



**RESOLUTION NO. 2022-41**

**A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS, RATIFYING THE ABANDONMENT AND VACATION OF PORTIONS OF NORTH SILVER STREET, EAST BRIER STREET AND EAST POST OAK STREET LOCATED WITHIN THE PETER KERR DONATION ADJACENT TO BLOCKS 13, 16, 17, AND 18; AND MAKING SAID ABANDONMENT AND VACATION SUBJECT TO RESERVATION OF PUBLIC UTILITY EASEMENTS; DIRECTING THE CITY SECRETARY TO CAUSE AN INSTRUMENT OF ABANDONMENT TO BE RECORDED IN THE DEED RECORDS OF BURNET COUNTY; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Section 311.007 of the Texas Transportation Code provides a “home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality”; and

**WHEREAS**, Section 272.001 (b) of the Texas Local Government Code authorizes the sale of a municipality’s interest in real property for less than market value if the municipality’s interest in the real property is by easement and the conveyance, sale, or exchange is with one or more abutting property owners who own the underlying fee simple; and

**WHEREAS**, by minute order approved on May 24, 2005, and reading:

*“The first item on the agenda is a request by the City of Burnet to abandon/vacate portion ~ of N. Silver Street, E. Brier Street and E. Post Oak Street located in the Peter Kerr Donation adjacent (sic) to Blocks 13, 16, 17 and 18. These streets were originally platted but never constructed. A motion was made by Jim Roberts to approve the request and seconded by Joe Everett. Motion carried unanimously with Bret Burton abstaining (5 – In Favor; 0 – Against; 1 – Abstaining). Councilman Riddell moved to accept the P&Z recommendation, Councilman Ritter seconded, motion carried with a six to one vote with Councilman Shell voting no.”*

Council acted to action to abandoned and vacate portions of the aforementioned streets; and

**WHEREAS**, the action taken on May 24, 2005, neither included a map identifying the segments of the aforementioned streets to be vacated, nor the approval of an instrument memorializing the abandonment and vacation of said streets; and

**WHEREAS**, Council adopts this Resolution to complete action to abandon and vacate the aforementioned streets and authorize the execution and recordation of an instrument recording such action.

**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 by the City Council and made a part hereof for all purposes as findings of fact.

**Section two. Abandonment and Vacation of Street Rights-of-Way.** Subject to the reservations stated in Section three, below, that portion of North Silver Street, East Brier Street and East Post Oak Street located in the Peter Kerr Donation adjacent to Blocks 13, 16, 17 and 18, and more particularly described by hashmarks (///) on Exhibit "A" attached to the instrument referenced in section four, are hereby abandoned and vacated in favor of the abutting property owners, in proportion of their abutting ownership.

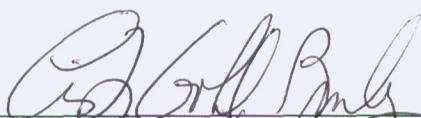
**Section three. Retention of Public Utility Easement.** Said abandonment and vacation is subject to reservation of a public utility easement over, across, and under the entire width and length of abandoned and vacated street segments.

**Section four. Abandonment Recorded.** The City Manager is hereby authorized and directed to execute an instrument releasing, abandoning and terminating the public rights-of-way contemplated by this Resolution, in substantial form as Appendix "One" attached hereto and such other instruments and documents reasonably necessary to facilitate the purpose of this Resolution. Upon such execution, the City Secretary to record said instrument in the Real Property Records of Burnet County.

**Section seven. Effective Date.** That this Resolution is effective upon passage and approval.

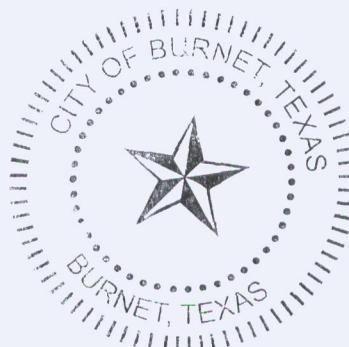
**PASSED AND APPROVED** on the 10<sup>th</sup> day of May 2022.

**CITY OF BURNET, TEXAS**

  
Crista Goble Bromley, Mayor

**ATTEST:**

  
for Kelly Dix, City Secretary



**APPENDIX ONE**  
**ABANDONMENT AND VACATION OF PUBLIC RIGHT OF WAY**

**ABANDONMENT AND VACATION OF PUBLIC RIGHT OF WAY**

THE STATE OF TEXAS  
COUNTY OF BURNET

§  
§ **KNOW ALL PERSONS BY THESE PRESENTS:**  
§

**WHEREAS**, on the 10<sup>th</sup> day of May, 2022, the City Council of the City of Burnet, Texas, took action on passage and approval of Resolution No. 2022-41, authorizing the execution and recordation of this instrument.

**NOW THEREFORE**, for ten dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and for the benefit of all present and future owners of the Abutting Properties, or any portion thereof, and in proportion to their abutting ownership, the City of Burnet, Burnet County, Texas ("City") had subject to the reservations stated herein, **ABANDONED AND VACATED** and, by these presents, does **ABANDON AND VACATE** the Public Rights-of-Way Easement describe as:

**that portion of North Silver Street, East Brier Street and East Post Oak Street located in the Peter Kerr Donation adjacent) to Blocks 13, 16, 17 and 18,**

and more particularly described by hashmarks (///) in Exhibit "A" attached hereto and incorporated herein for all purposes.

**Reservations:** The City hereby reserves for itself a Public Utility Easement, for the placement of below ground and above ground water, sewer, electric, gas, and telecommunication facilities, within the entirety of the street segments **ABANDONED AND VACATED** by these presents.

It is expressly agreed and understood that this is a release of only said Public Rights of Way Easement and this **ABANDONMENT AND TERMINATION** does not release, affect or impair the Public Utility Easement described in the Reservations herein, or any other matters of record not expressly released hereby. By execution hereof, the City confirms and acknowledges the Public Rights of Way Easement as described in **Exhibit "A"** will be of no further force or effect, save and except as stated in the Reservations.

Remainder of page to remain intentionally blank and signature page to follow:

EXECUTED TO BE EFFECTIVE the 10 day of MAY, 2022.

CITY OF BURNET, TEXAS

[Signature]  
David Vaughn, City Manager

ATTEST:

[Signature]  
Kelly Dix, City Secretary



THE STATE OF TEXAS §

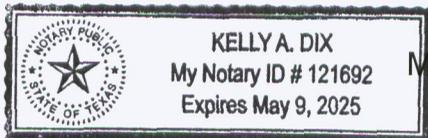
COUNTY OF BURNET §

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared David Vaughn, of the City of Burnet, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 16 day of May, 2018.

[Seal]

[Signature]  
Notary Public in and for the State of Texas



My Commission Expires: 5-9-2025

AFTER RECORDING RETURN TO:

City of Burnet, Texas  
Attn. City Secretary  
1001 Buchanan Drive, Suite 4  
P.O. Box 1369  
Burnet, TX 78611

**Exhibit "A"**  
**Rights-of-Way Abandoned**

# SPECIAL WARRANTY DEED

THE STATE OF TEXAS §

KNOW ALL PERSONS BY THESE PRESENTS:

COUNTY OF BURNET §

That the ~~City of Burnet, Texas~~, a Texas municipal corporation, hereinafter called "GRANTOR," for and in consideration of the sum of ten dollars (\$10.00), together with other good and valuable consideration, to GRANTOR cash in hand paid by Hoover Building Supply, Inc., hereinafter called "GRANTEE", the receipt of which is hereby acknowledged, has GRANTED, SOLD and CONVEYED, and by these presents does GRANT, SELL and CONVEY unto the said GRANTEE, all that certain lot, tract or parcel of land known and described as follows:

All that certain parcel or tract of land being 28,880 square feet, more or less, located in the City of Burnet, Burnet County, Texas, as more particularly shown and described in Exhibit "A" attached hereto and incorporated herein for all purposes.

This conveyance is expressly made subject to the restrictions, covenants and easements, if any, apparent on the ground, and utility easements, if any, in use by the City or any other public utility, or now in force and existing of record in the office of the County Clerk of Burnet County, Texas, to which reference is here made for all purposes.

~~TO HAVE AND TO HOLD~~ the above described premises, together with all and singular, the rights and appurtenances thereto, in anywise belonging, unto the said GRANTEE, the heirs, executors, successors and assigns forever, and GRANTOR does hereby bind its successors and assigns to WARRANT AND FOREVER DEFEND, all and singular, the said premises unto the said GRANTEE, the heirs, executors, successors and assigns, against every person whomsoever lawfully claiming or to claim the same by, through or under the City of Burnet, Texas, but not otherwise.

This deed is subject to all easements, restrictions, covenants, conditions and other instruments of record.

EXECUTED at Burnet, Burnet County, Texas, this the <sup>28<sup>th</sup></sup> day of March 2006.

Attest:

Christy Fath  
Christy Fath, City Secretary

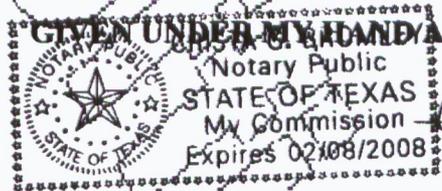
City of Burnet, Texas

Dennis Kinchele, Mayor

1415 0724

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Dennis Kincheloe, Mayor, of the City of Burnet, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration therein expressed and in the capacity therein stated.



GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 28<sup>th</sup> day of March 2006.  
*[Signature]*  
Notary Public-State of Texas

**AFTER RECORDING PLEASE RETURN TO:**

City of Burnet  
City Secretary  
P.O. Box 1369  
Burnet, Texas 78611

Grantee Address: Hoover Building Supply, Inc.  
P.O. Box 457  
Burnet, TX 78611

ORIGINAL DOCUMENT

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS  
1415 0725

**STATE OF TEXAS:  
COUNTY OF BURNET:  
CITY OF BURNET:**

**FIELD NOTES** to accompany a survey plat for a 0.66 acre (28,880 square foot) tract of land out of the Peter Kerr Donation of the City of Burnet, and being a portion of Silver Street and a portion of Brier Street in the City of Burnet, Burnet County, Texas.

**BEGINNING** at a 1/2" iron rod found with plastic survey cap stamped RPLS 4452, at the point of intersection of the south right-of-way line of Johnson Street and the east right-of-way line of said Silver Street, for the northwest corner of the certain Lot No. 2, Block No. 18 of said Peter Kerr Donation, the northwest corner of that certain 1.24 acre tract described as Exhibit "B", conveyed to Hoover Building Supply, Inc. in Volume 1129, Page 751 of the Official Public Records of Burnet County, Texas, and the northeast corner hereof, from which a 1/2" iron rod found for the point of intersection of the south right-of-way line of Kerr Street and the east right-of-way line of said Silver Street, and the northwest corner of the certain Lot No. 4, Block No. 37 of the Kerr Portion bears N12°00'00"W, a distance of 344.58 feet (called 344.4 feet), and the northeast corner of said 1.24 acre tract bears N78°00'00"E, a distance of 242.34 feet;

**THENCE** S12°00'00"E (basis of bearings for this survey) with the west line of that certain Lot No. 1 of said Block No. 18, the west line of said Lot No. 2, the west line of said 1.24 acre tract, the east right-of-way line of said Silver Street and the east line hereof, a distance of 294.40 feet to a 1/2" iron rod found with plastic survey cap stamped RPLS 4452, at the point of intersection of the north right-of-way line of Brier Street and the east right-of-way line of said Silver Street for the southwest corner of said Lot No. 1, the southwest corner of said Block No. 18 and the southeast corner hereof;

**THENCE** N78°00'00"E with the south line of said Lot No. 1, the south line of that certain Lot No. 4 of said Block No. 18, the south line of said 1.24 acre tract, the south line of that certain tract of land conveyed to Linda Sikveland in Volume 919, Page 530 of the Official Public Records of Burnet County, Texas, the north right-of-way line of said Brier Street and the north line hereof, at a distance of 125.38 feet pass a 1/2" iron rod found with plastic survey cap stamped RPLS 4452, for the southeast corner of said 1.24 acre tract, in all a total distance of 294.40 feet to a computed point for the point of intersection of the west right-of-way line of Rhomberg Street and the north right-of-way line of said Brier Street, the southeast corner of said Linda Sikveland tract and the northeast corner hereof;

**THENCE** S12°00'00"E with the west right-of-way line of said Rhomberg Street and the east line hereof, a distance of 50.00 feet to a computed point for the point of intersection of the west right-of-way line of said Rhomberg Street and the south right-of-way line of said Brier Street, the northeast corner of that certain Lot No. 3, Block No. 17 of said Peter Kerr Donation, the northeast corner of that certain 0.731 acre tract conveyed to Hoover Building Supply, Inc. in Volume 1223, Page 874 of the Official Public Records of Burnet County, Texas and the southeast corner hereof;

**THENCE** S78°00'00"W with the north line of that certain Lot No. 2 of said Block No. 17, the north line of said Lot No. 3, the north line of said 0.731 acre tract, the north line of that certain 0.040 acre tract of land known as Tract "C" and the north line of that certain 0.127 acre tract of land known as Tract "D", conveyed to Hoover Building Supply, Inc. in Volume 597, Page 721 of the Real Property Records of Burnet County, Texas, the north line of that certain 0.01 acre tract of land known as Tract 5 in a Sublicense Agreement to Hoover Building Supply, Inc. in Volume 808, Page 303 of the Official Public Records of Burnet County, Texas, the north line of a portion of Silver Street (abandoned by the City of Burnet, Texas), the south right-of-way line of said Brier Street and the South line hereof, a distance of 344.40 feet to a 1/2" iron rod set at the point of intersection of the west right-of-way line of said Silver Street and the south right-of-way line of said Brier Street, the northeast corner of that certain Lot No. 3, Block No. 14 of said Peter Kerr Donation and the southwest corner hereof;

**THENCE** with the west line hereof with (S) courses and distances as follows:

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OFFICIAL PUBLIC RECORDS  
BURNET COUNTY, TEXAS

1115  
OFFICIAL PUBLIC RECORDS  
BURNET COUNTY, TEXAS

(3) N12°00'00"W, a distance of 122.40 feet to a 1/2" iron rod set with plastic survey cap stamped RPLS 4452, for an angle point hereof;

(4) S78°00'00"W, a distance of 25.00 feet to a 1/2" iron rod found in the east line of that certain Lot No. 4, Block No. 13 of said Peter Kerr Donation for the northeast corner of that certain tract of land conveyed to Juby Debo Stout in Volume 725, Page 560 of the Official Public Records of Burnet County, Texas, the southeast corner of that certain 0.583 acre tract conveyed to Jimmie Benes, Jr. in Volume 895, Page 857 of the Official Public Records of Burnet County, Texas and an angle point hereof;

(5) N12°00'00"W with the east line of that certain Lot No. 3 of said Block No. 13, the east line of said Lot No. 4, the east line of said 0.583 acre tract, the west right-of-way line of said Silver Street and the west line hereof, a distance of 197.00 feet (called 196.38 feet in said Jimmie Benes, Jr. deed) to a 1/2" iron rod set with plastic survey cap stamped RPLS 4452, at the point of intersection of the south right-of-way line of said Johnson Street and the west right-of-way line of said Silver Street for the northeast corner of said Lot No. 3, the northeast corner of said Block No. 13 and the northwest corner hereof, from which a 1/2" iron rod found bears S62°53'17"W, a distance of 2.38 feet;

**THENCE** N78°00'00"E with the south right-of-way line of said Johnson Street and the north line hereof, a distance of 50.00 feet to the Point of Beginning. Containing 0.28 acre.

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS

1415 0727

1413 0790

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS





...County that this instrument was FILED on this date  
and at the time stamped hereon by me and was duly  
RECORDED in the OFFICIAL PUBLIC RECORDS  
OF BURNET COUNTY, TEXAS in the volume  
and Page as shown.



Janet Parker  
County Clerk  
Burnet County, Texas  
By *Michael Star*  
DEPUTY

Any provision herein which restricts the sale, rental or use  
of the described real property because of color or race is  
invalid and unenforceable under federal law.

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS

1415 0729

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS

1413 0792

**SCANNED**

Notarized Documents

003722

FILED

2006 MAR 23 PM 1:19

CLERK OF COURTS  
BURNET COUNTY, TEXAS

I hereby certify that this instrument was FILED on this date and at the time stamped hereon by me and was duly RECORDED in the OFFICIAL PUBLIC RECORDS OF BURNET COUNTY, TEXAS in the volume and Page as shown.



Janet Parker  
County Clerk  
Burnet County, Texas  
By [Signature]  
DEPUTY

Any provision herein which restricts the sale, rental or use of the described real property because of color or race is invalid and unenforceable under federal law.

**SCANNED**

**004059**

**FILED**

**2006 MAR 30 PM 2:56**

JANET PARKER  
COUNTY CLERK  
BURNET COUNTY, TEXAS

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS  
1415 0730

**Not a Document**

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BURNET §

That THE CITY OF BURNET, TEXAS, a municipal corporation, acting by and through its duly elected Mayor, DENNIS L. KINCHELOE of the County of Burnet, State of Texas, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS and other considerations in hand paid by the grantees herein named, the receipt of which is hereby acknowledged, have QUITCLAIMED, and by these presents do QUITCLAIM unto HOOVER BUILDING SUPPLY, INC. of the County of Burnet, State of Texas, all of its right, title and interest in and to the following described real property situated in Burnet County, Texas, to-wit:

Being a 0.4961 acre tract of land out of the Peter Kerr Donation, Block 17, Lot 4 in the City of Burnet, Texas, being a portion of Post Oak Street, of the City of Burnet, Burnet County, Texas, and being more particularly described in Exhibit" A attached hereto and incorporated herein for all purposes. Said property having been abandoned by the City Council of Burnet, Texas, on the 8<sup>th</sup> day of April, 2003.

Subject to any visible and apparent roadways or easements over or across the subject property. Subject to the ordinances and restrictions of the City of Burnet, Burnet County, Texas.

TO HAVE AND TO HOLD all of its right, title and interest in and to the above described property and premises unto the said grantees, their heirs and assigns forever, so that neither the City of Burnet, Texas nor its successors, legal representatives or assigns shall have, claim or demand any right or title to the aforesaid property, premises or appurtenances or any part thereof.

DATED this 7<sup>th</sup> day of Mar, 2003.

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS

1149 0782

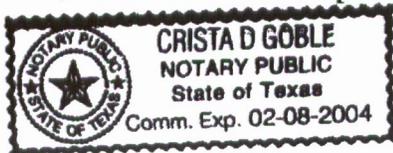
THE CITY OF BURNET, TEXAS

BY:

Dennis L. Kincheloe, Mayor

THE STATE OF TEXAS  
COUNTY OF BURNET

This instrument was acknowledged before me on this 7<sup>th</sup> day of Mar, 2003, by DENNIS L. KINCHELOE, Mayor of the City of Burnet, Texas, a municipal corporation, on behalf of said corporation.



*Crista D. Goble*  
Notary Public - State of Texas  
Commission Expires: 2/8/04  
Printed Name: Crista D. Goble

0 PETER KERR DONATION, BLOCK 17, LOT 4

VALUE CNG. 1 04/04/2002

BURNET CITY OF (92391)  
 P O BOX 1369  
 BURNET, TX 78611

OFFICIAL PUBLIC RECORD  
 BURNET COUNTY, TEXAS

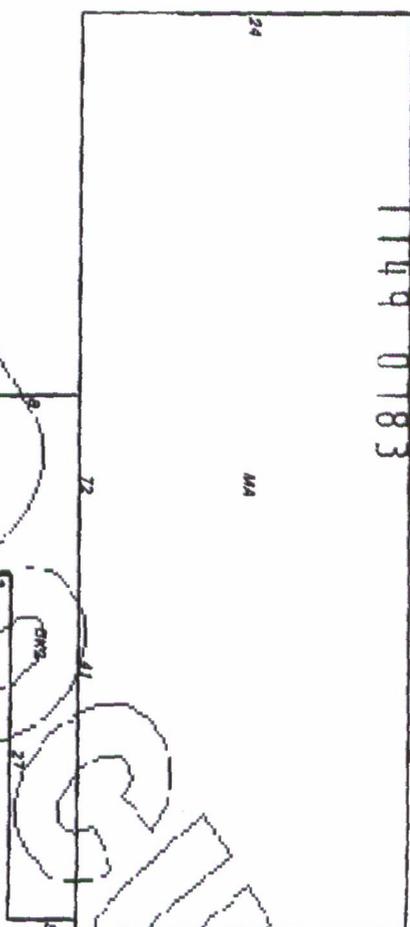
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7 BURNET COUNTY IN TRUST S 490 729  
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 80,352  
 1,112

Imp Mod%

Nch%

TOTAL

81,464

216098 0.38

8,211

0.4961

Land Mod%

TOTAL

8,211

EXHIBIT "A"

...and stamped herein by me and was duly  
RECORDED in the OFFICIAL PUBLIC RECORDS  
OF BURNET COUNTY, TEXAS in the volume  
and Page as shown.



Janet Parker  
County Clerk  
Burnet County, Texas  
By Janet Parker  
DEPUTY

Any provision herein which restricts the sale, rental or use  
of the described real property because of color or race is  
invalid and unenforceable under federal law.

**SCANNED**

Notarized Documents

005858

FILED

03 MAY 14 PM 3:11

JANET PARKER  
COUNTY CLERK  
BURNET COUNTY, TEXAS

OFFICIAL PUBLIC RECORD  
BURNET COUNTY, TEXAS  
1149 0784

**Hoover ROW**  
Abandon old ROW



**Legend**

- Feature 1
- Feature 2



600 ft

Google Earth

N Boundary St

E Johnson St

E White St

E State Hwy 29

E State Hwy 29

Whataburger

El Rancho Mexican

E Vandever St



FILED AND RECORDED  
OFFICIAL PUBLIC RECORDS

*Janet Parker*

Janet Parker, County Clerk

Burnet County Texas

5/18/2022 1:54:09 PM

FEE: \$50.00

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RESO