

## **ORDINANCE**

**AN ORDINANCE OF THE CITY OF BURLESON TEXAS CLOSING, VACATING, ABANDONING AND CONVEYING THE PUBLIC RIGHT-OF-WAY KNOWN AS THE 20 FOOT ALLEY IN BLOCK 33 OF THE ORIGINAL TOWN OF BURLESON IN THE CITY OF BURLESON, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE DEEDS WITHOUT WARRANTY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; REPEALING ALL ORDINANCES TO THE EXTENT THEY ARE IN CONFLICT; PROVIDING FOR SEVERABILITY; DECLARING AN EFFECTIVE DATE; AND DIRECTING THE CITY SECRETARY TO RECORD A COPY OF THIS ORDINANCE ON THE JOHNSON COUNTY REAL PROPERTY RECORDS.**

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

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

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

**WHEREAS**, Rhythm Ventures, LLC (the "Requestor"), filed an application, attached hereto and incorporated herein as Exhibit A for all purposes, to have the City close, vacate, abandon and convey the 20 foot alley in Block 33, Original Town of Burleson, according to the plat recorded in Volume 59, Page 638, Deed Records, Johnson County, Texas as more specifically described in Exhibit B (the "Property"), which is attached hereto and incorporated herein for all purposes; and

**WHEREAS**, all of the other property owners adjacent to the alley have consented to the City’s closure, vacation, and abandonment of the alley Property as shown in the Requestor’s application; and

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

**WHEREAS**, the Requestor owns fee simple title to multiple tracts adjacent to and in the same subdivision as the alley and desires that the City convey the alley Property, subject to the City reserving an easement for public utilities, to the Requestor and other property owners equitably in proportion to their abutting ownership; and

**WHEREAS**, the other property owners own fee simples title to tracts adjacent to and in the same subdivision as the alley and desire that the City convey the alley Property, subject to the City reserving an easement for public utilities, to the Requestor and other property owners equitably in

proportion to their abutting ownership; and

**WHEREAS**, the City desires to convey the alley Property to the Requestor and other property owners equitably in proportion to their abutting ownership, subject to the City reserving an easement for public utilities, in consideration of cash in hand paid and not having to maintain the property in the future; and

**WHEREAS**, on September 18, 2023, the City Council held a public hearing on the matters set forth in this ordinance at a duly called public meeting; and

**WHEREAS**, the City, after due consideration, hearing from all interested citizens wishing to speak at the public hearing, and vetting the request and confirming with all franchised public utility providers and appropriate City departments, has determined that the Property is no longer needed for a public right of way, with the exception of a reservation of a public utility easement interest, and that it is in the public interest to close, vacate, abandon and convey the Property to the Requestor and other abutting property owners in accordance with Section 10 of the City Home Rule Charter; and

**WHEREAS**, the City Council may consider and approve certain ordinances or ordinance amendments at only one meeting in accordance with Section 2-4 of the Code of Ordinances of the City of Burleson; and

**WHEREAS**, the City Council finds that this Ordinance may be considered and approved in only one meeting because the provisions of this Ordinance concerns the closing of an alleyway, roadway, or abandoning a city-owned right-of-way.

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

**SECTION 1.**

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

**SECTION 2.**

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

**SECTION 3.**

The Property was possessed by the City as a dedicated right of way and shall be abandoned and released to the abutting property owners in accordance with Section 272.001(c) of the Texas Local Government Code, and that the City Manager of the City of Burleson, Texas is hereby authorized, empowered and directed to convey said Property to the Requestor and other abutting property owners, their respective successors, heirs and assigns, by virtue of deeds without warranty, subject to a reservation of a public utility easement interest, in substantially the form provided as Exhibit D, which is attached hereto and incorporated herein for all purposes.

SECTION 4.

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

SECTION 5.

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

SECTION 6.

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

SECTION 7.

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

**PASSED AND APPROVED** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**First and Final Reading:** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Chris Fletcher, Mayor  
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Campos, City Secretary

\_\_\_\_\_  
E. Allen Taylor, Jr., City Attorney

Exhibit "A"  
Application

Exhibit "B"  
Alley Property Description

Exhibit "C"  
Public Utility Easement Reservation Property Description

Exhibit "D"  
Deeds