

**RESOLUTION NO. R2023-56**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY, TO ACCEPT A GOLF COURSE GREENBELT EASEMENT, AN AVIGATION EASEMENT AND A WATER WARRANTY DEED FROM THE OWNER OF TWO TRACTS OF LAND ABUTTING BURNET MUNICIPAL GOLF COUSE HOLES FOUR, FIVE AND SIX.**

**WHEREAS**, D3D Burnet Sub 1, LLC (hereinafter “Grantor”) owns two tracts of land abutting Burnet Municipal Golf Course holes four, five, and six; and

**WHEREAS**, Grantor desires to develop the tracts as the Springside Estates Subdivision; and

**WHEREAS**, in furtherance of the development of the Springside Estates Subdivision, Grantor has offered certain easement and water rights conveyance instruments to the City.

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

**Section one. Acceptance.** The Golf Course Greenbelt Easement, Avigation Easement, and Water Warranty Deed (collectively the “Instruments”) described in the instruments attached hereto is hereby accepted.

**Section two. Authorization.** The mayor is hereby authorized to execute Golf Course Greenbelt Easement, Avigation Easement, and Water Warranty Deed in substantially the same form as the attached Instruments; and, execute such other documents and take such other actions reasonably necessary to facilitate the purpose of this Resolution.

**Section three. Direction.** The City Secretary is hereby authorized and directed to have the executed Easement Instrument recorded in the Public Records of the Office of the Burnet County Clerk and the official records of the City.

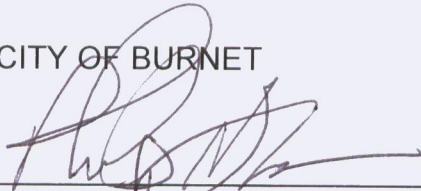
**Section four. Open Meetings.** That it is hereby officially found and determined that the meeting at which this Resolution was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act.

Signature page to follow:

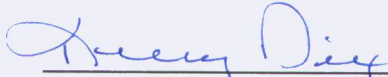
Resolution - Springside Estates Subdivision – conveyance instruments

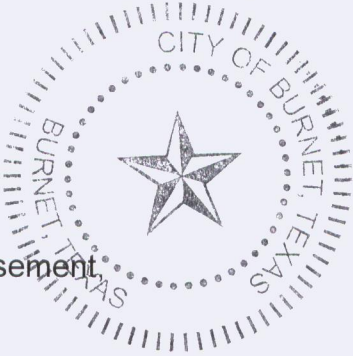
PASSED AND APPROVED to be effective this the 11<sup>th</sup> day of July, 2023.

CITY OF BURNET

  
Philip Thurman, Mayor Pro Tem

**ATTEST:**

  
Kelly Dix, City Secretary



Attachments: Golf Course Greenbelt Easement,  
Avigation Easement, and  
Water Warranty Deed



Avigation Easement Springside Subdivision

**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 PRESENTS

COUNTY OF BURNET

§

§

Date:

July  
June 5, 2023

Grantor:

D3D Burnet Sub 1, LLC.

Grantor 's Address:

D3D Burnet Sub 1 LLC,  
%Andrew Brewer, 204 Settlers Valley Dr.,  
Pflugerville, Travis County, Texas 78660

Grantee:

City of Burnet, Texas

Grantee's Address:

City of Burnet  
% City Manager  
P.O. Box 1369  
Burnet, Burnet County, Texas 78611

Property: Grantor is the legal owner in fee of those certain parcels of land more particularly described as follows:

#### Tract I:

Being 26.085 acers of land, more or less, out of the Eugenio Perez Survey No. 41, Abstract No. 672, in the City of Burnet, Burnet County, Texas and being more fully described as Tract I in that certain Warranty Deed with Vendor's Lien recorded as Document No. 202209940 in the Public Records of Burnet County, Texas; and

#### Tract II

Being 16.010 acers of land, more or less, out of the Eugenio Perez Survey No. 41, Abstract No. 672, in the City of Burnet, Burnet County, Texas and being more fully described as Tract II in that certain Warranty Deed with Vendor's Lien recorded as Document No. 202209940 in the Public Records of Burnet County, Texas.

Consideration: Cash and other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged by Grantor.

Grant of Easement: Grantors, for themselves, their heirs, administrators, executors, successors and assigns, do hereby grant, bargain, sell and convey unto 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 and 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 or 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 described above as Tracts I and II.

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 thirty feet (30'); 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 this instrument is executed on behalf of Grantor by its duly authorized agent as of the date first stated above.

**GRANTOR:**

D3D Burnet Sub 1, LLC. A limited liability company formed under the laws of the state of Texas.

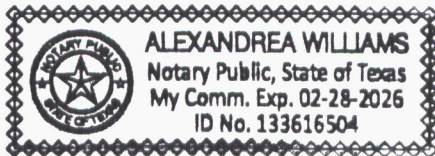
By: Andrew Brewer  
Andrew Brewer, Manager

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 Andrew Brewer, manager of D3D Burnet Sub 1, 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 5<sup>th</sup> day of July, 2023.

Seal



Alexandra Williams  
Notary Public Signature

Grantee's acceptance signature page to follow.

**GRANTEE:**

**AGREED AND ACCEPTED:**  
CITY OF BURNET, TEXAS,  
a Texas home-rule municipality

By: *Gary Wideman*  
Gary Wideman, Mayor

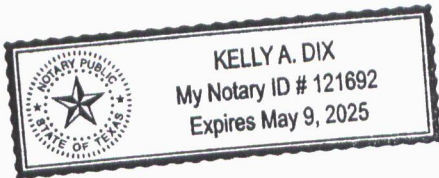
THE STATE OF TEXAS §  
  §  
COUNTY OF BURNET §

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

**GIVEN UNDER MY HAND AND SEAL OF OFFICE** on this the 17 day of July, 2023.

Seal

*Kelly A. Dix*  
Notary Public Signature



**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS 202307332

ESMT Fee: \$42.00  
07/25/2023 11:32 AM

*Vicinta Stafford* A circular notary seal stamp for Vicinta Stafford, County Clerk of Burnet County, Texas. It features a five-pointed star in the center and the words "COUNTY CLERK BURNET COUNTY TEXAS" around the perimeter.

Vicinta Stafford, County Clerk  
Burnet County, Texas





Water Deed

governmental authority or entity or any court with jurisdiction over the property.

GRANTOR, for and in consideration of the sum of TEN DOLLARS (\$10.00) cash, and other good valuable consideration in hand paid by Grantee to Grantor, the receipt and sufficiency of which Grantor acknowledges, grants, sells, and conveys to Grantee the "Water Rights", together with all and singular the rights and appurtenances thereto, to have and to hold the above described "Water Rights"; and Grantor does hereby bind Grantor's heirs, executors, administrators, and/or assigns, to warrant and forever defend all and singular the said Water Rights unto Grantee, Grantee's successors and/or assigns, against every person whomsoever claiming or to claim the same or any part thereof by, through and under Grantor, but not otherwise.

The remainder of this page is intentionally blank and the signature page follows.

Water Deed

IN WITNESS WHEREOF this instrument is executed on behalf of Grantor by its duly authorized agent as of the 5 day of July 2023.

GRANTOR:

D3D Burnet Sub 1, LLC. A limited liability company formed under the laws of the state of Texas.

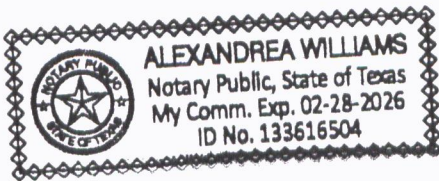
By: *Andrew Brewer*  
Andrew Brewer, Manager

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 Andrew Brewer, manager of D3D Burnet Sub 1, 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 5<sup>th</sup> day of July, 2023.

Seal




*Alexandra Williams*  
Notary Public Signature

Grantee's acceptance signature page to follow.

Water Deed

GRANTEE:

AGREED AND ACCEPTED:  
CITY OF BURNET, TEXAS,  
a Texas home-rule municipality

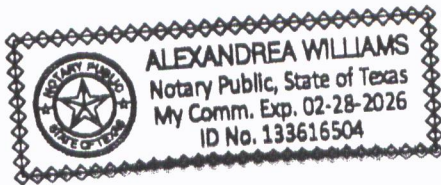
By:   
Gary Wideman, Mayor

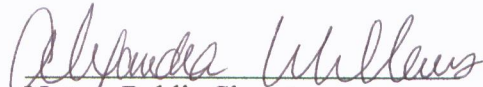
THE STATE OF TEXAS    §  
§  
COUNTY OF BURNET    §

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the 5<sup>th</sup> day of July, 2023.

Seal



  
Notary Public Signature

**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS    202307333

D            Fee: \$38.00  
07/25/2023 11:32 AM

Vicinta Stafford, County Clerk  
Burnet County, Texas

**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.**

**GREENBELT EASEMENT**

STATE OF TEXAS

§

**KNOW ALL BY THESE PRESENTS**

COUNTY OF BURNET

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§

**Date:** July 5, 2023

**Grantors:** D3D Burnet Sub 1, LLC.

**Grantor's Mailing Address:** 204 Settlers Valley Dr., Pflugerville, Texas 78660

**Grantee:** City of Burnet

**Grantee's Mailing Address:** P.O. Box 1369, Burnet, Texas 78611

**Easement Property ("Golf Course Greenbelt Easement"):** A Twenty-Five Foot Strip of Land out of Tracts I, II, III and IV as identified on the attached deed recorded as Document #202209940 in the Burnet County Deed Records as further shown on Exhibit A and adjacent to the golf course as more particularly shown in Exhibit B.

**Grant of Easement:** Grantor, for the Consideration and subject to the Reservations from Conveyance and Exceptions to Warranty, grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns an easement over, on, and across the Easement Property for the Easement Purpose, together with all and singular the rights and appurtenances thereto in any way belonging (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's heirs, successors, and assigns forever.

**Easement Purpose:** Grantor does hereby grant the right and/or easement of light, air and view over and across the Golf Course Greenbelt Easement area for the benefit of the Burnet Municipal Golf Course. For the establishment, conservation, and protection of open space the Easement Property is established as a Greenbelt Easement for the protection of the Burnet Municipal Golf Course by limiting Grantor's use or impediment of said Greenbelt Easement by:

- Except as authorized herein, prohibiting the placement of any building, structure, fence, or other improvement within the Easement Property; and
- Owners of the Lots subject to the Golf Course Greenbelt Easement and those permitted by the City to erect any Authorized Improvement in the Easement Property shall erect or install no solid line of fence, wall or shrubbery. To

promote an "open space" atmosphere and viewshed for the benefit of the Golf Course, any fence, wall or barrier of any kind permitted on lots subject to the Golf Course Greenbelt Easement in any case shall not be greater than 30 percent solid or more than four feet in height.

- Requiring the Easement Property to be maintain in a natural vegetative state or landscaped with non-native or native vegetation; and
- Prohibiting the removal of any Live Oak tree from the Easement Property without the prior written approval of the City of Burnet's City Manager on behalf of the Burnet Municipal Golf Course.
- Owners of the Lots subject to the Golf Course Greenbelt Easement and those permitted by the City to erect any Authorized Improvement in the Easement Property shall be obligated to mitigate any actions which would distract from the playing and/or enjoyment qualities of the Golf Course, or the development of an attractive overall landscape.

**Authorized Improvements:** The prohibition against placement of any building, structure, fence, or other improvement shall not apply to the installation of wrought iron fence boundary fence, or installation of landscaping stones, provided that that such installation receives the approval of the Burnet City Manager acting on behalf of the Burnet Municipal Golf Course.

**Consideration:** Ten Dollars and other good and valuable considerations the receipt and sufficiency of which are acknowledged by Grantor.

**Reservations from Conveyance:** None.

**Exceptions to Warranty:** All matters of record or apparent on the ground.

**Terms and Conditions:** The following terms and conditions apply to the Easement granted by this agreement:

1. *Transfer of Easement.* The Easement rights herein granted shall pass to Grantee's successors and assigns, subject to all of the Terms hereof. The Easement rights of use granted herein are nonexclusive and irrevocable.
2. *Duration of easement.* The duration of the Easement is perpetual, unless and until it is relinquished or abandoned by ordinance by the City of Burnet.
3. *Reservation of Rights.* Grantee's right to use the Easement Property is nonexclusive, and Grantor and Grantor's heirs, successors, and assigns have the right to use all or part of the Easement Property in conjunction with Grantee as long as such use by Grantor and Grantor's heirs, successors, and assigns is limited to underground improvements at or below the existing grade and does not interfere with the use of the Easement Property by Grantee for the Easement Purpose, and the Easement Property is kept open and free of obstructions, including but not limited to buildings,

fences, structures or other obstructions of place or "open space" view upon or from the Easement Property.

4. *Maintenance of Easement Property.* Maintenance of the Easement Property will be at the sole expense of Grantor and Grantor's successors and assigns, except that Grantee has the right to maintain the Easement Property at its sole discretion. Grantee has the right to eliminate any encroachments into the Easement Property.
5. *Use of Easement Property.* The Easement shall be used solely for the Easement Purpose and for the construction of structures and/or facilities necessary for meeting the Lower Colorado River Authority Highland Lakes Watershed Ordinance, the City of Burnet Non-Point Source Pollution Control Requirements and the City of Burnet Storm Water Detention Requirements.
6. *Equitable Rights of Enforcement; Liability.* This Easement is for the reciprocal burden and benefit of all current and future owner of property subject to the Easement, and may be enforced by the City of Burnet, Texas, by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.
7. *Attorney's Fees.* If either party retains an attorney to enforce this agreement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.
8. *Binding Effect.* This agreement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.
9. *Choice of Law.* This agreement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in Burnet County.
10. *Counterparts.* This agreement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.
11. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately default or delays in taking any action. Pursuit of any remedies set forth in this agreement does not preclude pursuit of other remedies in this agreement or provided by law.

12. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this agreement and all transactions contemplated by this agreement.
13. *Integration.* This agreement contains the complete agreement of the parties and cannot be varied except by written agreement of the parties. The parties agree that there are no oral agreements, representations, or warranties that are not expressly set forth in this agreement.
14. *Legal Construction.* If any provision in this agreement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this agreement will be construed as if the unenforceable provision had never been a part of the agreement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this agreement are for reference only and are not intended to restrict or define the text of any section. This agreement will not be construed more or less favorably between the parties by reason of authorship or origin of language.
15. *Notices.* Any notice required or permitted under this agreement must be in writing. Any notice required by this agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

Remainder of page intentionally blank and signature page follows.

IN WITNESS WHEREOF, this instrument, is effective as of the date first stated above.

**NAME OF PROPERTY OWNER**

By: Andrew D3D Burnet SUB 1 LLC  
**Type printed name**  
Andrew Brewer, Managing Member

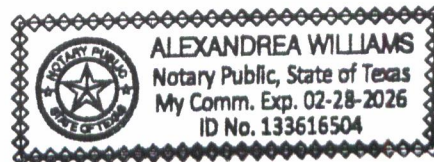
THE STATE OF TEXAS §

COUNTY OF BURNET §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared Andrew Brewer known to me to the person whose name is subscribed to the foregoing instrument and acknowledged to me that he/she executed the same in his/her capacity as INSERT TITLE for and on behalf of INSERT NAME OF OWNER.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 5<sup>th</sup> day of July, 2023.

Alexandra Williams  
Notary Public in and for the State of Texas



**Accepted  
City of Burnet**

By: Gary Wideman  
Gary Wideman, Mayor

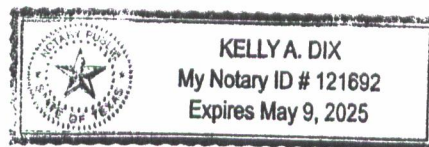
THE STATE OF TEXAS §

COUNTY OF BURNET §

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared, known to me to 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.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, this the 17<sup>th</sup> day of July, 2023.

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





**FILED AND RECORDED**  
OFFICIAL PUBLIC RECORDS 202307334

ESMT Fee: \$42.00  
07/25/2023 11:32 AM

*Vicinta Stafford* 

Vicinta Stafford, County Clerk  
Burnet County, Texas

RECORDED  
INDEXED  
BURNET COUNTY, TEXAS  
JUL 25 2023 11:32 AM