



NOTICE OF MEETING OF THE GOVERNING BODY OF THE CITY OF BURNET

Notice is hereby given that a **Regular Council Meeting** will be held by the governing body of the City of Burnet on the **23rd day of July, 2019** at **6:00** p.m. in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, at which time the following subjects will be discussed, to-wit:

This notice is posted pursuant to the Texas Government Code, Chapter §551-Open Meetings.

CALL TO ORDER:

INVOCATION:

PLEDGE OF ALLEGIANCE:

PLEDGE TO TEXAS FLAG:

1. REPORTS/SPECIAL PRESENTATIONS:

1.1) Proclamation: Burnet Housing Authority Executive Director, Billie Shelburn: Mayor Bromley

1.2) Chamber of Commerce Report

2. CONSENT AGENDA ITEMS:

(All of the following items on the Consent Agenda are considered to be self-explanatory by the Council 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 June 25, 2019 Regular City Council Meeting minutes

3. PUBLIC HEARING: None

4. ACTION ITEMS:

4.1) Discuss and consider action: Planning and Zoning Commission Board Appointment: K. Dix

4.2) Discuss and consider action: Funding for the Burnet County Child Welfare Board: D.

Vaughn

4.3) Discuss and consider action: Proposed contract with Burnet County for 2019/2020 Election Services: K. Dix

4.4) Discuss and consider action: A RESOLUTION BY THE CITY OF BURNET, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF ATMOS ENERGY CORPORATION – MIDTEX DIVISION, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING THE EFFECTIVE DATE OF THIS RATE APPLICATION FOR FORTY-FIVE DAYS; AUTHORIZING THE CITY TO CONTINUE TO PARTICIPATE IN A COALITION OF CITIES KNOWN AS THE "ATMOS TEXAS MUNICIPALITIES;" DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE: G. Courtney

4.5) Discuss and consider action: Proposed contract with McCall, Parkhurst & Horton to serve as Bond Counsel for the City of Burnet in connection with the issuance of bonds, certificates of obligation notes and other obligations: D. Vaughn

4.6) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING PROCEEDING WITH THE ISSUANCE OF CITY OF BURNET, TEXAS CERTIFICATES OF OBLIGATION; DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND OTHER RELATED MATTERS: D. Vaughn

4.7) Discuss and consider action: Council direction regarding the proposed amendment to the City of Burnet Code of Ordinances, Chapter 118-Zoning, Section 118-20, Chart 1, as this section relates to minimum lot width, depth and area in all zoning districts within the City of Burnet: D. Vaughn

4.8) Discuss and consider action: Council direction regarding allowable uses in the Medium Commercial – District "C-2" zoning district, as required by the City of Burnet Code of Ordinances, Section 118-46(a)(34): D. Vaughn

4.9) Discuss and consider action: Approval of a contract with Mikes Janitorial Cleaning Services: K. Dix

4.10) Discuss and consider action: Authorization and approval to purchase three (3) 2019 Chevy Tahoe's for the Police Department: J. Davis

4.11) Discuss and consider action: Approval of amendment number 1 to the agreement between the City of Burnet and American Constructors for the Police Station Project: D. Vaughn

4.12) Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING DEFEASANCE OF A PORTION OF THE 2008 REFUNDING PRINCIPLE RELATED TO THE STREET BONDS: D. Vaughn

4.13) Discuss and consider action: Request by Langley Homes for incentives or fee waivers related to a potential development on Westfall Street: D. Vaughn

4.14) Discuss and consider action: Authorization to proceed with an Airport Access Agreement for Through-the-Fence Operations: D. Vaughn:

4.15) Discuss and consider action: Authorization to proceed with temporary food vendor park located at Burnet Municipal Airport: L. Baugh

5. REPORTS: None.

5.1) Addendum to the City Council Agenda: Department and Committee Reports/Briefings: The City Council may or may not receive a briefing dependent upon activity or change in status regarding the matter. The listing is provided to give notice to the public that a briefing to the Council on any or all subjects may occur.

6. REQUESTS FROM COUNCIL FOR FUTURE REPORTS:

7. ADJOURN:

Dated this 17th, day, of July, 2019

CITY OF BURNET

CRISTA GOBLE BROMLEY, MAYOR

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 July 17, 2019, at or before 6 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

Kelly Dix, City Secretary

NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:

The City Council Chamber 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).



Proclamation

OF THE MAYOR AND CITY COUNCIL FOR THE CITY OF BURNET

Whereas, The Burnet Housing Authority is a Public Housing Agency in Burnet, Texas that participates in the Section 8 Housing Choice Voucher (HCV), and Public Housing programs; and

Whereas, the Burnet Housing Authority oversees forty public housing units, one hundred Housing choice Vouchers and thirty-six USDA 515 multifamily units; and

Whereas, Billie Shelburn has been the Executive Director of the Burnet Housing Authority, in an office of one, for thirty-nine years, and

Whereas, Mrs. Shelburn's tenure began with construction of the property and includes every aspect of operations of a state recognized housing authority; and

Whereas, in addition to her director duties, Mrs. Shelburn has served on many housing boards to include Texas National Association of Housing and Redevelopment Officials (NAHRO) as member and President, President of the Texas Housing Association, Big Country Housing Association and Rural Rental Housing Association; and

Whereas, due to her many career accomplishments, enormous respect from her peers, and dedicated service not only to the City of Burnet and its citizens, but the State of Texas Public Housing Programs, Billie Shelburn was chosen as the recipient of the most prestigious Southwest NAHRO, Charles L. Farris Award on June 13, 2019 in Kansas City, Missouri; and

Whereas, The NAHRO Charles L. Farris Award is named after Mr. Farris as he was recognized and remembered in the industry as "Mr. Urban Renewal" with a career that spanned nearly four decades in housing and community development and was nationally known for his extensive involvement in the rejuvenation of St. Louis, Missouri.



Now, therefore, be it proclaimed, that I, Crista Goble Bromley, Mayor of the City of Burnet on behalf of the City Council, of the City of Burnet, Texas, do hereby officially recognize,

Billie Shelburn, Executive Director of the Burnet Housing Authority

For her many accomplishments and thirty-nine years of dedicated service to the city of Burnet, Burnet County and the State of Texas.

In witness thereof, I hereunto set my hand and cause the seal of the City of Burnet to be affixed this 23rd day of July, 2019.

Crista Goble Bromley, Mayor

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

On this the 25th day of June, 2019, the City Council of the City of Burnet convened in Regular Session, at 6:00 p.m., at the regular meeting place thereof with the following members present, to-wit:

Mayor Crista Goble Bromley
Council Members Danny Lester, Mary Jane Shanes, Tres Clinton, Paul Farmer, Cindia Talamantez
Absent Joyce Laudenschlager
City Manager David Vaughn
City Secretary Kelly Dix

Guests: Gene Courtney, Alan Burdell, Patricia Langford, Doug Fipps, Craig Lindholm, Bettye Foulds, James Wilson, Brian Fraus, Adam Culver, Mark Ingram, Jennifer Wind, Wade Langley, Ricky Langley

CALL TO ORDER: The meeting was called to order by Mayor Bromley, at 6:00 p.m.

INVOCATION: Council Member Mary Jane Shanes

PLEDGE OF ALLEGIANCE: Council Member Paul Famer

PLEDGE TO TEXAS FLAG: Council Member Paul Farmer

CONSENT AGENDA ITEMS:

(All of the following items on the Consent Agenda are considered to be self-explanatory by the Council 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.)

Approval of the June 11, 2019 Regular City Council Meeting minutes: Council Member Cindia Talamantez moved to approve the consent agenda as presented. Council Member Paul Farmer seconded the motion carried unanimously.

PUBLIC HEARING: None

ACTION ITEMS:

Discuss and consider action: Planning and Zoning Commission Board Appointment: K. Dix: Council Member Paul Famer made a motion to appoint Cesar Arreaza to the City of Burnet Planning and Zoning Board to fill an unexpired term that will end January 2021. Council Member Cindia Talamantez seconded, the motion carried unanimously.

Discuss and consider action: Council direction regarding the proposed tree preservation ordinance: W. Meshier: No action was taken. There was a suggestion to the Mayor to appoint a Tree Ordinance Committee. Council Members Clinton and Shanes volunteered to serve on the committee.

Discuss and consider action: Discuss and consider Council direction regarding the minimum lot depth of commercial lots, as prescribed in Sec. 118-20, Chart 1: W. Meshier: Council Member Danny Lester made a motion to return this item to the Planning and Zoning Commission to review for possible consideration of changes to the Ordinance to include removal of the lot width by lot length calculations and to utilize area measurement calculations instead and to also provide input on a possible buffer requirement. Cindia Talamantez seconded, the motion carried unanimously.

Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 TO REZONE APPROXIMATELY 0.96 ACRE, LEGALLY DESCRIBED AS LOTS

1 AND 2 OF THE FOX N. 281 PROPERTIES SUBDIVISION, FROM ITS PRESENT DESIGNATION OF LIGHT COMMERCIAL – DISTRICT “C-1” TO A DESIGNATION OF MEDIUM COMMERCIAL–DISTRICT “C-2,” SAID PROPERTY BEING GENERALLY LOCATED ON THE NORTHEAST CORNER OF NORTH WATER STREET (HWY. 281) AND EAST KERR STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: (501 N. Water St.): W. Meshier: Mayor Crista Bromley made a motion to postpone action on this item until the review of the zoning ordinance is completed by the Planning and Zoning Commission. Council Member Paul Farmer seconded, the motion carried unanimously.

Discuss and consider action: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 TO REZONE APPROXIMATELY 0.2336 ACRE, LEGALLY DESCRIBED AS LOT 1A OF THE SHORT FORM REPLAT OF THE SOUTH ONE-HALF OF LOT NUMBER 2, WALLIS ADDITION, FROM ITS PRESENT DESIGNATION OF SINGLE FAMILY RESIDENTIAL – DISTRICT “R-1” TO A DESIGNATION OF MEDIUM COMMERCIAL – DISTRICT “C-2,” SAID PROPERTY BEING GENERALLY LOCATED EAST SIDE OF NORTH WATER STREET (HWY. 281), APPROXIMATELY 550 FEET SOUTH OF THE INTERSECTION WITH EAST TAGGARD STREET; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: W. Meshier: Mayor Crista Bromley made a motion to postpone action on this item until the review of the zoning ordinance is completed by the Planning and Zoning Commission. Council Member Mary Jane Shanes seconded, the motion carried unanimously.

Discuss and consider action: A request for approval of a proposed grinder pump located at 707 Lamar Street, as required by City of Burnet Code of Ordinances Sec. 98-45(a)(2): W. Meshier: Council Member Danny Lester moved to approve a grinder pump for 707 Lamar Street as presented. Mayor Crista Bromley seconded, the motion carried unanimously.

Discuss and consider action: Acceptance of a Public Utility Easement granted by the Big Leaf LTD: G. Courtney: Council Member Mary Jane Shanes moved to accept the Public Utility Easement from Big Leaf, Ltd., as presented. Council Member Paul Farmer seconded the motion carried unanimously.

Discuss and consider action: Request by Langley Homes for incentives or fee waivers related to a potential development on Westfall Street: D. Vaughn: Council Member Danny Lester moved to not take action on this item. Council Member Paul Farmer seconded, the motion carried unanimously.

Discuss and consider action: Renewal of lease for City Hall from Danforth Holdings: D. Vaughn: Council Member Paul Farmer moved to approve the renewal of the City Hall facility Lease with Danforth Holdings as presented. Council Member Mary Jane Shanes seconded, the motion carried unanimously.

REPORTS:

Addendum to the City Council Agenda: Department and Committee Reports/Briefings: The City Council may or may not receive a briefing dependent upon activity or change in status regarding the matter. The listing is provided to give notice to the public that a briefing to the Council on any or all subjects may occur.

May 2019 Financial Report: P. Langford: Director of Finance, Patricia Langford reviewed fund balances to include revenue and expenses for each fund with Council. Ms. Langford stated all Departments were tracking well with budget.

REQUESTS FROM COUNCIL FOR FUTURE REPORTS: None.

ADJOURN: There being no further business a motion to adjourn was made by Council Member

Mary Jane Shanes at 7:57 p.m., seconded by Council Member Danny Lester. The motion carried unanimously.

ATTEST:

Crista Goble Bromley, Mayor

Kelly Dix, City Secretary



City Secretary

ITEM 4.1

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

Agenda Item Brief

Meeting Date:	July 23, 2019
Agenda Item:	Discuss and consider action: Planning and Zoning Commission Board Appointment: K. Dix
Background:	There is one vacant position on the City of Burnet Planning and Zoning Commission. This position was vacated by the recent resignation of Caryn Paye.
Information:	Applications were submitted for consideration for appointment to the City of Burnet Planning and Zoning Commission by Jennifer Wind and Brian Fraus (see attached applications). Both applicants meet all of the requirements for service on the board.
Fiscal Impact:	None
Recommendation:	Appointment to be determined by Council. The appointment will fill an unexpired term that ends in January 2020.



CITY OF BURNET

P. O. Box 1369
1001 Buchanan Drive
Burnet, Texas 78611
Phone: 512-756-6093 Fax: 512-756-8560

COMMUNITY SERVICE APPLICATION

I am interested in serving on the following City of Burnet Board or Commission:

☐ Economic Development
Corporation Board
☐ City of Burnet Historical Board
☐ Board of Adjustments
☐ Charter Review Committee

☐ Parks & Recreation Advisory Board
☒ Planning & Zoning Commission
☐ Airport Advisory Board
☐ Ethics Board
☐ Other _____

Name: Jennifer Wind Email: jena.wind@gmail.com

Home & Mailing Address: 305 E. Live Oak St. DOB: 05-18-1988

Home Phone: 512-573-1580 Business Phone: _____

(For Planning and Zoning or Board of Adjustment applicants only): Resident of Burnet for 1 year(s). Registered Voter of the City of Burnet? Yes ☒ No ☐

Occupation: Hospitality Management

Education (Optional): Some College

Special knowledge or experience applicable to City board or commission function:

Former volunteer for: Fruit Tree Project & Boys and Girls Club of America
some new home construction experience

☐ Banking/Finance

☐ Building/Construction

☐ Real Estate/Development

☐ Industrial Training

☐ Business Development

☐ Promotion/Marketing

☐ Manufacturing/Industrial Operations

☐ Law/Contract Administration

☐ Other

Do you serve on any other board/commission at this time: If so, please list:

N/A

Other information (professional and/or community activities):

Currently working at Canyon of the Eagles Nature Park + Resort
Working on project to open a food park at Airport in Burnet

I have attended one or more meetings of the board or commission for which I have applied. ☒ Yes ☐ No
How many times 1 in the past 1 months.

**This application is the only information considered for appointments by the City Council.
PLEASE, RETURN THIS COMPLETED FORM TO THE CITY SECRETARY'S OFFICE**

Signature

JW

Date

July 2, 2019



City Manager

ITEM 4.2

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Funding for the Burnet County Child Welfare Board: D. Vaughn

Background:

Information: The Burnet County Child Welfare Board is requesting \$3000.00 for program funding. The funding will assist the Child Welfare Board in transitioning children that have been removed from their homes and placed in the Child Protective Services System, to a new living environment.

Fiscal Impact: This is a restricted account that can only be used for specific purposes and does not impact other operating accounts.

Recommendation: Staff requests a motion to approved funding in the amount of \$3,000 for the Burnet County Child Welfare Board.



BURNET COUNTY CHILD WELFARE BOARD
1104 W. Buchanan Drive, Suite 2
Burnet, Texas 78611

OFFICERS

Caroline Ragsdill
President

Marsha Neel Administrative
Vice-President

Jan Friberg
Vice-President / Rainbow Room

Tricia Naito
Treasurer

Coleen Gregg
Secretary

BOARD MEMEBERS

Sue Brunson

Jan Graves

BJ Henry

Ronda Hostetter

Barbara McBride

Paulette Malalud

Martha Mezger

June 18, 2019

Mr. David Vaughn
City Manager
City of Burnet
P. O. Box 1369
Burnet, Texas 78611

Dear David:

The Burnet County Child Welfare Board (BCCWB) would like to request \$3,000.00. These funds are for the children in the Child Protective Services system. They are removed from their homes due to abuse and neglect.

In 2018, the number of children from the City of Burnet increased to 354 annually. In 2017, the number of children was 315. We expect an increase in the number of children in 2019.

We need funds to help the children as they transition into a new living environment. These children need beds, car seats, clothes and other items. Twice a year we conduct fund raising campaigns. We request money from the public for back to school clothes and for Christmas gifts. We also request funds from other cities in Burnet county.

We appreciate your time and consideration. Our address is listed above. If you have any questions please call me at (512) 755-1425 or email me at rondahostetter@gmail.com.

Sincerely,

Ronda Hostetter

cc: Caroline Ragsdill, President



Administration

ITEM 4.3

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

Agenda Item Brief

Meeting Date:	July 23, 2019
Agenda Item:	Discuss and consider action: Proposed contract with Burnet County for 2019/2020 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:	The 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 the drafted contract with Burnet County for the 2019/2020 fiscal year beginning October 1, 2019 and ending on September 30, 2020 General Election and Special Election Services has been provided for your review.
Fiscal Impact	All fees and charges will remain the same for each election held by the city for the fiscal year
Recommendation:	Staff recommends approval of the Contract for Election Services with Burnet County for the 2019/2020 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

For the LPS:

* * *

WITNESS BY MY HAND THIS THE _____ DAY OF _____, 20____.

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 2019-2020

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 2019 to July 2020; 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 2019 to July 2020; 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 2019 through July 2020.
- 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 2019 through July 2020.
- III. **Early Voting Polling Locations.** The Early Voting locations for the elections will be at the main Burnet Courthouse, 220 S. Pierce, Burnet, TX 78611 and the Courthouse South Annex in Marble Falls, 810 Steve Hawkins Pkwy., Marble Falls, TX 78654. The costs incurred in connection with the Burnet Courthouse Early Voting location will be shared only by the Burnet Consolidated Independent School District, the City of Burnet, the City of Bertram, the Central Texas Groundwater Conservation District (CTGCD) and Burnet County. The costs incurred in connection with the Courthouse South Annex Early Voting location will be shared only by the Marble Falls Independent School District, the City of Marble Falls, the City of Granite Shoals, the City of Cottonwood Shores, the City of Meadowlakes, the City of Highland Haven, the City of Horseshoe Bay, the City of Double Horn, CTGCD and Burnet County.
- 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 _____, 201_, and executed by its authorized representative.

By: _____

Name: _____

Title: _____

ACKNOWLEDGED BY:

Doug Ferguson
Elections Administrator, Burnet County, Texas

Date



Public Works

ITEM 4.4

Gene Courtney
Public Works Director
(512)-756-2402
gcourtney@cityofburnet.com

Agenda Item Brief

Meeting Date: July 23, 2018

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY OF BURNET, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF ATMOS ENERGY CORPORATION – MIDTEX DIVISION, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING THE EFFECTIVE DATE OF THIS RATE APPLICATION FOR FORTY-FIVE DAYS; AUTHORIZING THE CITY TO CONTINUE TO PARTICIPATE IN A COALITION OF CITIES KNOWN AS THE "ATMOS TEXAS MUNICIPALITIES;" DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE: G. Courtney

Background: On or about June 13, 2019 Atmos Energy filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program ("GRIP"). Atmos Energy's application if approved by the Commission will result in an increase in the monthly customer charges.

INFORMATION: This is a Resolution suspending for 45 days the effective date proposed by Atmos Energy, Corporation – MidTex Division ("Atmos Energy") in its application filed on or about March 28, 2019 pursuant to section 104.301 of the Gas Utility Regulatory Act, sometimes also referred to as the "GRIP" statute.

Atmos Energy's application, if approved by the Railroad Commission, will result in a system wide increase in Atmos Energy's revenue of about \$67.1 million, of which ATM's portion is about \$6.6 million.

Fiscal Impact:

Rate Schedule	Current Customer Charge	Proposed 2018 Interim Rate Adjustment	Adjusted Customer Charge	Increase Per Bill
Rate R – Residential Sales	\$18.88 per customer per month	\$2.84 per customer per month	\$21.72 per customer per month	\$2.84
Rate C – Commercial Sales	\$43.47 per customer per month	\$8.74 per customer per month	\$52.21 per customer per month	\$8.74

Recommendation: Approve and adopt Resolution R2019-12 as presented.

RESOLUTION NO. R2019-12

A RESOLUTION BY THE CITY OF BURNET, TEXAS, ("CITY") RESPONDING TO THE APPLICATION OF ATMOS ENERGY CORPORATION – MIDTEX DIVISION, TO INCREASE RATES UNDER THE GAS RELIABILITY INFRASTRUCTURE PROGRAM; SUSPENDING THE EFFECTIVE DATE OF THIS RATE APPLICATION FOR FORTY-FIVE DAYS; AUTHORIZING THE CITY TO CONTINUE TO PARTICIPATE IN A COALITION OF CITIES KNOWN AS THE "ATMOS TEXAS MUNICIPALITIES;" DETERMINING THAT THE MEETING AT WHICH THE RESOLUTION WAS ADOPTED COMPLIED WITH THE TEXAS OPEN MEETINGS ACT; MAKING SUCH OTHER FINDINGS AND PROVISIONS RELATED TO THE SUBJECT; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on or about June 13, 2019 Atmos Energy Corporation – MidTex Division (“Atmos Energy”) filed for an increase in gas utility rates under the Gas Reliability Infrastructure Program (‘GRIP’), which if approved, results in an increase in the monthly customer charges as follows:

Rate Schedule	Current Customer Charge	Proposed 2018 Interim Rate Adjustment	Adjusted Customer Charge	Increase Per Bill
Rate R – Residential Sales	\$18.88 per customer per month	\$2.84 per customer per month	\$21.72 per customer per month	\$2.84
Rate C – Commercial Sales	\$43.47 per customer per month	\$8.74 per customer per month	\$52.21 per customer per month	\$8.74

WHEREAS, Atmos Energy’s application, if approved by the Railroad Commission, will result in a systemwide increase in Atmos Energy’s revenue of about \$67.1 million, of which ATM’s portion is about \$6.6 million; and

WHEREAS, the City has a special responsibility to exercise due diligence with regard to rate increases of monopoly utilities who operate within its boundaries; and

WHEREAS, the application to increase rates by Atmos Energy is complex; and

WHEREAS, it is necessary to suspend the effective date for the increase in rates for forty-five days, so that the City can assure itself that the data and calculations in Atmos Energy’s rate application are correctly done and are in conformity with section 104.301 of the Gas Utility Regulatory Act; and

WHEREAS, the effective date proposed by Atmos Energy is August 12, 2019 but a suspension by the City will mean that the rate increase cannot go into effect prior to September 26, 2019.

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

Section 1. Findings. That the statements and findings set out in the preamble to this resolution are hereby in all things approved and adopted.

Section 2. The City suspends the requested effective date by Atmos Energy for forty-five days pursuant to the authority granted the City under Section 104.301 of the Texas Utilities Code. The City finds that additional time is needed in order to review the data and calculations that provide the basis for the rate increase application.

Section 3. The City shall continue to act jointly with other cities that are part of a coalition of cities known as the Atmos Texas Municipalities ("ATM").

Section 4. The City authorizes the law firm of Herrera Law & Associates, PLLC, to act on its behalf in connection with Atmos Energy's application to increase rates.

Section 5. To the extent Atmos Energy's application to increase rates under section 104.301 of the Gas Utility Regulatory Act (GURA) is considered a ratemaking proceeding, Atmos Energy is ordered to reimburse the City's reasonable rate case expenses incurred in response to Atmos Energy's rate increase application within 30 days of receipt of invoices for such expenses to the extent allowed by law.

Section 6. A copy of this resolution shall be sent to Mr. Christopher A. Felan, Vice President, Rates & Regulatory Affairs, Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240; and to Mr. Alfred R. Herrera, Herrera Law & Associates, PLLC, 816 Congress Ave., Suite 950, Austin, Texas 78701.

Section 7. Open Meetings. The meeting at which this resolution was approved was in all things conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Section 8. Effective Date: This resolution shall be effective immediately upon passage.

PASSED AND APPROVED this 23rd day of July 2019.

Crista Goble Bromley, Mayor
City of Burnet

ATTEST:

Kelly Dix, City Secretary



City Manager

ITEM 4.5

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Proposed contract with McCall, Parkhurst & Horton to serve as Bond Counsel for the City of Burnet in connection with the issuance of bonds, certificates of obligation notes and other obligations: D. Vaughn

Background:

Information: The City is required to have bond counsel for the proposed debt issuance for the police station.

Fiscal Impact: TBD.

Recommendation: Staff recommends approval of the contract with McCall, Parkhurst & Horton to serve as bond counsel.

July __, 2019

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

Ladies and Gentlemen:

This engagement letter will outline our proposed services as Bond Counsel to the City of Burnet, Texas (the "City") in connection with the issuance of bonds, certificates of obligation, notes and other obligations by the City.

SERVICES

We will perform all usual and necessary legal services as Bond Counsel. Specifically, we will prepare and direct legal proceedings and perform other necessary legal services with reference to the authorization, sale, and delivery of the City's bonds, certificates of obligation, notes or other obligations referenced above (for convenience hereafter collectively referred to as "bonds"), including the following:

1. Consultation with the City, as appropriate, and any advisors in planning for bond issues, including consultations concerning federal tax considerations;
2. Preparation of all contracts, ordinances, resolutions, trust indentures, and other instruments pursuant to which bonds will be authorized, secured, sold and delivered in consultation with the City, the City's attorney, financial advisors, the underwriters and their counsel and any officials and consultants thereof;
3. Prepare any applicable election proceedings, if necessary, in connection with the bonds;
4. Draft the continuing disclosure undertaking of the City;
5. Attendance at meetings of the City, as appropriate, and with other representatives thereof to the extent required or requested with reference to the authorization and issuance of the bonds;

600 Congress Ave.
Suite 1800
Austin, Texas 78701
T 512.478.3805
F 512.472.0871

717 North Harwood
Suite 900
Dallas, Texas 75201
T 214.754.9200
F 214.754.9250

Two Allen Center
1200 Smith Street, Suite 1550
Houston, Texas 77002
T 713.980.0500
F 713.980.0510

700 N. St. Mary's Street
Suite 1525
San Antonio, Texas 78205
T 210.225.2800
F 210.225.2984

www.mphlegal.com



6. Preparation of all documents necessary to seek the approval of the Attorney General of Texas and the submission of such documents to the Attorney General for approval and to the Comptroller of Public Accounts for registration of the bonds as required by law;
7. Supervision of the printing and execution of the bonds and the delivery thereof to the initial purchaser of the bonds;
8. Subject to the completion of proceedings to our satisfaction, rendering our nationally accepted legal opinion (the "Bond Opinion") covering the validity of the bonds under Texas law and tax status of the interest thereon under federal income tax laws; and
9. Preparation of a transcript of all proceedings in connection with the issuance of the bonds.

Our Bond Opinion will be delivered by us on the date bonds are exchanged for their purchase price (the "Closing"). The City will be entitled to rely on our Bond Opinion.

The Bond Opinion will be based on facts and law existing as of its date. In rendering our Bond Opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume continuing compliance by the City with applicable laws relating to the bonds. With regard to the issuance of bonds, we will rely on you to provide us with complete and timely information on all developments pertaining to any aspect of the bonds and their security. We understand that you will direct members of your staff and other employees of the City to cooperate with us in this regard.

The foregoing legal services as Bond Counsel do not include any direct responsibility for litigation of any kind. However, if during the issuance of the bonds any litigation should develop regarding the issuance of the bonds or the provisions made for their payment or security, we will consult, advise and cooperate with the City's attorney concerning any such litigation.

Our duties in this engagement are limited to those expressly set forth above. Unless we are separately engaged in writing to perform other services, our duties do not include any other services, including the following:

- (a) Preparing requests for tax rulings from the Internal Revenue Service, or no action letters from the Securities and Exchange Commission.
- (b) Preparing state securities law memoranda or investment surveys with respect to the bonds.
- (c) Drafting state constitutional or legislative amendments.



- (d) Pursuing test cases or other litigation.
- (e) Making an investigation or expressing any view as to the creditworthiness of the City or the bonds.
- (f) Except as described in paragraph 4 above, assisting in the preparation of, or opining on, a continuing disclosure undertaking pertaining to the bonds or, after Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking.
- (g) Representing the City in Internal Revenue Service examinations or inquiries, or Securities and Exchange Commission investigations.
- (h) Negotiating the terms of, or opining as to, any investment contract.
- (i) Addressing any other matter not specifically set forth above that is not required to render our Bond Opinion.

In addition, our services as Bond Counsel do not include any direct responsibility for the "disclosure obligations" owed to the investing public under the federal securities laws and the various state securities laws. We will not be responsible for the preparation of any Official Statement and will not assume any responsibility with respect thereto nor undertake independently to verify any of the information therein, except that, in our capacity as bond counsel, we will review various statements in any Official Statement to verify that such statements conform to the provisions of the legal instruments and documents therein described.

The firm will undertake upon the request of the City such services as may be necessary to assist the City in satisfying the continuing disclosure requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission. The firm will undertake upon the request of the City such services as may be necessary to render a written opinion with respect to any matters relating to the compliance by the City with the ongoing disclosure or other compliance requirements of Rule 15c2-12, provided in connection with the delivery of the opinion.

Our services as Bond Counsel do not include any responsibility for investigating the financial condition and affairs of the City. Our Bond Opinion will contain a paragraph substantially to the effect that we have acted as Bond Counsel for the City for the sole purpose of rendering an opinion with respect to the legality and validity of the bonds under the Constitution and laws of the State of Texas, and with respect to the exemption of the interest on the bonds from federal income taxes, and for no other reason or purpose. The paragraph will also disclose that we have not been requested to investigate or verify, and have not investigated or verified, any records, data, or other material relating to the financial condition or capabilities of the City, and have not assumed any responsibility with respect thereto.



COMPENSATION

Please see **Exhibit "A"** attached to this engagement letter for a proposed dollar cost fee estimate regarding the issuance of bonds. Any services to be provided at the request of the City outside the issuance of bonds may be billed, as agreed to by the City at the rates shown in **Exhibit "A"**.

Our Bond Counsel fee is contingent upon issuance of the bonds. We also expect to be reimbursed for all normal and reasonable actual out-of-pocket expenses incurred (such as travel with all mileage reimbursed at the then current rate established by the Internal Revenue Service, Attorney General filing fees, form 8038 preparation fee, preparation of bonds, bond review board filing preparation fee, communications, reproduction and delivery service) in connection with the services performed. Copying charges are normally twenty cents a page. Large copying orders are sometimes subcontracted out, in which case the actual charges are billed. Our Bond Counsel fee and all then available expenses will be billed at or soon after Closing and certain post-Closing expenses (such as bond transcript preparation and delivery expenses) may be billed subsequently.

ATTORNEY-CLIENT RELATIONSHIP

Upon execution of this engagement letter, the City will be our client and an attorney-client relationship will exist between us. We further assume that all other parties in this transaction understand that we represent only the City in this transaction, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services as bond counsel are limited to those contracted for in this letter; the City's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the City will not affect, however, our responsibility to render an objective Bond Opinion.

CONFLICTS

As you are aware, our firm represents many political subdivisions and investment banking firms, among others, who do business with political subdivisions. It is possible that during the time that we are representing the City, one or more of our present or future clients will have transactions with the City. It is also possible that we may be asked to represent, in an unrelated matter, one or more of the entities involved in the issuance of bonds. We do not believe such representation, if it occurs, will adversely affect our ability to represent you as provided in this letter, either because such matters will be sufficiently different from the issuance of the bonds so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the issuance of the bonds. Execution of this letter will signify the City's consent to our representation of others consistent with the circumstances described in this paragraph.



NO BOYCOTT OF ISRAEL

To the extent this engagement letter is a contract for goods or services, McCall, Parkhurst & Horton L.L.P. hereby verifies that it does not boycott Israel and will not boycott Israel through the term of this engagement letter. For purposes of this verification, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

TERMINATION

This engagement may be terminated by either party upon thirty (30) days written notice; provided, however, if the City exercises the early termination, the City shall pay Bond Counsel all fees and expenses accrued to the date of such termination from the proceeds of future bond issues. There shall not be individual liability on any member of the City Council, or other official of the City, for the payment of any amounts due hereunder.



If the City finds this proposal to be satisfactory, we ask that a copy of this letter be signed and returned to us for our files. We look forward to working with the City.

Respectfully submitted,

McCall, Parkhurst & Horton L.L.P.

J. Bart Fowler
Partner



The foregoing agreement is hereby accepted on behalf of the City of Burnet, Texas.

Date: _____, 2019.

By: _____
City Manager



Exhibit A

McCall, Parkhurst & Horton L.L.P. Proposed Dollar Cost Fee Estimate for the City of Burnet, Texas

<u>Transaction Type</u>	<u>General Fee</u>	<u>Premiums and Minimums</u>
Base Transaction Fee (BTF)	\$7,500 for 1st \$1,000,000; plus, \$1.00 per bond amounts between \$1,000,000 and \$25,000,000; plus, \$0.75 per bond amounts between \$25,000,000 and \$50,000,000; plus, \$0.50 per bond amounts exceeding \$50,000,000. Issuances in excess of \$100,000,000 will be negotiated per transaction	\$7,500 minimum for any issue
Transactions involving bond elections	BTF	\$4,000 added to first issuance of bonds under authority of the election, provided that if multiple elections were held before passage, add \$2,000 to first issuance for each election held
Refundings	BTF	25% added for advance refundings to account for additional tax work
TWDB/USDA/RUS transactions	\$17,500 for first \$1,000,000 \$5 per bond for next \$4,000,000 \$2 per bond for amounts over \$5,000,000	Fee calculated in accordance with the BTF; provided that a minimum fee of \$17,500 shall be charged for transactions under \$1,000,000
Tax Credit Bonds (if authorized by Federal law)	\$25,000 flat fee for issues up to \$5,000,000 plus \$1 per bond amounts in excess of \$5,000,000	
Revenue Transactions	BTF	\$5,000 premium for first transaction under new financing system structure
Sales Tax Transactions	BTF	\$12,000 minimum up to \$4,000,000; \$15,000 minimum over \$4,000,000
Other transactions, including Commerical Paper, Public Improvement Districts, Tax Increment Financings, and other more complicated structures	Fee to be negotiated	

Note: Bond amount is each \$1,000 of the greater of principal amount or net proceeds to the City (principal amount + net premium). All fees are contingent on the successful closing of a transaction.



Attorneys

Carol Pumbo
Bart Fowler
Tom Spurgeon
Stefano Taverna

Hourly Rate

\$575.00
\$500.00
\$575.00
\$475.00

Associates

Clayton Chandler
Hasan Mack

\$425.00
\$425.00

Of Counsel

Hal Flanagan

\$575.00



City Manager

ITEM 4.6

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING PROCEEDING WITH THE ISSUANCE OF CITY OF BURNET, TEXAS CERTIFICATES OF OBLIGATION; DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND OTHER RELATED MATTERS: D. Vaughn

Background:

Information:

Fiscal Impact: Debt service for W/WW and General Fund I&S for an anticipated issuance of approximately \$4.1 million dollars. The notice is drafted as an amount not to exceed \$5 million dollars.

Recommendation: Approve Resolution R2019-13 as presented.

RESOLUTION NO. R2019-13

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING PROCEEDING WITH THE ISSUANCE OF CITY OF BURNET, TEXAS CERTIFICATES OF OBLIGATION; DIRECTING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION; AND OTHER RELATED MATTERS

WHEREAS, the City Council of the City of Burnet, Texas (the "City") is authorized to issue various types of debt obligations for public purposes as authorized by law and the City's home-rule charter; and

WHEREAS, the City Council deems it advisable to give notice of intention to issue certificates of obligation ("Certificates") of the City, as hereinafter provided for costs incurred or to be incurred for (i) design, construction, improvement and equipping of public safety facilities to include a new police station, (ii) constructing, improving, designing and equipping the city's water and sewer system, and (iii) the payment of professional services in connection therewith including legal, fiscal and engineering the costs of issuing the certificates of obligation; and

WHEREAS, it is officially found and determined that the meeting at which this resolution has been considered and acted upon was open to the public and public notice of the time, place and subject of said meeting was given, all as required by Tex. Gov't Code Ann. Ch. 551; Now, Therefore

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET:

Section 1. Form of Notice. Attached hereto is a form of "Notice of Intention to Issue Certificates of Obligation," (the "Notice") the form and substance of which are hereby adopted and approved.

Section 2. Publication of Notice. The Notice shall be published, in substantially the form attached hereto, in a newspaper, as defined in Tex. Gov't Code Ann. §2051.044, of general circulation in the City, once a week for two consecutive weeks, the date of the first publication thereof to be before the 30th day before the date tentatively set for passage of the ordinance authorizing the issuance of such Certificates.

Section 3. Attorney General Fee. The City Council hereby authorizes the disbursement of a fee equal to the lesser of (i) one-tenth of one percent of the principal amount of each series of obligations being issued or (ii) \$9,500 for each series, provided that such fee shall not be less than \$750, to the Attorney General of Texas Public Finance Division for payment of the examination fee charged by the State of Texas for the Attorney General's review and approval of public securities and credit agreements, as required by Section 1202.004 of the Texas Government Code. The appropriate member of the City's staff is hereby instructed to take the necessary measures to make this payment. The City is also authorized to reimburse the appropriate City funds for such payment from proceeds of the Certificates and general obligation bonds, respectively.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption. The Mayor and City Secretary are hereby authorized and directed to execute this Resolution on behalf of the City and the Mayor and City Manager are hereby authorized to do any and all things proper and necessary to carry out the intent of this Resolution.

PASSED, APPROVED AND EFFECTIVE this July 23, 2019.

Crista Goble Bromley
Mayor

ATTEST:

Kelly Dix
City Secretary

[CITY SEAL]

NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Burnet, Texas, at its meeting to commence at 6:00 P.M. on September 10, 2019, at its regular meeting place in the Council Chamber of City Hall, 1001 Buchanan Dr. #4, Burnet, Texas 78611, tentatively proposes to authorize the issuance of interest bearing certificates of obligation of said City in a total maximum principal amount not exceeding \$5,000,000, for the public purpose of paying contractual obligations incurred or to be incurred for: (i) design, construction, improvement and equipping of public safety facilities to include a new police station, (ii) constructing, improving, designing and equipping the city's water and sewer system, and (iii) the payment of professional services in connection therewith including legal, fiscal and engineering fees and the costs of issuing the certificates of obligation. The City presently proposes to provide for the payment of the certificates of obligation by the levy of ad valorem taxes, within the limit prescribed by law, and a limited pledge of not to exceed \$1,000 of net revenues of the City's water and sewer system.

Crista Goble Bromley

Mayor, City of Burnet, Texas



Development Services

ITEM 4.7

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Council direction regarding the proposed amendment to the City of Burnet Code of Ordinances, Chapter 118-Zoning, Section 118-20, Chart 1, as this section relates to minimum lot width, depth and area in all zoning districts within the City of Burnet: D. Vaughn

Background: At the June 25th City Council meeting, Council instructed staff to have the Planning and Zoning Commission review and provide findings on amendments to lot width, depth, size and buffer zones.

Information: On July 15th, 2019, the City of Burnet Planning and Zoning Commission voted to recommend the changes shown on the attached chart.

Recommendation: To be determined by Council.

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 Depth	Min. Lot Width	Max. Height Limit
R-1	20 ft. for any road over 31 ft. of pavement 25 ft. for roads less than 31 ft.	7½ ft.	15 ft.	15 ft.	7,600 s.f.	90 ft.	60 ft. at building setback	35 ft. for structures over 1,500 s.f. 30 ft. for structures under 1,500 s.f.
R-1 E	30 ft.	15 ft.	15 ft.	15 ft.	60,000 s.f. <u>1 acre</u>	250 ft.	150 ft.	30 ft.
R-2	25 ft. for two unit 30 ft. for three and four unit	10 ft.	15 ft.	10 ft. 15 ft. when abutting R-1	4,500 s.f. per unit	115 ft.	75 ft.	35 ft.
R-2 A	25 ft. for two connected units 30 ft. for three or four connected units	10 ft. between structures	15 ft.	10 ft. 15 ft. when abutting R-1	4,500 s.f. per unit	115 ft.	75 ft.	35 ft.
R-3	50 ft.	10 ft. and one foot per unit	15 ft.	10 ft. 15 ft. when abutting R1	4,000 s.f. per unit	150 ft.	150 ft.	35 ft.
M-1	20 ft. for any road over 31 ft. of pavement 25 ft. for roads less than 31 ft.	7½ ft.	15 ft.	15 ft.	7,600 s.f.	90 ft.	60 ft. at building setback	35 ft. for structures over 1,500 s.f. 30 ft. for structures under 1,500 s.f.

M-2	50 ft.	10 ft. and one foot per unit	15 ft.	10 ft. 15 ft. when abutting R-1	4,000 s.f. per unit	250 ft.	150 ft.	35 ft.
OS	25 ft.	10 ft.	15 ft.	25 ft.	7,500 s.f.	90 ft.	60 ft.	35 ft.
A	25 ft.	25 ft.	15 ft.	25 ft.	2 Acres	600 ft.	150 ft.	35 ft.
Gov	25 ft.	15 ft.	15 ft.	15 ft.	7,600 s.f.	90 ft.	60 ft.	35 ft.
NC	20 ft. for any road over 31 ft. of pavement 25 ft. for roads of less than 31 ft.	7½ ft.	15 ft.	15 ft.	7,600 [s.f.]	90 ft.	60 ft. at building setback	35 ft.
C-1	30 ft.	15 ft.	15 ft.	15 ft.	4,500 s.f.	90 ft.	50 ft.	35 ft.
C-2	40 ft.	15 ft.	20 ft.	15 ft.	7,600 s.f. <u>10,000 s.f.</u>	150 ft.	60 ft.	35 ft.
C-3	50 ft.	15 ft. for single tenant 25 ft. for multi-tenant	20 ft.	15 ft.	7,600 s.f. for single tenant 150,000 s.f. for multi-tenant	250 ft.	60 ft. for single-tenant 100 ft. for multi-tenant	35 ft.
I-1	25 ft.	25 ft.	25 ft.	25 ft.	5,750 s.f. <u>10,000 s.f.</u>	100 ft.	50 ft.	60 ft.
I-2	25 ft.	25 ft.	25 ft.	25 ft.	7,500 s.f. <u>10,000 sf.</u>	150 ft.	60 ft.	60 ft.
PUD	n/a	n/a	15 ft. <u>n/a</u>	n/a	3 acres <u>n/a</u>	n/a	n/a	n/a

P&Z recommended added a fencing/screening requirement between commercial/industrial properties and residential properties.



Development Services

ITEM 4.8

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

Agenda Item Brief

- Meeting Date:** July 23, 2019
- Agenda Item:** Discuss and consider action: Council direction regarding allowable uses in the Medium Commercial – District “C-2” zoning district, as required by the City of Burnet Code of Ordinances, Section 118-46(a)(34): D. Vaughn
- Background:** The current zoning ordinance does not state which commercial zoning category is appropriate for a carwash.
- Information:** P&Z recommended designating carwashes as a C-2 Medium Commercial use and also recommended allowing carwashes as a authorized use in C-1 Light Commercial with a conditional use permit.
- Recommendation:** To be determined by Council.



City Secretary

ITEM 4.9

Kelly Dix
City Secretary (512) 715-3209
kdix@cityofburnet.com

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Approval of a contract with Mikes Janitorial Cleaning Services: K. Dix

Background: Jani-King of Austin has been providing commercial cleaning services for City facilities for several years. Upon review of the services being provided and the proposed cost increase for the contract renewal this year, staff determined that it would be cost effective to seek an alternate cleaning service.

On June 13th, 2019 Jani-King of Austin was notified by mail of non-renewal of the current contract with the City of Burnet for any and all cleaning services for City Hall, the Public Works Facility, and Council Chambers effective July 24, 2019. This notification met the 30 day notification requirement stated in the contract.

Information: Due to Jani-King not being able to provide cleaning crews that could pass the background clearances required by the Police Department, it was necessary to secure a different cleaning service for the PD last year. Staff determined that it would be more suitable to have one cleaning service for all of the facilities instead of two. Mikes Janitorial Cleaning Service has agreed to contract with the City to clean City Hall, the Public Works Facility and Council Chambers twice a week for \$1,300.00 per month. The term of the contract is for two years with a 30 day notification, by either party, cancellation clause included in the contract. After the two years the option will be for a month-to-month contract.

Recommendation: Staff recommends approval of the contract with Mikes Janitorial Cleaning Service as presented.

CLEANING SERVICES AGREEMENT

THIS CLEANING SERVICES AGREEMENT (the "Agreement") dated this _____ day of _____, _____

BETWEEN:

CLIENT

Burnet City Hall
1001 Buchanan Drive Suite 4 Burnet, Texas
78611

-AND-

City of Burnet Public Works
1000 Buchanan Drive Burnet, Texas 78611

-AND-

City Council Chambers
2403 South Water Street Highway 281 South
Burnet, Texas 78611

(individually and collectively the "Client")

CONTRACTOR

Mikes Janitorial Cleaning Service
601 S Ridge Street Lampasas, Texas 76550
(the "Contractor")

BACKGROUND

- A. The Client is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide cleaning services to the Client.
- B. The Contractor is agreeable to providing such cleaning services to the Client on the terms and conditions set out in this Agreement.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

SERVICES PROVIDED

1. The Client hereby agrees to engage the Contractor to provide the Client with the following cleaning services (the "Services"):

- Clean offices deep cleaning and general cleaning.
2. The venue for delivery of the Services is:
 - Burnet City Hall 1001 Buchanan Drive Suite 4 Burnet, Texas 78611.
 3. The time for delivery of the Services is:
 - 07-28-2019.
 4. The Services will also include any other cleaning tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Client.

TERM OF AGREEMENT

5. The term of this Agreement (the "Term") will begin on the date of this Agreement and will remain in full force and effect until July 28, 2021, subject to earlier termination as provided in this Agreement. The Term may be extended with the written consent of the Parties.
6. In the event that either Party wishes to terminate this Agreement prior to July 28, 2021, that Party will be required to provide 30 days' written notice to the other Party.

PERFORMANCE

7. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

CURRENCY

8. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in USD (US Dollars).

COMPENSATION

9. The Contractor will charge the Client for the Services at the rate of \$1,300.00 per month (the "Compensation").
10. The Client will be invoiced every month.
11. Invoices submitted by the Contractor to the Client are due within 30 days of receipt.
12. The Contractor will not be reimbursed for any expenses incurred in connection with providing the Services of this Agreement.

TRADE SECRETS

13. Trade secrets (the "Trade Secrets") include but are not limited to any data or information, technique or process, tool or mechanism, formula or compound, pattern or test results relating to the business of the Client, which are secret and proprietary to the Client, and which give the business a competitive advantage where the release of that Trade Secret could be reasonably expected to cause harm to the Client.

14. The Contractor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Trade Secrets which the Contractor has obtained, except as authorized by the Client or as required by law. The obligations of confidentiality will apply during the Term and will survive indefinitely upon termination of this Agreement.

RETURN OF PROPERTY

15. Upon the expiration or termination of this Agreement, the Contractor will return to the Client any property, documentation, records, or confidential information which is the property of the Client.

CAPACITY/INDEPENDENT CONTRACTOR

16. In providing the Services under this Agreement it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service. The Client is not required to pay, or make any contributions to, any social security, local, state or federal tax, unemployment compensation, workers' compensation, insurance premium, profit-sharing, pension or any other employee benefit for the Contractor during the Term. The Contractor is responsible for paying, and complying with reporting requirements for, all local, state and federal taxes related to payments made to the Contractor under this Agreement.

NOTICE

17. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

- a. Burnet City Hall
1001 Buchanan Drive Suite 4 Burnet, Texas 78611
- b. City of Burnet Public Works
1000 Buchanan Drive Burnet, Texas 78611
- c. City Council Chambers
2403 South Water Street Highway 281 South Burnet, Texas 78611
- d. Mikes Janitorial Cleaning Service
601 S Ridge Street Lampasas, Texas 76550

or to such other address as either Party may from time to time notify the other, and will be deemed to be properly delivered (a) immediately upon being served personally, (b) two days after being deposited with the postal service if served by registered mail, or (c) the following day after being deposited with an overnight courier.

INDEMNIFICATION

18. Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted

by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

MODIFICATION OF AGREEMENT

19. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

TIME OF THE ESSENCE

20. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

ASSIGNMENT

21. The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

ENTIRE AGREEMENT

22. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

ENUREMENT

23. This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

TITLES/HEADINGS

24. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

GENDER

25. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

GOVERNING LAW

26. This Agreement will be governed by and construed in accordance with the laws of the State of Texas.

SEVERABILITY

27. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

WAIVER

28. The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.

IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on this _____ day of _____, _____.

Burnet City Hall

Per: _____ (Seal)

City of Burnet Public Works

Per: _____ (Seal)

City Council Chambers

Per: _____ (Seal)

Mikes Janitorial Cleaning Service



Police Department

ITEM 4.10

Paul Nelson
Police Chief
(512)-756-6404
pnelson@cityofburnet.com

Agenda Item Brief

Meeting Date:	July 23 rd , 2019
Agenda Item:	Discuss and consider action: Authorization and approval to purchase three (3) 2019 Chevy Tahoe's for the Police Department: J. Davis
Background:	Burnet Police has been using Caldwell Country Chevrolet for the last several years, to purchase Chevy Tahoe's for patrol units. The price per Tahoe will be \$51,572. This price does include some of the needed equipment for each Tahoe.
Information:	The Tahoe's will come equipped with most of the needed equipment for each patrol vehicle. There will be 90-120 days for delivery. We will order the Tahoe's earlier in the year because Chevy will be re tooling the factory for the new models and thus will cause a 9 month to year delay in purchases.
Fiscal Impact:	The total cost for the Three Tahoe's will be \$154,716 for the 2019-2020 Budget. Payment will not take place until we receive delivery.
Recommendation:	Staff recommends approval of the purchase of three Chevy Tahoe's for the Police Department.



Administration

ITEM 4.11

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Approval of amendment number 1 to the agreement between the City of Burnet and American Constructors for the Police Station Project: D. Vaughn

Background:

Information: The contractor has solicited bids and provided the guaranteed maximum price for the new police station of approximately \$4.4m.

Fiscal Impact: The total cost of the project is estimated at approximately \$5,000,000.

Recommendation: Staff recommends approval of amendment Number 1 as presented.

Amendment No. 1 to Agreement between Owner and Construction Manager
Amendment Date: 7/23/19

Pursuant to the Agreement (A133-2009), dated July 31, 2018 between the City of Burnet Texas and American Constructors for the construction of the Burnet Police Department New Headquarters Building, the Owner and Construction Manager establish a guaranteed maximum price and contract time for the Work as set forth below.

Article 1
THE WORK

The scope of work included in this Amendment represents the Work for the entire Project. The Work is to be constructed as set forth in the Agreement and the Exhibits listed below and attached hereto.

Article 2
EXHIBITS

The following Exhibits supplement this Amendment to the Agreement between the Owner and the Construction Manager:

Exhibit "A" - Scope of Work Clarifications
Exhibit "B" - Contingency and Allowances
Exhibit "C" - Drawings, Specifications and Addenda
Exhibit "D" - Approved Minimum Wage Rates
Exhibit "E" - GMP Breakdown

Article 3
GUARANTEED MAXIMUM PRICE

The Construction Manager's Guaranteed Maximum Price (GMP) for the Work, as set forth in this Amendment, is **Four Million Three Hundred Seventy Eight Thousand Two Hundred Thirty Nine and no/100 (\$4,378,239.00).**

Article 4
COMPLETION DATES

Reference "Exhibit A" for completion date requirements.

OWNER:

City of Burnet Texas

David Vaughn, City Manager

Date:_____

CONSTRUCTION MANAGER:

American Constructors

Martin A. Burger, CEO

Date:_____

EXHIBIT “A”
to
AMENDMENT NO. 1

Burnet Police Department New Headquarters Building

The Agreement is hereby amended by the following clarifications, assumptions, and qualifications:

1. General Qualifications:
 - a. General Conditions are cost of the work and are included in the GMP.
 - b. Costs for guarantees and warranty are included and are cost of the work. The warranty period shall begin as of the date of substantial completion.
 - c. Liability insurance is a cost of work and will be charged at a fixed rate of 0.75% applied against the final contract sum.
 - d. Construction Manager payment and performance bond is a cost of work and will be charged at a fixed rate of 0.98% against the final contract sum.
 - e. Builders Risk insurance will be charged at a rate of \$0.007% per month
 - f. Labor burden included at a rate of 45%.
 - g. Subcontract Surety is a cost of work and will be charged at a fixed rate of 1.0% applied to the subcontract and material contract amounts.
 - h. Construction Manager Fee at a rate of 3.95% to be charged on the cost of the work.
 - i. Cost of Pre-Construction Services is not included in the GMP and is to be paid under a separate invoice.
 - j. All provisions of this Amendment take precedence over any provisions of the original contract. Contractor's assumptions, clarifications or qualifications regarding the Work shall be considered part of the Contract Documents (as defined in the Contract) and in the event of any conflict, such assumptions, clarifications or qualifications shall control.
 - k. There are no provisions in the GMP for sole source and/or proprietary specifications and it is assumed that reasonable substitutions will be allowed. This GMP assumes that the contract documents will allow more than one manufacturer to meet the design intent of the project.
 - l. This GMP is not a line item Guaranteed Maximum Price (GMP). Any breakdown of cost provided is for reference only and shall not be used as a basis for adjustment of the contract amount. Savings from one line item can be used to offset overruns in other line items.
 - m. It is assumed that the contract documents meet all laws, ordinances, codes, rules and regulations in effect. This GMP does not include any costs or scope of work that is not explicitly shown and detailed that may be required to comply with governing rules.
 - n. The GMP is based on a reasonable interpretation of all information provided in the contract documents. If there are conflicts, inconsistencies, or discrepancies in the contract documents, the preponderance of information shall govern unless the item is specifically clarified.
 - o. Payment for work will be based upon an approved schedule of values. Payment will not be based on unit price or other measurement and payment provisions.
 - p. Work will be allowed to be performed during any hours as necessary to accommodate sequencing of activities and efficient means and methods of constructions.

EXHIBIT “A”
to
AMENDMENT NO. 1

Burnet Police Department New Headquarters Building

- q. The GMP is based on the assumption that all other parties working on the project that are not under contract with American Constructors will:
 - i. Perform work according to the Project schedule as developed and adjusted by American Constructors.
 - ii. Comply with all insurance and indemnification requirements of American Constructors.
 - iii. Provide plans, technical information and coordinate when and as requested by American Constructors in order to enable American Constructors to maintain and/or accelerate elements of the Project schedule which may be required to achieve necessary milestone and/or completion dates.
 - r. American Constructors is responsible for the general safety of the site and for coordination of work activities. All subcontractors hired to complete specific scopes of work are independent contractors and are thereby solely responsible for the safe working practices, safety and conduct of their employees.
 - s. Electronic document files will be provided to the construction manager and subcontractors at no cost.
 - t. American Constructors shall use its standard project management reports (ie: Daily, Weather, Schedules, Submittals, RFI, Change Tracking, etc.) in lieu of the processes outlined in 013200.
 - u. The structural engineer of record shall be fully responsible for the structural performance of all building components and its support and reaction; any and all responsibility for design is excluded.
 - v. Unless specifically noted otherwise, all color, texture, shapes, and finish selection shall be from the manufacturer’s currently available standard options.
 - w. Closeout plans, documents, warranties, and operations/maintenance manuals will be provided in searchable indexed electronic format. If Owner requests, paper copies will also be provided.
2. General Exclusions:
- a. LEED certification
 - b. All fees associated with plan review and permitting.
 - c. Maintenance Bonds, Performance bonds, or fiscal sureties required by AHJ or permitting authorities.
 - d. Design and design fees.
 - e. AISC certification of steel fabrication and erection
 - f. Utility service provider fees and costs to establish or upgrade services. This includes meter(s), impact fees, capital recovery fees and any installation costs.
 - g. All 3rd party material testing, envelope testing, system testing, commissioning, and/or inspections.
 - h. Cost and impact of changes resulting from plan review by permitting.
 - i. The GMP does not include provisions to overcome product and labor shortages, delays in product delivery and other cost increases that may occur due to weather related or other national or worldwide emergencies.

EXHIBIT "A"
to
AMENDMENT NO. 1

Burnet Police Department New Headquarters Building

- j. Easements, platting or re-platting required for construction.
 - k. Survey for recording of easements.
 - l. Any allowances described in the plans and specifications but not listed in Exhibit B.
 - m. Furniture, fixtures, or equipment unless scheduled and included in the contract documents or identified in this amendment.
 - n. Maintenance or service agreements of any building systems.
 - o. Rework of concrete paving to eliminate birdbaths and correct drainage if slopes are designed at less than 2%.
 - p. If during the performance of this contract, the price of construction related commodities significantly increase, through no fault of the Contractor, the GMP shall be equitably adjusted by an amount reasonably necessary to cover any such increase in price exceeding the percentage annual inflation rate.
 - q. Security Guard Service.
3. Scope Clarifications
- a. Specification Section 014200 is for general information only. All instructions, standards, websites, document references, manuals, etc., are not considered part of the contract or considered contract documents. It is assumed that all pertinent and relevant information has been specifically, and in detail, incorporated into the plans or specific descriptions of the work in the specifications.
 - b. Composite metal panels are included in lieu of sheetmetal at the gutter enclosure.
 - c. MT03 and MT04 are included as 24ga prefinished aluminum
 - d. Residential Appliances are included as identified on the plans.
 - e. Specialty Equipment included as quoted by Southwest Solutions
 - i. High Density Evidence Storage
 - ii. Evidence Storage Gun Area Shelving
 - iii. Evidence Storage Drug Area Shelving and Money Safe
 - iv. Evidence Room Security Caging
 - v. Vehicle Bay Evidence Caging
 - vi. Armory Storage Unit and Table
 - vii. High Density Records Storage
 - viii. Records Storage Shelving
 - ix. Office Wardrobe Lockers
 - x. Evidence Room Evidence Lockers
 - xi. Locker Room Personal Duty Lockers
 - f. We have included PVC piping for drain piping under slab.
 - g. Access Control, Video Surveillance, Parking Gates, and Entry Intercom Systems by Knight Security. Annual service agreement, if required, is by Owner.
4. Completion Date

The Substantial Completion Date for the project will be nine months (9) after a notice to proceed is issued and all permits needed for construction are received.

**EXHIBIT “B”
to
AMENDMENT NO. 1**

Burnet Police Department New Headquarters Building

CONTINGENCIES and ALLOWANCES

The following Allowances are included in the GMP:

Owner Allowance	\$25,000
Fire Alarm	\$15,000
Landscaping/Irrigation/Topsoil	\$70,000
Interior and Exterior Signage/Marquee	\$30,000
Access Control/Video Surveillance/Intercom	\$113,000
Structured Cabling	\$35,000
Total	\$288,000

The following Contingency is included in the GMP:

CMAR Contingency	\$75,000
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Burnet Police Headquarters
EXHIBIT "C"
Project # A-0921

Sheet Number	INDEX OF DRAWINGS	Current Date
	SPECIFICATIONS	
	Burnet PD Project Manual Volume 1 - Arch	06/06/19
	Burnet PD Project Manual Volume 2 - MEP	06/06/19
	Burnet PD Project Manual Volume 3 - Civil	06/06/19
	Burnet PD Project Manual Volume 4 - Burnet Specs	06/06/19
	Addendum 01	06/13/19
	Addendum 02	06/28/19
	GENERAL	
G0.00	COVER SHEET	06/06/19
G0.01	GENERAL PROJECT INFORMATION	06/06/19
G0.02	SHEET INDEX	06/28/19
G0.10	PROJECT CODE SHEET	06/06/19
G0.11	ACCESSIBILITY INFORMATION	06/06/19
G0.12	ACCESSIBILITY INFORMATION	06/06/19
G2.01	EGRESS PLAN- LEVEL1	06/06/19
	CIVILS	
C1.10	EXISTING CONDITIONS	06/06/19
C1.30	EXISTING CONDITIONS	06/28/19
C1.40	PROP DRAINAGE AREA MAP	06/28/19
C2.00	CIVIL SITE PLAN	06/28/19
C2.10	PAVEMENT JOINT LAYOUT	06/28/19
C2.20	GRADING PLAN	06/28/19
C2.30	UTILITY PLAN	06/28/19
C3.00	STORM WATER POLLUTION PREVENTION PLAN	06/28/19
C3.10	TRAFFIC CONTROL PLAN	06/28/19
C4.00	PAVEMENT DETAILS	06/06/19
C4.10	SITE DETAILS	06/06/19
C4.20	UTILITY DETAILS	06/06/19
C4.30	UTILITY DETAILS	06/06/19
C4.40	SWPPP AND TCP DETAILS	06/06/19
	LANDSCAPE/IRRIGATION	
L0.01	SITE PLAN	06/28/19
L0.02	LANDSCAPE IRRIGATION PLAN	06/28/19
	ARCHITECTURAL	
A0.10	PARTITION TYPES	06/06/19
A0.20	MATERIALS & FINISH LEGEND	06/28/19
A0.30	DOOR TYPES & SCHEDULE	06/28/19
A0.35	DOOR DETAILS	06/28/19

Burnet Police Headquarters
EXHIBIT "C"
Project # A-0921

A0.40	WINDOW TYPES	06/06/19
A0.45	WINDOW DETAILS	06/28/19
A0.50	SIGNAGE SCHEDULE	06/06/19
A1.01	SITE PLAN	06/28/19
A1.20	SITE PLAN DETAILS	06/28/19
A2.01	FLOOR PLAN	06/06/19
A2.02	ROOF PLAN	06/06/19
A2.03	EQUIPMENT FLOOR PLAN	06/28/19
A2.10	FINISH FLOOR PLAN	06/06/19
A3.01	REFLECTED CEILING PLAN	06/06/19
A4.01	ENLARGED PLANS	06/06/19
A5.01	DETAILS- PLANS	06/28/19
A6.01	ELEVATIONS- EXTERIOR	06/06/19
A6.02	ELEVATIONS- EXTERIOR	06/06/19
A6.03	ELEVATIONS- EXTERIOR	06/06/19
A6.10	ELEVATIONS- ENLARGED	06/06/19
A7.01	BUILDING SECTIONS	06/06/19
A7.10	ENLARGED SECTIONS	06/06/19
A7.50	WALL SECTIONS	06/28/19
A7.51	WALL SECTIONS	06/06/19
A7.70	WALL SECTION DETAILS	06/28/19
A7.71	WALL SECTION DETAILS	06/28/19
A8.01	INTERIOR ELEVATIONS	06/06/19
A8.02	INTERIOR ELEVATIONS	06/28/19
A8.03	INTERIOR ELEVATIONS	06/06/19
A8.50	INTERIOR DETAILS	06/06/19
A8.75	MILWORK DETAILS	06/06/19
	STRUCTURAL	
S0.00	COVER SHEET	06/06/19
S0.01	STRUCTURAL GENERAL NOTES	06/06/19
S0.02	STRUCTURAL GENERAL NOTES	06/06/19
S0.03	STRUCTURAL SYMBOLS AND NOTATIONS	06/06/19
S0.04	TYPICAL DETAILS- CONC. COVER DETAILS AND MATRIX	06/06/19
S0.05	DEVELOPMENT LENGTHS AND LAP SCHEDULES	06/06/19
S0.10	LOAD PLANS	06/06/19
S2.01	FOUNDATION PLANS	06/06/19
S2.02	ROOF PLAN	06/06/19
S3.01	FOUNDATION DETAILS	06/06/19
S4.01	TYP. TILT-UP WALL DETAILS	06/06/19
S4.11	ROOF DETAILS	06/06/19
S4.12	ROOF DETAILS	06/06/19
S4.13	ROOF DETAILS	06/06/19
S5.01	WALL ELEVATIONS	06/06/19
S5.02	WALL ELEVATIONS	06/06/19
	MECHANICAL	
M1.00	MECHANICAL GENERAL NOTES	06/06/19
M3.00	MECHANICAL PLAN- DUCTWORK	06/28/19

Burnet Police Headquarters
EXHIBIT "C"
Project # A-0921

M3.01	MECHANICAL PLAN- PIPING	06/06/19
M4.00	MECHANICAL SCHEDULES & CALCULATIONS	06/06/19
M4.01	MECHANICAL SCHEDULES & CALCULATIONS	06/06/19
M5.00	MECHANICAL DETAILS	06/06/19
	ELECTRICAL	
E1.00	ELECTRICAL GENERAL NOTES	06/06/19
E2.00	ELECTRICAL SITE PLAN	06/06/19
E2.01	ELECTRICAL SITE PHOTOMETRIC PLAN	06/06/19
E3.01	ELECTRICAL POWER PLAN	06/28/19
E3.02	ELECTRICAL HVAC POWER PLAN	06/06/19
E3.11	ELECTRICAL LIGHTING PLAN	06/06/19
E4.01	ELECTRICAL ONE-LINE& PANEL SCHEDULE	06/28/19
E4.02	ELECTRICAL LIGHTING& CONTROLS SCHEDULES	06/06/19
E5.00	ELECTRICAL DETAILS	06/06/19
	PLUMBING	
P1.00	PLUMBING GENERAL NOTES	06/06/19
P3.01	PLUMBING SANITARY & SEWER PLAN	06/06/19
P3.02	PLUMBING DOMESTIC WATER PLAN	06/06/19
P4.00	PLUMBING SCHEDULES& CALCULATIONS	06/06/19
P5.00	PLUMBING DETAILS	06/06/19
P6.00	PLUMBING RISER DIAGRAMS	06/06/19
	SECURITY	
SC1.00	SECURITY SITE PLAN	06/06/19
SC2.00	SECURITY FLOOR PLAN	06/06/19

Exhibit "D"
Burnet Police Department New Headquarters Building

Minimum Prevailing Wage

Occupation	Wage \$/hr
Brickmasons and Blockmasons	\$ 21.84
Carpenters	\$ 13.93
Cement Masons and Concrete Finishers	\$ 13.73
Construction Laborers	\$ 12.43
Drywall and Ceiling Tile Installers	\$ 16.16
Earth Drillers, Except Oil and Gas	\$ 16.15
Electricians	\$ 16.32
Elevator Installers and Repairers	\$ 28.01
Fence Erectors	\$ 12.58
Glaziers	\$ 11.32
Heating, Air Conditioning, and Refrigeration Mechanics and Installers	\$ 14.30
Helpers, Construction Trades, All Other	\$ 11.07
Helpers--Brickmasons, Blockmasons, Stonemasons, and Tile and Marble Setters	\$ 13.79
Helpers--Carpenters	\$ 9.11
Helpers--Electricians	\$ 9.99
Helpers--Installation, Maintenance, and Repair Workers	\$ 10.98
Helpers--Pipelayers, Plumbers, Pipefitters, and Steamfitters	\$ 10.57
Insulation Workers, Floor, Ceiling, and Wall	\$ 13.18
Insulation Workers, Mechanical	\$ 12.85
Miscellaneous Construction and Related Workers	\$ 13.60
Operating Engineers and Other Construction Equipment Operators	\$ 14.27
Painters, Construction and Maintenance	\$ 12.54
Paving, Surfacing, and Tamping Equipment Operators	\$ 13.09
Pipelayers	\$ 13.49
Plumbers, Pipefitters, and Steamfitters	\$ 15.84
Reinforcing Iron and Rebar Workers	\$ 15.37
Roofers	\$ 12.30
Security and Fire Alarm Systems Installers	\$ 16.86
Sheet Metal Workers	\$ 15.05
Structural Iron and Steel Workers	\$ 15.96
Telecommunications Equipment Installers and Repairers, Except Line Installers	\$ 19.29
Telecommunications Line Installers and Repairers	\$ 12.56
Tile and Marble Setters	\$ 14.23

Exhibit "E"
Burnet Police Department New Headquarters Building

GMP Breakdown

01300	Administrative Requirements	8,375
01510	Field Offices	28,035
01520	Project Storage	1,000
01530	First Aid / Safety	3,650
01570	Temporary Project Identification	1,300
01710	Cleaning/Waste Management	2,100
01720	Final Cleaning	6,324
02210	Surveying	8,750
03210	Slab On Grade	98,250
03670	Tiltwall	114,500
03910	Construction Equipment	13,450
04430	Stone Masonry	78,087
05120	Structural Steel Framing	202,000
05500	Metal Fabrications	18,600
06105	Rough Carpentry	5,000
06401	Exterior Architectural Woodwork	10,000
06410	Casework / Cabinets / Countertops	59,560
07110	Dampproofing	20,000
07421	Composite Wall Panels	48,500
07610	Sheet Metal Roofing	205,000
07920	Joint Sealants	5,000
08330	Coiling Doors and Grilles	20,561
08700	Door Hardware	77,970
08800	Glass Glazing	120,000
09220	Drywall	305,000
09310	Thin-Set Tile	44,720
09650	Resilient Flooring	36,000
09910	Painting	89,200
10111	Markerboards and Tackboards	10,000
10261	Wall And Door Protection	4,100
10281	Toilet Accessories	5,535
10441	Fire Protection Specialties	1,170
10511	Lockers	77,050
10561	Storage	107,835
10751	Flagpoles	5,000
11310	Residential Appliances	6,500
11520	Audio-Visual Equipment	4,000
12200	Window Treatments	7,000
21130	Fire Sprinkler System	33,500
22100	Building Plumbing	163,275
23100	Building HVAC	220,000

Exhibit "E"
Burnet Police Department New Headquarters Building

GMP Breakdown

26100	Building Electrical	471,500
31230	Grading, Excavation and Fill	299,500
31250	Erosion Controls	7,050
31311	Termite Protection	1,256
32131	Concrete Paving	241,500
32171	Traffic Barriers & Bumpers	8,300
32172	Traffic Control Markings	4,000
32310	Fences and Gates	21,789
32450	Specialty Site Concrete	2,400
33099	Site Utilities	100,000
50140	Jobsite Overhead	306,675
51100	Allowances	288,000
	Bonds and Insurance	111,853
	CMAR Fee	163,519
	CMAR Contingency	75,000
<hr/> TOTAL		\$ 4,378,239



Administration

ITEM 4.12

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING DEFEASANCE OF A PORTION OF THE 2008 REFUNDING PRINCIPLE RELATED TO THE STREET BONDS: D. Vaughn

Background:

Information:

Fiscal Impact:

Recommendation: Staff recommends approval of Resolution No. R2019-14 as presented

Note: at the time of the agenda posting the exact verbiage for the resolution had not been received from the Bond Company.

RESOLUTION NO. R2019-14

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET,
TEXAS, AUTHORIZING DEFEASANCE OF A PORTION OF THE 2008
REFUNDING PRINCIPLE RELATED TO THE STREET BONDS**

WHEREAS,

WHEREAS,

WHEREAS,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURNET:

Section 1. .

Section 2.

Section 3.

Section 4. Effective Date. This Resolution shall become effective immediately upon adoption. The Mayor and City Secretary are hereby authorized and directed to execute this Resolution on behalf of the City and the Mayor and City Manager are hereby authorized to do any and all things proper and necessary to carry out the intent of this Resolution.

PASSED, APPROVED AND EFFECTIVE this July 23, 2019.

Crista Goble Bromley
Mayor

ATTEST:

Kelly Dix
City Secretary



Administration

ITEM 4.13

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Request by Langley Homes for incentives or fee waivers related to a potential development on Westfall Street: D. Vaughn

Background:

Information: Due to the success of the Cottages of Westfall, Langley Homes is considering an additional development on the east side of Westfall Street and has requested certain incentives for the project. Please see attached request and memo outline of the anticipated cost of each request.

Fiscal Impact: To be determined.

Recommendation: To be determined.



To: City Council Members

From: David Vaughn, City Manager

Date: 7/17/19

Per Council's request, please find the information below regarding the request for incentives by Langley Homes for a proposed development on Westfall Street.

Requests:

1. COB waive building permit fees by adopting the property as a neighborhood empowerment zone as allowed by Chapter 378, Section 378.002 of the Texas Local Government Code.

Langley Homes has indicated an average house within the proposed development would likely be 1,400-1,600 square feet. Based on an average size of 1,500 square feet, the building permit cost would be \$500 per house.

Building Permit Fees:			
Permit Type	Sq. Footage	Amount/Sq. Ft	Total
Framing	1500	0.08	\$120.00
Electrical	1500	0.08	\$120.00
Plumbing	1500	0.08	\$120.00
Mechanical		1 Unit	\$40.00
Plan Review		1 Review	\$100.00
Building Permit Total			\$500.00

2. COB waive utility tap fees by adopting the property as a neighborhood empowerment zone as allowed by Chapter 378, Section 378.002 of the Texas Local Government Code.

The City's current tap fees are as follows:

Standard Tap Fees:	
Electrical Tap	\$450.00
Water Tap	\$525.00
Wastewater Tap	\$500.00
Total:	\$1,475.00

Staff is in the process of evaluating tap/line extension fees for possible modifications in the near future.

3. Langley Homes Inc. pays 50% of current impact fee by adopting the property as a neighborhood empowerment zone as allowed by Chapter 378, Section 378.002 of the Texas Local Government Code.

The current impact fees are as follows:

Impact Fees:	
Water Impact	\$1,084.50
Wastewater Impact	\$1,175.00
Total:	\$2,259.50

Half of the impact would be \$1,129.75 per home.

4. COB extend the 8" sewer line to the south end of the proposed development to a developer installed manhole. Current easement does exist.

The estimate below was provided by Langley Homes.

- Install 670' +/- 8" sewer line -- \$16,500 (bid)
- Saw cut and remove asphalt -- \$1,600 (bid)
- Drill & chisel hole into existing manhole \$400 (bid)
- Gravel and sand for backfill \$4,170 (bid)
- Excavator rental \$3,700 (bid)
- Manhole \$1,000 (bid)
- 670' +/- 8" pipe \$2,847 (bid)
- Asphalt Repair \$2500 (estimate)
- Misc Material \$1000 (estimate)
- Traffic Control \$2000 (estimate)

Total \$35,718

5. COB extend power service to property. (Developer install all conduit for underground service and purchase materials as required by current city standards)

The Electric Departments has provided the following cost estimates:

Overhead Line Extension \$1,733.21

Underground Line Extension \$9,043.17

Summary:

The total fee waivers per home equals \$3,104.75. Based on Langley Home's estimate of 68 lots, the total value of the fee waivers requested would be \$211,123.

Total cost of requested incentives would equal between \$248,574 to \$255,884, depending on the electric service line extension chosen.



Ricky Langley, President
ricky@langleyhomesinc.com

(512) 734-3171
717 N Water Street
Burnet, TX 78611

Wade Langley, Vice President
wade@langleyhomesinc.com

Building Quality Homes Since 1985

June 24, 2019

Mayor Crista Goble Bromley
City Council of Burnet, TX
1001 Buchanan Drive, Suite 4
Burnet, TX 78611

RE: Proposed Development Agreement for Westfall Village

Langley Homes, Inc. is in the preliminary stages of planning a development in the 700 block of Westfall St. known as Westfall Village. This proposed development is intended to expand upon the success generated by the MyTown program and the partnership between the City and LHI on the Cottages at Westfall by simultaneously reducing the burden on the municipality and increasing the responsibility of the developer within the project.

The Cottages at Westfall has sold twenty-six properties (24 single family & 2 duplex) over the past sixteen months with the homes starting at \$196,900. This has allowed for a tax base increase of \$5.4 million +/- and permanent public utility accounts for twenty-eight properties that otherwise could not have been developed in a sub \$200,000 market. A key element of the builder/developer being able to offer homes that exceed the architectural standards of city minimums at the lowest price points in our geographic area are the incentives provided in the development agreement between LHI and the COB.

Our goal with Westfall Village is to continue to offer a product that exceeds industry standards at a price point that is virtually unattainable anywhere else in our region. This formula has proven to bring sustainable growth to our City and has attracted residents who work in other communities but choose to make Burnet home. This commerce and growth that will encourage future development is only achievable through concentrated efforts brought about through development agreements like the 380-agreement described above.

Attached you will find the initial layout of a high density (75-80 lots on 21.97 acres), single family residential neighborhood in which the builder proposes homes that are between 1450-1600 square feet. This development would be divided into three phases of approximately 25 lots each. Initial estimates, which were figured using the terms of our previous agreement, show these properties being marketed between \$220,000 and \$230,000 at today's building cost. To



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Wade Langley, Vice President
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Building Quality Homes Since 1985

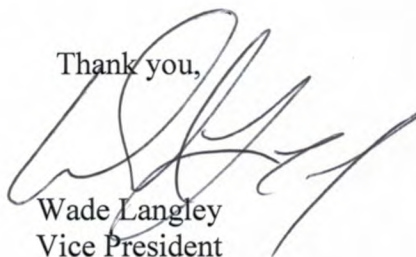
achieve these numbers, Langley Homes, Inc. is proposing the following incentives be extended in an agreement similar in nature to our previous development engagement:

- COB waive building permit fees by adopting the property as a neighborhood empowerment zone as allowed by Chapter 378 Sec. 378.002 of the Texas Local Government Code. (Attached)
- COB waive utility tap fees by adopting the property as a neighborhood empowerment zone as allowed by Chapter 378 Sec. 378.002 of the Texas Local Government Code. (Attached)
- Langley Homes, Inc. pays 50% of current impact fee by adopting the property as a neighborhood empowerment zone as allowed by Chapter 378 Sec. 378.002 of the Texas Local Government Code.
- COB extend the 8" sewer line to the South end of the proposed development to a developer installed manhole. Current easement does exist.
- COB extend power service to property. (Developer install all conduit for underground service, and purchase materials as required by current city standards.)

In return, Langley Homes would agree to the following:

- Install and enforce the same architectural and performance standards as listed in Exhibit "A" of Resolution NO. R2017-10. (Attached)
- Institute the same Restrictive Covenants as listed in Exhibit "E" of Resolution NO. R2017-10 to ensure the development exceeds current minimum requirements of the local municipal code. (Attached)
- Adhere to Developers Duties and Obligations as described in Article IV (380 Agreement) included in Resolution NO. R2017-10 that apply to this development, including Section 4.1 Local Providers & Section 4.7 Underground Electrical Service within the Project.

Thank you,



Wade Langley
Vice President



LOCAL GOVERNMENT CODE

TITLE 12. PLANNING AND DEVELOPMENT

SUBTITLE A. MUNICIPAL PLANNING AND DEVELOPMENT

CHAPTER 378. NEIGHBORHOOD EMPOWERMENT ZONE

Sec. 378.001. DEFINITION. In this chapter, "zone" means a neighborhood empowerment zone created by a municipality under this chapter.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.002. CREATION OF ZONE. A municipality may create a neighborhood empowerment zone covering a part of the municipality if the municipality determines the creation of the zone would promote:

- (1) the creation of affordable housing, including manufactured housing, in the zone;
- (2) an increase in economic development in the zone;
- (3) an increase in the quality of social services, education, or public safety provided to residents of the zone; or
- (4) the rehabilitation of affordable housing in the zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.003. ADOPTION OF ZONE. (a) A municipality may create a zone if the governing body of the municipality adopts a resolution containing:

- (1) the determination described by Section [378.002](#);
- (2) a description of the boundaries of the zone;
- (3) a finding by the governing body that the creation of the zone benefits and is for the public purpose of increasing the public health, safety, and welfare of the persons in the municipality; and
- (4) a finding by the governing body that the creation of the zone satisfies the requirements of Section [312.202](#), Tax Code.

(b) A municipality may create more than one zone and may include an area in more than one zone.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999.

Sec. 378.004. MUNICIPAL POWERS. In addition to other powers that a municipality may exercise, a municipality may:

(1) waive or adopt fees related to the construction of buildings in the zone, including fees related to the inspection of buildings and impact fees;

(2) enter into agreements, for a period of not more than 10 years, for the purpose of benefiting the zone, for refunds of municipal sales tax on sales made in the zone;

(3) enter into agreements abating municipal property taxes on property in the zone subject to the duration limits of Section [312.204](#), Tax Code; and

(4) set baseline performance standards, such as the Energy Star Program as developed by the Department of Energy, to encourage the use of alternative building materials that address concerns relating to the environment or to the building costs, maintenance, or energy consumption.

Added by Acts 1999, 76th Leg., ch. 305, Sec. 1, eff. May 29, 1999. Amended by Acts 2001, 77th Leg., ch. 1263, Sec. 5, eff. Sept. 1, 2001.

ARCHITECTURAL PERFORMANCE STANDARDS

- The first floor front and side elevations, of Primary Structures shall be constructed of at least fifty percent (50%) masonry. Gables may be another form of siding or masonry product. Masonry shall be defined as being brick, natural or synthetic stone, or conventional stucco. Neither an Exterior Insulation and Finishing System (EFIS), nor Cementous board or panel products, shall be considered to be masonry.
- Single-family homes shall have a minimum of 1,300 square feet of living space. Living space shall only be calculated from interior space and shall not include garage space or porches.
- Living space for Duplexes shall only be calculated from interior space and shall not include garage space or porches.
- Single-family homes shall include a minimum of three (3) bedrooms and two (2) bathrooms.
- Duplexes shall include a minimum of two (2) bedrooms and two (2) bathrooms.
- Single-family homes shall include a minimum two-car garage or two-car covered carport.
- Single-family homes shall have a concrete driveway, a minimum of eighteen (18) feet in width and shall be constructed from the garage to the public street.
- All Primary Structures shall include water heater, lighting, central heat and air-conditioning, and other amenities designed to promote energy savings in accordance with federal, state and local codes and regulations.
- All Primary Structures shall have a roof pitch of 5:12 or greater.
- All Primary Structures shall have a minimum of two roof elevations.
- Metal roofs are allowed, roof material must be non-reflective. Galvalume is considered non-reflective.
- Front yards, including street side yards of corner lots, must be sodded.
- R-1 minimum lot width 70' at building set back.

**Declaration of Restrictive Covenants of the
The Cottages at Westfall
Subdivision**

Basic Information

Date: May 1, 2017

Declarant: Langley Homes, Inc., a Texas corporation

Declarant's Address:

Langley Homes, Inc.
717 N. Water St.
Burnet, Texas 78611

Property Owners Association: The Cottages at Westfall Property Owners Association, an unincorporated Texas nonprofit association

Property Owners Association's Address: 717 N. Water St.
Burnet, Texas 78611

Property: BEING Lot No. 1 of the City of Burnet Westfall Subdivision, an approximate 12.85 acre tract of land out of the Sarah Ann Guest Survey No. 1053, Abstract No. 1525 and out of the B.B. Castleberry Survey No. 2 Abstract No. 187 and being more particularly described in the attached Exhibit "A" to which reference is herein made for all purposes.

Definitions

"ACC" means the Architectural Control Committee established in this Declaration.

"Assessment" means any amount due to the Property Owners Association by an Owner or levied against an Owner by the Property Owners Association under this Declaration.

"Board" means the Board of Directors of the Property Owners Association.

"Bylaws" means the Bylaws of the Property Owners Association adopted by the Board.

"Code" means the City of Burnet's Code of Ordinances as same may be amended, revised or recodified from time to time.

"Common Area" means the Detention and Water Quality Pond and all other property within the Subdivision not designated as a Lot on the plat and that has not been accepted for

maintenance by the applicable governmental body. Declarant will convey the Common Area to the Property Owners Association.

"Covenants" means the covenants, conditions, and restrictions contained in this Declaration.

"Declarant" means Langley Homes, Inc., a Texas corporation, and any successor that acquires all unimproved Lots owned by Declarant for the purpose of development and is named as successor in a recorded document.

"Declarant Control Period" means a period in which Declarant reserves the right to facilitate the development, construction, and marketing of the subdivision and the right to direct the size, shape, and composition of the subdivision. During the Declarant Control Period, the Declarant may amend the Covenants, Bylaws, Management Certificate, Rules or any dedicatory instrument. However, the Declarant may not incorporate less restrictive architectural restrictions than are contained in the original declaration. The Declarant Control Period shall cease when all Lots are conveyed to owners other than a Declarant or a builder in the business of constructing homes who purchased the lots from the Declarant for the purpose of selling completed homes built on the lots. During the Declarant Control Period the Declarant may appoint and remove board members and the officers of the Association, other than board members or officers elected by members of the Association. In accordance with Texas Property Code Section 209.00591, on or before the 120th day after the date 75 percent of the lots that may be created and made subject to the declaration are conveyed to owners other than a Declarant or a builder in the business of constructing homes who purchased the lots from the declarant for the purpose of selling completed homes built on the lots, at least one-third of the board members must be elected by owners other than the Declarant.

"Detention and Water Quality Pond" means onsite detention facilities in accordance with City's Drainage Criteria Manual that receives and stores storm water runoff and functions as a water quality pond for purpose of managing non-point source pollution in accordance with the City's non-point source pollution ordinance, which shall be platted as a separate lot within the Subdivision.

"Duplex" means a two-family dwelling unit as defined in Chapter 118 of the Code.

"Easements" means Easements within the Property for utilities, drainage, and other purposes as shown on the Plat or of record.

"Dedicatory Instruments" means this Declaration and the Bylaws, rules of the Property Owners Association, and standards of the ACC, as amended.

"Lot" means each tract of land designated as a lot on the Plat, excluding lots that are part of the Common Area.

"Member" means Owner.

"Owner" means every record Owner of a fee interest in a Lot.

"Plat" means the Plat of the Property recorded in Instrument No. **ENTER RECORDING INFORMATION** of the real property records of Burnet County, Texas, and any replat of or amendment to the Plat made in accordance with this Declaration.

"Residence" means a detached building designed for and used as a dwelling by a Single Family or as a Duplex and constructed on one or more Lots.

"Single Family" means a group of individuals related by blood, adoption, or marriage or a number of unrelated roommates not exceeding the number of bedrooms in a Residence and as defined by Chapter 118 of the Code.

"Structure" means any improvement on a Lot (other than a Residence), including a sidewalk, driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational equipment.

"Subdivision" means the Property covered by the Plat and any additional property made subject to this Declaration.

"Vehicle" means any automobile, truck, motorcycle, boat, trailer, or other wheeled conveyance, whether self-propelled or towed.

Clauses and Covenants

A. Imposition of Covenants

1. Declarant imposes the Covenants on the Subdivision. All Owners and other occupants of the Lots by their acceptance of their deeds, leases, or occupancy of any Lot agree that the Subdivision is subject to the Covenants.

2. The Covenants are necessary and desirable to establish a uniform plan for the development and use of the Subdivision for the benefit of all Owners. The Covenants run with the land and bind all Owners, occupants, and any other person holding an interest in a Lot.

3. Each Owner and occupant of a Lot agrees to comply with the Dedicatory Instruments and agrees that failure to comply may subject him to a fine, an action for amounts due to the Property Owners Association, damages, or injunctive relief.

B. Plat and Easements

1. The Plat, Easements, and all matters shown of record, including the Chapter 380 Economic Development Agreement between Declarant and the City of Burnet, affecting the

Property are part of this Declaration and are incorporated by reference.

2. An Owner may use that portion of a Lot lying in an Easement for any purpose that does not interfere with the purpose of the Easement or damage any facilities. Owners do not own any utility facilities located in an Easement.

3. Neither Declarant nor any Easement holder is liable for damage to landscaping or a Structure in an Easement.

4. Declarant and each Easement holder may install, maintain, and connect facilities in the Easements.

C. Use and Activities

1. *Permitted Use.* A Lot may be used only for an approved Residence and approved Structures for use by a Single Family or Duplex as described herein.

2. *Prohibited Activities.* Prohibited activities are -

- a. any activity that is otherwise prohibited by the Dedicatory Instruments;
- b. any illegal activity;
- c. any nuisance, noxious, or offensive activity;
- d. any dumping of rubbish;
- e. any storage of –
 - i. building materials except during the construction or renovation of a Residence or a Structure;
 - ii. vehicles, except vehicles in a garage or Structure or operable automobiles on a driveway; or
 - iii. unsightly objects unless completely shielded by a Structure;
- f. any exploration for or extraction of minerals;
- g. any keeping or raising of animals, livestock, or poultry, except for common domesticated household pets, such as dogs and cats, not to exceed 4 confined to a fenced yard or within the Residence;
- h. any commercial or professional activity except reasonable home office use;

- i. the drying of clothes in a manner that is visible from any street;
- j. the display of any sign except –
 - i. one not more than five square feet, advertising the Lot for sale or rent or advertising a garage or yard sale; and
 - ii. political signage not prohibited by law or the Dedicatory Instruments;
- k. installing a mobile home, manufactured home, manufactured housing, motor home, or house trailer on a Lot;
- l. moving a previously constructed house onto a Lot;
- m. interfering with a drainage pattern without ACC approval;
- n. hunting and shooting; and
- o. occupying a Structure that does not comply with the construction standards of a Residence.

D. Construction and Maintenance Standards

1. Lots

- a. *Subdivision Prohibited.* No Lot may be further subdivided.
- b. *Easements.* No easement in a Lot, other than those easements conveyed to the City of Burnet for a governmental purpose may be granted without ACC approval.
- c. *Maintenance.* Each Owner must keep the Lot, all landscaping, the Residence, and all Structures in a neat, well-maintained, and attractive condition.

2. Residences and Structures

- a. *Aesthetic Compatibility.* All Residences and Structures must be aesthetically compatible with the Subdivision, as determined by the ACC.
- b. *Maximum Height.* The maximum height of a Residence shall be one story not to exceed 25' at the peak.
- c. *Required Area.* The total area of a Residence must be at least 1,300 square feet and shall only be calculated from interior space, exclusive of porches, garages, or carports.

d. *Damaged or Destroyed Residences and Structures.* Any Residence or Structure that is damaged must be repaired within 30 days (or within a period approved by the ACC) and the Lot restored to a clean, orderly, and attractive condition. Any Residence or Structure that is damaged to the extent that repairs are not practicable must be demolished and removed within 60 days and the Lot restored to a clean and attractive condition.

3. *Building Materials for Residences and Structures*

a. *Roofs.* Only composite or non-reflective metal roofs may be used on Residences and Structures. All roof stacks must be painted to match the roof color. For the purposes of this Section, Galvalume is to be considered non-reflective.

Nothing herein shall be interpreted to prohibit or restrict a property owner who is otherwise authorized to install shingles on the roof of the owner's property from installing shingles that are (1) designed primarily to be wind and hail resistant, (2) provide heating and cooling efficiencies greater than those provided by customary composite shingles or (3) provide solar generation capabilities; and that, when installed: (A) resemble the shingles used or otherwise authorized for use on property in the subdivision; (B) are more durable than and are of equal or superior quality to the shingles used or otherwise authorized for use on property in the subdivision; and (C) match the aesthetics of the property surrounding the owner's property.

b. *Exterior Walls.* All Residences must have at least 50 percent of the front and side exterior walls made of stone, stucco or brick, minus windows and doors, unless otherwise approved by the ACC.

c. *Driveways and Sidewalks.* All driveways must have a concrete driveway, a minimum of eighteen (18) feet in width and shall be constructed from the structure of the residence to the public street and all sidewalks and driveways must be surfaced with concrete, unless otherwise approved by the ACC. Driveways and sidewalks may not be surfaced with dirt, gravel, shell, or crushed rock.

d. Single-family homes shall include a minimum of three (3) bedrooms and two (2) bathrooms.

e. Duplexes shall include a minimum of two (2) bedrooms and two (2) bathrooms.

f. Single-family homes shall include a minimum two-car garage or two-car covered carport.

- g. All primary structures shall include water heater, lighting, central heat and air-conditioning and other amenities designed to promote energy savings in accordance with federal, state and local codes and regulations.
- h. All primary structures shall have a roof pitch of 5:12 or greater.
- j. All primary structures shall have a minimum of two roof elevations.
- k. Front yards, including side yards of corner lots, must be sodded
- l. R-1 minimum lot width is 70' at building set back

E. Property Owners Association

1. *Establishment and Governance.* The filing of this Declaration establishes the Property Owners Association as an unincorporated nonprofit association that is governed by this Declaration and the Bylaws. The Property Owners Association has the powers of an unincorporated nonprofit association and a property owners association for the Subdivision under the Texas Business Organizations Code, the Texas Property Code, and the Dedicatory Instruments.

2. *Rules.* The Board may adopt rules that do not conflict with law or the other Dedicatory Instruments. On request, Owners will be provided a copy of any rules.

3. *Membership and Voting Rights.* Every Owner is a Member of the Property Owners Association. Membership is appurtenant to and may not be separated from ownership of a Lot. The Property Owners Association has two classes of voting Members:

a. *Class A.* Class A Members are all Owners, other than Declarant. Class A Members have one vote per Lot. When more than one person is an Owner, each is a Class A Member, but only one vote may be cast for a Lot.

b. *Class B.* The Class B Member is Declarant and has thirty two votes for each Lot owned as specified in the Bylaws. The Class B Membership ceases and converts to Class A Membership on the earlier of –

- i. when the Class A Members' votes exceed the total of Class B Member's votes
- ii. The Declarant assigns all rights and interest under this Agreement
- iii. The Declarant no longer owns any Lot or portions of a Lot

F. ACC

1. *Establishment*

- a. *Purpose.* The ACC is established as a committee of the Property Owners Association to assist the Property Owners Association in ensuring that all Residences, Structures, and landscaping within the Subdivision are aesthetically compatible and conform to the Dedicatory Instruments.
- b. *Members.* During the Declarant Control Period, the ACC consists of Declarant. Upon the expiration of the Declarant Control Period, the ACC consists of at least 3 persons appointed by the Board. The Board may remove or replace an ACC member at any time.
- c. *Term.* ACC members serve until replaced by the Board or they resign.
- d. *Standards.* Subject to Board approval, the ACC may adopt standards that are more restrictive and do not conflict with the other Dedicatory Instruments to carry out its purpose. The ACC may not adopt standards that are any less restrictive than those contained in the original Declaration. These standards are not effective unless recorded with the county clerk. On request, Owners will be provided a copy of any standards.

2. *Plan Review*

- a. *Required Review by ACC.* No Residence or Structure may be erected on any Lot, or the exterior altered, unless plans, specifications, and any other documents requested by the ACC have been submitted to and approved by the ACC. The plans and specifications must show exterior design, height, building materials, color scheme, location of the Residence and Structures depicted horizontally and vertically, and the general plan of landscaping, all in the form and detail the ACC may require.
- b. *Procedures*
 - i. *Complete Submission.* Within 14 days after the submission of plans and specifications by an Owner, the ACC must notify the submitting Owner of any other documents or information required by the ACC. In the absence of timely notice from the ACC requesting additional documents or other information, the submission is deemed complete.
 - ii. *Deemed Approval.* If the ACC fails to give notice of disapproval of the plans and specifications to the submitting Owner within 30 days after complete submission, the submitted plans and specifications are deemed approved.
- c. *Appeal.* An Owner may appeal any action of the ACC to the Board. The appealing Owner must give written notice of the appeal to the Board, and if the appeal is by an Owner who is not the submitting Owner, the appealing Owner

must also give written notice to the submitting Owner within 5 days after the ACC's action. The Board shall determine the appeal within 7 days after timely notice of appeal is given. The determination by the Board is final.

d. *Records.* The ACC will maintain written records of all requests submitted to it and of all actions taken. The Board will maintain written records of all appeals of ACC actions and all determinations made. Any Owner may inspect the records of the ACC and Board, but no Owner may inspect or copy the interior floor plan or security system design of any other Owner.

e. *No Liability.* The Property Owners Association, the Board, the ACC, and their members will not be liable to any person submitting requests for approval or to any Owner by reason of any action, failure to act, approval, disapproval, or failure to approve or disapprove any request.

f. *City of Burnet Right to Enforce.* There is herein provided in favor of the City of Burnet, as a third party beneficiary, the right to deny a permit or certificate of occupancy for Residences, Structures or Lots that do not conform with the Architectural Performance Standards which shall apply to the primary structure constructed upon any Lot within the Subdivision as required in Section 3.2 of the Chapter 380 Economic Development Agreement.

G. Assessments

1. *Authority.* The Property Owners Association may levy Assessments to promote the recreation, health, safety, and welfare of the residents in the Subdivision, to fund operating expenses of the Property Owners Association, and to improve and maintain the Common Areas. The Property Owners Association shall be responsible for mowing and landscaping of the right-of-ways not associated with a Lot, and the Detention and Water Quality Pond.

2. *Personal Obligation.* An Assessment is a personal obligation of each Owner when the Assessment accrues.

3. *Creation of Lien.* Assessments are secured by a continuing vendor's lien on each Lot, which lien is reserved by the Declarant and hereby assigned to the Property Owners Association. By acceptance of a deed to a Lot, each Owner grants the lien, together with the power of sale, to the Property Owners Association to secure Assessments.

4. *Commencement.* A Lot becomes subject to Assessments on conveyance of the Lot by Declarant.

5. Regular Assessments

a. *Rate.* Regular Assessments are levied by the Board, annually, to fund the anticipated operating and maintenance expenses of the Property Owners Association. Until changed by the Board, the Regular Assessment is \$100.00.

b. *Changes to Regular Assessments.* Regular Assessments may be changed annually by the Board. Written notice of the Regular Assessment will be sent to every Owner at least thirty days before its effective date.

c. *Collections.* Regular Assessments will be collected yearly in advance, payable on the first day of January of each year.

6. *Special Assessments.* In addition to the Regular Assessments, the Board may levy Special Assessments for the purpose of funding the cost of any construction, reconstruction, repair, or replacement of any capital improvement on the Common Area or for any other purpose benefitting the Subdivision but requiring funds exceeding those available from the Regular Assessments. Special Assessments must be approved by the Members. Written notice of the terms of the Special Assessment will be sent to every Owner.

7. *Approval of Special Assessments.* Any Special Assessment must be approved by a 2/3 vote at a meeting of the Members in accordance with the Bylaws.

8. *Fines.* The Board may levy a fine against an Owner for a violation of the Dedicatory Instruments as permitted by law.

9. *Subordination of Lien to Mortgages.* The lien granted and reserved to the Property Owners Association is subordinate to any lien granted by an Owner against a Lot not prohibited by the Texas Constitution. The foreclosure of a superior lien extinguishes the Property Owners Association's lien as to Assessments due before the foreclosure.

10. *Delinquent Assessments.* Any Assessment not paid within 14 days after it is due is delinquent.

H. Remedial Rights

1. *Late Charges and Interest.* A late charge of \$50.00 is assessed for delinquent payments. Delinquent Assessments accrue interest at the rate of 5 percent per year. The Board may change the late charge and the interest rate.

2. *Costs, Attorney's Fees, and Expenses.* If the Property Owners Association complies with all applicable notice requirements, an Owner is liable to the Property Owners Association for all costs and reasonable attorney's fees incurred by the Property Owners Association in collecting delinquent Assessments, foreclosing the Property Owners Association's lien, and enforcing the Dedicatory Instruments.

3. *Judicial Enforcement.* The Property Owners Association may bring an action against an Owner to collect delinquent Assessments, foreclose the Property Owners Association's lien, or enforce or enjoin a violation of the Dedicatory Instruments. An Owner may bring an action against another Owner to enforce or enjoin a violation of the Dedicatory Instruments.

4. *Remedy of Violations.* The Property Owners Association may levy a fine against an Owner for a violation of the Dedicatory Instruments.

5. *Suspension of Rights.* If an Owner violates the Dedicatory Instruments, the Property Owners Association may suspend the Owner's rights under the Dedicatory Instruments in accordance with law.

6. *Damage to Property.* An Owner is liable to the Property Owners Association for damage to Common Areas caused by the Owner or the Owner's family, guests, agents, independent contractors, and invitees in accordance with law.

I. Common Area

1. *Common Area Easements.* Each Owner has an easement in and to the Common Area, subject to the right of the Property Owners Association to -

a. charge reasonable admission and other fees for the use of recreational facilities situated on the Common Area, and if an Owner does not pay these fees, the Owner may not use the recreational facilities;

b. suspend an Owner's rights to use a Common Area under the Dedicatory Instruments;

c. grant an easement approved by the Board over the Common Area for utility, drainage, or other purposes; and

d. dedicate or convey any of the Common Area for public purposes, on approval by a vote of 2/3 of the Members at a meeting in accordance with the Bylaws.

2. *Permitted Users.* An Owner's right to use and enjoy the Common Area extends to the Owner's family, guests, agents, and invitees, subject to the Dedicatory Instruments.

3. *Unauthorized Improvements in Common Area.* An Owner may not erect or alter any Structure on, or clear, landscape, or disturb, any Common Area except as approved by the Board.

4. *Storm Water Retention/Detention Facility.* Upon conveyance of the Storm Water Retention/Detention Facility by Declarant to the Association, it shall be the sole obligation of the Association to maintain the Storm Water Retention/Detention Facility in accordance with all state, federal and/or municipal regulations and the Board may issue assessments to assure such maintenance. The duty to maintain shall bind and inures to the benefit of the Association and its heirs, successors and assigns.

J. General Provisions

1. *Term.* This Declaration runs with the land and is binding in perpetuity.
2. *No Waiver.* Failure by the Property Owners Association or an Owner to enforce the Dedicatory Instruments is not a waiver.
3. *Corrections.* The Board may correct typographical or grammatical errors, ambiguities, or inconsistencies contained in this Declaration, provided that any correction must not impair or affect a vested property right of any Owner.
4. *Amendment.* This Declaration may be amended at any time by vote of 67 percent of Owners entitled to vote on the amendment. An instrument containing the approved amendment will be signed by the Property Owners Association and recorded.
5. *Conflict.* This Declaration controls over the other Dedicatory Instruments.
6. *Severability.* If a provision of this Declaration is unenforceable for any reason, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability does not affect any other provision of this Declaration, and this Declaration is to be construed as if the unenforceable provision is not a part of the Declaration.
7. *Notices.* All notices must be in writing and must be given as required or permitted by the Dedicatory Instruments or by law. Notice by mail is deemed delivered (whether actually received or not) when properly deposited with the United States Postal Service, addressed (a) to a Member, at the Member's last known address according to the Property Owners Association's records, and (b) to the Property Owners Association, the Board, the ACC, or a managing agent at the Property Owners Association's principal office or another address designated in a notice to the Members. Unless otherwise required by law or the Dedicatory Instruments, actual notice, however delivered, is sufficient.
8. *Annexation of Additional Property.* On written approval of the Board and not less than 75 percent of the Members at a meeting in accordance with the Bylaws, the owner of any property who desires to subject the property to this Declaration may record an annexation agreement that will impose this Declaration and the Covenants on that property.

Langley Homes, Inc., a Texas corporation,

Wade Langley, Vice President

STATE OF TEXAS)

COUNTY OF BURNET)

This instrument was acknowledged before me on _____, 2017, by Wade Langley, as the Vice President of Langley Homes, Inc., a Texas corporation, on behalf of said corporation.

Notary Public, State of Texas

My commission expires: _____

After recording, please return to:
Law Office of Cody Henson, PLLC
205 S. Pierce St.
Burnet, TX 78611
Tel: (512) 756-4100
Fax: (512) 756-2900



Administration

ITEM 4.14

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

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Authorization to proceed with an Airport Access Agreement for Through-the-Fence Operations:
D. Vaughn

Background:

Information: Rick and Staci McGuire are currently building a simulator training office and are proposing to build a hangar on property next to Freedom Flyers on Hwy 281 South.

Fiscal Impact: Approximately \$2,500 per year in revenue plus fuel sales.

Recommendation: Staff recommends a motion to approve the through the fence agreement as presented.

BURNET MUNICIPAL AIRPORT AIRPORT ACCESS AGREEMENT

THIS AGREEMENT is made and entered into this 1st day of November, 2019, by and between Rick and Staci McGuire (referred to as the GRANTEE), and the City of Burnet (referred to as the GRANTOR), individually referred to herein as Party or collectively as Parties.

STATEMENT OF PURPOSE

WHEREAS, the GRANTOR is the owner of the real property on which is located the Burnet Municipal Airport – Kate Craddock Field (hereinafter referred to as the AIRPORT), and the GRANTEE owns real property which adjoins the AIRPORT, and

WHEREAS, the GRANTEE desires to acquire from the GRANTOR an access easement (hereinafter referred to as EASEMENT and attached as Exhibit “A” hereto) for the purpose of moving aircraft from the GRANTEE'S said real property to the runways, taxiways, and apron of the AIRPORT, and

WHEREAS, the GRANTOR agrees to provide access through the AIRPORT perimeter fence (hereinafter referred to as ACCESS-WAY) to the GRANTEE provided the GRANTEE agrees to comply with the terms and conditions hereinafter set forth regarding the GRANTEE'S use of the GRANTOR'S property.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, the Parties hereto agree as follows:

1. USE. GRANTEE shall solely use the premises for which access is requested for direct commercial aviation related activities, including, but not limited to, aircraft base, aircraft storage, flight school/training, minor aircraft maintenance only on aircraft housed in the hangar, and/or office space related to aviation. No fixed based

or fuel sales operations are permitted unless authorized by separate AGREEMENT. The uses permitted herein are subject to rules and regulations of the GRANTOR adopted from time to time. Prior to any other use, GRANTEE shall first secure the written consent of GRANTOR.

2. EASEMENT. Subject to the terms and conditions hereinafter set forth, GRANTOR hereby grants and conveys unto GRANTEE, a non-transferable EASEMENT for constructing, locating and maintaining an ACCESS-WAY for aircraft to and from GRANTEE'S property and the runway and taxiways of the AIRPORT to use the AIRPORT for takeoffs, landings and ground maneuvering of their aircraft. This AGREEMENT shall not be transferrable without the written consent of the GRANTOR. Only aircraft, vehicles towing or intending to tow aircraft, airport authority, security, or emergency vehicles shall be permitted to use a through-the-fence (TTF) ACCESS-WAY. If a survey is required to establish the EASEMENT, GRANTEE will bear the cost of said survey.
3. CONSTRUCTION. A site plan which includes the GRANTEE'S tract of land, proposed construction, the location of the EASEMENT, the ACCESS-WAY and other facilities or improvements planned for the site is attached hereto as "Exhibit" B and made a part hereof. GRANTEE shall, at its expense, grade the real property located in the vicinity of the EASEMENT and construct paving within the EASEMENT in order to provide a paved ACCESS-WAY from GRANTEE'S property that physically joins or connects to the paved taxiway on the AIRPORT shown on the site plan attached hereto as Exhibit "B". Construction plans for the improvements to ACCESS-WAY and EASEMENT shall be approved by the GRANTOR and the ACCESS-WAY shall be constructed and maintained at the sole expense of the GRANTEE. This additional pavement shall be used for ingress and egress only and shall not be used as a parking or storage area.

Any proposed improvements must be approved by GRANTOR prior to construction. Nothing shall be constructed on the GRANTEE'S property or EASEMENT that creates a safety hazard for the AIRPORT. GRANTEE'S improved pavement in the protected area of GRANTEE'S property and EASEMENT, as defined herein, shall be of the same construction standards as similar facilities built on the AIRPORT property within the last ten (10) years. The GRANTEE is responsible for

maintenance of all improvements, ACCESS-WAY and EASEMENT, including that constructed on AIRPORT property but not for any common public use sections on the AIRPORT. GRANTEE shall be responsible for installing fencing that connects the ACCESS-WAY location to the existing fencing. The ACCESS-WAY opening, in the perimeter fence, shall be no larger in width than sixty (60) feet without written permission from the GRANTOR, and shall include a gate which, unless otherwise approved in writing by the GRANTOR, shall be constructed in a manner substantially similar to that shown on the attached Exhibit "C" and shall be not less than eight (8) feet in height or the same height as similarly erected around the perimeter of the AIRPORT whichever is higher. The gate must be equipped with a working automatic gate opener/closer at all times. Costs for any improvements to, or replacement of, the adjoining fences that are required due to the installation of the gate will be paid by the GRANTEE. GRANTOR shall approve the proposed fence and gate design prior to installation. GRANTEE shall be responsible for any damage to utility lines during construction and use of the EASEMENT. GRANTOR may require casing of utility lines, at GRANTEE'S expense, to protect them from damage either during construction or use.

GRANTEE shall erect a fence around the perimeter of the GRANTEE'S protected aircraft area ("Protected Area"), as provided for herein, sufficient to keep wildlife from being able to enter the taxiway during the times that the ACCESS-WAY gate is open. The fence securing the Protected Area must be a minimum of eight (8) feet tall and constructed of chain link, game fence, or other materials approved by GRANTOR. GRANTEE shall designate a Protected Area on GRANTEE'S property which shall restrict vehicular traffic except during loading or offloading materials and supplies or during special events that require temporary vehicular access. Such Protected Area shall be accessible to aircraft only through the ACCESS-WAY and shall be shown and designated on the site plan attached as Exhibit "B". GRANTEE shall provide signage on GRANTEE'S property designating such as a Protected Area, shall provide a fence, building, or other protective structure, as approved by the GRANTOR, between such Protected Area and areas used by vehicles, shall limit the use of said Protected Area to aircraft related activities only, and shall adopt and enforce rules and regulations relating to the use thereof.

Any openings between the non-protected areas and the Protected Area must be gated and locked except during ingress and egress and must be monitored at all times whenever open. Unless otherwise approved in writing by GRANTOR, openings between the non-protected areas and the Protected Area are restricted to one lockable pedestrian gate no more than sixty (60) inches wide, and one gate lockable for vehicular access no more than twenty (20) feet wide. Gates will be locked except during ingress and egress. Anytime the gates between the non-protected areas and the Protected Area are open, the gate to the ACCESS-WAY shall be closed. All fences shall be constructed so as to prevent unauthorized access.

The taxiway, other AIRPORT property, or private property adjoining the GRANTEE'S property shall not be used to access the protected area with automobiles or non-aircraft vehicles, with the exception of vehicles towing or intending to tow aircraft, airport authority, security, and emergency vehicles. Where vehicles are necessary for repair or maintenance of the facility, GRANTEE may request, in writing, a temporary waiver allowing access to the Protected Area from the AIRPORT property.

GRANTEE shall maintain security measures in accordance with present and future city, state or federal regulations as may be adopted. Each aircraft accessing the TTF is responsible for the safety and security of the ACCESS-WAY. When entering or leaving the AIRPORT property, the pilot in command (PIC) or vehicle operator will visually insure the ACCESS-WAY gate is properly closed before proceeding. Individuals granting unauthorized access to the TTF are responsible for any fees (if applicable) or damage to AIRPORT property resulting from the unauthorized access. The ACCESS-WAY gate shall be closed when not in use.

GRANTEE agrees that all construction in the ACCESS-WAY, the EASEMENT, and on private property will meet all applicable city, state and federal building codes, ordinances, rules and regulations including, but not limited to, the Lower Colorado River Authority, the Texas Commission on Environmental Quality, the Environmental Protection Agency, the Federal Aviation Administration, the City of Burnet codes and ordinances, and the Texas Department of Transportation. GRANTEE will comply with such other restrictions, including federal airspace height

restrictions, and the location or height of structures or other buildings on GRANTEE'S property due to the use of any existing or future navigational and directional landing assistance systems utilized by the AIRPORT. Construction methods, materials, and restrictions shall apply as though the structure(s) were being built on the AIRPORT property and as approved by the GRANTOR. Height hazard restrictions shall apply in accordance with the City of Burnet Code of Ordinances. GRANTEE shall maintain the private property in a neat and orderly manner similarly to what is required of properties on AIRPORT property.

Unless otherwise authorized in writing, GRANTEE shall obtain a building permit from the GRANTOR no later than six (6) months after the execution of this AGREEMENT and construction of the improvements shown on the site plan labeled Exhibit "B" attached hereto shall be completed no later than eighteen (18) months after issuance of the building permit. If these timelines are not met, GRANTOR may automatically void this AGREEMENT without cure. No use of the ACCESS-WAY shall occur until the Protected Area is completed.

GRANTEE shall ensure AIRPORT operations shall not be disrupted during construction to improvements, to the property, ACCESS-WAY or EASEMENT.

GRANTEE expressly agrees to pay any and all costs for the construction of improvements associated with this AGREEMENT. These costs are in addition to the EASEMENT fees described herein.

4. CONDITIONS OF USE. GRANTEE agrees that the use of said EASEMENT and ACCESS-WAY shall be subject to the following terms and conditions:
 - A. During the term of this AGREEMENT, GRANTOR agrees that GRANTEE shall have access to the runways and taxiways either currently in existence or in the future, on the AIRPORT to the same extent that other similarly situated parties may have use thereof, subject to reasonable rules and regulations and non-discriminatory charges that may be imposed for use of the AIRPORT facilities by the GRANTOR, the Texas Department of Transportation (TxDot), the Federal Aviation Administration (FAA), or any other governmental entity having jurisdiction or control over the use of such AIRPORT facility. To assure the health

and safety of AIRPORT users, access may be restricted or denied during GRANTOR approved events or activities, during construction at the AIRPORT, or in emergencies.

GRANTEE understands that significant construction work could be necessary in the future for AIRPORT improvements and/or maintenance which could significantly interfere with GRANTEE'S use of the ACCESS-WAY and AIRPORT property. During construction, access from GRANTEE'S property to the AIRPORT property may be restricted or denied. GRANTOR is not liable for any loss of revenue due to the lack of access to the AIRPORT and GRANTOR is not responsible for providing alternative access or property for use by GRANTEE.

- B. GRANTEE will abide by this AGREEMENT, all ordinances, rules and regulations relating to the operation and regulation of the AIRPORT now in effect or hereafter adopted by the GRANTOR or the duly appointed representative of GRANTOR.
- C. GRANTEE acknowledges that certain restrictions exist for all GRANTEE'S property within 20,000 feet of the AIRPORT'S closest runway edge. These restrictions are irrevocably tied to the property as long as the AIRPORT exists as a public use facility. These restrictions include, but are not limited to, no outdoor firearms discharges, laser or other high intensity light shows, no tethered or free balloon, kite, or model aircraft operations or any other temporary vertical obstacle or firework displays higher than fifty (50) feet above ground level or the requirements of City of Burnet height hazard zoning ordinance, Federal Aviation Regulation (FAR) part 77, Terminal Procedures (TERPS) FAA Order 8260.3, or Advisory Circular 150/5200-13, whichever is more restrictive.
- D. GRANTEE shall adhere to all local, state and federal regulations regarding Through-the-Fence operations.
- E. GRANTEE shall maintain, for the term of the AGREEMENT, on GRANTEE'S property, improvements as shown and designated on the site plan attached as Exhibit "B" unless otherwise authorized in writing by the GRANTOR.

- F. GRANTEE shall submit required documentation to the appropriate officials of the Federal Aviation Administration (FAA) or TXDot as may be required, on the appropriate form(s), of GRANTEE'S plans and intent to commence construction prior to commencing the construction of any structures or buildings as required by law.
- G. Unless authorized in writing by the GRANTOR, GRANTEE shall not engage in any commercial activity that would compete or conflict with any operation which is reserved exclusively for the GRANTOR including, but not limited to, the sale of fuel, aircraft repairs and fixed based operations.
- H. GRANTEE shall obtain, and keep in effect, a policy of general liability insurance through an insurance company with a "Best" rating of "A" or greater against claims for personal injury, death or property damage occurring upon, in or about the GRANTEE'S property, such insurance to afford protection to the limit of not less than One Million and no/100 Dollars (\$1,000,000.00) in respect to injury or death to any one person to the limit of not less than One Hundred Thousand and no/100 Dollars (\$100,000.00) in respect to any one occurrence. GRANTOR shall not be responsible for GRANTEE'S failure to maintain adequate insurance coverage on property belonging to GRANTEE or the failure of GRANTEE'S employees, affiliates or invitees to maintain such adequate insurance coverage. GRANTEE agrees to indemnify and hold harmless GRANTOR against any claims, demands, actions, liens, rights, subrogated or contribution interests, debts, liabilities, judgments, costs, and attorney's fees arising out of this AGREEMENT, and shall provide the GRANTOR with copies of liability insurance as stated herein annually or more often upon request.
- I. Access to the AIRPORT through this AGREEMENT shall not include additional property that GRANTEE may acquire along the taxiway including, but not limited to, property immediately adjoining the property shown on Exhibit "B".
5. TERM. The term of this AGREEMENT shall begin on the effective date of this AGREEMENT and shall continue for twenty (20) years (INITIAL TERM). If an additional 10-year term (SECOND TERM) is desired by GRANTEE, GRANTEE shall submit a written request to GRANTOR not earlier than November 1, 2038 nor

later than September 1, 2039. In the event a request for a SECOND TERM is submitted, the Parties agree to negotiate in good faith for the SECOND TERM. In any case, this AGREEMENT shall not be longer than one INITIAL TERM and one SECOND TERM.

Unless otherwise provided for in writing, the failure to execute a SECOND TERM AGREEMENT by the termination date of the INITIAL TERM shall terminate this AGREEMENT at which time GRANTOR shall suspend or terminate access by whatever means necessary to prevent access to the AIRPORT. Upon termination of this AGREEMENT, and at the discretion of the GRANTOR, GRANTEE shall replace the ACCESS-WAY gate with a fence as may be required by regulations and restrictions in effect at the time of termination.

6. CONSIDERATION. GRANTEE agrees to pay GRANTOR a fee for the use of the EASEMENT herein granted in the amount of \$2,592.00 annually which shall consist of \$1,454.40 for 8,080 square feet of structures and other improved apron square footage at eighteen (18) cents per square foot, and \$1,137.60 for 12,640 square feet of unimproved space at nine (9) cents per square foot, within the Protected Area. In the event GRANTEE improves the currently unimproved space within the Protected Area, GRANTEE shall pay an additional nine (9) cents per square foot for the additionally improved space, per annum. Should the unimproved space within the Protected Area be reduced, lease fee shall be adjusted by a decrease of nine (9) cents per square foot for each square foot of reduction. For purposes of this section, "improves" shall mean addition of impervious cover including but not limited to, structures, paving, gravel, or other means that will provide for use of the space by the GRANTEE. With the exception of special events, GRANTEE shall not use unimproved property for the storage of aircraft or other aviation related activities. The initial EASEMENT fee payment shall be paid to the GRANTOR on, or prior to, the effective date of this AGREEMENT. Subsequent annual fees shall be paid by the annual due date for use of the EASEMENT for the following year. The annual due date shall occur on the anniversary of the effective date the AGREEMENT. GRANTOR reserves the right to review and amend the EASEMENT fee every five (5) years based on the market value of airport leases, ground leases or other commercial TTF operations at the time of the review, except that in no case shall the EASEMENT fee decrease. The GRANTEE shall pay a late fee of \$25.00

per day for each day the annual fee remains unpaid past the due date, and is subject to losing the right to access the AIRPORT until the yearly fee and any late fees are paid in full, except that failure to pay the yearly fee and any late fees for a period of more than thirty (30) days shall be considered a violation of this AGREEMENT and shall be subject to termination.

7. ABANDONMENT/DEGRADATION/CASUALTY. Should the GRANTEE'S property cease to be used for purpose, be used for unauthorized purposes, change owners or operator except as provided for herein, be abandoned by the GRANTEE, GRANTEE files bankruptcy, dissolves or forfeits its corporate charter, or GRANTEE fails to adhere to the terms of this AGREEMENT, GRANTOR shall have the authority to suspend or terminate this AGREEMENT and to revoke the EASEMENT granted herein, except that GRANTEE shall have the opportunity to cure as provided for herein.

In the event the GRANTEE'S property is wholly or substantially destroyed or deemed to be rendered unfit for occupancy by fire, degradation, or casualty, this AGREEMENT may be terminated by either Party, in which case, access to AIRPORT property shall immediately terminate and this AGREEMENT, and all rights thereto, shall terminate.

For purposes of this section, GRANTEE is presumed to have abandoned the GRANTEE'S premises when, including but not limited to, the utilities have been disconnected, goods or equipment, in an amount substantial enough to indicate a probable intent to abandon the premises, is being or has been removed from the premises and the removal is not within the normal course of GRANTEE'S business, or GRANTEE ceases to use the property for the use described herein for more than thirty (30) days. In order to determine whether the property is being used for purpose, GRANTOR may use the records of the Burnet Central Appraisal District, among others, to determine whether or not personal property exists on the property or is of a nature that indicates the use of the property is in compliance with the use stated herein. GRANTOR may further request that GRANTEE submit reasonable financial or operational documentation to GRANTOR to substantiate use of the property.

Upon written notification to the GRANTOR by GRANTEE that the GRANTEE'S premises is under repair or renovation and therefore is unoccupied or utilities have been disconnected temporarily, GRANTOR shall provide a temporary exception to this section. This temporary exception shall not exceed thirty (30) days without the written consent of GRANTOR.

In the event any required authorization, permit or license is denied, revoked, withdrawn or withheld for any reason, GRANTEE shall be considered to be out of compliance with this AGREEMENT and the AGREEMENT is subject to termination, except that GRANTEE shall have the opportunity to cure as provided for herein.

8. SUBORDINATION. This AGREEMENT shall be non-exclusive and shall at all times be subordinate to the provisions of any existing or future agreements between the GRANTOR and the State of Texas and/or the United States Government, or to any order issued by the State of Texas or the United States Government, or to any grant assurances of the AIRPORT, or to any of the AIRPORT's or the GRANTOR'S Federal or State obligations. GRANTEE agrees to abide by the AIRPORT rules and regulations in effect as of the date of this AGREEMENT and as may be amended from time to time.

9. TERMINATION. In the event of a violation of this AGREEMENT, any ordinance, rule or regulation relating to the operation of the AIRPORT, or in the event activities or actions of the GRANTEE causes a potentially hazardous condition, GRANTOR shall provide GRANTEE written notice thereof and GRANTEE shall have ten (10) working days following receipt of said written notice within which to cure such violation. If any such violation is not cured within ten (10) days, GRANTOR shall have the right to suspend GRANTEE'S right to the use of the EASEMENT hereinabove described until such violation is cured. Notwithstanding the foregoing, in the event a violation of any ordinance, rule or regulation by GRANTEE creates an emergency situation or constitutes an eminent danger or hazard to the use and operation of the AIRPORT, GRANTOR shall have the right to immediately take such measures as may be reasonably necessary to cure such violation and/or to immediately suspend GRANTEE'S right to the use of the EASEMENT and/or ACCESS-WAY herein described.

In the event GRANTEE fails to cure any such violation within thirty (30) days, GRANTEE shall be considered in violation of this AGREEMENT and GRANTOR shall have the right to terminate this AGREEMENT.

10. NOTICES. Notices to GRANTEE shall be by certified mail, courier, or other delivery method to the GRANTEE at the address below, or such other address as given by GRANTEE to GRANTOR in writing. Notices to either Party shall be by certified mail to the address as noted herein or as may (with notification to all Parties) be changed from time to time. Notice to GRANTEE shall be considered to have been duly received either upon the signature of the receiving Party or the expiration of ten (10) calendar days from the date mailed, posted or picked up by a courier for that purpose, whichever comes first.

GRANTOR:
City of Burnet
Att: City Manager
P.O. Box 1369
Burnet, TX 78611
(1001 Buchanan Drive, Suite 4)

GRANTEE:
Rick and Staci McGuire
714 Main Street
Liberty, Texas 77575

11. WAIVER OF BREACH. The waiver by GRANTOR of any breach of any provision of this AGREEMENT shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or a different provision of this AGREEMENT.
12. MEDIATION. If a dispute arises out of or relates to this AGREEMENT or the breach thereof, the Parties in dispute shall first in good faith seek to resolve the dispute through negotiation between the upper management of each respective Party. If such dispute cannot be settled through negotiation, the Parties in dispute agree to try in good faith to settle the dispute by mediation under the Mediation Rules of the American Arbitration Association, in Burnet, Texas, before resorting to litigation; provided that a Party may not invoke mediation unless it has provided the other Party in dispute with written notice of the dispute and has attempted in good faith to resolve such dispute through negotiation. Notwithstanding the foregoing, any Party may seek immediate equitable relief, without attempting to settle a dispute through mediation, in any case where such Party is entitled to equitable relief by law, the terms of the AGREEMENT, or otherwise. All costs of negotiation, mediation shall

be assessed equally between the Parties with each Party bearing their own costs for attorneys' fees, experts, and other costs of mediation.

13. RIGHTS AND REMEDIES CUMULATIVE. The rights and remedies by this AGREEMENT are cumulative and the use of any one right or remedy by either Party shall not preclude or waive its right to use any or all other remedies. Said rights and remedies are given in addition to any other rights the Parties may have by law, statute, ordinance, or otherwise.
14. AIRPORT OPERATIONS CONTINUANCE. This AGREEMENT shall be null and void in the event GRANTOR ceases operations of the AIRPORT for any reason including, but not limited to, non-appropriation, the Burnet City Council electing to cease operations of the AIRPORT, the ownership of the AIRPORT is transferred to another Party, or the AIRPORT is moved to another location. For purposes of this section, non-appropriation shall mean that no funds or insufficient funds are appropriated or budgeted by the City Council for the operation of the AIRPORT by the GRANTOR. GRANTOR will immediately notify the GRANTEE of any such occurrence and this AGREEMENT shall terminate without penalty or expense to GRANTOR of any kind whatsoever.
15. TEXAS LAW TO APPLY. This AGREEMENT shall be construed under and in accordance with the laws of the State of Texas. Venue shall lie and be exclusively in Burnet County, Texas.
16. LEGAL CONSTRUCTION. In case any one or more of the provisions contained in this AGREEMENT shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this AGREEMENT shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
17. PRIOR AGREEMENTS SUPERSEDED. This AGREEMENT constitutes the sole and only AGREEMENT of the Parties to this AGREEMENT and supersedes any prior understandings or written or oral AGREEMENTS between the Parties respecting the subject matter of this AGREEMENT.

18. AMENDMENT. No amendment, modification, or alteration of the terms hereof shall be binding unless it is in writing, dated subsequent to the date hereof, and duly executed by the Parties.

19. ATTORNEY'S FEES. Any signatory to this AGREEMENT who is the prevailing Party in any legal proceeding against any other signatory brought under or with relation to this AGREEMENT or this transaction shall be additionally entitled to recover court costs, reasonable attorney fees, and all other out-of-pocket costs of litigation, including deposition, travel and witness costs, from the non-prevailing Party.

20. TIMELINESS OF EXECUTION. GRANTEE shall execute this AGREEMENT within thirty (30) days of approval by the City Council or this AGREEMENT shall be void.

21. EFFECTIVE DATE: This AGREEMENT shall become effective on the earlier of November 1, 2019, or immediately upon use of the easement by GRANTEE.

IN WITNESS WHEREOF, the Parties hereto have set their hands and seals as of the date first above written.

GRANTEE:
Rick and Staci McGuire

GRANTOR:
City of Burnet

Rick McGuire

Crista Goble Bromley

Staci McGuire

Mayor
Title

Date: _____

Date: _____

Exhibit "A"

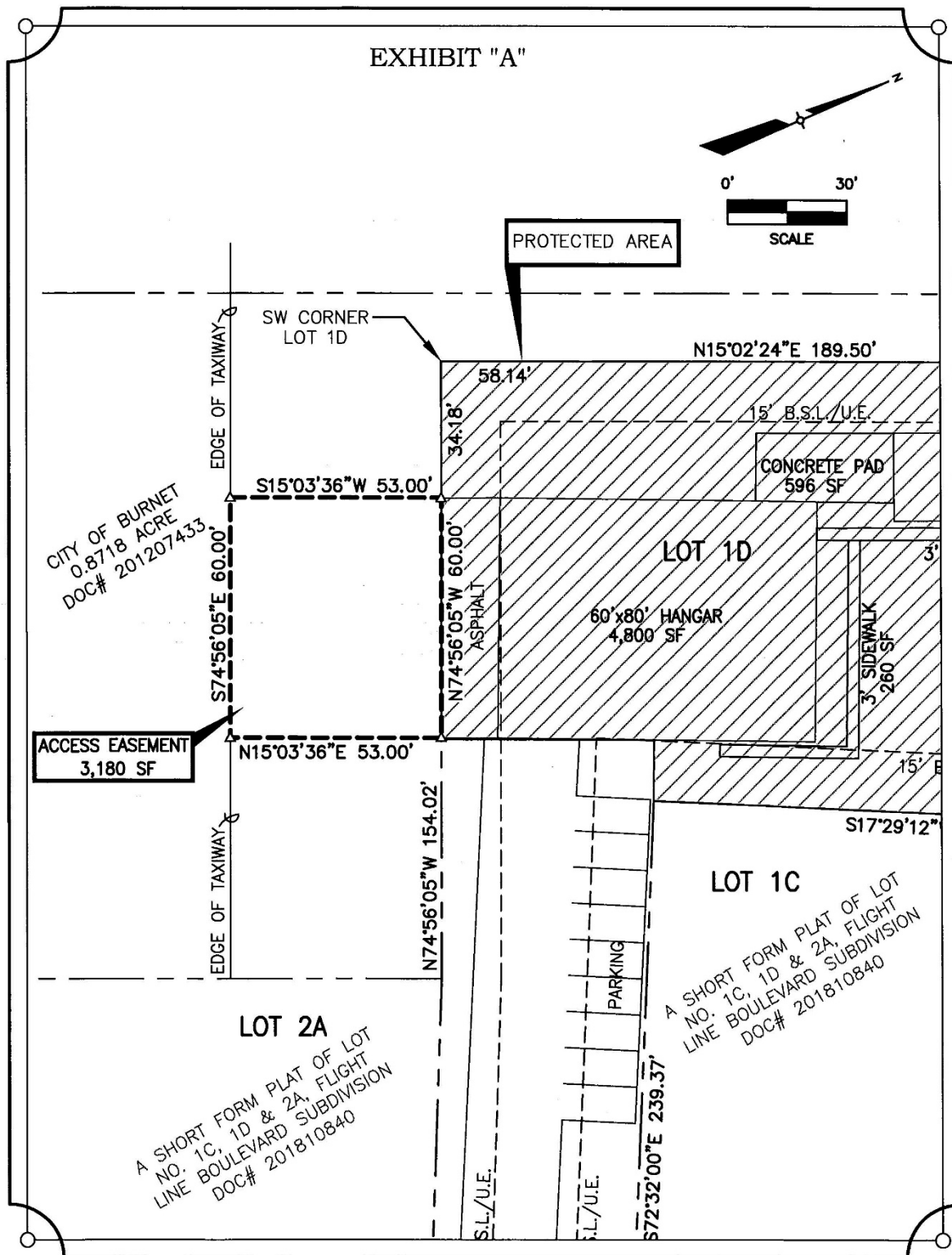
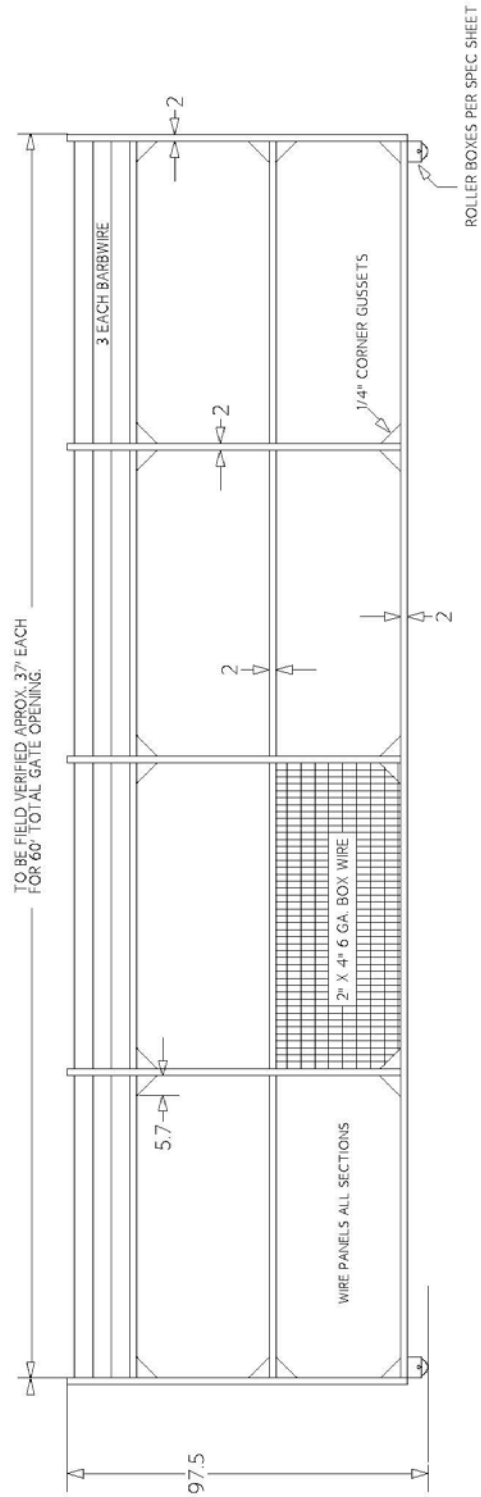
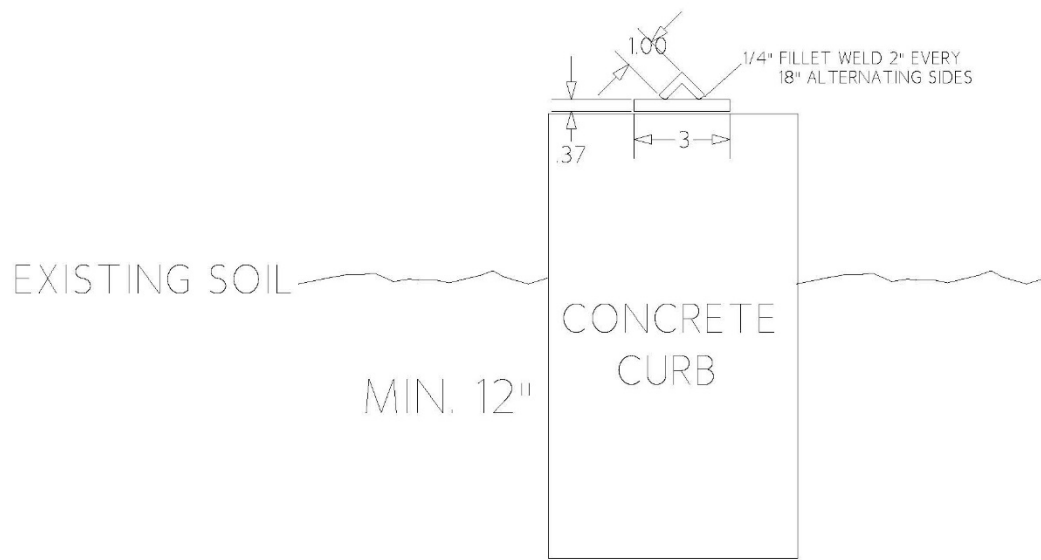




Exhibit “C”





TRACK DETAIL

Proposed Specifications McGuire Burnet Municipal Airport Gate

"V" Groove Roller Style Gate System

1. All materials to be hot dipped steel, to match existing airport perimeter gateways.
2. Framing for gate to be 2" square tube minimum, 11ga wall minimum.
3. Wire panel to be 2" x 4" box wire 6 ga.
4. V rollers to be heavy duty, needle bearing style.
5. V tracks will be 1" x 1" x 1/4" angle iron anchored to concrete apron 24" on center with 3/8" diameter by 4" expanding concrete anchors.
6. All fence post & roller support post will 3" schedule 40 pipe galvanized pipe set a minimum of 36" into ground.
7. All concrete curbs for V track in open position will be minimum 12" in ground & 8" wide, all other track will be supported by concrete apron. (See attached drawing)

Gate Operator Specifications

1. Proposed slide gate operator to be two each;
LiftMaster Model CSL 24UL Sliding Gate Opener (UL325 compliant)
2. Gate operator equipment will be anchored mounted to concrete pads, formed and pour with V track curb. (See attached drawing)
3. Gate operator equipment will be installed to all safety standards that apply.



Airport

ITEM 4.15

Leslie Baugh
Airport Manager
lbaugh@cityofburnet.com

Agenda Item Brief

Meeting Date: July 23, 2019

Agenda Item: Discuss and consider action: Authorization to proceed with temporary food vendor park located at Burnet Municipal Airport: L. Baugh

Background: At the regular City Council meeting June 6, 2019, Airport Manager, Leslie Baugh presented a possible future food vendor court located at the Burnet Municipal Airport.

Information: Currently we have several food vendors that are interested in relocating to the Burnet Municipal Airport to kick start the food vendor court including but not limited to: Krab Kingz Seafood of Louisiana, Chick-fil-A of the Highland Lakes, Dian's Char Grilled Hamburgers of Burnet, Potato Haus of Burnet and Tacos Amigos of Marble Falls.

Fiscal Impact: To be determined.

Recommendation: Staff recommends authorization to proceed with temporary food vendor park located at the Burnet Municipal Airport.