

AGENDA

Notice is hereby given of a meeting of the Board of Commissioners of Burkburnett to be held on **Monday, November 18, 2013 at 7:00 p.m.** at City Hall-Council Chambers, 501 Sheppard Road, Burkburnett, Texas for the purpose of considering the following agenda items. The Board of Commissioners may discuss and take action on any item on this agenda. The Board of Commissioners reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

The public may speak on items listed on the posted agenda. All persons desiring to address a specific agenda item must submit an "Appearance before the City Commissioners" form prior to the reading of the item to the City Clerk, Janelle Dolan. The Mayor will allow comments before each agenda item for which they have requested to be heard. Comments will be limited to three (3) minutes with a maximum two (2) minute extension following approval by a majority of the members of the Board of Commissioners.

Item 1. Mayor: Call meeting to order.

Item 2. Invocation-Weslie Odom, Pastor of Grace Lutheran Church

Item 3. Pledge of Allegiance.

Item 4. CONSENT AGENDA:

A. Approval of Minutes from October 3 Special Called Meeting and October 21, 2013

Item 5. Mayor to close regular meeting and open "Public Hearing" for the following Planning & Zoning Commission Case:

A. Case #2013-15, Specific Use Permit for 106 S. Red River Expressway, for outdoor storage.

Item 6. Mayor to close Public Hearing and reopen the regular meeting and take action on Planning & Zoning Commission Case:

A. Case #2013-15, Specific Use Permit for 106 S. Red River Expressway, for outdoor storage.

Item 7. Resolution Number 552. A resolution authorizing the filing of a grant application with Nortex RPC for a regional solid waste grants program grant.

Item 8. Discuss and take any action necessary on automated water vending system(s).

Item 9. Ordinance Number 847. An Ordinance Superseding Ordinance Number 835 extending the current water rates for an additional 90 days.

Item 10. Ordinance Number 848. An ordinance amending Appendix J of the Water Conservation Plan; establishing criteria for the drought contingency plan; providing

penalties, severability; an effective date and declaring an emergency –moving to Stage 4 of the Water Conservation Plan.

Item 11. Charter Review Workshop.

Item 12. Pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, the Board of Commissioners may convene in Executive Session regarding the following matters:

A. SECTION 551.074(a)-Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

- 1) Employment of Economic Development Director
- 2) Evaluation of City Manager

Item 13. Reconvene to regular session and take action, if any, on matters discussed in Executive Session.

Item 14. Review of monthly reports.

- A. Administration
- B. Public Works
- C. Public Safety

Item 15. Public Comments.

The Board of Commissioners invites citizens to speak on any topic.

Please fill out an "Appearance before City Commissioners" form in order to address the Commissioners and turn the form in prior to 7:00 p.m. to City Clerk, Janelle Dolan.

Public Comments are limited to five minutes. Time limits can be adjusted by the Mayor as to accommodate more or fewer speakers.

Unless the item is specifically noted on this agenda, the Board of Commissioners is required under the Texas Open Meetings Act to limit its response to one of the following:

Responding with a statement of specific factual information or reciting the City's existing policy on that issue.

Item 16. City Manager's report.

- A. Thanksgiving Holiday
- B. Christmas Dinner
- C. Christmas Parade

Item 17. Commissioner's Comments.

Pursuant to Government Code Section 551.0415, City Commissioner Members may make a report about items of Community interest during a meeting of the governing body without having given notice of the report. Items of community interest include:

*Expressions of thanks, congratulations, or condolence;

*Information regarding holiday schedules;

*An honorary or salutary recognition of a public official, public employee, or other citizen, except that a discussion regarding a change in the status of the person's public office of public employment is not an honorary or salutary recognition for purposes of this subdivision;

*A reminder about an upcoming event organized or sponsored by the governing body;

*Information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; and

*Announcements involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Item 18. Adjournment.

I, Janelle Dolan, City Clerk for the City of Burkburnett, Texas do hereby certify that I posted this agenda on the glass front door of the City Hall, facing the outside at 5:00 p.m. on Friday, November 15, 2013 in compliance with the Open Meeting Act Chapter 551.



Janelle Dolan, City Clerk

Posted 11/15/2013 @ 5:00 pm

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodation or interpretive services must be made 72 hours prior to this meeting. Please contact the City Clerk's office at (940) 569-2263 for further information.

MINUTES
BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas met in a special called meeting on Monday, October 3, 2013 at 5:30 p.m. in the Council Chambers of the City Hall, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public with notice being given in compliance with the Open Meeting Act. The following Commissioners were present:

| | |
|-----------------|---------------|
| Carl Law | Mayor |
| Bill Lindenborn | Mayor Pro-Tem |
| Randy Brewster | Commissioner |
| Don Hardy | Commissioner |
| Michael Tugman | Commissioner |

Commissioner Andrajack and Commissioner Love were not present.

Others present: Chester Nolen, Interim City Manager and Janelle Dolan, City Clerk.

Item 1. Mayor Law called the meeting to order.

Item 2. Invocation was given by Commissioner Brewster.

Item 3. The pledge was led by Commissioner Tugman.

Item 4. Chester Nolen, Interim City Manager, addressed the Mayor and Commissioners. Mr. Nolen stated in order to supply a sufficient power supply for the Family Aquatic Center (FAC) and eliminate overhead power supply lines which are conflicting with the proposed construction, ONCOR will set a new pad mounted transformer and meter. Mr. Nolen stated to move forward with ONCOR design and construct phase the City is required to authorize an easement in which to set the pad mount transformer.

Motion made by Commissioner Brewster, seconded by Commissioner Hardy to approve the ONCOR easement for the Family Aquatic Center. Motion carried unanimously.

Item 5. City Manager Comments.

Item 6. Council comments.

Item 7. Motion was made by Commissioner Tugman, seconded by Commissioner Lindenborn to adjourn. Motion carried unanimously.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk

MINUTES

BOARD OF COMMISSIONERS

The Board of Commissioners of the City of Burkburnett, Texas met in a regular meeting on Monday, October 21, 2013 at 7:00 p.m. in the Council Chambers of the City Hall, 501 Sheppard Road, Burkburnett, Texas. The meeting was open to the public with notice being given in compliance with the Open Meetings Act. The following Commissioners were present:

| | |
|-----------------|---------------|
| Carl Law | Mayor |
| Bill Lindenborn | Mayor Pro-Tem |
| Josh Andrajack | Commissioner |
| Randy Brewster | Commissioner |
| Don Hardy | Commissioner |
| Marguerite Love | Commissioner |
| Michael Tugman | Commissioner |

Others present: Chester Nolen, Interim City Manager; Mike Whaley, Assistant City Manager; Janelle Dolan, City Clerk and Mike Tracey, Police Chief and Ed Stahr; Lieutenant Police Department.

Item 1. Mayor Law called the meeting to order and welcomed the visitors.

Item 2. Invocation was given by Mike Whaley, Assistant City Manager.

Item 3. The Pledge of Allegiance was led by Commissioner Andrajack.

Item 4. Consent Agenda.

- A. Approval of Minutes from September 9, September 13-Special Called Meetings, September 16-Regular Meeting, and September 23, 2013 -Special Called Meeting.

Motion was made by Commissioner Brewster, seconded by Commissioner Hardy to approve Consent Agenda 4. Motion carried unanimously.

Item 5. Ordinance Number 845 was presented. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS AMENDING CHAPTER 52, SEWERS OF THE CODE OF ORDINANCES, PROVIDING AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Andrajack to approve Ordinance Number 845 as presented. Motion carried unanimously.

Item 6. Ordinance Number 846 was presented. Caption of same being:

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S 2013 ANNUAL RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; REPEALING CONFLICTING RESOLUTIONS OR ORDINANCES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; PROVIDING A MOST FAVORED NATIONS CLAUSE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL.

Motion was made by Commissioner Andrajack, seconded by Commissioner Lindenborn to approve Ordinance Number 846 as presented. Motion carried unanimously.

Item 7. Mayor Law closed the meeting at 7:13 p.m. and opened the Executive Session pursuant to the Texas Open Meetings Act, Chapter 551 of the Texas Government Code; the Board of Commissioners may convene in Executive Session regarding the following matters:

SECTION 551.074(a)-Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee.

- 1) Employment of Police Chief
- 2) Evaluation of City Manager

Item 8. Mayor Law reconvened the regular meeting at 7:41 p.m.

Motion was made by Commissioner Tugman, seconded by Commissioner Andrajack to accept the recommendation of the City Manager to appoint Ed Stahr as Police Chief effective 11-1-2013.

Item 9. Review of monthly reports.

A. Administration-

B. Public Works- Mike Whaley, Assistant City Manager, provided updates on the following: Well Rehab Report; Well Project/Schedule; Davey and Cemetery paving; Kiosk; Ball Field Feasibility Study; Family Aquatic Center; and Park Master Plan.

C. Public Safety- Chief Tracey thanked the Mayor and Commissioners for all their support and stated he believes they have made an excellent choice in Ed Stahr for Police Chief.

Item 10. There were no public comments.

Item 11. There was no City Manager's report.

Item 12. Commission comments.

Item 13. Motion was made by Commissioner Tugman, seconded by Commissioner Brewster to adjourn. Motion carried unanimously.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk



City Commission Agenda Memo

From: Mike Whaley

Date: 11-18-2013

Item: Site Plan/Specific Use Permit, 106 S Red River Expressway, Outside storage/display

Background

Owner Mr. Lee Brummfield and proposed tenant Tractor Supply Company has submitted a site plan pertaining to the vacant pre-existing commercial building located at 106 S Red River Expy. The co applicants are requesting site plan approval with a specific use permit to allow for outside display. Tractor Supply will occupy approximately 22,381 square feet of the existing building. Also there will be three areas that will display good and implements for sale which are indicated on proposed site plan. The City Staff has reviewed the site plan as well as preliminary construction details such as easements, utilities, and parking.

Fiscal Impact

N/A

Options

- Accept P&Z recommendation to approve as is
- Accept P&Z recommendation to approve with additional requirements
- Deny site plan/SUP by a super-majority overturn of P&Z recommendation

Staff Recommendation

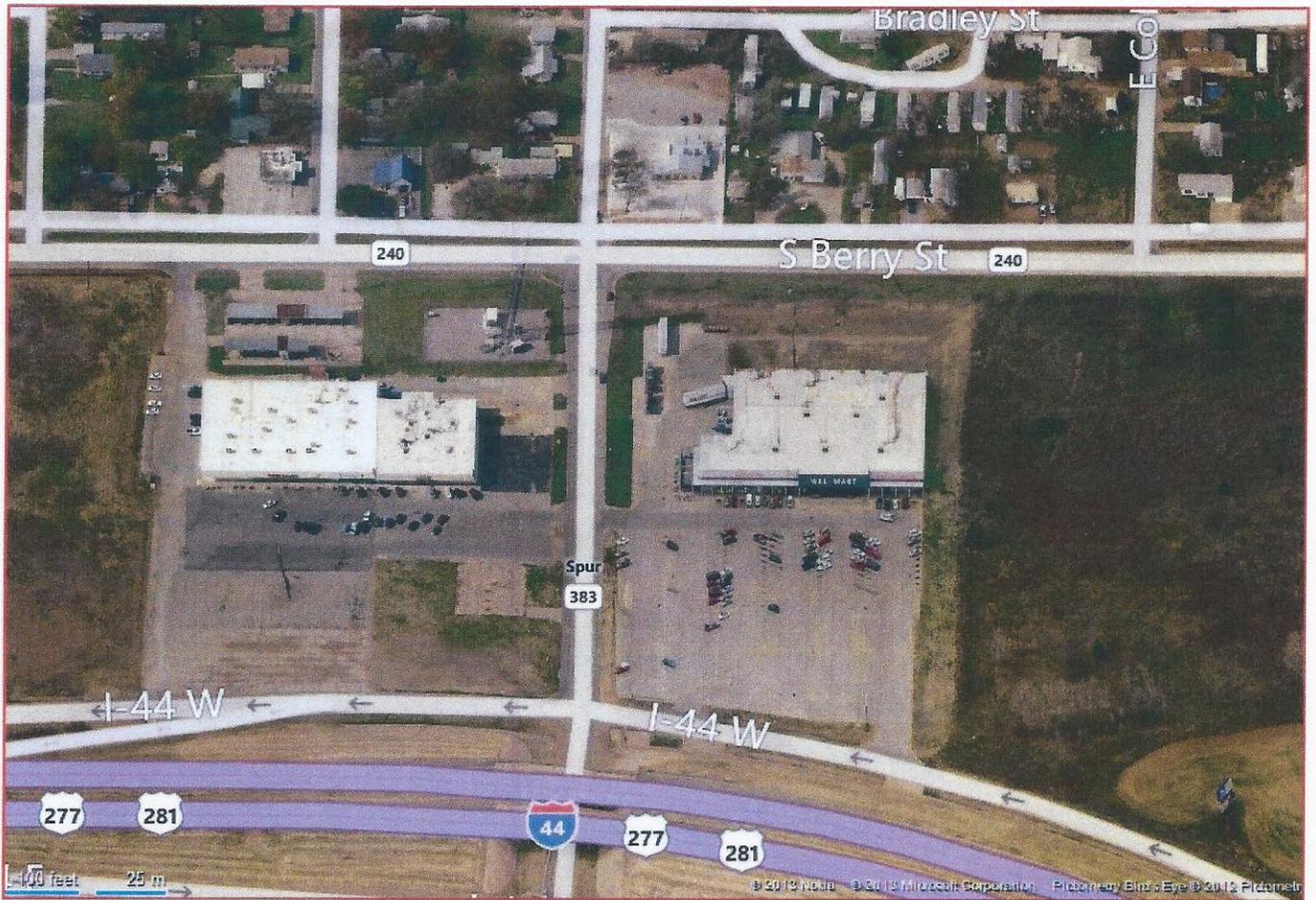
Recommend approval.

Attachments

Aerial view
Application
Site plan
Supporting documents

Aerial of 106 S. Red River Expressway





CITY OF BURKBURNETT
SPECIFIC USE
APPLICATION

OFFICE USE:
CASE NO. _____
FEE PAID _____

Property Address 106 SOUTH RED RIVER EXPRESSWAY
Legal Description Sec ATTACHED Lot(s) See ATTACHED Block See ATTACHED Section _____ Subdivision _____
Tax Account No. _____
Proposed Use TRACTOR Supply Co
Present Use VACANT FORMER WAL MART Zoning _____
Property Platted? Yes No
Applicant's Name WM BURKBURNETT PARTNERSHIP BURNFIELD Properties Inc Daytime Phone # 228-617-8780
Mailing Address PO BOX 1380
OCEAN SPRINGS, MS Zip 39566-1380

I hereby certify that all information contained herein is true and correct; that I have been informed of the date and time that this request will be considered by the Planning and Zoning Commission; and that all required submissions (see reverse) have been provided.

Applicant's Signature W. J. [Signature] DATE 10/10/13
Owner's Signature W. J. [Signature] DATE 10/10/13

- Note:
- Application must be submitted with a site plan.
 - See reverse side for instructions for site plan submission requirements.

Permit (To be completed by the Planning Department .)

A conditional use permit is hereby:

- Approved
 Disapproved
 Conditionally Approved (conditions attached) based on the Planning and Zoning Commission's action on _____

NOTE: A CONDITIONAL USE PERMIT IS VALID FOR 1 YEAR UNLESS A BUILDING PERMIT IS ISSUED AND CONSTRUCTION IS ON GOING.

City Planning Administrator _____ Date _____

LEGAL DESCRIPTION

LOT 1, BLOCK 1, WAL-MART ADDITION TO THE CITY OF BURKBURNETT, WICHITA COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 24, PAGE 394, WICHITA COUNTY PLAT RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING at an iron rod in the West line of Old U.S. Highway 281-277, thence S 89° 47' E 100.0 feet and South 255.80 feet from the Northwest corner of Block 106, Red River Valley Lands Subdivision to the POINT OF BEGINNING;

THENCE S 89° 39' E 758.11 feet to an iron rod in the West line of U.S. 277 Expressway for the Northeast corner of this tract, said Expressway line being a non-tangent curve to the left with a radius of 1908.9 feet and whose long chord bears S 12° 41' 32" W, a distance of 378.75 feet;

THENCE in a Southwesterly direction with said curve to the left, an arc distance of 379.37 feet to an iron rod at the intersection of the West line of Expressway 277 and the North line of Glendale Avenue for the Southeast corner of this tract;

THENCE N 89° 39' W with the North line of Glendale Avenue 674.90 feet to an iron rod at its intersection with the East line of Old U.S. Highway 281-277 for the Southwest corner of this tract;

THENCE North with the East line of Old U.S. Highway 281-277 a distance of 370.00 feet to the POINT OF BEGINNING and containing 6.03 acres of land.



BURKBURNETT IND SCHOOL DISTRICT
 JEANINE PICKETT
 P.O. BOX 608
 416 GLENDALE ST
 BURKBURNETT, TX 76354
 (940)569-3327

RETAIN THIS PORTION FOR YOUR RECORDS

To Pay Online
 Or To Print A Receipt
www.texaspayments.com/243901

ACCOUNT
000119387

CAD ACCOUNT NUMBER
5M16 004 0000

PROPERTY OWNER

WM BURKBURNETT PARTNERS LLC
 % BRUMFIELD PROPERTIES
 PO BOX 1380
 OCEAN SPRINGS, MS 39566-1380

PROPERTY DESCRIPTION

0000106 RED RIVER EXPY S
 LOT 1 BLK 1 WAL MART ADD RRVL
 BLK 106

ACRES: 6.0300

| | | | | |
|-----------------------|------------------------------|-----------------------|--------------------------|---------------------------------------|
| LAND VALUE 262,667 | IMPROVEMENT VALUE 794,334 | MINERAL VALUE 0 | PERSONAL PROPERTY 0 | TOTAL APPRAISED/ASSESSED 1,057,001 |
| HOMESTEAD 0 | OVER 65/DISABLED 0 | DISABLED VETERAN 0 | CAP ADJ/AG DEFERRED 0 | EXEMPT/NOMINAL 0 |
| | | | | TAXABLE VALUE 1,057,001 |

IF YOU ARE 65 YEARS OF AGE OR OLDER OR ARE DISABLED AND THE PROPERTY DESCRIBED IN THIS DOCUMENT IS YOUR RESIDENCE HOMESTEAD, YOU SHOULD CONTACT THE APPRAISAL DISTRICT REGARDING ANY ENTITLEMENT YOU MAY HAVE TO A POSTPONEMENT IN THE PAYMENT OF THESE TAXES.

TAXPAYERS WITH AN OVER 65 EXEMPTION OR A DISABILITY EXEMPTION QUALIFY FOR AN INSTALLMENT PLAN ON THEIR RESIDENCE HOMESTEAD. PLEASE CALL FOR DETAILS (940)569-3327.

TAX ASSESSMENT RATIO 100%
 TAX RATE PER \$100 1.300000

TOTAL DUE \$ 13,741.01

AMOUNT DUE IF PAID IN THE MONTH OF:

| | | |
|----------------|----|-----------|
| FEBRUARY (7%) | \$ | 14,702.88 |
| MARCH (9%) | \$ | 14,977.70 |
| APRIL (11%) | \$ | 15,252.52 |
| MAY (13%) | \$ | 15,527.34 |
| JUNE (15%) | \$ | 15,802.16 |

TAXES ARE DUE UPON RECEIPT AND BECOME DELINQUENT FEBRUARY 1, 2013

| TAX YEAR | ENTITY | APPRAISED VALUE | TAXABLE VALUE | TAX RATE | LEVY AMOUNT | PREV. YEAR | | |
|-------------------|----------|-----------------|---------------|----------|-------------|------------|-----|----------|
| 2012 | 901 | 1,057,001 | 1,057,001 | 1.300000 | 13,741.01 | 2.285% | | |
| 2011 | 901 | 1,074,563 | 1,074,563 | 1.310000 | 14,076.78 | 1.801% | | |
| 2010 | 901 | 1,055,548 | 1,055,548 | 1.310000 | 13,827.68 | 0.322% | | |
| 2009 | 901 | 1,058,958 | 1,058,958 | 1.310000 | 13,872.35 | 1.210% | | |
| 2008 | 901 | 1,071,924 | 1,071,924 | 1.310000 | 14,042.20 | 10.842% | | |
| 2007 | 901 | 989,054 | 989,054 | 1.280890 | 12,668.69 | 15.711% | | |
| 5 Year Comparison | | 6.870% | 6.870% | 1.492% | 8.464% | | | |
| Rate Breakdown | 2012 M&O | 1.170000 | I&S | 0.130000 | 2011 M&O | 1.170000 | I&S | 0.140000 |

SIGN UP FOR EMAIL STATEMENTS AT texaspayments.com/243901 USING YOUR SECURE #5893199110

TAX STATEMENT 2012

STATEMENT DATE: 09/19/2012

ACCOUNT: 119387

**LEGAL: LOT 1 BLK 1 WAL MART ADD RRVL
BLK 106**

OWNER: WM BURKBURNETT PARTNERS LLC
PARCEL ADDRESS: 0000106 S RED RIVER EXPY
EXEMPTION CODES:

PIDN: 5M160040000
ACRES: 6.030000

| NON-HOMESITE VAL | APPRAISED VALUE | | | | |
|---------------------|------------------|---------------|--------------------|------------------|--------------------|
| 1,057,001 | 1,057,001 | | | | |
| TAXING ENTITIES | EXEMPTION AMOUNT | TAXABLE VALUE | TAX RATE PER \$100 | BASE TAX | PENALTY & INTEREST |
| CITY OF BURKBURNETT | 0 | 1,057,001 | 0.578582 | 6,115.62 | 0.00 |
| WICHITA COUNTY | 0 | 1,057,001 | 0.519664 | 5,492.85 | 0.00 |
| | | | SUBTOTAL | 11,608.47 | 0.00 |

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www.wichitax.com

A 2.5% convenience fee will be charged to your credit card



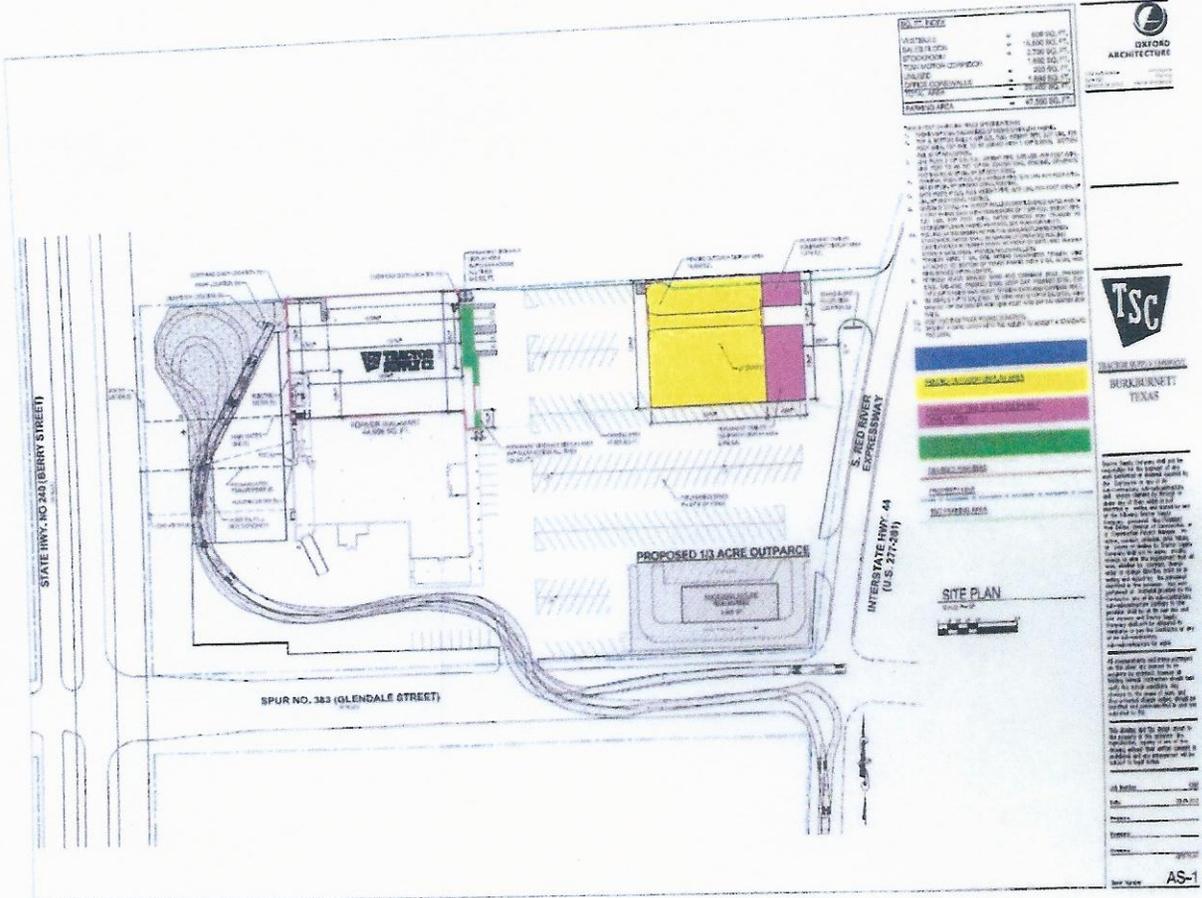
TOTAL AMOUNT DUE **11,608.47**

Handwritten signature and number 7517

***ADDITIONAL CITY SALES TAX REDUCED YOUR CITY AD VALOREM TAX BY \$ 774.57.**

***IF YOU ARE RECEIVING THE 'OVER 65' OR '100% DISABILITY' EXEMPTION, YOU QUALIFY FOR INSTALLMENT PAYMENTS.
CALL THIS TAX OFFICE FOR MORE INFORMATION.**

EXHIBIT "A"
PRELIMINARY SITE PLAN



TSC PRELIMINARY SITE PLAN -- COLOR CODING FOR DEVELOPERS

- Demised Premises – outline in solid red
- Fenced Outdoor Display Area – yellow highlight
- Permanent Sidewalk Display Area – green highlight
- Permanent Trailer and Equipment Display Area – pink highlight
- Pylon or Marquis Sign – purple highlight

PRELIMINARY SITE PLAN APPROVED: Tenant: TK Landlord: WJB

Planning & Zoning Review of 106 S. Red River Expressway

Submission for the former Walmart property

- 1) Request for approval of site plan including creation of a new outlot for a freestanding building.
- 2) Grant a special use permit to allow three outside display areas for merchandise
- 3) Waive 70 foot setback from Red River Expressway to allow a fenced display area.

The ownership, WM Burkburnett Partners, LLC has an opportunity to attract a new retail tenant for a portion of the building to catalyze redevelopment of the property. In order to secure this retailer, improvements to the property are required which under the current Commercial Zoning District requires the Board's review.

Retail Use: Ownership has obtained interest from Tractor Supply Company for 22,381 square feet of this 43,756 square foot building. The building would be subdivided with tenant utilizing the existing entrance and occupying the north section of the building.

Tractor Supply Company is a national retailer with 1,225 store locations in 47 states making it the largest operator of farm and ranch stores serving the needs of the rural customer, tradesman and small businesses. The Company offers a comprehensive selection of (1) equine, pet and small animal products, including items necessary for their health, care, growth and containment; (2) hardware, truck, towing and tool products; (3) seasonal products, including lawn and garden items, power equipment, gifts and toys; (4) maintenance products for agricultural and rural use; and (5) work/recreational clothing and footwear. The Company is based in the Nashville, TN area and operates over 130 stores in Texas alone. The Company carefully selects new locations for spacing from existing stores as their unique product mix draws customers from a large area. The closest existing stores to Burkburnett are:

| | | |
|---------------|----------------------|------------|
| Wichita Falls | 2618 SW Parkway | 19.1 miles |
| Vernon | 4101 Hillcrest Plaza | 44.7 |
| Lawton, OK | 7402 SE Sungate Blvd | 45.3 |
| Duncan, OK | 1520 W. Plato Rd | 58.1 |

All Tractor Supply locations have three outdoor display areas required due to the unique product line they offer the customer. These areas are entirely "for sale" merchandise and not general storage.

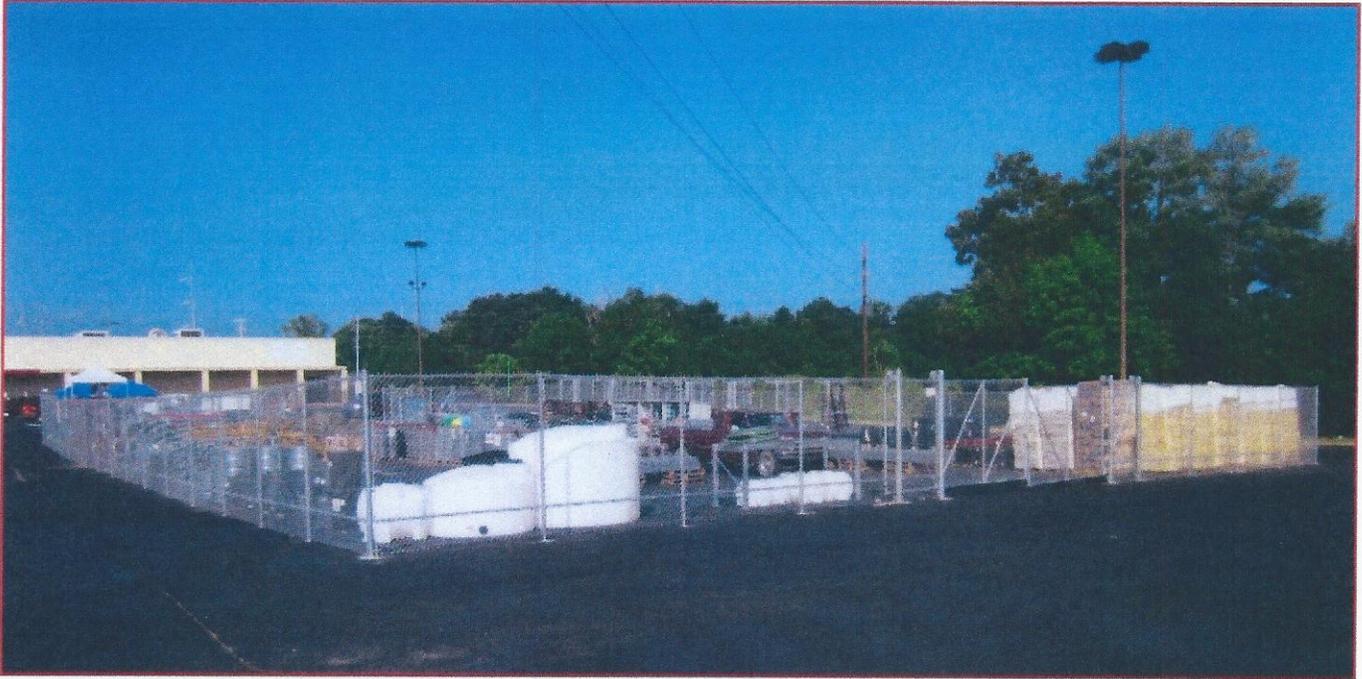
Sidewalk Display – green area on site plan: This represents no change to the property and only utilizes a portion of the existing sidewalk. Typical use is for a limited number of riding lawn mowers, log splitters, wheel barrels, and seasonal products.

Trailer Display – pink area: Their offering of flatbed trailers is displayed in the existing parking lot.

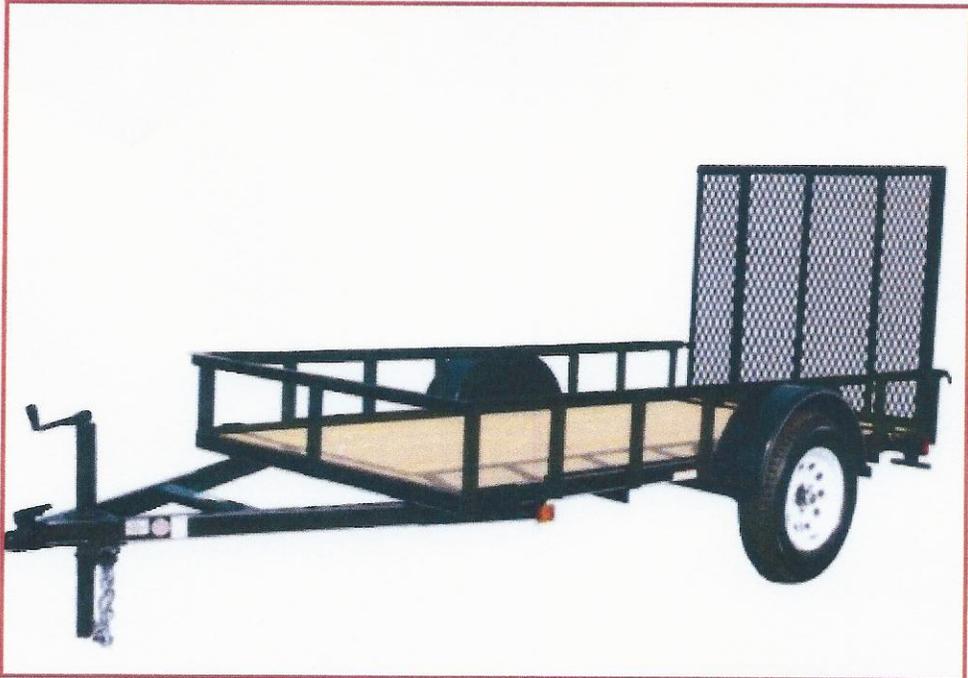
Fenced Display – yellow: Due to a number of items too large to be inside the store, a fenced area is created in the existing parking lot featuring drive-thru access by the customer for loading of merchandise. Typical of the merchandise in this area is product for livestock containment and care such as fencing, gates, feeders and water transport. Also found in this area is seasonal bagged landscape supplies and small equipment.

At this location, the north edge of the parking lot was the only location in the property that does not conflict with truck access to the rear of the property and avoids impact on the visibility of the remaining space in the building to be leased.

Representative photos of the fenced display:



Trailer Display: the typical trailer offered by Tractor Supply is a 5 ft x 10 ft open bed trailer. The area designated in pink would accommodate approximately 12 trailers.





City Commission Agenda Memo

From: Mike Whaley
Date: 11-18-2013
Item: Resolution Number 552 - NORTEX Solid Waste Grant

Background

The resolution is for fiscal year 2014/2015 of the solid waste grant which is administered by NORTEX. This resolution is necessary to allow us to participate in the program. The City is requesting \$5,000.00 to assist in the clean-up of illegal dumping which also allows us to utilize the funds to demo any structure deemed dilapidated on property stricken off to the City and the clean-up of that property.

Fiscal Impact

N/A

Options

- Pass Resolution
- Deny Resolution

Staff Recommendation

Recommend approval.

Attachments

Resolution Number 552

RESOLUTION NUMBER 552

A RESOLUTION OF THE BOARD OF COMMISSIONERS AUTHORIZING THE FILING OF A GRANT APPLICATION WITH THE NORTEX RPC FOR A REGIONAL SOLID WASTE GRANTS PROGRAM GRANT; AUTHORIZING THE MAYOR TO ACT ON BEHALF OF THE CITY OF BURKBURNETT IN ALL MATTERS RELATED TO THE APPLICATION; AND PLEDGING THAT IF A GRANT IS RECEIVED THE CITY OF BURKBURNETT WILL COMPLY WITH THE GRANT REQUIREMENTS OF THE NORTEX RPC, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY AND THE STATE OF TEXAS.

WHEREAS, the NORTEX RPC, is directed by the Texas Commission on Environmental Quality to administer solid waste grant funds for implementation the COG's adopted regional solid waste management plan; and

WHEREAS, the CITY OF BURKBURNETT in the State of Texas is qualified to apply for grant funds under the Request for Applications.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

1. That the MAYOR is authorized to request grant funding under the NORTEX RPC Request for Applications of the Regional Solid Waste Grants Program and act on behalf of the CITY OF BURKBURNETT in all matters related to the grant application and any subsequent grant contract and grant project that may result.
2. That if the project is funded, the CITY OF BURKBURNETT will comply with the grant requirements of the NORTEX RPC, Texas Commission on Environmental Quality and the State of Texas.
3. The grant funds and any grant-funded equipment or facilities will be used only for purposes for which they are intended under the grant.
4. The activities will comply with and support the adopted regional and local solid waste management plans adopted for the geographical area in which the activities are performed.
5. That the CITY OF BURKBURNETT is not in arrears in payment of any municipal solid waste fee owed to the State of Texas.

PASSED AND APPROVED by the BOARD OF COMMISSIONERS of the CITY OF BURKBURNETT, in BURKBURNETT, Texas, on this the 18th day of November, 2013.

Carl Law, Mayor

Notary: _____
(Signature)

(Printed Name)

(Commission Expires)



City Commission Agenda Memo

From: Mike Whaley
Date: November 18, 2013
Item: Water Vending Machine

Background

Councilman Lindenborn had request this item to be on the agenda for discussion. I have contacted the City of Wichita Falls to determine the process in which they are converting their water vending station into an automated station. Wichita Falls sent me a copy of the quote from Flow Point which shows the conversion costs to be \$31,446.27. I have also contacted the rep from Flow Point to get an idea of rough estimates to convert our water vending to an automated system. The costs can range from \$15,000.00 to \$38,000.00

Fiscal Impact

N/A

Options

- Instruct moving ahead with project and securing estimates
- Do nothing at this time

Staff Recommendation

Whether now or later, staff recommends a turn-key project with alternate site.

Attachments

Supporting docs

BULK WATER DISPENSING



DISPENSING TERMINALS



Our Dispensing Terminals retrofit to new or existing infrastructure providing all the same features as our Turn-key solutions.

Flowpoint also provides all the components such as piping, metering and valves to retrofit to your infrastructure.

TURN-KEY STATIONS

Our Turn-Key Stations

- Provide Accountability
- Provide Security
- Generate Revenue
- Reduce Administration

Each Turn-Key Station is self contained, insulated and a maintenance friendly dispensing station.

They can be heated, cooled or both and come complete with a supply valve, reduced pressure backflow prevention device, stainless steel piping, meter, drain valve, access terminal and field terminal box.

All stations dispense potable water, reclaimed water or raw water.

WATER SENTRY™



The Water Sentry™ is a large bulk water dispensing solution, with overhead load outs up to 4" diameter.

Eliminates ice build up where ambient temperatures drop below freezing.

Redundancy back flow prevention (Air Gap and Reduced Pressure).

WATER GENERAL™



The Water General™ is a cost effective solution great for curbside loading locations.

Ideal for all weather climates. Available in 2", 3" and 4" sizes as well as solar powered.

CUSTOM STATION



The Custom Station is a powerful bulk water dispensing solution designed to simultaneously dispense bulk water to as many as four trucks with load outs up to 6" diameter to meet your specific needs.

Custom stations can be built to suit your specific requirements.

Contact our expert sales department staff to assist you with a system to meet your specific needs.

Website: www.flowpointsystems.com Toll Free: (877) 655-5585 Email: sales@flowpointsystems.com

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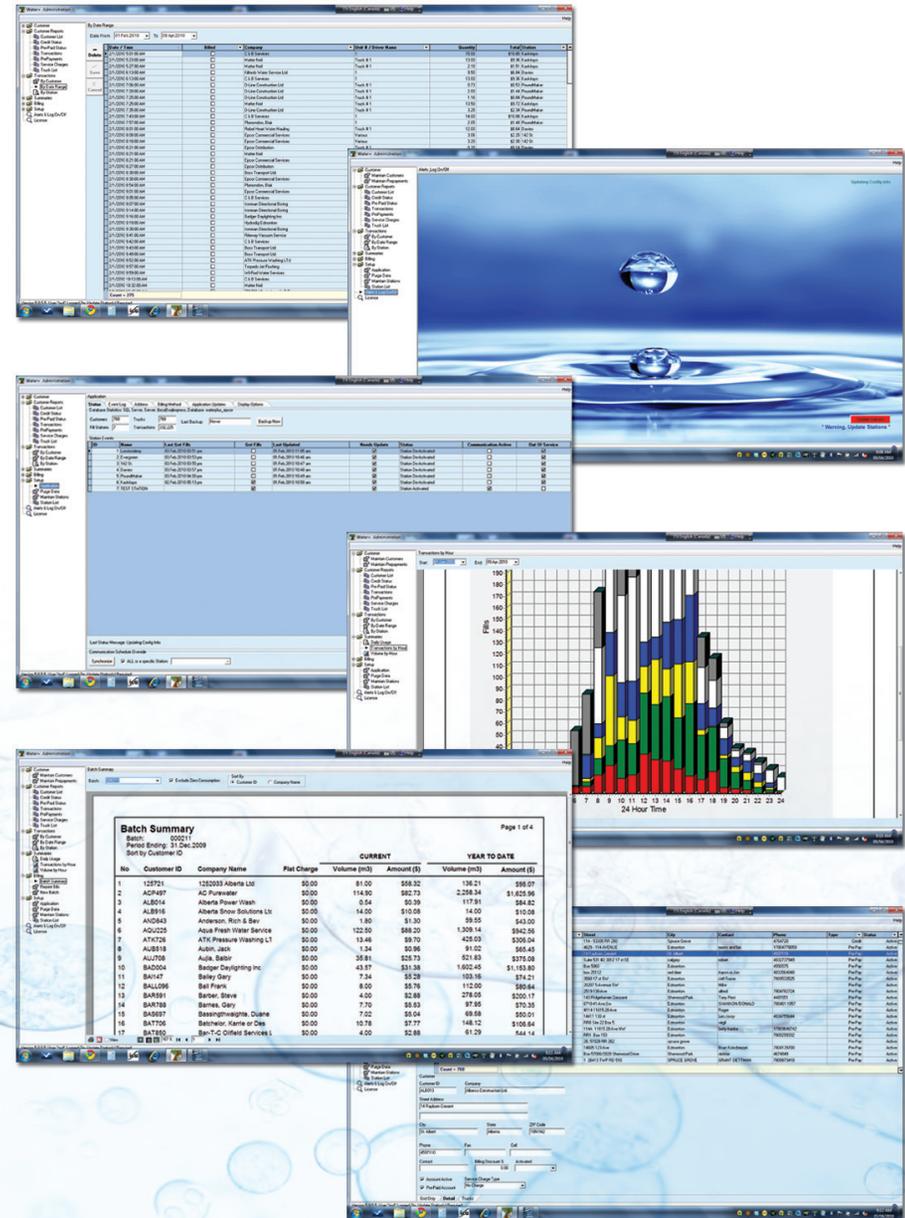
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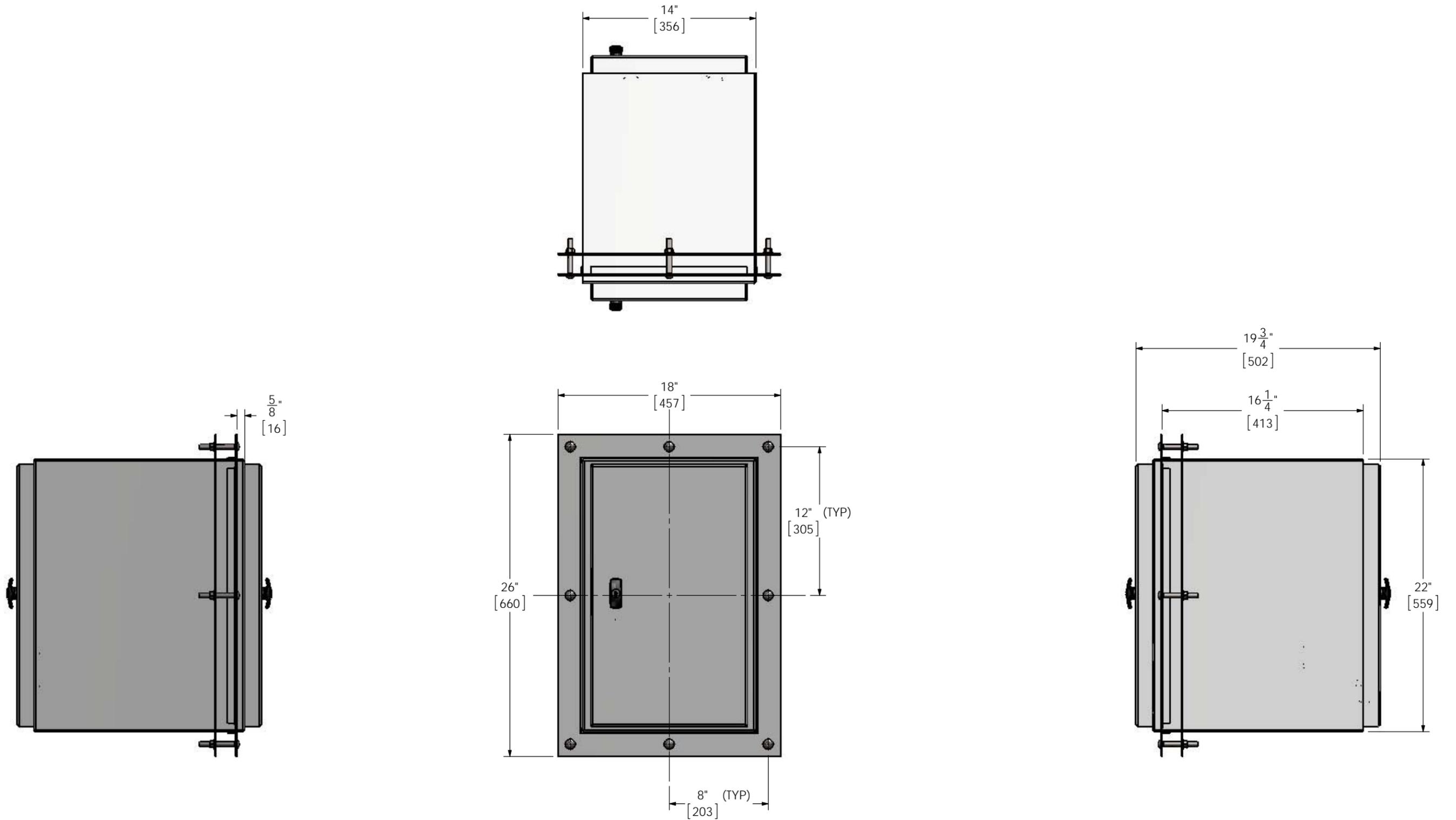
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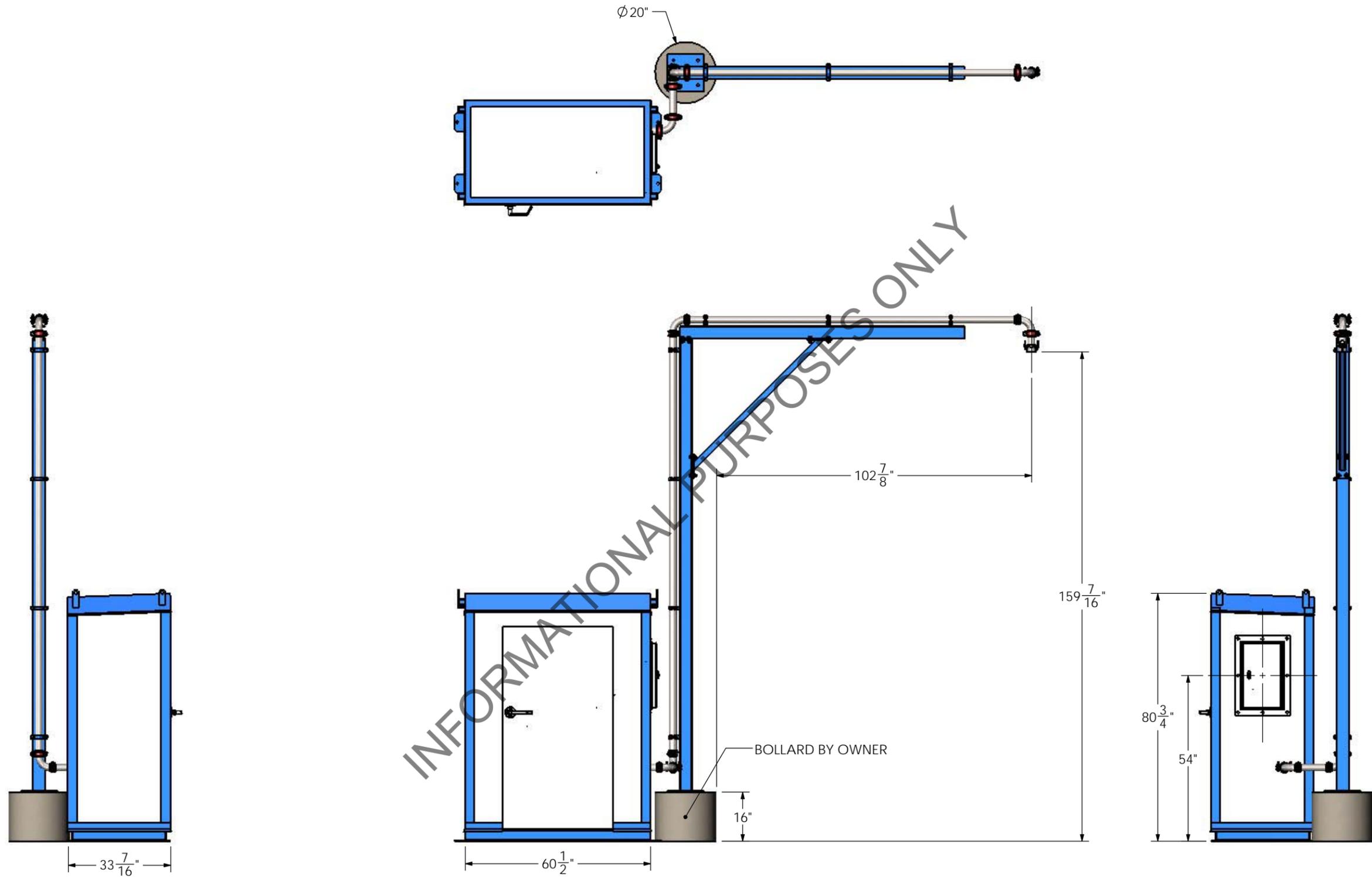






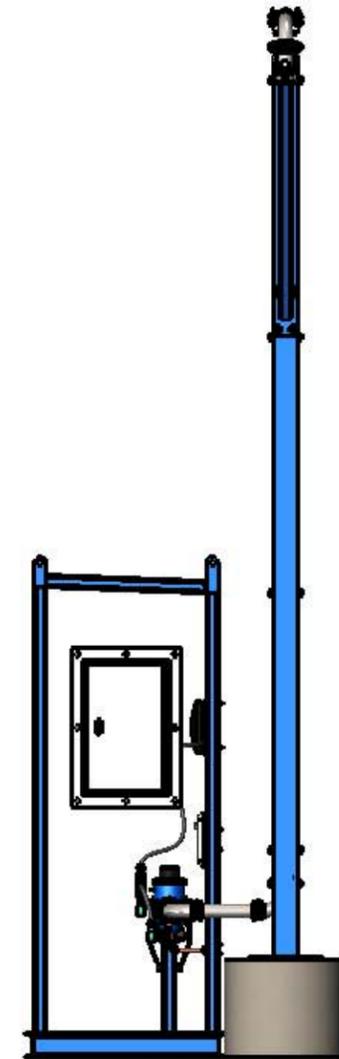
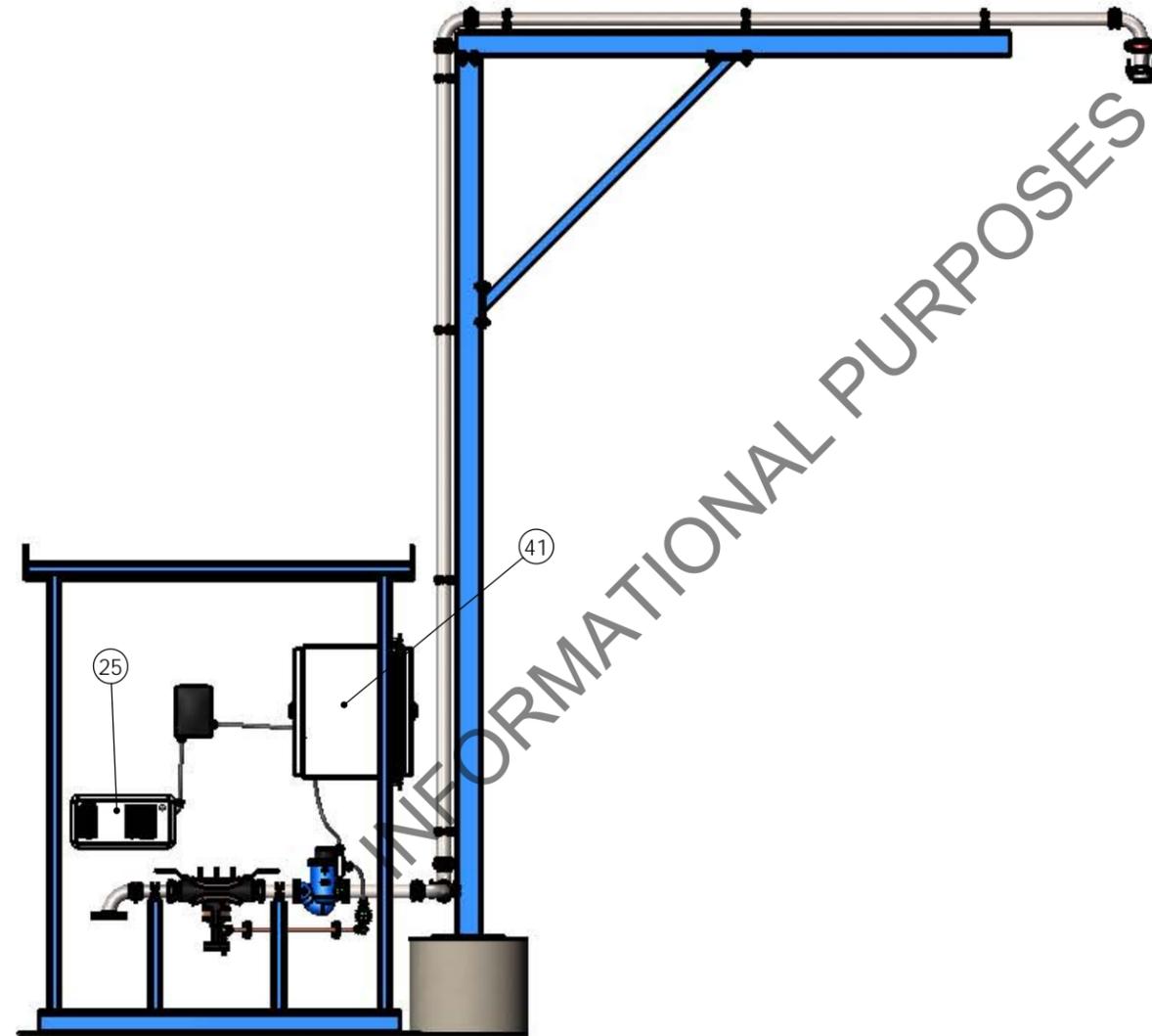
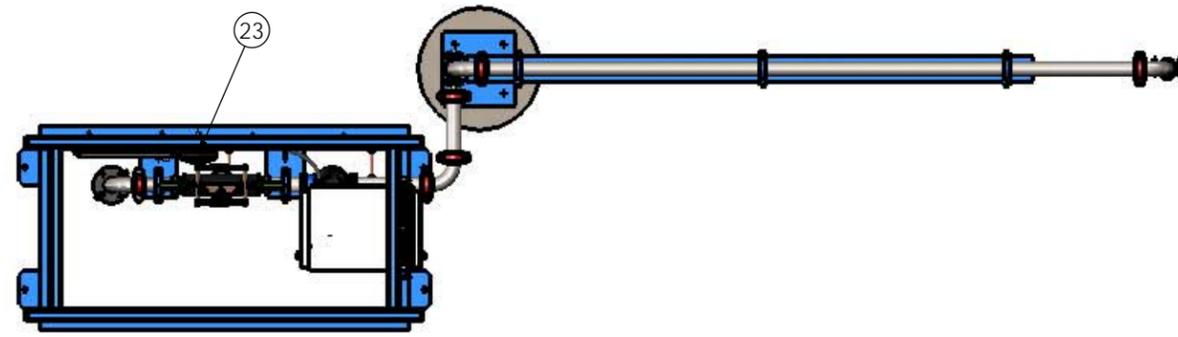
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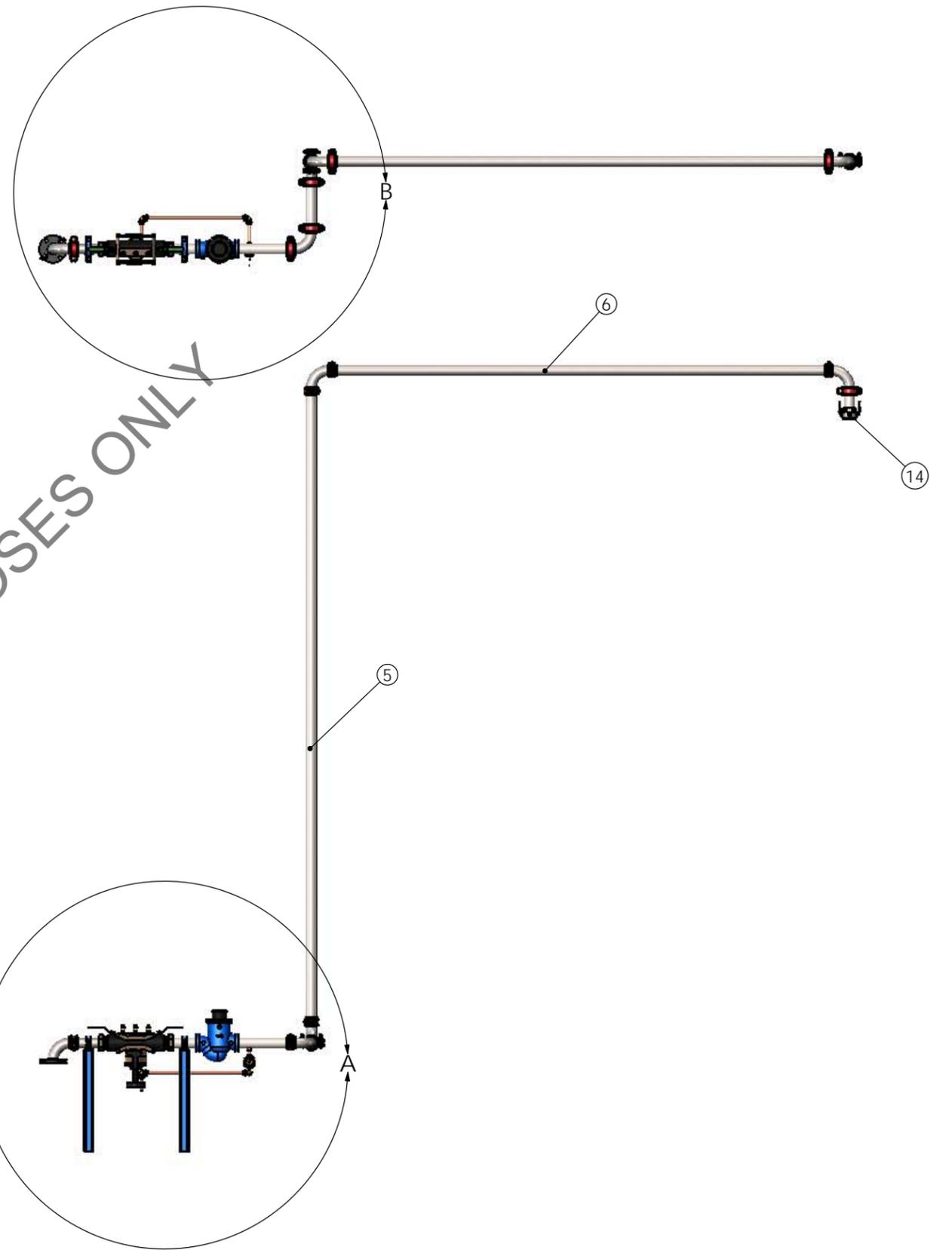
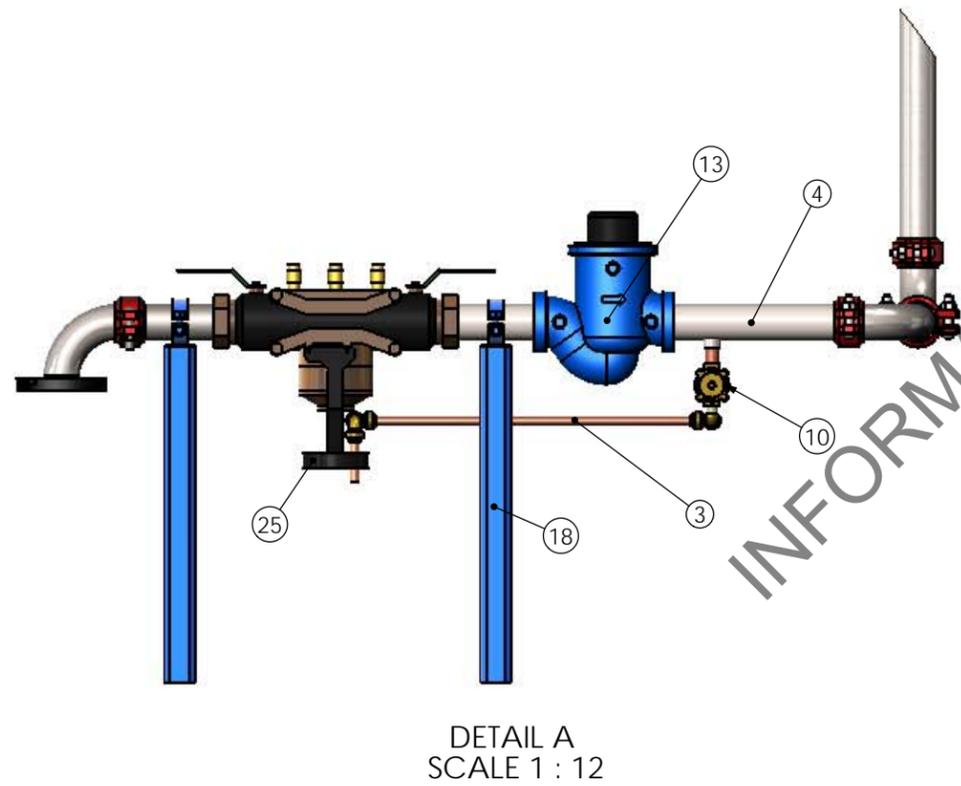
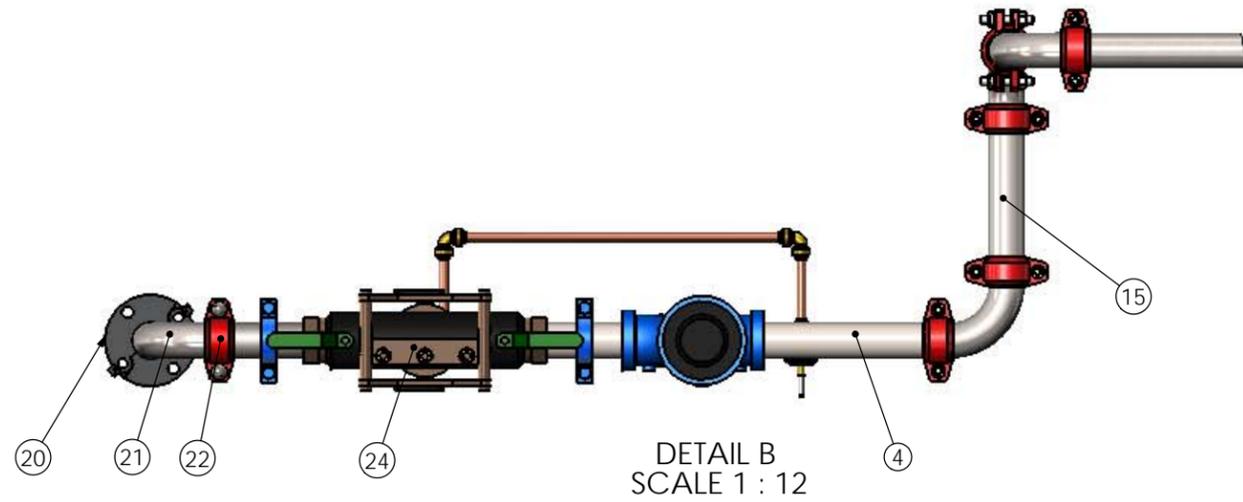
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| - | - | - | - | - | - | | DATE: 08/11/2013 | SCALE 1:35 | SHEET 1 OF 4 |



INFORMATIONAL PURPOSES ONLY

| # | DR | CH | REVISION DETAILS | APPD | DATE | <p style="font-size: 8px; margin: 0;">THIS DOCUMENT IS FOR THE SOLE USE OF FLOWPOINT ENVIRONMENTAL SYSTEMS. THE DOCUMENT CONTAINS PROPRIETARY AND CONFIDENTIAL INFORMATION THAT SHALL NOT BE REPRODUCED IN ANY MANNER WITHOUT THE EXPRESSED WRITTEN PERMISSION OF FLOWPOINT ENVIRONMENTAL SYSTEMS. INFORMATION ON THIS DOCUMENT IS TO BE CONSIDERED THE INTELLECTUAL PROPERTY OF FLOWPOINT ENVIRONMENTAL SYSTEMS IN ACCORDANCE WITH CANADIAN COPYRIGHT LAW.</p>  | DRAWING NUMBER: - | | REV 0 |
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| - | - | - | - | - | - | | DATE: 08/11/2013 | SCALE 1:30 | SHEET 2 OF 4 |



INFORMATIONAL PURPOSES ONLY

| # | DR | CH | REVISION DETAILS | APPD | DATE | | DRAWING NUMBER: - | | |
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| - | - | - | - | - | - | | DATE: 08/11/2013 | SCALE 1:30 | SHEET 3 OF 4 |

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Charter Review Summary

Article I

Section 1: It was the consensus of the Committee that no changes were needed.

Article II

Section 1, 2, and 3: It was the consensus of the Committee that no changes were needed.

Article III

Section 1: it was the consensus of the Committee that no changes were needed.

Section 2: it was the consensus of the Committee that no changes were needed.

Section 3: it was the consensus of the Committee that no changes were needed.

Section 4: Discussion was held that there is a possible typo in first sentence (line 7) *and choses in action should be choices in action*. This will be reviewed by Tim James, City Manager. It was the consensus of the Committee that no other changes were needed.

Section 5: it was the consensus of the Committee that no changes were needed.

Section 6: it was the consensus of the Committee that no changes were needed.

Section 7: it was the consensus of the Committee that no changes were needed.

Section 8: Discussion was held regarding if the wording “unless the same shall have remained so for ten days after special notice in writing has been given to the City Manager” and “provided, the City of Burkburnett shall not be liable, under any circumstances, for damages...” should be included and/or could a clarification be obtained on the meaning of these phrases. Mr. James stated he will have the City Attorney review this section and ensure that it is in compliance.

Section 9: it was the consensus of the Committee no changes were needed.

Section 10: it was the consensus of the Committee to have the City Attorney review this entire section to ensure is it up to date and in compliance.

Section 11: it was the consensus of the Committee that no changes were needed.

Section 12: it was the consensus of the Committee that no changes were needed.

Section 13: it was the consensus of the Committee that no changes were needed.

Section 14: it was the consensus of the Committee that no changes were needed.

Section 15: it was the consensus of the Committee that no changes were needed.

Section 16: it was the consensus of the Committee that no changes were needed.

Section 17: it was the consensus of the Committee that no changes were needed.

Section 18: Discussion was held that there is a possible typo in first sentence (line 7) *damand should be demand*. This will be reviewed by Mr. James. It was the consensus of the Committee that no other changes were needed.

Section 19: Discussion was held on the structure of the Board of Arbitration and who shall have control of the proceedings and which laws govern the proceedings. It was the consensus of the Committee to have the City Attorney review this section to ensure it was up to date and in compliance.

Section 20: it was the consensus of the Committee that no changes were needed.

Section 21: it was the consensus of the Committee that no changes were needed.

Section 22: it was the consensus of the Committee that no changes were needed.

Section 23: it was the consensus of the Committee that no changes were needed.

Section 24: it was the consensus of the Committee that no changes were needed.

Sections 25, 26, and 27: Mr. James will be contacting Oncor regarding their interpretation of this section. It was the consensus of the Committee to have the City Attorney review these sections in their entirety.

Section 28: it as the consensus of the Committee that no changes were needed.

Section 29: it as the consensus of the Committee that no changes were needed.

Sections 30, 31, 32: Motion was made by Rick Sims, seconded by Jerry Johnson that Sections 30, 31, and 32 be amended to read all construction and renovations will follow the current City adopted building codes. Motion carried unanimously.

Section 33: It was the consensus of the Committee that no changes were needed.

Section 34: It was the consensus of the Committee that paragraph 16 referencing fire escapes for all public buildings should be removed.

Section 35: It was the consensus of the Committee that no changes were needed.

Section 36: It was the consensus of the Committee to have the City Attorney review this section to ensure the Chapters and Titles referenced are current and up to date.

Article IV

Section 1: it was the consensus of the Committee that no changes were needed.

Section 2: Motion was made by Bob Franklin, seconded by Mel Feller to go to a Place System for elections. Motion carried unanimously.

Section 2: Motion was made by Mark Swope, seconded by Jerry Johnson to change term limit of the Commissioners from two years to three years. Motion carried unanimously.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5: Motion made by Mel Feller, seconded by Jeremy Duff to replace Section 5 with the following verbiage:

Term of office. No person shall be elected to and serve more than three (3) consecutive terms as a Commissioner, nor may any person be elected to serve more than three (3) consecutive terms as Mayor. Notwithstanding anything herein to the contrary, no person may be elected to and serve more than five (5) consecutive combined terms as a Commissioner and Mayor. For the purposes of this section, the fulfillment of an unexpired term, due to a vacancy in the Board of Commissioners or in the office of Mayor, whether by appointment, or election, shall not be considered as an elected term under provisions of this section. Motion carried unanimously.

Section 6: Motion was made by Jeremy Duff, seconded by Mike Crowley to replace Section 6 with the following verbiage:

Vacancies in Office.

A single vacancy in the Board of Commissioners shall be filled within thirty (30) days of the occurrence of the vacancy by a majority vote of the remaining members of the Board by selection of a person qualified for the position as described in this Charter. This appointee shall serve until the position can be filled at the next regular City election.

When more than one vacancy shall develop at any one time, a special election shall be called by the Board of Commissioners for the next date available under the Texas Election Code to fill the vacancies in the same manner as described herein for regular elections. However, if the vacancies occur within ninety (90) days of a regular election, then no special election shall be called and the remaining Commissioners shall appoint qualified persons to fill the vacancies until the regular election. Motion carried unanimously.

Section 6: Motion was made by Rick Sims, seconded by Mel Feller to change the following language: A single vacancy in the Board of Commissioners shall be filled within thirty (30) days of the occurrence of the vacancy by a majority vote of the remaining members of the Board...to A single vacancy in the Board of Commissioners shall be filled within thirty (30) days of the occurrence of the vacancy by a majority vote *of a quorum* of the remaining members of the Board...Motion carried unanimously.

Section 7: Motion was made by Mel Feller, seconded by Rick Sims that the Mayor will be elected by the citizens and the Mayor Pro-Tem will be elected by the Board of Commissioners. Motion carried unanimously.

Section 8: It was the consensus of the Committee that no changes were needed.

Mr. James will contact the City Attorney to see if changes can be made in the Charter so that it is not gender specific.

Section 9: Motion made by Mel Feller, seconded by Jerry Johnson that the Board of Commissioners shall receive no compensation for their services. Motion carried unanimously.

Section 10: It was the consensus of the Committee that no changes were needed.

Section 11: It was the consensus of the Committee that no changes were needed.

Section 12: Motion was made by Jerry Johnson, seconded by Rick Sims that the first sentence of Section 12 shall be deleted from: The Mayor of the City...and who shall have been elected by the Board of Commissioners. Section 12 will now begin with The Mayor of the City of Burkburnett shall preside over the meetings of said Board, ...but shall have no veto power. The following sentence will also be deleted: He shall sign all contracts entered into by the city and all bonds issued under the provisions of this Charter, and shall be the chief executive officer of the city. Motion carried unanimously.

Section 13: It was the consensus of the Committee that no changes were needed.

Section 14: It was the consensus of the Committee that no changes were needed.

Section 15: It was the consensus of the Committee that no changes were needed.

Section 16: It was the consensus of the Committee that no changes were needed.

Section 17: It was the consensus of the Committee that no changes were needed.

Section 18: (B) Motion was made by Mel Feller, seconded by Rick Sims to change “Seven days prior” to be consistent with state law (72 hours). Motion carried unanimously.

Section 19: It was the consensus of the Committee that no changes were needed.

Section 20: It was the consensus of the Committee to insert “including electronic media” after ...be published in every issue of the official paper, *including electronic media*, for 10 days.

Section 21: It was the consensus of the Committee that no changes were needed.

Section 22: It was the consensus of the Committee that no changes were needed.

Section 23: Mr. James explained to the Committee that at this time when ordinances are revised or amended the new ordinance must contain the entire ordinance as revised or amended. This can make it difficult to show the Commissioners and the Public what has been revised or amended due to the length of the ordinance. Mr. James will get examples from other cities to review.

***Mr. James did not provide examples prior to leaving. This section will be reviewed by the City Attorney.**

Section 24: It was the consensus of the Committee that no changes were needed.

Section 25: It was the consensus of the Committee that no changes were needed.

Section 26: It was the consensus of the Committee that no changes were needed.

Section 27: It was the consensus of the Committee that no changes were needed.

Section 28: It was the consensus of the Committee that no changes were needed.

Section 29: It was the consensus of the Committee that no changes were needed.

Section 30: It was the consensus of the Committee that no changes were needed.

Section 31 and 32: It was the consensus of the Committee that no changes were needed.

Section 33: It was the consensus of the Committee to change ...such contract shall provide that the books of the city shall be audited quarterly, the last audit...to such contract shall provide that that the books of the city shall be audited *annually or in accordance with state law*, the last audit...

Article IVa

Section 1: There is a typo: fall should be fill. Discussion in earlier meetings was to check with City attorney to see what the cost would be to correct the typos in the Charter. It was the consensus of the Committee that no other changes were needed.

Section 2: Motion made by Cory Brinkley seconded by Mark Swope to substitute voters registration list for poll tax list through the entire Charter. Motion carried unanimously.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5: Motion was made by Mel Feller seconded by Danny Cremeens to have the City attorney verify the date requirements and make it consistent with state requirements if longer than the two days listed. Motion carried unanimously.

Section 6: It was the consensus of the Committee that no changes were needed.

Section 7: It was the consensus of the Committee that no changes were needed.

Section 8: It was the consensus of the Committee that no changes were needed.

Section 9: It was the consensus of the Committee that no changes were needed.

Section 10: It was the consensus of the Committee that no changes were needed.

Section 11: It was the consensus of the Committee that no changes were needed.

Article IVb

Section 1: It was the consensus of the Committee that no changes were needed.

Section 2a, b, and c: It was the consensus of the Committee that no changes were needed.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5: It was the consensus of the Committee that no changes were needed.

Section 6: It was the consensus of the Committee that no changes were needed.

Section 7: It was the consensus of the Committee that no changes were needed.

Section 8: It was the consensus of the Committee that no changes were needed.

Section 9: It was the consensus of the Committee that no changes were needed.

Section 10: Motion was made by Jeremy Duff seconded by Susan Mitchell to make this section consistent with state law. Motion carried unanimously.

Section 11: It was the consensus of the Committee that no changes were needed.

Section 12: It was the consensus of the Committee that no changes were needed.

Article V

Section 1. Motion was made by Rick Sims seconded by Mel Feller to add: *The Board of Commissioners shall enter into an employment agreement with the City Manager.* Motion carried unanimously.

Section 2: Motion was made by Susan Mitchell seconded by Bob Franklin to add the following: Upon appointment as City Manager he/she will have 90 days to become a resident of the City of Burkburnett.

Ayes: Chairman Carl English Sr., Cory Brinkley, Danny Cremeens, Mike Crowley, Bob Franklin, Sally Hood, Jason Jones, Rodney McCleskey Jr., Susan Mitchell, Rick Sims and Mark Swope

Nays: Mel Feller

Motion carried.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5c: Motion was made by Rick Sims seconded by Mel Feller to strike the last seven words: *and all subordinate employees of the city.* Motion carried unanimously.

Section 6: It was the consensus of the Committee that no changes were needed.

Article VI

Section 1: It was the consensus of the Committee that no changes were needed.

Section 2 A, B, and C: It was the consensus of the Committee that no changes were needed.

Section 3 A, B, C, and D: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5: It was the consensus of the Committee that no changes were needed.

Section 6: It was the consensus of the Committee that no changes were needed.

Article VII

Section 1: It was the consensus of the Committee that no changes were needed.

Section 2: It was the consensus of the Committee that no changes were needed.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Article VIII

Section 1: Motion was made by Cory Brinkley seconded by Mike Crowley and Bob Franklin to have the City Attorney review this section to ensure is it up to date and in compliance with state law.

Section 2: It was the consensus of the Committee that no changes were needed.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5: It was the consensus of the Committee that no changes were needed.

Section 6: It was the consensus of the Committee that no changes were needed.

Section 7: It was the consensus of the Committee that no changes were needed.

Section 8: Motion was made by Mel Feller seconded by Cory Brinkley to have the City Attorney review this section to ensure is it up to date and in compliance with state law.

Section 9: Motion was made by Mel Feller seconded by Mike Crowley to have city attorney review this section. Motion carried unanimously.

Section 10: It was the consensus of the Committee to have the city attorney review this section and make sure it is up to date.

Section 11: It was the consensus of the Committee that no changes were needed.

Section 12: It was the consensus of the Committee that no changes were needed.

Section 13: It was the consensus of the Committee that no changes were needed.

Section 14: It was the consensus of the Committee that no changes were needed.

Section 15: It was the consensus of the Committee to have the city attorney review this section and make sure it is up to date.

Section 16: It was the consensus of the Committee to have the city attorney review this section and make sure it is up to date.

Section 17: It was the consensus of the Committee that no changes were needed.

Article IX

Section 1: Motion was made by Bob Franklin seconded by Mel Feller to delete Section 1 of Article 9. Motion carried unanimously.

Section 2: It was the consensus of the Committee that no changes were needed.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5 A and B: It was the consensus of the Committee that no changes were needed.

Section 6 A and B: It was the consensus of the Committee that no changes were needed.

Section 7 A: It was the consensus of the Committee that no changes were needed.

Section 7 B: It was the consensus of the Committee to have the city attorney review this section.

Articles IXa, IXb, X, XI, XII: It was the consensus of the Committee that no changes were needed.

Article XIII

Section 1: It was the consensus of the Committee that no changes were needed.

Section 2: It was the consensus of the Committee that no changes were needed.

Section 3: It was the consensus of the Committee that no changes were needed.

Section 4: It was the consensus of the Committee that no changes were needed.

Section 5: It was the consensus of the Committee that no changes were needed.

Section 6: It was the consensus of the Committee that no changes were needed.

Article XIV

Section 1: It was the consensus of the Committee that no changes were needed.

Section 2: It was the consensus of the Committee that no changes were needed.

ORDINANCE NUMBER 847

AN ORDINANCE SUPERSEDING ORDINANCE NUMBER 835 OF THE CITY OF BURKBURNETT, TEXAS PRESENTLY CODIFIED AS CHAPTER 53, WATER IN THE CODE OF ORDINANCES, SPECIFYING THE EFFECTIVE DATE; DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS; THAT:

Section 1. That Chapter 53 of the Code of Ordinances of the City of Burkburnett be amended by changing Section 53.20 to the following:

SECTION 53.20-RATES; BILLING

(A) That the water rates to be charged and collected per month by the City of Burkburnett, Texas, from all customers within the city limits obtaining service from said Waterworks System of said City, shall be and are hereby fixed as follows:

| | |
|-----------------------------|---------------------------|
| Minimum First 2,000 Gallons | \$ 20.00 |
| Next 8,000 Gallons | \$ 6.15 per 1,000 gallons |
| Next 10,000 Gallons | \$ 4.40 per 1,000 gallons |
| Next 5,000 Gallons | \$ 4.60 per 1,000 gallons |
| Over 25,000 Gallons | \$ 4.70 per 1,000 gallons |

(B) That all customers outside the city limits of Burkburnett obtaining service from the Waterworks System of said City, shall pay double the above fixed rates.

Section 2. This Ordinance shall take effect immediately. All other ordinances and resolutions and parts of thereof in conflict with any part of this Ordinance are hereby expressly repealed to the extent of such conflict. The water usage rate increase of \$6.15 per 1,000 gallons will remain in effect for a period of 90 days, at such time with no further action by council, rates will revert to \$4.15 per 1,000 gallons.

Section 3. In the event any one or more of the provision of this Ordinance should be declared to be invalid, unenforceable or illegal; such invalidity, unenforceability or illegality shall not affect the validity, enforcement, or legality of the remaining portions of this Ordinance.

Section 4. It is hereby officially found and determined that said meeting at which this Ordinance is passed is open to the public as required by law and that notice of said time, place and purpose of said meeting was given.

PASSED AND APPROVED on this 18th day of November, 2013.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk

ORDINANCE NUMBER 848

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING APPENDIX J OF THE WATER CONSERVATION PLAN; ESTABLISHING CRITERIA FOR THE DROUGHT CONTINGENCY PLAN; PROVIDING PENALTIES, SEVERABILITY; AN EFFECTIVE DATE AND DECLARING AN EMERGENCY.

WHEREAS, the City of Burkburnett, Texas recognizes that the amount of water available to the City and its water utility customers is limited and subject to depletion during periods of extended drought; and

WHEREAS, the City recognizes that natural limitations due to drought conditions and other acts of God cannot guarantee an uninterrupted water supply for all purposes; and

WHEREAS, the City has determined that the Water Conservation Plan should be amended to provide additional measures of water conservation to create reduction in water use; and

WHEREAS, as authorized under law, and in the best interest of the citizens of Burkburnett, Texas the Board of Commissioners deems it expedient and necessary to establish certain polices for the orderly and efficient management of limited water supplies.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS:

SECTION 1. That Appendix J - Drought Contingency Plan, of the City of Burkburnett, Texas, Water Conservation Plan be amended to read:

Section I: Declaration of Policy, Purpose, and Intent

In order to conserve the available water supply and protect the integrity of water supply facilities, with particular regard for domestic water use, sanitation, and fire protection, and to protect and preserve public health, welfare, and safety and minimize the adverse impacts of water supply shortage or other water supply emergency conditions, the City of Burkburnett hereby adopts the following regulations and restrictions on the delivery and consumption of water through an ordinance/or resolution.

Water uses regulated or prohibited under this Drought Contingency Plan (the Plan) are considered to be non-essential and continuation of such uses during times of water shortage or other emergency water supply condition are deemed to constitute a waste of water which subjects the offender(s) to penalties as defined in Section XI of this Plan.

The content of this report is based on Texas Commission on Environmental Quality (TCEQ) rules, minimum requirements, and suggestions for developing of a Drought

Contingency Plan. These rules, requirements, and suggestions are contained in Title 30 Texas Administrative Code (TAC), Subchapter B, Rule §288.2 and the TCEQ Handbook on Drought Contingency Planning for Retail Public Water Suppliers (RG-424, April 2005). A copy of Rule §288.2 is attached to this report.

Section II: Public Involvement

Opportunity for the public to provide input into the preparation of the Plan was provided by the City of Burkburnett by the customary process of passing the ordinance to adopt this Plan. The public is invited to comment at the council meetings. Written notice of this agenda item is posted prior to each meeting.

Section III: Public Education

The City of Burkburnett will periodically provide the public with information about the Plan, including information about the conditions under which each stage of the Plan is to be initiated or terminated and the drought response measures to be implemented in each stage. This information will be provided by inserts in water bills, by publication in the local weekly newspaper, and by making the plan available on the City of Burkburnett official website (www.burkburnet.org).

Section IV: Coordination with Regional Water Planning Groups

The service area of the City of Burkburnett is located in Wichita County. Wichita County is located in the Region B Water Planning Group. A copy of the Plan has been provided to the Texas Water Planning Area Region B for approval.

Section V: Authorization

The City Manager or his/her designee, with consent of the Board of Commissioners, is hereby authorized and directed to implement the applicable provisions of this Plan upon determination that such implementation is necessary to protect public health, safety, and welfare. The City Manager or his/her designee, with consent of the Board of Commissioners, shall have the authority to initiate or terminate drought or other water supply emergency response measures as described in this Plan.

Section VI: Application

The provisions of this Plan shall apply to all persons, customers, and property utilizing water provided by the City of Burkburnett. The terms “person” and “customer” as used in the Plan include individuals, corporations, partnerships, associations, and all other legal entities.

Section VII: Definitions

For the purposes of this Plan, the following definitions shall apply:

Aesthetic water use: water use for ornamental or decorative purposes such as fountains, reflecting pools, and water gardens.

Commercial and institutional water use: water use which is integral to the operations of commercial and non-profit establishments and governmental entities such as retail establishments, hotels and motels, restaurants, and office buildings.

Conservation: those practices, techniques, and technologies that reduce the consumption of water, reduce the loss or waste of water, improve the efficiency in the use of water or increase the recycling and reuse of water so that a supply is conserved and made available for future or alternative uses.

Customer: any person, company, or organization using water supplied by City of Burkburnett.

Domestic water use: water use for personal needs or for household or sanitary purposes such as drinking, bathing, heating, cooking, sanitation, or for cleaning a residence, business, industry, or institution.

Even number address: street addresses, box numbers, or rural postal route numbers ending in 0, 2, 4, 6, or 8 and locations without addresses.

Hand watering: Watering trees, flower beds, plants and gardens only with a handheld hose, soaker hose, bucket (5 gallons or less), watering can, or drip irrigation system.

Industrial water use: the use of water in processes designed to convert materials of lower value into forms having greater usability and value.

Landscape irrigation use: water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf courses, parks, and rights-of-way and medians.

Non-essential water use: water uses that are not essential nor required for the protection of public, health, safety, and welfare, including:

- (a) irrigation of landscape areas, including parks, athletic fields, and golf courses, except otherwise provided under this Plan;
- (b) use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle;
- (c) use of water to wash down any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
- (d) use of water to wash down buildings or structures for purposes other than immediate fire protection;
- (e) flushing gutters or permitting water to run or accumulate in any gutter or street;
- (f) use of water in a fountain or pond for aesthetic or scenic purposes except where necessary to support aquatic life;
- (g) failure to repair a controllable leak(s) within a reasonable period after having been

given notice directing the repair of such leak(s); and

(h) use of water from hydrants for construction purposes or any other purposes other than fire fighting.

Odd numbered address: street addresses, box numbers, or rural postal route numbers ending in 1, 3, 5, 7, or 9.

Section VIII: Criteria for Initiation and Termination of Drought Response Stages

The City Manager or his/her designee shall monitor water supply and/or demand conditions on a daily basis and shall determine when conditions warrant initiation or termination of each stage of the Plan, that is, when the specified “triggers” are reached.

The triggering criteria described below are based on an increase in demand and reduction in the water supply. After examining the average daily demands during maximum-use months for the last five years, demand-related triggers were developed based on the average daily demand (2.1 MG) during the maximum-use month (July 2007) extended over a period of ten days (21 MG). Supply-related triggers were developed from water-supply contracts with the City of Wichita Falls which sells water to the City of Burkburnett at a maximum rate of 4 MGD.

Stage 1 Triggers -- MILD Water Shortage Conditions

Requirements for initiation and termination: Customers shall be requested to voluntarily conserve water and adhere to the prescribed restrictions on certain water uses, defined in Section VII–Definitions, annually beginning on May 1 through September 30.

Stage 2 Triggers -- MODERATE Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses provided in Section IX of this Plan either of the following conditions exist:

- (a) The total demand equals or exceeds 21 million total gallons over a period of ten consecutive days.
- (b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by between 10 and 20 percent.

Requirements for termination: Stage 2 of the Plan may be rescinded when both of the following conditions have been met:

(a) Total water demand is less than 21 million total gallons over a period of ten consecutive days.

(b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 90 percent of preexisting quantity.

Upon termination of Stage 2, Stage 1 becomes operative.

Stage 3 Triggers – SEVERE Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 3 of this Plan when either of the following conditions exists:

(a) The total demand equals or exceeds 24 million total gallons over a period of ten consecutive days after implementing Stage 2.

(b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by between 20 and 30 percent.

Requirements for termination: Stage 3 of the Plan may be rescinded when both of the following conditions have been met:

(a) Total water demand is less than 24 million total gallons over a period of fifteen consecutive days.

(b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 80 percent of preexisting quantity.

Upon termination of Stage 3, Stage 2 becomes operative.

Stage 4 Triggers -- CRITICAL Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions on certain non-essential water uses for Stage 4 of this Plan when either of the following conditions exists:

(a) The total demand equals or exceeds 27 million total gallons over a period of ten consecutive days after implementing Stage 3.

(b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by between 30 and 35 percent or the City of Wichita Falls is going to Stage 4.

Requirements for termination: Stage 4 of the Plan may be rescinded when both of the following conditions have been met:

(a) Total water demand is less than 27 million total gallons over a period of ten consecutive days.

- (b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 70 percent of preexisting quantity.

Upon termination of Stage 4, Stage 3 becomes operative.

Stage 5 Triggers -- EMERGENCY Water Shortage Conditions

Requirements for initiation: Customers shall be required to comply with the requirements and restrictions for Stage 5 of this Plan when City Manager, or his/her designee, determines that a water supply emergency exists. Conditions that may result in a water supply emergency may include the following:

- (a) Total water demand equals or exceeds 30 million total gallons over a period of ten consecutive days after implementing Stage 4;
- (b) The City of Burkburnett receives notice that the City of Wichita Falls will reduce its supply of water to Burkburnett by 35 percent or more;
- (c) Major water line breaks, or pump or system failures occur, which cause unprecedented loss of capability to provide water service; or
- (d) Natural or man-made contamination of the water supply source(s).

Requirements for termination: Stage 5 of the Plan may be rescinded when all of the following applicable conditions have been met:

- (a) Total water demand is less than 30 million total gallons over a period of ten consecutive days.
- (b) The City receives notice that the City of Wichita Falls is restoring its supply of water to the City to at least 65 percent of preexisting quantity.
- (c) Repairs have been made and water service restored.
- (d) Contamination of the water supply source has been corrected and water service restored.

When Stage 5 conditions were a result of either (a) or (b) above, Stage 4 becomes operative upon termination of Stage 5. When Stage 5 conditions were a result of either (c) or (d) above, water supply operation may return to pre-existing conditions upon termination of Stage 5.

Stage 6 Triggers -- WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water as prescribed in Section IX of this

Plan. Customers shall be required to comply with the water allocation plan and comply with the requirements and restrictions for Stage 6 of this Plan.

Section IX: Drought Response Stages

The City Manager, or his/her designee, shall monitor water supply and/or demand conditions on a daily basis and, in accordance with the triggering criteria set forth in Section VIII of this Plan, shall determine that a mild, moderate, severe, critical, emergency or water shortage condition exists and shall implement the following notification procedures:

Notification

Notification of the Public: The City Manager or his/her designee shall notify the public by means of:

- (a) publication of notice in the local weekly newspaper;
- (b) inserts in water bills;
- (c) notifications by direct mail to customers; or
- (d) by any combination of these actions.

Additional Notification: The City Manager or his/her designee shall notify directly, or cause to be notified directly, only as appropriate to respective drought stages, the following individuals and entities:

- (a) Mayor / members of the City Council
- (b) Fire Chief
- (c) County Judge and Commissioners
- (d) TCEQ (required when mandatory restrictions are imposed)
- (e) Major water users
- (f) Critical water users (hospitals, etc)
- (g) Parks / street superintendents and public facilities managers

Stage 1 Response -- MILD Water Shortage Conditions

Target: Achieve a voluntary 5 percent reduction in total water use and raise public awareness.

Voluntary Water Use Restrictions for Reducing Demand:

(a) Water customers are requested to voluntarily limit the irrigation of landscaped areas to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and to irrigate landscapes only between the hours of midnight and 10:00 a.m. and 8:00 p.m. to midnight on designated watering days.

(b) All operations of the City of Burburnett shall adhere to water use restrictions prescribed for Stage 2 of the Plan.

(c) Water customers are requested to practice water conservation by checking for leaks, dripping faucets, and running toilets and by utilizing water conservation kits such as displacement bags, low-flow shower heads, and leak detector tablets, and to minimize or discontinue water use for non-essential purposes.

Stage 2 Response -- MODERATE Water Shortage Conditions

Target: Achieve a 15 percent reduction in total water use.

Water Use Restrictions for Demand Reduction: Under threat of penalty for violation, the following water use restrictions shall apply to all persons:

(a) Irrigation of landscaped areas with hose-end sprinklers or automatic irrigation systems shall be limited to Sundays and Thursdays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Saturdays and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9), and irrigation of landscaped areas is further limited to the hours of 12:00 midnight until 10:00 a.m. and between 8:00 p.m. and 12:00 midnight on designated watering days. However, irrigation of landscaped areas is permitted at anytime if it is by means of a hand-held hose, a faucet filled bucket or watering can of five (5) gallons or less, or drip irrigation system.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8:00 p.m. and 12:00 midnight. Such washing, when allowed, shall be done with a hand-held bucket or a hand-held hose equipped with a positive shutoff nozzle for quick rises. Vehicle washing may be done at any time on the immediate premises of a commercial car wash or commercial service station. Further, such washing may be exempted from these regulations if the health, safety, and welfare of the public is contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

(c) Use of water to fill, refill, or add to any indoor or outdoor swimming pools, wading pools, or jacuzzi-type pools is prohibited except on designated watering days between the hours of 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight.

(d) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

(e) Use of water from hydrants shall be limited to fire fighting, related activities, or other activities necessary to maintain public health, safety, and welfare, except that use of water from designated fire hydrants for construction purposes may be allowed under special permit from the City of Burburnett.

(f) Use of water for the irrigation of golf course greens, tees, and fairways is prohibited except on designated watering days between the hours 12:00 midnight and 10:00 a.m. and between 8 p.m. and 12:00 midnight. However, if the golf course utilizes a water source other than that provided by the City of Burburnett, the facility shall not be subject to these regulations.

(g) All restaurants are prohibited from serving water to patrons except upon request of the patron.

(h) The following uses of water are defined as non-essential and are prohibited:

1. wash down of any sidewalks, walkways, driveways, parking lots, tennis courts, or other hard-surfaced areas;
2. use of water to wash down buildings or structures for purposes other than immediate fire protection;
3. use of water for dust control;
4. flushing gutters or permitting water to run or accumulate in any gutter or street; and
5. failure to repair a controllable leak(s) within a reasonable period after having been given notice directing the repair of such leak(s).

Stage 3 Response -- SEVERE Water Shortage Conditions

Target: Achieve a 35 percent reduction in total water use.

Water Use Restrictions for Demand Reduction: All requirements of Stage 2 shall remain in effect during Stage 3 except:

- a) Irrigation of landscaped areas shall be limited to Sundays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9) between the hours of and between 8 pm and 12:00 midnight and shall only be by means of hand-held hoses, hand-held buckets, drip irrigation, hose-end sprinklers

with automatic timers, or permanently installed automatic sprinkler systems. The use of hose-end sprinklers without automatic timers is prohibited at all times.

- b) A water conservation surcharge will be applied to all residential and irrigation accounts when the City is under Stage 3. The surcharges will include:

Residential Meters

\$1.00 per 1,000 gallons for usage between 10,001 gallons and 15,000 gallons
\$2.00 per 1,000 gallons for usage between 15,001 gallons and 20,000 gallons
\$3.00 per 1,000 gallons for usage between 20,001 gallons and 25,000 gallons
\$4.00 per 1,000 gallons for usage over 25,001 gallons

Irrigation Meters

\$1.00 per 1,000 gallons for usage between 10,001 and 15,000 gallons
\$2.00 per 1,000 gallons for usage between 15,001 gallons and 20,000 gallons
\$4.00 per 1,000 gallons for usage between 20,001 gallons and 25,000 gallons
\$8.00 per 1,000 gallons for usage over 25,000 gallons

- c) The watering of golf course greens, tees, and fairways is prohibited unless the golf course utilizes a water source other than that provided by the City of Burkburnett or treated effluent water.
- d) The use of potable water for construction purposes from designated fire hydrants under special permit is to be discontinued.
- e) Operation of any ornamental fountain or pond for aesthetic or scenic purposes is prohibited except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.
- f) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the immediate premises of a commercial car wash or commercial service station and not in the immediate interest of public health, safety, and welfare is prohibited
- g) Commercial car washes shall only operate 18 hours a day.

Stage 4 Response -- CRITICAL Water Shortage Conditions

Target: Achieve a 45 percent reduction in total water use.

Water Use Restrictions for Reducing Demand: All requirements of Stage 2 and 3 shall remain in effect during Stage 4 except:

- (a) It shall be unlawful to utilize any type of irrigation on any day at any time. This restriction includes all forms of irrigation, including spray bubbler, drip, hand-watering, etc. The City of Burkburnett will shut off all irrigation meters.

(a) The watering of Home Foundations is restricted to Sundays for customers with a street address ending in an even number (0, 2, 4, 6 or 8), and Wednesdays for water customers with a street address ending in an odd number (1, 3, 5, 7 or 9) between the hours of and between 8 pm and 12:00 midnight.

i. Foundations may only be watered with Soaker Hoses.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle not occurring on the premises of a commercial car wash and commercial service stations and not in the immediate interest of public health, safety, and welfare is prohibited.

(c) Residential pools shall only drained when necessary to make repairs. The pool level shall only be lowered to the level necessary to make the repairs and may be refilled. Pools may be refilled due to evaporation loss. All water features (waterfalls, sprays, slides, etc.) for residential pools shall be prohibited.

(e) Commercial car washes shall only operate 8 hours a day, 6 days a week, between the hours of 1:00 p.m. and 9:00 p.m.

(f) The use of water for washing sidewalks, walkways, driveways, parking areas, streets, tennis courts, patios, or other hard-surfaced area, except to allow to alleviate immediate health or fire hazards is prohibited.

g) A water conservation surcharge will be applied to all residential and irrigation accounts when the City is under Stage 4. The surcharges will include:

Residential Meters

\$3.00 per 1,000 gallons for usage between 10,001 gallons and 15,000 gallons

\$6.00 per 1,000 gallons for usage between 15,001 gallons and 20,000 gallons

\$9.00 per 1,000 gallons for usage between 20,001 gallons and 25,000 gallons

\$12.00 per 1,000 gallons for usage over 25,001 gallons

Stage 5 Response -- EMERGENCY Water Shortage Conditions

Target: Achieve a 50 percent reduction in total water use.

Water Use Restrictions for Reducing Demand: All requirements of Stage 2, 3, and 4 shall remain in effect during Stage 5 except:

(a) Irrigation of landscaped areas is absolutely prohibited. No new landscapes of any type may be established.

(b) Use of water to wash any motor vehicle, motorbike, boat, trailer, airplane or other vehicle is absolutely prohibited.

(c) The use of water for construction purposes from designated fire hydrants under

special permits is to be discontinued.

Stage 6 Response -- WATER ALLOCATION

In the event that water shortage conditions threaten public health, safety, and welfare, the City Manager is hereby authorized to allocate water according to the following water allocation plan:

Single-Family Residential Customers: The allocation to residential water customers residing in a single-family dwelling shall be as follows:

| <u>Persons per Household</u> | <u>Gallons per Month</u> |
|------------------------------|--------------------------|
| 1 or 2 | 6,000 |
| 3 or 4 | 7,000 |
| 5 or 6 | 8,000 |
| 7 or 8 | 9,000 |
| 9 or 10 | 10,000 |
| 11 or more | 12,000 |

“Household” means the residential premises served by the customer’s meter.

“Persons per household” includes only those persons currently physically residing at the premises and expected to reside there for the entire billing period. It shall be assumed that a particular customer’s household is comprised of two (2) persons unless the customer notifies the City of Burburnett of a greater number of persons per household on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every residential customer. If, however, a customer does not receive such a form, it shall be the customer’s responsibility to go to the City of Burburnett offices to complete and sign the form claiming more than two (2) persons per household. New customers may claim more persons per household at the time of applying for water service on the form prescribed by the City Manager. When the number of persons per household increases so as to place the customer in a different allocation category, the customer may notify the City of Burburnett on such form and the change will be implemented in the next practicable billing period. If the number of persons in a household is reduced, the customer shall notify the City of Burburnett in writing within two (2) days. In prescribing the method for claiming more than two (2) persons per household, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of persons in a household or fails to timely notify the City of Burburnett of a reduction in the number of person in a household shall be fined I accordance with the enforcement measures described in Section X Enforcement.

Residential water customers shall pay the following surcharges:

- \$5.00 for the first 1,000 gallons over allocation.
- \$6.00 for the second 1,000 gallons over allocation.
- \$7.00 for the third 1,000 gallons over allocation.
- \$8.00 for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Master-Metered Multi-Family Residential Customers: The allocation to a customer billed from a master meter which jointly measures water to multiple permanent residential dwelling units (example: apartments, mobile homes) shall be allocated 6,000 gallons per month for each dwelling unit. It shall be assumed that such a customer's meter serves two dwelling units unless the customer notifies the City of Burkburnett of a greater number on a form prescribed by the City Manager. The City Manager shall give his/her best effort to see that such forms are mailed, otherwise provided, or made available to every such customer. If, however, a customer does not receive such a form, it shall be the customer's responsibility to go to the City of Burkburnett offices to complete and sign the form claiming more than two (2) dwellings. A dwelling unit may be claimed under this provision whether it is occupied or not. New customers may claim more dwelling units at the time of applying for water service on the form prescribed by the City Manager. If the number of dwelling units served by a master meter is reduced, the customer shall notify the City of Burkburnett in writing within two (2) days. In prescribing the method for claiming more than two (2) dwelling units, the City Manager shall adopt methods to insure the accuracy of the claim. Any person who knowingly, recklessly, or with criminal negligence falsely reports the number of dwelling units served by a master meter or fails to timely notify the City of Burkburnett of a reduction in the number of person in a household shall be fined in accordance with the enforcement measures described in Section X Enforcement. Customers billed from a master meter under this provision shall pay the following monthly surcharges:

\$5.00 for 1,000 gallons over allocation up through 1,000 gallons for each dwelling unit.

\$6.00 thereafter, for each additional 1,000 gallons over allocation up through a second 1,000 gallons for each dwelling unit.

\$7.00 thereafter, for each additional 1,000 gallons over allocation up through a third 1,000 gallons for each dwelling unit.

\$8.00 thereafter for each additional 1,000 gallons over allocation.

Surcharges shall be cumulative.

Commercial Customers: A monthly water allocation shall be established by the City Manager, or his/her designee, for each nonresidential commercial customer other than an industrial customer who uses water for processing purposes. The non-residential customer's allocation shall be approximately 75 percent of the customer's usage for corresponding month's billing period for the previous 12 months. If the customer's billing history is shorter than 12 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no history exists. Provided, however, a customer, 75 percent of whose monthly usage is less than 6,000 gallons, shall be allocated 5,000 gallons. The City Manager shall give his/her best effort to see that notice of each non-residential customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City of Burkburnett to determine the allocation. Upon

request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased if, (1) the designated period does not accurately reflect the customer's normal water usage, (2) one nonresidential customer agrees to transfer part of its allocation to another nonresidential customer, or (3) other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager. Nonresidential commercial customers shall pay the following surcharges:

- \$5.00 per thousand gallons for the first 1,000 gallons over allocation.
- \$6.00 per thousand gallons for the second 1,000 gallons over allocation.
- \$7.00 per thousand gallons for the third 1,000 gallons over allocation.
- \$8.00 per thousand gallons for each additional 1,000 gallons over allocation.

The surcharges shall be cumulative. As used herein, "block rate" means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer's allocation.

Industrial Customers: A monthly water allocation shall be established by the City Manager, or his/her designee, for each industrial customer, which uses water for processing purposes. The industrial customer's allocation shall be approximately 90 percent of the customer's water usage baseline. Ninety (90) days after the initial imposition of the allocation for industrial customers, the industrial customer's allocation shall be further reduced to 85 percent of the customer's water usage baseline. The industrial customer's water use baseline will be computed on the average water use for the 3-month period ending prior to the date of implementation of Stage 2 of the Plan. If the industrial water customer's billing history is shorter than 3 months, the monthly average for the period for which there is a record shall be used for any monthly period for which no billing history exists. The City Manager shall give his/her best effort to see that notice of each industrial customer's allocation is mailed to such customer. If, however, a customer does not receive such notice, it shall be the customer's responsibility to contact the City of Burkburnett to determine the allocation, and the allocation shall be fully effective notwithstanding the lack of receipt of written notice. Upon request of the customer or at the initiative of the City Manager, the allocation may be reduced or increased, (1) if the designated period does not accurately reflect the customer's normal water use because the customer had shutdown a major processing unit for repair or overhaul during the period, (2) the customer has added or is in the process of adding significant additional processing capacity, (3) the customer has shutdown or significantly reduced the production of a major processing unit, (4) the customer has previously implemented significant permanent water conservation measures such that the ability to further reduce water use is limited, (5) the customer agrees to transfer part of its allocation to another industrial customer, or (6) if other objective evidence demonstrates that the designated allocation is inaccurate under present conditions. A customer may appeal an allocation established hereunder to the City Manager. Industrial customers shall pay the following surcharges:

- \$5.00 per thousand gallons for the first 1,000 gallons over allocation.
- \$6.00 per thousand gallons for the second 1,000 gallons over allocation.
- \$7.00 per thousand gallons for the third 1,000 gallons over allocation.

\$8.00 per thousand gallons for each additional 1,000 gallons over allocation.

The surcharges shall be cumulative. As used herein, “block rate” means the charge to the customer per 1,000 gallons at the regular water rate schedule at the level of the customer’s allocation.

Section X: Enforcement

- (a) No person shall knowingly or intentionally allow the use of water from the City of Burkburnett for residential, commercial, industrial, agricultural, governmental, or any other purpose in a manner contrary to any provision of this Plan, or in an amount in excess of that permitted by the drought response stage in effect at the time pursuant to action taken by City Manager, or his/her designee, in accordance with provisions of this Plan.
- (b) Any person who violates this Plan is guilty of a misdemeanor and, upon conviction shall be punished by a fine of not less than two hundred dollars (\$200) and not more than one thousand dollars (\$1000). Each day that one or more of the provisions in this Plan is violated shall constitute a separate offense. If a person is convicted of three or more distinct violations of this Plan, the City Manager shall, upon due notice to the customer, be authorized to discontinue water service to the premises where such violations occur. Services discontinued under such circumstances shall be restored only upon payment of a re-connection charge, hereby established at twenty- five dollars \$25, and any other costs incurred by the City of Burkburnett in discontinuing service. A zero tolerance policy is in effect. In addition, suitable assurance must be given to the City Manager that the same action shall not be repeated while the Plan is in effect. Compliance with this plan may also be sought through injunctive relief in the district court.
- (c) Any person, including a person classified as a water customer of the City of Burkburnett, in apparent control of the property where a violation occurs or originates shall be presumed to be the violator, and proof that the violation occurred on the person’s property shall constitute a rebuttable presumption that the person in apparent control of the property committed the violation, but any such person shall have the right to show that he/she did not commit the violation. Parents shall be presumed to be responsible for violations of their minor children and proof that a violation, committed by a child, occurred on property within the parents’ control shall constitute a rebuttable presumption that the parent committed the violation, but any such parent may be excused if he/she proves that he/she had previously directed the child not to use the water as it was used in violation of this Plan and that the parent could not have reasonably known of the violation.
- (d) Any employee of the City of Burkburnett, police officer, or other employee designated by the City Manager, may issue a citation to a person he/she reasonably believes to be in violation of this Ordinance. The citation shall be prepared in duplicate and shall contain the name and address of the alleged violator, if known, the offense charged, and shall direct him/her to appear in the municipal court on the date shown on the citation for which the date shall not be less than 3 days nor more than 5 days from the date the citation was issued. The alleged violator shall be served a copy

of the citation. Service of the citation shall be complete upon delivery of the citation to the alleged violator, to an agent or employee of a violator, or to a person over 14 years of age who is a member of the violator's immediate family or is a resident of the violator's residence. The alleged violator shall appear in municipal court to enter a plea of guilty or not guilty for the violation of this Plan. If the alleged violator fails to appear in municipal court, a warrant for his/her arrest may be issued. A summons to appear may be issued in lieu of an arrest warrant. These cases shall be expedited and given preferential setting in municipal court before all other cases.

Section XI: Variances

The City Manager, or his/her designee, may, in writing, grant temporary variance for existing water uses otherwise prohibited under this Plan if it is determined that failure to grant such variance would cause an emergency condition adversely affecting the health, sanitation, or fire protection for the public or the person requesting such variance and if one or more of the following conditions are met:

- (a) Compliance with this Plan cannot be technically accomplished during the duration of the water supply shortage or other condition for which the Plan is in effect.
- (b) Alternative methods can be implemented which will achieve the same level of reduction in water use.

Persons requesting an exemption from the provisions of this Ordinance shall file a petition for variance with the City of Burkburnett within 5 days after the Plan or a particular drought response stage has been invoked. All petitions for variances shall be reviewed by the City Manager, or his/her designee, and shall include the following:

- (a) Name and address of the petitioner(s).
- (b) Purpose of water use.
- (c) Specific provision(s) of the Plan from which the petitioner is requesting relief.
- (d) Detailed statement as to how the specific provision of the Plan adversely affects the petitioner or what damage or harm will occur to the petitioner or others if petitioner complies with this Ordinance.
- (e) Description of the relief requested.
- (f) Period of time for which the variance is sought.
- (g) Alternative water use restrictions or other measures the petitioner is taking or proposes to take to meet the intent of this Plan and the compliance date.
- (h) Other pertinent information.

Section XII: Severability

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, clause, sentence, paragraph, or section of this Plan 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 Plan.

SECTION 2. That all ordinances that are in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

SECTION 3. Should any paragraph, sentence, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

SECTION 4. This ordinance shall be in full force and effect immediately upon passage and publication.

SECTION 5. It is hereby officially found and determined that the meeting at which this Ordinance is passed is open to the public as required by law and the public notice of the time, place and purpose of said meeting was given as required by law.

SECTION 6. Emergency

The immediate need for implementation of this ordinance due to the current drought conditions that affects the public health and safety of the citizens of the City and its surrounding area creates an emergency therefore requiring the action in the ordinance to become effective immediately and suspends the posting requirements set forth in Article IV, Section 18 (c) of the City Charter.

PASSED AND APPROVED on this 18th day of November 2013.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk