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

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

1. CALL TO ORDER

Invocation - Dr. Don Newbury, Senior Adult Minister, First Baptist Church Burleson

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. PUBLIC PRESENTATIONS

A. Proclamations

-A Proclamation recognizing special needs and disabilities with a "Summer Luau Dance" on August 18th in the City of Burleson. (Recipient: Jessica Martinez, Park and Recreation Department)

B. Presentations

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.

3. REPORTS AND PRESENTATIONS

A. Receive a report, hold a discussion, and provide staff feedback regarding the preliminary design of Village Creek Parkway Widening and Reconstruction project. (Staff Presenter: Errick Thompson, Deputy Director of Public Works - Engineering)

B. Receive a report, hold a discussion and give staff direction on the FY2023-2024 (tax year 2023) property tax rate and provide any additional information from City Council regarding the annual budget for fiscal year FY2023-2024. (Staff Presenter: Martin Avila, Director of Finance)

- C. Receive a report, hold a discussion, and give staff direction regarding the cemetery irrigation, landscape, and ornamental fountain. (*Staff presenter: Jen Basham, Parks and Recreation Director*).

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- A. Items to be continued or withdrawn.
- B. Items to be withdrawn from the Consent Agenda for separate discussion by the City Council, staff, or members of the public in attendance.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 July 24, 2023 regular council meeting. (*Staff Contact: Amanda Campos, City Secretary*)
- B. Consider approval of an interlocal agreement with the City of Fort Worth and a first amendment to the interlocal agreement for participation in the Environmental Collection Center Household Hazardous Waste Program not to exceed \$63,500 per fiscal year. (*Staff Contact: Lisa Duello, Neighborhood Services Director*)
- C. Consider approval of a two-year professional service agreement in the amount not to exceed \$100,000 with Valley View Consulting LLC for investment advisory services. (*Staff Contact: Martin Avila, Director of Finance*)
- D. Consider approval of a contract with Knight Security Systems for software, hardware, and maintenance for the installation of security cameras and access control throughout the Ellison Building through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount of \$107,876.74 for five years. (*Staff Contact: James Grommersch, Chief Technology Officer*)

- E. Consider approval of an ordinance repealing in their entirety Ordinances No. B-662, CSO#1129-09-2019, and CSO#3082-09-2022 concerning a juvenile curfew codified in Article IV "Curfew" of Chapter 54 "Miscellaneous Offenses" of the City of Burleson Code of Ordinances. (First Reading) (*Staff Contact: Billy J. Cordell, Chief of Police*)
- F. Consider approval of a resolution authorizing street closures and in-kind sponsorship of \$1,897.74 for costs associated with police and public works staff for the Burleson High School Homecoming Parade. (*Staff Contact: DeAnna Phillips, Director of Community Services*)
- G. Consider approval of a Medical Services Mutual Aid Agreement between the City of Burleson and the Metropolitan Area EMS Authority dba MedStar Mobile Healthcare (MedStar). (*Staff Presenter: K.T. Freeman, Fire Chief*)

7. GENERAL

- A. Hold a public hearing and consider approval of an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas, authorizing the City Manager to execute a deed without warranty to an adjacent landowner, and reserving a utility easement and public access easement. (First and Final Reading) (*Staff Contact: Errick Thompson, Deputy Public Works Director*)
- B. Consider approval of an ordinance amending the City's fee schedule ordinance CSO#3069-09-2022 by adding fees associated with the Burleson Memorial Cemetery. (First Reading) (*Staff Presenter: Jen Basham, Parks and Recreation Director*)
- C. Consider approval of amending contract CSO#934-11-2018 with Burleson Cemetery Operators, LLC, for operation of the Burleson Memorial Cemetery. (*Staff Presenter: Jen Basham, Director of Parks and Recreation*)
- D. Consider approval of an ordinance amending Article 2 "Rules and Regulations" of Chapter 18 "Cemeteries" of the City of Burleson Code of Ordinances (First Reading). (*Staff Presenter: Jen Basham, Parks and Recreation Director*).
- E. Consider approval of an ordinance repealing and replacing Article II "Emergency Medical Services" of Chapter 30 "Emergency Services" of the City of Burleson Code of Ordinances. (First Reading) (*Staff Contact: K.T. Freeman, Fire Chief*)
- F. Consider approval of an ordinance amending Ordinance CSO#3069-09-2022 the City's Fee Schedule by amending fees associated with the engineering review and inspection of private development. (First Reading) (*Staff Presenter: Errick Thompson, Deputy Public Works Director*)

8. CITY COUNCIL REQUESTS AND FUTURE AGENDA ITEMS AND REPORTS

9. RECESS INTO EXECUTIVE SESSION

In accordance with Chapter 551 of the Texas Government Code, the City Council may convene in Executive Session in the City Council Workroom in City Hall to conduct a closed meeting to discuss any item listed on this Agenda.

- A. Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071, Texas Government Code**

- B. Discussion regarding possible purchase, exchange, lease, or value of real property pursuant to Section 551.072, Texas Government Code**
 - 555 E Hidden Creek Pkwy, Burleson, Johnson County, Texas
- C. 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, Texas Government Code**
 - Project Birdie
 - Project 1978
 - Project Office

CERTIFICATE

I hereby certify that the above agenda was posted on this the 2nd of August 2023, 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 Special Meeting

DEPARTMENT: Public Works

FROM: Errick Thompson, Deputy Director of Public Works - Engineering

MEETING: August 7, 2023

SUBJECT:

Receive a report, hold a discussion, and provide staff feedback regarding the preliminary design of Village Creek Parkway Widening and Reconstruction project. (Staff Presenter: Errick Thompson, Deputy Director of Public Works - Engineering)

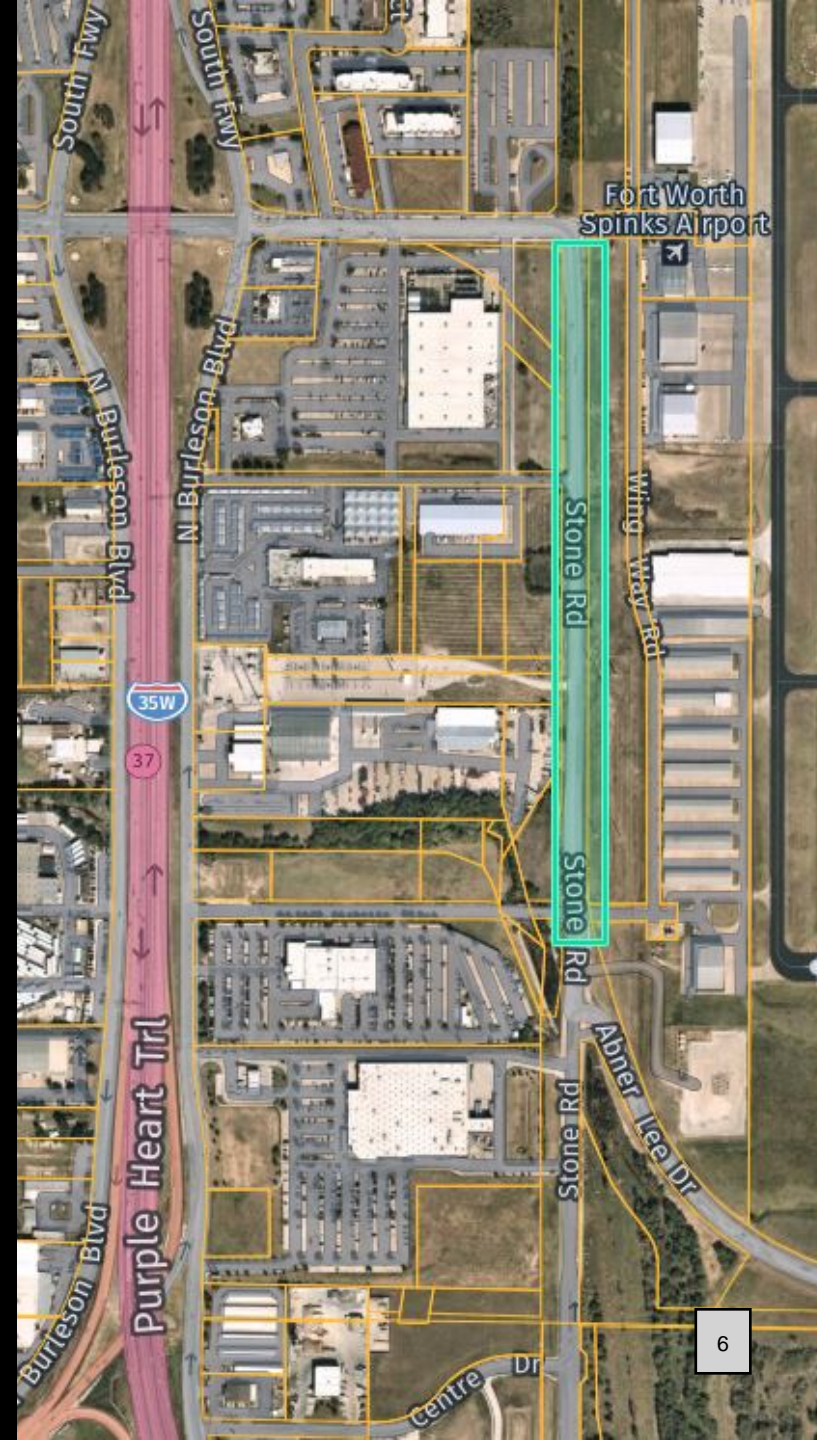
SUMMARY:

Receive a report, hold a discussion, and provide staff feedback regarding the preliminary design of Village Creek Parkway Widening and Reconstruction project.

STAFF CONTACT:

Errick Thompson
Deputy Director of Public Works - Engineering
ethompson@burlesontx.com
817-426-9610

STONE ROAD / VILLAGE CREEK PKWY DESIGN UPDATE



OBJECTIVES

- PROJECT BACKGROUND
- DESIGN STATUS
- RECOMMENDED DESIGN ELEMENTS
- COUNCIL FEEDBACK



BACKGROUND

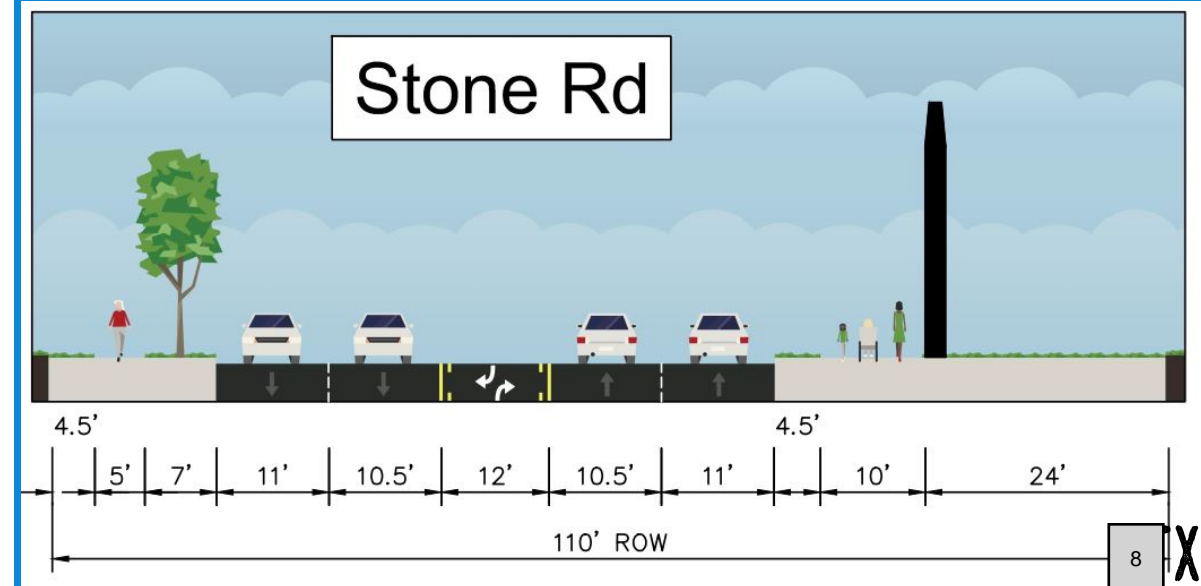
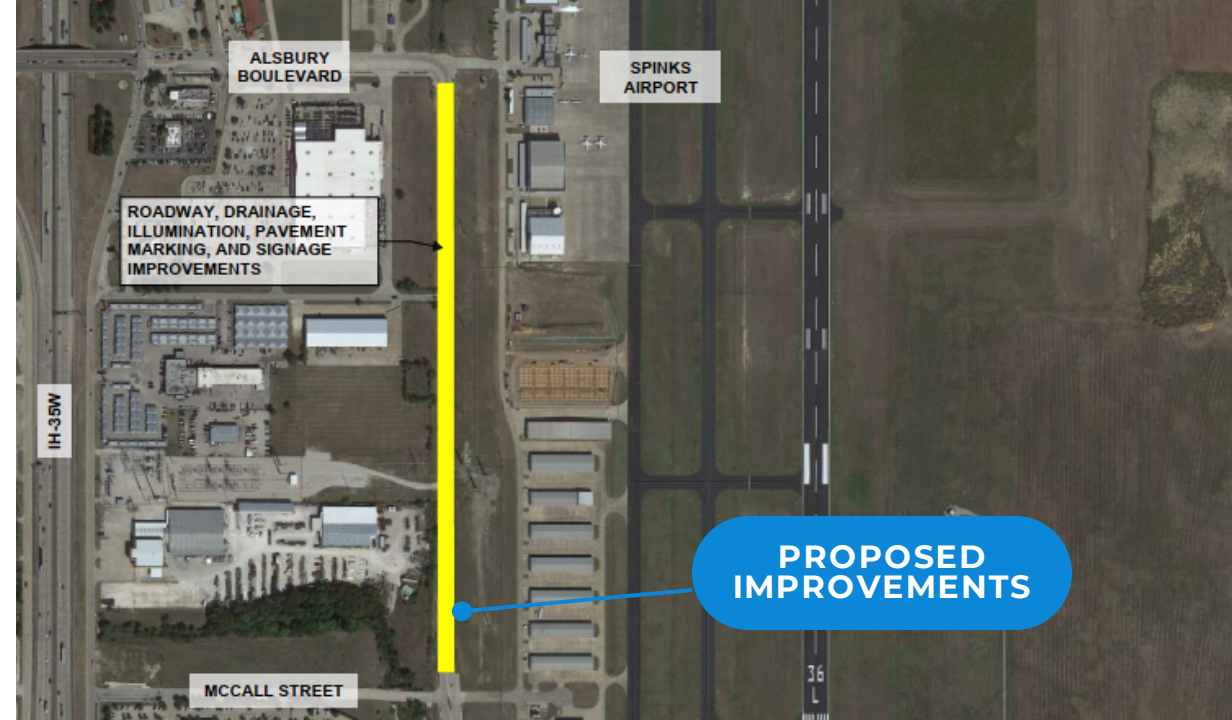
Fall 2021 project was selected for Tarrant County Bond Program (50/50 cost sharing split); Initially included in Burleson's 5-yr CIP in 2022

Original project description from Tarrant County application

Widen and reconstruct approximately 0.5 miles of Stone Rd./Village Creek Pkwy from North of McCall St. to Alsbury Blvd.

- Replace the existing two-lane asphalt roadway with a five-lane undivided concrete roadway including two lanes in each direction and a two-way left turn lane
- Install curb and gutter, closed drainage system, and streetlights

Install sidewalk on west side and continue 10' shared use path on east side to match section to the south



TARRANT COUNTY BOND PROGRAM



CALL FOR PROJECTS

Opened April 2021; City submitted application April 15, 2021



SELECTION

Commissioner's Court accepted prioritized list of projects on August 3, 2021
Burleson's Project was ranked #2 of 33.
September 2021 Tarrant County Commissioner Brooks (Precinct 1) agreed to allocate additional \$500,000 from his discretionary funds to this project.



ELECTION

Tarrant County voters passed Proposition A on November 2, 2021, allowing implementation of the 2021 Transportation Bond Program



INTERLOCAL AGREEMENT (ILA)

ILA received from Tarrant County November 2022 and Burleson City Council approved January 9, 2023 (CSO#4085-01-2023)

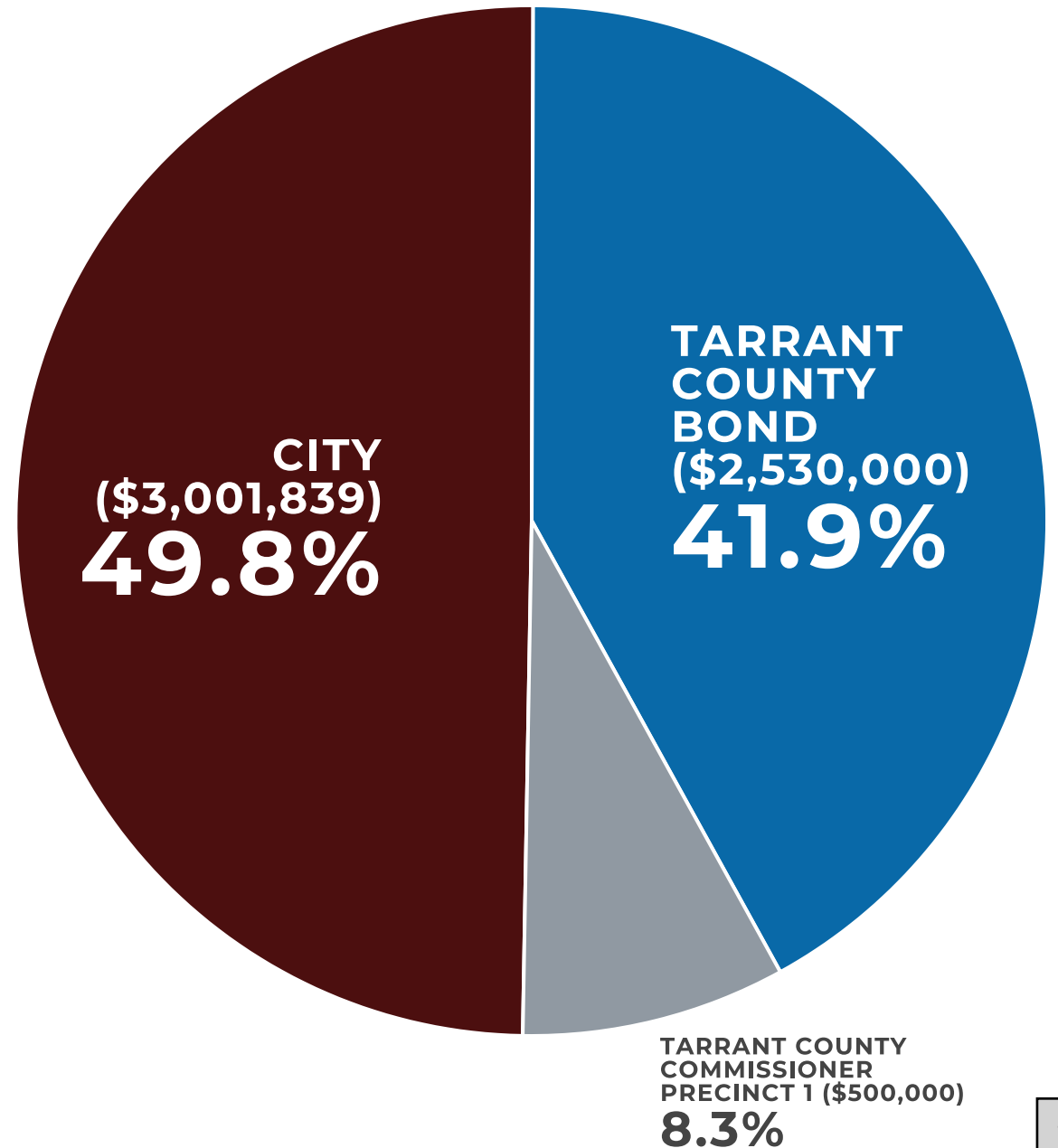


PROGRAM ADMINISTRATION

City will be eligible to be reimbursed for 50% of design fee once final civil construction plans are approved
City will be eligible to be reimbursed up to 50% of construction expenses monthly during construction

PROJECT FUNDING

City funding from cash and impact fees



DESIGN

Professional Services contract with Freese and Nichols, Inc. for design approved by City Council January 9, 2023 (CSO#4086-01-2023)



SURVEY

Topographic survey to locate existing features and utilities



FAA COORDINATION

Spinks Airport official notification and subsequent review of project by FAA due to proximity to the airport



DESIGN

Consultant will prepare Plans and Specifications for the roadway improvements



CONSTRUCTION ADMINISTRATION

Consultant will provide construction administration services



UTILITY COORDINATION/LOCATING AND PERMITTING

Utility locating may be required

DESIGN: FEBRUARY 2023- JANUARY 2024
CONSTRUCTION: MARCH 2024- MAY 2025

Council feedback in January included requests to:

Assess the McCall Street intersection and the feasibility of allowing left turns out of the Spinks Airport driveway
Incorporate context sensitive design considerations

DESIGN PROCESS



Staff asked Freese and Nichols to develop two additional roadway section options in addition to the original Tarrant County application roadway section

Tarrant County staff is supportive of an alternative roadway section that meets the original project objectives, does not diminish capacity, nor increases their funding obligation

ROADWAY SECTION ANALYSIS

Original - Tarrant County Bond Application

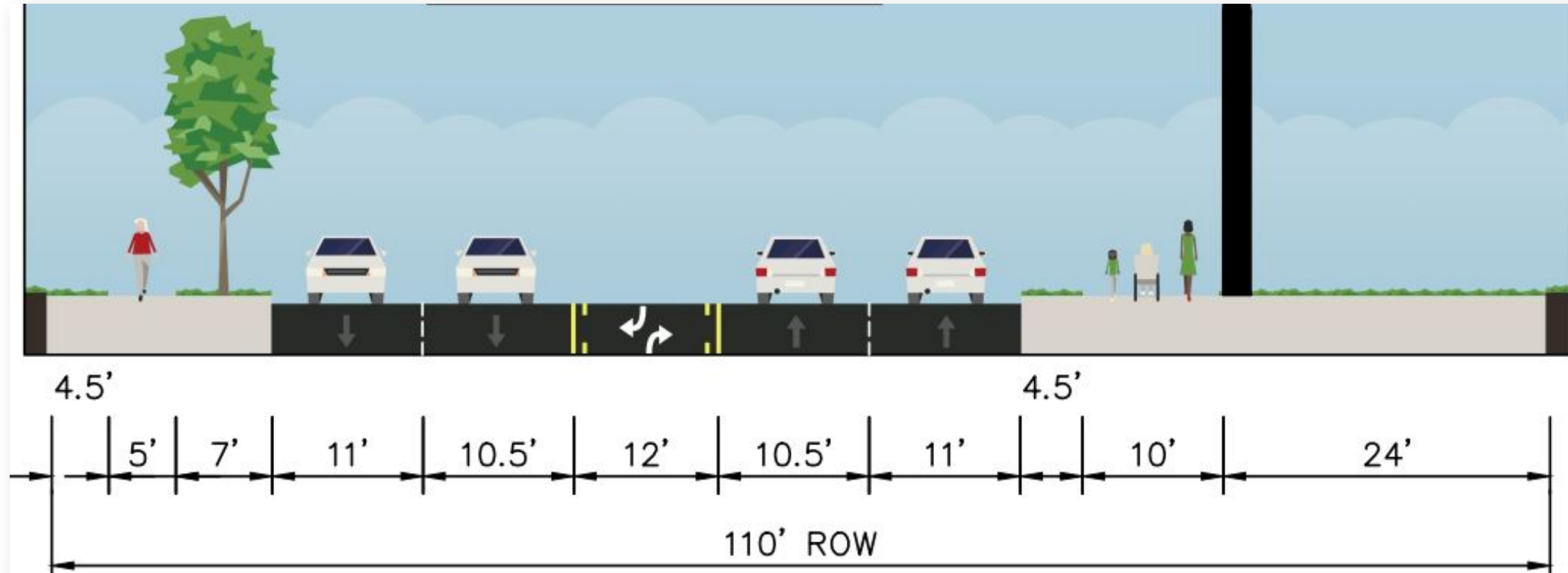
110-120' ROW- 5 LANE UNDIVIDED
(EXISTING ROW IS 90')

CONS

- Requires right-of-way acquisition
- Highest construction cost compared to four-lane divided
- Limited benefit for the two-way left turn lane- no southbound left turn lane is necessary (Spinks Airport property)
- Does not allow for median landscape improvements

PROS

- Continues 10' shared use path for trail extension
- Adds travel lane in each direction
- Two-way left turn lane provides access to developments on westside of roadway



ROADWAY SECTION ANALYSIS

Concept A

90' ROW- 4 LANE UNDIVIDED

CONS

- Requires ILA update with Tarrant County
- Adds travel lane only in southbound direction
- Limited benefit for the two-way left turn lane- no southbound left turn lane is necessary (Spinks Airport property)
- Does not allow for median landscape improvements
- Does not align with the existing intersection configuration of Village Creek Pkwy at McCall St. and Alsbury Blvd.

PROS

- Continues 10' shared use path for trail extension
- No right-of-way acquisition needed
- Reduced construction cost compared to original five lane undivided section and four lane divided section
- Two-way left turn lane provides access to developments on westside of roadway



ROADWAY SECTION ANALYSIS

Concept B

90' ROW- 4 LANE DIVIDED

with gently meandering 10' Shared Use Path within Oncor Easement

CONS

-Requires ILA update with Tarrant County

PROS

- Continues 10' shared use path for trail extension
- Provides two lanes in each direction, increasing capacity
- Enhances safety with raised median; also available for landscaping
- Fits within existing right-of-way
- Reduces construction cost compared to original five lane undivided section
- Includes context-sensitive design elements (eliminates unnecessary two-way left turn lane, provides gently meandering shared use path within Oncor easement)



Proposed left turn lanes for northbound traffic at:

- **BOONE RD.**
- **ONCOR SUBSTATION DRIVEWAY**

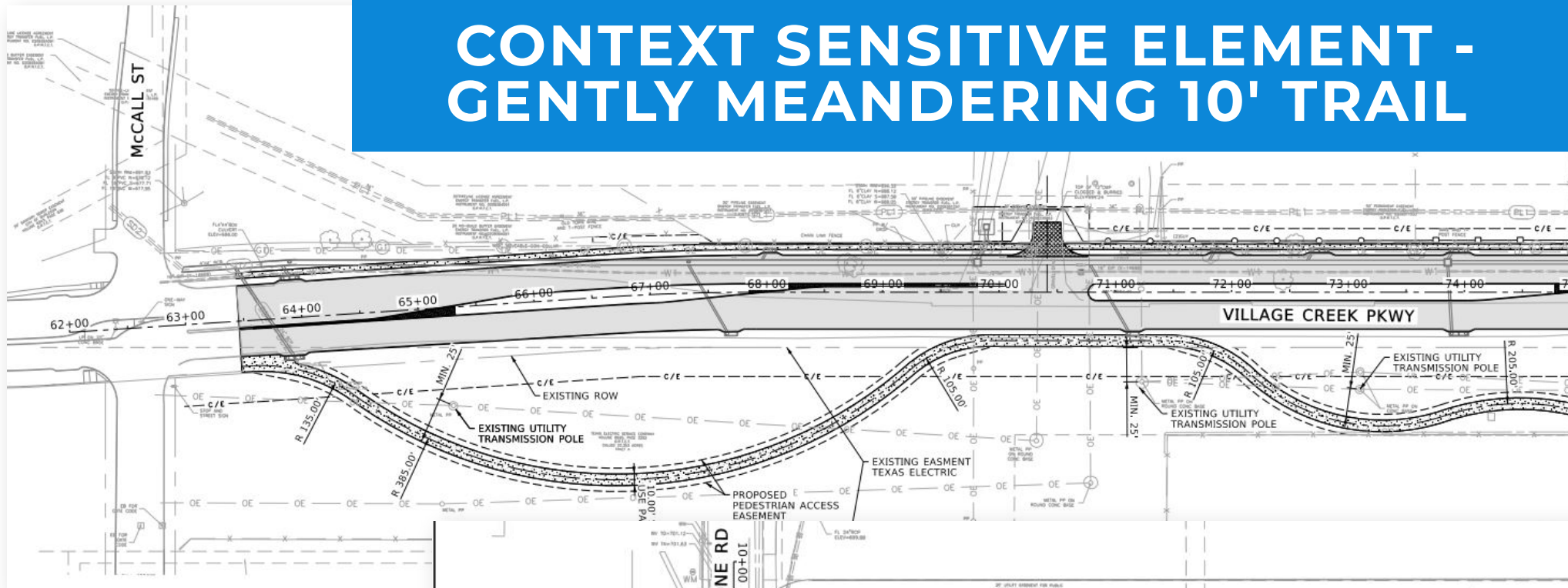
ROADWAY SECTION COMPARISON

Section	Right-of-Way Acquisition	Cost*	Median Landscaping	Safety	Capacity
ORIGINAL 5 Lane Undivided (120' ROW)	Yes	\$\$\$	No	Two Way Left Turn Lane; Less Safe	Two lanes each direction
CONCEPT A 4 Lane Undivided (90' ROW)	No	\$	No	Two Way Left Turn Lane; Less Safe	Two lanes southbound; one lane northbound
CONCEPT B 4 Lane Divided (90' ROW)	No	\$\$	Yes	Raised median offsetting northbound and southbound traffic; Safer	Two lanes each direction

*All options are within the established project budget

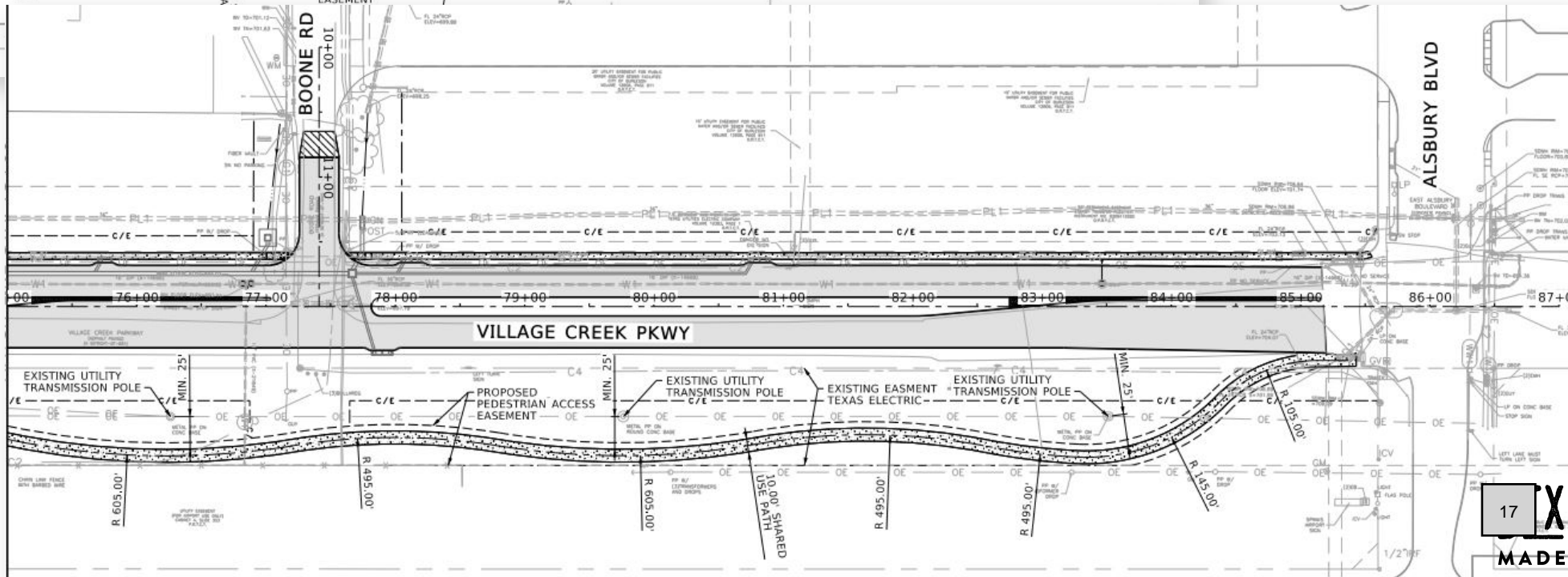
STAFF RECOMMENDS CONCEPT B
(4-lane divided with gently meandering trail within Oncor easement)

CONTEXT SENSITIVE ELEMENT - GENTLY MEANDERING 10' TRAIL



Oncor is open to allowing this alignment. FNI started separate permitting process

This will allow greater separation of the proposed trail and the roadway along with alignment variability for pedestrian enjoyment



McCall Intersection

Designed and constructed with Village Creek Pkwy/ Stone Rd. Phase 1- completed in 2014

McCall St. right-of-way was previously dedicated and planned to connect to Stone Rd./ Village Creek Pkwy

Design resulted in the safest intersection option for McCall St. and Abner Lee Dr. while maintaining southbound access to Spinks Airport

Current design revisited this intersection to investigate other options for cross traffic access at McCall and Spinks Airport driveway

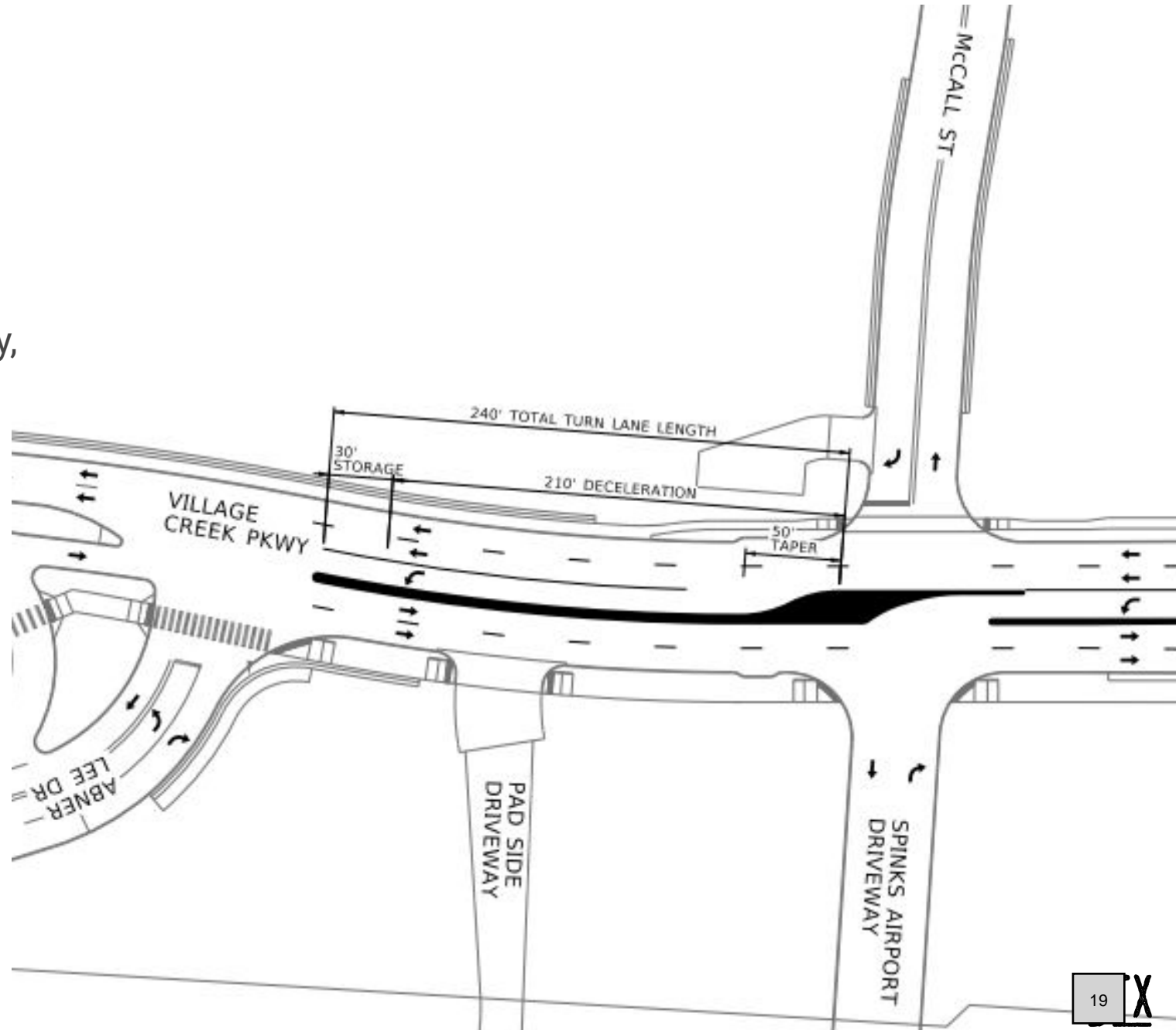


McCall Intersection

Existing

Right-in/right-out for McCall, southbound hooded left entry for Spinks Airport driveway, 240' southbound left turn lane for Abner Lee

- Does not meet City Standard turn lane length (minimum 300'); would require eliminating hooded left turn lane into Spinks Airport driveway
- Meets City Standard median opening spacing (minimum 450' for major collectors)
- Provides the safest corridor option while still providing southbound left turn access to Abner Lee and Spinks Airport driveway

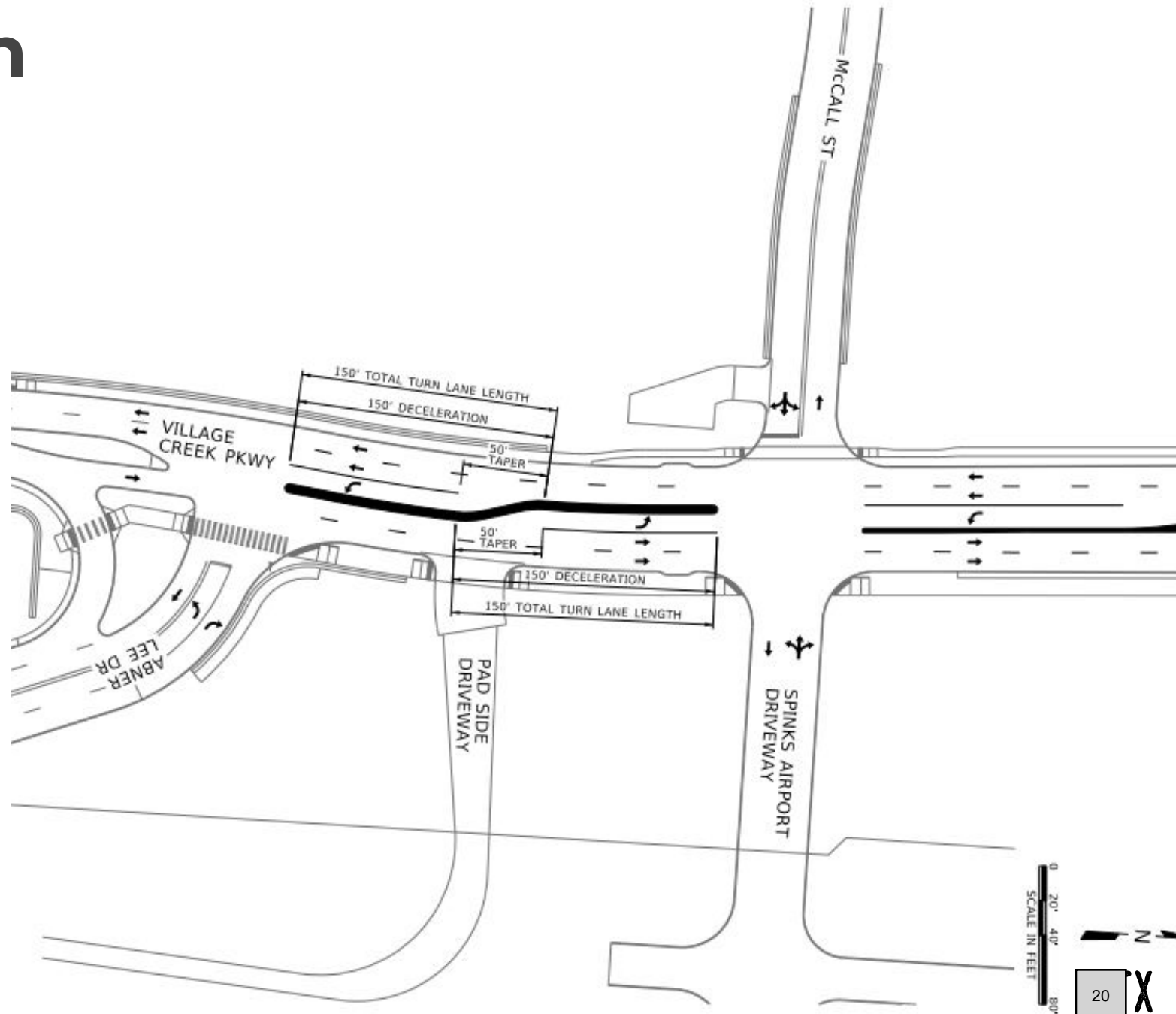


McCall Intersection

Option A2

Open intersection for McCall and Spinks Airport driveway, 150' left turn lanes for Abner Lee and McCall

- Does not meet City Standard turn lane length (minimum 300')
- Does not meet City Standard median opening spacing (minimum 450' for major collectors)
- Introduces additional safety concerns

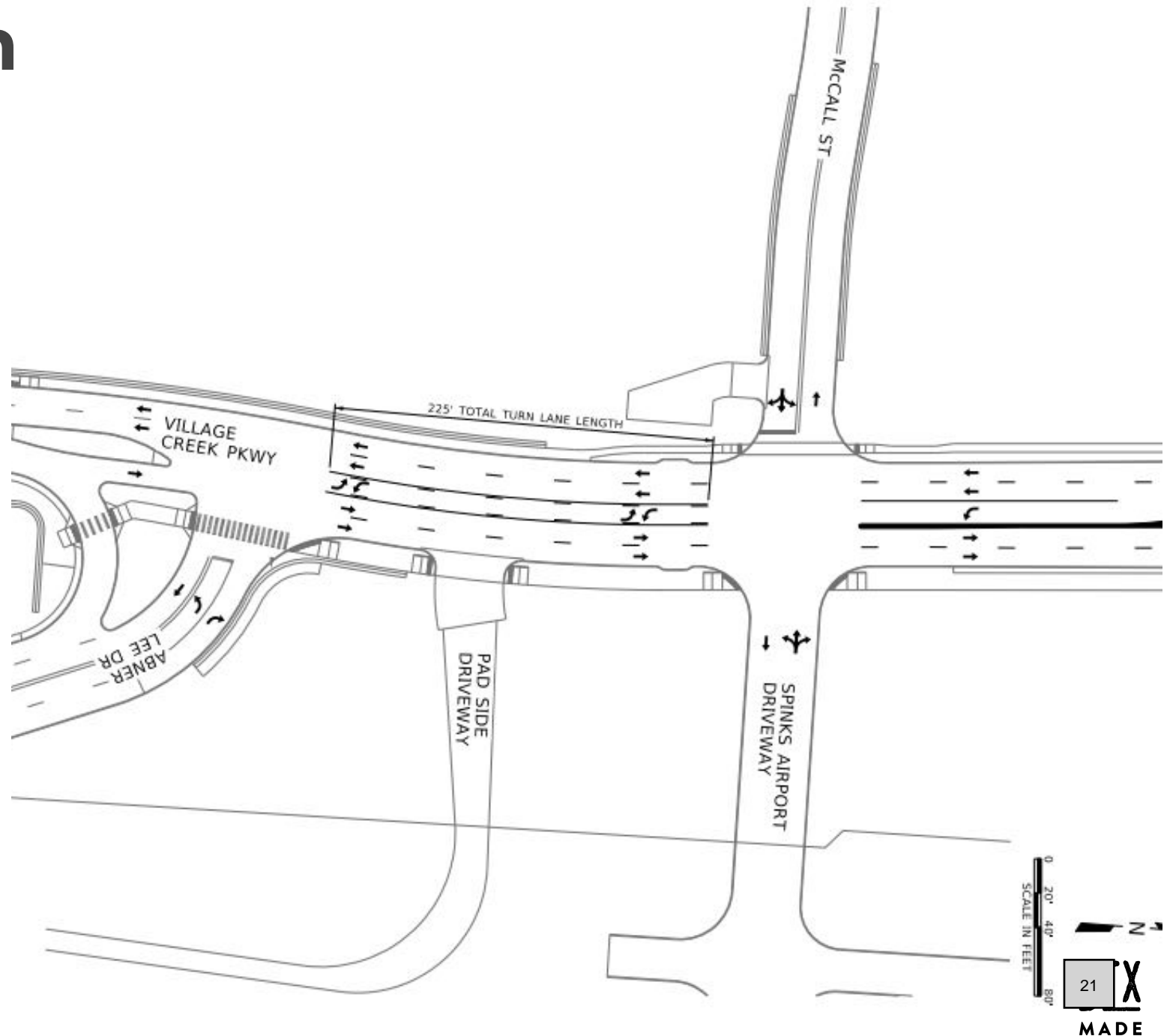


McCall Intersection

Option A3

Open intersection for McCall and Spinks Airport driveway, two-way left turn lane between Abner Lee and McCall

- Does not meet City Standard median opening spacing (minimum 450' for major collectors)
- Introduces additional safety concerns

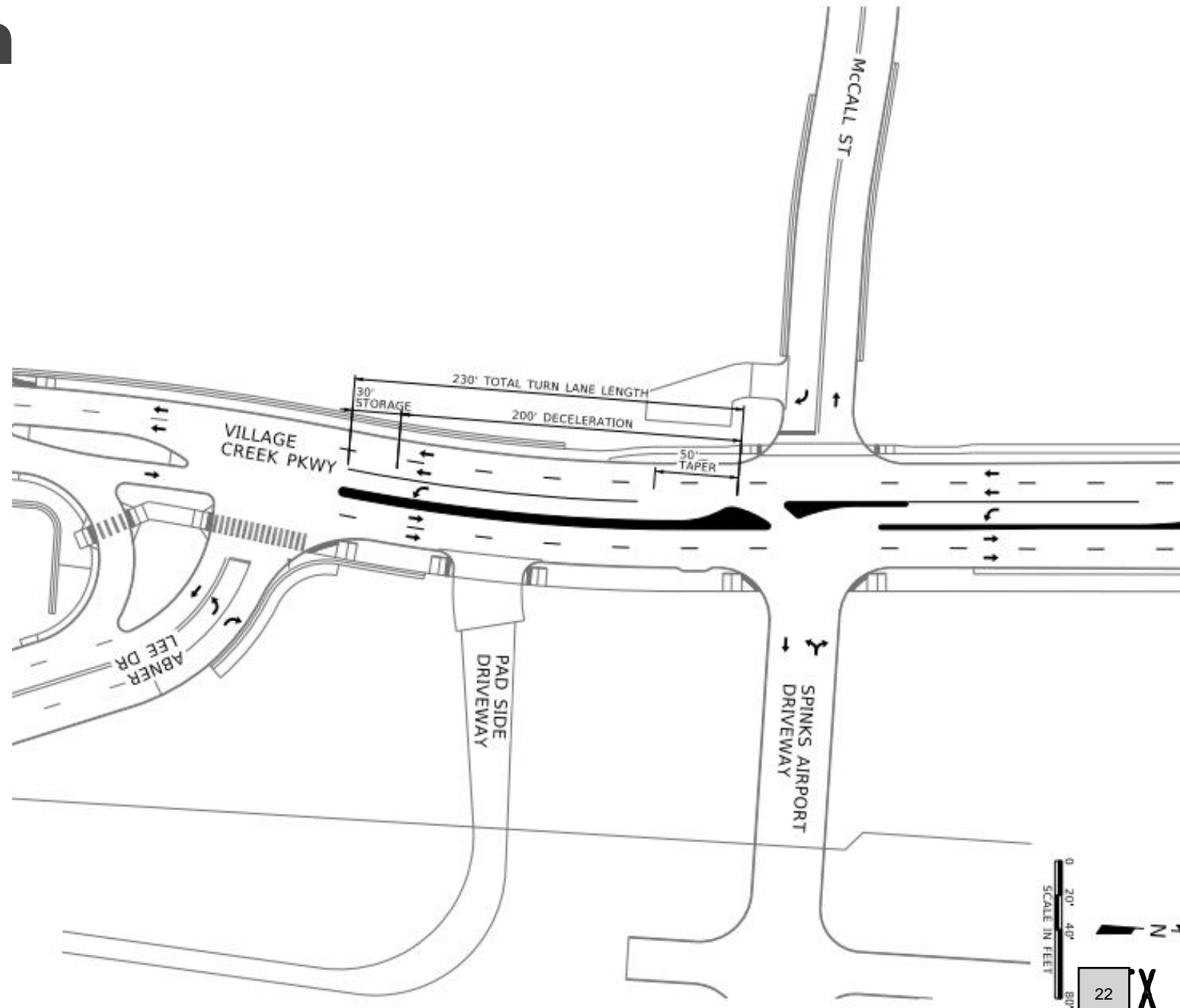


McCall Intersection

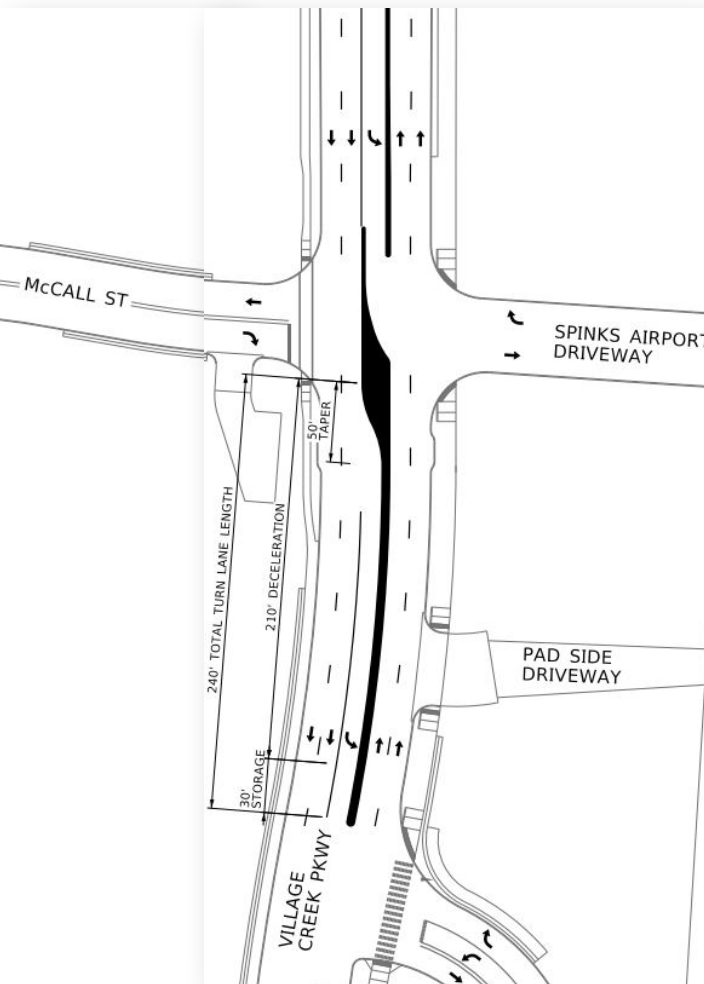
Option A4

Adjust intersection for hooded left turns from Spinks Airport driveway, 230' southbound left turn lane for Abner Lee

- Does not meet City Standard turn lane length (minimum 300')
- Does not meet minimum vehicle refuge area for left turns from Spinks Airport driveway
- Introduces additional safety concerns

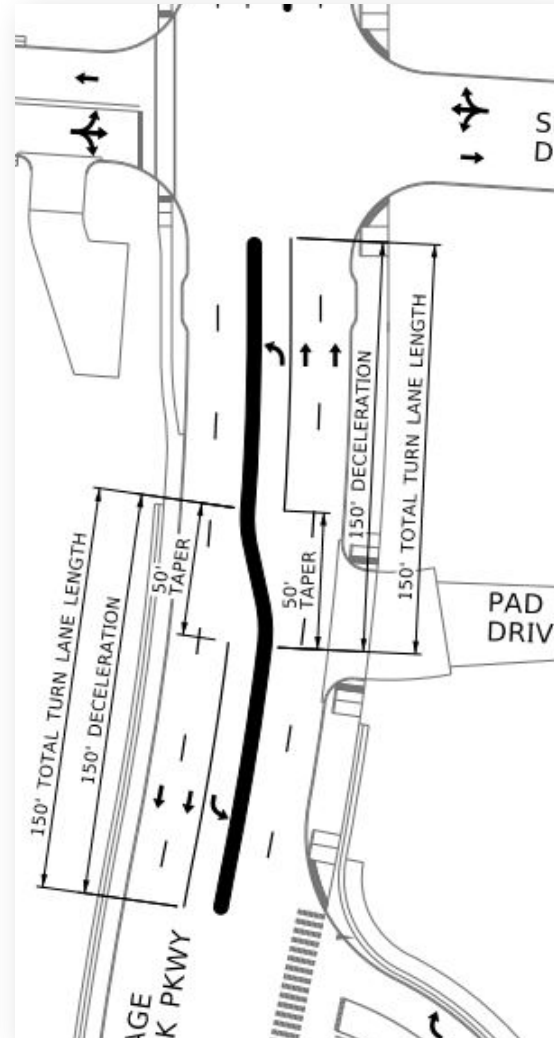


McCall Intersection Summary of Options



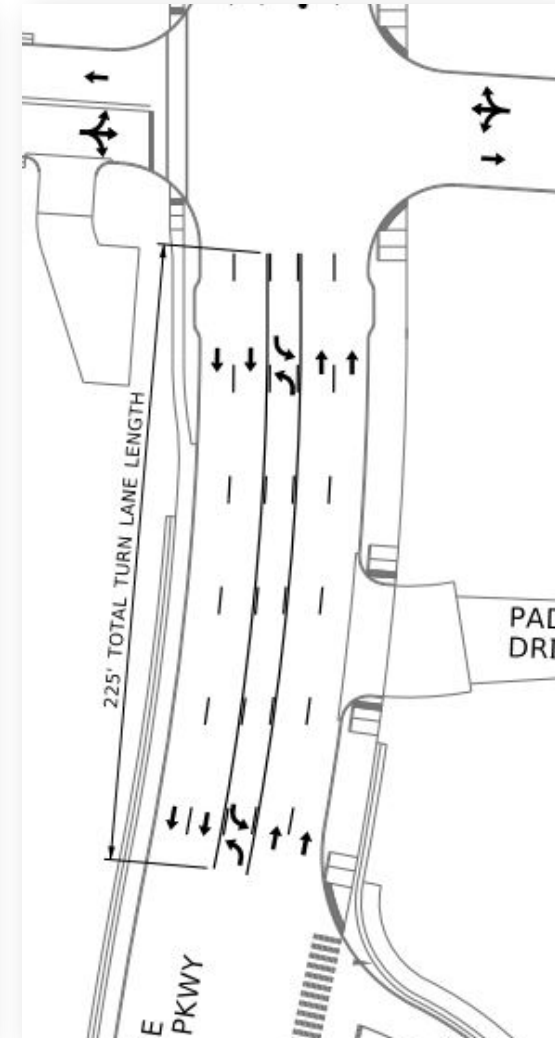
Existing- 240' Turn Lane

***Does not meet City Standard turn lane length in order to allow hooded left into Spinks Airport driveway**



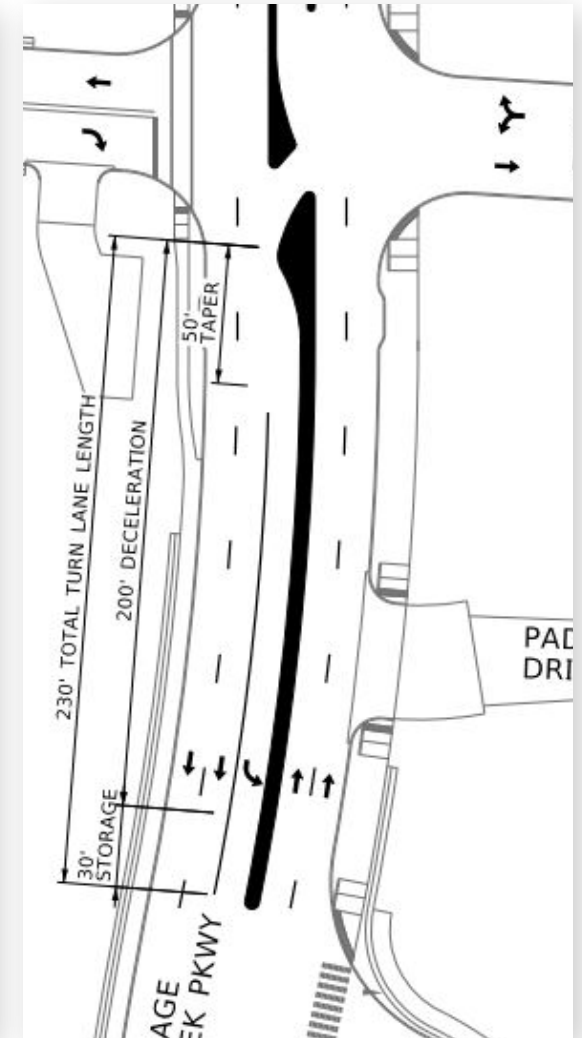
A2- Open Intersection 150' Turn Lanes

***Does not meet City Standard turn lane length nor median opening spacing; Safety Concerns**



A3- Open Intersection Two-way Left Turn Lane

***Does not meet City Standard median opening spacing; Safety Concerns**



A4- Revise Intersection for only left turns from Spinks

***Does not meet City Standard turn lane length**

SPEED DATA COLLECTION

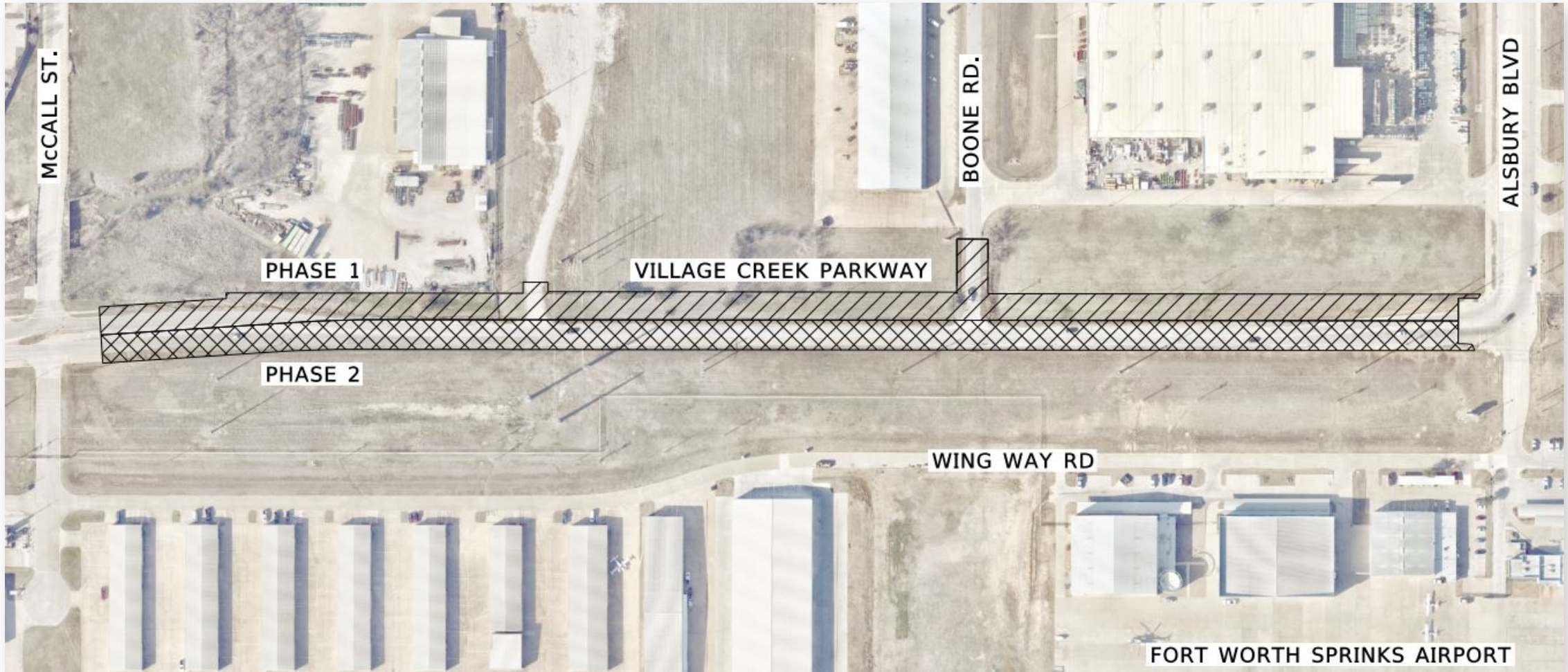
Posted speed limit is 40 MPH

Collection Point	Road Section	Direction	Number of Vehicles	85th Percentile Speed	Direction	Number of Vehicles	85th Percentile Speed
Village Creek Pkwy (South of Abner Lee)	Two 12' concrete Lanes (Stone Rd. Ph. 1- completed fall 2014)	Northbound	381	43 MPH	Southbound	692	42 MPH
Village Creek Pkwy (North of Boone Rd.)	One 14' asphalt lane in each direction	Northbound	499	44 MPH	Southbound	647	41 MPH

Collection time period for each area 3 hours (10 am - 1 pm)

PRELIMINARY THOUGHTS ON CONSTRUCTION PHASING

Maintain one lane open in each direction during construction



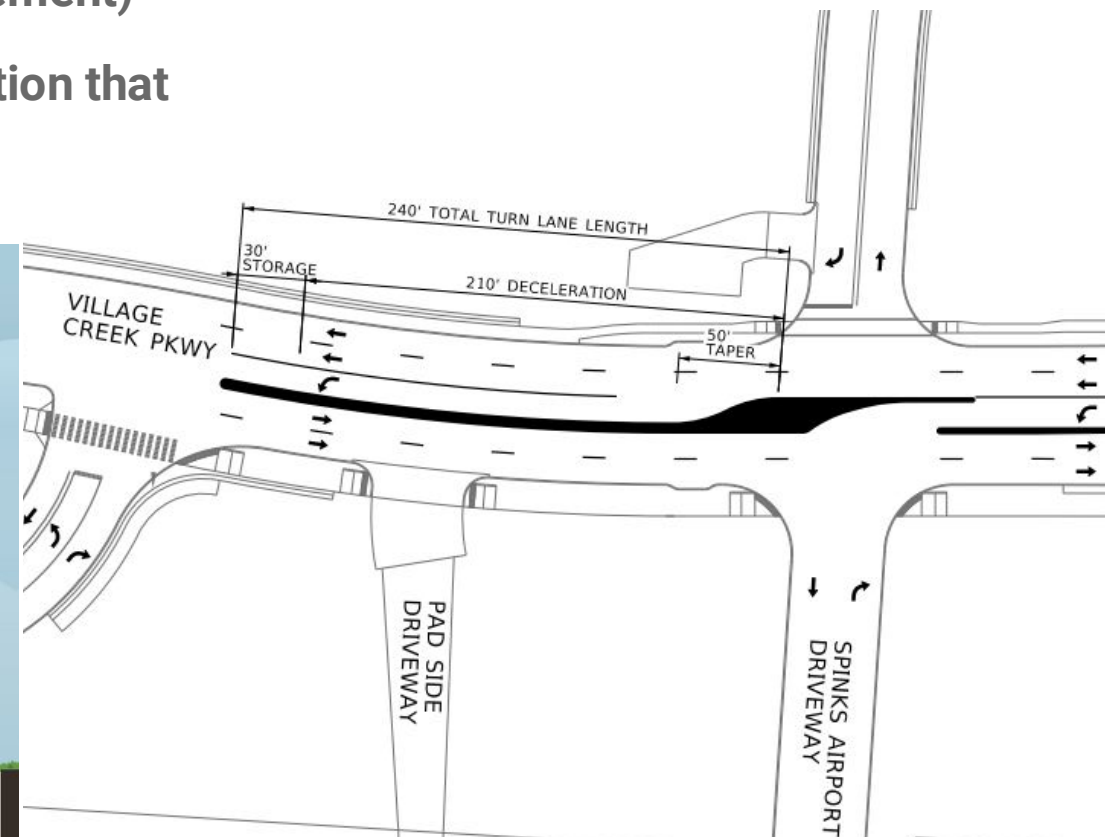
RECOMMENDATION

Staff recommends proceeding with the development of construction plans including:

- Roadway section concept B (4-lane divided within existing 90' right-of-way with gently meandering shared use path within Oncor easement)
- Retaining the existing configuration of the McCall St. intersection that presents the safest of the alternatives

Complete Design by
January 2024

Begin Construction by
March 2024



FEEDBACK / DISCUSSION

Nº 1

DEPARTMENT MEMO

DEPARTMENT: Finance

FROM: Martin Avila, Finance Director

MEETING: August 7, 2023

SUBJECT:

Receive a report, hold a discussion, give staff direction on the FY2023-2024 (tax year 2023) property tax rate, and provide any additional information from City Council regarding the annual budget for FY 2023-2024. (*Staff Presenter: Martin Avila, Director of Finance*)

SUMMARY:

Senate Bill 2 went into effect in 2020. One key focus in this bill was placing a 3.5% cap in the Maintenance and Operations No New Revenue Rate (M&O NNRR) without having to go to the voters. On the July 24, 2023 Regular City Council meeting, Council provided staff direction to capture the 3.5% increase. In June 26, 2023, Johnson County Tax Assessor's Office submitted the City of Burleson's 2023 Tax Rate Calculation Worksheet (Comptrollers Form 50-859) and reviewed by Finance department. This worksheet determines the following:

- No New Revenue Rate (NNRR) - \$0.5936 - total tax rate that would generate the same tax revenue from previous year
- M&O NNRR -\$0.4254 - M&O tax rate that would generate the same tax revenue from previous year - General Fund
- M&O Voter Approval Rate - \$0.4402 - 3.5% of M&O NNRR
- Debt rate - \$0.1923
- Voter Approval Rate (M&O Voter Approval Rate plus Debt Rate) - \$0.6325

This presentation will cover the various rates as calculated by Johnson County Tax Assessor's Office, and the recommended tax rate.

OPTIONS:

Approve or deny using proposed M&O tax rate of \$0.4402 and Debt Rate of \$0.1923 for a total tax rate of \$0.6325

RECOMMENDATION:

Staff recommends approval of proposed tax rates

FISCAL IMPACT:

Included as part of the proposed FY2023-2024 proposed budget

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

July 24.2023, Council provided staff direction to capture 3.5% of base growth.

STAFF CONTACT:

Martin Avila
Finance Director
mavila@burlesontx.com
817-426-9651



Property Tax Rate

PRESENTED TO THE CITY COUNCIL ON AUGUST 7, 2023

Property Tax Overview

- Senate Bill 2 – In effect since 2020
 - No New Revenue Rate (NNRR) – total tax rate that would generate the same tax revenue from previous year
 - Based on previous year tax base
 - Tax values increase – total tax rate to generate same revenue as last year goes down
 - Tax values decrease – total tax rate to generate same revenue as last year goes up
 - M&O No New Revenue Rate (M&O NNRR) – M&O tax rate that would generate the same tax revenue from previous year – General Fund
 - M&O tax rate has a 3.5% cap without voter approval
 - Previous cap was 8%
 - Above 3.5% tax increase requires voter approval

Tax Rate Focus

- On the July 24, 2023 City Council Regular Meeting, Council provided direction to prepare the budget using a 3.5% increase from the M&O NNRR for FY 2024
- Current tax rate is M&O \$0.4649; Debt Rate \$0.1923; Total Rate \$0.6572
- On July 24, 2023- City and Johnson County Tax Office received the July certified roll from both Tarrant County and Johnson County Tax Office
- On July 26, 2023 Johnson County Tax Office submitted the 2023 Tax Rate Calculation Worksheet to Finance for review.
 - This worksheet calculates the NNRR, M&O NNRR, Debt Rate and Voter Approval Rate

2023 (FY2024) Tax Rate

- Current Tax Rate- M&O Rate **\$0.4649**; Debt Rate **\$0.1923**; Total Rate **\$0.6572**
- FY 2024 Tax Rates:
 - NNRR - \$0.5936
 - M&O NNRR - \$0.4254
 - 3.5% of M&O NNRR - \$0.4402 (Also referred as M&O Vote-Approval Rate)
 - Debt Rate - \$0.1923
 - Voter Approval Rate - \$0.6325
- Budget is being proposed at the Voter Approval Rate
 - M&O Rate - \$0.4402
 - Debt Rate - \$0.1923
 - Total Rate - \$0.6375

Tax Rate History

Tax Year	GF Rate	Debt Rate	Total Rate
Proposed FY 2023-24	\$0.4402	\$0.1923	\$0.6325
FY 2022-23	\$0.4649	\$0.1923	\$0.6572
FY 2021-22	\$0.4974	\$0.1885	\$0.6859
FY 2020-21	\$0.5187	\$0.1924	\$0.7111
FY 2019-20	\$0.5106	\$0.2094	\$0.7200
FY 2018-19	\$0.5228	\$0.2122	\$0.7350
FY 2017-18	\$0.5228	\$0.2122	\$0.7350
FY 2016-17	\$0.5228	\$0.2122	\$0.7350
FY 2015-16	\$0.5278	\$0.2122	\$0.7400
FY 2014-15	\$0.5278	\$0.2122	\$0.7400
FY 2013-14	\$0.5278	\$0.1622	\$0.6900

Decrease
\$0.0247

Council Direction

- Continue with proposed M&O Tax Rate of \$0.4402

Next Steps

- August 9, 2023 - City Manager will submit a copy of the FY2023-2024 proposed budget to City Secretary's Office and City Council
- August 15, 2023 – Special Session meeting – City Manager FY2023-2024 budget presentation
- September 5, 2023 –
 - Public Hearing on budget and tax rate
 - First reading of Budget, Tax Rate and Other Related Ordinances
- September 11, 2023 – Final reading of Budget, Tax Rate and Other Related ordinances

QUESTIONS/COMMENTS

City Council Regular Meeting

DEPARTMENT: Parks and Recreation

FROM: Jen Basham, Parks and Recreation Director

MEETING: August 7, 2023

SUBJECT:

Receive a report, hold a discussion, and give staff direction regarding the cemetery irrigation, landscape, and ornamental fountain. (*Staff presenter: Jen Basham, Parks and Recreation Director*).

SUMMARY:

Provide updates on challenges and solutions to issues caused by clogging of cemetery pond pump to landscape, irrigation and fountain in newly expanded area.

OPTIONS:

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

RECOMMENDATION:

Staff recommends approving as presented

FISCAL IMPACT:

None

STAFF CONTACT:

Jen Basham, CPRE
Parks and Recreation Director
jbasham@burlesontx.com
817-426-9201



Cemetery Expansion Challenges and Updates

City Council Meeting
August 7, 2023

Staff Presenter: Jen Basham, Parks and Recreation

Overview

- ① Background
- ② Irrigation Challenges and Solutions
- ③ Landscape Challenges and Solutions
- ④ Ornamental Fountain Challenges and Solutions
- ⑤ Timeline

Background

- Cemetery expansion opened May 23, 2023
- Irrigation system and fountain are fed by ground well pump that feeds into irrigation pond southeast of the cemetery
 - Over last few weeks, irrigation system has failed multiple times due to siltation from pond being pulled from pump causing pump to clog and trip.
 - Failure of irrigation system due to pump tripping including exceedingly high temperatures has led to newly planted landscaping dying
 - Recent concerns have been raised by staff and patrons over the odor and murkiness of water in the ornamental fountain due water being supplied by well

Cemetery Irrigation Challenges

- System was not completing irrigation cycles and was shutting down due to pump clogging with silt and fill sensor issues
- As rainfall decreased and temperatures began to sustain highs in the triple digits, it became apparent which irrigation zones were being missed due to system tripping during run cycles
- In late-July, staff adjusted irrigation to run during daytime hours to monitor for shut-downs and increase irrigation run times to keep plants alive



Cemetery Irrigation Solutions

- To address pump clogging issues, staff ordered a pond liner using project contingency funds on 7/20/2023
- Liner installation will prevent issues of clogging and installation is projected to be completed by mid-August 2023
- Liner should provide consistency in run times to meet landscape needs
- Staff is also exploring the use of a ground reservoir tank to serve as additional filtration for pond



Cemetery Landscape Challenges

- Since irrigation system runs during evening hours, staff became aware of issues by seeing plants suffering heat stress
- Staff began to add supplemental water but the small root zones of some new plants reached permanent wilting points
- Staff recommends some plants will need to be replaced during fall planting window and others removed due to maintenance concerns
 - Staff recommends replacing dead plants in plaza area near committal shelter and along fence line during as soon as possible
 - Most plants lost were in the field grave areas. These plants would likely suffer damages during future interments and through damages from landscape equipment so staff recommends not to replace
 - Surviving plants in field areas can be transplanted to plaza area of cemetery to save on replacement costs



Cemetery Ornamental Fountain Updates

- Fountain is also supplied by well water and pumped from pond
- Clogging has also caused issues in fountain and well water tends to be murky and have odor
- The fountain will be disconnected from well water supply and connected to potable water line to prevent issues from occurring
- Water connection is being installed by Public Works beginning week of 7/31/23
- A double-check installed for backflow prevention
- Estimated completion mid-August 2023

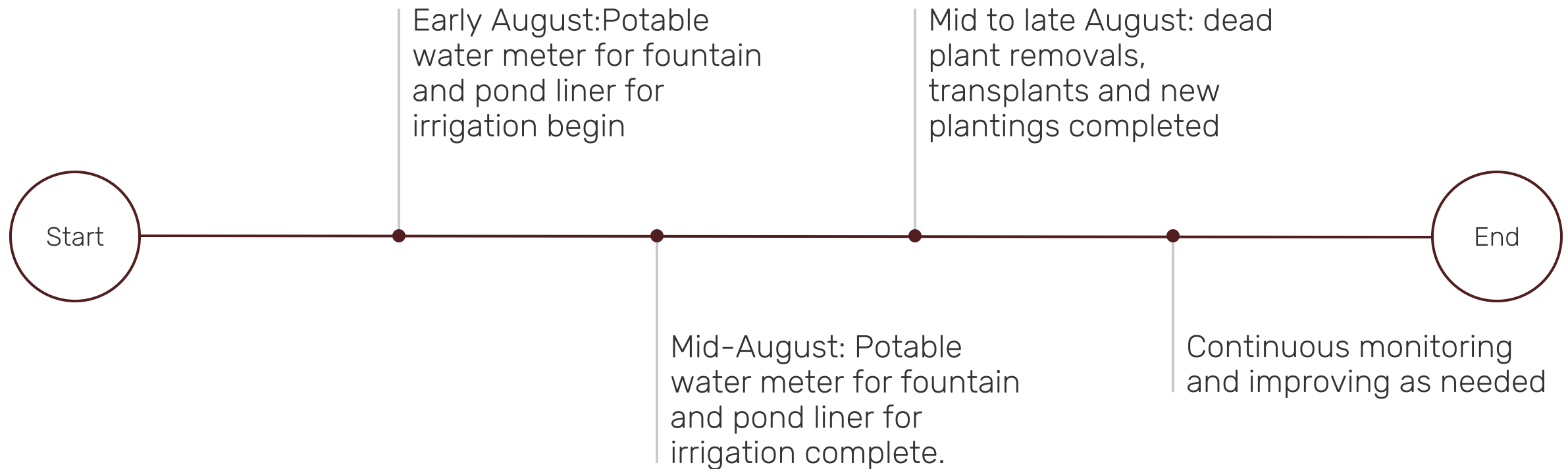


Cemetery Fountain Vault Updates

- Silt and dirt discovered at the bottom of fountain vault
- Caused by muddy filter in filtering out silt from pond and surrounding landscape bed dirt falling in
- Submersible pump and screen to be utilized to help prevent issue from reoccurring
- Tying fountain directly into clean, potable water will also help mitigate this



Estimated Timeline



Questions or feedback?

City Council Regular Meeting

DEPARTMENT: City Secretary's Office
FROM: Amanda Campos, City Secretary
MEETING: August 7, 2023

SUBJECT:

Consider approval of the minutes from the July 24, 2023 regular council meeting. (*Staff contact: Amanda Campos, City Secretary*).

SUMMARY:

The City Council duly and legally met on July 24, 2023 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

July 24, 2023
DRAFT MINUTES

ROLL CALL

COUNCIL PRESENT:

Victoria Johnson
Phil Anderson
Ronnie Johnson
Chris Fletcher
Larry Scott

Adam Russell

COUNCIL ABSENT:

Dan McClendon

Staff present

Tommy Ludwig, City Manager
Amanda Campos, City Secretary
Monica Solko, Deputy City Secretary
Matt Ribitzki, Deputy City Attorney

1. CALL TO ORDER – 4:01 p.m.

Invocation - Council member Ronnie Johnson

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. PUBLIC PRESENTATIONS – MOVED (will be presented after 5:30 p.m.)

A. Proclamations

- ~~None.~~

B. Presentations

- ~~Receive a report to recognize the selected Employee of the Quarter for the 2nd Quarter of 2023. (Staff Presenter: Rick DeOrdio, Director of Human Resources)~~

C. Community Interest Items

3. REPORTS AND PRESENTATIONS

- A. Receive a report, hold a discussion, and give staff direction on the General Fund, Debt Service Fund, and General Government Capital Improvement Plan (CIP) update, and receive additional direction from City Council regarding the annual budget for fiscal year 2023-2024. (Staff Presenter: Martin Avila, Director of Finance)

Martin Avila, Director of Finance, reported on the general fund, debt service fund and general CIP update to the city council.

- B. Receive a report, hold a discussion, and give staff direction on the FY2023-2024 budget supplemental requests, and receive additional direction from City Council regarding the annual budget for fiscal year 2023-2024. (Staff Presenter: Tommy Ludwig, City Manager)**

Tommy Ludwig, City Manager, presented the FY 2023-2024 budget supplemental requests to the city council.

RECESS AND BACK TO ORDER

Mayor Fletcher called for a short recess at 5:33 p.m. and called the meeting back to order at 5:58 p.m. with all members present, Dan McClendon absent.

- C. Receive a report, hold a discussion, and give staff direction on the FY2023-2024 rates for Water and Waste Water, Solid Waste and Health Insurance Funds for FY2023-2024, and receive additional direction from City Council regarding the annual budget for fiscal year 2023-2024. (Staff Presenter: Martin Avila, Director of Finance)**

Martin Avila, Director of Finance, presented the FY 2023-2024 rates for water and waste water, solid waste, and health insurance funds to the city council.

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.

2. PUBLIC PRESENTATIONS

A. Proclamations

- None.

B. Presentations

- Receive a report to recognize the selected Employee of the Quarter for the 2nd Quarter of 2023. (Staff Presenter: Rick DeOrdio, Director of Human Resources)

C. Community Interest Items

- Great speaker and information at the Texas Municipal League newly elected official conference in Round Rock.
- Thank you to the Parks Department for keeping up with the repairs to the filters at the pool/splash pad and to the Communication team for keeping everyone updated.

- Thank you to Tommy Ludwig and Eric Oscarson for making some much-needed repairs to some streets in town.
- Upcoming events: Watermelon Day at Russell Farm, Pops at the Pool and camps are still going on at the farm.
- Join us for BTX Back to School Bash on August 12.
- Parks Maintenance Rodeo was a great event where crews had a chance to show off their skills.

5. **CITIZEN APPEARANCES**

- Bill Janusch, 117 NE Clinton Street, came forward with concerns regarding the cemetery fees.

6. **CONSENT AGENDA**

A. Minutes from the July 6, 2023 special council meeting and July 10, 2023 regular council meeting. (Staff Contact: Amanda Campos, City Secretary).

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

B. CSO#5160-07-2023, resolution ratifying the 4A Economic Development Corporation Board's actions taken on the approval of changes and budget for the Project U Leadership Conference. (Staff Contact: Alex Philips, Director of Economic Development)

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

C. CSO#5161-07-2023, ordinance authorizing establishment of the Burleson Public Safety Communications Department as a Law Enforcement Telecommunication Agency through the Texas Commission on Law Enforcement (TCOLE). (Final reading) (Staff Contact: Paul Bradley, Director of Public Safety Communications)

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

D. CSO#5162-07-2023, resolution finding that Oncor Electric Delivery Company LLC's application to amend its distribution cost recovery factor and update generation riders to increase distribution rates within the City should be denied; authorizing participation with the Steering Committee of Cities Served by Oncor; authorizing hiring of legal counsel; finding that the City's reasonable rate case expenses shall be reimbursed by the company; finding that the

meeting at which this resolution is passed is open to the public as required by law; and requiring notice of this resolution to the company and legal counsel. *(Staff Contact: Matt Ribitzki, Deputy City Attorney/Compliance Manager)*

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

E. CSO#5163-07-2023, resolution adopting an electronic signature policy. *(Staff Contact: Justin Scharnhorst, Assistant to the City Manager)*

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

F. CSO#5164-07-2023, resolution authorizing the City Manager or his/her designee to apply for title work necessary for obtaining title, proof of ownership, registration, and license plates pursuant to V.T.C.A. Transportation Code section 721.005(a)(1) and repealing Resolution CSO#622-04-2017. *(Staff Contact: Justin Scharnhorst, Assistant to the City Manager)*

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

G. CSO#5166-07-2023, City Council Policy #42 formally adopting council committees structures and description. *(Staff Contact: Amanda Campos, City Secretary)*

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

H. CSO#5165-07-2023, contract with CommFit through a cooperative purchasing agreement with Buy Board for the purchase of workout equipment for the Burleson Recreation Center in the amount of \$92,702.75. *(Staff Contact: Jen Basham, Director of Parks and Recreation)*

Motion made by Adam Russell and seconded by Victoria Johnson to approve the consent agenda.

Motion passed 6-0, with Dan McClendon absent.

7. DEVELOPMENT APPLICATIONS

A. CSO#5168-07-2023, ordinance for a zoning change request from “A”, Agricultural to “SFE”, Single-Family Estate for a three (3) acre site located at

Bartley Addition (Case 23-044). (First and Final Reading) (Staff Presenter, Tony McIlwain, Director of Development Services) (The Planning and Zoning Commission recommended approval by a vote of 8 to 0.).

Tony McIlwain, Development Services Director, presented an ordinance to the city council.

Mayor Fletcher opened the public hearing. **Time: 6:41 p.m.**

No speakers.

Mayor Fletcher closed the public hearing. **Time: 6:41 p.m.**

Motion made by Victoria Johnson and seconded by Ronnie Johnson to approve.

Motion passed 6-0, with Dan McClendon absent.

8. GENERAL

- A. CSO#5167-07-2023, amendment to contract CSO#1713-04-2021 with e-Builder, Inc., to build an integration with Tyler Munis/ERP System and renew the contract for five additional years in the amount of \$415,528.00. (Staff Contact: Hugo Rodriguez, Deputy Director, IT).**

Hugo Rodriguez, Information Technology Deputy Director, presented a contract to the city council.

Motion made by Adam Russell and seconded by Larry Scott to approve.

Motion passed 6-0, with Dan McClendon absent.

9. CITY COUNCIL REQUESTS FOR FUTURE AGENDA ITEMS OR REPORTS

- Update on cemetery fees, fountain and landscaping.

10. RECESS INTO EXECUTIVE SESSION

In accordance with Chapter 551 of the Texas Government Code, the City Council may convene in Executive Session in the City Council Workroom in City Hall to conduct a closed meeting to discuss any item listed on this Agenda.

Pending or contemplated litigation or to seek the advice of the City Attorney pursuant to Section 551.071, Texas Government Code

- Hold a discussion and give direction regarding Chapter 36 (Fencing and Screening Regulations) and Article III (Weeds and Excessive or Wild Growth) of Chapter 34 (Environment) of the Burleson Code of Ordinances

Discussion regarding possible purchase, exchange, lease, or value of real property pursuant to Section 551.072, Texas Government Code

- 130 E. Renfro St, Burleson, Johnson County, Texas

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, Texas Government Code

- Project Grove

Motion was made by Ronnie Johnson and seconded by Larry Scott to convene into executive session. **Time: 6:50 p.m.**

Motion passed 6-0, with Dan McClendon absent.

Motion was made by Adam Russell and seconded by Victoria Johnson to reconvene into open session. **Time: 7:40 p.m.**

Motion passed 6-0, with Dan McClendon absent.

ADJOURNMENT

Motion made by Ronnie Johnson and seconded by Victoria Johnson to adjourn.

Mayor Fletcher adjourned the meeting.

Time: 7:41 p.m.

Monica Solko
Deputy City Secretary

City Council Regular Meeting

DEPARTMENT: Environmental Services
FROM: Lisa Duello, Neighborhood Services Director
MEETING: August 7, 2023

SUBJECT:

Consider approval of an interlocal agreement with the City of Fort Worth and a first amendment to the interlocal agreement for participation in the Environmental Collection Center Household Hazardous Waste Program not to exceed \$63,500 per fiscal year. *(Staff Contact: Lisa Duello, Neighborhood Services Director)*

SUMMARY:

Since the mid-90's, the City of Burleson has participated in the City of Fort Worth's regional household hazardous waste collection program through an interlocal agreement. This interlocal agreement was last updated in 2017 for Fiscal Year 2018 and included a small price increase per use from \$47 to \$50. However, due to rising cost of the program, Ft. Worth has increased the cost per household substantially from \$50.00 to \$95.00 to visit to the Environmental Collection Center (ECC) or participating household in a Mobile collection event. (see attached letter).

The increase in cost requires that the contract via interlocal agreement is amended to reflect the new price. Failure to update the contract will result in cancellation of the service to citizens.

By participating in the HHW program, the City of Burleson will receive the following services:

- Burleson residents can utilize the City of Fort Worth Environmental Collection Center (ECC) located at 6400 Bridge Street in Fort Worth. The ECC is open Thursdays and Fridays from 11 a.m. until 7 p.m.; Saturdays from 9 a.m. until 3 p.m.
- The City of Burleson is guaranteed one mobile collection event operated by Fort Worth personnel each contract year.

Burleson residents have continuously showed up in large numbers to the Mobile Collection Unit (MCU) events, and seem pleased to have an environmentally responsible means to dispose of their hazardous waste.

	HHW HISTORY		
FISCAL YEAR	NUMBER OF PARTICIPANTS	Charge per Household	COST
FY 21-22	456	\$50	\$22,832
FY 20 -21	583	\$50	\$29,150
FY 19-20	213 * COVID	\$50	\$10,650
FY 18-19	525	\$50	\$26,250
FY 17-18	642	\$47	\$30,174
FY 16-17	574	\$47	\$26,978
FY 15-16	482	\$47	\$22,654

The HHW program is part of the City's storm water permit requirements through the TCEQ. If we choose to eliminate the program, the storm water permit would have to be amended and approved by TCEQ.

This item requires the approval of two documents - an interlocal agreement with the City of Fort Worth for participation in the Environmental Collection Center Household Hazardous Waste Program and a first amendment to the interlocal agreement. In 2021, the City of Fort Worth desired that cities participating in the HHW program, like Burleson, enter into a new interlocal agreement regarding the HHW program that would supersede the 2017 agreement. Unfortunately, Burleson and Fort Worth never executed the proposed 2021 interlocal agreement. Neither city realized the oversight until April of 2023 when Fort Worth notified cities participating in the HHW program, including Burleson, that a first amendment would need to be agreed to by the parties to incorporate the \$95.00 cost. Therefore, City staff is requesting the Council approve both the original 2021 interlocal agreement and the first amendment of the agreement.

OPTIONS:

- 1) Approve the interlocal agreement with the City of Fort Worth and the first amendment for participation in the Environmental Collection Center Household Hazardous Waste Program; or
- 2) Deny the interlocal agreement with the City of Fort Worth and the first amendment for participation in the Environmental Collection Center Household Hazardous Waste Program.

RECOMMENDATION:

Approve the interlocal agreement with the City of Fort Worth and the first amendment for participation in the Environmental Collection Center Household Hazardous Waste Program.

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

N/A

FISCAL IMPACT:

Fund Name: Solid Waste

Full Account #s: 75201 -66055

Amount: \$63,500

In the FY 23- 24 budget there is proposed supplemental request to increase the current budget of \$33,898 by \$30,000 making the total budget \$63,898. If the funding is not approved the City would have to turn away approximately 300 citizens for this service.

STAFF CONTACT:

Lisa Duello, Neighborhood Services Director

lduello@burlesontx.com

817-426-9841



Household Hazardous Waste Program Contract Amendment



August 7, 2023 – City Council

Lisa Duello, Neighborhood Services Director

HHW BACKGROUND



Burleson Citizens have participated in the Household Hazardous Waste (HHW) program since the mid- 90's.



The HHW program helps citizens dispose of their household chemicals in safe and responsible manner.



The HHW program is a requirement of the city's stormwater permit through the Texas Commission on Environmental Quality (TCEQ).



The fee per household for the HHW program was \$47 up until 2018 (20 years) and was increased to \$50 in 2018.



The original budget for hazardous waste disposal was \$33,898 @ \$50 allows 675 citizens to use the service.



PARTICIPATION HISTORY



Fiscal year	Number of Participants	Charge per Household	Cost
FY 21 - 22	456	\$50	\$22,832
FY 20 - 21	583	\$50	\$29,150
FY 19 - 20	213 * COVID	\$50	\$10,650
FY 18 - 19	525	\$50	\$26,250
FY 17 - 18	642	\$47	\$30,174
FY 16 - 17	574	\$47	\$26,978
FY 15 - 16	482	\$47	\$22,654



CONTRACT AMENDMENT



City of Ft. Worth contacted staff in the spring 2023 regarding increasing the price from \$50 to \$95 per household effective October 1, 2023.



The price increase requires an amendment to the contract that was executed via interlocal agreement.



Failure to update contract will result in cancellation of the service for citizens.



FINANCIAL CONSIDERATIONS



Current Budget - \$33,898



FY 23-24 Supplemental Request to add \$30,000

- Proposed operating budget \$63,898
- Allowing @ 700 households to use the service



This request appeared as a supplemental on July 24, was recommended for funding by the City Council and will be incorporated into next years budget . However, the contract must be updated to reflect the change.

ACTION REQUESTED



Approve the interlocal agreement with City of Ft. Worth and a first amendment for participation in the Environmental Collection Center Household Hazardous Waste Program not to exceed \$63,500 per fiscal year.



Deny the interlocal agreement with City of Ft. Worth and a first amendment for participation in the Environmental Collection Center Household Hazardous Waste Program not to exceed \$63,500 per fiscal year.



Date: April 17, 2023

SUBJECT: City of Fort Worth Environmental Collection Center Rate Increase

Dear Participating City,

I would like to thank you for being a customer to the City of Fort Worth, Environmental Collection Center (ECC). Over the last 25 years, the ECC has grown from servicing 5,000 households per year to disposing of waste from more than 30,000 homes annually. We have accomplished this with limited pricing adjustments since inception, even maintaining pricing during the COVID pandemic as to not further burden cities with additional costs during that time.

As we discussed earlier this year, due to a dramatic increase in disposal costs, we must raise the price for citizens to dispose of household chemical waste at the ECC. We did consider the stakeholder feedback received at previous meetings and elected to delay any cost increase until October 2023 to ensure that jurisdictions have time to communicate this change with residents

Effective October 1, 2023 the cost per household to properly dispose of chemical waste at the ECC will go from \$50 to \$95. Barring any unforeseen circumstances, we anticipate this rate will remain in effect through September 30, 2025.

We have avoided raising our prices for as long as possible, but we can no longer prolong the inevitable. Thank you for being a participating city and we look forward to working with you in the future. If you have any questions, please do not hesitate to contact me at 817-392-5153 or james.keezell@fortworthtexas.gov.

Sincerely,

Jim Keezell
Assistant Code Compliance Director
Solid Waste Services Division
City of Fort Worth

cc: Brandon Bennett, Director Code Compliance
Ben Carson, Senior Administrative Services Manager, Code Compliance
HRIS Records

INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM
FY2021

INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM

THIS AGREEMENT is entered into by and between the City of Fort Worth, Texas, a home-rule municipal corporation situated in Tarrant, Denton, Parker, Johnson and Wise Counties, Texas, hereinafter called "Fort Worth," acting by and through Valerie Washington, its duly authorized Assistant City Manager and the City of Burleson, hereinafter referred to as "Participating City" and located in Johnson and Tarrant County, Texas acting herein by and through Chris Fletcher its duly authorized Mayor (Name) (Title).

DELIVERY OF NOTICES

Any notices required to be given under this Agreement shall be delivered as follows:

If to Fort Worth:

Rex Johnson, Environmental Supervisor
Code Compliance – Solid Waste
City of Fort Worth
4100 Columbus Trail
Fort Worth, Texas 76133

If to Participating City:

Lisa Duello, Neighborhood Services Director

City of Burleson

725 SE John Jones Drive

Burleson, Texas 76028

OPERATIONAL CONTACTS

Participating City's Operational Contact Persons:

Designated person is: Lisa Duello telephone number: 817-426-9841
Mobile phone number (24-hour) where he/she can be reached: 817-229-9402
Email Address: lduello@burlesontx.com

Alternate person is Kristen Tanz telephone number: 817 426-9848
Mobile phone number (24-hour) where he or she can be reached: 817-880-5029
Email Address: ktanz@burlesontx.com

VOUCHER UTILIZATION

The Participating City:

 DOES wish to use a voucher system for its residents visiting the ECC or a mobile event.

 X DOES NOT wish to use a voucher system for its residents visiting the ECC or a mobile event.

If a voucher system is used only residents with an official voucher provided by Participating City will be allowed to drop wastes off at the ECC or at mobile events in Participating City. **A copy of the official voucher must be attached to this agreement.**

INVOICE DELIVERY

Invoices to Participating City shall be delivered to:

Lisa Duello

Name

Neighborhood Services

Department (if applicable)

725 SE John Jones

Street Address or PO Box

Burleson, TX 76028

City, State, ZIP

lduello@burlesontx.com

email address for billing questions and correspondence

Participating City shall notify Fort Worth in writing if the above contact information changes during the term of this Agreement.

WITNESSETH

WHEREAS, Texas Government Code, Chapter 791, authorizes the formulation of interlocal cooperation agreements between and among local governments; and

WHEREAS, Texas Government Code, §791.011 provides that a local government may contract with another local government to perform governmental functions and services, and §791.003(3)(H) defines waste disposal as a governmental function and service; and

WHEREAS, Texas Government Code, §791.025 provides that a local government may agree with another local government to purchase services; and

WHEREAS, Fort Worth and Participating City desire to enter into an interlocal agreement whereby Fort Worth will purchase the services of a waste disposal/recycling firm or firms and will administer a household hazardous waste collection program; and

WHEREAS, Fort Worth and Participating City mutually desire to be subject to the provisions of Texas Government Code, Chapter 791, also known as the Interlocal Cooperation Act.

NOW THEREFORE, it is agreed as follows:

1. DEFINITIONS

- A. Unless a provision in this Agreement explicitly states otherwise, the following terms and phrases, as used in this Agreement, shall have the meanings hereinafter designated.

Act of God means an act occasioned by the direct, immediate, and exclusive operation of the forces of nature, uncontrolled or uninfluenced by the power of humans and without human intervention.

Bill of Lading lists the contents of the mobile collection unit.

Environmental Collection Center (ECC) means the City of Fort Worth Code Compliance-Environmental Management Division facility located at 6400 Bridge Street, Fort Worth, Texas, which is to be used by Fort Worth for the aggregation of household hazardous wastes that have been brought to the facility by participating cities' households for subsequent recycling, disposal, and/or reuse.

Environmental damages means all claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs, and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, and of any good faith settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or un-matured, foreseeable or unforeseeable, including without limitation reasonable attorney's fees and disbursements and consultant's fees, any of which are incurred subsequent to the execution of this Agreement as a result of the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of waste pursuant to this Agreement, or the existence of a violation of environmental requirements pertaining to same, and including without limitation:

- (a) Damages for personal injury and death, or injury to property or natural resources;
- (b) Fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with the investigation or remediation of such wastes or violation of environmental requirements including, but not limited to, the preparation of any feasibility studies or reports or the performance of any cleanup, remediation, removal, response, abatement, containment, closure, restoration or monitoring work required by any federal, state or local governmental agency or political subdivision, or otherwise expended in connection with the existence of such wastes or violations of environmental requirements, and including without limitation any attorney's fees, costs and expenses incurred in enforcing this Agreement or collecting any sums due hereunder; and
- (c) Liability to any third person or governmental agency to indemnify such person or agency for costs expended in connection with the items referenced in subparagraph (b) herein.

Environmental requirements means all applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, concessions, franchises, and similar items, of all governmental agencies, departments, commissions, boards, bureaus, or instrumentalities of the United States, states, and political subdivisions thereof and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human health or the environment, including without limitation:

- (a) All requirements, including but not limited to those pertaining to reporting, licensing, permitting, investigation, and remediation of emissions, discharges, releases, or threatened releases of hazardous materials, pollutants, contaminants, or hazardous or toxic substances, materials, or wastes whether solid, liquid, or gaseous in nature, into the air, surface water, groundwater, storm water, or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, or hazardous or toxic substances, materials, or wastes, whether solid, liquid, or gaseous in nature; and
- (b) All requirements pertaining to the protection of the health and safety of employees or the public.

Force majeure means decrees of or restraints by a governmental instrumentality other than the Parties, acts of God, work stoppages due to labor disputes or strikes, failure of Fort Worth's contractor(s) to perform pursuant to their agreements with Fort Worth for the conduct of the collection of household hazardous waste, fires, explosions, epidemics, floods, extreme weather, riots, war, rebellion, and sabotage.

Household hazardous waste (HHW) means any solid waste generated in a household by a consumer which, except for the exclusion provided for in 40 CFR § 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261.

Manifest means the uniform hazardous waste manifest form(s) that must accompany shipments of municipal hazardous waste or Class 1 industrial solid waste.

Mobile collection event means a household hazardous waste collection event by Participating City utilizing a mobile collection unit.

Mobile Collection Unit (MCU) means a non-self-propelled vehicle used for the periodic collection of household hazardous waste by Participating City, off-site of the ECC, which is transported to the ECC to dispose of the household hazardous waste collected at the mobile collection event. Mobile Collection Units owned by Fort Worth are designed to hold the hazardous waste of approximately 50 to 75 households.

Participating City means the municipality which has entered into this agreement with the City of Fort Worth.

Participating Entities, when used in the plural, means Fort Worth, Participating City, and all other entities which have entered into interlocal agreements with Fort Worth for the ECC household hazardous waste collection program.

Person means an individual, corporation, organization, government, or governmental subdivision or agency, business trust, partnership, association, or any other legal entity.

Waste has the same meaning as "solid waste" as that term is defined in Texas Health and Safety Code §361.003, and including hazardous substances.

- B. Unless a provision in this Agreement explicitly states otherwise, the following abbreviations, as used in this Agreement, shall have the meanings hereinafter designated.

CERCLA - Comprehensive Environmental Response, Compensation, and Liability Act, its amendments, associated case law, and state counterparts.

CPR - cardiopulmonary resuscitation

DOT - United States Department of Transportation

ECC – Fort Worth Environmental Collection Center

EPA - United States Environmental Protection Agency

HAZCAT - hazardous categorization

HAZWOPER - hazardous waste operations and emergency response and the training, certification, and legal requirements associated therewith

HM - hazardous materials

HHW - household hazardous waste

MCU - Mobile Collection Unit

TCEQ – Texas Commission on Environmental Quality

2.
PURPOSE

The purpose of this interlocal agreement (hereafter “Agreement”) is the provision of services by Fort Worth to Participating City whereby, subject to the terms and conditions specified below, Fort Worth will administer and supervise a regional household hazardous waste collection program, which will be available to households within Participating City as described herein.

3.
TERM

This Agreement shall be effective from August 7, 2023 or the date the last party has signed this Agreement. This agreement will be self-renewing infinitely. This agreement will be binding for both parties until one or more parties terminate the agreement. Termination of the agreement shall be provided to both parties 45 days prior to the completion date. However, the duties and responsibilities of the Parties for events which occurred during the term of the contract shall survive.

4.
SERVICES OF FORT WORTH

Fort Worth agrees to perform the following services for Participating City in connection with the ECC household hazardous waste collection program:

- A. Fort Worth will administer a regional household hazardous waste collection program. This program will include the operation of the Environmental Collection Center, which will accept for disposal and/or recycling household hazardous waste from households located within Participating City. Fort Worth shall not accept compressed flammable gas containers; radioactive materials; explosives or potentially shock sensitive materials; biological, etiologic, or infectious materials; wastes from businesses; or any other wastes that Fort Worth has determined are unacceptable. Commercial waste is never accepted by Fort Worth.
- B. Fort Worth will employ or retain personnel to provide the services necessary to perform Fort Worth's obligations in this Agreement.
- C. Fort Worth will enter into a contract(s) with a waste disposal/recycling firm(s) for the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of household hazardous waste that is collected at the ECC or during mobile collection events.
- D. Fort Worth will, if requested in writing by Participating City, provide Participating City with copies of waste manifests for shipments of waste from the ECC.
- E. Fort Worth will, if requested in writing by Participating City, provide Participating City a monthly report of the Participating City's households who disposed of household hazardous waste at the Environmental Collection Center or a mobile collection event.
- F. Fort Worth will issue a report and an invoice at the end of each quarter detailing the number of Participating City's households that disposed of household hazardous waste at the Environmental Collection Center or at mobile collection events.

G. Fort Worth will act under this Agreement in accordance with all applicable state and federal laws.

H. Mobile Collection Events

Participating City may schedule a mobile collection event to be operated by Fort Worth personnel using one of Fort Worth's MCUs or conduct their own mobile collection events using either Participating City's MCU or Fort Worth's Reserve MCU (as available). State regulations require notification to the Texas Commission on Environmental Quality (TCEQ) at least 45 days prior to conducting the event.

1. Fort Worth Operated Events:

If Participating City would like to schedule a mobile collection event with the Fort Worth Mobile Collection Unit, Participating City shall contact the ECC as soon as possible for a list of available dates. The time and location shall be agreeable to both parties. Participating City may schedule one mobile collection event each contract year. Fort Worth will file notification of the event with TCEQ as required by 30 TAC §335.403.

(a) Scheduling Events

Fort Worth will begin scheduling mobile collection events for each calendar year on the first scheduled working day after the New Year begins. To ensure proper notification to TCEQ, events must be scheduled at least sixty (60) days ahead of the proposed date. Participating City acknowledges that Fort Worth contracts with other municipalities and that Fort Worth will be accommodating each Participating City's request on a first come first served basis. Therefore, Participating City acknowledges that its chosen date to schedule a mobile collection event may be reserved by another city and Participating City will have to then choose another date. Participating City will, in no event, be entitled to any damages or recovery of any costs, except as provided herein. Only one mobile collection event using Fort Worth staff and equipment per city is entitled under this contract. Additional events may be accommodated if feasible.

(b) Location

If Participating City chooses to hold the Mobile Collection Event on private property, Participating City shall obtain a signed waiver from the owner of the property sixty (60) days prior to the event. The waiver shall be in the form of Exhibit B or similar form approved by Fort Worth. The signed waiver must be sent to Fort Worth sixty (60) days before the Mobile Collection Event. If the signed waiver is not sent to Fort Worth sixty (60) days before the Mobile Collection Event, Fort Worth will not send the Fort Worth Mobile Collection Unit to the event and Participating City will, in no event, be entitled to any damages or recovery of any costs, except as provided herein. All events must be held on an impervious surface.

(c) At the Mobile Collection Event, Participating City acknowledges and agrees that Fort Worth shall accept household hazardous waste from the first 50 households that show proof of residency at the Mobile Collection Event. After the first 50 households, Fort Worth will determine in its sole discretion how much more

waste it can accept for proper transport back to the ECC. If more households arrive at the event than Fort Worth can accept, Participating City will in no event be entitled to any damages or recovery of any costs, except as provided herein.

- (d) Due to limited storage space at the ECC, Participating City acknowledges and agrees that if it requests the Fort Worth Mobile Collection Unit at a mobile collection event, a Participating City's MCU shall not also be at the event.
- (e) Fort Worth, in its sole discretion, will determine whether to send the Fort Worth Mobile Collection Unit to Participating City's Collection Event during adverse weather, the threat of adverse weather, or other hazardous conditions including but not limited to sleet, snow, rain, mist, or hail. In the event Fort Worth determines not to send the Fort Worth Mobile Collection Unit, Fort Worth shall attempt to notify persons listed herein as an "Operational Contact" by the Participating City and shall attempt to send a Fort Worth employee to the Participating City's event to tell any residents that come to dispose of household hazardous waste that the Fort Worth Mobile Collection Unit will not be coming to the event, but the resident can go to the ECC to dispose of the waste. A map with directions to the ECC also will be provided.
- (f) The Participating City agrees to collect collection data at the MCU and provide Fort Worth with a list of total MCU participants and total quantities of wastes listed in an Excel spreadsheet in a template provided by Fort Worth as Exhibit C, within ten (10) days of the mobile collection event. No vouchers, sign-in sheets, or copies of either will be accepted by Fort Worth.

2. Participating City Mobile Collection Unit:

- (a) Fort Worth agrees to accept household hazardous waste from mobile collection events conducted by Participating City using Participating City's MCU in accordance with the terms of this Agreement.
- (b) Fort Worth agrees to restock the items it removes from Participating City's MCU, however, Fort Worth shall only restock items listed in Exhibit "A," attached and incorporated herein as if set forth.

3 Loan of the Reserve Mobile Collection Unit

The reserve MCU is a specially designed and equipped thirty-six (36) foot gooseneck box-trailer and one (1) ton pickup owned by Fort Worth. Participating City may request the loan of Fort Worth's Reserve MCU free of charge for use in a Household Hazardous Waste collection event when available. Participating City may use the Reserve MCU to transport HHW to Fort Worth's ECC or another collection center that may lawfully receive HHW. Participating City shall provide Fort Worth with a written request, facsimile or e-mail, at least sixty (60) days prior to the event date for which the request is made. Fort Worth shall have sole determination whether the Reserve MCU is available for use by Participating City and shall notify Participating City as soon as is reasonably practicable of such decision. Fort Worth shall not participate in nor be responsible for any part of the

Participating City's HHW Collection Event unless and except by written mutual agreement.

- (a) Fort Worth shall disclose any known problems the Reserve MCU may have in performing the tasks necessary for the HHW Collection Event. Prior to issuance of the Reserve MCU, a pre-trip inspection for potential maintenance problems will be performed by Fort Worth. Also, both parties will complete a pre-trip aesthetic assessment. Participating City shall be responsible for all certifications and insurance necessary for the proper operation of the Reserve MCU.
- (b) Participating City agrees to maintain and return the Reserve MCU in as good condition as it was in when Participating City took possession for use. Participating City shall return the Reserve MCU to Fort Worth in a timely manner and as mutually agreed upon.
- (c) Participating City shall be responsible for all property damage, personal injury, or death caused by Participating City's employees, volunteers, contractors, or agents and arising out of the use of the Reserve MCU during the term of this Agreement.
- (d) It is expressly understood and agreed that, in the execution of this Agreement, neither of the parties waives, nor shall be deemed hereby to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions. By entering into this Agreement the parties do not intend to create any obligations, expressed or implied, other than those set forth herein and this Agreement shall not create any rights in parties not signatories hereto.

5.

DUTIES OF PARTICIPATING CITY

Participating City agrees to perform the following duties in connection with the household hazardous waste collection program:

- A. Participating City will designate one of its employees, and another as an alternate, to act as its household hazardous waste collection Operational Contact to interact with Fort Worth as designated on the signature page to this contract.
- B. Participating City will coordinate and fund all program advertising targeted to its own citizens, as it deems necessary. Such advertising shall include the type of wastes that will be accepted at the ECC, the requirement of proof of residency, and weather cancellation information.
- C. Participating City shall notify its residents of the ECC hours of operation and dates it is closed as provided in Section 9 "The Environmental Collection Center Hours of Operation."
- D. Participating City may choose to utilize a voucher system for its residents in order for them to bring HHW to the ECC. If Participating City chooses to use such a system, it shall designate so

herein and include a copy of the official voucher. In addition, if a citizen from a Participating City that utilizes a voucher system comes to the ECC or a mobile collection event without a voucher, Participating City acknowledges and agrees that Fort Worth will not accept the household hazardous waste until Participating City authorizes the acceptance in writing.

- E. Participating City may submit a written request for a monthly report listing the number of its city's households that have disposed of household hazardous waste at the ECC or a mobile collection event.
- F. Participating City shall provide traffic control and signage for the mobile collection event, and shall provide personnel to assist Fort Worth with the offloading of material, surveys, and screening of persons dropping off household hazardous waste. Prior to the event, the parties shall agree upon the details of the traffic control, signage, and personnel assistance.
- G. If a Participating City resident presents waste that was collected from multiple households, Fort Worth reserves the right to charge the Participating City based on the total number of households from which the waste originated even if the resident has only one voucher.
- H. Participating City shall provide a means for disposing of solid waste (e.g. boxes, trash, containers) on site during a mobile collection event.
- I. Mobile Collection Events using Participating City's MCU or Reserve MCU
 - 1. Participating City is responsible for proper notification to TCEQ as required by 30 TAC §335.403.
 - 2. Participating City shall advise the ECC at least 72 hours in advance of its mobile collection events. Participating City shall collect only HHW during a mobile collection event. Wastes from commercial, agricultural, and industrial sources shall not be accepted. Participating City shall not accept compressed flammable gas containers; radioactive materials; explosives or potentially shock sensitive materials; biological, etiologic, or infectious materials; or any other wastes that Fort Worth has determined are unacceptable.
 - 3. In accordance with the latest DOT requirements, Participating City's MCU operators will properly categorize, package, mark, label, and load into the MCU, all wastes received at the mobile collection event. Recyclable products (used oil, used oil filters, latex paint, recyclable anti-freeze, lead-acid batteries, and fluorescent lights) will be segregated into containers for recyclables.
 - 4. After accepting wastes, Participating City's MCU operators shall thoroughly check each container for proper labeling and identification. If a container is properly identified, the material will be segregated according to hazard class and prepared for packaging. If a container does not have adequate labeling to permit identification, the MCU operators shall then attempt to identify the material from its physical characteristics using HAZCAT analysis and from information provided by the household presenting the waste.
 - 5. The Participating City's MCU operators shall package all hazardous materials in accordance with DOT requirements, EPA requirements, and all other applicable federal

and state requirements. After all the wastes have been properly identified and segregated, the MCU operators will reexamine the wastes for compatibility, list them on the container content sheets, and pack them into drums. Oil-based paints and latex paints shall be bulked separately in 55-gallon drums, or if the paint is left in its container, the paint can be packed in a lined cubic yard box, and packed and labeled according to federal and state regulations. Participating City shall not transport waste that is not HHW to the ECC. Participating City agrees to make its own arrangements to dispose of any non-HHW waste collected at the event.

6. Prior to transporting the HHW from the collection event site, Participating City's MCU operators shall complete a Bill of Lading, and shall keep the Bill of Lading in the cab of the truck hauling the MCU during transportation of the HHW to the ECC. Participating City shall require that a minimum of one copy of the latest North American Emergency Response Guidebook be kept within the cab of the truck.
7. During transportation, Participating City's MCU operators shall placard the MCU for transportation of hazardous waste in accordance with federal and state law.
8. Upon the return of the MCU to the ECC, Participating City's MCU operators shall follow the instructions of Fort Worth regarding the placement of the MCU for unloading. Fort Worth shall take possession of the MCU from Participating City after the MCU has been properly parked for unloading in accordance with Fort Worth's instructions and all required documents have been delivered to the ECC manager or his/her designee at the ECC. Fort Worth shall, within a reasonable amount of time, unload the HHW from the Participating City's MCU and store the unit at the ECC. After being contacted, Participating City shall pickup their unit within 10 days.
9. If Fort Worth, in its sole discretion, determines that Participating City's MCU operators improperly packaged any of the HHW delivered to the ECC, Fort Worth shall repackage such waste, and Participating City shall reimburse Fort Worth as set forth herein.
10. If a spill emanating from the Participating City's MCU or the Reserve MCU occurs at the ECC while the MCU is still in Participating City's possession, Fort Worth shall take control of the spill response and Participating City will reimburse Fort Worth for its response costs as set forth herein.

6.

USE OF WASTE DISPOSAL/RECYCLING FIRMS FOR HOUSEHOLD HAZARDOUS WASTE

- A. Fort Worth will enter into a contract(s) with a waste disposal/recycling firm(s) for the handling, collection, transportation, storage, disposal, treatment, recovery, and/or reuse of household hazardous waste, from the ECC.
- B. Such firm(s) shall be required pursuant to the contract(s) to assume generator status for the waste collected, (excluding used oil, lead-acid batteries and antifreeze) to choose a disposal site for the waste subject to Fort Worth's approval, and to indemnify Fort Worth and participating cities against any and all environmental damages and the violation of any and all environmental requirements resulting from the handling, collection, transportation, storage, disposal,

treatment, recovery, and/or recycling of waste collected pursuant to this agreement, when said environmental damages or the violation of said environmental requirements was the result of any act or omission of contractor, its officers, agents, employees, or subcontractors, or the joint act or omission of contractor, its officers, agents, employees, or subcontractors and any other person or entity.

- C. **THE PARTIES RECOGNIZE THAT ALTHOUGH THE FIRM (S) WILL BE REQUIRED TO ASSUME GENERATOR STATUS, THIS ASSUMPTION WILL NOT RELIEVE PARTICIPATING CITY OF LIABILITY FOR THE WASTE UNDER FEDERAL LAW AND STATE LAW.** Fort Worth will arrange for recycling vendors for used oil, batteries, antifreeze, and other materials, as it deems appropriate.

7.

REUSE OF COLLECTED MATERIALS

- A. From time-to-time Fort Worth will make available to residents and businesses of Fort Worth, as well as, Participating City residents and businesses of Participating City for their use, collected household hazardous waste materials that are suitable for reuse, such as paint, fertilizer, motor oil, and antifreeze. Fort Worth shall not charge for any materials that are picked up for reuse.
- B. Some materials made available for reuse may have been consolidated and filtered by Fort Worth prior to being made available. Used antifreeze will have been consolidated in a barrel, filtered, and pH balanced, and new antifreeze may have been added to the barrel.
- C. In regards to materials accepted by Participating City, its employees, residents, or any other person **FORT WORTH MAKES NO REPRESENTATIONS, WARRANTIES, OR GUARANTIES THAT:**
1. the container contents are what the label indicates;
 2. the container contents are those originally placed into the container by the manufacturer;
 3. the product is of the quality intended for its use;
 4. the contents of the container have been stored properly;
 5. the instructions on the container label for use, storage, and first aid are current or correct;
 6. the container is in unimpaired condition;
 7. the product is still approved for use (i.e., it has not been banned or recalled); and
 8. the product can be used without risk to persons, property or the environment.

FURTHERMORE, ALL WARRANTIES, EXPRESS AND IMPLIED, ARE SPECIFICALLY DENIED. PARTICIPATING CITY SHALL NOTIFY RECIPIENTS OF THESE TERMS AND CONDITIONS.

- D. Participating City shall contact the ECC manager to arrange a pickup time to obtain materials. Participating City agrees that it shall not return to Fort Worth, directly or indirectly, any materials it obtains from Fort Worth under this paragraph.

E. INDEMNIFICATION REGARDING REUSED OR RECYCLED MATERIALS.

1. IN REGARDS TO REUSED OR RECYCLED MATERIALS ACCEPTED BY PARTICIPATING CITY, PARTICIPATING CITY DOES HEREBY WAIVE ALL CLAIMS, INCLUDING PRODUCTS LIABILITY CLAIMS, AND RELEASES, AND HOLDS HARMLESS THE CITY OF FORT WORTH, AND ALL OF ITS OFFICIALS, OFFICERS, EMPLOYEES, AGENTS, AND VOLUNTEERS, IN BOTH THEIR PUBLIC AND PRIVATE CAPACITIES, FROM ANY AND ALL LIABILITY, CLAIMS, SUITS, DEMANDS, EXPENSES OF LITIGATION, OR CAUSES OF ACTION WHICH MAY ARISE BY REASON OF INJURY TO PERSONS, LOSS OF PROPERTY, DAMAGE TO PROPERTY, OR LOSS OF USE OF ANY PROPERTY , OCCASIONED BY THE TRANSPORTATION, STORAGE, HANDLING, USE, AND DISPOSAL BY PARTICIPATING CITY OF ANY MATERIALS ACCEPTED BY PARTICIPATING CITY UNDER THIS AGREEMENT FROM FORT WORTH.

2. IF THE PARTICIPATING CITY DOES NOT AGREE TO THE INDEMNIFICATION AND WAIVER IN PARAGRAPH E ABOVE, THEN THE PARTICIPATING CITY SHALL NOT ACCEPT, NOR ALLOW ANY OTHER PERSON TO ACCEPT ANY OF THE REUSED OR RECYCLED MATERIALS AND SHALL NOT BE REQUIRED TO AGREE TO THE WAIVER IN PARAGRAPH E. Initial here to reject term 7.E.1. and accept alternate term 7.E.2. _____.

F. In regards to materials accepted by residents or businesses of Participating Cities, FORT WORTH MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTIES THAT:

1. the container contents are what the label indicates;
2. the container contents are those originally placed into the container by the manufacturer;
3. the product is of the quality intended for its use;
4. the contents of the container have been stored properly;
5. the instructions on the container label for use, storage, and first aid are current or correct;
6. the container is in unimpaired condition;
7. the product is still approved for use (i.e., it has not been banned or recalled); and
8. the product can be used without risk to persons, property or the environment.

FURTHERMORE, ALL WARRANTIES, EXPRESS AND IMPLIED, ARE SPECIFICALLY DENIED.

G. Participating City shall attempt to inform its residents and businesses that if they go to the Environmental Collection Center to pick up household hazardous waste for reuse, a release of liability must be signed to accept the household hazardous waste for reuse.

8.

RIGHT TO REFUSE WASTE

Participating City agrees that Fort Worth shall have the right to refuse to accept waste at the ECC from Participating City or Participating City's resident, if in the reasonable judgment of Fort Worth:

- A. The waste is not household hazardous waste;
- B. The waste fails to meet other established criteria established by this Agreement, or that have been established by Fort Worth subsequent to the execution of the Agreement;
- C. The individual does not have sufficient identification to establish that he/she is in fact a resident of Participating City;
- D. Participating City has implemented a voucher system for its residents to dispose of waste, and the individual does not have a valid voucher; or
- E. The waste or the individual presents a hazard to the ECC or to persons or property at the ECC.

9.

ENVIRONMENTAL COLLECTION CENTER HOURS AND DAYS
OF OPERATION

A. Hours of Operation

During the term of the Agreement, the ECC's hours of operation are as follows:

Thursday and Friday 11:00 a.m. - 7:00 p.m.

Saturday 9:00 a.m. - 3:00 p.m.

B. Days the Environmental Collection Center will be closed

During the term of the agreement, the ECC will be closed on the following holidays that are observed on days the ECC would otherwise be open to the public:

New Year's Day

Martin Luther King Jr. Day

Thanksgiving holiday, Thursday and Friday

Memorial Day

Independence Day

Labor Day

Christmas Day

In addition to the above closures Fort Worth employees may not be available to conduct mobile collection events on other dates to conduct mobile collections within the City of Fort Worth, although the ECC will remain open on those days. The ECC may close due to furlough days or other causes, and the City of Fort Worth does not represent to Participating City that the ECC will be open on any particular days. If additional closures due to any cause are necessary Fort Worth will notify Participating City prior to the closure unless due to an unforeseeable event.

C. Notifying Residents

Participating City agrees to notify its residents of the ECC's hours of operation and dates it will be closed. Participating City also may advertise the 24-hour Environmental Collection Center telephone number: 817-392-1234.

10.
COMPENSATION

As fair compensation for the services provided by Fort Worth pursuant to this Agreement:

- A. Participating City agrees to pay Fort Worth the sum of **\$50.00** per household per visit to the ECC (or per participating household in a Mobile Collection Event) to dispose of household hazardous waste. If a Participating City resident presents waste that was collected from multiple households, Fort Worth reserves the right to charge the Participating City based on the total number of households from which the waste originated.
- B. If Fort Worth determines that Participating City's MCU operators improperly packaged any of the HHW delivered to the ECC, Fort Worth shall repackage such waste, and Participating City shall reimburse Fort Worth for its staff time at \$20.00 an hour and the cost of supplies.
- C. If a spill emanating from the Participating City's MCU or the Reserve MCU occurs at the ECC while the MCU is still in Participating City's possession, Fort Worth shall take control of the spill response and Participating City will reimburse Fort Worth for its response costs for City staff time (\$60.00 per hour) plus the cost of supplies and the actual costs for the spill response and remediation incurred by the City of Fort Worth for third party contractors and responding governmental agencies.
- D. The amount due to Fort Worth for services provided under this Section, Paragraphs A, B, and C, shall be billed to Participating City quarterly. Participating City shall pay Fort Worth within 30 days of receiving a bill from Fort Worth. If Fort Worth does not receive payment within 30 days, Fort Worth shall inform Participating City in writing that it will not accept any household hazardous waste from Participating City's residents and that Fort Worth will not participate in a mobile collection event or provide a mobile collection unit until paid.
- E. At the end of the term of this Agreement, Fort Worth shall provide a final accounting to Participating City, which will include the total number of Participating City's households which participated in the program, repackaging fees, if any, and the total cost of spill response charged to Participating City, if any.
- F. Pursuant to the requirements of Government Code §791.011 (a)(3), the amount due to Fort Worth under Subparagraph D. above shall be paid from revenues currently available to Participating City in the present fiscal year.

11.

ARTWORK, "CAPTAIN CRUD AND THE CRUDDIES," AND PROMOTIONAL MATERIALS
LICENSE AGREEMENT

Fort Worth is the owner of "**Captain Crud**" and the Cruddies ("**Bloomer**," "**Otto**," "**Pestie**," "**Scrub**," and "**Van Goo**") and the recycling buddies ("**Scrappy**," "**Juggles**," and "**Cana Nana**"), "**Conquer Your Crud**," and "**Crud Cruiser**", and therefore all ownership rights belong to Fort Worth. Fort Worth has registered these marks as service marks with the Secretary of State.

- A. Fort Worth hereby grants to Participating City a non-transferable, non-exclusive license to use all the artwork and promotional materials that may be provided by Fort Worth to be used solely in the conduct of the business of Participating City's disposal and recycling of household hazardous waste programs. If Participating City wishes to use to Licensed Art and/or Promotional Materials in other limited situations, Participating City must first obtain express written consent from Fort Worth.
- B. Fort Worth may provide licensed Artwork and Promotional Materials to Participating City pursuant to the terms of this Agreement. Participating City acknowledges that by virtue of this License, Participating City acquires only the right to use the original and permitted duplicate copies of the Licensed Artwork and Promotional Materials and does not acquire any rights of ownership in the Licensed Artwork and Promotional Materials, which rights shall remain exclusively with Fort Worth. If Participating City wants to modify or change the artwork and/or promotional materials in any manner, Participating City hereby agrees to contact Fort Worth in writing to obtain written consent before modifying or changing any artwork and/or promotional materials.

12.

IMMUNITY

It is expressly understood and agreed that, in the execution of this Agreement, none of the Participating Cities waives, nor shall be hereby deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions, and that the services described in this Agreement are a governmental function.

13.

FORCE MAJEURE

A delay or failure of Fort Worth to perform services pursuant to this Agreement shall be excused to the extent that the delay or failure to perform resulted from a force majeure event, and the delay or failure was beyond the control of Fort Worth and not due to its fault or negligence. Participating City shall not have, and hereby waives, any claim whatever for any damages resulting from delays or failure to perform caused by a force majeure event.

14.
TERMINATION

The parties shall each have the right to terminate the Agreement for any reason, with or without cause, upon thirty (30) days written notice to the other party. Upon termination, the parties shall be released from all contractual obligations to the other party excluding "USE OF WASTE DISPOSAL/RECYCLING FIRMS FOR HOUSEHOLD HAZARDOUS WASTE" "REUSE OF COLLECTED MATERIALS" and ARTWORK, "CAPTAIN CRUD AND THE CRUDDIES," AND "PROMOTIONAL MATERIALS LICENSE AGREEMENT" and any terms and conditions arising from events occurring during the term of the contract .

15.
ENTIRETY

This Agreement contains all commitments and Agreements of the parties hereto, and no other oral or written commitments shall have any force or effect if not contained herein, except that this Agreement can be amended or modified by the parties if such amendment or modification is in writing and signed by Participating City and Fort Worth.

16.
SEVERABILITY

In the event anyone or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

17.
VENUE

Should any action, real or asserted, at law or in equity, arise out of the terms and conditions of this Agreement, venue for said action shall be in Tarrant County, Texas.

18.
AUTHORITY

This Agreement is made for Fort Worth and Participating City as an Interlocal Agreement, pursuant to Texas Government Code, Chapter 791.

19.
AUTHORIZATION

The undersigned officers and/or agents of the parties hereto are properly authorized officials and have the necessary authority to execute this Agreement on behalf of the parties hereto, and each party hereby certifies to the other that any necessary resolutions extending such authority have been duly passed and are now in full force and effect.

SIGNATURE PAGE

INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM

CITY OF FORT WORTH

CITY OF _____

By:

By:

Valerie Washington
Assistant City Manager
Date: _____

Printed name: _____
Title: _____
Date: _____

APPROVED AS TO FORM
AND LEGALITY:

APPROVED AS TO FORM
AND LEGALITY:

Christa Reynolds
Sr. Assistant City Attorney

City Attorney / Assistant City Attorney

ATTEST:

ATTEST:

Mary J. Kayser
City Secretary

Witness

Contract Authorization No.

CITY OF FORT WORTH
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.

Rex Johnson
Environmental Supervisor – Environmental Collection Center

Exhibit "A"

RESTOCKING LIST FOR THE MOBILE COLLECTION UNIT

Material	Amount Restocked	Special Needs	Remarks
55 gallon open top drums (open top for loose packs)	Amount taken off the trailer		
55 gallon drums (closed top) (oil, antifreeze, bulk flammable materials and one extra)	Amount taken off the trailer		
Fiber drums (55 or 30 gallon) Aerosols, acids, bases and oxidizers)	Amount taken off the trailer		
Gaylord box liners (plastic)	Amount taken off the trailer		
55 gallon drum liners	Amount taken off the trailer		
5 gallon buckets (filters/haz chemicals)	Amount taken off the trailer		
Survey Forms	Amount taken off the trailer		
Labels/drum placard	Amount taken off the trailer		
Gaylord boxes	Amount taken off the trailer		
Absorbent pads	Amount taken off the trailer		
Vermiculite	Amount taken off the trailer		
Oil dry	Amount taken off the trailer		
Promotional Materials & Brochures	Amount needed		

Exhibit "B"

WAIVER AND RELEASE OF LIABILITY FOR COLLECTION OF HOUSEHOLD
HAZARDOUS WASTE

I being the owner of property located at _____
have been asked by the City of _____ to allow a mobile collection event on my
property to collect household hazardous waste on the _____, 20____. I hereby give my
permission to the City of _____ and the City of Fort Worth, to hold a household
hazardous waste collection event on my property in which the City of _____ has
asked the City of Fort Worth to send its mobile collection unit to collect the household hazardous waste
that is brought to the event.

Therefore, I hereby RELEASE, DISCHARGE, HOLD HARMLESS, INDEMNIFY the City of Fort Worth or its
officers, agents, and employees and the City of _____ and its officers, agents,
and/or employees for any and all claims, demands, liability, causes of action, actions or suits of any
character that I may have against the City of Fort Worth or its officers, agents, and/or employees and the
City of _____ or its officers, agents, and/or employees for any property loss or
damage, for any and all personal injury including death or any other damage of any kind or character
which may arises or that arises from allowing the City of _____ to hold a household
hazardous waste collection event, in which the City of Fort Worth sends its mobile collection unit on my
property.

I have read this Waiver and Release and fully understand its terms and conditions. I have not been
influenced in any extent whatsoever by any representation or statements not contained in this
Agreement.

Signature

Date

Witness

Date

Exhibit "C"

MOBILE COLLECTION DATA FORMAT

[illegible][illegible]

**FIRST AMENDMENT TO
FORT WORTH CITY SECRETARY CONTRACT NO. 49655
AN INTERLOCAL AGREEMENT
BETWEEN CITY OF FORT WORTH AND [REDACTED]
FOR PARTICIPATION IN THE ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM**

This First Amendment to Fort Worth City Secretary Contract No. 49655 (“First Amendment”) is made between the City of Fort Worth (“Fort Worth”), a municipal corporation, and City of [REDACTED], (“Participating City”) and located in [REDACTED] County, Texas, acting herein by and through [REDACTED] its duly authorized [REDACTED]

WHEREAS, Fort Worth and Participating City entered into an Interlocal Agreement identified as Fort Worth City Secretary Contract No. 49655 (the “Agreement”) for participation in the Environmental Collection Center Household Hazardous Waste Program; and

WHEREAS, due to rising costs of the program, Fort Worth must increase the cost that each participating City pays per visit to the Environmental Collection Center or per participating household in a Mobile Collection Event; and

WHEREAS, Fort Worth and Participating City agree to amend the Agreement to an increase in the cost per household visit to the ECC or per participating household in a Mobile Collection Event from \$50.00 to \$95.00; and

WHEREAS, Fort Worth and Participating City also agree to amend the Agreement to allow the cost per household to be adjusted so long as there is mutual agreement by Fort Worth and the Participating City.

NOW THEREFORE, known by all these present, Fort Worth and Participating City, acting herein by the through their duly authorized representatives, agree to the following terms, which amend the Agreement as follows.

I.

AMENDMENTS

1. Section 10 “Compensation”, Paragraph A of the Agreement is hereby deleted in its entirety and restated as follows:

Participating City agrees to pay Fort Worth the sum of **\$95.00** per household per visit to the ECC (or per participating household in a Mobile Collection Event) to dispose of household hazardous waste. If a Participating City resident presents waste that was collected from multiple households, Fort Worth reserves the right to charge the Participating City based on the total number of households from which the waste

originated. Fort Worth may adjust the cost per household visit to the ECC (or per participating household in a Mobile Collection Event) by providing Participating City at least ninety (90) days written notice and by mutual consent. If Participating City does not consent to the adjustment, then this Agreement may be terminated in accordance with the Agreement.

II.

ALL OTHER TERMS SHALL REMAIN THE SAME

All other provisions of the Agreement which are not expressly amended herein shall remain in full force and effect.

III.

ELECTRONIC SIGNATURE

This Amendment may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one and the same instrument. A facsimile copy or computer image, such as a PDF or tiff image, or a signature, shall be treated as and shall have the same effect as an original.

[Signature Page Follows]

SIGNATURE PAGE

**INTERLOCAL AGREEMENT FOR PARTICIPATION IN FORT WORTH'S
ENVIRONMENTAL COLLECTION CENTER
HOUSEHOLD HAZARDOUS WASTE PROGRAM**

Executed effective as of the date signed by the Assistant City Manager below.

FORT WORTH:

<p>City of Fort Worth</p> <p>By: _____ Name: Valerie Washington Title: Assistant City Manager</p> <p>Date: _____</p> <p>Approval Recommended:</p> <p>By: _____ Name: James Keezell Title: Assistant Director Code Compliance</p> <p>Attest:</p> <p>By: _____ Name: Jannette 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: _____ Name: Rex Johnson Title: Environmental Supervisor</p> <p>Approved as to Form and Legality:</p> <p>By: _____ Name: Christopher Austria Title: Assistant City Attorney</p> <p>Contract Authorization: M&C: 28276</p>
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PARTICIPATING CITY

<p>City of _____</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p> <p>Attest:</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p>	<p>Approved as to Form and Legality:</p> <p>By: _____</p> <p>Name: _____</p> <p>Title: City Attorney/Assistant City Attorney</p>
--	---

DEPARTMENT MEMO

DEPARTMENT: Finance
FROM: Martin Avila, Finance Director
MEETING: August 7, 2023

SUBJECT:

Consider approval of a two year professional service agreement renewal in the amount not to exceed \$100,000 with Valley View Consulting LLC for investment advisory services. (Staff Presenter: Martin Avila, Finance Director)

SUMMARY:

On June 21, 2021 Council approved a two year agreement with the option to renew for an additional two years for investment advisory services with Valley View Consultants, LLP. Valley View Consultants, LLP

Prior to Council approval in June 21, 2021, staff conducted an RFP and Valley View Consultant was the highest score in every category.

	Total	Qualifications and Experience	Technical Ability	References	Fees	Thoroughness
Supplier	/ 100 pts	/ 30 pts	/ 30 pts	/ 20 pts	/ 10 pts	/ 10 pts
Valley View Consulting, L.L.C.	94.33	28.33	28.33	18.33	9.333	10
Public Trust Advisors, LLC	87.67	27.33	27.33	15.33	8.333	9.333
Hilltop Securities Inc.	84	27	24.33	17.67	7	8
Agile Capital Inc	65.67	21.67	20	10.33	8.333	5.333
Howe & Rusling	57.67	17	19.67	10.67	5	5.333

Valley View Consultants, LLP will continue to provide several investment advisory services to include:

- Provide Strategic portfolio advice to achieve the City's investment objectives
- Investment policy review
- Development of cash flow models for bond and non-bond funds
- Thorough communication, reporting and training
- Evaluate Public Funds Investment Act Compliant Quarterly Investment Reports
- Monitor investment portfolio strategy development
- Long range portfolio strategy development
- Review primary depository agreement and account analysis statement
- Assist with request for proposal for depository services

Investment advisory agreement was for two years with an option for two additional years. Staff is recommending to renew for two additional years not to exceed \$100,000 (average cost of \$50,000 per year).

OPTIONS:

Approve or Deny Investment Advisory Services agreement

RECOMMENDATION:

Staff recommends approval of Investment Advisory Services agreement.

FISCAL IMPACT:

Quarterly invoice will be allocated to various funds based on quarter end cash & investment balances. Allocated to various funds

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

Council Approved initial two year agreement with an option for two additional years.

Presented to Finance and Internal Service Committee on June 10, 2021.

STAFF CONTACT:

Martin Avila
Finance Director
mavila@burlesontx.com
817-426-9651



Investment Advisory Services

PRESENTED TO THE CITY COUNCIL ON AUGUST 7, 2023

Summary

- June 10, 2021 – Presented Investment Advisory Services prestantion to Finance and Internal Service Committee – Committee recommended approval
- June 21, 2021 - Council approved a two year agreement with the option to renew for an additional two years with Valley View Consulting
- Staff recommends selecting the option to renew the agreement for an additional two years not to exceed \$100,000 (Estimated at \$50,000 per year)

June 2021 RFP Results

	Total	Qualifications and Experience	Technical Ability	References	Fees	Thoroughness
Supplier	/ 100 pts	/ 30 pts	/ 30 pts	/ 20 pts	/ 10 pts	/ 10 pts
Valley View Consulting, L.L.C.	94.33	28.33	28.33	18.33	9.333	10
Public Trust Advisors, LLC	87.67	27.33	27.33	15.33	8.333	9.333
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Agile Capital Inc	65.67	21.67	20	10.33	8.333	5.333
Howe & Rusling	57.67	17	19.67	10.67	5	5.333

Valley View Investment Advisory Services

- Provide Strategic portfolio advice to achieve the City's investment objectives
- Investment policy review
- Development of cash flow models for bond and non-bond funds
- Thorough communication, reporting and training
- Evaluate Public Funds Investment Act Compliant Quarterly Investment Report
- Monitor investment portfolio and recommend adjustments
- Long range portfolio strategy development
- Review Primary Depository Agreement and Account Analysis Statement
- Assist with request for proposal for depository services

Next Step

- Approve or Deny the option for a 2 year renewal of the Investment Advisory Services Agreement with Valley View Consultants.
- Staff recommends approval

QUESTIONS/COMMENTS

**AGREEMENT
BY AND BETWEEN
THE CITY OF BURLESON, TEXAS
AND
VALLEY VIEW CONSULTING, L.L.C.**

It is understood and agreed that the City of Burleson (the *Investor*) will have money available for investment (the *Investable Funds*) and Valley View Consulting, L.L.C. (the *Advisor*) has been requested to provide professional services to the Investor with respect to the Investable Funds. This agreement (the *Agreement*) constitutes the understanding of the parties with regard to the subject matter hereof.

1. This Agreement shall apply to any and all Investable Funds of the Investor during the period in which this Agreement shall be effective.
2. The Advisor agrees to provide its professional services to direct and coordinate all programs of investing as may be considered and authorized by the Investor.
3. The Advisor agrees to perform the following duties, as requested:
 - a. Assist the Investor in developing cash flow projections,
 - b. Suggest appropriate investment strategies to achieve the Investor's objectives,
 - c. Advise the Investor on market conditions, general information and economic data,
 - d. Analyze risk/return relationships between various investment alternatives,
 - e. Attend occasional meetings as requested by the Investor,
 - f. Assist in the selection, purchase, and sale of investments. The Advisor shall not have discretionary investment authority over the Investable Funds and the Investor shall make all decisions regarding purchase and sale of investments. All funds shall be invested consistent with the Texas Public Funds Investment Act, Chapter 2256 Government Code and the Investor's Investment Policy.
 - g. Advise on the investment of bond funds as to provide the best possible rate of return to the Investor in a manner which is consistent with the proceedings of the Investor authorizing the investment of the bond funds or applicable federal rules and regulations,
 - h. Assist the Investor in creating investment reports in compliance with State legislation and the Investor's Investment Policy,
 - i. Assist the Investor in creating monthly portfolio accounting reports, and
 - j. Assist the Investor in selecting a primary depository services financial institution.

4. The Investor agrees to:

- a. Compensate the Advisor for any and all services rendered and expenses incurred as set forth in Appendix A attached hereto,
- b. Provide the Advisor with the schedule of estimated cash flow requirements related to the Investable Funds, and will promptly notify the Advisor as to any changes in such estimated cash flow projections,
- c. Allow the Advisor to rely upon all information regarding schedules, investment policies and strategies, restrictions, or other information regarding the Investable Funds as provided to it by the Investor and that the Advisor shall have no responsibility to verify, through audit or investigation, the accuracy or completeness of such information,
- d. Recognize that there is no assurance that recommended investments will be available or that such will be able to be purchased or sold at the price recommended by the Advisor, and
- e. Not require the Advisor to place any order on behalf of the Investor that is inconsistent with any recommendation given by the Advisor or the policies and regulations pertaining to the Investor.

5. In providing the investment services in this Agreement, it is agreed that the Advisor shall have no liability or responsibility for any loss or penalty resulting from any investment made or not made in accordance with the provisions of this Agreement, except that the Advisor shall be liable for its own negligence, gross negligence or willful misconduct; nor shall the Advisor be responsible for any loss incurred by reason of any act or omission of any broker, selected with reasonable care by the Advisor and approved by the Investor, or of the Investor's custodian. Furthermore, the Advisor shall not be liable for any investment made which causes the interest on the Investor's obligations to become included in the gross income of the owners thereof.

6. The fee due to the Advisor in providing services pursuant to this Agreement shall be calculated in accordance with Appendix A attached hereto, and shall become due and payable as specified. Any and all expenses for which the Advisor is entitled to reimbursement in accordance with Appendix A attached hereto shall become due and payable at the end of each calendar quarter in which such expenses are incurred.

7. This Agreement shall remain in effect until June 30, 2025, with the option of the Investor to extend this Agreement for one additional two-year period. Provided, however, the Investor or Advisor may terminate this Agreement upon thirty (30) days written notice to the other party. In the event of such termination, it is understood and agreed that only the amounts due to the Advisor for services provided and expenses incurred to and including the date of termination will be due and payable. No penalty will be assessed for termination of this Agreement. In the event this Agreement is terminated, all investments and/or funds held by the Advisor shall be returned to the Investor as soon as practicable. In addition, the parties hereto agree that upon termination of this Agreement the Advisor shall have no continuing obligation to the Investor regarding the investment of funds or performing any other services contemplated herein. The payment of any funds in future budget years, as provided in this

Agreement, shall be subject to annual appropriation by the City Council in the annual budget and the Investor's obligations under this Agreement shall not constitute a general obligation of the City or indebtedness under the constitution or laws of the State of Texas. Notwithstanding anything contained herein to the contrary, Investor will have the right to withdraw from this Agreement on the last day of the Investor's fiscal year if the Investor's governing body fails to appropriate funds to cover the cost of this Agreement in the upcoming fiscal year budget. Advisor will be under no obligation to Investor in the event of such termination and services will terminate at the conclusion of the currently funded fiscal year.

8. The Advisor reserves the right to offer and perform these and other services for various other clients. The Investor agrees that the Advisor may give advice and take action with respect to any of its other clients, which may differ from advice given to the Investor. The Investor agrees to coordinate with and avoid undue demands upon the Advisor to prevent conflicts with the performance of the Advisor towards its other clients.

9. The Advisor shall not assign this Agreement without the express written consent of the Investor.

10. The Investor acknowledges that:

- 1) _____ Investor was provided a written copy of Form ADV Part 2 not less than 48 hours prior to entering into this written contract, or
- 2) _____ Investor received a written copy of Form ADV Part 2 at the time of entering into this contract and has the right to terminate this contract without penalty within five business days after entering into this contract.
- 3) X Investor is renewing an expiring contract and has received in the past, and offered annually, a written copy of Form ADV Part 2.

When accepted by the Investor, it, together with Appendix A attached hereto, will constitute the entire Agreement between the Investor and Advisor for the purposes and the consideration herein specified.

Respectfully submitted,



Richard G. Long, Jr.
Manager, Valley View Consulting, L.L.C.

This agreement is hereby agreed to and executed on behalf of the City of Burleson, Texas.

By _____
City of Burleson

Date: _____

APPENDIX A

FEE SCHEDULE AND EXPENSE ITEMS

In consideration for the services rendered by Advisor in connection with the investment of the Investable Funds for the Investor, it is understood and agreed that its fee will be a tiered annual fee based on the following schedule:

<u>Average Quarter End Book Value</u>	<u>Annual Fee</u>
First \$85 million	0.036% (3.6 basis points)
Next \$65 million	0.030% (3 basis points)
Above \$150 million	0.020% (2 basis points)

Said fee shall be prorated and due and payable at the end of each investment quarter.

Should the Investor issue debt and select a bond proceeds investment strategy that incorporates a flexible repurchase agreement or other structured investment, fees will be determined by any applicable I.R.S. guidelines and industry standards.

Said fee includes all costs of services related to this Agreement, and all travel and business expenses related to attending regularly scheduled meetings. With pre-trip Investor approval, the Advisor may also request reimbursement for special meeting or event travel and business expenses. The obligation of the Advisor to pay expenses shall not include any costs incident to litigation, mandamus action, test case or other similar legal actions.

Any other fees retained by the Advisor shall be disclosed to the Investor.

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:
2023-1054005

Date Filed:
08/01/2023

Date Acknowledged:

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

Valley View Consulting, L.L.C.
Huddleston, VA 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.

RFP 2020-006
Investment Advisory Services and Cash Management

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Long, Jr. , Richard	Huddleston, VA United States	X	

5 Check only if there is NO Interested Party.

☐

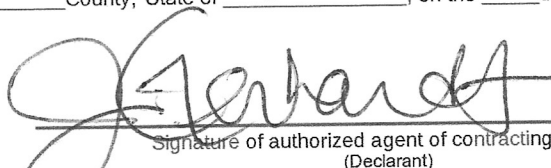
6 UNSWORN DECLARATION

My name is Julie S. Gerhardt, and my date of birth is 7/16/70.

My address is 2205 Woodcrest Dr, Lynchburg, VA, 24503, USA.
(street) (city) (state) (zip code) (country)

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

Executed in Lynchburg (City) County, State of Virginia, on the 1 day of Aug, 2023.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Information Technology
FROM: James Grommersch, Chief Technology Officer
MEETING: August 7, 2023

SUBJECT:

Consider approval of a contract with Knight Security Systems for software, hardware, and maintenance for the installation of security cameras and access control throughout the Ellison Building through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount of \$107,876.74 for five years. (Staff Contact: James Grommersch, Chief Technology Officer.)

SUMMARY:

The contract will authorize Knight Security Systems to establish an infrastructure for security cameras and access control at the Ellison building. The original plans for cameras and door access control for the Ellison building was estimated at \$44,378.13. However, with additional changes to the floor plan, there was a need for additional cameras and door access controls in the building for \$31,818.61 bringing the cost over the City Manager's approval threshold. The agreement aims to address additional needs by adding additional security cameras, and access control doors along with the increase in annual software maintenance renewal.

BTX-IT decided to utilize Knight Security as the vendor of choice to ensure that the support for the systems would remain with the same vendor the City is utilizing for cameras and access control.

The Ellison Building's contingency constructions funds will cover the one-time costs of installing and programming of cameras, access control, as well as the required server infrastructure. The annual costs will be apart of the IT Services and Support Fund.

OPTIONS:

- 1) Approve a contract with Knight Security Systems for software and hardware for the installation of security cameras and access control at the Ellison building through a

cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount of \$107,876.74 for five years.

2) Deny

RECOMMENDATION:

Approve a contract with Knight Security Systems for software and hardware for the installation of security cameras and access control throughout city water facilities properties through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount of \$107,876.74 for five years.

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

None

FISCAL IMPACT:

The total contract is \$107,876.74 which \$76,196.74 is a one-time cost and \$31,680.00 in recurring annual costs for software licensing for the next five years budgeted in the current fiscal year and within budget.

5153101-70020: W/S Non-Bond

6108001-63505: Computer Hardware M & R

STAFF CONTACT:

James Grommersch
Chief Technology Officer
jgrommersch@burlesontx.com
817-426-9672



Information Technology

Ellison Building Cameras & Access Control

City Council

August 7th, 2023

Cameras and Access Control

The original plans for cameras and door access control for the Ellison building was estimated at \$44,378.13.

However, following additional changes to the floor plan, there was a need for additional cameras and door access controls in the building for \$31,818.61 bringing the cost over the City Manager's approval threshold.

The agreement aims to address additional needs by adding additional security cameras, and access control doors along with the increase in annual software maintenance renewal.



Ellison Building Cameras & Access Control

The advantages of the project:

- The additional cameras and access control will allow staff spaces to be secured from unauthorized access and will allow for remote viewing of the space to ensure all areas of the building can be monitored.
- This will allow the space to be secure and functional for both staff and citizens.

Cameras and Access Control

BTX-IT decided to utilize Knight Security as the vendor of choice to ensure that the support for the systems would remain with the same vendor the City is utilizing for cameras and access control.

Knight also has:

- Over 40 years of experience
- Installation of 3,200 systems in 335 buildings



Cameras and Access Control

The total contract is \$107,876.74 which \$76,196.74 is a one-time cost and \$31,680 in recurring costs for software licensing for the next five years (\$7,920 a year).

5153101-70020: W/S Non-Bond – One-time costs from the project contingency

6108001-63505: Computer Hardware M & R – Annual reoccurring costs

Cameras and Access Control

Staff Recommendation:

Approve a contract with Knight Security Systems for software and hardware for the installation of security cameras and access control throughout city water facilities properties through a cooperative purchasing agreement with the Texas Department of Information Resources (DIR) in the amount of \$107,876.74 for five years.

Questions / Comments





CONTRACT COVER PAGE

Department

Vendor Name

Contract Description

This is a change order to the existing contract to accommodate staff approved changes within the Ellison Street facility.

Account Number(s)

Is this part of the current FY budget? Explain.

Contract Amount

Price Increase Year
Over Year?

Y ☐ N ☒

If Yes, Include the Increase Information Below:

Contract Term Length

Contract Start Date

Contract End Date

Department Director/Manager (Signature)

DocuSigned by:

7A6D493F6C56433...

Printed Name

Date

Assistant to the City Manager (Signature)

DocuSigned by:

35D3D5E4E700457...

Printed Name

Date

Legal (Signature)

DocuSigned by:

FD28C2151675435...

Printed Name

Date

City Manager (Signature)*If applicable

Printed Name

Date

Complete and return form to contracts@burlesontx.com

**CHANGE ORDER NO. 1****TO***Knight Security***THE CITY OF BURLESON, TEXAS**

DATE: 25-Jul-23

OWNER: City of Burleson

CONTRACTOR: Knight Security

INSERT REASON:

Original Contract Amount

\$ 44,378.13

Net INCREASE in Contract Amount
from **Previous** Change OrdersNet INCREASE in Contract Amount
from **this** Change Order

\$ 31,818.61

Revised Contract Total Amount

\$ 76,196.74

Current Increase
71.70%

Overall Decrease(%)

Original Contract Completion Time

Change in Contract completion Time
from **Previous** Change OrdersChange in Contract completion Time
from **this** Change Order

Revised Contract Completion Time

Calendar Days

Calendar Days

Calendar Days

Recommended by (Department Contact):

Accepted by:
Name of CompanyCompletion Date
1-Sep-23

DocuSigned by:

By:

James Grommersch

7A6D493F8C66455...

DocuSigned by:

By:

Troy Berry

AC85E88CB50040E...

Title: Chief Technology Officer

Title: Account Executive

Approved by Owner:

CITY OF BURLESON

By:

Title: City Manager



Proposal: 25683-1-0

City of Burleson - Ellison Bldg adds

Prepared for:

James Grommersch

City of Burleson

135 West Elison

Burleson TX,

Prepared by:

Troy Berry

214-350-1632

tberry@knightsecurity.com

501 Duncan Perry Road
Arlington, TX 76011

Proposal Issued:

7/25/2023

Proposal Valid To:

8/9/2023

DESCRIPTION

CLIENT INFORMATION

Name: City of Burleson

Site

135 West Elison
Burleson, TX

Billing

141 West Renfro Street
Burleson, TX 76028

Contact

James Grommersch
P (817) 426-9672
E jgrommersch@burlesontx.com

PROJECT NAME: City of Burleson - Ellison Bldg adds

PROJECT SCOPE OF WORK

At the request of the City of Burleson Knight Security Systems will provide labor and materials to install additional (cameras, access control doors at the locations described below.

Due to extreme supply chain issues, Mobile Communications America reserves the right to adjust final proposal pricing until an order is placed with our manufacturer partners. We will inform you within 5 business days of receipt of the order about product availability and price increases greater than Mobile Communications America can absorb.

MCA will furnish and install the following:

Resource officer

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- HES Strike

Cubical area

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- HES Strike

1st Floor stair

Client Initials:

117

MCA

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- HES Strike

2nd Floor Reception

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- HES Strike

2nd Floor Kitchen

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- HES Strike

2nd Floor Conference room 1

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- Electrified mortise lock

2nd Floor Conference room 1 2nd door

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- Electrified mortise lock

Move door from original scope (Office 1 to new Waiting room door)

- Composite Cable Run
- Blue Diamond Card Reader
- 3/4 inch door contact
- Bosch DS160 Request to exit
- Electrified mortise lock

Cameras

Rear Stairwell door

- Cat 6 Cable (Provided by others)
- AXIS P3265-LVE Dome Camera

Exit hallway

- Cat 6 Cable (Provided by others)
- AXIS P3265-LVE Dome Camera

Head End Access Control

- S2
- Life Safety 8 door panel
- 4ea MR-52 Access boards
- Door enrollment into one main access level and time schedule
- Two system user levels
- One access level
- Seven holiday days

MCA cannot provide services to correct alignment issues and will not modify doors, frames, or hardware for the purpose of correct operation of the door.

New cameras added to the existing video server will impact the available storage.

Permitting is included in this proposal where required by the AHJ of the property.

Customer Provided Items

- Assigning different schedules and access levels to the access control doors
- PoE switches and patch panels

Client Initials: _____

119

MCA

- IP addresses for all network equipment
- Existing recording server with storage space to accommodate the new devices
- Rack space and uninterruptable power supply in the MDF room for rack mount units
- Wall space and 3/4" plywood backboard for wall mount units
- Network configurations for connection of devices to Customer's network

- 120VAC by a certified electrician for all security devices where needed
- A dry contact connection from the fire system for fire drop out
- Testing and Pre-testing with client's fire vendor

- **Customers will need to provide a clean set of plans for locations (PDF, AutoCAD) for layout of documentations.**

Finance

Purchaser hereby agrees to pay MCA the following terms:

The Customer is required to pay every invoice in full within 30 days of receiving the invoice.

Project Milestones and Invoicing Procedures for jobs over \$5,000 require:

- A 30% Down Payment
- 100% payment of stored materials upon receipt at MCA's warehouse. Inspection of billed products by customers at MCA's warehouse will be permitted. Material Transfer Wavier will require a signature.
- Progress labor billing will occur each month based upon the percentage of completion of whole project up to 90% of total labor charges.
- Final charges will be billed upon final completion of the job.

Customer is responsible for all taxes; except of the Customer represents that it is tax exempt under sections 501 (a) and 501(c) of the Internal Revenue Code of the United States, and under the applicable laws of any State due any tax. If Customer represents that all sales, use or business taxes or personal property taxes and all fees imposed by municipal, state and/or federal authorities

Client Initials:

120

in connection with the systems and services to be performed or sold by MCA are tax exempt, then the customer agrees to hold MCA harmless from and to indemnify MCA against any of the foregoing charges if the exempt status is incorrect, discontinued, or modified. The tax calculations provided are estimates and are subject to change.

Rental Equipment

Lift rental is **not** included in this proposal and should be provided by the Customer if required.

Conditions and Qualifications

- The customer shall designate a single point of contact for Mobile Communications America. The designated person will coordinate among all departments or agencies and will have authority to make project related decisions and provide final acceptance.
- Work provided by MCA, including training, is assumed to be during normal business hours; 7a-5p M-F excluding holidays.
- 120vac, space for control panels, switch, and UPS in a centrally located closet in a climate-controlled space provided by Owner.
- Cables will be routed in the accessible ceilings or exposed when attached to building structure. Conduit or another metallic raceway is not included in this proposal.
- MCA's proposal is based on the basic investigation of your site or request for proposal. MCA's goal is to provide the system solution desired; however, MCA reserves the right to make adjustments should we discover that material facts or circumstances relating to the project or specification have been omitted or inadvertently missed at the time of the project design, engineering or during the installation. All adjustments will be formally documented on a revised MCA proposal document if the job has not commenced or an MCA "Additional Work Authorization" (Change Order) document if the adjustments are discovered after the work has begun. These documents will be presented for your review.

Items outside of this scope

- MCA is not responsible for any existing devices being reused. A quote will be provided to the customer for any devices that are found to be defective or inoperable. MCA is not responsible for any damage left from the removal of existing devices. The Customer is responsible for patching and repairing any damage left from the removal of existing devices.

Post Installation Service and Support

Each item of equipment purchased under this agreement is covered by the manufacturer's warranty. MCA's will warranty labor and materials for 1 year on new equipment and services.

The warranty will begin upon completion of the installation or at a time where "beneficial use" of the system occurs; or of any of its component sub-systems. An official warranty letter with the starting dates will be issued to you.

PROJECT INVESTMENT

Estimate					
QTY	Manufacturer	Part #	Description	Unit Price	Ext.Price
12	GRI	8080-T	3/4" Recessed Steel Door/Closed Loop/Terminals	\$4.06	\$48.72
100	DIR-Lenel Peripherals	DIR-LNL-EV22KPP	DESFire EV2 ISO PVC 2K 13.56MHz - Pre-Programmed	\$3.30	\$330.00
1	DIR-Windy City Wire	DIR-556609	23-4P UNS SOL CMP C6 Blu Jkt	\$397.64	\$397.64
8	DIR-Bosch Intr/Fire/Acc	DIR-DS160	PIR REQUEST TO EXIT SENSOR WITH SOUNDER GRAY (DIR)	\$72.62	\$580.96
1	DIR-Lenel S2 Security	DIR-LSP-8DR-E4M1	LSP-8DR, E4M1 24H X 20W ENCL WITH DOOR MOUNT, FITS	\$617.99	\$617.99
2	DIR-Axis Communications	DIR-02328-001	P3265-LVE FIXED DOME CAMERAOUTDOOR HDTV 1080 2MPVA	\$581.06	\$1,162.12
1	DIR-Knight Security	DIR-KSS-PROJKIT	DIR- Project Install Kit	\$1,250.00	\$1,250.00
3	DIR-Windy City Wire	DIR-44601060-500	4 Element Composite Cable CMP Green Jacket	\$437.97	\$1,313.91
7	DIR-Lenel S2 Security	DIR-LNL-R10320-05TB	BLUEDIAMOND MOBILE-READY US SINGLE GANG Multi-Tech	\$196.46	\$1,375.22
2	Commercial Lock Services	MLC-2	CASE ONLY MORTISE LOCK WITH WIRE TRANSFER HINGE AN	\$1,100.00	\$2,200.00
4	DIR-Lenel S2 Security	DIR-S2-MR-52-S3	MERCURY MR52 READER INTERFACE MODULE 2 Readers, 8	\$730.65	\$2,922.60
5	Commercial Lock Services	DK-HES-1	Interior/Exterior cylindrical and dmortise (heavy	\$715.00	\$3,575.00

Labor:

QTY	Description	Ext.Price
2	SYSDESIGN	\$307.92
8	SYSTECH	\$1,189.20
8	PROJECTMGR	\$1,482.64
80	SCT&M	\$11,968.80

Annual Recurring:

Description	Ext.Price
SecurePlan Premium Service Level Agreement	\$7,920.00

Equipment Subtotal	\$15,774.16
Labor Subtotal	\$14,948.56
Misc. Items Subtotal	\$1,095.89
Estimate SubTotal	\$31,818.61
Annual Recurring Subtotal	\$7,920.00

Investment Summary

Total Equipment	\$15,774.16
Total Labor	\$14,948.56
Total Miscellaneous Items	\$1,095.89
Total Proposal Amount	\$31,818.61
Annual Recurring	\$7,920.00

Note: Sales tax, if applicable, is not included on this proposal and will be added to the total upon invoicing.

Investment Total

MCA will provide the proposed system as described in this proposal for the sum of: **\$31,818.61**

The price above includes: material, equipment and labor as described within this proposal.

Proposal Acceptance:

I have read the **General Terms and Conditions** of the sale, understand them fully, and agree to abide by them. I have also read and understand the payment terms as set forth in the **Customers Responsibilities** section of the agreement as well as the **Schedule of Equipment** as listed.

I hereby certify that I am authorized by my company to sign this agreement. MCA is hereby authorized to perform the work as specified.

MCA

City of Burleson

By: _____

Signature

SSR

Title

Troy Berry

Print Name

By: _____

Signature

Title

Print Name

City of Burleson
Addendum to Vendor's Contract
Additional Provisions

Knight Security

10105 Technology Blvd W, Dallas, Texas 75220

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. Obligor City to pay costs of collection or attorneys' fees.
 - x. Requiring City to provide warranties.
 - xi. Obligor 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: _____

Name: _____

Title: _____

Date: _____

DocuSigned by:
By: Troy Berry
AC85E88CB58046E...

Name: Troy Berry

Title: Account Executive

Date: 7/28/2023

TERMS & CONDITIONS

SEE PURCHASING CONTRACT DIR-CPO-4494 FOR TERMS AND CONDITIONS.

Web Access:

<https://dir.texas.gov/contracts/dir-cpo-4494>



CONTRACT COVER PAGE

Department

Vendor Name

Contract Description

The contract will cover the installation of Access Control and Cameras for the Ellison building.

Contract Value

Price Increase Year
Over Year?

☐ Yes

☒ No

If Yes, Include the Increase Information
Below:

Contract Term Length

Contract Start Date

Contract End Date

Department Director/Manager (Signature)

James Grommersch
Digitally signed by James Grommersch
DN: C=US, OU=City of Burleson, CN=James
Grommersch, E=jgrommersch@burlesontx.com
Reason: I am the author of this document
Location: your signing location here
Date: 2022.10.03 13:43:27 -0500
Root PDF Editor Version: 11.2.3

Printed Name

Date

Purchasing Manager (Signature)

Justin Scharnhorst
DocuSigned by:
35D3D5E4E700457...

Printed Name

Date

Legal (Signature)

Matt Ribitzki
DocuSigned by:
FD28C2151679455...

Printed Name

Date

City Manager (Signature)*If applicable

Bryan Langley
DocuSigned by:
3B23505AF442478...

Printed Name

Date

Complete and return form to jscharnhorst@burlesontx.com



Proposal: 22649-4-0

Burleson Ellison bldg

Prepared for:

Hugo Rodriguez

City of Burleson

135 West Ellison
Burleson TX,

Private and Confidential: The proposal has been distributed to you on a confidential basis for your information only. By accepting it, you agree not to disseminate it to any other person or entity in any manner and not to use the information for any purpose other than considering opportunities for a cooperative business relationship with Knight Security Systems, Inc.

Proposal Issued:
7/28/2022

Proposal Valid To:
8/27/2022

Prepared by:

Kevin Cook

214-350-1632

kcook@knightsecurity.com

10105 Technology Blvd West
Suite 100
Dallas, TX 75220

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DESCRIPTION

CLIENT INFORMATION

Name: City of Burleson

Site

135 West Elison
Burleson, TX

Billing

141 West Renfro Street
Burleson, TX 76028

Contact

Hugo Rodriguez
P (817) 426-9112
E hrodriguez@burlesontx.com

PROJECT NAME: Burleson Ellison bldg

PROJECT SCOPE OF WORK

City of Burleson is looking to add Access control and Video solution to the Ellison bldg.
The project will have require the following equipment.

video 1st floor

2 external fixed dome cameras, one at each exit

1 fixed dome indoor

1 fixed multi sensor camera indoor

video 2nd floor

1 indoor fixed dome

2 indoor multi sensor

Access control 1st floor

1 Internal single door reader

1 External single door reader

1 external double door reader

Access control 2nd floor

5 indoor single door card readers

1 server w/ Milestone s/w and licenses.

30 days of video

Access control s/w and licenses

Access Control System

KSS will furnish and install the following:

- One access control server

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- One access control panel
- One lock power supply
- Each single/double door will have the following installed:
 - One card reader
 - One door position sensor
 - One request-to-exit motion sensor
 - Electrified locking hardware
- Initial programming will include:
 - Door enrollment into one main access level and time schedule
 - Customer will be responsible for creating additional access levels and schedules
 - Two system user levels
 - Operator
 - Administrator
 - Three time schedules
 - May be assigned to cardholders, doors, or automation outputs
 - One access level
 - Associates available doors and times allowed to cardholders
 - Seven holiday days
 - Allows doors that are scheduled open to remain locked on holidays

Door fit and finish provided by General Contractor or hardware trade. KSS cannot provide services to correct alignment issues and will not modify doors, frames, or hardware for the purpose of correct operation of the door. Each device will include the necessary mounting hardware, license and one year manufacturer software license support.

Video Surveillance System

KSS will furnish and install the following:

- One network video recorder (NVR)
- One PoE switch and patch panel
- Two exterior cameras with mount at the following locations:
 - Front Door
 - Back door
- Five interior cameras at the following locations:
 - Multi sensor at receptionist 2nd floor
 - Multi Sensor Top of stairs near exit hallway 2nd floor
 - In stairwell
 - Multi sensor in lobby 1st floor
 - Fixed camera lobby of 1st floor
- Initial programming will include:
 - Enrolling the cameras and setting up basic motion detection
 - One administrative account
 - One view only account
 - Estimated days of storage 30
 - 1080p at H.264 and 12 FPS
 - Calculations are based on 40% motion detection or event recording

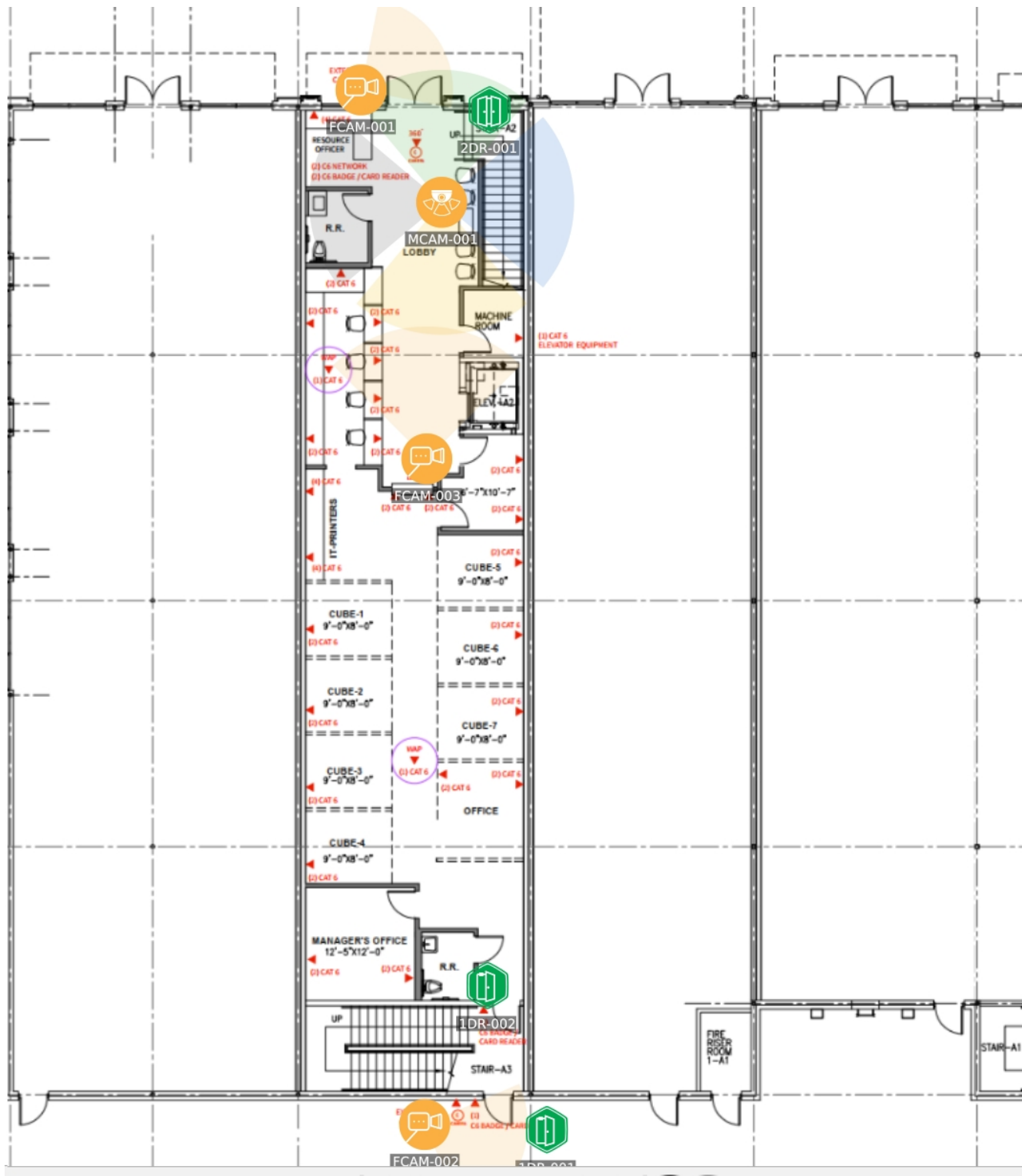
Client Initials: Bl

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- Initial programming will include:
 - Enrolling the cameras and setting up basic motion detection
 - One administrative account
 - One view only account
 - Estimated days of storage 30
 - 1080p at H.264 and 12 FPS
 - Calculations are based on 40% motion detection or event recording

The NVR storage capacity is an approximate estimate based on general conditions that KSS does not guarantee. Each device will include the necessary mounting hardware, license and one year manufacturer software license support.

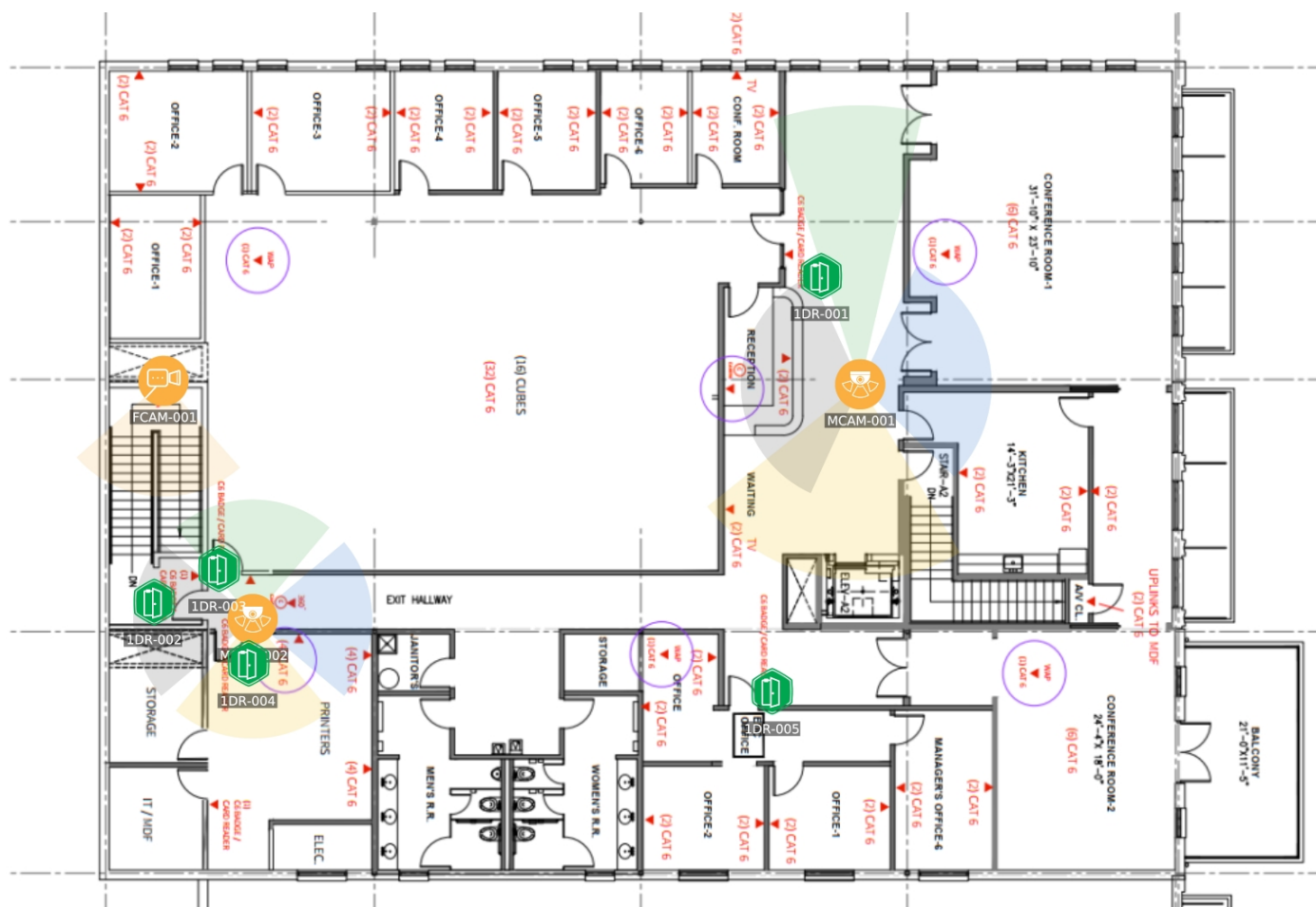


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Customer Provided Items

- Electronic drawing files of the plans and approval of device layout
- Individual software administrator logins for personnel at each location for each system
- Assigning different schedules and access levels to the access control doors
- PoE switches and patch panels
- Existing recording server with storage space to accommodate the new devices
- Existing client workstations that meet the system minimal requirements
- Rack space and uninterruptable power supply in the MDF room for rack mount units
- Wall space and 3/4" plywood backboard for wall mount units
- Network configurations for connection of devices to Customer's network
- Phone line and / or network connection to intrusion panel for monitoring services
- 120VAC by a certified electrician for all security devices where needed
- Exterior and fire partition penetrations where needed
- Installation of conduit with a pull string to security devices where needed
- A dry contact connection from the fire system for fire drop out if needed
- Customer must provide cable pathway between floors
- Customer to provide pretesting and testing for fire safety test.

Finance

Purchaser hereby agrees to pay KSS the following terms:

The Customer is required to pay every invoice in full within 30 days of receiving the invoice.

Project Milestones and Invoicing Procedures

Client Initials: *Bl*

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- An initial investment of 50% of the total project for mobilization is due and payable within 15 days of authorizing Knight's Customer Service Agreement (CSA)
 - An invoice will be generated and forwarded at the project kickoff meeting that is held with the customer. Materials will not be ordered until payment is received.
- The remaining balance is due and payable in progress payments based upon material delivered or work completed

Refer to the CSA sections 2A, 2B, and 2C.

Any changes from the base price will be adjusted with approved change orders from the Customer. The as-built plans will be submitted along with the final submittal package to the Customer.

Engineering

KSS shall provide system design and operational documentation to ensure proper installation and efficient servicing of the system. KSS will provide submittal plans that will show where each device is located at each site. The submittal plans will also include a system matrix, which includes the schedule of each device and the programming setup into the security system software.

Cabling & Wiring

KSS will be responsible to install all the wiring and connections providing communication and/or control between KSS supplied devices and central control equipment. All wires will be dressed in a neat and professional manner. KSS will not provide any conduit or trenching required to reach each device. It is the Customer's responsibility to provide a pathway for all wiring required for each device. KSS is not responsible for any existing wiring being used. A quote will be provided to the Customer for any wiring that is found to be unusable

Field Devices

KSS will provide all necessary devices and hardware included on the equipment list attached. The devices on the security plans will be installed and programmed into the system according to the system matrix. KSS is not responsible for any existing devices being reused. If any existing devices are found to be unusable then a quote will be provided to the Customer to replace the device. KSS is not responsible for any damages done from the existing devices being removed. The Customer is responsible to patch and repair any damages done from existing devices removed.

Programming

KSS trained personnel will program the security system to provide a functioning operational system. KSS will support Customer programming personnel and set up remote field panels consistent with manufacturer standards. KSS will program each device according to the system matrix provided in the security plans. If any additional programming or special programming outside the system matrix is needed an approved change order from the Customer is required.

Customer to furnish IP addressing scheme for all devices requiring an IP address on the network. KSS will provide a list of devices that need IP addresses to the Customer.

Rental Equipment

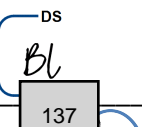
Lift rental is not included in this proposal and shall be provided by the Customer if required.

Testing

KSS will perform acceptance testing in the presence of the appointed Customer representative to ensure proper operation and communication of all integrated systems. A test sheet with a check list for each device will be provided by KSS and signed by the Customer representative upon successful completion of a system acceptance test. The final system test report will be sent to all parties.

A punch list detailing items requiring a follow up that is within this scope of work will be created. KSS will correct the punch list items in a mutually agreed upon time. If the Customer wants something changed after the test sheet has been signed additional charges will be applied.

Upon system acceptance, a KSS job completion form shall be signed and sent to all parties. It is the Customer's responsibility to ensure proper periodic testing per the manufacturer's recommendation if a signed SecurePlan agreement is not in place.

Client Initials: 
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KSS will provide training for one combined end user training session. The individuals for the system training session will be determined by the Customer. All training for the above mentioned systems to follow the manufacturer guidelines for Customer training. This training will be provided for administrators and users for each system.

Training will include upgrade implementation, system administration, end-user, and reports. The training will be classroom style and will include manuals, training material, and hands on training. Two hours of training are provided with this proposal. Additional training may be provided with additional cost.

Standard Proposal Notes:

1. This proposal will follow the guidelines stated in the Customer Service Agreement.
2. This proposal is valid for 30 days. After the 30 days the quote is no longer valid and a new quote needs to be regenerated and prices may vary.
3. A standard 1 year warranty applies on all newly installed equipment.
4. Please allow 4-6 weeks lead time for door hardware.
5. Final Location of all equipment to be approved by owner prior to start of installation.
6. Work provided by KSS is assumed to be continuous, unhindered and without the need for escorts. Additional costs will be incurred if work is slowed by denial or delay of access to the work areas without three days' notice, or if escorts are required at any time. Any cessation of work by the customer or delays in the project construction schedule will result in additional mobilization and project management charges.
7. The quantities of materials noted above scope of work are intended to be descriptive. Should there be any discrepancy between the scope of work and the equipment list, the equipment list will supersede the scope of work stated above.
8. All work will be done following federal, state, and local laws and requirements for the above scope of work.

Knight Security Systems Excludes the Following:

1. All 120 VAC connections are to be performed by customer or customer's designated licensed Electrical contractor.
2. Fire alarm interface, cabling, connection, input/output, testing and certification.
3. Any city or other governmental permits, not associated with this scope of work, required for the use and operation of the system.
4. Access to device location, penetrations, required access panels for concealed areas.
5. If not stated above wire mold, conduit, trenching, wireless devices or aerial cabling necessary to connect any remote locations or gates, computer workstations to operate the system, and network equipment to provided power and data communication for devices.
6. Overtime required due to schedule revisions, work stoppages, delays caused by others, or circumstances beyond Knight Security Systems control.
7. Final terminations and connections to equipment other than provided by Knight Security Systems.
8. Any trade installation that Knight Security Systems is not licensed to perform.
9. Painting, patching or landscaping required as a result of the installation of equipment associated with this scope of work.
10. Technical assistance or the setup of the customer's network for connection to the security control systems. The customer is required to provide static IP addresses and support personnel for assistance in setting up the network connections.

Roles & Responsibilities

Essential activities conducted in the course of project by the Customer, Knight Security Systems (KSS), and the General Contractor (GC).

Project Administration Tasks	Customer	KSS	GC
General project management & administration		X	
Designate primary customer point of contact and site supervisor		X	
Host initial site orientation and kick-off meeting	X		
Pre-installation walk-through and design verification	X		
Pre-construction utility assessment	X		
System design and engineering		X	
System design and engineering approval	X		
Develop master project schedule		X	

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Approval of master project schedule	X		
System design acceptance within overall master plan of larger facility	X		
Provide lists of existing equipment and building drawing backgrounds	X		
Develop and maintain drawings and equipment schedules		X	
Provide written communication regarding work site conditions	X		
Coordinate monthly in-progress reviews for active sites		X	
Change order management		X	

Project Installation Tasks	Customer	KSS	GC
Provide locations for materials staging	X		
Materials pre-installation configuration and delivery		X	
Pre-installation testing of existing equipment		X	
Installation of electric locking hardware		X	
Installation of electric locking mechanism power supplies		X	
Installation of device power supplies		X	
120VAC at each device location where needed	X		
Building penetrations to exterior		X	
Fire partition penetrations and sealing		X	
Installation of conduit to security system devices where needed		X	
Installation of cables to security system devices		X	
Network cables from security system devices to copper patch panels		X	
Patch cables between patch panels and network switches		X	
Create panel, cable, and equipment labeling scheme	X		
Install cable labels per labeling scheme		X	

Network Tasks	Customer	KSS	GC
Rack and rack space for rack mount equipment	X		
Network PoE switches and configuration	X		
Patch panels and uninterruptable power supply	X		
IP address assignment for security system equipment and workstations	X		
Configure client workstations to the security system		X	

Programming Tasks	Customer	KSS	GC
Create custom security system programming matrix		X	
Program initial security system configuration		X	
Import initial cardholder database from Owner provided information	X		
Develop and implement database update procedure	X		

Testing and Acceptance Tasks	Customer	KSS	GC
System test forms and checklists		X	
Full system test		X	
Customer on-site system acceptance	X		
As-built drawings and final engineering document submittal		X	

PROJECT INVESTMENT

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Estimate						
QTY	Manufacturer	Part #	Description	MSRP	Unit Price	Ext. Price
2	DIR-Axis Communications	DIR-02328-001	High-performance fixed dome camera with Deep Learn	\$749.00	\$581.06	\$1,162.12
3	DIR-Axis Communications	DIR-02218-001	AXIS P3727-PLE Panoramic Camera offers 4x2 MP with	\$1,449.00	\$1,124.10	\$3,372.30
2	DIR-Axis Communications	DIR-02327-001	High-performance fixed dome camera with Deep Learn	\$639.00	\$495.72	\$991.44
2	DIR-Axis Communications	DIR-5507-601	The powder-coated aluminum AXIS T94R01B Corner Bra	\$69.00	\$53.53	\$107.06
2	DIR-Axis Communications	DIR-5505-081	Indoor pendant kit for AXIS P32-V Series- AXIS P33	\$49.00	\$38.01	\$76.02
2	DIR-Windy City Wire	DIR-556609	23-4P UNS SOL CMP C6 Blu Jkt	\$572.00	\$397.64	\$795.28
4	Windy City Wire	ZENCOMP1-500	Dual Reader CMP Plenum Composite Cable	\$772.50	\$772.50	\$3,090.00
1	DIR-Knight Security	DIR-KSS-PROJKIT	DIR- Project Install Kit	\$.00	\$4,000.00	\$4,000.00
8	DIR-Bosch Intr/Fire/Acc	DIR-DS160	PIR REQUEST TO EXIT SENSOR WITH SOUNDER GRAY (DIR)	\$106.00	\$72.62	\$580.96
10	GRI	8080-T	3/4" Recessed Steel Door/Closed Loop/Terminals	\$2.64	\$4.06	\$40.60
7	DIR-Assa Abloy HES	DIR-5200C-12/24D-LBM	5200C SERIES COMPLETE STRIKE WITH LATCHB	\$299.00	\$177.73	\$1,244.11
2	Commercial Lock Services	VQ-QEL-RX-CORD-KIT	VON DUPRIN QEL KIT FOR QUIET LATCH RETRACTION W/RE	\$1,790.00	\$1,278.57	\$2,557.14
1	DIR-Lenel S2 Security	DIR-S2-EXT-16-WM	NETBOX EXTREME CONTROLLER (16 PORTAL LICENSE, WAL	\$3,964.00	\$2,396.24	\$2,396.24
8	DIR-Lenel S2 Security	DIR-LNL-R10320-05TB	BLUEDIAMOND MOBILE-READY US SINGLE GANG Multi-Tech	\$325.00	\$196.46	\$1,571.68
100	DIR-Lenel Peripherals	DIR-LNL-EV22KPP	DESFire EV2 ISO PVC 2K 13.56MHz - Pre-Programmed	\$4.00	\$3.30	\$330.00
1	DIR-Lenel S2 Security	DIR-LSP-8DR-E4M1	LSP-8DR, E4M1 24H X 20W ENCL WITH DOOR MOUNT, FITS	\$1,022.31	\$617.99	\$617.99
1	DIR-Lenel S2 Security	DIR-S2-LP-1502	MERCURY LP1502 INTELLIGENT CONTROLLER 2	\$2,348.00	\$1,419.37	\$1,419.37
3	DIR-Lenel S2 Security	DIR-S2-MR-52-S3	Readers, MERCURY MR52 READER INTERFACE MODULE 2 Readers, 8	\$821.00	\$496.29	\$1,488.87

Labor:

QTY	Description	Ext. Price
8	PROJECTMGR	\$1,482.64
2	SYSDESIGN	\$307.92
100	INSTALL	\$11,776.00
16	SYSTECH	\$2,378.40
10	SCT&M	\$1,496.10

Discounts and Misc. Items:

Client Initials: **BL**

140

KNIGHT
SECURITY SYSTEMS
HONOR, INTEGRITY, SERVICE

Confidential - Do not duplicate or distribute without written permission from Knight Security Systems, Inc.

QTY	Description	Ext. Price
1	PERMIT	\$1,095.89

Equipment Subtotal	\$25,841.18
Labor Subtotal	\$17,441.06
Discounts and Misc. Items SubTotal	\$1,095.89
Estimate SubTotal	\$44,378.13

Investment Summary

Total Equipment	\$25,841.18
Total Labor	\$17,441.06
Total Discounts & Misc. Items	\$1,095.89
Total Proposal Amount	\$44,378.13

Note: Sales tax, if applicable, is not included on this proposal and will be added to the total upon invoicing.

Investment Total

Knight Security Systems will provide the proposed system as described in this proposal for the sum of: **\$44,378.13**

The price above includes: material, equipment and labor as described within this proposal.

Confidential - Do not duplicate or distribute without written permission from Knight Security Systems, Inc.

Proposal Acceptance:

I have read the **General Terms and Conditions** of the sale, understand them fully, and agree to abide by them. I have also read and understand the payment terms as set forth in the **Customers Responsibilities** section of the agreement as well as the **Schedule of Equipment** as listed.

I hereby certify that I am authorized by my company to sign this agreement. Knight Security Systems is hereby authorized to perform the work as specified.

KNIGHT SECURITY SYSTEMS

By: _____

Signature

ISR

Title

Kevin Cook

Print Name

By: _____

DocuSigned by:

City of Burleson

Bryan Langley

Signature

City Manager

Title

Bryan Langley

Print Name

Private and Confidential: The proposal has been distributed to you on a confidential basis for your information only. By accepting it, you agree not to disseminate it to any other person or entity in any manner and not to use the information for any purpose other than considering opportunities for a cooperative business relationship with Knight Security Systems, Inc.

Confidential - Do not duplicate or distribute without written permission from Knight Security Systems, Inc.

TERMS & CONDITIONS

SEE PURCHASING CONTRACT
DIR-CPO-4494
FOR TERMS AND CONDITIONS.

Web Access:

<https://dir.texas.gov/contracts/dir-cpo-4494>

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.

Mobile Communications America
Dallas, TX United States

Certificate Number:
2023-1051330

Date Filed:
07/26/2023

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.

20230501-001
Access control and cabling

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.



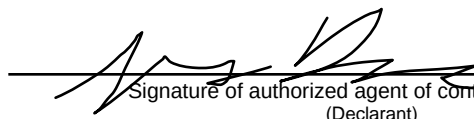
6 UNSWORN DECLARATION

My name is Troy Berry, and my date of birth is _____.

My address is 501 Duncan Perry Rd,, Arlington,, TX, 76011, US.
(street) (city) (state) (zip code) (country)

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

Executed in Tarrant County, State of Texas, on the 26 day of July, 20 23.
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)

City Council Regular Meeting

DEPARTMENT: Police
FROM: Billy J. Cordell, Chief of Police
MEETING: August 7, 2023

SUBJECT:

Consider approval of an ordinance repealing in their entirety Ordinances No. B-662, CSO#1129-09-2019, and CSO#3082-09-2022 concerning a juvenile curfew codified in Article IV "Curfew" of Chapter 54 "Miscellaneous Offenses" of the City of Burleson Code of Ordinances. (First Reading) (*Staff Contact: Billy J. Cordell, Chief of Police*)

SUMMARY:

On June 9, 2023, the 88th Texas Legislature passed House Bill 1819 which amended the Texas Government Code to repeal the authority of municipalities to adopt or enforce juvenile curfew ordinances except in cases of emergency.

In 2001, the City Council adopted an ordinance that established a curfew for juveniles in the City. The ordinance is codified in Article IV "Curfew" of Chapter 54 "Miscellaneous Offenses" of the City of Burleson Code of Ordinances. Since that time the City has enforced the juvenile curfew ordinance.

In accordance with House Bill 1819, the proposed ordinance repeals the City's juvenile curfew ordinance.

OPTIONS:

- 1) Approve the ordinance; or
- 2) Deny the ordinance.

RECOMMENDATION:

Approve an ordinance repealing Chapter 54 Miscellaneous Offenses, Article IV Curfew in its entirety.

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

None

FISCAL IMPACT:

None

STAFF CONTACT:

Billy J. Cordell
Chief of Police
bcordell@burlesontx.com
817-426-9912



Curfew Ordinance

Chief Billy J. Cordell

August 7, 2023

Curfew Ordinance History and Repeal

- Historical Review

- The City of Burleson passed Ordinance B-622 establishing Curfew hours for minors in the city in May 2001. The ordinance established the curfew hours, defined all the terms that meet the requirements, and established penalties.
- City of Burleson has complied with all renewal procedures and the ordinance remains in effect and enforceable.
- Implementing a juvenile curfew was common for cities across the state.

- Repeal

- House Bill 1819 was passed in the 88th legislative session. This bill prohibits cities from enforcing a juvenile curfew, effective September 1, 2023.
- As a result of this law, the city will have to repeal our existing ordinance.
- Burleson Police Department has discontinued enforcing the juvenile curfew due to the prohibition going into effect September 1st.

Options and Recommendation

- Recommendation:
 - Consider approval of an Ordinance repealing Chapter 54 Miscellaneous Offenses, Article IV Curfew in its entirety

Questions/Comments

ORDINANCE

AN ORDINANCE REPEALING IN ITS ENTIRETY ARTICLE IV “CURFEW” OF CHAPTER 54 “MISCELLANEOUS OFFENSES” OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS MAKING IT AN OFFENSE FOR MINORS, PARENTS AND GUARDIANS OF MINORS, AND BUSINESS ESTABLISHMENTS TO VIOLATE CURFEW REGULATIONS; INCORPORATING THE RECITALS INTO THE BODY OF THE ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

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, on April 12, 2001, the City Council of the City of Burleson adopted Ordinance B-662 codifying Article IV of Chapter 54 of the City of Burleson Code of Ordinances, providing for a juvenile curfew; and

WHEREAS, pursuant to Section 370.002 of the Texas Local Government Code, the City Council reviewed the juvenile curfew ordinance on March 21, 2016, September 16, 2019, October 7, 2022, and September 19, 2022; and

WHEREAS, on October 7, 2019, the City Council passed and approved Ordinance CSO#1129-09-2019 which readopted Article IV of Chapter 54 of the City of Burleson Code of Ordinances, providing for a juvenile curfew; and

WHEREAS, on September 19, 2022, the City Council passed and approved Ordinance CSO#3082-09-2022 which readopted Article IV of Chapter 54 of the City of Burleson Code of Ordinances, providing for a juvenile curfew; and

WHEREAS, on June 9, 2023, the 88th Texas Legislature passed House Bill 1819 which amended the Texas Government Code to repeal the authority of political subdivisions to adopt or enforce juvenile curfews other than curfews authorized under Chapter 418, Government Code, for purposes of emergency management; and

WHEREAS, the City Council deems it necessary and proper and in the best interests of the public health, safety, and general welfare to repeal Article IV “Curfew” of Chapter 54 “Miscellaneous Offenses” of the City of Burleson Code of Ordinances as codified by Ordinances B-662, CSO#1129-09-2019, and CSO#3082-09-2022.

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

Section 1.

Article IV of Chapter 54 of the Code of Ordinances, City of Burleson, Texas, is hereby repealed in its entirety.

ARTICLE IV. — CURFEW

Sec. 54-111. — Definitions.

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

Curfew hours means:

- (1) ~~11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday night until 6:00 a.m. on the following day; and~~
- (2) ~~11:59 p.m. on any Friday or Saturday night until 6:00 a.m. on the following day.~~

Emergency means ~~an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.~~

Establishment means ~~any privately owned place of business operated for a profit to which the public is invited including, but not limited to, any place of amusement or entertainment.~~

Guardian means:

- (1) ~~A person who, under court order, is the guardian of a minor; or~~
- (2) ~~A public or private agency with whom a minor has been placed by a court.~~

Minor means ~~any person under 17 years of age.~~

Officer means ~~a police officer of the city.~~

Operator means ~~any individual, firm, association, partnership, or corporation operating, managing, or conducting business at any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.~~

Parent means ~~a person who is:~~

- (1) ~~A natural parent, adoptive parent, or step-parent of another person; or~~
- (2) ~~At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.~~

~~Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, parks and the common areas and parking lots of schools, hospitals, apartment houses, office buildings, transportation facilities, commercial shopping centers, and shops.~~

~~Remain means to:~~

- ~~(1) Linger or stay; or~~
- ~~(2) Fail to leave premises when requested to do so by an officer or the owner, operator, or other person in control of the premises.~~

~~Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.~~

Sec. 54-112. -- Offenses.

- ~~(a) A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the city during curfew hours.~~
- ~~(b) A parent or guardian of a minor commits an offense if the parent or guardian knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.~~
- ~~(c) The owner, operator, or any employee of an establishment commits an offense if the owner, operator, or employee knowingly allows a minor to remain upon the premises of the establishment during curfew hours.~~

Sec. 54-113. -- Defenses.

- ~~(a) It is a defense to prosecution under section 54-112 that the minor was:~~
 - ~~(1) Accompanied by the minor's parent or guardian;~~
 - ~~(2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;~~
 - ~~(3) In a motor vehicle involved in interstate travel;~~
 - ~~(4) Engaged in, going to, or returning home from an employment activity, without any detour or stop;~~
 - ~~(5) Involved in an emergency;~~
 - ~~(6) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor if the neighbor did not complain to the police department about the minor's presence;~~
 - ~~(7) Attending, going to, or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the city, a civic organization, a school district or another similar entity that takes responsibility for the minor;~~
 - ~~(8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or~~

~~(9) ——— Married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31.~~

~~(b) It is a defense to prosecution under section 54-112(e) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.~~

~~Sec. 54-114. -- Enforcement of article provisions.~~

~~Before taking any enforcement action under this section, an officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in section 54-113 is present.~~

~~Sec. 54-115. -- Penalties for violation of article.~~

~~(a) A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed \$500.00.~~

~~(b) When required by V.T.C.A., Family Code § 51.08, as amended, the municipal court shall waive original jurisdiction over a minor who violates section 54-112(a) and shall refer the minor to juvenile court.~~

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.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 4.

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 Ordinances B-662, CSO#1129-09-2019, and CSO#3082-09-2022 or 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 5.

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 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.

This ordinance shall become effective immediately upon its passage and publication as required by law.

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

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

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

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Community Services

FROM: DeAnna Phillips, Director of Community Services

MEETING: August 7, 2023

SUBJECT:

Consider approval of a resolution authorizing street closures and in-kind sponsorship of \$1,897.74 for costs associated with police and public works staff for the Burleson High School Homecoming Parade. (*Staff Presenter: DeAnna Phillips, Director of Community Services*)

SUMMARY:

The Burleson High School Prom After Dark Committee is requesting an in-kind sponsorship and street closures associated with the Burleson High School (BHS) Homecoming Parade that is scheduled for Monday, October 2, 2023 at 6 p.m. The parade is projected to last approximately 1.5 hours.

The applicant has provided staff with the following background information in regards to the parade.

"The Homecoming parade has been happening every year since the early 70's. This brings the community together to spotlight Seniors / Homecoming Court/ Sports Team / Local Businesses and Schools. As the parade is held on Monday before the Homecoming Game, it sets the mood for the week leading up to game night on Friday. The Parade route that will be taken is the same route it has been since Centennial High School opened up in August 2010. This is a tradition that the Schools / Seniors / Football Players and the community look forward to every year. The Parade is also part of being a Senior as we have a lot of the class involved in the parade for various areas and it's one of their last big events in their Senior year."

Street Closures include:

Thomas / Summercrest / Hillside / Elk – along with the side streets on those streets

Parade Route Map is below



Parade Information provided by applicant:

- Route will be starting at Hughes Middle School (HMS), continue to Thomas St, Summercrest, Hillside and then to Elk Drive, finishing at Burleson High School
- Parking will be in open parking lots and side streets.
- Parade vehicles will enter the back side of the school HMS and exit the front onto Thomas.
- Parade does not last long enough for the need to provide bathrooms / water stations / no food stands / no solid waste containers/no tents
- There will be several Project Celebration Staff Volunteers throughout the parade to assist with any issues
- Parade will be held during daylight hours
- If speakers are used they will be on vehicles or trailers

Public Safety Associated Cost

Staff	Hours	Rate per hour*	Total
Seven (7) officers	14 (2 hours per officer)	\$49.25	\$689.50

Vehicle	Hours	Rate per hour**	Total
Seven (7) vehicles	14 (2 hours per vehicle)	\$16.27	\$227.78

Total Public Safety Cost: \$917.28

Public Safety Impact

Public Safety utilizes existing on duty resources for the parade removing officers from their normal duty assignments, specifically SRT and traffic. There is also a traffic impact associated with residents who live in the area returning from work or those driving through the area at this time.

Public Works Associated Cost

Staff	Hours	Rate per hour*	Total
Two (2) Crew Leaders	7 (3.5 hours per staff member)	\$43.32	\$303.24
Two (2) Worker II	7 (3.5 hours per staff member)	\$33.57	\$234.99
Two (2) Worker I	7 (3.5 hours per staff member)	\$31.97	\$223.79
Total Staff Cost			\$762.02

Vehicle	Hours	Rate per hour**	Total
#840	3.5	\$17.91	\$62.69
#860 & #861	7 (3.5 hours per vehicle)	\$22.25	\$155.75
Total Vehicle Cost			218.44

Total Public Works Cost: \$980.46

*based on average median hourly rate for each position

** based on 2021 FEMA CODE

Total in-kind sponsorship request: \$1,897.74

City Council approved an amendment to the city's special event ordinance in December 2022 that requires city council approval for events that request any 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
- Have an impact on public safety
- In-kind sponsorship of over \$500

OPTIONS:

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

RECOMMENDATION:

Staff recommendations if any

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

None

FISCAL IMPACT:

In-kind sponsorship request: \$1,897.74

STAFF CONTACT:

DeAnna Phillips
Director of Community Services
dphillips@burlesontx.com
817-426-9622



BHS Homecoming Parade Request

Presented to City Council August 7, 2023

BHS Homecoming Parade

Date and Time

- Monday, October 2, 2023 at 6 p.m.
- Parade to last approximately 1.5 hours



Background

Parade Background provided by applicant

- The BHS Homecoming Parade has been occurring every year since the early '70s.
- This brings the community together to spotlight seniors, homecoming court, sports teams, local businesses and schools.
- The parade route being proposed is the same route that has been used since Centennial High School opened in August 2010.
- This is a tradition that the schools, seniors, football players, and the community look forward to every year.
- The parade is also part of being a senior, as a large portion of the class is involved in the parade for various areas, and it is one of the last significant events in their senior year.

Special Event Ordinance

City Council approved an amendment to the city's special event ordinance in December 2022 that requires city council approval for events that request any 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
- Have an impact on public safety ✓
- In-kind sponsorship of over \$500 ✓

Request

Street Closures

- Thomas Street
- Summercrest Boulevard
- Hillside Drive
- Elk Drive

Public Safety Associated Cost

Staff	Hours	Rate per hour*	Total
Seven (7) officers	14 (2 hours per officer)	\$49.25	\$689.50

Vehicle	Hours	Rate per hour**	Total
Seven (7) vehicles	14 (2 hours per vehicle)	\$16.27	\$227.78

Total Public Safety Cost: \$917.28

**based on average median hourly rate for each position*

***based on 2021 FEMA CODE*

In-Kind Sponsorship

- Total Sponsorship Request \$1,897.74

Public Works Associated Cost

Staff	Hours	Rate per hour*	Total
Two (2) Crew Leaders	7 (3.5 hours per staff member)	\$43.32	\$303.24
Two (2) Worker II	7 (3.5 hours per staff member)	\$33.57	\$234.99
Two (2) Worker I	7 (3.5 hours per staff member)	\$31.97	\$223.79
Total Staff Cost			\$762.02

Vehicle	Hours	Rate per hour**	Total
#840	3.5	\$17.91	\$62.69
#860 & #861	7 (3.5 hours per vehicle)	\$22.25	\$155.75
Total Vehicle Cost			218.44

Total Public Works Cost: \$980.46

Options

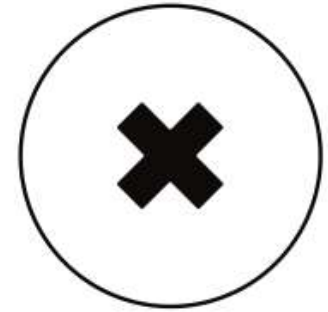
Consider approval of a resolution approving street closures and in-kind sponsorship for the BHS Homecoming Parade.



Approve as presented



Approve with changes



Deny

Questions / Comments

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AUTHORIZING CITY OF BURLESON STREET CLOSURES AND IN-KIND SPONSORSHIP OF \$1,897.74 FOR COSTS ASSOCIATED WITH POLICE AND PUBLIC WORKS STAFF FOR THE BURLESON HIGH SCHOOL HOMECOMING PARADE.

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, under Chapter 70 of the Code of Ordinances, the Burleson High School Homecoming Parade must be approved by the Burleson City Council due closing or impacting a public street, sidewalk, or trail; impacting or hindering the regular flow of traffic; having an impact on public safety; and requesting in-kind donations of over \$500; and

WHEREAS, to support the organization, the Burleson City Council seeks to sponsor the proposed parade, including in-kind donations of City public safety personnel, City personnel for traffic control and parade clean up, and signage, not to exceed \$1,897.74; and

WHEREAS, the parade organizer, Prom After Dark Class of 2024, requests certain streets in the city limits be closed at certain times for the Burleson High School Homecoming Parade; and

WHEREAS, after reviewing the matter, the City Council desires to approve the closure of certain streets and approval of an in-kind sponsorship as set forth in the resolution.

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

Section 1.

The City Manager or his appointee(s) is authorized to provide approval of necessary street closures for the Burleson High School Homecoming Parade and city sponsorship and in-kind donations as set forth in Exhibit A.

Section 2.

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

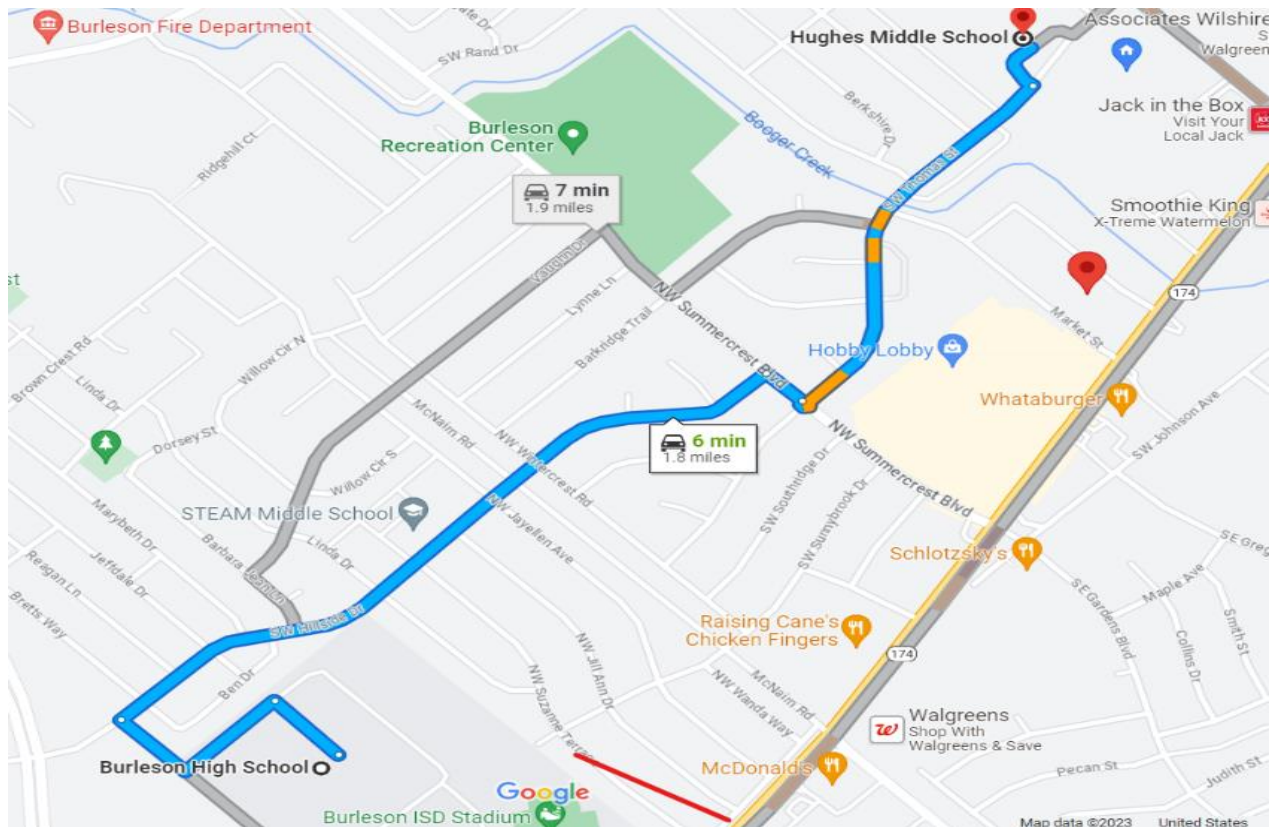
EXHIBIT A:

Street closures and in-kind sponsorship necessary for the Burleson Homecoming Parade on Monday, October 2, 2023.

Street Closures

The closure time may be as early as 5:30 p.m. on October 2, 2023 and are projected to be completed by 7:45 p.m.

- Thomas Street
- Summercrest Boulevard
- Hillside Drive
- Elk Drive



In-Kind Sponsorship

\$1,897.74 for public safety and public works staff and vehicles for the parade set-up, duration and clean-up.

Print**Public Events Permit Application - Revised 2022 - Submission #84331****Date Submitted: 7/7/2023**Page not
found**Please select the type of event you are proposing?**

- ☒ Parade
- ☐ Bike Race
- ☐ Marathon
- ☐ Fun Run
- ☐ Parking Lot Party
- ☐ Concert
- ☐ Carnival
- ☐ Festival
- ☐ Other

**If other, please explain the type of event
you are proposing****Please select all that applies to your proposed event**

- ☒ 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
- ☒ Have an impact on public safety

**If your event WILL NOT have an impact on public safety please explain why you feel
that way***

as it is a homecoming parade we can only be as careful as the spectators are



If the answer is YES to any of the below requests the application must be approved by city council and must be submitted at least 90 days before the event is to begin.

Any marketing published before the event is approved by city council is at the risk of the event organizer.



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Will street closures be required?*

☒ Yes ☐ No

If yes, please provide details:

we will leave HMS and end at BHS

Are you requesting the city to waive fees associated with police services?*

☐ Yes ☒ No

If yes, please provide number of officers and hours requested:

Are you requesting the city to waive fees associated with fire services? *

☐ Yes ☒ No

If yes, please provide number of fire personnel and hours requested:

Are you requesting the city to waive fees associated with the rental of city facilities? *

☐ Yes ☒ No

If yes, please provide the facility and hours requested:

If the answer is yes to any of the above questions, is this submittal at least 90 days before the event date?

☐ Yes

☒ No

If the answer to all of the questions is no, is this submittal at least 60 days before the event date?

☐ Yes

☐ No

First Name*

cecilia

Last Name*

mason

Address1*

1130 Marc St

Submit a site plan showing the area where the Public Event is to be held, including the following:

- 1. The location of parking areas available for patrons under the operator's control;
- 2. Location of proposed additional parking;
- 3. Location of entrance, exit, and interior roadways and walk;
- 4. Street closures proposed;
- 5. Structural elements proposed (bounce houses, booths, etc.);
- 6. Location of all first aid stations and emergency medical resources;
- 7. Location, type, and provider of restroom facilities;
- 8. Location and description of water stations;
- 9. Location and number of food stands, and the types of food to be served if known;
- 10. Location, number, type, and provider of solid waste containers;
- 11. Location of any tents;
- 12. Location of operator's headquarters at the gathering;
- 13. A plan to provide lighting adequate to ensure the comfort and safety of attendees and staff, if event is being held in non-daylight hours;
- 14. If loudspeakers are to be used, the location and orientation of those speakers shall be shown.

Upload Site Plan*

BHS Homecoming Parade.docx

Please ensure nothing is blocking the street so that an emergency response vehicle may get to the area in the event of an emergency.

First Name

Last Name

--	--

Address1

--



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City

State

Zip

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Phone:

Upload Agreement No file chosen

Submit a certified copy of the agreement
between the promoter and the property owner.

Public Event Name*

BHS Homecoming Parade

Type and purpose of event:*

The annual BHS Homecoming Parade

Estimated number of attendees:*

200

Start Date/Start Time:*

10/2/2023

6:00 PM

End Date/End Time:*

10/2/2023

7:45 PM

Will there be entertainment?*☒ Yes☐ No**If yes, please provide details:**

the floats - as of now do not have a list

Will amusement rides be present?*☐ Yes☒ No**If yes, please provide details, including
name and address of company:****Will alcohol be served?***☐ Yes☒ No

**If yes, please provide type of alcohol
(beer, wine, mixed beverages)**

Will there be food service?*

☐ Yes

☒ No

Plans for solid waste:*

should not be any

Plans for restroom facilities, including number of restrooms:*

event will not be very long - have not had in years past

Please provide details of plans to control access to event:*

as in years past- patrons will park in school parking lots or other lots and side streets - have volunteer walking with the parade to make sure no one is running out in front of the vehicles - make sure floats handing out candy and not throwing it

Please provide details for event security:*

we will have Project Celebration Volunteers to assist and if we are required more we can request it

Please provide details for event first aid/medical:*

we are going to speak with FD/PD about being in the parade and also an Ambulance

Please provide details of parking plan:*

as in years past- patrons will park in school parking lots or other lots and side streets

Name of Insurance Company:

Address1



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found



City	State	Zip

Phone:	Contact Person:

Policy Number:

Upload Insurance Certificate:

Choose File

No file chosen



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E-signature*

By submitting this permit application I agree that all information included is correct to the best of my knowledge. I agree to adhere to all of the rules and regulations laid out in this Public Events Permit. If any changes are made between the time I file this permit and the date of the event I will contact the City concerning those changes and abide by the City's decision regarding those changes.

☒ Agree ☐ Disagree

Signature

Cecilia Mason - President Project Celebration Class of 2024

City Council Regular Meeting

DEPARTMENT: Fire
FROM: K.T. Freeman, Fire Chief
MEETING: August 7, 2023

SUBJECT:

Consider approval of a Medical Services Mutual Aid Agreement between the City of Burleson and the Metropolitan Area EMS Authority dba MedStar Mobile Healthcare (MedStar). *(Staff Presenter: K.T. Freeman, Fire Chief)*

SUMMARY:

Beginning October 1, 2023 the City will transition out of the current Ambulance Service provider MedStar into a Fire Based EMS Transport system operated under the authority of the City. Upon transitioning out of the MedStar EMS Transportation system the City will assume responsibility for ensuring and providing acceptable levels of EMS transport services rather than MedStar. In order to help create an acceptable level of EMS response and transportation capabilities mutual aid agreements are developed and implemented between the City and other EMS Providers to help provide emergency services when the demand exceeds the City's capability to do so.

The purpose of Mutual Aid agreements in general is to create a collaborative arrangement between two or more emergency service providers to assist one another during times of needs. Additionally, a fundamental idea behind mutual aid agreements is that emergency situations and disaster can at times overwhelm the resources of a single agency or jurisdiction.

Key components contained within the proposed Medical Services Mutual Aid Agreement between the City and MedStar are, first and foremost the agreement benefits the communities served by both agencies through, resource sharing, combining resources and expertise, disaster preparedness, helping to maintain local coverage, the answering agency's participation in providing mutual aid is voluntary and based on maintaining an adequate level of emergency services within its own community. Lastly, if responding to a mutual aid request from MedStar would leave the City under-resourced, the City may decline the request at its sole discretion.

OPTIONS:

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

RECOMMENDATION:

Approve as presented

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

N/A

FISCAL IMPACT:

N/A

STAFF CONTACT:

K.T. Freeman
Fire Chief
ktfreeman@burlesontx.com
817-426-9171



Medical Services Mutual Aid Agreement with MedStar

CITY COUNCIL PRESENTATION

AUGUST 7, 2023

What is a Mutual Aid Agreement

Mutual aid refers to a collaborative arrangement between two or more emergency service providers to assist one another during times of need.

The fundamental idea behind mutual aid is that emergency situations and disasters can sometimes overwhelm the resources of a single agency or jurisdiction.

Benefits accomplished through proposed Mutual Aid Agreement

- **Community Benefit:** The primary goal of the agreement is to benefit the communities served by both agencies by ensuring timely and efficient emergency medical services regardless of jurisdictional boundaries.
- **Resource Sharing:** The agreement facilitates the sharing of EMS resources, including personnel, ambulances, medical equipment, and supplies, during times of heightened demand or when local resources are insufficient.
- **Effective Emergency Response:** By combining resources and expertise, the agreement ensures a more efficient and effective emergency response to incidents and disasters.
- **Overflow of Resources:** The purpose of the agreement is to address situations when one agency experiences a surge in calls or incidents that exceed their capacity, allowing the other agency to step in and provide support.
- **Disaster Preparedness:** The agreement promotes joint planning and disaster preparedness activities, ensuring a coordinated response during large-scale emergencies.
- **Liability and Accountability:** Clear provisions are established to define the responsibilities, liability, and accountability of each agency when providing or receiving mutual aid.
- **Billing Responsibility:** Both Burleson Fire/EMS and MedStar agree to retain individual billing responsibilities for the services rendered by their respective agencies during mutual aid responses. Each agency will bill and collect payments from patients or their insurance providers as per their established procedures and in accordance with applicable laws and regulations.
- **Continual Improvement:** Annual reviews and evaluations of the mutual aid agreement will be conducted to identify areas for improvement and to adapt to changing needs and circumstances.

Key Components For Requesting & Responding to Mutual Aid

- **Voluntary Response:** The answering agency's participation in a mutual aid request is entirely voluntary. It is not an obligation, but rather a willingness to offer support based on their current capabilities and available resources.
- **Resource Assessment:** Before committing to respond, the answering agency evaluates its own resources, including personnel, equipment, and vehicles, to determine if it can spare the necessary assets to assist the requesting agency.
- **Maintaining Local Coverage:** The answering agency prioritizes maintaining an adequate level of emergency services within its own jurisdiction. If responding to a mutual aid request would leave the home community under-resourced, the agency may decline the request.
- **Communication with the Requesting Agency:** The answering agency communicates openly with the requesting agency regarding its availability. If it is unable to respond due to resource limitations or other commitments, it promptly informs the requesting agency that the request for mutual aid is denied.
- **Responsibility to Home Community:** The answering agency remains responsible for addressing emergencies within its own jurisdiction first and foremost.
- **Collaboration and Understanding:** Both the requesting agency and the answering agency understand and respect each other's constraints and capabilities. The primary goal is to work together in a collaborative and cooperative manner to enhance emergency response regionally.



Council Action Requested

Approve

- Staff recommends approval of the Medical Services Mutual Aid Agreement effective October 1, 2023 with Metropolitan Area EMS Authority dba MedStar Mobile Healthcare (“MedStar”)



Questions/ Comments?



MEDICAL SERVICES MUTUAL AID AGREEMENT

THIS AGREEMENT is made between City of Burleson, Texas (“Agency”) and the Metropolitan Area EMS Authority dba MedStar Mobile Healthcare (“MedStar”). The parties may be mutually referred to as the "Parties."

WHEREAS, the Parties maintain paid and/or volunteer emergency medical services, together with personnel and equipment used to provide such services;

WHEREAS, more than one medical emergency may arise contemporaneously in one or the other of the jurisdictions of the Parties resulting in greater demands than the manpower and/or equipment of that Agency can handle or an emergency may arise that is of such intensity that it cannot be handled solely by the equipment and manpower of the Agency in whose jurisdiction the emergency occurs or an emergency may arise which transcends jurisdictional boundaries;

WHEREAS, non-emergency or scheduled requests for medical transportation may arise that cannot be performed with the manpower of the Agency in whose jurisdiction the non-emergency occurs or a non-emergency may arise which transcends jurisdictional boundaries;

WHEREAS, the Parties desire that this Agreement be effective as of the Commencement Date;

NOW, THEREFORE, in consideration of the mutual covenants, performances and agreements hereafter set forth, it is mutually understood and agreed between the Parties as follows:

Article 1 Definitions. The “Answering Agency” is the Agency that responds to the request for emergency medical services or non-emergency medical services. The “Requesting Agency” is the Agency requesting medical transportation services assistance under this Agreement.

Article 2 Mutual Assistance and Aid. Subject to the exceptions stated below, the Parties agree to respond when possible, to requests for medical transportation services assistance. These requests by the Requesting Agency may or may not originate within jurisdictional boundaries of the Answering Agency. The extent of any response to a request, including the choice of personnel and equipment, shall be entirely within the discretion of the Answering Agency, subject, however, to the terms of this Agreement. Included in such Answering Agency's discretion shall be a determination of whether or not such a request for assistance may be answered without jeopardizing the safety and protection of the citizens and property of the Answering Agency. Any decision not to respond to a request for aid shall be promptly communicated to the Requesting Agency.

Article 3 Requests for Assistance and Aid. An authorized official representing a Requesting Agency shall make all requests for aid. Each request for aid is subject to approval by an official of the Answering Agency, without charge to the Requesting Agency, and with the understanding that personnel and equipment of the Answering Agency shall be subject only to the liability, workers' compensation, and/or other insurance of that Answering Agency.

- 3.1 Any request for assistance hereunder should include a statement of the amount and type of equipment and personnel requested and shall specify the location to which the equipment and response personnel are to be dispatched. However, an official of the Answering Agency shall determine the type and quantity of equipment and personnel to be furnished.



- 3.2 The equipment and personnel of the Answering Agency shall at all times be under the supervision and control of the official(s) of that Answering Agency. If the Answering Agency accepts a request for aid hereunder, the Answering Agency agrees to respond promptly and shall assume full responsibility for the medical transportation service from that point forward.

Article 4 Emergency Medical Services. When emergency medical services are requested, the Answering Agency shall have its personnel report to the Incident Commander ("IC") or other scene commander at the location to which the equipment and personnel are dispatched.

- 4.1 All activities shall be coordinated with the IC. Though coordination of activities occurs by the IC, the equipment and personnel of the Answering Agency shall be under the ultimate supervision of the designated personnel of the Answering Agency. The personnel of the Answering Agency shall coordinate the Answering Agency's efforts with the IC. At no time shall the Answering Agency be expected to operate contrary to standing orders or protocols of its physician advisor.
- 4.2 Agency policies, operating licenses, or federal or state regulations, except as specifically provided for in writing by local, state or federal authority and/or except when destination policies are otherwise modified as necessary. If at any time the Answering Agency responds to a mutual aid call for emergency medical services where the Requesting Agency is not at the scene, the Answering Agency will follow the treatment protocols and procedures of its physician advisor or other medical control, pursuant to the applicable Incident Command System.
- 4.3 Response personnel shall contact the medical base of their own Agency for further orders and designation sites. It is agreed that the Answering Agency shall not be responsible for any response time compliance or penalties under this Agreement.

Article 5 Release of Answering Agency. For emergency medical services, an Answering Agency shall be released from service by the Requesting Agency/Incident Commander when the services of the Answering Agency are no longer required, or when the Answering Agency determines, in its discretion, that its services are needed in another jurisdiction.

- 5.1 For non-emergency medical services, an Answering Agency shall be released from service when the services are complete or the Requesting Agency notifies the Answering Agency that the services are no longer required or when the Answering Agency determines, in its discretion, that its services are needed in another jurisdiction.

Article 6 Rights and Privileges Retained. The personnel of each Agency, while engaged in performing any mutual aid service, activity, or undertaking under provisions of this Agreement, shall have and retain all rights and privileges notwithstanding that mutual aid service is being performed in or for the other Agency. Additionally, the Answering Agency's physician advisor and appropriate medical protocols shall govern the Answering Agency's actions.

Article 7 Compensation and Billing. The Answering Agency shall be responsible for all Patient and third party billing and agrees that the rates to be billed shall comply with applicable laws, provided, however, that the Answering Agency agrees to honor the terms of any membership or subscription programs in force in the Requesting Agency's jurisdiction with regards to ground ambulance service performed for a member subscriber pursuant to this Agreement.



Article 8 Indemnification. To the extent permitted by law each Agency will indemnify and hold the other Agency harmless from and against liability claims resulting from or alleged to result from any negligence or willful misconduct of the indemnifying Agency related to the performance of this Agreement. Such indemnification for acts occurring or alleged to have occurred during the Term of this Agreement shall survive the termination of the Agreement for any reason. Nothing in this provision shall otherwise limit or waive any other immunity or defense available to either Agency or its agents, and employees.

Article 9 Insurance. Each Agency represents that it has and will maintain comprehensive automobile insurance, comprehensive general liability insurance, and professional liability insurance all in minimum amounts that are customary and usual within the emergency medical services industry and workers' compensation insurance in the statutory required amounts.

9.1 The coverage shall extend to each Agency hereto, including its officers, agents, and employees.

9.2 Each Agency shall provide a certificate of insurance to the other which will provide that the policy or coverage thereunder cannot be altered or terminated without thirty (30) days written notice by the insurance carrier to the other parties to this Agreement.

Article 10 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; (c) by facsimile transmission, upon acknowledgment of receipt of electronic transmission; or (d) by certified or registered mail, return receipt requested, upon verification of receipt. Notice shall be sent to the following addresses:

If to MedStar:

MAEMSA
Attn: General Counsel
2900 Alta Mere Dr.
Fort Worth, TX 76116

If to Agency:

City of Burleson, Texas
Attn: City Manager
141 W. Renfro St.
Burleson, TX 76082

Article 11 Term. The initial term of this Agreement shall be one year, commencing on the commencement date hereof, and this Agreement shall automatically renew for subsequent one-year periods thereafter, subject to the termination rights herein. The initial term and all renewal periods shall be cumulatively referred to as the "Term".

Article 12 Termination. Either Agency may terminate this Agreement:

- 12.1 at any time without cause and at its sole discretion upon fifteen (15) days written notice to the other Agency; or
- 12.2 immediately upon the material breach of this Agreement by the other Agency.

Article 13 Referrals. It is not the intent of either Agency that any remuneration, benefit or privilege provided for under this Agreement shall influence or in any way be based on the referral or recommended referral by either Agency of patients to the other Agency or its affiliated providers, if any, or the purchasing, leasing or ordering of any services other than the specific services described in this Agreement. Any payments specified herein are consist



with what the parties reasonably believe to be a fair market value for the services provided.

Article 14 Relationship. In the performance of this Agreement, each Agency hereto shall be, as to the other, an independent contractor and neither Agency shall have the right or authority, express or implied, to bind or otherwise legally obligate the other.

- 14.1 Nothing contained in this Agreement shall be construed to constitute either Agency assuming or undertaking control or direction of the operations, activities or medical care rendered by the other.
- 14.2 The parties' administrative staff shall meet on a regular basis to address issues of mutual concern related to the provision of aid and the parties' respective rights and obligations hereunder.
- 14.3 It is agreed that the parties shall not be liable for payment of any salary, wages, or other compensation for any of the other Agency's personnel performing services under this Agreement.

Article 15 Force Majeure. Neither Agency shall be responsible for any delay in or failure of performance resulting from acts of God, riot, war, civil unrest, natural disaster, labor dispute or other circumstances not reasonably within its control.

Article 16 Compliance. The parties will comply in all material respects with all applicable federal, state and local laws and regulations, including the federal Anti-kickback Statute. Each Agencies ambulances will conform to applicable state and local regulations for medical equipment for ambulances and be duly licensed for the transportation of patients. All personnel staffing vehicles that provide the Services will be licensed or certified as required by applicable law.

Article 17 Medically Equivalent Services. Agency agrees that the level of services provided pursuant to this Agreement shall be substantially medically equivalent to the level of services provided by MedStar.

- 17.1 In this regard, this Agreement is expressly conditioned upon prior certification of Agency's level of service as "substantially medically equivalent" by the MedStar Medical Director in his/her sole discretion.
- 17.2 The same determination can be made by Agency regarding MedStar's medical equivalence. Provided further, that "substantial medical equivalence" shall not necessarily require on-board equipment, training requirements, or medical protocols identical to those employed by MedStar.
- 17.3 Notwithstanding any other provisions regarding termination of this Agreement, the MedStar Medical Director, at any time and in his/her sole discretion may revoke its certification of "substantial medical equivalence" by notice to Agency, upon which event this Agreement shall immediately terminate.

Article 18 Medical Oversight. The parties agree that they will cooperate fully with and participate in any medical audit requested or conducted by either Agency's medical control authority, or either Agency's medical director or designee, involving ambulance runs provided under this Agreement with which Parties were medically involved.

- 18.1 The parties hereto agree that the dispatch center for the Answering Agency shall accurately document the response times for any calls referred and shall report those times to the Requesting Agency for the purpose of monitoring overall response time performance.

Article 19 Non-Exclusion. Each Agency represents and certifies that neither it nor any practitioner who orders or provide Services on its behalf hereunder has been convicted of any conduct that constitutes grounds for mandatory exclusion as identified in 42 U.S.C. § 1320a-7(a).

- 19.1 Each Agency further represents and certifies that it is not ineligible to participate in Federal health care programs or in any other state or federal government payment program.



- 19.2 Each Agency agrees that if DHHS/OIG excludes it, or any of its practitioners or employees who order or provide Services, from participation in Federal health care programs, the Agency must notify the other Agency within five (5) days of knowledge of such fact, and the other Agency may immediately terminate this Agreement, unless the excluded Agency is a practitioner or employee who immediately discontinues ordering or providing Services hereunder.

Article 20 Miscellaneous. This Agreement (including the Schedules hereto):

- 20.1 constitutes the entire agreement between the parties with respect to the subject matter hereof, superseding all prior oral or written agreements with respect thereto;
- 20.2 may be amended only by written instrument executed by both parties;
- 20.3 may not be assigned by either Agency without the written consent of the other Agency, such consent not to be unreasonably withheld;
- 20.4 shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns;
- 20.5 shall be interpreted and enforced in accordance with the laws of the state where the Services are performed, without regard to the conflict of laws provisions thereof, and the federal laws of the United States applicable therein;
- 20.6 may be executed in several counterparts (including by facsimile), each of which shall constitute an original and all of which, when taken together, shall constitute one agreement; and
- 20.7 shall not be effective until executed by both parties. In the event of a conflict between this Agreement and any Schedule hereto, the terms of this Agreement shall govern.

IN WITNESS WHEREOF, the parties have hereto executed this Agreement as of October 1, 2023 (“Commencement Date”).

MedStar Mobile Healthcare

By: _____
Kenneth J. Simpson
Chief Executive Officer

Date: _____

City of Burleson, Texas

By: _____
Chris Fletcher
Mayor of Burleson

Date: _____

By: _____
Jeffrey L. Jarvis, M.D., MS, EMT-P
Medical Director
Chief Medical Officer

Date: _____

City Council Regular Meeting

DEPARTMENT: Public Works

FROM: Errick Thompson, P.E., Deputy Director of Public Works

MEETING: August 7, 2023

SUBJECT:

Hold a public hearing and consider approval of an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas, authorizing the City Manager to execute a deed without warranty to an adjacent landowner, and reserving a utility easement and public access easement. (First and Final Reading) (*Staff Contact: Errick Thompson, Deputy Public Works Director*)

SUMMARY:

On December 8, 2020, the City Council approved the Project Development Agreement for the Ellison on the Plaza Development proposed by BTX Old Town, LLC, located at 135 W. Ellison Street. The Ellison on the Plaza development includes approximately 51,000 square feet of mixed of use buildings. The site plan was approved by the City Council on March 8, 2021.

During the review of the site plan and associated construction documents, staff determined the alley is no longer needed for a public purpose and proposes to abandon the public alley releasing the City of any future costs related to maintenance. Since there are existing public water and sewer lines within the public alley, a permanent public access and utility easement is proposed as part of the abandonment. A request for alley abandonment was submitted by City staff.

Staff presented the replat to the Planning and Zoning Commission on February 14, 2023. The replat was approved with the condition a public access and utility easement is provided if the City Council approves the abandonment of the alley.

OPTIONS:

- 1) Approve an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas, authorizing the City Manager to execute deeds without warranty to an adjacent landowner, and reserving a utility easement and public access easement.
- 2) Deny an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas, authorizing the City Manager to execute deeds without warranty to an adjacent landowner, and reserving a utility easement and public access easement.

RECOMMENDATION:

Approve an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas, authorizing the City Manager to execute deeds without warranty to an adjacent landowner, and reserving a utility easement and public access easement.

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

None

FISCAL IMPACT:

None

STAFF CONTACT:

Errick Thompson, P.E.
Public Works Deputy Director
ethompson@burlesontx.com
817-426-9610



Alley Abandonment

Brief History

City Council approved the Ellison Street Project Development Agreement on December 8, 2020

City Council approved the site plan on March 8, 2021

BTX Old Town acquired additional properties adjacent to the alley

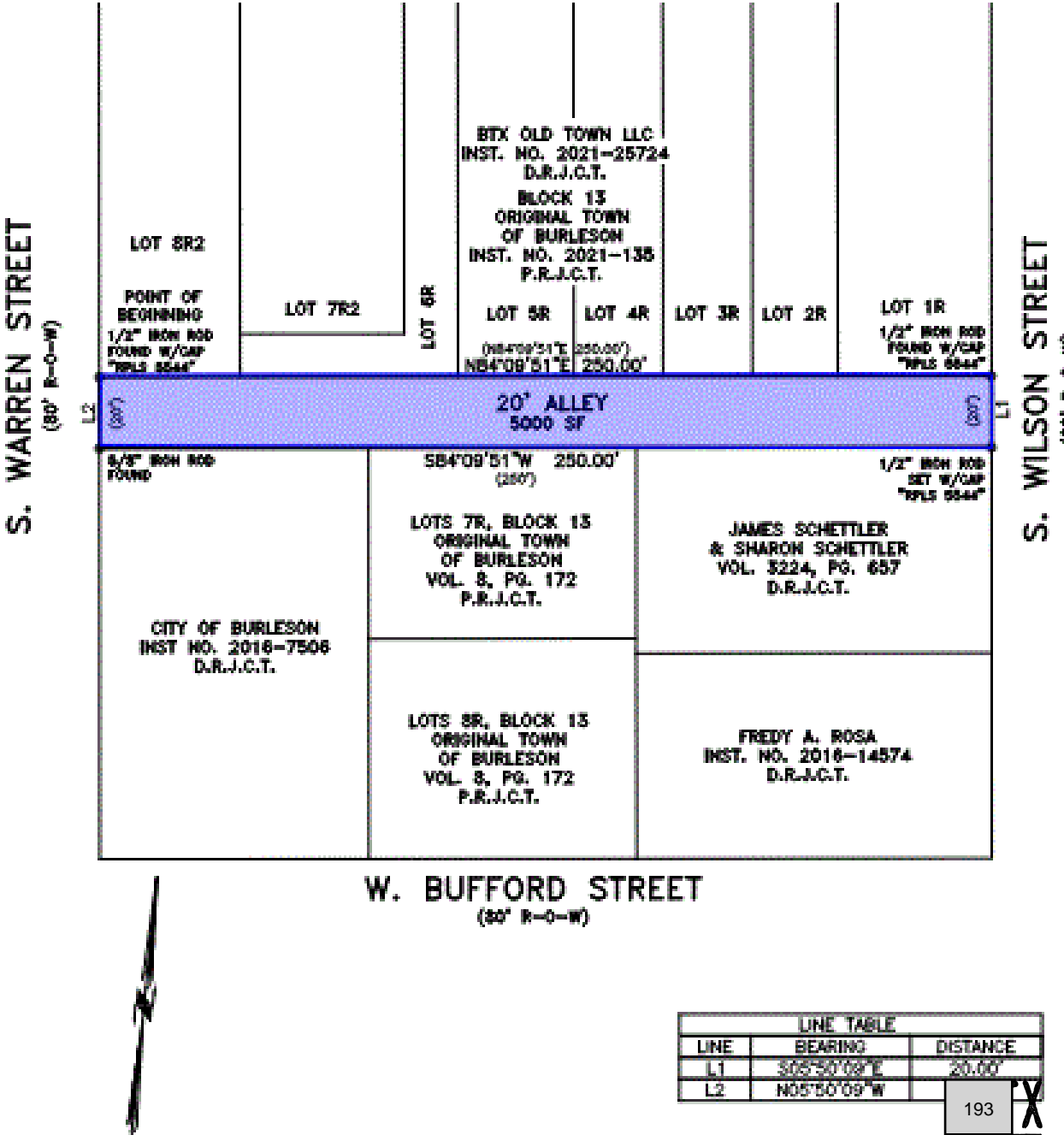
BTX Old Town submitted an application to abandon the alley on January 3, 2023

Staff reviewed and determined the alley is no longer needed for public use based on proposed development; however the alley will be retained as a permanent public access and utility easement

Abandoning the alley releases the City from any future expenses related to maintainance of the alley

Planning and Zoning Commission approved the replat on February 14, 2023 with conditions

Condition - Public access and utility easement be provided if alley abandonment approved by the City Council

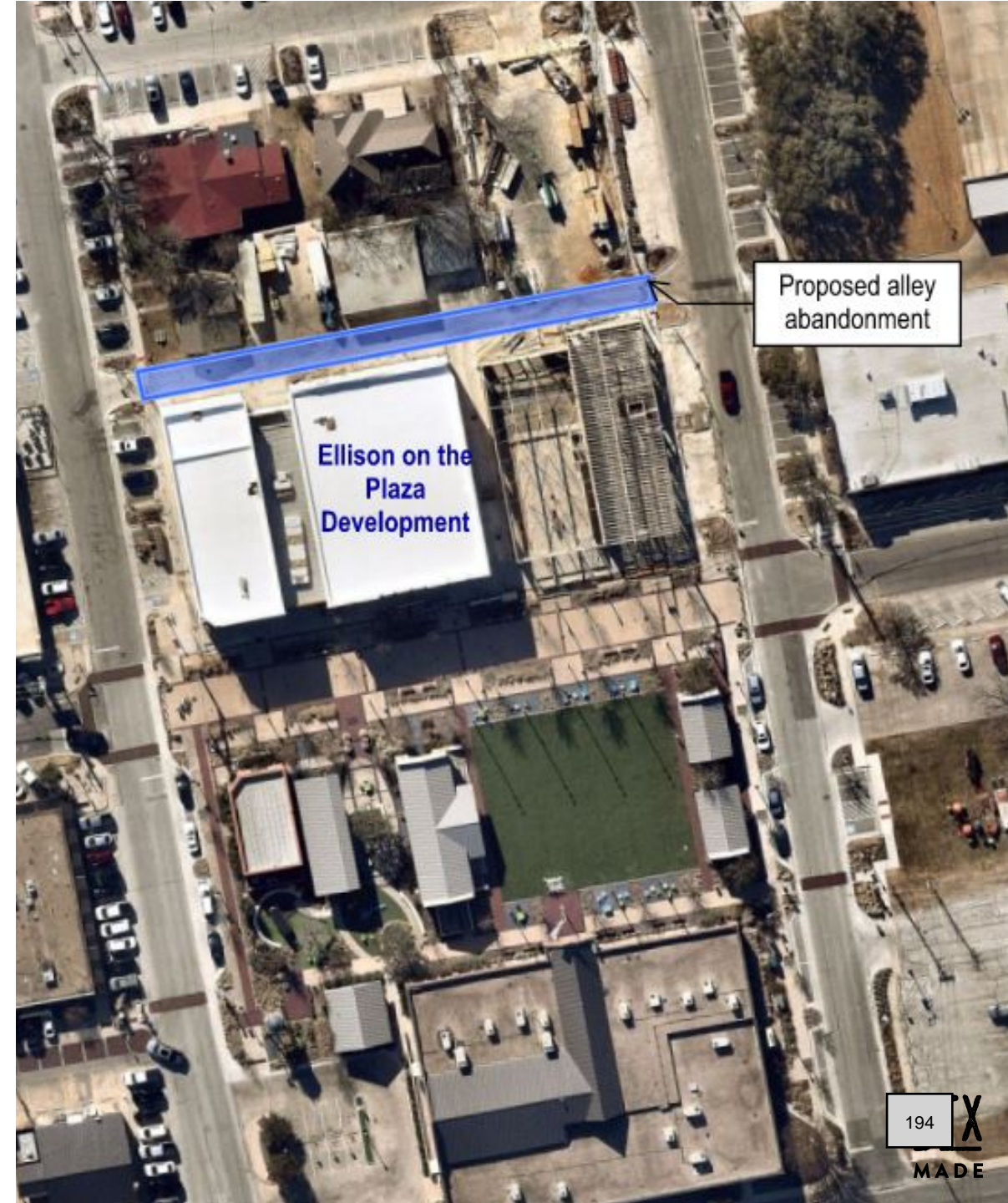


Alley Abandonment

Application for abandonment
submitted January 3, 2023

Public hearing

- No city or state requirement for public notification
- Noticed in Fort Worth Star Telegram to notify citizens of proposed abandonment



Options

Recommended



Approve an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas



Deny an ordinance abandoning the public alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas



ORDINANCE

AN ORDINANCE OF THE CITY OF BURLESON TEXAS CLOSING, VACATING, ABANDONING AND CONVEYING THE PUBLIC RIGHT-OF-WAY KNOWN AS THE 20 FOOT ALLEY IN BLOCK 13 OF THE ORIGINAL TOWN OF BURLESON IN THE CITY OF BURLESON, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE DEEDS WITHOUT WARRANTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; DECLARING AN EFFECTIVE DATE; AND DIRECTING THE CITY SECRETARY TO RECORD A COPY OF THIS ORDINANCE ON THE JOHNSON COUNTY REAL PROPERTY RECORDS.

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 of Burleson desires to continue to protect and ensure the public health, safety, and welfare of its residents and businesses by effectively managing the City's real property interests that are held in trust for the public; and

WHEREAS, Section 311.007 of the Texas Transportation Code authorizes home-rule cities to vacate, abandon and close any street or alley; and

WHEREAS, BTX Old Town, LLC (the "Requestor"), filed an application, attached hereto and incorporated herein as Exhibit A for all purposes, to have the City close, vacate, abandon and convey the 20 foot alley in Block 13, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas as more specifically described in Exhibit B (the "Property"), which is attached hereto and incorporated herein for all purposes; and

WHEREAS, the only other property owners adjacent to the alley, Gary Haas and Linda Haas, have submitted a letter supporting the Requestor's application to have the City close, vacate, and abandon the alley, a copy of which is attached hereto and incorporated herein as Exhibit C for all purposes; and

WHEREAS, Section 272.001(c)(2) of the Texas Local Government Code authorizes the conveyance of City streets and alleys to abutting property owners in the same subdivision; and

WHEREAS, the Requestor owns fee simple title to multiple tracts adjacent to and in the same subdivision as the alley and desires that the City convey the alley property, subject to the City reserving an easement for public utilities and access; and

WHEREAS, the only other property owners adjacent to the alley, Gary Haas and Linda Haas, do not desire any portion of the alley property and desire that the City convey the alley property to the Requestor, subject to the City reserving an easement for public utilities and access; and

WHEREAS, the City desires to convey the alley property to the Requestor, subject to the City reserving an easement for public utilities and access, in consideration of cash in hand paid and not having to maintain the property in the future; and

WHEREAS, on August 7, 2023, the City Council held a public hearing on the matters set forth in this ordinance at a duly called public meeting; and

WHEREAS, the City, after due consideration, hearing from all interested citizens wishing to speak at the public hearing, and vetting the request and confirming with all franchised public utility providers and appropriate City departments, has determined that the Property is no longer needed for a public right of way, with the exception of a reservation of a public access easement interest and public utility easement interest, and that it is in the public interest to close, vacate, abandon and convey the Property to the Requestor in accordance with Section 10 of the City Home Rule Charter; 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 concerns the closing of an alleyway, roadway, or abandoning a city-owned right-of-way.

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

SECTION 1.

The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2.

All of the Property described in Exhibit B is hereby closed, abandoned and vacated as a right of way or passage by the City of Burleson, Texas, as the Property has been found to no longer be necessary for public purposes, with the exception of a reservation of a water and public utility easement and public access easement over the Property, and it being found to be in the public interest by the City of Burleson to close, vacate, and abandon the same to the extent of the public right, title and interest in and to the Property that the City may lawfully abandon.

SECTION 3.

The Property was possessed by the City as a dedicated right of way and shall be abandoned and released to the Requestor, an abutting property owner in the subdivision, in accordance with Section 272.001(c)(1) of the Texas Local Government Code, and that the City Manager of the City

of Burleson, Texas is hereby authorized, empowered and directed to convey said Property to the Requestor, their successors, heirs and assigns, by virtue of a deed without warranty, subject to a reservation of a public utility easement interest and public access easement, in substantially the form provided as Exhibit D, which is attached hereto and incorporated herein for all purposes.

SECTION 4.

This Ordinance shall be cumulative of all other ordinances of the City of Burleson, and this Ordinance shall not operate to repeal, amend or otherwise affect any other ordinances of the City of Burleson except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed or amended to the extent of such conflict.

SECTION 5.

Should any section or part of this Ordinance be held unconstitutional, illegal, or invalid, or the application to any person or circumstance thereof ineffective or inapplicable, such unconstitutionality, illegality, invalidity, or ineffectiveness of such section or part shall in no way affect, impair or invalidate the remaining portion or portions thereof; but as to such remaining portion or portions, the same shall be and remain in full force and effect and to this end the provisions of this Ordinance are declared to be severable.

SECTION 6.

This ordinance shall become effective immediately upon its passage and publication as required by law.

SECTION 7.

The City Secretary is hereby directed to file a copy of this Ordinance with the Johnson County Clerk on the Real Property Records, Johnson County, Texas.

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

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

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

Exhibit “A”
Application



ABANDONMENT OF PUBLIC RIGHT-OF-WAY/EASEMENT APPLICATION

MINIMUM SUBMITTAL REQUIREMENTS

- ☒ Abandonment Fee (\$550 for right-of-way, \$250 for easement)
- ☐ A completed copy of the Abandonment of Public ROW/Easement Application
- ☐ All exhibits processed (except for Exhibit No. 4, which will be processed by staff).
- ☐ A copy of a recent (within 90 days) deed or title insurance policy showing the names of the owners, or, an older deed or titles with a Nothing Further Certificate.
- ☐ For unplatted property, a signed, sealed and dated metes and bounds description and a diagram of the property showing the location of the abandonment.
- ☐ For platted property, a copy of the plat showing the lot, block, subdivision, and recording information.
- ☐ Corporate or partnership owners must furnish a copy of a corporate resolution or other proof of authority to sign on behalf of the corporation, partnership, or joint venture.

APPLICATION

ADDRESS: 141 W. Renfro Street, Burleson Tx 76028

LEGAL DESCRIPTION: Lots 1R, - 6R, Lot 7R2, L0t 9R2, , Block 13, Original Town of Burleson

APPLICANT (Primary Contact for the Project):

Name: BTX Old Town, LLC email: justin@radev.biz

Street Address: 236 E Ellison Street

City: Burleson State: Texas Zip Code: 76028

Phone Number: 817-880-1220 Fax Number: _____

PROPERTY OWNER'S INFORMATION (If different from above):

Name: City of Burleson, Texas email: _____

Street Address: 141 W. Renfro Street

City: Burleson State: Texas Zip Code: 76028

Phone Number: 817-426-9600 Fax Number: _____

The applicant has prepared this application and certifies that the facts stated hereing and exhibits attached hereto are true and correct.

Signature of Owner

Date

Abandonment Location: 141 W. Renfro Street

**APPLICATION FOR
THE ABANDONMENT OF A
PUBLIC RIGHT-OF-WAY/EASEMENT**

Date: January 3, 2023

Location of Right-of-way/Easement to be Abandoned:

Approximate 20 foot alley (public right-of-way) of Block 13, Original Town Of Burleson

Property Owner's Name and Address: City of Burleson, 141 W. Renfro Street, Burleson Tx

Property Owner's Phone Number: _____

Property Owner's email: _____

TO THE MAYOR AND CITY COUNCIL OF THE CITY OF BURLESON:

The undersigned hereby makes application for the abandonment of that portion of the above right-of-way particularly described in Exhibit No. 1, attached. In support of this application, the undersigned represents and warrants the following:

1. The undersigned will hold the City of Burleson harmless, and indemnify it against all suits, costs, expenses, and damages that may arise or grow out of such abandonment.
2. Attached, marked Exhibit No. 1, are two sealed metes and bounds descriptions (dividing the area in half) of the area sought to be abandoned, prepared by a Registered Public Surveyor.
3. Attached, marked Exhibit No. 2, are two copies of a plat or detailed sketch of that portion of the public right-of-way/easement sought to be abandoned and the surrounding area to the nearest streets in all directions, showing the abutting lots and block, and the subdivision in which the above described right-of-way/easement is situated, together with the record owners of such lots.
4. Attached, marked Exhibit No. 3, is the consent of all public utilities to the abandonment.
5. Attached, marked Exhibit No. 4, is the consent of City of Burleson staff.
6. Attached, marked Exhibit No. 5, is the consent of all the abutting property owners, except the following: (if none, so state)

Attached

Abandonment Location: 141 W. Renfro Street

7. Such public right-of-way/easement should be abandoned because:
The alley would serve no public purpose with the re-development of the block.

8. Such public right-of-way/easement has been and is being used as follows:
The alley has been used for access to one property. This access will be maintained through a public access easement. A public utility easement will also be retained for the existing utilities within the alley.

I swear that all of the information contained in this application is true and correct to the best of my knowledge and belief.

Owner's Signature:

Date:

STATE OF TEXAS

ACKNOWLEDGEMENT

COUNTY OF JOHNSON

Subscribed and sworn to me, a Notary Public, this _____ day of _____, 20____,
by _____.

Notary Public in and for the State of Texas

EXHIBIT NO. 1

Attached is a sealed copy of the metes and bounds description of the public right-of-way or easement situated in Original Town of Burleson Addition/Subdivision/Survey to the City of Burleson, Johnson County, Texas, sought to be abandoned.

See Next Page for description

LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE J.W. HENDERSON SURVEY, ABSTRACT NO. 376, JOHNSON COUNTY, TEXAS, BEING ALL OF THAT 20' ALLEY IN BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN VOLUME 59, PAGE 638, DEED RECORDS, JOHNSON COUNTY, TEXAS (D.R.J.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS;

BEGINNING AT A 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID 20' ALLEY AND THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-O-W), SAID IRON ALSO BEING THE SOUTHWEST CORNER OF LOT 8R2, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-135, P.R.J.C.T.;

THENCE N 84°09'51" E ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 250.00 FEET TO A 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE AND THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH WILSON STREET (80' R-O-W), SAID IRON ALSO BEING THE SOUTHEAST CORNER OF LOT 1R, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-135, P.R.J.C.T.;

THENCE S 05°50'09" E, A DISTANCE OF 20.00 FEET TO A 1/2" IRON ROD SET WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID 20' ALLEY AND SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH WILSON STREET (80' R-O-W), SAID IRON ALSO BEING THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO JAMES SCHESSLER AND SHARON SCHESSLER IN THAT DEED RECORDED IN VOLUME 3224, PAGE 657, D.R.J.C.T.;

THENCE S 84°09'51" W ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE 250.00 FEET TO A 5/8" IRON ROD FOUND AT THE INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE AND SAID EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-O-W), SAID IRON ALSO BEING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE CITY OF BURLESON IN THAT DEED RECORDED IN INSTRUMENT NO. 2016-7506, D.R.J.C.T.;

THENCE N 05°50'09" W, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5000 SQUARE FEET OF LAND, MORE OR LESS.

SURVEYOR'S CERTIFICATE:

PREPARED BY ME OR UNDER MY DIRECTION.



Matt Powell
MATT POWELL
REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 5544

DATED: 06/13/22



EXHIBIT "A"

SHT. NO.
2 OF 204

DATE: 06-13-22

DRAWN: R.G.F.

CHECKED: M.P.

DFW JOB No. 2016116-07

EXHIBIT NO. 2

Attached is a copy of a plat or detailed sketch of the public right-of-way/easement sought to be abandoned in the above-mentioned application, showing the surrounding area to the nearest streets in all directions, abutting lots, the block or blocks in which the portion of the public right-of-way/easement sought to be vacated is situated, and the addition or subdivision in which the portion of the public right-of-way/easement sought to be abandoned is situated. Also, the names of record owners of the abutting lots are shown.

See Next Page for description

EXHIBIT NO. 3
ROW ANDONMENT
UTILITY COMPANY SIGN OFF SHEET

The undersigned public utility companies, using or entitled to use under the terms and provisions of agreements with the City of Burleson, that portion of the public alley sought to be abandoned, in Block 12 of the Original Town of Burleson Addition to the City of Burleson, Johnson County, Texas.

ONCOR ELECTRIC DELIVERY

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

AT&T

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

CHARTER CABLE

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

BETHESDA WATER SUPPLY CORP.

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

**JOHNSON COUNTY SPECIAL
UTILITY DISTRICT**

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

PATHWAY COMMUNICATIONS

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

UNITED COOPERATIVE SERVICES

By: _____
(Please Print)

Title: _____
(Please Print)

Signature: _____

ATMOS ENERGY

By: _____

Title: _____
(Please Print)

Signature: _____

NOTE: ONLY UTILITY COMPANIES THAT PROVIDE SERVICE IN THE AREA REQUESTED FOR USE MUST COMPLETE THIS EXHIBIT.

Abandonment Location: 141 W. Renfro Street

EXHIBIT NO. 4

The undersigned, City staff of the City of Burleson, certify that they have carefully considered the Application for Abandonment of the public right-of-way/easement referred to above from the standpoint of the City of Burleson ordinances and with respect to present and future needs of the City of Burleson and see no objection to the requested abandonment from the City's standpoint.

Assistant Director of Public Works/Utilities
City of Burleson

Assistant Director of Public Works/Streets and Solid Waste
City of Burleson

Assistant Director of Public Works- City Engineer
City of Burleson

Director of Development Services
City of Burleson

Fire Marshal
City of Burleson

Building Official
City of Burleson

EXHIBIT NO. 5

The undersigned owners of property abutting upon that portion of the public right-of-way/easement named and described in the Application for Abandonment of a Public Right-of-Way/Easement referred to above, do hereby consent to such abandonment.

Name: Please see attached letter in support from adjacent property owner, Gary and Linda Haas

Address: _____

Phone Number: _____

Signature: _____

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE ____ DAY OF _____, 20__.

Notary Public in and for the State of Texas

Name: _____

Address: _____

Phone Number: _____

Signature: _____

STATE OF TEXAS

COUNTY OF _____

BEFORE ME, the undersigned, a Notary Public in and for said County and State, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and considerations therein.

WITNESS MY HAND AND SEAL OF OFFICE THIS THE ____ DAY OF _____, 20__.

Notary Public in and for the State of Texas

Attach as many copies of this sheet as necessary.

Abandonment Location: 141 W. Renfro Street

May 18, 2023

Eric Oscarson, Director of Public Works
City of Burleson, Texas
141 W. Renfro St.
Burleson, TX 76028

RE: Support Letter – Alley Dedication between Warren St. and Wilson St.

Dear Mr. Oscarson:

Our family owns property located at 132 W. Bufford St. We are offering this letter as support for the City's actions to abandon the alley adjacent to our property.

It is our understanding that the City now desires to abandon the public right-of-way located between Warren St. and Wilson St. We also understand that we are allowed the opportunity to acquire our fair portion of the right-of-way as additional property. The other property owner in the area, BTX Old Town LLC, has pledged to provide ongoing access to our property through a shared use agreement. As a result, we do not desire to acquire any portion of the right-of-way and would support BTX in its acquisition of this property.

Our expectations of BTX include:

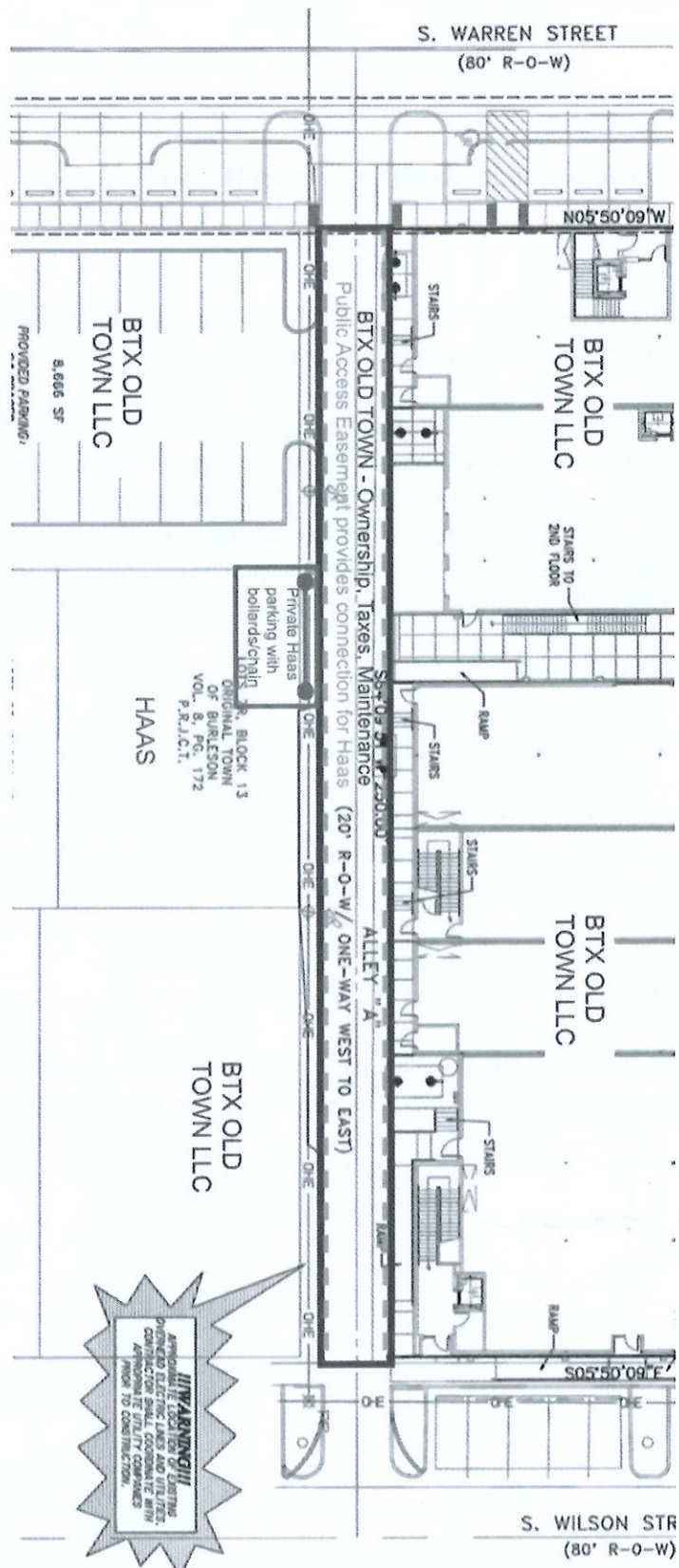
1. They will take on all responsibilities of ownership and maintenance for the abandoned property.
2. They will replat the property to show this change in ownership at no cost to us.
3. They will preserve access to our property through a platted public access easement as well as a private use agreement that will be filed of record with our property.
4. They will pave and create a concrete access area to our property as a part of their construction project north of our property.
5. They will abide by any other terms established in the private use agreement.

If further evidence of our desire for the alley abandonment are required, please let us know as soon as possible. Our contact information is below if we need to be reached.

Signed,

Handwritten signature in blue ink, appearing to read "Barry Hays Linda Hays".

PROPERTY DESCRIPTION



LEGAL DESCRIPTION

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THENCE S 84°09'51" W ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE 250.00 FEET TO A 5/8" IRON ROD FOUND AT THE INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE AND SAID EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-O-W), SAID IRON ALSO BEING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE CITY OF BURLESON IN THAT DEED RECORDED IN INSTRUMENT NO. 2016-7506, D.R.J.C.T.;

THENCE N 05°50'09" W, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5000 SQUARE FEET OF LAND, MORE OR LESS.

SURVEYOR'S CERTIFICATE:

PREPARED BY ME OR UNDER MY DIRECTION.



Matt Powell
MATT POWELL

REGISTERED PROFESSIONAL LAND SURVEYOR
TEXAS REGISTRATION NO. 5544

DATED: 06/13/22



DATE: 06-13-22

DRAWN: R.G.F.

CHECKED: M.P.

DFW JOB No. 2016116-07

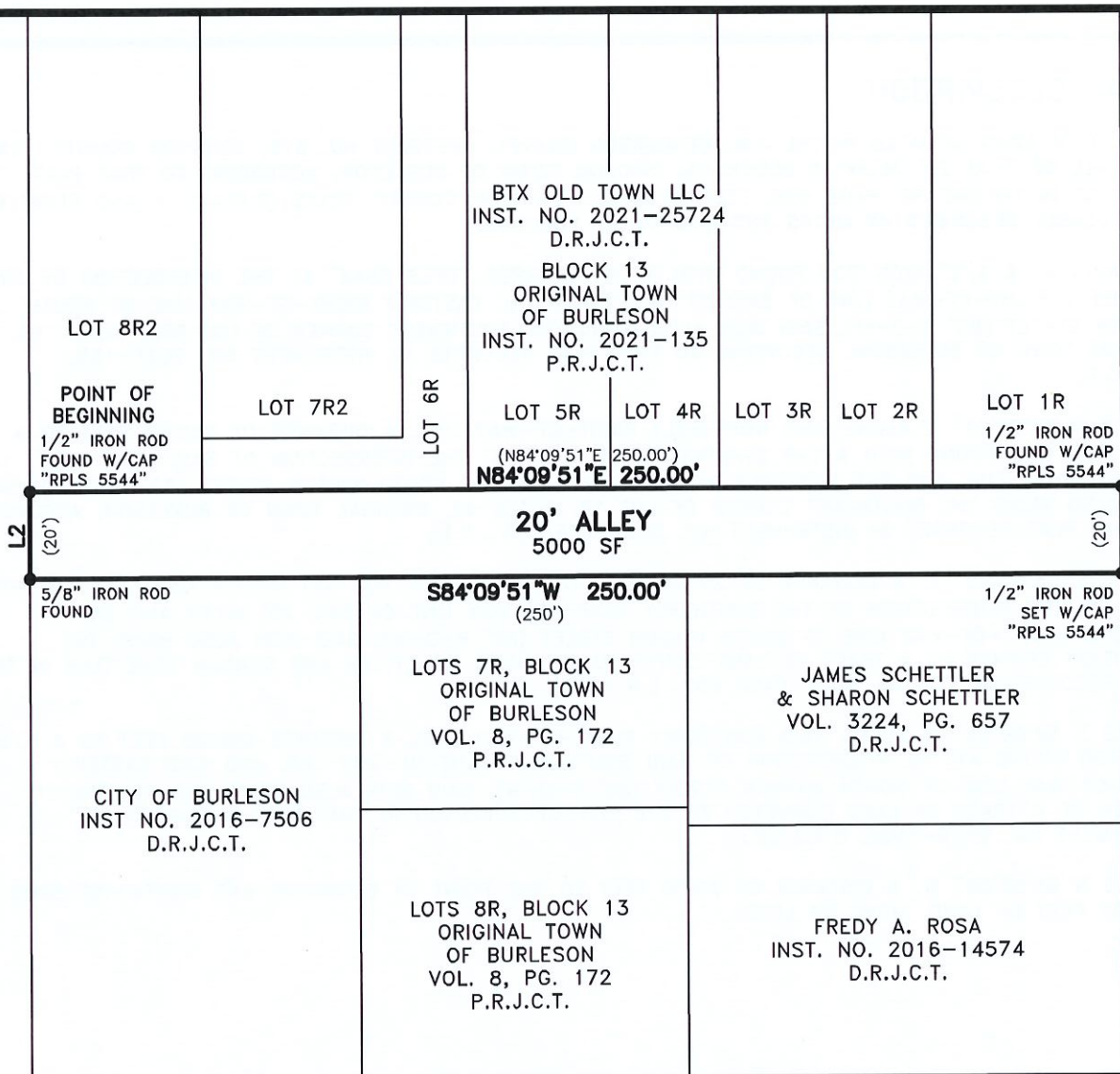
EXHIBIT "A"

SHT. NO.
2 OF 2

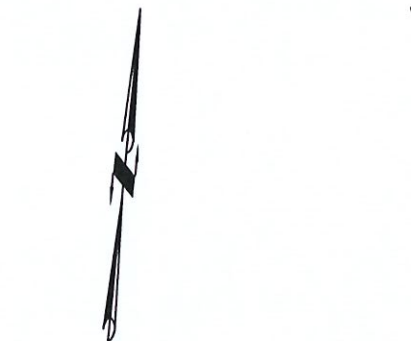
212

S. WARREN STREET
(80' R-O-W)

S. WILSON STREET
(80' R-O-W)



W. BUFFORD STREET
(80' R-O-W)



0' 40' 80'

SCALE: 1" = 40'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S05°50'09"E	20.00'
L2	N05°50'09"W	20.00'

NOTES:

1. THIS EXHIBIT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT AND IS SUBJECT TO ALL EASEMENTS, RIGHTS-OF-WAY AND OTHER MATTERS OF RECORD THAT MAY AFFECT THE SUBJECT PROPERTY.

LEGEND:

- — 1/2" IRON ROD SET W/CAP STAMPED "RPLS 5544" UNLESS OTHERWISE NOTED.

AN EXHIBIT SHOWING A
20' ALLEY
RIGHT-OF-WAY ABANDONMENT
CITY OF BURLESON, JOHNSON COUNTY, TEXAS

BASIS OF BEARINGS:

BASIS OF BEARINGS ARE BASED ON NORTH AMERICAN DATUM OF 1983, TEXAS NORTH CENTRAL ZONE, DERIVED FROM GPS OBSERVATIONS.



EXHIBIT "A"

SHT. NO.
1 OF 2

DATE: 06-13-22

DRAWN: R.G.F.

CHECKED: M.P.

DFW JOB No. 2016116-07

Type of Request (Please check the appropriate box to indicate the type of development request):

<input type="checkbox"/> Final Plat (\$500 + \$10/lot Residential) (\$500 + \$15/acre Non-Residential)	<input type="checkbox"/> Zoning Change/SUP <input type="checkbox"/> (\$700) less than 3 acres
<input type="checkbox"/> Replat (\$500 + \$10/lot)	<input type="checkbox"/> (\$900) 3.1 - 10 acres <input type="checkbox"/> (\$1,400) 11 - 29 acres
<input type="checkbox"/> Preliminary Plat (\$850 + \$15/lot Residential) (\$500 + \$20/acre Non-Residential)	<input type="checkbox"/> (\$1,600) + \$15 acre over 30 (max \$2,800) 30+ acres
<input type="checkbox"/> Minor Plat (\$400)	<input type="checkbox"/> Zoning Variance Request (\$250)
<input type="checkbox"/> Amending Plat (\$350)	<input type="checkbox"/> Planned Development (\$1,000 + \$20 per acre)
<input type="checkbox"/> Vacating Plat (\$300)	<input checked="" type="checkbox"/> Commercial Site Plan (\$500)
<input type="checkbox"/> Waiver Request (\$250)	<input type="checkbox"/> Commercial Site Plan Amendment (\$250)
Specify Type: <input type="checkbox"/> Masonry Ordinance Waiver Request <input type="checkbox"/> Subdivision Ordinance Waiver Request <input type="checkbox"/> Other (Example: fence, landscape, etc.)	<input type="checkbox"/> Annexation/Disannexation Requests (\$500)
	<input type="checkbox"/> Sign Variance (\$250)
	<input type="checkbox"/> Shopping Center Sign Plan (\$250)
	Engineering Fees: <input type="checkbox"/> TIA/Traffic Analysis (\$1,250) <input type="checkbox"/> Floor Study (\$1 per foot studied with \$2,000 minimum)

Purpose of Request (REQUIRED OR APPLICATION WILL NOT BE PROCESSED)

Commercial Site Plan - Ellison on the Plaza

Site Information

Address:	135 W. Ellison St.
Description:	Block 13, Original Town of Burleson
Zip Code:	76028
Adjoining Streets and/or Nearest Intersection:	S. Warren & S. Wilson

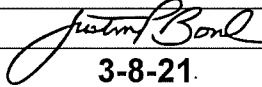
Plat and Subdivision Information

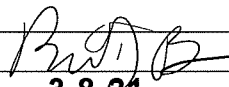
Proposed/Existing Subdivision Name:	Original Town of Burleson
Number of Lots:	8
Number of Open Space Lots:	1 Common Area
Total Acreage:	28,750 sqft _____ Acres

Commercial Site Plan/Zoning/SUP Applications

Current Zoning:	CC
Proposed Zoning:	CC
Proposed Use: (Required or application may not be processed)	Restaurant, Retail, Office

I hereby certify that this application is in conformance with the requirements of the City's Subdivision Ordinance, as amended and other ordinances, maps, and codes of the City of Burleson that pertain to this submittal. I further certify that all required documents listed on this application have been provided and if the application is deemed incomplete, understand the case may be forwarded to the next submittal date. I understand that it is my responsibility to have the Applicant, Owner or other authorized agent present at the Planning and Zoning Commission and City Council meetings. Should an authorized person not be at the meeting to represent the application, I understand that the Commission or Council may continue this item to a future date to allow for questions regarding the case. I further understand that this request will be placed on the appropriate Planning & Zoning Commission and City Council agendas or other appropriate boards in accordance with the City's current ordinances.

Signature of Applicant or Authorized Agent:	
Date:	3-8-21
Print name:	Justin Bond

Signature of Owner:	
Date:	3-8-21
Print name:	Rocky Bransom

Information of Parties Involved (Please indicate the PRIMARY CONTACT)

<i>Applicant/Authorized Agent</i>	<i>Owner</i>
Contact Name: Justin Bond	Contact Name:
Company: BTX Old Town, LLC	Company: BTX Old Town, LLC
Address: 236 E. Ellison St.	Address: 236 E. Ellison St.
Street:	Street:
City/State/Zip: Burleson TX 76028	City/State/Zip: Burleson TX 76028
Telephone: 817-880-1220	Telephone: 817-480-4445
Email: justin@radev.biz	Email: rwb@radev.biz
Primary Contact: <input checked="" type="checkbox"/> Yes or <input type="checkbox"/> No	Primary Contact: <input type="checkbox"/> Yes or <input type="checkbox"/> No

***NOTE:** If no authorized representative/agent is listed, all correspondence will be sent directly to property owner, and the property owner will be responsible for coordinating requested information/documentation accordingly. *Staff strongly recommends the property owner to list the Surveyor, Architect, Engineer, or coordinating agent as the authorized agent.*

Required documents needed for plat filing:

1. Tax Certificate (showing no delinquent taxes due)
2. Three (3) mylars/**blackline** copies
3. Filing fee as shown below:

Johnson County
\$50/first sheet (Small – 18" x 24") + \$25/each additional sheet
\$80/first sheet (Large – 24" x 36") + \$25/each additional sheet
<ul style="list-style-type: none"> • All copies MUST have original signatures and seals. • Mylars will not be accepted if anything has been erased or if original ink is on the mylars

Exhibit "B"
Property Description

A TRACT OF LAND SITUATED IN THE J.W. HENDERSON SURVEY, ABSTRACT NO. 376, JOHNSON COUNTY, TEXAS, BEING ALL OF THAT 20' ALLEY IN BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN VOLUME 59, PAGE 638, DEED RECORDS, JOHNSON COUNTY, TEXAS (D.R.J.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

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THENCE N 84°09'51" E ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 250.00 FEET TO A 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE AND THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH WILSON STREET (80' R-0-W), SAID IRON ALSO BEING THE SOUTHEAST CORNER OF LOT 1 R, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-135, P.R.J.C.T.;

THENCE S 05°50'09" E, A DISTANCE OF 20.00 FEET TO A 1/2" IRON ROD SET WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID 20' ALLEY AND SAID WESTERLY RIGHT-OF-WAY LINE OF SOUTH WILSON STREET (80' R-0-W), SAID IRON ALSO BEING THE NORTHEAST CORNER OF A TRACT OF LAND CONVEYED TO JAMES SCHETTLER AND SHARON SCHETTLER IN THAT DEED RECORDED IN VOLUME 3224, PAGE 657, D.R.J.C.T.;

THENCE S 84°09'51" W ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE 250.00 FEET TO A 5/8" IRON ROD FOUND AT THE INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE AND SAID EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-0-W), SAID IRON ALSO BEING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE CITY OF BURLESON IN THAT DEED RECORDED IN INSTRUMENT NO. 2016-7506, D.R.J.C.T.;

THENCE N 05°50'09" W, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5,000 SQUARE FEET OF LAND, MORE OR LESS.

SAVE AND EXCEPT THAT PORTION OF THE ALLEY IN BLOCK 13 OF THE ORIGINAL PLAT OF THE CITY OF BURLESON, (BETWEEN SOUTH WARREN AND SOUTH WILSON STREETS) IN THE CITY OF BURLESON, TEXAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 13, ORIGINAL TOWN OF BURLESON, JOHNSON COUNTY, TEXAS;

THENCE S 05° 11' E, 4 FEET;

THENCE S 84° 49' W, PARALLEL TO THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 21 FEET;

THENCE N 5° 11' W, 4 FEET TO THE SOUTH LINE OF SAID LOT 1;

THENCE N 84° 49' E, WITH THE SOUTH LINE OF LOT 1 A DISTANCE OF 21 FEET TO THE POINT OF BEGINNING.

Exhibit "C"
Letter

May 18, 2023

Eric Oscarson, Director of Public Works
City of Burleson, Texas
141 W. Renfro St.
Burleson, TX 76028

RE: Support Letter – Alley Dedication between Warren St. and Wilson St.

Dear Mr. Oscarson:

Our family owns property located at 132 W. Bufford St. We are offering this letter as support for the City's actions to abandon the alley adjacent to our property.

It is our understanding that the City now desires to abandon the public right-of-way located between Warren St. and Wilson St. We also understand that we are allowed the opportunity to acquire our fair portion of the right-of-way as additional property. The other property owner in the area, BTX Old Town LLC, has pledged to provide ongoing access to our property through a shared use agreement. As a result, we do not desire to acquire any portion of the right-of-way and would support BTX in its acquisition of this property.

Our expectations of BTX include:

1. They will take on all responsibilities of ownership and maintenance for the abandoned property.
2. They will replat the property to show this change in ownership at no cost to us.
3. They will preserve access to our property through a platted public access easement as well as a private use agreement that will be filed of record with our property.
4. They will pave and create a concrete access area to our property as a part of their construction project north of our property.
5. They will abide by any other terms established in the private use agreement.

If further evidence of our desire for the alley abandonment are required, please let us know as soon as possible. Our contact information is below if we need to be reached.

Signed,



Exhibit “D”
Deed

BTX Old Town, LLC
124 S Main St, Ste 207
Burleson, TX 76028

THE STATE OF TEXAS §
COUNTY OF JOHNSON §

The Grantor hereby reserves a water and public utility easement over the Property attached hereto and incorporated herein by reference ("**Utility Easement**"). Grantor, its successors, assigns, or agents, and owners of other public utilities as approved by the Grantor shall have the right and privilege to enter upon, under, over, across and along the tract or parcel covered by the Utility Easement, and all premises adjacent to the outside boundaries of said Utility Easement, to the extent necessary and at any time that Grantor or approved public utility providers deem proper for the purpose of exercising their rights and privileges for the purpose of constructing, reconstructing, operating, maintaining and repairing publicly owned utilities within said Utility Easement; and for the purpose of ingress and egress to and from said Utility Easement. Maintenance of the Utility Easement shall be at the sole expense of Grantee. Grantee expressly acknowledges that Grantor shall not bear any responsibility or liability for the maintenance or repair of the Utility Easement.

The Grantor hereby reserves a public access easement over the Property attached hereto and incorporated herein by reference ("**Public Access Easement**"). Grantor, its successors, assigns, or agents shall have the right and privilege to enter upon, under, over, across and along the tract or parcel covered by the Public Access Easement for providing free and uninterrupted pedestrian and vehicular ingress and egress along the Public Access Easement as if the Public Access Easement were a platted public alley in conformance with the City of Burleson Code of Ordinances and for the benefit of the general public. Maintenance of the Public Access Easement shall be at the sole expense of Grantee. Grantee expressly acknowledges that Grantor shall not bear any responsibility or liability for the maintenance or repair of the Public Access Easement.

Grantor, for the consideration and subject to the reservations from and exceptions to conveyance, conveys to Grantee the Property to have and to hold it to Grantee, Grantee's heirs, successors or assigns forever, **WITHOUT EXPRESS OR IMPLIED WARRANTY**, and all warranties that might arise by common law and the warranties in Section 5.023 of the Texas Property Code (or its successor) are excluded.

Grantee agrees to be responsible for any ad valorem taxes with respect to the Property accruing after the date of this conveyance and Grantee assumes and agrees to pay the same and to indemnify and hold Grantor harmless with respect thereto. Any and all ad valorem taxes with respect to the Property assessed for periods prior to the date hereof shall be the sole responsibility of Grantor, including any rollback taxes due to a change in use of the Property, and Grantor assumes and agrees to pay the same and to indemnify and hold harmless Grantee and Grantee's assigns with respect thereto.

[Signatures appear on the following page.]

EXECUTED this the _____ day of _____, 2023.

GRANTOR:
CITY OF BURLESON

ATTEST:

BY: _____
Tommy Ludwig, City Manager

Amanda Campos, City Secretary

STATE OF TEXAS §
 §
COUNTY OF JOHNSON §

ACKNOWLEDGMENT

BEFORE ME, the undersigned authority, on this date personally Tommy Ludwig, City Manager of the City of Burleson, a Texas home-rule municipal corporation, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed, as the act and deed of said municipality, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this the _____ day of _____, 2023.

Notary Public, State of Texas

Grantee's Acceptance of Deed

BTX Old Town, LLC, a Texas limited liability corporation, Grantee, accepts the attached deed and consents to its form and substance. Grantee acknowledges that the terms of the deed conform with Grantee's intent and agrees to the obligations imposed on Grantee by the terms of the deed.

BTX Old Town, LLC

Signature

Printed Name

Title

STATE OF TEXAS

§

ACKNOWLEDGMENT

COUNTY OF JOHNSON

§

§

This instrument was acknowledged before me on the _____ day of _____, 2023 by the signatory set forth in the Grantee signature block above and the same was executed by the signatory on behalf of BTX Old Town, LLC, a Texas limited liability company.

Notary Public, State of Texas

Exhibit 1
Legal Description

A TRACT OF LAND SITUATED IN THE J.W. HENDERSON SURVEY, ABSTRACT NO. 376, JOHNSON COUNTY, TEXAS, BEING ALL OF THAT 20' ALLEY IN BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN VOLUME 59, PAGE 638, DEED RECORDS, JOHNSON COUNTY, TEXAS (D.R.J.C.T.), AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT A 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF SAID 20' ALLEY AND THE EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-0-W), SAID IRON ALSO BEING THE SOUTHWEST CORNER OF LOT 8R2, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-135, P.R.J.C.T.;

THENCE N 84°09'51" E ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 250.00 FEET TO A 1/2" IRON ROD FOUND WITH A CAP STAMPED "RPLS 5544" AT THE INTERSECTION OF SAID NORTHERLY RIGHT-OF-WAY LINE AND THE WESTERLY RIGHT-OF-WAY LINE OF SOUTH WILSON STREET (80' R-0-W), SAID IRON ALSO BEING THE SOUTHEAST CORNER OF LOT 1 R, BLOCK 13, ORIGINAL TOWN OF BURLESON, ACCORDING TO THAT PLAT RECORDED IN INSTRUMENT NO. 2021-135, P.R.J.C.T.;

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THENCE S 84°09'51" W ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE 250.00 FEET TO A 5/8" IRON ROD FOUND AT THE INTERSECTION OF SAID SOUTHERLY RIGHT-OF-WAY LINE AND SAID EASTERLY RIGHT-OF-WAY LINE OF SOUTH WARREN STREET (80' R-0-W), SAID IRON ALSO BEING THE NORTHWEST CORNER OF A TRACT OF LAND CONVEYED TO THE CITY OF BURLESON IN THAT DEED RECORDED IN INSTRUMENT NO. 2016-7506, D.R.J.C.T.;

THENCE N 05°50'09" W, A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING AND CONTAINING 5,000 SQUARE FEET OF LAND, MORE OR LESS.

SAVE AND EXCEPT THAT PORTION OF THE ALLEY IN BLOCK 13 OF THE ORIGINAL PLAT OF THE CITY OF BURLESON, (BETWEEN SOUTH WARREN AND SOUTH WILSON STREETS) IN THE CITY OF BURLESON, TEXAS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF LOT 1, BLOCK 13, ORIGINAL TOWN OF BURLESON, JOHNSON COUNTY, TEXAS;

THENCE S 05° 11' E, 4 FEET;

THENCE S 84° 49' W, PARALLEL TO THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 21 FEET;

THENCE N 5° 11' W, 4 FEET TO THE SOUTH LINE OF SAID LOT 1;

THENCE N 84° 49' E, WITH THE SOUTH LINE OF LOT 1 A DISTANCE OF 21 FEET TO THE POINT OF BEGINNING.

City Council Regular Meeting

DEPARTMENT: Parks and Recreation
FROM: Jen Basham, Parks and Recreation Director
MEETING: August 7, 2023

SUBJECT:

Consider approval of an ordinance amending the City's fee schedule ordinance CSO#3069-09-2022 by adding fees associated with the Burleson Memorial Cemetery. (First Reading) (*Staff presenter: Jen Basham, Parks and Recreation Director*)

SUMMARY:

Include cemetery fees for burial and cremation spaces for Burleson Memorial Cemetery in the city's fee schedule as follows:

Space Type	Proposed Fee
Original Cemetery Upright Monument	\$1,450.00
Original Cemetery Flat Monument	\$1,450.00
Original Cemetery Double Depth	\$900.00
Original Cemetery Baby Space	\$245.00
2023 Expanded Cemetery Upright Monument	\$2,000.00
2023 Expanded Cemetery Flat Monument	\$1,700.00
2023 Expanded Cemetery Double Depth	\$900.00
2023 Expanded Cemetery Baby Space	\$400.00
2023 Expanded Cemetery Cremation Garden Space	\$995.00
2023 Expanded Cemetery Cremation Columbarium Space	\$2,200.00
2023 Expanded Cemetery Family Estate A	\$11,250.00
2023 Expanded Cemetery Family Estate B	\$15,000.00

OPTIONS:

- 1) Approve as presented

- 2) Approve with changes
- 3) Deny

RECOMMENDATION:

Staff recommends approving as presented.

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

May 17, 2023 – Staff presented proposed cemetery space fees to Cemetery Board for newly expanded area of Burleson Memorial Cemetery. Cemetery Board request additional information to enable more informed recommendations.

June 21, 2023 – Staff provided a revised presentation of fee proposals to the Cemetery Board and they provided fee recommendations to be presented to City Council for consideration.

FISCAL IMPACT:

None

STAFF CONTACT:

Jen Basham, CPRE
Parks and Recreation Director
jbasham@burlesontx.com
817-426-9201



Cemetery Fees, Contract, and Ordinance Updates

City Council Meeting - August 7, 2023

Staff Presenter: Jen Basham, Parks and Recreation Director

Overview

- 1 Review recommended cemetery fees for adoption**
- 2 Discuss recommended amendments cemetery operations contract**
- 3 Review recommended amendments to cemetery rules ordinance**

Background

- **January 11, 2023 - Staff briefed Cemetery Board on monument installation policy and recommended ordinance updates to address leaning monuments**
- **May 17, 2023 - Staff presented proposed space fees to Cemetery Board for newly expanded area of Burleson Memorial Cemetery**
 - Cemetery Board requested additional information to enable more informed recommendations
- **June 21, 2023 - Staff provided revised presentation of fee proposals and the Cemetery Board provided fee recommendations to be presented to City Council for consideration.**
- **Staff worked with Burleson Cemetery Operators (dba Lucas & Blessing) and city legal staff to draft contract amendments to reflect fees as proposed by Cemetery Board.**

Current Space Fees (Original Section)

Fees applicable to contract:

- Single grave space: \$1,450
- Companion space (double-depth): \$2,350
(second interment rite add \$900 to single grave space fee)
- Baby Space: \$245



Benchmarking Comparable Cemeteries

Cemetery grave pricing reviewed to ensure adherence to current market rates for newly expanded area

- **Bear Creek Cemetery - similar to Burleson as recently reinvented cemetery**
- **Laurel Land Cemetery - close in proximity and class**
- **Mansfield Cemetery - close in proximity and class**
- **Mt. Gilead - good model to consider for columbarium management and pricing currently managed by Lucas and Blessing**
- **Skyvue Cemetery - close in proximity and class**
- **Other local cemeteries not recommended to compare to new Burleson improvements**



Benchmarking

	Flat Marker	Upright	Cremation Space	Cremation Niche (Columbarium)	Baby	Double Depth	Family (3 plots)	Family (4 plots)
Mansfield City	\$2,000	\$2,000	NA	NA	NA	NA		
Skyvue Memorial	\$920	NA	NA	\$2,170- \$3,190	\$300-\$600	\$200		
Laurel Land Memorial	\$3,995-\$6,695	\$6,695	NA	\$4,495	\$695	\$2,795		
Bear Creek	\$300	\$3,000	\$1,200	NA	\$800	NA		
Mt. Gilead	NA	NA	NA	\$2,200	NA	NA		
Burleson	\$1,450	\$1,450	\$995	\$2,200	\$245	\$2,350	\$11,250	\$15,000

Cemetery Board Fee Recommendations

Space Type	# of spaces available in original area	# of spaces available in expansion area	Original Area Fees	Proposed Expansion Area Fees	Comments
Upright Monument	*300 (some spaces unusable due to size requirements)	320	\$1,450	**\$2000	Includes extra 2-ft. easement for monument with shrub wall. \$2,500 originally proposed per benchmark study
Flat Monument		576		\$1,700	
Double Depth	Any full size space could be used as double depth	Any full size space could be used as double depth	\$900	\$900	
Baby Spaces	16	190	\$245	**\$400	\$500 originally proposed per benchmark study
Cremation Space	NA	300	NA	\$995	
Cremation Space	NA	128	NA	\$2,200	
Family Estate (3 plots)	NA	4	NA	\$11,250	3 spaces in center plaza near fountain with private shrub wall
Family Estate (4 plots)	NA	8	NA	\$15,000	4 spaces in center plaza near fountain with private shrub wall
Total	316	1,558			

***No distinction made between flat and upright monument spaces in original cemetery area**

****Proposed fees in red denote Cemetery Board-suggested decreases from originally proposed**

Revenue Projections

New expansion spaces only

Space Type	Spaces	Existing fees	Proposed	Revenue using existing fees	Revenue using proposed fees
Upright Monument	320	\$1,450	\$2,000	\$464,000	\$640,000
Flat Monument	576		\$1,700	\$835,200	\$979,200
Double Depth	Any full size space could be used as double depth	\$900	\$900	Any full size space could be used as double depth	
Baby Spaces	190	\$245	\$400	\$46,550	\$76,000
Cremation Space	300	N/A	\$995	\$298,500	\$298,500
Columbarium Niche	128	N/A	\$2,200	\$281,600	\$281,600
Family Estate (3 plots)	4	N/A	\$11,250	\$45,000	\$45,000
Family Estate (4 plots)	8	N/A	\$15,000	\$120,000	\$120,000
Total				\$2,090,850	\$2,440,300
Net 65% remittance				\$1,359,052.50	\$1,586,195
Net Difference				\$227,142.50	

Operations and Maintenance (O&M) Costs

Spaces Sales Revenues expensed over **20 years** (estimated time to sell all spaces)

Includes all remaining spaces available for sale including old section spaces

Remaining old section spaces assumed at existing rate

Assumes annual lot sales as constant over estimated time to sell all remaining lots

Does not include annual costs or budget for leveling leaning monuments in old section with foundation and piers

All revenues are net revenues accounting for **65% remittance** to City for every lot sale

Escalation of annual O&M costs over 20 years not considered in model

Estimated Annual Revenue Using Existing Fees	Estimated Annual Revenue Using Proposed Fees	Annual O&M Costs for Entire Cemetery	Estimated Annual Cost Recovery Existing Fees	Estimated Annual Cost Recovery Proposed Fees
\$67,952.63	\$79,309.75	\$74,000	-\$6,047.38	\$5,309.75

Existing Cemetery Management Contract

- Contractor: Burleson Cemetery Operators LLC dba Lucas and Blessing
- Current Contract Executed: November 12, 2018
- Term: 10 years with two 5-year renewal options that must be approved by City Council
- Items subject to fees:
 - Burial lot sales
 - "Extraordinary burial structures" e.g. columbaria, scatter gardens, etc.
- Remittance fee to City: 65%
- Fee increases greater than 10% from previous year must be approved by Council



Contract Revisions Proposed

- Remove language allowing Lucas & Blessing to increase space fees up to 10% annually
- Require all fee increases be approved by City Council
- Add approved fee table to contract
- All changes to be included as addendum to existing contract



Cemetery Monument Leveling

- **December 2022, staff hired contractor to level headstone monuments that had severely shifted**
- **Monuments were re-set with 6-inch foundations and 18-inch piers to minimize future shifting**
- **82 monuments of the most severely monuments were re-set**
- **Change of cemetery rules ordinance is required to ensure future monument installations are correct**



Current Policy - Rules and Regulations

- Code of the City of Burleson
- Chapter 18 "Cemeteries", Article II "Rules and Regulations"
- Outlines monument installation process and monument foundation specifications
- Staff is recommending updates on monument installation procedures and specifications to include best practices for improved quality control



Proposed Policy Changes and Impacts

Repeal and replace Article II of Chapter 18 to include:

- Enhanced specifications related to monument installation
- Require all monument installation companies be approved by City or designated cemetery operator
- Additional specifications for memorial foundations to strengthen foundations and include 18-inch piers to help prevent monuments from leaning



Items for Consideration: 7A, 7B, 7C

A

Consider approval of an ordinance amending the City's fee schedule ordinance by adding fees associated with Burleson Memorial Cemetery

B

Consider approval of a contract amendment with Lucas and Blessing (Burleson Cemetery Operators) for grave and cremation spaces for newly expanded section of Burleson Memorial Cemetery

C

Consider approval of an ordinance amending Article 2: Rules and Regulations of Chapter 18: Cemeteries of the City of Burleson Code of Ordinances (First Reading)

Amending city fee schedule for cemetery space fees will require two readings but space sales will be available following approval at first reading and refunded if necessary.

Options for Item 7A

Cemetery Board recommendation

Staff recommendation



**Approve cemetery fees
as presented**



**Approve cemetery fees
with changes**



**Deny cemetery fees
as presented**

Options for Item 7B

Cemetery Board recommendation

Staff recommendation



**Approve contract
amendment with
Burleson Cemetery
Operators as presented**



**Approve contract
amendment with
Burleson Cemetery
Operators with changes**



**Deny contract
amendment with Burleson
Cemetery Operators**

Options for Item 7C

Cemetery Board recommendation

Staff recommendation



Approve cemetery ordinance revisions as presented



Approve cemetery ordinance revisions with changes



Deny cemetery ordinance revisions as presented

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AMENDING THE CITY'S FEE SCHEDULE IN ORDINANCE CSO#3069-09-2022 BY ADDING FEES ASSOCIATED WITH THE BURLESON MEMORIAL CEMETERY; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AND THAT THE RECITALS ARE TRUE; CONTAINING A SEVERABILITY CLAUSE, CUMULATIVE CLAUSE, AND 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 passed Ordinance CSO#3069-09-2022, which, among other things, provided a fee schedule that contained a list of all fees charged by the City of Burleson (save and except water and wastewater impact fees and solid waste collection rates which are wholly contained in separate ordinances); and

WHEREAS, the fee schedule needs to be amended to provide for additional fees related to the Burleson Memorial Cemetery for the 2022-23 fiscal year; and

WHEREAS, the proposed additional fees are included in the schedule attached hereto as Exhibit "A" and incorporated as part of this Ordinance (the "Additional Fee Schedule"); and

WHEREAS, such Additional Fee Schedule is intended to be added to the Incorporated Fee Schedule in Ordinance CSO#3069-09-2022; and

WHEREAS, the City Council desires that the Additional Fee Schedule be added the current fee schedule set forth in Ordinance CSO#3069-09-2022.

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

Section 1.

Ordinance CSO#3069-09-2022 is hereby amended so that the Additional Fee Schedule attached hereto as Exhibit "A" shall supplement and be added to the Incorporated Fee Schedule in Ordinance CSO#3069-09-2022.

Section 2.

The City Council finds and determines that the meeting at which this ordinance is passed was open to the public as required by law and that public notice of the time, place and purpose of said meeting was duly given as required by the Texas Open Meetings Act.

Section 3.

The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life in the City.

Section 4.

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 5.

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.

Section 6.

This ordinance shall become effective immediately upon its passage and publication as required by law.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Burleson on this ____ day of _____, 2023.

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

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

Chris Fletcher, Mayor

City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

Exhibit “A”
Additional Fee Schedule

Burleson Memorial Cemetery Fees	
Space Type	Proposed Fee
Original Cemetery Upright Monument	\$1,450.00
Original Cemetery Flat Monument	\$1,450.00
Original Cemetery Double Depth	\$900.00
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2023 Expanded Cemetery Cremation Garden Space	\$995.00
2023 Expanded Cemetery Cremation Columbarium Space	\$2,200.00
2023 Expanded Cemetery Family Estate A	\$11,250.00
2023 Expanded Cemetery Family Estate B	\$15,000.00

City Council Regular Meeting

DEPARTMENT: Parks and Recreation
FROM: Jen Basham, Parks and Recreation Director
MEETING: August 7, 2023

SUBJECT:

Consider approval of amending contract CSO#934-11-2018 with Burleson Cemetery Operators, LLC, for operation of the Burleson Memorial Cemetery. (*Staff Presenter: Jen Basham, Director of Parks and Recreation*)

SUMMARY:

Amend contract to include cemetery fees for burial and cremation spaces for Burleson Memorial Cemetery in the city's fee schedule which would also require all future fee increases be approved by City Council and remove existing contract language that allows Lucas and Blessing (Burleson Cemetery Operators, LLC) to increase fees up to 10% annually.

Space Type	Proposed Fee
Original Cemetery Upright Monument	\$1,450.00
Original Cemetery Flat Monument	\$1,450.00
Original Cemetery Double Depth	\$900.00
Original Cemetery Baby Space	\$245.00
2023 Expanded Cemetery Upright Monument	\$2,000.00
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2023 Expanded Cemetery Family Estate B	\$15,000.00

OPTIONS:

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

RECOMMENDATION:

Staff recommends approving as presented.

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

May 17, 2023 – Staff presented proposed cemetery space fees to Cemetery Board for newly expanded area of Burleson Memorial Cemetery. Cemetery Board request additional information to enable more informed recommendations.

June 21, 2023 – Staff provided a revised presentation of fee proposals to the Cemetery Board and they provided fee recommendations to be presented to City Council for consideration.

FISCAL IMPACT:

None

STAFF CONTACT:

Jen Basham, CPRE
Parks and Recreation Director
jbasham@burlesontx.com
817-426-9201



Cemetery Fees, Contract, and Ordinance Updates

City Council Meeting - August 7, 2023

Staff Presenter: Jen Basham, Parks and Recreation Director

Overview

- 1 **Review recommended cemetery fees for adoption**
- 2 **Discuss recommended amendments cemetery operations contract**
- 3 **Review recommended amendments to cemetery rules ordinance**

Background

- **January 11, 2023 - Staff briefed Cemetery Board on monument installation policy and recommended ordinance updates to address leaning monuments**
- **May 17, 2023 - Staff presented proposed space fees to Cemetery Board for newly expanded area of Burleson Memorial Cemetery**
 - Cemetery Board requested additional information to enable more informed recommendations
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- **Staff worked with Burleson Cemetery Operators (dba Lucas & Blessing) and city legal staff to draft contract amendments to reflect fees as proposed by Cemetery Board.**

Current Space Fees (Original Section)

Fees applicable to contract:

- Single grave space: \$1,450
- Companion space (double-depth): \$2,350
(second interment rite add \$900 to single grave space fee)
- Baby Space: \$245



Benchmarking Comparable Cemeteries

Cemetery grave pricing reviewed to ensure adherence to current market rates for newly expanded area

- **Bear Creek Cemetery - similar to Burleson as recently reinvented cemetery**
- **Laurel Land Cemetery - close in proximity and class**
- **Mansfield Cemetery - close in proximity and class**
- **Mt. Gilead - good model to consider for columbarium management and pricing currently managed by Lucas and Blessing**
- **Skyvue Cemetery - close in proximity and class**
- **Other local cemeteries not recommended to compare to new Burleson improvements**



Benchmarking

	Flat Marker	Upright	Cremation Space	Cremation Niche (Columbarium)	Baby	Double Depth	Family (3 plots)	Family (4 plots)
Mansfield City	\$2,000	\$2,000	NA	NA	NA	NA		
Skyvue Memorial	\$920	NA	NA	\$2,170- \$3,190	\$300-\$600	\$200		
Laurel Land Memorial	\$3,995-\$6,695	\$6,695	NA	\$4,495	\$695	\$2,795		
Bear Creek	\$300	\$3,000	\$1,200	NA	\$800	NA		
Mt. Gilead	NA	NA	NA	\$2,200	NA	NA		
Burleson	\$1,450	\$1,450	\$995	\$2,200	\$245	\$2,350	\$11,250	\$15,000

Cemetery Board Fee Recommendations

Space Type	# of spaces available in original area	# of spaces available in expansion area	Original Area Fees	Proposed Expansion Area Fees	Comments
Upright Monument	*300 (some spaces unusable due to size requirements)	320	\$1,450	**\$2000	Includes extra 2-ft. easement for monument with shrub wall. \$2,500 originally proposed per benchmark study
Flat Monument		576		\$1,700	
Double Depth	Any full size space could be used as double depth	Any full size space could be used as double depth	\$900	\$900	
Baby Spaces	16	190	\$245	**\$400	\$500 originally proposed per benchmark study
Cremation Space	NA	300	NA	\$995	
Cremation Space	NA	128	NA	\$2,200	
Family Estate (3 plots)	NA	4	NA	\$11,250	3 spaces in center plaza near fountain with private shrub wall
Family Estate (4 plots)	NA	8	NA	\$15,000	4 spaces in center plaza near fountain with private shrub wall
Total	316	1,558			

***No distinction made between flat and upright monument spaces in original cemetery area**

****Proposed fees in red denote Cemetery Board-suggested decreases from originally proposed**

Revenue Projections

New expansion spaces only

Space Type	Spaces	Existing fees	Proposed	Revenue using existing fees	Revenue using proposed fees
Upright Monument	320	\$1,450	\$2,000	\$464,000	\$640,000
Flat Monument	576		\$1,700	\$835,200	\$979,200
Double Depth	Any full size space could be used as double depth	\$900	\$900	Any full size space could be used as double depth	
Baby Spaces	190	\$245	\$400	\$46,550	\$76,000
Cremation Space	300	N/A	\$995	\$298,500	\$298,500
Columbarium Niche	128	N/A	\$2,200	\$281,600	\$281,600
Family Estate (3 plots)	4	N/A	\$11,250	\$45,000	\$45,000
Family Estate (4 plots)	8	N/A	\$15,000	\$120,000	\$120,000
Total				\$2,090,850	\$2,440,300
Net 65% remittance				\$1,359,052.50	\$1,586,195
Net Difference				\$227,142.50	

Operations and Maintenance (O&M) Costs

Spaces Sales Revenues expensed over **20 years** (estimated time to sell all spaces)

Includes all remaining spaces available for sale including old section spaces

Remaining old section spaces assumed at existing rate

Assumes annual lot sales as constant over estimated time to sell all remaining lots

Does not include annual costs or budget for leveling leaning monuments in old section with foundation and piers

All revenues are net revenues accounting for **65% remittance** to City for every lot sale

Escalation of annual O&M costs over 20 years not considered in model

Estimated Annual Revenue Using Existing Fees	Estimated Annual Revenue Using Proposed Fees	Annual O&M Costs for Entire Cemetery	Estimated Annual Cost Recovery Existing Fees	Estimated Annual Cost Recovery Proposed Fees
\$67,952.63	\$79,309.75	\$74,000	-\$6,047.38	\$5,309.75

Existing Cemetery Management Contract

- Contractor: Burleson Cemetery Operators LLC dba Lucas and Blessing
- Current Contract Executed: November 12, 2018
- Term: 10 years with two 5-year renewal options that must be approved by City Council
- Items subject to fees:
 - Burial lot sales
 - "Extraordinary burial structures" e.g. columbaria, scatter gardens, etc.
- Remittance fee to City: 65%
- Fee increases greater than 10% from previous year must be approved by Council



Contract Revisions Proposed

- Remove language allowing Lucas & Blessing to increase space fees up to 10% annually
- Require all fee increases be approved by City Council
- Add approved fee table to contract
- All changes to be included as addendum to existing contract



Cemetery Monument Leveling

- **December 2022, staff hired contractor to level headstone monuments that had severely shifted**
- **Monuments were re-set with 6-inch foundations and 18-inch piers to minimize future shifting**
- **82 monuments of the most severely monuments were re-set**
- **Change of cemetery rules ordinance is required to ensure future monument installations are correct**



Current Policy - Rules and Regulations

- Code of the City of Burleson
- Chapter 18 "Cemeteries", Article II "Rules and Regulations"
- Outlines monument installation process and monument foundation specifications
- Staff is recommending updates on monument installation procedures and specifications to include best practices for improved quality control



Proposed Policy Changes and Impacts

Repeal and replace Article II of Chapter 18 to include:

- Enhanced specifications related to monument installation
- Require all monument installation companies be approved by City or designated cemetery operator
- Additional specifications for memorial foundations to strengthen foundations and include 18-inch piers to help prevent monuments from leaning



Items for Consideration: 7A, 7B, 7C

A

Consider approval of an ordinance amending the City's fee schedule ordinance by adding fees associated with Burleson Memorial Cemetery

B

Consider approval of a contract amendment with Lucas and Blessing (Burleson Cemetery Operators) for grave and cremation spaces for newly expanded section of Burleson Memorial Cemetery

C

Consider approval of an ordinance amending Article 2: Rules and Regulations of Chapter 18: Cemeteries of the City of Burleson Code of Ordinances (First Reading)

Amending city fee schedule for cemetery space fees will require two readings but space sales will be available following approval at first reading and refunded if necessary.

Options for Item 7A

Cemetery Board recommendation

Staff recommendation



**Approve cemetery fees
as presented**



**Approve cemetery fees
with changes**



**Deny cemetery fees
as presented**

Options for Item 7B

Cemetery Board recommendation

Staff recommendation



**Approve contract
amendment with
Burleson Cemetery
Operators as presented**



**Approve contract
amendment with
Burleson Cemetery
Operators with changes**



**Deny contract
amendment with Burleson
Cemetery Operators**

Options for Item 7C

Cemetery Board recommendation

Staff recommendation



Approve cemetery ordinance revisions as presented



Approve cemetery ordinance revisions with changes



Deny cemetery ordinance revisions as presented

FIRST AMENDMENT TO
CEMETERY MANAGEMENT AGREEMENT
BETWEEN
BURLESON CEMETERY OPERATORS, LLC,
AND
THE CITY OF BURLESON, TEXAS

This First Amendment to the Cemetery Management Agreement (“Amendment”) is made and entered into as of this ____ day of _____, 2023, by and between the City of Burleson, a Texas municipal corporation located in the Counties of Johnson and Tarrant, State of Texas (“City”), by and through its City Manager, and Burleson Cemetery Operators, LLC (“Contractor”), a Texas limited liability company, by and through its duly authorized representative.

RECITALS:

WHEREAS, on or about November 12, 2018, the City and Contractor entered into that Cemetery Management Agreement (the “Agreement” as attached hereto as Exhibit A); and

WHEREAS, the parties desire to amend the Agreement by revising it to read as set forth below, with all other terms to remain unchanged.

NOW THEREFORE, in consideration of the mutual benefits and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Article XIII “Burleson Memorial Cemetery Fee Schedule”** is hereby added to the Agreement to read as follows:

“ARTICLE XIII
BURLESON MEMORIAL CEMETERY FEE SCHEDULE

13.01 Fee Schedule. For City of Burleson Fiscal Year 23-24 (October 1, 2023, through September 30, 2024), Contractor presents the proposed rates for lot sales as follows:

Space Type	Proposed Fee
Original Cemetery Upright Monument	\$1,450.00
Original Cemetery Flat Monument	\$1,450.00
Original Cemetery Double Depth	\$900.00
Original Cemetery Baby Space	\$245.00
2023 Expanded Cemetery Upright Monument	\$2,000.00
2023 Expanded Cemetery Flat Monument	\$1,700.00
2023 Expanded Cemetery Double Depth	\$900.00
2023 Expanded Cemetery Baby Space	\$400.00
2023 Expanded Cemetery Cremation Garden Space	\$995.00

2023 Expanded Cemetery Cremation Columbarium Space	\$2,200.00
2023 Expanded Cemetery Family Estate A	\$11,250.00
2023 Expanded Cemetery Family Estate B	\$15,000.00

To be effective, the proposed rates above must be approved by the City Council by ordinance and included in the City's fee schedule pursuant to Section 18-5 of the City of Burleson Code of Ordinances."

2. **Article XII "Mutual Cooperation"** of the Agreement is hereby amended by revising **Section 12.01(a)** to read as follows:

"(a) The Contractor shall present the rate for lot sales to the City no later than June 15 of each year. The Contractor must receive City Council approval for any fee increases for lot sales."

3. **Effect of Amendment.** All other terms and conditions of the Agreement, with the exception of the terms modified by this Amendment, shall remain in full force and effect. Except for the terms modified by this Amendment, the parties hereby ratify the remainder of the Agreement in its entirety.

EXECUTED on the respective dates of acknowledgement, to be effective as of the date first set forth above.

**THE CITY OF BURLESON,
a Texas municipal corporation**

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS
COUNTY OF JOHNSON

This instrument was acknowledged before me on _____, 2023 by _____, known personally by me to be the _____ of the City of Burleson, on behalf of said City.

[Notary Seal]

Notary Public, State of Texas

**BURLESON CEMETERY OPERATORS, LLC,
A Texas Limited Liability Company**

By: _____

Name: _____

Title: _____

Date: _____

STATE OF TEXAS
COUNTY OF _____

This instrument was acknowledged before me on _____, 2023 by _____,
known personally by me to be the _____ of BURLESON CEMETERY OPERATORS, LLC,
on behalf of said company.

[Notary Seal]

Notary Public, State of Texas

Exhibit A

CSO#934-11-2018

**CEMETERY MANAGEMENT AGREEMENT
BETWEEN
BURLESON CEMETERY OPERATORS LLC
AND
CITY OF BURLESON, TEXAS**

This AGREEMENT, made this 12 day of NOVEMBER, 2018 (the effective date), between BURLESON CEMETERY OPERATORS, LLC (hereinafter called Contractor) and the CITY OF BURLESON (hereinafter called "City").

WHEREAS, City is the owner of certain lands and improvements which constitute cemeteries in the greater Burleson, Texas area (collectively, the "Cemetery"); and

WHEREAS, Contractor has the resources and expertise necessary to operate and manage the Cemetery; and

WHEREAS, City desires to obtain the services of Contractor to operate, manage and sell cemetery property rights, merchandise and services at the Cemetery.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

**ARTICLE I
APPOINTMENT AND EXCLUSIVITY**

1.01 Appointment of Manager. The City hereby designates, appoints and authorizes Contractor as its sole and exclusive agent during the term of this Agreement to (i) manage the Cemetery and (ii) conduct all sales of cemetery property rights within the Cemetery subject to the provisions herein. The City hereby also authorizes Contractor to sell funeral merchandise and services within the Cemetery on a nonexclusive basis subject to the provisions herein. Contractor hereby accepts such designation, appointment and authorization and agrees to use its best efforts to discharge its responsibilities as provided herein during the term of this Agreement. It is agreed and understood, however, that the City remains the owner of the Cemetery. This Agreement does not lease the Cemetery to Contractor and does not grant, sell or convey to Contractor any right, title or interest in the real estate where the Cemetery is located.

1.02 Exclusivity. As a material inducement to Contractor to enter into this Agreement, City expressly covenants and agrees that, except with the written permission of Contractor and except as herein provided, during the term of this Agreement, City shall not, directly or indirectly, through any corporation, partnership, limited liability company, joint venture or other entity or otherwise own, manage, operate, control, lease or have any financial interest in any corporation, partnership, limited liability company, joint venture or other entity which owns, manages, operates, controls or leases a cemetery or mortuary or which sells monuments, grave markers or other interment receptacles or any other related business within the Burleson City limits.

1.03 Cemetery Sales and Services.

(a) The Contractor shall have the exclusive right to sell burial plots at the Cemetery.

(b) Any licensed funeral home, including Contractor, shall be allowed to provide funeral services at the Cemetery and to sell grave markers and monuments for use at the Cemetery. Individuals who have purchased a burial plot in the Cemetery shall not be obligated to use the Contractor to provide funeral services, grave markers or monuments. All burials in the Cemetery shall be in accordance with the rules of the Cemetery governing burials which are intended to protect Cemetery property and other plot owners.

ARTICLE II

DUTIES AND RESPONSIBILITIES OF CONTRACTOR

2.01 Management Duties. Contractor shall have complete control of and assume full responsibility for all matters relating to management and operation of the Cemetery, including but not limited to the following:

(a) The exclusive right to perform interments and disinterments at the Cemetery.

(b) The exclusive right to conduct sales and complete delivery of cemetery property rights, the non-exclusive right to conduct sales of merchandise and services at the Cemetery, and the obligation to pay all costs associated with management and operations of the Cemetery as described herein and the costs associated with Contractor's sales of merchandise and services as described herein.

(c) Develop and supervise a sales and marketing program for the Cemetery.

(d) Manage process and pay accounts payable incurred in the management of the Cemetery.

(e) Bill and collect all accounts receivable of the Cemetery including but not limited to those associated with the sale of cemetery property rights, and Contractor's sale of merchandise and services at the Cemetery.

(f) Employ all office personnel, officer supervisors, sales staff and any other full time or seasonal workers necessary to operate the Cemetery.

(g) Enter into sub-contracts necessary for the management and operation of the Cemetery.

(h) Maintain complete books and records regarding operation of the Cemetery including but not limited to: accounts reconciliation, burial information, general ledger maintenance, inventory and file maintenance and budgeting services. These reports must be furnished to the City on a quarterly basis by the 15th of each month following the end of each quarter.

ARTICLE III
DUTIES AND RESPONSIBILITIES OF THE CITY

3.01 Access to Cemetery. During the term of this Agreement, City shall allow free and unrestricted access to and use of the Cemetery and all assets and equipment within the Cemetery in order for Contractor to perform its management responsibilities for the Cemetery. Such assets and equipment may be used at the discretion of Contractor.

3.02 Accounts Receivable. Upon execution of this Agreement, City shall bear all responsibility for the collection of or payments of any outstanding accounts receivable accumulated prior to June 28, 2007. Any sums collected by Contractor from such accounts receivable shall be remitted to the City.

3.03 Quiet Enjoyment. City covenants and agrees that, subject to the terms and provisions hereof, Contractor shall be entitled to quietly and peacefully hold, occupy and enjoy the Cemetery and Contractor's rights hereunder during the term of this Agreement.

3.04 Use of Names. During the term of this Agreement, Contractor may use and include the names of any and all of the cemeteries in any fictitious or other name that Contractor may adopt in conformity with and subject to the laws of the State of Texas in connection with the use and operation of the Cemetery.

3.05 Licensure. During the term of this Agreement, City shall maintain, at its expense, all appropriate licenses to operate the Cemetery.

3.06 Property Tax Exemption. During the term of this Management Agreement, City shall make timely application for all federal, state and local property tax exemptions available for the Cemetery.

3.07 Execution of Documents. During the term of this Agreement, City shall execute any documents reasonably necessary to permit Contractor to carry out the terms and obligations set forth herein.

3.08 Maintenance of Cemetery Grounds. Maintain all facilities, property and landscaping within the Cemetery in good condition and make repair to such facilities at its sole cost and expense. This provision includes all maintenance and care of the cemetery grounds, including: trees, shrubbery, turf, fencing, monuments and cemetery roadways at a level of care consistent with generally accepted industry practices or as determined by City staff.

ARTICLE IV
CONSIDERATION AND RIGHT TO INSPECT RECORDS

4.01 (a) Contractor shall retain all income from the Cemetery and remit to the City an amount equal to sixty five percent (65%) of all burial lot sales to the City . The Contractor is

authorized to negotiate installment or pre need plans for the sales of burial lots and services. Such funds will be remitted based on actual dollars collected on both 'paid in full' contracts and installment plans according to the following schedule.

January 15

April 15

July 15

October 15

(b) Contractor further agrees to remit to the City sixty five percent (65%) for all burials occurring in extraordinary burial structures. The structures include but are not limited to the following:

a. Urn Niches

b. Scatter Gardens

c. Columbariums

(c) Contractor agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of Contractor involving transactions relating to this contract. Contractor agrees that City shall have access during normal working hours to all necessary Contractor facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. City shall give Contractor reasonable advance notice of intended audits.

(d) Contractor further agrees to include in subcontract(s), if any, a provision that any subcontractor or consultant agrees that City shall have access to and the right to examine any directly pertinent books, documents, papers and records of such consultant or subcontractor involving transactions to the subcontract, and further, that City shall have access during normal working hours to all consultant or subcontractor facilities, and shall be provided adequate and appropriate work space, in order to conduct audits in compliance with the provisions of this paragraph. City shall give the consultant or subcontractor reasonable advance notice of intended audits.

ARTICLE V

INSURANCE

5.01 Insurance. During the term of this Agreement, Contractor shall, at its sole cost and expense, keep and maintain policies of:

(a) General public liability insurance protecting and indemnifying Contractor and the City of Burleson, its officers, employees and agents on an occurrence basis from and against any and all claims for damages or injury to persons, property or for loss of life or property caused by Contractor, its agents, employees, representatives and invitees (1) occurring upon, in or about the Cemetery and/or (2) arising from the conduct of business in or management of the Cemetery or any work or thing whatsoever done or any condition created in or about the Cemetery during the term of this Agreement, such insurance to afford immediate protection to the limit of not less than \$2,000,000 combined single limit, with not more than \$5,000 deductible. City shall have the right from time to time of reasonably requiring Contractor to increase the amount of such coverage

to an amount which, at the time, is commonly provided in cases of premises and businesses similarly situated.

(b) The Contractor is further required to provide a certificate of insurance from the insurance company showing the amount of coverage and that the policy contains a provision that the City must be notified at least 15 days prior to any change in coverage or termination of the policy.

(c) Workers' compensation insurance for Contractor employees in full compliance with all requirements of the laws of the State of Texas.

ARTICLE VI **RELATIONSHIP BETWEEN THE PARTIES**

6.01 Independent Contract. City and Contractor are independent contracting parties. Nothing in this Agreement shall be construed to create between the parties a relationship of principal and agent, employer and employee, partners or joint ventures. Neither party shall have any right, power or authority to act for or enter into binding Agreements on behalf of the other party unless expressly authorized in this Agreement.

6.02 No Assumption of Liability.

(a) Except as specifically provided in this agreement, nothing herein shall be construed to be an assumption of any liability by Contractor for the acts or omissions of City resulting in claims, injury or damages, including attorneys' fees and costs arising from City's or its agents' negligence, intentional or willful misconduct. This covenant shall survive termination of this Agreement.

(b) Except as specifically provided in this Agreement, nothing herein shall be construed to be an assumption of any liability by City for the acts or omissions of Contractor resulting in claims, injury or damages, including attorneys' fees and costs, arising from Contractor's or its agents' negligence, intentional or willful misconduct. This covenant shall survive termination of this Agreement.

ARTICLE VII **TERM OF AGREEMENT**

7.01 Term. The initial term of this agreement shall be for a term of ten (10) years commencing on contract award with two (2), five (5) year renewal option periods. These renewal periods must be approved by the Burleson City Council.

ARTICLE VIII **TERMINATION**

8.01 Accrued Accounts Payable. All accrued amounts payable by the parties shall be paid in full within thirty (30) days after the termination of this Agreement.

ARTICLE IX
DEFAULT

9.01 Breach or Default. During the term of this Agreement, in the event either party is in default or breach of any material, terms, or condition of this Agreement, the other party shall give written notice to the party in default or breach of same and said party shall have a period of sixty (60) days to remedy or cure such default or breach. If such default or breach cannot be remedied or covered within such 60-day period and Contractor is diligently pursuing the same, the cure period shall be extended.

9.02 Termination. If such default or breach continues to exist after the initial sixty (60) day cure period, an additional 60-day cure period may be provided, but not to exceed 120 days in total. After such time, the party not in default or breach may, at its option, terminate this Agreement and pursue any other legal remedies against the other party it may have at law or in equity or are provided herein.

9.03 Ownership of Records. If termination of this agreement occurs, all records, burial information, financial records must be returned to the City with 30 thirty days following such termination.

9.04 No Waiver. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Agreement and to exercise any rights hereunder shall not be construed as a waiver or relinquishment of the future performance of any such term, covenant or condition or the future exercise of such right but the obligations of the other party, with respect to such future performance, shall continue in full force and effect.

9.05 Termination Due to Lack of Appropriations. Notwithstanding anything in this Agreement to the contrary, if City should not appropriate or otherwise receive funds sufficient to purchase, operate, or maintain the 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 Contractor 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 Contractor for all undisputed fees and expenses related to the software and/or services City has received, or Contractor has incurred or delivered, prior to the effective date of termination. In the event of a conflict between this provision and any other provision in this Agreement, the terms of this provision shall govern.

ARTICLE X
INDEMNIFICATION

10.01 General Indemnity. Contractor shall indemnify and hold City and all of its officers, agents, servants, and employees harmless from any loss, damage, liability or expenses, on account of damage to property or injury, including death, to any and all persons, including but not limited to officers, agents, or employees of City or Contractor and all other persons performing any act pursuant to this contract, which may arise out of any intentional misconduct, negligent act, error,

or omission by Contractor, its officers, agents, employees, invitees, or other persons for whom it is legally liable, with regard to the performance of this contract; Contractor shall defend at its own expense any suits or other proceedings brought against City or its officers, agents, servants, employees and shall pay all expenses and satisfy all judgments which may be incurred by or rendered against City, its officers, agents, servants or employees or any of them, in connection with the foregoing described intentional misconduct, negligent act, error, or omission by Contractor.

10.02 Environmental Indemnity.

(a) To the extent provided by law, City further agrees to indemnify and hold Contractor harmless from and against any and all claims, demands, charges, losses, damages, liabilities and obligations (including without limitation reasonable attorneys' fees and other costs and expenses of the indemnified party incurred as an incident thereto) arising of, based on, or relating to the existence of any (i) hazardous substances as defined in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 6901, ~ seq. and its implementing regulations or (ii) regulated substances, as defined in Section 90-01 of the Solid Waste Disposal act as amended by Section 9601 of the Hazardous and Solid Waste Amendments of 1984, as further amended by the Superfund Amendments and Regulations Act of 1986 in existence at the property of the Effective Date or which was not caused by Contractor or its agents, employees, representatives or invitees.

(b) To the extent provided by law, Contractor further agrees to indemnify and hold City harmless from and against any and all claims, demands, charges, losses, damages, liabilities and obligations (including without limitation reasonable attorneys' fees and other costs and expenses of the indemnified party incurred as an incident thereto) arising of, based on, or relating to the placement by Contractor, its agents, employees, representatives or invitees, of any (i) hazardous substances as defined in the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. Section 6901, ct seq. and its implementing regulations or (ii) regulated substances, as defined in Section 90-01 of the Solid Waste Disposal Act as amended by Section 9601 of the Hazardous and Solid Waste Amendments of 1984, as further amended by the Superfund Amendments and Regulations Act of 1986 on the Cemeteries after the Effective Date.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.01 Entire Agreement. This Agreement and any exhibits attached hereto contain the complete Agreement among the parties with respect to the transactions contemplated hereby and supersede all prior Agreements and understandings among the parties with respect to such transactions, including but not limited to the agreement between the City and Contractor dated June 28, 2007.

11.02 Notices. All notices, demands, requests or other communications that may be or are required to be given, served or sent by any party to any other party pursuant to this Agreement shall be in writing and shall be mailed by certified mail, return receipt requested or by verifiable

overnight delivery, postage prepaid or by facsimile transmission with receipt acknowledged or transmitted by hand delivery, addressed as follows:

If to CONTRACTOR:
Burlison Cemetery Operators LLC
c/o Lucas Funeral Home
Attn: James N. Lucas
P.O. Box 1587
Hurst, Texas 76053

If to CITY:
City Manager
City of Burlison
141 West Renfro
Burlison, Texas 76028

Each party may designate by notice in writing a new address to which any communication may thereafter be so given, served or sent. Each notice or communication that is mailed or delivered in the manner described above shall be deemed given at such time as it is delivered to the addressee (with the return receipt, the delivery receipt or the affidavit of messenger being deemed conclusive evidence of such delivery) or at such time as delivery is refused by addressee upon presentation.

11.03 Successors and Assigns. This Agreement and the rights, interest, and obligation hereunder may be assigned by the parties and shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns only with the prior written consent of the City. The City shall not unreasonably withhold or delay such consent.

11.04 Governing Law. Venue of any legal action arising out of this Agreement shall be in a district court in Johnson County, Texas.

11.05 Waiver and Other Action. This Agreement may be amended, modified or supplemented only by a written instrument executed by Contractor and City.

11.06 Severability. The parties hereto intend all provisions of this Agreement to be enforced to the fullest extent permitted by law. Accordingly, should a court of competent jurisdiction determine that the scope of any provision is too broad to be enforced as written; the parties intend that the court should reform the provision to such narrower scope as it determines to be enforceable. If, however, any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future law, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision were never a part hereof; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance, except to the extent such remaining provisions constitute obligations of another party to this Agreement corresponding to the unenforceable provision.

11.07 Memorandum of Agreement. If requested by either party, City and Contractor shall execute and deliver a mutually acceptable memorandum of this Agreement for the purpose of recording but the memorandum shall not in any circumstance be deemed to modify or to change any of the provisions of this Agreement.

11.08 No Waiver of Governmental Immunity. Notwithstanding anything in this Agreement to the contrary, nothing contained in this Agreement shall be construed as a waiver of City's governmental immunity, or of any damage caps or limitations imposed by law, or any other legal protections granted to City by law, except to the extent expressly provided or necessarily implied herein. In the event of a conflict between this provision and any other provision in this Agreement, the terms of this provision shall govern.

ARTICLE XII

MUTUAL COOPERATION

12.01 Mutual Cooperation. During the Term, City and Contractor shall cooperate with each other to the greatest extent possible in order to provide the general public with more complete and convenient cemetery services. These cooperative efforts shall include, but shall not be limited to, the following:

(a) The contractor shall present the rate for lot sales to the City no later than June 15 of each year. The contractor must receive City Council approval for any fee increases for lot sales greater than 10% from the previous year. Any other fees shall be comparable to fees charged by comparable cemeteries in the Metroplex.

(b) Contractor shall coordinate with the Burleson Cemetery Board and appropriate City Staff.

(c) Contractor agrees to provide the mowing services of the Cemetery until 60 days after the Effective Date of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Signed on this 12 day of NOVEMBER, 2018.

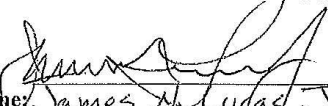
THE CITY OF BURLESON, TEXAS

By: 

Name: KEN SHETTER

Title: MAYOR

BURLESON CEMETERY OPERATORS, LLC

By: 
Name: James H. Lugas Jr.
Title: Member

City Council Regular Meeting

DEPARTMENT: Parks and Recreation
FROM: Jen Basham, Parks and Recreation Director
MEETING: August 7, 2023

SUBJECT:

Consider approval of an ordinance amending Article 2 “Rules and Regulations” of Chapter 18 “Cemeteries” of the City of Burleson Code of Ordinances (First Reading). (*Staff Presenter: Jen Basham, Parks and Recreation Director*).

SUMMARY:

City staff is recommending that the City Council amend the Code of Ordinances regarding the cemetery to increase requirements when installing monuments. Staff believes the proposed amendments will increase the quality of the cemetery and decrease future maintenance costs. The proposed amendments will provide protections against cemetery monuments leaning or breaking in the future.

In a nutshell, the proposed amendments will make three changes to the current cemetery ordinance. First, the amendments will provide for enhanced requirements concerning cemetery monument installation. Second, the amendments will require that all monument installation companies be approved by the City or the cemetery operator. Finally, the amendments will provide for additional specifications for memorial foundations.

On January 11, 2023, the Cemetery Board reviewed the current ordinance and monument installation policy, and recommended that the ordinance be amended.

OPTIONS:

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

RECOMMENDATION:

Staff recommends approving as presented.

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

January 11, 2023 – Staff briefed Cemetery Board on monument installation policy and recommended ordinance updates to address leaning monuments.

FISCAL IMPACT:

None

STAFF CONTACT:

Jen Basham, CPRE
Parks and Recreation Director
jbasham@burlesontx.com
817-426-9201



Cemetery Fees, Contract, and Ordinance Updates

City Council Meeting - August 7, 2023

Staff Presenter: Jen Basham, Parks and Recreation Director

Overview

- 1 Review recommended cemetery fees for adoption**
- 2 Discuss recommended amendments cemetery operations contract**
- 3 Review recommended amendments to cemetery rules ordinance**

Background

- **January 11, 2023 - Staff briefed Cemetery Board on monument installation policy and recommended ordinance updates to address leaning monuments**
- **May 17, 2023 - Staff presented proposed space fees to Cemetery Board for newly expanded area of Burleson Memorial Cemetery**
 - Cemetery Board requested additional information to enable more informed recommendations
- **June 21, 2023 - Staff provided revised presentation of fee proposals and the Cemetery Board provided fee recommendations to be presented to City Council for consideration.**
- **Staff worked with Burleson Cemetery Operators (dba Lucas & Blessing) and city legal staff to draft contract amendments to reflect fees as proposed by Cemetery Board.**

Current Space Fees (Original Section)

Fees applicable to contract:

- Single grave space: \$1,450
- Companion space (double-depth): \$2,350
(second interment rite add \$900 to single grave space fee)
- Baby Space: \$245



Benchmarking Comparable Cemeteries

Cemetery grave pricing reviewed to ensure adherence to current market rates for newly expanded area

- **Bear Creek Cemetery - similar to Burleson as recently reinvented cemetery**
- **Laurel Land Cemetery - close in proximity and class**
- **Mansfield Cemetery - close in proximity and class**
- **Mt. Gilead - good model to consider for columbarium management and pricing currently managed by Lucas and Blessing**
- **Skyvue Cemetery - close in proximity and class**
- **Other local cemeteries not recommended to compare to new Burleson improvements**



Benchmarking

	Flat Marker	Upright	Cremation Space	Cremation Niche (Columbarium)	Baby	Double Depth	Family (3 plots)	Family (4 plots)
Mansfield City	\$2,000	\$2,000	NA	NA	NA	NA		
Skyvue Memorial	\$920	NA	NA	\$2,170- \$3,190	\$300-\$600	\$200		
Laurel Land Memorial	\$3,995-\$6,695	\$6,695	NA	\$4,495	\$695	\$2,795		
Bear Creek	\$300	\$3,000	\$1,200	NA	\$800	NA		
Mt. Gilead	NA	NA	NA	\$2,200	NA	NA		
Burleson	\$1,450	\$1,450	\$995	\$2,200	\$245	\$2,350	\$11,250	\$15,000

Cemetery Board Fee Recommendations

Space Type	# of spaces available in original area	# of spaces available in expansion area	Original Area Fees	Proposed Expansion Area Fees	Comments
Upright Monument	*300 (some spaces unusable due to size requirements)	320	\$1,450	**\$2000	Includes extra 2-ft. easement for monument with shrub wall. \$2,500 originally proposed per benchmark study
Flat Monument		576		\$1,700	
Double Depth	Any full size space could be used as double depth	Any full size space could be used as double depth	\$900	\$900	
Baby Spaces	16	190	\$245	**\$400	\$500 originally proposed per benchmark study
Cremation Space	NA	300	NA	\$995	
Cremation Space	NA	128	NA	\$2,200	
Family Estate (3 plots)	NA	4	NA	\$11,250	3 spaces in center plaza near fountain with private shrub wall
Family Estate (4 plots)	NA	8	NA	\$15,000	4 spaces in center plaza near fountain with private shrub wall
Total	316	1,558			

***No distinction made between flat and upright monument spaces in original cemetery area**

****Proposed fees in red denote Cemetery Board-suggested decreases from originally proposed**

Revenue Projections

New expansion spaces only

Space Type	Spaces	Existing fees	Proposed	Revenue using existing fees	Revenue using proposed fees
Upright Monument	320	\$1,450	\$2,000	\$464,000	\$640,000
Flat Monument	576		\$1,700	\$835,200	\$979,200
Double Depth	Any full size space could be used as double depth	\$900	\$900	Any full size space could be used as double depth	
Baby Spaces	190	\$245	\$400	\$46,550	\$76,000
Cremation Space	300	N/A	\$995	\$298,500	\$298,500
Columbarium Niche	128	N/A	\$2,200	\$281,600	\$281,600
Family Estate (3 plots)	4	N/A	\$11,250	\$45,000	\$45,000
Family Estate (4 plots)	8	N/A	\$15,000	\$120,000	\$120,000
Total				\$2,090,850	\$2,440,300
Net 65% remittance				\$1,359,052.50	\$1,586,195
Net Difference				\$227,142.50	

Operations and Maintenance (O&M) Costs

Spaces Sales Revenues expensed over **20 years** (estimated time to sell all spaces)

Includes all remaining spaces available for sale including old section spaces

Remaining old section spaces assumed at existing rate

Assumes annual lot sales as constant over estimated time to sell all remaining lots

Does not include annual costs or budget for leveling leaning monuments in old section with foundation and piers

All revenues are net revenues accounting for **65% remittance** to City for every lot sale

Escalation of annual O&M costs over 20 years not considered in model

Estimated Annual Revenue Using Existing Fees	Estimated Annual Revenue Using Proposed Fees	Annual O&M Costs for Entire Cemetery	Estimated Annual Cost Recovery Existing Fees	Estimated Annual Cost Recovery Proposed Fees
\$67,952.63	\$79,309.75	\$74,000	-\$6,047.38	\$5,309.75

Existing Cemetery Management Contract

- Contractor: Burleson Cemetery Operators LLC dba Lucas and Blessing
- Current Contract Executed: November 12, 2018
- Term: 10 years with two 5-year renewal options that must be approved by City Council
- Items subject to fees:
 - Burial lot sales
 - "Extraordinary burial structures" e.g. columbaria, scatter gardens, etc.
- Remittance fee to City: 65%
- Fee increases greater than 10% from previous year must be approved by Council



Contract Revisions Proposed

- Remove language allowing Lucas & Blessing to increase space fees up to 10% annually
- Require all fee increases be approved by City Council
- Add approved fee table to contract
- All changes to be included as addendum to existing contract



Cemetery Monument Leveling

- **December 2022, staff hired contractor to level headstone monuments that had severely shifted**
- **Monuments were re-set with 6-inch foundations and 18-inch piers to minimize future shifting**
- **82 monuments of the most severely monuments were re-set**
- **Change of cemetery rules ordinance is required to ensure future monument installations are correct**



Current Policy - Rules and Regulations

- Code of the City of Burleson
- Chapter 18 "Cemeteries", Article II "Rules and Regulations"
- Outlines monument installation process and monument foundation specifications
- Staff is recommending updates on monument installation procedures and specifications to include best practices for improved quality control



Proposed Policy Changes and Impacts

Repeal and replace Article II of Chapter 18 to include:

- Enhanced specifications related to monument installation
- Require all monument installation companies be approved by City or designated cemetery operator
- Additional specifications for memorial foundations to strengthen foundations and include 18-inch piers to help prevent monuments from leaning



Items for Consideration: 7A, 7B, 7C

A

Consider approval of an ordinance amending the City's fee schedule ordinance by adding fees associated with Burleson Memorial Cemetery

B

Consider approval of a contract amendment with Lucas and Blessing (Burleson Cemetery Operators) for grave and cremation spaces for newly expanded section of Burleson Memorial Cemetery

C

Consider approval of an ordinance amending Article 2: Rules and Regulations of Chapter 18: Cemeteries of the City of Burleson Code of Ordinances (First Reading)

Amending city fee schedule for cemetery space fees will require two readings but space sales will be available following approval at first reading and refunded if necessary.

Options for Item 7A

Cemetery Board recommendation

Staff recommendation



**Approve cemetery fees
as presented**



**Approve cemetery fees
with changes**



**Deny cemetery fees
as presented**

Options for Item 7B

Cemetery Board recommendation

Staff recommendation



**Approve contract
amendment with
Burleson Cemetery
Operators as presented**



**Approve contract
amendment with
Burleson Cemetery
Operators with changes**



**Deny contract
amendment with Burleson
Cemetery Operators**

Options for Item 7C

Cemetery Board recommendation

Staff recommendation



Approve cemetery ordinance revisions as presented



Approve cemetery ordinance revisions with changes



Deny cemetery ordinance revisions as presented

ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AMENDING CHAPTER 18 “CEMETERIES” OF THE CODE OF ORDINANCES OF THE CITY OF BURLESON, BY REPEALING ARTICLE II “RULES AND REGULATIONS” AND ENACTING A NEW ARTICLE II “RULES AND REGULATIONS”; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Burleson ("City Council") seeks to protect the public safety, preserve the quality of life, and promote efficiency within the City; and

WHEREAS, it is in the best interests of the public health and welfare of the people of the City of Burleson to have orderly rules and regulations that govern the use and activities within the Burleson Memorial Cemetery; and

WHEREAS, the City Council finds that the regulations set forth in this ordinance are necessary for the purpose of promoting the health, safety and general welfare of the community; that such regulations are necessary to protect health, life and property; and that public necessity requires that such rules and regulations be adopted to preserve and enforce the health, safety and welfare and the good order and security of the City and its inhabitants; and

WHEREAS, the City Council finds this ordinance to be reasonable and necessary;

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

SECTION 1.

Chapter 18 “Cemeteries” of the Code of the City of Burleson is hereby amended by repealing Article II “Rules and Regulations” and enacting a new Article II “Rules and Regulations,” the text of which shall read as follows:

“ARTICLE II. RULES AND REGULATIONS

§ 18-41 OBEYING GENERALLY.

The city reserves the right to require all persons entering a cemetery to obey all rules and regulations adopted herein. The rules and regulations may be changed without notice to any owner by the city council.

§ 18-42 ENTRY AND REMOVAL BY CITY.

The city has the authority to enter upon any space and to remove any

objectionable thing that may have been placed there contrary to the regulations of this article.

§ 18-43 PROTECTION FROM LOSS OR DAMAGE.

The city shall take reasonable precaution to protect owners and the property rights of the owners, within the cemetery from loss or damage, but it distinctly disclaims all responsibility for loss or damage caused by the elements, an act of God, common enemy, thieves, vandals, unavoidable accidents, whether the damage is direct or collateral, other than as herein provided.

§ 18-44 RIGHT OF ACCESS AND ALTERATION BY CITY.

The city has the right to enlarge, reduce, replat or change the boundaries or grading of the cemetery as it deems appropriate. The city reserves unto itself, and those lawfully entitled thereto, a perpetual right of ingress and egress over lots for the purpose of passage to and from other lots, and to accomplish all necessary maintenance and preservation of said lots.

§ 18-45 SALE OR TRANSFER OF SPACE.

The sale or transfer of any interment right by any space owner shall not be binding unless first approved in writing by the city. The recording fees for the sale or transfer of a space shall be as established on the city's fee schedule. This procedure is required in order that the city may at all times have a complete and accurate record of all owners of spaces.

§ 18-46 CLOSING CEMETERY.

The cemetery shall be closed from sundown to sunup. The city reserves the right to close the cemetery on a temporary basis at any time.

§ 18-47 GLASS CONTAINERS.

No glass containers of any type are allowed in the cemetery.

§ 18-48 PETS.

Pets shall not be allowed in the cemetery.

§ 18-49 INTOXICATING BEVERAGES.

The use of intoxicating beverages within the cemetery is strictly forbidden.

§ 18-50 VANDALISM.

It shall be unlawful to vandalize cemetery property, memorials, or graves at the cemetery and anyone apprehended doing so will be subject to prosecution.

§ 18-51 VEHICLES ON GROUNDS.

- (a) *Speed.* Automobiles, trucks, and other vehicles shall not be driven through the grounds at a speed greater than 15 miles per hour, and must at all times be kept on the paved roads throughout the cemetery.

- (b) *Use off established roadways.* The city reserves the right to determine when vehicles may be driven off established roadways.

§ 18-52 EXCLUDED STRUCTURES.

No structures of any kind, such as curbing, fencing, benches (memorials excluded), flagpoles, etc., shall be permitted upon any space or lot.

§ 18-53 PLANTING OF HORTICULTURE PRODUCTS.

- (a) The planting of any kind or type of horticultural product shall be prohibited without prior approval of the city. Horticultural products, when approved by the city, shall be planted at the head of the grave and shall be miniature in size whose roots will not extend beyond the dripline of the plant and not exceed 12 to 18 inches in height. Those individuals receiving permission to plant horticulture products in the cemetery shall hold the city harmless in the event the plants die or are damaged. Cut flowers or artificial flowers may be used at any time, provided that they are placed at the head of the grave.
- (b) Holders such as clay or plastic pots, wire, frames, etc., containing flowers or other decorations may be removed as soon as the flowers fade or wither and the right is reserved by the cemetery to make such removal.
- (c) Placing of potted plants, cut flowers, or baskets is permitted adjacent to the headstone only; however, to improve the appearance and to aid in maintenance, all potted plants, and flowers and baskets may be removed at the discretion of the city. Funeral designs or floral pieces will be removed from graves when they become wilted or unsightly. Persons desiring to retain the same must remove them within 72 hours. Artificial flowers may be moved 30 days after the holidays. The digging of holes for placement of plants or flowers is strictly prohibited beyond the limitations of this article.
- (d) If any tree or shrubs situated on any space shall become detrimental, unsightly, or impede access to adjacent spaces, walks, or roads, they may be pruned or removed in whole or in part as determined necessary by the city. Once a tree or shrub is removed, the city will determine if a replacement can be planted in the area where the tree or shrub was removed.

§ 18-54 INSTRUCTIONS FOR SPACE HOLDERS AND SPACE HOLDERS' RIGHTS.

- (a) Burial vaults either partially or entirely above the ground are prohibited.
- (b) A permanent type of container such as a concrete liner or burial vault is required for any interment where the casket is 36 inches in length or larger.
- (c) A maximum of two caskets will be allowed in each space. In the event

cremation is utilized, a maximum of four interments will be permitted in one space.

§ 18-55 INTERMENTS, DISINTERMENTS, AND REINTERMENTS.

- (a) Written authorization from the owner of record of a space, or his designated representative or successor interest, or other proper legal authority will be required before an interment or reinterment is allowed.
- (b) Proper authorization as required by the local government or public authority having jurisdiction in the matter must be presented to the city office at the time an interment, disinterment, or reinterment is effected. The city shall not be liable for the accuracy of the data contained in said authorization or for the identity of the person to be interred or disinterred.
- (c) All interments, disinterments, and reinterments shall be performed by a licensed funeral director, the city or its contractors, or other person as provided for by state and local laws.
- (d) Interments are allowed only in areas dedicated for grave spaces and defined on the official cemetery maps.

§ 18-56 MEMORIALS; PERMITS.

- (a) Memorial dealers or installation contractors shall abide by all rules and regulations of the cemetery.
- (b) For the protection of all space owners, any memorial dealer or installation contractor erecting or repairing memorials must be approved by the city through its parks and recreation director or designee or its designated operating manager and are subject to the installation or repair cost.
- (c) The city reserves the right to approve the size, craftsmanship, quality, and foundations of memorials placed or to be placed in the cemetery. The city reserves the right to disapprove any memorial which does not meet the requirements as defined in the rules and regulations. The city is not responsible for any expense, direct or consequential, incurred by the memorial provider and/or memorial purchaser for memorials not approved by the city.
- (d) Memorial dealers or installation contractors engaged in placing or erecting memorials or other structures are prohibited from scattering their material over adjoining spaces, or from blocking roads or walks, or from leaving their material on the grounds longer than necessary. Damage done to spaces, walks, drives, trees, shrubs, or other property shall be repaired at their expense to the satisfaction of the city.
- (e) Memorial dealers or installation contractors must contact the city or designated operating manager for instruction as to delivery to the Cemetery of memorials. The designated operating manager through

its approved contractor will complete the installation of the memorial within a reasonably scheduled period of time upon receiving delivery of the memorial. The memorial dealer or installation contractor may be request permission from the city to exceed the time frame for installation if such installation is reasonably delayed due to weather, acts of God, or when installation would endanger life or property.

- (f) Work of any nature may be stopped if proper preparations have not been made; or when work is being done in such a manner as to endanger life or property; or when there is evidence of misrepresentation; or when work is not being executed according to specifications when a request on the part of the city is disregarded; or when any person employed in the work violates any rule of the cemetery.
- (g) All interments shall have a memorial reflecting, at minimum, the full name of the deceased and the date of death within 12 months of the date of internment.
- (h) Memorials shall be installed and maintained at the expense of the owner.
- (i) The size of the memorial is to be governed according to the ratio of the area of the base of the memorial to the size of the space. The length of the base shall not exceed 75 percent of the width of the space.
- (j) Memorials shall be made of granite, marble or cast bronze installed on granite, marble, or concrete base.
- (k) Flush type and aboveground memorials are allowed in different sections of the cemetery as reflected on the map maintained by the city.
- (l) Mausoleums, structures housing a tomb or numerous tombs, are permitted in only designated areas of the cemetery.
- (m) Should an existing memorial or mausoleum become unsightly, dilapidated, or a menace to the safety of persons within the cemetery, the city shall have the right to correct the condition or to remove the same. Any expense incurred may be charged to the space owner.

§ 18-57 MEMORIAL FOUNDATIONS.

- (a) The concrete to be used for the memorial foundation shall have a minimum compression strength of 3,000 pounds per square inch.
- (b) The memorial foundation shall be two inches longer in either direction than the memorial base.
- (c) All memorial foundations must have number three rebar steel reinforcing mats.
- (d) Memorial foundations must be six inches in depth.

- (e) Memorial foundations must have six-inch rebar grid spacing for foundation mat.
- (f) Memorials up to 36 inches wide must include foundations with two 18-inch concrete (3,000 psi) piers with number three rebar steel. Memorials wider than 36 inches must include foundations with three 18-inch concrete (3000 psi) piers with number three rebar steel.
- (g) All memorial foundation installation contractors must warranty foundation for a minimum of ten years.

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances of the Code 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 conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

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 4.

All rights and remedies of the City of Burleson, Texas, are expressly saved as to any and all violations of the provisions of the Code of the City of Burleson, or any other ordinances of the City, that 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 5.

Any person convicted of violating the provisions of the Code of the City of Burleson as enacted by this Ordinance shall be guilty of a Class C misdemeanor and shall be punished by a fine not to exceed \$500. This Section does not serve to limit any other remedies available to the City of Burleson in law or equity. Each violation of this ordinance shall constitute a separate offense.

SECTION 6.

The City Secretary of the City of Burleson is hereby directed to give notice of the passage of this ordinance by causing the caption or title and penalty clause of this ordinance to be published as required by Section 36 of the Charter of the City of Burleson.

SECTION 7.

All other provisions of the Code of the City of Burleson, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8.

This ordinance shall take effect upon adoption and publication as required by law.

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

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

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

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Fire
FROM: K.T. Freeman, Fire Chief
MEETING: August 7, 2023

SUBJECT:

Consider approval of an ordinance repealing and replacing Article II “Emergency Medical Services” of Chapter 30 “Emergency Services” of the City of Burleson Code of Ordinances. (First Reading) (*Staff Presenter: K.T. Freeman, Fire Chief*)

SUMMARY:

Beginning October 1, 2023 the City will transition out of the current Ambulance Service provider MedStar into a Fire Based EMS Transport system operated under the authority of the City. Currently, the City operates under an Ordinance that designates MedStar as the exclusive provider of ambulance services within Burleson’s city limits. The current EMS Ordinance must be repealed and replaced with a new restated Ordinance that will establish the City as the exclusive provider effective October 1, 2023, of ambulance services, Mobile Integrated Healthcare, and other related duties and responsibilities that are included in the amended Ordinance.

OPTIONS:

- 1) Approve proposed Ordinance as presented
- 2) Deny proposed Ordinance
- 3) Approve proposed Ordinance with modifications

RECOMMENDATION:

Staff recommends to approve Ordinance as presented

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

N/a

FISCAL IMPACT:

N/a

STAFF CONTACT:

K.T. Freeman
Fire Chief
ktfreeman@burlesontx.com
817-426-9171



Amendment to Chapter 30 “Emergency Services” of the Code of Ordinances

CITY COUNCIL PRESENTATION

AUGUST 7, 2023

Purpose of Amendment

- Effective October 1, 2023, the City will no longer be utilizing the MedStar Ambulance Transportation System.
- Currently, the City operates under an Ordinance that designates MedStar as the exclusive provider of ambulance services within Burleson's city limits.
- As of 12:01 am on October 1, 2023, the City of Burleson will take over the responsibility of providing Fire-Based EMS Ambulance Services. Therefore, it will become the sole provider of all ambulance services within the City's geographical area and corporate limits.
- This action will repeal and replace the current ordinance that is with MedStar.
- To make this transition official, the City must repeal the existing EMS Ordinance as of Midnight on October 1, 2023. A new restated Ordinance needs to be put in place, establishing the City as the exclusive provider of ambulance services, Mobile Integrated Healthcare, and other related duties and responsibilities as outlined in the amended Ordinance.

EMS Transition Update

- On July 14, 2023, application submitted to become an Ambulance transport provider with the State. The State representatives confirmed receipt of our application and assured a normal processing time of 30-40 days, aligning with our go-live date of October 1st.
- Care-flight Ambulance is finalizing the Mutual Aid Services draft, expected to be reviewed and placed on the August 21st Council agenda for consideration.
- Proposed Final Mutual Aid Agreement Draft for EMS Medical Services with MedStar is scheduled for August 7th City Council Meeting for Councils consideration to approve.
- July 25th met with Demers and Siddon's Martin executives regarding ambulance production. Ambulances will begin to be delivered third week in August.
- Supplies for stocking the ambulances are arriving & no issues are anticipated in equipping the Ambulances before going live.
- FD personnel received extensive training in the Simulation Lab at THR Harris and participated in Ambulance ride outs with Mansfield FD and Crowley FD. Staff is finishing up EMS credentialing under our Medical Director Dr. Cordova.
- EMD (Emergency Medical Dispatch) protocol training has been completed. EMD-QA (Quality Assurance) training completed, EMD final configuration review completed. EMD & QA software training scheduled for and will be completed by end of August.
- Active Assailant Training scheduled to be completed by end of August.



Council Action Requested

Approve

- Staff recommends approval of repealing the current EMS Ordinance and enacting a new EMS Ordinance effective October 1, 2023, according to the terms and conditions contained within the proposed Ordinance for consideration.

Questions/ Comments?



ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY OF BURLESON, BY REPEALING ARTICLE II “EMERGENCY MEDICAL SERVICES” AND ENACTING A NEW ARTICLE II “EMERGENCY MEDICAL SERVICES”; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Burleson ("City Council") seeks to protect the public safety, preserve the quality of life, and promote efficiency within the City; and

WHEREAS, it is in the best interests of the public health and welfare of the people of the City of Burleson to have available to them a regulated prehospital emergency medical services and medical transportation system which can provide quality clinical care with performance measures and standards, with the goal of facilitating the best possible outcomes for each patient; and

WHEREAS, the City Council finds that the regulations set forth in this ordinance are necessary for the purpose of promoting the health, safety and general welfare of the community; that such regulations have been designed to lessen congestion by emergency vehicles on the public streets and to secure safety to pedestrians and vehicles using the public streets and thoroughfares; that such regulations are necessary to protect health, life and property; that such regulations apply to all operators of ambulances as a whole, operating for hire under emergency conditions or otherwise on the streets and public thoroughfares, in such a manner as to minimize the hazards and dangers inherent in the operations of ambulances under emergency conditions; and that public necessity requires that such regulations be adopted to preserve and enforce the health, safety and welfare and the good order and security of the City and its inhabitants; and

WHEREAS, the City Council finds that the regulations set forth in this ordinance are adopted pursuant to Texas Health and Safety Code § 773.051, which provides that local governments may establish standards for ambulances; and

WHEREAS, the City Council finds this ordinance to be reasonable and necessary;

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

SECTION 1.

Chapter 30 “Emergency Services” of the Code of Ordinances of the City of Burleson is hereby amended by repealing Article II “Emergency Medical Services” and enacting a new

Article II “Emergency Medical Services,” the text of which shall read as follows:

“ARTICLE II: EMERGENCY MEDICAL SERVICES

§ 13-31 STATUTORY AUTHORITY.

This article is enacted by the City of Burleson, pursuant to Texas Health and Safety Code § 773.051, which provides that local governments may establish standards for ambulances.

§ 13-32 DEFINITIONS.

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

ADVANCED LIFE SUPPORT - Out-of-hospital care that uses invasive medical acts (as defined in V.T.C.A., Health and Safety Code § 773.003(1)).

AEROMEDICAL TRANSPORTATION UNIT - Any rotary or fixed wing aircraft providing basic or advanced life support services and patient transportation that originates within the service area.

AMBULANCE MUTUAL AID AGREEMENT - A written agreement between the City and one or more entities whereby the signing parties agree to provide backup ambulance service to one another under the terms and conditions specified in the agreement.

AMBULANCE SERVICE - The transportation of patients by emergency or non-emergency ambulance.

BASIC LIFE SUPPORT - Out-of-hospital care that uses noninvasive medical acts (as defined in V.T.C.A., Health and Safety Code § 773.003(2)).

CITY – The City of Burleson, Texas.

CITY MANAGER – The city manager of the City of Burleson, Texas.

CITY SECRETARY – The city secretary of the City of Burleson, Texas.

EMERGENCY CARE ATTENDANT - A person certified as an "emergency care attendant" under V.T.C.A. Health and Safety Code § 773.046.

EMERGENCY MEDICAL TECHNICIAN (EMT) - A person certified as an "emergency medical technician" under V.T.C.A., Health and Safety Code § 773.047 or an "advanced emergency medical technician" under V.T.C.A., Health and Safety Code § 773.048, and any other class of EMT recognized

by state law or regulation.

EMS COMMUNICATIONS CENTER - The facility designated by the City as the central communications center from which all services offered by the City shall be dispatched and controlled.

FIRE CHIEF – The chief of the fire department of the City of Burleson, Texas.

FIRST RESPONDER - Any agency that provides first response to requests for emergency medical services and, in cooperation with the ambulance service, provides immediate on-scene care to ill or injured persons but does not transport those persons to healthcare facilities.

MEDICAL DIRECTOR - The licensed physician retained through a contract with or employed by the City who is responsible for carrying out his or her duties under this article.

MEDICAL TRANSPORTATION - The transportation of patients by ambulance, specialized mobile intensive care unit, specialty care transport, or aeromedical transportation unit, including both emergency and non-emergency transports, where such transportation originates within the service area.

MOBILE INTEGRATED HEALTHCARE (MIH) - Services provided by the City that are designed to enhance, coordinate, effectively manage, and integrate out of hospital care, in order to improve outcomes, enhance the client's experience of care, and improve the efficiency and effectiveness of healthcare services provided to the enrolled clients.

PARAMEDIC - A person qualified as a certified or licensed "paramedic" as defined by V.T.C.A., Health and Safety Code §§ 773.049 and 773.0495.

PATIENT - An individual who is ill, sick, injured, wounded, or otherwise incapacitated, and in need of or at risk of needing medical care at the scene of a medical emergency or during transport to or from a healthcare facility.

PERSON - Any individual, firm, association, partnership, corporation, governmental entity, or other group, or a combination of the same acting as a unit.

SERVICE AREA - That geographical area which is contained within the corporate limits of the City.

SPECIAL EVENT - Any public event located within the service area for

which standby ambulance service is arranged in advance, and for which an ambulance is hired by the sponsor of the event or other interested party.

SPECIALTY CARE TRANSPORT - The transportation of a critically injured or ill patient at a level of service beyond the scope of the EMT-paramedic when the patient's condition requires ongoing care that must be furnished by one or more health professionals in an appropriate specialty area; for example, emergency or critical care nursing, emergency medicine, respiratory care, cardiovascular care, or a paramedic with additional training.

SPECIALIZED MOBILE INTENSIVE CARE UNIT - A vehicle which is specially constructed, equipped, staffed, and employed in the inter-facility transport of patients whose requirements for en route medical support are likely to exceed the clinical capabilities of an advanced life support ambulance.

§ 13-33 PURPOSE AND INTENT OF ARTICLE.

It is the purpose of this article:

- (1) To establish a regulated prehospital emergency medical services and medical transportation system which can provide quality clinical care with performance measures and standards, with the goal of facilitating the best possible outcomes for each patient;
- (2) To establish a mobile integrated healthcare program with effective medical direction and quality assurance and review;
- (3) To administer and operate the prehospital emergency medical services and medical transportation system in the service area and to administer and operate the mobile integrated healthcare program; and
- (4) To designate City as the sole-provider of emergency and non-emergency ambulance service including interfacility transfers and special event stand-by services within this jurisdiction to maintain consistent, high-quality service while controlling costs through efficiencies and economies of scale.

§ 13-34 FEES FOR AMBULANCE SERVICE.

- (a) The fees and charges for the use of the city ambulance service, along with specified collection standards, shall be established by the City Council annually as part of the budget process. Upon final budget approval by the City Council, the ambulance fee schedule shall be posted on the city's website and the emergency ambulance service fees shall be in effect until such time as a new emergency ambulance service fee schedule is approved.
- (b) Any person(s) receiving ambulance services shall be responsible to remit payment to the City based upon the then-current schedule of fees and charges in effect on the date of receipt of services. In the case of ambulance services being received by a minor, the parent or legal guardian shall be responsible to remit payment to the city.

- (c) The City may contract with a billing service entity for the collection of ambulance service fees.

§ 13-35 POWERS OF THE CITY.

The City shall have the following powers and duties:

- (1) The City is hereby designated as the sole provider of ambulance service and special event ambulance standby service within the service area, whether directly or indirectly through contractors, pursuant to the terms, conditions, and provisions of this Article.
- (2) The City shall provide basic and advanced life support ambulance service in accordance with all applicable law, rules and regulations, as well as all patient care standards that the medical director may from time to time promulgate.
- (3) The City is authorized to operate an MIH program on a non-exclusive basis in the service area.
- (4) The City may issue, suspend, revoke, and renew permits for the delivery of first responder services in this jurisdiction by other agencies, subject to the credentialing process by the medical director and subject to rights of appeal to the City Manager or City Manager's designee.
- (5) The City may adopt standards approved by the medical director governing the operation of specialized mobile intensive care units and for specialty care transport within the service area, including standards limiting the types of patients which may be transported thereby, and, subject to the credentialing process by the medical director, may issue, suspend, revoke, and renew permits for the operation of such units as required by this Article.
- (6) The City may adopt standards approved by the medical director governing the operation of aeromedical transportation units within the service area, including standards defining the circumstances under which such units may be deployed to emergency scenes and, subject to the credentialing process by the medical director, may issue, suspend, revoke, and renew permits for the operation of such units as required by this Article.
- (7) The City may adopt standards approved by the medical director governing the provision of special event ambulance standby service within the service area, and, subject to the credentialing process by the medical director, may issue, suspend, revoke, and renew permits for the provision of such ambulance standby service.

§ 13-36 VIOLATIONS.

- (a) It shall be unlawful:
 - (1) To knowingly give false information to induce the dispatch of an ambulance or aeromedical transportation unit.
 - (2) To perform duties as an ECA, EMT, paramedic or emergency ambulance dispatcher without current credentials issued by the

- medical director, unless participating in a training program approved by the medical director;
- (3) To permit a person to work as an ECA, EMT, paramedic or emergency ambulance dispatcher without current credentials issued by the medical director, unless participating in a training program approved by office of the medical director;
 - (4) To use, or cause to be used, any ambulance service other than the City, except as permitted in subsection (b) below;
 - (5) For any person or entity other than the City to provide ambulance service within this jurisdiction, unless pursuant to a written agreement with the City;
 - (6) For any person to provide medical transportation originating in the service area without a permit issued by the City;
 - (7) For any agency to provide first responder services without a first responder permit issued by the City, unless pursuant to a first responder agreement with the City or without a written automatic aid or ambulance mutual aid agreement with the City of Burleson;
 - (8) To use an ambulance for the transportation of persons other than in connection with the transportation of a patient.
- (b) It shall be a defense to any alleged violation of this section that a vehicle is being used or service is provided solely in any of the following manners:
- (1) As a privately owned vehicle not ordinarily used in the business of transporting persons who are sick, injured, wounded, incapacitated or helpless;
 - (2) Rendering service as an ambulance at the request of the EMS communications center upon the declaration of a disaster by this jurisdiction, the state of Texas, or the United States; or a declaration of a major catastrophe or extreme system overload by the Fire Chief;
 - (3) Any ambulance owned or operated by the federal or state government;
 - (4) Ambulance mutual aid calls when rendered pursuant to an ambulance mutual aid agreement approved by the City;
 - (5) Special event ambulance standby coverage, so long as such service is provided without charge by an emergency medical services volunteer provider, as defined in V.T.C.A., Health and Safety Code § 773.003(13), or the City has first declined to provide coverage and the entity providing coverage has been issued a permit by the City and is providing services in accordance with Section 13-39;
 - (6) Wheelchair transport services for persons other than patients, when the service is not provided by ambulance; and
 - (7) Medical transportation of a patient where the transport originates outside the service area.

§ 13-37 PENALTIES.

- (a) Any person convicted of violating the provisions of section 30-37 shall be guilty of a class C misdemeanor and shall be punished by a fine not to exceed \$500.00 (V.T.C.A., Penal Code§ 12.23).
- (b) This section does not serve to limit any other remedies available to the jurisdiction in law or equity.
- (c) Each violation of this article shall constitute a separate offense.

§ 13-38 TAFFIC LAWS; EXEMPTION.

When the driver of an emergency medical response vehicle has reasonable grounds to believe that an emergency exists, as determined by the City, the vehicle shall be treated as an "authorized emergency vehicle" within the meaning of V.T.C.A., Transportation Code ch. 546 and shall be exempt from traffic laws as provided therein.

§ 13-39 PERMIT FOR SPECIAL EVENT AMBULANCE STANDBY SERVICES.

Application for a permit for special event ambulance standby services shall be in written form prescribed by the city, signed and sworn to by the applicant, and shall be filed with the City Secretary. The application fee, if any, shall be set forth in the City fee schedule. The City shall not issue a permit to an applicant unless the Fire Chief has declined in writing to provide ambulance standby services at the special event. In addition to the above, to be eligible for a permit under this section, the applicant must: (1) demonstrate it meets the standards approved by the medical director, if any; (2) agree to abide by the standards approved by the medical director, if any, and the regulations set forth in this article; (3) demonstrate and agree that the persons operating the standby ambulance have in their possession both an appropriate, valid driver's license issued by the State of Texas and a current Texas Department of Health EMS certification; (4) demonstrate and agree that the standby ambulance is capable of communicating with the EMS Communications Center via assigned two-way radio frequency; and (5) demonstrate and agree to keep in full force and effect public liability insurance in the amount of not less than \$1,000,000 for each person, \$3,000,000 for each accident, and \$100,000 for property damage, to secure payment of all lawful and proper claims arising out of the operations of the ambulance service authorized by this Section. Any permit issued hereunder shall be subject to revocation, alteration or suspension by the City where it shall appear that one or more of the following conditions exist: (1) the permit was obtained by an application in which any material fact was intentionally omitted or falsely stated; (2) the permit holder has willfully and knowingly violated or failed to comply with any of the provisions of this article; or (3) the permit holder's insurance, as required herein, has been cancelled, withdrawn or terminated.

§ 13-40 - § 13-69 Reserved.”

SECTION 2.

This ordinance shall be cumulative of all provisions of ordinances of the Code 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 conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 3.

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 4.

All rights and remedies of the City of Burleson, Texas, are expressly saved as to any and all violations of the provisions of the Code of the City of Burleson, or any other ordinances of the City, that 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 5.

Any person convicted of violating the provisions of the Code of the City of Burleson as enacted by this Ordinance shall be guilty of a Class C misdemeanor and shall be punished by a fine not to exceed \$500. This Section does not serve to limit any other remedies available to the City of Burleson in law or equity. Each violation of this ordinance shall constitute a separate offense.

SECTION 6.

The City Secretary of the City of Burleson is hereby directed to give notice of the passage of this ordinance by causing the caption or title and penalty clause of this ordinance to be published as required by Section 36 of the Charter of the City of Burleson.

SECTION 7.

All other provisions of the Code of the City of Burleson, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 8.

This ordinance shall take effect upon adoption and publication as required by law, but no earlier than October 1, 2023, and it is so ordained.

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

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

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

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

City Council Regular Meeting

DEPARTMENT: Public Works
FROM: Errick Thompson, Deputy Director
MEETING: August 7, 2023

SUBJECT:

Consider approval of an ordinance amending Ordinance CSO#3069-09-2022 the City's Fee Schedule by adding fees associated with the engineering review and inspection of private development; finding that the meeting at which this ordinance is passed was open to the public and that the recitals are true; containing a severability clause, cumulative clause, and effective date. (*First Reading*)(*Staff Presenter: Errick Thompson, Deputy Public Works Director*)

SUMMARY:

The 88th Session of the Texas Legislature included passage of House Bill 3492 that amends the Texas Local Government Code to prohibit value-based fees for application, review, engineering, inspection, acceptance, administrative, or other fee imposed by a municipality related to the construction. This change is effective September 1, 2023.

As a result the City's current project value-based fees must be revised and there is a need to amend the City's approved fee schedule to include new fees as a result of this legislation. The request is to add a section within the fee schedule to address these new fees based on projected staff time for these activities. The proposed fees in the amendment replace existing project value-based fees for the period of September 1, 2023 through September 30, 2023. The Fee Schedule for FY2023-2024 will also include these fees. If approved, staff will collect additional data going forward to refine these initial fees in future fee schedules. Information on this proposed amendment is scheduled to be reviewed with private development stakeholders on August 17, 2023.

Staff will include the following fee schedule as shown on the corresponding exhibit on the following page.

Engineering

SERVICE	FEE
1. Construction Plan Review	
A. Residential	\$500.00 + (\$364 x number of lots)
B. Commercial	\$500.00 + (\$292 x number of acres)
2. Construction Inspection (\$500.00 + the following costs)	
A. Water Line	\$0.58 per linear foot
B. Sewer Line	\$0.58 per linear foot
C. Storm Sewer	\$0.64 per linear foot
D. Roadway Paving (public and private)	\$0.29 per square yard
E. Sidewalk / Trail	\$1.04 per square yard
F. Handicap Ramps	\$13.71 each
G. Water and Sewer Services	\$14.40 each
H. Sewer Manholes	\$36.00 each
I. Storm Manholes / Inlets	\$36.00 each
J. Lift Station	\$1,200 each
K. Public Infrastructure not listed (includes private storm infrastructure associated with roadway)	\$48.00 per hour (estimated at time of submittal)
3. Inspection Overtime Rate (2 hour minimum)	\$72.00 per hour
4. Closing Abandoning of	
A. Right-of-Way	\$550.00
B. Easement	\$250.00
5. Sign Installation	\$250.00 per sign
6. Easement/Right of Way Use Agreement	\$125.00
7. Traffic Study Fee	\$1,250.00
8. Flood Study Reviews (Includes detention/retention analysis)	\$1 per foot of reach length (\$2,000 minimum)

RECOMMENDATION:

Staff recommends approval of the ordinance as presented.

FISCAL IMPACT:

Other than the collection of the new fee, there are no other fiscal impacts.

STAFF CONTACT:

Name: **Errick Thompson**
 Title: **Deputy Public Works Director**
 Email: ethompson@burlesontx.com
 Phone: **817-426-9610**



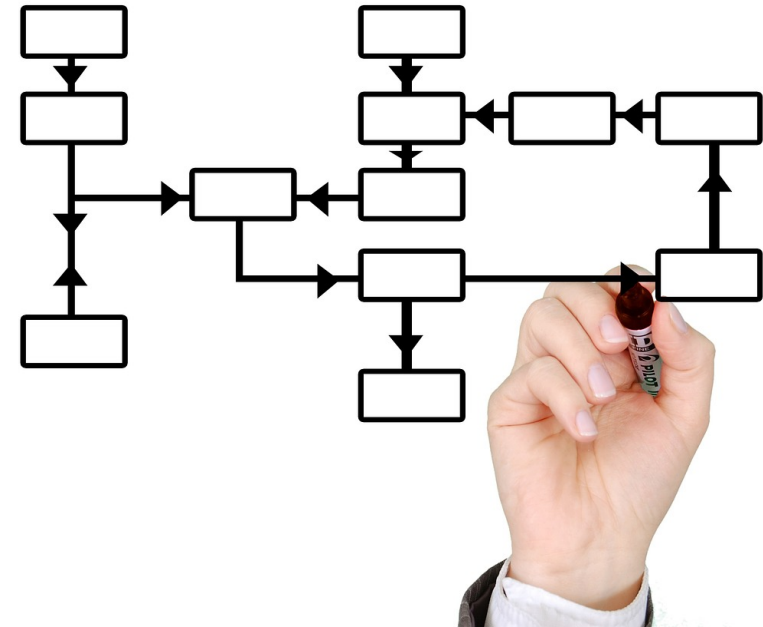
Amendment to FY2022-2023 Fee Schedule

Development Engineering Review and Inspection Fees

City Council August 7, 2023

Engineering Review and Inspection of Private Development

- Like most municipalities, Burleson charges fees to developers to cover the costs of engineering review, inspection, acceptance, and associated administrative tasks by staff from initial submittal through final acceptance of the constructed project
- A \$750 plan review fee is charged at initial submittal and \$250 for each re-submittal
- After plans are accepted, a Developer's Contract Fee (4% of the proposed developments construction value) is charged for construction inspection, material testing, and administration



88th Texas Legislative Session

HB 3492 - Effective September 1, 2023

- Prohibits a value based calculation of fees for the application, review, engineering, inspection, acceptance, administrative, or other fee imposed by a municipality related to the construction
- Requires fee to be determined by considering the actual cost to review and process engineering or construction plans and inspection of public infrastructure improvement



It is critical to have new fees in place prior to the September 1, 2023 effective date for compliance with this new law

Actions in Response to HB3492 Being Signed into Law

Staff has taken a number of actions to assess and develop recommendations

- Conferred with the City Attorney, Texas Municipal League, and other municipalities
- Reviewed historical data on engineering review, administration, and inspection activity
- Developed interim fees consistent with new state law that are based on projected staff time for various review, administrative, and inspection activities
- Began developing framework for additional data collection efforts that will be used to refine these fees in the future



CURRENT City of Burleson Fees

Engineering

PERMIT/SERVICE	FEE
1. Developers Contract Fee	4% Of Value of Contract
2. Closing Abandoning of	
A. Right-of-Way	\$550
B. Easement	\$250
3. Sign Installation	\$250 per sign
4. Plan Review	
A. Initial Submittal	\$750
B. Every Additional Review	\$250
5. Easement/Right of Way Use Agreement	\$125
6. Traffic Study Fee	\$1,250
7. Flood Study Reviews	\$1 per foot of reach length / \$2,000 minimum
8. Overtime Inspection Fee	\$55 per hour

Developers Contract Fee (item #1 above) includes 2% inspection and 2% administrative fee based on value of public infrastructure and item #4 above are being replaced with the proposed fees detailed in items #1 and #2 on the next slide

PROPOSED City of Burleson Fee Amendment

Engineering

SERVICE	FEE
1. Construction Plan Review	
A. Residential	\$500.00 + (\$364 x number of lots)
B. Commercial	\$500.00 + (\$292 x number of acres)
2. Construction Inspection (\$500.00 + the following costs)	
A. Water Line	\$0.58 per linear foot
B. Sewer Line	\$0.58 per linear foot
C. Storm Sewer	\$0.64 per linear foot
D. Roadway Paving (public and private)	\$0.29 per square yard
E. Sidewalk / Trail	\$1.04 per square yard
F. Handicap Ramps	\$13.71 each
G. Water and Sewer Services	\$14.40 each
H. Sewer Manholes	\$36.00 each
I. Storm Manholes / Inlets	\$36.00 each
J. Lift Station	\$1,200 each
K. Public Infrastructure not listed (includes private storm infrastructure associated with roadway)	\$48.00 per hour (estimated at time of submittal)
3. Inspection Overtime Rate (2 hour minimum)	\$72.00 per hour
4. Closing Abandoning of	
A. Right-of-Way	\$550.00
B. Easement	\$250.00
5. Sign Installation	\$250.00 per sign
6. Easement/Right of Way Use Agreement	\$125.00
7. Traffic Study Fee	\$1,250.00
8. Flood Study Reviews (Includes detention/retention analysis)	\$1 per foot of reach length (\$2,000 minimum)

New fees based on projected staff time for the application, review, engineering, inspection, acceptance, and administrative tasks

Additional data to be collected on an on-going basis to periodically refine these fees in future fee schedules

Staff is scheduled to review these amended fees with private developers and builders on August 17, 2023

Options

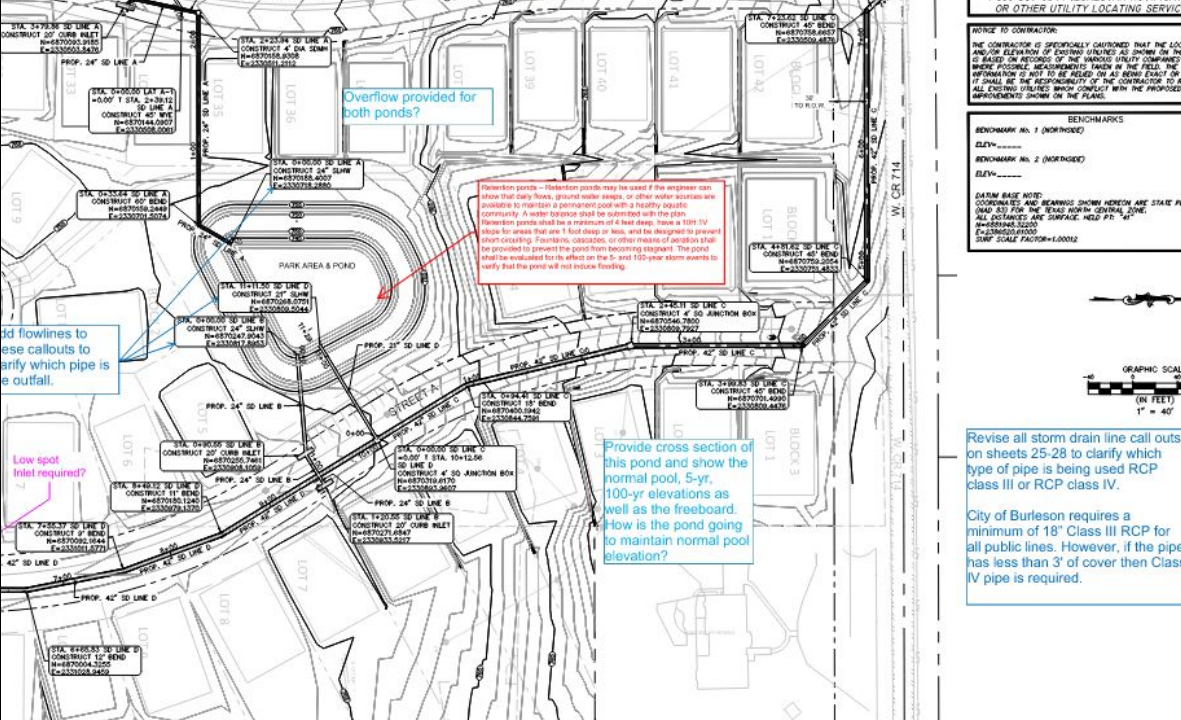
Recommended



Approve an ordinance amending Ordinance CSO#3069-09-2022 the City's Fee Schedule by adding fees associated with the engineering review and inspection of private development as presented



Deny an ordinance amending Ordinance CSO#3069-09-2022 the City's Fee Schedule by adding fees associated with the engineering review and inspection of private development



ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AMENDING THE CITY'S FEE SCHEDULE IN ORDINANCE CSO#3069-09-2022 BY AMENDING FEES ASSOCIATED WITH ENGINEERING SERVICES; FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AND THAT THE RECITALS ARE TRUE; CONTAINING A SEVERABILITY CLAUSE, CUMULATIVE CLAUSE, SAVINGS CLAUSE, AND 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 passed Ordinance CSO#3069-09-2022, which, among other things, provided a fee schedule that contained a list of all fees charged by the City of Burleson (save and except water and wastewater impact fees and solid waste collection rates which are wholly contained in separate ordinances); and

WHEREAS, the 88th Texas Legislature passed House Bill 3492 on June 10, 2023, to be effective September 1, 2023, that amended the Local Government Code to prohibit value-based fees for fees relating to inspections and review of engineering plans; and

WHEREAS, the fee schedule in Ordinance CSO#3069-09-2022 needs to be amended to repeal and replace engineering services value-based fees and make other minor adjustments; and

WHEREAS, the proposed engineering services fees are included in the schedule attached hereto as Exhibit "A" and incorporated as part of this Ordinance (the "Amended Engineering Services Fee Schedule"); and

WHEREAS, such Amended Engineering Services Fee Schedule is intended to repeal and replace the Engineering Permit/Services fees listed on page 9 of the Incorporated Fee Schedule in Ordinance CSO#3069-09-2022; and

WHEREAS, the City Council desires that the Amended Engineering Services Fee Schedule repeal and replace the Engineering Permit/Services fees listed on page 9 of the Incorporated Fee Schedule in Ordinance CSO#3069-09-2022.

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

Section 1.

Ordinance CSO#3069-09-2022 is hereby amended so that the Amended Engineering Services Fee Schedule attached hereto as Exhibit "A" shall repeal and replace the Engineering Permit/Services fees listed on page 9 of the Incorporated Fee Schedule in Ordinance CSO#3069-09-2022. The remainder of the Incorporated Fee Schedule in Ordinance CSO#3069-09-2022 shall remain unchanged.

Section 2.

The City Council finds and determines that the meeting at which this ordinance is passed was open to the public as required by law and that public notice of the time, place and purpose of said meeting was duly given as required by the Texas Open Meetings Act.

Section 3.

The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The City Council further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life in the City.

Section 4.

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 5.

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.

Section 6.

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 7.

This ordinance shall take effect upon adoption and publication as required by law, but no earlier than September 1, 2023.

AND IT IS SO ORDAINED.

PASSED AND APPROVED by the City Council of the City of Burleson on this ____ day of _____, 2023.

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

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

Chris Fletcher, Mayor
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

Amanda Campos, City Secretary

E. Allen Taylor, Jr., City Attorney

Exhibit “A”
Amended Engineering Services Fee Schedule

Engineering

SERVICE	FEE
1. Construction Plan Review	
A. Residential	\$500.00 + (\$364 x number of lots)
B. Commercial	\$500.00 + (\$292 x number of acres)
2. Construction Inspection (\$500.00 + the following costs)	
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