



## 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 **13<sup>th</sup> 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. SPECIAL REPORTS/RECOGNITION:

1.1) Police Department Quarterly Report: B. Lee

**2. 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.)*

2.1) Approval of the May 23, 2023 Council Regular Meeting minutes

2.2) Approval of the May 23, 2023 Council Workshop Meeting minutes

2.3) Approval of the May 31, 2023 Council Workshop Meeting minutes

## 3. PUBLIC HEARINGS/ACTION:

3.1) Public hearing and consideration of the following items:

A) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

B) 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.

- (1) Staff Presentation:
- (2) Public Hearing:

(3) Consideration and action:

C) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

(D) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

(E) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

(F) 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

- (1) Staff Presentation:

- (2) Public Hearing:
- (3) Consideration and action:

(G) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

(H) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

3.2) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

3.3) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

3.4) 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

- (1) Staff Presentation:
- (2) Public Hearing:
- (3) Consideration and action:

#### **4. ACTION ITEMS:**

4.1) Discuss and consider action: Appointment of three Commissioners to the Housing Authority of the City of Burnet: K. Dix

4.2) 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

4.3) 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

4.4) Discuss and consider action: Direction to Staff on issuance of bids and funding source for the Delaware Springs Boulevard Reconstruction: E. Belaj

4.5) Discuss and consider action: Proposed contract with Burnet County for 2023/2024 Election Services: K. Dix

4.6) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AWARDED 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

4.7) Discuss and consider action: Authorization and approval to purchase one (1) 2023 FORD RESPONDER 4WD for the Fire Department: B. Lee

4.8) 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

4.9) 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

**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 9<sup>th</sup> 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 9<sup>th</sup>, 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.

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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).*



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# Burnet Police

Quarterly Report

# Quarterly report

CID

Patrol

SRO

Training

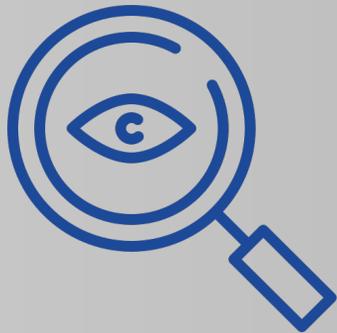
Code Enforcement

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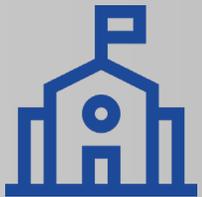




# Quarterly report

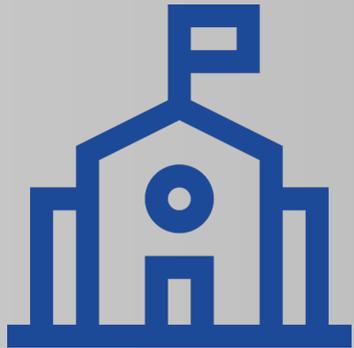


- High School Threat
  - Continuing to work on the case
  - Suspects have been identified
  - No threat to the school
- Hit and Run / Accident Involving Injury or Death
  - Unfounded
- Prohibited Sexual Conduct / Fail to Comply Sex Offender Duty to Register for Life
  - Additional warrants were issued and with the assistance of the OAG and USMS, he was apprehended and returned to Texas.
- Continuous - Aggravated Sexual Assault of Child
  - Was able to locate the suspect, who was an over the road trucker, and coordinate with USMS to arrest him and bring him back to Texas.
- ATM Robbery
  - 2-year-old case we continue to work with suspects and expect to close this summer.
- Aggravated Assault DW Family Member / Assault CBI Family Member x 2 / Theft of Firearm / Terroristic Threat Family Member / Threat Against Peace Officer:
  - This case spans 6 jurisdictions and resulted in the arrest of the suspect yesterday by a 7th jurisdiction.
- Case load
  - 7 active cases
  - Cleared numerous cases this quarter



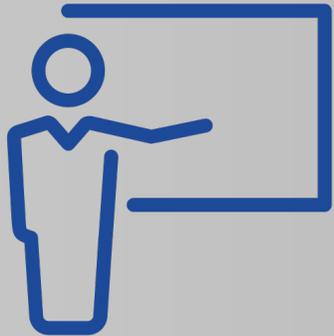
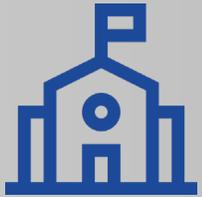
# Patrol

- Calls for Service - 3328
- Traffic Stops – 1362
- DWI – 18
  - 9 last year during the same quarter and 45 for the year.
- Arrests – 155
  - Misdemeanor – 111
  - Felony – 46
  - Warrant – 86
  - 65 charges were drug related, 38 felonious
- Accidents - 91
- Business Checks - 909
- Closed Patrols - 914
- Follow up – 71
  - Continue to see a great effort on follow up from patrol which assists management of case load for CID.
- Mileage 46,571
- 911 hang ups – 317
  - Continues to be an enormous problem with no solution in sight.



# SRO

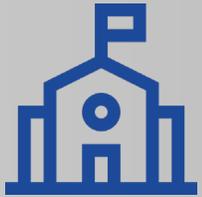
- Threat to High School
  - Two prior students involved
  - Ongoing investigation
- Summer assignments
  - Sgt. Bertelson and Officer Buchhorn are working on sex offender registration
  - AXON Taser maintenance
- Training
  - Summer is when the SRO's attend the majority of their training needed for their assignments
- Patrol augmentation



# Training

- We have a vision of being a hub for police training in our area.
- 5 upcoming classes to be hosted
  - Interview and Interrogation
  - Basic Instructor
  - K-9 casualty care (Careflight)
    - Taught out of Houston
  - Red Dot pistol instructor
  - Ivory tower of leadership
- Exploring the possibility of becoming a reporting agency
- Lt. Stewart is exploring more training events for us to host.
  - Advantageous to host because of the free seats we receive.
  - Lt. Position makes this manageable and we will have a much better trained organization following this path.
- Quarterly firearms will begin next quarter





# Code Enforcement

- 75 cases
- 35 Weeds and tall grass.
- 31 Debris
- 3 Junk vehicles
- 3 RV and Boat parking
- 3 Multiple violations
- Reagor building has been a focus for the past quarter.

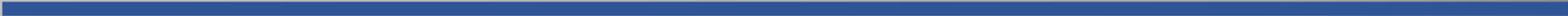


# Updates

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- Red Dot Integration
  - Demo of the Sig platform
  - Currently have two systems with our firearms instructors.
- DT Mats
  - On order and should ship soon.
- Accreditation
  - Continues
- Patrol Vehicle Study
  - Increasing costs on patrol vehicles
  - AWD capability
    - We have seen the difficulties we face citywide in the winter with ice and snow.
- Staffing
  - We are fully hired with our latest hire last week.

# Questions







speaking, if so to approach the podium. Katy Randall, Senior Director of Operations for Entegris, approached the podium and expressed appreciation to all present for the support shown by City Staff and Council during this process. Ms. Randall expressed the mission of Entegris is to be a good community partner in the City of Burnet. There being no one else wishing to speak, Mayor Wideman closed the public hearing at 6:17 p.m.

Consideration and action: Council Member Philip Thurman moved to approve and adopt Ordinance No. 2023-15 as presented. Council Member Ricky Langley seconded. The motion carried unanimously.

**ACTION ITEMS:**

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 LEGALLY DESCRIBED AS: LOT 7-D OF THE EAST SIDE COMMERCIAL PARK SUBDIVISION WITH LIGHT COMMERCIAL – DISTRICT “C-1” CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: L. Kimbler: Council Member Ricky Langley moved to approve and adopt Ordinance No. 2023-16 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: A RESOLUTION BY THE CITY OF BURNET, TEXAS DESIGNATING CERTAIN CITY OFFICIALS TO SIGN CHECKS AND OTHER DISBURSEMENTS FOR ANY AUTHORIZED DEPOSITORY OF THE CITY OF BURNET, TEXAS: P. Langford: Council Member Mary Jane Shanes moved to approve and adopt Resolution R2023-35 as presented. Council Member Joyce Laudenschlager seconded. The motion carried unanimously.

Discuss and consider action: Award request for Proposal (RFP) 2023-003 Street rehab Overlay Project bid and authorize the City Manager to execute the contract: E. Belaj: Council Member Philip Thurman made a motion to award the bid for RFP 2023-03 Street Rehab Overlay Project to Bennett Paving in the amount of \$550,000.00 which includes an added alternate for the Post Mountain Cemetery driveway, as presented. Council Member Joyce Laudenschlager seconded. The motion carried unanimously.

Discuss and consider action: Appoint Mayor Pro Tem: K. Dix: Council member Joyce Laudenschlager made a motion to nominate Council Member Philip Thurman to serve as Mayor Pro Tem. Council Member Mary Jane Shanes seconded. The motion carried unanimously. Council Member Thurman will serve as Mayor Pro Tem until May 2025.

Discuss and consider action: Appoint a representative for the City of Burnet to the Opportunities for Williamson and Burnet Counties, Inc., (OWBC) Board of Directors: Mayor Wideman: Mayor Gary Wideman made a motion to appoint Kelly Dix, City Secretary as the City Council Representative for Opportunities for Williamson and Burnet Counties (OWBC). Council Member Tres Clinton seconded. The motion carried unanimously. Ms. Dix will serve on the OWBC Board until May 2025.

Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET TEXAS AUTHORIZING THE BURNET ECONOMIC DEVELOPMENT CORPORATION TO SELL A LOT WITHIN THE EASTSIDE COMMERCIAL PARK SUBDIVISION; AND APPROVING A PERFORMANCE AGREEMENT INCENTIVIZING THE DEVELOPMENT OF A RETAIL STORE AS AN ECONOMIC DEVELOPMENT PROJECT ON SAID LOT: H Erkan Jr.: Council Member Philip Thurman moved to approve and adopt Resolution No. R2023-37 as presented. Council Member Ricky Langley seconded. The motion carried unanimously.

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 Mary Jane Shanes at 6:35 p.m. seconded by Council Member Joyce Laudenschlager. The motion carried unanimously.

**ATTEST:**

\_\_\_\_\_  
Gary Wideman, Mayor

\_\_\_\_\_  
Kelly Dix, City Secretary

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

On this the 31<sup>st</sup> day of May, 2023, the City Council of the City of Burnet convened in Workshop Session, at 4:30 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, Joyce Laudenschlager
Absent	Tres Clinton, Mary Jane Shanes
City Manager	David Vaughn
City Secretary	Kelly Dix

Guests:, Leslie Kimbler, Carly Pearson, Tony Nash, Adrienne Field, Brian Lee. Mark Miller

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

CONSIDERATION ITEMS:

Discuss and consider: Lot size: D. Vaughn: City Manager David Vaughn presented two charts to all present outlining proposed changes to the zoning designations. Chart A would not impact zone R-1 lots and adds additional options for Council to consider for future rezones. Chart B would amend the current R-1 zone and create additional zoning options for future growth. Direction was given to staff to proceed with Chart A, which leaves the R-1 zoning as it exists now, and with the addition of amendments adding a 2000 sq. ft. minimum living area, to the 1/4 acre and 1/3 acre minimum lot size.

ADJOURN: There being no further business, Mayor Wideman adjourned the City Council Workshop meeting at 3:45 p.m.

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary



## Development Services

## ITEM 3.1 A

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

### Public Hearing and Action

- Meeting Date:** June 13, 2023
- Agenda Item:** Public Hearing and consider action: 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
- 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. The setbacks included in the current draft are the same as the existing R-1 zoning category. Staff has developed the attached recommendation to seek guidance from Council for inclusion in the second reading of the ordinance.
- Fiscal Impact:** No direct fiscal impact is anticipated.
- P&Z Report:** Planning and Zoning Commission met at their regular meeting on Monday, June 5<sup>th</sup> and recommended unanimously to approve Ordinance No. 2023-17 as presented.
- Recommendation:** Open the public hearing.  
Pass and approve the first 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	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	9,000	75 ft.	35 ft.
R-1-10	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	10,890	75 ft.	35 ft.
R-1-4	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	10,890	75 ft.	35 ft.
R-1-4E	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	10,890	75 ft.	35 ft.

R-1-3	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	14,520	75 ft.	35 ft.
R-1-3E	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	14,520	75 ft.	35 ft.
R-1-2	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	21,780	75 ft.	35 ft.
R-1-2E	20 ft. for any road over 31 feet of pavement.  25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	21,780	75 ft.	35 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, <b>R-1-17, R-1-10, R-1-4, R-1-4E, R-1-3, R-1-3E, R-1-2, R-1-2E</b> , 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
<b>R-1-17</b>	<b>Single-family residential —District "R-1-17"</b>
<b>R-1-10</b>	<b>Single-family residential —District "R-1-10"</b>
<b>R-1-4</b>	<b>Single-family residential —District "R-1-4"</b>
<b>R-1-4E</b>	<b>Single-family residential —District "R-1-4E"</b>
<b>R-1-3</b>	<b>Single-family residential —District "R-1-3"</b>
<b>R-1-3E</b>	<b>Single-family residential —District "R-1-3E"</b>
<b>R-1-2</b>	<b>Single-family residential —District "R-1-2"</b>
<b>R-1-2E</b>	<b>Single-family residential —District "R-1-2E"</b>

**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 13<sup>th</sup> day of June 2023

**Passed, Approved and Adopted** on the 27<sup>th</sup> day of June 2023

**CITY OF BURNET**

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Gary Wideman, Mayor

**ATTEST:**

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Kelly Dix, City Secretary

## DRAFT Proposed Setbacks for New Residential Districts

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
<b>R-1-17</b>	25 ft	7.5 ft	15 ft.	15 ft.	9,000 S.F.	75 ft.	30 ft.
<b>R-1-10</b>	25 ft	7.5 ft.	15 ft.	15 ft.	10,890 S.F.	75 ft.	30 ft.
<b>R-1-4</b>	25 ft	7.5 ft.	15 ft.	15 ft.	10,890 S.F.	75 ft.	30 ft.
<b>R-1-4E</b>	25 ft	7.5 ft.	15 ft.	15 ft.	10,890 S.F.	75 ft.	30 ft.
<b>R-1-3</b>	25 ft	10 ft.	20 ft.	20 ft.	14,520 S.F.	90 ft.	30 ft.
<b>R-1-3E</b>	25 ft	10 ft.	20 ft.	20 ft.	14,520 S.F.	90 ft.	30 ft.
<b>R-1-2</b>	35 ft	20 ft.	25 ft.	25 ft.	21,780 S.F.	100 ft.	30 ft.
<b>R-1-2E</b>	35 ft	20 ft.	25 ft.	25 ft.	21,780 S.F.	100 ft.	30 ft.

FIRST 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



# Existing Single – Family Residential Districts:

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
<b>R-1</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	9,000	75 ft.	35 ft.
<b>R-6</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	7,600	60 ft.	35 ft.
<b>R-1-E</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	15 ft.	15 ft.	15 ft.	1 Acre	150 ft.	30 ft.

# Additional Proposed Single – Family Residential Districts:

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
<b>R-1-17</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	9,000	75 ft.	35 ft.
<b>R-1-10</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	10,890	75 ft.	35 ft.
<b>R-1-4</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	10,890	75 ft.	35 ft.
<b>R-1-4E</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	10,890	75 ft.	35 ft.
<b>R-1-3</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	14,520	75 ft.	35 ft.
<b>R-1-3E</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	14,520	75 ft.	35 ft.
<b>R-1-2</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	21,780	75 ft.	35 ft.
<b>R-1-2E</b>	20 ft. for any road over 31 feet of pavement. 25 ft. for roads shorter than 31 ft.	7½ ft.	15 ft.	15 ft.	21,780	75 ft.	35 ft.

## All Single – Family Residential Districts:

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



# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.1 B

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

### Public Hearing and Action

**Meeting Date:** June 13, 2023

**Agenda Item:** Public Hearing and consider action: 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.

**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:** Open the Public Hearing  
Pass and approve the first reading of 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 13<sup>th</sup> day of June 2023.

**Passed, Approved and Adopted** on the 27<sup>th</sup> 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 unexpired 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.

## Historic Preservation Code Enabling Ordinance

- (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:

Historic Preservation Code Enabling Ordinance

- (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.**

## Historic Preservation Code Enabling Ordinance

- (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.

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.





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.



# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.1 C

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

### Public Hearing and Action Item

**Meeting Date:** June 13, 2023

**Agenda Item:** Public Hearing and consider action: 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 AN "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

**Background:** This property is located on the northeast corner of Tami Drive and North Highway 281, also known as North Water Street (Exhibit A), and is located at the only entrance to the Highland Oaks Subdivision adjacent to the lot upon which a children's park is located. The property is currently undeveloped and zoned Light Commercial – District "C-1". The applicant is requesting a Conditional Use Permit to allow the development of up to 30,000sf of storage units. Under the City of Burnet's Code of Ordinances, Sec. 118-46 Mini Storage Warehouse is an allowable use in a Medium Commercial – District "C-2" zoning. In addition to this item brief, the applicant has provided a conceptual site plan (Exhibit B) along with a letter of intent (Exhibit C). The site plan has not been reviewed or approved by City staff and is only provided for reference for the purpose of this request.

**Information:** The Conditional Use Permit approval process is established by Code of Ordinances Sec. 118-64; Subsection (e). Per the cited section in making its recommendation the Commission should consider the following:

- **Appearance, size, density and operating characteristics are compatible with surrounding neighborhood and uses;**
- **Proposed use will not adversely affect value of surrounding properties nor impede their proper development;**
- **Proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of property or operation of business;**

- **Traffic generated on existing streets will not create nor add significantly to congestion, safety hazards, or parking problems, and will not disturb peace and quiet of neighborhood;**
- **Comply with other applicable ordinances and regulations.**

**Staff Analysis:** Staff has reviewed the criteria in Sec. 118-64(e) and have made the following observations:

- Currently, the property is zoned commercial. However, it is located at the entrance to a current residential subdivision and the lot in question is immediately adjacent to the neighborhood park and playground.
- The subject property abuts a residential subdivision which is already developed. Across the highway is vacant land zoned residential and agricultural. Storage units at the entrance to a residential subdivision and immediately adjacent to the city children's park may adversely affect the value of surrounding properties.
- Code of Ordinances, Sec. 118-62 (4) provides for some minimum screening requirements for incompatible uses. Whether or not the proposed use in this case will create a nuisance factor or interfere with any neighbor's enjoyment of a property in that or any other way is unknown to city staff, but citizens have expressed some concerns, as exemplified in Exhibit D.
- The lot on which the proposed use would be located is at the front of a residential subdivision and is served by only the one means of ingress and egress. The added traffic may create traffic, congestion and/or parking issues with the residents in the neighborhood. Additionally, with the increased traffic, the safety of children playing at the immediately adjacent park playground will also need to be addressed. This location was also noted as the location for student pick up and drop off by the school bus.

**Public Notification:** A Notice of Public Hearing was published in the Burnet Bulletin on May 24, 2023, and written notices were mailed to 18 surrounding property owners within 200 feet of the subject property. There have been five written responses in opposition attached to this brief.

**P&Z Report:** Planning and Zoning met at their regular meeting on Monday, June 5<sup>th</sup>; several citizens spoke at the public hearing expressing their strong opposition to the request. After hearing the opposition, the Commission recommended denial of applicant's request for Conditional Use Permit.

**Recommendation:** Open the Public Hearing  
To be determined by Council on the first reading of Ordinance 2023-19

Exhibit "A" - Location Map



# Exhibit "B" – Conceptual Site Plan



**HIGHLAND OAKS STORAGE**  
BOBET TEXAS  
SITE PLAN

**Mills Environmental Engineering, Inc.**  
CONSULTING ENGINEERS  
2400 WEST WILSON ROAD, SUITE 100  
DALLAS, TEXAS 75244  
972.443.8888

Exhibit "C" – Letter of Intent

# LETTER OF INTENT

**PURPOSE:** BUILD A "PREMIUM STORAGE FACILITY IN BURNET, TEXAS"

**LOCATION:** HWY 281 NORTH & TAMI DRIVE (LOT 1, PHASE 1, BLOCK 10)

**APPROXIMATE STORAGE FACILITY CAPACITY:** UP TO 30,000 SQUARE FEET

**TYPE OF STORAGE:** CLIMATE CONTROLLED & NON-CLIMATE CONTROLLED UNITS

**SIZE OF UNITS OFFERED:** 5'X5', 5'X10', 10'X10', 10'X15', 10'X20'

**FURTHER DESCRIPTIONS/ATTRIBUTES:**

1. SECURITY FENCING
2. STORATE FACILITY ROUTINELY MAINTAINED
3. CLIMATE CONTROLLED "COMMON AREAS" ROUTINELY CLEANED
4. CONTROLLED ACCESS GATE
5. VIDEO SURVEILLANCE
6. LED LIGHTING THROUGH-OUT FACILITY
7. PAVED AREAS AROUND BUILDINGS
8. DISCOUNTED LOCK WITH MOVE-IN
9. ROUTINE PEST CONTROL PROGRAM
10. TENANT PROTECTION AVAILABLE
11. HANDI-CAP ACCESSIBLE
12. **OTHER AVAILABLE DISCOUNTS:**
  - A. VETERAN
  - B. HIGHLAND OAKS RESIDENT

*Case A. Hollub*

**CASE A HOLLUB**

*5/12/2023*

**DATE**

## Exhibit "D" – Letter of Opposition

**From:** [Kathy Baucom](#)  
**To:** [Leslie Kimbler](#)  
**Subject:** Rezoning for Area in Highland Oaks for Storage Facility  
**Date:** Wednesday, May 31, 2023 2:53:12 PM

---

Caution: External Email

I will be unable to attend the meetings on the scheduled rezoning in the Highland Oaks Subdivision regarding Storage Buildings to be built.

I am opposed to having any storage buildings to be built on this property for the following reasons:

1. There is only one way in and one way out of the subdivision and the traffic is already hard to get out of there due to all the traffic on 281 and a storage unit will mean more traffic.
2. There is a drop off for the kids for school buses right there and that wouldn't be safe for the children.
3. It would devalue our homes and would not entice anyone to want to live here.
4. We already have LCRA that has those big power lines that were built on that lot that goes through the middle of the lot.
5. I'm afraid we could have more crime.

Sent from my iPhone

## ORDINANCE NO. 2023-19

**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 AN “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; 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 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 as shown on **Exhibit “A”** hereto.

**Section three Zoning District Reclassification.** Light Commercial- District “C-1” with a Conditional Use Permit for “Mini Storage Warehouse” 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 13<sup>th</sup> day of June 2023.

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

**Exhibit “A”**

# Location Map



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 AN “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



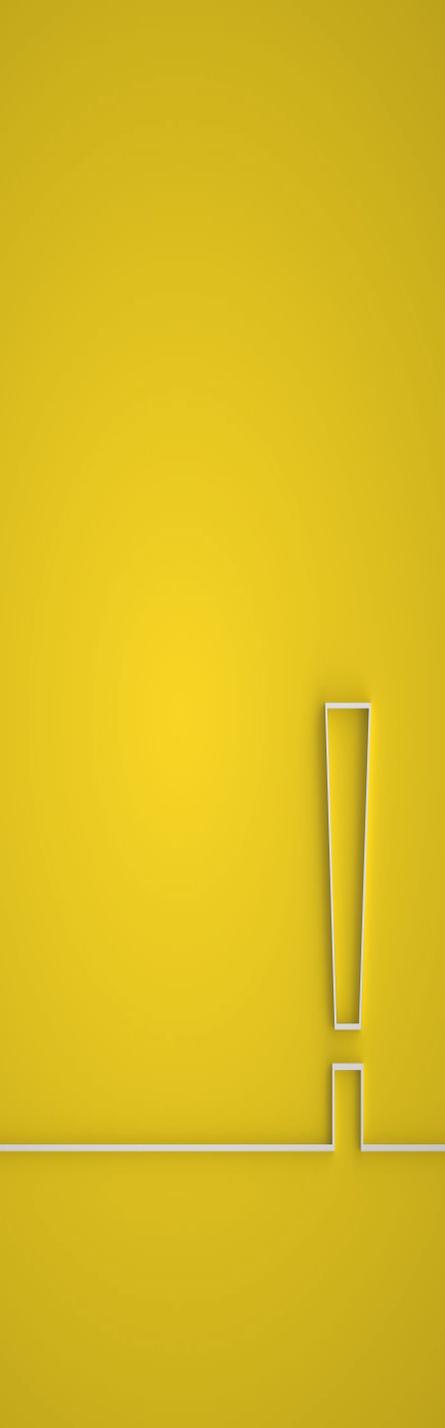


**Current Zoning:**

Light Commercial – District “C-1”



**Requested Zoning:**



## ▶ **Conditional Use Permit Criteria Considerations:**

- ▶ Appearance, size, density and operating characteristics are compatible with surrounding neighborhood and uses;
- ▶ Proposed use will not adversely affect value of surrounding properties nor impede their proper development;
- ▶ Proposed use will not create a nuisance factor nor otherwise interfere with a neighbor's enjoyment of property or operation of business;
- ▶ Traffic generated on existing streets will not create nor add significantly to congestion, safety hazards, or parking problems, and will not disturb peace and quiet of neighborhood;
- ▶ Comply with other applicable ordinances and regulations.

► **Staff Analysis of Code Criterion:**

- Currently, the property is zoned commercial. However, it is located at the entrance to a current residential subdivision and the lot in question is immediately adjacent to the neighborhood park and playground.
- The subject property abuts a residential subdivision which is already developed. Across the highway is vacant land zoned residential and agricultural. Storage units at the entrance to a residential subdivision and immediately adjacent to the city children's park may adversely affect the value of surrounding properties.
- Code of Ordinances, Sec. 118-62 (4) provides for some minimum screening requirements for incompatible uses. Whether or not the proposed use in this case will create a nuisance factor or interfere with any neighbor's enjoyment of a property in that or any other way is unknown to city staff, but citizens have expressed significant concerns, as exemplified in Exhibit D.
- The lot on which the proposed use would be located is at the front of a residential subdivision and is served by only the one means of ingress and egress. The added traffic may create traffic, congestion and/or parking issues with the residents in the neighborhood. Additionally, with the increased traffic, the safety of children playing at the immediately adjacent park playground will also need to be addressed. This location was also noted as the location for student pick up and drop off by the school bus.

# Public Notification

- ▶ Notices were mailed to 18 surrounding property owners.
- ▶ There has been several responses in opposition.
- ▶ There have been no responses in favor.





# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended DENIAL of the request Conditional Use Permit and Ord 2023-XX

## Discussion

- ▶ Discuss and consider Ordinance 2023-XX

**From:** [Jadis Kent](#)  
**To:** [Gary Wideman](#); [Leslie Kimbler](#)  
**Subject:** Mini Storage Highland Oaks  
**Date:** Sunday, June 4, 2023 11:33:54 PM

---

**Caution:** External Email

Hello All,

I'm protesting the mini storage units at the front of our Highland Oak community. My home backs up to the front entrance & if mini storage units are built there it would greatly affect the value of my home & our neighborhood!. It would also bring in crime. And We would have to deal with rats & other critters it would bring in. We would NEVER have bought our home here if there had been Storage Units at the entrance! (Practically in our back yard!) It would greatly affect our resale value and everyone else's!

Please do Not allow our community entrance to be cluttered up. We have a nice looking entrance that is appealing & building there would absolutely ruin it!

We as a collective community Do NOT Want Storage Units here.

Please stop this!

Thank you,  
Jadis Molina

**From:** [David Vaughn](#)  
**To:** [Leslie Kimbler](#); [Carly Kehoe-Pearson](#)  
**Subject:** FW: Mini Storage Warehouse Highland Oaks Subdivision  
**Date:** Monday, June 5, 2023 10:37:37 AM

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Sincerely,

*David Vaughn*

City Manager  
City of Burnet  
(512) 715-3208

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**From:** Crystal Hall <hallcrystal81@yahoo.com>  
**Sent:** Monday, June 5, 2023 9:29 AM  
**To:** David Vaughn <dvaughn@cityofburnet.com>  
**Subject:** Mini Storage Warehouse Highland Oaks Subdivision

**Caution:** External Email

Dear Council,

*I am writing to express my strong opposition to allow Mini Storage Warehouse in a Light-Commercial Commercial-District "C-1" zone 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.*

*While local community may not be able to prevent development, that in itself will be detrimental to the area, nearly all residents in Highland Oaks are completely opposed to the addition of Mini-Storage Warehouses being built at the front of our subdivision.*

*Traffic and safety of pedestrians are major areas of concern. The additional traffic will create traffic to backup on either US 281 or onto Tami Drive. The Highland Oaks Subdivision only has one the entrance and exit located on US 281 and Tami Drive.*

*The local neighborhood traffic will disproportionately surge during morning and evening rush hours, causing traffic issues during critical times for the existing Highland Oaks*

*neighborhood. The traffic surge during morning rush hours will also negatively impact safety for children, since students walk to school in the mornings. In general, the area traffic is continuing to increase, and heavy traffic is already common at times from US 281 to Tami Drive, which may not have been anticipated during the last rezoning approval.*

*There are LCRA powerlines located on Lot 1, Block No 10, Phase One that could interfere with the Mini-Storages, and could potentially lower the property values of the existing community.*

Self-storage facilities have long attracted a criminal element—and it isn't just theft. Vandalism, assaults, drug-related incidents and even homicides have occurred. While there's no way to completely safeguard your business from misconduct, the right prevention measures can make it less vulnerable.

*I urge you to disapprove and allow Mini Storage Warehouse in a Light-Commercial Commercial-District "C-1" zone 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, and from my recent meetings, and discussions with my neighbors, I know my opinions are shared by many who have not managed to attend meeting or write letters and emails.*

*Thank you for your continued service and support of our communities.*

*Best regards,  
Crystal Hall, President of Highland Oaks Subdivision*

DISCLAIMER: "This communication, and any attachments, may contain information that will subject this message to disclosure under public information statutes. In the alternative, this message may contain information that is confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received this message in error, please advise the sender by reply e-mail and delete the message."

**From:** [Savannah Arguelles](#)  
**To:** [Leslie Kimbler](#)  
**Cc:** [romanarguelles1996@gmail.com](mailto:romanarguelles1996@gmail.com)  
**Subject:** Comments/Testimony for Rezoning of Land Outside Highland Oaks Subdivision  
**Date:** Monday, June 5, 2023 10:45:26 AM

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**Caution: External Email**

Good morning!

As we will not be able to make the meeting tonight, we wanted to send in this email to add to the comments/testimonies **against** the storage unit/rezoning of the property outside of the Highland Oaks Subdivision! Thank you!

My husband and I bought our home in April 2022 and have loved our neighborhood and being a part of Burnet. As we had just begun to start our family, we felt safe and secure as part of Highland Oaks!

However, when we got word that there is going to be a meeting to rezone the property at the entrance of our subdivision to become something like storage units, we became highly discouraged. When we bought our home in April of 2022, we paid a premium price for our home with several of the factors being that it is quiet, secluded, safe, close to our schools, a safe distance away from businesses., etc.

Building a storage unit complex directly in front of our neighborhood is going to negatively impact home values. Coming from us as recent homebuyers who paid above-asking to live in this subdivision, building something like storage units will only drive our home value down for us and our neighbors. We want our neighborhood to continue to improve and build in value, not go the opposite direction. I work as a marketing manager for a real estate team in Central Texas and know that storage units or any business as such in direct proximity to any neighborhood will greatly impact the entire neighborhood's home values (especially those that will be backed up directly to the lot in question).

We also do not know who this would bring around our neighborhood or what would be stored in this storage unit. There is a storage unit complex maybe a mile south from our neighborhood and there is not a direct need to open another one, especially right in front of an established neighborhood. My husband and I love to go out and walk in our community with our son, but I'm not so sure this would be a continued experience if we are directly marketing and gaining traffic that is not a part of our neighborhood. It's statistically proven that where there is higher foot traffic, there are higher crime rates, so if we can keep traffic in and around our neighborhood to only those who live here or are there in relation to a resident in our neighborhood, that would only help maintain safety and security.

Further on safety and security, the neighborhood park would also be less than a quarter-mile away from these storage units. My husband and I wouldn't feel comfortable bringing our child to a park so close to a business... especially a storage unit directly off of HWY 281. There is too much room for error when it comes to the safety of the children in our neighborhood, and **we are gravely against the building of this rezoning and storage unit development.**

Thank you again for collecting these testimonies - wish we could be there in person tonight!

Have a blessed week!

--

**Roman & Savannah Arguelles**

104 Carmen Cove, Burnet, TX 78611

512.906.9847

**From:** [Betha Kent](#)  
**To:** [Gary Wideman](#); [Leslie Kimbler](#)  
**Subject:** Mini Storage at Highland Oaks  
**Date:** Friday, June 2, 2023 4:27:31 PM

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**Caution:** External Email

Hello Mayor, City Council and City Planner,

My adult son & I live in the Highland Oaks neighborhood at 100 Linsey Cove. We are the first house on the left as you enter the neighborhood. My son & I bought this home together last July after my husband passed away and I was no longer able to stay in our home we owned together.

We had several houses that we were considering but we decided to purchase this home in Burnet for the view from the back porch (which was a selling point as the view is Beautiful) So my son & I made an offer WAY over asking price to ensure the sellers would accept.

I've been receiving Breast Cancer treatments & reconstruction surgeries this past year (5 surgeries) & my Peaceful back porch with the Beautiful Hill Country view has been my saving grace. Where I sit to heal and recover. I now need C Spine surgery to Fuse my neck on June 8th & again my Peaceful back porch will be where I sit to heal. I'm on disability so I'm home Every Day to enjoy our house & porch view.

As you can imagine I'm Protesting the building of Mini Storage Units at our neighborhood entrance. Which backs up to MANY homes here & will GREATLY AFFECT our Neighborhood and our home Values. ESPECIALLY the homes that are literally right next to the Entrance, including our Home. We paid OVER asking price and building Storage Units here would seriously Devalue our home, we'd NEVER be able to sell it for what we paid for it.

Storage Units would not only spoil the Beautiful natural land Entrance we have now but it would also bring in UNWANTED Traffic (cars & people), CRIME (as Everyone knows Storage Units get broken into often!), it would attract Rodents, Snakes & Roaches...& Who Knows What would be stored in there right next to Our Homes & Our Neighborhood Park! Nobody wants to look out their window at Storage Units or walk onto their porch & see Storage Units practically in their back yard. And I'm sure they would put up security lighting, which would glare into our homes at night.

Highland Oaks is a well established Manicured clean neighborhood and we'd like to keep it that way.

We would appreciate it if y'all would STOP this Build & Help us keep our Neighborhood Home Values Up and keep our Neighborhood CLEAN & SAFE.

Thank you for your attention to this Email & for listening to my concerns for our community & homes.

Betha Kent

I've attached a few pictures from the point of view looking out from my back porch.



## Development Services

## ITEM 3.1 D

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

### Public Hearing and Action

**Meeting Date:** June 13, 2023

**Agenda Item:** Public Hearing and consider: 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

**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
<b>Zoning</b>	“R-1”	“R-2”	“C-3”	“R-1”
<b>FLUM</b>	Residential	Residential	Commercial	Residential

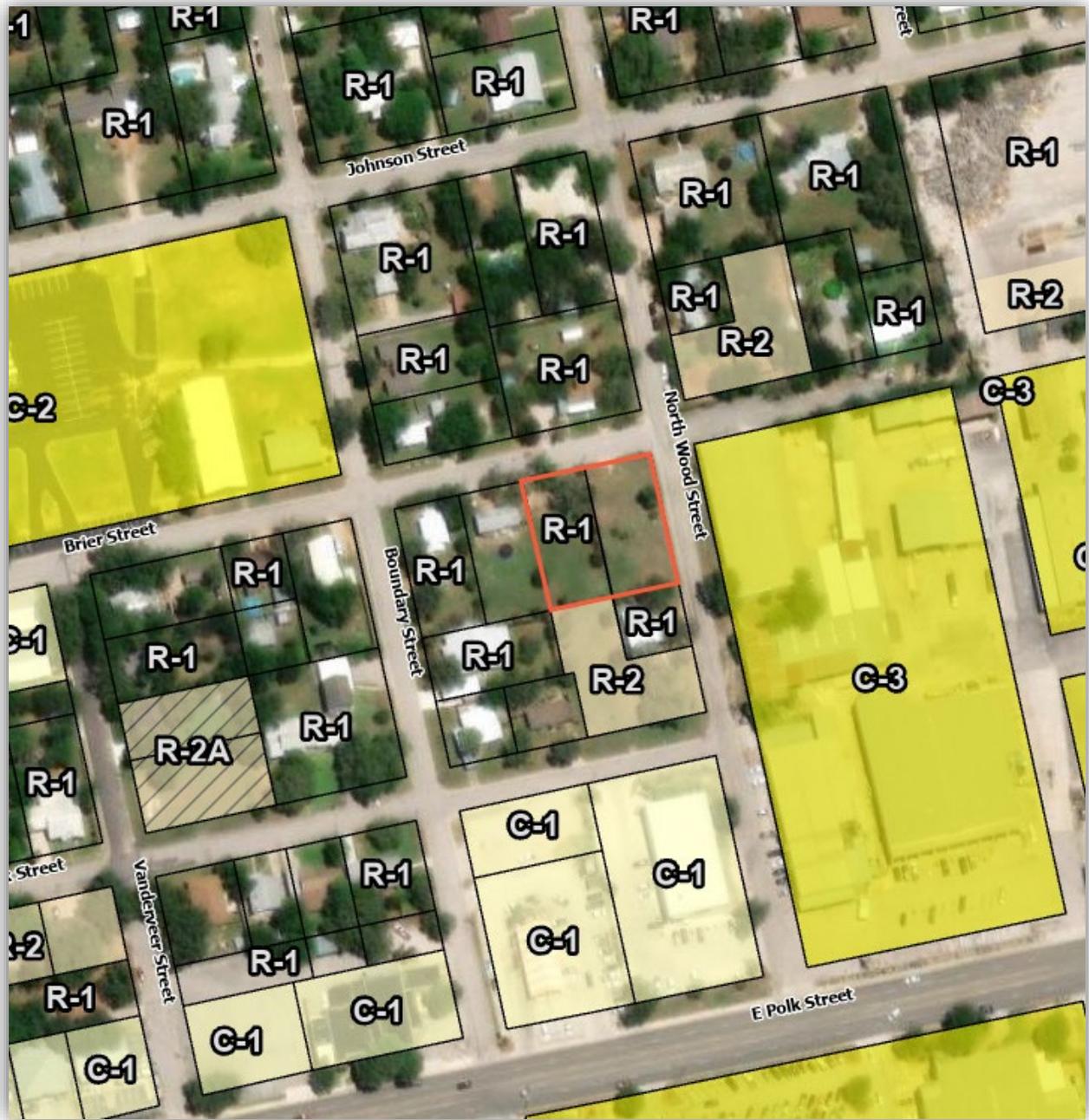
<b>Land Use</b>	Single-family home	Vacant	Hoover's Building Supply	Single-family home
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**Public Notification:** A Notice of Public Hearing was published in the Burnet Bulletin on May 24, 2023, and written notices were mailed to 19 surrounding property 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 5<sup>th</sup> and did recommend approval of the requested rezone and Ordinance 2023-20 as presented.

**Recommendation:** Open the public hearing.  
Pass and approve the first reading of 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 13<sup>th</sup> day of June 2023

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

**Exhibit A**  
**SUBJECT PROPERTY**



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”





**Current Zoning:**

# Future Land Use



	North	South	East	West
<b>Zoning</b>	"R-1"	"R-2"	"C-3"	"R-1"
<b>FLU</b>	Residential	Residential	Commercial	Residential
<b>Land Use</b>	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.



# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.1 E

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

### Public Hearing and Action

**Meeting Date:** June 13, 2023

**Agenda Item:** Public Hearing and consider action: 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

**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:

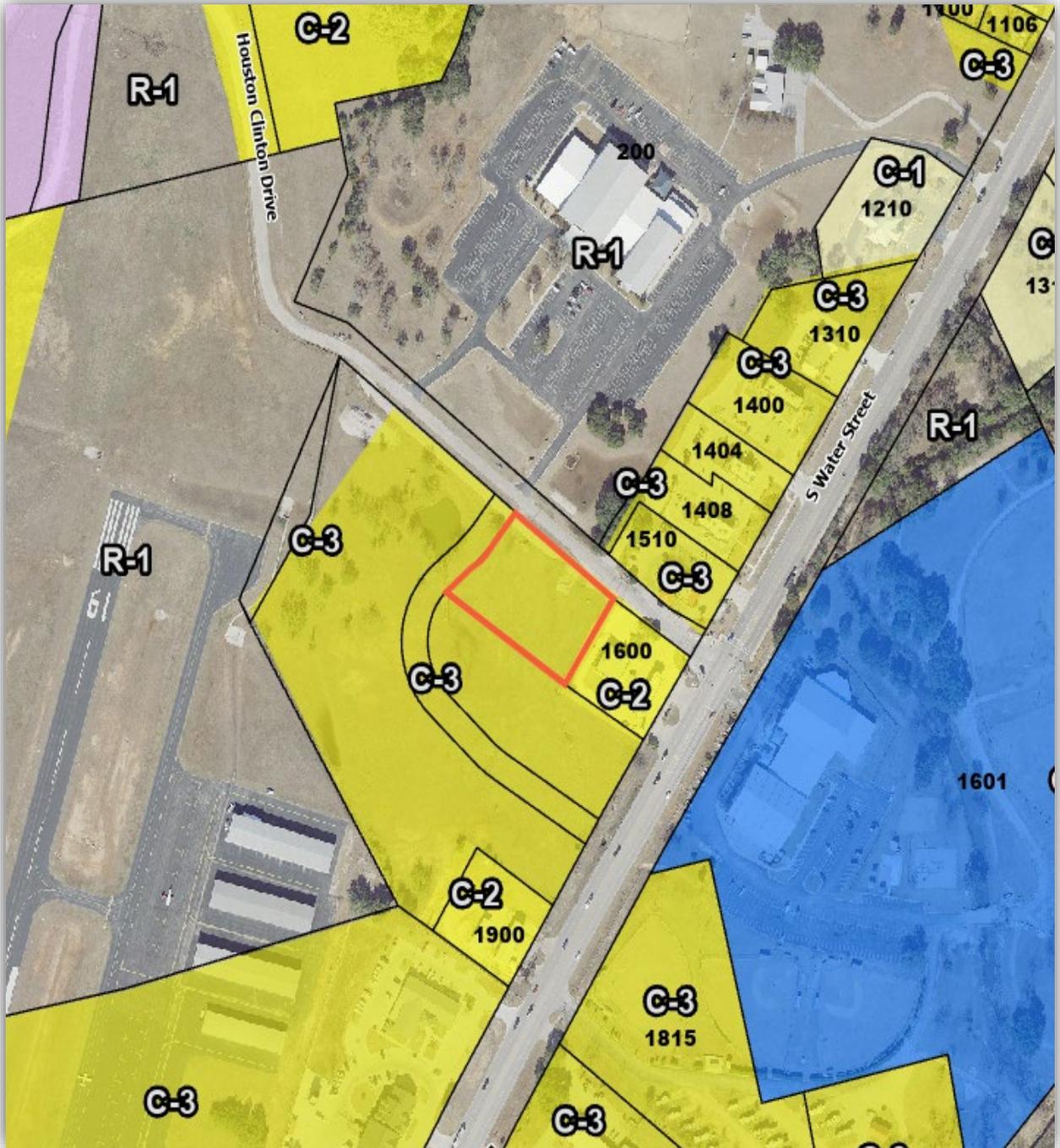
	<b>North</b>	<b>South</b>	<b>East</b>	<b>West</b>
<b>Zoning</b>	"C-3"	"R-2"	"C-3"	"C-3"
<b>FLUM</b>	Commercial	Commercial	Commercial	Commercial
<b>Land Use</b>	Vacant	Gas Station	Restaurant	Vacant

**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.

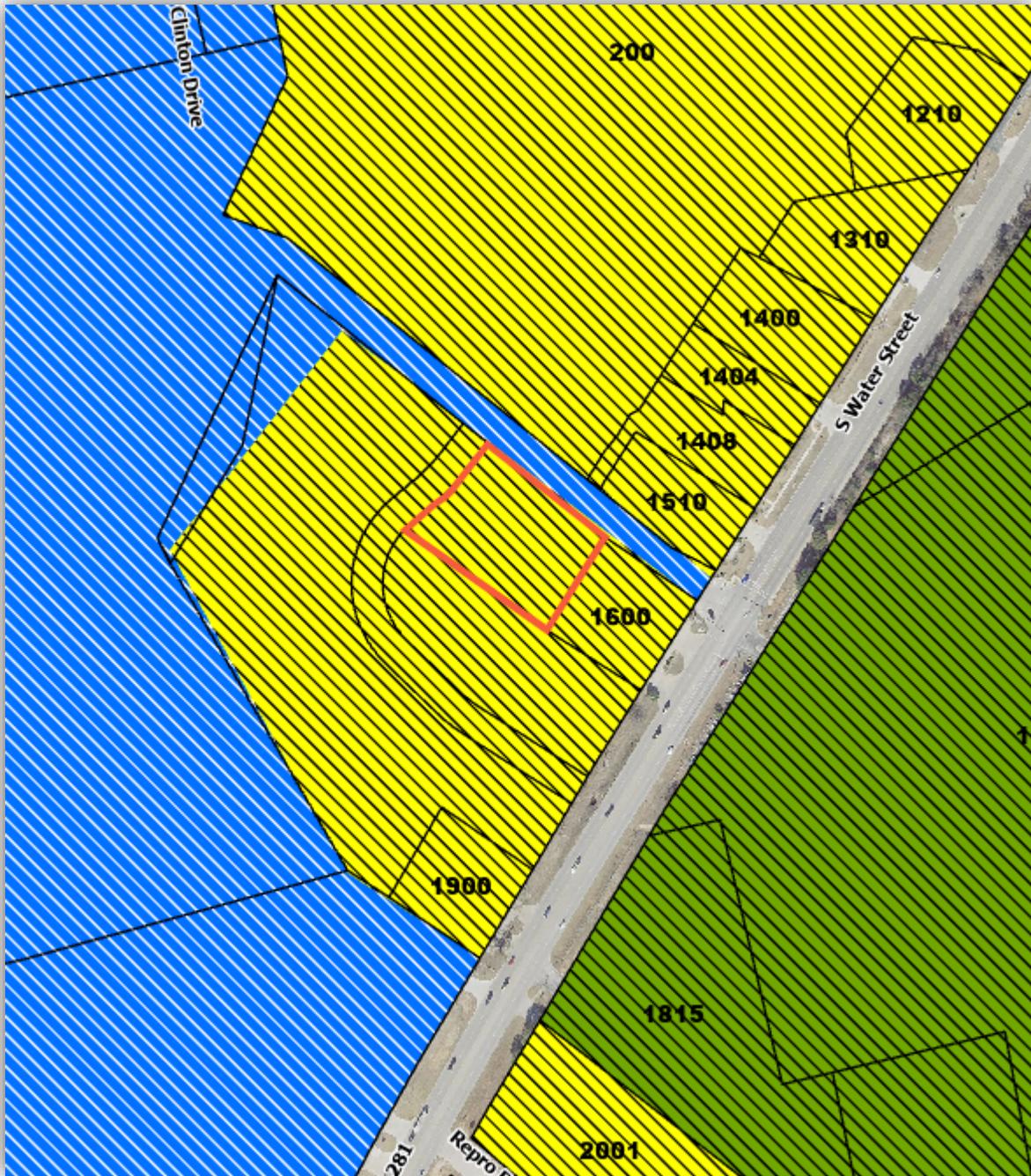
**P&Z Report:** Planning and Zoning met at the regular meeting on Monday, June 5<sup>th</sup> and did recommend approval of the requested rezone and Ordinance 2023-21 as presented.

**Recommendation:** Open the public hearing.  
Pass and approve 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 13<sup>th</sup> day of June 2023

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

**Exhibit A**  
**SUBJECT PROPERTY**



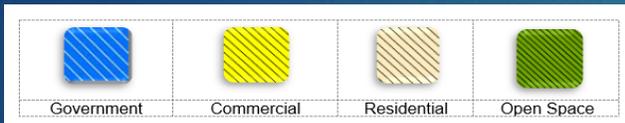
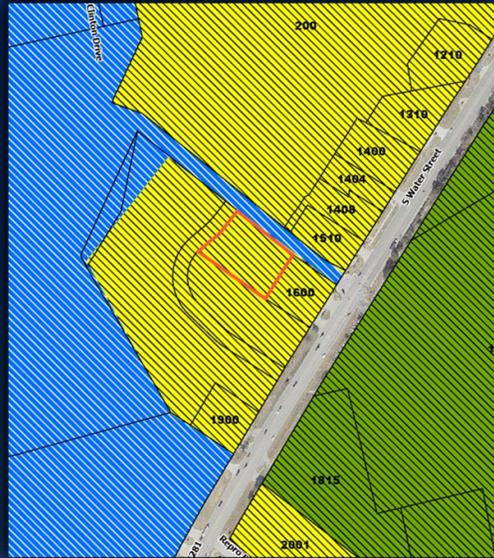
FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED HEAVY COMMERCIAL – DISTRICT “C-3”, LEGALLY DESCRIBED AS: LOT 2B, BLOCK B, THE CROSSINGS AT 281 SUBDIVISION,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





**Current Zoning:**

# 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.



# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.1 F

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

### Public Hearing and Action

**Meeting Date:** June 13, 2023

**Agenda Item:** Public Hearing and consider action: 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

**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.

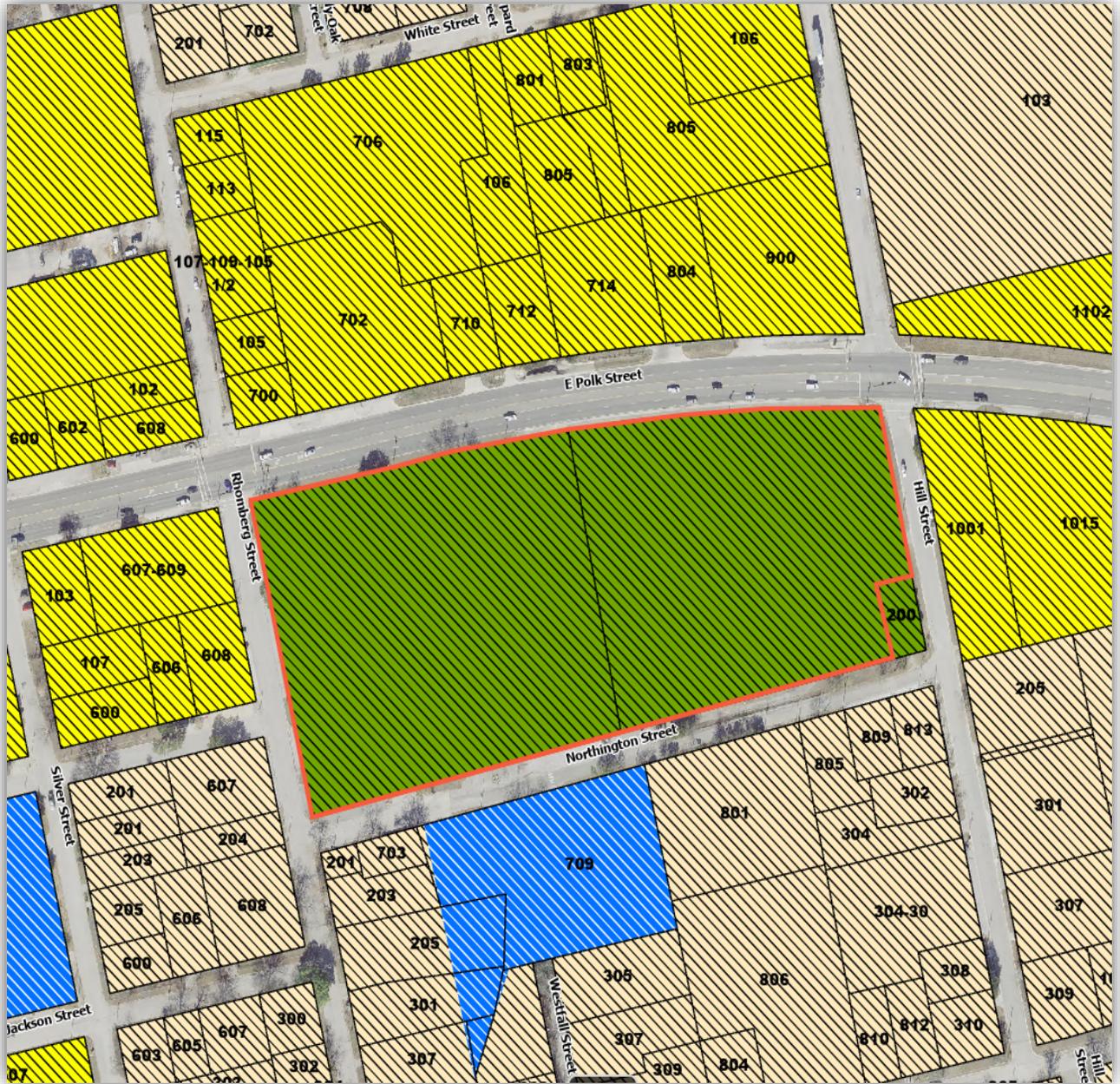
**Public Notice:** Notices were mailed to 30 surrounding property owners within 200' of the subject property and staff has received no comments in opposition to the proposed amendment to the City's Future Land Use Plan.

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

**Recommendation:** Open the public hearing.  
Pass and approve the first reading of Ordinance 2023-22 as presented.



### 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 13<sup>th</sup> day of June 2023.

**FINALLY PASSED AND APPROVED** on the 27<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

**Exhibit "A"**  
**Location**



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"

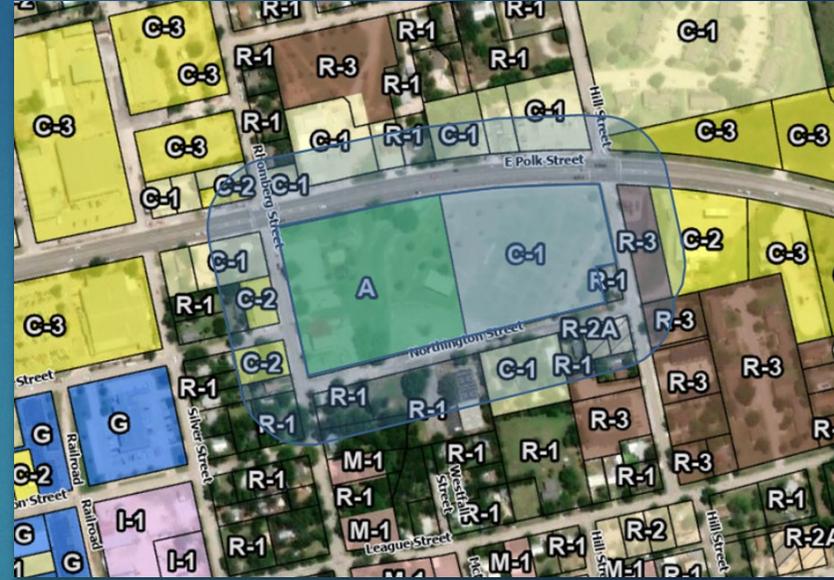


# City Initiated Request



- ▶ 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.



# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.1G

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

### Public Hearing and Action

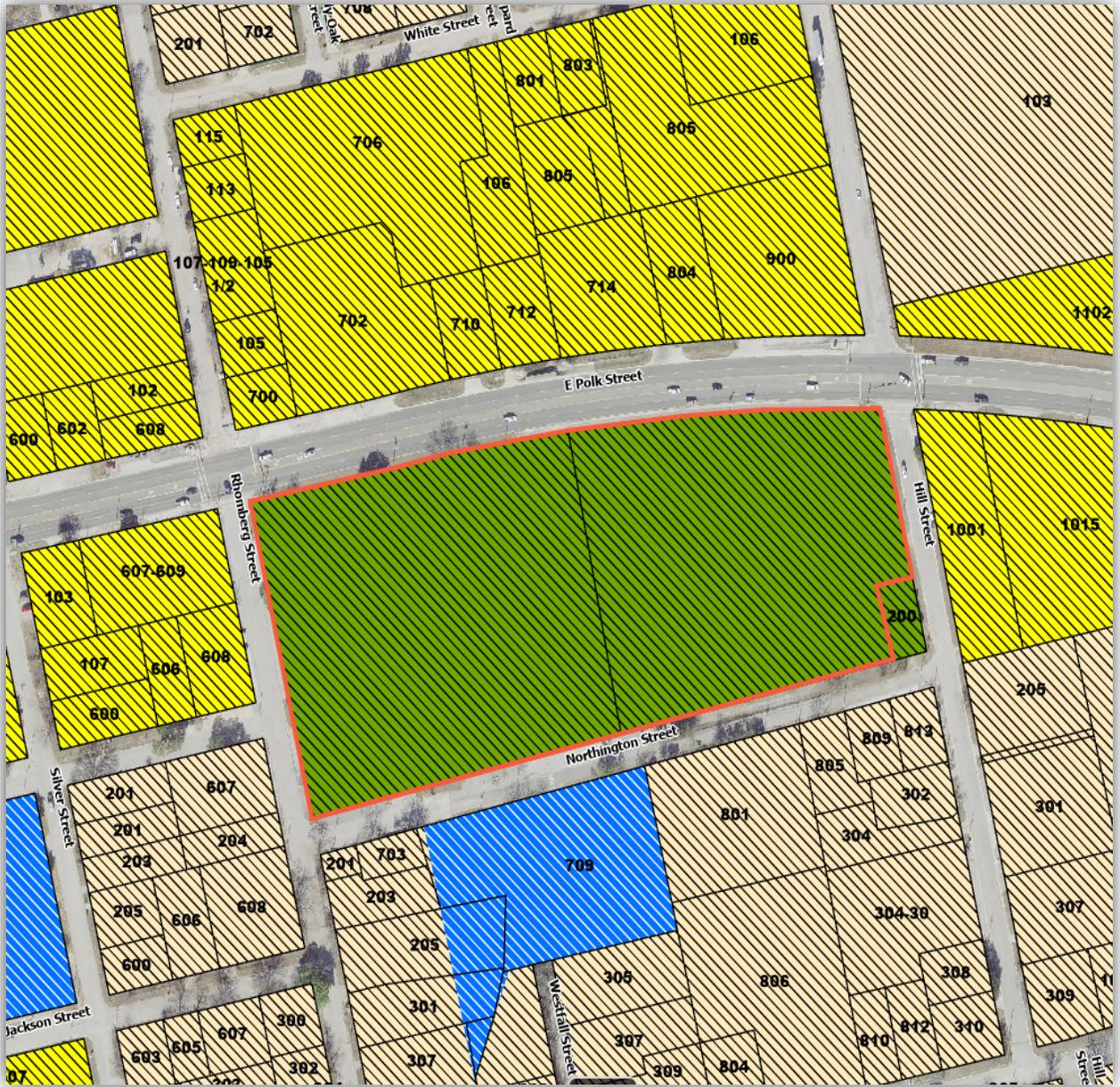
- Meeting Date:** June 13, 2023
- Agenda Item:** Public Hearing and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY CURRENTLY ZONED LIGHT COMMERCIAL – DISTRICT “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
- 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 5<sup>th</sup> and did recommend approval of the requested rezone.

**Recommendation:** Open the public hearing.

Pass and approve the first reading of Ordinance 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 13<sup>th</sup> day of June 2023

**PASSED AND APPROVED** on this the 27<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

**Exhibit A**  
**SUBJECT PROPERTY**



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”



# 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.



# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.1 H

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

### Public Hearing and Action

- Meeting Date:** June 13, 2023
- Agenda Item:** Discuss and Consider: 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
- 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:** Open the public hearing.  
Discuss and consider the first reading of the draft ordinance 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 13<sup>th</sup> day of June, 2023

**Passed** and Adopted on the 27<sup>th</sup> day of June, 2023

**CITY OF BURNET**

\_\_\_\_\_  
Gary Wideman, Mayor

**ATTEST:**

\_\_\_\_\_  
Kelly Dix, City Secretary

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







# Public Hearing

- ▶ Public hearing opened by Chair
- ▶ Limit 3 minutes per speaker

## P&Z Report

- ▶ P&Z met on June 5<sup>th</sup> and recommended approval of Ordinance 2023-XX as presented.

## Discussion

- ▶ Discuss and approve Ordinance 2023-XX



## Development Services

## ITEM 3.2

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

### Public Hearing and action

**Meeting Date:** June 13, 2023

**Public Hearing:** 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

**Information:** The proposed Preliminary Plat is a residential subdivision consisting of approximately 32.31 acres located within the ETJ, just north of the City limits, along FM 963 (Exhibit A). The proposed subdivision will include twelve (12) residential lots ranging in size from 2.09 acres to 2.99 acres with a remaining 52.31-acre tract located at the end of the cul-de-sac (Exhibit B).

The subdivision will gain access from FM 963 via a proposed private street named Freedom Way, which will be owned and maintained by the Property Owner's Association. This proposed street is 1730 feet in length and terminates in a 125-foot-wide cul-de-sac. This road exceeds the allowable length in the City of Burnet's code of ordinances, Sec. 98-42, and therefore will require approval of a subdivision variance prior to the plat's consideration as well as a variance requiring the plat to provide right-of-way access to adjoining tracts.

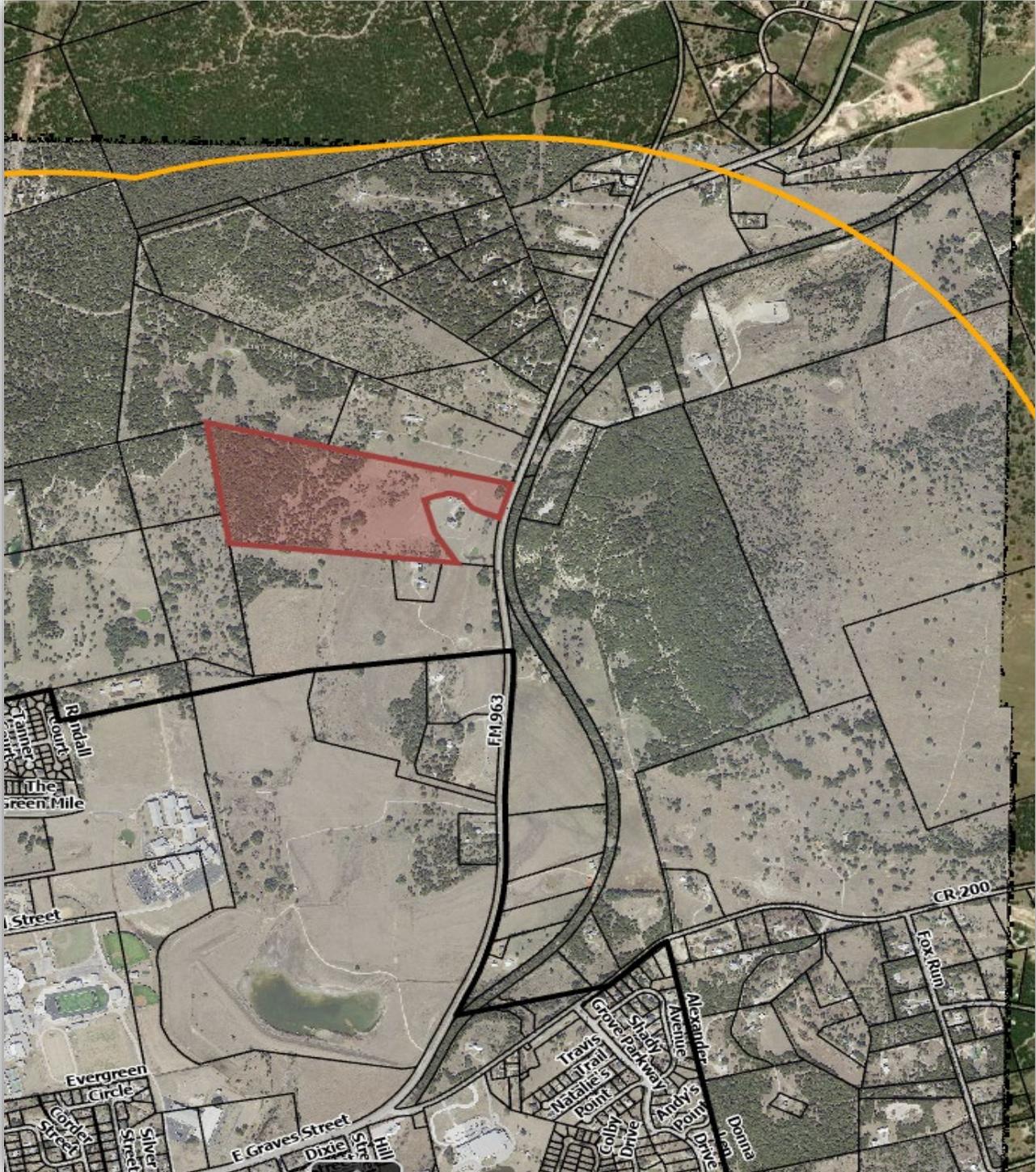
All lots within the proposed subdivision will be served by private wells and septic systems. There are two (2) lots, as well as the 52-acre remanent, that lie partially within the 100-year floodplain.

**Staff Analysis:** City staff and city engineer have reviewed the plat in accordance with Sec. 98-22 (entitled "Preliminary Plats") and have found the plat does generally meet the requirements as outlined in the code.

**P&Z Report:** The Planning and Zoning Commission voted unanimously to recommend approval of the Patriot Oaks Subdivision Preliminary Plat as presented.

**Recommendation:** Open the public hearing.  
Take action on the preliminary plat as presented

Exhibit "A"  
Tract







**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.**



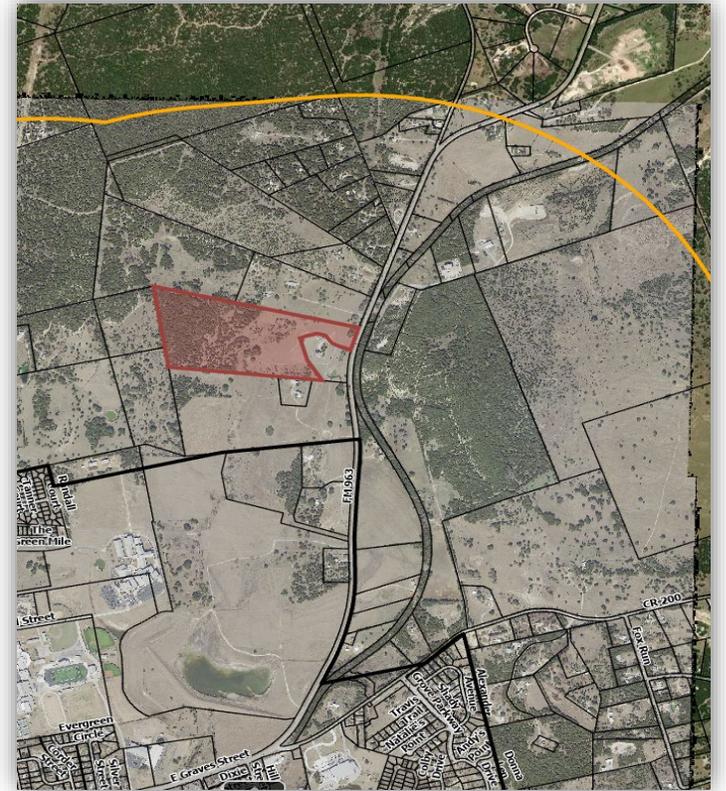


# Patriot Oaks Subdivision Plat

## Project Details

- 32.31 acres
- Located in ETJ
- 12 single-family residential lots
- All lots range from approx. 2-3 acres in size
- All lots within the proposed subdivision will be served by private wells and septic systems.

**City staff and city engineer have reviewed the plat in accordance with Sec. 98-22 and have found the plat does meet the requirements as outlined in the code.**



# Public Hearing

- ▶ Public hearing opened by *Mayor*
- ▶ Limit 3 minutes per speaker





## Administration

## ITEM 3.3

David Vaughn  
Assistant City Manager  
512.715.3208  
dvaughn@cityofburnet.com

### Public Hearing and Action

**Meeting Date:** June 13, 2023

**Agenda Item:** 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

**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 13<sup>th</sup> day of June 2023.

PASSED, APPROVED AND ADOPTED on second reading this the day of 27<sup>th</sup> 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. \_\_\_\_\_ on \_\_\_\_\_, authorizing the City Manager to enter into this Agreement; and

**WHEREAS**, Corporation’s Board of Directors has adopted Resolution No. \_\_\_\_\_ on \_\_\_\_\_, 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

Resolution approving BEDC Restroom Project and 380 agreement

Local Government Code for the administration of a program for making loans and grants 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

Resolution approving BEDC Restroom Project and 380 agreement 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

Resolution approving BEDC Restroom Project and 380 agreement

completed prior to the Expiration Date. Grant funds shall only be used to cover 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: \_\_\_\_\_

Resolution approving BEDC Restroom Project and 380 agreement  
David Vaughn, City Manager

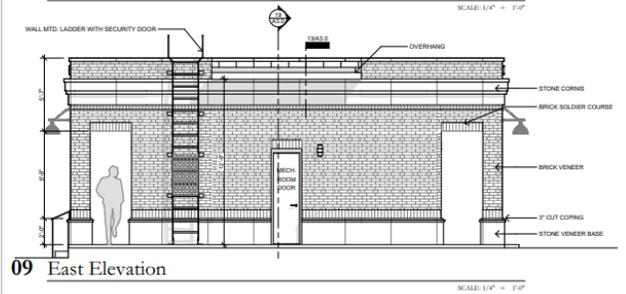
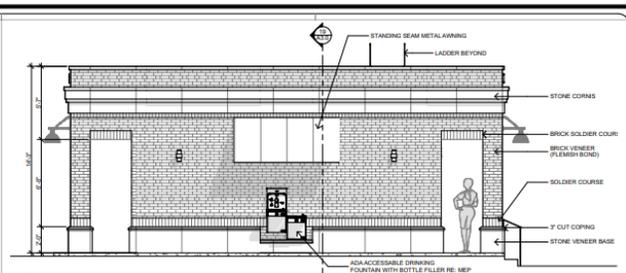
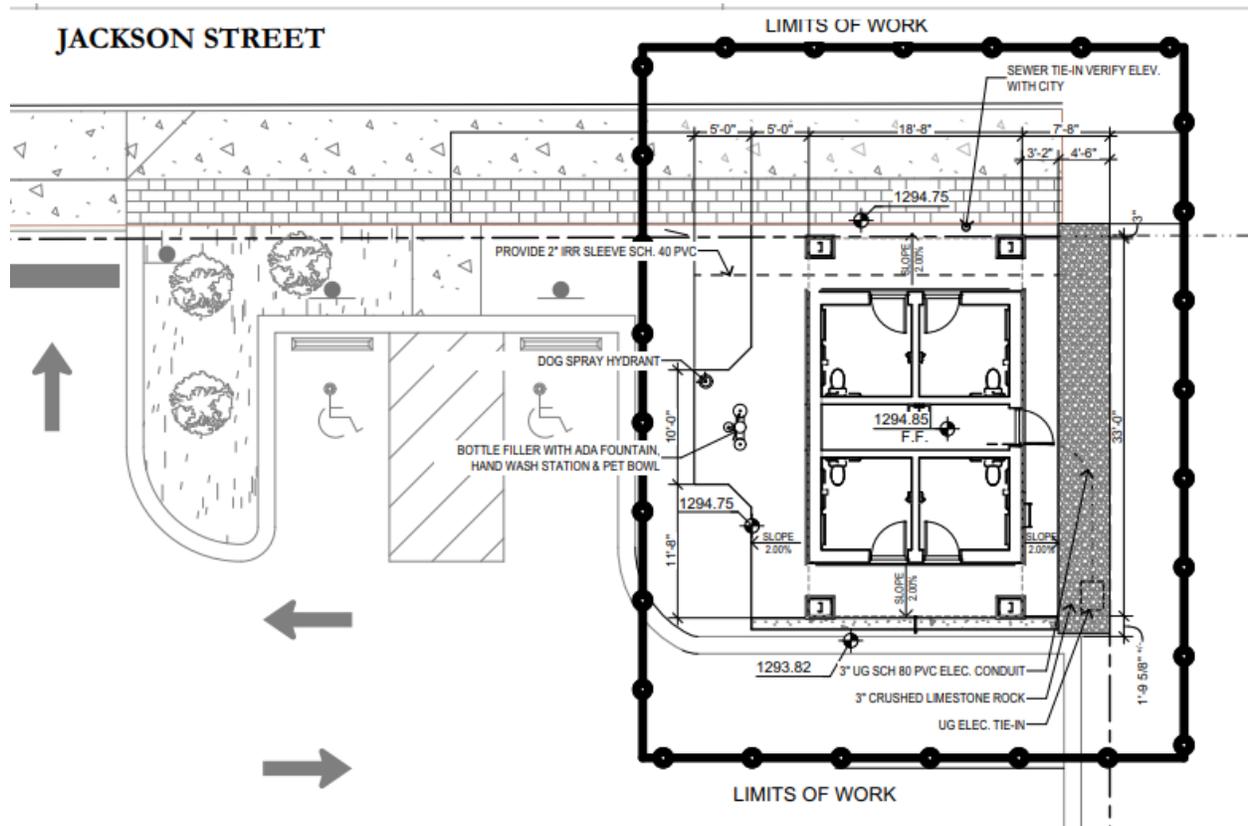
**ATTEST:**

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 13, 2023

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

# 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
- Requires two readings
  - Second reading: June 27





Questions



## Administration

## ITEM 3.4

David Vaughn.  
City Manager  
512-715-3208  
[dvaughn@cityofburnet.com](mailto:dvaughn@cityofburnet.com)

### Public Hearing and Action

**Meeting Date:** June 13, 2023

**Agenda Item:** 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

**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:** Open Public Hearing  
Approve first 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 13<sup>th</sup> day of June 2023.

**PASSED AND APPROVED** on second reading this the 27<sup>th</sup> 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:

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**PERFORMANCE AGREEMENT**

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This Performance Agreement is entered into to be effective as of the \_\_\_ day of \_\_\_\_\_, 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 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.C. 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

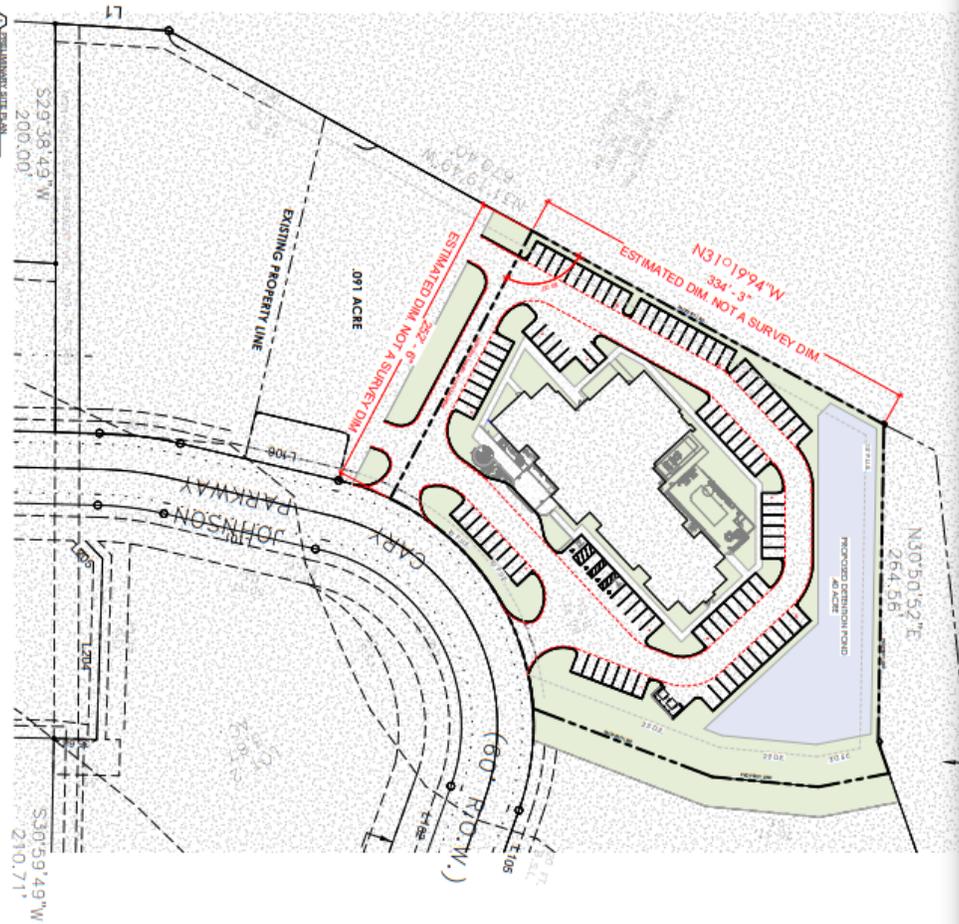
**Exhibit "A"**  
**Description of the Proposed Hotel**



\*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 200 GUEST ROOMS AND 1 PER 200 EMPLOYEES  
1 PER 100 MEETING ROOMS AND 1 PER 100 EMPLOYEES  
TOTAL 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, an 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 DISCLSURES: 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

## Unimproved Property Contract Hotel Project

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:

## Unimproved Property Contract Hotel Project

- 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

**Unimproved Property Contract Hotel Project**

Telephone: (512) 715-3208  
Facsimile: (512) 756-8560  
E-mail: [dvaughn@cityofburnet.com](mailto: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:**

**Unimproved Property Contract Hotel Project**

**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

DRAFT

**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

DRAFT

City Council Regular  
Meeting  
June 13, 2023

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

# 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.

Second reading: June 27

TOWNEPLACE SUITES  
BY MARRIOTT





Questions



## City Secretary

## ITEM 4.1

Kelly Dix  
City Secretary  
(512)-756-6093 ext. 3209  
kdix@cityofburnet.com

### Action

- Meeting Date:** June 13, 2023
- Agenda Item:** Discuss and consider action: Appointment of three Commissioners to the Housing Authority of the City of Burnet: K. Dix
- Background:** Roy Hallmark, Louise Lary, and James Herbort currently serve as Commissioners on the Housing Authority of the City of Burnet and are all seeking re-appointment. Their two-year terms expire at the end of June 2023.
- Information:** Billie Shelburn, Executive Director of the Burnet Housing Authority of the City of Burnet submitted a request to re-appoint Roy Hallmark, Louise Lary and James Herbort as Commissioners on the Housing Authority Board of the City of Burnet for a term of two years, expiring in June of 2025.
- Fiscal Impact:** None.
- Recommendation:** Re-appoint Roy Hallmark, Louise Lary, and James Herbort to the Housing Authority Board of Commissioners of the City of Burnet to serve a two-year term, expiring in June 2025.

**Certificate of Appointment of  
Commissioners of the Housing Authority  
Of the City of Burnet, Texas**

Pursuant to the provisions of section 5 of the "Housing Authorities Law" of the State of Texas and by virtue of my office as Mayor:

I hereby appoint, the following named person to serve as Commissioner of the Housing Authority of the City of Burnet, Texas and to serve for the following two-year term:

**Roy Hallmark  
2023-2025**

I hereby certify that the above designated Commissioner is not an Officer or Employee of the City of Burnet, Texas, but said Commissioner is a resident thereof.

In witness whereof, I have hereunto signed my name as Mayor of the City of Burnet, Texas, and caused the official Corporate Seal of the City of Burnet, Texas to be attached hereto this 13<sup>th</sup> day of June, 2023.

\_\_\_\_\_  
Gary Wideman, Mayor  
City of Burnet, Texas

ATTEST:

\_\_\_\_\_  
Kelly Dix, City Secretary  
City of Burnet, Texas

**CERTIFIED DOCUMENT**

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

I hereby certify that on the 13<sup>th</sup> day of June 2022 a certificate of appointment of Commissioner **Roy Hallmark** of the Housing Authority of the City of Burnet, Texas, was duly filed with the City Secretary of the City of Burnet, Texas, and the certificate being dated the 13<sup>th</sup> day of June 2023, and signed by the Mayor of the said City, and attached hereto is a true, correct and compared copy of the original certificate of appointment and designation which is now on file in the office of the City Secretary of the City of Burnet Texas.

In witness hereof, I have hereunto set my hand and the seal of the City of Burnet, Texas this 13<sup>th</sup>, day of June, 2023.

\_\_\_\_\_  
Kelly Dix, City Secretary

**Certificate of Appointment of  
Commissioners of the Housing Authority  
Of the City of Burnet, Texas**

Pursuant to the provisions of section 5 of the "Housing Authorities Law" of the State of Texas and by virtue of my office as Mayor:

I hereby appoint, the following named person to serve as Commissioner of the Housing Authority of the City of Burnet, Texas and to serve for the following two-year term:

**Louise Lary  
2023-2025**

I hereby certify that the above designated Commissioner is not an Officer or Employee of the City of Burnet, Texas, but said Commissioner is a resident thereof.

In witness whereof, I have hereunto signed my name as Mayor of the City of Burnet, Texas, and caused the official Corporate Seal of the City of Burnet, Texas to be attached hereto this 13<sup>th</sup> day of June, 2023.

\_\_\_\_\_  
Gary Wideman, Mayor  
City of Burnet, Texas

ATTEST:

\_\_\_\_\_  
Kelly Dix, City Secretary  
City of Burnet, Texas

**CERTIFIED DOCUMENT**

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

I hereby certify that on the 13<sup>th</sup> day of June 2023 a certificate of appointment of Commissioner **Louise Lary** of the Housing Authority of the City of Burnet, Texas, was duly filed with the City Secretary of the City of Burnet, Texas, and the certificate being dated the 13<sup>th</sup> day of June 2023, and signed by the Mayor of the said City , and attached hereto is a true, correct and compared copy of the original certificate of appointment and designation which is now on file in the office of the City Secretary of the City of Burnet Texas.

In witness hereof, I have hereunto set my hand and the seal of the City of Burnet, Texas this 13<sup>th</sup> day of June, 2023.

---

Kelly Dix, City Secretary

**Certificate of Appointment of  
Commissioners of the Housing Authority  
Of the City of Burnet, Texas**

Pursuant to the provisions of section 5 of the "Housing Authorities Law" of the State of Texas and by virtue of my office as Mayor:

I hereby appoint, the following named person to serve as Commissioner of the Housing Authority of the City of Burnet, Texas and to serve for the following two-year term:

**James Herbort  
2023-2025**

I hereby certify that the above designated Commissioner is not an Officer or Employee of the City of Burnet, Texas, but said Commissioner is a resident thereof.

In witness whereof, I have hereunto signed my name as Mayor of the City of Burnet, Texas, and caused the official Corporate Seal of the City of Burnet, Texas to be attached hereto this 13<sup>th</sup> day of June, 2023.

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Gary Wideman, Mayor  
City of Burnet, Texas

ATTEST:

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Kelly Dix, City Secretary  
City of Burnet, Texas

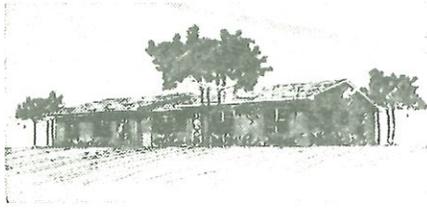
**CERTIFIED DOCUMENT**

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

I hereby certify that on the 13<sup>th</sup> day of June 2023 a certificate of appointment of Commissioner **James Herbort** of the Housing Authority of the City of Burnet, Texas, was duly filed with the City Secretary of the City of Burnet, Texas, and the certificate being dated the 13<sup>th</sup> day of June 2023, and signed by the Mayor of the said City , and attached hereto is a true, correct and compared copy of the original certificate of appointment and designation which is now on file in the office of the City Secretary of the City of Burnet Texas.

In witness hereof, I have hereunto set my hand and the seal of the City of Burnet, Texas this 13<sup>th</sup> day of June, 2023.

\_\_\_\_\_  
Kelly Dix, City Secretary



# Housing Authority of The City of Burnet

805 SOUTH WATER  
P. O. BOX 56  
BURNET, TEXAS 78611  
PHONE 512 756-4745

---

June 5, 2023

Mayor Gary Wideman  
City of Burnet  
P.O. Box 1369  
Burnet, Texas 78611

Dear Mayor Wideman:

First congratulations on your election to be the new Mayor of Burnet, I do look forward to working with you as we have in the past.

It is time again to re-elect 3 of my Commissioners to my Board. I would love Roy Hallmark, Louise Lary and James Herbort to be appointed. They have all agreed to serve for another two years. They all three have served in the past and do an awesome job.

Just to fill you in, we now have 450 tenants since the Burnet Housing Authority took over the Marble Falls Housing Authority. We have more than doubled our workload. The takeover was on July 1, 2020, in the middle of covid, but we made it. It has been good for our community, plus we still have tenants in the Marble Falls area. This was part of the take over with HUD that I would maintain service to the Marble Falls area.

We have begun rehab at our League Street Apt. with the finance from USDA. These units were in bad need and the rehab is already making a real difference in structure. The result will make these units in good condition for several years to come.

I have still been able to maintain the High Performer status for both Low Rent and the Voucher Programs with the Department of Housing and Urban Development. I feel very lucky to be able to maintain this status.

We cannot express how fortunate we are to have the City of Burnet back in all that we do, for now and in the past. David and Kelly have always been so awesome to work with. We thank them every day.

Since taking over Marble Falls our budget has grown a lot and happy that we can put a lot, or most, of it right back in our community.

We still maintain to help low- and moderate-income families to be able to find safe and decent housing. We do help 450 families and maintain a three-year waiting list. Rents have increased in our area, and it is difficult for these families to be able to afford the rent.

Again, The Burnet Housing Authority staff and Commissioners, as always, are so proud to be a part of this great community.

I have also included a copy of our audit for the 2021 year. If you ever have any questions, please feel free to give me a call.

Again, thank you so much for your time and concern.

Yours truly,

A handwritten signature in cursive script that reads "Billie Shelburn".

Billie Shelburn  
Executive Director



## Development Services

### ITEM 4.2

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

### Action

**Meeting Date:** June 13, 2023

**Action Item:** 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

**Background:** The proposed Preliminary Plat of Patriot Oaks Subdivision (Exhibit A) is a single-family residential subdivision on 32.31 acres of property located within the ETJ, just north of the City limits, along FM 963. The proposed subdivision will create 12 residential lots.

The subdivision will gain access via the proposed private road, Freedom Way. This road will be owned and maintained by a Property Owners Association. Freedom Way is a proposed dead-end cul-de-sac with an approximate length of 1730. This does exceed the allowable block length in City code, Sec. 98-48; additionally, the subdivision does not provide for right-of-way access to adjoining tracts which is a requirement per Sec. 98-42.

**Information:** The first requested variance pertains to the requirements outlined in Code of Ordinances Sec. 98-48(1)(b) which states: “Residential blocks shall not exceed 600 feet nor be less than 300 feet in length.”

The second requested variance pertains to the requirements outlined in Code of Ordinances Sec. 98-42(b)(4) which states: “Where adjoining areas are not subdivided, the arrangements of streets in the subdivision shall make provision for the future projection of streets into such areas that are not subdivision.”

The City of Burnet Code of Ordinances Sec. 98-82 states the following regarding variances to the subdivision standards:

“In granting approval of a request for variance, the Commission and Council shall conclude that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the variance observes the spirit of this chapter and concludes that substantial justice is done. The Commission and Council shall meet these requirements by making findings that:

- a. The public convenience and welfare will be substantially served;
- b. The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
- c. The applicant has not created the hardship from which relief is sought;
- d. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
- e. The hardship from which relief is sought is not solely of an economic nature;
- f. The variance is not contrary to the public interest;
- g. Due to special conditions, the literal enforcement of this chapter would result in an unnecessary hardship; and
- h. In granting the variance the spirit of the ordinance is observed and substantial justice is done.”

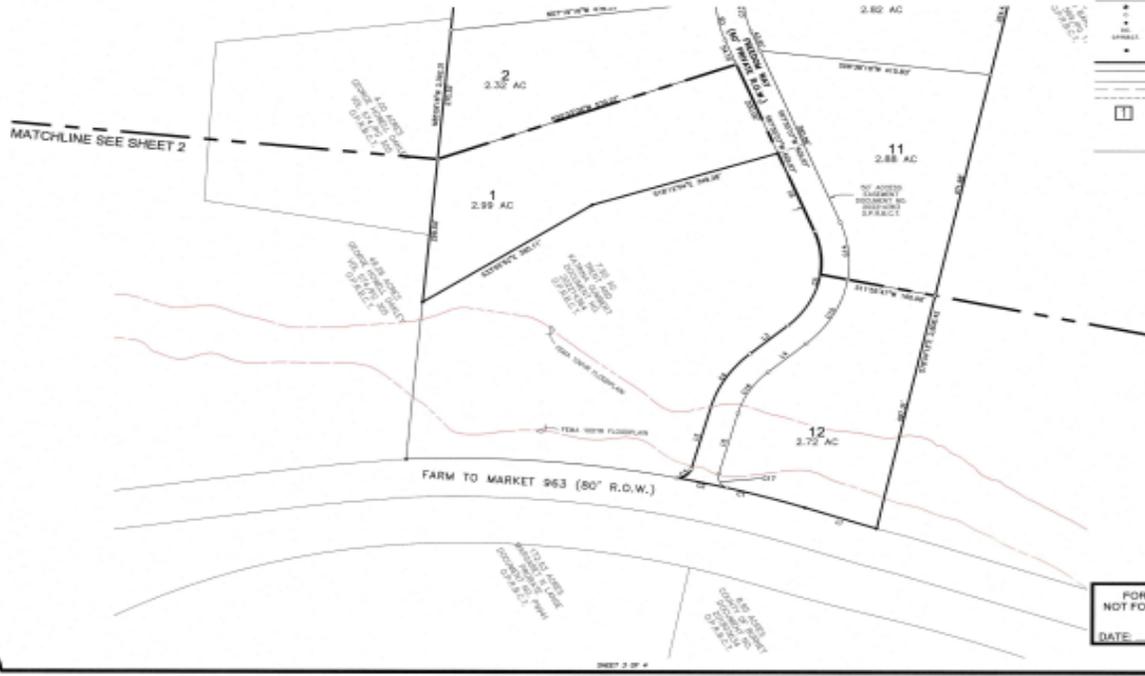
**Staff Analysis:** Staff has evaluated the variance requests and has determined that, due to the property’s location in the ETJ, and the configuration of the property, as well as the limited access onto the property, the creation of the large lots, and the rural nature of the surrounding properties which already have access to arterial streets, the requested variance would meet the criterion of the code.

**P&Z Report:** Planning and Zoning met on June 5<sup>th</sup> and did unanimously recommend approval of the requested variances and Resolution R2023-37 as presented.

**Recommendation:** Approve and adopt Resolution R2023-37 as presented.



**PRELIMINARY PLAT OF  
PATRIOT OAKS SUBDIVISION  
32.31 ACRES  
OUT OF THE JOHN HAMILTON SURVEY, SURVEY, ABSTRACT NO. 405  
BURNET COUNTY, TEXAS**



FOR REVIEW ONLY  
NOT FOR CONSTRUCTION  
DATE: 4/13/2023

**PRELIMINARY PLAT OF  
PATRIOT OAKS SUBDIVISION  
32.31 ACRES  
OUT OF THE JOHN HAMILTON SURVEY, SURVEY, ABSTRACT NO. 405  
BURNET COUNTY, TEXAS**

**STATE OF TEXAS**  
COUNTY OF BURNET

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS MY HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

**JAMES W. BERRY, Notary Public**  
1211 S. WASHINGTON ROAD, BOX 1014  
BURNET, TEXAS 78611

**STATE OF TEXAS**  
COUNTY OF BURNET

BEFORE ME, the undersigned authority, on this day personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the foregoing plat, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

WITNESS MY HAND AND SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023.

**ANGELA W. BERRY, Notary Public**  
1211 S. WASHINGTON ROAD, BOX 1014  
BURNET, TEXAS 78611

**DEED RECORDS**

1. ACCORDING TO THE NATIONAL FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 40040A0010, BURNET COUNTY, TEXAS, A PORTION OF THIS TRACT IS WITHIN THE 100 YEAR FLOODPLAIN.

2. BASED ON RECORDS FOR THIS TRACT IN THE TEXAS LAND AND GENERAL RECORDS.

3. THERE ARE 1,231 LARGER PLOTS OF SIMILAR SIZE.

4. THE STREETS AND DRIVEWAY IMPROVEMENTS SHOWN HEREON SHALL BE FINISHED AND MAINTAINED BY THE STATE OF TEXAS.

5. THE STATE OF TEXAS SHALL BE RESPONSIBLE FOR THE CONSTRUCTION AND MAINTENANCE OF ALL STREETS, DRIVEWAYS AND UTILITY LINES IN THIS TRACT.

**DEED RECORDS**

1. THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HAS CONDUCTED A SURVEY OF THE ABOVE DESCRIBED TRACT AND HAS PREPARED THIS PLAT THEREON. I HAVE PERSONALLY LOCATED ALL CORNERS AND BOUNDARIES AND HAVE FOUND THEM TO CORRESPOND TO THE RECORDS AND TO THE FIELD SURVEY. I HAVE ALSO FOUND THAT ALL NECESSARY EASEMENTS ARE CORRECTLY SET ON THIS PLAT.

**DEED RECORDS**

1. THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HAS CONDUCTED A SURVEY OF THE ABOVE DESCRIBED TRACT AND HAS PREPARED THIS PLAT THEREON. I HAVE PERSONALLY LOCATED ALL CORNERS AND BOUNDARIES AND HAVE FOUND THEM TO CORRESPOND TO THE RECORDS AND TO THE FIELD SURVEY. I HAVE ALSO FOUND THAT ALL NECESSARY EASEMENTS ARE CORRECTLY SET ON THIS PLAT.

**DEED RECORDS**

1. THE UNDERSIGNED, A REGISTERED PROFESSIONAL ENGINEER IN THE STATE OF TEXAS, HAS CONDUCTED A SURVEY OF THE ABOVE DESCRIBED TRACT AND HAS PREPARED THIS PLAT THEREON. I HAVE PERSONALLY LOCATED ALL CORNERS AND BOUNDARIES AND HAVE FOUND THEM TO CORRESPOND TO THE RECORDS AND TO THE FIELD SURVEY. I HAVE ALSO FOUND THAT ALL NECESSARY EASEMENTS ARE CORRECTLY SET ON THIS PLAT.

FOR REVIEW ONLY  
NOT FOR CONSTRUCTION  
DATE: 4/13/2023

**LINE TABLE**

LINE #	APPROX. BEARING	APPROX. DISTANCE
01	118.00	200.00
02	118.00	200.00
03	118.00	200.00
04	118.00	200.00
05	118.00	200.00
06	118.00	200.00
07	118.00	200.00
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09	118.00	200.00
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96	118.00	200.00
97	118.00	200.00
98	118.00	200.00
99	118.00	200.00
100	118.00	200.00

## RESOLUTION NO. R2023-37

### A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A VARIANCE TO THE CODE OF ORDINANCES, SECTION 98-48 – BLOCKS AND LOTS FOR THE PROPOSED PRELIMINARY PLAT OF PATRIOT OAKS SUBDIVISION

**Whereas**, Code of Ordinances, Section 98-48, imposes lengths for residential blocks within the Subdivision; and

**Whereas**, Code of Ordinances, Section 98-42, requires future access between tracts of land; and

**Whereas**, the applicant has petitioned for a variance to allow for the development of a large lot subdivision within the property; and

**Whereas**, the subdivision has limited access and is landlocked on three sides; and

**Whereas**, the Planning and Zoning Commission has recommended the variance be granted:

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

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

**Section two. Findings.** As required by City Code Sec. 98-82 City Council finds:

- Granting the variance is not contrary to the public interest: **approving the variance allows the development of a large lot subdivision, within the ETJ, which has limited access and currently does not have other options for inter-connectivity.**
- The literal enforcement of this chapter would result in unnecessary hardship: **as the property is landlocked by other rural properties which only allows one entrance onto the property and the additional length of the road allows for better use of the land.**
- The variance observes the spirit of the chapter and concludes that substantial justice is done: **By granting this variance, the spirit of the code is observed, ad substantial justice is done**

**Section three. Approval.** The variance request is hereby approved and granted.

**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.

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

**PASSED AND APPROVED** this the 13<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

**ATTEST:**

\_\_\_\_\_  
Gary Wideman, Mayor

\_\_\_\_\_  
Kelly Dix, City Secretary

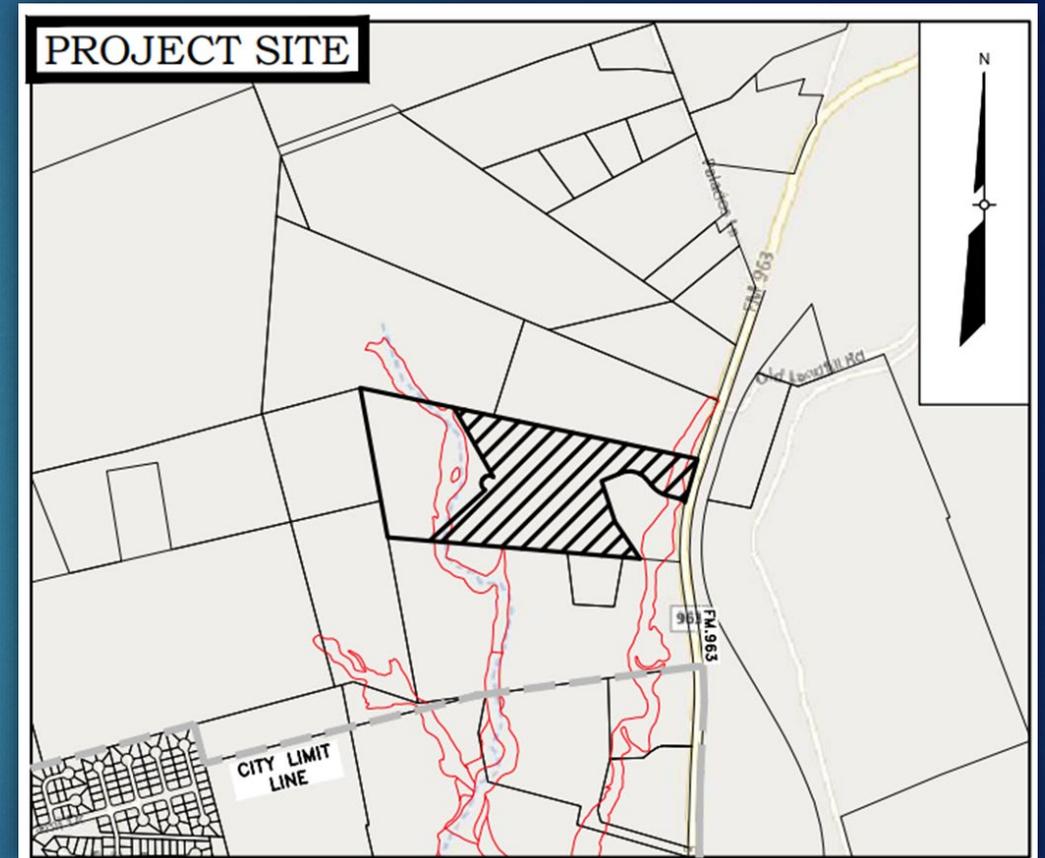
**Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING VARIANCES TO THE CODE OF ORDINANCES, SECTION 98-48 – BLOCKS AND LOTS AND SECTION 98-42 – TRANSPORTATION IMPROVEMENTS FOR THE PROPOSED PRELIMINARY PLAT OF PATRIOT OAKS SUBDIVISION**



# Variance Requests

This Patriot Oaks Subdivision will be served by a private road. The private road does not meet the allowable length and future projection requirements in the City of Burnet's code of ordinances, Sec. 98-48 and Sec. 98-42, and therefore will require approval of a subdivision variance prior to the plat's consideration.

- Sec. 98-48(1)(b) states: "Residential blocks shall not exceed 600 feet nor be less than 300 feet in length."
- Sec. 98-42(b)(4) states: "Where adjoining areas are not subdivided, the arrangements of streets in the subdivision shall make provision for the future projection of streets into such areas that are not subdivision."
- The City of Burnet Code of Ordinances Sec. 98-82 states the following regarding variances to the subdivision standards: *"In granting approval of a request for variance, the Commission and Council shall conclude that the variance is not contrary to the public interest and due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the variance observes the spirit of this chapter and concludes that substantial justice is done."*



# Staff Analysis

Staff has reviewed the criteria and does feel believe the requested variance would meet the criterion of the code.

**Planning and Zoning met on June 5<sup>th</sup> and recommended approval of the 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**



## Development Services

## ITEM 4.3

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

### Action

**Meeting Date:** June 13, 2023

**Action Item:** 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

**Information:** The proposed Preliminary Plat is a residential subdivision consisting of approximately 32.31 acres located within the ETJ, just north of the City limits, along FM 963 (Exhibit A). The proposed subdivision will include twelve (12) residential lots ranging in size from 2.09 acres to 2.99 acres with a remaining 52.31-acre tract located at the end of the cul-de-sac (Exhibit B).

The subdivision will gain access from FM 963 via a proposed private street named Freedom Way, which will be owned and maintained by the Property Owner's Association. This proposed street is 1730 feet in length and terminates in a 125-foot-wide cul-de-sac. This road exceeds the allowable length in the City of Burnet's code of ordinances, Sec. 98-42, and therefore will require approval of a subdivision variance prior to the plat's consideration as well as a variance requiring the plat to provide right-of-way access to adjoining tracts.

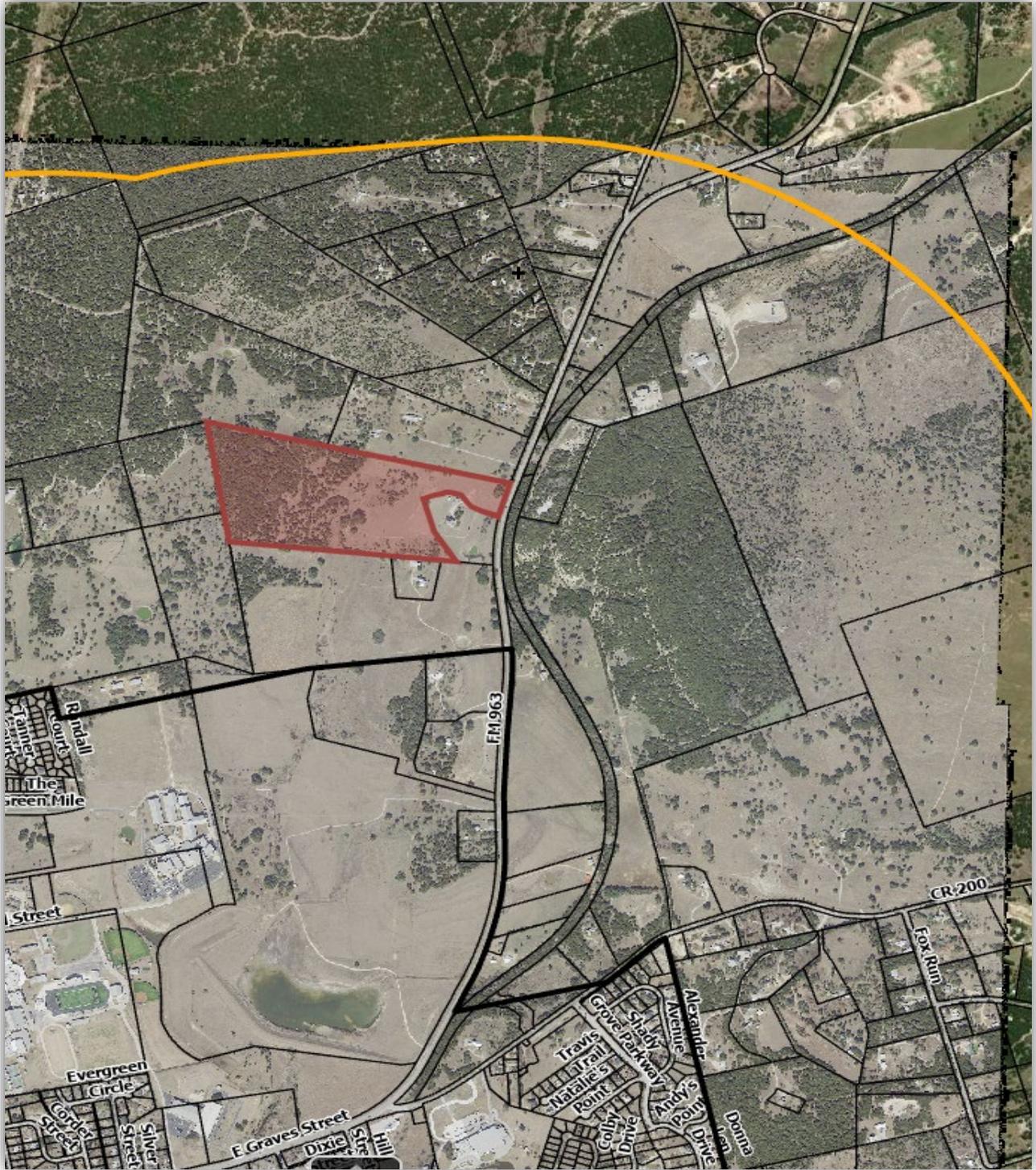
All lots within the proposed subdivision will be served by private wells and septic systems. There are two (2) lots, as well as the 52-acre remanent, that lie partially within the 100-year floodplain.

**Staff Analysis:** City staff and city engineer have reviewed the plat in accordance with Sec. 98-22 (entitled "Preliminary Plats") and have found the plat does generally meet the requirements as outlined in the code.

**P&Z Report:** Planning and Zoning Commission met on June 5<sup>th</sup> and did unanimously recommend approval of the Preliminary Plat establishing Patriot Oaks Subdivision and Resolution R2023-38 as presented.

**Recommendation:** Approve and adopt Resolution R2023-38 as presented.

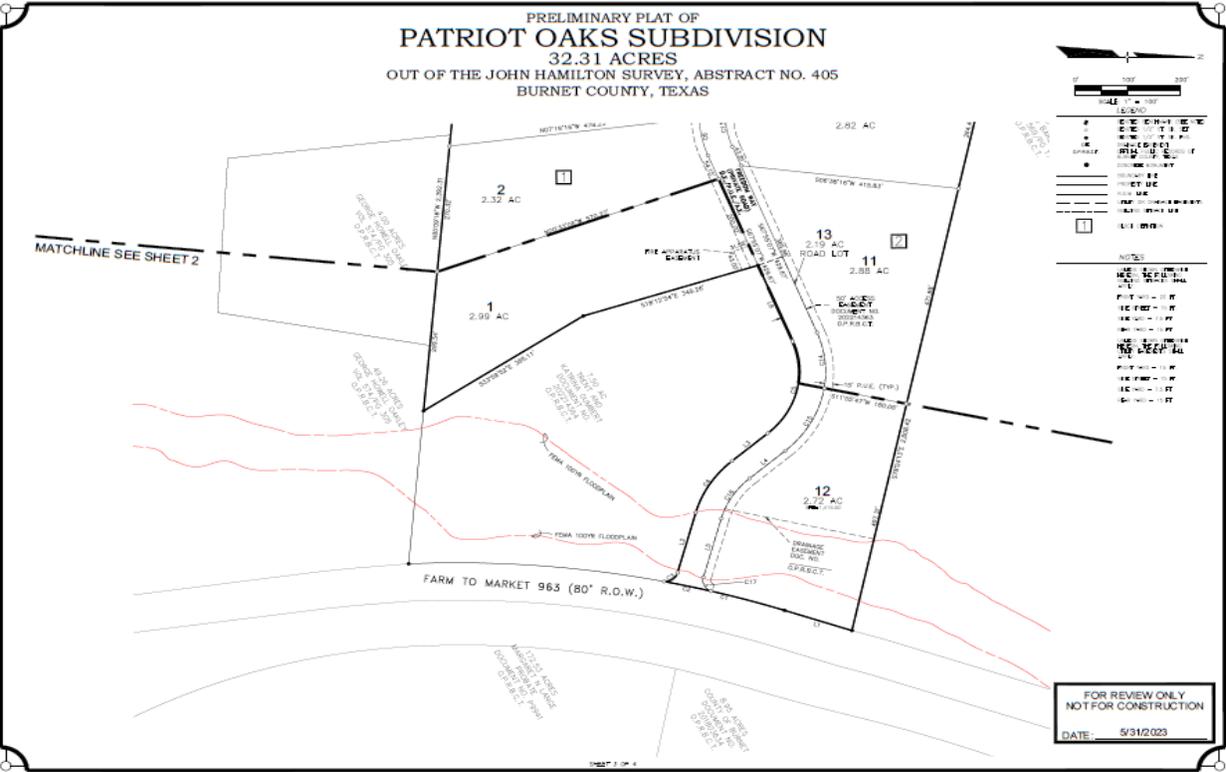
Exhibit "A"  
Tract





# Plat Page 2

## PRELIMINARY PLAT OF PATRIOT OAKS SUBDIVISION 32.31 ACRES OUT OF THE JOHN HAMILTON SURVEY, ABSTRACT NO. 405 BURNET COUNTY, TEXAS



**LEGEND**

- 1. EASEMENTS
- 2. EASEMENTS
- 3. EASEMENTS
- 4. EASEMENTS
- 5. EASEMENTS
- 6. EASEMENTS
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- 14. EASEMENTS
- 15. EASEMENTS
- 16. EASEMENTS
- 17. EASEMENTS
- 18. EASEMENTS
- 19. EASEMENTS
- 20. EASEMENTS

FOR REVIEW ONLY  
NOT FOR CONSTRUCTION  
DATE: 5/31/2023

## PRELIMINARY PLAT OF PATRIOT OAKS SUBDIVISION 32.31 ACRES OUT OF THE JOHN HAMILTON SURVEY, ABSTRACT NO. 405 BURNET COUNTY, TEXAS

**DEEDS**

**LEGAL DESCRIPTION**

**ACRES**

**DATE**

**RECORDING OFFICE**

**BOOK**

**PAGE**

**REMARKS**

LINE #	DEED #	ACRES	DATE	RECORDING OFFICE	BOOK	PAGE	REMARKS
01	201234	1.249	08/14/2012	BURNET COUNTY	100	100	
02	81492	1.249	01/23/2014	BURNET COUNTY	87	4531	
03	28438	0.001	04/01/2014	BURNET COUNTY	51	20	
04	130134	2.050	04/01/2014	BURNET COUNTY	120	20	
05	210117	1.701	07/01/2014	BURNET COUNTY	203	124	
06	48100	0.001	07/01/2014	BURNET COUNTY	10	10	
07	38147	0.001	08/19/2014	BURNET COUNTY	30	10	
08	18101	0.001	08/19/2014	BURNET COUNTY	10	10	
09	48100	0.001	07/01/2014	BURNET COUNTY	10	10	
10	142108	0.001	02/20/2014	BURNET COUNTY	142	131	
11	38147	0.001	08/19/2014	BURNET COUNTY	30	10	
12	142108	0.001	02/20/2014	BURNET COUNTY	142	131	
13	142108	0.001	02/20/2014	BURNET COUNTY	142	131	
14	121127	0.001	04/01/2014	BURNET COUNTY	121	127	
15	142108	0.001	02/20/2014	BURNET COUNTY	142	131	
16	142108	0.001	02/20/2014	BURNET COUNTY	142	131	
17	142108	0.001	02/20/2014	BURNET COUNTY	142	131	
18	142108	0.001	02/20/2014	BURNET COUNTY	142	131	

FOR REVIEW ONLY  
NOT FOR CONSTRUCTION  
DATE: 5/31/2023

**RESOLUTION NO. R2023-38**

**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**

**Whereas**, the Planning and Zoning Commission conducted a public hearing on this application on June 5, 2023; and

**Whereas**, the Planning and Zoning Commission recommended approval of the application on June 5, 2023; and

**Whereas**, City Council conducted a public hearing on this application on June 13, 2023.

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

**Section 1. Findings.** That the recitals to this Resolution are incorporated herein for all purposes.

**Section 2. Approval.** The Preliminary Plat establishing Patriot Oaks Subdivision is hereby approved.

**Section 3. 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 4. Effective Date.** That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

**PASSED AND APPROVED** this the 13<sup>th</sup> day of June, 2023.

**CITY OF BURNET, TEXAS**

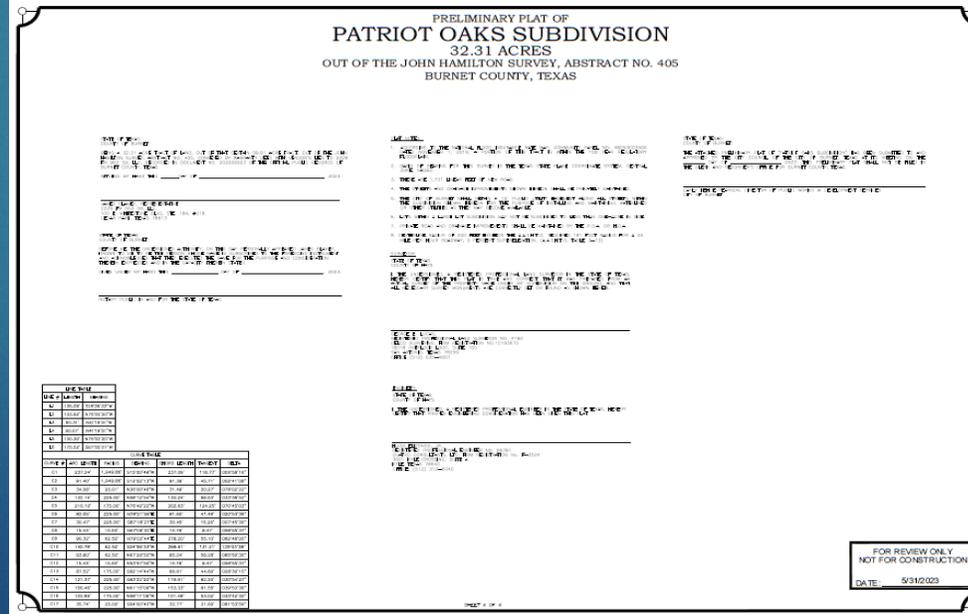
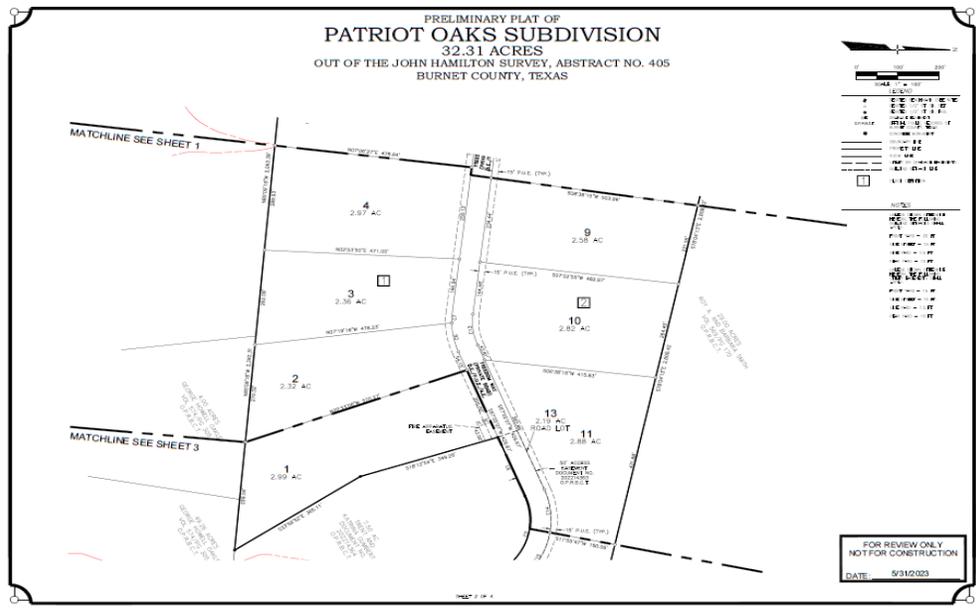
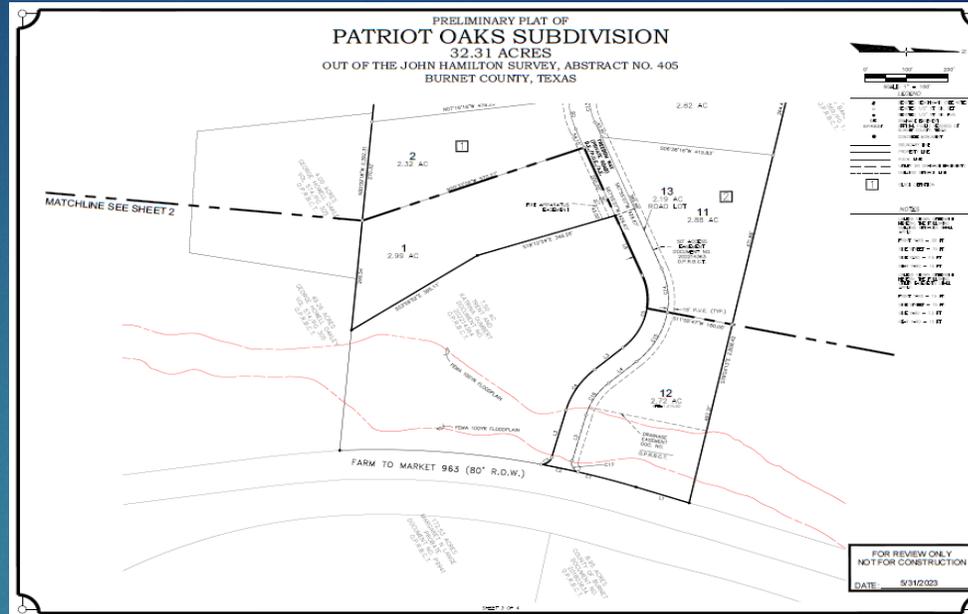
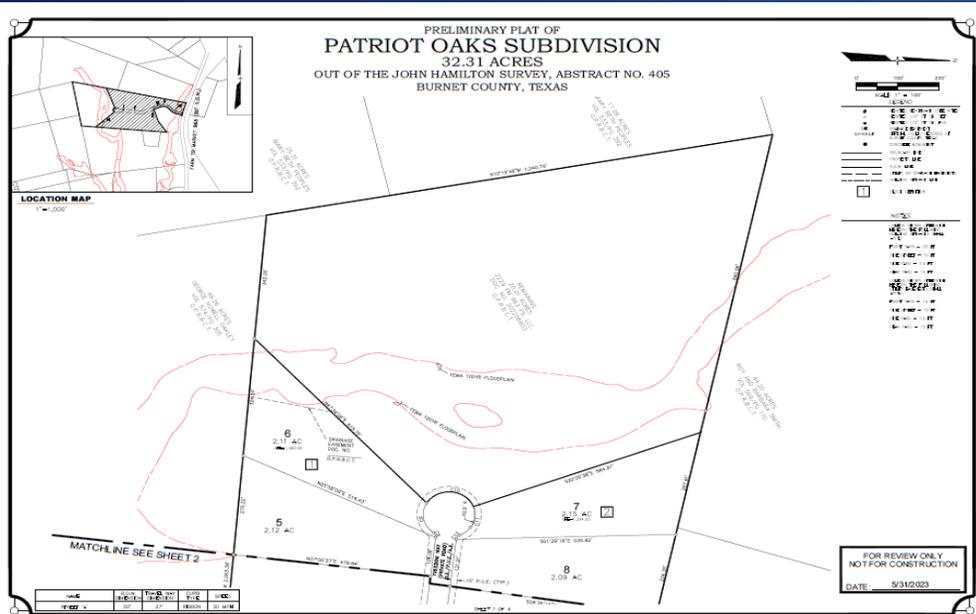
**ATTEST:**

\_\_\_\_\_  
Gary Wideman, Mayor

\_\_\_\_\_  
Kelly Dix, City Secretary

**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**





## Recommendation:

**Planning and Zoning Met on June 5<sup>th</sup> and recommended approval of the Preliminary Plat establishing the Patriot Oaks Subdivision and draft Resolution as presented.**

**Staff recommends approval of the Preliminary Plat establishing the Patriot Oaks Subdivision and draft Resolution as presented.**



## Engineering

## ITEM 4.4

Eric Belaj  
City Engineer  
(512)-756-2402  
ebelaj@cityofburnet.com

### Agenda Item Brief

- Meeting Date:** June 13, 2023
- Agenda Item:** Discuss and consider action: Direct Staff on issuance of bids and funding source for the Delaware Springs Boulevard Reconstruction. Eric Belaj
- Background:** The City previously hired an engineering firm to resolve the left turn maneuvering issues into Delaware Springs Blvd, and design a roadway resolving the current drainage issues. The design engineer has substantially completed the design and has provided the City with an overall project estimate of \$562K and a minor deviation alternative of \$577K excluding engineering and material testing. Council previously directed staff to first approach TxDOT and associated County Precinct for participation. Both those entities declined any financial participation.
- Information:** Given that this project was not previously specifically funded through the budget process, city staff is requesting direction from council whether to move forward with issuing the bids, change design, or delay the project. If approved, bids and construction contract will be presented via a separate agenda item in August.
- Fiscal Impact:** The project has not specifically been funded. The main funding source available is the revenues from the street rehab bonds issued in 2022.
- Recommendation:** Staff seeks Council's direction on whether to proceed with the issuance of the bids for the Delaware Springs Boulevard and utilize the reserve funds from the 2022 Street Bond proceeds.

# Delaware Springs Reconstruction

ENGINEERING



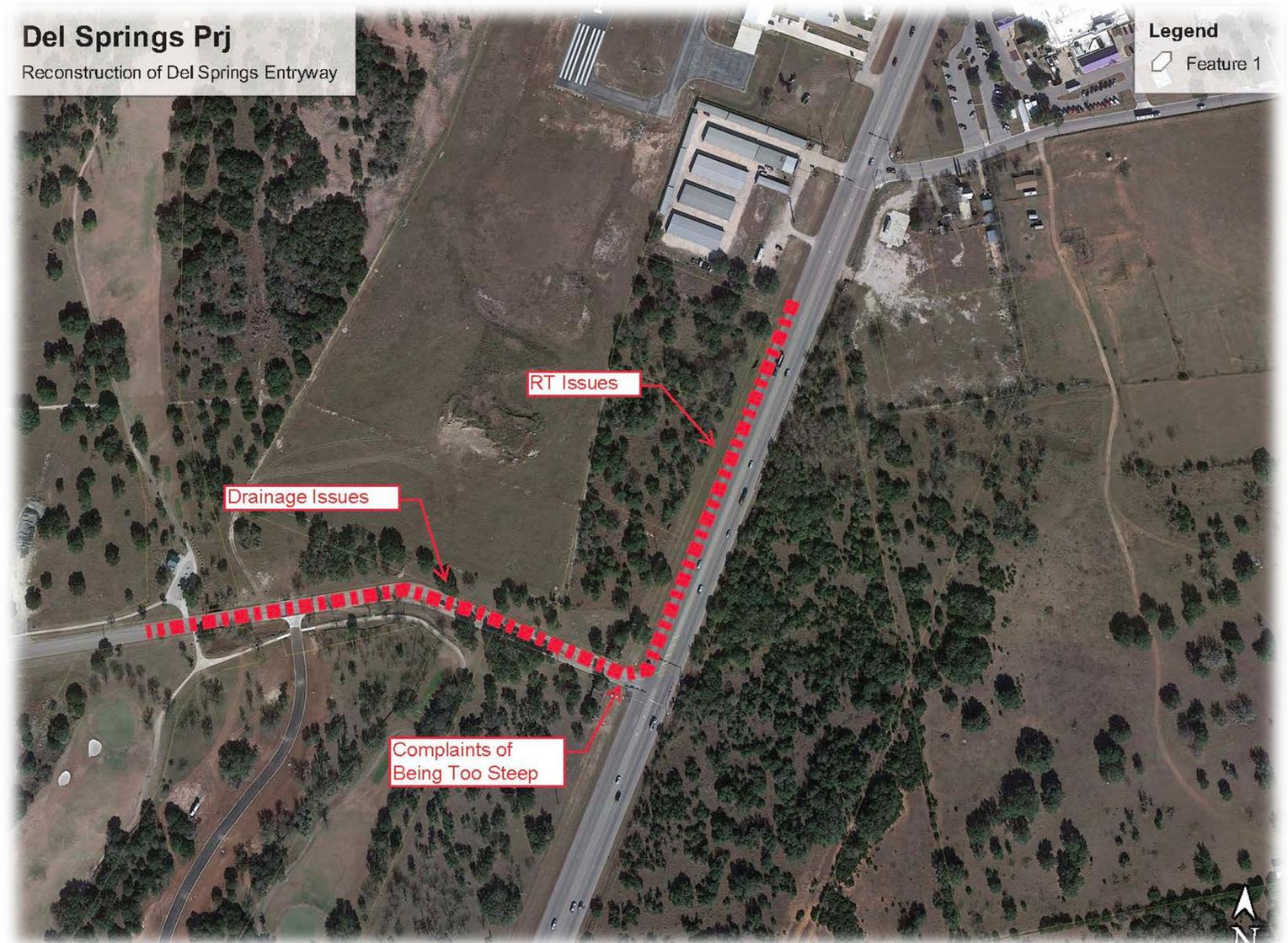
## Street Map

### Del Springs Prj

Reconstruction of Del Springs Entryway

#### Legend

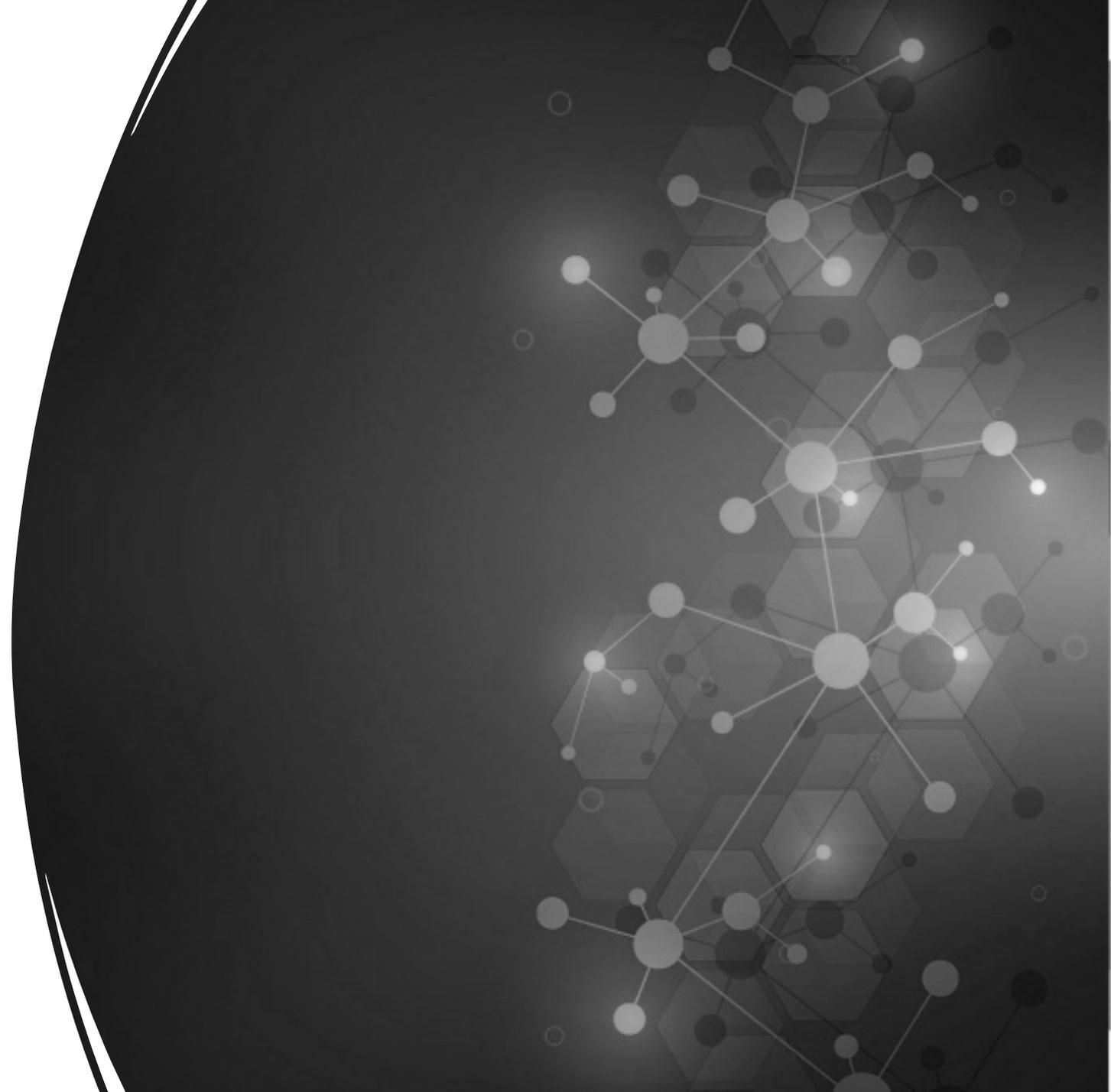
Feature 1



# WHAT ARE WE IMPROVING?

---

- WIDDENING RIGHT TURN LANE.
- ADD SHOULDER ON RT LANE
- WIDDEN ROADWAY THROAT
- REMOVE RD CROWN ADD CROSS SLOPE
- ADD DRAINAGE PIPE AND INLETS
- REMOVE ISLAND



# ENGINEERING

## Estimate: \$570K-\$590K

SUBTOTAL CONSTRUCTION COST:		\$	510,875.15		
CONTINGENCY, 10%:		\$	51,087.52		
TOTAL CONSTRUCTION COST:		\$	561,962.67		
<b>D. SUPPLEMENTAL BID ITEMS (IN LIEU OF ITEMS 30 AND 31 ABOVE)</b>					
ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE
30S	6" CRUSHED STONE FLEXIBLE BASE, TxDOT ITEM 247	SY	506	\$ 12.00	\$ 6,072.00
31S	6" CONCRETE PAVEMENT, TxDOT ITEM 421	SY	435	\$ 60.00	\$ 26,100.00
TOTAL CONSTRUCTION COST WITH CONCRETE IN STATE ROW:		\$	576,649.87		

**Clarifications:**

1. This OPC based on construction drawings prepared by Cuatro Consultants, Ltd dated 5/12/2023.
2. This OPC does not include any and all soft costs or any and all development fees, etc.
3. This OPC does not include any sodding of disturbed areas
4. This OPC does not include an escalator for inflation or phasing.
5. This OPC does not include materials testing. Approximate base of cost is \$7,500 to \$10,000.

Prepared By:  
 Hugo Elizondo, Jr., P.E.  
 Cuatro Consultants, Ltd., Firm F-3524  
 120 Riverwalk Drive, Suite 208  
 San Marcos, Texas 78666  
 (512) 565-0040



**C. EROSION/SEDIMENTATION CONTROL**

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE
1	SILT FENCE	LF	1,506	\$ 4.15	\$ 6,249.90
2	INLET PROTECTION	EA	2	\$ 250.00	\$ 500.00
3	CONCRETE WASHOUT STATION	LS	1	\$ 1,000.00	\$ 1,000.00
4	REVEGETATE DISTURBED AREAS	SY	9,842	\$ 2.00	\$ 19,684.00
SUBTOTAL: EROSION/SEDIMENTATION CONTROL				\$	27,433.90

**D. STREET AND DRAINAGE IMPROVEMENTS**

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE
5	MOBILIZATION	LS	1	\$ 26,170.00	\$ 26,170.00
6	DEMOLITION OF EXISTING STREET	LS	1	\$ 40,000.00	\$ 40,000.00
7	PAYMENT/PERFORMANCE/ MAINTENANCE BONDS	LS	1	\$ 10,250.00	\$ 10,250.00
8	SCARIFY AND ROUGH CUT STREET	AC	1	\$ 25,000.00	\$ 25,000.00
9	SUBGRADE PREPARATION (1' BEHIND CURB)	SY	4,607	\$ 4.00	\$ 18,428.00
10	TENSAR TX-5 GEOGRID	SY	4,607	\$ 3.75	\$ 17,276.25
11	10" CRUSHED STONE FLEXIBLE BASE, TxDOT ITEM 247 (1' BEHIND CURB)	SY	4,607	\$ 16.00	\$ 73,712.00
12	2.5" HMAC TYPE D, TxDOT ITEM 340	SY	3,897	\$ 21.00	\$ 81,837.00
13	REINFORCED CONCRETE RIBBON CURB	LF	2,130	\$ 14.00	\$ 29,820.00
14	SPEED LIMIT SIGNS	EA	1	\$ 450.00	\$ 450.00
15	4' X 4' GRATE INLETS	EA	2	\$ 5,000.00	\$ 10,000.00
16	18" RCP, CLASS IV (ALL DEPTHS)	LF	102	\$ 80.00	\$ 8,160.00
17	DEMOLITION AND REPLACEMENT OF EXISTING CART PATH AND PROVIDE TEMPORARY ALTERNATE PATH	LS	1	\$ 2,500.00	\$ 2,500.00
18	PAVEMENT MARKINGS	LS	1	\$ 2,500.00	\$ 2,500.00
19	GRADING FOR DRAINAGE PURPOSES	LS	1	\$ 15,000.00	\$ 15,000.00
20	SAW CUT EXISTING PAVEMENT	LF	94	\$ 45.00	\$ 4,230.00
21	2' HIGH LIMESTONE BLOCK WALL	LF	110	\$ 120.00	\$ 13,200.00
22	BULL ROCK RIPRAP	SY	154	\$ 50.00	\$ 7,700.00
23	TRENCH SAFETY	LF	102	\$ 1.50	\$ 153.00
24	FLARED CONCRETE WINGWALL - 18" RCP	EA	1	\$ 6,500.00	\$ 6,500.00
25	TRAFFIC CONTROL ONE LANE OPEN	LS	1	\$ 2,500.00	\$ 2,500.00
26	RECONNECT AND REINSTALL EXISTING LIGHTS AND UNDERGROUND CABLES AS NEEDED.	LS	1	\$ 5,000.00	\$ 5,000.00
27	RECONNECT EXISTING IRRIGATION LINES	LS	1	\$ 4,000.00	\$ 4,000.00
SUBTOTAL: STREET AND DRAINAGE IMPROVEMENTS				\$	404,386.25

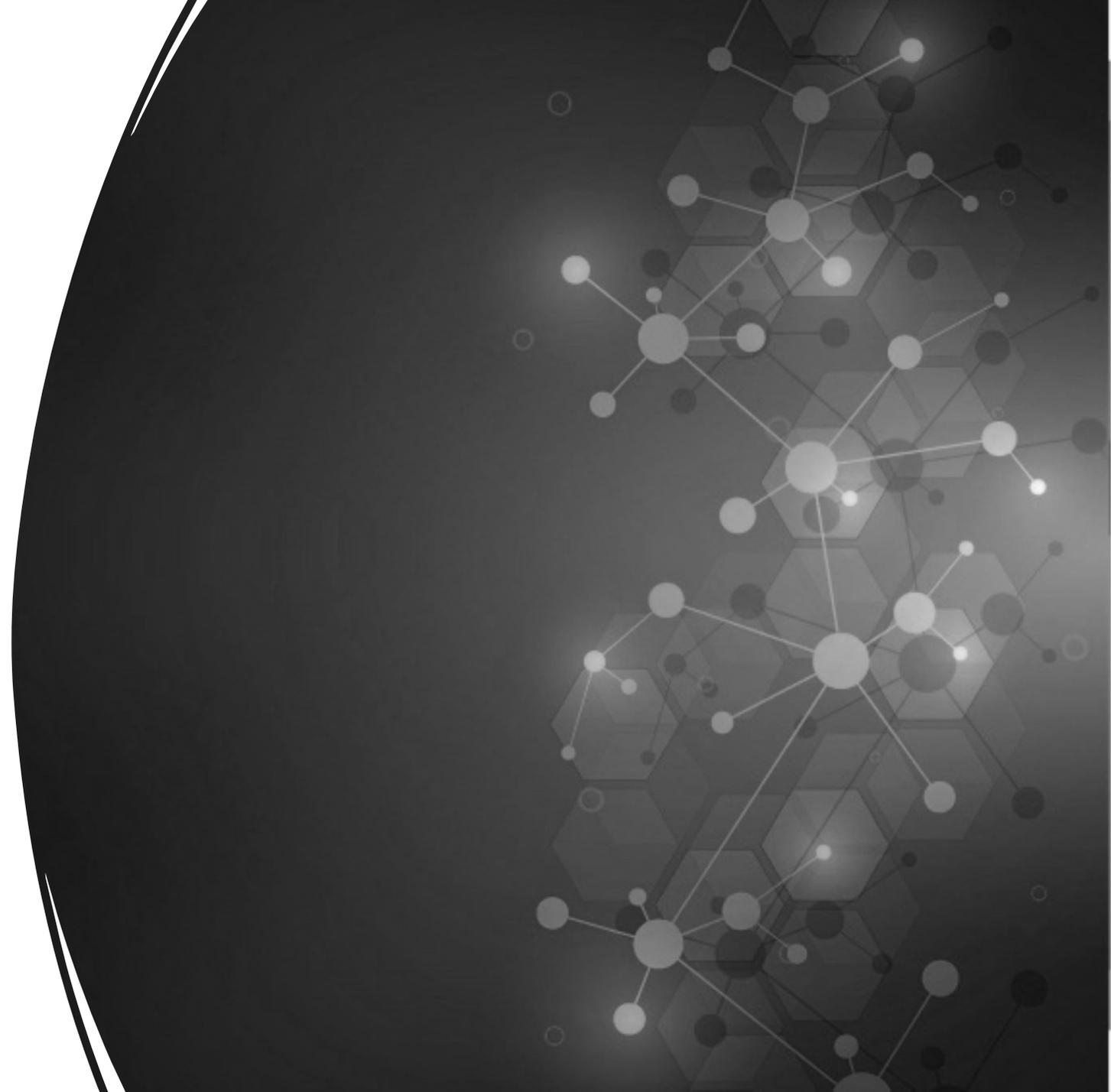
**E. TxDOT DECELERATION LANE/ DRIVEWAY APRON**

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	TOTAL PRICE
28	SCARIFY AND ROUGH CUT STREET	SY	519	\$ 6.00	\$ 3,114.00
29	SUBGRADE PREPARATION (3' BEYOND E.O.P.)	SY	506	\$ 4.00	\$ 2,024.00
30	10" CRUSHED STONE FLEXIBLE BASE, TxDOT ITEM 247 (3' BEYOND E.O.P.)	SY	506	\$ 20.00	\$ 10,120.00
31	2" HMAC TYPE D, TxDOT ITEM 340	SY	435	\$ 20.00	\$ 8,700.00
32	SAW CUT EXISTING PAVEMENT AT U.S. HIGHWAY 281 S	LF	215	\$ 45.00	\$ 9,675.00
33	DESIGN 3 CORRUGATED METAL PIPE ARCH	LF	108	\$ 95.00	\$ 10,260.00
34	SLOPED HEADWALL FOR 18" RCP	EA	2	\$ 5,000.00	\$ 10,000.00
35	TRAFFIC CONTROL	LS	1	\$ 2,500.00	\$ 2,500.00
36	DITCH GRADING	LS	1	\$ 3,000.00	\$ 3,000.00
37	EXISTING TRAFFIC SIGNAL BOX RELOC.	LS	1	\$ 18,000.00	\$ 18,000.00
38	TxDOT PAVEMENT MARKINGS AND SIGNS	LS	1	\$ 1,500.00	\$ 1,500.00
39	TRENCH SAFETY	LF	108	\$ 1.50	\$ 162.00
SUBTOTAL: TxDOT DECELERATION LANE/ DRIVEWAY APRON				\$	79,955.00

# Why this agenda?

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- Community Concerns
- No Funding Specified
- Ready to issue for Bid
- Only to issue bids if estimated funding is avail.
- Will utilize \$49K cash bonds form Tom Kite
- Reach out to County for Participation?
- Only funding available is Street bond proceeds
- No Third-Party assistance





## Administration

## ITEM 4.5

Kelly Dix  
City Secretary  
(512)-756-6093 ext. 3209  
kdix@cityofburnet.com

## Action

- Meeting Date:** June 13, 2023
- Agenda Item:** Discuss and consider action: Proposed contract with Burnet County for 2023/2024 Election Services: K. Dix
- Background:** The shared polling locations provided by the joint election procedure with Burnet County, enables “One Stop Voting” for the citizens of Burnet County, Burnet School District, and the City of Burnet. The simplicity of the “One Stop Voting” encourages citizen participation in the voting process.
- Information:** Burnet County provides a once a year contract for each of the contracting entities instead of individual contracts for each individual election. This streamlines the processes Burnet County uses with the individual entities that contract for election services. A copy of 2023/2024 Joint Agreement Contract and Election Services contract for all election services provided by the Burnet County Election Administration from August 1, 2023 to July 21, 2024.
- Fiscal Impact** Fees and charges assessed by the Burnet County Election Administration office are based on participation of all local political subdivisions in the specified election. The average annual cost of election services for city elections is approximately \$1,000.00 per year.
- Recommendation:** Staff recommend approval of the Contract for Election Services with Burnet County Elections Administration for the 2023/2024 Fiscal year.

## CONTRACT FOR ELECTION SERVICES

**THIS CONTRACT FOR ELECTION SERVICES** (this "Contract") is made and entered into by and between the ELECTIONS ADMINISTRATOR OF BURNET COUNTY, TEXAS ("Contracting Officer") and the Local Political Subdivision set forth on the signature page of this Contract (the "LPS") pursuant to the authority under Section 31.092(a) of the Texas Election Code.

### RECITALS

WHEREAS, the LPS expects to order an election during the term of this Contract and during any renewal term of this Contract (the "Election");

WHEREAS, the LPS desires that certain election services for the Election be provided by the Contracting Officer pursuant to Chapter 31, Subchapter D of the Texas Election Code and;

WHEREAS, the Contracting Officer and the LPS desire to enter into a contract setting out the respective responsibilities of the parties;

NOW, THEREFORE, the parties to this Contract agree as follows with respect to the coordination, supervision, and conduct of the Election.

### I. GENERAL PROVISIONS.

- A. The purpose of this Contract is to maintain consistency and accessibility in voting practices, polling places, and election procedures to best assist the voters of the LPS. For purposes of this Contract the term "Election" will include any resulting recount or election contest. It will also apply to any election to resolve a tie.
- B. The Contracting Officer is hereby appointed to serve as the LPS's Election Officer and Early Voting Clerk to conduct the Election for those areas of the LPS located in Burnet County. As Election Officer and Early Voting Clerk, the Contracting Officer will coordinate, supervise and conduct all aspects of administering voting in connection with the Election in compliance with all applicable law except as otherwise provided in this Contract.
- C. The LPS agrees to commit the funds necessary to pay for election-related expenses for the LPS's election.
- D. The Contracting Officer has the right to enter into agreements with other entities at any time and may require that authorities of LPSs holding elections on the same day in all or part of the same territory to enter into a joint election agreement as authorized in Chapter 271 of the Texas Election Code. The LPS agrees to enter into a joint election agreement required by Burnet County.

**II. RESPONSIBILITIES OF CONTRACTING OFFICER.** The Contracting Officer shall be responsible for performing the following services and furnishing the following materials and equipment in connection with the election:

- A. ***Nomination of Presiding Judges and Alternate Judges.*** The Contracting Officer shall recruit and appoint Election Day presiding and alternate judges, central accumulation station

judges, and the Early Voting Ballot Board (EVBB) presiding judge, all of which shall meet the eligibility requirements in Subchapter C of Chapter 32 of the Texas Election Code.

**B. *Notification to LPS.*** The Contracting Officer shall provide the LPS with the most up-to-date list of presiding and alternate judges three weeks before the statutory deadline to order the election and again three weeks before Election Day. LPS acknowledges that the information provided may not be final or complete.

**C. *Notification to Presiding and Alternate Judges; Appointment of Clerks.***

1. The Contracting Officer shall notify each presiding and alternate judge of his or her appointment. The notification will also include the assigned polling location, the date of the election training(s), the date and time of the election, the rate of compensation, the number of clerks the judge may appoint, the eligibility requirements for election workers, and the name of the presiding or alternate judge as appropriate.
2. The election judge will make the clerk appointments in consultation with the Contracting Officer. If a presiding judge or the alternate judge does not speak both English and Spanish, and the election precinct is one subject to Sections 272.002 and 272.009 of the Texas Election Code, the Contracting Officer shall ensure that a bilingual election clerk is appointed. The Contracting Officer shall notify the clerks of the same information that the judges receive under this section.

**D. *Election Training.*** The Contracting Officer shall be responsible for conducting election training for the presiding judges, alternate judges, clerks, and Early Voting deputies in the operation and troubleshooting of the direct record electronic (DRE) voting system and the conduct of elections, including qualifying voters, issuing ballot style codes, maintaining order at the polling location, conducting provisional voting and counting votes.

**E. *Logic and Accuracy Testing.*** In advance of Early Voting (including the sending out of any mail ballots), the Contracting Officer, the tabulation supervisor, and other members the Contracting Officer designates for the testing board shall conduct all logic and accuracy testing in accordance with the procedures set forth by the Texas Election Code and under guidelines provided by the Secretary of State's office. The Contracting Officer shall also be responsible for the publication of the required notice of such testing.

**F. *Election Supplies.*** The Contracting Officer shall procure, prepare, and distribute to the presiding judges for use at the polling locations on Election Day (and to the Early Voting clerks during Early Voting) the following election supplies: election and early voting kits (including the appropriate envelopes, lists, forms, name tags, posters, and signage described in Chapters 51, 61, and 62, and Subchapter B of Chapter 66 of the Texas Election Code) seals, sample ballots, thermal paper rolls for use in the Judge's Booth Controllers (JBCs), batteries for use in the JBCs and eSlates, labels for the electronic poll books, and all consumable-type office supplies necessary to hold an election.

**G. *Registered Voter List.*** The Contracting Officer shall provide lists of registered voters required by law for use on Election Day and for the Early Voting period.

**H. Notice at Previous Polling Place.** The Contracting Officer shall post notices of a change in a polling place at the entrance to the previous polling location. Section 43.062 of the Texas Election Code provides that the notice shall state the location has changed and give the location of the new polling place.

**I. Election Equipment.** The Contracting Officer shall prepare and distribute the Direct Record Electronic (DRE) voting system components from Hart InterCivic, Inc. ("Hart") for the election. This voting system includes the equipment referred to as "eSlates" and "Judge's Booth Controllers" (JBCs). Each polling location will have at least one voting machine that is accessible to disabled voters and provides a practical and effective means for voters with disabilities to cast a secret ballot.

**J. Ballots.** The Contracting Officer or designee shall be responsible for the preparation, printing, programming and distribution of English and Spanish ballots and sample ballots, including the mail ballots, based on the information provided by the LPS, including names of the candidates, names of the offices sought, order of names on the ballot, propositions on the ballot, and the Spanish translation of the offices and any propositions. The ballot will be prepared in these formats: DRE, paper and auditory.

**K. Early Voting.** In accordance with Sections 31.096 and 32.097(b) of the Texas Election Code, the Contracting Officer shall serve as Early Voting Clerk for the election.

1. The Contracting Officer shall supervise and conduct early voting by mail and by personal appearance and shall secure personnel to serve as Early Voting Deputies.
2. Early Voting by personal appearance for the election shall be conducted during the hours and time period and at the locations as determined by the Contracting Officer.
3. The Contracting Officer shall receive mail ballot applications on behalf of the LPS. All applications for mail ballots shall be processed in accordance with Title 7 of the Texas Election Code by the Contracting Officer or deputies at the Elections Office, located at 106 W. Washington St., Burnet, TX. Applications for mail ballots erroneously sent to the LPS shall be faxed promptly to the Contracting Officer for timely processing then the original application shall be forwarded to the Contracting Officer for proper retention.
4. Early voting ballots shall be secured and maintained at the Elections Office, located at 106 W. Washington St., Burnet, TX and in accordance with Chapter 87 of the Texas Election Code. The Early Voting Ballot Board shall meet at the same location unless posted differently.

**L. Election Day Polling Locations.** The Election Day polling locations are determined by the Contracting Officer in consultation with the LPS and in accordance with the Texas Election Code. The Contracting Officer shall arrange for the use of all Election Day polling places and shall arrange for the setting up of the polling location including tables, chairs and voting booths.

**M. Election Day Activities.**

1. The Contracting Officer and staff shall be available from 6:00 am until the completion of vote counting on Election Day to render technical support and assistance to voters and

election workers.

2. The Contracting Officer and staff shall prepare and conduct Election Night intake of election equipment, supplies and records.
3. The Contracting Officer and designee shall serve as central counting station manager and tabulation supervisor, counting the votes in conjunction with the Early Voting Ballot Board and the Central Counting Station judges.

**N. *Election Night Reports.*** The Contracting Officer shall prepare the unofficial and official tabulation of precinct results under Section 66.056(a) of the Texas Election Code. The unofficial tabulation of Early Voting precinct results and Election Day precinct results shall be made available to the LPS via e-mail as soon as they are prepared and may be released under law, but no earlier than 7:05 pm on Election Day. The tabulation reports may also be provided to other counties as necessary for the election.

**O. *Provisional Votes/Determination of Mail Ballots Timely Received under Section 86.007(d) of the Texas Election Code.*** The Contracting Officer, serving as voter registrar, shall retain the provisional voting affidavits and shall provide factual information on each of the provisional voters' status. The Contracting Officer shall reconvene the EVBB after the election within the time set forth in Section 65.051 of the Texas Election Code for the purpose of determining the disposition of the provisional votes. At the same time, the EVBB will review mail ballots timely received under Section 86.007(d) of the Texas Election Code to determine whether such will be counted and to resolve any issues with such ballots.

**P. *Canvass Material Preparation.*** Promptly after determination of the provisional votes and resolution of any mail ballots, the Contracting Officer shall work with the EVBB to tally the accepted provisional votes and resolved mail ballots, amend the unofficial tabulations, and submit new unofficial tabulations to the LPS. The reports will serve as the canvass materials for the LPS.

**Q. *Custodian of Election Records.*** The election records will be submitted to the LPS except for those records that must be maintained by the Contracting Officer as Voter Registrar in accordance with Section 66.051 of the Texas Election Code. The Contracting Officer is hereby appointed the custodian of voted ballots (which in the case of the ballots cast on the DRE voting system consists of the DVD backup) and shall preserve them in accordance with Chapter 66 of the Texas Election Code and other applicable law. The Contracting Officer shall also maintain custody of the records pertaining to the operation of the JBCs and eSlates.

**R. *Recount.***

1. If required by law, the Contracting Officer shall perform a partial manual count of electronic voting system ballots in accordance with section 127.201 of the Texas Election Code. A recount may also be requested in accordance with Chapter 212 of the Texas Election Code.
2. The LPS shall advise the Contracting Officer if a recount is required by law or requested and the Contracting Officer and the LPS shall discuss how such recount is

to be conducted. The LPS shall reimburse the Contracting Officer for the cost of such count which is not included in the original invoice.

**S. *Schedule for Performance of Services.*** The Contracting Officer shall perform all election services in accordance and compliance with the time requirements set out in the Texas Election Code.

**T. *Contracting with Third Parties.*** In accordance with Section 31.098 of the Texas Election Code, the Contracting Officer is authorized to contract with third parties for election services and supplies. The cost of such third-party services and supplies will be paid by the Contracting Officer and reimbursed by the LPS.

**U. *Department of Justice Preclearance for General Elections.*** If required by law, any changes to the general conduct of voting in Burnet County will be pre-cleared through the United States Department of Justice by the Contracting Officer with copies of the submission and response e-mailed to the LPS.

**III. RESPONSIBILITIES OF THE LPS.** The LPS shall perform the following responsibilities:

**A. *Applications for Mail Ballots.*** The LPS shall date stamp and then as promptly as possible fax to the Contracting Officer all applications for mail ballots that it receives. Promptly thereafter, the LPS shall deliver or send by mail the original mail ballot applications to the Contracting Officer.

**B. *Election Orders, Election Notices, and Canvass.*** The LPS shall be responsible for preparing, adopting, publishing, and posting all required election orders, resolutions, notices and other documents, including bilingual materials, evidencing action by the governing authority of the LPS necessary to the conduct of the election. The LPS shall be responsible for conducting the official canvass of the election.

**C. *Map/ Annexations.*** The LPS shall provide the Contracting Officer with an updated map and street index of its jurisdiction in an electronic or printed format and shall advise the Contracting Officer of any annexations or de-annexations.

**D. *Department of Justice Preclearance for Special Elections.*** If required by law, the LPS shall be individually responsible for obtaining appropriate preclearance from the United States Department of Justice for any special elections.

**E. *Ballot Information.*** The LPS shall prepare the text for the LPS's official ballot in English and Spanish and provide to the Contracting Officer as soon as possible at the end of the period for ordering the election or filing for candidacy. The ballot information shall include a list of propositions showing the order and the exact manner in which the candidates' names and the propositions are to appear on the ballot. The LPS shall promptly review for correctness the ballot when requested by the Contracting Officer to do so prior to finalization and shall approve by e-mail or by signature in person.

**F. *Precinct Reports to the Texas Secretary of State.*** Based on information provided by the Contracting Officer, the LPS shall prepare and file all required precinct reports with the Texas Secretary of State.

**G. Annual Voting Report.** The LPS shall be responsible for filing its annual voting system report to the Texas Secretary of State as required under Chapter 123 *et seq.* of the Texas Election Code.

#### **IV. SPECIAL PROVISIONS RELATING TO ELECTION WORKERS**

**A. Number of Election Workers at Election Day Polling Locations.** It is agreed by the Contracting Officer and the LPS that there will be at least three election workers at each Election Day polling location: the presiding judge, an alternate judge, and at least one election clerk appointed by the presiding judge. The number of necessary clerks is derived from the number of elections at the poll and the number of registered voters for that poll.

**B. Compensation for Election Workers.** The Contracting Officer shall compensate all election workers in accordance with the Contracting Officer's established compensation policies, in accordance with the Texas Election Code and using the rates set by Burnet County Commissioners Court for county elections. The Contracting Officer shall pay the workers and be reimbursed by the entities sharing the polling location unless a polling place is open for only one LPS holding an election. In this case, the LPS shall pay the election workers directly.

#### **V. PAYMENT**

**A. Charges and Distribution of Costs.** In consideration of the joint election services provided by the Contracting Officer, the LPS will be charged a share of election costs and an administrative fee. The costs distribution is set forth in the Joint Election Agreement. A cost estimate shall be provided upon request only after all entities participating in the election are identified.

**B. Administrative Fee.** The Contracting Officer shall charge a fee equal to 10% of the LPS's share of the cost of the election or a minimum of \$75.00.

**C. Equipment Rental Fee.** Per Section 123.032(d) of the Texas Election Code, the Burnet County Commissioners Court has set the equipment rental fee at \$150 per JBC and per eSlate. There is no charge for Early Voting rental of equipment. If the County acquires additional equipment, different voting equipment, or upgrades existing equipment during the term of this Contract, the charge for the use of the equipment may be reset by the Burnet County Commissioners Court.

**D. Fixed Lump Sum Price for Districts other than Cities, School Districts and Central Texas Groundwater Conservation District.** A LPS that is not a city, school district or the Central Texas Groundwater Conservation District shall pay the Contracting Officer a fixed lump sum price to administer its election. The only item not included in the lump sum price is the cost of any recount.

**E. Payment.** The Contracting Officer's invoice shall be due and payable to the address set forth in the invoice within 30 days from the date of receipt by the LPS.

## VI. TERM AND TERMINATION

- A. **Initial Term.** The initial term of this Contract shall commence upon the last party's execution hereof and shall continue thereafter in full force and effect for one year, subject to the termination rights set forth herein.
- B. **Renewal.** Subject to the termination rights set forth herein, this Contract shall automatically renew for a one-year term.
- C. **Termination.** If either party wishes to terminate this Contract for convenience or for cause the party must provide thirty (30) business days' written notice to the other party and allow for discussion of the desired outcome and options to reach the desired outcome. In the event of termination, it is understood and agreed that only the amounts due to the Contracting Officer for services provided and expenses incurred will be due and payable.

## VII. MISCELLANEOUS PROVISIONS

- A. **Nontransferable Functions.** In accordance with Section 31.096 of the Texas Election Code, nothing in this Contract shall authorize or permit a change in:
  - 1. The authority with whom or the place at which any document or record relating to the election is to be filed;
  - 2. The officers who conduct the official canvass of the election returns;
  - 3. The authority to serve as custodian of voted ballots or other election records; or
  - 4. Any other nontransferable function specified under Section 31.096 or other provisions of Texas law.
- B. **Cancellation of Election.** If the LPS cancels its election pursuant to Section 2.053 of the Texas Election Code, the Contracting Officer shall be entitled to receive an administrative fee of \$75. The Contracting Officer shall submit an invoice for the administrative fee as soon as reasonably possible after the cancellation, and the LPS shall make payment therefore in a manner similar to that set forth in **V. PAYMENT** above.
- C. **Contract Copies to Treasurer and Auditor.** In accordance with Section 31.099 of the Texas Election Code, the Contracting Officer agrees to file copies of this Contract with the County Treasurer and the County Auditor of Burnet County, Texas.
- D. **Election to Resolve a Tie.** In the event that an election is necessary to resolve a tie vote, the terms of this Contract shall extend to the second election, except:
  - 1. The LPS and the Contracting Officer will agree upon the date of the election and the early voting schedule subject to provisions of the Election Code and with regard to other elections conducted by the Contracting Officer.
  - 2. The LPS will be responsible for any Department of Justice preclearance submission under Section 5 of the Federal Voting Rights Act.

3. An attempt will be made to use election workers that worked in the first election; those poll workers will not have additional training provided by the Contracting Officer.
4. The cost of the election will be borne by the LPS; the Contracting Officer will work with the LPS on cost management.

**E. Amendment/ Modification.** Except as otherwise provided, this Contract may not be amended, modified, or changed in any respect except in writing, duly executed by the parties hereto. Both the Contracting Officer and the LPS may propose necessary amendments or modifications to this Contract in writing in order to conduct the election smoothly and efficiently, except that any such proposals must be approved by the Contracting Officer and the governing body of the LPS or its authorized agent, respectively.

**F. Severability.** If any provision of this Contract is found to be invalid, illegal, or unenforceable a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect the remaining provisions of this Contract and parties to this Contract shall perform their obligations under this Contract in accordance with the intent of the parties to this Contract as expressed in the terms and provisions.

**G. Representatives.** For purposes of implementing this Contract and coordinating activities, the Contracting Officer and the LPS designate the following individuals for submission of information, documents and notice:

For the Contracting Officer:

Doug Ferguson  
 Elections Administrator, Burnet County  
 220 S. Pierce  
 Burnet, TX 78611  
 Tel: (512) 715-5288  
 Fax: (512) 715-5287  
 Email: [electadmin@burnetcountytexas.org](mailto:electadmin@burnetcountytexas.org)

For the LPS:

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\* \* \*

WITNESS BY MY HAND THIS THE 24<sup>th</sup> DAY OF May, 2023.

CONTRACTING OFFICER:



Doug Ferguson, Elections Administrator  
Burnet County, Texas

WITNESS BY MY HAND THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

THE LOCAL POLITICAL SUBDIVISION:

Name of Entity: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

Official Capacity: \_\_\_\_\_

ATTEST: \_\_\_\_\_

## JOINT ELECTION AGREEMENT 2023-2024

### FOR BURNET COUNTY LOCAL POLITICAL SUBDIVISIONS

**Whereas**, the undersigned local political subdivisions, collectively referred to hereafter as the “LPSs”, each anticipate holding election(s) from August 2023 to July 2024; and

**Whereas**, each of the LPSs is located partially or entirely within Burnet County, Texas (the “County”); and

**Whereas**, the County has contracted or is contracting with each LPS to conduct and provide election services for such LPS’s election(s) from August 2023 to July 2024; and

**Whereas**, the LPSs all desire to enter into a joint election agreement for the purpose of sharing election equipment, costs, services of election officials, and sharing precinct polling locations and election ballots where appropriate.

**NOW THEREFORE**, the LPSs agree as follows:

- I. **Scope of Joint Election Agreement.** The LPSs enter this Joint Election Agreement (“Agreement”) for the conduct of the elections to be held from August 2023 through July 2024.
- II. **Appoint Election Officer.** The LPSs appoint the Burnet County Elections Administrator to serve as the Election Officer for each LPS in order to perform and supervise the duties and responsibilities of the Election Officer for any election from August 2023 through July 2024.
- III. **Early Voting Polling Locations.** The Early Voting locations for most elections will be at the AgriLife Auditorium, 607 N. Vandever St., Burnet, TX 78611 and Texas Tech in Marble Falls, 806 Steve Hawkins Pkwy., Marble Falls, TX 78654. In November of even years, the county will also use Granite Shoals Community Center, 1208 North Phillips Ranch Rd, Granite Shoals, TX 78654, and Bertram Library, 170 North Gabriel St., Bertram, TX 78605.
- IV. **Election Day Polling Locations.** Election Day voting shall be held in common precincts where appropriate at the dates, times, and locations recommended by the Election Officer and authorized and ordered by the governing body of each LPS. Those will be decided within one week after the last day to order an election.
- V. **Cost Sharing.** The LPSs agree to the cost sharing provisions below. This includes Burnet County, the school districts of the county, the cities of the county, and the Central Texas Groundwater Conservation District. Other entities pay a lump sum of \$1,000 for their election.
- VI. **Effective Date.** This Agreement becomes effective upon execution by the participating LPSs.
- VII. **Amendments.** This Agreement may not be amended or modified except in writing and executed by each LPS.

#### **COST SHARING – NOVEMBER UNIFORM ELECTION DATE**

- I. The following expenses will be shared equally by all LPSs holding an election including Burnet County: the newspaper notice for the Logic and Accuracy Test of the ballots, consumable election supplies, and ballot programming.
- II. The user fees for the voting equipment, election worker payroll, and mileage payments to poll workers will follow these cost sharing arrangements:

- a. The county will bear at least 70% of these election costs at each voting location. The remaining 30% will be shared so that 20% is paid by the Independent School District (ISD) or CTGCD associated with the polling place and the remaining 10% is paid by any/all cities equally sharing the costs. If both the ISD and CTGCD are holding elections, they each pay 10%, with any/all cities equally sharing the remaining 10%.
  - b. If there is no city election, the ISD or CTGCD associated with the polling place pays 20% or 10% each and the county the remaining 80%. Subsequently, if there is no ISD or CTGCD election, any/all cities pay 10% of the costs associated with the polling place and the county pays 90%.
  - c. If there is no city, no ISD and no CTGCD election, the county pays 100% of the costs.
- III. It is acknowledged that cost sharing expenses will fluctuate depending upon the number of required polling locations and poll workers required as General Elections, held on even-numbered years, typically require more resources than Constitutional Amendment elections, held on odd-numbered years.

**COST SHARING – MAY UNIFORM ELECTION DATE**

- I. The following expenses will be shared equally by all LPSs holding an election including Burnet County: the newspaper notice for the Logic and Accuracy Test of the ballots, consumable election supplies, and ballot programming.
- II. The user fees for the voting equipment, election worker payroll, and mileage payments to poll workers will follow these cost sharing arrangements:
  - a. For polling locations conducting elections of the county: the county will bear 50% of the election costs at each voting location. The remaining 50% will be shared so that 40% is paid by the Independent School District (ISD) associated with the polling place and the remaining 10% is paid by any/all cities equally sharing the costs.
  - b. If there is no city election, the ISD associated with the polling place pays 50%. Subsequently, if there is no ISD election, any/all cities pay 50% of the costs equally.
  - c. If there is no city or ISD election the county pays 100%.
  - d. For polling locations NOT conducting elections of the county: the ISD pays 80% and any/all cities pay 20% equally.
  - e. If there is no city election, the ISD pays 100%.
  - f. If there is no ISD election, any/all cities pay 100% equally.

A cost estimate for the LPS election will be submitted upon request.

**APPROVED BY THE GOVERNING BODY OF** \_\_\_\_\_ in its meeting held the  
\_\_\_\_\_ day of \_\_\_\_\_, 202\_, and executed by its authorized representative.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACKNOWLEDGED BY:**



Doug Ferguson  
Elections Administrator, Burnet County, Texas

May 24, 2023

Date



## Administration

## ITEM 4.6

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

## Action

**Meeting Date:** June 13, 2023

**Agenda Item:** Discuss and consider action. A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AWARDED 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. Feild

**Background:** In April of last year the City was awarded a TDHCA CDBG-CV Project Grant for the Hill Country Advocacy Center project. Subsequently, Council selected the firm Goodwin-Lasiter-Strong, Inc. (“GLS”) to be the project’s design Architects. Thereafter the City solicited proposals for a construction contractor. In response one proposal was received. The responsive was Greco Construction, Inc. (“Greco”) whose base bid is \$3,053,000.00. This amount is within the project’s construction budget. The project’s completion date is set to be 365 days after issuance of notice to proceed.

**Information:** GLS has analysis the bid and recommends Greco be awarded the contract. Pursuant to that recommendation this resolution selects Greco Construction, Inc., as the project contractor; and authorizes the City Manager to finalize the terms of a construction contract. The negotiated contract shall be presented to Council for final approval at a later meeting.

**Fiscal Impact:** The base bid is \$3,053,000.00. However, as the grant award should be sufficient to cover project construction and consultation costs the project should have a neutral net effect on the City’s budget.

**Recommendation:** Approve Resolution R2023-39 as presented.

**RESOLUTION NO. R2023-39**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AWARDED 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.**

**WHEREAS**, in April of last year the City was awarded the TDHCA CDBG-CV Project #70800001002 for the Hill Country Advocacy Center project.; and

**WHEREAS**, subsequently, Council selected the firm Goodwin-Lasiter-Strong, Inc. to be the project's design Architects, and;

**WHEREAS**, thereafter, Council solicited proposals for a construction contractor; and

**WHEREAS**, one proposal was received for RFP2023-004; and

**WHEREAS**, G-L-S analyzed the contractors' ability to perform such work, and reviewed past performances and resources, and recommended Greco Construction, Inc. as the most qualified and advantageous bid received.

**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. Award.** Greco Construction, Inc, is hereby awarded the bid for the TDHCA CDBG-CV project #70800001002 in the amount of \$3,053,000.00 for the Hill Country Advocacy Center project, pending approval of a contract by the City of Burnet City Council.

**Section three. Authorization.** The city manager is hereby authorized and directed to negotiate a construction contract with the selected firm and to present the negotiated contract to Council for final approval.

**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.

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

**PASSED AND APPROVED** this the 13<sup>th</sup> day of June 2023.

**CITY OF BURNET, TEXAS**

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Gary Wideman, Mayor

**ATTEST:**

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Kelly Dix, City Secretary



June 5, 2023

City of Burnet  
1001 Buchannan Dr., Ste. 4  
Burnet, Texas 78611  
and  
Hill Country Children's Advocacy Center  
1001 N. Hill Street  
Burnet, Texas 78611

ATTN: Adriene Field, Administrative Services  
Kim Winkler, Executive Director  
Sent Via Email: [COB-HCCAC@cityofburnet.com](mailto:COB-HCCAC@cityofburnet.com)

**Re: Hill Country Children's Advocacy Center  
TDHCA-CDBG-CV Project No. 70800001002  
GLS Job No. 613017**

Dear City Council Members,

Bids were received and opened on May 16, 2023 at 1:30 P.M. for the construction of the referenced project. All requirements for Instructions to Bidders was met, but grant required documents were not met, the following items were missing:

- Proposed Contract Breakdown
- Labor Standard & Prevailing Wage Requirements
- Section 504 Certification
- Certificate of Liability Insurance
- Certificate of Interest Parties, Form 1295

The following summarizes the contractors and associated bids.

- Greco Construction, Inc. – Base Bid \$3,053,000.00; Base Bid, Alt. 1A & Alt. 1B \$3,051,000.00; 365 Calendar Days for completion of project.

The construction budget from the grant funds is \$3,400,000.00. After tabulating the bids, an analysis of the contractors' ability to perform such work, and a review of past performances and resources was conducted. The most qualified and advantageous bid to the city was received from Greco Construction, Inc. It is GLS recommendation that Greco Construction, Inc be awarded the Base Bid only for \$3,053,000.00; 365 Calendar Days for completion of project.

Sincerely,

  
Courtney Kelly  
Project Architect  
CK/ac

City of Burnet / Hill Country  
 Children's Advocacy Center  
 2402 S. Water Street  
 Burnet, Texas 78611  
 CDBG-CV Cont. No. 708000001002



**BID TABULATION SHEET**

Courtney Kelly, 26344 GLS, Project Architect

Date: 5/16/23

Bid Time: 1:00 p.m. - Read Allowed: 1:30 p.m.

Bid Location: City of Burnet Council Chambers

GLS #: 613017

**GLS DOCUMENTS**

CONTRACTOR	Addendum No. 01 Acknowledgement	Section 00410 Bid Form	Acknowledgement of Section 01001 - Basic Requirements, 1.3 Contingency Allowances	Contract Time: work completed in calendar days from Notice to Proceed	Alternate No. 1 - Provide price for horizontal blinds for all windows in lieu of window shades.	Section 00415 Bid Schedule	Bid Bond 5%	REMARKS
1 Greco Construcion, Inc.	√	√	√	√	√	√	√	Base Bid: \$3,053,000.00 Base Bid, Alt 1A & Alt 1B: \$3,051,000.00 Calendar Days: 365 Days
2								
3								
4								
5								
6								
7								
8								

# Attorney's Review Certification

I, the undersigned, Charles E. Zech, the duly authorized and acting legal representative of the City of Burnet, do hereby certify as follows:

I have examined the attached contract(s) and surety bonds and am of the opinion that each of the agreements may be duly executed by the City, acting through its duly authorized representatives; that said representatives have full power and authority to execute said agreements on behalf of the City; and that the agreements shall constitute valid and legally binding obligations upon the City in accordance with terms, conditions and provisions thereof.

Attorney's signature: \_\_\_\_\_

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

Print Attorney's Name: Charles E. Zech

Texas State Bar Number: \_\_\_\_\_

**SECTION 00415  
BID SCHEDULE**

<b>BASE BID</b>		
<b>Item</b>	<b>Description</b>	<b>Total</b>
<b>DIVISION 1 - GENERAL ITEMS</b>		
1	Contractor Fee	\$ 175,000.00
2	Contractor General Conditions	\$ 195,000.00
<b>TOTAL</b>		<b>\$ 370,000.00</b>
<b>DIVISION 2 - SITE CONSTRUCTION &amp; EARTHWORK</b>		
1	Temporary project signage, including related items and appurtenances, complete in place	\$ 2,000.00
2	Permanent project signage, including related items and appurtenances, complete in place	\$ 10,000.00
3	Cut and/or fill existing site as required by the grading plan and in accordance with geotech report, including related items and appurtenances, complete in place	\$ 120,000.00
4	Site paving, including related items and appurtenances, complete in place	\$ Included in Division #3
5	Site utilities, including related items and appurtenances, complete in place	\$ 154,000.00
6	Detention pond, including related items and appurtenances, complete in place	\$ Included in Division #3
<b>TOTAL</b>		<b>\$ 286,000.00</b>
<b>DIVISION 3 - CONCRETE</b>		
1	Concrete foundation construction to repair cut floors, including related items and appurtenances, complete in place.	\$ 240,000.00
<b>TOTAL</b>		<b>\$ 240,000.00</b>
<b>DIVISION 4 - MASONRY</b>		
1	Install CMU per plans, including related items and appurtenances, complete in place	\$ 50,000.00
<b>TOTAL</b>		<b>\$ 50,000.00</b>
<b>DIVISION 5 - METALS</b>		
1	Miscellaneous metals, including related items and appurtenances, complete in place	\$ 25,000.00
<b>TOTAL</b>		<b>\$ 25,000.00</b>

**SECTION 00415  
BID SCHEDULE**

<b>DIVISION 6 - WOOD AND PLASTICS</b>		
1	Rough Carpentry, including related items and appurtenances, complete in place	\$ 300,000.00
2	Finish Carpentry, including related items and appurtenances, complete in place	\$ 25,000.00
3	Millwork and Shelving, including related items and appurtenances, complete in place	\$ 190,000.00
4	Design, fabricate, and install wood trusses as specified in plans, including related items and appurtenances, complete in place.	\$ 80,000.00
<b>TOTAL</b>		<b>\$ 595,000.00</b>
<b>DIVISION 7 - THERMAL AND MOISTURE PROTECTION</b>		
1	Batt Insulation, including related items and appurtenances, complete in place	\$ 45,000.00
2	Waterproofing and Sealants, including related items and appurtenances, complete in place	\$ 10,000.00
3	Faber cement siding, including related items and appurtenances, complete in place	\$ Included in Division #6
4	Flashing and sheet metal, including related items and appurtenances, complete in place	\$ 5,000.00
5	Sealants and caulking, including related items and appurtenances, complete in place	\$ 10,000.00
6	Composition shingle roofing, including related items and appurtenances, complete in place	\$ 25,000.00
<b>TOTAL</b>		<b>\$ 95,000.00</b>
<b>DIVISION 8 - DOORS AND WINDOWS</b>		
1	Interior doors, including related items and appurtenances, complete in place	\$ 45,000.00
2	Exterior doors, including related items and appurtenances, complete in place	\$ Included in Interior Doors
3	Aluminum windows & storefronts, including related items and appurtenances, complete in place	\$ 67,000.00
<b>TOTAL</b>		<b>\$ 112,000.00</b>
<b>DIVISION 9 - FINISHES</b>		
1	Wood Stud Walls, including related items and appurtenances, complete in place	\$ Included in Division #6
2	Painting, including related items and appurtenances, complete in place	\$ 107,000.00
3	Flooring, including related items and appurtenances, complete in place	\$ 50,000.00
4	Acoustical wall treatment, including related items and appurtenances, complete in place.	\$ Included
5	Gyp board assemblies, including related items and appurtenances, complete in place	\$ 100,000.00
6	Ceramic tile, including related items and appurtenances, complete in place	\$ 50,000.00

**SECTION 00415  
BID SCHEDULE**

7	Luxury vinyl tile, including related items and appurtenances, complete in place	\$ 25,000.00
8	Resilient accessories, including related items and appurtenances, complete in place	25,000.00
9	Finish hardware, including related items and appurtenances, complete in place	\$ Included
<b>TOTAL</b>		<b>\$ 357,000.00</b>
<b>DIVISION 10 SPECIALTIES</b>		
1	Toilet accessories, including related items and appurtenances, complete in place	\$ 20,000.00 <i>Da</i>
2	Install wallcoverings in accordance with plans, include related items and appurtenances, complete in place	\$ Included in Division #9
3	Install extinguisher cabinet and extinguisher in accordance with plans, include related items and appurtenances, complete in place	\$ Included
4	Install identifying devices in accordance with plans, include related items and appurtenances, complete in place	\$ 5,000.00
5	Toilet partitions, including related items and appurtenances, complete in place	\$ Included
6	Marker boards/bulletin boards, including related items and appurtenances, complete in place.	\$ Included
7	Cubic curtain, including related items and appurtenances, complete in place	\$ Included
8	Corner guards, including related items and appurtenances, complete in place	\$ Included
9	Interior signage, including related items and appurtenances, complete in place	\$ Included
10	Exterior sign, including related items and appurtenances, complete in place	\$ Included
11	Operable partition, including related items and appurtenances, complete in place	\$ 30,000.00
<b>TOTAL</b>		<b>\$ 55,000.00</b>
<b>DIVISION 11 - EQUIPMENT</b>		
1	Appliances, including related items and appurtenances, complete in place	\$ 4,500.00
2	Restroom Accessories, including related items and appurtenances, complete in place	\$ Included in Division #10
3	Install retractable stairs in accordance with plans, including related items and appurtenances, complete in place	\$ 3,000.00
<b>TOTAL</b>		<b>\$ 7,500.00</b>
<b>DIVISION 12 - FURNISHINGS</b>		
1	Louvers (mini blinds), including related items and appurtenances, complete in place.	\$ 7,000.00
2	Window shades, including related items and appurtenances, complete in place	\$ Alternate #1
<b>TOTAL</b>		<b>\$ 7,000.00</b>

**SECTION 00415  
 BID SCHEDULE**

DIVISION 13 - SPECIAL CONSTRUCTION		
1	NOT APPLICABLE	\$
<b>TOTAL</b>		\$ N/A
DIVISION 14 - CONVEYING SYSTEMS		
1	Install new machine room hydraulic passenger elevator in accordance to plans, including related items and appurtenances, complete in place	\$ 85,500.00
<b>TOTAL</b>		\$ 85,500.00
DIVISION 15 - PLUMBING & MECHANICAL		
1	Rough Plumbing, Plumbing Topout and Plumbing trim, including related items and appurtenances, complete in place	\$ 125,000.00
2	Heating, Venting and Air conditioning, including related items and appurtenances, complete in place	\$ 125,000.00
<b>TOTAL</b>		\$ 250,000.00
DIVISION 16 - ELECTRICAL		
1	Electrical Entrance, Rough Electrical, and Electrical trim, including related items and appurtenances, complete in place	\$ 250,000.00
2	Data installation including related items and appurtenances, complete in place	\$ 55,000.00
3	Phone system installation, including related items and appurtenances, complete in place	\$ Included
4	Fire alarm system installation, including related items and appurtenances, complete in place	\$ 20,000.00
5	Access control system installation, including related items and appurtenances, complete in place	\$ Included
<b>TOTAL</b>		\$ 325,000.00
<b>TOTAL BASE BID.....</b>		<b>\$ 2,860,000.00</b>
<b>Acknowledgement of Section 01001 Basic Requirements;</b>		
<b>1.3 Contingency Allowances:</b>		
A. \$100,000.00 - Owner/Architect's Instruction		
B. \$5,000.00 - Utility Allowance		
C. \$68,000.00 - Finished Hardware		
D. \$20,000.00 - Testing Services		
		\$ 193,000.00
<b>TOTAL BASE BID WITH CONTINGENCY ALLOWANCE.....</b>		<b>\$ 3,053,000.00</b>

**SECTION 00415  
BID SCHEDULE**

<b>ALTERNATE NO. 1A (ITEMS TO BE ADDED TO BASE BID)</b>		
<b>DIVISION 12 - FURNISHINGS</b>		
1	Install horizontal louver blinds for all windows in lieu of window shades, including related items and appurtenances, complete in place	\$ 5,000.00
<b>TOTAL</b>		\$ 5,000.00
<b>ALTERNATE NO. 1B (ITEMS TO BE REMOVED FROM BASE BID)</b>		
<b>DIVISION 12 - FURNISHINGS</b>		
1	Louvers (mini blinds), including related items and appurtenances, complete in place.	\$ (7,000.00)
<b>TOTAL</b>		\$ (7,000.00)
<b>TOTAL BASE BID, ALTERNATE NO. 1A AND ALNTERNATE NO. 1B.....</b>		<b>\$ (2,000.00)</b>
<b>Acknowledgement of Section 01001 Basic Requirements;</b>		
<b>1.3 Contingency Allowances:</b>		
A. \$100,000.00 - Owner/Architect's Instruction		
B. \$5,000.00 - Utility Allowance		
C. \$68,000.00 - Finished Hardware		
D. \$20,000.00 - Testing Services		\$ 193,000.00
<b>TOTAL BASE BID AND ALTERNATES 1A AND 1B WITH CONTINGENCY ALLOWANCE.....</b>		<b>\$ 3,051,000.00</b>

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

Adrienne Feild, Administrative Services/Airport Manager



# HILL COUNTRY ADVOCACY CENTER PROJECT

TDHCA CDBG- CV PROJECT #70800001002

Construction Bid( RFP2023- 004)

Greco Construction, Inc.

- Base Bid: \$3,053,000.00
- Project's completion date is set to be 365 days after issuance of notice to proceed



# TIMELINE & MILESTONES

**01** Grant Awarded  
April 2022

**02** State Contract Executed  
September 2022

**03** Construction Bidding Procurement  
February 2023

**04** Contractor Awarded  
June 2023

**05** Construction to Begin  
August 2023

Anticipated Project Completion  
October 2024

**06**

**07** State Contract Expiration  
December 31, 2024



QUESTIONS?/COMMENTS



## Police Department

## ITEM 4.7

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

### Action

- Meeting Date:** June 13th, 2023
- Agenda Item:** Discuss and consider action: Authorization and approval to purchase one (1) 2023 FORD RESPONDER 4WD for the Fire Department: B. Lee
- Background:** Council approved the purchase of two vehicles previously for the Police Department and the Electric Department. A vehicle was shipped inadvertently to us, and the dealership has agreed to honor the original quote we had if we elect to purchase the vehicle. A new quote has been provided for the Electric Department with similar options to the previously approved vehicle. The Fire Department needs a vehicle and the Responder that was initially bought for the PD will satisfy their needs.
- Information:** The replacement vehicle for electric has a VIN number assigned and is expected in stock next month. The vehicle is being purchased using the TIPS purchasing cooperative.
- Fiscal Impact:** Council had previously approved \$113,680.00 for the initial vehicles. If we purchase the inadvertently shipped vehicle to fulfill the needs of an additional vehicle for the Fire Department, an additional \$65,500 would need to be approved and will be paid for out of the self-funded account and included in next year's operating budget.
- Recommendation:** Staff recommends approval of the purchase of one additional vehicle for the Fire Department.



# Vehicle Purchase

Police Department

Fire Department

Electric Department



# Council Authorization

- Received council approval for the purchase of two vehicles.
- The PO's were created and the vehicles were "on the ground" at the dealership.
- Vehicles arrived and we discovered a mistake had been made.
- The ability to get vehicles continues to be difficult and we knew that the Fire Department would be seeking a vehicle in future so we discussed keeping the mistaken vehicle that would work for the PD.
- The change in the vehicle order would also be approximately \$6,000 less overall.

# Fiscal Impact

- Original authorization will cover the first two vehicles.
- An additional \$65,500 will cover the vehicle for the fire department.
- The additional funding amount will also cover the upfitting cost for both the Fire and Police departments.

Questions?





## Administration

## ITEM 4.8

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

## Action

**Meeting Date:** June 13, 2023

**Agenda Item:** 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. Feild

**Background:** The Burnet Municipal Airport has been the home of the Highland Lakes Squadron Commemorative Air Force since 1992. The current lease is set to expire in October 2023. The squadron Colonel has expressed desire to extend the lease. It would be appropriate for council to appoint a committee to negotiate a lease renewal.

**Information:** Upon approval of this resolution the committee's charge will be to evaluate and make recommendations relating to the Highland Lakes Squadron Commemorative Air Force proposed lease renewal.

**Fiscal Impact** The appointment of this committee shall have no financial impact. Moreover, Council shall be asked to act on the committee's recommendations by separate resolution; and the actual financial impact will be more discernable at that time.

**Recommendation:** Approve Resolution No. R2023-41 and appoint up to three committee members.

## RESOLUTION NO. R2023-41

### 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

**Whereas**, the Burnet Municipal Airport has been the home of the Highland Lakes Squadron Commemorative Air Force since 1992; and

**Whereas**, the current lease is set to expire in October 2023; and

**Whereas**, the squadron Colonel has expressed desire to extend the lease.

**Whereas**, City Council finds it appropriate to appoint a committee of its members to evaluate and make recommendations to the Highland Lakes Squadron Commemorative Air Force proposed lease renewal.

**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. Establishment.** City Council hereby establishes the Highland Lakes Squadron Commemorative Air Force Lease Evaluation Committee subject to the following:

- (a) **Membership:** The committee shall consist of no more than three members of City Council.
- (b) **Charge:** The committee shall assist in the City's evaluation of the Highland Lakes Squadron Commemorative Air Force proposed lease renewal and make recommendations relating to the terms and conditions of the proposed lease.
- (c) **Term:** The committee's term shall expire upon the award or denial of a lease agreement by City Council.
- (d) **Capacity:** The committee shall serve in an advisory capacity and no recommendation made by the committee shall be binding on the Council. Moreover, as the membership of the committee constitutes less than a quorum of Council the committee's meetings shall not be subject to the requirements of the Texas Open Meetings Act. In that regard, the committee shall not discuss their work with other members of Council except at a regular or special City Council meeting.

**Section three. Members.** City Council hereby appoints the members of the Committee; and members are indicated by a ticked box by their names below:

- Mayor Gary Wideman**
- Council Member Mary Jane Shanes**
- Council Member Tres Clinton**
- Council Member Philip Thurman**
- Council Member Joyce Laudenschlager**
- Council Member Ricky Langley**
- Council Member Dennis Langley**

**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.

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

**PASSED AND APPROVED** this the 13<sup>th</sup> day of June, 2023.

**CITY OF BURNET, TEXAS**

**ATTEST:**

\_\_\_\_\_  
Gary Wideman, Mayor

\_\_\_\_\_  
Kelly Dix, City Secretary

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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.

ADRIENNE FEILD, ADMINISTRATIVE SERVICES/AIRPORT MANAGER

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# HIGHLAND LAKES SQUADRON - COMMEMORATIVE AIR FORCE PROPOSED LEASE RENEWAL COMMITTEE

## MEMBERSHIP

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Committee shall consist of no more than three members of City Council.

## CHARGE

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The committee shall assist in the City's evaluation of the Highland Lakes Squadron Commemorative Air Force proposed lease renewal and make recommendations relating to the terms and conditions of the proposed lease.

## TERM

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The committee's term shall expire upon the award or denial of a lease agreement by City Council.

## CAPACITY

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Advisory capacity and no recommendation made by the committee shall be binding on the Council.

QUESTIONS/COMMENTS





## Development Services

## ITEM 4.9

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

### Agenda Item Brief

**Meeting Date:** June 13, 2023

**Action Item:** 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

**Background:** Delaware Springs, Section 19, Phase 4 (Exhibit A) is the final section of the Section 19 subdivision which is a 25 lot single-family residential subdivision. The proposed subdivision will also extend the remainder of Rachel Loop to Delaware Springs Blvd. and create one new cul-de-sac road.

The preliminary plat for Phase 4 was approved by City Council on November 16, 2021. During the previous phase, City Council approved a variance to tree mitigation requirements due to an issue with the existing drainage pond that was installed by the previous developer and accepted by the city, which resulted in a significant additional expense to the current Developer. At that time, staff anticipated a new tree ordinance would be adopted prior to Phase 4, which has not occurred. Had staff anticipated that delay, Phase 4 would likely have been included in the variance request that was previously approved for Phase 3.

Additionally, the prior Developer granted a public utility easement to the city at no cost for an overhead electric line to service the remainder of the Delaware Springs Subdivision. Due to the city's desire to not have utility lines in backyards, the Developer has designed their subdivision with a single-sided road, thereby doubling the cost of each lot.

The Developer has agreed to increase the size of the ROW and require the Homeowners Association to maintain the ROW.

As consideration for the Developer's incurrence of these additional costs, the Developer is requesting a waiver to the City's tree mitigation requirements for Phase 4.

**Information:**

The City of Burnet Code of Ordinances Sec. 98-82 states the following regarding variances to the subdivision standards:

“In granting approval of a request for variance, the Commission and Council shall conclude that the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of this chapter would result in unnecessary hardship, and so that the variance observes the spirit of this chapter and concludes that substantial justice is done. The Commission and Council shall meet these requirements by making findings that:

- a. The public convenience and welfare will be substantially served;
- b. The appropriate use of surrounding property will not be substantially or permanently impaired or diminished;
- c. The applicant has not created the hardship from which relief is sought;
- d. The variance will not confer upon the applicant a special right or privilege not commonly shared or available to the owners of similar and surrounding property;
- e. The hardship from which relief is sought is not solely of an economic nature;
- f. The variance is not contrary to the public interest;
- g. Due to special conditions, the literal enforcement of this chapter would result in an unnecessary hardship; and
- h. In granting the variance the spirit of the ordinance is observed and substantial justice is done.”

**Requested**

**Variance:**

The developer, Langley Homes, Inc., is requesting a variance to Code of Ordinance Sec. 98-22(d)(3)(h) which states: “The developer shall be responsible for providing replacement trees shown in the application submittal documents based on a replacement ratio (inches removed to inches planted.” In addition, the developer is also requesting a variance to Sec. 98-23(c)(11) which states: “The location, size and description of all significant trees (to remain and to be removed), and replacement trees to meet the requirements of the chapter may be shown utilizing a separate aerial view of the area to be subdivided.” The letter of request has been attached to the brief (Exhibit B).

**If Council desires to approve their request:** A motion to approve Resolution R2023-43 as presented.

## RESOLUTION NO. R2023-43

### A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS REGARDING THE DEVELOPMENT OF DELAWARE SPRINGS SECTION 19 PHASE 4

**Whereas;** Delaware Springs Section 19, Phases 1, 2 and 3 are existing single-family subdivisions located within the City of Burnet; and

**Whereas,** Delaware Springs Section 19, Phase 4 is a proposed single-family subdivision adjacent to Delaware Springs Section 19, Phases 1, 2 and 3; and

**Whereas,** the preliminary plat of Delaware Springs Section 3 was previously approved by the City Council and during the construction plans development process the project's civil engineer discovered the stormwater detention facilities were insufficient to address the increase stormwater from a fully built out Delaware Springs Sections 1, 2, 3 and 4, thereby resulting in additional expense to the Developer; and

**Whereas,** the previous Developer granted a Public Utility Easement on the north property boundary of Phase 4 at no cost to the city, resulting in a single sided road with homes on only one side, thereby doubling the Developers cost for each lot.

**Whereas,** the City desires to have the road for Phase 4 run parallel to the Public Utility Easement and eliminate the possibility of overhead power lines in back yard; and

**Whereas,** the Developer is willing to widen the proposed rights-of-way to encompass the Public Utility Easement in order to save additional trees and require the Homes Owners Association to maintain said rights-of-way; and

**Whereas,** Developer's willingness to grant the city's request will result in a single sided road with homes on only one side, thereby doubling the Developers cost for each lot; and

**Whereas,** Developer has agreed to accept a waiver of the City's tree mitigation requirements as consideration for the additional expenses they will incur as described herein.

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

**Section one. Findings.** The recitals to this Resolution are incorporated herein for all purposes.

**Section two. Authorization.** In consideration for Developer's concessions as described in the recitals, a waiver (variance) is hereby granted to the City of Burnet Code of Ordinance

Section 98-22.(d).(3).h.1-3 and Section 98-23.(c).(11) for Delaware Springs, Section 19, Phase 4.

**Section three. 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 five. Effective date.** This resolution shall take effect immediately upon its passage, and approval as prescribed by law.

**PASSED AND APPROVED** this the 13<sup>th</sup> day of June, 2023.

**CITY OF BURNET, TEXAS**

**ATTEST:**

\_\_\_\_\_  
Gary Wideman, Mayor

\_\_\_\_\_  
Kelly Dix, City Secretary



**Exhibit "B"**  
**Requested Variance**

April 20, 2023



Carly Kehoe-Pearson, Director of Development Services  
City of Burnet  
1001 Buchanan Drive, Suite 4  
Burnet, TX 78611

**RE: DELAWARE SPRINGS SECTION 19, PHASE 4  
BURNET, TEXAS  
CCL 23-020**

**SUBJECT: TREE REPLACEMENT WAIVER REQUEST**

Dear Carly:

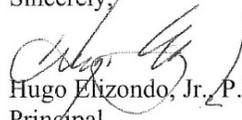
On behalf of our Client, Langley Homes Inc., we hereby request a variance from City of Burnet Code of Ordinance Section 98-22.(d).(3).h.1-3 and Section 98-23.(c).(11) regarding Tree Replacement. Our request is to ask for a waiver from the requirement for replacement trees. Below are justifications for this request:

1. This property has an existing City of Burnet electrical line within a 20-foot-wide public utility easement along the north property boundary which prevents Rachel Loop from being a two-sided street due to geometric constraints. This essentially causes development costs in Phase 4 to be above normal market costs compared to a street with lots fronting both sides. The one-sided roadway ensures City of Burnet utility infrastructure is not at the rear of lots and is accessible for maintenance and repair. Additionally, if the Developer was able to construct a two-sided roadway, leaving the City of Burnet electrical facilities in the rear, the roadway would follow the existing construction and emergency access roadway which would reduce tree to be removal. See attached draft Final Plat.
2. Langley Homes Inc. is willing to widen the proposed right-of-way of this segment of Rachel Loop to encompass the existing public utility easement and shift the roadway to the north to save at least 3 live oak trees and possibly more if some can be within the south ROW line (approximately 32 caliper inches or more). Every effort will be made to salvage existing trees on the edge of the south ROW.
3. In return, the HOA will maintain the easement area within the new proposed right-of-way and the roadway will provide improved access to existing City of Burnet electrical facilities.

4. This realignment of Rachel Loop also eliminates the temporary road currently in use for construction and emergency access.

We appreciate your support regarding this matter.

Sincerely,



Hugo Elizondo, Jr., P.E., C.F.M.  
Principal

Attachments