

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A FACILITIES REIMBURSEMENT, SHARED PARKING, AND MUTUAL ACCESS AGREEMENT WITH EASTERN HEIGHTS CHURCH D/B/A THE HEIGHTS CHURCH, A TEXAS NON-PROFIT CORPORATION; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Burleson, Texas (the “City”) is a home rule municipality 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 desires to enter into a Facilities Reimbursement, Shared Parking, and Mutual Access Agreement (the “Agreement”) with Eastern Heights Church d/b/a The Heights Church, a Texas non-profit corporation (the “Developer”), for the design, construction, and use of public access, pedestrian, parking, paving, and other related public improvements (collectively, the “Facilities”), at 961 S. Dobson St., City of Burleson, Johnson County, Texas; and

**WHEREAS**, the Developer desires to construct and use the Facilities to provide increased access to the Developer and the general public, and the City desires to participate in the cost of the Facilities pursuant to Texas Local Gov’t Code Ch. 212; and

**WHEREAS**, the City desires to allow the Developer to use the Facilities for Developer’s overflow parking, and the Developer will allow the City to use certain portions of Developer’s parking lot for City events; and

**WHEREAS**, the City’s reimbursement costs for the Facilities shall not exceed the amount of \$20,341, which is equal to five and eight tenths percent (5.8%) of the total estimated “Project” costs of \$350,551.00; and

**WHEREAS**, the Agreement is authorized by Texas Local Gov’t Code Ch. 212, without complying with the competitive sealed bidding procedure of Texas Local Gov’t Code Ch. 252; and

**WHEREAS**, the City Council finds and determines that this Ordinance is made in the exercise of its governmental functions relating to water and fire service in the interest of the health, safety, and welfare of the general public,

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

**SECTION 1**

The findings and recitals set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2**

The City Manager is authorized to execute the Facilities Reimbursement, Shared Parking, and Mutual Access Agreement with the Developer, which is attached as **Exhibit A** to this Ordinance, and the City Manager is hereby authorized to pay reimbursement costs for the Facilities upon completion and acceptance of the Facilities in an amount not to exceed \$20,341.00.

**SECTION 3**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been enacted by the City Council without the incorporation of this Ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph, or section.

**SECTION 4**

This Ordinance shall become effective immediately upon its passage.

**FIRST READING APPROVED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.**

**DULY PASSED ON THE SECOND AND FINAL READING BY THE CITY COUNCIL OF THE CITY OF BURLESON, TEXAS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.**

\_\_\_\_\_  
Chris Fletcher, Mayor

**ATTEST:**

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

**EXHIBIT A**

FACILITIES REIMBURSEMENT, SHARED PARKING,  
AND MUTUAL ACCESS AGREEMENT

**FACILITIES REIMBURSEMENT, SHARED PARKING,  
AND MUTUAL ACCESS AGREEMENT**

STATE OF TEXAS                    §  
                                                  §  
COUNTY OF JOHNSON           §

This Facilities Reimbursement, Shared Parking, and Mutual Access Agreement (the “Agreement”) is made by and between the City of Burleson, a Texas home rule municipality (the “City”), and Eastern Heights Church d/b/a The Heights Church, a Texas non-profit corporation (the “Developer”), each referred to as “Party” or collectively as the “Parties”, acting by and through their respective authorized representatives.

**RECITALS**

**WHEREAS**, the Parties desire to enter into this Agreement for the design, construction, and use of public access, pedestrian, parking, paving, and other related public improvements (collectively, the “Facilities”) generally located at 961 S. Dobson St. in the City of Burleson, Johnson County, Texas (the “Property”), in the location more particularly identified and shown on **Exhibit A**, which is attached to this Agreement and fully incorporated herein; and

**WHEREAS**, the Developer has used and desires to continue to use the City’s paved water tower driveway, and Developer desires to expand the driveway to provide increased access to the Developer and the general public; and

**WHEREAS**, the City will allow the Developer to use the Facilities for Developer’s overflow parking, and the Developer will allow the City to use certain portions of Developer’s parking lot for City events; and

**WHEREAS**, the Developer and the City recognize that the City has an interest in ensuring that the Facilities are properly constructed in accordance with the plans and specifications approved by the City, because the Facilities will become public property upon completion and acceptance by the City; and

**WHEREAS**, the City Council has approved the anticipated reimbursement costs for the Facilities in the amount of **\$20,341.00**, which is equal to five and eight tenths percent (5.8%) of the total estimated “Project” costs of **\$350,551.00**; and

**WHEREAS**, the City anticipates that the Facilities will expand the City’s access to the water tower site, relieve traffic congestion, and provide a public pedestrian path to access an additional handicap parking area, which will also serve Fire Station No. 16 and which benefits the City and the general public by giving the general public and disabled persons increased access to the City’s memorial garden; and

**WHEREAS**, this Agreement is authorized by Texas Local Gov’t Code Ch. 212, without complying with the competitive sealed bidding procedure of Texas Local Gov’t Code Ch. 252; and

**WHEREAS**, by entering into this Agreement the parties agree that the City is exercising its governmental functions relating to water and fire service in the interest of the general public, and the Developer is not providing a good or service to the City that is subject to Texas Local Government Code Ch. 271; and

**WHEREAS**, in the interest of the general public and for the public purposes described in this Agreement, the Developer desires to construct the Facilities and the City has appropriated and identified public funds for reimbursement of a certain portion of the Developer's costs,

**NOW, THEREFORE**, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer and the City agree as follows:

### **Article I** **Term**

1. **Term**. The term of this Agreement shall begin on the Effective Date and shall continue for twenty (20) years from the Effective date, unless sooner terminated as provided herein. This Agreement may be renewed or extended by mutual agreement of the Parties.

### **Article II** **Obligations of the Developer**

1. The Developer will be responsible for paying all reasonable and necessary design, engineering, surveying, testing, and construction costs associated with the Facilities. The Developer shall submit monthly requests for payment to the City showing all actual direct costs attributable to the portion of work being completed. After inspection of the work, if the City determines that the Facilities are being built in accordance with the approved plans and specifications, the City shall make payment to the Developer within thirty (30) days after receipt of the request for payment. The scope of work and estimated cost of the work are shown on **Exhibit A**. The parties anticipate that the final cost of the work may exceed the estimated cost; however, the City's obligations shall not exceed the Authorized Reimbursement amount.

2. Within sixty (60) days after the Effective Date of this Agreement, the Developer shall deliver to the City for the City's review and written approval, the final approved construction documents (referred to herein as the "Final Construction Documents") for the Project.

3. The Developer will be responsible for execution of the Final Construction Documents, including, without limitation, the construction contract, contract administration and construction inspection, and shall ensure that the general contractor performing the work provides performance, payment, and maintenance bonds and the appropriate insurance as required by law and this Agreement prior to commencement of the work. The final completion of the Facilities shall occur not later than **December 31, 2025**.

4. The Developer shall employ the Developer's own engineer to prepare the plans and specifications for the Facilities, and all engineering work shall comply with the requirements of the City's Subdivision Ordinance and Design Standards Manual. The Developer's engineer shall

be a civil engineer licensed to practice in Texas. All plans and specifications prepared by the Developer's engineer must be released for construction in writing by the City Engineer of the City before the construction contract for the Facilities is executed.

5. Before commencing construction on the Facilities, the Developer shall deliver to the City Engineer a signed copy of the Final Construction Documents between the Developer and its general contractor (the "Contractor"). The Developer shall pay the Contractor for construction of the Facilities in accordance with provisions of the Final Construction Documents. It is agreed that the City has an interest in the proper performance of the Final Construction Documents and may bring suit for failure to comply with the plans and specifications. The Developer and Contractor shall provide the City with access to the Project for the purpose of inspection of the installation of the Facilities.

6. The Contractor shall construct and install the Facilities in accordance with the plans and specifications prepared by the Developer's engineer and released for construction by the City Engineer, and the procedures, specifications and standards contained in the Subdivision Ordinance and Design Standards Manual of the City, as applicable. In general, the construction shall follow provisions of the "Standard Specifications for Public Works Construction, North Central Texas," as amended, published by the North Central Texas Council of Governments, except however, when specific circumstances dictate additional requirements, it shall be the responsibility of the Developer's engineer to provide the necessary details for construction acceptable to the City Engineer. The "Standard Specifications for Public Works Construction, North Central Texas," as amended, are incorporated in this Agreement by reference and made a part hereof, and the Contractor may obtain a copy from the North Central Texas Council of Governments. The Contractor shall perform all work in a good and workmanlike manner and to the satisfaction of the City Engineer.

7. The Contractor shall meet the City's requirements for being licensed and bonded and shall have a financial statement, experience and equipment acceptable to the City.

8. Insurance. The Contractor shall, at his own expense, purchase, maintain and keep in force during the term of this Agreement the insurance set forth below. The Contractor shall not commence work on the Community Facilities until the Contractor has obtained all the insurance required under this Agreement and such insurance has been approved by the City, nor shall the Contractor allow any subcontractor to commence work on his subcontract until all similar insurance of the subcontractor has been obtained and approved. All insurance policies provided under this Agreement shall be written on an "occurrence" basis.

Compensation Insurance

Workers Compensation	Statutory Limit
Employers Liability	\$100,000 Each Occurrence
	\$500,000 Disease-Each Employee

Liability Insurance

Commercial General Liability (No standard coverages are to be excluded by endorsement)	\$500,000 Combined Single Limit
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Automobile Liability Insurance

Commercial Auto Liability Policy \$500,000 Combined Single Limit  
(including coverage for owned,  
hired and non-owned autos)

Umbrella Liability

(Following Form and Drop Down \$1,000,000 Each Occurrence  
Provisions included)

It is agreed by all parties to this Agreement that the insurance required under this Agreement shall:

- i) Be written with the City of Burleson as an additional insured.
- ii) Provide for thirty (30) days written notice to the City of cancellation or material change in coverage.
- iii) Be written through companies duly authorized to write the particular class of insurance in the State of Texas.
- iv) Waive subrogation rights for loss or damage so that insureds have no right to recovery or subrogation against the City of Burleson, it being the intention of this Agreement that the required insurance policies shall protect all parties to this Agreement and be primary coverage for all losses covered by the policies.
- v) Provide a certificate of insurance evidencing the required coverages to:

City of Burleson  
Public Works Department/Engineering/Development  
141 W. Renfro Street  
Burleson, Texas 76028

Upon completion of the Facilities and issuance of a “Letter of Acceptance” by the City, the Facilities shall become the property of the City free and clear of all liens, claims, charges or encumbrances of any kind.

9. Compliance with Laws. The Developer shall ensure that contractors performing work on the Project shall comply with all local, state, and federal laws, rules, and regulations, including, but not limited to those regulations relating to drainage, flood control, runoff, erosion, pollution, hazardous materials, waste, sedimentation, and any other control and mitigation requirements related thereto.

10. Books and Records. The Developer shall ensure that contractors performing work on the Project shall make all books and records available for audit and inspection by the City in accordance with Texas Local Gov’t Code Sec. 212.074.

11. Performance, Payment, and Maintenance Bonds. Prior to the commencement of construction on the Project, the Developer, or its contractors, shall provide a performance bond, payment bond, and maintenance bond that meets the requirements of Chapter 2253 of the Texas Government Code, and names the City as additional obligee. Each bond shall be in the full 100% amount of the total Project costs (including change orders) to construct the work and shall be made in favor of the City ensuring completion of the work in accordance with the plans and specifications approved by the City Engineer. The performance bond, payment bond, and maintenance bond shall be executed by a corporate surety authorized to do business in Texas for the benefit of the City in accordance with Chapter 2253 of the Texas Government Code. The maintenance bond shall guarantee the maintenance of the Facilities in good condition for a period of two (2) years from and after the date that a “Letter of Acceptance” is issued by the City indicating that the Facilities have been completed by the Developer and accepted by the City. The Maintenance Bond shall be made in favor of the City and the Developer.

12. Release of Plans and Specifications. Release of the plans and specifications for construction by the City Engineer or other City employee(s) of any plans, designs or specifications submitted by the Developer pursuant to this Agreement shall not constitute or be deemed to be an assumption of the responsibility and liability of the Developer for the competency of the Developer’s design and specifications for the Facilities, it being the intent of the parties that release of the plans and specifications by the City Engineer or other City employee(s) signifies the City’s acceptance of only the general design concept of the Facilities to be constructed.

13. Liens. The Developer shall not suffer or permit any mechanic’s, supplier’s, or materialmen’s liens, claims, judgments or indebtedness of any kind to be filed against the Facilities, and shall promptly obtain the release of any such claims at Developer’s sole cost.

14. After completion of the Facilities, Developer shall ensure that the Facilities are used in a clean and orderly manner substantially free of trash, debris, and damage to the Facilities by its visitors, patrons, agents, assigns, or members.

15. The Developer shall not disturb any improvements of the City, or interfere with the use, repair, maintenance, or replacement of such improvements, or obstruct the City’s access to Fire Station No. 16 or the water tower site.

16. City Event Overflow Parking. The Developer grants to the City, its successors and assigns, a non-exclusive, revocable license to use the parking area identified on **Exhibit C**, which is attached to this Agreement and incorporated herein, to be used by the City for the purposes of this Agreement, and for no other purpose; provided, however, the Developer shall not be responsible for any damage to the Developer’s parking area caused by the City or its invitees, agents, assigns, residents, or any City representatives. Prior to use of the Developer’s parking area identified on **Exhibit C**, the City shall request five (5) days written approval from the Developer, in the event that more than ten (10) parking spaces are needed at any given time, in order to avoid scheduling conflicts with the Developer’s meetings, events, or operations, and such written approval by the Developer authorizing the same shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, the Developer agrees that it shall not revoke the license granted to the City to use the parking area for five (5) years following the Effective Date.



## 17. INDEMNIFICATION.

THE DEVELOPER AND ITS CONTRACTORS, AGENTS, SUCCESSORS, ASSIGNS, AND INVITEES (COLLECTIVELY THE “INDEMNIFYING PARTIES”), HEREBY AGREE TO RELEASE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, TOGETHER WITH THE CITY’S OFFICERS, AGENTS, COUNCILMEMBERS, EMPLOYEES, AND REPRESENTATIVES (COLLECTIVELY, INCLUDING THE CITY, THE “CITY INDEMNIFIED PARTIES”), FROM AND AGAINST ANY AND ALL DAMAGES, LIABILITIES, DEMANDS, CAUSES OF ACTION, CLAIMS (INCLUDING INJURY TO PERSONS AND PROPERTY AND EVEN DEATH), JUDGMENTS, SUITS, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS’ FEES) MADE BY ANY CONTRACTOR OR ANY THIRD-PARTY, TO THE EXTENT ARISING FROM, RELATED TO, OR PURSUANT TO THE WORK PERFORMED UNDER THIS AGREEMENT AND THE USE OF THE CITY’S PROPERTY, REGARDLESS OF THE LEGAL THEORY ASSERTED BY ANY THIRD-PARTIES AND REGARDLESS OF WHETHER THE DAMAGES OR CLAIMS OF THIRD-PARTIES ARE KNOWN OR FULLY APPRECIATED AT THIS TIME BY THE DEVELOPER OR THE CITY. THE INDEMNITIES IN THIS AGREEMENT ARE SPECIFICALLY INTENDED TO OPERATE AND BE APPLICABLE EVEN IF IT IS ALLEGED OR PROVED THAT ALL OR SOME OF THE DAMAGES BEING SOUGHT WERE CAUSED IN WHOLE OR IN PART BY ANY ACT, ERROR, OMISSION, NEGLIGENCE OF THE CITY INDEMNIFIED PARTIES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLY TERMINATION OF THIS AGREEMENT.

### Article III **Obligations of the City**

1. As a condition to design and construction of the Facilities by the Developer, which are further identified on the attached Exhibit A, the City has appropriated the not-to-exceed sum of **Twenty Thousand, Three Hundred and Forty One Dollars (\$20,341.00)** (the “Authorized Reimbursement”) necessary to reimburse the Developer for performance of the work and ensure completion of the Facilities.
2. The City grants to the Developer, its successors and assigns, a non-exclusive, revocable license to design, construct, and use the Facilities, in accordance with this Agreement, to be used by the Developer for the purposes of this Agreement, and for no other purpose.
3. The City agrees to allow the Developer to expand and use the water tower driveway and the Facilities free of charge for overflow passenger vehicle parking for Developer’s special events and services. The expanded water tower driveway and its use shall be limited to the area shown on Exhibit B, which is attached to this Agreement and fully incorporated herein.
4. Water Tower and Fire Station Access. The City’s paramount public purposes of providing water and fire services shall not be obstructed or limited in any manner. In the event of an emergency, the City may immediately remove or repair the Facilities, and block or limit access thereto, all without compensation or liability for damages to the Developer or any other person.
5. Maintenance. After acceptance of the Facilities, the City shall maintain the Facilities in accordance with the City’s ordinary practices and maintenance schedule for public facilities; provided, however, the City shall not have the responsibility to repair, replace, or reconstruct the

Facilities when damage is caused by the Developer or its invitees, agents, assigns, members, patrons, or other representatives. Except in the case of an emergency, the City will provide ten (10) days written notice to the Developer, prior to performing maintenance, repair, reconstruction, or replacement of the Facilities (collectively, the "Maintenance Work"). The costs of the Maintenance Work shall be shared equally between the Parties, and upon completion of the Maintenance Work the City shall provide a detailed invoice of the same showing Developer's portion of the costs of the Maintenance Work, which shall be paid by the Developer no later than thirty (30) days from receipt of the invoice.

6. City's Insurance. The City is a home rule municipality and shall keep and maintain insurance as required by Texas law.

#### **Article IV** **Termination**

1. Termination. This Agreement may be terminated upon any one or more of the following:

- (a) by mutual written agreement of the parties;
- (b) by one-hundred and eighty (180) days written notice to any party for any reason or for no reason;
- (c) upon written notice by any party, if another party defaults or breaches any of the other terms or conditions of this Agreement and such default or breach is not cured within sixty (60) days after written notice thereof;
- (d) upon written notice by the City, if the Developer suffers an event of bankruptcy or insolvency and such filing is not dismissed or withdrawn within ninety (90) days after the filing thereof;
- (e) upon written notice by the City, if any taxes, fines, fees, assessments, judgments, or other impositions owed to City become delinquent and such delinquency has not been cured within ninety (90) days after written notice thereof; or
- (f) upon written notice by any party if any subsequent federal or state legislation or any decision of a court of competent jurisdiction renders this Agreement invalid, illegal, or unenforceable.

#### **Article V** **Notice**

1. Notice. Any notice required or permitted to be delivered under this Agreement shall be deemed received three (3) days thereafter sent by United States Mail, postage prepaid, certified mail, return receipt requested, addressed to the Party at the address set forth below (or such other address as such Party may subsequently designate in writing) or on the day actually received if sent by courier, email, or hand delivered:

If to City: City of Burleson  
Public Works Department/Engineering/Development  
141 W. Renfro Street  
Burleson, Texas 76028

If to Developer: The Heights Church  
1315 Grandview Hwy.,  
Cleburne, Texas 76031  
Attn: \_\_\_\_\_

**Article VI**  
**Miscellaneous**

1. Binding Agreement. The terms and conditions of this Agreement are binding upon the successors and permitted assigns of the Parties hereto.
2. Mutual Assistance. The Parties hereto agree to take all reasonable measures which are necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out such terms and provisions.
3. Offset. The City may offset any amounts due and payable under this Agreement against any delinquent debt (including taxes, fines, fees, assessments, judgments, or other impositions) lawfully due to the City, regardless of whether or not the delinquent debt due to the City has been reduced to judgment by a court.
4. Venue. The parties hereto agree that this Agreement is performable in the City of Burleson, Johnson County, Texas, if any legal action is necessary in connection with this Agreement, exclusive venue shall lie in Johnson County, Texas.
5. Governing Law. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas, without regard to conflict of law or choice of law principles of Texas or of any other state or country.
6. Texas Public Information Act. All information, documents, and communications relating to this Agreement shall be subject to the Texas Public Information Act (“Act”) and any opinion of the Texas Attorney General or a ruling of court of competent jurisdiction relating to the Act.
7. Severability. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and it is the intention of the Parties to this Agreement that in lieu of each provision that is found to be illegal, invalid, or unenforceable, a provision shall be added to this Agreement which is legal, valid, and enforceable and is as similar in terms as possible to the provision found to be illegal, invalid, or unenforceable.
8. Independent Parties. Each Party shall perform its obligations under this Agreement as an independent contractor and shall not be considered an employee of the other for any purpose

whatsoever, including, but not limited to, entitlement to employee benefits. The Parties hereby expressly waive any claim or entitlement to such benefits from the other Party. Furthermore, this Agreement is not intended to create, nor should it be construed as creating, a partnership, association, joint venture, or trust. Furthermore, the Parties hereto acknowledge and agree that the doctrine of respondeat superior shall not apply between them.

9. Entire Agreement. This Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this Agreement shall be of no force and effect except for a subsequent modification in writing signed by the parties hereto.

10. No Waiver. All rights, remedies, and privileges permitted or available to the parties under this Agreement or at law or equity shall be cumulative and not alternative, and election of any such right, remedy or privilege shall not constitute a waiver or exclusive election of any rights, remedies, or privilege with respect to any other permitted or available right, remedy or privilege. Additionally, one instance of forbearance by a party in the enforcement of any such right, remedy or privilege, shall not constitute a waiver of such right, remedy or privilege by that party.

11. Successor and Assigns. This Agreement and the terms and conditions herein shall be binding upon and inure to the benefit of the parties, hereto, their respective successors and assigns. This Agreement may not be assigned or amended without the mutual written consent of the Developer and the City.

12. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

13. Gift to Public Servant. The City may terminate this Agreement immediately if the Developer has offered or agreed to confer any benefit upon a City employee or official that the City employee or official is prohibited by law from accepting.

14. No Leasehold Interest. Developer acknowledges that this Agreement is not a lease, that there are no leased premises, and that this Agreement does not create a leasehold interest in any part of the Facilities. In the event that Developer shall hold over and continue its activities under this Agreement after the expiration or termination of this Agreement, such holding over shall not be construed to operate as a renewal or extension of this Agreement, or a tenancy at sufferance.

15. Legal Construction. The judicial doctrine that provides that documents or exculpatory provisions are to be construed against the drafter or provider of such documents or provisions does not apply to this Agreement, as each party has had a reasonable opportunity to obtain and consult with their own legal counsel regarding this Agreement.

16. Governmental Functions. The parties hereby acknowledge and agree that the City is entering into this Agreement pursuant to its governmental function(s) and that nothing contained in this Agreement shall be construed as constituting a waiver of the City's police power, which cannot be waived, or governmental immunity from suit or liability, which are expressly reserved to the extent allowed by law. To the extent a court of competent jurisdiction determines this Agreement is subject to the provisions of Subchapter I of Chapter 271, TEXAS LOCAL

GOVERNMENT CODE, as amended, the City's immunity from suit is waived only as set forth in Subchapter I of Chapter 271, TEXAS LOCAL GOVERNMENT CODE. Further, the parties agree that this Agreement is made subject to all applicable provisions of the Texas Civil Practice and Remedies Code ("CPRC"), including, but not limited to, all defenses, limitations, and exceptions to the limited waiver of immunity from liability provided in CPRC Chapter 101 and Chapter 75.

17. Waiver of Attorney's Fees. The parties expressly covenant and agree that in the event of any litigation arising between the parties to this Agreement, each party shall be solely responsible for payment of its attorneys (except as required pursuant to the indemnity obligations in this Agreement) and that in no event shall either party be responsible for the other party's attorneys' fees regardless of the outcome of the litigation.

18. Deed Records. This Agreement does not create or convey a real property interest and it shall not be filed or recorded in the official public deed records of Johnson County, Texas, but shall be kept on file in the Office of the City Secretary of the City.

19. Additional Verifications. To the extent required by Texas law, the Developer verifies that: (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, as defined in Texas Government Code § 2274.001, and that it will not during the term of the Agreement discriminate against a firearm entity or firearm trade association; (2) it does not "boycott Israel" as that term is defined in Texas Government Code Ch. 2271 and § 808.001 and it will not boycott Israel during the term of this Agreement; and (3) it does not "boycott energy companies," as those terms are defined in Texas Government Code §§ 809.001 and 2276.001, and it will not boycott energy companies during the term of this Agreement; (4) it does not engage in scrutinized business operations with Sudan, Iran, or designated foreign terrorist organization as defined in Texas Government Code, Chapter 2270; and (5) it is not owned by or the majority of its stock or other ownership interest is held or controlled by i) individuals who are citizens of China, Iran, North Korea, Russia, or a designated country as defined by Texas Government Code § 2275.0101; or ii) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a designated country; nor is it headquartered in China, Iran, North Korea, Russia, or a designated country.

20. Ethics Disclosure. To the extent required by law, the Developer represents that it has completed a Texas Ethics Commission (the "TEC") form 1295 ("Form 1295") generated by the TEC's electronic filing application in accordance with the provisions of Texas Gov't Code Ch. 2252.908 and the rules promulgated by the TEC. The parties agree that, with the exception of the information identifying the City and the contract identification number, the City is not responsible for the information contained in the Form 1295.

21. No Third Party Beneficiaries. Except as expressly provided herein, nothing herein is intended to confer upon any person other than the Parties hereto any rights, benefits, or remedies under or because of this Agreement.

22. Authority. By signing below, the Developer and the City each indicate their agreement to the terms of this Agreement and represent and warrant the authority of the person signing to bind such entity.

23. Exhibits. All exhibits to this Agreement are incorporated herein by reference for all purposes wherever reference is made to the same.

This Agreement is executed on behalf of the Developer shown below, and on behalf of the City by its City Manager, effective on the last date shown below (the "Effective Date").

**CITY OF BURLESON, A TEXAS HOME-RULE MUNICIPALITY**

By: \_\_\_\_\_  
Tommy Ludwig, City Manager

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Amanda Campos, City Secretary

**APPROVED TO FORM AND LEGALITY:**

By: \_\_\_\_\_  
Allen Taylor, City Attorney

**EASTERN HEIGHTS CHURCH DBA THE HEIGHTS CHURCH, A TEXAS NON-PROFIT CORPORATION ("DEVELOPER")**

By: \_\_\_\_\_  
Kody Hughes, Trustee

Date: \_\_\_\_\_

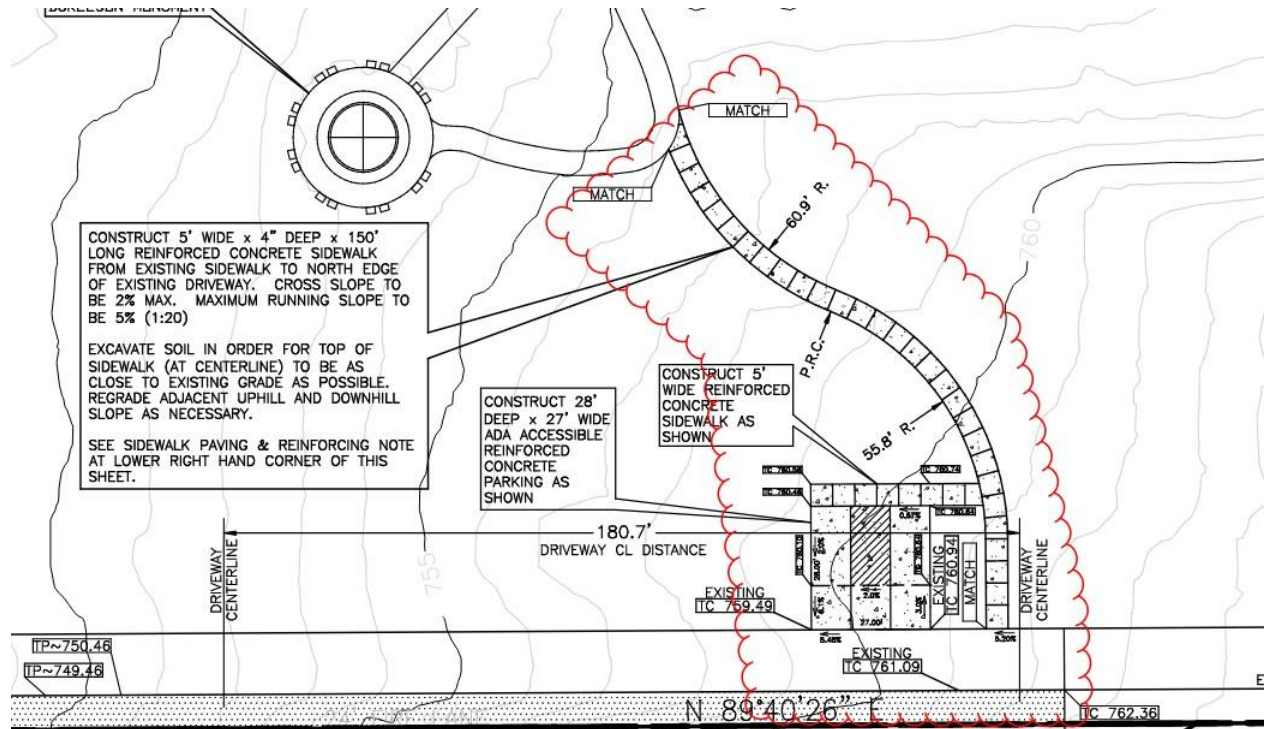
**ATTEST:**

By: \_\_\_\_\_  
Ronnie Chaney, Trustee

Date: \_\_\_\_\_

## EXHIBIT A

### 1. Pedestrian Sidewalk and Handicap Parking Stalls



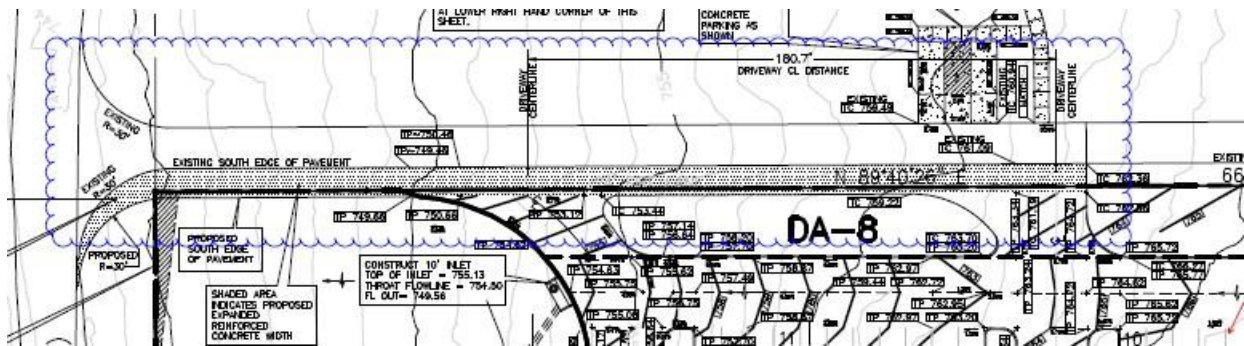
### 2. Scope of Work and Estimated Cost of Work

Approximately 910 square feet of five-foot wide concrete sidewalk and two handicap/disabled parking stalls.

	City of Burleson	The Heights Church	
Pedestrian sidewalk and handicap parking stalls	\$ 20,341.00	\$ -	
CFC Utilities	\$ -	\$ 330,210.00	
Sub - Total	\$ 20,341.00	\$ 330,210.00	<b>Project Total</b>
Project Total and Percent	5.8%	94.2%	\$ 350,551.00

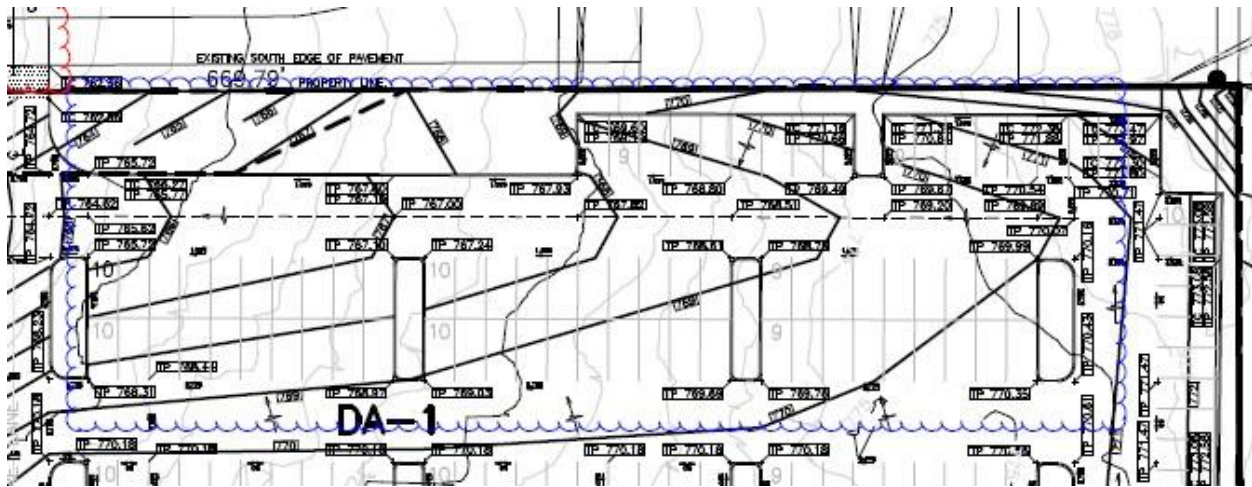
# EXHIBIT B

## Expanded Water Tower Driveway and Area of Authorized Use





**EXHIBIT C**



**Area of Authorized Use for City Fire Station Events and Meeting**