

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, JULY 7, 2015, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, JULY 7, 2015, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION: by James Wilson, Pastor of Kerrville Christian Center.

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. PUBLIC HEARINGS AND ORDINANCES, FIRST READINGS:

2A. Ordinance No. 2015-13, amending the city's "Zoning Code" by changing the zoning district of the property located on the southeast corner of the intersection of Water Street and 'G' Street, otherwise known as 1700 Water Street, by removing the property from the 17-C district and placing it within the 19-C district; 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. (staff)

2B. Ordinance No. 2015-14, amending the Comprehensive Plan for the City of Kerrville, Texas, pursuant to Chapter 213 of the Texas Local Government Code; by revising the Future Land Use Plan for a property located adjacent to the northeast of Legion Drive and between its intersection with Goss Street and Loop 534 (Veterans Highway); and changing the future land use of this area from low-density residential to mixed-use. (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.

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, July 2, 2015 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

City Secretary, City of Kerrville, Texas

2C. Ordinance No. 2015-15, amending the city's "Zoning Code" by changing the zoning district of a property located adjacent to and northeast of Legion Drive and between its intersection with Goss Street and Loop 534 (Veterans Highway), by removing the property from the residential mix (RM) district and placing it within the 29-E district; 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. (staff)

3. PUBLIC HEARING AND ACTION:

3A. Proposed amendments to the Residential Transition (RT) Zoning District, to include development regulations regarding building size, building appearance, off-street parking, front yard requirement, sign restrictions, and land being used as churches and schools. (staff)

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Request by the Joint Airport Board to proceed with the refurbishing of the Mooney parking lot, asphalt repair, and taxiway extension with participation from the City of Kerrville. (Bruce McKenzie, Airport Manager)

4B. Request by property owners to amend the zoning code, land use table for the central business district (staff)

4C. Kerrville Economic Development Corporation fiscal year 2016 funding request in the amount not to exceed \$23,750. (Jonas Titas, KEDC Executive Director)

4D. Authorization to execute an agreed order from Texas Commission on Environmental Quality pertaining to the exceedances of maximum total trihalomethanes. (staff)

4E. Authorization to execute contract with Public Sector Personnel Consultants in the amount of \$15,000 to review the City of Kerrville compensation study dated August 2013. (staff)

4F. Presentation of fiscal year 2016 budget and direction to staff. (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.

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, July 2, 2015 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

City Secretary, City of Kerrville, Texas

4G. Discussion and possible action to withdraw the contract of sale with the Cailloux Foundation Properties, L.L.C. for a proposed athletic complex at the intersection of Holdsworth Drive and Town Creek Road and resubmit the Gift of Parkland and Project Management Services Agreement with the Cailloux Foundation Properties, L.L.C. for said athletic complex.

5. INFORMATION AND DISCUSSION:

5A. Main street program activities report. (staff)

6. BOARD APPOINTMENTS:

6A. Appointments to the Main Street Advisory Board. (staff)

7. ITEMS FOR FUTURE AGENDA:

8. 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.

9. 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 matter:

9.A. Section 551.073:

Deliberation of a negotiated contract for a prospective gift or donation to the city as deliberation in an open meeting would have a detrimental effect on the City's position with a third person.

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, July 2, 2015 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

City Secretary, City of Kerrville, Texas

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

11. 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, July 2, 2015 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Ordinance No. 2015-13, amending the city's "Zoning Code" by changing the zoning district of the property located on the southeast corner of the intersection of Water Street and 'G' Street, otherwise known as 1700 Water Street, by removing the property from the 17-C district and placing it within the 19-C district; 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. (staff)

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

SUBJECT: Public hearing, First reading of the Ordinance & Action concerning requested zoning change from a (C-17) Central City 17- District to a (C-19) Central City 19-District for an approximate .505 acres tract. Legal Description Lots 5-6 Block 13 of the Joseph A. Tivy's First Addition, located at 1700 Water Street East.

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 26, 2015

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Location Map, P&Z Staff Report
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 OR FINANCE:

SUMMARY STATEMENT

This item is concerning public hearing, first reading of the ordinance & action concerning a zoning change request from (C-17) Central City 17- District to (C-19) Central City 19-District. The applicant requested the zoning change on June 10, 2015.

A public hearing was conducted by the Planning and Zoning Commission at its regular meeting on July 2, 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 Planning Department Report

To: Planning & Zoning Commission
Agenda Item: 2A
Planning File #: 2015-027
Hearing Date: July 2, 2015
Representative: Dite Steinruck
Location: 1700 Water Street
Legal Description: Lots 5-6 Block 13 of the Joseph A. Tivy's First Addition
Total Acreage: .505

Proposal

Zoning change from (C-17) Central City 17- District to (C-19) Central City 19-District

Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on June 17, 2015. Notices were sent to property owners within two hundred (200) feet of the subject property on June 19, 2015. Additionally, notice of this meeting was posted at city hall and on the city's internet website on June 26, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

Recommended Action

Staff recommends that the Commission hold the required public hearing to receive public comments and make a recommendation to the Council.

Notices Mailed

Owners of Property within 200 feet: 18

Topography

The subject property is relatively flat with little vegetation being most developed with an existing structure.

Adjacent Zoning and Land Uses

Direction: North, South and West

Current Base Zoning: C-17

Current Land Uses: Bar, Paint Store, Convenient Store, Automotive Repair and Multi-Family Residential

Adjacent Zoning and Land Uses

Direction: East

Current Base Zoning: R-1

Current Land Uses: Vacant and Auto Sales

Transportation

Thoroughfare: Water Street East, G Street East, H Street East

Existing Character: One lane in each direction with no sidewalks

Proposed Changes: None known

Thoroughfare: Highway 27

Existing Character: Two lanes in each direction with partial sidewalks

Proposed Changes: None known

Parking Information: Construction Building (General/Specialist): One (1) space for each 500 Sq. feet of indoor area/storage; one (1) space for each 1,000 sq. feet of outdoor area/storage.
Office: One (1) space per 300 sq. feet.

Staff Analysis and Recommendation: Approval

1. Consistency:

The property's land use designation is Mixed-Use District. The requested "C-19" base zoning district is consistent with the adopted land use designation.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request. The surrounding properties have a mixture of different land uses, ranging from retail to auto repair.

3. Suitability as Presently Zoned:

Both the existing and requested base zoning districts are appropriate and suitable with the surrounding area. The proposed zoning district will not inhibit future development in the area. The proposed zoning district will continue to encourage development and revitalization in the area.

4. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare.

5. Size of Tract:

The subject property is approximately .505 acres in size, which should be able to reasonably accommodate the proposed commercial uses.

6. Other Factors:

None.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2015-13**

AN ORDINANCE AMENDING THE CITY'S "ZONING CODE" BY CHANGING THE ZONING DISTRICT OF THE PROPERTY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WATER STREET AND 'G' STREET, OTHERWISE KNOWN AS 1700 WATER STREET, BY REMOVING THE PROPERTY FROM THE 17-C DISTRICT AND PLACING IT WITHIN THE 19-C DISTRICT; 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

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing which was held before the City Council on July 7, 2015, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in the change of a zoning district for the property located on the southeast corner of the intersection of Water Street and 'G' Street and otherwise known as 1700 Water Street; such change to result in the removal of the property from the 17-C Zoning District to placement of the property within the 19-C Zoning District; and

WHEREAS, such public hearing was held in the Council Chambers beginning at approximately 6:00 p.m. on July 7, 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 buildings and encouraging the most appropriate use of land throughout the City, the Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to amend the City's Zoning Code to change the zoning district for the property described below by placing it within the 19-C Zoning District;

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

SECTION ONE. The zoning district for the following property located on the southeast corner of the intersection of Water Street and 'G' Street and otherwise known as 1700 Water Street, is changed from the 17-C Zoning District to the 19-C Zoning District:

Being all of certain tracts or parcels of land containing a 0.505 acre, more or less, consisting of Lots 5 and 6, Block 13, of the Joseph A. Tivy First Addition Subdivision, a subdivision within the City of Kerrville, Texas, and being more particularly described and depicted at Exhibit A, attached hereto and made a part hereof for all purposes.

SECTION TWO. The City Manager or designee is authorized and directed to amend the City's official zoning map to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with Section 11-I-4(c) of the City's Zoning Code.

SECTION THREE. 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 FOUR. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION FIVE. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, 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 SIX. 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 SEVEN. 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 ____ 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:

2B. Ordinance No. 2015-14, amending the Comprehensive Plan for the City of Kerrville, Texas, pursuant to Chapter 213 of the Texas Local Government Code; by revising the Future Land Use Plan for a property located adjacent to the northeast of Legion Drive and between its intersection with Goss Street and Loop 534 (Veterans Highway); and changing the future land use of this area from low-density residential to mixed-use. (staff)

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

SUBJECT: Public hearing, First reading of the Ordinance & Action concerning a proposed Comprehensive Plan Amendment to amend the future land use category from "Low-Density Residential" to "Mixed-Use" for an approximate 1.23 acres tract. Legal Description Lot 2 Block 1 of the Samples Properties, located on the southeast side of Goss Street North between Legion Drive North and Mesquite Street North.

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 26, 2015

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Location Map, P&Z Staff Report
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 OR FINANCE:

SUMMARY STATEMENT

This item is concerning public hearing, first reading of the ordinance & action concerning a comprehensive plan amendment to amend the future land use category from "Low-Density Residential" to "Mixed-Use". The applicant requested the plan amendment on June 10, 2015.

A public hearing was conducted by the Planning and Zoning Commission at its regular meeting on July 2, 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 Planning Department Report

To: Planning & Zoning Commission
Agenda Item: 2B
Planning File #: 2015-029
Hearing Date: July 2, 2015
Representative: John Sample
Location: Legion Drive North and Goss Street North
Legal Description: Lot 2 Block 1 of the Samples Properties
Total Acreage: 1.23

Proposal

Comprehensive Plan Amendment to amend the future land use category from "Low-Density Residential" to "Mixed-Use"

Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on June 17, 2015. Notices were sent to property owners within two hundred (200) feet of the subject property on June 19, 2015. Additionally, notice of this meeting was posted at city hall and on the city's internet website on June 26, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

Recommended Action

Staff recommends that the Commission hold the required public hearing to receive public comments and make a recommendation to City Council.

Notices Mailed

Owners of Property within 200 feet: 19

Topography

The property is relatively flat with various trees and grasses.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: RM

Current Land Uses: Single-Family Residential and Vacant

Direction: South

Current Base Zoning: E-29

Current Land Uses: Single-Family Residential and Shipping Center
Direction: East
Current Base Zoning: E-29 and RM
Current Land Uses: Single-Family Residential, Vacant and Retail

Direction: West
Current Base Zoning: E-29 and RM
Current Land Uses: Single-Family Residential and Vacant

Transportation

Thoroughfare: Goss Street North and Mesquite Street North
Existing Character: One lane in each direction with no sidewalks
Proposed Changes: None known

Thoroughfare: Legion Drive North
Existing Character: One lane in each direction with partial sidewalks
Proposed Changes: None known

Parking Information: A proposed land use for the subject property has not been determined.

Staff Analysis and Recommendation: Approval

1. Plan Amendment:

The subject property is surrounded by both residential and future commercial uses. By amending the future land use designation to Mixed-Use it will create a buffer between the existing residential neighborhood to the north and west and the commercial uses (present and future) to the south and east.

2. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this plan amendment request.

3. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare.

4. Size of Tract:

The subject property is approximately 1.23 acres in size, which should be able to reasonably accommodate the proposed commercial uses.

5. Other Factors:

Due to a long running map error the subject property was platted with the assumption it was zoned for commercial uses.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2015-14**

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN FOR THE CITY OF KERRVILLE, TEXAS, PURSUANT TO CHAPTER 213 OF THE TEXAS LOCAL GOVERNMENT CODE; BY REVISING THE FUTURE LAND USE PLAN FOR A PROPERTY LOCATED ADJACENT TO AND NORTHEAST OF LEGION DRIVE AND BETWEEN ITS INTERSECTION WITH GOSS STREET AND LOOP 534 (VETERANS HIGHWAY); AND CHANGING THE FUTURE LAND USE OF THIS AREA FROM LOW-DENSITY RESIDENTIAL TO MIXED-USE

WHEREAS, City Council adopted Ordinance No. 2002-14 on July 9, 2002, which adopted the *Kerrville Comprehensive Plan—A Link To The Future* as the City's Comprehensive Plan (Plan); and

WHEREAS, the Plan, pursuant to Section 213.002 of the Texas Local Government Code, was adopted as a planning tool for the long-range development of the City; and

WHEREAS, a Future Land Use Plan ("FLUP") was included as part of the Plan; and

WHEREAS, Section 211.004 of the Texas Local Government Code requires zoning regulations to be adopted in accordance with the Plan; and

WHEREAS, the Plan, specifically the FLUP, as found at figure 3.2 of the Plan, must now be amended in conjunction with a pending application for a zoning change; and

WHEREAS, the City Council finds that a public hearing was held on the proposed revisions to the Plan as required by law and the Council has heard and considered any such comments; and

WHEREAS, the City Council finds it in the public interest to amend the Plan as provided herein;

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

SECTION ONE. The above recitals and findings are hereby found to be true and correct.

SECTION TWO. The *City of Kerrville Comprehensive Plan – A Link To The Future*, and specifically the FLUP, is amended by changing the future land use designation from "Low-Density Residential" to "Mixed Use" for the property, as depicted at **Exhibit A**, consisting of an approximate 1.23 acres tract of land, Lot 2, Block 1 of the Sample Properties Subdivision, a subdivision within the City of Kerrville, Texas.

SECTION THREE. The provisions contained herein amend and revise, as appropriate, the provisions of Ordinance No. 2002-14 and specifically the FLUP. Further, that 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 hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding will not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

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

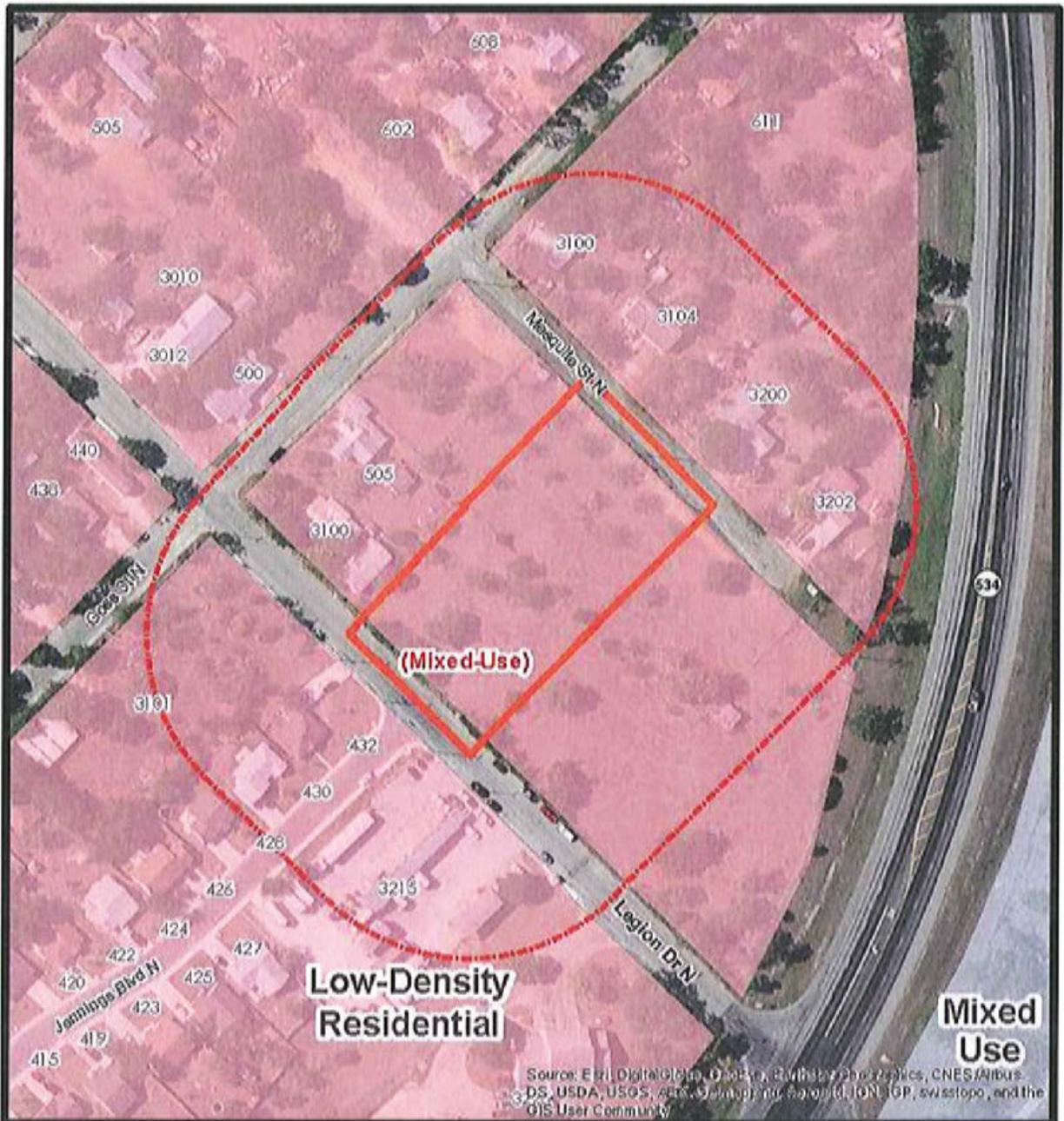
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary



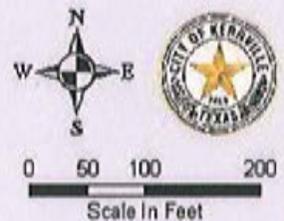
Landuse Case Location Map

Case 2015-029

Location:
 Sample Properties Block 1
 Lot 2, 1.23 acres

Legend

- 200' Notification Area - - - - -
- Subject Properties —————
- Current Landuse TEXT
- Requested Landuse (TEXT)



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

Agenda Item:

2C. Ordinance No. 2015-15, amending the city's "Zoning Code" by changing the zoning district of a property located adjacent to and northeast of Legion Drive and between its intersection with Goss Street and Loop 534 (Veterans Highway), by removing the property from the residential mix (RM) district and placing it within the 29-E district; 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. (staff)

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

SUBJECT: Public hearing, First reading of the Ordinance & Action concerning a requested zoning change from a (RM) Residential Mix District to a (E-29) East Side 29-District for an approximate 1.23 acres tract. Legal Description Lot 2 Block 1 of the Samples Properties, located on the southeast side of Goss Street North between Legion Drive North and Mesquite Street North.

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 26, 2015

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS: Location Map, P&Z Staff Report
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 is concerning public hearing, first reading of the ordinance & action concerning a requested zoning change from a (RM) Residential Mix District to a (E-29) East Side 29-District. The applicant requested the zoning change on June 10, 2015.

A public hearing was conducted by the Planning and Zoning Commission at its regular meeting on July 2, 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 Planning Department Report

To: Planning & Zoning Commission
Agenda Item: 2C
Planning File #: 2015-028
Hearing Date: July 2, 2015
Representative: John Sample
Location: Legion Drive North and Goss Street North
Legal Description: Lot 2 Block 1 of the Samples Properties
Total Acreage: 1.23

Proposal

Zoning change from a (RM) Residential Mix District to a (E-29) East Side 29-District

Procedural Requirements

The application was published in The Hill Country Community Journal, an official newspaper of general circulation on June 17, 2015. Notices were sent to property owners within two hundred (200) feet of the subject property on June 19, 2015. Additionally, notice of this meeting was posted at city hall and on the city's internet website on June 26, 2015, in accordance with Section 551.043(a) of the Texas Government Code.

Recommended Action

Staff recommends that the Commission hold the required public hearing to receive public comments and make a recommendation to the Council.

Notices Mailed

Owners of Property within 200 feet: 19

Topography

The property is relatively flat with various trees and grasses.

Adjacent Zoning and Land Uses

Direction: North

Current Base Zoning: RM

Current Land Uses: Single-Family Residential and Vacant

Direction: South

Current Base Zoning: E-29

Current Land Uses: Single-Family Residential and Shipping Center

Direction: East
Current Base Zoning: E-29 and RM
Current Land Uses: Single-Family Residential, Vacant and Retail

Direction: West
Current Base Zoning: E-29 and RM
Current Land Uses: Single-Family Residential and Vacant

Transportation

Thoroughfare: Goss Street North and Mesquite Street North
Existing Character: One lane in each direction with no sidewalks
Proposed Changes: None known

Thoroughfare: Legion Drive North
Existing Character: One lane in each direction with partial sidewalks
Proposed Changes: None known

Parking Information: A proposed land use for the subject property has not been determined.

Staff Analysis and Recommendation: Approval, pending plan amendment

1. Consistency:

The property's land use designation is Low-Density Residential. The requested "E-29" base zoning district is not consistent with the adopted land use designation. A plan amendment has been requested. The proposed future land use designation for the subject property is Mixed-Use" and will allow for the proposed "E-29" zoning district.

1. Adverse Impacts on Neighboring Lands:

Staff has found no evidence of likely adverse impacts on neighboring lands in relation to this zoning change request.

2. Suitability as Presently Zoned:

Both the existing and requested base zoning districts are appropriate for the surrounding area. The proposed zoning is consistent with the property to the east and will act as a buffer between Loop 534 to the east and the established mixed residential neighborhood to the west. In accordance with the City of Kerrville's Zoning Code the E-29 base zoning district "...is primarily to be developed with professional offices, personal services, retail limited to smaller buildings, and residential uses which will compliment and enhance the eastern entrance into the City..."

3. Health, Safety and Welfare:

Staff has found no indication of likely adverse effects on the public health, safety, or welfare.

4. Size of Tract:

The subject property is approximately 1.23 acres in size, which should be able to reasonably accommodate the proposed commercial uses.

5. Other Factors:

Due to a long running map error the subject property was platted with the assumption it was zoned for commercial uses.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2015-15**

AN ORDINANCE AMENDING THE CITY'S "ZONING CODE" BY CHANGING THE ZONING DISTRICT OF A PROPERTY LOCATED ADJACENT TO AND NORTHEAST OF LEGION DRIVE AND BETWEEN ITS INTERSECTION WITH GOSS STREET AND LOOP 534 (VETERANS HIGHWAY), BY REMOVING THE PROPERTY FROM THE RESIDENTIAL MIX (RM) DISTRICT AND PLACING IT WITHIN THE 29-E DISTRICT; 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

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing which was held before the City Council on July 7, 2015, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in the change of a zoning district for a property located adjacent to and northeast of Legion Drive and between its intersection with Goss Street and Loop 534 (Veterans Highway); such change to result in the removal of the property from the Residential Mix (RM) Zoning District to placement of the property within the 29-E Zoning District; and

WHEREAS, such public hearing was held in the Council Chambers beginning at approximately 6:00 p.m. on July 7, 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 buildings and encouraging the most appropriate use of land throughout the City, the Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to amend the City's Zoning Code to change the zoning district for the property described below by placing it within the 29-E Zoning District;

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

SECTION ONE. The zoning district for the following property located adjacent to and northeast of Legion Drive and between its intersection with Goss Street and Loop 534 (Veterans Highway) is changed from the Residential Mix (RM) Zoning District to the 29-E Zoning District:

Being all of a certain tract or parcel of land containing 1.23 acres, more or less, consisting of Lot 2, Block 1, of the Sample Properties Subdivision, a subdivision within the City of Kerrville, Texas, and being more particularly described and depicted at Exhibit A, attached hereto and made a part hereof for all purposes.

SECTION TWO. The zoning district change from the Residential Mix (RM) Zoning District to the 29-E Zoning District means that rezoned area will become connected to, merge with, and consist as a part of the existing 29-E Zoning District.

SECTION THREE. The City Manager or designee is authorized and directed to amend the City's official zoning map to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with Section 11-I-4(c) of the City's Zoning Code.

SECTION FOUR. 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 FIVE. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Council of the City of Kerrville, Texas, declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

SECTION SIX. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, 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 SEVEN. 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 EIGHT. 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 _____
of _____, A.D., 2015.

Jack Pratt, Jr., Mayor

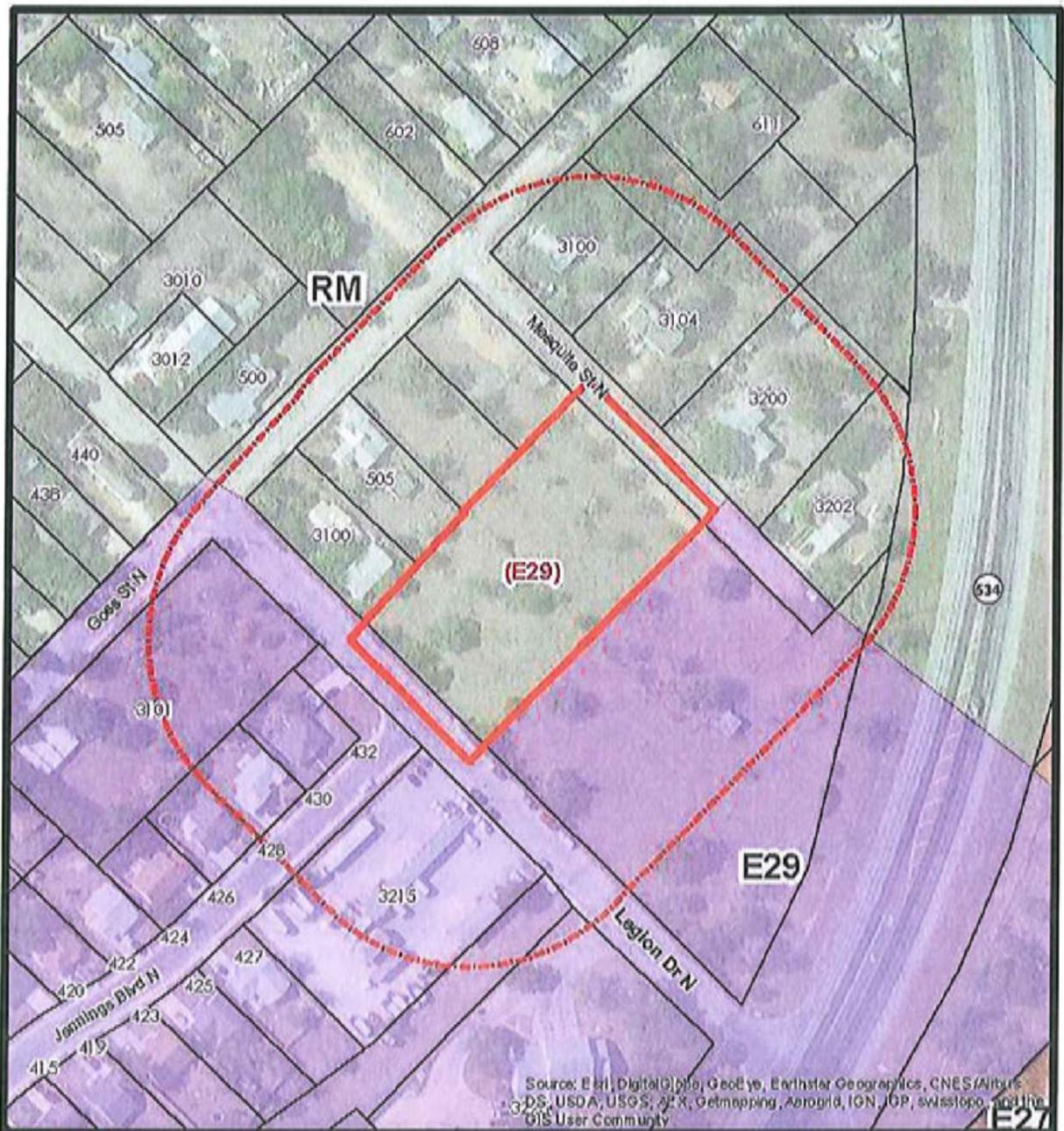
ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



Zoning Case Location Map

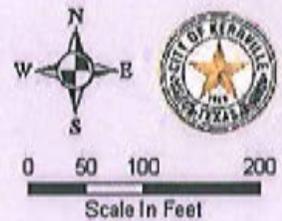
Case 2015-028

Location:

Sample Properties Block 1
Lot 2, 1.23 acres

Legend

200' Notification Area - - - - -
 Subject Properties —————
 Current Zoning **TEXT**
 Requested Zoning **(TEXT)**



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

Agenda Item:

3A. Proposed amendments to the Residential Transition (RT) Zoning District, to include development regulations regarding building size, building appearance, off-street parking, front yard requirement, sign restrictions, and land being used as churches and schools. (staff)

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

SUBJECT: Public hearing, & 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: July 7, 2015

DATE SUBMITTED: June 26, 2015

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS:

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 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 possibly amend development regulations pertaining to Building Limit, Building Appearance, Off-Street Parking, Front Yard Requirement, Sign Restrictions, Churches and Schools by adding language that is underlined (added), as follows:

Art. 11-I-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)(iii), above, and shall comply with the following:

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

a a wood, rock, brick exterior, stucco, or cement fiber board;

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 July 2, 2015.

RECOMMENDED ACTION

Staff recommends that the Council hold the required public hearing to receive public comments and direct staff.

Agenda Item:

4A. Request by the Joint Airport Board to proceed with the refurbishing of the Mooney parking lot, asphalt repair, and taxiway extension with participation from the City of Kerrville. (Bruce McKenzie, Airport Manager)

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

SUBJECT: Kerrville-Kerr County Airport / Mooney Parking Lot

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 29, 2015

SUBMITTED BY: Bruce McKenzie
Airport Manager

CLEARANCES:

EXHIBITS:

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 FINANCE DEPARTMENT:

SUMMARY STATEMENT

The Kerrville-Kerr County Joint Airport Board would like to request the City's assistance with labor and equipment, to level the area needed to refurbish the parking area for employees and guests at the Mooney International Manufacturing Facility and to extend a taxiway that will allow for better movement of aircraft. In addition, the aircraft movement areas adjacent to the Delivery Center need to be repaved.

RECOMMENDED ACTION

The Joint Airport Board would like to request approval of the Kerrville City Council to proceed with the refurbishing of the parking lot, asphalt repair and taxiway extension with the City's participation.

Agenda Item:

4B. Request by property owners to amend the zoning code, land use table for the central business district (staff)

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

SUBJECT: City Council direction concerning a request made by the public to amend Chapter I, "The City of Kerrville Zoning Code" Article 11-1-6 (CBD) Central Business District's Land Use Table.

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 24, 2015

SUBMITTED BY: Trenton Robertson
City Planner

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS:

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 OR FINANCE:

SUMMARY STATEMENT

This item concerns a request made by the public to amend Chapter I, "The City of Kerrville Zoning Code" Article 11-1-6 (CBD) Central Business District's Land Use Table.

When the CBD Land Use Table was adopted by City Council on May 10, 2011 by Ordinance 2011-09, there were various properties that became a non-conforming use. Two of these properties (Grimes Funeral Home and Herring Printing) have been in operation for an extended amount of time. Recently, staff was approached by these property/business owners with concerns that their properties are no longer permitted by right. Although, each one of these properties has non-conforming use rights, they want the ability to expand or rebuild if necessary without having to go through a public hearing process.

Currently, the CBD Land Use Table allows for "Death Care Services" and "Printing" through a conditional use permit. The conditional use permit would allow for each of these businesses to operate under a set of guidelines with an approved site plan. If these businesses ever change their approved site plan and its determined to be a major amendment a public hearing process would be required (similar to a zoning or text amendment change). The owners feel this would prohibit their businesses future and rather desire to operate under the same parameters that once were granted to their businesses prior to Ordinance 2011-09 being adopted by City Council. The requested text amendment to the code would change "Death Care Services" and "Printing" from a "C" Conditional Use Permit to a "P" Permitted Use.

Letters from the owners (previously mentioned) regarding this matter were received by staff on June 19, 2015 and June 22, 2015 and are attached to the agenda bill.

RECOMMENDED ACTION

Staff recommends that the Council direct staff on the matter presented concerning a possible text amendment to the (CBD) Central Business District use table.



HERRING PRINTING COMPANY

615 Water Street • Kerrville, Texas 78028 • (830) 257-7242 • Fax (830) 896-6222
Fredericksburg (830) 997-0887

June 18, 2015

Trenton Robertson, City Planner
City of Kerrville
200 Sidney Baker Street North
Kerrville, TX 78028

Re: Zoning, 615 Water Street, Kerrville

Dear Mr. Robertson:

Recently I learned from Mr. Johnny Grimes that our property at 615 Water Street is zoned for printing as a conditional use.

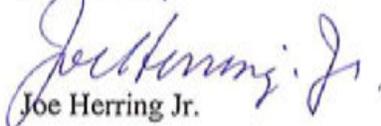
This came as a surprise, since our family has operated a printing company at this site since 1965; we purchased a printing company housed at the site, one of a succession of printing companies which have called 615 Water Street home since around the end of World War II. So this parcel has been used for printing since around 1945.

Despite this 70 year history, someone (or some committee) decided printing would only be a "conditional" use for this site. I've learned from Mr. Grimes' experience that if my family wanted to add to the building or make changes, we'd have a lengthy process to undergo to get city approval.

Therefore I request printing be a **permitted** use for our property, and not just a **conditional** use.

Please advise me of the steps necessary to make this change happen.

All the best,


Joe Herring Jr.



Grimes Funeral Chapels

MR. & MRS. JOHN M. GRIMES
MR. & MRS. JOHNNY A. GRIMES

P. O. BOX 290170 • KERRVILLE, TEXAS 78029-0170 • 830-257-4544 • FAX 830-792-4331

June 22, 2015

Trenton Robertson, City Planner
City of Kerrville
200 Sidney Baker Street North
Kerrville, TX 78028

Re: Text Zoning, Grimes Funeral Chapels

Dear Mr. Robertson:

Recently I realized from the City of Kerrville that Grimes Funeral Chapels' property is under conditional use and I'm requesting the City to put me back to permitted use so I will not have any issues when I try to expand or grow my business in the future. The funeral home has been in the same location since the 1930's.

Thank you for your help and consideration in resolving this matter.

Sincerely,
GRIMES FUNERAL CHAPELS



Johnny A. Grimes, Owner

Agenda Item:

4C. Kerrville Economic Development Corporation fiscal year 2016 funding request in the amount not to exceed \$23,750. (Jonas Titas, KEDC Executive Director)

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

SUBJECT: Kerr Economic Development Corporation FY2016 funding request in an amount not to exceed \$23,750

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: July 2, 2015

SUBMITTED BY: Ashlea Boyle *ab*
Special Projects Manager

CLEARANCES: Todd Parton
City Manager

EXHIBITS:

Letter from Jonas Titas, KEDC Executive Director Dated July 2, 2015
KEDC FY2016 Budget

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

This is the annual funding request from the KEDC Executive Director. The KEDC Board approved its FY2016 budget at their June 11, 2015 meeting. KEDC is requesting \$23,750 each from the City, County, and KPUB and \$175,750 from the EIC. This brings KEDC's total income from stakeholders to \$247,000. The City of Kerrville contribution for FY2015 was \$16,250.

RECOMMENDED ACTION

City staff recommends receiving a presentation from the KEDC Executive Director and consideration of the KEDC FY2016 funding request in an amount not to exceed \$23,750.



Kerrville Economic Development Corporation
1700 Sidney Baker, Suite 100
Kerrville, TX 78028

Phone: 830/896-1157
Fax: 830/896-1175
Kerr-edc.com

July 2, 2015

Kerrville City Council
701 Main St.
Kerrville, TX 78028



Re: Funding Request for FY 2015/16

Mr. Pratt:

The Kerrville Economic Development Corporation (KEDC) is beginning our fifth year of operations. KEDC's mission is to retain existing jobs and create new job opportunities in Kerrville and Kerr County. The Board is comprised of representatives of the County, City, City of Kerrville Economic Improvement Corporation, Kerrville Public Utility Board, Kerrville Independent School District, Kerrville Area Chamber of Commerce, the Kerrville Convention & Visitors Bureau and two members of the local business community.

KEDC had a great fiscal year 2014/15. We worked with 3 companies that will create 650 new primary jobs with annual wages of \$20 million and invest \$30 million in new plant and equipment in Kerrville and Kerr County. KEDC was awarded the Economic Excellence Award from the Texas Economic Development Council, Jonas Titas attained Certified Economic Developer status from the International Economic Development Council and KEDC will be applying for the Community Economic Development Award from the Texas EDC. We have seen increased prospect activity and visits to the KEDC website are increasing exponentially.

The KEDC Board of Directors recently approved our budget for FY 2015/16. Our new budget requests funding from our stakeholders in the amount of \$20,865.38 from the City, County and the Kerrville Public Utility Board and \$154,403.84 from the Economic Improvement Corporation. Funding allocations are necessary for KEDC to continue operations and prepare for the coming year. We will also ask the City Attorney to draft language in future funding agreements that any unallocated resources in KEDC accounts be returned to our funding stakeholders on a prorata basis should KEDC go dormant for a twelve month period.

KEDC greatly appreciates our stakeholder's continued support and the KEDC Board of Directors looks forward to a bright future and partnership that will be beneficial for all.

Respectfully,

Jonas Titas, CEcD
Executive Director

Kerrville Economic Development Corporation
2015/2016 Budget

	FY 12/13	FY 13/14	FY 14/15	FY 15/16	Per EIC Req.
Income					
City of Kerrville	14,500.00	17,500.00	16,250.00	23,750.00	20,865.38
EIC	127,000.00	60,000.00	166,250.00	175,750.00	154,403.84
Kerr County	14,500.00	17,500.00	16,250.00	23,750.00	20,865.38
KPUB	14,500.00	17,500.00	16,250.00	23,750.00	20,865.38
Other Income	-	-	-	-	-
Total Income	170,500.00	112,500.00	215,000.00	247,000.00	216,999.98
Expense					
Business Expenses	54,550.00	42,000.00	34,000.00	34,500.00	34,500.00
Contract Services	5,000.00	2,000.00	7,500.00	5,000.00	5,000.00
Operations	32,517.00	20,139.00	18,780.00	19,850.00	19,850.00
Other Types of Expenses	2,000.00	1,100.00	900.00	900.00	900.00
Payroll Expenses	151,723.60	149,794.00	160,420.00	171,281.60	171,281.60
Travel & Meetings	23,500.00	20,000.00	20,500.00	25,000.00	25,000.00
Total Expenses	269,290.60	235,033.00	242,100.00	256,531.60	256,531.60
Net Income:		-122,533.00	-27,100.00	-9,531.60	-39,531.62

Agenda Item:

4D. Authorization to execute an agreed order from Texas Commission on Environmental Quality pertaining to the exceedances of maximum total trihalomethanes. (staff)

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

SUBJECT: Consideration of an agreed order from TCEQ pertaining to the exceedances of maximum TTHM levels

FOR AGENDA OF: 06/24/15

DATE SUBMITTED: 07/7/15

SUBMITTED BY: Stuart Barron *SB* **CLEARANCES:** Kristine Day
Director of Public Works Deputy City Manager

EXHIBITS: TCEQ Letter and Proposed Order
TTHM Public Notice

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$1,215.00	\$10,502.65	\$41,300.00	02-882-405

REVIEWED BY THE FINANCE DIRECTOR: *DJ*

SUMMARY STATEMENT

TCEQ has offered an agreement order to the City of Kerrville pertaining to the four exceedances of the MCL (Maximum Contaminate Level) of TTHMs at three test sites within the city over the past year. Should the city execute the order, it would pay a \$1,215 fine to TCEQ and come into compliance within 365 days. The City has made significant strides over the past year to reduce TTHMs in light of increasing state and federal water quality standards.

The City of Kerrville's water quality remains of the highest standard. Kerrville has maintained a Superior Water System rating from TCEQ for the past 14 years. Staff expects public drinking water requirements to become increasingly stringent and new technologies and protocols will be required to keep up with these changes.

New TCEQ regulations have impacted the City of Kerrville:

In 1996 the EPA set standards for TTHM levels and started monitoring public water systems. Since that time, the allowable MCL for TTHMs has been significantly lowered and sampling criteria become significantly more stringent. In October 2013 the EPA changed the formula from a City wide average to a site specific average, and it was that change that pushed the City into non-compliance. TCEQ is charged with implementing these EPA standards.

How are TTHMs generated:

Source water as it travels through the river bed picks up dissolved materials from leaves, trees, dirt and other organic materials. Disinfectants are injected into the water

in order to neutralize these materials and other contaminants. When the disinfectant interacts with the organics TTHMs are created. TTHMs are created at higher rates as water warms up and as levels of organics increase due to rainfall. Additionally, older water has higher TTHM levels and when less water is used due to drought restrictions or heavy rainfall treated water stays in the system longer.

Projects completed to minimize TTHMs:

- *Engineering study – Freese and Nichols was hired to evaluate Kerrville's system and identify measures to reduce TTHM generation.*
- *Water treatment plant operational and treatment changes.*
- *Painted storage tanks – water storage tanks have been repainted a lighter color to help lower water temperatures.*
- *Installed tank mixers – units have been installed in water storage tanks to move water, thereby keeping it fresher. The mixers also have venting systems that help TTHMs to be vented from the water tanks.*
- *Installed by-passes to keep water fresher – this provides for greater circulation of water within the distribution system.*
- *Taken old tanks out of service – this helps to keep water fresher because there was unneeded, excess storage of treated water.*
- *Increased flushing with auto-flush valves and night time operator flushing – this is another means to keep water fresher, especially at remote sections of the distribution system.*
- *Implemented system testing for TTHM – this is an in-house testing program that enables the city's water system operators to monitor TTHM levels and adjust system operations accordingly.*
- *Increased blending of native ground water with surface water – surface water has significantly higher levels of dissolved organics. Dissolved organics are diluted with native ground water and, as a result, fewer TTHMs are generated per gallon of water treated.*

Additional options to further reduce TTHM generation:

- *Additional water treatment methods – staff is working to identify and evaluate other methods for disinfecting drinking water. A change in treatment methodology would be significant as each method has its own pros and cons. Furthermore, each treatment option is subject to TCEQ and EPA regulations and oversight.*
- *Utilize other chemical disinfectants – staff is also identifying whether there are additional chemicals that can be added to or substituted for existing chemicals.*

The City of Kerrville has evaluated and implemented the most effective strategies to reduce TTHM in our drinking water. Until new technology is available the Water Production Division will monitor TOC in our surface water and minimize its use when demand / supply allows for it.

Recommendation:

Direct the city manager to execute the TTHM agreed order with TECQ.

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

June 8, 2015

The Honorable Jack Pratt
Mayor of Kerrville
701 Main Street
Kerrville, Texas 78028

Re: Proposed Agreed Order
City of Kerrville; RN101425296; Public Water Supply ID No. 1330001
Docket No. 2015-0709-PWS-E; Enforcement Case No. 50513
FOR SETTLEMENT PURPOSES ONLY

Dear Mayor Pratt:

The Executive Director of the Texas Commission on Environmental Quality ("Commission" or "TCEQ") is pursuing an enforcement action against the City of Kerrville for violations of the Texas Health & Safety Code and/or Commission Rules. These violations were discovered during a record review conducted from April 13, 2015 through April 24, 2015, and documented in a letter dated April 24, 2015, from the TCEQ Public Drinking Water Section.

Please find enclosed a proposed agreed order which we have prepared in an attempt to expedite this enforcement action. The order assesses an administrative penalty of One Thousand Two Hundred Fifteen Dollars (\$1,215), identifies the violations that we are addressing, and identifies specific technical requirements necessary to resolve them.

If you have any questions regarding this matter, we are available to discuss them in a conference in Austin or over the telephone. If we reach agreement in a timely manner, the TCEQ will then proceed with the remaining procedural steps to settle this matter. These steps include publishing notice of the proposed order in the *Texas Register*, and scheduling the matter for approval by the Commission. We believe that handling this matter expeditiously could save the City of Kerrville and the TCEQ a significant amount of time, as well as the expense associated with litigation.

Enclosed for your convenience is a return envelope. If you agree with the order as proposed, please sign and return the original order **and** the penalty payment (check payable to "TCEQ" and referencing the City of Kerrville, Docket No. 2015-0709-PWS-E) to:

The Honorable Jack Pratt
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June 8, 2015

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

Should you believe you are unable to pay the proposed administrative penalty, you may claim financial inability to pay part or all of the penalty amount. Please contact us immediately to obtain a list of financial disclosure documents that must be submitted within 30 days of the receipt of this letter. These documents, once properly completed and submitted, will be thoroughly reviewed to determine if we agree with the claim of financial inability. Please be aware that if financial inability is proven to the satisfaction of staff, discussions pertaining to the penalty amount adjustment will focus only on deferral and not on waiver of the penalty amount.

You may be able to perform or contribute to a Supplemental Environmental Project ("SEP"), which is a project that benefits the environment, to offset a portion of your penalty. **If you are interested in performing a SEP, you must agree to the penalty amount and submit a SEP proposal within 30 days of receipt of this proposed order.** If you are a local government you may have additional SEP options available to assist you with coming into compliance or remediating the harm caused by the violations. A local government is defined as a school district, county, municipality, junior college district, river authority, water district or other special district or other political subdivision created under the constitution or a statute of this state.

For additional information about the types of SEPs available and eligibility criteria, please go to the TCEQ's web site link at <http://www.tceq.texas.gov/legal/sep/> or contact the Enforcement Coordinator listed below.

Please note that any agreements we reach are subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).

If we cannot reach a settlement of this enforcement action or you do not wish to participate in this expedited process, we will proceed with enforcement under the Commission's Enforcement Rules, 30 TEX. ADMIN. CODE ch. 70. Specifically, if the signed order and penalty are not mailed and postmarked within 60 days from the date of this letter, your case will be forwarded to the Litigation Division and this settlement offer will no longer be available. The enforcement process described in 30 TEX. ADMIN. CODE ch. 70 requires the staff to prepare and issue an Executive Director's Preliminary Report and Petition to the Commission. If you would like to obtain a copy of 30 TEX. ADMIN. CODE ch. 70, or any other TCEQ rules, the rules themselves and the agency brochure entitled *Obtaining TCEQ Rules* (GI-032) are located on our agency website at <http://www.tceq.texas.gov> for your reference. If you would like a hard copy of this brochure mailed to you, you may call and request one from the Central Office Publications Ordering Team at (512) 239-0028.

The Honorable Jack Pratt
Page 3
June 8, 2015

For any questions or comments about this matter or to arrange a meeting, please contact Ms. Jessica Schildwachter of my staff at (512) 239-2617.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael De La Cruz". The signature is stylized and cursive.

Michael De La Cruz, Manager
Enforcement Division
Texas Commission on Environmental Quality

MD/js

Enclosures: Proposed Agreed Order, Return Envelope, Penalty Calculation Worksheet, Site Compliance History

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF KERRVILLE
RN101425296

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2015-0709-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Kerrville ("Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 800 Junction Highway in Kerrville, Kerr County, Texas (the "Facility") that has approximately 11,851 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from April 13, 2015 through April 24, 2015, TCEQ staff documented that the locational running annual average concentrations of total trihalomethanes ("TTHM") for Stage 2 disinfection byproducts were 0.088 milligrams per liter ("mg/L") for the third quarter of 2014 for Site 4, 0.085 mg/L for the fourth quarter of 2014 and 0.088 mg/L for the first quarter of 2015 for Site 3, and 0.086 mg/L for the fourth quarter of 2014 and 0.083 mg/L for the first quarter of 2015 for Site 1.
3. The Respondent received notice of the violations on April 29, 2015.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to comply with the maximum contaminant level ("MCL") of 0.080 mg/L for TTHM, based on the locational running annual average, in violation of 30 TEX. ADMIN. CODE § 290.115(f)(1) and TEX. HEALTH & SAFETY CODE § 341.0315(c).
3. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of One Thousand Two Hundred Fifteen Dollars (\$1,215) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Two Hundred Fifteen Dollar (\$1,215) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of One Thousand Two Hundred Fifteen Dollars (\$1,215) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kerrville, Docket No. 2015-0709-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 365 days after the effective date of this Agreed Order, return to compliance with the MCL for TTHM, based on the locational running annual average, in accordance with 30 TEX. ADMIN. CODE § 290.115; and
 - b. Within 380 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Kerrville. I am authorized to agree to the attached Agreed Order on behalf of the City of Kerrville, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Kerrville waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Signature

Date

Name (Printed or typed)
Authorized Representative of
City of Kerrville

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.



Penalty Calculation Worksheet (PCW)

TCEQ

DATES Assigned PCW Screening EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent
 Reg. Ent. Ref. No.
 Facility/Site Region Major/Minor Source

CASE INFORMATION

Enf./Case ID No.	<input type="text" value="50513"/>	No. of Violations	<input type="text" value="1"/>
Docket No.	<input type="text" value="2015-0709-PWS-E"/>	Order Type	<input type="text" value="Findings"/>
Media Program(s)	<input type="text" value="Public Water Supply"/>	Government/Non-Profit	<input type="text" value="Yes"/>
Multi-Media	<input type="text"/>	Enf. Coordinator	<input type="text" value="Jessica Schildwachter"/>
		EC's Team	<input type="text" value="Enforcement Team 5"/>

Admin. Penalty \$ Limit Minimum Maximum

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Total Adjustments **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**
Total EB Amounts Estimated Cost of Compliance
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 12-May-2015

Docket No. 2015-0709-PWS-E

PCW

Respondent City of Kerrville

Policy Revision 4 (April 2014)

Case ID No. 50513

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101425296

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	3	15%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2)

>> Repeat Violator (Subtotal 3)

Adjustment Percentage (Subtotal 3)

>> Compliance History Person Classification (Subtotal 7)

Adjustment Percentage (Subtotal 7)

>> Compliance History Summary

Compliance History Notes

Enhancement for three NOVs with same or similar violations and one order with denial of liability.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100%

Screening Date 12-May-2015

Docket No. 2015-0709-PWS-E

PCW

Respondent City of Kerrville

Policy Revision 4 (April 2014)

Case ID No. 50513

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101425296

Media [Statute] Public Water Supply

Enf. Coordinator Jessica Schildwachter

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 290.115(f)(1) and Tex. Health & Safety Code § 341.0315(c)

Violation Description

Failed to comply with the maximum contaminant level ("MCL") of 0.080 milligrams per liter ("mg/L") for total trihalomethanes ("TTHM"), based on the locational running annual average. Specifically, the locational running annual average concentrations of TTHM for Stage 2 disinfection byproducts were 0.088 mg/L for the third quarter of 2014 for Site 4, 0.085 mg/L for the fourth quarter of 2014 and 0.088 mg/L for the first quarter of 2015 for Site 3, and 0.086 mg/L for the fourth quarter of 2014 and 0.083 mg/L for the first quarter of 2015 for Site 1.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm		
		Major	Moderate	Minor
	Actual		x	
	Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

As a result of the exceedances, persons served by the Facility have been exposed to significant amounts of contaminants which do not exceed levels that are protective of human health.

Adjustment \$700

\$300

Violation Events

Number of Violation Events 3

273 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	x
single event	

mark only one with an x

Violation Base Penalty \$900

Three annual events are recommended (one for each Site).

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOE/NOV	NOE/NOV to EDFRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$900

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$501

Violation Final Penalty Total \$1,215

This violation Final Assessed Penalty (adjusted for limits) \$1,215

Economic Benefit Worksheet

Respondent City of Kerrville
Case ID No. 50513
Reg. Ent. Reference No. RN101425296
Media Public Water Supply
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
 Item Description *No commas or \$*

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	30-Sep-2014	30-Sep-2016	2.00	\$501	n/a	\$501

Notes for DELAYED costs
 The delayed cost includes the estimated amount necessary to implement an alternative method of disinfection, calculated from the last day of the first quarter of non-compliance to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs
 (Empty box for notes)

Approx. Cost of Compliance \$5,000 **TOTAL** \$501

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600522858, RN101425296, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN600522858, City of Kerrville **Classification:** SATISFACTORY **Rating:** 2.25

Regulated Entity: RN101425296, CITY OF KERRVILLE **Classification:** UNCLASSIFIED **Rating:** -----

Complexity Points: 0 **Repeat Violator:** NO

CH Group: 14 - Other

Location: 800 JUNCTION HWY KERRVILLE, KERR COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1330001

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 06, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 06, 2010 to May 06, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jessica Schildwachter

Phone: (512) 239-2617

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 12/19/2011 ADMINORDER 2011-0825-PWS-E (1660 Order-Agreed Order With Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the third quarter of 2010.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.113(f)(4)
5A THSC Chapter 341, SubChapter A 341.0315(c)
Description: Violated the maximum contaminant level for trihalomethanes during the fourth quarter of 2010.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

CITY OF KERRVILLE
 701 Main Street
 Kerrville, Texas 78028



DEAR CITY OF KERRVILLE WATER CUSTOMER,

We'd like to share with you some useful information about the City's stewardship of our water resources, as well as ways in which water consumers can do their part in our Drought Management Plan. We also have some information to share with you regarding recent test results affecting a limited area of Kerrville water customers.

The City of Kerrville works diligently to manage both the quality and quantity of water available to Kerrville residents and businesses. Most recently, the City has allocated \$6.9 million dollars to fund important improvements and maintenance to our overall water system, including an additional water source, storage improvements, and upgraded water mains.

Our team of planning and production engineers, water quality experts, laboratory technicians, administration, and staff provide over 1.5 billion gallons of safe, drinkable water to the citizens of Kerrville each year. Additionally, water rates for Kerrville citizens have not increased since 2012.



WATER CONSERVATION PLAN

Year Round Water Conservation (Current Stage)

Automatic and Hose End Sprinklers, and Soaker
 Hoses are permitted:

6:00 AM to 10:00 AM

EVERY DAY

Hand-Held Hose w/ Nozzle, Drip Irrigation, or
 Bucket are permitted:

ANYTIME

EVERY DAY



**Unaffected
 Area**



**Affected
 Area**



**Sampling
 Location**



This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-file-ground survey and represents only approximate relative locations.



WHAT THE CITY OF KERRVILLE IS DOING...

1. Leak letters - If our meters detect continual or unusual water usage, the City will send you a courtesy notification. Often leaks are not visible or are small, so this letter may be the only way a customer knows to check for a leak.

2. Data Logs - In order to better manage water usage or help pinpoint a leak, it is useful to see how and when water is used. Customers can call Water Records at 800.258.1504 to request a free data log. This easy-to-read report shows water usage by day and even by hour for the last 90 days.

3. Dye Tablets - The Water Records office, located at 701 Main St., offers free dye tablets which allow you to check for a toilet leak before calling a plumber.

4. Lawn Watering Gauge - Measure how much water your sprinkler is providing to your lawn with our free gauge. Over watering not only wastes valuable resources, but can also harm your plants and lawn.

5. Brochures, Literature, Presentations - Need information on water for your home, business, school, club or organization? The City of Kerrville will provide free written information or speakers for your event.

WHAT YOU CAN DO...

1. Fix leaks around your properties. A single dripping faucet can waste over 2,000 gallons of water per year, and a broken toilet wastes even more.

2. Use drought-resistant plants in your landscaping. Many native species are already adapted for low rainfall periods.

3. Turn off the water when not actively using it. Simply turning off the water while you are cooking, washing your car, brushing your teeth, or shaving can save thousands of gallons a year.

4. Install low-flow shower heads and toilets, as well as faucet aerators.

5. Water within the times set forth in our City of Kerrville Water Management Plan.

IMPORTANT INFORMATION ABOUT YOUR DRINKING WATER

Recently, our water system received a notice of violation from the Texas Commission on Environmental Quality (TCEQ) for sampling results that exceeded the maximum contaminant level for total trihalomethanes (TTHM) in the water supplied to customers. Even though this is not an emergency, the City believes that all customers need to be informed on the test results, and what the City is doing to correct the violation.

Quarterly sampling events are conducted throughout Kerrville at various locations. This violation pertains to east/northeast portion of town (please see attached map). Although this violation only affects a small percentage of our customers, City staff is working diligently to implement additional strategies and procedures to prevent future violations at all sampling locations.

UNDERSTANDING TTHM

What is TTHM?

When Chlorine is used for the disinfection of water, it reacts with organic matter in the water and creates a by-product. This by-product is called Total Trihalomethane (TTHM) and is the most common by-product formed during the disinfection process.

Where else can you find TTHMs?

They can be found in swimming pools, soft drinks, coffee, tea, and some foods. TTHMs enter the body through inhalation during bathing / showering, skin contact during swimming, and during food or drink consumption.

What are the maximum contaminant levels and who establishes them?

The current maximum contaminant levels for TTHMs are .080 milligrams per liter (mg/L) which is equal to 80 parts per billion. These levels are established by the U.S. Environmental Protection Agency (EPA) and regulated by the Texas Commission on Environmental Quality (TCEQ).

What were the sampling results for our water?

Our last sampling event, in the 1st quarter of 2015, showed a running average result of .083 and .087 mg/L, which is .003 and .007 mg/L over the limit. This is equivalent to being over the limit by 3 or 7 parts per billion. For comparison, 3 parts per billion is equal to 3 drops of water in an Olympic size pool.

What causes TTHM to be higher than normal?

When drought conditions and extreme high temperatures exist, the water becomes warmer than usual and requires more chlorine to be used for disinfection.

WHAT IS THE CITY DOING TO REDUCE TTHMS?

Implementing new treatment techniques

Painted storage tanks with lighter colors to decrease water temperature

Installed water mixers and aerators in water storage tanks

Increasing sampling and testing at several locations

Evaluating line flushing techniques and procedures

Blending surface water and ground water

WHERE DOES KERRVILLE'S WATER COME FROM?

SURFACE WATER 85%

The Guadalupe River provides the majority of Kerrville's water, drawn from Nimitz Lake.

GROUND WATER 10%

The Lower Trinity Aquifer provides water via the City's eight operational wells.

ASR 5%

Kerrville was the 1st in the state and 3rd in the nation to use an innovative underground water storage system called Aquifer Storage and Recovery.

The City of Kerrville, public water system identification number TX0300001, has violated the monitoring and reporting requirements by the Texas Commission on Environmental Quality (TCEQ) in Chapter 30, Section 290, subchapter F. Public water systems that treat surface water are required to submit monthly operating reports with operational data of the water provided to their customers. We failed to report the individual Et combined filter results by the 10th of the month following the collection of this data. This violation occurred in the monitoring period for December 2014. Results of regular monitoring are an indicator of whether or not your drinking water is safe. We did not complete all reporting for the surface water constituents, and therefore TCEQ cannot be sure of the safety of your drinking water during that time. We have submitted the late reports with the surface water constituents showing the safety of your water, and will ensure that all future reports are submitted in a timely manner and meet TCEQ deadlines.

The Texas Commission on Environmental Quality (TCEQ) has notified the City of Kerrville water system that the drinking water being supplied to customers had exceeded the Maximum Contaminant Level (MCL) for total trihalomethanes. The U.S. Environmental Protection Agency (U.S. EPA) has established the MCL for total trihalomethanes at 0.080 (mg/L) based on locational running annual average (LRAA), and determined that it is a health concern at levels above the MCL. Analysis of drinking water in your community for total trihalomethanes indicates a compliance value in quarter one 2015 of 0.083 mg/L for DBP2-01 and 0.087 mg/L for DBP2-02.

Trihalomethanes are a group of volatile organic compounds that are formed when chlorine, added to the water during the treatment process for disinfection, reacts with naturally-occurring organic matter in the water.

Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidney, or central nervous systems and may have an increased risk of getting cancer.

You do not need to use an alternative water supply. However, if you have health concerns, you may want to talk to your doctor to get more information about how this may affect you.

Please share this information with all people who drink this water, especially those who may not have received this notice directly (i.e., people in apartments, nursing homes, schools, and businesses). You can do this by posting this notice in a public place or distributing copies by hand or mail.

If you have questions regarding this matter, you may contact: City of Kerrville at 830.257.8000.

The City of Kerrville's YR-2014 Consumer Confidence Report and Annual Water Quality Report is available to view at <http://www.kerrvilletx.gov/DocumentCenter/View/20829>

Agenda Item:

4E. Authorization to execute contract with Public Sector Personnel Consultants in the amount of \$15,000 to review the City of Kerrville compensation study dated August 2013. (staff)

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

SUBJECT: Contract with Public Sector Personnel Consultants in the amount of \$15,000 to review the City of Kerrville Compensation Study dated August 2013

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 30, 2015

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: Contract with Public Sector Personnel Consultants

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$7,500	\$154,349	\$202,899	01-870-410
\$7,500	\$265,068	\$300,000	02-870-410

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

In 2013, the City of Kerrville contracted with Public Sector Personnel Consultants (PSPC) to develop a salary plan that was implemented in FY2014 and FY2015. Kerrville's pay scales and step plans had been frozen in FY2010 due to the economic recession and the city wanted to determine the market rates for each job description, evaluate the adjustments needed to bring salaries up to an appropriate level, and provide recommendations on how to implement the recommended salary plan. This study found that Kerrville's compensation plan was not competitive for 68% of its benchmark job classes when compared to public and private sector competitor employers. It also highlighted the fact that the police pay scale was 10% below market and the fire pay scale was 9% below market.

The compensation plan cost \$33,000 and was presented to and accepted by the City Council. Due to the significant nature of the compensation plan adjustments, plan recommendations were implemented over two fiscal years – FY2014 and FY2015. FY2016 will represent the third fiscal year since the study was completed.

A competitive compensation plan is critical to recruiting and retaining employees who are able and qualified to deliver the services expected within the community. However, the compensation plan should also be measured against appropriate salary survey benchmarks and comparators. The 2013 compensation survey benchmarked Kerrville to the following communities: Boerne, Cedar Hill, Cibolo, Cleburne, Ennis, Fredericksburg,

Georgetown, Kerr County, Marble Falls, New Braunfels, Pflugerville, San Marcos, Schertz, Seguin, Watauga, Waxahachie, and Weatherford.

The compensation plan review would include the following:

1. Update the salary survey originally conducted in 2013 using the same benchmark communities,
2. Evaluate and make recommendations for salary range adjustments,
3. Estimate fiscal impacts,
4. Provide recommendations for adjustments to the compensation plan (special emphasis to be placed on the step plan programs for public safety personnel), and
5. Provide one year of ongoing support to city staff.

Staff requests authorization to engage PSPC to review the current compensation plan and to provide a report by December 31, 2015. This would provide adequate time to review any recommended compensation plan adjustments and prepare for implementation in FY2017.

RECOMMENDED ACTION

Authorize city staff to execute a contract with Public Sector Personnel Consultants to review the city's compensation plan.

PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into by the **City of Kerrville** ("the City"), and **Public Sector Personnel Consultants, Inc.** ("PSPC").

This Agreement is for PSPC to conduct a compensation study and pay plan update:

SCOPE OF SERVICES TO BE PROVIDED TO THE CITY

The project includes partnership with the Director of General Operations and Human Resources staff, City Manager and project designee(s); salary survey update and competitiveness analysis; salary range adjustment recommendations; fiscal impact estimates; updated compensation plan and one year of compensation plan implementation support for all job classifications.

PROJECT DURATION

PSPC will complete the study prior to December 31, 2015.

PROJECT COST AND PAYMENT

The total contract for the compensation survey and plan shall not exceed \$ 15,000, inclusive of all reimbursable expenses and optional project add-ons, without further City approval and modification of this agreement. PSPC will provide the City with monthly invoices for services provided and out-of-pocket expenses incurred during the month. An on-site presentation of findings and recommendations can be added for \$1,500. The City agrees to pay the invoices within thirty (30) days of their receipt.

SEVERABILITY

That should any word, sentence, paragraph, subdivision, clause, phrase or section of this Agreement, be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said agreement, which shall remain in full force and effect.

VENUE

The laws of the State of Texas shall govern the interpretation, validity, performance and enforcement of this Agreement. The parties agree that this Agreement is performable in Kerr County, Texas and that exclusive venue shall lie in Kerr County, Texas.

TERMINATION

This Agreement may be terminated by either party with 30 days written notice.

ASSIGNMENT

The assignment of this Agreement by any party is prohibited without the prior written consent of the other Party.

AMENDMENT

Any amendment of this Agreement must be in writing and will be effective if signed by the authorized representatives of the Parties.

NOTICES

Any notices under this Agreement will be effective if transmitted to a Party by confirmed telecopy or via US Postal Service, postage prepaid, certified, to the address of the Party indicated below:

CITY
Kim Meisner
Director of General Operations
City of Kerrville
701 Main Street
Kerrville, TX 78028

PSPC (national office)
Matthew Weatherly
President
Public Sector Personnel Consultants, Inc.
1215 W. Rio Salado Parkway #109
Tempe, Arizona 85281

NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement, express or implied, is intended to confer any rights, benefits, or remedies under or by reason of this agreement upon person or entity, other than the City and PSPC.

**APPROVED FOR
THE CITY OF KERRVILLE**

By: _____
(Signature)
Name: Todd Parton
Title: City Manager
Date: 6/29/2015

**APPROVED FOR
PUBLIC SECTOR PERSONNEL CONSULTANTS**

By: _____
(Signature)
Name: Matthew Weatherly
Title: President
Date: _____

Agenda Item:

4F. Presentation of fiscal year 2016 budget and direction to staff. (staff)

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

SUBJECT: Discussion and direction to city staff regarding the City of Kerrville
FY2016 budget

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: June 30, 2015

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City staff will present the draft FY2016 budget. The initial draft was provided to City Council on June 9, 2015. Consolidated budget revenues are estimated to be \$48,788,302. This represents a 1.5% increase in revenue from the FY2015 projections. Revenue projections assume no changes to the total property tax rate of \$0.5625 or the existing water and sewer rates.

The FY2016 budget has been developed utilizing the 5-year fiscal sustainability model. This model calculates a 5-year forecast for revenues and expenditures. Revenue forecasts are based on regression analysis in addition to an evaluation of internal and external forces. Expenditure forecasts anticipate known programming changes, incremental increases in recurring operations expenses, and major capital expenditures. Pages 24 through 27 of the draft budget describe the fiscal sustainability methodology.

FY2016 revenues are projected to be as follows:

Charges for Services (water, wastewater, ems, parks, etc.)	\$14,572,755 (29.9%)
Property Tax	\$10,340,747 (21.2%)
Sales Tax	\$ 6,254,534 (12.8%)
Other Tax	\$ 2,936,429 (6.0%)
Intergovernmental (due from other entities)	\$ 4,569,295 (9.4%)
All Other Sources	\$10,114,542 (20.7%)

Key features for the draft FY2016 budget include:

1. Overall – Maintaining the current levels of service except for the Streets Division and the Kerrville Police Department.
2. Streets Division - Increasing the street maintenance budget from \$663,099 to \$1,000,001.
3. Kerrville Police Department – Unfreezing one patrol officer position and one investigator position in the Kerrville Police Department (positions frozen in 2010).
4. Fire Reserve – Allocating the second of two planned installments of \$600,000 each for a designated reserve fund.
5. Salary Adjustments – Implementing the step plans for public safety personnel and providing for a 3% increase in payroll and payroll related expenses for a merit raise program.
6. Proposed Athletic Complex – Providing for the initial startup of the proposed athletic complex.

Staff proposes a budget workshop for 8:30 a.m. on Monday, July 20, 2015.

RECOMMENDED ACTION

City staff has no additional recommendations and is requesting input and direction on the draft budget and on scheduling a budget workshop.

Agenda Item:

4G. Discussion and possible action to withdraw the contract of sale with the Cailloux Foundation Properties, L.L.C. for a proposed athletic complex at the intersection of Holdsworth Drive and Town Creek Road and resubmit the Gift of Parkland and Project Management Services Agreement with the Cailloux Foundation Properties, L.L.C. for said athletic complex.

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

SUBJECT: Discussion and possible action to withdraw the Contract of Sale with the Cailloux Foundation Properties, L.L.C. for a proposed athletic complex at the intersection of Holdsworth Drive and Town Creek Road and resubmit the Gift of Parkland and Project Management Services Agreement with the Cailloux Foundation Properties, LLC for said athletic complex

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: July 2, 2015

SUBMITTED BY: Bonnie White
Place 2

CLEARANCES:

EXHIBITS: Gift of Parkland and Project Management Services Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At its meeting of June 23, 2015, the City Council voted 4-1 to authorize city staff to finalize amendments to the city's agreement with the Cailloux Foundation for the athletic complex proposed at the intersection of Holdsworth Drive and Town Creek Road. Councilmember Stork's motion regarding the proposed revisions was as follows, "I move that we approve this agreement as amended as presented this evening."

City staff provided a copy of the final, revised agreement to the City Council on June 26, 2015. I feel that the revised agreement requires additional City Council action since it contains information that was not included in the council's consideration on June 23.

RECOMMENDED ACTION

I recommend that the City Council terminate the original Contract of Sale with the Cailloux Foundation Properties, LLC and, if council desires, to consider the new agreement entitled Gift of Parkland and Project Management Services Agreement attached hereto.

GIFT OF PARKLAND AND PROJECT MANAGEMENT SERVICES AGREEMENT

This Gift of Parkland and Project Management Services Agreement (the "Agreement") is made and entered into by and between Cailloux Foundation Properties, LLC, a Texas limited liability company ("Cailloux"), and City of Kerrville, Texas ("City"), sometimes individually a "Party" and collectively the "Parties", effective the date hereof.

RECITALS

WHEREAS, Cailloux owns certain land located in Kerr County, Texas, which Cailloux desires to give to City; and

WHEREAS, City desires to, and as a condition of the gift contemplated herein, City agrees to improve the land with athletic facilities, including softball fields, baseball fields, soccer fields, and restrooms for use as a public park; and

WHEREAS, the primary purpose of Cailloux's purchase, holding, improvement and gift of the real property is to accomplish one or more purposes of Section 170(c)(2)(B) of the Internal Revenue Code; and

WHEREAS, Cailloux intends to transfer the land to City for a as a gift; and

WHEREAS, Cailloux will transfer the land to City as soon as practical after the City enters into a construction contract(s) pursuant to a public procurement process authorized by state law; and

WHEREAS, City desires will accept such land for use by the public as a public park; and

WHEREAS, on or about May 8, 2015, Cailloux and City entered into that certain Contract for Sale ("Contract"), which was the basis for this Agreement; and

WHEREAS, sometime following that meeting, Cailloux and City entered into negotiations to amend the Contract; and

WHEREAS, at the regularly scheduled City Council meeting held on June 23, 2015, City agreed to amend the Contract as provided herein; and

WHEREAS, this Agreement represents a true and correct version of all amendments made to the Agreement and amends and restates the prior agreement in its entirety;

NOW, THEREFORE, for and in consideration of the foregoing premises, and other good and valuable consideration, Cailloux and City agree as follows.

1. GIFT.

Cailloux hereby agrees to give and convey unto City, and City agrees to accept and take from Cailloux, the following-described real estate situated in Kerrville, Kerr County, Texas, to wit, an approximate 104.5 acre tract of land outlined on Exhibit A attached hereto and

incorporated herein by this reference for all purposes (the "Land"), and all rights and appurtenances pertaining thereto, expressly excluding, however, any oil, gas or other mineral interests, and any such rights to the extent related to other land owned by Cailloux, such real estate, rights, and appurtenances being herein referred to as the "Property." The Property shall also include all right, title and interest of Cailloux to all site plans, surveys, soil and substrata studies, architectural drawings, construction plans and specifications, engineering plans and studies, and landscape plans that relate solely to the Land or the Project Improvements as hereinafter defined (the "Intangible Property"). Cailloux hereby makes a \$3,000,000.00 financial commitment to the creation of the public park contemplated herein. The Parties agree that after taking into account the Property Value and the payment of those expenses that are an obligation of Cailloux under this Agreement, Cailloux will pay additional expenses associated with the construction of the Public Improvements sufficient to bring its total contribution to \$3,000,000.00.

2. PROPERTY VALUE.

The Property Value (herein so called) for the Property is \$1,500,000.00, as determined in accordance with the appraisal obtained by Cailloux from Valbridge Property Advisors/Dugger, Canaday, Grafe, Inc. dated April 29, 2015.

3. SURVEY AND TITLE COMMITMENT.

a. Cailloux, at Cailloux's cost, shall cause to be prepared a current on-the-ground survey (the "Survey") of the Property certified and delivered to Cailloux, City and the Title Company (hereinafter defined) not later than the twentieth (20th) day after the Effective Date. The Survey shall be staked on the ground and shall show the location of all improvements, highways, streets, roads, railroads, proposed perimeter streets, fences, encroachments, easements (including underground easements), municipally-required greenway or parkland areas, and rights-of-way on or adjacent to the Property, designated wetlands areas, lakes, ponds, creeks, rivers or other water courses, such water courses including any flood-hazard area, flood-prone area, or 100-year flood plain. The Survey shall indicate the recording information as to any recorded encumbrances; shall set forth and certify the total number of acres comprising the Property; shall provide a certified metes and bounds description of the Property; and shall contain such other certification as the Title Company or City may reasonably require. The Survey shall be sufficiently detailed to allow Title Company to amend the standard exception in the Title Policy relating to any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements to read "shortages in area" only.

b. Not later than the twentieth (20th) day after the Effective Date of this Agreement, Cailloux shall deliver or cause to be delivered to City and Cailloux: (i) a title commitment ("Title Commitment") covering the Property, binding the Title Company to issue a Texas Owner's Policy of Title Insurance on the standard form of policy prescribed by the Texas State Board of Insurance at the Closing (hereinafter defined) in the full amount of the Property Value; and (ii) copies of any and all instruments referred to in the Title Commitment as constituting exceptions or restrictions upon the title of Cailloux (the "Exception Documents"). On the Title Policy (hereinafter defined), the exception as to restrictive covenants shall be endorsed "None of Record" (except for those constituting "Permitted Exceptions" [hereinafter defined]); and the

exception as to parties in possession shall be deleted. At Closing, Cailloux shall obtain and deliver to City, at Cailloux's sole cost and expense, a title insurance policy (Texas Owner's Policy of Title Insurance on the standard form of policy prescribed by the Texas State Board of Insurance) for the Property purchased, in the full actual amount of the Property Value, insuring fee simple title to the Property as being vested in City subject only to the Permitted Exceptions (hereinafter defined) and otherwise meeting the requirements hereof (the "Title Policy").

c. Not later than the thirtieth (30th) day after City receives the Title Commitment, Exception Documents, and Survey City shall deliver in writing to Cailloux such objections as City may have to anything contained therein. However, if at any time after delivery of the Survey and Title Commitment and prior to Closing, City receives notice of or otherwise discovers that title to the Property is subject to any additional exceptions to which City objects ("Additional Exceptions"), City shall notify Cailloux in writing of the Additional Exceptions to which City objects not later than five (5) days after City receives notice of such Additional Exceptions. Any such item to which City shall not object shall be deemed a "Permitted Exception." City shall not be required to object to any matter shown on Schedule C of the Title Commitment, and Cailloux shall satisfy all Schedule C matters except those relating to the status or authority of City. If there are objections by City, Cailloux may, at its option, satisfy them prior to Closing and to cause the Title Company to revise the Title Commitment to reflect such satisfaction; provided, that except for obtaining the release of any monetary liens incurred by Cailloux, Cailloux shall have no obligation to expend any funds to resolve any exceptions. Cailloux shall deliver written notice to City not later than fifteen (15) days after receipt of City's written objections specifying if Cailloux is unable or unwilling to satisfy any such objections, or if, for any reason, Cailloux is unable to convey title in accordance with Section 6.b below, City may, not later than ten (10) days after receipt of Cailloux's notice, either (i) waive such objections and accept title subject to such uncured objections; or (ii) terminate this Agreement by written notice to Cailloux. Upon the termination of this Agreement pursuant to this Section 3.c, the Parties shall have no further rights or obligations hereunder except for any obligations under this Agreement which expressly survive the termination or the Closing of this Agreement (the "Surviving Obligations"). The lien for current taxes not yet due and payable for the year of Closing shall be deemed to be a Permitted Exception.

d. Not later than the twentieth (20) day after the Effective Date, Cailloux shall deliver to City the following documents within Cailloux's possession or control (even if not immediately in Cailloux's possession):

- (1) Copies of all environmental, mechanical, structural, soil, inspection, and engineering reports pertaining to the Property;
- (2) Copies of all existing leases, contracts, or agreements pertaining to the Property;
- (3) Copies of all governmental licenses and permits issued with respect to the Property, including specifically, without limitation, variances, special or conditional use permits, building permits and certificates of occupancy;
- (4) Copies of all zoning information regarding the Property, including zoning studies and zoning opinion letters;

(5) A list of all pending litigation which relates to the Property, identifying the general nature of such litigation and the legal counsel representing Cailloux in same; and

(6) Copies of all architectural, engineering, and other plans and specifications for the Property, and copies of all boundary surveys, topographical surveys, title surveys, site plans, development plans, plats, preliminary plats, and similar information.

4. DEVELOPMENT MATTERS.

a. Cailloux covenants and agrees to cause to be designed the athletic fields and related facilities (the "Project Improvements") in accordance with the provisions of this Section 4 and applicable ordinances, statutes and laws. The scope of the Project Improvements is set forth on Exhibit B attached hereto and incorporated herein by reference for all purposes and has been agreed upon by Cailloux and City. The scope of the Project Improvements will not be changed except upon mutual written consent of Cailloux and City.

b. Not later than thirty (30) days after the Effective Date, Cailloux shall deliver plans for construction of the Project Improvements (the "Project Improvements Plans") to City for review and approval in accordance with the provisions of Section 12. Once approved by Cailloux and City, the Project Improvements Plans shall not be modified without the written consent of both Parties.

c. Following approval of the Project Improvement Plans, Cailloux shall procure the services of a project manager who will be responsible for the coordination of construction activities regarding the construction of the Project Improvements to include contract compliance; review of performance, work, pay requests, and requested modifications; progress reports to City; and any other related duties upon agreement of the Parties. Cailloux shall contract and pay for the services of the project manager, whose selection must be approved by City, such approval not to be unreasonably withheld or delayed.

d. Following approval of the Project Improvement Plans, City shall procure a construction contract(s) for construction of the Project Improvements in accordance with competitive bidding or competitive proposals under state law.

e. The Project Improvements shall be designed, constructed and performed in a good and workmanlike manner in accordance with standard design or construction practice, as applicable, for the design or construction of improvements similar to the Project Improvements in question or the performance of the work in question. All construction contracts relating to the Project Improvements shall contain a representation and warranty from the contractor that the construction work covered by such agreements will be warranted from defects in workmanship and materials for a period of at least two (2) years from the date of final acceptance of such work by Cailloux and City (unless a longer period of time is provided for by the manufacturer or supplier of any materials or equipment which is a part of such work).

f. Cailloux has engaged Hewitt Engineering, A3 Studio and MEP, Inc. in connection with design work for the Project Improvements. Cailloux shall provide copies of the contracts with such professionals to City. Cailloux shall not amend, modify or alter any design contract

submitted to City without obtaining the prior approval of City as to any such amendment, modification or alteration that would cause the design contract not to meet the requirements of this Agreement, such approval not to be unreasonably withheld, conditioned or delayed.

g. City shall, prior to entering into the construction contract(s) for the Project Improvements, submit to Cailloux the name and qualifications of the proposed contractor(s).

h. Not later than ninety (90) days after the Effective Date, Cailloux will provide City with copies of all tests and studies prepared by or for Cailloux with respect to the Property and not otherwise provided to City pursuant to Section 3.d. promptly following receipt by Cailloux of any such additional test or study.

5. INSURANCE

a. Prior to commencement of any Project Improvements work and at all times during the performance of such Project Improvements work and for so long after the completion thereof that any person has any repair obligations with respect to such Project Improvements work, Cailloux shall cause its project manager to obtain, keep and maintain a commercial general liability insurance policy ("GL Policy for Project Improvements"), written on an occurrence basis and limited to the Project Improvements work and the Property naming such contractor or subcontractor as the insured and Cailloux and City as additional insureds, affording protection against liability arising out of personal injury, bodily injury and death and/or property damage occurring, in, upon or about the Property or resulting from, or in connection with, the construction, use, operation or occupancy of the Property and containing provisions for severability of interests. The GL Policy for Project Improvements work shall be for not less than \$5,000,000.00 each occurrence, \$5,000,000.00 completed operations aggregate, \$5,000,000.00 general aggregate, \$5,000.00 medical payments and \$250,000.00 fire legal liability; and (ii) the self-insured retention not to exceed One Hundred Thousand and No/100 Dollars (\$100,000.00) per loss, unless such retention is lower than what is available on commercially reasonable terms in which case Cailloux shall be entitled to maintain the retention that is available on commercially reasonable terms. The GL Policy for Project Improvements work shall also contain the following endorsements to the extent obtainable on commercially reasonable terms: (i) premises and operations coverage with explosion, collapse and underground exclusions deleted, if applicable, (ii) owners' and contractors' protective coverage, (iii) blanket contractual coverage, including both oral and written contracts, (iv) broad form property damage coverage, (v) completed operations and products liability coverage for a period of two (2) years after commencement of operations, and (vi) cross liability endorsement.

b. Each and every insurance policy required to be carried by or on behalf of either Party pursuant to this Agreement shall provide (and any certificate evidencing the existence of each such insurance policy shall certify) that such insurance policy shall not be canceled, non-renewed or coverage thereunder materially reduced unless the other Party shall have received notice of cancellation, non-renewal or material reduction in coverage, in each such case (except for notice of cancellation due to non-payment of premiums) such notice to be sent to the other Party not less than thirty (30) calendar days (or the maximum period of calendar days permitted under applicable law, if less than thirty (30) calendar days) prior to the effective date of such cancellation, non-renewal or material reduction in coverage, as applicable. In the event any insurance policy required to be carried by or on behalf of either Party pursuant to this Agreement

is to be canceled due to non-payment of premiums, the requirements of the preceding sentence shall apply except that the notice shall be sent to the other Party on the earliest possible date but in no event less than ten (10) calendar days prior to the effective date of such cancellation.

c. Except as otherwise provided for herein, each and every insurance policy required to be carried by either Party pursuant to this Agreement shall provide that the policy is primary and that any other insurance of any insured or additional insured thereunder with respect to matters covered by such insurance policy shall be excess and non-contributing. Each of said insurance policies shall also provide that any loss shall be payable in accordance with the terms of such policy notwithstanding any action, inaction or negligence of the insured or of any other Person (including Cailloux or City) which might otherwise result in a diminution or loss of coverage, including "breach of warranty", and the respective interests of Cailloux and City shall be insured regardless of any breach or violation by Cailloux or City or any other person of any warranty, declaration or condition contained in or with regard to such insurance policies.

d. With respect to each and every one of the insurance policies required to be obtained, kept or maintained under the terms of this Agreement, on or before the date on which each such policy is required to be first obtained and at least fifteen (15) calendar days before the expiration of any policy required hereunder previously obtained, the Party required to obtain, keep or maintain such policy shall deliver evidence reasonably acceptable to the other Party showing that such insurance is in full force and effect. Such evidence shall include certificates of insurance (on the ACORD 28 form) setting forth the name of the issuing company, the coverage, limits, deductibles, endorsements, term and termination provisions thereon and confirmation that the required premiums have been paid. Further, each Party agrees to promptly deliver notice to the other Party of any facts or circumstances of which it is aware which, if not disclosed to its insurers or re-insurers, is likely to affect adversely the nature or extent of the coverage to be provided under any insurance policy required hereunder.

6. CERTIFICATES OF OBLIGATION

Following execution of this Agreement, City agrees to diligently proceed with all necessary action to obtain approval of the issuance of certificates of obligation and thereafter to proceed diligently to issue such certificates and receive the proceeds thereof. If City does not obtain approval for issuance of the certificates of obligation or receive the funding thereof on or before July 31, 2015, City or Cailloux may terminate this Agreement. Upon any such termination, neither City nor Cailloux shall have any further liabilities or obligations under this Agreement, except for the Surviving Obligations (as defined herein).

7. CLOSING.

a. The closing ("Closing") of this Agreement shall be held at Fidelity Abstract & Title, 829 Jefferson, Kerrville, Texas 78028, Attn: Jimmie Peschel (the "Title Company") on or before the tenth (10th) day following the City's notice to Cailloux of its readiness and intent to proceed with the construction of the Project Improvements.

b. At the Closing, Cailloux shall, at Cailloux's expense, deliver to City: (i) a special warranty deed (the "Deed") conveying the Property, subject only to the Permitted Exceptions and the Use Restriction (hereinafter defined); (ii) a bill of sale and assignment conveying the

Intangible Property; (iii) a Title Policy issued by the underwriter for the Title Company, pursuant to the Title Commitment in the form contemplated herein, subject only to the Permitted Exceptions; (iv) possession of the Property; (v) a non-foreign affidavit in accordance with Section 1445 of the Internal Revenue Code; and (vi) any other documents required of Cailloux by this Agreement or by Title Company.

c. The Deed shall contain a restriction (the "Use Restriction") requiring City to use the Property as an athletic facility for the residents of the City of Kerrville and others for a period of ninety-nine (99) years and providing that if the Property ceases to be used for such purposes, the Property will revert back to Cailloux. Prior to exercising the right of reverter, Cailloux will give notice to City that the required use has ceased and upon such notice City will have six (6) months to resolve, cure and/or comply with the Use Restriction. In addition, City shall commence construction of the Public Improvements no later than one (1) year from the Effective Date and shall complete such construction within four (4) years of the Effective Date. Failure by City to comply with either of these dates will cause the Property to revert back to Cailloux. However, prior to exercising such right, Cailloux shall comply with the notice provision specified in this subsection.

d. At the Closing, City shall deliver to Cailloux any documents required of City by this Agreement.

e. Cailloux shall pay all title commitment, tax certificates, and title search fees, the basic premium for the owner's policy (but not the cost of any endorsements to the owner's policy) and all deed and transfer taxes, if any. City shall pay all document recording fees for the Deed and any title premiums for any required endorsements to the Title Policy. With respect to all other costs, each Party shall pay one-half of the Title Company's escrow fee and its share of the Closing costs which are normally assessed by the Title Company against a seller or purchaser in a transaction of this character in Kerr County, Texas.

f. Rents and ad valorem taxes for the then-current year shall be prorated at the Closing, effective as of the date of Closing. Cailloux shall pay all special taxes or assessments approved and/or assessed with respect to the Property prior to Closing. In addition, Cailloux will pay at Closing the pro-rated amount of ad valorem taxes for the Property for the calendar year of Closing in accordance with Texas Tax Code §26.11. CITY IS A POLITICAL SUBDIVISION OF THE STATE OF TEXAS AND EXEMPT FROM PAYMENT OF AD VALOREM TAXES ON PROPERTY OWNED BY IT FROM AND AFTER THE DATE OF ITS CONVEYANCE TO CITY. City shall be responsible for paying all rollback, open space, or similar taxes attributable to agricultural, open space or special use valuation and any other deferred taxes or assessments attributable to the Property which pertain to a period prior to Closing whether or not such taxes or assessments are assessed prior to Closing (herein called "Rollback Taxes"). Any assessments assessed prior to Closing shall be paid by Cailloux at or prior to Closing and Cailloux shall deliver evidence of payment satisfactory to the Title Company. If the Property is taxed as a part of a larger parcel, an appropriate proration shall be made based upon the acreage contained in the Property and the acreage contained in the larger parcel. This paragraph shall survive the Closing of this transaction.

g. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, CAILLOUX IS CONVEYING THE PROPERTY TO CITY "AS IS," "WHERE IS" AND

WITH ALL FAULTS AND SPECIFICALLY AND EXPRESSLY WITHOUT ANY WARRANTIES, REPRESENTATIONS OR GUARANTEES, WHETHER EXPRESS OR IMPLIED, OF ANY KIND, NATURE OR TYPE WHATSOEVER FROM OR ON BEHALF OF CAILLOUX, OTHER THAN CAILLOUX'S EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT AND CAILLOUX'S WARRANTY OF TITLE TO BE CONTAINED IN THE DEED TO BE DELIVERED AT CLOSING.

8. TERMINATION.

If this Agreement is terminated by City or is automatically terminated in accordance with Section 3 above or any other provision of this Agreement, the Parties shall have no further obligations or liabilities one to the other.

9. CAILLOUX REPRESENTATIONS AND WARRANTIES.

Cailloux represents and warrants to City, as of the date hereof and as of the date of Closing, that:

a. There are no parties in possession of any portion of the Property as lessees, tenants at sufferance, or trespassers, and no Party has been granted any license, lease, or other right relating to use or possession of the Property.

b. Cailloux has not received any written notice of any violation of any ordinance, regulation, law, or statute of any governmental authority or agency pertaining to the Property.

c. The execution and delivery of this Agreement, the consummation of the transaction herein contemplated, and compliance with the terms of the Agreement will not conflict with or, with or without notice or the passage of time or both, result in a breach of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, loan agreement, contract for deed or instrument to which Cailloux is a party or by which Cailloux or Cailloux's property is bound, or any applicable regulation or any judgment, order, or decree of any court having jurisdiction over Cailloux or Cailloux's properties.

d. There are no attachments, executions, assignments for the benefit of creditors, or voluntary or involuntary proceedings in bankruptcy or under any applicable debtor relief laws, or any other litigation contemplated by or pending or threatened against Cailloux or the Property.

e. To the best knowledge and belief of Cailloux, the Property contains no threatened or endangered species or endangered or protected habitats or items of archaeological significance as defined by applicable state and federal laws.

f. Except for Cailloux, there are no parties with any interest in the Property (marital, homestead, or otherwise), and no other signatures are required to make this Agreement fully enforceable by City.

g. Except as disclosed on Exhibit C attached hereto, (i) neither Cailloux nor, to Cailloux's knowledge, any previous owner of the Property or any other person or entity has ever

used, generated, processed, stored, disposed of, released, or discharged any Hazardous Substance on, under, about or in the vicinity of the Property or transported it to or from the Property, nor, to Cailloux's knowledge, has any party ever alleged that any such activities have occurred; and (ii) to the best of Cailloux's knowledge, no use by Cailloux, any prior owner of the Property, or any other person has occurred which violates or has been alleged by any party to violate any applicable Environmental Law, and the Property is not on any "Superfund" list under any applicable Environmental Law, nor is it subject to any lien related to any environmental matter, and (iii) to Cailloux's knowledge, the Property is not contaminated by any Hazardous Substance. As used in this Agreement, "Hazardous Substance" shall mean and include all hazardous or toxic substances, wastes or materials, any pollutants or contaminants (including, without limitation, asbestos and raw materials which include hazardous constituents, radon and urea formaldehyde), and any other similar substances, or materials which are included or regulated by any local, state, or Federal law, rule or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, and the Federal Insecticide, Fungicide and Rodenticide Act, as amended (collectively, "Environmental Laws"). In the event Cailloux has breached the representations and warranties in this paragraph, Cailloux shall indemnify, defend and hold City, its successors and assigns harmless from and against all fines and penalties and liabilities, including all foreseeable and unforeseeable consequential damages, any other damages, costs and losses, including reasonable attorneys' fees, directly or indirectly and in whole or in part arising out of or attributable to Hazardous Substances existing beneath or on the surface of the Property, on or prior to the Closing or the migration thereof within or from the Property at any time, whether before or after the Closing, including without limitation the cost of any remedial, removal, response, abatement, clean-up, investigative and monitoring costs, and any other related costs and expenses.

h. In the event that City becomes aware prior to Closing that any of Cailloux's representations or warranties set forth in this Agreement are not true on the Effective Date of this Agreement or at any time thereafter but prior to Closing, and in the event that Cailloux is unable to render any such representation or warranty true and correct as of the Closing date, City may, in addition to its other remedies, either: (i) terminate this Agreement by written notice thereof to Cailloux and Title Company, or (ii) waive such failure and elect to close under this Agreement notwithstanding the failure of such representation or warranty.

10. CITY REPRESENTATIONS AND WARRANTIES.

City represents and warrants to Cailloux, as of the date hereof and as of the date of Closing, that:

a. City is a Texas home rule municipality duly formed and validly existing under the laws of the State of Texas, with all necessary power and authority to enter into this Agreement and to consummate the transactions herein contemplated.

b. The execution, delivery and performance of this Agreement by City are within City's powers, and have been duly authorized by all necessary action of City.

c. Neither the execution and delivery of this Agreement nor the consummation of any of the transactions herein or therein contemplated nor compliance with the terms and provisions hereof or thereof will contravene any applicable laws to which the City is subject or any judgment, decree, license, order or permit applicable to the City, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of a lien upon any of the property or assets of the City pursuant to the terms of any agreement or instrument to which the City is a party or by which the City is bound, or to which the City is subject.

d. Upon the execution of this Agreement by the City, the City will have caused all governmental proceedings required to be taken by or on behalf of the City to authorize the City to make and deliver this Agreement and to perform the covenants, obligations and agreements of the City hereunder. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or governmental authority or regulatory body or third party is required for the execution or delivery of this Agreement by the City or the performance by the City of its covenants, obligations and agreements hereunder, other than any such approval which already has been given.

e. This Agreement is the legal, valid and binding obligation of City, enforceable against City in accordance with its terms, except as limited by (i) applicable relief, liquidation, conservatorship, bankruptcy, moratorium, rearrangement, insolvency, reorganization or similar laws affecting the rights or remedies of creditors generally, as in effect from time to time or (ii) any limitations or restrictions applicable to the City as the result of being a municipal corporation.

f. In the event that Cailloux becomes aware prior to Closing that any of City's representations or warranties set forth in this Agreement are not true on the Effective Date or at any time thereafter but prior to Closing, and in the event that City is unable to render any such representation or warranty true and correct as of the Closing date, Cailloux may, in addition to its other remedies, either: (i) terminate this Agreement by written notice thereof to City and Title Company, or (ii) waive such failure and elect to close under this Agreement notwithstanding the failure of such representation or warranty

11. DEFAULT.

a. Except as otherwise expressly provided herein, if Cailloux shall default hereunder or shall fail to consummate this Agreement for any reason except City's default, City, as its sole and exclusive remedy, may (i) enforce specific performance of this Agreement or (ii) terminate this Agreement. If City shall default hereunder or shall fail to consummate this Agreement for any reason except Cailloux's default or the termination of this Agreement pursuant to a right to terminate given herein, Cailloux, as its sole and exclusive remedy, may terminate this Agreement.

b. Notwithstanding any other provision of this Agreement to the contrary, a Party shall not be declared in default hereunder unless the other Party has given written notice of the alleged default or failure to perform to the first Party and thirty (30) days have elapsed without such alleged default or failure having been cured.

c. **NOTWITHSTANDING ANY PROVISION OF THIS AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY PROVISION OF THIS AGREEMENT OR OTHERWISE FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM SUCH PARTY'S OWN, SOLE OR CONCURRENT NEGLIGENCE OR THE NEGLIGENCE OF ANY OF ITS EMPLOYEES, OFFICERS, OR AGENTS ACTING IN THEIR OFFICIAL CAPACITY, AFFILIATES OR RELATED PARTIES; PROVIDED THAT WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS OF EACH PARTY ARISING OUT OF THIRD PARTY CLAIMS FOR ANY OF THE FOREGOING.**

12. APPROVAL PROCESS.

a. Unless a different process or time period is specifically set forth in another section of this Agreement, the provisions of this Section 12 shall govern the process for approval of matters.

b. The reviewing Party shall review the matter submitted in writing and shall promptly (but in any event within fifteen (15) Business Days after such receipt) give notice to the submitting Party of the reviewing Party's comments resulting from such review and, if the matter is one that requires approval, consent, or confirmation pursuant to the terms of this Agreement, such approval, consent, confirmation, disapproval, or failure to confirm, setting forth in detail the reviewing Party's reasons for any disapproval or failure to confirm. Any failure to respond within the foregoing fifteen (15) Business Day period shall be deemed to be an approval or confirmation of the matter submitted. Unless otherwise provided herein, the reviewing Party's right to disapprove or not confirm any matter submitted to it for Approval, consent, or confirmation and to which this Section 12 applies shall be limited to the elements thereof: (i) which do not conform substantially to approvals, consents, or confirmations previously given with respect to the same matter; or (ii) which propose or depict matters that are or the result of which would be a violation of or inconsistent with the provisions of this Agreement or applicable law.

c. If the reviewing Party disapproves or fails to confirm a matter to which this Section 12 applies within the applicable time period, the submitting Party shall have the right, within fifteen (15) Business Days after the submitting Party receives notice of such disapproval or failure to confirm, to re-submit the disapproved or not confirmed matter to the reviewing Party, altered to satisfy the reviewing Party's basis for disapproval or failure to confirm (all subsequent re-submissions with respect to such matter must be made within fifteen (15) business days after the date the submitting Party receives notice of disapproval or failure to confirm of the prior re-submission). The applicable submitting Party shall use reasonable efforts to cause any such re-submission to expressly state that it is a resubmission, to identify the disapproved or not confirmed portion of the original submission and any prior resubmissions, and to not be included with an original submission unless the matter previously disapproved is expressly identified thereon. Any resubmission made pursuant to this Section 12 shall be subject to review and approval or consent by the reviewing Party in accordance with the procedures described in this

Section 12 for an original submission (except that the review and approval and consent rights shall be limited to the portion previously disapproved or not confirmed), until such matter shall be approved or consented to by the reviewing Party.

d. Cailloux hereby designates Ben Modisett or his designee to be the representative of Cailloux with respect to any approval to be given by Cailloux under this Agreement. Written notice of the naming of any designee as to any approval shall be given to City. Cailloux shall have the right, from time to time, to change its representative by given at least ten (10) calendar days' prior written notice thereof to City.

e. City hereby designates the City Manager of the City of Kerrville or his designee to be the representative of City with respect to any approval to be given by City under this Agreement. Written notice of the naming of a designee as to any approval shall be given to Cailloux. City shall have the right, from time to time, to change its representative by giving at least ten (10) calendar days prior written notice thereof to Cailloux.

13. COMMISSION.

Cailloux and City each hereby warrant and represent to the other that no brokers', agents', finders' fees, commissions, or other similar fees are due or arising in connection with the entering into of this Agreement, the sale and purchase of the Property, or the consummation of transactions contemplated herein. Cailloux and City each hereby agree, to the extent allowed by law, to indemnify and hold the other harmless from and against all liability, loss, cost, damage, or expense (including, but not limited to, attorneys' fees and costs of litigation) which the other Party shall suffer or incur because of any claim by a broker, agent, or finder claiming by, through, or under such indemnifying Party, whether or not such claim is meritorious, for any compensation with respect to the entering into of this Agreement, the sale and purchase of the Property, or the consummation of the transactions contemplated herein.

14. NON-APPROPRIATION.

Notwithstanding any other provision in this Agreement, the Parties agree that (a) the provisions of this Section 14 shall prevail over any other provisions of this Agreement and (b) the obligation of City to pay any money under any provision of this Agreement is contingent upon an appropriation by City in the amount of such payment or other monetary obligation. Neither City nor its elected or appointed officials, officers, employees, agents, attorneys or other individuals acting on behalf of City, make any representation or warranty as to whether any appropriation will, from time to time during the pendency of this Agreement, be approved by the City Council of City. Notwithstanding anything in this Agreement to the contrary, the failure of City to make an appropriation shall not cause City to be in default under the terms of this Agreement, there being no obligation imposed by law requiring the same; provided, however, in the event there is not an appropriation by City related to a monetary obligation of City under this Agreement, Cailloux, as its sole and exclusive remedy as a result thereof, may terminate this Agreement.

15. MISCELLANEOUS PROVISIONS.

a. Effective Date of Agreement. The term "date of this Agreement" or "date hereof"

or "Effective Date of this Agreement" as used herein shall mean the date that this Agreement is fully executed by both Parties.

b. Notices. Any notice or communication required or permitted hereunder shall be deemed to be delivered, whether actually received or not, when deposited in the United States mail, postage fully prepaid, certified mail, addressed to the intended recipient at the address set forth below or when received if delivered by messenger, personal delivery or overnight courier.

If to Cailloux: Cailloux Foundation Properties, LLC
912 Guadalupe Street
Kerrville, Texas 78028
Attn: Ben Modisett

With a copy to: Strasburger & Price, LLP
2801 Network Blvd., Suite 600
Frisco, Texas 75034
Attn: Paul B. Sander

and

Strasburger & Price, LLP
2301 Broadway Street
San Antonio, Texas 78215
Attn: Katy David

If to City: City of Kerrville, Texas
701 Main Street
Kerrville, Texas 78028
Attn: City Manager

With a copy to: City of Kerrville, Texas
701 Main Street
Kerrville, Texas 78028
Attn: City Attorney

Any address for notice may be changed by ten (10) days' prior written notice so given. The address of the Title Company is set forth on the receipt to this Agreement.

c. Interpretation. The Parties acknowledge and agree that each has been given the opportunity to independently review this Agreement with legal counsel, and/or has the requisite experience and sophistication to understand, interpret, and agree to the particular language of the provisions hereof. The Parties have equal bargaining power, and intend the plain meaning of the provisions herein. In the event of an ambiguity in, or dispute regarding, the interpretation of same, the interpretation of this Agreement shall not be resolved by any rule of interpretation providing for interpretation against the Party who causes the uncertainty to exist or against the draftsman.

d. Recording of Agreement. Neither this Agreement nor a memorandum of this

Agreement shall be filed or recorded by either Party.

e. Attorneys' Fees. If either Party shall be required to employ an attorney to enforce or defend the rights of such Party hereunder, the prevailing Party shall be entitled to recover reasonable attorneys' fees and costs. The "prevailing Party" is the Party who receives substantially the relief sought, whether by judgment, summary judgment, dismissal, settlement or otherwise.

f. Integration; Counterparts. This Agreement contains the complete agreement between the Parties relating to the Property. The Parties agree that there are no oral agreements, understandings, representations, or warranties which are not expressly set forth herein. This Agreement cannot be amended, modified or changed except by a traditional written document properly executed by the Parties. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Additionally, (i) the signature pages taken from separate individually executed counterparts of this Agreement may be combined to form multiple fully-executed counterparts; and (ii) a facsimile signature or an electronically-scanned signature shall be deemed to be an original signature for all purposes.

g. Survival. All portions of this Agreement which relate to a period after Closing will survive the Closing of this transaction.

h. Binding Effect. This Agreement shall inure to the benefit of and bind the Parties hereto and their respective successors, and assigns. Neither Party shall have the right to assign this Agreement without the other Party's prior written approval.

i. Dates and Time Periods. Should the date for the giving of any notice, the performance of any act, or the end of any period provided for herein fall on a Saturday, Sunday or other legal holiday, such date shall be extended to the next succeeding business day which is not a Saturday, Sunday or legal holiday. "Business Day" means a calendar day of the year that is not a Saturday, Sunday or a legal holiday observed by the City of Kerrville, Texas.

j. Non-waiver. No delay or failure by either Party to exercise any right hereunder and no partial or single exercise of such right will constitute a waiver of that or any other right, except by written agreement executed by the Parties or unless expressly provided otherwise herein.

k. Governing Law. This Agreement shall be governed and interpreted under the laws of the State of Texas. Venue for any dispute involving this Agreement shall be in Kerr County, Texas.

l. Captions. The paragraph headings used in this Agreement are for convenience purposes only and shall not be used in the interpretation of this Agreement.

m. Exhibits. All Exhibits attached hereto are incorporated herein by reference and made a part of this Agreement.

n. Severability. The provisions of this Agreement are severable, and if any provision of part hereof or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Agreement and the application of such provisions or part hereof to other persons or circumstances shall not be affected thereby.

o. Time of the Essence. Time is of the essence with respect to the performance of all obligations provided herein and the consummation of all transactions contemplated hereby.

p. Public Information Act Request. Cailloux understands and acknowledges that information received by City from Cailloux may constitute "public information" as that phrase is defined in the Texas Public Information Act (Texas Government Code §§552.001 et. seq., or "the Act") which may be subject to disclosure subject to a written request delivered to City pursuant to the Act. If City receives a request for public information pursuant to the Act which includes within its scope information which Cailloux has previously advised City that Cailloux considers to be proprietary or confidential, City agrees to notify Cailloux of such request in accordance with applicable provisions of the Act. Cailloux shall, at Cailloux's cost, be solely responsible for asserting arguments to the Office of the Attorney General of the State of Texas pursuant to §552.305(b) of the Act regarding the reason(s) Cailloux's information is exempt from disclosure to the public under the provisions of the Act and for filing any and all subsequent appeals relating to an opinion of the Texas Attorney General that requires disclosure of Cailloux's information. Other than notifying Cailloux of the request for Cailloux's proprietary information as provided in §552.305(d) of the Act, City may, but shall be under no obligation to, submit arguments to the Texas Attorney General relating to reasons Cailloux's confidential information is exempt from required release to the public.

q. No Indirect Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY UNDER ANY PROVISION OF THIS CONTRACT OR OTHERWISE FOR LOST PROFITS, INCLUDING LOST OR PROSPECTIVE PROFITS, OR FOR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, IN CONTRACT, TORT OR OTHERWISE, WHETHER OR NOT CAUSED BY OR RESULTING FROM SUCH PARTY'S OWN, SOLE OR CONCURRENT NEGLIGENCE OR THE NEGLIGENCE OF ANY OF ITS EMPLOYEES, OFFICERS, OR AGENTS ACTING IN THEIR OFFICIAL CAPACITY, AFFILIATES OR RELATED PARTIES; PROVIDED THAT WITHOUT LIMITING THE FOREGOING, THIS LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS OF EACH PARTY ARISING OUT OF THIRD PARTY CLAIMS FOR ANY OF THE FOREGOING.

r. Capacity of Persons Acting on Behalf of the City. Notwithstanding anything to the contrary in this Agreement, all references in this Agreement to employees, agents, representatives, contractors and the like of the City shall refer only to persons acting in the City's capacity as "the City" hereunder and thus all such references specifically exclude any employees, agents, representatives, contractors and the like acting in connection with the performance of the City's Governmental Functions. Without limiting the foregoing, all police, fire, permitting, regulatory, water and power, health and safety and sanitation employees of the City shall be deemed to be acting in connection with the performance of the City's Governmental Functions.

s. Relationship of the Parties; No Partnership. The relationship of Cailloux and City under this Agreement is that of independent parties, each acting in its own best interests, and notwithstanding anything in this Agreement to the contrary, no aspect of this Agreement shall create or evidence, nor is it intended to create or evidence, a partnership, joint venture or other business relationship or enterprise between Cailloux and City.

t. Waiver of Immunity. The Parties agree that the purchase of the Property to be used for athletic facilities is a governmental function and is subject to Chapter 271 of the Texas Local Government Code. To such end, to the extent permitted by applicable law, City hereby agrees that should any action or proceedings be brought by Cailloux against it in relation to this Agreement or any transaction contemplated hereunder, no immunity (sovereign or otherwise) from such actions or proceedings shall be claimed by or on behalf of itself with respect to such actions or proceedings or the exercise by Cailloux of the remedies provided under this Agreement for City's default.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in multiple copies, each of which shall be deemed to be an original, on the dates set forth below.

CAILLOUX:

**CAILLOUX FOUNDATION
PROPERTIES, LLC**

By: 
Name: Kenneth F. Cailloux
Title: Chairman/President

Date of Execution: July 2, 2015

CITY:

CITY OF KERRVILLE, TEXAS

By: 
Name: Jack Pratt, Jr.
Title: Mayor

Date of Execution: July 2, 2015

ATTEST


Name: Brenda G. Craig
Title: City Secretary

Approved as to Form:

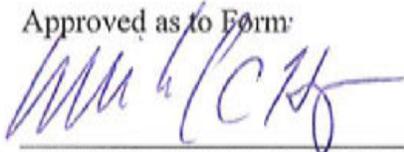

Michael C. Hayes, City Attorney

EXHIBIT A

Description of the Property

Cailloux and City acknowledge that the description/depiction set forth below in this Exhibit A may not be legally insufficient for the purposes of supporting an action to enforce the purchase and sale of the Property. As such, Cailloux and City confirm unto one another that, notwithstanding the insufficiency, the parties desire to proceed with the execution of the Agreement to which this Exhibit A is attached. Therefore, since the parties are desirous of executing the Agreement and in order to provide for the right of Cailloux or City to demand and successfully enforce the terms thereof and to ensure that such right is not precluded due to the legal description of the Property, Cailloux and City agree that (i) they specifically are familiar with the location of the Property, (ii) each party waives any and all claims of an insufficient legal description in a cause of action for enforcement hereof, and (iii) the metes and bound description of the Property prepared in connection with the Survey as provided in the Agreement shall become the legal description of the Property following approval of same by Cailloux, City and the Title Company.

EXHIBIT B

SCOPE OF PROJECT IMPROVEMENTS

Construction will be for baseball, softball, and soccer facilities:

Baseball and Softball Complex

- 12 Fields for Baseball and Softball
- Concession and Restroom Facilities
- Off-Street Parking
- Support Infrastructure Necessary to Serve the Complex and Meet City Codes and Specifications

Soccer Complex

- Flexible Irrigated Areas for Soccer Games and Practices of Approximately 19 Acres
- Concession and Restroom Facilities
- Off-Street Parking
- Support Infrastructure Necessary to Serve the Complex and Meet City Codes and Specifications

EXHIBIT C

Environmental Disclosure

Cailloux is aware of an environmental issue with respect to the Land that was remedied prior to Cailloux's acquisition of the Land relating to arsenic associated with sheep deep vat. The attached no action letter from the Texas Commission on Environmental Quality provides further information.

Agenda Item:

5A. Main street program activities report. (staff)

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

SUBJECT: Main Street Program Activities Report

FOR AGENDA OF: July 7, 2015

DATE SUBMITTED: July 2, 2015

SUBMITTED BY: Ashlea Boyle *ab*
Special Projects Manager

CLEARANCES: Todd Parton
City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *TP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The Main Street Manager will provide a report regarding Kerrville Main Street Program activities.

RECOMMENDED ACTION

This is for information only. No action is required.

Agenda Item:

6A. Appointments to the Main Street Advisory Board. (staff)

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

SUBJECT: Appointments to the Main Street Advisory Board

FOR AGENDA OF: July 7, 2015 **DATE SUBMITTED:** July 1, 2015

SUBMITTED BY: Brenda Craig *BC* **CLEARANCES:**
City Secretary

EXHIBITS: Board List

AGENDA MAILED TO:

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

SUMMARY STATEMENT

Consider appointments to the following board:

Main Street Advisory Board: Two terms that expired May 31, 2015.

RECOMMENDED ACTION

Consider appointments.

MAIN STREET ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
FRANKLIN, MINDI Chairperson 118 Methodist Encampment	830-928-9357 (H) 792-6200 (W)	07-23-13		05-31-15
BOLTON, SCOTT Vice-Chairperson 1207 Virginia Dr.	792-7089 (H) 896-0098 (W) 832-978-3949 (C)	07-23-13		05-31-16
BRADSHAW, ROSE 229 Schreiner Street	257-4101 (O) 895-3248 (H) 377-8948 (C)	03-24-15		05-31-17
EDWARDS, TAMI 134 Kodiak Trail	367-2012 (H) 210-827-9938 (C)	01-28-14		05-31-16
LOGAN, DAINELLE 1128 Hancock Drive	936-239-8224 (H) 955-5088 (W)	05-12-15		05-31-16
MARTIN, DAVID 1717 Foothills Dr.	895-1313 (O) 895-1857 (H) 830-459-9747 (C)	05-08-12	01-28-14	05-31-16
SOUTHERN, MELISSA 1606 Quinlan Creek Drive	257-3877 (W) 257-2015 (C) 257-1923 (H)	07-08-14		05-31-15
COUNCIL LIAISON: Gary Stork 804 Tanglewood Lane	257-0365 (O)			
CITY STAFF: Kim Snyder Main Street Manager	258-1113			
Ashlea Boyle Special Projects Manager	258-1153			

Powers and Duties: To encourage participation in the Main Street Revitalization Program; to establish goals and priorities for the Main Street Program; to review design appropriateness for the purpose of participation in the main street low-interest loan program and incentive grant projects; and to advise and support the main street program manager.

Term of Office: Two years with a maximum of two full successive terms (Bylaws)

Quorum: Four members
Number of Members: Seven
Absences: Any member who misses 25% of the regular meetings or three consecutive regular meetings may be replaced by City Council.
Meeting Time & Place: Fourth Thursday at 3:30 p.m., City Hall, 701 Main Street
*Established by: Resolution No. 12-2014
Resolution No. 1994-133(Repealed 5-27-14)
Revised: May 26, 2015

*Expiration of member terms were drawn at the June, 2014 meeting.