

## RESOLUTION NO. R2022-56

### A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS APPROVING A UTILITY OVERSIZING AGREEMENT FOR CREEKFALL SUBDIVISION PHASES ONE AND TWO AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY

**Whereas;** on January 25, 2022, City Council approve Resolution No. 2022-13 authoring the City Manager to give notice to the Creeksfall Subdivision Phases One and Two Applicant (hereinafter the "Developer") of the City's intent to consider participation in the oversizing of utility infrastructure; and

**Whereas;** the proposed oversizing constituted the increase in size of a water main proposed to serve the development from 10-inch diameter to 12-inch diameter; and

**Whereas;** subsequent to the approval of Resolution No. 2022-13 the City Engineer determined it would be beneficial to the future development of surrounding areas to extend the length of the 12-inch diameter; and

**Whereas,** the projected costs to Developer under the original design is **\$750,170.90** and the costs with the revised design requested by the City are **\$902,456.30**; and

**Whereas,** The City's contribution is the difference between **\$902,456.30** and **\$750,170.90**, said amount being **\$152,285.40**; and

**Whereas,** City Council wishes to enter into an oversizing agreement with Developer for costs not to exceed **\$152,285.40**.

**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. Approval.** The Oversizing Agreement attached hereto is hereby approved.

**Section three. Authorization.** The City Manager is hereby authorized and directed to execute an agreement, in substantial form as the attachment, and execute such ancillary documents and take such other actions reasonably necessary to facilitate the purpose of this resolution; provided the total monetary obligation to the City under said Agreement does not exceed **\$152,285.40**, and does not become payable until the water line is completed and preliminarily accepted by City Council as public infrastructure.

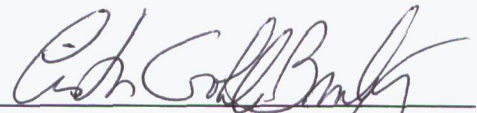
**Section four. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice

of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

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

**PASSED AND APPROVED** this the 14<sup>th</sup> day of June, 2022.

**CITY OF BURNET, TEXAS**

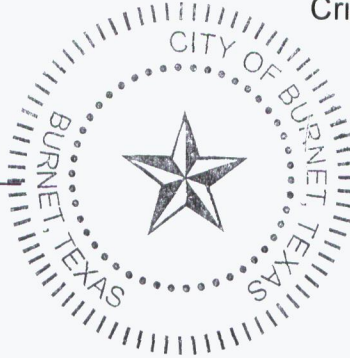


Crista Goble Bromley, Mayor

**ATTEST:**



Kelly Dix, City Secretary





## DEVELOPER PARTICIPATION AGREEMENT

This **DEVELOPER PARTICIPATION AGREEMENT** is entered into to be effective as of the 14 day of June, 2022, by and between the City of Burnet City, a Texas home rule municipality, and, Burnet Venture Partners, LLC, a Texas limited liability company, in order to facilitate the oversizing, at the request of the City, of certain Water Service Improvements proposed to serve the Subdivision defined herein.

**WHEREAS**, in accordance with Texas Local Government Code Chapter 212, subchapter C, City is authorized to enter into an agreement with Developer to participate in the construction of certain public infrastructure; and

**WHEREAS**, in accordance with City Code Section 98-44(d) the City may require a subdivider to oversize water and/or wastewater facilities; and

**WHEREAS**, the Developer proposes to construct a Water Main with variable diameters of six and eight inches to serve the Subdivision; and

**WHEREAS**, upon the City Engineer's determining that increasing the Water Main's diameter to twelve inches would be significantly beneficial to surrounding properties, City Council authorized the issuance of notice of intent to consider oversizing the water main; and

**WHEREAS**, after receipt of notice of City's intent to consider oversizing Developer provided a written cost estimate; and

**WHEREAS**, after receipt of the cost estimate, and authorization by City Council, the City Manager notified Developer that City wished to exercise its option; and

**WHEREAS**, as the oversizing of the Water Main will increase service capacity and facilitate future development in the area the City's participation in this Project is exempted from statutory procurement laws pursuant to Texas Local Government Code Section 212.072(c), and limited to the incremental costs of oversizing the water main as required by City Code 98-44(d)(5); and

**WHEREAS**, subsequent to the City Council's grant of authorization, the City Engineer determined it would be significantly beneficial to surrounding properties to extend the length of the Water Main; and

**WHEREAS**, City Council has authorized the additional costs for extending the Water Main, and Developer has agreed to construct such extension in consideration for the City's payment of costs of such extension.

**NOW THEREFORE** the Parties adopt, agree to be bound by, and approve the following Agreement and all related attachments and agree that the mutual promises contained in this Agreement constitute legal and sufficient consideration to constitute a binding contract.

Initials: City: RF

Developer: JB

## I. Definitions.

The following terms and phrases used in this Agreement shall have the meanings ascribed hereto:

“*Agreement*” means this agreement, including any amendments hereto.

“*City*” means the City of Burnet, Texas.

“*City Code*” means the City of Burnet’s Code of Municipal Ordinances.

“*City Council*” means the governing body of the City.

“*Contractor*” shall mean the person, firm, corporation, partnership, association, or other entity awarded the contract by Developer for the construction and installation of the Improvements.

“*Day*” means a calendar day.

“*Developer*” means Burnet Venture Partners, LLC.

“*EDU*” means equivalent dwelling units as such term is defined in the City Code.

“*Effective Date*” means the date stated in the first paragraph herein.

“*Improvements*” means the street, water, sewer, and related infrastructure the Contractor shall construct to serve the Subdivision.

“*Project*” means the 12-inch diameter Water Main Developer shall cause to be constructed under this Agreement, and which is described and illustrated in the Construction Plans attached hereto as **Exhibit “A”**.

“*Project Completion*” means City Council’s preliminary acceptance of the Project for public use and maintenance.

“*Subdivision*” means the proposed subdivision of land in Burnet, Burnet County, Texas, designated as “Creekfall Phase One and Phase Two.”

“*Warranty period*” means the period of time specified in the Subdivision Ordinance the Developer shall warranty new construction after preliminary acceptance.

“*Waterline Costs Comparison Table*” means the spreadsheet, attached hereto as Exhibit “B”, showing the projected costs to Developer under said table.

“*Water Main*” means the water line infrastructure planned for the provision of water service to the Subdivision and that is to be oversized under the terms of this Agreement to facilitate future development in the area.

## II. Water Main Oversizing.

- I. **Purpose.** The purpose of this Agreement is to authorize the City’s participation in the costs of the construction of the Project. The Project, as originally proposed by Developer consisted of the construction of a 10-inch diameter Water Main to serve the Subdivision. As shown on **Exhibit “A”** this Agreement authorizes the oversizing the Water Main to 12-inches in diameter, and the extension of said water main for a longer length than required to serve the Subdivision as shown on **Exhibits “A”** and **“B”**.


Initials: City: 

Developer: 



2. **Project Costs.** As show on the Waterline Costs Comparison Table the costs of the original design of the Project were projected to be \$750,170.90 and the costs with the revised design requested by the City are projected to be \$902,456.30.
3. **City's Project Contribution Costs.** The City's contribution is the difference between \$902,456.30 and \$750,170.90, said amount being \$152,285.40; and City shall not be obligated to pay any amount in excess of \$152,285.40, without the approval of City Council.
4. **Project Completion.** City Council's preliminarily acceptance of the Project, as public infrastructure, shall occur after the City Engineer confirms the substantial completion of the Project in accordance with the Project's approved construction plans. City Council's preliminary acceptance shall not to be unreasonably conditioned delayed or denied
5. **Warranty.** City Council's preliminary acceptance of the Project shall be condition on Developer guaranteeing the design, materials and construction of the Project during the Warranty Period and providing fiscal assurance during the Warranty Period as required by the City Code.
6. **Payment of City's Project Contribution Costs.** City shall make payment of its contribution in full within 30 days after Project Completion.
7. **Capacity.** Upon payment of impact, and all applicable other, fees Developer shall be entitled to **314 EDUs** to serve the Subdivision. This shall be the maximum capacity Developer shall be entitled from the Project. The remaining Project water capacity shall be the property of the City for all purposes.
8. **Insurance.** This Agreement shall be subject to the insurance coverage requirements of the Insurance Addendum attached hereto. With the prior written approval of the City Manager, the Contractor(s) may be substituted, for Developer, as the party required to maintain insurance coverage. In order for such substitution to be authorized the contract between Developer and its contractor shall include the Insurance Addendum.
9. **Indemnification.** This Agreement is subject to (and any agreement Developer enters with Contractor(s) to construct the Improvements shall include) the indemnification language that follow: **DEVELOPER COVENANTS AND AGREES TO FULLY INDEMNIFY AND HOLD HARMLESS, CITY AND THE ELECTED OFFICIALS, EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES OF CITY, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL COSTS, CLAIMS, LIENS, DAMAGES, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY AND SUITS OF ANY KIND AND NATURE, INCLUDING BUT NOT LIMITED TO, BODILY INJURY OR DEATH AND PROPERTY DAMAGE, MADE UPON CITY,**

Initials: City: 

Developer: 



**DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM OR RELATED TO DEVELOPER'S ACTIVITIES UNDER THIS AGREEMENT, INCLUDING ANY ACTS OR OMISSIONS OF DEVELOPER, ANY AGENT, OFFICER, DIRECTOR, REPRESENTATIVE, EMPLOYEE, CONSULTANT, CONTRACTOR OR SUBCONTRACTOR OF DEVELOPER, AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES WHILE IN THE EXERCISE OR PERFORMANCE OF THE RIGHTS OR DUTIES UNDER THIS AGREEMENT, ALL WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW. THE PROVISIONS OF THIS INDEMNIFICATION 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. DEVELOPER SHALL PROMPTLY ADVISE CITY IN WRITING OF ANY CLAIM OR DEMAND AGAINST THE CITY OR DEVELOPER KNOWN TO DEVELOPER RELATED TO OR ARISING OUT OF DEVELOPER'S ACTIVITIES UNDER THE AGREEMENT AND SHALL SEE TO THE INVESTIGATION AND DEFENSE OF SUCH CLAIM OR DEMAND AT DEVELOPER'S COST. CITY SHALL HAVE THE RIGHT, AT ITS OPTION AND AT ITS OWN EXPENSE, TO PARTICIPATE IN SUCH DEFENSE WITHOUT RELIEVING DEVELOPER OF ANY OF ITS OBLIGATIONS UNDER THIS PARAGRAPH. IN THE EVENT DEVELOPER AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS FOR THE STATE OF TEXAS, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EITHER PARTY UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

This Indemnification Provision shall survive termination of this Agreement by expiration, mutual agreement, or Default, for four years after such termination or until any claim made against the City during such survival period is resolved, whichever is later

10. **Term.** This Agreement shall terminate forty-eight months from the effective date or upon acceptance, and payment of its contribution, by City related to the Project whichever occurs first.
11. **Default.** Substantial Compliance and Default. Failure by either party to timely and substantially comply with any performance requirement, duty, or covenant shall be considered an act of Default if uncured within sixty (60) days of receiving written notice from the other party.
  - a. **Developer's failure to complete timely Project.** Subject to cure, force majeure, should Developer fail to Complete the Project, or any component thereof by the

Initials: City:



Developer:





prescribed Completion Date City may either terminate this Agreement or exercise its right under the performance bond and require the surety to Complete the Project. In the event City elects to terminate the Parties shall have no further obligations to the other after such termination save and except as provided under Section (7) (entitled "Indemnification"). In the event City elects to enforce its rights under the performance agreement: (i) Developer shall not be entitled to any reimbursement for any Project component for which Developer was in default; and (ii) the reimbursement otherwise due to Developer, for completion of any Project component, shall be reduced by equal amount to the City's actual costs for the completion of the Project component for which Developer was in default.

- b. **City's Default.** In the event of default by City, Developer's sole remedy is an action for any unpaid portion of City's Project Contribution Costs.
- c. **Special Damages.** Neither Party shall be entitled to special damages such as incidental, consequential, special, exemplary or putative damages as a result of default by the other Party.

### III. MISCELLANEOUS

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

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

Initials: City:



Developer:





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.
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.
9. **Enforcement.** The City Manager or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. As required by Texas Local Government Code Section 212.074(a) all of Developer's records related to the Project shall be available for inspection by the City Manager upon reasonable request.
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.
11. **Exhibits Addenda, and Attachments.** All Exhibits, Addenda and Attachments referenced in this Agreement are attached hereto and incorporated herein for all purposes. Exhibits, and Addenda, to this Agreement include the following:

Exhibits:

Exhibit "A" Project Construction Plans.  
Exhibit "B" Waterline Costs Comparison Table

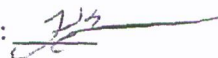
Addenda Insurance Addendum.

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.
13. **Gender.** The gender of the wording throughout this Agreement shall always be interpreted to mean either sex; and, where the context requires, the plural of any word shall include the singular.
14. **Immunities and defenses.**

Initials: City:



Developer:





Creekfall Developer Participation Agreement

- 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 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.
  - b. No 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.
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.
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.
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: Burnet Venture Partners, LLC  
Attn. Paul Grohman  
508 Winged Foot Drive  
Lufkin TX 77581

CITY: City Manager  
City of Burnet  
P.O. Box 1369  
1001 Buchanan Drive, Suite 4  
Burnet, Texas 78611

18. **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.
19. **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.

Initials: City:



Developer:



Creekfall Developer Participation Agreement

20. **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.
21. **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 intentionally left blank. Signatures follow on the next page.*

Initials: City: 

Developer: 



Creekfall Developer Participation Agreement

This Agreement is legally effective and enforceable the last date of execution of this Agreement by the Parties.

DEVELOPER: BURNET VENTURER PARTNERS, LLC

By: *Paul Gohrman*  
Paul Gohrman, Partner

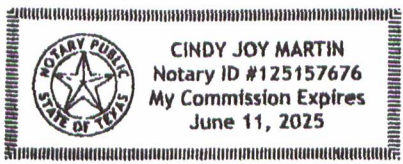
CITY OF BURNET, TEXAS

By: *David Vaughn*  
David Vaughn, City Manager

THE STATE OF TEXAS       §  
  §  
COUNTY OF ANGELINA     §  
  §

*Brazoria*

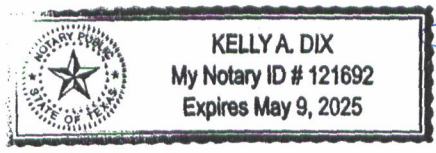
This instrument was acknowledged before me on June 10, 2022, by Paul Gohrman, in his capacity as partner, and on behalf, of Burnet Venture Partners, LLC.



*Cindy Joy Martin*  
Notary Public in and for the State of Texas

THE STATE OF TEXAS       §  
  §  
COUNTY OF BURNET       §

This instrument was acknowledged before me on June 14, 2022, by David Vaughn, in his capacity as City Manager, and on behalf, of the City of Burnet, Texas.



*Kelly A. Dix*  
Notary Public in and for the State of Texas

Initials: City: *CV*

Developer: *PG*


### INSURANCE ADDENDUM

This Agreement shall be subject to the insurance requirements that follow:

1. Prior to the commencement of any work under this Agreement, the Developer's Contractor shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City's City Manager, which shall be clearly labeled with the legal name of the Developer's project in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. The City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. The City shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the City's City Manager, or Assistant City Manager. No officer or employee, other than the City's City Manager, or Assistant City Manager, shall have authority to waive this requirement.
2. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverages and their limits when deemed necessary and prudent by City's City Manager based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will the City allow modification whereupon City may incur increased risk.
3. A Developer's Contractor's financial integrity is of interest to the City; therefore, subject to Developer's Contractor's right to maintain reasonable deductibles in such amounts as are approved by the City, Developer's Contractor shall obtain and maintain in full force and effect for the duration of this Agreement, and any extension hereof, at Developer's Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed:

TYPE	AMOUNTS
1. Workers' Compensation	Statutory
2. Employers' Liability	\$1,000,000 / \$1,000,000 / \$1,000,000

Initials: City: 

Developer: 



Creekfall Developer Participation Agreement


<p>3. Commercial General Liability Insurance to include coverage for the following:</p> <ul style="list-style-type: none"> <li>a. Premises operations</li> <li>*b. Independent Contractors</li> <li>c. Products/completed operations</li> <li>d. Personal Injury</li> <li>e. Contractual Liability</li> <li>*f. Environmental Impairment/ Impact – sufficiently broad to cover disposal liability.</li> <li>*g. Broad form property damage, to include fire legal liability</li> </ul>	<p>For Bodily Injury and Property Damage of \$1,000,000 per occurrence. \$2,000,000 General Aggregate, or its equivalent in Umbrella or Excess Liability Coverage.</p>
<p>4. Business Automobile Liability</p> <ul style="list-style-type: none"> <li>a. Owned/leased vehicle</li> <li>b. Non-owned vehicle</li> <li>c. Hired Vehicles</li> </ul>	<p>Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence</p>


\* May be waived by City Manager if not applicable to activities performed by Developer

4. The City shall be entitled, upon request and without expense, to receive copies of the policies, declaration page and all endorsements thereto as they apply to the limits required by the City, and may require the deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). The Developer shall be required to comply with any such requests and shall submit a copy of the replacement certificate of insurance to City at the address provided below within 10 days of the requested change. The Developer shall pay any costs incurred resulting from said changes. Copies of such documentation required under this section shall be delivered to:

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

5. Developer agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following provisions:
- a. Name the City, its officers, officials, employees, volunteers, and elected representatives as by endorsement, as respects operations and activities of, or on behalf of, the named insured performed under contract with the City, with the exception of the workers' compensation and professional liability policies;
  - b. Provide for an endorsement that the "other insurance" clause shall not apply to the City of Burnet where the City is an additional insured shown on the policy;
  - c. Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City.

Initials: City: 

Developer: 

Creekfall Developer Participation Agreement

- d. Provide thirty (30) calendar days advance written notice directly to City of any suspension, cancellation, non-renewal or material change in coverage, and not less than ten (10) calendar days advance notice for nonpayment of premium.
6. Within five (5) calendar days of a suspension, cancellation or non-renewal of coverage, Developer shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Developer's authorization under this agreement should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement.
7. Nothing herein contained shall be construed as limiting in any way the extent to which Developer may be held responsible for payments of damages to persons or property resulting from Developer's or its subcontractors' performance of the work covered under this Agreement.
8. It is agreed that Developer's Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Burnet for liability arising out of operations under this Agreement.
9. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

Initials: City:



Developer:











# CREEKSIDE OVERSIZING AGREEMENT EXHIBIT B

Creekfall Phase 1 & 2 Waterline Cost Comparison									
Item	Original Design - No 12"				Revised Design - With 12"				
	Qty	Unit	Unit Price	Extended Price	Qty	Unit	Unit Price	Extended Price	
8" C-900 Water Line DR-18	4395	ft	\$ 56.80	\$ 249,636.00	2464	ft	\$ 56.80	\$ 139,955.20	
10" C-900 Water Line DR-18	2197	ft	\$ 76.50	\$ 168,070.50	556	ft	\$ 76.50	\$ 42,534.00	
12" C-900 Water Line DR-18	0	ft	\$ 86.00	\$ -	4055	ft	\$ 86.00	\$ 348,730.00	
Short Single Water Service	12	ea	\$ 1,900.00	\$ 22,800.00	12	ea	\$ 2,000.00	\$ 24,000.00	
Short Double Water Service	29	ea	\$ 2,100.00	\$ 60,900.00	29	ea	\$ 2,200.00	\$ 63,800.00	
Long Single Water Service	9	ea	\$ 1,900.00	\$ 17,100.00	9	ea	\$ 2,000.00	\$ 18,000.00	
Long Double Water Service	28	ea	\$ 2,100.00	\$ 58,800.00	28	ea	\$ 2,200.00	\$ 61,600.00	
8" Gate Valve	14	ea	\$ 2,190.00	\$ 30,660.00	7	ea	\$ 2,190.00	\$ 15,330.00	
10" Gate Valve	9	ea	\$ 2,855.00	\$ 25,695.00	4	ea	\$ 2,855.00	\$ 11,420.00	
12" Gate Valve	0	ea	\$ 3,300.00	\$ -	13	ea	\$ 3,300.00	\$ 42,900.00	
8" Cap	5	ea	\$ 82.00	\$ 410.00	5	ea	\$ 82.00	\$ 410.00	
10" Cap	3	ea	\$ 102.00	\$ 306.00	4	ea	\$ 102.00	\$ 408.00	
8" X 8" Tee	2	ea	\$ 265.00	\$ 530.00	2	ea	\$ 265.00	\$ 530.00	
10" X 8" Tee	3	ea	\$ 330.00	\$ 990.00	0	ea	\$ 330.00	\$ -	
12" X 8" Tee	0	ea	\$ 385.00	\$ -	2	ea	\$ 385.00	\$ 770.00	
10" X 8" Reducer	6	ea	\$ 150.00	\$ 900.00	2	ea	\$ 330.00	\$ 660.00	
12" X 8" Reducer	0	ea	\$ 350.00	\$ -	1	ea	\$ 350.00	\$ 350.00	
10" X 10" Cross	1	ea	\$ 450.00	\$ 450.00	1	ea	\$ 450.00	\$ 450.00	
12" X 10" Cross	0	ea	\$ 865.00	\$ -	1	ea	\$ 865.00	\$ 865.00	
12" X 10" TEE	0	ea	\$ 150.00	\$ -	1	ea	\$ 1,300.00	\$ 1,300.00	
8" 22.5" Bend	1	ea	\$ 140.00	\$ 140.00	0	ea	\$ 140.00	\$ -	
12" 22.5" Bend	0	ea	\$ 330.00	\$ -	0	ea	\$ 330.00	\$ -	
10" 22.5" Bend	1	ea	\$ 210.00	\$ 210.00	1	ea	\$ 320.00	\$ 320.00	
8" Cut-in Tee on Existing 8" W.L. (North End Tee In)	2	ea	\$ 9,500.00	\$ 19,000.00	2	ea	\$ 9,500.00	\$ 19,000.00	
Parallel Fire Hydrant Assembly	11	ea	\$ 5,800.00	\$ 63,800.00	11	ea	\$ 6,000.00	\$ 66,000.00	
Air Release Valve and Vault	2	ea	\$ 9,700.00	\$ 19,400.00	2	ea	\$ 9,980.00	\$ 19,960.00	
Relocate Existing Fire Hydrant	0	ea	\$ -	\$ -	2	ea	\$ 2,500.00	\$ 5,000.00	
* Open Cut at Westfall Option 1 (remove and replace curb flow fill ditch, patch existing Asphalt)	45	lf	\$ 230.52	\$ 10,373.40	45	lf	\$ 277.78	\$ 12,500.10	
Engineering Revisions	0	LS	\$ -	\$ -	1	LS	\$ 5,664.00	\$ 5,664.00	
<b>TOTALS</b>				\$ 750,170.90				\$ 902,456.30	

**Upgrade cost      \$152,285.40**

