
Live Stream at <https://www.burlesontx.com/watchlive>

City Hall Council Chambers, 141 W. Renfro, Burleson, TX 76028

The City Council will not discuss or take action on any public hearings, or items listed in Section 3 “Public Presentations”, Section 5 “Citizens Appearances”, or Section 7 “Development Applications”, prior to 5:30 p.m.

1. CALL TO ORDER

Invocation - Bob Massey, Pastor emeritus Grace Bible Fellowship

Pledge of Allegiance to the US Flag

Texas Pledge:

Honor the Texas Flag, I pledge allegiance to thee, Texas, one state under God; one and indivisible

2. REPORTS AND PRESENTATIONS

- A. Receive a report, hold a discussion, and give staff direction regarding the City Council's priorities for the 88th Legislative Session (*Staff Presenter: Justin Scharnhorst, Assistant to the City Manager*).

3. PUBLIC PRESENTATIONS

A. Proclamations

B. Presentations

-Presentation of Texas Municipal Clerks Association Office of Excellence Award. (*Presenters: Dr. Amy Holt, Education Director, TMCA and Miriam Sheehan, Administrative Director, TMCA*)

-Recognition of Employee of the 4th Quarter 2022. (*Staff Presenter: Rick DeOrdio, Director of Human Resources*)

-Recognition of Employee of the Year 2022. (*Staff Presenter: Rick DeOrdio, Director of Human Resources*)

C. Community Interest Items

This is a standing item on the agenda of every regular meeting of the City Council. An “item of community interest” includes the following:

- Expression of thanks, congratulations, or condolence;
- Information regarding holiday schedules;
- Honorary recognitions of city officials, employees, or other citizens;

- Reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city official or city employee; and
- Announcements involving imminent public health and safety threats to the city.

4. CHANGES TO POSTED AGENDA

- A. Items to be continued or withdrawn.
- B. Items to be withdrawn from the Consent Agenda for separate discussion by the City Council, staff, or members of the public in attendance. Items to be added to the Consent Agenda require an official vote by the City Council.

5. CITIZENS APPEARANCES

Each person in attendance who desires to speak to the City Council on an item NOT posted on the agenda, shall speak during this section.

A speaker card must be filled out and turned in to the City Secretary prior to addressing the City Council. Each speaker will be allowed three (3) minutes.

Please note that City Council may only take action on items posted on the agenda. The Texas Open Meetings Act prohibits the City Council from deliberating or taking action on an item not listed on the agenda. City Council may, however, receive your comments on the unlisted item, ask clarifying questions, respond with facts, and explain policy.

Each person in attendance who desires to speak to the City Council on an item posted on the agenda, shall speak when the item is called forward for consideration.

6. CONSENT AGENDA

All items listed below are considered to be routine by the City Council and will be enacted with one motion. There will be no separate discussion of the items. Approval of the consent agenda authorizes the City Manager to implement each item in accordance with staff recommendations.

- A. Consider approval of the minutes from the November 14, 2022 regular council meeting. (*Staff Contact: Amanda Campos, City Secretary*).
- B. Consider approval of an ordinance amending the City of Burleson code of ordinances Chapters 2, 6, 10, 18, 44, 46, 62, and 86 amending the number of voting members and terms of members. (First Reading) (*Staff Contact: Amanda Campos, City Secretary*)
- C. Ordinance Modification for text amendments to Section 100-115 of Article IV – Overlay Zoning Districts of Appendix B, of the Code of Ordinances of the City of Burleson (Case 22-124): Consider approval of an ordinance amendment to add “restaurant or cafeteria (drive through type)” to the list of allowable uses with a specific use permit, with conditions within the Old Town Overlay District. (Final Reading) (*Staff Contact: Tony McIlwain, Development Services Director*) (*The Planning and Zoning Commission recommended approval by unanimous vote*)
- D. Consider approval of a minute order continuing and renewing the 13th Declaration of Local Disaster and Public Health Emergency regarding Covid-19 dated March 7, 2022, through December 31, 2022. (*Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager*)

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- E. Consider approval of a resolution authorizing a one-year contingency fee contract with McCall Parkhurst & Horton LLP to provide bond counsel services. (*Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager.*)
- F. Consider approval of a minute order extending the contract with Mansfield Oil Company of Gainesville through an inter-local agreement with the City of Fort Worth in the amount not to exceed \$711,712. (*Staff Contact: Kip Dernovich, Deputy Director – Operations, Public Works*)
- G. Consider approval of a contract for the purchase of fleet vehicles with Caldwell Country Chevrolet through the BuyBoard Cooperative in the amount not to exceed \$1,000,412.25. (*Staff Contact: Kip Dernovich, Deputy Director – Operations Public Works*)
- H. Consider approval of an ordinance amending Chapter 70 “Streets, Sidewalks and Other Public Places” of the Code of Ordinances, City of Burleson, by repealing and replacing Article V “Public Events” to require permits for public events; providing for procedures for the issuance of a permit; requiring the City Council to approve portions of certain permit applications involving certain street closures or in-kind sponsorships; providing for water, health and sanitation facilities for the event; providing for police protection and emergency medical services for the event; requiring the permit application and permittee to carry liability insurance of a certain amount and indemnify the city. (Final Reading) (*Staff Contact: DeAnna Phillips, Director of Community Services*)
- I. Consider approval of a resolution creating a special citizens public art committee to make recommendations to the City Council regarding the creation, implementation, and management of a public art masterplan to display public art throughout the city; appointing committee members; and establishing a charge for the committee. (*Staff Contact: Jen Basham, Director of Parks and Recreation*).
- J. Consider approval of a three-year contract with SHI International Corp for Artic Wolf Security Operations Center as a Service (SOCaaS) through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount not to exceed \$276,298.70. (*Staff Contact: James Grommersch, Chief Technology Officer, IT*)
- K. Consider approval of a three-year contract with AT&T for Switched Ethernet Services for in the amount not to exceed \$361,457. (*Staff Contact: James Grommersch, Chief Technology Officer, IT*)
- L. Consider approval of a minute order ratifying the Burleson 4A Economic Development Corporation Board’s action to approve a Second Amendment to the commercial lease between FWAVE, Inc., and the Burleson 4A Economic Development Corporation located at 921 South Burleson Boulevard. (*Staff Contact: Alex Philips, Economic Development Director*)
- M. Consider approval of a contract with The Brandt Companies, LLC. through a cooperative purchasing agreement with BuyBoard for the purchase of a new AC control software and computer boards for the Burleson Recreation Center in the amount not to exceed \$160,255. (*Staff Contact: Jen Basham, Director of Parks and Recreation*)
- N. Consider approval of a contract with Progressive Commercial Aquatics, Inc. through a cooperative purchasing agreement with BuyBoard for the purchase of replacement outdoor pool sand filters for the Burleson Recreation Center in the amount not to exceed \$99,667.50. (*Staff Contact: Jen Basham, Director of Parks and Recreation*)
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- O. Consider approval of a contract with Focused Advocacy for legislative consulting services in the amount not to exceed \$54,199.92. *(Staff Contact: Justin Scharnhorst, Assistant to the City Manager)*

7. DEVELOPMENT APPLICATIONS

- A. **2220 W FM 917 (Case 22-125):** Hold a public hearing and consider approval of an ordinance for a zoning change request from "A", Agricultural to "GR", General Retail for a 13.20 acre site. *(First and Final Reading) (Staff Presenter, Tony McIlwain, Director of Development Services) (The Planning and Zoning Commission motion for approval passed 7-0).*

8. GENERAL

- A. Consider approval of a five-year professional services agreement with Emergicon, LLC for Automated Ambulance Billing Services to be provided to the city for a fee not to exceed 6.5% of all net revenues collected. *(Staff Presenter: K.T. Freeman, Fire Chief)*
- B. Consider an ordinance amending the City budget for fiscal year 2022-2023 by increasing appropriations in the Golf Fund in the amount of \$628,000 for equipment and improvements at Hidden Creek Golf Course, and finding that this ordinance may be considered and approved at only one meeting because time is of essence. *(First and Final Reading) (Staff Presenters: Martin Avila, Director of Finance; Jen Basham, Director of Parks & Recreation)*
- C. Consider approval of a contract with Fleetwood Services for furnishing and replacement of 16 bunkers at Hidden Creek Golf Course in the amount not to exceed \$331,606. *(Staff Presenter: Jen Basham, Director of Parks and Recreation)*
- D. Consider approval of a minute order ratifying the Burleson Community Service Development Corporation's action to approve a resolution authorizing a contract with Marilyn Bleeker for the acquisition of approximately 13 acres of real property at or near 2410 SW Hulen St, Burleson, Johnson County, Texas and authorizing the expenditure of funds. *(Staff Presenter: Jen Basham, Director of Parks and Recreation)*

9. CITY COUNCIL REQUESTS AND FUTURE AGENDA ITEMS AND REPORTS

10. RECESS INTO EXECUTIVE SESSION

Pursuant to Section 551.071, Texas Government Code, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.

- A. Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071**
- B. Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072**
- Discuss and receive direction on certain parcels of real property in Johnson County, Texas for municipal purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
 - Discuss and receive direction on certain parcels of real property in Johnson County and Tarrant County, Texas for community park purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.

- Discuss and receive direction on certain parcels of real property for the expansion of Lakewood Drive in Johnson County, Texas where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property for the expansion of County Road 1020 in Johnson County, Texas where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- C. Deliberation regarding a negotiated contract for a prospective gift or donation to the state or the governmental body Pursuant to Section 551.073**
- D. Personnel Matters Pursuant to Section 551.074**
- E. Deliberation regarding (1) the deployment, or specific occasions for implementation of security personnel or devices; or (2) a security audit Pursuant to Sec. 551.076**
- F. Deliberation Regarding Commercial or Financial Information Received from or the Offer of a Financial or Other Incentive made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with which the City is conducting Economic Development Negotiations Pursuant to Section 551.087**
 - Project Workforce
 - Project Facelift
- G. Pursuant to Sec 418.183(f), deliberation of information related to managing emergencies and disasters including those caused by terroristic acts (must be tape recorded)**

CERTIFICATE

I hereby certify that the above agenda was posted on this the **7th of December 2022, by 5:00 p.m.**, on the official bulletin board at the Burleson City Hall, 141 W. Renfro, Burleson, Texas.

Amanda Campos
City Secretary



ACCESSIBILITY STATEMENT

The Burleson City Hall is wheelchair accessible. The entry ramp is located in the front of the building, accessible from Warren St. Accessible parking spaces are also available in the Warren St. parking lot. Sign interpretative services for meetings must be made 48 hours in advance of the meeting. Call the A.D.A. Coordinator at 817-426-9600, or TDD 1-800-735-2989.

City Council Regular Meeting

DEPARTMENT: Legal Department
FROM: Justin Scharnhorst, Assistant to the City Manager
MEETING: December 12, 2022

SUBJECT:

Receive a report, hold a discussion, and give staff direction regarding the City Council's priorities for the 88th Legislative Session (*Staff Presenter: Justin Scharnhorst, Assistant to the City Manager*).

SUMMARY:

The City Council has historically developed a legislative program that lists the City's positions and priorities on local government-related issues prior to the convening of the Texas Legislature. The 88th legislative session begins January 10, 2023, and legislators began filing legislation in November 2020. During the 87th Session, more than 2,000 bills introduced would have affected Texas cities in some substantial way.

The city of Burleson, and other cities, utilize different organizations to help monitor legislation drafted and debated in Austin that may infringe upon local authority. The Texas Municipal League (TML) provides legal, legislative, and training services to city governments in Texas. But they also provide information to state legislators on how bills will affect local government. The city of Burleson also has a legislative consultant, Focused Advocacy, to help bring the city's position on specific issues to legislatures.

Why is it important to develop a legislative program?

Cities and elected officials are occasionally asked to have an opinion on a variety of bills that affect local government. There are also times when elected officials or staff, as subject matter experts, are asked to testify or speak to state legislators on specific issues/proposed legislation, or to pass resolutions in support or opposition to bills.

Staff would like to understand the City Council's position as a whole, not as individual members, on critical issues that will be discussed during the upcoming legislative session.

OPTIONS:

- 1) Approve City Council legislative program as proposed

- 2) Approve City Council legislative program with changes
- 3) Deny City Council legislative program

RECOMMENDATION:

N/A

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

Justin Scharnhorst
Assistant to the City Manager
jscharnhorst@burlesontx.com
817-426-9646



Legislative Program

PRESENTED TO THE CITY COUNCIL ON
DECEMBER 12, 2022

Overview

- The 88th Session of the Texas Legislature begins January 10, 2023.
- State legislators began filing legislation in November 2022.
- During the previous legislative session more than 2,000 bills were introduced that would have affected Texas cities in some substantial way.
- City Council developed a legislative program with their position and priorities on local government-related legislation that occurred in the 87th Session.
- This was performed through a contract with Focused Advocacy in December 2020.

Focused Advocacy

- Focused Advocacy is a public affairs firm based in Austin, Texas, specializing in legislative advocacy, municipal government lobbying, and utilities and energy regulation.
- City Council approved a 12-month agreement with Focused Advocacy for legislative consulting services on December 14, 2020, with two one-year renewal options. Staff recommends council authorize the final renewal option under the contract.
- Focused Advocacy meets with staff bi-weekly to provide updates on legislative happenings and general guidance to the city.
- This item is before you tonight on the consent agenda for consideration.

Why is this important?

- Cities and elected officials are occasionally asked to have opinions on a variety of bills that affect local government.
- There are times when elected officials or staff, as subject matter experts, are asked to testify or speak to State legislators.
- The purpose of this is to understand the city council's position as a whole, not as individual members, on key issues that will be discussed during the upcoming session.
- As bills are filed council can request discussion by placing items on the agenda to adopt a resolution for or against specific proposed legislation.

Proposed Legislative Program:

- Support legislation that makes beneficial amendments to H.B. 2439 (86th Reg. Session), the building materials bill.
- Support local community-based decision-making. Oppose amendments that would erode municipal authority in any way, impose an unfunded mandate, or otherwise be detrimental to the city's ability to provide services and manage local affairs.
- Oppose legislation that would erode the authority to be adequately compensated for the use of the public's rights-of-way and/or erode municipal authority over the management and control of rights-of-way, including by state or federal rules or federal legislation.
- Support legislation that would allow to use either an official newspaper or a website to publish legal notices similar to the system used by the State of Texas for their agencies.

Proposed Legislative Program:

- Support legislation that promotes the City's ability to:
 - a. utilize economic development tools including, tourism programs,
 - b. attract business, recruit or retain employers, or compete for new business that grows the local and state economy,
 - c. manage the development of land, including the City's authority over any special purpose districts formed inside the City or the ETJ,
 - d. finance infrastructure (including the ability to issue debt),
 - e. manage franchise agreements, or
 - f. participate in utility rate cases
- Support the North Central Texas Council of Governments Regional Transportation efforts.

Proposed Legislative Program:

- Oppose legislation that would limit or prohibit the authority of city officials to use municipal funds to communicate with legislators; or limit or prohibit the authority of the Texas Municipal League (TML) to use any revenue, however derived, to communicate with legislators.
- Support legislation that would require police departments to adopt policies and procedures to require peace officers to document and address cases of domestic violence with evidence of impending breathing (strangulation).
- Support legislation that would impose a penalty enhancement in family violence cases where there is a child witness.
- These subjects are consistent with TML's recommendation.

Council Direction

- Consider approval of contract with Focused Advocacy. This item is on the December 12th consent agenda.
- Provide guidance to the proposed legislative program.
 - This item will be brought to council for approval on January 9, 2023.

City Council Regular Meeting

DEPARTMENT: City Secretary's Office
FROM: Amanda Campos, City Secretary
MEETING: December 12, 2022

SUBJECT:

Consider approval of the minutes from the November 14, 2022 regular council meeting. (*Staff contact: Amanda Campos, City Secretary*).

SUMMARY:

The City Council duly and legally met on November 14, 2022 for a regular council meeting.

OPTIONS:

- 1) Council may approve the minutes as presented or approve with amendments.

RECOMMENDATION:

Approve.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A.

FISCAL IMPACT:

N/A.

STAFF CONTACT:

Name: Amanda Campos, TRMC
Title: City Secretary
Email: acampos@burlesontx.com
Phone: 817-426-9665

BURLESON CITY COUNCIL REGULAR MEETING

November 14, 2022

DRAFT MINUTES

COUNCIL PRESENT:

Victoria Johnson
Rick Green
Jimmy Stanford
Chris Fletcher
Tamara Payne
Dan McClendon
Ronnie Johnson

COUNCIL ABSENT:

Staff present

Bryan Langley, City Manager
Tommy Ludwig, Deputy City Manager
Amanda Campos, City Secretary
Allen Taylor, Jr., City Attorney
Matt Ribitzki, Deputy City Attorney

1. CALL TO ORDER – 3:30 PM

Invocation – Summer Garcia, Director of Next Step Ministry Burleson.

Pledge of Allegiance to the US Flag

Texas Pledge:

2. REPORTS AND PRESENTATIONS

- A. Receive a report, hold a discussion and provide staff direction on City of Burleson Boards/Commissions structure. (Staff presenter: Amanda Campos, City Secretary)**

Amanda Campos, City Secretary, presented the Board and Commissions structure to council.

- B. Receive a report, hold a discussion and provide staff direction regarding the Public Art Committee. (Staff Presenter: Jen Basham, Director of Parks and Recreation).**

Jen Basham, Director of Parks and Recreation, presented the Public Art Committee to council.

- C. Receive a report, hold a discussion and provide staff direction regarding the design and construction of Shannon Creek Park. (Staff Presenter: Jen Basham, Director of Parks and Recreation)**

Jen Basham, Director of Parks and Recreation, presented the design and construction of Shannon Creek Park to council.

10. RECESS INTO EXECUTIVE SESSION

Pursuant to Section 551.071, Texas Government Code, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.

A. Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071

- Discuss and receive direction on a contract with James Crouch and Katherine Halwes, as sellers, to acquire fee simple title to a 30.76 acre tract of land situated in Johnson County, Texas, and commonly known as 2140 SW Hulen Street, Burleson, Texas for the sales price of \$5,000,000.

B. Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072

- Discuss and receive direction on certain parcels of real property in Johnson County, Texas for municipal purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property in Johnson County, Texas for library purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property in Johnson County and Tarrant County, Texas for community park purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property for the expansion of Lakewood Drive in Johnson County, Texas where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property for the expansion of County Road 1020 in Johnson County, Texas where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on real property commonly known as 130 E Renfro Street, Johnson County, Texas.

C. Deliberation regarding a negotiated contract for a prospective gift or donation to the state or the governmental body Pursuant to Section 551.073

D. Personnel Matters Pursuant to Section 551.074

E. Deliberation regarding (1) the deployment, or specific occasions for implementation of security personnel or devices; or (2) a security audit Pursuant to Sec. 551.076

F. Deliberation Regarding Commercial or Financial Information Received from or the Offer of a Financial or Other Incentive made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with which the City is conducting Economic Development Negotiations Pursuant to Section 551.087

- Project Rebel

G. Pursuant to Sec 418.183(f), deliberation of information related to managing emergencies and disasters including those caused by terroristic acts (must be tape recorded)

Motion was made by Jimmy Stanford and seconded by Dan McClendon to convene into executive session. **Time: 4:45 p.m.**

Motion passed 7-0.

Motion was made by Jimmy Stanford and seconded by Rick Green to reconvene into open session. **Time: 5:30 p.m.**

Motion passed 7-0.

3. PUBLIC PRESENTATIONS

A. Proclamations

- None.

B. Presentations

- Recognition of Employee of the 3rd Quarter 2022. (*Staff Presenter: Rick DeOrdio, Human Resources Director*)

C. Community Interest Items

- Recognized Global Entrepreneurship Week.
- Global Entrepreneurship Week North Texas event at the Hurst Conference Center, free sessions all week, find more information at www.gewntx.co.
- Farmer's Market, Saturday, 8:00 a.m. – 1:00 p.m.
- Join us Saturday, December 3 for
 - Santa's Breakfast from 7:00 a.m. – 11:00 a.m. at the Russel Farm Art Center
 - Christmas at the Library from 10:00 a.m. – 1:00 p.m. at the Burleson Public Library
 - Rotary Club Christmas parade at 6:00 p.m.
 - Christmas Tree Lighting with Drone show from 6:30 p.m. – 8:00 p.m. at the Mayor Vera Calvin Plaza
- Thank you to all the departments that make all these events happen for the community.

4. CHANGES TO POSTED AGENDA

A. Items to be continued or withdrawn

- None.

B. Items to be withdrawn from Consent Agenda for separate discussion or items to be added to the Consent Agenda.

- None.

5. CITIZEN APPEARANCES

- Adel Parker, 336 S. Dodson, came forward with concerns of speeding and flooding for Booger Creek.
- Cylinda Baity came forward with concerns of speeding on Dodson.

- Bill Janusch, 117 NE Clinton Street, came forward with concerns with street repairs.

6. **CONSENT AGENDA**

A. Minutes from the October 17, 2022 regular council meeting. (Staff Contact: Amanda Campos, City Secretary).

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

B. CSO#4034-11-2022, minute order confirming the City Council meeting dates for calendar year 2023. (Staff Contact: Amanda Campos, City Secretary).

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

C. CSO#4035-11-2022, one-year contract extension with Dataprose, LLC for the purchase of utility bill processing services in the amount not to exceed \$79,300. (Staff Contact: Jesse Elizondo, Director of Customer Service)

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

D. CSO#4036-11-2022, inter-local agreement between the Johnson County Family Crisis Center, Johnson County Sheriff's Department, Somervell County Sheriff's Department, Johnson and Somerville County District Attorneys, Texas Health Resources (Cleburne), and the Burleson Police Department establishing protocols for the Johnson and Somervell Sexual Assault Response Team (SART) and authorize the City Manager to execute the agreement. (Staff Contact: Billy J. Cordell, Police Chief)

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

E. CSO#4037-11-2022, resolution declaring Council's review and approval of the City Council Policy #30, as required annually by Public Funds Investment Act and the City's charter for the City of Burleson. (Staff Presenter: Martin Avila, Director of Finance)

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

F. CSO#4038-11-2022, minute order ratifying the Burleson 4A Economic Development Corporation's approval of a resolution authorizing the enforcement of a contract dated July 18, 2022 with James Crouch and

Katherine Hawles to acquire 30.76 acre tract of land in Johnson County, Texas, commonly known as 2140 SW Hulen St, authorizing the Board President to direct and oversee the filing of a lawsuit, and authorizing the expenditure of funds. (Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager)

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- G. CSO#4039-11-2022, contract for the purchase of a police armored rescue vehicle through the cooperative purchasing agreement with GSA in the amount not to exceed \$381,676.00. (Staff Presenter: Kip Dernovich, Deputy Director – Operations Public Works)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- H. CSO#4040-11-2022, contract with Longhorn Harley Davidson to replace four police motorcycles through a cooperative purchasing agreement with BuyBoard in the amount not to exceed \$200,182.40. (Staff Presenter: Kip Dernovich, Deputy Director – Operations Public Works)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- I. CSO#4041-11-2022, minute order with Central Square for annual software maintenance and high-availability services of Naviline software for up to three years in the amount not to exceed \$341,833.05. (Staff Contact: Hugo Rodriguez, Deputy Director, IT)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- J. CSO#4042-11-2022, resolution authorizing a contract with Polarity Networks for installing a fiber network path in the Mayor Vera Calvin Plaza through The Interlocal Purchasing System (TIPS) contract in the amount not to exceed \$87,337.43 (Staff Contact: James Grommersch, Chief Technology Officer)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- K. CSO#4043-11-2022, minute order for the Aruba networking hardware and central licenses from CDW-G, LLC, through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) and authorize the City Manager to approve the reoccurring maintenance and support associated with the hardware licensing for five years in an amount not**

to exceed \$38,992.57. (Staff Contact: James Grommersch, Chief Technology Officer)

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- L. CSO#4044-11-2022, minute order authorizing the purchase of Cisco Duo Multi-Factor Authentication from CDW-G, LLC through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount not to exceed \$192,037.19 for five years. (Staff Contact: James Grommersch, Chief Technology Officer)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- M. CSO#4045-11-2022, minute order with Central Square for annual software maintenance of One Solution Public Safety software for three years in the amount not to exceed \$552,268.35. (Staff Contact: Hugo Rodriguez, Deputy Director, IT)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

- N. CSO#4046-11-2022, minute order authorizing the purchase of wholesale fuel from Mansfield Oil Company of Gainesville through an interlocal agreement with the City of Fort Worth in an amount not to exceed \$70,000. (Staff Contact: Eric Oscarson, Public Work Director)**

Motion made by Dan McClendon and seconded by Rick Green to approve.

Motion passed 7-0.

7. DEVELOPMENT APPLICATIONS

- A. Ordinance Modification for text amendments to Section 100-115 of Article IV – Overlay Zoning Districts of Appendix B, of the Code of Ordinances of the City of Burleson (Case 22-124): Hold a public hearing and consider approval of an ordinance amendment to add “restaurant or cafeteria (drive through type)” to the list of allowable uses with a specific use permit, with conditions within the Old Town Overlay District. (First Reading) (Staff Presenter: Tony McIlwain, Development Services Director) (The Planning and Zoning Commission recommended approval by unanimous vote)**

Tony McIlwain, Development Services Director, presented Case 22-124 to the city council.

Mayor Fletcher opened the public hearing. **Time: 6:01 p.m.**

No speakers.

Mayor Fletcher closed the public hearing. **Time: 6:02 p.m.**

Motion made by Tamara Payne and seconded by Ronnie Johnson to approve.

Motion passed 7-0.

Amanda Campos, City Secretary, announced items 7B and 7C would be presented together but voted on separately.

- B. CSO#4047-11-2022, ordinance for voluntary annexation of approximately 236.36 acres of land situated in the H.R. McClure Survey, Abstract No. 587, described in the deeds recorded in documents Nos. 2021-36960, 2021-36997, and 2022-5271, Johnson County, Texas (D.R.J.C.T), located in the exclusive Extraterritorial Jurisdiction (ETJ) of the City of Burleson, related to previously approved development agreements, The Reserve at 5828 Conveyor Drive (Case 22-073). (First and Final Reading) (Staff Presenter: Tony McIlwain, Development Services Director)**

Tony McIlwain, Development Services Director, presented Case 22-073 and Case 22-071 to the city council.

Mayor Fletcher opened the public hearing for both Case 22-073 and Case 22-071. **Time: 6:07 p.m.**

Katherine Piguet, 2616 N. County Road 810, came forward with concerns of aging water lines and service.

Ronnie Leonard, 2932 N. County Road 810, came forward with questions for staff regarding the property. Allen Taylor, City Attorney, answered his concerns.

Mayor Fletcher closed the public hearings for both Case 22-073 and Case 22-071. **Time: 6:21 p.m.**

Motion made by Dan McClendon and seconded by Ronnie Johnson to approve.

Motion passed 7-0.

- C. CSO#4048-11-2022, ordinance for a zoning change request from defaulted "A", Agriculture, to "SFE" Single-family Estate dwelling district for a single-family gated community, the Reserve at 5828 Conveyor Dr (Case 22-071). (First and Final Reading) (Staff Presenter: Tony McIlwain, Development Services Director) (The Planning and Zoning Commission recommended approval by unanimous vote)**

Item 7C was presented including public hearing with the item (7B) above.

Motion made by Ronnie Johnson and seconded by Jimmy Stanford to approve.

Motion passed 7-0.

8. GENERAL

- A. CSO#4049-11-2022, ordinance altering the Speed Limit along Hemphill Street between NE Alsbury Boulevard and the city limits from 35 miles per hour to 45 miles per hour; directing the City Manager or designee to erect the appropriate signage and incorporating the recitals into the body of the ordinance. *(First and Final Reading) (Staff Presenter: Eric Oscarson, Director of Public Works)***

Eric Oscarson, Director of Public Works, presented an ordinance to the city council.

The following speakers were against the speed increase:

- Jodi White, 912 Dogwood Drive.
- Mark Galoob, 1016 Fox Willow Court.
- Vanessa Shimek, 640 Peach Lane.
- Kathryn Shelton, 700 Plum Drive.
- Heather Rodriguez, 678 Plum Drive

Motion made by Dan McClendon and seconded by Tamara Payne to approve.

Motion passed 5-2, with Rick Green and Ronnie Johnson voting against.

- B. Ordinance amending Chapter 70 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances, City of Burleson, by repealing and replacing Article V "Public Events" to require permits for public events; providing procedures for the issuance of a permit; requiring the City Council to approve portions of certain permit applications involving certain street closures or in-kind sponsorships; providing for water, health and sanitation facilities for the event; providing for police protection and emergency medical services for the event; requiring the permit applicant and permittee to carry liability insurance of a certain amount and indemnify the city. *(First Reading) (Staff Presenter: DeAnna Phillips, Director of Community Services)***

DeAnna Phillips, Director of Community Services, presented a contract to the city council.

Motion made by Rick Green and seconded by Ronnie to approve.

Motion passed 7-0.

- C. CSO#4050-11-2022, contract with PlayWorks, Inc. for the purchase and installation of Playwell products at Wakefield Park through an existing purchasing cooperative agreement with Buyboard in the amount not to exceed \$193,000. *(Staff Presenter: Jen Basham, Director of Parks and Recreation)***

Jen Basham, Director of Parks and Recreation, presented a contract to the city council.

Motion made by Dan McClendon and seconded by Victoria Johnson to approve.

Motion passed 7-0.

9. CITY COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS OR REPORTS

- None.

10. RECESS INTO EXECUTIVE SESSION

Pursuant to Section 551.071, Texas Government Code, the Council reserves the right to convene in Executive Session(s), from time to time as deemed necessary during this meeting for any posted agenda item, to receive advice from its attorney as permitted by law.

A. Pending or Contemplated Litigation or to Seek the Advice of the City Attorney Pursuant to Section 551.071

- Discuss and receive direction on a contract with James Crouch and Katherine Halwes, as sellers, to acquire fee simple title to a 30.76 acre tract of land situated in Johnson County, Texas, and commonly known as 2140 SW Hulen Street, Burleson, Texas for the sales price of \$5,000,000.

B. Discussion Regarding Possible Purchase, Exchange, Lease, or Value of Real Property Pursuant to Section 551.072

- Discuss and receive direction on certain parcels of real property in Johnson County, Texas for municipal purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property in Johnson County, Texas for library purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property in Johnson County and Tarrant County, Texas for community park purposes where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property for the expansion of Lakewood Drive in Johnson County, Texas where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on certain parcels of real property for the expansion of County Road 1020 in Johnson County, Texas where deliberation in open session would have a detrimental effect on the position of negotiations with third parties.
- Discuss and receive direction on real property commonly known as 130 E Renfro Street, Johnson County, Texas.

C. Deliberation regarding a negotiated contract for a prospective gift or donation to the state or the governmental body Pursuant to Section 551.073

D. Personnel Matters Pursuant to Section 551.074

E. Deliberation regarding (1) the deployment, or specific occasions for implementation of security personnel or devices; or (2) a security audit Pursuant to Sec. 551.076

F. Deliberation Regarding Commercial or Financial Information Received from or the Offer of a Financial or Other Incentive made to a Business Prospect Seeking to Locate, Stay or Expand in or Near the Territory of the City and with

which the City is conducting Economic Development Negotiations Pursuant to Section 551.087

- Project Rebel

G. Pursuant to Sec 418.183(f), deliberation of information related to managing emergencies and disasters including those caused by terroristic acts (must be tape recorded)

No need for another Executive Session.

ADJOURNMENT

Motion made by Tamara Payne and Jimmy Stanford to adjourn.

Mayor Fletcher adjourned the meeting.

Time: 6:58 p.m.

Amanda Campos
City Secretary

City Council Regular Meeting

DEPARTMENT: City Secretary's Office
FROM: Amanda Campos, City Secretary
MEETING: December 12, 2022

SUBJECT:

Consider approval of an ordinance amending the City of Burleson code of ordinances Chapters 2, 6, 10, 18, 44, 46, 62, and 86 amending the number of voting members and terms of members. (First Reading) (*Staff Contact: Amanda Campos, City Secretary*)

SUMMARY:

The city council reviewed and discussed the current structure of all the city's boards, commissions, and committees with the goal in mind to increase community participation. The review covered the number of members, the qualifications, total number of existing boards, commissions, and committee, the term limits, and the absence rule.

The city council agreed the number of members appointed to each board, commission, and committee should be increased to 9 voting members. The qualifications, the absence rule, and number of existing boards, commissions, and committees should remain unchanged.

The city council agreed the term limits should be modified by changing the current term limits from 3 full terms to 2 full terms for all boards, commissions, and committee except the planning and zoning commission and youth members. The proposed amendments would change 3 full 3 year terms to 2 full 3 year terms. The planning and zoning commission terms will remain unchanged and continue to be 3 full 3 year terms. All youth member terms would change to a 1 year term with no term limits.

The proposed amendments require changes to several portions of the code of ordinance to accomplish. Chapter 2 Boards, Commissions and Committees will be amended to reflect the changes to the general rules for all boards, commissions, and committees, and will be referenced through the code of ordinances in several chapters.

Several boards, commissions, and committees when initially created were placed in portions of the code that directly reflected their purpose, therefore several portions of the code must be amended to accomplish the amendments. The chapters are as follows:

- Chapter 6 Animal Care and Control for the Animal Shelter Advisory Committee
- Chapter 10 Buildings and Building Regulations for the Building Codes and Standards Board
- Chapter 18 Cemeteries for the Cemetery Advisory Board
- Chapter 44 Water and Wastewater Impact Fees for the Capital Improvements Advisory Committee
- Chapter 46 Library for the Library Board
- Chapter 62 Planning and Development for the Planning and Zoning Commission
- Chapter 86 Landscaping, Trees and Vegetation for the Tree Board (composed of the Park Board members)

The ordinance amendment will require 2 separate readings, the first reading at this December meeting with the final reading considered at the January 9, 2023 regular council meeting. After the final reading, if approved, Council Policy # 40 City Boards, Commissions, and Committee appointment process will be followed to implement the changes. The City Secretary's Office will review all members terms and communicate how the amendment will effect their service.

The Old Town Design Standards Review Committee and the Zoning Board of Adjustments require amendments as well but must following the zoning local government code. The amendments must be presented and recommended by the Planning & Zoning Commission before they can be acted upon by the city council.

- Appendix B Zoning for the Board of Adjustment
- Appendix C Urban Design Standards for the Burleson Old Town Development Standards Review Committee

OPTIONS:

- 1) City council may approve the ordinance as presented
- 2) City council may approve the ordinance with amendments
- 3) City council may deny the ordinance

RECOMMENDATION:

Staff recommends approval to accomplish the amendments expressed by the city council.

FISCAL IMPACT:

N/A

STAFF CONTACT:

Name: Amanda Campos

Title: City Secretary

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acampos@burlesontx.com
817-426-9665



City of Burleson Boards & Commission

December 9, 2022 Council Meeting

Boards/Commissions/Committee – Review

November 14, 2022 Council Meeting Review:

- Number of Members
 - Changed from varied to 9 voting members for each
- Qualifications
 - Remain the same
- Total number of boards/commissions/committees
 - Remain the same
- Term limits
 - Changed from 3 full 3 years to 2 full 3 years
 - Exception Planning & Zoning remains the same
 - Youth members now 1 year term no term limit
- Absence Rule
 - Remain the same

Code changes

Chapter 2
Boards,
Commission,
and Committee

Chapter 6
Animal Care
and Control

Chapter 10
Buildings and
Building
Regulations

Chapter 18
Cemeteries

Chapter 44
Water &
Wastewater
Impact Fee

Chapter 46
Library

Chapter 62
Planning &
Development

Chapter 86
Landscaping,
Trees, &
Vegetation

Code changes – Require action by the Planning and Zoning

Appendix B
Zoning

Appendix C
Urban Design
Standards

Direction

ARTICLE II. BOARDS, COMMISSIONS AND COMMITTEES¹

Sec. 2-31. Appointments; terms; removal; exceptions.

- (a) All appointments to boards, ~~and commissions, and committees~~ of the city will expire on October 1 of the year in which they would ordinarily expire. The terms shall be for three years except youth members whose term shall be one year. These appointment dates will apply to all boards, ~~and commissions, and committee~~ created by the city council.
- (b) Prior to all appointments, the city secretary shall report, in writing to the city council, the following information:
- (1) The number of times each board has met since the beginning of that appointment year.
 - (2) The attendance record of all board members on each board, and further report any vacancies which have not been filled during the preceding appointment year.
- (c) The city council may, for cause, remove a board member at any time.
- (d) The term of each ~~board~~ member shall not exceed three two consecutive full terms and a member must have remained off of that particular board, ~~or~~ commission, or committee for one full term before the member can be reappointed. Planning and Zoning commission members terms shall not exceed three consecutive full terms. Youth members terms have no limit except that they must remain qualified members.

(e) Number of members for each board, commission or committee shall be 9 voting members.

(Code 1983, § 2-21; Ord. No. C-216, § 1, 1-26-1978; Ord. No. C-295, § 1, 9-8-1983; Ord. No. CSO#1051-07-2019, § 1, 7-15-2019)

Cross reference(s)—Building codes and standards board, § 10-75 et seq.

Sec. 2-32. Chairpersons; vice-chairpersons.

By August 31 each year, each board, commission or committee must nominate from among its members a member to serve as chair and another member to serve as vice-chair. The city council shall ratify the chair and vice-chair prior to October 1 each year. The city council must continue to use the qualification for ratification of the chair and vice-chair in the enabling ordinance that created the board or commission. All chairpersons are appointed for a duration of one year and must be reappointed annually, but if not reappointed will continue to serve until a successor is appointed.

(Code 1983, § 2-22; Ord. No. C-216, § 2, 1-26-1978; Ord. No. C-295, § 1, 9-8-1983; Ord. No. CSO#1051-07-2019, § 2, 7-15-2019)

¹Charter reference(s)—Board of adjustment § 9(b); parks board created, § 16.

Cross reference(s)—Animal shelter advisory committee, § 6-281 et seq.; building codes and standards board, § 10-75 et seq.; appeals board for fire prevention and protection, § 38-131 et seq.; library board, § 46-31 et seq.; planning and zoning commission, § 62-31 et seq.

Sec. 2-33. Qualifications of members.

- (a) Each board or commission member shall have resided within the corporate limits of the city for a period of one year preceding the effective date of his appointment; and shall not, at the time of appointment or during the term, be in arrears in the payment of any taxes or other liability due the city. An exception to the residency requirements may be made for the board established by section 10-75 of this Code only if there are not eligible individuals living within the city limits who are willing to serve.
- (b) Additional board or commission member qualifications may be specified in the enabling ordinance creating such board or commission (but may not be in conflict with this section) or additional qualifications may be set by the city council at the time of appointment and all appointees will be presumed to be qualified once appointed.
- (c) Any board or commission member ceasing to possess any of the qualifications specified herein or any of the additional qualifications as set by an enabling ordinance or the city council, shall immediately forfeit his office.

(Code 1983, § 2-23; Ord. No. C-216, § 3, 1-26-1978; Ord. No. C-295, § 1, 9-8-1983; Ord. No. C-337, § 1, 8-28-1986; Ord. No. C-374, § 1, 1-28-1988; Ord. No. C-470, § 1, 3-9-1995)

Sec. 2-34. Absence rule.

- (a) When a member of any city board or commission is absent for three regular consecutive meetings, unless prevented by sickness, without first having obtained a leave of absence at a regular meeting, the member shall be deemed to have vacated the member's position. The city secretary shall notify the city council of such absences within ten days of the third consecutive unexcused absence.
- (b) If any board or commission member shall fail to attend at least 75 percent of the called meetings during the 12-month period between October 1 through September 30, such board or commission member shall be deemed to have vacated their position on that board or commission (the 75 percent rule shall only apply to boards or commissions which meet at least once a month on a called basis).
- (c) At the next city council meeting after notification by the city secretary as specified in subsections (a) and (b) above, the city council shall declare the member removed from the rolls of said board or commission and begin procedures to fill such vacancy. If such vacancy occurs within three months of October 1, the city council may, if it deems appropriate, fill the vacancy at the annual appointment time.

(Code 1983, § 2-24; Ord. No. C-295, § 1, 9-8-1983; Ord. No. C-318, § 1, 4-11-1985; Ord. No. CSO#1051-07-2019, § 3, 7-15-2019)

Sec. 2-35. Scope of responsibilities.

- (a) Each board and commission shall review data and circumstances pertaining to their respective boards and commissions and formulate and recommend to the city council, for its adoption, policies and regulations consistent with the overall city plan and ordinances.
- (b) Each board and commission shall give full consideration to the movement of people and goods, the health, recreation, safety and general welfare of the citizens of the city.
- (c) Each board and commission, at the direction of the city council, shall study, hold public hearings and submit reports on any topics within their purview that the city council deems appropriate.

- (d) Members of each board and commission shall comply with all statutory time limits, public notices, and the Texas Open Meetings Act, V.T.C.A., Government Code § 551.001 et seq.

(Code 1983, § 2-25; Ord. No. C-295, § 1, 9-8-1983)

State law reference(s)—Open meetings, V.T.C.A., Government Code § 551.001 et seq.

Sec. 2-36. Advisory committee on people with disabilities.

- (a) *Creation.* There is hereby created an advisory committee on people with disabilities.
- (b) *Purpose.* The committee is established to encourage, assist, and enable persons with disabilities to participate in the social and economic life of the city, achieve maximum personal independence, and use and enjoy fully all public facilities available within the community.
- (c) *Number of members; terms; ~~appointment.~~* The committee membership shall be in compliance with shall Chapter 2, Article II, Section 2-31 (e) for number of members-consist of seven members who shall be residents of the city and Section 2-33 (a) for qualifications. Of the ~~seven~~ committee members, four shall be people with disabilities. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). two year, staggered terms, and be appointed by city council.
- (d) *Duties.* The committee shall:
- (1) Serve as an advisory body to the city council regarding problems affecting disabled persons in the city;
 - (2) Recommend to the city council measures aimed at improving city facilities to accommodate disabled persons;
 - (3) Recommend to the city council measures aimed at improving the ability of various city departments and contractors at providing services for disabled persons; and
 - (4) Perform additional duties and functions as required by the city council.

(Ord. No. CSO#760-02-2018 , § 1, 1-22-2018)

Secs. 2-37—2-70. Reserved.

Sec. 2-37. Park Board

- a) *Creation.* The Park Board creation was established in the City Charter and removed in 2013.
- b) *Purpose.* The Board was created to recommend to the city council improvements and activities for the parks of the city.
- c) *Number of members; terms.* The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d)

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Sec. 6-16. Animal shelter advisory committee.

- (a) *Creation.* There is hereby created, pursuant to the Texas Health and Safety Code, § 823.005, an animal shelter advisory committee.
 - (b) *Purpose.* The purpose of the committee shall be to assist animal shelters located within the city limits regarding compliance with Chapter 823 of the Health and Safety Code. Additionally, upon request of the city council, the committee may: (i) provide recommendations to the city regarding its compliance with the Texas Rabies Control Act and (ii) recommend ways to improve the efficiency and cost effectiveness of the city's animal control program.
 - (c) ~~*Number of members; Terms.* The committee shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). shall consist of seven members appointed by a majority vote of the city council. Committee members shall serve two-year terms except as provided below. Appointments shall be as follows:~~
 - ~~(1) — Places 1, 3, 5, and 7. Terms expire on October first, each odd-numbered year.~~
 - ~~(2) — Places 2, 4, and 6. Terms expire on October first, each even-numbered year.~~
 - (d) *Members.* The composition of the committee shall include at least one licensed veterinarian, at least one municipal official, at least one person whose duties include the daily operation of an animal shelter, and at least one representative from an animal welfare organization. The same person shall not be appointed to fulfill more than one of these requirements. It shall not be required for the representative of the animal welfare organization to reside within the city limits of Burleson or for the agency (s)he represents to be chartered in the City of Burleson. It shall not be required for the licensed veterinarian to reside within the city limits of Burleson if his/her primary veterinary practice is located with the city limits of Burleson.
 - (e) *Vacancies.* Members of the committee shall be subject to removal at any time by the city council. Any vacancy in the membership of the committee shall be filled by the city council for the unexpired term of the member whose place has, by removal or otherwise, become vacant. Vacancies shall be filled within 60 days after the city council removes the member or within 60 days after the city council receives notice of the member's resignation.
 - (f) *Meetings.* The committee shall meet a minimum of three times per calendar year, as outlined in Texas Health and Safety Code, § 823.005.
 - (g) *Quorum.* A quorum of the committee shall consist of a majority of the members, excluding any vacancies. The presence of a quorum of the committee shall be required prior to a meeting being called to order.
 - (h) *Voting.* Approval of all items before the committee shall require a majority vote of those in attendance.
 - (i) *Rules.* The committee may adopt rules, subject to city council approval, for conduct of its meetings.
- (Ord. No. B-749-06, § 1(3-16), 4-13-2006)

Sec. 10-75. Building codes and standards board created.

A Building Codes and Standards Board referred to in this article as "the board," is hereby created to accomplish purposes and perform functions established in this article.

(Ord. No. B-721, § 1(5-13), 9-23-2004)

Sec. 10-76. Appointment and terms.

- (a) *Membership.* The board membership shall be ~~in compliance with Chapter 2, Article II, Section 2-31 (e) composed of seven members and two alternate members appointed by the city council. Regular members shall be appointed to places numbered 1 through 7 and alternate members shall be appointed to places numbered 8 and 9. The city council shall appoint a chair from among the regular members.~~ The building official shall be an ex officio member of and shall act as secretary to the board, but shall have no vote on any matter before the board. ~~Appointed members of the board shall hold office at the pleasure of the city council.~~
- (b) *Terms.* ~~Upon initial appointment pursuant to this ordinance, members in the odd-numbered places shall be appointed to serve terms expiring on June 30, 2005, and members appointed to the even-numbered places shall serve terms expiring on June 30, 2006. Thereafter, t~~The terms of members shall be in compliance Chapter 2, Article II, Section 2-31 (d) office of the members shall be two years beginning on July 1 of the year of appointment. The terms of the odd-numbered places shall expire in the odd-numbered years, and the terms of the even-numbered places shall expire in the even-numbered years. Board members may be appointed to succeed themselves. Vacancies shall be filled by the city council for the unexpired term. Newly appointed members shall be installed at the first regular board meeting after their appointment.
- (c) *Alternate members.* ~~The two alternate members shall serve in the absence of one or more regular members. Alternate members must meet the same qualifications as regular board members. An alternate member has voting privileges only when sitting in place of an absent member.~~

(Ord. No. B-721, § 1(5-14), 9-23-2004)

Sec. 10-77. Qualifications of members.

It is the intent of the city council that the board members shall, by reason of diversity of their individual areas of expertise, constitute a board which is broadly representative of various fields of building construction and building standards.

- (1) The board shall, at a minimum, consist of:
 - a. Two licensed electricians, at least one of which shall be a master electrician; and
 - b. Two licensed plumbers, at least one of which shall be a master plumber; and
 - c. One building contractor; and
 - d. One person holding a license or certification from the Texas Commission on Fire Protection; and
 - e. One licensed heat and air conditioning contractor.
- (2) Members, except for the building official, may not be employees of the City of Burleson. Members will serve without compensation and must be:
 - a. Residents of the City; or

-
- b. Own or be employed by a business located in the City; and
 - c. Hold a license or registration under this chapter.

(Ord. No. B-721, § 1(5-15), 9-23-2004)

Sec. 10-78. Organization.

The board shall hold an organizational meeting in October of each year ~~and shall elect a vice chairman from among its members.~~ The board shall meet when required to carry out the duties established by this division. The board shall adopt its own rules and procedures and shall keep a record of its proceedings consistent with the provisions of this division and the requirements of law. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its decisions and other official actions, all which shall be filed in the office of the city secretary and kept as public records.

(Ord. No. B-721, § 1(5-16), 9-23-2004)

Sec. 10-79. Duties and power.

- (a) The board is hereby charged with the duty and invested with the authority to:
 - (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and the city;
 - (2) Hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the technical provisions of the following codes adopted by the City of Burleson:
 - a. The International Building Code;
 - b. The International Plumbing Code;
 - c. The International Mechanical Code;
 - d. The National Electrical Code;
 - e. The Uniform Fire Code;
 - f. The International Property Maintenance Code;
 - g. The International Residential Code;
 - h. The International Fuel Gas Code; and
 - i. The International Energy Conservation Code.
- (b) The board shall have no authority relative to interpretation of the administrative provisions of the codes listed nor may the board waive requirements of any of the codes listed.
- (c) The board shall hear and decide appeals of orders, decisions or determinations made by the director, building official, code official, or fire marshal related to alleged violations of the city's dangerous and substandard building regulations in article XIII, dangerous and substandard buildings, herein.

(Ord. No. B-721, § 1(5-17), 9-23-2004; Ord. No. CSO#112-01-2015 , § 1, 1-5-2015)

Sec. 10-80. Meetings and quorums.

A quorum for the conduct of business shall consist of four members of the board. When fulfilling its duties, the board shall not hear or decide upon any appeal unless there is present at least one board member with the appropriate certification and/or license to provide the board with the technical knowledge and expertise necessary to fully and adequately consider the appeal. Each member is entitled to one vote and action of the board shall require a majority of those members present. The members of the board shall regularly attend meetings of the board and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties. The members shall comply with all time limits and public notice requirements and all meetings of the board shall be held in compliance with the Texas Open Meetings Act.

(Ord. No. B-721, § 1(5-18), 9-23-2004)

Sec. 18-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the ~~five~~ members appointed by the city council under and subject to the provisions of chapter 2 of this Code.

Cemetery means a cemetery within the city limits and under the jurisdiction of the city.

Interment means the entombment or burial of the remains of a deceased person.

Memorial means any marker, monument, headstone, or structure upon or in any lot or niche, place thereupon or partially therein for identification or in memory of the interred.

Owner means the owner of record of a space, or designated representative or successor in interest.

Space means the area normally designated for a single interment.

(Code 1983, § 3.5-2; Ord. No. B-499, § I, 4-11-1991)

Cross reference(s)—Definitions generally, § 1-3.

Sec. 18-3. Cemetery advisory board; created and established.

There is hereby created and established a cemetery advisory board. ~~The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). The terms and qualifications for board members shall be in compliance with article II of chapter 2 of this Code.~~ The board shall be charged with the responsibility of recommending policies, rules, and regulations for cemeteries in the city limits under the jurisdiction of the city.

(Code 1983, § 3.5-3; Ord. No. B-499, § I, 4-11-1991)

Sec. 44-54. Definitions.

As applied in this article, the following words and terms shall be used:

Assessment. The determination of the amount of the maximum impact fee per service unit which can be imposed on new development pursuant to this article.

Building permit. Written permission issued by the city for the construction, repair, alteration or addition to a structure.

Capital construction cost of service. Costs of constructing capital improvements or facility expansions, including and limited to the construction contract price, surveying and engineering fees, land acquisition costs (including land purchases, court awards and costs, attorney's fees, and expert witness fees), and the fees actually paid or contracted to be paid to an independent qualified engineer or financial consultant preparing or updating the capital improvements plan who is not an employee of the city.

Capital improvements advisory committee (advisory committee). Advisory committee, appointed by the city council, consisting of a membership in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-31 (d) for terms. of at least five members which are not employees of the city. ~~Not less than 40 percent of which shall be representatives of the real estate, development, or building industries, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, including one member representing the extraterritorial jurisdiction; or consisting of the planning and zoning commission, including one regular or ad hoc member who is not an employee of the city and which is representative of the real estate, development, or building industry, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, one representative of the extraterritorial jurisdiction area; which committee is appointed to regularly review and update the capital improvements program in accordance with the requirements of Chapter 395 of the Texas Local Government Code, and its successors.~~

Capital improvements program (CIP). Plan which identifies water and wastewater capital improvements or facility expansions pursuant to which impact fees may be assessed.

City. City of Burleson.

City council (council). Governing body of the City of Burleson.

City manager. Chief executive officer of the city, appointed by the council, or the city manager's designee.

Comprehensive plan. The comprehensive long-range plan, adopted by the city council, which is intended to guide the growth and development of the city which includes analysis, recommendations and proposals for the city regarding such topics as population, economy, housing, transportation, community facilities and land use.

Conceptual service area. Area within the corporate boundaries and within the extraterritorial jurisdiction of the city as defined by Chapter 42 (Extraterritorial Jurisdiction of Municipalities) and Chapter 43 (Municipal Annexation) of the Local Government Code, to be served by the water or wastewater capital improvements or facilities expansions specified in the capital improvements program applicable to the conceptual service area. The conceptual service area represents the general geographic basis for planning the utility capital improvement programs, used to formulate the fees. The service area is conceptual in nature and does not necessarily represent a definitive commitment for service by the city; the conceptual service area boundary also does not necessarily represent limits to service potential or fee assessment. The city's conceptual service area is shown on exhibit "A", attached hereto and made a part hereof by reference.

Credit. The amount of the reduction of an impact fee for fees, payments or charges for the same type of capital improvements for which the fee has been assessed.

Duplex. A structure on a single lot designed to accommodate two dwelling units, as authorized under the city's zoning regulations.

Dwelling unit. A structure or portion of an overall structure in which a typical household or person or unrelated persons would reside together. A single dwelling unit would include a single-family detached house or individual units of attached housing, i.e., one unit within a duplex, triplex, fourplex, or larger apartment building.

Effective impact fee. Amount of impact fee collected per service unit, which may be equal to or less than the maximum impact fees as set forth in exhibit "C", attached hereto and made a part hereof by reference.

Existing development. All development within the conceptual service area which had a water or wastewater tap on the city's water or sewer system, as of November 15, 2005, the date of the city's adoption of the initial impact fee ordinance.

Facility expansion. The expansion of the capacity of an existing facility which serves the same function as an otherwise necessary new capital improvement in order that the existing facility may serve new development. Facility expansion does not include the repair, maintenance, modernization, or expansion of an existing facility to serve existing development.

Finance director. Finance director of the City of Burleson.

Final subdivision plat (final plat). The map, drawing or chart on which is provided a subdivider's plan of a subdivision, and which has received final approval by the planning and zoning commission and city council and which is recorded with the office of the county clerk.

Growth-related costs. Capital construction costs of service related to providing additional service units to new development, either from excess capacity in existing facilities, from facility expansions or from new capital facilities. Growth-related costs do not include:

- (1) Construction, acquisition, or expansion of public facilities or assets other than capital improvements or facility expansions identified in the capital improvements plan;
- (2) Repair, operation or maintenance of existing or new capital improvements or facility expansions;
- (3) Upgrading, updating, expanding, or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental, or regulatory standards;
- (4) Upgrading, updating, expanding, or replacing existing capital improvements to provide better service to existing development;
- (5) Administrative and operating costs of the city; and
- (6) Principal payments and interest or other finance charges on bonds or other indebtedness, except for such payments for growth-related facilities contained in the capital improvements program.

Impact fee. Charge or assessment to be imposed by the city upon new development to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to new development. The term includes amortized charges, lump-sum charges, impact fees, contributions in aid of construction, and any other fee that functions as described by this definition. Impact fees do not include dedication of rights-of-way or easements, or construction or dedication of site-related water distribution or wastewater collection facilities, or streets, sidewalks, or curbs if the dedication or construction is required by other valid ordinances of the City Code and is necessitated by and attributable to the new development; or lot or acreage fees placed in trust funds for the purpose of reimbursing developers for oversizing or constructing water or sewer mains or lines; or other pro rata fees for reimbursement of water or sewer mains or lines extended by the city.

Irrigation meter. Water meter used only for providing landscape irrigation water demand.

Land use assumptions. Description of the conceptual service area and projections of changes in land uses, densities, intensities, and population therein over at least a ten-year period, adopted by the city, as may be amended from time to time, upon which the capital improvement plan is based.

Living unit equivalent (LUE). Basis for establishing equivalency among and within various customer classes, based upon the relationship of the continuous duty flow rate in gallons per minute for a water meter of a given size and type compared to the continuous duty maximum flow rate in gallons per minute for a five-eighths-inch by three-quarters-inch diameter simple water meter, using American Water Works Association C700-C703 standards. LUEs for water meters are shown below.

LINE EQUIVALENCIES FOR VARIOUS TYPES AND SIZES OF WATER METERS

Meter Type	Meter Size	Continuous Duty Maximum Rate (gpm)	Ratio To $\frac{5}{8}$ " \times $\frac{3}{4}$ " Meter
Simple	$\frac{5}{8}$ " \times $\frac{3}{4}$ "	10	1.000
Simple	$\frac{3}{4}$ "	15	1.500
Simple	1"	25	2.500
Simple	1½"	50	5.000
Simple	2"	80	8.000
Compound	2"	80	8.000
Turbine	2"	100	10.000
Compound	3"	160	16.000
Turbine	3"	240	24.000
Compound	4"	250	25.000
Turbine	4"	420	42.000
Compound	6"	500	50.000
Turbine	6"	920	92.000
Compound	8"	800	80.000
Turbine	8"	1600	160.000
Compound	10"	1150	115.000
Turbine	10"	2500	250.000
Turbine	12"	3300	330.000
SOURCE: AWWA Standards C700, C701, C702, C703.			

Multifamily development. A single structure containing three or more dwelling units.

New development. Subdivision of land; or the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of any structure; or any use or extension of the use of land; any of which increases the number of service units. New development excludes the sale of water taps resulting from the conversion of an individual well to the city's water utility and the sale of wastewater taps resulting from the conversion of an individual septic or other individual waste disposal system to the city's wastewater utility.

Offset. The amount of the reduction of an impact fee designed to fairly reflect the value of system-related facilities, pursuant to rules herein established or administrative guidelines, provided and funded by a developer pursuant to the city's subdivision regulations or requirements.

Residential. A lot developed for use and occupancy as a single-family residence or a duplex.

Service unit. Standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions expressed in living units equivalent.

Service unit equivalent (SUE). See living unit equivalent (LUE). For purposes of this article, a service unit equivalent (SUE) is equivalent and interchangeable with living unit equivalent (LUE).

Single-family residence. Single-family dwelling unit, as authorized under the city's zoning regulations.

Site-related facility. Improvement or facility which is for the primary use or benefit of a new development and/or which is for the primary purpose of safe and adequate provision of water or wastewater facilities to serve the new development, and which is not included in the capital improvements plan, and for which the developer or property owner is solely responsible under subdivision and other applicable regulations.

System-related facility. A capital improvement or facility expansion which is designated in the capital improvements plan and which is not a site-related facility. A system-related facility may include a capital improvement which is located off site, within or on the perimeter of the development site.

Tap purchase. The filing with the city of a written application for a water or wastewater tap and the acceptance of applicable fees by the city. The term "tap purchase" shall not be applicable to a master water meter or master wastewater connection purchased from the city by a wholesale customer such as a water district, political subdivision of the State of Texas, or other wholesale utility customer; nor shall it be applicable to a meter purchased for and exclusively dedicated to fire protection.

Triplex. A structure on a single lot designed to accommodate three dwelling units, as authorized under the city's zoning regulations.

Wastewater facility. Improvement for providing wastewater service, including, but not limited to, land or easements, treatment facilities, lift stations, or interceptor mains. Wastewater facility excludes wastewater lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Wastewater facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site wastewater collection facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Wastewater facility expansion. Expansion of the capacity of any existing wastewater improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing wastewater facility to serve existing development.

Wastewater improvements plan (wastewater CIP). Portion of the CIP, as may be amended from time to time, which identifies the wastewater facilities or wastewater facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, which are to be financed in whole or in part through the imposition of wastewater impact fees pursuant to this article.

Water facility. Improvement for providing water service, including, but not limited to, land or easements, water supply facilities, treatment facilities, pumping facilities, storage facilities, or transmission mains. Water facility excludes water lines or mains which are constructed by developers, the costs of which are reimbursed from charges paid by subsequent users of the facilities and which are maintained in dedicated trusts. Water facilities also exclude dedication of rights-of-way or easements or construction or dedication of on-site water distribution facilities required by valid ordinances of the city and necessitated by and attributable to the new development.

Water facility expansion. Expansion of the capacity of any existing water improvement for the purpose of serving new development, not including the repair, maintenance, modernization or expansion of an existing water facility to serve existing development.

Water improvements plan (water CIP). Portion of the CIP, as may be amended from time to time, which identifies the water facilities or water facility expansions and their associated growth-related costs which are necessitated by and which are attributable to new development, for a period not to exceed ten years, which are to be financed in whole or in part through the imposition of water impact fees pursuant to this article.

Wholesale customer. Water or wastewater customer of the city's utilities which purchases utility service at wholesale rates for resale to their retail customers.

(Ord. No. C-590(D0314), § 1(1.04) , 3-17-2014)

ARTICLE II. LIBRARY BOARD¹

Sec. 46-31. Created and established; number of members; compensation.

There is hereby created and established a library board for the city, ~~the committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. consisting of seven members who shall be residents of the city~~ and all of whom will serve without compensation.

(Code 1983, § 8-1; Ord. No. C-249, § 1, 1-10-1980)

Sec. 46-32. Appointment; terms.

All members of the library board shall be appointed by the city council ~~on the terms, and each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). provisions, and conditions of sections 2-31—2-35. The board shall serve staggered terms of two years.~~

(Code 1983, § 8-2; Ord. No. C-249, § 2, 1-10-1980)

Sec. 46-33. Member participation.

Membership on the board shall be accompanied by active participation in the activities of the board, and any member who is absent for three consecutive meetings of the library board without valid excuse as determined by the library board, may have such position declared vacant by the city council.

(Code 1983, § 8-3; Ord. No. C-249, § 3, 1-10-1980)

Sec. 46-34. Recommending policy.

The library board shall make recommendations to the city council and city manager concerning operating policy of the library; long range capital improvement, planning and policy; the purchase of materials including, but not limited to, books, publications, films, and exhibits; and the display and exhibition of objects of art and other items having cultural, historical, and artistic value to the community. The library board shall encourage the participation of the citizens of the city in the growth and development of the community library and facilitate the part of the public library in the growth of the city.

(Code 1983, § 8-4; Ord. No. C-249, § 4, 1-10-1980)

Secs. 46-35—46-70. Reserved.

¹Cross reference(s)—Boards, commissions and committees, § 2-31 et seq.

Sec. 62-32. Membership; appointment; attending meetings; compensation; removal for absence.

- (a) The planning and zoning commission ~~membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications shall be composed of eight members identified as places one through eight.~~
- (b) The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings.
- (c) Place eight shall be an ex officio, non-voting place on the commission and be designated for appointment of a student who is a resident of the city and who, at the time of appointment, is 15 to 17 years of age and enrolled in an accredited school recognized by the state commissioner of education or a home school participant. In the event that a qualified student is not identified for appointment, place eight shall remain vacant until a qualified student is identified to be appointed.
- (d) ~~Save and except for the student member provided in subsection (c) herein, all other members must be registered voters of the city.~~
- (e) It is the intent of the city council that members shall, by reason of diversity of their individual interests and experience, constitute a commission which is broadly representative of the community.
- (f) The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.
- (g) Absences from commission meetings shall be treated in accordance with the provisions of section 2-34.

(Code 1983, § 14-1(b); Ord. No. C-277, §§ 1—4, 6, 1-27-1982; Ord. No. C-277(A0312) , § 1, 3-19-2012; Ord. No. CSO#1826-08-2021 , § 1, 8-16-2021)

Sec. 62-33. Terms of office.

~~Each member of the commission shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). The terms of four of the members shall expire on October 1 of each odd-numbered year, and the terms of the other four members shall expire on October 1 of each even-numbered year. The members of the commission shall be identified by place numbers one through eight. The odd-numbered places shall expire in the odd-numbered years; the even-numbered places shall expire in the even-numbered years. Commission members may be appointed to succeed themselves. Vacancies shall be filled for unexpired terms, but no member shall be appointed for a term in excess of two years. Newly appointed members shall be installed at the first regular commission meeting after their appointment.~~

(Code 1983, § 14-1(c); Ord. No. C-277, §§ 1—4, 6, 1-27-1982; Ord. No. C-277(A0312) , § 2, 3-19-2012)

Sec. 62-34. Organization.

The city council shall appoint a chairperson of the planning and zoning commission in October of each year. The commission shall hold an organizational meeting in October and shall elect a vice-chairperson from among its members, to be ratified by the city council.

(Code 1983, § 14-2(a); Ord. No. C-277, §§ 4, 6—8, 1-27-1982)

Sec. 62-35. Meetings.

- (a) The planning and zoning commission shall meet regularly and shall designate the time and place of its meetings. The commission shall adopt its own rules of procedure and keep a record of its proceedings consistent with the provisions of this chapter and the requirements of law. A quorum for the conduct of business shall consist of four members of the commission, but the place eight student member provided in subsection 62-32(c) shall not count towards a quorum.
- (b) Planning and zoning commission actions shall be by a motion which may be made by any member of the commission except for the place eight student member provided in subsection 62-32(c). The place eight student member provided in subsection 62-32(c) shall not vote on any motion.

(Code 1983, § 14-2(b), (c); Ord. No. C-277, §§ 4, 6—8, 1-27-1982; Ord. No. C-277(A0312), § 3, 3-19-2012; Ord. No. CSO#924-11-2018, § 1, 11-12-2018; Ord. No. CSO#1826-08-2021, § 2, 8-16-2021)

Sec. 62-36. Disqualification from voting.

- (a) *Generally.* Members shall disqualify themselves from voting whenever it appears that they have a personal or monetary interest in the matter before the planning and zoning commission or that they will be directly affected by the decision of the commission, it being understood that decisions of the commission by their very nature will indirectly affect all residents of the community and that this provision does not apply to members who, though directly affected, are affected only to the extent that they are members of the community at large. A member may disqualify such member's self from voting whenever any applicant, or applicant's agent, has sought to influence the vote of the member on such applicant's application, other than in the public hearing.
- (b) *Conflict of interest regarding subdivision plats; penalty.*
 - (1) In this section, the term "subdivided tract" means a tract of land, as a whole, that is subdivided. The term does not mean an individual lot in a subdivided tract of land.
 - (2) A person has a substantial interest in a subdivided tract if the person:
 - a. Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00 or more;
 - b. Acts as a developer of the tract;
 - c. Owns ten percent or more of the voting stock or shares of or owns either ten percent or more or \$5,000.00 or more of the fair market value of a business entity that:
 - 1. Has an equitable or legal ownership interest in the tract with a fair market value of \$2,500.00 or more; or
 - 2. Acts as a developer of the tract; or
 - 3. Receives in a calendar year funds from a business entity described by subsection (b)(2)c that exceed ten percent of the person's gross income for the previous year.
 - (3) A person also is considered to have a substantial interest in a subdivided tract if the person is related in the first degree by consanguinity or affinity, as determined under V.T.C.A., Government Code ch. 573, to another person who, under subsection (b)(2) of this section, has a substantial interest in the tract.
 - (4) If a member of the municipal authority responsible for approving plats has a substantial interest in a subdivided tract, the member shall file, before a vote or decision regarding the approval of a plat for

the tract, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter. The affidavit must be filed with the municipal secretary or clerk.

- (5) A member of the municipal authority responsible for approving plats commits an offense if the member violates subsection (b)(4) of this section. An offense under this subsection is a class A misdemeanor.
- (6) The finding by a court of a violation of this section does not render voidable an action of the municipal authority responsible for approving plats unless the measure would not have passed the municipal authority without the vote of the member who violated this section.

(Code 1983, § 14-2(d); Ord. No. C-277, §§ 4, 6—8, 1-27-1982)

Sec. 62-37. Duties and powers.

The planning and zoning commission is hereby charged with the duty and invested with the authority to:

- (1) Inspect property and premises at reasonable hours where required in the discharge of its responsibilities under the laws of the state and of the city.
- (2) Formulate and recommend to the city council for its adoption a city plan for the orderly growth and development of the city and its environs, and from time to time recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety, and general welfare of the citizens of the city.
- (3) Formulate a zoning plan as may be deemed best to carry out the goals of the city plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in V.T.C.A., Local Government Code § 211.001 et seq. All powers granted under said act are specifically adopted and made a part hereof.
- (4) Exercise all the powers of a commission as to approval or disapproval of plans, plats, or replats and vacations of plans, plats or replats set out in V.T.C.A., Local Government Code chs. 42, 43 and 212.
- (5) Study and recommend on the location, extension and planning of public rights-of-way, parks or other public places, and on the vacating or closing of same.
- (6) Study and recommend on the general design and location of public buildings, bridges, viaducts, street fixtures and other structures and appurtenances. Study and recommend on the design or alteration and on the location or relocation of works of art which are, or may become, the property of the city.
- (7) Initiate, in the name of the city, for consideration at public hearings all proposals:
 - a. For the opening, vacating or closing of public rights-of-way, parks, or other public places;
 - b. For the original zoning of annexed areas; and
 - c. For the change of zoning district boundaries on an area-wide basis.

No fee shall be required for the filing of any such proposal in the name of the city.

- (8) Formulate and recommend to the city council for its adoption, policies and regulations consistent with the adopted city plan governing the location and operation of utilities, public facilities and services owned or under the control of the city.
- (9) Submit in each October a progress report to the city council summarizing its activities, major accomplishments for the past year, and a proposed work program for the coming year. The report shall contain for the year the attendance record of all members and the identity of commission officers.
- (10) Prepare and submit as a recommendation to the city council, a five-year capital improvements plan.

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- (11) Prepare and recommend to the city council a city annexation policy and update the same periodically.
 - (12) Members of the commission shall comply with all statutory time limits, public notices, and the Texas Open Meetings Act.
 - (13) The commission, at the direction of the city council, shall study, hold public hearings and submit reports on any topics pertaining to planning and zoning that the council deems appropriate.
 - (14) The commission shall conduct an ongoing assessment program pertaining to the planning and zoning ordinances of the city, recommending to the city council all necessary changes and updating of said ordinances.

(Code 1983, § 14-3; Ord. No. C-277, § 5, 1-27-1982)

State law reference(s)—Open Meetings, V.T.C.A., Government Code § 551.001 et seq.

PART II - CODE OF ORDINANCES
Chapter 86 - LANDSCAPING, TREES AND VEGETATION
ARTICLE II. - TREES AND SHRUBBERY
DIVISION 2. TREE BOARD

DIVISION 2. TREE BOARD

Sec. 86-51. Creation and establishment.

There is hereby created and established a tree board for the city which shall consist of ~~seven members~~, all of ~~whom shall also be at the~~ members of the parks board.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

Sec. 86-52. Term of office.

Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d)

~~Each member of the tree board shall serve for a period of two years, staggered terms, to be appointed by the city council.~~

(Ord. No. B-726(A0310), § 1, 3-15-2010)

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Sec. 86-53. Duties and responsibilities.

- (a) The responsibilities of the tree board shall be to study, investigate, counsel, develop and/or update annually a written plan for the care, preservation, pruning, planting and removal and disposition of trees, shrubs and any other woody plants in parks, along streets and in other public areas.
- (b) The tree board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

Sec. 86-54. Interference.

It shall be unlawful for any person to prevent, delay or interfere with the tree board or any of its agents while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees or park trees as authorized in this article.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

Sec. 86-55. Review by city council.

The city council shall have the right to review the decision of the tree board. Any person may appeal a ruling or order of the tree board to the city council who may hear the matter and make a final decision.

(Ord. No. B-726(A0310), § 1, 3-15-2010)

Secs. 86-56—86-80. Reserved.

DIVISION 5. BURLESON OLD TOWN DEVELOPMENT STANDARDS REVIEW COMMITTEE

Sec. 4-90. Creation.

An Old Town Development Standards Review Committee referred to in this article as the "Old Town DSRC" or "the committee," is hereby created to accomplish purposes and perform functions established in this article.

(Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014)

Sec. 4-91. Appointment and terms.

- A. *Membership.* ~~The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members. The committee shall be composed of five regular members and two alternate members appointed by the City Council. Regular members shall be appointed to places numbered 1 through 5 and the alternate members shall be appointed to places numbered 6 and 7. The City Council shall appoint a chair from among the regular members.~~ The director of planning or that person's duly authorized representative shall be an ex officio member of and shall act as secretary to the committee, but shall have no vote on any matter before the committee. Appointed members of the committee shall hold office at the pleasure of the City Council.
- B. *Terms.* ~~Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d). Upon initial appointment pursuant to this ordinance, members in the odd numbered places shall be appointed to serve terms expiring on October 30, 2005, and members appointed to the even numbered places shall serve terms expiring on October 30, 2006. Thereafter, the terms of office of the members shall be two years beginning on November 1, of the year of appointment. The terms of the odd numbered places shall expire in the odd numbered years, and the terms of the even numbered places shall expire in the even numbered years. Committee members may be appointed to succeed themselves. Vacancies shall be filled by the City Council for the unexpired term. Newly appointed members shall be installed at the first regular committee meeting after their appointment.~~
- C. *Alternate members.* ~~The alternate members shall serve in the absence of one or more regular members. Alternate members must meet the same qualifications as regular committee members. An alternate member has voting privileges only when sitting in place of an absent member and may be seated in place of any member.~~

(Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014)

Sec. 4-92. Qualification of members.

- A. It is the intent of the City Council that the committee members shall be persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and development of Old Town, and availability to prepare for and attend meetings. It is the intent of the City Council that members by reason of diversity of their individual occupations and/or areas of expertise shall constitute a committee which is broadly representative of the community.

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1. Members, except for the director of planning, may not be employees of the city.
 2. All members will serve without compensation and must be:
 - (a) Residents of the city; or
 - (b) Own a business located in the city.
 3. The Committee shall also be composed of two members with the following credentials:
 - (a) One member that resides in the Burleson Old Town Overlay District, owns a business located within the overlay district, or be a property owner within the overlay district;
 - (b) One member that is seated president of the Burleson Heritage Foundation.

(Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014)

Sec. 4-93. Organization.

- A. The committee shall hold an organizational meeting following the initial appointment of the committee, and thereafter in November of each year and shall elect a vice-chairman from among its members, to be ratified by the City Council. The committee shall meet when required to carry out the duties established by the ordinance from which this article is derived. The committee shall adopt its own rules and procedures and shall keep a record of its proceedings consistent with the provisions of the ordinance from which this article is derived and the requirements of law. The committee shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its decisions and other official actions, all which shall be filed in the office of the city secretary and kept as public records.

(Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014)

Sec. 4-94. Duties and powers.

- A. The committee is hereby charged with the duty and invested with the authority to:
 1. Perform the functions set out in this article, and review and comment on all proposed buildings and development plans in Burleson Old Town Overlay District;
 2. At its discretion, recommend waiver or modifications of any provision of the Burleson Old Town Design Standards, providing the recommended waiver or modification does not adversely affect the surrounding streetscape and overall community, and that such recommended waiver or modification is based on outstanding design merit or otherwise advances the design goals of the community;
 3. Forward review comments including any recommended waiver or modification to the city planning department as specified in the administrative procedures of the Burleson Old Town Design Standards;
 4. Approve material and design requirements and specifications specifically set out in sections [4-61(d)(5)(6)(7), 4-61(e)(3), 4-63(a)(5), 4-63(e)(1), and 4-63(g)(6)] of this article.
- B. The committee shall have no authority relative to interpretation of the provisions of the city's codes and development regulations.
- C. Except as specifically provided in subsection (a)(4) of this section, comment and recommendation by the committee does not constitute approval by any authority and does not constitute permission to begin construction.

(Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014)

Sec. 4-95. Meetings and quorums.

- A. A quorum for the conduct of business shall consist of four members of the committee. Each member is entitled to one vote and action of the committee shall require a majority of those members present. The members of the committee shall regularly attend meetings of the committee. The members shall comply with all time limits and public notice requirements and all meetings of the committee shall be held in compliance with the Texas Open Meetings Act.

(Ord. No. B-792-10(B0114), § 1(Exh. A), 1-21-2014)

Section 11. Board of adjustment.¹

11-100. Organization. There is hereby created a board of adjustment. ~~The board membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members, Section 2-33 (a) for qualifications and Section 2-31 (d) for terms, consisting of five members, each to be appointed for a term of two years and removable for cause by the city council upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant. The city council may appoint four alternate members who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager, as the case may be.~~ All cases to be heard by the board of adjustment must be heard by a minimum number of the ~~four~~ five members. ~~The alternate members, shall serve for the same terms and shall be subject to removal the same as regular members. Vacancies in the positions of alternate members shall be filled in the same manner as for regular members.~~

11-105. Procedure. The board of adjustment shall adopt rules to govern its proceedings not inconsistent with this ordinance or state statutes. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses, and shall have the same subpoena powers as the municipal court. The board of adjustment shall keep minutes of its proceedings, showing the vote, abstention, or absence of each member upon each question, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city secretary and shall be public record.

11-110. Appeals to the board of adjustment.

- (a) Appeals to the board of adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the administrative official as designated under section 13-100. Such appeal shall be taken within ten business days as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board of adjustment, a notice of appeal specifying the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board of adjustment all the papers constituting the record of the action appealed.
- (b) An appeal stays all proceedings in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the board of adjustment that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril of life or property. In such a case, proceedings shall not be stayed, otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and on due cause shown.
- (c) The board of adjustment shall fix a reasonable time for the hearing of an appeal, give public notice of the hearing as well as notify real property owners within 200 feet of the subject property. At the hearing, any party may appear in person or by agent or attorney. The board shall render a decision within a reasonable amount of time after the hearing.

11-115. Powers of the board.

- (a) The board of adjustment has the following powers:
 - (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this ordinance as amended.
 - (2) To hear and decide variances and special exceptions to the terms and of this ordinance as required under the ordinance.

¹Charter reference(s)—Board of adjustment, § 9(b).

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- (3) To authorize, upon appeal in specific cases, such variance from the terms of this ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance shall be observed and substantial justice done.
 - (4) Permit the reconstruction, extension or enlargement of a building occupied by a nonconforming use on the lot or tract occupied by the building, and the addition of off-street parking or off-street loading to a nonconforming use.
- (b) In exercising its powers the board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
 - (c) The board may permit such variance or modifications of the height, yard, area, coverage and parking regulations as may be necessary to secure appropriate development of a parcel of land which differs from other parcels in the district by being of such restricted area, shape or slope that it cannot be appropriately developed without such modification. In exercising its power to grant a variance in accordance with this ordinance, the board of adjustment shall make findings and show in its minutes that:
 - (1) There are special circumstances existing on the property on which the application is made related to size, shape, area, topography, surrounding conditions, and location that do not apply generally to other property in the same area and the same zoning district.
 - (2) That a variance is necessary to permit the applicant the same rights in the use of his property that are presently enjoyed, under the ordinance, by other properties in the vicinity and zone, but which rights are denied to the property on which the application is made.
 - (3) That the granting of the variance on the specific property will not adversely affect the land use pattern as outlined by the land use plan and will not adversely affect any other feature of the comprehensive plan of the city.
 - (4) That the variance, if granted, will not be materially detrimental to the public welfare or the use, enjoyment, or value of property in the vicinity.
 - (d) The board may require the discontinuance of nonconforming uses of land or buildings under any plan whereby the full value of the buildings and facilities can be amortized within definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of this ordinance. All actions to discontinue a nonconforming use of land or structure shall be taken with due regard to the property rights of the persons affected when considered in the light of the public welfare and the character of the area surrounding the designated nonconforming use and the conservation and preservation of the property. The board shall, from time to time, on its own motion or upon cause presented by interested property owners, inquire into the existence, continuation or maintenance of any nonconforming use within the city.

11-120. Vote required for board decisions. The concurring vote of ~~four~~five members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect any variance to the ordinance.

11-125. Appeal from board decisions.

- (a) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment may present to a court of record, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality. Such petitions shall be presented to the court within ten days after the filing of the decision in the office of the board.

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- (b) Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

11-130. Fee. There shall be a fee assessed, as set by the city council for each request for a variance to this ordinance.

ORDINANCE

AN ORDINANCE AMENDING THE CITY OF BURLESON CODE OF ORDINANCES BY AMENDING SECTIONS 2-31 (APPOINTMENTS; TERMS; REMOVAL; EXCEPTIONS), 2-36 (ADVISORY COMMITTEE ON PEOPLE WITH DISABILITIES), AND 2-37 (PARK BOARD) OF CHAPTER 2 (ADMINISTRATION) BY INCREASING THE NUMBER OF VOTING MEMBERS ON CITY BOARDS, COMMISSIONS, AND COMMITTEES TO NINE AND TO LIMIT THE NUMBER OF CONSECUTIVE TERMS A MEMBER MAY SERVE ON ANY BOARD, COMMISSION, AND COMMITTEE TO TWO, EXCEPT FOR THE PLANNING AND ZONING COMMISSION AND FOR YOUTH MEMBERS, AND REESTABLISHING THE PARK BOARD; SECTION 6-16 (ANIMAL SHELTER ADVISORY COMMITTEE) OF CHAPTER 6 (ANIMAL CARE AND CONTROL) BY MAKING SUCH CHANGES TO THE NUMBER OF MEMBERS AND TERMS TO THE ANIMAL SHELTER ADVISORY COMMITTEE; SECTIONS 10-76 (APPOINTMENT AND TERMS) AND 10-78 (ORGANIZATION) OF CHAPTER 10 (BUILDINGS AND BUILDING REGULATIONS) BY MAKING SUCH CHANGES TO THE NUMBER OF MEMBERS AND TERMS TO THE BUILDING CODES AND STANDARDS BOARD; SECTIONS 18-2 (DEFINITIONS) AND 18-3 (CEMETERY ADVISORY BOARD; CREATED AND ESTABLISHED) BY MAKING SUCH CHANGES TO THE NUMBER OF MEMBERS AND TERMS TO THE CEMETERY BOARD; SECTION 44-54 (DEFINITIONS) OF CHAPTER 44 (IMPACT FEES) BY MAKING SUCH CHANGES TO THE NUMBER OF MEMBERS AND TERMS TO THE CAPITAL IMPROVEMENTS ADVISORY COMMITTEE; SECTIONS 46-31 (CREATED AND ESTABLISHED; NUMBER OF MEMBERS; COMPENSATION) AND 46-32 (APPOINTMENT; TERMS) OF CHAPTER 46 (LIBRARY BOARD) BY MAKING SUCH CHANGES TO THE NUMBER OF MEMBERS AND TERMS TO THE LIBRARY BOARD; SECTIONS 86-51 (CREATION AND ESTABLISHMENT) AND 86-52 (TERM OF OFFICE) BY MAKING SUCH CHANGES TO THE NUMBER OF MEMBERS AND TERMS TO THE TREE BOARD; AND SECTIONS 62-32 (MEMBERSHIP; APPOINTMENT; ATTENDING MEETINGS; COMPENSATION; REMOVAL FOR ABSENCE) AND 62-33 (TERMS OF OFFICE) OF CHAPTER 62 (PLANNING AND DEVELOPMENT) BY INCREASING THE NUMBER OF VOTING MEMBERS ON THE PLANNING AND ZONING COMMISSION TO NINE AND TO LIMITING THE NUMBER OF CONSECUTIVE TERMS A MEMBER MAY SERVE ON THE COMMISSION TO THREE, EXCEPT FOR THE YOUTH MEMBERS FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING A CUMULATIVE CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council desires to increase the number of voting members to nine (9) on certain boards, commissions, and committees in the City, specifically the Advisory Committee on People with Disabilities, Park Board, Animal Shelter Advisory Committee, Building Codes and Standards Board, Cemetery Advisory Board, Capital Improvements Advisory Committee, Library Board, Planning and Zoning Commission, and Tree Board; and

WHEREAS, including the non-voting, ex-officio youth member on the Planning and Zoning Commission, the City Council desires to increase the number of members to ten (10) on the Planning and Zoning Commission; and

WHEREAS, except for the Planning and Zoning Commission and for youth members, the City Council desires to limit the number of consecutive terms a member may serve on any board, commission, and committee to two (2); and

WHEREAS, except for youth members, the City Council desires to limit the number of consecutive terms a member may serve on the Planning and Zoning Commission to three (3); and

WHEREAS, the City Council desires to amend its ordinances as provided herein; and

WHEREAS, the City Council hereby finds and determines that the amendments and regulations set forth herein are in the best interest of the public and are adopted in furtherance of the public health, safety, welfare, morals, and general welfare.

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

Section 1.

Chapter 2 “Administration,” Article II “Boards, Commissions, Committees” is hereby amended by repealing and replacing Section 2-31 “Appointments; terms; removal; exceptions” to read as follows:

“Sec. 2-31. Appointments; terms; removal; exceptions.

- (a) All appointments to boards, commissions, and committees of the city will expire on October 1 of the year in which they would ordinarily expire. The terms shall be for three years except youth members whose term shall be one (1) year. These appointment dates will apply to all boards, commissions, and committee created by the city council.
- (b) Prior to all appointments, the city secretary shall report, in writing to the city council, the following information:
 - (1) The number of times each board has met since the beginning of that appointment year.
 - (2) The attendance record of all board members on each board, and further report any vacancies which have not been filled during the preceding appointment year.

- (c) The city council may, for cause, remove a board member at any time.
- (d) The term of each member shall not exceed two (2) consecutive full terms and a member must have remained off of that particular board, commission, or committee for one (1) full term before the member can be reappointed. Planning and Zoning commission members terms shall not exceed three (3) consecutive full terms. Youth members terms have no limit except that they must remain qualified members.
- (e) Number of members for each board, commission or committee shall be nine (9) voting members.”

Section 2

Chapter 2 “Administration,” Article II “Boards, Commissions, Committees” is hereby amended by repealing and replacing Section 2-36 “Advisory Committee on People with Disabilities” to read as follows:

“Sec. 2-36. Advisory committee on people with disabilities.

- (a) *Creation.* There is hereby created an advisory committee on people with disabilities.
- (b) *Purpose.* The committee is established to encourage, assist, and enable persons with disabilities to participate in the social and economic life of the city, achieve maximum personal independence, and use and enjoy fully all public facilities available within the community.
- (c) *Number of members; terms;.* The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications. Of the committee members, four shall be people with disabilities. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31(d).
- (d) *Duties.* The committee shall:
 - (1) Serve as an advisory body to the city council regarding problems affecting disabled persons in the city;
 - (2) Recommend to the city council measures aimed at improving city facilities to accommodate disabled persons;
 - (3) Recommend to the city council measures aimed at improving the ability of various city departments and contractors at providing services for disabled persons; and
 - (4) Perform additional duties and functions as required by the city council.”

Section 3

Chapter 2 “Administration,” Article II “Boards, Commissions, Committees” is hereby amended by adding Section 2-37 “Park Board” to read as follows:

“Sec. 2-37. Park board.

- (a) *Creation.* The Park Board creation was established in the City Charter and removed through charter election in 2013.
- (b) *Purpose.* The Board was created to recommend to the city council improvements and activities for the parks of the city.
- (c) *Number of members; terms.* The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for

qualifications. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31(d).”

Section 4

Chapter 6 “Animal Care and Control” is hereby amended by repealing and replacing Section 6-16 “Animal Shelter Advisory Committee” to read as follows:

“Sec. 6-16. Animal shelter advisory committee.

- (a) *Creation.* There is hereby created, pursuant to the Texas Health and Safety Code, § 823.005, an animal shelter advisory committee.
- (b) *Purpose.* The purpose of the committee shall be to assist animal shelters located within the city limits regarding compliance with Chapter 823 of the Health and Safety Code. Additionally, upon request of the city council, the committee may: (i) provide recommendations to the city regarding its compliance with the Texas Rabies Control Act and (ii) recommend ways to improve the efficiency and cost effectiveness of the city's animal control program.
- (c) *Number of members; terms.* The committee shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31(d).
- (d) *Members.* The composition of the committee shall include at least one licensed veterinarian, at least one municipal official, at least one person whose duties include the daily operation of an animal shelter, and at least one representative from an animal welfare organization. The same person shall not be appointed to fulfill more than one of these requirements. It shall not be required for the representative of the animal welfare organization to reside within the city limits of Burleson or for the agency (s)he represents to be chartered in the City of Burleson. It shall not be required for the licensed veterinarian to reside within the city limits of Burleson if his/her primary veterinary practice is located with the city limits of Burleson.
- (e) *Vacancies.* Members of the committee shall be subject to removal at any time by the city council. Any vacancy in the membership of the committee shall be filled by the city council for the unexpired term of the member whose place has, by removal or otherwise, become vacant. Vacancies shall be filled within 60 days after the city council removes the member or within 60 days after the city council receives notice of the member's resignation.
- (f) *Meetings.* The committee shall meet a minimum of three times per calendar year, as outlined in Texas Health and Safety Code, § 823.005.
- (g) *Quorum.* A quorum of the committee shall consist of a majority of the members, excluding any vacancies. The presence of a quorum of the committee shall be required prior to a meeting being called to order.
- (h) *Voting.* Approval of all items before the committee shall require a majority vote of those in attendance.
- (i) *Rules.* The committee may adopt rules, subject to city council approval, for conduct of its meetings.”

Section 5

Chapter 10 “Buildings and Building Regulations,” Article II “Administration,” Division 3 “Building Codes and Standards Board” is hereby amended by repealing and replacing Section 10-76 “Appointment and Terms” to read as follows:

“Sec. 10-76. Appointment and terms.

- (a) *Membership.* The board membership shall be in compliance with Chapter 2, Article II, Section 2-31(e). The building official shall be an ex officio member of and shall act as secretary to the board, but shall have no vote on any matter before the board..
- (b) *Terms.* The terms of members shall be in compliance Chapter 2, Article II, Section 2-31(d).”

Section 6

Chapter 10 “Buildings and Building Regulations,” Article II “Administration,” Division 3 “Building Codes and Standards Board” is hereby amended by repealing and replacing Section 10-78 “Organization” to read as follows:

“Sec. 10-78. Organization.

The board shall hold an organizational meeting in October of each year. The board shall meet when required to carry out the duties established by this division. The board shall adopt its own rules and procedures and shall keep a record of its proceedings consistent with the provisions of this division and the requirements of law. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating that fact, and shall keep records of its decisions and other official actions, all which shall be filed in the office of the city secretary and kept as public records.”

Section 7

Chapter 18 “Cemeteries,” Article I “In General” is hereby amended by repealing and replacing Section 18-2 “Definitions” to read as follows:

“Sec. 18-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Board means the members appointed by the city council under and subject to the provisions of chapter 2 of this Code.

Cemetery means a cemetery within the city limits and under the jurisdiction of the city.

Interment means the entombment or burial of the remains of a deceased person.

Memorial means any marker, monument, headstone, or structure upon or in any lot or niche, place thereupon or partially therein for identification or in memory of the interred.

Owner means the owner of record of a space, or designated representative or successor in interest.

Space means the area normally designated for a single interment.”

Section 8

Chapter 18 “Cemeteries,” Article I “In General” is hereby amended by repealing and replacing Section 18-3 “Cemetery Advisory Board; Created and Established” to read as follows:

“Sec. 18-3. Cemetery advisory board; created and established.

There is hereby created and established a cemetery advisory board. The committee membership shall be in compliance with Chapter 2, Article II, Section 2-31(e) for number of members and Section 2-33 (a) for qualifications. Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31 (d).The board shall be charged with the responsibility of recommending policies, rules, and regulations for cemeteries in the city limits under the jurisdiction of the city.”

Section 9

Chapter 44 “Impact Fees,” Article II “Water and Wastewater Impact Fees,” Division 1 “General Provisions,” Section 44-54 “Definitions,” is hereby amended by repealing and replacing the definition of “Capital improvements advisory committee (advisory committee)” to read as follows without repealing and replacing any other portion of the Section:

“Sec. 44-54. Definitions.

Capital improvements advisory committee (advisory committee). Advisory committee, appointed by the city council, consisting of a membership in compliance with Chapter 2, Article II, Section 2-31(e) for number of members and Section 2-31(d) for terms. .Not less than 40 percent shall be representatives of the real estate, development, or building industries, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, including one member representing the extraterritorial jurisdiction; or consisting of the planning and zoning commission, including one regular or ad hoc member who is not an employee of the city and which is representative of the real estate, development, or building industry, and, if impact fees are to be applied within the extraterritorial jurisdiction of the city, one representative of the extraterritorial jurisdiction area; which committee is appointed to regularly review and update the capital improvements program in accordance with the requirements of Chapter 395 of the Texas Local Government Code, and its successors.”

Section 9

Chapter 46 “Library Board,” Article II “Library Board” is hereby amended by repealing and replacing Section 46-31 “Created and Established; Number of Members; Compensation” to read as follows:

“Sec. 46-31. Created and established; number of members; compensation.

There is hereby created and established a library board for the city, the committee membership shall be in compliance with Chapter 2, Article II, Section 2-31(e) for number of members and Section 2-33(a) for qualifications. and all of whom will serve without compensation.”

Section 10

Chapter 46 “Library Board,” Article II “Library Board” is hereby amended by repealing and replacing Section 46-32 “Appointment; Terms” to read as follows:

“Sec. 46-32. Appointment; terms.

All members of the library board shall be appointed by the city council, and each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31(d).”

Section 11

Chapter 62 “Planning and Development,” Article II “Planning and Zoning Commission” is hereby amended by repealing and replacing Section 62-32 “Membership; Appointment; Attending Meetings; Compensation; Removal for Absence” to read as follows:

“Sec. 62-32. Membership; appointment; attending meetings; compensation; removal for absence.

- (a) The planning and zoning commission membership shall be in compliance with Chapter 2, Article II, Section 2-31 (e) for number of members and Section 2-33 (a) for qualifications.
- (b) The city council will consider for appointment to the commission only those persons who have demonstrated their civic interest, general knowledge of the community, independent judgment, interest in planning and zoning, and availability to prepare for and attend meetings.
- (c) Place eight shall be an ex officio, non-voting place on the commission and be designated for appointment of a student who is a resident of the city and who, at the time of appointment, is 15 to 17 years of age and enrolled in an accredited school recognized by the state commissioner of education or a home school participant. In the event that a qualified student is not identified for appointment, place eight shall remain vacant until a qualified student is identified to be appointed.
- (d) It is the intent of the city council that members shall, by reason of diversity of their individual interests and experience, constitute a commission which is broadly representative of the community.
- (e) The members of the commission shall regularly attend meetings and public hearings of the commission and shall serve without compensation, except for reimbursement of authorized expenses attendant to the performance of their duties.
- (f) Absences from commission meetings shall be treated in accordance with the provisions of section 2-34.”

Section 12

Chapter 62 “Planning and Development,” Article II “Planning and Zoning Commission” is hereby amended by repealing and replacing Section 62-33 “Terms of Office” to read as follows:

“Sec. 62-33. Terms of office.

Each member of the commission shall serve terms in compliance with Chapter 2, Article II, Section 2-31(d).”

Section 13

Chapter 86 “Landscaping, Trees and Vegetation,” Article II “Trees and Shrubbery,” Division 2 “Tree Board” is hereby amended by repealing and replacing Section 86-51 “Creation and Establishment” to read as follows:

“Sec. 86-51. Creation and establishment.

There is hereby created and established a tree board for the city which shall consist of all of the members of the parks board.”

Section 14

Chapter 86 “Landscaping, Trees and Vegetation,” Article II “Trees and Shrubbery,” Division 2 “Tree Board” is hereby amended by repealing and replacing Section 86-52 “Term of Office” to read as follows:

“Sec. 86-52. Term of office.

Each member shall serve terms in compliance with Chapter 2, Article II, Section 2-31(d).”

Section 15

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 16

This ordinance shall be cumulative of all provisions of the City Code and other ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of other ordinances, in which event the conflicting provisions of the other ordinances are hereby repealed.

Section 17

The terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 18

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

First Reading: the _____ day of _____, 20____.

Final Reading: the _____ day of _____, 20____.

PASSED AND APPROVED this the _____ day of _____, 20____.

Chris Fletcher, Mayor

(Seal)

ATTEST:

APPROVED AS TO FORM & LEGALITY:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Development Services

FROM: Tony McIlwain, Director

MEETING: December 12, 2022

SUBJECT:

Ordinance Modification for text amendments to Section 100-115 of Article IV – Overlay Zoning Districts of Appendix B, of the Code of Ordinances of the City of Burleson (Case 22-124): Consider approval of an ordinance amendment to add “restaurant or cafeteria (drive through type)” to the list of allowable uses with a specific use permit, with conditions within the Old Town Overlay District. (Final Reading) (*Staff Contact: Tony McIlwain, Development Services Director*) (*The Planning and Zoning Commission recommended approval by unanimous vote*)

SUMMARY:

On September 6, 2022, an application was submitted by Johnathan Phelps representing Craftmasters, LLC for a text amendment to allow drive through restaurants with a specific use permit in the Old Town Overlay District.

Development Overview:

The purpose of the changes to the Code of Ordinances is to allow in certain locations and under specific conditions, an applicant to request a drive through restaurant within the central core area of the Old Town Overlay District. The update will add specific conditions that will be required for an applicant to meet prior to requesting a specific use permit for a drive through in the central core area from City Council.

The City Council approved the creation of the Old Town Overlay District on September 12, 1996, to encourage the preservation and development of architecture and uses that have been determined as being historically and culturally significant to the City. Allowing an additional use by specific use permit does not alter the city’s ability to regulate masonry standards within the Old Town Overlay District.

The proposed change would add the following text to Section 100-115 (a); OT, old town overlay district, Use allowed with a specific use permit:

“Restaurant or cafeteria (drive through type) [Central core area only] [A restaurant or cafeteria (drive-through type) is an establishment principally for the sale and consumption of food which has window service allowing customers to pick up food for off-site consumption; this use may also serve food for consumption on site within the restaurant or for carry-out for off-site consumption, and may or may not have on-site dining facilities].

The following restrictions shall apply to any SUP for a "Restaurant or cafeteria (drive through type)" use within the Old Town central core area:

- a. The site must be located east of the Union Pacific railroad tracks that run through the area defined as the Old Town Overlay District; and*
- b. A new SUP must be applied for with each change of occupancy, land use, and/or Certificate of Occupancy request; and*
- d. A Traffic Impact Analysis shall be required with each SUP request for a drive-through to be reviewed and approved by the City's Traffic Engineer; and*
- e. A commercial site plan showing the placement of the customer ordering windows or ordering devices with adequate stacking of no less than 5 spaces from the customer ordering location, unless otherwise approved by City Council, will be required with each change of occupancy."*

If the SUP request is denied at any future event specified in (b) above, the site shall be modified to remove or restrict the use of any previously existing drive through; and

OPTIONS:

- 1) Approve an ordinance amendment to add "Restaurant or Cafeteria (drive through type)" to uses allowed in the central core area of the Old Town Overlay District with a specific use permit; or
- 2) Approve an ordinance amendment to add "Restaurant or Cafeteria (drive through type)" to uses allowed in the central core area of the Old Town Overlay District with a specific use permit; with additional or different conditions; or
- 3) Deny an ordinance amendment to add "Restaurant or Cafeteria (drive through type)" to uses allowed in the central core area of the Old Town Overlay District with a specific use permit.

RECOMMENDATION:

Approve an ordinance modification for text amendments to Section 100-115 of Article IV – Overlay Zoning Districts of Appendix B, of the Code of Ordinances of the City of Burleson (Case 22-124).

Fiscal IMPACT:

None.

STAFF CONTACT:

Tony McIlwain

Development Services Director
tmcilwain@burlesontx.com
817-426-9684

Appendix B, Zoning Regulations Ordinance Amendment

Request:

- Amend Code of Ordinances to allow for Drive Through restaurants with a SUP, Specific Use Permit, in the central core area of the Old Town Overlay District

Applicant:

Johnathan Phelps representing Craftmasters, L.L.C.

Item for approval:

Text Amendment (Case22-124)

Appendix B, Zoning Regulations Ordinance Amendment

The proposed change would add the following text to Section 100-115 (a); OT, old town overlay district, Use allowed with a specific use permit:

“Restaurant or cafeteria (drive through type) [Central core area only] *[A restaurant or cafeteria (drive-through type) is an establishment principally for the sale and consumption of food which has window service allowing customers to pick up food for off-site consumption; this use may also serve food for consumption on site within the restaurant or for carry-out for off-site consumption, and may or may not have on-site dining facilities].*

The following restrictions shall apply to any SUP for a "Restaurant or cafeteria (drive through type)" use within the Old Town central core area:

- a. The site must be located east of the Union Pacific railroad tracks that run through the area defined as the Old Town Overlay District; and
- b. A new SUP must be applied for with each change of occupancy, land use, and/or Certificate of Occupancy request; and
- c. A Traffic Impact Analysis shall be required with each SUP request for a drive-through to be reviewed and approved by the City's Traffic Engineer; and
- d. A commercial site plan showing the placement of the customer ordering windows or ordering devices with adequate stacking of no less than 5 spaces from the customer ordering location, unless otherwise approved by City Council, will be required with each change of occupancy.”

If the SUP request is denied at any future event specified in (b) above, the site shall be modified to remove or restrict the use of any previously existing drive through; and



Would allow drive through restaurants to be considered by SUP east of the red line (Union Pacific railroad line).

Would not allow drive-in service (e.g., Sonic type restaurant where you are served at and can eat in your car) in central core area.

Drive-in service restaurants are currently allowed with an SUP in other areas of Old Town outside of the central core area (shown in green).

Appendix B, Zoning Regulations Ordinance Amendment

P&Z Summary

Vote

Recommended approval unanimously

Discussion

Discussed walkability and allowing on the east side of the rail road (closer to IH-35) versus the west side; and

Drive through stacking; and

Ability to disapprove Specific Use Permit requests

Speakers

Applicant

Appendix B, Zoning Regulations Ordinance Amendment

Staff Recommendation

Approval of an ordinance for the text amended based on the following :

- Conditions imposed on the SUP process will ensure that future proposals are not allowed or developed contrary to the visions of Old Town as well as the goals of the Comprehensive Plan;
- SUP Conditions provide added enhancements and protections for Old Town not found in other areas of the current Code of Ordinances; and
- Proposal will not prohibit the enforcement of applicable Old Town Design Standards and/or Masonry Requirements.

ORDINANCE

AN ORDINANCE FOR THE CITY OF BURLESON, TEXAS, AMENDING SECTION 100-115 “SPECIFIC USE PERMIT” OF SECTION 100 “OT, OLD TOWN OVERLAY DISTRICT” OF ARTICLE IV “OVERLAY ZONING DISTRICTS” OF APPENDIX B “ZONING” OF THE CODE OF ORDINANCES FOR THE CITY OF BURLESON FOR THE PURPOSE OF PROVIDING A SPECIFIC USE PERMIT PROCESS FOR RESTAURANTS WITH A DRIVE THROUGH IN THE OLD TOWN CENTRAL CORE AREA; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Burleson has adopted Ordinance B-582 (G0410), being Appendix B– Zoning, Code Of Ordinances, City of Burleson, which establishes zoning regulations and development policies in accordance with the City’s comprehensive land use plan in order to promote health, safety, morals and the general welfare within the City of Burleson; and

WHEREAS, the City Council desires to amend certain portions of Appendix B, Zoning, Article IV, Overlay Zoning Districts, Code of Ordinances, City of Burleson, for the purpose of providing a specific use permit process for restaurants with a drive through in the central core area of the old town overlay district; and

WHEREAS, the City Council desires to amend certain portions of Appendix B, Zoning, Article IV, Overlay Zoning Districts, Code of Ordinances, City of Burleson, for the purpose of providing a specific use permit process for restaurants with a drive through in the central core area of the old town overlay district; and

WHEREAS, the City of Burleson has complied with the notification requirements of the Texas Local Government Code and the Burleson Zoning Ordinance; and

WHEREAS, a public hearing was duly held by the Planning and Zoning Commission of the City on October 11, 2022, and by the City Council of the City on November 14, 2022 with respect to the use changes described herein; and

WHEREAS, the City Council has determined that the proposed ordinance amendment promotes the health, safety, morals and the general welfare within the City of Burleson and is in the best interest of the City of Burleson.

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

Section 1. Subsection (a) entitled “Uses allowed with a specific use permit” of Section 100-115 “Specific Use Permit” of Section 100 “OT, old town overlay district” of Article IV “Overlay Zoning Districts” of Appendix B – Zoning of the Code of Ordinances of the City of Burleson is hereby amended to add the following to the list of uses allowed with a specific use permit after “Restaurant or cafeteria (drive in type)” and before “School, business”:

“Restaurant or cafeteria (drive through type) [Old Town central core area only] [A restaurant or cafeteria (drive-through type) is defined as an establishment principally for the sale and consumption of food which has window service allowing customers to pick up food for off-site consumption; this use may also serve food for consumption on site within the restaurant or for carry-out for off-site consumption, and may or may not have on-site dining facilities.]; however, a specific use permit for this use is allowed only if the following conditions are met:

- a. The site must be located east of the Union Pacific railroad tracks that run through the area defined as the Old Town Overlay District; and*
- b. A new specific use permit must be applied for with each change of occupancy, land use, and/or Certificate of Occupancy request; and*
- c. A Traffic Impact Analysis shall be required with each specific use permit request for a drive-through to be reviewed and approved by the City’s Traffic Engineer; and*
- d. A commercial site plan showing the placement of the customer ordering windows or ordering devices with adequate stacking of no less than 5 spaces from the customer ordering location, unless otherwise approved by City Council, will be required with each change of occupancy.*

If the specific use permit request is denied following any of the future events specified in (b) above, the site shall be modified to remove or restrict the use of any previously existing drive through.”

Section 2. The findings set forth above in the recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

Section 3. This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Burleson’s various development ordinances conflict with this ordinance, the terms of this ordinance shall control.

Section 4. That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in

full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 5. Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or pursuant to any other ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

Section 6. That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Burleson, and that the sections of this ordinance may be renumbered or relettered to accomplish such intention.

Section 7. That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 8. Pursuant to Section 36 of the Charter of the City of Burleson, that this ordinance shall take effect after its passage and publication, and that the City Secretary is hereby directed to give notice of the passage of this ordinance by causing the caption or title and the penalty clause of this ordinance to be published once in a newspaper of general circulation in the city and on the city's website.

Section 9. Any person, firm, association of persons, company, corporation, or their agents, servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in V.T.C.A. Local Government Code 54.012 and as may be amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

PASSED AND APPROVED:

First Reading: the _____ day of _____, 20____.

Second Reading: the _____ day of _____, 20____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

Amanda Campos, City Secretary

APPROVED AS TO FORM:

E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Legal and Purchasing

FROM: Matt Ribitzki, Deputy City Attorney/Compliance Manager

MEETING: December 12, 2022

SUBJECT:

Consider approval of a minute order continuing and renewing the 13th Declaration of Local Disaster and Public Health Emergency regarding Covid-19 dated March 7, 2022, through December 31, 2022. *(Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager)*

SUMMARY:

Staff is recommending that the Council continue and renew the current declaration through December 31, 2022, and on January 1, 2023, the current declaration will expire and terminate.

Regarding the current declaration of local disaster and public health emergency, Mayor Chris Fletcher issued and City Council simultaneously continued and renewed the current declaration on March 7, 2022.

The current declaration keeps the emergency declaration in place and continues to implement the City's Emergency Operations Plan. The current declaration incorporates Governor Abbott's executive orders. Additionally, the declaration (i) does not have a requirement that citizens wear a facial covering, (ii) does not limit the occupancy of businesses, (iii) does not restrict groups from gathering in certain numbers, (iv) do not require businesses to adopt a health and safety policy, (v) does not include a vaccine mandate, and (vi) does not require vaccine passports.

A summary of some of the provisions included and excluded in the current declaration is below:

Possible Emergency Declaration Provisions		
Declaration Provisions	Current Declaration	
	Included	Excluded
Emergency Declaration	X	
Implements City's Emergency Operations Plan	X	
Incorporates Governor's executive orders	X	
Authorizes the City Manager to close any City park		X

Authorizes the City Manager to make emergency purchases of up to \$100,000 (\$200,000 aggregate)		X
Allows emergency measures necessary to promote health and suppress disease, including regulating ingress and egress from the City		X
Requires facial coverings		X
Limits the occupancy of businesses		X
Restricts groups from gathering in certain numbers		X
Requires businesses to adopt a health and safety policy		X

On November 18, 2022, Governor Abbott continued and renewed the state's disaster proclamation regarding Covid-19 for all Texas counties.

OPTIONS:

- 1) Continue and renew the current declaration through December 31, 2022.
- 2) Continue and renew the current declaration through another date in the future.
- 3) Take no action, and allow the current declaration to expire on December 13, 2022.

RECOMMENDATION:

Continue and renew the current declaration through December 31, 2022.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

Mayor Chris Fletcher issued and City Council simultaneously continued and renewed a 13th declaration on March 7, 2022. On July 5, 2022, the City Council continued and renewed the 13th declaration through December 12, 2022.

FISCAL IMPACT:

None.

STAFF CONTACT:

Matt Ribitzki, Deputy City Attorney
 Legal & Purchasing Department
mrribitzki@burlesontx.com
 817-426-9664



Emergency Declaration

PRESENTED TO THE CITY COUNCIL ON
DECEMBER 12, 2022

Current 13th Emergency Declaration

○ History of the 12th Declaration

- Signed by Mayor Chris Fletcher on March 7, 2022.
- Currently continued and renewed through December 12, 2022

○ Terms in the 13th Declaration

- Declares an emergency
- Implements City's Emergency Operations Plan
- Incorporates the Governor's executive orders

○ Terms Removed that were in Previous Declarations

- Authorizes the City Manager to close City parks
- Allows the City Manager to make emergency purchases
- Allows the City to take various emergency measures

13th Declaration Provisions

Possible Emergency Declaration Provisions		
Declaration Provisions	Current Declaration	
	Included	Excluded
Emergency Declaration	X	
Implements City's Emergency Operations Plan	X	
Incorporates Governor's executive orders	X	
Authorizes the City Manager to close any City park		X
Authorizes the City Manager to make emergency purchases of up to \$100,000 (\$200,000 aggregate)		X
Allows emergency measures necessary to promote health and suppress disease, including regulating ingress and egress from the City		X
Requires facial coverings		X
Limits the occupancy of businesses		X
Restricts groups from gathering in certain numbers		X
Requires businesses to adopt a health and safety policy		X

Emergency Declaration

Options:

- Continue and renew the current 13th declaration through December 31, 2022, and on January 1, 2023, the declaration will expire and terminate (*staff recommendation*)
- Continue and renew the current 13th declaration through another date
- Take no action allow the current 13th declaration to expire on July 6, 2022

CITY OF BURLESON
DECLARATION OF
LOCAL DISASTER AND PUBLIC HEALTH EMERGENCY
(13th Declaration and Order)

WHEREAS, in December 2019 a novel coronavirus, now designated COVID-19, was detected in Wuhan City, Hubei Province, China, with symptoms including fever, cough, and shortness of breath and with outcomes ranging from mild to severe illness and in some cases death;

WHEREAS, on March 11, 2020 the World Health Organization (WHO) declared COVID-19 a worldwide pandemic;

WHEREAS, the continued worldwide spread of COVID-19 presents an imminent threat of widespread illness, which requires emergency action;

WHEREAS, the continued worldwide spread of Covid-19 presents an imminent threat of widespread illness, which requires emergency action for the protection of the citizens of the city of Burleson, Texas;

WHEREAS, President Donald Trump declared a State of National Emergency for the United States of America on March 13, 2020;

WHEREAS, Governor Greg Abbott issued a State of Disaster for all Texas counties for COVID-19 on March 13, 2020;

WHEREAS, County Judge Glen Whitley issued a Declaration of Disaster Due to Public Health Emergency for Tarrant County for COVID-19 on March 19, 2020;

WHEREAS, pursuant to the Texas Disaster Act of 1975, the Mayor is designated as the emergency management director of the City of Burleson, and may exercise the powers granted to the governor on an appropriate local scale;

WHEREAS, a declaration of local disaster and public health emergency includes the ability to reduce the possibility of exposure to disease, control the risk, promote health, compel persons to undergo additional health measures that prevent or control the spread of disease including isolation surveillance, quarantine, or placement of persons under public health observation, including the provision of temporary housing or emergency shelters for persons misplaced or evacuated and request assistance from the governor of state resources;

WHEREAS, the Mayor of the City of Burleson, executed an order of local disaster and public health emergency on March 14, 2020, in response to the COVID-19 pandemic;

WHEREAS, the Mayor of the City of Burleson, in response to the ever-changing COVID-19 pandemic, amended the declaration of local disaster and public health emergency on March 18, 2020, March 23, 2020, March 25, 2020, April 3, 2020, April 20, 2020, April 28, 2020, May 7, 2020, May 19, 2020, June 25, 2020, June 30, 2020, and November 17, 2020;

WHEREAS, Mayor Chris Fletcher has determined that additional extraordinary and immediate measures must be taken to respond quickly, prevent and alleviate the suffering of people exposed to and those infected with the virus, as well as those that could potentially be infected or impacted by COVID-19;

WHEREAS, Mayor Chris Fletcher hereby issues this 13th Declaration of Public Health Emergency to implement additional measures to ensure the protection of the general public in the City of Burleson;

WHEREAS, pursuant to the Texas Disaster Relief Act of 1975, this declaration of local disaster and public health emergency issued by Mayor Chris Fletcher may not be continued or renewed for a period of more than seven days except with the consent of the City Council;

WHEREAS, contemporaneously with the Mayor's execution of this declaration of local disaster and public health emergency, the City Council of the City of Burleson desires to continue and renew this declaration; and

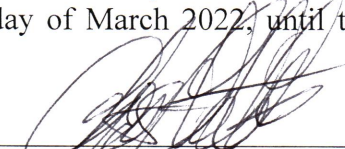
WHEREAS, pursuant to the authority granted to the Mayor under the Texas Disaster Act of 1975, Mayor Chris Fletcher authorizes the use of all available resources of state government and political subdivisions to assist in the City's response to this situation.

NOW, THEREFORE, BE IT DECLARED BY MAYOR CHRIS FLETCHER, MAYOR OF THE CITY OF BURLESON:

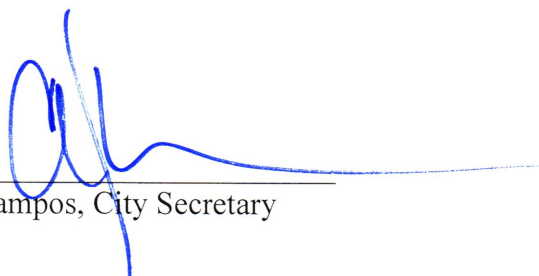
1. The foregoing recitals are incorporated herein and made findings of fact.
2. That all of the regulations provided herein are hereby declared to be governmental and for the health, safety, and welfare of the general public.
3. That the previously declared local state of disaster and public health emergency for the City of Burleson, Texas is hereby renewed, restated, and continued, as amended herein.
4. That this declaration of disaster and public health emergency shall continue for seven days unless the same is otherwise removed or continued and renewed again by the City Council of the City of Burleson, Texas.
5. That this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary, pursuant to §418.108(c) of the Texas Government Code.
6. That the City's Emergency Operations Plan shall continue to be implemented and executed.

7. That all provisions of this Declaration should be interpreted to effectuate this intent. To the greatest extent possible, this Declaration shall be interpreted as consistent with and supplemental to any executive order issued by the Texas Governor. All provisions of the executive orders and proclamations of the Texas Governor either existing or subsequently issued, and which are made applicable to all jurisdictions by law, shall be automatically incorporated herein by reference as if written word for word and constitute terms of this Declaration, and shall be enforceable as if set forth herein without the necessity for the issuance of any further orders.
8. That the sections, paragraphs, sentences, clauses and phrases of this declaration are severable and if any phrase, clause, sentence, paragraph or section of this declaration should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences paragraphs and sections that can be given effect without the invalid provision, and to this end, the provisions of this declaration are severable.
9. That this declaration is issued in accordance with and incorporates by reference any declaration or order of disaster previously issued and adopted by the City of Burleson. In the event of a conflict between this declaration and a prior declaration or order pertaining to COVID-19, this declaration prevails.
10. That this declaration shall take effect immediately.

ORDERED by Mayor Chris Fletcher and simultaneously continued and renewed by the City Council of the City of Burleson this the 7th day of March 2022, until the 5th day of July, 2022, pursuant to the terms herein.


Chris Fletcher, Mayor
City of Burleson, Texas

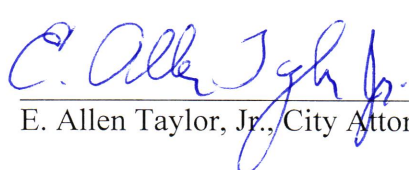
ATTEST:


Amanda Campos, City Secretary

(City Seal)



APPROVED AS TO FORM AND LEGALITY:


E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Legal & Purchasing Department
FROM: Matt Ribitzki, Deputy City Attorney/Compliance Manager
MEETING: December 12, 2022

SUBJECT:

Consider approval of a resolution authorizing a one-year contingency fee contract with McCall Parkhurst & Horton LLP to provide bond counsel services. (*Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager.*)

SUMMARY:

McCall Parkhurst & Horton LLP ("McCall") is a law firm that has represented the City for many years in connection with the issuance of the City's general obligation bonds and certificates of obligation. In this agenda item, City staff seeks to update the agreement between the City and McCall. The agreement is for one year any may be terminated by either party with thirty days' written notice. The fees listed in the agreement are consistent with the fees currently charged by McCall to the City.

OPTIONS:

- 1) Approve a resolution authorizing a contingency fee contract with McCall Parkhurst & Horton LLP to provide bond counsel services.
- 2) Deny a resolution authorizing a contingency fee contract with McCall Parkhurst & Horton LLP to provide bond counsel services.

RECOMMENDATION:

Staff recommends approving the resolution authorizing a contingency fee contract with McCall Parkhurst & Horton LLP to provide bond counsel services.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

None.

FISCAL IMPACT:

None.

STAFF CONTACT:

Matt Ribitzki
Deputy City Attorney/City Attorney
mribitzki@burlesontx.com
817-426-9664



Resolution Authorizing a Contract with McCall Parkhurst & Horton LLP for Bond Counsel Legal Services

Presented to the City Council on
December 12, 2022

Contract with McCall

- McCall Parkhurst & Horton LLP is a law firm that has represented the City for many years in connection with the issuance of the City's general obligation bonds and certificates of obligation.
- Staff seeks to update the agreement between the City and McCall.
- The agreement is for one year any may be terminated by either party with thirty days' written notice.
- The fees listed in the agreement are consistent with the fees currently charged by McCall to the City.

Contract with McCall

- Action Requested:

Approve or deny a resolution authorizing a contingency fee contract with McCall Parkhurst & Horton LLP to provide bond counsel services.

- Staff recommends approval

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AUTHORIZING A BOND COUNSEL CONTINGENCY FEE CONTRACT WITH MCCALL PARKHURST & HORTON LLP TO PROVIDE BOND COUNSEL SERVICES.

WHEREAS, the City of Burleson, Texas ("City"), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City will continue to issue both long- and short-term debt to provide financing for various permanent public improvements in the City and therefore has a continuing need for legal counsel that specialize in public finance matters and are well versed in Texas and federal securities and federal tax laws and applicable administrative procedures to provide the legal services pertaining to the City's issuance of securities; and

WHEREAS, the City now desires to enter into a contingency fee contract with McCall, Parkhurst & Horton, L.L.P ("McCall") as bond counsel to provide legal services in connection with the City's authorization, sale, issuance and delivery of its general obligation bonds and certificates of obligation, as determined by the City Council; and

WHEREAS, Subchapter C of Chapter 2254 of the Texas Government Code ("Chapter 2254") requires that a political subdivision of the State of Texas, including the City, enter into a contingent fee contract for legal services only after: (i) the governing body of the political subdivision has provided written notice to the public stating certain provisions enumerated within Chapter 2254; (ii) the governing body of the political subdivision approved such contract in an open meeting called for the purposes of considering such contract; (iii) the governing body of the political subdivision has stated in writing certain findings made by the governing body upon the approval of such contract; and (iv) the Texas Attorney General need not approve the contingency fee contract pursuant to the exception provided by Section 2254.102(e) of the Texas Government Code; and

WHEREAS, the City has caused notice of this resolution, this meeting, and certain provisions enumerated within Chapter 2254 to be provided to the public in accordance with the Texas Open Meetings Act and Chapter 2254; and

WHEREAS, the meeting at which this resolution is being considered is an open meeting called, in part, for the purpose of considering: (i) the City's need for bond counsel legal services; (ii) the need for such engagement on a contingency fee basis rather than by payment of hourly fees, without regard to the outcome of the matter, and (iii) the reasons that the proposed contingency fee contract with bond counsel is in the best interest of the City and are in compliance with Chapter 2254.

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

Section 1.

The City Council hereby finds that: (i) there is a substantial need for bond counsel legal services; (ii) the City does not currently employ attorneys and supporting personnel qualified to provide these legal

services; (iii) the bond counsel legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which these legal services will be obtained and without imposing an unnecessary cost and burden on the City's finances; and (iv) the relationship between the City or the City Council and McCall is not improper and would not appear improper to a reasonable person.

Section 2.

Based on the findings of the City Council described above, the City Council hereby authorizes the City Manager to execute a contingency fee bond contract with McCall, a substantial copy attached hereto as Exhibit "A", for bond counsel services (the "Agreement").

Section 3.

The City Manager is hereby authorized to pay McCall fees from bond proceeds and other City funds, contingent upon the completion of each bond sale, in accordance with the rates and fees as set forth in the Agreement.

Section 4.

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

Section 5.

It is officially found, determined, and declared that the meeting at which this resolution 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 resolution, was given, all as required by Chapter 551 as amended, Texas Government Code.

Section 6.

This resolution shall take effect immediately from and after its passage.

PASSED, APPROVED, AND SO RESOLVED by the City Council of the City of Burleson, Texas, on the _____ day of _____, 20____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO LEGAL FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

October 31, 2022

Mayor and Members of the City Council
City of Burleson, Texas
141 W Renfro Street
Burleson, Texas 76028

Re: City of Burleson, Texas

Ladies and Gentlemen:

The purpose of this engagement letter is to set forth certain matters concerning the services we will perform as bond counsel to the City of Burleson, Texas (the "City"), in connection with the issuance of the general obligation bonds and certificates of obligation of the City (collectively, the "Obligations"). We understand that the Obligations will be authorized, issued and delivered from time to time for the authorized needs and purposes of the City, and will be secured by a pledge of ad valorem taxes, and, in the case of certificates of obligation, will be additionally secured by a limited pledge of revenues.

SCOPE OF ENGAGEMENT

In this engagement, we expect to perform the following duties:

- (1) Subject to the completion of proceedings to our satisfaction, render our legal opinion (the "Bond Opinion") regarding the validity and binding effect of the Obligations, the source of payment and security for the Obligations, and the excludability of interest on the Obligations from gross income for federal income tax purposes.
- (2) Prepare and review documents necessary or appropriate to the authorization, issuance and delivery of the Obligations, coordinate the authorization and execution of such documents, and review enabling legislation.
- (3) Assist the City in seeking from other governmental authorities such approvals, permissions and exemptions as we determine are necessary or appropriate in connection with the authorization, issuance and delivery of the Obligations, except that we will not be responsible for any required federal or state securities law filings. In this connection, we particularly undertake to assist the City in having the Obligations approved by the Public Finance Division of the Office of the Texas Attorney General, and, following such approval, registered by the Texas Comptroller of Public Accounts.
- (4) Review legal issues relating to the structure of the Obligation issue.
- (5) Attend meetings of the City Council as requested.
- (6) Review those sections of the official statement to be disseminated in connection with the sale of the Obligations (the "Official Statement") which describe the Obligations, the Ordinance pursuant to which they will be issued and the tax-



exempt treatment of the interest on the Obligations for purposes of federal income taxation. As a general rule, we as Bond Counsel do not review other areas of the Official Statement, but in this financing, the City has asked that we conduct some limited "due diligence" procedures on the document and we have done so.

Please note, however, that the Official Statement is the City's document. While we can discharge our professional responsibility to the City by conducting due diligence, an issuer of securities does not have a "due diligence defense" should there be material misrepresentations or omissions in the document that relate to the information for which the issuer is responsible. Therefore, if you know of any information that an investor would consider to be material in order to make an investment decision, and that information is omitted from, or incorrect in, the Official Statement, the City should take immediate steps to correct the Official Statement.

- (7) Assist the City in conducting special elections to authorize the issuance of general obligation bonds, including assisting the City with drafting the election ordinance, notice of election, and canvass ordinance, as well as advising the City on required postings and publications for a special election.

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

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

If and as required by the City, we will perform additional legal services not otherwise included herein as services as bond counsel, such as attendance at meetings and drafting of documents other than those directly required for the issuance, sale and delivery of the Obligations of the District, and other services not included herein as services as bond counsel. Our fees for such additional services will be as agreed to by the City and us.

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

- (1) Review of procurement requirements, or preparation or review of requests for bid or proposals or preparation or review of construction documents.
- (2) Except as described in paragraph (6) above, assisting in the preparation or review of financial disclosure with respect to the Obligations.



- (3) Preparing request for tax rulings from the Internal Revenue Service, or no action letters from the Securities and Exchange Commission.
- (4) Preparing state securities law memoranda or investment surveys with respect to the Obligations.
- (5) Drafting state constitutional or legislative amendments.
- (6) Pursuing test cases or other litigation.
- (7) Making an investigation or expressing any view as to the creditworthiness of the City or the Obligations.
- (8) Representing the City in Internal Revenue Service examinations or inquiries, or Securities and Exchange Commission investigations.
- (9) After Closing, providing continuing advice to the City or any other party concerning any actions necessary to assure that interest paid on the Obligations will continue to be excludable from gross income for federal income tax purposes (e.g., our engagement does not include rebate calculations for the Obligations).
- (10) Negotiating the terms of, or opining as to, any investment contract.
- (11) Except as hereinafter described, assisting in the preparation or review of an official statement or any other disclosure document with respect to the Obligations, or performing an independent investigation to determine the accuracy, completeness or sufficiency of any such document or rendering advice that the official statement or other disclosure document does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading. We will review those sections of the disclosure document to be disseminated in connection with the sale of the Obligations which describe the Obligations, the ordinance of the City Council authorizing the issuance of the Obligations, and the tax-exempt treatment of the interest on the Obligations for purposes of federal income taxation.
- (12) Addressing any other matter not specifically set forth above that is not required to render our Bond Opinion.

ATTORNEY-CLIENT RELATIONSHIP

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



Our representation of the City and the attorney-client relationships created by this engagement letter will be concluded upon issuance of the Obligations. Nevertheless, subsequent to Closing, we will mail the appropriate Internal Revenue Service Form 8038-G, and prepare and distribute to the participants in the transaction a transcript of the proceedings pertaining to the Obligations.

NO BOYCOTT OF ISRAEL

The firm hereby represents that during the term of this agreement we do not, nor will we, boycott Israel, in compliance with and within the meaning of 50 U.S.C. Section 4607 and Section 2271.002, of the Texas Government Code.

NOT ENGAGED IN BUSINESS WITH FOREIGN TERRORIST ORGANIZATION

The firm hereby represents that neither the firm nor any wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of the firm is an entity listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code.

NO DISCRIMINATION OF FIREARMS INDUSTRY

The firm hereby verifies that it (1) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of this agreement against a firearm entity or firearm trade association. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, and only if such statute is applicable to this contract.

NO BOYCOTT OF ENERGY COMPANIES

The firm hereby verifies that it does not boycott energy companies and, will not boycott energy companies during the term of this agreement. The foregoing verification is made solely to comply with Section 2274.002, Texas Government Code, as amended, and only if such statute is applicable to this contract.

CONFLICTS

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



FIRM NOT A MUNICIPAL ADVISOR

As a consequence of the adoption of Rule 15Ba1-1 pursuant to the Securities Exchange Act of 1934 (the “Municipal Advisor Rule”), which has been promulgated by the Securities and Exchange Commission as a result of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”), we hereby inform the Issuer that we are not a “Municipal Advisor” within the meaning of the Municipal Advisor Rule or the Dodd-Frank Act (collectively, the “MA Rule”). In the course of performing our services as Bond Counsel in this transaction, we may engage in analysis, discussion, negotiation, and advice to the Issuer regarding the legal ramifications of the structure, timing, terms, and other provisions of the financial transaction that culminates with the planned issuance of the Obligations, and such services and advice may be essential to the development of the plan of finance for the issuance of the Obligations. In turn, these services become, among other things, the basis for the transaction’s basic legal documents, the preparation and delivery of the official statement or any other disclosure document that describes the material terms and provisions of the transaction, if an offering document is used in the offering of the Obligations, the preparation of the various closing certificates that embody the terms and provisions of this transaction and the preparation and delivery of our Bond Opinion. Moreover, legal advice and services of a traditional legal nature in the area of municipal finance inherently involve a financial advice component; but we hereby advise the Issuer that while we have expertise with respect to the legal aspects relating to the issuance of municipal securities, we are not “financial advisors” or “financial experts” in a manner that would subject us to the provisions of the MA Rule. As Bond Counsel, we provide only legal advice, not purely financial advice that is not inherent in our legal advice to the Issuer. The Issuer should seek the advice of its financial advisor with respect to the financial aspects of the issuance of the Obligations. By signing this engagement letter, the Issuer acknowledges receipt of this information, and evidences its understanding of the limitations of our role to the Issuer as Bond Counsel with respect to the MA Rule, as discussed in this paragraph.

FEES

Based upon: (i) our current understanding of the terms, structure, size and schedule of the financing represented by the Obligations; (ii) the duties we will undertake pursuant to this engagement letter; (iii) the time we anticipate devoting to the financing; and (iv) the responsibilities we will assume in connection therewith, our fee for the issuance of each series of obligations will be \$10,000 plus one-tenth percent (0.1%) times the greater of par amount of the Obligations or the project fund (or escrow fund) deposit. Additionally, our fee in connection with aiding the City in conducting a special election to authorize the issuance of general obligation bonds is \$20,000. In addition, the City will reimburse us for out-of-pocket expenses incurred in connection with the proposed transaction, such as travel costs, newspaper publication costs, photocopying, deliveries, long distance telephone charges, telecopier charges, filing fees and other expenses. It is anticipated that our fees and expenses described above will be paid out of the proceeds of the Obligations, but if Obligations are not issued, the Issuer hereby agrees to pay us a fee of \$1,000 from other lawfully available funds, and we would be entitled to reimbursement for our out-of-pocket expenses, including without limitation the Attorney General filing fee if we have advanced it on behalf of the Issuer.



RECORDS

At your request, papers and property furnished by you will be returned promptly upon receipt of payment for outstanding fees and client charges. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

TERM

This Agreement shall commence upon execution by the parties, and shall be for active for one year. McCall Parkhurst & Horton, or the City of Burleson may terminate this Agreement at any time and for any reason by providing the other party with thirty (30) days written notice of termination.

If the foregoing terms are acceptable to you, please so indicate by returning the enclosed copy of this engagement letter dated and signed by an authorized officer, retaining the original for your files. We look forward to working with you.

Respectfully,

McCALL PARKHURST & HORTON LLP.

Jeffrey A. Leuschel

Accepted and Approved

City of Burleson, Texas

By: _____

Title: _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2022-961034

Date Filed:
12/05/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

McCall, Parkhurst & Horton L.L.P.
Dallas, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson, Texas

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

1222022
Bond Counsel

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is Jeff Leuschel, and my date of birth is [REDACTED].

My address is 717 North Harwood, Suite 900, Dallas, Texas, 75201, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 5th day of December, 2023.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Public Works

FROM: Eric Oscarson, Public Works Director

MEETING: December 12, 2022

SUBJECT:

Consider approval of a minute order extending the contract with Mansfield Oil Company of Gainesville through an inter-local agreement with the City of Fort Worth in the amount not to exceed \$711,712.00. (*Staff Contact: Kip Dernovich, Deputy Director – Operations, Public Works*)

SUMMARY:

The City of Burleson currently purchases fuel for its fleet via an inter-local purchasing agreement with the City of Fort Worth from Mansfield Oil Company of Gainesville using two methods. The primary method uses bulk fuel delivery at the Municipal Service Center where every transaction is captured in the Fuel Management system. The secondary method allows the purchase of retail fuel at area fuel stations for select departments. The Fire Department is currently allowed to refuel fire apparatuses at retail stations due to the low fuel efficiency of the fire apparatus. The large fire apparatuses get approximately 3 - 4 miles per gallon or less. At that rate of fuel usage, the additional fuel used to drive the unit to the Municipal Service Center results in a higher cost than paying a slightly higher price per gallon at a retail station near the fire station. Additionally, the motorcycles in the Traffic Division of the Police Department are currently allowed to purchase retail fuel since they require higher Octane Unleaded Gasoline that the rest of the fleet does not need.

City Council approved a minute order authorizing the purchase of bulk fuel by way of an existing contract using an interlocal agreement with the City of Fort Worth for purchases with Mansfield Oil Company of Gainesville on November 8, 2021. This contract will expire on December 31, 2022. The City of Fort Worth renewed their contract for bulk fuel delivery before the end of the current term on October 7, 2022. This action implements the third (3rd) of four (4) available one-year renewable options. There remains one (1) more opportunity to renew this contract out of the original four (4) renewals.

Staff believes utilizing the City of Fort Worth contract provides the best value to the City. The City of Fort Worth's competitive Request for Proposals (RFP) included a very large volume. Staff feels that this economy of scale results in better fuel prices that could be achieved if Burleson bids out fuel separately. An approximately twenty-five percent (25%) contingency (\$143,762) has been added to the estimated cost for fuel (\$567,950.00) to reach the total not to exceed amount of (\$711,712.00) due to the current volatility of the fuel market.

OPTIONS

- 1) Approve a contract with Mansfield Oil Company of Gainesville through an inter-local agreement with the City of Fort Worth in the amount not to exceed \$711,712.00.
- 2) Deny a contract with Mansfield Oil Company of Gainesville through an inter-local agreement with the City of Fort Worth in the amount not to exceed \$711,712.00.

RECOMMENDATION:

Approval of a contract with Mansfield Oil Company of Gainesville through an inter-local agreement with the City of Fort Worth in the amount not to exceed \$711,712.00.

FISCAL IMPACT:

Budgeted Y/N: Y

Fund Name:

Full Account #s: 501-4051-542-6403

Amount: \$711,712.00

Project (if applicable):

Financial

Consideration:

STAFF CONTACT:

Name: Kip Dernovich

Title: Deputy Director – Operations, Public Works

kdernovich@burlesontx.com

817-426-9842

FUEL PURCHASE

January 2023 through December 2023



HOW WE BUY FUEL



CITY OF FORT WORTH BID

- Competitively Bid
- One (1) Year Contract
- Awarded December 17, 2019
- Renewed October 7, 2022
- One (1) Renewal remaining



BEST VALUE

- Large Volume Bid
- More purchasing power than the City of Burleson has on its own
- Lower cost than Retail Fuel



ANNUAL AGREEMENTS

- Inter-local to use Ft Worth Contract
- Agreement with City of Ft Worth in place since September 22, 2008
- Renewal timed to coincide with City of Ft Worth contract renewal



WHAT WAS APPROVED



COUNCIL APPROVED

- Approved Purchases from January 2022 thru the end of December 2022
- Current Authorized Amount \$578,858.50



COMMODITY PRICING

- Contract uses OPIS Rack Pricing for Dallas Area
- OPIS Pricing updated Daily
- Gasoline has decreased 9% From Jan. 22 - Nov. 22

Diesel has increased 40%
From Jan. 22 - Nov. 22



FUNDING REQUEST

- Total Projected Fuel Budget for Jan. 23 to Dec.23 - \$711,712.00
- \$143,762.00 of the Total Fuel Budget is a Contingency Amount due to fuel volatility
- Anticipated Fuel Usage is \$567,950.00



AUTHORIZATION & RENEWAL

- December 12, 2022, City Council Action will allow for the purchase of Fuel from Jan. 2023 through Dec. 2023
- The City of Ft Worth renewed their annual Fuel Contract on October 7, 2022

2023 FUEL RECOMMENDATION

Continue with Contract

- Staff Recommends continuing the Inter-Local Agreement with the City of Fort Worth to purchase fuel from Mansfield Oil
- Contract was competitively bid
- Contract has one (1) renewal remaining
- City of Ft Worth renewed their annual contract on October 7, 2022
- Renewal will extend the contract from January 1, 2023, to December 31, 2023
- The size of the City of Fort Worth contract gives the City of Burleson better purchasing power than could be achieved through purchasing our own fuel (Smaller volume of fuel)
- This request would Authorize the City Manager to execute the contract thru the interlocal agreement



REDUNDANCY

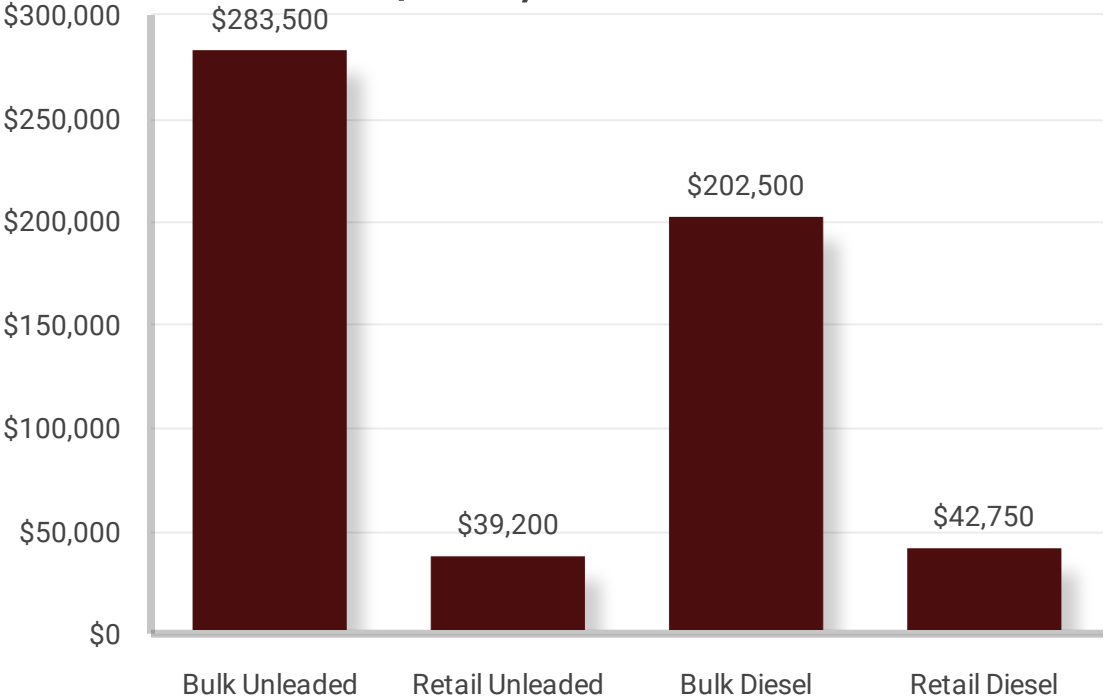
Retail Fuel

- The City of Fort Worth contract allows the City of Burleson to utilize the WEX fuel network to purchase fuel at nationwide retailers thru Mansfield Oil of Gainesville
- Retail provides backup to the Service Center fuel system in the event of failure or maintenance to the Bulk Fuel System
- Retail fuel cards give staff the ability to fuel off-site without paying Federal Tax on fuel purchases when on out-of-town business
- The off-site purchases are connected to the Fleet work management system thru WEX / Mansfield Oil to log who, what, when, and where purchases were made in the same manner as the bulk fuel delivered to the Service Center by Mansfield Oil
- Fire Apparatuses are allowed to purchase fuel at the closest location to their station to reduce time out of service and keep these assets in their service area. This reduces cost associated with traveling to the service center to fuel the apparatus
- The Police Traffic Motorcycle unit fuels at retail locations as their units require higher Octane fuel at a higher price than the rest of the fleet, other Police Assets are allowed to Fuel at Retail location at Command Staff discretion

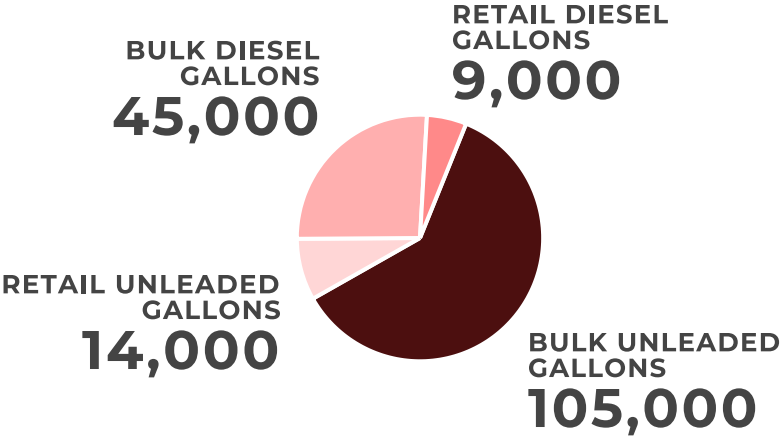


PROPOSED CALENDAR YEAR 2023 ESTIMATE

PROPOSED ESTIMATED EXPENDITURE
\$567,950.00



PROPOSED ESTIMATED QUANTITIES



OPTIONS

APPROVAL RECOMMENDED



APPROVE

Approval of a contract with Mansfield Oil Company of Gainesville through an inter-local agreement with the City of Fort Worth in the amount not to exceed \$711, 712.00 and authorize the City Manager to execute the agreement subject to renewal process by the City of Fort Worth



DENY



**CITY OF FORT WORTH
CONTRACT RENEWAL NOTICE**

October 6, 2022

Mansfield Oil Co. of Gainesville
Attn: Dan Luther
1025 Airport Parkway SW
Gainesville, GA 30501-6813

Re: **Contract Renewal Notice**

Contract No. CSC No. 53315 (the "Contract")

Renewal Term No. 3: January 1, 2023 to December 31, 2023

The above referenced Contract with the City of Fort Worth expires on December 31, 2022 (the "Expiration Date"). Under the terms of the Contract, the Contract may be renewed under the same terms and conditions. This letter is to inform you that the City wishing to renew the Contract for an additional one (1) year period, which will begin immediately after the Expiration Date. All other terms and conditions of the Contract remain will remain unchanged. **If you agree to renew the Contract, please sign the signature page following this Contract Renewal Notice letter, along with a copy of your current insurance certificate, to the address set forth below.**

Please log onto PeopleSoft Purchasing at <http://fortworthtexas.gov/purchasing> to insure that your company information is correct and up-to-date.

If you have any questions concerning this Contract Renewal Notice, please contact me at the telephone number listed below.

Sincerely,

Alma Ibarra

City of Fort Worth, Property Management Department
Alma Ibarra
Sr. Contract Compliance Specialist
(817) 392-8538

(Signature Page Follows)

**OFFICIAL RECORD
CITY SECRETARY
FT. WORTH, TX**

ACCEPTED AND AGREED:

<p>CITY OF FORT WORTH</p> <p>By: <u><i>Dana Burghdoff</i></u> <small>Dana Burghdoff (Oct 10, 2022 18:56 CDT)</small></p> <p>Name: Dana Burghdoff Title: Assistant City Manager</p> <p>APPROVAL RECOMMENDED:</p> <p>By: <u><i>Steve Cooke</i></u> <small>Steve Cooke (Oct 6, 2022 15:28 CDT)</small></p> <p>Name: Steve Cooke Title: Property Management Director</p> <p>ATTEST:</p> <p>By: <u><i>Jannette S. Goodall</i></u> <small>Jannette S. Goodall (Oct 11, 2022 07:53 CDT)</small></p> <p>Name: Jannette S. Goodall Title: City Secretary</p>	<p>CONTRACT COMPLIANCE MANAGER: By signing I acknowledge that I am the person responsible for the monitoring and administration of this contract, including ensuring all performance and reporting requirements.</p> <p>By: <u><i>Randy Rendon</i></u> Name: Randy Rendon Title: Fuel Service Manager</p> <p>APPROVED AS TO FORM AND LEGALITY:</p> <p>By: <u><i>Christopher Austria</i></u> Name: Christopher Austria Title: Assistant City Attorney</p> <p>CONTRACT AUTHORIZATION: M&C: 19-0413 Date Approved: 12/17/2019 Form 1295 Certification No.: 2019-558786</p>
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Mansfield Oil Co. of Gainesville, Inc.

By: *Dan Luther*
 Name: _____
 Title: _____

**OFFICIAL RECORD
CITY SECRETARY
FT. WORTH, TX**

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Mansfield Oil Company of Gainesville
Gainesville, GA United States

Certificate Number:
2022-959319

Date Filed:
11/29/2022

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

14-0121
Fuel Delivery

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is Dan Luther, and my date of birth is N/A.

My address is 1025 Airport Parkway, Gainesville, GA, 30501, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Hall County, State of Georgia, on the 29 day of November, 20 22.
(month) (year)

Dan Luther

Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Public Works

FROM: Eric Oscarson, Public Works Director

MEETING: December 12, 2022

SUBJECT:

Consider approval of a contract for the purchase of fleet vehicles with Caldwell Country Chevrolet through the BuyBoard Cooperative in the amount not to exceed \$1,000,412.25. (*Staff Contact: Kip Dernovich, Deputy Director – Operations Public Works*)

SUMMARY:

The Public Works Department is responsible for the purchase, replacement, maintenance, and overall lifecycle management of the City's fleet. Purchasing and replacing fleet assets in a timely manner prevents the increased maintenance and indirect costs from exceeding the capital dollars saved by extending vehicle replacement. Indirect costs associated with delayed asset replacement include:

- Reduced employee efficiency and lost productivity
- Increased fleet size to compensate for higher out of service rates
- Increased accident rates or liability exposure

Given this, along with the fiscal magnitude and operational importance of the City of Burleson's vehicles and equipment, Equipment Services staff use six criteria to create an annual vehicle replacement schedule. The six criteria include: Age, Miles/Hours, Type of Service, Reliability, Maintenance and Repair Costs, as well as Condition. This method effectively determines the optimal time vehicles and/or equipment should be replaced. According to the City's Equipment Replacement Policy, assets will be replaced with a total score of 21 or higher.

The Approved Replacement Policy allows for discretion by Public Works to replace or retain items outside of the scorecard system. The assets belonging to the Police Department have been evaluated by Public Works and based on available data these items have been deemed in need of replacement. All other equipment has met replacement criteria.

All new equipment and additions requested in this action were planned in the budget process and approved in the Fiscal 2023 operating budget by City Council. Requested funding includes a 10% contingency due to the volatility of the automobile market (availability of vehicles / purchase of an equivalent model). To ensure that the quoted BuyBoard pricing is fair and competitive, Equipment Services staff reached out to four (4) vehicle dealerships (two (2) local and two (2) within the DFW area). Staff received three (3) no responses and one (1) local vehicle

dealership that stated they didn't have any vehicles the City was requesting on their lot and to order the vehicles would take more than one year.

The table below indicates the list of vehicles to be purchased in this fiscal year's budget.

Vehicle	Quantity	Unit Price	Total Cost
Replacement Vehicles			
<i>Police</i>			
Chevrolet Patrol Tahoe	7	\$74,649.25	\$522,544.75
Sub-Total			\$522,544.75
New Vehicles			
<i>Police</i>			
Chevrolet Patrol Tahoe (Administration)	1	\$47,480.25	\$47,480.25
Chevrolet Tahoe (SRO)	3	\$74,649.25	\$223,947.75
Chevrolet Patrol Tahoe (Lieutenant))	1	\$72,270.25	\$72,270.25
<i>Engineering</i>			
Chevrolet Silverado 1500 LTD 2WD	1	\$42,495.25	\$42,495.25
Sub-Total			\$386,193.50
BuyBoard Fee (Chevrolet)	2	\$400.00	\$800.00
10% Contingency	1	\$90,874.00	\$90,874.00
Grand Total			\$1,000,412.25

The total amount of funding available through the FY2023 budget process for the purchase of fleet vehicles was \$927,500.00. The total cost of the fleet purchase is \$908,738.25. This equates to a savings of \$18,764.75. The contingency amount of \$90,874.00 will only be spent if required. The Equipment Replacement Fund has the capacity to absorb any necessary overages. Staff anticipate a delivery date of vehicles in late summer of 2023.

OPTIONS

- 1) Approve a contract for the purchase of fleet vehicles with Caldwell Country Chevrolet through the BuyBoard Cooperative in the amount not to exceed \$1,000,412.25.
- 2) Deny a contract for the purchase of fleet vehicles with Caldwell Country Chevrolet through the BuyBoard Cooperative in the amount not to exceed \$1,000,412.25.

burlesontx.com | 817.426.9611 | 141 W Renfro Street, Burleson, Texas 76028

RECOMMENDATION:

Approval of a contract for the purchase of fleet vehicles with Caldwell Country Chevrolet through the BuyBoard Cooperative in the amount not to exceed \$1,000,412.25.

FISCAL IMPACT:

Budgeted Y/N: Y

Fund Name: Governmental Equipment Replacement Fund

Full Account #s: 502-8211-559

Amount: \$1,000,412.25

Project (if applicable):

Financial

Considerations:

STAFF CONTACT:

Name: Kip Dernovich

Title: Deputy Director – Operations Public Works

kdernovich@burlesontx.com

817-426-9842

FLEET VEHICLES CALDWELL

Fiscal Year 2023



WHEN WE REPLACE ASSETS

Introduction

- The Equipment Services Division of Public Works is responsible for Vehicle and Equipment Purchases along with the continuing Maintenance and Repair of all assets during their life cycle with the City.
- During the budget process Equipment Services provides a list of Assets that have been identified as in need of replacement for the following Fiscal Year along with a multi year projection.
- Departments that plan to ask for additional vehicles or equipment are provided design assistance as well as quotes from Equipment Services for their Supplemental requests.
- A scoring system of 6 criteria provides staff information to consider when recommending retention or replacement of assets.
- The scoring system includes:

Age	Reliability	Usage
Type of Service	Condition	Maintenance Cost



WHEN WE REPLACE ASSETS

Why Are All Vehicles Not Replaced At One Time

In most instances, the Equipment Services Division strives to replace / purchase all equipment and new vehicles at one time. Due to several factors, Staff anticipate replacing / purchasing equipment / vehicles throughout the year. Factors include but are not limited to:

- Availability of vehicles on Dealership Lots
- Purchasing from different vendors / cooperatives to ensure best pricing
- Lead time to receive the vehicle
- Ability of vendor to provide a final price quote
- Original vehicle selection not available - finding a suitable alternative



FLEET EQUIPMENT PURCHASES

Various City Departments - BuyBoard

- FY 2023 Fleet Equipment Purchases
- New Fleet Vehicles

Police

Chevrolet Tahoe (Administration) - \$47,480.25

(3) Chevrolet Tahoes (SRO) 3 @ \$74,649.25 - \$223,947.75

Chevrolet Tahoe (Patrol Lieutenant) - \$72,270.25

Engineering

Chevrolet Silverado 1500 (Engineering Inspector) - \$42,495.25

Sub-Total - \$386,193.50



FLEET EQUIPMENT PURCHASES - CONTINUED

Various City Departments - BuyBoard

- FY 2023 Fleet Equipment Purchases - Continued
- Replacement Fleet Vehicles

Police

Chevrolet Patrol Tahoe (TBD) 7 @ \$74,649.25 - \$522,544.75

Sub-Total - **\$522,544.75**

BuyBoard Fee (Chevrolet) - \$800.00

10% Contingency (If Needed) - \$90,874.00

GRAND TOTAL - \$1,000,412.25

* All vehicles have been approved in the FY2023 Budget Process.

Total Vehicle Amount Budgeted = \$927,500.00

Total Vehicle Cost = \$908,738.25 (Savings of \$18,764.75)

*Staff anticipate the delivery of vehicles in late summer of 2023

HOW WE PURCHASE

Purchasing

- We recommend purchasing Turn-Key from Cooperative Contracts
- The overall objective of Cooperative contracts is to provide a mechanism for all local governments in Texas to pool their collective purchasing power and save funding. The Cooperative evaluates vendor proposals on the basis of best value to the Cooperative members
- When using the turn-key process, City Staff are in control of the build before the quote is generated. This ensures that we are getting a budget quote that will be very close to the purchasing price
- The turn-key process delivers a unit ready to get working upon delivery
- To ensure that the quoted BuyBoard pricing is fair and competitive, City Staff reached out to four (4) vehicle dealerships in the DFW area (Two (2) local and Two (2) within the DFW area. Staff received three (3) no responses and one (1) local dealership stated they could not assist at this time



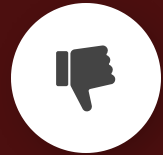
OPTIONS

RECOMMEND APPROVAL



APPROVE BUYBOARD CONTRACT

Consider approval of a contract for the purchase of fleet vehicles with Caldwell Country Chevrolet through the BuyBoard Cooperative in the amount not to exceed \$1,000,412.25



DENY BUYBOARD CONTRACT



CALDWELL COUNTRY CHEVROLET

800 HWY. 21 E. CALDWELL, TEXAS 77836 TAX ID # 14-1856872

TEXAS BUYBOARD # 601-19

QUOTE #CC223914

End User: CITY OF BURLESON-

Caldwell Rep: CHRIS COLLINS

Contact: TRAY GEE 817.426.9838-O 325.269.4919-C

Phone: 979-567-6129

Phone/email: TGEE@BURLESONTX.COM

Date: Friday, November 18, 2022

Product Description: CHEVY TAHOE BASE PPV 4X2

email: chris@caldwellcountry.com

A. Bid Series: 31

A. Base Price: \$ 42,575.00

B. Published Options [Itemize each below]

Code	Options	Bid Price	Code	Options	Bid Price
CK10706	2023 TAHOE 4WD PPV	\$ 5,275.00		CHEV INFOTAINMENT 8" SCREEN	INCL
	5.3L ECOTEC3 V8	INCL		220 AMP ALTERNATOR	INCL
	10 SPEED AUTOMATIC TRANS	INCL		SKID PLATE FRONT	INCL
6E2/AU7	FLEET KEYED COMMON	\$ 50.00		GVWR 7200 LBS	INCL
AMF	REMOTE KEYLESS ENTRY PKG-4	\$ 275.00		HEAVY DUTY BRAKE SYSTEM	INCL
7X3	LEFT HANDED LED SPOTLIGHT	\$ 800.00		EXTRA CAPACITY COOLING SYSTEM	INCL
9C1	IDENTIFIER FOR PPV	INCL		AUXILLARY BATTERY	INCL
	TILT/ CRUISE	INCL		AUTOMATIC EMERGENCY BRAKING	INCL
	POWER WINDOWS/LOCKS	INCL		REAR VISION CAMERA	INCL
	BLUETOOTH	INCL			
	REAR AXLE 3.23 RATIO	INCL			
Total of B. Published Options:					\$ 6,400.00

C. Unpublished Options [Itemize each below, not to exceed 25%]

Options	Bid Price	Options	Bid Price
		GBA- BLACK	EXT COLOR
		H1T- JET BLACK CLOTH SEAT TRIM	INT COLOR
		INCOMING BAILMENT	DELIVERY
		ORDER #'S ASSIGNED BQVB86, BQVB85, BQVB84, BQVB83, BQVB52, BQVB81	
Total of C. Unpublished Options:			\$ -

D.	Registration, Inspection, Paperwork, Postage cost, Courthouse time, & Runner time:	INCLUDED	\$ -
E.	UPFITTERS: CAP FLEET UPFITTERS-CAPQ-106022		\$ 25,204.00
F.	Manufacturer Destination/Delivery:		\$ -
G.	Floor Plan Interest (for in-stock and/or equipped vehicles):		\$ -
H.	Lot Insurance (for in-stock and/or equipped vehicles):		\$ -
I.	Contract Price Adjustment:		\$ -
J.	Additional Delivery Charge: 165 miles		\$ 470.25
K.	Subtotal:		\$ 74,649.25
L.	Quantity Ordered 10 x K =		\$ 746,492.50
M.	Trade in:		\$ -
N.	BUYBOARD FEE PER PURCHASE ORDER:		\$ 400.00
O.	TOTAL PURCHASE PRICE WITH BUYBOARD FEE:		\$ 746,892.50

** PRICES ARE SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES. RE-VERIFY PRICING BEFORE ISSUING A PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER P.O. IS ISSUED. FINAL PRICE IS NOT CONFIRMED UNTIL VEHICLE ORDER IS ACCEPTED BY MANUFACTURER. PRICE WILL BE CONFIRMED AT TIME OF ORDER ENTRY, BE ADVISED PRICE CAN CHANGE DUE TO MANUFACTURER. ENSURE CONFIRMATION OF RECEIPT BY EMAIL WHEN P.O. IS SENT. ** DUE TO SEMICONDUCTOR SUPPLY SHORTAGES, FEATURE AVAILABILITY WILL CHANGE THROUGHOUT THE MODEL YEAR. SEE THE WINDOW LABEL OF A SPECIFIC VEHICLE TO DETERMINE ITS CONTENT.

Quote

**CAP FLEET**

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

Date **10/27/2022**
Quote # **CAPQ-106022**

Name / Address

BURLESON, CITY OF
141 W Renfro St, Burleson, Texas 76028 United States

Ship To:

Brandon Glass
BURLESON, CITY OF
141 W Renfro St, Burleson, Texas 76028 United States

Salesperson:	Carlo Di Ganci
Email:	
Contact Name:	

Year:	2022
Make:	Chevrolet
Model:	TAHOE PPV

Job Description: BUILD AND INSTALLATION PATROL 4X4 BAILMENT

Quote Summary

Per Vehicle Subtotal	\$25,204.00
Per Vehicle Tax	\$0.00
Per Vehicle Total	\$25,204.00

Vehicles Quoted 10

Grand Total \$252,040.00

****PRICES ARE VALID FOR 30 DAYS BUT ARE SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES.
REVERIFY PRICING BEFORE ISSUING A PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER PO IS ISSUED.
ALL CANCELLED ORDERS ARE SUBJECT TO A 20% RESTOCKING FEE****

I hereby authorize the install work therein set forth to be done by CAP Fleet Upfitters, together with the furnishing by CAP Fleet Upfitters of the necessary parts and other material for such install and agree that CAP Fleet Upfitters is not responsible for any delays caused by unavailability or delayed availability of parts or material for any reason; that CAP Fleet Upfitters neither assumes or authorizes any other person to assume for CAP Fleet Upfitters any liability in connection with such install; that CAP Fleet Upfitters shall not be responsible for loss or damage to the above vehicle, or articles left therein; in case of fire, theft, any Act of God, or other cause beyond CAP Fleet Upfitters control; that CAP Fleet Upfitters employees may operate the above vehicle on streets, highways, or elsewhere for the purpose of testing and/or inspecting such vehicle.

WWW.CAPFLEET.COM

QUOTES ARE GOOD FOR 30 DAYS.

PLEASE SIGN BELOW IF ALL ITEMS & QUANTITIES ARE APPROVED.

X _____ Date: / /

Quote

Date **10/27/2022**
Quote # **CAPQ-106022**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
CONSOLE/MDT				
1	C-VSX-1800-TAH-PM	WIDE VSX CONSOLE WITH FRONT PRINTER MOUNT FOR 2021-2023 CHEVROLET TAHOE PPV & SSV Notes: RELOCATE 110V TO CONSOLE	\$769.00	\$769.00
1	C-EBX-WHE-1	EQUIPMENT BRACKET KIT FOR VSX CONSOLES FRONT TRAY SIREN LIGHT CONTROL - WHELEN Location/Order : Console 1 / 1 Notes: SIREN FACEPLATE	\$0.00	\$0.00
1	C-EB25-NX3-1P	1-PIECE EQUIPMENT MOUNTING BRACKET, 2.5" MOUNTING SPACE, FITS KENWOOD NX SERIES RADIO Location/Order : Console 1 / 2 Notes: RADIO FACEPLATE	\$0.00	\$0.00
1	C-MCB	MIC CLIP BRACKET	\$14.00	\$14.00
2	MMBP	MAGNETIC MIC KIT	\$40.00	\$80.00
1	C-HDM-204	8.5" HEAVY-DUTY TELESCOPING POLE, SIDE MOUNT, SHORT HANDLE Notes: MOUNT INTERNALLY	\$139.00	\$139.00
1	C-MD-119	11" SLIDE OUT LOCKING SWING ARM WITH LOW PROFILE MOTION DEVICE ADAPTER	\$252.00	\$252.00
1	CUP2-1001	SELF-ADJUSTING DOUBLE CUP HOLDER Location/Order : Console 1 / 4	\$47.00	\$47.00
1	C-FP-25	2-1/2" FILLER PLATE Location/Order : Console 1 / 5	\$0.00	\$0.00
1	C-ARM-1001	INTERNAL MOUNT ARMREST WITH LOCKABLE ACCESSORY POCKET Location/Order : Console 1 / 6	\$239.00	\$239.00
1	C-PS-4	2" SWITCH PLATE, INTERNAL MOUNT, 4 SWITCH CUTOUPS Location/Order : Console 1 / 3	\$19.00	\$19.00
2	C-SW-2	BLACK PADDLE TYPE ROCKER SWITCH, LED PILOT LIGHT, 20 AMPS, 12 VOLT, ON/OFF/ON 4 PRONG Notes: PRISONER DOME LIGHT DASH SWITCH FRONT PASSENGER DOME LIGHT SWITCH	\$18.00	\$36.00
1	C-APW-1258	12" ACCESSORY POCKET, 5.8" DEEP FOR 3.3" W SECTION OF WIDE CONSOLES	\$38.00	\$38.00
1	C-FPW-3	3" FILLER PLATE FOR WIDE VSW CONSOLES Notes: MOUNT MAG MIC	\$6.00	\$6.00
2	C-USB-2	DUAL USB CHARGE MODULE	\$90.00	\$180.00
ELECTRONICS				
1	77555	ULTRASTINGER FLASHLIGHT WITH DC CHARGER	\$181.00	\$181.00
1	DUAL-SL-KIT	DUAL - 2 ANTENNA RADAR SYSTEM W/REMOTE DISPLAY INTERCONNECT CABLE Notes: MOUNT ANTENNA ON DRIVER SIDE A PILLAR	\$2,860.00	\$2,860.00
1	805-0022-00	DUAL - 2 ANTENNA RADAR SYSTEM	\$0.00	\$0.00

Quote

Date **10/27/2022**
Quote # **CAPQ-106022**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
1	155-2211-00	REMOTE DISPLAY INTERCONNECT CABLE	\$0.00	\$0.00
1	NX-5900K	700/800 MHZ 30/35 W MOBILE; INCLUDES SOFTWARE; LICENSE KEYS; SPEAKER; ANTENNA; AND CABLES Notes: THIS WILL BE A PLACEHOLDER FOR THE KENWOOD PRE-WIRE KIT	\$250.00	\$250.00
EMERGENCY LIGHTING				
1	LGYCD54CORE-DE	54" DUO LEGACY FULLY POPULATED W/CLEAR LENSES (DRIVER SIDE RED/WHITE FRONT; RED/AMBER REAR; PASSENGER SIDE BLUE WHITE FRONT; BLUE/AMBER REAR); C399 CORE SIREN; CEM16 EXPANSION MODULE; CV2V SYNC; C399K*; SA315U SPEAKER; SAK*; STPKT*	\$2,995.00	\$2,995.00
1	SA315U	SA315U SPEAKER, BLACK PLASTIC	\$0.00	\$0.00
1	EB2SP3J	LEGACY WCX 54" D/E/D/E PROMO - W/CLEAR LENSES	\$0.00	\$0.00
1	C399	CENCOM CORE WCX CONTROL CENTER	\$0.00	\$0.00
1	CEM16	WECANX 16 OUTPUT EXPANSION MOD	\$0.00	\$0.00
1	CV2V	VEHICLE TO-VEHICLE SYNC MODULE	\$0.00	\$0.00
1	STPKT101	LIGHTBAR STRAP KIT #101	\$0.00	\$0.00
1	CCTL7	WECANX 21 BUTTON/SLIDE CTRL HD	\$0.00	\$0.00
1	C399K6	OBD II CANPORT KIT TAHOE/SUB	\$0.00	\$0.00
1	SAK70	SA-315 MT KIT 2021 CHEVY TAHOE	\$0.00	\$0.00
1	3SRCCDCR	3" ROUND SPLIT RED/WHT COMPART Mounting Location : L1 - INSIDE - PRISONER Notes: MOUNT CENTER OF PRISONER CARGO LIGHT/ METAL TOGGLE MOUNTED ON DASH	\$59.00	\$59.00
1	0SR00MCR	LED MARKER/CLEARNCE RED CHROME Notes: DIRECTLY OVER DRIVER HEAD BEHIND VISOR	\$22.00	\$22.00
1	CHWLUNI	WCX LOW FREQ SIREN AMP UNIV MT	\$432.00	\$432.00
1	HWLRB32	HOWLER BKT 21 TAHOE	\$0.00	\$0.00
1	BS548-BSSP28JA	I-E RST WCX 8-LT S/D 21 TAHOE; 4/4 DUO K/M LTHD D/P PROMO PKG	\$1,082.00	\$1,082.00
1	TLI2J	ION T-SERIES LINEAR DUO R/B Notes: VISIBLE TO TRAFFIC WHEN OPEN- WIRE TO PUSHBUTTON ON LIFTGATE SO LIGHTS CAN BE TURNED OFF MANUALLY	\$114.00	\$114.00
1	TLI2J	ION T-SERIES LINEAR DUO R/B Notes: VISIBLE TO TRAFFIC WHEN OPEN- WIRE TO PUSHBUTTON ON LIFTGATE SO LIGHTS CAN BE TURNED OFF MANUALLY	\$114.00	\$114.00
2	IONGROM	ION SERIES BODY MOUNT GROMMET Mounting Location : RB1 - REAR BUMPER Notes: RECESSED BUMPER MOUNTS	\$7.00	\$14.00
1	3SRCCDCR	3" ROUND SPLIT RED/WHT COMPART Mounting Location : C3 - CONSOLE - FRONT Notes: OVERHEAD CENTER CONSOLE/ DASH SWITCH	\$59.00	\$59.00
1	I3JC	TRIO ION R/B W/ WHT OVERRIDE	\$138.00	\$138.00

Quote

Date **10/27/2022**
Quote # **CAPQ-106022**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
		Wiring Instructions : WIRE TRIO W/ OVERRIDE Mounting Location : PB145 - DS SIDE 45 Notes: WHITE ALLEY		
1	I3JC	TRIO ION R/B W/ WHT OVERRIDE Wiring Instructions : WIRE TRIO W/ OVERRIDE Mounting Location : PB245 - PS SIDE 45 Notes: WHITE ALLEY	\$138.00	\$138.00
4	I3JC	TRIO ION R/B W/ WHT OVERRIDE Wiring Instructions : WIRE TRIO W/ OVERRIDE Mounting Location : RB1 - RUNNING BOARDS Notes: WHITE ALLEY	\$138.00	\$552.00
2	I3JC	TRIO ION R/B W/ WHT OVERRIDE Wiring Instructions : WIRE INTO REVERSE LIGHT ; WIRE TRIO W/ BRAKE Mounting Location : RB1 - REAR BUMPER Notes: RECESS MOUNT IN BUMPER WHITE REVERSE RED BRAKE	\$138.00	\$276.00
2	IONK1B	SWIVEL MOUNT KIT FOR ION BLK	\$26.00	\$52.00
1	3SRCCDCR	3" ROUND SPLIT RED/WHT COMPART Notes: MOUNTED ON LIFTGATE TO BE USED AS A DOME LIGHT WHEN OPEN/ MOUNT SWITCH ON DRIVER D PILLAR	\$59.00	\$59.00
1	SWITCH	LIGHTED ROCKER SWITCH Notes: REAR LIFTGATE SWITCH ON/OFF/ON	\$7.00	\$7.00
EXTERIOR				
1	BK0534TAH21	PB400 VS BUMPER; FULL BUMPER; ALUMINUM; CHEVROLET TAHOE 21-23	\$453.00	\$453.00
OTHER				
1	USB-15	BLACK 15 FOOT USB 2.0 EXTENSION CABLE	\$14.00	\$14.00
PRISONER TRANSPORT EQUIPMENT				
1	PK1156TAH21	#10XL HORIZONTAL SLIDING WINDOW; COATED POLYCARBONATE; XL PANEL PARTITION; *INCLUDES XL RECESSED PANEL & LOWER EXTENSION PANEL; CHEVROLET TAHOE 21-23	\$840.00	\$840.00
1	PK0123TAH212ND	CARGO AREA PARTITION; FOR 2ND ROW SEAT; #12VS STATIONARY WINDOW; VINYL COATED EXPANDED METAL; *FOR USE BEHIND 2ND ROW SEAT ONLY; CHEVROLET TAHOE 21-23	\$487.00	\$487.00
1	QK1374TAH21	FULL REPLACEMENT TRANSPORT SEAT; TPO PLASTIC; WITH CENTER PULL SEAT BELTS; *REQUIRED #12VS CARGO AREA REAR PARTITION NOT INCLUDED; *FOR USE WITHOUT 2ND ROW SEAT DELETE OPTION (CODE:ATZ); CHEVROLET TAHOE 21-23	\$907.00	\$907.00
1	DK0100TAH21	DOOR PANEL; TPO PLASTIC BLACK; INSTALLS OVER OEM DOOR PANELS; CHEVROLET TAHOE 21-23	\$184.00	\$184.00
1	WK0514TAH21H	WINDOW BARRIER; STEEL HORIZONTAL; *FOR USE WITH: STOCK DOOR PANELS; SETINA TPO DOOR PANELS; CHEVROLET TAHOE 21-23	\$268.00	\$268.00
1	GK10342UHK	DUAL T-RAIL MOUNT; 2 UNIVERSAL XL; HANDCUFF KEY	\$495.00	\$495.00

Quote

Date **10/27/2022**
Quote # **CAPQ-106022**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
		OVERRIDE; *FOR USE WITH ALL VEHICLES; *FOR USE WHEN MOUNTING TO FREESTANDING BASES Wiring Instructions : WIRE GUNLOCK TO SMART SIREN Notes: WIRE TO SIREN CONTROLLER		
STORAGE				
1	TK1097TAH21	CARGO BOX; WITHOUT E-Z LIFT; DSE-SLIDING DRAWER, WITH ELECTRONIC COMBO LOCK; BSP-BASE TIER WITH LOCK, PUSH BUTTON LOCK; *REQUIRED SETINA #12VS REAR CARGO PARTITION OR FREESTANDING BRACKETS NOT INCLUDED; CHEVROLET TAHOE 21-23	\$1,752.00	\$1,752.00
1	TPA9289	CARGO RADIO TRAY; WITH NO LOCK TRN	\$328.00	\$328.00

QTY	Part #	Description	Price
1	LABOR	LABOR	\$3,903.00
1	SHIPPING	SHIPPING	\$750.00
1	DEALER	DEALER PREP	\$425.00
1	GRAPHICS	CUSTOM GRAPHICS	\$2,150.00
1	PDKIT	POWER DISTRIBUTION KIT	\$50.00
1	DISPOSAL	DISPOSAL FEE (FOR OEM PARTS NOT PICKED UP ON DELIVERY)	\$100.00
1	PROGFEE	PROGRAMMING FEE	\$200.00
1	INSPECT	ALL CAP FLEET INSPECTIONS COME WITH AN AGENCY LIMITED LIFETIME WARRANTY	\$100.00
1	WIRING HARNESS	WIRING HARNESS	\$350.00
1	SHOP SUPPLIES	SHOP SUPPLIES	\$225.00

QTY	Make	Model	Used
1	Zebra	ZQ521	<input type="checkbox"/>

CALDWELL COUNTRY CHEVROLET

800 HWY. 21 E. CALDWELL, TEXAS 77836 TAX ID # 14-1856872

TEXAS BUYBOARD # 601-19

QUOTE #CC223916

End User: CITY OF BURLESON-Caldwell Rep: CHRIS COLLINSContact: TRAY GEE 817.426.9838-O 325.269.4919-CPhone: 979-567-6129Phone/email: TGEE@BURLESONTX.COMDate: Monday, October 31, 2022Product Description: CHEVY TAHOE BASE 4X2email: chris@caldwellcountry.comA. Bid Series: 22A. Base Price: **\$ 46,335.00**

B. Published Options [Itemize each below]

Code	Options	Bid Price	Code	Options	Bid Price
CC10706	2023 TAHOE 2WD BASE	INCL		CHEV INFOTAINMENT 8" SCREEN	INCL
	5.3L ECOTEC3 V8	INCL		PREMIUM SMOOTH RIDE SUSP	INCL
	10 SPEED AUTOMATIC TRANS	INCL		18" SILVER ALUMINUM WHEELS	INCL
B630	CARPETED FLOOR	\$ 195.00		265/65R18SL ALL SEASON TIRES	INCL
B58	CARPETED FLOOR MATS	\$ 80.00		40/20/40 SPLIT BENCH	INCL
1FL	COMMERCIAL PREF EQUIP GROUP	INCL		8" TOUCH SCREEN	INCL
	GVWR 7400 LBS	INCL		AUTOMATIC EMERGENCY BRAKING	INCL
	TILT/ CRUISE	INCL		FOLLOWING DISTANCE INDICATOR	INCL
	POWER WINDOWS/LOCKS	INCL		FORWARD COLLISION ALERT	INCL
	BLUETOOTH	INCL		LANE KEEP ASSIST	INCL
	REAR AXLE 3.23 RATIO	INCL		FRONT PEDESTRIAN BRAKING	INCL
Total of B. Published Options:					\$ 275.00

C. Unpublished Options [Itemize each below, not to exceed 25%]

Options	Bid Price	Options	Bid Price
		G6M- DARK ASH METALLIC	EXT COLOR
		HOU- JET BLACK CLOTH	INT COLOR
		STOCK 1GNAXLWDXPR182736	DELIVERY
Total of C. Unpublished Options:			\$ -

D.	Registration, Inspection, Paperwork, Postage cost, Courthouse time, & Runner time:	INCLUDED	\$ -
E.	UPFITTERS:		\$ -
F.	Manufacturer Destination/Delivery:		\$ -
G.	Floor Plan Interest (for in-stock and/or equipped vehicles):		\$ -
H.	Lot Insurance (for in-stock and/or equipped vehicles):		\$ -
I.	Contract Price Adjustment:		\$ -
J.	Additional Delivery Charge: <u>165</u> miles		\$ 470.25
K.	Subtotal:		\$ 47,080.25
L.	Quantity Ordered <u>1</u> x K =		\$ 47,080.25
M.	Trade in:		\$ -
N.	BUYBOARD FEE PER PURCHASE ORDER:		\$ 400.00
O.	TOTAL PURCHASE PRICE WITH BUYBOARD FEE:		\$ 47,480.25

** PRICES ARE SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES. RE-VERIFY PRICING BEFORE ISSUING A PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER P.O. IS ISSUED. FINAL PRICE IS NOT CONFIRMED UNTIL VEHICLE ORDER IS ACCEPTED BY MANUFACTURER. PRICE WILL BE CONFIRMED AT TIME OF ORDER ENTRY, BE ADVISED PRICE CAN CHANGE DUE TO MANUFACTURER. ENSURE CONFIRMATION OF RECEIPT BY EMAIL WHEN P.O. IS SENT. ** DUE TO SEMICONDUCTOR SUPPLY SHORTAGES, FEATURE AVAILABILITY WILL CHANGE THROUGHOUT THE MODEL YEAR. SEE THE WINDOW LABEL OF A SPECIFIC VEHICLE TO DETERMINE ITS CONTENT.

CALDWELL COUNTRY CHEVROLET

800 HWY. 21 E. CALDWELL, TEXAS 77836 TAX ID # 14-1856872

TEXAS BUYBOARD # 601-19

QUOTE #CC223948

End User: CITY OF BURLESON- SRT

Caldwell Rep: CHRIS COLLINS

Contact: TRAY GEE 817.426.9838-O 325.269.4919-C

Phone: 979-567-6129

Phone/email: TGEE@BURLESONTX.COM

Date: Friday, November 18, 2022

Product Description: CHEVY TAHOE BASE PPV 4X2

email: chris@caldwellcountry.com

A. Bid Series: 31

A. Base Price: \$ 42,575.00

B. Published Options [Itemize each below]

Code	Options	Bid Price	Code	Options	Bid Price
CK10706	2023 TAHOE 4WD PPV	\$ 5,275.00		CHEV INFOTAINMENT 8" SCREEN	INCL
	5.3L ECOTEC3 V8	INCL		220 AMP ALTERNATOR	INCL
	10 SPEED AUTOMATIC TRANS	INCL		SKID PLATE FRONT	INCL
6E2/AU7	FLEET KEYED COMMON	\$ 50.00		GVWR 7200 LBS	INCL
AMF	REMOTE KEYLESS ENTRY PKG-4	\$ 275.00		HEAVY DUTY BRAKE SYSTEM	INCL
7X3	LEFT HANDED LED SPOTLIGHT	\$ 800.00		EXTRA CAPACITY COOLING SYSTEM	INCL
9C1	IDENTIFIER FOR PPV	INCL		AUXILLARY BATTERY	INCL
	TILT/ CRUISE	INCL		AUTOMATIC EMERGENCY BRAKING	INCL
	POWER WINDOWS/LOCKS	INCL		REAR VISION CAMERA	INCL
	BLUETOOTH	INCL			
	REAR AXLE 3.23 RATIO	INCL			
Total of B. Published Options:					\$ 6,400.00

C. Unpublished Options [Itemize each below, not to exceed 25%]

Options	Bid Price	Options	Bid Price
		GBA- BLACK	EXT COLOR
		H1T- JET BLACK CLOTH SEAT TRIM	INT COLOR
		INCOMING BAILMENT	DELIVERY
		ORDER #'S ASSIGNED BQVB81	
Total of C. Unpublished Options:			\$ -

D.	Registration, Inspection, Paperwork, Postage cost, Courthouse time, & Runner time:	INCLUDED	\$ -
E.	UPFITTERS: CAP FLEET UPFITTERS-CAPQ-106168		\$ 22,425.00
F.	Manufacturer Destination/Delivery:		\$ -
G.	Floor Plan Interest (for in-stock and/or equipped vehicles):		\$ -
H.	Lot Insurance (for in-stock and/or equipped vehicles):		\$ -
I.	Contract Price Adjustment:		\$ -
J.	Additional Delivery Charge: 165 miles		\$ 470.25
K.	Subtotal:		\$ 71,870.25
L.	Quantity Ordered 1 x K =		\$ 71,870.25
M.	Trade in:		\$ -
N.	BUYBOARD FEE PER PURCHASE ORDER:		\$ 400.00
O.	TOTAL PURCHASE PRICE WITH BUYBOARD FEE:		\$ 72,270.25

** PRICES ARE SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES. RE-VERIFY PRICING BEFORE ISSUING A PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER P.O. IS ISSUED. FINAL PRICE IS NOT CONFIRMED UNTIL VEHICLE ORDER IS ACCEPTED BY MANUFACTURER. PRICE WILL BE CONFIRMED AT TIME OF ORDER ENTRY, BE ADVISED PRICE CAN CHANGE DUE TO MANUFACTURER. ENSURE CONFIRMATION OF RECEIPT BY EMAIL WHEN P.O. IS SENT. ** DUE TO SEMICONDUCTOR SUPPLY SHORTAGES, FEATURE AVAILABILITY WILL CHANGE THROUGHOUT THE MODEL YEAR. SEE THE WINDOW LABEL OF A SPECIFIC VEHICLE TO DETERMINE ITS CONTENT.

Quote

**CAP FLEET**

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

Date **11/11/2022**
Quote # **CAPQ-106168**

Name / Address

BURLESON, CITY OF
141 W Renfro St, Burleson, Texas 76028 United States

Ship To:

Brandon Glass
BURLESON, CITY OF
141 W Renfro St, Burleson, Texas 76028 United States

Salesperson:	Carlo Di Ganci
Email:	
Contact Name:	

Year:	2023
Make:	Chevrolet
Model:	TAHOE PPV

Job Description: BUILD AND INSTALL SRT 4x4 BAILMENT

Quote Summary

Per Vehicle Subtotal	\$22,425.00
Per Vehicle Tax	\$0.00
Per Vehicle Total	\$22,425.00

Vehicles Quoted 1

Grand Total \$22,425.00

****PRICES ARE VALID FOR 30 DAYS BUT ARE SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES.
REVERIFY PRICING BEFORE ISSUING A PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER PO IS ISSUED.
ALL CANCELLED ORDERS ARE SUBJECT TO A 20% RESTOCKING FEE****

I hereby authorize the install work therein set forth to be done by CAP Fleet Upfitters, together with the furnishing by CAP Fleet Upfitters of the necessary parts and other material for such install and agree that CAP Fleet Upfitters is not responsible for any delays caused by unavailability or delayed availability of parts or material for any reason; that CAP Fleet Upfitters neither assumes or authorizes any other person to assume for CAP Fleet Upfitters any liability in connection with such install; that CAP Fleet Upfitters shall not be responsible for loss or damage to the above vehicle, or articles left therein; in case of fire, theft, any Act of God, or other cause beyond CAP Fleet Upfitters control; that CAP Fleet Upfitters employees may operate the above vehicle on streets, highways, or elsewhere for the purpose of testing and/or inspecting such vehicle.

WWW.CAPFLEET.COM

QUOTES ARE GOOD FOR 30 DAYS.

PLEASE SIGN BELOW IF ALL ITEMS & QUANTITIES ARE APPROVED.

X _____ Date: / /

Quote

Date **11/11/2022**
Quote # **CAPQ-106168**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
CONSOLE/MDT				
1	C-VSX-1800-TAH-PM	WIDE VSX CONSOLE WITH FRONT PRINTER MOUNT FOR 2021-2023 CHEVROLET TAHOE PPV & SSV Notes: RELOCATE 110V TO CONSOLE	\$769.00	\$769.00
1	C-EBX-WHE-1	EQUIPMENT BRACKET KIT FOR VSX CONSOLES FRONT TRAY SIREN LIGHT CONTROL - WHELEN Location/Order : Console 1 / 1	\$0.00	\$0.00
1	C-EB25-NX3-1P	1-PIECE EQUIPMENT MOUNTING BRACKET, 2.5" MOUNTING SPACE, FITS KENWOOD NX SERIES RADIO Location/Order : Console 1 / 2	\$0.00	\$0.00
1	C-MCB	MIC CLIP BRACKET	\$14.00	\$14.00
2	MMBP	MAGNETIC MIC KIT	\$40.00	\$80.00
1	C-HDM-204	8.5" HEAVY-DUTY TELESCOPING POLE, SIDE MOUNT, SHORT HANDLE Notes: MOUNT INTERNALLY	\$139.00	\$139.00
1	C-MD-119	11" SLIDE OUT LOCKING SWING ARM WITH LOW PROFILE MOTION DEVICE ADAPTER	\$252.00	\$252.00
1	CUP2-1001	SELF-ADJUSTING DOUBLE CUP HOLDER Location/Order : Console 1 / 4	\$47.00	\$47.00
1	C-FP-25	2-1/2" FILLER PLATE Location/Order : Console 1 / 5	\$0.00	\$0.00
1	C-ARM-1001	INTERNAL MOUNT ARMREST WITH LOCKABLE ACCESSORY POCKET Location/Order : Console 1 / 6	\$239.00	\$239.00
1	C-PS-4	2" SWITCH PLATE, INTERNAL MOUNT, 4 SWITCH CUTOUPS Location/Order : Console 1 / 3	\$19.00	\$19.00
2	C-SW-2	BLACK PADDLE TYPE ROCKER SWITCH, LED PILOT LIGHT, 20 AMPS, 12 VOLT, ON/OFF/ON 4 PRONG Notes: PRISONER DOME LIGHT DASH SWITCH FRONT PASSENGER DOME LIGHT SWITCH	\$18.00	\$36.00
1	C-APW-1258	12" ACCESSORY POCKET, 5.8" DEEP FOR 3.3" W SECTION OF WIDE CONSOLES	\$38.00	\$38.00
1	C-FPW-3	3" FILLER PLATE FOR WIDE VSW CONSOLES Notes: MOUNT MAG MIC	\$6.00	\$6.00
2	C-USB-2	DUAL USB CHARGE MODULE	\$90.00	\$180.00
ELECTRONICS				
1	77555	ULTRASTINGER FLASHLIGHT WITH DC CHARGER	\$181.00	\$181.00
1	DUAL-SL-KIT	DUAL - 2 ANTENNA RADAR SYSTEM W/REMOTE DISPLAY INTERCONNECT CABLE	\$2,860.00	\$2,860.00
1	805-0022-00	DUAL - 2 ANTENNA RADAR SYSTEM	\$0.00	\$0.00
1	155-2211-00	REMOTE DISPLAY INTERCONNECT CABLE	\$0.00	\$0.00
1	NX-5900K	700/800 MHZ 30/35 W MOBILE; INCLUDES SOFTWARE; LICENSE KEYS; SPEAKER; ANTENNA; AND CABLES	\$250.00	\$250.00

Quote

Date **11/11/2022**
Quote # **CAPQ-106168**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
		Notes: THIS WILL BE A PLACEHOLDER FOR THE KENWOOD PRE-WIRE KIT		
EMERGENCY LIGHTING				
1	IED54CORE-DE	INNER EDGE DUO - 2021 CHEVY TAHOE (DRIVER SIDE RED/WHITE; PASSENGER SIDE BLUE/WHITE); C399 CORE SIREN; C399K*; SA315U SPEAKER; SAK*	\$2,295.00	\$2,295.00
1	SA315U	SA315U SPEAKER, BLACK PLASTIC	\$0.00	\$0.00
1	BSFW54X-BSSP2XJW	I-E FST WCX S/D 12-LT TAHOE; 6/6 DUO D/E LTHD D/P PROMO PKG	\$0.00	\$0.00
1	C399	CENCOM CORE WCX CONTROL CENTER	\$0.00	\$0.00
1	CCTL7	WECANX 21 BUTTON/SLIDE CTRL HD	\$0.00	\$0.00
1	SAK70	SA-315 MT KIT 2021 CHEVY TAHOE	\$0.00	\$0.00
1	SAK70	SA-315 MT KIT 2021 CHEVY TAHOE	\$0.00	\$0.00
1	3SRCCDCR	3" ROUND SPLIT RED/WHT COMPART Mounting Location : L1 - INSIDE - PRISONER Notes: MOUNT CENTER OF PRISONER CARGO LIGHT/ METAL TOGGLE MOUNTED ON DASH	\$59.00	\$59.00
1	0SR00MCR	LED MARKER/CLEARNCE RED CHROME Notes: DIRECTLY OVER DRIVER HEAD BEHIND VISOR	\$22.00	\$22.00
1	CHWLUNI	WCX LOW FREQ SIREN AMP UNIV MT	\$432.00	\$432.00
1	HWLRB32	HOWLER BKT 21 TAHOE	\$0.00	\$0.00
1	BS548-BSSP28JA	I-E RST WCX 8-LT S/D 21 TAHOE; 4/4 DUO K/M LTHD D/P PROMO PKG	\$1,082.00	\$1,082.00
1	TLI2J	ION T-SERIES LINEAR DUO R/B Mounting Location : LG3 - LIFTGATE - ON INSIDE Notes: VISIBLE TO TRAFFIC WHEN OPEN- WIRE TO PUSHBUTTON ON LIFTGATE SO LIGHTS CAN BE TURNED OFF MANUALLY	\$114.00	\$114.00
1	TLI2J	ION T-SERIES LINEAR DUO R/B Mounting Location : LG3 - LIFTGATE - ON INSIDE Notes: VISIBLE TO TRAFFIC WHEN OPEN- WIRE TO PUSHBUTTON ON LIFTGATE SO LIGHTS CAN BE TURNED OFF MANUALLY	\$114.00	\$114.00
2	IONGROM	ION SERIES BODY MOUNT GROMMET Mounting Location : RB1 - REAR BUMPER Notes: RECESSED BUMPER MOUNTS	\$7.00	\$14.00
1	3SRCCDCR	3" ROUND SPLIT RED/WHT COMPART Mounting Location : C3 - CONSOLE - FRONT Notes: OVERHEAD CENTER CONSOLE/ DASH SWITCH	\$59.00	\$59.00
4	I3JC	TRIO ION R/B W/ WHT OVERRIDE Wiring Instructions : WIRE TRIO W/ OVERRIDE Mounting Location : RB1 - RUNNING BOARDS Notes: WHITE ALLEY	\$138.00	\$552.00
2	I3JC	TRIO ION R/B W/ WHT OVERRIDE Wiring Instructions : WIRE INTO REVERSE LIGHT ; WIRE TRIO W/ BRAKE Mounting Location : RB1 - REAR BUMPER	\$138.00	\$276.00

Quote

Date **11/11/2022**
Quote # **CAPQ-106168**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Part Details	Unit Price	Total
		Notes: RECESS MOUNT IN BUMPER WHITE REVERSE RED BRAKE		
1	3SRCCDCR	3" ROUND SPLIT RED/WHT COMPART Notes: MOUNTED ON LIFTGATE TO BE USED AS A DOME LIGHT WHEN OPEN/ MOUNT SWITCH ON DRIVER D PILLAR	\$59.00	\$59.00
1	SWITCH	LIGHTED ROCKER SWITCH Notes: REAR LIFTGATE SWITCH ON/OFF/ON	\$7.00	\$7.00
1	CV2V	VEHICLE TO-VEHICLE SYNC MODULE	\$212.00	\$212.00
1	CEM16	WECANX 16 OUTPUT EXPANSION MOD	\$166.00	\$166.00
OTHER				
1	USB-15	BLACK 15 FOOT USB 2.0 EXTENSION CABLE	\$14.00	\$14.00
PRISONER TRANSPORT EQUIPMENT				
1	PK1156TAH21	#10XL HORIZONTAL SLIDING WINDOW; COATED POLYCARBONATE; XL PANEL PARTITION; *INCLUDES XL RECESSED PANEL & LOWER EXTENSION PANEL; CHEVROLET TAHOE 21-23	\$840.00	\$840.00
1	PK0123TAH212ND	CARGO AREA PARTITION; FOR 2ND ROW SEAT; #12VS STATIONARY WINDOW; VINYL COATED EXPANDED METAL; *FOR USE BEHIND 2ND ROW SEAT ONLY; CHEVROLET TAHOE 21-23	\$487.00	\$487.00
1	QK1374TAH21	FULL REPLACEMENT TRANSPORT SEAT; TPO PLASTIC; WITH CENTER PULL SEAT BELTS; *REQUIRED #12VS CARGO AREA REAR PARTITION NOT INCLUDED; *FOR USE WITHOUT 2ND ROW SEAT DELETE OPTION (CODE:ATZ); CHEVROLET TAHOE 21-23	\$907.00	\$907.00
1	DK0100TAH21	DOOR PANEL; TPO PLASTIC BLACK; INSTALLS OVER OEM DOOR PANELS; CHEVROLET TAHOE 21-23	\$184.00	\$184.00
1	WK0514TAH21H	WINDOW BARRIER; STEEL HORIZONTAL; *FOR USE WITH: STOCK DOOR PANELS; SETINA TPO DOOR PANELS; CHEVROLET TAHOE 21-23	\$268.00	\$268.00
1	GK10342UHK	DUAL T-RAIL MOUNT; 2 UNIVERSAL XL; HANDCUFF KEY OVERRIDE; *FOR USE WITH ALL VEHICLES; *FOR USE WHEN MOUNTING TO FREESTANDING BASES Wiring Instructions : WIRE GUNLOCK TO SMART SIREN Notes: WIRE TO CONTROLLER	\$495.00	\$495.00
STORAGE				
1	TK1097TAH21	CARGO BOX; WITHOUT E-Z LIFT; DSE-SLIDING DRAWER, WITH ELECTRONIC COMBO LOCK; BSP-BASE TIER WITH LOCK, PUSH BUTTON LOCK; *REQUIRED SETINA #12VS REAR CARGO PARTITION OR FREESTANDING BRACKETS NOT INCLUDED; CHEVROLET TAHOE 21-23	\$1,752.00	\$1,752.00
1	TPA9289	CARGO RADIO TRAY; WITH NO LOCK TRN	\$328.00	\$328.00

QTY	Part #	Description	Price
1	LABOR	LABOR	\$3,652.00
1	DEALER	DEALER PREP	\$425.00

Quote

Date **11/11/2022**
Quote # **CAPQ-106168**



CAP FLEET

2603 Taylors Valley Road
Belton, TX 76513
Office 254-773-1959

QTY	Part #	Description	Price
1	SHIPPING	SHIPPING	\$750.00
1	PDKIT	POWER DISTRIBUTION KIT	\$50.00
1	DISPOSAL	DISPOSAL FEE (FOR OEM PARTS NOT PICKED UP ON DELIVERY)	\$100.00
1	PROGFEE	PROGRAMMING FEE	\$200.00
1	INSPECT	ALL CAP FLEET INSPECTIONS COME WITH AN AGENCY LIMITED LIFETIME WARRANTY	\$100.00
1	WIRING HARNESS	WIRING HARNESS	\$350.00
1	SHOP SUPPLIES	SHOP SUPPLIES	\$225.00
1	GRAPHICS	CUSTOM GRAPHICS	\$725.00

CALDWELL COUNTRY CHEVROLET

800 HWY. 21 E. CALDWELL, TEXAS 77836 TAX ID#14-1856872

BUYBOARD BID 601-19

QUOTE # CC223917

End User: CITY OF BURLESONCaldwell Rep: CHRIS COLLINSContact: TRAY GEE 817-426-9838-O 325-269-4919-CPhone: 979-567-6129Phone/email: TGEE@BURLESONTX.COMDate: Wednesday, December 15, 2021Product Description: CHEVY SILVERADO 1500 PICK UPemail: chris@caldwellcountry.comA. Bid Series: 25A. Base Price: **\$ 32,815.00****B. Published Options [Itemize each below]**

Code	Options	Bid Price	Code	Options	Bid Price
CC10753	2023 SILVERADO 1500 LTD 2WD	\$ 3,300.00	G80	AUTO-LOCKING DIFFERENTIAL	\$ 395.00
	DOUBLE CAB 147" WORK TRUCK	INCL		REMOTE KEYLESS ENTRY	INCL
L84	ENGINE: 5.3L ECOTEC V8	\$ 1,595.00		POWER DOOR LOCKS	INCL
MYC	6 SPEED AUTOMATIC TRANS	INCL		3.23 RATIO	INCL
PCV	WT CONVENIENCE PACKAGE	\$ 1,120.00		17" STEEL WHEELS	INCL
PEB	WT VALUE PACKAGE	\$ 1,190.00		TIRES 255/70R17 ALL SEASON	INCL
PCV	WT CONVENIENCE PACKAGE	\$ 1,675.00		BLUETOOTH	INCL
JL1	TRAILER BRAKE CONTROLLER	\$ 275.00		TINTED GLASS	INCL
1WT	WORK TRUCK PREF EQUIP GROUP	INCL		FULL VINYL FLOOR	INCL
Z82	TRAILERING PACKAGE	INCL		CRUISE CONTROL	INCL
FHS	E85 FLEX FUEL CAPABLE	\$ 100.00		7" DIAG COLOR SCREEN, BLUETOOTH	INCL
Total of B. Published Options:					\$ 9,650.00

C. Unpublished Options [Itemize each below, not to exceed 25%]

\$= -1.0 %

Options	Bid Price	Options	Bid Price
OPTION/PACKAGE DISCOUNT	\$ (440.00)	GAZ- SUMMIT WHITE	EXT COLOR
		H2G-JET BLCK VINYL	INT COLOR
		ORDER Q3 2021-Q4 2022	DELIVERY
Total of C. Unpublished Options:			\$ (440.00)

D.	Registration, Inspection, Paperwork, Postage cost, Courthouse time, & Runner time:	INCLUDED	\$ -
E.	Upfitters:		\$ -
F.	Manufacturer Destination/Delivery:		
G.	Floor Plan Interest (for in-stock and/or equipped vehicles):		\$ -
H.	Lot Insurance (for in-stock and/or equipped vehicles):		\$ -
I.	Contract Price Adjustment:		\$ -
J.	Additional Delivery Charge: <u>165</u> miles INCLUDED		\$ 470.25
K.	Subtotal:		\$ 42,495.25
L.	Quantity Ordered <u>3</u> x K =		\$ 127,485.75
M.	Trade in:		
N.	BUYBOARD FEE PER PURCHASE ORDER:		\$ 400.00
O.	TOTAL PURCHASE PRICE WITH BUYBOARD FEE		\$ 127,885.75

** PRICES ARE SUBJECT TO CHANGE DUE TO SUPPLY CHAIN CHALLENGES. RE-VERIFY PRICING BEFORE ISSUING A PURCHASE ORDER. COMMODITY SURCHARGES MAY APPLY AFTER P.O. IS ISSUED. FINAL PRICE IS NOT CONFIRMED UNTIL VEHICLE ORDER IS ACCEPTED BY MANUFACTURER. PRICE WILL BE CONFIRMED AT TIME OF ORDER ENTRY, BE ADVISED PRICE CAN CHANGE DUE TO MANUFACTURER. ENSURE CONFIRMATION OF RECEIPT BY EMAIL WHEN P.O. IS SENT. ** DUE TO SEMICONDUCTOR SUPPLY SHORTAGES, FEATURE AVAILABILITY WILL CHANGE THROUGHOUT THE MODEL YEAR. SEE THE WINDOW LABEL OF A SPECIFIC VEHICLE TO DETERMINE ITS CONTENT.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2022-958198

Date Filed:
11/22/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

CALDWELL COUNTRY CHEVROLET
CALDWELL, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

#601-19
Purchase of Vehicles

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	SLATER, Ryan	Caldwell, TX United States	X	
	HESTER, Zach	Caldwell, TX United States	X	
	KNAPP, Averyt	Caldwell, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Kaybee Nelson, and my date of birth is [REDACTED]

My address is PO BOX 27, Caldwell, TX, 71036, WA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Burleson County, State of Texas, on the 22 day of Nov, 2022.
(month) (year)

Kaybee Nelson
Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Community Services

FROM: DeAnna Phillips, Director of Community Services

MEETING: December 12, 2022

SUBJECT:

Consider approval of an ordinance amending Chapter 70 "Streets, Sidewalks and Other Public Places" of the Code of Ordinances, City of Burleson, by repealing and replacing Article V "Public Events" to require permits for public events; providing for procedures for the issuance of a permit; requiring the City Council to approve portions of certain permit applications involving certain street closures or in-kind sponsorships; providing for water, health and sanitation facilities for the event; providing for police protection and emergency medical services for the event; requiring the permit application and permittee to carry liability insurance of a certain amount and indemnify the city. (Final Reading) *(Staff Contact: DeAnna Phillips, Director of Community Services)*

SUMMARY:

Article V, "Public Events," was added to Chapter 70, "Streets, Sidewalks and Public Places," of the Code of Ordinances in 2013. The new article required permits for public events and provided an outline to enhance the health, safety and general welfare of events within the city limits of Burleson.

After nine years of operating under the ordinance staff is proposing changes to outline a formal process on street closures, in-kind donations of city staff or resources for non-city public events and to reflect updated definitions.

The current process of approving road closures and in-kind city donations is a case-by-case decision approved by staff.

Policy Issues with current ordinance

- Policy issues that need to be considered formally by city council rather than exercised by staff:
 - Street closures that can impact public safety, businesses and/or residents
 - Donations of city time, equipment and facilities

- Staff feels that Council should be given an opportunity to make policy decisions on which events are appropriate to close streets and/or receive an in-kind donation from the city

Proposed Changes Include:

Sect. 70-140 – Definitions

- **Public Event Official** means the person or department to whom the city manager may, from time to time, delegate the enforcement responsibility under this article.
- **Major thoroughfare** means any street in the city with more than two lanes for vehicular travel, including the sidewalk and right-of-way of along such street, and shall also specifically include the following streets Renfro Street, Wilshire Boulevard, Hidden Creek Parkway and John Jones Drive including the sidewalks and rights-of-way along such streets.
- **Marathon, 5K, or Fun Run** means an organized running race upon public rights-of-way, including public trails and sidewalks.
- **Neighborhood block party** means an organized small-scale activity that closes a small number of blocks on a local-service, residential street that is initiated by and intended to attract only local residents who live on or in close proximity to the street being closed and not intended for the general public, and which attracts or can be expected to attract no more than two hundred fifty (250) persons at any instant during the gathering or activity.
- **Parade** means any assembly, march, demonstration, or procession upon public thoroughfares within the city consisting of persons, animals, or vehicles traveling in unison with an intent of attracting public attention and that is reasonably likely to interfere with the normal flow or regulation of traffic upon public thoroughfares.
- **Sponsorship** means an in-kind sponsorship of over five hundred dollars (\$500.00) from the city including but not limited to (i) the cost of policing of the event, (ii) the cost of medical services at the event, (iii) the cost of public works services at the event, (iv) the cost of parks and recreation services at the event, or (v) the waiver of any city building rental fee.
- **Street** means any public or private street, alley, avenue, lane, boulevard, drive, public place or highway commonly used for the purpose of travel within the city.
- **Street closure** means any closing or impacting a street, sidewalk, or right-of-way.

- **Public Event or Event Definition Updated**

Current definition: means any meeting or gathering held at a specific location within the city limits, which attracts or can be expected to attract more than 500 persons at any instant during the meeting or gathering.

Proposed definition:

means a temporary event, gathering, meeting, or organized activity, including but not limited to parades, bike races, marathons, fun runs, parking lot parties, concerts, carnival or festivals of any size that has one or more of the following:

- Closing or impacting a public street, sidewalk, or trail;
- Impacting or hindering the regular flow of traffic;
- Blocking or restricting city-owned property;
- Sale or distribution of merchandise, food, or beverages on city-owned property;
- Erection of a tent equal to or greater than four hundred (400) square feet in area;
- Installation of a stage, band-shell, trailer, van, portable building, grandstand, or bleachers;
- Placement of portable toilets on city-owned property;
- Having an impact on public safety.

The term does not include the following:

- An event or gathering that occurs within or on the same property as an established permanent stadium, arena, auditorium or other similar permanent structure that has sufficient existing and permanent electrical service, plumbing, water supply, sanitary sewer service and legal parking spaces to accommodate the expected number of persons;
- Events held on private property that does not impact public safety or the closure of public right-of-ways, including but not limited to car washes, bake sales, auctions;
- Motorcades which comply with all traffic laws;
- Funeral processions;
- Events which are authorized under a separate agreement or permit issued by the city or other authorizing jurisdiction;
- Events managed entirely by the City of Burleson; and/or
- A governmental agency acting within the scope of its functions.

Sect. 70-147 Application Procedure

Changes include: setting a procedure for city council approval of events that will have an impact on public streets, trails or sidewalks and approval for in-kind sponsorship of over \$500 and changes to submittal and staff response timeline

Proposed New Application Procedure

- City council approval of a street closure or sponsorship is needed prior to the issuance of a public event permit for any event applications that include a street closure or sponsorship. Except as provided in section 70-168, the public event official shall not issue a public event permit for any public event application that includes a street closure or sponsorship unless the street closure or sponsorship is approved by the city council.
- An application for a public event permit that requires city council approval must be filed not less than 90 days before the event is to begin. The city manager may waive the 90-day filing requirement if it is determined that the application can be processed in less than

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90 days, taking into consideration the number and types of permits required to be issued in order to hold the event. Any marketing or advertising made before city council approval is at the risk of the promoter.

- An application for a public event permit that does not require city council approval must be filed not less than 60 days before the event is to begin. The public event official may waive the 60-day filing requirement if it is determined that the application can be processed in less than 60 days, taking into consideration the number and types of permits required to be issued in order to hold the event.

Section 70-157 – Street Closures

Proposed changes include addition of Traffic Control Plans requirement.

Along with the public event application, the applicant shall provide a site plan that indicates proposed street closures and the alternate flow of traffic. The director of public works or their designee will review all proposed street closures and the traffic control plan to ensure that proper traffic control measures will be in place. The director of public works or their designee will notify the applicant of what the cost will be to provide the requested street closures. The director of public works or their designee has the authority to require a traffic control plan developed by a professional engineer or licensed traffic control professional in accordance with the Texas Manual on Uniform Traffic Control Devices if deemed necessary for public safety purposes. The closing of a street shall only be provided by the city.

The director of public works or their designee will review the traffic control plan as submitted as part of the public event application.

Section 70-159 – Hours of Operations

Changes were made to align the public event hours to match the noise ordinance hours.

- Public events shall be conducted only between the hours of 7 a.m. to 10 p.m. daily. The police chief or public event official shall be responsible for enforcing this provision.

New Sections Proposed are as follows:

Sec. 70-168 – Neighborhood Block Parties.

The city believes that neighborhood block parties are in the public interest and a benefit to the citizens. Persons organizing a neighborhood block party are required to obtain a permit at least (30) days before the intended date. The public event official, or designee, may determine that the application can be processed in a shorter time period, taking into consideration the nature and scope of the proposed event.

Neighborhood block parties will be exempt from the public event fees described in this article, but may be subject to other city fees (e.g. tent permit fees). Neighborhood block parties are exempt from the insurance requirements set forth in section 70.168. Neighborhood block

parties are exempt from street closure approval from city council, unless a major thoroughfare will be affected.

Sec. 70-169 – Parade.

A parade must follow the public event application process. The public event official, or designee, shall provide the applicant with a preferred parade route.

Sec. 70-170 – Marathons, 5Ks, Fun Run.

A marathon, 5K, or fun run must follow the public event application process. The public event official, or designee, shall provide the applicant with a preferred marathon, 5K, or fun run route. If the applicant requests an alternative route city council approval shall be required.

OPTIONS:

- 1) Example: Approve as presented
- 2) Example: Approve with changes
- 3) Example: Deny

RECOMMENDATION:

Staff recommendation is to approve as presented.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

n/a

FISCAL IMPACT:

n/a

STAFF CONTACT:

DeAnna Phillips
Director of Community Services
817-426-9622



Code of Ordinance Update

CHAPTER 70, "STREETS, SIDEWALKS AND PUBLIC PLACES" ARTICLE V "PUBLIC EVENTS"

PRESENTED TO CITY COUNCIL ON DECEMBER 12, 2022

Background

- Article V, “Public Events” was added to Chapter 70, "Streets, Sidewalks and Public Places," of the Code of Ordinances in 2013.
- Article V requires permits for public events, provides procedures for the issuance of permits, outlines water, health, sanitation facilities, police and emergency medicals services that are required for events and requires the event holder to carry liability insurance.
- After nine years of operating under the ordinance staff is proposing changes to outline a formal process on street closures, in-kind donations of city staff or resources for non-city public events and to reflect updated definitions.
 - The current process of approving road closures and in-kind city donations is a case-by-case decision approved by staff.

Policy Issues with Current Ordinance

- Policy issues that need to be considered formally by city council rather than exercised by staff:
 - Street closures that can impact public safety, businesses and/or residents
 - Donations of city time, equipment and facilities
- Staff feels that Council should be given an opportunity to make policy decisions on which events are appropriate to close streets and/or receive an in-kind donation from the city

Events that need Council Approval

- Non-city public events that will close or impacts a public street, sidewalk, or trail, not to include Neighborhood Block Parties
- Events that are requesting an in-kind sponsorship of over \$500 from the city including but not limited to the following:
 - Cost of policing of the event
 - Cost of medical services at the event
 - Cost of public works services at the event
 - Cost of parks and recreation services at the event
 - Waiver of building rental fee

Examples include: Waiver of BRiCk room rentals (in-kind), Parades (in-kind donation of public safety time) and Parades (road closure).

Affected events include: BHS High School Parade, 4th of July Parade and Christmas Parade.

Process for Council Approval

- Application for a public event permit that requires city council approval must be filed not less than 90 days before the event is to begin.
- The city manager may waive the 90-day filing requirement if it is determined that the application can be processed in less than 90 days, taking into consideration the number and types of permits required to be issued in order to hold the event.
- A presentation will be prepared outlining request, with a staff recommendation of approval or denial and placed on a council agenda.
- Applicants will be requested to attend meeting and to address any questions or concerns council has.

Events not included for City Council Approval

1. An event or gathering that occurs within or on the same property as an established permanent stadium, arena, auditorium or other similar permanent structure that has sufficient existing and permanent electrical service, plumbing, water supply, sanitary sewer service and legal parking spaces to accommodate the expected number of persons;
2. Events held on private property that does not impact public safety or the closure of public right-of-ways, including but not limited to car washes, bake sales, auctions;
3. Motorcades which comply with all traffic laws;
4. Funeral processions;
5. Events which are authorized under a separate agreement or permit issued by the city or other authorizing jurisdiction;
6. Events managed entirely by the City of Burleson; and/or
7. A governmental agency acting within the scope of its functions.

Other proposed changes to ordinance

- **UPDATE** Code Official to Public Event Official
- **UPDATE** Public Event or Event to remove the definition of an event to be based on an attendance number (500 or more) and focus on the nature of the event
- **ADD** definition for Marathons, 5Ks, Fun Runs, Neighborhood Block Parties and Parade
- **UPDATE** application procedure submittal dates
- **ADD** Traffic Control Plan requirement
- **UPDATE** Hours of Operations to match Noise Ordinance

Next Steps

- Approve as presented
- Modify
- Deny

Questions Comments

DeAnna Phillips
Director of Community Services
dphillips@burlesontx.com

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 70, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES," OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS, BY REPEALING AND REPLACING ARTICLE V, "PUBLIC EVENTS" TO REQUIRE PERMITS FOR PUBLIC EVENTS; PROVIDING PROCEDURES FOR THE ISSUANCE OF A PERMIT; REQUIRING THE CITY COUNCIL TO APPROVE PORTIONS OF CERTAIN PERMIT APPLICATIONS INVOLVING CERTAIN STREET CLOSURES OR IN-KIND SPONSORSHIPS; PROVIDING FOR WATER, HEALTH AND SANITATION FACILITIES FOR THE EVENT; PROVIDING FOR POLICE PROTECTION AND EMERGENCY MEDICAL SERVICES FOR THE EVENT; REQUIRING THE EVENT APPLICANT AND PERMITTEE TO CARRY LIABILITY INSURANCE OF A CERTAIN AMOUNT AND INDEMNIFY THE CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson ("City") is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, the Burleson City Council believes that events attended by a large number of persons, when not held at a structure or location designed for large crowds, may be detrimental to public health and safety; and

WHEREAS, the Burleson City Council finds such events can further be a detriment to the health, safety and general welfare of the City and its citizens when such events are not adequately planned and provisions are not made for adequate police protection, traffic control, parking, emergency medical services, and sanitation; and

WHEREAS, the Burleson City Council finds it imperative to approve any and all non-City public event requests that will close or impact streets, sidewalks or trails; except for those events that are qualified as a neighborhood block party; and any public event that requests an in-kind sponsorship of over five hundred dollars (\$500.00) from the City including, but not limited to staffing and facility rentals; and

WHEREAS, the Burleson City Council believes that impacting traffic flow could be considered a public nuisance and can impede the flow of goods and services in the community and

as such the closures of such roads require an appropriate City Council action and the use of taxpayer staff and services for non-City public events should be approved by the City Council; and

WHEREAS, the Burleson City Council desires to amend Article V, "Public Events," of Chapter 70, "Streets, Sidewalks and Public Places," of the Code of Ordinances to regulate certain events.

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

SECTION 1.

Chapter 70, "Streets, Sidewalks and other Public Places," of the Code of Ordinances, City of Burleson, Texas is hereby amended by repealing and replacing Article V, "Public Events," to read as follows:

"ARTICLE V. - PUBLIC EVENTS

DIVISION 1. - Generally

Sec. 70-140 - Definitions.

When used in this article, the following words, terms, and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person who has filed a formal written application with the city for the purpose of obtaining a public event permit.

City means the City of Burleson, Texas.

City council means the City Council of the city.

Fire chief means fire chief of the city.

Fire department means fire department of the city.

Fire marshal means the fire marshal of the city.

Major thoroughfare means any street in the city with more than two lanes for vehicular travel, including the sidewalk and right-of-way of along such street, and shall also specifically include the following streets Renfro Street, Wilshire Boulevard, Hidden Creek Parkway and John Jones Drive including the sidewalks and rights-of-way along such streets.

Marathon, 5K, or Fun Run means an organized running race upon public rights-of-way, including public trails and sidewalks.

Neighborhood block party means an organized small-scale activity that closes a small number of blocks on a local-service, residential street that is initiated by and intended to attract

only local residents who live on or in close proximity to the street being closed and not intended for the general public, and which attracts or can be expected to attract no more than two hundred fifty (250) persons at any instant during the gathering or activity.

Parade means any assembly, march, demonstration, or procession upon public thoroughfares within the city consisting of persons, animals, or vehicles traveling in unison with an intent of attracting public attention and that is reasonably likely to interfere with the normal flow or regulation of traffic upon public thoroughfares.

Permanent structure means any man-made structure for which the city has issued a certificate of occupancy.

Permit holder means the person to whom a public event permit is granted pursuant to this article.

Police chief means the chief of police of the city.

Police department means the police department of the city.

Public event or event means a temporary event, gathering, meeting, or organized activity, including but not limited to parades, bike races, marathons, fun runs, parking lot parties, concerts, carnival or festivals of any size at least of portion of which is held in the city limits that has one or more of the following:

- (1) Closing or impacting a public street, sidewalk, or trail;
- (2) Impacting or hindering the regular flow of traffic;
- (3) Blocking or restricting city-owned property;
- (4) Sale or distribution of merchandise, food, or beverages on city-owned property;
- (5) Erection of a tent equal to or greater than four hundred (400) square feet in area;
- (6) Installation of a stage, band-shell, trailer, van, portable building, grandstand, or bleachers;
- (7) Placement of portable toilets on city-owned property; or
- (8) Having an impact on public safety.

Public Event or event does not include the following:

- (1) An event or gathering that occurs within or on the same property as an established permanent stadium, arena, auditorium or other similar permanent structure that has sufficient existing and permanent electrical service, plumbing, water supply, sanitary sewer service and legal parking spaces to accommodate the expected number of persons;
- (2) Events held on private property that does not impact public safety or the closure of public right-of-ways, including but not limited to car washes, bake sales, or auctions;
- (3) Motorcades which comply with all traffic laws;
- (4) Funeral processions;
- (5) Events which are authorized under a separate agreement or permit issued by the city or other authorizing jurisdiction;
- (6) Events managed entirely by the City of Burleson; and/or

(7) A governmental agency acting within the scope of its functions.

Public event official or official means the person or department to whom the city manager may, from time to time, delegate the enforcement responsibility under this article.

Promoter means any individual, assumed-named entity, partnership, association, corporation, firm or organization that promotes, organizes, manages, finances, or holds a public event.

Right-of-Way means any street, sidewalk, trail, alley, or similar place which is owned or controlled by a governmental entity.

Sidewalk means any portion of a street between the curb or the lateral lines of the improved roadway and the adjacent property line, all or a part of which is intended for the use of pedestrians regardless of whether the area is paved or improved.

Sponsorship means an in-kind sponsorship of over five hundred dollars (\$500.00) from the city including but not limited to (i) the cost of policing of the event, (ii) the cost of medical services at the event, (iii) the cost of public works services at the event, (iv) the cost of parks and recreation services at the event, or (v) the waiver of any city building rental fee.

Street means any public or private street, alley, avenue, lane, boulevard, drive, public place or highway commonly used for the purpose of travel within the city.

Street closure means any closing or impacting a street, sidewalk, or right-of-way.

Sec. 70-141 - Authority of public event official.

- (a) The provisions of this article shall be administered and enforced by the public event official.
- (b) The public event official has authority to issue a public event permit when requirements of this article have been met.
- (c) The public event official shall ensure that all other applicable licenses and permits under local, state or federal law are requested, submitted and approved before the permit is granted.

Secs. 70-142-70-145. - Reserved.

DIVISION 2. - PERMIT

Sec. 70-146 - Permit Required

It shall be unlawful for any person to promote or conduct a public event without first having obtained a permit as required by this article.

Sec. 70-147 - Application Procedure.

- (a) Except as provided in section 70-168, city council approval of a street closure or sponsorship is needed prior to the issuance of a public event permit for any event applications that include a street closure or sponsorship. Except as provided in section 70-168, the public event official shall not issue a public event permit for any public event application that includes a street closure or sponsorship unless the street closure or sponsorship is approved by the city council.
- (b) An application for a public event permit that requires city council approval must be filed not less than 90 days before the event is to begin. The city manager may waive the 90-day filing requirement if it is determined that the application can be processed in less than 90 days, taking into consideration the number and types of permits required to be issued in order to hold the event. Any marketing or advertising made before city council approval is at the risk of the promoter.
- (c) An application for a public event permit that does not require city council approval must be filed not less than 60 days before the event is to begin. The public event official may waive the 60-day filing requirement if it is determined that the application can be processed in less than 60 days, taking into consideration the number and types of permits required to be issued in order to hold the event.
- (d) The application for a public event permit shall contain, as a minimum, the following information:
 - (1) The name, address, e-mail address and telephone number of the applicant and the promoter or promoters of the event.
 - (2) If the promoter or promoters is a person other than the applicant, the applicant shall file a written statement from the promoter showing authority to make the application.
 - (3) If the event is to be held on private property, the applicant must submit written permission from the owner of the property or their authorized representative for the use of the property.
 - (4) The type and purpose of the event.
 - (5) The proposed location, if any, including the time, duration and location of any street closings and a site plan showing the area or route to be used during such event and the proposed parking area for the event. The applicant shall submit evidence with the application that sufficient parking will be provided for the event.
 - (6) If streets are to be closed for the event, a traffic control plan must be submitted.
 - (7) The estimated approximate number of persons who may attend the event.
 - (8) A site plan of the proposed location depicting the location and size of tents, awnings, canopies, food service booths, fences, barricades, restroom facilities and other temporary structures. In addition, the details of the sale of merchandise, food

or beverages and the list of vendors involved and the location of where those activities and vendors will be located or housed will be included on the site plan. The site plan shall include any other information required by this article. The promoter must still obtain any necessary permits for their event such as food permits or electrical permits as required by the city's Code of Ordinance.

- (9) Details of the proposed location, number and size of any signage for the event. All event signage shall comply with the currently adopted sign regulations.
 - (10) If loudspeakers are to be used, the location and orientation of those speakers shall be shown on the site plan.
 - (11) Whether electrical, mechanical or plumbing work will be conducted to prepare for or to hold the event and if so, evidence showing how it will be done in accordance with the city's adopted building codes.
 - (12) The dates and times the event will start and end.
 - (13) The time at which on-site activities in preparation for the event will begin.
 - (14) The location of any lighting for the event.
- (e) Upon receipt of a completed application, the public event official shall forward a copy of the application to each of the appropriate departments of the city. Each department shall review the application for approval or denial as it pertains to that particular department and return it, with any comments, to the public event official within ten (10) working days of receipt.
 - (f) If the applicant intends to or is required to use city services, the department providing such services shall submit to the applicant an estimate of the cost of each service.
 - (g) Where the fire chief, police chief or fire marshal determines that a proposed public event has an adverse impact on public safety through diminished access to buildings, structures, fire hydrants and fire apparatus, access roads or where such event will adversely affect public safety services of any kind, the fire chief or fire marshal shall have the authority to order the development of, or prescribe a public safety plan for the provision of an appropriate level of public safety. The public safety plan shall address: (1) emergency vehicle ingress and egress; (2) fire protection; (3) emergency medical services; (4) location of public assembly areas; (5) the directing of both attendees and vehicles (including the parking of vehicles); (6) vendor and food concession distribution; (7) the need for the presence of law enforcement at the event; and (8) the need for the presence of fire and emergency medical services personnel at the event.
 - (h) After reviewing the application, the public event official will review the application and departmental comments and shall issue the public event permit or issue the permit with conditions, unless denied in accordance with section 70.148.

Sec. 70-148 - Denial or Revocation.

- (a) The public event official may deny or revoke an application for a public event permit if:
 - (1) A public event permit has been previously granted for, and will conflict with, another event at the same time, site or location;
 - (2) The public event would severely hinder the delivery of normal or emergency services;
 - (3) The time, place or manner of the proposed event will disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
 - (4) The applicant fails to comply with, or the proposed event will violate this article or any other city ordinance, or if the applicant has been cited for violating this article during a previous event or the applicant has failed to comply with the terms of a previous public event permit;
 - (5) The applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the event;
 - (6) The applicant makes or permits the making of a false or misleading statement or omission of material fact on an application for a public event permit;
 - (7) The city council does not approve the street closure or sponsorship.
- (b) The public event official shall grant, grant the permit with conditions, or deny the permit within twenty days after receipt of a completed application.
- (c) If the public event official grants the permit with conditions, denies, or revokes a permit, the public event official shall immediately deliver written notice to the permit holder or applicant stating the action and the reasons supporting such action. The written notice shall be hand-delivered or mailed by certified mail to the permit holder or applicant's address as shown on the application.
- (d) Any person aggrieved by the action of the public event official shall have the right to appeal to the city council by filing a notice of appeal with the city secretary within five business days after the notice of decision is delivered under subsection (c). Upon receipt of the notice of appeal, the city secretary shall set a time and place for a hearing on the appeal and provide notice of the hearing to the aggrieved person. The hearing shall be not later than fourteen days from the date of receipt of the notice of appeal.
- (e) The decision of the city council on the appeal is final. No other administrative procedures are provided by the city.

Secs. 70-149-70-155. - Reserved.

DIVISION 3. STANDARDS

Sec. 70-156 - Parking.

- (a) Along with the public event application, the applicant shall submit evidence on a site plan that the number of spaces or area to be used will be sufficient to accommodate the projected number of users of such parking. If said parking is to be on private property adjacent to the event, evidence that the applicant has ownership of the property or permission from the property owner must be provided.
- (b) When the location is not an established parking area, a plan shall be submitted which will show how the parking will be achieved and arranged. The number of parking spaces and layout of the parking area, including aisle widths and size of parking spaces, shall be included on the site plan.
- (c) When adequate parking is not available at or immediately adjacent to the site of the event, off premises parking may be used. Plans shall be submitted which will show how off-premises parking and transfer of attendees to the event location will be accomplished.
- (d) The police chief or fire marshal may prohibit or restrict, for temporary periods, the parking of vehicles along a street within and adjacent to the site of the event.

Sec. 70-157 - Street Closures and Traffic Control Plan.

Along with the public event application, the applicant shall provide a site plan that indicates proposed street closures and the alternate flow of traffic. The director of public works or their designee will review all proposed street closures and the traffic control plan to ensure that proper traffic control measures will be in place. The director of public works or their designee will notify the applicant of what the cost will be to provide the requested street closures. The director of public works or their designee has the authority to require a traffic control plan developed by a professional engineer or licensed traffic control professional in accordance with the Texas Manual on Uniform Traffic Control Devices if deemed necessary for public safety purposes. The closing of a street shall only be provided by the city.

The director of public works or their designee will review the traffic control plan as submitted as part of the public event application.

Sec. 70-158 - Amusement Rides.

Amusement rides and attractions associated with public events shall conform to the statutory rules and regulations set forth in Chapter 2151 of the Texas Occupations Code, regulation of amusement rides, also referred to as the Amusement Ride Safety Inspection and Insurance Act.

Sec. 70-159 - Hours of Operations.

- (a) Public events shall be conducted only between the hours of 7 a.m. to 10 p.m. daily. The police chief or public event official shall be responsible for enforcing this provision.
- (b) An applicant, promoter or the permit holder may have the hours of operating extended to no earlier than 5 a.m. and no later than 2:00 a.m. for a public event on a showing of good

cause. In deciding whether there is good cause, the police chief and public event official shall consider the following factors: (1) the proposed location of the event; (2) the proximity of the proposed location to residential areas; (3) the other uses surrounding the location of the event; and (4) the level of noise that may be generated after 10:00 p.m. at the event.

Sec. 70-160 - Tents and Temporary Structures.

The use of a tent, canopy, or air-supported temporary membrane structure will require a permit and is subject to review by the fire marshal and shall meet the requirements of the fire code as adopted. Where applicable, copies of fire retardant certificates shall be required.

Sec. 70-161 - Cleanup; Compliance; Costs.

The permit holder shall agree to a complete and satisfactory cleanup of all trash and debris on the site. At the conclusion of the event, a city representative will inspect the area to ensure that compliance has been met. If it is necessary for the city to accomplish the cleanup, the applicant will be billed to cover the city's reasonable and necessary expenses to provide the cleanup.

Sec. 70-162 - Food Service.

Where food service is provided, those operations shall be in compliance with all provisions of the city food and food service establishment ordinance, fire code, as well as all other applicable state and local laws. A temporary food service permit application and a permit fee must be submitted by each food vendor participating in the event in accordance with Article V, "Food and Food Establishments," of Chapter 14 of this code.

Sec. 70-163 - Sanitary Facilities.

Where necessary, portable type sanitary facilities must be provided on the premises in an amount sufficient to satisfy state regulations concerning Public Events adopted under Chapter 751 of the Texas Health and Safety Code.

Sec. 70-164 - Water Usage and Disposal of Wastewater.

- (a) Any public event or temporary activity requiring the use of water from the city water system must be coordinated with the utility customer service department to obtain a temporary meter. Deposit for the meter and payment for water used shall be in accordance with all applicable ordinances of the city.
- (b) The applicant shall submit a plan for the disposal of wastewater and the plan shall be approved by the public event official prior to such event.

Sec. 70-165 - Solid Waste.

Where applicable, a commercial solid waste dumpster must be provided on-premises at all outdoor Public Events. Applicants should make arrangements for the provisions of such dumpsters with a commercial solid waste collection provider company licensed by the city.

Sec. 70-166 - Police Protection.

- (a) The police chief or their designee shall determine whether and to what extent additional police protection is reasonably necessary for traffic control and public safety. The police chief or their designee shall base this decision solely on the size, location, duration, time and date of the event; the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks.
- (b) If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will police the event. If additional police protection is deemed necessary by the police chief or their designee, they shall notify the applicant. The applicant then shall have the duty to secure the police protection deemed necessary. In such event and prior to the issuance of a permit for the event, the applicant and the police chief or their designee shall agree upon who will provide police presence. If the police department will be providing the police presence, costs shall be determined based on rates established by the police department.

Sec. 70-167 - Emergency Medical Care.

- (a) The fire chief or their designee shall determine whether and to what extent emergency medical care shall be reasonably provided to ensure public safety. The fire chief or their designee shall base this decision on the size, location, duration, time and date of the event.
- (b) If possible, without disruption of ordinary fire services or compromise of public safety, regularly scheduled on-duty personnel will provide emergency medical care for the event. If additional emergency medical care is deemed necessary by the fire chief or their designee, they shall notify the applicant. The applicant then shall have the duty to secure the emergency medical care provider as deemed necessary. In such event and prior to the issuance of a permit for the event, the applicant and the fire chief or their designee shall agree upon who will provide emergency medical care. If the fire department will be providing the emergency medical care costs shall be determined based on rates established by the fire department.

Sec. 70-168 – Neighborhood Block Parties.

The city believes that neighborhood block parties are in the public interest and a benefit to the citizens. Persons organizing a neighborhood block party are required to obtain a permit at least (30) days before the intended date. The public event official, or designee, may determine that the application can be processed in a shorter time period, taking into consideration the nature and scope of the proposed event.

Neighborhood block parties will be exempt from the public event fees described in this article, but may be subject to other city fees (e.g. tent permit fees). Neighborhood block parties are exempt from the insurance requirements set forth in section 70.168. Neighborhood block parties are exempt from street closure approval from city council, unless a major thoroughfare will be affected.

Sec. 70-169 – Parade.

A parade must follow the public event application process. The public event official, or designee, shall provide the applicant with a preferred parade route.

Sec. 70-170 – Marathons, 5Ks, Fun Run.

A marathon, 5K, or fun run must follow the public event application process. The public event official, or designee, shall provide the applicant with a preferred marathon, 5K, or fun run route.

Sec. 70-171 - Insurance Coverage; Indemnification.

- (a) The applicant for shall furnish the city with a certificate of insurance complying with minimum standards sufficient to protect event attendees, the general public, and city-owned property as outlined below, including property damage arising from the public event that impacts or occurs on city property.
- (b) The application shall provide, with each public event permit application, a liability, fire and comprehensive insurance policy reflecting the city as an additional insured party. Coverage shall be at least in the amount of \$500,000.00 for each person and \$1,000,000.00 for each single occurrence for bodily injury or death and \$500,000.00 for each single occurrence for injury to or destruction of property.
- (c) The city shall have the right to lower or increase the amount based upon the type of event, equipment, machinery, location, number of people involved, provision of alcohol, and other pertinent factors or risks associated with the public event.
- (d) THE APPLICANT AND/OR PERMIT HOLDER SHALL DEFEND, INDEMNIFY, PROTECT, AND HOLD HARMLESS THE CITY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, CONTRACTORS, SUBCONTRACTORS, ASSIGNS, SPONSORS, AND VOLUNTEERS FROM AND AGAINST ANY AND ALL LIENS, CLAIMS, DEMANDS, LOSS, LIABILITY, COST (INCLUDING BUT NOT LIMITED ATTORNEYS' FEES, ACCOUNTANTS' FEES, ENGINEERS' FEES, CONSULTANTS' FEES AND EXPERTS' FEES), EXPENSE, DAMAGE, AND CAUSES OF ACTION FOR DAMAGES BECAUSE INJURY PERSONS (INCLUDING DEATH) AND INJURY DAMAGE TO OR LOSS ANY PROPERTY OR IMPROVEMENTS ARISING FROM CAUSED, IN IN PART, ACTS AND/OR OMISSIONS APPLICANT, PERMIT HOLDER, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, VOLUNTEERS, AND PARTICIPANTS IN THE EVENT.

Sec. 70-172 - Nuisances to be controlled by city, state and federal regulations.

Noise, glare, odor and other nuisances shall be controlled as set out in applicable sections of the "Code of Ordinances" as adopted by the City of Burleson and shall not be in violation of any other local, state or federal law.

Secs. 70-170-70-190. - Reserved."

SECTION 2. CUMULATIVE

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Burleson, Texas, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event the conflicting provisions of such ordinances and such Code are hereby repealed. This ordinance is consistent with and is not intended to repeal any provision in the zoning ordinance.

SECTION 3. SEVERABILITY

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 4. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Five Hundred Dollars (\$500.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 5. SAVINGS PROVISION

All rights and remedies of the City of Burleson are expressly saved as to any and all violations of the provisions of any ordinances concerning outdoor gatherings or Public Events which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 6. PUBLICATION

Pursuant to Section 36 of the Charter of the City of Burleson, that this ordinance shall take effect after its passage and publication, and that the City Secretary is hereby directed to give notice of the passage of this ordinance by causing the caption or title and the penalty clause of this ordinance to be published once in a newspaper of general circulation in the city and on the city's website.

SECTION 7.

EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

First Reading: the _____ day of _____, 20____.

Final Reading: the _____ day of _____, 20____.

PASSED AND APPROVED this the _____ day of _____, 20____.

Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

ARTICLE V. PUBLIC EVENTS

DIVISION 1. GENERALLY

Sec. 70-140. Definitions.

When used in this article, the following words, terms and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means a person who has filed a formal written application with the city for the purpose of obtaining a public event permit.

City means the City of Burleson, Texas.

Code official means the person or department to whom the city manager may, from time to time, delegate the enforcement responsibility under this article.

Permanent structure means any manmade structure for which the city has issued a certificate of occupancy.

Permit holder means the person to whom a public event permit is granted pursuant to this article.

Promoter means any individual, assumed-named entity, partnership, association, corporation, firm or organization that promotes, organizes, manages, finances or holds a public event.

Public event or event means any meeting or gathering held at a specific location within the city limits, which attracts or can be expected to attract more than 500 persons at any instant during the meeting or gathering. The term does not include an event or gathering that occurs within or on the same property as an established permanent stadium, arena, auditorium or other similar permanent structure that has sufficient existing and permanent electrical service, plumbing, water supply, sanitary sewer service and legal parking spaces to accommodate the expected number of persons. There are three types of public events or event: city-sponsored, co-sponsored, and permitted. A *city-sponsored public event* is a public event that is initiated, financed, and organized by the city. A *co-sponsored public event* is a public event not initiated by the city that the public can attend at no cost, and the city participates in the financing or organization of the event. A *permitted public event* is a public event that is authorized under this article, but the city does not participate in the initiation or organization of the event.

Right-of-way means any street, sidewalk, alley, or similar place which is owned or controlled by a governmental entity.

Sidewalk means any portion of a street between the curb or the lateral lines of the improved roadway and the adjacent property line, all or a part of which is intended for the use of pedestrians regardless of whether the area is paved or improved.

Street means any public or private street, alley, avenue, lane, boulevard, drive, public place or highway commonly used for the purpose of travel within the city.

(Ord. No. B-805-13, § 1, 7-1-2013; Ord. No. CSO#311-09-2015, § 1, 9-21-2015)

Sec. 70-141. Authority of code official.

- (a) The provisions of this article shall be administered and enforced by the code official.
- (b) The code official has authority to issue a public event permit when requirements of this article have been met.
- (c) The code official shall ensure that all other applicable licenses and permits under local, state or federal law are requested, submitted and approved before the permit is granted.

(Ord. No. B-805-13, § 1, 7-1-2013)

Secs. 70-142—70-145. Reserved.*DIVISION 2. PERMIT***Sec. 70-146. Permit required.**

It shall be unlawful for any person to promote or conduct a special event without first having obtained a permit from the city code official by filing a written application.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-147. Application procedure.

- (a) An application for a public event permit must be filed not less than 90 days before the event is to begin. The code official may waive the 90-day filing requirement if it is determined that the application can be processed in less than 90 days, taking into consideration the number and types of permits required to be issued in order to hold the event. As soon as practicable after the filing of the application, the applicant shall meet with the fire chief, police chief, fire marshal and director of public works, or their respective designees to discuss the public event application.
- (b) The application for a public event permit shall contain, as a minimum, the following information:
 - (1) The name, address, e-mail address and telephone number of the applicant and the promoter or promoters of the event.
 - (2) If the promoter or promoters is a person other than the applicant, the applicant shall file a written statement from the promoter showing authority to make the application.
 - (3) If the event is to be held on private property, the applicant must submit written permission from the owner of the property or their authorized representative for the use of the property.
 - (4) The type and purpose of the event.
 - (5) The proposed location, if any, including the time, duration and location of any street closings and a site plan showing the area or route to be used during such event and the proposed parking area for the event. The applicant shall submit evidence with the application that sufficient parking will be provided for the event. Public events also subject to section 136-102 of appendix B, zoning, can only be located in the zoning districts set forth in that section.
 - (6) The estimated approximate number of persons who may attend the event.

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- (7) A site plan of the proposed location depicting the location and size of tents, awnings, canopies, food service booths, fences, barricades, restroom facilities and other temporary structures. In addition, the details of the sale of merchandise, food or beverages and the list of vendors or potential vendors involved and the location of where those activities and vendors will be located or housed will be included on the site plan. The site plan shall include any other information required by this article.
 - (8) Details of the proposed location, number and size of any signage for the event. All event signage shall comply with the currently adopted sign regulations.
 - (9) If loudspeakers are to be used, the location and orientation of those speakers shall be shown on the site plan.
 - (10) Whether electrical, mechanical or plumbing work will be conducted to prepare for or to hold the event and if so, evidence showing how it will be done in accordance with the city's adopted building codes.
 - (11) The dates and times the event will start and end. Public events also subject to sections 136-101 and 136-102 of appendix B, zoning, must comply with the duration limitations in those sections.
 - (12) The time at which on-site activities in preparation for the event will begin.
 - (13) The location of any lighting for the event.
- (c) Upon receipt of a completed application, the code official shall forward a copy of the application to each of the appropriate departments of the city. Each department shall review the application for approval or denial as it pertains to that particular department and return it, with any comments, to the code official within five working days of receipt.
 - (d) If the applicant intends to or is required to use city services, the department providing such services shall submit to the applicant an estimate of the cost of each service.
 - (e) The applicant shall submit a public safety plan to the code official not less than 30 days before the event is to begin. The code official may waive the 30-day submission requirement if it is determined that the public safety plan can be reviewed and processed in less than 30 days. The public safety plan shall address:
 - (1) Emergency vehicle ingress and egress;
 - (2) Fire protection;
 - (3) Emergency medical services;
 - (4) Location of public assembly areas;
 - (5) The directing of both attendees and vehicles (including the parking of vehicles);
 - (6) Vendor and food concession distribution;
 - (7) The need for the presence of law enforcement at the event;
 - (8) The need for the presence of fire and emergency medical services personnel at the event; and
 - (9) A statement that the applicant of the event will abide by all applicable laws, regulations, and ordinances.

The police chief or their designee shall approve the public safety plan to ensure it provides an appropriate level of public safety for the event.
 - (f) After reviewing the application and departmental comments, the code official shall issue the public event permit or issue the permit with conditions, unless denied in accordance with section 70-148.

(Ord. No. B-805-13, § 1, 7-1-2013; Ord. No. CSO#311-09-2015 , § 1, 9-21-2015)

Sec. 70-148. Denial or revocation.

- (a) The code official may deny or revoke an application for a public event permit if:
 - (1) A public event permit has been previously granted for, and will conflict with, another event at the same time, site or location;
 - (2) The public event would severely hinder the delivery of normal or emergency services;
 - (3) The time, place or manner of the proposed event will disrupt the orderly flow of traffic and no reasonable means of rerouting traffic or otherwise meeting traffic needs is available;
 - (4) The applicant fails to comply with, or the proposed event will violate this article or any other city ordinance, or if the applicant has been cited for violating this article during a previous event or the applicant has failed to comply with the terms of a previous public event permit;
 - (5) The applicant fails to provide proof that the applicant possesses or is able to obtain a license or permit required by city ordinance or other applicable law for the conduct of all activities included as part of the event; or
 - (6) The applicant makes or permits the making of a false or misleading statement or omission of material fact on an application for a public event permit.
- (b) The code official shall grant, grant the permit with conditions, or deny the permit within ten days after receipt of a completed application.
- (c) If the code official grants the permit with conditions, denies, or revokes a permit, the code official shall immediately deliver written notice to the permit holder or applicant stating the action and the reasons supporting such action. The written notice shall be hand-delivered or mailed by certified mail to the permit holder or applicant's address as shown on the application.
- (d) Any person aggrieved by the action of the code official shall have the right to appeal to the city council by filing a notice of appeal with the city secretary within five business days after the notice of decision is delivered under subsection (c). Upon receipt of the notice of appeal, the city secretary shall set a time and place for a hearing on the appeal and provide notice of the hearing to the aggrieved person. The hearing shall be not later than 14 days from the date of receipt of the notice of appeal.
- (e) The decision of the city council on the appeal is final. No other administrative procedures are provided by the city.

(Ord. No. B-805-13, § 1, 7-1-2013)

Secs. 70-149—70-155. Reserved.***DIVISION 3. STANDARDS*****Sec. 70-156. Parking.**

- (a) The applicant shall submit evidence on a site plan that the number of spaces or area to be used will be sufficient to accommodate the projected number of users of such parking. If said parking is to be on private property adjacent to the event, evidence that the applicant has ownership of the property or permission from the property owner must be provided.

-
- (b) When the location is not an established parking area, a plan shall be submitted which will show how the parking will be achieved and arranged. The number of parking spaces and layout of the parking area, including aisle widths and size of parking spaces, shall be included on the site plan.
 - (c) When adequate parking is not available at or immediately adjacent to the site of the event, off premises parking may be used. Plans shall be submitted which will show how off-premises parking and transfer of attendees to the event location will be accomplished.
 - (d) The police chief or fire marshal may prohibit or restrict, for temporary periods, the parking of vehicles along a street within and adjacent to the site of the event.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-157. Street closures.

The applicant shall provide a site plan that indicates proposed streets to be closed and fences and/or barricades to be erected. The director of public works or their designee will review all proposed street closures and the fence and/or barricade plan to ensure that proper traffic control measures will be in place. Street closures must be authorized by the city. All street closings and the fence and/or barricade plan require police, public works, fire marshal and fire department approval. In approving the street closings and the fence and/or barricade plans, the fire marshal or their designee may require access to commercial business affected by the event and may place time restrictions on the erection and removal of fencing and/or barricades for the event. Further, the fire marshal or their designee may require applicant to utilize a private contractor to provide, erect, and remove fencing and barricades for the event. In such event, the fire marshal or their designee must approve the private contractor prior to the issuance of a permit for the event.

(Ord. No. B-805-13, § 1, 7-1-2013; Ord. No. CSO#311-09-2015 , § 1, 9-21-2015)

Sec. 70-158. Amusement rides.

Amusement rides and attractions associated with public events shall conform to the statutory rules and regulations set forth in V.T.C.A., Occupations Code ch. 2151, regulation of amusement rides, also referred to as the Amusement Ride Safety Inspection and Insurance Act.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-159. Hours of operations.

- (a) Public Events shall be conducted only between the hours of 5:00 a.m. to 11:00 p.m. daily.
The police chief or code official shall be responsible for enforcing this provision.
- (b) An applicant, promoter or the permit holder may have the hours of operating extended to no later than 2:00 a.m. for a public event on a showing of good cause. In deciding whether there is good cause, the police chief and code official shall consider the following factors:
 - (1) The proposed location of the event;
 - (2) The proximity of the proposed location to residential areas;
 - (3) The other uses surrounding the location of the event; and
 - (4) The level of noise that may be generated after 11:00 p.m. at the event.

-
- (c) Public events also subject to section 136-102 of appendix B, zoning, shall only be subject to the hour restrictions in that section and are not eligible for a late hour extension under subsection (b) of this section.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-160. Tents and temporary structures.

The use of a tent, canopy or air-supported temporary membrane structure will require a permit and is subject to review by the fire marshal and shall meet the requirements of the fire code as adopted. Where applicable, copies of fire retardant certificates shall be required.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-161. Cleanup; compliance; costs.

The permit holder shall agree to a complete and satisfactory cleanup of all trash and debris on the site. At the conclusion of the event, a city representative will inspect the area to ensure that compliance has been met. If it is necessary for the city to accomplish the cleanup, the applicant will be billed to cover the city's reasonable and necessary expenses to provide the cleanup.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-162. Food service.

Where food service is provided, those operations shall be in compliance with all provisions of the city food and food service establishment ordinance, fire code, as well as all other applicable state and local laws. A temporary food service permit application and a permit fee must be submitted by each food vendor participating in the event in accordance with article v, "food and food establishments," of chapter 14 of this Code.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-163. Sanitary facilities.

Where necessary, portable type sanitary facilities must be provided on the premises in an amount sufficient to satisfy state regulations concerning public events adopted under V.T.C.A., Health and Safety Code ch. 751.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-164. Water usage and disposal of wastewater.

- (a) Any public event or temporary activity requiring the use of water from the city water system must be coordinated with the water department to obtain a temporary meter. Deposit for the meter and payment for water used shall be in accordance with all applicable ordinances of the city.
- (b) The applicant shall submit a plan for the disposal of wastewater and the plan shall be approved by the code official prior to such event.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-165. Solid waste.

Where applicable, a commercial solid waste dumpster must be provided on-premises at all outdoor public events. Applicants should make arrangements for the provisions of such dumpsters with a commercial solid waste collection provider company licensed by the city.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-166. Police protection.

- (a) The police chief or their designee shall determine whether and to what extent additional police protection is reasonably necessary for traffic control and public safety. The police chief or their designee shall base this decision on the size, location, duration, time and date of the event; the number of streets and intersections blocked, and the need to detour or preempt citizen travel and use of the streets and sidewalks, and the nature of the event.
- (b) If possible, without disruption of ordinary police services or compromise of public safety, regularly scheduled on-duty personnel will monitor the event. If additional police protection is deemed necessary by the police chief or their designee, they shall notify the applicant. The applicant then shall have the duty to secure the police protection deemed necessary. In such event and prior to the issuance of a permit for the event, the applicant and the police chief or their designee shall agree upon who will provide police presence, if the Burleson Police Department will be providing the police presence, and the cost of policing the event. If the police chief or their designee requires the applicant to utilize a private security firm to work the event, the private security firm must be licensed by the Texas Department of Public Safety and the police chief or their designee must approve the security firm prior to the issuance of a permit for the event.
- (c) Notwithstanding the above, Burleson Police Department shall not provide the police presence at a permitted public event. The police chief or their designee may, but is not required to, allow the Burleson Police Department to provide the police presence at a city-sponsored public event and at a co-sponsored public event.

(Ord. No. B-805-13, § 1, 7-1-2013; Ord. No. CSO#311-09-2015 , § 1, 9-21-2015)

Sec. 70-167. Emergency medical care.

- (a) The fire chief or their designee shall determine whether and to what extent emergency medical care shall be reasonably provided to ensure public safety. The fire chief or their designee shall base this decision on the size, location, duration, time and date of the event.
- (b) If possible, without disruption of ordinary fire services or compromise of public safety, regularly scheduled on-duty personnel will provide emergency medical care for the event. If additional emergency medical care is deemed necessary by the fire chief or their designee, they shall notify the applicant. The applicant then shall have the duty to secure the emergency medical care provider as deemed necessary. In such event and prior to the issuance of a permit for the event, the applicant and the fire chief or their designee shall agree upon who will provide emergency medical care, if the Burleson Fire Department will be providing the emergency medical care, and the cost of providing such care. All emergency medical care providers and personnel staffing the event shall be credentialed and permitted as required by the Metropolitan Area EMS Authority.

(Ord. No. B-805-13, § 1, 7-1-2013; Ord. No. CSO#311-09-2015 , § 1, 9-21-2015; Ord. No. CSO#803-04-2018 , § 1, 4-2-2018)

Sec. 70-168. Insurance coverage.

The application shall provide, with each public event permit application, a liability, fire and comprehensive insurance policy reflecting the city as an additional insured party. Coverage shall be at least in the amount of \$250,000.00 for each person and \$500,000.00 for each single occurrence for bodily injury or death and \$100,000.00 for each single occurrence for injury to or destruction of property.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-169. Nuisances to be controlled by city, state and federal regulations.

Noise, glare, odor and other nuisances shall be controlled as set out in applicable sections of the "Code of Ordinances" as adopted by the City of Burleson and shall not be in violation of any other local, state or federal law.

(Ord. No. B-805-13, § 1, 7-1-2013)

Sec. 70-170. Signage.

A right-of-way permit is required for any temporary signs or banners for the event that the applicant would like to place in a right-of-way. The applicant shall be limited to five right-of-way permits for temporary signs or banners for the event.

(Ord. No. CSO#311-09-2015 , § 1, 9-21-2015)

Choose an item.

DEPARTMENT: Parks and Recreation

FROM: Jen Basham, Director of Parks and Recreation

MEETING: December 12, 2022

SUBJECT:

Consider approval of a resolution creating a special citizens public art committee to make recommendations to the City Council regarding the creation, implementation, and management of a public art masterplan to display public art throughout the city; appointing committee members; and establishing a charge for the committee. (*Staff Contact: Jen Basham, Director of Parks and Recreation*).

SUMMARY:

In the 2022 City Council strategic planning retreat, council identified beautification of the community and public art as an initiative. Simultaneously, neighborhood services and Keep Burleson Beautiful worked in partnership to create a call for art to create a mural at Bailey Lake. The mural was complete in April of 2022, and has been well received by the community.

Staff in neighborhood services worked with multiple departments to benchmark neighboring communities and their practice for implementing public art. Each community had a unique approach, but the most successful communities had a public art board and a staff liaison to create, implement and sustain public art in their communities. While determining the appropriate home for public art in Burleson, Neighborhood services worked with Parks and Recreation to outline a draft policy to begin the process of formalizing a public art program.

Staff is presenting the various solutions available for creating a public art board to implement a public art program in the City of Burleson. Public Art is typically placed in prominent areas throughout a community, including right of way, medians, open space, plazas, and parks. The facilities are all maintained by the Parks and Recreation Department, who will ultimately be responsible for the installation and maintenance of art pieces. Staff is recommending that the Parks and Recreation Department serve as the staff liaison and the Parks and Recreation Board take on the role of Public Art Board.

Once a board is created their first task will be to create a public art master plan to strategically approach the style, placement, funding, and phasing of projects. The board will work closely with community members, educators and historians to create a plan that speaks to the uniqueness of Burleson.

On October 3, 2022 staff presented to City Council. Council determined that they would like to proceed with the creation of an ad hoc committee with various members of the art community to serve as the members.

Staff created a list of stakeholders from various entities; The Heritage Foundation, Keep Burleson Beautiful, BISD, Hill College, Boren Art Committee, and a local artist. These members will be eligible to serve two consecutive three year terms. Due to the specific nature of this committee residency is not being recommended as a requirement.

On November 14, 2022 City Council met and authorized proceeding with the board as presented.

OPTIONS:

- 1) Approve as presented
- 2) Approve with changes
- 3) Recommend Denial

RECOMMENDATION:

Staff recommendations approving as presented.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

Council requested that staff create an ad hoc committee for Public Art-October 3, 2022

FISCAL IMPACT:

TBD

STAFF CONTACT:

Jen Basham
Director of Parks and Recreation
jbasham@burlesontx.com
817-426-9201

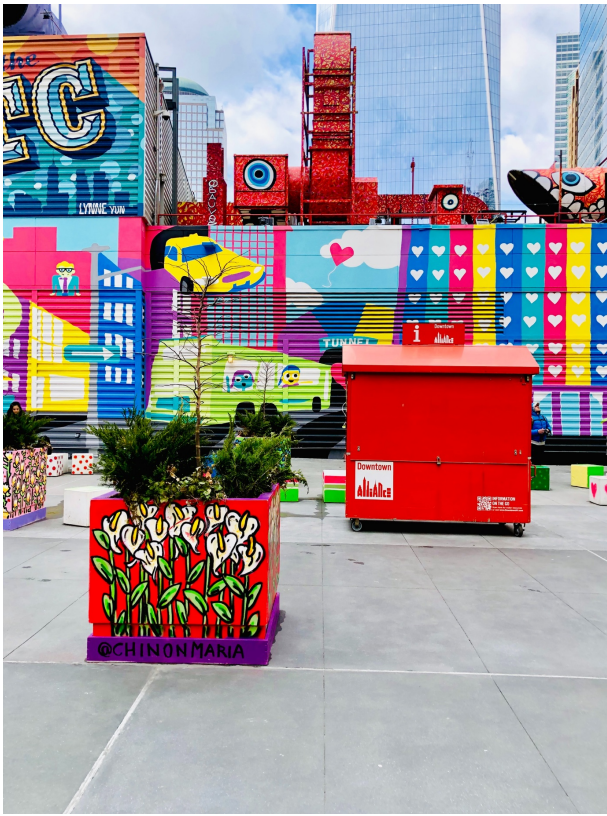


Public Art

City Council- December 12, 2022

Staff Presenter: Jen Basham, Director of Parks and Recreation

Public Art in Burleson



- 1 **Neighborhood Services and Keep Burleson Beautiful implemented a call for art in 2022 to install a mural at Bailey Lake**
- 2 **City Council identified public art as a priority in their 2022 strategic plan**
- 3 **Staff presented options for formalizing a board or committee for public art on October 3, 2022**
- 4 **City Council requested that a committee be created with various stakeholders in the art community**
- 5 **Staff has created a list of potential members for council to consider**

Membership

Council requested that the members serving on this committee represent various perspectives regarding art and beautification for the community

- **Vested interest in beautification of Burleson**

Katelyn Reeves, representing Keep Burleson Beautiful

- **Educator for art in the community**

Jana Jackson, representing BISD and Nancy McKenzie, representing Hill College

- **Existing member of the Boren Art Board**

Tom Sale, representing the Boren Public Art Committee

- **Vested interest in preserving the history of Burleson**

Betty Bailey, representing the Heritage Foundation



Committee Guidelines Recommendations

- **Residency**

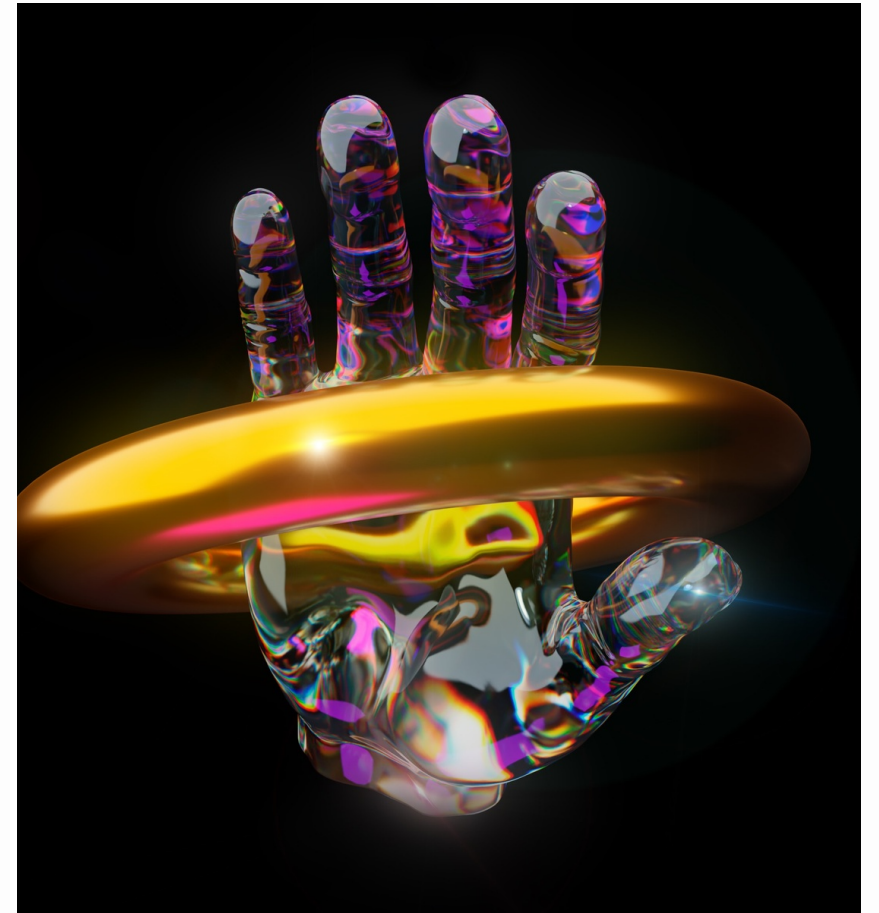
Due to the nature of the committee, residency requirements are recommended to be waved

- **Term Limits**

Term limits will be consistent with City Boards and Commissions

- **Sunset Date**

- Staff recommends that the committee dissolves after 3 years
- Council has the authority to reinstate at their pleasure



Next Steps

- 1 **Council approves the formation of the committee**
- 2 **Create a public art master plan to guide the implementation of art throughout the community**
 - Identify funding opportunities
 - Identify placement and styles
 - Identify call for art sequencing





Options

- **Approve a resolution authorizing an committee for public art**
- **Deny a resolution authorizing an committee for public art**

Feedback



RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, CREATING A SPECIAL CITIZENS PUBLIC ART COMMITTEE TO MAKE RECOMMENDATIONS TO THE CITY COUNCIL REGARDING THE CREATION, IMPLEMENTATION, AND MANAGEMENT OF A PUBLIC ART MASTERPLAN TO DISPLAY PUBLIC ART THROUGHOUT THE CITY; APPOINTING THE COMMITTEE MEMBERS; ESTABLISHING A CHARGE FOR THE COMMITTEE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas (the “City”), is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council desires to display a greater amount of public art throughout the community; and

WHEREAS, the City Council has determined that it would be advisable to create a special citizens Public Art Committee (“Committee”) to make recommendations to the City Council regarding the display of public art throughout the community and the creation, implementation, and management of a public art masterplan for the City; and

WHEREAS, it is the intent of the City Council that the appointment of the Committee will attain the goals referenced above and will provide the City Council with valuable citizen input related thereto.

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

Section 1

The City Council hereby creates the Committee and the Committee shall be charged as follows: The Committee shall work with City staff to make recommendations to the City Council regarding the display of public art throughout the community and the creation, implementation, and management of a public art masterplan for the City.

Section 2

The Committee shall be composed of no more than five (5) persons. Committee members need not reside within the City of Burleson to be eligible to serve on the Committee. The Mayor and each Councilmember will not serve on the Committee. The following individuals are appointed to serve as members of the Committee:

- | | |
|-----------------|-------------------|
| 1. Jana Jackson | 2. Nancy McKenzie |
| 3. Tom Sale | 4. Betty Bailey |

5. Katelyn Reeves

Section 3

The Committee shall perform its functions in accordance with this resolution. All members shall serve without compensation at the pleasure of the Council and may be removed or replaced at the discretion of the Council. The Committee shall serve in an advisory capacity and report directly to the City Council.

Section 4

All recommendations will be made by a majority of the Committee. Recommendations are to reflect a citywide perspective that does not favor a specific neighborhood or area of interest.

Section 5

The Committee appointments will end and the Committee shall be formally dissolved on December 12, 2025.

Section 6

Members of the Committee shall comply with all statutory time limits, public notices, and the Texas Open Meetings Act, V.T.C.A., Government Code, § 551.001 et seq.

Section 7

This resolution shall become effective from and after its date of passage in accordance with law.

PASSED AND SO RESOLVED by the City Council of the City of Burleson, Texas, this _____ day of _____, 2022.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO LEGAL FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Information Technology

FROM: James Grommersch, Chief Technology Officer

MEETING: December 12, 2022

SUBJECT:

Consider approval of a three-year contract with SHI International Corp for Artic Wolf Security Operations Center as a Service (SOCaaS) through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount not to exceed \$276,298.70. *(Staff Contact: James Grommersch, Chief Technology Officer, IT)*

SUMMARY:

To improve the City's Cyber Security program, BTX-IT recommends using a Security Operations Center as a Service (SOCaaS). A SOCaaS will provide the City with 24/7 monitoring of all the various Cyber Security tools the City utilizes, its network traffic, and end-user devices; they will also respond and alert staff to any security events that occur. Selecting Artic Wolf through SHI (DIR Reseller) was made after reviewing several other SOCaaS providers. All other providers that had been reviewed would require BTX-IT to change several tools in the technology portfolio leading to additional costs, increased overhead, and the relearning of various security tools. The recommendation to move from IBM X-Force to Artic Wolf is being made as it will enhance our Cyber Security Posture by adding additional proactive services not offered by IBM. Artic Wolf will also provide the City with a \$500,000 incident response retainer, a dedicated three-person concierge security team, and annual internal, external, and host-based assessments of the City's technology ecosystem. Funding for the SOCaaS will come from Sunsetting IBM X-Force and reductions in licensing/change of software in the technology portfolio.

OPTIONS:

- 1) Approve the contract with SHI and Artic Wolf
- 2) Deny the contract

RECOMMENDATION:

Approve the three-year contract with SHI International Corp for Artic Wolf Security Operations Center as a Service (SOCaaS) through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount not to exceed \$276,298.70 (Staff Contact: James Grommersch, Chief Technology Officer, IT)

FISCAL IMPACT:

Budgeted Y/N: Y

Fund Name: Support Services

Full Account #: 504-1511-412.42-04

Amount: \$276,298.70

STAFF CONTACT:

Name: James Grommersch

Department: Information Technology

Email: jgrommersch@burlesontx.com

Phone: 817-426-9672

Security Operations Center as a Service (SOCaaS)

City Council

December 12th, 2022

Security Operations Center as a Service

To improve the City's Cyber Security program, BTX-IT recommends using a Security Operations Center as a Service (SOCaaS).

A SOCaaS will provide the City with 24/7 monitoring of all the various Cyber Security tools the City utilizes, its network traffic, and end-user devices; they will also respond and alert staff on any security events that occur.



Security Operations Center as a Service

Selecting Artic Wolf through SHI (DIR Reseller) was made after reviewing several other SOCaaS providers.

All other providers that had been reviewed would require BTX-IT to change several tools in the technology portfolio leading to additional costs, increased overhead, and the relearning of various security tools.

The recommendation to move from IBM X-Force to Artic Wolf is being made as it will enhance our Cyber Security Posture by adding additional proactive services not offered by IBM.



Security Operations Center as a Service

Artic Wolf will also provide the City with a \$500,000 incident response retainer, a dedicated three-person concierge security team, and annual internal, external, and host-based assessments of the City's technology ecosystem.

Funding for the SOCaaS will come from Sunsetting IBM X-Force and reductions in licensing/change of software in the technology portfolio.

Security Operations Center as a Service

Staff Recommendation:

- Approve the Contract with SHI International Corp for Artic Wolf Security Operations Center as a Service (SOCaaS) for two years in the amount not to exceed \$276,298.70 STATE CONTRACT DIR-TSO-4317. (Staff Contact: James Grommersch, Chief Technology Officer, IT)

Questions / Comments





Pricing Proposal
Quotation #: 22783212
Created On: 11/21/2022
Valid Until: 12/30/2022

TX-City of Burleson

James Grommersch

225 West Renfro
ATTN: CHARLES HARRIS
BURLESON, TX 76028
United States
Phone:
Fax:
Email: jgrommersch@burlesontx.com

Inside Account Executive

Alex Jasko

300 Davidson Ave
Somerset, NJ 08873
Phone: 732-652-3061
Fax:
Email: alex_jasko@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Arctic Wolf MDR user license Arctic Wolf Networks - Part#: AW-MDR-USER Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	480	\$81.00	\$38,880.00
2 Arctic Wolf MDR server license Arctic Wolf Networks - Part#: AW-MDR-SE Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	60	\$81.00	\$4,860.00
3 Arctic Wolf MDR Log Retention - 1 year Arctic Wolf Networks - Part#: AW-MDR-1YR Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	540	\$5.70	\$3,078.00
4 Arctic Wolf 1000 Series Sensor - 4 x 10G Multi-Mode Fiber LC Connectors with Bypass Arctic Wolf Networks - Part#: AW-MDR-10XX-S-10GF Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	2	\$4,714.30	\$9,428.60
5 Arctic Wolf MDR Office 365 user license Arctic Wolf Networks - Part#: AW-MDR-O365 Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	580	\$8.90	\$5,162.00
6 Arctic Wolf Managed Risk user license Arctic Wolf Networks - Part#: AW-MR-USER Contract Name: Software/ Services Contract #: DIR-TSO-4317	480	\$39.30	\$18,864.00

7	Arctic Wolf Managed Risk server license Arctic Wolf Networks - Part#: AW-MR-SE Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	60	\$39.30	\$2,358.00
8	Arctic Wolf Platform - Users and Servers Arctic Wolf Networks - Part#: AW-PLATFORM Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	540	\$5.90	\$3,186.00
9	Arctic Wolf Platform - Base Platform Arctic Wolf Networks - Part#: AW-PLATFORM-BASE Contract Name: Software/ Services Contract #: DIR-TSO-4317 Coverage Term: 1/31/2023 – 1/30/2024	1	\$892.90	\$892.90
10	Arctic Wolf MDR Onboarding - One Time Fee Arctic Wolf Networks - Part#: AW-MDR-OB	1	\$2,759.70	\$2,759.70
11	Arctic Wolf Managed Risk Onboarding - One Time Fee Arctic Wolf Networks - Part#: AW-MR-OB	1	\$954.70	\$954.70
12	Arctic Wolf Sensor/Scanner Shipping - One Time Fee Arctic Wolf Networks - Part#: AW-SHP	2	\$120.00	\$240.00
			Subtotal	\$90,663.90
			Total	\$90,663.90

Additional Comments

By sending a PO for Quote# 22783212, City of Burleson is agreeing to a 36-month period with this Arctic Wolf solution and will need to provide SHI a PO next year for \$90,663.90 for the year 2 renewal and the following year for \$94,970.90 for the year 3 renewal. This is a total of a \$276,298.70 commitment over 3 years.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Please note, if Emergency Connectivity Funds (ECF) will be used to pay for all or part of this quote, please let us know as we will need to ensure compliance with the funding program.

Thank you for choosing SHI-GS! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI Government Solutions, Inc. is 100% Minority Owned, Woman Owned Business.

TAX ID# 22-3695478; DUNS# 14-724-3096

The Products offered under this proposal are resold in accordance with the [SHI Online Customer Resale Terms and Conditions](#), unless a separate resale agreement exists between SHI and the Customer.

Arctic Wolf Solutions Agreement – Frequently Asked Questions

Thank you for reviewing the Arctic Wolf Solutions Agreement. We appreciate your interest in becoming a customer of Arctic Wolf. We hope the below information will help you better understand how Arctic Wolf's security solutions (the "Solution" or "Solutions") contracting model works.

Please note that this information is not considered part of the contract at any time. This is provided for information purposes only.

Who is Arctic Wolf?

- Arctic Wolf is a cybersecurity company that provides security operations Solutions, including managed detection and response, managed risk, and managed security awareness to mitigate our customers' exposure to cyber threats.
- We offer standard, highly configurable, Solutions to our customers which allows us to leverage the power of scale across our customer base to deliver cost effective and operationally efficient Solutions.
- Arctic Wolf's customers may subscribe to and license for the purchased Subscription Term the right to receive and use, in whole or in part, the various Solutions offered by Arctic Wolf. All customers subscribing to a particular Solution are on the same release using the same operational infrastructure and the same security and support operations for such Solution.

Who is the Authorized Partner?

Arctic Wolf leverages its channel partner relationships (its "Authorized Partners") to resell our Solutions to our customers. The Authorized Partner may be selected by you or introduced to you by Arctic Wolf.

The Authorized Partners act as the financial arm in our transactions with you. You contract directly with the Authorized Partner related to purchase and payment of your subscription to our Solutions. The Authorized Partners are not involved in the delivery of our Solutions and, therefore, are not contemplated in the obligations and liabilities within the Solutions Agreement related to the delivery of our Solutions to you. You and the Authorized Partner will have separate contractual terms in place to address the financial aspects of the subscription transaction.

What data do you provide to Arctic Wolf?

Arctic Wolf monitors systems telemetry data received from our customers via the sensors, scanners and agents our customers install within their environment. The systems telemetry data allows us to identify potential security threats that may impact your environment. Systems telemetry data may include names, email addresses, phone numbers, usernames, passwords IP Address, geolocation data, deviceID, and other system log metadata. Arctic Wolf should not receive other more sensitive information, including the content of your business files, your customer's business information, social security numbers, financial information, etc. We trust that our customers have appropriate system and operational controls in place to prevent disclosure of such information to us.

Why does Arctic Wolf reserve the right to change certain terms within the Solutions Agreement?

Like other subscription-based solutions providers, customer-generic terms that apply across our customer base are set forth as url links within the overarching Solutions Agreement. This allows Arctic Wolf to maintain consistency in the Solutions across its customers. To address any customer concerns related to this model, Arctic Wolf: (i) provides that the url terms are last in line from an order of precedence; (ii) agrees that we will not materially decrease the features and functionalities during any customer then-current Subscription Term; (iii) provides notice of the change; and (iv) allows customers to object to any specific modification for the remaining period of their then-current Subscription Term.

Does Arctic Wolf offer service levels?

Arctic Wolf provides for response time service levels. These service levels can be found in the Managed Detection and Response Solutions Terms located at <https://arcticwolf.com/terms/>. These terms are password protected. Please contact your sales representative for the password.

Does Arctic Wolf offer termination for convenience?

As a subscription Solution, Arctic Wolf does not allow for termination for convenience. Arctic Wolf relies on committed subscription terms, in part, to manage our dedicated CST resource model.

We have special data security requirements. Can we include our security and privacy requirements in the Solutions Agreement?

We are unable to include customer specific data security requirements in our Solutions Agreement. We offer a consistent Solution across our customer base. Arctic Wolf maintains the same IT security controls and processes for all customers. These controls and processes are reflected in our SOC2 Type II Report and its ISO 27001 certification.

Where is the Statement of Work for the services described in the Solutions Agreement?

Arctic Wolf's provides a subscription Solution that, depending on the Solution, is comprised of hardware, software and services. All designated components of the Solution are required to use and receive the Solutions. While services are an important part of the Solution, we do not define the services component of the Solutions as separate "professional services". Unlike a traditional professional service offering, the services do not include deliverables and are not subject to acceptance.

Can we make changes to the Beta Terms?

Because participation in the beta programs is completely voluntary and there is no cost for participation, we do not agree to modifications to the beta terms.

We are a Covered Entity under HIPAA. Can we use our Business Associate Agreement?

Arctic Wolf should not receive PHI during the delivery of the Solutions to you, nor does Arctic Wolf process PHI on your behalf. Accordingly, Arctic Wolf is not a business associate under HIPAA. Arctic Wolf appreciates that certain customers may take a conservative approach and require a business associate agreement (BAA) to cover the exchange of any inadvertently disclosed PHI provided during our relationship. Given this, Arctic Wolf is amenable to execution of its template BAA in which each party's liabilities and requirements are strictly construed to HIPAA requirements and incorporates such terms by url reference in the Solutions Agreement.

(For information purposes only, this FAQ does not form part of any contract)

SOLUTIONS AGREEMENT
(via Authorized Partner)

This Solutions Agreement (the “**Agreement**”) is a legal agreement entered into by and between the Customer identified in the signature block below (“**Customer**”) and Arctic Wolf Networks, Inc. (“**Arctic Wolf**”) and governs any order forms, quotes, or other ordering document executed by the Customer (“**Order Form**”) that reference this Agreement. An Order Form will be issued to Customer by an Arctic Wolf authorized partner (“**Authorized Partner**”). This Agreement is effective on the date last executed in the signature block below (the “**Effective Date**”). This Agreement permits Customer to purchase subscriptions to the Solutions, as defined below, identified in the Order Form from its Authorized Partner and sets forth the terms and conditions under which those Solutions will be delivered. The Agreement consists of the terms and conditions set forth below, any attachments or exhibits identified herein and any Order Forms that reference this Agreement. If there is a conflict between the terms below, the Order Form, or the terms set forth in an URL referenced herein (such URL terms, the “**Terms**”), the documents will control in the following order: the Order Form, this Agreement, and the Terms. Any capitalized terms not otherwise defined herein will have the meaning set forth in the Solutions Terms.

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Scope.

1.1 Solutions. Customer will purchase and Arctic Wolf, together with its Affiliates, will provide the specific products and services (each a “**Solution**” or collectively, “**Solutions**”) as specified in the applicable Order Form. For purposes of this Agreement, “**Affiliate**” means any company or other entity, which directly or indirectly controls, is controlled by or is under joint control with Arctic Wolf.

A Solution will be comprised of the following components:

	Managed Detection & Response Solution	Managed Risk Solution	Managed Security Awareness / Managed Security Awareness+ Solution
Software	The object form of any software, including any operating system software included in the Equipment, and add-ons offering enhanced features and functionality made generally available to Arctic Wolf customers from time-to-time	The object form of any software, including any related to virtual Equipment, if applicable, any operating system software included in the Equipment, and add-ons offering enhanced features and functionality made generally available to Arctic Wolf customers from time-to-time	N/A
Equipment	Virtual appliances or physical sensors	Virtual appliances or physical scanners	N/A
Content	N/A	N/A	Online access and download rights, if licensed by Customer, to Customer learning content and Content Compliance Pack within the Administrator Dashboard and/or Content Library
Content Management Hosting Environment	N/A	N/A	Access to and use of a cloud-based learning management tool (the “Administrator Dashboard”) and metrics related to the use of the Content by Customer’s users
Services	Support, onboarding services, and services provided by Security Services, all as described in the Solutions Terms (defined below)	Support, onboarding services, and services provided by Security Services, all as described in the Solutions Terms (defined below)	Support, onboarding services, and Content modification services, all as described in the Solutions Terms (defined below)
Professional Services	As agreed by the parties in accordance with Section 3	As agreed by the parties in accordance with Section 3	As agreed by the parties in accordance with Section 3
Platform	One (1) vSensor 100 series Unlimited data ingestion Access to the Customer Portal Use of the Arctic Wolf Agent 90-day Log Retention (unless another retention period is purchased by	Unlimited data ingestion Access to the Customer Portal Use of the Arctic Wolf Agent	N/A

	Customer and set forth on an Order Form)		
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1.2 License Grant. The Solutions are provided on a subscription basis for a set term designated on the Order Form (each, a “**Subscription Term**”) for the one-time costs and subscription fees set forth therein (the “**Fees**”). Provided Customer is in compliance with the terms of this Agreement, including payment of Fees, Arctic Wolf grants to Customer a limited, non-transferable, non-sublicensable, non-exclusive right and/or license during the Subscription Term, to the extent a component of the Solutions being licensed by Customer as set forth in Section 1.1 above, to:

- (i) Install, use and access the Software,
- (ii) Use the Equipment for purposes of the use of the Solutions,
- (iii) Obtain and use the Services in conjunction with Customer’s use of the Solutions,
- (iv) Load Customer’s users and associated information for delivery of Content and use of the Administrator Dashboard,
- (v) Access the Customer Portal and/or Administrator Dashboard, as applicable, subject to the Privacy Notice located at <https://arcticwolf.com/privacy-policy-for-customer-portal-users/>, as may be updated from time-to-time in accordance with Section 13 below (the “**Privacy Notice**”),
- (vi) Access and use the Platform features and functionality,
- (vii) Use Arctic Wolf Trademarks included in the Content in accordance with the Solutions Terms, and
- (viii) Distribute, display, transmit, and, if licensed by Customer, download certain Content in electronic format.

Customer may access and use the Solutions, and any Documentation associated therewith, solely for its own internal business purposes and in accordance with the terms and conditions of this Agreement, such associated Documentation, any scope of use restrictions and license counts, including by server, user, or such other licensing metric designated in the applicable Order Form, and the Solutions Terms found at <https://arcticwolf.com/terms/solutionsterms/>, as may be updated from time to time by Arctic Wolf in accordance with Section 13 herein (the “**Solutions Terms**”). “**Documentation**” means user manuals, training materials, product descriptions and specifications, and other printed information relating to the Solution, as in effect and generally available from Arctic Wolf, but expressly excluding marketing and sales collateral and materials.

1.3 Future Functionality. Subject to the warranties set forth in Section 10, Customer agrees that it has not relied on the promise of availability of any future functionality of the Solutions or any other future product or service in executing this Agreement or any Order Form. Customer acknowledges that information provided by Arctic Wolf regarding future functionality should not be relied upon to make a purchase decision. Should Arctic Wolf offer additional optional functionality in the future that complement the Solutions, Customer may elect to subscribe to and obtain a license to the optional functionality for an additional fee.

1.4 Except as otherwise provided herein, Customer understands and agrees that the Authorized Partner may not modify this Agreement or make any commitments related to the delivery or performance of the Solutions on Arctic Wolf’s behalf.

1.5 Beta Solutions.

1.5.1 From time-to-time Arctic Wolf may invite Customer to try, at no charge, Arctic Wolf products, features, or functionality that are not generally available to Arctic Wolf’s customers (“Beta Solutions”). Customer may accept or decline any such trial in its sole discretion. Any Beta Solutions will be clearly designated as beta, pilot, limited release, developer preview, non-production or by a description of similar import.

1.5.2 Restrictions and Disclaimers. Beta Solutions are provided for evaluation purposes and not for production use, are not supported, may contain bugs or errors, and may be subject to additional terms. To the full extent permitted by applicable U.S. and foreign consumer protection laws, Beta Solutions are not considered Solutions hereunder and are provided solely and exclusively “AS IS” with no express or implied warranty of any kind. TO THE FULL EXTENT PERMITTED BY APPLICABLE U.S. AND FOREIGN CONSUMER PROTECTION LAWS, (THE “CONSUMER PROTECTION LAWS”), CUSTOMER ASSUMES AND UNCONDITIONALLY RELEASES ARCTIC WOLF FROM ALL RISKS ASSOCIATED WITH THE USE OF ANY BETA SOLUTIONS. Arctic Wolf may discontinue the Beta Solutions at any time in its sole discretion and Arctic Wolf will make reasonable efforts to provide Customer with advanced notice of any such discontinuance. Arctic Wolf does not promise or represent that Beta Solutions will be made generally available.

1.5.3 NO DATA RETENTION. ANY DATA ENTERED INTO THE BETA SOLUTIONS MAY BE PERMANENTLY LOST UNLESS CUSTOMER: (i) PURCHASES A SUBSCRIPTION TO THE COMMERCIALLY AVAILABLE VERSION OF THE BETA SOLUTIONS AS MAY BE MADE AVAILABLE BY ARCTIC WOLF; OR (ii) TO THE EXTENT POSSIBLE, EXPORTS SUCH DATA PRIOR TO TERMINATION OF THE BETA SOLUTIONS.

1.5.4 LIMITED LIABILITY. TO THE FULL EXTENT PERMITTED BY LAW, INCLUDING THE CONSUMER PROTECTION LAWS, ARCTIC WOLF’S ENTIRE LIABILITY IN CONNECTION WITH ANY USE OF THE BETA SOLUTIONS WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WILL NOT, AS TO ANY INDIVIDUAL CLAIM OR IN THE AGGREGATE, EXCEED \$50. IF CUSTOMER DOES NOT AGREE TO THE ALLOCATION OF RISK IN THIS SECTION, ITS SOLE RECOURSE IS TO IMMEDIATELY DISCONTINUE THE USE OF THE BETA SOLUTIONS.

1.5.5. Despite anything to the contrary in this Agreement, Customer acknowledges that (a) Beta Solutions may not be supported and may be changed at any time, including in a manner that reduces functionality, (b) Beta Solutions may not be available or reliable, and (c) Beta Solutions may not be subject to the same security or audits as the Solutions.

2. Equipment. If the Order Form specifies that Customer will receive Equipment, then Customer is responsible for installing the Equipment at the location(s) specified by Arctic Wolf and for the implementation of appropriate data protection practices related to the protection of any information included on such Equipment while the Equipment is located within Customer’s environment. The Equipment is a part of the Solutions and included with the subscription to the Solutions for use by Customer during the Subscription Term. If Customer attempts to install or use the Equipment at a location other than the location determined by Customer and communicated to Arctic Wolf during onboarding or at any time thereafter, the Solutions may fail to function or may function improperly. In the event Customer installs, uses, or relocates the Equipment, Customer will promptly notify Arctic Wolf so that Equipment deployment information can be updated within Customer’s account. Other than normal

wear and tear, Customer is directly responsible for the replacement cost of the Equipment associated with any loss, repair, or replacement, including any other costs, damages, fees and charges to repair the Equipment. If applicable, Arctic Wolf will ship Equipment to Customer and will pay the freight costs associated with shipping the Equipment to Customer's designated locations. Customer is responsible for all additional costs and expenses associated with shipping the Equipment to its designated locations and for the return of the Equipment to Arctic Wolf. Such additional costs and expenses may be reflected on an Order Form, from time-to-time following shipment of the Equipment and will be invoiced by Arctic Wolf or the Authorized Partner. Customer understands and agrees if the Equipment is shipped outside of the United States or Canada (or such other locations identified by Arctic Wolf), Customer is responsible for acting as the importer of record.

3. Professional Services. In the event Arctic Wolf and Customer agree on the delivery of Professional Services, any such Professional Services shall be specified on an Order Form and described in a statement of work which shall reference this Agreement.

4. Reservation of Rights and Ownership. Arctic Wolf owns or has the right to license the Solutions and any associated Documentation ("**Arctic Wolf Technology**"). Customer acknowledges and agrees that: (a) the Arctic Wolf Technology is protected by United States and international copyright, trademark, patent, trade secret and other intellectual property or proprietary rights laws; (b) Arctic Wolf retains all right, title and interest (including, without limitation, all patent, copyright, trade secret and other intellectual property rights) in and to the Arctic Wolf Technology, including any rights, title, and interest in any Third Party Products (as defined in Section 10.3 below) which shall be retained by its third party licensor(s), any other deliverables, know-how, databases, developed programs, and registered or unregistered intangible property rights; (c) there are no implied licenses and any rights not expressly granted to Customer hereunder are reserved by Arctic Wolf; (d) the Solution, excluding Professional Services, is licensed on a subscription basis, not sold, and Customer acquires no ownership or other interest (other than the license rights expressly stated herein) in or to the Arctic Wolf Technology; and (e) the Solution is offered as an on-line, hosted solution, and Customer has no right to obtain a copy of the Software.

5. Restrictions, Responsibilities, and Prohibited Use.

5.1 Restrictions. Customer agrees not to, directly or indirectly: (i) modify, translate, copy or create derivative works of the Arctic Wolf Technology except as otherwise expressly permitted under applicable U.S. and foreign copyright laws ("Copyright Laws") which may not be excluded by agreement between the parties; (ii) reverse engineer, decompile, disassemble, or otherwise seek to obtain the intellectual property contained within Solutions, except as otherwise expressly permitted under the Copyright Laws which may not be excluded by agreement between the parties; (iii) interfere with or disrupt the integrity or performance of the Solutions or the data and information contained therein or block or disrupt any use or enjoyment of the Solutions by any third party; (iv) attempt to gain unauthorized access to the Arctic Wolf Technology or related systems or networks; (v) remove or obscure any proprietary or other notice contained in the Arctic Wolf Technology, including on any reports or data printed from the Arctic Wolf Technology; (vi) unless Customer is an authorized MSP partner of Arctic Wolf, use the Solutions in connection with a service bureau, service provider or like activity whereby Customer operates or uses the Solutions for the benefit of a third party; (vii) use the Solutions to monitor or scan any environments for which Customer has not received consent; or (viii) with respect to Customer's subscription to the Managed Security Awareness Solution, include material or information that is obscene, defamatory, libelous, slanderous, that violates any person's right of publicity, privacy or personality, or otherwise results in any tort, injury, damage or harm to any person. Customer agrees to abide by the terms of the Acceptable Use Policy at <https://arcticwolf.com/terms/acceptable-user-policy/>, as may be updated from time-to-time in accordance with Section 13 below. If Arctic Wolf, in its reasonable discretion, determines that Customer's use of or access to the Solutions imposes an actual or imminent threat to the security or stability of Arctic Wolf's infrastructure or that Customer is abusing its use of the Solutions in contravention with the terms of this Agreement, Arctic Wolf may, in addition to any other right herein, temporarily suspend Customer's access to the Solutions, without liability except as otherwise provided by Consumer Protection Laws, until such activity is rectified. If commercially practicable, Arctic Wolf shall provide Customer with notice prior to any such suspension and shall work with Customer in good faith to reinstate the Solutions promptly.

5.2 Arctic Wolf Responsibilities. Arctic Wolf shall provide the Solutions Customer subscribes to as set forth on an Order Form in accordance with the terms of this Agreement, as further described in the Solutions Terms. The Solutions provided under this Agreement shall include any updates, upgrades, bug fixes, version upgrades or any similar changes that are made generally available to Arctic Wolf's customers free of charge from time to time during the Subscription Term.

5.3. Customer Responsibilities. Customer must identify the administrative users for its account which may include Customer's authorized (email authorization sufficient) third party service providers and agents ("**Administrators**"). Each Administrator will receive an administrator ID and password and will need to register with Arctic Wolf. Customer is responsible for notifying Arctic Wolf about changes to Administrators, including but not limited to termination, change of authority, and the addition of Administrators. Customer acknowledges and agrees that Administrators will be able to view all Solutions Data and other traffic and activities that occur on Customer's network and that Customer is responsible for all activities that occur under Administrator accounts. Administrator IDs are granted to individual, named persons and cannot be shared or used by more than one Administrator but may be reassigned from time-to-time to new Administrators. Notwithstanding anything contrary herein, Customer understands and agrees that transmission of Solutions Data to Arctic Wolf may be impacted by in-country technical issues and requirements. Arctic Wolf will provide reasonable assistance to Customer in such instances but is not liable if the Solutions Data cannot be transmitted outside of such country. Customer is responsible for implementing appropriate internal procedures and oversight to the extent it utilizes the configuration of workflows and processes, including but not limited to containment actions, and similar functionalities in conjunction with the Services. Arctic Wolf may recommend Customer, depending on the scope of the deployment, implement software and services to enable features of the Solutions or to permit increased visibility into Customer's environment. Customer is responsible for making such determinations in its discretion and Arctic Wolf has no liability for Customer's decisions related thereto. Customer acknowledges that any changes Customer makes to its code, infrastructure or configuration of the Solutions after initial deployment may cause the Solutions to cease working or function improperly or could prevent Arctic Wolf from delivering the Solutions and Arctic Wolf will have no responsibility for the impact of any such Customer changes. Customer understands that depending on the Solution deployed, a Solution may consume additional CPU and memory in Customer's environment while running in production.

5.4 Anti-corruption. In no event shall Arctic Wolf be obligated to take any action (including the shipping of any product or the provision of any service) or omit to take any action that Arctic Wolf believes in good faith would cause it to be in violation of any U.S. or foreign laws or regulations, including, without limitation, the U.S. Foreign Corrupt Practices Act (the "**FCPA**"). Neither party will (i) attempt to, directly or indirectly, improperly influence the sale or purchase of products by payments or other actions contrary to law or regulation, or (ii) take any action or permit

or authorize any action that would violate or cause a party to violate the FCPA, the UK Bribery Act, or other applicable anti-corruption laws or regulations. Neither party will, for the purpose of influencing any act or decision to obtain or retain business or direct business to any person, pay, offer or promise to pay, or authorize the payment of, directly or indirectly, any money or anything of value to or for the use or benefit of any of the following: (a) any government official (including any person holding an executive, legislative, judicial or administrative office, whether elected or appointed, or any representative of any public international organization, or any person acting in any official capacity for or on behalf of any government, state-owned business or public organization); (b) any political party, official thereof, or candidate for political office; or (c) any other person if a party or any respective partner, officer, director, employee, agent, representative or shareholder of such party knows or has reason to suspect or know that any part of such money or thing of value will be offered, given or promised, directly or indirectly, to any of the above-identified persons or organizations. Each party acknowledges and agrees that none of its officers, directors, employees, agents or representatives is a government official or employee or an official or employee of any department or instrumentality of any government, nor is any of them an officer of a political party or candidate for political office, who will share directly or indirectly any part of the sums that may be paid pursuant to performance of this Agreement; and each party agrees to immediately notify the other party should the foregoing change during the term of this Agreement. Each party represents and warrants that neither this Agreement nor the performance of or exercise of rights under this Agreement is restricted by, in conflict with, requires registration or approval or tax withholding under, or will require any termination or expiration, compensation, or any compulsory licensing under, any applicable law or regulation of any country or other governmental entity, and each party will not make any claim to the contrary (each party is relying on this representation and warranty, among other provisions of this Agreement, in entering this Agreement and would not enter this Agreement in its absence).

5.5 Trade Controls. Customer understands that the Solutions may be subject to the export control, economic sanctions, customs, import, and anti-boycott laws, regulations, and orders promulgated or enforced by Canada, the United States, Customer's jurisdictions of incorporation and operations, and any other country or governmental body having jurisdiction over the parties to this Agreement ("Trade Controls"). Customer shall ensure that the Solutions are not re-exported, provided or transferred to any person or entity listed on any restricted or prohibited persons list issued by Canada, the United States, Germany, or any governmental authority of any applicable jurisdiction, including but not limited to the Bureau of Industry and Security's Denied Persons, Entity, or Unverified List or the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List, Foreign Sanctions Evaders List, or Sectoral Sanctions Identifications List (collectively, the "Restricted Persons Lists"). Customer represents and warrants that it and its shareholders, members, partners, or other owners are not listed on, or owned 50% or more, collectively or individually, by anyone on a Restricted Persons List. Customer shall not use the Solutions (a) for a military application, wherever located; or (b) with knowledge or reason to know that the Solutions will be used for nuclear, chemical, or biological weapons proliferation or (c) for any other end use or by any end user otherwise prohibited by applicable Trade Controls. Upon request by Arctic Wolf, Customer will complete and provide an end use certificate in the form requested by Arctic Wolf. Arctic Wolf may suspend and/or cancel the export, delivery, and or servicing of the Solutions, if: (i) Arctic Wolf has not received requested end-user certifications; (ii) Arctic Wolf has not received any government approvals required to comply with Trade Controls, or (iii) Arctic Wolf believes that such activity may violate any Trade Controls. If the Solutions are resold or transferred in violation of any Trade Controls or the provision of this Agreement, Arctic Wolf shall not be obligated to provide any warranty service or technical support for such Items.

6. Fees, Payment, Taxes, and Audit.

6.1 Fees, Payment, & Taxes. Customer will purchase the Solutions through the Authorized Partner. The Order Form containing terms related to fees, payment, taxes, audit, and any other related terms shall be between Customer and the Authorized Partner. Customer will pay any owed amounts to the Authorized Partner, as agreed between Customer and Authorized Partner. Customer agrees that Arctic Wolf may suspend or terminate Customer's use of the Solutions upon ten (10) days' written notice to Customer if Arctic Wolf does not receive payment of Fees from the Authorized Partner. The amounts paid by Authorized Partner to Arctic Wolf for Customer's use of the Solutions under this Agreement will be deemed the amount actually paid or payable under this Agreement for purposes of calculating Arctic Wolf's liability under Section 11. Customer's renewal pricing will be communicated to Customer by the Authorized Partner in accordance with the terms Customer has with the Authorized Partner or by Arctic Wolf prior to the renewal Subscription Term.

6.2 Audit. During the term of this Agreement and for one year thereafter, Customer shall provide Arctic Wolf, or its designated representative, promptly upon request with appropriate records requested by Arctic Wolf to verify Customer's compliance with the Agreement, including specifically its license counts as set forth on an Order Form. Arctic Wolf, at its option, may require that an executive officer of Customer certify in writing to Customer's compliance with this Agreement and disclose the scope of use of the Solutions by Customer. If, because of such audit, Arctic Wolf determines that Customer has exceeded the number of licenses subscribed to by Customer on an Order Form, Arctic Wolf will notify Customer of the number of additional licenses, along with the associated Subscription Fees prorated through the end of the then-current Subscription Term, and Customer will remit payment for such Subscription Fees in accordance with this Section 6.

7. Confidentiality. Either party (as a "**Discloser**") may disclose confidential and proprietary information, orally or in writing ("**Confidential Information**") to the other party (as a "**Recipient**"). Confidential Information (a) shall be marked with a restrictive legend of the Discloser or, (b) if orally or visually disclosed to Recipient by Discloser, or disclosed in writing without an appropriate letter, proprietary stamp or legend, shall be confidential if it would be apparent to a reasonable person that such information is confidential or proprietary. Confidential Information of Arctic Wolf includes the following: any pricing, trade secrets, know-how, inventions (whether or not patentable), techniques, ideas, or processes related to the Arctic Wolf Technology; the design and architecture of the Arctic Wolf Technology; the computer code, internal documentation, and design and functional specifications of the Arctic Wolf Technology; Arctic Wolf's security and privacy due diligence material such as SOC2 reports, security and privacy questionnaire responses & memos; and any intellectual property and know-how included in the problem reports, analysis, and performance information related to the Arctic Wolf Technology. Confidential Information of Customer may include the following:

(i) If the MA or MA+ Solution is deployed: First name, last name, corporate email address, phone number, job title, address, and organization hierarchy (collectively, "**Point of Contact information**"); Customer's tracking metrics as described in the Solutions Terms; Customer created content; and any test response data; and

(ii) If MDR and/or MR Solutions are deployed: Point of Contact Information and Solutions Data (as defined in Section 8.1 below).

Each party agrees to hold the other party's Confidential Information in strict confidence, not to disclose such Confidential Information to third parties not authorized by the Discloser to receive such Confidential Information, and not to use such Confidential Information for any purpose

except as expressly permitted hereunder and as described in the Privacy Notice. Each party agrees to take commercially reasonable steps to protect the other party's Confidential Information and to ensure that such Confidential Information is not disclosed, distributed or used in violation of the provisions of this Agreement. The Recipient may disclose Confidential Information only: (a) with the Discloser's prior written consent; or (b) to those employees, officers, directors, agents, consultants, third party service providers, and advisors with a clear and well-defined "need to know" purpose who are informed of and bound by confidentiality obligations no less restrictive than those set forth in this Section 7. Notwithstanding the foregoing, the Recipient may disclose Confidential Information to the extent required by law; however, the Recipient will give, to the extent legally permissible and reasonably practical, the Discloser prompt notice to allow the Discloser a reasonable opportunity to obtain a protective order and such Confidential Information disclosed to the extent required by law shall otherwise remain confidential and subject to the protections and obligations of this Agreement. For the avoidance of doubt, Arctic Wolf may share Customer's name with Customer's services providers to assist Customer in the resolution of technical issues pertaining to the Solutions. To the extent legally required, Arctic Wolf may report any violations of law pertaining to Customer's use of the Solutions. The Discloser agrees that the foregoing confidentiality obligations shall not apply with respect to any information that the Recipient can document is: (i) rightfully in its possession or known to it prior to receipt from the Discloser without an obligation of confidentiality; (ii) or has become public knowledge through no fault of the Recipient; (iii) rightfully obtained by the Recipient from a third party without breach of any confidentiality obligation; or (iv) independently developed by employees of the Recipient who had no access to Discloser's Confidential Information. Upon expiration or termination of this Agreement for any reason, and except as otherwise provided in Section 14 below, each party shall promptly destroy all copies of the other party's Confidential Information and copies, notes or other derivative material relating to the Confidential Information. Notwithstanding the foregoing, and subject to the Privacy Notice, Arctic Wolf may retain Customer's name, contact names, email address, and such other necessary contact information following termination of this Agreement for its internal business purposes.

8. Solutions Data.

8.1 Solutions Data. "**Solutions Data**" means, depending on the Solution deployed, the operational system log data and any other information provided by Customer in furtherance of its use of the Solutions and which Customer may elect to submit to Arctic Wolf through the Solutions, including, but not limited to operational values, event logs, and network data such as flow, HTTPS, TLS, DNS metadata, cursory inventory data, operating systems and versions, users and groups from Active Directory, system level inventory, event data, and network vulnerability data. As between the parties, Customer shall retain all right, title and interest (including any and all intellectual property rights) in and to the Solutions Data (excluding any Arctic Wolf Technology used with the Solutions Data). Customer hereby grants Arctic Wolf, during the term of the Agreement, a non-exclusive, worldwide, royalty-free right to collect, use, copy, store, transmit, modify and create derivative works of the Solutions Data solely to the extent necessary to provide the Solutions to Customer. The location of the storage of raw Solutions Data within Arctic Wolf's third party service providers' data centers will be as set forth in the Solutions Terms. Customer understands Arctic Wolf will aggregate Solutions Data with Arctic Wolf's other data so that results are non-personally identifiable (individual identities have been removed and are not linked or reasonably linked to any individual, including via a device, or could be reasonably linked, directly or indirectly, with a particular consumer or household) and collect anonymous technical logs and data regarding Customer's use of the Solutions ("**Aggregate/Anonymous Data**"). Such Aggregate/Anonymous Data is Arctic Wolf Technology, which Arctic Wolf may use for its business purposes during or after the term of this Agreement.

8.2 Personal Information. Confidential Information may include information that identifies, relates to, describes, is reasonably capable of being associated with or linked to a particular individual, whether directly or indirectly ("**Personal Information**"). Customer is responsible for the lawfulness of any such Personal Information and the receipt, use, and processing of it under the Agreement. Customer represents and warrants that, where it provides Personal Information to Arctic Wolf or requests Arctic Wolf collect or process such information, it (1) has complied with any applicable laws relating to the collection or provision of such information, (2) possesses any consents, authorizations, rights and authority, and has given all required notices to individual data subjects as are required to transfer or permit Arctic Wolf to collect, receive, or access any Personal Information for the Solutions, and (3) to the extent required by applicable law, informed the individuals of the possibility of Arctic Wolf processing their Personal Information on Customer's behalf and in accordance with its instructions.

8.3 European Union and United Kingdom General Data Protection Regulation. If and to the extent Customer submits to Arctic Wolf personal data (as that term is defined under the General Data Protection Regulation ("**GDPR**") of individuals located in the European Economic Area or United Kingdom, the Arctic Wolf Data Processing Agreement available at <https://arcticwolf.com/terms/dpa/>, as may be updated by Arctic Wolf from time-to-time in accordance with its terms (the "**DPA**"), may be executed by Customer and upon execution and return to Arctic Wolf in accordance with its terms will be incorporated into this Agreement. It is Customer's sole responsibility to notify Arctic Wolf of requests from data subjects related to the modification, deletion, restriction and/or objection of personal data. Customer represents and warrants that any processing of personal data in accordance with its instructions is lawful.

8.4 California Consumer Privacy Act. The parties acknowledge and agree that Arctic Wolf is a service provider for the purposes of the California Consumer Privacy Act, as amended by the California Privacy Rights Act ("**CCPA**") and may receive personal information (as defined by the CCPA) from Customer pursuant to this Agreement for a business purpose. The parties agree to comply at all times with the applicable provisions of the CCPA in respect to the collection, transmission, and processing of all personal information (as defined by the CCPA) exchanged or shared pursuant to the Agreement. Arctic Wolf shall not sell any such personal information. Arctic Wolf shall not retain, use or disclose any personal information provided by Customer pursuant to this Agreement except as necessary for the specific purpose of performing the Solutions for Customer pursuant to this Agreement or as permitted by the CCPA. The terms "personal information," "service provider," "sale," and "sell" are as defined in Section 1798.140 of the CCPA. Arctic Wolf certifies that it understands the restrictions of this Section 8.4. It is Customer's sole responsibility to notify Arctic Wolf of any requests from consumers (as defined in the CCPA) seeking to exercise rights afforded in the CCPA with regard to personal information received or processed in connection with the Solutions. Arctic Wolf agrees to provide reasonable cooperation to Customer in connection with such requests.

8.5 Canadian Privacy Laws. If and to the extent Customer submits to Arctic Wolf personal information (as that term is defined under applicable Canadian privacy laws, being all applicable federal, and provincial laws and regulations relating to the processing, protection or privacy of personal information ("**Privacy Laws**"), of individuals located in Canada, Customer agrees that it is solely responsible for and shall obtain from all such individuals, all required consents and/or provide all required notifications, regarding the collection, use, disclosure, and processing of their personal information by Arctic Wolf/Arctic Wolf's subcontractors/third party service providers (which may be located outside of Canada),

and/or the transfer by Customer of such individual's personal information to Arctic Wolf/Arctic Wolf's subcontractors/third party service providers (which may be located outside of Canada). Upon request of Customer, Arctic Wolf will inform Customers of the locations to which the personal information is transferred and processed by Arctic Wolf and/or its subcontractors/third party service providers.

Customer retains control of the personal information and remains solely responsible for its compliance with Privacy Laws and for the processing instructions it gives to Arctic Wolf. The parties agree that this Agreement, together with Customer's use of the Solution in accordance with this Agreement, constitutes Customer's instructions to Arctic Wolf in relation to the processing of such personal information. Subject to Section 8.1 of this Agreement, Arctic Wolf will only process the personal information to the extent, and in such a manner, as is necessary for the performance of the Solutions. Arctic Wolf will reasonably assist Customer with meeting the Customer's compliance obligations under applicable Privacy Laws, considering the nature of Arctic Wolf's processing and the information available to Arctic Wolf.

Arctic Wolf shall:

- Comply with its obligations as a third party service provider/mandatory under applicable Privacy Laws, including by implementing appropriate technical, physical and organizational measures to safeguard the personal information;
- Periodically conduct audits of its information security controls for facilities and systems used to deliver the Solutions and make relevant audit reports available to Customer for review. The Customer will treat such audit reports as Arctic Wolf's Confidential Information;
- Within seventy-two (72) hours of discovery notify Customer of any unauthorized or unlawful access to or processing of the personal information;
- Limit access to those employees who require the personal information access to meet Arctic Wolf's obligations under this Agreement and ensure that all employees are informed of the personal information's confidential nature;
- Notify Customer if it receives any complaint, notice, or communication that directly or indirectly relates to the personal information processing or to either party's compliance with Privacy Laws, and provide its full co-operation and assistance in responding to such complaint, notice or communication; and
- Upon Customer's request, provide the Customer a copy of or access to all or part of the Customer's personal information in its possession or control in the format reasonably agreed to by the parties.

8.6 Australian Privacy Laws. If and to the extent Customer submits to Arctic Wolf personal information (as that term is defined in the Australian *Privacy Act 1988* (Cth)) on your behalf, as agent for you, Arctic Wolf will only handle your personal information for the purpose of performing the Solutions, in accordance with the Privacy Notice or as required by applicable law, and ensuring you have access to your Solutions Data in accordance with this Agreement. Customer will maintain effective control of how Solutions Data is handled by retaining the right to access, changing and retrieving Solutions Data, limiting others' use of Solutions Data and specifying security measures that are used in relation to Solutions Data as set forth in this Agreement, including the Privacy Notice.

8.7 South African Privacy Laws. If and to the extent Customer submits to Arctic Wolf personal information (as that term is defined in the Protection of Personal Information Act, 4 of 2013) of individuals located in South Africa, Customer agrees that it is solely responsible for and shall obtain from all such individuals, all required consents and/or provide all required notifications, regarding the collection, use, disclosure, and processing of their personal information by Arctic Wolf/Arctic Wolf's subcontractors/third party service providers (which may be located outside of South Africa, and/or the transfer by Customer of such individual's personal information to Arctic Wolf/Arctic Wolf's subcontractors/third party service providers (which may be located outside of South Africa). Upon request of Customer, Arctic Wolf will inform Customers of the locations to which the personal information is transferred and processed by Arctic Wolf and/or its subcontractors/third party service providers. Arctic Wolf will only handle personal information for the purpose of performing the Solutions and ensuring Customer has access to its Solutions Data in accordance with this Agreement. Customer will maintain effective control of how Solutions Data is handled by retaining the right to access, changing, and retrieving Solutions Data, limiting others' use of Solutions Data. Arctic Wolf shall take appropriate, reasonable technical and organizational security measures to prevent the loss of, damage to or unauthorized destruction of personal information, and the unlawful access to or processing of personal information.

9. Indemnity.

9.1 Arctic Wolf's Indemnity. Subject to Section 9.3, Arctic Wolf will defend and indemnify Customer from any unaffiliated third party claim or action to the extent based on the allegation that the Solutions infringe any intellectual property right (patents, utility models, design rights, copyrights and trademarks or any other intellectual property right) having effect in the United States, Canada, United Kingdom, and the European Union. Arctic Wolf will pay any settlements that Arctic Wolf agrees to in a writing signed by an authorized officer of Arctic Wolf or final judgments awarded to the third party claimant by a court of competent jurisdiction. The foregoing obligations do not apply with respect to the Solutions, or portions or components thereof, that are: (a) not provided by Arctic Wolf; (b) combined with other products, processes or materials that are not reasonably contemplated by the Documentation where the alleged infringement relates to such combination; (c) modified other than with Arctic Wolf's express consent; (d) used after Arctic Wolf's notice to Customer of such activity's alleged or actual infringement; or (e) not used by Customer in strict accordance with this Agreement or the published Documentation. The indemnification obligations set forth in this Section 9.1 are Arctic Wolf's sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to infringement or misappropriation of third-party intellectual property rights of any kind.

9.2 Customer Indemnity. Subject to Section 9.3, Customer agrees to defend and indemnify Arctic Wolf from any third-party claim or action brought against Arctic Wolf to the extent based on Customer's alleged breach of Sections 5 or 8. Customer agrees to pay any settlements that Customer agrees to in a writing signed by an authorized officer of Customer or final judgments awarded to the third party claimant by a court of competent jurisdiction.

9.3 Procedures. Each party's indemnification obligations are conditioned on the indemnified party: (a) providing the indemnifying party with prompt written notice of any claim, provided that the failure to provide such notice shall only limit the indemnifying party's obligation to indemnify to the extent that the failure prejudices the indemnifying party in its defense of the claim; (b) granting the indemnifying party the sole control of the defense or settlement of the claim; and (c) providing reasonable information and assistance to the indemnifying party in the defense or settlement of the claim at the indemnifying party's expense. Notwithstanding the foregoing, the indemnifying party (i) may not make an admission of fault on behalf of the other party without written consent, (ii) any settlement requiring the party seeking indemnification to admit

liability requires prior written consent, not to be unreasonably withheld or delayed, and (iii) the other party may join in the defense with its own counsel at its own expense.

9.4 Options. If Customer's use of the Solutions has become, or in Arctic Wolf's opinion is likely to become, the subject of any claim of infringement, Arctic Wolf may at its option and expense: (a) procure for Customer the right to continue using and receiving the Solutions as set forth hereunder; (b) replace or modify the Solutions to make them non-infringing; (c) substitute an equivalent for the Solutions; or (d) if Arctic Wolf, in its sole discretion, determines that options (a)-(c) are not reasonably practicable, terminate this Agreement and refund any pre-paid unused Fees as of the effective date of termination.

10. Warranty and Warranty Disclaimer.

10.1 Solutions Warranty. ARCTIC WOLF WARRANTS THAT DURING THE SUBSCRIPTION TERM AND PROVIDED THAT CUSTOMER IS NOT IN BREACH OF THIS AGREEMENT OR AS OTHERWISE PROHIBITED BY CONSUMER PROTECTION LAWS INCLUDING ANY CUSTOMER RIGHTS UNDER SUCH CONSUMER PROTECTION LAWS THAT: (I) THE SOLUTIONS PROVIDED UNDER THIS AGREEMENT DO NOT INFRINGE OR MISAPPROPRIATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY; (II) THE SOLUTIONS SHALL SUBSTANTIALLY PERFORM AS DESCRIBED IN THE DOCUMENTATION; AND (III) IT WILL COMPLY WITH ALL FOREIGN, PROVINCIAL, FEDERAL, STATE AND LOCAL STATUTES, LAWS, ORDERS, RULES, REGULATIONS AND REQUIREMENTS, INCLUDING THOSE OF ANY GOVERNMENTAL (INCLUDING ANY REGULATORY OR QUASI-REGULATORY) AGENCY APPLICABLE TO ARCTIC WOLF AS IT PERTAINS TO ITS OBLIGATIONS AND THE DATA REQUIRED FOR THE PERFORMANCE OF THE SOLUTIONS DESCRIBED HEREIN. IN THE EVENT OF ANY BREACH OF THIS SECTION 10.1, ARCTIC WOLF SHALL, AS ITS SOLE LIABILITY AND CUSTOMER'S SOLE REMEDY (OTHER THAN ARCTIC WOLF'S INDEMNIFICATION OBLIGATIONS IN SECTION 9.1 ABOVE, OR OTHERWISE PROHIBITED BY CONSUMER PROTECTION LAWS AND SECTION 10.2 OF THIS AGREEMENT), REPAIR OR REPLACE THE SOLUTIONS THAT ARE SUBJECT TO THE WARRANTY CLAIM AT NO COST TO CUSTOMER OR IF ARCTIC WOLF IS UNABLE TO REPAIR OR REPLACE, THEN ARCTIC WOLF WILL REFUND ANY PRE-PAID FEES FOR THE SOLUTIONS, OR PARTS THEREOF, SUBJECT TO THE WARRANTY CLAIM. EXCEPT FOR THE WARRANTIES DESCRIBED IN THIS SECTION, THE SOLUTIONS ARE PROVIDED WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES OF TITLE. CUSTOMER ACKNOWLEDGES THAT THE SOLUTIONS ARE PROVIDED "AS IS" AND FURTHER ACKNOWLEDGES THAT ARCTIC WOLF DOES NOT WARRANT: (A) THE OPERATION OF THE SOLUTIONS WILL BE UNINTERRUPTED, OR ERROR FREE; AND (B) THE SOLUTIONS ARE NOT VULNERABLE TO FRAUD OR UNAUTHORIZED USE. CUSTOMER IS RESPONSIBLE AND ARCTIC WOLF SHALL HAVE NO RESPONSIBILITY FOR DETERMINING THAT THE USE OF THE SOLUTIONS COMPLIES WITH APPLICABLE LAWS IN THE JURISDICTION(S) IN WHICH CUSTOMER MAY DEPLOY AND USE THE SOLUTIONS.

10.3 No Guarantee. CUSTOMER ACKNOWLEDGES, UNDERSTANDS, AND AGREES THAT ARCTIC WOLF DOES NOT GUARANTEE OR WARRANT THAT IT WILL FIND, LOCATE, OR DISCOVER ALL OF CUSTOMER'S SYSTEM THREATS, VULNERABILITIES, MALWARE, AND MALICIOUS SOFTWARE, OR THAT ALL SUCH SYSTEM THREATS, VULNERABILITIES, MALWARE, AND MALICIOUS SOFTWARE CAN OR WILL BE CONTAINED OR UNCONTAINED IN THE DELIVERY OF THE SOLUTIONS. CUSTOMER ACKNOWLEDGES THAT CERTAIN FEATURES AND ACTIVITIES PERFORMED BY ARCTIC WOLF AND MORE FULLY DESCRIBED IN THE SOLUTIONS TERMS COULD POSSIBLY RESULT IN INTERRUPTIONS OR DEGRADATION TO CUSTOMER'S SYSTEMS AND ENVIRONMENT AND ACCEPTS THOSE RISKS AND CONSEQUENCES. CUSTOMER ASSUMES ALL RISKS IN USING THIRD PARTY SYSTEMS OR SERVICES IN CONNECTION WITH THE DELIVERY OF THE SOLUTIONS.

10.4 Open Source Warranty. The Software may include Open Source Software. To the extent included in the Software, Open Source Software is governed solely by the applicable open source licensing terms, if any, and is provided "AS IS", and Arctic Wolf hereby disclaims all copyright interest in such Open Source Software. Arctic Wolf provides no warranty specifically related to any Open Source Software or any applicable Open Source Software licensing terms. Any fees paid by Customer to Arctic Wolf are for Arctic Wolf's proprietary Software only, and not for any Open Source Software components of the Software. Any license associated with an Open Source Software component applies only to that component and not to Arctic Wolf's proprietary Software or any other third-party licensed software. The foregoing language is not intended to limit Arctic Wolf's warranty obligation for the Solutions set forth in Section 10.1. "Open Source Software" means software with its source code made available pursuant to a license by which, at a minimum, the copyright holder provides anyone the rights to study, change, and/or distribute the software to anyone and for any purpose.

10.5 Third Party Product. Third Party Product (as defined in this Section 10.3) may carry a limited warranty from the third-party publisher, provider, or original manufacturer of such Third Party Products. To the extent required or allowed, Arctic Wolf will pass through to Customer or directly manage for the benefit of Customer's use of the Third Party Products as part of the Solutions (such decision to be made in Arctic Wolf's discretion), the manufacturer warranties related to such Third Party Products. "Third Party Product" means any non-Arctic Wolf branded products and services (including Equipment, and any operating system software included therewith) and non-Arctic Wolf-licensed software products, including Open Source Software.

10.6 Customer Warranties. Customer represents and warrants that it shall: (i) be responsible for ensuring the security and confidentiality of all Administrator IDs and passwords; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Solutions; (iii) notify Arctic Wolf promptly upon discovery of any unauthorized use of the Solutions or any breach, or attempted breach, of security of the Solutions; (iv) not violate any foreign, provincial, federal, state and local statutes, laws, orders, rules, regulations and requirements applicable to Customer's performance of its obligations herein, including those of any governmental (including any regulatory or quasi-regulatory) agency, Trade Control laws, and regulations and the U.S. Foreign Corrupt Practices Act (the "**FCPA**"); (v) not use the Solutions and transfer any Solutions Data to Arctic Wolf for any fraudulent purposes; and (vi) implement safeguards within Customer's environment to protect the Solutions, including specifically, the Equipment, from the introduction, whether intentional or unintentional, of: (1) any virus or other code, program, or sub-program that damages or interferes with the operation of the Equipment or halts, disables, or interferes with the operation of the Solutions; or (2) any device, method, or token whose knowing or intended purpose is to permit any person to circumvent the normal security of the Solutions. Customer authorizes Arctic Wolf to perform Services (and all such tasks and tests reasonably contemplated by or reasonably necessary to perform the Services) on network resources with the internet protocol addresses or other designated identifiers identified by Customer. Customer represents that, if Customer does not own such network resources, it will have obtained consent and authorization from the applicable third party to permit Arctic Wolf to provide the Services on such third party's network resources.

11. Limitation of Liability.

11.1 TO THE FULL EXTENT PERMITTED BY LAW AND SUBJECT TO SECTION 11.2 BELOW, FOR ANY CAUSE RELATED TO OR ARISING OUT OF THIS AGREEMENT, WHETHER IN AN ACTION BASED ON A CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR ANY OTHER LEGAL THEORY, HOWEVER ARISING, ARCTIC WOLF WILL IN NO EVENT BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR: (A) DAMAGES BASED ON USE OR ACCESS, INTERRUPTION, DELAY OR INABILITY TO USE THE SOLUTIONS, LOST REVENUES OR PROFITS, LOSS OF SOLUTIONS, BUSINESS OR GOODWILL, LOSS OR CORRUPTION OF DATA, LOSS RESULTING FROM SYSTEM FAILURE, MALFUNCTION OR SHUTDOWN, FAILURE TO ACCURATELY TRANSFER, READ OR TRANSMIT INFORMATION, FAILURE TO UPDATE OR PROVIDE CORRECT INFORMATION, SYSTEM INCOMPATIBILITY OR PROVISION OF INCORRECT COMPATIBILITY INFORMATION, BREACHES BY AN AUTHORIZED PARTNER, OR BREACHES IN CUSTOMER'S SYSTEM SECURITY; OR (B) ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES; OR (C) ANY AMOUNTS THAT EXCEED THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER FOR THE SOLUTIONS THAT ARE THE SUBJECT OF THE CLAIM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT WHICH GIVES RISE TO SUCH DAMAGES. THESE LIMITATIONS SHALL APPLY WHETHER OR NOT ARCTIC WOLF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. BOTH PARTIES UNDERSTAND AND AGREE THAT THE LIMITATIONS OF LIABILITIES FOR EACH PARTY SET FORTH IN THIS AGREEMENT ARE REASONABLE AND THEY WOULD NOT HAVE ENTERED INTO THE AGREEMENT WITHOUT SUCH LIMITATIONS. THE FOREGOING LIMITATIONS OF LIABILITY IN THIS SECTION 11, WITH RESPECT TO ARCTIC WOLF AUSTRALIAN CUSTOMERS, ARE SUBJECT TO THE *COMPETITION AND CONSUMER ACT 2010 (CTH) SCH 2* AND SECTION 11.2 OF THIS AGREEMENT.

11.2 FOR CUSTOMERS DEEMED "CONSUMERS" AS DEFINED BY THE *COMPETITION AND CONSUMER ACT 2010 (CTH) SCH 2*, SECTION 11.1 IS REPLACED IN ITS ENTIRETY WITH THE FOLLOWING:

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW ARCTIC WOLF SHALL NOT BE LIABLE TO CUSTOMER (UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STATUTE, TORT OR OTHERWISE) FOR: (A) ANY LOST PROFITS, REVENUE, OR SAVINGS, LOST BUSINESS OPPORTUNITIES, LOST DATA, OR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, EVEN IF ARCTIC WOLF HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES OR SUCH DAMAGES OR LOSSES WERE REASONABLY FORESEEABLE; OR (B) AN AMOUNT THAT EXCEEDS THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER FOR THE SOLUTIONS THAT ARE THE SUBJECT OF THE CLAIM DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRIOR TO THE EVENT WHICH GIVES RISE TO SUCH DAMAGES. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SPECIFIED IN THESE TERMS. MULTIPLE CLAIMS SHALL NOT EXPAND THE LIMITATIONS SPECIFIED IN THIS SECTION 11.2. THIS SECTION 11.2 DOES NOT SEEK TO LIMIT OR EXCLUDE THE LIABILITY OF ARCTIC WOLF OR ITS AFFILIATES IN THE EVENT OF DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY FOR WHICH IT IS NOT PERMITTED BY LAW TO EXCLUDE. TO THE EXTENT APPLICABLE, THIS PROVISION MUST BE READ SUBJECT TO THE *COMPETITION AND CONSUMER ACT 2010 (CTH) SCH 2*.

12. Term and Renewal. This Agreement shall be in effect for the Subscription Term specified in the Order Form. The Order Form or other equivalent transaction document containing the terms related to the length of the Subscription Term and any renewal thereof, and any other related terms, as may be applicable, shall be between Customer and the Authorized Partner. Notwithstanding the foregoing, and unless otherwise set forth on an Order Form, the Subscription Term to the Solutions, in its entirety, will automatically renew at the end of the initial Subscription Term for the same period of time as the initial Subscription Term, but in no event more than a twelve (12) month term, and subject to the then-current terms and price at the time of renewal; provided however, if either party would like to opt out of automatic renewal of the Subscription of the Solutions or reduce Subscription scope, then such party must notify the other party no less than sixty (60) days prior to the expiration of the then-current Subscription Term.

13. Updates. Arctic Wolf reserves the right to modify this Agreement, the Terms, and the Documentation in Arctic Wolf's sole discretion provided that changes to the Solutions Terms shall not materially decrease the Solutions features and functionalities that Customer has subscribed to during the then-current Subscription Term. Should Arctic Wolf make any modifications to the Agreement, the Terms, or Documentation, Arctic Wolf will post the amended terms on the applicable URL links and will update the "**Last Updated Date**" within such documents and notify Customer via email, the Customer newsletter or such other written communication method implemented by Arctic Wolf from time-to-time. Customer may notify Arctic Wolf within 30 days after the effective date of the change of its rejection of such change. If Customer notifies Arctic Wolf of its rejection during such thirty (30) day period, then Customer will remain governed by the terms in effect immediately prior to the change until the end of Customer's then-current Subscription Term. However, any subsequent renewal of the Subscription Term will be renewed under the then-current terms, unless otherwise agreed in writing by the parties.

14. Termination. Either party may terminate this Agreement for cause if the other party commits a material breach of this Agreement, provided that such terminating party has given the other party ten (10) days advance notice to try and remediate the breach. Upon termination, Customer agrees to cease all use of the Arctic Wolf Technology, installed or otherwise, and permanently erase or destroy all copies of any Arctic Wolf Technology, including all Content and virtual Equipment, that are in its possession or under its control and promptly remove and return all physical Equipment to Arctic Wolf. Except as otherwise required by law, Arctic Wolf will remove, delete, or otherwise destroy all copies of Confidential Information in its possession upon the earlier of (i) the return of the Equipment, if applicable, to Arctic Wolf, or (ii) one hundred-twenty (120) days following termination. Notwithstanding anything contrary in this Agreement, should Customer fail to return any Equipment within ninety (90) days following discontinuation of use of the Equipment or termination or expiration of this Agreement, Customer will be liable for the replacement cost of the Equipment, which shall be due and owing upon receipt of the invoice from Arctic Wolf or the Authorized Partner, and Customer shall be liable for any breach of the Confidential Information and Arctic Wolf Technology contained within the unreturned Equipment. Sections 6 through 13, 14, and 15 will survive the non-renewal or termination of this Agreement.

15. Miscellaneous.

15.1 Except as otherwise provided herein, all notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given: (a) when delivered by hand (with written confirmation of receipt); (b) on the next business day after the date sent, if sent for overnight delivery by a generally recognized international courier (e.g., FedEx, UPS, DHL, etc.) (receipt requested); or (c) on the date sent by e-mail (with confirmation of transmission) if sent during normal business hours of the recipient, and on the

next business day if sent after normal business hours of the recipient. Such communications must be sent to the respective parties at the addresses set forth on the signature page hereof (or at such other address for a party as shall be specified in a notice given in accordance with this Section 15). For contractual purposes, Customer (1) consents to receive communications in an electronic form via the email address it provides herein or via the Customer Portal; and (2) agrees that all agreements, notices, disclosures, and other communications that Arctic Wolf provides electronically satisfies any legal requirement that those communications would satisfy if they were on paper. This Section does not affect Customer's non-waivable rights.

15.2 Notwithstanding any other terms to the contrary contained herein, Customer grants Arctic Wolf the right to use Customer's name or logo in customer lists, marketing materials, and verbal discussions with prospective customers to communicate that Customer uses the Solutions. If Arctic Wolf intends to disclose information about Customer's purchase(s) (such as dollar amount of sale or project objectives) in conjunction with the use of Customer's name or logo, Arctic Wolf will obtain Customer's prior written or email approval.

15.3 The parties to this Agreement are independent contractors. Neither party has the authority to bind the other party without the express written authorization of the other party. Nothing herein may be construed to create an employer-employee, franchisor-franchisee, agency, partnership, or joint venture relationship between the parties. Arctic Wolf shall be primarily liable for the obligations of its Affiliates and any subcontractors used in the delivery of the Solutions.

15.4 This Agreement shall inure to the benefit of and be binding upon the respective permitted successors and assigns of the parties. Customer shall not be entitled to assign, subcontract, delegate or otherwise transfer any of its rights and/or duties arising out of this Agreement and/or parts thereof to third parties, voluntarily or involuntarily, including by change of control, operation of law or any other manner, without Arctic Wolf's express prior written consent. Any purported assignment, subcontract, delegation or other transfer in violation of the foregoing shall be null and void. No such assignment, subcontract, delegation or other transfer shall relieve the assigning party of any of its obligations hereunder.

15.5 The rights and obligations of the parties under this Agreement shall not be governed by the provisions of the 1980 U.N. Convention on Contracts for the International Sale of Goods or the United Nations Convention on the Limitation Period in the International Sale of Goods, as amended. This Agreement shall be governed by the laws of the State of California without regard to the conflicts of law provisions thereof. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in Santa Clara County, California in English and in accordance with the JAMS International Arbitration Rules then in effect. Any judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, each party shall have the right to institute an action in a court of proper jurisdiction for preliminary injunctive relief pending a final decision by the arbitrator(s), provided that a permanent injunction and damages shall only be awarded by the arbitrator(s). In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be entitled to recover costs and attorneys' fees.

15.6 Each party acknowledges and agrees that any dispute or claim that may arise out of or relate to this Agreement is likely to involve complicated and difficult issues and, therefore, each such party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby. Further, each party agrees that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to this Agreement must be filed within one year after such claim or cause of action arose.

15.7 No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise.

15.8 If any provision of this Agreement is held invalid or unenforceable by any court of competent jurisdiction, the other provisions of this Agreement will remain in full force and effect. Any provision of this Agreement held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable. The parties agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purpose of such void or unenforceable provision. Arctic Wolf does not accept, expressly or impliedly, and rejects and deems deleted any additional or different terms or conditions that Customer presents, including, but not limited to, any terms or conditions contained Customer's purchase order, or other such document, or established by trade usage or prior course of dealing.

15.9 This Agreement (including the exhibits hereto, if any, and any BAA (as defined in Section 15.10 below)) constitutes the parties' entire agreement by and between the parties with respect to the subject matter hereof and supersedes any prior or contemporaneous agreement or understanding by and among the parties with respect to such subject matter. Except as otherwise provided herein, this Agreement may be amended, modified or supplemented only by an agreement in writing signed by each party.

15.10 In the event that Arctic Wolf receives personal healthcare information in the delivery of the Solutions, the parties agree to comply with the Business Associate Addendum ("**BAA**") located at <https://arcticwolf.com/terms/business-associate-addendum/> or such other equivalent agreement/addendum as required under applicable health information/privacy laws. In the event the parties have entered into a BAA or equivalent agreement in relation to protected health information, the parties intend for both this Agreement and BAA or equivalent agreement to be binding upon them and the BAA or equivalent agreement is incorporated into this Agreement by reference.

15.11 The parties have participated mutually in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted mutually by the parties and no presumption or burden of proof will arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

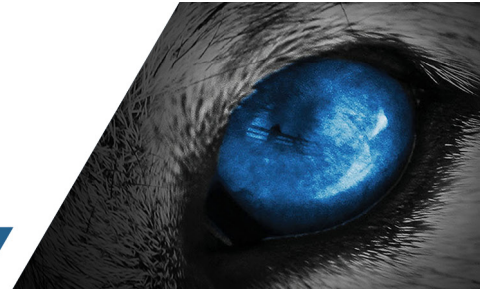
15.12 The parties have agreed that this Agreement as well as any notice, document or instrument relating to it be drawn up in English only; *les parties aux présentes ont convenu que la présente convention ainsi que tous autres avis, actes ou documents s'y rattachant soient rédigés en anglais seulement.*

15.13 Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[signature page to follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives on the Effective Date.

Arctic Wolf Networks, Inc.:	Customer:
Signed:	Signed:
Name: <u>Andrew Hill</u>	Name: _____
Title: <u>Chief Legal Officer & General Counsel</u>	Title: _____
Date: _____	Date: _____
Notice Address: PO Box 46390 Eden Prairie, MN 55344 Attn: General Counsel legal@arcticwolf.com	Notice Address:



City of Burleson – at a glance

- ▶ Employees – 480
- ▶ Servers – 60
- ▶ o365 - 580
- ▶ Sensors- 2x – 1000 Series
- ▶ Log retention – 1 year
- ▶ Required Solutions
 - Arctic Wolf® Managed Detection and Response
 - Arctic Wolf® Managed Risk

Arctic Wolf capabilities :

- Real-time security event analysis
- Mature SOC processes with <30 day time to value
- Cyber security incident response
- Vulnerability scans and analysis
- Threat intelligence analysis
- Malware analysis
- Forensic analysis
- Security training
- Log management and storage

City of Burleson Background and Project Objectives

City of Burleson is looking for a Security Partner to add a greater degree of Cybersecurity expertise to enable more proactive hunting of known and unknown cybersecurity threats.

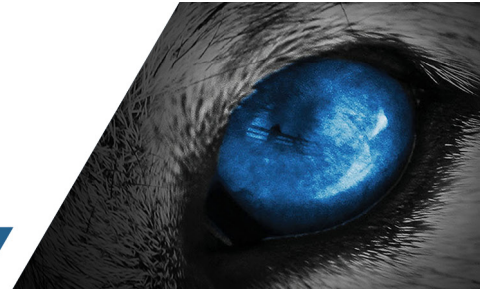
- Provide a fast track for time to value for improving City of Burleson's security posture – Fully functional SOC in 30days
- Ability to work with existing security investments- No rip and replace
- Broad vendor agnostic visibility across all Network, Cloud and Endpoints- 100% protection for entire attack surface. No Vendor Lockin for the future
- Dedicated team to become the central point of contact for all alerts, and to limit the City of Burleson team members in wasted time chasing down alerts and false positives – Time back to work on strategic initiatives for the City and 99.9% true positives delivered
- Provide support for compliance and reporting including audit support and complete SOC services
- Centralization of security logs for correlation and analysis
- 24x7 coverage looking for vulnerabilities, system misconfigurations, and account takeover exposure on the dark web
- Proactively detect and respond to critical security incidents within minutes, (vs. 206 day industry average) to prevent the spread of threats.
- Development of customized Remediation Playbook based on incident
- Unlimited Log Sources and Capacity
- \$0 IR Retainer included with 1hour SLA if ever needed
- 500k Security Ops Warranty included for additional financial assurance

Arctic Wolf – Not just an MSP:

Managed Detection and Response (MDR) is managed security service for enterprises that is focused solely on threat detection and quick incident response. MDR includes hardware, software, operations, maintenance, and resources to secure your organization efficiently.

Arctic Wolf Delivers:

- Three Concierge Security Engineers who understand your IT & business
- SOC-as-a-Service operational in 60 minutes
- Improved security posture
- Protect breaches through early detection and quick response with a 5 minute internal, 30 minute to customer SLA on all critical incidents
- Threat and vulnerability management
- Security compliance monitoring
- \$0 IR Retainer



Arctic Wolf® Security Operations

The Importance of Security Operations Solutions

Today's leading organizations need to protect themselves against the most advanced threats, but lack the internal resources to address the high costs, complexity, and additional personnel that's required to build an impactful security operations center.

Organizations face fundamental security challenges



Too Much Noise

Alert fatigue, vendor fatigue, compliance, and regulation fatigue—the journey never ends



Security Skill Shortage

Recruiting and retaining cybersecurity talent is hard, sometimes impossible



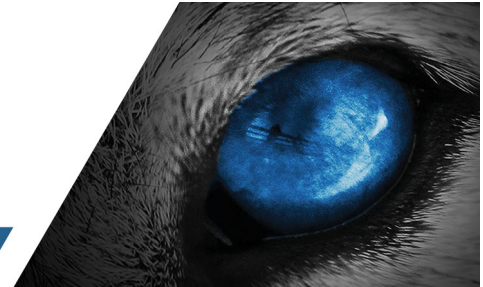
Cost of Response Time

The longer it takes to respond to an incident, the more expensive it is to remediate

Arctic Wolf redefines the economics of security – through Security Operations Services

Arctic Wolf Networks is redefining the economics of security through an affordable, turnkey SOC-as-a-Service solution that deploys in less than 60 minutes. With designated Concierge Security Engineers™, a proprietary cloud-based SIEM, 24x7 monitoring, incident response, vulnerability scans, and a tailored escalation & ticketing process, AWN cSOC provides an end-to-end security monitoring at a fraction of a cost of a security engineer.

Using the cloud-native Arctic Wolf Platform, we help organizations end cyber risk by providing security operations as a concierge service. Highly trained Concierge Security experts work as an extension of your team to provide 24x7 monitoring, detection, and response, as well as ongoing risk management to proactively protect systems and data while continually strengthening your security posture.



PERSONAL | PREDICTABLE | PROTECTION

Arctic Wolf Security Operations Warranty

Mitigate Cyber Incident Costs With Financial Assistance Benefits

Arctic Wolf's mission to end cyber risk focuses on defense-in-depth protection for every layer of cybersecurity. Arctic Wolf security operations solutions, including Arctic Wolf Managed Security Awareness[®], Managed Risk, Managed Detection and Response, and Managed Cloud Monitoring, function in concert to reduce the likelihood of cyber incidents and mitigate their impact, minimizing cyber risk to organizations.

However, no single cybersecurity tool can stop attacks perfectly every time. Cybersecurity, IT, and risk management leaders need a plan to manage the outcomes of inevitable cyberattacks their businesses will face.

Security Warranty Is Here

Arctic Wolf Security Warranty is the answer. This unique customer benefit offers a key financial layer to cybersecurity.

Our security warranty is an exclusive, no-cost benefit, offered by Arctic Wolf in partnership with a third-party that supports the program delivery and underwriting. It is available to customers with a robust security partnership with Arctic Wolf. In the event of a cyberattack, Arctic Wolf Security Warranty provides up to \$1,000,000 in financial assistance for recovery activities, legal and regulatory expenses, and other associated business costs.

Eligibility Requirements

Total Benefit Amount	\$1,000,000	\$500,000
Qualifying Solutions	MDR, Managed Risk, and Managed Security Awareness (3 years upfront)	MDR, plus one of either Managed Risk or Managed Security Awareness
Ransomware and BEC	\$200,000	\$100,000
Compliance	\$200,000	\$100,000
Cyber Legal Liability	\$500,000	\$250,000
Business Income Loss	\$100,000	\$50,000



Managed Detection and Response

Built on the industry's only cloud-native platform to deliver security operations as a concierge service, the Arctic Wolf® Managed Detection and Response (MDR) solution eliminates alert fatigue and false positives to promote a faster response, with detection and response capabilities tailored to the specific needs of your organization.



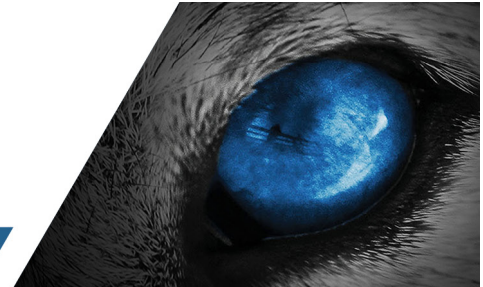
Managed Risk

Arctic Wolf® Managed Risk enables you to continuously scan your networks, endpoints, and cloud environments to quantify digital risks, discover risks beyond simple vulnerabilities, benchmark the current state of your environment, and implement risk management processes that harden your security posture over time.



Managed Security Awareness

Microlearning ensures that employees are regularly informed about the latest threats and how to stop them at the point of attack. Awareness coaching provides expertise and guidance to security teams looking to mature their awareness program, sustain new, long-term employee behavior, and foster a culture of security within their organization.



Arctic Wolf at a Glance

- ▶ Headquarters – Eden Prairie, MN
- ▶ Employees – 1750+
- ▶ Market Leader in Security Operations
- ▶ Solutions
 - Arctic Wolf® Managed Detection and Response
 - Arctic Wolf® Managed Risk
 - Arctic Wolf® Managed Security Awareness

Solution Differentiators

- ▶ [Concierge Security Team \(CST\)](#) – Trained, credentialed Security Experts assigned to your individual account focused on delivering actionable outcomes
- ▶ **Broad Visibility** – Eliminate blind spots with complete visibility across endpoints, network and cloud
- ▶ **24X7 Coverage** – eyes on glass coverage of your environment by trained, credentialed Security Experts
- ▶ **Strategic Guidance** – CST expertise combined with knowledge of your environment consistently increases security posture
- ▶ **Continuous Improvement** Regular posture reviews track progress to ensure consistent improvement
- ▶ **Pricing** – Simple, predictable pricing based on consistent inputs like users, servers and network egress points

Summary of Services to Support Objectives

Arctic Wolf's cloud-based Security Operations Center as a Service provides a platform to ingest, correlate and action data from cloud, network and endpoint. This is accomplished through the assignment of two named, certified security experts (the Concierge Security Team) to assist in both mitigating the above vulnerabilities and taking a proactive focus on continually improving the overall security posture.

Accelerate Time to Value with Streamlined Service Installation

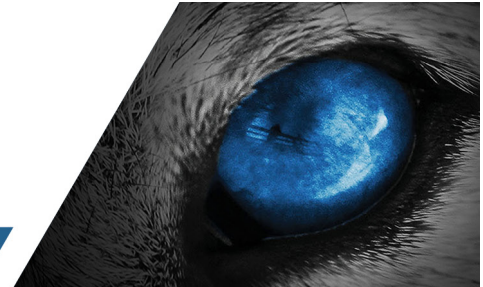
The AWN Concierge Onboarding team includes a dedicated project manager and technical resource who manages all aspects of your onboarding experience, and:

- Identifies key assets and log sources, including cloud applications
- Validates log sources and tests basic telemetry
- Gathers external vulnerability scanning requirements to assess exposed attack surfaces
- Fine-tunes the service to improve signal-to-noise ratio
- Identifies reporting and compliance requirements that meet your IT and security needs

Pricing Summary

Managed Detection and Response & Managed Risk 480 Users, 60 Servers, 580 o365 Users, 1 year of Log Retention, 2 x Network Sensors (1000 series w/10g Bypass)		
Product		Extended Price
Managed Detection & Response	Service	\$65,487.50
Managed Risk	Service	\$21,222.00
Managed Awareness	Service	Not Included
MDR One Time Costs	Onboarding	\$2,879.70
Managed Risk One time Costs = Shipping	Onboarding	\$1,194.70
Total One Year Cost	Service + Onboarding)	\$90,663.90
Total Second Year Cost	Renewal at 5% (reduced from 8%)	\$90,663.90

*Official quote is provided by Authorized Partner SHI



Arctic Wolf Managed Detection and Response includes: **\$65,487.50 + One time \$2,879.70**

- Fully managed and hosted SIEM
- 3-person Concierge Security Team (CST) to work as extension of your IT team
- 24x7x365 monitoring
- Compliance & Audit support (unlimited reporting, time with CST)
- Managed Containment
- Managed IDS collecting of all network flow data
- Weekly, Monthly and Quarterly reporting
- Ad hoc reports generated at your request
- Unlimited Log Volume and coverage of network, endpoint, & cloud
- 1- year Log Retention
- Arctic Wolf Endpoint Agent
- Account Takeover (Dark Web) Scanning & Detection
- Monthly/Quarterly Deep Dive Security Maturity Reviews with your CST
- External Vulnerability Scan – Run Monthly
- Unlimited Custom Rules – We tailor the service to you

Arctic Wolf Managed Risk includes: **\$21,222 + One time \$1,194.70**

External Vulnerability Assessment

- Asset discovery based on root domains & IP addresses
- Automatic IP, domain, sub-domain detection
- Dynamic perimeter model
- External vulnerability scanning
- Dark Web Data Sources

Internal Vulnerability Assessment

- Dynamic asset discovery and credential scanning
- Asset inventory, categorization, notes, and tags
- Asset mapping – IP, DNS, Netbios history
- Continuous internal vulnerability scanning
- Scanning schedules with blacklisting capability

Account Takeover Scanning

- Dark Web scanning for compromised credentials
- 19% of data breaches in 2019 were caused by compromised credentials (IBM)
- 70% of AW customers had PII exposure on dark web, 6% had passwords exposed online

Host-based Vulnerability Assessment

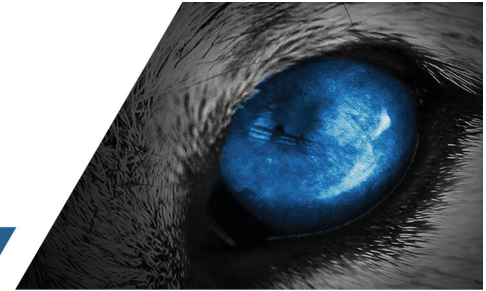
- Arctic Wolf Agent
- Proactive risk monitoring
- Audit reporting
- Configuration Baselines

3-Person Concierge Security Team (CST)

- Named security team
- Monthly & Quarterly Security Deep Dive reviews with CST
- Critical Vulnerability Alerting 24x7
- Strategic Security Advice, Answers to Security Questions

Arctic Wolf Analytics and Reporting

- Risk roll-up of internal + external vulnerabilities
- Risk prioritization and workflow integration
- Integrated threat feeds, latest exploits
- Executive reporting snapshots
- Custom reporting for analytics or alerts



DIY vs SOC-as-a-Service TCO/ROI Estimate

DIY IN-HOUSE SOC (**Not a 24x7x365 shop**)

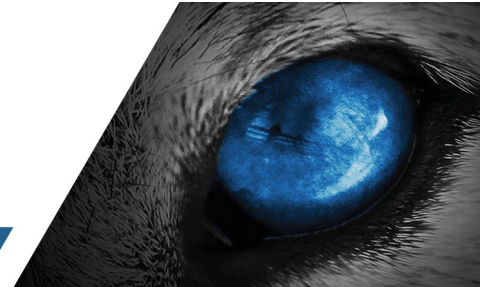
Average SOC Costs Across Major Vendors	Notes	Annual Cost
SIEM Costs (software, compute, storage)	Range \$100k - \$200k	\$150,000
Vulnerability Management Tooling Costs	Range \$25,000 - \$50,000	\$40,000
Opportunity Cost of Install, Training, Compliance Fulfillment and Continuous Maintenance	Range \$5k - \$12k	\$10,000
IT Security Resource Annual Salary	Using \$150,000k x 1.2 Benefits Multiplier	\$180,000
IT Time spent on security related incidents	From Forrester Study	40%
Opportunity Cost of IT (all personnel) Time spent on security related incidents (4 at average salary of \$120,000)	\$480,000 x 0.4	\$192,000
DIY SOC Cost Estimate		\$562,000

ARCTIC WOLF SOC-AS-A-SERVICE (24x7x365 Security Operations)

All-Inclusive Arctic Wolf Detection, Response, and Risk		\$105,492
Opportunity Cost of Install	AW Onboarding cost	\$Included
SIEM + Vulnerability Management Tools	Included	\$0
Opportunity Cost of Training, Compliance Assistance and Continuous Maintenance	Included	\$0
Arctic Wolf Security Staff Costs	Included	\$0
Threat Intelligence Costs	Included	\$0
Total Cost: Arctic Wolf Scenario		\$105,492

ARCTIC WOLF SOC-AS-A-SERVICE vs DIY over 1 Year

Cost Savings of Arctic Wolf over DIY in 1 Year	\$456,508
Time to value >30 Days- vs- 10-12 Months deployment of SIEM	Priceless



Arctic Wolf® – Cyber Insurance: Key Control Alignment

The Importance of Security Operations Solutions

Cyber insurance underwriters look for several key controls when issuing coverage. If an organization does not meet all controls, they can face non-renewal, limits on coverage triggered by a ransomware event, and/or a significant increase in premiums.

The Arctic Wolf Security Operations services (Managed Detection Response, Managed Risk, and Managed Awareness Training) map directly to the key controls that are being reviewed by many cyber insurance carriers.

Key Controls	Arctic Wolf Delivers
MFA-Controlled Access	<ul style="list-style-type: none"> - Authentication monitoring and alerting - Secure Posture Reviews/Recommendations around MFA/Auth activities
Secured & Tested Backups	<ul style="list-style-type: none"> - Secure Posture Reviews/Recommendations around general backup policies
Managed Vulnerabilities	<ul style="list-style-type: none"> - Managed Risk (External IP Vulnerability scanning and prioritization, External OWASP Top 10 scanning and prioritization, Internal Network Testing, Host Based Vulnerability scanning and prioritization)
Patched Systems & Applications	<ul style="list-style-type: none"> - Managed Risk validates patching is taking place and vulnerabilities are being mitigated.
Protected Privileged Accounts	<ul style="list-style-type: none"> - Monitor Directory for privileged groups, access changes, and potential compromised credentials as well as user/entity behavior activity (UEBA).
Protected Network	<ul style="list-style-type: none"> - Integration and monitoring of existing perimeter/prevention tools. - Additional network threat intelligence and monitoring with our sensor, including the aggregation of flow records
Secured Endpoints	<ul style="list-style-type: none"> - Integration with endpoint security solutions. - Additional endpoint detection capabilities with AW Agent. - Host based isolation with AW Agent.
Logged & Monitored Network	<ul style="list-style-type: none"> - Broad, vendor agnostic visibility into all network, cloud, and on-prem systems and services. This is the core of the AW MDR service.
Phishing-Aware Workforce	<ul style="list-style-type: none"> - AW Managed Awareness Training equips and educates users on cyber threats and how to neutralize them and protect the organization.
Hardened Device Configuration	<ul style="list-style-type: none"> - MR (Secure Config Benchmark reporting and CSPM) - Secure Posture Reviews for areas of weakness - Our proactive emerging threat notifications
Prepared Incident Response	<ul style="list-style-type: none"> - Coordinate with customer's in-house and/or 3rd party IR team - Provide deep-dive findings of data captured through the AWN Platform - Provide an Incident Report of findings from the AWN - Provide recommendations, documentation, and best practices for response

City Council Regular Meeting

DEPARTMENT: Information Technology

FROM: James Grommersch, Chief Technology Officer

MEETING: December 12, 2022

SUBJECT:

Consider approval of a three-year contract with AT&T for Switched Ethernet Services for in the amount not to exceed \$361,457.00. (*Staff Contact: James Grommersch, Chief Technology Officer, IT*)

SUMMARY:

In an effort to improve the City's network redundancy and speed, BTX-IT recommends switching to AT&T's Switched Ethernet Services (SeS). The SeS will allow the city locations to have multiple network paths preventing outages and increasing speed for all sites. In addition, BTX-IT can change the bandwidth at each site based on their need(s). The increased speed is necessary as the City brings on Software as a Service solutions, such as CAD and 311, and to improve the disaster and recovery program. BTX-IT compared all local providers, and AT&T was able to provide service at all BTX locations. In Addition, their rate was lower and they provided better staff management tools. The SeS project is part of the overall BTX-IT Network Architecture improvements that were briefed to Council on June 20th, 2022. Funding for the SeS was a planned event in the FY22-23 budget and is within the departmental budget. Funding will come from consolidating the City's four internet service providers into two, one primary and a secondary, for redundancy.

OPTIONS:

- 1) Approve the contract with AT&T.
- 2) Deny the contract.

RECOMMENDATION:

Approval of a three-year contract with AT&T for Switched Ethernet Services for in the amount not to exceed \$361,457.00 (*Staff Contact: James Grommersch, Chief Technology Officer, IT*)

FISCAL IMPACT:

Budgeted Y/N: Y
Fund Name: Communications / Access Fees
Full Account #: 001-1099-419.53-02
Amount: \$361,457.00

STAFF CONTACT:

James Grommersch
Chief Technology Officer
jgrommersch@burlesontx.com
817-426-9672



Information Technology

Network on Demand

City Council

December 12th, 2022

Network on Demand

BTX-IT is looking to improve the City's network redundancy and speed by switching to AT&T's Switched Ethernet Services with Network On Demand (NoD).

The NoD will allow the city locations to have multiple network paths preventing outages and increasing speed for all sites.



Network on Demand

The NoD project is part of the overall BTX-IT Network Architecture improvements that were briefed to Council on June 20th, 2022.

The increased speed is necessary as the City brings on Software as a Service solutions such as CAD and 311, and to improve the disaster and recovery program.



Network on Demand

With NoD, BTX-IT can change the bandwidth at a site based on their need(s).

BTX-IT compared all local providers, and AT&T was able to provide service at all BTX locations.

In Addition, their rate was lower, and has better staff management tools.



Network on Demand

Staff Recommendation:

- Approval of a Contract with AT&T for Network on Demand Internet and Network for three years in an amount not to exceed \$361,457.00 (Staff Contact: James Grommersch, Chief Technology Officer, IT)

Questions / Comments





AT&T MA Reference No. MA1504527UA

AT&T Contract ID No. SDN19EYYXG

**AT&T SWITCHED ETHERNET SERVICESM (with NETWORK ON DEMAND)
PRICING SCHEDULE PROVIDED PURSUANT TO CUSTOM TERMS**

Customer	AT&T
City of Burleson Street Address: 141 W RENFRO ST City: BURLESON State/Province: TX Zip Code: 76028 Country: USA	The applicable AT&T Service-Providing Affiliate(s)
Customer Contact (for Notices)	AT&T Contact (for Notices)
Name: James Grommersch Title: CIO Street Address: 141 W RENFRO ST City: BURELSON State/Province: TX Zip Code: 76028 Country: USA Telephone: 8174269672 Email: jgrommersch@burlesontx.com	Name: GEOFFREY KORDIK Street Address: 4100 BRYSN ST City: DALLAS State/Province: TX Zip Code: 75204 Country: USA Telephone: 9726204158 Email: gk6264@att.com Sales/Branch Manager: DUKE SCVP Name: SPENCER Sales Strata: LED Sales Region: SW <u>With a copy (for Notices) to:</u> AT&T Corp. One AT&T Way Bedminster, NJ 07921-0752 ATTN: Master Agreement Support Team Email: mast@att.com
AT&T Solution Provider or Representative Information (if applicable) <input type="checkbox"/>	
Name: Company Name: Agent Street Address: City: State: Zip Code: Country: USA Telephone: Email: Agent Code	

This Pricing Schedule for the service(s) identified below (Service) is part of the Agreement referenced above.

Customer (by its authorized representative)	AT&T (by its authorized representative)
By:	By:
Printed or Typed Name:	Printed or Typed Name:
Title:	Title:
Date:	Date:

For AT&T internal use only:	Contract Ordering and Billing Number (CNUM):
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WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

1. SERVICE, SERVICE PROVIDER(S) and SERVICE PUBLICATION(S)

Service	AT&T Switched Ethernet Service SM
----------------	--

1.1. AT&T Switched Ethernet ServiceSM

AT&T Switched Ethernet Participating Carrier(s)	Service Publication (incorporated by reference)	Service Publication Location (URL)
BellSouth Telecommunications, LLC, d/b/a AT&T Alabama, AT&T Florida, AT&T Georgia, AT&T Kentucky, AT&T Louisiana, AT&T Mississippi, AT&T North Carolina, AT&T South Carolina, and AT&T Tennessee	AT&T Switched Ethernet Service SM Guide (Service Guide)	https://cpr.att.com/pdf/commonEthServGuide.html
Illinois Bell Telephone Company, LLC, d/b/a AT&T Illinois		
Indiana Bell Telephone Company, Incorporated, d/b/a AT&T Indiana		
Michigan Bell Telephone Company, d/b/a AT&T Michigan		
Nevada Bell Telephone Company, d/b/a AT&T Nevada		
The Ohio Bell Telephone Company, d/b/a AT&T Ohio		
Pacific Bell Telephone Company, d/b/a AT&T California		
Southwestern Bell Telephone Company, d/b/a AT&T Arkansas, AT&T Kansas, AT&T Missouri, AT&T Oklahoma, and AT&T Texas		
Wisconsin Bell, Inc., d/b/a AT&T Wisconsin	AT&T Switched Ethernet Service SM Third Party Access (3PA Service Guide)	https://serviceguidenew.att.com/sg_flashPlayerPage/ASE3PA
AT&T Corp. provides Service outside the AT&T ILEC Footprint (the 21 states referenced above), where available.		
AT&T Communications of New York provides intrastate Service in New York.		
AT&T Communications of Virginia, LLC provides intrastate Service in Virginia.	AT&T Business Service Guide AT&T Switched Ethernet (TCAL)	https://serviceguidenew.att.com/sg_flashPlayerPage/ASE
TC Systems, Inc.: Massachusetts and Nevada		
Teleport Communications America, LLC (TCAL): Arizona, Colorado, Connecticut, Delaware, District of Columbia, Florida, Kentucky, Maryland, Massachusetts, Minnesota, Nebraska, Nevada, New Jersey, New York, Ohio, Oregon, Pennsylvania, Rhode Island, Utah, Virginia, and Washington		

WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

1.2. NOD Ordering and Management Process

Service Provider	Service Publication	Service Publication Location
AT&T Network on Demand Ordering and Management	Network on Demand Guide	https://cpr.att.com/pdf/publications/NOD_Guide.pdf
Services purchased under this Pricing Schedule must be ordered and managed exclusively using the AT&T Network on Demand functionality in the AT&T Business Center online portal.		

1.3. Inside Wiring

Service	AT&T Inside Wiring*	
Service Provider	Service Publication	Service Publication Location
Same as the AT&T Service Provider for Switched Ethernet Service SM	AT&T Inside Wiring Service Guide	https://cpr.att.com/pdf/publications/Inside_Wiring_Service_Guide_Attachment.pdf
* AT&T Inside Wiring is not available for Sites outside of AT&T's 21-state ILEC footprint.		

1.4. Entrance Facility Construction

Service	AT&T Entrance Facility Construction*	
Service Provider	Service Publication	Service Publication Location
Same as the AT&T Service Provider for the AT&T Switched Ethernet Service SM	AT&T Entrance Facility Construction Attachment	https://cpr.att.com/pdf/service_publications/EFC_Attachment.pdf
* AT&T Entrance Facility Construction is not available for Sites outside of AT&T's 21-state ILEC footprint.		

2. PRICING SCHEDULE TERM, EFFECTIVE DATES

Pricing Schedule Term	36 months
Start Date of Minimum Payment Period, per Service Component	Later of the Effective Date or installation of the Service Component
Rate Stabilization per Service Component	Rates as specified in this Pricing Schedule for each Service Component are stabilized until the end of the Pricing Schedule Term.

3. MINIMUM PAYMENT PERIOD

Service Components	Percentage of Monthly Recurring Charge Applied for Calculation of Early Termination Charges	Minimum Payment Period per Service Component
All Service Components	50% plus any unpaid or waived non-recurring charges	36 months

3.1. Minimum Payment Period – Calculation of Early Termination Charges

For services purchased through Network on Demand, the "Monthly Recurring Charge" used for the purposes of computing any applicable termination liability (early termination charges) under the relevant service publication or the customer's master agreement is determined as follows: (i) the total Monthly Recurring Charges payable for the terminated service for the three months prior to the date of termination (or such shorter period as the terminated service had been installed if terminated less than three months after installation), divided by (ii) the number of days in such period, times (iii) 30 days. The Minimum Payment Period for CIR, CoS, or CIR and CoS Packages are coterminous with the Minimum Payment Period of the associated Customer Port Connection; however, early termination charges are not incurred as a result of changes to CIR, CoS, or CIR and CoS Packages while the associated Customer Port Connection is still in service.

WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

4. ADDS; MOVES; and UPGRADES

4.1. Adds

Orders for Service Components in excess of quantities listed Attachment A ("Adds") permitted only as specified below:				
Service Components Permitted for Adds	Site(s) Permitted for Adds	Monthly Recurring Rates	Non-recurring Charges	Additional Requirements
All Service Components listed in Attachment A	Site(s) listed in Attachment A	As provided in Section 5	As provided in Section 5, plus any additional special construction charges that may be assessed	

4.2. Moves

Per applicable Service Publication

4.3. Upgrades

4.3.1. Upgrades to a Higher Speed

Customers may upgrade their CIR to a higher speed without incurring Termination Charges if such increases do not require physical changes to AT&T's equipment or connections at Customer Site(s). In addition, customers may upgrade their Class of Service without incurring Termination Charges provided the upgrade does not include any reduction in the customer's existing CIR.

4.3.2. Pricing for Service Reconfiguration - Increase in CIR or CoS*

Service Components	Monthly Recurring Rate and Non-recurring Charges
Committed Information Rate (CIR) or Class of Service (CoS) specified in Attachment A	As specified in Attachment A
*only increases which do not require physical changes to AT&T's equipment or connections at Customer Site(s)	

5. RATES and CHARGES

5.1. AT&T SWITCHED ETHERNET SERVICE – 21-State AT&T ILEC Footprint

5.1.1. Initial Site and Service Configuration

The initial sites and configuration of Services covered under this Pricing Schedule are identified on Attachment A. This Pricing Schedule is Customer's initial order for any new Services shown on Attachment A. Port Connections and CIR/CoS growth components are listed in section 5.1.2.

5.1.2. Monthly Recurring Charges (MRCs)

All Monthly Recurring Charges (MRCs) apply per Customer Port Connection. The total MRC for a Customer Port Connection is the sum of the Customer Port Connection MRC, the Committed Information Rate MRC, and any associated feature MRC(s).

WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

5.1.2.1. Customer Port Connection MRC

Customer Port Connection		
Port Type	Customer Port Connection Speed	36-month Term MRC
Basic Port	100 Mbps	\$200.00
	1000 Mbps	\$200.00
	10000 Mbps	\$600.00
PPCoS Port	100 Mbps	\$214.50
	1000 Mbps	\$214.50
	10000 Mbps	\$1,650.00

WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

5.1.2.2. Bandwidth MRC

CIR Speed	Non-Critical High	Business Critical Medium	Business Critical High	Interactive	RealTime
2 Mbps	\$108.73	\$108.73	\$124.17	\$140.37	\$157.39
4 Mbps	\$133.06	\$133.06	\$149.71	\$167.20	\$185.56
5 Mbps	\$157.39	\$157.39	\$175.26	\$194.02	\$213.72
8 Mbps	\$181.72	\$181.72	\$200.80	\$220.84	\$241.88
10 Mbps	\$206.04	\$206.04	\$226.35	\$247.66	\$270.05
20 Mbps	\$209.00	\$209.00	\$229.45	\$250.93	\$273.48
50 Mbps	\$209.00	\$209.00	\$229.45	\$250.93	\$273.48
100 Mbps	\$209.00	\$209.00	\$229.45	\$250.93	\$273.48
150 Mbps	\$303.36	\$303.36	\$328.53	\$354.95	\$382.70
250 Mbps	\$327.69	\$327.69	\$354.07	\$381.77	\$410.86
400 Mbps	\$352.01	\$352.01	\$379.62	\$408.60	\$439.03
500 Mbps	\$376.34	\$376.34	\$405.16	\$435.42	\$467.19
600 Mbps	\$400.67	\$400.67	\$430.71	\$462.24	\$495.35
1000 Mbps	\$425.00	\$425.00	\$456.25	\$489.06	\$523.52
2000 Mbps	\$369.00	\$369.00	\$417.45	\$468.32	\$521.74
2500 Mbps	\$369.00	\$369.00	\$417.45	\$468.32	\$521.74
4000 Mbps	\$369.00	\$369.00	\$417.45	\$468.32	\$521.74
5000 Mbps	\$439.25	\$439.25	\$491.21	\$545.77	\$603.06
7500 Mbps	\$509.50	\$509.50	\$564.98	\$623.22	\$684.38
9500 Mbps	\$579.75	\$579.75	\$638.74	\$700.67	\$765.71
10000 Mbps	\$650.00	\$650.00	\$712.50	\$778.13	\$847.03

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5.1.2.3. Bandwidth MRC for 100 Mbps Per Packet Class of Service (PPCoS)

Bandwidth MRC - 36-month CIR (for 100 Mbps Customer Port Connections)				
Committed Information Rate (CIR)	Per Packet Class of Service (PPCoS)			
	Business Data	Critical Data	Multimedia Standard	Multimedia High
2 Mbps	\$91.09	\$94.23	\$133.49	\$144.49
4 Mbps	\$107.34	\$110.50	\$146.80	\$157.85
5 Mbps	\$136.61	\$142.97	\$174.74	\$187.44
8 Mbps	\$180.68	\$187.50	\$216.47	\$231.81
10 Mbps	\$210.80	\$221.00	\$289.00	\$309.40
20 Mbps	\$276.32	\$289.17	\$353.43	\$379.13
50 Mbps	\$323.40	\$338.25	\$404.25	\$435.60
100 Mbps	\$380.53	\$400.56	\$467.32	\$500.70

5.1.2.4. Bandwidth MRC for 1 Gbps Per Packet Class of Service (PPCoS)

Bandwidth MRC - 36-month CIR (for 1 Gbps Customer Port Connections)				
Committed Information Rate (CIR)	Per Packet Class of Service (PPCoS)			
	Business Data	Critical Data	Multimedia Standard	Multimedia High
2 Mbps	\$91.09	\$94.23	\$133.49	\$144.49
4 Mbps	\$107.34	\$110.50	\$146.80	\$157.85
5 Mbps	\$136.61	\$142.97	\$174.74	\$187.44
8 Mbps	\$180.68	\$187.50	\$216.47	\$231.81
10 Mbps	\$210.80	\$221.00	\$289.00	\$309.40
20 Mbps	\$276.32	\$289.17	\$353.43	\$379.13
50 Mbps	\$323.40	\$338.25	\$404.25	\$435.60
100 Mbps	\$380.53	\$400.56	\$467.32	\$500.70
150 Mbps	\$530.94	\$557.29	\$607.95	\$652.53
250 Mbps	\$604.95	\$635.20	\$796.52	\$855.00
400 Mbps	\$665.91	\$699.50	\$857.58	\$920.82
500 Mbps	\$707.17	\$742.33	\$898.61	\$965.03
600 Mbps	\$809.63	\$849.73	\$1,002.49	\$1,073.14
1000 Mbps	\$918.26	\$965.11	\$1,115.03	\$1,195.61

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5.1.2.5. Bandwidth MRC for 10 Gbps Per Packet Class of Service (PPCoS)

Bandwidth MRC - 36-month CIR (for 10 Gbps Customer Port Connections)				
Committed Information Rate (CIR)	Per Packet Class of Service (PPCoS)			
	Business Data	Critical Data	Multimedia Standard	Multimedia High
1000 Mbps	\$918.26	\$965.11	\$1,115.03	\$1,195.61
2000 Mbps	\$301.87	\$317.76	\$340.27	\$364.10
2500 Mbps	\$509.80	\$535.90	\$574.11	\$615.12
4000 Mbps	\$682.04	\$717.94	\$768.19	\$825.63
5000 Mbps	\$870.55	\$916.37	\$980.51	\$1,053.82
7500 Mbps	\$1,510.29	\$1,589.78	\$1,701.07	\$1,828.25
9500 Mbps	\$2,126.10	\$2,238.00	\$2,394.66	\$2,573.70
10000 Mbps	\$2,218.03	\$2,334.77	\$2,498.20	\$2,684.98

5.1.2.6. Feature MRC

Feature	MRC
Enhanced Multicast	\$70.00

5.1.3. Non-Recurring Charges (NRCs)

Standard Non-Recurring Charges (NRCs) for installation of new Customer Port Connections, per the applicable Service Publication, will be waived.

5.1.4. Additional Charges

Charges for additional Service options may apply per Service Publication. Charges for special construction, if needed, may also apply.

5.2. AT&T SWITCHED ETHERNET SERVICE THIRD PARTY ACCESS (3PA) - Outside 21-State AT&T ILEC Footprint

5.2.1. Monthly Recurring Charges (MRCs)

All Monthly Recurring Charges (MRCs) apply per Customer Port Connection. The total MRC for a Customer Port Connection is the sum of the Third-Party Access connection, local mileage MRC, the bandwidth MRC, and any associated feature MRC(s). Availability, Price Group and Access Mileage Group associated with Third Party Access are subject to change, based on the availability and pricing of access connections from the third-party providers. The Price Group and Access Mileage Group applicable to each Customer location are determined at the time of Customer's order.

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5.2.1.1. Third-Party Local Switched and Dedicated Access Connection MRC

Port Speeds	Port Type	Group1	Group 2	Group 3	Group 4	Group 5	Group 6	Group 7	Group 8	Group 9	Group 10	Group 11	Group 12
2 Mbps	Switched	\$231.29	\$231.29	\$492.75	\$277.60	\$301.42	\$624.80	\$405.20	\$520.76	\$546.87	\$614.15	\$475.70	\$305.30
4 Mbps	Switched	\$244.29	\$244.29	\$585.90	\$330.08	\$319.48	\$624.80	\$405.20	\$520.76	\$546.87	\$614.15	\$475.70	\$305.30
5 Mbps	Switched	\$273.79	\$273.79	\$607.50	\$342.25	\$336.85	\$624.80	\$405.20	\$520.76	\$546.87	\$614.15	\$475.70	\$340.80
8 Mbps	Switched	\$316.29	\$316.29	\$774.90	\$436.56	\$352.31	\$710.00	\$410.40	\$525.95	\$596.39	\$844.90	\$610.60	\$340.80
10 Mbps	Switched	\$345.29	\$345.29	\$832.95	\$469.27	\$361.72	\$710.00	\$410.40	\$525.95	\$596.39	\$844.90	\$610.60	\$345.29
20 Mbps	Switched	\$402.29	\$402.29	\$990.90	\$558.25	\$450.09	\$887.50	\$519.46	\$677.69	\$782.11	\$1,011.75	\$812.95	\$521.85
50 Mbps	Switched	\$505.96	\$505.96	\$1,196.10	\$673.86	\$580.57	\$976.25	\$701.35	\$776.02	\$877.92	\$1,246.05	\$1,015.30	\$678.05
100 Mbps	Switched	\$744.67	\$744.67	\$1,302.75	\$733.94	\$862.48	\$1,324.15	\$1,004.03	\$1,093.80	\$1,256.51	\$1,405.80	\$1,217.65	\$947.85
150 Mbps	Switched	\$880.00	\$880.00	\$1,692.90	\$953.75	\$916.39	\$2,176.15	\$1,148.04	\$1,243.15	\$1,606.09	\$2,399.80	\$1,689.80	\$1,217.65
250 Mbps	Switched	\$1,021.52	\$1,021.52	\$1,861.65	\$1,048.82	\$1,021.52	\$2,176.15	\$1,312.07	\$1,433.85	\$2,020.39	\$2,399.80	\$1,689.80	\$1,217.65
400 Mbps	Switched	\$1,124.00	\$1,124.00	\$2,073.60	\$1,168.22	\$1,180.57	\$2,176.15	\$1,528.12	\$1,676.57	\$2,222.71	\$2,399.80	\$2,027.05	\$1,487.45
500 Mbps	Switched	\$1,166.66	\$1,166.66	\$2,234.25	\$1,258.73	\$1,285.72	\$2,389.15	\$1,696.15	\$1,823.26	\$2,473.88	\$2,733.50	\$2,027.05	\$1,487.45
600 Mbps	Switched	\$1,300.00	\$1,300.00	\$2,477.25	\$1,395.63	\$1,470.85	\$2,744.15	\$1,906.84	\$2,025.06	\$2,830.39	\$3,081.40	\$2,296.85	\$1,757.25
1000 Mbps	Switched	\$1,311.00	\$1,311.00	\$2,794.50	\$1,574.37	\$1,971.43	\$3,635.20	\$2,640.28	\$2,706.06	\$3,913.08	\$3,858.85	\$2,296.85	\$1,757.25
2 Mbps - 50 Mbps	Dedicated	\$315.00	\$885.00	\$885.00	\$1,200.00	\$1,650.00	\$2,050.00	\$2,450.00	N/A	N/A	N/A	N/A	N/A
>50 Mbps - 100 Mbps	Dedicated	\$420.00	\$1,320.00	\$1,320.00	\$1,500.00	\$3,000.00	\$4,000.00	\$6,550.00	N/A	N/A	N/A	N/A	N/A
>100 Mbps - 250 Mbps	Dedicated	\$420.00	\$1,320.00	\$1,320.00	\$1,500.00	\$3,000.00	\$4,000.00	\$6,550.00	N/A	N/A	N/A	N/A	N/A
>250 Mbps - 500 Mbps	Dedicated	\$478.80	\$1,800.00	\$1,800.00	\$2,750.00	\$3,500.00	\$4,600.00	\$7,000.00	N/A	N/A	N/A	N/A	N/A
>500 Mbps - 600 Mbps	Dedicated	\$630.00	\$3,098.00	\$3,098.00	\$4,500.00	\$5,650.00	\$7,200.00	\$7,800.00	N/A	N/A	N/A	N/A	N/A
1000 Mbps	Dedicated	\$120.70	\$3,438.00	\$3,438.00	\$5,500.00	\$7,400.00	\$9,250.00	\$10,250.00	N/A	N/A	N/A	N/A	N/A
10000 Mbps	Dedicated	\$173.95	\$6,250.13	\$6,250.13	\$7,500.00	\$9,400.00	\$11,000.00	\$12,050.00	N/A	N/A	N/A	N/A	N/A

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Port Speeds	Port Type	Group 13	Group 14	Group 15	Group 16	Group 17	Group 18	Group 19	Group 20	Group 21	Group 22	Group 23	Group 24
2 Mbps	Switched	\$642.55	\$311.34	\$535.24	\$487.72	\$327.72	\$328.00	\$426.67	\$232.00	\$243.57	\$232.00	\$252.67	\$201.83
4 Mbps	Switched	\$642.55	\$373.33	\$535.24	\$487.72	\$327.72	\$328.00	\$426.67	\$245.00	\$248.54	\$245.00	\$252.67	\$236.99
5 Mbps	Switched	\$642.55	\$404.66	\$535.24	\$487.72	\$327.72	\$500.95	\$426.67	\$320.40	\$347.33	\$305.34	\$252.67	\$323.32
8 Mbps	Switched	\$770.35	\$438.67	\$674.48	\$684.76	\$464.76	\$500.95	\$426.67	\$345.43	\$403.87	\$334.80	\$371.33	\$323.32
10 Mbps	Switched	\$770.35	\$485.33	\$674.48	\$684.76	\$464.76	\$504.39	\$426.67	\$450.67	\$517.77	\$430.66	\$371.33	\$342.48
20 Mbps	Switched	\$898.15	\$628.67	\$727.62	\$1,060.19	\$729.52	\$637.45	\$493.33	\$550.00	\$661.34	\$509.33	\$453.33	\$451.61
50 Mbps	Switched	\$1,093.40	\$942.67	\$852.38	\$1,875.61	\$1,382.28	\$652.57	\$680.00	\$738.67	\$1,085.15	\$585.33	\$549.77	\$640.39
100 Mbps	Switched	\$1,299.30	\$1,126.00	\$1,024.76	\$2,528.95	\$1,813.61	\$926.48	\$833.33	\$866.67	\$1,265.82	\$745.34	\$671.33	\$1,106.09
150 Mbps	Switched	\$1,686.25	\$1,174.67	\$1,552.39	\$3,246.09	\$2,498.76	\$794.67	\$1,120.00	\$1,054.67	\$1,624.51	\$901.33	\$812.67	\$1,225.15
250 Mbps	Switched	\$1,686.25	\$1,271.33	\$1,552.39	\$4,765.14	\$3,901.81	\$894.67	\$1,120.00	\$1,252.00	\$1,999.33	\$1,035.00	\$1,002.33	\$1,424.57
400 Mbps	Switched	\$1,945.40	\$1,429.34	\$1,552.39	\$4,765.14	\$3,901.81	\$1,412.57	\$1,120.00	\$1,462.66	\$2,332.00	\$1,180.00	\$1,246.67	\$1,629.72
500 Mbps	Switched	\$1,945.40	\$1,450.00	\$1,723.82	\$5,250.10	\$4,372.76	\$1,501.72	\$1,120.00	\$1,601.06	\$2,544.58	\$1,265.33	\$1,246.67	\$1,813.15
600 Mbps	Switched	\$2,204.55	\$1,462.00	\$1,835.24	\$7,281.33	\$6,248.67	\$1,704.87	\$1,400.00	\$1,723.94	\$2,645.88	\$1,437.33	\$1,400.00	\$1,963.24
1000 Mbps	Switched	\$2,595.05	\$1,640.67	\$2,106.67	\$7,281.33	\$6,248.67	\$2,187.43	\$1,400.00	\$1,998.66	\$2,798.00	\$1,684.00	\$1,400.00	\$2,649.52
2 Mbps - 50 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
>50 Mbps - 100 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
>100 Mbps - 250 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
>250 Mbps - 500 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
>500 Mbps - 600 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
1000 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
10000 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

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Port Speeds	Port Type	Group 25	Group 26	Group 27	Group 28	Group 29	Group 30
2 Mbps	Switched	\$140.00	\$118.67	\$727.77	\$232.00	\$403.00	\$756.07
4 Mbps	Switched	\$220.00	\$260.00	\$727.77	\$290.33	\$437.36	\$833.54
5 Mbps	Switched	\$240.00	\$260.00	\$727.77	\$313.00	\$440.00	\$897.87
8 Mbps	Switched	\$286.67	\$366.67	\$727.77	\$357.34	\$445.00	\$1,009.83
10 Mbps	Switched	\$300.00	\$366.67	\$727.77	\$406.67	\$450.00	\$1,134.86
20 Mbps	Switched	\$380.00	\$466.67	\$734.44	\$543.81	\$550.00	\$1,390.09
50 Mbps	Switched	\$506.67	\$666.67	\$752.23	\$664.38	\$707.08	\$1,699.89
100 Mbps	Switched	\$773.33	\$833.33	\$799.67	\$744.67	\$899.73	\$2,164.20
150 Mbps	Switched	\$813.33	\$886.67	\$843.65	\$921.33	\$982.06	\$2,500.00
250 Mbps	Switched	\$933.33	\$1,026.67	\$1,123.77	\$1,211.00	\$1,200.00	\$3,384.11
400 Mbps	Switched	\$1,100.00	\$1,026.67	\$1,123.77	\$1,211.00	\$1,369.24	\$3,600.00
500 Mbps	Switched	\$1,100.00	\$1,066.67	\$1,254.85	\$1,211.00	\$1,403.09	\$4,030.63
600 Mbps	Switched	\$1,266.67	\$1,200.00	\$1,319.56	\$1,311.00	\$1,800.00	\$5,500.00
1000 Mbps	Switched	\$1,266.67	\$1,453.33	\$1,547.44	\$1,311.00	\$1,999.00	\$5,636.21
2 Mbps - 50 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A
>50 Mbps - 100 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A
>100 Mbps - 250 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A
>250 Mbps - 500 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A
>500 Mbps - 600 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A
1000 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A
10000 Mbps	Dedicated	N/A	N/A	N/A	N/A	N/A	N/A

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5.2.1.2. Third-Party Local Switched Access Mileage MRC

36-month Term - Third-Party Local Switched Access Mileage MRC Price Groups				
Port Connection Speed	Mileage A		Mileage B	
	Fixed	Per Mile	Fixed	Per Mile
2 Mbps – 1000 Mbps	\$0.00	\$110.05	\$0.00	\$110.05
Applicability of mileage will be determined during address qualification.				

5.2.1.3. Third-Party Local Dedicated Access Mileage MRC

36 Month Term- Third Party Local Dedicated Access Mileage MRC Price Groups														
Port Connection Speed	Mileage A		Mileage B		Mileage C		Mileage D		Mileage E		Mileage F		Mileage G	
	Fixed	Per Mile	Fixed	Per Mile	Fixed	Per Mile	Fixed	Per Mile	Fixed	Per Mile	Fixed	Per Mile	Fixed	Per Mile
2 Mbps - 50 Mbps	\$189.85	\$6.75	\$0	\$0	\$315.95	\$29.11	\$315.95	\$29.11	\$0	\$61.77	\$0	\$0	\$0	\$0
>50 Mbps - 100 Mbps	\$277.97	\$9.02	\$0	\$0	\$397.6	\$36.21	\$397.6	\$36.21	\$0	\$66.74	\$0	\$0	\$0	\$0
>100 Mbps - 250 Mbps	\$277.97	\$11.29	\$0	\$0	\$397.6	\$51.12	\$397.6	\$51.12	\$0	\$69.58	\$0	\$0	\$0	\$0
>250 Mbps - 500 Mbps	\$518.66	\$16.97	\$0	\$0	\$727.75	\$94.43	\$727.75	\$94.43	\$0	\$98.69	\$0	\$0	\$0	\$0
>500 Mbps - 600 Mbps	\$822.61	\$24.85	\$0	\$0	\$1121.8	\$203.06	\$1121.8	\$203.06	\$0	\$139.87	\$0	\$0	\$0	\$0
1000 Mbps	\$1296.11	\$35	\$202.35	\$102.95	\$2403.35	\$348.61	\$2403.35	\$348.61	\$0	\$155.49	\$0	\$0	\$0	\$0
10000 Mbps	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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5.2.1.4. Third-Party Bandwidth MRC

CIR Speed	Non-Critical High	Business Critical Medium	Business Critical High	Interactive	RealTime
2 Mbps	\$74.69	\$77.00	\$80.84	\$84.69	\$88.54
4 Mbps	\$77.60	\$80.00	\$84.00	\$88.00	\$92.00
5 Mbps	\$80.03	\$82.50	\$86.63	\$90.75	\$94.88
8 Mbps	\$82.45	\$85.00	\$89.25	\$93.50	\$97.75
10 Mbps	\$87.30	\$90.00	\$94.50	\$99.00	\$103.50
20 Mbps	\$97.00	\$100.00	\$105.00	\$110.00	\$115.00
50 Mbps	\$155.20	\$160.00	\$168.00	\$176.00	\$184.00
100 Mbps	\$232.80	\$240.00	\$252.00	\$264.00	\$276.00
150 Mbps	\$291.00	\$300.00	\$315.00	\$330.00	\$345.00
250 Mbps	\$339.50	\$350.00	\$367.50	\$385.00	\$402.50
400 Mbps	\$436.50	\$450.00	\$472.50	\$495.00	\$517.50
500 Mbps	\$485.00	\$500.00	\$525.00	\$550.00	\$575.00
600 Mbps	\$582.00	\$600.00	\$630.00	\$660.00	\$690.00
1000 Mbps	\$727.50	\$750.00	\$787.50	\$825.00	\$862.50
2000 Mbps	\$2,716.00	\$2,800.00	\$2,940.00	\$3,080.00	\$3,220.00
2500 Mbps	\$2,813.00	\$2,900.00	\$3,045.00	\$3,190.00	\$3,335.00
4000 Mbps	\$3,007.00	\$3,100.00	\$3,255.00	\$3,410.00	\$3,565.00
5000 Mbps	\$3,104.00	\$3,200.00	\$3,360.00	\$3,520.00	\$3,680.00
7500 Mbps	\$3,201.00	\$3,300.00	\$3,465.00	\$3,630.00	\$3,795.00
9500 Mbps	\$3,298.00	\$3,400.00	\$3,570.00	\$3,740.00	\$3,910.00
10000 Mbps	\$3,395.00	\$3,500.00	\$3,675.00	\$3,850.00	\$4,025.00

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5.2.2. Additional Charges

Charges for associated features or additional Service options may apply per Service Publication.

6. SPECIAL TERMS, CONDITIONS or OTHER REQUIREMENTS

6.1. Special Conditions for 10 Gbps Customer Port Connections

With respect to 10 Gbps Ports, Customer may use the Business Center Portal to order such Ports, to request and schedule changes to the CIR (subject to the port configurations shown in Attachment A, Table 2) or CoS of such Ports, or to establish or change EVCs associated with such Ports. Real Time Class of Service is not available for EVCs exceeding 1000 Mbps. EVCs exceeding 1000 Mbps are subject to network availability.

WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

ATTACHMENT A

RATES and CHARGES; INITIAL SERVICE COMPONENTS, SITE and SERVICE CONFIGURATION

City of Burleson

A-1. Rates and Charges; Initial Order Quantities

Service Components	Quantity New	MRC, per Unit
Customer Port Connection - 100 Mbps - Basic, USOC: EYQEX	3	\$200.00
Customer Port Connection - 1 Gbps - Basic, USOC: EYQFX	9	\$200.00
Customer Port Connection - 10 Gbps - Basic, USOC: EYQGX	2	\$600.00
100 Mbps CIR - Business Critical Medium - Basic Only, USOC: R6ELX	3	\$209.00
1000 Mbps CIR - Business Critical Medium - Basic Only, USOC: R6EZX	9	\$425.00
10000 Mbps CIR - Business Critical Medium - Basic Only, USOC: R61SX	2	\$650.00

A-2. Minimum Quantity New Commitment

Required Installation Date	Monthly Shortfall Charge
Within six (6) months after the Effective Date, excluding AT&T delay	50% of MRC (partial months prorated) for each "Quantity New" Service Component not installed by Required Installation Date until installed or, if not installed, until the end of the Pricing Schedule Term

A-3. Initial Sites and Service Configuration

Jurisdiction: By selecting AT&T Switched Ethernet Service provided as interstate access service, Customer acknowledges and certifies that the interstate traffic (including Internet and international traffic) constitutes **more than ten percent (10%)** of the total traffic on any Service. Internet and International traffic are always considered interstate. The nature of the traffic, not merely the physical endpoints of the facility, determines whether the Port is Interstate or Intrastate.

Table 1. Complete a line for each Customer Port Connection

Port ID #	Street Address, City, State	Jurisdiction	Geographic Location
1	828 SW Alsbury Blvd., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
2	550 NW Summercrest Blvd., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
3	245 Lakewood Dr., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
4	650 Memorial Plaza, Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
5	250 E Hidden Creek Pkwy., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
6	725 SE John Jones Dr., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
7	555 E HUDDEN CREEK PKWY, BURLESON, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
8	555 E HIDDEN CREEK PKWY, BURLESON, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
9	405 W COUNTY RD 714, BURLESON, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
10	500 CHISENHALL PARK LN, BURLESON, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
11	216 SW JOGNSON AVE, BURLESON, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
12	248 SW JOHNSON AVE, BURLESON, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
13	141 W Renfro St., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint
14	1161 SW Wilshire Blvd., Burleson, TX, 76028, US	Intrastate	Within 21 State ILEC Footprint

WK# - TBD	For AT&T Administrative Use Only
Please sign by March 3, 2023.	Pricing Schedule No. _____
	Original Effective Date: _____

AT&T Switched Ethernet ServiceSM (with Network On Demand)
Pricing Schedule Provided Pursuant to Custom Terms

Table 2. Service Components and Features associated with Customer Port Connections identified above within the 21-State ILEC Footprint. This Pricing Schedule shall constitute Customer's order for Service at the locations listed below.

Port ID #	Customer Port Connection Speed	CIR Speed	CIR Speed for Ports 10 Gbps & Above	Class of Service	Add'l MAC Addresses	Enhanced Multicast
1	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
2	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
3	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
4	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
5	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
6	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
7	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
8	100 Mbps Basic	100 Mbps	N/A	Bus. Critical - Med.	No	No
9	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
10	100 Mbps Basic	100 Mbps	N/A	Bus. Critical - Med.	No	No
11	100 Mbps Basic	100 Mbps	N/A	Bus. Critical - Med.	No	No
12	1 Gbps Basic	1000 Mbps	N/A	Bus. Critical - Med.	No	No
13	10 Gbps Basic	N/A	1000 Mbps	Bus. Critical - Med.	No	No
14	10 Gbps Basic	N/A	1000 Mbps	Bus. Critical - Med.	No	No

Table 3. Service Components and Features associated with Customer Port Connections identified above outside the 21 State ILEC Footprint. This Pricing Schedule shall constitute Customer's order for Service at the locations listed below.

Port ID #	Access Type	Customer Port Connection Speed	Access Price Group	Access Mileage Group	Access Mileage	CIR Speed	Class of Service

End of Document

City Council Regular Meeting

DEPARTMENT: Economic Development
FROM: Alex Philips, Economic Development Director
MEETING: December 12, 2022

SUBJECT:

Consider approval of a minute order ratifying the Burleson 4A Economic Development Corporation Board's action to approve a Second Amendment to the commercial lease between FWAVE, Inc., and the Burleson 4A Economic Development Corporation located at 921 South Burleson Boulevard. (*Staff Contact: Alex Philips, Economic Development Director*)

SUMMARY:

The Burleson 4A Economic Development Corporation purchased the property located at 921 S. Burleson Boulevard in 2015. The Burleson 4A then executed a lease with FWAVE, Inc. and it was approved by the 4A board on November 16, 2015 the premise to FWAVE, Inc. for a term of 5 years at a rate of \$5.50 per foot for an annual total of \$174,075.

The lease was first amended on June 17, 2019 to extend the lease for an additional term of 3 years to assist with the timing of identifying a future site for the expansion of FWAVE operations. The rental rate stayed the same for that additional time.

FWAVE, Inc., has requested a second amendment to the lease as they are needing additional time to secure a location within the City of Burleson for their full expansion needs. The new amendment is for an additional 2 years starting January 1, 2023. The rental rate for the 1st year of the amendment is at a rate of \$7.00 per foot for an annual total of \$237,375.

In the amendment there is a renewal of an additional year if both parties agree exercise that within 60 days of the term expiring on December 31, 2024. If both parties agree the rental rate would increase to \$9.00 per foot for an annual total of \$284,850.

OPTIONS:

- 1) Approve the Second Amendment with FWAVE, Inc. as presented
- 2) Deny the Second Amendment with FWAVE, Inc.

RECOMMENDATION:

Staff recommendations is to approve the Second Amendment to the lease with FWAVE, Inc.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

Alex Philips
Economic Development Director
aphilips@burlesontx.com
817-426-9613



Economic Development

Lease History

- FWAVE leases 921 S. Burleson Boulevard from the Burleson EDC. The building is 31,650 square feet on approximately 6 acres.
- Original Lease was approved on November 16, 2015 for a term of 5 years at a rate of \$5.50/ft
- The lease was extended on June 17, 2019, for an additional 3 years at the same rate of \$5.50/ft.
- The lease amendment was requested as FWAVE needed more time to identify a future site for their expansion. COVID basically put a hold on a site search.
- FWAVE has requested a new extension to the current lease as we are continuing to assist them in finding a future site.



Amendment Details

- Term would be for an additional 2 years with an option for a 3rd year.
- Rental rate for the 2 year period would be at the rate of \$7.50 per foot for annual total of \$237,375.
- The 3rd year option would need to be mutually agreed to and it would be at a rate of \$9.00 per foot for an annual total of \$284,850.
- FWAVE and the EDC are currently working on identifying a site for the future home and expansion of their operations.





Options

- Approve the 2nd lease amendment with FWAVE, Inc.
- Deny the 2nd lease amendment with FWAVE, Inc.

Questions / Comments

**SECOND AMENDMENT TO
COMMERCIAL LEASE AGREEMENT
BETWEEN
BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION
AND
FWAVE, LLC**

This Second Amendment to the Commercial Lease Agreement ("Second Amendment") is made effective as of the _____ day of _____, 20____ (the "Second Amendment Effective Date"), by and between BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION ("Landlord") and FWAVE, LLC ("Tenant").

WHEREAS, Landlord and Tenant entered into a commercial lease agreement on November 6, 2015 ("Original Lease") granting Tenant certain rights to lease land and improvements owned by Landlord; and

WHEREAS, Landlord and Tenant amended the Original Lease on January 1, 2019 ("First Amendment") (collectively with the Original Lease the "Lease") making certain amendments to the Original Lease and ratifying the remainder of the Original Lease; and

WHEREAS, the Landlord and Tenant desire to amend the Lease to extend the lease term, allow for an optional renewal lease term, and amend the rent amount; and

WHEREAS, the Parties agree to ratify the Lease in all other respects;

NOW, THEREFORE, Landlord and Tenant amend the Lease by this Second Amendment as follows:

1. **Term.** Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord beginning on the Second Amendment Effective Date and ending on December 31, 2024 (the "Second Amended Initial Term").
2. **Renewals.** Tenant and Landlord may renew the Lease for one (1) extended term of one (1) year (the "Second Amended Renewal Term"). Tenant and Landlord may exercise such renewal option, if at all, by both parties agreeing to such renewal in writing not less than sixty (60) days prior to the expiration of the Second Amended Initial Term. The renewal term shall be at the rental set forth below, and otherwise upon the same covenants, conditions, and provisions as provided in this agreement.
3. **Rent.** Tenant shall pay Landlord during the Second Amended Initial Term rental of TWO HUNDRED THIRTY-SEVEN THOUSAND THREE HUNDRED AND SEVENTY-FIVE DOLLARS (\$237,375.00) per year for two years, payable in installments of NINETEEN THOUSAND SEVEN HUNDRED AND EIGHTY-ONE DOLLARS AND TWENTY-FIVE CENTS (\$19,781.25) per month. Each installment payment shall be due in advance on the first day of each calendar month during the lease term to Landlord at Burleson City Hall, 141 W. Renfro St., Burleson, TX 76028 Attn: Finance

Department or at such other place designated by written notice from Landlord to Tenant. The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.

The rental for the Second Amended Renewal Term, if created as permitted under this agreement, shall be TWO HUNDRED EIGHTY-FOUR THOUSAND EIGHT HUNDRED AND FIFTY DOLLARS (\$284,850) per year, payable in installments of TWENTY-THREE THOUSAND SEVEN HUNDRED THIRTY-SEVEN DOLLARS AND FIFTY CENTS (\$23,737.50) per month.

4. **Recitals.** The recitals found at the beginning of this Second Amendment and any attachments hereto are an integral part of this Second Amendment and are deemed incorporated by reference herein for all purposes.
5. **Terms; Conflict between Lease and Amendment.** The terms and conditions of the Lease are incorporated herein by this reference, and capitalized terms used in this Second Amendment shall have the same meanings such terms are given in the Lease. Except as specifically set forth herein, this Second Amendment shall in no way modify, alter or amend the remaining terms of the Lease, all of which are ratified by the parties and shall remain in full force and effect. To the extent there is any conflict between the terms and conditions of the Lease and this Second Amendment, the terms and conditions of this Second Amendment will govern and control.

Executed by the parties below.

LANDLORD:

**BURLESON 4A ECONOMIC DEVELOPMENT
CORPORATION,
a Texas municipal development corporation**

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

**FWAVE, LLC,
A Delaware limited liability company**

By: Mick Santa

Name: MICK SANKA

Title: DIRECTOR

Date: Nov. 29, 2022

COMMERCIAL LEASE AGREEMENT

This Commercial Lease Agreement ("Lease") is made and effective as of **November 6th, 2015** (the "Effective Date"), by and between **BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION** ("Landlord") and **FWAVE, LLC** ("Tenant").

Landlord is the owner of land and improvements commonly known and numbered as **921 S. BURLESON BLVD., BURLESON, TX 76028** and legally described as follows (the "Leased Premises"):

A 6.561 acre parcel located at 921 S. Burleson Blvd, Johnson County, Texas, which property is more fully described as Lot 1, Block 1 of the Housing of the Future Addition to the City of Burleson, Johnson County, Texas

Landlord makes available for lease the Leased Premises, including, but not limited to: (1) 30,000 square foot manufacturing building, (2) 1,650 square foot office building, and (3) the area surrounding such buildings within the Leased Premises.

Landlord desires to lease the Leased Premises to Tenant, and Tenant desires to lease the Leased Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

THEREFORE, in consideration of the mutual promises herein contained, and other good and valuable consideration, it is agreed:

1. Term.

- A. Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord, for an "Initial Term" beginning on the Effective Date and ending December 31, 2018. Landlord shall use its best efforts to give Tenant possession as nearly as possible at the beginning of the Lease term. If Landlord is unable to deliver the Leased Premises to Tenant by November 15, 2015, Tenant shall be entitled to receive a credit against Base Rent next becoming due under this Lease in the amount of two (2) days' rental that becomes due during the first year of the Term for each day thereafter until the Leased Premises are so delivered to Tenant.
- B. Tenant may renew the Lease for two (2) extended term(s) of ONE YEAR each. Tenant may exercise such renewal option, if at all, by giving written notice to Landlord not less than sixty (60) days prior to the expiration of the Initial Term, or the previously extended term, as the case may be. The extension of the Lease will be granted only with consent of both parties and not to be unreasonably withheld. The renewal term shall be at the rental set forth below, and otherwise upon the same covenants, conditions and provisions as provided in this Lease.

2. Rental.

- A. Tenant shall pay to Landlord during the Initial Term rental of \$4.50 per square foot or ONE HUNDRED FORTY-TWO THOUSAND, FOUR HUNDRED TWENTY-FIVE DOLLARS (\$142,425.00) per year, payable in installments of ELEVEN THOUSAND EIGHT HUNDRED SIXTY-EIGHT DOLLARS AND SEVENTY-FIVE CENTS (\$11,868.75) per month. Each installment payment shall be due in advance on the first day of each calendar month during the Lease term to Landlord at **BURLESON CITY HALL, 141 W. RENFRO ST., BURLESON, TX 76028 ATTN: FINANCE DEPARTMENT** or at such other place designated by written notice from Landlord or Tenant. The rental payment amount for any partial calendar months included in the lease term shall be prorated on a daily basis.
- B. The rental for the first year of renewal lease term, if created as permitted under this Lease, shall be ONE HUNDRED SEVENTY-FOUR THOUSAND SEVENTY-FIVE DOLLARS (\$174,075.00) per year payable in installments of FOURTEEN THOUSAND FIVE-HUNDRED SIX DOLLARS AND TWENTY-FIVE CENTS (\$14,506.25) per month.

- C. The rental for the second year of renewal lease term, if created as permitted under this Lease, shall be TWO HUNDRED FIVE THOUSAND SEVEN HUNDRED TWENTY-FIVE DOLLARS (\$205,725.00) per year payable in installments of SEVENTEEN THOUSAND ONE HUNDRED FORTY-THREE DOLLARS AND SEVENTY-FIVE CENTS (\$17,143.75) per month.

3. Use

Tenant may use the Leased Premises for any lawful purpose. Notwithstanding the forgoing, except as set forth below, Tenant shall not use the Leased Premises for the purposes of storing, manufacturing or selling any explosives, flammables or other inherently dangerous substance, chemical, thing or device in violation of any applicable law unless otherwise approved by Landlord. For the avoidance of doubt, Landlord hereby agrees that the storage, manufacturing, selling, or use of the items listed on Schedule A, attached hereto, among other things, shall not violate the terms of this Paragraph 3.

4. Assignment.

Tenant may not assign any part of this Lease or sublease any part of the Leased Premises without prior written consent or approval by the Landlord, which consent shall not be unreasonably withheld, conditioned, or delayed, provided the assignee agrees in writing to comply with each term in the Lease. Notwithstanding the foregoing, Tenant shall have the right, without the consent of Landlord and without otherwise being subject to or complying with the provisions of this Paragraph 4, to: (a) permit occupancy of the Leased Premises by, assign this Lease to or sublet the Leased Premises or any portion thereof to, any entity that controls, is controlled by, or is under common control with Tenant; or (b) assign this Lease to the surviving entity in any merger, consolidation or reorganization including Tenant, or to the purchaser of all or substantially all of the assets of Tenant at the Leased Premises; provided that Tenant provides Landlord with a fully executed copy of such assignment or sublease.

5. Repairs.

During the Lease term, Tenant shall make, at Tenant's expense, all necessary repairs to the Leased Premises. Repairs shall include such items as routine repairs of floors, walls, ceilings, and other parts of the Leased Premises damaged or worn through normal occupancy, except for major mechanical systems or the roof, subject to the obligations of the parties otherwise set forth in this Lease. Landlord shall warrant all equipment and systems serving the Leased Premises for a period of one (1) year after the commencement date and shall repair such equipment and systems promptly at Landlord's sole cost and expense.

6. Alterations and Improvements.

Tenant, at Tenant's expense, shall have the right following Landlord's written consent, which will not be unreasonably withheld, conditioned, or delayed, to remodel, redecorate, and make additions, improvements and replacements of and to all or any part of the Leased Premises from time to time as Tenant may deem desirable, provided the same are made in a workmanlike manner and utilizing good quality materials, and do not unreasonably diminish the future utility of the Leased Premises. Tenant shall have the right to place and install personal property, trade fixtures, equipment and other temporary installations in and upon the Leased Premises, and fasten the same to the premises. All personal property, equipment, machinery, trade fixtures and temporary installations, whether acquired by Tenant at the commencement of the Lease term or placed or installed on the Leased Premises by Tenant thereafter, shall remain Tenant's property free and clear of any claim by Landlord. Tenant shall have the right to remove the same at any time during the term of this Lease provided that all damage to the Leased Premises caused by such removal shall be repaired by Tenant at Tenant's expense.

7. Property Taxes.

Landlord shall pay, prior to delinquency, all general real estate taxes and installments of special assessments as may be required coming due during the Lease term on the Leased Premises, and all personal property taxes with respect to Landlord's personal property, if any, on the Leased Premises. Tenant shall be responsible for paying all personal property taxes with respect to Tenant's personal property at the Leased Premises. Any

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income, franchise, margin, gift, inheritance, capital levy and estate taxes attributable to or arising out of this Lease shall not be payable by Tenant.

8. Insurance.

- A. If any part of the Leased Premises is damaged by fire or other casualty resulting from any willful act or gross negligence of Tenant or any of Tenant's agents, employees or invitees, rent shall not be diminished or abated while such damages are under repair, and Tenant shall be responsible for the costs of repair not covered by insurance.
- B. Landlord shall maintain fire and extended coverage insurance on the Leased Premises in an amount equal to the full replacement value. Tenant shall maintain, at its expense, fire and extended coverage insurance on all of its personal property, including removable trade fixtures, located in the Leased Premises.
- C. Tenant and Landlord shall, each at its own expense, maintain a policy or policies of comprehensive general liability insurance with respect to the respective activities of each on the Leased Premises with the premiums thereon fully paid on or before due date, issued by and binding upon some insurance company approved by Landlord and Tenant, such insurance to afford minimum protection of not less than \$1,000,000 combined single limit coverage of bodily injury, property damage or combination thereof. Each party shall be listed as an additional insured on the other party's policy or policies of comprehensive general liability insurance, and each party shall provide the other party with current certificates of insurance evidencing compliance with this Paragraph. Landlord shall not be required to maintain insurance against thefts within the Leased Premises.

9. Utilities.

Tenant shall pay all charges for water, sewer, gas, electricity, telephone and other services and utilities used by Tenant on the Leased Premises during the term of this Lease unless otherwise expressly agreed in writing by Landlord. Notwithstanding anything in this Lease to the contrary, (a) if an interruption of services is the result of Landlord's negligence or misconduct, all rent shall be abated for each day of such interruption of services; (b) if an interruption of services continues for five (5) consecutive days, regardless of the cause, all rent shall be abated for each day thereafter until all services are fully restored; and (c) if an interruption of services continues for thirty (30) consecutive days, regardless of the cause, Tenant shall have the right to terminate this Lease.

10. Signs.

Tenant shall have the right to place on the Leased Premises, at locations selected by Tenant, any signs which are permitted by applicable zoning ordinances. Landlord shall assist and cooperate with Tenant in obtaining any necessary permission from governmental authorities or adjoining owners and occupants for Tenant to place or construct the foregoing signs. Tenant shall repair all damage to the Leased Premises resulting from the removal of signs installed by Tenant.

11. Entry.

Landlord shall have the right to enter upon the Leased Premises during Tenant's regular business hours and following twenty-four (24) hour prior notice to inspect the same and, in the final six months of the Lease, with the prior consent of the Tenant, which consent shall not be unreasonably withheld, to market the Leased Premises to prospective tenants, provided that, in any event, Landlord shall not thereby unreasonably interfere with Tenant's business on the Leased Premises or allow any third party to observe any trade secrets or confidential information of Tenant. During any entry of the Lease Premises, Landlord shall comply with all requirements of Tenant.

12. Parking.

During the term of this Lease, Tenant shall have the exclusive use of the automobile parking areas, driveways, and other access to the Leased Premises.

13. Damage and Destruction.

Tenant shall be relieved from paying rent and other charges during any portion of the Lease term that the Leased Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes unless such inoperability or unfit condition is the result of Tenant's gross negligence. Rentals and other charges paid in advance for any such periods shall be credited on the next ensuing payments, if any, but if no further payments are to be made, any such advance payments shall be refunded to Tenant. The provisions of this paragraph extend not only to the matters aforesaid, but also to any occurrence which is beyond Tenant's reasonable control and which renders the Leased Premises, or any appurtenance thereto, inoperable or unfit for occupancy or use, in whole or in part, for Tenant's purposes, except as provided in this Paragraph 13.

14. Tenant Default.

In the event Tenant fails to fulfill its obligations under this Lease or materially breaches any of the material terms and conditions of this Lease, then Tenant after the expiration of the notice and cure periods described herein, shall be in default of this Lease, unless Tenant is taking measures reasonably agreeable to the Landlord to cure any such breach, with such agreed measures to cure to include a stated plan and time frame for completion. In the event of such a default, Landlord shall give Tenant written notice of such breach and/or default, and if Tenant has not cured such breach or default within ninety (90) days after receipt of such notice, or is not taking such reasonably agreed measures to cure any such breach or default at such time, the Landlord may cure the default on behalf of Tenant and Tenant shall be obligated to reimburse Landlord for any actual and reasonable expenses incurred by Landlord to cure such default. This 90-day cure period shall not apply, however, to the failure to pay rent when due, which obligation shall not be excused or extended for any reason except as expressly provided in this Lease.

Notwithstanding any provision in this Lease to the contrary, (a) Tenant shall not be liable for any consequential, exemplary or punitive damages or lost profits; (b) Landlord shall not be entitled to lock Tenant out of the Leased Premises absent a court order; (c) Landlord shall use good faith, commercially reasonable efforts to mitigate Landlord's damages; (d) Tenant shall be entitled to vacate the Leased Premises for all or part of the Term of this Lease without penalty provided Tenant continues to pay Rent in accordance with the terms of this Lease.

15. Quiet Possession.

Landlord covenants and warrants that upon performance by Tenant of its obligations hereunder, Landlord will keep and maintain Tenant in exclusive, quiet, peaceable and undisturbed and uninterrupted possession of the Leased Premises during the term of this Lease.

16. Condemnation.

If any legally, constituted authority condemns any part of the Leased Premises, which shall make the Leased Premises unsuitable for Tenant's use, this Lease shall cease when the public authority takes possession, and Landlord and Tenant shall account for rental as of that date. Such termination shall be without prejudice to the rights of either party to recover compensation from the condemning authority for any loss or damage caused by the condemnation. Neither party shall have any rights in or to any award made to the other by the condemning authority.

17. Subordination.

Tenant accepts this Lease subject and subordinate to any mortgage, deed of trust or other lien presently existing or hereafter arising upon the Leased Premises, and to any renewals, refinancing and extensions thereof, but Tenant agrees that any such mortgagee shall have the right at any time to subordinate such mortgage, deed of trust or other lien to this Lease on such terms and subject to such conditions as such mortgagee may deem appropriate in its discretion. Notwithstanding the foregoing, this Lease shall not be subject to or subordinate to any lease, lien, deed of trust, indenture or mortgage unless and until the lessor or holder thereof executes and delivers to Tenant a non-disturbance agreement, in form reasonably acceptable to

Tenant, pursuant to the terms of which the lessor or holder agrees not to interfere with Tenant's use or enjoyment of the Leased Premises except as provided under this Lease.

18. Landlord's Lien.

Notwithstanding any provision in this Lease to the contrary, Landlord shall not have and hereby expressly waives any and all constitutional, statutory and contractual liens against the assets or property of Tenant, and Tenant may remove such items at any time and from time to time. Landlord agrees to execute and deliver to Tenant within twenty (20) days after receipt of a written request therefor, such documents as may be reasonably requested by Tenant or its lender to evidence and confirm such waiver.

19. Notice.

Any notice required or permitted under this Lease shall be deemed sufficiently given or served if sent by United States certified mail, return receipt requested, addressed as follows:

If to Landlord to:

BURLESON 4A EDC
141 W. RENFRO ST.
BURLESON, TX 76028
ATTN: JUSTIN BOND, DIRECTOR OF
DEVELOPMENT SERVICES

If to Tenant to:

FWAVE, LLC
9C BEATRICE TINSLEY CRESCENT
ALBANY, AUCKLAND, 0632
NEW ZEALAND
ATTN: ANDREW HAYNES, CEO

Landlord and Tenant shall each have the right from time to time to change the place notice is to be given under this Paragraph by written notice thereof to the other party.

20. Brokers.

Tenant represents that Tenant has not entered into any written agreement with any real estate broker or agent regarding the Leased Premises and that Tenant has not otherwise engaged in, any activity which could form the basis for a claim for real estate commission, brokerage fee, finder's fee or other similar charge, in connection with this Lease.

21. Waiver.

No waiver of any default of Landlord or Tenant hereunder shall be implied from any omission to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only for the time and to the extent therein stated. One or more waivers by Landlord or Tenant shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition.

22. Record of Lease.

The parties hereto contemplate that this Lease shall be filed for record as a public document with the City of Burleson, Texas, as a result of Landlord being known as a municipal corporation and subject to the requirements of the Texas Open Meetings Act.

23. Headings.

The headings used in this Lease are for convenience of the parties only and shall not be considered in interpreting the meaning of any provision of this Lease.

24. Successors.

The provisions of this Lease shall extend to and be binding upon Landlord and Tenant and their respective legal representatives, successors and assigns.

25. Consent.

Landlord shall not unreasonably withhold, condition, or delay its consent with respect to any matter for which Landlord's consent is required or desirable under this Lease.

26. Landlord's Performance.

In the event Landlord fails to fulfill its obligations under this Lease or materially breaches any of the material terms and conditions of this Lease, Tenant may, at its option and without affecting any other remedy hereunder, cure such default, unless Landlord is taking measures reasonably agreeable to the Tenant to cure any such breach, with such agreed measures to cure to include a stated plan and time frame for completion. In the event of such a default, Tenant shall give Landlord written notice of such breach and/or default, and if Landlord has not cured such breach or default within forty-five (45) days after receipt of such notice, or is not taking such reasonably agreed measures to cure any such breach or default at such time, Tenant may deduct the cost thereof from the next accruing installment or installments of rent payable hereunder until Tenant shall have been fully reimbursed for such expenditures. Tenant may pursue any rights and remedies as may be available under this Lease, at law or in equity, in its sole discretion following any Landlord default.

27. Compliance with Law.

Tenant shall comply with all laws, orders, ordinances and other public requirements now or hereafter pertaining to Tenant's use of the Leased Premises. Landlord shall comply with all laws, orders, ordinances and other public requirements now or hereafter affecting the Leased Premises.

28. Final Agreement.

This Agreement shall be the final document related to the lease terms of the Leased Premises. This Agreement may be modified only by a further writing that is duly executed by both parties.

29. Governing Law.

This Agreement shall be governed, construed and interpreted by, through and under the Laws of the State of Texas.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have executed this Commercial Lease Agreement as of the day and year first above written.

LANDLORD:

BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION,
a Texas municipal development corporation

By: _____

Name: _____

Title: _____

Date: _____

TENANT:

FWAVE, LLC,
a Delaware limited liability company

By: _____

Name: _____

Title: _____

Date: _____

[Signature page to Commercial Lease Agreement]

Schedule A

Permitted Storage, Manufacturing, Selling, and Uses

- Polymers
- Hot Melt type adhesives
- Calcium Carbonate
- Magnesium Hydroxide
- Plastic Packaging
- Cardboard Packaging
- Wooden pallets
- Ink and thinners, primarily for the inkjet printers
- Lubricants, oils, solvents, etc., primarily for cleaning and maintenance
- Fuel and gas containers, primarily for use of forklifts
- Office supplies
- Glass fibers
- Diesel or petrol

[Schedule A to Commercial Lease Agreement]



**AMENDMENT TO
COMMERCIAL LEASE AGREEMENT
BETWEEN
BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION
AND
FWAVE, LLC**

This Amendment to the Commercial Lease Agreement ("Amendment") is made effective as of the 1st day of JANUARY, 2019 (the "Amendment Effective Date"), by and between BURLESON 4A ECONOMIC DEVELOPMENT CORPORATION ("Landlord") and FWAVE, LLC ("Tenant").

WHEREAS, Landlord and Tenant are amending the commercial lease agreement entered into on November 6, 2015 ("Lease") granting Tenant certain rights to lease land and improvements owned by Landlord; and

WHEREAS, the Landlord and Tenant desire to extend the term of the Lease and amend the rent amount; and

WHEREAS, the Parties agree to ratify the Lease in all other respects;

NOW, THEREFORE, Landlord and Tenant amend the Lease by this Amendment as follows:

1. **Term.** Landlord hereby leases the Leased Premises to Tenant, and Tenant hereby leases the same from Landlord beginning on the Amendment Effective Date and ending on July 31, 2022 (the "Amended Term").
2. **Renewals.** The options to renew the term of the Lease specified in Paragraph 1(B) of the Lease are hereby deleted as of the Effective Date of this Amendment. There shall be no option to renew the Amended Term unless otherwise agreed to by both Parties in writing.
3. **Rent.** The rental for the Amended Term shall be ONE HUNDRED THOUSAND SEVENTY-FOUR THOUSAND SEVENTY-FIVE DOLLARS (\$174,075.00) per year payable in installments of FOURTEEN THOUSAND FIVE-HUNDRED SIX DOLLARS AND TWENTY-FIVE CENTS (\$14,506.25) per month.
4. **Recitals.** The recitals found at the beginning of this Amendment and any attachments hereto are an integral part of this Amendment and are deemed incorporated by reference herein for all purposes.
5. **Terms; Conflict between Lease and Amendment.** The terms and conditions of the Lease are incorporated herein by this reference, and capitalized terms used in this Amendment shall have the same meanings such terms are given in the Lease. Except as specifically set forth herein, this Amendment shall in no way modify, alter or amend

the remaining terms of the Lease, all of which are ratified by the parties and shall remain in full force and effect. To the extent there is any conflict between the terms and conditions of the Lease and this Amendment, the terms and conditions of this Amendment will govern and control.

Executed by the parties below.

LANDLORD:

**BURLESON 4A ECONOMIC DEVELOPMENT
CORPORATION,**
a Texas municipal development corporation

By: 

Name: Dan McClellon

Title: President

Date: 6/17/19

TENANT:

FWAVE, LLC,
A Delaware limited liability company

By: 

Name: Scott G. McDonald

Title: PRESIDENT & CEO

Date: 24 June 2019

City Council Regular Meeting

DEPARTMENT: Parks and Recreation

FROM: Jen Basham, Director of Parks and Recreation

MEETING: December 12, 2022

SUBJECT:

Consider approval of a contract with The Brandt Companies, LLC. through a cooperative purchasing agreement with BuyBoard for the purchase of a new AC control software and computer boards for the Burleson Recreation Center in the amount not to exceed \$160,255. *(Staff Contact: Jen Basham, Director of Parks and Recreation)*

SUMMARY:

The current AC control software and computer boards at the Brick have been failing for over a year. The issues have caused inconsistent temperatures and have made it very difficult to regulate and correct temperature issues in a timely manner. The main issue is due to the software not properly communicating with the computer boards in the units. In order to maintain comfortable temperatures, most of the units require staff to manually open and close the valves. Staff met with multiple contractors to discuss solutions and ultimately determined that Brandt Companies provided the most cost effective viable solution.

This project was approved as an FY 22-23 capital improvement project for \$500,000, the final cost came in under budget at \$160,255. Staff is seeking to correct this issue by installing the new software Niagara 4 along with new computer boards for each unit. This software will give us the capability to make adjustments to individual preset zones all through the online system. It will also have a notification system that will alert staff when there is a malfunction. During this installation, all AC units, valves, dampers, sensors, etc. will be checked and recommended for replacement as needed.

OPTIONS:

- 1) Approve as presented
- 2) Approve with changes
- 3) Deny

RECOMMENDATION:

Staff recommendation is approving the purchase of the new AC software and computer boards from The Brandt Companies LLC.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

This supplemental request was approved for FY 22-23.

FISCAL IMPACT:

Budgeted Y/N: Y
Fund Name: 4B
Full Account #s:
Amount: \$160,255
Project (if applicable):

STAFF CONTACT:

Jen Basham
Director of Parks and Recreation
jbasham@burlesontx.com
817-426-9201



Brick AC Software & Computer Board Replacement

City Council Meeting - December 12, 2022

Staff Presenter: Jen Basham, Director of Park and Recreation

AC Software & Computer Board Replacement

- 1 Background
- 2 Funding
- 3 Replacement Details
- 4 Options





Background

The current AC control software and computer boards at the Brick have been failing for over a year.

The main issue is due to the software not properly communicating with the computer boards in the units.

This issue has caused:

- Inconsistent temperatures
- Difficulty regulating and correcting issues in a timely manner
- Staff to manually open or close valves on several units to make adjustments

Funding

Funding: \$500,000 allocated for replacement of the AC software in the FY 2023 budget

Identified the current software and computer boards are failing

Funds Needed: \$160,255

- Purchase of new software and computer boards from The Brandt Companies, LLC
- Staff met with multiple HVAC contractors to review computer board and software upgrades. Ultimately Brandt Companies was the selected as the preferred contractor, and is part of a purchasing cooperative



Replacement Details

**DISTECH
CONTROLS™**

niagara⁴

*New Software: Distech Controls with
Niagara 4*

Capabilities:

- Direct access to analyze and act on operational data from computer
- Intuitive and customizable interface
- Powerful security
- Notification settings
- Can be serviced by many DFW companies
- 100% open BACnet

Options

- Approve as presented
- Deny



December 1, 2022

For more than 60 years,
Brandt has worked to design, build and
service facilities that are energy efficient,
environmentally sensitive & cost effective.



P-20210316-0028 R1

Burleson Rec Center BAS Upgrade

Proposal Presented To:

Marc Whitten

For Work Performed At:

Marc Whitten

Burleson Recreation Center
550 NW Summercrest
Burleson, Tx 76028

Prepared By:

Karl Kirkpatrick

Service Account Manager

Cell: 817-757-9189

Fax: -

Email: karl.kirkpatrick@brandt.us

24 Hour Service Dispatch

(817) 626-1693



Austin • Dallas • Fort Worth • Houston • San Antonio • Waco

The Brandt Companies, LLC

1001 NE Loop 820 Suite 300, Fort Worth, TX 76131, (817) 626-0033, TACLA64706R/TECL20109/M40211

Proposal Date: December 1, 2022

24 Hour Service Dispatch: (817) 626-1693

Customer:

Marc Whitten

Burleson Recreation Center
550 NW Summercrest
Burleson, Tx 76028

Proposal#:

P-20210316-0028 R1

Reference:

Burleson Rec Center BAS Upgrade

Service Site:

Marc Whitten

Burleson Recreation Center
550 NW Summercrest
Burleson, Tx 76028☒ Repair work proposals are for the scope as listed on the following page.

Equipment replacement proposals are for the scope of work as listed on the following page.

The Brandt Companies, LLC is pleased to submit the following price and general scope of work to be performed,
(at the above-referenced service site), in the amount of: \$ **160,255.00** excluding any applicable taxes.

Price Valid for 30 Days

Remit To: The Brandt Companies, LLC, P.O.Box 227351, Dallas, TX 75222-7351 - Tax EIN: 37-1652957

• Austin • Dallas • Fort Worth • Houston • San Antonio • Waco

We appreciate the opportunity to provide you with our services. Upon receipt of a signed proposal, we will begin mobilizing material orders and contact you to coordinate the repairs. Our terms are net ten days from the invoice date, and past due after thirty days.

This contract is not valid without attachment and signature of customer on Service Descriptions Page and Terms and conditions.

Best Regards,

Karl Kirkpatrick

Service Account Manager

Cell: 817-757-9189

Fax: -

Email: karl.kirkpatrick@brandt.us

Customer Acceptance

Accepted By:

Name:

Title:

Company:

Date:

Purchase Order Number:

The Brandt Companies, LLC

Accepted By:

Charles
Steele

Digitally signed by Charles Steele
DN: cn=Charles Steele, c=US,
o=The Brandt Companies, LLC,
email=Charles.steele@Brandt.us
Date: 2022.12.07 09:33:57 -06'00'

Name:

Title: Sales Manager

The Brandt Companies, LLC

Date: 12-07-2022

www.brandt-companies.com

Regulated by The Department of Licensing and Regulation/ P.O. Box 12157, Austin, TX 78711/1-800-803-9202/512-463-6599/ www.license.state.tx.us

Brandt Confidential: ~~This proposal includes data that shall not be disclosed outside of the party or company to which it is intended, and shall not be duplicated, used or disclosed, in whole or in part, for any purpose other than to evaluate this proposal.~~

Brandt will accept striking the Confidential clause above
from this proposal

Charles
Steele

Digitally signed by Charles Steele
DN: cn=Charles Steele, c=US,
o=The Brandt Companies, LLC,
email=Charles.steele@Brandt.us
Date: 2022.12.07 09:33:44 -
06'00'

Scope of Work, Exclusions and Clarifications

Demolition:

- Demo existing American Auto-matrix controllers and re-use enclosures
 - Use existing wiring to end devices where applicable

DDC Controls Scope:

Global Controller & Communication Wiring:

- New Jace-8000 Global BACnet MSTP to IP Controller (existing)
 - Use of existing Power, IP drop and static IP addresses
 - Any additional IT infrastructure will be provided by the owner
 - Latest **Niagara 4** Revision will be used with **Distech, this is all open products and non-proprietary.**
 - **Each piece of mechanical equipment will have a graphic depicting the status and temperature being controlled**
 - **Floor plan graphics will be created off customers available documentation and edited as need on start-up**
 - Alarms will be configured to notify personnel if temperature problems and if equipment did not start according to the user defined time schedule or temperature triggered event, these will be sent via email
 - To monitor or control the system remotely, an authorized user with a password needs access to the IP address of the Niagara Server via a standard web browser on a PC, Tablet or Smart Phone
 - Trends will be configured based on user input and what is setup in the current system
- Provision of all **new** Bacnet communication wire (Campus-wide)
 - This wiring will be run to all existing controller locations
- Provision of all new control drawings and as-builts is included

Chilled Water System to include the following monitored/control points:

- Air-Cooled Chillers Enable/Disable (Qty. 2)
- Air-Cooled Chillers Status (Qty. 2)
- Air-Cooled Chillers BACnet Interface (Qty. 2)
- Chiller Water Supply and Return Temperature Sensors (Qty. 2)
- Chiller Isolation Valves (Qty. 2)
- Chilled Water Bypass Valve (Qty. 1)
- Building Chilled Water Supply and Return Temperature Sensors (Qty. 4)
- Chilled Water Pump Enable/Disable (Qty. 4)
- Chilled Water Pump Status (Qty. 4)
- Chilled Water VFD Speed Control with BACnet Interface (Qty. 4)

Hot Water System to include the following monitored/control points:

- Boiler Enable/Disable (Qty. 2)
- Boiler Status (Qty. 2)
- Boiler BACnet Interface (Qty. 2)
- Boiler Hot Water Supply Temperature Sensor (Qty. 2)
- Hot Water Pump Enable/Disable (Qty. 2)
- Hot Water Pump Status (Qty. 2)
- Hot Water Pump VFD Speed Control (Qty. 2)

- Hot Water Supply Temperature Sensor (Qty. 1)
- Return Temperature Sensor (Qty. 1)

Constant Volume Chilled Water/ Hot Water RTU's to include the following monitored/control points (Qty. 5):

- Supply Fan Enable/Disable
- Supply Fan Status
- Return Air Temperature Sensor
- Supply Air Temperature Sensor
- Mixed Air Temperature Sensor
- Chilled Water Valve Modulation
- Hot Water Valve Modulation
- Safety Circuit (High Duct Pressure, Low Duct Pressure, Freeze Stat)
- Final Filter Pressure Switch
- Outside Air Damper Modulation
- Return Air Damper Modulation
- Chilled Water Supply Temperature Sensor
- Chilled Water Return Temperature Sensor
- Hot Water Supply Temperature Sensor
- Hot Water Return Temperature Sensor

Constant Volume Chilled Water/ Hot Water RTU's with Economizers to include the following monitored/control points (Qty. 5):

- Supply Fan Enable/Disable
- Supply Fan Status
- Return Air Temperature Sensor
- Supply Air Temperature Sensor
- Mixed Air Temperature Sensor
- Chilled Water Valve Modulation
- Hot Water Valve Modulation
- Safety Circuit (High Duct Pressure, Low Duct Pressure, Freeze Stat)
- Final Filter Pressure Switch
- Outside Air Damper Modulation
- Return Air Damper Modulation
- Relief Air Damper Modulation
- Chilled Water Supply Temperature Sensor
- Chilled Water Return Temperature Sensor
- Hot Water Supply Temperature Sensor
- Hot Water Return Temperature Sensor

Constant Volume Chilled Water/ Hot Water RTU's with Economizers and Air Flow Monitoring Station to include the following monitored/control points (Qty. 1):

- Supply Fan Enable/Disable
- Supply Fan Status
- Relief Fan Enable/Disable
- Relief Fan Status
- Return Air Temperature Sensor

- Supply Air Temperature Sensor
- Mixed Air Temperature Sensor
- Circulating Pump Enable/Disable
- Chilled Water Valve Modulation
- Hot Water Valve Modulation
- Safety Circuit (High Duct Pressure, Low Duct Pressure, Freeze Stat)
- Final Filter Pressure Switch
- Outside Air Damper Modulation
- Return Air Damper Modulation
- Relief Air Damper Modulation
- Chilled Water Supply Temperature Sensor
- Chilled Water Return Temperature Sensor
- Hot Water Supply Temperature Sensor
- Hot Water Return Temperature Sensor
- Outside Air Flow Monitoring Station

Fan Coil Unit to include the following monitored/control points (Qty. 1):

- Fan Enable/Disable
- Fan Status
- Space Temperature Sensor
- Supply Air Temperature Sensor
- Chilled Water Control Valve
- Hot Water Valve Modulation
- Filter Status
- Drain Pan Alarm Switch
- Outside Air Damper Actuator

Pool Room Units (BACnet Interface) to include the following monitored/control points (Qty. 2):

- Provide single point interface cabling from BMS to Pool Room Unit Interface Card and software mapping for up to 20 Points
- 4 - Pool Unit Pump Enable/Disable
- 4 - Pool Unit Pump Status

Fan Powered Terminal Boxes with Hot Water Reheat to include the following monitored/control points (Qty. 16):

- Damper control
- CFM Flow Monitoring
- Zone Temperature
- Hot Water Control Valve Modulation
- Supply Fan Enable/Disable
- Supply Air Temperature Sensor

VAV Terminal Box with Hot Water Reheat to include the following monitored/control points (Qty. 1):

- Damper control
- CFM Flow Monitoring
- Zone Temperature
- Hot Water Control Valve Modulation

- Supply Air Temperature Sensor

Exhaust Fans to include the following monitored/control points (Qty. 11):

- Fan Enable/Disable
- Fan Status

Exhaust Fans with Space Temperature to include the following monitored/control points (Qty. 2):

- Fan Enable/Disable
- Fan Status
- Space Temperature Sensor

Exhaust Fans with VFD Speed Control to include the following monitored/control points (Qty. 1):

- Fan Enable/Disable
- Fan Status
- Space Temperature Sensor
- Exhaust Fan VFD Speed Control

Unit Heaters to include the following monitored/control points (Qty. 1):

- Fan Enable/Disable
- Fan Status
- Hot Water Control Valve Modulation

Dessert Air Units to include the following monitored (Qty. 2):

- DAT
- RAT
- Fan Status

Clarifications and Items Excluded

- All existing control devices and associated wiring is assumed to be in working order. Any repairs needed to existing devices or wiring will be documented and change order proposals will be provided
- Upon completion of the project, Burleson Recreational Center will receive all administrative level credentials and ownership of all programming, graphics, and databases
- All new BACnet communication wiring will be installed
- This assumes all current fire/smoke alarm interlock devices are in proper working order
 - If current interlock devices are found to be defective, the owner will be responsible for repair/replacement
- **Brandt assumes that all fire/smoke dampers are in proper working order**
- Installation with plenum rated cabling (without conduit) above accessible ceilings and installed with EMT conduit where exposed
- Brandt will re-use existing DDC panels, controllers, conduit, and wiring where applicable
- All engineering, programming, graphics, submittals and as-builts are included
- One-year warranty on new parts & labor
- Up to Eight (8) hours of on-site training of control system operation
- Excludes fire/smoke dampers and duct mounted smoke detectors
- Drywall patching and painting is excluded in all locations where applicable
- All network drops will be provided for by the owner
- Natatorium Dessert Aire Units Reprogramming or Control



The Brandt Companies, LLC

1001 NE Loop 820 Suite 300, Fort Worth, TX 76131, (817) 626-0033, TACLA64706R/TECL20109/M40211

Proposal Date: December 1, 2022

Proposal#:

P-20210316-0028 R1

24 Hour Service Dispatch: (817) 626-1693

Reference:

Burleson Rec Center BAS Upgrade

Brandt's Service Proposal # P-20210316-0028 R1 ("Proposal") is conditioned upon the following terms and conditions, which

are incorporated by reference and, together with the Proposal, form the Contract between the parties:

- 1 **Warranty.** Brandt shall furnish to Customer all manufacturers' parts and equipment warranties received by Brandt. For a period of one (1) year from the date of the respective work, repair or installation performed by Brandt, Brandt agrees to repair, replace or otherwise make good to the satisfaction of Customer, any defects in parts or materials supplied by Brandt that are not covered under a manufacturer's warranty and that are adversely affecting the performance of the equipment installed by Brandt, if any. Brandt warrants to Customer that all labor performed or provided shall be performed by licensed personnel, if required by applicable law, and will be performed in a good workman like manner. For a period of ninety (90) days from the date of the respective work, repair or installation performed by Brandt, Brandt agrees to repair, replace or otherwise make good to the satisfaction of Customer, any defects in workmanship that is adversely affecting the performance of the equipment installed by Brandt, if any.
- 2 **Insurance.** So long as any of the Work remains to be completed, Brandt shall, at Brandt's sole cost and expense, carry and maintain in full force and effect, the following insurance coverages:
(A) Workers' compensation insurance coverage on all individuals employed upon or about the Property according to the requirements of the laws of the State of Texas;
(B) General liability insurance coverage with the limits maintained by Brandt at the time of this Proposal (which are: \$1M each occurrence; \$1M personal/advertising injury; \$10M general aggregate; \$2M products/completed operations aggregate; \$10,000 medical expense (any one person)). The policies will be issued by companies reasonably acceptable to Customer. In the event of any covered loss, or upon Customer's reasonable request, Brandt shall deliver to Customer copies of the insurance policies. Brandt and Customer mutually agree to a waiver by their respective insurer(s) of any and all rights to subrogation.
- 3 **General Limitations on Scope of Work.** Notwithstanding any other provision to the contrary in this Contract, including the incorporated Proposal, the Mechanical Service scope excludes:
 - (a.) Maintenance or repair of Equipment cabinets;
 - (b.) Ductwork and air distribution devices;
 - (c.) Water supply or drain beyond the Equipment;
 - (d.) Repair or replacement of heat exchangers in gas fired furnaces and duct heaters;
 - (e.) Repair or replacement of metal tubes in condensers, chiller, boilers or any other heat exchanger;
 - (f.) Moving or relocation of the subject equipment;
 - (g.) Repairs due to freezing;
 - (h.) Work made necessary by the enforcement of government codes, building and union regulations or as recommended by insurance companies;
 - (i.) Damage of any kind due to corrosion, erosion, electrolytic actions, acts of God, power failure, vandalism, or any other cause whatsoever beyond the control of Brandt;
 - (j.) Electrical components associated with the Equipment including: disconnect switches, fuses, circuit breakers, and electrical wiring not specifically identified within the scope of work;
 - (k.) Water treatment; and
 - (l.) Piping systems of any nature.
- 4 **Hoisting/Rigging Operations.** Prior to the use of heavy commercial hoisting or rigging equipment that could potentially cause damage to the Property or injury, Brandt will notify Customer in writing and shall not proceed without Customer's prior written consent. While all precautions will be exercised to protect Customer's Property, Brandt will not accept any responsibility for damage to parking lots, driveways, or landscaping that may occur as a result of normal hoisting and rigging operations, except to the extent that the damage is caused by Brandt's gross negligence or willful misconduct.
- 5 **Work Hours.** Unless indicated otherwise, all pricing is based upon work being performed during regular working hours of 8:00 am to 5:00 pm, Monday through Friday, except holidays. If work is required at times other than normal working hours, Customer agrees to pay the Brandt's standard overtime charge rates.
- 6 **Payments.** Customer agrees to pay Brandt all sums due with respect to this Proposal in accordance with the terms specified. Payments are due upon receipt of invoice. In the event payment is not received by Brandt within thirty (30) days following billing, such payment shall be considered past due. Beginning with the thirty-first (31st) day following billing, such payment shall bear interest at the maximum rate allowable by law until payment is received. If default is made in the payment of any sums due hereunder and it becomes necessary that this Contract be placed in the hands of an attorney for collection, Customer agrees to pay to Brandt all costs of collection, including reasonable attorney's fee. Brandt shall have the right to cancel this Contract at any time, upon five (5) business days' written notice, if payments as called for herein are not made.
- 7 **Cancellation.** This Contract may be cancelled by either party upon thirty (30) day written notice. In the event of cancellation by the Customer, Brandt reserves the right to invoice and be paid for work performed thru cancellation date.

Accepted By Customer: _____ Brandt: **CS** _____

The Brandt Companies, LLC

1001 NE Loop 820 Suite 300, Fort Worth, TX 76131, (817) 626-0033, TACLA64706R/TECL20109/M40211

Proposal Date: December 1, 2022**Proposal#:****P-20210316-0028 R1****24 Hour Service Dispatch: (817) 626-1693****Reference:****Burleson Rec Center BAS Upgrade**

- 8 No Liability from System Design or Existing Equipment Installation. Unless Brandt was the engineer of record for the existing system design under a prior and separate construction/design-build contract or system design is expressly included within the scope of the Proposal (and, in either case, to the extent of that design), Customer acknowledges and stipulates that Brandt did not select, advise Customer regarding, engineer, design or install the system, equipment or any component part thereof to be maintained under this Contract. Accordingly, Brandt shall not be liable in any capacity, under any theory of recovery for any claims or damages related to or originating from prior or existing defects, deficiencies, injuries, or damage (whether to the system, equipment or Property) associated therewith or as a result of prior ineffective maintenance. Brandt agrees, however, to advise the Customer about the existence of such conditions upon discovery in accordance with the terms of the Contract.
- 9 No Liability for Incidental Microbiological Growth/Mold. Customer acknowledges that the Heating, Ventilation, and Air-Conditioning equipment and systems repaired or serviced as a part of this Contract may, under certain conditions, become conducive to or incidentally support microbiological growth. Brandt assumes no liability for nor warrants its work to protect against, eliminate or inhibit any type of incidental microbiological growth including, but not limited to, molds, fungi and other related matter, in or around duct systems, HVAC and related equipment or areas. Brandt agrees, however, to advise the Customer about the existence of such conditions upon discovery and to take measures to discourage such growth as required and in accordance with the terms of the Contract.
- 10 Limitation of Damages for Breach of Contract. The full extent of Brandt's liability and Customer's exclusive remedy for damages from any breach of this Contract, including, but not limited to, nonperformance or misrepresentation, and regardless of the form of action, shall be limited to the annual Contract fee of the current year.
- 11 Mutual Waiver of Consequential and Punitive Damages. Notwithstanding any other provision to the contrary, Brandt and Customer mutually waive all claims against each other for any and all consequential/special/indirect/incidental and, to the extent allowable by law, all punitive/exemplary damages arising out of or relating to this Contract. This mutual waiver includes, but is not limited to, damages incurred for rental expenses, loss of use, lost revenue or profit, lost opportunity, loss of goodwill, loss of management or employee productivity, cost of capital, and cost of substitute facilities, services or goods regardless of the foreseeability of such damages. If Customer is a property manager or other legal agent or representative of the property owner, Customer represents and warrants that it has the express requisite authority to waive claims for and recovery of such damages on behalf of the property owner as well as for itself.
- 12 Indemnity. To the fullest extent permitted by law, to the PROPORTIONATE extent OF CUSTOMER'S AND Brandt's RESPECTIVE negligence and except as otherwise limited herein, CUSTOMER AND BRANDT agree to indemnify, defend, and hold ONE ANOTHER AND THEIR RESPECTIVE officers, directors, agents, assigns, successors and employees HARMLESS against all claims and damages, losses and expenses (including, but not limited to, REASONABLE attorney's fees) arising out of OR RELATED TO the performance of this contract. NOTWITHSTANDING THE FOREGOING PROVISION, THIS INDEMNITY IS SUBJECT TO THE LIMITATIONS OF LIABILITY IN SECTIONS 8-11 ABOVE.
- 13 Hazardous Materials. If Brandt encounters asbestos, polychlorinated biphenyl (PCB) or other hazardous materials on the Property, Brandt will immediately stop work and report in writing the evidence of such to Customer. Brandt will not resume work in the affected area until the hazardous material has been removed or determined harmless by a qualified laboratory at Customer's expense.
- 14 Dispute Resolution and Governing Law. This Contract shall be interpreted and construed according to the laws of the State of Texas. Any disputes arising out of or related to this Contract will be resolved by agreement through a meeting of executive representatives of each party. If no resolution can be reached, the dispute will be resolved through binding arbitration before an arbitrator experienced in construction law and according to the rules promulgated by the American Arbitration Association. The parties agree that the arbitration will be commenced within sixty (60) days of occurrence of the meeting of executive representatives. This Contract shall be governed by the laws of the State of Texas without regard to conflicts of laws principles.
- 15 Property Manager. If Customer is a property manager or other legal agent or representative of the property owner, Customer represents and warrants that it has the express requisite authority to enter into all of the terms of this Contract including, without limitation, the authority to waive claims for and recovery of consequential (special/indirect/incidental) and punitive damages on behalf of the property owner as well as for itself.
- 16 Entire Agreement. This Contract constitutes the entire agreement and is not assignable by either party without the express written consent of the other party. This Contract may be modified or amended only by written agreement of both parties.

Accepted By Customer: _____ Brandt: _____

CS

**City of Burleson
Addendum to Vendor's Contract
Additional Provisions**

Vendor Name: The Brandt Companies, LLC

Vendor Address: PO Box 227351, Dallas, TX 75222-7351

The City of Burleson, Texas ("City") and the Vendor are this day entering into a contract for and, for the mutual convenience, the parties are using the standard contract and/or purchase order form provided by Vendor (the "Vendor's Contract Form").

This Addendum ("Addendum"), duly executed by the parties, is incorporated into the Vendor's Contract Form and made an integral part thereof. This Addendum and the Vendor's Contract Form shall be referenced to hereafter collectively as the "Agreement".

In the event of a conflict between any provision in this Addendum and any other provision in the Agreement or any other exhibit to the Agreement, the terms provided in this Addendum shall govern and control.

Additional Provisions

1. Limitation of Vendor's Contract Form. The Vendor's Contract Form is, with the exceptions noted herein, generally acceptable to City. Nonetheless, because certain standard clauses that may appear in the Vendor's Contract Form cannot be accepted by City, because of its status as a political subdivision of the State of Texas, and in consideration for the convenience of using provisions in the Vendor's Contract Form instead of negotiating a separate contract document, the parties agree that none of the provisions listed below, if they appear in the Vendor's Contract Form, shall have any effect or be enforceable against City:
 - i. Requiring City to maintain any type of insurance either for City's benefit or for the Vendor's benefit.
 - ii. Renewing or extending the Agreement beyond the contract term or automatically continuing the contract period from term to term.
 - iii. Requiring or stating the terms of the Vendor's Contract Form shall prevail over the terms of this Addendum in the event of conflict.
 - iv. Requiring the application of the law of any state other than Texas in interpreting or enforcing the Agreement, or resolving any dispute under the Agreement. The Agreement and the obligations of the parties shall be construed and enforced in accordance with the laws of the State of Texas.
 - v. Releasing the Vendor or any other entity or person from its legal liability, or limiting liability, for unlawful or negligent conduct or failure to comply with any duty recognized or imposed by applicable law.
 - vi. Requiring any total or partial compensation or payment for lost profit or liquidated damages by City if the Agreement is terminated before the end of the contract term.
 - vii. Changing the time period within which claims can be made or actions can be brought under the laws of the State of Texas.
 - viii. Binding City to any arbitration provision or to the decision of any arbitration board, commission, panel or other entity.

- ix. Obligating City to pay costs of collection or attorneys' fees.
 - x. Requiring City to provide warranties.
 - xi. Obligating City to indemnify, defend or hold harmless any party.
 - xii. Granting a security interest in City's property or placing a lien on City's property.
2. Payment Terms. Payment will be made upon submittal and approval of a valid invoice. City shall make payment in accordance with Chapter 2251 of the Texas Government Code. It is the policy of the City to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice.
3. Applicable Law; Venue. This Agreement is subject to and governed by the laws of the State of Texas. Any disputes arising from or relating to this Agreement shall be resolved in a court of competent jurisdiction located in Johnson County, Texas, or the federal courts for the United States for the Northern District of Texas. The parties hereto irrevocably waive any right to object to the jurisdiction of such courts in any dispute arising from or relating to this Agreement.
4. Tax Exempt Status. As a political subdivision of the State of Texas, City is tax exempt in the State of Texas. Tax exemption certification will be furnished upon request.
5. Termination Due to Lack of Appropriations. If City should not appropriate or otherwise receive funds sufficient to purchase, lease, operate, or maintain the equipment or services set forth in this Agreement, City may unilaterally terminate this Agreement effective on the final day of the fiscal year through which City has funding. City will make every effort to give Vendor at least thirty (30) days written notice prior to a termination for lack of appropriations. In the event of termination due to a lack of appropriations, City will pay Vendor for all undisputed fees and expenses related to the equipment and/or services City has received, or Vendor has incurred or delivered, prior to the effective date of termination.
6. No Waiver of Governmental Immunity. The Vendor expressly acknowledges City is a political subdivision of the State of Texas and nothing in the Agreement will be construed as a waiver or relinquishment by City of its right to claim such exemptions, privileges, and immunities as may be provided by law. Neither the execution of the Agreement by City nor any other conduct, action, or inaction of any representative of City relating to the Agreement constitutes or is intended to constitute a waiver of City's sovereign immunity to suit.
7. Public Information. Vendor acknowledges that City is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. The City's compliance with the Texas Public Information Act shall not violate the Agreement. Upon City's written request, Vendor will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of City. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Agreement and the Vendor agrees that the Agreement can be terminated if the Vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

8. Entire Agreement. This Agreement constitutes the entire agreement between the parties and may not be waived or modified except by a written agreement signed by the parties.
9. Savings Clause. If a court of competent jurisdiction finds any provision of this Agreement illegal, ineffective or beyond contractual authority of either party, then the offending provision will be stricken and the remainder of the agreement between the parties will remain in effect.
10. Conflicts Of Interest. By executing this Agreement, Vendor and each person signing on behalf of Vendor certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of City Council, city manager, deputy city manager, city secretary, department heads, or deputy department heads of the City has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof, in violation of Section 132 of the Home Rule Charter of the City.
11. Anti-Boycotting Provisions. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - i. Pursuant to Section 2271.002 of the Texas Government Code, Vendor certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - ii. Pursuant to SB 13, 87th Texas Legislature, Vendor certifies that either (i) it meets an exemption criterion under SB 13, 87th Texas Legislature; or (ii) it does not boycott energy companies, as defined in Section 1 of SB 13, 87th Texas Legislature, and will not boycott energy companies during the term of the Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
 - iii. Pursuant to SB 19, 87th Texas Legislature, Vendor certifies that either (i) it meets an exemption criterion under SB 19, 87th Texas Legislature; or (ii) it does not discriminate against a firearm entity or firearm trade association, as defined in Section 1 of SB 19, 87th Texas Legislature, and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
12. Vendor Certification Regarding Business With Certain Countries And Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Vendor certifies Vendor (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Vendor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
13. Relationship of the Parties. The parties agree that in performing their responsibilities under this Agreement, they are in the position of independent contractors. This Agreement is not intended to create, does not create, and shall not be construed to create a relationship of employer-employee. Vendor, Vendor's employees, and anyone else working at Vendor's direction is an independent contractor and not an employee or servant of the City. Nothing in this Agreement is intended to or shall be construed in any manner as creating or establishing the relationship of employer-employee between Vendor, Vendor's employees, and anyone else

working at Vendor's direction. Vendor, Vendor's employees, and anyone else working at Vendor's direction shall at all times remain an independent contractor with respect to the service to be performed under this Agreement.

14. Survival. The terms of this Addendum shall survive any closing or termination of the Agreement.
15. No Indemnification by City. The Parties expressly acknowledge that the City's authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the City is invalid. Nothing in this Agreement requires that the City incur debt, assess, or collect funds, or create a sinking fund.
16. Conflict. In the event of a conflict between any provision in this Addendum and any other provision in the Agreement or any other exhibit to the Agreement, the terms provided in this Addendum shall govern and control.
17. Counterparts; PDF Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

IN WITNESS WHEREOF, the parties have caused this Addendum to be duly executed, intending thereby to be legally bound.

City of Burleson, Texas:

By: _____

Printed: _____

Title: _____

Date: _____

For the Vendor:

Charles Steele

Printed: _____

Title: Sales Manager

Date: 12-1-2022

Digitally signed by Charles Steele
DN: cn=Charles Steele, c=US,
o=The Brandt Companies, LLC,
email=Charles.steele@Brandt.us
Date: 2022.12.01 17:20:55 -06'00'

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2022-960541

Date Filed:
12/01/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

The Brandt Companies, LLC
Carrollton, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

The City of Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

The City of Burleson
HVAC controls

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is Charles Steele, and my date of birth is [REDACTED].

My address is 7408 Brownley Place, Plano, TX, 75025, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Collin County, State of Texas, on the 1st day of Dec, 20 22.
(month) (year)

Charles
Steele

DN: cn=Charles Steele, c=US,
Digitally signed by Charles Steele
Date: 2022.12.01 17:35:39 -0600
email=Charles.Steele@Brandt.us

Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Parks and Recreation

FROM: Jen Basham, Director of Parks and Recreation

MEETING: December 12, 2022

SUBJECT:

Consider approval of a contract with Progressive Commercial Aquatics, Inc. through a cooperative purchasing agreement with BuyBoard for the purchase of replacement outdoor pool sand filters for the Burleson Recreation Center in the amount not to exceed \$99,667.50. (*Staff Contact: Jen Basham, Director of Parks and Recreation*)

SUMMARY:

One of the two Outdoor Pool sand filters has a crack and is slowly leaking water. Due to a repair or patch not being a long-term solution and the filter with the crack being the bottom filter, both filters need to be completely replaced to resolve the issue.

This project was approved as a supplemental in the FY 22-23 budget., staff is seeking seeking to correct this issue by replacing both sand filters for the Outdoor Pool. The sand filters take six to eight weeks to produce and the installation would be complete by March 2023.

OPTIONS:

- 1) Approve as presented
- 2) Deny

RECOMMENDATION:

Staff recommendation is approving the purchase of the two sand filters for the Outdoor Pool from Progressive Commercial Aquatics, Inc.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

This supplemental request was approved for FY 22-23.

FISCAL IMPACT:

Budgeted Y/N: Y

Fund Name: Park Performance Fund

Full Account #s: 116-6017-453.41-08

Amount: \$99,667.50

Project (if applicable): SR PPF01 SWIMMING POOL MAINTENANCE & REPAIR OUTDOOR
POOL SAND FILTERS

Financial Consideration

STAFF CONTACT:

Jen Basham

Director of Parks and Recreation

jbasham@burlesontx.com

817-426-9201

Brick Outdoor Pool Sand Filter Replacement

City Council Meeting - December 12, 2022

Staff Presenter: Jen Basham, Director of Park and Recreation



Outdoor Pool Sand Filter Replacement

- ① Background
- ② Funding
- ③ Replacement Details
- ④ Options



Background

One of the two Outdoor Pool sand filters has a crack and is slowly leaking water

The sand filter traps debris to assist with cleaning the water before it enters the pool

Due to a repair or patch not being a long-term solution and the filter with the crack being the bottom filter, both filters need to be completely replaced to resolve the issue





Purchasing

- **The sand filter for the pool is only produced by a few companies**

Staff reviewed private options, and ultimately determined that purchasing the filters through an cooperative purchasing agreement on buyboard with Neptune Benson was the most economical solution



Funding

Funding: \$93,879 allocated for replacement of the Outdoor Pool sand filters in the FY 2023 budget

Funds Needed: \$99,667.50

Additional \$5,788.50 will be absorbed through the operating budget

Replacement Details



New Filters: Neptune Benson Filters

New sand media will replace existing

This project is estimated to be completed by the end of March 2023 causing no disruption to the outdoor pool season

Options

- Approve as presented
- Deny





Progressive Commercial Aquatics, Inc.

2510 Farrell Rd
Houston TX
77073 281-982-0212

Quote

Quote #: QA1853
Date: 9/30/2022
Shipping Method:
Salesperson: Myles
Exp Date: 1/28/2023

Bill To

City of Burleson (BURLES)
filters for lap pool buyboard#613-20
tharrison@burlesontx.com
550 NW Summercrest Blvd
Burleson TX
76028

Ship To

City of Burleson (BURLES)
filters for lap pool buyboard#613-20
tharrison@burlesontx.com
550 NW Summercrest Blvd
Burleson TX
76028 (817)426-9600

Item	Description	Qty	UOM	Unit Price	Tax	Total
NONSTOCK	per notes on notes page	1	EA	\$99,667.50	\$0.00	\$99,667.50

EXMPT \$0.00

Total Weight of Items 0 lbs

Total	\$99,667.50
Tax Total	\$0.00
Grand Total	\$99,667.50

Effective 09/27/2022 a Convenience Fee of 2% will be charged on all credit/debit card transactions
There will be a 25% restocking fee on all returned items.

Thank you for your business



Progressive Commercial Aquatics, Inc.

2510 Farrell Rd
Houston TX
77073 281-982-0212

Quote

Quote #: QA1853
Date: 9/30/2022
Shipping Method:
Salesperson: Myles
Exp Date: 1/28/2023

Bill To

City of Burleson (BURLES)
filters for lap pool buyboard#613-20
tharrison@burlesontx.com
550 NW Summercrest Blvd
Burleson TX
76028

Ship To

City of Burleson (BURLES)
filters for lap pool buyboard#613-20
tharrison@burlesontx.com
550 NW Summercrest Blvd
Burleson TX
76028 (817)426-9600

Item	Description	Qty	UOM	Unit Price	Tax	Total
<p>Inclusions:</p> <ul style="list-style-type: none">-remove (2) filters that are on lap and cracked along with manifold-remove sand from filters-dumpster rental-lifting equipment rental-(2) Neptune benson stacked 42x108 filters with sch 80 3-way manifold-stainless hardware for new manifold-new sand media for filters-freight on equipment-all labor needed to remove and replace along with travel-start up and training on new filter system <p>Exclusions:</p> <ul style="list-style-type: none">-bonds-permits-anything not specifically listed						

EXMPT \$0.00

Total Weight of Items 0 lbs

Total	\$99,667.50
Tax Total	\$0.00
Grand Total	\$99,667.50

Effective 09/27/2022 a Convenience Fee of 2% will be charged on all credit/debit card transactions
There will be a 25% restocking fee on all returned items.

Thank you for your business

SIGNATURE PAGE

Progressive Commercial Aquatics, Inc.

Quote #: QA1853

Filters for lap pool buyboard #: 613-20

CITY OF BURLESON:

By: _____
Bryan Langley, City Manager

Date: _____

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2022-960809

Date Filed:
12/02/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Progressive Commercial Aquatics
Houston, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

Sand Filters
Sand Filters Outdoor Pool at the Burleson Recreation Center

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.




6 UNSWORN DECLARATION

My name is Russell Leto, and my date of birth is [REDACTED].

My address is 2510 Farrell Rd, Houston, TX, 77073, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 2nd day of Dec, 2022.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Legal Department
FROM: Justin Scharnhorst, Assistant to the City Manager
MEETING: December 12, 2022

SUBJECT:

Consider approval of a contract with Focused Advocacy for legislative consulting services in the amount not to exceed \$54,199.92.

SUMMARY:

City Council approved a 12-month agreement with Focused Advocacy for legislative consulting services on December 14, 2020. The contract contains renewal options that enable the City to extend services in one-year increments based on council approval.

Per the terms of the agreement, Focused Advocacy will assist the City in representing the City's interests before the Texas Legislature, provide general guidance regarding the City's legislative program, work to defeat legislation detrimental to the City, and monitor legislation on the City's behalf, among other legislative consulting activities.

Since December 14, 2020, the City has spent \$80,674.88 with Focused Advocacy.

OPTIONS:

- 1) Example: Approve as presented
- 2) Example: Approve with changes
- 3) Example: Deny

RECOMMENDATION:

Approve a contract with Focused Advocacy for legislative consulting services in the amount not to exceed \$54,199.92.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

FISCAL IMPACT:

General Fund
001-1016-414-30-02
\$54,199.92

STAFF CONTACT:

Name: Justin Scharnhorst
Title: Assistant to the City Manager
jscharnhorst@burlesontx.com
817-426-9646



Focused Advocacy – Legislative Consulting Services

PRESENTED TO THE CITY COUNCIL ON
DECEMBER 12, 2022

Background

- City Council approved a 12-month agreement with Focused Advocacy for legislative consulting services on December 14, 2020.
- The contract contains an option to renew the for an additional 12-month period.

Deliverables in the past 12 months

- Focused Advocacy met with staff bi-weekly to update on legislative happenings in the Texas Legislature.
- Assisted in prepping city of Burleson staff before testifying before the legislature.
- Facilitated meetings with key legislatures on behalf of the city.
- Supplied weekly emails to staff that included bill progressions.
- Provided detailed timeline and updates of city-related bills in an interactive database.

Proposed Services

- Represent the City of Burleson's interests before the Texas Legislature
- Monitor legislation on city's behalf
- Provide general guidance regarding city's legislative program
- Other legislative consulting services

Options

- Approve a contract with Focused Advocacy for legislative consulting services in the amount not to exceed \$54,199.92.
- Deny a contract with Focused Advocacy for legislative consulting services in the amount not to exceed \$54,199.92

Questions Comments

Justin Scharnhorst
Assistant to the City Manager
jscharnhorst@burlesontx.com



Contract
Limited Legislative Consulting Services
City of Burleson & Focused Advocacy

This contract (hereinafter the "Agreement") represents an agreement between **Focused Advocacy, LLC**, ("the Consultant") as located at 816 Congress Avenue, Suite 370, Austin, Texas 78701 and the **City of Burleson** ("the City") as located at 141 W. Renfro Street Burleson, TX 76028-4296.

1. **Term.** The term of this Agreement shall be for 12 months from **January 1, 2021 thru December 31, 2021.**
2. **Renewal.** At the mutual agreement of both parties and as evidenced by a written memorandum, this Agreement may be renewed for two (2) additional 12-month periods.
3. **Limited Scope of Services.** The scope of services to be provided by the Consultant during the term of this Agreement is expressly limited to the following:
 - a. Represent the City's general interests before the Texas legislature as guided by the City's publicly adopted legislative positions and agenda;
 - b. Provide general guidance and assistance to the City to develop a legislative agenda that advances the health, safety, and welfare of the City's citizens;
 - c. Work to defeat legislation the City deems detrimental to the public health, safety, or welfare of its citizens;
 - d. Provide the City staff and Council with timely updates regarding the status of pending legislation;
 - e. Utilize proprietary software to help the City monitor the progress of legislation that affects the City;
 - f. Advise and inform the City of upcoming legislative committee hearings (both during the legislative session and the interim);
 - g. Assist with the preparation and drafting of legislation and amendments;
 - h. Assist with the development and drafting of letters, speeches and other advocacy materials;



- i. Assist with the preparation of City officials who testify before legislative bodies;
- j. Attend and monitor on the City's behalf legislative hearings, agency hearings, stakeholder meetings, TML meetings, and interim legislative committee hearings; and
- k. As directed, represent the City's interests before the regulatory bodies of Texas and various state agencies of the Texas executive branch by informing the City of key state agency hearings and developments at the Texas Comptroller of Public Accounts, Department of Transportation, Public Utility Commission, General Land Office, Railroad Commission, Water Development Board, Commission on Environmental Quality, and the Department of Housing and Community Affairs.

4. Expansion of Scope of Services.

- a. This Agreement is expressly limited to the scope of services detailed herein.
- b. The scope of services in this Agreement does not include services related to efforts to pass legislation or impact rulemaking at state regulatory agencies.
- c. Any additional services requested by the City will necessitate an amendment to this Agreement with new terms and a new retainer compensation arrangement as outlined below.

5. Retainer Compensation & Billing.

- a. In consideration for the performance of the services outlined in this Agreement, the City agrees to pay the Consultant four-thousand one-hundred and sixty-six dollars and sixty-six cents (\$4,166.66) per-month.
- b. Monthly invoices will be sent on or around the first day of each month and payable by the 15th day of each month.
- c. Payment shall either be deposited directly to the bank account provided by the Consultant or otherwise mailed to Focused Advocacy at 816 Congress Avenue, Suite 370, Austin, Texas 78701.



- d. Should the City require services of Consultant to assist with the passage of legislative initiatives as adopted by the City Council and develop strategies and generally work to gain support to pass a City legislative initiative, the City agrees to pay Consultants \$8,333.33 per-month for a 12 months period.

6. Reimbursement of Expenses.

- a. The City agrees to and shall reimburse Consultant three hundred and fifty dollar (\$350) per month for the meals and related out-of-pocket expenses incurred by the Consultant associated with the client-related business meetings hosted by the Consultant in furtherance of the duties and services required by this Agreement.
- b. This is a fixed-amount, monthly reimbursement and will not be accompanied by receipts.
- c. The City agrees to reimburse the Consultant for these expenses at the same time it pays the monthly retainer.
- d. In addition, the City will reimburse The Consultant for any reasonable and customary expenses related to any travel requested of the Consultant by the City (i.e. - airfare, mileage, rental cars, taxis, hotels, travel-related meals).

7. Termination.

- a. Any termination of this Agreement by the City requires ninety-days (90) written notice effective from the date written notice is delivered to the Consultant. The City is responsible for payment of the retainer through the end of the termination period and the Consultant shall be fully compensated by the City through any early termination date regardless of the appropriation of funds by the City.
- b. The City may terminate the contract with thirty days (30) written notice if termination is caused by a conflict of interest as governed by Chapter 305, Government Code regarding legislation that cannot be resolved between the City and another client of the Consultant regarding a specific piece of legislation.

- 8. Points of Contact.** Unless directed otherwise, the City Manager shall act as the point of contact for the City and Brandon Aghamalian, Snapper Carr, Curtis Seidlits and



Andrew Keefer shall act as the point of contact for the Consultant. The Consultant will take its direction and work orders from the City Manager.

9. **Compliance with Texas Ethics Laws.** The Consultant agrees to comply with all applicable state lobby registration and reporting laws and with all applicable state authorities including the Texas Ethics Commission.

10. Conflicts of Interest.

- a. Should any other client of the Consultant take a position on a piece of legislation that is in opposition to the position of the City or should the Consultant believe that its representation of the City is materially affected by the position taken by another client, the Consultant will comply with all applicable state laws regarding conflicts of interest and will notify in writing the City within two (2) business days from the date the Consultant became aware of the conflict.
- b. The Consultant must obtain written permission from the City to continue its representation.
- c. If the conflict is between the City and any other client of the Consultant that is private sector organization, the Consultant agrees to resolve the conflict in favor of the City.

11. **Consultant Relationship.** It is understood by the parties that the Consultant is an independent contractor for the purposes of any federal and/or state laws including tax laws, and that Consultant is not in any way an employee, full or part-time of Client.

12. Confidentiality.

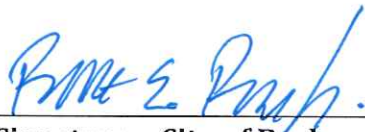
- a. If a party provides information or materials indicated to be confidential, the receiving party will maintain the confidentiality of such matters and not disclose any such information except in proper performance of this Agreement and as required by law.
- b. It is understood by The Consultant that the materials produced and provided under this Agreement are the property of the City and shall be returned to them upon request.



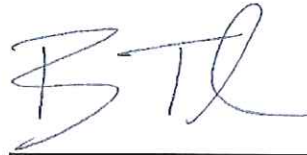
13. Entire Agreement and Modifications.

- a. This Agreement contains the entire agreement and understandings of the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements or understandings, whether oral or written.
- b. This Agreement may not be modified, rescinded or terminated orally, and no modification, rescission, termination or attempted waiver of any provision hereof (including this section) shall be valid unless in writing and signed by both parties.

This contract is accepted and effective as of **January 1, 2021** as evidenced by the execution hereof and the signatures of the undersigned.



Signature – City of Burleson



Signature – Focused Advocacy

Robert Ranc - Deputy City Manager

Printed name & title

Brandon Aghamalian, President

Printed name & title

12-14-2020

Date

December 11, 2020

Date



November 8, 2022

Mr. Bryan Langley
City Manager, City of Burleson
141 W Renfro Street
Burleson, TX 76028-4296

Delivered via email

Dear Mr. Langley:

The City and Focused Advocacy executed an agreement for legislative and advocacy consulting services effective **January 1, 2021** (hereinafter "the contract"). The renewal extension for the contract expires **on December 31, 2022**. We would like to execute the final mutual extension contained in the original agreement in preparation for the 88th Texas Legislative Session.

The contract contains an option to renew the agreement as restated in full here: "**At the mutual agreement of both parties, this contract may be renewed for two (2) additional 12-month periods.**"

Please accept this letter as the agreement to renew the original contract under the same terms for the period **January 1, 2023 to December 31, 2023**.

If this renewal is agreeable, please sign below. After executing, please email a scanned copy of the signed letter to snapper@focusedadvocacy.com and mail an original to:

Focused Advocacy
816 Congress Avenue
Suite 370
Austin, Texas 78701

We look forward to continuing our relationship with the City by providing our services. We appreciate your continued faith in our firm.

Respectfully,

A handwritten signature in blue ink, appearing to read "Snapper L. Carr", written over a horizontal line.

Snapper L. Carr
Partner & General Counsel
Focused Advocacy, LLC

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Focused Advocacy, LLC
Austin, TX United States

Certificate Number:
2022-958720

Date Filed:
11/28/2022

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson

Date Acknowledged:

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

FA2022
Legislative & Regulatory Consulting Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Aghamalian, Brandon	Austin, TX United States	X	
	Carr, Snapper	Austin, TX United States	X	
	Seidlits, Curtis	Austin, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is SNAPPER CARR, and my date of birth is [REDACTED]

My address is 816 Congress AVE #370, Austin, Tx, 78701, USA
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in TRAVIS County, State of TEXAS, on the 28 day of NOV, 20 22
(month) (year)

Snapper Carr
Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Development Services

FROM: Tony McIlwain, Director of Development Services

MEETING: December 12, 2022

SUBJECT:

2220 W FM 917 (Case 22-125): Hold a public hearing and consider approval of an ordinance for a zoning change request from “A”, Agricultural to “GR”, General Retail for a 13.20 acre site. *(First and Final Reading) (Staff Presenter, Tony McIlwain, Director of Development Services) (The Planning and Zoning Commission motion for approval passed 7-0).*

SUMMARY:

On September 6, 2022, an application was submitted by John Hill (applicant/owner), to rezone approximately 13.20 acres from “A”, Agricultural to “GR”, General Retail to allow for future development of the subject site. If approved, the owner has preliminarily discussed developing the site to contain a mix of uses including a gas station, retail, and medical and professional offices. All of the aforementioned uses are allowed by right in the GR, General Retail zoning district. At this time, no tenants have been definitely determined. A draft ordinance for this zoning change request is included in this packet.

Planning Analysis

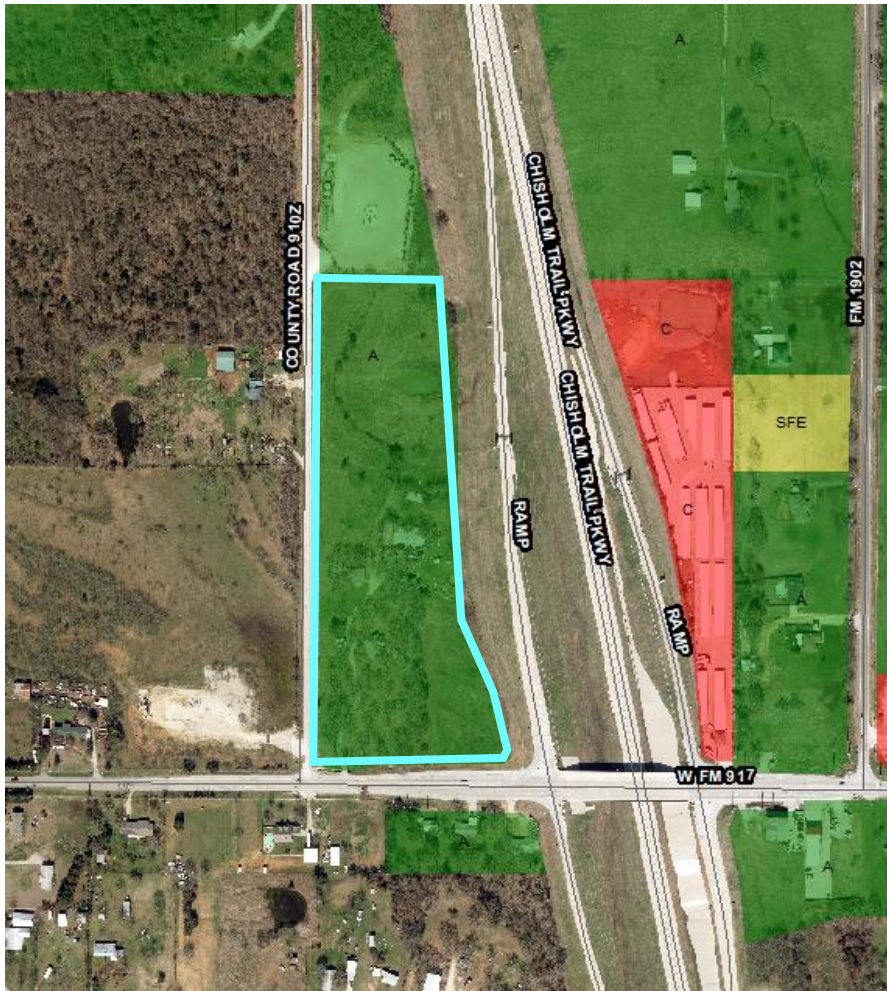
The City’s Imagine Burleson 2030 Midpoint Update Comprehensive Plan designates this site as **Chisholm Trail Corridor** that provides the following description:

“Land uses along the Chisholm Trail Corridor should be primarily nonresidential, with the primary use being large-scale professional campuses, such as office parks or medical centers. Complementary large-scale retail will also be appropriate. This area is envisioned to develop in a coordinated manner, with both vehicular and pedestrian connectivity in mind. Development should emphasize quality building and site design and robust landscaping, reflecting a positive image of Burleson to those traveling along the corridor.

Much of this land is currently vacant or occupied by low-density residential development. As areas along the corridor begin to develop, compatibility measures will be important to prevent land use conflicts between the new development and adjacent residential developments. Examples of such measure include limited building heights, enhanced landscaping, additional setbacks, and access management controls.”

Per the Chisholm Trail Corridor description, the vision of future development along the corridor should consist of large scale retail, offices and professional campuses. The Comp Plan also expressly mentions the General Retail zoning district as a corresponding district to the Chisholm Trail Corridor. Considering this, the subject request is in conformance with the Comprehensive

Plan and vision of the surrounding area. If the zoning request is approved and a site plan is submitted, all utility requirements and architectural standards will be evaluated during commercial site plan processes.



	Zoning	Use
Subject Site	A, Agricultural	Unoccupied Residential
North	A, Agricultural	Gas Well
East	C, Commercial	Developed, Commercial
South	A, Agricultural / ETJ	Developed, Residential
West	ETJ	Developed, Residential (DA)

OPTIONS:

- 1) Approve the zoning change request; or
- 2) Deny the zoning change request.

RECOMMENDATION:

Staff recommends approval of a zoning change request from “A”, Agricultural to “GR”, General Retail for 2220 W FM 917 (Case 22-125)

Per the Chisholm Trail Corridor description, the vision of future development along the corridor should consist of large scale retail, offices and professional campuses. The Comp Plan also expressly mentions the General Retail zoning district as a corresponding district to the Chisolm Trail Corridor. Considering this, the subject request is in conformance with the Comprehensive Plan and vision of the surrounding area.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

November 15, 2022: Planning and Zoning Commission motion to approve the rezone to GR, General Retail was approved by a vote of 7-0.

PUBLIC NOTIFICATION:

Notice was mailed to surrounding property owners within 300 feet of the acreage proposed for this zone change and published in the newspaper in accordance with City ordinances and State law. In addition, a sign was placed on the subject property.

At this time staff has not received any formal opposition regarding this case.

Fiscal IMPACT:

None

STAFF CONTACT:

Tony McIlwain
Director of Development Services
tmcilwain@burlesontx.com
817-426-9684

2220 W FM 917 ZC

Location:

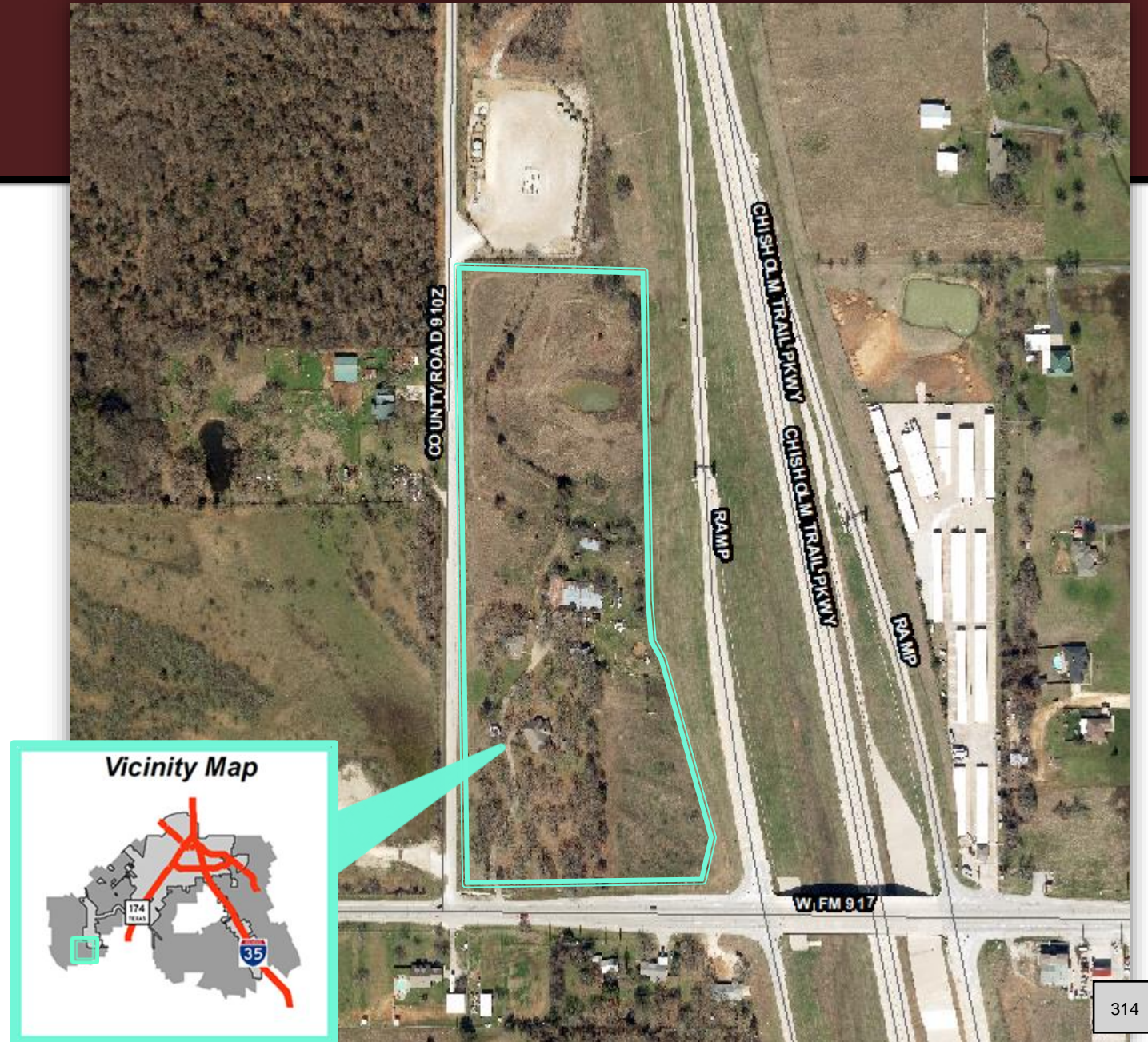
- 13.20 acres
- 2220 W FM 917

Applicant/Owner:

John Hill

Item for approval:

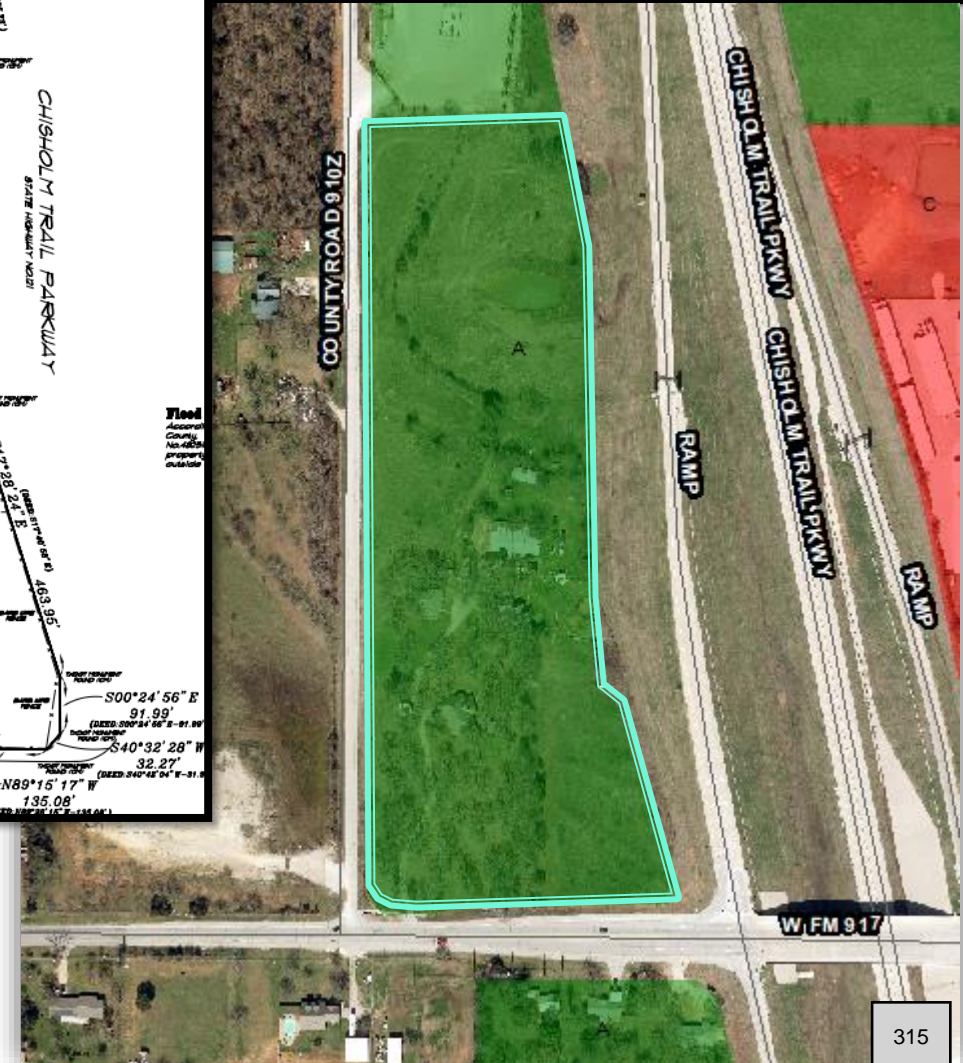
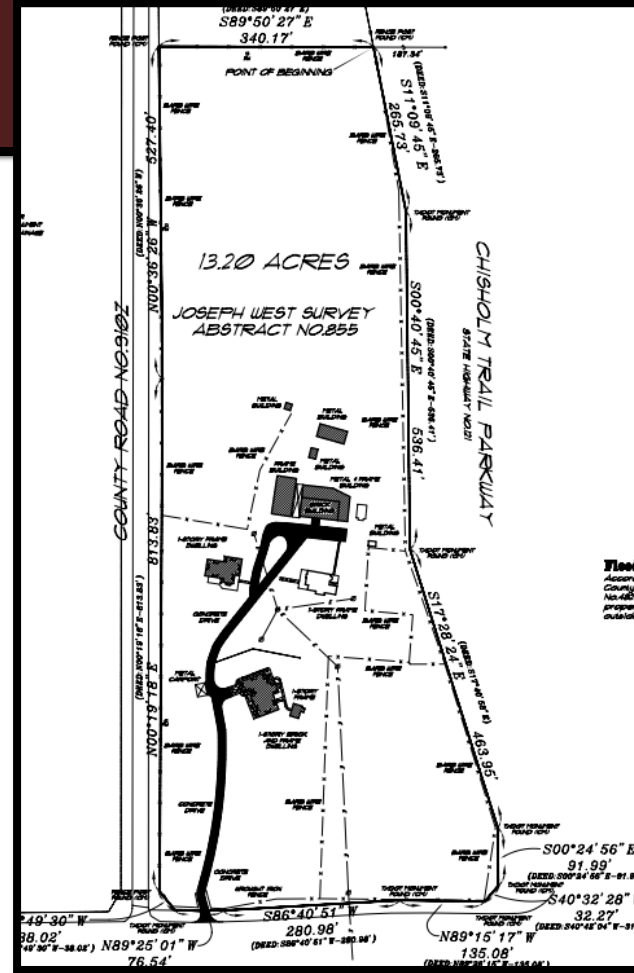
Zoning Change (Case 22-125)



2220 W FM 917 ZC

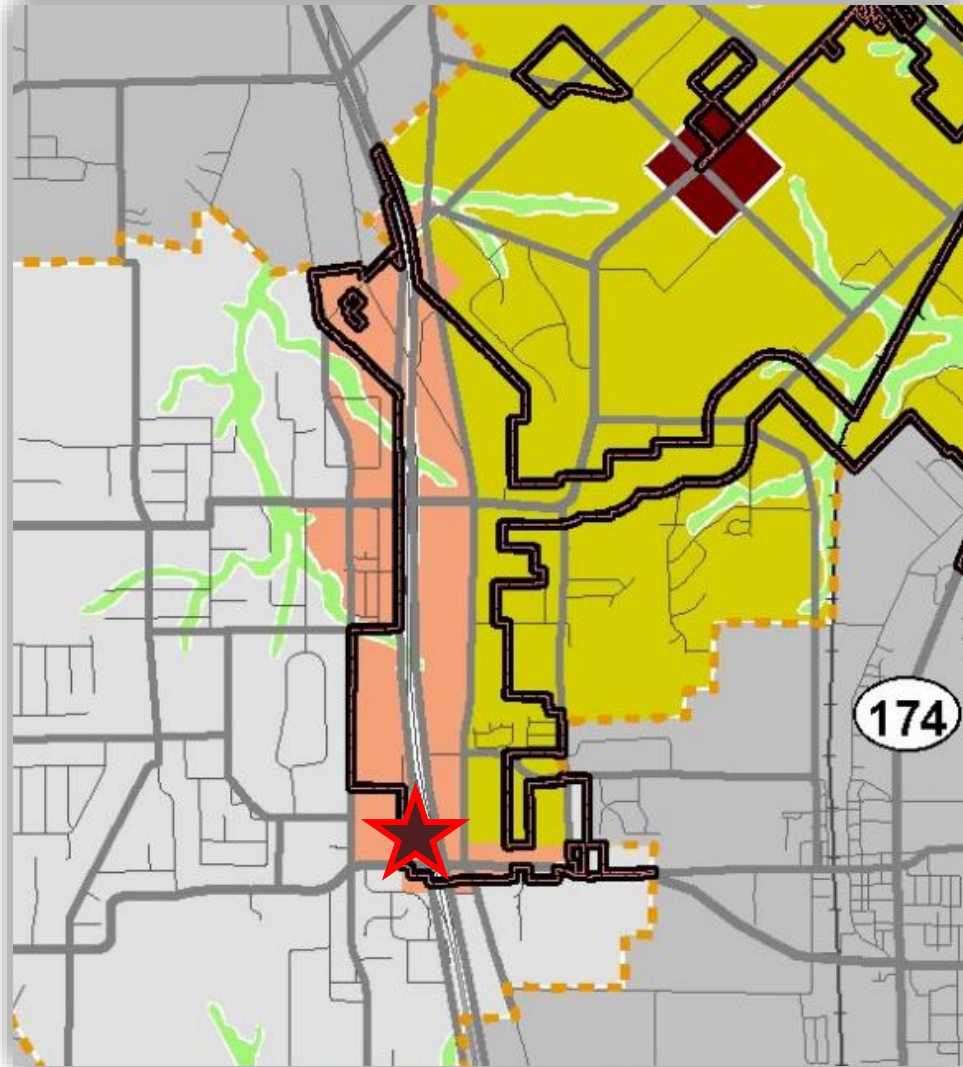
Zoning Information

- Current zoning is Agricultural
 - Contains three unoccupied residential structures on site.
 - Applicant is requesting a zone change to GR, General Retail.
 - If approved, the owner has preliminarily discussed developing the site to contain a mix of uses including:
 - Gas station/Convenience store
 - Retail
 - Medical & Professional Offices



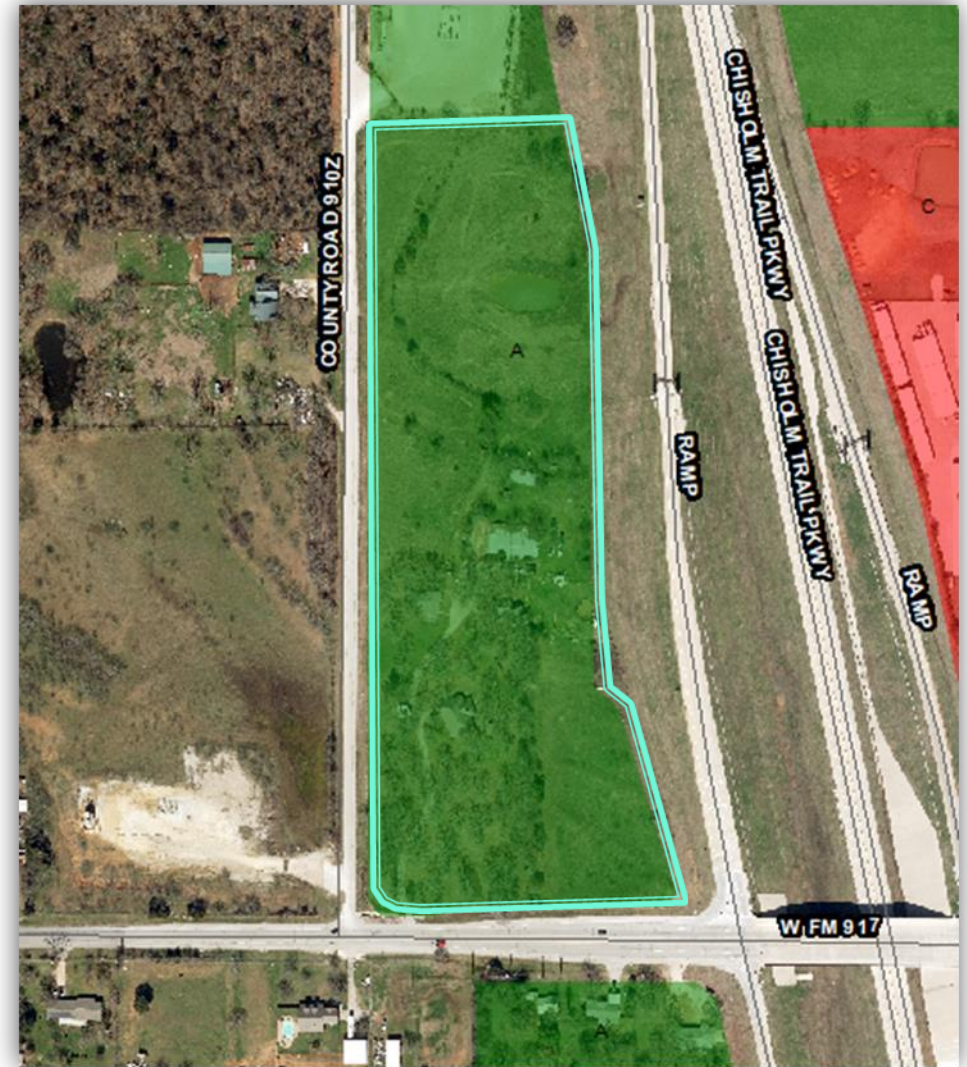
Comprehensive Plan

Chisholm Trail Corridor



Current Zoning

Agricultural

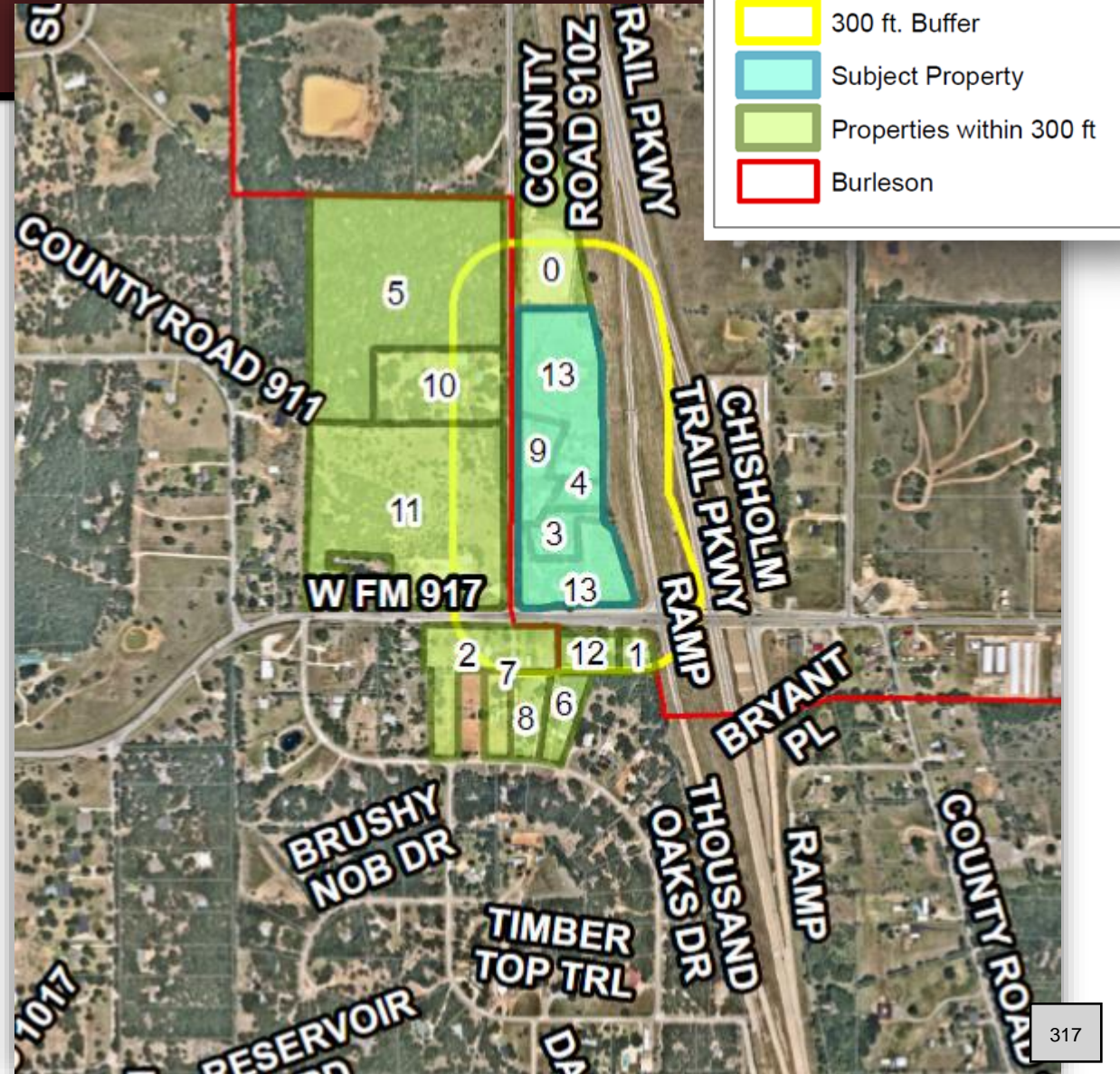


2220 W FM 917 ZC

Public Hearing Notice

- Public notices mailed to property owners within 300 feet of subject property.
- Published in newspaper.
- Sign posted on the property.

Staff has received no inquiries concerning this request.



2220 W FM 917 ZC

P&Z Summary

Vote

Motion to approve the zoning request to GR, General Retail was approved by a vote of 7-0

Discussion

No discussion was held

Speakers

None

2220 W FM 917 ZC

Staff's Recommendation

Staff recommends approval of a zoning change request from "A", Agricultural to "GR", General Retail for 2220 W FM 917 (Case 22-125)

- Staff supports the zoning change as the proposed zoning will conform to the Comprehensive Plan by permitting retail, offices and professional campuses as the Chisolm Trail Corridor envisions.



ORDINANCE

AN ORDINANCE AMENDING ORDINANCE B-582, THE ZONING ORDINANCE OF THE CITY OF BURLESON, TEXAS, BY AMENDING THE OFFICIAL ZONING MAP AND CHANGING THE ZONING ON APPROXIMATELY 13.20 ACRES OF LAND, ADDRESSED AS 2220 W FM 917, AND BEING SITUATED IN THE JOSEPH WEST SURVEY, ABSTRACT NO. 855, JOHNSON COUNTY, TEXAS, FROM A, AGRICULTURAL TO GR, GENERAL RETAIL, MAKING THIS ORDINANCE CUMULATIVE OF PRIOR ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A PENALTY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, an application for a zoning change was filed by John Hill, Applicant, on September 6, 2022, under Case Number 22-125; and

WHEREAS, the City of Burleson has complied with the notification requirements of the Texas Local Government Code and the Burleson Zoning Ordinance; and

WHEREAS, the City Council and Planning and Zoning Commission have held a public hearing and the Planning and Zoning Commission has made a recommendation on the proposed zoning amendment; and

WHEREAS, the City Council has determined that the proposed zoning ordinance amendment is in the best interest of the City of Burleson; and

WHEREAS, the City Council may consider and approve certain ordinances or ordinance amendments at only one meeting in accordance with Section 2-4 of the Code of Ordinances of the City of Burleson; and

WHEREAS, the City Council finds that this ordinance may be considered and approved in only one meeting because the provisions of this ordinance concern an individual zoning case that does not propose a change to the language to the Code of Ordinances of the City of Burleson.

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

Section 1.

The Official Zoning Map is hereby amended insofar as it relates to certain land described as 13.20 acres of land, addressed as 2220 W FM 917, and being situated in the Joseph West survey, Abstract No. 855, Johnson County, Texas, more particularly described in Exhibit "A" and illustrated in Exhibit "B", all exhibits being attached hereto and incorporated herein by reference for all

purposes, by changing the zoning of said property from Agricultural (A) to General Retail zoning district (GR).

Section 2.

The findings and recitals set forth above in the preamble of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

Section 3.

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 4.

This ordinance shall be cumulative of all provisions of ordinances of the City of Burleson, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed. To the extent that the provisions of the City of Burleson's various development ordinances conflict with this ordinance, the terms of this ordinance shall control.

Section 5.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the city council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

Section 6.

An offense committed before the effective date of this ordinance is governed by the prior law and the provisions of the Code of Ordinances, as amended, in effect when the offense was committed and the former law is continued in effect for that purpose.

Section 7.

Any person, firm, association of persons, company, corporation, or their agents, its servants, or employees violating or failing to comply with any of the provisions of this article shall be fined, upon conviction, not less than one dollar (\$1.00) nor more than two thousand dollars (\$2,000.00), and each day any violation of noncompliance continues shall constitute a separate and distinct offense. The penalty provided herein shall be cumulative of other remedies provided by State Law, and the power of injunction as provided in Texas Local Government Code 54.012 and as may be

amended, may be exercised in enforcing this article whether or not there has been a complaint filed.

Section 8.

This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

PASSED AND APPROVED:

First and Final Reading: the _____ day of _____, 20_____.

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM & LEGALITY:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

Exhibit A- Legal Description

Survey Showing 13.20 Acre Tract Joseph West Survey, Abstract No.855 Johnson County, Texas

Legal Description 13.20 Acre Tract

Being a tract or parcel of land situated in the Joseph West Survey, Abstract No.855, Johnson County, Texas, and being part of a tract conveyed to K. Kennedy by deed recorded in Volume 1684, Page 615, Deed Records, Johnson County, Texas, all of a 1.62 acre tract conveyed to D. Herren by deed recorded in Volume 3555, Page 127, Deed Records, Johnson County, Texas, all of a 2.0 acre tract conveyed to D. Gleckler by deed recorded in Volume 3561, Page 988, Deed Records, Johnson County, Texas and all a tract conveyed to D. Gleckler by deed recorded in Volume 1770, Page 508, Deed Records, Johnson County, Texas and being more particularly described as follows:

Beginning at a fence post found for corner in the west line of Chisholm Trail Parkway (State Highway No.121), being North 89°50'27" West, 187.34 feet from the northeast corner of said Kennedy tract and in the south line of a tract conveyed to J. Ross by deed recorded in Volume 1941, Page 226, Deed Records, Johnson County, Texas;

Thence South 11°09'45" East with the west line of said Chisholm Trail Parkway a distance of 265.73 feet to a txdot monument found for corner in the west line of said Chisholm Trail Parkway, being a angle point of this tract;

Thence South 00°40'45" East with the west line of said Chisholm Trail Parkway a distance of 536.41 feet to a txdot monument found for corner in the west line of said Chisholm Trail Parkway, being a angle point of this tract;

Thence South 11°09'45" East with the west line of said Chisholm Trail Parkway a distance of 265.73 feet to a txdot monument found for corner in the west line of said Chisholm Trail Parkway, being a angle point of this tract;

Thence South 17°28'24" East with the west line of said Chisholm Trail Parkway a distance of 463.95 feet to a txdot monument found for corner in the west line of said Chisholm Trail Parkway, being a angle point of this tract;

Thence South 00°24'56" East with the west line of said Chisholm Trail Parkway a distance of 91.99 feet to a txdot monument found for corner in the west line of said Chisholm Trail Parkway, being a angle point of this tract;

Thence South 40°32'28" West with the west line of said Chisholm Trail Parkway a distance of 32.27 feet to a txdot monument found for corner at the intersection of the the west line of said Chisholm Trail Parkway with the north line of Farm to Market Highway No.917, being a angle point of this tract and the southeast corner;

Thence North 89°15'17" West with the north line of said Farm to Market Highway No.917 a distance of 135.08 to a txdot monument found for corner in the north line of Farm to Market Highway No.917, being a angle point of this tract;

Thence South 86°40'51" West with the north line of said Farm to Market Highway No.917 a distance of 280.98 to a txdot monument found for corner in the north line of Farm to Market Highway No.917, being a angle point of this tract;

Thence North 89°25'01" West with the north line of said Farm to Market Highway No.917 a distance of 76.54 to a txdot monument found for corner in the north line of Farm to Market Highway No.917, being a angle point of this tract;

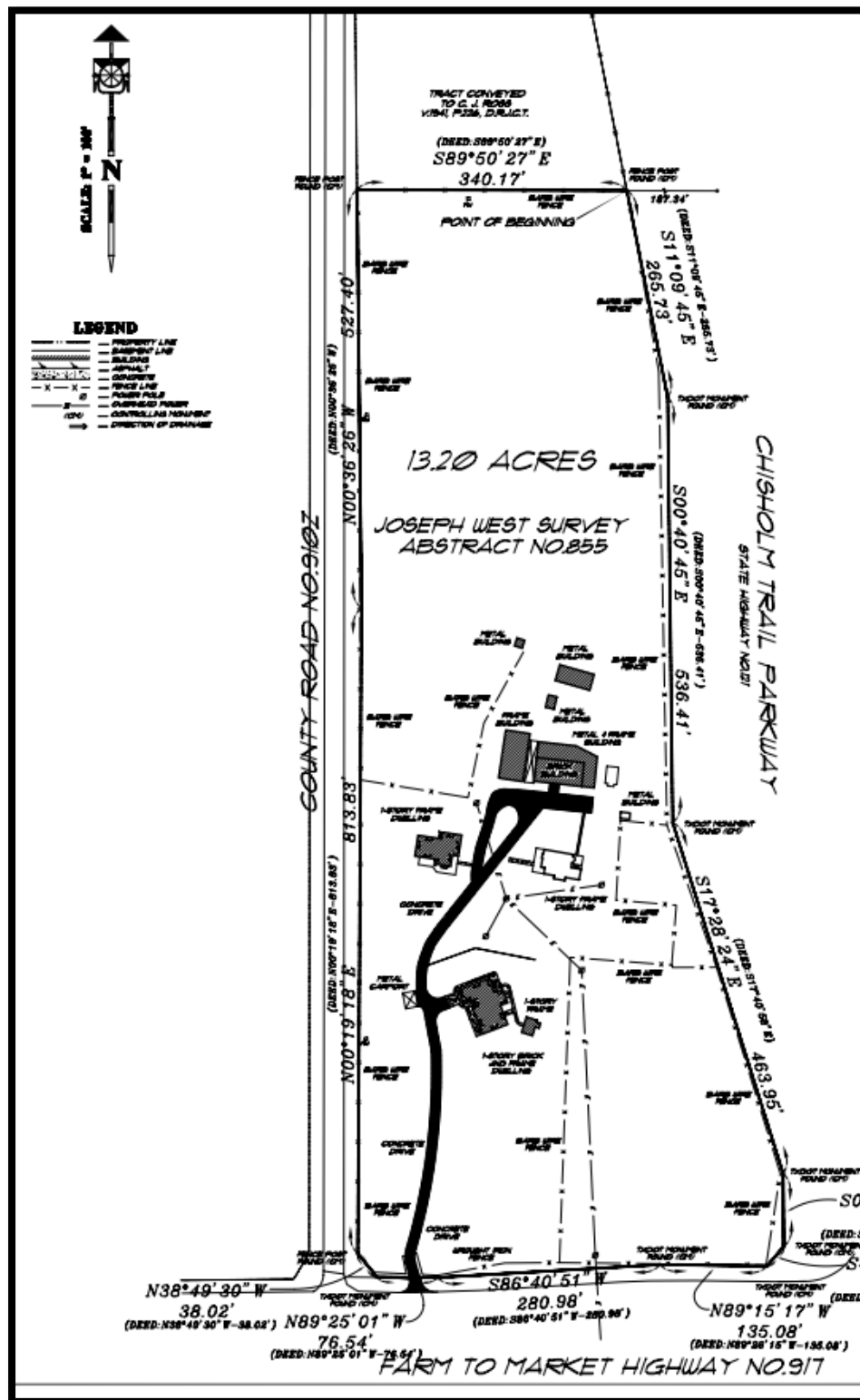
Thence North 38°49'30" West with the northeast line of said Farm to Market Highway No.917 a distance of 38.02 to a fence post found for corner at the intersection of the north line of Farm to Market Highway No.917 with the east line of County Road No.910Z, being a angle point of this tract and the southwest corner;

Thence North 00°19'18" East with the east line of said County Road No.910Z a distance of 813.83 to a fence post found for corner in the east line of said County Road No.910Z, being a angle point of this tract;

Thence North 00°36'26" West with the east line of said County Road No.910Z a distance of 527.40 to a fence post found for corner in the east line of said County Road No.910Z and the south line of said Ross tract, being a the northwest corner of this tract;

Thence South 89°50'27" East with the common line between said Ross tract and said Kennedy tract a distance of 340.17 feet to the **POINT OF BEGINNING** and containing 13.20 acres of land, more or less as surveyed on the ground on August 31, 2021 by Tucker Surveyors.

Exhibit B



City Council Regular Meeting

DEPARTMENT: Fire Department

FROM: K.T. Freeman, Fire Chief

MEETING: December 12, 2022

SUBJECT:

Consider approval of a five-year Professional Services Agreement with Emergicon, LLC. for Automated Ambulance Billing Services to be provided to the City for a fee not to exceed 6.5% of all net revenues collected. (*Staff Presenter: K.T. Freeman, Fire Chief*)

SUMMARY:

The purpose of this memo is to provide Council an overview of the proposed five- year Professional Services Agreement with Emergicon LLC. Furthermore, the proposed agreement also includes compensating Emergicon six and a half percent (6.5%) of all net revenues collected by Emergicon on behalf of the City. Based on previous data that has been presented and discussed with Council by both staff and Fitch & Associates an estimated revenue projection of approximately \$1,650,000. annually is anticipated for net collections. Based on the estimated amount of (\$1,650,000.) net collections for Ambulance Billing Services the estimated *annual* payment from the City to Emergicon would be approximately \$107,250 based on paying the contractual fee of six and a half percent (6.5% on all net revenues collected). Additionally, an estimated payment to Emergicon over the Five (5) year contract period is projected to be approximately \$536,250. During the meeting staff will present to Council an overview of the RPF process, final ranking of vendors, key components of the Emergicon proposal, and future policy discussions/considerations. Emergicon representatives will be in attendance for the meeting and will be available to Council to answer questions.

OPTIONS:

- 1) Approve Professional Services Agreement as presented
- 2) Approve agreement with changes
- 3) Deny approval

RECOMMENDATION:

Approve a five-year Professional Services Agreement with Emergicon, LLC. for Automated Ambulance Billing Services to be provided to the City for a fee not to exceed 6.5% of all net revenues collected. (*Staff Presenter: K.T. Freeman, Fire Chief*)

PRIOR ACTION/INPUT (Council, Boards, Citizens):

N/A

FISCAL IMPACT:

\$536,250

STAFF CONTACT:

K.T. Freeman
Fire Chief
ktfreeman@burlesontx.com
817-426-9171



EMS Billing Discussion Recommendation

CITY COUNCIL PRESENTATION

DECEMBER 12 , 2022

Objectives

- Review of Ambulance Billing RFP Process
- Vendor Qualifications/Evaluations
- Emergicon Qualifications
- Proposed Scope of Services Agreement for Ambulance Billing
- Future discussions and Council action

Key Dates

May 13, 2022: Process opened to receive proposals

June 16, 2022: Deadline to submit questions

June 30, 2022: Deadline for submissions

July 19, 2022: Deadline to evaluate submissions



Review Process



Selected team internal & external stakeholders



Proposals individually reviewed



Final group discussion & evaluations



Recommendation to Council for consideration to award contract

K.T. Freeman
Burleson Fire/EMS

Casey Davis
Burleson Fire/EMS

Martin Avila
Director Finance

Paul Bradley
Director Public
Safety
Communications

Sarrissa Elder
Arlington
Fire/Rescue EMS
Administrator

Hugo Rodriguez
Assistant Director
Information
Technology

RFP Review Team

Evaluation Criteria

Vendor Qualifications: 25 pts

Price & Level of Service: 25 pts

Experience: 20 pts

Reputation: 20 pts

Responsiveness: 10 pts

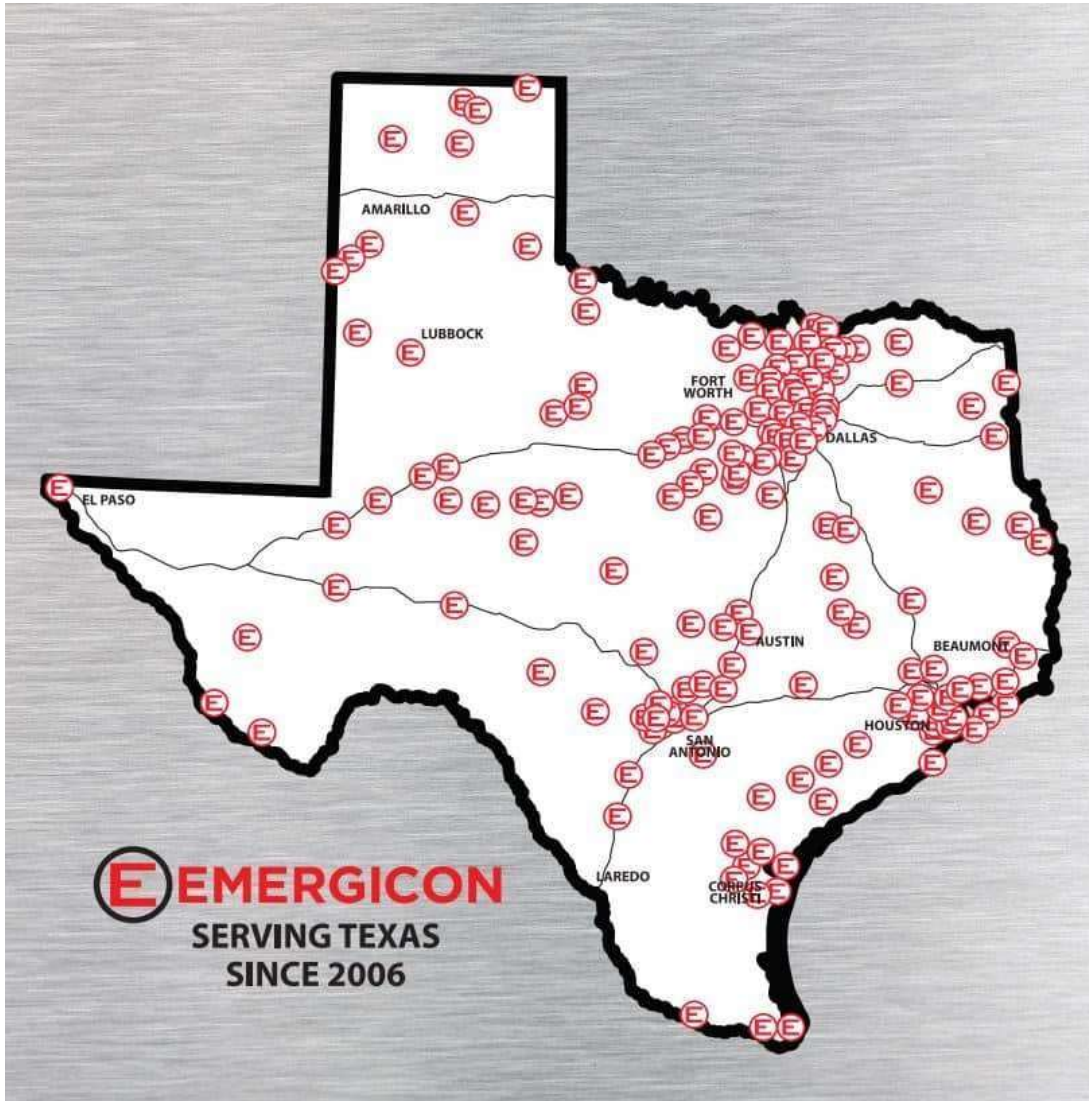


Supplier	Total	Vendor Qualifications	Price & Level of Service	Experience	Reputation	Responsiveness
	100 pts	/ 25 pts	/ 25 pts	/ 20 pts	/ 20 pts	/ 10 pts
EMERGICON LLC	95.33	24.5	21.33	19.83	19.67	10
Change Healthcare	89.67	21	20.33	19.83	18.83	9.677
Life Line Billing Systems, LLC d/b/a LifeQuest Services	76.5	19.83	19.67	14	15.33	7.667
Quick Med Claims, LLC	75.83	19.5	18.83	14.5	15.17	7.833
Captivate Billing	68.83	18.33	19.17	11.17	12.67	7.5
ImageTrend, Inc.	62.83	17.33	13.83	9.667	14.5	7.5
Griffin RCM LLC	20.33	5.5	4.167	4.167	5	1.5

Evaluation Results

Emergicon Qualifications

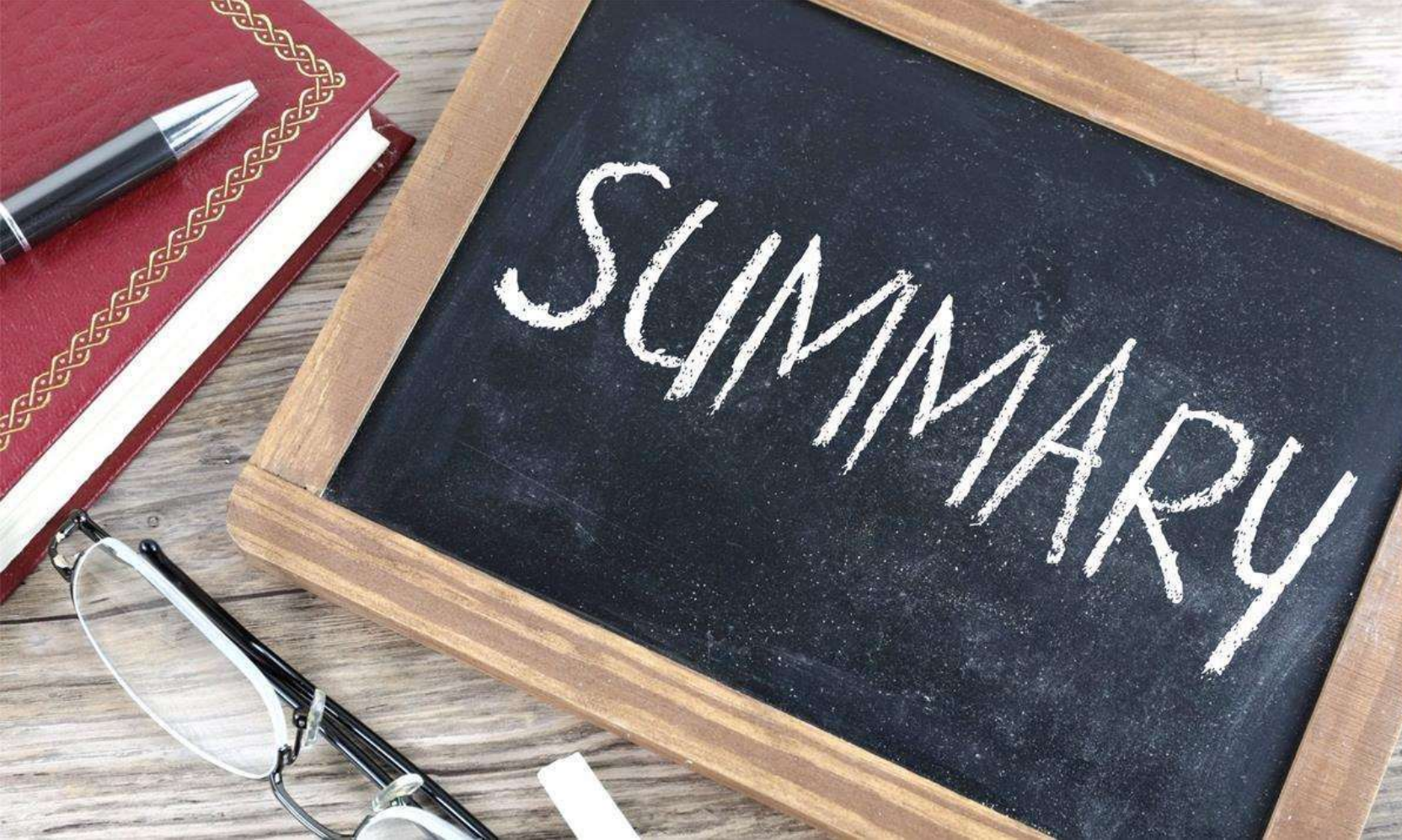
- ✓ Dallas-based & only serve Texas EMS providers
- ✓ Largest EMS billing and collections provider in the State of Texas
- ✓ Serve more than 170 Texas EMS providers
- ✓ Provides local fire based EMS billing services for Mansfield, Crowley, Grapevine, Coppell, Midlothian, Cleburne, Addison, Carrollton
- ✓ Annual collections of approximately \$100 million
- ✓ Handle all aspects of EMS account management, coding, billing, payment posting, accounts receivable, compliance, and Medical Records request
- ✓ 99% Customer retention rate
- ✓ Rely more on human claim reviewers compared to mostly technology



Key Components of Specialized Professional Service Agreement

Prepare and submit	Electronically prepare and submit claims
Provide	Provide monthly reports to Client which include cash received, accounts receivable and balance summary
Notify	Notify Client of any overpayments or credit balances
Assist	Assist Client in preparing, filing and updating information on its Medicare, Medicaid or other insurer provider enrollment forms
Terms	Agreement is for five (5) years with the option to extend an additional five-year term subject to acceptance by both parties. Agreement may be terminated by either party with thirty (30) days notice
Compensation	Fee of six and a half percent (6.5%) of all revenues collected by Emergicon. Previously discussed estimated revenue collection projection = \$1,650,000 Projected <u>annual</u> payment to Emergicon based on estimated collections = \$107,250 Estimated payments over 5 year contract period approximately \$536,250





- Staff recommends approval of a five-year Professional Services Agreement with Emergicon, LLC. for Automated Ambulance Billing Services to be provided to the City for a fee not to exceed 6.5% of all net revenues collected.
- Estimated annual payment is approximately \$107,250 & Estimated payment over 5 year contract period approximately \$536,250.

Future Discussions/Decisions

- Staff will bring forward policy options for Council to consider related to:
- Billing rates
- Collection procedures
- Medical records requests





Questions Comments

AGREEMENT FOR SPECIALIZED PROFESSIONAL AMBULANCE BILLING SERVICES

This Agreement is entered into this _____ day of _____, 2022, by and between Emergicon, LLC, a Texas limited liability corporation (“Emergicon”) and City of Burleson, a Texas home rule municipal corporation (“Client”).

RECITALS

WHEREAS, Client provides emergency and/or non-emergency ambulance services for which it is eligible for payment or reimbursement by patients, insurance carriers, governmental agencies, employers and others;

WHEREAS, Emergicon is engaged in the business of providing third-party billing and accounts receivable management specialized professional services for ambulance and emergency medical service organizations;

WHEREAS, Client desires to utilize Emergicon for billing and claims management services for its organization; and

WHEREAS, Emergicon is willing to provide such specialized professional services upon the terms and conditions provided in this Agreement;

THEREFORE, in consideration of the mutual promises contained in this Agreement, and other good and valuable consideration, the sufficiency of which is acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. Client hereby engages Emergicon to perform the Specialized Professional Services set described in Paragraph 2 of this Agreement and Emergicon accepts such appointment and agrees to provide Specialized Professional Services in accordance with the terms of this Agreement. Client agrees that this appointment is exclusive and that Client will not enter into any contract, agreement, arrangement or understanding with any other person or entity, the purpose of which is to provide for the same or substantially similar specialized professional services during the term of the Agreement, nor will Client bill for any transport without first giving notice to Emergicon of its intent to do so. For purposes of the appointment, the recitals set forth above are incorporated by reference and made a part of this Agreement as if set forth in their entirety.

2. Specialized Professional Services. Emergicon agrees to perform the following duties (collectively referred to as the “Services”) on behalf of Client:

a. Provide Client with instructions for the submission of Required Documentation to Emergicon. For purposes of this Agreement, “Required Documentation” shall consist of prehospital patient care reports (PCRs) (also referred to as “trip sheets” or “run reports”), medical necessity certification statements (PCSs or CMNs) (required for non-emergency transports), patient authorization signatures (sometimes referred to as “assignment of benefits forms” or “signature forms”), Advance Beneficiary Notices of Non-coverage (ABNs) and other documentation necessary for Emergicon to perform the Specialized Professional Services under

this Agreement. All Required Documentation must be signed in accordance with applicable laws, regulations and payer guidelines.

b. Review the Required Documentation, based on the information supplied by Client, for completeness and eligibility for submission to request reimbursement and to verify compliance under applicable laws, regulations or payer rules, based upon Emergicon's understanding of said laws, regulations or payer rules applicable to the date the ambulance services were rendered. If any Required Documentation is missing, Emergicon will request necessary documentation from Client.

c. Promptly prepare and submit claims deemed complete and eligible for reimbursement by Emergicon in conformance with this Agreement for electronic or paper submission to the appropriate party or payer based on the information supplied by Client. In the event that Emergicon deems the Required Documentation to be incomplete or inconsistent, Emergicon will notify Client that additional information may be required to process the claim, and Emergicon will return any or all of the Required Documentation to Client that Emergicon determines may be incomplete or inaccurate and will not be responsible to submit any claims with insufficient documentation. Emergicon will make a decision regarding the appropriate coding and payer for submission of the claim based on the information supplied by Client. Client understands and acknowledges that not all accounts will satisfy the eligibility requirements of all payers, and that it might not be possible to obtain reimbursement in all cases. Emergicon makes no representation or warranty that all claims are payable or will be paid, and Client agrees to abide by Emergicon's decisions with regard to proper coding and payer based on the information provided to Emergicon by Client.

d. Promptly post payments made on Client's behalf by patients, insurers and others.

e. Unless otherwise directed by Client, make reasonable efforts for the collection of co-payments, deductibles or other patient balances, to include the preparation of invoices and a maximum of three contact attempts to patients, supplemental insurers or other financially responsible parties at industry-appropriate intervals

f. Perform follow-up for a commercially reasonable period of time following the initial billing date on all open accounts. After this follow-up period, Emergicon will either return the accounts to Client or forward the accounts to a collection agency of Client's choosing. Client and/or its designated collection agency shall bear all costs and liabilities of collections activities and collection agency charges.

g. Provide monthly reports to Client, which include, at a minimum, cash received, accounts receivable and balance summary. Emergicon shall furnish those reports to Client.

h. Notify Client of any overpayments and/or credit balances of which Emergicon becomes aware that must be refunded by Client. Client bears sole responsibility for the refund of any overpayments or credit balances to Medicare, Medicaid, patients, or other payers or insurers, and agrees to make such refunds when and within the time frames required by law.

Emergicon may, at its option, assist Client in processing such refunds, but all refunds are to be made solely with Client's funds, and Emergicon has no responsibility to make such refunds unless and until Client transfers such funds to Emergicon for this purpose. Emergicon shall not advance funds on behalf of Client for this purpose. Client acknowledges that federal law requires that any overpayments made by Medicare or any other federal health care program be refunded within 60 days of the identification of any such overpayments.

i. If Client desires that its patients be able to pay their accounts utilizing credit cards, establish a credit card merchant account and related capabilities to permit Client's patients to pay via any major credit card. Emergicon shall in its sole discretion determine which credit cards it will accept. Any credit card processing fee shall be the responsibility of Client, unless offset by a fee to the patient

j. Assist Client in preparing, filing and updating the information on its Medicare, Medicaid or other insurer provider enrollment forms, as well as responding to required revalidations of Client's provider enrollment status. Client bears the sole responsibility to ensure that its Medicare, Medicaid or other insurer provider enrollment forms are submitted and updated in accordance with federal and state law, regulations and policies, and that they do so in a timely manner. If Client's status as a Medicare or Medicaid provider has lapsed prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee as described in paragraph 10(e).

3. Specifically Excluded Duties of Emergicon. Notwithstanding any provisions of this Agreement to the contrary, Emergicon shall *not* be responsible to:

- a. Initiate or pursue litigation for the collection of past due accounts.
- b. Invoice for Client's non-ambulance medical transportation services, including but not limited to paratransit services, wheelchair van, invalid coach services, litter vans and stretcher cars, unless specific arrangements are made otherwise.
- c. Negotiate any checks made payable to Client, though Emergicon may receive funds as an agent of Client for transmittal to Client where permitted by Client;
- d. Accept reassignment of any benefits payable to Client;
- e. Provide legal advice or legal services to Client, any of Client's patients or payers, or anyone acting on Client's behalf;
- f. Obtain any prior authorizations on behalf of Client, or obtain a Physician Certification Statement or other Certificate of Medical Necessity on behalf of Client.

4. Responsibilities of Client. Client agrees to do the following, at its sole cost and expense:

- a. Provide Emergicon with all Required Documentation, as set forth in Paragraph 2(a), above, as well as the following data: Patient Name, Address, and contact phone

number, Date of Birth, Date of Service, Patient Medical Condition, basis for ALS dispatch, Reason for Transport, Services Rendered (including assessments, interventions and other care), Origin and Destination with accompanying Zip Code, Transport Destination with accompanying Zip Code, Odometer Reading/Loaded Mileage (to the nearest tenth of a mile), and all relevant insurer or payer information, including identity of payer, group or plan numbers, patient's Insurance/Medicare/Medicaid Number, and all other relevant information and ensure that this data and the information contained on the Required Documentation is complete and accurate. Emergicon reserves the right to modify any Required Documentation or data at any time in accordance with new or revised payer requirements and will provide a copy of any such revisions to Client in writing. Client acknowledges that Emergicon must rely upon the accuracy and completeness of the forms, signatures and other documentation provided to it by Client to allow Emergicon to perform the Specialized Professional Services specified in this Agreement. Emergicon is not able to verify the accuracy or completeness of the Required Documentation provided by Client. By forwarding any such documentation to Emergicon, Client expressly represents and warrants that any such documentation is complete and accurate, and that Emergicon may rely upon the completeness and accuracy of any such documentation in performing its Services under this Agreement. Client bears sole responsibility for the claim submissions made by Emergicon on its behalf based upon the aforementioned documentation submitted to Emergicon by Client, and, notwithstanding any other term or provision of this Agreement, Client will, to the extent allowed by law, reimburse Emergicon, for any losses arising from billing or claim submission decisions made by Emergicon based on documentation submitted to Emergicon by Client if such documentation is later determined to be incomplete or inaccurate.

b. Maintain its qualifications to provide ambulance services, including any required local, state and/or federal licenses, permits, certificates or enrollments (collectively, "Licenses"), and to remain in good standing with Medicare, Medicaid and all other state and federal health care programs. Client shall provide copies of all current Licenses, including renewals, to Emergicon. Client shall be responsible to maintain a National Provider Identifier (NPI) number and to update the information associated with its NPI. Client expressly represents and warrants that it will not forward accounts for processing by Emergicon if the account is ineligible for payment or reimbursement, or if Client is ineligible for payment by any payers or insurers as a result of its licensure status, exclusion or other sanction with such payer or insurer, or other legal impediment, and that it will promptly notify Emergicon of any suspension or revocation of any required license, permit, certification or enrollment, or exclusion from any state or federal health care program or any change in ownership or management of Client. Failure of Client to give the notice required by this section may result in Client having to refund paid claims; Client agrees and understands that any such refund will be the sole responsibility of Client and that any fee due from Client to Emergicon for the billing of such claims will remain due and payable to Emergicon regardless of Client's repayment obligation.

c. Provide Emergicon with a copy of all required Licenses, permits, certificates and enrollments as referenced in Paragraph 4(b), and forward updates of these documents to Emergicon as they are renewed.

d. Provide Emergicon with odometer readings or other documentation of mileage accepted by the payer on all calls reflecting loaded mileage (from the point of patient pickup to the destination) recorded in tenths of a mile as required by Medicare guidelines.

e. In accordance with appropriate payer guidelines, obtain the signature of the patient or other authorized representative of the patient or otherwise meet the ambulance signature requirements set forth at 42 C.F.R. § 424.36 on each call and forward to Emergicon as part of the Required Documentation.

f. In the event that Client operates a subscription, membership, or resident write-off program, client represents and warrants that its program is actuarially sound in accordance with the guidance of the Office of Inspector General (OIG) and operated in accordance with any applicable state laws, regulations or guidelines. Emergicon will bill in accordance with the terms of such program, provided that Client furnishes those terms to Emergicon in writing. Client is responsible to inform Emergicon of its patients who are members or subscribers of Client's membership or subscription program. Notwithstanding any other provision of this Agreement, Client agrees to reimburse Emergicon, to the extent allowed by law, for any losses arising from Client's membership or subscription program in the event that Client's subscription or membership program is not actuarially sound as set forth in applicable OIG guidance or is not permissible under State law, regulation or policy.

g. If Client is a party to any ALS-BLS "joint billing" or "bundle billing" agreement, Client shall be responsible to provide Emergicon with a copy of such agreement. Client also agrees to submit a PCR from the other party to the joint billing agreement along with the Required Documentation.

h. Obtain a completed and valid PCS or CMN form on all trips where required by law and provide copies of all PCS or CMN forms to Emergicon as part of the Required Documentation.

i. Provide Emergicon with a copy of all Client rate schedules, contracts or agreements which pertain to Client's billing or charges for services.

j. Notify Emergicon of any or all changes in billing charges for service or changes in any of Client's billing policies or contracts not later than ten (10) days after the Client approval date of said changes.

k. Report all payments made directly to Client within twenty-four (24) hours of Client's receipt of same, excluding Saturday, Sunday, and official government holidays.

l. Cooperate reasonably with Emergicon so as to enable Emergicon to meet its obligations under this Agreement. In the event that Client's approval is required in order for Emergicon to fulfill any obligations it may have under this Agreement, Client shall not unreasonably withhold, condition or delay its approval.

m. In writing, notify Emergicon of any customized needs (reporting, scheduling, support for Texas Ambulance Supplemental Payment Program (TASPP), etc.). Client understands that the processing of customized needs may entail additional charges to Client by Emergicon.

n. Designate a contact person or position, or official designee, authorized to represent the business interests on behalf of Client, who can promptly respond to any questions raised by Emergicon, or who can execute required forms and other documents necessary to the provision of Services by Emergicon under this Agreement.

o. Emergicon will deliver at no cost to Client initial documentation training on site and ongoing guidance regarding documentation, applicable healthcare laws and regulations as related to the billing process.

p. Provide electronic transfer of PCR data in an acceptable NEMESIS format to Emergicon. Client agrees to bear all cost of the development and implementation of the electronic software “bridge” as mutually agreed upon by the parties and in conjunction with Emergicon information technology personnel, representatives, or contractors.

5. Record Ownership and Access.

a. Client understands that all documentation provided to Emergicon by Client, whether in paper and/or electronic form, is for the sole and express purpose of permitting Emergicon to provide Specialized Professional Services under this Agreement. It is Client’s responsibility to maintain all of its documents and business records, including copies of any documents or records provided to Emergicon (“Client-Provided Records”). Emergicon does not act as Client’s records custodian.

b. As a convenience to Client, Emergicon will, during the term of this Agreement, produce patient care reports in response to routine attorney requests (with appropriate patient authorization) for such documentation, if those records are in Emergicon’s possession at the time it receives such attorney request. For subpoenas, as well as any requests beyond those deemed by Emergicon to be routine attorney requests, Emergicon may forward such requests to Client for disposition. Emergicon may set a reasonable fee for such service and collect said fee for the services set forth in this paragraph. Any such fee will be the obligation of the patient or

the party requesting on their behalf, and Client will not be responsible for any failure of a patient or party to pay said fee.

c. During the term of this Agreement, Emergicon shall, upon Client's written request, provide to Client, in electronic format and within 14 days of receipt of such written request, copies of any Client-Provided Records furnished to Emergicon by Client, and to any Claim Adjudication Documents generated by and received from insurers or payers in response to claims submitted by Emergicon on Client's behalf. "Claim Adjudication Documents" shall consist of the documents generated secondary to claim submission in the normal course of claim processing by payers and insurers, including Explanation of Benefits (EOB) documents, Remittance Advice (RA) documents, Medicare Summary Notice (MSN) documents, denials, and other documents of a similar type or nature.

d. Any documents, data, records, or information compiled in the course of Emergicon's provision of Specialized Professional Services under this Agreement, other than those Client-Provided Records and Claim Adjudication Records defined in Paragraphs 5(a) and (c) above, shall be the sole and exclusive property of Emergicon and shall be considered the business and/or proprietary records of Emergicon. Emergicon shall have no obligation to furnish any such business or proprietary records of Emergicon to Client, and Client shall have a right of access only to the Client-Provided Records and Claim Adjudication Documents as defined in Paragraphs 5(a) and (c), above.

e. If Client or a third party requests any documents or records to which Client or the third party has a right of access under Paragraphs 5(a) and (c) of this Agreement, and such documents cannot be provided to Client in electronic form, Emergicon may charge Client the per-copy amount for medical records permitted under the Texas Medical Board rules at the time of Client's request.

f. Should this Agreement be terminated for any reason, all documents and records to which Client has a right of access under Paragraphs 5(a) and (c) of this Agreement shall be maintained in electronic format at a site convenient to Emergicon for a reasonable amount of time for follow-up of all open claims, but in any event not to exceed ninety (90) days following the effective date of termination of this Agreement. Electronic or paper copies, as per Paragraph 5(e) hereof, of the records to which Client has a right of access under Paragraphs 5(a) and (c) will be made available to Client, at Client's sole cost and expense, in a format acceptable to Emergicon provided that Client has no undisputed and outstanding invoices due to Emergicon at the time of the request. Emergicon shall have absolutely no responsibility whatsoever after termination of this Agreement to provide any monthly reports or other such Emergicon-generated reports to Client.

g. Upon termination of this Agreement, Client is responsible to notify all payers, patients, and other correspondents of its new address, phone and/or fax numbers for billing or payment purposes. Notwithstanding any other provisions of this Agreement to the contrary, Emergicon will not be responsible for mail, deliveries, faxes, messages or other communications sent in Client's name to Emergicon after a 90 day close-out period following the effective termination date of this Agreement, and Emergicon shall have no duty to accept, maintain, copy,

deliver or forward any such communications to Client following termination and close-out of this Agreement.

h. Costs for copies of documents required and/or requested by Client beyond the requirement of the normal daily claim handling requirements will be invoiced to Client by Emergicon at a per copy price per the Texas Medical Board rules at the time of the request.

6. Client Accounting and Auditing Requirements. If Client requires Emergicon's assistance in Client's accounting or other internal audits, Emergicon will charge client for said audit support services at its customary rates, to be established by Emergicon from time to time. Upon written request of Client for same, Emergicon shall furnish said rates to Client in writing prior to undertaking any work pursuant to this Paragraph.

7. Term and Termination.

a. This Agreement is for five years with the option to extend an additional five-year term subject to acceptance by both parties.

b. This Agreement may be terminated with or without cause, by either party, upon written notice to the other party with thirty (30) days' notice and a 90 day close-out period to follow.

c. This Agreement may be terminated by Emergicon immediately upon written notice to Client for any of the following reasons:

- i. If Client makes an assignment indicating Client financial insecurity for the benefit of creditors, files a voluntary or involuntary petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for the appointment of any receiver of any trustee over its assets or properties, commences any proceeding under any reorganization, arrangement, readjustment of debt or similar law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the other party any such proceeding which remains un-dismissed, un-stayed, or the other party by any act or any omission to act indicated its consent to, approval of or acquiescence in any such proceeding or the appointment of any receiver or of any trustee, or suffers any such receivership or trusteeship to continue undischarged, un-stayed, or un-vacated for a period of thirty (30) days.
- ii. If Client loses its license, permit or certification necessary to do business, or is excluded from any state or federal health care program.
- iii. If Client fails to perform any of its responsibilities as set forth in this Agreement, fails to pay Emergicon for its Specialized Professional Services within thirty (30) days of the date such payment becomes due, takes any actions which Emergicon, in its sole discretion, determines to be unethical, illegal, immoral or non-compliant, or fails to cooperate

with Emergicon in any way that prevents, impedes, obstructs, or delays Emergicon in the performance of the Specialized Professional Services set forth in this Agreement.

d. Upon termination for any reason, Emergicon shall perform follow-up on any open accounts submitted by Emergicon on Client's behalf for a period not to exceed ninety (90) days from the date of termination. Emergicon shall have no responsibility to perform such follow-up in the event Client takes any actions which prevent Emergicon from engaging in such follow-up, or in the event that Client has any undisputed and unpaid balances due to Emergicon on the date of termination of this Agreement.

e. Upon termination for any reason, Client shall be responsible to pay the fees set forth in Paragraph 10(a), below, for all revenues collected by Emergicon on Client's behalf and for all claims billed on Client's behalf pursuant to Paragraph 10(b), below, during the 90-day follow-up period set forth in Paragraph 7(d), above. After notice of termination is given, all Emergicon invoices are due and payable by Client in accordance with Chapter 2251 of the Texas Government Code. In the event that Client does not remit payment on any such invoice in accordance with Chapter 2251 of the Texas Government Code, Emergicon shall have no responsibility to perform any further follow-up on open accounts, notwithstanding the provisions of Paragraph 7(d), above.

8. External and Internal Audits.

a. Client shall immediately notify Emergicon if there has been any prepayment audit or review, post payment audit or review, or any investigation or other formal inquiry into the billing practices of Client and/or Emergicon, or claims submitted by Emergicon on behalf of Client, where such audit or investigation is or appears to have been initiated by any governmental agency, insurer, payer, carrier, Medicare Administrative Contractor, Recovery Audit Contractor, Zone Program Integrity Contractor, Unified Program Integrity Contractor, Medicaid Fraud Control Unit, other Medicare or Medicaid contractor or other agency or entity authorized to carry out any such audit or investigation. This obligation shall survive termination of this Agreement for any reason.

b. The Client bears sole responsibility for obtaining and paying for any legal or consulting assistance necessary in defending itself in any such audit or investigation. Emergicon shall assist Client in producing any records, reports or documents in its possession which pertain to the audit or investigation and may charge Client a reasonable fee, as determined by Texas Medical Board rules at the time of the request, for copying, preparation, assembly or retrieval of such documents or reports. Emergicon shall have no obligation to perform any duties under this Paragraph 8(b) following termination of this Agreement for any reason.

c. Client is solely responsible for repaying any overpayments or recoupments sought or imposed by any insurer, carrier, payer or governmental agency or contractor, including interest, civil monetary penalties, fines or other such assessments.

d. Client understands and acknowledges that Emergicon, as part of its compliance program, may on occasion, and at its sole discretion, perform or contract for the performance of periodic, random, internal audits of its coding, billing and other business practices.

These voluntary, internal compliance audits may reveal the existence of Client overpayments, and Client agrees that any such overpayments identified by Emergicon in its internal auditing process will be refunded by Client as described in more detail in Paragraph 2(h) of this Agreement.

9. Disposition of Funds.

a. All funds Emergicon receives from third party payers, patients or other sources for ambulance services provided by Client shall be made in the name Client. Client authorizes Emergicon to endorse, deposit, and otherwise negotiate items as the client's representative and forward monthly to Client or deposit into a Client account as directed by Client.

b. If Client desires that its patients be able to pay their accounts utilizing credit cards, then Emergicon shall accept credit card payments on behalf of Client's patients in a manner that is secure and agreed upon by the parties, and only to the extent possible and feasible, without making Emergicon a collection agency and responsible for compliance with the federal Fair Debt Collection Practices Act and other state or federal debt collection laws.

c. Emergicon shall not accept a reassignment of any benefits where prohibited by law.

10. Compensation.

a. In exchange for the Specialized Professional Services described in this Agreement, Client shall pay Emergicon a fee equivalent to six and a half percent (6.5%) of all revenues collected by Emergicon on behalf of Client. Credit card payments accepted by Emergicon will be charged an additional two percent (2.0%) unless it has been offset by a payer convenience fee.

b. For all payers that prohibit percentage-based billing arrangements, such as Department of State Health Services' (DSHS') Children with Special Health Care Needs (CSHCN) Services Program, Client shall pay Emergicon a flat fee of \$38 per trip, to be invoiced at the time of billing.

c. If Client allows Emergicon or places accounts with a 3rd party collection agency to continue to pursue accounts with balances beyond 120 days from the date of transport, Emergicon shall be compensated and paid for the collection efforts on said account in accordance with the following schedule: Fifteen Percent (15%) of the total amount collected on the account.

d. If Client is disenrolled or inactive as a Medicare or Medicaid provider prior to the effective date of this Agreement, Emergicon shall re-enroll Client for an additional fee of \$1,500 for Medicare and \$500 for Medicaid, plus any fees assessed by the Centers for Medicare & Medicaid Services.

e. The fees payable by Client to Emergicon shall be calculated and invoiced to Client on a periodic basis established by Emergicon in accordance with the receipts report

generated by Emergicon.

f. Emergicon will retain any commissions owed net cash receipts collected for a given month received directly by Emergicon. Any invoices submitted to Client by Emergicon are subject to Net 30 terms from the date invoiced for any balance owed on accounts. Emergicon reserves the right to add simple interest at an annual rate of 18%, compounded daily, on all where Emergicon has not received payment within (30) days of the invoice date.

g. In the event that Client is obligated to refund any overpayment or credit balance as set forth in Paragraph 2(h), fees paid to Emergicon by Client for such refunded overpayment or credit balance shall not be credited or refunded to Client unless Emergicon bears responsibility for the overpayment or credit balance.

h. Client agrees to reimburse Emergicon for any and all sales tax liabilities that may arise as a result of this Agreement.

i. Client agree to reimburse \$35 for any checks returned for insufficient funds as a result of this Agreement.

j. Emergicon agrees to notify client sixty (60) days in advance of any automatic price increase.

11. Indemnification and Insurance.

a. The parties expressly acknowledge that the Client's authority to indemnify and hold harmless any third party is governed by Article XI, Section 7 of the Texas Constitution, and any provision that purports to require indemnification by the Client is invalid. Nothing in this Agreement requires that the Client incur debt, assess, or collect funds, or create a sinking fund.

b. In addition to any specific indemnification provisions set forth in this Agreement, to the extent allowed by law, Emergicon shall hold harmless, indemnify and defend Client and/or its employees, officers, directors and agents from and against any and all costs, claims, losses, damages, liabilities, expenses, judgments, penalties, fines and causes of action to the extent caused by any willful or grossly negligent misconduct of any Emergicon agent, servant, contractor or employee and which relate to the Specialized Professional Services performed by Emergicon under this Agreement.

c. Emergicon shall maintain errors and omissions insurance coverage in an amount not less than \$4,000,000. Client will be named as an additional insured under the policy.

i. Certificates of Insurance evidencing that Emergicon has obtained all required insurance shall be delivered to Client prior to Emergicon proceeding with any work pursuant to this Agreement. All applicable policies shall be endorsed to name Client as an additional insured thereon, as its interests may appear. The term Client shall include its employees, officers, officials, agent, and volunteers in respect to the

contracted services. Any failure on the part of Client to request required insurance documentation shall not constitute a waiver of the insurance requirement. A minimum of thirty (30) days' notice of cancellation or reduction in limits of coverage shall be provided to Client. Ten (10) days' notice shall be acceptable in the event of non-payment of premium. Such terms shall be endorsed onto Emergicon's insurance policies. Notice shall be sent to the Purchasing Manager, City of Burleson, 141 W. Renfro, Burleson, Texas 76028.

- ii. The insurance required herein must be provided by an insurer licensed to do business in the State of Texas. The insurance required herein must be provided by an insurer rated by the A.M. Best as "A-" or better or are rated "A" by Standard and Poor's. The insurance required herein shall be in full force and effect at all times during this Agreement.

d. Notwithstanding any other provision of this Agreement, Emergicon shall not be liable for any damages, including but not limited to loss in profits, or for any special, incidental, indirect, consequential or other similar damages suffered in whole, or in part, in connection with this Agreement.

e. Where any provision of this Agreement obligates either party to defend, indemnify, hold harmless, and/or reimburse the other party, such agreement shall include any claims, losses, assessments or damages of any kind, and shall apply equally to that party and to its employees, owners, agents, contractors, attorneys, consultants, accountants, and servants.

f. It is expressly agreed and understood by both parties that certain repayment or refund demands may be made by insurance payers that are not the result of negligence on the part of either party and therefore are not subject to indemnity as set forth in the paragraph 11. Specifically, there may be claims that are audited or reviewed and later determined not to be medically necessary, not to justify the level of care provided and/or billed, or otherwise denied or down-coded to a lower level of service. In this situations, the parties will work together to respond to and appeal such denials, and if determined that repayment is in fact due after the exhaustion of such available appeals, the parties will pay their pro-rata share of refund based on the % fee set forth in paragraph 10.a. above.

12. Confidentiality. Neither Emergicon nor Client shall, during the term of this Agreement or for any extension hereof, for any reason, disclose to any third parties any proprietary information regarding the other party unless required to do so by law, regulation or subpoena. Emergicon acknowledges the Client requirements under the Public Information Act. For purposes of this Agreement, “proprietary information” shall include, but not be limited to, pricing or rate information, information pertaining to contracts with payers, insurers, facilities, ambulance providers, health care systems, or other such parties, audit requests, audit results, billing processes, client lists or other such information.

13. Compliance.

a. Emergicon will conduct its activities and operations in compliance with all state and federal statutes, rules and regulations applicable to billing activities.

b. Client shall conduct its activities, operations and documentation in compliance with all applicable state and federal statutes, rules and regulations. Client expressly represents and warrants that it is under no legal impediment to billing or receiving reimbursement for its services, and that all of Client’s personnel are appropriately licensed and/or certified to furnish the services provided by Client. Client agrees to reimburse Emergicon, to the extent allowed by law, for any and all claims, damages and losses caused by Client sending accounts to Emergicon which are ineligible for billing and/or reimbursement for any reason.

c. Each party is responsible for monitoring and ensuring its own compliance

with all applicable state and federal laws and regulations pertaining to billing and reimbursement for its services. However, either party which becomes aware of a violation of any such state or federal laws or regulations or of a questionable claim or claim practice agrees to notify the other party within fifteen (15) days so the other party may appropriately address the matter.

d. The parties represent that they are not the subject of any actions or investigations pertaining to its participation in or standing with any state or federal health care program, are not subject to exclusion from any state and/or federal health care program, and that no persons providing services for which reimbursement is sought were at the time such services were rendered excluded from any state or Federal health care program.

e. The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

15. Non-Engagement of Individuals on the OIG Exclusion List. The parties further warrant that each will take all reasonable steps as set forth by the Office of Inspector General, United States Department of Health and Human Service, to ensure that it does not employ or otherwise engage individuals who have been excluded from participation in federal health care programs. The parties agree to periodically check the OIG exclusion website to ensure that employees, volunteers and all others providing services for each respective organization are not excluded. The website is: <http://exclusions.oig.hhs.gov>.

16. Independent Contractor Relationship. Emergicon and Client stand in an independent contractor relationship to one another and shall not be considered as joint ventures or partners, and nothing herein shall be construed to authorize either party to act as general agent for the other. There is no liability on the part of Emergicon to any entity for any debts, liabilities or obligations incurred by or on behalf of the Client.

17. Prevention of Performance. If a party's obligation to perform any duty hereunder is rendered impossible of performance due to any cause beyond such party's control, including, without limitation, an act of God, war, civil disturbance, fire or casualty, labor dispute, hardware or software failures beyond the party's control, or governmental rule, such party, for so long as such condition exists, shall be excused from such performance, provided it promptly provides the other party with written notice of its inability to perform stating the reasons for such inability and

provided that the party takes all appropriate steps as soon as reasonably practicable upon the termination of such condition to recommence performance.

18. Assignment. This Agreement may be assigned by Emergicon to any successors or assigns of Emergicon with the express written consent of the Client. This Agreement may not be assigned by Client without the express written consent of Emergicon. This Agreement shall be binding upon all successors and assigns.

19. Notices. Notices required to be given under this Agreement shall be made to the parties at the following addresses and shall be presumed to have been received by the other party (i) three days after mailing by the party when notices are sent by First Class mail, postage prepaid; (ii) upon transmission (if sent via facsimile with a confirmed transmission report); or (iii) upon receipt (if sent by hand delivery or courier service).

Emergicon:

Emergicon, LLC.

PO Box 180446

Dallas, TX 75218

Phone: (972-602-2060)

Fax:(469) 602-5542

[client]:

City of Burleson

141 W Renfro Street

Burleson,, TX 76028

Attn: City Manager

20. [This provision intentionally left blank]

21. Governing Law and Forum Selection Clause. This Agreement shall be deemed to have been made and entered into in Texas and shall be interpreted in accordance with the laws thereof, without regard to conflicts of laws principles. The parties expressly agree that the exclusive forum for resolving any legal disputes under this Agreement shall be the state or federal courts serving Johnson County, Texas. The parties expressly agree to personal jurisdiction and venue in any such court.

22. Entire Agreement. This Agreement constitutes the sole and only agreement between the

Parties and supersedes any prior understandings, written or oral agreements between the Parties with respect to this subject matter.

23. Authorization. Each Party represents that it has full capacity and authority to grant all rights and assume all obligations granted and assumed under this Agreement.

24. Successors and Assigns. Subject to the provisions regarding assignment, this Agreement shall be binding on and inure to the benefit of the Parties to it and their respective heirs, executors, administrators, legal representatives, successors and assigns.

25. Amendments. This Agreement may be amended only by the mutual written agreement of the Parties.

26. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

27. Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the Parties, as well as any rights and benefits of the Parties, pertaining to a period of time following the termination of this Agreement shall survive termination.

28. Counterparts. This Agreement may be executed by the Parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the Parties hereto. Any pdf-format or other electronic transmission of any signature of a signatory shall be deemed an original and shall bind such signatory.

29. Conflicts of Interests. Special Assessor represents that no official or employee of the City has any direct or indirect pecuniary interest in this Agreement.

30. Force Majeure. The parties shall be excused for the period of any delay in or impossibility of the performance of any obligations hereunder, when prevented from doing so by any cause or causes beyond a party's control, which shall include without limitation: all labor disputes, civil commotion, war, nuclear disturbances, hostilities, sabotage, terroristic acts, governmental regulations or controls, fire, accident or other casualty, interruption in the supply of any utilities or fuel, inability to obtain any material or services, public health emergencies, or through acts of God.

31. Regulatory Changes. The parties recognize that this Agreement is at all times subject to applicable state, local, and federal laws and shall be construed accordingly. The parties further recognize that this Agreement may become subject to or be affected by amendments in such laws and regulations or to new legislation or regulations. Any provisions of law that invalidate, or are otherwise inconsistent with, the material terms and conditions of this Agreement, or that would cause one or both of the parties hereto to be in violation of law, shall be deemed to have superseded the terms of this Agreement and, in such event, the parties agree to utilize their best efforts to modify the terms and conditions of this Agreement to be consistent with the requirements of such

law(s) in order to effectuate the purposes and intent of this Agreement. In the event that any such laws or regulations affecting this Agreement are enacted, amended or promulgated, either party may propose to the other a written amendment to this Agreement to be consistent with the provisions of such laws or regulations. In the event that the parties do not agree on such written amendments within thirty (30) days of receipt of the proposed written amendments, then either party may terminate this Agreement without further notice, unless this Agreement would expire earlier by its terms.

32. **Independent Contractor Relationship.** The relationship of the parties is that of independent contractors. Neither party shall be deemed to be the agent nor partner nor fiduciary of the other, and neither is authorized to take any action binding upon the other.

33. **No Waiver of Governmental Immunity.** Emergicon expressly acknowledges Client is a political subdivision of the State of Texas and nothing in the Agreement will be construed as a waiver or relinquishment by Client of its right to claim such exemptions, privileges, and immunities as may be provided by law. Neither the execution of the Agreement by Client nor any other conduct, action, or inaction of any representative of Client relating to the Agreement constitutes or is intended to constitute a waiver of Client's sovereign immunity to suit.

34. **Anti-Boycotting Provisions.** Emergicon acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

- i. Pursuant to Section 2271.002 of the Texas Government Code, Emergicon certifies that either (i) it meets an exemption criterion under Section 2271.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Emergicon acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- ii. Pursuant to SB 13, 87th Texas Legislature, Emergicon certifies that either (i) it meets an exemption criterion under SB 13, 87th Texas Legislature; or (ii) it does not boycott energy companies, as defined in Section 1 of SB 13, 87th Texas Legislature, and will not boycott energy companies during the term of the Agreement. Emergicon acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- iii. Pursuant to SB 19, 87th Texas Legislature, Emergicon certifies that either (i) it meets an exemption criterion under SB 19, 87th Texas Legislature; or (ii) it does not discriminate against a firearm entity or firearm trade association, as defined in Section 1 of SB 19, 87th Texas Legislature, and will not discriminate against a firearm entity or firearm trade association during the term of the Agreement. Emergicon acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

35. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Emergicon certifies Emergicon (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Emergicon acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

36. **Conflicts Of Interest.** By executing this Agreement, Emergicon and each person signing on behalf of Emergicon certifies, and in the case of a sole proprietorship, partnership or

corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of City Council, city manager, deputy city manager, city secretary, department heads, or deputy department heads of the City has direct or indirect financial interest in the award of this Agreement, or in the services to which this Agreement relates, or in any of the profits, real or potential, thereof, in violation of Section 132 of the Home Rule Charter of the Client.

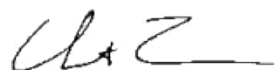
IN WITNESS WHEREOF, the parties have executed this Agreement to commence on the date first above written. Client represents that the individual who has executed this Agreement on behalf of the Client is authorized by Client and by law to do so.

EMERGICON, LLC.

City of Burleson, TX

By:

By:



12/5/2022

Signature

Date

Christopher Turner

Print Name

Founder and CEO

Title

Signature

Date

Print Name

Title

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

EMERGICON LLC
Terrell, TX United States

Certificate Number:
2022-896049

Date Filed:
06/07/2022

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson, TX

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFP 2022-010
Automated Ambulance Billing, Accounts Receivable, Delinquent Account Collections & Other Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Emergicon, LLC	Terrell, TX United States	X	

5 Check only if there is NO Interested Party.

☐

6 UNSWORN DECLARATION

My name is Christopher Turner, and my date of birth is [REDACTED].

My address is 15158 FM 916, MAYPEARL, TX, 76064, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Kaufman County, State of TEXAS, on the 7th day of JUNE, 20 22.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

City Council Special Meeting

DEPARTMENT: City Manager's Office
FROM: Martin Avila, Finance Director
MEETING: December 12, 2022

SUBJECT:

Consider an ordinance amending the City budget for fiscal year 2022-2023 by increasing appropriations in the Golf Fund in the amount of \$628,000 for equipment and improvements at Hidden Creek Golf Course, and finding that this ordinance may be considered and approved at only one meeting because time is of essence. *(First and Final Reading) (Staff Presenters: Martin Avila, Director of Finance; Jen Basham, Director of Parks & Recreation)*

SUMMARY:

The City's policy is to ensure appropriations are within the approved budgets at the fund level. Budget amendment is for equipment and improvements at Hidden Creek Golf Course not included in the fiscal year 2022-2023 original budget adopted by Council on September 12, 2022.

Summary of budget amendment:

Bunker Renovations	\$301,460
Cart Path Improvements	\$100,000
Drainage Improvements	\$145,000
Fairway Shockwave aerator	\$25,000
Contingency	<u>\$56,540</u>
	<u>\$628,000</u>

OPTIONS:

- 1) Approve as presented
- 2) Approve with changes
- 3) Deny

RECOMMENDATION:

Staff recommends approve as presented

PRIOR ACTION/INPUT (Council, Boards, Citizens):

NA

FISCAL IMPACT:

Budgeted amendment ordinance – Golf Fund

Account number:

402-8013-521.72-05 (Improvements) \$603,000

402-8013-521-74.03 (Equipment) \$25,000

STAFF CONTACT:

Martin, Avila
Finance Director
mavila@burlesontx.com
817-426-9651



Hidden Creek Golf Course Budget Amendment

Staff Presenter: Jen Basham, Director of Parks and Recreation
City Council: December 12, 2022

Amendment Outline

- Hidden Creek Golf Course has been working to repair deferred maintenance items along the course. Many improvements have occurred over the past year
 - Irrigation pump station and pumphouse replacement
 - Well repair
 - Practice Bunker
 - Range improvements
 - Tree clean up along fairways
 - Aeration of greens and fairways
 - Repair of over 1,000 irrigation heads
 - Clubhouse renovation
- Staff has developed a five year CIP to address long term capital needs for the golf course
 - A request has been made to staff to bring forward an item for council consideration to advance funds for various deferred maintenance projects in the capital plan
 - Consolidate 5 year plan to replace bunkers to a 1 year plan
 - Add project to repair drainage and safety concerns on multiple holes
 - Add additional funds to repair cart path
 - Add a blade aerator to break up compacted soil along fairways to ensure that nutrients can be absorbed into soil

Bunkers

- Replacement of all bunkers with new bunker system that removes liners and adds a porous gravel that is stabilized with a material, and covered in premier play sand

This updated system will allow better drainage of the bunkers, decrease downtime after a rain event, and have a longer life span than the current liners that have exceeded their lifespan

- A request for bid was issued with 4 respondents

Staff is requesting that City Council authorize a contract with Fleetwood Services in the amount of \$301,460 plus 10% contingency and is estimated to be complete March 31, 2023



CURRENT HOLE 18 AFTER
RAIN



CURRENT PRACTICE
BUNKER WITH NEW
SYSTEM INSTALLED AFTER
RAIN

Drainage

- Drainage in multiple areas has created undermining of the cart path, sitting water, and erosion of the fairways. Public works will perform the following projects in-house
 - Plastic drainage pipe across the 9th fairway (determined no need to remove and reinstall/replace, but significant channel work on either end)
 - Drainage near the 5th green
 - Installing headwall along hole 16 (near IH35W)
 - Installing a headwall on the 2nd fairway (near the irrigation pump building)
- Project cost estimated at \$145,000
 - Public works is finalizing the action plan and a timeline for repairs will be made once finalized



Cart Path Repairs

- Staff began budgeting \$10,000 annually for replacement of sections of cart path

Staff has identified the most egregious sections of path that have failed and is requesting funding to address these sections

Areas of repair

Hole #3 – 60 linear feet remove and replace (330 square feet)

Hole #4 – 150 linear feet new with curb @ green (600 square feet)

Hole #7 – 314 linear feet remove and replace with 30 feet curb (1,884 square feet)

Hole #8 – 305 linear feet remove and replace with 305 feet curb (2,440 square feet)

Hole #11 – 18 linear feet remove and replace with 18 feet curb (108 square feet)

Hole #16 – 75 linear feet remove and replace (450 square feet)

Hole #17 – 115 linear feet remove and replace (690 square feet)

Hole #18 – 575 linear feet remove and replace with 170 feet curb (3,450 square feet)

- Project cost estimated at \$100,000

Staff will work with existing concrete contractor to complete the work



CART PATH HOLE 7

Fairway Shockwave Aerator

- Staff completed multiple soil sample tests throughout the summer and found that the soil throughout the course on fairways and greens are not absorbing nutrients. This is partially due to compaction over time.
- Purchase cost \$24,294
This amount is below council threshold and would be authorized administratively. Staff will work with fleet services for the purchase of this piece of equipment



Project Totals

- Bunkers-\$301,460
- Drainage- \$145,000
- Cart Path Repairs-\$100,000
- Fairway Shockwave Aerator-\$24,294
- Total Amendment Requested-\$628,000
Includes +10% contingency
- Ending Fund Balance as of 9/30/2022 (unaudited) is \$6,668,293, which is \$1,121,277 more than the estimate of \$5,547,016
*These projects will be cash funded



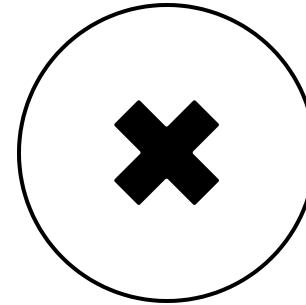
Option-Budget Amendment

Staff Recommendation



Budget Amendment

Approve an amendment to the budget for
Hidden Creek Golf Course in the amount of
\$628,000



Do not proceed with amendment

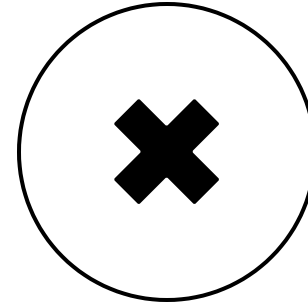
Option-Bunkers

Staff Recommendation



Bunker Renovation

Approve a contract with Fleetwood Services in the amount of \$331,606 for the replacement of bunkers at Hidden Creek Golf Course



Do not proceed with project

4B Financial Overview – Budget Presentation

	FY 21-22 Budget	FY 21-22 Estimate	FY 22-23 Projected	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ 4,158,317	\$ 4,941,248	\$ 5,547,016	\$ 3,722,488	\$ 3,482,143	\$ 2,834,054	\$ 2,559,393
Sales Tax Revenue	\$ 6,128,500	\$ 6,910,034	\$ 7,117,335	\$ 7,330,855	\$ 7,550,781	\$ 7,777,304	\$ 8,010,623
Other Revenues	\$ 15,000	\$ 15,000	\$ 70,000	\$ 80,000	\$ 75,000	\$ 75,000	\$ 75,000
Total Revenues	\$ 6,143,500	\$ 6,925,034	\$ 7,187,335	\$ 7,410,855	\$ 7,625,781	\$ 7,852,304	\$ 8,085,623
Debt Service	\$ 1,393,675	\$ 1,393,675	\$ 1,390,800	\$ 2,782,888	\$ 3,177,475	\$ 3,325,075	\$ 3,261,100
Golf Course Debt	\$ 371,403	\$ 371,403	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
Golf Transfer	\$ 846,315	\$ 802,823	\$ 728,544	\$ 775,539	\$ 956,067	\$ 941,357	\$ 1,218,578
PPF Transfer	\$ 2,715,418	\$ 2,706,031	\$ 3,130,479	\$ 2,823,352	\$ 2,782,940	\$ 2,847,712	\$ 3,212,834
Other Expenditures	\$ 1,082,288	\$ 1,045,334	\$ 3,385,954	\$ 898,889	\$ 975,179	\$ 1,012,822	\$ 1,016,048
Total Expenditures	\$ 6,409,099	\$ 6,319,266	\$ 9,011,863	\$ 7,651,200	\$ 8,273,869	\$ 8,126,965	\$ 8,708,560
Change in Fund Balance	\$ (265,599)	\$ 605,768	\$ (1,824,528)	\$ (240,345)	\$ (648,088)	\$ (274,661)	\$ (622,937)
Ending Fund Balance	\$ 3,892,718	\$ 5,547,016	\$ 3,722,488	\$ 3,482,143	\$ 2,834,054	\$ 2,559,393	\$ 1,936,457
FB % of Expenditure	60.74%	87.78%	41.31%	45.51%	34.25%	31.49%	22.24%

4B Financial Overview – Updated

	FY 21-22 Unaudited YTD	FY 21-22 Estimate	FY 22-23 Budget	FY 22-23 Projected	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ 4,941,248	\$ 4,941,248	\$ 5,547,016	\$ 6,668,293	\$ 4,494,289	\$ 4,299,961	\$ 3,760,020	\$ 3,564,978
Sales Tax Revenue	\$ 6,955,613	\$ 6,910,034	\$ 7,117,335	\$ 7,164,281	\$ 7,379,210	\$ 7,600,586	\$ 7,828,604	\$ 8,063,462
Other Revenues	\$ 36,548	\$ 15,000	\$ 70,000	\$ 70,000	\$ 80,000	\$ 75,000	\$ 75,000	\$ 75,000
Total Revenues	\$ 6,992,161	\$ 6,925,034	\$ 7,187,335	\$ 7,234,281	\$ 7,459,210	\$ 7,675,586	\$ 7,903,604	\$ 8,138,462
Debt Service	\$ 1,038,182	\$ 1,393,675	\$ 1,390,800	\$ 1,390,800	\$ 2,782,888	\$ 3,177,475	\$ 3,325,075	\$ 3,261,100
Golf Course Debt	\$ 371,403	\$ 371,403	\$ 376,086	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
Golf Transfer	\$ 565,226	\$ 802,823	\$ 731,114	\$ 1,124,966	\$ 777,877	\$ 897,725	\$ 913,037	\$ 1,187,133
PPF Transfer	\$ 2,701,632	\$ 2,706,031	\$ 3,130,479	\$ 3,130,479	\$ 2,823,352	\$ 2,782,940	\$ 2,847,712	\$ 3,212,834
Other Expenditures	\$ 588,673	\$ 1,045,334	\$ 3,385,954	\$ 3,385,954	\$ 898,889	\$ 975,179	\$ 1,012,822	\$ 1,016,048
Total Expenditures	\$ 5,265,116	\$ 6,319,266	\$ 9,014,433	\$ 9,408,285	\$ 7,653,538	\$ 8,215,527	\$ 8,098,645	\$ 8,677,115
Change in Fund Balance	\$ 1,727,045	\$ 605,768	\$ (1,827,098)	\$ (2,174,004)	\$ (194,329)	\$ (539,941)	\$ (195,042)	\$ (538,653)
Ending Fund Balance	\$ 6,668,293	\$ 5,547,016	\$ 3,719,918	\$ 4,494,289	\$ 4,299,961	\$ 3,760,020	\$ 3,564,978	\$ 3,026,325
FB % of Expenditure	126.65%	87.78%	41.27%	47.77%	56.18%	45.77%	44.02%	34.88%

Golf Fund – Updated

	FY 21-22 Unaudited YTD	FY 21-22 Estimate	FY 22-23 Budget	FY 22-23 Actual	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Revenues	\$ 1,931,271	\$ 1,754,560	\$ 1,807,000	\$ 1,988,148	\$ 1,861,075	\$ 1,916,772	\$ 1,974,140	\$ 2,033,230
4B Subsidy Transfer	\$ 432,525	\$ 678,698	\$ 445,431	\$ 839,283	\$ 483,624	\$ 594,644	\$ 600,863	\$ 865,594
4B Debt Transfer	\$ 371,403	\$ 371,403	\$ 376,086	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
4B Adm Transfer	\$ 124,125	\$ 124,125	\$ 285,683	\$ 285,683	\$ 294,253	\$ 303,081	\$ 312,174	\$ 321,539
Total Revenues	\$ 2,859,324	\$ 2,928,786	\$ 2,914,200	\$ 3,489,200	\$ 3,009,484	\$ 3,196,705	\$ 2,887,177	\$ 3,220,363
Personnel	\$ 1,215,160	\$ 1,182,374	\$ 1,221,802	\$ 1,221,802	\$ 1,267,024	\$ 1,313,971	\$ 1,362,710	\$ 1,413,311
Other expenditures	\$ 1,644,164	\$ 1,746,412	\$ 1,692,398	\$ 2,267,398	\$ 1,742,460	\$ 1,882,734	\$ 1,524,467	\$ 1,807,052
Total Expenditures	\$ 2,859,324	\$ 2,928,786	\$ 2,914,200	\$ 3,489,200	\$ 3,009,484	\$ 3,196,705	\$ 2,887,177	\$ 3,220,363
Change in Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Ending Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
% Self Sustaining	68%	60%	62%	57%	62%	60%	68%	63%

Golf Fund – Budget Presentation

	FY 21-22 Budget	FY 21-22 Estimate	FY 22-23 Projected	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Revenues	\$ 1,555,639	\$ 1,754,560	\$ 1,807,000	\$ 1,861,075	\$ 1,916,772	\$ 1,974,140	\$ 2,033,230
4B Subsidy Transfer	\$ 722,190	\$ 678,698	\$ 445,431	\$ 483,624	\$ 655,394	\$ 631,663	\$ 899,594
4B Debt Transfer	\$ 371,403	\$ 371,403	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
4B Adm Transfer	\$ 124,125	\$ 124,125	\$ 285,683	\$ 294,253	\$ 303,081	\$ 312,174	\$ 321,539
Total Revenues	\$ 2,773,357	\$ 2,928,786	\$ 2,914,200	\$ 3,009,484	\$ 3,257,455	\$ 2,917,977	\$ 3,254,363
Personnel	\$ 1,170,675	\$ 1,182,374	\$ 1,221,802	\$ 1,267,024	\$ 1,313,971	\$ 1,362,710	\$ 1,413,311
Other expenditures	\$ 1,602,682	\$ 1,746,412	\$ 1,692,398	\$ 1,742,460	\$ 1,943,484	\$ 1,555,267	\$ 1,841,052
Total Expenditures	\$ 2,773,357	\$ 2,928,786	\$ 2,914,200	\$ 3,009,484	\$ 3,257,455	\$ 2,917,977	\$ 3,254,363
Change in Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Ending Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
% Self Sustaining	56%	60%	62%	62%	59%	68%	62%

* Golf fund operating with a zero fund balance based on 4B subsidy

ORDINANCE

AN ORDINANCE AMENDING THE CITY BUDGET FOR FISCAL YEAR 2022-2023 BY INCREASING APPROPRIATIONS IN THE GOLF FUND IN THE AMOUNT OF \$628,000 EQUIPMENT AND IMPROVEMENTS AT HIDDEN CREEK GOLF COURSE; FINDING THAT TIME IS OF THE ESSENCE AND THAT THIS ORDINANCE MAY BE CONSIDERED AND APPROVED AT ONLY ONE MEETING; INCORPORATING THE RECITALS INTO THE BODY OF THE ORDINANCE; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC; AND, PROVIDING FOR A REPEALER CLAUSE, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

WHEREAS, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City desires to increase the appropriations in the General Fund in the amount of \$628,000 for equipment and improvements at Hidden Creek Golf Course; and

WHEREAS, the City Council may consider and approve certain ordinances or ordinance amendments at only one meeting in accordance with Section 2-4 of the Code of Ordinances of the City of Burleson; and

WHEREAS, the City Council finds that this ordinance may be considered and approved in only one meeting because the provisions of this ordinance supplements the adopted budget by appropriating additional funds, because this ordinance is not considered as part of the consent agenda, and because time is of the essence.

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

Section 1.

In addition to those amounts appropriated from the various City departments for Fiscal Year 2022-2023 in the Budget of the City Manager, there shall also be increased estimated appropriations in the Golf Fund in the amount of \$628,000 for equipment and improvements to Hidden Creek Golf Course, to be allocated \$603,000 for Improvements (402-8013-521.72-05) and \$25,000 for Equipment (402-8013-521.74-03).

Section 2.

The findings set forth above in the recitals of this ordinance are incorporated into the body of this ordinance as if fully set forth herein.

Section 3.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4.

The terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

Section 5.

It is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

Section 6.

This ordinance shall become effective immediately upon its passage and publication as required by law.

PASSED AND APPROVED:

First and Final Reading: the _____ day of _____, 20_____.

Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

City Secretary

City Attorney

City Council Regular Meeting

DEPARTMENT: Parks and Recreation
FROM: Jen Basham, Director of Parks and Recreation
MEETING: December 12, 2022

SUBJECT:

Consider approval of a contract with Fleetwood Services for furnishing and replacement of 16 bunkers at Hidden Creek Golf Course in the amount not to exceed \$331,606. *(Staff Presenter: Jen Basham, Director of Parks and Recreation)*

SUMMARY:

Hidden Creek Golf Course has been working to repair deferred maintenance items along the course. Many improvements have occurred over the past year. Staff has developed a five year capital improvement plan to address long term capital needs at the course. A request has been made to staff to bring forward an item for council consideration to advance funds for the consolidation of the five year plan to replace bunkers. Staff issued a request for bid and received four qualified bids on the project. Staff has selected Fleetwood services as the preferred vendor in the amount of \$331,606.

The project scope includes renovation of approximately 38,000 square feet of greenside and fairway bunkers on hole numbers 1,2,3,4,5,6,7,9,10,11,12,13,14,16,17 and 18. The work consists of removing existing material in bunkers, disposing of material on site, replacing or repairing existing 4" perforated drainage, installation of pea gravel, installation of Better Billy Bunker lining material, or equivalent, and installation of Premier Play, or equivalent sand to a compacted depth of 4".

OPTIONS:

- 1) Approve as presented
- 2) Approve with changes
- 3) Deny

RECOMMENDATION:

Staff recommends proceeding with renovation of the bunkers as presented.

PRIOR ACTION/INPUT (Council, Boards, Citizens):

NA

FISCAL IMPACT:

\$331,606

STAFF CONTACT:

Jen Basham
Director of Parks and Recreation
jbasham@burlesontx.com
817-426-9201



Hidden Creek Golf Course Budget Amendment

Staff Presenter: Jen Basham, Director of Parks and Recreation
City Council: December 12, 2022

Amendment Outline

- Hidden Creek Golf Course has been working to repair deferred maintenance items along the course. Many improvements have occurred over the past year
 - Irrigation pump station and pumphouse replacement
 - Well repair
 - Practice Bunker
 - Range improvements
 - Tree clean up along fairways
 - Aeration of greens and fairways
 - Repair of over 1,000 irrigation heads
 - Clubhouse renovation
- Staff has developed a five year CIP to address long term capital needs for the golf course
 - A request has been made to staff to bring forward an item for council consideration to advance funds for various deferred maintenance projects in the capital plan
 - Consolidate 5 year plan to replace bunkers to a 1 year plan
 - Add project to repair drainage and safety concerns on multiple holes
 - Add additional funds to repair cart path
 - Add a blade aerator to break up compacted soil along fairways to ensure that nutrients can be absorbed into soil

Bunkers

- Replacement of all bunkers with new bunker system that removes liners and adds a porous gravel that is stabilized with a material, and covered in premier play sand

This updated system will allow better drainage of the bunkers, decrease downtime after a rain event, and have a longer life span than the current liners that have exceeded their lifespan

- A request for bid was issued with 4 respondents

Staff is requesting that City Council authorize a contract with Fleetwood Services in the amount of \$301,460 plus 10% contingency and is estimated to be complete March 31, 2023



CURRENT HOLE 18 AFTER
RAIN



CURRENT PRACTICE
BUNKER WITH NEW
SYSTEM INSTALLED AFTER
RAIN

Drainage

- Drainage in multiple areas has created undermining of the cart path, sitting water, and erosion of the fairways. Public works will perform the following projects in-house
 - Plastic drainage pipe across the 9th fairway (determined no need to remove and reinstall/replace, but significant channel work on either end)
 - Drainage near the 5th green
 - Installing headwall along hole 16 (near IH35W)
 - Installing a headwall on the 2nd fairway (near the irrigation pump building)
- Project cost estimated at \$145,000
 - Public works is finalizing the action plan and a timeline for repairs will be made once finalized



UNDERMINED CART PATH
AND DRAINAGE

Cart Path Repairs

- Staff began budgeting \$10,000 annually for replacement of sections of cart path

Staff has identified the most egregious sections of path that have failed and is requesting funding to address these sections

Areas of repair

Hole #3 – 60 linear feet remove and replace (330 square feet)

Hole #4 – 150 linear feet new with curb @ green (600 square feet)

Hole #7 – 314 linear feet remove and replace with 30 feet curb (1,884 square feet)

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- Project cost estimated at \$100,000

Staff will work with existing concrete contractor to complete the work



CART PATH HOLE 7

Fairway Shockwave Aerator

- Staff completed multiple soil sample tests throughout the summer and found that the soil throughout the course on fairways and greens are not absorbing nutrients. This is partially due to compaction over time.
- Purchase cost \$24,294
This amount is below council threshold and would be authorized administratively. Staff will work with fleet services for the purchase of this piece of equipment



Project Totals

- Bunkers-\$301,460
- Drainage- \$145,000
- Cart Path Repairs-\$100,000
- Fairway Shockwave Aerator-\$24,294
- Total Amendment Requested-\$628,000
Includes +10% contingency
- Ending Fund Balance as of 9/30/2022 (unaudited) is \$6,668,293, which is \$1,121,277 more than the estimate of \$5,547,016
*These projects will be cash funded



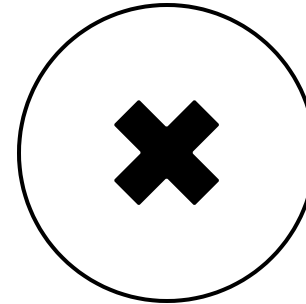
Option-Budget Amendment

Staff Recommendation



Budget Amendment

Approve an amendment to the budget for
Hidden Creek Golf Course in the amount of
\$628,000



Do not proceed with amendment

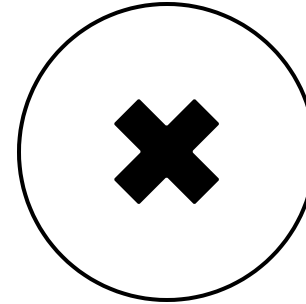
Option-Bunkers

Staff Recommendation



Bunker Renovation

Approve a contract with Fleetwood Services in the amount of \$331,606 for the replacement of bunkers at Hidden Creek Golf Course



Do not proceed with project

4B Financial Overview – Budget Presentation

	FY 21-22 Budget	FY 21-22 Estimate	FY 22-23 Projected	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ 4,158,317	\$ 4,941,248	\$ 5,547,016	\$ 3,722,488	\$ 3,482,143	\$ 2,834,054	\$ 2,559,393
Sales Tax Revenue	\$ 6,128,500	\$ 6,910,034	\$ 7,117,335	\$ 7,330,855	\$ 7,550,781	\$ 7,777,304	\$ 8,010,623
Other Revenues	\$ 15,000	\$ 15,000	\$ 70,000	\$ 80,000	\$ 75,000	\$ 75,000	\$ 75,000
Total Revenues	\$ 6,143,500	\$ 6,925,034	\$ 7,187,335	\$ 7,410,855	\$ 7,625,781	\$ 7,852,304	\$ 8,085,623
Debt Service	\$ 1,393,675	\$ 1,393,675	\$ 1,390,800	\$ 2,782,888	\$ 3,177,475	\$ 3,325,075	\$ 3,261,100
Golf Course Debt	\$ 371,403	\$ 371,403	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
Golf Transfer	\$ 846,315	\$ 802,823	\$ 728,544	\$ 775,539	\$ 956,067	\$ 941,357	\$ 1,218,578
PPF Transfer	\$ 2,715,418	\$ 2,706,031	\$ 3,130,479	\$ 2,823,352	\$ 2,782,940	\$ 2,847,712	\$ 3,212,834
Other Expenditures	\$ 1,082,288	\$ 1,045,334	\$ 3,385,954	\$ 898,889	\$ 975,179	\$ 1,012,822	\$ 1,016,048
Total Expenditures	\$ 6,409,099	\$ 6,319,266	\$ 9,011,863	\$ 7,651,200	\$ 8,273,869	\$ 8,126,965	\$ 8,708,560
Change in Fund Balance	\$ (265,599)	\$ 605,768	\$ (1,824,528)	\$ (240,345)	\$ (648,088)	\$ (274,661)	\$ (622,937)
Ending Fund Balance	\$ 3,892,718	\$ 5,547,016	\$ 3,722,488	\$ 3,482,143	\$ 2,834,054	\$ 2,559,393	\$ 1,936,457
FB % of Expenditure	60.74%	87.78%	41.31%	45.51%	34.25%	31.49%	22.24%

4B Financial Overview – Updated

	FY 21-22 Unaudited YTD	FY 21-22 Estimate	FY 22-23 Budget	FY 22-23 Projected	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ 4,941,248	\$ 4,941,248	\$ 5,547,016	\$ 6,668,293	\$ 4,494,289	\$ 4,299,961	\$ 3,760,020	\$ 3,564,978
Sales Tax Revenue	\$ 6,955,613	\$ 6,910,034	\$ 7,117,335	\$ 7,164,281	\$ 7,379,210	\$ 7,600,586	\$ 7,828,604	\$ 8,063,462
Other Revenues	\$ 36,548	\$ 15,000	\$ 70,000	\$ 70,000	\$ 80,000	\$ 75,000	\$ 75,000	\$ 75,000
Total Revenues	\$ 6,992,161	\$ 6,925,034	\$ 7,187,335	\$ 7,234,281	\$ 7,459,210	\$ 7,675,586	\$ 7,903,604	\$ 8,138,462
Debt Service	\$ 1,038,182	\$ 1,393,675	\$ 1,390,800	\$ 1,390,800	\$ 2,782,888	\$ 3,177,475	\$ 3,325,075	\$ 3,261,100
Golf Course Debt	\$ 371,403	\$ 371,403	\$ 376,086	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
Golf Transfer	\$ 565,226	\$ 802,823	\$ 731,114	\$ 1,124,966	\$ 777,877	\$ 897,725	\$ 913,037	\$ 1,187,133
PPF Transfer	\$ 2,701,632	\$ 2,706,031	\$ 3,130,479	\$ 3,130,479	\$ 2,823,352	\$ 2,782,940	\$ 2,847,712	\$ 3,212,834
Other Expenditures	\$ 588,673	\$ 1,045,334	\$ 3,385,954	\$ 3,385,954	\$ 898,889	\$ 975,179	\$ 1,012,822	\$ 1,016,048
Total Expenditures	\$ 5,265,116	\$ 6,319,266	\$ 9,014,433	\$ 9,408,285	\$ 7,653,538	\$ 8,215,527	\$ 8,098,645	\$ 8,677,115
Change in Fund Balance	\$ 1,727,045	\$ 605,768	\$ (1,827,098)	\$ (2,174,004)	\$ (194,329)	\$ (539,941)	\$ (195,042)	\$ (538,653)
Ending Fund Balance	\$ 6,668,293	\$ 5,547,016	\$ 3,719,918	\$ 4,494,289	\$ 4,299,961	\$ 3,760,020	\$ 3,564,978	\$ 3,026,325
FB % of Expenditure	126.65%	87.78%	41.27%	47.77%	56.18%	45.77%	44.02%	34.88%

Golf Fund – Updated

	FY 21-22 Unaudited YTD	FY 21-22 Estimate	FY 22-23 Budget	FY 22-23 Actual	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Revenues	\$ 1,931,271	\$ 1,754,560	\$ 1,807,000	\$ 1,988,148	\$ 1,861,075	\$ 1,916,772	\$ 1,974,140	\$ 2,033,230
4B Subsidy Transfer	\$ 432,525	\$ 678,698	\$ 445,431	\$ 839,283	\$ 483,624	\$ 594,644	\$ 600,863	\$ 865,594
4B Debt Transfer	\$ 371,403	\$ 371,403	\$ 376,086	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
4B Adm Transfer	\$ 124,125	\$ 124,125	\$ 285,683	\$ 285,683	\$ 294,253	\$ 303,081	\$ 312,174	\$ 321,539
Total Revenues	\$ 2,859,324	\$ 2,928,786	\$ 2,914,200	\$ 3,489,200	\$ 3,009,484	\$ 3,196,705	\$ 2,887,177	\$ 3,220,363
Personnel	\$ 1,215,160	\$ 1,182,374	\$ 1,221,802	\$ 1,221,802	\$ 1,267,024	\$ 1,313,971	\$ 1,362,710	\$ 1,413,311
Other expenditures	\$ 1,644,164	\$ 1,746,412	\$ 1,692,398	\$ 2,267,398	\$ 1,742,460	\$ 1,882,734	\$ 1,524,467	\$ 1,807,052
Total Expenditures	\$ 2,859,324	\$ 2,928,786	\$ 2,914,200	\$ 3,489,200	\$ 3,009,484	\$ 3,196,705	\$ 2,887,177	\$ 3,220,363
Change in Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Ending Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
% Self Sustaining	68%	60%	62%	57%	62%	60%	68%	63%

Golf Fund – Budget Presentation

	FY 21-22 Budget	FY 21-22 Estimate	FY 22-23 Projected	FY 23-24 Projected	FY 24-25 Projected	FY 25-26 Projected	FY 26-27 Projected
Beginning Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Operating Revenues	\$ 1,555,639	\$ 1,754,560	\$ 1,807,000	\$ 1,861,075	\$ 1,916,772	\$ 1,974,140	\$ 2,033,230
4B Subsidy Transfer	\$ 722,190	\$ 678,698	\$ 445,431	\$ 483,624	\$ 655,394	\$ 631,663	\$ 899,594
4B Debt Transfer	\$ 371,403	\$ 371,403	\$ 376,086	\$ 370,532	\$ 382,208	\$ -	\$ -
4B Adm Transfer	\$ 124,125	\$ 124,125	\$ 285,683	\$ 294,253	\$ 303,081	\$ 312,174	\$ 321,539
Total Revenues	\$ 2,773,357	\$ 2,928,786	\$ 2,914,200	\$ 3,009,484	\$ 3,257,455	\$ 2,917,977	\$ 3,254,363
Personnel	\$ 1,170,675	\$ 1,182,374	\$ 1,221,802	\$ 1,267,024	\$ 1,313,971	\$ 1,362,710	\$ 1,413,311
Other expenditures	\$ 1,602,682	\$ 1,746,412	\$ 1,692,398	\$ 1,742,460	\$ 1,943,484	\$ 1,555,267	\$ 1,841,052
Total Expenditures	\$ 2,773,357	\$ 2,928,786	\$ 2,914,200	\$ 3,009,484	\$ 3,257,455	\$ 2,917,977	\$ 3,254,363
Change in Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Ending Fund Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
% Self Sustaining	56%	60%	62%	62%	59%	68%	62%

* Golf fund operating with a zero fund balance based on 4B subsidy

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY CERTIFICATION OF FILING

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Fleetwood Services LLC
Dallas, TX United States

Certificate Number:
2022-956821

Date Filed:
11/17/2022

Date Acknowledged:

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Burleson

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFP 2023-002
Hidden Creek Golf Course Bunker Renovation

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Fleetwood, Pam	Dallas, TX United States	X	
	Fleetwood, Robert	Dallas, TX United States	X	

5 Check only if there is NO Interested Party.

☐

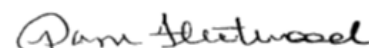
6 UNSWORN DECLARATION

My name is Pam Fleetwood, and my date of birth is 4/10/1964.

My address is 4311 Willow Street, Dallas, TX, 75226, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas County, State of Texas, on the 17 day of November, 2022.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Parks and Recreation

FROM: Jen Basham, Director of Parks and Recreation

MEETING: December 12, 2022

SUBJECT:

Consider approval of a minute order ratifying the Burleson Community Service Development Corporation's action to approve a resolution authorizing a contract with Marilyn Bleeker for the acquisition of approximately 13 acres of real property at or near 2410 SW Hulen St, Burleson, Johnson County, Texas and authorizing the expenditure of funds. *(Staff Presenter: Jen Basham, Director of Parks and Recreation)*

SUMMARY:

On December 12, 2022, the Burleson Community Service Development Corporation (Type B Corporation) is considering the purchase of 13 acres of property at or near 2410 SW Hulen St, Burleson, Texas 76028, owned by Marilyn Bleeker.

As part of the consideration for master planning the site is being considered for a community park, which was identified as a priority in the 2019 master plan. A specific amenity to be considered is the relocation of Hidden Creek Softball Complex. Hidden Creek Softball complex is currently used for pick up practice and games, all league play has been moved to one field at Chisenhall. Due to the current conditions at Hidden Creek the fields are deemed unplayable for league play. Council authorized staff to proceed with researching the feasibility of relocating the fields and redeveloping the site for a different use. In order to proceed with relocation public engagement will occur to receive community feedback on the relocation prior to any redevelopment proposal. If the community supports the relocation at the proposed site, the fields will be master planned into community park.

The property being considered is 13 acres adjacent to approximately 43 acres of either city-owned property or property the city has under contract to purchase, creating a site of 66 acres for master planning.

The property is not being purchased as park land. This property will be purchased as general municipal and a master plan will be developed for the entire site. Once the site has been master planned the appropriate area of parkland, if any, will be identified. A true up of the 4B funding portion may or may not be needed based on the final plan.

OPTIONS:

- 1) Approve as presented
- 2) Approve with changes
- 3) Deny

RECOMMENDATION:

Staff recommends the purchase of the property

PRIOR ACTION/INPUT (Council, Boards, Citizens):

FISCAL IMPACT:

STAFF CONTACT:

Jen Basham
Director of Parks and Recreation
jbasham@burlesontx.com
817-426-9201