

AGENDA

Notice is hereby given of a meeting of the Board of Commissioners of Burkburnett to be held on **Monday, July 20, 2015 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- Reverend Weslie Odom, Pastor of Grace Lutheran Church.

Item 3. Pledge of Allegiance.

Item 4. CONSENT AGENDA:

A. Approval of Minutes from June 5, 2015 Special Called Meeting and June 15, 2015 Regular Meeting

Item 5. Resolution Number 588. A resolution of gratitude for David Rivers.

Item 6. Discuss and take any action necessary on appointment to the Parks and Recreation Board.

Item 7. Discuss and take any action necessary on professional service agreement with HDR Engineering, Inc. for the Gresham Rd. Right of Way Acquisition.

Item 8. Resolution Number 586. A resolution approving the submission of the grant application for an AFIS Latent Fingerprint Station to the Office of the Governor, Criminal Justice Department.

Item 9. Resolution Number 587. A resolution approving the submission of the grant application for a Video Surveillance Project to the Office of the Governor, Criminal Justice Department.

Item 10. Ordinance Number 882. An Ordinance amending The Code of Ordinances; Title IX. General Regulations, Adopting Chapter 102: which regulates smoking in public places in the city limits of the City of Burkburnett; repealing Ordinance Number 876.

Item 11. 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

Item 12. Reconvene to regular session and take action, if any, on matters discussed in Executive Session.

Item 13. Review of monthly reports.

- A. Public Works
- Update on Family Aquatic Center
 - Gresham Road Update
 - City Auction – July 25
- B. Public Safety/Fire Department
- ISO Review

Item 14. 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 15. City Manager’s report.

- Entryway Signs
- Scott Hogue Retirement Celebration - 7/24/15 3:30 pm
- City Party – 8/8/15 10am – 2pm

Item 16. 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 17. 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 3:30 p.m. on July 17, 2015 in compliance with the Open Meeting Act Chapter 551.



Janelle Dolan, City Clerk

Posted 7/17/2015 @ 3:30pm

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 June 5, 2015 at 12:00 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
Randy Brewster	Commissioner
Don Hardy	Commissioner
Frank Ducos	Commissioner
Marguerite Love	Commissioner
Mike Tugman	Commissioner

Others present: Mike Whaley, City Manager; Trish Holley, Director of Public Works; Gordon Smith, Director of Public Works; Ed Stahr, Police Chief; Janelle Dolan, City Clerk and Chris Eckert, NewGen Strategies & Solutions.

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

Item 2. Invocation was given by Commissioner Brewster.

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

Item 4. Mike Whaley, City Manager, addressed the Mayor and Commissioners and reported the City of Wichita Falls rescinded their Stage 5 Drought Restrictions and are now in Stage 2 Drought Restrictions. Mr. Whaley stated this gives the City the opportunity to change our drought restrictions. Mr. Whaley stated if the Board decides to rescind the drought restrictions, there will need to be a discussion on the water/sewer rates as it reflects the budget status. If we remove the current surcharges, our projected under/deficit for the water fund will be \$362,613.00. If we hold the surcharges in place until September, we are estimating an under/deficit of \$210,851.00. The main factor for the deficit is underperformance of water sales. Chris Eckert, NewGen Strategies & Solutions, addressed the Mayor and Commissioners and provided an update on the water rate revenue.

Motion was made by Commissioner Tugman, seconded by Commissioner Love to rescind the Drought Contingency Plan effective today.

The following addressed the Mayor and Commissioners:

Pat Binter, 305 Kirk

Motion carried unanimously.

Item 5. No action taken.

Item 6. Ordinance Number 880 was presented. Caption of same being:

AN ORDINANCE SUPERSEDING ORDINANCE NUMBER 862 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.

Mr. Whaley addressed the Mayor and Commissioners and stated that Ordinance Number 880 reflects the following water rates:

Minimum First 2,000 Gallons	\$22.50
2,000-10,000 gallons	\$6.47 per 1,000 gallons
10,000-15,000 gallons	\$7.47 per 1,000 gallons
15,000-20,000 gallons	\$8.76 per 1,000 gallons
20,000-25,000 gallons	\$10.44 per 1,000 gallons
25,000 + gallons	\$12.65 per 1,000 gallons

Motion was made by Commissioner Tugman, seconded by Commissioner Lindenborn to approve Ordinance Number 880 as presented. Motion carried unanimously.

Item 7. Ordinance Number 881 was presented. Caption of same being:

AN ORDINANCE SUPERSEDING ORDINANCE NUMBER 863 OF THE CITY OF BURKBURNETT, TEXAS PRESENTLY CODIFIED AS CHAPTER 52, SEWERS 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.

Mr. Whaley addressed the Mayor and Commissioners and reported that we are anticipating an under/deficit of \$55,643.00. This is also a reflection of the low water consumption/sales because winter averaging is based off of the consumption numbers. Lower consumption means lower averaging and less sewer revenues. Mr. Whaley stated Ordinance Number 881 reflects a \$1.00 increase to the sewer base rate.

Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to approve Ordinance Number 881 with a correction to the effective date to be June 5, 2015. Motion carried unanimously.

Item 8. City Manager comments.

- Mr. Whaley stated Boomtown Bay is now scheduled to open on June 20th. Mr. Whaley stated he has consulted with the Texas Municipal League and the City Attorney and was told it would not be wise to open until Boomtown Bay project is complete. Mr. Whaley stated to compensate for the late opening of Boomtown Bay the end of the season has been extended for an additional 16 days.
- Mr. Whaley provided the following tentative Budget Workshop Dates:
 - First meeting will be held on 7/1 or 7/2
 - Second Meeting will be held on 7/20 or 7/21
 - Third Meeting, if necessary, will be held on 7/29, 7/30 or 7/31

Item 9. No Commissioner comments.

Item 10. 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 June 15, 2015 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
Randy Brewster	Commissioner
Frank Ducos	Commissioner
Don Hardy	Commissioner
Marguerite Love	Commissioner
Mike Tugman	Commissioner

Others present: Mike Whaley, City Manager; Trish Holley, Director of Administration; Gordon Smith, Director of Public Works; Janelle Dolan, City Clerk; and Ed Stahr, Police Chief.

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

Item 2. Invocation was given by Carl English, Associate Pastor Providence Baptist Church.

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

Item 4. Consent Agenda.

- A. Approval of Minutes from May 7, 2015 Special Called Meeting, May 18, 2015 Special Called Meeting and May 18, 2015 Regular Called Meeting

Motion was made by Commissioner Ducos, seconded by Commissioner Lindenborn to approve Consent Agenda 4. Motion carried unanimously.

Item 5. Gordon Smith, Director of Public Works, addressed the Mayor and Commissioners and stated that David Nix currently serves on the Zoning Board of Adjustments and his term will expire on July 15, 2015. Mr. Nix has been contacted and is willing to continue serving on this Board.

Motion was made by Commissioner Lindenborn, seconded by Commissioner Hardy to reappoint David Nix to the Zoning Board of Adjustments. Motion carried unanimously.

Item 6. Review of monthly reports.

A. Public Works- Mr. Smith reported there has been some road damages due to the recent flooding and a culvert was lost on the Truck Route. Mr. Smith reported Boomtown Bay is on schedule to be open this Saturday.

Item 7. No Public Comments.

Item 8 City Manager's report.

- Mr. Whaley reported the EDC Director search has been narrowed to 3 candidates which will be interviewed on 6/18 and 6/19.
- Mr. Whaley reported all additional documents have been submitted to the Texas Department of Transportation for the entryway signs.
- Mr. Whaley reported the TML conference is being held in San Antonio from 9/22-9/25 and housing reservations take place on July 14.
- Mr. Whaley provided the following dates for Budget Workshops: 7/2, 7/21 and 7/30 all held at noon.
- Mr. Whaley reported there will be a Boomtown Bay Dedication Ceremony to be held on June 16 at 9am and there will be hotdogs, radio remote and other activities at the Grand Opening.
- Mr. Whaley reported Freedom Fest will be held on July 4, 2015 at Sheppard Air Force Base. The City has a stage sponsorship and will have a tent at the event and the Mayor and Commissioners are welcome to come by the tent grab some shade and watch the bands and fireworks.

Item 9. Commission comments.

Item 10. Motion was made by Commissioner Tugman, seconded by Commissioner Hardy to adjourn. Motion carried unanimously.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk

RESOLUTION NUMBER 588
RESOLUTION OF GRATITUDE

WHEREAS, the Board of Commissioners of the City of Burkburnett wish to express their sincere gratitude to David Rivers for his heroic efforts on June 13, 2015; and

WHEREAS, while at a family reunion at Lake Eufaula a storm blew in and the wind started carrying a jet ski away from the shore; and

WHEREAS, while trying to retrieve the jet ski, lighting struck a dead tree that was in the water causing the tree to fall on top of Albert "Jr." Boswell. When the tree resurfaced and starting floating away, Albert "Jr." Boswell could not be seen; and

WHEREAS, David Rivers took off down the hill to find him. As he approached the edge of the water, Albert "Jr." Boswell resurfaced from underneath the tree but was bloody and injured; and

WHEREAS, David Rivers swam out to Albert "Jr." Boswell, who was dazed, and brought him back to shore where numerous other family members met them and assisted in getting Albert "Jr." Boswell to a car and he was taken to the hospital; and

WHEREAS, if not for his quick response and willingness to put the safety of others before his own, the life of Albert "Jr." Boswell may have ended tragically that Saturday evening.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the City of Burkburnett, Texas hereby express extends a special recognition to David Rivers for his courageous act of heroism June 13, 2015.

PASSED AND APPROVED this 20th day of July 2015.

ATTEST:

Janelle Dolan, City Clerk

Carl Law, Mayor

Randy Brewster, Commissioner

Bill Lindenborn, Commissioner

Don Hardy, Commissioner

Marguerite Love, Commissioner

Mike Tugman, Commissioner

Frank Ducos III, Commissioner

Mike Whaley, City Manager



City Commission Agenda Memo

From: Gordon Smith, Director of Public Works

Date: July 20, 2015

Item: Discuss and take any action necessary on appointment to the Parks and Recreation Board.

Background

The City of Burkburnett Parks and Recreation Board consist of seven appointed members that serve 2 year terms. Recently a position was open when Mr. Curtis Willis requested not to be re-appointed for an additional term. Ms. Tiffany King submitted an application to serve on the board and the application is attached.

Fiscal Impact

N/A

Options

- Approve Appointment
- Not approve Appointment

Staff Recommendation

Approve appointment of Ms. Tiffany King to the Parks and Recreation Board for a 2 year term limit.

Attachments

Application- Tiffany King



City Commission Agenda Memo

From: Mike Whaley
City Manager

Date: July 20th, 2015

Item: Professional Service Agreement, HDR Engineering, Inc.: Gresham Rd ROW Acquisition

Background

We are moving into the next phase of the Gresham RD reconstruction project. TXDOT has completed the ROW acquisition maps required for the project. You have for review a professional service agreement with HDR Engineering, Inc. detailing the scope of services, row acquisition rates, and terms and conditions of the agreement. We have estimated the total cost of ROW acquisition to be approximately \$155,000.00 - \$175,000.00. In regards to the overall project, once the row acquisition is completed, we would then begin transition into the utility relocation phase of the project. Both of these phases would have to be accomplished prior to TXDOT's awarding of the bid and breaking ground on construction.

Fiscal Impact

\$155,000.00 - \$175,000.00

Options

- Approve agreement
- Take no action

Staff Recommendation

Staff recommends approval as presented

Attachments

Statement of qualifications: HDR Engineering, Inc
Professional Service Agreement, HDR Engineering, Inc
Cost Estimate Worksheet



Statement of Qualifications

SH 240 – Gresham Road

City of Burkburnett & Wichita County, Texas

August 7, 2014



SETTING NEW STANDARDS IN RIGHT OF WAY SERVICES

Overview

HDR Engineering, Inc. provides real estate consulting and right of way services for government, public agencies, utility companies, and railroads. The real estate services department of HDR specializes in projects **involving highways, transit, railroad, utilities, and airports throughout the United States.**

HDR is an expertise-driven national firm that delivers tailored solutions through a strong local presence. Our staff professionals represent hundreds of disciplines and partner on blended teams nationwide to provide solutions beyond the scope of traditional Architecture/Engineering/Consulting firms. All acquisitions and relocations are performed in accordance with Federal Laws, State Laws, and County requirements and procedures.

Our company is recognized for maintaining the highest standards of quality, integrity and performance. Our comprehensive knowledge of state and federal laws and administrative regulations, coupled with our reputation for creative solutions, enable us to work cooperatively with agency staff to find simple and cost-effective ways to accomplish our clients' objectives. We are a licensed real estate brokerage and our real estate professionals are licensed real estate agents.

Our company has experience with a vast amount of local practices including, but not limited to: all acquisition and relocation services; knowledge of unique environmental considerations in the area; site development; construction practices and costs; building permitting; construction in the public right of way; and participation in public awareness.

History and Size

- Founded in 1917 as the Henningson Engineering Comp
- 8,500+ employee-owners
- S-Corporation, incorporated in Nebraska
- 200 offices world wide, including Dallas, Fort Worth (Local based Real Estate Office), San Antonio, Round Rock, Austin, Corpus Christi, Houston & Spring Branch

Real Estate and Right of Way Contact Information

Teri Morgan
VP, Real Estate Manager
512-431-2742 | tmorgan@hdrinc.com

Kim Hiebert
Project Manager
817-798-8398 | kimberly.hiebert@hdrinc.com

RIGHT OF WAY SERVICES

Project Planning

Property Research

- Cost impacts of alternative site or alignment selection
- Real estate cost estimating and preliminary funding estimates
- Environmentally compliant real estate documentation
- Public outreach: project-specific public meetings and individual meetings with impacted landowners
- Client Presentation of key right of way issues

Acquisition Preparation

- Property research
- Acquisition and relocation planning and program management
- Relocation plans
- Internal procedures, guidelines and documentation assistance securing Rights-of-Entry
- Subcontractor coordination and management (surveyors, appraisers, outsourcing, and environmental)

Acquisition Services

Project Management and Administration

- Project schedule and budget document preparation
- Development of client-specific acquisition databases and parcel information systems
- Negotiator management
- Coordination outside consultant team
- Compliance with state and federal laws, regulations, and policies

Title Evaluation and Lien Removal Services

- Title commitment, exception review, and title clearance services
- Lien clearing/encumbrance recommendations
- Lease review to determine acquisition effects
- Easement and lien release negotiation

Negotiations to Acquire Residential, Commercial, and Industrial Properties

- Offer preparation and presentation
- Fee, easement, and temporary construction easement negotiation acquisition (full/partial parcels)
- Negotiator diary creation and maintenance

Settlement Facilitation

- Settlement coordination/execution of documents
- Escrow Service follow-up
- Closing folder preparation

Federal Compliance and Certification

- Review of documentation for funding certification
- Certification process assistance

Property and Corridor Management Services

- Property investigations
- Property protection and protection coordination services
- Acquisition/disposition inquiry research
- Property/Asset Inventory Services

STANDARD RIGHT OF WAY PROJECT ELEMENTS

HDR employs a structured schedule approach on its right of way projects which enables our team to accomplish their tasks in an organized, timely fashion. This approach tailors those tasks which may be encountered during the right of way process to each individual project. Once client requirements (e.g. project size, scope, and route) are determined, HDR first develops a strategy for acquisition in a manner that meets the needs and the time frame for the project. Although project plans must be tailored towards each right of way project, the basic elements remain the same. In addition to tailoring approach and project plan towards each project, HDR also employs a tailored QA/QC plan. Preplanning can eliminate and mitigate potential future problems. We take the time to make sure that our work is done correctly the first time.

Team Assembly

HDR assembles a team tailored towards the needs, location, and players involved in the project. HDR uses full-time local employees, not contract help who may not be invested in the future of the project at hand.

Quality Assurance/Quality Control Plan

HDR tailors the QA/QC plan to include project guidelines and assure that they are followed in the pursuit of project goals.

Survey Permissions/Temporary Right-of-Entry Agreements

HDR acquires permissions or rights-of-entry agreements as upfront tasks in projects where survey (environmental, civil, or other) permissions are required. Permission and agreements may be acquired as open houses and project agreements are being held, or during meetings between the project team, public agencies, and other stakeholders.

Title Work

HDR determines ownership and property encumbrances in order to assure that all documents are completed legally, and that all property encumbrances are addressed.

Right of Way Plans and Exhibits

Using plans and exhibits provided by the client and stakeholders, HDR can provide input on the engineering process. We use a proprietary GIS management system to produce exhibits giving an overall view of the project.

Appraisal

HDR performs appraisal reviews and will manage the appraisal process.

Document and File Preparation

HDR assembles documents and plans necessary for the acquisition of property so that the acquisition process can begin.

Acquisition Services

HDR's team members meet with owners in order to make initial offers and negotiate settlements. Based on initial meetings, decisions are made within the team regarding the documents which will be required, the anticipated number of meetings, and the individual time frames.

Administrative Settlement or Condemnation Preparation

Although HDR's right of way professionals work to avoid condemnation, in some cases it cannot be avoided. In such cases, HDR determines the timing and strategy of final offers towards owners who have rejected settlement offers. Eminent Domain is the last resort of any right of way acquisition pursuit. HDR coordinates its condemnation efforts with the client and the project legal team.

Curative Work and File Completion

Once the acquisition phase of a project is completed, HDR begins the review, cleanup, and correction process of its files in order to assure that all documents have been finalized and are legally compliant.

Construction Damages

Generally, the construction damages phase is the final phase of construction. HDR obtains final releases and settles any damages to properties which occurred during construction.

Corridor Management

If the right of way is purchased ahead of the actual time for construction, the corridor will need to be managed and kept clear of buildings and other barriers. This function may be performed by the client, but can also be performed by HDR personnel, if a corridor management contract is in place.

REPRESENTATIVE PROJECTS

Stream Bank Erosion Protection along Tenmile Creek at Nokomis Road Bridge - City of Lancaster, Texas

HDR acquired three parcels for improvements along the banks of Tenmile Creek to prevent further erosion caused by years of flooding. Located within the Dallas County Preservation, acquisition was by Permanent Drainage Easements with a Temporary Construction Easement; construction is being performed by the U.S. Army Corps of Engineers. HDR complied with Federal Regulations, the Uniform Act, and local codes in its acquisitions. HDR successfully entered into negotiations with Dallas County and one private landowner, while remaining on schedule with Dallas County's court briefings and District Attorney Approval along with the City of Lancaster's City Counsel and City Attorney's schedule.

Right of Way Services - Texas Department of Transportation

For the Fort Worth District of TxDOT, HDR managed and performed the right of way acquisitions and relocation services for the widening of SH 26 while complying with the Federal Regulations and the Uniform Act. This project was to expand the highway from a four lane to a six lane divided roadway. It covered 102 properties in a densely developed commercial corridor and also included 30 residential properties.

HDR worked with TxDOT on one of the largest transportation projects in the nation, consisting of 65 miles of newly constructed roadway in central Texas, along with Loop 1, SH 45, and SH 130. Approximately 700 parcels and 359 relocations are represented, with an estimated right of way cost of \$690 million.

Awards

HDR received several awards for its performance with TxDOT;

HDR received the United States Department of Transportation 2008 Excellence in Right of Way Leadership Award for this project. This award recognizes HDR for design/build projects where environmental, property acquisitions (including appraisal and relocation), design, and construction activities were undertaken simultaneously under one central location.

HDR also received the United States Department of Transportation 2008 Excellence in Right of Way Honorable Mention Award in Streamlining and Integration. This award recognizes one of the largest transportation design-build projects in the Nation.

HDR's Utility team received the United States Department of Transportation 2007 Utility Outstanding Achievement Award for their work on the SH 130 project.

Southwest to Northeast Rail Corridor - Fort Worth Transportation Authority

HDR has performed services for The Fort Worth T on the Southwest to Northeast Rail Corridor (SW2NE). In the capacity of subconsultant to URS, PHAROS Corporation (which was acquired by HDR in October 2007) provided land use, acquisition and displacement information required for the draft EIS related to the SW2NE Rail Corridor study. The analysis consisted of studying roughly 17,673 tax parcels located within a ¼ mile buffer on either side of the 40 mile long rail corridor and a 1/2 mile buffer around 18 proposed station sites. HDR evaluated the acquisition of property rights and impact to potential displacees in light of acquiring properties in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (49 CFR Part 25), as amended. Potentially impacted properties were analyzed using information from the Tarrant Appraisal District and from visual inspections. Each proposed station site was reviewed in light of the number of full or partial acquisitions, land use, current structures on the property and occupancy status.

FEMA Voluntary Buyout Project - City of Marble Falls, Texas

HDR is coordinating and overseeing sub-consultants providing appraisals, ESA reports and surveys. Services provided by HDR involve appraisal review, negotiation and coordination of closings. This project consists of 12 parcels.

- *Water Intake Project*

On this project involving the acquisition of parcels for the water intake in the City of Marble Falls, HDR provided appraisal services which included an analysis of the market value of each parcel to develop an opinion of market value. HDR also provided the city with expert appraisal consulting services for project planning purposes.

- *La Ventana 281 Annexation*

This project involved the purchase of water and wastewater easements to comply with an annexation ruling. HDR's scope of services includes identification of property owners, personal interviews to verify ownership, determine intent, identify lien holders, and discuss disposition and estimated compensation. Appraisal, negotiation, closing, eminent domain, and legal counsel assistance are also part of the services HDR is providing.

- *Gateway Extension*

HDR is providing consulting services for the planning and design phase to support the purchase of water and wastewater easements to provide services to adjacent property owners and the new hospital being built on HWY 71.

On-Call Real Estate Services –BNSF Railway Company

HDR has been regularly engaged by BNSF since 1994 under an on-call contract to acquire land interests to expand BNSF's right of way. HDR now manages acquisitions for the railway across the United States. HDR has assisted the Railroad with several acquisitions in Texas, Oklahoma and Wyoming, as well as other states. The Wyoming Project was 80 miles in length. These acquisitions involve commercial and residential properties and both full and partial takes. Furthermore, HDR developed and managed all BNSF database acquisition reporting and budget research. The workload from BNSF has steadily grown through a relationship of trust and confidence. By delivering continuous high quality and efficient services, HDR has become the primary acquisition contractor for BNSF. As the railroad grows, the projects have become more demanding, and HDR staff has become attuned to the specific needs of this client. BNSF rarely considers condemnation and often has exceptionally short timeframes to complete its work.

Onion Creek Floodplain Buyout Program - City of Austin, Texas

HDR is providing a full range of services from concept to completion for property acquisition and relocation on a project consisting of the buyout of approximately 250 homes within the 25-year floodplain in the Onion Creek Forest and Yarrabee Bend floodplain area. Ecosystem restoration and recreational facilities development will be carried out on the residual lands. HDR's services include the setup and management of a project-specific office, coordination of appraisals, appraisal review, negotiation/acquisition from initial property owner contact to closing, title services (review/analysis/curative plan), relocation for property owners and tenants, property management, and demolition oversight.

Brightwater Wastewater Treatment Facility and Conveyance System Projects - King County, WA Department of Natural Resources Wastewater Treatment Division

HDR provided real estate consulting services associated with the Brightwater project. This began with siting of the new wastewater treatment facility serving North King and South Snohomish counties. HDR helped King County to identify properties and developed criteria to be applied to the lands inventory. Tunnel easement acquisition was greatly enhanced by this planning: Results averaged 80 percent completion (signed easements) within eight months of authorization to initiate negotiations for each of the four tunnel conveyance segments.



HDR also helped develop materials for public meetings and has been performing all acquisition and relocation services for the project. HDR was sub-consultant to three separate prime consultants for all aspects of the property planning, acquisitions, and relocations related to the Brightwater conveyance system. This included over 150 deep-tunnel subsurface easements, utility consent agreements, crossing agreements, and pump station and portal properties acquisition.

Lake Tapps Regional Water Supply - Cascade Water Alliance and Puget Sound Energy

This is an on-going project to select the optimal routes and acquire the easements necessary for a major water transportation pipeline system extending from Lake Tapps to the Bellevue and Issaquah areas. HDR is researching the corridor and final alignment, the corridor and final alignment right of way research and cost estimating, temporary entry acquisitions, appraisal management, and acquisition of railway entry agreements. HDR developed an acquisition plan which used an option to purchase in order to acquire easements that could not be acquired under threat of condemnation.

References

City of Austin
Melinda Ruby
Contract and Land Management, Real Estate
Services Division
PO Box 1088
Austin, TX 78767
512-530-6634

City of Lancaster
Dipak Patel, City Engineer
1425 N. Dallas Ave., Ste.101
Lancaster, Texas 75134
972-1275-1700
dpatel@lancaster-tx.com

City of Marble Falls
Ralph Hendricks, City Manager
800 Third Street
Marble Falls, TX 78654
830-798-7050

Strategic Projects Division -TxDOT
Donald C. Toner, SR/WA
7745 Chevy Chase Drive, Building 5, Suite 300
Austin, TX 78752
512-334-3834

BNSF Railway Co.
Blaine Bilderback
250 Lou Menk Dr. AOB-3
Fort Worth, TX 76131
817-352-6461

**SHORT FORM AGREEMENT BETWEEN OWNER AND HDR ENGINEERING,
INC. FOR PROFESSIONAL SERVICES**

THIS AGREEMENT is made as of this _____ day of _____, 20____, between the City of Burkburnett, Texas (“OWNER”) a _____ corporation, with principal offices at _____, and HDR ENGINEERING, INC., (“HDR”) a Nebraska corporation, with principal offices at 8404 Indian Hills Drive, Omaha, Nebraska, 68114 for services in connection with the project known as Right of Way Acquisition Services (“Project”);

WHEREAS, OWNER desires to engage HDR to provide professional engineering, consulting and related services (“Services”) in connection with the Project; and

WHEREAS, HDR desires to render these Services as described in SECTION I, Scope of Services.

NOW, THEREFORE, OWNER and HDR in consideration of the mutual covenants contained herein, agree as follows:

SECTION I. SCOPE OF SERVICES

HDR will provide Services for the Project, which consist of the Scope of Services as outlined on the attached Exhibit A.

SECTION II. TERMS AND CONDITIONS OF ENGINEERING SERVICES

The “HDR Engineering, Inc. Terms and Conditions for Professional Services,” which are attached hereto in Exhibit B, are incorporated into this Agreement by this reference as if fully set forth herein.

SECTION III. RESPONSIBILITIES OF OWNER

The OWNER shall provide the information set forth in paragraph 6 of the attached “HDR Engineering, Inc. Terms and Conditions for Professional Services.”

SECTION IV. COMPENSATION

Compensation for HDR’s services under this Agreement shall be on the basis of fully burdened rates as shown in Exhibit C, plus Reimbursable Expenses which includes the actual cost of mileage, postage and recording fees. Escalation of rates, up to 3%, may be applied at the beginning of each calendar year.

The amount of any sales tax, excise tax, value added tax (VAT), or gross receipts tax that may be imposed on this Agreement shall be added to the HDR'S compensation as Reimbursable Expenses.

Reimbursable Expense shall mean the actual expenses incurred directly or indirectly in connection with the Project for transportation travel, subconsultants, subcontractors, shipping and express, and other incurred expense. HDR will add ten percent (10%) to invoices received by HDR from subconsultants and subcontractors to cover administrative expenses and vicarious liability.

SECTION V. PERIOD OF SERVICE

Upon receipt of written authorization to proceed, HDR shall perform the services described in Exhibit A within a reasonable period of time.

Unless otherwise stated in this Agreement, the rates of compensation for HDR'S services have been agreed to in anticipation of the orderly and continuous progress of the project through completion. If any specified dates for the completion of HDR'S services are exceeded through no fault of HDR, the time for performance of those services shall be automatically extended for a period which may be reasonably required for their completion and all rates, measures and amounts of HDR'S compensation shall be equitably adjusted.

SECTION VI. SPECIAL PROVISIONS

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

"OWNER"

BY: _____

NAME: _____

TITLE: _____

ADDRESS: _____

HDR ENGINEERING, INC.

"HDR"

BY: _____

NAME: _____

TITLE: _____

ADDRESS: _____

EXHIBIT A

SCOPE OF SERVICES TO BE PROVIDED BY ROW ACQUISITION PROVIDER

- 1.0 SERVICE REQUIREMENTS OF HDR: Scope of services shall include:
 - 1.1 Project Administration: 35- 42 Parcels
 - 1.1.1 Communication
 - 1.1.1.1 Provide summaries of project expenses including amounts authorized and amounts paid.
 - 1.1.1.2 Maintain current status reports of parcel and project activities and provide monthly to City of Burkburnette & Wichita County.
 - 1.1.1.3 Provide schedule for ROW acquisition indicating anticipated start and end dates.
 - 1.1.1.4 Participate in project review meetings at dates and times determined by City of Burkburnette & Wichita County.
 - 1.1.1.5 Prepare initial property owner contact list for use in distribution of introduction letters..
 - 1.1.2 File Management: 35- 42 Parcels
 - 1.1.2.1 Primary project and parcel files will be kept in HDR's office.
 - 1.1.2.2 Prepare invoices utilizing pre-approved payment submissions forms with supporting documentation.
 - 1.1.2.3 Maintain records of payment amounts.
 - 1.1.2.4 Maintain copies of correspondence and contacts with property owners.
 - 1.2 Title Services/Closings: 35- 42 Parcels
 - 1.2.1 Obtain preliminary title commitment or preliminary title search, and five-year sales data from the Title Company that will be providing title insurance. Cost of preliminary title commitments will be paid by City of Burkburnette & Wichita County and is not included in this scope of work.
 - 1.2.2 Obtain title commitment updates in accordance with insurance rules and requirements for parcel payment submissions. Cost of title commitment updates will be paid by City of Burkburnette & Wichita County and is not included in this scope of work or fee schedule.
 - 1.2.3 Assist in securing title insurance for parcels acquired, insuring acceptable title to City of Burkburnette & Wichita County. Written approval by City of Burkburnette & Wichita County required for any exception. Cost of title insurance to be paid by City of Burkburnette & Wichita County.
 - 1.2.4 HDR will assist the Title Company in the curative work necessary to provide clear title to City of Burkburnette & Wichita County.
 - 1.3 Right of Entry Services: NOT PRICED

- 1.4 Initial Appraisal: 35- 42 Parcels
 - 1.4.1 Appraisers shall be selected from TxDOT's list of state approved fee appraisers.
 - 1.4.2 Prepare and conduct personal pre-appraisal contact with interest owner(s) for each parcel using forms similar to acceptable TxDOT forms.
 - 1.4.3 Contact property owners or their designated representative to offer opportunity to accompany the appraiser on the appraiser's inspection of subject property. Maintain record of contact in file.
 - 1.4.4 Prepare complete appraisal report for each parcel to be acquired in narrative form. These reports shall conform to the Uniform Standards of Professional Appraisal Practices.
 - 1.4.5 As necessary, prepare written notification to City of Burkburnette & Wichita County of any known environmental concerns associated with the ROW to be acquired, which could require environmental re-mediation.
 - 1.4.6 Completed appraisals will be administratively reviewed and approved by City of Burkburnette & Wichita County.

- 1.5 Initial Appraisal Review Service: 35- 42 Parcels
 - 1.5.1 Review Appraiser shall be selected from TxDOT's list of state approved fee appraisers.
 - 1.5.2 Review appraisal reports for each parcel to determine consistency of values, supporting documentation related to the conclusion reached, compliance with the Uniform Standards of Professional Appraisal Practices.
 - 1.5.3 Prepare and submit to City of Burkburnette & Wichita County using forms similar to acceptable TxDOT forms..

- 1.6 Appraisal Revisions or Updates for Condemnation: NOT PRICED

- 1.7 Appraisal Review Revisions or Updates for Condemnation: NOT PRICED

- 1.8 Negotiation Services: 35-42 parcels
 - 1.8.1 Analyze appraisal reports and confirm that the City of Burkburnette & Wichita County approve the value prior to making offer for each parcel.
 - 1.8.2 Analyze preliminary title report to determine potential title problems, propose methods to cure title deficiencies.
 - 1.8.3 Prepare and send intro letter transmitting the Landowners' Bill of Rights by Certified Mail-Return Receipt Requested (CMRRR).
 - 1.8.4 Prepare the initial offer letter, purchase agreement and instrument of conveyance.
 - 1.8.5 The written offer and appraisal report will be sent to each property owner or the property owner's designated representative through CMRRR. Maintain follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing.
 - 1.8.6 Contact each property owner or owner's designated representative, to present the written offer in person where practical and deliver appraisal

- report.
- 1.8.7 Maintain up to five follow-up contacts and secure the necessary instruments upon acceptance of the offer for the closing.
 - 1.8.8 Respond to property owner inquiries verbally and in writing within two business days.
 - 1.8.9 Prepare a separate negotiator contact report for each parcel.
 - 1.8.10 Maintain parcel files of original documentation related to the purchase of the real property or property interests.
 - 1.8.11 Transmit to City of Burkburnette & Wichita County any written counter offer from property owners including supporting documentation, and HDR recommendation with regard to counter offer if the counter offer exceeds 15% above the initial offer amount.
 - 1.8.12 Prepare final offer letter, documents of conveyance as necessary and mail by certified mail, return receipt requested (CMRRR).
- 1.9 Closing Services: 35-42 parcels
- 1.9.1 Coordinate with the Title Company to obtain an updated title commitment along with other forms and certified copy of the instrument of conveyance necessary to request a check from City of Burkburnette & Wichita County.
 - 1.9.2 HDR will assist the Title Company in the curative work necessary to provide clear title to City of Burkburnette & Wichita County. In certain situations additional hours will be charged for the parcel to cure title. If excessive title curative is necessary in order to clear title, HDR will notify City of Burkburnette & Wichita County.
 - 1.9.3 Attend closings and provide support to the Title Company and City of Burkburnette & Wichita County.
 - 1.9.4 Record original instruments immediately after closing at the County Clerk's Office.
 - 1.9.5 All closing costs are paid by City of Burkburnette & Wichita County and are not included in this scope of work or fee schedule.
- 1.10 Condemnation Support Services
- 1.10.1 Upon issuance of the final offer, request an updated title commitment for Eminent Domain from the Title Company.
 - 1.10.2 Use the information from the Title Commitment to provide a list of interested parties to be joined in petition.
 - 1.10.3 Prepare a packet to include copies of the following documents: Commitment, Negotiator's Reports / Logs, Appraisal Acknowledgment, Pre-appraisal Contact Sheet, signed and sealed property description, and plat (provide by the City of Burkburnette & Wichita County), Offer Letter, Final Offer Letter, any correspondence from the land owner or representatives, along with one copy of the appraisal report. Submit packet to City of Burkburnette & Wichita County Attorney. Fee does not include expert witness testimony or appraisal updates.

Additional Services – The following services if requested by City of Burkburnette & Wichita County will require a supplement to this professional services agreement

- Extraordinary Title Curative requirements
- Appraiser or Negotiator attending pre-hearing or pre-trial meetings and/or appearing or testifying as an expert witness in eminent domain proceedings.
- Appraiser or Negotiator preparing and providing testimony for a Special Commissioners Hearing.

1.11 Compensation

1.11.1 HDR will issue a monthly invoice to the City of Burkburnette to include work conducted on both City and County parcels.

1.11.2 Acquisition Services will not exceed \$8000.00 per parcel unless authorized by the City of Burkburnette & Wichita County. If negotiations are extended beyond standard TxDOT timeframes of 30 day initial offer review and 14 day final offer review, and the labor costs will exceed \$8,000.00 for a parcel, the City of Burkburnette & Wichita County will be notified immediately and work will cease until authorized to continue negotiating.

1.11.3 The fee for each appraisal is \$2,650 and each appraisal review is \$1,250

EXHIBIT B

TERMS AND CONDITIONS

1. STANDARD OF PERFORMANCE

The standard of care for all professional engineering, consulting and related services performed or furnished by HDR and its employees under this Agreement will be the care and skill ordinarily used by members of HDR's profession practicing under the same or similar circumstances at the same time and in the same locality. HDR makes no warranties, express or implied, under this Agreement or otherwise, in connection with HDR's services.

2. INSURANCE/INDEMNITY

HDR agrees to procure and maintain, at its expense, Workers' Compensation insurance as required by statute; Employer's Liability of \$250,000; Automobile Liability insurance of \$1,000,000 combined single limit for bodily injury and property damage covering all vehicles, including hired vehicles, owned and non-owned vehicles; Commercial General Liability insurance of \$1,000,000 combined single limit for personal injury and property damage; and Professional Liability insurance of \$1,000,000 per claim for protection against claims arising out of the performance of services under this Agreement caused by negligent acts, errors, or omissions for which HDR is legally liable. OWNER shall be made an additional insured on Commercial General and Automobile Liability insurance policies and certificates of insurance will be furnished to the OWNER. HDR agrees to indemnify OWNER for claims to the extent caused by HDR's negligent acts, errors or omissions. However, neither Party to this Agreement shall be liable to the other Party for any special, incidental, indirect, or consequential damages (including but not limited to loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; and/or cost of capital) arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, errors or omissions, strict liability or breach of contract.

3. OPINIONS OF PROBABLE COST (COST ESTIMATES)

Any opinions of probable project cost or probable construction cost provided by HDR are made on the basis of information available to HDR and on the basis of HDR's experience and qualifications, and represents its judgment as an experienced and qualified professional engineer. However, since HDR has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, HDR does not guarantee that proposals, bids or actual project or construction cost will not vary from opinions of probable cost HDR prepares.

4. CONSTRUCTION PROCEDURES

HDR's observation or monitoring portions of the work performed under construction contracts shall not relieve the contractor from its responsibility for performing work in accordance with applicable contract documents. HDR shall not control or have charge of, and shall not be responsible for, construction means, methods, techniques, sequences, procedures of construction, health or safety programs or precautions connected with the work and shall not manage, supervise, control or have charge of construction. HDR shall not be responsible for the acts or omissions of the contractor or other parties on the project. HDR shall be entitled to review all construction contract documents and to require that no provisions extend the duties or liabilities of HDR beyond those set forth in this Agreement. OWNER agrees to include HDR as an indemnified party in

OWNER's construction contracts for the work, which shall protect HDR to the same degree as OWNER. Further, OWNER agrees that HDR shall be listed as an additional insured under the construction contractor's liability insurance policies.

5. CONTROLLING LAW

This Agreement is to be governed by the law of the state where HDR's services are performed.

6. SERVICES AND INFORMATION

OWNER will provide all criteria and information pertaining to OWNER's requirements for the project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations. OWNER will also provide copies of any OWNER-furnished Standard Details, Standard Specifications, or Standard Bidding Documents which are to be incorporated into the project.

OWNER will furnish the services of soils/geotechnical engineers or other consultants that include reports and appropriate professional recommendations when such services are deemed necessary by HDR. The OWNER agrees to bear full responsibility for the technical accuracy and content of OWNER-furnished documents and services.

In performing professional engineering and related services hereunder, it is understood by OWNER that HDR is not engaged in rendering any type of legal, insurance or accounting services, opinions or advice. Further, it is the OWNER's sole responsibility to obtain the advice of an attorney, insurance counselor or accountant to protect the OWNER's legal and financial interests. To that end, the OWNER agrees that OWNER or the OWNER's representative will examine all studies, reports, sketches, drawings, specifications, proposals and other documents, opinions or advice prepared or provided by HDR, and will obtain the advice of an attorney, insurance counselor or other consultant as the OWNER deems necessary to protect the OWNER's interests before OWNER takes action or forebears to take action based upon or relying upon the services provided by HDR.

7. SUCCESSORS AND ASSIGNS

OWNER and HDR, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the covenants of this Agreement. Neither OWNER nor HDR will assign, sublet, or transfer any interest in this Agreement or claims arising therefrom without the written consent of the other.

8. RE-USE OF DOCUMENTS

All documents, including all reports, drawings, specifications, computer software or other items prepared or furnished by HDR pursuant to this Agreement, are instruments of service with respect to the project. HDR retains ownership of all such documents. OWNER may retain copies of the documents for its information and reference in connection with the project; however, none of the documents are intended or represented to be suitable for reuse by OWNER or others on extensions of the project or on any other project. Any reuse without written verification or adaptation by HDR for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to HDR, and OWNER will defend, indemnify and hold harmless HDR from all claims, damages, losses and expenses, including attorney's fees, arising or resulting therefrom. Any such verification or adaptation will entitle HDR to further compensation at rates to be agreed upon by OWNER and HDR.

9. TERMINATION OF AGREEMENT

OWNER or HDR may terminate the Agreement, in whole or in part, by giving seven (7) days written notice to the other party. Where the method of payment is "lump sum," or cost reimbursement, the final invoice will include all services and expenses associated with the project up to the effective date of termination. An equitable adjustment shall also be made to provide for termination settlement costs HDR incurs as a result of commitments that had become firm before termination, and for a reasonable profit for services performed.

10. SEVERABILITY

If any provision of this agreement is held invalid or unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term or condition shall not be construed by the other party as a waiver of any subsequent breach of the same provision, term or condition.

11. INVOICES

HDR will submit monthly invoices for services rendered and OWNER will make prompt payments in response to HDR's invoices.

HDR will retain receipts for reimbursable expenses in general accordance with Internal Revenue Service rules pertaining to the support of expenditures for income tax purposes. Receipts will be available for inspection by OWNER's auditors upon request.

If OWNER disputes any items in HDR's invoice for any reason, including the lack of supporting documentation, OWNER may temporarily delete the disputed item and pay the remaining amount of the invoice. OWNER will promptly notify HDR of the dispute and request clarification and/or correction. After any dispute has been settled, HDR will include the disputed item on a subsequent, regularly scheduled invoice, or on a special invoice for the disputed item only.

OWNER recognizes that late payment of invoices results in extra expenses for HDR. HDR retains the right to assess OWNER interest at the rate of one percent (1%) per month, but not to exceed the maximum rate allowed by law, on invoices which are not paid within thirty (30) days from the date of the invoice. In the event undisputed portions of HDR's invoices are not paid when due, HDR also reserves the right, after seven (7) days prior written notice, to suspend the performance of its services under this Agreement until all past due amounts have been paid in full.

12. CHANGES

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. Adjustments in the period of services and in compensation shall be in accordance with applicable paragraphs and sections of this Agreement. Any proposed fees by HDR are estimates to perform the services required to complete the project as HDR understands it to be defined. For those projects involving conceptual or process development services, activities often are not fully definable in the initial planning. In any event, as the project progresses, the facts developed may dictate a change in the services to be performed, which may alter the scope. HDR will inform OWNER of such situations so that changes in scope and adjustments to the time of performance and compensation can be made as required. If such change, additional services, or suspension of

services results in an increase or decrease in the cost of or time required for performance of the services, an equitable adjustment shall be made, and the Agreement modified accordingly.

13. CONTROLLING AGREEMENT

These Terms and Conditions shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice-to-proceed, or like document.

14. EQUAL EMPLOYMENT AND NONDISCRIMINATION

In connection with the services under this Agreement, HDR agrees to comply with the applicable provisions of federal and state Equal Employment Opportunity for individuals based on color, religion, sex, or national origin, or disabled veteran, recently separated veteran, other protected veteran and armed forces service medal veteran status, disabilities under provisions of executive order 11246, and other employment, statutes and regulations, as stated in Title 41 Part 60 of the Code of Federal Regulations § 60-1.4 (a-f), § 60-300.5 (a-e), § 60-741 (a-e).

15. HAZARDOUS MATERIALS

OWNER represents to HDR that, to the best of its knowledge, no hazardous materials are present at the project site. However, in the event hazardous materials are known to be present, OWNER represents that to the best of its knowledge it has disclosed to HDR the existence of all such hazardous materials, including but not limited to asbestos, PCB's, petroleum, hazardous waste, or radioactive material located at or near the project site, including type, quantity and location of such hazardous materials. It is acknowledged by both parties that HDR's scope of services do not include services related in any way to hazardous materials. In the event HDR or any other party encounters undisclosed hazardous materials, HDR shall have the obligation to notify OWNER and, to the extent required by law or regulation, the appropriate governmental officials, and HDR may, at its option and without liability for delay, consequential or any other damages to OWNER, suspend performance of services on that portion of the project affected by hazardous materials until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the hazardous materials; and (ii) warrants that the project site is in full compliance with all applicable laws and regulations. OWNER acknowledges that HDR is performing professional services for OWNER and that HDR is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous materials, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the project site in connection with HDR's services under this Agreement. If HDR's services hereunder cannot be performed because of the existence of hazardous materials, HDR shall be entitled to terminate this Agreement for cause on 30 days written notice. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless HDR, its officers, directors, partners, employees, and subconsultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from hazardous materials, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's sole negligence or willful misconduct.

16. EXECUTION

This Agreement, including the exhibits and schedules made part hereof, constitute the entire Agreement between HDR and OWNER, supersedes and controls over all prior written or oral understandings. This Agreement may be amended, supplemented or modified only by a written instrument duly executed by the parties.

17. ALLOCATION OF RISK

OWNER AND HDR HAVE EVALUATED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, INCLUDING HDR'S FEE RELATIVE TO THE RISKS ASSUMED, AND AGREE TO ALLOCATE CERTAIN OF THE RISKS, SO, TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL AGGREGATE LIABILITY OF HDR (AND ITS RELATED CORPORATIONS, SUBCONSULTANTS AND EMPLOYEES) TO OWNER AND THIRD PARTIES GRANTED RELIANCE IS LIMITED TO THE GREATER OF \$100,000 OR ITS FEE, FOR ANY AND ALL INJURIES, DAMAGES, CLAIMS, LOSSES, OR EXPENSES (INCLUDING ATTORNEY AND EXPERT FEES) ARISING OUT OF HDR'S SERVICES OR THIS AGREEMENT REGARDLESS OF CAUSE(S) OR THE THEORY OF LIABILITY, INCLUDING NEGLIGENCE, INDEMNITY, OR OTHER RECOVERY. THIS LIMITATION SHALL NOT APPLY TO THE EXTENT THE DAMAGE IS PAID UNDER HDR'S COMMERCIAL GENERAL LIABILITY INSURANCE POLICY.

18. LITIGATION SUPPORT

In the event HDR is required to respond to a subpoena, government inquiry or other legal process related to the services in connection with a legal or dispute resolution proceeding to which HDR is not a party, OWNER shall reimburse HDR for reasonable costs in responding and compensate HDR at its then standard rates for reasonable time incurred in gathering information and documents and attending depositions, hearings, and trial.

19. UTILITY LOCATION

If underground sampling/testing is to be performed, a local utility locating service shall be contacted to make arrangements for all utilities to determine the location of underground utilities. In addition, OWNER shall notify HDR of the presence and location of any underground utilities located on the OWNER's property which are not the responsibility of private/public utilities. HDR shall take reasonable precautions to avoid damaging underground utilities that are properly marked. The OWNER agrees to waive any claim against HDR and will indemnify and hold HDR harmless from any claim of liability, injury or loss caused by or allegedly caused by HDR's damaging of underground utilities that are not properly marked or are not called to HDR's attention prior to beginning the underground sampling/testing.

EXHIBIT C

2015 RATES FOR ROW ACQUISITION SERVICES

Personnel	Rate Per Hour
Project Principal	\$170.00
Project Manager	\$150.00
Staff Appraiser	\$130.00
Right-of-Way Agent III	\$120.00
Right-of-Way Agent II	\$105.00
Right-of-Way Agent I	\$95.00
Tech III	\$110.00
Tech II	\$100.00
Tech I	\$90.00
Relocation Agent	\$130.00
Eminent Domain Coordinator	\$130.00
Appraisal Expert Witness Prep & Testimony	\$150- \$225.00

Property Valuation Services	Per Parcel Fee
Appraisals	\$2,650.00
Appraisal Review	\$1,250.00

*Escalation of rates will be allowable at beginning of each calendar year.

Expenses	
Mileage	Current IRS rates
Postage	Actual cost
Travel Expenses over night	Actual cost
Other Expenses	Actual cost

Gresham Rd ROW Cost Estimates

PARCEL	OWNER	TAKING ACRES	LOCATION	Appraisal	Appraisal Review	Estimated Closing Costs	Estimated Title Policy Premiums	Real Estate Services Not to Exceed
28	CITY OF BURKBURNETT	1.990	CY					
29	DIANA L WATSON	0.002	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
30	KELVIN W PARKER ET UX RHONDA K PARKER	0.015	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
31	STACY SCHROEDER	0.010	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
32	CITY OF BURKBURNETT	0.010	CY					
33	LOYD & BILLIE POTTS	0.020	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
34	RAY GOODE ET UX SHIRLEY GOODE	0.080	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
35	THE RAYMOND R DILLINGHAM TRUST & LUCILLE DILLINGHAM REVOCABLE TRUST	0.016	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
36	WICHITA COUNTY	0.290	CO					
37	E & E DRILLING CO, INC	0.877	CY	2,650.00	1,250.00	300.00	238.00	8,000.00
38	F T FELTY	2.362	CY	2,650.00	1,250.00	300.00	292.00	8,000.00
39	WICHITA COUNTY	0.253	CO					
40	CITY OF BURKBURNETT	2.509	CY					
41	GLORIA V KENNEDY	2.727	CY	2,650.00	1,250.00	300.00	242.00	8,000.00
42	BURKBURNETT BUTANE CO INC	0.002	CY	2,650.00	1,250.00	300.00	238.00	8,000.00

Estimated Cost for Real Estate Services for conveyance from City/County to TxDOT \$ 20,000.00

Estimated Expenses for Certified Mail Postage and Mileage	Estimated Land Value	Estimated Total Cost
125.00	500.00	13,063.00
125.00	500.00	13,063.00
125.00	500.00	13,063.00
125.00	500.00	13,063.00
125.00	500.00	13,063.00
125.00	500.00	13,063.00
125.00	5,700.50	18,263.50
125.00	17,715.00	30,332.00
125.00	10,908.00	23,475.00
125.00	500.00	13,063.00

\$ 163,511.50

\$ 10,000.00

\$ 173,511.50



City Commission Agenda Memo

From: Ed Stahr

Date: July 20, 2015

Item: Resolution Number 586. A resolution approving the submission of the grant application for a AFIS Latent Fingerprint Station to the Office of the Governor, Criminal Justice Department.

Background

The Burkburnett Police Department submitted and won approval for a grant in the amount of \$23,381.56 from the Governor's Office Department of Criminal Justice. The monies will be used to purchase an AFIS Latent Fingerprint Station, which will assist in the identification of potential suspects of crimes committed within Burkburnett.

Fiscal Impact

None

Options

- Approve Resolution Number 586
- Disapprove Resolution Number 586

Staff Recommendation

Approve Resolution Number 586.

Attachments

Resolution Number 586

RESOLUTION NUMBER 586

WHEREAS, The City of Burkburnett Police Department finds it in the best interest of the citizens of Burkburnett that an AFIS Latent Fingerprint Station be operated for the 2016 year; and

WHEREAS, City of Burkburnett Police Department agrees to provide \$0.00 for the said project as required by the Office of the Governor, Criminal Justice Division grant application; and

WHEREAS, City of Burkburnett Police Department agrees that in the event of loss or misuse of the Criminal Justice Division funds City of Burkburnett Police Department assures that the funds will be returned to the Criminal Justice Division in full.

WHEREAS, City of Burkburnett Police Department designates Chief Ed Stahr as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

Section 1: The Board of Commissioners of the City Of Burkburnett hereby approves submission of the grant application for AFIS Latent Fingerprint Station to the Office of the Governor, Criminal Justice Division.

PASSED AND APPROVED at a meeting of the Board of Commissioners of the City of Burkburnett Texas this 20th day of July 2015.

Grant Number: 2616901

Carl Law, Mayor

Attest:

Janelle Dolan, City Clerk



City Commission Agenda Memo

From: Ed Stahr

Date: July 20, 2015

Item: Resolution Number 587. A resolution approving the submission of the grant application for a Video Surveillance Project to the Office of the Governor, Criminal Justice Department.

Background

The Burkburnett Police Department submitted and won approval for a grant in the amount of \$23,381.56 from the Governor's Office Department of Criminal Justice. The monies will be used to purchase a video surveillance camera that will assist in narcotic surveillance activities along with emergency operations of the Police and Fire Department.

Fiscal Impact

None

Options

- Approve Resolution Number 587
- Disapprove Resolution Number 587

Staff Recommendation

Approve Resolution Number 587.

Attachments

Resolution Number 587

RESOLUTION NUMBER 587

WHEREAS, The City of Burkburnett Police Department finds it in the best interest of the citizens of Burkburnett that a Video Surveillance Project be operated for the 2016 year; and

WHEREAS, City of Burkburnett Police Department agrees to provide \$0.00 for the said project as required by the Office of the Governor, Criminal Justice Division grant application; and

WHEREAS, City of Burkburnett Police Department agrees that in the event of loss or misuse of the Criminal Justice Division funds City of Burkburnett Police Department assures that the funds will be returned to the Criminal Justice Division in full.

WHEREAS, City of Burkburnett Police Department designates Chief Ed Stahr as the grantee's authorized official. The authorized official is given the power to apply for, accept, reject, alter or terminate the grant on behalf of the applicant agency.

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

Section 1: The Board of Commissioners of the City Of Burkburnett hereby approves submission of the grant application for Video Surveillance Project to the Office of the Governor, Criminal Justice Division.

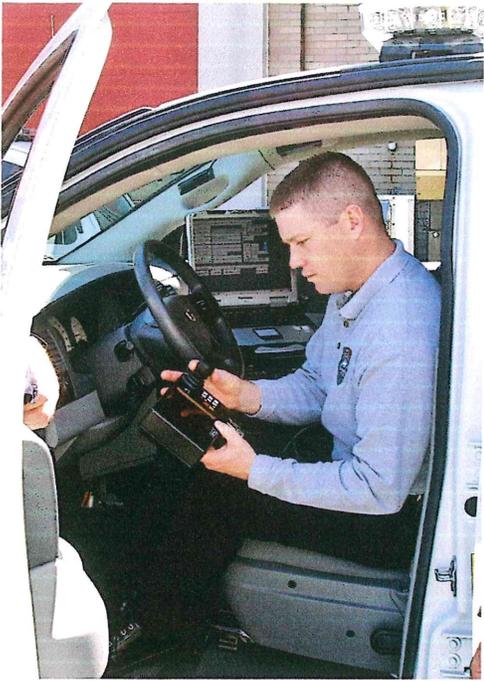
PASSED AND APPROVED at a meeting of the Board of Commissioners of the City of Burkburnett Texas on this 20th day of July 2015.

Grant Number: 2781302

Carl Law, Mayor

Attest:

Janelle Dolan, City Clerk





City Commission Agenda Memo

From: Mike Whaley
City Manager

Date: July 20th, 2015

Item: Smoking Regulation Amendment

Background

Since passing the smoking ordinance, there have been a few concerns that have been brought to our attention. These concerns have been addressed with amendments to the ordinance. First amendment pertains to the availability of smoking room for hotels and motels. We have included an exemption that states “that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be designated as smoking rooms. All smoking rooms must be on the same floor, must be contiguous and must be clearly marked as smoking rooms.” The second amendment pertains to fraternal organizations. We have also included an exemption that states “buildings or portions of buildings owned by fraternal organizations that received the certificate of occupancy prior to July 1, 2015 and are used solely for the use of their members are exempt.” The ordinance as presented would resolve concerns for both the hotel/motel industry and fraternal organizations.

Fiscal Impact

N/A

Options

Approve Ordinance Number 882 Smoking Regulations
Approve Ordinance Number 882 Smoking Regulations with revisions
Take no action

Staff Recommendation

Staff recommends approving Ordinance Number 882 Smoking Regulations

Attachments

Ordinance Number 882 Smoking Regulations

ORDINANCE NUMBER 882

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE CITY OF BURKBURNETT, TEXAS, AMENDING THE CODE OF ORDINANCES; TITLE IX. GENERAL REGULATIONS, ADOPTING CHAPTER 102: WHICH REGULATES SMOKING IN PUBLIC PLACES IN THE CITY LIMITS OF THE CITY OF BURKBURNETT; PROVIDING A PENALTY FOR THE VIOLATION OF SUCH OFFENSES; PROVIDING FOR THE REPEAL OF ORDINANCE 876; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE; FINDING AND DETERMINING THAT THE MEETING THIS ORDINANCE IS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the Board of Commissioners finds that smoking tobacco products creates nuisances, poses health risks, and causes fires; and

WHEREAS, the U.S. Surgeon General has stated that there is no safe level of secondhand smoke, and secondhand smoke is a known cause of lung cancer, heart disease, low birth-weight births, chronic lung ailments (such as bronchitis and asthma) and other health problems; and

WHEREAS, the Board of Commissioners finds that nicotine is a tobacco product and is addictive, and the nuisances, health risks, and fires from burning tobacco products are exacerbated by the behavioral changes that accompany addiction to nicotine; and

WHEREAS, the Board of Commissioners finds the use of nicotine-containing electronic cigarettes can lead to some respiratory changes and dangers similar to those occurring through the use of traditional tobacco products; and

WHEREAS, the Board of Commissioners finds that liquid nicotine cartridges are distributed in flavors, such as cherry, chocolate and vanilla, that are designed to appeal to young people and thereby create a path for nonsmokers to become addicted to smoking, which can lead to the further spread of nuisances, health risks, and fires from smoking; and

WHEREAS, on April 25, 2014, the U.S. Food and Drug Administration proposed regulating electronic cigarettes as tobacco products, due to the presence of tobacco-derived nicotine therein and the dangers posed thereby, with said regulations to be at 21 CFR Parts 1100, 1140, and 1143, published at <http://federalregister.gov/a/2014-09491>.

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

1. Amending Title IX. General Regulations, Adopting Chapter 102: Which Regulates Smoking In Public Places In The City Limits Of The City Of Burkburnett.

Title IX. General Regulations: Chapter 102 of the Code of Ordinances of the City of Burkburnett is hereby amended to read as follows:

Sec. 102.01. - Definitions.

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

Bar means an area which is devoted to the serving of alcoholic beverages for consumption by guests on the premises and in which the serving of food is only incidental to the consumption of such beverages and where minors are not allowed admission. A restaurant that contains a bar is not included, as minors are admitted in these areas.

Director means chief administrative officer of the city-county public health district.

Electronic Smoking Device means any product containing or delivering nicotine or any other similar substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor.

Employee means a person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and a person who volunteers his or her services for a non-profit entity.

Employer means any person, including a municipal corporation, or nonprofit entity who employs the services of one or more individual persons.

Enclosed area means a space that is enclosed on all sides by solid partitions that extend from the floor to the ceiling, including but not limited to screens, walls, windows, and doors.

Operator means the owner or person in charge of a public place or workplace, including an employer.

Public place means an enclosed area or any portion thereof to which the public is invited or in which the public is permitted or allowed access, including but not limited to: banks, bars, bingo halls, educational facilities, fraternal organizations, health care facilities, hotel and motel rooms, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, shopping malls, sports arenas, theaters, waiting rooms, and workplaces. A private residence is not a “public place” unless it is used as a child care, adult day care, or health care facility.

Retail tobacco store or retail electronic cigarette store means a retail store whereby 75% of quarterly sales are from tobacco products and accessories, to include electronic cigarettes, in which the sale of other products is merely incidental.

Smoke means to inhale, to exhale, to burn or to carry any lighted cigar, pipe, cigarette, weed or other plant in any manner or form, or to use an electronic smoking device.

Workplace means an enclosed area under the control of a public or private employer in which employees work or have access to during the course of their employment.

Sec. 102.02. - Smoking prohibited in public places.

- (a) A person commits an offense if the person smokes in a public place.
- (b) A person commits an offense if the person smokes in an enclosed area in a building or facility owned, leased, or operated by the City.
- (c) A person commits an offense if the person smokes in an enclosed area of a workplace.
- (d) A person commits an offense if the person smokes within:
 - (1) 20 feet of an entrance or open window of a public place, if the operator of the public place allows entry to children under the age of 18 years, or
 - (2) 5 feet of an entrance or open window of a public place, if the operator of the public place does not allow entry to children under the age of 18 years.
- (e) The owner or operator of a public place commits an offense if said owner or operator witnesses a person smoking in the public place and:
 - (1) within 5 minutes of witnessing the smoker, fails to request the smoker to cease smoking,
 - (2) provides further service to the smoker, or
 - (3) within 5 minutes of witnessing the smoker, fails to request the smoker to leave the premises if the smoker has been requested to cease smoking and the smoker continues to smoke in the public place.
- (f) A person commits an offense if the person smokes in or within 20 feet of an area designated as a City Park in §97.02 of the Burkburnett Code of Ordinances
- (g) A person commits an offense if the person smokes in or within 20 feet of the Boomtown Aquatic Center.
- (h) A person commits an offense if the person smokes on a side walk in front of, behind, next to or adjacent to a public place.

Sec. 102.03. - Exemptions.

This article does not apply to:

- (a) a private residence, except when used as child care, adult day care or health care facility;
- (b) a retail tobacco store;
- (c) a retail electronic cigarette store;
- (d) before June 17, 2016, a public place that was a Bar;
- (e) hotel and motel rooms that are rented to guests and are designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in

a hotel or motel may be designated as smoking rooms. All smoking rooms must be on the same floor, must be contiguous and must be clearly marked as smoking rooms. Nonsmoking rooms must also be clearly marked as nonsmoking rooms. Smoke must not infiltrate into any area where smoking is otherwise prohibited under this ordinance. The status of rooms as smoking or nonsmoking may not be changed, except to use a designated smoking room as a nonsmoking room. Smoking is prohibited in all common areas of the hotel or motel, including the hallways adjacent to smoking rooms.

(f) buildings or portions of buildings owned by fraternal organizations that received the certificate of occupancy prior to July 1, 2015 and are used solely for the use of their members

Sec. 102.04 - Voluntary designation of a non-smoking campus.

Nothing in this article shall be construed to prohibit the owner or operator of an enclosed or outdoor public place from voluntarily designating his or her property as non-smoking.

Sec. 102.05. - Smoking in taxicabs prohibited.

- (a) It shall be an offense for any individual to smoke in a taxicab.
- (b) An owner or holder of a taxicab franchise commits an offense if the owner or his designee permits any individual to smoke in a taxicab.
- (c) The holder of a taxicab service franchise shall conspicuously post a sign in each taxicab that indicates smoking is prohibited.

Sec. 102.06. - Signs required.

- (a) The owner or operator of a public place shall conspicuously post a "No Smoking" sign, the international "No Smoking" symbol (depiction of a burning cigarette enclosed in a red circle with a red bar across it), or other sign containing words or pictures that could reasonably be understood as an intent to prohibit smoking:
 - (1) in each public place and workplace where smoking is prohibited by this article; and
 - (2) at each entrance to a public place or workplace where smoking is prohibited by this article.
- (b) The operator of a public place shall conspicuously post signs in areas where smoking is permitted through an exemption under this article.
- (c) The operator of a public place or an employer shall remove any ashtrays or other smoking accessories from a place where smoking is prohibited.
- (d) It is not a defense to prosecution under this article that an operator failed to post a sign required under this section.

Sec. 102.07. - Retaliation prohibited.

(a) A person commits an offense if the person discharges, refuses to hire, or retaliates against a customer, employee, or applicant for employment because the customer, employee or applicant for employment reports a violation of this article.

(b) An employee who works in a setting where an employer permits smoking under this article does not waive or otherwise surrender any legal right the employee may have against the employer or any other party.

Sec. 102.08. - Enforcement

(a) This section is cumulative of other laws providing enforcement authority.

(b) A person may report a violation of this article to the Director of the Health District or his/her designee.

(c) The director or his/her designee may enforce this article and may seek injunctive relief in addition to any civil or criminal penalties associated with a violation.

(d) The director or his/her designee may suspend or revoke a permit or license issued by the director to the operator of a public place or workplace where a violation of this article occurs, in addition to any other available remedies.

Sec.102.09. - Public education.

(a) The director or his/her designee shall:

- (1) obtain or develop a comprehensive tobacco education program to educate the public about the harmful effect of tobacco and its addictive qualities;
- (2) conduct informational activities to notify and educate businesses and the public about this chapter; and
- (3) coordinate the City's tobacco education program with other civic or volunteer groups organized to promote smoking prevention and tobacco education.

(b) To implement this section, the director or his/her designee may publish and distribute educational materials relating to this article to businesses, their employees, and the public.

Sec. 102.10. - Minor access to tobacco products.

A retail establishment shall only place tobacco products and electronic smoking devices for sale behind a sales counter or in another secure location that prevents minors from accessing the products without the intervention of an employee.

2. Penalty

Any person, firm, or corporation who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not exceeding \$200. However, if the maximum penalty provided by this Code for any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this Code. Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

3. Severability

In the event any one or more of the provisions 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.

4. Repeal of Ordinance 876

Ordinance 876 is hereby repealed in its entirety.

5. Codification

The sections of this Ordinance that specify they amend or add to the Code of Ordinances of the City of Burkburnett are intended to be parts of said Code, and said sections of this ordinance may be renumbered or relettered to accomplish such intention. Those sections of this ordinance that specify they are not to be codified are not intended to be parts of the Code of Ordinances of the City of Burkburnett, and shall not be codified.

6. Date Effective

This Ordinance shall be in full force and effect immediately upon passage and publication.

PASSED AND APPROVED this the ____ day of _____, 2015.

Carl Law, Mayor

ATTEST:

Janelle Dolan, City Clerk