relocation unless and until the Sponsor, has submitted evidence satisfactory to the State, that the Sponsor is legally responsible for payment of such costs;
 - b. State participation is limited to those utilities located on-airport or off-airport only where the Sponsor has an easement for the utility; and
 - c. The utilities must serve a purpose directly related to the Airport for which the Grant is made.
3. **Land Acquisition.** Where funds provided for by this Grant used for the purpose of acquiring land, the State agrees and will require the Sponsor agree to record the Grant, including the grant assurances and any and all related requirements, encumbrances, and restrictions that shall apply to such land, in the public land records of the jurisdiction in which the land is located.

PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Grant Application and incorporated materials referred to in the foregoing Offer under Part II of this Agreement, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Grant Application. The Sponsor understands funding made available under this Grant may only be used to reimburse for airport operational and maintenance expenses, and debt service payments. The Sponsor further understands it may submit a separate request to use funds for new airport/project development purposes, subject to additional terms, conditions, and assurances. Further, the Grant constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

City of Burnet, Texas

City of Burnet, Texas

*(Signature of Sponsor's Authorized
Official)*

By:

*(Typed Name of Sponsor's Authorized
Official)*

Title:

(Title of Sponsor's Authorized Official)

The Sponsor's acceptance of this Offer and ratification and adoption of the Grant Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the ARP Act, constituting the contractual obligations and rights of the State and the Sponsor with respect to the accomplishment of the grant application and compliance with the assurances and conditions as provided herein. Such Grant shall become effective upon the Sponsor's acceptance of this Offer.

**STATE OF TEXAS
TEXAS DEPARTMENT OF
TRANSPORTATION**

(Signature)

Daniel Harmon

(Typed Name)

Director, Aviation Division

(Title)

**AIRPORT RESCUE GRANT
ASSURANCES
AIRPORT SPONSORS**

A. General.

1. These Airport State Block Grant Assurances are required to be submitted as part of the application by sponsors requesting funds under the provisions of the American Rescue Plan Act of 2021 ("ARP Act or "the Act"), Public Law Number, Public Law 117-2. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
2. Upon acceptance of the sponsor, these assurances are incorporated into and become part of this Grant Agreement.

B. Sponsor Certification.

The Sponsor hereby assures and certifies, with respect to this ARP Act Grant that:

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this ARP Act Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49 U.S.C. Chapter 471, as applicable
- b. Davis-Bacon Act - 40 U.S.C. 276(a), et seq.
- c. Federal Fair Labor Standards Act - 29 U.S.C. 201, et seq.
- d. Hatch Act - 5 U.S.C. 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 Title 42 U.S.C. 4601, et seq.
- f. National Historic Preservation Act of 1966 - Section 106 - 16 U.S.C. 470(f).
- g. Archeological and Historic Preservation Act of 1974 - 16 U.S.C. 469 through 469c.
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended.
- j. Coastal Zone Management Act, P.L. 93-205, as amended.
- k. Flood Disaster Protection Act of 1973 - Section 102(a) - 42 U.S.C. 4012a.
- l. Title 49, U.S.C., Section 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.), prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. 6101, et seq.

- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968 - 42 U.S.C. 4151, et seq.
- s. Power plant and Industrial Fuel Use Act of 1978 - Section 403- 2 U.S.C. 8373.
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. 327, et seq.
- u. Copeland Anti-kickback Act - 18 U.S.C. 874.1.
- v. National Environmental Policy Act of 1969 - 42 U.S.C. 4321, et seq.
- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended.
- x. Single Audit Act of 1984 - 31 U.S.C. 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. 702 through 706.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Pub. L. 110-252).

EXECUTIVE ORDERS

- a. Executive Order 11246 - Equal Employment Opportunity
- b. Executive Order 11990 - Protection of Wetlands
- c. Executive Order 11998 - Flood Plain Management
- d. Executive Order 12372 - Intergovernmental Review of Federal Programs
- e. Executive Order 12699 - Seismic Safety of Federal and Federally Assisted New Building Construction
- f. Executive Order 12898 - Environmental Justice
- g. Executive Order 14005 - Ensuring the Future Is Made in All of America by All of America's Workers.

FEDERAL REGULATIONS

- a. 2 CFR Part 180 - OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{3,4}
- c. 2 CFR Part 1200 - Nonprocurement Suspension and Debarment.
- d. 28 CFR Part 35 - Discrimination on the Basis of Disability in State and Local Government Services.
- e. 28 CFR § 50.3 - U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964.
- f. 29 CFR Part 1 - Procedures for predetermination of wage rates.¹
- g. 29 CFR Part 3 - Contractors and subcontractors on public building or public work financed in whole or part by loans or grants from the United States.¹
- h. 29 CFR Part 5 - Labor standards provisions applicable to contracts covering Federally financed and assisted construction (also labor standards provisions applicable to non-construction contracts subject to the Contract Work Hours and Safety Standards Act).¹

- i. 41 CFR Part 60 - Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally assisted contracting requirements).¹
- j. 49 CFR Part 20 - New restrictions on lobbying.
- k. 49 CFR Part 21 - Nondiscrimination in Federally-assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act of 1964.
- l. 49 CFR Part 23 - Participation by Disadvantaged Business Enterprise in Airport Concessions.
- m. 49 CFR Part 26 - Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- n. 49 CFR Part 27 - Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance.¹
- o. 49 CFR Part 28 - Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities conducted by the Department of Transportation.
- p. 49 CFR Part 30 - Denial of public works contracts to suppliers of goods and services of countries that deny procurement market access to U.S. contractors.
- q. 49 CFR Part 32 - Government-wide Requirements for Drug-Free Workplace (Financial Assistance).
- r. 49 CFR Part 37 - Transportation Services for Individuals with Disabilities (ADA).
- s. 49 CFR Part 41 - Seismic Safety.

FOOTNOTES TO ASSURANCE AIRPORT RESCUE GRANT SPONSOR ASSURANCE B.1.

- ¹ These laws do not apply to airport planning sponsors.
- ² These laws do not apply to private sponsors.
- ³ Cost principles established in 2 CFR Part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁴ Audit requirements established in 2 CFR Part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations, or circulars are incorporated by reference in this Grant Agreement.

1. **Purpose Directly Related to the Airport.** It certifies that the reimbursement sought is for a purpose directly related to the Airport.
2. **Responsibility and Authority of the Sponsor.**
 - a. Public Agency Sponsor:
It has legal authority to apply for this Grant, and to finance and carry out the proposed grant; that an official decision has been made by the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official

representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. **Private Sponsor:**

It has legal authority to apply for this Grant and to finance and carry out the proposed Grant and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. **Good Title.** It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the Airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.

4. **Preserving Rights and Powers.**

a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish, or modify any outstanding rights or claims of right of others which would interfere with such performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

b. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the Airport will continue to function as a public-use airport in accordance with this Grant Agreement.

c. If an arrangement is made for management and operation of the Airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to insure that the Airport will be operated and maintained in accordance Title 49, United States Code, the regulations, and the terms and conditions of this Grant Agreement.

5. **Consistency with Local Plans.** Any project undertaken by this Grant Agreement is reasonably consistent with plans (existing at the time of submission of the application or State subaward as applicable) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the Airport.

6. **Consideration of Local Interest.** It has given fair consideration to the interest of communities in or near where any project undertaken by this Grant Agreement may be located.

7. **Consultation with Users.** In making a decision to undertake any airport development project undertaken by this Grant Agreement, it has undertaken reasonable consultations with affected parties using the Airport at which project(s) is/are proposed.

8. **Pavement Preventative Maintenance.** With respect to a project undertaken by this Grant Agreement for the replacement or reconstruction of pavement at the Airport, it assures or certifies that it has implemented an effective Airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with Federal financial assistance at the Airport, including ARP Act funds provided under this Grant Agreement. It will provide such reports

on pavement condition and pavement management programs as the Secretary determines may be useful.

9. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all Grant accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the Grant in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the Grant supplied by other sources, and such other financial records pertinent to the Grant. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the Grant in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

10. Minimum Wage Rates. It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

11. Veteran's Preference. It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in Section 47112 of Title 49, United States Code. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

12. Operation and Maintenance.

- a. The Airport and all facilities which are necessary to serve the aeronautical users of the Airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, state and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere with its use for airport purposes. It will suitably operate and maintain the Airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the Airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for-

- 1) Operating the Airport's aeronautical facilities whenever required;

- 2) Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
- 3) Promptly notifying airmen of any condition affecting aeronautical use of the Airport. Nothing contained herein shall be construed to require that the Airport be operated for aeronautical use during temporary periods when snow, flood or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.

b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

13. Hazard Removal and Mitigation. It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the Airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

14. Compatible Land Use. It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the Airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft.

15. Exclusive Rights. The sponsor shall not grant an exclusive right to use an air navigation facility on which this Grant has been expended. However, providing services at an airport by only one fixed-based operator is not an exclusive right if—

a. it is unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide the services; and

b. allowing more than one fixed-based operator to provide the services requires a reduction in space leased under an agreement existing on September 3, 1982, between the operator and the Airport.

16. Airport Revenues.

a. This Grant shall be available for any purpose for which airport revenues may lawfully be used to prevent, prepare for, and respond to coronavirus. Funds provided under this ARP Act Grant Agreement will only be expended for the capital or operating costs of the Airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the Airport(s) subject to this Agreement and all applicable addendums for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens at the Airport, and debt service payments as prescribed in the Act.

b. For airport development, 49 U.S.C. § 47133 applies.

17. Reports and Inspections.

It will:

a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public;

make available to the public at reasonable times and places a report of the Airport budget in a format prescribed by the Secretary;

- b. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 1. all amounts paid by the Airport to any other unit of government and the purposes for which each such payment was made; and
 2. all services and property provided by the Airport to other units of government and the amount of compensation received for provision of each such service and property.

18. Land for Federal Facilities. It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

19. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the Airport showing:
 - 1) boundaries of the Airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;
 - 2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
 - 3) the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
 - 4) all proposed and existing access points used to taxi aircraft across the Airport's property boundary. Such Airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the Airport layout plan. The sponsor will not make or permit any changes or alterations in the Airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the Airport.
- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the Airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the Airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety,

utility, efficiency, and cost of operation existing before the unapproved change in the Airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

- 20. Civil Rights.** It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any activity conducted with, or benefiting from, funds received from this Grant.
- a. Using the definitions of activity, facility, and program as found and defined in §§ 21.23 (b) and 21.23 (e) of 49 CFR Part 21, the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
 - b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other Federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other Federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of, real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.
 - c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

 1. So long as the Airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 2. So long as the sponsor retains ownership or possession of the property.
 - d. Required Solicitation Language.

It will include the following notification in all solicitations for bids, Requests for Proposals for work, or material under this Grant and in all proposals for agreements, including airport concessions, regardless of funding source:

"The **(Name of Sponsor)**, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, disadvantaged business enterprises and airport concession disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
 - e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT Acts and regulations.
 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin, creed, sex, age, or handicap as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - A. For the subsequent transfer of real property acquired or improved under the applicable activity, grant, or program; and
 - B. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, grant, or program.
 - f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
 - g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.
- 21. Foreign Market Restrictions.** It will not allow funds provided under this Grant to be used to fund any activity that uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.
- 22. Policies, Standards and Specifications.** It will carry out any project funded under an ARP Act in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, the advisory circulars listed in the Current FAA Advisory Circulars for AIP projects, dated July 16, 2021, and included in this grant, and in accordance with applicable state policies, standards, and specifications approved by the Secretary.
- 23. Access By Intercity Buses.** The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the Airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.
- 24. Disadvantaged Business Enterprises.** The sponsor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business

Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this Agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1936 (31 U.S.C. 3801).

- 25. Acquisition Thresholds.** The FAA deems equipment to mean tangible personal property having a useful life greater than one year and a per-unit acquisition cost equal to or greater than \$5,000. Procurements by micro-purchase means the acquisition of goods or services for which the aggregate dollar amount does not exceed \$10,000, unless authorized in accordance with 2 CFR § 200.320. Procurement by small purchase procedures means those relatively simple and informal procurement methods for securing goods or services that do not exceed the \$250,000 threshold for simplified acquisitions.

View the most current Series 150 Advisory Circulars (ACs) for Airport Projects at

http://www.faa.gov/airports/resources/advisory_circulars and

http://www.faa.gov/regulations_policies/advisory_circulars

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING AMERICAN RESCUE PLAN ACT GRANT (ARPA) FUNDING FROM THE FEDERAL AVIATION ADMINISTRATION THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION - AVIATION DIVISION; AND AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS AND TAKE ACTIONS TO FACILITATE SUCH ACCEPTANCE.

Adrienne Feild, Administrative Services/Airport Manager

AMERICAN RESCUE PLAN ACT (ARPA) GRANT FUNDING

- American Rescue Plan Act of 2021
 - \$8 billion in funds to be awarded as economic assistance to eligible U.S. airports
- FAA made grants available to all airports that are part of the national airport system
 - BMQ is classified as "Local" under the NPIAS Role
 - \$32,000 for Local
- Funds are limited to operational expenses, debt service payments, and costs related to combating the spread of pathogens at the airport.
- Agreement/Accepting of Grant Assurances
 - Accepting funds from FAA-administered airport financial assistance programs, require the City to agree to certain obligations (or assurances).

Questions?





Administration

ITEM 6.18

David Vaughn
City Manager
512-715-3208
dvaughn@cityofburnet.com

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH GRECO CONSTRUCTION, INC., FOR THE HILL COUNTRY CHILDREN'S ADVOCACY CENTER BUILDING AS A COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT: D. Vaughn

Background: The Hill Country Children's Advocacy Center provides vital social services to abused children in the community and their non-offending family members; and is in need of new facilities to adequately provide such services. The City has partnered with the Hill Country Children's Advocacy Center and has been awarded a Community Development Block Grant administered by the Texas Department of Housing and Community Affairs in an amount that will cover the entire costs for constructing a new facility. By prior resolution City Council selected Greco Construction, Inc., as general contractor

Information: This resolution authorizes the city manager to execute a contract with Greco Construction, Inc., for an amount not to exceed \$ 3,053,000.00 for the construction of the Hill Country Children's Advocacy Center Building Project; provided said contract is on such contract form approve, or provided by, the Texas Department of Housing and Community Affairs and approved by the city attorney.

Fiscal Impact Community Development Block Grant, which is above the contract amount. Consequently, there is no fiscal impact to the City. Should actual construction costs exceed the contract amount and the grant amount the Hill Country Children's Advocacy Center is responsible to pay for the costs overruns by separate contract approved by prior resolution.

Recommendation: Approve Resolution No. R2023-52 as presented.

RESOLUTION NO. R2023-52

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH GRECO CONSTRUCTION, INC., FOR THE HILL COUNTRY CHILDREN'S ADVOCACY CENTER BUILDING AS A COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT

Whereas, the Hill Country Children's Advocacy Center provides vital social services to abused children in the community and their non-offending family members; and

Whereas, the Hill Country Children's Advocacy Center requires new facilities to adequately provide service to those in need; and

Whereas, funding became available for the construction of a new advocacy center building through a Community Development Block Grant administered by the Texas Department of Housing and Community Affairs; and

Whereas, pursuant to the terms of the Community Development Block Grant program requirements the City serves as the government agency sponsor of the Hill Country Children's Advocacy Center Building Project.

NOW THEREFORE BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Project Approval. The Hill Country Children's Advocacy Center Building Project, as shown on the attachment hereto, is hereby approved.

Section two. Contractor. Greco Construction, Inc., was selected as general contractor for the Hill Country Children's Advocacy Center Building Project by prior resolution.

Section three. Contract Amount Approval. The contract amount not to exceed \$ 3,053,000.00, is hereby approved.

Selection four. Authorization. The city manager is hereby authorized and directed to execute a construction contract for the Project described in section one, with the general contractor named in section two, and for an amount not to exceed the contract amount stated in section three, on such contract form approve, or provided by, the Texas Department of Housing and Community Affairs. The authorization to bind the City by contract granted in this section shall not require further Council action provided the terms and conditions of the contract comply with the provision of this resolution and are approved by the City Attorney. Additionally, the city manager is authorized to execute such ancillary instruments and take such additional action reasonably necessary to facilitate the purpose of this resolution.

Resolution Hill Country Children's Advocacy Center Building Project

Section five. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this resolution for all purposes and are adopted as a part of the judgment and findings of City Council.

Section six. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

Section seven. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 27th day of June 2023.

CITY OF BURNET

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary

Construction Contract

DISCLAIMER: *This document was developed for TX-CDBG grant projects and may not include all applicable provisions. This document has important legal consequences. Please consult with your legal counsel with respect to its completion or modification to ensure that it is in compliance with any appropriate local, state and federal laws applicable.*

THIS AGREEMENT made this the _____ day of _____, 2023, by and between Greco Construction, Inc. hereinafter called the "*Contractor*", and City of Burnet/Hill Country Children's Advocacy Center hereinafter called the "*City*" or "*OWNER*".

Commented [EB1]: We can fill this hand written when contract is signed

WITNESSETH, that the Contractor and the City/County for the considerations stated herein mutually agree as follows:

ARTICLE 1. Statement of Work. The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services, including utility and transportation services, and perform and complete all work required for the construction of the Improvements embraced in the Project; namely, Hill Country Advocacy Center for the 70800001002 Community Development Block Grant (CDBG) project, all in strict accordance with the contract documents including all addenda thereto, numbered Addendum No. 01, dated May 9, 2023, all as prepared by GLS acting and in these contract documents preparation, referred to as the "*Engineer/Architect*".

ARTICLE 2. The Contract Price. The City will pay the Contractor for the performance of the Contract in current funds, for the total quantities of work performed at the *unit prices* stipulated in the Bid for the several respective items of work completed subject to additions and deductions as provided in the Bid Schedule, hereof.

ARTICLE 3. The Contract. The executed contract documents shall consist of the following components:

- This Construction Agreement
- EXHIBIT A: General Conditions for Construction
- EXHIBIT B: Invitation for Bids
- EXHIBIT C: Instructions to Bidders
- EXHIBIT D: Signed Copy of Bid and Bid Schedule
- EXHIBIT E: General Conditions
- EXHIBIT F: Special Conditions
- EXHIBIT G: Technical Specifications
- EXHIBIT H: Drawings (as listed in the Schedule of Drawings)
- EXHIBIT I: [Add any additional applicable documents]

ARTICLE 4. Performance. Work, in accordance with the Contract dated _____, 2023, shall commence no later than 14 days after the Notice to Proceed is issued, and Contractor shall complete the WORK within 365 consecutive calendar days after the issuance of the Notice to Proceed.

This Agreement, together with other documents enumerated in this ARTICLE 3, which said other documents are as fully a part of the Contract as if hereto attached or herein repeated,

Resolution Hill Country Children's Advocacy Center Building Project

forms the Contract between the parties hereto. In the event that any provision in any component part of this Contract conflicts with any provision of any other component part, the provision of the component part first enumerated in this ARTICLE 3 shall govern, except as otherwise specifically stated.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in single original copies on the day and year first above written.

(The Contractor)

By Greco Construction, Inc.
Title: _____
Name Printed: _____

City of Burnet/Hill Country Children's Advocacy
(City)

By David Vaughn: _____
Title: City Manager

Corporate Certifications

I, _____, certify that I am the _____ of the corporation named as Contractor herein; that _____ who signed this Agreement on behalf of the Contractor, was then _____ of said corporation; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body, and is within the scope of its corporate powers.

Corporate Seal

(Corporate Secretary)

General Conditions for Construction Contract

1. Contract and Contract Documents

- (a) The project to be constructed pursuant to this contract will be financed with assistance from the Texas Department of Housing and Community Affairs through a Community Development Block Grant (CDBG) and is subject to all applicable Federal and State laws and regulations.
- (b) The Plans, Specifications and Addenda shall form part of this contract and the provisions thereof shall be binding upon the parties as if they were herein fully set forth.
- (c) The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral.

2. Definitions

Whenever used in any of the Contract Documents, the following meanings shall be given to the terms here in defined:

- (a) The term "Contract" means the Contract executed between the City of Burnet, hereinafter called the "City/County/Owner" and Greco Construction, Inc., hereinafter called "Contractor", of which these GENERAL CONDITIONS, form a part.
- (b) The term "Project Area" means the area within the specified Contract limits of the Improvements contemplated to be constructed in whole or in part under this contract.
- (c) The term "Engineer" means Goodwin, Lasiter, & Strong (dba. GLS), Engineer in charge, serving the City/County with architectural or engineering services, his successor, or any other person or persons, employed by the City/County for the purpose of directing or having in charge the work embraced in this Contract.
- (d) The term "Contract Documents" means and shall include the following: Executed Contract, Addenda (if any), Invitation for Bids, Instructions to Bidders, Signed Copy of Bid, General Conditions, Special Conditions, Technical Specifications, and Drawings (as listed in the Schedule of Drawings).

3. Supervision by Contractor

- (a) Except where the Contractor is an individual and personally supervises the work, the Contractor shall provide a competent superintendent, satisfactory to the Engineer or Architect, on the work at all times during working hours with full authority to act as Contractor's agent. The Contractor shall also provide adequate staff for the proper coordination and expediting of his work.
- (b) The Contractor shall be responsible for all work executed under the Contract. Contractor shall verify all figures and elevations before proceeding with the work and will be held responsible for any error resulting from his failure to do so.
- (c) The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means,

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methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences, or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

(d) The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

(e) Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

(f) The CONTRACTOR shall cooperate with the Engineer, other Contractors, and utility and railroad companies. All work associated with fulfilling this requirement is subsidiary to the various Items of the Contract and no direct compensation will be made. Provide all information necessary to administer the Contract. Maintain at least one copy of the Contract at the work locations at all times.

(g) CONTRACTOR shall designate in writing a competent, English-speaking Superintendent employed by the Contractor. The Superintendent must be experienced with the work being performed and capable of reading and understanding the Contract. Ensure the Superintendent is available at all times and able to receive instructions from the Engineer or authorized representative and to act for the Contractor. The Engineer may suspend work if a Superintendent is not available or does not meet the above criteria.

(h) Cooperating with Inspectors: Inspectors are authorized representatives of the OWNER. Inspectors are authorized to examine all work performed and materials furnished, including preparation, fabrication, and material manufacture. Inspectors shall inform the Contractor of failures to meet Contract requirements. Inspectors may reject work or materials and may suspend work until any issues can be referred to and decided by the Engineer. Inspectors cannot alter, add, or waive Contract provisions, issue instructions contrary to the Contract, act as foremen for the Contractor, or interfere with the management of the work. Inspection or lack of inspection will not relieve the Contractor from obligation to provide materials or perform the work in accordance with the Contract. Contractor shall:

- a. Provide safe access to all parts of the work and provide information and assistance to the Engineer to allow a complete and detailed inspection.
- b. Give the Engineer sufficient notice to inspect the work. Work performed without suitable inspection, as determined by the Engineer, may be ordered removed and replaced at Contractor's expense.
- c. Remove or uncover portions of finished but not inspected work as directed. Once inspected, restore work to Contract requirements. If the uncovered work is acceptable, the costs to uncover, remove, and replace or make good the parts removed will be paid for by the CONTRACTOR. If the work is unacceptable, assume all costs associated with repair or

replacement, including the costs to uncover, remove, and replace or make good the parts removed. If the previously inspected and approved construction is modified or uncovered, the costs to uncover, remove, and replace or make good the parts removed will be paid for in accordance with Item for Changes in the Work.

(i) Workmanship: If the OWNER notifies the CONTRACTOR in writing of defective work, the CONTRACTOR shall correct the deficiencies within fourteen (14) calendar days of the Notice at no additional cost to the OWNER. If the defective work is not corrected within fourteen (14) calendar days, or the CONTRACTOR is not making satisfactory progress (in the opinion of the OWNER) to correct the deficiencies, the OWNER may withhold future payments for All Work until the defective work has been corrected to the satisfaction of the OWNER.

4. Subcontracts

The CONTRACTOR shall, as soon as practicable after signing the CONTRACT, submit a separate written notice to the OWNER identifying each proposed SUBCONTRACTOR. Upon request of the OWNER, the CONTRACTOR shall promptly furnish additional information tending to establish that any proposed SUBCONTRACTOR has the necessary facilities, skill, integrity, past experience and financial resources to perform the work in accordance with the terms and conditions of this CONTRACT.

(a) The Contractor shall not execute an agreement with any subcontractor or permit any subcontractor to perform any work included in this contract until Contractor has verified the subcontractor is eligible to participate in federally funded contracts.

(b) No proposed subcontractor shall be disapproved by the City/County except for cause.

(c) The Contractor shall be as fully responsible to the City/County for the acts and omissions of his subcontractors, and of persons either directly or indirectly employed by them. The CONTRACTOR must also submit to the OWNER a revised Schedule of Work and SUBCONTRACTOR/SUPPLIER Payment form anytime there is a change in the SUBCONTRACTOR/SUPPLIER participation on the CONTRACT.

(d) Nothing contained in the Contract Documents shall create any contractual relation between Owner and any Subcontractor or supplier or any party with whom Owner or any of its Subcontractors or suppliers contracts.

(e) Approval of Subcontractor: The CONTRACTOR must submit, with the request for approval of a SUBCONTRACTOR, the location, within the Highland Lakes area, of at least three contracts where the SUBCONTRACTOR has performed construction similar to the construction outlined in the CONTRACT. If required by the OWNER, the SUBCONTRACTOR'S representative will accompany the OWNER'S representative on examination of the referenced work. The CONTRACTOR must also submit to the OWNER a revised Schedule of Work and SUBCONTRACTOR/SUPPLIER Payment form anytime there is a change in the SUBCONTRACTOR/SUPPLIER participation on the CONTRACT.

(f) Subcontractor Replacement: If the OWNER determines that any proposed SUBCONTRACTOR is unacceptable, it shall so notify the CONTRACTOR, who may thereupon submit another proposed SUBCONTRACTOR unless the CONTRACTOR decides to do the work itself. Disapproval by the OWNER

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of any proposed SUBCONTRACTOR shall not provide a basis for any time extension claim or additional compensation of any nature, including but not limited to anticipated profit, overhead, or delay, by the CONTRACTOR. If an approved SUBCONTRACTOR fails to perform properly the work undertaken, it shall be removed from the job upon request of the OWNER, following notification to the CONTRACTOR in writing of the request for removal and the reasons therefore. The CONTRACTOR shall be solely responsible for the acts, omissions, negligence, or defaults of its SUBCONTRACTORS and of such SUBCONTRACTOR'S officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the CONTRACTOR to the extent of its subcontract.

(g) Sub-Contractual Relations: The CONTRACTOR is solely responsible for making payments properly to his SUBCONTRACTORS and SUPPLIERS on the Project. During construction of the Project, the CONTRACTOR shall submit each month a CONTRACTOR'S Report of SUBCONTRACTOR/SUPPLIER Payment (the "Report"). The Report shall show all payments made to date by the CONTRACTOR (plus existing retainage) to each SUBCONTRACTOR and SUPPLIER involved in the Project. The OWNER reserves the right in its sole discretion to withhold payment to the CONTRACTOR should it appear from the Report or other information furnished to the OWNER that the Report has not been properly completed.

(h) Sub-Contractual Claims: When approving this contract, the CONTRACTOR thereby assigns to the City any and all claims for overcharges associated with this contract or any subcontracts directly or indirectly related to the work, which overcharges may arise under the Anti-Trust Laws of the United States, 15 U.S.C.A., Section 1, et seq (1973). The CONTRACTOR shall include in all his subcontracts a clause that requires his SUBCONTRACTORS to assign to the City all claims for overcharges on purchases and supplies, which may arise under the Anti-Trust Laws of the United States, 15 U.S.C.A., Section 1 et seq (1973). The CONTRACTOR shall require his SUBCONTRACTORS to execute a notarized assignment on or before the date of the City's approval of the respective SUBCONTRACTORS for the work, which assignment shall become a part of the prime contract and made a part hereof for all purposes.

The CONTRACTOR agrees to thoroughly review and analyze any claim for additional time, additional compensation, or other damages filed by a SUBCONTRACTOR, in good faith, as to its merits and amount. CONTRACTOR also agrees that it will not present or pass the claim through to the OWNER as if it were the CONTRACTOR'S claim, if the claim is subject to any valid legal or equitable defenses available to either OWNER or CONTRACTOR under the CONTRACT documents, the terms of the Subcontract, or applicable statutory or case law, which defenses include, but are not limited to, any and all notice and claim defenses arising under the Subcontract or the CONTRACT documents. If the SUBCONTRACTOR'S claim is subject to any valid legal or equitable defense under the CONTRACT documents, the Subcontract, or applicable statutory or case law, CONTRACTOR shall, as a condition precedent to the filing of any claim against the OWNER by virtue or any derivative liability of the OWNER under the CONTRACT documents or applicable law, defend against the invalid SUBCONTRACTOR claim in a court of competent jurisdiction, at CONTRACTOR'S sole cost and expense. Failure of CONTRACTOR to defend against invalid SUBCONTRACTOR claims as required in this paragraph shall constitute a complete and unequivocal waiver of any right of CONTRACTOR to seek reimbursement from OWNER. Further, if the CONTRACTOR fails to provide the defense required above, CONTRACTOR shall be obligated to indemnify and reimburse OWNER for all expenses and costs, including but not limited to attorney's fees and expert witness costs, incurred by OWNER in defending any lawsuit based upon a SUBCONTRACTOR claim, in which lawsuit a valid legal or equitable

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defense was available under the CONTRACT documents, the Subcontract or applicable statutory or case law.

5. Fitting and Coordination of Work

(a) The Contractor shall be responsible for the proper fitting of all work and for the coordination of the operations of all trades, subcontractors, or material suppliers engaged upon this Contract.

(b) Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design.

(c) The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

(d) If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection.

6. Payments to Contractor

(a) Partial Payments

1) The Contractor shall prepare the requisition for partial payment as of the last day of the month and submit it, with the required number of copies, to the Engineer for approval. The amount of the payment due the Contractor shall be determined by adding to the total value of work completed to date, the value of materials properly stored on the site and deducting (1) ten percent (10%) of the total amount, to be retained until final payment, and (2) the amount of all previous payments. The total value of work completed to date shall be based on the estimated quantities of work completed and on the unit prices contained in the agreement. The value of materials properly stored on the site shall be based upon the estimated quantities of such materials and the invoice prices. Copies of all invoices shall be available for inspection of the Engineer.

2) Monthly or partial payments made by the City/County to the Contractor are advanced for the purpose of assisting the contractor to expedite the work of construction. The Contractor shall be responsible for the care and protection of all materials and work upon which payments have been made until final acceptance of such work and materials by the City/County. Such payments shall not constitute a waiver of the right of the City/County to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the City/County in all details.

3) The CONTRACTOR for itself or any of its SUBCONTRACTORS shall pay all indebtedness, which may become due to any person, firm, or corporation having furnished labor, material, or both in the performance of this CONTRACT. It shall be the responsibility of each person, firm or corporation claiming to have furnished labor, materials or both, in connection with this CONTRACT, to protect its interest in the manner prescribed by applicable laws of the State of

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Texas, provided, however, that as this Contract provides for a public works project, no lien of any kind shall ever exist or be placed against the work or any portion thereof, or any public funds or retainage held by the OWNER; and any SUBCONTRACTOR shall look solely to the CONTRACTOR and the payment bond surety, and not the OWNER, for payment of any outstanding amounts due for labor, materials or any other indebtedness in connection with the work.

However, the OWNER may, at any time prior to making final payment, require the CONTRACTOR to furnish a Consent of Surety to any payment due the CONTRACTOR for completed work and may, at the discretion of the OWNER or the request of the Surety, make the check jointly payable to the CONTRACTOR and the Surety.

4) Payment for Extra Work: Extra Work done by the CONTRACTOR, as authorized and approved by the OWNER, shall be compensated for in the manner described in this Item and Subsection 7. The compensation provided for Extra Work done constitutes full and final payment for the cost of the Extra Work, which cost is limited to: all reasonable costs of labor, materials, supplies, tools, equipment or machinery rental, power, fuel, lubricants, water and other similar operation expenses (but only for the time that such of the above things are employed or used on such Extra Work) incurred in the performance of the Extra Work, and a ratable proportion of premium expenses for all bonds and insurance required under the Contract, to the extent that the Extra Work would cause an increase in such bond or insurance premiums; and a markup amount of not-to-exceed 15-percent of the above mentioned costs to cover and compensate the CONTRACTOR for profit, overhead, profit-and-overhead markups charged to CONTRACTOR by other subcontractors and suppliers, general supervision, field office expense and all other elements of cost and expense not embraced within the cost of the Extra Work. No cost of off-site storage shall be included in the above description of cost unless off-site storage has been approved and directed by the OWNER in writing. No other claims or reservations of right as to additional costs, prices, markups, costs not permitted to be included under this paragraph, disallowed costs or other future additional money or time shall be accepted; each change order shall be specific and final.

(b) Final Payment

1) After final inspection and the acceptance by the City/County of all work under the Contract, the Contractor shall prepare the requisition for final payment which shall be based upon the careful inspection of each item of work at the applicable unit prices stipulated in the Contract. The total amount of the final payment due the Contractor under this Contract shall be the amount computed as described above less all previous payments.

2) Before paying the final estimate, City/County shall require the Contractor to furnish releases or receipts from all subcontractors having performed any work and all persons having supplied materials, equipment (installed on the Project) and services to the Contractor. The City/County may make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts and any payments made shall in no way impair the obligations of any surety or sureties furnished under this Contract.

3) Any amount due the City/County under Liquidated Damages shall be deducted from the final payment due the contractor.

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4) The contract will be considered fulfilled, save as provided in any maintenance stipulations, bond, or by law, when all the work has been completed, the final inspection, and final acceptance made by the OWNER, and final payment made by the OWNER.

(c) Payments Subject to Submission of Certificates

Each payment to the Contractor by the City/County shall be made subject to submission by the Contractor of all written certifications required of it and its subcontractors.

(d) Withholding Payments

The City/County may withhold any payment due the Contractor as deemed necessary to protect the City/County, and if so elects, may also withhold any amounts due from the Contractor to any subcontractors or material dealers, for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the City/County and will not require the City/County to determine or adjust any claims or disputes between the Contractor and its subcontractors or material dealers, or to withhold any moneys for their protection unless the City/County elects to do so. The failure or refusal of the City/County to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract.

7. Changes in the Work

(a) The City/County may make changes in the scope of work required to be performed by the Contractor under the Contract without relieving or releasing the Contractor from any obligations under the Contract or any guarantee given pursuant to the Contract provisions, and without affecting the validity of the guaranty bonds, and without relieving or releasing the surety or sureties of said bonds. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise. Additionally, all such change orders must be approved by CDBG prior to execution of same.

(b) Except for the purpose of affording protection against any emergency endangering health, life, limb or property, the Contractor shall make no change in the materials used or in the specified manner of constructing and/or installing the improvements or supply additional labor, services or materials beyond that actually required for the execution of the Contract, unless in pursuance of a written order from the City/County authorizing the Contractor to proceed with the change. No claim for an adjustment of the Contract Price will be valid unless so ordered.

(c) If applicable unit prices are contained in the Contract, the City/County may order the Contractor to proceed with desired unit prices specified in the Contract; provided that in case of a unit price contract the net value of all changes does not increase the original total amount of the agreement by more than twenty-five percent (25%) or decrease the original the total amount by eighteen percent (18%).

(d) Each change order shall include in its final form:

- 1) A detailed description of the change in the work.
- 2) The Contractor's proposal (if any) or a confirmed copy thereof.

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- 3) A definite statement as to the resulting change in the contract price and/or time.
- 4) The statement that all work involved in the change shall be performed in accordance with contract requirements except as modified by the change order.
- 5) The procedures as outlined in this Section for a unit price contract also apply in any lump sum contract.

(e) Owner and Contractor may at any time, without notice to or approval of the Surety, by written Change Order hereto, make changes in the Work, the Contract Amount, the Contract Time, or otherwise modify the Contract. If applicable unit prices are contained in the Agreement, the Owner may require the Contractor to proceed with the desired unit prices specified in the Contract; provided that in case of a unit price contract the net value of all changes does not increase the original total amount of the agreement by more than twenty-five percent (25%) or decrease the original total amount by eighteen percent (18%). Any provision in the Contract Documents to the contrary notwithstanding, in the event Contractor receives an order, directive, instructions, or other communication regarding the Work from Owner or Engineers that Contractor believes will result in a change in the scope of Work, the Contract Time and/or the Contract Amount, Contractor shall promptly notify the person making the request, and the OWNER that the requested change will result in an increase in the Contract Time and/or Contract Amount before undertaking the Work.

8. Claims for Extra Cost

Except where otherwise provided in the Contract Documents, claims by the CONTRACTOR, whether for damages, additional compensation, additional time or other reasons must be made by written notice to the OWNER within fourteen days after occurrence of the event or events giving rise to the particular claim. Every claim, whether for damages, additional compensation, additional time or other reasons shall be signed and sworn to by an authorized corporate officer (if not a corporation, then an official of the company authorized to bind the CONTRACTOR by his or her signature) of the CONTRACTOR, verifying the truth and accuracy of the claim. Such verification shall be a condition precedent to the acceptability of any claim asserted by the CONTRACTOR. The CONTRACTOR shall be deemed to have waived any claim not made strictly in accordance with the procedure and time limits set out in this paragraph.

(a) If the Contractor claims that any instructions by Drawings or otherwise involve extra cost or extension of time, he shall, within fourteen days after the receipt of such instructions, and in any event before proceeding to execute the work, submit his protest thereto in writing to the City/County, stating clearly and in detail the basis of his objections. No such claim will be considered unless so made.

(b) Claims for additional compensation for extra work, due to alleged errors in ground elevations, contour lines, or bench marks, will not be recognized unless accompanied by certified survey data, made prior to the time the original ground was disturbed, clearly showing that errors exist which resulted, or would result, in handling more material, or performing more work, than would be reasonably estimated from the Drawings and maps issued.

(c) Any discrepancies which may be discovered between actual conditions and those represented by the Drawings and maps shall be reported at once to the City/County and work shall not proceed except at the Contractor's risk, until written instructions have been received from the City/County.

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(d) If, on the basis of the available evidence, the City/County determines that an adjustment of the Contract Price and/or time is justifiable, a change order shall be executed. The Contractor and Subcontractor will be allowed mark-up percentages for overhead and profit for changes in the Work as described below, unless the Agreement sets forth different provisions for determining overhead and profit. In the event of a conflict, the provisions of the Agreement shall control. The maximum allowable mark-up percentage of the actual cost of the Work will be 15% on the first \$20,000 and 10% on the balance over \$20,000.

If subcontracted work is involved, the Contractor will include with Contractor's cost proposal a detailed breakdown for the Subcontractor in accordance with the above requirements for the Contractor. The Subcontractor will be allowed the same mark-up percentages as provided above for the Contractor. The Contractor will be allowed the following mark-up on subcontracted work: a maximum of 8% on the first \$30,000, and 5% on the balance over \$30,000. Under no circumstances will the OWNER be obligated to accept any change orders requested by the contractor.

9. Termination, Delays, and Liquidated Damages

1) Right of the City/County to Terminate Contract for Convenience

City/County may at any time and for any reason terminate Contractor's services and work at City/County's convenience upon providing written notice to the Contractor specifying the extent of termination and the effective date. Upon receipt of such notice, Contractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement.

- a. The performance of the work under this Contract may be terminated by the OWNER in whole or from time to time in part, in accordance with this section, whenever the OWNER shall determine that such termination is in the best interest of the OWNER. Any such termination shall be effected by serving a notice of termination to the CONTRACTOR specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective. Further, it shall be deemed conclusively presumed and established that such termination is made with just cause as therein stated; and no proof in any claim, demand or suit shall be required of the OWNER regarding such discretionary action.
- b. Upon such termination, Firm shall be entitled to payment only as follows: (1) the actual cost of the work completed in conformity with this Agreement plus (2) such other costs actually incurred by Firm as are permitted by the prime contract and approved by City/County. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Firm prior to the date of the termination of this Agreement. Firm shall not be entitled to any claim or claim of lien against City/County for any additional compensation or damages in the event of such termination and payment.
- c. Contractor Action: After receipt of a notice of termination, and except as otherwise directed by the OWNER, the CONTRACTOR shall:
 - i. Stop Work: Stop work under the CONTRACT on the date and to the extent specified in the notice of termination.

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- ii. No Further Orders: Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion the work under the CONTRACT as is not terminated.
 - iii. Deliver and Assign to OWNER: At the OWNER'S written request, deliver and assign to OWNER, or any person or entity acting on the OWNER'S behalf, any or all subcontracts, purchase orders and options made by CONTRACTOR in the performance of the work, and deliver to the OWNER true and correct originals and copies of such CONTRACT Documents.
 - iv. Transfer Title to OWNER: Transfer title to the OWNER and deliver in the manner, at the times, and to the extent, if any, directed by the OWNER:
 - 1. Deliver Fabricated or Un-fabricated Parts: The fabricated or un-fabricated parts, work in process, completed work, supplies and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the notice of termination; and
 - 2. Deliver Completed or Partially Completed Plans: The completed or partially completed plans, drawings, information, and other property which, if the CONTRACT had been completed, would have been required to be furnished to the OWNER.
 - v. Complete Performance: Complete performance of such part of the work as shall not have been terminated by the notice of termination.
 - vi. Protect and Preserve Property: Take such action as may be necessary, or as the OWNER may direct, for the protection and preservation of the property related to its CONTRACT which is in the possession of the CONTRACTOR and in which the OWNER has or may acquire an interest.
 - vii. At a time not later than thirty (30) Calendar Days after the termination date specified in the notice of termination, the CONTRACTOR may submit to the OWNER a list, certified as to the quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the OWNER. Not later than fifteen (15) Calendar Days thereafter, the OWNER shall accept title to such items and remove them or enter into a storage agreement covering the same, provided that the list submitted shall be subject to verification by the OWNER upon removal of the items, or, if the items are stored, within forty-five (45) Calendar Days from the date of submission of the list, and provided that any necessary adjustments to correct the list as submitted shall be made prior to final settlement.
- d. Claim Venue: The parties herein agree that this Contract shall be performed in the county in which the OWNER'S principal office is located, and if legal action is necessary in connection therewith, exclusive venue shall lie in this county. The terms and provisions of the Contract documents shall be construed in accordance with the laws and court decisions of the State of Texas. The Contract shall be governed by and interpreted in accordance with the laws of the State of Texas. Venue for any action brought in connection with the Contract Documents shall lie in courts of competent jurisdiction in Burnet County, Texas. If any provision or part of the Contract Documents is held to be

void or unenforceable under any Law or Regulation, all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

In the event of any suit or action arising out of or relating to the Contract, the prevailing party in such proceeding shall be entitled to recover reasonable attorney fees and court costs. Reference is made to Section 271.159 of the Texas Local Government Code in connection with the recovery of attorney's fees. The parties agree to mediate any dispute arising in connection with the Contract Documents in good faith prior to filing suit for damages. The parties agree to mediate any dispute in good faith prior to filing suit for relief other than injunctive relief.

2) Right of the City/County to Terminate Contract for Cause

In the event that any of the provisions of this contract are violated by the Contractor, or by any subcontractors, the City/County may serve written notice upon the Contractor and the Surety of its intention to terminate the contract. The notices shall contain the reasons for such intention to terminate the contract, and unless such violation or delay shall cease and satisfactory arrangement of correction be made within ten days, the contract shall, upon the expiration of said ten (10) days, cease and terminate. In the event of any such termination, the City/County shall immediately serve notice thereof upon the Surety and the Contractor. The Surety shall have the right to take over and perform the contract. Provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the City/County may take over the work and complete the project by bid/contract or by force account at the expense of the Contractor and his Surety shall be liable to the City/County for any excess cost incurred. In such event the City/County may take possession of and utilize in completing the work, such materials, appliances, and plant as may be on the site of the work and necessary therefore.

3) Liquidated Damages for Delays.

If the work is not completed within the time stipulated in the applicable bid for Lump Sum or Unit Price Contract provided, the Contractor shall pay to the City/County as fixed, agreed, and liquidated damages (it being impossible to determine the actual damages occasioned by the delay) the amount of \$500.00 for each calendar day of delay, until the work is completed. The Contractor and Contractor's sureties shall be liable to the City/County for the amount thereof. The CONTRACTOR may be entitled to an extension of working time under this CONTRACT only when all details supporting the claims for such extension are submitted to the OWNER in writing by the CONTRACTOR within fourteen (14) days from and after the time when any alleged cause of delay shall occur, and then only when such time is approved by the OWNER. The CONTRACTOR shall notify the OWNER immediately upon encountering any condition that the CONTRACTOR believes may cause a claim for a time extension.

The sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but shall be deemed, taken and treated as reasonable liquidated damages, per day that

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the CONTRACTOR shall be in default after the time stipulated in the Contract for completing the work. The said amounts are fixed and agreed upon by and between OWNER and CONTRACTOR because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the OWNER in such event would sustain; and said amounts are agreed to be the amount of damages which the OWNER would sustain and which shall be retained from the monies due, or that may become due, the CONTRACTOR under this Contract; and if said monies be insufficient to cover the amount owing, then the CONTRACTOR or its surety shall pay any additional amounts due. In the event that the actual damages incurred by the OWNER exceed the amount of liquidated damages, OWNER shall be entitled to recover its actual damages.

(a) Excusable Delays.

- a. The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due to:
- b. Any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency;
- c. Any acts of the City/County;
- d. Causes not reasonably foreseeable by the parties to this Contract at the time of execution which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God, terrorism, war, acts of another Contractor in the performance of some other contract with the City/County, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones and other extreme weather conditions.

b) Provided, however, that the Contractor promptly notifies the City/County within the time as written in subsection above in writing of the cause of the delay. Upon receipt of such notification, the City/County shall ascertain the facts and the cause and extent of delay. If, upon the basis of the facts and the terms of this contract, the delay is properly excusable, the City/County shall extend the time for completing the work for a period of time commensurate with the period of excusable delay. In adjusting the CONTRACT time for the completion of the project, unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR, including but not restricted to inability to obtain supplies and materials when orders for such supplies and materials were timely made and materials are not available from other sources, acts of God or the public enemy, acts of the OWNER, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather conditions, ozone alerts as determined by the National Weather Bureau or other authorized agency, or delays of SUBCONTRACTORS due to such causes beyond their control shall be taken into consideration.

(c) If the satisfactory execution and completion of the CONTRACT should require work and materials in greater amounts or quantities than those set forth in the CONTRACT, requiring more time for completion than the anticipated time, then the CONTRACT time may be equitably increased, but not more than in the same proportion as the cost of the additional work bears to the cost of the original work contracted for. No allowances shall be made for delays or suspension of the performance of the work due to the fault of the CONTRACTOR.

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4) TEMPORARY WORK SUSPENSION: The OWNER shall have the right by written order to suspend the work temporarily, in whole or in part, whenever, in the judgment of the OWNER, such temporary suspension is required.

- a. Because it is in the interest of the OWNER generally;
- b. Due to government or judicial controls or orders which make performance of this CONTRACT temporarily impossible or illegal;
- c. To coordinate the work of separate contractors at the job site;
- d. To expedite the completion of a separate contract even though the completion of this particular CONTRACT may be thereby delayed;
- e. Because of weather conditions unsuitable for performance of the work, including of designated ozone alerts as determined by the National Weather Bureau or other authorized agency; or
- f. Because the CONTRACTOR is proceeding contrary to CONTRACT provisions or has failed to correct conditions considered unsafe for workers.
- g. Because of certain events and activities occurring in proximity to the construction where it would be in the best interest of the public and the CONTRACTOR for such work to be suspended.

The written order of the OWNER to the CONTRACTOR shall state the reasons for suspending the work and the anticipated periods for such suspension. Upon receipt of the OWNER'S written order, the CONTRACTOR shall suspend the work covered by the order and shall take such means and precautions as may be necessary to properly protect the finished and partially finished work, the unused materials and uninstalled equipment, including the provision of suitable drainage about the work and the erection of temporary structures where necessary. The CONTRACTOR shall not suspend the work without written order from the OWNER and shall proceed with the work promptly when notified by the OWNER to resume operations.

No additional compensation shall be paid to the CONTRACTOR for any suspension under Item for Reasons for Suspension, above or otherwise where same is caused by the fault of the CONTRACTOR. Where such temporary suspension is not due to the fault of the CONTRACTOR, or as a result of a designated Ozone Alert Period, it shall be entitled to:

- a. an equitable extension of working time for the completion of the work, not to exceed the delay caused by such temporary suspension, as determined by the OWNER; and
- b. the actual and necessary costs of properly protecting the finished and partially finished work, unused materials and uninstalled equipment during the period of the ordered suspension as determined by the OWNER as being beyond the CONTRACT requirements, such costs, if any, to be determined on the basis set forth in Item for Payment for Extra Work, herein; and
- c. where the CONTRACTOR elects to move equipment from the job site and then return it to the site when the work is ordered resumed, the actual and necessary costs of these moves, in an amount determined by the OWNER under the provisions of Item of Payment for Extra Work; provided, however, no compensation shall be allowed if the equipment is moved to another construction project for the OWNER.
- d. Where such temporary suspension is not due to the fault of the CONTRACTOR and is the result of a designated Ozone Alert Period, the CONTRACTOR shall be entitled to additional time as provided above, but is not entitled to additional compensation.

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Other than the additional time and compensation stated above, CONTRACTOR shall not be entitled to any other time extension related to the suspension, nor any additional compensation in any way related to such suspension.

5) Emergency Contract Termination Clause: Whenever, because of a national emergency, so declared by the President of the United States, or other lawful authority, it shall be impossible for the CONTRACTOR to obtain all labor, materials, and equipment necessary for the prosecution of the work with reasonable continuity, the CONTRACTOR shall notify the OWNER. If the OWNER cannot, after a reasonable time, help obtain priorities for the materials and equipment within a reasonable effort, then the Contract shall be considered as terminated, and the CONTRACTOR shall be entitled to payment for work performed that is acceptable to OWNER based upon unit prices contained in the bid or, if the Contract is lump sum, then based upon the schedule of values submitted by the CONTRACTOR. CONTRACTOR shall not be entitled to any compensation for anticipated profit, overhead, delay damages or any other compensation for work that has not been performed.

10. Assignment or Novation

The Contractor shall not assign nor transfer, whether by assignment or novation, any of its rights, duties, benefits, obligations, liabilities, or responsibilities under this Contract without the written consent of the City/County. No assignment or novation of this Contract shall be valid unless the assignment or novation expressly provides that the assignment of any of the Contractor's rights or benefits under the Contract is subject to a prior lien for labor performed, services rendered, and materials, tools, and equipment supplied for the performance of the work under this Contract in favor of all persons, Contractors, or corporations rendering such labor or services or supplying such materials, tools, or equipment. The CONTRACTOR shall not assign, either legally or equitably, by power of attorney or otherwise, any of the monies due or to become due under this Contract or its claim thereto without the prior written consent of the Surety company and the written approval of the OWNER. Nothing in this paragraph is intended to conflict with Texas Business and Commerce Code. If the CONTRACTOR does, without the consent of the OWNER, assign, transfer, convey, or otherwise dispose of the contract or of the CONTRACTOR'S right, title or interest therein, or any part thereof to any person or persons, partnership, company, firm or corporation, or by bankruptcy, voluntary or involuntary, or by assignment under the insolvency laws of any state, attempt to dispose of the contract or make default in or abandon said contract, then the contract may, at the option of the OWNER, be revoked and annulled, unless the sureties shall successfully complete said contract, and any monies due or to become due under this contract shall be retained by the OWNER as liquidated damages for the reason that it would be Impracticable and difficult to fix the actual damage.

11. Technical Specifications and Drawings

Anything mentioned in the Technical Specifications and not shown on the Drawings or vice versa shall be of like effect as if shown on or mentioned in both. In case of difference between Drawings and Technical Specifications, the Technical Specifications shall govern. In case of any discrepancy in Drawings, or Technical Specifications, the matter shall be immediately submitted to the City/County for review. Contractor shall be liable for any issues or expenses in the event the discrepancy is not submitted to the City/County.

12. Shop Drawings

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(a) All required shop drawings, machinery details, layout drawings, etc. shall be submitted to the Engineer in 2 hard copies or 1 electronic copy for approval sufficiently in advance of requirements to afford ample time for checking, including time for correcting, resubmitting and rechecking if necessary. The Contractor may proceed, only at Contractor's own risk, with manufacture or installation of any equipment or work covered by said shop drawings, etc. until they are approved and no claim, by the Contractor, for extension of the contract time shall be granted by reason of his failure in this respect.

(b) Any drawings submitted without the Contractor's stamp of approval will not be considered and will be returned to him for proper resubmission. If any drawings show variations from the requirements of the Contract because of standard shop practice or other reason, the Contractor shall make specific mention of such variation in his letter of transmittal in order that, if acceptable, suitable action may be taken for proper adjustment of contract price and/or time, otherwise the Contractor will not be relieved of the responsibility for executing the work in accordance with the Contract even though the drawings have been approved.

(c) If a shop drawing is in accordance with the contract or involves only minor adjustment in the interest of the City/County not involving a change in contract price or time, the engineer may approve the drawing. The approval shall not relieve the Contractor from responsibility to adhere to the contract or for any error in the drawing.

13. Requests for Supplementary Information

It shall be the responsibility of the Contractor to make timely requests of the City/County for any additional information which should be furnished by the City/County under the terms of this Contract, and which is required in the planning and execution of the work. Such requests may be submitted from time to time as the need approaches, but each shall be filed in ample time to permit appropriate action to be taken by all parties involved so as to avoid delay. Each request shall be in writing, and list the various items and the latest date by which each will be required by the Contractor. The first list shall be submitted within two weeks after Contract award and shall be as complete as possible at that time. The Contractor shall, if requested, furnish promptly any assistance and information the Engineer may require in responding to these requests of the Contractor. The Contractor shall be fully responsible for any delay in his work or to others arising from his failure to comply fully with the provision of this section.

14. Materials and Workmanship

(a) Unless otherwise specifically provided for in the technical specifications, all workmanship, equipment, materials and articles incorporated in the work shall be new and the best grade of the respective kinds for the purpose. Where equipment, materials, articles or workmanship are referred to in the technical specifications as "equal to" any particular standard, the Engineer shall decide the question of equality.

(b) The Contractor shall furnish to the City/County for approval the manufacturer's detailed specifications for all machinery, mechanical and other special equipment, which he contemplates installing together with full information as to type, performance characteristics, and all other pertinent information as required, and shall likewise submit for approval full information concerning all other materials or articles which he proposes to incorporate.

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(c) Machinery, mechanical and other equipment, materials or articles installed or used without such prior approval shall be at the risk of subsequent rejection.

(d) Materials specified by reference to the number or symbol of a specific standard, shall comply with requirements in the latest revision thereof and any amendment or supplement thereto in effect on the date of the Invitation for Bids, except as limited to type, class or grade, or modified in the technical specifications shall have full force and effect as though printed therein.

(e) The City/County may require the Contractor to dismiss from the work such employee or employees as the City/County or the Engineer may deem unqualified.

(f) Domestic Preferences - As appropriate and to the extent consistent with law and to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(g) Material Substitution: No substitutions will be permitted until the CONTRACTOR has received written permission of the Engineer to make a substitution for the material that has been specified. The Owner reserves the right to refuse to accept substitutions of materials or equipment. Requests for substitution shall be made prior to the date of the preconstruction conference. Where the term "or equal," or "or approved equal" is used, it is understood that if a material, product, or piece of equipment bearing the name so used is furnished it will be approvable, as the particular trade name was used for the purpose of establishing a standard of quality acceptable to the OWNER. If a product of any other name is proposed for use, the Engineer's approval thereof must be obtained before the CONTRACTOR procures the proposed substitute.

Where the term "or equal," or "or approved equal" is not used in the specifications, this does not necessarily exclude alternative items or material or equipment which may accomplish the intended purpose. However, the CONTRACTOR shall have the full responsibility of proving that the proposed substitution is, in fact, equal, and the Engineer, as the representative of the OWNER, shall be the sole judge of the acceptability of substitutions. The provisions of this sub-section as related to "Substitutions" shall be applicable to all sections of these specifications.

Should an authorized substitution require redesign of a portion of the work or alterations to the plans or specifications in order for the materials or articles which are to be substituted to properly fit or in other ways to be satisfactory, the Engineer shall accomplish such redesigns and alterations. The CONTRACTOR shall bear all reasonable costs associated with redesign and alteration efforts performed by the Engineer.

The CONTRACTOR warrants to the OWNER that all materials and equipment furnished under this Contract shall be new unless otherwise specified in the Contract documents and that same shall be of good quality and workmanship, free from faults and defects and in conformance with the Contract documents. All materials and equipment not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective and shall be promptly repaired or replaced by the CONTRACTOR at the CONTRACTOR's sole cost upon demand of the OWNER. If required by the OWNER, the CONTRACTOR shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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No lead based paint and no materials containing asbestos shall be incorporated into the Project. Coal tar sealants shall not be used on the Project. Contractor, subcontractors, and suppliers may be required to certify that these materials were not provided or installed as part of this Contract.

For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

15. Samples, Certificates and Tests

(a) The Contractor shall submit all material or equipment samples, certificates, affidavits, etc., as called for in the contract documents or required by the Engineer, promptly after award of the contract and acceptance of the Contractor's bond. No such material or equipment shall be manufactured or delivered to the site, except at the Contractor's own risk, until the required samples or certificates have been approved in writing by the Engineer. Any delay in the work caused by late or improper submission of samples or certificates for approval shall not be considered just cause for an extension of the contract time.

(b) Each sample submitted by the Contractor shall carry a label giving the name of the Contractor, the project for which it is intended, and the name of the producer. The accompanying certificate or letter from the Contractor shall state that the sample complies with contract requirements, shall give the name and brand of the product, its place of origin, the name and address of the producer and all specifications or other detailed information which will assist the Engineer in making a prompt decision regarding the acceptability of the sample. It shall also include the statement that all materials or equipment furnished for use in the project will comply with the samples and/or certified statements.

(c) Approval of any materials shall be general only and shall not constitute a waiver of the City/County's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer will have such check tests made as he deems necessary in each instance and may reject materials and equipment and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories which fail to meet check tests have been incorporated in the work, the Engineer will have the right to cause their removal and replacement by proper materials or to demand and secure such reparation by the Contractor as is equitable.

(d) Except as otherwise specifically stated in the Contract, the costs of sampling and testing will be divided as follows:

- 1) The Contractor shall furnish without extra cost, including packing and delivery charges, all samples required for testing purposes, except those samples taken on the project by the Engineer;
- 2) The Contractor shall assume all costs of re-testing materials which fail to meet contract requirements;

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3) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient;

4) The City/County will pay all other expenses.

16. Permits and Codes

(a) The Contractor shall give all notices required by and comply with all applicable federal and state laws, ordinances, and codes of the Local Government. All construction work and/or utility installations shall comply with all applicable ordinances, and codes including all written waivers. Before installing any work, the Contractor shall examine the drawings and technical specifications for compliance with applicable ordinances and codes and shall immediately report any discrepancy to the City/County. Where the requirements of the drawings and technical specifications fail to comply with such applicable ordinances or codes, the City/County will adjust the Contract by Change Order to conform to such ordinances or codes (unless waivers in writing covering the difference have been granted by the governing body or department) and make appropriate adjustment in the Contract Price or stipulated unit prices.

(b) Should the Contractor fail to observe the foregoing provisions and proceed with the construction and/or install any utility at variance with any applicable ordinance or code, including any written waivers (notwithstanding the fact that such installation is in compliance with the drawings and technical specifications), the Contractor shall remove such work without cost to the City/County.

(c) The Contractor shall at his own expense, secure and pay for all permits for street pavement, sidewalks, shed, removal of abandoned water taps, sealing of house connection drains, pavement cuts, buildings, electrical, plumbing, water, gas and sewer permits required by the local regulatory body or any of its agencies.

(d) The Contractor shall comply with applicable local laws and ordinances governing the disposal of surplus excavation, materials, debris and rubbish on or off the Project Area and commit no trespass on any public or private property in any operation due to or connected with the Improvements contained in this Contract.

(e) The Contractor will be required to make arrangements for and pay the water, electrical power, or any other utilities required during construction.

(f) During construction of this project, the Contractor shall use every means possible to control the amount of dust created by construction. Prior to the close of a day's work, the Contractor, if directed by the City/County, shall moisten the surrounding area to prevent a dusty condition.

17. Care of Work

(a) The Contractor shall be responsible for all damages to person or property that occur as a result of its fault or negligence in connection with the prosecution of the work and shall be responsible for the proper care and protection of all materials delivered and work performed until completion and final acceptance.

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(b) In an emergency affecting the safety of life, limb or property, including adjoining property, the Contractor, without special instructions or authorization from the City/County is authorized to act to prevent such threatened loss or injury. Contractor shall follow all instructions of City/County.

(c) The Contractor shall avoid damage as a result of his operations to existing sidewalks, streets, curbs, pavements, utilities (except those which are to be replaced or removed), adjoining property, etc., and shall be responsible for completely repairing any damage thereto caused by the operations.

(d) The Contractor shall shore up, brace, underpin, secure, and protect as maybe necessary, all foundations and other parts of existing structures adjacent to, adjoining, and in the vicinity of the site, which may be in any way affected by the excavations or other operations connected with the construction of the improvements included in this Contract. The Contractor shall be responsible for the giving of any and all required notices to any adjoining or adjacent property owner or other party before the commencement of any work. The Contractor shall indemnify and save harmless the City/County from any damages on account of settlements or the loss of lateral support of adjoining property and from all loss or expense and all damages for which the City/County may become liable in consequence of such injury or damage to adjoining and adjacent structures and their premises.

18. Accident Prevention

(a) No laborer or mechanic employed in the performance of this Contract shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health or safety as determined under construction safety and health standards promulgated by the Department of Labor.

(b) The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the site, which occur as a result of his prosecution of the work.

(c) The Contractor shall maintain an accurate record of all cases of death, occupational disease, or injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment on work under the Contract. The Contractor shall promptly furnish the City/County with reports concerning these matters.

(d) The Contractor shall indemnify and hold harmless the City/County from any claims for damages resulting from property damage, personal injury and/or death suffered or alleged to have been suffered by any person as a result of any work conducted under this contract.

(e) The Contractor shall provide trench safety for all excavations more than five feet deep prior to excavation. All OSHA Standards for trench safety must be adhered to by the Contractor.

(f) The contractor shall at all time conduct work in such a manner as to ensure the least possible inconvenience to vehicular and pedestrian traffic. At the close of the work each day, all streets where possible in the opinion of the City/County, shall be opened to the public in order that persons living in the area may have access to their homes or businesses by the use of the streets. Barricades, warning signs, and necessary lighting shall be provided to the satisfaction of the City/County at the expense of the Contractor.

19. Sanitary Facilities

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The Contractor shall furnish, install and maintain ample sanitary facilities for laborers. As the needs arise, a sufficient number of enclosed temporary toilets shall be conveniently placed as required. Drinking water shall be provided from an approved source, so piped or transported as to keep it safe and fresh and served from single service containers or satisfactory types of sanitary drinking stands or fountains. All such facilities and services shall be furnished in strict accordance with existing and governing health regulations.

20. Use of Premises

(a) The Contractor shall confine equipment, storage of materials, and construction operations to the contract limits as shown on the drawings and as prescribed by ordinances or permits, or as may be desired by the City/County, and shall not unreasonably encumber the site or public rights of way with materials and construction equipment.

(b) The Contractor shall comply with all reasonable instructions of the City/County and all existing federal, state and local regulations regarding signs, advertising, traffic, fires, explosives, danger signals, and barricades.

(c) During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. At the completion of the Work CONTRACTOR shall remove all waste materials, rubbish and debris from and about the premises as well as tools, appliances, construction equipment and machinery and surplus materials. CONTRACTOR shall leave the site clean and ready for occupancy by OWNER at Substantial Completion of the Work. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents.

21. Removal of Debris, Cleaning, Etc.

The Contractor shall, periodically or as directed during the progress of the work, remove and legally dispose of all surplus excavated material and debris, and keep the Project Area and public rights of way reasonably clear. Upon completion of the work, CONTRACTOR shall remove litter, debris, objectionable material, temporary structures, excess materials, and equipment from the work locations. Clean and restore property damaged by the Contractor's operations during the prosecution of the work. Leave the work locations in a neat and presentable condition. This work will not be paid for directly but will be considered subsidiary to Items of the Contract. Remove from the right of way cofferdams, construction buildings, material and fabrication plants, temporary structures, excess materials, and debris resulting from construction.

Where work is in a stream, remove debris to the ground line of the bed of the stream. Leave stream channels and rights of way in a neat and presentable condition. Clean structures to the flow line or the elevation of the outfall channel, whichever is higher. Dispose of all excess material in accordance with federal, state, and local regulations.

The Contractor shall remove all spillage and tracking arising from the performance of the Work from such areas, and shall establish a regular maintenance program of sweeping and hosing to minimize accumulation of dirt and dust upon such areas. Contractor's construction of the Work shall include removal of spatters and spills from materials and landscaping shall be neat and plants and grass installed as part of the Project shall be healthy and in good condition, and exterior surfaces shall be

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clean, neat, and free of debris. If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof shall be charged to the Contractor.

The aforementioned site cleanup shall be done regardless whether there is a pending claim against the OWNER. The OWNER reserves the right to withhold a minimum payment of 10 (ten) percent of total contract price up to a maximum of 25 (twenty five) percent of total contract price from the contractor if OWNER has deemed the site improperly clean, safe, or fully finished per design drawings, general specifications, and special condition specifications.

22. Inspection

(a) All materials and workmanship shall be subject to inspection, examination, or test by the City/County and Engineer at any and all times during manufacture or construction and at any and all places where such manufacture or construction occurs. The City/County shall have the right to reject defective material and workmanship or require its correction. Unacceptable workmanship shall be satisfactorily corrected. Rejected material shall be promptly segregated and removed from the Project Area and replaced with material of specified quality without charge. If the Contractor fails to proceed at once with the correction of rejected workmanship or defective material, the City/County may by contract or otherwise have the defects remedied or rejected materials removed from the Project Area and charge the cost of the same against any Monies which may be due the Contractor, without prejudice to any other rights or remedies of the City/County.

Inspections shall be requested through the appropriate appointed contract, a minimum of 24 hours prior to the need for inspection. The CONTRACTOR shall assure that the OWNER is aware of any work being performed on the project prior to the work taking place, and the CONTRACTOR should obtain written verification from the OWNER if an inspection is not needed before proceeding with any particular item of work.

(b) The Contractor shall furnish promptly all materials reasonably necessary for any tests which may be required. All tests by the City/County will be performed in such manner as not to delay the work unnecessarily and will be made in accordance with the provisions of the technical specifications.

(c) The Contractor shall notify the City/County sufficiently in advance of back filling or concealing any facilities to permit proper inspection. If any facilities are concealed without approval or consent of the City/County, the Contractor shall uncover for inspection and recover such facilities at Contractor's expense, when so requested by the City/County.

(d) Should it be considered necessary or advisable by the City/County at any time before final acceptance of the entire work to make an examination of work already completed, the Contractor shall on request promptly furnish all necessary facilities, labor, and material. If such work is found to be defective in any important or essential respect, due to fault of the Contractor or subcontractors, the Contractor shall defray all the expenses of such examination and of satisfactory reconstruction. If, however, such work is found to meet the requirements of the Contract, the actual cost of labor and material necessarily involved in the examination and replacement, shall be reimbursable and if completion of the work of the entire Contract has been delayed, a suitable extension of time will be approved.

(e) Inspection of materials and appurtenances to be incorporated in the improvements included in this Contract may be made at the place of production, manufacture or shipment, whenever the

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quantity justifies it, and such inspection and acceptance, unless otherwise stated in the technical specifications, shall be final, except as regards to: (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Subject to the requirements contained in the preceding sentence, the inspection of materials as a whole or in part will be made at the Project Site.

(f) Neither inspection, testing, approval nor acceptance of the work in whole or in part, by the City/County or its agents shall relieve the Contractor or its sureties of full responsibility for materials furnished or work performed not in strict accordance with the Contract.

(g) **Removal of Defective or Unauthorized Work:** All work which has been rejected or condemned shall be repaired, or if it cannot be repaired satisfactorily, it shall be removed and replaced at the CONTRACTOR's expense. Defective materials shall be immediately removed from the site of the work. Work done without line and grade having been given, work done beyond the lines or not in conformity with the grades shown on the plans or as given, save as herein provided, work done without written authority and prior agreement in writing as to process, shall be done at the CONTRACTOR's risk and shall be considered unauthorized and at the option of the owner may not be measured and paid for and may be ordered removed at the CONTRACTOR's expense. Upon failure of the CONTRACTOR to repair satisfactorily or to remove and replace, if so directed, rejected, unauthorized or condemned work or materials immediately after receiving notice from the owner, the owner shall, after giving written notice to the CONTRACTOR, have the authority to cause defective work to be remedied or removed and replaced, or to cause unauthorized work to be removed and to deduct the cost thereof from any monies due or to become due the CONTRACTOR. Alternatively, the owner may, at its option, declare the CONTRACTOR in default, in which event the performance bond surety shall complete the Contract.

(h) **Owner Site Visits:** OWNER, ENGINEER, or its representative, will make visits to the site at intervals appropriate to the various stages of construction as OWNER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER will endeavor for the benefit of OWNER to determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. ENGINEER will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work.

23. Review by City/County

The City/County and its authorized representatives and agents shall have access to and be permitted to observe and review all work, materials, equipment, payrolls, personnel records, employment conditions, material invoices, and other relevant data and records pertaining to this Contract, provided, however that all instructions and approval with respect to the work will be given to the Contractor only by the City/County through its authorized representatives or agents.

24. Final Inspection

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Whenever the improvements provided for by the Contract shall have been completely performed on the part of the CONTRACTOR, the CONTRACTOR shall notify the OWNER that the improvement is ready for final inspection. If the work is not acceptable to the OWNER at the time of such inspection, OWNER shall inform CONTRACTOR as to the particular defects to be remedied before final acceptance shall be made. The OWNER shall make final inspection of all work included in the Contract as soon as practicable after remedies have been made and the work is ready for acceptance.

Unless otherwise specified in the technical section of these specifications, the CONTRACTOR shall, after test and acceptance, and for a period of one year from date of final written acceptance by the OWNER or within such longer or shorter period of time as may be prescribed by law or by the terms of any other applicable special warranty on designated equipment or portions of work as required by the contract documents, rebuild, repair, or replace any and all items which have proven defective due to unsatisfactory material and / or workmanship. Upon written notice from the OWNER, the CONTRACTOR shall immediately make any repairs that may be ordered, or such repairs will be made by the City of Burnet at the expense of the CONTRACTOR or the CONTRACTOR'S Surety. In case of an emergency where delay would cause serious loss or damage, the City of Burnet may undertake to have the defects repaired without previous notice. The expense of all repairs, including all emergency repairs, shall be borne by the CONTRACTOR or the CONTRACTOR'S Surety, at no cost to the OWNER. This obligation shall survive termination of the contract.

25. Deduction for Uncorrected Work

If the City/County deems it not expedient to require the Contractor to correct work not done in accordance with the Contract Documents, an equitable deduction from the Contract Price will be made by agreement between the Contractor and the City/County and subject to settlement, in case of dispute, as herein provided.

In arriving at the amount due the CONTRACTOR under this section, there shall be deducted:

- a) All unliquidated advance or other payments on account theretofore made to the CONTRACTOR, applicable to the terminated portion of this Contract.
- (b) Any claim which the OWNER may have against the CONTRACTOR in connection with this Contract.
- (c) The agreed price for or the proceeds of sale of any materials, supplies or other things kept by the CONTRACTOR or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the OWNER.

26. Insurance and Bonds

The Contractor shall not commence work under this contract until all required insurance under this paragraph has been secured and approved by the City/County.

- (a) Prior to the commencement of any work under this Contract, Contractor shall furnish an original completed Certificate(s) of Insurance to the Burnet City Manager, which shall be clearly labeled "City of Burnet Hill Country Advocacy Center Building Project" in the Description of Operation block of the Certificate. The original certificate(s) shall be completed by an agent authorized to bind the named underwriter(s) and their company to the coverage, limits, and termination provisions shown thereon, containing all required information referenced or indicated thereon. The original certificate(s) or form must have the agent's

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original signature, including the signer's company affiliation, title and phone number, and be mailed directly from the agent to the City. The City shall have no duty to pay or perform under this Contract until such certificate shall have been delivered to the Burnet City Manager, and no officer or employee, other than the City Council, shall have authority to waive this requirement.

- (b) The City reserves the right to review the insurance requirements of this Article during the effective period of this Contract and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent, but in no instance will City allow modifications whereupon City may incur increased risk.

- (c) A Contractor's financial integrity is of interest to the City; therefore, subject to Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and submitted to do business in the State of Texas and rated A- or better by A.M. Best Company and/or otherwise acceptable to the City, in the following types and amounts:

| | |
|---|--|
| <p>1. Workers' Compensation Employers Liability</p> | <p>Statutory \$1,000,000/\$1,000,000/\$1,000,000</p> |
| <p>2. Commercial General (Public) Liability Insurance to include coverage for the following:</p> <ul style="list-style-type: none"> a. Premises/operations b. Independent contractors* c. Products/completed operations d. Contractual liability e. Explosion, collapse, underground* f. Broad form property damage, to include fire legal liability* | <p><u>F</u>or <u>B</u>odily <u>I</u>njury and <u>P</u>roperty <u>D</u>amage of \$1,000,000 per occurrence; \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage</p> |

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| | |
|---|--|
| <p>3. Business Automobile Liability</p> <p>a. Owned/leased vehicles</p> <p>b. Non-owned vehicles</p> <p>c. Hired vehicles</p> | <p>Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence</p> |
| <p>4. Professional Liability (Claims Made Form)</p> | <p>\$1,000,000 per claim to pay on behalf of the insured all sums which insured shall become legally obligated to pay as damages by reason of an act, malpractice, error or omission in professional services.</p> |
| <p>* If Applicable</p> | |

(d) Worker's Compensation Insurance: The Contractor shall procure and shall maintain during the life of this contract Worker's Compensation Insurance as required by the State of Texas for all of his employees to be engaged in work at the site of the project under this contract and, in case of any such work sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for all of the employees to be engaged in such work unless such employees are covered by the protection afforded by the Contractor's Worker's Compensation Insurance.

(e) Contractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance. The Contractor shall procure and shall maintain during the life of this contract Contractor's Public Liability Insurance, Contractor's Property Damage Insurance and Vehicle Liability Insurance in the following amounts: (See table Above).

(f) Proof of Insurance: The Contractor shall furnish the City/County with certificates showing the type, amount, class of operations covered, effective dates and date of expiration of policies. Such certificates shall also contain substantially the following statement: "The insurance covered by this certificate will not be canceled or materially altered, except after ten (10) days written notice has been received by the City/County." The City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Contractor shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City, at the address provided in herein and within the time specified above, of the requested change. Contractor shall pay any costs incurred resulting from said change.

(g) Contractor agrees that with respect to the above required insurance, all insurance contracts and Certificate(s) of Insurance will contain the following required provisions:

Resolution Hill Country Children's Advocacy Center Building Project

1. Name the City and its officers, employees, volunteers, and elected representatives as additional insureds with respect to operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
2. Provide for an endorsement that the "other insurance" clause shall not apply to the City where the City is an additional insured shown on the policy; and
3. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

(h) When there is a cancellation, non-renewal or material change in coverage which is not made pursuant to a request by City, Contractor shall notify the City of such and shall give such notices not less than thirty (30) days prior to the change, if Contractor knows of said change in advance, or ten (10) days' notice after the change, if the Contractor did not know of the change in advance. Such notice shall be given to the City at the following address:

City of Burnet
Attn: City Manager
P.O. Box 1369
1001 Buchanan Drive
Suite 4
Burnet, Texas 78023

(i) If Contractor fails to maintain the aforementioned insurance, or fails to secure and maintain the aforementioned endorsements, the City may obtain such insurance, and deduct and retain the amount of the premiums for such insurance from any sums due under the Contract; however, procuring of said insurance by the City is an alternative to other remedies the City may have, and is not the exclusive remedy for failure of Contractor to maintain said insurance or secure such endorsements. In addition to any other remedies the City may have upon the Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.

(j) Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractors' performance of the work covered under this Contract.

(k) It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self insurance carried by the City for liability arising out of operations under this Contract.

(l) PERFORMANCE AND PAYMENT BONDS

1. Contractor shall, with the execution and delivery of the Contract, furnish and file with City, in the amounts required in this Article, the surety bonds described in Instructions to Bidders and Bond Forms herein, with said surety bonds. Each surety bond shall be signed by Contractor, as the Principal, as well as by an established corporate surety bonding company as surety, meeting the requirements of this Section and approved by City. The surety bonds

Resolution Hill Country Children's Advocacy Center Building Project

shall be accompanied by an appropriate Power-of-Attorney clearly establishing the extent and limitations of the authority of each signer to so sign and shall include:

- a. **PERFORMANCE BOND.** A good and sufficient bond in an amount equal to one hundred percent (100%) of the total Contract Sum, guaranteeing the full and faithful execution of the Work and performance of the Contract in accordance with Plans, Specifications and all other Contract Documents, including any extensions thereof, for the protection of City.
 - b. **PAYMENT BOND.** A good and sufficient bond in an amount equal to one hundred percent (100%) of the total Contract Sum, guaranteeing the full and prompt payment of all claimants supplying labor or materials in the prosecution of the Work provided for in the Contract, and for the use and protection of each claimant.
2. No surety will be accepted by City that is in default, delinquent on any bonds or that is a party to any litigation against City. All bonds shall be made and executed on forms approved by City and shall be executed by not less than one (1) corporate surety that is authorized and admitted to do business in the State of Texas, is licensed by the State of Texas to issue surety bonds, is listed in the most current United States Department of the Treasury List of Acceptable Sureties and is otherwise acceptable to City. Each bond shall be executed by Contractor and the surety and shall specify that legal venue for enforcement of each bond exclusively shall lie in Travis, Williamson, or Burnet County, Texas. Each surety shall designate an agent resident in Travis, Williamson, or Burnet County, Texas to which any requisite statutory notices may be delivered and on which service of process may be had in matters arising out of the suretyship.
 3. **Additional Bonds:** If at any time the OWNER is, or becomes, dissatisfied with any surety on a performance, or payment bond, the CONTRACTOR shall, within five days after notice from the OWNER, substitute an acceptable bond (or bonds), or provide an additional bond, in such form and sum as requested, and signed by such other surety or sureties as may be satisfactory to the OWNER. The premiums on such bonds shall be paid by the CONTRACTOR without recourse to the OWNER. No further payments under the Contract shall be deemed due or payable until the substitute or additional bonds have been furnished to and accepted by the OWNER.

(m) INDEMNIFICATION. Contractor shall indemnify, defend and hold harmless the City of Burnet and its officials, employees and agents (collectively referred to as "Indemnitees") and each of them from and against all loss, costs, penalties, fines, damages, claims, expenses (including reasonable attorney's fees) or liabilities (collectively referred to as "Liabilities") by reason of any injury to or death of any person or damage to or destruction or loss of any property arising out of, resulting from, or in connection with: (i) the performance or non-performance of Services contemplated by this Contract but only to the extent caused by the negligent acts, errors or omissions, intentional torts, intellectual property infringement, or a failure to pay a sub-contractor or supplier committed by Contractor or Contractor's agent, consultant under contract, or another entity over which Contractor exercises control (whether active or passive) of Contractor or its employees, agents or sub-contractors; (ii) the failure of Contractor, or its employees, agents or sub-contractors, to comply with any of the paragraphs herein or the failure of Contractor to conform to statutes, ordinances, or other regulations or requirements of any governmental authority, federal, state or local, in connection with the performance of this Contract. Contractor expressly agrees to indemnify and hold harmless the Indemnitees, or any one of them, from and against all liabilities which may be asserted by an employee or former employee of Contractor, or any of its sub-

contractors, as provided above, for which Contractor's liability to such employee or former employee would otherwise be limited to payments under State Workers' Compensation or similar laws. Nothing herein shall require Contractor to indemnify, defend, or hold harmless any Indemnatee for the Indemnatee's own negligence or willful misconduct. Any and all indemnity provided for in this Contract shall survive the expiration of this Contract and the discharge of all other obligations owed by the parties to each other hereunder and shall apply prospectively not only during the term of this Contract but thereafter so long as any liability could be asserted in regard to any acts or omissions of Contractor, or its employees, agents or sub-contractors, in performing Services under this Contract.

27. Warranty of Title

No material, supplies, or equipment to be installed or furnished under this Contract shall be purchased subject to any chattel mortgage or under a conditional sale, lease-purchase or other agreement by which an interest is retained by the seller or supplier. The Contractor shall warrant good title to all materials, supplies, and equipment installed or incorporated in the work and upon completion of all work, shall deliver the same, together with all improvements and appurtenances constructed or placed by Contractor, to the City/County free from any claims, liens, or charges. Neither the Contractor nor any person, firm, or corporation furnishing any material or labor for any work covered by this Contract shall have any right to a lien upon any improvement or appurtenance. Nothing contained in this paragraph, however, shall defeat or impair the right of persons furnishing materials or labor to recover under any law permitting such persons to look to funds due the Contractor. The provisions of this paragraph shall be inserted in all subcontracts and material contracts and notice of its provisions shall be given to all persons furnishing materials for the work when no formal contract is entered into for such materials.

28. Warranty of Workmanship and Materials

Unless otherwise expressly provided in the Contract drawings or specifications, the work shall be performed in accordance with the best modern practice with materials and workmanship of the highest quality and suitable for their purpose. The OWNER shall judge and determine the CONTRACTOR's compliance with these requirements.

CONTRACTOR warrants and guarantees to OWNER, ENGINEER and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by abuse, modification or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors or Suppliers; or normal wear and tear under normal usage.

Neither the final certificate of payment nor any provision in the Contract nor partial or entire use of the improvements included in this Contract by the City/County or the public shall constitute an acceptance of work not done in accordance with the Contract or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall promptly remedy any defects in the work and pay for any damage to other work resulting therefrom which shall appear within a period of 12 months from the date of final acceptance of the work.

If within one year after final acceptance of the work by the OWNER, as evidenced by the final certificate of acceptance or within such longer or shorter period of time as may be prescribed by law

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or by the terms of any other applicable special warranty on designated equipment or portions of work as required by the Contract documents, any of the work is found to be defective or not in accordance with the Contract documents, the CONTRACTOR shall correct it promptly after receipt of a written notice from the OWNER to do so. This obligation shall survive termination of the Contract. The OWNER shall give such notice promptly after discovery of the condition.

The CONTRACTOR shall remove from the site all portions of the work which are defective or nonconforming and which have not been corrected unless removal is waived in writing by the OWNER.

All subcontractors', manufacturers' and suppliers' warranties and guarantees, express or implied, respecting any part of the work and any materials used therein, shall be obtained and enforced by the CONTRACTOR for the benefit of the OWNER without the necessity of separate transfer or assignment thereof, provided that if directed by the Engineer, the CONTRACTOR shall assign such warranties and guarantees in writing to the OWNER.

Any work repaired or replaced, pursuant to this section, shall be subject to the provisions of this section to the same extent as work originally performed.

29. Job Offices

(a) The Contractor and its subcontractors may maintain such office and storage facilities on the site as are necessary for the proper conduct of the work. These shall be located so as to cause no interference to any work to be performed on the site. The City/County shall be consulted with regard to locations.

(b) Upon completion of the improvements, or as directed by the City/County, the Contractor shall remove all such temporary structures and facilities from the site, and leave the site of the work in the condition required by the Contract.

30. Partial Use of Site Improvements

The City/County may give notice to the Contractor and place in use those sections of the improvements which have been completed, inspected and can be accepted as complying with the technical specifications and if in its opinion, each such section is reasonably safe, fit, and convenient for the use and accommodation for which it was intended, provided:

(a) The use of such sections of the Improvements shall in no way impede the completion of the remainder of the work by the Contractor.

(b) The Contractor shall not be responsible for any damages or maintenance costs due directly to the use of such sections.

31. Local Program Liaison

For purposes of this Agreement, the [e.g. City Manager/Asst. City Manager/or designee] or equivalent authorized person will serve as the Local Program Liaison and primary point of contact for the Contractor. All required progress reports and communication regarding the project shall be directed to this liaison and other local personnel as appropriate.

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32. Access to Information

(a) The U.S. Department of Housing and Urban Development (HUD), Inspectors General, the Comptroller General of the United States, the Texas Department of Housing and Community Affairs (TDHCA), and the City/County, or any of their authorized representatives, shall have access to any documents, papers, or other records of the Contractor which are pertinent to the CDBG award, in order to make audits, examinations, excerpts, and transcripts, and to closeout the City's/County's CDBG contract with TDHCA.

(b) Contractor shall include the substance of this clause in all subcontracts it awards.

33. Records Retention

(a) The Contractor shall retain all required records for three years after the City/County makes its final payment and all pending matters are closed.

(b) Contractor shall include the substance of this clause in all subcontracts it awards.

(c) By execution of the Contract, CONTRACTOR grants the OWNER the right to audit, at City's election, all of CONTRACTOR'S records and billings relating to the performance of the Work under the Contract. CONTRACTOR agrees to retain such records for a minimum of three (3) years following completion of the Work under this Contract. OWNER agrees that it will exercise the right to audit only at reasonable hours.

34. Resolution of Program Non-Compliance and Disallowed Costs

In the event of any dispute, claim, question, or disagreement arising from or relating to this Contract, or the breach thereof, including determination of responsibility for any costs disallowed as a result of non-compliance with federal, state or CDBG program requirements, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement. To this effect, the parties shall consult and negotiate with each other in good faith within 30 days of receipt of a written notice of the dispute or invitation to negotiate, and attempt to reach a just and equitable solution satisfactory to both parties. If the matter is not resolved by negotiation within 30 days of receipt of written notice or invitation to negotiate, the parties agree first to try in good faith to settle the matter by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The parties may enter into a written amendment to this Contract and choose a mediator that is not affiliated with the American Arbitration Association. The parties shall bear the costs of such mediation equally. *[This section may also provide for the qualifications of the mediator(s), the locale of meetings, time limits, or any other item of concern to the parties.]* If the matter is not resolved through such mediation within 60 days of the initiation of that procedure, either party may proceed to file suit.

35. Compliance with Davis-Bacon Act

All laborers and mechanics employed upon the work covered by this Contract shall be paid unconditionally and not less often than once each week, and without subsequent deduction or rebate on any account (except such payroll deductions as are made mandatory by law and such other payroll deductions as are permitted by the applicable regulations issued by the Secretary of Labor, United

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States Department of Labor, pursuant to the Anti-Kickback Act hereinafter identified), the full amount due at time of payment computed at wage rates not less than those contained in the wage determination decision of said Secretary of Labor (a copy of which is attached as Attachment __ and herein incorporated by reference), regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such laborers and mechanics. All laborers and mechanics employed upon such work shall be paid in cash, except that payment may be by check if the employer provides or secures satisfactory facilities approved by the City/County for the cashing of the same without cost or expense to the employee. For the purpose of this clause, contributions made or costs reasonably anticipated under Section 1 (b) (2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of Section 5.5 (a) (1) (iv) of Title 29, Code of Federal Regulations. Also for the purpose of this clause, regular contributions made or costs incurred for more than a weekly period under plans, funds, or programs, but covering the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

The Contractor and its subcontractors shall not, by any means, induce any person employed in the construction, completion, or repair of public work, give up any part of the compensation to which he or she is otherwise entitled. The City/County must report all suspected or reported violations to TDHCA.

36. Conflicts of interest.

(a) Governing Body. No member of the governing body of the City/County and no other officer, employee, or agent of the City/County, who exercises any functions or responsibilities in connection with administration, construction, engineering, or implementation of CDBG award between TDHCA and the City / County, shall have any personal financial interest, direct or indirect, in the Contractor or this Contract; and the Firm shall take appropriate steps to assure compliance.

(b) Other Local Public Officials. No other public official, who exercises any functions or responsibilities in connection with the planning and carrying out of administration, construction, engineering or implementation of the CDBG award between TDHCA and the City/County, shall have any personal financial interest, direct or indirect, in the Contractor or this Contract; and the Contractor shall take appropriate steps to assure compliance.

(c) The Contractor and Employees. The Contractor warrants and represents that it has no conflict of interest associated with the CDBG award between TDHCA and the City/County or this Contract. The Contractor further warrants and represents that it shall not acquire an interest, direct or indirect, in any geographic area that may benefit from the CDBG award between TDHCA and the City/County or in any business, entity, organization or person that may benefit from the award. The Contractor further agrees that it will not employ an individual with a conflict of interest as described herein.

37. Debarment and Suspension (Executive Orders 12549 and 12689)

The Contractor certifies, by entering into this Contract, that neither it nor its principals are presently debarred, suspended, or otherwise excluded from or ineligible for participation in federally-assisted programs under Executive Orders 12549 (1986) and 12689 (1989). The term "principal" for purposes of this Contract is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor. The Contractor understands that it must

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not make any award or permit any award (or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, "Debarment and Suspension."

38. [For Contracts that exceed \$100,000] Anti-Lobbying

Contractor shall file the required certification: The undersigned certifies, to the best of his or her knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

39. [For Contracts > \$100K] Overtime Requirements

No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics, including watchmen and guards, shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of 40 hours in such work week, as the case may be.

40. [For Contracts > \$150K] Clean Air Act and the Federal Water Pollution Control Act

The Contractor or subcontractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

41. Equal Opportunity Clause [applicable to contracts and subcontracts over \$10,000].

During the performance of this contract, the Contractor agrees as follows:

Resolution Hill Country Children's Advocacy Center Building Project

- (a.) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (b.) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (c.) The Contractor will not discourage or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (d.) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (e.) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, "Equal Employment Opportunity," and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (f.) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (g.) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of

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September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (h.) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

42. Section 109 of the Housing and Community Development Act of 1974.

The Contractor shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

43. Section 504 Rehabilitation Act of 1973, as amended.

The Contractor agrees that no otherwise qualified individual with disabilities shall, solely by reason of his/her disability, be denied the benefits of, or be subjected to discrimination, including discrimination in employment, under any program or activity receiving federal financial assistance.

44. Age Discrimination Act of 1975.

The Contractor shall comply with the Age Discrimination Act of 1975 which provides that no person in the United States shall on the basis of age be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

45. Economic Opportunities for Section 3 Residents and Section 3 Business Concerns.

The work to be performed under this Contract is subject to the requirements of section 3 of the Housing and Urban Development (HUD) Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, which implement section. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

Resolution Hill Country Children's Advocacy Center Building Project

The Contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

The Contractor will certify that any vacant employment positions, including training positions, that are filled after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR part 75. Minimum expectations of effort to direct employment opportunities to such workers are identified in the Project Implementation Manual.

Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

46. Contract Documents and Drawings

The City/County will furnish the Contractor without charge one (1) copies of the Contract Documents, including Technical Specifications and Drawings. Additional copies requested by the Contractor will be furnished at cost.

47. Contract Period

The work to be performed under this contract shall commence within the time stipulated by the City/County in the Notice to Proceed, and shall be fully completed within the timeframe of article 4 of this contract.

48. Liquidated Damages

Since the actual damages for any delay in completion of the work under this contract are impossible to determine, the Contractor and his Sureties shall be liable for and shall pay to the City/County the sum of as dictated under section for Liquidated damages, as fixed, agreed and liquidated damages for each calendar day of delay from the above stipulated time for completion.

49. Gender Neutral - Gender References

When necessary, unless the context clearly requires otherwise, any gender-specific or gender-neutral term in this Contract (for example, he, she, it, etc.) is to be read as referring to any other gender or to no gender.

50. RECOMMENDED CONDITION

- Payment under this contract must be processed through the Texas Department of Housing and Community Affairs. Receipt of payment from the Grant Recipient may take at least 45 to 60 days from the time of pay estimate approval by the project engineer.

Discuss and consider action:
A RESOLUTION BY THE CITY COUNCIL OF
THE CITY OF BURNET, TEXAS
AUTHORIZING THE CITY MANAGER TO
EXECUTE A CONSTRUCTION CONTRACT
WITH GRECO CONSTRUCTION, INC., FOR
THE HILL COUNTRY CHILDREN'S
ADVOCACY CENTER BUILDING AS A
COMMUNITY DEVELOPMENT BLOCK
GRANT PROJECT.

David Vaughn, City Manager



HILL COUNTRY ADVOCACY CENTER PROJECT

TDHCA CDBG-CV PROJECT #70800001002

- Authorizes the City Manager to execute a contract with Greco Construction, Inc., for an amount not to exceed \$ 3,053,000.00.
- Provided said contract is on such contract form approve, or provided by, the Texas Department of Housing and Community Affairs and approved by the city attorney.
- No fiscal impact to the City.





QUESTIONS?/ COMMENTS



DEVELOPMENT SERVICES

ITEM 6.19

D. Vaughn
City Manager
dvaughn@cityofburnet.com
512-715-3208

Action

Meeting Date: June 27, 2023

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE PLACEMENT OF ELECTRIC CONDUIT FOR FUTURE DEVELOPMENT OF CREEKFALL SUBDIVISION PHASE THREE AND FOUR AND THE ABUTTING R-3 ZONING CLASSIFICATION PROPERTY: D. Vaughn

Background: Creekfall Subdivision Phases Three and Four is a proposed single-family subdivision located near the intersection of Texas State Highway 20 and Westfall Street. The adjoining property is zoned for multi-family use. These properties adjoin the Westfall Villages subdivision now under development. There is an opportunity to place electrical conduit in the ground within Westfall Villages. However, if action is not taken quickly, the opportunity will be lost and the costs to provide electricity to Creekfall Subdivision Phases Three and Four property zoned for multi-family use will significantly increase.

Information: This resolution approves the placement of electric conduit within Westfall Villages for a cost not to exceed \$100,000. The resolution also requires the developers of the properties benefitting from the installation of the conduit to pay its proportionate share of costs at the time of request for electric service extension.

Fiscal Impact: Up to \$100,000, which should be recovered as benefitted property developers request electric service.

Recommendation: Approve Resolution No. R2023-51 as presented.

RESOLUTION NO. R2023-51

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE PLACEMENT OF ELECTRIC CONDUIT FOR FUTURE DEVELOPMENT OF CREEKFALL SUBDIVISION PHASE THREE AND FOUR AND THE ABUTTING R-3 ZONING CLASSIFICATION PROPERTY.

Whereas, the Creekfall Subdivision Phases Three and Four (“Creekfall”) is a proposed single family subdivision located near the intersection of Texas State Highway 29 and Westfall Street; and

Whereas, the property designated with the R-3 zoning classification as of the date of this resolution which abuts Creekfall (as shown herein) is planned to provide future development of the benefitted properties. The properties shown outlined in Exhibit A will collectively be referenced as “Benefitted Properties”; and

Whereas, Westfall Villages is a proposed single family subdivision abutting Creekfall; and

Whereas, the developer of Westfall Villages is further along in the development of their property than the developer of the benefitted properties; and

Whereas, conduit is required to be placed in the ground, as shown on the attached map, within Westfall Villages to serve electricity to the Benefitted Properties; and

Whereas, due to the stage of development of Westfall Villages, the failure to act now to install the conduit will cause the loss of opportunity to install it in the future; and

Whereas, but for the future electricity needs of Benefitted Properties, City Council would not approve this expenditure; and

Whereas, as a consequence of the preceding finding City Council shall require the developer(s) of Benefitted Properties to remunerate such costs to the City upon application for electric line extension under Sec. 110-148(d) City Code; and

Whereas, the city manager has shared a draft of this resolution with the developers/landowners of Benefitted Properties and has informed the developers/landowners of the time and date of this meeting.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF BURNET, TEXAS, THAT:

Section one. Findings. The recitals to this Resolution are deemed the true and correct findings of City Council and are incorporated herein for all purposes.

Section two. The Project. The Project is the installation of below ground conduit to provide for the extension of electrical service to the Benefitted Property shown within the red bordered area in the diagram below:

Section two. Approval. The expenditure of up to \$100,000 is approved for the Project.

Section three. Authorization. The city manager is hereby authorized to execute such documents and takes such related actions reasonably necessary to facilitate the intent of this Resolution; provided the total Project Costs does not exceed the amount approved in section two.

Section four. Remuneration. Upon receipt of application for electric line and/or service extension under the City of Burnet Code of Ordinances for any area of the Benefited Properties as shown in Exhibit A, the City Manager shall cause the Project Costs approved by this resolution to be part of the “costs” as required under the City of Burnet Code of Ordinances and shall not allow utilization of the improvements authorized by this resolution by and or to the requesting area until receipt of full remuneration of the proportionate costs for service to the requesting area.

Section five. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

Section six. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 27th day of, 2023.

CITY OF BURNET, TEXAS

ATTEST:

Gary Wideman, Mayor

Kelly Dix, City Secretary

Exhibit A
Benefitted Properties
(as shown outlined in red)



City Council Regular
Meeting

June 27, 2023

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF
BURNET, TEXAS AUTHORIZING THE PLACEMENT OF
ELECTRIC CONDUIT FOR FUTURE DEVELOPMENT OF
CREEKFALL SUBDIVISION PHASE THREE AND FOUR AND
THE ABUTTING R-3 ZONING CLASSIFICATION PROPERTY:
D. Vaughn



Electric Upsizing
336 Overhead and 500KCMIL Underground

- Legend
- Burnet Cemetery
- Feature 1
- Feature 2
- Feature 3
- Live Oak Park

CURRENT 500 Kcmil
UNDERGROUND 4"
CONDUIT

FUTURE 588

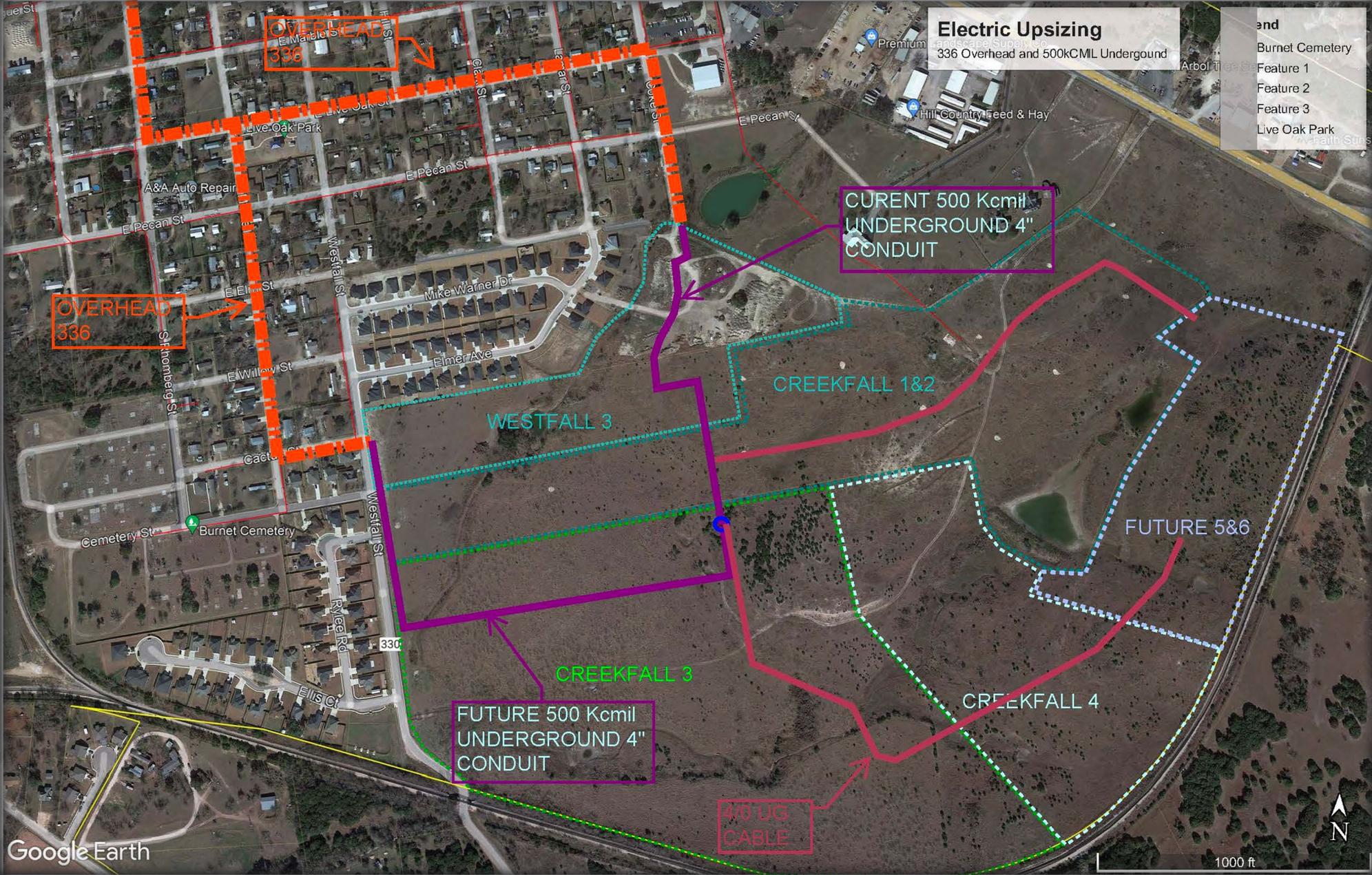
CREEKFALL 4

CREEKFALL 3

CREEKFALL 1&2

WESTFALL 3





Electric Upsizing

336 Overhead and 500kCML Underground

- Legend
- Burnet Cemetery
- Feature 1
- Feature 2
- Feature 3
- Live Oak Park

CURRENT 500 Kcmil UNDERGROUND 4" CONDUIT

CREEKFALL 1&2

WESTFALL 3

FUTURE 5&6

CREEKFALL 3

FUTURE 500 Kcmil UNDERGROUND 4" CONDUIT

CREEKFALL 4

4/0 UG CABLE





Questions