

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 **25th day of May, 2021** 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.

The following subjects will be discussed, to-wit:

CALL TO ORDER:

ROLL CALL:

INVOCATION:

PLEDGE OF ALLEGIANCE:

PLEDGE TO TEXAS FLAG:

1. SPECIAL REPORTS/RECOGNITION:

- 1.1) Proclamation: LaCare: Mayor Bromley
- 1.2) April 2021 Financial Report: P. Langford

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 May 11, 2021 Regular City Council Meeting minutes

2.2) Approval of the May 19, 2021 City Council Budget Workshop minutes

3. PUBLIC HEARING:

3.1) Public Hearing: City Council will receive testimony and comments from members of the public on an ordinance amending City of Burnet Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-61 (entitled "construction plans"): H. Erkan

3.2) Public Hearing: The City council shall conduct a public hearing to receive public testimony and comments on the merits of an amendment to the Zoning Code for the purpose of amending the Code of Ordinances Section 118-74 (entitled "Board of Adjustment): H. Erkan

3.3) Public Hearing: City Council shall conduct a public hearing to receive public testimony and comments on the merits of an amendment to the Zoning Code for the purpose of authorizing boat and recreational vehicle sales, service, and storage in the Heavy Commercial – District "C-3": H. Erkan

4. ACTION ITEMS:

4.1) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 1801 E POLK ST (LEGAL DESCRIPTION: ABS A1525 SARAH ANN GUEST, 5.778 ACRE TRACT) WITH MEDIUM COMMERCIAL – DISTRICT "C-2" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: L. Kimbler

4.2) Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 2551 W HWY 29 (LEGAL DESCRIPTION: ABS A0405 JOHN HAMILTON, TRACT 26, 4.0805 ACRES) WITH HEAVY COMMERCIAL – DISTRICT "C-3" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: L. Kimbler

4.3) Discuss and consider action: Appointment of members to the Burnet Planning and Zoning Commission: K. Dix

4.4) Discuss and consider action: Authorization for the City Manager to execute a three year agreement with iWorQ Systems, Inc. for applications and services and Public Works1 for asset and data tracking services: G. Courtney

4.5) Discuss and consider action: Authorize the City Manager to execute a purchase

contract for a Subsite Camera System/2018 High Cube E450 Box Van: A. Burdell

4.6) Discuss and consider action: Authorization for the City Manager to proceed with acquisition of loan funding for relocation of City Hall and other proposed projects: D. Vaughn

4.7) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING PERSONNEL POLICIES 3.01 EQUAL EMPLOYMENT OPPORTUNITY, 8.10 LEAVE OF ABSENCE, 7.04 WORKMAN'S COMPENSATION PROGRAM, ADDING PERSONNEL POLICIES 1.08 AMERICANS WITH DISABILITIES ACT. 8.16 HEALTH/MEDICAL EXAMINATIONS/FITNESS FOR DUTY, 10.06 MODIFIED DUTY ASSIGNMENTS, AND REMOVING PERSONNEL POLICIES 8.05 INJURY LEAVE AND 10.04 ON THE JOB INJURIES BY UPDATING AND CLARIFYING POLICY REQUIREMENTS: K. Sames

4.8) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS ACCEPTING A PETITION FOR ANNEXATION OF 75.87 ACRES OF REAL PROPERTY LOCATE WEST OF THE CITY LIMITS AND SOUTH OF TEXAS HWY 29; AND AUTHORIZING THE INITIATION OF PROCEEDINGS TO ANNEX THE REAL PROPERTY: H. Erkan

4.9) Discuss and Consider: FIRST READING OF AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") SECTION 118-61 (ENTITLED "CONSTRUCTION PLANS"); PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan

4.10) Discuss and Consider: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET AMENDING THE CODE OF ORDINANCES SECTION 118-74 (ENTITLED "BOARD OF ADJUSTMENT") BY CODIFYING THE BOARD OF ADJUSTMENT' S COMPOSITION; TERM; AND SCOPE OF AUTHORITY PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan

4.11) Discuss and Consider: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF AUTHORIZING BOAT AND RECREATIONAL VEHICLE SALES, SERVICE AND STORAGE IN THE HEAVY COMMERCIAL - DISTRICT "C-3"; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan

4.12) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS APPROVING A LEASE OF AN AIRPORT HANGAR OFFICE SPACE TO TRES CLINTON DBA AS C3 AIR LLC AND AUTHORIZING MAYOR TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY: H. Erkan

4.13) Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A REAL ESTATE CONTRACT WITH DELAWARE SPRINGS RANCH INVESTMENTS LLC, FOR THE SALE OF APPROXIMATELY 42 ACRES OF CITY LAND LOCATED WEST OF THE BURNET MUNICIPAL GOLF COURSE; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY: H. Erkan

5. EXECUTIVE SESSION:

5.1) Executive Session: Pursuant to Texas Government Code Sec. 551.072 the City Council of the City of Burnet shall convene in executive session to deliberate on the value of real property and related issues: D. Vaughn

6. RECONVENE TO REGULAR SESSION FOR POSSIBLE ACTION:

6.1) Discuss and consider action: On the value of real property and related issues: D. Vaughn

6.2) 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

7. REQUESTS FROM COUNCIL FOR FUTURE REPORTS: In accordance with Resolution R2020-28 councilmembers may request the City Manager to prepare and present future report on matters of public interest.

8. ADJOURN:

Dated this the 21st day of May, 2021

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 May 21, 2021 at or before 6 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

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).

AGENDA SCHEDULE May 25, 2021 Regular Council Meeting

Added	Backup	Req. By	Description	Туре
		City Sec.	Minutes 5-11-2021 RM	А
			Minutes 5-19-2021 Budget Workshop	A
			Appoint Planning and Zoning Board Members Workshop-Trash contract 5:30 p.m.	A
		ACM/Dev.	Rezone 1801 E2 nd reading of Ord	А
		Serv.	Rezone 2551 W. Hwy 29- 2 nd reading of Ord.	A
			Ethics Ord Update-1 st reading	A
			Hangar Contract-Tres Clinton	A
			Jordan Shipley Land Purchase contract	A
			BOA Comprehensive Re-write-1 st reading of Ord.	A
			Amend Chapt. 118-20 zoning dist. & regs-1 st Reading	A
			Amend Chapt. 118-61 Construction plans-1 st reading	A
			Amend Chapt. 118-74 BOA-1 st reading	A
		СМ	Executive Session-Bealls Building purchase	
		PW	Iworks software purchase	A
		Airport		
		FD/PD		
		Finance	April Financial Report	R
		Pending	Atmos Energy Franchise	
			PEC Franchise Agreement (being reviewed by PEC)	
			YMCA-February & August Reports	
			ACDI- Qrtly. Feb, May, Aug, Nov	
			Building & Code Qrtly. Feb, May, Aug, Nov	
			Ethics Ordinance	
			Tree Ordinance	
			Heritage Society Easment (title Ins. process)- pending	
			request title report	
			Shell Easment (Shell's reviewing revisions)	
			Chapter 18 Aviation Ordinance	
			Chapter 2 Code-Habib	
			Wukash (re-drafting)-David	
			Warranty & Quit Claim Deed-Easement Swap-Big Leaf	
			(pending survey) Track 11	
			Peppermill Acceptance Resolution (Indefinite Hold)	
			Shady Grove 7 Acceptance Resolution (Indefinite Hold)	
			1 st reading Ord. Amend-Board of Adjustments	
			ATS Addendum Contract-Permit fees-Habib will check	
			Aviation Easement	
			Impact Fee Ord- 1 st reading	
			Master Meter Ord- 1 st reading	
			Sewer Reimbursement Policy	
			Utility disconnection Ord.update	
			PD Reserve Ordinance	
			Water Agreement	
			ALP Resolution	
	:	:	Trash Contract	





OF THE MAYOR AND CITY COUNCIL FOR THE CITY OF BURNET

Whereas, On April 16, 1985, The Burnet Presbyterian Church, First United Methodist Church of Burnet, St. Paul's Episcopal Church of Burnet County, and First Christian Church of Burnet formed a joint ministry of care and compassion, seeking to serve Christ by serving those in need of help in our area; and

Whereas, the mission of LACare was established to coordinate the resources of its member churches and other groups, seeking to make the difference in our communities and assist those individuals and families in need of basic human services to include food, financial assistance, fuel, and other forms of temporary help, and

Whereas, within a short time, LACare found space at 313 S. Main Street in Burnet (the Old Masonic Hall); added Christ is the Light Fellowship Church, Our Mother of Sorrows Catholic Church, and First Union Church of Buchanan Dam as members; recruited volunteers; received donations of office equipment and food; and opened its doors to the community on June 3, 1985; and

Whereas, the ministry of LACare through the years included other services to its clients in the Burnet Consolidated Independent School District such as distributing Christmas presents and providing vouchers for emergency prescriptions, for gasoline in emergency situations, and for school supplies; and

Whereas, in 2020, LACare provided food for 205 new families, 612 new individuals and 2,739 repeat families for a total of 2,998 families and 9,219 individuals.



Jow, *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, do hereby declare May 25, 2021 as



in the City of Burnet and encourage all citizens to join in supporting this ministry and the needed services it provides to our community.

In witness thereof, I have hereunto set my hand and caused the seal of the City of Burnet to be affixed this, the 25th day of May, 2021.



CITY OF BURNET

FINANCIAL REPORT FYTD April 2021

Bluebonnet Capital of Texas - Lakes, Hills, History



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GENERAL FUND

The General Fund ended April with a profit of \$1,410,384. The fund is performing well mainly due to strong revenue collections.

Total revenues ended April at 70% of budget which is above our target for this time. Current Property Tax Collections are at 97% of budget and have increased \$217,567 over last year, Sales tax revenues are at 65% of budget and have increased \$202,989 over last year, EMS transport revenues are tracking well at 67% of budget, and Transfers In from other funds are on track for this time at 55% of budget.

Total expenses are tracking at 60% of budget which is within our target for this time.

Overall, the General Fund is tracking very well with the budget.

GOLF COURSE

The Golf Course ended April with a profit of \$105,828 which is a fiscal year to date improvement of about \$234,000 over this time last year. However, it's important to note that the golf course was closed for the entire month of April last year because of the Coronavirus. Compared to 2019, the bottom line has improved by almost \$170,000. The fund is performing well mainly due to increased Green Fee/Cart Rental revenues.

Green Fee Rounds for the year are up 58% and Green Fee/Cart Rental revenues per round have increased from \$23.77 to \$32.30. The increase in revenue per rounds is due to the March 2020 rate increase and fewer discounts on green fees. The need to discount rounds has been reduced because of the increasing demand for tee times.

Total expenses are tracking at 59% of budget which is on track with our target for this time.

Overall, the Golf Course is in great shape and on track to outperform their budget by the end of the year.

ELECTRIC FUND

The Electric fund ended April with a profit of \$165,117. Both revenues and expenses are on track with the budget for this time of year. Year to date consumption is tracking 4% higher than last year mainly due to the spike in consumption in February.

Overall, the electric fund is tracking as expected for this time.



WATER/WASTEWATER

The Water/Wastewater fund ended April with a profit of \$308,836. Revenues are tracking very well with the budget for this time and consumption is up almost 17% compared to last year.

Water/Wastewater expenses are on track for this time at 56% of budget.

Overall, the fund is on track to end the year within budget.

AIRPORT

The Airport Fund ended April with a profit of \$98,332. Revenues are tracking ahead of budget at 72% because of increased fuel sales. The profit margins for both net Avfuel and net Jet sales have increased over last year along with gallons sold. Avgas gallons sold are up 25% and Jet gallons sold are up 106% from last year.

Airport expenses are tracking at 60% of budget which is slightly higher than the average for this time because of the expenses associated with the increasing fuel sales. However, that increase is being more than offset by the increase in revenues.

Overall, the airport fund is in great shape.

UNRESTRICTED CASH RESERVES

Total unrestricted cash for the City as of April 30 was \$8,071,886. That is \$4,037,886 above our 90-day required reserve amount. However, there is approximately \$1,535,000 remaining to be spent from those reserves on budgeted capital projects.

In addition to the unrestricted cash balance, the City has \$1,953,811 remaining in accounts restricted by council. Those accounts include the self-funded equipment reserve, capital equipment reserve, and the LCRA credit reserve.

GENERAL FUND DASHBOARD

CURRENT RESULTS COMPARISON



	EMS CALLS FYTD
2020-2021	2,794
2019-2020	2,425
OVER (UNDER)	369
% increase (decrease)	15%

GENERAL FUND ANNUAL SUBJET ACTUAL S. OF 2020-2011 PY BUDGET PY BUDGET Y ACTUAL S. OF 2015-2020 REVENUE Ad Valorem Taxes \$ 2,877,000 \$ 2,781,060 97% \$ 2,677,000 \$ 2,563,493 90% Ad Valorem Taxes \$ 2,877,000 \$ 2,278,1060 97% \$ 2,677,000 \$ 2,563,493 90% Ad Valorem Taxes \$ 2,277,000 \$ 2,278,108 95% 2,451,713 1,425,878 85% File Department Revenue 2,222,788 1,228,433 55% 2,774,000 \$ 2,633,493 90% Allocation Transfers 2,911,301 1,597,114 55% 2,747,777 78,552 91% Allocation Transfers 2,911,301 1,597,114 55% 2,747,977 1,44,27,77 51% Police Department Revenue 227,825 107,804 47% 291,768 203,331 78% Revenue frees 35,000 149,563 38% 85,000 49,883 58% Total Revenue \$ 13,504,061 \$ 0,912,251 65%		% of year complet	ted:	58.33							
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OPERATING EXPENSES Mayor & CouncilAdmin (including op subsidy to golf.)\$ 15,820\$ 5,768 36% \$ 24,450\$ 8,584 35% Admin (including op subsidy to golf.)2,027,945 $1,162,883$ 57% $1,942,911$ $1,063,463$ 55% Police2,584,053 $1,582,720$ 61% $2,490,996$ $1,551,830$ 62% Municipal Court $59,759$ $34,174$ 57% $61,841$ $43,622$ 71% Sanitation $901,822$ $532,235$ 59% $846,438$ $505,766$ 60% Streets $698,775$ $349,377$ 50% $739,478$ $476,518$ 60% Parks $673,767$ $406,884$ 60% $696,176$ $375,533$ 54% Development Services $415,074$ $218,978$ 53% $405,148$ $213,081$ 53% City Shop $109,614$ $64,213$ 59% $109,638$ $59,285$ 54% Sub-total\$ 11,488,859\$ $6,864,836$ 60% \$ 11,245,499\$ $6,594,174$ 59% CAPITAL/OTHER EXP (USES OF FUND BAL) Transfers to Capital Funds/Self Fund Coronavirus expenses\$ 1,615,000\$ $582,683$ 36% \$ 2,332,000\$ $608,191$ 26% Other expenses\$ 1,649,347\$ $637,030$ 38% \$ 2,332,000\$ $608,191$ 26% Total Expenses\$ 11,488,859\$ $6,864,836$ 60% \$ 11,245,499\$ $6,594,174$ 59% Total Expenses\$ 1,649,347\$ $6,37,030$ 38% \$ 2,332,000 <td>Total Revenue</td> <td>\$ 13,504,061</td> <td>\$</td> <td>8,912,251</td> <td>66%</td> <td>\$</td> <td>13,921,698</td> <td>\$</td> <td>8,329,285</td> <td>60%</td>	Total Revenue	\$ 13,504,061	\$	8,912,251	66%	\$	13,921,698	\$	8,329,285	60%	
Mayor & Council \$ 15,820 \$ 5,768 36% \$ 24,450 \$ 8,584 35% Admin (including op subsidy to golf) 2,027,945 1,162,883 57% 1,942,911 1,063,463 55% Police 2,584,053 1,582,720 61% 2,490,996 1,551,830 62% Municipal Court 59,759 34,174 57% 61,841 43,622 71% Fire/EMS 3,897,230 2,449,272 63% 3,823,423 2,238,013 59% Sanitation 901,822 532,235 59% 846,438 505,766 60% Streets 698,775 349,377 50% 739,478 476,518 64% Development Services 415,074 218,978 53% 405,148 213,081 53% Community Development - - - - - - - Sub-total \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,877 2,88% Other expenses \$ 1,669,347 \$	Total Revenue less fund balance	\$ 11,834,714	\$	8,275,221	70%	\$	11,589,698	\$	7,665,408	66%	
Fire/EMS $3,897,230$ $2,449,272$ 63% $3,823,423$ $2,238,013$ 59% Sanitation $901,822$ $532,235$ 59% $846,438$ $505,766$ 60% Streets $698,775$ $349,377$ 50% $739,478$ $476,518$ 64% Parks $673,767$ $406,884$ 60% $696,176$ $375,533$ 54% Development Services $415,074$ $218,978$ 53% $405,148$ $213,081$ 53% City Shop $109,614$ $64,213$ 59% $109,638$ $59,285$ 54% Community Development $ -$ Galloway Hammond $105,000$ $58,333$ 56% $105,000$ $58,478$ 56% Sub-total\$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59% CAPITAL/OTHER EXP (USES OF FUND BAL) Coronavirus expenses\$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Other expenses\$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Other expenses\$ 1,669,347 \$ 637,030 38% \$ 2,332,000 \$ 663,877 28% Total Expenses\$ 13,158,206 \$ 7,501,866 57% \$ 13,577,499 \$ 7,258,050 53% Total Expenses less capital/other\$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59%	Mayor & Council Admin (including op subsidy to golf) Police	2,027,945 2,584,053	\$	1,162,883 1,582,720	57% 61%	\$	1,942,911 2,490,996	\$	1,063,463 1,551,830	55% 62%	
Sanitation901,822 $532,235$ 59% $846,438$ $505,766$ 60% Streets $698,775$ $349,377$ 50% $739,478$ $476,518$ 64% Parks $673,767$ $406,884$ 60% $696,176$ $375,533$ 54% Development Services $415,074$ $218,978$ 53% $405,148$ $213,081$ 53% City Shop $109,614$ $64,213$ 59% $109,638$ $59,285$ 54% Community Development $ -$ Galloway Hammond $5105,000$ $58,333$ 56% $105,000$ $58,478$ 56% Sub-total $$11,488,859$ $$6,864,836$ 60% $$11,245,499$ $$6,594,174$ 59% CAPITAL/OTHER EXP (USES OF FUND BAL) $$$1,615,000$ $$$582,683$ 36% $$$2,332,000$ $$$608,191$ 26% Transfers to Capital Funds/Self Fund $$$1,615,000$ $$$582,683$ 36% $$$2,332,000$ $$$608,191$ 26% Other expenses $ -$ Total Expenses $$$13,158,206$ $$$7,501,866$ 57% $$$13,577,499$ $$7,258,050$ 53% Total Expenses less capital/other $$$11,488,859$ $$6,864,836$ 60% $$$11,245,499$ $$$6,594,174$ 59%	•						-				
Streets 698,775 349,377 50% 739,478 476,518 64% Parks 673,767 406,884 60% 696,176 375,533 54% Development Services 415,074 218,978 53% 405,148 213,081 53% City Shop 109,614 64,213 59% 109,638 59,285 54% Community Development - - - - - - - Galloway Hammond 105,000 58,333 56% 105,000 58,478 59% Sub-total \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59% CAPITAL/OTHER EXP (USES OF FUND BAL) \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Coronavirus expenses - - - - - - - - - - - - - - - - - - - 55,686 - - - 55,686 - - - - - - - 55,686 - - <td></td>											
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Galloway Hammond 105,000 58,333 56% 105,000 58,478 56% Sub-total \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59% CAPITAL/OTHER EXP (USES OF FUND BAL) \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Transfers to Capital Funds/Self Fund \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Other expenses - - - - 55,686 - 55,686 Total Expenses \$ 13,158,206 \$ 7,501,866 57% \$ 13,577,499 \$ 7,258,050 53% Total Expenses less capital/other \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59%	, ,	109,614		64,213	59%		109,638		59,285	54%	
Sub-total \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59% CAPITAL/OTHER EXP (USES OF FUND BAL) Transfers to Capital Funds/Self Fund \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Coronavirus expenses - - - - 55,686 - Other expenses - - - - 55,686 - - Total Expenses \$ 13,158,206 \$ 7,501,866 57% \$ 13,577,499 \$ 7,258,050 53% - - - Total Expenses less capital/other \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59%		105,000		58,333	56%		105,000		58,478	56%	
Transfers to Capital Funds/Self Fund \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Coronavirus expenses 54,347 54,347 100% 55,686 - - - 55,686 - - - - - - 55,686 - <t< td=""><td>Sub-total</td><td>\$ 11,488,859</td><td>\$</td><td></td><td></td><td>\$</td><td></td><td>\$</td><td></td><td>59%</td></t<>	Sub-total	\$ 11,488,859	\$			\$		\$		59%	
Transfers to Capital Funds/Self Fund \$ 1,615,000 \$ 582,683 36% \$ 2,332,000 \$ 608,191 26% Coronavirus expenses 54,347 54,347 100% 55,686 - - - 55,686 - - - - - - 55,686 - <t< td=""><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></t<>											
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Other expenses 54,347 54,347 100% -	• •	\$ 1,615,000	Ş	582,683	36%	Ş	2,332,000	Ş		26%	
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State State <th< td=""><td>Other expenses</td><td>,</td><td>ć</td><td>,</td><td></td><td>6</td><td>-</td><td>~</td><td>-</td><td>2001</td></th<>	Other expenses	,	ć	,		6	-	~	-	2001	
Total Expenses less capital/other \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59%		\$ 1,669,347 -	Ş	637,030	38%	\$	2,332,000	Ş	- 663,877	28%	
Total Expenses less capital/other \$ 11,488,859 \$ 6,864,836 60% \$ 11,245,499 \$ 6,594,174 59%	Total Expanses	\$ 12 159 206	ć.	7 501 966	57 %	ć	12 577 /00	ć	7 258 050	_E2%_	
	·										
Net Profit (Loss) \$ 345,855 \$ 1,410,384 \$ 344,199 \$ 1,071,234	Iotal Expenses less capital/other	\$ 11,488,859	Ş	6,864,836	60%	Ş	11,245,499	Ş	6,594,174	59%	
	Net Profit (Loss)	\$ 345,855	\$	1,410,384		\$	344,199	\$	1,071,234		

	% of y	ear completed:	58.33						
GENERAL FUND		UAL BUDGET		UAL	% OF		PY BUDGET	PY ACTUAL	% OF
	2	020-2021	FYTD A	pr 2021	BUDGET		2019-2020	FYTD Apr 2020	BUDGET
REVENUE							(ORIGINAL)		
Ad Valorem Taxes:									
Current Taxes Real Property	\$	2,820,000	Ś	2,741,701	97% A	Ś	2,620,000	\$ 2,531,399	97%
Delinguent Taxes Real Property	Ŷ	35,000	Ŷ	24,546	70%	Ý	35,000	19,396	55%
Penalty & Interest		22,000		14,813	67%		22,000	12,698	58%
Sub-total		2,877,000		2,781,060	97%		2,677,000	2,563,493	96%
Sales Tax		1,997,573		1,290,353	65% <mark>B</mark>		1,810,000	1,087,364	60%
Fire Department Revenue:									
EMS fees		1,620,000		1,089,086	67%		1,875,000	1,066,179	57%
Fire/EMS interdepartmental fees		584,588		320,632	55% C	T	556,513	288,924	52%
Misc Fire Revenue		18,200		118,883	653% D		20,200	70,775	350%
Sub-total Fire Revenue		2,222,788		1,528,601	69%		2,451,713	1,425,878	58%
Planning and Zoning fees		86,200		51,174	59%		86,070	78,552	91%
				- /					
Allocation Transfers In:									
Return on Investment		1,665,263		868,724	52%		1,550,000	791,311	51%
In-Lieu of Property Tax		126,765		73,832	58%		124,905	70,236	56%
In-Lieu of franchise		211,275		123,053	58%		208,175	117,060	56%
Admin Allocations		853,191		499,398	59%		817,078	406,026	50%
Shop Allocations Sub-total Allocation Transfers		54,807 2,911,301		32,106 1,597,114	59% 55%		54,819 2,754,977	29,642 1,414,277	54% 51%
		2,511,501		1,557,114	5570		2,734,377	1,414,277	51/0
Trash Collections		1,073,927		633,342	59%		1,011,070	603,860	60%
Police Department Revenue:									
Interlocal School Resource Officers		217,125		96,500	44% E	T	281,068	218,609	78%
Misc PD Revenue		10,700		11,304	106% F	1	10,700	4,531	42%
Sub-total Police Department Rev		227,825		107,804	47%		291,768	223,139	76%
Municipal Court Fines		115,000		60,742	53%		115,000	62,419	54%
Other taxes and franchise fees		155,000		113,654	73% G	T	155,000	99,290	64%
BEDC payments for service		85,000		49,583	58%	1	85,000	49,583	58%
Rental Fees		30,600		10,075	33% H	T	32,600	25,067	77%
Interest Income		25,000		1,656	7%	1	67,000	23,321	35%
Misc Revenue		2,500		50,062	2002% J	1	2,500	9,165	367%
Transfer from Hotel Motel fund		25,000		-	0%	_	50,000	-	0%
Use of Fund Balance		1,669,347		637,030	38%		2,332,000	663,877	28%
Total Revenue	\$	13,504,061	Ś	8,912,251	66%	Ś	13,921,698	\$ 8,329,285	60%
Total Revenue less fund balance	Ş	11,834,714		8,275,221	70%	\$	11,589,698		66%
Total Nevenue less jund balance	- -	11,034,714	Ş	0,273,221	7078	- <u>></u>	11,369,098	<i>y</i> 7,003,407	00%
OPERATING EXPENSES									
Personnel Costs									
Mayor & Council	\$	-	\$	-		\$	-	\$-	
Admin		1,004,900		625,271	62%	•	918,839	. 443,779	48%
Police		2,002,258		1,208,292	60%		1,944,683	1,202,989	62%
Municipal Court		34,109		21,770	64%		33,191	20,346	61%
Fire/EMS		2,997,466		1,883,034	63%		2,874,391	1,706,763	59%
Streets		571,375		297,226	52%		560,478	320,374	57%
Parks		414,827		251,400	61%		409,577	223,127	54%
Development Services		267,224		134,130	50%		334,298	173,803	52%
City Shop		73,364		47,165	64%		73,388	42,612	58%
Community Development		-		-			-	-	
Sub-total		7,365,523		4,468,289	61% <mark>К</mark>		7,148,845	4,133,792	58%
Supplies									
Mayor & Council		1,200		32	3%		1,200	608	51%
Admin		75,050		42,644	57%		80,450	54,661	68%
Police		182,750		122,581	67% L	T	168,750	101,261	60%
Municipal Court		4,300		1,825	42%	-	3,850	2,023	53%
Fire/EMS		214,800		148,982	69% M	T	221,900	132,647	60%
Sanitation		-		-		-	1,000	-	0%
Streets		55,400		19,573	35%		48,900	44,966	92%

	% of year completed: 5	8 33				
GENERAL FUND	ANNUAL BUDGET 2020-2021	ACTUAL FYTD Apr 2021	% OF BUDGET	PY BUDGET 2019-2020 (ORIGINAL)	PY ACTUAL FYTD Apr 2020	% OF BUDGET
Parks	64,200	47,513	74% N	(OKIGINAL) 64,200	30,183	47%
Development Services	10,100	8,312	82% O	8,100	4,027	50%
City Shop	20,200	10,926	54%	20,200	11,656	58%
Community Development	-	-	_	-	-	
Sub-total	628,000	402,389	64%	618,550	382,031	62%
Repairs & Maintenance						
Mayor & Council	4,120	2,511	61%	4,000	2,138	53%
Admin	90,000	32,889	37%	93,000	34,805	37%
Police	90,920	67,817	75% P	63,500	58,271	92%
Municipal Court	5,500	1,886	34%	5,500	5,323	97%
Fire/EMS	118,000	95,321	81% Q	122,500	65,627	54%
Sanitation	-	-		-	-	
Streets	70,000	29,440	42%	70,000	75,747	108%
Parks	52,750	30,760	58%	53,750	31,738	59%
Development Services	5,250	957	18%	5,250	876	17%
City Shop	10,500	3,808	36%	10,500	2,180	21%
Community Development	-	-		-	-	
Galloway Hammond	5,000	-	0%	5,000	145	3%
Sub-total	452,040	265,389	59%	433,000	276,851	64%
Services/Other						
Mayor & Council	10,500	3,225	31%	19,250	5,837	30%
Admin	556,521	371,077	67% R	550,095	335,395	61%
Police	163,819	103,056	63% S	138,413	90,345	65%
Municipal Court	15,850	8,693	55%	19,300	15,932	83%
Fire/EMS	277,960	153,349	55%	294,221	151,903	52%
Sanitation	901,822	532,235	59%	845,438	505,766	60%
Streets	2,000	3,138	157%	2,000	1,540	77%
Parks	126,200	68,000	54%	126,200	65,723	52%
Development Services	132,500	75,579	57%	57,500	34,375	60%
City Shop	5,550	2,313	42%	5,550	2,837	51%
Community Development	-	-	_	-	-	
Sub-total	2,192,722	1,320,664	60%	2,057,967	1,209,653	59%
Transfers to Self-funded						
Mayor & Council	-	-		-	-	
Admin	-	-		-	-	
Police	136,806	79,804	58%	169,650	98,963	58%
Municipal Court	-	-		-	-	
Fire/EMS	289,004	168,586	58%	310,411	181,073	58%
Sanitation	-	-		-	-	
Streets	-	-		58,100	33,892	58%
Parks	15,790	9,211	58%	42,449	24,762	58%
Development Services	-	-		-	-	
City Shop	-	-		-	-	
Community Development	-	-		-	-	500/
Sub-total	441,600	257,600	58%	580,610	338,690	58%
Capital Outlay						
Admin	-	-		-	-	
Police	7,500	1,171	16%	6,000	-	0%
Parks	-	-		-	-	
Sub-total	7,500	1,171	16%	6,000	-	0%
Transfer to Golf - Admin & Op Subsidy	301,474	91,001	30%	300,527	194,823	65%
YMCA Operating Subsidy	100,000	58,333		100,000	58,333	58%
		·		·	· · ·	
CAPITAL/OTHER EXP (USES OF FUND BAL)			0.5-1			
Transfer to Gen Cap Project Fund	1,515,000	495,040	33%	2,232,000	524,722	24%
Transfer to Golf Cap Project Fund	100,000	87,642	88%	100,000	83,469	83%
Transfer to Self Funded	-	-		-	-	
Transfer to Debt Service (early defeasance)	-	-		-	-	
Coronavirus Expenses (Net of Grant Reimburseme Transfer for Personnel	ents) 54,347	- 54,347		_	55,686	
Sub-total	1,669,347	637,030	38%	2,332,000	663,877	28%
545 (514)	1,000,047	037,030		2,332,000		20/0

	% of	year completed:	: 58.33	3							
GENERAL FUND	ANNUAL BUDGET 2020-2021		ACTUAL FYTD Apr 2021		% OF BUDGET	PY BUDGET 2019-2020 (ORIGINAL)		PY ACTUAL FYTD Apr 2020		% OF BUDGET	
Total Expenses	\$	13,158,206	\$	7,501,866	57%	\$	13,577,499	\$	7,258,050	53%	
Total Expenses less use of fund balance	\$	11,488,859	\$	6,864,836	60%	\$	11,245,499	\$	6,594,174	59%	
Net Profit (Loss)	Ś	345.855	Ś	1.410.384		Ś	344.199	Ś	1.071.234		

A. Current Property Tax Collections are on track with our target budget for this period. The bulk of property taxes are collected between December and February.

B. Sales tax collections have continued to outperform our targets. The increase is mainly due to on-line sales and the changes in sales tax compliance laws for remote sellers and marketplace facilitators that went into effect on October 1, 2019.

C. Timing difference - Most of the interdepartmental fees are collected on a quarterly basis which is the main reason why collections are tracking below the average run rate. We anticipate collecting the full amount as budgeted by the end of the year.

D. Misc Fire Revenue includes the HHS Stimulus grant in the amount of \$88,525.70 for lost EMS revenues, the CATRAC grant for Fire in the amount of \$8,697, and the TDEMS grant in the amount of \$8,676 for labor reimbursements related to COVID 19.

E. The SRO revenue is based on our current contract with BCISD. The total contract is for \$217,125 and we are to collect \$24,125 monthly for 9 months. As of April, we have only collected four payments but are confident that we will collect the full contract amount before year end. The prior year revenue included a delinquent payment from 2018.

F. Misc PD Revenue is tracking higher than expected because they received the NRA grant in November in the amount of \$4,377 and a grant for gas station skimmer surveillance in the amount of \$1,131.84.

G. Franchise fee collection % should be tracking higher than the normal run rate for April because the annual Atmos franchise fee in the amount of \$46,099 was received in February.

H. The City is not currently renting out it's facilities because of COVID19.

I. Interest rates have dropped significantly more than we were anticipating during the budget process.

J. Misc Rev is tracking higher than expected because we received insurance reimbursements for Fleet repairs and for replacement of the Covid 19 Tent that was destroyed by bad weather.

K. Overall Personnel costs are on track with the budget for this time. There was a third pay period in April bringing total paydates for the year to 16 out of 26 or 62%.

L. PD Supplies are tracking higher than normal mainly because of expenses associated with the new Police Chief search.

M. FD Supplies are tracking higher than normal due to ground ladder testing that was completed this year in February at a cost of \$4,487 and the purchase of EMS uniforms earlier in the year.

N. Park supplies are up mainly due to purchase of temporary fencing for the baseball fields and increased cleaning supplies.

O. Development Services supplies are tracking higher than expected due to increases in credit card service charges for the increase in online payments.

P. PD R&M are tracking higher than expected due to timing differences. It includes mobile cad software payments and ammunition supplies which were purchased earlier in the year but are still within their budgeted amount for the year.

Q. Fire/EMS repairs and maintenance are tracking higher than expected mainly due to repairs for Quint 1, Fire Engine 1, Fire Engine 3, and ambulance repairs. R. Admin services are tracking slightly higher than average mainly due to the timing of payments. The majority of insurance, audit, and actuary fees have already been incurred for the year.

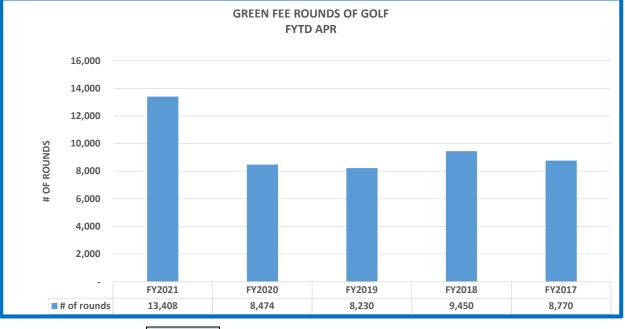
S. PD professional services are tracking higher than the average run-rate mainly because Trauma and Resiliance counseling services are being used more than in previous years.

GOLF COURSE FUND DASHBOARD

CURRENT RESULTS COMPARISON

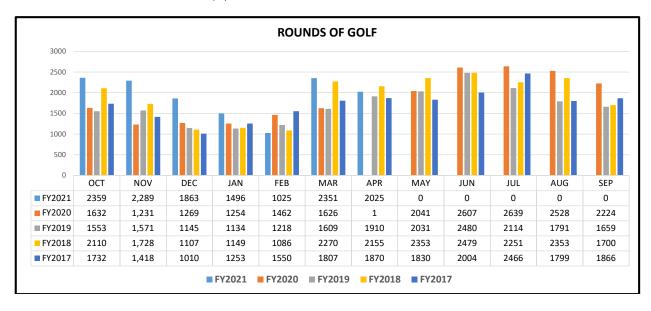
	ANNUAL	ACTUAL	% OF	PY BUDGET		ACTUAL	% OF
	BUDGET	FYTD Apr 2021	BUDGET	2019-2020	FYT	D Apr 2020	BUDGET
REV (net of cogs/tourn exp)	\$ 1,326,684	\$ 962,254	73%	\$ 1,222,918	\$	583,837	48%
EXPENSES	1,461,821	856,426	59%	1,366,027		712,014	52%
PROFIT (LOSS)	\$ (135,137)	\$ 105,828		\$ (143,109)	\$	(128,177)	

TABLES/CHARTS



Rounds of Golf*	OCT - APR
2020-2021	13,408
2019-2020	8,474
OVER (UNDER)	4,934
	58.23%

*Does not include annual dues or tournament rounds played.



% of year completed: 58.33

GOLF COURSE	ANNUAL BU	DGET		ACTUAL	% OF		PY BUDGET	Р	Y ACTUAL	% OF
	2020-20	21	FY	TD Apr 2021	BUDGET		2019-2020	FY1	D Apr 2020	BUDGET
REVENUE							(ORIGINAL)			
<u>Charges for Services</u>					-					
Green Fees/Cart Rentals	\$ 55	9,000	\$	433,128	77%	<mark>A</mark> \$	510,000	\$	201,537	40%
Prepaid Green Fees/ Annual Cart Rentals/ Trail fees and Cart Storage	213	8,000		208,354	96%		210,000		189,724	90%
Net Tournament	11	0,000		52,625	48%		145,000		48,135	33%
Pavilion Revenue		500		-	0%		500		600	120%
Driving Range	5	3,000		31,746	60%		35,000		14,371	41%
Net Charges for Services	94	0,500		725,852	77%		900,500		454,367	50%
Sales less Cost of Goods Sold										
Pro Shop Sales	184	4,000		90,954			184,000		77,562	
Cost of Merchandise	13	7,000		65,732			137,000		59,587	
Net Pro Shop Sales	4	7,000		25,223	54%		47,000		17,975	38%
		-		-			-		-	
Snack Bar/Beer Cart Sales	24	5,000		126,421			242,000		94,625	
Cost of Merchandise	13	5,500		67,717			132,500		56,259	
Net Snack Bar/Beer Cart Sales	10	9,500		58,703	54%		109,500		38,367	35%
Transfer - Overhead	22	0,684		145,348	66%	В	157,418		66,646	42%
Misc. Income/Repairs		9,000		7,127	79%		8,500		6,482	76%
Total Revenue	\$ 1,32	6,684	\$	962,254	73%	\$	1,222,918	\$	583,837	48%
EXPENSES										
Personnel Costs	\$ 890	6,092	\$	536,890	60%	\$	827,643	\$	443,078	54%
Supplies		2,800		46,497	56%		81,500		39,428	48%
Repairs & Maintenance	12	9,950		76,853	59%		118,450		61,645	52%
Services	6	8,750		36,415	53%		64,250		33,104	52%
Transfer to Self funded equipment	11	7,892		68,770	58%		116,766		68,114	58%
Admin Allocation	16	6,337		91,001	55%		157,418		66,646	42%
Total Expenses	\$ 1,46	1,821	\$	856,426	59%	\$	1,366,027	\$	712,014	52%
Net Profit (Loss)	\$ (13	5,137)	\$	105,828		\$	(143,109)	\$	(128,177)	
Operating Subsidy from General Fund	\$ 13	5,137	\$	-		\$	143,109	\$	128,177	
Net Profit (Loss)	\$	-	\$	105,828		\$	-	\$	-	

A. Green Fee/Cart Rental Revenues are at 77% of budget which is better than expected and \$231,591 above the same point in FY 2020. Green fee rounds are up 58% compared to last year and rates were increased over last year. On March 24th, 2020 Council approved a rate increase of \$2.00 in green fees, cart rentals, and range balls.
 B. Transfer - Overhead includes a transfer from General Fund to offset the admin allocation and an additional transfer of \$54,347 this year to offset the lump

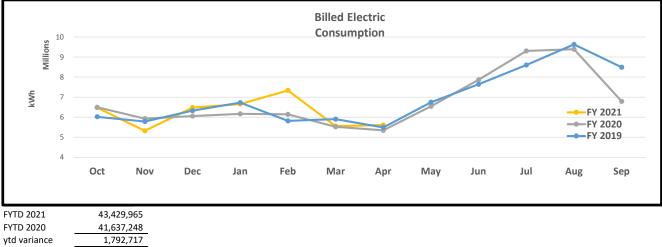
B. Transfer - Overhead includes a transfer from General Fund to offset the admin allocation and an additional transfer of \$54,347 this year to offset the lump benefit pay-outs to retirees.

ELECTRIC FUND DASHBOARD

CURRENT RESULTS COMPARISON

	ANNUAL		ACTUAL	% OF	PY BUDGET		ACTUAL	% OF
	BUDGET		FYTD Apr 2021	BUDGET	2019-2020		FYTD Apr 2020	BUDGET
REV (net of cogs/tourn exp)	\$ 4,012,175	\$	2,098,702	52%	\$ 3,973,147	\$	2,019,033	51%
EXPENSES	3,625,824		1,933,585	53%	3,462,621		1,801,611	52%
PROFIT (LOSS)	\$ 386,351	\$	165,117		\$ 510,526	\$	217,422	

TABLES/CHARTS



% variance 4.31%

% of year completed: 58.33

ELECTRIC FUND		UAL BUDGET 2020-2021		ACTUAL FYTD Apr 2021	% OF BUDGET		PY BUDGET 2019-2020 (ORIGINAL)		PY ACTUAL FYTD Apr 2020 (1)	% OF BUDGET
REVENUE Electric Sales	\$	8,816,400	Ś	4,709,660		\$	8,670,051	Ś	4,583,865	
Cost of Power	+	4,959,225	Ŧ	2,698,568		Ŧ	4,876,904	Ŧ	2,636,230	
Net Sales		3,857,175		2,011,092	52%		3,793,147		1,947,635	51%
Penalties		85,000		33,429	39% A	1	85,000		31,761	37%
Electric Connects		3,000		11,849	395% <mark>B</mark>		3,000		7,363	245%
Pole Rental		47,000		33,045	70% <mark>C</mark>		47,000		-	0%
Other Revenue		15,000		8,026	54% <mark>D</mark>		15,000		17,150	114%
Interest Income		5,000		1,261	25% <mark>E</mark>		20,000		15,124	76%
Transfer from HOT		-		-	0%	_	10,000		-	0%
Use of Fund Balance		75,000		40,065	53% <mark>F</mark>		75,000		43,525	58%
Total Revenue	\$	4,087,175	\$	2,138,767	52%	\$	4,048,147	\$	2,062,558	51%
Total Revenue less fund balance	\$	4,012,175	\$	2,098,702	52%	\$	3,973,147	\$	2,019,033	51%
EXPENSES						.				
Personnel Costs	\$	936,909	Ş	591,959	63% G	\$	912,085	Ş	510,790	56%
Supplies		123,260		57,460	47%		114,250		65,642	57%
Repairs & Maintenance		208,000		62,234	30%		199,000		69,680	35%
Services Transfer to Self-funded equipment		73,550 32,999		38,159 19,249	52% 58%		73,550 31,697		31,492 18,490	43% 58%
Community Outreach		32,999 77,700		52,370	58% 67% H	1	77,700		54,894	58% 71%
Capital Outlay		35,000		3,259	9%		55,000		23,868	43%
Transfer to Capital Project Fund		75,000		7,353	9% 10% F		75,000		43,525	43 <i>%</i> 58%
Transfers to Debt Service		51,740		30,182	58%		49,041		28,607	58%
Transfer to GF - ROI		1,665,263		868,724	52%		1,550,000		791,311	51%
Transfer to GF- Admin Allocation		394,000		226,648	58%		372,889		192,014	51%
Transfer to GF- Shop Allocation		27,403		16,053	59%		27,409		14,821	54%
Total Expenses	\$	3,700,824	\$	1,973,650	53%	\$	3,537,621	\$	1,845,135	52%
Total Expenses less xfers from fund balance	\$	3,625,824	\$	1,933,585	53%	\$	3,462,621	\$	1,801,611	52%
Net Profit (Loss)	\$	386,351	\$	165,117		\$	510,526	\$	217,422	

(1) Restated to exclude the one-time LCRA credits received in the amount of \$316,276.

A. Penalties are tracking below budget because we did not assess penalties for January or February because of the impacts of the winter storm.

B. Electric Connect revenues are higher than expected mainly because of the Westfall Villages subdivision.

C. Pole Rental fees were invoiced in March. We anticipate collecting the full amount budgeted.

D. Other revenue is on track with the budget but is down compared to last year because the department earned scrap/recycle revenue last December.

E. Interest rates have dropped significantly more than we were anticipating during the budget process.

F. "Use of Fund Balance" offsets "Transfers to the Capital Project Fund" \$7,353, and winter storm salary expense of \$32,712. Net effect to operations is \$0. G. Personnel costs should be tracking at 62% of budget through April. Tracking slightly higher than expected due to additional staffing and overtime incurred during

the winter storm but that is being offset by "use of fund balance" on the revenue side.

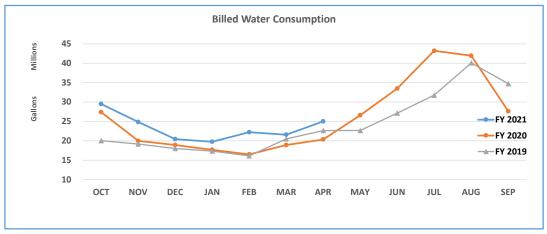
H. Community Outreach is at 67% of budget which is inline with our target for this period. It includes one-time lump payments to non-profits which are made in October and monthly utility payments for non-profits per interlocal agreements.

WATER/WW FUND DASHBOARD

CURRENT RESULTS COMPARISON

	ANNUAL	ACTUAL	% OF	PY BUDGET		ACTUAL	% OF
	BUDGET	FYTD Apr 2021	BUDGET	2019-2020	FY	TD Apr 2020	BUDGET
REV (net of cogs/tourn exp)	\$ 4,265,500	\$ 2,461,067	58%	\$ 4,213,500	\$	2,341,203	56%
EXPENSES	3,868,980	2,152,230	56%	3,872,856		2,067,115	53%
PROFIT (LOSS)	\$ 396,520	\$ 308,836		\$ 340,644	\$	274,089	

TABLES/CHARTS



Billed Consumpt	ion in gallons:
FYTD 2021	163,355,159
FYTD 2020	139,723,882
Variance	23,631,277
% variance	16.91%

	% o	f year complet	ted:	58.33						
WATER/WASTEWATER		IUAL BUDGET		ACTUAL	% OF		PY BUDGET		PY ACTUAL	% OF
	2	2020-2021		FYTD Apr 2021	BUDGET		2019-2020		FYTD Apr 2020	BUDGET
REVENUE							(ORIGINAL)			
REVENUE Water Sales	\$	2,300,000	ć	1,324,266	58%	\$	2,235,000	ć	1,225,480	55%
Water Sales	Ş	1,840,000	Ş	1,090,167	58% 59%	Ş	1,825,000	Ş	1,060,488	55% 58%
Penalties		46,000		19,233	42%	Δ	46,000		18,677	38% 41%
Water/Sewer Connects		30,000		10,950	37%	A	30,000		14,973	41% 50%
Irrigation Revenue		2,500		8,768	351%	R	2,500		14,575	0%
Other Revenue		4,000		6,875		C	4,000		2,325	58%
Interest Income		3,000		809	27%		21,000		19,260	92%
Use Impact Fees		40,000		-	0%	<u> </u>	50,000			0%
Use of Fund Balance		35,000		65,222	186%	E	185,000		60,435	33%
Total Revenue	\$	4,300,500	\$	2,526,288	59%	\$	4,398,500	\$	2,401,638	55%
Total Revenue less fund balance	\$	4,265,500	\$	2,461,067	58%	\$	4,213,500	\$	2,341,203	56%
EXPENSES										
Personnel Costs	Ś	1,103,426	Ś	651,004	59%	F Ś	1,091,494	Ś	598,033	55%
Supplies	Ŧ	216,442	Ŧ	113,389	52%	Ť	209,750	Ŧ	105,930	51%
Repairs & Maintenance		416,500		206,040	49%		416,500		172,899	42%
Services		394,500		193,000	49%		414,500		195,664	47%
Transfer to Self-funded equipment		68,504		39,961	58%		92,466		53,939	58%
Cost of Water		70,000		41,137	59%		70,000		37,036	53%
Transfers to Capital Fund		35,000		22,566	64%	E	185,000		60,435	33%
Winter Storm Leak Adjustments		-		14,123		E	-		-	
Capital Outlay		-		-			-		5,786	
Transfers to Debt Service		976,759		569,776	58%		973,873		568,292	58%
Transfer to GF - In Lieu of Property Tax		126,765		73,832	58%		124,905		70,236	56%
Transfer to GF - In Lieu of Franchise		211,275		123,053	58%		208,175		117,060	56%
Transfer to GF- Admin Allocation		257,405		153,518	60%		243,783		127,418	52%
Transfer to GF- Shop Allocation		27,404		16,053	59%		27,410		14,821	54%
Total Expenses	\$	3,903,980	\$	2,217,452	57%	\$	4,057,856	\$	2,127,550	52%
Total Expenses less xfers from fund balance	\$	3,868,980	\$	2,152,230	56%	\$	3,872,856	\$	2,067,115	53%
Net Profit (Loss)	\$	396,520	\$	308,836		\$	340,644	\$	274,089	

A. Penalties are tracking below budget because we did not assess penalties for January or February because of the impacts of the winter storm. B. Irrigation Revenue is derived from the Hay contract and is running higher than originally expected because the contract was renegotiated at the end of the last fiscal year and has been increased to \$10,000 going forward.

C. Other Revenue is running higher than expected due to an increase in the bulk water rates that went into effect this fiscal year.

D. Interest rates have dropped significantly more than we were anticipating during the budget process.

E. "Use of Fund Balance" offsets "Transfers to the Capital Project Fund" \$22,566, "Winter Storm Water Leak Adjustments" \$14,123, and winter storm salary expense of \$28,533. Net effect to operations is \$0.

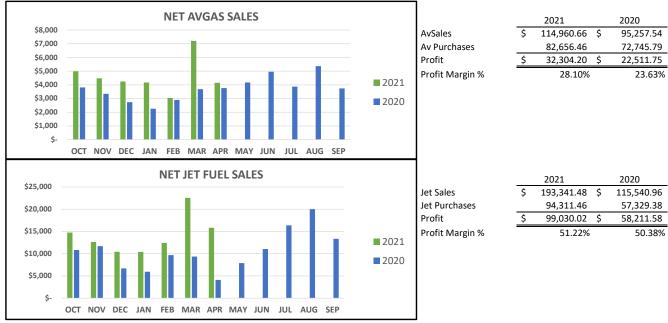
F. Personnel costs should be tracking at 62% of budget through April. Tracking slightly below expected mainly because of vacancies.

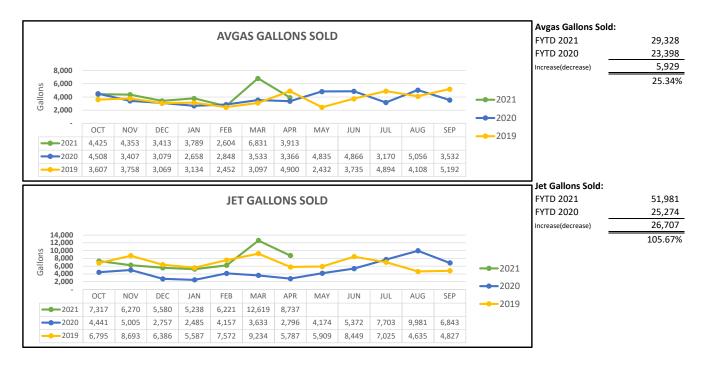
AIRPORT FUND DASHBOARD

CURRENT RESULTS COMPARISON

	1	ANNUAL		ACTUAL	% OF	P	Y BUDGET	Α	ACTUAL	% OF
		BUDGET	FY	TD Apr 2021	BUDGET	Ż	2019-2020	FYTE	O Apr 2020	BUDGET
REV (net of cogs/tourn exp)	\$	347,654	\$	251,848	72%	\$	418,595	\$	201,060	48%
EXPENSES		254,295		153,516	60%		316,741		135,644	43%
PROFIT (LOSS)	\$	93,359	\$	98,332		\$	101,854	\$	65,416	

TABLES/CHARTS





	% of	year complete	ed:	58.33						
AIRPORT FUND	ANNU	JAL BUDGET		ACTUAL	% OF		PY BUDGET		PY ACTUAL	% OF
	20	020-2021		FYTD Apr 2021	BUDGET		2019-2020	FY	TD Apr 2020	BUDGET
							(ORIGINAL)			
REVENUE										
Av Gas Sales	\$	170,500	\$	114,961		\$	215,000	\$	95,258	
Av Gas Purchases		127,875		82,656	_		161,250		72,746	
Net Sales		42,625		32,304	76% <mark>/</mark>	4	53,750		22,512	42%
Jet Gas Sales		210,000		193,341			355,000		115,541	
Jet Gas Purchases		115,500		94,311	_		209,000		57,329	
Net Sales		94,500		99,030	105% <mark>/</mark>	4	146,000		58,212	40%
Contributions/Misc Rev				-					375	
Sign Rental Revenue		-		-	0%		500		373	0%
Penalties		- 450		225	50%		775		475	61%
All Hangar Lease		125,000		75,378	50% 60%		125,000		72,829	58%
•		-								58% 64%
CAF Admissions		5,066		2,955	58%		4,000		2,553 70	64%
Rental of Council Chambers		45 000		-	F 00/		-			F.C0/
McBride Lease		45,893		23,066	50%		48,000		27,007	56%
Thru the Fence Lease		12,020		8,479	71% E 88% C		12,020		2,592	22%
Airport Parking Permit		2,000		1,750		-	150		960	640%
Hanger Lease - Faulkner		14,400		8,400	58%		14,400		8,400	58%
Insurance Reimbursement		-		-	F0/		-		-	2.00/
Interest Earned		5,700		260	5%		14,000		5,075	36%
Use of Fund Balance		200,000		21,949	11% <mark>[</mark>)	250,000		140,139	56%
Total Revenue	\$	547,654	\$	273,797	50%	\$	668,595	\$	341,199	51%
Total Revenue less fund balance	\$	347,654	\$	251,848	72%	\$	418,595	\$	201,060	48%
-										
EXPENSES	\$	02.070	÷	FO 172	64% E		00 242	ć	F2 2F7	60%
Personnel Costs	Ş	92,879	Ş	59,172		<u> </u>	89,342	Ş	53,257	
Supplies		15,059		10,781			26,000		6,805	26%
Repairs & Maintenance		3,000		538	18%		4,000		212	5%
Contract Labor - FBO		14,400		8,400	58%		14,400		8,400	58%
Commission on Fuel Sal		40,000		23,333	58%		40,000		20,992	52%
Schools/Seminars		4,000		-	0%		4,000		-	0%
Insurance & Bonds		9,000		610	7%		17,310		610	4%
Professional Services (Mowing Contract)		-		-	500/		43,000		-	0%
Property Taxes		6,700		3,968	59%		5,000		6,632	133%
Utilities		9,000		5,664	63%		8,000		5,272	66%
Av fuel truck lease		12,000		7,000	58%		12,000		7,000	58%
Jet fuel truck lease		16,800		9,800	58%		16,800		9,800	58%
Transfers to Debt Service		-		-	4 4 9 1		-		-	5.001
Transfers to Capital/Uses of Fund Bal		200,000		21,949			250,000		140,139	56%
Admin Allocation		31,457		24,251	77%	6	36,889		16,664	45%
Total Expenses	\$	454,295	\$	175,465	39%	\$	566,741	\$	275,783	49%
Total Expense less xfers to capital project	\$	254,295	\$	153,516	60%	\$	316,741	\$	135,644	43%
Net Profit (Loss)	\$	93,359	\$	98,332		\$	101,854	\$	65,416	

A Fuel Sales are tracking above budget; Avgas gallons sold are up 25% and Jet gallons sold are up 105% compared to last year. In addition the profit margins for both Avgas and Jet have increased.

B Through the Fence payments are made in three lump sum payments through out the year. We anticipate collecting the full budgeted amount by the end of the year. C Bulk of airport parking permits are paid in advance for the year. D Fund Balance is used to offset transfers to the Capital Project Fund; net effect to operations is \$0.

E Personnel costs are on track budget with for this time. There was an additional payperiod included in April.

F Supplies include credit card service charges which have increased due to increased fuel charges.

G Admin allocation is higher than the average run rate because it is based on revenues. As revenues increase, the admin allocation increases.

OTHER FUNDS	2	UAL BUDGET 020-2021 MENDED)		ACTUAL FYTD Apr 2021	% OF BUDGET		PY BUDGET 2019-2020 (ORIGINAL)		PY ACTUAL TD Apr 2020	% OF BUDGET
HOTEL/MOTEL FUND Revenues	\$	156,000	\$	102,727	65.85%	\$	187,000	\$	99,544	53.23%
Expenses Net Profit (Loss)	\$	152,191 3,809	\$	42,250 60,477	27.76%	\$	178,098 8,902	\$	117,148 (17,604)	65.78%
BEDC										
Revenues	\$	3,020,858	Ś	490,300	16.23%	\$	1,600,000	Ś	1,156,753	72.30%
Expenses	Ŷ	2,743,111	Ŷ	206,244	7.52%	Ŷ	1,319,150	Ŷ	924,299	70.07%
Net Profit (Loss)	\$, ,	\$	284,055	102/0	\$, ,	\$	232,454	
SELF FUNDED EQUIPMENT FUND Revenues Expenses Net Profit (Loss)	\$ \$	708,000 708,000 -	\$ \$	386,249 225,177 161,072	54.55% 31.80%	\$ \$	985,492 743,341 242,151		480,960 74,198 406,762	48.80% 9.98%
DEBT SERVICE FUND										
Revenues	\$	1,029,098	\$	600,340	58.34%	\$	1,023,513	\$	597,350	58.36%
Expenses		1,028,499		809,914	78.75%		1,022,914		805,274	78.72%
Net Profit (Loss)	\$	599	\$	(209,574)		\$	599	\$	(207,924)	
INTEREST & SINKING DEBT FUND										
Revenues	\$	366,049	\$	336,815	92.01%	\$	376,661	\$	379,781	100.83%
Expenses		366,049		206,346	56.37%		376,512		190,478	50.59%
Net Profit (Loss)	\$	-	\$	130,469		\$	149	\$	189,303	

City of Burnet Cash Investment Report FYTD Apr 2021

			Account		
Acct #	Bank	Account Name	Туре	Bala	ince April 2021
Unrestricted	Accounts				
984/2410	FSB	Operating Cash	Checking	\$	3,976,473.70
504/2410	150	Add or Subtract Claim on Cash for Airport	Checking	Ŷ	(85,740.50)
2329	FSB	Golf Course Petty Cash	Checking		1,059.30
2535	FSB	Operating Reserve	M/M		_,
2352	FSB	Delaware Springs-Credit Card Acct	Checking		-
2378	FSB	Airport - Credit Card Acct	Checking		-
2386	FSB	Utility - Credit Card Acct	Checking		-
2469	FSB	Court - Credit Card Acct	Checking		-
2711100002	TexPool	Operating Reserve	Investment		4,180,094.36
			Total Unrestric	cted \$	8,071,886.86
			75 Day Reserve Requirement		3,361,000.00
			Unrestricted Cash over 75 day re	serve \$	4,710,886.86
			90 Day Reserve Requirement		4,034,000.00
			Unrestricted Cash over 90 day re	serve Ś	4,037,886.86
					.,,
Restricted by	/ Council				
2711100004	TexPool	Capital Reserve	Investment	\$	-
2711100011	TexPool	Capital Equipment Reserve	Investment	Ŷ	584,902.62
2711100012	TexPool	Capital - LCRA Credit	Investment		442,026.22
2188	FSB	Self Funded Equipment	M/M		262,601.82
2711100014		Self Funded Equipment Reserve	Investment		664,280.56

Restricted by Purpose or Law

			Account	
Acct #	Bank	Account Name	Туре	Balance April 2021
1453	FSB	Bond Reserve	M/M	\$ 215,309.68
2402	FSB	Hotel Motel	M/M	101,614.72
2711100005	TexPool	Hotel Motel	Investment	60,269.87
2451	FSB	Construction Account	Checking	
2485	FSB	PD Seizure	M/M	119.87
2493	FSB	Municipal Court Special Revenue	M/M	54,548.72
2519	FSB	Impact Fees - Water	M/M	155,150.10
2543	FSB	Airport Reserve	M/M	
		Add or Subtract Airport Claim on Cash		85,740.50
2711100009	TexPool	Airport Reserve	Investment	620,959.91
2568	FSB	Benevolent Fund	Checking	
2576	FSB	Interest & Sinking Acct	M/M	216,787.54
2584	FSB	Impact Fees - Wastewater	M/M	36,364.84
2592	FSB	BEDC	Super NOW	400,109.64
2711100008	TexPool	BEDC Project Fund	Investment	
2711100010	TexPool	BEDC	Investment	629,581.43
2634	FSB	Benefit Trust Account	M/M	
2675	FSB	Police Department Explorer Program	M/M	6,928.40
2691	FSB	Fire Department Explorer Program	M/M	4,190.52
3012	FSB	Franchise Fee Account	Super NOW	101,539.49
3053	FSB	Parks Fund	M/M	44,272.18
58776	FSB	Fire Dept. Community Acct	M/M	10,515.39
2711100007	TexPool	TWDB	Investment	1,191.75
2711100006	TexPool	TWDB	Investment	1,046.41
		City of Burnet, Texas Combination Tax and Surplus		
		Revenue Certificates of Obligation, Series 2010		
143033000	US Bank	Escrow Account	Investment	3,199.32
82-020-01-0	Bank of	City of Burnet 2012 TWDB Escrow	Investment	20,193.80
2711100013	TexPool	PD Bonds	Investment	
62315	FSB	BEDC Bond Fund	Checking	103,015.91
62364	FSB	BEDC Project Fund	Checking	
		-	Total Restricted Cash	\$ 2,872,649.99

Total All Cash \$ 12,898,348.07

City of Burnet Capital Project Report FYTD Apr 2021

GENERAL CAPITAL PROJECT FUND					
	ORIGINAL	CURRENT	FYTD APR		REMAINING
	BUDGET	BUDGET	ACTUAL	%	BALANCE
DESCRIPTION	2020-2021	2020-2021	EXPENSES	complete	FOR 2020-2021
CAPITAL PROJECTS:					
Incode 10 Upgrade	60,000	60,000	18,200	30%	41,800
Police Department Facility	800,000	800,000	161,543	20%	638,457
PD Ticket Writers	40,000	40,000	14,340	36%	25,660
FD - Remodel FD Substation	250,000	350,000	117,277	34%	232,723
FD - Covid 19 Supplies/Equipment	100,000	100,000	32,140	32%	67,860
FD-Equipment Needs	-	22,000	-	0%	22,000
Winter Storm Expenses	-	35,000	7,712	22%	27,288
Street Overlay	200,000	200,000	120,305	60%	79,695
Park Improvements	25,000	55,000	14,254	26%	40,746
GHRC Capital Maintenance	20,000	20,000	21,408	107%	(1,408)
GHRC Teen Center	20,000	20,000	20,000	100%	-
	\$ 1,515,000	\$ 1,702,000	\$ 527,180	31%	\$ 1,174,820

BALANCE TO BE FUNDED FROM:								
-	PERATING		OTHER OURCES		TOTAL			
	41,800		-		41,800			
	638,457		-		638,457			
	25,660		-		25,660			
	232,723		-		232,723			
	67,860		-		67,860			
	22,000		-		22,000			
	27,288		-		27,288			
	79,695		-		79,695			
	10,746		30,000		40,746			
	(1,408)		-		(1,408)			
	-		-		-			
\$	1,144,820	\$	30,000	\$	1,174,820			

GOLF COURSE CAPITAL PROJECT FUND	Ĩ	RIGINAL BUDGET 020-2021	E	URRENT BUDGET 020-2021	FYTD APR ACTUAL EXPENSES	% complete	E	MAINING ALANCE R 2020-2021
<u>CAPITAL PROJECTS:</u> C/O - Course Improvement	\$	100,000	\$	200,000	\$ 94,996	47%	\$	105,004

ELECTRIC CAPITAL PROJECT FUND	RIGINAL BUDGET 020-2021	CURRENT BUDGET 020-2021	FYTD APR ACTUAL EXPENSES	% complete	E	MAINING BALANCE R 2020-2021
CAPITAL PROJECTS: Subdivision Electrical Costs	\$ 150,000	\$ 150,000	\$ 17,131	11%		132,869

	RATING	OTHE		TOTAL
				-
Ś	132,869	Ś	- Ś	132,86
Ş	132,809	Ş	- >	152,60
BALA	NCE TO BE	FUNDED	FROM:	
	NCE TO BE	E FUNDED		

BALANCE TO BE FUNDED FROM:

BALANCE TO BE FUNDED FROM:

OTHER

SOURCES

TOTAL

- \$ 105,004

- \$

40,000 40,000 \$

20,000 2,989 20,000 1,536 90,000 17,730

40,000

OPERATING

RESERVES

\$

\$

20,000 \$ 2,989 20,000 1,536 90,000 17,730

152,255 \$

Ś

105,004 \$

W/WW CAPITAL PROJECT FUND									
DESCRIPTION		ORIGINAL BUDGET 2020-2021		CURRENT BUDGET 2020-2021		FYTD APR ACTUAL EXPENSES	% BALAN		MAINING BALANCE DR 2020-2021
CAPITAL PROJECTS:				-					
Water System Improvements	\$	20,000	\$	20,000	\$	-	0%	\$	20,000
Sewer Backup Reimbursements		-		20,000		17,011	85%		2,989
Wofford Street Water Line		20,000		20,000		-	0%		20,000
Oak Vista/CR 100 water line expansion		15,000		15,000		13,464	90%		1,536
North Vandeveer Sewer repair		-		90,000		-	0%		90,000
Risk and Resilience Assessment		-		17,730		-	0%		17,730
Transfer Impact Fees		40,000		40,000		-	0%		40,000
	\$	95,000	\$	222,730	\$	30,475	14%	\$	192,255

0	RIGINAL	C	URRENT	F١	YTD APR		RE	MAINING
1	BUDGET	1	BUDGET	4	ACTUAL	%	E	BALANCE
2	020-2021	2	020-2021	E)	XPENSES	complete	FO	R 2020-2021
\$	100,000	\$	100,000	\$	24,191	24%	\$	75,809
\$	-	\$	54,000	\$	-	0%		54,000
	30,000		30,000		-	0%		30,000
	150,000		150,000		12,758	9%		137,242
\$	280,000	\$	334,000	\$	36,949	11%	\$	297,051
	2	\$ - 30,000 150,000	2020-2021 2 \$ 100,000 \$ \$ - \$ 30,000 150,000	2020-2021 2020-2021 \$ 100,000 \$ 100,000 \$ - \$ 54,000 30,000 30,000 150,000 150,000	\$ 100,000 \$ 100,000 \$ \$ - \$ 54,000 \$ 30,000 30,000 150,000 150,000	2020-2021 2020-2021 EXPENSES \$ 100,000 \$ 100,000 \$ 24,191 \$ - \$ 54,000 \$ - - \$ 0,000 30,000 - - - 12,758	2020-2021 2020-2021 EXPENSES complete \$ 100,000 \$ 100,000 \$ 24,191 24% \$ - \$ 54,000 \$ - 0% 30,000 30,000 - 0% 150,000 150,000 12,758 9%	2020-2021 2020-2021 EXPENSEs complete ro \$ 100,000 \$ 100,000 \$ 24,191 24% \$ \$ - \$ 54,000 \$ - 0% 30,000 30,000 - 0% 150,000 12,758 9%

BALANCE TO BE FUNDED FROM:									
OPERATING OTHER									
RESERVES			SOURCES		TOTAL				
ć	_	Ś	75,809	ć	75,809				
Ŷ	-	Ŷ	,	Ļ	,				
			54,000		54,000				
-			30,000		30,000				
-			137,242		137,242				
\$	-	\$	297,051	\$	297,051				

	BALANCE TO BE FUNDED FROM:									
PERATING		OTHER								
RESERVES	S	OURCES	TOTAL							
1,534,948	\$	367,051	\$	1,901,999						
1,534,948	\$	367,051	\$	1,901,999						
2	1,534,948	1,534,948 \$	ESERVES SOURCES 1,534,948 \$ 367,051	LESERVES SOURCES 1,534,948 \$ 367,051 \$						

TOTAL CAPITAL/OTHER PROJECTS									
	OF	RIGINAL		CURRENT	1	FYTD APR		R	EMAINING
	В	UDGET		BUDGET		ACTUAL	%		BALANCE
	20	20-2021	1	2020-2021	1	EXPENSES	complete	F	OR 2020-2021
TOTAL CAPITAL/OTHER PROJECTS	\$ 2	2,140,000	\$	2,608,730	\$	706,731	27%	\$	1,901,999
TRANSFER TO CAP EQUIP RESERVES		-		-		-	0%		-
TOTAL CAPITAL/OTHER	\$ 2	2,140,000	\$	2,608,730	\$	706,731	27%	\$	1,901,999

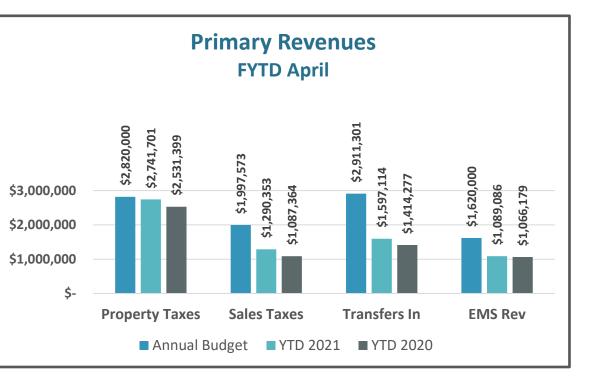
FY 2021

General Fund

	Annual Budget	Actual FYTD Apr 2021	% of Budget
Revenues	\$11,834,714	\$8,275,221	70%
Expenses	11,488,859	6,864,836	60%
Profit(Loss)	\$ 345,855	\$1,410,384	

• <u>*Revenues – tracking above budget target*</u>

- Property Tax Collections 97% Increased \$218,000 over last year
- Sales Tax Collections 65% Increased 203,000 over last year
- Transfers In 55% Increased \$183,000 over last year
- EMS Transport Revenues 67% Increased \$23,000 over last year
- Expenses on track with budget



Golf Course Fund

	Annual Budget	Actual FYTD Apr 2021	% of Budget
Revenues	\$1,326,684	\$ 962,254	73%
Expenses	1,461,821	856,426	59%
Profit(Loss)	\$ (135,137)	\$ 105,828	

- <u>Revenues above target due to Green</u> <u>Fee/Cart Rental revenues</u>
 - Green Fee Rounds increased 58% over this period last year
 - Green Fee revenue per round has increased from \$23.77 to \$32.30 over this period last year
- Expenses on track with budget



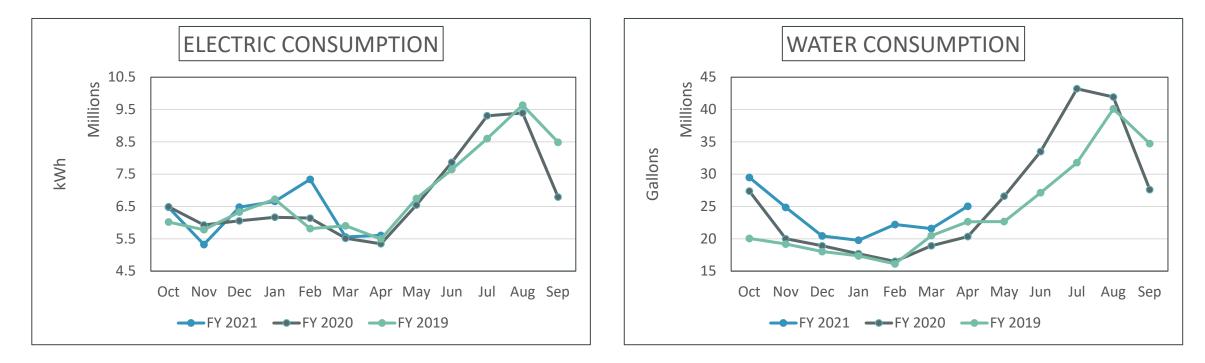
*Winter storm caused the course to be closed for 11 days during February 2021.

Electric Fund

	Annual Budget	Actual FYTD Apr 2021	% of Budget
Revenues	\$4,012,175	\$2,098,702	52%
Expenses	3,625,824	1,933,585	53%
Profit(Loss)	\$ 386,351	\$ 165,117	

Water/WW Fund

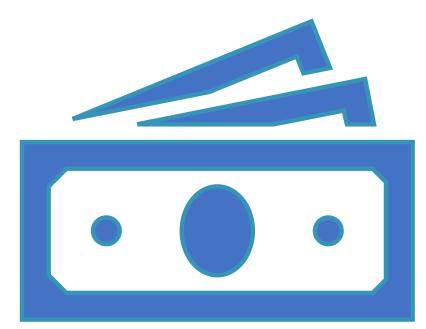
	Annual Budget	Actual FYTD Apr 2021	% of Budget
Revenues	\$4,265,500	\$2,461,067	58%
Expenses	3,868,980	2,152,230	56%
Profit(Loss)	\$ 396,520	\$ 308,836	



Airport Fund

	Annual Budget	Actual FYTD Apr 2021	% of Budget
Revenues	\$347,654	\$251,848	72%
Expenses	254,295	153,516	60%
Profit(Loss)	\$ 93,359	\$ 98,332	





Unrestricted Cash April 30, 2021

Unrestricted Cash\$ 8,071,887Less 90-day Reserve4,034,000Unrestricted Cash Over Reserve\$ 4,037,887

Questions?

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

On this the 11th day of May 2021, the City Council of the City of Burnet, TX convened in Regular Session, at 6:00 p.m., at the Burnet Community Center, 401 E. Jackson Street, Burnet, TX. In order to advance the public health goal of limiting face-to-face meetings (also called "social distancing") to slow the spread of the Coronavirus (COVID-19), a Declaration of a Public Health Emergency was executed by Mayor Bromley on March 19, 2020. The Burnet Community Center was open to public attendance and the guidelines established by Governor Abbott in Executive Order 32 related to social gatherings and COVID-19 were adhered to. The following subjects were discussed, to-wit: Mayor: Crista Goble Bromley

Cindia Talamantez, Paul Farmer, Philip Thurman, Mary Jane Shanes,

Council Members:

City Manager City Secretary David Vaughn Kelly Dix

<u>Guests</u>: Habib Erkan, Adrienne Feild, Kelli Sames, Mark Ingram, Gene Courtney, Patricia Langford, Mark Miller, Tony Nash, Ricky Langley, Joyce Laudenschlager, Marci Russell, Jason Davis, Andrew Scott, Ann Langley, Wade Langley

Tres Clinton, Danny Lester

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

<u>ROLL CALL</u>: City Secretary Kelly Dix called the roll. Mayor Bromley, Council Members Farmer, Thurman, Talamantez, Clinton, Lester and Shanes were present. Quorum was established.

INVOCATION: Led by Council Member Paul Farmer

PLEDGE OF ALLEGIANCE:

PLEDGE TO TEXAS FLAG: Pledges led by Council Member Tres Clinton

CANVASS ELECTION:

Discuss and consider action: A RESOLUTION AND ORDER BY THE CITY COUNCIL, OF THE CITY OF BURNET, TEXAS, CANVASSING THE RETURNS AND DECLARING THE RESULTS OF THE CITY OF BURNET, MAY 1, 2021 GENERAL ELECTION: K. Dix: Council Member Mary Jane Shanes moved to approve Resolution 2021-21 canvassing the May 1, 2021 General Election and declaring Mayor Crista Bromley, Council Member Cindia Talamantez, Council Member Ricky Langley and Council Member Joyce Laudenschlager elected to serve a two year term on the City of Burnet City Council. Council Member Danny Lester seconded; the motion carried unanimously.

RECOGNITION:

<u>Recognition of Council Member Tres Clinton: Mayor Bromley:</u> Mayor Crista Goble Bromley presented Council Member Tres Clinton a plaque and a token of appreciation gift thanking him for his dedicated service to the City of Burnet. Mr. Clinton thanked the Council, City Manager and Staff for their support and expressed how much his service to the City meant to him.

<u>Recognition of Council Member Paul Farmer: Mayor Bromley:</u> Mayor Crista Goble Bromley presented Council Member Paul Farmer a plaque and a token of appreciation gift thanking him for his dedicated service to the City of Burnet. Mr. Clinton thanked the Council, City Manager and Staff for their support and expressed how much his service to the City meant to him.

OATH OF OFFICE:

<u>The Oath of Office will be administered to, Crista Goble Bromley, Mayor: K. Dix:</u> A Certificate of Election was presented to Crista Goble Bromley by City Secretary, Kelly Dix, and the Oath of Office was administered. Crista Goble Bromley was sworn in as Mayor for a term of two years.

<u>The Oath of Office will be administered to, Ricky Langley, Council Member: K. Dix:</u> A Certificate of Election was presented to Ricky Langley by City Secretary, Kelly Dix, and the Oath of Office was administered. Ricky Langley was sworn in as Council Member for a term of two years.

<u>The Oath of Office will be administered to, Cindia Talamantez, Council Member: K. Dix:</u> A Certificate of Election was presented to Cindia Talamantez by City Secretary, Kelly Dix, and the Oath of Office was administered. Cindia Talamantez was sworn in as Council Member for a term of two years.

<u>The Oath of Office will be administered to, Joyce Laudenschlager, Council Member: K. Dix:</u> A Certificate of Election was presented to Joyce Laudenschlager by City Secretary, Kelly Dix, and the Oath of Office was administered. Joyce Laudenschlager was sworn in as Council Member for a term of two years.

<u>The Oath of Office will be administered to Brian Lee, Police Chief: K. Dix:</u> City Secretary, Kelly Dix, administered the Oath of Office to Brian Lee. Mr. Lee was sworn in as Police Chief for the City of Burnet. 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.)

<u>Approval of the April 27, 2021 Regular City Council Meeting Minutes: Council Member Cindia Talamantez moved</u> to approve the consent agenda as presented. Council Member Mary Jane Shanes seconded. The motion carried <u>unanimously.</u>

PUBLIC HEARING:

Public Hearing: Public Hearing: The City Council of the City of Burnet shall conduct a public hearing to receive public testimony and comments on the merits of a city-initiated request to rezone property located 1801 E Polk St (Legal Description: ABS A1525 SARAH ANN GUEST, 5.778 acre tract). The request is to rezone the property from its present designation of Single-family Residential – District "R-1" to a designation of Medium Commercial – District "C-2": L. Kimbler: Mayor Bromley opened the public hearing and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Bromley closed the public hearing.

Public Hearing: The City Council of the City of Burnet will conduct a public hearing to receive public testimony and comments on the merits of a request to rezone property located at 2551 W Hwy 29 (Legal Description: ABS A0405 John Hamilton, Tract 26, 4.0805 acres). The request is to rezone the property from its present designation of Medium Commercial – District "C-2" to a designation of Heavy Commercial – District "C-3": L. Kimbler: Mayor Bromley opened the public hearing and asked if anyone was interested in speaking, if so to approach the podium. There being no one wishing to speak, Mayor Bromley closed the public hearing. ACTION ITEMS:

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS AMENDING CITY CODE OF ORDINANCES CHAPTER 98 (ENTITLED "SUBDIVISIONS") BY AMENDING SECTION 98-61(D) BY AUTHORIZING THE CITY MANAGER TO APPROVE THE RECORDATION OF A SUBDIVISION PLAT ON THE DEVELOPER'S PLEDGE OF FINANCIAL ASSURANCE OF COMPLETION OF SUBDIVISION IMPROVEMENTS; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE: H. Erkan: Council Member Danny Lester moved to deny passage of Ordinance 2021-12 as presented. Council Member Philip Thurman seconded. The motion carried unanimously to deny passage of the ordinance.

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF AUTHORIZING "BAKERIES WITHOUT DRIVE THROUGH SERVICE" IN THE LIGHT COMMERCIAL – DISTRICT "C-1"; AUTHORIZING "BAKERIES WITH DRIVE THROUGH SERVICE" IN THE MEDIUM COMMERCIAL – DISTRICT "C-2"; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan: Council Member Danny Lester moved to approve and adopt Ordinance No. 2021-13 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET TEXAS AMENDING CITY CODE OF ORDINANCES CHAPTER 98 (ENTITLED "SUBDIVISIONS") BY EXEMPTING PROPERTIES SUBDIVIDED BY SHORT-FORM PLATS AND NOT RECEIVING CITY WATER FROM THE WATER AVAILABILITY CERTIFICATION REQUIREMENT OF SECTION 98-24(c)(1)g and ADDING A REQUIREMENT THAT ALL PLATS OF SUBDIVISIONS OF PROPERTY NOT RECEIVING CITY WATER INCLUDE A CERTIFICATION BY THE CENTRAL TEXAS GROUNDWATER CONSERVATION DISTRICT ADDRESSING THE DRILLING OF WATER WELLS ON ANY PART OF THE SUBDIVIDED PROPERTY; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; AND PROVIDING AN EFFECTIVE DATE: H. Erkan: Council Member Philip Thurman moved to approve and adopt Ordinance No. 2021-14 as presented. Council Member Mary Jane Shanes seconded. The motion carried unanimously

<u>Discuss and consider action: Appointment Mayor Pro Tem: K. Dix:</u> Mayor Bromley called for nominations for the Mayor Pro Tem position. Council Member Danny Lester nominated Council Member Mary Jane Shanes to serve as Mayor Pro Tem. Council Member Joyce Laudenschlager seconded. There being no further nominations made, the motion carried unanimously to appoint Mary Jane Shanes as Mayor Pro Tem.

Discuss and consider action: Appoint a representative for the City of Burnet to the Opportunities for Williamson and Burnet Counties, Inc., (OWBC) Board of Directors: Mayor Bromley: Council Member Cindia Talamantez moved to re-appoint City Secretary Kelly Dix to serve as the City Council Representative on the Opportunities with Williamson and Burnet Counties Board of Directors. Council Member Joyce Laudenschlager seconded; the motion carried unanimously.

<u>Discuss and consider action: Appoint a Council Member to the Capital Area Council of Governments (CAPCOG)</u> <u>General Assembly Representative: K. Dix:</u> Council Member Mary Jane Shanes made a motion to nominate Joyce Laudenschlager to serve as the City Council Representative with the Capitol Area Council of Governments. Council Member Cindia Talamantez seconded; the motion carried unanimously.

Discuss and consider action: Appointment of Tamara Tinney as Associate Judge: D. Vaughn: Council Member Danny Lester moved to appoint Tamara Tinney as an Associate Judge for the Burnet Municipal Court. Council Member Cindia Talamantez seconded; the motion carried unanimously.

<u>Discuss and consider action: Approval to upgrade the Honeywell-Elster AMI system: G. Courtney:</u> Council Member Danny Lester moved to approve the upgrade to the Honeywell-Ester AMI System as presented. Council Member Ricky Langley seconded. Discussion ensued pertaining to the backup system and test system. Council Member Danny Lester moved to authorize the City Manager to negotiate the section concerning the backup and test systems and execute the contract as Council advised. Council Member Cindia Talamantez seconded; the motion carried unanimously.

Discuss and consider action: Approval to upgrade and replace the lights in the community center: G. Courtney: Council Member Joyce Laudenschlager move to approve the upgrade and replacement of the lights in the Community Center as presented. Council Member Danny Lester seconded; the motion carried unanimously.

Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 1801 E POLK ST (LEGAL DESCRIPTION: ABS A1525 SARAH ANN GUEST, 5.778 ACRE TRACT) WITH MEDIUM COMMERCIAL – DISTRICT "C-2" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: L. Kimbler: Council Member Joyce Laudenschlager moved to approve the first reading of Ordinance 2021-15 as presented. Council Member Cindia Talamantez seconded; the motion carried unanimously.

Discuss and consider action: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 2551 W HWY 29 (LEGAL DESCRIPTION: ABS A0405 JOHN HAMILTON, TRACT 26, 4.0805 ACRES) WITH HEAVY COMMERCIAL – DISTRICT "C-3" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: L. Kimbler: Council Member Joyce Laudenschlager moved to approve the first reading of Ordinance 2021-16 as presented. Council Member Mary Jane Shanes seconded; the motion carried unanimously.

<u>REQUESTS FROM COUNCIL FOR FUTURE REPORTS: In accordance with Resolution R2020-28 councilmembers</u> may request the City Manager to prepare and present future report on matters of public interest. None.

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

6:54 p.m., seconded by Council Member Joyce Laudenschlager. The motion carried unanimously.

Crista Goble Bromley, Mayor

ATTEST:

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Kelly Dix, City Secretary

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

On this the 19th day of May, 2021, the City Council of the City of Burnet convened in a special called Budget Workshop Session, at 9:00 a.m. at the Burnet Community Center, 401 E. Jackson Street, Burnet, TX thereof with the following members present, to-wit:

Mayor	Crista Goble Bromley
Council Members	Danny Lester, Mary Jane Shanes, Philip Thurman, Ricky Langley, Joyce
	Laudenschlager
Absent	Cindia Talamantez
City Manager	David Vaughn
City Secretary	Kelly Dix
Guasta: Habib Erkon Gana (Courtney Mark Ingram Prion Les Tony Nach Mark Miller Andrew

<u>Guests</u>: Habib Erkan, Gene Courtney, Mark Ingram, Brian Lee, Tony Nash, Mark Miller, Andrew Scott, Patricia Langford, Kelli Sames, Alan Burdell, Adrienne Feild

Call to Order: Mayor Bromley called the meeting to order at 9:04 a.m.

CONSIDERATION ITEMS:

<u>Discuss and consider: Fiscal Year 2020/2021, Capital Projects Report:</u> A review of the Capital Projects was presented to Council by City Manager David Vaughn. The following was discussed:

- Street Projects
- PD Remodel for FD Substation
- COVID-19 Expenses
- Amphitheater Roof
- Community Center Lights Replacement
- Airport Land Acquisition
- Police Department Facility
- Delaware Springs Irrigation Controllers
- Delaware Springs Clubhouse Repairs
- North Vandeveer Sewer Line
- Elster Upgrade
- Incode Upgrade
- Wofford Street Water Line
- YMCA Capital Maintenance

<u>Discuss and consider: Council's goals and priorities:</u> Each Council Member shared their envisioned goals for the 2021/2022 FY Budget with staff.

<u>Discuss and consider: Fiscal Year 2021/2022 proposed Capital Projects:</u> City Manager David Vaughn asked Department Directors to discuss the needs for their department as follows: Fire Department- Chief Ingram:

- Fire Truck Replacement-Engine 3
- Additional Fire Department Staffing-four Emergency Medical Technicians
- COVID 19 First Responder Premium Pay

Burnet Municipal Airport-Adrienne Field, Airport Manager:

- Tug for moving jets
- Ground Power Unit replacement
- Runway Pavement Assessment to establish a maintenance program
- Replacement of Hangar D door cable system with a strap system
- Revision of the Airport Layout Plan (ALP)
- New Jet Hangar
- Decel lane at entrance to the Airport

Police Department: Chief Lee

- Replacement of end-of-life Tasers
- Staffing-additional officer

Administration: City Manager David Vaughn

- Citywide Comprehensive Plan
- Relocate City Hall
- Staffing-Customer Service/Admin Support Golf Course/Utility Oversight/ Infrastructure Inspector
- Replacement of aging servers

Human Resources: Kelli Sames, Director

- Workforce Planning to include attracting, developing, and retaining employees with requisite skills
- Evaluation of Benefits, Compensation structure, Training and Development initiatives

Delaware Springs: Tony Nash, General Manager

- Clubhouse building repairs
- Capital Maintenance/upgrades
- Relocation of #15 Tee Box
- Repave the parking lot

Public Works: Gene Courtney

• IworQs Software System

Electric: Gene Courtney

- Reclosers
- Electric SCADA System
- Staffing-Meter Tech

Water and Wastewater: Alan Burdell, Operations Manager

- Generators at critical infrastructure
- Replace Vac Truck
- Sewer Camera
- SSES Projects G, H, I
- Upgrade of the lift station at the Ranch
- Wofford Street water line and pressure tank
- Extend water line form Hoover Valley to Simons Group Property
- Extend sewer line to VFW and adjacent properties
- Enlarge pumps and add storage tank to improve Eagle's Nest Fire Flow
- Eastside Commercial Pressure Upgrade
- Water Department staffing-two additional Field Staff

Street Department: Mark Miller, Street Supervisor

- Annual street replacement and maintenance program
- De-Icing Equipment
- Asphalt Zipper
- Replace wheel loader
- Street Department staffing- two additional

Parks Department: Gene Courtney, Public Works Director

- Community Center kitchen and bathroom renovation
- Annual Parks Improvement
- Staffing-two additional staff

Council requested an additional workshop to prioritize requests. The date and time will be determined, and Council will be notified.

ADJOURN:

Adjourn: There being no further business the Budget Retreat session was adjourned at 4:35 p.m.

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



Development Services

ITEM 3.1

Habib Erkan Jr. Assistant City Manager 512-715-3201 herkan@cityofburnet.com

Public Hearing Brief

Meeting Date: May 25, 2021

- Agenda Items: Public Hearing: City Council will receive testimony and comments from members of the public on an ordinance amending City of Burnet Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-61 (entitled "construction plans"): H. Erkan
- **Background:** The general purpose of Section 118-61 is to assure the development of a vacant lot, or the redevelopment of a lot, complies with the city's access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces requirements.

The last sentence of Section 118-61 (a), which reads "[c]construction plans will not be required for development of existing lots or short form subdivisions which have adequate utilities and public access as determined by the city engineer" has caused some confusion regarding the section's applicability. The intent of the exception is not to require duplication of plans that were approved during the subdivision process. Rather under the section, matters not addressed in the subdivision process (i.e., off-street parking, lighting, signage, landscaping, vehicle, and pedestrian circulation) are to be addressed in the development construction plan process.

Information: The proposed amendment to subsection (a) reads as follows:

(a) Purpose, scope, and exceptions.

(1) Purpose. Construction plans provide detailed graphic information and associated indicating property boundaries, text easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and

	pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary, in accordance with the city building codes.
	(2) Scope. Construction plan approval by the city engineer shall be required for any development, redevelopment, or improvement of land subject to this chapter.
	(3) Exceptions. It is an exception to the construction plan approval requirement of this section if the construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions").
	The amendment assures that matters such as off-street parking, lighting, signage, landscaping, vehicle, and pedestrian circulation will be addressed at the lot development, or redevelopment, stage. Subsection (a)(3) assures that a developer will not be required to duplicate plans approved at the subdivision stage.
Fiscal Impact:	This Zoning Code Amendment shall have no direct financial impact.
Commission Report:	On April 5, 2021, the planning and zoning commission conducted a public hearing. No parties spoke in favor or opposition to the proposed ordinance. On May 3, 2021, the commission unanimously recommended approval of the ordinance as presented.
Recommendation:	Staff recommends the public hearing be opened.

ORDINANCE NO. 2021-17

AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") SECTION 118-61 (ENTITLED "CONSTRUCTION PLANS"); PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the setback requirements in Section 118-61 of the City Code; and

WHEREAS, on April 6, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on April 27, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents.

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

Section 1. <u>Amendment</u>. The Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-61 (entitled "Construction plans") is hereby amended by replacing the existing language in subsection (a) (entitled "Purpose and applicability") with the language that is italics (*italics*) below:

- (a) *Purpose, scope, and exceptions.*
 - (1) Purpose. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes.
 - (2) Scope. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter.

(3) Exceptions. It is an exception to the construction plan approval requirement of this section if the construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions").

Note to Publisher: Existing subsections 118-61(b) through (i) are not amended by this ordinance and shall remain in full force and effect as currently published.

Section 2. <u>Findings</u>. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. <u>Penalty</u>. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section 4. <u>**Cumulative**</u>. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled "Repealer") shall be controlling.

Section 5. <u>**Repealer**</u>. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 6. <u>Severability</u>. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. <u>**TOMA Compliance.**</u> It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act.

Section 8. <u>Publication</u>. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section 9. <u>Effective Date</u>. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 25th day of May, 2021

Passed and Adopted on the 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Amendment to Section 118-74 Board of Adjustment

May 25, 2021, city council regular session agenda items 3.2

Background.

- Municipalities are authorized to establish a zoning board of adjustment pursuant to the zoning statute (TLGC Chapter 211)
- Pursuant to the zoning statute, a zoning board of adjustment may hear and decide:
 - an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator;
 - o special exceptions to the terms of zoning ordinance;
 - o requests for variances from the terms of the zoning ordinance; and
 - $\circ\,$ other matters as assigned by council.

Background

- City Council codified Zoning Code Section 118-74 establishing a zoning board of adjustment.
- Section 118-74 reads:

Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of V.T.C.A., Local Government Code § 211.008 and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.

(Ord. No. 2012-06, § 3(exh. A), 2-28-12)

Proposed Amendment

The draft ordinance codifies:

- Membership of the board
- Alternate members
- Term of office
- Scope of authority
 - hear and decide: an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance
 - hear and decide other matters as assigned by council
 - o serve as airport zoning board of adjustment
- Quorum
- Rules of procedure.

Conclusion

• Public Hearing: Open the public hearing to receive testimony and comments on the merits of the proposed changes to Sec 118-74



Development Services

ITEM 3.2

Habib Erkan Jr. Assistant City Manager 512-715-3201 herkan@cityofburnet.com

Public Hearing

Meeting Date: May 25, 2021

- Action Item: Public Hearing: The City council shall conduct a public hearing to receive public testimony and comments on the merits of an amendment to the Zoning Code for the purpose of amending the Code of Ordinances Section 118-74 (entitled "Board of Adjustment"): H. Erkan
- **Background:** Pursuant to the authority of Texas Local Government Code Sections 211.008 through 211.010, City Council codified Zoning Code Section 118-74 establishing a zoning board of adjustment. The section reads in its entirety as follows:

Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of V.T.C.A., Local Government Code § 211.008 and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.

(Ord. No. 2012-06, § 3(exhibit A), 2-28-12)

Information: This code amendment expands Section 118-74 to include subsections that address the following:

- Membership of the board
- Alternate members
- Term of office
- Scope of authority
 - hear and decide: an appeal that alleges error in an order, requirement, decision, or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance
 - o hear and decide other matters as assigned by council
 - o serve as airport zoning board of adjustment

- Quorum
- Rules of procedure.

Commission
Report:On May 3, 2021, the planning and zoning commission conducted a
public hearing. No parties spoke in favor or opposition to the proposed
ordinance. After closing the public hearing, the commission
unanimously recommended approval of the ordinance as presented.

Fiscal Impact: This Zoning Code Amendment shall have no direct financial impact.

Recommendation: Staff recommends the public hearing be opened.

ORDINANCE NO. 2021-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET AMENDING THE CODE OF ORDINANCES SECTION 118-74 (ENTITLED "BOARD OF ADJUSTMENT") BY CODIFYING THE BOARD OF ADJUSTMENT'S COMPOSITION; TERM; AND SCOPE OF AUTHORITY PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Texas Local Government Code Section 211.008 authorizes City Council to appoint a Board of Adjustment; and

WHEREAS, Texas Local Government Code Section 211.009 provides that the Board of Adjustment may hear and decide: an appeal that alleges error in an order, requirement, decision, or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance; and

WHEREAS, City Council established a Board of Adjustment by the adoption of City Code Section 118-74

WHEREAS, City Council's objective in adopting this ordinance is to codify the Board of Adjustment's composition, term of office and scope of authority.

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

Section one. Code Amendment. The Code of Ordinances of the City of Burnet, Chapter 118 (entitled "Zoning") Section 110-74 (entitled "Board of Adjustment") is hereby amended by replacing the existing language in its entirety with the language that follows:

Sec. 118-74. - Board of adjustments.

- (a) Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of Chapter 211 of the Local Government Code and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.
- (b) Members. The board shall consist of 5 members appointed by City Council.
- (c) Alternates. City Council may appoint up to two alternate members to serve in the absence of one or more regular members at the request of the mayor or city manager.

- (d) Term. Members and alternate members shall serve two-year terms. Vacancies in the term of a member or alternate member shall be filled for the unexpired term. A member or alternate member may only be removed from the board, before the expiration of a term for cause, as found by city council on a written charge after a public hearing.
- (e) Scope of Authority. The board may hear and decide:
 - (i) Special Exceptions. In appropriate cases and subject to appropriate conditions and safeguards, the board may make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the zoning ordinance and in accordance with any applicable rules contained in the zoning ordinance.
 - (ii) Appeals. The board may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by zoning administrator in the enforcement of Texas Local Government Code Chapter 211, subchapter A or the zoning ordinance.
 - (iii) Variances. The board may authorize in specific cases a variance from the terms of the zoning ordinance if the variance:
 - (A) is not contrary to the public interest; and,
 - (B) is not contrary to the spirit of the zoning ordinance; and
 - (C) is necessary for substantial justice to be done; and
 - (D) is necessary due to special conditions, which causes a literal enforcement of the regulation to result in unnecessary hardship. To find unnecessary hardship exists the board must affirmatively find:
 - (1) The hardship is in no way the result of the applicant's own actions; and
 - (2) Special conditions exist of restricted area, topography or physical features that are peculiar to the subject property and are not applicable to other properties in the same zoning district; and
 - (3) the application of the regulation to the subject property deprives the applicant of rights commonly enjoyed by other properties in the same zoning district that are in compliance with the same regulation.
 - (iv) Other matters. The board may hear and decide other matters authorized by the zoning ordinance.

- (v) Airport Zoning Board of Adjustment. Pursuant to, and in accordance with the requirements of, Texas Local Government Code Chapter 241, subchapter C, and City Code Chapter 18, article IV, the board shall serve as the Airport Board of Adjustment and hear and decide an appeal of an order, requirement, decision, or determination of the airport's administrative agency; matters on which the board is required to pass under an airport zoning regulation; or a request variation in an airport zoning regulation.
- *(f) Quorum.* Each case before the board must be heard by at least 75 percent of the members.
- (g) Rules. The board, by majority vote, shall adopt rules in accordance with the zoning ordinance; City Code Chapter 18, article IV; Texas Local Government Code Chapter 211, subchapter A and Texas Local Government Code Chapter 241, subchapter C. The adopted rules shall become effective upon approval by City Council.

Section two. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section three. Penalty. A violation of this ordinance is unlawful and subject to penalty as prescribed in City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section four. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event section six shall apply.

Section five. **Repealer**. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section six. Severability. Pursuant to Code of Ordinances of the City of Burnet, Section 1-7, if any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid or unenforceable, the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the city council in adopting, and of the mayor in approving this Ordinance, that no portion of this Ordinance, or provision or regulation contained in this Ordinance, shall become inoperative or fall by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

Section seven. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of

the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code; as suspended, or otherwise modified, by executive orders of the governor of this state in response to the COVID-19 pandemic.

Section eight. Publication. The publishers of the City Code of Ordinances are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section ten. Notice. The City Secretary has published notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas.

Section eleven. **Effective Date**. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 25th day of May, 2021

Passed and Adopted on the 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Amendment to Section 118-74 Board of Adjustment

May 25, 2021, city council regular session agenda items 3.2

Background.

- Municipalities are authorized to establish a zoning board of adjustment pursuant to the zoning statute (TLGC Chapter 211)
- Pursuant to the zoning statute, a zoning board of adjustment may hear and decide:
 - an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator;
 - o special exceptions to the terms of zoning ordinance;
 - o requests for variances from the terms of the zoning ordinance; and
 - $\circ\,$ other matters as assigned by council.

Background

- City Council codified Zoning Code Section 118-74 establishing a zoning board of adjustment.
- Section 118-74 reads:

Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of V.T.C.A., Local Government Code § 211.008 and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.

(Ord. No. 2012-06, § 3(exh. A), 2-28-12)

Proposed Amendment

The draft ordinance codifies:

- Membership of the board
- Alternate members
- Term of office
- Scope of authority
 - hear and decide: an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance
 - hear and decide other matters as assigned by council
 - o serve as airport zoning board of adjustment
- Quorum
- Rules of procedure.

Conclusion

• Public Hearing: Open the public hearing to receive testimony and comments on the merits of the proposed changes to Sec 118-74



Development Services

ITEM 3.3

Habib Erkan Jr. Assistant City Manager 512-715-3201 herkan@cityofburnet.com

Public Hearing

Meeting Date: May 25, 2021

- Agenda Item: Public Hearing: City Council shall conduct a public hearing to receive public testimony and comments on the merits of an amendment to the Zoning Code for the purpose of authorizing boat and recreational vehicle sales, service, and storage in the Heavy Commercial District "C-3": H. Erkan
- **Background:** Currently, boat and recreational vehicle sales, service and storage are not on the table of permitted uses. Similar uses allowed in the Heavy Commercial District "C-3" includes automobile sales (outdoor) and heavy machinery sales, storage, and service.
- Information: This code amendment would allow boat and recreational vehicle sales, service and storage allowed in the Heavy Commercial District "C-3" as a matter of right.
- **Fiscal Impact:** This Zoning Code Amendment shall have no direct financial impact.

Commission Report:

- : On April 5, 2021, the planning and zoning commission conducted a public hearing. No parties spoke in favor or opposition to the proposed ordinance. On May 3, 2021, the commission unanimously recommended approval of the ordinance as presented.
- **Recommendation:** Staff recommends the public hearing be open.

ORDINANCE NO. 2021-19

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF AUTHORIZING BOAT AND RECREATIONAL VEHICLE SALES, SERVICE AND STORAGE IN THE HEAVY COMMERCIAL – DISTRICT "C-3"; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the zoning districts and regulations in Section 118-20 of the City Code; and

WHEREAS, on April 5, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, on May 3, 2021 the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on May 25, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents.

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

Section 1. <u>Amendment</u>. The Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-47 (entitled "Heavy commercial – District 'C-3'") is hereby amended by adding the language that is italics (*italics*) as new subsection 118-47(a)(4) as follows:

(4) Boats and Recreational Vehicles sales, service, and storage.

Note to Publisher: Existing subsections 118-47(a)(4) to 118-47(a)(21) shall be recodified as subsections 118-47(a)(5) to 118-47(a)(22).

Section 2. <u>Findings</u>. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. <u>Penalty</u>. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section 4. <u>Cumulative</u>. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled "Repealer") shall be controlling.

Section 5. <u>**Repealer**</u>. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 6. <u>Severability</u>. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. <u>**TOMA Compliance**</u>. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

Section 8. <u>Publication</u>. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section 9. <u>Effective Date</u>. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 25th day of May, 2021

Passed and Adopted on 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Zoning Table of Uses Amendment

May 14, 2021 city regular session agenda items 3.3 (Public Hearing)

Boat and Recreational Vehicles Sales, Service and Storage

- Currently the table of uses does not address Boat and Recreational Vehicles Sales, Service and Storage
- The proposed amendment would allow Boat and Recreational Vehicles Sales, Service and Storage in Heavy Commercial District "C-3" Districts



Boat and Recreational Vehicles Sales, Service and Storage

Uses similar to Boat and Recreational Vehicles Sales, Service and Storage authorized in Heavy Commercial "C-3" Districts

- automobile sales (outdoor)
- heavy machinery sales, storage and service

Conclusion

 Public Hearing: Recommend open the public hearing to receive testimony and comments on the merits of the proposed changes to the zoning table of uses





Development Services

ITEM 4.1 Leslie Kimbler Planner I 512-715-3215 Ikimbler@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

- Action Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 1801 E POLK ST (LEGAL DESCRIPTION: ABS A1525 SARAH ANN GUEST, 5.778 ACRE TRACT) WITH MEDIUM COMMERCIAL – DISTRICT "C-2" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE
- **Background:** The property was annexed in 2002 and designated temporary "R-1". According to BCAD records, since the time of annexation, a commercial business, ministorage, has continually operated on the property as a legally nonconforming use. As the owner is entitled to permanent zoning on the property this zoning case was initiated by staff.
- Information: Staff recommends Medium Commercial District "C-2" classification for the property. This is consistent with the FLUM and allows ministorage use as a matter of right. It should be noted that recently, the owner sought a building permit to make improvements to the property. The permit cannot be issued until this zoning case is approved as improvement to, or expansion of, a legally nonconforming use is prohibited by the code.
- **Staff Analysis:** The Future Land Use Map (Exhibit B) designation for the area is commercial. As the property abuts a major arterial street (Texas State Hwy 29) the Medium Commercial District "C-2" classification is appropriate in this area.

Properties adjacent to the subject property are zoned as follows:

	North	South	East	West
Zoning	"R-1"	"R-1"	"I-1"	"R-1"
FLUM	Commercial	Industrial	Commercial	Commercial

Land Use	Vacant	Single-Family	Single-Family	Commercial
		Residential	Residential	business

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on April 21, 2021. Written notices were mailed to seven (7) surrounding property owners within 200 feet of the subject property.

Recommendation: Staff recommends approval of the final ready of Ordinance 2021-15 as presented.

ORDINANCE NO. 2021-15

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 1801 E POLK ST (LEGAL DESCRIPTION: ABS A1525 SARAH ANN GUEST, 5.778 ACRE TRACT) WITH MEDIUM COMMERCIAL – DISTRICT "C-2" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2021-001, affixed the zoning classifications for each and every property located within the city in accordance with the Official Zoning Map as approved with said ordinance; and

WHEREAS, the purpose of this Ordinance is to amend the Official Zoning Map by amending the zoning classification of the Real Property ("Property") described herein; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of zoning classification and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, it is further legislatively found that this proposed zoning reclassification of property does not require an amendment to the Future Land Use Plan; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety and welfare.

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

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted and made a part hereof for all purposes as findings of fact.

Section two. Property. The Property that is the subject to this Zoning District Reclassification is 1801 E POLK ST (LEGAL DESCRIPTION: ABS A1525 SARAH ANN GUEST, 5.778 ACRE TRACT as shown on **Exhibit "A**" hereto.

Section three Zoning District Reclassification. MEDIUM COMMERCIAL – DISTRICT "C-2" Zoning District Classification is hereby assigned to the Property described in section two.

Section four. Zoning Map Revision. The City Secretary is hereby authorized and directed to revise the Official Zoning Map to reflect the change in Zoning District Classification approved by this Ordinance.

Section five. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent of such conflict.

Section six. Severability. This Ordinance is severable as provided in City Code Section 1-7 as same may be amended, recodified or otherwise revised.

Section seven. Effective Date. This ordinance is effective upon final passage and approval.

PASSED on First Reading the 11th day of May 2021.

PASSED AND APPROVED on this the 25th day of May 2021.

CITY OF BURNET, TEXAS

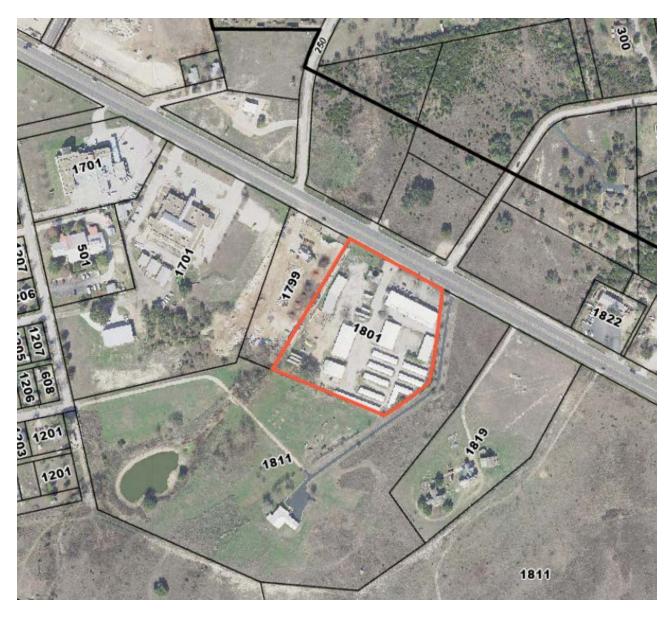
Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit "A"

Location Map



Action Item:

Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 1801 F POLK ST (LEGAL DESCRIPTION: ABS A1525 SARAH ANN GUEST, 5.778 ACRE TRACT) WITH MEDIUM COMMERCIAL - DISTRICT "C-2" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Item 4.1

Information:

- <u>Current Zoning</u>: Single Family Residential – District "R-1"
- <u>Requested Zoning:</u> Medium Commercial – District "C-2"

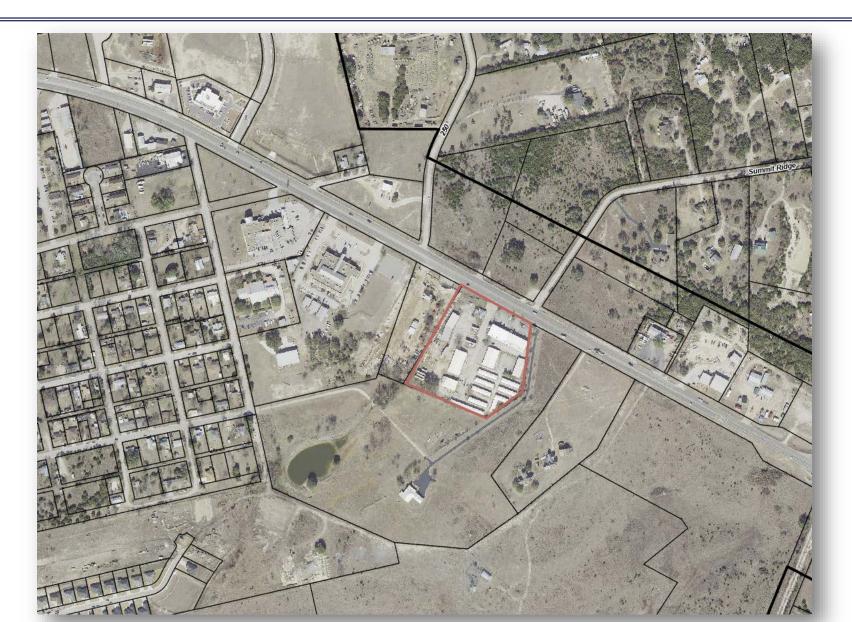
The property was annexed in 2002 and designated temporary "R-1". This zoning case was initiated by staff.

Future Land Use Map:

The Future Land Use Map designation for the area is Commercial. The proposed Medium Commercial – District "C-2" zoning is appropriate in this area.



Questions?





Development Services

ITEM 4.2 Leslie Kimbler Planner I 512-715-3215 Ikimbler@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

- Action Item: Discuss and consider action: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET. TEXAS. AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 2551 W HWY 29 (LEGAL DESCRIPTION: ABS A0405 JOHN TRACT 4.0805 HAMILTON, 26, ACRES) WITH HEAVY COMMERCIAL – DISTRICT "C-3" ZONING CLASSIFICATION: PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE: L. Kimbler
- **Background:** The subject property is located at the corner of Highway 29 West and Hoover Valley Road. The property is currently being utilized as an auto repair shop which is an allowable use in the current Medium Commercial – C-2 zoning. The property is split by the city limits with 4.08 acres being inside the city limits and 0.908 acres being outside of the city limits.
- Information: Heavy Commercial District "C-3" allows for Trailer camps or RV parks, Heavy machinery sales, storage and service, and other similar uses determined by the commission and the council. Conditions and limitations of Heavy Commercial District "C-3" is that the area is to be improved with concrete, asphalt pavement or other all-weather surface and that it is to be landscaped, screened or fenced. Although RV Storage is not a defined use in the code of ordinances, staff analyzed the uses that are similar as well as the conditions and determined that Heavy Commercial District "C-3" is the most suitable zoning district for this use.
- **Staff Analysis:** The Future Land Use Map (Exhibit B) designation for the area is commercial. The proposed Heavy Commercial District "C-3" zoning is appropriate in this area.

Properties adjacent to the subject property are zoned as follows:

	North	South	East	West
Zoning	"C-3"	"ETJ"	"C-3"	"C-2"
FLUM	Commercial	Residential	Commercial	Commercial
Land Use	Vacant	Residential	Proposed RV Park	Convenience Store

Public Notification: A Notice of Public Hearing was published in the Burnet Bulletin on April 21, 2021. Written notices were mailed to six (6) surrounding property owners within 200 feet of the subject property. There were no comments in favor or opposition regarding the request to rezone in writing or during the Planning and Zoning Commission's public hearing.

Recommendation: Staff recommends approval of the final reading of Ordinance 2021-16 as presented.

ORDINANCE NO. 2021-16

AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 2551 W HWY 29 (LEGAL DESCRIPTION: ABS A0405 JOHN HAMILTON, TRACT 26, 4.0805 ACRES) WITH HEAVY COMMERCIAL – DISTRICT "C-3" ZONING CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council, by the passage and approval of Ordinance No. 2021-01, affixed the zoning classifications for each and every property located within the city in accordance with the Official Zoning Map as approved with said ordinance; and

WHEREAS, the purpose of this Ordinance is to amend the Official Zoning Map by amending the zoning classification of the Real Property ("Property") described herein; and

WHEREAS, the Planning and Zoning Commission, after conducting a public hearing on the matter, deliberated the merits of the proposed amendment of zoning classification and has made a report and recommendation to City Council; and

WHEREAS, in passing and approving this ordinance it is legislatively found the Planning and Zoning Commission and City Council complied with all notice, hearing and meetings requirements set forth in Texas Local Government Chapter 211; Texas Government Code Chapter 551, the City Charter; and Chapter 118, of the Code of Ordinances; and

WHEREAS, it is further legislatively found that this proposed zoning reclassification of property does not require an amendment to the Future Land Use Plan; and

WHEREAS, City Council, after considering the testimony and comments of the public, reports and recommendations of City Staff and the Planning and Zoning Commission, and the deliberation of its members, by passage and approval of this Ordinance hereby determines the action taken herein is meritorious and beneficial to the public health, safety and welfare.

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

Section one. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted and made a part hereof for all purposes as findings of fact.

Section two. Property. The Property that is the subject to this Zoning District Reclassification is 2551 W HWY 29 (LEGAL DESCRIPTION: ABS A0405 JOHN HAMILTON, TRACT 26, 4.0805 ACRES) as shown on **Exhibit "A**" hereto.

Section three. **Continuation of nonconforming uses**. A single family residential dwelling unit currently is on the Property. Additionally, livestock is kept on the Property and the Burnet Central Appraisal District approved an ad valorem agricultural exemption. These non-conforming uses may continue until such time, after the Effective Date, that a certificate of occupancy is issued for a commercial use on the Property.

Section four. Zoning District Reclassification. HEAVY COMMERCIAL – DISTRICT "C-3" Zoning District Classification is hereby assigned to the Property described in section two.

Section five. Zoning Map Revision. The City Secretary is hereby authorized and directed to revise the Official Zoning Map to reflect the change in Zoning District Classification approved by this Ordinance.

Section six. Repealer. Other ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent of such conflict.

Section seven. Severability. This Ordinance is severable as provided in City Code Section 1-7 as same may be amended, recodified or otherwise revised.

Section eight. Effective Date. This ordinance is effective upon final passage and approval.

PASSED on First Reading the 11th day of May 2021.

PASSED AND APPROVED on this the 25th day of May 2021.

CITY OF BURNET, TEXAS

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Exhibit "A" Location Map



Action Item:

Discuss and Consider: SECOND AND FINAL READING OF AN ORDINANCE OF THE CITY COUNCIL OF BURNET, TEXAS, AMENDING ORDINANCE NO. 2021-01 AND THE OFFICIAL ZONING MAP OF THE CITY BY ASSIGNING THE PROPERTY DESCRIBED AS 2551 W HWY 29 (LEGAL DESCRIPTION: ABS A0405 JOHN HAMILTON, TRACT 26, ACRES) WITH HEAVY COMMERCIAL – DISTRICT "C-3" ZONING 4.0805 CLASSIFICATION; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Item 4.2

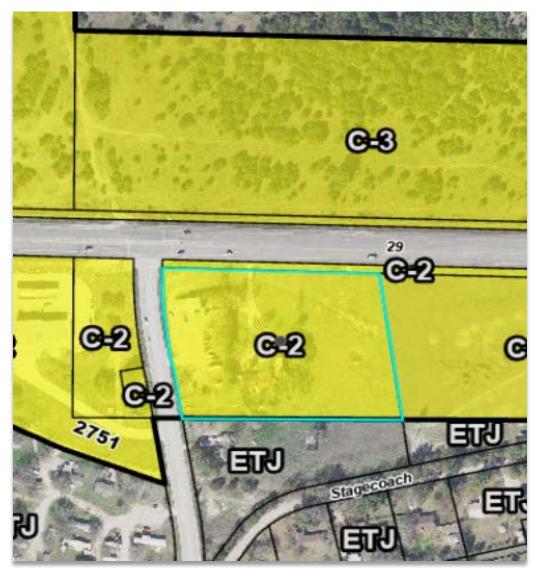
Information:

- <u>Current Zoning</u>: Medium Commercial – District "C-2"
- <u>Requested Zoning:</u> Heavy Commercial – District "C-3"

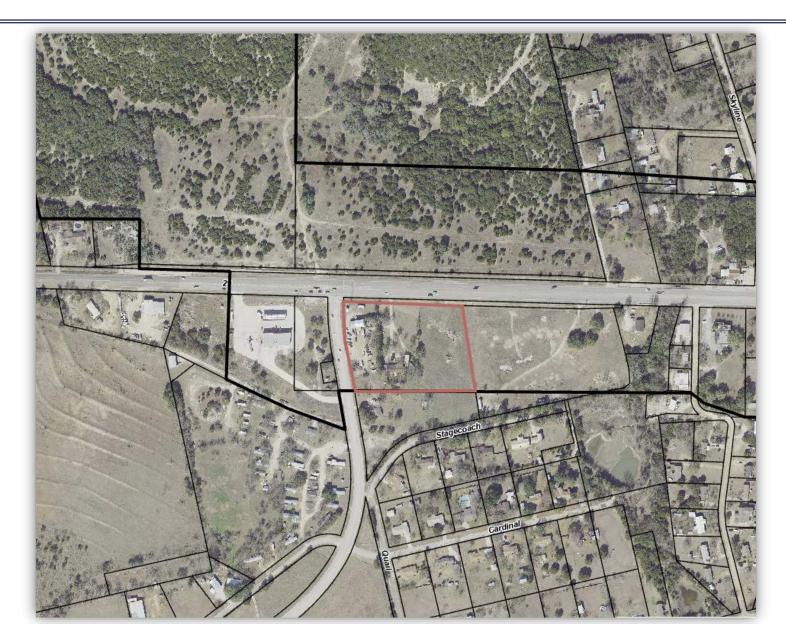
The applicant is requesting District "C-3" zoning to allow for the development of a RV storage facility

Future Land Use Map:

• The Future Land Use Map designation for the area is Commercial. The proposed Heavy Commercial – District "C-3" zoning is appropriate in this area.



Questions?





Administration



Kelly Dix City Secretary 512.715.3209 kdix@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item:Discuss and consider action: Appointment of members to the
Burnet Planning and Zoning Commission: K. Dix

Background: Current Burnet Planning and Zoning Commission Member, Jena Wind (Position 6) submitted her resignation from the Planning and Zoning Commission effective immediately. Cesar Arreaza (Position 5) graciously agreed to an extension of his term in January 2021 to assist with alignment of Board term dates to the end of June 2021. He too has expressed his desire to terminate his service on the Planning and Zoning Commission. Commission Member Ricky Langley (Position 2) resigned his position effective May 1, 2021 upon his election to the Burnet City Council and Position 7 vacated by Craig Lindholm that has a term end date of June 2023 is still vacant as well.

Information: Two applications for the Planning and Zoning Commission have been received. Glen Teague and Glen A. Gates have both expressed their desire to serve on the Burnet Planning and Zoning Commission.

Fiscal Impact: No fiscal impact

Recommendation: Staff recommends appointment of Glen Gates to position 2 and Glen Teague to position 6 of the Burnet Planning and Zoning Commission as presented.



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 follow	ing City of Burnet Board or Commission:
Economic Development Corporation Board City of Burnet Historical Board Board of Adjustments Charter Review Committee	X Parks & Recreation Advisory Board X Planning & Zoning Commission Airport Advisory Board Ethics Board Other Other
Name: <u>GLEN A. GATES</u> Home & Mailing Address: <u>228 Sanday Dr.</u> Home Phone: <u>(512)234-8396</u> Business	Email: <u>9A9Ates1952@gmail.com</u> <u>Burnet,TX 18611 DOB: 7/30/1952</u> s Phone: <u>(337) 540-0047</u>
(For Planning and Zoning or Board of Adjustment applicants Voter of the City of Burnet? Yes $\underline{\checkmark}$ No Occupation: $\underline{RETirEd}$	only): Resident of Burnet for 4 years. Registered
Education (Optional): $B, 5, -Accounting$ Special knowledge or experience applicable to City boa	
 Backing/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: I <u>NoNE</u> Other information (professional and/or community activities)	
I have attended one or more meetings of the board or comm How many times in the past months.	nission for which I have appliedYes No
This application is the only information con PLEASE, RETURN THIS COMPLETED F	sidered for appointments by the City Council. ORM TO THE CITY SECRETARY'S OFFICE
Signature	5/2/2021 Date

	P. O. Box 1369 1001 Buchanan Drive Burnet, Texas 78611 2-756-6093 Fax: 512-756-8560
COMMUNI	TY SERVICE APPLICATION
I am interested in serving on	the following City of Burnet Board or Commission:
Economic Development Corporation Board Historic Board Board of Adjustments and Appeals	Planning & Zoning Commission Airport Advisory Board Charter Review Committee
Name: Gren JEngue	Email: Glan Q TEngue Criston Homes. con
Home Address: 100 Bits SKY	DOB: 7/101 780
Home Phone:	Business Phone:
Special knowledge or experience applicable to	City board or commission function:
Special knowledge or experience applicable to	City board or commission function: - Swb b.v. 300- Deletaproh
Special knowledge or experience applicable to	City board or commission function:
Special knowledge or experience applicable to	City board or commission function: <u> Sub ないこで ひましたみない</u> Business Development Promotion/Marketing
Special knowledge or experience applicable to	City board or commission function:
Special knowledge or experience applicable to Two Decretes and Construction Banking/Finance Building/Construction Real Estate/Development	City board or commission function: - Swb buccer ballsdoprod Business Development Promotion/Marketing Manufacturing/Industrial Operations Law/Contract Administration
Special knowledge or experience applicable to Banking/Finance Building/Construction Real Estate/Development Industrial Training	City board or commission function:
Special knowledge or experience applicable to	City board or commission function:



Public Works

ITEM 4.3

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

Agenda Item Brief

Meeting Date:	May 25, 2021
Agenda Item:	Discuss and consider action: Authorization for the City Manager to execute a three year agreement with iWorQ Systems, Inc. for applications and services and Public Works1 for asset and data tracking services: G. Courtney
Background:	
Information:	Staff is requesting to enter into an agreement with Iworqs web based software to help improve the work management process with in Public Works department. Public Works 1 (engineering side of Iworqs) will also preform a street assement that will be entered into the Iworqs system to help staff create a street restoration plan that better fits city needs. The cost will be funded from current operating funds.
Fiscal Impact:	First year= \$20,000 (\$12,000 for the yearly subscription \$8,000 for implantation) Second year = \$12,000 Third year= \$12,000
Recommendation	Staff recommends authorization for the City Manager to execute a three year agreement with Iworq Systems, Inc. for software applications and services and Public Works1 for asset and data tracking services as presented.



IWORQ SERVICE AGREEMENT

For iWorQ applications and services

Burnet here after known as ("Customer"), enters into THIS SERVICE AGREEMENT ("Agreement") with iWorQ Systems Inc. ("iWorQ") with its principal place of business 1125 West 400 North, Suite 102, Logan, Utah 84321.

1. SOFTWARE AS A SERVICE (SaaS) TERMS OF ACCESS:

iWorQ grants Customer a non-exclusive, non-transferable limited access to use iWorQ service(s), application(s) on iWorQ's authorized website for the fee(s) and terms listed in Appendix A. This agreement will govern all application(s) and service(s) listed in the Appendix A.

2. CUSTOMER RESPONSIBILITY:

Customer acknowledges that they are receiving only a limited subscription to use the application(s), service(s), and related documentation, if any, and shall obtain no titles, ownership nor any rights in or to the application(s), service(s), and related documentation, all of which title and rights shall remain with iWorQ. Customer shall not permit any user to reproduce, copy, or reverse engineer any of the application(s), service(s) and related documentation.

iWorQ is not responsible for the content entered into iWorQ's database or uploaded as a document or image. Access to iWorQ cannot be used to record personal or confidential information such as driver license numbers, social security numbers, financial data, credit card information or upload any images or documents considered personal or confidential.

3. TRAINING AND IMPLEMENTATION:

Customer agrees to provide the time, resources, and personnel to implement iWorQ's service(s) and application(s). iWorQ will assign a senior account manager and an account management team to implement service(s) and application(s). Typical implementation will take less than 60 days. iWorQ account managers will call twice per week, provide remote training once per week, and send weekly summary emails to the customer implementation team. iWorQ can provide project management and implementation documents upon request. iWorQ will do ONE import of the Customer's data. This import consists of importing data, sent by the Customer, in an electronic relational database format.

Customer must have clear ownership of all forms, letters, inspections, checklists, and data sent to iWorQ.





Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

4. CUSTOMER DATA:

Customer data will be stored on AWS GovCloud. iWorQ will use commercially reasonable efforts to backup, store and manage Customer data. iWorQ does backups twice per week and offsite backups twice per week. The subscription will renew each year on the anniversary date of this Agreement unless terminated (see 7. TERMINATION).

Customer can run reports and export data from iWorQ application(s) at any time.

Customer can pay iWorQ for additional data management service(s), onsite backups, application(s) and other service(s).

Data upload and storage is provided to every Customer. This includes uploading files up to 3MB and 10 GB of managed data storage on AWS GovCloud. Additional upload file sizes and managed data storage sizes can be provided based on the application(s) and service(s) listed in Appendix A.

5. CUSTOMER SUPPORT:

Customer support and training are FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. iWorQ provides unlimited remote Customer training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. iWorQ provides "Service NOT Software".

6. BILLING:

iWorQ will invoice Customer on an annual basis. iWorQ will send invoice by mail and by email to the address(s) listed in Appendix A. Terms of the invoice are net 30 days. Any billing changes will require that a new Service(s) Agreement be signed by Customer.

Any additional costs imposed by the Customer including business licenses, fees, or taxes will be added to the Customer's invoice yearly.

7. TERMINATION:

Either party may terminate this agreement, <u>after the initial 3-YEAR TERM</u>, without cause if the terminating party gives the other party sixty (60) days written notice. Should Customer terminate any application(s) and or service(s) the remaining balance will immediately become due. Should Customer terminate any part of the application(s) and or service(s) a new Service(s) Agreement will need to be signed. Notwithstanding the forgoing, beginning on October 1, 2021, the Burnet City Council shall have the continuing right, pursuant to Texas





Local Government Code Section 271.903 (entitled "commitment of current revenue"), to terminate this agreement at the expiration of each budget period if, after using its best efforts to appropriate funds, the City Council determines funds are not available to appropriate for payment of the contract for that budget year. In the event City Council fails to appropriate such funds for any City budget year this agreement is in effect Customer shall notify iWorQ on or before October 10 of that year.

Upon termination (6. TERMINATION), iWorQ will discontinue all application(s) and or service(s) under this Agreement; iWorQ will provide customer with an electronic copy of all of Customer's data, if requested by the Customer (within 3-5 business days).

During the term of the Agreement, the Customer may request a copy of all of Customer's data for a cost of no more than \$2,500; and all provisions of this Agreement will continue.

8. ACCEPTABLE USE:

Customer represents and warrants that the application(s) and service(s) will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. iWorQ may restrict access to users upon misuse of application(s) and service(s).

9. CUSTOMER IMPLEMENTATION INFORMATION:

Primary Implementation Contact		Title	
Office Phone	Cell		-
Email		_	
Secondary Implementation Contact		Title	
Office Phone	Cell		_
Email		_	



10.CUSTOMER BILLING INFORMATION:

Billing Contact	Title	
Billing Address:		
Office Phone	Cell	
Email		
PO#	_ (if required) Tax Exempt ID #	

11. ACCEPTANCE:

The effective date of this Agreement is listed below. Authorized representative of Customer and iWorQ have read the Agreement and agree and accept all the terms.

Signature		
-----------	--	--

Effective Date: _____

Printed Name	
--------------	--

Title _____

Office Number	

Cell Number _____





iWorQ Service(s) Agreement APPENDIX A





iWorQ Price Proposal

Burnet	Population- 6,266
1001 Buchanan Drive, Suite 4, Burnet, TX 78611	Prepared by: Cade Gunnell

Annual Subscription Fees

Application(s) and Service(s)	<u>Package</u> <u>Price</u>	<u>Billing</u>
Public Works Package (Infrastructure)	\$6,000	Annual
Package includes:		
*Work Management		
*Sign Management		
*Pavement Management		
*Water Management		
*Sewer Management		
-Available on any computer, tablet, or mobile device		
-Track and manage work and asset(s) by location using		
OpenStreetMap		
-Work order scheduling and templates		
-Track labor, inventory, parts, and material		
-Track MUTCD, condition, reflectivity, etc.		
-Track manholes, hydrants, valves, lines etc.		
-Track pavement condition, distress, treatments, etc.		
-Track pumps, manholes, and collection sub-assets		
GIS Rest Services Public Works		
-iWorQ will publish your agency's WMS layers in iWorQ Public Works		
applications via Rest Services. iWorQ will update asset attribute data weekly:		
Water Management Includes: hydrants, valves, and lines		
Sewer Management Includes: manholes, pumps, and lines		
Additional attribute data for each capital asset is \$500 annually.		
*Note: If configuration changes (i.e. FTP location, name format, field		
changes, or interval for published updates) iWorQ will charge a		
minimum fee of \$500 with each additional hour \$250 to accommodate		
new configuration changes.		





Facilities Management Package – Parks and Rec	\$2,000	Annual
Includes:		
*Facilities Asset Management		
*Work Management		
-Available on any computer, tablet, or mobile device		
-Track assets such as HVAC, plumbing, electrical, elevators, etc.		
-Work orders for employee cost, inventory, and purchase orders		
-Track inventory, parts, material		
-Maintenance schedules, work order scheduling, and templates		
-Inventory management		
-Configurable dashboard, fields, and reports		
Fleet Management	\$2,000	Annual
-Available on any computer, tablet, or mobile device using Chrome		
browser		
-Fuel log tracking and uploads		
-Work orders for employee cost, inventory, and purchase orders		
-Manage maintenance schedules		
-Inventory management		
-Configurable dashboard, fields, and reports		
Capital Asset Management – Electric Utility	\$2,000	Annual
-Available on any computer, tablet, or mobile device		
-Track and manage maintenance history		
-Track assets such as Power lines, Transformers, Street lights.		
-OpenStreetMap with point and line layers		
-Track conditions and descriptions		
-Configurable dashboard, fields, and reports		
Premium Data Package	Included	Annual
-Allows for 25MB file upload size		
-Gives you 100GB of total storage		
Subscription Fee Total (This amount will be invoiced each year)	\$12,000	Annual





Service(s)	Full Price Cost	<u>Package</u> Price	<u>Billing</u>
Implementation and Setup cost year 1	\$8,000	\$8,000	Year One
Up to 5 hours of GIS integration and data conversion	\$1,000	Included	Year One
Data Conversion	\$4,900	Included	Year One
One-Time Setup <u>Total</u> (This amount will be added year 1)	\$13,900	\$8,000	Year One
Subscription Fee <u>Total</u> (This amount will be invoiced each year)	\$12,000	\$12,000	Annual
Grand <u>Total</u> Due Year 1	\$25,900	\$20,000	Year One

One-Time Setup, GIS integration, and Data Conversion Fees

NOTES AND SERVICE DESCRIPTION

- I. Invoice for the (Annual Subscription Fee Total + One-Time Total) will be sent out 2 weeks after signature and Effective Date
- II. This subscription Fee and Agreement have been provided at the Customer's request and is valid for 25 days
- III. This cost proposal cannot be disclosed or used to compete with other companies.





PublicWorks1 Agreement

For Asset & Data Tracking Services

Burnet, TX here after knows as ("Customer"), enters into THIS SERVICE (S) AGREEMENT ("Agreement") with PublicWorks1 Inc. ("PW 1") with its principal place of business 1125 West 400 North, Suite 102, Logan, Utah 84321.

1. Data Tracking Services

PW 1 will send staff member(s) onsite to track requested street-level imagery, assets, and GPS data points utilizing our Trimble MX7 high resolution camera and / or a pavement condition assessment if requested. The price in Appendix A is based on the mileage provided by the Customer.

2. Customer Responsibility

Customer agrees to provide the time, resources, and personnel to assist in scheduling and completing the onsite assessment, and to implement iWorQ's service(s) and application(s). iWorQ will assign a senior account manager and an account management team to implement service(s) and application(s). Typical implementation will take less than 60 days. iWorQ account managers will call twice per week, provide remote training once per week, and send weekly summary emails to the implementation team. iWorQ can provide project management and implementation document upon request.

3. Customer Data & Software Terms of Access

Customer acknowledges that an iWorQ Service(s) Agreement is required in conjunction with this agreement for a term of 3 years, and that customer is authorized to access and track the converted PW 1 data in the associated iWorQ software applications.

Customer data will be stored on AWS GovCloud. iWorQ will use commercially reasonable efforts to backup, store and manage Customer data. iWorQ does backups twice per week and offsite backups twice per week. The subscription will renew each year on the anniversary date of this Agreement unless terminated (see 6. TERMINATION).

Customer can run reports and export data from iWorQ application(s) at any time.



Customer can pay iWorQ for additional data management service(s), onsite backups, application(s) and other service(s).

Street Level imagery is provided through iWorQ. Street Level imagery (360 Degree JPG) will not be downloadable through iWorQ. PW1 will make the imagery publicly available.

4. Billing:

PW 1 will invoice Customer after the team has come onsite and completed the data collection and/or assessment. The invoice will be generated and sent 2 weeks after the field work has been completed. PW 1 will send invoice by mail and by email to the address listed in Appendix A. Terms of the invoice are net 30 days. Any billing changes will require that a new Service Agreement be signed by Customer.

Any additional costs imposed by the Customer including business licenses, fees, or taxes will be added to the Customer's invoice yearly.

5. TERMINATION:

Either party may terminate this agreement, after the initial 3-YEAR TERM, without cause if the terminating party gives the other party sixty (60) days written notice. Should Customer terminate any application(s) and or service(s) the remaining balance will immediately become due. Should Customer terminate any part of the application(s) and or service(s) a new Service(s) Agreement will need to be signed. Notwithstanding the forgoing, beginning on October 1, 2021, the Burnet City Council shall have the continuing right, pursuant to Texas Local Government Code Section 271.903 (entitled "commitment of current revenue"), to terminate this agreement at the expiration of each budget period if, after using its best efforts to appropriate funds, the City Council determines funds are not available to appropriate for payment of the contract for that budget year. In the event City Council fails to appropriate such funds for any City budget year this agreement is in effect Customer shall notify iWorQ on or before October 10 of that year.

Termination will discontinue all application(s) and or service(s) under this Agreement; PW1 will provide customer with an electronic copy of all of Customer's data, if requested by the Customer. Backups will be completed within 3-5 business days.

During the term of the Agreement, the Customer may request a copy of all of Customer's data for a cost of no more than \$2500; and all provisions of this Agreement will continue.

6. CUSTOMER SUPPORT:

Customer support and training are FREE and available Monday-Friday, from 6:00 A.M. to 5:00 P.M. MST, for any authorized user with a login. iWorQ provides unlimited remote



Customer training (through webinars), phone support, help files, and documentation. Basic support request is typically handled the same day. iWorQ provides "Service NOT Software".

7. ACCEPTABLE USE:

Customer represents and warrants that the applications and services will only be used for lawful purposes, in a manner allowed by law, and in accordance with reasonable operating rules, and policies, terms and procedures. iWorQ may restrict access to users upon misuse of applications and services.

8. CUSTOMER IMPLEMENTATION INFORMATION:

Primary Implementation Contact_		Title
Office Phone	_ Cell	Email
Secondary Implementation Conta	ct	Title
Office Phone	Cell	Email
9. CUSTOMER BILLING	INFORMATION:	
Billing Contact		Title
Office Phone	Cell	Email
PO# (if	required) Tax Exemp	t ID #



10. ACCEPTANCE:

The effective date of this Agreement is listed below. Authorized representative of Customer and iWorQ have read the Agreement and agree and accept all the terms.

Signature _____ E

Effective Date: _____

Printed Name _____

Title				

Office Number			

Cell Number _____



PublicWorks1 Service(s) Agreement

APPENDIX A



PublicWorks1 Price Proposal

Burnet, TX	Centerline Miles: 50
1001 Buchanan Drive, Suite 4, Burnet, TX 78611	Prepared by: Dallin Stott

Service & Travel Fees

PublicWorks1 Services	Package Price	Billing
Data Collection and Asset Conversion	\$10,000	One-Time
Package includes:		
-Trimble MX7 Image Collection		
-Data Conversion		
-Presented/Delivered Data Shapefile for the following assets:		
1. Hydrants		
2. Signs		
Tri-Annual Pavement Condition Assessment	\$10,000	One-Time
Package includes:		
-A pavement segment inventory with a unique ID associated to		
the Burnet, Texas centerline file.		
-A pavement distress identification based on remaining service life (RSL), and the SHRP distress (alligator, transverse, edge,		
patching and potholes, longitudinal).		
- A condition for each segment		
- A network pavement condition distribution		
- A recommended treatment for each pavement segment		
- A complete data set entered into the iWorQ Pavement		
Management application		
- The information and data required for budgeting and		
planning		
- 360-degree georeferenced imagery.		
- Collected images will be uploaded to image viewer within		
associated module.		
- GIS Layers provided at customer request.		
- Track and manage maintenance history		
- OpenStreetMap with point and line layers		
Travel Expenses	\$2,500	One-Time
Services Total (This amount will be invoiced once)	* \$22,500	One-Time
		Total

Price entirely included with purchase of iWorQ Software



NOTES & SERVICE(S) DESCRIPTION

- I. Invoice for the Service(s) will be sent out 2 weeks after the field work has been completed
- II. This Agreement has been provided at the Customer's request and is <u>valid until the 14th of May</u>.
- III. This cost proposal cannot be disclosed or used to compete with other companies.
- IV. A Centerline and Parcel geodatabase is required by the Customer.
 - a. Please provide contact details for person responsible for Centerline and Parcel files:

b. Name: _____Cell: _____



Water/Wastewater



Alan Burdell Water/Wastewater Operations Manager (512)-756-2402 aburdell@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item: Discuss and consider action: Authorize the City Manager to execute a purchase contract for a Subsite Camera System/2018 High Cube E450 Box Van: A. Burdell

Background: Due to frequent main sewer line stoppages the need to have a main sewer line camera system is necessary.

Information: The camera system would give the Wastewater Department the tool needed to determine cause, location, visibility, and documentation to improve the current process of clearing sewer stoppages in main sewer lines.

Fiscal Impact: (\$150,000.00)

Recommendation: Staff recommends authorizing the City Manager to execute a purchase contract for a Subsite Camera System / E450 Ford Cube Van from Patterson Equipment Company.



Mailing Address P.O. Box 130367 The Woodlands, TX 77393 281.770.6714 Houston Office 33015 Tamina Rd Suite A Magnolia, TX 77354 Dallas Office 14481 Day Rd.

Suite A Fort Worth, TX 76262

www.pattersonequipment.net

Sales Proposal Summary

Of the





SUBSITE CCTV INSPECTION TRUCK

For City of Burnet

QUOTE NUMBER: 2021-043021

JEFF PATTERSON 281-770-6714

April 30, 2021

SUBSITE CCTV INSPECTION TRUCK. This unit is quoted with POSM Pro Software Rack Mounted Computer

MLS-HC - MAINLINE SYSTEM HIGH CUBE

With the following configuration:
High Cube Stock Unit
High Cube E450 Ford Vehicle Model Year 2018 Engine 6.8L V10 Gas
GVWR 14,500
APPROX 26,000 +/- MILES
Box Size 16FT
Generator 7000 W Location Box Mounted
Air Conditioning 15,000 BTU
Office Space 8 FT
Office Flooring Lon Seal Tread
Equipment Room 8 FT Equipment Room Flooring Lon Seal Tread
Office Room Cabinets Bench Seat, File Cabinet. Office Upper, Printer, Shelf Rack Mount
Equipment Room Cabinets Base/Water Equipment Room Cabinets Upper Office Closet, Equipment Closet
Software/Computer System POSM PRO, 1-year technical support

(1) TRAKSTAR Camera Pan/Tilt/Zoom

TRANSTAR Wheeled Crawler

Motorized Lift Rear Camera Eye Steerable For pipe sizes 6" – 36" pipe Complete wheel sets Mega track grit tires High traction rubber tires Large pneumatic tires

Wireless Controller Dual Joystick Controller 1500' Sincon Cable Mainline Reel

COMPLETE TOOL SET DUAL MONITORS IN OFFICE REAR FACING MONITOR SKY CRANE 30 GALLON WASHDOWN SYSTEM SINK DOWNHOLE EQUIPMENT PRODUCT MODEL: 2018 SUBSITE INSPECTION TRUCK E450 FORD HIGH CUBE

QUOTE NUMBER: 2021-043021

We will warranty all items with new factory Warranties:

TrakStar Pan/Tilt/Zoom Camera 2- Year Warranty

LED Tracking Light Lifetime Warranty

TranStar Wheeled Transporter 2- Year Warranty

Dual Joy Stick Controller 2- Year Warranty

Double Steel Armored Wrapped Single Conductor Cable 5400 LB Pull Strength 5- Year Warranty

Cable Reel 2- Year Warranty

Price \$ 150,000.00 Includes 2- Days On-Site Training

Immediate Delivery In-Stock – (Unit Showed to your department 4/21)

(Pending Prior Sale) Quote Valid Til 5/31/21 Only







Administration



David Vaughn City Manager 512.715.3208 dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item: Discuss and consider action: Authorization for the City Manager to proceed with acquisition of loan funding for relocation of City Hall and other proposed projects: D. Vaughn Background:

Information: Staff is in the process of gathering information regarding the financial impact of varying new levels of debt, as well as the possibility of paying off existing debt. Staff will present that information to council at the time of the meeting.

Fiscal Impact: To be determined.

Recommendation: To be determined by Council.



Administration



David Vaughn City Manager 512.715.3208 dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item:Discuss and consider action: Authorization for the City
Manager to proceed with acquisition of loan funding for
relocation of City Hall and other proposed projects: D. VaughnBackground:

Information:

Fiscal Impact:

Recommendation:

To be determined by Council



Human Resources Department



Kelli Sames Director of Human Resources (512)-715-3213 ksames@cityofburnet.com

Agenda Item Brief

- Meeting Date: May 25, 2021
- Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING PERSONNEL POLICIES 3.01 EQUAL EMPLOYMENT OPPORTUNITY, 8.10 LEAVE OF ABSENCE, 7.04 WORKMAN'S COMPENSATION PROGRAM, ADDING PERSONNEL **AMERICANS** POLICIES 1.08 WITH DISABILITIES ACT, 8.16 HEALTH/MEDICAL EXAMINATIONS/FITNESS FOR DUTY, 10.06 MODIFIED DUTY ASSIGNMENTS, AND REMOVING PERSONNEL POLICIES 8.05 INJURY LEAVE AND 10.04 ON THE JOB INJURIES BY UPDATING AND CLARIFYING POLICY REQUIREMENTS: K. Sames
- **Background:** The City of Burnet currently has in effect an Employee Personnel Policy Manual that was adopted by City Council on December 8, 2009 with an effective date of December 8, 2009. Since the original adoption, recommended revisions to the Personnel Policy have occurred from time to time.
- Information: The following personnel policies are new -

1.08 Americans with Disabilities Act. This is a new personnel policy affirming the City's compliance with the Americans with Disabilities Act (ADA) and Americans with Disabilities Act as Amended (ADAAA). It includes language that the City offers equal employment opportunity to qualified individuals and strictly prohibits discrimination against qualified individuals on the basis of disability.

8.16 Health/Medical Examinations/Fitness for Duty. This is a new personnel policy that establishes the City of Burnet's process for requiring a current employee to undergo a medical and/or psychological examination to determine fitness for continued employment. A fitness-for-duty exam is a medical examination of a current employee to determine whether the employee is physically or psychologically able to perform the job.

10.06 Modified Duty Assignments. This is a new personnel policy that establishes how the City of Burnet will administer modified duty assignments available to ill or injured employees who are temporarily unable to perform their regular job duties. This policy prohibits outside employment during a modified duty assignment.

The following personnel policies have been revised -

3.01 Equal Employment Opportunity. The EEO personnel policy has been updated to include a statement that prohibits discrimination and harassment of any type because of race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws for all employees and applicants for employment.

8.10 Leave of Absence. This personnel policy has been expanded in regard to acceptable reasons for a Leave of Absence (LOA). The procedures are outlined for usage of other types of leave accruals and establishes they will run concurrently with a LOA. The policy also addresses the process for the continuation of benefits. Lastly, it prohibits outside employment during a LOA.

8.05 Injury Leave, 7.04 Workman's Compensation Program, and 10.04 On the Job Injures have been combined and renamed to 10.04 Workers Compensation. The policy outlines the City's procedures for employees that have an on-the-job injury regarding insurance, notification, medical attention, reporting requirements.

Proposed changes to the above Personnel Policies are attached as Exhibit A.

The proposed changes have been reviewed by the City Manager and City Attorney.

- Fiscal Impact: N/A
- **Recommendation:** City staff recommends approval of Resolution No. R2021-22, updating the City of Burnet Personnel Policy Manual with an effective date of May 25, 2021 as presented.

RESOLUTION NO. R2021-22

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AMENDING PERSONNEL POLICIES 3.01 EQUAL EMPLOYMENT OPPORTUNITY, 8.10 LEAVE OF ABSENCE, 7.04 WORKMAN'S COMPENSATION PROGRAM, ADDING PERSONNEL POLICIES 1.08 AMERICANS WITH DISABILITIES ACT, 8.16 HEALTH/MEDICAL EXAMINATIONS/FITNESS FOR DUTY, 10.06 MODIFIED DUTY ASSIGNMENTS, AND REMOVING PERSONNEL POLICIES 8.05 INJURY LEAVE AND 10.04 ON THE JOB INJURIES BY UPDATING AND CLARIFYING POLICY REQUIREMENTS.

Whereas, the City Council believes its personnel policies should reflect the needs of the City and meet all applicable state and federal labor laws; and

Whereas, it is necessary to update, revise, and clarify language in the City of Burnet Personnel Policies consistent with laws, regulations, and industry standard practices; and

Whereas, the City of Burnet has previously adopted Ordinance No. 2009-31, Personnel Policy Manual on December 8, 2009; and

Whereas, the Personnel Policy Manual was last revised on January 12, 2021; and

Whereas, the City Council believes it is in the best interest of the City and its employees to make additional amendments to said Personnel Policy Manual; and

Whereas, the City Council has reviewed the proposed amendments to the Personnel Policy Manual and has determined the need to update and clarify those sections.

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

Section 1. The City Council hereby accepts and adopts the amendment to the Personnel Policy as attached hereto as Exhibit "A" with an effective date of May 25, 2021.

Section 2. The findings and recitations set out herein above are found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

Section 3. If any provision of this resolution or the application of any provision to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications hereof which can be given effect without the invalid provision or application, and to this end the provisions of this resolution are declared to be severable.

Section 4. That it is hereby officially found and determined that the meeting at which this resolution is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapt. 551, Loc. Gov't. Code.

PASSED AND APPROVED on this 25th day of May 2021.

CITY OF BURNET, TEXAS

ATTEST:

Addendum - Human Resources Personnel Policies <u>City Council Agenda Item</u> <u>May 25, 2021</u>

3.01 EQUAL OPPORTUNITY POLICY (Current/Remove)

Affirmative action shall be taken to promote equal employment opportunity in the City service. Discrimination against any person in recruitment, examination, appointment, training, promotion, discipline, pay, or any other aspect of personal administration because of political or religious opinions or affiliations, membership or nonmembership in employee organizations, or, because of race, color, natural origin, marital status, or other nonmerit factors, is prohibited. Discrimination on the basis of age, sex, or physical disability is prohibited except where specific age, sex, or physical requirements constitute an occupational qualification necessary to perform the essential functions of the position. It is the policy of the City to maintain a work environment free of harassment. Employees will demonstrate concern for the well-being of their coworkers. Harassment of an individual by fellow employees is not permitted, regardless of their working relationship.

3.01 EQUAL EMPLOYMENT OPPORTUNITY (Proposed)

The City of Burnet provides equal employment opportunities to all employees and applicants for employment and prohibits discrimination and harassment of any type because of race, color, religion, age, sex, national origin, disability status, genetics, protected veteran status, sexual orientation, gender identity or expression, or any other characteristic protected by federal, state or local laws. This policy applies to all terms and conditions of employment, including recruiting, hiring, placement, promotion, termination, layoff, recall, transfer, leaves of absence, compensation and training.

1.08 AMERICANS WITH DISABILITIES ACT (New)

To ensure compliance with the Americans with Disabilities Act (ADA) and Americans with Disabilities Act as Amended (ADAAA), the City offers equal employment opportunity to qualified individuals and strictly prohibits discrimination against qualified individuals on the basis of disability.

The City will provide reasonable accommodation to the known physical or mental impairments of an otherwise qualified individual with a disability if such reasonable accommodation will enable the individual to perform the essential functions of the position. The City's obligation under this policy is limited to providing reasonable accommodations that will not result in undue hardship to the City.

Any employee seeking a reasonable accommodation for a disability that affects the employee's ability to perform the essential functions of the position shall advise the Human Resources Department in writing or verbally. The City will engage in the interactive process to assess the essential functions of the position and reasonable accommodation under this policy.

Employees who have a complaint involving potential violations of the ADA or ADAAA, including but not limited to harassment, discrimination, or failure to provide a reasonable accommodation, must immediately contact the Human Resources Department.

8.16 HEALTH/MEDICAL EXAMINATIONS/FITNESS FOR DUTY (New)

The City endeavors to provide a safe work environment for all employees. It is the responsibility of each employee to maintain the standards of physical and mental health fitness required for performing the essential functions of the position, either with or without reasonable accommodation. Failure to maintain the ability to

function as an effective employee because of a degraded fitness or mental level will be evaluated under the ADA and other City policies, and may result in separation of employment.

<u>Serious Health Condition/Disabilities</u>. The City recognizes that employees with a potentially life-threatening and/or infectious illness or physical and/or mental disabilities may wish to continue to engage in as many of their normal pursuits as their condition allows, including their employment. As long as these employees are able to perform the essential functions of their job, with or without a reasonable accommodation, without creating an undue hardship on other employees or the City, and medical evidence indicates that their condition is not a direct threat to themselves or others, the City will treat them consistently with other employees.

<u>Medical Exams for Current Employees.</u> The City Manager, Director of Human Resources, or an employee's Department Director (with the prior approval of the Director of Human Resources and City Manager) may require a current employee to undergo a medical and/or psychological examination, by a professional of the City's choosing, to determine fitness for continued employment, as may be necessary in order for the City to provide a reasonable accommodation; based on reasonable suspicion that the employee is not fit for duty; following an injury or accident; and as otherwise permitted in accordance with applicable laws. Refusal to submit to or participate in a medical/psychological fitness for duty examination is grounds for termination.

<u>Medical Information from an Employee's Doctor</u>. Under certain circumstances (e.g., FMLA Certifications), Human Resources may require employees to provide medical information from their health care provider. In such cases, employees are to inform their health care provider not to provide any genetic information when responding to such request.

<u>Genetic Information</u>. In accordance with the Genetic Information Nondiscrimination Act (GINA), the City will neither request nor require genetic information of an employee or his/her family member, except as specifically allowed by GINA. To comply with GINA, employees are directed not to provide any genetic information when responding to any City request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.

<u>Medical Records.</u> Medical records and sensitive information regarding an employee's health will be kept confidential as required by law. Limited information may be provided to supervisors and managers, first aid and safety personnel, government officials, Texas Workers' Compensation Commission, and as necessary for insurance and other business-related purposes.

<u>Return to Work/Fitness for Duty.</u> Before returning to work following a medical and/or psychological examination under this policy, the employee must coordinate his/her return through Human Resources. An employee who misses work due to medical reasons may be required to provide a fitness-for-duty certification before returning to work.

<u>Time Off From Work.</u> Time away from work undergoing a City mandated fitness for duty examination will normally be coded to paid administrative leave, but may be retroactively changed to sick leave, Family Medical Leave Act leave, and/or other paid/unpaid leave as circumstances warrant.

8.10 LEAVE OF ABSENCE (Current/Remove)

Granting a leave of absence is at the discretion of the City Manager, but such leave is not authorized unless there is a reasonable expectation that the employee will return to employment with the City at the end of the approved period.

Employees on unpaid leave of absence receive no compensation and accrue no benefits.

Previously accrued benefits are retained during leave of absence unless otherwise prohibited by the terms or provisions of the benefit programs. Employee and dependent insurance benefits can be continued if paid for in advance by the employee.

A leave of absence is appropriate for reasons including but not limited to:

- Educational purposes when successful completion will contribute to the value of the service of the City,
- Public service assignments, or
- Personnel exchange programs that emphasize intergovernmental relations.

Upon written approval of the City Manager and Department Director, an employee may be granted up to fifteen (15) days of unpaid leave of absence. After fifteen (15) days, an employee may apply for an additional thirty days of unpaid leave time resulting in a maximum of forty-five (45) days off. During this time, an employee accrues no additional vacation, sick leave, or longevity benefits, but retains those already accrued. Insurance benefits are retained during unpaid leave of absence unless otherwise prohibited by the terms or provisions of the benefit program.

Upon the expiration of the approved leave, the City Manager will attempt to place the employee in the same or equivalent position, at the salary of the position offered. Refusal to accept the new position shall be considered a voluntary termination. Should the employee fail to return to work on the first day after the expiration of their leave, they will be considered voluntarily separated.

A leave of absence may be revoked upon receipt of evidence that the cause for granting such leave was misrepresented or has ceased to exist.

8.10 LEAVE OF ABSENCE (Proposed)

It is the policy of the City of Burnet to allow employees to take official leaves of absence (LOA), with or without pay, provided the reasons for such leaves are acceptable to management, and there is a reasonable expectation that the employee will return to work at the end of the approved leave period. This policy will be applied in accordance with applicable law.

Definition - A leave of absence is an officially approved temporary suspension of employment, not to exceed three months, initiated at the employee's request. The employee's name remains on the payroll and seniority remains intact.

Criteria - Factors considered by the City in granting a LOA include the reason for the leave; departmental work requirements; the employee's length of service, work performance and disciplinary history.

Any employee who is absent from the workplace for three consecutive months may be terminated from the City. The three-month period does not include approved leave taken under the Family and Medical Leave Act (FMLA) or other approved leave by the City Manager. This policy applies to all full-time City of Burnet employees, regardless of the reason(s) for their absence from work.

This policy will be administered consistently with the City's obligation under the Americans with Disabilities Act (ADA), including considering leave as a possible reasonable accommodation.

Eligibility - In order to be eligible for a personal leave of absence, an employee must have completed at least one year's continuous full-time service with the City and have successfully completed his/her initial evaluation/new employee orientation period.

PROCEDURES

- **City LOA Runs Concurrently With Other Types of Leave -** The City LOA is typically unpaid unless the absence also qualifies for paid leave under another City policy, at which point the City LOA and paid leave will run concurrently.
- Sick Leave If an employee has any available accrued sick leave, it must be used concurrently with any available City LOA time, provided the employee's absence is covered by the City's sick leave policy and the employee satisfies that policy's procedural requirements.
- Vacation and Comp Time If a City LOA qualifying absence is not covered by the City's sick leave policy or if the employee has exhausted all accrued sick leave, the following leave time will be applied and will run concurrently with any remaining LOA time in this order: accrued vacation and then comp time.
- **Disability & Workers' Compensation Leave** Workers' compensation and short- and long-term disability absences will run concurrently with City LOA.
- **Benefits Only Status** Employees on LOA status who do not receive a paycheck from the City of Burnet will be transitioned to a Benefits Only status. During this period, employees will no longer accrue vacation, holiday, and sick leave or pay for holidays, and must pay their benefit premiums to the City of Burnet while on LOA.
- **Applications and Condition** An employee desiring a leave of absence must make a fully detailed written request stating the purpose and beginning and ending dates of the leave to his or her Department Director, who, with the Human Resources Director and City Manager, will review the request and give it approval or disapproval according to City policy. The request for a leave must normally be made at least two weeks prior to the first day of the leave. The need for a medical LOA must be supported by documentation acceptable to the City, including but not limited to a doctor's explanation of why the employee cannot perform his/her duties, when he/she is expected to return to work, and periodic updates regarding the employee on leave periodically contact a designated supervisor to report on his/her condition or status. Before returning to work from a medical LOA, the employee may be required to submit a letter from his or her doctor stating that the employee is able to resume his or her normal job duties. The City may also impose additional return to work requirements as set out in the City's Health/Medical Examinations/Fitness for Duty Policy (8.16) or pursuant to the FMLA policy.

An employee failing to report to work on the first working day following the expiration of the leave will be considered to have voluntarily resigned.

CONTINUATION OF BENEFITS

- **Group Health Insurance** During any period of approved City LOA, the City will continue to pay its portion, if any, of any group insurance coverage for the employee on the same terms as if the employee had continued to work. Where applicable, the employee must timely pay his or her share of insurance premiums while on City LOA. An employee's failure to pay his/her own or the City's portion of insurance premiums during a leave will likely result in cancellation of coverage.
- Other Benefits The employee's use of City LOA will not result in the loss of any employment benefits that accrued prior to the start of the employee's leave, and seniority will not be affected while on City LOA. However, benefit accruals such as vacation and sick leave may be suspended during any unpaid leave.
- Holidays When an employee takes a full work week of City LOA and a holiday occurs within that week, the full week (7 days) is counted against the 90 allowed calendar days.

• **TMRS** - Contributions to TMRS will cease when an employee on unpaid leave ceases to receive a paycheck from the City and will resume after the employee returns to a paid status.

JOB RESTORATION AFTER CITY LOA

An employee's return to work from leave of absence status is always subject to and contingent upon availability of current openings for which he or she is qualified; it may or may not be possible to place him or her in the same job or in the same department. The City will make an effort to place the employee back into its original position. Normally, during a leave of absence, the workload of the employee on leave is absorbed by other employees. If this is not practical, the Department Director and Human Resources Director, with approval of the City Manager will jointly determine whether the employee must be replaced or other accommodations can be made in other positions.

Other Employment During Leave - Under no circumstances may an employee on a City LOA, sick leave, disability leave, or workers' compensation leave engage in outside employment unless expressly authorized in writing in advance by the Department Director and the City Manager.

Revocation - The City Manager may revoke an approved leave of absence at any time. Failure to provide required medical status reports, physician's statements, or to contact the City per the required schedule will likely result in revocation of the LOA and/or disciplinary action up to and including dismissal.

8.05 INJURY LEAVE (Current/Remove)

For information on occupational disability or injury leave for on-the-job, work related injuries, please see Section 10.00 in these policies on Health and Safety.

7.04 WORKMAN'S COMPENSATION PROGRAM (Current/Remove)

The City of Burnet provides worker's compensation benefits to all employees who are injured on the job while in the course and scope of employment. Worker's compensation benefits include payment for medical expenses related to the injury, as well as partial salary continuation benefits in accordance with state law. If you are injured on the job, you must report the incident immediately to your supervisor. A First Report of Injury Form will be completed by your supervisor and will be forwarded to the Human Resources Director immediately. Failure to report your injury may affect your eligibility to receive worker's compensation benefits and may delay your benefit payments. It is the policy of the City of Burnet to investigate those claims that may be deemed as frivolous and/or unwarranted. An on-the-job-injury (OJI) commences on the date the employee begins missing work due to the OJI. Each employee has a responsibility for knowing and following all policies and procedures pertaining to an on-the-job-injury. Employees injured as the result of negligent behavior may be terminated in accordance with the City's safety policies regardless of worker's compensation benefits being awarded.

If the employee is approved for worker's compensation benefits or short-term or long-term disability, the employee's absence from work is automatically approved for FMLA, provided he/she has met the FMLA's eligibility requirements. This means that worker's compensation and short-term or long-term disability absences will run concurrently with FMLA leave. Employees being paid either worker's compensation salary benefits or short-term or long-term disability benefits while on leave are not required to use accrued sick, personal, holiday, comp time or vacation leave while collecting worker's compensation or disability benefits.

Worker's compensation benefits do not begin until the employee is off work because of an injury in accordance with state law. The employee may elect to be paid any sick or vacation hours that are available for these days.

An employee must:

- As soon as possible, report all on-the-job-injuries to his or her supervisor.
- Comply with the instructions of the treating physician.
- Comply with requests from Administration and/or the workman's compensation insurance carrier offices pertaining to the administration of the claim.

- Report to his or her supervisor either in person or by telephone each week while absent from work to report on his or her condition.
- Not perform any work for pay while absent from work due to an OJI.
- Prior to returning to work, provide a written statement from an appropriate physician certifying the employee has been released to return to work, and specifying the type(s) of work (s)he is capable of performing as well as any limitation(s).

Failure to comply with the provisions of this policy will result in disciplinary action. An employee who sustains a jobrelated injury, which includes medical attention, may use a Texas Workman's Compensation Commission approved physician of his or her own choice. However, the employee may also be required to see a doctor required by the City Manager and/or our worker's compensation carrier.

When an employee is off for a period of six (6) months, their City sponsored group benefits will continue through the end of that month. During any period that the employee is not receiving a paycheck from the City, (s)he will be responsible for remitting the amount of the dependent benefit premium, if any, to the Human Resources Department. At the end of the six months, the employee will be responsible for remitting the full amount of the employee and dependent benefit premium to the Human Resources Department. An OJI may not be used in conjunction or relation with the Family and Medical Leave policy.

10.04 ON THE JOB INJURIES (Current/Remove)

The City provides Worker's Compensation Insurance for all of its employees in accordance with state and federal law. This insurance provides medical expenses and a weekly payment if an employee is absent from work because of an on-the-job injury. All employees who incur an on-the-job injury must immediately notify their supervisor and must complete a First Report of Injury as soon as reasonably possible after an accident but in all cases within 48 hours.

After six (6) months off, accrual of sick leave, vacation leave, and City provided medical, dental, & life insurance ceases until the employee returns to work.

If the employee is approved for worker's compensation benefits or short-term or long-term disability, the employee's absence from work is automatically approved for FMLA, provided he/she has met the FMLA's eligibility requirements. This means that worker's compensation and short-term or long-term disability absences will run concurrently with FMLA leave. Employees being paid either worker's compensation salary benefits or short-term or long-term disability benefits while on leave are not required to use accrued sick, personal, holiday, comp time or vacation leave while collecting worker's compensation or disability benefits.

During the time off due to on-the-job injuries, employee is still responsible for paying dependent health and dental insurance premiums. If no provision is made, coverage will be dropped. It is the employee's responsibility to make sure all payments typically paid through payroll deductions are being paid.

An employee who sustains an on-the-job injury will seek medical attention from the medical facility or professional of the employee's initial choice providing that the physician is a Texas Workman's Compensation Commission approved physician. Employees on leave for an on-the-job injury must provide a medical doctor's statement as to the date upon which the employee is no longer able to perform his/her duties and the expected length of the recuperation period. Employees must also provide periodic statements from a medical doctor as to whether or not the employee is able to return to work. The employee shall periodically contact a City supervisor weekly to report on his/her condition. Failure to provide required medical status reports or to contact the office on a regular schedule as set by the City Manager and Department Director is grounds for revoking the leave and for taking disciplinary action.

<u>Return to Service</u> A written statement from an appropriate physician certifying the employee has been released to return to work and specifying the type(s) of work (s)he is capable of performing as well as any limitation(s) must be received by the Personnel Director before an employee may return to work. All employees on injury

leave must return to work after approval of either the employee's attending physician or an independent physician paid for by the City. Failure to return to work when directed will result in appropriate disciplinary action.

<u>Light Duty</u> During the course of an occupational disability leave of absence, if an employee is released by his/her doctor for light duty and upon written notification of such to the Personnel Director, the employee's job or alternative job assignment(s) will be evaluated for a determination of whether a position is available in which the City can use the employee's limited services for an interim period of time. If no appropriate light duty assignment can be found that is approved by the employee's doctor, the employee will be placed on inactive status until released by the doctor and worker's compensation to return to his/her previous job. An employee who is able to return to work in light duty status and perform the tasks of the position may be required to work in a different department and perform duties not contained within his/her current classification without loss of pay. Light duty status is provided to allow employees to return from a job-related injury to minimize absence when light duty work is available that is determined to be appropriate by the employee's doctor. Refusal to perform light duty tasks deemed appropriate by the employee's doctor will be considered a resignation by the employee.

<u>Final Release Statement</u> At the time of final release or settlement of a worker's compensation claim, the employee must furnish the Personnel Director with a certificate from the employee's physician stating that the employee is able to return to work. The certificate must also specify any time limitation on the employee's physical condition and the estimated duration of those conditions. The City may require additional information or documentation to evaluate the employee's fitness for duty and to ensure to position the employee is returned to will accommodate the physical limitations, if any, of the employee. The position the employee is returned to may not be the position previously held. The accommodations required or the amount of time elapsing between the injury and return to work may impact the position offered upon return. The City shall ensure reinstatement of seniority, pay and benefits at the same level as prior to the injury.

Employees released to return to work but refusing to return to work or refusing to accept a reasonable accommodation may be terminated for cause. The employee's doctor or a physician selected by the City shall provide the City with a detailed explanation of the duties the employee can perform, and the accommodations required to return to work. The City may require the employee to have an approved physician review the light duty accommodations to approve or disapprove any accommodations.

10.04 WORKERS COMPENSATION (Proposed)

A. Eligibility for Workers' Compensation

Workers' compensation is designed to cover the costs associated with injuries resulting from identifiable and specific accidents or injuries occurring during the course and scope of one's employment. It is not designed to cover ordinary diseases of life. All employees of the City are covered by workers' compensation insurance.

An employee injured on the job may be eligible for workers' compensation benefits, which may cover the cost of hospitalization, doctors, treatment, prescription drugs and other related expenses, to include possible partial salary continuation.

Injuries not directly related to or caused by a specific accident or incident that occurred in the performance of the employee's job duties for the City, injuries occurring while an employee is working or volunteering for an employer or organization other than the City, and/or injuries occurring during self-employment, are not covered under the City's workers' compensation plan.

B. Accident and Injury Reporting Procedures

Medical Attention

When an employee is injured on the job, the City's first priority is to ensure that the employee gets timely medical attention. The employee must immediately report the circumstances of the accident and/or injury to the supervisor who will direct the employee to seek medical treatment, if necessary, from the Approved Doctor List (ADL), as provided by the Texas Department of Insurance.

Reporting and Documentation

The employee's supervisor is responsible for notifying the Human Resources Department and the employee's Department Director immediately upon being made aware of an employee's involvement in an accident or injury. This timely notification is critical.

The employee's supervisor will initiate a thorough investigation into the cause and circumstances of the accident causing the injury, including interviewing all witnesses and preparing a detailed written report explaining the facts of the accident that occurred. The supervisor must submit the City's Accident Report, First Report of Injury or Illness and any other related information to the Human Resources Department no later than the next business day after the injury was reported or no later than 9 a.m. on Monday for injuries occurring over the weekend. Extensions may be granted for unusual circumstances.

If the employee's supervisor has reason to believe that an injury has been reported that is not directly related to or caused by a specific accident or incident occurring in the performance of the employee's assigned job duties, the supervisor must advise Human Resources of these circumstances. The decision of whether or not an injury will be covered by workers' compensation is not made by the City.

If the employee's treating physician recommends convalescence at home, the employee is required to contact the supervisor and Human Resources Department weekly during the time away from work. For every doctor's office visit, the employee is required to obtain from his doctor a completed Work Status Report, which includes the employee's diagnosis, when the employee is expected to be able to return to work, the employee's restrictions and the date of the employee's next appointment. It is the employee's responsibility to ensure that a copy of the Work Status Report is forwarded to the Human Resources Department and to the supervisor. Failure to report to Human Resources as required may result in disciplinary action, up to and including termination of employment.

C. <u>Returning to Work</u>

The employee is to return to work immediately after treatment unless the employee's physician will permit neither regular duty nor modified duty. The employee must have a written release from the doctor to return to work and the release must specify any restrictions. <u>The City does not guarantee the availability of a modified duty opportunity.</u> However, the employee must accept any modified duty assignment that is offered, including an assignment in another department.

All modified duty assignments must be approved by the Human Resources Director to ensure compliance with the City's policies, the physician's restrictions/release and with the Americans with Disabilities Act (ADA,) the Americans with Disabilities Act as Amended (ADAAA).

D. Maximum Time Limits

Subject to other restrictions, limitations and earlier terminations as applicable in particular circumstances, the City will hold open an employee's position, following an injury that occurred while performing official job duties or conducting City business, for a reasonable time period if holding the position does not result in undue hardship on the City and in accordance with the ADA/ADAAA. If applicable, twelve weeks of this period will be deemed

leave under the Family and Medical Leave Act (FMLA), running concurrently with the employee's worker's compensation leave.

The Director of Human Resources will engage in discussions of any reasonable accommodations that may assist the employee in performing the essential functions of the job. At the end of the reasonable period of time, should the employee still be unable for any reason to perform the essential duties of the job, with or without accommodation, the employee's position may be filled, and the employee may be considered for a vacant position for which the employee is qualified and released from the physician to perform. If no vacant position is available for which the employee is qualified, if not selected to fill the vacant position or if the employee declines to accept another position, employment with the City will be terminated.

<u>Other Employment During Workers Compensation.</u> Employees that are on workers' compensation from the City of Burnet may not work a second job, including self-employment or participate in volunteer work while on workers' compensation.

10.06 MODIFIED DUTY ASSIGNMENTS (New)

The City may modify duty assignments available to ill or injured employees who are temporarily unable to perform their regular job duties. The decision to offer an employee a modified duty assignment is made in the City's sole discretion in accordance with the City's policies including but not limited to the ADA/ADAAA or FMLA. A modified duty assignment may be in the employee's own or another department in the City. Factors considered by the City in making its decision include, but are not limited to: the nature of the employee's illness or injury; the medical release provided in support of modified duty; the risk that a modified duty assignment may result in aggravation of the employee's injury or illness; the type of modified duty work available; the length of the employee's employment with the City; the employee's performance and disciplinary history; and whether the illness or injury occurred on or off duty.

Employees who are released for and given a modified duty assignment may not perform work duties in violation of their medical release. An employee, who violates the terms of the medical release while on a modified duty assignment may (1) lose the modified duty assignment, (2) be returned to leave status the employee had prior to obtaining the modified duty assignment, and (3) in addition, may be disciplined up to and including termination of employment.

Modified duty will not normally extend beyond 45 calendar days without an evaluation by the employee's treating physician and a recommendation from the Department Director and Director of Human Resources to the City Manager. Only the City Manager may approve an extension of a modified duty assignment. Employees still unable to return to regular duty within the time limit established for modified duty must re-qualify for modified duty through evaluation by the treating physician or revert to workers' compensation indemnity payment, accumulated sick leave, Family Medical Leave Act (FMLA) or vacation benefits, if available.

An employee who is released for and offered modified duty by the City, but who elects not to accept such an assignment, will be ineligible for paid sick leave benefits under the City's Sick Leave policy and salary continuation benefits under workers' compensation, but may still be entitled to unpaid leave under the City's Family Medical Leave Act policy.

During a modified duty assignment, employees will typically work an 8-hour workday, Monday through Friday. This means that 24-hour shift employees, as well as other employees who work a non-traditional schedule, will usually be temporarily reassigned to an 8-hour workday, Monday through Friday, for the duration of their modified duty assignment.

An employee's salary during any modified duty assignment shall be at the same rate as the salary received prior to the injury.

All modified duty requests and assignments will be reviewed by and coordinated through the Director of Human Resources. The Director of Human Resources will work with the employee's department in making its decision whether modified duty work will be offered. Before returning to regular job duties following a modified duty assignment, the employee must provide a release from the physician to return to work, including any accommodation(s) that may be required, and coordinate the return through the Director of Human Resources.

<u>Other Employment During Modified Duty Assignment.</u> Employees on a modified duty assignment, may not work a second job, including self-employment or participate in volunteer work. Exceptions to this policy must be obtained in writing from the Department Director and the City Manager.



Development Services

ITEM 4.8

Habib Erkan Assistant City Manager 512-715-3000 herkan@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS ACCEPTING A PETITION FOR ANNEXATION OF 75.87 ACRES OF REAL PROPERTY LOCATE WEST OF THE CITY LIMITS AND SOUTH OF TEXAS HWY 29; AND AUTHORIZING THE INITIATION OF PROCEEDINGS TO ANNEX THE REAL PROPERTY: H. Erkan

- **Background:** Hilltop Oaks, LLC, is the owner of 75.87 acres of real property located west of the city limits and south of Texas Hwy 29. Pursuant to the Development Agreement authorized by City Council Resolution No. R2021-17, Hilltop Oaks, LLC, submitted a petition for annexation on April 20, 2021.
- Information: This resolution authorizes staff to initiate annexation proceedings and sets the date of the statutory required public hearing to August 10, 2020 at 6 p.m.
- **Fiscal Impact** The development is projected to consist of 92 lots ½ acre or more, with price points starting at \$150,000.00. Water shall be provided by the City, and each lot shall have an individual septic system. The streets shall be private. Upon annexation, the property will be subject to city ad valorem and eligible to receive emergency services.
- **Recommendation:** Approve and adopt Resolution R2021-23 as presented.

RESOLUTION NO. R2021-23

A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS ACCEPTING A PETITION FOR ANNEXATION OF 75.87 ACRES OF REAL PROPERTY LOCATE WEST OF THE CITY LIMITS AND SOUTH OF TEXAS HWY 29; AND AUTHORIZING THE INITIATION OF PROCEEDINGS TO ANNEX THE REAL PROPERTY.

WHEREAS, Hilltop Oaks, LLC, (hereinafter "petitioner") is the owner of 75.87 acres of real property located west of the city limits and south of Texas Hwy 29, (hereinafter the "territory"); and

WHEREAS, pursuant to Resolution No. R2021-17, the city and petitioner entered into an agreement addressing the development of the territory; and

WHEREAS, pursuant to the terms of the agreement, on April 20, 2021, petitioner submitted a written petition requesting annexation of the territory; a copy of which with an exhibit describing the territory, is attached hereto; and

WHEREAS, city council finds the territory to be located within the city's extraterritorial jurisdiction and continuous with its corporate limits.

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

Section one. **Petition Accepted**. The petition attached hereto to annex the territory described therein is hereby accepted.

Section two. Service Agreement. Pursuant to Texas Government Code Sec. 43.0672, the City Manager is hereby authorized and directed to negotiate the terms of a service agreement for the territory prior to the date of the public hearing referenced in section three.

Section three. Public Hearing. On the 10th day of August, 2021, at 6:00 o'clock post meridiem City Council shall conduct a public hearing giving all interested persons the right to appear and be heard on the proposed annexation.

Section four. Publication of Notice. The City Secretary is hereby authorized and directed to cause notice of such public hearing to be published once in a newspaper having general circulation in the city and in the above-described territory not more than twenty days nor less than ten days prior to the date of such public hearing, and post such notice on the city's website from the same date until the day of public hearing; and provide notice by mail deliver to the school district and governmental entities serving the territory as prescribed by Texas Local Government Code Sec. 43.0905 and 43.9051.

PASSED AND APPROVED this the 25th day of May 2021.

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN TO ALL INTERESTED PERSONS, THAT:

The City of Burnet, Texas proposes to institute annexation proceedings to enlarge and extend the boundary limits of said city to include the following described territory, to-wit:

A 75.87-acre tract of land out of the John Hamilton Survey No. 1, Abstract No. 405, Burnet County Texas and being out of that certain tract of land described as 487.5 acres in a deed to Joe A. Shepard, recorded in volume 95, Page 559 of the Deed Records of Burnet County, Texas, and being that same tract of land described as 76.22 acres in a deed to Carl Van Roekel, recorded in volume 737, page 656 of the Official Public Records of Burnet County, Texas

A map of the land and territory to be annexed is available for viewing in the office of the City Secretary during normal business hours.

A public hearing will be held by and before the City Council of the City of the City of Burnet, Texas on the 10th day of August, 2021 at 6 o'clock, p.m., in Council Chambers, Burnet Municipal Airport, 2402 S. Water Street, Burnet, Texas, for all persons interested in the above proposed annexation. At said time and place all such persons shall have the right to appear and be heard. Of all said matters and things, all persons interested in the things and matters herein mentioned, will take notice.

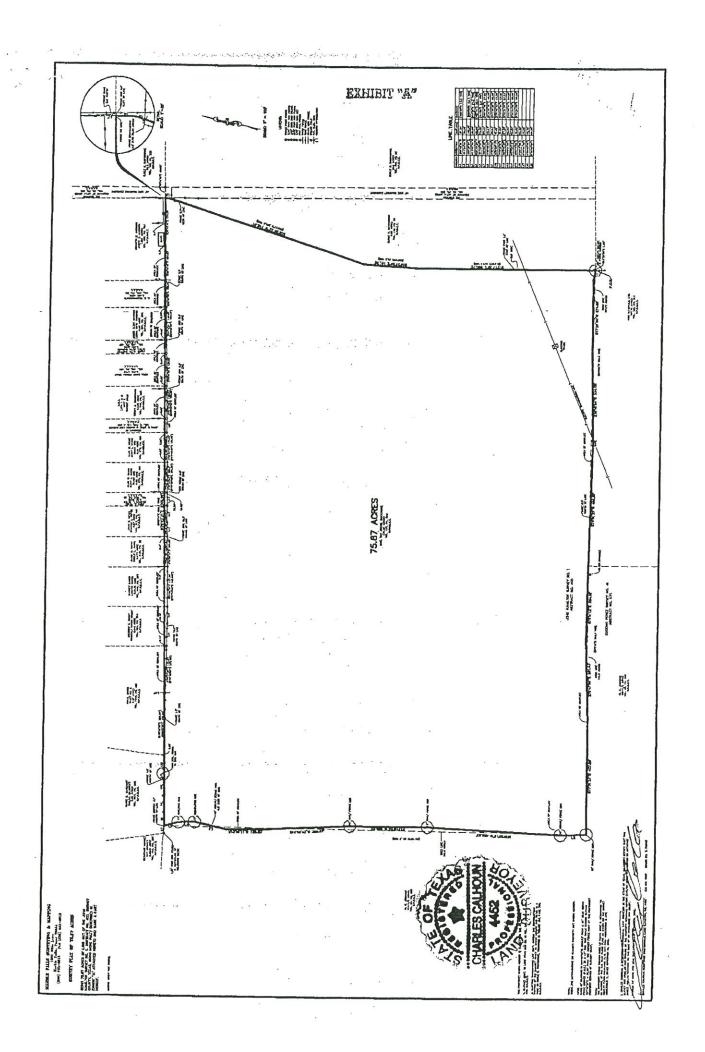
By order of the City Council of the City of Burnet, Texas this the 25th day of May, 2021.

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary



MARBLE FALLS SURVEYING & MAPPING

1500. OLLIE LANE MARBLE FALLS, TEXAS 78654 TEL. 830 6938815 FAX 830 6938915

Exhibit "A" Page 1 of 3

SIAIE OF IEXAS: COUNTY OF BURNEI:

FIELD NO IES to accompany a survey plat for a 25.87 acre tract of land out of the John Hamilton Survey No. 1, Abstract No. 405, Burnet County, Texas and being out of that certain tract of land described as 487 4 acres in a deed to Joe A Shepard, recorded in Volume 95, Page 559 of the Deed Records of Burnet County, Iexas, and being that same tract of land described as 76.22 acres in a deed to Carl Van Roekel, recorded in Volume 737, Page 656 of the Official Public Records of Burnet County, Iexas.

Beginning at a 24" dead Cedar tree fence corner post in the south line of said 487.4 acre tract and in or near the south line of said John Hamilton Survey No 1, being in or near the north line of the Eugenio Perez Survey No 41, Abstract No 672 and of that certain tract of land described as 197 75 acres in a deed to ATMI Materials. LTD, recorded in Volume 921, Page 617 of the Official Public Records of Burnet County, Iexas, being the southwest corner of that certain tract of land described as 6 92 acres in a deed to Burle C Hawthorne, recorded in Volume 155, Page 23 of the Deed Records of Burnet County, Texas, for the southeast corner hereof, from which a 60d nail found bears N17°35'52"E, a distance of 1 20 feet The Basis of Bearings is N66°15'09"W, a distance of 2532 23 feet from said 24" dead Cedar tree fence corner post to a 17" Oak tree fence post in the west line of the herein described tract which bears S27°56'25"E, a distance of 52.58 feet from a fence corner post at the northwest corner of the herein described tract

THENCE, with the fenced south line hereof and of said 487 4 acre tract and with or near the south line of said John Hamilton Survey No 1, with or near the north line of said Eugenio Perez Survey No 41 and of said 197.75 acre tract and with or near the north line of that certain tract of land described as 141 5 acres in a deed to M.C Johnson, recorded in Volume 50, Page 506 of the Deed Records of Burnet County, Jexas, the following 7 calls:

- 1) S88°10'39"W (called S89°39'W), a distance of 37 29 feet (called 13.0 varas) to a 14" Cedar tree fence post for an angle point hereof;
- S77°26'50"W (called S76°54'W), a distance of 274 80 feet (called 219 4 varas) to a fence post for an angle point hereof;
- 3) S76°15'54"W (called S76°54'W), a distance of 3 feet (called 219 4 varas) to a 3" metal pipe gate post for an angle point hereof;
- 4) S78°51'29"W (called S77°41'W), at an approximate distance of 443 feet pass the northwest corner of said 197 75 acre tract being the northeast corner of said 141.5 acre tract, continuing a total distance of 469 97 feet (called 515.7 varas) to a fence post for an angle point hereof, from which a water line manhole found bears S13°33'W, a distance of 9 0 feet;
- 5) S78°11'12"W (called S77°41'W), a distance of 254 10 feet (called 515 7 varas) to a fence post for an angle point hereof;
- S75°47'09"W (called S77°41'W), a distance of 281.63 feet (called 515 7 varas) to a fence post for an angle point hereof;
- 7) S77°31'33''W (called S77°41'W), a distance of 427 80 feet (called 515 7 varas) to a 12'' Oak tree fence corner post at an inside, "ell" corner of said 141.5 acre tract, for the southwest corner hereof and of said 487 4 acre tract;

THENCE, with the fenced west line hereof, with or near the west line of said 487 4 acre tract and with or near the easterly line of said 141 5 acre tract, the following 8 calls:

- N14°24'46"W (called N12°00'W), a distance of 94 15 feet (called 474.7 varas) to an 18"Cedar tree fence post for an angle point hereof;
- N09°20'15"W (called N12°00'W), a distance of 488 83 feet (called 474 7 varas) to an 18" Cedar tree fence post for an angle point hereof;
 - a mentana ina panjar sa selsena a mana na sela da sela di

MARBLE FALLS SURVEYING & MAPPING 1500 OLLIE LANE MARBLE FALLS, TEXAS 78654 TEL. 830 6938815 FAX 830 6938915

Exhibit "A" Page 2 of 3

- 3) N12°08'04"W (called N12°00'W), a distance of 289 22 feet (called 474 7 varas) to a 15" Oak tree fence post for an angle point hereof;
- N14°46'42"W (called N12°00'W), a distance of 309 07 feet (called 474 7 varas) to a fence post for an angle point hereof;
- 5) N13°16'11"W (called N12°00'W), a distance of 139 20 feet (called 474.7 varas) to an 8" cedar fence post for an angle point hereof;
- 6) N00°38'04"E (called N0039'E), a distance of 116.70 feet (called 42 4 varas) to a 17" Cedar tree fence post for an angle point hereof;
- 7) N13°57'56"W (called N14°21'W), a distance of 58 80 feet (called 21 2 varas) to a 17" Cedar tree fence post for an angle point hereof;
- 8) N27°56'25"W (called N27°14'W), a distance of 52.58 feet (called 18.9 varas) to a 6" cedar fence post in the south line of that certain tract of land described as 2.85 acres in a deed to Wayne D Waychoff and Ihelma Waychoff, recorded in Volume 1221, Page 292 of the Official Public Records of Burnet County, Texas, being the northeast corner of said 141.5 acre tract, for the northwest corner hereof and a northwest corner of said 487 4 acre tract, from which a ¼" iron rod found at the southwest corner of said 2.85 acre tract, being the southeast corner of that certain tract of land described as 0.5842 acre in a deed to Beauford Rowney and wife, Kay Rowney, recorded in Volume 493, Page 337 of the Real Property Records of Burnet County, Texas bears S81°58'45"W (called S81°55'50"W), a distance of 27 07 feet (called 27 03 feet);

THENCE N76°42'31"E (called N76°44'E), with the north line hereof, being a northerly line of said 487 4 acre tract, at a distance of 256 3 feet pass 2.3 feet southerly of a 1/2" iron rod found at the southeast corner of said 2.85 acre tract, being the southwest corner of that certain tract of land described as 3 27 acres in a deed to Geral Greer, recorded in Volume 1245, Page 406 of the Official Public Records of Burnet County, Texas, at a distance of 657 8 feet pass 8 1 feet northerly of a 1/2" iron rod found at the southeast corner of said 3 27 acre tract being the southwest corner of that certain tract of land described as 0.842 acre in a deed to Gregory S Cozby and wife, Kimberly Baker Cozby, recorded in Volume 604, Page 774 of the Real Property Records of Burnet County, Texas, at a distance of 803 5 feet pass 10 8 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 842 acre tract, being the southwest corner of that certain tract of land described as 0.8425 acre in a deed to Barney Baker, and wife, LaDawn Baker, recorded in Volume 848, Page 207 of the Official Public Records of Burnet County, Texas, at a distance of 950 8 feet pass 11 8 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 8425 acre tract, being the southwest corner of that certain tract of land described as 0 573 acre in a deed to David D. Smith and wife, Nicole L. Smith, recorded in Volume 1139, Page 22 of the Official Public Records of Burnet County, Texas, at a distance of 1060 7 feet pass 11 0 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 573 acre tract, being the southwest corner of that certain tract of land described as 0 57 acre in a deed to John R Reyes and wife, Sharon L. Reyes, recorded in Volume 317, Page 161 of the Deed Records of Burnet County, Texas, at a distance of 1170 9 feet pass 10.2 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 57 acre tract, being the southwest corner of that certain tract of land described as 0 26 acre in a deed to John R. Reyes and wife, Sharon L Reyes, recorded in Volume 655, Page 36 of the Real Property Records of Burnet County, Texas, at a distance of 1220.9 feet pass 10.1 feet northerly of a 1/2" iron rod found at the southeast corner of said 0.26 acre tract, being the southwest corner of that certain tract of land described as Tract One being 0 58 acre in a deed to Alan W. Hicks and wife, Mary L. Hicks, recorded in Volume 679, Page 471 of the Real Property Records of Burnet County, Texas, at a distance of 1330.8 feet pass 9 8 feet northerly of a 1/2" iron rod found at the southeast corner of said 0.58 acre tract, being the southwest corner of that certain tract of land described as Tract I wo being 0.58 acre in a deed to Alan W Hicks and wife, Mary L. Hicks, recorded in Volume 679, Page 451 of the Real Property Records of Burnet County, Texas, at a distance of 1440 8 feet pass 8 6 feet northerly of a 1/2" iron rod found at the southeast corner of said 0.58 acre tract, being the southwest corner of a remnant of that certain tract of land conveyed to John B. Love and Maiden Low Garven, by deed recorded in Volume V, Pages 136 and 220 of the Probate Minutes of Burnet County, Texas, at a distance of 1490 6 feet pass 8 0 feet northerly of a 1/2" iron rod found at the southeast corner of said Love tract, being the southwest corner of that certain tract of land described as 0 632 acre in a deed to Kerry J Zimmerman, recorded in Volume 740, Page 862 of the Official Public Records of Burnet County, Texas, at a distance of 1611 3 feet pass 7 0 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 632 acre tract, being the

MARBLE FALLS SURVEYING & MAPPING 1500 OLLIE LANE MARBLE FALLS, TEXAS 78654 TEL. 830 6938815 FAX 830 6938915

Exhibit "A" Page 3 of 3

Same Contain

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southwest corner of that certain tract of land described as 0 628 acre in a deed to Myra DawnPesna Irust, recorded in Volume 450 Page 434 of the Real Property Records of Burnet County, Texas, at a distance of 1731 4 feet pass 6 2 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 6287 acre tract, being the southwest corner of that certain tract of land described as 0 262 acre in a deed to James Alvin Warwick and wife, Letha Ruth Warwick, recorded in Volume 440, Page 407 of the Real Property Records of Burnet County, Texas, at a distance of 1781 4 feet pass 5 6 feet northerly of a 1/2" iron rod found at the southeast corner of said 0.262-acre tract, being the southwest corner of that certain tract of land described as 0.63 acre in a deed to James Alvin Warwick and wife, Letha Ruth Warwick, recorded in Volume 801, Page 684 of the Official Public Property Records of Burnet County, Texas, at a distance of 1901.7 feet pass 4 8 feet northerly of a 1/2" iron rod found at the southeast corner of said 0 63 acre tract, being the southwest corner of that certain tract of land described as 0 495 acre in a deed to G E Killingsworth, recorded in Volume 279, Page 301 of the Deed Records of Burnet County, Texas, at a distance of 2001 9 feet pass 2 4 feet northerly of a 3/8" iron rod found at the southeast corner of said 0 4957 acre tract, being the southwest corner of that certain tract of land described as 1 556 acre in a deed to Kenneth E Jackson and wife, Jackie E Jackson, recorded in Volume 486, Page 164 of the Real Property Records of Burnet County, Texas, in all a total distance of 2300 99 feet (called 828 2 varas) to a 1/2" iron rod set, with plastic cap stamped RPLS 4452, at an inside "ell" corner of said 487.4 acre tract, being in the west line of a 40 foot wide access easement, being the southeast corner of said 1.556 acre tract and being the northerly corner of that certain tract of land described as 6.92 acres in a deed to Burle C Hawthorne, recorded in Volume 155, Page 23 of the Deed Records of Burnet County, Texas, for the northeast corner hereof, from which a 1/2" iron rod found in the east line of said 40 foot wide access easement, being the northwest corner of that certain tract of land described as 25 0 acres in a deed to Burle C Hawthorne, recorded in Volume 155, Page 21 of the Deed Records of Burnet County, Texas, being the southwest corner of that certain tract of land described as 25 2 acres in a deed to Burle C. Hawthorne, recorded in Volume 158, Page 722 of the Deed Records of Burnet County, I exas bears N76°14'41"E, a distance of 40 02 feet;

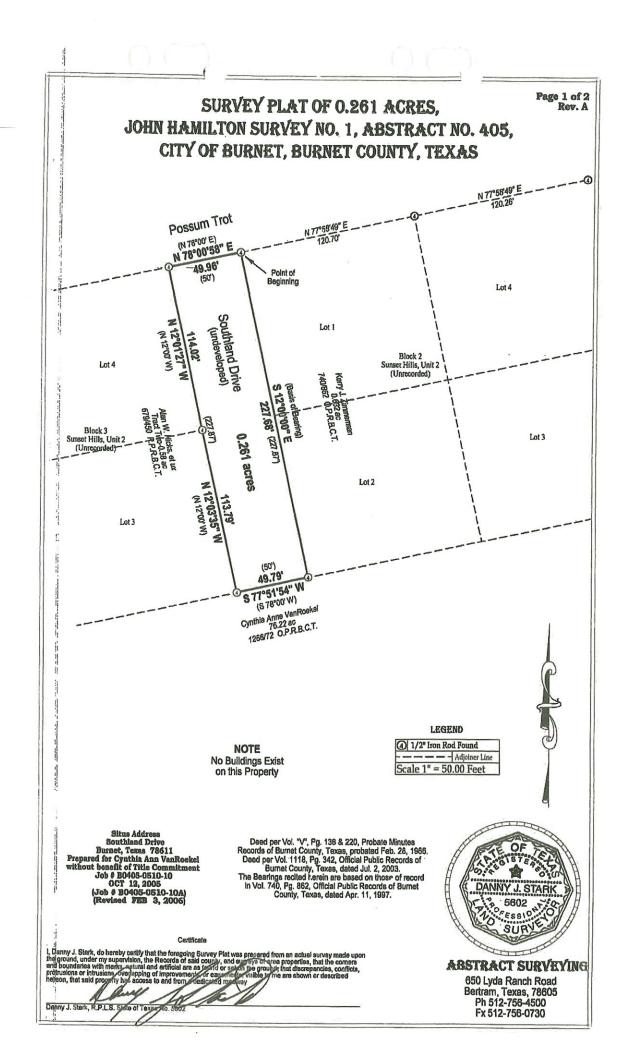
THENCE, with the east line hereof, being the west line of said 6 92 acre tract, the following 4 calls:

- 1) S11°40'28''E (called S11°39'E), a distance of 15 30 feet (called 5 6 varas) to a ½" iron rod set, with plastic cap stamped RPLS 4452, for an angle point hereof;
- S05°25'32"W (called S05°27'W), a distance of 748 61 feet (called 269.5 varas) to a ½" iron rod found for an angle point hereof;
- 3) S09°02'29"E (called S09°01'E), a distance of 191 78 feet (called 69 0 varas) to a 1/2" iron rod found for an angle point hereof;
- \$12°17'28"E (called \$12°16'E), a distance of 660 72 feet (called 237.4 feet) to the place of beginning and containing 75 87 acres

Charles Calhoun

CHARLES CALH

Registered Professional Land Surveyor No. 4452 Job No. 4397 November 14, 2005



October 12, 2005 (Revised February 3, 2006) STATE OF TEXAS: COUNTY OF BURNET:

Page 2 of 2 Rev. A

Field Notes to accompany a Survey plat of a 0.261 acre tract of land out of the John Hamilton Survey No. 1, Abstract No. 405, in Burnet County, Texas.

Prepared for: Cynthia Ann Van Roekel, without benefit of Title Commitment.

Being a 0.261 acre tract of land out of the John Hamilton Survey No. 1, Abstract No. 405, in Burnet County, Texas, and being the Southern extension of Southland Drive, and lying South of Possum Trot, between Block 2 and Block 3, Sunset Hills, Unit 2, an Unrecorded Subdivision, as shown on a plat by David James, R.P.S. No. 3893, dated August 26, 1982, and recorded as an attachment in a Cash Warranty Deed dated April 11, 1997, from Dwight Webb and Marilyn Webb, to Kerry J. Zimmerman, of record in Volume 740, Page 862, Official Public Records of Burnet County, Texas, and also being a portion of the remainder of that same tract of land, described in a Will dated August 29, 1960, from Gertrude Wilson to Maiden Low Garven and John B. Love, Probated February 28, 1966, of record in Volume "V", Page 136 and 220, Probate Minutes of Burnet County, Texas, and in a Correction Administratix Deed dated July 2, 2003, from The Estate of Talbot Bell Garven, deceased, to Madelyn Gilley and William C. Dowdy, of record in Volume 1118, Page 342, Official Public Records of Burnet County, Texas, said 0.261 acre tract being more particularly described, by metes and bounds as follows:

BEGINNING at a 1/2" iron rod found at the intersection of the South Right of Way line of Possum Trot, and the East Right of Way line of Southland Drive, at the Northwest corner of a tract of land, described as 0.632 acres, being Lots 1 and 2, Unit 2, Sunset Hills, an Unrecorded Subdivision, in a Cash Warranty Deed dated April 11, 1997, from Dwight Webb and Marilyn Webb, to Kerry J. Zimmerman, of record in Volume 740, Page 862, Official Public Records of Burnet County, Texas, and the Northeast corner hereof;

THENCE S 12°00'00" E, the Basis of Bearing for this Survey, with the East Right of Way line of Southland Drive, and the Western boundary line of said 0.632 acre Zimmerman tract, a distance of 227.68 feet (227.87'), to a 1/2" iron rod found at the Southwest corner of said 0.632 acre Zimmerman tract, in the Northern boundary line of a tract of land, described as 76.22 acres, in a Special Warranty Deed dated March 12, 1997, from Vermeer Sales of Texas, Inc. to Carl Van Roekel, of record in Volume 737, Page 656, Real Property Records of Burnet County, Texas, and in a Last Will and Testament dated November 18, 2001, from Carl Wayne Van Roekel to Cynthia Anne Van Roekel, of record in Volume 1266, Page 72, Official Public Records of Burnet County, Texas, for the Southeast corner hereof;

THENCE S 77°51'54" W (S 78°00' W), with the Northern boundary line of said 76.22 acre Van Roekel tract, a distance of 49.79 feet (50'), to a 1/2" iron rod found in the West Right of Way line of Southland Drive, at the Southeast corner of a tract of land, described as Tract Two, a 0.58 acre tract, in a Warranty Deed dated January 13, 1996, from William Barrow and wife, Janice F. Barrow, to Alan W. Hicks and wife, Mary L. Hicks, of record in Volume 679, Page 451, Real Property Records of Burnet County, Texas, and the Southwest corner hereof;

THENCE N 12°03'35" W (N 12°00' W), with the West Right of Way line of Southland Drive, and the Eastern boundary line of said Hicks "Tract Two", a distance of 113.79 feet, to a 1/2" iron rod found for angle point hereof;

THENCE N 12°01'27" W (N 12°00' W), with the West Right of Way line of Southland Drive, and the Eastern boundary line of said Hicks "Tract Two", a distance of 114.02 feet, to a 1/2" iron rod in the South Right of Way line of Possum Trot, at the Northeast corner of said Hicks "Tract Two", tract, and the Northwest corner hereof:

THENCE N 78°00'58" E, with the South Right of Way line of Possum Trot, a distance of 49.96 feet (50'), to the POINT OF BEGINNING, and calculated to contain 0.261 acres.

CERTIFICATE

I, Danny J. Stark, hereby certify that the foregoing Field Notes and accompanying Survey Plat were prepared from an actual survey made upon the ground, the Records of said county, and surveys of area properties, that the corners and boundaries with marks natural and artificial are as found or set on the ground, that discrepancies, conflicts protrusions or intrusions, overlapping of improvements, easements, visible or apparently me are she ibed hereon.

DANNY J. STARK Danny J. Stark, B.P.L.S. State of Texas No. 5002 State of Texas No. 5602 Job No. B0405-0510-10A SUR

ABSTRACT SURVEYING 650 Lyda Ranch Road, Bertram, TX 78605 Ph 512-756-4500/Fx 512-756-0730

PETITION REQUESTING ANNEXATION BY LANDOWNER

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF BURNET, TEXAS:

Whereas, the land that is the subject to this petition is an approximately 75.87 acre tract of land out of John Hamilton Survey No. 1, Abstract No. 405, Burnet County, Texas and is more fully described the metes and bounds and survey attached hereto as **Exhibit "A"**; and

Whereas, Hilltop Oaks LLC, is the fully vested owner of the land; and the undersigned is a corporate officer of the owner authorized to file this petition; NOW THEREFORE:

The City of Burnet is hereby petitioned and requested to extend the present City Limits so as to include as part of the City the land described in Exhibit "A".

The undersigned petitioner avers as to the following:

- (1) The recitals to this petition are true and correct;
- (2) The land is located contiguous and adjacent to the city of Burnet's existing corporate limits;
- (3) The land is less than one-half mile in width: and
- (4) The land is vacant and without residents.

The undersigned petitioner asks this petition to be placed on the first available agenda of city council pursuant to Texas Government Code Chapter 43 Subchapter C-3 (entitled "Annexation on Request of Owners") or such other law that will facilitate the expeditious annexation of the land.

OWNER HILLTOP OAKS LLC

Bv:

David Lee Bowen, Manager 110 County Road 304 Bertram, Texas 788605

(ACKNOWLEDGEMENT)

STATE OF TEXAS § COUNTY OF <u>rank</u>§

This instrument was acknowledged before me on the $\frac{26}{\text{Mpr}}$ day of $\frac{Apr}{2}$, 2021 by David Lee Bowen, a member of Hilltop Oaks LLC, a limited liability company.

(Personalized Seal)



Notary Public. State of Texas



Development Services

ITEM 4.9

Habib Erkan Jr. Assistant City Manager 512-715-3201 herkan@cityofburnet.com

Action Item Brief

Meeting Date:

May 25, 2021

Agenda Items: Discuss and Consider: FIRST READING OF AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") SECTION 118-61 (ENTITLED "CONSTRUCTION PLANS"); PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan

Background: The general purpose of Section 118-61 is to assure the development of a vacant lot, or the redevelopment of a lot, complies with the city's access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces requirements.

The last sentence of Section 118-61 (a), which reads "[c]construction plans will not be required for development of existing lots or short form subdivisions which have adequate utilities and public access as determined by the city engineer" has caused some confusion regarding the section's applicability. The intent of the exception is not to require duplication of plans that were approved during the subdivision process. Rather under the section, matters not addressed in the subdivision process (i.e., off-street parking, lighting, signage, landscaping, vehicle, and pedestrian circulation) are to be addressed in the development construction plan process.

Information: The proposed amendment to subsection (a) reads as follows:

- (a) Purpose, scope, and exceptions.
 - (1) Purpose. Construction plans provide detailed graphic information and associated

	text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary, in accordance with the city building codes.
	(2) Scope. Construction plan approval by the city engineer shall be required for any development, redevelopment, or improvement of land subject to this chapter.
	(3) Exceptions. It is an exception to the construction plan approval requirement of this section if the construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions").
	The amendment assures that matters such as off-street parking, lighting, signage, landscaping, vehicle, and pedestrian circulation will be addressed at the lot development, or redevelopment, stage. Subsection (a)(3) assures that a developer will not be required to duplicate plans approved at the subdivision stage.
Fiscal Impact:	This Zoning Code Amendment shall have no direct financial impact.
Commission Report:	On April 5, 2021, the planning and zoning commission conducted a public hearing. No parties spoke in favor or opposition to the proposed ordinance. On May 3, 2021, the commission unanimously recommended approval of the ordinance as presented.
Recommendation:	Staff recommends approval of the first reading of Ordinance 2021-17 as presented.

ORDINANCE NO. 2021-17

AN ORDINANCE AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") SECTION 118-61 (ENTITLED "CONSTRUCTION PLANS"); PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the setback requirements in Section 118-61 of the City Code; and

WHEREAS, on April 6, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, at the conclusion of the public hearing, the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on April 27, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents.

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

Section 1. <u>Amendment</u>. The Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-61 (entitled "Construction plans") is hereby amended by replacing the existing language in subsection (a) (entitled "Purpose and applicability") with the language that is italics (*italics*) below:

- (a) *Purpose, scope, and exceptions.*
 - (1) Purpose. Construction plans provide detailed graphic information and associated text indicating property boundaries, easements, land use, street access, utilities, drainage, off-street parking, lighting, signage, landscaping, vehicle and pedestrian circulation, open spaces and general conformance with the master plan and ordinances of the city when necessary in accordance with the city building codes.
 - (2) Scope. Construction plan approval by the city engineer shall be required for any development or improvement of land subject to this chapter.

(3) Exceptions. It is an exception to the construction plan approval requirement of this section if the construction plans for the development or improvement of the land was approved by the city engineer under chapter 98 (entitled "Subdivisions").

Note to Publisher: Existing subsections 118-61(b) through (i) are not amended by this ordinance and shall remain in full force and effect as currently published.

Section 2. <u>Findings</u>. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. <u>Penalty</u>. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section 4. <u>**Cumulative**</u>. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled "Repealer") shall be controlling.

Section 5. <u>**Repealer**</u>. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 6. <u>Severability</u>. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. <u>**TOMA Compliance.**</u> It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act.

Section 8. <u>Publication</u>. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section 9. <u>Effective Date</u>. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 25th day of May, 2021

Passed and Adopted on the 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

AMENDMENT TO SECTION 118-61 CONSTRUCTION PLANS

May 25, 2021 city council regular session agenda items 4.9 (first reading)

PROPOSED AMENDMENT

• The proposed Zoning Code amendment would clarify that Sec 118-61 construction plans are required at the time of development (building permit stage) but would not require duplication of any information provided with Chapter 98 construction plans.

CONCLUSION

• Recommendation: Pass first reading of Ordinance No. 2021-17 as presented



Development Services

ITEM 4.10

Habib Erkan Jr. Assistant City Manager 512-715-3201 herkan@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

- Action Item: Discuss and Consider: FIRST READING OF AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET AMENDING THE CODE OF ORDINANCES SECTION 118-74 (ENTITLED "BOARD OF ADJUSTMENT") BY CODIFYING THE BOARD OF ADJUSTMENT'S COMPOSITION; TERM; AND SCOPE OF AUTHORITY PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan
- **Background:** Pursuant to the authority of Texas Local Government Code Sections 211.008 through 211.010, City Council codified Zoning Code Section 118-74 establishing a zoning board of adjustment. The section reads in its entirety as follows:

Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of V.T.C.A., Local Government Code § 211.008 and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.

(Ord. No. 2012-06, § 3(exhibit A), 2-28-12)

- Information: This code amendment expands Section 118-74 to include subsections that address the following:
 - Membership of the board
 - Alternate members
 - Term of office
 - Scope of authority
 - hear and decide: an appeal that alleges error in an order, requirement, decision, or determination made by the zoning administrator; special exceptions to the terms of zoning

ordinance; and requests variances from the terms of the zoning ordinance

- o hear and decide other matters as assigned by council
- o serve as airport zoning board of adjustment
- Quorum
- Rules of procedure.

Commission
Report:On May 3, 2021, the planning and zoning commission conducted a
public hearing. No parties spoke in favor or opposition to the proposed
ordinance. After closing the public hearing, the commission
unanimously recommended approval of the ordinance as presented.Fiscal Impact:This Zoning Code Amendment shall have no direct financial impact.

Recommendation: Staff recommends approval of the first reading of Ordinance 2021-18 as presented.

ORDINANCE NO. 2021-18

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURNET AMENDING THE CODE OF ORDINANCES SECTION 118-74 (ENTITLED "BOARD OF ADJUSTMENT") BY CODIFYING THE BOARD OF ADJUSTMENT'S COMPOSITION; TERM; AND SCOPE OF AUTHORITY PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Texas Local Government Code Section 211.008 authorizes City Council to appoint a Board of Adjustment; and

WHEREAS, Texas Local Government Code Section 211.009 provides that the Board of Adjustment may hear and decide: an appeal that alleges error in an order, requirement, decision, or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance; and

WHEREAS, City Council established a Board of Adjustment by the adoption of City Code Section 118-74

WHEREAS, City Council's objective in adopting this ordinance is to codify the Board of Adjustment's composition, term of office and scope of authority.

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

Section one. Code Amendment. The Code of Ordinances of the City of Burnet, Chapter 118 (entitled "Zoning") Section 110-74 (entitled "Board of Adjustment") is hereby amended by replacing the existing language in its entirety with the language that follows:

Sec. 118-74. - Board of adjustments.

- (a) Established. A board of adjustments (hereafter in this section, the "board") is established in accordance with the provisions of Chapter 211 of the Local Government Code and the Home Rule Charter of the City of Burnet, regarding the zoning of cities and with the powers and duties as provided in said code.
- (b) Members. The board shall consist of 5 members appointed by City Council.
- (c) Alternates. City Council may appoint up to two alternate members to serve in the absence of one or more regular members at the request of the mayor or city manager.

- (d) Term. Members and alternate members shall serve two-year terms. Vacancies in the term of a member or alternate member shall be filled for the unexpired term. A member or alternate member may only be removed from the board, before the expiration of a term for cause, as found by city council on a written charge after a public hearing.
- (e) Scope of Authority. The board may hear and decide:
 - (i) Special Exceptions. In appropriate cases and subject to appropriate conditions and safeguards, the board may make special exceptions to the terms of the zoning ordinance that are consistent with the general purpose and intent of the zoning ordinance and in accordance with any applicable rules contained in the zoning ordinance.
 - (ii) Appeals. The board may hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by zoning administrator in the enforcement of Texas Local Government Code Chapter 211, subchapter A or the zoning ordinance.
 - (iii) Variances. The board may authorize in specific cases a variance from the terms of the zoning ordinance if the variance:
 - (A) is not contrary to the public interest; and,
 - (B) is not contrary to the spirit of the zoning ordinance; and
 - (C) is necessary for substantial justice to be done; and
 - (D) is necessary due to special conditions, which causes a literal enforcement of the regulation to result in unnecessary hardship. To find unnecessary hardship exists the board must affirmatively find:
 - (1) The hardship is in no way the result of the applicant's own actions; and
 - (2) Special conditions exist of restricted area, topography or physical features that are peculiar to the subject property and are not applicable to other properties in the same zoning district; and
 - (3) the application of the regulation to the subject property deprives the applicant of rights commonly enjoyed by other properties in the same zoning district that are in compliance with the same regulation.
 - (iv) Other matters. The board may hear and decide other matters authorized by the zoning ordinance.

- (v) Airport Zoning Board of Adjustment. Pursuant to, and in accordance with the requirements of, Texas Local Government Code Chapter 241, subchapter C, and City Code Chapter 18, article IV, the board shall serve as the Airport Board of Adjustment and hear and decide an appeal of an order, requirement, decision, or determination of the airport's administrative agency; matters on which the board is required to pass under an airport zoning regulation; or a request variation in an airport zoning regulation.
- *(f) Quorum.* Each case before the board must be heard by at least 75 percent of the members.
- (g) Rules. The board, by majority vote, shall adopt rules in accordance with the zoning ordinance; City Code Chapter 18, article IV; Texas Local Government Code Chapter 211, subchapter A and Texas Local Government Code Chapter 241, subchapter C. The adopted rules shall become effective upon approval by City Council.

Section two. Findings. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section three. Penalty. A violation of this ordinance is unlawful and subject to penalty as prescribed in City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section four. Cumulative. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event section six shall apply.

Section five. **Repealer**. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section six. Severability. Pursuant to Code of Ordinances of the City of Burnet, Section 1-7, if any provision, section, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void, invalid or unenforceable, the validity of the remaining portions of this Ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the city council in adopting, and of the mayor in approving this Ordinance, that no portion of this Ordinance, or provision or regulation contained in this Ordinance, shall become inoperative or fall by reason of any unconstitutionality or invalidity of any other portion, provision or regulation.

Section seven. TOMA Compliance. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of

the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code; as suspended, or otherwise modified, by executive orders of the governor of this state in response to the COVID-19 pandemic.

Section eight. Publication. The publishers of the City Code of Ordinances are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section ten. Notice. The City Secretary has published notice of this Ordinance, as required by Section 3.14 of the City Charter and the laws of the State of Texas.

Section eleven. **Effective Date**. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 25th day of May, 2021

Passed and Adopted on the 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Amendment to Section 118-74 Board of Adjustment

May 25, 2021, city council regular session agenda items 4.10

Proposed Amendment

The draft ordinance codifies:

- Membership of the board
- Alternate members
- Term of office
- Scope of authority
 - hear and decide: an appeal that alleges error in an order, requirement, decision or determination made by the zoning administrator; special exceptions to the terms of zoning ordinance; and requests variances from the terms of the zoning ordinance
 - hear and decide other matters as assigned by council
 - o serve as airport zoning board of adjustment
- Quorum
- Rules of procedure.

Conclusion

 Recommendation: Pass first reading of Ordinance No. 021-18 as presented



Development Services

ITEM 4.11

Habib Erkan Jr. Assistant City Manager 512-715-3201 herkan@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

- Agenda Item: Discuss and Consider: FIRST READING OF AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF AUTHORIZING BOAT AND RECREATIONAL VEHICLE SALES, SERVICE AND STORAGE IN THE HEAVY COMMERCIAL – DISTRICT "C-3"; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE: H. Erkan
- **Background:** Currently, boat and recreational vehicle sales, service and storage are not on the table of permitted uses. Similar uses allowed in the Heavy Commercial District "C-3" includes automobile sales (outdoor) and heavy machinery sales, storage, and service.
- Information: This code amendment would allow boat and recreational vehicle sales, service and storage allowed in the Heavy Commercial District "C-3" as a matter of right.
- **Fiscal Impact:** This Zoning Code Amendment shall have no direct financial impact.

Commission

Report: On April 5, 2021, the planning and zoning commission conducted a public hearing. No parties spoke in favor or opposition to the proposed ordinance. On May 3 2021, the commission unanimously recommended approval of the ordinance as presented.

Recommendation: Staff recommends approval of the first reading of Ordinance 2021-19 as presented.

ORDINANCE NO. 2021-19

AN ORDINANCE AMENDING ORDINANCE NO. 2012-06 BY AMENDING CITY OF BURNET CODE OF ORDINANCES, CHAPTER 118 (ENTITLED "ZONING") FOR THE PURPOSE OF AUTHORIZING BOAT AND RECREATIONAL VEHICLE SALES, SERVICE AND STORAGE IN THE HEAVY COMMERCIAL – DISTRICT "C-3"; PROVIDING FOR PENALTY; PROVIDING CUMULATIVE, REPEALER AND SEVERABILITY CLAUSES; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Zoning Administrator proposed certain amendments to the zoning districts and regulations in Section 118-20 of the City Code; and

WHEREAS, on April 5, 2021, the Planning and Zoning Commission conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, on May 3, 2021 the Planning and Zoning Commission made a recommendation to City Council as to the merits of the proposed amendments; and

WHEREAS, on May 25, 2021, City Council conducted a public hearing for the purpose of taking public comment regarding the proposed amendments; and

WHEREAS, The City Council, based on due consideration of the Planning and Zoning Commission recommendation and citizen testimony, as well as its own deliberations, determine that enacting said Code of Ordinance amendments will serve to promote the public health, safety, morals, and the general welfare of the city and its present and future residents.

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

Section 1. <u>Amendment</u>. The Code of Ordinances, Chapter 118 (entitled "Zoning") Section 118-47 (entitled "Heavy commercial – District 'C-3'") is hereby amended by adding the language that is italics (*italics*) as new subsection 118-47(a)(4) as follows:

(4) Boats and Recreational Vehicles sales, service, and storage.

Note to Publisher: Existing subsections 118-47(a)(4) to 118-47(a)(21) shall be recodified as subsections 118-47(a)(5) to 118-47(a)(22).

Section 2. <u>Findings</u>. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

Section 3. <u>Penalty</u>. A violation of this ordinance is unlawful and subject to City Code of Ordinances Sec. 1-6 (entitled "general penalty").

Section 4. <u>Cumulative</u>. This ordinance shall be cumulative of all provisions of all ordinances and codes, or parts thereof, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event Section 5, (entitled "Repealer") shall be controlling.

Section 5. <u>**Repealer**</u>. All ordinances and codes, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

Section 6. <u>Severability</u>. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the City hereby declares that this Ordinance would have been enacted without such invalid provision.

Section 7. <u>**TOMA Compliance**</u>. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was conducted in compliance with the Texas Open Meeting Act as modified by Executive Orders of the Governor of the State of Texas in response to the COVID-19 pandemic.

Section 8. <u>Publication</u>. The publishers of the City Code are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to format and number paragraphs to conform to the existing Code.

Section 9. <u>Effective Date</u>. This Ordinance shall be effective upon the date of final adoption hereof and publication as required by law.

Passed on first reading on the 25th day of May, 2021

Passed and Adopted on 8th day of June, 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

Zoning Table of Uses Amendment

May 14, 2021 city regular session agenda items 4.11 (action item)

Boat and Recreational Vehicles Sales, Service and Storage

- Currently the table of uses does not address Boat and Recreational Vehicles Sales, Service and Storage
- The proposed amendment would allow Boat and Recreational Vehicles Sales, Service and Storage in Heavy Commercial District "C-3" Districts



Boat and Recreational Vehicles Sales, Service and Storage

Uses similar to Boat and Recreational Vehicles Sales, Service and Storage authorized in Heavy Commercial "C-3" Districts

- automobile sales (outdoor)
- heavy machinery sales, storage and service

Conclusion

• Recommendation: Pass first reading of Ordinance No. 2021-19





Administration

ITEM 4.12

Habib Erkan Assistant City Manager 512-715-3000 herkan@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

- Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS APPROVING A LEASE OF AN AIRPORT HANGAR OFFICE SPACE TO TRES CLINTON DBA AS C3 AIR LLC AND AUTHORIZING MAYOR TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY: H. Erkan
- **Background:** On September 22, 2020, city council adopted Resolution No.2020-32 authorizing the city manager to negotiate a lease agreement for the lease the office space located in Hangar D C3 Air LLC. There have been two extensions. There have been to extensions to the authorization, with the final extension expiring on June 8, 2021.
- Information: The proposed lease requires Lessee to rehabilitate the existing office space and restroom facility. The rehabilitation costs are anticipated to exceed \$50,000.00. The lease is structured in two phases. Phase one (the construction phase) extends for a period of six months. If Lessee is issued a certificate of occupancy before the expiration of phase one, phase two (the occupancy stage) of the Lease will extend an additional 234 months. Rent shall be \$200.00 per month with 2% escalation per annum. Upon completion of the improvement the space will be uses for flight school office and school classroom space.
- **Fiscal Impact** Rent per year during the twenty-year term shall be \$2,400.00 the first year, with a 2% increase each year. The city would be liable to pay for Lessee's improvements in the event City terminates the Lease at no fault of the Lessee. After year five this potential liability decreases by 25%. Each year after year five this potential liability decreases by 5% per year.
- **Recommendation:** Approve and adopt Resolution R2021-24 as presented.

RESOLUTION NO. R2021-24

A RESOLUTION OF THE CITY COUNCIL OF BURNET, TEXAS APPROVING A LEASE OF AN AIRPORT HANGAR OFFICE SPACE TO TRES CLINTON DBA AS C3 AIR LLC AND AUTHORIZING MAYOR TO EXECUTE THE LEASE AGREEMENT ON BEHALF OF THE CITY

Whereas, On July 28, 2020, City Council authorizing the publication, in a newspaper of general circulation and on the City's website, of a request for proposals to lease the aircraft hangar, known as Hangar D, pursuant to adopted Resolution No.2020-31; and

Whereas, On September 16, 2020, the public opening of the proposals took place, with the proposal of Tres Clinton dba as C3 Air LLC being the only proposal received; and

Whereas, On September 22, 2020, City Council authorized the city manager to negotiate a contract with Tres Clinton.

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

Section one. **Findings approve**. The forgoing findings of fact are hereby approved and adopted as part of this resolution.

Section two. Lease Agreement Approved. The Lease Agreement and ancillary documents are hereby approved.

Section three. Authorization. The mayor is hereby authorized to execute a Lease Agreement in substantial form as the attachment and to execute such other ancillary documents, and take such other action, as may reasonably be necessary to facilitate the purpose of this Resolution.

Section four. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

PASSED AND APPROVED this the 25th day of May, 2021.

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

STATE OF TEXAS § § KNOW ALL PERSONS BY THESE PRESENTS: COUNTY OF BURNET § AIRPORT HANGAR LEASE AGREEMENT

This lease is entered into as of the date stated below, between the City of Burnet, Texas, hereinafter referred to as the "City" the owner of the Kate Craddock Field Municipal Airport Airport, and C3 Air LLC, hereinafter referred to as "Lessee." For good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, City and Lessee, for themselves and their authorized successors and assigns, hereby agree as follows:

ARTICLE I. DEFINITIONS

Definitions. The following terms, as used in this Lease, shall have the meanings set forth below:

"Abandon" or "Vacate" shall mean that the Leased Premises has ceased to be used for its authorized purpose, the building has not been occupied, that utilities have been disconnected for more than thirty days without notification to the City of a temporary closure due to improvement or repairs, or other such events that indicate to the City that the Leased Premises is abandoned or vacated.

"Aeronautical Activities" shall mean any activity or service that involves, or directly: (i) makes possible, (ii) facilitates, (iii) assists in, or (iv) is required for the operation of commercial or noncommercial aircraft, or which contributes to or is required for the safety of commercial or noncommercial aircraft operations.

"**Airport**" shall mean that certain municipal airport owned and operated by the City known as the Burnet Municipal Airport, aka Kate Craddock Field, and that is located at 2302 S. Water Street, Burnet, Burnet County, Texas 78611.

"Assignment" shall mean the sale, exchange, assignment, or other disposition of all of Lessee's interest in this Lease and the leasehold estate created thereby, whether by operation of Law or otherwise.

"Authorized Aeronautical Activities" shall mean those Aeronautical Activities authorized by the City under this Agreement.

"**Certificate of Occupancy**" shall mean a certificate issued by the City permitting the occupancy of the Leased Premises. For purposes hereof, a temporary Certificate of Occupancy shall be deemed to be a Certificate of Occupancy but shall be replaced with a permanent Certificate of Occupancy before the expiration of such temporary Certificate of Occupancy.

"**City**" shall mean the City of Burnet, Burnet County, Texas, and in the context of the relationship with Lessee in this Agreement the term City shall be equivalent to the term "Lessor."

"**City's Consent**" shall mean the written consent of the City Council, or City Representative, as the case may be, such consent not to be unreasonably denied, conditioned or delayed.

"City Representative" shall mean the City's City Manager.

"Dangerous Acts and Omissions" means those actions or circumstances which Lessee should do or discontinue doing or correct a situation which create a danger or is derogatory to Aviation Activities. Conditions or circumstances creating a dangerous situation; or which are, or may be, derogatory to Aviation Activities shall be conclusive as to Lessee if the determination that they are such is made by the FAA, TxDOT, or City Council.

"**Exigent Circumstances**" shall mean a Dangerous Act or Omission on the Leased Premises, or a nuisance created or allowed on the Leased Premises, which if not immediately remediated by Lessee, may be remediated by City with all reasonable charges for such remediation charged to Lessee.

"FAA" shall mean the Federal Aviation Administration.

"Governmental Authorities" shall mean the United States of America, the State of Texas, the County of Burnet, the City of Burnet, any political subdivision thereof, and any other governmental or regulatory authority, agency, board, department, bureau, body, commission, or instrumentality, or quasi-governmental authority, and any court, arbitrator, or other administrative, judicial, or quasi-judicial tribunal, or any other public or quasi-public authority, having jurisdiction over the Premises or the matter at issue or having jurisdiction or control over the operation of the Airport.

"Hazardous Materials" shall mean any substance or other material that: (i) is defined as a hazardous substance, hazardous material, hazardous waste or toxic substance under any Hazardous Materials Law or is a flammable or explosive material (including gasoline, diesel, aviation fuels, lubricating oils, and solvents), asbestos, radioactive material, nuclear medicine material, drug, vaccine, bacterial, virus, or injurious or potentially injurious matter; or (ii) is controlled or governed by any Hazardous Materials Law.

"**Improvements**" shall mean the office space, as described herein, and other improvements now located, or hereafter erected, on the Land, together with all fixtures now or in the future installed or erected in or upon the Land or such improvements owned or leased by City or Lessee (including boiler(s), equipment,

elevators, escalators, machinery, pipes, conduits, wiring, septic systems, wells, and heating, ventilation, and air conditioning systems).

"Law" shall mean any present or future law, statute, ordinance, regulation (including zoning regulations), code, building code, judgment, injunction, arbitration award, order, rule, directive, proclamation, decree, common law, or other requirement, ordinary or extraordinary, foreseen or unforeseen, of the federal or any state or local governmental, or any political subdivision, arbitrator, department, commission, board, bureau, agency, or instrumentality thereof, or of any court or other administrative, judicial or quasi-judicial tribunal or agency of competent jurisdiction, or of any other public or quasi-public authority or group, having jurisdiction over the Premises; and any reciprocal easement, covenant, restriction, or other agreement, restriction or easement of record affecting the Premises as of the date of this Lease or subsequent thereto.

"Lease," "Agreement" or "Lease Agreement" shall mean this Agreement.

"Leased Premises" or "Premises" shall mean the office space, as described herein, any Improvements thereon, and any and all rights, privileges, easements, and appurtenances to the Land and the Improvements. References in this Lease to the "Leased Premises" or "Premises" shall be construed as if followed by the phrase "or any part thereof" unless the context otherwise requires.

"**Person**" shall mean any individual, corporation, partnership, firm, or other legal entity.

"Rent" shall mean the consideration described in Article IV.

"**Special Damages**" shall mean consequential, special, punitive (or exemplary), or any similar damages, including, without limitation, lost profits, loss of revenue or income, cost of capital, or loss of business reputation or opportunity.

"State" shall mean the State of Texas.

"**Sublease**" shall mean any lease, sublease, occupancy, license, or concession agreement for the use or occupancy of space in the Improvements (other than this Lease).

"**Term**" shall mean the term of this Lease commencing on the Commencement Date and ending on the Expiration Date.

"TxDOT" shall mean the Texas Department of Transportation.

ARTICLE II PREMISES

City, for and in consideration of the rents, covenants and promises herein contained to be kept, performed and observed by Lessee, and subject to the terms, conditions and considerations stated herein, does hereby lease to Lessee and Lessee does hereby accept from City the office space located within Community Hangar D, and the nonexclusive use rights to the restroom facility located therein. A visual depiction of the office space located within Community Hangar D is attached hereto as **Exhibit "A."**

THE PREMISES ARE LEASED "AS IS" AND THERE IS NO EXPRESSED OR IMPLIED WARRANTY ON THE CONDITION OR SUITABILITY OF THE LEASED PREMISES.

ARTICLE III TERM AND SPECIAL CONDITIONS

- 3.01 <u>Initial Term</u>. The initial term of this Lease Agreement shall be six months. In the event Lessee, before the Expiration of the Initial Term, fully complies with the Special Conditions stated in Section 3.03, as evidenced by City's issuance of a Certificate of Occupancy for the Leased Premises, this Lease Agreement shall extend to the Secondary Term, as described in Section 3.02. However, in the event Lessee at the Expiration of the Initial Term fails to comply with the Special Conditions stated in Section 3.03, as evidenced by the absence of City issuance of the aforementioned Certificate of Occupancy, this Lease Agreement shall terminate and neither Party shall have any further obligation to the other, save and except City may require Lessee to remove any improvements made by Lessee within 30 days of termination of the Initial Term.
- 3.02. <u>Secondary Term</u>. In the event Lessee fulfills the requirements set out in Section 3.01, this Lease shall be extended for a secondary term of 234 months.
- 3.03 <u>Special Conditions</u>. As described in Lessee's proposal attached hereto as Exhibit "B," Lessee, at his sole costs, shall undertake and complete the project as follows:
 - (A) Demolish the existing office that will not be used by Lessee's project and remove and dispose of same.
 - (B) Finish out a classroom and pilot lounge in the place of the existing office.
 - (C) Remodel the existing bathroom so that it is ADA compliant.
 - (D) Obtain building permits for all work initiated as part of the project, complete all work in accordance with any applicable Law, and obtain City approval for the work.
 - (E) Upon completion of the project improvements obtain a final certificate of occupancy for the Leased Premises.

Note: Included in Exhibit "B" is Lessee's proposal to lease hangar space as well as office space. By mutual agreement of the Parties Lessee shall only lease office space under

this Lease Agreement; and Exhibit "B" shall be read as any reference to the leasing of hangar space is deleted.

ARTICLE IV CONSIDERATION

- 4.01 <u>Consideration</u>. In consideration for the lease of the Premises, Lessee hereby agrees to pay monthly the sum of \$200.00. The first month's payment to be made in advance. Thereafter, all future payments shall be made on or before the first of the month due for the term of this Lease plus any extensions thereto.
- 4.02 <u>Rent Escalation</u>. Lessee agrees that the lease payment listed herein shall be increased 2.0% each year throughout the term of the Lease as shown on Exhibit "C."
- 4.03 <u>Place of Payment</u>. All payments made hereunder by Lessee shall be made to City at the offices of the City of Burnet; P.O. Box 1369, Burnet, TX 78611-1369, unless notified in writing to the contrary by City.
- 4.04 <u>Late Fees</u>. In the event Lessee fails to remit any payments when the same are due, a ten percent late fee shall be charged by City on the tenth day after the date the payment is due. In the event Lessee shall become delinquent for more than 30 days, this Lease may be terminated by City as further defined Article VII.
- 4.05 <u>Maintenance of Leased Premises by Lessee</u>. Lessee agrees that he will at all times keep the premises and bathroom in a clean and orderly condition, free of hazards; and. Lessee's failure to do so may cause City, after ten days written notice, or immediately in the case of Exigent Circumstances, to arrange for the cleanup of the littered or hazardous area. Such cleanup shall be charged to Lessee and payable on demand. Failure to render proper payment for such cleanup and/or general disregard for the considerations and restrictions listed in this Lease Agreement are grounds for City to terminate this Lease.
- 4.06 <u>Utilities</u>. Lessee agrees to pay all charges for electricity service used on or furnished to the Hangar and Leased Premises. At Lessee's option, and at Lessee's sole expense, Lessee may have the Leased Premises seperatly metered from the remainder of the Hangar and pay only those electricity charges for the Leased Premises.
- 4.07 <u>Taxes, Fees</u>. Lessee shall be liable for all taxes and fees owed on or by his personal business or himself. Under no circumstances shall City be liable for or be required to pay any tax or fee owed by Lessee. Lessee shall be solely responsible for payment of ad valorem assessed against the Leased Premises due to Lessee's use of the Lease Premise.
- 4.08 <u>Insurance Coverage</u>. As a condition precedent to Lessee's right to operate at the Airport, Lessee shall continuously maintain in effect during the term of this Agreement and any extension thereof, at Lessee's expense, the following insurance coverage:
 - (A) General Liability Insurance. Liability and property damage insurance covering City as well as Lessee, to be in the amount of not less than \$1,000,000.00 per occurrence and \$2,000,000.00 per aggregate, and liability insurance to be in the amount of not less than one-million dollars per occurrence and two-million dollars per aggregate for bodily injury or death, against liability to any employees or servants of Lessee and to any other person or persons whomsoever arising out of or in connection with the occupation, use, or condition of the Leased Premises.
- 4.09 Insurance policy requirements.
 - (A) All policies shall list the City as an additional named insured, to protect against losses the City may suffer, and provide for a minimum of thirty days written

notice to the City prior to the effective date of any cancellation, material change, or lapse of such policies.

- (B) Lessee shall provide Certificates of Insurance to the City for approval before work commences.
- (C) Notwithstanding other provisions herein contained, City may cancel this Lease Agreement with or without notice to Lessee should Lessee's insurance lapse for a period of 30 days or more. City may elect to reinstate and revive this Lease Agreement after such insurance obligation is cured by Lessee. City shall be listed as a Certificate Holder on Lessee's insurance and shall receive notification of any lapse.
- (D) The insurance required by this Agreement shall be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B+" or better by the A.M. Best Companies.
- (E) All policies shall be written on a "per occurrence basis" and not a "claims made" form.
- (F) The insurance required by this Agreement shall contain an express waiver of any right or subrogation by the insurance company against the City.
- (G) The insurance required by this Agreement shall be reviewed every five years from the Commencement Date; and the City shall have the right during such intervals to require insurance coverage limits to be increased if reasonably warranted due to inflationary factors, which would cause the effective policy limits insufficient to adequately protect against exposure to potential risks.

ARTICLE V USE OF LEASED PREMISES

- 5.01 <u>Use of Leased Premises</u>. Lessee shall only use the Leased Premises for the 'Permitted Uses."
 - (A) <u>Permitted Uses</u>. The Leased Premises may be used for any Authorized Aeronautical Activity which must be made known to and agreed upon by City and for no other purposes. The list of Authorized Aeronautical Activities is attached hereto as **Exhibit "D."** From time to time, Lessee may seek City's Consent to amend the Authorized Aeronautical Activity list by written request made to the City Representative.
 - (B) <u>Automobiles</u>. Leasee, and Lessee's employees and invitees may park their automobies in approved automobile parking areas, but only while conducting Authorized Aeronautical Activities at the Leased Premises or while on a flight which originated at the Airport.

5.02 Restricted Use

- Section 1. Lessee agrees that he will not store or permit the storage of any Hazardous Materials on the Leased Premises; except for up to 36 quarts of aviation oil stored in proper containers.
- Section 2. Except for the improvements authorized by this Lease Agreement, Lessee agrees not to make any additions or modifications to the Leased Premises without City Consent. In event of such consent, all improvements or modifications shall be made at the expense of Lessee and, at the expiration of this Lease and any extensions to this Lease, shall become the property of the City.
- Section 3. Lessee agrees that he will not operate any nonaviation related business or activity at the Leased Premises without the expressed written consent of City. Any such nonaviation related business or activity must be so established by a separate contract.
- Section 4. No automobile, bus, truck, or other transportation mode may be permanently or habitually parked or stored at Leased Premises.

ARTICLE VI. SUBLETTING AND ASSIGNMENTS

- 6.01 <u>Assignment/Subletting Generally</u>. Lessee may not sublet or assign this Lease Agreement or sublet any part of Leased Premises, without the approval of City Council.
 - (A) Notwithstanding the forgoing, Lessee may assign the Lease Agreement, without prior City approval, to a proposed assignee who lent funds or exended credit to Lessee for the sole purpose of completing Lease Premise finish out under the conditions stated in subsection 6.01(B).
 - (B) To qualify for an assignemnet under Subsection 6.01(A) all of the following must be true:
 - Lessee is in default under this Lease Agreement; and
 - Within thirty days from the date City sends Lessee notice of default; the proposed assignee provides evidence of assignment and cures the default; and
 - And within such time the proposed assignee provides City with such documentation and information City may reasonably require to verify the proposed assignee is an authorized assignee under Section 6.01(A).

ARTICLE VII. TERMINATION

- 7.01 This Lease Agreement may be prematurely terminated by either Party if the other Party fails to abide by the terms and conditions expressed herein and due the complainant. Should Lessee be declared bankrupt, incompetent, or become deceased, this Lease Agreement shall immediately terminate and shall not be considered as part of Lessee's estate and shall not become an asset of any appointed or assigned guardian, trustee, or receiver. In the event Lessee fails to make timely payments of all taxes or fees, fails to provide proof of required insurance or bond, uses the Leased Premises or permits the Leased Premises to be used for any illegal or unauthorized purpose, commits or allows Dangerous Acts and Omissions to occur on the Leased Premises or the Airport, files bankruptcy, abandons or vacates the Leased Premises, or violates any of the terms and conditions of this Lease Agreement, City has the right to terminate this Lease Agreement and retake possession of the Leased Premises. In the event of default by either Party, the non-defaulting Party may be entitled to actual damages, but not Special Damages.
- 7.02 As noted in Section 9.01 City reserves the right to further expand, develop, or improve the airport, including the termination of this Lease Agreement, in such instance that the continuation of this Agreement would have a negative impact on any proposed development or improvements at the Airport. This Lease Agreement may be terminated regardless of the desires, wishes, or views of Lessee and without interference or hindrance from Lessee, but only so long as such expansion, development, or improvements are shown on a Texas Department of Transportation and/or FAA approved Airport Layout Plan or Master Plan. In the event of City's termination of the Lease Agreement, without cause, under this Section 7.02, Lessee shall be entitled to reimbursement of his actual costs for making improvements to the Lease Premises on a prorated basis. Such prorated basis shall be applied as follows:
 - (A) If termination occurs in year one through five of the lease term Lessee shall be entitled to reimbursement of his actual costs for making improvements to the Lease Premises or \$80,000.00 whichever amount is less.
 - (B) If termination occurs in year six of the lease term Lessee shall be entitled to reimbursement of 75 % of his actual costs for making improvements to the Lease Premises or \$60,000.00 whichever amount is less.

- (C) If termination occurs in year seven of the lease term Lessee shall be entitled to reimbursement of 70 % of his actual costs for making improvements to the Lease Premises or \$56,000.00 whichever amount is less.
- (D) If termination occurs in year eight of the lease term Lessee shall be entitled to reimbursement of 65 % of his actual costs for making improvements to the Lease Premises or \$52,000.00 whichever amount is less.
- (E) If termination occurs in year nine of the lease term Lessee shall be entitled to reimbursement of 60 % of his actual costs for making improvements to the Lease Premises or \$48,000.00 whichever amount is less.
- (F) If termination occurs in year ten of the lease term Lessee shall be entitled to reimbursement of 55 % of his actual costs for making improvements to the Lease Premises or \$44,000.00 whichever amount is less.
- (G) If termination occurs in year eleven of the lease term Lessee shall be entitled to reimbursement of 50 % of his actual costs for making improvements to the Lease Premises or \$40,000.00 whichever amount is less.
- (H) If termination occurs in year twelve of the lease term Lessee shall be entitled to reimbursement of 45 % of his actual costs for making improvements to the Lease Premises or \$36,000.00 whichever amount is less.
- (I) If termination occurs in year thirteen of the lease term Lessee shall be entitled to reimbursement of 40 % of his actual costs for making improvements to the Lease Premises or \$32,000.00 whichever amount is less.
- (J) If termination occurs in year fourteen of the lease term Lessee shall be entitled to reimbursement of 35 % of his actual costs for making improvements to the Lease Premises or \$28,000.00 whichever amount is less.
- (K) If termination occurs in year fifteen of the lease term Lessee shall be entitled to reimbursement of 30 % of his actual costs for making improvements to the Lease Premises or \$24,000.00 whichever amount is less.
- (L) If termination occurs in year sixteen of the lease term Lessee shall be entitled to reimbursement of 25 % of his actual costs for making improvements to the Lease Premises or \$20,000.00 whichever amount is less.
- (M) If termination occurs in year seventeen of the lease term Lessee shall be entitled to reimbursement of 20 % of his actual costs for making improvements to the Lease Premises or \$16,000.00 whichever amount is less.
- (N) If termination occurs in year eighteen of the lease term Lessee shall be entitled to reimbursement of 15 % of his actual costs for making improvements to the Lease Premises or \$12,000.00 whichever amount is less.
- (O) If termination occurs in year nineteen of the lease term Lessee shall be entitled to reimbursement of 10 % of his actual costs for making improvements to the Lease Premises or \$8,000.00 whichever amount is less.

- (P) If termination occurs in year twenty of the lease term Lessee shall be entitled to reimbursement of 5 % of his actual costs for making improvements to the Lease Premises or \$4,000.00 whichever amount is less.
- 7.03 . In order to perfect a claim for reimbursement under this Section 7.02, Lessee shall within 30 days of end of the Initial Term provide Lessor with invoices and receipts verifying Lessee's costs for making the improvements and such documentation and information Lessor may reasonably require to verify Lessee's actual costs for making improvements to the Lease Premises.
- 7.04 This Agreement may be prematurely terminated by mutual agreement and consent of both Parties in writing. Such termination by mutual agreement shall cause both City and Lessee to be free of any and all requirements of this contract, except as contained in Section 7.05, hereunder, and neither City nor Lessee shall have any derogatory remarks or entries made upon their resumés or upon any public or private records which would indicate failure to successfully fulfill the conditions of this contract.
- 7.05 Non-Appropriation. Notwithstanding anything contained in this Lease Agreement to the contrary, each and every financial obligation of the City pursuant to this Lease Agreement is subject to appropriations. In the event no funds or insufficient funds are appropriated or budgeted by City for the operation of an airport by the City during the term of this Lease Agreement, City will immediately notify the Lessee its assignee of such occurrence and this Lease Agreement shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to City of any kind whatsoever. In the event of such termination, Lessee agrees to peaceably surrender possession of the Leased Premises to City or its assignee on the date of such termination, except that Lessee shall have the option of removing Improvements within ninety days of such notice.
- 7.06 At the termination of this Lease Agreement, either by normal expiration, premature termination, or mutual agreement, Lessee shall peaceably vacate the premises. Should Lessee be in default of any monies owed to City, City may take possession of any personal property owned by Lessee and located at the Airport, but only up to the amount owed to City, and hold until the monetary default is settled. In such case that Lessee cannot or will not settle any claims against him owed to City, City may liquidate any personal property seized, subject to the disposition of a court of competent jurisdiction. Lessee shall be liable for any and all expenses incurred by City in such action, including reasonable and necessary attorney's fees and expenses.

ARTICLE VIII. INDEMNITY AND HOLD HARMLESS

LESSEE AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY AND ITS AGENTS, EMPLOYEES, OFFICIALS AND REPRESENTATIVES FROM AND AGAINST ALL LIABILITY FOR ANY AND ALL CLAIMS, SUITS, DEMANDS, AND/OR ACTIONS ARISING FROM OR BASED UPON INTENTIONAL OR NEGLIGENT ACTS OR OMISSIONS WHICH MAY ARISE OUT OF OR RESULT FROM LESSEE'S OCCUPANCY OR USE OF THE AIRPORT AND/OR ACTIVITIES CONDUCTED IN CONNECTION WITH OR INCIDENTAL TO THIS LEASE AGREEMENT. SUCH INDEMNIFICATION SHALL INCLUDE, BUT IS NOT LIMITED TO, ACTS OR OMISSIONS ON THE PART OF LESSEE'S CONTRACTORS, SUBCONTRACTORS, AND SUB-LESSEES. LESSEE SHALL ALSO INDEMNIFY CITY AGAINST ANY AND ALL MECHANIC'S AND MATERIALMEN'S LIENS OR ANY OTHER TYPES OF LIENS IMPOSED UPON THE PREMISES DEMISED HEREUNDER ARISING AS A RESULT OF LESSEE'S CONDUCT OR ACTIVITY.

THIS INDEMNITY PROVISION EXTENDS TO ANY AND ALL SUCH CLAIMS, SUITS, DEMANDS, AND/OR ACTIONS REGARDLESS OF THE TYPE OF RELIEF SOUGHT

THEREBY, AND WHETHER SUCH RELIEF IS IN THE FORM OF DAMAGES, JUDGMENTS, AND COSTS AND REASONABLE ATTORNEY'S FEES AND EXPENSES. OR ANY OTHER LEGAL OR EQUITABLE FORM OF REMEDY. THIS INDEMNITY PROVISION SHALL APPLY REGARDLESS OF THE NATURE OF THE INJURY OR HARM ALLEGED, WHETHER FOR INJURY OR DEATH TO PERSONS OR DAMAGE TO PROPERTY, AND WHETHER SUCH CLAIMS BE ALLEGED AT COMMON LAW, OR STATUTORY OR CONSTITUTIONAL CLAIMS, OR OTHERWISE. THIS INDEMNITY PROVISION SHALL APPLY WHETHER THE BASIS FOR THE CLAIM. SUIT. DEMAND. AND/OR ACTION MAY BE ATTRIBUTABLE IN WHOLE OR IN PART TO THE LESSEE. OR TO ANY OF ITS AGENTS, REPRESENTATIVES, EMPLOYEES. MEMBERS, PATRONS, VISITORS, CONTRACTORS. AND SUBCONTRACTORS (IF ANY), AND/OR SUB-LESSEES, OR TO ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM. THIS INDEMNITY PROVISION SHALL APPLY WHETHER OR NOT ANY OF THE NEGLIGENCE MAY BE ATTRIBUTED TO THE CITY.

FURTHER, CITY ASSUMES NO RESPONSIBILITY OR LIABILITY FOR HARM, INJURY, OR ANY DAMAGING EVENTS WHICH ARE DIRECTLY OR INDIRECTLY ATTRIBUTABLE TO PREMISE DEFECTS OR CONDITIONS WHICH MAY NOW EXIST OR WHICH MAY HEREAFTER ARISE UPON THE PREMISES, ANY AND ALL SUCH DEFECTS BEING EXPRESSLY WAIVED BY LESSEE. LESSEE UNDERSTANDS AND AGREES THAT THIS INDEMNITY PROVISION SHALL APPLY TO ANY AND ALL CLAIMS, SUITS, DEMANDS, AND/OR ACTIONS BASED UPON OR ARISING FROM ANY SUCH CLAIM ASSERTED BY OR ON BEHALF OF LESSEE OR ANY OF ITS MEMBERS, PATRONS, VISITORS, AGENTS, EMPLOYEES, CONTRACTORS AND SUBCONTRACTORS (IF ANY), AND/OR SUB-LESSEES.

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT THE CITY SHALL NOT BE LIABLE OR RESPONSIBLE FOR THE NEGLIGENCE OF LESSEE, ITS AGENTS, SERVANTS, EMPLOYEES AND CONTRACTORS AND SUBCONTRACTORS (IF ANY), AND/OR SUB-LESSEES. LESSEE FURTHER AGREES THAT LESSEE SHALL AT ALL TIMES EXERCISE REASONABLE PRECAUTIONS FOR THE SAFETY OF, AND SHALL BE SOLELY RESPONSIBLE FOR THE SAFETY OF LESSEE'S AGENTS, MEMBERS. REPRESENTATIVES. EMPLOYEES. PATRONS. VISITORS. CONTRACTORS AND SUBCONTRACTORS (IF ANY), AND/OR SUB-LESSEES, AND OTHER PERSONS. AS WELL AS FOR THE PROTECTION OF SUPPLIES AND EQUIPMENT AND THE PROPERTY OF LESSEE OR OTHER PERSONS. LESSEE FURTHER AGREES TO COMPLY WITH ALL APPLICABLE PROVISIONS OF FEDERAL, STATE, AND MUNICIPAL SAFETY LAWS, REGULATIONS, AND ORDINANCES.

PROVIDED FURTHER, THAT THE LESSEE AND THE CITY EACH AGREE TO GIVE THE OTHER PARTY PROMPT AND TIMELY NOTICE OF ANY SUCH CLAIM MADE OR SUIT INSTITUTED WHICH IN ANY WAY, DIRECTLY OR INDIRECTLY, CONTINGENTLY OR OTHERWISE, AFFECTS OR MIGHT AFFECT THE LESSEE OR THE CITY. LESSEE FURTHER AGREES THAT THIS INDEMNITY PROVISION SHALL BE CONSIDERED AS AN ADDITIONAL REMEDY TO CITY AND NOT AN EXCLUSIVE REMEDY.

ARTICLE IXAIRPORT OPERATIONS

- 9.01 <u>Development of the Airport</u>. City reserves the right to further develop or improve the airfield as it sees fit, regardless of the desires of view of the Lessee, and without interference or hindrance.
- 9.02 <u>Inspection of Leased Premises</u>. City reserves the right, at all times, to inspect the Leased Premises, and all equipment, vehicles of Lessee in his operations on the Airport for the purposes of determining whether or not fire and safety measures and regulations are being observed and to determine whether or not the improvements are being properly maintained.
- 9.03 <u>Maintenance of Landing Area</u>. Lessee understands and agrees that City reserves the right, but not the obligation, to maintain the Airport to at least the minimum standards as recommended by the FAA and/or the Texas Department of Transportation. Such right includes the right to maintain and keep in repair all public use areas at the Airport and the right to direct and control all activities as necessary at the Airport. Lessee also understands that City is not obligated by this lease to continue operating the Airport as an airport and may close the Airport at any time and at its own discretion. Such closure shall immediately void this contract and no damages or monies or other compensation will be owed to the Lessee by City.
- 9.04 <u>Non-Exclusive Rights</u>. It is understood and agreed that nothing contained herein shall be construed to grant or authorize the granting on an exclusive right.
- 9.05 <u>Obstructions at the Airport</u>. City reserves the right to take any action it consider necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of the City, would limit the usefulness of the Airport or constitute a hazard to aircraft.
- 9.06 <u>Superior Right of Federal and Municipal Government</u>. The City's covenants, promises, representations and warranties are expressly limited by this Section 9.06; and, in the event of a conflict between any provision of this Lease Agreement and this Section 9.06, this Section shall prevail. This Lease Agreement is subject to the right of the United States of America to have exclusive or non-exclusive use, control and possession without charge, of the Airport or any portion thereof, during periods of national emergency; and further, subject to the right to take a portion of the Airport for air traffic control activities, weather reporting activities or communication activities related to air traffic control. The City shall have superior right to temporarily use and close the Airport for purposes deemed in the public

interest by the City. When possible, the City shall provide notice of dates and times the Airport will be closed to use. City reserves the right to close the Airport for emergencies, as determined by the City without notice.

ARTICLE X <u>MISCELLANEOUS</u>

- 10.01 <u>Additional Instruments and Mutual Assistance</u>. City and Lessee will do all things reasonably necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions
- 10.02 <u>Amendments</u>. This Agreement constitutes the entire understanding and agreement of the Parties as to the matters set forth in this Agreement. No alteration of or amendment to this Agreement shall be effective unless given in writing and signed by the Party or Parties sought to be charged or bound by the alteration or amendment.
- 10.03 <u>Binding Obligation</u>. This Lease Agreement and all covenants, agreements, provisions and conditions hereto, shall be binding upon and inure to the benefit of the respective Parties hereto, their legal representatives, successors or assigns upon execution by all signatories hereto. The City warrants and represents that the individual executing this Agreement on behalf of the City has full authority to execute this Agreement and bind the City to the same. Lessee warrants and represents that the individual executing this Agreement on its behalf has full authority to execute this Agreement and bind it to the same.
- 10.04 <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute one and the same document.
- 10.05 <u>Construction</u>. The Parties acknowledge that the Parties and their counsel have reviewed and revised the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of the Agreement.
- 10.06 <u>Enforcement</u>. The City Representative may enforce all legal rights and obligations under this Agreement without further authorization; and, may engage legal counsel to represent the City in such enforcement. Lessee shall provide to the City Representative all documents and records that the City Representative reasonably requests to assist in determining Lessee's compliance with this Agreement.
- 10.07 <u>Entire Agreement</u>. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter covered in this Agreement. There is no other collateral oral or written agreement between the Parties that, in any manner, relates to the subject matter of this Agreement, except as provided for in any

Exhibits attached hereto or duly approved amendments to this Agreement, as approved by the City Council of the City of Burnet, Texas.

10.08 <u>Exhibits and Attachments</u>. All Exhibits and Attachments referenced in this Lease Agreement are attached hereto and incorporated herein for all purposes. Exhibits to this Lease Agreement are as follows:

Exhibit "A":	Description of real property.
Exhibit "B":	Lessee's project proposal
Exhibit "C":	Rent escallation chart.
Exhibit "D":	Authorized Aeronautical Activities.

- 10.09 <u>Force Majeure</u>. It is expressly understood and agreed by the Parties to this Lease Agreement that if the performance of any obligations hereunder is delayed by reason of war, civil commotion, acts of God, pandemic, fire or other casualty, or court injunction, inability to obtain labor or materials or reasonable substitutes therefore, governmental restrictions, governmental regulations, governmental controls, governmental action, delay in issuance of permits or approvals (including, without limitation, fire marshal approvals), enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the obligated Party and delays caused by the other Party, the Party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the time period applicable to such obligation or requirement shall be extended for a period of time equal to the period such Party was delayed.
- 10.10 <u>Gender</u>. The gender of the wording throughout this Lease Agreement shall always be interpreted to mean either sex, and where the context requires, the plural of any word shall include the singular.
- 10.11 <u>Governing Law</u>. This Agreement shall be governed by the laws of the State of Texas, without regard to choise-of-law rules of any jurisdiction. and the venue for any action concerning this Agreement shall be in Burnet County, Texas. The Parties agree to submit to the personal and subject matter jurisdiction of a court of competent jurisdiction in said County.
- 10.12 <u>Headings</u>. All headings herein are inserted only for convenience and ease of reference and are not to be considered in the construction or interpretation of any provision of this Agreement.
- 10.13 <u>Independent Contractor</u>. During all times that this Lease Agreement is in effect, the Parties agree that Lessee is and shall be deemed to be an independent contractor and operator and not an agent or employee of the City with respect to their acts or omissions hereunder. It is mutually agreed that nothing contained herein shall be deemed or construed to constitute a partnership or joint venture between the Parties hereto.

- 10.14 <u>Individuals Not Liable</u>. No director, officer, agent or employee of the City shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Lease Agreement or of any supplement, modification or amendment to this Lease Agreement because of any breach thereof, or because of his or their execution or attempted execution thereof.
- 10.15 <u>Liens</u>. Lessee shall not suffer, permit nor allow any any tax, judgment, mechanics or materialmen's lien or other liens to be filed against the fee of the Leased Premises nor, against Lessee's leasehold interest.
- 10.16 <u>Non-Discrimination</u>. In the use of the Airport, under the provisions or this Lease Agreement, Lessee will not discriminate or permitted discrimination against any person or group of persons because of race, color or national origin or in any manner validly prohibited by part 15 of the Federal Aviation Administration's regulations, the Federal Aid Airport Program Grant Agreements application to the Airport, or all Federal laws. In enforcing this provision the City reserves the right to take whatever action it might be required or entitled to take. This provision is to be considered as a covenant on the part of Lessee, a breach of which, continuing after notice by the City to cease or desist, will constitute a material breach of this Lease Agreement and will entitle the City, at its option, to exercise its right of termination as provided herein.
- 10.17 <u>Notice</u>. Any notice given to either Party under the terms of this Lease Agreement shall be hand-delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Burnet Attn: City Manager P. O. Box 1369 Burnet, TX 78611 LESSEE:

C3 Air LLC PO Box 1042 Burnet, TX 78611 %Tres Clinton

or to such other place as each Party may hereafter designate in writing forwarded in like manner for any other notice.

- 10.18 <u>Ordinance Applicability</u>. The signatories hereto shall be subject to all ordinances of the City, whether now existing or in the future arising; provided, however, no ordinance shall reduce or diminish the contractual obligations contained herein.
- 10.19 <u>Severability</u>. In the event any provision of this Agreement is illegal, invalid, or unenforceable under the present or future laws, then, and in that event, it is the intention of the Parties hereto that the remainder of this Agreement shall not be affected thereby, and it is also the intention of the Parties to this Agreement that in

lieu of each clause or provision that is found to be illegal, invalid, or unenforceable a provision be added to this Agreement which is legal, valid and enforceability and is a similar in terms as possible to the provision found to be illegal, invalid or unenforceable.

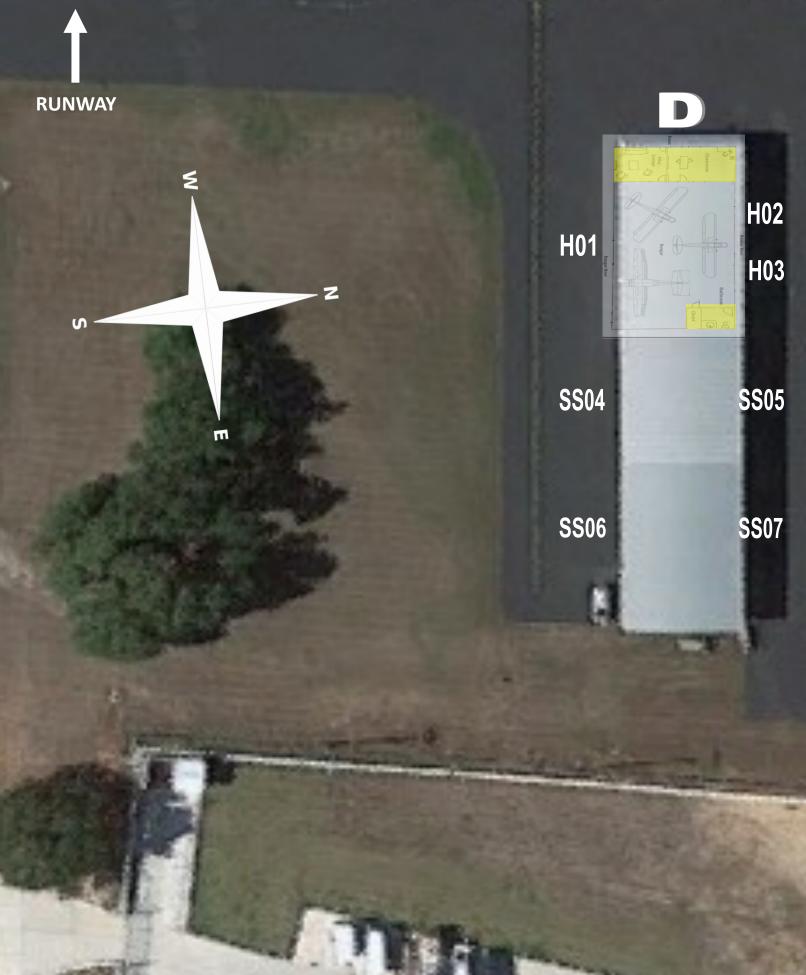
- 10.20 <u>Sovereign Immunity</u>. The Parties agree that nothing in this Lease Agreement shall be determined to waive the City's sovereign immunity.
- 10.21 <u>Subordination</u>. This Lease Agreement shall be subordinate to provisions of any existing or future Agreements entered into by and between the City and the Federal or State Government for the improvement, operation and maintenance of the Airport; provided, that if such agreements restrict the operation of the Leased Premises, appropriate Rent reductions shall be negotiated.
- 10.22 <u>Survival of Covenants</u>. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.
- 10.23 <u>Waivers</u>. No failure or delay of a Party in the exercise of any right given to such Party hereunder or by law shall constitute a waiver thereof, nor shall any single or partial exercise of any such right preclude other further exercise thereof or of any other right. The waiver by a Party of any breach of any provision hereof shall not be deemed to be a waiver of any subsequent breach thereof or of any breach of any other provision hereof.

Signature page to follow.

EXECUTED in two counterparts, each original, this day of			an
LESSOR CITY OF BURNET, TEXAS			
By: Crista Goble Bromley			
STATE OF TEXAS	§		
COUNTY OF BURNET	9 9 9	ACKNOWLEDGMENT	
This instrument was acknowledged before Crista Goble Bromley, in his capacity as Notary Public in and for the) <u>21</u> , by
State of Texas			
LESSEE:			
C3 Air LLC			
By: Tres Clinton		-	
STATE OF TEXAS	\$ \$ \$		
COUNTY OF BURNET		ACKNOWLEDGMENT	
•		pefore me on the data to execu- nton, who is authorized to execu-	ay of te this

Notary Public in and for the State of Texas

ARTICLE II PREMISES - Exhibit A

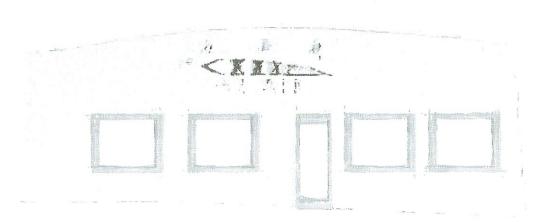


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REQUEST FOR PROPOSALS AIRPORT HANGAR LEASE RFP NO. 2020-01

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REQUEST FOR PROPOSALS

AIRPORT HANGAR LEASE RFP NO. 2020-01

Prepared by:

Tres Clinton PO Box1042 Burnet, TX 78611

Background:

I own and operate a small business that specializes in tailwheel flight training called C3 Air. Tailwheel refers to airplanes that have the small wheel of the three in the back or on the tail of the airplane instead of on the nose. I train in a Piper Supercub that I recently purchased. I have had my name on the Burnet hangar waiting list for approximately 6 years. This past year I received a slot in Hangar D. I have worked at the Burnet Airport since 2010. My tailwheel course is 2-3 days and brings other pilots from all over the nation to Burnet. Last month, I was featured in AOPA Flying Magazine (The largest General Aviation Association) to promote flying in the Texas Hill Country and specifically the Burnet area. I am also the Recreational Aviation Foundation state of Texas Liaison. I represent the pilots in TX and advocate for runways and airstrips across the state. We have about 10,000 members in our organization. I will continue to advocate for this area through what I do. More information on C3 Air can be found at www.flyc3air.com

Goals:

My goals are to occupy a space that presents itself as professional, practical, and safe. People and clients associate organized and clean flight school facilities and airplanes with safety and value. I will bring people to this airport that purchase fuel, utilize hotels, and eat at restaurants. My course is more than just training but it is an experience. The missing piece for me currently is a facility to add to the clients overall impression and experience.

Selection criteria explanations:

1) "Proposed use of hangar and office space."

Currently, Hangar D, contains my airplane I use to train pilots and two of my former students airplanes. The unused office space is in a state of disrepair and

has been vacated for at least 2 decades. I will add a classroom and office that will give a proper training area for the ground school portion of the pilot course. Currently for the training I use the public area of the FBO and while this has worked in the past, I would like to have a designated space for the school. The remodel of the FBO looks great and I would like to continue to add a facelift to this hangar. The office and classroom space would allow me to stage training aids, keep basic office supplies, and give a confortable and private area to work from.

2) "Proposed hangar improvements, upgrades, and repairs. This shall include plans for the finish out of the office space and restroom."

Across the front of the exterior of the hangar, there will be a sign that reads "C3 Air." Walk in through a new front door into the pilot lounge and it will have two large windows facing the runway. The ceiling will be raised to a 9FT ceiling instead of the 8ft. This area will be a seating area that will have furniture, coffee table, and wall mounted TV. There will also be a window into the hangar area from the seating area. Move into the hangar and there will be ceiling insulation to reduce the heat omitted from the metal roof and new lighting throughout the hangar. The office will have two new larger windows in place of the current windows looking out towards the runway. The bars over the windows will be removed. The classroom and pilot lounge will have new floor covering. All electrical, lighting, and plumbing in pilot lounge, classroom, and bathroom will be brought up to code. The bathroom will be a complete remodel.

3) "Schedule and budget for completion of proposed improvements."

From receiving approval from the city, I propose 180 days for completion. My budget for this project is \$50,000.

4) "Proposed term of lease (maximum ten years)."

I would propose a 10 year lease with an additional 2, 5 year options to renew.

5) "Rent. Rent shall be \$900.00 a month; and, may be increased every two years to keep up with inflation. However, as noted herein, the Successful Responder would be entitled to receive rents from existing hangar lessees as long as their aircraft is housed in the Hangar."

I agree and nothing to add.

Proposals:

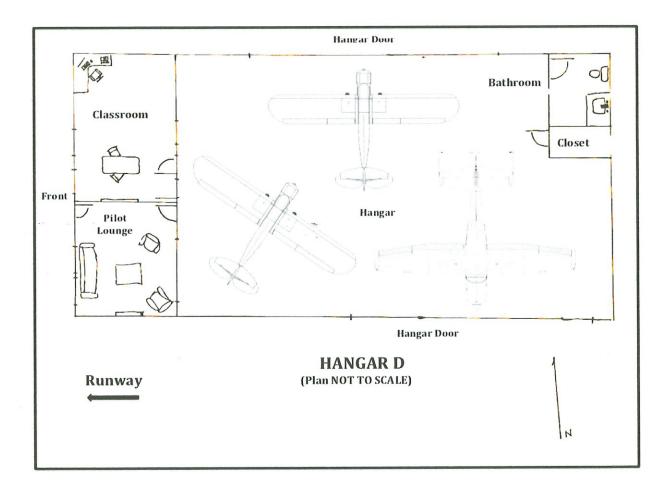
1) Any electrical, water, and or sewer issues outside of the building are to remain the responsibilities of the City of Burnet and are to be fixed in a reasonable time.

- 2) For the duration of the lease, the hangar will have access to the airport except to the temporary construction that may be periodically done to airport surfaces.
- 3) I would reserve the right to walk away from the lease agreement given 30 days notice, noting that the City of Burnet keeps the improvements that I invested into the building that are apart of the structure itself.
- 4) Upon the tenant's termination or after 5 years, I will set hangar sublease rates.

Conclusion:

Thank you to the Mayor, Council, and City Staff for their consideration for this proposal. I look forward to the possibility of utilizing a space that has not been touched for some time and goes unnoticed as any value to the airport. At one point I will remind you an airport manager wanted to demo this structure without seeing the potential adding a tremendous cost to the city and airport. We can turn a liability into an asset for the airport. I already have the hangar space in Hangar D after waiting for almost 6 years. I get along with the 2 current hangar tenants and have notified them of my plans and have received no reservations from either of them. I have been working at the airport now for 10 years and I will put time, money, and sweat equity in making this structure compliment what improvements the city has already done at the airport. Thank you.

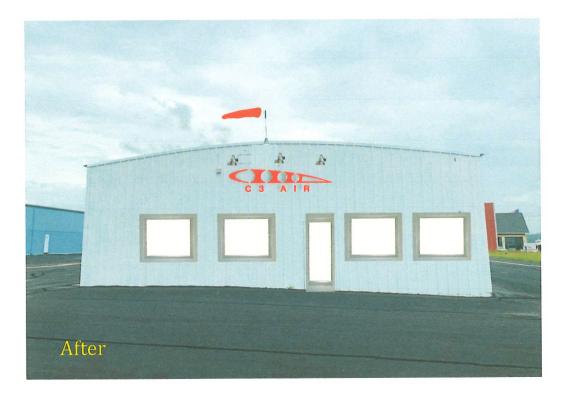
Hangar D Floor Plan:



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Exterior of Hangar D:



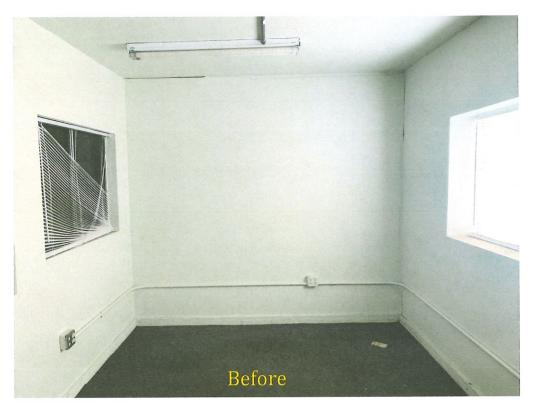


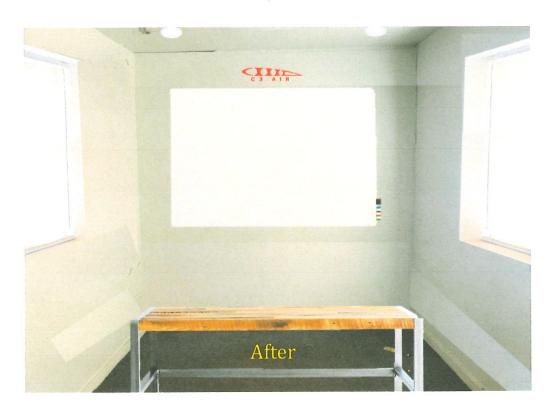
Interior of Hangar D:



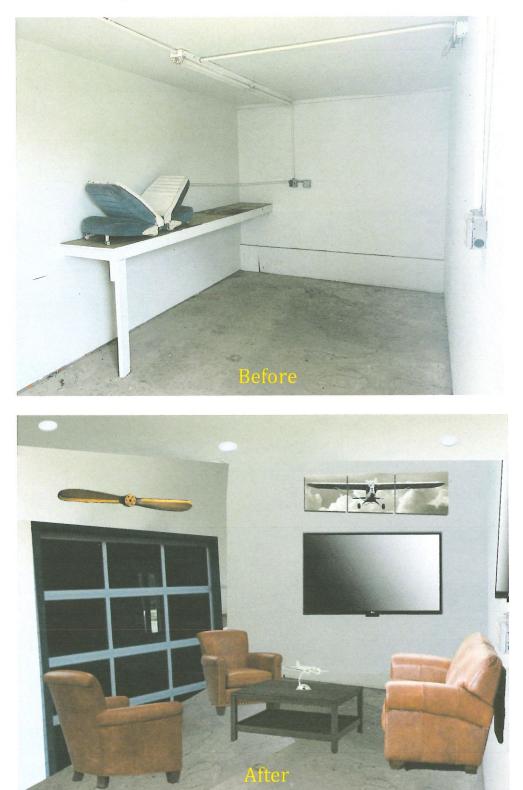


Classroom:



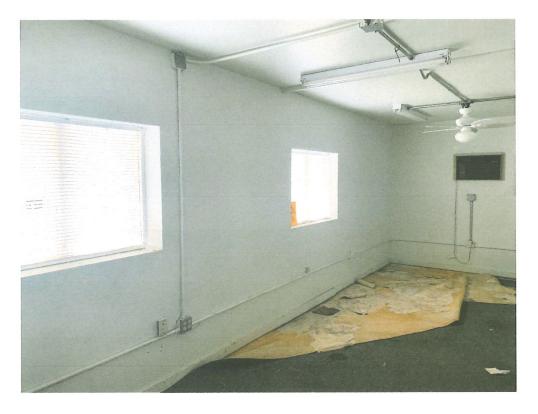


Pilot Lounge:



More Pictures of The Current Condition of Hangar D:





Piper Supercub:







References:

This will be my first project so I may not have the history the proposal content section was looking for. As far as financial confidence and overall ability to preform what I have proposed, I have paid off my first airplane a head of schedule and was given a loan for a second airplane. I also recently constructed a house and met all expectations on that loan.

Ken Wittekiend-	Master Flight Instructor						
	Owner of ProMark Aviation Services located at the Burnet Airport. There I worked for Ken since 2009. Ken mentored me and taught me how to teach from a tailwheel airplane.						
	P.O. Box 460 Burnet, TX 78611						
	830-385-1593						
Cary Johnson-	President of the First State Bank						
	Has been the bank of C3 Air since established. Purchased two airplanes with First State Bank and completed the note of the first airplane ahead of schedule.						
	136 E Washington St. Burnet, TX 78611						
	(512) 756-2191						
John Cyrier-	State Representative of Texas						
	Current Commercial Pilot Student						
	1301 Westwood Rd Lockhart, TX 78644						
	(512) 585-1359						

REQUEST FOR PROPOSALS AIRPORT HANGAR LEASE RFP NO. 2020-01

A. INTRODUCTION

The City of Burnet, Texas, is the owner of an aircraft hangar, known as Hangar D and located at 2302 S. Water Street, City of Burnet, Burnet County, Texas. The City is requesting sealed proposals ("RFP") for long-term lease of a portion of Hangar D, as described herein, (hereinafter referred to as the "Property").

B. CONDITIONS FOR PROPOSALS.

The proposal submitted must conform to the specifications contained herein.

Delivery. Submit sealed proposals (three printed copies and 1 electronic copy) to the office of the City Secretary, at the following address by 10:00 a.m. Central Daylight Time on Wednesday, September 16, 2020.

Mark your envelope "PROPOSAL 2020-01 Airport Hangar Lease," and mail to the following Address:

City of Burnet, Texas Attn: City Secretary PO Box 1369 1001 Buchanan Drive, Suite 4 Burnet, Texas 78611

Form. Responders shall complete the form attached hereto as Exhibit "A" and include the completed form with responders' proposals.

Specific project Information. Detailed questions concerning this request should be addressed to Adrienne Feild, Airport Manager, at (512) 715-3214. Responder shall provide with the sealed responses all documentation required by this RFP. Failure to provide information specifically requested may result in rejection of your submittal.

C. EVALUATION AND SELECTION PROCEDURES

Evaluation process. Proposals shall be reviewed by city staff; and staff's recommendations shall be submitted to city council. Notwithstanding the forgoing council's final selection action may be made independently of staff's recommendations. Proposals shall be evaluated on: the proposed plan for facility improvements; term of lease; and use of hangar.

Property Description. That part of Hanger D that is subject to this RFP consists of an enclosed hangar currently housing three aircraft, an office, and a restroom.

- (1) The Aircraft Hangar. Enclosed hangar space which houses three aircraft. Note: The hangar door may require restoration or replacement.
- (2) The Office. The office currently is two levels, with the second level space only accessible by stairs. The first level is approximately 396 square feet. The existing office improvements are in a state of disrepair and most likely need to be demolished. The selected responder shall be required to finish out new office space. The new office space shall be on a single ground level.
- (3) Amenities. The Property has one restroom facility, which is approximately 80 square feet. The restroom shall require a complete restoration, by selected responder, for occupancy as a commercial building.
- D. SPECIAL CONSIDERATIONS.
 - (1) Hangar Leases. Currently, the hangar houses three aircraft under separate hangar leases. The city intends for these aircraft to continued to be housed in the hangar for a minimum term of five years. The selected responder shall assume the role of sublandlord with regards to the three lease spaces and shall receive rents from the three lessees. The resulting subleases and rental rates shall be under the same terms as the current City lease; and sublandlord may only adjust the rental rates for the subtenants by such percentage and at such times as the City may make adjustments for all hangar tenants. For a minimum of five years the three hangar leases may not be unilaterally terminated by the sublandlord without cause; and, then only with approval of the City Manager. Upon termination of each hangar lease, the selected responder may use the space for storage of their own aircraft or sublet the space to a hangar tenant approved by the City. Currently the City receives \$250.00 monthly from each tenant.
 - (2) Finish out. Responders shall provide preliminary plans for the finish out of the office space and restroom facility. The selected responder shall be required to complete the finish out of the office space and restroom facility within 180 days of the effective date of the Lease Agreement. The selected responder shall be responsible for all costs incurred in the restoration, repair and finish out of the Leased Property.
 - (3) Rent. The minimum rent the City shall accept shall be \$900.00 monthly during the first two years. Rent shall be adjusted every two years to account for inflation.

E. SELECTION CRITERIA.

Proposals must remain firm for a minimum of 90 days, which may be extended by agreement of responder, and city. Responders may submit multiple proposals describing different concepts for improving and use of the property. City council shall select the proposal representing the "best value" to the City and airport operations. Selection shall be determined on criteria following:

- (1) Proposed use of hangar and office space.
- (2) Proposed hangar improvements, upgrades, and repairs. This shall include plans for the finish out of the office space and restroom.
- (3) Schedule and budget for completion of proposed improvements
- (4) Proposed term of lease (maximum ten years).
- (5) Rent. Rent shall be \$900.00 a month; and, may be increased every two years to keep up with inflation. However, as noted herein, the Successful Responder would be entitled to receive rents from existing hangar lessees as long as their aircraft is housed in the Hangar.

F. PROPOSAL CONTENT:

Submissions should contain all terms, expectations and conditions of responder. Submissions must address all matters raised in the selection criteria. Responders shall provide three references; and, examples of responder's projects during the last five years, if any, that indicate responder's experience and financial ability to deliver the proposed improvements.

G. GENERAL INFORMATION

Solicitation objective. The purpose for soliciting proposals to lease the hangar is to identify and select a proposal that will deliver the greatest enhancement to the airport in a manner that is economically beneficial to the City. The City may conduct discussions with any or all respondents. These discussions may include matters such as requests for additional information, interviews, modifications or revisions to the original RFP, as may be allowed by law.

Inspection. An inspection of the Property may be scheduled by contacting Airport Manager Adrienne Field at (512) 715-3214 during office hours (8 a.m. and 5 p.m., Monday through Friday). A proposer shall execute a release, in substantial form as Exhibit "B" prior to inspecting the Property.

Disclaimers. No written or oral warrantees or assurances concerning the Property, or its fitness for any particular purpose, has been made. Furthermore, no City employee is authorized to make any warrantees or assurances. Proposers are cautioned to investigate the Property thoroughly before submitting a proposal.

Conflicts of interest. No official, employee, or agent of the City shall have any interest in this property, except as permitted by federal and state law, including Texas Local Government Code Chapter 171.

Reservation of rights. The city reserves the right to reject any or all proposals, to waive any minor irregularities or technicalities, and to accept any response it deems to be in the City's best interest. Incomplete submittals may not be considered. Addenda. Any interpretations, corrections or changes to this RFP will be made by addenda. Sole issuing authority of addenda shall be vested with the City Manager. Addenda will be mailed to all who are known to have received a copy of this RFP. Responders shall acknowledge receipt of all addenda.

Notice. City shall provide notice to the address provided by responder; and notice shall be conclusively deemed received by a responder on the second business day after such written notice properly deposited in the mail in Burnet, Texas; provided, this provision shall not be construed to prevent the giving of actual notice in any other manner.

No assignment. The selected responder shall not sell, assign, transfer or convey the Proposal or any resulting contract, in whole or in part, without the prior written consent of the City of Burnet, Texas.

Exhibits. Exhibits to this RFP include the Submission Form, Exhibit "A"; and Waiver, Allocation of Risk; Indemnity Statement, Exhibit "B".

Exhibit "A"

Submission Form. Airport Hangar Lease Proposal RFP NO. 2020-01

The undersigned responder certifies that the information contained in this proposal have been carefully reviewed and are submitted as correct and final. I further certify that I have read and understand Exhibit "C" (entitled "Waiver; Allocation of Risk; Indemnity") and shall be bound by same regarding any inspection of the Property. Lastly, I certify that the foregoing proposal was not prepared in collusion with any other responder or other person or persons who responded to this proposal.

December 21et

This proposal is	a legally binding offer that shall remain firm until <u>becember 3 ist</u> , 202
Signature:	To lit.
Printed Name:	Tres Clinton
Date: September 8th 2	2020

If this proposal is submitted on behalf of a partnership, limited partnership, company, corporation or other corporate entity I hereby certify that I am submitting this proposal in my capacity as ______ of _____ of ______ of ______, and that I am vested with the authority to bind said entity by this proposal.

Notice regarding this RFP may be delivered to:

Name:	Tres Clinton
Address:	PO BOX 1042 Burnet, TX 78611
Telephone num	Der:(830) 385-6774
Facsimile Numb	er:N/A
Email address:	es@flyc3air.com

Exhibit "B"

Waiver, Allocation of Risk; Indemnity Statement. Airport Hangar Lease Proposal RFP NO. 2020-01

RFP NO. 2020-01 Hangar D

Waiver, Allocation of Risk; Indemnity Statement. Airport Hangar Lease Proposal RFP NO. 2020-01

In consideration for being allowed to enter and inspect the Property associated with Airport Hangar Lease Proposal RFP NO. 2020-01 the undersigned (hereinafter "Responder") hereby agrees as follows:

- (1) The entry upon the Property by Responder, Responder's personnel and Responder's experts shall be at their respective risks.
- (2) CITY OF BURNET SHALL NOT BE LIABLE TO RESPONDER, OR ANY OF RESPONDER'S PERSONNEL OR RESPONDER'S EXPERTS FOR, AND RESPONDER AGREES TO RELEASE, INDEMNIFY, DEFEND AND HOLD CITY OF BURNET HARMLESS FROM, ANY CLAIMS BY ANY PERSON FOR INJURY, DAMAGES OR LOSS TO PERSONAL PROPERTY RESULTING FROM, INCIDENTAL TO, OR ARISING OUT OF THE CONDUCT OF THE PROPERTY INSPECTION OR THE ENTRY UPON THE PROPERTY BY RESPONDER, RESPONDER'S PERSONNEL AND RESPONDER'S EXPERTS, AND FROM ALL OUT-OF-POCKET COSTS INCURRED BY CITY OF BURNET TO DEFEND AGAINST ANY SUCH CLAIMS, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES, EVEN IF THE NEGLIGENCE OR STRICT LIABILITY OF CITY OF BURNET IS ALLEGED OR PROVED TO BE A CAUSE THEREOF; PROVIDED HOWEVER, THIS INDEMNITY SHALL NOT APPLY IF AND TO THE EXTENT THAT CITY OF BURNET'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IS A CAUSE THEREOF.
- (3) This indemnification by Responder shall survive the termination of the RFP, or closing or termination of any lease agreement, deriving from this RFP as applicable.
- (4) All non-public information provided by City of Burnet to Responder or obtained by Responder relating to the Property in the course of Responder's review, including, without limitation, any environmental assessment or audit, shall be treated as confidential information by Responder and Responder shall instruct all of its employees, agents, representatives and contractors as to the confidentiality of all such information.

To be effective as of the date executed below:

Ву:	1	- At	
Printed na	ame:	Tres Clinton	
Date:	9-14-20	20	

11

AIRPORT HANGAR LEASE AGREEMENT 4.02 Rent Escalation

Exhibit C

Effective __/___ lease payment listed herein shall be increased 2.0% each year throughout the term

Initial Term

6 months

Date TBD

Monthly Rate \$ 200.00

6 month Rent Caculation \$ 1,200.00

Γ	Secondary Term									
	<u>Lease Year 1</u> Month 7 - Month 12	<u>Lease Year 2</u> Month 13 - Month 24	<u>Lease Year 3</u> Month 25 - Month 36	<u>Lease Year 4</u> Month 37 - Month 48	<u>Lease Year 5</u> Month 49 - Month 60	<u>Lease Year 6</u> Month 61 - Month 72	<u>Lease Year 7</u> Month 73 - Month 84	<u>Lease Year 8</u> Month 85 - Month 96	<u>Lease Year 9</u> Month 97 - Month 108	<u>Lease Year 10</u> Month 109 - Month 120
Date	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Monthly Rate	\$ 200.00	\$ 204.00	\$ 208.08	\$ 212.24	\$ 216.49	\$ 220.82	\$ 225.23	\$ 229.74	\$ 234.33	\$ 239.02
Annual Rent Caculation	\$ 2,400.00	\$ 2,448.00	\$ 2,496.96	\$ 2,546.90	\$ 2,597.84	\$ 2,649.79	\$ 2,702.79	\$ 2,756.85	\$ 2,811.98	\$ 2,868.22

	Secondary Term(cont.)									
	Lease Year 11	Lease Year 12	Lease Year 13	Lease Year 14	Lease Year 15	Lease Year 16	Lease Year 17	Lease Year 18	Lease Year 19	Lease Year 20
	Month 121 -	Month 133 -	Month 145 -	Month 157 -	Month 169 -	Month 181 -	Month 193 -	Month 205 -	Month 217 -	Month 229 -
	Month 132	Month 144	Month 156	Month 168	Month 180	Month 192	Month 204	Month 216	Month 228	Month 240
Date	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Monthly Rate	\$ 243.80	\$ 248.67	\$ 253.65	\$ 258.72	\$ 263.90	\$ 269.17	\$ 274.56	\$ 280.05	\$ 285.65	\$ 291.36
Annual Rent Caculation	\$ 2,925.59	\$ 2,984.10	\$ 3,043.78	\$ 3,104.66	\$ 3,166.75	\$ 3,230.08	\$ 3,294.69	\$ 3,360.58	\$ 3,427.79	\$ 3,496.35

Exhibit D

Authorized Aeronautical Activities

- (1) Flight school classrooms;(2) Office use related to Aeronautical Activities; and
- (3) Pilot Lounge.

RESOLUTION NO. R2021-24 LEASE OF OFFICE SPACE IN HANGAR D TO TRES CLINTON DBA C3 AIR LLC

May 25, 2021 City Council Regular Session

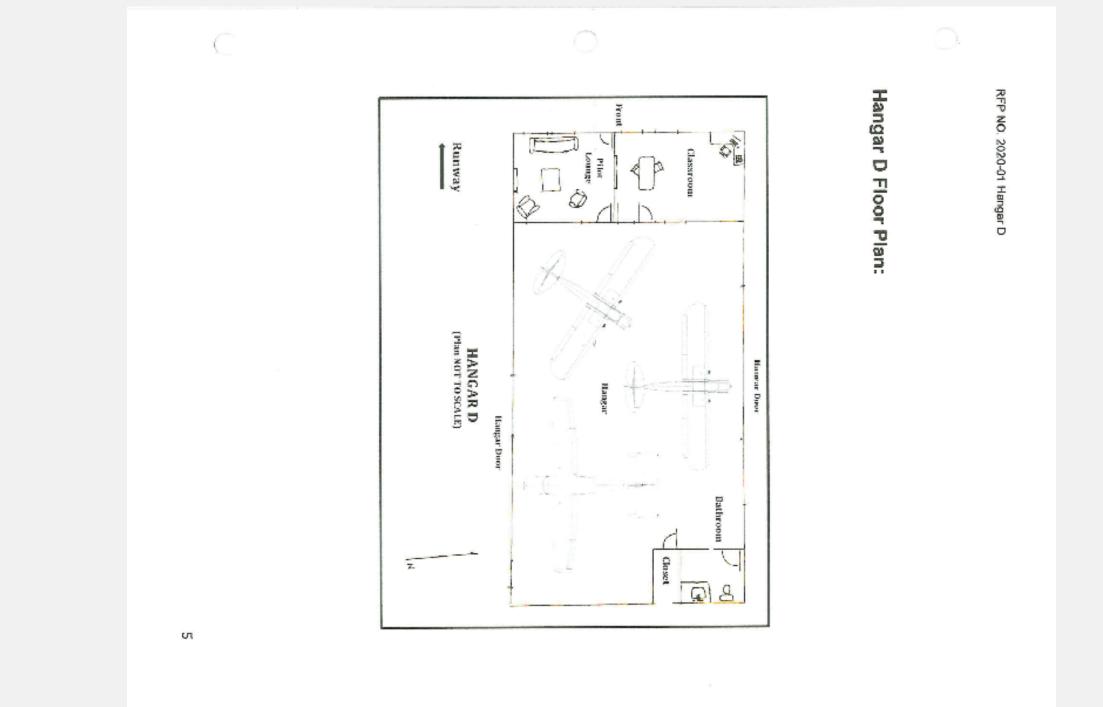
Item 4.12

BACKGROUND

- Last year city council authorized the issuance of request for proposals for the lease of enclosed area of Hangar D
- Thereafter, on September 22, city council acknowledged the sole response from Tres Clinton and authorized the city manager to negotiate a lease agreement
- There have been two extensions granted to the authorization
- Due to practicalities in dealing with the existing airplanes currently hangered in Hangar D, the city manager and Mr. Clinton decided it was in the best interest of all parties to lease only the office space

DEAL POINTS

- Finish out will be at sole costs of Lessee and investment of over \$50,000.00.
 - Lessee will finish out office space
 - Lessee will bring restroom into ADA compliance
- Lease term broken up into two phases:
 - Phase one: Six months wherein Lessee is to complete finish out and obtain CofO
 - Phase two: occupancy 234 months.
- Rent: \$200.00 a month for the first five years, with 2% increase each year thereafter.



CONCLUSION

- Upon passage of Resolution No. R2021-24 the mayor shall be authorized to execute the lease agreement on behalf of the city.
- The executed lease agreement shall be presented to Mr. Clinton for execution
 - The lease agreement must be executed by Mr. Clinton before June 7th or it is void
 - Finish out costs appear to be more than anticipated
- Staff Recommendation: Approve Resolution No. R2021-24 as presented



Administration

ITEM 4.13

Habib Erkan Assistant City Manager 512-715-3000 herkan@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item: Discuss and consider action: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A REAL ESTATE CONTRACT WITH DELAWARE SPRINGS RANCH INVESTMENTS LLC, FOR THE SALE OF APPROXIMATELY 42 ACRES OF CITY LAND LOCATED WEST OF THE BURNET MUNICIPAL GOLF COURSE; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY. H. Erkan

Background: On October 13, 2020, City Council, by resolution, acknowledged the bid by Delaware Springs Ranch Investments LLC, to purchase approximately 42 acres of land that adjoins the municipal golf course, and authorized the City Manager to negotiate a sales contract that would include vegetative buffers, and other, easements that would preserve and enhance the municipal golf course. The offered bid was \$9,000.00 per acre. The negotiation period was extended to resolve issues with the City's predecessors in title to the land; and internal issues with Delaware Springs Ranch Investments LLC.

Information: This resolution approves the Real Estate Contract for the for a purchase price of \$9,000.00 per acre; and authorizes the Mayor to execute the contract on behalf of the City.

Fiscal Impact Depending on the surveyed acreage the sales price will be in the range of \$378,000.00.

Recommendation: Approve and adopt Resolution R2021-26 as presented.

RESOLUTION NO. R2021-26

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, APPROVING A REAL ESTATE CONTRACT WITH DELAWARE SPRINGS RANCH INVESTMENTS LLC, FOR THE SALE OF APPROXIMATELY 42 ACRES OF CITY LAND LOCATED WEST OF THE BURNET MUNICIPAL GOLF COURSE; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

Whereas, Council adopted Resolution No. 2020-33 authorizing the solicitation of bids for the sale of approximately 42 acres adjoining the Burnet Municipal Golf; and

Whereas, Council adopted Resolution No. 2020-46 authorizing the City Manager to negotiate a real estate sales contract with the sole bidder, Delaware Springs Ranch Investments LLC; and

Whereas, by this Resolution Council desires to approve the contract negotiated by the City Manager and authorize the Mayor to execute said contract on behalf of the City.

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

Section one. **The recitals**. The above stated recitals are incorporated herein for all purposes.

Section two. **Real Estate Contract Approved.** The Real Estate Contract and ancillary documents attached hereto are hereby approved.

Section three. Authorization. The mayor is hereby authorized to execute a Real Estate Contract in substantial form as the attachment and to execute such other ancillary documents, and take such other action, as may reasonably be necessary to facilitate the purpose of this Resolution.

Section four. Open Meetings. It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, as modified by the governor's orders in response to the COVID-19 pandemic.

PASSED AND APPROVED to be effective this the 25th day of May, 2021.

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

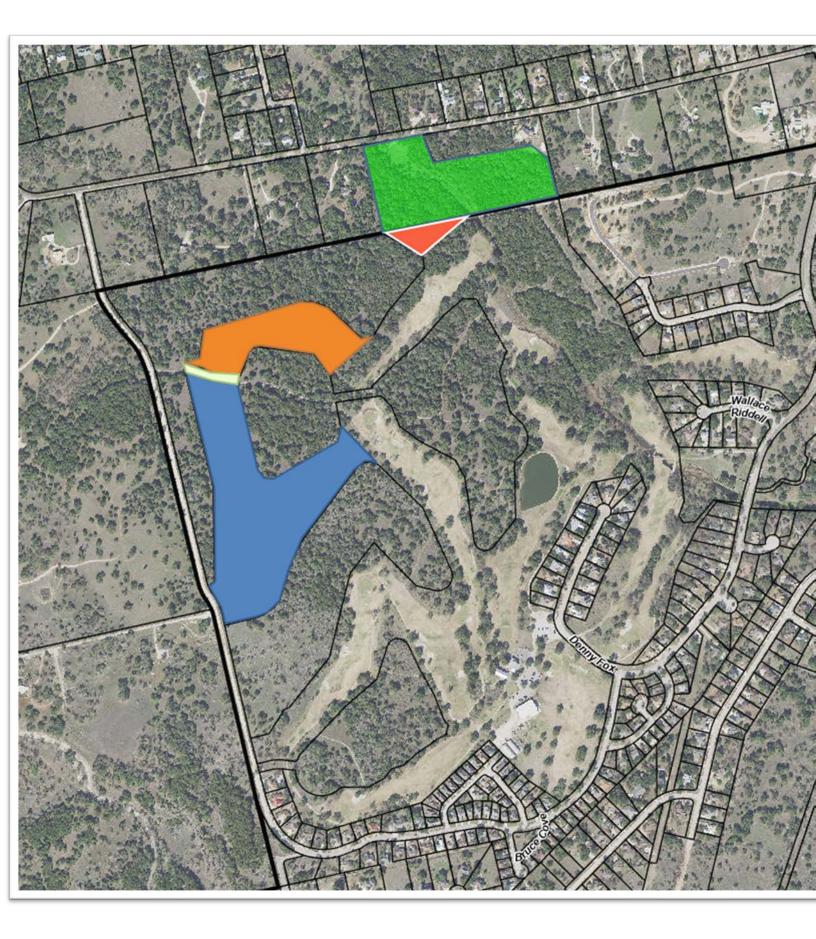
Kelly Dix, City Secretary

EXHIBIT "A"

The Burnet Land. The Burnet Land is described as follows:

Approximately forty-two (42) total acres of land depicted as follows:

- Approximately twenty (20) acres, highlighted in blue;
- Approximately eight and 2/10 (8.2) acres, highlighted in orange;
- Less than one acre highlighted in white (City owns this tract in fee simple subject to an ingress and egress easement held by Buyer).
- Approximately two (2) acres, highlighted in red; and
- Approximately 11.64 acres, highlighted in green.



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

AVIGATION EASEMENT

THE STATE OF TEXAS§§KNOW ALL PEOPLE BY THESE PRESENTSCOUNTY OF BURNET§

WHEREAS, Delaware Springs Ranch Investments, LLC, a Texas limited liability company whether one or more, are the legal owners in fee of that certain parcel of land more particularly described as follows:

See Attached Exhibit "A" (Legal Description)

NOW THEREFORE, in consideration of the total sum of ten dollars (\$10.00) and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged, the Grantors, for themselves, their heirs, administrators, executors, successors and assigns, do hereby grant, bargain, sell and convey unto the City of Burnet, Texas, hereinafter referred to as Grantee, its successors and assigns, for the use and benefit of the public, as easement and right of way, appurtenant to the Burnet Municipal Airport (a.k.a. Kate Craddock Field), hereinafter referred to as Airport, for the unobstructed use and passage of all types of aircraft whether now in existence or hereafter manufactured and developed, to include, but not be limited to, jet aircraft, propeller driven aircraft, civil aircraft, military aircraft, commercial aircraft, helicopters and all types of aircraft or vehicles now in existence or hereafter developed, regardless of existing of future noise levels, for the purpose of transporting persons or property through the air by whomsoever owned or operated, in and through the air space above Grantors property above an imaginary plane rising and extending in a generally direction over Grantors property, said imaginary plane running from approximately feet Mean Sea level above Point _____ on Exhibit _____ at the rate of one foot vertically for each ______ feet horizontally to approximately feet Mean Sea level above point on Exhibit , to an infinite height above said imaginary plane, to an infinite height above Grantors property, as well as in the vicinity of Grantors property, with such use and passage to be unlimited as to frequency, type of aircraft and

proximity.

Said easement shall be appurtenant to and for the benefit of the Airport, including any additions thereto wherever located, hereafter made by Grantee or its successors and assigns, guests, and invites, including any and all persons, firms or corporations operating aircraft to or from the Airport.

Said easement and burden, together with all things which may be alleged to be incident to or resulting from the use and enjoyment of said easement, including, but not limited to, the right to cause in all air space above or in the vicinity of the surface of Grantors property such noise, vibrations, flume, deposits or dust or other particulate matter; fuel particles (which are incidental to the normal operation of said aircraft), fear interference with sleep and communication, and any and all other effects that may be alleged to be incident to or caused by the operation of aircraft over or in the vicinity of Grantors property or in landing at or taking off from, or operating at or in said Airport; and Grantors do hereby fully waive remise and release any right or cause of action which they may now have or which they may have in the future against Grantee, its successor and assigns, due to such noise vibrations, fumes, dust, fuel particles and all other effects that may be caused or may have been caused by the operation of aircraft landing at, or taking off from, or operating at or on said Airport.

The easement and right of way hereby granted includes the continuing right of Grantee to prevent the erection or growth upon Grantors property of any buildings structure, tree or other object extending into the air space above the aforesaid imaginary plane; and to remove from said air space, or at the sole option of Grantee, as an alternative, to mark and light as obstructions to air navigation, any such building, structure, tree or other objects now upon, or which in the future may be upon Grantors property, together with the right of ingress and egress over Grantors remaining property for the above purpose.

TO HAVE AND TO HOLD said easement and right of way, and all rights appertaining thereto unto Grantee, its successors and assigns, until said Airport shall be abandoned and shall cease to be used for the consideration herein above set forth, the Grantors for themselves, their heirs, administrators, executors, successors and assigns, do hereby agree that for and during the life of said easement and right of way, Grantors will not hereafter erect, permit the erection or growth of; or permit or suffer to remain upon Grantors property any building, structure, tree or other object extending into the aforesaid prohibited air space, and that they shall not hereafter use or permit or suffer the use of Grantors property in such a manner as to create electrical interference with radio communications between any installation upon said Airport and aircraft, or as to make it difficult for flyers to distinguish between airport lights and others, or to permit any use of the Grantors land that causes a discharge of fumes, dust or smoke so as to impair visibility in the vicinity of the Airport or as otherwise to endanger the landing, taking off or maneuvering of aircraft. Grantors further waive all damages and claims for damages caused or alleged to be caused by or incidental to such activities and public purposes.

Signature page to follow.

IN WITNESS WHEREOF Grantors have set their hands and seals this ______ day of ______, 2021

GRANTOR:

Delaware Springs Ranch Investments, LLC A limited liability company formed under the laws of the state of Texas.

By:____

Jordan Shipley, Manager

THE STATE OF TEXAS	§
	§
COUNTY OF BURNET	§

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Jordan Shipley, of Delaware Springs Ranch Investments, LLC, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the __day of _____, 2021.

Seal

Notary Public Signature

Grantee's acceptance signature page to follow.

GRANTEE:

AGREED AND ACCEPTED: CITY OF BURNET, TEXAS,

a Texas home-rule municipality

By: ____

Crista Goble Bromley, Mayor

THE STATE OF TEXAS § S COUNTY OF BURNET §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the __day of _____, 2021.

Seal

Notary Public Signature

City of Burnet 1001 Buchanan Drive, Suite 4 Burnet, TX 78611



METES AND BOUNDS DESCRIPTION OF TRACT 6 (11.608 ACRES)

FIELD NOTES TO DESCRIBE A 11.608 ACRE TRACT OF LAND (TRACT 6), OUT OF THE EUGENIO PEREZ SURVEY NO. 41, ABSTRACT NO. 672, SITUATED IN BURNET COUNTY, TEXAS, AND BEING A PORTION OF LOT NOS. 5, 6 & 7 OF OAK VISTA SUBDIVISION, A BURNET COUNTY SUBDIVISION, ACCORDING TO THE PLAT RECORDED IN CABINET 1, SLIDE 183-C OF THE PLAT RECORDS OF BURNET COUNTY, TEXAS, SAID 11.608 ACRES (TRACT 6) BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a ¹/₂-inch iron rod found, along a southerly line of said Oak Vista Subdivision and a northerly line of the remaining portion of a called 666.23 acre tract of land, described in a deed to Billy Joe Fox & La Vonna Fox, as recorded in Volume 798, Page 880 of the Official Public Records of Burnet County, Texas (O.P.R.B.C.T.), for the common south corner of Lot Nos. 7 & 8 of said Oak Vista Subdivision, the northeast corner of Tract 18, a northwesterly corner of Tract 1 and the southwest corner hereof, from which a ¹/₂-inch iron rod found, for the southwest corner of Lot 12 of said Oak Vista Subdivision and the southeast corner of Fox Drive, a variable width public right-of-way, according to the Re-subdivision of Lot No. 12 in Oak Vista, as recorded in Cabinet 2, Slide 36-D P.R.B.C.T., bears along a southerly line of said Oak Vista Subdivision a northerly line of said 666.23 acres and said Tract 18, South 77°36'31" West, a distance of 1,974.94 feet;

THENCE North 14°06'06" West, along the common line of said Lot Nos. 7 & 8, a distance of 332.49 feet, to a ¹/₂-inch iron rod set with "CUPLIN 5938" property cap, for an angle hereof;

THENCE over and across said Lot No. 7, the following courses and distances:

- 1) North 54°35'27" East (L1), a distance of 129.48 feet, to a ¹/₂-inch iron rod set with "CUPLIN 5938" property cap, for an angle hereof;
- 2) North 24°03'17" West (L2), a distance of 205.09 feet, to a ¹/₂-inch iron rod set with "CUPLIN 5938" property cap, along a southerly right-of-way line of Scenic Oaks Drive, a 50-foot public right-of-way, according to the plat recorded in Cabinet 1, Slide 183-C P.R.B.C.T., for an angle hereof, from which a ¹/₂-inch iron rod found, for the common north corner of Lot Nos. 8 & 9, bears along a southerly line of said Scenic Oaks Drive, South 79°19'56" West, a distance of 485.13 feet;

THENCE North 79°19'56" East, along a southerly line of said Scenic Oaks Drive and a northerly line of said Lot No. 7, a distance of 314.26 feet, to a ¹/₂-inch iron rod set with "CUPLIN 5938" property cap, for an angle hereof;

THENCE over and across said Lot No. 7, the following courses and distances:

- 1) South 24°00'44" East (L3) a distance of 188.14 feet, to a ¹/₂-inch iron rod set with "CUPLIN 5938" property cap, for an angle hereof;
- 2) North 79°45'52" East, passing at a distance of 268.27 feet, the common line of said Lot No. 6 & 7, and continuing over and across said Lot No. 6, for a total distance of 667.58 feet, to a ¹/₂-inch iron rod set with "CUPLIN 5938" property cap, for an angle hereof;

THENCE South 53°41'52" East (L4) over and across said Lot No. 6, a distance of 157.35 feet, to a 1/2-inch iron rod set with "CUPLIN 5938" property cap, along the common line of Lot No. 5 of said Oak Vista Subdivision and said Lot No. 6, for an angle hereof;

THENCE South 14°04'31" East, along the common line of said Lot Nos. 5 & 6, a distance of 246.88 feet, to a ¹/₂inch iron rod found, along a southerly line of said Oak Vista Subdivision and a northerly line of said 666.23 acres, for the common south corner of said Lot Nos. 5 & 6, the northwest corner of Tract 19, a northeasterly corner of said Tract 1 and the southeast corner hereof;

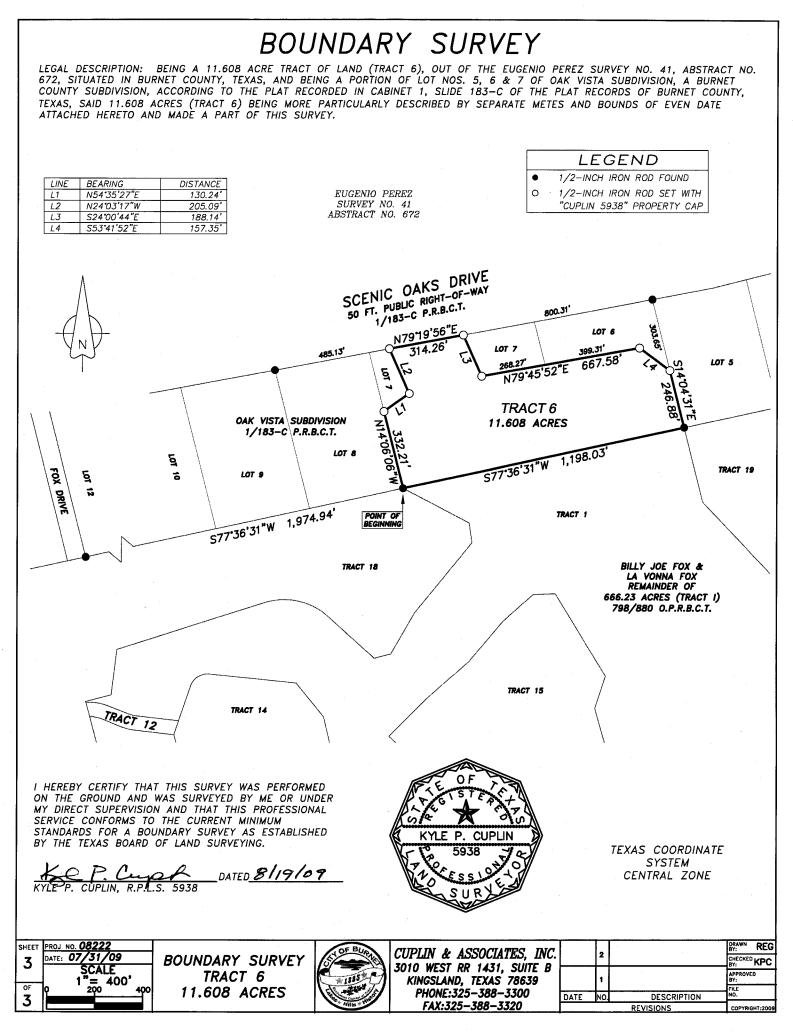
THENCE South 77°36'31" West, along a southerly line of said Oak Vista Subdivision, a northerly line of said 666.23 acres and a northerly line of said Tract 1, a distance of 1,198.03 feet, to the POINT OF BEGINNING, containing 11.608 acres, more or less.

That I, Kyle P. Cuplin, a Registered Professional Land Surveyor, do hereby certify that the above description and accompanying plat is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision, with all bearings being referenced to Texas Coordinate System, Central Zone.

Registered Professional Land Surveyor No. 5938

Proj. No. 08222





1	REAL ESTATE SALES CONTRACT
2	
3	
4	CITY OF BURNET, TEXAS
5	Seller
6	
7	AND
8	
9	DELAWARE SPRINGS RANCH INVESTMENTS, LLC
10	Buyer
11	
12	

13 14 **REAL ESTATE SALES CONTRACT** 15 **TABLE OF CONTENTS** 16 17 18 Section A **Deadlines and Other Dates** Pages 7 19 (1) Earnest Money Deadline: Three days after date contract is offered to 20 Buyer. 21 (2) Delivery of Title Commitment: 10 days after the Effective Date 22 Delivery of Survey: 60 days after the Effective Date. (3) 23 Delivery of legible copies of instruments referenced in the Title (4) 24 Commitment, and Survey, 5 days after Delivery of Survey. 25 Delivery of Updated Title Commitment: 10 days after Title Company's (5) 26 receipt of Survey; 27 Delivery of Title Objections: 15 days after delivery of the Updated Title (6) 28 Commitment, Survey, and legible copies of the instruments referenced in 29 them. 30 (7) Delivery of Seller's records as specified in Exhibit "D": 15 days after the 31 Effective Date 32 33 (8) End of Inspection Period: 60 days after the Effective Date Closing Date: Five days after expiration of Inspection Period. (9) 34 (10)Closing Time: 2:00 p.m. 35 36 Section B Earnest Money Page 7-8 37 (1) Escrow deadline. 38 (2) Earned Interest. 39 40 Effective Date Section C Page 8 41 Section D **Closing Documents** Pages 8 42 Section E **Exhibits** Page 8-9 43 Section F Purchase and Sale of Property Page 9 44 Section G Title Policy and Survey Pages 9-11 45 Preliminary title commitment. (1)46 (2) Survey. 47 Title Review Period. (3) 48 Title Policy. (4) 49 Inspection Period Pages 11-12 Section H 50 (1) Review of Seller's Records. 51 (2) Entry onto the Propety. 52 (3) Enviormetal Assessment. 53 (4) Buyer's Indemnity and Release. 54 Right to Terminate. (5) 55 56 Section I Representations Page 12 57 Special Conditions of Sale Pages 12-14 Section J 58 Uility easements. (1) 59 Burnet Municipal Golf Course protection. (2) 60 Period for resolving matters related to Special Conditions of Contract. (3) 61 Special Warranty Deed. (4) 62 Survival of closing. (5) 63

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

Initials Seller:

Buyer:

64 65 66	Section K	(1) (2)	Disclaimer of Warranties As Is, Where Is. Enviromental Matters.	Pages 14-15
67 68 69 70 71 72 73 74 75 76	Section L	(1) (2) (3) (4) (5) (6)	Conditions of Property until Closing; Cooperatoin; No Recording of Contract Maintenance and Operation. Casualty Damage. Contamination. Claims, Hearings. Cooperation. No Recording.	Pages 15-16
77 78 79 80	Section M	(1) (2) (3)	Closing Closing. Transaction Cost. Issuance of Title Policy.	Pages 16-18
81 82 83 84 85 86 87	Section N	(1) (2) (3) (4)	Default and Remedies. Seller's Default. Buyer's Default. Liquidated Damages. Attorney's Fees.	Pages 18-19
88 90 91 92 93 94 95 96 97 98 99 100 101 102	Section O	 (1) (2) (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) 	Miscellaneous Provision Ambiguities Not to Be Construed against party Who Dra Amendment. Assignment. Binding Effect. Choice of Law; Venue; Alternative Dispute Resolution Confidentiality. Counterparts Entire Contract. No Special Relationship. No Third-party Beneficiaries. Notices. Severability. Survival. Waiver of Default.	Pages 19-21 afted Contract.
103 104 105 106 107	Signature Pa Exhibits	ge		Page 22
108 109 110 111 112 113 114 115	Exhib Exhib Exhib Exhib Exhib Exhib	it B— De it C— Re it D— Se it E— Nc it F— Fo	scription of the Property escription of the 11.608 acre tract epresentations by Seller and Buyer eller's Records otices, Statements, and Certificates rm of Special Warranty Deed g Leaf Tract Declaration of Restrictive Covenants	Page 3 of

Initials Seller:_____

Buyer:_____

116 **Real Estate Sales Contract**

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This contract to buy and sell real property is between Seller and Buyer as identified below and is effective on the date ("Effective Date") of the last of the signatures by Seller and Buyer as parties to this contract and by Title Company to acknowledge receipt of the Earnest Money. Buyer must deliver the Earnest Money to Title Company and obtain Title Company's signature before the Earnest Money Deadline provided in Section A(1) for this contract to be effective. If the Earnest Money is paid by check and payment on presentation is refused, Buyer is in default.

126 Seller: City of Burnet 127 Address: City of Burnet % City Secretary PO Box 1369 Burnet, Texas 78611 128 129 Phone: (512) 756-6093 130 131 Fax: (512) 756-8580-9100 132 133 E-mail: kdix@cityofburnet.com 134 135 Type of entity: Texas Municipal Corporation 136 137 Seller's Attorney: Charles Zech 138 Denton, Navarro, Rocha, Bernal, & Zech P.C. 139 Address: 140 2500 W. William Cannon, Suite 609 141 Austin, Texas 78745 142 143 Phone: (512) 279-6431 144 Fax (512) 279-6538 145 146 Seller's Broker: None 147 148 **Buyer:** Delaware Springs Ranch Investments, LLC 149 150 % Jordan Shipley Address 24 Smith Rd Ste 504 151 Midland, Texas 79705-4475 152 153 154 Phone: 325-998-4548

Initials Seller:

155 156 Fax: 157 158 E-mail: jordan@dullnigranches.com 159 160 Type of entity: Limited Liability Company 161 162 Buyer's Attorney: J.D. Benton 163 Address: French Benton, PLLC 415 W. Wall St, Suite 1240 Midland, Texas 79701 164 165 Phone: (432) 888-8996 166 167 Fax: N/A 168 169 E-mail: jd@frenchbenton.com 170 171 **Buyer's Broker: None** 172 173 By way of background, the following is noted: (i) the Property is included in Property: 174 the description of City of Burnet real property in that certain Boundary Agreement 175 (hereinafter so referenced) between Seller, as plaintiff, in litigation referenced in the 176 Boundary Agreement against defendants BJV Fox Holdings LP, Series DS-19 of BJV Fox Properties, LLC, and Big Leaf, Ltd; (ii) the Boundary Agreement was recorded on February 177 178 12, 2014, in the Public Records of the County Clerk of Burnet County, Texas as Document 179 No. 201401086; and (iii) Buyer has closed on the purchase of other property referenced in 180 the Boundary Agreement, from defendants, (hereinafter "Buyer's Delaware Springs 181 Property"). Both portions of the Property and Buyer's Delaware Springs Property surround 182 the Burnet Municipal Golf Course (hereinafter the "Golf Course"). Within that context the 183 Property is described as: 184 185 Approximately forty-two (42) total acres of land depicted on attached Exhibits "A" and "B" 186 as follows: 187 (1) **Exhibit "A"**: Is an aerial map showing the approximate area of the Property as 188 189 follows: 190 191 (a) Approximately twenty (20) acres, highlighted in blue; 192 Approximately eight and 2/10 (8.2) acres, highlighted in orange; (b) 193 Less than one acre highlighted in white (City owns this tract in fee simple (c) 194 subject to an ingress and egress easement held by Buyer).

Initials Seller:

Buyer:____

Page 5 of 39

195 Approximately two (2) acres, highlighted in red; and (d) 196 (e) Approximately 11.608 acres highlighted in green. 197 198 (2) Exhibit "B": Is a metes and bounds and survey showing a more specific description of the aforementioned 11.608 acres (hereinafter sometimes referred to 199 200 as the "Big Leaf Tract".") 201 202 The parties understand and agree that the above description of the Property and exhibits depicting the Property are approximations; and, pursuant to the Special Conditions 203 204 contained herein, the parties shall work in good faith to come to agreement as to a legal 205 description of the Property that will best approximate the above description while serving 206 the needs of Buyer and fulfilling Seller's fiduciary obligation to the citizens of Burnet to 207 protect the Golf Course. Upon finalization of the survey, and metes and bounds, reflecting 208 such agreement this contract shall be amended and such finalized survey, and metes and 209 bounds, shall replace the depiction of Property and shall be designated as Exhibits "A" and "B" herein and in the deed. 210 211 212 Title Company: Attorney Abstract 213 117 E. Jackson Street 214 Address: 215 Burnet, Texas 78611 216 217 Phone: (512)756-2006 218 219 Fax: 220 221 E-mail: orders@burnetcountytitle.com 222 223 Underwriter: First American Title Guaranty Company 224 225 **Purchase Price:** The total purchase price is \$378,000.00. The total purchase price is 226 calculated on a price per acre of \$9,000.00. The parties 227 acknowledge, as of the date of entry into this contract, the Property is 228 estimated to be 42-acres (the "Base Area"); however, the actual 229 acreage contained within the boundaries of the Property will not be ascertained until a survey, and metes and bounds, as contemplated in 230 231 Section G, is finalized. In the event the survey and metes and bounds 232 reflect a land area greater than or less than the Base Area, the 233 purchase price shall be increased or decreased (as the case may be) 234 to a price which is equal to the actual total acreage reflected by the 235 survey, multiplied by the price per acre. 236 237 Earnest Money: \$11,340.00 (3% of purchase price)

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

Initials Seller:

Buyer:____

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- 239 **Surveyor:** Cuplin & Associates Inc.
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Survey Category: An on-the-ground, staked plat of survey and metes-and-bounds description of the Property, prepared by Surveyor or another surveyor satisfactory to Title Company, dated after the Effective Date, and certified to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for such Survey Category Title Company requires to issue a policy insuring title to the Property to Buyer with reservation to Seller the easements described in the Special Conditions.

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248 **County for Performance:** Burnet County, Texas

- 249250 A. Deadlines and Other Dates.
- 250

All deadlines in this contract expire at 5:00 P.M. local time where the Property is located. If a deadline falls on a Saturday, Sunday, or national holiday or city holiday, the deadline will be extended to the next day that is not a Saturday, Sunday, national holiday, or city holiday. A national holiday is a holiday designated by the federal government. A city holiday is a holiday designated by the municipal government of the city of Burnet, Texas. Time is of the essence. Unless expressly stated otherwise herein, deadlines are as follows:

- 258
 259 (1) Earnest Money Deadline: Three days after Buyer received fully executed copy of
 260 this Agreement.
- 261 (2) Delivery of Preliminary Title Commitment: 10 days after the Effective Date
- 262 (3) Delivery of Survey: 60 days after the Effective Date.
- 263 (4) Delivery of legible copies of instruments referenced in the title commitment, and
 264 survey, 5 days after delivery of survey to Title Company.
- (5) Delivery of Updated Title Commitment: 10 days after delivery of survey to Title
 Company.
- (6) Delivery of Title Objections: 15 days after delivery of the last of the following:
 updated title commitment, survey, and legible copies of the instruments referenced
 in them.
- (7) Delivery of Seller's records as specified in Exhibit "D": 15 days after the Effective
 Date.
- (8) End of Inspection Period: Ten days after the response to Title Objections is received
 by Buyer.
- (9) Closing Date: Fifteen days after expiration of Inspection Period; or after both the
 recordation of the Big Leaf Tract Declaration of Restrictive Covenants (Exhibit "G")
 and Buyer's grant of easement to Seller on Buyer's other Delaware Springs Property
 (Special Exceptions Section J. 2.(d).
- 278 (10) Closing Time: 2:00 p.m.
- 279 280 **B**. **Earn**

B. Earnest Money.

Initials Seller:

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- (1) *Escrow deadline.* The Earnest Money shall be escrowed in the Title Company
 within the time prescribed in Section A.(1).
- (2) *Earned Interest*. Buyer may direct Title Company to invest the Earnest Money in an
 interest-bearing account in a federally insured financial institution by giving notice to
 Title Company and satisfying Title Company's requirements for investing the
 Earnest Money in an interest-bearing account. Any interest earned on the Earnest
 Money will become part of the Earnest Money.
- C. Effective Date. This contract shall become effective upon the Title Company's receipt of the fully executed contract and the Earnest Money. Should Buyer not escrow Earnest Money and this contract with Title Company on or before the escrow deadline this contract shall be void and the parties shall have no further obligation under this contract.
- 297 **D.** Closing Documents.
- 298 (1) At closing, Seller will deliver the following items:
- 299300Special Warranty Deed
- 301 IRS Nonforeign Person Affidavit
- 302 Evidence of Seller's authority to close this transaction
- 303 Notices, statements, and certificates as specified in **Exhibit "E**"
- 304 Such other items as reasonably requested by Title Company
- 306 (2) At closing, Buyer will deliver the following items:
- 308 Balance of Purchase Price
- 309 Evidence of Buyer's authority to close this transaction
- 310 Deceptive Trade Practices Act waiver
- 311 Such other items as reasonably requested by Title Company
- 313 **E. Exhibits**. The following are attached to and are a part of this contract:
- 314Exhibit A—Description of the Property (The contract shall be amended to315substitute the metes and bounds of the Property as Exhibit A upon316Buyer's approval of the survey.
- 317Exhibit B— Description of the 11.608 acre tract (The contract shall be318amended to substitute the survey of the Property as Exhibit B upon319Buyer's approval of the survey.)

320 Exhibit C— Representations by Seller and Buyer
321 Exhibit D— Seller's Records
322 Exhibit E— Notices, Statements, and Certificates
323 Exhibit F— Form of Special Warranty Deed
324 Exhibit G – Big Leaf Tract Declaration of Restrictive Covenants

F. Purchase and Sale of Property. Seller agrees to sell and convey the Property to
 Buyer, and Buyer agrees to buy and pay Seller for the Property. The promises by Buyer
 and Seller stated in this contract are the consideration for the formation of this contract.

- 329 **G**.
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G. Title Policy and Survey.

- 331 (1) Preliminary title commitment. Within the time prescribed in Section A(2) a 332 preliminary commitment for title insurance for the Property shall be delivered to Buyer. Within the time prescribed in Section A(4) Title Company shall furnish Buyer, 333 334 with true legible copies of all documents affecting title to the Property. In the event either the preliminary commitment for title insurance or the true legible copies are 335 336 not timely delivered to Buyer a day shall be added to the Section H Inspection 337 Period for each day of delay; provided, however, Buyer may terminate this contract 338 pursuant to Section H(6), should either the preliminary commitment for title 339 insurance or the true legible copies are not delivered to Buyer within thirty (30) 340 calendar days of the Effective Date.
- (a) Upon Seller's delivery of the survey Title Company shall update the title
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 344
 Upon Seller's delivery of the survey Title Company shall update the title
 commitment within the time prescribed in Section A(5) to reflect the legal
 description of the Property and related matters.
- (b) In the event the updated commitment for title insurance is not timely
 delivered to Buyer a day shall be added to the Section H Inspection Period
 for each day of delay; provided, however, Buyer may terminate this contract
 pursuant to Section H(6), should the updated commitment for title insurance
 not be delivered to Buyer within thirty (30) calendar days of Buyer's receipt of
 the survey.
- 352 (2) *Survey*. At closing Buyer shall incur all reasonable costs associated with acquiring
 353 the survey. Within the time prescribed in Section A(3) Seller shall deliver the survey
 354 to Buyer. In the event the survey is not received by Buyer, within such time a day
 355 shall be added to the Section H Inspection Period for each day of delay; provided,
 356 however, should said survey not be received by Buyer within 120 days of the
 357 Effective Date Buyer may terminate this contract pursuant to Section H(6). The

Initials Seller:

- legal description contained in the survey, as approved by Seller and Buyer, shall be
 inserted as the description contained in the deed referenced in Section J(4). Seller
 and Buyer shall coordinate with the surveyor to assure the survey includes the
 following:
- (a) all public utilities located on, under, or above the Property are shown in
 designated easements that shall be retained and held by Seller upon closing;
 and
 - (b) all irrigation and greenbelt easements to be retained and held by the Seller, as provide herein;
 - (c) an avigation easement to be held by the Seller and other matters addressed in the Special Conditions of this contract;
 - (d) Survey should be an "as built" survey that locates and identifies any improvements constructed on the Property; and
 - (e) Survey must be approved by the title company as adequate for the removal of the boundary line exception from Schedule B of the title commitment.
- 374 375 (3) *Title Review Period*. Buyer has until the deadline stated in Section A(6) ("Title Objection Deadline") to review the survey, updated title commitment, and legible 376 copies of the title instruments referenced in them and notify Seller of Buyer's 377 378 objections to any of them ("Title Objections"). Buyer will be deemed to have 379 approved all matters reflected by the survey, and updated title commitment, to which 380 Buyer has made no Title Objection by the Title Objection Deadline. The matters that 381 Buyer either approves or is deemed to have approved are "Permitted Exceptions." If Buyer notifies Seller of any Title Objections, Seller has five days from receipt of 382 Buyer's notice to notify Buyer whether Seller agrees to cure the Title Objections 383 before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely 384 gives its Cure Notice but does not agree to cure all the Title Objections before 385 386 closing, Buyer may, within five days after the deadline for the giving of Seller's Cure 387 Notice, notify Seller that either this contract is terminated or Buyer will proceed to 388 close, subject to Seller's obligations to remove all liquidated liens, remove all 389 exceptions that arise by, through or under Seller after the Effective Date, and cure 390 only the Title Objections that Seller has agreed to cure in the Cure Notice. At or 391 before closing, Seller must remove all liquidated liens, remove all exceptions that 392 arise by, through or under Seller after the Effective Date of this contract, and cure 393 the Title Objections that Seller has agreed to cure.
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(4) *Title Policy*. As reflected in Section M(3), the Title Company shall issue a Texas
 Owner's Policy of Title Insurance on the standard form of policy prescribed by the
 Texas State Board of Insurance (the "Owner's Title Policy") but modified to be
 consistent with the title commitment, in the amount of the Purchase Price, and
 setting forth the state of title to the Property and all exceptions, and reservations,
 thereto including, without limitation, easements, restrictions, restrictive covenants,

Initials Seller:

401 other covenants, rights-of-way, liens, reservations and other conditions or 402 encumbrances, if any, affecting or relating to the Property and insuring title vested in 403 Buyer, subject only to the Permitted Title Exceptions. Seller shall be responsible for 404 the costs of the Texas Owner's Policy of Title Insurance. Buyer is responsible for all 405 costs for any additional endorsements or modifications to such title policy. 406 407 Н. **Inspection Period**. Subject to extension as provided in Section G., the Inspection 408 Period shall end as provided in Section A(8). 409 410 (1) Review of Seller's Records. Seller will deliver to Buyer copies of Seller's records. specified in **Exhibit "D,"** or otherwise make those records available for Buyer's 411 412 review, by the deadline stated in Section A(7). 413 414 (2) Entry onto the Property. Buyer may enter the Property before closing to inspect it, 415 subject to all of the following: 416 417 (a) Buyer must deliver evidence to Seller that Buyer has insurance, for its proposed inspection activities, in amounts and with coverages that are 418 419 substantially the same as those maintained by Seller or in such lesser 420 amounts or with such lesser coverages as are reasonably satisfactory to 421 Seller. 422 423 (b) Buyer may not interfere in any material manner with existing operations or 424 occupants of the Property. 425 426 Buyer must notify Seller in advance of Buyer's plans to conduct tests so that (c) 427 Seller may be present during the tests. 428 429 (d) If the Property is altered because of Buyer's inspections, Buyer must return 430 the Property to its pre-inspection condition promptly after the alteration 431 occurs. 432 433 (e) Buyer must deliver to Seller copies of all inspection reports that Buyer 434 prepares or receives from third-party consultants or contractors within three 435 days after their preparation or receipt. 436 437 (f) Buyer must abide by any other reasonable entry rules imposed by Seller. 438 439 (3) Environmental Assessment. Buyer has the right to conduct environmental 440 assessments of the Property. During the period of Seller's ownership, the Property has remained in an undeveloped state and Seller has made no improvements to the 441 Property; consequently, Seller has no information to provide to assist with Buyer's 442 Environmental Assessment. Although Seller is unaware of such information, Seller 443

- 444 will reasonably cooperate with Buyer in such obtaining information in possession of445 third parties regarding the Property.
- (4) Buyer's Indemnity and Release of Seller. The obligations of Buyer under this
 Section H(4) will survive termination of this contract and closing.
- 448 (a) *Indemnity*. Buyer will indemnify, defend, and hold Seller harmless from any
 449 loss, attorney's fees, expenses, or claims arising out of Buyer's investigation
 450 of the Property.
- 452 (b) *Release*. Buyer releases Seller and those persons acting on Seller's behalf 453 from all claims and causes of action (including claims for attorney's fees and 454 court and other costs) resulting from Buyer's investigation of the Property. 455
- (5) *Right to Terminate*. Buyer may terminate this contract for any reason by notifying
 Seller before the end of the Inspection Period, and have the Earnest Money, less
 \$100 as described above, returned to Buyer. If Buyer does not notify Seller of
 Buyer's termination of the contract before the end of the Inspection Period, Buyer
 waives the right to terminate this contract pursuant to this provision.
- 461
 462 I. Representations. The parties' representations stated in Exhibit "C" are true and correct as of the Effective Date and must be true and correct on the Closing Date.
- 464 465 J. Special Conditions of Sale. As published in the public solicitation for sale of the 466 Property it is noted that portions of the Property are adjacent to the Burnet Municipal 467 Golf Course; and preservation of the function and aesthetics of Burnet Municipal Golf Course is of paramount importance to Seller. Moreover, as fee simple owner of 468 469 the Property and the purveyor of water, sanitary sewer and electrical utility services Seller has utility services located within the Property which shall be reserved from 470 471 this sale by easements. In addition, it is acknowledged by the parties that portions 472 of the Property and Buyer's Delaware Springs Property is near the Burnet Municipal 473 Airport. In conjunction with the above understanding, Seller understands that Buyer 474 is purchasing the Property with plans to develop the property which will require 475 water, sanitary, electrical and other utility services within the Property of which 476 availability is of paramount importance to Buyer. The Parties will work together in good faith to equitably balance each mutually beneficial interest with the following 477 478 special conditions:
- (1) Utility easements. As a condition to conveyance of the Property, the location of all
 existing public utilities (including, but not limited to, water, sanitary sewer, drainage,
 electric, gas, and copper or fiber telecommunications), on the Property, shall be
 reflected on the survey as public utility easements and such easements shall be
 reserved to Seller.

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(2) Golf Course protection. Seller shall have sole discretion to direct the surveyor to survey the Property in a manner that protects the Tee-box, Fairways and Greens as well as other elements of the Golf Course that may be impacted by the sale of 488 489 Property. The survey shall include the following:

- 491 Irrigation easements. The location of all existing Golf Course irrigation lines, (a) 492 and appurtenances thereto, crossing the Property shall be reflected on the 493 survey as irrigation easements and such easements shall be reserved to 494 Seller. In the event any such irrigation easement impedes the ability for the 495 development of the Property, the parties will work together in good faith to 496 relocate the easement and respective equipment in said easement to 497 accommodate both parties interests by agreement mutually agreeable to the 498 parties.
- 499 (b) Adjustment to Buyer's existing easement. Buyer is the holder of an 500 easement, which will provide access to part of Buyer's Delaware Springs Property between Golf Course holes 14 and 15. The current location of this 501 502 easement is showed to be located on Tract 11 as described in the Boundary 503 Agreement. Buyer and Seller agree to collaborate in good faith to adjust the location of this easement so that the future construction of a road within the 504 505 easement's boundaries disrupts golf operations to minimum extent 506 The parties shall enter into a mutually binding reasonably possible. 507 agreement addressing the relocation of this easement prior to Closing, which 508 shall be recorded in the Public Records of the County Clerk of Burnet 509 County.
- 510 Burnet Municipal Golf Course Easement. Seller shall reserve a 25-foot-wide (c) 511 easement along such area of the Property that touches the Golf Course. The purpose of this easement is to provide a buffer between the Golf Course and 512 513 the adjoining future lots. The use of the easement shall be restricted to a 514 vegetation buffer and no fence or structure shall be permitted within the 515 easement. Buyer may maintain the vegetation buffer in its natural state or make landscaping improvements thereto. No monetary credit against the 516 517 purchase price shall be given for reservation of the easement protecting the Golf Course; however, Buyer shall be entitled to a pervious cover credit (to 518 519 offset pervious cover regulatory dedication obligations) equal to the total area 520 of the easement buffer protecting the Golf Course. The actual determination 521 of the easement location shall be reflected on the survey.
- Buyer's other Delaware Springs Property. Additionally, Buyer has purchase 522 (d) 523 other Delaware Springs Property from a third party, some of which abuts the Before closing, Buyer shall have an easement, similar to 524 Golf Course. 525 Burnet Municipal Golf Course Easement described in the subsection immediately above, placed on those parts of Buyer's other Delaware Springs 526 Property abutting the Golf Course; and Seller shall credit Buyer \$6,000.00 527

Initials Seller:

- 528per acre against the purchase price for the total buffer easements acreage on529Buyer's other Delaware Springs Property.
- (e) *Restrictions on development and use of the Property*. To further protect
 said Golf Course the deed conveying the Property to Buyer shall contain
 covenants and conditions restricting development and use of the Property to
 residential single-family, duplex, triplex, quadplex and multi-family uses.
- 536 (3) *Big Leaf Tract Declaration*. Before closing the Big Leaf Tract shall be subject to a
 537 Declaration of Restrictive Covenants as shown that shall be record in the Public
 538 Records of the County Clerk of Burnet County before closing on this transaction, as
 539 shown on Exhibit "G."
 - (4) Avigation Easement. As areas within the Property, and Buyer's Delaware Springs Property, are in relatively close proximity to the Burnet Municipal Airport the parties acknowledge that it is mutually beneficial to impose an Avigation Easement on such areas for the purpose of protecting Airport operations and, the parties agree to negotiate the terms of an Avigation Easement that shall be record in the Public Records of the County Clerk of Burnet County before closing on this transaction.
 - (5) Period for resolving matters relating to Special Conditions of Contract. In the event that the parties cannot come to mutual agreement as to the matters stated in this Section J Special Conditions, before the expiration of Section A(8) expiration period, and the parties do not agree to an extension thereof, this contract shall terminate and the Earnest Money, less \$100 as described above, shall be returned to Buyer.
 - (6) Special Warranty Deed. The Property shall be conveyed by Special Warranty Deed substantially similar to Exhibit "F." It is understood the Special Warranty Deed may require modification to accommodate the requirements of a purchase money lender; however, it shall not be modified in such manner as to diminish or remove the reservation the easements and restriction on use of the Property as stated in this Section J.
 - (7) *Survival of closing*. The terms and conditions of those provisions of these Special Conditions that are not incorporated into the Special Warranty Deed shall survive closing.
- 565 **K. Disclaimer of Warranties.** Within the period prescribed in Section H, and subject 566 to the indemnity and other provisions therein, Buyer shall have the right to conduct, 567 at Buyer's sole cost, any inspections, and environmental assessments on the 568 Property as Buyer may elect. By execution of this contract Buyer acknowledges and 569 agrees to the following:
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Initials Seller:_____

Buyer:____

571 (1) **As Is, Where Is**.

- 572 THIS CONTRACT IS AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE 573 PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND 574 REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, 575 DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, EXCEPT THOSE IN THIS CONTRACT 576 AND THE CLOSING DOCUMENTS.
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578 BUYER IS NOT RELYING ON ANY REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED 579 WARRANTIES OTHER THAN THOSE EXPRESSLY CONTAINED IN THIS CONTRACT AND THE 580 CLOSING DOCUMENTS. BUYER IS NOT RELYING ON ANY INFORMATION REGARDING THE 581 PROPERTY PROVIDED BY ANY PERSON, OTHER THAN BUYER'S OWN INSPECTION AND THE 582 REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS CONTRACT AND THE CLOSING 583 DOCUMENTS.

585 The provisions of this "**As Is, Where Is**" section regarding the Property will be 586 included in the Deed with appropriate modification of terms as the context requires.

(2) Environmental Matters.

- 589 AFTER CLOSING, BUYER RELEASES SELLER FROM LIABILITY FOR ENVIRONMENTAL 590 PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY (1) UNDER THE 591 COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT 592 (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS 593 SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE.
 - The provisions of this "**Environmental Matters**" regarding the Property will be included in the deed with appropriate modification of terms as the context requires.

598 L. Condition of the Property until Closing; Cooperation; No Recording of 599 Contract 600

- 601 (1) Maintenance and Operation. Until closing, Seller will (a) maintain the Property as it 602 existed on the Effective Date, except for reasonable wear and tear and casualty 603 damage; (b) operate the Property in the same manner as it was operated on the 604 Effective Date; and (c) comply with governmental regulations affecting the Property. 605 Seller currently is in no contracts affecting the Property and until the end of the 606 Inspection Period, Seller will not enter into any contract that affects the Property. 607 Buyer may terminate this contract if Seller enters into any contract that affects the 608 Property without first obtaining Buyer's written consent.
- 609

(2) Casualty Damage. Seller will notify Buyer promptly after discovery of any casualty
 damage to the Property. Seller will have no obligation to repair or replace the
 Property if it is damaged by casualty before closing. Buyer may terminate this
 contract if the casualty damage that occurs before closing would materially affect

Initials Seller:_____

614 Buyer's intended use of the Property, by giving notice to Seller within fifteen days 615 after receipt of Seller's notice of the casualty (or before closing if Seller's notice of the casualty is received less than fifteen days before closing). If Buyer does not 616 617 terminate this contract, Seller will (a) convey the Property to Buyer in its damaged 618 condition. (b) assign to Buyer all of Seller's rights under any property insurance 619 policies covering the Property, and (c) pay to Buyer the amount of the deductibles 620 and coinsurance provisions under any insurance policies covering the Property, but 621 not in excess of the cost to repair the casualty damage and less any amounts previously paid by Seller to repair the Property. If Seller has not insured the 622 Property and Buyer does not elect to terminate this contract in accordance with this 623 624 section, the Purchase Price will be reduced by the cost to repair the casualty 625 damage. 626

- 627 (3) Condemnation. Seller will notify Buyer promptly after Seller receives notice that any part of the Property has been or is threatened to be condemned or otherwise taken 628 629 by a governmental or quasi-governmental authority. Buyer may terminate this 630 contract if the condemnation would materially affect Buyer's intended use of the Property by giving notice to Seller within fifteen days after receipt of Seller's notice 631 to Buyer (or before closing if Seller's notice is received less than fifteen days before 632 closing). If Buyer does not terminate this contract, (a) Buyer and Seller will each 633 634 have the right to appear and defend their respective interests in the Property in the 635 condemnation proceedings, (b) any award in condemnation will be assigned to Buyer, (c) if the taking occurs before closing, the description of the Property will be 636 637 revised to delete the portion taken, and (d) no change in the Purchase Price will be 638 made. 639
 - (4) *Claims; Hearings*. Seller will notify Buyer promptly of any claim or administrative hearing that is threatened, filed, or initiated before closing that involves or directly affects the Property.
 - (5) *Cooperation*. Seller holds no applications, permits, or licenses affecting the Property. Seller will cooperate with Buyer before closing, with any reasonable evaluation, inspection, audit, or study of the Property prepared by, for, or at the request of Buyer.
- (6) *No Recording.* Buyer may not file this contract or any memorandum or notice of this
 contract in the real property records of any county. If, however, Buyer records this
 contract or a memorandum or notice, Seller may terminate this contract and record
 a notice of termination.
- 654 M. Closing

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656 (1) *Closing*. This transaction will close at Title Company's offices at the Closing Date

Initials Seller:

Buyer:____

Page **16** of **39**

	Real Estate Sa	ales Contract City of Burnet - Delaware Springs Ranch Investments, LLC
657	and C	Closing Time. At closing, the following will occur:
658		5 5
659	(a)	Closing Documents. The parties will execute and deliver the Closing
660	()	Documents.
661		
662	(b)	Payment of Purchase Price. Buyer will deliver the Purchase Price and other
663	()	amounts that Buyer is obligated to pay under this contract to Title Company
664		in funds acceptable to Title Company. The Earnest Money will be applied to
665		the Purchase Price.
666		
667	(c)	Disbursement of Funds; Recording; Copies. Title Company will be instructed
668		to disburse the Purchase Price and other funds in accordance with this
669		contract, record the deed and the other Closing Documents directed to be
670		recorded, and distribute documents and copies in accordance with the
671		parties' written instructions.
672		
673	(d)	Delivery of Originals. Seller will deliver to Buyer the originals of Seller's
674		Records.
675		
676	(e)	Possession. Seller will deliver possession of the Property to Buyer, subject
677		to the Permitted Exceptions existing at closing.
678		
679	(2) Trans	saction Costs
680		
681	(a)	Seller's Costs. Seller will pay the basic charge for the Title Policy; one-half of
682		the escrow fee charged by Title Company; the costs to prepare the deed; the
683		costs to obtain, deliver, and record releases of all liens to be released at
684		closing; the costs to record all documents to cure Title Objections agreed to
685		be cured by Seller; Title Company's inspection fee to delete from the Title
686		Policy the customary exception for parties in possession; and certificates or
687		reports of ad valorem taxes; the costs to deliver copies of the instruments
688		described in Section A(4); and Seller's expenses and attorney's fees.
689	(1)	
690	(b)	Buyer's Costs. Buyer will pay one-half of the escrow fee charged by Title
691		Company; the costs to obtain, deliver, and record all documents other than
692		those to be recorded at Seller's expense; the additional premium for the
693		"survey/area and boundary deletion" in the Title Policy, if the deletion is
694		requested by Buyer as well as the cost of any other endorsements or
695		modifications of the Title Policy requested by Buyer; all survey costs; the
696		costs to obtain financing of the Purchase Price, including the incremental
697		premium costs of mortgagee's title policies and endorsements and deletions
698		required by Buyer's lender; any other costs expressly required to be paid by
699		Buyer in this contract; and Buyer's expenses and attorney's fees.

Initials Seller:_____

Buyer:_____

Page **17** of **39**

- 700
 701 (c) Ad Valorem Taxes. As Seller is a governmental entity and a subdivision of
 702 the state of Texas the Property, while titled to Seller, is exempt from ad
 703 valorem taxes. Buyer shall be responsible for ad valorem taxes going
 704 forward from the date of Closing.
 705
- 706(d)Income and Expenses. The Property generates no income and Seller does707not anticipate incurring expenses pertaining to operation of the Property prior708to closing.709709
- (e) *Post-closing Adjustments*. If errors in the prorations made at closing are
 identified within ninety days after closing, Seller and Buyer will make post closing adjustments to correct the errors within fifteen days of receipt of
 notice of the errors.
- 714 715 (f) Brokers' Commissions. Neither Buyer nor Seller engage a Broker in regards to this transaction. Buyer and Seller each indemnify and agree to defend and 716 717 hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, 718 or under the indemnitor for a broker's or finder's fee or commission because 719 720 of this transaction or this contract, whether the claimant is disclosed to the 721 indemnitee or not. To the extent applicable, at closing, each party will 722 provide the other party with a release of broker's or appraiser's liens from all 723 brokers or appraisers for which each party was responsible.
 - (3) *Issuance of Title Policy*. Seller will cause Title Company to issue the Title Policy to Buyer as soon as practicable after closing.
- 728 N. Default and Remedies.

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- (1) Seller's Default. If Seller fails to perform any of its obligations under this contract or if any of Seller's representations is not true and correct as of the Effective Date or on the Closing Date ("Seller's Default"), Buyer may elect either of the following as its sole and exclusive remedy:
- 735 Termination; Buyer's Liquidated Damages. Buyer may terminate this (a) 736 contract by giving notice to Seller on or before the Closing Date and Closing Time and have the Earnest Money, less \$100 as described above, returned 737 738 to Buyer. Unless Seller's Default relates to the untruth or incorrectness of 739 Seller's representations for reasons not reasonably within Seller's control, if 740 Seller's Default occurs after Buyer has incurred costs to investigate the Property after the Effective Date and Buyer terminates this contract in 741 accordance with the previous sentence, Seller will also pay Buyer the amount 742

743 of Buyer's Liquidated Damages, which shall be Buyer's incurred costs, not to 744 exceed \$1,000.00, within ten days of Seller's receipt of an invoice from Buyer 745 stating the amount of Buyer's expenses up to \$1,000.00,; or 746 747 (b) Specific Performance. Unless Seller's Default relates to the untruth or 748 incorrectness of Seller's representations for reasons not reasonably within Seller's control, Buyer may enforce specific performance of Seller's 749 750 obligations under this contract. If title to the Property is awarded to Buyer, 751 the conveyance will be subject to the matters stated in the Title Commitment. 752 753 (2) Buyer's Default. If Buyer fails to perform any of its obligations under this contract 754 ("Buyer's Default"), Seller may elect either of the following as its sole and exclusive 755 remedy: 756 757 (a) Termination; Liquidated Damages. Seller may terminate this contract by 758 giving notice to Buyer on or before the Closing Date and Closing Time and have the Earnest Money paid to Seller; or 759 760 761 (b) Specific Performance. Seller may enforce specific performance of Buyer's obligations under this contract. If title to the Property is awarded to Buyer, 762 763 the conveyance will be subject to the matters stated in the Title Commitment. 764 765 (3) Liquidated Damages. The parties agree that just compensation for the harm that 766 would be caused by a default by either party cannot be accurately estimated or 767 would be very difficult to accurately estimate and that Buyer's Liquidated Damages or the Earnest Money are reasonable forecasts of just compensation to the non-768 769 defaulting party for the harm that would be caused by a default. 770 771 (4) Attorney's Fees. If either party retains an attorney to enforce this contract, the party 772 prevailing in litigation is entitled to recover reasonable attorney's fees and court and 773 other costs. 774 775 О. **Miscellaneous Provision** 776 777 (1) Ambiguities Not to Be Construed against party Who Drafted Contract. The rule of 778 construction that ambiguities in a document will be construed against the party who 779 drafted it will not be applied in interpreting this contract. 780 781 (2) Amendment. This contract may be amended only by an instrument in writing signed 782 by the parties. 783 784 (3) Assignment. Buyer may not assign this contract without Seller's written consent, which may be conditioned or withheld at Seller's sole reasonable discretion. 785

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

Initials Seller:_____

Buyer:_____

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- (4) *Binding Effect.* This contract binds, benefits, and may be enforced by the parties and their respective heirs, successors, and permitted assigns.
- (5) Choice of Law; Venue; Alternative Dispute Resolution. This contract will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the County for Performance, except as otherwise provided by applicable law. The parties will submit in good faith to an alternative dispute resolution process before filing a suit concerning this contract.
- (6) *Confidentiality*. The parties will keep confidential this contract, this transaction, and
 all information learned in the course of this transaction, except to the extent
 disclosure is required by law or court order or to enable third parties to advise or
 assist Buyer to investigate the Property, or either party, to close this transaction.
 - (7) *Counterparts*. If this contract is executed in multiple counterparts, all counterparts taken together will constitute this contract.
 - (8) *Entire Contract.* This contract, together with its exhibits, and any Closing Documents delivered at closing constitute the entire agreement of the parties concerning the sale of the Property by Seller to Buyer. There are no oral representations, warranties, agreements, or promises pertaining to the sale of the Property by Seller to Buyer not incorporated in writing in this contract.
 - (9) *No Special Relationship*. The parties' relationship is an ordinary commercial relationship, and they do not intend to create the relationship of principal and agent, partnership, joint venture, or any other special relationship.
- 814 (10) *No Third-party Beneficiaries*. There are no third-party beneficiaries of this 815 contract.
- 817 (11)Notices. Any notice required by or permitted under this contract must be in writing. Any notice required by this contract will be deemed to be delivered (whether 818 actually received or not) when deposited with the United States Postal Service, 819 820 postage prepaid, certified mail, return receipt requested, and addressed to the 821 intended recipient at the address shown in this contract. Notice may also be given 822 by regular mail, personal delivery, courier delivery, facsimile transmission, electronic 823 mail, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as 824 825 provided herein. Copies of each notice must be given by one of these methods to 826 the attorney of the party to whom notice is given. 827
- 828 (12) Severability. The provisions of this contract are severable. If a court of

Initials Seller:

- 829 competent jurisdiction finds that any provision of this contract is unenforceable, the 830 remaining provisions will remain in effect without the unenforceable parts.
- 831
 832 (13) Survival. The obligations of this contract that cannot be performed before
 833 termination of this contract or before closing will survive termination of this contract
 834 or closing, and the legal doctrine of merger will not apply to these matters. If there is
 835 any conflict between the Closing Documents and this contract, the Closing
 836 Documents will control.
- 838 (14) Waiver of Default. It is not a waiver of default if the non-defaulting party fails
 839 to declare immediately a default or delays taking any action with respect to the
 840 default.
- 841

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842 The remainder of this page intentionally blank and signature page to follow.

- 845 This contract to be effective as of the latter day executed below.

846				-	
	Seller: CITY OF corporatior		ēxas municipal	Buyer: Delaware Springs Rar A limited liability com laws of the state of Te	npany formed under the
	By: Crista C	Goble Bromley,	Mayor	By: Jordan Shipley, Ma	anager
	Date:	day of	2021	Date: day of	2021
 847 848 849 850 851 852 853 854 855 856 			uted by both Buy	rnest Money in the amou /er and Seller. itle Company ttorney Abstract	unt of \$11,340.00 and a
850 857 858 859 860			N T	y: ame: itle: ate:	
861 862 863			L	ate:	
864					

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

865	Exhibit A
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867	Description of the Land
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Exhibit B

873 874

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	Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC				
877	Exhibit C				
878 879	Representations; Environmental Matters				
880 881	A. Seller's Representations to Buyer				
882 883 884	Seller represents to Buyer that the following are true and correct as of the Effective Date and will be true and correct on the Closing Date.				
 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 	 (1) <i>Authority.</i> Seller is a municipal corporation duly organized, validly existing, and in good standing under the laws of the state of Texas with authority to convey the Property to Buyer. This contract is, and all documents required by this contract to be executed and delivered to Buyer at closing will be, duly authorized, executed, and delivered by Seller. (2) <i>Litigation</i>. There is no litigation, actions, suits, claims, assessments, condemnation proceedings, or other proceedings pending, to the knowledge of the Seller, or threatened against Seller that could materially adversely affect the ownership, operation, or maintenance of the Property or Seller's ability to perform under the Agreement. (3) <i>Violation of Laws</i>. Seller has not received notice of violation of any law, ordinance, regulation, or requirements affecting the Property or Seller's use of the Property. Seller further has no knowledge of violations of any law, ordinance or requirements affecting the Property or Seller's use of the Property. (4) <i>Licenses, Permits, and Approvals</i>. No licenses, permits or approvals are held or are pending relating to the Property. (5) <i>Condemnation, Zoning, Land Use; Hazardous Materials</i>. Seller has not received notice of any condemnation, zoning, or land-use proceedings affecting the Property or any inquiries or notices by any governmental authority or third party with respect to the presence of hazardous materials on the Property or the migration of hazardous materials from the Property. Further, Seller has not placed hazardous materials on the Property. (6) <i>No Other Obligation to Sell the Property or Restriction against Selling the Property</i>. Seller's performance of this contract will not cause a breach of any other agreement or obligation its of section tilt be property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature except the Permitted Exceptions, and no work or materials will have been fur				
902 903 904 905 906 907 908 909 910 911 912 913 914	 (5) Condemnation; Zoning; Land Use; Hazardous Materials. Seller has not received notice of any condemnation, zoning, or land-use proceedings affecting the Property or any inquiries or notices by any governmental authority or third party with respect to the presence of hazardous materials on the Property or the migration or hazardous materials from the Property. Further, Seller has no knowledge or violations of any of the contents of section (5) and has not placed hazardous materials on the Property. (6) No Other Obligation to Sell the Property or Restriction against Selling the Property Seller has not obligated itself to sell the Property to any party other than Buyer Seller's performance of this contract will not cause a breach of any other agreement or obligation to which Seller is a party or to which it is bound. (7) No Liens. On the Closing Date, the Property will be free and clear of all mechanic's and materialman's liens and other liens and encumbrances of any nature except the 	vit f f s , it see e			

Initials Seller:_____

Buyer:_____

Page **25** of **39**

- 920 and every kind.
- 921 (10) Parties in possession. There are no parties in possession of all or any
 922 portion of the Property other than those claiming under valid leases or documents
 923 filed in the Official Public Records of Real Property of Burnet County, Texas.
- 924 (11) No Other Representation. Except as stated above Seller makes no
- 925 representation with respect to the Property.
- 926 (12) No Warranty. Except for the limited warranty of title, Seller has made no
 927 warranty in connection with this contract and the Property is offered "As Is, Where
 928 Is"
- 929

930 931

Exhibit D

932 Seller's Records

- 933
- 934 To the extent that Seller has possession of the following items pertaining to the Property,
- 935 Seller will deliver or make the items or copies of them available to Buyer by the deadline
- 936 stated in section A(4): None
- 937
- 938

939 940	Exhibit E
941 942	Notices, Statements, and Certificates
943 944 945 946 947	To the extent that Seller has possession of the following items pertaining to the Property, Seller will deliver or make the items or copies of them available to Buyer by the deadline stated in section A(5): None
948 949	
950 951	
952	

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Exhibit F Form of Special Warranty Deed

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957 The remainder of this page is intentionally blank and the form of the Special Warranty Deed

is contained on the page that follows. 958

961 NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY
962 REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY
963 INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE
964 IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY
965 NUMBER OR YOUR DRIVER'S LICENSE NUMBER.
966

967		
968	THE STATE OF TEXAS	§
969 970	COUNTY OF BURNET	§ KNOW ALL BY THESE PRESENTS: §
970 971	COUNT OF BORNET	3
972	SP	ECIAL WARRANTY DEED
973		
974 075	Effective Deter	
975 976	Effective Date:	
977	Grantor:	City of Burnet. Texas
978		
979	Grantor's Mailing Address:	PO Box 1369, Burnet, Burnet County, TX 78611
980 981	Grantee:	Delaware Springs Ranch Investments, LLC
981 982	Grantee.	Delaware Springs Nation Investments, LLC
983	Grantee's Mailing Address:	% Jordan Shipley, 24 Smith Rd Ste 504
984	C	Midland, Texas 79705-4475
985		
986 987	Consideration: Len Dollars (\$ receipt and sufficiency of which	10.00) and other good and valuable consideration, the
987 988	receipt and sunciency of which	are hereby acknowledged.
989	Property (including any impro	ovements): Being approximately acres located in
990	Burnet County, Texas, and being	more particularly described in the metes and bounds and
991		ibit "A" and Exhibit "B" respectively and made a part
992 993	hereof for all purposes.	
993 994	Exceptions to Conveyance: A	All marked and identified easements on the map of the
995		ified easements in the title commitment, all applicable
996	zoning, platting and other gover	nmental ordinances, laws, rules and regulations, and all
997		Property as shown in the Real Property Records of Burnet
998 000	County, Texas. The Property ma	ay not have access to a public right of way.
999 1000	Reservations from Conveyance	<u>e</u>: Grantor reserves from this conveyance the following:
1000	reservations nom conveyant	
1002	(a) Public Utility Easement. A	As shown on Exhibit "B" Grantor retains easements for the
1003	above, on and below grou	nd, placement, use, maintenance, repair, replacement and
		Dage 20 of 20

Initials Seller:_____

Buyer:_____

- 1004expansion of public utilities, including, but not limited to water, wastewater, drainage,1005electrical facilities, gas, and copper and fiber telecommunication.
- (b) Delaware Spring Municipal Golf Course Vegetation Buffer Easement. As shown on 1006 Exhibit "B" Grantor retains a 25-foot-wide easement running along that area of the 1007 1008 Property abutting Delaware Spring Municipal Golf Course. The purpose of this easement is to provide a natural vegetation buffer between the Property and the 1009 Delaware Spring Municipal Golf Course greens and fairways. 1010 Except to install 1011 landscaping and comply with any other requirements of the easement, Grantee shall not disturb the soil within the Delaware Spring Municipal Golf Course Vegetation 1012 Buffer Easement area in any manner. The following is strictly prohibited within the 1013 1014 Delaware Spring Municipal Golf Course Vegetation Buffer Easement area: (i) placement of any improvement or storage of any personal property; placement of 1015 any fencing; or operation of any motorized vehicle. Grantee may either maintain the 1016 1017 Delaware Spring Municipal Golf Course Vegetation Buffer Easement in its natural state or may make landscape improvements thereto. 1018

1020 **COVENANTS AND CONDITIONS RESTRICTING THE USE OF THE PROPERTY**: The 1021 following provisions shall be deemed as covenants running with the land, and conditions of 1022 grant, inuring to the benefit of Grantor:

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- (a) The Property shall not be developed or used for any purpose other than single family, duplex, triplex, quadplex and multi-family residential uses, as may be permitted by the Property's zoning classification, and those uses reasonably necessary to support such residential uses, including an on-site storm-water retention pond and parks and recreational amenities as may be reflected on the plat(s) of the Subdivision of the Property.
- (b) Grantee shall take reasonable steps to protect and maintain the Delaware Spring Municipal Golf Course Vegetation Buffer Easement reserved to Grantor.
- 1033 (c) Grantor may enforce these covenants by any manner authorized by law or equity.
 1035 (d) As provided in Texas Property Code Section 5.006, upon prevailing on an
 - (d) As provided in Texas Property Code Section 5.006, upon prevailing on an action to enforce these covenants, Grantor shall be awarded its attorney fees, in addition to Grantor's costs and claim.
- 1038 1039 Grantor, for the Consideration and subject to the Reservations from and Exceptions to 1040 Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in anywise belonging to have and hold it 1041 1042 to Grantee, Grantee's heirs, executors, administrators, successors, or assigns forever. 1043 Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, 1044 1045 executors, administrators, successors, and assigns against every person whomsoever 1046 lawfully claiming or to claim the same or any part thereof, except as to the Reservations from

Initials Seller:_____

Buyer:____

1047and Exceptions to Conveyance and Warranty, when the claim is by, through or under Grantor,1048but not otherwise; but without any other warranty of any kind or nature, and without

1049 limitation on such disclaimer of warranties.

1050

1051 By accepting this deed, Grantee acknowledges that THIS CONVEYANCE IS THE RESULT 1052 OF AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE 1053 PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION 1054 AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS. DISCLOSURES. OR EXPRESS OR IMPLIED WARRANTIES. 1055 EXCEPT THOSE IN THIS SPECIAL WARRANTY DEED AND REAL ESTATE SALES 1056 1057 CONTRACT BETWEEN THE PARTIES. GRANTEE IS NOT RELYING ON ANY 1058 REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES 1059 OTHER THAN THOSE EXPRESSLY CONTAINED IN THIS SPECIAL WARRANTY DEED OR THE REAL ESTATE SALES CONTRACT BETWEEN THE PARTIES. GRANTEE IS 1060 1061 NOT RELYING ON ANY INFORMATION REGARDING THE PROPERTY PROVIDED BY 1062 PERSON, OTHER THAN BUYER'S OWN INSPECTION AND ANY THE 1063 **REPRESENTATIONS AND WARRANTIES CONTAINED IN THIS SPECIAL WARRANTY** DEED AND REAL ESTATE SALES CONTRACT. GRANTEE RELEASES GRANTOR 1064 1065 FROM LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY. INCLUDING LIABILITY (1) UNDER THE COMPREHENSIVE ENVIRONMENTAL 1066 1067 **RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE** CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE 1068 1069 DISPOSAL ACT, OR THE TEXAS WATER CODE.

1070

1071 When the context requires, singular nouns and pronouns include the plural.

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1073 This conveyance is being made subject to ad valorem taxes from the Effective Date and 1074 subsequent years, which are assumed by Grantee.

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1076 Remainder of page intentionally blank and signature page to follow.

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1080	To be effective the date fir	st set out ab	ove.
1081			CRANTOR.
1082 1083			GRANTOR:
1085			CITY OF BURNET a Texas municipal
1084			corporation.
1085			corporation.
1087			
1088			Ву:
1089			By: Crista Goble Bromley, Mayor
1090			
1091	STATE OF TEXAS	8	
1092		\$ \$ \$	
1093	COUNTY OF BURNET	§	
1094		5	
1095	This instrument was ackno	wledged befo	pre me on thisday of, 2021
1096			y as mayor of the City of Burnet.
1097		-	
1098			
1099			
1100	[Seal]		
1101			NOTARY PUBLIC, STATE OF TEXAS
1102			
1103			ACCEPTED BY GRANTEE:
1104			Delaware Springs Ranch Investments, LLC
1105			A limited liability company formed under the
1106			laws of the state of Texas.
1107			P
1108			By: Jordan Shipley, Manager
1109			Jordan Snipley, Manager
1110 1111	STATE OF TEXAS	2	
1111	STATE OF TEXAS	Ş	
1112	COUNTY OF BURNET	§ §	
1113	COUNT OF BORNET	3	
1115			
1116	This instrument was ackno	wledged befo	pre me on thisday of, 2021
1117			nanager of Delaware Springs Ranch Investments,
1118	LLC.		
1119			
1120			
1121	[Seal]		
1122	-		NOTARY PUBLIC, STATE OF TEXAS
1123			Page 33 of 39
	Initials Seller:	E	Buyer:

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

1124 Exhibit G Form of the Big Leaf Tract Declaration of Restrictive Covenants

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The remainder of this page is intentionally blank and the form of the Big Leaf Tract Declaration of Restrictive Covenants is contained on the page that follows. 1126

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1128

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

1129 NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM ANY 1130 1131 INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE 1132 IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY 1133 NUMBER OR YOUR DRIVER'S LICENSE NUMBER. 1134 1135 THE STATE OF TEXAS § 1136 § **KNOW ALL BY THESE PRESENTS:** COUNTY OF BURNET § 1137 1138 1139 DECLARATION OF RESTRICTIVE COVENANTS 1140 **Effective Date:** 1141 1142 1143 Declarant: City of Burnet, a Texas municipal corporation 1144 1145 Declarant's Mailing Address: PO Box 1369, Burnet, Burnet County, TX 78611 1146 1147 **Property:** Being approximately 11.604 acres located in Burnet County, Texas, and being more particularly described in the metes and bounds and survey, attached hereto as 1148 Exhibit "A" and Exhibit "B" respectively and made a part hereof for all purposes. 1149 1150 1151 Definitions 1152 1153 "Code" means the City of Burnet's Code of Ordinances as same may be amended, revised or recodified from time to time. 1154 1155 1156 "Covenants" means the covenants, conditions, and restrictions contained in this 1157 Declaration. 1158 1159 "Declarant" means the City of Burnet, a Texas municipal corporation, and any successor that acquires all or part of the Golf Course owned by Declarant and is named as 1160 1161 successor in a recorded document. 1162 1163 "Rights-of-Way Easements" means an easement, rights of way, license or other 1164 permission that would allow vehicular traffic to travel over the Property to and from any 1165 public street to any lot, tract, parcel, or any other public or private street. 1166 1167 "Dedicatory Instruments" means this Declaration. 1168 1169 "Golf Course" means the municipal golf course owned and operated by Declarant as the Delaware Springs Golf Course. 1170 1171

Initials Seller:_____

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC 1172 "Lot" means each tract of land designated as a lot on the Plat. 1173 1174 "Owner" means the owner, or owners, of record of the Property as shown in the Public Records of the County Clerk of Burnet County, Texas. 1175 1176 1177 "Residence" means a detached building designed for and used as a dwelling by a Single Family constructed on the Property. 1178 1179 "Single Family" means a group of individuals related by blood, adoption, or marriage 1180 or a number of unrelated roommates not exceeding the number of bedrooms in a 1181 Residence and as defined by Chapter 118 of the Code. 1182 1183 1184 "Structure" means any improvement on a Lot (other than a Residence), including a sidewalk. driveway, fence, wall, tennis court, swimming pool, outbuilding, or recreational 1185 1186 equipment. 1187 1188 "Vehicle" means any automobile, truck, motorcycle, boat, trailer, or other wheeled 1189 conveyance, whether self-propelled or towed. 1190 1191 **Clauses and Covenants** 1192 1193 Α. Imposition of Covenants 1194 1195 1. Declarant imposes the Covenants on the Property. All Owners and other occupants of the Property by their acceptance of their deeds, leases, or 1196 occupancy of any part of the Property agree that the Property is subject to 1197 1198 the Covenants. 1199 1200 2. The Covenants are necessary and desirable to establish, and provide, 1201 development protection for the Golf Course. 1202 3. 1203 Each Owner and occupant of the Property agrees to comply with this 1204 Dedicatory Instrument and agrees that failure to comply may subject him or 1205 her to Remedial Remedies prescribed herein. 1206 1207 Β. Use and Activities 1208 1209 1. *Permitted Use.* The Property may be used only for Single Family use as 1210 defined in the Code. 1211 2. 1212 *Prohibited Activities.* Any activity prohibited in the Code for Single Family 1213 use. 1214

1215 C. Subdivision of Property, Consolidation of Property or Grant of Easements. 1216 1. *Future Subdivision*. Any future subdivision of the Property shall be by plat 1217 1218 that complies with the Code. 1219 2. 1220 Consolidation of Property. Any future consolidation of the Property, with adjoining real property shall be by plat that complies with the Code. 1221 1222 1223 3. Minimum Lot Size. The minimum lot size resulting from any future 1224 subdivision and consolidation of the Property shall be five acres. 1225 1226 4. *Rights-of-Way Easements*. Rights-of-Way Easements are prohibited on the 1227 Property. The purpose of this prohibition is to prevent vehicular traffic from 1228 crossing over the Property to access County Road 100 from any road, tract, parcel, or lot. This prohibition does not prevent access to County Road 100 1229 from the Property. 1230 1231 1232 1233 D. **Construction and Maintenance Standards** 1234 1235 1. Residences and Structures. The construction, placement and number of 1236 primary residences and other structures shall comply with the Code. 1237 1238 Ε. **Remedial Rights** 1239 1240 1. *Notice Requirement.* Declarant shall send written notice to any Owner in 1241 violation of this Declaratory Instrument. Such notice shall describe the violation. Judicial enforcement may not commence until thirty days after 1242 1243 Declarant has sent the notice of such violation and said Owner has not 1244 corrected the default. 1245 2. 1246 Judicial Enforcement. Declarant may bring an action against an Owner to 1247 enforce or enjoin a violation of this Dedicatory Instrument. 1248 1249 3. Costs, Attorney's Fees, and Expenses. If Declarant complies with the above 1250 stated notice requirement, an Owner is liable to Declarant for all costs and 1251 reasonable attorney's fees incurred by Declarant in enforcing this Dedicatory 1252 Instrument. 1253 1254 J. **General Provisions** 1255 1256 1. *Term.* This Declaration runs with the land; and, unless the Golf Course ever ceases operations for 365 consecutive days, this Declaration is binding in 1257

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

Initials Seller:

Buyer:_____

Page 37 of 39

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

1258		perpetuity.
1259 1260	2.	No Waiver. Failure by Declarant to enforce the Dedicatory Instruments is not
1261		a waiver.
1262		
1263	3.	Corrections. Declarant may correct typographical or grammatical errors,
1264		ambiguities, or inconsistencies contained in this Declaration, provided that
1265		any correction must not impair or affect a vested property right of any Owner.
1266		
1267	4.	Amendment. This Declaration may be amended at any time provided such
1268		amendment is approved by both Declarant and all Owners.
1269		
1270	5.	Severability. In the event any provision of this Declaration is illegal, invalid,
1271		or unenforceable under present or future laws, then, and in that event, it is
1272		the intention of Declarant that the remainder of this Declaration shall not be
1273		affected thereby, and it is also the intention of Declarant that in lieu of each
1274		clause or provision that is found to be illegal, invalid, or unenforceable a
1275		provision be added to this Declaration which is legal, valid and enforceability
1276 1277		and is as similar in terms as possible to the provision found to be illegal, invalid or unenforceable.
1277		
1278	6.	Notices. All notices must be in writing and must be given as required or
1275	0.	permitted by law. Notice by mail is deemed delivered (whether actually
1280		received or not) when properly deposited with the United States Postal
1282		Service, addressed (a) to an Owner, at the Owner's last known address
1283		according to the Burnet Central Appraisal District's most recent Ad Valorem
1284		Tax Rolls, or such other address as provided by Owner to Declarant in
1285		writing; or (b) to Declarant at the principal city hall office of the City of Burnet.
1286		Unless otherwise required by law actual notice, however delivered, is
1287		sufficient.
1288		
1289		
1290		City of Burnet, a Texas municipal corporation,
1291		
1292		
1293		
1294		
1295		Crista Goble Bromley, Mayor
1296		
1297	THE STATE	
1298 1299	COUNTY OF	OF TEXAS § § F BURNET §
1299		
1500		
	Initiala Caller	Page 38 of 39
	Initials Seller:	Buyer:

Real Estate Sales Contract City of Burnet - Delaware Springs Ranch Investments, LLC

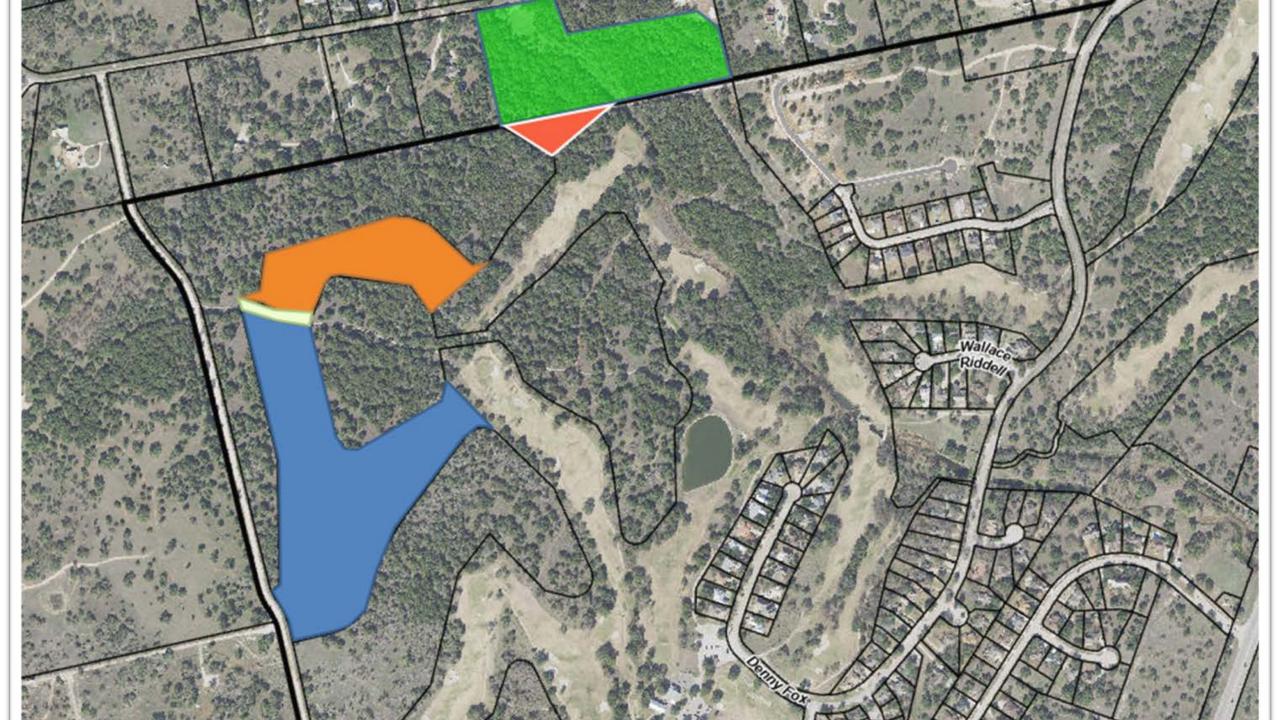
1301	This instrument was acknowledged b	efore me on	, 202 , by
1302	Crista Goble Bromley, as the Mayor of	the City of Burnet, a Texas municipal cor	poration, on
1303	behalf of said municipality.	•	•
1304			
1305			
1306			
1307		Notary Public, State of Texas	
1308		My commission expires:	
1309			
1310			
1311			
1312			
1313			

Resolution No. R2021-26 SALE OF APPROXIMATELY 42 ACRES OF CITY LAND LOCATED WEST OF THE BURNET MUNICIPAL GOLF COURSE TO DELAWARE SPRINGS RANCH INVESTMENTS LLC; AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY

> May 25, 2021, City Council regular session agenda item 4.13

Background

- Last year City Council declared approximately 42 acres of land adjoining the municipal golf course surplus and solicited public bids
- October 13, 2020, City Council, by resolution, acknowledged the bid by Delaware Springs Ranch Investments LLC and authorized the city manager to negotiate a real estate contract for the sale of the surplus property
- Council has extended the deadline for the city manager's negotiation authority twice
 - Resolution of issues with city's predecessor in title
 - Resolution of issues on developer's end
- The city manager and developer are in agreement and the contract is ready for presentation to council.



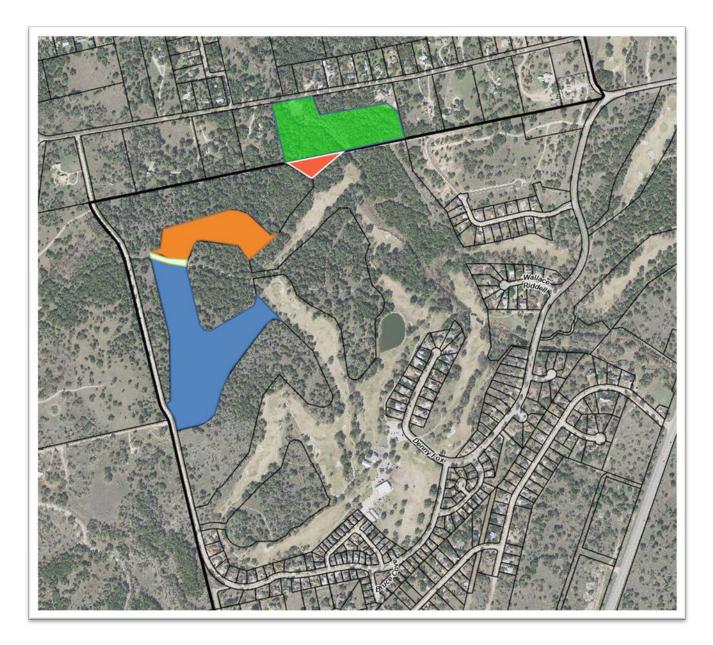
Approximately twenty (20) acres, highlighted in blue;

Approximately eight and 2/10 (8.2) acres, highlighted in orange;

Less than one acre highlighted in white (City owns this tract in fee simple subject to an ingress and egress easement held by Buyer).

Approximately two (2) acres, highlighted in red; and

Approximately 11.64 acres, highlighted in green.



Deal Points

- Purchase price: \$9,000.00 per acre
- Closing costs:
 - Purchaser to pay surveying costs
 - City to purchase title insurance
- Special conditions
 - Survey to identify existing utilities and irrigation lines to be placed in easements reserved by city
 - Adjustment to buyer's existing easement between 14 and 15 holes
 - 25 foot vegetation buffer easement on property abutting golf course
 - Buyer to place 25 foot vegetation buffer easement on property abutting golf course and receive \$6000 an acre credit
 - Big Leaf tract to be subject to deed restrictions

Conclusion

- Upon approval of Resolution No. R2021-26:
 - The mayor shall be authorized to execute the real estate contract on behalf of the city
 - The contract will be tendered to the developer who will have three days to sign and escrow the executed contract and \$11,340.00 earnest money with Attorney Abstract Title Company
- Staff recommends Resolution No. R2021-26 be approved as presented.



Administration

ITEM 5.1

David Vaughn City Manager 512.715.3208 dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

Agenda Item:

Executive Session: Pursuant to Texas Government Code Sec. 551.072 the City Council of the City of Burnet shall convene in executive session to deliberate on the value of real property and related issues: D. Vaughn

Background:

Information:

- **Fiscal Impact:** To be determined.
- **Recommendation:** To be determined by Council.



Administration

ITEM 6.1

David Vaughn City Manager 512.715.3208 dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date:	May 25, 2021
Agenda Item:	Discuss and consider action: On the value of real property and related issues: D. Vaughn
Background:	
Information:	
Fiscal Impact:	To be determined.
Recommendation:	To be determined by Council

RESOLUTION NO. 2021-25

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 (the "Council") of the City of Burnet, Texas (the " City ") has determined it to be in the City 's best interest to issue certificates of obligation for paying all or a portion of the City's contractual obligations incurred or to be incurred for (i) constructing, improving, extending and/or expanding a new City Hall, and (ii) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates (collectively the "Project"); and

WHEREAS, the Council has deemed it advisable to give notice of intention to issue the Certificates in a maximum principal amount not to exceed \$_____ pursuant to the provisions of the Certificate of Obligation Act of 1971, Section 271.041 et seq., Local Government Code, as amended (the "Act"), for the purpose of financing the Project; and

WHEREAS, prior to the issuance of the Certificates, the Council is required under Section 271.041 et seq., Local Government Code to publish notice of its intention to issue the Certificates in a newspaper of general circulation in the City, the notice stating: (i) the time and place tentatively set for the passage of the order authorizing the issuance of the Certificates, (ii) the maximum amount and purpose of the Certificates to be authorized; and (iii) the manner in which the Certificates will be paid; and

WHEREAS, the meeting at which this Resolution is adopted was open to the public and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Government Code, as amended.

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

Section 1. Attached hereto is a form of the Notice of Intention to Issue the Certificates, the form and substance of which is hereby adopted and approved.

Section 2. The City Secretary shall cause said notice to be published in substantially the form attached hereto, in a newspaper, as defined by Subchapter C, Chapter 2051, Texas Government Code, of general circulation in the area of the City, once a week for two consecutive weeks, the date of the first publication thereof to be before the 45th day before the date tentatively set for the passage of the ordinance authorizing the issuance of the Certificates.

Section 3. This Resolution shall become effective immediately upon adoption. The City Secretary is hereby authorized and directed to execute the certificate to which this Resolution is attached on behalf of the City and the Mayor, City Secretary, the City Manager and Director of Finance are further authorized to do any and all things proper and necessary to carry out the intent of this Resolution including approving appropriate changes to the notice and approving the final form of any Preliminary Official Statement for distribution to the market in connection with the sale of the Certificates.

Section 4. The City 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 the obligations being issued or (ii) \$9,500 per 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 obligations.

[Execution Page Follows]

PASSED, APPROVED AND EFFECTIVE this the 25th day of May 2021

CITY OF BURNET

Crista Goble Bromley, Mayor

ATTEST:

Kelly Dix, City Secretary

[SEAL]

NOTICE OF INTENTION TO ISSUE CITY OF BURNET, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2021

NOTICE is hereby given that it is the intention of the City Council of the City of Burnet, Texas to issue Certificates of Obligation (the "Certificates") of the City in one or more series for the purpose of providing funds for paying contractual obligations incurred or to be incurred for: (i) constructing, improving, extending and/or expanding a new City Hall, and (ii) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates. The City Council tentatively proposes to authorize the issuance of the Certificates at its regular meeting place in the City Hall, 1001 Buchanan Drive, Burnet, Texas to be commenced at ______ p.m., on the _______ day of _______, 2021. The maximum principal amount of Certificates that may be authorized for the above listed purposes is \$_______. The City Council presently proposes to provide for the security and payment of the Certificates by a pledge of ad valorem taxes upon all taxable property within the City within the limits allowed by law and from a limited pledge of the City's surplus water and sewer system revenues not to exceed \$1,000.

Due to the ongoing public health concerns regarding the COVID 19 virus, and as may be authorized by Executive Order of the Governor of Texas, such meeting on ______, 2021 may be conducted via a free public video conference or other lawful electronic means. In such event, information regarding how to access the meeting and public participation in the meeting will be available on the City's website and in the agenda posted no less than 72 hours before the ______, 2021 meeting at the following internet address: https://cityofbastrop.org/index.html.

The following information is required pursuant to Texas Local Government Code, Section 271.049(b)(4): As of June 25, 2021 principal of all outstanding debt obligations of the City is \$______. As of June 25, 2021 combined principal and interest required to pay all outstanding debt obligations of the City on time and in full is \$______. The maximum principal amount of the Certificates to be authorized is \$______. The estimated combined principal and interest required to pay the Certificates to be authorized on time and in full is \$______. The estimated combined principal and interest required to pay the Certificates to be authorized on time and in full is \$______. The estimated interest rate for the Certificates to be authorized is ______. The estimated interest rate for the Certificates to be authorized is ______. Such estimate takes into account a number of factors, including the issuance schedule, maturity schedule and the expected bond ratings of the proposed bonds. Such estimated maximum interest rate is provided as a matter of information, but is not a limitation on the interest rate at which the bonds, or any series thereof, may be sold. The maximum maturity date of the Certificates to be authorized is _______.



Administration



David Vaughn City Manager 512.715.3208 dvaughn@cityofburnet.com

Agenda Item Brief

Meeting Date: May 25, 2021

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: To be determined.

Recommendation: To be determined by Council

RESOLUTION NO. R2021-25

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

THE STATE OF TEXAS	§
COUNTY OF BURNET	§
CITY OF BURNET	§

WHEREAS, the City Council (the "Council") of the City of Burnet, Texas (the " City ") has determined it to be in the City 's best interest to issue certificates of obligation for paying all or a portion of the City's contractual obligations incurred or to be incurred for (i) constructing, improving, and/or renovating a new City Hall facility, including the acquisition of land; (ii) street construction and improvements including related drainage, sidewalks, traffic improvements and lighting; (iii) airport improvements, including hangars and (iv) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates (collectively the "Project"); and

WHEREAS, the Council has deemed it advisable to give notice of intention to issue the Certificates in a maximum principal amount not to exceed \$7,455,000 pursuant to the provisions of the Certificate of Obligation Act of 1971, Section 271.041 et seq., Local Government Code, as amended (the "Act"), for the purpose of financing the Project; and

WHEREAS, prior to the issuance of the Certificates, the Council is required under Section 271.041 et seq., Local Government Code to publish notice of its intention to issue the Certificates in a newspaper of general circulation in the City, the notice stating: (i) the time and place tentatively set for the passage of the order authorizing the issuance of the Certificates, (ii) the maximum amount and purpose of the Certificates to be authorized; and (iii) the manner in which the Certificates will be paid; and

WHEREAS, the meeting at which this Resolution is adopted was open to the public and public notice of the time, place and purpose of the meeting was given, all as required by Chapter 551, Government Code, as amended.

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

1. Attached hereto is a form of the Notice of Intention to Issue the Certificates, the form and substance of which is hereby adopted and approved.

2. The City Secretary shall cause said notice to be published in substantially the form attached hereto, in a newspaper, as defined by Subchapter C, Chapter 2051,

Texas Government Code, of general circulation in the area of the City, once a week for two consecutive weeks, the date of the first publication thereof to be before the 45th day before the date tentatively set for the passage of the ordinance authorizing the issuance of the Certificates.

3. This Resolution shall become effective immediately upon adoption. The City Secretary is hereby authorized and directed to execute the certificate to which this Resolution is attached on behalf of the City and the Mayor, City Secretary, the City Manager and Director of Finance are further authorized to do any and all things proper and necessary to carry out the intent of this Resolution including approving appropriate changes to the notice and approving the final form of any Preliminary Official Statement for distribution to the market in connection with the sale of the Certificates.

4. The City 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 the obligations being issued or (ii) \$9,500 per 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 obligations.

[Execution Page Follows]

PASSED, APPROVED AND EFFECTIVE THIS MAY 25, 2021.

Kelly Dix, City Secretary City of Burnet, Texas Crista Goble Bromley, Mayor City of Burnet, Texas

[SEAL]

NOTICE OF INTENTION TO ISSUE CITY OF BURNET, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2021

NOTICE is hereby given that it is the intention of the City Council of the City of Burnet, Texas to issue Certificates of Obligation (the "Certificates") of the City in one or more series for the purpose of providing funds for paying contractual obligations incurred or to be incurred for: (i) constructing, improving, and/or renovating a new City Hall facility, including the acquisition of land; (ii) street construction and improvements including related drainage, sidewalks, traffic improvements and lighting; (iii) airport improvements, including hangars and (iv) payment of professional services in connection therewith including legal, engineering, architectural and fiscal fees and the costs of issuing the Certificates. The City Council tentatively proposes to authorize the issuance of the Certificates at its regular meeting place in the City Hall, 1001 Buchanan Drive, Burnet, Texas to be commenced at 6:00 p.m., on the 27th day of July, 2021. The maximum principal amount of Certificates that may be authorized for the above listed purposes is \$7,455,000. The City Council presently proposes to provide for the security and payment of the Certificates by a pledge of ad valorem taxes upon all taxable property within the City within the limits allowed by law and from a limited pledge of the City's surplus water and sewer system revenues not to exceed \$1,000.

Due to the ongoing public health concerns regarding the COVID 19 virus, and as may be authorized by Executive Order of the Governor of Texas, such meeting on July 27, 2021 may be conducted via a free public video conference or other lawful electronic means. In such event, information regarding how to access the meeting and public participation in the meeting will be available on the City's website and in the agenda posted no less than 72 hours before the July 27, 2021 meeting at the following internet address: https://www.cityofburnet.com/meetings.

The following information is required pursuant to Texas Local Government Code, Section 271.049(b)(4): As of May 25, 2021 principal of all outstanding debt obligations of the City is \$21,835,000. As of May 25, 2021 combined principal and interest required to pay all outstanding debt obligations of the City on time and in full is \$23,807,916.15. The maximum principal amount of the Certificates to be authorized is \$7,455,000. The estimated combined principal and interest required to pay the Certificates to be authorized on time and in full is \$9,559,090.63. The estimated interest rate for the Certificates to be authorized is 2.5%. Such estimate takes into account a number of factors, including the issuance schedule, maturity schedule and the expected bond ratings of the proposed bonds. Such estimated maximum interest rate is provided as a matter of information, but is not a limitation on the interest rate at which the bonds, or any series thereof, may be sold. The maximum maturity date of the Certificates to be authorized is August 15, 2041.