

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Presentation of Officer of the Year Award: Officer Jonathan Cline - Police Commendation Award

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Chief John Young      **CLEARANCES:** Todd Parton, City Manager 

**EXHIBITS:** Nomination Document

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

Officer Jonathan Cline is assigned to the Traffic Unit and has performed his duties in an outstanding manner. During this time Officer Cline has written 678 citations, and made 45 arrests. He takes significant pride in his work and his consistency in productivity is evident by his current statistics. Officer Cline is heavily involved in community activities conducting child safety seat inspections, instructing at the Citizen Police Academy and mentoring Tivy High School students during Job Shadow Day.

Officer Cline is a field training officer, firearms training instructor, special operations team leader and ceremonial team leader. He is respected by his peers and is regularly sought out because of his knowledge of the state traffic code, penal code and department policies.

Officer Cline is a proven leader who is involved in all aspects of the department and understands his responsibility of being a good steward of the department's resources. He knows and strives to achieve the goals and objectives of the department, investing his time and efforts to accomplish our mission. Because of his outstanding performance, devotion to duty and demonstrated commitment to the department and to this community, Officer Jonathan Cline was selected as the Kerrville Police Officer of the Year.

**RECOMMENDED ACTION**

Officer Cline will be awarded the Kerrville Police Department Police Commendation Award for his selection as Police Officer of the Year 2010.

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**POLICE COMMENDATION**

KERRVILLE POLICE DEPARTMENT

*Awarded to*

*Officer Jonathan Cline*

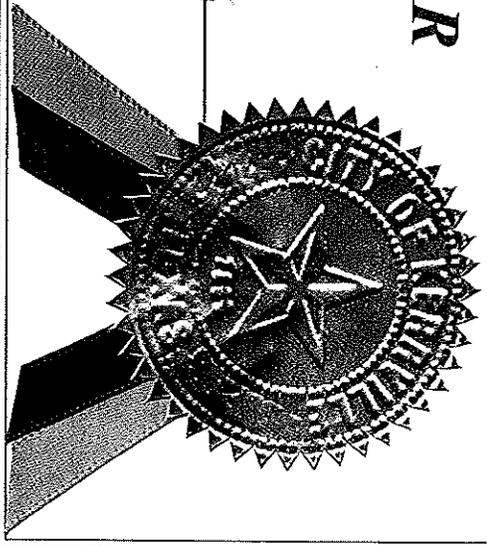
**2010**

**OFFICER OF THE YEAR**

June 22, 2010

DATE

CHIEF OF POLICE





**City of Kerrville**  
Police Department  
429 Sidney Baker  
Kerrville, Texas  
78028-5069

TO: Meritorious Conduct Board  
FROM: Sergeant Martin Morris  
DATE: March 9, 2010  
SUBJECT: Officer of the Year Nomination

I, Sergeant Martin Morris, nominate Patrol Officer Jonathon Cline for Officer of the Year 2009 based on the following documented activities in 2009:

### **Performance**

During 2009 Officer Clines overall field performance was commendable.

- Citations issued 678. These citations were sound and rarely contested in court.
- 45 Arrests: The vast majority were self initiated.
- Officer Cline is assigned hit and run investigations. He is thorough in his investigations.
- Officer Cline repeatedly fields traffic complaints and contacts the appropriate agencies. On one occasion, a contractor called needing extended traffic control. No supervisor was available. Officer Cline assumed responsibility and contacted TxDot and set up an extra job for two days. An off duty officer was contacted and scheduled for the job.

### **Commendations**

Officer Cline's personnel file contains numerous commendations from citizens.

- On March 5, 2009, a citizen wrote a letter thanking Officer Cline for his service to a loved one that had experienced a medical emergency.
- On March 29, 2009, a citizen was issued a citation by Officer Cline. She called in and stated that he is "professional" and "an asset to this department".

- On April 28, 2009, a citizen wrote a letter commending Officer Cline for his professionalism while working an accident. The citizen described him as concerned and "compassionate when dealing with citizens".

### Incidents of exemplary performance

#### 1. Civic activity and community involvement:

- Officer Cline is a certified child safety seat inspector. Upon completing his certification, he asked if he could be the lead inspector for the department. Officer Cline has been involved in several community seat inspection stations. Also, he is the primary inspector when citizens call in and set up appointments.
- Instructed a class to the Citizen's Police Academy on building clearing techniques.
- Presented driver safety information during a public utilities association meeting.
- Participated in the City of Kerrville job shadow day and city open house.
- Works all major civic events: KPUB tree giveaway, bicycle rallies, sign and road dedications, VA Hospital safety fair, Fourth of July in the park and community runs.

#### 2. Attendance record:

- Officer Cline is married, has one son, and his wife is expecting another child. He is deeply involved with his family. In 2009, he did not use any sick time.
- Officer Cline is always early to work and repeatedly stays late to work accidents or conduct required follow up. There are no occurrences of unexcused tardiness.

#### 3. Work in special areas:

- Safety seat inspector- The police station is listed on the state website as an inspection station. Citizens call in and schedule appointments with Officer Cline so that he can teach them how to properly install a child seat.
- Field Training Officer-Officer Cline remains one of the primary FTO's for the police department. Officer Cline has a pro active approach to teaching new recruits and a genuine interest in their success.
- Firearms and Tactics Instructor- In 2009, Officer Cline was groomed to assume duties as lead firearms and tactics instructor. He trained all new officers hired by this department. The last two departmental training days have been conducted by Officer Cline. He chose topics of instruction, prepared lesson plans, assigned duties to assisting instructors and executed the training. Training rosters were then finalized and sent to appropriate departments. He identified equipment needs, requested funds

and purchased the items needed. In 2009, he performed most every training session that the police department received.

- Special Operations Unit team Leader- Officer Cline is the third person in charge of the special Operations Unit. On May 27<sup>th</sup> to June 6<sup>th</sup>, he was supervising the unit while the commander and assistant commander were out of town. He has assisted in the successful preparation and execution of numerous search warrants. He was instrumental in planning and organizing the work detail that prepared and painted the SOU van. He spent numerous hours on this painstaking task.
- Funeral detail- Officer Cline organized, trained, and supervised the burial detail for the late Scotty Evans. These tasks were mostly performed in his off duty time.
- Interview Board- Officer Cline sat on a vast majority of the interview boards.
- Acting Supervisor- Officer Cline served as acting supervisor in the traffic unit in the absence of the traffic supervisor.

### **Additional**

Officer Cline is assigned more additional duties than any other officer. His consistency in productivity is evident by his involvement in this department and community. He is respected by his peers, who regularly seek him out because of his knowledge of the penal code, state traffic laws, and departmental policies. His input is invaluable. Officer Cline is a leader. He has become so involved in all aspects of this department that he has become an integral part of this organization's future. He is a good steward of the department's resources. Officer Cline has not had any disciplinary action taken against him. He is flexible and he knows what direction our department is going. No patrol officer has invested as much of themselves into this organization as he has. Each day, Officer Cline demonstrates his commitment to this community through excellence in his performance and devotion to duty.

Respectfully submitted,

Martin Morris

**BUSINESS OF THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Presentation of Awards: Certificate of Merit – Sergeant Mary Krebs and Officer Paul Gonzales

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Chief John Young      **CLEARANCES:** Todd Parton, City Manager

**EXHIBITS:** Nomination Documents

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The Police Department established an awards and recognition program in December 2005 to recognize police officers meritorious service. Supervisors who observe or receive information regarding the actions of any officer, which in their opinion would qualify the officer for an award, will submit a report to the Meritorious Conduct Board for review.

Since her assignment as the Training/Personnel Supervisor Sergeant Krebs has primary responsibility for officer recruitment, training, community services, media relations and school resource officers. Sergeant Krebs is a tireless leader who's work over the last year exemplified a can do attitude and commitment to the department and the city. She has recruited and processed the hiring of seven (7) police officers, reviewed and modified our Field Training Program manual, managed our field training program, coordinated and taught 11 training classes, assisted in coordinating two citizen police academies, developed and presented two successful AACOG grants totaling \$322,00.00 and assisted in the development of the Junior Police Academy to be held this summer. Sergeant Krebs has displayed superior performance in the execution of her duties and responsibilities this past year.

As a Community Service Officer, Officer Paul Gonzales has demonstrated a thorough understanding of his role in community policing. During his tenure in this position, he has continuously worked at delivering the highest level of community service. During

this past year Officer Gonzales has committed numerous hours to the department and to the community. He has participated in the BT Wilson Career Day, resurrected 'McGruff the Crime Dog', coordinated 3 citizen police academies graduating 60 students, coordinated and participated in National Night Out activities, assisted in the Blue Santa program, assisted in the development of the Junior Police Academy, and coordinated the Citizen Police Academy Alumni Association volunteers at several city events. Most recently Officer Gonzales was responsible for the coordination of Cpl. Jacob Leicht's funeral escort. Paul's commitment and dedication to honor Cpl Leicht's service was quite evident on Saturday June 5, 2010 as our community stood together along the funeral route.

Sergeant Krebs and Officer Gonzales are being recognized for excellence in police work and individual merit for their performance over a period of time.

#### **RECOMMENDED ACTION**

Sergeant Krebs and Officer Gonzales will be awarded the Certificate of Merit Award for their excellence in police work and individual merit.

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# CERTIFICATE OF MERIT

KERRVILLE POLICE DEPARTMENT

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Awarded to

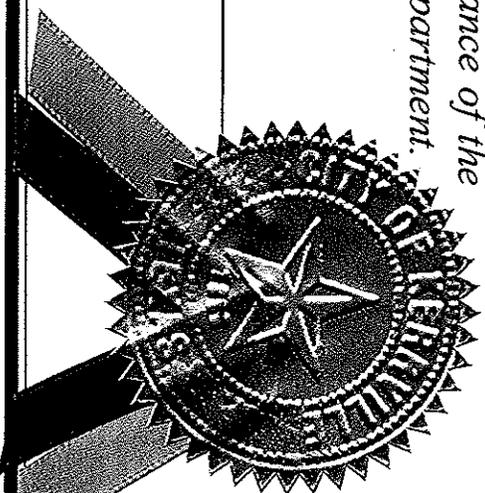
*Officer Paul Ganzales*

*For exemplary conduct and excellence in police performance.  
And whose perseverance, devotion to duty and diligent  
endeavors have added immeasurably to the furtherance of the  
police profession and bringing recognition to the Department.*

June 22, 2010

DATE

  
CHIEF OF POLICE



# CERTIFICATE OF MERIT

KERRVILLE POLICE DEPARTMENT

*Awarded to*

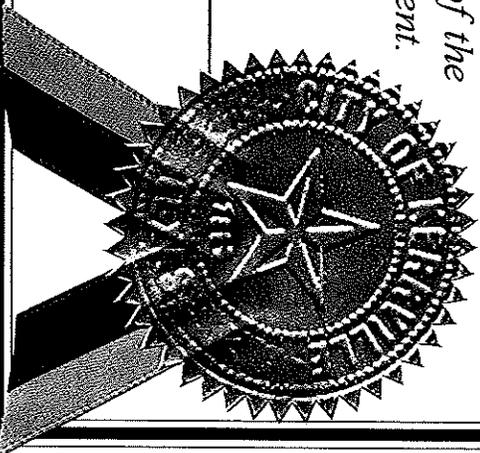
*Sergeant Mary Rueles*

*For exemplary conduct and excellence in police performance.  
And whose perseverance, devotion to duty and diligent  
endeavors have added immeasurably to the furtherance of the  
police profession and bringing recognition to the Department.*

June 22, 2010

DATE

  
CHIEF OF POLICE





**City of Kerrville**  
Police Department  
429 Sidney Baker  
Kerrville, Texas 78028-5069  
830.792.2737 (O)  
830.792.2742 (F)  
Mary.krebs@kerrvilletx.gov

## MEMORANDUM

TO: Meritorious Conduct Board

FROM: Sgt. Mary Krebs *MK*

*APPROVED  
MKB  
6-8-10*

DATE: June 6, 2010

SUBJECT: Nomination of Officer Paul Gonzales for a Certificate of Merit

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As the Community Service Officer, Paul Gonzales has demonstrated a thorough understanding of his role in community policing and the importance of upholding integrity and the law as a police officer. During his tenure in his present position, he has continuously worked at delivering the highest level of community service to those who he came in contact with through his assigned duties.

Within the past year, Officer Gonzales was assiduous when it came to his involvement in the department and in the community. Most recently, Officer Gonzales did an outstanding job coordinating with members of the department and other agencies to make sure Cpl. Jacob Leicht was buried with the respect he deserves from our community.

Officer Gonzales has coordinated many other programs with the community such as:

- Participating in BT Wilson Career Day and other school related programs
- Resurrected "McGruff the Crime Dog" and volunteers to suit up and attend various community related function as McGruff
- Coordinated and participated in three (3) Citizen Police Academies and graduated close to 60 students.
- Coordinated and participated in National Night Out
- Assisted in the coordination and participated in the Blue Santa Program
- Assisted in the development of the Junior Police Academy for the Summer of 2010
- Assists in the coordination of the Citizen Police Academy Alumni volunteers at all of their events including obtaining golf carts for volunteers during the Fourth of July Celebration, Blue Santa, Back to School Health Fair,

Muscular Dystrophy Association, various community service programs and neighborhood watch presentations, and Former Police Chief Scotty Evans Funeral.

- Participated in multiple television, radio and on-camera interviews and public service announcements
- Received many commendations from citizens in the community for his thoughtfulness and support of their causes

Officer Gonzales sets a high standard for professional conduct within the police department. He continuously goes "above and beyond" the call of duty as exhibited in his involvement in the specialty assignments mentioned previously. He is committed to providing a safe environment through this professionalism, dedication and active partnership with the community and the concern for individual dignity.

It is officers of this caliber that I am appreciative of and I am proud to have him as my partner.



**City of Kerrville**  
Police Department  
429 Sidney Baker  
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830.792.2702 (F)  
Jeffrey.Wendling@KerrvilleTX.Gov

## MEMORANDUM

TO: Meritorious Conduct Board

FROM: Jeffrey L. Wendling, Captain  
Support Services Division

DATE: June 3, 2010

SUBJECT: Nomination of Sergeant Mary Krebs for a Certificate of Merit

*APPROVED  
JLW  
6-6-10*

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Sergeant Mary Krebs became the supervisor of the Personnel - Training Unit on May 14, 2009. The Unit has five (5) primary disciplines, Recruitment, Training, Community Services, Media Relations and School Resource Officers; and is staffed by a Sergeant and three Police Officers. An Administrative Clerk position is also assigned to this unit's table of organization.

Sgt. Krebs is a tireless leader and she has over the past year exemplified that fact through her accomplishments. Sgt Krebs has been responsible for the following accomplishments, to name a few:

- recruited and processed for hiring seven (7) Police officers
- reviewed and modified the Field Training Program doctrine and manual
- oversaw the Field Training of seven (7) new Patrol Officers
- coordinated and taught eleven (11) training classes to Police Officers and Sheriff Deputies.
- assisted Officer Gonzales in coordinating two Citizen Police Academies graduating approximately 48 adults
- co-authored and presented to the Alamo Area Council of Governments two grants totaling \$322,000, which were approved for funding
- assisted in the development of the Junior Citizen Police Academy for the summer of 2010
- provided several on-camera television interviews
- written several news releases; and

- made several presentations to the citizens of Kerrville on a variety of subjects dealing with public safety

Sgt Krebs has displayed superior performance in the execution of her duties and responsibilities during this past year, and I am nominating her for the Certificate of Merit .

**BUSINESS OF THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Presentation of Firefighter of the Year Award for 2010 to  
Firefighter/Paramedic Brandon J. Miller

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Chief Robert Ojeda      **CLEARANCES:** Todd Parton, City Manager

**EXHIBITS:**

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

Firefighter/Paramedic Brandon J. Miller has been selected by his peers and his superiors to be the Kerrville Fire Department's Firefighter of the Year for 2010. He was selected for his nine (9) years of service to the City of Kerrville and the numerous hours he has spent on-duty and off-duty to make Kerrville a better place to live, work and play.

Brandon holds numerous certifications such as Advanced Firefighter; Paramedic; Instructor in Pediatric Advanced Life Support, International Trauma Life Support, Advanced Cardiac Life Support, Emergency Medical Services, CPR and is a Critical Incident Stress Management Trainer to name a few. These types of certifications are very difficult to acquire.

His Public Safety Leadership, besides serving as a Firefighter/Paramedic, includes being a Department of State Health Services Medical Incident Support Team member, President or Vice President of the Kerrville Professional Firefighters' Association over the past nine years and the Kerrville Fire Department Critical Incident Stress Management Team Coordinator. Brandon has also served as the Shattered Dreams Coordinator for the Kerrville Fire Department and the Kerrville Independent School District for the past 6 years, a volunteer with the Big Brothers Big Sisters, a Kerr County

First Responder and former member of Jackson County Rescue Squad and Seminole Volunteer EMS.

Brandon's overall approach to his job indicates a genuine and high level of concern for providing the best level of service possible for the citizens of our community and has demonstrated this through his actions on and off duty. He exemplifies the qualities of a team player and is extremely well respected by his fellow firefighters, paramedics and his superiors.

Due to Firefighter/Paramedic Brandon Miller's continued excellence in service for the citizens of Kerrville and Kerr County and making them a better and safer place to live, work and play, it is my honor and pleasure to recommend that Firefighter/Paramedic Brandon J. Miller be recognized and receive an award for being the Kerrville Fire Department's Firefighter of the Year for 2010.

#### **RECOMMENDED ACTION**

That Firefighter/Paramedic Brandon J. Miller be recognized and awarded the Kerrville Fire Department's Firefighter of the Year Award for 2010 for his continued excellence in service for the citizens of Kerrville and Kerr County.

*The City and Fire Department of Kerrville, Texas*

*Presents this*

*Certificate of Commendation*

*to*

*Brandon Miller*

*For your dedication, commitment to service and  
achieving the honor of*

**FIREFIGHTER OF THE YEAR 2010**

*June 22, 2010*

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*Jeffery Todd Parton, City Manager*

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*Robert Ojeda, Fire Chief*

**BUSINESS OF THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Recognition of Lieutenants Mark Dunning and Brian Hammer by the National Fire Academy for the completion of courses at the National Emergency Training Center in Emmitsburg, Maryland.

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Chief Robert Ojeda      **CLEARANCES:** Todd Parton, City Manager

**EXHIBITS:**

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

Earlier this month, Lieutenants Mark Dunning and Brian Hammer represented the City of Kerrville and the Kerrville Fire Department by being selected to attend the National Fire Academy located at the National Emergency Training Center in Emmitsburg, Maryland.

The National Fire Academy promotes the professional development of the fire and emergency response community. It develops, delivers and manages educational and training programs to help State and local response agencies prevent, mitigate, prepare for, and respond to local, regional and national emergencies.

Lieutenant Mark Dunning is a fifteen (15) year veteran of the Kerrville Fire Department and is currently assigned to the Blackwell Fire Station as a Company Officer. Lieutenant Brian Hammer is an eleven (11) year veteran of the Kerrville Fire Department and is currently assigned to Central Station as a Company Officer. In 2009, Lieutenant Hammer was recognized as the Kerrville Fire Department's Firefighter of the Year for his off-duty actions and bravery in assisting two teenagers involved in a major motor vehicle accident that occurred in October of 2008.

**RECOMMENDED ACTION**

That Lieutenants Mark A. Dunning and Brian C. Hammer be recognized by the Kerrville City Council for their completion of courses at the National Fire Academy located at the National Emergency Training Center in Emmitsburg, Maryland.



# FEMA

# National Fire Academy

This is to acknowledge that

**Mark A Dunning**

has demonstrated a commitment to reduce the Nation's loss of life and property from fire and related emergencies by pursuing professional development through completion of the National Fire Academy-Sponsored Course

**COMMAND AND CONTROL DECISION MAKING AT MULTIPLE ALARM INCIDENTS**

May 30 - June 4, 2010

4.8 IACET CEU

Superintendent  
National Fire Academy



Assistant Administrator  
U.S. Fire Administration

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
MAY 25, 2010

On May 25, 2010, the Kerrville City Council meeting was called to order by Mayor Wampler at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Heather Mitchell, Minister of Music, First Baptist Church, followed by the Pledge of Allegiance led by Keith Ellis of the Military Officers Association of America

MEMBERS PRESENT:

David Wampler	Mayor
R. Bruce Motheral	Mayor Pro Tem
Gene Allen	Councilmember
T. Scott Gross	Councilmember
Stacie Keeble	Councilmember

MEMBER ABSENT: None

STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Travis Cochrane	Director of Information Technology
Kevin Coleman	Director of Development Services
Charlie Hastings	Director of Public Works
Mike Erwin	Director of Finance
Tara LaMontia	Assistant to the City Manager
Kim Meismer	Director of General Operations
Mike Wellborn	City Engineer
Antonio Martinez	Library Director
Jeff Finley	City Building Official
John Young	Police Chief
Robert Ojeda	Fire Chief

VISITORS PRESENT: List on file in city secretary's office.

1. VISITORS/CITIZENS FORUM: The following person spoke:

1A. George Kiefer, a volunteer with the San Antonio Police Department deputized to issue tickets for handicap parking violators, noted SAPD received \$800,000 in fines in 2009; however, the object was to ensure compliance with handicap parking regulations. He requested enforcement compliance in Kerrville and noted that part of the problem was proper maintenance of handicap parking areas on private property.

2. RECOGNITION AND COMMENDATIONS:

2A. Recognition of the CRUSH U11 Girls at the 2010 State Championship.  
Recognition of team members by Mayor Wampler.

### **3. CONSENT AGENDA:**

Mr. Gross moved for approval of items 3A through 3H; Mr. Motheral seconded the motion and it passed 5-0:

3A. Approval of minutes of the regular city council meeting of May 11, 2010.

3B. Approval of revision to city's office lease with the Mary Elizabeth Holdsworth Library Foundation for the property located at 433 Water Street, Suite D by removing the requirement for workers compensation coverage.

3C. Approval of amendment to increase the cost of the construction contract with C & C Groundwater Services from \$357,225.60 to \$377,430.00 due to the installation of a liner in the ASR Well #3 and authorize the city manager to execute additional change orders in the total amount not to exceed \$24,000.00 to cover potential contingencies.

3D. Approval for the purchase of six (6) Panasonic laptop computers for police and fire departments in the amount of \$27,498.47.

3E. Approval of the submission of grant applications to the Federal Emergency Management Agency (FEMA), Assistance to Firefighters Grant Program (AFG) for fire and emergency medical services equipment.

3F. Approval of a contract with Vulcan Materials for the purchase of asphalt and base materials.

3G. Approval of a contract with Wheatcraft Materials for the purchase of crushed limestone base.

3H. Approval of the purchase of (1) arbitrator digital audio-video in-car camera systems including support and maintenance services for a police department vehicle.

### **END OF CONSENT AGENDA.**

### **4. ORDINANCE , SECOND AND FINAL READING:**

4A. Ordinance No. 2010-08 amending Chapter 110, Article III "water management plan" of the code of ordinances of the city of Kerrville, Texas, by amending the water conservation stages resulting from drought conditions, amending the water conservation measures, adding a new Stage 5, and adding a permit requirement for athletic fields and golf courses; containing a cumulative clause; containing a savings and severability clause; providing a penalty for violation of any provision hereof; ordering publication; and providing other matters related to the subject. Mayor Wampler read the ordinance by title only.

Mr. Hastings reviewed the landscape irrigation schedule and recommended the ordinance be adopted as presented.

The following person spoke:

- Ruth Spradling questioned the operation of car washes. Mr. Hastings noted the commercial car wash facilities were prohibited in Stage 5; restrictions for personal washing of vehicles were addressed in other stages of the ordinance.

Mr. Hayes noted the ordinance would become effective ten days after publication.

Mr. Motheral moved for approval of Ordinance No. 2010-08 on second and final reading; Mr. Keeble seconded the motion and it passed 5-0.

## **5. CONSIDERATION AND POSSIBLE ACTION:**

5A. Approval of a contract for the purchase of the Integrated Library System, a library management system, from Innovative Interfaces, Inc. in the amount of \$101,500.00.

Mr. Martinez noted the proposed ILS system would replace the current system that was installed in the early 1990s for which parts and service were no longer available. The consultant who prepared the request for proposals and evaluated the proposals was funded by the Friends of the Library, and funding for the project was made possible through private donations. He reviewed the timeline and noted loading of all modules, transfer of information from the old system to the new system, and staff training would require the library to be closed for three days; anticipated project completion was November 2010. He recommended approval of the contract.

Steve Strohl, Innovative Interfaces, Inc., cited the benefits and capabilities of the system.

Council also discussed the following:

- Could a book be downloaded from the system? Mr. Martinez noted it would be possible with the purchase of an enhancement module, but not with the system proposed.

Mr. Gross moved to authorize the city manager to sign the contract to purchase the Integrated Library System from Innovative Interfaces, Inc. in the amount of \$101,500; Ms. Keeble seconded the motion and it passed 5-0.

## **5B. Petition for pavement rehabilitation of Arcadia Loop.**

Mr. Hastings noted the residents along Arcadia Loop had submitted a petition for pavement rehabilitation of Arcadia Loop and a right turn bay at the intersection to SH27. He reviewed the pavement management system and noted streets were evaluated for maintenance based on certain criteria and numerous city streets were in failed condition, including Arcadia Loop. Arcadia Loop was proposed for rehabilitation in FY10 through a bond issue; however, the bond issue had been postponed due to bad economy. He proposed in-house reconstruction of the failed sections only and then overlaying the entire road at a cost of approximately \$100,000. There was insufficient room for striping of a right turn lane at SH27, and right turn lane would have to be constructed. He felt the right turn bay could be completed for approximately \$10,000. He proposed to start design in January 2011 followed by utility coordination and construction in the summer. He noted an additional petition had been received requesting a second connection to SH27; such a connection was in the city's future capital improvement plan. He noted a property owner in the area had previously offered to allow the connection to go through his property. Mr. Hastings suggested a project scope of work be initiated to evaluate the entire Arcadia Loop corridor.

The following persons spoke:

- Jim LoSasso requested staff also evaluate the bridge structure near the intersection of SH27. Mr. Hastings noted the bridge had been assessed by TxDOT and the city performed routine maintenance, but he would evaluate it again. Mr.

LoSasso noted Arcadia was well travelled and it had deteriorated and was dangerous; he expressed concern for public safety. The asphalt was broken and the city had taken a Band-aid approach.

Council also discussed the following points:

- City needed to stay within the budget, but Arcadia should be a priority in FY11.
- Streets were patched throughout town; the city had an established prioritized plan in process for addressing streets based on condition, and Arcadia was already on the list as a priority.
- FY11 budget should focus on streets and drainage.
- Hill Country Drive was in a commercial area and also should be focused on for reconstruction in FY11.

5C. Resolution No. 014-2010 opposing plans by the Lower Colorado River Authority (LCRA) to place electrical transmission lines relating to the Competitive Renewable Energy Zones (CREZ) project along the Interstate 10 corridor within or adjacent to the city's limits. Mayor Wampler read the resolution by title only.

Mr. Hastings noted the CREZ line project was proposed to deliver electricity from the wind farms in West Texas to major population centers in Texas. The Public Utility Commission (PUC) had contracted with LCRA to construct the new CREZ transmission lines. LCRA submitted an application to PUC last year and the I-10 corridor was not part of that application; PUC directed LCRA to study the I-10 corridor, resulting in segments Y16-Y20. He noted these CREZ segments had a direct impact of \$4 million, and an indirect impact of \$10.8 million on the city's infrastructure investment to open the I-10 corridor for commercial development. Further, an overall economic impact analysis of \$550 million in proposed taxable value on residential and commercial developments; this equated to a 32% increase over the city's existing taxable value. LCRA's deadline to submit all study areas and route segments to PUC was July 6; PUC would make a decision in January 2011. At council's previous instruction, staff prepared a resolution opposing routes Y16-Y20 including supporting documents and economic analysis. Mr. Hastings encouraged community support in writing letters opposing the CREZ line in Kerrville.

Council also discussed the following issues:

- City should use whatever means possible to fight placing the CREZ line in the I-10 corridor in Kerrville.
- Use of the I-10 corridor would have a devastating blow to the future of Kerrville, particularly commercial development necessary to shift diversification of the tax base from residential to commercial.
- The economic future of Kerrville and the entire community would be irrevocably threatened by the power line; council should use whatever means available to prevent the destruction of the I-10 corridor.
- City would be willing to be part of a regional approach to solving the route issue.
- Council should strive to protect the aesthetics of the I-10 corridor as well as protect the economic development.

- The I-10 route would be much more expensive than LCRA's alternative routes as it added 28 miles of lines.
- The northern route followed existing power lines and utility easements except for a short segment.
- Council urged citizens to write letters to PUC and LCRA opposing a CREZ line segment along I-10 in Kerrville.

Lance Wenmohs, LCRA representative, responded to questions from the council:

- Earlier in the process was the I-10 corridor route and Kerr County part of the study area?

There was not a specific route segment along I-10 through Kerrville; but Kerr County was part of the overall study area. In September PUC expanded the study area to the north and southwest and the I-10 corridor from Sonora to the Kendall Station near Comfort. Because of public input in May 2009, it was suggested that the study area be expanded as well as consideration be given to a route following existing highway transportation system corridors and existing lines through Menard, Mason and Gillespie counties. LCRA then requested additional time to study the expanded area; PUC granted time, and the filing was due in July.

- What extent did State Representative Harvey Hilderbran's intervention into the process and recommendation of the I-10 corridor play in LCRA's decision to expand the study area and their request for delay?

It played a large role as well as other public comments received. Senator Fraser also thought the route should be explored further. He noted that Mr. Hilderbran's letter suggesting the I-10 route was posted on LCRA's and PUC's website.

- If Representative Hilderbran had not intervened would LCRA have asked for the delay and considered the I-10 route?

LCRA had received comments from others to look at major transportation corridors.

- What was the average cost per mile to run the line?

Approximately \$1.8-2.5 million per mile for above ground construction.

- If the I-10 route was used, would the structures be located in the median of I-10, or inside the ROW?

The proposal would be to place new infrastructure outside of the existing ROW and on private property on the north side and parallel to I-10. Council noted that would not be "in the existing ROW."

- Why had LCRA ignored placing the line within the existing I-10 ROW?

TxDOT utilities accommodation rules specifically restrict infrastructure of this size; they cannot exceed 36" diameter. TxDOT rules would not allow structures to be located within the ROW of a controlled access highway like I-10; LCRA's plan was to locate the structures on private property outside of the existing I-10 ROW.

- Why not place the lines underground along I-10 in Kerrville area?

That would be a PUC decision, but the cost to go underground would be \$30-40 million per mile; it would be difficult to go underground in this area due to topography and rock. Council noted that was a good reason to stay within the existing ROW.

- What was LCRA's stated policy with regard to alignments?

LCRA tried to reduce the number of habitable structures within close proximity of lines and not route through existing low density populated areas. He noted that I-10 was an existing transportation corridor and comments they had received urged the use of existing transmission and transportation corridors.

- Were other transportation corridors available and identified?

Yes; they were looking at existing utility corridors, and transmission and underground pipe lines where easements already existed, as well as other larger roadways.

- What would be the additional number of miles needed to run the line parallel to I-10 instead of the Mason/Menard line?

He did not know at this time; this would be determined as part of the study.

- Why was the Mason/Menard line not the preferred route since it was an existing transmission line, ROW, and easement?

LCRA had not yet selected a preferred route; LCRA would select a preferred route just before submission of the application to PUC; however, he cautioned that 40-50% of the time PUC selected a different route than the preferred route proposed by LCRA. Therefore, he encouraged persons to be vigilant in defending their interest and become an intervener in the process regardless of LCRA's selection.

- Did other routes in the study area impact a town as heavily as was being proposed in Kerrville?

Of the other towns affected, those line segments were proposed to traverse around the municipal city limits; for example, all line segments go around the city limits of Mason, El Dorado, Junction, and Fredericksburg.

- Considerations were made to go around El Dorado, Mason, and Menard but a line segment was proposed to go directly through Kerrville.

Correct, but LCRA also had line segments that were proposed to go around Kerrville.

The following person spoke:

1. Charles Gentry, Tierra Linda Ranch (TLR) homeowners association, noted TLR was 8 miles north of Kerrville. He expressed concern about the line coming through Kerrville along I-10, but also noted one line segment would parallel an existing gas pipe line ROW that ran the entire width of TLR. He suggested modifications to the resolution that would benefit TLR and other subdivisions around the city without being a detriment to Kerrville: 1) Add statement at the end of Section 1: "within the city of Kerrville or within Kerr County." 2) Add statement in Section 3: "and focus on potential routes that avoided cities, populated areas, topographical and existing ROW

constraints.” He noted that TLR was a vastly populated area, and gas pipelines were not compatible with electric lines of the proposed size.

Mayor Wampler made the following public statement:

The CREZ line segment proposed along the I-10 corridor was extremely dangerous and detrimental to the community. While Kerr County might have been in the study area previously, it had not been considered to come to the community to the extent that was now being proposed. Correspondence from Representative Hilderbran and his urging to LCRA and PUC had a large part in their consideration to put the line through the middle of Kerrville; why Representative Hilderbran chose to do that was unknown. Mayor Wampler felt it was important for the citizens of Kerrville to know that the city council would do its best to work with PUC and LCRA to get through the process and come to a conclusion that would be to the best benefit of the citizens of Kerrville and the community.

Mr. Hayes noted that adding Mr. Gentry’s suggested language to the resolution would not adversely affect the city’s position.

Mr. Parton suggested additional points be included in the resolution: 1) request that the city limits and extraterritorial jurisdiction be avoided; 2) residential areas be avoided; and 3) that existing electric utility ROW and infrastructure be utilized where possible.

Mr. Gross moved for approval of Resolution No. 014-2010 as amended to include the language proposed by Mr. Gentry and Mr. Parton. Mr. Motheral seconded the motion and it passed 5-0.

Mr. Hayes noted that at some point the council may choose to be an intervener before the PUC and become a party; this had to be done within 30 days of filing.

Mr. Motheral moved to provide all documentation necessary and become an intervener; Mr. Allen seconded the motion and it passed 5-0.

5D. Direction to staff on the adoption and amendment of various city codes as follows: Mr. Coleman presented an overview of proposed ordinance changes that would be presented to council for adoption at the June 8 and 22 council meetings.

1. Creation of multi-trade building board to replace existing building board of adjustment, electrical board, plumbing board, and mechanical board.

Currently four building trade boards existed with a total of 28 members serving on: building board of adjustment and appeals, plumbing board of appeals, mechanical board of appeals, and electrical board of appeals. Currently 17 positions were vacant or had expired terms. Staff had been unsuccessful in recruiting sufficient number of applicants to fill these boards. At the April 13 meeting council recommended abolishing the existing boards and establishing one multi-code building board; Mr.

Coleman reviewed how such a board would function, the duties and power of the board, the proposed membership, and the process for implementation.

Mr. Allen moved to direct staff to prepare an ordinance to abolish the existing board structure and create a multi-trade building board. The motion was seconded by Mr. Motheral and passed 5-0.

2. Adoption of 2006 International Existing Building Code (IEBC), and repealing Chapter 34 of 2006 International Building Code (IBC) regulating existing structures. This ordinance would affect code requirements for existing buildings under repair, alteration, addition or change in occupancy. The IEBC encouraged the use of existing building stock by balancing the public protection and safety and the burden of code compliance by allowing flexibility in the methods used to achieve code compliance. The 2006 IEBC was presented to the home builders' association, the city's building board of appeals, and the development services community action team (DSCAT) with a recommendation for approval. Upon adoption of the IEBC, Chapter 34 IBC should be deleted to eliminate any conflicting code requirements between the IBC and IEBC.

Mr. Motheral moved to direct staff to prepare an ordinance adopting the 2006 IEBC and repealing Chapter 34 of the 2006 IBC. Mr. Gross seconded the motion and it passed 5-0.

3. Repeal of city fire district regulations and related amendments to zoning ordinance regarding setbacks within the existing central business district.

Fire District: Section 50-1 established unique construction standards for the specific area in and around downtown called the city fire district. Adoption of the IEBC allowed opportunity to repeal the fire district regulations and allow the IBC, the IFC, and IEBC to govern code requirements, as recommended by the building official and the fire marshal.

Mr. Gross moved to direct staff to prepare an ordinance repealing the city fire district regulations; Ms. Keeble seconded the motion and it passed 5-0.

Zoning Ordinance Amendments: Repeal of the fire district would result in an amendment to the zoning code as the zoning code used fire district boundaries to define an exception from setback requirements. Under the proposed amendment, that exception would be applied to the area defined as the central business district, the same area that was exempted from parking requirements under the zoning code. This change was recommended by ZOIC, and PZC will hold a public hearing and provide a recommendation to council prior to ordinance adoption.

Mr. Motheral moved to direct staff to bring back ordinances for the amendments as presented; Mr. Gross seconded the motion and it passed 5-0.

4. Amendments to zoning ordinance as recommended by the Zoning Ordinance Input Committee (ZOIC).

Mr. Coleman presented proposed amendments to the zoning ordinance as recommended by ZOIC:

- Article 11-I-3, added new definitions.
- Article 11-I-4(b), added language to address vested rights and continuance of development activity in newly annexed areas.
- Article 11-I-15, revised planned development district standards and approval process, and codified the development site plan requirements and approval process into the zoning ordinance. The amendment would establish a minimum size of not less than two acres for commercial and mixed use developments and not less than five acres for residential development, and establish an approval process and timeline (required 15 day public notice period, and required public hearings be held before PZC within 45 days and before city council within 30 days of PZC action). Development site plans would be required prior to site development or building permit for non-residential developments of ½ acre(s) or larger; this would ensure site conformance and identify major expenses early in the development process.
- Article 11-I-17(b)(c)(d), would delete maximum height of buildings for non-residential uses.
- Article 11-I-17(b)(c)(d), defined accessory buildings, building heights, lot width, area, and required setbacks of accessory buildings.
- Article 11-I-22, required the PZC and the zoning board of adjustment to follow the Texas Open Meetings Act, and prohibited ex-parte communications (discussions with applicants or representatives) outside of formal meetings.
- Article 11-I-24, clarified the role of the planning division in issuing building permits and certificates of occupancy; and insured building conformance with the zoning code.

Mr. Coleman noted public hearings and ordinance first readings would be scheduled for each of the zoning ordinance amendments for the June 8 city council meeting.

The following persons spoke:

1. Jimmie Spradling questioned if a building permit was required for storage buildings. Mr. Coleman noted a building permit was required for anything over 120 sq. ft.

2. Ruth Spradling questioned if anything was being done to prevent the removal of trees and dirt excavation prior to approval of a development site plan. Mr. Coleman noted the amendment to Article 11-I-3 would define development activity to include major ground clearing, thus requiring approval of a development site plan before work could begin. If ground work began before a development site plan was approved, the project would be in violation of city ordinances and a stop work order would be issued.

Mr. Gross moved to direct staff to bring back ordinances for amendments to the zoning ordinance as proposed by ZOIC and presented by Mr. Coleman. Mr. Motheral seconded the motion and it passed 5-0.

5E. Interlocal agreement with Kerr County regarding subdivision regulations and plat approval authority within the city's extraterritorial jurisdiction (ETJ).

Mr. Hayes noted he had contacted the county attorney to clarify their position, and the county attorney noted an exception in state law that allowed counties that were eligible to receive grant funds for economically distressed areas to be exempt from the requirement; therefore, such interlocal agreement was not required. Mr. Hayes noted that in order to file a plat, a development had to have the approval of both the city and county, and where there was a conflict, the more stringent standard would apply. He proposed that the city continue to invite the county to biweekly staff meetings so they would be informed of plats being submitted in the ETJ area.

5F. Proposed FY 2011 budget calendar.

Mr. Erwin presented the FY11 budget calendar and noted hotel occupancy tax applications were due June 25 and would be presented to council on July 13. The city manager would present the FY11 budget to council on July 27 and public hearings and ordinances adopting the tax rate and budget would be in August and September. The consensus of the council was to hold the first budget worksession on June 21.

5G. Appointment of mayor pro tem.

Mr. Gross moved to appoint Mr. Motheral as mayor pro tem; Mr. Allen seconded the motion. It was suggested that council consider rotating the position among councilmembers. Mr. Gross withdrew his motion, and Mr. Allen withdrew his second.

The matter was deferred to executive session before the vote was taken.

**6. INFORMATION AND DISCUSSION:**

6A. Presentation regarding airport board to act as airport zoning board.

Fred Vogt, vice president of the Kerrville-Kerr County Joint Airport Board, noted on July 16, 1992, the then Joint Airport Board adopted the airport hazard zoning ordinance. Mr. Vogt noted that Mr. Hayes confirmed that the existing airport board could act as the joint airport zoning board. The impetus for such authority would be:

- Have authority to prevent establishment of obstructions that had potential to be a nuisance and affect air space or airport operations.
- Mitigate existing or proposed structures, developments, or trees which could obstruct airspace or obstruct or interfere with the safe control or tracking for data acquisition of aircraft.
- Establish whether a structure had a substantial adverse effect on safe utilization of navigable airspace.

Mr. Vogt stated the AZB would be an advisory board to the city and county as the airport owners; the AZB would alert the city and county of any potential construction issues that could affect the airport operations and airspace; it would then be the city and county's responsibility to address any issues. He also noted that federal law restricted construction that could potentially interfere with airspace or affect any airport, and this was monitored through the FAA. The airport board was in the

process, with TxDOT, of developing a master plan, and part of the consultant's charge was to suggest changes to protect the airport.

Mr. Hayes recommended as part of the process of reconstituting the JAZB, the city should review and update the 1992 ordinance. The city had zoning authority within the city limits, and there was specific state law that would allow the county to have zoning authority for the airport, or the county could assign zoning authority to the JAZB.

Mr. Vogt noted the airport was currently compliant with all FAA regulations and there were no existing or pending issues; the proposal was simply to protect the future of the airport operations and growth.

The council also discussed the following points:

- There was not an established building permit process in the county to monitor possible development that could impact airspace.
- The airport was a chief economic driver for the community; need to protect the airspace so the airport can grow and develop.
- The CREZ line could have a potential affect on the airport, and the 120 foot towers could become a safety issue.

6B. Kerrville budget/economic update.

Mr. Erwin noted unemployment was at 6.1%; sales tax decreased 11%, HOT tax increased 8%. The preliminary property tax report from the appraisal district indicated a 1.1% increase in market value; however, the over 65 property tax freeze amount increased 2.78% from FY10; he predicted the property tax market value would be flat. He also reported receipt of \$10,000 in seizure funds from the 198<sup>th</sup> district court.

Mr. Erwin noted \$150,000 was unallocated in the airport capital project fund and requested direction from council whether to request funding be returned or allocated for airport future projects. Bruce McKenzie, airport manager, noted the FY10 projects were completed. Fred Vogt, airport board vice president, cautioned against returning all of the funds as the FAA may not have closed out the taxiway project, and the cost of the airport master plan had not been finalized. He also noted the airport board was anticipating a major water main project for FY11.

The consensus of the council was to defer a decision to the budget workshop in June.

**7. BOARD APPOINTMENTS**

7A. Appointments to the economic improvement corporation.

Matter was deferred to executive session.

7B. Appointment of councilmembers to various boards and commissions. Matter was deferred to executive session.

**8. ITEMS FOR FUTURE AGENDAS: None.**

**9. ANNOUNCEMENTS OF COMMUNITY INTEREST: None.**

**10. EXECUTIVE SESSION:**

Mr. Gross moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.074 (personnel matters), 551.076 (deliberation regarding security devices) and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code of the State of Texas; the motion was seconded by Mr. Allen and passed 5-0 to discuss the following matters:

Section 551.071:

- Settlement agreement with the Equal Employment Opportunity Commission regarding claim from Janet Holmes.
- Interlocal agreement with Kerr County regarding subdivision regulations and plat approval authority within the city's extraterritorial jurisdiction (ETJ).

Section 551.074:

- Appointment of mayor pro tem.
- Appointments to the economic improvement corporation.
- Appointment of councilmembers to various boards and commissions.

Section 551.071, 551.072, and 551.087:

- Discuss the purchase, exchange, lease, sale, or value of real property for use as a city facility, the public discussion of which would not be in the best interests of the city's bargaining position with third parties.

At 8:58 p.m., the regular meeting recessed and council went into executive closed session at 8:59 p.m. At 10:05 p.m., the executive closed session recessed and council returned to open session at 10:05 p.m. The mayor announced that no action had been taken in executive session.

**11. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

**5G. Appointment of mayor pro tem.**

Mr. Gross moved to appoint R. Bruce Motheral as mayor pro tem; the motion was seconded by Gene Allen and passed 5-0.

**7A. Appointments to the economic improvement corporation.** Mr. Motheral moved to appoint Rex Boyland and Robert Miller with terms to expire June 1, 2012; Mr. Gross seconded the motion and it passed 5-0.

**7B. Appointment of councilmembers to various boards and commissions.**

Mr. Allen moved to accept the following appointments; Ms. Keeble seconded the motion and it passed 5-0:

CITY BOARD	EXISTING COUNCIL REPRESENTATIVE	PROPOSED COUNCIL REPRESENTATIVE
Audit Committee	Chuck Coleman Stacie Keeble	Gene Allen Stacie Keeble
Economic Improvement Corporation	* Currently, no City Council Representative to this Board	None
Food Service Advisory Board	Scott Gross	Scott Gross
Golf Course Advisory Board	Bruce Motheral	Bruce Motheral
Kerr Economic Development Foundation	Todd Bock	David Wampler
Kerrville Public Utility Board	Todd Bock	David Wampler
Library Advisory Board	Scott Gross	Scott Gross
Main Street Advisory Board	Scott Gross	Scott Gross
Municipal Court Review Committee	Todd Bock Stacie Keeble	David Wampler Stacie Keeble
Parks and Recreation Advisory Board	Stacie Keeble	Stacie Keeble
Planning and Zoning Commission	Bruce Motheral	Bruce Motheral
Playhouse 2000	Chuck Coleman	Gene Allen

**10. EXECUTIVE SESSION:**

Settlement agreement with the Equal Employment Opportunity Commission regarding claim from Janet Holmes.

Ms. Keeble moved to decline the settlement agreement; Mr. Motheral seconded the motion and it passed 5-0.

**ADJOURNMENT.** The meeting adjourned at 10:07 p.m.

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Resolution supporting a Feasibility Study by the National Park Service for designation of the Great Western Trail as a National Historic Trail.

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 16, 2010

**SUBMITTED BY:** Todd Parton      **CLEARANCES:**

- EXHIBITS:**
1. Letter requesting support of National Trail System and Trail Study from City of Vernon
  2. Feasibility Study information and criteria from National Park Service
  3. Proposed Resolution in support of National Park Service Feasibility Study

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

**SUMMARY STATEMENT**

The National Park Service is conducting a feasibility study of adding the Great Western Trail to the National Historic Trails System. This study was authorized by the Omnibus Public Land Management Act passed by Congress in 2009.

**History on the Great Western Trail:**

In 1874, Captain John T. Lytle and several cowboys left South Texas with 3,500 head of longhorn cattle and a herd of saddle horses. Five years later, the route Lytle cut out of the prairie to Ft. Robinson, Nebraska, had become the most significant and traveled cattle trail in history- The Great Western Cattle Trail.

Though less well known than the Chisholm Trail, the Great Western Cattle Trail was longer in length and carried cattle for two years longer than the Chisholm. The Great Western Trail saw over seven million cattle and horses pass through Texas and Oklahoma to railheads in Kansas and Nebraska - an important factor in developing the cattle industry as far north as Wyoming and Montana.

In Texas, feeder trails from the Rio Grande led to the trailhead near Bandera. The trail then headed through what is now Bandera Pass towards Kerrville, then through

Fredericksburg, Mason, Brady, Coleman, Baird, Albany and Fort Griffin. It is believed that the main streets of Throckmorton, Seymour, and Vernon run north and south because of the trail.

*Reference: Great Western Cattle Trail Association / [www.greatwesterntrail.net](http://www.greatwesterntrail.net)*

Though there is little detailed information on the location in Kerrville and surrounding area, allowing the feasibility study will help the National Park Service pinpoint the exact location.

### **RECOMMENDED ACTION**

It is recommended that the City Council approve the Resolution in support of the National Park Service's designation of the Great Western Trail in Kerrville.



## CITY OF VERNON

1725 Wilbarger St. Vernon, Texas 76384

Phone: 940.552.2581 Fax: 940.552.0569

May 18, 2010

Honorable Mayor David Wampler  
800 Junction Hwy.  
Kerrville 78028

Dear Mayor:

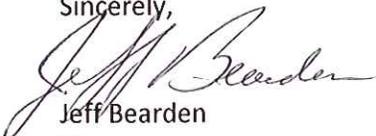
Our communities are linked by our common heritage with the cattle drives that came up the Great Western Trail through our area. In recent years, citizens of your community joined with the Vernon Rotary Club in its "Marking the Western Trail" project to identify the trail through your area. Now, the National Park Service is conducting a feasibility study of adding the Great Western Trail and the Chisholm Trail to the National Historic Trails System. This study was authorized by the Omnibus Public Land Management Act of 2009 (P. L.111-11), passed by Congress in 2009.

Very soon there will be a series of public meetings along both trail routes to gauge public interest and support for including these trails in the national system, and to further research the history and importance of the trail. The attached newsletter from NPS provides more information about the feasibility study and the public meetings. Also attached is a proposed resolution of support to be presented to the Vernon City Commission. Our plan is to attend the nearest public meeting and present a copy of this resolution along with letters of support from other local officials and organizations such as the Chamber of Commerce.

I would like to encourage you to consider presenting this resolution for adoption by your City Commission, and gather support for this exciting project. We believe that designation of the Great Western Trail as a National Historic Trail will be a significant boost to heritage tourism in our region. Further, I would encourage your community to be represented at one of the public hearings. If you cannot attend a public meeting, feel free to forward a copy of your resolution to me for inclusion in the support packet we will present to the Park Service officials conducting the study. Of course, you can mail your resolution and letters of support to Aaron Mahr Yanez, Superintendent of the National Trails Intermountain Region of the National Park Service. His address is included in the newsletter.

Please feel free to contact us if we can provide additional information. Thanks in advance for supporting this project.

Sincerely,

  
Jeff Bearden  
Mayor

# Trail Study News

## Chisholm and Great Western NHT Feasibility Study and Environmental Assessment

Greetings!

In March 2009, Congress passed the Omnibus Public Land Management Act of 2009 (P. L. 111-11), one section of which called for the Secretary of the Interior to study the Chisholm and Great Western trails for their potential designation as national historic trails.

Some 10 million cattle moved north from Texas to the central plains states on these trails. After the Civil War, Texas was cash-poor but cattle-rich, and there was no easy or cheap way to bring longhorns from Texas to markets in the midwestern and eastern states.

But trader Jesse Chisholm had pioneered a route that spanned much of that gap, and a visionary cattle buyer named Joseph G. McCoy transformed the region's postwar economy in 1867 when he built stockyards in Abilene, Kansas, and coaxed Texas drovers to head north. By 1870 a new market had emerged along the so-called Chisholm Trail. Texas rebounded from its economic depression and the cowboy became an American icon that would prove an enduring symbol of courage, grit, and devil-may-care adventure.



Trail markers such as this one just south of Enid, Oklahoma, have been erected along the Chisholm Trail throughout Oklahoma and southern Kansas.

The Chisholm Trail was a major trail through the early 1870s, but westward settlement forced the drovers onto the new Western Trail, which carried the trade well into the 1880s. Continued settlement and new railroad construction forced the closure of the cattle trails, but as a symbol of the west, these trails and their legacy remain as vivid as ever.

### What is a National Historic Trail?

A national historic trail (NHT) is an extended trail that follows as closely as possible the original routes of travel associated with important historic events.

Examples of other national historic trails include the Oregon Trail, Santa Fe Trail, Nez Perce (Nee-Me-Poo), and El Camino Real de Tierra Adentro. Trail designations are continuous from end to end, but may include sections of land areas, land or water segments, or other specific sites.

Some historic sites and trail segments are in private ownership, and other sites and segments are in public ownership. Participation in national historic trail programs is voluntary, and private landowners along the trail retain all legal rights to their property.

## Message from the Superintendent

Dear Friends,

Welcome to the Chisholm and Great Western National Historic Trail Feasibility Study and Environmental Assessment project. We wish to announce the start of this project and invite you to participate.

The study process will be conducted in consultation with federal, state, and local agencies, American Indian nations and other interested organizations as well as individuals in Texas, Oklahoma, Kansas and Nebraska.

Staff from the National Park Service's National Trails Intermountain Region in Santa Fe, New Mexico, will lead the effort.

You will have the opportunity during the study process to provide your thoughts on this important project. Your participation is important, and we urge your involvement as the study proceeds. My staff and I look forward to meeting you!

Sincerely,



Aaron Mahr Yañez  
Superintendent  
National Trails Intermountain Region  
National Park Service

# What is a Feasibility Study?

Completion of a feasibility study by the National Park Service will meet the intent of legislation passed by Congress to consider adding the Chisholm and Great Western cattle trails to the National Trails System.

Associated with the feasibility study is an environmental assessment, which identifies, evaluates, and documents the potential effects of designating the routes as a national historic trail.

The feasibility study will consider several important questions with input from the general public.

To qualify for designation as a national historic trail, a trail must meet all three of the following criteria, which are taken from the National Trails System Act of 1968 (P.L. 90-543):

i) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not

currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential.

ii) It must be nationally significant. To qualify as nationally significant, historic use of the trail must have had a far reaching effect on broad patterns of American culture. Trails significant in the history of Native Americans may be included.

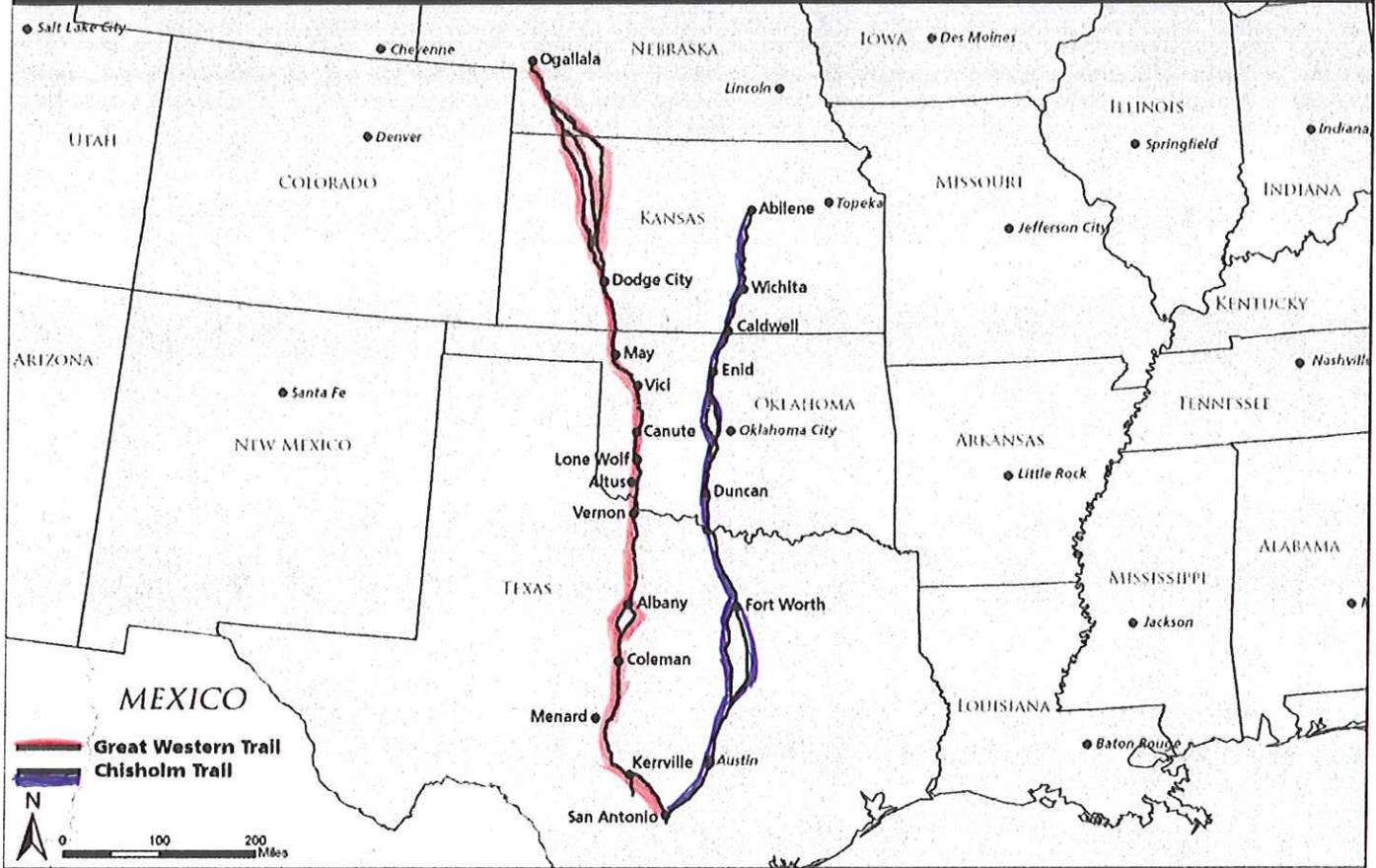
iii) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation.

The feasibility study will make a recommendation on national significance that will be sent to the National Park System Advisory Board for concurrence.



Walking anywhere from 8-20 miles per day, Texas longhorns were driven over 800 miles to Kansas and Nebraska. Some were shipped to eastern markets, but others were purchased by ranchers or government Indian agents. A typical herd exceeded 2,500 head, requiring at least 10 cowboys to prevent stampedes and deter theft.

## Chisholm and Great Western National Historic Trail Feasibility Study and Environmental Assessment



National Park Service  
U.S. Department of the Interior

Together with their partners, staff at the National Trails Intermountain Region offices in Santa Fe and Salt Lake City administers 9 of the 19 national historic trails in the National Trail System.

National Trails Intermountain Region  
PO Box 728  
Santa Fe, NM 87504-0728

Phone  
505.988.6098

E-mail  
lodi\_administration@nps.gov

The National Park Service cares for the special places saved by the American people so that all may experience our heritage.

## Get Involved in Your Trail History!

There are many ways for you to learn more about these trails and to get involved with the planning process.

- Attend a feasibility study scoping meeting
- Review the draft study
- Tour a trail-related historic site or museum
- Visit a trail-related route or walk in a trace

To learn more about this planning project, go to:

<http://parkplanning.nps.gov/ntir>

## What is the planning meeting schedule?

Public meetings will be held at the following locations:

**June 8 – Fort Worth, Texas**  
*Hyatt Place Stockyards*  
12-2 pm – 132 E. Exchange Avenue

**June 9 – Austin, Texas**  
*Robert E. Johnson Conference Center*  
12-2 pm – 1501 N. Congress Avenue

**June 9 – San Antonio, Texas**  
*San Antonio Public Library, Auditorium*  
5:30-7:30 pm – 600 Soledad Street

**June 10 – Menard, Texas**  
*Menard County Community Center*  
5-7 pm – 303 Travis Street

**June 11 – Albany, Texas**  
*Shackelford County Courthouse*  
12-2 pm – 309 S. Second Street

**June 12 – Altus, Oklahoma**  
*Southwest Technology Center*  
12-2 pm – 711 W. Tamarack Road

**June 12 – Duncan, Oklahoma**  
*Chisholm Trail Heritage Center*  
4-6 pm – 1000 Chisholm Trail Parkway

**June 21 – Ogallala, Nebraska**  
*City Hall, City Council Chambers*  
5-7 pm – 411 E. Second Street

**June 22 – Dodge City, Kansas**  
*Boot Hill Museum, Banquet Room*  
3-5 pm – 500 Front Street

**June 23 – Oklahoma City, Oklahoma**  
*Oklahoma History Center*  
3-5 pm – 800 Nazih Zuhdi Drive (northeast of state capitol)

**June 24 – Wichita, Kansas**  
*Wichita-Sedgwick County Historical Museum*  
5-7 pm – 204 S. Main Street

**June 25 – Abilene, Kansas**  
*Abilene Civic Center*  
5-7 pm – 201 N.W. Second Street

Trail Study News (May 2010) was produced for the Chisholm and Great Western NHT Feasibility Study and Environmental Assessment

**Comments or questions?**  
**Contact:**  
Frank Norris, Historian  
National Trails Intermountain Region  
National Park Service  
505.988.6005  
frank\_norris@nps.gov

**CITY OF KERRVILLE, TEXAS**  
**RESOLUTION NO. \_\_\_\_-2010**

**A RESOLUTION SUPPORTING THE NATIONAL PARK SERVICE INITIATIVE TO CONDUCT A FEASIBILITY STUDY FOR THE DESIGNATION OF THE GREAT WESTERN TRAIL AND THE CHISHOLM TRAIL AS NATIONAL HISTORIC TRAILS**

**WHEREAS**, a great need exists to commemorate and interpret America's western heritage and to provide tools to teach and learn about a major part of this country's history that helped define American culture; and

**WHEREAS**, the true courage, determination, and grit of the Cowhands and Cattlemen that moved 10 million head of cattle from Texas to the north along the Hill country trails, created a foundation for the cattle industry that was an economic building block for Texas and the early United States; and

**WHEREAS**, the Great Western and Chisholm Trails are historically significant and their recognition and increased exposure will provide added tourism and recreation activities while broadening the knowledge of the effects that the early Cowboys and Native Americans had on this country's development; and

**WHEREAS**, City Council of the City of Kerrville commends the United States Congress and the National Parks Service for initiating this important endeavor to add the Great Western Trail and the Chisholm Trail to the National Trail System; and

**WHEREAS**, the City Council encourages the passage of companion resolutions in each of the entities along these trails; and

**WHEREAS**, the City Council also encourages other entities to participate and work closely with the National Park Service in order to make the most of this opportunity;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

The City Council of the City of Kerrville supports the National Park Service and its efforts to establish a project which seeks to preserve a significant part of this country's western heritage by designating the Great Western Trail and Chisholm Trails as National Historic Trails.

PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2010.

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Council authorization for the City Manager to increase the contract with Yantis Company for the construction of site improvements to the Salvation Army Kroc Recreational Center and a regional storm water detention facility at Paschal Street and Holdsworth Drive from \$1,119,735.75 to \$1,173,959.55 and authorize release of the remainder funds in the amount of \$44,317.46 to cover other potential change orders.

**FOR AGENDA OF:** June 8, 2010

**DATE SUBMITTED:** May 27, 2009

**SUBMITTED BY:** Michael Wellborn, P.E.  
Director of Engineering

**CLEARANCES:** Kristine Ondrias  
Assistant City Manager

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 75,753.76	\$ 227,513.76	\$902,000.00	G78
\$ 47,787.50	\$ 47,787.50	\$500,000.00	E40

**PAYMENT TO BE MADE TO:** Yantis Company  
3611 Paesano's Pkwy.  
San Antonio, TX 78231

**REVIEWED BY THE FINANCE DIRECTOR:**

**SUMMARY STATEMENT**

In May of 2009, City Council authorized the City Manager to enter into a contract with Yantis Company (Contractor) for the construction of a regional storm water detention facility and site work at the Salvation Army Kroc Recreational Center (SA Kroc Center) site in the amount of \$1,119,735.75.

Funding for this project originated from the following sources:

Funding Source	Description of Funding Justification	\$ Amount	Account #
Landfill	Purchase of soil hauled to the city's landfill	\$832,000	G78
EIC	Drainage Facilities at the SA Kroc Center	\$70,000	G78
EIC	Site work at the SA Kroc Center	\$500,000	E40

The \$500,000 deposited in Finance Account # E40 is funding from the EIC awarded in March of 2009 when the City entered into an agreement with EIC and the Salvation Army to fund construction of the SA Kroc Center site development improvements. The site development improvements included multiple retaining walls, sidewalks, concrete stairs, railing, ADA trails, fencing, removal and replacement of existing sanitary sewer mains, etc.

The \$70,000 deposited in Finance Account # G78 is funding from the EIC awarded in February of 2008 when the City entered into an agreement with the EIC and the Salvation Army to fund drainage improvements at the SA Kroc Center site.

The \$832,000 deposited in Finance Account # G78 was provided from the Landfill Fund to purchase dirt for the city's landfill to address their operational soil deficits. However, the \$832,000 was allocated as a not to exceed amount based on \$8.00 per cubic yard purchase price for dirt hauled to the landfill. Due to the fact that the total amount of dirt hauled by the Contractor to the landfill was 85,030 cubic yards, the funds available to the project are \$680,240.00 ( $\$8.00/\text{CY} \times 85,030 \text{ CY} = \$680,240.00$ ).

The City's original contract with Yantis Company included \$598,973.25 worth of items eligible to be paid out of the landfill deposited funds; however, the current items that are eligible to be paid out of these funds total \$645,035.00. This difference of \$46,061.75 ( $\$645,035.00 - \$598,973.25 = \$46,061.75$ ) is a result of excess dirt quantities excavated and hauled to the landfill as well as change orders.

Three (3) change orders were issued during the construction of this project. Change Order #1 added additional retaining wall quantities that were a result of plan errors. Change Order #2 added additional rock gabions to armor a diversion berm located at the north end of the soccer fields to help control potential erosion. Change Order #3 added a concrete pilot channel to control ground water seepage through regional detention pond, added concrete sidewalks at key locations along the SA Kroc Center trail system to help control erosion, and reduced quantities associated with the granite trail and other site concrete sidewalks. The following table summarizes the charges associated with each of these change orders as well as all overages and credits.

<b>Contract Amendments</b>	<b>Landfill (G78)</b>	<b>EIC (G78)</b>	<b>EIC(E40)</b>	<b>Total</b>
Change Order #1	\$168.00	\$0.00	\$24,788.30	<b>\$24,956.30</b>
Change Order #2	\$0.00	\$0.00	\$1,470.00	<b>\$1,470.00</b>
Change Order #3	\$32,120.00	\$0.00	(\$14,120.00)	<b>\$18,000.00</b>
Overage on Dirt Excavation & Haul-off to Landfill	\$38,773.75	\$0.00	\$0.00	<b>\$38,773.75</b>
Deductions & Credits	(\$25,000.00)	\$0.00	(\$3,976.25)	<b>(\$28,976.25)</b>
<b>Total</b>	<b>\$46,061.75</b>	<b>\$0.00</b>	<b>\$8,162.05</b>	<b>\$54,223.80</b>

In order to finalize the City's contractual obligations to the Contractor, an additional \$54,223.80 in allocated funds are required to cover the above referenced change orders and overages. These additional funds would increase the Yantis Company construction contract from \$1,119,735.75 to \$1,173,959.55.

In addition to the above, there are remaining design issues that must still be addressed prior to the close of this project. One of which includes armoring needed at the inflow of the detention pond to control repeated erosion during high intensity storm events and the

other being additional armoring at the base of the modular wall at George Street. Change orders for these and other Salvation Army requested items are still pending.

The remaining available funds to this project are summarized as follows and account for all expenditures charged to the referenced accounts including a \$25,000.00 allowance out of the E40 account for the SA Kroc Center's left turn lane on Holdsworth Drive.

<b>Account</b>	<b>Available Funds</b>	<b>Existing Expenditures and Obligations</b>	<b>Current Contract Modifications</b>	<b>Remaining Funds</b>
Landfill (G78)	\$680,240.00	\$604,486.24	\$46,061.75	\$29,692.01
EIC (G78)	\$70,000.00	\$70,000.00	\$0.00	\$0.00
EIC (E40)	\$500,000.00	\$477,212.50	\$8,162.05	\$14,625.45
<b>Total</b>				<b>\$44,317.46</b>

### **RECOMMENDED ACTION**

The Director of Engineering recommends that Council authorize the City Manager to increase the contract with Yantis Company for the construction of site improvements to the Salvation Army Kroc Recreational Center and a regional storm water detention facility at Paschal Street and Holdsworth Drive from \$1,119,735.75 to \$1,173,959.55 and authorize release of the remainder funds in the amount of \$44,317.46 to cover other potential change orders.

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Council authorization for the City Manager to execute a Professional Engineering Services Agreement with Raba-Kistner Consultants, Inc. to serve as the Geotechnical Engineer and provide materials testing services for the Harper Road Utility Extension Project in an amount not to exceed \$67,840.00.

**FOR AGENDA OF:** June 22, 2010

**DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Michael Wellborn, P.E. **CLEARANCES:** Kristine Ondrias   
Director of Engineering  Assistant City Manager

**ATTACHMENTS:** Professional Engineering Services Agreement

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$ 67,840.00	\$ 2,720,160.78	\$2,950,000.00	E31

**PAYMENT TO BE MADE TO:** Raba-Kistner Consultants, Inc.  
P.O. Box 971037  
Dallas, TX 75397-1037

**REVIEWED BY THE FINANCE DIRECTOR:** 

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**SUMMARY STATEMENT**

In an attempt to conserve project funds, the Engineering Department contacted Raba-Kistner Consultants, Inc (Consultant) to prepare a scope and proposal to serve as the Geotechnical Engineer and provide material testing services for the Harper Road Utility Extension Project. These services are typically added as a bid item in the construction contractor's contract and the contractor then secures the services from the testing lab and adds a percentage to their contract.

The Consultant has served as the material's testing lab on several projects in the City for private development and has a good reputation and is believed to be well qualified to perform these services for the Harper Road Utility Extension Project.

**RECOMMENDED ACTION**

The Director of Engineering recommends that Council authorize the City Manager to execute a Professional Engineering Services Agreement with Raba-Kistner Consultants, Inc. to serve as the Geotechnical Engineer and provide materials testing services for the Harper Road Utility Extension Project in an amount not to exceed \$67,840.00.

## Professional Engineering Services Agreement

### Between

### Raba-Kistner Consultants, Inc. and City of Kerrville

THIS AGREEMENT is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2010, between the CITY OF KERRVILLE, a Texas home rule municipality with principal offices at 800 Junction Highway, Kerrville, Texas, 78028-5069, hereinafter referred to as "CLIENT", and Raba-Kistner Consultants, Inc. with its offices located at 12821 W. Golden Lane, P.O. Box 69017, San Antonio, Texas 78269-0287, hereinafter referred to as "ENGINEER", for the performance of professional engineering services in consideration of the following terms, conditions, and agreements:

#### PART I. SERVICES

ENGINEER shall perform all work described in the proposal attached hereto as **Exhibit A**.

- A. ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by ENGINEER under this Agreement, ENGINEER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and others services.
- B. ENGINEER hereby agrees to comply with all Federal, State, and Local laws and ordinances applicable to the work or services under this Agreement.
- C. ENGINEER shall hold periodic conferences with CLIENT or CLIENT's representatives to the end that the project as developed shall have the full benefit of CLIENT's experience and knowledge and be consistent with CLIENT's objectives for this project.
- D. ENGINEER shall periodically report project status to CLIENT as is appropriate to keep CLIENT informed regarding project progress.
- E. ENGINEER shall perform all services under this Agreement in a manner which is consistent with generally accepted standards of professional engineering practice.

#### PART II. CLIENT'S RESPONSIBILITIES

- A. CLIENT shall provide all criteria and full information as to CLIENT's requirements for the Project; designate a person to act with authority on CLIENT's behalf in respect of all aspects of the Project; examine and respond promptly to ENGINEER's submissions; and give prompt written notice to ENGINEER whenever CLIENT observes or otherwise becomes aware of any defect in ENGINEER's submissions.

- B. CLIENT shall also do the following and pay all costs incident thereto:

Furnish to ENGINEER, upon ENGINEER's notification that data is required, core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; geologic assessments, environmental impact studies, and endangered species studies; and any other information previously made available to CLIENT, which may be required by ENGINEER; all of which ENGINEER may rely upon as accurate in performing ENGINEER's services provided, however, ENGINEER shall not be entitled to rely on any inaccuracy or incompleteness of information or services provided by CLIENT or at CLIENT's direction if a professional engineer using generally accepted engineering practices and procedures would have discovered such inaccuracy or incompleteness without reviewing any other data other than the document or information provided.

Guarantee access to and make all provisions for ENGINEER to enter upon public and private property.

Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project, any auditing service required in respect of contractor(s)' applications for payment, and any inspection services to determine if contractor(s) are performing the work legally.

- C. CLIENT shall pay all non-labor costs incident to obtaining bids or proposals from contractor(s).

### PART III. WORK ORDER AMENDMENTS

- A. CLIENT may at any time, by written Work Order, make changes relating to services to be performed. If such changes cause an increase or decrease in ENGINEER's cost of, or time required for, performance of any services, an agreeable equitable adjustment shall be made and reflected in a properly executed Work Order. ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date of receipt by ENGINEER of the notification of change, unless CLIENT grants a further period of time before the date of final payment under this Agreement.
- B. No services for which additional compensation will be charged by ENGINEER shall be furnished without a properly executed Work Order signed by CLIENT.
- C. In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after the date of execution of this Agreement, the increased or decreased cost of performance of the services provided in this Agreement and subsequent Work Orders shall be reflected in an appropriate Work Order.

PART IV. COMPENSATION

CLIENT agrees to pay ENGINEER for Professional Services in accordance with the descriptions, definitions, terms and conditions as set forth in **Exhibit A**.

PART V. PAYMENTS

ENGINEER will invoice CLIENT in accordance with the terms and conditions as set forth in **Exhibit A**. CLIENT agrees to promptly pay ENGINEER at its office located at P.O. Box 971037, Dallas, Texas 75397-1037, the full amount of each such invoice upon receipt. In no event shall ENGINEER's failure to invoice constitute a default under the terms and conditions of this Agreement.

PART VI. INSURANCE

ENGINEER shall procure and maintain the following types and limits of insurance for the duration of this Agreement:

<u>Type of Insurance</u>	<u>Minimum Limits of Liability</u>
Workers' Compensation	Statutory
Employer's Liability	\$250,000.00
Commercial General Liability-Personal Injury/Property Damage	\$1,000,000.00 combined single limit per occurrence
Automobile Liability	\$1,000,000.00 combined single limit per occurrence – Hired car, owned and non-owned autos
Professional Liability	\$1,000,000 per claim

The commercial general liability insurance required above will include contractual liability coverage. The commercial general liability and automobile liability policies shall be endorsed to name the CLIENT as an additional insured, and all policies shall be endorsed to show a waiver of subrogation in favor of CLIENT. ENGINEER shall direct that a certificate of insurance be delivered to CLIENT before any services are performed pursuant to this Agreement. Such certification of insurance shall provide for not less than thirty (30) days written notice to CLIENT prior to cancellation or material modification by endorsement of any insurance referenced therein and shall indicate that all required coverage and endorsements are in effect.

PART VII. TERMINATION

A. CONDITIONS OF TERMINATION

This Agreement and/or Work Order(s) may be terminated without cause at any time prior to completion of ENGINEER's services, either by CLIENT or by ENGINEER, upon written notice to the other at the address of record. Upon

receipt of written notice from CLIENT to discontinue work, ENGINEER shall discontinue work under this Agreement immediately. In the event CLIENT terminates the Agreement based on CLIENT's reasonable opinion ENGINEER has failed or refused to prosecute the work efficiently, promptly, or with diligence, ENGINEER shall have fifteen (15) business days, from the receipt of written notification by CLIENT, to cure such failure to perform in accordance with the terms of the Agreement.

B. ACTIONS ON TERMINATION

Upon any termination, ENGINEER shall: (1) promptly discontinue all Services affected (unless a termination notice from CLIENT directs otherwise); and (2) upon full payment for services, deliver or otherwise make available to CLIENT all documents, data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by ENGINEER in performing this Agreement, whether completed or in process.

C. COMPENSATION PAYABLE ON TERMINATION

On termination, by either CLIENT or ENGINEER, CLIENT shall pay ENGINEER with respect to all contracted services rendered and expenses incurred before termination an amount fixed by applying the ENGINEER's Standard hourly rates, in force at the time of termination, to all services performed to date, in addition to termination settlement costs ENGINEER reasonably incurs relating to commitments which had become firm before the termination; however, in no case shall CLIENT be required to pay ENGINEER more than the amount set forth in this Agreement.

PART VIII. MISCELLANEOUS

A. REUSE OF DOCUMENTS

All documents, including Drawings and Specifications prepared or furnished by ENGINEER pursuant to this Agreement, are instruments of service with respect to the PROJECT, are the property of both CLIENT and ENGINEER, and may be used by both CLIENT and ENGINEER, as they deem necessary in their reasonable discretion. Either CLIENT or ENGINEER may retain copies, reproduce copies, and disseminate copies of said Instruments of Service as are reasonably necessary for the construction and on-going maintenance of the Project. Not later than 90 days after substantial completion, ENGINEER shall deliver to CLIENT one (1) set of Record Drawings in CADD format incorporating all Addenda and Change Orders and consisting of one set of compact disks; provided, however, ENGINEER reserves the right to remove all indicia of ownership and/or involvement from the disc/magnetic tape provided to CLIENT. The original CADD data will be retained by ENGINEER. CLIENT hereby releases and holds harmless ENGINEER from any claims, losses, or liability resulting from CLIENT's use of the Instruments of Service in a manner not authorized on this project by this Agreement. Any reuse without written

verification or adaptation by ENGINEER, for the specific purposes intended will be at CLIENT's sole risk and without liability or legal exposure to ENGINEER. Any such verification or adaptation by ENGINEER will entitle ENGINEER to further compensation at rates to be agreed upon by CLIENT and ENGINEER.

B. OPINION OF COST

Since ENGINEER has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' method of determining prices, or over competitive bidding or market conditions, ENGINEER's opinions of probable Project Cost and Construction Cost are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but ENGINEER cannot and does not warrant or guarantee ENGINEER's opinions of cost as an "actual" cost and if an "actual" "Construction Cost" is required, and/or desired, then, construction bids should be obtained by CLIENT from appropriate sources. Opinions of cost may be supplied to applicable municipalities for bonding purposes and no representations, warranties, or guarantees are rendered hereby to any other person or entity. Opinions of cost for presentation to any mortgagee or lending institution will only be prepared by ENGINEER at CLIENT's specific request. Preparation of such may involve substantial additional cost to CLIENT and ENGINEER cannot and does not warrant or guarantee such opinion of cost as an "Actual" cost.

C. TRENCH SAFETY DESIGN

ENGINEER shall not perform any service for design of Trench Safety Systems and/or Trench Excavation Safety during construction and said services are specifically excluded from the provision of this Agreement.

D. LATE PAYMENT

If CLIENT fails to make any payment due ENGINEER for services and expenses in accordance with Part VI herein, within thirty (30) calendar days from the date of ENGINEER's invoice, thereafter the amounts due ENGINEER shall include a charge at the rate of 1.50 % per month, calculated from the date of the invoice, and in addition, ENGINEER may, after giving ten (10) business days written notice to CLIENT, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services and expenses.

E. ATTORNEY'S FEES

In the event ENGINEER's invoices for services are given to an attorney for collection, or if suit is brought for collection, or if they are collected through probate, bankruptcy, or other judicial proceeding, then CLIENT shall pay ENGINEER all costs of collection, including the maximum attorney's fees allowed by Law and court costs, in addition to other amounts due.

F. PERIOD OF SERVICE

ENGINEER shall diligently pursue completion of services in accordance with the timely completion specified in **Exhibit A** and shall promptly inform CLIENT of any anticipated delay. ENGINEER shall not be liable or responsible for any delays caused by circumstances beyond ENGINEER's control.

G. CONSTRUCTION OBSERVATION

During the Construction Phase, ENGINEER shall make visits to the site at intervals appropriate to the various stages of construction to observe as an experienced and qualified design professional the progress and quality of the executed work of contractor(s) and to determine in general if such work is proceeding in accordance with ENGINEER's design, drawings, specifications, and other instructions.

ENGINEER shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by contractor(s) or the safety precautions and programs incident to the work of contractor(s).

H. SALES AND USE TAXES

Not applicable. CLIENT is a tax-exempt entity. CLIENT will provide ENGINEER with a current copy of CLIENT's tax-exempt certificate.

I. SUCCESSORS AND ASSIGNS

CLIENT and ENGINEER each binds himself, and his partners, successors, executors, administrators, and assigns to partners, successors, executors, administrators, in respect to all covenants of this Agreement. Neither CLIENT nor ENGINEER shall assign, sublet, or transfer their interest in this Agreement without written consent of the other. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than CLIENT or ENGINEER.

J. CONTROLLING LAW; VENUE

This Agreement is to be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes between CLIENT and ENGINEER arising from or related to this Agreement shall be in Kerr County, Texas.

K. SEVERABILITY AND WAIVER

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

L. EXTENT OF AGREEMENT

This Agreement, including **Exhibit A**, and any and all amendments, modifications, and supplements duly executed by the parties in accordance with this Agreement, govern and supersede any and all inconsistent or contradictory terms, prior oral or written representations or understandings, conditions or provisions set forth in any purchase orders, requisition, request for proposal, authorization of services, notice to proceed or other form or document issued by CLIENT with respect to the project or ENGINEER's services.

M. AMENDMENTS

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 a part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. No one has authority to make variations in, or additions to the terms of this Agreement on behalf of ENGINEER other than the undersigned Principal, and then only in writing.

Executed on this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

CITY OF KERRVILLE

RABA-KISTNER CONSULTANTS, INC.

BY: \_\_\_\_\_  
Jeffrey Todd Parton  
City Manager

BY: \_\_\_\_\_  
Preston S. Parker, P.E., PMP  
CoMET Manager

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

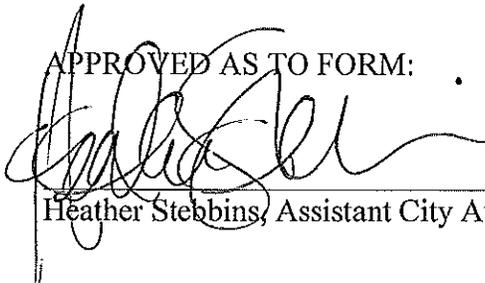
  
\_\_\_\_\_  
Heather Stebbins, Assistant City Attorney

Exhibit "A"

Engineering • Testing • Environmental • Facilities • Infrastructure



Raba-Kistner Consultants, Inc.

12821 W. Golden Lane

P.O. Box 690287, San Antonio, TX 78269-0287

(210) 699-8000 • FAX (210) 699-8426

www.rkci.com

TBPE Firm F-3257

Proposal No. PSD10-113-01  
May 12, 2010

Mr. Michael Wellborn, P.E.  
Director of Engineering  
City of Kerrville  
800 Junction Highway  
Kerrville, Texas 78028

**RE: Construction Materials Observation and Testing Services  
Harper Road Utility Extension Project  
Kerrville, Texas**

Dear Mr. Wellborn:

Thank you for selecting Raba-Kistner Consultants, Inc. (R-K) as your Construction Materials Testing Company on the Harper Road Utility Extension Project located in Kerrville, Texas.

Our opinion of probable cost of services for this project is **\$67,840.00**.

Our proposed scope of services and estimated item quantities are based upon our interpretation of the project plans and specifications, and are without the aid of the general contractor's schedule. The scope and quantity of services provided will be dependent upon services actually required by you or your representatives. However, R-K will not exceed the proposed budget amount without prior authorization from our client. Any charge beyond those established in the proposal must be authorized in writing by our client prior to execution of the work. Charges will be assessed only for actual services rendered. All services authorized by you or your representatives in excess of the quantities of observation and testing services shown herein will be charged at the appropriate unit rate for such services. Charges will be invoiced on a monthly basis and will show a computerized composite total of services rendered for each service category.

Invoices will be submitted monthly for work completed in our standard format. Our invoices are due and payable upon receipt at P.O. Box 971037, Dallas, Dallas County, Texas 75397-1037. All parties hereby agree that this contract upon acceptance will be performable in Bexar County, Texas.

We appreciate the opportunity of submitting this proposal and look forward to working with you during the construction of this project. Please complete the attached Project Data Sheet for invoicing and reporting information.

Very truly yours,

**RABA-KISTNER CONSULTANTS, INC.**

  
Preston S. Parker, P.E., PMP  
CoMET Manager

PSP/dgp

Attachments

Copies submitted: Above (1) (E-mail)

W:\Active Proposals\San Antonio\2010 Proposals\PSD10-113-01 (City of Kerrville) Harper Road.doc

Proposal No. PSD10-113-01  
May 12, 2010

**ATTACHMENT II**

**Proposed Materials and Observation Services for  
Harper Road Utility Extension Project  
Kerrville, Texas**

**Basic Charges**

1. A vehicle travel charge will be assessed for round trip travel from our office to the project site, material supplier, etc. and back to our office. The charges for travel from our office to the project site and return to our office will be as follows:

Travel Time (Round Trip) .....	2.00 Hours
Vehicle Travel Charge .....	\$ 30.00 Trip

2. Service charges are based on the hourly rates stated herein and will be assessed from the time the Engineer or Technician leaves our office until he returns from the project.
3. Any engineering and/or technical services provided on Saturday and all work in excess or "normal" work hours, as stated herein, Monday through Friday, will be charged at an overtime rate multiplier of 1.3 times the hours. Our total cost of services is based upon the assumption most services will be provided during "normal" work hours. Providing an excessive amount of services during days and/or hours requiring overtime rates may significantly increase the total cost of services shown herein.
4. "Normal" work hours are between 7:00 a.m. and 6:00 p.m., including travel time to and from the site unless stated otherwise. Overtime charges will be assessed after eight (8) continuous hours of services rendered during "normal" work hours.
5. Minimum 3 hours billed per visit to project site.

<u>Service</u>	<u>Unit Rate</u>	<u>Quantity</u>	<u>Total</u>
<b>Earthwork: (Based on 160 days at 8 hours per day for density testing.)</b>			
1. Moisture-Density Relationship (Proctor).....	\$ 220.00/ea	10	\$ 2,200.00
2. Atterberg Limits Determination (P.I.).....	75.00/ea	10	750.00
3. Sieve Analysis Thru No. 200.....	75.00/ea	5	375.00
4. Nuclear Density Gauge.....	15.00/day	160	2,400.00
5. Technician Time-Density Testing.....	40.00/hr	1280	51,200.00
6. Vehicle Travel Charge.....	30.00/trip	160	4,800.00
<b>Sub-Total.....</b>			<b>\$ 61,725.00</b>
<b>Asphalt:</b>			
1. Nuclear Density Gauge.....	\$ 15.00/day	4	\$ 60.00
2. Technician Time-Observation & Density Testing.....	40.00/hr	32	1,280.00
3. Vehicle Travel Charge.....	30.00/trip	6	180.00
4. Asphaltic Concrete Extraction, Gradation, Bitumen Content, Stability, Laboratory Density and Maximum Theoretical Specific gravity.....	420.00/set	2	840.00
5. Asphalt Cores (includes field coring and laboratory testing).....	100.00/ea	20	2,000.00
<b>Sub-Total.....</b>			<b>\$ 4,360.00</b>
<b>Professional Services:</b>			
1. Project Coordination.....	\$ 60.00/hr	3	\$ 180.00
2. Geotechnical/Materials Engineer.....	165.00/hr	9	1,485.00
3. Vehicle Travel Charge.....	30.00/trip	3	90.00
<b>Sub-Total.....</b>			<b>\$ 1,755.00</b>
<b>Estimated Total Cost of Services (Phase II).....</b>			<b>\$ 67,840.00</b>

**Fees for Consulting & Coordination Services**

	<u>Unit Fees</u>
Principal Engineer.....	\$ 135.00 to 250.00/hr
Managing Engineer.....	95.00 to 200.00/hr
Staff Engineer.....	70.00 to 200.00/hr
Laboratory Manager.....	65.00 to 150.00/hr
Construction Services Manager.....	65.00 to 90.00/hr
Outside Professional Services & Reimbursables.....	Cost +15%
Additional Insured.....	160.00/ea
Report Preparation and Administration.....	38.00 to 75.00/hr

# Project Data Sheet

Project Name: \_\_\_\_\_

Client Project No: \_\_\_\_\_ Purchase Order No.: \_\_\_\_\_

Invoicing Information: Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Attention: \_\_\_\_\_

Report Distribution Information (Please provide required report distribution and requested number of copies of each)

No. Copies ( ) \_\_\_\_\_

Contact: \_\_\_\_\_ e-mail: \_\_\_\_\_  
Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

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Contact: \_\_\_\_\_ e-mail: \_\_\_\_\_  
Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Council authorization for the City Manager to execute a construction contract with Nelson Lewis, Inc for the construction of the Harper Road Utility Extension Project in an amount not to exceed \$2,520,564.40.

**FOR AGENDA OF:** June 22, 2010

**DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Michael Wellborn, P.E. **CLEARANCES:** Kristine Ondrias  
Director of Engineering *MW* Assistant City Manager *KO*

**ATTACHMENTS:** Aerial Exhibit depicting Utility Layout; Bid Log

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *JW*

---

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$ 2,520,564.40	\$ 2,720,160.78	\$2,950,000.00	E31

**PAYMENT TO BE MADE TO:** Nelson Lewis, Inc.  
P.O. Box 235  
Marble Falls, TX 78654

**REVIEWED BY THE FINANCE DIRECTOR:** *JWE*

---

**SUMMARY STATEMENT**

The Harper Road Utility Extension Project (Project) was initiated in November of 2006 when the City of Kerrville (City) entered into an agreement by and between James Avery Craftsman, Incorporated (JAC) and the City of Kerrville, Texas, Economic Improvement Corporation (EIC) to fund the engineering design for public water and wastewater infrastructure to serve the JAC campus.

In December of 2006, the City Council authorized the City Manager to enter into a contract with Claunch & Miller, Inc (Engineer) to provide engineering design services for the Project.

In February of 2008, the City entered into an agreement with the EIC and JAC for the construction of water and wastewater public infrastructure to the JAC campus.

After several years of various alignment studies, stake holders meetings, and property acquisitions, the Engineer completed the final civil construction plans in April of this year. Additionally, bid documents were prepared and included base bid items to extend water from the city's existing main located at the northeast corner of Harper Road (RM 783) and Holdsworth Drive intersection and wastewater from approximately the Holdsworth Drive Bridge. Two additive alternates were also included. Additive Alternate #1 included a pavement repair alternative to repave the entire disturbed pavement along Town Creek Road with a single course surface treatment. Additive Alternate #2 included upgrading an existing 10" water main between the tie-in point for

the water main and the 12" main in Holdworth Drive.

Starting on April 2, 2010, the City commenced with the bidding phase for the construction of the Project. On May 11, 2010, seven (7) bids were opened and the apparent low bidder was Nelson Lewis, Inc. Nelson Lewis, Inc's base bid was \$2,464,084.40. Additionally, their bids for Additive Alternate #1 & #2 were \$159,825.00 and \$51,500.00 respectively. The total for base plus additive alternates equates to \$2,675,409.40; however, the specifications call out that if Additive Alternate #1 is awarded, the base bid item # 48 for pavement repair is to be deleted from the base bid.

Nelson Lewis, Inc's bid price for item #48 was \$154,845.00, thus making the total for base bid and the two additive alternates \$2,520,564.40 (\$2,675,409.40 - \$154,845.00).

City Council has previously awarded two (2) other construction contracts to Nelson Lewis, Inc. (Town Creek Sanitary Sewer Project and the 12" Landfill Water Main Extension Project).

### **RECOMMENDED ACTION**

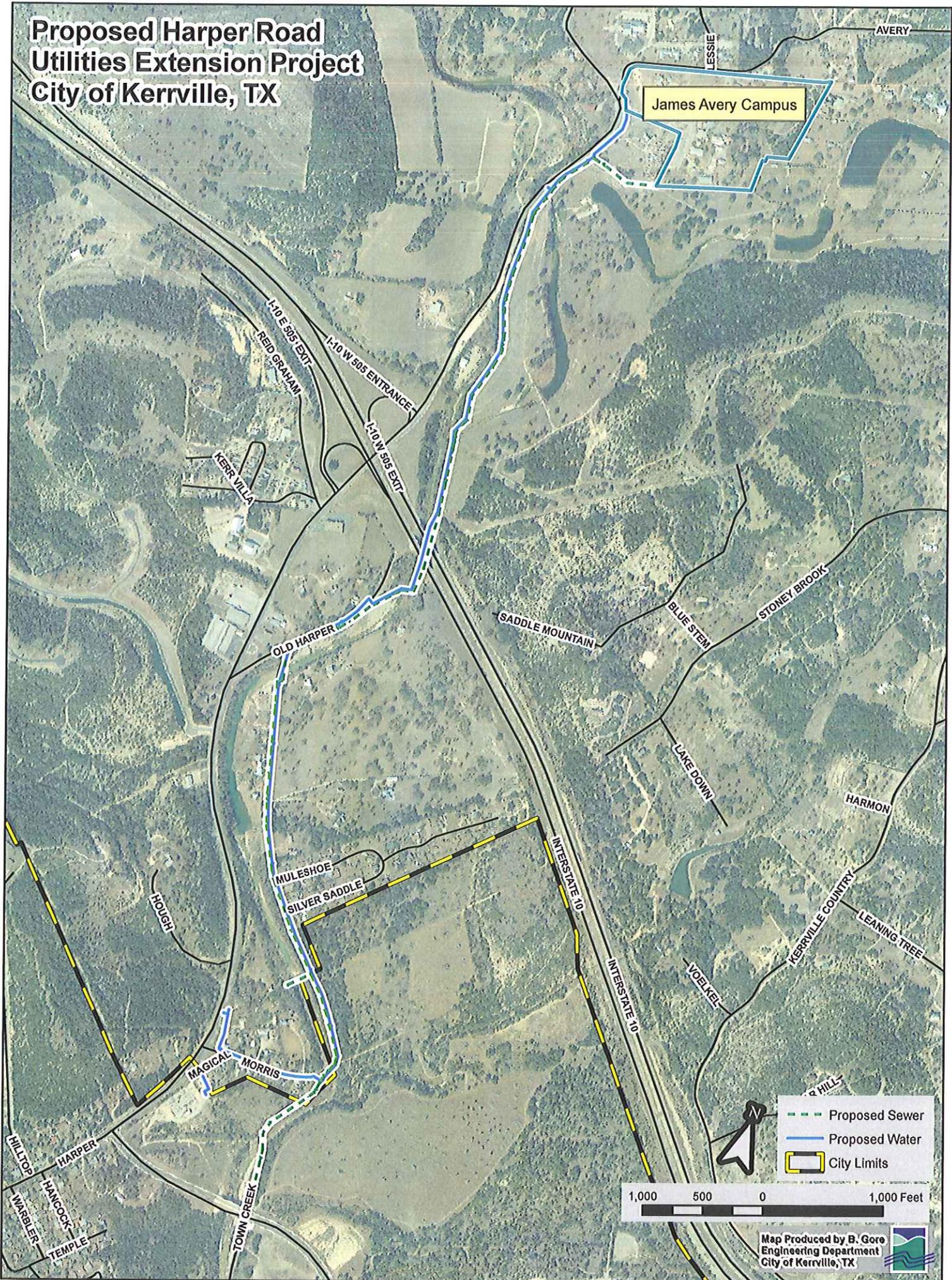
The Director of Engineering recommends that Council authorize the City Manager to execute a construction contract for the Harper Road Utility Extension Project to Nelson Lewis, Inc in an amount not to exceed \$2,520,564.40 (Base Bid plus Additive Alternates #1 & #2).

**Harper Road Utility Extension Project**  
**Bid Opening Date - May 11, 2010 3:00 pm**  
**Bid Log**

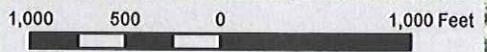
Bidder	Bond Attached	Addendum Acknowledged	Base Bid	Additive Alternate 1	Additive Alternate 2	Base Bid Item #48 (Deduct if Award AA #2)	Total Base Bid + AA #1 & #2
1 Austin Engineering	x	x	\$ 4,993,214.00	\$ 205,860.00	\$ 121,680.00	\$ (184,140.00)	\$ 5,136,614.00
2 BRH Garver Construction	x	x	\$ 3,203,686.00	\$ 110,940.00	\$ 68,140.00	\$ (163,215.00)	\$ 3,219,551.00
3 National Power Rodding	x	x	\$ 2,652,121.76	\$ 60,932.50	\$ 69,417.40	\$ (46,872.00)	\$ 2,735,599.66
4 Nelson Lewis, Inc.	x	x	\$ 2,464,084.40	\$ 159,825.00	\$ 51,500.00	\$ (154,845.00)	\$ 2,520,564.40
5 Pipelayers, Inc.	x	x	\$ 3,076,171.00	\$ 164,010.00	\$ 83,680.00	\$ (83,700.00)	\$ 3,240,161.00
6 QroMex Construction	x	x	\$ 2,698,238.75	\$ 131,775.00	\$ 69,685.00	\$ (62,775.00)	\$ 2,836,923.75
7 Rocking Q Construction	x	x	\$ 2,866,995.00	\$ 75,295.00	\$ 61,840.00	\$ (83,700.00)	\$ 2,920,430.00
8							

# Proposed Harper Road Utilities Extension Project City of Kerrville, TX

James Avery Campus



- Proposed Sewer
- Proposed Water
- City Limits



Map Produced by B. Gore  
Engineering Department  
City of Kerrville, TX

City of Kerrville  
Harper Road Utility Extension Project to Avery

**CONSTRUCTION CONTRACT**

shall provide for a waiver of subrogation in favor of the City of Kerrville. The policy and any renewal certificate shall provide that the City be notified thirty (30) days prior to cancellation or modification of any coverage. Language to the effect that the company will "Endeavor" or "Attempt" to so notify the City of Kerrville is not sufficient. Renewal certificates must be received by the City at least ten (10) days prior to any cancellation date. Policies will be in effect until final acceptance or cancellation of this contract, unless otherwise specified. The City may, at its sole option, terminate this agreement and file a claim on the Contractor's bid bond if the Contractor fails to deliver the required policies and certificates within 15 days after execution of this contract.

It shall be the responsibility of the Contractor to insure that all Subcontractors comply with the same insurance requirements as the said Contractor.

7. CASUALTY INSURANCE

In the event the work includes structures or buildings susceptible to damage by fire, windstorm, or other casualty, then the Contractor before being authorized to begin work shall furnish the City a duplicate original of an insurance policy naming the City of Kerrville as an additionally insured. Such insurance shall insure both the City of Kerrville and Contractor, during the term of the work, against loss by fire, windstorm, vandalism, theft, or other casualty. Such policy shall be in the total amount of this contract.

8. QUALITY OF WORK

All work shall be of good workmanship. Contractor shall comply with all applicable City of Kerrville Codes as well as all applicable professional and technical standards. Materials shall be of first quality.

9. CHANGES AND EXTRAS

No change of this Contract, whether for additional work, additional compensation, or other, shall be effective unless prior thereto a written change order has been authorized by the City Council. Employees of the City do not have the authority to issue change orders.

10. ADDENDA

Contractor acknowledges the receipt of the following addenda:

1. Dated: 4/14/10
  2. Dated: 4/22/10
  3. Dated: 5/5/10
11. CONTRACT SUM

Acknowledged by: Robert L. Shields  
Acknolgedged by: Robert L. Shields  
Acknolgedged by: Robert L. Shields

Proposal: Contractor agrees to provide all labor, materials, and all incidentals necessary to complete "The Work" for the following Unit Prices:

## Part 1 - Water Systems

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	Mobilization (5% max)	1	LS	35,000 <sup>-</sup>	35,000 <sup>-</sup>
2	12-inch Diameter PVC C-900 Class 200 SDR-14 Water Line, Open Cut, including bedding & backfill, testing, complete in place, the sum of	10,095	LF	27 <sup>-</sup>	272,565 <sup>-</sup>
3	12-inch Diameter PVC C-900 Class 200 SDR-14 Water Line in 24" dia Steel Casing, including bedding & backfill, testing, complete in place, the sum of	425	LF	135.00	57,375.00
4	12-inch Diameter PVC C-900 Class 200 SDR-14 Water Line, by Jack or Bore, including testing, complete in place, the sum of	450	LF	300.00	135,000.00
5	8-inch Diameter PVC C-900 Class 200 SDR-14 Water Line, Open Cut, including bedding & backfill, testing, complete in place, the sum of	40	LF	21.00	840.00
6	24-inch Diameter Steel Casing, 3/8 inch thick, ASTM A-134 by Open Cut or Jack or Bore Construction, including bedding & backfill, testing, complete in place, the sum of	261	LF	100.00	15,660.00

Item No.	Description	Quantity	Unit	Unit Price	Amount
7	6-inch Diameter PVC C-900 Class 200 SDR-14 Water Line, Open Cut, including bedding & backfill, testing, complete in place, the sum of	40	LF	18.00	720.00
8	6-inch Diameter DIP Fire Hydrant Lead, Open Cut, including bedding & backfill, testing, complete in place, the sum of	119	LF	42.00	4,998.00
9	Automatic Air/Vacuum Release Valve in Manhole, complete in place, the sum of	4	EA	2,700.00	10,800.00
10	12-inch Gate Valve & Box, complete in place, the sum of	53	EA	2,200.00	116,600.00
11	8-inch Gate Valve & Box, complete in place, the sum of	2	EA	1,200.00	2,400.00
12	6-inch Gate Valve & Box, complete in place, the sum of	22	EA	1,100.00	24,200.00
13	Fire Hydrant Assembly, complete in place, the sum of	18	EA	3,200.00	57,600.00
14	6-inch Wet Connection to Existing Main, complete in place, the sum of	1	EA	2,500.00	2,500.00
15	10-inch Wet Connection to Existing Main, complete in place, the sum of	2	EA	3,500.00	7,000.00
16	12-inch Wet Connection to Existing Main, complete in place, the sum of	2	EA	3,500.00	7,000.00

Item No.	Description	Quantity	Unit	Unit Price	Amount
17	10"x10" Cut in Tee, Mechanical Joint, complete in place, the sum of	1	EA	1,500.00	1,500.00
18	12"x12" Cut in Tee, Mechanical Joint, complete in place, the sum of	1	EA	1,700.00	1,700.00
19	1-inch Water Service Connections, complete in place, the sum of	35	EA	850.00	29,750.00
20	Miscellaneous Fitting, complete in place, the sum of	8.7	TON	4,500.00	39,150.00
21	Trench Safety System	11,774	LF	0.10	1,177.40
<b>TOTAL WATER SYSTEMS</b>					<b>823,535.40</b>

## Part 2 – Wastewater System

Item No.	Description	Quantity	Unit	Unit Price	Amount
22	Mobilization (5% max)	1	LS	57,000	57,000.00
23	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, Open Cut, 0-6' cut, including bedding & backfill, testing, complete in place, the sum of	30	LF	23.00	690.00
24	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, Open Cut, 6'-10' cut, including bedding & backfill, testing, complete in place, the sum of	5,255	LF	25.00	131,375.00

Item No.	Description	Quantity	Unit	Unit Price	Amount
25	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, Open Cut, 10'-14' cut, including bedding & backfill, testing, complete in place, the sum of	2,730	LF	30.00	81,900.00
26	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, Open Cut, 14'-18' cut, including bedding & backfill, testing, complete in place, the sum of	1,230	LF	37.00	45,510.00
27	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, Open Cut, 18'-22' cut, including bedding & backfill, testing, complete in place, the sum of	800	LF	52.00	41,600.00
28	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, Open Cut, 22'-26' cut, including bedding & backfill, testing, complete in place, the sum of	585	LF	80.00	46,800.00
29	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line in 24-inch Steel Casing, including bedding & backfill, testing, complete in place, the sum of	430	LF	42.00	18,060.00
30	24-inch Diameter Steel Casing ASTM A-134, 3/8 inch thick, by Open Cut or Jack Bore Construction, including bedding & backfill, testing, complete in place, the sum of	430	LF	200 - <del>(SJR) 200</del>	86,000 - <del>20,960.00</del> SJR

Item No.	Description	Quantity	Unit	Unit Price	Amount
31	12-inch Diameter PVC ASTM D-3034 DR-26 Wastewater Line, by Jack or Bore Construction, including testing, complete in place, the sum of	190	LF	300.00	57,000.00
32	8-inch Diameter PVC ASTMD-3034 DR-26 Wastewater Line, Open Cut, 0'-6' depth including bedding & backfill, testing, complete in place, the sum of	30	LF	33.00	990.00
33	8-inch Diameter PVC ASTMD-3034 DR-26 Wastewater Line, Open Cut, 6'-10' depth including bedding & backfill, testing, complete in place, the sum of	127	LF	39.00	4,953.00
34	8-inch Diameter PVC ASTMD-3034 DR-26 Wastewater Line, Open Cut, 10'-14' depth including bedding & backfill, testing, complete in place, the sum of	51	LF	45.00	2,295.00
35	8-inch Diameter PVC ASTMD-3034 DR-26 Wastewater Line, Open Cut, 14'-18' depth including bedding & backfill, testing, complete in place, the sum of	40	LF	55.00	2,200.00
36	8-inch Diameter PVC ASTMD-3034 DR-26 Wastewater Line in 16" dia Steel Casing including backfill, testing, complete in place, the sum of	180	LF	41.00	7,380.00
37	16-inch Diameter Steel Casing ASTM A-134, 3/8 inch thick by Open Cut Construction, including bedding and backfill, complete in place, the sum of	180	LF	70.00	12,600.00

Item No.	Description	Quantity	Unit	Unit Price	Amount
38	4-inch Diameter Wastewater Services, including bedding and backfill, complete in place, the sum of	480	LF	40.00	19,200.00
39	6-inch Diameter Wastewater Services, including bedding and backfill, complete in place, the sum of	38	LF	55.00	2,090.00
40	12-inch Diameter PVC Class 150 Wastewater Line (Pressure Pipe), Open Cut, including bedding & backfill, testing, complete in place, the sum of	47	LF	80.00	3,760.00
41	Two way cleanouts, complete in place, the sum of	20	EA	950.00	19,000.00
42	48-inch Diameter Wastewater Manhole, up to 6-foot depth, complete in place, the sum of	3	EA	3,000.00	9,000.00
43	48-inch Diameter Wastewater Drop Manholes, up to 6-foot depth, complete in place, the sum of	1	EA	6,800.00	6,800.00
44	60-inch Diameter Wastewater Manholes, up to 6-foot depth, complete in place, the sum of	42	EA	4,400.00	184,800.00
45	60-inch Diameter Wastewater Drop Manholes, up to 6-foot depth, complete in place, the sum of	5	LF	8,800.00	44,000.00
46	Extra depth manhole (> 6-foot), complete in place, the sum of	265	VF	300.00	79,500.00
47	Trench Safety System	11,320	LF	<del>17</del> 8300	<del>192,440</del> 94,960
<b>TOTAL WASTEWATER</b>					<b>1,156,943</b>

Part 3 – Miscellaneous Items

Item No.	Description	Quantity	Unit	Unit Price	Amount
48	Type I Pavement Trench Repair, including base and top course, saw cut, complete in place, the sum of	4,185	LF	37 <sup>-</sup>	154,845 <sup>-</sup>
49	4-foot wide (min.) Gabions, complete in place, the sum of	1,450	LF	70 <sup>-</sup>	101,500
50	Filter Fabric Fence, complete in place, the sum of	10,615	LF	3 <sup>-</sup>	31,845
51	Rock Berm, complete in place, the sum of	420	LF	50 <sup>-</sup>	21,000 <sup>-</sup>
52	Stabilized Construction Exit, complete in place, the sum of	5	EA	1000 <sup>-</sup>	5,000 <sup>-</sup>
53	Traffic Control and Regulation, complete in place, the sum of	1	LS	8,000 <sup>-</sup>	8,000 <sup>-</sup>
54	Seeding for Erosion Control, complete in place, the sum of	39,960	SY	0.40	15,984 <sup>-</sup>
55	Sewer Main Television Inspection (all sizes), the sum of	10,360	LF	1.20	12,432 <sup>-</sup>
56	Preparation of SWPPP	1	LS	8,000 <sup>-</sup>	8,000 <sup>-</sup>
57	Contingency-Budget Allowed to be used only when directed in writing, by City Engineer	1	AA	\$125,000	\$125,000
<b>TOTAL MISCELLANEOUS ITEMS</b>					<b>483,606</b>
<b>TOTAL BID (Part 1 + Part 2 + Part 3)</b>					<b>2,464,084.40</b>

**Part 4 – Additive Alternate No. 1 (Alternate Pavement Trench Repair)**

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	One Coarse Surface Treatment, complete in place, the sum of	18,400	SY	3 -	55,200 -
2	Type II Pavement Trench Repair, including base course, saw cut, complete in place, the sum of	4,185	LF	25 -	104,625 -
<b>TOTAL ADDITIVE ALTERNATE NO. 1</b>					<b>159,825 -</b>

**Part 5 – Additive Alternate No. 2 (LCRA Waterline Replacement)**

Item No.	Description	Quantity	Unit	Unit Price	Amount
1	12-inch Diameter PVC C-900 Class 200 SDR-14 Water Line, Open Cut, including bedding & backfill, testing, complete in place, the sum of	940	LF	30 -	28,200 -
5	12-inch Gate Valve and Box, complete in place, the sum of	2	EA	2,500 -	5,000 -
6	12-inch Wet Connection to Existing Main, complete in place, the sum of	2	BA	4,665 -	9,330 -
7	Miscellaneous fittings, complete in place, the sum of	1.7	TON	5,000 -	8,500 -
8	Trench Safety Protection	940	LF	0.50	470 -
<b>TOTAL ADDITIVE ALTERNATE NO. 2</b>					<b>51,500 -</b>

COMPLETED BY

DATE

Bank Lewis, Nelson Lewis, Inc.

5/11/10

Sub-Contractors:

NAME	ADDRESS	PHONE	WORK TO BE PERFORMED
1. <u>Allen Keller</u>	<u>P.O. Box 393 Fredericksburg, TX 78624 3850 CR 255</u>	<u>(830) 998-1352</u>	<u>Street Restoration/ Patching</u>
2. <u>Grand Republic</u>	<u>Georgetown, TX 78633</u>	<u>(512) 989-2642</u>	<u>Boxing</u>
3. _____			

(Attach additional sheet if required)

INSURANCE AGENT

NAME ADDRESS PHONE POLICY

1. Catto & Catto 217 E Houston, Ste. 100 San Antonio, TX 78205 General, Auto, Umbrella

2. Heart HR 900 RR 620 South, Austin, TX 78734 Workman's Comp

3. \_\_\_\_\_

BONDING AGENT

NAME ADDRESS PHONE POLICY

1. Catto & Catto 217 E. Houston, Ste 100, San Antonio, TX 78205 #13745

2. \_\_\_\_\_

3. \_\_\_\_\_

Signed this 11 day of May, 2010

Attest: 

Secretary  
(if bid by a Corporation)

SEAL

Nelson Greups, Inc  
Contractor

BY: 

Title: V.P.

Business Address:

P.O. Box 235

Marble Falls, TX 78654

City of Kerrville  
Harper Road Utility Extension Project to Avery

**CONSTRUCTION CONTRACT**

Phone: 830 693-8874

Fax: 830 693-5986

ACCEPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

By: \_\_\_\_\_  
Todd Parton, City Manager  
City of Kerrville, Texas.

ATTEST:

\_\_\_\_\_  
City Secretary

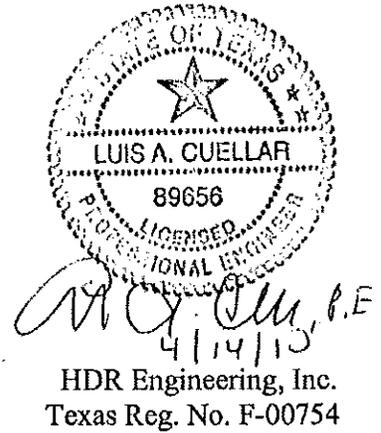
CITY SEAL

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ADDENDUM NO. 1

DATE: April 14, 2010  
TO: All Plan Holders of Record  
FROM: HDR|Claunch & Miller  
4635 Southwest Freeway, Suite 1000  
Houston, Texas 77027-7169  
PROJECT: Harper Road Utility Extension Project  
City of Kerrville Job No. 06-0078



This addendum forms a part of the Contract Documents and modifies the original specifications, drawings and addenda, as noted. Unaltered provisions and drawings of the Contract Documents shall remain in effect. Acknowledge receipt of this Addendum in the space provided on the bid form. Failure to do so may subject the bidder to disqualification.

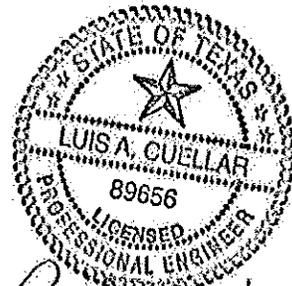
Bidding and Contract Requirements:

1. Section 060 Advertisement for Bids – Sealed bids for the Harper Road Utility Extension Project will be received until **3:00PM on May 11, 2010**. All questions regarding the project shall be directed to [luis.cuellar@hdrinc.com](mailto:luis.cuellar@hdrinc.com) in writing no later than **5:00PM on May 4, 2010**.

END OF ADDENDUM NO. 1

ADDENDUM NO. 2

DATE: April 22, 2010  
TO: All Plan Holders of Record  
FROM: HDR|Claunch & Miller  
4635 Southwest Freeway, Suite 1000  
Houston, Texas 77027-7169  
PROJECT: Harper Road Utility Extension Project  
City of Kerrville Job No. 06-0078



*Luis A. Cuellar, P.E.*  
4/22/10

HDR Engineering, Inc.  
Texas Reg. No. F-00754

This addendum forms a part of the Contract Documents and modifies the original specifications, drawings and addenda, as noted. Unaltered provisions and drawings of the Contract Documents shall remain in effect. Acknowledge receipt of this Addendum in the space provided on the bid form. Failure to do so may subject the bidder to disqualification.

Bidding and Contract Requirements:

1. Section 070 Construction Contract – Page 070-1 Part 1. The Work : For clarification, the Contractor shall note that the approximate footage for the 12-inch water main was changed to 11,000. Please note that this quantity is approximate and is subject to change during construction.
2. Section 070 Construction Contract – Page 070-2 Part 4 Payments: For clarification, the Contractor shall note that the City does not pay for materials and/or equipment stored on site or at other locations. Payment will only be made for complete in place approved construction.
3. Section 070 Construction Contract – Pages 070-5 through 070-11 : A number of pay items have been modified or added as follows:
  - a. Pay Item 8 – Quantity for this item has been increased from 34 LF to 119 LF.
  - b. Pay Item 13 – Description has been changed to “Fire Hydrant Assembly”, which shall include fire hydrant, 4’ x 4’ x 6” concrete pad, concrete thrust blocking, anchor tee, 6” gate valve and box, bedding and backfill, and all other items as indicated 380.10 in plan sheet 66, excluding the DI pipe fire hydrant lead. The fire hydrant lead is paid for separately per linear feet as indicated in bid item 8 in Section 070.
  - c. Pay Items 14 through 16 – For clarification, the Contractor is made aware that all work required for Wet Connections to Existing Main shall include all labor, materials, equipment, testing, and personnel as needed to make the necessary tie-

in to existing City water mains. The City will not perform the tie-ins or require fees for tie-ins, as has been done on other similar City projects.

- d. Pay Items 19 and 38 – These pay items for 1” water service and 4-inch wastewater service, respectively, have been increased to account for four (4) additional services along the Dana G.T. Kirk property (approximate Stations 71+30 to 105+10). These services will be located in the field by the City’s representative during construction.
- e. Pay Items 23 and 27 – These pay items have been expanded to multiple pay items for the different depths of pipe in the project. Please note the additional pay items added.
- f. Pay Items 24 through 48 – These pay item numbers have been revised due to the additional pay items added to the project.
- g. Pay Item 47 – Quantity for this item has been increased to 11,320 LF.
- h. Pay Item 49 – This pay item has been modified to read “4-foot wide (min.) Gabions”. The actual width of gabion shall be per Contractor’s means and methods. No additional pay will be made for gabions wider than 4 feet.
- i. Pay Item No. 56 – This new pay item has been added to this section for the preparation of a site specific Storm Water Pollution Prevention Plan (SWPPP) for the construction of the Harper Road Utility Extension Project. The SWPPP shall be prepared by a registered professional engineer and shall follow Part III of TXR 150000 per specification section 01565 TPDES Requirements. Dewatering measures shall be addressed in SWPPP preparation. All other items required as part of section 01565 TPDES Requirements shall be performed by successful Contractor at no separate pay.
- j. Part 4, Item No. 1 The unit for this pay item has been changed from “SF” to “SY”.

**(SEE ATTACHED SECTION 070 SHEETS 070-5 – 070-15 – 11 sheets).**

- 4. Section 090 Description of Work – Page 090-1 : For clarification, the Contractor shall note that the approximate footage for the 12-inch water main was changed to 11,000. Please note that this quantity is approximate and is subject to change during construction.
- 5. Section 100 General Requirements – Section 112.04 Substantial Completion: Contractor shall remove this part of the specification in its entirety.
- 6. Specification Section 01410 - Part 1, 1.02.A5 : Contractor shall remove this part of the specification in its entirety. It should be noted that the Owner shall pay for all proctor curves to establish optimum moisture and Owner shall also pay for all density tests.
- 7. TXDOT Permit – Contractor shall make note of attached TxDOT permit and comply will all requirements indicated in permit. No separate pay will be made for this item of work. **(SEE ATTACHED TXDOT PERMIT APPROVALS AND SPECIAL PROVISIONS – 11 sheets).**

Clarifications (Q&A):

The following represent clarifications on the Contract Documents:

1. *Question - Please reference paragraph 122.13-Minoroty/DBE Participation in the bid documents. Can you please clarify the means and methods of which we are required to make reasonable effort, the time in advance of the bid date in which we are required to do so and provide us with an available list of DBE contractors as stated in sentence 2 of this paragraph?*

**Answer :** Bidders' evaluation of available M/DBE contractors found on <http://www.dot.state.tx.us/business/tucp/tucp-alpha-dist.htm?dist=SAT>, or similar website, will be considered as a reasonable effort to meet this requirement.

2. *Question - Please reference Water Specifications Section 371.01 Standard Products List for iron fittings manufactured by Tyler Pipe. Are both foreign and domestic manufactured fittings acceptable to the City of Kerrville for this project?*

**Answer :** As long as the products meet all applicable ASTM standards and are tested in the US, either foreign or domestic Tyler Union fittings are acceptable.

3. *Question - Please reference Water Specifications Section 322 Materials. Is a 2-inch wide metallic location tape acceptable? If not what size?*

**Answer :** A 6-inch wide (min) metallic location tape, or City approved equal, is acceptable for this project.

4. *Question - Please reference Water Specifications Section 371.01 Standard Products List. In lieu of the specified Mueller H-15209 90 degree bend, is the A.Y. McDonald 6100 Q Assembly an approved equal?*

**Answer :** At this time, this is not in the City's approved list. The successful bidder may request this substitute during the shop drawing submittal process for further evaluation.

5. *Question - Can the specified 60-inch diameter wastewater manholes be modified to provide a 48-inch transition top at some point above the pipe and include a 48-inch diameter riser in lieu of a 60-inch diameter riser all the way to the top?*

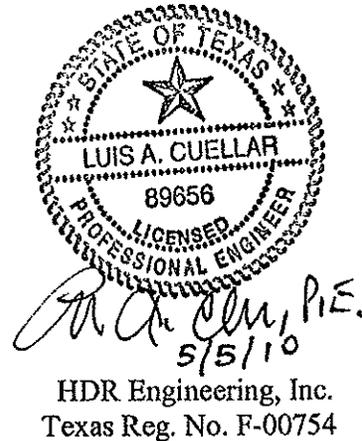
**Answer :** The City will allow a 48-inch diameter riser beginning at 5 feet above the bench, provided that the manhole meets or exceed the structural requirements and other requirements noted in the existing "Concrete Manhole Detail" shown on Sheet 66 of the plans, and the City's specifications.

6. For clarification, at all wastewater main stubs, the Contractor shall provide a plug, whether called out in the plans or not, and no separate pay. Additionally, at all water main terminus points, the Contractor shall provide a solid cap mechanical joint to be paid for per the unit price for Miscellaneous Joints.

**END OF ADDENDUM NO. 2**

ADDENDUM NO. 3

DATE: May 5, 2010  
TO: All Plan Holders of Record  
FROM: HDR|Claunch & Miller  
4635 Southwest Freeway, Suite 1000  
Houston, Texas 77027-7169  
PROJECT: Harper Road Utility Extension Project  
City of Kerrville Job No. 06-0078



This addendum forms a part of the Contract Documents and modifies the original specifications, drawings and addenda, as noted. Unaltered provisions and drawings of the Contract Documents shall remain in effect. Acknowledge receipt of this Addendum in the space provided on the bid form. Failure to do so may subject the bidder to disqualification.

**Clarifications (Q&A) –**

The following represent clarifications on the Contract Documents:

**Questions issued by Bob Quinn with Rockin Q Construction, LLC:**

1. *Question - Please provide environmental regulations for discharge of groundwater into Town Creek.*  
**Answer: Discharge requirements were previously addressed in Addendum #2 through clarification requirements for the preparation of the SWPPP.**
2. *Question - Please provide specification for trench gravel backfill. Specification would be needed if contractor chooses to fill entire trench excavation with gravel. Due to groundwater, select native fill may be difficult to save and may not be suitable for cement stabilization.*  
**Answer: The trench repair detail on sheet 67 of the construction plans specify either native material or select fill to be compacted to 95%. Select fill is defined in specification section 622.**
3. *Question - Please provide possible off-site spoils locations and telephone numbers. It was indicated in the pre-bid meeting that the city may know of disposal yards.*  
**Answer: See response to Question 4 below.**
4. *Question - Will the City of Kerrville Landfill accept the spoils at no cost.*  
**The successful low bid Contractor may coordinate with the City of Kerrville Landfill staff prior to commencing construction to determine whether the excess excavated material is suitable for disposal at their facility. If the City determines**

that the excavated material is suitable, the Contractor may be allowed to dispose at the City landfill at no cost to the Contractor. Please be advised that the City may require that the Contractor perform testing of material to determine suitability prior to disposal to City Landfill.

5. *Question – Please provide stations for wet and cut-in water connections.*

**Answer:** Locations for connections will be coordinated with successful low bid Contractor prior to and during construction.

6. *Question – Due to the depth of trench excavation, groundwater and limited work space from station 21+06 to station 49+00 there could be significant street repair. To provide the best possible product, the street should be rebuilt. Will the city of Kerrville pay for rebuilding street or should contractor include street rebuild in pipe installation cost.*

**Answer:** An add alternate currently exists in the bid proposal to provide a one course surface treatment as part of the Type II Pavement Trench Repair alternative. Please note that if this add alternate is accepted by the City, Item No. 48 – Type I Pavement Trench Repair, will be deducted from the Contract. Bidders are advised that if any portions of streets outside of the trench zone are damaged as a result of construction operations, it will be the Contractor's responsibility to repair the road to pre-construction condition at his cost.

7. *Question – From station 37+78 to station 44+85 would it be acceptable to install a smaller, shallower sewer line to provide service to homes in lieu of installing service stacks on 12" sewer main.*

**Answer:** This design alternative will not be considered at this time. The successful low bidder can provide an alternative design at his expense for the City's review. Please review section 131.07 in Specifications.

8. *Question – Geotechnical informaton provided is from August 21, 2007. Groundwater maybe greatly increased as when observed. Is the contractor responsible for difference in groundwater elevatons or will there be compensation for additional pumping required?*

**Answer:** Ground and surface water control is subsidiary to project, as indicated in Specification Section 01563. Additionally, the Specifications and Contract documents state that the Geotechnical Engineering Study is for informational purposes only and the Owner and Engineer do not guarantee the accuracy or completeness of any information or data in the report. The bidder may perform additional studies as he deems appropriate.

9. *Question – General Requirement 129.05 describes monthly progress payments but does not indicated the length of time in which the city will actually pay the contractor for monthly progress. Please describe the cities payment schedule.*

**Answer: City will strive to pay Contractor's pay application within thirty (30) days after receipt of approved pay application.**

10. *Question – There doesn't seem to be a specification allowing for change orders, disputes, arbitration etc. Please specify.*

**Answer: Section 125.01 Claims and Disputes provides guidance on dispute resolution and changes in work. Many other sections in the specifications address change orders, such as 112.01, 123.02, and 126.06.**

Questions issued by ACT Pipe Supply:

11. *Question – Will fiberglass manholes be allowed for the project?*

**Answer: No. Only concrete manholes will be allowed.**

**END OF ADDENDUM NO. 3**

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Award a contract to Southern Ionics Incorporated for the purchase of Alum at a unit price of \$0.871 per gallon

**FOR AGENDA OF:** 6/22/2010

**DATE SUBMITTED:** 6/09/2010

**SUBMITTED BY:** Stuart Barron *SB*  
Water/Wastewater Manager

**CLEARANCES:** Charlie Hastings *CH*  
Director of Public Works

**EXHIBITS:** Bid Log, Contract Documents

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *W*

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number</b>
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**APPROVED FOR SUBMITTAL BY DIRECTOR OF Finance:**

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**SUMMARY STATEMENT**

The Kerrville Wastewater Treatment Plant uses chemicals to assist in the treatment of wastewater. One of these chemicals is liquid aluminum sulfate (Alum). Alum acts as a coagulant, causing the suspended solids in wastewater to settle out.

In an effort to best utilize appropriated funds, the Wastewater Treatment Division has requested bids for this chemical for a period of one year with the City's option to extend for an additional three year term. The lowest qualified bidder for Alum was Southern Ionics Incorporated at a unit price of \$0.871/gallon delivered to the City of Kerrville Wastewater Treatment Plant. It is estimated that the Wastewater Treatment Division will use 65,000 gallons of Alum per year.

**RECOMMENDED ACTION**

The Director of Public Works recommends that council authorize the city manager to execute a contract with Southern Ionics Incorporated at a unit price of \$0.871/gallon.



## **LIQUID ALUMINUM SULFATE – INDUSTRIAL GRADE LOW IRON**

**APPROXIMATE ANNUAL USAGE:** 65,000 US Gallons

**CHEMICAL FORMULA:**  $Al_2(SO_4)_3 \cdot 14H_2O$  in aqueous solution

**DESCRIPTION:** Aluminum sulfate solution is a clear, water-white to light amber liquid. Aluminum sulfate supplied must comply with AMERICAN WATER WORKS ASSOCIATION specification B403-03.

**APPLICATION:** Chemical precipitation of Phosphorous in normal treatment conditions. Clarifying aid for raw-water and waste-water treatment.

**SITE CONDITIONS FOR UNLOADING:** Rear unloading transport must be used; truck will be at a slope on a hill at the site.

**MATERIAL SAFETY DATA SHEETS REQUIREMENTS:** If any chemicals, materials, or products containing toxic substances, in accordance with OSHA Hazardous Communications Standards, are contained in the products purchased by the City of Kerrville as a result of this bid, the successful bidder shall provide a Material Safety Data Sheet at the time of each delivery.

**BIDDER CAPABILITY/REFERENCES:** Prior to contract award, any bidder may be required to show that the company has the necessary facilities, equipment, ability and financial resources to perform the work specified in a satisfactory manner and within the time specified. In addition, the company must have experience in work of the same or similar nature, and can provide references which will satisfy the City. Bidders must furnish a reference list of at least four (4) customers for whom they have performed similar services. Vendors with an active and established business history that provide current services/products to the City of Kerrville are exempt from references and prequalification.

**DELIVERY/CLAIMS:** Prices quoted shall be F.O.B. Destination, FREIGHT INCLUDED and unloaded to location(s) within the City of Kerrville. Actual delivery address (es) shall be identified at time of order. Successful bidder(s) will be responsible for making any and all claims against carriers for missing or damaged items

**MATERIAL QUALITY:** All materials purchased and delivered against this contract will be of first quality and not damaged and/or factory seconds. Any materials damaged or not in first quality condition upon receipt will be exchanged within twenty-four (24) hours of notice to the Contractor at no charge to the City.

**INTENT:** It is the intent of The City of Kerrville to establish a contract for **Liquid Aluminum Sulfate** to be ordered and delivered as needed and when required.

**QUANTITIES:** Quantities stated are an estimate only and no guarantee is given or implied as to quantities that will be used during the contract period. Estimated quantities are based upon previous use and/or anticipated needs. The City of Kerrville Waste Water Treatment Facility has one (1) tank (5,500 gallons) for Aluminum Sulfate. Estimated requirement is 1,100 to 1,600 gallons per week. The estimated quantity to be purchased is 65,000 gallons per year. The City of Kerrville may not need the estimated quantity and may purchase more or less depending on use.

Prices bid must be **U.S. GALLONS – F.O.B. DESTINATION, FREIGHT INCLUDED.** The unit of measurement for the sale, delivery, and invoicing of the product must be consistent.

**PRICING/PERIOD OF CONTRACT:** Duration of the contract shall be for a period of twelve (12) months. It is the vendor's responsibility to request any pricing adjustment under this provision.

**OPTION OF RENEWAL:** The contract may be renewed subject to written notice of agreement from the City and successful bidder, for three (3) additional twelve (12) month periods beyond the primary contract period. This option shall be exercised only if all terms and conditions remain the same and approval is granted by the City Director of Finance with City Council Approval.

**DELIVERY:** Delivery shall be accepted during normal working hours. Monday through Friday (8:00 AM – 5:00 PM). Exceptions to delivery times outside of normal working hours must be approved by the Wastewater Division Superintendent and will be decided on a case by case basis.

**In order to maintain an efficient operation, delivery will be a primary concern.** The Waste Treatment Facility Management objective is for the selected bidder to have Liquid Aluminum Sulfate delivered to the City of Kerrville Wastewater Treatment Facility. When Aluminum Sulfate tank displays the need to order chemical, the Waste Treatment Facility Management representative will contact the vendor for delivery. The selected vendor must be able to deliver within four (4) working days or less from the day the order is placed. Occasionally, an unexpected increase in usage or weekend scheduling will require the selected vendor to respond in less than four (4) working days. Delivery shall be made by standard transport for Liquid Aluminum Sulfate and have rear offloading capability. The vendor's delivery system must be compatible with the City of Kerrville existing Aluminum Sulfate system. The vendor will be responsible for all clean up costs resulting from spills during product delivery. The CONTRACTOR shall also include an emergency spill response plan with the appropriate emergency response personnel names and telephone contact numbers (24 hour contact numbers) within 10 days of award. In addition, the proper spill response notification procedure, along with any forms required by all local, state, or federal regulatory agencies, shall be included by CONTRACTOR. This section in no way relieves the CONTRACTOR of his responsibility to notify the proper regulatory agencies of a spill incident. In the event of a spill or leak the

CONTRACTOR shall supply the necessary personnel to respond to such an event and to manage and oversee "After Event" cleanup efforts. Should a spill or leak occur, caused by CONTRACTOR'S personnel, equipment, or method of delivery CONTRACTOR shall immediately comply with all applicable terms and conditions of the current version of Title III, Superfund Amendments and Reauthorization Act of 1986. 42 U.S.C.S.11001 et. seq. (SARA). The responsibility for compliance with Federal and State Rules and Regulations regarding CONTRACTOR caused spills or releases shall be the sole responsibility of the CONTRACTOR. The CONTRACTOR shall hold the ENTITIES harmless for any failure to properly report and/or comply with this provision.

**CHEMICAL AND PHYSICAL PROPERTIES:**

	Minimum	Maximum	Typical
*Al <sub>2</sub> O <sub>3</sub> % by wt.	8.12	8.39	8.26
*Iron as Fe (ppm)	-	50	-
pH (1% solution, wt/wt)	-	-	3.6
Turbidity NTU	-	20	
*Baumé @ 60°F	35.5	36.5	36.0
Density (lbs/gal) @ 60°F	-	-	11.09
Conc. % dry Al <sub>2</sub> (SO <sub>4</sub> ) <sub>3</sub> A 14H <sub>2</sub> O	-	-	48.47
Conc. lbs dry alum,	-	-	
17% Al <sub>2</sub> O <sub>3</sub> per gal	-	-	5.39
Freezing Point (°F)	-	-	5

\*Certificate of Analysis Properties

Must Sign Page 21

Cost: Bid must be in U.S. GALLONS \$ 0.871 gallon

zero dollars and eight hundred seventy-one cents.

Signed this the 20<sup>th</sup> day of May, 2010, 2009.

Attest: Sandra Mims By: \_\_\_\_\_  
Signed this the 20 day of May, 2009. 2010

Attest: [Signature] By: Southern Ionics Incorporated  
Secretary Supplier

(if bid by corporation)  
MS corporation

Jack R. Weimer  
Authorized Agent and Title  
Business Address:  
Jack R. Weimer; Vice President  
(Please type name)  
Southern Ionics Incorporated  
PO Drawer 1217  
West Point, MS 39173  
Telephone: 601-494-8066 X.207

Accepted this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF KERRVILLE

\_\_\_\_\_  
Todd Parton, City Manager

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Award a contract to Casey Ingredients for the purchase of Sodium Thiosulfate at a unit price of \$0.40 per pound.

**FOR AGENDA OF:** 6/22/2010

**DATE SUBMITTED:** 6/09/2010

**SUBMITTED BY:** Stuart Barron *SB*  
Water/Wastewater Manager

**CLEARANCES:** Charlie Hastings *CH*  
Director of Public Works

**EXHIBITS:** Bid Log, Contract Documents

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *JP*

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number</b>
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**APPROVED FOR SUBMITTAL BY DIRECTOR OF Finance:**

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**SUMMARY STATEMENT**

The Kerrville Wastewater Treatment Plant uses chemicals to assist in the treatment of wastewater. One of these chemicals is sodium thiosulfate. This chemical is used to de-chlorinate the wastewater effluent prior to discharge.

In an effort to best utilize appropriated funds, the Wastewater Treatment Division has requested bids for this chemical for a period of one year with the City's option to extend for an additional three year term. The lowest qualified bidder for sodium thiosulfate was Casey Ingredients at a unit price of \$0.40 / pound delivered to the City of Kerrville Wastewater Treatment Plant. It is estimated that the Wastewater Treatment Division will use 64,200 pounds of this chemical per year.

**RECOMMENDED ACTION**

The Director of Public Works recommends that council authorize the city manager to execute a contract with Casey Ingredients at a unit price of \$0.40 per pound.



## **SODIUM THIOSULFATE PENTAHYDRATE, TECHNICAL GRADE**

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**APPROXIMATE ANNUAL USAGE:** 64,200 lbs

Casey Ingredients, Inc.  
10720 Sentinel Dr.  
San Antonio, TX 78217  
210-545-5456

**CHEMICAL FORMULA:**  $\text{Na}_2\text{S}_2\text{O}_3 \cdot 5\text{H}_2\text{O}$

**DESCRIPTION:** Sodium Thiosulfate is a crystalline solid form used in the water and wastewater treatment industry. Delivered in 50 lb bags on pallets.

**APPLICATION:** De-Chlorination of Effluent water.

**MATERIAL SAFETY DATA SHEETS REQUIREMENTS:** If any chemicals, materials, or products containing toxic substances, in accordance with OSHA Hazardous Communications Standards, are contained in the products purchased by the City of Kerrville as a result of this bid, the successful bidder shall provide a Material Safety Data Sheet at the time of each delivery.

**BIDDER CAPABILITY/REFERENCES:** Prior to contract award, any bidder may be required to show that the company has the necessary facilities, equipment, ability and financial resources to perform the work specified in a satisfactory manner and within the time specified. In addition, the company must have experience in work of the same or similar nature, and can provide references which will satisfy the City. Bidders must furnish a reference list of at least four (4) customers for whom they have performed similar services. Vendors with an active and established business history that provide current services/products to the City of Kerrville are exempt from references and prequalification.

**DELIVERY/CLAIMS:** Prices quoted shall be F.O.B. Destination, FREIGHT INCLUDED and unloaded to location(s) within the City of Kerrville. Actual delivery address (es) shall be identified at time of order. Successful bidder(s) will be responsible for making any and all claims against carriers for missing or damaged items. Delivery carrier must possess some type of offloading mechanism such as forklift or Tommy lift. No method of offloading will be provided by City of Kerrville.

**MATERIAL QUALITY:** All materials purchased and delivered against this contract will be of first quality and not damaged and/or factory seconds. Any materials damaged or not in first quality condition upon receipt will be exchanged within twenty-four (24) hours of notice to the Contractor at no charge to the City.

**INTENT:** It is the intent of The City of Kerrville to establish a contract for **Sodium Thiosulfate Pentahydrate in the crystalline/pelletized form** to be ordered as needed and when required.

**QUANTITIES:** Quantities stated are an estimate only and no guarantee is given or implied as to quantities that will be used during the contract period. Estimated quantities are based upon previous use and/or anticipated needs. Estimated requirement is 1,750 lbs. per week. The estimated quantity to be purchased is 64,200 lbs. per year. City of Kerrville may not need the estimated quantity and may purchase more or less depending on use.

Prices bid must be **in U.S. Pounds – F.O.B. DESTINATION, FREIGHT INCLUDED.** The unit of measurement for the sale, delivery, and invoicing of the product must be consistent.

**PRICING/PERIOD OF CONTRACT:** Duration of the contract shall be for a period of twelve (12) months. It is the vendor's responsibility to request any pricing adjustment under this provision.

**OPTION OF RENEWAL:** The contract may be renewed subject to written notice of agreement from the City and successful bidder, for three (3) additional twelve (12) month periods beyond the primary contract period. This option shall be exercised only if all terms and conditions remain the same and approval is granted by the City Director of Finance with City Council Approval.

**DELIVERY:** Delivery shall be accepted during normal working hours. Monday through Friday (8:00 AM – 5:00 PM). Exceptions to delivery times outside of normal working hours must be approved by the Wastewater Division Superintendent and will be decided on a case by case basis.

**In order to maintain an efficient operation, delivery will be a primary concern.** The Waste Treatment Facility Management objective is for the selected bidder to have Sodium Thiosulfate Pentahydrate crystalline form in 50 lb bags delivered to the City of Kerrville Wastewater Treatment Facility. When the need to order chemical arises, the Waste Treatment Facility Management representative will contact the vendor for delivery. The selected vendor must be able to deliver within four (4) working days or less from the day the order is placed. Occasionally, an unexpected increase in usage or weekend scheduling will require the selected vendor to respond in less than four (4) working days. Delivery shall be made by standard transport for pallets of Sodium Thiosulfate and have the ability to offload the whole pallets without having to unload each bag individually. Therefore it is suggested that either a forklift or Tommy lift type setup be used. The vendor will be responsible for all clean up costs resulting from spills during product delivery. The CONTRACTOR shall also include an emergency spill response plan with the appropriate emergency response personnel names and telephone contact numbers (24 hour contact numbers) within 10 days of award. In addition, the proper spill response notification procedure, along with any forms required by all local, state, or federal regulatory agencies, shall be included by CONTRACTOR. This section in no way relieves the CONTRACTOR of his responsibility to notify the proper regulatory agencies of a spill incident. In the event of a spill or leak the CONTRACTOR

shall supply the necessary personnel to respond to such an event and to manage and oversee "After Event" cleanup efforts. Should a spill or leak occur, caused by CONTRACTOR'S personnel, equipment, or method of delivery CONTRACTOR shall immediately comply with all applicable terms and conditions of the current version of Title III, Superfund Amendments and Reauthorization Act of 1986. 42 U.S.C.S.11001 et. seq. (SARA). The responsibility for compliance with Federal and State Rules and Regulations regarding CONTRACTOR caused spills or releases shall be the sole responsibility of the CONTRACTOR. The CONTRACTOR shall hold the ENTITIES harmless for any failure to properly report and/or comply with this provision.

**CHEMICAL AND PHYSICAL PROPERTIES:**

	Minimum	Maximum	Typical
Sodium Thiosulfate Pentahydrate	99%	99.99%	>90% 99%

**Must Sign Page 21**

**Cost: Bid must be in U.S. POUNDS**

*.40/# Delivered*

Casey Ingredients, Inc,  
10720 Sentinel Dr.  
San Antonio, TX 78217  
210-545-5456

Signed this the 25 day of May, ~~2009~~<sup>2010</sup>

Attest: Bert Casey By: BERT CASEY  
Signed this the 25 day of May, ~~2009~~<sup>2010</sup>

Attest: Melissa Casey By: Melissa CASEY

Secretary

(if bid by corporation)

Casey Ingredients Inc

Supplier Casey Ingredients, Inc  
10720 Sentinel  
San Antonio, TX 78217

Casey Ingredients, Inc,  
10720 Sentinel Dr.  
San Antonio, TX 78217  
210-545-5456

Bert Casey - President  
Authorized Agent and Title  
Business Address:

BERT CASEY  
(Please type name)

10720 Sentinel  
San Antonio, Texas 78217

Telephone: 210-545-5456

Accepted this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF KERRVILLE

\_\_\_\_\_  
Todd Parton, City Manager

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Award a contract to Fort Bend Services for the purchase of Cationic Polymer FBS-7802 at a unit price of \$634.50 per 55 gallon drum.

**FOR AGENDA OF:** 6/22/2010

**DATE SUBMITTED:** 6/09/2010

**SUBMITTED BY:** Stuart Barron *SB*  
Water/Wastewater Manager

**CLEARANCES:** Charlie Hastings *CA*  
Director of Public Works

**EXHIBITS:** Bid Log

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *M*

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Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number
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**APPROVED FOR SUBMITTAL BY DIRECTOR OF Finance:**

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**SUMMARY STATEMENT**

The Kerrville Wastewater Treatment Plant uses chemicals to assist in the treatment of wastewater and wastewater sludge. One of these chemicals is a cationic polymer FBS-7802. This polymer helps to dewater the wastewater sludge. The sludge is then mixed with compost and applied at the sanitary landfill to assist in re-vegetation.

In an effort to best utilize appropriated funds, the Wastewater Treatment Division has requested bids for this chemical for a period of one year with the City's option to extend for an additional three year term. The lowest qualified bidder for cationic polymer FBS 7802 was Fort Bend Services at a unit price of \$634.50 / 55 gallon drum delivered to the City of Kerrville Wastewater Treatment Plant. It is estimated that the Wastewater Treatment Division will use 32 drums of this polymer per year.

**RECOMMENDED ACTION**

The Director of Public Works recommends that council authorize the city manager to execute a contract with Fort Bend Services at a unit price of \$634.50 per 55 gallon drum.



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Award a contract to Fort Bend Services for the purchase of Cationic Polymer FBS-C483 at a unit price of \$589.50 per 55 gallon drum.

**FOR AGENDA OF:** 6/22/2010

**DATE SUBMITTED:** 6/09/2010

**SUBMITTED BY:** Stuart Barron *SB*  
Water/Wastewater Manager

**CLEARANCES:** Charlie Hastings *CA*  
Director of Public Works

**EXHIBITS:** Bid Log, Contract Documents \*

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *[Signature]*

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Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number
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**APPROVED FOR SUBMITTAL BY DIRECTOR OF Finance:**

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**SUMMARY STATEMENT**

The Kerrville Wastewater Treatment Plant uses chemicals to assist in the treatment of wastewater. One of these chemicals is cationic polymer FBS-C483. This polymer acts as a coagulant, causing the suspended solids in wastewater to settle out.

In an effort to best utilize appropriated funds, the Wastewater Treatment Division has requested bids for this chemical for a period of one year with the City's option to extend for an additional three year term. The lowest qualified bidder for cationic polymer FBS-C483 was Fort Bend Services at a unit price of \$589.50 / 55 gallon drum delivered to the City of Kerrville Wastewater Treatment Plant. It is estimated that the Wastewater Treatment Division will use 48 drums of this polymer per year.

\* Fort Bend Services submitted one contract for two products (FBS-C483 & FBS-7802); however there are two agenda bills (one for each product).

**RECOMMENDED ACTION**

The Director of Public Works recommends that council authorize the city manager to execute a contract with Fort Bend Services at a unit price of \$589.5 per 55 gallon drum.



## FBS 7802 CATIONIC POLYMER

**APPROXIMATE ANNUAL USAGE:** 32 (55 Gallon Drums)

**CHEMICAL FORMULA:** Must be specially formulated to perform accordingly with the daily Kerrville WWTP dewatering operations as well as during all seasonal changes. Must prove efficiency during chemical trials of a minimum 17% solids with dosages rates not exceeding that of the current polymer supplier.

**DESCRIPTION:** FBS-7802 is a cationic polymer in emulsion designed for City of Kerrville Belt Press dewatering operations.

**APPLICATION:** Formulated for use in the City of Kerrville Belt Press Facility.

**MATERIAL SAFETY DATA SHEETS REQUIREMENTS:** If any chemicals, materials, or products containing toxic substances, in accordance with OSHA Hazardous Communications Standards, are contained in the products purchased by the City of Kerrville as a result of this bid, the successful bidder shall provide a Material Safety Data Sheet at the time of each delivery.

**BIDDER CAPABILITY/REFERENCES:** Prior to contract award, any bidder may be required to show that the company has the necessary facilities, equipment, ability and financial resources to perform the work specified in a satisfactory manner and within the time specified. In addition, the company must have experience in work of the same or similar nature, and can provide references which will satisfy the City. Bidders must furnish a reference list of at least four (4) customers for whom they have performed similar services. Vendors with an active and established business history that provide current services/products to the City of Kerrville are exempt from references and prequalification.

**PREQUALIFICATION:** To qualify a potential polymer vendor, they must be willing to participate in a demonstration and test of their products at the City of Kerrville WWTP. Because the polymer products are proprietary formulations differing in chemical properties and the application is unique, the test will be required to determine if their products could meet the specified plant operational requirements and NPDES discharge permit requirements, work with the City of Kerrville existing polymer blend and feed system, and not produce adverse effect on the tertiary treatment filter system (such as binding of the filters). Firms who pass this test will then be deemed pre-qualified and eligible to submit bid pricing. In preparation for this pre-qualifying testing, all firms are invited to do bench scale and full scale trial testing at the City of Kerrville WWTP with the exception of any firm who has already proved operational success at the City of Kerrville Facility.

Each firm will be assigned a two day period, it is within this two day period that the potential bidders will be allowed time to "pre-test" and optimize their product in the current City of Kerrville environment and to make whatever operational and product adjustments they determined necessary to meet the City's requirements. Each "pre-test" will be followed by one month of full-scale testing during which the product (provided at the vendor's expense) will test "live" during City of Kerrville operation of the treatment facility and the belt press. City of Kerrville staff and potential bidder will document test results, and each firm will provide to the City of Kerrville the proposed dosage rates and annual costs of product along with any and all additional charges to include delivery and any surcharges of the said product.

**DELIVERY/CLAIMS:** Prices quoted shall be F.O.B. Destination, FREIGHT INCLUDED and unloaded to location(s) within the City of Kerrville. Actual delivery address (es) shall be identified at time of order. Successful bidder(s) will be responsible for making any and all claims against carriers for missing or damaged items. Delivery carrier must possess some type of offloading mechanism such as forklift or Tommy lift. No method of offloading will be provided by City of Kerrville.

**MATERIAL QUALITY:** All materials purchased and delivered against this contract will be of first quality and not damaged and/or factory seconds. Any materials damaged or not in first quality condition upon receipt will be exchanged within twenty-four (24) hours of notice to the Contractor at no charge to the City.

**INTENT:** It is the intent of The City of Kerrville to establish a contract for **Belt Press polymer equal to Fort Bend Services Product FBS-7802** to be ordered as needed and when required.

**QUANTITIES:** Quantities stated are an estimate only and no guarantee is given or implied as to quantities that will be used during the contract period. Estimated quantities are based upon previous use and/or anticipated needs. Estimated requirement is 32 gallons per week. The estimated quantity to be purchased is (32) Fifty five gallon drums per year. City of Kerrville may not need the estimated quantity and may purchase more or less depending on use.

Prices bid must be **per 55 gallon drum – F.O.B. DESTINATION, FREIGHT INCLUDED**. The unit of measurement for the sale, delivery, and invoicing of the product must be consistent.

**PRICING/PERIOD OF CONTRACT:** Duration of the contract shall be for a period of twelve (12) months. Prices must remain at bid price for the duration of the contract. It is the vendor's responsibility to request any pricing adjustment.

**OPTION OF RENEWAL:** The contract may be renewed subject to written notice of agreement from the City and successful bidder, for three (3) additional twelve (12)-month periods beyond the primary contract period. This option shall be exercised only if all

terms and conditions remain the same and approval is granted by the City Director of Finance with City Council approval.

**DELIVERY:** In order to maintain an efficient operation, delivery will be a primary concern. The Waste Treatment Facility Management objective is for the selected bidder to have Belt Press Cationic Polymer in 55 gallon drums delivered to the City of Kerrville Wastewater Treatment Facility. When the need to order chemical arises, the Waste Treatment Facility Management representative will contact the vendor for delivery. The selected vendor must be able to deliver within four (4) working days or less from the day the order is placed. Occasionally, an unexpected increase in usage or weekend scheduling will require the selected vendor to respond in less than four (4) working days. Delivery shall be made by standard transport 55 gallon drums of Cationic Polymer and have the ability to offload the 55 gallon drums. Therefore it is suggested that either a forklift or Tommy lift type setup be used. The vendor will be responsible for all clean up costs resulting from spills during product delivery. The CONTRACTOR shall also include an emergency spill response plan with the appropriate emergency response personnel names and telephone contact numbers (24 hour contact numbers) within 10 days of award. In addition, the proper spill response notification procedure, along with any forms required by all local, state, or federal regulatory agencies, shall be included by CONTRACTOR. This section in no way relieves the CONTRACTOR of his responsibility to notify the proper regulatory agencies of a spill incident. In the event of a spill or leak the CONTRACTOR shall supply the necessary personnel to respond to such an event and to manage and oversee "After Event" cleanup efforts. Should a spill or leak occur, caused by CONTRACTOR'S personnel, equipment, or method of delivery CONTRACTOR shall immediately comply with all applicable terms and conditions of the current version of Title III, Superfund Amendments and Reauthorization Act of 1986. 42 U.S.C.S.11001 et. seq. (SARA). The responsibility for compliance with Federal and State Rules and Regulations regarding CONTRACTOR caused spills or releases shall be the sole responsibility of the CONTRACTOR. The CONTRACTOR shall hold the ENTITIES harmless for any failure to properly report and/or comply with this provision.

MUST SIGN PAGE 21

COST: PER 55 GALLON DRUM           \$634.50            
FBS 7802

\* Six hundred thirty four dollars and fifty cents per drum.

## **FBS-C483 CATIONIC POLYMER**

**APPROXIMATE ANNUAL USAGE:** 48 (55 Gallon Drums)

**CHEMICAL FORMULA:** N/A

**DESCRIPTION:** FBS-C483 is a cationic polymer in emulsion designed for City of Kerrville WWTP clarifier operations.

**APPLICATION:** For clarification of Mixed Liquor Suspended Solids.

**MATERIAL SAFETY DATA SHEETS REQUIREMENTS:** If any chemicals, materials, or products containing toxic substances, in accordance with OSHA Hazardous Communications Standards, are contained in the products purchased by the City of Kerrville as a result of this bid, the successful bidder shall provide a Material Safety Data Sheet at the time of each delivery.

**BIDDER CAPABILITY/REFERENCES:** Prior to contract award, any bidder may be required to show that the company has the necessary facilities, equipment, ability and financial resources to perform the work specified in a satisfactory manner and within the time specified. In addition, the company must have experience in work of the same or similar nature, and can provide references which will satisfy the City. Bidders must furnish a reference list of at least four (4) customers for whom they have performed similar services. Vendors with an active and established business history that provide current services/products to the City of Kerrville are exempt from references and prequalification.

**PREQUALIFICATION:** To qualify a potential polymer vendor, they must be willing to participate in a demonstration and test of their products at the City of Kerrville WWTP. Because the polymer products are proprietary formulations differing in chemical properties and the application is unique, the test will be required to determine if their products could meet the specified plant operational requirements and NPDES discharge permit requirements, work with the City of Kerrville existing polymer blend and feed system, and not produce adverse effect on the tertiary treatment filter system (such as binding of the filters). Firms who pass this test will then be deemed pre-qualified and eligible to submit bid pricing. In preparation for this pre-qualifying testing, all firms are invited to do bench scale and full scale trial testing at the City of Kerrville WWTP with the exception of any firm who has already proved operational success at the City of Kerrville Facility.

Each firm will be assigned a two day period, it is within this two day period that the potential bidders will be allowed time to "pre-test" and optimize their product in the current City of Kerrville environment and to make whatever operational and product adjustments they determined necessary to meet the City's requirements. Each "pre-test" will be followed by one month of full-scale testing during which the product (provided at the vendor's expense) will test "live" during City of Kerrville operation of the treatment facility and the belt press. City of Kerrville staff and potential bidder will document test results, and each firm will provide to the City of Kerrville the proposed dosage rates and annual costs of product along with any and all additional charges to include delivery and any surcharges of the said product.

**DELIVERY/CLAIMS:** Prices quoted shall be F.O.B. Destination, FREIGHT INCLUDED and unloaded to location(s) within the City of Kerrville. Actual delivery address (es) shall be identified at time of order. Successful bidder(s) will be responsible for making any and all claims against carriers for missing or damaged items. Delivery carrier must possess some type of offloading mechanism such as forklift or Tommy lift. No method of offloading will be provided by City of Kerrville.

**MATERIAL QUALITY:** All materials purchased and delivered against this contract will be of first quality and not damaged and/or factory seconds. Any materials damaged or not in first quality condition upon receipt will be exchanged within twenty-four (24) hours of notice to the Contractor at no charge to the City.

**INTENT:** It is the intent of The City of Kerrville to establish a contract for **Belt Press polymer equal to Fort Bend Services Product FBS-C483** to be ordered as needed and when required.

**QUANTITIES:** Quantities stated are an estimate only and no guarantee is given or implied as to quantities that will be used during the contract period. Estimated quantities are based upon previous use and/or anticipated needs. Estimated requirement is 42 gallons per week. The estimated quantity to be purchased is (48) Fifty five gallon drums per year. City of Kerrville may not need the estimated quantity and may purchase more or less depending on use.

Prices bid must be **per 55 gallon drum – F.O.B. DESTINATION, FREIGHT INCLUDED**. The unit of measurement for the sale, delivery, and invoicing of the product must be consistent.

**PRICING/PERIOD OF CONTRACT:** Duration of the contract shall be for a period of twelve (12) months. Prices must remain at bid price for the duration of the contract. It is the vendor's responsibility to request any pricing adjustment.

**OPTION OF RENEWAL:** The contract may be renewed subject to written notice of agreement from the City and successful bidder, for three (3) additional twelve (12) month periods beyond the primary contract period. This option shall be exercised only if all

terms and conditions remain the same and approval is granted by the City Director of Finance with City Council Approval.

**DELIVERY:** In order to maintain an efficient operation, delivery will be a primary concern. The Waste Treatment Facility Management objective is for the selected bidder to have Secondary Treatment Cationic Polymer in 55 gallon drums delivered to the City of Kerrville Wastewater Treatment Facility. When the need to order chemical arises, the Waste Treatment Facility Management representative will contact the vendor for delivery. The selected vendor must be able to deliver within four (4) working days or less from the day the order is placed. Occasionally, an unexpected increase in usage or weekend scheduling will require the selected vendor to respond in less than four (4) working days. Delivery shall be made by standard transport 55 gallon drums of Cationic Polymer and have the ability to offload the 55 gallon drums. Therefore it is suggested that either a forklift or Tommy lift type setup be used. The vendor will be responsible for all clean up costs resulting from spills during product delivery. The CONTRACTOR shall also include an emergency spill response plan with the appropriate emergency response personnel names and telephone contact numbers (24 hour contact numbers) within 10 days of award. In addition, the proper spill response notification procedure, along with any forms required by all local, state, or federal regulatory agencies, shall be included by CONTRACTOR. This section in no way relieves the CONTRACTOR of his responsibility to notify the proper regulatory agencies of a spill incident. In the event of a spill or leak the CONTRACTOR shall supply the necessary personnel to respond to such an event and to manage and oversee "After Event" cleanup efforts. Should a spill or leak occur, caused by CONTRACTOR'S personnel, equipment, or method of delivery CONTRACTOR shall immediately comply with all applicable terms and conditions of the current version of Title III, Superfund Amendments and Reauthorization Act of 1986. 42 U.S.C.S.11001 et. seq. (SARA). The responsibility for compliance with Federal and State Rules and Regulations regarding CONTRACTOR caused spills or releases shall be the sole responsibility of the CONTRACTOR. The CONTRACTOR shall hold the ENTITIES harmless for any failure to properly report and/or comply with this provision.

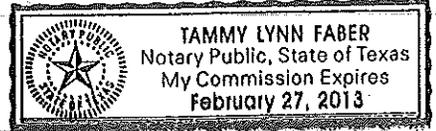
Must Sign Page 21.

COST: PER 55 GALLON DRUM           \$589.50          

FBS C483

\* Five hundred eighty nine dollars and fifty cents per drum.

Signed this the 28th day of May, 2009.



Attest: Tammy L. Faber By: Tammy L. Faber  
Signed this the 28th day of May, 2009.

Attest: Rosemary Levens By: FORT BEND SERVICES, INC

Secretary

Supplier

(if bid by corporation)

David James - West Region Sales Mgr  
Authorized Agent and Title  
Business Address:

David James

(Please type name)

Fort Bend Services, Inc.  
P.O. Box 1688  
Stafford, TX 77497-1688  
Telephone: 281-261-5199

Accepted this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF KERRVILLE

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\_\_\_\_\_  
Todd Parton, City Manager

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Award a contract to Acetylene Oxygen Company for the purchase of chlorine gas at a unit price of \$560.00 per ton.

**FOR AGENDA OF:** 6/22/2010

**DATE SUBMITTED:** 6/09/2010

**SUBMITTED BY:** Stuart Barron *SB*  
Water/Wastewater Manager

**CLEARANCES:** Charlie Hastings *CH*  
Director of Public Works

**EXHIBITS:** Bid Log, Contract Documents

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *W*

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Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number
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**APPROVED FOR SUBMITTAL BY DIRECTOR OF Finance:**

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**SUMMARY STATEMENT**

The Kerrville Wastewater Treatment Plant uses chemicals to assist in the treatment of wastewater. One of these chemicals is chlorine gas. This chemical is used to disinfect the wastewater effluent prior to discharge.

In an effort to best utilize appropriated funds, the Wastewater Treatment Division has requested bids for this chemical for a period of one year with the City's option to extend for an additional three year term. The lowest qualified bidder for chlorine gas was Acetylene Oxygen Company at a unit price of \$560.00 / ton delivered to the City of Kerrville Wastewater Treatment Plant. It is estimated that the Wastewater Treatment Division will use 51,000 pounds of this chemical per year.

**RECOMMENDED ACTION**

The Director of Public Works recommends that council authorize the city manager to execute a contract with Acetylene Oxygen Company at a unit price of \$560.00 per ton.



## **CHLORINE GAS**

**APPROXIMATE ANNUAL USAGE:** 51,000 lbs

**CHEMICAL FORMULA:** Cl<sub>2</sub>

**DESCRIPTION:** Chlorine gas in 100% form.

**APPLICATION:** Disinfection of Treated Effluent

**MATERIAL SAFETY DATA SHEETS REQUIREMENTS:** If any chemicals, materials, or products containing toxic substances, in accordance with OSHA Hazardous Communications Standards, are contained in the products purchased by the City of Kerrville as a result of this bid, the successful bidder shall provide a Material Safety Data Sheet at the time of each delivery.

**BIDDER CAPABILITY/REFERENCES:** Prior to contract award, any bidder may be required to show that the company has the necessary facilities, equipment, ability and financial resources to perform the work specified in a satisfactory manner and within the time specified. In addition, the company must have experience in work of the same or similar nature, and can provide references which will satisfy the City. Bidders must furnish a reference list of at least four (4) customers for whom they have performed similar services. Vendors with an active and established business history that provide current services/products to the City of Kerrville are exempt from references and prequalification.

**DELIVERY/CLAIMS:** Prices quoted shall be F.O.B. Destination, FREIGHT INCLUDED and unloaded to location(s) within the City of Kerrville. Actual delivery address (es) shall be identified at time of order. Successful bidder(s) will be responsible for making any and all claims against carriers for missing or damaged items

**MATERIAL QUALITY:** All materials purchased and delivered against this contract will be of first quality and not damaged and/or factory seconds. Any materials damaged or not in first quality condition upon receipt will be exchanged within twenty-four (24) hours of notice to the Contractor at no charge to the City.

**INTENT:** It is the intent of The City of Kerrville to establish a contract for **1 ton Chlorine Gas cylinders** to be ordered and delivered as needed and when required.

**QUANTITIES:** Quantities stated are an estimate only and no guarantee is given or implied as to quantities that will be used during the contract period. Estimated quantities are based upon previous use and/or anticipated needs. The City of Kerrville Waste Water Treatment Facility has the storage capacity of (3) three 1 ton Chlorine Cylinders.

Estimated requirement is 1,100 lbs. per week. The estimated quantity to be purchased is 51,000 lbs per year or 26 tons. City of Kerrville may not need the estimated quantity and may purchase more or less depending on use.

Prices bid must be **per cylinder** – F.O.B. DESTINATION, FREIGHT INCLUDED. The unit of measurement for the sale, delivery, and invoicing of the product must be consistent.

**PRICING/PERIOD OF CONTRACT:** Duration of the contract shall be for a period of twelve (12). It is the vendor's responsibility to request any pricing adjustment.

**OPTION OF RENEWAL:** The contract may be renewed subject to written notice of agreement from the City and successful bidder, for three (3) additional twelve (12) month periods beyond the primary contract period. This option shall be exercised only if all terms and conditions remain the same and approval is granted by the City Director of Finance with City Council Approval.

**DELIVERY:** Delivery shall be accepted during normal working hours. Monday through Friday (8:00 AM – 5:00 PM). Exceptions to delivery times outside of normal working hours must be approved by the Wastewater Division Superintendent and will be decided on a case by case basis.

**In order to maintain an efficient operation, delivery will be a primary concern.** The Waste Treatment Facility Management objective is for the selected bidder to have two 1 ton cylinders per order delivered. When one cylinder becomes empty, the Waste Treatment Facility Management representative will contact the vendor for delivery. The selected vendor must be able to deliver within four (4) working days or less from the day the order is placed. Occasionally, an unexpected increase in usage or weekend scheduling will require the selected vendor to respond in less than four (4) working days. Delivery shall be made by standard transport truck for 1 ton chlorine cylinders. The vendor's delivery system must be compatible with the chlorine cylinder hoist at the City of Kerrville facility site. The vendor will be responsible for all clean up costs resulting from spills during product delivery. The CONTRACTOR shall also include an emergency spill response plan with the appropriate emergency response personnel names and telephone contact numbers (24 hour contact numbers) within 10 days of award. In addition, the proper spill response notification procedure, along with any forms required by all local, state, or federal regulatory agencies, shall be included by CONTRACTOR. This section in no way relieves the CONTRACTOR of his responsibility to notify the proper regulatory agencies of a spill incident. In the event of a spill or leak the CONTRACTOR shall supply the necessary personnel to respond to such an event and to manage and oversee "After Event" cleanup efforts. Should a spill or leak occur, caused by CONTRACTOR'S personnel, equipment, or method of delivery CONTRACTOR shall immediately comply with all applicable terms and conditions of the current version of Title III, Superfund Amendments and Reauthorization Act of 1986. 42 U.S.C.S.11001 et. seq. (SARA). The responsibility for compliance with Federal and State Rules and Regulations regarding CONTRACTOR caused spills or releases shall be the sole

responsibility of the CONTRACTOR. The CONTRACTOR shall hold the ENTITIES harmless for any failure to properly report and/or comply with this provision.

Must Sign Page 21

Cost: Bid must per 1 Ton Cylinder \$560.<sup>00</sup> per ton  
Five Hundred Sixty and no/100ths  
per ton

Signed this the 31<sup>st</sup> day of May, 2010  
2009.

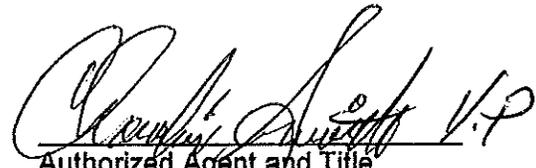
Attest: \_\_\_\_\_ By: \_\_\_\_\_  
Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Attest: \_\_\_\_\_ By: \_\_\_\_\_

Secretary

Supplier

(if bid by corporation)



Authorized Agent and Title  
Business Address:

CHARLIE SMITH VP Chemical  
(Please type name) DIVISION

AOC - Acetylene Oxygen Co.  
822 AT&T Center Parkway  
San Antonio TX 78219  
Telephone: 210-229-9431

Accepted this the \_\_\_\_\_ day of \_\_\_\_\_, 2009.

CITY OF KERRVILLE

\_\_\_\_\_  
Todd Parton, City Manager

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Consideration of the disbursement of EIC funds for annual operations expenses of the Kerr Economic Development Foundation (KEDF).

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 18, 2010

**SUBMITTED BY:** Todd Parton      **CLEARANCES:** NA  
City Manager

**EXHIBITS:** None

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

At the City Council meeting of April 13, 2010, City staff presented an agenda item regarding the disbursement of EIC funds budgeted for FY2010 to the KEDF. EIC's FY2010 budget includes a disbursement of \$25,000 for annual operations expenses.

On April 27, 2010, City staff provided the requested financial information. This report indicated the year-to-date revenues and expenditures in addition to the standard, recurring expenses for KEDF.

KEDF's FY2010 budget anticipates contributions from EIC, City of Kerrville, Kerr County, KPUB and private contributions. Combined, these budgeted revenues total \$177,500. KEDF has received a payment from Kerr County (\$25,000) and private contributions approaching \$34,000 of the \$40,000 anticipated for the year.

Routine, recurring expenses for KEDF are approximately \$12,000 per month. KEDF's unencumbered funds covered expenses through May 2010.

Without additional funding, KEDF would need to start utilizing its unencumbered reserve funds. As of the end of May KEDF had approximately \$59,000 in reserve funds or approximately 5 to 6 months of operating revenues in reserves. These

reserves are proceeds from land sold for the airport.

### **OPTIONS**

1. Direct that the process to disburse EIC funds to KEDF in an amount of up to \$25,000.
2. Table/postpone consideration.
3. Direct not to initiate the process to disburse EIC funds to KEDF.

### **RECOMMENDED ACTION**

At its regular meeting in May 2010, the EIC voted to disburse the \$25,000 of 4B funds budgeted for its contribution to KEDF. This recommendation was based on the following:

1. EIC's approved budget allocates \$25,000 of 4B funds to KEDF for the entirety of FY2010;
2. KEDF relied on the disbursement of these funds in preparing its annual budget and in expending its funds for this fiscal year;
3. A new or revised economic development organization will not be created until the current fiscal year is nearly completed and the \$25,000 corresponds with funding levels anticipated for operations funded for this fiscal year;
4. KEDF has operated in good faith and provided services through FY2010;
5. It is important to maintain current economic development operations until such time that the new organizational structure is implemented;
6. Members of the newly appointed Economic Development Governing Body are scheduled to complete their initial phase of work and are scheduled to make presentations to the EIC and other participating entities in July 2010 with funding requests forthcoming in August 2010; and
7. No additional funds should be allocated in anticipation of the impending implementation of the revised economic development program.

**PROJECT FUNDING AGREEMENT BETWEEN THE KERR ECONOMIC DEVELOPMENT FOUNDATION AND THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION**

THIS PROJECT FUNDING AGREEMENT is effective as of May 17, 2010, between the Kerr Economic Development Foundation ("KEDF") and the City of Kerrville, Texas Economic Improvement Corporation ("Corporation"), a Texas non-profit corporation established by City pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979) and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code (hereafter called "the Act").

**WITNESSETH:**

**WHEREAS**, pursuant to the Act, Corporation is authorized to undertake projects which the Corporation finds to be encompassed by the definition of "project", as that word is defined in the Act; and

**WHEREAS**, the Kerr Economic Development Foundation is a private entity whose mission statement provides that it seek to support and promote the retention, expansion, and attraction of business entities in Kerr County in a manner that complements the efforts of its economic development partners and enhances the quality of life; and

**WHEREAS**, KEDF has applied for funding from the EIC for marketing to further its efforts for economic development; and

**WHEREAS**, Corporation finds that this financial support of KEDF constitutes a "Project" as defined by the Act; and

**WHEREAS**, the Corporation finds that KEDF promotes or develops new or expanded business enterprises and fosters the creation or retention of "primary jobs," as that term is defined by the Act; and

**WHEREAS**, Section 505.102 of the Act provides that a Type B corporation may contract with another private corporation to (1) carry out an industrial development program or objective; or (2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties specified by the Act; and

**WHEREAS**, Corporation finds that it will be in the public interest to enter into this Agreement with KEDF to provide sales tax revenues collected pursuant to the Act ("Type B Revenues") to KEDF for costs related to the Project; and

**WHEREAS**, on March 17, 2010, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, Corporation held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of Type B Revenues for the Project;

**NOW THEREFORE**, for and in consideration of the recitals set forth above and the promises made herein, City and Corporation agree as follows:

1. EIC grants KEDF Twenty Five Thousand and 00/100 Dollars (\$25,000.00) ("Grant") for costs directly associated with developing marketing materials for business development, the 2010 Economic Delegation trip to Washington, D.C., continuing education/training expenses for the executive director, and the costs of marketing efforts and strategies in furtherance of the recommendations made by the Economic Development Strategic Plan prepared by TXP, Inc. ("Project").
2. KEDF shall keep and maintain complete and accurate records relating to the costs of the Project. EIC shall be entitled to inspect the records during the term of this Agreement and for 3 years following the termination of this Agreement, upon reasonable notice to KEDF.
3. KEDF is a private, nonprofit corporation in good standing under the laws of the State of Texas. Execution of this Agreement has been duly authorized by KEDF and this Agreement is not a contravention of any law, rule, or regulation or of the provisions of KEDF's rules or policies or of any agreement or instrument to which KEDF is a party or by which may be bound. No litigation or governmental proceeding is pending, or, to the knowledge of any of KEDF's officials, employees, or agents, threatened against or affecting KEDF, which may result in a material adverse change in KEDF's operations sufficient to jeopardize KEDF's legal existence.
4. No written application or written statement herewith or heretofore delivered by KEDF to EIC in connection herewith, or in connection with any transaction contemplated hereby, to the knowledge of any of KEDF's officials, employees, or agents, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.
5. EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act.
6. No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's Board of Directors, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement.
7. Upon breach of this Agreement by either party, the non-breaching party shall have the right to pursue any and all remedies which may be provided by law.
8. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by another party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way;

nor shall any waiver in fact be made by any party with respect to any specific default by any other party except to the extent specifically waived in writing.

9. If any legal action is brought by either of the parties hereto, it is expressly agreed that the prevailing party in such legal action shall be entitled to recover from the other party reasonable attorney's fees in addition to any other relief that may be awarded. For the purposes of this clause, the prevailing party is the party in whose favor final judgment is entered. In the event that declaratory or injunctive relief alone is granted, the court may determine which, if either, of the parties shall be considered to be the prevailing party. The amount of reasonable attorney's fees shall be determined by the court, in the trial of such action or in a separate action brought for that purpose. Attorney's fees awarded under the provisions of this paragraph shall be in addition to any other relief that may be awarded.
10. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court or federal or state agency, board or commission having jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision.
11. This Agreement may be amended only by written amendment signed by both parties.
12. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue shall lie in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.
13. All notifications required hereunder and/or having to do with this Agreement, shall be made to the following addresses:

a. For EIC

City of Kerrville Economic Improvement Corporation  
800 Junction Highway  
Kerrville, Texas 78028  
Facsimile: (830) 792-3850

With copy to: Mindy Wendele  
Director, Business Programs  
City of Kerrville  
800 Junction Highway  
Kerrville, TX 78028  
Facsimile: (830) 896-7747

b. For KEDF  
Executive Director – Guy Overby  
Kerr Economic Development Foundation  
1700 Sidney Baker, Suite 200  
Kerrville, Texas 78028  
Facsimile: (830) 896-1175

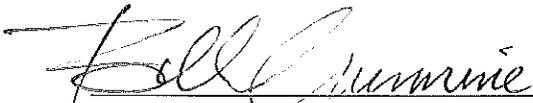
14. This Agreement shall be binding upon the parties hereto and their successors and assigns. This Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld.
15. This Agreement becomes effective on May 17, 2010, hereinafter described as the “effective date,” and shall terminate either on December 31, 2010; when the requirements set forth in this Agreement are completed, whichever date is later; or when terminated by mutual agreement of the parties.
16. All covenants and agreements of the parties as well as any rights and benefits of the parties pertaining to the transaction contemplated hereby, shall survive the original execution date of this Agreement.
17. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.
18. **IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT KEDF, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND THE EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH. KEDF AGREES TO INDEMNIFY AND HOLD HARMLESS THE EIC, THE CITY OF KERRVILLE, TEXAS, AND THEIR OFFICERS, AGENTS AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY EIC’S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF EIC, THE CITY OF KERRVILLE, TEXAS, AND THEIR OFFICERS, AGENTS, ASSOCIATES, EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE EIC OR CITY OF KERRVILLE, TEXAS, UNDER TEXAS LAW.**
19. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

20. If any party fails or refuses to timely comply with any of their respective obligations hereunder, then the non-defaulting party will have the right to enforce this Agreement by any remedy at law or in equity.
21. Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
22. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties that relate to the subject of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in the year and as of the date indicated.

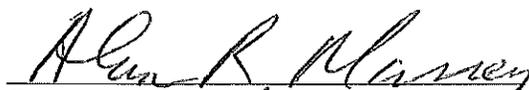
CITY OF KERRVILLE, TEXAS ECONOMIC  
IMPROVEMENT CORPORATION

KERR ECONOMIC DEVELOPMENT  
FOUNDATION

  
\_\_\_\_\_  
Bill Crumrine, President

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

  
\_\_\_\_\_  
Secretary for the Corporation



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

L:\Legal\NEIC\CONTRACT\KEDF\BIC Project Funding\_KEDF marketing\_051410.doc

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

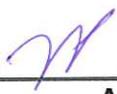
**SUBJECT:** Authorize execution of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Hill Country Home Opportunity Council for The Pinto Trail housing development

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 9, 2010

**SUBMITTED BY:** Mindy N. Wendele      **CLEARANCES:** Todd Parton  
Director of Business Programs      City Manager  
& Public Affairs

**EXHIBITS:** Funding Agreement

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$150,000</b>	<b>\$150,000*</b>	<b>\$150,000</b>	<b>40-800-975-002</b>

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:** 

**SUMMARY STATEMENT**

Parker Harrison, director of the Hill Country Home Opportunity Council, submitted an application funding request for assistance with a new housing development. Mr. Harrison made a presentation to the Board highlighting the project on Pinto Trail.

The EIC board members voted to direct staff to hold a public hearing and draft a funding agreement for consideration during the May 17, 2010 Board meeting. The public hearing was conducted and the funding agreement between the Economic Improvement Corporation and the Hill Country Home Opportunity Council was approved. The funding amount is not to exceed \$150,000.00.

\*As part of the EIC budget amendment, \$150,000 will be moved from unspecified projects in Category III, Public Infrastructure to Category II, Quality of Life Hill Country Home Opportunity Council project.

**RECOMMENDED ACTION**

Director of Business Programs & Public Affairs recommends the approval of the funding agreement as presented.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN HILL COUNTRY  
HOME OPPORTUNITY COUNCIL AND THE CITY OF KERRVILLE, TEXAS  
ECONOMIC IMPROVEMENT CORPORATION**

This Agreement entered into by and between Hill Country Home Opportunity Council, Kerr County, Texas, a Texas nonprofit corporation ("HCHOC"), acting herein by and through its duly authorized Representative, Parker Harrison ("Officer"), and the CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION ("EIC"), a Texas nonprofit corporation, established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979, hereafter referred to as "the Act"), acting by and through its duly authorized President, Bill Crumrine.

**WITNESSETH:**

WHEREAS, EIC was formed to administer the sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects including but not limited to:

Land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are required or suitable for the promotion of development and expansion of affordable housing, as defined by 42 U.S.C. Section 12745.

WHEREAS, pursuant to Section 4B of the Act, the EIC is authorized to provide funding to construct projects which the EIC finds to be encompassed within the definition of "Projects" as that word is defined by Section 2 and Section 4B of the Act; and

WHEREAS, HCHOC manages and expends funds donated to HCHOC to build or renovate homes and offering them to qualified families in need; and

WHEREAS, HCHOC has applied for a grant from EIC for funds necessary to develop the Pinto Trail Property for the purpose of providing affordable homes to deserving families in Kerrville; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures*; and

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with HCHOC to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to HCHOC for costs related to developing the Pinto Trail Property; and

WHEREAS, on May 17, 2010, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 4B(n) of the Act related to the proposed expenditure of 4B revenues for the purposes provided above;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, HCHOC and EIC agree as follows:

**ARTICLE I.  
EIC'S OBLIGATIONS**

- A. EIC hereby grants HCHOC One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00) ("Grant") for costs related to the design and construction of public improvements for the Pinto Trail Property, a residential subdivision made up of single family units. Such public improvements consist of the following:
- (1) public streets;
  - (2) water and wastewater mains; and
  - (3) drainage facilities, including a retention pond.
- B. Subject to the terms and conditions set forth in Article II, the Grant shall be provided to HCHOC by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, HCHOC must first submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval. Following each submission and verification thereof, which may include on-site inspections to confirm the construction and development of the Project, EIC shall then reimburse HCHOC for the cost.
- C. Payments made by EIC to HCHOC from 4B Revenues shall be limited to the payments of "costs" as defined by the Act.
- D. In no event shall the total amount of the Grant exceed One Hundred Fifty Thousand and No/100 Dollars (\$150,000.00).
- E. HCHOC specifically agrees that EIC shall only be liable to HCHOC for the actual amount of the Grant to be conveyed to HCHOC and shall not be liable to HCHOC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.

**ARTICLE II.  
HCHOC'S OBLIGATIONS**

- A. HCHOC agrees to complete the Project on or before May 31, 2011. Failure to complete the Project by this date shall terminate the obligation of EIC to make any additional payments of the Grant.
- B. HCHOC shall keep and maintain complete and accurate records relating to the costs of the Project, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the term of this Agreement and for three (3) years thereafter, upon reasonable notice.
- C. Following the initial payment from EIC to the Foundation, HCHOC shall make written quarterly reports to EIC, or before the last day of the calendar quarter. Said reports, at a

minimum, shall include information on the status of the Project and the estimated opening date of the Project.

- D. HCHOC shall only be liable to EIC for the actual amount of the Grant to be conveyed to HCHOC and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by HCHOC under the terms of this Agreement.

**ARTICLE III.  
REIMBURSEMENT**

- A. If, on May 31, 2011, HCHOC has failed to complete the Project, then HCHOC shall repay EIC One Hundred Thousand and No/100 Dollars (\$100,000.00). The repayment shall be made as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such written demand. Upon repayment thereof, HCHOC shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding repayment and may require partial repayment in appropriate circumstances. Failure to reimburse EIC within thirty (30) days of HCHOC's receipt of such demand shall constitute a breach of this Agreement.
- B. Notwithstanding any other provision in this Agreement, HCHOC shall in no event be required to repay any amount in excess of the Grant monies actually received under this Agreement.

**ARTICLE IV.  
MERGER, CONSOLIDATION OR CHANGE IN MANAGEMENT OF  
HCHOC OR CONVEYANCE OF  
PINTO TRAIL PROPERTY**

- A. A sale of all or substantially all of the assets of HCHOC, including the Pinto Trail Property, shall not release HCHOC from its duties and responsibilities to EIC under the terms of this Agreement and shall not result in the assignment of this Agreement by such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld.
- B. In the event of any proposed merger, consolidation, or change in the management of HCHOC with any third party not affiliated with HCHOC, HCHOC shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of HCHOC's duties and responsibilities hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy HCHOC's duties and responsibilities hereunder. Failure to provide such information shall be considered a breach of this Agreement.
- C. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction

of any kind involving HCHOC. In the event of any sale or merger involving HCHOC, the surviving entity shall assume HCHOC's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

**ARTICLE V.  
HCHOC'S REPRESENTATIONS AND WARRANTIES**

- A. HCHOC represents and warrants as of the date hereof:
- (1) HCHOC is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
  - (2) Execution of this Agreement has been duly authorized by HCHOC and this Agreement is not in contravention of HCHOC's articles of incorporation or bylaws, or any agreement or instrument to which HCHOC is a party or by which it may be bound as of the date hereof;
  - (3) No litigation or governmental proceeding is pending, or, to the knowledge of the Officer, threatened against or affecting HCHOC, which may result in a material adverse change in HCHOC's business, properties, or operations sufficient to jeopardize HCHOC's legal existence; and
  - (4) No written application, written statement, or correspondence delivered by HCHOC to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of the Officer, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.
- B. Except as expressly set forth in this Article V, HCHOC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

**ARTICLE VI.  
EIC'S REPRESENTATIONS AND WARRANTIES**

- A. EIC represents and warrants as of the date hereof:
- (1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;
  - (2) Execution of this Agreement has been duly authorized by EIC;
  - (3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

- (4) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.
- B. Except as expressly set forth in this Article VI, the EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

**ARTICLE VII.  
MAJOR FORCES PREVENTING HCHOC FROM CARRYING  
OUT ITS OBLIGATIONS UNDER THIS AGREEMENT**

If, by reason of force majeure, such as fire, flood, windstorm, drought, or other act of God, act of war, act of terrorism, labor strike, or economic downturn affecting HCHOC, HCHOC is reasonably unable to fulfill its obligations under this Agreement, HCHOC shall use reasonable and diligent efforts to rectify the situation to allow it to perform its obligations specified herein with all due haste. In the event that the situation cannot be rectified within six (6) months after the occurrence of the force majeure, either party may terminate this Agreement by providing thirty (30) days advance written notice to the other without further liability hereunder except that termination under this provision shall not excuse HCHOC from any applicable reimbursement obligations under Article III of this Agreement.

**ARTICLE VIII.  
CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE  
OF ITS OBLIGATIONS UNDER THIS AGREEMENT**

Under any of the following conditions EIC may, at its option, after fifteen (15) days written notice to HCHOC, suspend its further performance under this Agreement until such time as HCHOC shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

- A. HCHOC becomes insolvent. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.
- B. The appointment of a receiver of HCHOC, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- C. The adjudication of HCHOC as bankrupt.
- D. The filing by HCHOC of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

Should any of these conditions not be cured by HCHOC within a period of three (3) months, EIC may, at its option, with written notice to HCHOC, terminate this Agreement and HCHOC shall have no further obligations hereunder.

**ARTICLE IX.  
REMEDIES**

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any party hereto, or any successor to such party, such defaulting or breaching party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article IX, the non-breaching party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each party acknowledges and agrees that no party hereunder shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that no party hereunder shall be liable to the other party for any other actual or consequential damages for any act of default by such party under the terms of this Agreement.
- C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by another party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor shall any waiver in fact be made by any party with respect to any specific default by any other party except to the extent specifically waived in writing.

**ARTICLE X.  
GENERAL PROVISIONS**

- A. Severability. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue

shall lie in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

D. Notices. All notices given with respect to this Agreement shall be in writing and shall be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

1. For EIC

President – Bill Crumrine  
City of Kerrville, Texas, Economic Improvement Corporation  
800 Junction Highway  
Kerrville, Texas 78028  
Facsimile: (830) 792-3850

*With a copy to:*

Mindy Wendele  
Director of Business Programs  
City of Kerrville  
800 Junction Highways  
Kerrville, Texas 78028  
Facsimile: (830) 792-3850

2. For HCHOC

Parker Harrison  
Hill Country Home Opportunity Council  
P.O. Box 293071  
Kerrville, Texas 78029  
Facsimile: (830) 895-0911

E. Assignment. This Agreement shall be binding upon the parties hereto and their successors and assigns. Except as set forth in Article IV, this Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a party consents to any valid assignment of this Agreement by the other party hereto, the assigning party shall be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement.

HCHOC may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by HCHOC or by the parent, subsidiary or affiliate of HCHOC provided

the entity assumes all of HCHOC's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of HCHOC and HCHOC provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

- F. Parties In Interest. Nothing in this Agreement shall entitle any party other than HCHOC or EIC to any claim, cause of action, remedy or right of any kind except as expressly provided in Article IV.
- G. Term. The term of this Agreement (the "Term") shall commence on May 17, 2010 (the "Effective Date"), and shall terminate on the earlier of: (i) May 31, 2011, or when the requirements set forth in this Agreement are completed; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article IX, Paragraph B; (iv) when terminated pursuant to Article VIII; (v) at HCHOC's and absolute discretion, upon HCHOC's return of all Grant funding to EIC that it has received under this Agreement; (vi) upon HCHOC's repayment of all monies that are demanded by EIC and are in fact required to be repaid by HCHOC under Article III; or, (vii) upon a termination of this Agreement by EIC pursuant to Article VIII. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.
- H. Interpretation. Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. Indemnity. **IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT HCHOC, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH TO THEIR PARTIES. HCHOC AGREES TO INDEMNIFY AND HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY THE FOUNDATION'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF THE FOUNDATION, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.**

- J. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.
- K. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination shall survive termination.
- L. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board, and by HCHOC, Kerr County, Texas, acting through its duly authorized official.

CITY OF KERRVILLE, TEXAS ECONOMIC  
IMPROVEMENT CORPORATION

HCHOC  
KERR COUNTY, TEXAS

  
\_\_\_\_\_  
Bill Crumrine, President

By: \_\_\_\_\_  
Parker Harrison, President of HCHOC

ATTEST:

  
\_\_\_\_\_  
Secretary to Corporation



APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Resolution opposing passage of Federal legislation concerning mandatory collective bargaining applicable to local governments.

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 17, 2010

**SUBMITTED BY:** Mike Hayes <sup>mmc</sup>      **CLEARANCES:**

**EXHIBITS:** Resolution

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

---

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

Federal legislation that could possibly preempt state and local authority over labor relations may introduced soon in both the U.S. House and Senate. The National League of Cities and the Texas Municipal League opposes federal imposition of a collective bargaining requirement because it intrudes on the autonomy of local governments and would impose costs directly on these governments.

The Public Safety Employer-Employee Cooperation Act was introduced last year by Representative Dale Kildee (D-MI) and Senator Judd Gregg (R-NH) to provide collective bargaining rights for public safety personnel employed by states or local governments. The legislation would essentially impose a federal mandate upon states and local governments to authorize union officials to act as the monopoly bargaining agents for police, firefighters, paramedics and other public-safety personnel in all 50 states.

Although the legislation would prohibit lockouts, strikes, and other actions that could compromise the delivery of emergency services, it would allow unions to appeal negotiations or labor agreements to the Federal Labor Relations Authority (FLRA), state courts, and any United States Court of Appeals.

### **RECOMMENDED ACTION**

It is recommended that the City Council approve the Resolution opposing passage of Federal legislation concerning mandatory collective bargaining applicable to local governments.

**CITY OF KERRVILLE, TEXAS**  
**RESOLUTION NO. \_\_\_\_-2010**

**A RESOLUTION OPPOSING PASSAGE OF FEDERAL  
LEGISLATION CONCERNING MANDATORY COLLECTIVE  
BARGAINING APPLICABLE TO LOCAL GOVERNMENTS**

**WHEREAS**, both the federal and state government have historically given local government employers the right and responsibility to manage their own employee relations; and

**WHEREAS**, Texas law currently gives fire fighters and police officers the right to seek collective bargaining through a petition and election process; and

**WHEREAS**, there are efforts underway in the United States Congress to introduce legislation concerning mandatory collective bargaining and in so doing, will grant every police officer, fire fighter, and emergency medical technician at the state or local level the right to form and join and labor union; and

**WHEREAS**, the proposed legislation will, among other things, direct local governments to recognize the employees' labor unions and require collective bargaining over hours, wages, and the terms and conditions of employment other than pensions; and

**WHEREAS**, the City believes, along with the National League of Cities and the Texas Municipal League, that the federal government should not play a role in making decisions about collective bargaining for state or local governments; and

**WHEREAS**, the separation between state and federal government authority over collective bargaining was recognized by the federal government when it adopted the National Labor Relations Act in 1934, which act specifically exempts states and local governments from its coverage; and

**WHEREAS**, local governments are best able to formulate the policies and methods of managing relations with their employees; and

**WHEREAS**, local governments in Texas have a highly respected record of fairly and efficiently managing their personnel who provide emergency and law enforcement services which are important to their citizens; and

**WHEREAS**, for Congress to mandate that local government employers recognize and collectively bargain with the specified employees would be a radical and unwarranted alteration in the operation of local governments and be highly disruptive of the efficient and timely provision of government services; and

**WHEREAS**, the City and other municipalities should reject this legislation as it undermines municipal autonomy with respect to making fundamental employment decisions, interferes with state and local laws and policies, and may be unconstitutional;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** The City Council makes and adopts the findings provided for in the recitals set out above.

**SECTION TWO.** The United States Senators for the State of Texas, the United States Representative in whose district Kerrville is located, and the rest of the members of the United States Senate and House of Representatives are urged to vote against S. 3194 or H.R. 413 (Public Safety Employer-Employee Cooperation Act of 2009) and/or any other bill which will mandate that local governments, including the City of Kerrville, authorize and participate in collective bargaining with local government employee unions.

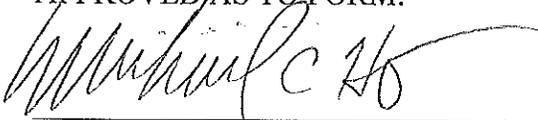
**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2010.**

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Approval of Settlement Agreement between the City of Kerrville and the Texas Department of Agriculture for Mooney Airplane Co.-Texas Capital Fund

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 9, 2010

**SUBMITTED BY:** Mindy N. Wendele      **CLEARANCES:** Todd Parton  
Director of Business Programs      City Manager  
& Public Affairs

**EXHIBITS:** City of Kerrville/Mooney, Texas Capital Fund Contract, 724112  
Repayment Agreement

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$17,500</b>	<b>\$31,385.77</b>	<b>\$90,000</b>	<b>01-870-410</b>

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:** 

**SUMMARY STATEMENT**

The City of Kerrville was awarded a loan for Mooney Airplane Company in 2004 from the Texas Department of Agriculture, Texas Capital Fund program for campus improvements. Due to the economic climate, Mooney did not perform any of the improvements and could not maintain staff thresholds required by the loan agreement; however, some expenses were incurred relating to the loan administration through GrantWorks.

The TDA released \$17,500 to pay GrantWorks for the administration costs. Mooney has requested six months to repay the \$17,500 outstanding contract balance due to drastically reducing their workforce therefore generating very little revenue.

Staff is aware of Mooney's financial difficulties and supports this request; therefore, we propose the following repayment schedule upon receipt of funding from Mooney:

June 1, 2010, through December 1, 2010, the City of Kerrville will submit five monthly payments to the Texas Department of Rural Affairs totaling \$2,917 with a final payment of \$2,915 on January 1, 2011. The payments will come from the contingency account in the general fund.

**RECOMMENDED ACTION**

Authorize the Mayor to sign the Settlement Agreement Letter.

# TEXAS DEPARTMENT OF AGRICULTURE

TODD STAPLES  
COMMISSIONER

RECEIVED

MAY 24 2010

May 21, 2010

The Honorable David Wampler  
Mayor  
City of Kerrville  
800 Junction Highway  
Kerrville, TX 78028

Re: Texas Capital Fund  
Contract No. 724112 / Mooney Airplane Company  
Repayment Letter  
Certified Mail # 91 7108 2133 3934 8477 9320

Dear Mayor Wampler:

This letter is regarding the City of Kerrville (City) Texas Capital Fund (TCF) contract #724112, which was executed on March 18, 2005 and expired on December 18, 2008. The TCF grant award in the amount of \$750,000.00 was to provide real estate improvements in the form of paving and building construction as well as administration costs in support of the Mooney Airplane Company, Inc. (Company).

The contract amount was based on the Company's commitment to create 50 full-time jobs of which 26 were to be held by Low to Moderate Income (LMI) persons. During the contract period, the Department released \$17,500.00 of contract funds to reimburse the City for completed administration activities related to the project.

The Texas Department of Agriculture (TDA) received a letter requesting a period of six months in which to repay the funds drawn. Item number four of the attached Settlement Agreement contains the agreed method of settlement for non-compliance. In addition, the remaining TCF contract funds in the amount of \$732,500.00 will be deobligated and the City will be ineligible to participate in TCF for a period of two years. The City may request a waiver to the ineligibility period if a potential project arises that would benefit from TCF assistance.

Enclosed are two originals of the Settlement Agreement between the City of Kerrville and the Department. Concurrently with the payment amount due, please sign and return both original Settlement Agreements to:



The Honorable David Wampler  
February 8, 2010  
Page 2 of 3

Texas Department of Agriculture  
Attn: Melissa M. Gonzales  
P.O. Box 12847  
Austin, Texas 78711

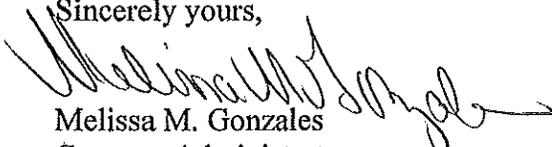
Payment should be mailed directly to the Texas Department of Rural Affairs at the following address:

Norma Ortiz  
Grant Accountant  
Texas Department of Rural Affairs  
P.O. Box 12877  
Austin, Texas 78711

Once the Settlement Agreement is fully executed by TDA staff, we will return one original for your file.

We recognize this has been a difficult situation for the city and please be assured that TDA appreciates your efforts on this project. If you have any questions, please feel free to contact me at (512) 936-0277.

Sincerely yours,



Melissa M. Gonzales  
Contract Administrator  
Texas Capital Fund

cc: Todd Parton, City Manager, City of Kerrville  
Regan Lenehan, GrantWorks, Inc.

**SETTLEMENT AGREEMENT  
TEXAS DEPARTMENT OF AGRICULTURE  
AND THE CITY OF KERRVILLE  
TEXAS CAPITAL FUND CONTRACT NO. 724112**

This agreement (Agreement) is between the Texas Department of Agriculture (TDA), an administrative agency of the State of Texas that is responsible for marketing and administering the Texas Capital Fund (TCF), and the City of Kerrville, Texas (Contractor). TDA and the Contractor are collectively referred to hereinafter as the "Parties."

WHEREAS, on March 18, 2005, the Parties entered into TCF contract No. 724112 (Contract) with the Texas Department of Agriculture; and

WHEREAS, the Contract required the Contractor to perform certain economic development activities for the benefit of Mooney Airplane Company, Inc., (Company), including real estate improvements in the form of paving and building construction and administration in support of the Company; and

WHEREAS, pursuant to the terms of the Contract, the Contractor was awarded a TCF contract in support of the Company a sum of Seven Hundred Fifty Thousand and No/100 Dollars (\$750,000.00); however, the Contractor actually received a total of Seventeen Thousand Five Hundred and No/100 Dollars (\$17,500.00) pursuant to the terms of the Contract; and

WHEREAS, the Contractor did not complete the real estate improvements that were required to perform pursuant to the Contract; and

WHEREAS, the Contract also required the Contractor to ensure that the economic development activities resulted in the creation of fifty (50) full time jobs, with twenty-six (26) of those being of low to moderate income (LMI) jobs at the Company; and

WHEREAS, the Company failed to create the number of full-time jobs required by the Contract; and

WHEREAS, the Contractor is required pursuant to the TCF rules and guidelines and by the Contract to repay Contract funds that were provided to Contractor for the number of jobs that were not created by the Company; and

WHEREAS, the Contractor did not draw all of the money to which it was entitled under the Contract; and

WHEREAS, in recognition that the Parties have negotiated in good faith and agreed to settle all matters related to the Contract for the consideration set forth in this Agreement.

NOW, THEREFORE, for and in exchange for the mutual promises and consideration set forth in this agreement, the Parties hereby agree as follows.

1. The Contractor represents and warrants that as of the date of this Agreement, the Contractor is unable to provide documentation that job creation requirement has been fulfilled; and
2. The Contract will be automatically closed-out upon receipt by the Texas Department of Rural Affairs (TDRA) of the full payment described in Section 3 of this Agreement, provided that the Contractor has supplied the closeout documentation required by the TCF staff. TCF staff may request additional closeout documentation as necessary.

3. All remaining Contract funds in the amount of Seven Hundred Thirty Two Thousand Five Hundred and No/ 100 Dollars (\$732,500.00) shall be deobligated.
4. The Contractor will repay Seventeen Thousand Five Hundred Dollars (\$17,500.00) (payment) to TDRA for failing to meet job creation requirements by the Contract's expiration date. The Contractor agrees to the following paymentschedule:

The City shall pay to TDRA, upon execution hereof and each month thereafter, without demand, a payment of \$2,917 (Two Thousand Nine Hundred Seventeen and No/100 Dollars) for a period of five-months, with a final payment of Two Thousand Nine Hundred Fifteen for the sixth paymentto equal a total repayment amount of \$17500.00

First payment be made within thirty (30) days from the date of signing this Agreement and shall be mailed to the following address:

Norma Ortiz  
Grant Accountant  
Texas Department of Rural Affairs  
P.O. Box 12877  
Austin, Texas 78711

5. The Contractor shall not be eligible to apply for new TCF program funds for a period of two (2) years, effective from December 18, 2008. The Contractor may ask for a waiver of this ineligibility only by submitting a written request for waiver to the Commissioner of TDA. Any request for waiver of ineligibility shall:
  - a. state the reason the Contractor is seeking a waiver,
  - b. demonstrate substantial job impact to the community,
  - c. include a summary of the project for which the Contractor would like to utilize TCF program funds, and
  - d. be submitted by the Contractor at least thirty (30) days in advance of the application deadline for the TCF application round that the Contractorwishes to apply for.
6. The Parties hereby agree that as a result of this Agreement the TDA shall not be liable for any cost or expenses incurred at any time by the Contractor, the Company, or any subcontractors of the Contractor or the Company.
7. The Contractor hereby releases TDA and TDRA from any claims and causes of actions that Contractor, the Company, or any subcontractor of the Contractor or the Company, might claim against TDA and/or TDRA under the Contract or otherwise.
8. In the event it is determined by any federal review or audit conducted by the Department of Housing and Urban Development or any other federal agency or department with jurisdiction that the settlement amount described in Section 3 of this Agreement does not adequately fulfill Contractor's repayment obligation for failure to meet its requirements under the Contract, the Contractor hereby acknowledges that TDA is authorized to take whatever corrective action is required to comply with those audit finds, which may require the repayment of additional funds by Contractor. Contractor further acknowledges that in such circumstances TDA is authorized to pursue and enforce an additional settlement amount limited to the total quantifiable amount of funds by which Contractor did not fulfill its obligations under the

Contract. Contractor agrees to be responsible for repayment of such funds.

9. It is expressly understood and agreed that the terms of this Agreement are contractual and not merely recitals and that the agreements herein contained and the consideration transferred is to compromise doubtful and disputed claims, avoid litigation, and buy peace, and that no payments made nor releases or other consideration given shall be construed as an admission of liability, all liability being expressly denied.
10. The Parties warrant that they have read this Agreement and fully understand it to be a compromise and settlement and release of all claims, known or unknown, present or future, that they have or may have against the party released, arising out of the matters described.
11. This Agreement is a compromise of doubtful and disputed claims. Nothing in this agreement is an admission of liability by either of the Parties, and nothing in this Agreement may be interpreted as an admission of liability.
12. This Agreement is made according to the laws of the State of Texas. The Parties expressly agree that this Agreement is governed by, and will be construed and enforced in accordance with Texas law. Exclusive venue for any action brought under this Agreement shall be in Travis County, Texas.
13. This Agreement is not effective unless signed by the Commissioner of the TDA or by his authorized designee.
14. This Agreement may be executed in a number of identical counterparts, and each shall be deemed an original for all purposes.
15. This Agreement contains the entire Agreement between the Parties. It supersedes any and all prior agreements, arrangements, or understandings between the Parties on all subjects in any way related to the transaction or occurrence described in this agreement. No oral understandings, statements, promises, or inducements contrary to or consistent with the terms of this agreement exist. This Agreement is not subject to any modification, waiver, or addition that is made orally. This Agreement is subject to modification, waiver, or addition only by means of a writing signed by the Parties.
16. The individuals signing below indicate that they are duly authorized to execute this Agreement in the name of and on behalf of the respective Parties, for the purposes and consideration expressed in this Agreement.

Accepted and Agreed to:

CITY OF KERRVILLE, TEXAS

TEXAS DEPARTMENT OF AGRICULTURE

By: \_\_\_\_\_  
David Wampler, Mayor

By: \_\_\_\_\_  
Drew DeBerry, Deputy Commissioner

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

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

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Public Hearing: Annexation and Zoning Request – Consider a proposed annexation into the Kerrville City Limits and a recommendation for the zoning of a 3.12 acre tract located at 327 Peterson Farm Road, adjacent to the corporate limits of the City of Kerrville.

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Gordon Browning *lb*      **CLEARANCES:** Kevin Coleman *KC* *JD*

**EXHIBITS:** Location Map, Applicant's request, Resolution No. 012-2010

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *W*

---

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:**

---

**SUMMARY STATEMENT**

Annexation-Zoning Timeline:

- March 29, 2010 – Annexation petition accepted for consideration.
- April 27, 2010 – City Council considers and accepts annexation petition for the subject tract by resolution.
- May 5, 2010 – Notice of the required public hearings published in The Kerrville Daily Times.
- May 20, 2010 – Planning and Zoning Commission public hearing on proposed annexation and a recommendation of zoning designation to City Council.
- **June 22, 2010 – City Council conducts the first required public hearing on the proposed annexation.**
- July 13, 2010 – City Council conducts the second required public hearing on the proposed annexation and considers an ordinance on first reading annexing and zoning the subject tract.
- July 27, 2010 – City Council considers an ordinance on second and

final reading annexing and zoning the subject tract.

Background:

Ms. Buxton first approached the City in the summer of 2009 requesting services, i.e. water service. Staff explained that, at that time, the City had placed a moratorium on water connections due to the drought. Staff further explained that once the moratorium was lifted city policy requires that she petition for annexation before water service could be provided since her property is outside the city limits. Ms. Buxton's petition was based on that policy.

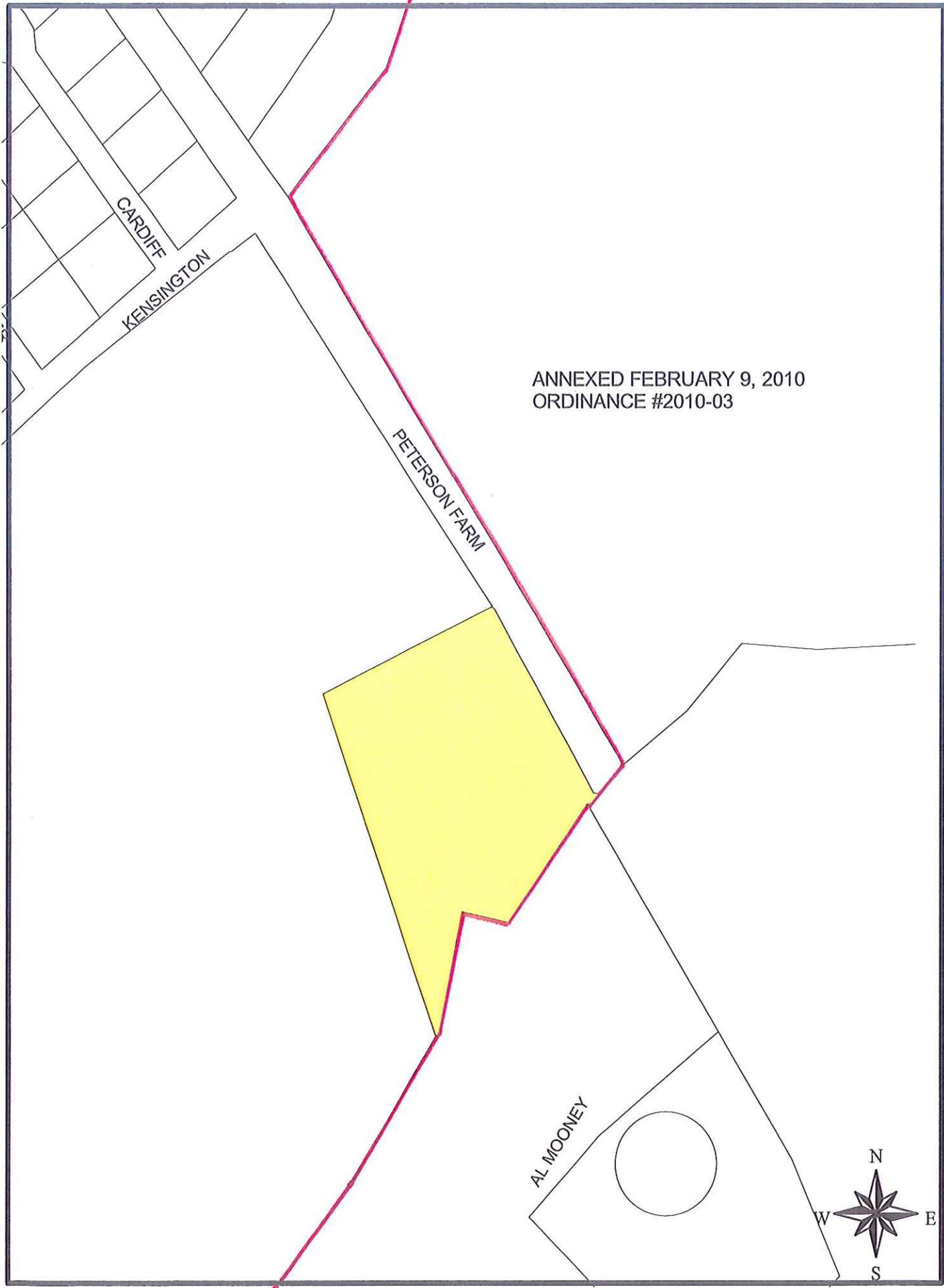
The 3.12 acre tract under consideration is adjacent to the City's corporate limits, i.e. the Mooney facility property, has approximately 360-feet of frontage along Peterson Farm Road and is across Peterson Farm Road from the 86 acre tract annexed in February 2010 as the future USDA-ARS site. The water well on site was plugged last summer, a plugging report will be required prior to connection to city services. Domestic water is currently being hauled to the property.

Summary:

- City Council adopts Resolution No. 012-2010, granting the petition for annexation of the subject 3.12 acre tract.
- Staff recommends a zoning designation of R-1 (Single Family Residential) for the property. This designation will accommodate the current residential use of the property.
- Staff is also recommending that the approximately 360-feet of Peterson Farm Road between this proposed annexation and the previously annexed USDA tract be annexed at this time.
- The Planning and Zoning Commission at their May 20, 2010 meeting, following a public hearing, recommended annexing the subject tract with a zoning designation of R-1. No one from the public appeared at the public hearing.

**RECOMMENDED ACTION**

Open the public hearing and receive comments regarding the proposed annexation and zoning.



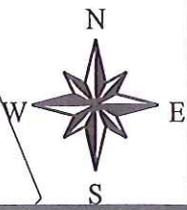
ANNEXED FEBRUARY 9, 2010  
ORDINANCE #2010-03

CARDIFF

KENSINGTON

PETERSON FARM

AL MOONEY



**CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT  
MASTER APPLICATION \***

**PROPERTY INFORMATION:** (Please PRINT or TYPE for all permits)

Plot Address 327 Peterson Farm Rd Nearest Intersection \_\_\_\_\_

Minor Plat/Subdivision \_\_\_\_\_ Lot \_\_\_\_\_ Block \_\_\_\_\_

Zoning Districts \_\_\_\_\_ Comprehensive Plan Designation \_\_\_\_\_

**OWNER/APPLICANT INFORMATION:** (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent BARBARA Buxton Phone 830-257-6026 FAX \_\_\_\_\_

Email Address: None

Mailing Address 327 Peterson Farm Rd City Kerrville State Texas Zip 78028

Property Owner BARBARA Buxton Phone 830-257-6026 FAX \_\_\_\_\_

Email Address: None

Mailing Address 327 Peterson Farm Rd City Kerrville State Texas Zip 78028

Transaction Code: 840.01-6236

Attach completed checklists for all projects

- |  |               |   |       |
|--|---------------|---|-------|
| <input checked="" type="checkbox"/> Annexation (2 copies /2 petitions) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Plat (15 copies)       | _____ |
|  |               | \$300 + \$20/lot or \$10/acre (which ever is greater)       |       |
| <input type="checkbox"/> Administrative Appeal                         | \$150         | <input type="checkbox"/> Final Plat (15 copies)             | _____ |
|  |               | \$150 + \$10/lot  |       |
| <input type="checkbox"/> Preliminary Site Plan (15 copies)             | <u>No Fee</u> | <input type="checkbox"/> Preliminary Minor Plat (15 copies) | _____ |
|  |               | \$150 + 10/lot  |       |
| <input type="checkbox"/> Final Site Plan (15 copies)                   | <u>No Fee</u> | <input type="checkbox"/> Final Minor Plat (15 copies)       | _____ |
|  |               | \$150 + 10/lot  |       |
| <input type="checkbox"/> Concept Plan (15 copies)                      | \$500         | <input type="checkbox"/> Replat (15 copies)                 | _____ |
|  |               | \$150 + 10/lot  |       |

**For plats in the ETJ:**  
(Payment due at the time of final plat, \$200.00 per lot)

- Parkland Fee (East) \_\_\_\_\_  
08-6242
- Parkland Fee (West) \_\_\_\_\_  
08-6243

**Owner's Affidavit Required for:** (Must attach to this Master Application Form)

- |   |       |  |       |
|---|-------|--|-------|
| <input type="checkbox"/> Conditional Use Permit (CUP) Request | _____ | <input type="checkbox"/> Zoning Change Request             | _____ |
| 840. 01-6236 \$300  |       | 840. 01-6236 \$300   |       |
| <input type="checkbox"/> Variance Request                     | _____ | <input type="checkbox"/> Comp. Plan Amendment Request      | _____ |
| 840. 01-6236 \$150  |       | 840. 01-6236 \$300   |       |
| <input type="checkbox"/> Planned Development District Request | _____ | <input type="checkbox"/> Specific Use Permit (SUP) Request | _____ |
| 840 .01-6236 \$300  |       | 840. 01-6236 \$300   |       |

Please provide a basic description of the proposed project: Hook Up to City WATER

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: Barbara Buxton Date: 10/23/09

APPLICATION ACCEPTED AS COMPLETE:  
3/29/10

## REQUIREMENTS FOR VOLUNTARY ANNEXATION

- 1) State law and ordinance requires that a public hearing be held.
- 2) The property being annexed is required to request zoning at the time of application.
- 3) Current owner's deeds, two copies of a petition, and two copies of a boundary survey, sealed by a professional surveyor registered in the State of Texas.
- 4) The Planning & Zoning Commission will consider the land use and zoning in a public hearing.
- 5) The City Council will consider the petition to accept it after the Commission recommends the land use and zoning.
- 6) City of Kerrville Fire, Police, Solid Waste, Code Enforcement and Zoning powers will prepare a service plan for provision of service.

Complete

Two signed sealed boundary surveys.

The current owner's deed, and recording information

Two copies of the annexation petition. (See Development Services for a copy).

---

I have read and understand in its entirety and understand that the requirements of annexation are subject to the terms and conditions therein. This annexation checklist is used to insure compliance with local ordinances and in some instances the City may require additional information for approval. An endorsement of this application checklist by the applicant shall be acknowledgment that all of the items on the above list have been reviewed and.

Project: BUXTON ANNEXATION Date: 1/5/2010

Owner or Engineer/Surveyor with address: 327 PETERSO FARM Rd.  
KERRVILLE, TEXAS 78028

Signature: Barbara Buxton

PETITION REQUESTING ANNEXATION TO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS, OF TEXAS ACRES OUT OF THE CROOK Survey, Abstract Number 0114, KERR COUNTY TEXAS

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS:

X BARBARA BUXTON is the sole owner of an approximately 3.3 acre tract of land located adjacent to the incorporated limits of the City of Kerrville which is out of the Survey No. 71 Abstract No. 0114 Kerr County, Texas, and is more particularly described as follows:

SEE EXHIBIT "A".

In accordance with Texas Local Government Code §43.028,  
Y BARBARA BUXTON hereby respectfully requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.  
SUBMITTED THIS 5 day of JAN, 2010

X. By: Barbara Buxton  
Legally authorized signature

ACKNOWLEDGEMENT

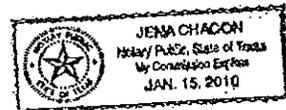
THE STATE OF TEXAS           §  
  §  
COUNTY OF KERR           §

This instrument was acknowledged before me on the 5 day of January, 2010  
by BARBARA BUXTON for and on behalf of  
BARBARA BUXTON.

Jena Chacon  
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: JENA CHACON

My Commission Expires: JAN 15, 2010



FIELD NOTES DESCRIPTION FOR 3.12 ACRES OF LAND OUT OF  
THE C.L. BUXTON LAND ALONG PETERSON FARM ROAD IN  
KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 3.12 acres, more or less, out of W.T. Crook Survey No. 71, Abstract No. 114 in Kerr County, Texas; that same land conveyed as 3.1 acres from Georgie O. Martin to C.L. Buxton, et al by a Warranty Deed with Vendor's Lien executed the 12th day of February, 1970 and recorded in Volume 142 at Page 515 of the Deed Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron stake set in the southwest right-of-way line of Peterson Farm Road, a sixty (60) ft. wide public road for the north corner of the herein described tract and said 3.1 acre tract, and the northerly east corner of a certain 56.83 acre tract conveyed from Hexagon Honeycomb Corporation Profit Sharing Plan and Trust to L. DeJuan Abel by a Special Warranty Deed executed the 24th day of September, 1993 and recorded in Volume 714 at Page 772 of the Real Property Records of Kerr County, Texas; which point bears, approximately, 3724 ft. N45°E and 1185 ft. S33°26'E from the west corner of Survey No. 71;

THENCE, with the said southwest right-of-way line of Peterson Farm Road and northeast line of said 3.1 acre tract S31°37'36"E, crossing Silver Creek 359.19 ft. to a ½" iron stake set for the east corner of the herein described tract and 3.1 acre tract, and the north corner of a certain 22.32 acre tract conveyed from Kerr County Industrial Foundation to Kerr County Industrial and Development Foundation, Inc. by a Special Warranty Deed executed the 24th day of January, 1973 and recorded in Volume 161 at Page 51 of the Deed Records of Kerr County, Texas;

THENCE, with the common line between said 3.1 and 22.32 acre tracts: S26°48'40"W, 217.12 ft. to a fencepost; N72°41'20"W, crossing Silver Creek 64.91 ft. to a found ½" iron stake; S16°09'56"W, 97.93 ft. to a found ½" iron stake; and S25°46'11"W, 93.61 ft. to a fence anglepost in the east line of said 56.83 acre tract for the south corner of the herein described tract and 3.1 acre tract;

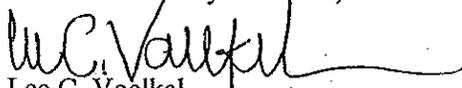
THENCE, with the common line between said 3.1 and 56.83 acre tracts: N15°01'52"W, along a fence 53.15 ft. to a fencepost near the end of a concrete wall; N19°02'18"W, along or near said concrete wall 505.54 ft. to a ½" iron stake set for the west corner of the herein described tract and 3.1 acre tract, and a reentrant corner of 56.83 acre tract; and N59°19'17"E, continuing along or near said concrete wall 253.72 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

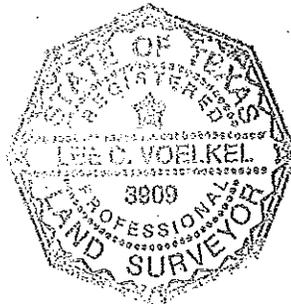
(Bearing basis = True to north based on GPS observations)

Date Surveyed: February 2, 2010  
March 9, 2010

Dated this 9th day of March, 2010...

  
Lee C. Voelkel

Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



SURVEY PLAT FOR 3.12 ACRES OF LAND, MORE OR LESS, OUT OF W.T. CROOK SURVEY NO. 71, ABSTRACT NO. 114 IN KERR COUNTY, TEXAS; THAT SAME LAND CONVEYED AS 3.1 ACRES FROM GEORGIE O. MARTIN TO C.L. BUXTON, ET AL BY A WARRANTY DEED WITH VENDOR'S LIEN EXECUTED THE 12TH DAY OF FEBRUARY, 1970 AND RECORDED IN VOLUME 142 AT PAGE 515 OF THE DEED RECORDS OF KERR COUNTY, TEXAS

56.83 ACRES  
Hexagon Honeycomb to Abel  
Vol. 714 Pg 772 (Real Property Records)  
09/24/93

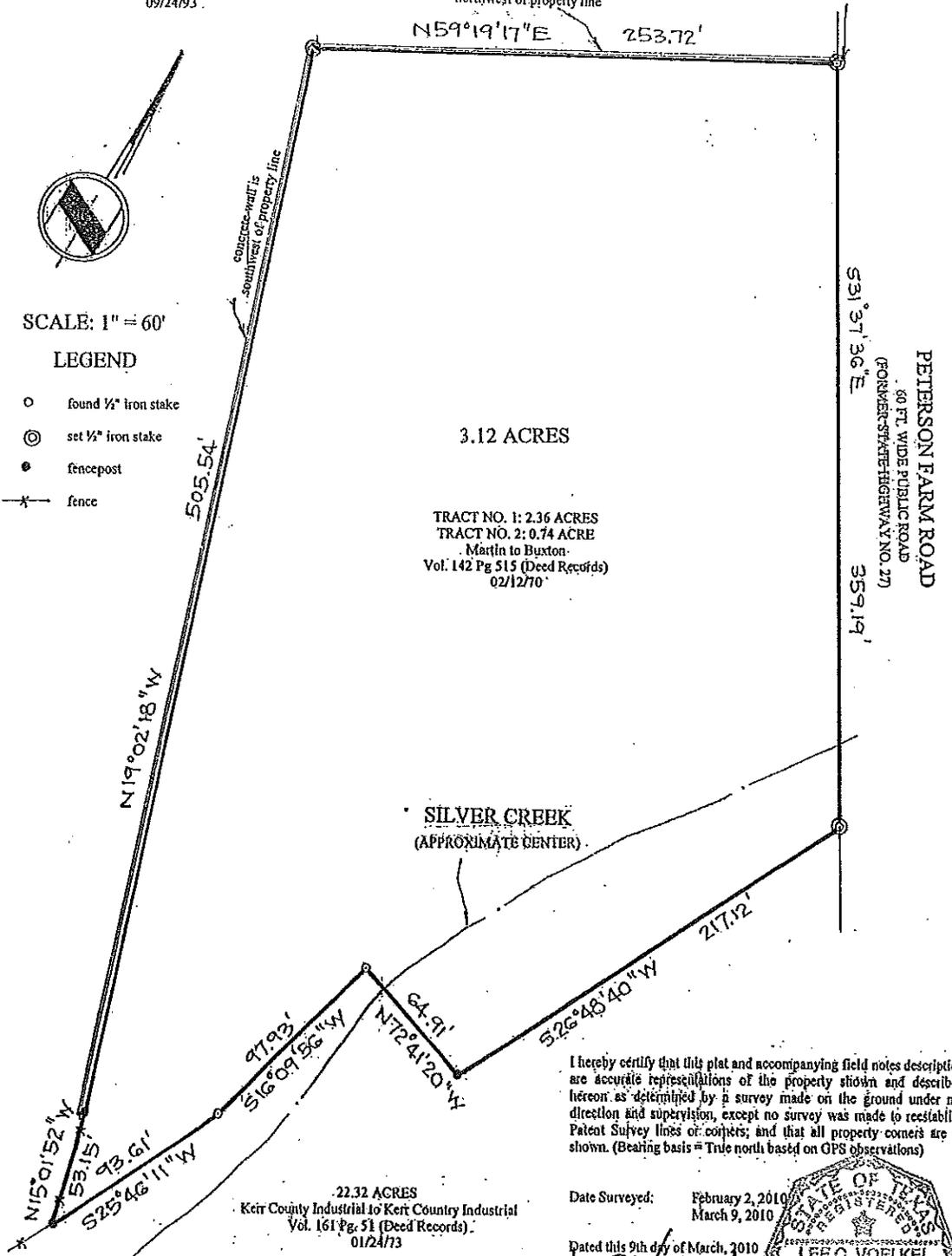
BEGINNING POINT bears,  
approximately, 3724 ft. N 45° E  
and 1185 ft. S 33° 26' E from the  
west corner of Survey No. 71



SCALE: 1" = 60'

LEGEND

- found 1/2" iron stake
- ⊙ set 1/2" iron stake
- fencepost
- fence



I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown. (Bearing basis = True north based on GPS observations)

Date Surveyed: February 2, 2010  
March 9, 2010

Dated this 9th day of March, 2010  
*Lee C. Voelkel*  
Lee C. Voelkel  
Registered Professional Land Surveyor  
County Surveyor for Kerr County, Texas



CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 012-2010

A RESOLUTION GRANTING A PETITION REQUESTING THE ANNEXATION OF AN APPROXIMATELY 3.12 ACRE TRACT OUT OF THE W.T. CROOK SURVEY NO. 71, ABSTRACT NO. 114, WITHIN KERR COUNTY, TEXAS, AND CONSISTING OF THE PROPERTY ADDRESSED AS 327 PETERSON FARM ROAD NORTH; AND ORDERING THE PREPARATION OF AN ANNEXATION ORDINANCE

WHEREAS, on January 5, 2010, the owner of an approximately 3.12 acre tract out of the W.T. Crook Survey No. 71, Abstract No. 114, within Kerr County, Texas, and more commonly known as 327 Peterson Farm Road, filed a petition with the City pursuant to Texas Local Government Code Section 43.028 and requested the annexation of the property; and

WHEREAS, having considered the petition and hearing the recommendation from City staff, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to grant said petition and to initiate the annexation process, which includes the preparation of an ordinance annexing the subject property;

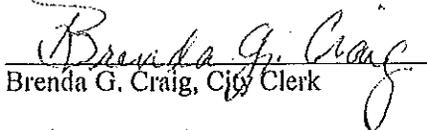
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

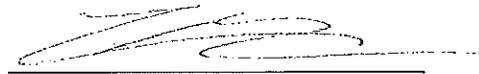
SECTION ONE. The petition requesting annexation of an approximately 3.12 acre tract out of the W.T. Crook Survey No. 71, Abstract No. 114, within Kerr County, Texas, and consisting of the property addressed as 327 Peterson Farm Road North, and more fully described in said petition, a copy of which is attached as Exhibit A, is granted.

SECTION TWO. City staff is directed to initiate the annexation process and to prepare an ordinance annexing the subject property described in the above-referenced petition.

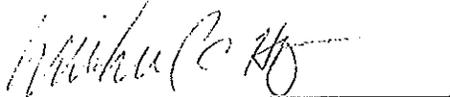
PASSED AND APPROVED ON this the 27<sup>th</sup> day of April, A.D., 2010.

ATTEST:

  
Brenda G. Craig, City Clerk

  
Todd A. Bock, Mayor

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

FIELD NOTES DESCRIPTION FOR 3.12 ACRES OF LAND OUT OF THE C.L. BUXTON LAND ALONG PETERSON FARM ROAD IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 3.12 acres, more or less, out of W.T. Crook Survey No. 71, Abstract No. 114 in Kerr County, Texas; that same land conveyed as 3.1 acres from Georgie O. Martin to C.L. Buxton, et al by a Warranty Deed with Vendor's Lien executed the 12th day of February, 1970 and recorded in Volume 142 at Page 515 of the Deed Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron stake set in the southwest right-of-way line of Peterson Farm Road, a sixty (60) ft. wide public road for the north corner of the herein described tract and said 3.1 acre tract, and the northerly east corner of a certain 56.83 acre tract conveyed from Hexagon Honeycomb Corporation Profit Sharing Plan and Trust to L. DeJuan Abel by a Special Warranty Deed executed the 24th day of September, 1993 and recorded in Volume 714 at Page 772 of the Real Property Records of Kerr County, Texas; which point bears, approximately, 3724 ft. N45°E and 1185 ft. S33°26'E from the west corner of Survey No. 71;

THENCE, with the said southwest right-of-way line of Peterson Farm Road and northeast line of said 3.1 acre tract S31°37'36"E, crossing Silver Creek 359.19 ft. to a 1/2" iron stake set for the east corner of the herein described tract and 3.1 acre tract, and the north corner of a certain 22.32 acre tract conveyed from Kerr County Industrial Foundation to Kerr Country Industrial and Development Foundation, Inc. by a Special Warranty Deed executed the 24th day of January, 1973 and recorded in Volume 161 at Page 51 of the Deed Records of Kerr County, Texas;

THENCE, with the common line between said 3.1 and 22.32 acre tracts: S26°48'40"W, 217.12 ft. to a fencepost; N72°41'20"W, crossing Silver Creek 64.91 ft. to a found 1/2" iron stake; S16°09'56"W, 97.93 ft. to a found 1/2" iron stake; and S25°46'11"W, 93.61 ft. to a fence anglepost in the east line of said 56.83 acre tract for the south corner of the herein described tract and 3.1 acre tract;

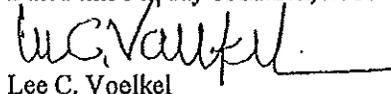
THENCE, with the common line between said 3.1 and 56.83 acre tracts: N15°01'52"W, along a fence 53.15 ft. to a fencepost near the end of a concrete wall; N19°02'18"W, along or near said concrete wall 505.54 ft. to a 1/2" iron stake set for the west corner of the herein described tract and 3.1 acre tract, and a reentrant corner of 56.83 acre tract; and N59°19'17"E, continuing along or near said concrete wall 253.72 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

(Bearing basis = True to north based on GPS observations)

Date Surveyed: February 2, 2010  
March 9, 2010

Dated this 9th day of March, 2010

  
Lee C. Voelkel

Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



**VOELKEL**

LAND SURVEYING, PLLC ♦ PHONE: 830-257-3313 ♦ 212 CLAY STREET, KERRVILLE, TEXAS 78028

EXHIBIT A

Res. 012-2010

SURVEY PLAT FOR 3.12 ACRES OF LAND, MORE OR LESS, OUT OF W.T. CROOK SURVEY NO. 71, ABSTRACT NO. 114 IN KERR COUNTY, TEXAS; THAT SAME LAND CONVEYED AS 3.1 ACRES FROM GEORGIE O. MARTIN TO C.L. BUXTON, ET AL BY A WARRANTY DEED WITH VENDOR'S LIEN EXECUTED THE 12TH DAY OF FEBRUARY, 1970 AND RECORDED IN VOLUME 142 AT PAGE 515 OF THE DEED RECORDS OF KERR COUNTY, TEXAS

56.83 ACRES  
Hexagon Honeycomb to Abel  
Vol. 714 Pg 772 (Real Property Records)  
09/24/93

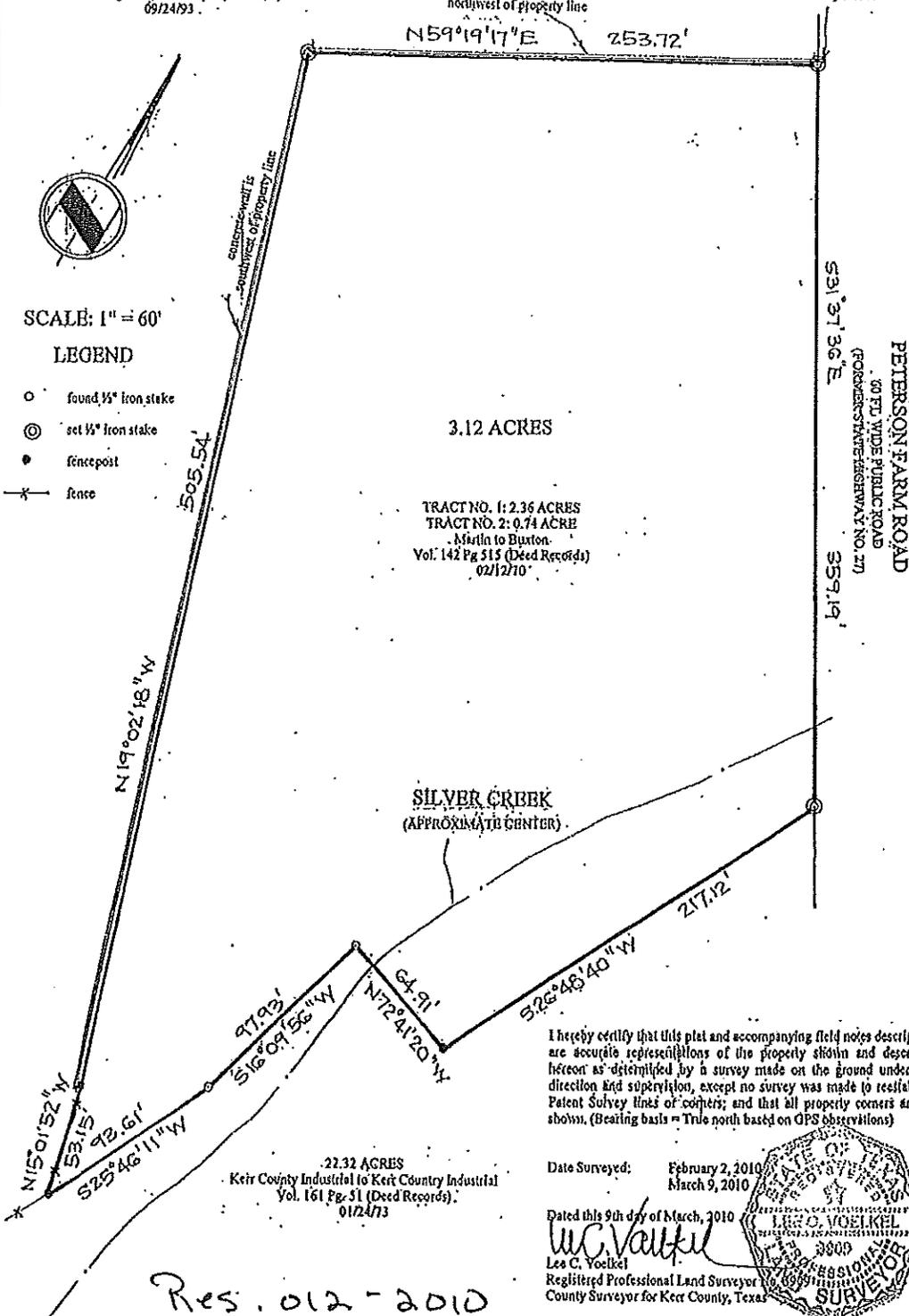
BEGINNING POINT bears, approximately, 3724 ft. N 45° E and 1185 ft. S 33° 26' E from the west corner of Survey No. 71



SCALE: 1" = 60'

LEGEND

- found 1/2" iron stake
- ⊙ set 1/2" iron stake
- fencepost
- fence



3.12 ACRES

TRACT NO. 1: 2.36 ACRES  
TRACT NO. 2: 0.74 ACRE  
Martin to Buxton  
Vol. 142 Pg 515 (Deed Records)  
02/12/70

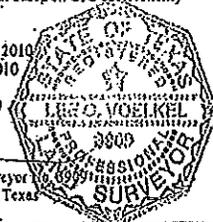
SILVER CREEK  
(APPROXIMATE CENTER)

22.32 ACRES  
Keir County Industrial to Keir County Industrial  
Vol. 161 Pg. 31 (Deed Records)  
01/24/73

I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines of corners; and that all property corners are as shown. (Bearing basis = True north based on GPS observations)

Date Surveyed: February 2, 2010  
March 9, 2010

Dated this 9th day of March, 2010  
*Lee C. Voelkel*  
Lee C. Voelkel  
Registered Professional Land Surveyor No. 6899  
County Surveyor for Kerr County, Texas



Res. 012-2010

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Public Hearing: Planned Development District – Consider amending the Planned Development District Ordinance (No. 2005-17) for Personal Services II (Day Care Center Only) for Child’s Place Learning Center located at 551 Meadowview Lane.

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Gordon Browning *GB*      **CLEARANCES:** Kevin Coleman *KE* *JD*

**EXHIBITS:** Location Map, Application’s Request, Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *MP*

---

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:**

---

**SUMMARY STATEMENT**

History/Timeline:

- October 25, 2005 – City Council adopts Ordinance No. 2005-17 creating a PDD for Personal Services II (Day Care Center Only) with conditions for 551 Meadowview Lane.
- May 3, 2010 – Staff accepts as complete, a request to amend Ordinance No. 2005-17.
- May 20, 2010 – Notice of the required public hearing was published in The Kerrville Daily Times and mailed to all property owners within 200-feet of the subject property.
- May 26, 2010 – Development Review Committee (DRC) review completed.
- June 3, 2010 – Public hearing before the Planning and Zoning Commission (P&Z) and consideration of a recommendation to the City Council.
- **June 22, 2010 – Public hearing before the City Council and consideration of an ordinance on first reading.**
- July 13, 2010 – Second and final ordinance reading.

### Proposal:

The applicant is requesting to amend PDD Ordinance No. 2005-17 to allow the construction of a 5,500 square foot gym as part of the existing day care center at 551 Meadowview Lane. Ordinance No. 2005-17, which established the PDD allowing the day care center for this location has as a development regulation a limitation for the combined floor area of all buildings on the property, except storage buildings, of 6,500 square feet. The existing day care center has a total of 5,600 square feet in a single building. The attached concept plan of the 2.02 acre tract shows that the tract is large enough to accommodate both structures, in addition to the required parking, drive aisles and playground area necessary for the facility.

In addition the applicant is requesting an addition in the maximum number of children allowed at the facility from 120 to 170 based on the additional square footage of the facility.

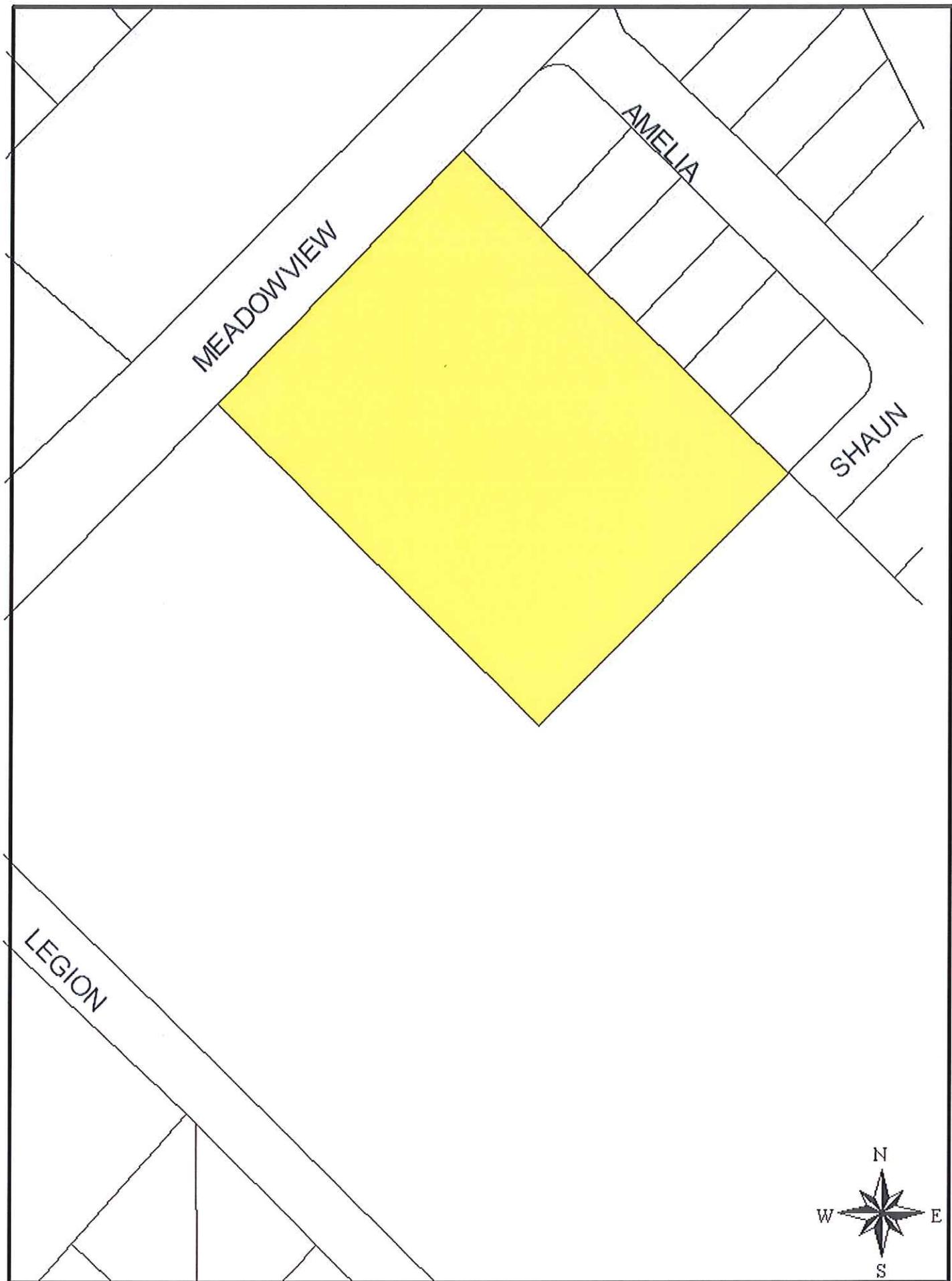
### PDD Process:

- Article 11-I-15 of the Zoning Code describes Planned Development Districts (PDD) and the process by which they are considered. PDD's are zoning districts that can be considered for permitting land uses not normally allowed in the zoning district in which the property is located. A PDD is governed by a site plan and any other development regulations associated with a City Council approved ordinance. A PDD effectively becomes a "stand alone" zoning district similar to those already described in the Zoning Code.
- No underlying right exists to approve a PDD request. The fact that the P&Z and City Council may review an application for a zoning change does not mean it must be approved. The burden falls on the applicant to show that the use would be a benefit to the particular area and to the general welfare of the City.
- The P&Z and Council may impose requirements and conditions of approval as are needed to ensure that a use requested by a PDD is compatible and complementary to adjacent properties.
- The applicant's request is to amend PDD Ordinance No. 2005-17 by removing the maximum building square footage limitation, increasing the maximum number of children allowed and replacing Exhibit B with a new concept plan for Child's Place Learning Center located at 551 Meadowview Lane.
- Prior to submission of any building and/or engineering plans for construction, the applicant shall submit a development site plan for review and approval per Resolution No. 033-2009.

- Unless specifically addressed in the attached ordinance, approval of the PDD does not exempt the property owner and/or developer from any other ordinance or requirement related to the development of the property described. Approval of the PDD is not a permit for development and/or construction.
- Based on the proposed request and concept plan attached, staff recommends approval of the request.
- The Planning and Zoning Commission at their June 3, 2010 meeting, following a public hearing, recommended approval of the request as submitted.

#### **RECOMMENDED ACTION**

1. Open the public hearing and receive comments, and
2. Approve ordinance on first reading.





# A Child's Place Learning Center

*Where Learning & Playing Come Together*

551 Meadow View Lane

Kerrville, TX 78028

830/792-3770

[www.achildsplacelc.com](http://www.achildsplacelc.com)





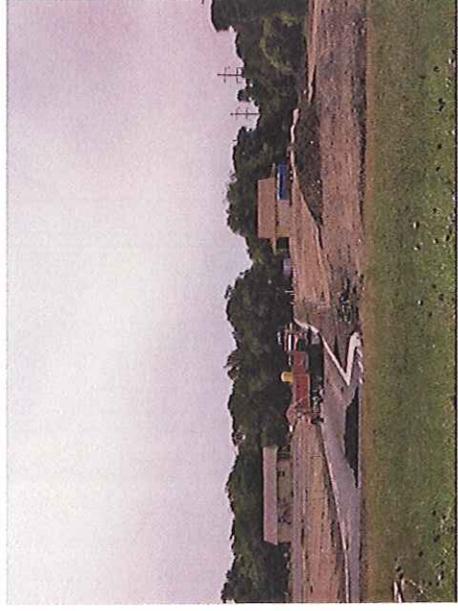




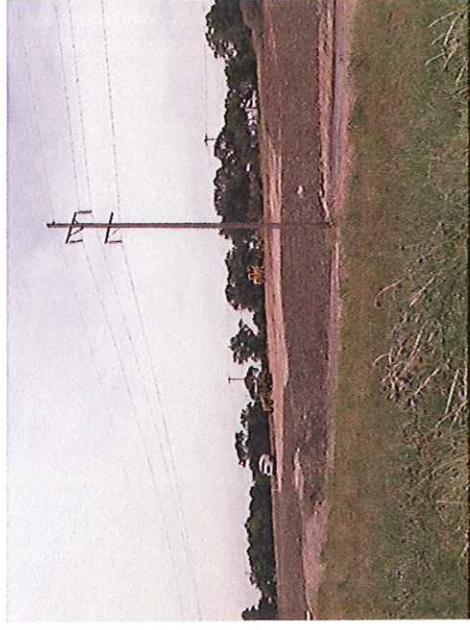
View from Meadow View of where gym would sit



View of side of building where gym would sit



View of Habitat for Humanity Community in Progress



View of site work for Habitat and retention pond

# A Child's Place Learning Center

Where Learning & Playing Come Together



## FACTS

- Ⓢ Opened in 1999
- Ⓢ Stable Community-Oriented Business
- Ⓢ Currently employ 15 full-time staff
- Ⓢ More than  $\frac{1}{2}$  have at least a CDA
- Ⓢ 6 more staff currently in school to receive CDA
- Ⓢ CCDS Rising Star Provider
- Ⓢ USDA CACFP Contractor
- Ⓢ 1 of 4 year-round programs in Kerrville offering school-age program
- Ⓢ Currently operating at full capacity of 120 children
- Ⓢ 39 school age children
- Ⓢ No opening for school age children for next 3 years
- Ⓢ August 2010 only 4 openings in birth-5 programs
- Ⓢ Since notification from City—received 4 phone calls from neighbors in support of gym. Zero opposition.

# Benefits of Gym



- ❖ Provide alternate place for gross-motor activities for all children in care (regardless of weather)
- ❖ Provide additional gross-motor activities such as rock-climbing, basketball, volleyball, etc...
- ❖ Provide adequate space to house after-school and summer school-age children
- ❖ Provide space to continue gymnastics in-house for preschoolers (as Stellar has closed)
- ❖ Provide space for early childhood trainings for local childcare facilities
- ❖ Open up additional classroom for preschool in current facility when school-age program moves to gym
- ❖ Provide capability of adding 30 school age children and 15 preschoolers
- ❖ Enhance community with addition of space to house a quality school-age program
- ❖ Provide space for community and parent activities (first aid/cpr, parenting classes)

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2005- 17**

AN ORDINANCE CREATING A "PLANNED DEVELOPMENT DISTRICT" FOR PERSONAL SERVICES II (DAY CARE CENTER ONLY) FOR AN APPROXIMATELY 2.06 ACRE TRACT OF LAND OUT OF THE SAMUEL WALLACE SURVEY NUMBER 113, WITHIN THE CITY OF KERRVILLE, TEXAS, AND GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF MEADOW VIEW LANE AND LEGION DRIVE; ADOPTING A SITE PLAN AND CONDITIONS RELATED TO THE DEVELOPMENT OF SAID DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ESTABLISHING A PENALTY OR FINE NOT TO EXCEED \$2,000 FOR EACH DAY OF VIOLATION OF ANY PROVISION HEREOF; AND ORDERING PUBLICATION

WHEREAS, the City Planning and Zoning Commission and the Governing Body of the City of Kerrville, Texas, in compliance with the City Charter and the State law with reference to the creation of Planned Development Districts under Article 11-I-15 of the Zoning Code of the City of Kerrville, Texas, and amending the official zoning map adopted thereby, have given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Governing Body of the City of Kerrville, Texas, finds that the health, safety and general welfare will be best served by the creation of a Planned Development District for Personal Services II (Day Care Center only) development, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. That the property described in **Exhibit A**, attached hereto and incorporated herein by reference, is hereby removed from the RC zoning district and placed in a newly created "Planned Development District" for Personal Services II (Day Care Center only) development.

SECTION TWO. The property described in Section One, above, may be developed and used as a day care/child care center, subject to the following:

- A. **Site Plan:** The development and use of the property shall be substantially in accordance with **Exhibit B**, attached hereto and incorporated herein by reference.
- B. **Parking:** The design and number of parking spaces shall be in accordance with the regulations in effect at the time that individual building permits are submitted to the City. All required parking spaces shall be constructed of asphalt or concrete and be marked and kept available for customers and employees.

Approved by City Council  
Date: Oct 25, 2005  
Volume 35 Page 425

*Ordinance No. 2005-17*

- C. Sidewalks: The construction of sidewalks shall be required and in accordance with the regulations in effect at the time building permits, if any, are submitted to the City.
- D. Signage: Only the following outdoor signs may be installed:
1. One free-standing sign is allowed on the property, subject to the following conditions:
    - a. sign area shall not be greater than twenty-four square feet (24.0'); and
    - b. sign shall not be higher than four feet (4.0') above the adjacent street or driveway level, whichever is higher.
  2. A directional sign at the end of each driveway to indicate the direction of travel for vehicles picking up and dropping off with a sign area not to exceed four square feet (4.0').
  3. A nameplate sign located on the wall adjacent to the front entry door of the facility, with a sign area not to exceed four square feet (4.0').
- E. Landscaping Regulations: Landscaping shall be installed in accordance with the following regulations:
1. Planting materials planted on the property shall be on the list of recommended plants set forth in the most recent edition of *Recommended Plants for the Kerrville Area* published by the City at the time of planting; provided, however, no variety of St. Augustine Grass (*Stenotaphrum secundatum (Walter) Kuntze*) may be planted at any location on the Property after the effective date of this Resolution.
  2. There shall be a landscaped area of no less than seven and one-half feet (7.5') wide parallel to and along the entire length of Meadow View Lane between any parking areas and Meadow View Lane.
- F. Screening: Screening shall be required and in accordance with the regulations in effect at the time individual building permits are submitted to the City.
- G. Trash and Other Solid Waste: Solid waste collection bins and dumpsters shall be equipped with lids and screened with a gate with an opaque screen on one side and masonry material finished to look substantially like the adjacent building on the remaining three sides.
- H. The development shall comply with the development regulations set forth in Article 11-I-19(d.) of the Zoning Code of Kerrville, Texas; provided, however, the development shall also comply with the following:

1. The combined floor area of all buildings on the property, except for storage buildings, shall not exceed 6,500 square feet;
2. The day care center may not accommodate more than one-hundred twenty (120) children at any time;
3. All parking and driveway areas shall be constructed of asphalt or concrete;
4. The development shall be platted in accordance with the City's Subdivision Regulations in effect at the time of development;
5. A deceleration lane of no less than one-hundred feet (100') in length, as measured southward from the entrance to the development, shall be constructed within the northbound Meadow View Lane right-of-way. Said deceleration lane is to allow northbound traffic to make a right turn into the development separate and apart from the northbound traveling lanes;
6. An acceleration lane of no less than one-hundred feet (100') in length, as measured northward from the exit of the development, shall be constructed within the northbound Meadow View Lane right-of-way. Said acceleration lane is to allow traffic exiting the development to make a right turn onto Meadow View Lane separate and apart from the northbound traveling lanes; and
7. Any improvements to Meadow View Lane or other public road(s) to meet the requirements of this ordinance, or any ordinance, shall be in conformance with the Standard Specifications for Subdivision Construction manual in effect at the time of said improvements. In addition, said improvements shall be designed and constructed in a manner as to be incorporated, to the greatest extent possible, into any future road improvements as contemplated on the Thoroughfare Plan component of the Kerrville Comprehensive Plan.

SECTION THREE. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

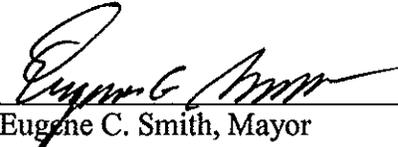
SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-I-9 of the Code of Ordinances of the City of

Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

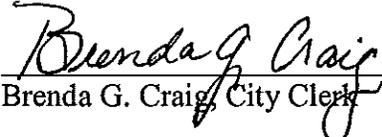
SECTION SIX. In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Clerk is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

PASSED AND APPROVED ON FIRST READING, this the 11 day of Oct., A.D., 2005.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the 25 day of October, A.D., 2005.

  
\_\_\_\_\_  
Eugene C. Smith, Mayor

ATTEST:

  
\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

FIELD NOTES DESCRIPTION FOR 2.06 ACRES OF LAND OUT OF THE SINGING WINDS DEVELOPMENT COMPANY L.L.C. LAND ALONG MEADOWVIEW LANE IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 2.06 acres, more or less, out of Samuel Wallace Survey No. 113, Abstract No. 347 in the City of Kerrville, Kerr County, Texas; part of a certain 20.91 acre tract conveyed from Vista Homes to Singing Winds Development Company, L.L.C. by a Warranty Deed with Vendor's Lien Reserved For and Assigned to Third Party Beneficiary (Lender) executed the 24<sup>th</sup> day of February, 1998 and recorded in Volume 938 at Page 634 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron stake set in the southeast right-of-way line of Meadowview Lane, a public street (right-of-way width varies) and northwest line of said 20.91 acre tract for the north corner of the herein described tract and west corner of a certain 0.02 acre tract dedicated for right-of-way of Meadowview Lane by the plat for Sierra Vista - Section One, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 385 of the Plat Records of Kerr County, Texas; which point bears: 611.02 ft. N.44°23'25"E. from a 1/2" iron stake found at the intersection of the southeast right-of-way line of Meadowview Lane and northeast right-of-way line of Legion Drive for the west corner of said 20.91 acre tract; and approximately 4852 ft. West and 3381 ft. South from the north corner of Survey No. 112;

THENCE, upon, over and across said 20.91 acre tract with the southwest line of Sierra Vista - Section One S.45°45'33"E., at 2.15 ft. passing a 1/2" iron stake found for the south corner of said 0.02 acre tract and west corner of Lot 34, then continuing with the southwest lines of Lots 34, 33, 32, 31, 30 and 29 for a total distance of 341.82 ft. to a 1/2" iron stake set for the east corner of the herein described tract, the south corner of Lot 29, the west corner of Shaun Street, a fifty (50) ft. wide public street at its southwest terminus and the north corner of a certain 0.34 acre tract dedicated as a drainage and utility easement in an Easement and Storm Water Detention Area Dedication from Singing Winds Development Company, L.L.C. to the City of Kerrville executed the 27<sup>th</sup> day of August, 1998 and recorded in Volume 971 at Page 174 of the Real Property Records of Kerr County, Texas;

THENCE, continuing upon, over and across said 20.91 acre tract with the northwest line of said 0.34 acre tract S.44°45'27"W., 264.26 ft. to a 1/2" iron stake set for the south corner of the herein described tract and east corner of a certain 0.81 acre tract dedicated as a storm water detention area to the City of Kerrville in said Easement and Storm Water Detention Area Dedication (Pl. 971 Pg. 174);

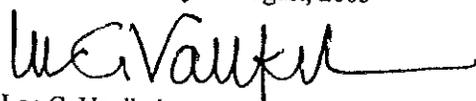
THENCE, continuing upon, over and across said 20.91 acre tract with the northeast line of said 0.81 acre tract N.45°26'02"W., 340.13 ft. to a 1/2" iron stake set in the said northwest line of 20.91 acre tract and southeast right-of-way line of Meadowview Lane for the west corner of the herein described tract and north corner of 0.81 acre tract;

THENCE, with the said northwest line of 20.91 acre tract and southeast right-of-way line of Meadowview Lane N.44°23'25"E., 262.32 ft. to the PLACE OF BEGINNING.

I hereby certify that this field notes description and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown. (Bearing basis = True north based on GPS observations)

Date Surveyed: July 6, 2005

Dated this 2<sup>nd</sup> day of August, 2005



Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



Exhibit A

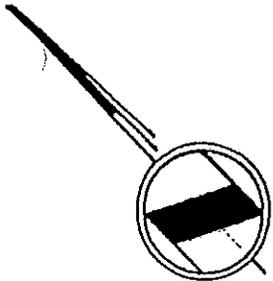
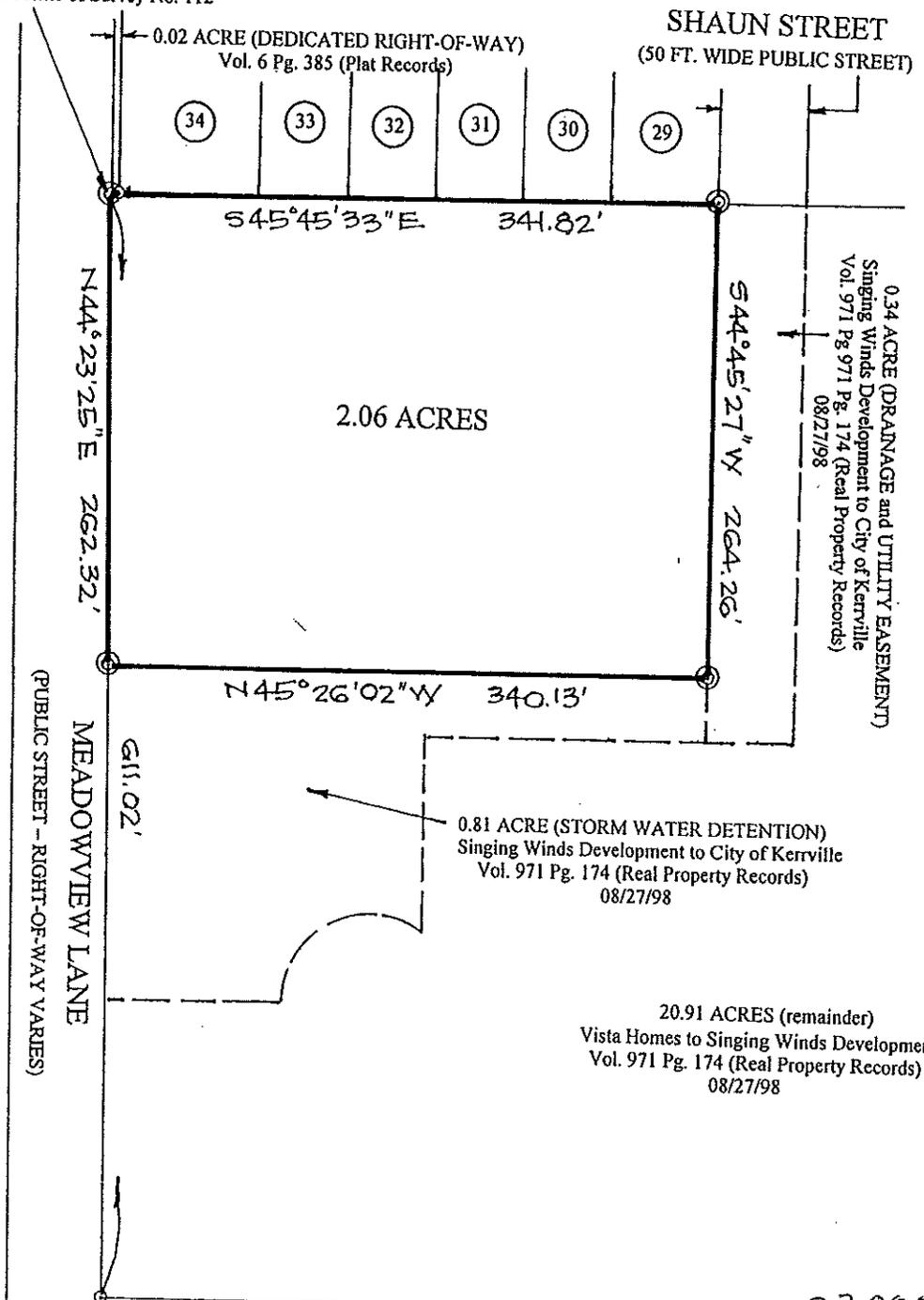
VOELKEL ENGINEERING & SURVEYING, PLLC ■ PHONE 830-267-3313 ■ 212 CLAY STREET, KERRVILLE, TEXAS 78028

07005-17

SURVEY PLAT FOR 2.06 ACRES OF LAND, MORE OR LESS, OUT OF SAMUEL WALLACE SURVEY NO. 113, ABSTRACT NO. 347 IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS; PART OF A CERTAIN 20.91 ACRE TRACT CONVEYED FROM VISTA HOMES TO SINGING WINDS DEVELOPMENT COMPANY, L.L.C. BY A WARRANTY DEED WITH VENDOR'S LIEN RESERVED FOR AND ASSIGNED TO THIRD PARTY BENEFICIARY (LENDER) EXECUTED THE 24<sup>TH</sup> DAY OF FEBRUARY, 1998 AND RECORDED IN VOLUME 938 AT PAGE 634 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS

BEGINNING POINT bears: 611.02 ft. N.44°23'25"E. from the west corner of 20.91 acre tract; and approximately 4852 West and 3381 ft. South from the north corner of Survey No. 112

SIERRA VISTA - SECTION ONE  
Vol. 6 Pg. 385 (Plat Records)



SCALE: 1" = 100'

LEGEND

- found 1/2" iron stake
- ⊙ set 1/2" iron stake



**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2010-\_\_**

**AN ORDINANCE AMENDING ORDINANCE NO. 2005-17 WHICH CREATED A "PLANNED DEVELOPMENT DISTRICT" FOR PERSONAL SERVICES II (DAY CARE CENTER ONLY) FOR AN APPROXIMATE 2.06 ACRE TRACT OF LAND OUT OF THE SAMUEL WALLACE SURVEY NUMBER 113, WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, AND MORE COMMONLY KNOWN AS 551 MEADOWVIEW LANE; SAID AMENDMENT TO INCREASE THE AUTHORIZED FLOOR AREA OF THE BUILDINGS ON THE PROPERTY AND THE MAXIMUM NUMBER OF CHILDREN TO BE ACCOMMODATED**

WHEREAS, on October 25, 2005, the City Council of the City of Kerrville, Texas, approved Ordinance No. 2005-17 to create a "Planned Development District" ("PDD") on an approximate 2.06 acre tract of land out of the Samuel Wallace Survey Number 113, within the City of Kerrville, Kerr County, Texas, and more commonly known as 551 Meadowview Lane (the "Property"), to allow for a Personal Services II (Day Care Center only) development, subject to a site plan and other conditions related to the development of the PDD; and

WHEREAS, an applicant has requested to amend the PDD to authorize an increase in the maximum square footage of the floor area for buildings on the Property and the maximum number of children to be accommodated by the use; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Ordinance 2005-17 as described herein;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Ordinance No. 2005-17 is amended as follows:

A. Site Plan: The development of the Property shall be substantially in accordance with the amended Site Plan attached as **Exhibit A**, said amendment to incorporate the other amendments specified herein, where appropriate.

B. Maximum Square Footage of Buildings: The combined floor area of all buildings on the Property, except for storage buildings, shall not exceed 12,000 square feet, which may include the construction and use of a gymnasium.

C. Maximum Number of Children: The day care center shall not accommodate more than one-hundred seventy (170) children at any time.

**SECTION TWO.** Except as amended by this Ordinance, the provisions of Ordinance No. 2005-17 shall remain in full force and effect.

**SECTION THREE.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance, including Ordinance No. 2005-17, are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FIVE.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-I-9 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

**SECTION SIX.** In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2010.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the day of \_\_\_\_\_, A.D., 2010.**

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM

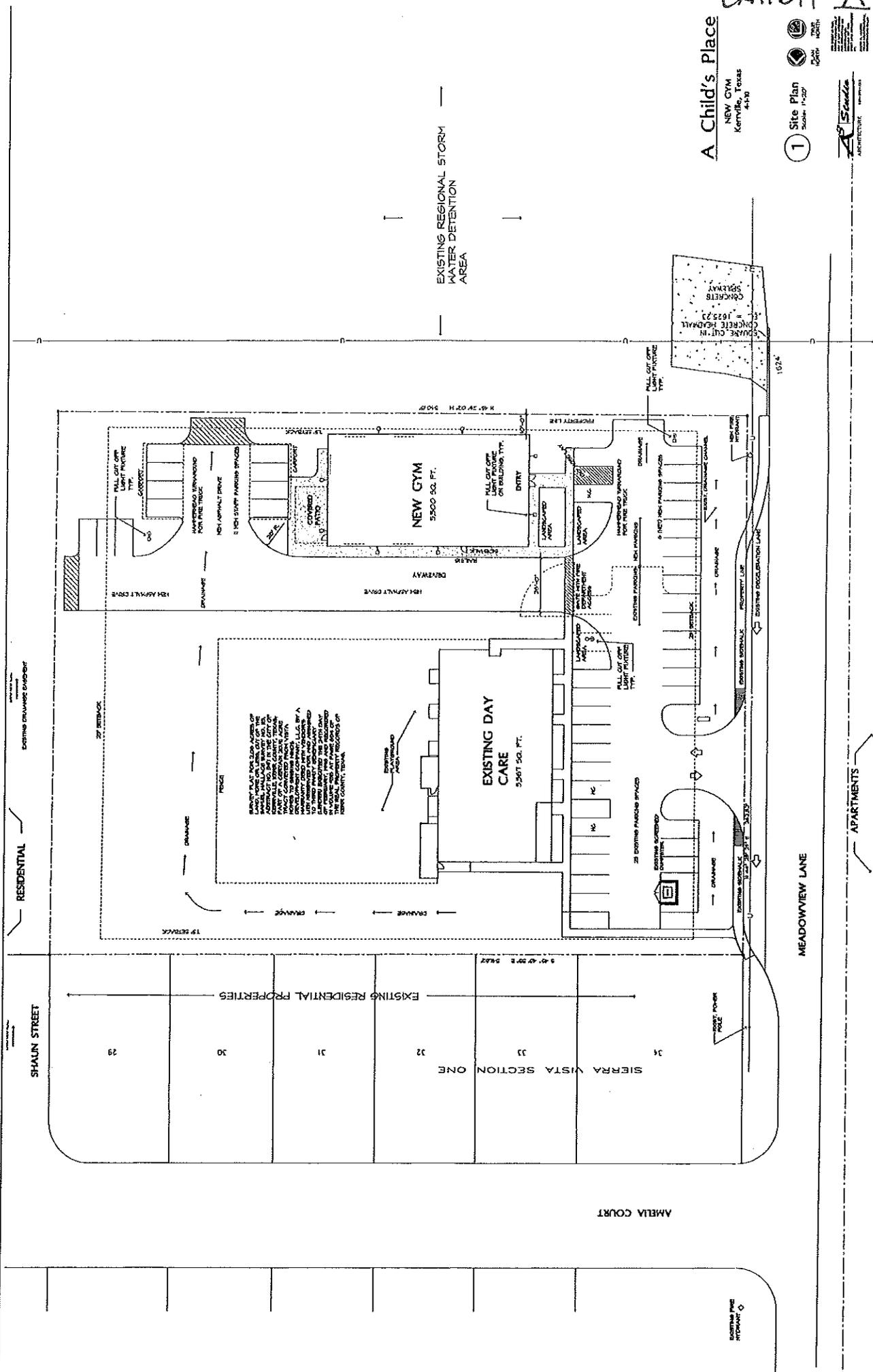


\_\_\_\_\_  
Michael C. Hayes, City Attorney

# A Child's Place

NEW GYM  
Kerrville, Texas  
4-18

1 Site Plan  
Scale: 1"=20'



NOTES:  
 1. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.  
 2. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE LATEST EDITIONS OF THE INTERNATIONAL PLUMBING AND MECHANICAL CODE (IMC).  
 3. ALL UTILITIES SHALL BE DEPTH AND LOCATION AS SHOWN ON THE UTILITY RECORDS OF THE COUNTY ENGINEER.  
 4. ALL UTILITIES SHALL BE DEPTH AND LOCATION AS SHOWN ON THE UTILITY RECORDS OF THE COUNTY ENGINEER.  
 5. ALL UTILITIES SHALL BE DEPTH AND LOCATION AS SHOWN ON THE UTILITY RECORDS OF THE COUNTY ENGINEER.

EXISTING FIRE HYDRANT



**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance, Second Reading

An ordinance amending the City's "Zoning Code" by revising and adding definitions, adding a Determination of Vested Rights, revising the review and approval process for the creation of Planned Development Districts and Development Site Plans, revising Regulations Regarding Height, Lot Width, Area, and Setbacks for various uses and within various zoning districts, revising the procedural rules for the Planning and Zoning Commission and the Zoning Board of Adjustment, and clarifying the process for the issuance of Certificates of Occupancy and Building Permits; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for a violation of any provision hereof; ordering publication; providing an effective date; and providing other matters related to the subject

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 11, 2010

**SUBMITTED BY:** Kevin Coleman *VC*      **CLEARANCES:** Kristine Ondrias *SO*

**EXHIBITS:** Proposed Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *M*

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>	

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

The attached ordinance consolidates the proposed amendments to the zoning code presented to Council in prior public hearings. The proposed amendments are recommended by the Zoning Ordinance Input Committee as a necessary first step in the overall zoning code rewrite directed by City Council. All required public hearings have been held. In addition, a number of public workshops and input sessions have been held to insure public involvement in the review process.

The ordinance presented for second reading contains revisions and clarified language to address Council concerns discussed at the June 8, 2010 meeting. Those changes are highlighted in the proposed ordinance. Though these

changes are different than the proposed amendments as presented by the Zoning Ordinance input Committee and recommended by the Planning and Zoning Commission, staff feels that the implementation of these changes has limited net effect.

**RECOMMENDED ACTION**

Approve ordinance on second and final reading.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2010-\_\_**

**AN ORDINANCE AMENDING THE CITY'S "ZONING CODE" BY REVISING AND ADDING DEFINITIONS; ADDING A DETERMINATION OF VESTED RIGHTS; REVISING THE REVIEW AND APPROVAL PROCESS FOR THE CREATION OF PLANNED DEVELOPMENT DISTRICTS AND DEVELOPMENT SITE PLANS; REVISING REGULATIONS REGARDING HEIGHT, LOT WIDTH, AREA, AND SETBACKS FOR VARIOUS USES AND WITHIN VARIOUS ZONING DISTRICTS; REVISING THE PROCEDURAL RULES FOR THE PLANNING AND ZONING COMMISSION AND THE ZONING BOARD OF ADJUSTMENT; AND CLARIFYING THE PROCESS FOR THE ISSUANCE OF CERTIFICATES OF OCCUPANCY AND BUILDING PERMITS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR A VIOLATION OF ANY PROVISION HEREOF; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of public hearings which were held before the City Council on June 8, 2010, which considered a report of the City of Kerrville Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in revisions to the City's Zoning Code as specified herein; and

**WHEREAS**, such public hearings were held in the Council Chambers beginning at approximately 6:00 p.m. on June 8, 2010, as advertised; and

**WHEREAS**, after full hearings, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission and the City staff; and after considering among other things; the character of the various areas of the City and the suitability of particular uses in each area; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City, the Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to amend the City's Zoning Code as specified herein;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Article 11-I-3 "Definitions and Interpretation of Words and Phrases" of the City's Zoning Code is amended by revising the definition for "Accessory Building or Accessory Structure" and adding new definitions for words and phrases as follows:

**“Art. 11-I-3. DEFINITIONS AND INTERPRETATION OF WORDS AND PHRASES”**

**(1) Accessory Building or Accessory Structure:** A subordinate building or structure not attached to the main building(s) or structure(s), the use of which is incidental and related to the main use and is located on the building lot; including storage buildings, satellite dish antennas, carports, and similar structures. Accessory buildings do not include guest and servant quarters; buildings with more than two plumbing fixtures connected to sanitary sewer; buildings that cover more than 50% of any rear yard; or a manufactured home, motor vehicle, trailer, or similar vehicle or structure that is used or converted for use as an accessory building.

**(20) Building Permit:** A permit issued by the Building Official for the City authorizing the erection, construction, reconstruction, alteration, movement, repair, conversion, or expansion of any building, structure, or portion thereof, which certifies and acknowledges that such activities or uses with respect to the building or structure complies with the provisions of the City’s building codes, Zoning Code, or an authorized variance therefrom.

**(24) Certificate of Occupancy:** A document issued by the Building Official for the City certifying that a newly constructed structure, addition to an existing structure, or an existing structure undergoing a change in use complies with the provisions of the City’s building codes, Zoning Code, or an authorized variance therefrom, and that the building or structure is habitable.

**(33) Development Activity:** A change to improved or unimproved property that requires a permit or approval, which includes the construction or alteration of buildings or structures; filling; the deposit of refuse, debris, fill, or building materials; grading; and the clearing of natural vegetative cover. Routine repair and maintenance activities and agricultural activities are exempted.

**(34) Development Review Committee (DRC):** A committee consisting of representatives of local governmental entities and utility providers, to include the City of Kerrville, Kerr County, franchise utility companies, and the Texas Department of Transportation; and chaired by the City Planner, which Committee is to review plats, site plans, and building plans submitted for approval prior to construction and/or development. Such review and approval does not take the place of the purpose and authority of either the Planning and Zoning Commission or City Council, where applicable.

**(35) Development Standards:** Regulations that limit the size, bulk, or siting conditions of particular types of buildings, developments, or uses located within a specific zoning district.

**(122) Vested Rights:** A property right that has been legally established by submittal of an administratively complete development permit and/or the initiation of

development and which cannot be revoked by subsequent conditions or changes in law without due process of law.”

**SECTION TWO.** Section 11-I-4(b) “Zoning of Newly Annexed Areas” of the City's Zoning Code is amended in its entirety to provide as follows:

“(b) Zoning of Newly Annexed Areas. The Planning and Zoning Commission shall hold a hearing on all proposed annexations and shall, at the same time, hold a hearing upon the zoning that is to be given to the tract to be annexed and make a recommendation to the City Council for the zoning of the property upon annexation consistent with the purposes of the Zoning Code and the Comprehensive Plan. Concurrently with the adoption of the annexation ordinance, the City Council shall adopt the zoning of the area or tract being annexed.

(1) *Determination of Vested Rights.* Any person claiming a property interest in land located within a newly annexed area may apply to the City Planner for a determination of the vested rights, if any, to continue the development related activities or uses initiated prior to annexation. The City’s determination shall be based upon all pertinent facts and written evidence submitted for consideration by the applicant. The City’s determination shall be limited to a continuation of the development rights previously established under state law. The City Planner’s written determination shall be final unless his or her determination is duly appealed by the applicant to the Planning and Zoning Commission in accordance with Article 11-I-23 (Appeals to Administrative Decisions).

(2) *Continuance of Development Activity.* Within a newly annexed area, no person relying on a claim of vested rights shall continue any development activity that requires a certificate of occupancy without first applying for and obtaining a building permit.”

**SECTION THREE.** Article 11-I-15 “Planned Development Districts” of the City's Zoning Code is amended in its entirety as follows:

**“Art. 11-I-15 PLANNED DEVELOPMENT DISTRICTS AND DEVELOPMENT SITE PLANS**

I. Planned Development Districts.

A. Definition and Purpose: The Planned Development District (PDD) is a separate, stand-alone district designed to provide for the development of land for single or mixed uses in accordance with a plan that varies from the established regulations of the underlying zoning district. It is the intent of a PDD to insure compliance with good

zoning practices while allowing specific desirable departures from the strict provisions of current zoning classifications.

B. Minimum Development Size: The minimum size for any PDD shall not be less than two (2) acres for nonresidential developments and five (5) acres for residential developments.

C. Application: An application for a PDD shall be processed in accordance with this article. Prior to submitting an application for the creation of a PDD, the applicant or the applicant's representative shall meet with the City Planner or designated staff to receive information regarding application procedures and requirements. The City shall not deem an application administratively complete until a pre-application conference has occurred. No application for creation of a PDD shall be deemed complete until all required information has been delivered to the Planning Division and the required application fee is paid. All information required by the City and the amount of the appropriate fee shall be specified on the City's application form. A PDD application shall be scheduled for consideration by the Planning and Zoning Commission within forty-five (45) days of the City deeming the application administratively complete.

D. Concept Plan: An application for a PDD shall include a concept plan showing a preliminary layout of proposed uses, access, buildings, parking, open space, and the relationship to existing natural features, adjacent properties, and uses. The concept plan shall be construed as an illustration of the development concepts and not an exact representation of all specific details. An application for a PDD shall include a concept plan to be considered administratively complete.

E. Requirements of Concept Plan: A concept plan shall provide the following minimum requirements:

- 1) Vicinity map, north arrow, date, site address (if known), and scale (not less than one inch for each one-hundred feet (1" = 100'));
- 2) Total acreage within the proposed PDD;
- 3) The entire site, indicating property lines, and project phase lines, if any; public and private rights-of-way and easements on the site or abutting or intersecting the site; adjacent properties with zoning and existing uses identified;
- 4) Proposed general land uses and the acreage of each use, including open space; for residential developments, the total number of units and the number of units per acre;
- 5) Existing and proposed structures showing approximate outline of perimeter walls including distances to property lines and other structures; front, side, and rear

building setback lines; proposed category of use(s) of structures, number of stories in height and feet, gross floor area, and location of entrances and exits;

6) Proposed development standards, if different from the base zoning district for each proposed land use;

7) The proposed parking standard for each use;

8) Topographic contours of ten feet (10') or less of the proposed site;

9) The existing 100-year floodplain, floodway, and any major drainage way(s); and

10) Existing and proposed utilities to include water, wastewater, gas, electric, telecommunications, and fire hydrant locations.

F. Phasing Schedule: A PDD proposing phasing shall provide a phasing schedule for the development depicting the different construction timelines.

G. Review Process: Upon receipt of an administratively complete application as determined by the City for the creation of a PDD, the Planning Division shall schedule the appropriate review and meeting as follows:

1) Development Review Committee (DRC): The Development Review Committee (DRC) shall review each PDD and make a recommendation. Where appropriate, as determined by the City Planner, the DRC may request that the applicant or the applicant's representative attend the DRC meeting. Following the DRC's review, the City Planner shall prepare a report for the Planning and Zoning Commission related to the request and provide a recommendation for action based upon the review by the DRC.

2) Planning and Zoning Commission: After the City publishes notice of the request in the same manner as required of a zoning amendment, but in no case earlier than fifteen (15) days after receipt of the administratively complete application, the Planning and Zoning Commission (Commission) shall hold a public hearing on the application for creation of a PDD. At the public hearing, the Commission shall review the application and receive comments from the applicant, City staff, and others. After the close of the public hearing, the Commission shall adopt and shall forward a recommendation to the City Council regarding adoption of an ordinance creating a PDD subject to the conditions recommended by staff with or without addition or modification. In the event that the Commission determines that the application as presented is acceptable, but only if amended, the Commission may recommend to the City Council approval of an ordinance creating the PDD subject to incorporation of the changes recommended by the Commission.

3) City Council (Council): Within 30 days after the action of the Commission, the City Council shall hold a public hearing on the proposed ordinance creating a PDD. At the public hearing, the Council shall review the application and the recommendation of the Commission and receive comments from the applicant, Planning Division, and others who have an interest in the matter, facts and opinions concerning the proposed district and the proposed development regulations to which such district would be subject. The Council may, after closing the public hearing, approve by ordinance the creation of a PDD based upon a concept plan. The approved plan shall be made part of the ordinance establishing the PDD. Should Council approve the ordinance following two readings, the PDD shall be indicated on the zoning map of the City.

H. Zoning Map Reference: A PDD approved in accordance with the provisions of this article shall be referenced on the Official Zoning Map of the City of Kerrville. The City Planner shall maintain a list of approved PDDs, together with the category of uses permitted within them, and the concept plans.

I. Amendment to a Planned Development District: Any changes in the ordinance adopting a PDD or the concept plan for a PDD shall be in accordance with the same process used to establish the original PDD.

J. Reapplication: If an application for the creation of a PDD is denied by the City Council, another application for reclassification of the same property or any portion thereof shall not be filed within a period of one (1) year from the date of final denial, except with permission of the City Council.

## II Development Site Plans.

A. Definition and Purpose: The City requires the approval of a Development Site Plan prior to any site development and the issuance of a building permit for non-single family residential developments of 0.5 (1/2) acre or larger. The City requires the approval of a Development Site Plan prior to any site development and the issuance of a building permit for all non-single family residential developments as defined by the Zoning Code. The Development Site Plan shall comply with all provisions of the zoning district in which the property is located, to include a PDD where applicable, relating to permitted uses and development requirements and standards.

B. Application: An application for a Development Site Plan shall be processed in accordance with this article. Prior to submitting an application for a development site plan, the applicant or the applicant's representative shall meet with the City Planner to receive information regarding application procedures and requirements. The City shall not consider an application to be administratively complete until such a meeting is held. The City shall not consider an application for a Development Site Plan to be administratively complete until all required information is delivered to the City and the

application fee paid. All information required by the City and the amount of the appropriate fee shall be specified on the City's application form.

C. Development Site Plan: Approval of a Development Site Plan shall be required prior to the issuance of building permits for any non-single family development of 0.5 (1/2) acres or larger. Review of the Development Site Plan shall confirm compliance with the conditions and stipulations of the zoning district in which it is located. A Development Site Plan shall provide the following minimum information:

- 1) Vicinity map, north arrow, date, site address, and scale (not less than one inch for each one-hundred feet (1" - 100'));
- 2) Project name and address in the title block;
- 3) Plat name with lot and block if applicable;
- 4) Site, indicating boundaries (with bearings and distances) and project phase lines if any;
- 5). Location and width of existing and/or proposed public and/or private rights-of-way and easements on, abutting, or intersecting the site;
- 6) Adjacent properties with zoning and existing uses identified;
- 7) Existing and proposed structures showing approximate outline and dimensions of perimeter walls, including distances to property lines and other structures;
- 8). Front, side, and rear building setback lines;
- 9) Provide building construction type, per the building code, if known;
- 10) Proposed category of use and/or uses of each structure;
- 11) Number of stories in height and feet for each structure;
- 12) Gross floor area for each structure;
- 13) Approximate location of entrances and exists for each structure;
- 14) Location, width, and curve radii of existing and proposed streets, alleys, parking areas, fire lanes, and drive approaches. Fire lanes shall be shaded on the site plan with clearly indicated width and radii;

- 15) Dead-end fire lanes in excess of 150-feet shall be provided with an approved turn-around;
- 16) For firelanes, highlight areas that exceed 5% grade and/or have a vertical height clearance less than thirteen and one-half feet (13.5');
- 17) Proposed location of the Fire Department Connection (FDC), if known;
- 18) Location of all streets, drives, and alleys which are adjacent to or dead-end into the site, including the location of existing and proposed median openings and turn lanes;
- 19) "No Objection" letter from the Texas Department of Transportation (TxDOT) for proposed drive approaches and/or drainage structures accessing TxDOT right-of-way, if applicable;
- 20) Number, location, and dimensions of regular and handicapped parking spaces, width of drive aisles, loading areas, and other areas to be used for vehicular traffic;
- 21) Location and width of sidewalks, handicapped ramps, and other pedestrian facilities;
- 22) Existing and proposed topography reflecting proposed handling of on-site surface drainage;
- 23) Limits of the 100-year floodplain and floodway as shown on current FEMA maps, including an approximate location and acreage;
- 24) Proposed improvements and method of maintenance for any drainage channels and storm water detention facilities;
- 25) Existing and proposed sanitary sewer layout, showing point of connection to municipal lines, including existing and proposed line sizes;
- 26) Existing and proposed water service layout including existing and proposed fire hydrants and showing connection to municipal lines, including existing and proposed line sizes;
- 27) Proposed location(s) of solid waste container pads and enclosures;
- 28) Location, height, and building materials for any proposed or required screening walls or fences;
- 29) Location, height, and type of proposed or required berm or living screen; and

30) A table showing type of units by size, number of bedrooms, and number of each type, for multifamily projects only.

D. Review Process: The Development Review Committee (DRC) shall review and make recommendations on all development site plans. The DRC shall have authority to approve, conditionally approve, or disapprove nonresidential development site plans, provided that the development site plan does not require consideration and approval of varied or different requirements and standards than those required by the zoning district in which the project is located. Should the DRC disapprove of a development site plan, the DRC shall provide a detailed list of issues that must be addressed upon resubmittal. Should the DRC give conditional approval of a development site plan, the DRC shall provide a detailed list of conditions that must be met at the time of that the civil and/or building plans are submitted. An applicant may appeal the determination of the DRC to the Planning and Zoning Commission pursuant to the appeal procedure described below.

E. Appeal: A decision of the Development Review Committee may be appealed to the Planning and Zoning Commission (Commission) by the applicant within ten (10) days after the date of decision by the DRC. The appeal shall be written and shall identify the specific reason(s) for and basis of the appeal. The appeal shall be delivered to the Planning Division within the ten (10) days of the receipt of the decision by the DRC. The Commission shall hear the appeal of the applicant at a regular meeting. Upon review, the Commission may uphold the issues to be addressed upon resubmittal, uphold the conditions of the conditional approval, or alter any requirement or condition that concerns an issue addressed by this ordinance and the issue of zoning. The Commission may not consider, alter, or lessen any requirements or conditions that are beyond the scope of its authority, to include application of the City's various building codes, or where another appeal procedure is applicable.

F. Administrative Action: Upon approval of a development site plan by the Development Review Committee, as set forth herein, and approval of the preliminary plat (if required), application(s) may be made for the permits and certificates necessary for construction. Subsequent to such approval, minor changes to the development site plan may be made authorized by the Director of Development Services when such changes will not cause any of the following circumstances to occur:

- 1) A change in the character of the development;
- 2) An increase in the ratio of the gross floor area in structures to the area of any lot;
- 3) An increase in the intensity of use;

- 4) A reduction in the originally approved separations between buildings or required screening;
- 5) An increase in the problems of circulation, safety, and utilities;
- 6) A reduction in the originally approved setbacks from property lines;
- 7) An increase in ground coverage by structures;
- 8) Reduction in the ratio of off-street parking and loading spaces to the gross floor area in structures; and
- 9) Change in the locations, lighting, or orientation of originally approved signs.

G. Expiration: Approval of any development site plan shall automatically expire three (3) years from the date of approval unless a building permit has been issued and development activity on the tract has begun. When only an initial or partial phase of a project is constructed, the approval of the development site plan for any additional phases shall automatically expire after three (3) years from the date of initial approval unless a building permit has been issued for the additional phases and development activity on the additional phases has begun. Extension of the approval period may be requested at any time prior to expiration or within 60 days after expiration. On or before 180 days from the scheduled expiration of the development site plan, the City Planner will notify the applicant/owner that the development site plan will expire unless a request for an extension is submitted for review and approval by the Development Review Committee. When it is determined that no significant changes affecting the site have occurred, the City Planner may, after recommendation by the DRC, extend the approval.”

**SECTION FOUR.** Section 11-I-17(b) of the City’s Zoning Code is amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the section as follows:

“(b.) **General Regulations**: Except as noted in Section (c), below, or where different regulations are set forth in this Zoning Code, in an ordinance creating a Planned Development District or a Specific Use District, or in a resolution adopting a development site plan or conditional use permit, the maximum building height, minimum setbacks, minimum lot width, and minimum lot area for the land use categories set forth in Section (a.), above, shall be as follows:

Land Use Category	Maximum Building Height (in feet)	Minimum Setbacks (in feet)			Minimum Lot Width (in feet)	Minimum Lot Area per Dwelling Unit (in square feet)
		Front	Side	Rear		
1	35	25	6	25	60	6000
2	(See Article 11-I-13)					
3 (if <u>one and two single</u> family residential uses)	35	25	6	25	50	5000, or 3000 if developed with <u>two-family dwelling units</u>
3 ( <u>two family-or</u> multi-family use)	<u>N/A</u> 40	25	10	25	60	(a) <u>3000, if developed with two-family dwelling units</u>  (b) if developed with three or more dwelling units, then: (1) 1600 for each one bedroom dwelling unit; (2) 1800 for each two bedroom dwelling unit; and (3) 2000 for each dwelling unit of three or more bedrooms
4	<u>N/A</u> 35	25	6	25	60	6000
5	<u>N/A</u> 35	20	5	20	50	(a) 5000, if developed with uses other than two family or multi-family dwelling
6	<u>N/A</u> 40	25	7.5	25	50	
7	<u>N/A</u> 40	30	10	30	60	
8	<u>N/A</u> 40	35	12.5	35	65	(b) 3000, if developed with two-family dwelling units  (c) if developed with three or more dwelling units, then: (1) 1600 for each one bedroom dwelling unit; (2) 1800 for each two bedroom dwelling unit; and (3) 2000 for each dwelling unit of three or more bedrooms

SECTION FIVE. Section 11-I-17(c) of the City’s Zoning Code is amended by deleting the language that is stricken (~~deleted~~) to the section as follows:

~~“(e.) Building Height:~~

~~(1) — Central City: The maximum building height of a structure located in any zoning district within the Central City except an R-1, R-1A, R-3, RC, RM, or RT district, may be equal to 150% of the allowable height for the use indicated in Section (b.), above.~~

~~(2) — Hospital (not including any other uses defined under “Life Care Development”): Hospitals, in zoning districts in which they are an allowed use, may exceed the height requirements of this Article 11-I-17; however, in no case shall hospitals exceed seventy (70) feet in height.”~~

SECTION SIX. Section 11-I-17(d)(1) of the City’s Zoning Code is amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the section as follows:

~~“(d.) Special Setback Regulations: Notwithstanding Section (b.), above, the following regulations shall apply regarding setbacks:~~

~~(1) Central Business Fire District: No setbacks are required in the Central Business District Fire Limits as defined herein described in Section 10-11-3(a) of the Code of Ordinances.”~~

SECTION SEVEN. Sections 11-I-17(d)(8), (9), and (10) of the City’s Zoning Code are amended by adding the language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the sections as follows:

~~“(8) Certain Building Protrusions Beyond Setback.~~

~~i Application to Ground Floors: Cornices, eaves, belt course, sills, canopies, box windows, or other similar architectural features may extend a distance not to exceed two feet (2.0’) beyond any setback.~~

~~(9) ii Application to Upper Floors: The upper floors of a multi-story building must comply with all setback requirements; provided, however, an a uncovered deck porch, porte cochere, or upper floor balcony ~~or carport~~ which is open on all sides or open with walls not higher than three feet (3.0’) from an adjacent finish floor level ground level, chimneys, or similar architectural features may extend beyond the setback a distance not to exceed one-half ( ½) of the distance between the setback and the property line.~~

**(910) Location of Accessory Structures Beyond Setback:** ~~No~~ a Accessory buildings or structures ~~may~~ shall extend beyond the setback, ~~except~~ as follows:

- i structures used primarily for landscaping may extend beyond any setback, to the property line;
- ii satellite dishes may extend beyond the side or rear setback, but not the front setback;
- iii an accessory building or structure with a floor area of less than one hundred fifty (150) square feet may extend beyond the side or rear setback, but in no case closer than three ~~six~~ feet (3.0') to any property line ~~if no fence has been constructed to screen the structure from adjoining property~~;
- iv an accessory building or structure with a floor area greater of less than one hundred fifty (150) square feet but less than four hundred (400) square feet, no taller than fifteen feet (15.0') in height, and located on residential property may extend beyond the ~~side or~~ rear setback but not closer than six feet (6.0') into any setback, however, but in no case closer than three feet to any lot line if a fence is constructed as follows:
  - ~~a~~ height of not less than six feet (6.0');
  - ~~b~~ constructed of weather resistant wood or masonry materials, which are opaque and provide no openings except for a gate, which shall also be opaque;
  - ~~c~~ length extending not less than six feet beyond each end of the building or structure.
- v an accessory building located on non-residential property and abutting other non-residential property, including garages and carports, may extend beyond the side or rear setback, but no closer than:
  - ~~a~~ three feet (3.0') to any lot line, if a screening fence as described in Paragraph (iv), above, is constructed; or
  - ~~b~~ six feet (6.0') to any lot line if no screening fence is constructed;

- vi if the side or rear lot line of a residential property abuts the property line of a non-residential property, an accessory building located on residential property, including, but not limited to, a detached carport or garage, may extend beyond the ~~side-or~~ rear setback of the lot line adjacent to the business property, but in no case shall the building extend closer than three feet (3.0') to any lot line.”

**SECTION EIGHT.** Article 11-I-22 “Planning and Zoning Commission and Board of Adjustment” of the City’s Zoning Code is amended by revising Subsection (a)(3) “Procedural Rules” in its entirety and adding a new Subsection (a)(4) “Quasi-judicial Decisions” as follows:

- “3. **Open Meetings Act.** The Planning and Zoning Commission and its Members shall comply with the Texas Open Meetings Act and the Procedural Rules (for) Kerrville City Boards. No Member shall communicate or deliberate about a matter coming before the Commission or over which the Commission has authority outside of a posted meeting in an attempt to evade the Open Meetings Act. Such prohibited conduct also applies to email or telephonic conversations.
  
- 4. **Quasi-judicial Decisions.** The requirements of procedural due process necessitate a fair hearing before an impartial body with the goal of ensuring that all sides, including the public, are provided an opportunity to present their views in public meetings. Thus, all quasi-judicial decisions made by the Commission must be based upon what is in the official public record. Quasi-judicial decisions include decisions made with respect to appeals of administration decisions and requests for variances and permits. In any quasi-judicial matter, no Commission Member shall intentionally or knowingly, outside of a meeting, communicate with a person for which there are reasonable grounds for believing that the person is a party to the matter being considered, if such communication is designed to influence the Member’s consideration of or action on the matter. A “party” is defined as being either an applicant or appellant to the quasi-judicial matter. This type of communication could be considered an ex parte communication as it involves one party discussing or presenting information to a Commission Member when another party or the public is not present to witness the conversation or where the other party does not receive the disclosed information. If any such communication should occur (ex parte communication), the Member shall disclose it at an open meeting of the Commission prior to its consideration of the matter and shall then recuse himself/herself from all further discussions and action on the matter. Where a Member receives an unsolicited inquiry or communication, personally or through electronic means, the Member shall not engage in such communications and if possible, return the communication to the sender. Further, the Member shall also advise the person or sender that such information should be presented at a Commission meeting.”

**SECTION NINE.** Article 11-I-22 “Planning and Zoning Commission and Board of Adjustment” of the City’s Zoning Code is amended by adding a new Subsection (b)(11) “Procedural Rules” and adding a new Subsection (b)(12) “Quasi-judicial Decisions” as follows:

- “11. **Open Meetings Act.** The Board of Adjustment and its Members shall comply with the Texas Open Meetings Act and the Procedural Rules (for) Kerrville City Boards. No Member shall communicate or deliberate about a matter coming before the Board or over which the Board has authority outside of a posted meeting in an attempt to evade the Open Meetings Act. Such prohibited conduct also applies to email or telephonic conversations.
12. **Quasi-judicial Decisions.** The requirements of procedural due process necessitate a fair hearing before an impartial body with the goal of ensuring that all sides, including the public, are provided an opportunity to present their views in public meetings. Thus, all quasi-judicial decisions made by the Board must be based upon what is in the official public record. Quasi-judicial decisions include decisions made with respect to appeals of administration decisions and requests for variances and permits. In any quasi-judicial matter, no Board Member shall intentionally or knowingly, outside of a meeting, communicate with a person for which there are reasonable grounds for believing that the person is a party to the matter being considered, if such communication is designed to influence the Member’s consideration of or action on the matter. A “party” is defined as being either an applicant or appellant to the quasi-judicial matter. This type of communication could be considered an ex parte communication as it involves one party discussing or presenting information to a Board Member when another party or the public is not present to witness the conversation or where the other party does not receive the disclosed information. If any such communication should occur (ex parte communication), the Member shall disclose it at an open meeting of the Board prior to its consideration of the matter and shall then recuse himself/herself from all further discussions and action on the matter. Where a Member receives an unsolicited inquiry or communication, personally or through electronic means, the Member shall not engage in such communications and if possible, return the communication to the sender. Further, the Member shall also advise the person or sender that such information should be presented at a Board meeting.”

**SECTION TEN.** Article 11-I-24 “Permits and Certificates of Occupancy” of the City’s Zoning Code is amended by adding the language that is underlined (**added**) and deleting the language that is stricken (**deleted**) to the section as follows:

“Art. 11-1-24 **PERMITS AND CERTIFICATES OF OCCUPANCY**

- (a.) **Certificate of Occupancy for Buildings:** No certificate of occupancy required by the City's Building Code shall be issued:
- (1) for a use not otherwise allowed in the Zoning District in which the building is located.

- (2) if applicable, until all improvements otherwise required by this Zoning Code have been completed.
- (3) The Building Official shall issue all certificates of occupancy. The City Planner shall review all certificates of occupancy prior to issuance by the Building Official
- (4) A certificate of occupancy is required for all lawful nonconforming uses or structures. However, the status and legality of a nonconforming use or nonconforming structure shall not be affected by a change in occupancy except as provided elsewhere in this Code.

(b.) **Building Permits:** No building permit shall be issued until the eCity Planner ~~Building Official~~ has determined that the use for which the application is made is an allowable use.”

**SECTION ELEVEN.** The City Secretary is authorized and directed to amend the Zoning Code to reflect the amendments adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

**SECTION TWELVE.** The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict.

**SECTION THIRTEEN.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FOURTEEN.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-I-9 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

**SECTION FIFTEEN.** Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City’s Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

**SECTION SIXTEEN.** This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07b. of the City Charter.

**PASSED AND APPROVED ON FIRST READING,** this the 6<sup>th</sup> day of June, A.D., 2010.

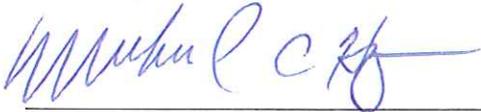
**PASSED AND APPROVED ON SECOND AND FINAL READING,** this the \_\_\_ day of \_\_\_\_\_, A.D., 2010.

ATTEST:

\_\_\_\_\_  
David Wampler, Mayor

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

---

**SUBJECT:** Ordinance, Second Reading

An ordinance amending Chapter 26 of the Code of Ordinances of the City of Kerrville, Texas, by adding a new section 26-41 to adopt the 2006 edition of the International Existing Building Code; adopting local amendments to said code; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; providing for an effective date; and providing other matters related to the subject

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 10, 2010

**SUBMITTED BY:** Kevin Coleman       **CLEARANCES:** Kristine Ondrias 

**EXHIBITS:** Proposed Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>	

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

The attached ordinance will adopt the 2006 International Existing Building Code (IEBC), and a series of local amendments needed to make the code meet local needs, local terminology and other adopted building codes.

The IEBC gives clear definition to code application given the scope, area and extent of work planned in any given area of an existing building. In addition, the code allows for both prescriptive code compliance and performance code compliance, allowing a higher degree of flexibility to the owner, the design professional and the City Building Code Official in the methods used to reach code compliance.

References to seismic requirements have been removed from proposed amendments per Council discussion.

**RECOMMENDED ACTION**

Approve ordinance on second and final reading.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2010-\_\_**

**AN ORDINANCE AMENDING CHAPTER 26 "BUILDING AND BUILDING REGULATIONS", ARTICLE II "BUILDING CODES" OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, BY ADDING A NEW SECTION 26-41 TO ADOPT THE 2006 EDITION OF THE INTERNATIONAL EXISTING BUILDING CODE; ADOPTING LOCAL AMENDMENTS TO SAID CODE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION OF ANY PROVISION HEREOF; ORDERING PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, it is the intent of the City Council to protect the public health, safety, and welfare; and

**WHEREAS**, the City's Chief Building Official and the City's Building Board of Adjustments and Appeals have reviewed the 2006 Edition of the *International Existing Building Code* ("IEBC") and have recommended its adoption, with local amendments; and

**WHEREAS**, the Development Services Community Action Team ("DSCAT") also reviewed the IEBC and discussed its value, constraints, and overall effect on the community and unanimously supported the City's adoption of the IEBC; and

**WHEREAS**, the provisions of the IEBC will apply to the repair, alteration, change of occupancy, addition, and relocation of existing buildings within the City's limits; and

**WHEREAS**, the IEBC is intended to encourage the use and reuse of existing buildings by creating a reasonable and understandable balance between the protection of life and property and the burden of compliance with standardized building codes as building uses change and buildings become older; and

**WHEREAS**, the IEBC creates a plan whereby specific code compliance requirements are determined by the scope and purpose of permitted construction activity within isolated areas and the various systems of existing buildings; and

**WHEREAS**, the IEBC will serve to incrementally increase the value, use, and safety of buildings within the City's limits; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to adopt the 2006 International Existing Building Code and recommended local amendments;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Chapter 26 "Building and Building Regulations", Article II "Building Codes" of the Code of Ordinances of the City of Kerrville, Texas ("City") is amended by adding a new Section 26-41 to provide as follows:

**"Sec. 26-41. 2006 International Existing Building Code.**

(a) *Adoption.* The International Existing Building Code, 2006 Edition, including Appendix B and Resource A ("IEBC"), and with amendments as set out in Section 26-41(b), is adopted. Copies of the IEBC and amendments thereto shall be available in the offices of the Department of Development Services and the City Secretary.

(b) *Amendments.* The 2006 International Existing Building Code is amended as follows:

(1) All references to the ICC *Electrical Code* within the IEBC shall instead refer to the City's Electrical Code.

(2) Sections 101.4.2 and 1301.3.2 are amended by deleting the references to the *International Property Maintenance Code* ("IPMC"). Any other references to the IPMC within the IEBC are deleted as the City has neither adopted nor enforces the IPMC.

(3) Section 103 is amended in its entirety to provide as follows:

**Section 103 Building Inspection Division.** The City has created a Building Inspection Division and the Chief Building Official is the City employee in charge thereof. All references within the IEBC to the "Department of Building Safety" shall instead refer to the "Building Inspection Division."

(4) Section 105.2 is amended by deleting exemption No. 1 (sidewalks and driveways) under "Building".

(5) Section 105.5 is amended by adding the following sentence at the end of the section:

The Chief Building Official shall grant a reasonable period of time to complete large projects that require an extended construction period.

(6) Section 106.1.3 is amended by deleting the last sentence of the section and replacing it with the following:

The supporting documentation shall fully describe the exterior wall system which was tested or shall be the manufacturer's installation instructions or be designed by a licensed design professional.

(7) Section 112 is amended in its entirety to provide as follows:

**Section 112. Building Board of Adjustment and Appeals.** Subject to its specific authority, the Building Board of Adjustment and Appeals shall hear appeals of orders, decisions, or determinations made by the Chief Building Official or requests for variances relative to the application and interpretation of the IEBC.

(8) Sections 302.2.3, 302.2.3.1, and 302.2.3.2 are deleted.

(9) Section 303.2 is amended by replacing the reference to twelve feet (12') in the last sentence with thirteen and one-half feet (13.5').

(10) Section 305.4 is deleted.

(11) Section 308 is amended by adding a new Section 308.1.1 as follows:

**308.1.1 Standards.** All structures shall conform with the State of Texas Accessibility Standards.

(12) Sections 506.1.1, 506.1.1.1, 506.1.1.2, 506.1.1.3, and Table 506.1.1.2 are deleted.

(13) Section 506.2.2.1 is amended by deleting the last sentence.

(14) Section 506.2.2.3 is amended in its entirety to provide as follows:

**506.2.2.3 Extent of repair for noncompliance buildings.** If the evaluation does not establish compliance of the predamaged building in accordance with Section 506.2.2.1, then the building shall be rehabilitated to comply with applicable provisions of the *International Building Code* for load combinations, including wind. The wind design level for the repair shall be as required by the building code in effect at the time of original construction, unless the damage was caused by wind, in which case the design level shall be as required by the code in effect at the time of original construction or as required by the *International Building Code*, whichever is greater.

(15) Section 703.1 is amended in its entirety as follows:

**703.1 Scope.** The requirements of this section are limited to work areas in which Level 2 alterations are being performed, and shall only apply beyond the work area where specified on the approved drawings and specifications.

(16) Section 703.5.1 is amended by deleting “a loading dock” and replacing this phrase with “other elevated floor surface.”

(17) Section 707.4.2 is deleted.

(18) Section 807.5.2 is amended in its entirety as follows:

· **807.5.2 Substantial structural alteration.** Where more than 30 percent of the total floor area and roof areas of the building or structure have been or are proposed to be involved in structural alteration within a 12-month period, the evaluation and analysis shall demonstrate that the altered building or structure complies with the *International Building Code* for wind loading.

(19) Sections 907.3, 907.3.1, and 907.3.2 are deleted.

(20) Section 1202.4 is deleted.”

**SECTION TWO.** Future amendments, not including clarifications or technical notices of any type, of the 2006 Edition of the *International Existing Building Code*, are not adopted by this Ordinance, and must be subsequently approved and adopted by the City Council of the City.

**SECTION THREE.** The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

**SECTION FOUR.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FIVE.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION SIX.** The penalty for violation of this Ordinance shall be in accordance with that general penalty provision contained in Chapter 1 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

**SECTION SEVEN.** In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication. This Ordinance shall become effective ten days following publication; provided, however, the provisions of this Ordinance shall be applicable only to work performed in accordance with a building permit issued pursuant to an application filed with the City on or after the effective date of this Ordinance.

**PASSED AND APPROVED ON FIRST READING, this the 8<sup>th</sup> day of June, A.D., 2010.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_ day of \_\_\_\_\_, A.D., 2010.**

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance, Second Reading

An ordinance amending Chapter 26 "Building and Building Regulations", Article II "Building Codes", of the Code of Ordinances of the City of Kerrville, Texas, by amending Section 26-31 to delete Chapter 34 "Existing Structures" from the 2006 edition of the International Building Code; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; and providing other matters related to the subject

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 10, 2010

**SUBMITTED BY:** Kevin Coleman *KC*      **CLEARANCES:** Kristine Ondrias *KO*

**EXHIBITS:** Proposed Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *JK*

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

The attached ordinance removes International Building Code, Chapter 34, Existing Buildings, and all amendments to that chapter.

With the pending adoption of the International Existing Building Code, IBC Chapter 34 becomes redundant and is no longer needed.

**RECOMMENDED ACTION**

Approve ordinance on second and final reading.

CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2010-\_\_

AN ORDINANCE AMENDING CHAPTER 26 "BUILDING AND BUILDING REGULATIONS", ARTICLE II "BUILDING CODES", OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, BY AMENDING SECTION 26-31 TO DELETE CHAPTER 34 "EXISTING STRUCTURES" FROM THE 2006 EDITION OF THE INTERNATIONAL BUILDING CODE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION OF ANY PROVISION HEREOF; ORDERING PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, the City Council has previously adopted the 2006 Edition of the *International Building Code* ("IBC"), with local amendments, as the regulations governing the conduct of construction work applicable to commercial buildings within the City; and

WHEREAS, the City Council is in the process of adopting the 2006 Edition of the *International Existing Building Code*, with local amendments, and thus, Chapter 34 within the IBC will no longer be required; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend the Code of Ordinances of the City of Kerrville, Texas, to reflect its adoption of the 2006 edition of the International Existing Building Code, as well as to make other appropriate amendments to various sections of Chapter 26 "Buildings and Building Regulations" of the City's Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

SECTION ONE. Chapter 26 "Building and Building Regulations", Article II "Building Codes", of the Code of Ordinances of the City of Kerrville, Texas, is amended by amending Sections 26-31(b)(1) by adding the language that is underlined (added) and deleting the language that is bracketed and stricken (~~deleted~~) as follows:

"Sec. 26-31. 2006 International Building Code.

⋮  
(b) *Amendments.* The 2006 International Building Code is amended as follows:

⋮  
~~(9) Section 304.1 is amended to add the following business occupancies:-- Small retail and wholesale (less than 5,000 square feet); the following is prohibited for this occupancy: 1) the stacking of products higher than eleven feet (11') from the floor; 2) the storage of hazardous materials; and 3) no "covered malls"; in addition, the occupancy loading for such occupancies shall remain subject to Class "B".~~

~~Small sales room (less than 5,000 square feet): the following is prohibited for this occupancy: 1) the stacking of products higher than eleven feet (11') from the floor; 2) the storage of hazardous materials; and 3) no "covered malls"; in addition, the occupancy loading for such occupancies shall remain subject to Class "B".~~

~~⋮~~  
(14) Chapter 34 is deleted.

~~Section 3402.1 is amended by adding the following definition:—~~

~~Minor addition.—The addition of floor coverings, painting, ceilings, and the interior non-structural walls, not including demising or fire walls between tenant spaces that do not require the addition of plumbing, mechanical equipment, fuel gas, or electrical components nor shall this reduce accessibility below what is required by state and federal law.~~

~~(15) Section 3406 is amended to add the following new sections:—~~

~~3406.5 Change of occupancy.—Changes in occupancy within the same occupancy group shall not require upgrading the existing structure to current code. Additionally, where change in occupancy to another group does not increase the hazard level based on life and fire risk and the structure was constructed to the then current codes, there shall be no requirement to upgrade the existing structure to newer or more stringent codes unless there is an existing health or safety hazard present.~~

~~3406.5.1 Minor additions.—Where a change in occupancy requires a minor addition to the existing structure, no permit is required.—~~

~~3406.6 Public water systems.—Public water system connections shall not require backflow prevention assemblies except where specifically required by the Texas Commission on Environmental Quality [see Rules and Regulations for Public Water Systems, 30 Texas Administrative Code §290.47(i)]. Double check valve assemblies, atmospheric vacuum breakers, or pressure vacuum breakers may be used in irrigation systems where no chemicals are applied by pump(s) in or through the irrigation system. The owner shall have all double check valve assemblies, atmospheric vacuum breakers, or pressure vacuum breakers inspected once every year by a qualified inspector and shall provide to the City a copy of a written report prepared in compliance with 30 TAC §290.47(f).—~~

~~(16) Section 3409.3 is amended by adding the following:—~~

~~3409.3 Extent of application.—Nor shall a minor alteration to an existing structure or space require the upgrading of the remainder of the existing structure or space to meet newer or current codes. All work shall be confined to~~

~~that specifically required for the minor alteration to an existing structure. No minor alteration shall reduce the accessibility of an existing structure.~~

~~(17) Section 3410.3.2 is amended by deleting the reference to International Property Maintenance Code.~~

~~(18) Section 3410.4.1 is amended by adding the following:~~

~~3410.4.1 Structural analysis. No structural study is required if the load-bearing structure of the building is not being changed.”~~

**SECTION TWO.** The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

**SECTION THREE.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FIVE.** The penalty for violation of this Ordinance shall be in accordance with that general penalty provision contained in Chapter 1 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

**SECTION SIX.** In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication. This Ordinance shall become effective ten days following publication; provided, however, the provisions of this Ordinance shall be applicable only to work performed in accordance with a building permit issued pursuant to an application filed with the City on or after the effective date of this Ordinance.

PASSED AND APPROVED ON FIRST READING, this the 8<sup>th</sup> day of June A.D., 2010.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the  
\_\_\_\_\_ day of \_\_\_\_\_, A.D., 2010.

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Ordinance, Second Reading  
An ordinance amending Chapter 50 of the Code of Ordinances of the City of Kerrville, Texas, titled "Fire Prevention and Protection", by deleting Section 50-1 "Construction Standards within Fire Limits"; containing a cumulative clause; containing a savings and severability clause; providing for a penalty for violation of any provision hereof; ordering publication; providing for an effective date; and providing other matters related to the subject

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 10, 2010

**SUBMITTED BY:** Kevin Coleman *KE*      **CLEARANCES:** Kristine Ondrias *KO*

**EXHIBITS:** Proposed Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *JP*

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

The attached ordinance will delete section 50-1 of the Code of Ordinances and repeal the City Fire District and Construction Regulations.

Assuming the adoption of the IEBC, the City's Building Official and the City's Fire Marshal recommend this action as part of the effort to clarify and simplify building code enforcement. Repeal of the Fire District Regulations will allow the International Building Code, the International Fire Code and the International Existing Building Code to govern code requirements for future building and rebuilding in this area with no negative effect on public safety.

**RECOMMENDED ACTION**

Approve ordinance on second and final reading.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2010-\_\_\_**

**AN ORDINANCE AMENDING CHAPTER 50 “FIRE PREVENTION AND PROTECTION” OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, BY DELETING SECTION 50-1 “CONSTRUCTION STANDARDS WITHIN FIRE LIMITS”; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATION OF ANY PROVISION HEREOF; ORDERING PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, Section 50-1 “Construction standards within Fire Limits” of the City’s Code of Ordinances defines a unique set of construction standards for a specifically defined area in and around downtown referred to as the City’s Fire Limits; and

**WHEREAS**, upon reviewing the standardized building codes adopted by the City and in anticipation of the City Council’s adoption of the *International Existing Building Code*, the City’s Building Official and its Fire Marshal recommend that the Council delete Section 50-1 of the City’s Code of Ordinances which established and defined the Fire Limits; and

**WHEREAS**, City staff presented this recommendation to the Building Board of Adjustment and Appeals, the Development Services Community Action Team, and the Zoning Ordinance Input Committee with each body supporting this recommended action; and

**WHEREAS**, this recommended action is consistent with and is intended to occur in conjunction with amendments to the City’s Zoning Ordinance, which in general shall include a change from the use of the term “Fire Limits” to “Central Business District”; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Chapter 50 of the Code of Ordinances of the City of Kerrville, Texas, to delete Section 50-1;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

**SECTION ONE.** Chapter 50 “Fire Prevention and Protection” of the Code of Ordinances of the City of Kerrville, Texas, is amended by deleting Section 50-1.

**SECTION TWO.** The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

**SECTION THREE.** The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

**SECTION FOUR.** If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

**SECTION FIVE.** The penalty for violation of this Ordinance shall be in accordance with that general penalty provision contained in Chapter 1 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00). Each continuing day's violation under this Ordinance shall constitute a separate offense.

**SECTION SIX.** In accordance with Section 3.07 of the City Charter and Texas Local Government Code §52.013(a), the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication. This Ordinance shall become effective ten days following publication; provided, however, the provisions of this Ordinance shall be applicable only to work performed in accordance with a building permit issued pursuant to an application filed with the City on or after the effective date of this Ordinance.

**PASSED AND APPROVED ON FIRST READING, this the 8<sup>th</sup> day of June, A.D., 2010.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_ day of \_\_\_\_\_, A.D., 2010.**

ATTEST:

\_\_\_\_\_  
David Wampler, Mayor

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

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**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2010-\_\_**

**AN ORDINANCE AMENDING THE BUDGET FOR THE FISCAL  
YEAR 2010 ECONOMIC IMPROVEMENT CORPORATION TO  
REALLOCATE FUNDING FOR APPROVED PROJECTS  
CONCERNING A COMMERCIAL IMPROVEMENT PROGRAM  
AND THE DEVELOPMENT OF AFFORDABLE HOUSING**

**WHEREAS**, Ordinance No. 2009-16, dated September 22, 2009, adopted the Fiscal Year 2010 Budget ("FY10 Budget"), which was later amended by Ordinance No. 2009-24, dated December 8, 2009, and Ordinance No. 2010-06, dated March 23, 2010; and

**WHEREAS**, the Economic Improvement Corporation recently approved new projects relating to a commercial improvement program and the development of affordable housing, both of which will require the reallocation of available funding; and

**WHEREAS**, this amendment will reallocate \$250,000.00 of current year sales tax revenues collected pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6, otherwise known as the Development Corporation Act of 1979; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds that amending the City's FY 10 Budget for the purposes discussed above is in the best interest of the citizens of the City of Kerrville;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:**

In accordance with Section 8.07 of the City Charter, the Official Budget for Fiscal Year 2010 shall be amended as set forth in **Attachment A**.

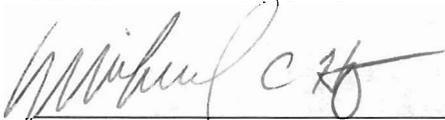
**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2010.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_ day of \_\_\_\_\_, A.D., 2010.**

\_\_\_\_\_  
David Wampler, Mayor

APPROVED AS TO FORM:

ATTEST:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

\_\_\_\_\_  
Brenda G. Craig, City Secretary

City of Kerrville  
Economic Improvement Corporation  
Sales Tax Improvement

	Annual Budget	Amount of the Action	Amended Budget
<b>EXPENDITURES:</b>			
<b>Administrative</b>			
Supplies	-		
Transfer to Debt Service Fund	505,000		505,000
Kerrville Economic Development Foundation	25,000		25,000
Administrative Services Fee	75,000		75,000
<b>Total Administrative</b>	605,000	0	605,000
<b>Category I - Business Development</b>			
KEDF/USDA Project	33,262		33,262
Commerical Improvement Program	0	100,000	100,000
Unspecified	1,033,738		1,033,738
<b>Total Category I</b>	1,067,000	100,000	1,167,000
<b>Category II - Quality of Life</b>			
Schreiner University Project	250,000		250,000
Hill Country Home Opportunity Council	0	150,000	150,000
Category II Unspecified	50,000		50,000
<b>Total Category II</b>	300,000	150,000	450,000
<b>Category III - Public Infrastructure</b>			
Unspecified Projects	1,471,038	(150,000)	1,321,038
<b>Total Category III</b>	1,471,038	(150,000)	1,321,038
<b>Contingency</b>	500,000	(100,000)	400,000
<b>TOTAL EXPENDITURES</b>	<b>3,943,038</b>	<b>0</b>	<b>3,943,038</b>

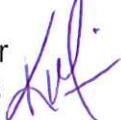
**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Update from Jeana Lehmann Krause, Executive Director of the Mary Elizabeth Holdsworth Library Foundation, on the Library Renovation Project

**FOR AGENDA OF:** June 22, 2010

**DATE SUBMITTED:** June 10, 2010

**SUBMITTED BY:** Antonio Martinez  
Library Director 

**CLEARANCES:** Kimberly Meisner  
Director of General Operations 

**EXHIBITS:**

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

Jeana Lehmann Krause, Executive Director of the Mary Elizabeth Holdsworth Library Foundation, will present an update regarding the library renovation project.

Since April 27 the following tasks have been completed in respect to the foundation:

- Development of the mission statement: The mission of the Mary Elizabeth Holdsworth Library Foundation is to promote the enhancement and development of libraries and library initiatives in Kerr County, with special attention given to the Butt-Holdsworth Memorial Library.
- Development of vision statement: The Foundation's vision is to increase the availability of state of the art information systems and outstanding library collections to all citizens of Kerr County.
- Board members have been appointed and the Executive Committee has been elected as follows: Victoria Wilson, President; Charlotte Petty, 1<sup>st</sup> Vice President; Mary K. Hayes, Secretary. Members: Sheri Hiller, Brenda Williams, Georgia Roth, Elizabeth Hughes and Lisa Earl.
- The foundation is seeking additional members who represent banking, law, medicine and construction professions.
- May 6<sup>th</sup>, the foundation moved into offices at 433 Water Street, Unit D.

Future events:

- The foundation will hold an Open House on Thursday, June 17<sup>th</sup>, 5:00-7:00 P.M. City and county officials have been invited. A wide variety of

- organizations from Kerrville and Kerr County have also been invited.
- Marion Lee from the fundraising consulting group of Bacon/Lee will start working with the foundation on July 1<sup>st</sup>.
  - File IRS form 1023 and start Capital Campaign development in June.
  - Web site development from June to August.
  - Organization of Capital Campaign from July to August.
  - Initiate Capital Campaign in September.

### **RECOMMENDED ACTION**

For information only, no action is recommended at this time.

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

**SUBJECT:** Status of negotiations with Hunter Equity regarding the construction of a multi-purpose meeting facility

**FOR AGENDA OF:** June 22, 2010      **DATE SUBMITTED:** June 14, 2010

**SUBMITTED BY:** Mindy N. Wendele      **CLEARANCES:** Todd Parton  
Director of Business Programs      City Manager  
& Public Affairs

**EXHIBITS:**

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

**SUMMARY STATEMENT**

Staff will update the City Council regarding meeting (s) with the Hunter Equity development team concerning the multi-purpose meeting facility.

**RECOMMENDED ACTION**

For information and discussion.



## PROPOSED PURCHASING POLICY CHANGES

<b>CITY OF KERRVILLE APPROVAL REQUIREMENTS</b>			
Total Amount of Request*	Type of Bid/Quotes Required	Individual Responsible for Bid/Quotes	Approvals Required*
\$50,000.00 or more	Sealed bids to be opened at a public meeting by the City Secretary and Purchasing Agent	Purchasing, Project Manager	<b>City Council, and City Manager, or Designee</b>
\$25,000.00 to \$49,999.99	3 Written Quotes based on like products***	Purchasing, Project Manager	<b>City Manager, or Designee, or City Council</b> **
\$5,000.00 to \$24,999.99	3 Written Quotes based on like products***	Department Designee	Department Directors, and Finance
\$500.00 to \$4,999.99	3 Quotations written or verbal based on like products***	Department Designee	Management Team, and Finance
\$499.99 or less	Efforts should be made to obtain the best value for the City	Department Designee	Supervisors, and Finance

\*Approvals apply to all Finance Forms including Purchase Requests, Check Requests, Purchasing Cards and all Petty Cash, travel and other type of forms.

\*\*City Council authorization will be necessary for items that were not detailed in the budget process.

\*\*\*Written quotes should be made on the vendor's letterhead or on the purchasing department's quotation form and will expire after 6 months. All three quotes must be attached to the final invoice when submitted to Accounts Payable for payment.

CITY OF KERRVILLE  
PURCHASING MANUAL

## 1.0 GENERAL PURCHASING POLICIES, OBJECTIVES

### 1.10. PURCHASING POLICY

It is the policy of The City of Kerrville to assure fair and competitive access by responsible vendors/contractors to the purchasing requirements of the City and to conduct business activities in such a manner as to foster public confidence in the integrity of the City of Kerrville. The City of Kerrville adheres to all State of Texas laws and regulations as set forth in the State of Texas Local Government Code and as published in the Cities purchasing manual and as approved by the City Council of the City of Kerrville, Texas.

The purchasing policy of the City is to also obtain quality products or services at the lowest available price. When competitive bids or proposals are taken, lowest and best responsible bid shall prevail. This concept is further discussed in this purchasing manual.

### 1.11 PURCHASING OBJECTIVE

The primary objective of the Purchasing Agent and departmental designee of the City of Kerrville is to support the City's administrative staff in accomplishing the goals and directives established by the City Council and the City Manager. The Purchasing Agent will comply with all legal and ethical standards in obtaining the specified quality and quantity of materials and services at the City. The Purchasing Agent and departmental designee will promote fair and open competition for the procurement of all goods and services. To accomplish this, the Purchasing Agent will solicit price quotations and bids in accordance with all State and Local Laws, Policies and Regulations. The appropriate approver will approve the purchase prior to ordering the purchases or contracting for services.

### 1.20 DEFINITIONS

- A. **High Technology Procurement** – The procurement of equipment, goods, or services of a highly technical nature including: data processing equipment, peripherals, software, telecommunications equipment, and telecommunications/radio equipment.
- B. **Professional Service** – Services within the scope of the practice, as defined by state law, of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse. Professional Services must always be paid through the City's purchase order system in order to ensure that vendors are issued 1099s for the funds they receive from the City.
- C. **Purchasing Agent** – Purchasing Agent will refer to an employee of the Finance Department who has been designated as Purchasing Agent and who will act on behalf of the City of Kerrville.
- D. **Purchasing Administrator** - The City Manager may appoint project managers primarily from the Engineering Department, Public Works Department, Information Technology Department, and Human Resources Department to act as Purchasing Administrators for the City. Purchasing Administrators from the Engineering Department will be authorized to manage procurements in relation to certain public works projects including road, drainage, highway, water/wastewater, solid waste, or building public works projects that involve engineering, architect design services or construction services.

Purchasing Administrators from IT and HR will be authorized to manage procurements in their respective areas as defined in section 3.3 of this document.

Purchasing Administrators will be responsible for notifying the Purchasing Agent of any information relevant to procurements including dates and times of pre-bid meetings, bid openings and bid awards. The Purchasing Agent will continue to be responsible for all bid/proposal/qualification openings.

- E. **Services** – All other services which are not listed as Professional Service per section 2254 of Government Code. Services must always be paid through the City’s purchase order system in order to ensure that vendors are issued 1099s for the funds they receive from the City.
  
- F. **Local Preference** – For procurements less than \$100,000, if the City receives one or more competitive bids or quotations from a bidder whose principal place of business is in the City and whose bid is within five percent of the lowest bid price received by the City from a bidder who is not a resident of the City, the City may enter into a contract with the lowest bidder or the bidder whose principal place of business is in the City if the City determines, in writing, that the local bidder offers the City the best combination of contract price and additional economic development opportunities for the City created by the contract award, including the employment of residents of the City and increased tax revenues to the City. This section does not prohibit the City from rejecting all bids and does not guarantee that bids will be awarded to local bidders.
  
- G. **Items** – A single item or group of items purchased from one vendor in the course of a fiscal year.

**1.30 DELEGATION OF PURCHASING AUTHORITY**

The City Manager as authorized by the City Council of the City of Kerrville has delegated to the Purchasing Agent the authority to procure materials and services for the City of Kerrville that are within the guidelines set-forth by this policy. In certain cases, the City Manager has also granted this authority to certain city employees that have been authorized by their Department Directors. In no case shall purchasing authority be delegated to an employee or other person who has not been authorized by the City Manager or a Department Director. In no case shall purchasing authority be construed to bypass the prior approval requirement for purchases for goods and services.

**1.40. TAX EXEMPT STATUS**

The City of Kerrville is exempt from Federal, State, and Local taxes except in certain prescribed cases. An exemption certificate is available from the Account Payable Clerk and should be furnished to any of the City’s suppliers upon request.

**1.50 STATE LAW REGARDING HISTORICALLY UNDERUTILIZED BUSINESS ENTERPRISES**

Local Government Code 252.0215 requires all Texas governmental entities to contact at least TWO (2) disadvantaged businesses on a rotating basis when making any expenditure of more than \$3,000 but less than \$50,000. The disadvantage businesses contacted must be based on information provided by the Office of Small Business Assistance of the Texas Department of Commerce. If the list fails to identify a disadvantaged business in the county in which the city is situated, or if the purchase is declared as an emergency (See 6.8 EMERGENCY PURCHASE ORDERS), the City is exempt from this requirement. The comptroller’s website for HUB's is currently located at <http://www.window.state.tx.us/procurement//cmb1/hubonly.html> .

**1.60 DISQUALIFICATION OF A BIDDER**

The City may not normally disqualify a bidder unless there is a reasonable expectation that the bidder might not be able to satisfactorily fulfill the contract, or that past performance had left grounds for suspecting that the bidder might engage in some sort of unacceptable conduct. Safety and financial records may be considered in some cases.

Since disqualifying a bidder has such adverse effects, it should not be done lightly. If a bidder has had past unsatisfactory contracts with the City, the experience should be thoroughly documented in order to support any later disqualifications. Documentation of unsatisfactory contract performance will be forwarded to the Purchasing Agent who will maintain a list of such bidders.

**1.70 OPEN ACCOUNTS / CHARGE ACCOUNTS**

It is against City Policy to have open accounts with any vendor. Department Purchase Orders MUST BE PLACED using either a City issued procurement card or a Department Purchase Order Number. To obtain a Department Purchase

Order Number, the department must first enter a purchase order into the Finance Software System in order to obtain the purchase order number. Under no circumstances should a department set up an open account with a vendor. If the vendor needs City references or financial information, the department should contact the finance department for the information. Accounts Payable will then forward the information to the vendor.

#### 1.80 PURCHASE REQUISITION REQUIREMENTS

With the exception of those purchases made using a City issued purchasing card, all purchases and payments must be submitted to Accounts Payable through the purchase order module of the City Finance System. The system will then route the request to various approval points and once approved to Accounts Payable for processing. The purchase requisition must be filled out completely and include complete descriptions of the item/s to be purchased. If the line item specified is over budget, it is the responsibility of the department to contact the finance department for final approval. Departments will be held responsible for managing their budgets within the overall limits approved by City Council. After entering the purchase request into the system, the purchase order register with receipts/invoices attached must be sent to Accounts Payable. An order for the purchase of goods and services will be made after the approver has authorized the purchase.

#### 1.90 ELECTRONIC SUBMISSION OF BID/PROPOSAL/QUALIFICATION DOCUMENTS

The City will maintain an account which will allow for the electronic submission of bids, proposals, or qualifications in response to City requests. The account will be maintained by the City Secretary and will ensure that responses remain "substantially unopened" prior to the date and time set for opening the documents. Offerors must verify receipt of electronic submissions with the City Secretary at least 4 hours prior to the opening date and time listed in the request. Bid, RFP, and RFQ documents should specify if electronic submissions will be allowed and that verification of receipt is required prior to the bid opening.

The act of verifying the electronic receipt of a bid, proposal, or qualification will not constitute "opening" the document, though care should be taken to ensure that no information from electronic documents is disseminated prior to the opening.

## 2.00 PURCHASING ETHICS

### 2.10 ETHICAL STANDARDS

All City Staff engaged in procurement for the City of Kerrville shall comply with the following ethical standards:

- A. **PERSONAL GAIN:** It shall be a breach of ethics to attempt to realize unauthorized personal gain through employment with the City of Kerrville or by any conduct inconsistent with the proper discharge of the employee's duties.
- B. **INFLUENCE OF A PUBLIC EMPLOYEE:** It shall be a breach of ethics to attempt to influence any public employee of the City of Kerrville to violate the standards of conduct set forth by the City.
- C. **PARTICIPATING IN PROCUREMENTS WITH FAMILY OR FRIENDS:** It shall be a breach of ethics for any employee of the City of Kerrville to participate directly in a procurement for the City of Kerrville when the employee knows that:
  - 1. The employee or any member of the employee's immediate family has a financial interest pertaining to the procurement;
  - 2. A business or organization in which the employee, or any member of the employee's immediate family, has a financial interest pertaining to the procurement; or
  - 3. Any other person, business or organization with which the employee or any member of the employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement
- D. **GRATUITIES:** It shall be a violation of city employment to offer, give or agree to give any employee of the City of Kerrville, or for any employee of the City of Kerrville to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or sub-contract, or to any solicitation or proposal therefore pending before the City of Kerrville.
- E. **KICKBACKS:** It shall be a breach of ethics for any payment, gratuity or offer of employment to be made by or on behalf of a vendor/subcontractor under a contract to the prime vendor/contractor or higher tier sub-contractor for any contract for the City of Kerrville, or any person associated therewith, as an inducement for the award of a sub-contract or order. The prohibition against gratuities and kickbacks shall be conspicuously set forth in every contract and solicitation.
- F. **CONFIDENTIAL INFORMATION:** It shall be a violation of City policy for any employee of the City of Kerrville knowingly to use confidential information for actual or anticipated personal gain, or for the actual or anticipated gain of any person.
- G. **PURCHASE OF MATERIALS, EQUIPMENT, AND SUPPLIES FOR PERSONAL USE:** Unless specifically approved in writing by the City Manager, no employee may purchase City property for his/her own personal use unless it is purchased through the City's public auction, online purchases, or through the sealed bid procedures of the City. This includes new and used equipment, materials or supplies.
- H. **PRIVATE PURCHASES THROUGH CITY FACILITIES:** No employee may use the purchasing power of the City of Kerrville to make private purchases. In addition, employees should not have private purchases sent to the City for the employee.
  - 1. Such purchases may give citizens the erroneous impression that something dishonest is being perpetrated.
  - 2. It may be considered a mild form of blackmail on the merchant involved who desires to do business

with the City.

3. It may evade sales tax, which is illegal.

- I. **PARTIAL, SEPARATE, OR SEQUENTIAL PURCHASES:** Partial, separate, or sequential purchases shall not be made for the purpose of placing any purchase in a lower cost bracket in order to avoid approval levels or bidding methodology. All purchases shall be in sufficient quantities to meet needs.

## 2.20 DISCLOSURE OF CERTAIN RELATIONSHIPS

Chapter 176 of the Local Government Code requires a vendor that wishes to conduct business or be considered for business with the City to file a conflict of interest questionnaire. The Disclosure Act applies to all persons or businesses who conduct business with the City, including those who submit bids on city contracts, make purchases of surplus city property, or participate in any other purchase or sales transactions with a city.

Pursuant to the requirements of Section 176.002(a) of the Texas Local Government Code, vendors or respondents who meet the following criteria must fill out a conflict of interest questionnaire no later than the 7th day after the person begins contract discussions or negotiations with the City or submits to the City an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the City:

A vendor or respondent that:

1. contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity; or
2. is an agent of a person described in Subdivision (1) in the person's business with a local governmental entity. Any person who meets the criteria, as for enforcement to ensure the veracity of the vendors, the statute makes it a Class C Misdemeanor to violate the vendor disclosure provisions.

The forms required to comply with the above Government Code are available on the Ethics Commission website at <http://www.ethics.state.tx.us/forms/CIS.pdf>

## 2.30 CONFLICTS DISCLOSURE STATEMENT REQUIRED FOR CITY OF KERRVILLE OFFICERS

Pursuant to section 176.003 of the of the Texas Local Government Code, the City of Kerrville officers shall file a conflicts disclosure statement with respect to a person described in Article 1.6 above if:

- A. the person has contracted with the City of Kerrville, or the City is considering doing business with the person, and
- B. the person has an employment or other business relationship with the City officer or family member of the officer that results in the officer or family member receiving taxable income; or has given to the City officer or family member of the officer one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that:
  1. a contract has been executed; or
  2. the City is considering doing business with the person.

The conflicts disclosure statement must be filed with the City Secretary not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement. Officers which are a part of the governing body of the City of Kerrville or a director, superintendent, administrator, or other person designated as the executive officer of the City of Kerrville who knowing violates this requirement, commits a Class C misdemeanor.

**3.00 PURCHASE OF SUPPLIES AND MATERIALS**

**3.10 TOTAL DOLLAR LIMITS/APPROVAL REQUIREMENTS TO SUBMIT A PURCHASE REQUEST**

The following standard approval route applies to All City Departments/Divisions for purchases, **Not Professional Services**.

<b>CITY OF KERRVILLE APPROVAL REQUIREMENTS</b>			
<b>Total Amount of Request*</b>	<b>Type of Bid/Quotes Required</b>	<b>Individual Responsible for Bid/Quotes</b>	<b>Approvals Required*</b>
Items costing \$50,000 or more	Sealed bids to be opened at a public meeting by the City Secretary and Purchasing Agent	Purchasing, Project Manager	<b>City Council, and City Manager, or Designee</b>
Items costing \$25,000 to \$49,999.99	3 Written Quotes based on like products***	Purchasing, Project Manager	<b>City Manager, or Designee, or City Council **</b>
Items costing from \$5,000.00 to \$24,999.99	3 Written Quotes based on like products***	Department Designee	Department Directors, and Finance
Items costing from \$500.00 to \$4999.99	3 Quotations written or verbal based on like products***	Department Designee	Management Team, and Finance
Items costing up to \$499.99	Efforts should be made to obtain the best value for the City	Department Designee	Supervisors, and Finance

Approvals apply to all Finance Forms including Purchase Requests, Check Requests, Purchasing Cards and all Petty Cash, travel and other type of forms.

\*\*City Council authorization will be necessary for items that were not detailed in the budget process.  
 \*\*\*Written quotes should be made on the vendor's letterhead or on the purchasing department's quotation form and will expire after 6 months. All three quotes must be attached to the final invoice when submitted to Accounts Payable for payment.

**3.20 DEPARTMENTAL PURCHASING THRESHOLDS**

Any single procurement with a total value of not more than \$24,999.99 can be made directly by each Department Director or by those individuals with purchasing authority at the appropriate level, after following the process as outlined herein. Purchases over \$25,000.00 require authorization by the City Manager or City Council as outlined herein.

**3.21 PURCHASES OF \$499.99 OR LESS**

Because the administrative cost of competitive quotations would be more than the amount that could be saved by taking such quotations the competitive bidding procedure does not apply to purchases of \$499.99 or less. However, it is the responsibility of the department to look for the best possible pricing for the City even though quotation documentation is not required for this type of purchase.

Because a significant amount of small dollar purchases can be made locally, local Kerrville vendors should be considered for this type of purchase.

### 3.22 PURCHASES OF \$500 TO \$4,999.99

Department Directors or authorized department representatives should contact the vendor directly for purchases of \$4,999.99 or less. Three quotations, either written or verbal, must be obtained based on like products and recorded on the purchase order. It is highly recommended that the department use a City issued procurement card for the purchase (supplies only). However, if a procurement card cannot be used, the department should enter a purchase order into the Finance Software System and obtain a purchase order number.

### 3.23 PURCHASES BETWEEN \$5,000.00 TO \$ 24,999.99

Department Directors or authorized department representatives should develop specifications for items having a single order total value of \$5,000 to \$24,999.99 and should use these specifications to obtain a minimum of three written competitive quotations. Written quotes should be made on the vendor's letterhead or on the purchasing department's quotation form and will expire after 6 months. Copies of the written quotations must be attached to the purchase order.

### 3.24 PURCHASES BETWEEN \$25,000.00 TO \$ 49,999.99

Specifications for purchased items having a single order total value of \$25,000 to \$49,999.99 should be forwarded to Purchasing. Unless a state of emergency exists, purchases above \$25,000 can be made ONLY BY THE Purchasing Division of the City of Kerrville. The Purchasing Agent will obtain a minimum of three written quotations unless an emergency exists or the items needed are on a City, State, or INTER-LOCAL contract. The City Manager may approve the purchase of items within the above range if the item was detailed in the budget process. If the item was not detailed in the budget process, City Council authorization will be required.

UNDER NO CIRCUMSTANCE SHOULD AN ORDER BE PLACED WITH A VENDOR WITH THE ABOVE DOLLAR LIMITS WITHOUT FIRST OBTAINING AUTHORIZATION FROM THE CITY MANAGER AND A PURCHASE ORDER NUMBER FROM PURCHASING OR THE FINANCE DEPARTMENT.

### 3.25 PURCHASES \$50,000 AND OVER

Any single procurement with a total value of \$50,000 or more is subject to Chapter 252, Chapter 271 and other references of the Local Government Code of the State of Texas.

Purchase requirements for items that have a single order total of \$50,000 and over are governed by State Law and must follow the competitive bidding or proposal processes contained in section 6 of this document.

### 3.30 PURCHASES OF HIGH-TECHNOLOGY AND INSURANCE PRODUCTS

All purchases of high technology items must be processed through the Information Technology department unless a specific exemption is granted by the IT department or by the City Manager.

All purchases of insurance related products must be processed through the Human Resource department unless a specific exemption is granted by the HR department or by the City Manager.

### 3.40 BEST VALUE STANDARD FOR PURCHASE OF GOODS AND MATERIALS

The City shall purchase goods that provide the best value for the City. In determining the best value for the City, the purchase price and whether the goods or services meet specifications are the most important considerations. However, the City may consider other relevant factors including:

1. Installation costs;
2. Life cycle costs;
3. The quality and reliability of the goods and services;
4. Delivery terms;

5. Indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience or demonstrated capability and responsibility, and the vendor's ability to provide reliable maintenance agreements and support;
6. The cost of any employee training associated with a purchase;
7. The effect of a purchase on City productivity;
8. The vendor's anticipated economic impact to the City including potential tax revenue and employment; and
9. Other factors relevant to determining the best value for the City in the context of a particular purchase.

### 3.50 SOLE SOURCE PROCUREMENT'S

Section 252.022 (a) (7) of the Local Government Code allows an exemption from the bidding procedure for a procurement of items that are available from only one source. This exemption should be strictly interpreted as items that are covered under patents, copyrights, secret processes, and natural monopolies. Items such as Utility Services and Captive replacement parts or components CAN be considered as "only source" items. Items that are available only through distributors CANNOT be considered only source items unless the distributor has an exclusive right to distribute the item and a like item cannot be purchased through any other distributor. Items that have dies or other artwork CANNOT be considered an only source item due to the fact that dies and artwork can be moved from one vendor to another. Please contact Purchasing if you have any doubt whether an item can be considered as an only source purchase. The purchase request must note it was a sole source.

### 3.60 EMERGENCY PURCHASE ORDERS

Chapter 252 of the Local Government Code allows an exemption from the bidding process for emergency purchases. An emergency is described as follows:

1. A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality.
2. A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
3. A procurement necessary because of unforeseen damage to public machinery, equipment or other property.

The above exemptions are the ONLY exemptions listed as emergency items.

### 3.70 PROCEDURES FOR PLACING AN EMERGENCY ORDER.

Should an emergency arise that meets the criteria stated in 3.6 above the department should request and walk the request approvals. When approved, a purchase order number will be issued by Purchasing to the requesting department to cover the purchase or, if requested, Purchasing will call the order into the vendor. The purchase requisition should contain all information (quantities, descriptions, unit pricing, total pricing, and budget account numbers). The purchase request MUST NOTE that the request was an emergency.

### 3.80 PROCUREMENT'S FROM CITY, STATE, AND INTER-LOCAL CONTRACTS

The City of Kerrville participates in purchasing agreements with programs approved by the State. These programs allow the City to make PROCUREMENT'S through established contracts with various vendors for a variety of products and services. Since advertising and bid procedures have already satisfied State purchasing procedures it is not necessary for the City to advertise or bid items when making purchases through the State program. All purchases through this type of purchasing may only be processed with appropriate approvals.

### 3.90 EXEMPTIONS TO COMPETITIVE BIDDING REQUIREMENT

Grave public necessity or emergency expenditures to meet unusual and unforeseen conditions are exceptions to the competitive bidding requirement. Further, the following are exempt from competitive bidding procedures with approval by City Council:

1. Procurements made in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens or to preserve the property of the city;
2. Procurements necessary to preserve or protect the public health or safety of the citizens of the City;
3. Procurements made necessary by unforeseen damage to public property, machinery, or equipment;
4. Procurements for personal or professional services;
5. Procurements for work done and paid for by the day, as such work progresses;
6. The purchase of land or right-of-way; and
7. Procurements where the functional requirements of the City can be satisfied by only one source. By way of example without limitation, this provision shall apply to procurements where competition is precluded because of the existence of patents, copyrights, secret processes, or natural monopolies; purchase of films, manuscripts, or books; purchases of electric power, gas, water, and other utility services; and the purchase of captive replacement parts or components for equipment.

### 3.91 CONTRACTS

Only the City Manager or designee may enter the City of Kerrville into a contract.

## 4.00 PROCUREMENT CARD

### 4.10 OVERVIEW

The purpose of this policy is to establish a more efficient, cost-effective method of the delegated purchases and payment. If used to its potential, the program will result in a significant reduction in the data entry of small orders, receiving, invoices, and reduction in related documentation including invoices, and checks. The Procurement Card can be used with any supplier that accepts VISA as a form of payment.

The Procurement Card program is designed to delegate the authority and capability to purchase limited items directly to the user. The procurement cards will enable the user to purchase, under their delegated authority, non-restricted commodities directly from the vendors without the issuance of a purchase order.

### 4.20 POLICY

The procurement card is a VISA card and can be used to make purchases for goods (not services) with any merchant who accepts the VISA card. Procurement card transactions for non-restricted commodities cannot exceed the per transaction limit set for each individual cardholder (typically \$1,000 to \$2,000) including all delivery, shipping and/or special handling charges. Transactions exceeding the cardholder's limit will require a Purchase Order, except those transactions occurring on a monthly basis and processed by the Accounts Payable department. Splitting transactions to exceed the per-transaction limit is not permitted. Purchases must comply with Section 3.1 of this Purchasing Policy. No personal purchases are allowed – regardless of intent to reimburse the City. Purchases should be made at appropriate businesses that adhere with the standards and values of the City of Kerrville. If cardholders fail to comply with the policies and procedures associated with the procurement card, the City reserves the right to cancel the procurement card at any time.

### 4.30 RESPONSIBILITIES

The P-Card holder (person whose name appears on the card) is responsible for protecting the card and is accountable for all purchases made using the card number. All purchases processed against a procurement card must be made by, or under the immediate direction of, the person to whom the card is issued.

Department Directors will be responsible for designating Procurement Card Approvers. The cardholders and Approvers within each department are responsible for receipts for ALL purchase card transactions. Procurement card receipts must show detail of all items purchased. Receipts that show only a total amount without any itemized details are unacceptable and will be returned to the P-Card holder who will be responsible for obtaining a detailed receipt. Cardholders who do not retain acceptable receipts for P-Card purchases may have their credit card suspended or cancelled.

When the cardholder and Procurement Card Approvers sign the Procurement Card Application and Agreement form, they are agreeing to protect the card and adhere to the policies and procedures of the Procurement Card Program. The cardholders and approvers within each department are responsible for the integrity and accuracy of their department's procurement card purchases.

The Director of Finance is designated as the Procurement Card Program Administrator and has the authority to implement the Procurement Card Purchasing Program. The P-Card Program Administrator is responsible for notifying Department Directors and Human Resources related to incidents of procurement card misuse. Department Directors and Human Resources will be responsible for evaluating and enforcing disciplinary actions pursuant to the City's Personnel Policies.

### 4.40 PURCHASES

The procurement card is intended for small purchases or products and supplies needed during the course of business. Limitations and restrictions will be placed on each individual's procurement card depending on their job duties. Merchant Category Codes will limit the vendors allowed to accept the card and limits will be set for single purchases and maximum monthly purchase limit. The P-Card is not to be used for any product or service or with any merchant

considered to be inappropriate for public funds. The following constitute examples of inappropriate purchases made with a P-Card:

1. Items for personal use.
2. Alcoholic Beverages.
3. Services provided by a vendor (i.e. construction, engineering, etc.).
4. Cash advances.
5. Salaries and wages.
6. Bars, cocktail lounges, etc. (including restaurants such as Hooters)
7. Purchases made from vendors with restricted MCC codes.
8. Gifts or donations.
9. Split purchases to bypass limits on P-Card.
10. Split purchases to avoid the bidding process.

#### 4.50 RECONCILIATION

Spending limits and restrictions will be placed on each procurement card depending on the purchasing authority of the cardholder. Receipts must be maintained for each purchase throughout the month. During the month, and at month's end, the cardholder may view their purchases online. Prior to the statement cutoff, the cardholder must review the charges, print the register and reconcile the amounts with the receipts for the purchases. The cardholder then forwards the register and receipts to the Procurement Card Approver. The Approver reviews the purchases and authorizes/rejects payment. The Procurement Card Approver then forwards the paperwork to Accounts Payable for payment. There is no need to create a purchase requisition at the department level. The Account Payable Clerk will issue one purchase requisition for the City-wide purchases for the month.

Should the Procurement Card Approver identify any unauthorized purchases during the review process, they are to immediately notify the Procurement Card Administrator.

#### 4.60 DISPUTED CHARGES

The P-Card holder is responsible for attempting to resolve a dispute with the vendor within fifteen (15) days of receipt of a disputed purchase. If a resolution is not possible, the next step is to alert the Bank of the disputed item. The bank will provide a dispute form that the cardholder will need to fill out and return to the Bank. The bank will work directly with the cardholder to resolve the problem.

#### 4.70 EMPLOYEE TERMINATION OR TRANSFER

When a cardholder terminates/separates from a department, that cardholder's Purchase Card Approver shall immediately (no longer than 24 hours) contact the Procurement Card Program Administrator reporting the change. A Procurement Card Signature Authorization/Agreement form, reflecting the change, must be filed with the Procurement Card Program Administrator anytime the status of a designated cardholder and/or Purchase Card Approver changes. This form along with the P-Card and all receipts should first be turned into the Purchase Card Approver for final approval processing and then forwarded to the Procurement Card Administrator. If feasible, every effort should be made to have terminated employees reconcile their procurement card statements prior to termination. If there are any remaining charges on the P-Card not accounted for, those charges will be billed to the terminated cardholder or recuperated through other means.

#### 4.80 AUDIT OF RECORDS

Departments are subject to periodic audits of procurement card activity. Significant failure to comply with this policy in the use or administration of the cards may result in cancellation of a card.

#### 4.90 LOSS OF EMPLOYEE CARD

Loss of a purchasing card must be reported immediately, and in no case should the loss be reported later than 24 hours from the time that card is noticed missing. Employees may be held liable for any losses not covered by the card's protection plan. Departments will be responsible for the cost of replacement cards.

## **5.00 PETTY CASH DISBURSEMENTS**

### **5.10 PETTY CASH RULES AND FORMS**

- Only expenditures specifically authorized by the purchasing policy are allowed.
- Petty cash cannot be used to pay for services rendered by a vendor.
- Petty cash shall be issued for \$100 or less. If payment in cash is necessary due to unforeseeable operational circumstances, the Director of Finance may approve expenditure over the \$100 limit.
- In no circumstance should petty cash be used for personal purchases.

### **5.20 MAINTAINING PETTY CASH**

Petty cash vouchers, receipts, and cash on hand must at all time equal the total amount authorized for the petty cash fund. A petty cash voucher is issued at the time money is advanced to an employee to make purchases on the City's behalf. The department supervisor or designee must sign the petty cash voucher indicating their approval for the purchase. The sales receipt must be attached to the petty cash voucher after the purchase. The petty cash voucher should include the amount and purpose of the proposed expenditure, the expense account number, and be signed and dated by the recipient and supervisor. Vouchers cannot be used as a substitute for a sales receipt.

Each department must turn in petty cash vouchers with receipts attached to the Cash Collection office at City Hall on a weekly basis to exchange for cash in reimbursing the departmental petty cash.

### **5.30 AUDIT OF PETTY CASH**

The Director of Finance or their designee shall periodically audit the petty cash expenditures as to form and regulations. If necessary, they shall follow through to the source to see if the purchase was actually made.

## **6.00 COMPETITIVE SEALED BID OR PROPOSAL PROCEDURES**

### **6.10 POLICY STATEMENT**

It is the policy of the City of Kerrville and the Texas Local Government Code requires that before a municipality may enter into a contract, other than a contract for insurance, that requires an expenditure of more than \$50,000 from one or more municipal funds, the municipality must comply with the procedure prescribed by Chapter 252.021 for competitive sealed bidding or competitive sealed proposals.

### **6.20 ADVERTISING AND ADVERTISING TIME REQUIREMENTS**

Section 252.041 requires that the sealed bid be advertised publicly with notice of the time and place at which the bids will be publicly opened and read aloud. The public notice must be published at least once a week for two (2) consecutive weeks in a newspaper published in the municipality that is listed as the City's paper of record. The date of the first publication must be on or before the 15th day prior to the date set to publicly open the bids. In addition to the paper of record, the City will publish all open bids or proposals on its website, and at its option, may also advertise with other publications and/or organizations.

### **6.30 COMPETITIVE SEALED BIDDING**

Competitive Sealed Bidding is a process by which the City will publish specifications for a good or service and will solicit bids or quotations through a competitive sealed process.

### **6.31 BID PREPARATION AND ADMINISTRATION**

All sealed bids will be prepared and administered by either the Purchasing Agent or a designated Purchasing Administrator (section 1.20 Definitions), using approved bidding templates which will be maintained by the Finance Department.

The Purchasing Agent or Purchasing Administrator responsible for preparing the bid documents will be responsible for ensuring compliance with Historically Underutilized Business regulations per section 1.5 of this policy.

### **6.32 BID SPECIFICATIONS**

All sealed bids must include a set of complete and detailed specifications of the item or items and/or services to be purchased. Departments should submit specifications to the Purchasing Agent / Purchasing Administrator to be used in the creation of the bid document. Vendors can be consulted as a source for specification information as long as they are advised that a sealed bid procedure will be used and the vendor cannot be treated with any type of favoritism. The Purchasing Division may be able to obtain specifications used by other governmental entities or sources; and, therefore, should be contacted if needed for this assistance. Specifications should not be intentionally written in a way so as to give preference to any one bidder over all others.

### **6.33 BID OPENING AND PRE-BID MEETING PROCEDURES**

In order to establish a standardized format of pre-bid meetings and bid openings, the following procedures should be followed:

1. Pre-Bid Meetings will be held when appropriate, in order to provide additional information for potential offerors' prior to the bid deadline. In addition to the Purchasing Agent or the Purchasing Administrator who is managing the bid, there will be at least one city employee from the department who submitted the purchase request at all bid openings and pre-bid meetings. This employee will be knowledgeable of the bid specifications and when at pre-bid meetings should be prepared to answer all questions that pertain to the specifications.

2. The Purchasing Agent of the City of Kerrville or a designee of the Director of Finance shall conduct all bid openings. At bid openings the Purchasing Agent or designee will act as the recorder of all information that is read at the bid opening and will publicly confirm that all information was read completely and truthfully.

3. At Bid Openings, all bids will be opened and all pricing and other pertinent information will be called out and recorded.

4. Bid documents MAY NOT be modified following the bid deadline.

#### 6.34 BID RECOMMENDATIONS AND STATE LAW REGARDING BID AWARDS

When all bids have been reviewed, the user department will be responsible for submitting to purchasing a WRITTEN recommendation of bid award and background wording to be included in the Agenda Bill for the City Council. The Purchasing Agent or Purchasing Administrator will be responsible for completing and submitting Agenda Bills to the City Secretary for City Council.

The requesting department is solely responsible for reviewing the specifications offered in each bid to ensure the specifications meet the bid requirements and must provide a written review of any bid that did not meet the specifications in order to disqualify that bidder on the basis of non-conformance with required specifications. If the bids offered meet the specifications requested, the recommendation may then be made based on the procedures set out in State of Texas Local Government Code Chapter 252, Sub Chapter C, 252.043 which allows that the City may award the contract based on:

Sub-section (a) If the competitive sealed bidding requirement applies to the contract for goods or services, the contract must be awarded to the lowest responsible bidder or the bidder who provides goods or services at the best value for the municipality.

Sub-section (b) In determining the best value for the municipality, the municipality may consider:

- (1) the purchase price;
- (2) the reputation of the bidder and of the bidder's goods or services;
- (3) the quality of the bidder's goods or services;
- (4) the extent to which the goods or services meet the municipality needs;
- (5) the bidder's past relationship with the municipality;
- (6) the impact on the ability of the municipality to comply with laws and rules relating to contacting with historically underutilized businesses and non-profit organizations employing persons with disabilities;
- (7) the total long-term cost to the municipality to acquire the bidder's goods or services; and
- (8) any relevant criteria specifically listed in the request for bids or proposals.

Sub-section (c) Before awarding a contract under this section, a municipality must indicate in the bid specifications and requirements that the contract may be awarded either to the lowest responsible bidder or to the bidder who provides goods or services at the best value for the municipality.

Sub-section (d) The City may reject any and all bids at the discretion of the City Manager.

Sub-section (e) If the competitive sealed proposals requirement applies to the contract, the contract must be awarded to the responsible offer or whose proposal is determined to be the most advantageous to the municipality considering the relative importance of price and the other evaluation factors included in the request for proposals.

Other considerations of a bid award may be:

- the safety record of the bidder considered
- Companies or individuals indebted to the municipality
- Inclusion of required bonding and insurance
- Any other consideration as listed in the State of Texas Local Government Code

## 6.35 EXEMPTIONS FROM THE COMPETITIVE SEALED BID PROCESS

Chapter 252.022 of the State of Texas Local Government Code allows certain exemptions to the Competitive Sealed Bid process. The following are the exemptions allowed:

- (1) A procurement made because of a public calamity that requires the immediate appropriation of money to relieve the necessity of the municipality's residents or to preserve the property of the municipality.
- (2) A procurement necessary to preserve or protect the public health or safety of the municipality's residents.
- (3) A procurement necessary because of unforeseen damage to public machinery, equipment, or other property.
- (4) A procurement for personal or professional services.
- (5) A procurement for work that is performed and paid for by the day as the work progresses.
- (6) A purchase of land or a right-of-way.
- (7) A procurement of items that are available from only one source, including;
  - a. Items that are available from only one source because of patents, copyrights, secret processes, or natural monopolies.
  - b. Films, manuscripts, or books.
  - c. Electricity, gas, water, and other utility services.
  - d. Captive replacement parts or components for equipment
  - e. Books, papers, and other library materials for a public library available only from the persons holding exclusive distribution rights to the materials.
  - f. Management services provided by a non-profit organization to a municipal museum, park, zoo, or other facility to which the organization has provided significant financial or other benefits.
- (8) A purchase of rare book, papers, and other library materials for a public library.
- (9) Paving drainage, street widening, and other public improvements, or related matters, if at least one-third of the cost is to be paid by or through special assessments levied on property that will benefit from the improvements.
- (10) A public improvement project authorized by the voters of the municipality, for which there is a deficiency of funds for completing the project in accordance with the plans and purposes authorized by the voters.
- (11) A payment under a contract by which a developer participates in the construction of a public improvement as provided by Subchapter C, Chapter 212.
- (12) Personal property sold:
  - a. At an auction by a state licensed auctioneer.
  - b. At a going out of business sale held in compliance with Subchapter F, Chapter 17, Business & Commerce Code.
  - c. By a political subdivision of this state, a state agency of this state, or an entity of the federal government.
- (13) Services performed by blind or severely disabled persons.
- (14) Goods purchase by a municipality for subsequent retail sale by the municipality.

## 6.36 BID DISCREPANCIES AND DISQUALIFICATIONS

Under some circumstances certain discrepancies in bids that have been submitted may be waived by the City Council. However, there are several reasons that require a bid to be disqualified. These reasons are as follows:

1. Any bid received that is not signed by an authorized company representative.
2. Any bid received that did not return required information such as addendum/s, bonding and/or insurance requirements. This requirement may be waived as a technicality but must be approved by the City Attorney's office.

## 6.40 SEALED PROPOSAL PROCEDURES

Under Local Government Code 252.021 Competitive Sealed Proposals or Requests For Proposals (RFP) may be used as an alternate to the Competitive Sealed Bid for the procurement of "high-technology" products or services. Additionally, the RFP process may be used for any other procurement in which the City determines that this process will provide for the best value in the procurement.

#### 6.41 RFP PROCESSES SIMILAR TO COMPETITIVE SEALED BIDDING

Unless discussed within this section of the policy, processes for creating RFP's will follow those processes outlined for Competitive Sealed Bidding in section 6.3.

#### 6.42 SPECIFICATIONS

The specification is written using performance standards rather than the description of the goods or services. The specification also lists the factors by which the proposal will be judged, and the weight to be given to each factor. Vendors may submit proposals in their own design for a system to satisfy the requirement set forth in the proposal. Proposals may incorporate entirely different hardware or services to accomplish the same performance.

#### 6.43 EVALUATION CRITERIA TO BE INCLUDED IN RFP DOCUMENT

Requests for proposals made under Section 252.021 must solicit quotation (pricing) and must specify the relative importance of price and other evaluation factors. Additionally, all RFP's must include an evaluation matrix that provides the relative weights by which each evaluation factor will be counted (i.e. Price = 50%, Experience = 35%, and References = 15%). All RFP's should be prepared using the RFP template available from the Purchasing Agent.

#### 6.44 DISCUSSIONS WITH HIGHEST RATED RESPONDENT(S)

After RFP's have been scored according to the evaluation matrix, discussions or negotiations may begin with the highest rated respondent(s). The discussions must be held in accordance with the terms of the request for proposals. Vendors shall be treated fairly and equally with respect to any opportunity for discussions and revision of proposals. To obtain the best and final offers, revisions may be permitted for the highest rated respondent after submission(s) and before the award of the contract.

After proposals are received, the City may enter into negotiations with as many vendors as have submitted feasible proposals in order to arrive at the best possible proposal for each vendor. Any revisions to the original proposal should be reflected in a signed addendum prior to Council approval.

#### 6.45 PUBLIC OPENING OF PROPOSALS

At the public opening of the proposal, pricing is not read aloud. Only the names of the vendors who submitted proposals are read aloud.

#### 6.50 BID/PROPOSAL FORMS

For sealed bids and proposals, the City of Kerrville Purchasing Division uses standardized forms that provide the City with the necessary terms and conditions that protect the City in case of a contract dispute. With the exception of documents that are prepared by a professional organization contracted by the City for the purpose of preparing a bid or proposal, only the authorized standard purchasing format should be used for sealed bid or proposal solicitations.

#### 6.60 RELEASE OF BID INFORMATION

All requests for historic information concerning a bid, specifications on a bid or other matters relating to bids or proposals of the City of Kerrville can only be conveyed via an open records request and should be made through the City Secretary's Office. All open records request forms are to be kept and filed with the City Secretary in a manner that makes retrieval of the information that was requested and the information that was returned easily accessible. However, questions that come in as a result of telephone calls or in person requests to the Purchasing Agent for information on current bids that are out for consideration may be given out at the discretion of the Purchasing Agent.

## 6.70 BRAND NAMES

In order to assure fair and competitive bids, brand names should not be used in specifications unless it is made clear to each bidder that the brand name is being used for reference only. This can be accomplished by adding an "or equal" statement behind the brand name. This statement will indicate to the bidder that other brand names will be considered if they offer specifications that are equal or better than the specifications listed in the bid. Brand names can be specified, as the only brand that will be accepted in cases where the brand specified is the only product that will work with the existing parts or equipment.

## 6.80 TAX STATEMENT SET FORTH IN CITY CONSTRUCTION CONTRACTS

The following statement should be set forth in all construction contracts:

*"The Owner qualifies for exemption from State and Local Sales and Use Taxes, pursuant to the provisions of Section 151.309 of the Texas Tax Code, as amended. Therefore, the Owner shall not be liable for, or pay the Contractor's cost of, such sale and use taxes which would otherwise be payable in connection with the purchase of tangible personal property furnishes and incorporated into the real property being improved under the contract. This contract is a separated contract (as that term is defined in Texas Comptroller's Rule 3.291, as amended) between the Owner and the Contractor. All invoices or estimates submitted by the Contractor to the owner shall be separated into three categories:*

- (1) Total cost of materials incorporated into the work.*
- (2) Total cost of materials purchased or leased for use, but not incorporated into the work.*
- (3) Total cost of labor, overhead, profit and other reasonable, incidental costs of the work.*

*The Contractor shall fully indemnify and hold harmless the Owner from the cost of any and all sales and use taxes incurred or otherwise exempted as a result of the separated contract arrangements, if such sales or use taxes become due and payable, or are paid by the Contractor or the Owner, as a result of the Contractor's failure or refusal to abide by the provisions of this section or the other applicable provisions of the specifications relating to separated contracts."*

Tax exemption forms may be provided to the successful contractor, and may be obtained from the Finance Department.

## **7.00 RENTAL OR LEASE OF EQUIPMENT**

### **7.10 RENTAL PROCEDURES**

Rental of equipment should be handled as any other type of purchase and should be put on a purchase requisition and sent to Purchasing for procurement. Each department should determine whether the proposed rental equipment is available in any other City department BEFORE placing their request. If it is available, the user department should ask for use of the equipment and should be granted use, if the department where the equipment is located, does not have a higher priority use.

### **7.20 LEASE/PURCHASE AGREEMENTS**

Lease of equipment should be recommended only after the lease option has been fully evaluated for efficiency and cost effectiveness. Departments should work with the Finance Department and Purchasing Agent when proposing short or long-term lease of equipment for analysis of actual capital costs including interest charges. Final decisions on lease purchases will be made by the City Manager's Office or by the City Council when the total aggregate payments exceed the single transaction dollar thresholds.

**UNDER NO CIRCUMSTANCE WILL A DEPARTMENT SIGN A RENTAL OR LEASE AGREEMENT WITH A COMPANY UNLESS PRIOR APPROVAL HAS BEEN ISSUED BY PURCHASING OR FINANCE.**

## 8.00 TRAVEL POLICY

### 8.10 POLICY STATEMENT

It is the policy of the City of Kerrville that employees will be provided with adequate funding and reimbursement for all reasonable and necessary expenses incurred in the conduct of City business. Procedures governing most Travel, Living and Entertainment activities are included in this policy.

### 8.20 TRAVEL REQUEST AND AUTHORIZATION FORM

All non-routine travel must be preapproved by a department director. All out of state travel must be preapproved by the City Manager. The travel request and authorization form must be used prior to travel to estimate travel expenses. The form must be signed by a department director or City Manager prior to travel in order to authorize the travel expenses.

The same form shall be used during the trip to track actual expenses, and shall be turned in to Accounts Payable with all information, authorizations and receipts following completion of the travel within 5 business days of the completion of travel in order to be eligible for reimbursement.

### 8.30 MEAL EXPENSES

Reasonable and customary expenses for meals are authorized for officials as required to conduct official City duties. Officials traveling on City business shall be entitled to a per diem for necessary meals not to exceed breakfast, lunch, and dinner in any one day. The maximum that will be provided for meals in one day is **the IRS per diem rate for San Antonio**. These sums can be split among meals as desired and will be reduced for less than full business days or when meals are provided as part of the conference.

### 8.40 TRAVEL EXPENSES

The most economical mode and class of transportation reasonably consistent with scheduling needs and cargo space requirements should be used, using the most direct and time-efficient route. **Officials shall use government and/or group rates offered by a provider of transportation when available and determined to be most economical.** The following transportation modes may be employed for the purpose of traveling on City business:

- a. **Air** – When travel by air is necessary, employees shall utilize coach or tourist class accommodations when traveling within the continental United States by commercial airline. Reservations, where possible, should be made at least **fourteen (14)** or more days in advance to take advantage of all available discounts. Increased fees related to late booking may be disallowed without a sound business reason. Officials may at their own expense pay to upgrade their airline accommodations.
- b. **Alternate Travel Methods** - Officials who use alternative travel methods, such as commercial bus or train for travel to and from designated places on City business outside the City will be reimbursed for the actual expense of the alternative travel method, not to exceed coach or tourist class airfare.
- c. **Personal Vehicle** - Officials who use their personal vehicle for travel to and from designated places on City business outside the City will be reimbursed for mileage at the rate established by the Internal Revenue Service in Publication 463, or any successor publication. Mileage reimbursement is limited to the actual mileage to and from the location plus any travel that was necessary for business purposes while at the location. Mileage related to personal travel while on a City business trip should be excluded from the reimbursement request.

Employees choosing to use their personal vehicle for City business must file a current copy of their personal auto insurance with the Human Resources Department prior to travel. Employees who receive a car allowance will not be eligible for mileage reimbursement.

- d. **City Owned Vehicle** – City owned vehicles should be used for business related travel when possible. Employees who use a City owned vehicle for travel to and from designated places on City business outside the City will be reimbursed for the actual cost of fuel and other eligible expenses if the employee pays those expenses out of pocket. Employees using City vehicles should fill-up in Kerrville prior to leaving and should obtain a fuel card from the finance department in advance of the trip to make fuel purchases. At no time should City owned vehicles be used for personal use aside from incidental personal use which does not substantially increase the mileage or fuel use of the City vehicle.

- e. **Garage and Parking Expenses** - Expenses for necessary parking and storage of personal or City vehicles may be authorized. Receipts must be provided to obtain reimbursement.
- f. **Vehicle Rentals, Taxi, and Transit Fare** - Out of town expenses for such transportation may be authorized where reasonable and necessary to conduct City business. Receipts must be provided to obtain reimbursement. When vehicle rental is chosen over taxi or shuttle service, there should be a business reason or economic benefit to support the rental decision. The City currently has insurance certificates for rentals at Avis, Enterprise, Hertz, Budget, Payless, and National. As a result, additional insurance coverage should be declined when renting through those agencies. If rental through one of those agencies is not available, the employee should accept additional insurance coverage if offered. If an employee uses a rental car as the primary source of transportation to and from the destination the employee will be reimbursed for the actual cost of vehicle rental, fuel and other eligible expenses.
- g. **Multiple Employees Traveling to the Same Location** – When appropriate, departments should attempt to schedule multiple employees for travel and training opportunities at the same time in order to create cost efficiencies. In these situations, employees will car pool in order to save on fuel expenses. If a City vehicle is used to travel to a location, efforts will be made to ensure that it is used by as many employees as is reasonably possible. Employees choosing for personal reasons to travel using their personal vehicle when space is available in a City vehicle will not be eligible for reimbursement of mileage or parking expenses.

#### 8.50 LODGING EXPENSES

Lodging expenses will be reimbursed when travel on official City business “reasonably requires” an overnight stay. Price is an issue in selecting “adequate lodging”. **Officials shall use government and/or group rates offered by a provider of lodging services when available and found to be most economically feasible.** Lodging rates equal to or less than government and/or group rates are presumed reasonable. Itemized receipts for lodging must be provided to obtain reimbursement.

If lodging is in connection with a conference or event, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. If the group rate is not available, the official shall use lodging that offers rates comparable to government and/or group rates.

Lodging expenses are limited to the cost of the room plus related taxes. Advance room deposits may be made directly to the hotel. However, in such instances, the advance deposit must appear on the Travel Reimbursement Request form as such.

Local lodging, defined as within 50 miles from City Hall, will not be reimbursed without prior approval by the City Manager. Specific events that may qualify for approval include being a conference presenter before 9 a.m., or an early morning departure following a meeting/function the night before that ends after 9 p.m.

Lodging expenses shall generally be limited to the days of the conference or event. Lodging expenses for the day before and/or the day after the conference or event may be approved for prepayment or reimbursement if travel to or from the conference on the same day would be unreasonable. The primary example of this exemption would be related to substantial travel being required outside of regular business hours due to distance or event start and end timing.

## 9.00 WARRANTIES, SERVICE AGREEMENTS, AND BONDS

### 9.10 WARRANTIES AND SERVICE AGREEMENTS

The Purchasing Agent will negotiate all Warranties and Service Agreements. Requirements for service agreements should be included in the bid or purchase specifications provided by the department for use in creating the Bid or RFP documents. It is the responsibility of each department to ensure that needed service agreements exist on equipment. UNDER NO CIRCUMSTANCES SHOULD A DEPARTMENT SIGN A SERVICE AGREEMENT UNLESS PRIOR APPROVAL IS RECEIVED FROM PURCHASING.

Once the agreement is approved by Purchasing the agreement form will be sent to the Department Director for final signature. It is the responsibility of each department/division to maintain copies of agreements that pertain to their departments, to schedule service calls under the agreements, and to notify Purchasing when agreement renewals via the above stated procedure should be scheduled.

### 9.20 BONDING REQUIREMENTS

By State Statute and City policy, any person, persons, firm, or corporation (prime contractor) entering into a contract with the City, above the stated levels, for the construction, alteration or repair of any public building or prosecution of completion of any public work, shall be required before commencing such work, to provide the following three bonds, issued by a corporate Surety duly authorized and admitted to do business in the State of Texas.

**PUBLIC WORK:** Although the term public work is not defined by statute, it is generally understood to mean construction, repair, or renovation of a structure, road, highway, or other improvement or addition to real property. Contracting for demolition of real property would also fall under this definition.

- A. A bid bond will be required if the contract is in excess of \$100,000 in the amount of 10% of the proposed contract price.
- B. A performance bond will be required if the contract is in excess of \$100,000, in the total amount of the contract conditioned upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. The bond shall be solely for the protection of the City.
- C. A payment bond will be required if the contract is in excess of \$50,000, in the total amount of the contract, solely for the protection of all claimants supplying labor and material in the prosecution of the work provided for in the contract, for the use of each claimant. If the City fails to obtain from the prime contractor a payment bond covering contracts in excess of \$50,000, the City is subject to the same liability as that of a Surety who had issued a valid bond. The claimant is entitled to a lien on funds due the contractor.
- D. A maintenance bond will be required for all projects or procurements

### 9.30 BONDS FOR NON-PUBLIC WORKS PROJECTS

Because there are no State requirements for bonds to cover contracts for goods and services that are not defined as public works projects, it is the City's option. Good business practice would dictate that whenever the City enters into a contract for the purchase of a product system or service in which the system or service will be of little value to the City until it is complete and progress payments are made, then performance and payment bonds should be required.

### 9.4 BONDS FOR AMOUNTS OVER \$100,000

The following legislation has been passed by the State of Texas and must be provided with the bid if the amount of the bid award exceeds \$100,000.

1. If the amount of the bid exceeds \$100,000, the Surety must:
  - a. Hold a certificate of authority from the United States Secretary of the Treasury to qualify as a Surety on obligations permitted or required under federal law; or

b. Have obtained re-insurance for any liability in excess of \$100,000 from a Re-Insurer that is authorized and admitted as a Re-Insurer in this state and is the holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a Surety or Re-Insurer on obligations permitted or required under federal law.

#### 9.50 BONDING INSTRUMENTS

The following instruments will be accepted as bond for the purposes identified.

- A. Surety Bond – accepted as bid, payment, performance, and maintenance bonds
- B. Irrevocable Letter of Credit – accepted as bid, payment, performance, and maintenance bonds
- C. Cash - accepted as bid, payment, performance, and maintenance bonds. Cash must be deposited immediately upon receipt and will be refunded when no longer necessary. As a result, cash is not an effective bonding tool and should not be used if avoidable.
- D. Check - accepted as bid, payment, performance, and maintenance bonds. Checks must be deposited immediately upon receipt and will be refunded when no longer necessary. As a result, checks are not an effective bonding tool and should not be used if avoidable.
- E. Certificate of Deposit - accepted as bid, payment, performance, and maintenance bonds

#### 9.60 INSURANCE REQUIREMENTS

Whenever the City contracts with an outside party (contractor, consultant, vendor, or concessionaire) for goods or services, the bid or request for proposal that is released to the public should include an indemnity clause (hold harmless clause), along with a contractual agreement, to be executed upon award of the contract, that transfers the risk of the project from the City to the contractor. Because the contractor may or may not have the financial resources to handle the risks that are transferred in the contract, the City requires that insurance be purchased and maintained by the contractor for financial security based on the following:

- A. Workers Compensation covering all employees per the statutory requirement is required on all contracts.
- B. The following insurance is required on all contracts over \$15,000:
  - i. Employer's Liability of \$100,000
  - ii. Comprehensive General Liability and Bodily Injury & Property Damage \$1,000,000 (per occurrence and aggregate)
  - iii. Business Automobile Liability covering owned vehicles, rented and non-owned vehicles, and employee non-ownership Bodily Injury Property Damage \$1,000,000 (per occurrence and aggregate).

Although not all of the coverage's are required for every project (and limits will vary by exposure), understanding the coverage's provided by this policy is important to assure that all of the City's potential liabilities and exposures from the project are properly protected. Should any questions arise about the amounts of types of insurance requirements the initiating department should contact the Purchasing Agent or Purchasing Administrator responsible for the project.

## 10.00 PROFESSIONAL SERVICES ACT

This section of the purchasing policy pertains to the Professional Services Procurement Act contained in the Government Code; State and Local Contracts and Fund Management, Chapter 2254 Professional and Consulting Services Subchapter A.

### 10.10 DEFINITIONS

(1) "Governmental entity" means:

- (A) a state agency or department;
- (B) a district, authority, county, municipality, or other political subdivision of the state;
- (C) a local government corporation or another entity created by or acting on behalf of a political subdivision in the planning and design of a construction project; or
- (D) a publicly owned utility.

(2) "Professional services" means services:

(A) within the scope of the practice, as defined by state law, of:

- (i) accounting;
- (ii) architecture;
- (iii) landscape architecture;
- (iv) land surveying;
- (v) medicine;
- (vi) optometry;
- (vii) professional engineering;
- (viii) real estate appraising; or
- (ix) professional nursing; or

(B) provided in connection with the professional employment or practice of a person who is licensed or registered as:

- (i) a certified public accountant;
- (ii) an architect;
- (iii) a landscape architect;
- (iv) a land surveyor;
- (v) a physician, including a surgeon;
- (vi) an optometrist;
- (vii) a professional engineer;
- (viii) a state certified or state licensed real estate appraiser; or
- (ix) a registered nurse.

#### 10.20 SELECTION OF PROVIDER; FEES.

A governmental entity may not select a provider of professional services or a group or association of providers or award a contract for the services on the basis of competitive bids submitted for the contract or for the services, but shall make the selection and award:

- (2) on the basis of demonstrated competence and qualifications to perform the services; and
- (3) for a fair and reasonable price.

Additionally, the professional fees under the contract may not exceed any maximum provided by law.

#### 10.30 SELECTION OF ARCHITECT, ENGINEER, OR SURVEYOR.

In procuring architectural, engineering, or land surveying services, a governmental entity shall:

- (1) first select the most highly qualified provider of those services on the basis of demonstrated competence and qualifications; and
- (2) then attempt to negotiate with that provider a contract at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land surveying services, the entity shall:

- (1) formally end negotiations with that provider;
- (2) select the next most highly qualified provider; and
- (3) attempt to negotiate a contract with that provider at a fair and reasonable price.

The entity shall continue the process described to select and negotiate with providers until a contract is entered into.

#### 10.40 RFQ PROCESS

The Request for Qualifications (RFQ) process will include the use of an approved RFQ template, advertising and a formal response opening scheduled with the Purchasing Agent in a public location (council chamber). This process is outlined below:

- Complete the Request for Qualifications including the following.
  - (1) information on the project;
  - (2) project scope;
  - (3) project budget;
  - (4) project schedule;
  - (5) criteria for selection and the weighting of the criteria;
- RFQ's must use the advertising timelines outlined in section 6.2 of this policy.
- Upon completion of the scheduled response opening, evaluation and scoring of each response should be completed. The evaluation and scoring data for each response should be kept on file.

- The most qualified provider of the services should then be contacted to negotiate a contract at a fair and reasonable price. Upon completion of successful negotiations, a legal request form should be completed and submitted to the City Attorney for a contract for services.
  - If successful negotiation cannot be made with the most qualified provider, the negotiation should be ended and the next provider should be contacted and negotiations should take place.
- The final contract should then be submitted to Council for approval. Upon council approval, the provider is to be notified and the project process can commence.

**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Kerrville Budget/Economic Update

**FOR AGENDA OF:** June 22, 2010

**DATE SUBMITTED:** June 10, 2010

**SUBMITTED BY:** Mike Erwin   
Director of Finance

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Economic Update  
**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OR FINANCE:**

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**SUMMARY STATEMENT**

The City of Kerrville staff will present and update Council on a biweekly basis as to the status of the City's budget and current economic trends affecting the City.

**RECOMMENDED ACTION**

No action required information purposes only.

**CITY OF KERRVILLE  
ECONOMIC UPDATE AS OF JUNE 16, 2010**

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
<b>National</b>					
Unemployment	9.70%	9.90%	9.40%	↔	May
Consumer Confidence	63.3	57.7	54.9	↑	May
1 year T-Bills	0.29%	0.33%	0.48%	↓	6/15/10

<b>State</b>					
Monthly Unemployment	8.10%	8.20%	6.80%	↔	April
Monthly Sales Tax	\$1,775.4m	\$1,675.5m	\$1,773.0m	↑	May

<b>Local</b>					
Monthly Unemployment (Kerr Co.)	6.10%	6.10%	5.10%	↔	April
Median Listing Price	\$194,500	\$184,000	\$198,000	↑	6/7/10
Monthly Sales Tax	\$363,853	\$406,470	\$363,670	↔	May
Monthly EIC Tax	\$181,759	\$203,235	\$181,835	↔	May
Monthly HOT	\$85,122	\$81,142	\$78,137	↑	May

	FY10 Budget	FY10 YTD	FY10 % Received	FY09 YTD	FY09 % Received
<b>General Fund</b>					
Tax Revenue	\$15,055,218	\$12,261,715	81.44%	\$13,038,392	83.08%
Property Tax	\$8,468,618	\$7,900,552	93.29%	\$7,927,950	96.20%
Sales Tax	\$4,624,000	\$3,313,010	71.65%	\$3,834,036	74.83%
Permits & Fees	\$370,750	\$230,758	62.24%	\$308,171	71.12%
Intergovernmental	\$695,156	\$468,876	67.45%	\$687,381	82.37%
Service Revenues	\$3,311,183	\$2,121,893	64.08%	\$2,576,047	78.53%
Grant Revenue	\$10,000	\$10,525	105.25%	\$32,157	105.19%
Fines & Forfeitures	\$504,510	\$346,021	68.59%	\$366,245	85.34%
Interest & Misc.	\$460,211	\$386,108	83.90%	\$296,777	62.41%
Transfers In	\$1,260,825	\$845,935	67.09%	\$634,192	71.54%
<b>Total General Fund</b>	<b>\$21,667,853</b>	<b>\$16,671,830</b>	<b>76.94%</b>	<b>\$17,939,362</b>	<b>81.31%</b>

<b>Water/Sewer Fund</b>					
Water Sales	\$5,060,000	\$2,773,682	54.82%	\$3,489,467	76.45%
Sewer Sales	\$3,900,000	\$2,615,223	67.06%	\$2,543,748	71.74%
Other Revenue	\$669,500	\$588,218	87.86%	\$586,410	81.40%
<b>Total Water &amp; Sewer Fund</b>	<b>\$9,629,500</b>	<b>\$5,977,124</b>	<b>62.07%</b>	<b>\$6,619,624</b>	<b>74.96%</b>

**BUSINESS OF THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Appointment to the Zoning Board of Adjustment

**FOR AGENDA OF:** June 22, 2010

**DATE SUBMITTED:** June 16, 2010

**SUBMITTED BY:** Brenda G. Craig *BC*  
City Secretary

**CLEARANCES:**

**EXHIBITS:** ZBA Board List

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *[Signature]*

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**SUMMARY STATEMENT**

Consider appointment to the following board:

**Zoning Board of Adjustment:** One alternate term due to expire on September 30, 2010: Due to the resignation of Ernest Davis.

**RECOMMENDED ACTION**

Consider appointment of member with term to expire September 30, 2012.

**ZONING BOARD OF ADJUSTMENT**

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
GERMANY, DAN 613 Guadalupe Street Chair	896-1939 (H)	08-08-06**	11-24-09	9-30-11
LIPSCOMB, CAROLYN 909 Lake Street Vice-Chair	895-4232 (H)	12-12-06**	11-24-09	9-30-11
ANDREW, GLENN CLARK 3553 La Cumbre Dr.	895-0676 (H)	10-09-07* 10-28-08**	11-24-09	9-30-11
DOWNING, DON 3508 La Cumbre Dr.	896-7349 (H)	02-13-07* 10-28-08**		9-30-10
MORGAN, WILLIAM 1744 Glen Road	257-6263 (H) 739-9655 (C)	06-28-05**	10-28-08	9-30-10

**ALTERNATES:**

DAVIS, ERNEST 2844 Rock Barn Drive	792-4538 (O)	10-28-08*		9-30-10
IRVIN, ROBERT 2128 Bluff Ridge	896-0586 (H) 895-7771 (O)	11-24-09		9-30-10

**CITY STAFF:**

Gordon Browning  
Senior Planner  
792-8350 (O)

**Qualifications:** The board shall be composed of five members all of whom shall be residents and qualified voters of the city of Kerrville.

**Alternate Members:** Two alternate members will be appointed who shall be qualified voters of the city to serve concurrent terms as the regular members. The alternate members will serve on the board in place of an absent member when requested to do so by the chairperson of the board so that all cases to be heard by the board shall always be heard by a minimum of four members.

**Powers and Duties:**

1. The board shall hear and decide an appeal that alleges an error in any order, decision, or determination made by an administrative official of the city in the interpretation or enforcement of Chapter 211 of the Texas Local Government Code, as amended, or the zoning code.
2. The board shall grant, upon written request, variances from the height, yard, area, coverage, floor-to-area, and buffering regulations and required number of parking and loading spaces prescribed by the zoning code, which variances are not contrary to the public interest, and which, because of special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.

**Term of Office:** Two years. The members shall be appointed by a majority vote of the members of the city council. No member or alternate member shall serve more than three consecutive full terms on the board without having at least one full year off of the board between terms.

Quorum: Four members  
Number of Members: Five with two alternates  
Meeting Time & Place: At the call of the chairperson and at such other times as the members of the board shall determine.  
Absences: Cause for removal of a member of the board by the city council shall be deemed to exist if during any period of twelve consecutive months for any reason other than a medical reason which prevents the member's attendance, the member is absent from the greater of three called meetings of the board or 25 percent of the called meetings of the board.  
Established by: Ordinance No. 1997-07  
Revised: November 25, 2009

\* Appointed as alternate

\*\* Appointed as full member