

RESOLUTION NO. 2024-43

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET,
TEXAS, APPROVING AN AGREEMENT TO PROVIDE A SINGLE
CONNECTION WATER SERVICE TO SERVE REED RANCH ESTATES**

WHEREAS, the City Council has adopted Resolution No. R2021-29, approving a Memorandum of Understanding with Granite Partners LLC for the provision to serve a nine lot, 234-acre subdivision to be known as Reed Ranch Estates; and

WHEREAS, Reed Ranch Estates is a nine-lot subdivision which has formed the Reed Ranch Estates Maintenance Company to enter into an agreement with the City to provide a water tap and meter to sell potable water at out of city rates; and

WHEREAS, there is an existing service account in one property owner's name to which will be transferred into the Company's name; and

WHEREAS, the installation of a two inch (2") water meter to service no more than ten (10) Living Unit Equivalents is to be installed for the Company to submeter no more than one ¾" x 5/8" sub-meter to each lot within the subdivision.

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

Section one. Findings. That the recitals to this resolution are found to be true and correct and are hereby incorporated herein for all purposes.

Section two. Agreement Approved. Out of City Retail Water Service Agreement, attached hereto, with the Reed Ranch Estates Maintenance Company is hereby approved.

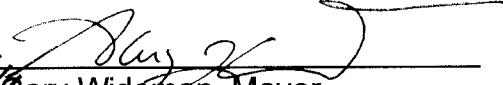
Section three. Authorization. The Mayor is hereby authorized to execute said Out of City Retail Water Service Agreement, with the Reed Ranch Estates Maintenance Company, to install a two-inch (2") water meter to service no more than ten (10) Living Unit Equivalents for the Company to submeter no more than one ¾" x 5/8" sub-meter to each lot within the subdivision.

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 28th day of May 2024.

CITY OF BURNET

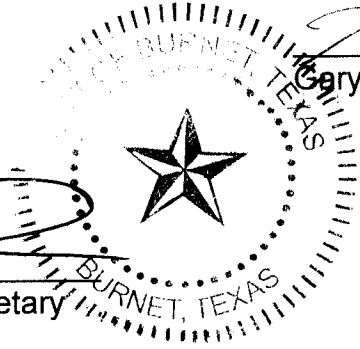


Gary Wideman, Mayor

ATTEST:



Maria Gonzales, City Secretary



NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

OUT OF CITY RETAIL WATER SERVICE AGREEMENT

**THE STATE OF TEXAS §
 § **KNOW ALL PERSONS BY THESE PRESENTS:**
COUNTY OF BURNET §**

This Out of City Retail Water Service Agreement (hereinafter referred to as “*Agreement*”) is made by and between the City of Burnet, a Texas home rule municipality (hereinafter referred to as “*City*”), and the Reed Ranch Estates Maintenance Company, a domestic nonprofit corporation (hereinafter referred to as “*Company*”) to be effective this 28th day of May 2024 (the “*Effective Date*”).

I. Purpose.

The purpose of this Agreement is to provide a memorialization of the terms and conditions by which City agrees to provide to Company a Water Tap and Meter (hereinafter “*Tap and Meter*”); and to sell to Company potable water at Out of City Rates.

II. Stipulations to facts.

2.01 The Parties acknowledge and agree to the truthfulness and correctness of the statements of facts set out in this Article II and confess and stipulate to the following:

- (a) There is an existing service account in the name of Bailey Heintz (hereinafter “*Current Customer*”).
- (b) A prerequisite for this Agreement to take effect is the Current Customer’s transfer of the water service account from Current Customer to Company.
- (c) The Current Customer is served by a One Inch (1”) Water Tap and Water Meter located on the land (hereinafter the “*Land*”) shown on Exhibit “A”.
- (d) The Company was formed by the owners of lots within the Reed Ranch Estates Subdivision, Amended Phase One as recorded in Document no. 202113252 of the Official Public Records of Burnet County, Texas (O.P.R.B.C.T) (hereinafter the “*Subdivision*”).
- (e) The Subdivision consist of nine (9) lots, including a lot owned by Current Customer. A map of the Subdivision is attached hereto as Exhibit “B”.

III. The Tap and Meter.

3.01 Number. This Agreement authorizes Company to be served by one (1) Water Tap and one (1) Water Meter (hereinafter the “*Tap and Meter*”).

- 3.02 Size. The Tap and Meter authorized under this agreement shall be two inches (2") in diameter, not to exceed ten (10) Living Unit Equivalents ("LUE's").
- 3.03 Installation. The Tap and Meter shall be installed by the City and shall replace the existing One Inch (1") Water Tap and Water Meter upon transfer of water service account from Current Customer to Company.
- 3.04 Submetering. Company was formed by the owners of the lots within the Subdivision. Company may submeter and provide no more than one (1) 3/4" x 5/8" sub-meter to each lot within the Subdivision; and further provided that no more than ten (10) sub-meters shall be authorized under this Agreement. Submetering shall be in accordance with any applicable administrative rules of the Texas Commission on Environmental Quality.
- 3.05 Fees. Prior to installation Company shall pay fees as established by ordinance, which are as follows:

(a) Tap and Meter fee:	\$2,934.97
(b) Impact fee:	<u>\$9,760.50</u>
(c) Total Fee	\$12,695.47

The impact fee for a 2" meter is \$11,571.62; however Company shall receive a credit of \$1,811.12, which is equal to the impact fee for the One (1") Inch Water Meter replacement. Total adjusted impact fees to be paid shall be \$9,760.50.

The Total Fee of \$12,695.47 must be paid within ninety (90) days of execution of this Agreement or said Agreement shall be null and void.

IV Delivery of Water.

- 4.01 Out of City Customer. Company shall receive water service from the City as an "out of city" customer and shall be subject all the terms and conditions set out in the City Code of Ordinances for such service including the "out of city" service rate established in City Code Sec. 110-30, as same may be amended, recodified, or otherwise revised from time to time.
- 4.02 Water use. The use of water provided under this Agreement shall be limited to the service of single-family residential dwelling located on lots within the Subdivision. The commercial or industrial use of water provided under this Agreement is prohibited. Moreover, Company shall assume all responsibility for assuring that its members use water provided under this Agreement in accordance with water conservation provisions imposed by the City or other authority having jurisdiction.
- 4.03 Meter reading. Company, grants to City, for itself, its officers, employees, and consultants a revocable license to enter the Land for the purposes of water meter reading, and other matters relating to the provision of water under this Agreement. Although this license may be revocable at Company's discretion, Company understands and agrees that the revocation of this license shall cause City to terminate the water service granted under this Agreement.

- 4.04 Sub-meters. Company shall be responsible for all costs for, and incur all risk associated with, the installation of each sub-meter and service line to the lots within the subdivision. All work shall be done by a licensed plumber.
- 4.05 Water Pressure. Water will be delivered to Company at the point of delivery based on the City's prevailing system pressure. City does not guarantee any minimum or maximum water pressure. Landowner/Company shall be solely responsible for the regulation of water pressure and assumes any and all liability as a result of insufficient or excess pressure, including any damages that results from such pressures. COMPANY ACKNOWLEDGES THAT THE POINT OF DELIVERY SHALL BE FROM A HIGH-PRESSURE TRANSMISSION LINE AND AGREES THAT COMPANY SHALL BE SOLELY RESPONSIBLE FOR ANY AND ALL DAMAGE CAUSED BY HIGH WATER PRESSURE TO ANY REAL AND/OR PERSONAL PROPERTY; OR ANY INJURY OR DEATH TO ANY PERSON CAUSED BY SAID HIGH WATER PRESSURE; AND COMPANY AGREES TO TAKE ALL NECESSARY STEPS TO REDUCE WATER PRESSURE AFTER THE POINT OF DELIVERY TO ELIMINATE THE POTENTIAL FOR SUCH DAMAGE.
- 4.06 Suspension of Service. Company understands and agrees that City may suspend water service in the event Company is found to have violated any term of this Agreement; provided, however, that Company shall have ten (10) days to cure such violation after notice of same. Company's failure to cure such violation within the cure period shall cause water service to be suspended until such violation is cured.

V Company's Representations.

- 5.01 **Authority.** The person executing this Agreement on behalf of Company represents that he/she has the power and authority to do so on behalf of Company and to bind Company to the terms of this Agreement.
- 5.02 **Rightful representative.** Company represents Company is the rightful representative of the owners of the lots within the Subdivision for the purposes provided under this Agreement.
- 5.03 **Compliance.** Company represents that it shall comply with all applicable terms and conditions set out in the City Code of Ordinances; and shall use water provided under this Agreement is in accordance with water conservation provisions imposed by the City or other authority having jurisdiction.
- 5.04 **Enforcement.** Company represents that it shall, as a condition to sub-metering, retain the right to enforce all applicable terms and conditions set out in the City Code of Ordinances; and shall insure its members use water provided under this Agreement is in accordance with water conservation provisions imposed by the City or other authority having jurisdiction.
- 5.05 **Payment.** Company represents that it shall promptly pay all amounts due to the City and that in no event shall Company fail to pay such amounts within 30 days of receipt of an invoice or utility bill from City.

VI Liability and Indemnification.

- 6.01 No Liability of City Personnel.** Company agrees that no provision of this Agreement is intended to or shall be interpreted to negate or diminish any statutory or common law rights the City may have to immunity under the laws of the State of Texas. Further, Company agrees that it may assert claims only against the assets of City and that under no circumstances shall any officer or employee of City be personally liable for any of the obligations of City under this Agreement.
- 6.02 INDEMNIFICATION. COMPANY AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL LIABILITY FOR ANY AND ALL CLAIMS, LIENS, SUITS, DEMANDS, AND/OR ACTIONS FOR DAMAGES, INJURIES TO PERSONS (INCLUDING DEATH), PROPERTY DAMAGE (INCLUDING LOSS OF USE), AND EXPENSES, INCLUDING COURT COSTS AND ATTORNEYS' FEES AND OTHER REASONABLE COSTS OCCASIONED BY THE PROVISION OF WATER TAPS AND WATER SERVICE, OR OTHER ACTIVITIES, CONDUCTED IN CONNECTION WITH OR INCIDENTAL TO THIS AGREEMENT AND ARISING OUT OF, OR RESULTING FROM, THE MISREPRESENTATION OF FACTS, INTENTIONAL, KNOWING, RECKLESS OR GROSSLY NEGLIGENT ACTS OR NEGLIGENCE OF COMPANY, ITS OFFICERS, AGENTS OR EMPLOYEES, INCLUDING ALL SUCH CAUSES OF ACTION BASED ON COMMON, CONSTITUTIONAL, OR STATUTORY LAW; OR BASED UPON THE NEGLIGENT ACTS OR OMISSIONS OF COMPANY, ITS OFFICERS, AGENTS AND EMPLOYEES. FURTHER COMPANY AGREES WITH RESPECT TO THE ABOVE INDEMNITY, THAT COMPANY WILL PROVIDE CITY PROMPT AND TIMELY NOTICE OF ANY EVENT COVERED WHICH IN ANY WAY, DIRECTLY OR INDIRECTLY, CONTINGENTLY, OR OTHERWISE, AFFECTS OR MIGHT AFFECT THE CITY, AND THE CITY SHALL HAVE THE RIGHT TO COMPROMISE AND DEFEND THE SAME TO THE EXTENT OF ITS OWN INTERESTS. IT IS THE EXPRESSED INTENTION OF THE PARTIES HERETO, BOTH CITY AND COMPANY, THAT THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT IS INDEMNITY BY COMPANY TO INDEMNIFY AND PROTECT THE CITY FROM THE CONSEQUENCES OF THE CITY'S OWN NEGLIGENCE WHILE THE CITY IS PARTICIPATING IN THIS AGREEMENT WHERE THAT NEGLIGENCE IS A CONCURRING CAUSE OF THE INJURY, DEATH, OR DAMAGE. FURTHERMORE, THE INDEMNITY PROVIDED FOR IN THIS AGREEMENT SHALL BE APPLICABLE TO ANY CLAIM, LOSS, DAMAGE OR CAUSE OF ACTION, SUIT, AND LIABILITY WHERE THE INJURY, DEATH, OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE CITY, ITS OFFICERS, AGENTS, AND EMPLOYEES, UNMIXED WITH THE FAULT OF ANY PERSON OR ENTITY.**

VII Miscellaneous.

- 6.01 Amendments.** This Agreement may be amended only by a written instrument so stating which is executed by the Parties hereto.
- 6.02 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original of this Agreement but all of which, taken together, shall constitute one and the same agreement.
- 6.03 Exhibits.** All exhibits to this Agreement are incorporated herein fully by reference and include:

Exhibit "A" Map of Tap and Meter location.

Exhibit "B" Map of Subdivision.

- 6.04 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, 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.
- 6.05 Governing Law and Venue.** This Agreement shall be construed, interpreted, and applied in accordance with and shall be governed by the laws applicable to the State of Texas. Venue for any disputes arising under this Agreement shall be in Burnet County, Texas.
- 6.06 Headings.** All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.
- 6.07 Notice.** Any notice required or permitted to be delivered under this Agreement shall be forwarded via hand-delivery or the United States Postal Service, postage prepaid, to the addresses shown below:

City

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

Company

Reed Ranch Estates Maintenance Co.

Each party may change its notice address by providing the other party written notice of such change at least ten (10) business days in advance of such change.

6.08 Relationship. Company shall at all times be independent of City and not the employee or agent of City, with respect to the matters provided for herein. Company shall have no right or power to contract with third parties for, on behalf of, or in the name of City or to otherwise bind or obligate the City.

6.08 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 enforceable and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

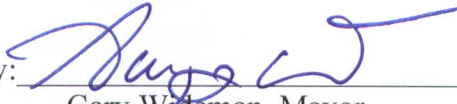
6.09 Waivers. No failure or delay of a Party in the exercise of any right given to such Party hereunder or by law shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other further exercise thereof or of any other right. The waiver by a Party of any breach of any provision hereof shall not be deemed to be a waiver of any subsequent breach thereof or of any breach of any other provision hereof.

When the context requires, singular nouns and pronouns include the plural.

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To be effective as of the date first stated above.

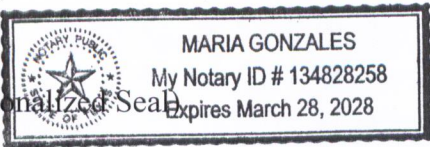
CITY OF BURNET, TEXAS,
a Texas home-rule municipality


By: 
Gary Wideman, Mayor

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 Gary Wideman, 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 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 31 day of May, 2024.

(Personalized Seal) 


Notary Public's Signature

The remainder of this page is intentionally blank and Company's signature page follows.

COMPANY

Reed Ranch Estates Maintenance Company,
a Texas not-for-profit corporation

By: Bailey Heinatz
Manager

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 Bailey Heinatz, manager of Reed Ranch Estates Maintenance Company, 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 9 day of July, 2024.

(Personalized Seal)

Charmayne Gaines
Notary Public's Signature

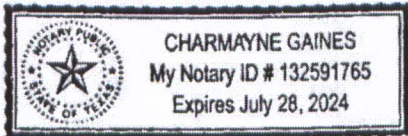
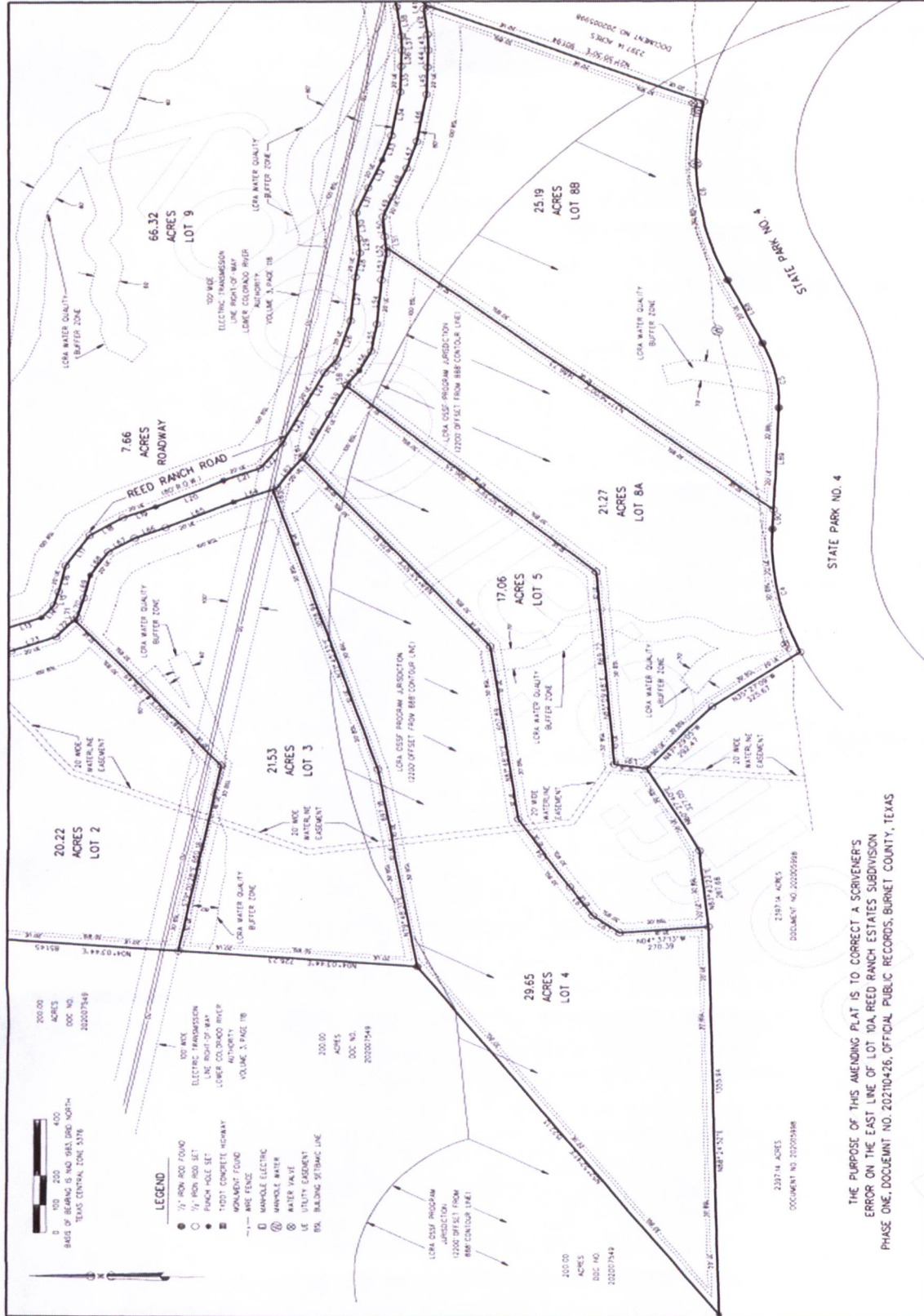


Exhibit "A"





THE PURPOSE OF THIS AMENDING PLAT IS TO CORRECT A SCRIVERER'S ERROR ON THE EAST LINE OF LOT 10A, REED RANCH ESTATES SUBDIVISION PHASE ONE, DOCUMENT NO. 20210426, OFFICIAL PUBLIC RECORDS, BURNET COUNTY, TEXAS

DATE	07/29/2021	NO	CHK	DATE
PROJECT NO	REEDRANCHPHASEONECORRECT			
FILENAME	REEDRANCHPHASEONECORRECT			
SHEET NO	FOUR OF FOUR			
FINAL PLAT REED RANCH ESTATES SUBDIVISION AMENDED PHASE ONE 239.77 ACRES - A.C. ATKINSON SURVEY NO. 2, ABSTRACT NO. 1714, AND THE ABRAHAM LARGE LEAGUE AND LABOR SURVEY NO. 32, ABSTRACT NO. 532 IN BURNET COUNTY, TEXAS CONTAINING 9 LOTS.				
HAMBRIGHT LAND SURVEYING P.O. BOX 1278 JOHNSON CITY, TEXAS 76838 PHONE (817) 846-2574 FAX (817) 846-2587 EMAIL: HAMBRIGHT@HAMBRIGHTLANDSURVEYING.COM				
DRN				
DES				
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NO			REVISED	
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				DATE