



## Item Brief

### **Meeting Date**

October 22, 2024

### **Agenda Item**

Discuss and consider action: Resolution No. R2024-76: D. Vaughn

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, DECLARING THE TERMINATION OF A LICENSE AGREEMENT BETWEEN THE CITY OF BURNET AND DUSTIN ORMAN, AND AUTHORIZING FURTHER ACTIONS IN RESPONSE TO THE LICENSE DEFAULT

### **Information**

This License Agreement, effective as of October 2020, between the City of Burnet (Licensor) and Dustin Orman (Licensee), allows the Licensee to cultivate crops (primarily Coastal Bermuda grass) on approximately 109.63 acres of land owned by the City near the Wastewater Treatment Plant (WWTP) to help maximize the absorption of treated wastewater effluent (See Exhibit A). The Licensee agrees to pay an annual fee of \$10,000 by July 15 each year. This agreement renews automatically each fiscal year, assuming payment is made.

On or about August 28, 2024, the Licensee verbally indicated to Water/Wastewater Treatment Supervisor Richard Harrison his intent to end the License Agreement. At that time, Mr. Harrison requested that the Licensee provide written notice of this intent. No written notice has been provided, and although required per Section 4.3 (G) of the License Agreement, winter vegetation has not been planted. It has also been noted that the Licensee has vacated the Wastewater Treatment Plant of all know previously stored equipment and inventory.

Based on vacating of the premises without written notice and not planting winter vegetation, the License Agreement has been determined to be in default by the Licensee under Sections 8.1 and 8.2 of the License Agreement.

### **Fiscal Impact**

Staff expects to be able to acquire a new licensee, but because of the timing of the default, the \$10,000 annual fee may need to be prorated for Fiscal Year 2025.

### **Recommendation**

Staff recommends approval and adoption of Resolution No. R2024-76 as presented.

## RESOLUTION NO. R2024-76

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, DECLARING THE TERMINATION OF A LICENSE AGREEMENT BETWEEN THE CITY OF BURNET AND DUSTIN ORMAN, AND AUTHORIZING FURTHER ACTIONS IN RESPONSE TO THE LICENSE DEFAULT

**WHEREAS**, the City of Burnet (hereinafter "City") entered into a License Agreement with Dustin Orman (hereinafter "Licensee") effective as of October 2020, granting Licensee the right to cultivate crops, primarily Coastal Bermuda grass, on approximately 109.63 acres of land adjacent to the Wastewater Treatment Plant to assist with the absorption of treated wastewater effluent; and

**WHEREAS**, the License Agreement requires an annual payment of \$10,000 from Licensee, due on or before July 15 each year, and the Agreement automatically renews each fiscal year, assuming payment is made and other conditions are met; and

**WHEREAS**, on or about August 28, 2024, Licensee verbally indicated to City staff his intent to terminate the License Agreement, and although written notice was requested, no such written notice has been provided; and

**WHEREAS**, it has been noted that Licensee has vacated the Wastewater Treatment Plant of all known previously stored equipment and inventory, and has not planted winter vegetation as required in Section 4.3 (A) of the License Agreement; and

**WHEREAS**, based on the vacating of the premises without written notice and not planting winter vegetation, the License Agreement has been determined to be in default by Licensee under Sections 8.1 and 8.2 of the License Agreement; and

**WHEREAS**, the City Council finds it necessary to terminate the License Agreement and authorize appropriate actions to address the default.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF BURNET, TEXAS, AS FOLLOWS:**

**Section One. Findings.** The recitals set out above are hereby approved and incorporated herein for all purposes.

**Section Two. Termination.** The License Agreement between the City of Burnet and Dustin Orman is hereby declared in default due to him vacating the premises without written notice and not planting winter vegetation.

**Section Three. Authorization.** The City of Burnet, through its City Manager or designee, is hereby authorized and directed to take any and all necessary actions to formally terminate the License Agreement and prevent any further use of the premises by

Licensee. The City Manager is further authorized to communicate with the Licensee regarding the retrieval of any remaining equipment or materials from the premises, if applicable, and to take necessary legal or administrative actions to ensure compliance with City ordinances and agreements.

**Section Four. Open Meetings.** It is hereby officially found and determined that the meeting at which this resolution was passed was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

**Section Five. Effective Date.** That this resolution shall take effect immediately upon its passage, and approval as prescribed by law.

**PASSED AND APPROVED** on this the 22nd day of October 2024.

**CITY OF BURNET, TEXAS**

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Gary Wideman, Mayor

**ATTEST:**

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Maria Gonzales, City Secretary