

RESOLUTION NO. R2021-30

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING THE PURCHASE OF REAL PROPERTY LOCATED AT 118 EAST POLK STREET, BURNET TEXAS AND AUTHORIZING THE MAYOR OR CITY MANAGER TO EXECUTE AN ASSIGNMENT OF AN EXISTING SALES CONTRACT AND RELATED CLOSING DOCUMENTS.

Whereas, City Council identified as a priority the acquisition of new city hall; and

Whereas, the property located at 118 East Polk Street is the site of a vacated Bealls' Department Store; and

Whereas, the property is currently under contract; and

Whereas, the purchaser is willing to assign its contract rights to the city; and

Whereas, City Council deems the location to be a preferable location for a new city hall.

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

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

Section two. Approval. The purchase of the property located 118 East Polk Street is hereby authorized for the amount of One Million Dollars and 00/100s (\$1,000,000.00), which includes both the purchase price and assignment costs.

Section three. Authorization. Mayor Crista Goble Bromley, or City Manager David Vaughn, is hereby authorized to execute an assignment of the existing contract rights to the property; execute a real property sales agreement and to take such further action, tender funds for the purchase price and the assignment, pay all additional closing cost, and execute such other ancillary documents reasonably necessary to facilitate the purpose of this resolution and close on the transaction.

Section 5. 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 Texas Open Meetings Act.

Section 6. Effective Date. That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED this the 11th day of June, 2021.

CITY OF BURNET, TEXAS


Crista Goble Bromley, Mayor

ATTEST:


Kelly Dix, City Secretary



CITY OF BURNET, TEXAS RECORDS AFFIDAVIT

THE STATE OF TEXAS §

COUNTY OF BURNET §

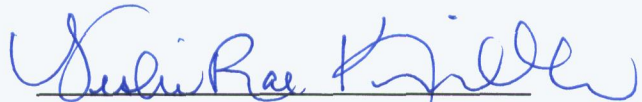
BEFORE ME, the undersigned authority, on this day personally appeared, Kelly Dix, City Secretary, City of Burnet whose identity is known to me, and, after being by me first duly sworn, she stated upon oath the following:

1. My name is Kelly Dix. I am over 21 years of age, have never been convicted of a felony, am of sound mind, and am capable of making this Affidavit. The matters stated in this Affidavit are within my personal knowledge and are true and correct.
2. I am the City Secretary, for the City of Burnet, in Burnet County, Burnet Texas. I affirm that I personally have knowledge of the recorded and approved Resolution number R2021-30 of the City Council of the City of Burnet Special Meeting held on June 11, 2021. These records are kept by the City Secretary's Office at the City of Burnet in the regular course of business for the City of Burnet, with knowledge of the act.

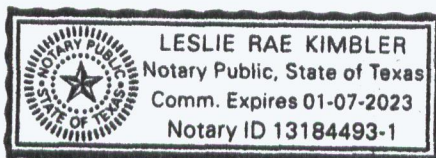


Kelly Dix
City Secretary
City of Burnet

SUBSCRIBED AND SWORN TO me on this 11th day of June, 2021.



Notary Public in and for the State of Texas



Printed Name of Notary

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is effective as of June 14th, 2021 (the "Effective Date") by and between CHARLES B. RICHARDS III, TRUSTEE ("Assignor"), with an address of 1011 W. 40th Street, Suite 300, Austin, Texas 78756, and CITY OF BURNET, TEXAS ("Assignee"), with an address of 1001 Buchanan Drive, Suite 4, Burnet, Texas 78611.

BACKGROUND

A. Assignor entered into that certain TAR Commercial Contract – Improved Property dated effective January 5, 2021, by and between The Franklin I. Fickett Charitable Foundation, as Seller ("Seller"), and Assignor, as Buyer (as amended by that certain Commercial Contract Amendment dated effective March 26, 2021 and that certain Commercial Contract Amendment dated effective May 4, 2021, the "Contract"), for the sale and conveyance of that certain parcel of land and improvements thereon located at 118 E. Polk Street in Burnet, Texas 78611, and being more particularly described as LOTS 1-A & 3-A OF REPLAT OF LOT NO. 1 AND PORTIONS OF LOTS NOS. 2 AND 3, BLOCK NO. 17, PETER KERR PORTION, CITY OF BURNET, a Subdivision in Burnet County, Texas, according to the map or plat thereof, recorded in Cabinet 3, Slide 72-B, of the Plat Records of Burnet County, Texas (the "Property").

B. Assignor desires to assign to Assignee, and Assignee desires to assume, all of Assignor's right, title and interest in and to the Contract to Assignee for the purpose of allowing Assignee to acquire the Property in accordance with the terms, conditions and limitations set forth in the Contract.

ASSIGNMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Assignment. Subject to the terms and conditions herein, Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Contract and rights to any earnest money furnished thereunder. In connection therewith, Assignor has delivered to Assignee copies of all title, survey and other due diligence information in Assignor's possession concerning the Property.

2. Assumption of Obligations: Replacement of Earnest Money. Assignee agrees to assume and perform all obligations and duties of the Assignor under the Contract accruing from and after the date hereof. At or before closing under the Contract, Assignee shall deposit with the Title Company under the Contract an amount equal to the earnest money required under the Contract, whereupon the earnest money deposit made by Assignor under the Contract and all accrued interest thereon shall be returned to Assignor.

3. Assignment Fee. Within four (4) business days after the Effective Date, or at closing whichever occurs first, Assignee shall pay to "CBR3 Ranches LLC" (affiliate of Assignor) the sum of \$175,000 in immediately available funds as a fee for this Assignment. If

Assignee fails to pay such fee within such time period, Assignor may cancel this Assignment by delivering written notice thereof to Assignee and Seller at any time thereafter but prior to Assignor's receipt of such payment, in which event Assignor shall again be the Buyer under the Contract.

4. Assignor's Representations. Assignor hereby represents and warrants to Assignee that: (a) this Assignment has been duly executed and delivered by Assignor and constitutes the legal, valid and binding obligation of Assignor enforceable against Assignor in accordance with its terms; (b) Assignor has full power and authority to assign the Contract to Assignee hereunder; (c) no consent, approval, order or authorization of, or filing with, any court, administrative agency or commission or other governmental authority or instrumentality, or other person or entity is required by or with respect to Assignor in connection with the execution and delivery of this Assignment, other than the consent of Seller as shown below; (d) Assignor is the record and beneficial owner of the Contract, free and clear of any liens, encumbrances, pledges, security interests, voting agreements, options, rights of first offer or refusal, or claims of any nature whatsoever; and (e) neither Assignor nor, to Assignor's knowledge, Seller is in default under the Contract as of the date hereof.

5. Governing Law. This Assignment shall be governed by, interpreted under, and construed and enforceable in accordance with, the laws of the State of Texas.

6. Counterparts. This Assignment may be executed in one or more counterparts, which shall be construed together as one document. A telecopy or electronic delivery [i.e., the transmission by either party of its signature on an original or any copy of this instrument via fax machine or over the internet in electronic photostatic format (e.g., .pdf Adobe)] shall be deemed to be the delivery by such party of its original signature hereon.

[signatures appear on following page]

IN WITNESS WHEREOF, the parties hereto make and execute this Assignment to be effective on the date first-above written, which shall be the last date of execution below.

Assignor:

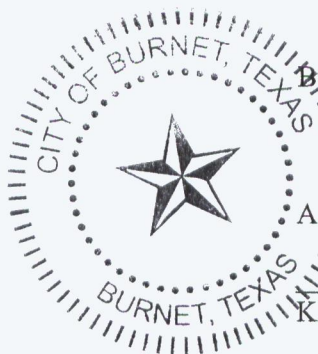


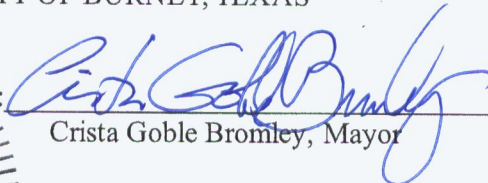
CHARLES B. RICHARDS III, TRUSTEE

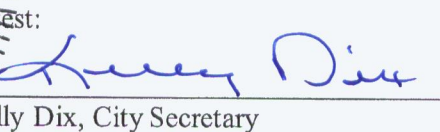
Date: June 11th, 2021

Assignee:

CITY OF BURNET, TEXAS



By: 
Crista Goble Bromley, Mayor

Attest: 
Kelly Dix, City Secretary

Date: June 11, 2021

Consented to by Seller:

THE FRANKLIN I. FICKETT CHARITABLE FOUNDATION

By: _____
Clint Small, Trustee

Date: June _____, 2021