



## **NOTICE OF MEETING OF THE BURNET ECONOMIC DEVELOPMENT CORPORATION**

Notice is hereby given that a **Regular Meeting** will be held by the Burnet Economic Development Corporation (BEDC) on the **18<sup>th</sup> day of April, 2023 at 3:00 p.m.** in the Council Chambers, Burnet Municipal Airport, 2402 S. Water, Burnet, TX. at which time, the following subjects will be discussed, to-wit:

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

### **1. CALL TO ORDER:**

### **2. CONSENT AGENDA:**

- 2.1) Approval of the March 9<sup>th</sup>, 2023 BEDC Special Meeting minutes.

### **3. ACTION ITEMS:**

- 3.1) Discuss and consider action: Approval of a replat of Lot No. 7-D, Eastside Commercial Park.
- 3.2) Discuss and consider action: FEMA LOMAR submittal for the Crossings at 281 South Commercial Park.
- 3.3) Discuss and consider action: A contract for the sale of approximately 1.82 acres of land known as Lot 7-D-1 of Eastside Commercial Park to Mooney-Glasgow LP.
- 3.4) Discuss and consider action: The sale of approximately 1.47 acres of land, being a portion of Lot 2 of the Final Plat of the Crossing at 281 Subdivision.
- 3.5) Discuss and consider action: Related to the potential sale of all or portions of 118 S. Polk Street (Old Bealls Building)
- 3.6) Discuss and consider action: Related to the potential sale of all or portions of the Crossings at 281 South Commercial Park.
- 3.7) Discuss and consider action: Related to the sale of all or portions of the Eastside Commercial Park located on Highway 29 East.
- 3.8) Discuss and consider action: Related to the Coke Street Re-Alignment Project.
- 3.9) Discuss and consider action: Related to the Jackson Street Public Restroom Project.

3.10) Discuss and consider action: Related to the findings of the combined BEDC/Chamber of Commerce/City of Burnet Committee.

3.11) Discuss and consider action: 2023 Summer Series Concert.

3.12) Discuss and consider action: A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BURNET ECONOMIC DEVELOPMENT CORPORATION TRANSFERRING WATER RIGHTS OF ALL PROPERTY OWNED BY CORPORATION TO THE CITY OF BURNET.

#### **4. CONVENE TO EXECUTIVE SESSION:**

4.1) Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at Eastside Commercial Park: D. Vaughn

4.2) Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at the Crossings at 281 South Commercial Park: D. Vaughn

The City Council may take action on any of the matters considered in executive session once the City Council reconvenes in open session.

#### **5. RECONVENE TO REGULAR SESSION FOR POSSIBLE ACTION:**

5.1) Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property located at Eastside Commercial Park: D. Vaughn

5.2) Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property located at the Crossings at 281 South Commercial Park: D. Vaughn

#### **6. REQUESTS FROM BEDC FOR FUTURE REPORTS:**

#### **7. ADJOURN:**

Dated this 14<sup>th</sup> day, of April, 2023

I, the undersigned authority, do hereby certify that the above NOTICE OF MEETING of the Burnet Economic Development Corporation, is a true and correct copy of said NOTICE and that I posted a true and correct copy of said NOTICE on the bulletin board, in the City Hall of said City, BURNET, TEXAS, a place convenient and readily accessible to the general public at all times, and said NOTICE was posted on April 14<sup>th</sup>, 2023, at or before 3 o'clock p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of said Meeting.

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Kelly Dix, City Secretary

**NOTICE OF ASSISTANCE AT THE PUBLIC MEETINGS:**

*The City Council Chamber is wheelchair accessible. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services, such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's office (512.756.6093) at least two working days prior to the meeting. Requests for information may be faxed to the City Secretary at 512.756.8560.*

**RIGHT TO ENTER INTO EXECUTIVE SESSION:**

The Board of Directors for the Burnet Economic Development Corporation reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above, as authorized by Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberations about Gifts and Donations), 551.074 (Personnel Matters), 551.076 (Deliberations about Security Devices) and 551.087 (Economic Development)

STATE OF TEXAS            {}  
COUNTY OF BURNET       {}

On this the 9<sup>th</sup> day of February, 2023, the Burnet Economic Development Corporation of the City of Burnet convened in Special Session, at 3:00 p.m., at the Burnet City Council Chambers, 2402 S. Water Street, Burnet, with the following members present, to-wit:

Board Members:        David Vaughn, Philip Thurman, Wayne Brown, Mary Jane Shanes,  
                              Cary Johnson, Brad Zehner

Absent                    Crista Goble Bromley

City Secretary:        Kelly Dix

Guests: Adrienne Feild, Maria Gonzales, Joe Mooney, Damon Beierle

CALL TO ORDER: The meeting was called to order by Board President Cary Johnson at 3:00 p.m. and quorum was established.

CONSENT AGENDA:

Approval of the February 21<sup>st</sup>, 2023 BEDC Regular Meeting minutes:

Board Member Mary Jane Shanes moved to approve the consent agenda as presented. Board Member Brad Zehner seconded. The motion carried unanimously.

ACTION ITEMS:

Discuss and consider action: Related to the potential sale of all or portions of the Crossings at 281 South Commercial Park. To be discussed in Executive Session. No action taken.

Discuss and consider action: Related to the sale of all or portions of the Eastside Commercial Park located on Highway 29 East: Board Member David Vaughn Introduced Joe Mooney, Ram Investments, a developer representing Well Med. Mr. Mooney presented his interest in possible acquisition of the tract at Eastside Commercial Park behind the Scott and White clinic for offices for Well Med. No action taken.

Discuss and consider action: Related to the potential sale of all or portions of 118 S. Polk Street (Old Bealls Building). No action taken.

Discuss and consider action: Related to the Coke Street Re-alignment Project: Board Member David Vaughn informed all present that discussions with Congressman Carter's office for possible funding continues and the engineering process continues as well. No action taken.

Discuss and consider action: Related to the Jackson Street Public Restroom Project: City Staff continues to work with Trimbuilt on the finalization of the plans. No action taken.

Discuss and consider action: BEDC/Chamber of Commerce/City of Burnet Committee update report: No action taken.

CONVENE TO EXECUTIVE SESSION: Board Member David Vaughn move to convene to executive session at 3:45 p.m. Board Member Wayne Brown seconded. The motion carried unanimously.

Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at Eastside Commercial Park: D. Vaughn

Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at the Crossings at 281 South Commercial Park: D. Vaughn

Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at 118 S. Polk Street (Old Bealls Building): D. Vaughn

RECONVENE TO REGULAR SESSION FOR POSSIBLE ACTION: Board Member David Vaughn moved to re-convene to regular session at 4:22 p.m. Board Member Mary Jane Shanes seconded. The motion carried

unanimously.

Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property located at Eastside Commercial Park: D. Vaughn: Board Member Philip Thurman moved to proceed as discussed in Executive Session. Board Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property located at the Crossings at 281 South Commercial Park: D. Vaughn: Board Member Philip Thurman moved to proceed as discussed in Executive Session. Board Member Mary Jane Shanes seconded. The motion carried unanimously.

Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property located at Regarding deliberations of the purchase, exchange, lease, or value of real property located at 118 S. Polk Street (Old Bealls Building): D. Vaughn: No action taken.

REQUESTS FOR FUTURE REPORTS: None.

ADJOURN: There being no further business a motion to adjourn was made by Board Member Mary Jane Shanes at 4:25 p.m., seconded by Board Member David Vaughn. The motion carried unanimously.

ATTEST:

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Kelly Dix, City Secretary

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Cary Johnson, President  
Burnet Economic Development Corporation



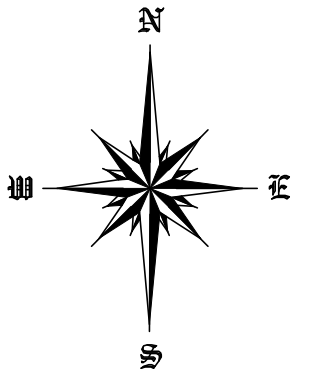
## ITEM 3.1

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Approval of a replat of Lot No. 7-D, Eastside Commercial Park.
<b>Background:</b>	
<b>Information:</b>	This is a replat of Lot 7-D to provide for the creation of the proposed lot to sell to WellMed for a medical clinic.
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.

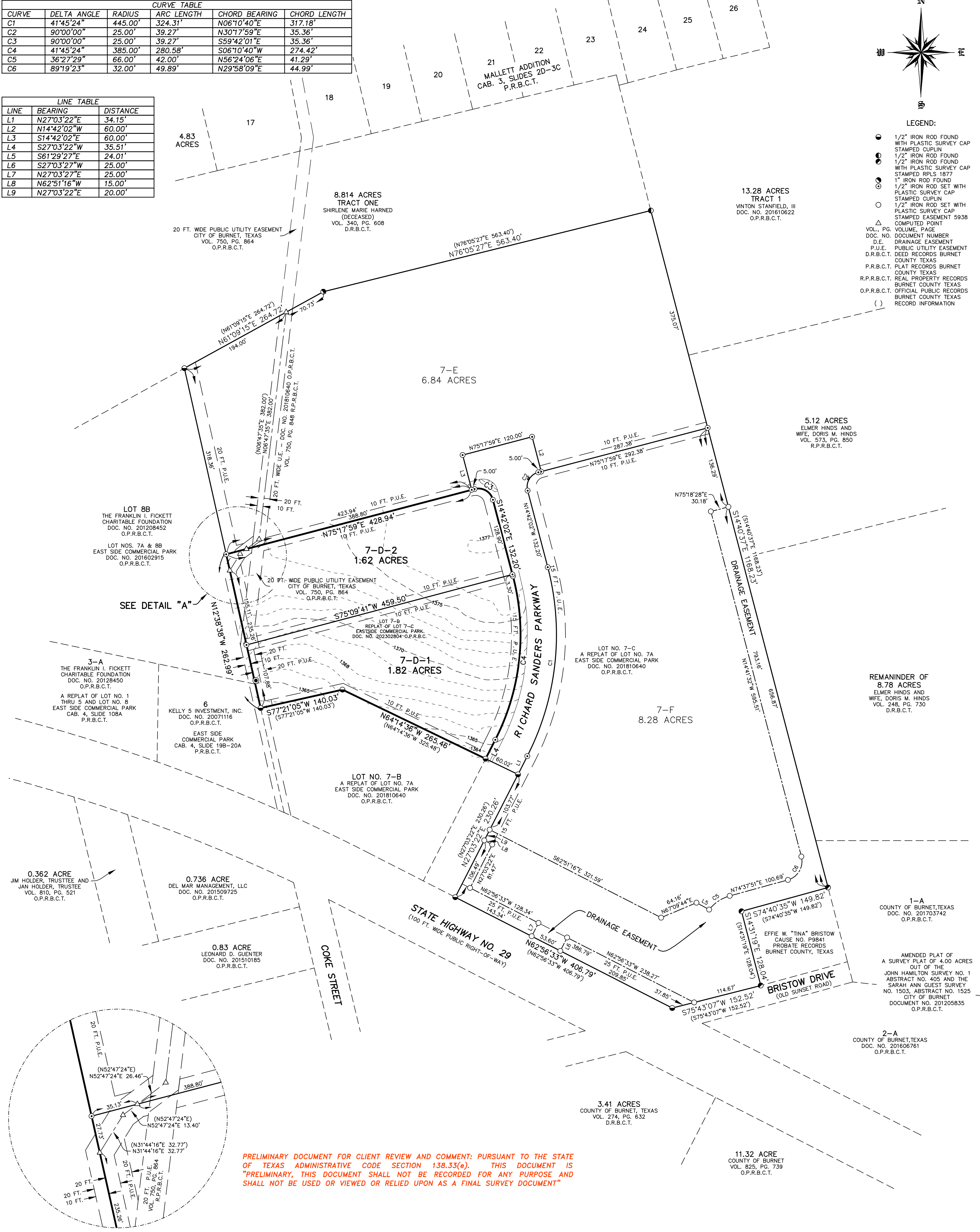
CURVE TABLE					
CURVE	DELTA ANGLE	RADIUS	ARC LENGTH	CHORD BEARING	CHORD LENGTH
C1	41°45'24"	445.00'	324.31'	N06°10'40"E	317.18'
C2	90°00'00"	25.00'	39.27'	N30°17'59"E	35.36'
C3	90°00'00"	25.00'	39.27'	S59°42'01"E	35.36'
C4	41°45'24"	385.00'	280.58'	S06°10'40"W	274.42'
C5	36°27'29"	66.00'	42.00'	N56°24'06"E	41.29'
C6	89°19'23"	32.00'	49.89'	N29°58'09"E	44.99'

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N27°03'22"E	34.15'
L2	N14°42'02"W	60.00'
L3	S14°42'02"E	60.00'
L4	S27°03'22"W	35.51'
L5	S61°29'27"E	24.01'
L6	S27°03'27"W	25.00'
L7	N27°03'27"E	25.00'
L8	N62°51'16"W	15.00'
L9	N27°03'22"E	20.00'



LEGEND:

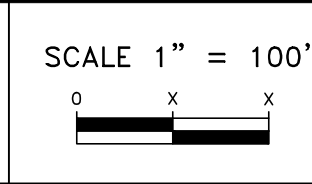
- 1/2" IRON ROD FOUND WITH PLASTIC SURVEY CAP STAMPED CUPLIN
- 1/2" IRON ROD FOUND WITH PLASTIC SURVEY CAP STAMPED RPLS 1877
- 1" IRON ROD FOUND
- 1/2" IRON ROD SET WITH PLASTIC SURVEY CAP STAMPED CUPLIN
- 1/2" IRON ROD SET WITH PLASTIC SURVEY CAP STAMPED EASEMENT 5938
- COMPUTED POINT
- VOL., PG. VOLUME, PAGE
- DOC. NO. DOCUMENT NUMBER
- D.E. DRAINAGE EASEMENT
- P.U.E. PUBLIC UTILITY EASEMENT
- D.R.B.C.T. DEED RECORDS BURNET COUNTY TEXAS
- P.R.B.C.T. PLAT RECORDS BURNET COUNTY TEXAS
- R.P.R.B.C.T. REAL PROPERTY RECORDS BURNET COUNTY TEXAS
- O.P.R.B.C.T. OFFICIAL PUBLIC RECORDS BURNET COUNTY TEXAS
- RECORD INFORMATION



PRELIMINARY DOCUMENT FOR CLIENT REVIEW AND COMMENT: PURSUANT TO THE STATE OF TEXAS ADMINISTRATIVE CODE SECTION 138.33(e), THIS DOCUMENT IS "PRELIMINARY, THIS DOCUMENT SHALL NOT BE RECORDED FOR ANY PURPOSE AND SHALL NOT BE USED OR VIEWED OR RELIED UPON AS A FINAL SURVEY DOCUMENT"

PROJECT NO. 23239
PREPARED FOR: THE CITY OF BURNET, TEXAS
TECH: B. BURTON/KCL
APPROVED: D. STARK
DATE: 4/06/23
COPYRIGHT: 2023
PROFESSIONAL FIRM NO: 10126900

1500 OLLIE LANE  
MARBLE FALLS, TX. 78654  
PH.325-388-3300 / 830-693-8815  
WWW.CUPLINASSOCIATES.COM



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A REPLAT OF  
LOT NO. 7-D  
EAST SIDE COMMERCIAL PARK  
19.41 ACRES  
CITY OF BURNET  
BURNET COUNTY, TEXS



## ITEM 3.2

### Agenda Item Brief

**Meeting Date:** April 18, 2023

**Agenda Item:** Discuss and consider action: FEMA LOMAR submittal for the Crossings at 281 South Commercial Park.

**Background:** This item is to seek direction from the board regarding the filing of an amendment to the floodplain.

**Information:**

**Fiscal Impact:**

**Recommendation:** To be determined by the board.





## ITEM 3.3

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: A contract for the sale of approximately 1.82 acres of land known as Lot 7-D-1 of Eastside Commercial Park to Mooney-Glasgow LP.
<b>Background:</b>	
<b>Information:</b>	The attached contract is for the sale of approximately 1.82 acres to Mooney-Glasgow LP for a new WellMed Clinic.
<b>Fiscal Impact:</b>	The proposed sales price is \$237,837.60.
<b>Recommendation:</b>	To be determined by the Board.

## UNIMPROVED PROPERTY CONTRACT

1. **PARTIES:** The parties to this Contract are the **Burnet Economic Development Corporation**, located in Burnet County, Texas (hereinafter called "Seller"), a Texas non-profit corporation incorporated under the Texas Development Corporation Act and the Texas Non-Profit Corporation Act, and **Mooney-Glasgow LP**, a limited partnership formed under the laws of the State of Texas (hereinafter called "Buyer"). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.
2. **PROPERTY:** Approximately 1.82 acres lying within the corporate limits of the City of Burnet, Burnet County Texas and being known as Lot 7-D-1, Eastside Commercial Park Subdivision recorded as Document No. \_\_\_\_\_ on \_\_\_\_\_, in the Public Records of Burnet County Texas, as further shown on **Exhibit "A"** together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: claims, permits, strips and gores, easements, and cooperative or association memberships; save and except water rights, which shall be reserved by Seller.
3. **SALES PRICE:** Two-Hundred-Thirty-Seven-Thousand-Eight-Hundred-Thirty-Seven Dollars and Sixty Cents (\$237,837.60) (hereinafter the "Purchase Price"). Notwithstanding the forgoing the Parties agree that the Purchase Price has been premised on the assumption that the Property totals 79,279.2 square feet and the per square foot price of Three Dollars and 00/100 Cents (\$3.00). Should the Surveyed total square footage increase or decrease the Purchase Price shall be adjusted higher or lower to reflect the product of the surveyed square footage multiplied by the per square foot price.
4. **EARNEST MONEY:** Upon execution of this Contract by all parties, Buyer shall deposit Five-Thousand-Dollars and 00/100 Cents (\$5,000.00) as Earnest Money with Attorney's Abstract Title Company, Attn: Lisa Campbell, 117 E. Jackson Street, Burnet TX 78611. If Buyer fails to deposit the Earnest Money within three days of Sellers delivery of this Contract, Seller's offer to sell the Property shall be withdrawn, this Contract shall not be effective, and the Escrow Agent shall not accept the late deposit of the Earnest Money.
5. **TITLE POLICY; SURVEY AND SELLERS DELIVERABLES:**
  - A. **TITLE POLICY:** At closing Seller shall, at its sole costs, provide an Owner's Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter.
  - B. **COMMITMENT:** Seller shall, within 20 days of the Effective Date, provide to Buyer a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter, stating the condition of title to the Land. The "effective date" stated in the Title Commitment must be after the Effective Date of this Contract.
  - C. **SURVEY:** Seller shall, within 20 days of the Effective Date at its sole costs, obtain an on-the-ground, staked plat of survey and metes-and-bounds description of the Property, prepared by a surveyor satisfactory to Title Company, dated after the Effective Date, and certified to: Seller, Buyer, and Title Company, to comply with

the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category required by Title Company.

- D. **OBJECTIONS:** Buyer shall have 10 days after the later of Buyer's receipt of the Title Commitment or a copy of the Survey ("Title Objection Deadline") to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Title Objections"). Buyer will be deemed to have approved all matters reflected by the Survey, and Title Commitment, to which Buyer has made no Title Objection by the Title Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions." If Buyer notifies Seller of any Title Objections, Seller has five days from receipt of Buyer's notice to notify Buyer whether Seller agrees to cure the Title Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Title Objections before closing, Buyer may, within five days after the deadline for the giving of Seller's Cure Notice, notify Seller that either this Contract is terminated or Buyer will proceed to close, subject to Seller's obligations to remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Title Objections that Seller has agreed to cure in the Cure Notice. At or before closing, Seller must remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this Contract, and cure the Title Objections that Seller has agreed to cure.

E. **TITLE NOTICES:**

- i. **ABSTRACT OR TITLE POLICY:** Buyer is advised to have the Title Policy Commitment reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- ii. **MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S):** The Property is subject to mandatory membership in a property owners association(s). Reference is made to that certain document entitled "*Restated and Amended Declaration of Covenants, Conditions and Restrictions*" recorded as Document No. 202208240 in the Public Records of Burnet County, Texas.
- iii. **STATUTORY TAX DISTRICTS:** The Property is not situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, as those terms are reference in Texas Water Code Chapter 49.
- iv. **TIDE WATERS:** The Property does not abut tidally influenced waters of the state, as such term is referenced in Texas Natural Resources Code §33.135.
- v. **ANNEXATION:** The Property is located within the corporate limits of Burnet, Burnet County, Texas.
- vi. **PROPERTY LOCATED IN A CERTIFIED SERVICE AREA OF A UTILITY SERVICE PROVIDER:** Notice required by §13.257, Water Code: The Property's water and sewer service is provided by the City of Burnet and Buyer agrees to inquiry with the City regarding any conditions of service.

- vii. PUBLIC IMPROVEMENT DISTRICT: The Property is not in a Public Improvement District, as term is referenced in the Texas Property Code §5.014.
  - viii. TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The property is not located in a Texas Agricultural District.
  - ix. TRANSFER FEES: The Property is not subject to a private transfer fee obligation as such term is referenced in Texas Property Code §5.205.
  - x. PROPANE GAS SYSTEM SERVICE AREA: The Property is not located in a propane gas system service area owned by a distribution system retailer, as such term is referenced in Texas Utilities Code §141.010.
- F. SELLER'S DELIVERABLES. Seller shall, within 20 days of the Effective Date at its sole costs, provide to Buyer all existing environmental and engineering reports in Seller's possession, if any (collectively "Seller's Deliveries"). Buyer acknowledges and agrees that neither Seller nor any of Seller's attorneys, consultants or contractors have made any representation or warranty regarding the truth or accuracy of any of the Seller's Deliveries. Seller has not undertaken any independent investigation as to the truth, completeness, or accuracy thereof, except as expressly provided for in this Contract. The furnishing of the Seller's Deliveries and any other materials, documents, reports, or agreements shall not be interpreted in and of itself as a representation or warranty of any type or kind by Seller or any other party related in any way to any of the foregoing. The Seller's Deliveries may not be relied upon by Purchaser or any other party for any purpose. Buyer is advised and encouraged to conduct its own independent investigation of the matters within the scope of the Seller's Deliveries. Except for Buyer's consultants engaged to evaluate the feasibility of the Property for Buyer's intended purpose, Buyer shall not disclose Seller's deliverables to any third party. Moreover, should this Contract terminate without closing, Buyer shall return Seller's Deliverables to Seller within 10 days of such termination.
- G. DELIVERY DELAY. Notwithstanding any provision to the contrary, for each day delivery of the Title Commitment, Survey, or Seller's Deliverables is delayed beyond the 20<sup>th</sup> day after the Effective Date, a day shall be added to the Feasibility Period. This remedy shall run concurrently so that for example if there is a one-day delay in delivery of both the Title Commitment and the Survey only one day shall be added to the Feasibility Period.
6. **FEASIBILITY:**
- A. FEASIBILITY PERIOD: Buyer's Feasibility Period shall begin on the Effective Date and shall end 90 days after the Effective Date.
  - B. EXTENSION TO FEASIBILITY PERIOD. Buyer will have the option to extend the Feasibility Period for an additional 30 days by depositing an additional Five-Thousand Dollars (\$5,000.00) (the "Feasibility Extension Deposit") with the Escrow Agent on or before the expiration of the Feasibility Period. The Feasibility Extension Deposit shall be considered part of the Earnest Money, will be fully refundable until the expiration of the extended Feasibility Period and shall be applied to the Purchase Price at Closing.

- C. BUYER'S RIGHT TO TERMINATE DURING FEASIBILITY PERIOD: During the Feasibility Period Buyer may, at its sole discretion, terminate this Contract, for any reason; and, should Buyer timely exercise its right to terminate, as evidenced by written notification to Seller then neither Party shall have any further obligation to the other under this Contract. If Buyer terminates this Contract before the end of the Feasibility Period, then unless Seller delivers notice of Seller's objection to Title Company's release of the Earnest Money to Buyer within five days after Buyer delivers Buyer's termination notice to Seller and Title Company, Title Company is authorized, without any further authorization from Seller, to deliver the Earnest Money to Buyer, less \$100, which will be paid to Seller as consideration for the right granted by Seller to Buyer to terminate this Contract.

7. **PROPERTY CONDITION:**

- A. ACCESS, INSPECTIONS AND UTILITIES: Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. **NOTICE:** Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.
- i. Buyer's Indemnity and Release of Seller
- a. Indemnity. To the fullest extent authorized by law, Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims arising out of Buyer's investigation of the Property, except those arising out of the acts or omissions of Seller and those for repair or remediation of existing conditions discovered by Buyer's inspection. The obligations of Buyer under this provision will survive termination of this Contract and closing.
- b. Release. Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.
- B. ACCEPTANCE OF PROPERTY CONDITION: "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this Contract. Buyer (Grantee) accepts the Property "As Is" as more particularly described in Seller's (Grantor's) disclaimer regarding Representations and Warranties set out in bold capital letters below and which shall be made part of the Deed.

**"GRANTEE ACCEPTS THE PROPERTY "AS IS" AND "WHERE IS," WITH ALL FAULTS, AND, EXCEPT FOR THE WARRANTIES OF TITLE CONTAINED IN THIS DEED AND THE LIMITED EXPRESS WRITTEN REPRESENTATIONS CONTAINED IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY, NEITHER GRANTOR, NOR ANY OF GRANTOR'S EMPLOYEES OFFICERS, MEMBERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND/OR AGENTS (COLLECTIVELY THE "SELLER RELATED PARTIES") HAVE MADE OR GIVEN ANY WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND**

**WHATSOEVER, REGARDING ANY MATTER RELATING TO THE PROPERTY WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED. MOREOVER, EXCEPT AS SET FORTH IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY AND THIS DEED, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE AND THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS REGARDING THE PRESENT OR FUTURE VALUE, PROFITABILITY, PERFORMANCE OR PRODUCTIVITY OF THE PROPERTY, THE CONDITION OF THE PROPERTY FOR GRANTEE'S INTENDED USE OR ANY OTHER USE, OR REGARDING THE PAST OR PRESENT COMPLIANCE BY GRANTOR WITH LAWS RELATED TO LAND USE, ENVIRONMENTAL MATTERS, POLLUTION, OR ANY LAWS PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, TRANSPORTING, OR DISPOSING, OR THE PRESENCE OR ABSENCE ON THE PROPERTY OF HAZARDOUS OR TOXIC WASTE OR SUBSTANCES AS SUCH TERMS ARE DEFINED IN FEDERAL, STATE AND LOCAL LAWS."**

- C. COMPLETION OF REPAIRS: As the Property is unimproved this Paragraph is not applicable.
  - D. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by the Texas Bar, or approved by the parties, should be used.
  - E. SELLER'S DISCLOSURES: Except as otherwise disclosed in this Contract, Seller has no knowledge of the following:
    - i. any flooding of the Property which has had a material adverse effect on the use of the Property;
    - ii. any pending or threatened litigation, condemnation, or special assessment affecting the Property;
    - iii. any environmental hazards that materially and adversely affect the Property;
    - iv. any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
    - v. any wetlands, as defined by federal or state law or regulation, affecting the Property; or
    - vi. any threatened or endangered species or their habitat affecting the Property.
8. **BROKERS' FEES:** Seller has not engaged a Broker in regard to this transaction. Buyer has engaged Brian Novy, License No. 255097, with office address at 3913 Edge Rock Drive, Austin, Texas 78731, as Buyer's Broker in regard to this transaction. Seller agrees to pay Buyer's Broker's three percent (3%) commission at closing. Other than Seller's payment of said commission, Buyer and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor

for a broker's or finder's fee or commission because of this transaction or this Contract, whether the claimant is disclosed to the indemnitee or not.

**9. CLOSING:**

- A. **DATE:** The closing of the sale shall occur at a mutually agreed time and date within 30 days after the end of Buyer's Feasibility Period.
- B. **OBLIGATIONS:** At closing:
  - i. Seller shall execute and deliver a special warranty deed, in substantial conformance with **Exhibit "B"**, conveying title to the Property to Buyer and showing only the Permitted Exceptions, and shall furnish tax statements or certificates showing no delinquent taxes on the Property.
  - ii. Buyer shall deliver for escrow the balance of the Sales Price.
  - iii. Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale.
  - vi. The Property will be conveyed to Buyer free and clear of any liens, assessments, or security interests against the Property, but subject to the Permitted Exceptions listed in the Title Commitment.
  - vii. Seller will, at Seller's sole cost, cause the Title Company to issue an owner's title policy in favor of Buyer in the amount of the Purchase Price, insuring Buyer's good and indefeasible title to the Property, subject only to the Permitted Exceptions.
- C. **COOPERATION:** Each party agrees to cooperate with the other and take those actions and execute such ancillary documents as may reasonably be necessary to facilitate the closing. Additionally, seller agrees, to the extent reasonably necessary and without incurring any costs whatsoever, to cooperate with buyer's efforts to effectuate this closing as a "like kind" exchange under applicable provisions of the internal revenue code.

**10. POSSESSION:**

- A. **BUYER'S POSSESSION:** Seller shall deliver to Buyer possession of the Property in its present or required condition upon closing.
- B. **LEASES:**
  - i. After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer's written consent.
  - ii. As of the effective date the Property is not subject to any lease agreements.

**11. SPECIAL PROVISIONS:**

- A. **PLAT & ZONING REQUIREMENT.** The Property's current zoning classification is Commercial "C-3"; however, Buyer consents to Seller causing the Property to be rezoned, before closing, to the new zoning classification Commercial "C-1" with a Conditional Use Permit authorizing the use of the Property as a "*medical urgent care clinic*" as a matter or right. The Property shall be delivered by Seller to Buyer at closing as a platted subdivision lot with water and sanitary sewer utilities available at the property line. Buyer shall be responsible for payment of applicable

utility impact, tap and connection fees. Buyer shall be responsible to comply with the City of Burnet's storm water detention and water quality regulations.

- B. ACCESS. The Property shall have vehicular access to the public road system via Richard Sanders Parkway.
- C. RESERVATIONS. The Special Warranty Deed shall reserve from conveyance and warranty "water rights".
- D. APPROVALS. The Execution of this Contract on behalf of Seller has been authorized by the Burnet Economic Development Corporation Board of Directors, and on behalf of Buyer by Mooney Glasgow LP's general partner.
- E. ASSIGNMENT. As a municipal economic development corporation, Seller's purpose in the acquisition, improvement and offer to sell the Property is to enhance business and industrial development within the City of Burnet. Therefore, the assignment of this Contract by Buyer is prohibited without the expressed approval of Seller's Board of Directors; provided, however that the assignment of this Contract to a limited liability company created and controlled by Buyer shall not be unreasonably withheld by Seller.
- F. LICENSE HOLDER DISCLOSURE. Joe Mooney is a licensed real estate broker.

**12. SETTLEMENT AND OTHER EXPENSES:**

- A. The following expenses must be paid at or prior to closing:
  - i. Expenses payable by Seller (Seller's Expenses): Release of existing liens, including prepayment penalties, and recording fees; release of Seller's loan liability; tax statements or certificates; preparation of deed; one-half (1/2) of the costs of the escrow officer's fees; premium for Title Policy; Seller's prorated portion of Ad valorem taxes; Seller's attorney fees and consultant fees; and other expenses payable by Seller under this Contract.
  - ii. Expenses payable by Buyer (Buyer's Expenses): Premium for shortage of area endorsement or other endorsements that are not included in the Owner's Policy; one-half (1/2) of the costs of the escrow officer's fees; Buyer's prorated portion of Ad valorem taxes and special governmental assessments; courier fee; Buyer's attorney fees and consultant fees; and other expenses payable by Buyer under this Contract.

**13. PRORATIONS AND ROLLBACK TAXES:**

- A. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues, and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year's taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the proration when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
- B. ROLLBACK TAXES: Property is not subject to the possible assessment of rollback taxes.

**14. CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this Contract, Seller shall restore the Property to its



previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this Contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this Contract.

15. **DEFAULT:** If Buyer fails to comply with this Contract, Buyer will be in default, and Seller may, as its sole remedy, terminate this Contract and receive the earnest money as liquidated damages, thereby releasing both parties from this Contract. If Seller fails to comply with this Contract for any other reason, Seller will be in default and Buyer may elect as its sole remedy to either (a) enforce specific performance; or (b) terminate this Contract and receive the earnest money, thereby releasing both parties from this Contract.
16. **MEDIATION:** It is the policy of the States of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this Contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
17. **ATTORNEY'S FEES:** A Buyer, Seller, or escrow agent who prevails in any legal proceeding related to this Contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
18. **REPRESENTATIONS:** All covenants, representations and warranties in this Contract survive closing. If any representation of Seller in this Contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate, and accept back up offers.
20. **FEDERAL TAX REQUIREMENTS:** This Paragraph is not applicable as Seller is not a "foreign person," as defined by applicable law.
21. **NOTICES:** All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile as follows:  
**To Seller at:**  
BURNET ECONOMIC DEVELOPMENT CORPORATION  
% City Manager  
P.O. Box 1369  
Burnet, Texas 78611  
Telephone: (512) 715-3208  
Facsimile: (512) 756-8560  
E-mail: [dvaughn@cityofburnet.com](mailto:dvaughn@cityofburnet.com)

**To Buyer at:**

MOONEY-GLASGOW LP  
10801 North Mopac Expressway  
Building 3, Suite 175  
Austin, Texas 78759

22. **AGREEMENT OF PARTIES:** This Contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Exhibits which are a part of this Contract are:  
EXHIBIT "A": The Concept Plan .  
EXHIBIT "B": Form of Special Warranty deed.
23. **CONSULT AN ATTORNEY BEFORE SIGNING.** Buyer is advised to consult with an attorney of Buyer's choice should Buyer questions about this Contract or any matter related to this Contract.

**Signature pages to follow:**

EXECUTED the \_\_\_\_ day of \_\_\_\_\_, 2023. (EFFECTIVE DATE.)

SELLER  
BURNET ECONOMIC DEVELOPMENT  
CORPORATION, a Texas development  
corporation,

By: \_\_\_\_\_  
Cary Johnson, President

BUYER  
**Mooney-Glasgow LP, a Texas limited  
partnership,**

By: \_\_\_\_\_  
Joe Mooney, its General Partner

**CONTRACT AND EARNEST MONEY RECEIPT**

Receipt of Contract and \$10,000.00 Earnest Money in the form of \_\_\_\_\_ is acknowledged.

Escrow Agent: Lisa Campbell, Attorney's Abstract Title Company

Date: \_\_\_\_\_, 2023

By: \_\_\_\_\_

Attorney's Abstract Title Company  
117 E. Jackson Street,  
Burnet, TX 78611.

**EXHIBIT A**  
**CONCEPT PLAN**

**EXHIBIT B**  
**FORM OF SPECIAL WARRANTY DEED**

**SPECIAL WARRANTY DEED**

STATE OF TEXAS §

§

COUNTY OF BURNET §

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBERS OR YOUR DRIVER'S LICENSE NUMBER.**

**DATE:** \_\_\_\_\_, 2023

**GRANTOR:** **BURNET ECONOMIC DEVELOPMENT CORPORATION**

**GRANTOR'S MAILING ADDRESS:** **1001 BUCHANAN DRIVE, SUITE 4  
BURNET, BURNET COUNTY, TEXAS 78611**

**GRANTEE:** **MOONEY-GLASGOW LP**

**GRANTEE'S MAILING ADDRESS:** **10801 NORTH MOPAC EXPRESSWAY  
BUILDING 3, SUITE 175  
AUSTIN, TRAVIS COUNTY, TEXAS 78759**

**CONSIDERATION:** Ten dollars cash in hand received and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

**PROPERTY (INCLUDING ANY IMPROVEMENTS):** Being approximately 3.44 acre lot platted as **Lot 7-D** of the **Replat of Lot No. 7-C, Eastside Commercial Park Subdivision** recorded as Document No. 201902804 on March 22, 2019, in the Public Records of Burnet County Texas, together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: claims, permits, strips and gores, easements, and cooperative or association memberships; save and except water rights, which shall be reserved by Seller. A copy of said plat is attached hereto as **Exhibit "A"**.

**RESERVATIONS FROM CONVEYANCE:** Grantor RESERVES unto Grantor, its successors, heirs and assigns forever all water rights associated with the Property, however, Grantor may not use any portion of the surface of the Property for exploring, drilling, or producing any such water.

**EXCEPTIONS TO CONVEYANCE AND WARRANTY:** Those matters set out in Schedule B of the Title Commitment as more fully described in **Exhibit "B,"** attached hereto and incorporated

herein for all purposes; and taxes for 2023, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.

Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenance thereto in any wise belonging, **to have and hold** it to Grantee, Grantee's heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, by through and under it but not otherwise.

**GRANTEE ACCEPTS THE PROPERTY "AS IS" AND "WHERE IS," WITH ALL FAULTS, AND, EXCEPT FOR THE WARRANTIES OF TITLE CONTAINED IN THIS DEED AND THE LIMITED EXPRESS WRITTEN REPRESENTATIONS CONTAINED IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY, NEITHER GRANTOR, NOR ANY OF GRANTOR'S EMPLOYEES OFFICERS, MEMBERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND/OR AGENTS (COLLECTIVELY THE "SELLER RELATED PARTIES") HAVE MADE OR GIVEN ANY WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND WHATSOEVER, REGARDING ANY MATTER RELATING TO THE PROPERTY WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED. MOREOVER, EXCEPT AS SET FORTH IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY AND THIS DEED, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE AND THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS REGARDING THE PRESENT OR FUTURE VALUE, PROFITABILITY, PERFORMANCE OR PRODUCTIVITY OF THE PROPERTY, THE CONDITION OF THE PROPERTY FOR GRANTEE'S INTENDED USE OR ANY OTHER USE, OR REGARDING THE PAST OR PRESENT COMPLIANCE BY GRANTOR WITH LAWS RELATED TO LAND USE, ENVIRONMENTAL MATTERS, POLLUTION, OR ANY LAWS PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, TRANSPORTING, OR DISPOSING, OR THE PRESENCE OR ABSENCE ON THE PROPERTY OF HAZARDOUS OR TOXIC WASTE OR SUBSTANCES AS SUCH TERMS ARE DEFINED IN FEDERAL, STATE AND LOCAL LAWS.**

When the context requires, singular nouns and pronouns include the plural.

Signature pages to follow.



**Exhibit: Unimproved Property Contract Concerning the Eastside Commercial Park Subdivision**

To be effective as of the date set out above.

**GRANTOR**

**BURNET ECONOMIC  
DEVELOPMENT CORPORATION**

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Cary Johnson, President

**STATE OF TEXAS       §  
COUNTY OF BURNET   §**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Cary Johnson, president of the Burnet Economic Development Corporation, on behalf of said corporation.

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**NOTARY PUBLIC, THE STATE OF TEXAS**



## ITEM 3.4

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: The sale of approximately 1.47 acres of land, being a portion of Lot 2 of the Final Plat of the Crossing at 281 Subdivision.
<b>Background:</b>	Attorney Eddie Shell is interested in purchasing this property for a new law office.
<b>Information:</b>	
<b>Fiscal Impact:</b>	The proposed sale price is \$352,182.60.
<b>Recommendation:</b>	To be determined by the board.

## UNIMPROVED PROPERTY CONTRACT

1. **PARTIES:** The parties to this contract are the Burnet Economic Development Corporation, located in Burnet County, Texas (hereinafter called “Seller”), a Texas non-profit corporation incorporated under the Development Corporation Act and the Texas Non-Profit Corporation Act, and **INSERT NAME**, a **INSERT CORPORATE FORM** formed under the laws of the State of Texas (hereinafter called “Buyer”). Seller agrees to sell and convey to Buyer and Buyer agrees to buy from Seller the Property defined below.
2. **PROPERTY:** Approximately 1.47 acres and lying within the corporate limits of the City of Burnet, Burnet County Texas and being part of existing **Lot 2** of the **Final Plat of the Crossings at 281 Subdivision** recorded as Document No. 202212416 on August 8, 2022, in the Public Records of Burnet County Texas, and depicted on the concept plan attached hereto as **Exhibit “A”** together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: claims, permits, strips and gores, easements, and cooperative or association memberships; save and except water rights, which shall be reserved by Seller. The description of the Property in this section shall be replaced in the Special Warranty Deed with the legal description of the Property as shown on Seller’s replat of Lot 2 prior to Closing.
3. **SALES PRICE:** Three-Hundred-Fifty-Two-Thousand One Hundred and Eighty-Two Dollars and Sixty Cents (\$352,182.60) (hereinafter the “Purchase Price”). Notwithstanding the forgoing the Parties agree that the Purchase Price has been premised on the assumption that the Property totals 64,033.2 square feet and the per square foot price of Five Dollars and Fifty Cents (\$5.50). Should the Surveyed total square footage increase or decrease the Purchase Price shall be adjusted higher or lower to reflect the product of the surveyed square footage multiplied by the per square foot price.
4. **EARNEST MONEY:** Upon execution of contract by all parties, Buyer shall deposit Ten-thousand Dollars and 00/100 Cents (\$10,000.00) as Earnest Money with Attorney’s Abstract Title Company, Attn: Lisa Campbell, 117 E. Jackson Street, Burnet TX 78611. If Buyer fails to deposit the Earnest Money within three days of Sellers delivery of this contract, Seller’s offer to sell the Property shall be withdrawn, this Agreement shall not be effective, and the Escrow Agent shall not accept the late deposit of the Earnest Money.
5. **TITLE POLICY; SURVEY AND SELLERS DELIVERABLES:**
  - A. **TITLE POLICY:** At closing Seller shall, at its sole costs, provide an Owner’s Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter.
  - B. **COMMITMENT:** Seller shall, within 20 days of the Effective Date, provide to Buyer a Commitment for Issuance of an Owner Policy of Title Insurance by Title Company, as agent for Underwriter, or directly by Underwriter, stating the condition of title to the Land. The “effective date” stated in the Title Commitment must be after the Effective Date of this contract.
  - C. **SURVEY:** Seller shall, within 20 days of the Effective Date at its sole costs, obtain an on-the-ground, staked plat of survey and metes-and-bounds description of the

Property, prepared by a surveyor satisfactory to Title Company, dated after the Effective Date, and certified to: Seller, Buyer, and Title Company, to comply with the current standards and specifications as published by the Texas Society of Professional Surveyors for the Survey Category required by Title Company.

- D. **OBJECTIONS:** Buyer shall have 10 days after the later of Buyer's receipt of the Title Commitment or a copy of the Survey ("Title Objection Deadline") to review the Survey, Title Commitment, and legible copies of the title instruments referenced in them and notify Seller of Buyer's objections to any of them ("Title Objections"). Buyer will be deemed to have approved all matters reflected by the Survey, and Title Commitment, to which Buyer has made no Title Objection by the Title Objection Deadline. The matters that Buyer either approves or is deemed to have approved are "Permitted Exceptions." If Buyer notifies Seller of any Title Objections, Seller has five days from receipt of Buyer's notice to notify Buyer whether Seller agrees to cure the Title Objections before closing ("Cure Notice"). If Seller does not timely give its Cure Notice or timely gives its Cure Notice but does not agree to cure all the Title Objections before closing, Buyer may, within five days after the deadline for the giving of Seller's Cure Notice, notify Seller that either this contract is terminated or Buyer will proceed to close, subject to Seller's obligations to remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date, and cure only the Title Objections that Seller has agreed to cure in the Cure Notice. At or before closing, Seller must remove all liquidated liens, remove all exceptions that arise by, through, or under Seller after the Effective Date of this contract, and cure the Title Objections that Seller has agreed to cure.

E. **TITLE NOTICES:**

- i. **ABSTRACT OR TITLE POLICY:** Buyer is advised to have the Title Policy Commitment reviewed by an attorney of Buyer's choice due to the time limitations on Buyer's right to object.
- ii. **MEMBERSHIP IN PROPERTY OWNERS ASSOCIATION(S):** The Property is subject to mandatory membership in a property owners association(s). Reference is made to that certain document entitled "*Declaration of Covenants, Conditions and Restrictions*" recorded as Document No. 202206551 in the Public Records of Burnet County, Texas.
- iii. **STATUTORY TAX DISTRICTS:** The Property is not situated in a utility or other statutorily created district providing water, sewer, drainage, or flood control facilities and services, as those terms are reference in Texas Water Code Chapter 49.
- iv. **TIDE WATERS:** The Property does not abut tidally influenced waters of the state, as such term is referenced in Texas Natural Resources Code §33.135.
- v. **ANNEXATION:** The Property is located within the corporate limits of Burnet, Burnet County, Texas.
- vi. **PROPERTY LOCATED IN A CERTIFIED SERVICE AREA OF A UTILITY SERVICE PROVIDER:** Notice required by §13.257, Water Code: The Property's water and sewer service is provided by the City of

Burnet and Buyer agrees to inquiry with the City regarding any conditions of service.

- vii. PUBLIC IMPROVEMENT DISTRICT: The Property is not in a Public Improvement District, as term is referenced in the Texas Property Code §5.014.
  - viii. TEXAS AGRICULTURAL DEVELOPMENT DISTRICT: The property is not located in a Texas Agricultural District.
  - ix. TRANSFER FEES: The Property is not subject to a private transfer fee obligation as such term is referenced in Texas Property Code §5.205.
  - x. PROPANE GAS SYSTEM SERVICE AREA: The Property is not located in a propane gas system service area owned by a distribution system retailer, as such term is referenced in Texas Utilities Code §141.010.
- F. SELLER'S DELIVERABLES. Seller shall, within 20 days of the Effective Date at its sole costs, provide to Buyer all existing environmental and engineering reports in Seller's possession, if any (collectively "Seller's Deliveries"). Buyer acknowledges and agrees that neither Seller nor any of Seller's attorneys, consultants or contractors have made any representation or warranty regarding the truth or accuracy of any of the Seller's Deliveries. Seller has not undertaken any independent investigation as to the truth, completeness, or accuracy thereof, except as expressly provided for in this Contract. The furnishing of the Seller's Deliveries and any other materials, documents, reports, or agreements shall not be interpreted in and of itself as a representation or warranty of any type or kind by Seller or any other party related in any way to any of the foregoing. The Seller's Deliveries may not be relied upon by Purchaser or any other party for any purpose. Buyer is advised and encouraged to conduct its own independent investigation of the matters within the scope of the Seller's Deliveries. Except for Buyer's consultants engaged to evaluate the feasibility of the Property for Buyer's intended purpose, Buyer shall not disclose Seller's deliverables to any third party. Moreover, should this Contract terminate without closing, Buyer shall return Seller's Deliverables to Seller within 10 days of such termination.
- G. DELIVERY DELAY. Notwithstanding any provision to the contrary, for each day delivery of the Title Commitment, Survey, or Seller's Deliverables is delayed beyond the 20<sup>th</sup> day after the Effective Date, a day shall be added to the Feasibility Period. This remedy shall run concurrently so that for example if there is a one-day delay in delivery of both the Title Commitment and the Survey only one day shall be added to the Feasibility Period.

**6. FEASIBILITY:**

- A. FEASIBILITY PERIOD: Buyer's Feasibility Period shall begin on the Effective Date and shall end upon the later of either: (i) 90 days after the Effective Date; or (ii) ten days after the date the new plat of the Property is recorded by Seller.
- B. BUYER'S RIGHT TO TERMINATE DURING FEASIBILITY PERIOD: During the Feasibility Period Buyer may, at its sole discretion, terminate this Contract, for any reason; and, should Buyer timely exercise its right to terminate, as evidenced by written notification to Seller then neither Party shall have any further obligation to the other under this Contract. If Buyer terminates this contract before the end of

the Feasibility Period, then unless Seller delivers notice of Seller's objection to Title Company's release of the Earnest Money to Buyer within five days after Buyer delivers Buyer's termination notice to Seller and Title Company, Title Company is authorized, without any further authorization from Seller, to deliver the Earnest Money to Buyer, less \$100, which will be paid to Seller as consideration for the right granted by Seller to Buyer to terminate this contract.

7. **PROPERTY CONDITION:**

A. **ACCESS, INSPECTIONS AND UTILITIES:** Seller shall permit Buyer and Buyer's agents access to the Property at reasonable times. Buyer may have the Property inspected by inspectors selected by Buyer and licensed by TREC or otherwise permitted by law to make inspections. **NOTICE:** Buyer should determine the availability of utilities to the Property suitable to satisfy Buyer's needs.

i. **Buyer's Indemnity and Release of Seller**

a. **Indemnity.** To the fullest extent authorized by law, Buyer will indemnify, defend, and hold Seller harmless from any loss, attorney's fees, expenses, or claims arising out of Buyer's investigation of the Property, except those arising out of the acts or omissions of Seller and those for repair or remediation of existing conditions discovered by Buyer's inspection. The obligations of Buyer under this provision will survive termination of this contract and closing.

b. **Release.** Buyer releases Seller and those persons acting on Seller's behalf from all claims and causes of action (including claims for attorney's fees and court and other costs) resulting from Buyer's investigation of the Property.

B. **ACCEPTANCE OF PROPERTY CONDITION:** "As Is" means the present condition of the Property with any and all defects and without warranty except for the warranties of title and the warranties in this contract. Buyer (Grantee) accepts the Property "As Is" as more particularly described in Seller's (Grantor) disclaimer regarding Representations and Warranties set out in bold capital letters below and which shall be made part of the Deed.

**"GRANTEE ACCEPTS THE PROPERTY "AS IS" AND "WHERE IS," WITH ALL FAULTS, AND, EXCEPT FOR THE WARRANTIES OF TITLE CONTAINED IN THIS DEED AND THE LIMITED EXPRESS WRITTEN REPRESENTATIONS CONTAINED IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY, NEITHER GRANTOR, NOR ANY OF GRANTOR'S EMPLOYEES OFFICERS, MEMBERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND/OR AGENTS (COLLECTIVELY THE "SELLER RELATED PARTIES") HAVE MADE OR GIVEN ANY WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND WHATSOEVER, REGARDING ANY MATTER RELATING TO THE PROPERTY WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED. MOREOVER, EXCEPT AS SET FORTH IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR**

**SALE OF THE PROPERTY AND THIS DEED, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE AND THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS REGARDING THE PRESENT OR FUTURE VALUE, PROFITABILITY, PERFORMANCE OR PRODUCTIVITY OF THE PROPERTY, THE CONDITION OF THE PROPERTY FOR GRANTEE'S INTENDED USE OR ANY OTHER USE, OR REGARDING THE PAST OR PRESENT COMPLIANCE BY GRANTOR WITH LAWS RELATED TO LAND USE, ENVIRONMENTAL MATTERS, POLLUTION, OR ANY LAWS PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, TRANSPORTING, OR DISPOSING, OR THE PRESENCE OR ABSENCE ON THE PROPERTY OF HAZARDOUS OR TOXIC WASTE OR SUBSTANCES AS SUCH TERMS ARE DEFINED IN FEDERAL, STATE AND LOCAL LAWS."**

- C. COMPLETION OF REPAIRS: As the Property is unimproved this Paragraph is not applicable.
- D. ENVIRONMENTAL MATTERS: Buyer is advised that the presence of wetlands, toxic substances, including asbestos and wastes or other environmental hazards, or the presence of a threatened or endangered species or its habitat may affect Buyer's intended use of the Property. If Buyer is concerned about these matters, an addendum promulgated by the Texas Bar, or approved by the parties, should be used.
- E. SELLER'S DISCLOSURES: Except as otherwise disclosed in this contract, Seller has no knowledge of the following:

- i. any flooding of the Property which has had a material adverse effect on the use of the Property;

**NOTICE:** The Crossing at 281 subdivision plat contains a note stating "[a]ccording to the National Flood Insurance Rate Map, Community Panel No. 48053CD4800000 a portion of this tract lies within the 100-year floodplain. The tract is subject to an approved CLOMR date 6/1/20. A LOMR will need to be filed after construction is complete."

- ii. any pending or threatened litigation, condemnation, or special assessment affecting the Property;
- iii. any environmental hazards that materially and adversely affect the Property;
- iv. any dumpsite, landfill, or underground tanks or containers now or previously located on the Property;
- v. any wetlands, as defined by federal or state law or regulation, affecting the Property; or
- vi. any threatened or endangered species or their habitat affecting the Property.

8. **BROKERS' FEES:** Neither Buyer nor Seller has engaged a Broker in regard to this transaction. Buyer and Seller each indemnify and agree to defend and hold the other party harmless from any loss, attorney's fees, and court and other costs arising out of a claim by any person or entity claiming by, through, or under the indemnitor for a broker's or finder's fee or commission because of this transaction or this contract, whether the claimant is disclosed to the indemnitee or not.
9. **CLOSING:**
  - A. **DATE:** The closing of the sale shall occur at a mutually agreed time and date within 30 days after the end of Buyer's Feasibility Period.
  - B. **OBLIGATIONS:** At closing:
    - i. Seller shall execute and deliver a special warranty deed, in substantial conformance with **Exhibit "B"**, conveying title to the Property to Buyer and showing only the Permitted Exceptions, and shall furnish tax statements or certificates showing no delinquent taxes on the Property.
    - ii. Buyer shall deliver for escrow the balance of the Sales Price.
    - iii. Seller and Buyer shall execute and deliver any notices, statements, certificates, affidavits, releases, loan documents and other documents reasonably required for the closing of the sale.
    - vi. The Property will be conveyed to Buyer free and clear of any liens, assessments, or security interests against the Property, but subject to the Permitted Exceptions listed in the Title Commitment.
    - vii. Seller will, at Seller's sole cost, cause the Title Company to issue an owner's title policy in favor of Buyer in the amount of the Purchase Price, insuring Buyer's good and indefeasible title to the Property, subject only to the Permitted Exceptions.
  - C. **COOPERATION:** Each Party agrees to cooperate with the other and take those actions and execute such ancillary documents as may reasonably be necessary to facilitate the Closing. Additionally, Seller agrees, to the extent reasonably necessary and without incurring any costs whatsoever, to cooperate with Buyer's efforts to effectuate this closing as a "like kind" exchange under applicable provisions of the Internal Revenue Code.
10. **POSSESSION:**
  - A. **BUYER'S POSSESSION:** Seller shall deliver to Buyer possession of the Property in its present or required condition upon closing.
  - B. **LEASES:**
    - i. After the Effective Date, Seller may not execute any lease (including but not limited to mineral leases) or convey any interest in the Property without Buyer's written consent.
    - ii. As of the effective date the Property is not subject to any lease agreements.
11. **SPECIAL PROVISIONS:**
  - A. **PLAT & ZONING REQUIREMENT.** The Property's current zoning classification is Commercial "C-3"; however, Buyer consents to Seller causing the Property to be rezoned, before closing, to the new zoning classification Commercial "C-1", which



shall permit “*professional offices*” use as a matter of right. The Property shall be delivered by Seller to Buyer at closing as a platted subdivision lot with water and sanitary sewer utilities available at the property line. Buyer shall be responsible for payment of applicable utility impact, tap and connection fees. Buyer shall be responsible to comply with the City of Burnet’s storm water detention and water quality regulations.

- B. ACCESS. The Property shall have vehicular access to the public road system via Houston Clinton Drive.
- C. RESERVATIONS. The Special Warranty Deed shall reserve from conveyance and warranty “water rights”.
- D. APPROVALS. The Execution of this contract on behalf of Seller has been authorized by the Burnet Economic Development Corporation Board of Directors; and by the Seller’s Board of Directors.
- E. ASSIGNMENT. As a municipal economic development corporation, Seller’s purpose in the acquisition, improvement and offer to sell the Property is to enhance business and industrial development within the City of Burnet. Therefore, the assignment of this Contract by Buyer is prohibited without the expressed approval of Seller’s Board of Directors.
- F. LICENSE HOLDER DISCLOSURE. Intentionally left blank.

12. **SETTLEMENT AND OTHER EXPENSES:**

- A. The following expenses must be paid at or prior to closing:
  - i. Expenses payable by Seller (Seller’s Expenses): Release of existing liens, including prepayment penalties and recording fees; release of Seller’s loan liability; tax statements or certificates; preparation of deed; one-half (1/2) of the costs of the escrow officer’s fees; premium for Title Policy; Seller’s prorated portion of Ad Valorem taxes; Seller’s attorney fees and consultant fees; and other expenses payable by Seller under this contract.
  - ii. Expenses payable by Buyer (Buyer’s Expenses): Premium for shortage of area endorsement or other endorsements that are not included in the Owner’s Policy; one-half (1/2) of the costs of the escrow officer’s fees; Buyer’s prorated portion of Ad Valorem taxes and special governmental assessments; courier fee; Buyer’s attorney fees and consultant fees; and other expenses payable by Buyer under this contract.

13. **PRORATIONS AND ROLLBACK TAXES:**

- A. PRORATIONS: Taxes for the current year, interest, maintenance fees, assessments, dues and rents will be prorated through the Closing Date. The tax proration may be calculated taking into consideration any change in exemptions that will affect the current year’s taxes. If taxes for the current year vary from the amount prorated at closing, the parties shall adjust the proration when tax statements for the current year are available. If taxes are not paid at or prior to closing, Buyer shall pay taxes for the current year.
- B. ROLLBACK TAXES: Property is not subject to the possible assessment of rollback taxes.

14. **CASUALTY LOSS:** If any part of the Property is damaged or destroyed by fire or other casualty after the effective date of this contract, Seller shall restore the Property to its previous condition as soon as reasonably possible, but in any event by the Closing Date. If Seller fails to do so due to factors beyond Seller's control, Buyer may (a) terminate this contract and the earnest money will be refunded to Buyer (b) extend the time for performance up to 15 days and the Closing Date will be extended as necessary or (c) accept the Property in its damaged condition with an assignment of insurance proceeds and receive credit from Seller at closing in the amount of the deductible under the insurance policy. Seller's obligations under this paragraph are independent of any other obligations of Seller under this contract.
15. **DEFAULT:** If Buyer fails to comply with this contract, Buyer will be in default, and Seller may (a) enforce specific performance, seek such other relief as may be provided by law, or both, or (b) terminate this contract and receive the earnest money as liquidated damages, thereby releasing both parties from this contract. If Seller fails to comply with this contract for any other reason, Seller will be in default and Buyer may (a) enforce specific performance, seek such other relief as may be provided by law or both, or (b) terminate this contract and receive the earnest money, thereby releasing both parties from this contract.
16. **MEDIATION:** It is the policy of the States of Texas to encourage resolution of disputes through alternative dispute resolution procedures such as mediation. Any dispute between Seller and Buyer related to this contract which is not resolved through informal discussion will be submitted to a mutually acceptable mediation service or provider. The parties to the mediation shall bear the mediation costs equally. This paragraph does not preclude a party from seeking equitable relief from a court of competent jurisdiction.
17. **ATTORNEY'S FEES:** A Buyer, Seller, or escrow agent who prevails in any legal proceeding related to this contract is entitled to recover reasonable attorney's fees and all costs of such proceeding.
18. **REPRESENTATIONS:** All covenants, representations and warranties in this contract survive closing. If any representation of Seller in this contract is untrue on the Closing Date, Seller will be in default. Unless expressly prohibited by written agreement, Seller may continue to show the Property and receive, negotiate, and accept back up offers.
20. **FEDERAL TAX REQUIREMENTS:** This Paragraph is not applicable as Seller is not a "foreign person," as defined by applicable law.
21. **NOTICES:** All notices from one party to the other must be in writing and are effective when mailed to, hand-delivered at, or transmitted by facsimile as follows:  
**To Seller at:**  
BURNET ECONOMIC DEVELOPMENT CORPORATION  
% City Manager  
P.O. Box 1369  
Burnet, Texas 78611

Telephone: (521) 715-3208  
Facsimile: (521) 756-8560  
E-mail: [dvaughn@cityofburnet.com](mailto:dvaughn@cityofburnet.com)

**To Buyer at:**

22. **AGREEMENT OF PARTIES:** This Contract contains the entire agreement of the parties and cannot be changed except by their written agreement. Exhibits which are a part of this Contract are:
- A. EXHIBIT "A": The Concept Plan.
  - C. EXHIBIT "B": Form of Special Warranty deed.
23. **CONSULT AN ATTORNEY BEFORE SIGNING.** Buyer is advised to consult with an attorney of Buyer's choice should Buyer questions about this Contract or any matter related to this Contract.

**Signature pages to follow:**

**EXECUTED** the \_\_\_\_ day of \_\_\_\_\_, **2023. (EFFECTIVE DATE.)**

SELLER  
BURNET ECONOMIC DEVELOPMENT  
CORPORATION, a Texas development  
corporation,

By: \_\_\_\_\_  
Cary Johnson, President

BUYER

By: \_\_\_\_\_

**CONTRACT AND EARNEST MONEY RECEIPT**

Receipt of Contract and \$10,000.00 Earnest Money in the form of \_\_\_\_\_ is acknowledged.

Escrow Agent: Lisa Campbell, Attorney's Abstract Title Company

Date: \_\_\_\_\_, 2023

By: \_\_\_\_\_

Attorney's Abstract Title Company  
117 E. Jackson Street,  
Burnet, TX 78611.

DRAFT

**EXHIBIT A**  
**CONCEPT PLAN**

**EXHIBIT B**  
**FORM OF SPECIAL WARRANTY DEED**

**SPECIAL WARRANTY DEED**

STATE OF TEXAS §

§

COUNTY OF BURNET §

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBERS OR YOUR DRIVER'S LICENSE NUMBER.**

**DATE:** \_\_\_\_\_, 2023

**GRANTOR:** **BURNET ECONOMIC DEVELOPMENT CORPORATION**

**GRANTOR'S MAILING ADDRESS:** **1001 BUCHANAN DRIVE, SUITE 4  
BURNET, BURNET COUNTY, TEXAS 78611**

**GRANTEE:**

**GRANTEE'S MAILING ADDRESS:**

**CONSIDERATION:** Ten dollars cash in hand received and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged.

**PROPERTY (INCLUDING ANY IMPROVEMENTS):** Being approximately 1.47 acres of real property designated as Lot \_\_\_\_, on the "*Replat of the Crossing at 281 Subdivision*" as recorded in Document No. \_\_\_\_\_, in the Burnet County Public Records, , together with all rights, privileges and appurtenances pertaining thereto, including but not limited to: claims, permits, strips and gores, easements, and cooperative or association memberships; save and except water rights, which shall be reserved by Seller. A copy of said plat is attached hereto as **Exhibit "A"**.

**RESERVATIONS FROM CONVEYANCE:** Grantor RESERVES unto Grantor, its successors, heirs and assigns forever all water rights associated with the Property, however, Grantor may not use any portion of the surface of the Property for exploring, drilling, or producing any such water.

**EXCEPTIONS TO CONVEYANCE AND WARRANTY:** Those matters set out in Schedule B of the Title Commitment as more fully described in **Exhibit "B,"** attached hereto and incorporated herein for all purposes; and taxes for 2023, which Grantee assumes and agrees to pay, and subsequent assessments for that and prior years due to change in land usage, ownership, or both, the payment of which Grantee assumes.



Grantor, for the consideration, receipt of which is acknowledged, and subject to the reservations from and exceptions to conveyance and warranty, grants, sells and conveys to Grantee the property, together with all and singular the rights and appurtenance thereto in any wise belonging, **to have and hold** it to Grantee, Grantee's heirs, executors, administrators, successors or assigns forever. Grantor binds Grantor and Grantor's heirs, executors, administrators, and successors to warrant and forever defend all and singular the property to Grantee and Grantee's heirs, executors, administrators, successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, by through and under it but not otherwise.

**GRANTEE ACCEPTS THE PROPERTY "AS IS" AND "WHERE IS," WITH ALL FAULTS, AND, EXCEPT FOR THE WARRANTIES OF TITLE CONTAINED IN THIS DEED AND THE LIMITED EXPRESS WRITTEN REPRESENTATIONS CONTAINED IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY, NEITHER GRANTOR, NOR ANY OF GRANTOR'S EMPLOYEES OFFICERS, MEMBERS, DIRECTORS, REPRESENTATIVES, ATTORNEYS AND/OR AGENTS (COLLECTIVELY THE "SELLER RELATED PARTIES") HAVE MADE OR GIVEN ANY WARRANTIES, GUARANTEES, OR REPRESENTATIONS OF ANY KIND WHATSOEVER, REGARDING ANY MATTER RELATING TO THE PROPERTY WHETHER ORAL OR WRITTEN, EXPRESSED OR IMPLIED. MOREOVER, EXCEPT AS SET FORTH IN THE SURVIVING LANGUAGE OF THE CONTRACT FOR SALE OF THE PROPERTY AND THIS DEED, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF HABITABILITY, MERCHANTABILITY, SUITABILITY, OR FITNESS FOR A PARTICULAR PURPOSE AND THAT THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS REGARDING THE PRESENT OR FUTURE VALUE, PROFITABILITY, PERFORMANCE OR PRODUCTIVITY OF THE PROPERTY, THE CONDITION OF THE PROPERTY FOR GRANTEE'S INTENDED USE OR ANY OTHER USE, OR REGARDING THE PAST OR PRESENT COMPLIANCE BY GRANTOR WITH LAWS RELATED TO LAND USE, ENVIRONMENTAL MATTERS, POLLUTION, OR ANY LAWS PERTAINING TO THE HANDLING, GENERATING, TREATING, STORING, TRANSPORTING, OR DISPOSING, OR THE PRESENCE OR ABSENCE ON THE PROPERTY OF HAZARDOUS OR TOXIC WASTE OR SUBSTANCES AS SUCH TERMS ARE DEFINED IN FEDERAL, STATE AND LOCAL LAWS.**

When the context requires, singular nouns and pronouns include the plural.

Signature pages to follow.

**Exhibit: Unimproved Property Contract Concerning the Crossing at 281 Lot 2**

To be effective as of the date set out above.

**GRANTOR**

**BURNET ECONOMIC  
DEVELOPMENT CORPORATION**

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Cary Johnson, President

**STATE OF TEXAS       §  
COUNTY OF BURNET   §**

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, by Cary Johnson, president of the Burnet Economic Development Corporation, on behalf of said corporation.

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**NOTARY PUBLIC, THE STATE OF TEXAS**



## ITEM 3.5

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Related to the potential sale of all or portions of 118 S. Polk Street (Old Bealls Building).
<b>Background:</b>	
<b>Information:</b>	To be presented at the meeting.
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the Board.

**RESOLUTION NO. BEDC R2023-02**

**A RESOLUTION OF BOARD OF DIRECTORS OF THE BURNET ECONOMIC DEVELOPMENT CORPORATION APPROVING THE SALE OF THE BEALLS BUILDING PROPERTY AND AUTHORIZING THE BOARD PRESIDENT TO EXECUTE A COMMERCIAL PROPERTY SALES CONTRACT**

**Whereas**, the Burnet Economic Development Corporation purchase the Bealls building property located at 118 E Polk Street, Burnet, Texas; and

**Whereas**, the purchase of the property from the city was authorized pursuant to Sec. 253.012(e) Texas Local Government Code, which allows such sales provided the corporation uses the property in a manner that primarily promotes a public purpose; and

**Whereas**, in authorizing the conveyance city council found the corporation's resale of the property for a retail commercial use is a public purpose.

**Whereas**, Harkinson Development, LLC has offered a contract to purchase the property for the purpose to develop the property as a retail commercial project.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF DIRECTORS FOR THE BURNET ECONOMIC DEVELOPMENT CORPORATION THAT:**

**Section one. Approval.** The TREC Commercial Improved Property Contract attached hereby is approved.

**Section two. Authorization.** That the Board of Directors President is hereby authorized to execute the TREC Commercial Improved Property Contract in substantial form as the attachment and execute such other documents and take such other actions reasonably necessary to facilitate the purpose of this Resolution.

Passed and Approved by the Board of Directors of the Burnet Economic Development Corporation this the 21<sup>st</sup> day of February 2023.

**THE BURNET ECONOMIC  
DEVELOPMENT CORPORATION**

**ATTEST:**

\_\_\_\_\_  
Cary Johnson, President

\_\_\_\_\_  
Kelly Dix, City Secretary



## ITEM 3.6

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Related to the potential sale of all or portions of the Crossings at 281 South Commercial Park.
<b>Background:</b>	To be presented at the meeting.
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.



## ITEM 3.7

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Related to the potential sale of all or portions of the Eastside Commercial Park located on Highway 29 East.
<b>Background:</b>	To be presented at the meeting.
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.



## ITEM 3.8

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Related to the Coke Street Re-Alignment Project.
<b>Background:</b>	To be presented at the meeting.
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.



## ITEM 3.9

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Related to the Jackson Street Public Restroom Project.
<b>Background:</b>	To be presented at the meeting.
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.





## ITEM 3.10

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Related to the findings of the combined BEDC/Chamber of Commerce/City of Burnet Committee.
<b>Background:</b>	To be presented at the meeting.
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.



## ITEM 3.7

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: 2023 Summer Series Concert.
<b>Background:</b>	To be presented at the meeting.
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.



## ITEM 3.12

### Agenda Item Brief

**Meeting Date:** April 18, 2023

**Agenda Item:** Discuss and consider action: A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BURNET ECONOMIC DEVELOPMENT CORPORATION TRANSFERRING WATER RIGHTS OF ALL PROPERTY OWNED BY CORPORATION TO THE CITY OF BURNET.

**Background:** The Burnet Economic Development Corporation owns a number of properties, including the Badger Building, the Bealls Building, the Crossing at 281 Subdivision and the Eastside Commercial Park. The Corporation's objective in owning these properties is to encourage commercial and industrial by sell or lease of the properties. The water rights derived from the properties are of no value to the Corporation nor will they benefit future purchasers. However, the water rights may be of value to the City in establishing future groundwater pumping rights.

**Information:** Texas law permits a landowner to sever water rights from the remainder of the real property estate. This resolution authorizes the Corporation's President to execute a Special Warranty Water Deed on behalf of the Corporation transferring water rights to the City of Burnet.

**Fiscal Impact:** This resolution will have no significant fiscal impact on the Corporation.

**Recommendation:** Approve and adopt Resolution BEDC R2023-03 as presented.

## **RESOLUTION NO. BEDC R2023-03**

### **A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BURNET ECONOMIC DEVELOPMENT CORPORATION TRANSFERRING WATER RIGHTS OF ALL PROPERTY OWNED BY CORPORATION TO THE CITY OF BURNET .**

**WHEREAS**, the Burnet Economic Development Corporation owns a number of properties, including the Badger Building, the Bealls Building, the Crossing at 281 Subdivision and the Eastside Commercial Park; and

**WHEREAS**, the water rights derived from the properties are of no value to the Corporation; and

**WHEREAS**, however, the water rights may be of value to the City in establishing future groundwater pumping rights; and

**WHEREAS**, as stated in the case *City of Del Rio v. Clayton Sam Colt Hamilton Tr.*, 269 S.W.3d 613 (Tex. App. 2008) Texas law authorizes a landowner to sever groundwater from the surface estate pursuant to absolute ownership theory, under which landowner is the absolute owner of the groundwater.

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

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

**Section two. Approval.** The Special Warranty Water Deed, attached hereto and incorporated by reference herein, is approved; and the Board's President is hereby authorized to execute said deed on behalf of the Corporation.

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

**Section four. Effective Date.** This resolution shall take immediate effect.

**PASSED AND APPROVED** on this the 18<sup>th</sup> day of April, 2023.

**BURNET ECONOMIC DEVELOPMENT  
CORPORATION**

---

Cary Johnson, President

**ATTEST:**

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Kelly Dix, City Secretary

**SPECIAL WARRANTY WATER DEED  
AND TRANSFER OF WATER RIGHTS**

THE STATE OF TEXAS    §  
                                     §       **KNOW ALL PERSONS BY THESE PRESENTS:**  
COUNTY OF BURNET     §

**THAT** the **Burnet Economic Development Corporation**, an economic development corporation, establish pursuant to the Texas Development Corporation Act of 1979 (hereinafter "Grantor") has GRANTED, SOLD, TRANSFERRED and CONVEYED, and by these presents does hereby GRANT, SELL, TRANSFER and CONVEY unto the **City of Burnet, Texas**, a Texas home rule municipality, (hereinafter "Grantee"), the rights and interests that follows:

**WATER RIGHTS** (whether deemed real or personal property): All Water Rights part of, derived from, or otherwise associated with Grantor's Real Property located in Burnet County, Texas, more particularly described below:

- Being **1.4 acres of land**, more or less, and **0.27 acres of land**, more or less described in that certain **Special Warranty Deed from Franklin I. Fickett Charitable Foundation**, as Grantor, and recorded as Document No. 202213312 in the Real Property Records of Burnet County Texas;
- Being all of **Lot 1-B, Block No. 17**, described in the Plat known as **Peter Kerr Portion, City of Burnet Subdivision**, recorded as Document No. 202213519 in the Real Property Records of Burnet County, Texas;
- Being all of **Lot 3A, Block 7**, described in the Plat known as **Peter Kerr Addition to the City of Burnet**, recorded as Document No. 201410519 in the Real Property Records of Burnet County, Texas;
- Being all of **Lot 4-A** described in the Plat known as a **Minor Replat of a Portion of Lot No. 1, a Portion of Lot No. 3 and Lot No. 4, Block No. 4 Peter Kerr Portion, City of Burnet Texas Subdivision**, and recorded as Document No. 201812340 in the Real Property Records of Burnet County, Texas;
- Being all of **Lot 7-D and Lot 7-F** described in the **Replat of Lot No. 7-C Eastside Commercial Park, Subdivision**, and recorded as Document No. 201902804 in the Real Property Records of Burnet County, Texas; and
- Being all of **Lot 1 and Lot 2** described in the **Final Plat of the Crossings at 281 Subdivision** and recorded as Document No. 202212416 in the Real Property Records of Burnet County, Texas.

**TOGETHER WITH** all and singular, the real and personal property rights, privileges and appurtenances pertaining thereto.

**RESERVATIONS FROM CONVEYANCE AND WARRANTY:** Notwithstanding anything herein contained to the contrary, it is understood and agreed that Grantee, its successors or assigns, shall not enter upon nor use the surface of any of Grantor's land for conducting any surface or drilling operations for groundwater. Any beneficial use of the Water Rights

shall be by way of transfer of the permitted withdrawal rights to withdrawal points on lands which do not belong to Grantor.

**EXCEPTIONS TO CONVEYANCE AND WARRANTY:** The Water Rights are subject to any limitations, reductions, restrictions, applicable rules or other conditions now in effect or which may be adopted or imposed by the Aquifer Authority having jurisdiction over the Water Rights, any subsequent regulatory authority, or any other governmental authority or entity or any court with jurisdiction over the property.

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

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

**EFFECTIVE** this 25<sup>th</sup> day of April, 2023.

BURNET ECONOMIC DEVELOPMENT  
CORPORATION

BY: \_\_\_\_\_  
Cary Johnson, Board President

THE STATE OF TEXAS                   §

COUNTY OF BURNET                   §

This instrument was acknowledged before me on this the 18<sup>th</sup> day of April, 2023, by Cary Johnson, in his capacity as President, and on behalf, of the Burnet Economic Development Corporation.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary Public, State of Texas

ACCEPTED  
CITY OF BURNET

BY: \_\_\_\_\_  
Crista Goble Bromley, Mayor

THE STATE OF TEXAS                   §

COUNTY OF BURNET                   §

This instrument was acknowledged before me on this the 25<sup>th</sup> day of April, 2023, by Crista Goble Bromley, in her capacity as Mayor, and on behalf, of the City of Burnet.

\_\_\_\_\_  
Notary Public, State of Texas  
Notary Public, State of Texas





## ITEM 4.1

### Agenda Item Brief

**Meeting Date:** April 18, 2023

**Agenda Item:** Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at Eastside Commercial Park: D. Vaughn

**Background:**

**Information:**

**Fiscal Impact:**

**Recommendation:** To be determined by the board.



## ITEM 4.2

### Agenda Item Brief

**Meeting Date:** April 18, 2023

**Agenda Item:** Executive Session: Pursuant to Section 551.072 Texas Government Code the Board of Directors of the Burnet Economic Development Corporation shall convene in executive session to: (i) deliberate the purchase, exchange, lease, or value of real property in order to minimize the detrimental effect of such discussion in open session on the position of the Board in negotiations with third parties for property located at the Crossings at 281 South Commercial Park: D. Vaughn

**Background:**

**Information:**

**Fiscal Impact:**

**Recommendation:** To be determined by the board.



## ITEM 5.1

### Agenda Item Brief

**Meeting Date:** April 18, 2023

**Agenda Item:** Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property: D. Vaughn

**Background:**

**Information:**

**Fiscal Impact:**

**Recommendation:** To be determined by the board.



## ITEM 5.2

### Agenda Item Brief

<b>Meeting Date:</b>	April 18, 2023
<b>Agenda Item:</b>	Discuss and consider action: Regarding deliberations of the purchase, exchange, lease, or value of real property located at the Crossings at 281 South Commercial Park: D. Vaughn
<b>Background:</b>	
<b>Information:</b>	
<b>Fiscal Impact:</b>	
<b>Recommendation:</b>	To be determined by the board.