

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, JUNE 9, 2015, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, JUNE 9, 2015, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION: by Kristin Mudry, Kerr County Greet Us.

PLEDGE OF ALLEGIANCE TO THE FLAG

Those in attendance may stand if they wish.

1. VISITORS/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. City Council may not discuss or take any action on an item but may place the issue on a future agenda. The number of speakers will be limited to the first ten speakers and each speaker is limited to four minutes.

2. PRESENTATIONS:

2A. Proclamation proclaiming June 15-21, 2015 as Men's Health Week. (Mayor Pratt)

3. CONSENT AGENDA:

These items are considered routine and can be approved in one motion unless a councilmember asks for separate consideration of an item. It is recommended that City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:

3A. Minutes of the regular city council meeting held May 26, 2015. (staff)

3B. License agreement for special event, Kerrville's 4th on the River. (staff)

END OF CONSENT AGENDA

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time, June 5, 2015 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig
City Secretary, City of Kerrville, Texas

4. ORDINANCE, FIRST AND ONLY READING:

4A. Ordinance No. 2015-06, authorizing the issuance, sale and delivery of up to \$9,000,000.00 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2015"; securing the payment thereof by authorizing the levy of an annual ad valorem tax and a pledge of certain surplus revenues of the city's waterworks and sewer system; and approving and authorizing the execution of a paying agent/registrar agreement, an official statement and all other instruments and procedures related thereto. (staff)

5. PUBLIC HEARING AND ORDINANCE, FIRST READING:

5A. Ordinance No. 2015-12, amending the city's "Zoning Code" by amending Article 11-I-10 "Residential Zoning Districts", subsection (F) "RT" – residential transition district with respect to the uses of "Schools" and "Churches", as those terms are defined, within this district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); and ordering publication. (staff)

6. ORDINANCES, SECOND AND FINAL READING:

6A. Ordinance No. 2015-10, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2014 and 2015 rate review mechanism filings; approving a settlement agreement with attached rate tariffs and proof of revenues; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. (staff)

6B. Ordinance No. 2015-11 authorizing the closure of a portion of Legion Crossing Street which intersects and is located between Veterans Highway (State Highway Loop 534) and Riverside Drive; making a finding that this portion of street is not required for public vehicular access or use; providing for the terms and conditions of closure; authorizing the city manager to take all necessary actions to effectuate the closure; providing an effective date; and providing other matters related thereto. (staff)

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

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Brenda Craig
City Secretary, City of Kerrville, Texas

7. CONSIDERATION AND POSSIBLE ACTION:

7A. Reject all submitted contractor bids for construction of the Lowry Park trail improvements. (staff)

7B. Update on the river trail and Louise Hays/Lehmann Monroe Park projects and direction to city staff. (staff)

8. ITEMS FOR FUTURE AGENDA:

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.

10. EXECUTIVE SESSION:

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 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, including the following matters:

Section 551.087:

Discuss economic development negotiations for a business prospect(s), the public discussion of which would not be in the best interests of the City Council's bargaining position with third parties.

Section 551.071 and 551.072:

Discuss City of Kerrville, Texas vs. Rio Robles, Inc., 198th District Court of Kerr County, No. 13698B (Condemnation).

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

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Brenda Craig
City Secretary, City of Kerrville, Texas

Sections 551.071 and 551.072:

Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the City's bargaining position with third parties, regarding property interests related to the following:

- River trail.

11. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

12. ADJOURNMENT.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time, June 5, 2015 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig
City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Proclamation proclaiming June 15-21, 2015 as Men's Health Week. (Mayor Pratt)



City of Kerrville

701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

PROCLAMATION

- WHEREAS,** Despite advances in medical technology and research, men continue to live an average of five years less than women; and
- WHEREAS,** Educating the public and health care providers about the importance of a healthy lifestyle and early detection of male health problems will result in reducing rates of mortality from disease; and
- WHEREAS,** Men who are educated about the value of preventative health will be more likely to participate in health screening; and
- WHEREAS,** Fathers who maintain a healthy lifestyle are role models for their children and have happier, healthier children; and
- WHEREAS,** Men's Health Network worked with Congress to develop National Men's Health Week as a special campaign to help educate men, boys, and their families about the importance of positive health attitudes and preventative health practices; and
- WHEREAS,** Kerrville's Health Week will focus on a broad range of men's health issues, including heart disease, diabetes, mental health, prostate, testicular and colon cancer; and
- WHEREAS,** The citizens of Kerrville are encouraged to increase awareness of the importance of a healthy lifestyle, regular exercise, and medical check-ups;

NOW, THEREFORE, I Jack Pratt, Mayor of the City of Kerrville, Texas, do hereby proclaim the week leading up to and including Father's Day as Men's Health Week in this city, and encourage all our citizens to pursue preventative health practices and early detection efforts.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Kerrville to be affixed hereto, the _____ day of _____, 2015.

Jack Pratt, Jr., Mayor

Agenda Item:

3A. Minutes of the regular city council meeting held May 26, 2015. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
MAY 26, 2015

On May 26, 2015, the Kerrville City Council meeting was called to order at 6:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by City Secretary Brenda Craig, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gene Allen	Mayor Pro Tem
Stephen P. Fine	Councilmember
Bonnie White	Councilmember
Gary F. Stork	Councilmember

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Day	Deputy City Manager
Brenda G. Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Police Chief
Trent Robertson	City Planner
Dannie Smith	Fire Chief
Malcolm Matthews	Director of Parks and Recreation

VISITORS PRESENT: List on file in city secretary's office for the required retention period.

1. VISITORS/CITIZENS FORUM: No one spoke.

2. PRESENTATIONS:

2A. Resolution of Commendation to Nancy Alford for serving on the Parks and Recreation Advisory Board.

2B. Resolution of Commendation to David Lipscomb for serving on the Parks and Recreation Advisory Board.

2C. Resolution of Commendation to William Rector for serving on the Main Street Advisory Board.

3. CONSENT AGENDA:

Mr. Fine moved to approve consent agenda items 3A and 3B; Mr. Allen seconded the motion, and it passed 5-0:

3A. Minutes of the regular city council meetings held April 28 and May 12, and the special city council meeting held May 19, 2015.

3B. Resolution No. 15-2015 amending the City of Kerrville fee schedule by revising fees pursuant to the city's contracts for the collection of residential solid waste and recyclable materials, operation of the landfill, and other fees for services and uses offered by the city.

END OF CONSENT AGENDA

4. ORDINANCE, FIRST READING:

4A. Ordinance No. 2015-10, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2014 and 2015 rate review mechanism filings; approving a settlement agreement with attached rate tariffs and proof of revenues; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. Mayor Pratt read the ordinance by title only.

Mr. Hayes noted that Atmos, the city's gas utility supplier, had the right to seek annual rate increases. The Rate Review Mechanism process was adopted several years ago to review rate increase requests. The city of Kerrville was one of 150 cities that comprised ACSC; ACSC hired legal counsel each year to review any rate increase. In February 2014 Atmos filed a \$45.7 million revenue increase; the city, along with other ACSC cities, adopted a resolution denying the rate increase; Atmos appealed the denial, and the request was sent to the Texas Railroad Commission (TRC). In October 2014, TRC recommended a reduction of \$860,000. In the interim, Atmos filed another rate increase for \$24 million in 2015. ACSC analyzed the 2014 and the 2015 rate increases and negotiated a rate increase of \$65.7 million as stated in the proposed ordinance, resulting in monthly increases to Kerrville residential ratepayers of 1.59%, (\$1.14 average); and commercial customers .96% (\$2.69 average). Atmos is the only gas supplier in our area.

The mayor noted that customers had to pay to extend gas lines to their property in order to connect and questioned whether Atmos would commit to providing extensions that would increase their residential customer base.

Mark McEwin, Atmos representative, noted the franchise agreement established footage and extension requirements; Atmos would like to increase its customer base, but Atmos was limited financially; each situation was different and would have to be looked at individually. Mr. Hayes noted the city was in the process of negotiating a new franchise agreement and extension could be discussed during that process.

Mr. Stork moved for approval of Ordinance No. 2015-10 on first reading; Mr. Fine seconded the motion and it passed 5-0.

4B. Ordinance No. 2015-11 authorizing the closure of a portion of Legion Crossing Street which intersects and is located between Veterans Highway (State Highway Loop 534) and Riverside Drive; making a finding that this portion of street is not required for public vehicular access or use; providing for the terms and conditions of closure; authorizing the city manager to take all necessary actions to effectuate the closure; providing an effective date; and providing other matters related thereto. Mayor Pratt read the ordinance by title only.

Mr. Matthews noted the 2009 Master Plan recommended closing a portion of Legion Crossing, which includes the trail crossing and a 12 ft. wide at-grade bridge directly below the Loop 534 bridge, to vehicular traffic, for pedestrian safety along the river trail, park and bridge. The bridge had been closed to vehicular traffic for several months without issue and it would remain accessible to pedestrians, bicyclists and fishermen. The remainder of the roadway would be paved and remain open to vehicular traffic. Properties on the north bank would continue to have full access to their property via Riverside Drive, and access to Kerrville Schreiner Park and Flat Rock Park would not be affected by the closure. Parking was available on both sides of the river.

Council questioned the load limit of the river trail. Mr. Matthews noted the concrete trail could handle regular vehicles and maintenance equipment.

Mr. Fine moved for approval of Ordinance No. 2015-11 on first reading; Ms. White seconded the motion and it passed 5-0.

5. ORDINANCE, SECOND AND FINAL READING:

5A. Ordinance No. 2015-09 amending the city's "Zoning Code" by changing the zoning district for certain properties located on Clay Street between its intersections with Jefferson Street and Schreiner Street, said properties addressed as 414, 416, and 418 Clay Street; such change will result in the removal of the properties from the central city 19-C zoning district to placement within the central business district (CBD); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); ordering publication; and providing other matters relating to the subject. Mayor Pratt read the ordinance by title only.

Mr. Fine filed a conflict of interest affidavit and left the dais at 6:25 p.m.

Mr. Robertson noted proposed zoning was consistent with surrounding properties; there had not been any change since first reading; he recommended approval.

Ms. White moved for approval of Ordinance No. 2015-09 on second and final reading; Mr. Allen seconded the motion and it passed 4-0-1 with Councilmembers White, Allen, Stork, and Pratt voting in favor of the motion, no one voted against the motion, and Mr. Fine abstained.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Establish a date, time, location and subjects for a city council special workshop

Council requested staff contact councilmembers and coordinate a date and any topics for discussion.

7. INFORMATION AND DISCUSSION:

7A. Budget update.

Ms. Yarbrough gave the financial report to date for the period October 1, 2014, to May 26, 2015: general fund revenues totaled \$17,069,792 and expenditures \$12,667,110; water and sewer fund revenues totaled \$5,001,276 and expenditures \$7,006,548; hotel/motel fund revenues totaled \$528,337 and expenditures \$454,474; 36 permits for new residential construction and 9 for new commercial construction. She reported the number of water customers: 8,029 residential, 1,211 commercial, and 536 irrigation; sewer customers 7,865 residential and 1,108 commercial.

8. APPOINTMENTS TO BOARDS AND COMMISSIONS:

8A. Appointments to the Kerrville-Kerr County Joint Airport Board.

Mr. Pratt moved to reappoint Steve King and Ed Livermore with term to expire June 1, 2017. Mr. Allen seconded the motion and it passed 5-0.

8B. Appointments to the Economic Improvement Corporation.

Item was deferred to executive session.

8C. Appointment of councilmembers to city boards and commissions.

Item was deferred to executive session.

8D. Appointment of mayor pro tem.

Item was deferred to executive session.

9. ITEMS FOR FUTURE AGENDAS:

- Consider requesting the Texas Parks and Wildlife host a wildlife interaction workshop in Kerrville.

10. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- May 28, 11:00 a.m., groundbreaking and ribbon cutting for James Avery Craftsman on Hwy. 27 East.
- About 100 artists participated in the Kerrville Festival of the Arts over the Memorial Day weekend.
- June 6 and 7, Kerrville Chalk Festival, an event to display sidewalk art, would be held in Peterson Plaza and on Water Street.
- June 13, 8:00 a.m. grand re-opening and ribbon cutting for river trail and Louise Hays Park.

- June 9, approximately 6:00 p.m., Wounded Warrior Parade, about eight families were scheduled to participate; citizens should line up in the downtown area along Sidney Baker, Main Street, Earl Garrett and west on Water Street.

11. EXECUTIVE SESSION:

Mr. Allen moved for the city council to go into executive closed session under Section 551.074 of the Texas Government Code; motion was seconded by Mr. Stork and passed 5-0 to discuss the following:

Section 551.074:

- Appointments to the Economic Improvement Corporation.
- Appointment of councilmembers to city boards and commissions.
- Appointment of mayor pro tem.

At 6:42 p.m. the regular meeting recessed and council went into executive closed session at 6:46 p.m. At 7:12 p.m. the executive closed session recessed and council returned to open session at 7:13 p.m. The mayor announced that no action had been taken in executive session.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

8B. Appointments to the Economic Improvement Corporation.

Mr. Allen moved to reappoint Gary Cochrane and to appoint Paul Stafford and Delayne Sigerman all with terms to expire June 1, 2017; Mr. Fine seconded the motion and it passed 5-0.

8D. Appointment of mayor pro tem.

Mr. Allen moved to appoint Gary Stork as mayor pro tem; Mr. Fine seconded the motion and it passed 5-0.

8C. Appointment of councilmembers to city boards and commissions.

Mr. Allen moved to appoint councilmembers to the following boards and commissions; the motion was seconded by Ms. White and passed 5-0:

CITY BOARD	EXISTING COUNCIL REPRESENTATIVE	PROPOSED COUNCIL REPRESENTATIVE
Airport Planning Committee	Jack Pratt Carson Conklin	Jack Pratt
Audit Committee	Gene Allen Carson Conklin	Bonnie White Gene Allen
Beautification Advisory Committee	Jack Pratt	Jack Pratt
Economic Improvement Corporation	Stacie Keeble	Gary Stork
Food Service Advisory Board	Stacie Keeble	Stephen Fine
Golf Course Advisory Board	Carson Conklin	Stephen Fine
Kerrville Economic Development Corporation	Carson Conklin	Jack Pratt
Kerrville Public Utility Board	Jack Pratt	Jack Pratt
Library Advisory Board	Gary Stork	Gary Stork
Main Street Advisory Board	Gene Allen	Gary Stork
Municipal Court Review Committee	Jack Pratt Stacie Keeble	Jack Pratt Bonnie White
Parks and Recreation Advisory Board	Gene Allen	Gene Allen
Planning and Zoning Commission	Gary Stork	Bonnie White
Playhouse 2000	Stacie Keeble	Stephen Fine
Zoning Ordinance Input Committee (ZOIC)	Carson Conklin Gary Stork	N/A

ADJOURNMENT. The meeting adjourned at 7:16 p.m.

APPROVED: _____

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

Agenda Item:

3B. License agreement for special event, Kerrville's 4th on the River. (staff)

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

SUBJECT: Multiyear License Agreement with Kerrville's Fourth on the River for the annual Independence Day celebration

FOR AGENDA OF: June 9, 2015

DATE SUBMITTED: June 3, 2015

SUBMITTED BY: Ashlea Boyle *AB*
Special Projects Manager

CLEARANCES: Todd Parton
City Manager

EXHIBITS: License Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Attached is a multi-year agreement between the City of Kerrville and Kerrville's Fourth on the River to produce the annual Independence Day celebration, *Kerrville's Fourth on the River*. The term is for 2015-2017 and the event will be held on July 4th in Louise Hays Park. The event will consist of children's activities, beer and food vendors, and live music in conjunction with the annual City fireworks display sponsored by Mamacita's. There is no admission fee associated with this event.

K4OR is a 501C3 organization and has hosted this event since 2011. Their mission is to help the Kerrville Community in its revitalization efforts to attract and create a more vibrant downtown focusing on the Guadalupe River.

RECOMMENDED ACTION

City staff recommends the consideration and approval of this agreement as presented.

LICENSE AGREEMENT FOR SPECIAL EVENT
(Kerrville's 4th on the River)

THIS LICENSE AGREEMENT ("Agreement") is entered into and effective as of the _____ day of _____, 2015, by and between City of Kerrville, Texas ("City"), a Texas home-rule municipal corporation, acting through its City Manager; and Kerrville's 4th on the River ("KFOR"), a Texas nonprofit corporation, acting by and through its duly authorized officer. Collectively the City and KFOR may be referred to as the "Parties" and individually as the "Party".

BACKGROUND

WHEREAS, City and KFOR are working together to produce a July 4th celebration for the citizens of Kerrville and others; and

WHEREAS, this Agreement is intended to formalize the relationship and further illustrate the collaboration between the Parties by setting forth understandings regarding this production and to help ensure the establishment of appropriate safeguards for a safe and successful event; and

WHEREAS, the July 4th celebration to be held primarily within the City's Louise Hays Park, as indicated on the map found at **Exhibit A**, will benefit the public through the offering of entertainment and will encourage tourism and the promotion of the downtown area;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties have agreed as follows:

I. APPOINTMENT OF KFOR AS COORDINATOR; LICENSE FOR USE OF CITY PROPERTY

- 1.1** City appoints KFOR and KFOR accepts the appointment as the official coordinator of the event known as the Kerrville's 4th on the River, to include securing musical entertainment, food and drink vendors, and the necessary staging, fencing, and booths required for each (the "Event").
- 1.2** City grants KFOR the right to temporarily use and occupy the City's Louise Hays Park ("Licensed Premises") and the Centennial Stage area within the Licensed Premises for musical performances ("Performance Area") for the Event, subject to the terms and conditions of this Agreement. The term "Licensed Premises" includes and means "Performance Area". The Licensed Premises and Performance Area shall be located as indicated on the map, which is attached as **Exhibit A**. KFOR shall use the Licensed Premises solely for the operation of this Event and for no other purpose.
- 1.3** KFOR, at all times, shall control its contractors, agents, representatives, vendors, concessionaires, and volunteers. City may remove any and all such persons from the Licensed Premises who engage in disorderly or unsafe conduct. In the event of the

exercise of this authority, KFOR waives any and all claims for damages against the City and its officers, employees, and agents on account thereof.

II. TERM AND TERMINATION

- 2.1 The term of this Agreement is from the date that this Agreement is signed by both Parties and will continue on an annual basis through July 5, 2017. Each Party has the right to terminate this Agreement upon providing the nonterminating Party with one-hundred days (120) written notice of an intent to terminate this Agreement.

III. IMPROVEMENTS

- 3.1 KFOR shall not construct, or allow to be constructed, any permanent improvements or structures on the Licensed Premises nor shall KFOR make, or allow to be made, any alterations to the Licensed Premises unless approved by the City Manager or designee ("City Manager").

IV. RULES, REGULATIONS, AND RESPONSIBILITIES

- 4.1 KFOR shall comply with any request of the City Manager, the City's Police Department and its officers, and the City's Fire Marshal with respect to the health and safety of the public, including crowd management and control. Contingency plans for security and public services necessary for a larger crowd than anticipated will be discussed and agreed to with the City prior to the Event.
- 4.2 City, to include its City Manager and employees of its Parks and Recreation Department, Police, Fire, EMS, and/or other representatives, shall have the right at any time to enter any portion of the Licensed Premises for any purpose. The Licensed Premises will at all times remain under the sole charge and control of the City Manager. The entrances and exits of the Performance Area will be open or closed under the direction of KFOR in accordance with the terms of this Agreement and the normal constraints for public safety as solely determined by the City Manager.
- 4.3 KFOR shall ensure that all pathways, entrances, and points of ingress and egress remain unobstructed and that such is not used for any other purposes other than public ingress or egress.
- 4.4 KFOR is responsible for providing and installing fencing around the Performance Area, if deemed necessary by KFOR. If fencing is installed, fencing must include easily removed sections for safety and crowd management purposes. Fencing installation and removal should include a visual inspection of the grounds to remove wire clippings and product(s) that may have become dislodged or dropped during installation. KFOR shall ensure that any entrance and exit gates to the Performance Area do not impede the public right of ways and will accommodate a smooth and efficient flow of persons without causing undue wait times or conditions that may create crowd assembly.

- 4.5 KFOR shall not bring or permit anyone to bring or keep anything into the Licensed Premises or Performance Area that will or may increase the fire hazard or adversely affect the Licensed Premises. KFOR shall not bring any personal property onto the Licensed Premises or place or put up any decorations that may damage Licensed Premises without the consent of the City Manager.
- 4.6 KFOR shall not admit into the Performance Area more persons than is determined by the City Manager and/or Fire Marshal can safely or freely move about within the Performance Area and the decision of the City in this respect will be final.
- 4.7 KFOR shall comply with all rules of the Texas Alcoholic Beverage Commission (TABC) with respect to the sale and consumption of alcohol, to include the receipt of appropriate license(s) for its activities.
- 4.8 KFOR may permit persons to enter the Licensed Premises with lounge chairs, blankets, towels, or similar products. KFOR shall take reasonable steps to prohibit and prevent anyone from bringing alcohol or glass containers into the Licensed Premises.
- 4.9 KFOR shall allow attendees to enter the Licensed Premises with factory sealed water bottles in clear plastic containers. KFOR shall ensure that this policy is clearly expressed to the public in its marketing and promotion materials prior to the Event and at the entrance to the Licensed Premises.
- 4.10 KFOR and its contractors, agents, representatives, vendors, concessionaires, and volunteers shall conduct the Event in accordance with federal, state, and local laws, including applicable noise regulations.
- 4.11 KFOR shall pay all applicable federal, state, and local taxes in connection with the Event and Event performances, exhibitions, or entertainment, and shall furnish City all necessary information in order that City may report the transactions to the proper authorities. KFOR is responsible for the collection and reporting of all taxes due any governmental entity for the sale of tickets or sale of other taxable items, including vending and concessions. **KFOR AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF THE COLLECTION, REPORTING, AND/OR PAYMENT OF TAXABLE SALES OCCURRING IN CONNECTION WITH THE EVENT.**
- 4.12 KFOR may use and place only temporary advertisements, signs, decorations, posters, banners, inflatable balloons, and displays ("signage") in, on, or about the Licensed Premises. All signage shall be subject to the prior written approval of City. KFOR agrees to remove and properly dispose of all signage from the Licensed Premises when KFOR vacates the Licensed Premises.
- 4.13 KFOR shall establish a first aid/comfort station.
- 4.14 KFOR should ensure that its vendors have ample water supplies for sale and/or distribution to the public. In addition, KFOR is encouraged to ensure that an ample

amount of free public water sources are available as appropriate for the weather conditions existing at the time.

- 4.15 KFOR is prohibited from selling, distributing, promoting, and/or advertising tobacco or adult-oriented companies, products, or organizations in any manner.
- 4.16 KFOR shall take all appropriate steps to discourage profanity and obscenity.
- 4.17 KFOR shall take all appropriate steps to ensure that no activity or method of operation is allowed in, on, or about the Licensed Premises which exposes patrons to nudity or to partial nudity. "Nudity" means total absence of clothing or covering for the human body. "Partial nudity" means exposure of the female breast or the exposure of the male or female pubic area or buttocks.
- 4.18 KFOR shall take all appropriate steps to ensure that the operation of a massage business, tanning salon, gambling casino, or gambling of any nature does not occur in, on, or about the Licensed Premises.
- 4.19 Discrimination on account of race, color, sex, age, disability, or national origin, directly or indirectly, in employment or in the use of or admission to the Licensed Premises is prohibited.
- 4.20 City shall obtain any required parking permits or street closure permits from the Texas Department of Transportation at least ten (10) days prior to the Event.
- 4.21 KFOR shall secure and provide information to the public regarding parking and designated ADA parking accommodations.
- 4.22 City shall have final approval for KFOR's placement of all equipment, stages, portable amenities, and signage ("Event Structures") within the Licensed Premises. KFOR shall remove all Event Structures from the Licensed Premises on or before the time specified in the Event Plan, as defined in Section V below.
- 4.23 KFOR shall secure all local and state permits associated with the Event or require its authorized concessionaires and vendors to obtain such permits.
- 4.24 KFOR shall assign an event coordinator to ensure compliance with this Agreement and provide City with a single point of contact. KFOR shall provide City with all contact information for the event coordinator, such information to include cell, business, and home telephone numbers and an email address.
- 4.25 KFOR assumes all liabilities and costs arising from the use of patented, trademarked, or copyrighted materials, equipment, devices, processes, or dramatic and performance rights used on or incorporated in conducting the Event. KFOR shall ensure that all applicable licensing fees are paid, such as the American Society of Composers, Authors, and Publishers (ASCAP) fee. **KFOR SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ALL DAMAGES, COSTS, AND EXPENSES IN LAW OR**

EQUITY FOR OR ON ACCOUNT OF ALL CLAIMS ARISING OUT OF THE USE OF ANY PATENTED, TRADEMARKED, OR COPYRIGHTED MATERIALS, EQUIPMENT, DEVICES, PROCESSES OR DRAMATIC AND PERFORMANCE RIGHTS FURNISHED OR USED BY KFOR, AND ALL CLAIMS ARISING INCIDENT TO THIS AGREEMENT.

- 4.26 KFOR shall be responsible for the marketing of the Event and all production costs associated with marketing.
- 4.27 City grants to KFOR the sole and exclusive right to sell drinks, food, souvenirs, or other merchandise of any sort on the Licensed Premises. KFOR shall be responsible for recruiting and contracting directly with food, beverage, and merchandise vendors and entertainment and KFOR shall be responsible for ensuring all associated permits and licenses have been obtained and are current and available for inspection. KFOR may lease all concession or vending rights to any person or persons, subject to prior, written approval by City. KFOR shall provide City with a list or copy of permits of all permitted food and beverage vendors for the Event.
- 4.28 KFOR shall take all appropriate steps to prevent and pick-up litter including efforts to prevent and remove litter from the Licensed Premises and Guadalupe River.
- 4.29 KFOR is prohibited from selling or using glass containers with respect to the serving of food or beverages or where used on any product, merchandise, and/or novelty item. All cardboard boxes and packaging brought on site shall be broken down and collected for recycling provided by City. Samples, merchandise, and other items for sale should be removed from plastic and/or paper packaging and recycled or disposed of accordingly.
- 4.30 KFOR, its contractors, agents, representatives, vendors, concessionaires, and volunteers or the patrons attending the Event are prohibited from giving away free samples or merchandise without the prior, written consent of the City Manager.
- 4.31 KFOR shall be responsible for the creation and distribution of credentials for the Licensed Premises and Performance Area, including the issuance of any parking passes.
- 4.32 City is not responsible for providing, installing, and removing temporary fences for the Event.
- 4.33 City shall allow KFOR to make electrical connections to existing electrical service for use by KFOR during events, including the provision of electricity for the vendors and the entertainment stage. KFOR should coordinate electrical service directly with KPUB and licensed electricians. Any electrical or water service required for the Event beyond that which is currently available will be the responsibility of KFOR.
- 4.34 KFOR shall be responsible for removing trash during the Event and is responsible for providing, placing, maintaining, and removing trash containers, portable toilets, and grease traps.

- 4.35** KFOR shall provide portable toilets in an amount not less than 1 per 100 attendees, to be calculated based upon the estimated peak attendance period. In addition, KFOR shall ensure that at least 10% of portable toilets comply with the ADA. The location of the portable toilets shall be identified in the Event Plan, per Section 5.1. KFOR shall remove the portable toilets before on or before July 6 following each Event. KFOR shall provide separate portable toilets for both entertainer and food vendor areas. KFOR shall ensure that hand sanitation stations are provided. City reserves the right to request and approve adjustments to portable toilet services depending on Event size, scope, and details.
- 4.36** City shall be responsible for street closures and traffic control outside of the Licensed Premises and in accordance with the TxDOT approved traffic control plan.
- 4.37** City shall reserve the Licensed Premises for use in conjunction with the Event.
- 4.38** City shall provide police, fire, and EMS personnel at the event, and shall place at least one (1) ambulance within the Licensed Premises.
- 4.39** KFOR shall monitor crowd activities, the operation of ticket booths, and the placement, use, and security of any ATM machines.
- 4.40** At least thirty (30) days prior to the Event, KFOR shall provide notice to the owner and/or manager of Park Lane Apartments regarding the Event, its date and hours.

V. EVENT PLAN

- 5.1** KFOR and City shall develop an event plan ("Event Plan") outlining specific responsibilities of KFOR and City based upon duties and responsibilities found within this Agreement. The Event Plan must include: a) security; b) location of structures and equipment; c) Event date/times; d) staging date/times; e) breakdown dates/times; f) advertising and signage; g) street and/or lane closures; h) electrical requirements; i) coordination with local businesses; j) press releases; and k) any other logistical or operational requirements. KFOR shall clearly diagram the location of all vendors and concessionaires on a site plan in a "booth-by-booth" manner.
- 5.2** The Event Plan must be in writing, finalized, and agreed to by KFOR and City not later than ten (10) days prior to the Event. Modifications after that date must be in writing and agreed to by the City.

VI. DEFAULT AND REMEDIES

- 6.1** Where a default occurs during the Event that is of a nature that threatens public safety or property damage or is a material breach in the operation of the Event by KFOR, KFOR shall cure such default or breach within one hour of the City's verbal notice to KFOR through KFOR's event coordinator. If a breach cannot be cured within one hour, KFOR shall attempt the cure within one hour and thereafter diligently pursue a remedy.

- 6.2 Upon the occurrence of an event of default as provided, City may, at its option, declare this Agreement, and all rights and interests created by it, terminated. Upon City electing to terminate, this Agreement will cease and come to an end as if that were the day originally fixed for the expiration of the term hereof; or City may, at its option, resume possession of the Licensed Premises.
- 6.3 Any termination of this Agreement does not relieve KFOR from any claim for damages then or theretofore accruing against KFOR, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from KFOR for any default. All rights, options, and remedies of City contained in this Agreement shall be cumulative of the other and City shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement. No waiver by City of a breach of any of the covenants, conditions, or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction.

VII. INDEMNIFICATION

- 7.1 **KFOR COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL DEFENSE COSTS, CLAIMS, LIENS, DAMAGES, JUDGMENTS, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND SUITS OF ANY KIND IN LAW OR IN EQUITY AND NATURE ARISING OUT OF OR IN CONNECTION WITH KFOR'S USE AND/OR OCCUPANCY OF THE LICENSED PREMISES TO THE EXTENT IT ARISES OUT OF ANY ACT OR OMISSION OF KFOR OR ANY OF KFOR'S CONSULTANTS, CONTRACTORS, AGENTS, REPRESENTATIVES, VENDORS, CONCESSIONAIRES, VOLUNTEERS, PATRONS, GUESTS, OR INVITEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES, INCLUDING ANY DAMAGE TO OR LOSS OF ANY PROPERTY BELONGING TO: (A) KFOR OR KFOR'S CONSULTANTS, CONTRACTORS, AGENTS, REPRESENTATIVES, VENDORS, CONCESSIONAIRES, VOLUNTEERS, PATRONS, GUESTS, OR INVITEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES; OR (B) CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS. THIS INDEMNITY SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM A NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT OF CITY, ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, EXCEPT TO THE EXTENT PROVIDED BELOW. IN THE EVENT KFOR AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION,**

LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH TEXAS STATE LAW, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, ITS ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES UNDER TEXAS LAW AND WITHOUT WAIVING ANY OTHER LAWFUL DEFENSES AVAILABLE TO OTHERS.

- 7.2 KFOR shall promptly advise City in writing of any claim or demand against City or KFOR known to KFOR related to or arising out of KFOR's or City's activities under this Agreement. Further, KFOR shall see to the investigation and defense of any such claim or demand against KFOR or City at KFOR's sole cost until such time as City is found to be negligent by a court of competent jurisdiction. City shall have the right, at its option and at its own expense, to participate in such defense without relieving KFOR of any of its obligations under this paragraph.
- 7.3 The provisions of this section (and indemnification) are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 7.4 KFOR and its contractors, agents, representatives, vendors, concessionaires, and volunteers while engaged in the performance of any work required by the City or any work related to this Agreement shall be considered representatives, agents, or volunteers of KFOR only and not of City. Any and all claims that may result from any obligation for which KFOR may be held liable under any Workers' Compensation, Unemployment Compensation, or Disability Benefits law or under any similar law on behalf of said representatives, agents, or volunteers shall be the sole obligation and responsibility of KFOR.
- 7.5 KFOR assumes the sole risk for all personal property placed within the Licensed Premises. City is not liable and KFOR waives all claims for any damage either to the person or property of KFOR and to all others due to the Licensed Premises or appurtenances becoming out of repair or arising from bursting or leaking of water, gas, waste pipes, drainage, flooding, or defective wiring or excessive or deficient electrical current; or from any act or omission of or other occupants of the Licensed Premises, or any other persons; due to the happening of any accident in or about said Licensed Premises. **KFOR SHALL SAVE AND HOLD HARMLESS CITY FROM ANY CLAIMS ARISING OUT OF DAMAGE TO KFOR'S OR OTHER'S PROPERTY OR DAMAGE TO KFOR'S OPERATIONS, SERVICES, AND/OR BUSINESS.**

VIII. INSURANCE REQUIREMENTS

- 8.1 Prior to the commencement of the Event, KFOR shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City, which shall clearly indicate the Event in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s)

or form(s) must have the agent's original signature, including the signer's company affiliation, title, and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. City shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

- 8.2** The City reserves the right to review the insurance requirements of this section and to modify insurance coverages and their limits when deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding the Agreement, but in no instance will the City allow modification whereupon the City may incur increased risk.
- 8.3** As the KFOR's financial integrity is of interest to City, therefore, subject to KFOR's right to maintain reasonable deductibles in such amounts as are approved by City, KFOR shall obtain and maintain in full force and effect for the duration of the Agreement, at KFOR's sole expense, insurance coverage written, on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed.

TYPE	AMOUNT
<p>1. Commercial General (Public) Liability</p> <ul style="list-style-type: none"> a) Premises/Operations b) Independent Contractors umbrella or excess liability c) road Form Contractual Liability coverage d) Products/completed operations e) Broad form property damage, to include fire legal liability f) Personal Injury g) Host Liquor Liability h) Liquor Legal Liability 	<p>Statutory \$1,000,000/\$1,000,000/\$1,000,000</p> <p>For Bodily Injury and Property Damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate or its equivalent in</p>
<p>2. Comprehensive Automobile Liability</p> <ul style="list-style-type: none"> a) Owned/Leased Vehicles b) Non-owned Vehicles c) Hired Vehicles 	<p>Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent</p>
<p>3. Property Insurance: For physical damage to the property of KFOR, including improvements and betterment to the Licensed Premises</p>	<p>Coverage for a minimum of eighty percent (80%) of the replacement cost of the KFOR's property</p>

- 8.4** KFOR shall provide Host Liquor and Liquor Liability insurance coverage in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage or require any person or entity that KFOR has

conveyed concession rights for the sale and disbursement of alcoholic beverages, to purchase Liquor Liability insurance and provide a Certificate of Insurance and Endorsement that names the KFOR and the City as an additional insured.

- 8.5** KFOR shall obtain General Liability insurance with minimum limits of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate from each vendor or concessionaire sublicensed by KFOR, and provide a Certificate of Insurance and Endorsement that names KFOR and City as an additional insured.
- 8.6** City is entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits required by City and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation and are binding upon either party or the underwriter of any such policies.
- 8.7** KFOR agrees that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- A. Name of City and its elected officials, employees, officers, agents, representatives, and volunteers as additional insureds by endorsement as respects operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of: the workers' compensation and professional liability policies;
 - B. Provide for an endorsement that the "other insurance" clause shall not apply to the City where the City is an additional insured shown on the policy;
 - C. Workers' compensation, employers' liability, and property insurance policies will provide a waiver of subrogation in favor of the City; and
 - D. Provide immediate written notice directly to the City of any suspension, cancellation, or material change in coverage.
- 8.8** City shall have the option to suspend KFOR's performance should the required insurance be cancelled or modified during this Agreement. KFOR's failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement. All notices, replacement certificates of insurance and endorsements shall be delivered to the City to the address indicated below or as may be directed by City.
- 8.9** In addition to any other remedies the City may have upon KFOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City shall have the right to order KFOR to stop work and vacate the Licensed Premises until KFOR demonstrates compliance with the requirements hereof.
- 8.10** Nothing herein contained shall be construed as limiting in any way the extent to which KFOR may be held responsible for payments of damages to persons or property resulting

from the performance of work covered under this Agreement by KFOR or its contractors, agents, representatives, vendors, concessionaires, and volunteers.

- 8.11 KFOR agrees that its insurance shall be deemed primary and noncontributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.
- 8.12 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

IX. SEPARABILITY

- 9.1 If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event it is the intention of the Parties that the remainder of this Agreement will not be affected; and, it is also the intention of the Parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision may be possible and be legal, valid, and enforceable.

X. NOTICES

- 10.1 Notices to City required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered; mailed, Registered or Certified mail, Postage Prepaid; or faxed to the addresses and telephone number as follows:

City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
FAX (830) 792-5804

Or to such other address as may have been designated in writing by City.

Notices to KFOR required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered; mailed, Registered or Certified mail, Postage Prepaid; or faxed to the addresses and telephone number as follows:

Kerrville's 4th on the River
PO Box 295081
Kerrville, Texas 78029-5081

With a copy to:
John Carlson
Attorney for Kerrville's 4th on the River
717 Sidney Baker
Kerrville, Texas 78028

Or to such other address as may have been designated in writing by KFOR.

XI. PARTIES BOUND

- 11.1 This Agreement insures to the benefit of and is binding upon the Parties; their respective heirs, legal representatives, successors, and such assigns as have been approved by City.

XII. TEXAS LAW TO APPLY

- 12.1 This Agreement will be construed under and in accordance with the laws of the state of Texas and all obligations of the Parties are performable in Kerr County, Texas.

XIII. RELATIONSHIPS OF PARTIES

- 13.1 Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer and employee, principal and agent, partners, joint ventures, or any other similar relationship between the Parties.

XIV. GENDER

- 14.1 Any words of gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XV. CAPTIONS

- 15.1 The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.

XVI. ENTIRE AGREEMENT AND AMENDMENT

- 16.1 This Agreement constitutes the entire agreement between the Parties and any other written or oral agreements with City being expressly waived by KFOR.
- 16.2 No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the Parties hereto.

XVII. AUTHORITY

- 17.1 The signer of this Agreement for KFOR represents and warrants that he or she has full authority to execute this Agreement on behalf of KFOR.

(Signatures follow on next page)

SIGNED ON THIS _____ DAY OF _____, 2015.

City of Kerrville, Texas:

Kerrville 4th on the River:

By: _____
Todd Parton, City Manager

By: _____
Ben Modisett, _____

ATTEST:

Brenda Craig, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

Agenda Item:

4A. Ordinance No. 2015-06, authorizing the issuance, sale and delivery of up to \$9,000,000.00 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2015"; securing the payment thereof by authorizing the levy of an annual ad valorem tax and a pledge of certain surplus revenues of the city's waterworks and sewer system; and approving and authorizing the execution of a paying agent/registrar agreement, an official statement and all other instruments and procedures related thereto. (staff)

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

SUBJECT: ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF APPROXIMATELY \$9,000,000 IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2015"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO

FOR AGENDA OF: June 9, 2015

DATE SUBMITTED: May 29, 2015

SUBMITTED BY: Sandra Yarbrough 
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Preliminary Ordinance No. 2015-06, Updated ordinance and agreements will be completed after the June 9, 2015 pricing and will be provided at the meeting.

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

The FY15 budget includes CIP projects funded by Certificates of Obligation (COs). While COs are backed by the full faith and credit of the City. The City expects to enter into an agreement with the City of Kerrville Economic Improvement Corporation (the "EIC") pursuant to which the EIC is expected to agree to provide funds to the City in an amount sufficient to pay all debt service on the Certificates of Obligation. The debt will be used to acquire, construct, and equip an athletic complex, including baseball, softball, and soccer facilities, and for paying professional services related thereto.

The aggregate amount of Certificates of Obligation will not exceed \$9,000,000. Because the total issued by the City in calendar year 2015 is less than \$10,000,000, this issue will be bank qualified which should make it more attractive to banks because of the tax benefits associated with this type of issue.

RECOMMENDED ACTION

Approve first and only reading of Ordinance No. 2015-06 authorizing issuance of 2015 Certificates of Obligation in the amount of up to \$9,000,000.

ORDINANCE NO. 2015-06

ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$_____ IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2015"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO

DATE OF APPROVAL: JUNE 9, 2015

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ORDINANCE NO. 2015-__

ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$ _____ IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2015"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO

THE STATE OF TEXAS
COUNTY OF KERR
CITY OF KERRVILLE

§
§
§

WHEREAS, the CITY OF KERRVILLE, TEXAS (the "City") in Kerr County, Texas, is a political subdivision of the State of Texas operating as a home-rule city pursuant to the Texas Local Government Code and its City Charter which was initially approved by the qualified voters of the City on February 24, 1942, and which has been amended from time to time, with the most recent amendments being approved by the qualified voters of the City on May 4, 1999; and

WHEREAS, the City Council of the City hereby determines that it is necessary and desirable to acquire, construct and equip an athletic complex, including baseball, softball, and soccer facilities, which will considered a part of, and will be operated by, the City's Parks and Recreation Department (the "Projects"); and

WHEREAS, the City Council of the City intends to finance the Projects from proceeds derived from the sale of Certificates of Obligation issued by the City pursuant to Sections 271.041 - 271.065, Texas Local Government Code, as amended; and

WHEREAS, on April 14, 2015, the City Council adopted a resolution authorizing and directing the City Secretary to give notice of intention to issue Certificates of Obligation; and

WHEREAS, said notice has been duly published in the *Hill Country Community Journal*, which is a newspaper of general circulation in the City in its issues of April 22, 2015, and April 29, 2015; and

WHEREAS, the City received no petition signed by at least five percent of the qualified electors of the City protesting the issuance of such Certificates of Obligation; and

WHEREAS, in 1995, the City created the **CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION** (the "**EIC**") pursuant to Section 4B of the Development Corporation Act of 1979 (then Article 5190.6, Texas Vernon's Civil Statutes, as amended, now codified in Chapters 501, 502 and 505 of the Texas Local Government Code and referred to collectively herein as the "**Act**"); and

WHEREAS, pursuant to Chapter 505 of the Act, the EIC is authorized to construct, or to provide funding to construct, projects which the EIC finds to be encompassed by the definition of "Projects", as that word is defined in Chapters 501 and 505 of the Act; and

WHEREAS, in May 1995, the citizens of the City, voting at an election, approved a proposition (the "**Proposition**") authorizing the levy of a one-half of one percent ($\frac{1}{2}\%$) sales and use tax upon the receipts at retail of taxable items, pursuant to the Act (the "**4B Sales Tax**") to undertake projects, as defined, including but not limited to:

Expenditures required or suitable for projects related to recreational or community facilities, including land, buildings, equipment, facilities, and improvements found by the board of directors to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, and public park purposes and events, including amphitheaters, parks and park facilities, open space improvements, and related automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described herein; and

WHEREAS, the EIC caused a notice of its intention to undertake the Projects to be published on December 17, 2014, in the *Kerrville Daily Times*, which date is at least 60 days prior to the date of this Resolution, and neither the EIC nor the City received a petition from more than 10 percent of the registered voters of the City requesting that an election be held before the Projects are undertaken by the EIC, all in compliance with Section 505.160 of the Act; and

WHEREAS, Section 505.158(b) of the Act provides that "*[a] Type B corporation may not undertake a project authorized by this section that requires an expenditure of more than \$10,000 until the governing body of the corporation's authorizing municipality adopts a resolution authorizing the project after giving the resolution at least two separate readings*"; and

WHEREAS, Section 505.159(a) of the Act provides that "*a Type B corporation shall hold at least one public hearing on a proposed project before spending money to undertake the project*"; and

WHEREAS, on December 17, 2014, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the Board of Directors of the EIC held a public hearing related to the proposed expenditure of the 4B Sales Tax for the Projects, which satisfied the requirement set forth in Section 505.159(a) of the Act; and

WHEREAS, on December 17, 2014 the Board of Directors of the EIC, and on January 27, 2015 the City Council of the City, respectively approved a **PROJECT FUNDING AGREEMENT**

BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS FOR THE DEVELOPMENT AND CONSTRUCTION OF AN ATHLETIC COMPLEX ADJACENT TO HOLDSWORTH ROAD, dated as of January 27, 2015, pursuant to which the EIC has committed to provide to the City from the receipts of the 4B Sales Tax amounts equal to the principal of and interest on the obligations issued by the City to finance the Projects (i.e., the certificates of obligation authorized to be issued pursuant to this Ordinance); and

WHEREAS, it is considered to be in the best interest of the City that said interest bearing Certificates of Obligation be issued; and

WHEREAS, it is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and public notice of the time, place and purpose of said meeting was given, all as required by Chapter 551, Texas Government Code;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, THAT:

SECTION ONE. AMOUNT AND PURPOSE OF THE CERTIFICATES OF OBLIGATION. The certificate of obligation or certificates of obligation of the City further described in Section 2 of this Ordinance and referred to herein as the "Certificates of Obligation" are hereby authorized to be issued and delivered in the aggregate principal amount of \$ _____ ***FOR THE PURPOSE OF PAYING, IN WHOLE OR IN PART, CONTRACTUAL OBLIGATIONS TO BE INCURRED TO ACQUIRE, CONSTRUCT AND EQUIP AN ATHLETIC COMPLEX, INCLUDING BASEBALL, SOFTBALL, AND SOCCER FACILITIES, WHICH WILL CONSIDERED A PART OF, AND WILL BE OPERATED BY, THE CITY'S PARKS AND RECREATION DEPARTMENT.***

SECTION TWO. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF THE CERTIFICATES OF OBLIGATION. Each certificate of obligation issued pursuant to and for the purpose described in Section 1 of this Ordinance shall be designated: **CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2015**, and initially there shall be issued, sold and delivered hereunder one fully registered certificate of obligation, without interest coupons, dated June 1, 2015, in the aggregate principal amount of \$ _____, numbered T-1 (the "***Initial Certificate of Obligation***"), with certificates of obligation issued in replacement thereof being in the denomination of \$5,000 or any integral multiple thereof and numbered consecutively from R-1 upward, all payable to the initial registered owner thereof (with the Initial Certificate of Obligation being payable to the initial purchaser designated in Section 16 hereof), or to the registered assignee or assignees of said certificates of obligation or any portion or portions thereof (in each case, the "***Registered Owner***"), and the certificates of obligation shall mature and be payable serially on ***August 15*** in each of the years and in the principal amounts, respectively, as set forth in the following schedule:

<u>YEAR OF</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>AMOUNT (\$)</u>	<u>YEAR OF</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>AMOUNT (\$)</u>	<u>YEAR OF</u> <u>MATURITY</u>	<u>PRINCIPAL</u> <u>AMOUNT (\$)</u>
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2016	2023	2030
2017	2024	2031
2018	2025	2032
2019	2026	2033
2020	2027	2034
2021	2028	2035
2022	2029	

The term "*Certificates of Obligation*" as used in this Ordinance shall mean and include the Certificates of Obligation initially issued and delivered pursuant to this Ordinance and all substitute certificates of obligation exchanged therefor, as well as all other substitute certificates of obligation and replacement certificates of obligation issued pursuant hereto, and the term "*Certificate of Obligation*" shall mean any of the Certificates of Obligation.

SECTION THREE. INTEREST. The Certificates of Obligation shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM CERTIFICATE OF OBLIGATION set forth in this Ordinance to their respective dates of maturity or prior redemption at the following rates per annum:

<u>YEAR OF MATURITY</u>	<u>INTEREST RATE (%)</u>	<u>YEAR OF MATURITY</u>	<u>INTEREST RATE (%)</u>	<u>YEAR OF MATURITY</u>	<u>INTEREST RATE (%)</u>
2016		2023		2030	
2017		2024		2031	
2018		2025		2032	
2019		2026		2033	
2020		2027		2034	
2021		2028		2035	
2022		2029			

Said interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance.

SECTION FOUR. CHARACTERISTICS OF THE CERTIFICATES OF OBLIGATION; APPROVAL OF PAYING AGENT/REGISTRAR AGREEMENT.

(a) Registration, Transfer, and Exchange; Authentication. The City shall keep or cause to be kept at the designated corporate trust or commercial banking office (currently located in Houston, Texas) of U.S. BANK NATIONAL ASSOCIATION (the "*Paying Agent/Registrar*") books or records for the registration of the transfer and exchange of the Certificates of Obligation (the "*Registration Books*"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as *Exhibit A* is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor, Mayor Pro-Tem and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Certificate of Obligation to which payments with respect to the Certificates of Obligation shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Certificates of Obligation shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a substitute Certificate of Obligation or Certificates of Obligation shall be paid as provided in the FORM CERTIFICATE OF OBLIGATION set forth in this Ordinance. Registration of assignments, transfers and exchanges of Certificates of Obligation shall be made in the manner provided and with the effect stated in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance. Each substitute Certificate of Obligation shall bear a letter and/or number to distinguish it from each other Certificate of Obligation.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Certificate of Obligation, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Certificate of Obligation shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Certificates of Obligation and Certificates of Obligation surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing transfer and exchange of any Certificate of Obligation or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Certificates of Obligation in the manner prescribed herein, and said Certificates of Obligation shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Chapter 1201, Texas Government Code, and particularly Subchapter D and

Section 1201.067 thereof, the duty of transfer and exchange of Certificates of Obligation as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the transferred and exchanged Certificate of Obligation shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Certificates of Obligation which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

(b) Payment of Certificates of Obligation and Interest. The City hereby further appoints the Paying Agent/Registrar to act as the paying agent for paying the principal of and interest on the Certificates of Obligation, all as provided in this Ordinance. The Paying Agent/ Registrar shall keep proper records of all payments made by the City and the Paying Agent/Registrar with respect to the Certificates of Obligation.

(c) In General. The Certificates of Obligation (i) shall be issued in fully registered form, without interest coupons, with the principal of and interest on such Certificates of Obligation to be payable only to the registered owners thereof, (ii) may be redeemed prior to their scheduled maturities (notice of which shall be given to the Paying Agent/Registrar by the City at least 50 days prior to any such redemption date), (iii) may be transferred and assigned, (iv) may be exchanged for other Certificates of Obligation, (v) shall have the characteristics, (vi) shall be signed, sealed, executed and authenticated, (vii) shall be payable as to principal and interest, and (viii) shall be administered and the Paying Agent/Registrar and the City shall have certain duties and responsibilities with respect to the Certificates of Obligation, all as provided, and in the manner and to the effect as required or indicated, in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance. The Initial Certificate of Obligation is not required to be, and shall not be, authenticated by the Paying Agent/Registrar, but on each substitute Certificate of Obligation issued in exchange for the Initial Certificate of Obligation issued under this Ordinance the Paying Agent/Registrar shall execute the PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE, in the form set forth in the FORM OF CERTIFICATE OF OBLIGATION. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Certificate of Obligation delivered on the closing date (as further described in subparagraph (i) below) shall have attached thereto the Comptroller's Registration Certificate substantially in the form set forth in the FORM OF CERTIFICATE OF OBLIGATION below, manually executed by the Comptroller of Public Accounts of the State of Texas or by her duly authorized agent, which certificate shall be evidence that the Initial Certificate of Obligation has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The City covenants with the registered owners of the Certificates of Obligation that at all times while the Certificates of Obligation are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Certificates of Obligation under this Ordinance, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 120 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying

Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Certificates of Obligation, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Certificates of Obligation, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry Only System for Certificates of Obligation. The Certificates of Obligation issued in exchange for the Certificates of Obligation initially issued to the purchaser specified in Section 16 herein shall be initially issued in the form of a separate single fully registered Certificate of Obligation for each of the maturities thereof. Upon initial issuance, the ownership of each such Certificate of Obligation shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("**DTC**"), and except as provided in subsection (i) hereof, all of the outstanding Certificates of Obligation shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Certificates of Obligation registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("**DTC Participant**") to hold securities to facilitate the clearance and settlement of securities transaction among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Certificates of Obligation. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Certificates of Obligation, (ii) the delivery to any DTC Participant or any other person, other than a registered owner of the Certificates of Obligation, as shown on the Registration Books, of any notice with respect to the Certificates of Obligation, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Certificates of Obligation, as shown in the Registration Books of any amount with respect to principal of or interest on the Certificates of Obligation. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Certificate of Obligation is registered in the Registration Books as the absolute owner of such Certificate of Obligation for the purpose of payment of principal and interest with respect to such Certificate of Obligation, for the purpose of registering transfers with respect to such Certificate of Obligation, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Certificates of Obligation only to or upon the order of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of

principal of and interest on the Certificates of Obligation to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Certificate of Obligation certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

(f) Successor Securities Depository: Transfers Outside Book-Entry Only Systems. In the event that the City determines that DTC is incapable of discharging its responsibilities described herein and in the representation letter of the City to DTC or that it is in the best interest of the beneficial owners of the Certificates of Obligation that they be able to obtain certificated Certificates of Obligation, the City shall (i) appoint a successor securities depository, qualified to act as such under Section 17(a) of the Securities and Exchange Act of 1934, as amended, notify DTC and DTC Participants of the appointment of such successor securities depository and transfer one or more separate Certificates of Obligation to such successor securities depository or (ii) notify DTC and DTC Participants of the availability through DTC of Certificates of Obligation and transfer one or more separate Certificates of Obligation to DTC Participants having Certificates of Obligation credited to their DTC accounts. In such event, the Certificates of Obligation shall no longer be restricted to being registered in the Registration Books in the name of Cede & Co., as nominee of DTC, but may be registered in the name of the successor securities depository, or its nominee, or in whatever name or names registered owners transferring or exchanging Certificates of Obligation shall designate, in accordance with the provisions of this Ordinance.

(g) Payments to Cede & Co. Notwithstanding any other provision of this Ordinance to the contrary, so long as any Certificate of Obligation is registered in the name of Cede & Co., as nominee for DTC, all payments with respect to principal of and interest on such Certificate of Obligation and all notices with respect to such Certificate of Obligation shall be made and given, respectively, in the manner provided in the representation letter of the City to DTC.

(h) DTC Letter of Representations. The officers of the City are herein authorized for and on behalf of the City and as officers of the City to enter into one or more Letters of Representations with DTC establishing the book-entry only system with respect to the Certificates of Obligation.

(i) Delivery of Initial Certificate of Obligation. On the closing date, one Initial Certificate of Obligation representing the entire principal amount of the respective series of Certificates of Obligation, payable in stated installments to the initial registered owner named in Section 16 of this Ordinance or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro-Tem and City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Initial Certificate of Obligation, the Paying Agent/Registrar shall cancel the Initial Certificate of Obligation and deliver to the initial registered owner or its designee one registered definitive Certificate of Obligation for each year of maturity of the Certificates of Obligation, in the aggregate principal amount of all of the Certificates of Obligation for such maturity.

SECTION FIVE. FORM OF CERTIFICATE OF OBLIGATION. The form of the Certificates of Obligation, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment, and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to be attached only to the Certificates of Obligation initially issued and delivered pursuant to this Ordinance), shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance.

FORM OF CERTIFICATE OF OBLIGATION

R-__	UNITED STATES OF AMERICA STATE OF TEXAS COUNTY OF KERR CITY OF KERRVILLE, TEXAS	PRINCIPAL AMOUNT \$ _____
COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION SERIES 2015		

INTEREST RATE	MATURITY DATE	DATE OF SERIES	CUSIP NO.
____%	August 15, 20__	June 1, 2015	492422 ____

REGISTERED OWNER:

PRINCIPAL AMOUNT: **DOLLARS**

ON THE MATURITY DATE specified above, the *CITY OF KERRVILLE, TEXAS* (the "City"), being a political subdivision and home-rule municipality of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "Registered Owner"), the Principal Amount specified above, and to pay interest thereon (calculated on the basis of a 360-day year of twelve 30-day months) from April 1, 2015 at the Interest Rate per annum specified above, payable on February 15, 2016 and semiannually on each February 15 and August 15 thereafter to the Maturity Date specified above, or the date of redemption prior to maturity; except that if this Certificate of Obligation is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate of Obligation or Certificates of Obligation, if any, for which this Certificate of Obligation is being exchanged is due but has not been paid, then this Certificate of Obligation shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON this Certificate of Obligation are payable in lawful money of the United States of America, without exchange or collection charges. The

principal of this Certificate of Obligation shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate of Obligation at maturity or upon the date fixed for redemption prior to maturity, at the designated corporate trust or commercial banking office (currently located in Houston, Texas) of U.S. BANK NATIONAL ASSOCIATION, which is the "**Paying Agent/Registrar**" for this Certificate of Obligation. The payment of interest on this Certificate of Obligation shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the Ordinance authorizing the issuance of this Certificate of Obligation (the "**Ordinance**") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month next preceding each such date (the "**Record Date**") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "**Special Record Date**") will be established by the Paying Agent/Registrar if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "**Special Payment Date**" which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Registered Owner appearing on the Registration Books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice. Any accrued interest due upon the redemption of this Certificate of Obligation prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate of Obligation for redemption and payment at the designated corporate trust office of the Paying Agent/Registrar (unless the redemption date is a regularly scheduled interest payment date, in which case accrued interest on such redeemed Certificates of Obligation shall be payable in the regular manner described above). The City covenants with the Registered Owner of this Certificate of Obligation that on or before each principal payment date, interest payment date and accrued interest payment date for this Certificate of Obligation it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates of Obligation, when due.

IF THE DATE for the payment of the principal of or interest on this Certificate of Obligation shall be a Saturday, Sunday, legal holiday, or day on which banking institutions in the city where the Paying Agent/Registrar is located are authorized by law or executive order to close, or the United States Postal Service is not open for business, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close, or the United States Postal Service is not open for business; and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS CERTIFICATE OF OBLIGATION is one of a series of Certificates of Obligation dated as of June 1, 2015 authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of \$_____ **FOR THE PURPOSE OF PAYING, IN**

WHOLE OR IN PART, CONTRACTUAL OBLIGATIONS TO BE INCURRED TO ACQUIRE, CONSTRUCT AND EQUIP AN ATHLETIC COMPLEX, INCLUDING BASEBALL, SOFTBALL, AND SOCCER FACILITIES, WHICH WILL BE CONSIDERED A PART OF, AND WILL BE OPERATED BY, THE CITY'S PARKS AND RECREATION DEPARTMENT.

ON AUGUST 15, 20__, or on any date thereafter, the Certificates of Obligation of this Series maturing on and after August 15, 20__, may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, as a whole, or in part (provided that a portion of a Certificate of Obligation may be redeemed only in an integral multiple of \$5,000), at the redemption price of the principal amount of Certificates of Obligation called for redemption, plus accrued interest thereon to the date fixed for redemption. The City shall determine the maturity or maturities, and the principal amount of Certificates of Obligation within each maturity, to be redeemed. If less than all Certificates of Obligation of a maturity are to be redeemed, the particular Certificates of Obligation to be redeemed shall be selected by the Paying Agent/Registrar at random and by lot.

ADDITIONALLY, THE CERTIFICATES OF OBLIGATION MATURING on August 15 in the years 20__, 20__, and 20__ (the "Term Certificates") are subject to mandatory redemption prior to maturity in part by lot, at a price equal to the principal amount thereof plus accrued interest to the date of redemption, on the dates and in the respective principal amounts shown below:

TERM CERTIFICATES MATURING AUGUST 15, 20__		TERM CERTIFICATES MATURING AUGUST 15, 20__	
Mandatory Redemption Date	Redemption Amount (\$)	Mandatory Redemption Date	Redemption Amount (\$)
August 15, 20__		August 15, 20__	
August 15, 20__		August 15, 20__	
August 15, 20__ (maturity)		August 15, 20__ (maturity)	

TERM CERTIFICATES MATURING AUGUST 15, 20__	
Mandatory Redemption Date	Redemption Amount (\$)
August 15, 20__	
August 15, 20__	
August 15, 20__ (maturity)	

The principal amount of the Term Certificates required to be redeemed pursuant to the operation of such mandatory redemption requirements may be reduced, at the option of the City, by the principal amount of any such Term Certificates which, prior to the date of the mailing of notice of such

mandatory redemption, (i) shall have been acquired by the City and delivered to the Paying Agent/Registrar for cancellation, (ii) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City, or (iii) shall have been redeemed pursuant to the optional redemption provisions described in the preceding paragraph and not theretofore credited against a mandatory redemption requirement.

AT LEAST 30 DAYS prior to the date fixed for any redemption of Certificates of Obligation or portions thereof prior to maturity, a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid to the Registered Owner of each Certificate of Obligation to be redeemed at its address as it appeared on the Registration Books maintained by the Paying Agent/Registrar on the day such notice of redemption is mailed. Any notice of redemption so mailed shall be conclusively presumed to have been duly given irrespective of whether received by the Registered Owner. The notice with respect to an optional redemption of Certificates of Obligation may state (1) that it is conditioned upon the deposit of moneys, in an amount equal to the amount necessary to effect the redemption, with the Paying Agent/Registrar no later than the redemption date, or (2) that the City retains the right to rescind such notice at any time prior to the scheduled redemption date if the City delivers a certificate of an authorized representative to the Paying Agent/Registrar instructing the Paying Agent/Registrar to rescind the redemption notice, and such notice and optional redemption shall be of no effect if such moneys are not so deposited or if such notice is so rescinded. By the date fixed for any such redemption, due provision shall be made with the Paying Agent/Registrar for the payment of the required redemption price for the Certificates of Obligation or portions thereof which are to be so redeemed. If such written notice of redemption is mailed (and not rescinded), and if due provision for such payment is made, all as provided above, the Certificates of Obligation or portions thereof which are to be so redeemed thereby automatically shall be treated as redeemed prior to their scheduled maturities, and they shall not bear interest after the date fixed for redemption, and they shall not be regarded as being outstanding except for the right of the Registered Owner to receive the redemption price from the Paying Agent/Registrar out of the funds provided for such payment. If a portion of any Certificate of Obligation shall be redeemed a substitute Certificate of Obligation or Certificates of Obligation having the same maturity date, bearing interest at the same rate, in any denomination or denominations in any integral multiple of \$5,000, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Ordinance.

ALL CERTIFICATES OF OBLIGATION OF THIS SERIES are issuable solely as fully registered Certificates of Obligation, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Ordinance, this Certificate of Obligation, may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred and exchanged for a like aggregate principal amount of fully registered Certificates of Obligation, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate of Obligation to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate of Obligation must be presented and surrendered to the Paying

Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate of Obligation or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate of Obligation or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate of Obligation may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate of Obligation or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for transferring and exchanging any Certificate of Obligation or portion thereof shall be paid by the City, but any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date.

WHENEVER THE BENEFICIAL OWNERSHIP of this Certificate of Obligation is determined by a book entry at a securities depository for the Certificates of Obligation, the foregoing requirements of holding, delivering or transferring this Certificate of Obligation shall be modified to require the appropriate person or entity to meet the requirements of the securities depository as to registering or transferring the book entry to produce the same effect.

IN THE EVENT any Paying Agent/Registrar for the Certificates of Obligation is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the Registered Owners of the Certificates of Obligation.

IT IS HEREBY certified, recited, and covenanted that this Certificate of Obligation has been duly and validly authorized, issued, and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the authorization, issuance, and delivery of this Certificate of Obligation have been performed, existed, and been done in accordance with law; that this Certificate of Obligation is a general obligation of the City, issued on the full faith and credit thereof; and that ad valorem taxes sufficient to provide for the payment of the interest on and principal of this Certificate of Obligation, as such interest comes due, and as such principal matures, have been levied and ordered to be levied against all taxable property in the City, and have been pledged for such payment, within the limits prescribed by law and that this Certificate of Obligation is additionally secured by a lien on and pledge of Surplus Revenues received by the City from the ownership and operation of the City's Waterworks and Sewer System, all as provided in the Ordinance authorizing the Certificates of Obligation.

THE CITY also has reserved the right to amend the Ordinance as provided therein, and under some (but not all) circumstances amendments thereto must be approved by the registered owners of a majority in aggregate principal amount of the outstanding Certificates of Obligation.

BY BECOMING the Registered Owner of this Certificate of Obligation, the Registered Owner thereby acknowledges all of the terms and provisions of the Ordinance, agrees to be bound by such terms and provisions, acknowledges that the Ordinance is duly recorded and available for inspection in the official minutes and records of the governing body of the City, and agrees that the terms and provisions of this Certificate of Obligation and the Ordinance constitute a contract between each Registered Owner hereof and the City.

IN WITNESS WHEREOF, the City has caused this Certificate of Obligation to be signed with the manual or facsimile signature of the Mayor or Mayor Pro-Tem of the City, and countersigned with the manual or facsimile signature of the City Secretary of the City, and the official seal of the City has been duly impressed, or placed in facsimile, on this Certificate of Obligation.

Countersigned:

(facsimile signature)
City Secretary, City of Kerrville, Texas

(facsimile signature)
Mayor [Pro-Tem], City of Kerrville, Texas

(CITY SEAL)

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FORM OF REGISTRATION CERTIFICATE
OF THE COMPTROLLER OF PUBLIC ACCOUNTS:

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

I hereby certify that this Certificate of Obligation has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Certificate of Obligation has been registered by the Comptroller of Public Accounts of the State of Texas.

Witness my signature and seal this

(COMPTROLLER'S SEAL)

Comptroller of Public Accounts
of the State of Texas

FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

*(To be executed if this Certificate of Obligation is not accompanied by an executed
Registration Certificate of the Comptroller of Public Accounts of the State of Texas)*

It is hereby certified that this Certificate of Obligation has been issued under the provisions of the Ordinance described in the text of this Certificate of Obligation; and that this Certificate of Obligation has been issued in exchange for a certificate of obligation or certificates of obligation, or a portion of a certificate of obligation or certificates of obligation of a series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

U.S. BANK NATIONAL ASSOCIATION
Houston, Texas
Paying Agent/Registrar

By _____
Authorized Representative

[The remainder of this page intentionally left blank]

FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned Registered Owner of this Certificate of Obligation, or duly authorized representative or attorney thereof, hereby sells, assigns and transfers this Certificate of Obligation and all rights hereunder unto _____

(Assignee's Social Security or Taxpayer Identification Number) (Please print or typewrite Assignee's name and address, including zip code)

and hereby irrevocably constitutes and appoints _____ attorney to transfer the registration of this Certificate of Obligation on the Paying Agent/Registrar's Registration Books with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature above must correspond with the name of the Registered Owner as it appears upon the front of this Certificate of Obligation in every particular, without alteration or enlargement or any change whatsoever.

INITIAL CERTIFICATE OF OBLIGATION INSERTIONS

The Initial Certificate of Obligation shall be in the form set forth above except that:

- (A) Immediately under the name of the Certificate of Obligation, the headings "INTEREST RATE" and "MATURITY DATE" shall be completed with the words "As shown below" and "CUSIP NO. ____" shall be deleted.
- (B) The first paragraph shall be deleted and the following shall be inserted:

"ON THE RESPECTIVE MATURITY DATES specified below, the ***CITY OF KERRVILLE, TEXAS*** (the "*City*"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "***Registered Owner***"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from April 1, 2015 at the respective Interest Rates per annum specified below, payable on February 15, 2016 and semiannually on each February 15 and August 15 thereafter to

the respective Maturity Dates specified below, or the date of redemption prior to maturity. The respective Maturity Dates, Principal Installments and Interest Rates for this Certificate of Obligation are set forth in the following schedule:

<u>MATURITY DATE</u> <u>(AUGUST 15)</u>	<u>PRINCIPAL</u> <u>INSTALLMENT (\$)</u>	<u>INTEREST</u> <u>RATE (%)</u>	<u>MATURITY DATE</u> <u>(AUGUST 15)</u>	<u>PRINCIPAL</u> <u>INSTALLMENT (\$)</u>	<u>INTEREST</u> <u>RATE (%)</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

[Insert principal and interest information from Sections 2 and 3 above]"

(C) The Initial Certificate of Obligation shall be numbered "T-1."

SECTION SIX. INTEREST AND SINKING FUND; TAX LEVY; SECURITY INTEREST.

(a) *Interest and Sinking Fund Tax Levy.* A special Interest and Sinking Fund for the Certificates of Obligation (the "**Interest and Sinking Fund**") is hereby created solely for the benefit of the Certificates of Obligation, and the Interest and Sinking Fund shall be established and maintained by the City at an official depository bank of the City. The Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and principal of the Certificates of Obligation. All ad valorem taxes levied and collected for and on account of the Certificates of Obligation shall be deposited, as collected, to the credit of the Interest and Sinking Fund. During each year while any of the Certificates of Obligation or interest thereon are outstanding and unpaid, the City shall compute and ascertain a rate and amount of ad valorem tax which, together with "Surplus Revenues" with respect to the Certificates of Obligation (as described in Section 7 below) budgeted to pay principal and interest coming due during such fiscal year, will be sufficient to raise and produce the money required to pay the interest on the Certificates of Obligation as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of its Certificates of Obligation as such principal matures (but never less than 2% of the original principal amount of the Certificates of Obligation as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Certificates of Obligation or interest thereon are outstanding and unpaid; and said tax shall be assessed and collected each such year and deposited to the credit of the respective Interest and Sinking Fund. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Certificates of Obligation, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

(b) *Security Interest.* Chapter 1208, Texas Government Code, applies to the issuance of the Certificates of Obligation and the pledge of the ad valorem taxes and Surplus Revenues granted by the City under Sections 6(a) and 7 of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Certificates of Obligation are outstanding and unpaid such that the pledge of the ad valorem taxes or Surplus Revenues granted by the City under Sections 6(a) and 7 of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Certificates of Obligation the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

SECTION SEVEN. SURPLUS REVENUES. Pursuant to Section 271.052, Texas Local Government Code, as amended, and Chapter 1502, Texas Government Code, as amended, the Certificates of Obligation additionally shall be payable from and secured by surplus revenues derived by the City from the City's Waterworks and Sewer System remaining after (a) payment of all amounts constituting operation and maintenance expenses of said Waterworks and Sewer System, and (b) payment of all debt service, reserve, and other requirements and amounts required to be paid under all ordinances heretofore or hereafter authorizing (i) all bonds and (ii) all other obligations not on a parity with the Certificates of Obligation, which are payable from and secured by any Waterworks and Sewer System revenues, and (c) payment of all amounts payable from any Waterworks and Sewer System revenues pursuant to contracts heretofore or hereafter entered into by the City in accordance with law (the "*Surplus Revenues*"). If for any reason the City fails to deposit ad valorem taxes levied pursuant to Section 6 hereof to the credit of the Interest and Sinking Fund in an amount sufficient to pay, when due, the principal of and interest on the Certificates of Obligations, then Surplus Revenues may be deposited to the credit of the Interest and Sinking Fund and used to pay such principal and/or interest. The City reserves, and shall have, the right to issue bonds and other obligations not on a parity with the Certificates of Obligation, and to enter into contracts, in accordance with applicable laws, to be payable from and secured by any Waterworks and Sewer System revenues.

SECTION EIGHT. CONSTRUCTION FUND. There is hereby created and established in the depository of the City, a fund to be called the *City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation (Series 2015) Construction Fund* (herein called the "*Construction Fund*"). Proceeds from the sale and delivery of the Certificates of Obligation (other than proceeds representing accrued interest on the Certificates of Obligation and any premium on the Certificates of Obligation that is not used by the City to pay costs of issuance in accordance with the provisions of Section 1201.042(d), Texas Government Code, as amended, which shall be deposited in the Interest and Sinking Fund) shall be deposited in the Construction Fund. Money in the Construction Fund shall be subject to disbursements by the City for payment of all costs incurred in carrying out the purpose for which the Certificates of Obligation are issued, including but not limited to costs for construction, engineering, architecture, financing, financial consultants and legal services related to the project being financed with proceeds of the Certificates of Obligation and the issuance of the Certificates of Obligation. All funds remaining on deposit in the Construction Fund upon completion of the projects being financed with the proceeds from the Certificates of Obligation, if any, shall be transferred to the Interest and Sinking Fund.

SECTION NINE. INVESTMENTS. Funds on deposit in the Interest and Sinking Fund and the Construction Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in the Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date for which such funds are required, and investments purchased for and held in the Construction Fund shall have a final maturity of not later than the date the City reasonably expects the funds from such investments will be required to pay costs of the projects for which the Certificates of Obligation were issued. Income and profits from such investments shall be deposited in the respective Fund which holds such investments; however, any such income and profits from investments in the Construction Fund may be withdrawn by the City and deposited in the Interest and Sinking Fund to pay all or a portion of the interest next coming due on the Certificates of Obligation. It is further provided, however, that any interest earnings on Certificate of Obligation proceeds which are required to be rebated to the United States of America pursuant to Section 14 hereof in order to prevent the Certificates of Obligation from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

SECTION TEN. EMPOWERED. The City Manager and Director of Finance are hereby ordered to do any and all things necessary to accomplish the transfer of monies to the Interest and Sinking Fund of this issue in ample time to pay such items of principal and interest.

SECTION ELEVEN. DEFEASANCE OF THE CERTIFICATES OF OBLIGATION.

(a) Defeasance. Any Certificate of Obligation and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "*Defeased Certificate of Obligation*") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate of Obligation, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "*Future Escrow Agreement*") for such payment (1) lawful money of the United States of America sufficient to make such payment and/or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the City with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates of Obligation shall have become due and payable. Thereafter, the City will have no further responsibility with respect to amounts available to the Paying Agent/Registrar for the payment of such Defeased Certificate of Obligation, including any insufficiency therein caused by the failure of the escrow agent under such Future Escrow Agreement to receive payment when due on the Defeasance Securities. At such time as a Certificate of Obligation shall be deemed to be a Defeased Certificate of Obligation hereunder, as aforesaid, such Certificate of Obligation and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or

revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates of Obligation that is made in conjunction with the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the City expressly reserves the right to call the Defeased Certificates of Obligation for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates of Obligation immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

(b) Investment of Funds in Defeasance Securities. Any moneys so deposited with the Paying Agent/Registrar may at the written direction of the City be invested in Defeasance Securities, maturing in the amounts and times as hereinbefore set forth, and all income from such Defeasance Securities received by the Paying Agent/Registrar that is not required for the payment of the Certificates of Obligation and interest thereon, with respect to which such money has been so deposited, shall be turned over to the City, or deposited as directed in writing by the City. Any Future Escrow Agreement pursuant to which the money and/or Defeasance Securities are held for the payment of Defeased Certificates of Obligation may contain provisions permitting the investment or reinvestment of such moneys in Defeasance Securities or the substitution of other Defeasance Securities upon the satisfaction of the requirements specified in subsection (a)(i) or (ii) of this Section. All income from such Defeasance Securities received by the Paying Agent/Registrar which is not required for the payment of the Defeased Certificates of Obligation, with respect to which such money has been so deposited, shall be remitted to the City or deposited as directed in writing by the City.

(c) Definition of Defeasance Securities. The term "**Defeasance Securities**" means (i) direct, noncallable obligations of the United States of America, including obligations that are unconditionally guaranteed by the United States of America, (ii) noncallable obligations of an agency or instrumentality of the United States of America, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date of the purchase thereof are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, (iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date on the date the governing body of the City adopts or approves the proceedings authorizing the financial arrangements are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and (iv) any other then authorized securities or obligations under applicable state law that may be used to defease obligations such as the Certificates of Obligation.

(d) Duties of Paying Agent/Registrar. Until all Defeased Certificates of Obligation shall have become due and payable, the Paying Agent/Registrar shall perform the services of Paying Agent/Registrar for such Defeased Certificates of Obligation the same as if they had not been defeased, and the City shall make proper arrangements to provide and pay for such services as required by this Ordinance.

(e) Selection of Certificates of Obligation to be Defeased. In the event that the City elects to defease less than all of the principal amount of Certificates of Obligation of a maturity, the Paying Agent/Registrar shall select, or cause to be selected, such amount of Certificates of Obligation by such random method as it deems fair and appropriate.

SECTION TWELVE. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED CERTIFICATES OF OBLIGATION.

(a) Replacement Certificates of Obligation. In the event any outstanding Certificate of Obligation is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new certificate of obligation of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Certificate of Obligation, in replacement for such Certificate of Obligation in the manner hereinafter provided.

(b) Application for Replacement Certificates of Obligation. Application for replacement of damaged, mutilated, lost, stolen, or destroyed Certificates of Obligation shall be made by the registered owner thereof to the Paying Agent/Registrar. In every case of loss, theft, or destruction of a Certificate of Obligation, the registered owner applying for a replacement certificate of obligation shall furnish to the City and to the Paying Agent/Registrar such security or indemnity as may be required by them to save each of them harmless from any loss or damage with respect thereto. Also, in every case of loss, theft, or destruction of a Certificate of Obligation, the registered owner shall furnish to the City and to the Paying Agent/Registrar evidence to their satisfaction of the loss, theft, or destruction of such Certificate of Obligation, as the case may be. In every case of damage or mutilation of a Certificate of Obligation, the registered owner shall surrender to the Paying Agent/Registrar for cancellation the Certificate of Obligation so damaged or mutilated.

(c) No Default Occurred. Notwithstanding the foregoing provisions of this Section, in the event any such Certificate of Obligation shall have matured, and no default has occurred which is then continuing in the payment of the principal of, redemption premium, if any, or interest on the Certificate of Obligation, the City may authorize the payment of the same (without surrender thereof except in the case of a damaged or mutilated Certificate of Obligation) instead of issuing a replacement Certificate of Obligation, provided security or indemnity is furnished as above provided in this Section.

(d) Charge for Issuing Replacement Certificates of Obligation. Prior to the issuance of any replacement certificate of obligation, the Paying Agent/Registrar shall charge the registered owner of such Certificate of Obligation with all legal, printing, and other expenses in connection therewith. Every replacement certificate of obligation issued pursuant to the provisions of this Section by virtue of the fact that any Certificate of Obligation is lost, stolen, or destroyed shall constitute a contractual obligation of the City whether or not the lost, stolen, or destroyed Certificate of Obligation shall be found at any time, or be enforceable by anyone, and shall be entitled to all the benefits of this Ordinance equally and proportionately with any and all other Certificates of Obligation duly issued under this Ordinance.

(e) Authority for Issuing Replacement Certificates of Obligation. In accordance with Chapter 1201, Texas Government Code, as amended, this Section of this Ordinance shall constitute

authority for the issuance of any such replacement certificate of obligation without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such certificates of obligations is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates of Obligation in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Certificates of Obligation issued in exchange for other Certificates of Obligation.

SECTION THIRTEEN. CUSTODY, APPROVAL, AND REGISTRATION OF THE CERTIFICATES OF OBLIGATION; BOND COUNSEL'S OPINION, BOND INSURANCE, AND CUSIP NUMBERS. The Mayor or Mayor Pro-Tem of the City is hereby authorized to have control of the Certificates of Obligation initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Certificates of Obligation pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Certificates of Obligation said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Certificates of Obligation, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel (with an appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City), a statement regarding the issuance of a municipal bond insurance policy to secure payment of debt service on the Certificates of Obligation, if any, and the assigned CUSIP numbers may, at the option of the City, be printed on the Certificates of Obligation issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Certificates of Obligation.

SECTION FOURTEEN. COVENANTS REGARDING TAX-EXEMPTION OF INTEREST ON THE CERTIFICATES OF OBLIGATION.

(a) Covenants. The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Certificates of Obligation as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "*Code*"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

(1) to take any action to assure that no more than 10 percent of the proceeds of the Certificates of Obligation or the projects financed therewith (less amounts deposited to a reserve fund, if any) are used for any "private business use," as defined in section 141(b)(6) of the Code or, if more than 10 percent of the proceeds of the Certificates of Obligation or the projects financed therewith are so used, such amounts, whether or not received by the City, with respect to such private business use, do not, under the terms of this Ordinance or any underlying arrangement, directly or indirectly, secure or provide for the payment of more than 10 percent of the debt service on the Certificates of Obligation, in contravention of section 141(b)(2) of the Code;

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Certificates of

Obligation or the projects financed therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

(3) to take any action to assure that no amount which is greater than the lesser of \$5,000,000, or 5 percent of the proceeds of the Certificates of Obligation (less amounts deposited into a reserve fund, if any) is directly or indirectly used to finance loans to persons, other than state or local governmental units, in contravention of section 141(c) of the Code;

(4) to refrain from taking any action which would otherwise result in the Certificates of Obligation being treated as "private activity bonds" within the meaning of section 141(b) of the Code;

(5) to refrain from taking any action that would result in the Certificates of Obligation being "federally guaranteed" within the meaning of section 149(b) of the Code;

(6) to refrain from using any portion of the proceeds of the Certificates of Obligation, directly or indirectly, to acquire or to replace funds which were used, directly or indirectly, to acquire investment property (as defined in section 148(b)(2) of the Code) which produces a materially higher yield over the term of the Certificates of Obligation, other than investment property acquired with --

(A) proceeds of the Certificates of Obligation invested for a reasonable temporary period of three years or less until such proceeds are needed for the purpose for which the Certificates of Obligation are issued,

(B) amounts invested in a bona fide debt service fund, within the meaning of section 1.148-1(b) of the Treasury Regulations, and

(C) amounts deposited in any reasonably required reserve or replacement fund to the extent such amounts do not exceed 10 percent of the proceeds of the Certificates of Obligation;

(7) to otherwise restrict the use of the proceeds of the Certificates of Obligation or amounts treated as proceeds of the Certificates of Obligation, as may be necessary, so that the Certificates of Obligation do not otherwise contravene the requirements of section 148 of the Code (relating to arbitrage) and, to the extent applicable, section 149(d) of the Code (relating to advance refundings); and

(8) to pay to the United States of America at least once during each five-year period (beginning on the date of delivery of the Certificates of Obligation) an amount that is at least equal to 90 percent of the "Excess Earnings," within the meaning of section 148(f) of the Code and to pay to the United States of America, not later than 60 days after the Certificates of Obligation have been paid in full, 100 percent of the amount then required to be paid as a result of Excess Earnings under section 148(f) of the Code.

(b) Rebate Fund. In order to facilitate compliance with the above covenant (8), a "**Rebate Fund**" is hereby established by the City for the sole benefit of the United States of America, and such fund shall not be subject to the claim of any other person, including without limitation the holders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

(c) Proceeds. The City understands that the term "proceeds" includes "disposition proceeds" as defined in the Treasury Regulations. It is the understanding of the City that the covenants contained herein are intended to assure compliance with the Code and any regulations or rulings promulgated by the U.S. Department of the Treasury pursuant thereto. In the event that regulations or rulings are hereafter promulgated which modify or expand provisions of the Code, as applicable to the Certificates of Obligation, the City will not be required to comply with any covenant contained herein to the extent that such failure to comply, in the opinion of nationally recognized bond counsel, will not adversely affect the exemption from federal income taxation of interest on the Certificates of Obligation under section 103 of the Code. In the event that regulations or rulings are hereafter promulgated which impose additional requirements which are applicable to the Certificates of Obligation, the City agrees to comply with the additional requirements to the extent necessary, in the opinion of nationally recognized bond counsel, to preserve the exemption from federal income taxation of interest on the Certificates of Obligation under section 103 of the Code. In furtherance of such intention, the City hereby authorizes and directs the Mayor, the City Manager or the Director of Finance of the City to execute any documents, certificates or reports required by the Code and to make such elections, on behalf of the City, which may be permitted by the Code as are consistent with the purpose for the issuance of the Certificates of Obligation.

(d) Allocation of, and Limitation on, Expenditures for the Project. The City covenants to account for the expenditure of sale proceeds and investment earnings to be used for the purposes described in Section 1 of this Ordinance (collectively referred to herein as the "**Project**") on its books and records in accordance with the requirements of the Internal Revenue Code. The City recognizes that in order for the proceeds to be considered used for the reimbursement of costs, the proceeds must be allocated to expenditures within 18 months of the later of the date that (1) the expenditure is made, or (2) the Project is completed; but in no event later than three years after the date on which the original expenditure is paid. The foregoing notwithstanding, the City recognizes that in order for proceeds to be expended under the Internal Revenue Code, the sale proceeds or investment earnings must be expended no more than 60 days after the earlier of (1) the fifth anniversary of the delivery of the Certificates of Obligation, or (2) the date the Certificates of Obligation are retired. The City agrees to obtain the advice of nationally-recognized bond counsel if such expenditure fails to comply with the foregoing to assure that such expenditure will not adversely affect the tax-exempt status of the Certificates of Obligation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(e) Disposition of Project. The City covenants that the property constituting the Projects will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless any action taken in connection with such disposition will not adversely affect the tax-exempt status of the Certificates of Obligation. For purpose of the foregoing, the City

may rely on an opinion of nationally-recognized bond counsel that the action taken in connection with such sale or other disposition will not adversely affect the tax-exempt status of the Certificates of Obligation. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Written Procedures. Unless superseded by another action of the City, to ensure compliance with the covenants contained herein regarding private business use, remedial actions, arbitrage and rebate, the City Council hereby adopts and establishes the instructions attached hereto as *Exhibit B* as the City's written procedures.

(g) Designation as Qualified Tax-Exempt Obligations. The City hereby designates the Certificates of Obligation as "qualified tax-exempt obligations" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (i) that during the calendar year in which the Certificates of Obligation are issued, the City (including any subordinate entities) has not designated nor will designate obligations, which when aggregated with the Certificates of Obligation, will result in more than \$10,000,000 of "qualified tax-exempt obligations" being issued; (ii) that the City reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Certificates of Obligation are issued, by the City (or any subordinate entities) will not exceed \$10,000,000; and (iii) that the City will take such action or refrain from such action as necessary, and as more particularly set forth in this Section, in order that the Certificates of Obligation will not be considered "private activity bonds" within the meaning of section 141 of the Code.

SECTION FIFTEEN. CONTINUING DISCLOSURE UNDERTAKING.

(a) Definitions. As used in this Section, the following terms have the meanings ascribed to such terms below:

"**EMMA**" means the Electronic Municipal Market Access system being established by the MSRB.

"**MSRB**" means the Municipal Securities Rulemaking Board.

"**Rule**" means SEC Rule 15c2-12, as amended from time to time.

"**SEC**" means the United States Securities and Exchange Commission.

(b) Annual Reports. The City shall provide annually to the MSRB through EMMA within six months after the end of each fiscal year ending in or after 2015, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by this Ordinance being the information described in *Exhibit C* hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in *Exhibit C* hereto, or such other accounting principles as the City may be required to

employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide (1) unaudited financial statements for such fiscal year within such six month period, and (2) audited financial statements for the applicable fiscal year to the MSRB through EMMA when and if the audit report on such statements become available.

If the City changes its fiscal year, it will notify the MSRB through EMMA of the date of the new fiscal year end prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this paragraph (b).

The financial information and operating data to be provided pursuant to this paragraph (b) may be set forth in full in one or more documents or may be included by specific reference to any document (including an official statement or other offering document, if it is available from the MSRB) that theretofore has been provided to the MSRB through EMMA or filed with the SEC.

(c) Event Notices.

(i) The City shall notify the MSRB through EMMA in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten business days after the occurrence of the event) of any of the following events with respect to the Certificates of Obligation, if such event is material within the meaning of the federal securities laws:

1. Non-payment related defaults;
2. Modifications to rights of holders;
3. Redemption calls;
4. Release, substitution, or sale of property securing repayment of the Certificates of Obligation;
5. The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms; and
6. Appointment of a successor or additional trustee or the change of name of a trustee.

(ii) The City shall notify the MSRB through EMMA in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten business days after the occurrence of the event) of any of the following events with respect to the Certificates of

Obligation, without regard to whether such event is considered material within the meaning of the federal securities laws:

1. Principal and interest payment delinquencies;
2. Unscheduled draws on debt service reserves reflecting financial difficulties;
3. Unscheduled draws on credit enhancements reflecting financial difficulties;
4. Substitution of credit or liquidity providers, or their failure to perform;
5. Adverse tax opinions or the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax-exempt status of the Certificates of Obligation, or other events affecting the tax-exempt status of the Certificates of Obligation;
6. Tender offers;
7. Defeasances;
8. Rating changes; and
9. Bankruptcy, insolvency, receivership or similar event of an obligated person.

(iii) The City shall notify the MSRB through EMMA, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such subsection.

(d) *Limitations, Disclaimers, and Amendments.* The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Certificates of Obligation within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 11 of this Ordinance that causes Certificates of Obligation no longer to be outstanding.

The provisions of this Section are for the sole benefit of the holders and beneficial owners of the Certificates of Obligation, and nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section and does not hereby undertake to provide any other information that may be relevant or material to a complete presentation of the City's financial results, condition, or prospects or hereby undertake to update any information provided in accordance with this Section or otherwise, except as expressly provided herein. The City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Certificates of Obligation at any future date.

UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY CERTIFICATE OF OBLIGATION OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

No default by the City in observing or performing its obligations under this Section shall comprise a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Certificates of Obligation in the primary offering of the Certificates of Obligation in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the outstanding Certificates of Obligation consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the holders and beneficial owners of the Certificates of Obligation. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Certificates of Obligation in the primary offering of the Certificates of Obligation. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION SIXTEEN. SALE AND DELIVERY OF THE CERTIFICATES OF OBLIGATION. The Certificates of Obligation are hereby initially sold and shall be delivered to _____ for cash at a purchase price to \$ _____ (which amount is equal to the par value thereof, plus a net original issue premium of \$ _____, and less a discount retained by the purchaser of \$ _____), plus accrued interest to the date of delivery thereon. The Certificates of Obligation initially shall be registered in the name of _____. It is hereby officially found, determined, and declared that said purchaser is the highest bidder for the Certificates of Obligation as a result of invitations for competitive bids. It is further officially found, determined, and declared that the Certificates of Obligation have been sold at public sale to the

bidder offering the lowest interest cost, after receiving sealed bids pursuant to an Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated June 1, 2015, prepared and distributed in connection with the sale of the Certificates of Obligation. In satisfaction of Section 1201.022(a)(3), Texas Government Code, and upon consultation with the City's Financial Advisor, the City Council hereby determines that the final terms of the Certificates of Obligation as set forth in this Ordinance and resulting from the receipt of such competitive bids are in the City's best interests.

SECTION SEVENTEEN. APPROVAL OF OFFICIAL STATEMENT. The City hereby approves the form and content of the Official Statement relating to the Certificates of Obligation and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Certificates of Obligation by the Underwriters in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement for the Certificates of Obligation, dated June 1, 2015, prior to the date hereof is hereby ratified and confirmed. The City Council finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" as of each of their respective dates within the meaning, and for the purpose, of Rule 15c2-12 promulgated under authority granted by the Federal Securities and Exchange Act of 1934.

SECTION EIGHTEEN. AUTHORITY FOR OFFICERS TO EXECUTE DOCUMENTS AND APPROVE CHANGES. The Mayor, Mayor Pro-Tem, City Secretary, City Manager and Director of Finance of the City, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Certificates of Obligation, the sale of the Certificates of Obligation, the Official Statement, the Purchase Contract, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Certificates of Obligation, the Mayor, Mayor Pro-Tem, City Secretary, City Manager, Director of Finance, the City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or correction to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy any requirements of the provider of a municipal bond insurance policy, if any, or (iii) obtain the approval of the Certificates of Obligation by the Attorney General's office. In case any officer whose signature shall appear on any Certificate of Obligation shall cease to be such officer before the delivery of such Certificate of Obligation, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The Director of Finance of the City is further authorized to pay to the Attorney General of Texas prior to the delivery of the Certificates of Obligation, for the Attorney General's review of the transcript of proceedings related to the Certificates of Obligation, the amount required pursuant to Section 1202.004, Texas Government Code, as amended.

SECTION NINETEEN. ORDINANCE A CONTRACT; AMENDMENTS. This Ordinance shall constitute a contract with the Registered Owners of the Certificates of Obligation, binding on the City and its successors and assigns, and shall not be amended or repealed by the City as long as any Certificate of Obligation remains outstanding except as permitted in this Section. The City may, without the consent of or notice to any Registered Owners, amend, change, or modify this Ordinance as may be required (i) by the provisions hereof, (ii) for the purpose of curing any ambiguity, inconsistency, or formal defect or omission herein, or (iii) in connection with any other change which is not to the prejudice of the Registered Owners. The City may, with the written consent of the Registered Owners of a majority in aggregate principal amount of the Certificates of Obligation then outstanding affected thereby, amend, change, modify, or rescind any provisions of this Ordinance; provided that without the consent of all of the Registered Owners affected, no such amendment, change, modification, or rescission shall (i) extend the time or times of payment of the principal of and interest on the Certificates of Obligation, reduce the principal amount thereof or the rate of interest thereon, (ii) give any preference to any Certificate of Obligation over any other Certificate of Obligation, (iii) extend any waiver of default to subsequent defaults, or (iv) reduce the aggregate principal amount of Certificates of Obligation required for consent to any such amendment, change, modification, or rescission. Whenever the City shall desire to make any amendment or addition to or rescission of this Ordinance requiring consent of the Registered Owners, the City shall cause notice of the amendment, addition, or rescission to be sent by first class mail, postage prepaid, to the Registered Owners at the respective addresses shown on the Registration Books. Whenever at any time within one year after the date of the giving of such notice, the City shall receive an instrument or instruments in writing executed by the Registered Owners of a majority in aggregate principal amount of the Certificates of Obligation then outstanding affected by any such amendment, addition, or rescission requiring the consent of the Registered Owners, which instrument or instruments shall refer to the proposed amendment, addition, or rescission described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the City may adopt such amendment, addition, or rescission in substantially such form, except as herein provided. No Registered Owner may thereafter object to the adoption of such amendment, addition, or rescission, or to any of the provisions thereof, and such amendment, addition, or rescission shall be fully effective for all purposes.

SECTION TWENTY. REMEDIES IN EVENT OF DEFAULT. In addition to all the rights and remedies provided by the laws of the State of Texas, it is specifically covenanted and agreed particularly that in the event the City (i) defaults in the payment of the principal, premium, if any, or interest on the Certificates of Obligation, (ii) defaults in the deposits and credits required to be made to the Interest and Sinking Fund, or (iii) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance and the continuation thereof for 30 days after the City has received written notice of such defaults, the Holders of any of the Certificates of Obligation shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein, and every such right and power may be exercised from time to time and as often as may be deemed expedient. The specific remedy herein provided shall be cumulative of all other existing remedies, and the specification of such remedy shall not be deemed to be exclusive.

SECTION TWENTY-ONE. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Underwriters and the registered owners of the Certificates of Obligation, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Underwriters and the registered owners of the Certificates of Obligation.

SECTION TWENTY-TWO. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

SECTION TWENTY-THREE. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION TWENTY-FOUR EFFECTIVE DATE. Pursuant to the provisions of Section 1201.028, Texas Government Code, this Ordinance shall become effective immediately after its adoption by the City Council.

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PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS AT A REGULAR MEETING ON THE 9TH DAY OF JUNE, 2015, AT WHICH MEETING A QUORUM WAS PRESENT.

ATTEST:

Brenda G. Craig, City Secretary

Jack Pratt, Mayor

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

(CITY SEAL)

** ** * ** *

EXHIBIT A

FORM OF PAYING AGENT/REGISTRAR AGREEMENT

THE PAYING AGENT/REGISTRAR AGREEMENT IS OMITTED AT THIS POINT
AS IT APPEARS IN EXECUTED FORM ELSEWHERE IN THIS TRANSCRIPT.

EXHIBIT B

**WRITTEN PROCEDURES RELATING TO
CONTINUING COMPLIANCE WITH FEDERAL TAX COVENANTS**

A. Arbitrage. With respect to the investment and expenditure of the proceeds of the Certificates, the City's chief financial officer (the "*Responsible Person*"), which currently is the City's Director of Finance, will:

- (i) instruct the appropriate person or persons that the construction, renovation or acquisition of the facilities must proceed with due diligence and that binding contracts for the expenditure of at least 5% of the proceeds of the Certificates will be entered into within six (6) months of the date of delivery of the Certificates (the "*Issue Date*");
- (ii) monitor that at least 85% of the proceeds of the Certificates to be used for the construction, renovation or acquisition of any facilities are expended within three (3) years of the Issue Date;
- (iii) restrict the yield of the investments to the yield on the Certificates after three (3) years of the Issue Date;
- (iv) monitor all amounts deposited into a sinking fund or funds (e.g., the Interest and Sinking Fund), to assure that the maximum amount invested at a yield higher than the yield on the Certificates does not exceed an amount equal to the debt service on the Certificates in the succeeding 12 month period plus a carryover amount equal to one-twelfth of the principal and interest payable on the Certificates for the immediately preceding 12-month period;
- (v) ensure that no more than 50% of the proceeds of the Certificates are invested in an investment with a guaranteed yield for 4 years or more;
- (vi) maintain any official action of the City (such as a reimbursement resolution) stating its intent to reimburse with the proceeds of the Certificates any amount expended prior to the Issue Date for the acquisition, renovation or construction of the facilities;
- (vii) ensure that the applicable information return (e.g., IRS Form 8038-G, 8038-GC, or any successor forms) is timely filed with the IRS; and
- (viii) assure that, unless excepted from rebate and yield restriction under section 148(f) of the Code, excess investment earnings are computed and paid to the U.S. government at such time and in such manner as directed by the IRS (A) at least every 5 years after the Issue Date and (B) within 30 days after the date the Certificates are retired.

B. Private Business Use. With respect to the use of the facilities financed or refinanced with the proceeds of the Certificates the Responsible Person will:

- (i) monitor the date on which the facilities are substantially complete and available to be used for the purpose intended;
- (ii) monitor whether, at any time the Certificates are outstanding, any person, other than the City, the employees of the City, the agents of the City or members of the general public has any contractual right (such as a lease, purchase, management or other service agreement) with respect to any portion of the facilities;
- (iii) monitor whether, at any time the Certificates are outstanding, any person, other than the City, the employees of the City, the agents of the City or members of the general public has a right to use the output of the facilities (e.g., water, gas, electricity);
- (iv) monitor whether, at any time the Certificates are outstanding, any person, other than the City, the employees of the City, the agents of the City or members of the general public has a right to use the facilities to conduct or to direct the conduct of research;
- (v) determine whether, at any time the Certificates are outstanding, any person, other than the City, has a naming right for the facilities or any other contractual right granting an intangible benefit;
- (vi) determine whether, at any time the Certificates are outstanding, the facilities are sold or otherwise disposed of; and
- (vii) take such action as is necessary to remediate any failure to maintain compliance with the covenants contained in the Ordinance related to the public use of the facilities.

C. Record Retention. The Responsible Person will maintain or cause to be maintained all records relating to the investment and expenditure of the proceeds of the Certificates and the use of the facilities financed or refinanced thereby for a period ending three (3) years after the complete extinguishment of the Certificates. If any portion of the Certificates is refunded with the proceeds of another series of tax-exempt obligations, such records shall be maintained until the three (3) years after the refunding obligations are completely extinguished. Such records can be maintained in paper or electronic format.

D. Responsible Person. The Responsible Person shall receive appropriate training regarding the City's accounting system, contract intake system, facilities management and other systems necessary to track the investment and expenditure of the proceeds and the use of the facilities financed or refinanced with the proceeds of the Certificates. The foregoing notwithstanding, the Responsible Person is authorized and instructed to retain such experienced advisors and agents as may be necessary to carry out the purposes of these instructions.

EXHIBIT C

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 15 of this Ordinance.

Annual Financial Statements and Operating Data

The financial information and operating data with respect to the City to be provided annually in accordance with such Section are as specified (and included in the Appendix or under the headings of the Official Statement referred to) below:

1. The annual audited financial statements of the City or the unaudited financial statements of the City in the event audited financial statements are not completed within six months after the end of any fiscal year.
2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 6 and 8 through 15.

Accounting Principles

The accounting principles referred to in such Section are the accounting principles described in the notes to the financial statements referred to in paragraph 1 above.

Agenda Item:

5A. Ordinance No. 2015-12, amending the city's "Zoning Code" by amending Article 11-I-10 "Residential Zoning Districts", subsection (F) "RT" – residential transition district with respect to the uses of "Schools" and "Churches", as those terms are defined, within this district; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); and ordering publication. (staff)

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

SUBJECT: Public hearing and first reading of the Ordinance & Action concerning a zoning text amendment to amend Chapter I, "The City of Kerrville Zoning Code" Article 11-1-10(f) "RT" Residential Transition District to specify and change development regulations pertaining to churches and schools.

FOR AGENDA OF: June 9, 2015

DATE SUBMITTED: May 29, 2015

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Ordinance

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

This item concerns a public hearing for a zoning text amendment to amend Chapter I, "The City of Kerrville Zoning Code" Article 11-1-10(f) "RT" Residential Transition District to specify and change development regulations pertaining to churches and schools by adding language that is underlined (added), as follows:

Art. 11-1-10 RESIDENTIAL ZONING DISTRICTS

"(f) **"RT" – Residential Transition District:** In addition to other regulations set forth in the Zoning Code, property located within the "RT" – Residential Transition Zone shall be developed in accordance with the following regulations:

⋮

(4) Churches and Schools: Churches and schools are excepted from the development regulations set forth in subsections 11-1-10(f)(3)(i)-(ii), above, and shall comply with the following:

(i) Building Appearance: The building shall be constructed with:

a a wood, rock, or brick exterior;

b a roof consisting of materials and with a similar pitch to other residences in the adjoining neighborhood; and

c a front door and window(s) on the side of the building facing the lot front."

A public hearing was conducted by the Planning and Zoning Commission at its regular meeting on June 4, 2015.

RECOMMENDED ACTION

Staff recommends that the Council hold the required public hearing to receive public comments and take action for approval.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2015-12**

AN ORDINANCE AMENDING THE CITY'S "ZONING CODE" BY AMENDING ARTICLE 11-I-10 "RESIDENTIAL ZONING DISTRICTS", SUBSECTION (F) "RT" – RESIDENTIAL TRANSITION DISTRICT WITH RESPECT TO THE USES OF "SCHOOLS" AND "CHURCHES", AS THOSE TERMS ARE DEFINED, WITHIN THIS DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2000.00); AND ORDERING PUBLICATION

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, legal notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise, of a hearing which was held before the City Council on June 9, 2015, which considered a report of the City of Kerrville Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in revisions to Article 11-I-10 of the City's Zoning Code to add regulations with respect to the uses of a churches and schools within the Residential Transition District – "RT"; and

WHEREAS, such public hearing was held in the Council Chambers beginning at approximately 6:00 p.m. on June 9, 2015, as advertised; and

WHEREAS, after a full hearing, 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 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 properties 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 to revise Article 11-I-10 with respect to the uses of churches and schools within the Residential Transition District – "RT";

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

SECTION ONE. Article 11-I-10 "Residential Zoning Districts", subsection (f) "RT" – Residential Transition District of the City's Zoning Code is amended by adding the language that is underlined (added) as follows:

"(f) "RT" – Residential Transition District: In addition to other regulations set forth in the Zoning Code, property located within the "RT" – Residential Transition Zone shall be developed in accordance with the following regulations:

⋮

(4) **Churches and Schools:** Churches and schools are excepted from the development regulations set forth in subsections 11-I-10(f)(3)(i)-(ii), above, and shall comply with the following:

(i) **Building Appearance:** The building shall be constructed with:

- a a wood, rock, or brick exterior;
- b a roof consisting of materials and with a similar pitch to other residences in the adjoining neighborhood; and
- c a front door and window(s) on the side of the building facing the lot front.”

SECTION TWO. 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 THREE. 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 FOUR. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-9, 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).

SECTION FIVE. 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 SIX. 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 ___ day of _____, A.D., 2015.

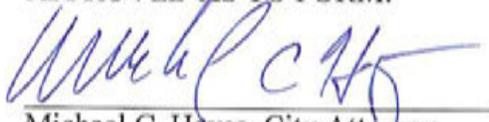
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ___ day of _____, A.D., 2015.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

6A. Ordinance No. 2015-10, approving a negotiated settlement between the Atmos Cities Steering Committee ("ACSC") and Atmos Energy Corp., Mid-Tex Division regarding the company's 2014 and 2015 rate review mechanism filings; approving a settlement agreement with attached rate tariffs and proof of revenues; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement; finding the rates to be set by the settlement tariffs to be just and reasonable and in the public interest; requiring the company to reimburse ACSC's reasonable ratemaking expenses; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the ACSC's legal counsel. (staff)

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

SUBJECT: An Ordinance approving settlement with Atmos Energy Corporation, Mid-Tex Division regarding 2014 and 2015 Rate Review Mechanism filings **SECOND READING**

FOR AGENDA OF: June 9, 2015 **DATE SUBMITTED:** June 1, 2015

SUBMITTED BY: Mike Hayes *M Hayes* **CLEARANCES:**
City Attorney

EXHIBITS: Ordinance No. 2015-10 (plus attachments)

AGENDA MAILED TO:

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

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 0	\$ 0	\$ 0	NA

PAYMENT TO BE MADE TO: NA
REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The City, along with other similarly situated cities served by Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). The RRM Tariff was adopted by the City as an alternative to the Gas Reliability Infrastructure Program ("GRIP"), the statutory provision that allows Atmos to bypass the City's rate regulatory authority to increase its rates annually to recover capital investments.

In February 2014, Atmos Mid-Tex filed its second annual filing under the Rate Review Mechanism ("RRM") Tariff, seeking an increase of \$45.7 million. Although ACSC attempted to reach a settlement with the Company as it had in past years, the wide differences between the Company and ACSC's consultants' recommendations made a compromise impossible. On the recommendation of the ACSC Executive Committee and ACSC's legal counsel, the City in 2014 adopted a Resolution denying the requested rate increase.

The Company appealed the City's denial to the Railroad Commission of Texas ("Commission"), and revised its requested increase to \$43.8 million. A hearing was held on the Company's appeal on September 3, 2014. On April 28, 2015, the Commission's Hearings Examiner issued his Proposal for Decision ("PFD") in the Company's appeal of the City's denial of the 2014 RRM rate increase. This PFD was not favorable to ACSC, but did recommend a reduction of approximately \$860,000 to the Company's adjusted 2014 filing.

While the parties were waiting for the PFD from the Hearings Examiner in the appeal of the 2014 RRM filing, on February 27, 2015, Atmos Mid-Tex filed with the City another rate increase request under the RRM Tariff, seeking additional revenues in the amount of \$28.762 million (total system) or \$24.0 million (affected cities). The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its 2015 request to increase rates. The Ordinance and attached Settlement Agreement and tariffs are the result of negotiation between the Mid-Tex Executive Committee and the Company to resolve issues raised by ACSC during the review and evaluation of Atmos Mid-Tex's filing. The recommended Settlement Agreement also requires Atmos to abate its appeal of the City's rejection of the 2014 RRM rate increase pending approval by all ACSC cities of the Settlement Agreement. The Agreement requires Atmos to give the City the benefit of the adjustments to the 2014 rate increase recommended by the PFD.

The Ordinance and Settlement tariffs approve rates that will increase the Company's revenues by \$65.7 million for the Mid-Tex Rate Division, effective for bills rendered on or after June 1, 2015. The monthly residential customer charge will be \$18.60. The consumption charge will change from \$0.08819 per Ccf to \$0.09931 per Ccf. The monthly bill impact for the typical residential customer consuming 60 Ccf will be an increase of \$1.14 (about a 1.59% increase in the base bill). The typical commercial customer will see an increase of \$2.69 or 0.96%.

The ACSC Executive Committee and its designated legal counsel and consultants recommend that all Cities adopt the Ordinance approving the negotiated Settlement Agreement resolving both the 2014 and the 2015 RRM filings, and implementing the rate change.

RRM Background:

The RRM tariff was originally approved by ACSC Cities as part of the settlement agreement to resolve the Atmos Mid-Tex 2007 system-wide rate filing at the Railroad Commission. In early 2013, the City adopted a renewed RRM tariff for an additional five years. This is the third RRM filing under the renewed tariff. The RRM tariff and the process implementing that tariff were created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively-authorized GRIP surcharge process. ACSC has opposed GRIP because it constitutes piecemeal ratemaking, does not allow any review of the reasonableness of Atmos' expenditures, and does not allow participation by cities or recovery of cities' rate case expenses. In contrast, the RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings. ACSC's consultants have calculated that had Atmos filed its 2015 case under the GRIP provisions, it would have received additional revenues from ratepayers of approximately \$10 million.

Purpose of the Ordinance:

The purpose of the Ordinance is to approve the Settlement Agreement and the resulting rate change under the RRM tariff. As a result of the negotiations, the Executive Committee was able to reduce the Company's requested \$28.8 million rate increase for Mid-Tex cities to \$21,962,784. When added to the settlement of the 2014 RRM filing

and the adjustments recommended by the PFD, the Company will receive total additional annual revenues of \$65.7 million. Because the 2014 rates have been in effect since June 1, 2014, the increase to currently-billed rates is \$21 million. Approval of the Ordinance will result in rates that implement an increase in Atmos Mid-Tex's revenues effective June 1, 2015.

Why Approve the Settlement Agreement:

While it is annoying and disconcerting to annually consider rate adjustments from Atmos Mid-Tex, the Texas legislature has granted gas utilities the right, through the GRIP process, to an annual increase based on increases in invested capital. GRIP is piecemeal ratemaking and ignores increases in revenues and declines in O&M expenses that may be associated with plant additions. ACSC found it preferable to negotiate with Atmos to substitute an expedited comprehensive review process that includes consideration of revenues and expenses as well as invested capital for the GRIP process.

Compelling reasons for approving the Settlement include:

1. While the 2015 RRM system-wide filing exceeded \$28 million, a comparable GRIP filing would have been in excess of \$38 million. ACSC has negotiated a reduction to the 2015 filing of approximately \$6 million. Therefore, the 2015 RRM result is approximately \$16 million better for ratepayers within municipal limits than ratepayers within Environs.
2. ACSC counsel is convinced that the Proposal for Decision ("PFD") by Railroad Commission Examiners in the 2014 RRM appeal will not improve if we file Exceptions and Replies to Exceptions. Counsel recommends action to avoid the PFD becoming a final order that would serve as precedent in future rate proceedings.
3. The token benefit to ratepayers authorized in the PFD to the 2014 appeal has been incorporated into the Settlement Agreement.
4. Atmos will file its formal withdrawal of its 2014 appeal only after all ACSC members approve the Settlement Agreement.
5. The alternative to approval of the Settlement Agreement would be another contested case hearing on appeal of the 2015 filing, implementation of interim rates on June 1, 2015 at the full value of the Company's request (or \$6 million higher than proposed by the Settlement) and continuation of the 2014 appeal with resulting rate case expenses borne by ratepayers.

Explanation of "Be It Ordained" Sections:

1. This section approves all findings in the Ordinance.
2. This section finds the Settlement Agreement (attached to the Ordinance) to be a comprehensive settlement of gas utility rate issues arising from Atmos Mid-Tex's 2014 and 2015 RRM filings, and that such settlement is in the public interest and consistent with the City's statutory authority.

3. This section finds the existing Atmos Mid-Tex rates to be unreasonable, and approves the new tariffed rates providing for additional revenues over currently-billed rates of \$21 million and adopts the attached new rate tariffs.
4. This section establishes the baseline for pensions and other post-employment benefits for future rate cases.
5. This section renews the Atmos Mid-Tex RRM Tariff for an additional period of time, commencing with the filing to be made on March 1, 2016, and continuing until the RRM Tariff is suspended by ordinance of the City.
6. This section requires the Company to reimburse Cities for reasonable ratemaking costs associated with reviewing and processing the RRM filing.
7. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.
8. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.
9. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.
10. This section provides for an effective date upon passage which, according to the Cities' ordinance that adopted the RRM process, is June 1, 2015.
11. This paragraph directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for the Steering Committee.

RECOMMENDED ACTION

Adoption of Ordinance on 2nd reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2015-10**

AN ORDINANCE APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE (“ACSC”) AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY’S 2014 AND 2015 RATE REVIEW MECHANISM FILINGS; APPROVING A SETTLEMENT AGREEMENT WITH ATTACHED RATE TARIFFS AND PROOF OF REVENUES; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT; FINDING THE RATES TO BE SET BY THE SETTLEMENT TARIFFS TO BE JUST AND REASONABLE AND IN THE PUBLIC INTEREST; REQUIRING THE COMPANY TO REIMBURSE ACSC’S REASONABLE RATEMAKING EXPENSES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE ACSC’S LEGAL COUNSEL

WHEREAS, the City of Kerrville, Texas (“City”) is a gas utility customer of Atmos Energy Corp., Mid-Tex Division (“Atmos Mid-Tex” or “Company”), and a regulatory authority with an interest in the rates and charges of Atmos; and

WHEREAS, the City is a member of the Atmos Cities Steering Committee (“ACSC”), a coalition of similarly-situated cities served by Atmos Mid-Tex (“ACSC Cities”) that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area; and

WHEREAS, ACSC and the Company worked collaboratively to develop a new Rate Review Mechanism (“RRM”) tariff that allows for an expedited rate review process by ACSC Cities as a substitute to the Gas Reliability Infrastructure Program (“GRIP”) process instituted by the Legislature, and that will establish rates for the ACSC Cities based on the system-wide cost of serving the Atmos Mid-Tex Division; and

WHEREAS, the initial RRM Tariff was in effect for four (4) years; and

WHEREAS, ACSC Cities and Atmos Mid-Tex entered into another settlement agreement and revised the RRM Tariff; and

WHEREAS, ACSC Cities and Atmos Mid-Tex compromised and reached agreements on the amount of the rate increases to be in effect for the RRM Tariff filings for 2012 and 2013; and

WHEREAS, ACSC Cities and Atmos Mid-Tex were unable to reach an agreement on the 2014 RRM Tariff filing, resulting in the ACSC Cities' rejection of the 2014 RRM filing; and

WHEREAS, Atmos Mid-Tex appealed the ACSC Cities' actions rejecting its 2014 RRM filing to the Railroad Commission of Texas ("Commission"), pursuant to the provisions of the RRM Tariff; and

WHEREAS, Atmos Mid-Tex and ACSC litigated the appeal of the 2014 RRM filing at the Commission; and

WHEREAS, on February 27, 2015, Atmos Mid-Tex filed its 2015 RRM Tariff filing, requesting to increase natural gas base rates system-wide by \$28.762 million; and

WHEREAS, ACSC coordinated its review of Atmos Mid-Tex RRM filing through its Executive Committee, assisted by ACSC's attorneys and consultants, to resolve issues identified in the Company's RRM filing; and

WHEREAS, Atmos Mid-Tex has agreed to withdraw its appeal of ACSC's rejection of its 2014 RRM Tariff rate increase; and

WHEREAS, the Executive Committee, as well as ACSC's counsel and consultants, recommend that ACSC Cities approve the Settlement Agreement, attached hereto as **Attachment A**, as well as the tariffs attached thereto, resolving both the 2014 and the 2015 RRM

Tariff filings, which together will increase the Company's revenues by \$65.7 million over the amount allowed under City-approved rates set in 2013; and

WHEREAS, the attached tariffs implementing new rates are consistent with the negotiated Settlement Agreement and are just, reasonable, and in the public interest; and

WHEREAS, the RRM Tariff should be renewed for a period of time commencing in 2016 and continuing until the RRM Tariff is suspended by ordinance of the City; and

WHEREAS, the RRM Tariff contemplates reimbursement of ACSC's reasonable expenses associated with RRM applications;

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

SECTION ONE. The findings set forth in this Ordinance are hereby in all things approved.

SECTION TWO. The City Council finds that the Settlement Agreement, attached hereto and incorporated herein as **Attachment A**, represents a comprehensive settlement of gas utility rate issues affecting the rates, operations, and services offered by Atmos Mid-Tex within the municipal limits arising from Atmos Mid-Tex's 2014 and 2015 RRM filings, is in the public interest, and is consistent with the City's authority under Section 103.001 of the Texas Utilities Code.

SECTION THREE. The existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable. The new tariffs attached hereto and incorporated herein as **Attachment C**, are just and reasonable, and are designed to allow Atmos Mid-Tex to recover annually an additional \$65.7 million in revenue over the amount allowed under currently approved rates, or

\$21 million over currently-billed rates, as shown in the Proof of Revenues attached hereto and incorporated herein as **Attachment B**; such tariffs are hereby adopted.

SECTION FOUR. The ratemaking treatment for pensions and other post-employment benefits in Atmos' next RRM filing shall be as set forth on **Attachment D**, attached hereto and incorporated herein.

SECTION FIVE. In an effort to streamline the regulatory review process, the Atmos Mid-Tex RRM Tariff is renewed for a period commencing with the Company's March 1, 2016 RRM filing for calendar year 2015, effective June 1, 2016, and continuing thereafter until such time as the City adopts an ordinance suspending operation of the RRM Tariff.

SECTION SIX. Atmos Mid-Tex shall reimburse the reasonable ratemaking expenses of the ACSC in processing the Company's RRM application.

SECTION SEVEN. To the extent any resolution or ordinance previously adopted by the Council is inconsistent with this Ordinance, it is hereby repealed.

SECTION EIGHT. The meeting at which this Ordinance was approved was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

SECTION NINE. If any one or more sections or clauses of this Ordinance is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance and the remaining provisions of the Ordinance shall be interpreted as if the offending section or clause never existed.

SECTION TEN. Consistent with the City Ordinance that established the RRM process, this Ordinance shall become effective from and after its passage with rates authorized by attached tariffs to be effective for bills rendered on or after June 1, 2015.

SECTION ELEVEN. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of Chris Felan, Vice President of Rates and Regulatory Affairs Mid-Tex Division, Atmos Energy Corporation, 5420 LJB Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701.

PASSED AND APPROVED ON FIRST READING, this the ___ day of _____, A.D., 2015.

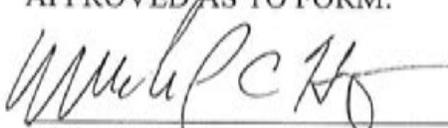
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ___ day of _____, A.D., 2015.

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

**SETTLEMENT AGREEMENT BETWEEN ATMOS ENERGY CORP., MID-TEX
DIVISION AND ATMOS CITIES STEERING COMMITTEE**

WHEREAS, this agreement ("Settlement Agreement") is entered into by Atmos Energy Corp's Mid-Tex Division and Atmos Cities Steering Committee ("ACSC") whose members include the Cities of Abilene, Addison, Allen, Alvarado, Angus, Anna, Argyle, Arlington, Aubrey, Bedford, Bellmead, Benbrook, Beverly Hills, Blossom, Blue Ridge, Bowie, Boyd, Bridgeport, Brownwood, Buffalo, Burkburnett, Burlison, Caddo Mills, Canton, Carrollton, Cedar Hill, Celeste, Celina, Centerville, Cisco, Clarksville, Cleburne, Clyde, College Station, Colleyville, Colorado City, Comanche, Commerce, Coolidge, Coppell, Copperas Cove, Corinth, Corrall City, Crandall, Crowley, Dalworthington Gardens, Denison, DeSoto, Duncanville, Eastland, Edgecliff Village, Emory, Ennis, Eules, Everman, Fairview, Farmers Branch, Farmersville, Fate, Flower Mound, Forest Hill, Fort Worth, Frisco, Frost, Gainesville, Garland, Garrett, Grand Prairie, Grapevine, Gunter, Haltom City, Harker Heights, Haskell, Haslet, Hewitt, Highland Park, Highland Village, Honey Grove, Hurst, Hutto, Iowa Park, Irving, Justin, Kaufman, Keene, Keller, Kemp, Kennedale, Kerens, Kerrville, Killeen, Krum, Lake Worth, Lakeside, Lancaster, Lewisville, Lincoln Park, Little Elm, Lorena, Madisonville, Malakoff, Mansfield, McKinney, Melissa, Mesquite, Midlothian, Murphy, Newark, Nocona, North Richland Hills, Northlake, Oakleaf, Ovilla, Palestine, Pantego, Paris, Parker, Pecan Hill, Petrolia, Plano, Ponder, Pottsboro, Prosper, Quitman, Red Oak, Reno (Parker County), Richardson, Richland, Richland Hills, Roanoke, Robinson, Rockwall, Roscoe, Rowlett, Royse City, Sachse, Saginaw, Sansom Park, Seagoville, Sherman, Snyder, Southlake, Springtown, Stamford, Stephenville, Sulphur Springs, Sweetwater, Temple, Terrell, The Colony, Trophy Club, Tyler, University Park, Venus, Vernon, Waco, Watauga, Waxahachie, Westlake, White Settlement, Whitesboro, Wichita Falls, Woodway, and Wylie.

WHEREAS, on February 28, 2014, Atmos filed with the ACSC Cities an application, hereinafter referred to as the 2014 RRM filing, to adjust rates pursuant to Rider RRM - Rate Review Mechanism, which were subsequently consolidated into GUD No. 10359 at the Railroad Commission of Texas; and

WHEREAS, on February 27, 2015, Atmos filed with the ACSC Cities an application, hereinafter referred to as the 2015 RRM filing, to adjust rates pursuant to Rider RRM - Rate Review Mechanism; and

WHEREAS, the Settlement Agreement resolves all issues between Atmos and ACSC ("the Signatories") regarding the 2014 RRM filing, which is currently pending before the Commission, and the 2015 RRM filing, which is currently pending before the ACSC Cities, in a manner that the Signatories believe is consistent with the public interest, and the Signatories represent diverse interests; and

WHEREAS, the Signatories believe that the resolution of the issues raised in the 2014 RRM filing and the 2015 RRM filing can best be accomplished by each ACSC City approving this Settlement Agreement and the rates, terms and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A;

NOW, THEREFORE, in consideration of the mutual agreements and covenants established herein, the Signatories, through their undersigned representatives, agree to the

Attachment A

following Settlement Terms as a means of fully resolving all issues between Atmos and the ACSC Cities involving the 2014 RRM filing and 2015 RRM filing:

Settlement Terms

1. Upon the execution of this Settlement Agreement, the ACSC Cities will approve an ordinance or resolution to approve the Settlement Agreement and implement the rates, terms and conditions reflected in the tariffs attached to the Settlement Agreement as Exhibit A. (Attachment A to the Ordinance ratifying the Agreement). Said tariffs should allow Atmos to recover annually an additional \$65.7 million in revenue over the amount allowed under currently approved rates by implementation of rates shown in the proof of revenues attached as Exhibit B. (Attachment B to the Ordinance ratifying this Agreement). The uniform implementation of gas rates, terms and conditions established by the Settlement Agreement shall be effective for bills rendered on or after June 1, 2015. Consistent with the City's authority under Section 103.001 of the Texas Utilities Code, the Settlement Agreement represents a comprehensive settlement of gas utility rate issues affecting the rates, operations and services offered by Atmos within the municipal limits of the ACSC Cities arising from Atmos' 2014 RRM filing and 2015 RRM filing. No refunds of charges billed to customers by Atmos under the RRM in past periods shall be owed or owing.
2. In an effort to streamline the regulatory review process, Atmos and the ACSC Cities have agreed to renew the Rate Review Mechanism ("Rider RRM") for a period commencing with the Company's March 1, 2016 filing under this mechanism for the calendar year 2015, effective June 1, 2016, and continuing thereafter until such time as either the ACSC Cities issue an ordinance stating a desire to discontinue the operation of the tariff or Atmos files a Statement of Intent. Atmos and the ACSC Cities further agree that the RRM tariff shall remain in effect until such time as new, final rates are established for Atmos. Upon approval of this Settlement Agreement by the ACSC Cities, Atmos shall file an updated RRM Tariff with each city reflecting the provisions of this agreement.
3. Atmos and the ACSC Cities agree that rate base as of December 31, 2014 in the amount of \$1,955,948,256 is just and reasonable and shall be recovered in rates.
4. Atmos and the ACSC Cities agree that a pension and other postemployment benefits balance as of December 31, 2014 in the amount of \$18,284,949 is just and reasonable and shall be used as the beginning balance for purposes of determining pension and other postemployment benefits to be recovered in the next RRM filing (Attachment D to the Ordinance ratifying the Agreement).
5. With regard to the treatment of Atmos' Rule 8.209 regulatory asset under the RRM, Atmos and the ACSC Cities agree to the following with respect to any pending and future RRM filings:
 - a. the capital investment in the Rule 8.209 regulatory asset in the 2014 RRM filing and 2015 RRM filing is reasonable and consistent with the requirements of Rule 8.209;

Attachment A

- b. the classification of projects included in the Rule 8.209 regulatory asset in the 2014 RRM filing and 2015 RRM filing is reasonable and consistent with the requirements of Rule 8.209 and shall serve as a basis for classification of projects in future RRM filings;
 - c. the treatment of blanket replacement projects, system upgrades, relocations, and transmission line replacements in the Rule 8.209 regulatory asset in the 2014 RRM filing and 2015 RRM filing is reasonable and consistent with the requirements of Rule 8.209 and shall be included in future RRM filings.
 - d. the incurred expenses included in the Rule 8.209 regulatory asset in the 2014 RRM and the 2015 RRM are reasonable and consistent with the requirements of Rule 8.209 and shall be included in future RRM filings;
 - e. interest on the Rule 8.209 regulatory asset account shall be calculated using the pre-tax cost of capital most recently approved by the Commission. The use of the pre-tax cost of capital is consistent with Rule 8.209. A return on Rule 8.209 capital investment is only earned once the investment is included in rate base. No change in the Company's calculation of the interest component in its Rule 8.209 regulatory asset accounts is warranted through the period ended May 31, 2015. Beginning June 1, 2015, interest expense shall be calculated monthly using simple interest (*i.e.* 11.49% divided by 12, or approximately 0.96% per month) applied to the total value of the Rule 8.209 asset investment (exclusive of interest) until such time the Rule 8.209 regulatory asset is approved for inclusion in the Company's rate base.
 - f. While Atmos and the ACSC Cities agree to apply the treatments and methodologies set forth in this paragraph, subsections (a) – (e) in all future RRM filings, the regulatory authority retains its right to disallow any capital investment that is not shown to be prudently incurred, and any expense not shown to be reasonable and necessary, in future RRM filings.
 - g. Atmos and the ACSC Cities acknowledge that their agreement regarding the treatment and methodologies applicable to Rule 8.209 capital investments under the RRM tariff shall not prejudice the right of either party to argue for different treatments or methodologies in a future statement of intent proceeding.
6. Revenues approved pursuant to Paragraph 1 of the Settlement Agreement include reimbursement of rate case expenses owed to the ACSC Cities in connection with the 2014 RRM filing.
 7. The Signatories agree that each ACSC city shall approve this Settlement Agreement and adopt an ordinance or resolution to implement for the ACSC Cities the rates, terms, and conditions reflected in the tariffs attached to the Settlement Agreement as Exhibit A. Atmos and ACSC further agree that at such time as all of the ACSC Cities have passed an ordinance or resolution consistent with the Settlement and Atmos has received such ordinance or resolution, Atmos shall withdraw its appeal of the currently pending RRM filing before the Railroad Commission of Texas in connection with the 2014 RRM filing.

Attachment A

8. Atmos and the ACSC Cities further agree that the express terms of the Rider RRM are supplemental to the filing, notice, regulatory review, or appellate procedural process of the ratemaking provisions of Chapter 104 of the Texas Utilities Code. If the statute requires a mandatory action on behalf of the municipal regulatory authority or Atmos, the parties will follow the provisions of such statute. If the statute allows discretion on behalf of the municipal regulatory authority, the ACSC Cities agree that they shall exercise such discretion in such a way as to implement the provisions of the RRM tariff. If Atmos appeals an action or inaction of an ACSC City regarding an RRM filing to the Railroad Commission, the ACSC Cities agree that they will not oppose the implementation of interim rates or advocate the imposition of a bond by Atmos consistent with the RRM tariff. Atmos agrees that it will make no filings on behalf of its Mid-Tex Division under the provisions of Section 104.301 of the Texas Utilities code while the Rider RRM is in place. In the event that a regulatory authority fails to act or enters an adverse decision regarding the proposed annual RRM adjustment, the Railroad Commission of Texas shall have exclusive appellate jurisdiction, pursuant to the provisions of the Texas Utilities Code, to review the action or inaction of the regulatory authority exercising exclusive original jurisdiction over the RRM request. In addition, the Signatories agree that this Settlement Agreement shall not be construed as a waiver of the ACSC Cities' right to initiate a show cause proceeding or the Company's right to file a Statement of Intent under the provisions of the Texas Utilities Code.
9. The Signatories agree that the terms of the Settlement Agreement are interdependent and indivisible, and that if any ACSC city enters an order that is inconsistent with this Settlement Agreement, then any Signatory may withdraw without being deemed to have waived any procedural right or to have taken any substantive position on any fact or issue by virtue of that Signatory's entry into the Settlement Agreement or its subsequent withdrawal. If any ACSC city rejects this Settlement Agreement, then this Settlement Agreement shall be void *ab initio* and counsel for the ACSC Cities shall thereafter only take such actions as are in accordance with the Texas Disciplinary Rules of Professional Conduct.
10. The Signatories agree that all negotiations, discussions and conferences related to the Settlement Agreement are privileged, inadmissible, and not relevant to prove any issues associated with Atmos' 2014 RRM filing and 2015 RRM filing.
11. The Signatories agree that neither this Settlement Agreement nor any oral or written statements made during the course of settlement negotiations may be used for any purpose other than as necessary to support the entry by the ACSC Cities of an ordinance or resolution implementing this Settlement Agreement.
12. The Signatories agree that this Settlement Agreement is binding on each Signatory only for the purpose of settling the issues set forth herein and for no other purposes, and, except to the extent the Settlement Agreement governs a Signatory's rights and obligations for future periods, this Settlement Agreement shall not be binding or precedential upon a Signatory outside this proceeding.

Attachment A

13. The Signatories agree that this Settlement Agreement may be executed in multiple counterparts and may be filed with facsimile signatures.

Attachment A

Agreed to this 7 day of May, 2015.

ATMOS ENERGY CORP., MID-TEX DIVISION

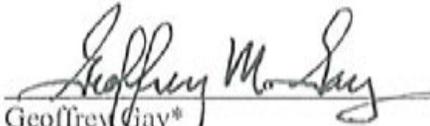
By:

John A. Paris
John A. Paris
President, Mid-Tex Division

Attachment A

Agreed to this 7th day of May 2015.

ATTORNEY FOR ATMOS CITIES STEERING COMMITTEE, WHOSE MEMBERS INCLUDE THE CITIES OF ABILENE, ADDISON, ALLEN, ALVARADO, ANGUS, ANNA, ARGYLE, ARLINGTON, AUBREY, BEDFORD, BELLMEAD, BENBROOK, BEVERLY HILLS, BLOSSOM, BLUE RIDGE, BOWIE, BOYD, BRIDGEPORT, BROWNWOOD, BUFFALO, BURKBURNETT, BURLESON, CADDO MILLS, CANTON, CARROLLTON, CEDAR HILL, CELESTE, CELINA, CENTERVILLE, CISCO, CLARKSVILLE, CLEBURNE, CLYDE, COLLEGE STATION, COLLEYVILLE, COLORADO CITY, COMANCHE, COMMERCE, COOLIDGE, COPPELL, COPPERAS COVE, CORINTH, CORRAL CITY, CRANDALL, CROWLEY, DALWORTHINGTON GARDENS, DENISON, DESOTO, DUNCANVILLE, EASTLAND, EDGECLIFF VILLAGE, EMORY, ENNIS, EULESS, EVERMAN, FAIRVIEW, FARMERS BRANCH, FARMERSVILLE, FATE, FLOWER MOUND, FOREST HILL, FORT WORTH, FRISCO, FROST, GAINESVILLE, GARLAND, GARRETT, GRAND PRAIRIE, GRAPEVINE, GUNTER, HALTOM CITY, HARKER HEIGHTS, HASKELL, HASLET, HEWITT, HIGHLAND PARK, HIGHLAND VILLAGE, HONEY GROVE, HURST, HUTTO, IOWA PARK, IRVING, JUSTIN, KAUFMAN, KEENE, KELLER, KEMP, KENNEDALE, KERENS, KERRVILLE, KILLEEN, KRUM, LAKE WORTH, LAKESIDE, LANCASTER, LEWISVILLE, LINCOLN PARK, LITTLE ELM, LORENA, MADISONVILLE, MALAKOFF, MANSFIELD, MCKINNEY, MELISSA, MESQUITE, MIDLOTHIAN, MURPHY, NEWARK, NOCONA, NORTH RICHLAND HILLS, NORTHLAKE, OAKLEAF, OVILLA, PALESTINE, PANTEGO, PARIS, PARKER, PECAN HILL, PETROLIA, PLANO, PONDER, POTTSBORO, PROSPER, QUITMAN, RED OAK, RENO (PARKER COUNTY), RICHARDSON, RICHLAND, RICHLAND HILLS, ROANOKE, ROBINSON, ROCKWALL, ROSCOE, ROWLETT, ROYSE CITY, SACHSE, SAGINAW, SANSOM PARK, SEAGOVILLE, SHERMAN, SNYDER, SOUTHLAKE, SPRINGTOWN, STAMFORD, STEPHENVILLE, SULPHUR SPRINGS, SWEETWATER, TEMPLE, TERRELL, THE COLONY, TROPHY CLUB, TYLER, UNIVERSITY PARK, VENUS, VERNON, WACO, WATAUGA, WAXAHACHIE, WESTLAKE, WHITE SETTLEMENT, WHITESBORO, WICHITA FALLS, WOODWAY, AND WYLIE.

By: 
Geoffrey Gray*

* Subject to approval by ACSC City Councils

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 40.00 per month
Rider CEE Surcharge	\$ 0.00 per month ¹
Total Customer Charge	\$ 40.00 per month
Commodity Charge – All Ccf	\$ 0.08020 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2014.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and MMBtu charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 700.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2937 per MMBtu
Next 3,500 MMBtu	\$ 0.2151 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0461 per MMBtu

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

Charge	Amount
Customer Charge per Bill	\$ 18.60 per month
Rider CEE Surcharge	\$ 0.02 per month ¹
Total Customer Charge	\$ 18.62 per month
Commodity Charge – All Ccf	\$0.09931 per Ccf

Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2014.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's bill will be calculated by adding the following Customer and MMBtu charges to the amounts and quantities due under the riders listed below:

Charge	Amount
Customer Charge per Meter	\$ 700.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2937 per MMBtu
Next 3,500 MMBtu	\$ 0.2151 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0461 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2015	PAGE:

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

- Where
- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
 - $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
 - R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
 - HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
 - NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
 - ADD = billing cycle actual heating degree days.
 - BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2015	PAGE:

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	10.22	0.1404	98.80	0.6372
Austin	11.59	0.1443	213.62	0.7922
Dallas	14.12	0.2000	208.11	0.9085
Waco	9.74	0.1387	130.27	0.6351
Wichita Falls	11.79	0.1476	122.35	0.5772

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNA factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and a Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

ATMOS ENERGY CORP., MID-TEX DIVISION
 PROOF OF REVENUES AND PROPOSED TARIFF STRUCTURE
 TEST YEAR ENDING DECEMBER 31, 2014

(a) (b) (c) (d) (e) (f) (g)

1 Proposed Change in Rates: \$21,066,527 Schedule A
 2 Proposed Change in Rates without Revenue Related Taxes: \$19,757,254 Ln 1 divided by factor on WP_F-5.1
 3
 4
 5

Revenue Requirements	Allocations
7 Residential \$ 338,431,486	77.95% Per GUD 10170 Final Order
8 Commercial \$ 84,223,622	19.40% Per GUD 10170 Final Order
9 Industrial and Transportation \$ 11,490,316	2.65% Per GUD 10170 Final Order
10 Net Revenue Requirements GUD No. 10170 \$ 434,145,424	

Rate Class	Current	Proposed Change	Proposed Rates	Proposed Change In Revenues	Proposed Revenues	Proposed Rates with Rate Case Expenses
20 Residential Base Charge	\$ 18.20	\$ 0.36	\$ 18.56	\$ 6,351,350	\$ 327,447,398	\$ 18.60
21 Residential Consumption Charge	\$ 0.08819	\$ 0.01112	\$ 0.09931	\$ 9,049,383	\$ 80,817,829	\$ 0.09931
22 Commercial Base Charge	\$ 38.50	\$ 1.37	\$ 39.87	\$ 2,000,584	\$ 58,221,364	\$ 40.00
23 Commercial Consumption Charge	\$ 0.07681	\$ 0.00339	\$ 0.08020	\$ 1,834,968	\$ 43,411,339	\$ 0.08020
24 I&T Base Charge	\$ 675.00	\$ 22.35	\$ 697.35	\$ 220,192	\$ 6,870,292	\$ 700.00
25 I&T Consumption Charge Tier 1 MMBTU	\$ 0.2807	\$ 0.0130	\$ 0.2937	\$ 142,055	\$ 3,209,350	\$ 0.2937
26 I&T Consumption Charge Tier 2 MMBTU	\$ 0.2056	\$ 0.0095	\$ 0.2151	\$ 117,051	\$ 2,650,282	\$ 0.2151
27 I&T Consumption Charge Tier 3 MMBTU	\$ 0.0441	\$ 0.0020	\$ 0.0461	\$ 42,703	\$ 984,314	\$ 0.0461
28				\$ 19,758,287	\$ 523,612,169	
29						

Data Sources:
 GUD10170_FINAL.xlsm

ATMOS ENERGY CORP., MID-TEX DIVISION
 PROOF OF REVENUES AND PROPOSED TARIFF STRUCTURE
 TEST YEAR ENDING DECEMBER 31, 2014

(a) (b) (c) (d) (e) (f) (g)

1 Proposed Change In Rates: \$21,066,527 Schedule A
 2 Proposed Change In Rates without Revenue Related Taxes: ~~\$19,757,254~~ Ln 1 divided by factor on WP_F-5.1
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Revenue Requirements	Allocations
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<u>\$ 434,145,424</u>	

Rate Class	Current	Proposed Change	Proposed Rates	Proposed Change In Revenues	Proposed Revenues	Proposed Rates with Rate Case Expenses
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23 Commercial Consumption Charge	\$ 0.07681	\$ 0.00339	\$ 0.08020	\$ 1,834,988	\$ 43,411,339	\$ 0.08020
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27 I&T Consumption Charge Tier 3 MMBTU	\$ 0.0441	\$ 0.0020	\$ 0.0461	\$ 42,703	\$ 984,314	\$ 0.0461
28				\$ 19,758,287	\$ 523,612,169	
29						

Data Sources:
 GUD10170_FINAL.xlsm

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 30,000 Ccf.

Type of Service

Where service of the type desired by Customer is not already available at the Point of Delivery, additional charges and special contract arrangements between Company and Customer may be required prior to service being furnished.

Monthly Rate

Customer's monthly bill will be calculated by adding the following Customer and Ccf charges to the amounts due under the riders listed below:

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Customer Charge per Bill	\$ 40.00 per month
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Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Weather Normalization Adjustment: Plus or Minus an amount for weather normalization calculated in accordance with Rider WNA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

¹ Reference Rider CEE - Conservation And Energy Efficiency as approved in GUD 10170. Surcharge billing effective July 1, 2014.

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable to Industrial Customers with a maximum daily usage (MDU) of less than 3,500 MMBtu per day for all natural gas provided at one Point of Delivery and measured through one meter. Service for Industrial Customers with an MDU equal to or greater than 3,500 MMBtu per day will be provided at Company's sole option and will require special contract arrangements between Company and Customer.

Type of Service

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Gas Cost Recovery: Plus an amount for gas costs and upstream transportation costs calculated in accordance with Part (a) and Part (b), respectively, of Rider GCR.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

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Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Curtailment Overpull Fee

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Replacement Index

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MID-TEX DIVISION
ATMOS ENERGY CORPORATION

Attachment C
RRC Tariff No:

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Agreement

An Agreement for Gas Service may be required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate I, Customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable to Residential Customers for all natural gas provided at one Point of Delivery and measured through one meter.

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Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Agreement

An Agreement for Gas Service may be required.

Notice

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RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Application

Applicable, in the event that Company has entered into a Transportation Agreement, to a customer directly connected to the Atmos Energy Corp., Mid-Tex Division Distribution System (Customer) for the transportation of all natural gas supplied by Customer or Customer's agent at one Point of Delivery for use in Customer's facility.

Type of Service

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First 0 MMBtu to 1,500 MMBtu	\$ 0.2937 per MMBtu
Next 3,500 MMBtu	\$ 0.2151 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0461 per MMBtu

Upstream Transportation Cost Recovery: Plus an amount for upstream transportation costs in accordance with Part (b) of Rider GCR.

Retention Adjustment: Plus a quantity of gas as calculated in accordance with Rider RA.

Franchise Fee Adjustment: Plus an amount for franchise fees calculated in accordance with Rider FF. Rider FF is only applicable to customers inside the corporate limits of any incorporated municipality.

Tax Adjustment: Plus an amount for tax calculated in accordance with Rider TAX.

Surcharges: Plus an amount for surcharges calculated in accordance with the applicable rider(s).

Imbalance Fees

All fees charged to Customer under this Rate Schedule will be charged based on the quantities determined under the applicable Transportation Agreement and quantities will not be aggregated for any Customer with multiple Transportation Agreements for the purposes of such fees.

Monthly Imbalance Fees

Customer shall pay Company the greater of (i) \$0.10 per MMBtu, or (ii) 150% of the difference per MMBtu between the highest and lowest "midpoint" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" during such month, for the MMBtu of Customer's monthly Cumulative Imbalance, as defined in the applicable Transportation Agreement, at the end of each month that exceeds 10% of Customer's receipt quantities for the month.

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 06/01/2015	PAGE:

Curtailment Overpull Fee

Upon notification by Company of an event of curtailment or interruption of Customer's deliveries, Customer will, for each MMBtu delivered in excess of the stated level of curtailment or interruption, pay Company 200% of the midpoint price for the Katy point listed in *Platts Gas Daily* published for the applicable Gas Day in the table entitled "Daily Price Survey."

Replacement Index

In the event the "midpoint" or "common" price for the Katy point listed in *Platts Gas Daily* in the table entitled "Daily Price Survey" is no longer published, Company will calculate the applicable imbalance fees utilizing a daily price index recognized as authoritative by the natural gas industry and most closely approximating the applicable index.

Agreement

A transportation agreement is required.

Notice

Service hereunder and the rates for services provided are subject to the orders of regulatory bodies having jurisdiction and to the Company's Tariff for Gas Service.

Special Conditions

In order to receive service under Rate T, customer must have the type of meter required by Company. Customer must pay Company all costs associated with the acquisition and installation of the meter.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2015	PAGE:

Provisions for Adjustment

The Commodity Charge per Ccf (100 cubic feet) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

The Weather Normalization Adjustment Factor shall be computed to the nearest one-hundredth cent per Ccf by the following formula:

$$WNAF_i = R_i \frac{(HSF_i \times (NDD-ADD))}{(BL_i + (HSF_i \times ADD))}$$

- Where
- i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification
 - $WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Ccf
 - R_i = Commodity Charge rate of temperature sensitive sales for the i^{th} schedule or classification.
 - HSF_i = heat sensitive factor for the i^{th} schedule or classification divided by the average bill count in that class
 - NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.
 - ADD = billing cycle actual heating degree days.
 - BL_i = base load sales for the i^{th} schedule or classification divided by the average bill count in that class

The Weather Normalization Adjustment for the j th customer in i th rate schedule is computed as:

$$WNA_j = WNAF_i \times q_{ij}$$

Where q_{ij} is the relevant sales quantity for the j th customer in i th rate schedule.

MID-TEX DIVISION
ATMOS ENERGY CORPORATION

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	ALL CUSTOMERS IN THE MID-TEX DIVISION EXCEPT THE CITY OF DALLAS AND UNINCORPORATED AREAS	
EFFECTIVE DATE:	Bills Rendered on or after 11/01/2015	PAGE:

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>	Base use <u>Ccf</u>	Heat use <u>Ccf/HDD</u>
Abilene	10.22	0.1404	98.80	0.6372
Austin	11.59	0.1443	213.62	0.7922
Dallas	14.12	0.2000	208.11	0.9085
Waco	9.74	0.1387	130.27	0.6351
Wichita Falls	11.79	0.1476	122.35	0.5772

Weather Normalization Adjustment (WNA) Report

On or before June 1 of each year, the company posts on its website at atmosenergy.com/mtx-wna, in Excel format, a *Weather Normalization Adjustment (WNA) Report* to show how the company calculated its WNA factor during the preceding winter season. Additionally, on or before June 1 of each year, the company files one hard copy and a Excel version of the *WNA Report* with the Railroad Commission of Texas' Gas Services Division, addressed to the Director of that Division.

ATMOS ENERGY CORP., MID-TEX DIVISION
 PENSIONS AND RETIREE MEDICAL BENEFITS FOR CITIES APPROVAL
 TEST YEAR ENDING DECEMBER 31, 2014

Line No.	Description (a)	Shared Services (b)		Mid-Tex Direct (c)		Mid-Tex Direct (d)		Mid-Tex Direct (e)		Mid-Tex Direct (f)		Adjustment Total (g)
		Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Pension Account Plan ("PAP")	Post-Retirement Medical Plan ("FAS 106")	Supplemental Executive Benefit Plan ("SERP")	Post-Retirement Medical Plan ("FAS 106")	Supplemental Executive Benefit Plan ("SERP")	Post-Retirement Medical Plan ("FAS 106")	Supplemental Executive Benefit Plan ("SERP")	Post-Retirement Medical Plan ("FAS 106")	
1	Fiscal Year 2014 Towers Watson Report (excluding Removed Cost Centers)											
2	Allocation to Mid-Tex	\$ 6,388,826	\$ 4,542,023	\$ 9,481,670	\$ 165,758	\$ 8,756,645						
		46.26%	46.26%	71.70%	100.00%	71.70%						
3	FY14 Towers Watson Benefit Costs (excluding Removed Cost Centers) Allocated to MTX (Ln 1 x Ln 2)	\$ 2,955,304	\$ 2,101,021	\$ 6,798,531	\$ 165,758	\$ 6,264,334						
4	O&M and Capital Allocation Factor	100.00%	100.00%	100.00%	100.00%	100.00%						
5	FY14 Towers Watson Benefit Costs To Approve (excluding Removed Cost Centers) (Ln 3 x Ln 4)	\$ 2,955,304	\$ 2,101,021	\$ 6,798,531	\$ 165,758	\$ 6,264,334						
6												
7												
8	Summary of Costs to Approve:											
9												
10	Total Pension Account Plan ("PAP")	\$ 2,955,304	\$ 2,101,021	\$ 6,798,531								\$ 9,753,835
11	Total Post-Retirement Medical Plan ("FAS 106")											\$ 8,365,356
12	Total Supplemental Executive Retirement Plan ("SERP")											\$ 165,758
13	Total (Ln 10 + Ln 11 + Ln 12)	\$ 2,955,304	\$ 2,101,021	\$ 6,798,531	\$ 165,758	\$ 6,264,334						\$ 18,284,949
14												
15												
16	O&M Expense Factor	95.82%	95.82%	43.03%	21.00%	43.03%						
17												
18	Expense Portion (Ln 13 x Ln 16)	\$ 2,831,859	\$ 2,013,260	\$ 2,925,600	\$ 34,809	\$ 2,655,721						\$ 10,501,250
19	Capital Factor	4.18%	4.18%	56.97%	79.00%	56.97%						
20												
21	Capital Portion (Ln 13 x Ln 20)	\$ 123,445	\$ 87,761	\$ 3,872,930	\$ 130,949	\$ 3,568,614						\$ 7,783,699
22												
23	Total (Ln 18 + Ln 21)	\$ 2,955,304	\$ 2,101,021	\$ 6,798,531	\$ 165,758	\$ 6,264,334						\$ 18,284,949
24												

Agenda Item:

6B. Ordinance No. 2015-11 authorizing the closure of a portion of Legion Crossing Street which intersects and is located between Veterans Highway (State Highway Loop 534) and Riverside Drive; making a finding that this portion of street is not required for public vehicular access or use; providing for the terms and conditions of closure; authorizing the city manager to take all necessary actions to effectuate the closure; providing an effective date; and providing other matters related thereto. (staff)

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

SUBJECT: Approve on First Reading an ordinance closing a portion of Legion Crossing between the north bank of the Guadalupe River and the entry into the Kerrville-Schreiner Park trailhead.

FOR AGENDA OF: June 9, 2015

DATE SUBMITTED: May 1, 2015

SUBMITTED BY: Malcolm Matthews
Director, Parks and Recreation

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Site Map

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$ 0	\$ 0	\$ 0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The master plan, conceptual reviews, construction plans, and subsequent construction of the River Trail were completed with the closure of a portion of Legion Crossing, a city street, as a requirement to safely provide the trail adjacent to Kerrville-Schreiner Park (KSP). Legion Crossing has remained closed to through traffic for the duration of River Trail construction. There have been no public concerns voiced about the closure during the River Trail planning phases or construction phase.

With completion of the River Trail, the roadway now needs to be permanently closed as a through street for the following reasons:

- The River Trail is at-grade with the Legion Crossing pavement and there is a dramatic drop in elevation at the trail causing restricted sight lines. If the road is left open to vehicular traffic as a through street, there will be unsafe conflicts with trail users.
- The Legion Crossing bridge across the Guadalupe River is substandard as a vehicular bridge, being only 10' wide (one vehicle width, only). The road closure will continue to allow access for pedestrians, bikers, and fishermen onto the bridge.
- The new trailhead off of Legion Crossing adjacent to KSP has free access, but KSP is a fee-based park. Closure of Legion Crossing at the common boundary

with KSP will reduce unauthorized access into the park from the street.

Prior to construction start, TXDOT approved the River Trail construction plans because of the adjacency to Loop 534 and because of trail access across the 534 right of way. They have requested that the City provide them with keys to the gates being constructed across Legion Crossing.

RECOMMENDED ACTION

City staff recommends City Council approval on First Reading an ordinance closing a portion of Legion Crossing between the north bank of the Guadalupe River and the entry into the Kerrville-Schreiner Park trailhead.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2015-11

AN ORDINANCE AUTHORIZING THE CLOSURE OF A PORTION OF LEGION CROSSING STREET WHICH INTERSECTS AND IS LOCATED BETWEEN VETERANS HIGHWAY (STATE HIGHWAY LOOP 534) AND OLD RIVERSIDE ROAD E.; MAKING A FINDING THAT THIS PORTION OF STREET IS NOT REQUIRED FOR PUBLIC VEHICULAR ACCESS OR USE; PROVIDING FOR THE TERMS AND CONDITIONS OF CLOSURE; AUTHORIZING THE CITY MANAGER TO TAKE ALL NECESSARY ACTIONS TO EFFECTUATE THE CLOSURE; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED THERETO

WHEREAS, the City of Kerrville ("City") is preparing to open its River Trail, which extends in part from Louise Hays Park to Kerrville Schreiner Park ("KSP"), both of which are owned and operated by the City; and

WHEREAS, the master plan, conceptual reviews, and construction plans for the River Trail all contemplated the closure of at least a portion of Legion Crossing Street ("Legion Crossing"), to include its bridge, (*see Exhibit A*) to public vehicular access and use, said street making up part of KSP; and

WHEREAS, Section 311.007 of the Texas Transportation Code provides that "[a] home-rule municipality may vacate, abandon, or close a street or alley"; and

WHEREAS, the City's Parks and Recreation Director ("Director") recommends the closure of a portion of Legion Crossing pursuant to state law so as to ensure the safe operation of the River Trail and other park areas by separating such areas and their pedestrian use from public vehicular traffic; and

WHEREAS, following the opening of the River Trail, the City will keep a portion of Legion Crossing open to the public for the purpose of driving a vehicle to and parking the vehicle at the KSP Trailhead; and

WHEREAS, closure of this portion of Legion Crossing will help decrease illegal dumping in the area and for this reason, is supported by the local office of the Texas Department of Transportation ("TxDOT"); and

WHEREAS, in addition to notifying TxDOT of this action, the Director has also informed Kerr County of the City's actions and plans for Legion Crossing; and

WHEREAS, Legion Crossing will continue to be maintained by the City and the City will allow access for pedestrians, bikers, and other park users as well as access to TxDOT, Kerr County, and other public entities to the portion of Legion Crossing closed by the City; and

WHEREAS, based upon the City's use and maintenance of Legion Crossing, to include the bridge over the Guadalupe River, since at least 1982 as well as the State of Texas' (Texas Parks and Wildlife Department) conveyance of KSP to the City, which included Legion Crossing, the City Council finds that Legion Crossing, including the bridge, is owned by the City; and

WHEREAS, the Legion Crossing bridge, a one-lane bridge with a narrow width that restricts the passage of large vehicles, is also used by the City for the crossing of several utility lines, which the City has maintained and will continue into the future; and

WHEREAS, the City Council, acting pursuant to state law, deems it advisable to close a portion of Legion Crossing and is of the opinion that said portion is not needed for public vehicular access or use, and thus, the portion of Legion Crossing should be closed as hereinafter provided; and

WHEREAS, the City Council has determined that the following actions are necessary in order to protect public health, safety, and welfare;

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

SECTION ONE. The facts and findings set forth in the preamble to this Ordinance are hereby found to be true and correct and are adopted.

SECTION TWO. The portion of Legion Crossing as more fully described and depicted in the attached **Exhibit A**, which is incorporated herein for all purposes, and as located within the City of Kerrville, Kerr County, Texas, is hereby closed with respect to its use for public vehicular access; subject, however, to the conditions, requirements, and restrictions provided herein.

SECTION THREE. The closure authorized herein is made and accepted subject to all easements, whether apparent or non-apparent, aerial, or underground, if any.

SECTION FOUR. The City Manager, or designee, is authorized to take whatever actions are necessary or proper to effectuate the closure of the portion of Legion Crossing, to include the installation of barriers and gates to prevent vehicular access.

SECTION FIVE. It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any part of this Ordinance is declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality will not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Ordinance, since the same would have been

enacted by the City Council without the incorporation of this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION SIX. This Ordinance will become effective immediately upon its passage.

PASSED AND APPROVED ON FIRST READING, this the ___ day of _____, A.D., 2015.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ___ day of _____, A.D., 2015.

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

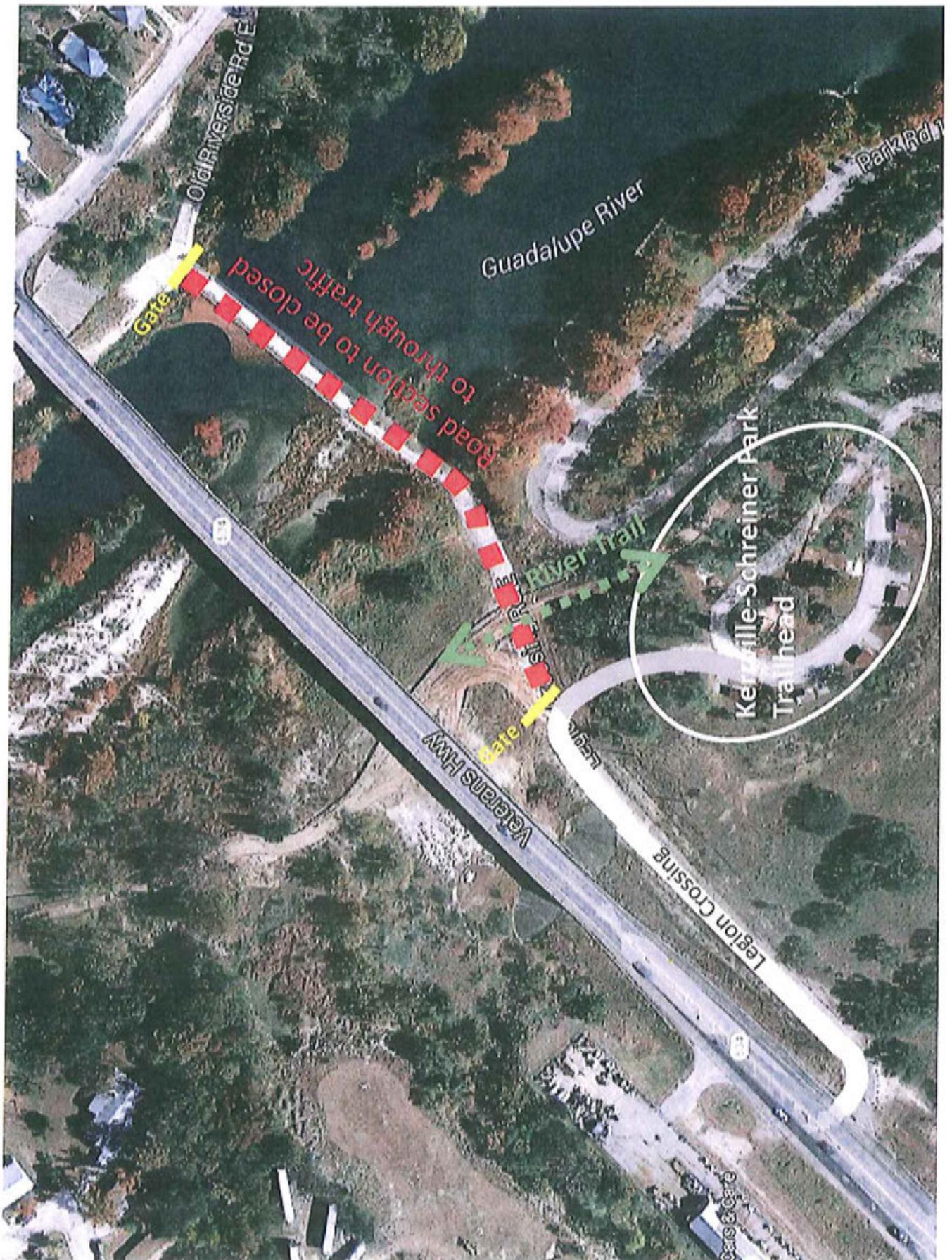


EXHIBIT A

Agenda Item:

7A. Reject all submitted contractor bids for construction of the Lowry Park trail improvements. (staff)

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

SUBJECT: Council to reject all submitted contractor bids for construction of the Lowry Park Trail Improvements.

FOR AGENDA OF: June 9, 2015 **DATE SUBMITTED:** May 28, 2015

SUBMITTED BY: Kyle Burow, E.I.T. **CLEARANCES:** Kristine Day
Project Engineer Deputy City Manager

EXHIBITS: Bid Tabulation, Addendum #1, and Aerial Map for Lowry Park Trail Improvements

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ N/A	\$3,440,959.22	\$6,000,000.00	B05

PAYMENT TO BE MADE TO: N/A
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

On September 10, 2014 Freese and Nichols Inc. was hired to submit a trail alignment study and generate bid and construction documents for the Lowry Park Trail Improvements as part of the River Trail Project proceeding west from the Riverside Nature Center. The Lowry Park Trail section of the river trail ties into the first phase of the river trail below the Riverside Nature Center, going west across Town Creek and ending at Lowry Park located on Guadalupe Street. The scope of this project consists of 700 feet of concrete sidewalk and 60 feet of crushed granite trail that connects to the trail head on Guadalupe Street, a 70 foot pedestrian crossing spanning Town Creek, one trail node, site amenities and one handicap parking space.

Bids for the Lowry Park Trail Improvements were opened and read aloud on May 12th, 2015 at 3:00 pm. Prior to opening bids, Addendum #1 was issued and required acknowledgement in writing to be considered complete bids. Addendum #1 did three things:

- 1.) Changed the bid form and attached as an exhibit required to be used for bidding. Failure to use the new bid form would deem bids non-responsive or incomplete.
- 2.) Added a boundary survey to be performed for the creek crossing to ensure the structure was on City property.
- 3.) Deleted line items for a bike rack and water meter of which

would be supplied by the City.

Three bids were received and opened with acknowledgement of Addendum #1 from all bidders. After review of the bid documents, staff along with Freese and Nichols, Inc. discovered Zimmerman Construction and HMC used the original bid form which did not include the changes mentioned previously. As a result, these two bids are considered non-responsive/incomplete. Since the apparent low bid is considered incomplete, the apparent second lowest bid was evaluated noting a significant difference in cost of \$65,050 compared to the apparent low bid. Staff recommends that all bids be rejected in order for Staff and the design consultant to clarify the scope of the construction and bid requirements.

RECOMMENDED ACTION

Staff recommends that Council reject all submitted contractor bids for construction of the Lowry Park Trail Improvements in order for Staff and the design consultant to clarify the scope of the construction and bid requirements prior to releasing the project for bid.



Freese and Nichols, Inc.

May 6, 2015

Addendum No. 1
Competitive Sealed Bid #1409-093
Lowry Park Trail Improvements

The following items modify or supersede the provisions of the Drawings and Contract Documents dated April 9, 2015 and become a part of the Contract Documents. The Addendum consists of itemized changes to the drawings and specifications as indicated:

<u>Specifications</u>	<u>Reference</u>	<u>Description</u>
Item 1.1	General	Replace "Bid Form Exhibit A" with revised "Bid Form Exhibit A."

The entire Bid Form Exhibit A will be replaced with a "Revised Bid Form Exhibit A" as attached to this addendum. Bidders are required to use the "Revised Bid Form Exhibit A" when submitting their bid. If the "Revised Bid Form Exhibit A" is not used, the bid may be deemed non-responsive and not considered for evaluation.

Item 1.2	Geo-Tech.	Color version of boring location plan is now provided. Replace black and white sheet with new color print.
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Drawings

Item 1.3	G1.02	The existing 14" sanitary sewer line is correctly labeled. Plan notes added to call out property boundaries to be marked out in the field.
Item 1.4	C1.00	Water meter installation has been removed from project scope. Change in hose bib and valve box spec on plan. Notes added for project coordination during utility work.
Item 1.5	L1.01	Revised crossing wing wall shown on this sheet.
Item 1.6	L1.03	Note revised to show steel bike rack will be provided by City.
Item 1.7	L2.01	Note 1 revised to exempt protected large oak tree root zone from grading activity.
Item 1.8	L2.02	Note 1 revised to exempt protected large oak tree root zone from grading activity.

Item 1.9	L3.01	Bike rack detail was removed. Bike rack will be provided by the City. Finish grade note revised to existing grade.
Item 1.10	L3.02	Notes added to added to Trail map monument and interpretive sign details to say the City will provide printed signage and mounting brackets. Modification to City standard trail detail to show expansion joints at trail tow downs.
Item 1.11	S1.01	Reduced the area of 6" rip-rap on the north side of the crossing. The reduction is shown dimensionally, and in update square footage quantity.
Item 1.12	S1.02	Changed concrete wing wall slope to 1:1.
Item 1.13	S1.03	Added the 1:1 wing wall designation to the Inside Elevation and showed the 7' vertical wing wall dimension. Showed the wing wall plan dimension on the Plan View.

Questions and Answers

1. Will the City provide a compaction test for the Town Creek crossing area prior to concrete forming?
 - a. *No, the quality requirements in section 01 40 00 of the specifications list this as a contractor responsibility.*
2. At what depth of the soil do you find rock?
 - a. *This information can be found in the geotechnical investigation. A color exhibit for the boring location plan will be provided.*

Bidders are required to acknowledge receipt of this addendum by initialing in the appropriate space on the bid document. The due date for this bid remains May 12, 2015, by 3:00pm CST.

Vendors who may have already submitted a bid and feel this addendum may change their bid, may pick up their bid, and return it by the closing date. If picking up the bid is not feasible, any new bid submitted by your firm will supersede one previously submitted.

Acknowledge receipt of this addendum by initialing in the appropriate space on the bid document. If there is a discrepancy between this addendum and the bid, the addendum prevails.

Sincerely,

Matthew Milano, RLA, LEED AP
 Project Manager
 Freese and Nichols, Inc.

****Please see attached "Revised Bid Form"**

00 42 23.01 "Bid Form Exhibit A"

LOWRY PARK TRAIL IMPROVEMENTS BASE BID ITEMS					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Amount
1	MOBILIZATION and DEMOBILIZATION as necessary for the Contract Documents.	LS	1	\$ _____	\$ _____
2	SWPPP, design and provide Storm Water Pollution Prevention Plan, as required for construction of Trail Improvements project, complete as indicated in the plans.	LS	1	\$ _____	\$ _____
3	TRAFFIC CONTROL PLAN, design, install, maintain, and remove Traffic Control Plan and devices required at Guadalupe Street, complete as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
4	TRENCH SAFETY SYSTEM, development, design, and implementation of a trench safety system as required and the assumption of responsibility for said system, including all required trench safety and appurtenant structures complete as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
5	DEMOLITION, tree removal, existing concrete, curbs and sidewalk, (see Sheet G1.02) to be removed cleanly and disposed of off-site at Contractor's expense, complete in place as specified and shown on the plans.	LS	1	\$ _____	\$ _____
6	PROPERTY BOUNDARY LOCATION, including marking property boundary points called out on sheet G1.02.	LS	1	\$ _____	\$ _____
7	BRUSH CLEARING/PRUNING, along new trail alignment, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
8	TREE PROTECTION as shown on Sheet G1.02 and L3.01, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____

00 42 23.01 "Bid Form Exhibit A"

9	EROSION CONTROL, to include silt fencing, construction entrance and all necessary erosion control measures as required per Sheet EC1.00 and EC1.01, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
10	EARTHWORK FOR SITE, to include all rough grading for entire site including any importing or removal of excess fill as needed, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
11	GRADE MAINTENANCE FOR SITE, to include fine grading, backfilling, and topsoil as indicated on drawings, etc. to perform site work, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
12	CONCRETE PARKING SPACE, including paving, striping, sign, curbs, etc., complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
13	10' WIDE CONCRETE TRAIL PAVING, to include all trail paving, complete in place as specified and indicated in the plans.	LF	400	\$ _____	\$ _____
14	8' WIDE CONCRETE TRAIL PAVING, to include all trail paving, complete in place as specified and indicated in the plans.	LF	300	\$ _____	\$ _____
15	CONCRETE PLAZA PAVING, to include all plaza paving other than itemized trails, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
16	FLAGSTONE PLAZA PAVING, to include all flagstone plaza paving, flagstone trail paving bands, concrete subbase, mortar joints, etc., complete in place as specified and indicated in the plans.	SF	1100	\$ _____	\$ _____
17	DECOMPOSED GRANITE PAVING, as shown on sheets L1.03 and L3.01, complete in place as specified and indicated in the plans.	SF	600	\$ _____	\$ _____

00 42 23.01 "Bid Form Exhibit A"

18	LIMESTONE BLOCK RETAINING WALLS, including limestone block construction as shown Sheet L1.01, L1.02 and detailed on Sheets L3.02, complete in place as specified and indicated in the plans.	SF	900	\$ _____	\$ _____
19	8" LIMESTONE EDGING, including limestone edge as shown Sheet L1.03 and detailed on Sheets L3.01, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
20	SITE FURNISHINGS LABOR, includes the labor to install trash receptacles, bike rack, steel bench and Mutt Mitt Station, etc., These items to be provided by the City and installed per manufacturer recommendations, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
21	INTERPRETIVE SIGN MONUMENT, includes footing and masonry, etc. as shown on Sheet L1.03, L1.04 and L3.02 , complete in place as specified and indicated in the plans. Signage panels and signage frames will be provided by the City.	EA	2	\$ _____	\$ _____
22	TRAIL MAP MONUMENT, includes footing and masonry, etc. as as shown on Sheet L1.03 and L3.02 , complete in place as specified and indicated in the plans. Signage panels and signage frames will be provided by the City.	EA	1	\$ _____	\$ _____
23	DRINKING FOUNTAIN, including, drainage sump, cleanout, adjacent valves, etc., as shown on Sheets C1.00 and detailed on L3.02, complete in place as specified and indicated in the plans.	EA	1	\$ _____	\$ _____
24	1" and 1/2" WATER LINE, including reducer, piping,connect to drinking fountain, furnish and install, as shown on sheet C1.00, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
25	DOUBLE CHECK VALVE, furnish and install, as shown on sheet C1.00, complete in place as specified and indicated in the plans.	EA	1	\$ _____	\$ _____

00 42 23.01 "Bid Form Exhibit A"

26	HOSE BIB, furnish and install, as shown on sheet C1.00, complete in place as specified and indicated in the plans.	EA	1	\$ _____	\$ _____
27	BUFFALO SOD, to include sod for erosion control measures as required per Sheet EC1.00 and EC1.01, includes fine grading, raking, fertilization, and temporary irrigation as necessary to cover disturbed areas, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
28	EROSION CONTROL MAT WITH SEED, to include erosion control mat and Rye grass seed as required per Sheet EC1.00 and EC1.01, also includes fine grading, raking, fertilization, and temporary irrigation as necessary to cover disturbed areas, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
29	LOW WATER CROSSING STRUCTURE, including excavation, dewatering, reinforced concrete boxes, concrete headwalls, concrete paving on top of culverts, concrete rip-rap, etc. and all necessary construction as detailed in structural drawings and specifications, complete in place as specified and indicated in the plans.	LS	1	\$ _____	\$ _____
TOTAL LOWRY PARK TRAIL IMPROVEMENTS BASE BID (ITEMS 1 through 29)					\$ _____



BORING LOCATION PLAN

NO SCALE
BORING LOCATIONS ARE APPROXIMATE

December 30, 2014
Freese and Nichols, Inc.
RETL Project No.: G214310

LOWRY PARK
River Trail Project Package C – Kerrville, Texas
FNI Project Number: KER14505

ROCK ENGINEERING AND TESTING LABORATORY, INC.
10856 VANDALE STREET
SAN ANTONIO, TX 78216
(210) 495-8000



Agenda Item:

7B. Update on the river trail and Louise Hays/Lehmann Monroe Park projects and direction to city staff. (staff)

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

SUBJECT: Receive an update on the River Trail and Louise Hays/Lehmann Monroe Park projects and provide direction to city staff

FOR AGENDA OF: June 9, 2015

DATE SUBMITTED: June 5, 2015

SUBMITTED BY: Kristine Day
Deputy City Manager

CLEARANCES: Todd Parton
City Manager

EXHIBITS: N/A

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$	\$	\$	

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Staff will give an update on the current status of the River Trail project including information on the Grand Opening of the River Trail from Tranquility Island to Kerrville Schreiner Park on Saturday, June 13, 2015. Staff will also update City Council on future trail sections going west which are under design and in land acquisition phase.

Staff will also give an update on the current status of the Louise Hays/Lehmann Monroe Park project including information on the Grand Opening Ceremony and Celebration scheduled for Saturday, June 13, 2015.

RECOMMENDED ACTION

Receive the city staff report and provide direction as deemed appropriate by the City Council.