

City of Burnet City Council



Item Brief

Meeting Date

April 22, 2025

Agenda Item

Discuss and consider action: Resolution No. R2025-31: L. Kimbler

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING THE RELEASE AND TERMINATION OF A WASTEWATER UTILITY EASEMENT RECORDED IN VOLUME 3, PAGES 77 & 78 OF THE PUBLIC RECORDS OF THE COUNTY CLERK OF BURNET COUNTY, TEXAS

Information

In 1938 E.N. Foulds granted the City a perpetual easement over and across all of Lot Nos. 1 and 2 in Block No. 30 of the Kerr portion to lay pipe, construct pipelines, mains, manholes and other useful or necessary construction to procure sewer service to the property (Exhibit "A").

KMS Investments, LLC now owns the land and is under contract to sell the land for the development of Casey's Gas Station. In order to develop the property for the gas station, the sewer line will be relocated within the public right-of-way and therefore the wastewater easement is no longer needed.

Fiscal Impact

None.

Recommendation

Staff recommends approval of Resolution No. R2025-31 as presented.

Exhibit "A" Original Easement

77

E. H. FOULDS / EASEMENT
To / Easement / THE STATE OF TEXAS } Know All Men By These Presents: That the under-
City of Burnet / COUNTY OF BURNET } signed, for and in consideration of the sum
of \$1.00 to me (us) in hand paid by the City of Burnet, a municipal corporation within
Burnet County, Texas, and for the purpose of procuring sewerage service to my (our) property
hereinafter named, have and do hereby Grant, Sell and Convey unto the said City of Burnet,
its successors or assigns, a perpetual easement to lay pipe, construct pipe lines, mains,
manholes and other useful and necessary construction in connection with the building and
construction and installing of a complete sewer system for the said City of Burnet, on,
over and across all of that portion of Lot No. 1 & 2 in Block No. 30 of the Kerr portion
of the City of Burnet, Burnet County, Texas, owned by me (us) and along the line located
upon the ground, and shown upon the plans of said system as revised, for the construction
thereof.

The City shall not interfere in any manner with the safety or use of existing buildings
located upon such lot, if any.

The City shall have, and such right is hereby granted, egress and ingress to and from
such land at any and all times for the purpose of constructing and maintaining such system
or the furnishing of any extension or addition thereto.

TO HAVE AND TO HOLD such easement unto the said City of Burnet, its successors and
assigns, forever.

Dated this 10 day of Dec. A.D., 1938.

E. H. Foulds

THE STATE OF TEXAS }
COUNTY OF BURNET } BEFORE ME, the undersigned authority, on this day personally
appeared E. H. Foulds known to me to be the person whose name is subscribed to the fore-
going instrument and acknowledged to me that he executed the same for the purposes and
consideration therein expressed.

Given under my hand and seal of office, this 10 day of Dec. A.D., 1938.

(SEAL)

Lewis P. Debe
Notary Public, Burnet County,
Texas.

Filed for Record December 24th, 1938 at 11:45 A.M.

Recorded January 28th, 1939 at 9:45 A. M.

H. J. Allen
County Clerk, Burnet County, Texas.

C. D. HARELL / EASEMENT
To / Easement / THE STATE OF TEXAS } Know All Men By These Presents: That the under-
City of Burnet / COUNTY OF BURNET } signed, for and in consideration of the sum
of \$1.00 to me (us) in hand paid by the City of Burnet, a municipal corporation within
Burnet County, Texas, and for the purpose of procuring sewerage service to my (our) property
hereinafter named, have and do hereby Grant, Sell and Convey unto the said City of Burnet,
its successors or assigns, a perpetual easement to lay pipe, construct pipe lines, mains,
manholes and other useful and necessary construction in connection with the building and
construction and installing of a complete sewer system for the said City of Burnet, on,
over and across all of that portion of Lot No. 4 in Block No. 10, of the Kerr portion of
the City of Burnet, Burnet County, Texas, owned by me (us) and along the line located upon
the ground, and shown upon the plans of said system as revised, for the construction thereof.

The City shall not interfere in any manner with the safety or use of existing build-
ings located upon such lot, if any.

The City shall have, and such right is hereby granted, egress and ingress to and from

such land at any and all times for the purpose of constructing and maintaining such system, or the furnishing of any extension or addition thereto.

TO HAVE AND TO HOLD such easement unto the said City of Burnet, its successors and assigns, forever.

Dated this 10 day of Dec., A. D., 1938.

THE STATE OF TEXAS }
COUNTY OF BURNET } BEFORE ME, the undersigned authority, on this day personally appeared C. D. Harrell known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 10 day of Dec. A. D., 1938.

(SEAL)

Filed for Record December 24th, 1938 at 11:45 A.M.
Recorded January 28th, 1939 at 9:00 A.M.

Lewis B. Debo
Notary Public, Burnet County,
Texas.

H. J. Atkinson Clerk
County Court, Burnet County, Texas.

MRS. J. A. KINKADEE / EASEMENT
To / Easement / THE STATE OF TEXAS } Know All Men By These Presents: That the
City of Burnet / COUNTY OF BURNET } undersigned, for and in consideration of the
sum of \$1.00 to me (us) in hand paid by the City of Burnet, a municipal corporation within
Burnet County, Texas, and for the purpose of procuring sewerage service to my (our)
property hereinafter named, have and do hereby Grant, Sell and Convey unto the said City of
Burnet, its successors or assigns, a perpetual easement to lay pipe, construct pipe lines,
main, manholes and other useful and necessary construction in connection with the building
and construction and installing of a complete sewer system for the said City of Burnet, on,
over and across all of that portion of Lot No. 1, 2, 3 & 4 in Block No. 30 of the Kerr portion
of the City of Burnet, Burnet County, Texas, owned by me (us) and along the line located upon
the ground, and shown upon the plans of said system as revised, for the construction thereof.
The City shall not interfere in any manner with the safety or use of existing buildings
located upon such lot, if any.

The City shall have, and such right is hereby granted, egress and ingress to and from
such land at any and all times for the purpose of constructing and maintaining such system, or
the furnishing of any extension or addition thereto.

TO HAVE AND TO HOLD such easement unto the said City of Burnet, its successors and
assigns, forever.

Dated this 10 day of Dec. A.D., 1938.

THE STATE OF TEXAS }
COUNTY OF BURNET } BEFORE ME, the undersigned authority, on this day personally appeared Mrs. J. A. Kinkadee known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 10 day of Dec. A. D., 1938.

(SEAL)

Filed for Record December 24th, 1938 at 11:45 A.M.
Recorded January 28th, 1939 at 9:15 A.M.

Lewis B. Debo
Notary Public, Burnet County,
Texas.

H. J. Atkinson Clerk
County Court, Burnet County, Texas.

RESOLUTION NO. R2025-31

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURNET, TEXAS, AUTHORIZING THE RELEASE AND TERMINATION OF A WASTEWATER UTILITY EASEMENT RECORDED IN VOLUME 3, PAGES 77 & 78 OF THE PUBLIC RECORDS OF THE COUNTY CLERK OF BURNET COUNTY, TEXAS

WHEREAS, the City received a perpetual Easement from E.N. Foulds, and said Easement Instrument was recorded in the Public Records of the Office of the County Clerk, Burnet County, Texas on January 28th, 1939, in Volume 3, Pages 77 & 78 (hereinafter the "Easement"); and

WHEREAS, the purpose of the Easement was to lay pipe, construct pipelines, mains, manholes and other useful or necessary construction to procure sewer service to the property; and

WHEREAS, KMS Investments, LLC, the current owner of the underlying fee estate, has requested the Easement be released; and

WHEREAS, the City Engineer has confirmed there is no further public need for the Easement; and

WHEREAS, upon such recommendation, City Council deems it appropriate to authorize the release and termination of the Easement.

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. Approval. The Easement described in Volume 3, Page 77 is hereby released and terminated and, by these presents, the City of Burnet does release and terminate the Easement insofar as it affects the Property. It is expressly agreed and understood that this is a release of only said Easement and that this release does not release, affect, or impair any other remaining easements as they relate to the property or any real property which is not included within the Easement.

Section Three. Authorization. The mayor is hereby authorized to execute a Release and Termination of Easement Instrument in substantial form as Exhibit "A" and execute such other documents and take such other actions reasonably necessary to facilitate the purpose of this Resolution.

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. This resolution shall take effect immediately upon its passage, and approval as prescribed by law.

PASSED AND APPROVED on this the 22nd day of April 2025.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary

RELEASE AND TERMINATION OF WASTEWATER UTILITY EASEMENT

THE STATE OF TEXAS §
 §
COUNTY OF BURNET §

WHEREAS, the City of Burnet, Texas, holds an Easement recorded on January 28, 1939, in Volume 3, Page 78, Deed Records of Burnet County, Texas, that burdens the real property described on the attached Exhibit "A" and incorporated herein by this reference (the "Property"); and

WHEREAS, the City has determined that the Easement is no longer necessary as it relates to the Property; and

WHEREAS, the City desires to terminate and grant a release of the Easement insofar as it affects the Property, and to that extent only; and

WHEREAS, the City specifically desires to retain all other easements on the Property.

NOW THEREFORE, for ten dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, and for the benefit of all present and future owners of the Property, or any portion thereof, the City has **RELEASED AND TERMINATED** and, by these presents, does **RELEASE AND TERMINATE** the Easement insofar as it affects the Property. It is expressly agreed and understood that this is a release of only said Easement and that this release does not release, affect, or impair any other remaining easements as they relate to the Property or any real property which is not included within the Property. By execution hereof, the City confirms and acknowledges the Easement as recorded in Volume 3, Page 78 of the Deed Records of Burnet County, Texas, will be of no further force or effect.

EXECUTED TO BE EFFECTIVE the 22nd day of April, 2025.

CITY OF BURNET, TEXAS

Gary Wideman, Mayor

ATTEST:

Maria Gonzales, City Secretary

BEFORE ME, the undersigned authority, a Notary Public in and for said County and State, on this day personally appeared Gary Wideman, Mayor, of the City of Burnet, Texas, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this the ____ day of _____, 2025.

[Seal]

Notary Public in and for the State of Texas

My Commission
Expires:_____

AFTER RECORDING RETURN TO:

City of Burnet, Texas
P.O. Box 1369
Burnet, Texas 78611

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

BEING a 2.0035 acre (87,272 square foot) tract of land situated in the John Hamilton Survey, Abstract No. 405, Burnet County, Texas, and being all of the called Tracts I, II and III described in Warranty Deed with Vendor's Lien to KMS Investment, LLC recorded in Instrument No. 2018-07055, Official Public Records, Burnet County, Texas, and being more particularly described as follows:

BEGINNING at a 5/8-inch iron rod found for the southeast corner of said Tract II and being at the intersection of the west right-of-way line of U.S. Highway 281, a 100-foot right-of-way, and the north right-of-way line of Johnson Street, a 50-foot right-of-way;

THENCE South 76°53'16" West, departing the said west right-of-way line and along the said north right-of-way line, passing a 5/8-inch iron rod found at a distance of 147.67 feet, and continuing in all a total distance of 295.43 feet to a 5/8-inch iron rod found for corner, said corner being at the intersection of the said north right-of-way line and the east right-of-way line of North West Street, a 50-foot right-of-way, and being at the southwest corner of said Tract II;

THENCE North 13°19'28" West, along the said east right-of-way line, passing a 5/8-inch iron rod found at a distance of 113.27 feet, and continuing in all a total distance of 295.40 feet to a 5/8-inch iron rod with cap stamped "KHA" set for corner, said corner being at the intersection of the said east right-of-way line and the south right-of-way line of West Kerr Street, a 50-foot right-of-way, and being the northwest corner of said Tract III;

THENCE North 76°53'16" East, along the said south right-of-way line, passing a 5/8-inch iron rod found at a distance of 147.63 feet, and continuing in all a total distance of 295.43 feet to a 5/8-inch iron rod with cap stamped "KHA" set for corner, said corner being at the intersection of the said south right-of-way line and the aforementioned west right-of-way line of U.S. Highway 281, said corner also being the northeast corner of said Tract I, from which a 4-inch by 4-inch concrete monument found bears North 13°19'28" West, a distance of 1852.45 feet;

THENCE South 13°19'28" East, along the said west right-of-way line, passing a 5/8-inch iron rod found at a distance of 182.17 feet, and continuing in all a total distance of 295.40 feet to the **POINT OF BEGINNING** and containing 87,272 square feet or 2.0035 acres of land, more or less.