

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, SEPTEMBER 28, 2010, 6:00 P.M.

CITY HALL COUNCIL CHAMBERS

800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

Agenda Item:
(Staff)

- 2A. Approval of the minutes of the city council meetings held on September 14, 2010.

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
SEPTEMBER 14, 2010

On September 14, 2010, the Kerrville City Council meeting was called to order by Mayor Wampler at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Reverend Patty Edwards, Unity Church of the Hill Country, followed by the Pledge of Allegiance led by Sam Swindell, Military Officers Association of America.

MEMBERS PRESENT:

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

MEMBER ABSENT:

Gene Allen	Councilmember
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STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Travis Cochrane	Director of Information Technology
Mindy Wendele	Director of Business Programs
Mike Erwin	Director of Finance
Kevin Coleman	Director of Development Services

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

1. VISITORS/CITIZENS FORUM: No one spoke.

2. PRESENTATION:

2A. Presentation from the XI Omicron Chapter of the Beta Sigma Phi Sorority for the purchase of new Christmas decorations for the City of Kerrville.

Angela Hons presented a check in the amount of \$2,000 to Mayor Wampler to purchase new Christmas decorations for the downtown area.

3. CONSENT AGENDA:

Mr. Gross moved for approval of items 3A through 3F; Mr. Motheral seconded the motion and it passed 4-0:

3A. Approval of the minutes of the city council meetings held on August 17, August 24, and September 2, 2010.

3B. Authorize a contract with Relmco, Inc. for the Oak Hollow drainage project in the amount of \$459,687.40.

3C. Authorize a professional service agreement with LNV, Inc. for engineering design services for Phase 2 and 3 of the wastewater inflow and infiltration rehabilitation/ replacement project in the amount of \$118,488.00.

3D. Authorize the extension of the Maxey Energy contract for fuel and card service for FY11.

3E. Authorize acceptance of a grant in the amount of \$98,600 for the purchase of a firefighting apparatus (brush truck) to be purchased through Buyboard Purchasing Cooperative.

3F. Authorize the transfer of five (5) surplus Panasonic CF25 laptop computers to the Ingram City Marshal.

END OF CONSENT AGENDA

5B. An ordinance approving a negotiated resolution between the Atmos Cities Steering Committee ("ACSC or "Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or Company") regarding the company's third rate review mechanism ("RRM") filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos Mid-Tex's proof of revenues; extending the RRM process for two cycles and adopting a new RRM tariff; ratifying the settlement agreement, including cost recovery for a steel service line replacement program; adopting a savings clause; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the company and the steering committee's legal counsel. Mayor Wampler read the ordinance by title only.

Mr. Hayes noted the city was a member of the ACSC, a coalition of cities established to review Atmos rate increases. On March 15, Atmos filed an application pursuant to the Rate Review Mechanism (RRM) to seek a \$70.2 million rate increase. ACSC analyzed Atmos' rate filing and recommended that ACSC cities pass an ordinance adopting the negotiated rate settlement and authorizing an increase in the base rate of approximately \$27 million, and a supplemental revenue increase of \$3.4 million to cover direct costs associated with a steel service line replacement program. If adopted, the average residential customer's bill will increase \$1.40 (3.15%) per month effective October 1. Mr. Hayes noted the negotiated settlement would apply to all cities in the ACSC coalition, and thus far, all ACSC cities had approved the agreement. He recommended approval of the ordinance adopting the rate tariffs and proof of revenues that would implement the negotiated rate settlement. .

Mr. Gross moved for approval of the ordinance on first reading; Ms. Keeble seconded the motion and it passed 4-0.

4. FISCAL YEAR 2011 BUDGET PUBLIC HEARINGS AND ORDINANCES, FIRST READING:

4A. Public hearing for ad valorem tax rate for tax year 2010/fiscal year 2011. (Staff) Mr. Erwin noted the proposed tax rate for FY11 was \$0.5625, the same as FY10, and was 2.2% below the effective tax rate of \$0.5753. The maintenance and operation portion was \$0.489, and the debt service was \$0.0735.

Mr. Erwin noted the proposed tax rate was \$0.5625, the same as FY10: \$0.489 was for maintenance and operations; \$0.0735 was for debt service. The proposed rate was 2.2% below the effective tax rate of \$0.5753, resulting in an estimated decrease of \$21.82 on the average house.

Mayor Wampler opened the public hearing at 6:11 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:12 p.m.

4B. An ordinance levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2011; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid. Mayor Wampler read the ordinance by title only.

Mr. Motheral moved for approval of the ordinance on first reading; Mr. Gross seconded the motion and it passed 4-0.

4C. Public hearing for fiscal year 2011 budget.

Mr. Erwin noted the FY11 proposed budget was \$37,972,742; general fund was \$19,977,572; water and sewer fund was \$8,822,735. In addition, he presented a list of recommended items totaling \$6,854,643 for inclusion in the budget as previously discussed in council workshops; if approved by council, the FY11 budget would total \$44,827,385. The FY11 budget: was based on a tax rate of \$0.5625; revenues exceeded expenditures; focused on providing core services; did not use any reserve fund balance; and included a \$1/1,000 gallon increase in the sewer rate.

Mayor Wampler opened the public hearing at 6:22 p.m.; no one spoke; Mayor Wampler closed the public hearing at 6:22 p.m.

4D. An ordinance adopting the annual budget for the fiscal year 2011; providing appropriations for each department and fund; containing a cumulative clause; and containing a savings and severability clause. Mayor Wampler read the ordinance by title only.

Upon question by Mayor Wampler, Mr. Erwin stated he had attended the county's budget workshop that day and confirmed the commissioners had identified a list of potential cuts that included \$100,000 underpayment for city services in order to lessen the amount of the county's proposed tax increase; however, the county did not specify which city service should be cut. The county did not take any action on their budget.

Mayor Wampler noted the county proposed to under fund interlocal agreements previously executed by the city and county which required the city to provide city services to the county at a set amount, and to leave it up to the city council to decide how to fund the county's cuts in the city's budget or for the city to decide which services to cut to the county. He noted the city had built a fire/EMS service sufficient to serve the entire county, and the county was paying less than 20% of the value of the services it was receiving. Mayor Wampler stated that if the county takes action to

cut \$100,000 from the interlocal agreement, his recommendation to city council would be to cut the fire and EMS services in the county effective October 1, 2010.

Council also discussed the following points:

- The city cannot afford to absorb the additional \$100,000 burden from the county's budget shortfall.
- County should take care of their obligations.
- County commissioners were gentlemen and will honor their agreements; to do otherwise would be unethical.
- City citizens were also county residents and taxpayers.
- City's revenue was down 9.2% and the city had made staff reductions and other significant budget cuts to balance.

Ms. Keeble moved to approve the proposed budget on first reading subject to making any unforeseen changes or any changes that may be necessary pursuant to future action by the Kerr County Commissioners' Court with respect to its funding of joint operations. Mr. Motheral seconded the motion and it passed 4- 0.

5. ORDINANCES, FIRST READING:

5A. An ordinance amending the budget for fiscal year 2010 to accept and allocate remaining funds from the fiscal year 2009 budget. Mayor Wampler read the ordinance by title only.

Mr. Erwin proposed to amend the FY10 budget to allocate previously awarded EIC funds to the business programs department for advertising and marketing in the amount of \$4,000, and to reallocate unused funds in capital improvement projects. Mr. Erwin noted a resolution passed earlier that allowed any unused fund balance to be placed into debt service or capital projects.

Ms. Ondrias noted that cost savings from some CIP projects may allow the city to extend utility services further out Harper Road.

Mr. Motheral stated that he may be hired to perform work for a landowner who may tie on to the city's utility lines in the Harper Road area in the future; therefore, he filed a conflict of interest affidavit and recused himself.

Mr. Gross moved for approval of the ordinance on first reading; Ms. Keeble seconded the motion and it passed 3-0-1 with Councilmembers Gross, Keeble, and Wampler voting in favor of the motion; no one voted against the motion, and Mr. Motheral abstained.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Zoning Ordinance Input Committee's review of the city's zoning ordinance.

Mr. Coleman updated the council on the progress of ZOIC in its review of the existing zoning ordinance and presented recommended changes:

- The proposed revised zoning districts combined the existing 42 non-residential districts into 4 commercial districts, 2 industrial districts, and 2 special purpose districts

- Proposed new land use descriptions
- Provided a new schedule of permitted uses for commercial and industrial districts
- Created a new central business zoning district and downtown pedestrian area with exceptions to parking standards and setbacks
- Proposed revised city-wide parking standards; major changes were being proposed for multi-family units, restaurants, retail outlets, schools, medical facilities, and public use facilities; would require all new parking areas to be paved; and require drive lanes and stacking lanes where needed.
- Proposed revised city-wide special development regulations for certain commercial uses. Redrafted standards for fuel sales, mini-warehouses, and child care centers; proposed standards for car washes, auto repair, and oil change shops; and retained standards for group homes.

Mr. Coleman noted future steps in ZOIC's review process, including:

- Expand land use chart to commercial and industrial districts
- Define geographic area of proposed commercial and industrial zones
- Survey the central business district to identify non-conforming uses under the proposed land use chart
- Review staff recommendation of changes to the ordinance, i.e. conditional use permit process, non-conformity, and home occupations.
- Assess a special use exception approval process. A special use permit would expire with the current owner/operator of that property, and the special use would not transfer with the property to the new owner.
- Adoption of a central business district will provide opportunity to discuss signage; an update of the sign ordinance would be scheduled on the September 28 agenda.

The following persons spoke:

1. Jimmie Spradling noted as a safety measure, some cities regulated the time that petroleum trucks could unload in certain areas, e.g. prohibit unloading of gasoline at stations located near schools during school hours.
2. David Lipscomb expressed concern about the city's inadequacy in handling storm drainage and noted more parking lots created additional impervious coverage which resulted in increased drainage. He suggested the city give consideration to more detention ponds. Mr. Motheral noted the city had initiated a committee to work on a drainage plan for the city, said plan would also include some areas outside the city, with the goal of addressing drainage issues before they became costly problems.
3. Ruth Spradling stated she was in favor of monument signage; if pole signs were allowed, it would create a jungle of pole signs.
4. Carolyn Lipscomb questioned under paving standards if crushed granite or gravel could be used for parking lots or if only concrete or asphalt could be used.

John Mosty, ZOIC chairman, suggested a joint workshop between ZOIC and city council to discuss the council's concerns and ZOIC's recommendations, for example, fencing requirements, to provide separation between commercial and residential areas. ZOIC encouraged the use of pavers for parking lots; otherwise they recommended concrete or asphalt only, and no caliches, crushed granite or gravel would be allowed.

Council reviewed the schedule of permitted uses and proposed changes and noted areas of concern. The consensus of the council was:

- ZOIC revisit Schedule E, parking standards, and Schedule F, development regulations, taking into consideration council's concerns and bring back to council any revisions; then, if there are any outstanding issues, schedule a joint workshop to discuss those issues.
- Proceed with legal review of language changes in the existing ordinance and proceed with the vetting process.
- Move forward with signage in the central business district and bring a specific review back to city council.

7. INFORMATION AND DISCUSSION:

7A. Update regarding Lower Colorado River Authority TSC's application for the McCamey D to Kendall to Gillespie CREZ project (PUC Docket No. 38354).

Mr. Parton presented a tentative schedule of meetings and noted several representatives from Kerrville had attended the September 1 meeting in Austin before the administrative law judges. A motion to dismiss was certified and forwarded to the PUC for consideration on the necessity of the line and to determine whether to continue or dismiss the application. A regional meeting of hill country communities would be held on September 16 to identify common interests and try to form an alliance of communities with similar interests to coordinate activities and prepare documents for submission to PUC. The deadline for written documentation, testimony, and letters of opposition to be submitted was September 28.

7B. Kerrville budget/economic update.

Mr. Erwin noted revenues were relatively flat. He had discussions with the city's financial advisor regarding potential savings of about \$200,000 that could be achieved through refinancing the 2000 debt issue. The consensus of council was to schedule the financial advisor to attend a future council meeting.

8. BOARD APPOINTMENTS:

8A. Appointments to the building board of adjustment and appeals.

Ms. Craig noted appointments were the final step in establishing this new board.

Ms. Keeble moved to make the following appointments to the specific positions on the board: Garrett Harmon, architect; James Maxwell, professional engineer, Calvin Luck, master electrician; Charles Tremper, master plumber; Lee Underwood, mechanical contractor; Kenneth Bledsoe, contractor; Dwayne Downey, construction industry; Daniel Lowery, alternate member (plumber); and John Priour, alternate member (electrical). Mr. Motheral seconded the motion and it passed 4-0.

8. ITEMS FOR FUTURE AGENDAS

8A. Presentation by Pete Moore regarding rivertrail. Mr. Gross noted a survey link on the webpage to name the rivertrail.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

10. EXECUTIVE SESSION:

Mr. Gross moved for the city council to go into executive closed session under Section 551.071 (consultation with attorney), and 551.072 (deliberation regarding real property) of the Texas Government Code; the motion was seconded by Mr. Motheral and passed 4-0 to discuss the following matters:

Section 551.071:

- Contemplated litigation involving a claim against C & C Groundwater Services.
- Settlement agreement between the United States of America, the City of Kerrville, Texas, and Playhouse 2000 with respect to the Cailloux Theater and City Center for the Performing Arts under the Americans with Disabilities Act.

Section 551.071, 551.072:

- Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the city's bargaining position with third parties (715 Water Street).
- Discuss the purchase, exchange, lease, sale, or value of real property for use as a city facility, the public discussion of which would not be in the best interests of the city's bargaining position with third parties.

At 8:03 p.m. the regular meeting recessed and council went into executive closed session at 8:03 p.m. At 9:11 p.m. the executive closed session recessed and council returned to open session at 9:12 p.m. The mayor announced that no action had been taken in executive session.

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

Settlement agreement between the United States of America, the City of Kerrville, Texas, and Playhouse 2000 with respect to the Cailloux Theater and City Center for the Performing Arts under the Americans with Disabilities Act.

Mr. Motheral moved to execute the settlement agreement with the US Department of Justice under the American with Disabilities Act regarding the Kerrville Municipal Auditorium (Cailloux Theater); Mr. Gross seconded the motion and it passed 4-0.

ADJOURNMENT. The meeting adjourned at 9:13 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

Agenda Item:
(Staff)

- 2B. A Resolution authorizing the transfer of ownership of Kerrville Police Department K-9 Officer "Boy."

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

SUBJECT: Disposal of Fixed Asset and Transfer of City of Kerrville
Property/Waiver of Liability

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 17, 2010

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

EXHIBITS: Resolution and Release and Waiver Form

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 DIRECTOR:

SUMMARY STATEMENT

The Kerrville Police Department K-9, 'Boy' is schedule to retire. The staff is recommending that the current K-9 officer, Sergeant James W. Bowlin be allowed to keep the dog as a pet. However, to ensure that the city is protected from any future liability, Sergeant Bowlin will be required to sign the attached wavier of liability releasing the city of any legal obligations.

RECOMMENDED ACTION

Approve the disposal of this fixed asset and transfer of city property to James W. Bowlin.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ___-2010**

**A RESOLUTION AUTHORIZING THE TRANSFER OF
OWNERSHIP OF KERRVILLE POLICE DEPARTMENT K-9
OFFICER "BOY"**

WHEREAS, the Kerrville Police Department ("KPD") utilizes "K-9 Officers", which have been trained as a police dogs; and

WHEREAS, the Police Chief has determined it appropriate to retire "Boy", a current K-9 Officer, within the next year; and

WHEREAS, Boy has been assigned to Sergeant James Bowlin, who has established a relationship with the dog and wishes to assume responsibility for the care and maintenance of the animal; and

WHEREAS, the KPD officer has agreed to sign a waiver and release agreement prior to his acceptance of Boy; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to authorize the transfer of ownership of Boy to KPD Sergeant James Bowlin, following his execution of the waiver and release agreement;

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

The Chief of Police for the Kerrville Police Department is authorized to transfer the ownership of K-9 officer "Boy" to Kerrville Police Sergeant James L. Bowlin. The transfer is conditioned upon the execution of a release and waiver, which is attached hereto as **Exhibit A**.

PASSED AND APPROVED ON this the ___ day of _____, A.D., 2010.

David Wampler, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Clerk

ADOPTION OF RETIRED K-9 DOG FROM CITY OF KERRVILLE
RELEASE AND WAIVER FORM

Sergeant James Bowlin, in consideration for the transfer of ownership of "Boy" (a dog trained and served as police dog), hereby acknowledges said transfer from the City of Kerrville Police Department, and does hereby forever release and discharge the City of Kerrville, its officers and employees, of any and all liability arising now or in the future, out of the transfer of ownership of said animal. The person who has signed this document on behalf of the City of Kerrville has been fully authorized to sign on behalf of the City and represents that all necessary prerequisites to such transfer have been properly made and carried out.

Recipient, who resides at 108 Bailey Jo, Kerrville, Texas 78028 understands and agrees to the following stipulations and disclosures:

1. The animal has been trained and used as a police animal, specifically for the purpose of locating narcotics and/or other illegal substances. Under certain circumstances, the animal may attack and defend persons or property on its own volition and the recipient understands and accepts this risk.
2. Although this animal has been examined by a veterinarian who presently believes that said animal is in good health and does not display any aggressive tendencies, no warranties, guarantees, or promises of any kind have been made or can be made to anyone with regard to said animal's physical condition or temperament.
3. The recipient of the above animal, with full understanding and knowledge of the animal, accepts the animal as is and accepts any and all risks attendant to the ownership of said animal.
4. The recipient agrees that he/she appreciates the responsibilities of animal ownership and that he can and will give the above-described animal a good home and proper care and treatment. Further, the recipient agrees that the animal is being adopted as a pet and that no commercial use will be made of this animal.
5. **The recipient hereby forever releases, discharges, holds harmless and agrees not to sue the City of Kerrville and its officers and employees for any and all costs, expenses or damages of any kind arising out of the ownership of said animal. Further, the recipient agrees to indemnify the City of Kerrville and its officers and employees for property damage or personal injury, including serious personal injury, loss of**

consortium, disability or death, costs, expenses and reasonable attorney's fees to the recipient and his heirs, successors and insurers for any and all claims as a result of the animal.

6. Recipient agrees not to transfer the animal to any other party without the written consent of the City of Kerrville.

Dated this _____ day of _____, 2010.

James W. Bowlin

Signature of Authorized Representative, City of Kerrville Police Department

Agenda Item:
(Staff)

- 2C. A Resolution authorizing the waiver for Hill Country Home Opportunity Council, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2011, or the construction of ten homes, whichever occurs first.

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

SUBJECT: Resolution to waive property development fees for Hill Country Home Opportunity Council, Inc.

FOR AGENDA OF: Sept. 28, 2010 **DATE SUBMITTED:** Sept. 17, 2010

SUBMITTED BY: Kevin Coleman, Director of Development Services *VC*

CLEARANCES: Kristine Ondrias, Assistant City Manager *KO*

EXHIBITS: Letter of request from Hill Country Home Opportunity Council, Inc.
Resolution

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JK*

Expenditure Required: \$	Current Balance in Account: \$	Amount Budgeted: \$	Account Number:
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PAYMENT TO BE MADE TO:
REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Hill Country Home Opportunity Council, Inc. has requested that the City of Kerrville waive the payment of various fees related to the development of property through their program. Based on the average permitted value of recent HCHOC projects, this fee waiver represents a potential cost savings of \$10,000. The resolution presented replaces a similar resolution passed in October, 2010.

The resolution presented allows for:

- A general exemption of development fees, including planning/platting fees, building permit fees, or parkland dedication fees, and
- Allows this exception to run through September 30, 2011, or through the construction of ten homes, whichever comes first.

The resolution presented does not:

- Waive any fee related to utility service or connection, nor
- Release HCHOC, its contractor or agents, from the requirement to acquire permits, inspections or plat approvals, nor
- Create any other waiver or variance of any law, code or ordinance, other than the forgiveness of fees.

RECOMMENDED ACTION

Approve resolution as presented.



September 16, 2010

City Council- City of Kerrville
800 Junction Hwy.
Kerrville, Texas 78028

RE: Waiver of Fees

The Hill Country Home Opportunity Council would like to thank the City of Kerrville for all the help it has done toward the Legion Hills Subdivision and in helping us start our new non-profit organization. To date there have been over 50 single-family home built in the Legion Hills Subdivision. From the start the City has been very generous in waiving the permit fees related to the construction of housing that is affordable to low-income and moderate-income people in Kerrville, Texas. With purchase of our new property on Pinto Trail, for the use of affordable housing and with Legion Hills near completion, we are asking that the City Council consider a waiver of all fees related to the development and construction of property done by the Hill Country Home Opportunity Council. This waiver will apply to a maximum of 10 homes between October 1, 2010 and September 30, 2011. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Parker Harrison", written over a horizontal line.

Parker Harrison
Hill Country Home Opportunity Council Inc.
433 Water St. Suite A
Kerrville, Texas 78028

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2010**

A RESOLUTION AUTHORIZING THE WAIVER FOR HILL COUNTRY HOME OPPORTUNITY COUNCIL, INC. OF VARIOUS FEES ASSOCIATED WITH THE CONSTRUCTION OF HOMES; SAID WAIVER TO REMAIN IN EFFECT THROUGH SEPTEMBER 30, 2011, OR THE CONSTRUCTION OF TEN HOMES, WHICHEVER OCCURS FIRST

WHEREAS, the work of Hill Country Home Opportunity Council, Inc. ("HCHOC") benefits the citizens of Kerrville by providing a means of increasing low income housing within the City of Kerrville; and

WHEREAS, HCHOC intends to construct ten homes within the City, which addresses are unspecified at this time; and

WHEREAS, HCHOC has requested that the City waive the payment of various fees related to the development of the lots and construction of the homes; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that increasing the inventory of affordable housing in the City, encouraging in-fill development on property which for-profit home builders generally find unprofitable, and encouraging new construction in areas of the City where neighborhood revitalization is needed, all serve a public purpose, and as such, it is in the public interest to waive the fees specified below which would result from HCHOC's construction of the homes, specified above;

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

SECTION ONE. Subject to Sections Two and Three, below, the payment of the following fees shall be waived for HCHOC through September 30, 2011, or with the construction of ten homes, whichever event occurs first:

1. Development Fees;
2. Parkland Dedication Fees;
3. Building, Electrical, Plumbing and Mechanical Permit Fees; and
4. Platting and replatting fees.

SECTION TWO. The waiver of fees described in Section One, above, shall apply only to applications filed by Hill Country Home Opportunity Council, Inc.

SECTION THREE. The waiver of the various fees listed in Section One, above, shall not be construed as waiving any requirements for obtaining the various permits and inspections required by the Code of Ordinances of the City of Kerrville, Texas, or any other applicable federal, state, or local law or regulation, nor shall it be construed as granting any waivers or variances to the subdivision regulations of the City of Kerrville.

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

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:
(Staff)

- 2D. A Resolution authorizing the waiver for Habitat for Humanity Kerr County Affiliate, Inc. of various fees associated with the construction of homes; said waiver to remain in effect through September 30, 2011, or the construction of nine homes, whichever occurs first.

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

SUBJECT: Resolution to waive property development fees for Habitat for Humanity - Kerr County

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** Sept. 17, 2010

SUBMITTED BY: Kevin Coleman, Director of Development Services *VC*

CLEARANCES: Kristine Ondrias, Assistant City Manager *KO*

EXHIBITS: Letter of request from Habitat for Humanity – Kerr County

Resolution

AGENDA MAILED TO:

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

Expenditure Required: \$	Current Balance in Account: \$	Amount Budgeted: \$	Account Number:
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PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Habitat for Humanity – Kerr County has requested that the City of Kerrville waive the payment of various fees related to the development of property through their program. Based on the average permitted value of recent Habitat for Humanity projects, this fee waiver represents a potential cost savings of \$10,000 to this important program. The resolution presented replaces a similar resolution passed in October of 2010.

The resolution presented allows for:

- A general exemption of development fees, including planning/platting fees, building permit fees, or parkland dedication fees, and
- Allows this exception to run through September 30, 2011, or through the construction of ten homes, whichever comes first.

The resolution presented does not:

- Waive any fee related to utility service or connection, nor
- Release Habitat – Kerr County from the requirement to acquire permits, inspections or plat approvals, nor
- Create any other waiver or variance of any law, code or ordinance, other than the forgiveness of fees.

RECOMMENDED ACTION

Approve resolution as submitted.



Building houses, building hope

Sept. 16, 2010

City Council-City of Kerrville
800 Junction Hwy.
Kerrville, TX 78028

RE: Waiver of Fees

Habitat for Humanity-Kerr County has had a long and satisfying relationship with the City of Kerrville during our 21 years of existence. The City has been kind enough to waive permit fees related to the construction of decent, affordable homes in this community. Instead on taking city staff and Council time to consider a waiver for each individual lot we hope to build on, it has been more efficient to request a waiver for the amount of lots we intend to build on in a given year. Therefore, we are requesting that Council consider a waiver of all development fees related to the improvement of property for low income, single-family home ownership opportunities available by the construction of homes by Habitat for Humanity-Kerr County. This waiver will apply to a maximum of 10 (ten) homes between now and 9/30/2011.

Thank you for your consideration of this matter.

Sincerely,

5 JJ Steve Hamilton

Steve Hamilton
Executive Director
Habitat for Humanity-Kerr County

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2010**

A RESOLUTION AUTHORIZING THE WAIVER FOR HABITAT FOR HUMANITY KERR COUNTY AFFILIATE, INC. OF VARIOUS FEES ASSOCIATED WITH THE CONSTRUCTION OF HOMES; SAID WAIVER TO REMAIN IN EFFECT THROUGH SEPTEMBER 30, 2011, OR THE CONSTRUCTION OF TEN HOMES, WHICHEVER OCCURS FIRST

WHEREAS, the work of Habitat for Humanity Kerr County Affiliate, Inc. ("Habitat-Kerr County") benefits the citizens of Kerrville by providing a means of increasing low income housing within the City of Kerrville; and

WHEREAS, Habitat-Kerr County intends to construct nine homes within the City, which addresses are unspecified at this time; and

WHEREAS, Habitat-Kerr County has requested that the City waive the payment of various fees related to the development of the lots and construction of the homes; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that increasing the inventory of affordable housing in the City, encouraging in-fill development on property which for-profit home builders generally find unprofitable, and encouraging new construction in areas of the City where neighborhood revitalization is needed, all serve a public purpose, and as such, it is in the public interest to waive the fees specified below which would result from Habitat-Kerr County's construction of the homes, specified above;

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

SECTION ONE. Subject to Sections Two and Three, below, the payment of the following fees shall be waived for Habitat-Kerr County through September 30, 2011, or with the construction of ten homes, whichever event occurs first:

1. Parkland Dedication Fee;
2. Building, Electrical, Plumbing and Mechanical Fees; and
3. Platting and replatting fee

SECTION TWO. The waiver of fees described in Section One, above, shall apply only to applications filed by Habitat, Kerr County, and for the development and construction of a maximum of nine homes.

SECTION THREE. The waiver of the various fees listed in Section One, above, shall not be construed as waiving any requirements for obtaining the various permits and inspections required by the Code of Ordinances of the City of Kerrville, Texas, or any other applicable federal, state, or

local law or regulation, nor shall it be construed as granting any waivers or variances to the subdivision regulations of the City of Kerrville.

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

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:
(Staff)

- 2E. Authorize the execution of the Administrative Services Contract between the City of Kerrville and the Economic Improvement Corporation for FY11.

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

SUBJECT: Consideration of approval for the administrative services contract between the City of Kerrville and the Economic Improvement Corporation for FY11

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** August 19, 2010

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

EXHIBITS: Contract

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 DIRECTOR:

SUMMARY STATEMENT

The City of Kerrville provides services to the Economic Improvement Corporation on an annual basis including project management, engineering, financial, legal and administrative support. EIC pays the city \$75,000 for these services.

The EIC approved the FY2011 budget during their July 19, 2010, meeting therefore providing funds for administrative services.

RECOMMENDED ACTION

Approve contract.

**ADMINISTRATIVE SERVICES CONTRACT BETWEEN CITY OF KERRVILLE, TEXAS AND
CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

THIS CONTRACT is entered effective as of the 1st day of October, 2010, by and between the City of Kerrville, Texas, ("City") and the City of Kerrville, Texas Economic Improvement Corporation ("EIC") for and in consideration of the following promises and conditions:

ARTICLE I
SERVICES PROVIDED BY CITY

City agrees to provide the following services to the EIC subject to the limitations and conditions set forth below:

1. **Engineering and Project Management Services:** City agrees to provide engineering services, including, but not limited to, design, bid, and construction phases for EIC projects; provided, however, for projects which will require an expenditure of more than \$25,000.00 for construction, specialized engineering services and administration, or supervision and/or coordination of contracts between the EIC and consulting engineers, prior approval of the City Manager shall be required before commencement of such services. City further agrees to provide the necessary labor and overhead to conduct project management services for all projects which are authorized by the EIC to be funded in whole or in part by sales tax revenues generated pursuant to the authority of Chapters 501, 502, and 505 of the Texas Local Government Code, as amended.
2. **Legal Services:** City agrees that the City Attorney will be the legal advisor of, and attorney for, the EIC, which representation will include preparing and reviewing documents, contracts, and other instruments as to form and legality; conducting legal research; and, if requested, issuing legal memoranda or opinions. In the provision of legal services by the City Attorney, the City Attorney shall provide such services only if the provision of legal services to the EIC does not impair his ability to provide legal services to the City. In the event that the City Attorney determines that a legal or ethical conflict exists or may exist between the City and the EIC, the EIC agrees that the City Attorney may continue to represent the City on such matter notwithstanding such conflict provided that the City Attorney has made reasonable disclosure of the conflict to the president of the EIC. Notwithstanding this paragraph, EIC shall at all times retain the right to hire counsel of its own choice at EIC expense.
3. **Financial Services:** The Board for the EIC, in accordance with the *City of Kerrville, Texas Economic Improvement Corporation Bylaws* ("Bylaws"), has appointed or will appoint the City's Director of Finance to fulfill the role and perform the duties of the Treasurer for the EIC. As Treasurer, the Director of Finance shall perform all duties specified within Sections 4.11, 5.01, and 5.02 of the Bylaws. In addition, the City, through this Treasurer, shall provide accounting services, including accounts receivable, accounts payable, investments, record keeping, and financial reporting and an audit. The Treasurer shall also act as the EIC's investment officer and toward that end, shall comply with the EIC's *Investment Policy*.
4. **Administrative Services:** City agrees to provide the services of the City Manager on an as needed basis for meetings and consultation. In addition, the City Manager's office shall provide secretarial and other clerical services, including, but not limited to, taking minutes and preparation of resolutions and correspondence related to the operation of the EIC.

ARTICLE II
COMPENSATION

In consideration of the provision by City to EIC of the services described in Article I, above, EIC agrees to pay to City the sum of \$75,000.00. It is agreed by the parties hereto that the compensation described in this Article II is equal to the reasonable value of the services anticipated to be provided by City to the EIC. City shall deduct the payment required hereunder upon receipt of said sales tax revenues from the Comptroller of Public Accounts for the State of Texas.

ARTICLE III
TERM

The Term of this Contract shall commence on October 1, 2010, and end on September 30, 2011, subject to earlier termination as herein provided, and extension by agreement of the parties hereto.

ARTICLE IV
TERMINATION

This Contract may be terminated by the City or EIC for any reason, with or without cause, not earlier than thirty (30) days prior to delivery to the non-terminating party of a written notice of termination. EIC agrees to pay City the reasonable cost of services rendered by City up to the date of termination.

ARTICLE V
GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the State of Texas.

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

CITY OF KERRVILLE, TEXAS

By: _____
Jeffrey Todd Parton, City Manager

ATTEST:

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION

By: _____
Bill Crumrine, President

ATTEST:

Alan Massey, Secretary

Agenda Item:
(Staff)

- 3A. An Ordinance levying an ad valorem tax for the use and the support of the municipal government for the City of Kerrville, Texas, for the fiscal year 2011; providing for apportioning each levy for specific purposes; and providing when taxes shall become due and when same shall become delinquent if not paid.

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

SUBJECT: Second Reading of Ordinance –Ad Valorem Tax Rate for 2010

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 16, 2010

SUBMITTED BY: Mike Erwin 
Director of Finance **CLEARANCES:** Todd Parton
City Manager

EXHIBITS: Ordinance

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

At the August 10, 2010 Council meeting, the Council voted to establish the proposed ad valorem tax rate for the Tax Year 2010 at \$0.5625/\$100 value, which is the same rate as Tax Year 2009. This rate is also 2.2% less than the effective tax rate of \$0.5753/\$100 value.

The first public hearing on the tax rate was held August 24, 2010

The second public hearing on the tax rate was held September 14, 2010.

The attached ordinance will adopt the 2010 tax rate. The tax rate has two components. The M&O rate for the general operations of the City is proposed at \$0.489 and the I&S rate for the General Fund's debt service is proposed at \$0.0735.

RECOMMENDED ACTION

The director of finance recommends approval of the ordinance on second and final reading to adopt the tax rate of \$0.5625 for the 2010 tax year.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. ____-2010

AN ORDINANCE LEVYING AN AD VALOREM TAX FOR THE USE AND THE SUPPORT OF THE MUNICIPAL GOVERNMENT FOR THE CITY OF KERRVILLE, TEXAS, FOR THE FISCAL YEAR 2011; PROVIDING FOR APPORTIONING EACH LEVY FOR SPECIFIC PURPOSES; AND PROVIDING WHEN TAXES SHALL BECOME DUE AND WHEN SAME SHALL BECOME DELINQUENT IF NOT PAID

WHEREAS, the City Council finds that an ad valorem tax must be levied to provide for current expenses and improvements for the City of Kerrville, Texas, during the fiscal year 2011; and

WHEREAS, the City Council further finds that an ad valorem tax must be levied to provide for the payment of principal and interest on outstanding debt maturing in the fiscal year 2011;

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

SECTION ONE. There is hereby levied and there shall be collected for the use and support of the municipal government of the City of Kerrville, Texas, and to provide interest and sinking funds for the fiscal year 2011, a tax of \$0.5625 on each one hundred dollars (\$100.00) valuation of all property, real, personal, and mixed, within the corporate limits of the City subject to taxation, for the specific purposes herein set forth:

- (A) For the current expenditures of the City of Kerrville and for the general improvement, use and support of the City and its property, there is hereby levied and ordered to be assessed and collected for the fiscal year 2011 on all property situated within the corporate limits of the City, and not exempt from taxation by a valid law, an ad valorem tax rate of \$0.489 on each one hundred dollars (\$100.00) valuation of such property.
- (B) For the purpose of paying principal and interest and providing payments into various debt service funds for each issue of tax supported debt, there is hereby levied and ordered to be assessed and collected for the fiscal year 2011 on all property situated within the corporate limits of the City and not exempt from taxation by a valid law, an ad valorem tax for each issue of debt described in this Section, the sum of such levies being \$0.0735 on each one hundred dollars (\$100.00) valuation of such property.

SECTION TWO. The ad valorem taxes levied shall become due on October 1, 2010, and may be paid up to and including January 31, 2011, without penalty, but if not paid, such taxes shall become delinquent on February 1, 2011, provided, however, in accordance with Texas Tax Code §31.03(a), the ad valorem taxes due hereunder may, at the option of the taxpayer, be paid in two

payments without penalty or interest so long as the first payment of one-half of the taxes levied is paid before December 1, 2010, and the remaining one-half is paid before July 1, 2011.

SECTION THREE. No discounts are authorized on property tax payments made prior to January 31, 2011.

SECTION FOUR. All taxes become a lien upon the property against which assessed, and the designated City tax collector for the City of Kerrville is authorized and empowered to enforce the collection of such taxes according to the Constitution and Laws of the State of Texas and ordinances of the City of Kerrville, and shall by virtue of the tax rolls, fix and establish a lien by levying upon such property, whether real or personal, for the payment of said taxes, penalty, and interest. All delinquent taxes shall bear interest and other charges from date of delinquency as prescribed by state law.

PASSED AND APPROVED ON FIRST READING, this the 14th day of September A.D., 2010.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2010.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:
(Staff)

- 3B. An Ordinance adopting the annual budget for the fiscal year 2011; providing appropriations for each department and fund; containing a cumulative clause; and containing a savings and severability clause.

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

SUBJECT: Second Reading of Ordinance to Adopt Budget for FY11

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 16, 2010

SUBMITTED BY: Mike Erwin 
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Ordinance, Schedules A, B and C

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 DIRECTOR:

SUMMARY STATEMENT

The FY 11 proposed budget was presented to the City Council in a series of budget workshops beginning on July 27, 2010 and ending August 17, 2010.

The FY11 proposed budget represented an approximate decrease of 9.2%. The budget totaled \$38,855,876 in revenues and \$37,972,742 in expenditures.

The complete budget remains on file in the city secretary's office as well as via the City's Website.

The Council approved the first reading of the ordinance on September 14, 2010.

RECOMMENDED ACTION

The director of finance recommends that Council approve the requested changes to the proposed budget as illustrated in Schedule A.

The director of finance recommends approval of the ordinance on second reading to adopt the budget for FY11 as illustrated in Schedules A, B and C.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2010-_____**

**AN ORDINANCE ADOPTING THE ANNUAL BUDGET FOR
THE FISCAL YEAR 2011; PROVIDING APPROPRIATIONS
FOR EACH DEPARTMENT AND FUND; CONTAINING A
CUMULATIVE CLAUSE; AND CONTAINING A SAVINGS
AND SEVERABILITY CLAUSE**

WHEREAS, in accordance with Section 8.01 of the City Charter, the City Manager of the City of Kerrville prepared and filed with the City Secretary on July 28, 2010, a proposed budget for the City of Kerrville, Texas, for the fiscal year beginning October 1, 2010, and ending September 30, 2011; and

WHEREAS, in accordance with Section 8.04 of the City Charter, and after providing the required public notice in the City's official newspaper not less than two weeks prior to the date of the public hearing, a public hearing was duly held on September 14, 2010, at the time and place set forth in the public notice, said date being more than thirty days subsequent to the filing of the proposed budget by the City Manager, at which all interested persons were given an opportunity to be heard for or against any item within the proposed budget; and

WHEREAS, after due deliberation, study, and consideration of the proposed budget, and after making such amendments to the budget proposed by the City Manager that the City Council has determined are (1) warranted by law or (2) in the best interest of the taxpayers of the City, the City Council is of the opinion that the Official Budget for the Fiscal Year 2011, with the amendments described and discussed, should be approved and adopted, in accordance with Section 8.06 of the City Charter;

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

SECTION ONE. The Official Budget of the City of Kerrville, Texas, as specified in the attached Schedules A (operating), B (existing capital improvement projects), and C (new capital projects) for the fiscal year commencing October 1, 2010, a copy of which is on file in the office of the City Secretary, referenced by the date and number of this Ordinance, and incorporated herein by reference as if fully set out herein, is adopted, in accordance with Section 8.06 of the City Charter.

SECTION TWO. The budgets for each department of the City are hereby deemed to provide a complete financial plan of City funds and activities for the Fiscal Year 2011, in accordance with Section 8.05 of the City Charter.

SECTION THREE. The provisions of this Ordinance are to be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

SECTION FOUR. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The City 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 14th day of September, A.D., 2010.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2010.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Schedule A	Proposed Revenues	Staff Recommended Changes	Revised Proposed Revenues	Proposed Expenditures	Staff Recommended Changes	Revised Proposed Expenditures	Revenues Over/Under Expenditures
General	\$ 19,992,850.00		\$ 19,992,850.00	\$ 39,150.00	\$ 15,278.00	\$ 19,992,850.00	\$ 1,850.00
Police Special Program	\$ 41,000.00		\$ 41,000.00	\$ 50,000.00		\$ 39,150.00	\$ 51,771.00
Insurance Reserve	\$ 101,771.00		\$ 101,771.00	\$ 30,300.00		\$ 30,300.00	\$ -
Main Street	\$ 30,300.00		\$ 30,300.00	\$ 151,000.00		\$ 150,000.00	\$ 1,000.00
General Asset Replace.	\$ 151,000.00		\$ 151,000.00	\$ 543,378.00		\$ 481,712.00	\$ 61,666.00
Landfill	\$ 543,378.00		\$ 543,378.00	\$ 47,416.00		\$ 47,416.00	\$ -
Landfill Closure	\$ 47,416.00		\$ 47,416.00	\$ 299,233.00		\$ 299,233.00	\$ -
Landfill Post-Closure	\$ 299,233.00		\$ 299,233.00	\$ 851,000.00		\$ 850,000.00	\$ 1,000.00
Hotel Tax	\$ 851,000.00		\$ 851,000.00	\$ 124,000.00	\$ (122,000.00)	\$ 850,000.00	\$ 2,000.00
HOT Reserve	\$ 124,000.00		\$ 124,000.00	\$ 15,845.00		\$ 15,845.00	\$ -
History Center	\$ 15,845.00		\$ 15,845.00	\$ 37,000.00	\$ 13,610.00	\$ 50,610.00	\$ 810.00
Library Memorial	\$ 37,000.00		\$ 37,000.00	\$ 307,600.00	\$ 307,600.00	\$ 307,600.00	\$ -
Grant Fund	\$ 307,600.00		\$ 307,600.00	\$ 1,301,135.00		\$ 1,277,506.00	\$ 23,629.00
General Debt	\$ 1,301,135.00		\$ 1,301,135.00				
Water/Sewer	\$ 8,874,500.00		\$ 8,874,500.00	\$ 1,000.00	\$ 100,000.00	\$ 8,874,500.00	\$ 1,000.00
Water/Sewer Asset Replace	\$ 1,000.00		\$ 1,000.00	\$ 6,300,000.00	\$ 6,300,000.00	\$ 6,300,000.00	\$ -
Water/Sewer CIP	\$ 6,300,000.00		\$ 6,300,000.00	\$ 1,758,911.00		\$ 1,758,911.00	\$ 48,089.00
Water and Sewer Debt	\$ 1,758,911.00		\$ 1,758,911.00	\$ 902,997.00		\$ 902,997.00	\$ 29,993.00
Golf Course	\$ 902,997.00		\$ 902,997.00	\$ 293,033.00		\$ 293,033.00	\$ 11,967.00
Garage	\$ 293,033.00		\$ 293,033.00	\$ 3,316,165.00		\$ 3,316,165.00	\$ 25,183.00
Employee Benefit Trust Fund	\$ 3,316,165.00		\$ 3,316,165.00				
Flexible Spending	\$ 30,000.00		\$ 30,000.00				
Parkland Dred	\$ 20,500.00		\$ 20,500.00				
433 Water St.	\$ 5,600.00		\$ 5,600.00				
General CIP	\$ -		\$ -				
Total	\$ 38,855,876.00	\$ 6,554,210.00	\$ 45,410,086.00			\$ 44,827,085.00	\$ 582,701.00
Component Unit	\$ 2,250,000.00		\$ 2,250,000.00			\$ 2,250,000.00	\$ -
EIC Debt Service	\$ 595,000.00		\$ 595,000.00			\$ 499,859.00	\$ 5,141.00
AIRPORT						\$ 544,221.00	\$ -
Joint Venture							

Schedule B
Capital Improvement Projects
Prior Approved Projects

		FY 10 Budget	FY 11 Budget
Airport			
A16	Airport Water Line Design	\$ 75,000	Closed
A03	Relocate 12/30 Parallel Taxiway - Phase 1	\$ 681,457	Closed
A03	Relocate 12/30 Parallel Taxiway - Phase 2	\$ 325,000	Closed
A18	Airport Master Plan	\$ 17,500	Closed
A16	Airport Water Line Construction	\$ 482,101	Closed
A19	RAMP Grant FY10	\$ 100,000	Closed
** All Airport Projects Closed with the transfer of the Management Contract to the County			
		Airport Subtotal:	\$ 1,681,058
Drainage			
G70 70-800-507	Burlison Street Off-Site Drainage Improvements	\$ 355,000	\$ 355,000
G83 70-800-507	Oak Hollow Drainage Improvements	\$ 395,000	\$ 395,000
G84 70-800-507	Remedial Drainage Program	\$ 500,000	\$ 500,000
G78, E40 70- & 75-800-507	Salavation Army Detention Facility	\$ 1,402,000	\$ 1,402,000
		Drainage Subtotal	\$ 2,652,000
Facilities			
G88 70-800-502	Administrative Facilities	\$ 2,128,500	\$ 2,128,500
W76 71-800-502	Equipment Storage Facility	\$ 450,000	\$ 500,000
G82 70-800-510 & 511	GIS Aerial Photography & Planimetrics	\$ 75,000	\$ 120,000
W85 71-800-502	UTC Building - Design	\$ 215,000	\$ 215,000
G95 70-800-502	Library Roof Grant	\$ 86,365	\$ 86,365
		Facilities Subtotal	\$ 2,954,865
Parks and Open Spaces			
G74 70-800-501; 70-09011	Carver Park Improvements	\$ 130,000	Closed
G74 70-800-501; 70-09012	Lytle Park Improvements	\$ 120,000	\$ 149,374
G74 70-800-501; 70-08005	Park System Improvements	\$ 143,177	Closed
G27 700-800-501	River Trail Phase 1	\$ 525,000	\$ 525,000
G87 700-800-501	River Trail Phase 2	\$ 27,000	Closed
N/A 700-800-501	Sample Park	\$ 100,000	Closed
G94 700-800-502	Water Playground at Carver Park	\$ 250,000	Closed
N/A 700-800-501	Westland Park	\$ 100,000	Closed
		Parks and Open Spaces Subtotal:	\$ 1,395,177
Public Safety			
G86 70-800-507	Safe Routes to Schools Construction	\$ 3,092,902	\$ 3,092,902
G86 70-800-507	Safe Routes to Schools Easement Acquisition	\$ 40,000	\$ 40,000
		Public Safety Subtotal:	\$ 3,132,902
Roadway System Improvements			
E05	G Street Bridge	\$ 300,000	\$ 300,000
E04 75-800-507	Holdsworth Drive	\$ 4,576,591	\$ 4,576,591
G85 70-800-507	Street Reconstruction - 2009	\$ 1,500,000	\$ 1,500,000
G85 70-800-507	Street Reconstruction - 2010	\$ 2,000,000	Closed
W86 70-800-507	Reconstruction of Road at Wastewater Treatment Plant	\$ 20,000	\$ 20,000
		Roadway System Improvements Subtotal:	\$ 8,396,591
Wastewater System			
W63 71-800-511	Belt Filter Press Replacement	\$ 655,700	\$ 655,700
W75 71-800-511	Birkdale Lift Station & New Force Main - Design	\$ 730,000	\$ 730,000
E31 71-800-510 & 511	Harper Road Utility Extension	\$ 2,950,000	\$ 3,152,396
W27 71-800-510 & 511	Highway 16 Utility Relocation	\$ 1,797,584	\$ 1,797,584
W78 71-800-511	I&I Phase 1 Construction - 2009	\$ 600,000	Closed
W78 71-800-511	I&I Phase 2 Engineering - 2010	\$ 100,000	\$ 100,000
W78 71-800-511	I&I Phase 2 Construction - 2010	\$ 600,000	\$ 600,000
W78 71-800-511	I&I Phase 3 Engineering - 2011	\$ 100,000	\$ 100,000
W74 71-800-511	Lois St Sewer Main Replacement	\$ 450,000	Closed
E25 71- & 75-800-511	Towncreek Sanitary Sewer System	\$ 1,177,287	Closed
W19 71-800-511	WWTP Headworks Replacement	\$ 50,000	\$ 50,000
		Wastewater System Subtotal:	\$ 9,210,571
Water System			
W01 71-800-510	ASR #3 Construction	\$ 1,303,000	\$ 1,303,000
W53 71-800-510	High Service Pump Addition @ Clearwell	\$ 170,000	\$ 170,000
W70 71-800-510	High Service Pump @ River Hill Pressure Plane	\$ 380,000	\$ 380,000
W61 71-800-510	Motor Control Center Water Plant	\$ 603,213	\$ 603,213
W80 71-800-510	WTP Clearwell Improvements - Design	\$ 414,000	\$ 214,000
W90 71-800-510	12" Water Line Glen Road	\$ 575,000	\$ 575,000
W83 71-800-510	College Cove Tank Repair	\$ 100,000	\$ 300,000
W67 71-800-510	Meter Replacement Project	\$ 2,733,795	\$ 2,733,795
W82 71-800-510	Methodist Encampment Production Well	\$ 757,000	\$ 950,000
W91 71-800-510	SH 27 Fire Flow Enhancement	\$ 150,000	\$ 150,000
W89 71-800-510	Transfer Station Water Line	\$ 450,000	\$ 450,000
W54 71-800-510	Travis Tank Decommission	\$ 31,000	\$ 31,000
W65 71-800-510	Water Supply Acquisition	\$ 180,665	\$ 180,665
		Water System Subtotal:	\$ 7,847,673

Schedule C
Capital Improvement Projects
FY 11 Approved Projects

FY 11 Budget

General Fund

G86	70-800-507	Safe Routes to Schools - Striping, Signs, Tree Removal	\$	60,000
N/A	70-800-502	Callioux Center ADA Compliance Repairs	\$	50,000
A20	74-800-507	Airport RAMP Grant 2011 <i>(Previous contribution)</i>	\$	-
G99		Capital Contingency	\$	40,000
General Fund Subtotal:			\$	150,000

Water / Sewer Fund

W76	71-800-511	WWTP Paving	\$	50,000
W65	71-800-510	Water Supply Acquisition	\$	50,000
Water / Sewer Subtotal			\$	100,000

General Fund Debt

No Projects

General Fund Debt Subtotal \$ -

Water / Sewer Debt*

		Birkdale Lift Station & Force Main Construction	\$	4,866,000
		Force Main Co-Mingle Box at WWTP	\$	305,000
		G-Street Interceptor Design	\$	308,000
		I&I Phase 3 Construction - 2011	\$	600,000
		I&I Phase 4 Engineering - 2012	\$	100,000
Water / Sewer Debt Subtotal:			\$	6,179,000

*Projects not funded until sale of 2011 bonds

Agenda Item: **(Staff)**

- 4A. An Ordinance amending the budget for fiscal year 2010 to allocate surplus funds remaining within the main street fund and to make amendments to funding for various capital improvement projects.

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

SUBJECT: Second Reading of an Ordinance Amending the FY 2010 Budget

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 16, 2010

SUBMITTED BY: Mike Erwin 
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Ordinance, Exhibit A
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Staff requests to amend the FY 2010 City of Kerrville's budget to reflect use of EIC funds in Business Programs and to reallocate unspent capital project funds. The first reading was approved September 14, 2010.

EIC Funds - In FY08, the EIC provided \$20,000.00 in funds to the Business Programs Department for marketing. \$16,000.00 of these funds was used in the FY09 budget and this request is to allocate the remaining \$4,000.00 in funds to the FY10 budget for advertising and marketing. The funds are currently located in the fund balance of the Main Street Fund and Business Programs is requesting to increase the Main Street Fund's expenditures by \$2,389.50 and the Business Programs Department expenditure budget by \$1,610.50.

Capital Projects - Staff requests the following changes in funding for capital projects:

Capital Improvement Projects

Sample Park Improvements— This project is being closed due to no bonds being sold in FY10 for General Fund Debt.

Westland Park Improvements – This project is being closed due to no bonds being sold in FY10 for General Fund Debt.

Street Reconstruction 2010 – This project is being closed due to no bonds being sold in FY10 for General Fund Debt.

Carver Park Improvements – This project was completed in July 2010 and was funded through 2009 Bonds and Parkland Dedication fees. A balance of \$5,982.10 in bond funds remains and will be transferred to the Lytle Park Improvement Project.

Park System Improvements – This project was completed in July 2010 and was funded through Parkland Dedication fees and prior closed Softball Fund. A balance of \$6,075.60 in Parkland Dedication funds remain and will be transferred to the Lytle Park Improvement Project.

River Trail Phase 2 & 3 Conceptual Plan – This project was funded through Parkland Dedication fees. Preliminary conceptual design has been completed. Since the construction and funding of this project has moved to the future phase of the CIP, staff believes no additional work is needed on the conceptual design at this time. The remaining balance of \$17,316.37 in Parkland Dedication fees will transfer to the Lytle Park Improvement Project.

Lytle Park Improvements – With the closures of Carver Park Improvement project, Park System Improvement Project and the River Trail Phase 2 & 3 Conceptual Plan project, this project will increase \$29,374.07.

Water Playground at Carver Park – The project was funded through a loan to the General Fund from the Landfill Fund and completed in June 2010 with a remaining project balance of \$2,360.50. The remaining balance will be returned to the Landfill Fund and deducted from the loan balance.

Equipment Storage Facility – This project was designed in 2010 and bid in August with an original budget of \$450,000 for design and construction. This amendment would increase the project budget to \$500,000 to cover the cost of the construction and provide for a contingency. The additional \$50,000 would be funded through the amendment of the WTP Clearwell Engineering project (2007 Bonds).

GIS Aerial Photography and Planimetrics – This amendment would increase the project \$45,000 and allow for the purchase of a site license for two years to better enable the GIS system to work correctly. This increase would be funded through water/sewer cash from the closure of the Town Creek Utility project.

I&I Construction Phase 1 (2009) – This phase was completed in the spring of 2010 with a remaining balance of \$45,395.72 of 2009 Bonds. This will close this project and transfer the remaining funds to the Harper Highway Utility Extension Project.

Lois Street Sewer Main Replacement – This project was prioritized as a need based on the relocation of the storm sewer through Lois Street. Since the storm sewer replacement was not economically feasible, this project will be moved to the future CIP list. The \$50,000 water/sewer cash funds will be returned to the fund balance and the \$400,000 in 2009 Bonds will be reallocated to the College Cove Tank project (\$200,000), the Methodist

Encampment Production Well project (\$193,000) and the Harper Highway Utility Extension Project (\$7,000).

Town Creek Sanitary Sewer System – This project was completed in June 2010 with a remaining balance of \$51,460.46 of water/sewer cash funds. Of the remaining balance, \$45,000 will be transferred to the GIS project and \$6,460.46 will move to the water/sewer fund balance.

WTP Clearwell Improvements – This amendment would decrease the funding on this design project by \$200,000. Design is 99% complete and therefore will not need additional funds above the balance of \$214,000. Of the \$200,000 in 2007 Bonds, \$50,000 would transfer to the Equipment Storage Facility and \$150,000 would transfer to the Harper Highway Utility Extension Project.

College Cove Tank Project – This amendment would increase the project \$200,000 to allow for additional rehabilitation work on the tank to provide longevity to the tank. This increase would be funded through the closure of the Lois Street Sewer project with 2007 Bonds.

Methodist Encampment Production Well– This amendment would increase the project \$193,000 to allow for additional ASR capabilities and provide for the revised construction cost estimate. This increase would be funded through the closure of the Lois Street Sewer project with 2007 Bonds.

Harper Highway Utility Extension Project – Originally funded through the Economic Improvement Corporation, this amendment adds \$202,395.72 to the project budget in order to cover unanticipated project changes since the project inception as well as provide for a scope change to stub water and sewer from Town Creek to west side of Harper Road for additional economic development opportunities. The additional funds are from the closure of Lois Street Sewer Project (\$7,000 – 2009 Bonds), the closure of the I&I Phase 1 Construction (\$45,395.72 – 2009 Bonds), and the project amendment to the WTP Clearwell Engineering project (\$150,000 – 2007 Bonds).

RECOMMENDED ACTION

Staff recommends the City Council approve the second reading of an ordinance amending the FY 2010 budget and authorize staff to make all necessary entries and adjustments to reflect the attached changes.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2010-_____**

**AN ORDINANCE AMENDING THE BUDGET FOR FISCAL YEAR 2010 TO
ALLOCATE SURPLUS FUNDS REMAINING WITHIN THE MAIN STREET
FUND AND TO MAKE AMENDMENTS TO FUNDING FOR VARIOUS
CAPITAL IMPROVEMENT PROJECTS**

WHEREAS, in 2008, the Economic Improvement Corporation awarded \$20,000 to the City's Main Street Division for marketing purposes for Fiscal Year 2009; and

WHEREAS, the Main Street Division is part of the City's Business Programs Department; and

WHEREAS, the Main Street Division used only \$16,000 of these funds in the Fiscal Year 2009 budget; and

WHEREAS, the remaining funds are currently located in the fund balance of the Main Street Fund and are unallocated; and

WHEREAS, the Business Programs Department is requesting to increase the Main Street Fund's expenditures by \$2,389.50 and the Business Programs Department's expenditures by \$1610.50, by reallocating the remaining \$4,000 in funds to the Fiscal Year 2010 budget for these respective purposes; and

WHEREAS, City staff is also recommending amendments to the funding previously allocated for various Capital Improvement Projects due to schedule changes, estimated and realized project costs, and future funding constraints;

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

In accordance with Section 8.07 of the City Charter, the Official Budget for Fiscal Year 2010 shall be amended as set forth in **Exhibit A**.

PASSED AND APPROVED ON FIRST READING, this the 14th day of September, A.D., 2010.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of _____, A.D., 2010.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Exhibit A
September Budget Amendment FY2010

	FY 10 Approved Budget	Amount of the Action	FY10 Amended Budget
FUND BALANCE - MAIN STREET FUND	\$ 5,359.58	\$ (4,000.00)	\$ 1,359.58
MAIN STREET FUND	30,750.00	2,389.50	\$ 33,139.50
GENERAL FUND - BUSINESS PROGRAMS	\$ 184,585.88	\$ 1,610.50	\$ 186,196.38
		\$ -	
CAPITAL PROJECTS			
	DECREASE		INCREASE
General Fund			
Carver Park	\$ 5,982.10		
Park System	\$ 6,075.60		
RT Phase 2&3	\$ 17,316.37		
Lytle Park			\$ 29,374.07
Total	\$ 29,374.07		\$ 29,374.07
Landfill Closure Fund			
Carver Park Water Park	\$ 2,360.50		
Landfill Closure Fund - Toward Debt			\$ 2,360.50
	\$ 2,360.50		\$ 2,360.50
Water and Sewer Fund			
	DECREASE		INCREASE
Equipment Storage			\$ 50,000.00
GIS			\$ 45,000.00
I&I 2009 Construction	\$ 45,395.72		
Lois St.	\$ 450,000.00		
Town Creek	\$ 51,460.46		
WTP Clearwell Eng	\$ 200,000.00		
College Cove Tank			\$ 200,000.00
Methodist Encampment			\$ 193,000.00
Harper Hwy Project			\$ 202,395.72
Cash to Fund Balance			\$ 56,460.46
Total	\$ 746,856.18		\$ 746,856.18

Agenda Item: **(Staff)**

- 4B. An ordinance approving a negotiated resolution between the Atmos Cities Steering Committee ("ACSC" or "Steering Committee") and Atmos Energy Corp., Mid-Tex Division ("Atmos Mid-Tex" or Company") regarding the company's third rate review mechanism ("RRM") filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities' reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos Mid-Tex's proof of revenues; extending the RRM process for two cycles and adopting a new RRM tariff; ratifying the settlement agreement, including cost recovery for a steel service line replacement program; adopting a savings clause; determining that this Ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this Ordinance to the company and the Steering Committee's legal counsel.

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

SUBJECT: Ordinance approving settlement with Atmos Energy Corporation, Mid-Tex Division regarding March 2010 Rate Review Mechanism filing

FOR AGENDA OF: Sept. 28, 2010 **DATE SUBMITTED:** Sept. 17, 2010

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

EXHIBITS: Ordinance

AGENDA MAILED TO: None

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 City of Kerrville, along with approximately 148 other cities served by Atmos Energy Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"). On or about March 15, 2010, Atmos Mid-Tex filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism ("RRM") tariff approved by the City as part of the settlement of the Atmos Mid-Tex 2007 Statement of Intent to increase rates. This is the third RRM filing under a three year experimental program.

The Atmos Mid-Tex RRM filing sought a \$70.2 million rate increase. The City worked with ACSC to analyze the schedules and evidence offered by Atmos Mid-Tex to support its request to increase rates. The Ordinance and attached rate and RRM tariffs are the result of negotiations between ACSC and the Company to resolve issues raised by ACSC during the review and evaluation of ACSC's RRM filing. The Ordinance resolves the Company's RRM filing by authorizing an increase in the Company's base rate of \$27 million effective for bills rendered on or after October 1, 2010. Additionally, the Ordinance authorizes supplemental revenue of \$3.4 million to be recovered through the customer charge component of rates to cover direct costs associated with a steel service line replacement program. The monthly bill impact for the average residential customer will be a \$1.40 increase (about a 3.15% increase in the total bill).

The ACSC Executive Committee and ACSC legal counsel recommend that all ACSC Cities adopt the Ordinance implementing the rate change.

RRM Background:

The RRM tariff was approved by ACSC Cities as part of the settlement agreement to resolve the Atmos Mid-Tex 2007 system-wide rate filing at the Railroad Commission. Atmos Mid-Tex's current action represents the third filing pursuant to the three-year trial project known as the RRM process. The RRM process was created collaboratively by ACSC and Atmos Mid-Tex as an alternative to the legislatively authorized GRIP surcharge process. ACSC opposed GRIP because it constituted piecemeal ratemaking, did not allow any reasonableness review, and did not allow participation by cities or recovery of cities' rate case expenses. The RRM process has allowed for a more comprehensive rate review and annual adjustment as a substitute for GRIP filings during the three-year trial period specified by the tariff.

There are two components to the current RRM adjustment. The prospective component adjusts rates for known and measurable changes in operations and maintenance ("O&M") expense and net plant investment. Atmos Mid-Tex and ACSC agreed to cap changes to expenses and invested capital at no more than five percent per year. The true-up component evaluates whether the Company has over or underrecovered its earnings for the previous year. For purposes of the RRM true-up component, the Atmos Mid-Tex rate of return on equity and its capital structure are frozen to avoid the parent company from manipulating the overall rate of return. Costs expressly prohibited from recovery through the RRM include first-class air fare, travel, meals, or entertainment for an employee's spouse, alcohol, sports events, entertainment, arts and cultural events, sponsorship of sports, arts or cultural events, and social club membership dues.

Purpose of the Ordinance:

Rates cannot change and the Settlement Agreement with Atmos Mid-Tex cannot be implemented without passage of rate ordinances by cities. No related matter is pending at the Railroad Commission. The purpose of the Ordinance is to approve rate tariffs ("**Attachment A**") and Proof of Revenues ("**Attachment B**") that reflect the negotiated rate change pursuant to the RRM process and to ratify a Settlement Agreement recommended by the ACSC Settlement Committee and Executive Committee.

As a result of the negotiations, ACSC was able to reduce the Company's requested \$70.2 million RRM increase to \$27 million. Approval of the Ordinance will result in the implementation of new rates that increase Atmos Mid-Tex's revenues effective October 1, 2010.

The Settlement Agreement ("**Attachment C**") to be ratified by the Ordinance authorizes an extension of the RRM process, in modified form to eliminate the true-up component, for an additional two annual filings. The Settlement Agreement also addresses the Atmos Mid-Tex steel service line replacement program and authorizes current cost recovery via an adder to residential and commercial customer charges.

Reasons Justifying Approval of the Negotiated Resolution:

During the time that the City has retained original jurisdiction in this case, consultants working on behalf of ACSC cities have investigated the support for the Company's requested rate increase. While the evidence does not support the \$70.2 million increase requested by the Company, ACSC consultants agree

that the Company can justify an increase in revenues of \$21 million. The agreement on \$27 million is a compromise between the positions of the parties.

The Settlement Agreement includes an allowance for recovery of direct costs, excluding overheads, of the steel service line replacement program. Current year recovery factors shall be \$00.15 for residential customers and \$00.41 for commercial customers per month. The rates will be adjusted annually, but shall be capped at \$00.44 cents for residential customers and \$1.22 for commercial customers.

The alternative to a settlement of the RRM filing would be a contested case proceeding before the Railroad Commission on the Company's current application, would take several months and cost ratepayers millions of dollars in rate case expenses, and would not likely produce a result more favorable than that to be produced by the settlement. The ACSC Executive Committee recommends that ACSC members take action to approve the Ordinance authorizing new rate tariffs.

Steel Service Line Replacement:

Under pressure from the Railroad Commission to establish a comprehensive program to replace service lines that contain steel which is subject to corrosion and leaks, ACSC has worked with Atmos Mid-Tex to establish a risk based approach to steel service line replacement that accomplishes the following goals:

1. Replace all service lines throughout the Mid-Tex Region with the highest degree of risk within two years;
2. Coordination between ACSC city members and Atmos Mid-Tex to minimize disruption of rights of way without compromising safety;
3. To minimize and spread the rate impact on customers of the replacement program, the service lines with little relative risk of leaks should be replaced over a 10-year period; and
4. Current recovery of incremental (above and beyond normal maintenance and repair addressed in RRM proceedings) direct (excluding Atmos Mid-Tex overheads) cost of service line replacement should be permitted as an adder to customer charges.

Fulfillment of these goals in this case will lead to \$00.15 and \$00.41 added to residential and commercial customer charges, respectively. The customer charge assessment may not exceed \$00.44 and \$1.22 for residential and commercial customers, respectively, prior to the entry of a Final Order in the next system-wide Statement of Intent rate proceeding.

Pursuant to the Settlement Agreement, 100,000 steel service lines will be replaced prior to September 30, 2012.

Explanation of "Be It Ordained" Paragraphs:

1. This paragraph approves all findings in the Ordinance.
2. This section adopts the attached tariffs ("Attachment A") and the Company's Proof of

Revenues (“**Attachment B**”) in all respects and finds the rates set pursuant to the attached tariffs to be just, reasonable and in the public interest. Note that only new tariffs or existing tariffs being revised are attached to the Ordinance. Existing tariffs not being changed in any way are not attached to the Ordinance.

3. This section requires the Company to reimburse ACSC for reasonable rate making costs associated with reviewing and processing the RRM application.

4. This section ratifies the Settlement Agreement (“**Attachment C**”) between ACSC and Atmos Mid-Tex.

5. This section repeals any resolution or ordinance that is inconsistent with this Ordinance.

6. This section finds that the meeting was conducted in compliance with the Texas Open Meetings Act, Texas Government Code, Chapter 551.

7. This section is a savings clause, which provides that if any section(s) is later found to be unconstitutional or invalid, that finding shall not affect, impair or invalidate the remaining provisions of this Ordinance. This section further directs that the remaining provisions of the Ordinance are to be interpreted as if the offending section or clause never existed.

8. This section is a “Most Favored Nations” clause, which protects the City by mandating that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company’s RRM filing would be more beneficial to the City than the terms of the attached tariffs, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

9. This section provides for an effective date upon passage.

10. This paragraph directs that a copy of the signed Ordinance be sent to a representative of the Company and legal counsel for ACSC.

RECOMMENDED ACTION

Adoption of Ordinance on second reading.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2010-_____

AN ORDINANCE APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE ("ACSC" OR "STEERING COMMITTEE") AND ATMOS ENERGY CORP., MID-TEX DIVISION ("ATMOS MID-TEX" OR "COMPANY") REGARDING THE COMPANY'S THIRD RATE REVIEW MECHANISM ("RRM") FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS MID-TEX'S PROOF OF REVENUES; EXTENDING THE RRM PROCESS FOR TWO CYCLES AND ADOPTING A NEW RRM TARIFF; RATIFYING THE SETTLEMENT AGREEMENT, INCLUDING COST RECOVERY FOR A STEEL SERVICE LINE REPLACEMENT PROGRAM; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL

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

WHEREAS, the City is a member of the Atmos Cities Steering Committee ("ACSC" or "Steering Committee"), a coalition of approximately 148 similarly situated cities served by Atmos Mid-Tex that have joined together to facilitate the review of and response to natural gas issues affecting rates charged in the Atmos Mid-Tex service area (such participating cities are referred to herein as "ACSC Cities"); and

WHEREAS, pursuant to the terms of the agreement settling the Company's 2007 Statement of Intent to increase rates, ACSC Cities and the Company worked collaboratively to develop a Rate Review Mechanism ("RRM") tariff that allows for an expedited rate review process controlled in a three year experiment by ACSC Cities as a substitute to the current GRIP process instituted by the Legislature; and

WHEREAS, the City took action in 2008 to approve a Settlement Agreement with Atmos Mid-Tex resolving the Company's 2007 rate case and authorizing the RRM Tariff; and

WHEREAS, the 2008 Settlement Agreement contemplates reimbursement of ACSC Cities' reasonable expenses associated with RRM applications; and

WHEREAS, on or about March 15, 2010, Atmos Mid-Tex filed with the City its third application pursuant to the RRM tariff to increase natural gas base rates by approximately \$70.2 million, such increase to be effective in every municipality that has adopted the RRM tariff within its Mid-Tex Division; and

WHEREAS, ACSC Cities coordinated its review of Atmos Mid-Tex's RRM filing by designating a Settlement Committee made up of ACSC representatives, assisted by ACSC attorneys and consultants, to resolve issues identified by ACSC in the Company's RRM filing; and

WHEREAS, the Company has filed evidence that existing rates are unreasonable and should be changed; and

WHEREAS, independent analysis by ACSC's rate expert concluded that Atmos Mid-Tex is able to justify an increase over current rates of \$21 million; and

WHEREAS, Atmos Mid-Tex has commenced a program to replace steel service lines based on a relative leak repair risk analysis; and

WHEREAS, the Steering Committee has entered a Settlement Agreement ("**Attachment C**" to this Ordinance) with Atmos Mid-Tex to: (1) increase base rate revenues by \$27 million; (2) extend the RRM process, with modifications for an additional two cycles and to thereafter require the filing of a system-wide Statement of Intent rate case on or before June 1, 2013; and (3) in the interim to allow current recovery of incremental direct costs of the steel service line replacement program in rates set via this ordinance and in future RRMs; and

WHEREAS, the ACSC Executive Committee, as well as ACSC lawyers and consultants, recommend that ACSC members approve the attached rate tariffs ("**Attachment A**" to this Ordinance), which will increase the Company's revenue requirement by \$27 million; and

WHEREAS, the attached tariffs implementing new rates and Atmos Mid-Tex's Proof of Revenues ("**Attachment B**" to this Ordinance) are consistent with the negotiated resolution reached by ACSC Cities and are just, reasonable, and in the public interest; and

WHEREAS, it is the intention of the parties that if the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's Third RRM filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City; and

WHEREAS, the negotiated resolution of the Company's RRM filing and the resulting rates are, as a whole, in the public interest.

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

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

SECTION TWO. The City Council finds the existing rates for natural gas service provided by Atmos Mid-Tex are unreasonable and new tariffs and Atmos Mid-Tex's Proof of Revenues, which are attached hereto and incorporated herein as **Attachments A and B**, are just and reasonable and are hereby adopted.

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

SECTION FOUR. The Settlement Agreement, attached as **Attachment C**, which includes in addition to resolution of the Third RRM: (1) extension of a modified RRM process; (2) requirement that Atmos Mid-Tex file a system-wide Statement of Intent rate case on or before June 1, 2013; and (3) current recovery of incremental direct costs for a steel service line replacement program, is hereby ratified.

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

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

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

SECTION EIGHT. If the City determines any rates, revenues, terms and conditions, or benefits resulting from a Final Order or subsequent negotiated settlement approved in any proceeding addressing the issues raised in the Company's Third RRM filing would be more beneficial to the City than the terms of the attached tariff, then the more favorable rates, revenues, terms and conditions, or benefits shall additionally accrue to the City.

SECTION NINE. This Ordinance shall become effective from and after its passage with rates authorized by attached Tariffs to be effective for bills rendered on or after October 1, 2010.

SECTION TEN. A copy of this Ordinance shall be sent to Atmos Mid-Tex, care of David Park, Vice President Rates and Regulatory Affairs, at Atmos Energy Corporation, 5420 LBJ Freeway, Suite 1862, Dallas, Texas 75240, and to Geoffrey Gay, General Counsel to ACSC, at Lloyd Gosselink Rochelle & Townsend, P.C., P.O. Box 1725, Austin, Texas 78767-1725.

PASSED AND APPROVED ON FIRST READING, this the 14th day of Sept.,
A.D., 2010.

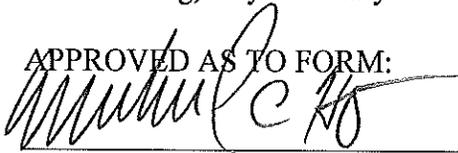
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ___ day
of _____, A.D., 2010.

David Wampler, Mayor

ATTEST:

Brenda Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RATE SCHEDULE:	R – RESIDENTIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Application

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

Type of Service

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

Monthly Rate

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

Charge	Amount
Customer Charge per Bill	\$ 7.15 per month
Commodity Charge – All Mcf	\$2.5246 per Mcf

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

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

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

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

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

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

Agreement

An Agreement for Gas Service may be required.

Notice

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

ATMOS ENERGY CORPORATION
MID-TEX DIVISION

RATE SCHEDULE:	C – COMMERCIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Application

Applicable to Commercial Customers for all natural gas provided at one Point of Delivery and measured through one meter and to Industrial Customers with an average annual usage of less than 3,000 Mcf.

Type of Service

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

Monthly Rate

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

Charge	Amount
Customer Charge per Bill	\$ 13.91 per month
Commodity Charge - All Mcf	\$ 1.0796 per Mcf

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

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

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

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

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

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

Agreement

An Agreement for Gas Service may be required.

Notice

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

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RATE SCHEDULE:	I – INDUSTRIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Application

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

Type of Service

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

Monthly Rate

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

Charge	Amount
Customer Charge per Meter	\$ 450.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2750 per MMBtu
Next 3,500 MMBtu	\$ 0.2015 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0433 per MMBtu

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

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

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

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

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

Curtailment Overpull Fee

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

ATMOS ENERGY CORPORATION
MID-TEX DIVISION

RATE SCHEDULE:	I - INDUSTRIAL SALES	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Replacement Index

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

Agreement

An Agreement for Gas Service may be required.

Notice

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

Special Conditions

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

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RATE SCHEDULE:	T - TRANSPORTATION	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Application

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

Type of Service

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

Monthly Rate

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

Charge	Amount
Customer Charge per Meter	\$ 450.00 per month
First 0 MMBtu to 1,500 MMBtu	\$ 0.2750 per MMBtu
Next 3,500 MMBtu	\$ 0.2015 per MMBtu
All MMBtu over 5,000 MMBtu	\$ 0.0433 per MMBtu

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

Rate Review Mechanism: Plus or Minus an amount for rates as calculated in accordance with Rider RRM.

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

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

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

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

Imbalance Fees

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

ATMOS ENERGY CORPORATION
MID-TEX DIVISION

RATE SCHEDULE:	T – TRANSPORTATION	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Monthly Imbalance Fees

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

Curtailement Overpull Fee

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

Replacement Index

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

Agreement

A transportation agreement is required.

Notice

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

Special Conditions

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

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Provisions for Adjustment

The base rate per Mcf (1,000,000 Btu) for gas service set forth in any Rate Schedules utilized by the cities of the Mid-Tex Division service area for determining normalized winter period revenues shall be adjusted by an amount hereinafter described, which amount is referred to as the "Weather Normalization Adjustment." The Weather Normalization Adjustment shall apply to all temperature sensitive residential and commercial bills based on meters read during the revenue months of November through April. The five regional weather stations are Abilene, Austin, Dallas, Waco, and Wichita Falls.

Computation of Weather Normalization Adjustment

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

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

Where

i = any particular Rate Schedule or billing classification within any such particular Rate Schedule that contains more than one billing classification

$WNAF_i$ = Weather Normalization Adjustment Factor for the i^{th} rate schedule or classification expressed in cents per Mcf

R_i = base rate of temperature sensitive sales for the i^{th} schedule or classification approved by the entity exercising original jurisdiction.

HSF_i = heat sensitive factor for the i^{th} schedule or classification calculated as the slope of the linear regression of average sales per bill (Mcf) and actual heating degree days by month for the test year by schedule or classification and weather station as part of the RRM filing.

NDD = billing cycle normal heating degree days calculated as the simple ten-year average of actual heating degree days.

ADD = billing cycle actual heating degree days.

BL_i = base load sales for the i^{th} schedule or classification calculated as the y-intercept of the linear regression of average sales per bill (Mcf) and actual heating degree days by month for the test year by schedule or classification and weather station as part of the RRM filing.

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

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

RIDER:	WNA – WEATHER NORMALIZATION ADJUSTMENT	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

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

Filings with Entities Exercising Original Jurisdiction

As part of its annual RRM filing the Company will file (a) a copy of each computation of the Weather Normalization Adjustment Factor, (b) a schedule showing the effective date of each such Weather Normalization Adjustment, (c) a schedule showing the factors of values used in calculating such Weather Normalization Adjustment and (d) a random sample and audit of thirty (30) actual customer bills, with customer information deleted, for each rate schedule or classification to which the WNA was applied in the preceding 12 month period. To the extent that source data is needed to audit the WNA application, such data will be provided by the Company as part of the annual RRM filing.

If the RRM is discontinued, as provided in the Rider RRM tariff, the information required herein to be filed with the entities exercising original jurisdiction shall be filed on March 1 of each year.

Base Use/Heat Use Factors

Weather Station	<u>Residential</u>		<u>Commercial</u>	
	Base use Mcf	Heat use Mcf/HDD	Base use Mcf	Heat use Mcf/HDD
Abilene	1.06	.0131	9.03	.0588
Austin	1.17	.0138	19.39	.0674
Dallas	1.49	.0191	20.37	.0872
Waco	1.13	.0137	11.81	.0610
Wichita Falls	1.19	.0136	11.21	.0549

Sample WNAF_i Calculation:

$$.3352 \text{ per Mcf} = 2.5246 \times \frac{(.0131 \times (30-17))}{(1.06 + (.0131 \times 17))}$$

Where

- i = Residential Single Block Rate Schedule
- R_i = 2.5246 per MCF
- HSF_i = .0131 (Residential - Abilene Area)
- NDD = 30 HDD (Simple ten-year average of Actual HDD for Abilene Area – 9/15/06 – 10/14/06)
- ADD = 17 HDD (Actual HDD for Abilene Area – 9/15/06 – 10/14/06)
- Bl_i = 1.06 Mcf (Residential - Abilene Area)

ATMOS ENERGY CORPORATION
MID-TEX DIVISION

RIDER:	RRM – RATE REVIEW MECHANISM	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

I. Purpose:

This mechanism is designed to provide annual earnings transparency. All rate calculations under this tariff shall be made on a system wide basis. If, through the implementation of the provisions of this mechanism, it is determined that rates should be decreased or increased, then rates will be adjusted accordingly in the manner set forth herein. The rate adjustments implemented under this mechanism will reflect annual changes in the Company's cost of service and rate base. This Rider RRM will be effective for the period commencing with the Company's RRM filing on April 1, 2011, and concluding with the implementation of new, final rates established pursuant to the general rate case that Atmos will file on or before June 1, 2013.

II. Definitions

- a) The **Annual Evaluation Date** shall be the date the Company will make its annual filing under this mechanism. The Annual Evaluation Date shall be no later than April 1, of each year. This filing shall be effective in electronic form where practicable.
- b) **Audited Financial Data** shall mean the Company's books and records related to the Company's Mid-Tex operating area and shared services operations. Audited Financial Data shall not require the schedules and information provided under this tariff to undergo a separate financial audit by an outside auditing firm similar to the Company's annual financial audit.
- c) The **Evaluation Period** is defined as the twelve month period ending December 31, of each calendar year.
- d) The **Rate Effective Period** is defined as the later of the twelve month period for which rates determined under this mechanism will be in effect or subsequent rates are implemented.
- e) **Per Connection Basis** is defined as the existing average number of Mid-Tex active meters to customers during the Evaluation Period.
- f) **Final Order** is defined as the most recent order establishing the Company's latest effective rates for the area in which the mechanism is implemented, and shall include municipal rate ordinances and resolutions.

III. Rate Review Mechanism

The Company shall file with each regulatory authority having original jurisdiction over the Company's rates the schedules specified below for the Evaluation Period, with the filing to be made by the Annual Evaluation Date following the end of the Evaluation Period. The schedules, which will be based upon the Company's Audited Financial Data, as adjusted, and provided in the same format as Atmos' RRM filing with municipalities on March 15, 2010, will exclude a true-up computation, but will include the following:

- a) Evaluation Period ending balances for actual gross plant in service, accumulated depreciation, accumulated deferred income taxes, inventory, working capital, and other rate base components will be used for the calculation of rates for the Rate Effective Period. The ratemaking treatments, principles, findings and adjustments included in the Final Order will apply. Regulatory adjustments due to prior regulatory rate base adjustment disallowances will be maintained. Cash working capital will be calculated using the lead/lag days approved in the Final Order. Accumulated deferred income taxes (ADIT) will be calculated using the methodology used in the Final Order. The RRM Schedules & Information section of this tariff identifies those ADIT components to be included in the calculation of rate base for both the Evaluation Period and Rate Effective Period calculations.

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RIDER:	RRM – RATE REVIEW MECHANISM	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
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- b) Depreciation rates booked in the period will be those approved in the Final Order, or the rate most recently approved. All calculation methodologies will be those approved in the Final Order except where noted or included in this tariff, or in the most recent order addressing the methodology. In addition, the Company shall exclude from operating and maintenance expense the discretionary costs to be disallowed from Rider RRM filings listed in the RRM Schedules and Information section of this tariff.
- c) Return on Equity (ROE) shall be maintained at 9.7%.
- d) Cost of debt will reflect actual cost for the Evaluation Period. Evaluation Period ending balances for cost of debt and capital structure will be used for the calculation of rates for the Rate Effective Period. Capital structure will be the actual Evaluation Period ratio of long-term debt and equity, with percentage equity not to exceed 50%, based on the calculation methodology outcomes used above.
- e) All applicable accounting adjustments along with all supporting work papers. Such adjustments may include:
 - 1) Pro-forma adjustments to update and annualize costs and revenue billing determinants for the Rate Effective Period.
 - 2) Pro-forma or other adjustments required to properly account for atypical, unusual, or nonrecurring events recorded during the Evaluation Period.
- f) Shared Services allocation factors shall be recalculated each year based on the latest component factors used during the Evaluation Period, but the methodology used will be that approved in the Final Order.
- g) Any changes to corporate structure or allocation of common costs will include narrative explanations with the filing.

IV. Calculation of Rate Adjustment

- a) The Company shall provide additional schedules indicating the following revenue deficiency/sufficiency calculations using the methodology accepted in the Final Order with the exception of any allowance for a true-up component in the April 1, 2011 or the April 1, 2012 RRM filings. Evaluation Period ending balances will be used for the calculation of rates for the Rate Effective Period. These schedules shall identify the rate adjustments necessary for the setting of prospective rates for the Rate Effective Period. The result shall be reflected in the proposed new rates to be established for the Rate Effective Period. In calculating the required rate adjustments, such adjustments will be made pro-ratably to the customer charge and usage charge based upon actual revenue generated, as adjusted under the Company's approved Weather Normalization Adjustment (WNA) Rider. Provided, however, that neither the Residential nor the Commercial customer charges may increase more than 20% per year.
- b) The Company may also adjust rates for the Rate Effective Period to include recovery of any known and measurable changes to operating and maintenance costs including, but not limited to, payroll and compensation expense, benefit expense, pension expense, insurance costs, materials and supplies, bad debt costs, medical expense, transportation and building and lease costs for the Rate Effective Period. Provided, however, that adjustments may only be made for costs that are reasonable and necessary. Additionally, utility plant and rate base for the Rate

ATMOS ENERGY CORPORATION
MID-TEX DIVISION

RIDER:	RRM – RATE REVIEW MECHANISM	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
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Effective Period will be established by using the Evaluation Period ending balances, including associated changes in depreciation and amortization expense and taxes. In calculating the Company's known and measurable changes for prospective RRM adjustment purposes, the following limitations will apply, on a Per Connection Basis.

1. Operating and Maintenance expenses per connection for the Rate Effective Period cannot increase more than 5% per year without specific identification and justification. Any proposed adjustment above 5% per year, is subject to the provisions of the Evaluation Procedures of this tariff. Such procedures provide that the regulatory authority will review the proposed adjustment and that the Company and regulatory authority will work collaboratively to seek agreement on the proposed adjustments to the Company's schedules and proposed rates. Justification for such expenditures over the cap shall include an event or combination of events beyond the control of the Company. The beginning adjusted Operation and Maintenance expense per connection for the 2007 RRM Evaluation Period will be limited to not exceed \$151 million divided by the connections for the period. The increase in adjusted Operation and Maintenance expenses per connection for the 2008 Rate Effective Period and the subsequent Rate Effective periods cannot exceed 5% per year, without specific identification and justification.
2. Net plant investment per connection for the Rate Effective Period cannot increase more than 5% per year without specific identification and justification. Any proposed adjustment above 5% per year, is subject to the provisions of the Evaluation Procedures of this tariff. Such procedures provide that the regulatory authority will review the proposed adjustment and that the Company and regulatory authority will work collaboratively to seek agreement on the proposed adjustments to the Company's schedules and proposed rates. However, in performing a cap test to verify compliance, the Company shall exclude any changes in net plant investment associated with federal, state, or local mandates related to safety, compliance, or road moves, including steel service line replacement program costs incurred prior to October 1, 2010. The initial 2008 rate will be set using net plant limited to not exceed [$\$1,243,607,206$ divided by average active meters for the 12 months ended June 30 2007] times 1.025 times the average active meters for calendar year 2007. Subsequent filing calculations of net plant investment will be made using the same method used in the Company's September 20, 2007 Statement of Intent except that Evaluation Period ending balances will be used for net plant in the calculation of rates for the Rate Effective Period.

The rate increase limitations set forth in this tariff shall not preclude the Company from recovering any excluded net plant costs during a subsequent Evaluation Period in which the 5% limitation for net plant investment is not reached or in a subsequent Statement of Intent case. To the extent that the Company seeks to recover any excluded net plant costs during a subsequent Evaluation Period in which the 5% limitation for net plant investment is not reached or in a subsequent Statement of Intent case, the Company shall identify these costs as a specific line item in the schedule accompanying the RRM rate adjustment filing.

The regulatory authority may disallow any net plant investment that is not shown to be prudently incurred. Approval by the regulatory authority of net plant investment pursuant to the provisions of this tariff shall constitute a finding that such net plant investment was prudently incurred. Such finding of prudence shall not be subject to further review in a subsequent Evaluation Period or Statement of Intent filing.

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RIDER:	RRM – RATE REVIEW MECHANISM	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
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- c) Notwithstanding the limitations in subparts IV (a) through (b) of this tariff, the Company shall be entitled to separately adjust rates for the Rate Effective Period to include recovery for direct incremental costs associated with a steel service line replacement program incurred on and after October 1, 2010, a return on equity of 9.0% for such incremental costs as capitalized, depreciation, and applicable taxes. Capital structure will be the actual Evaluation Period ratio of long-term debt and equity, with percentage equity not to exceed 50%, based on the calculation methodology outcomes used above. Rate recovery associated with a steel service line replacement program shall be recovered through the Residential and Commercial customer charges and shall not be subject to or included in the rate increase limitations set forth in IV (a) through (b) of this tariff. Current year recovery factors are presumed to be \$0.15 for residential customers and \$0.41 for commercial customers. The rates will be adjusted annually, however, in no case will the per customer monthly cost recovery factors attributable to a steel service line replacement program exceed \$0.44 for residential customers or \$1.22 for commercial customers, prior to or during the pendency of the Company's next Statement of Intent case. Moreover, the per customer amount attributable to cost recovery for a steel service line replacement program shall be subject to review by the regulatory authority in a subsequent Evaluation Period and all costs associated with a steel service line replacement program will be subject to a prudence/reasonableness review in the Company's next Statement of Intent rate case.
- d) The Company shall provide a schedule demonstrating the "proof of revenues" relied upon to calculate the proposed rate for the Rate Effective Period. The proposed rates shall conform as closely as is practicable to the revenue allocation principles approved in the Final Order.

V. Attestation

A sworn statement shall be filed by the Company's Chief Officer in Charge of Mid-Tex Operations affirming that the filed schedules are in compliance with the provisions of this mechanism and are true and correct to the best of his/her knowledge, information and belief. No testimony shall be filed, but a brief narrative explanation shall be provided of any changes to corporate structure or allocation of common costs.

VI. Evaluation Procedures

The regulatory authority having original jurisdiction over the Company's rates shall have no less than ninety (90) days to review the Company's filed schedules and work papers. The Company will be prepared to provide all supplemental information as may be requested to ensure adequate review by the relevant regulatory authority. The Company shall not unilaterally impose any limits upon the provision of supplemental information and such information shall be provided within ten (10) working days of the original request. The regulatory authority may propose any adjustments it determines to be required to bring the schedules into compliance with the above provisions.

During and following the ninety (90) day review period and a thirty (30) day response period, the Company and the regulatory authority will work collaboratively and seek agreement on, the proposed adjustments to the Company's schedule and proposed rates. If agreement has been reached by the Company and the regulatory authority, the regulatory authority shall authorize an increase or decrease to the Company's rates so as to achieve the revenue levels indicated for the Rate Effective Period. If, at the end of the thirty (30) day response period, the Company and the regulatory authority have not reached agreement on the proposed adjustments, the Company shall have the right to appeal the regulatory authority's action or inaction to the Railroad Commission of Texas. Upon the filing of any appeal, the Company shall have the right to implement the proposed RRM rate adjustment, including the adjustment attributable to steel service line replacement program costs, subject to refund.

**ATMOS ENERGY CORPORATION
MID-TEX DIVISION**

RIDER:	RRM – RATE REVIEW MECHANISM	
APPLICABLE TO:	All Cities except the City of Dallas and all unincorporated areas	
EFFECTIVE DATE:	Bills Rendered on or after 10/01/2010	

Rates established pursuant to the Rate Review Mechanism, if approved as provided herein, shall be effective on August 15 of each year.

VII. Reconsideration and Appeal

Orders issued pursuant to this mechanism are ratemaking orders and shall be subject to appeal under Sections 102.001(b) and 103.021, et seq., of the Texas Utilities Code (Vernon 2007).

VIII. Notice

Notice of the annual Rate Review Mechanism filing shall be provided pursuant to Section 104.103, TEX. UTIL. CODE ANN. no later than forty-five (45) days after the Company makes its annual filing pursuant to this tariff. The notice to customers shall include the following information:

- a) a description of the proposed revision of rates and schedules;
- b) the effect the proposed revision of rates is expected to have on the rates applicable to each customer class and on an average bill for each affected customer;
- c) the service area or areas in which the proposed rate adjustment would apply;
- d) the date the proposed rate adjustment was filed with the regulatory authority; and
- e) the Company's address, telephone number and website where information concerning the proposed rate adjustment may be obtained.

IX. RRM Schedules and Information

a. Accumulated Deferred Income Tax ("ADIT") Items To Be Recognized in Rate Base

The following list identifies those ADIT components to be included in the calculation of rate base for both the Evaluation Period and Rate Effective Period calculations:

Mid-Tex:

Gas Plant in Service
Insurance Accruals
Benefit Accruals
Deferred Expense Projects
Allowance for Doubtful Accounts
Customer Advances
UNICAP Section 263A Costs (which shall be removed from Atmos Mid-Tex when these costs are transferred to Atmos Pipeline Texas)
Regulatory Asset - Mid Tex
Regulatory Liability - Mid-Tex
Other Plant

SSU - Customer Support:

Gas Plant in Service

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SSU - General Office:

Gas Plant in Service
Insurance Accruals
Benefits Accruals
Deferred Expense Projects
Prepaid Expenses
Regulatory Liability - Atmos 109
FAS 115 Adjustment
Treasury Lock Adjustment
Revenue Agent Report Carryforward Adjustments 1990-1985
Tax Net Operating Loss Credit Carryforwards
State Bonus Depreciation
R & D Credit Valuation Allowance
Other Plant

b. Discretionary Costs to Be Disallowed from Rider RRM filings

The following types of employee reimbursed expenses and directly incurred costs are to be removed from all expense and rate base amounts included within Rider RRM filings for the Evaluation Period and for the Rate Effective Period:

Amounts incurred for travel, meals or entertainment of employee spouses.
Amounts for air travel that exceed published commercial coach air fares.
Amounts incurred for hotel rooms exceeding \$250 per night inclusive of taxes and fees assessed on such rooms.
Amounts for alcoholic beverages.
Amounts paid for admission to entertainment, sports, art or cultural events, and all event sponsorship costs.
Amounts for social club dues or fees.

ATMOS ENERGY CORP., MID-TEX DIVISION
SUMMARY OF CURRENT AND PROPOSED RATE STRUCTURE
TEST YEAR ENDING DECEMBER 31, 2009
(2010 RRM SETTLEMENT PROPOSAL)

Line No.	Description (a)	Current (b)	Proposed (Beginning Oct 1) (d)
1	Rate R		
2	Customer Charge per month	\$7.00	\$7.00
3			
4	Consumption Charge per MCF	\$2.2647	\$2.5246
5	2008 RRM True-up per MCF	\$0.0000	\$0.0000
6	2009 RRM True-up per MCF	<u>\$0.0060</u>	<u>\$0.0000</u>
7	Total Consumption Charge per MCF	\$2.2707	\$2.5246
8	Rate C		
9	Customer Charge per month	\$13.50	\$13.50
10			
11	Consumption Charge per MCF	\$0.9825	\$1.0796
12	2008 RRM True-up per MCF	\$0.0000	\$0.0000
13	2009 RRM True-up per MCF	<u>\$0.0052</u>	<u>\$0.0000</u>
14	Total Consumption Charge per MCF	\$0.9877	\$1.0796
15	Rate I & T		
16	Customer Charge per month	\$425.00	\$450.00
17			
18	Consumption Charge per MMBTU:		
19	First 1,500 MMBTU	\$0.2496	\$0.2750
20	Next 3,500 MMBTU	\$0.1820	\$0.2015
21	Over 5,000 MMBTU	\$0.0390	\$0.0433
22	2008 RRM True-up per MMBTU:		
23	First 1,500 MMBTU	\$0.0087	\$0.0000
24	Next 3,500 MMBTU	\$0.0064	\$0.0000
25	Over 5,000 MMBTU	\$0.0014	\$0.0000
26	2009 RRM True-up per MMBTU:		
27	First 1,500 MMBTU	\$0.0000	\$0.0000
28	Next 3,500 MMBTU	\$0.0000	\$0.0000
29	Over 5,000 MMBTU	<u>\$0.0000</u>	<u>\$0.0000</u>
30	Total Consumption Charge per MMBTU		
31	First 1,500 MMBTU	\$0.2583	\$0.2750
32	Next 3,500 MMBTU	\$0.1884	\$0.2015
33	Over 5,000 MMBTU	\$0.0404	\$0.0433

**ATMOS ENERGY CORP., MID-TEX DIVISION
CUSTOMER IMPACT OF PROPOSED RATES COMPARED TO CURRENT RATES
TEST YEAR ENDING DECEMBER 31, 2009
(2010 RRM SETTLEMENT PROPOSAL)**

Line No.	Description (a)	Prospective Rate Increase (b)
1	Rate R	
2	Consumption Charge per MCF	
3	Change from Current Rate	\$0.2539
4	Billing Units for Specified Period	78,500,000
5	Total Change in Base Revenue	\$19,934,212
6	Associated Revenue Taxes	<u>\$1,490,401</u>
7	Total Rate Impact	\$21,424,613
8	Number of Bills for Specified Period	17,287,740
9	Average Impact per Bill	\$1.24
10	Rate C	
11	Consumption Charge per MCF	
12	Change from Current Rate	\$0.0919
13	Billing Units for Specified Period	49,500,000
14	Total Change in Base Revenue	\$4,547,060
15	Associated Revenue Taxes	<u>\$339,966</u>
16	Total Rate Impact	\$4,887,026
17	Number of Bills for Specified Period	1,445,436
18	Average Impact per Bill	\$3.38
19	Rates I&T - Customer Charge	
20	Customer Charge	
21	Change from Current Rate	\$25.00
22	Billing Units for Specified Period	10,985
23	Total Change in Base Revenue	\$274,625
24	Associated Revenue Taxes	<u>\$20,533</u>
25	Total Rate Impact	\$295,157.61
26	Rates I&T - 1st block	
27	Consumption Charge per MCF	
28	Change from Current Rate	\$0.0167
29	Billing Units for Specified Period	10,597,655
30	Total Change in Base Revenue	\$177,031
31	Associated Revenue Taxes	<u>\$13,236</u>
32	Total Rate Impact	\$190,266
33	Rates I&T - 2nd block	
34	Consumption Charge per MCF	
35	Change from Current Rate	\$0.0131
36	Billing Units for Specified Period	10,791,216
37	Total Change in Base Revenue	\$141,297
38	Associated Revenue Taxes	<u>\$10,564</u>
39	Total Rate Impact	\$151,862
40	Rates I&T - 3rd block	
41	Consumption Charge per MCF	
42	Change from Current Rate	\$0.0029
43	Billing Units for Specified Period	16,585,623
44	Total Change in Base Revenue	\$47,655
45	Associated Revenue Taxes	<u>\$3,563</u>
46	Total Rate Impact	\$51,218
47	Rates I&T - Total	
48	Total Rate Impact	\$688,504
49	Number of Bills for Specified Period	10,985
50	Average Impact per Bill	\$62.68
51		
52	Total Change in Base Revenue	\$25,121,880
53	Total Rate Impact (Inc. Rev. Taxes)	\$27,000,142

**Exhibit B to Settlement Agreement
Attachment B to Ordinance**

**ATMOS ENERGY CORP., MID-TEX DIVISION
AVERAGE BILL COMPARISON- OCTOBER 1, 2010
TEST YEAR ENDING DECEMBER 31, 2009**

Line							OCTOBER 1, 2010	CHANGE
							PROPOSED	
1	Rate R @ 4.6 Mcf					CURRENT		
2	Customer charge					\$ 7.00		
3	Consumption charge	4.5	MCF	X	\$2.2707 =	10.31		
4	Rider GCR Part A	4.5	MCF	X	\$4.6303 =	21.03		
5	Rider GCR Part B	4.5	MCF	X	\$0.6611 =	3.00		
6								
7	Subtotal					\$ 41.34		
8	Rider FF & Rider TAX				0.07477 =	3.09		
9	Total					<u>\$44.43</u>		
10								
11	Customer charge						\$7.00	
12	Consumption charge	4.5	MCF	X	\$2.6246 =	11.46		
13	Rider GCR Part A	4.5	MCF	X	\$4.6303 =	21.03		
14	Rider GCR Part B	4.5	MCF	X	\$0.6611 =	3.00		
15								
16	Subtotal						\$42.49	
17	Revenue-related Tax Reimbursement				0.07477 =	3.18		
18	Total	\$42.49		X		<u>\$45.67</u>		\$1.24 2.79%
19								
20								
21	Rate G @ 34.2 Mcf					CURRENT	PROPOSED	CHANGE
22	Customer charge					\$13.60		
23	Consumption charge	34.2	MCF	X	\$0.9877 =	33.82		
24	Rider GCR Part A	34.2	MCF	X	\$4.6303 =	158.67		
25	Rider GCR Part B	34.2	MCF	X	\$0.6542 =	18.98		
26								
27	Subtotal					\$224.87		
28	Revenue-related Tax Reimbursement				0.07477 =	16.81		
29	Total	\$224.87		X		<u>\$241.69</u>		
30								
31								
32	Customer charge						\$13.50	
33	Consumption charge	34.2	MCF	X	\$1.0796 =	36.97		
34	Rider GCR Part A	34.2	MCF	X	\$4.6303 =	158.67		
35	Rider GCR Part B	34.2	MCF	X	\$0.6542 =	18.98		
36								
37	Subtotal						\$228.02	
38	Revenue-related Tax Reimbursement				0.07477 =	17.05		
39	Total	\$228.02		X		<u>\$245.07</u>		\$3.38 1.40%
40								
41	Rate I @ 3457 MMBTU					CURRENT	PROPOSED	CHANGE
42	Customer charge					\$425.00		
43	Consumption charge	1,500	MMBTU	X	\$0.2583 =	387.45		
44	Consumption charge	1,957	MMBTU	X	\$0.1884 =	368.69		
45	Consumption charge	0	MMBTU	X	\$0.0404 =	0.00		
46	Rider GCR Part A	3,457	MMBTU	X	\$4.6303 =	16,006.67		
47	Rider GCR Part B	3,457	MMBTU	X	\$0.3062 =	1,058.42		
48								
49	Subtotal					\$18,246.23		
50	Revenue-related Tax Reimbursement				0.07477 =	1,384.20		
51	Total	\$18,246.23		X		<u>\$19,630.43</u>		
52								
53	Customer charge						\$450.00	
54	Consumption charge	1,500	MMBTU	X	\$0.2750 =	412.61		
55	Consumption charge	1,957	MMBTU	X	\$0.2015 =	394.31		
56	Consumption charge	0	MMBTU	X	\$0.0433 =	0.00		
57	Rider GCR Part A	3,457	MMBTU	X	\$4.6303 =	16,006.67		
58	Rider GCR Part B	3,457	MMBTU	X	\$0.3062 =	1,058.42		
59	Subtotal					\$18,321.91		
60	Revenue-related Tax Reimbursement				0.07477 =	1,369.86		
61	Total	\$18,321.91		X		<u>\$19,691.77</u>		\$81.34 0.41%
62								
63	Rate T @ 3480 MMBTU					CURRENT	PROPOSED	CHANGE
64	Customer charge					\$425.00		
65	Consumption charge	1,500	MMBTU	X	\$0.2583 =	387.45		
66	Consumption charge	1,957	MMBTU	X	\$0.1884 =	368.69		
67	Consumption charge	0	MMBTU	X	\$0.0404 =	0.00		
68	Rider GCR Part B	3,457	MMBTU	X	\$0.3062 =	1,058.42		
69								
70	Subtotal					\$2,239.56		
71	Revenue-related Tax Reimbursement				0.07477 =	187.44		
72	Total	\$2,239.56		X		<u>\$2,427.00</u>		
73								
74	Customer charge						\$450.00	\$25.00
75	Consumption charge	1,500	MMBTU	X	\$0.2750 =	412.61		\$25.06
76	Consumption charge	1,957	MMBTU	X	\$0.2015 =	394.31		\$25.62
77	Consumption charge	0	MMBTU	X	\$0.0433 =	0.00		
78	Rider GCR Part B	3,457	MMBTU	X	\$0.3062 =	1,058.42		
79	Subtotal					\$2,315.24		
80	Revenue-related Tax Reimbursement				0.07477 =	173.10		
81	Total	\$2,315.24		X		<u>\$2,488.34</u>		\$81.34 3.38%

**ATMOS ENERGY CORP., MID-TEX DIVISION
CUSTOMER IMPACT OF PROPOSED RATES COMPARED TO CURRENT RATES
(STEEL SERVICE REPLACEMENT PROGRAM)**

Line No.	Description (a)	Prospective Rate Increase (b)
1	Rate R	
2	Monthly Customer Charge	
3	Change from Current Rate	\$0.15
4	Billing Units for Specified Period	17,287,740
5	Total Change in Base Revenue	\$2,593,161
6	Associated Revenue Taxes	<u>\$193,880</u>
7	Total Rate Impact	\$2,787,041
8	Number of Bills for Specified Period	17,287,740
9	Average Impact per Bill	\$0.16
10	Rate C	
11	Monthly Customer Charge	
12	Change from Current Rate	\$0.41
13	Billing Units for Specified Period	1,445,436
14	Total Change in Base Revenue	\$592,629
15	Associated Revenue Taxes	<u>\$44,308</u>
16	Total Rate Impact	\$636,937
17	Number of Bills for Specified Period	1,445,436
18	Average Impact per Bill	\$0.44
19		
20	Total Change in Base Revenue	\$3,185,790
21	Total Rate Impact (Inc. Rev. Taxes)	\$3,423,979
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**SETTLEMENT AGREEMENT BETWEEN ATMOS ENERGY CORP., MID-TEX
DIVISION AND ATMOS CITIES STEERING COMMITTEE**

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

WHEREAS, on March 15, 2010, Atmos filed with the ACSC Cities an application, hereafter referred to as the 2010 RRM filing, to adjust rates pursuant to Rider RRM - Rate Review Mechanism; and

WHEREAS, ACSC has hired experts and lawyers to analyze the rates proposed by Atmos Energy Corp.'s, Mid-Tex Division ("Atmos" or "Company") in its 2010 RRM filing; and

WHEREAS, the Settlement Agreement resolves all issues between Atmos and ACSC ("the Signatories") regarding the 2010 RRM filing, which is currently pending before the ACSC Cities, in a manner that the Signatories believe is consistent with the public interest, and the Signatories represent diverse interests; and

WHEREAS, the Signatories believe that the resolution of the issues raised in the 2010 RRM filing can best be accomplished by each ACSC City approving this Settlement Agreement and the rates, terms and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A;

NOW, THEREFORE, in consideration of the mutual agreements and covenants established herein, the Signatories, through their undersigned representatives, agree to the following Settlement Terms as a means of fully resolving all issues between the ACSC Cities and Atmos involving the 2010 RRM filing:

Settlement Terms

1. Upon the execution of this Settlement Agreement, Atmos and the counsel for the ACSC cities will recommend that an ordinance or resolution be adopted to approve this Settlement Agreement and implement the rates, terms and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A. (Attachment A to the Ordinance ratifying this Agreement). Said tariffs should allow Atmos an additional, prospective \$27 million in annual revenue by implementation of rates shown in the proof of revenues attached as Exhibit B. (Attachment B to the Ordinance ratifying this Agreement). The uniform implementation of gas rates, terms and conditions established by this Settlement Agreement shall be effective for bills rendered on or after October 1, 2010.
2. In an effort to streamline the regulatory review process, Atmos and ACSC have agreed to renew the Rate Review Mechanism ("Rider RRM") for a period commencing with the Company's April 1, 2011 filing under this mechanism for the calendar year 2010, effective August 15, 2011, and concluding upon the implementation of new, final rates established pursuant to the general rate case that Atmos will file on or before June 1, 2013. Rider RRM provides for an annual rate adjustment to reflect changes in billing determinants, operating and maintenance expense, depreciation expense, other taxes expense, and revenues as well as changes in capital investment and associated changes in gross revenue related taxes. The revised RRM tariff is included in Exhibit A.
3. Notwithstanding the RRM rate adjustments that will occur pursuant to paragraph 2 of this Settlement Agreement, Atmos and ACSC agree that on or before June 1, 2013, Atmos shall file a general, system-wide rate case for the Mid-Tex Division. During the pendency of the general rate case, Atmos and ACSC agree that rate adjustments associated with the RRM filing for calendar year 2011 shall be implemented on August 15, 2012, and shall remain in effect until the earlier of either the issuance of a final order by the Railroad Commission of Texas in the general rate case to be filed on or before June 1, 2013, or the entry of an agreed upon order resolving all issues involved in the general rate case. The adjustments made or requested in the 5th year RRM shall not be considered precedent during the general rate case.
4. Atmos and ACSC further agree that for the period commencing March 1, 2010 through September 30, 2012, Atmos will expand its existing steel service line replacement program to complete the replacement of 100,000 steel service lines within its Mid-Tex Division during this period. Atmos and ACSC agree that a risk-based approach should be adopted to allow replacement of the highest priority steel service lines within this time period. Atmos agrees to provide the ACSC cities with quarterly reports providing the number and location of the lines replaced during the quarter. Atmos agrees to coordinate with ACSC member cities to minimize disruption to cities' rights of way without compromising the safety of residents of the cities.
5. Atmos and ACSC agree that costs incurred to replace steel service lines prior to October 1, 2010 shall be included in the RRM rate adjustment calculation for the 2010 calendar year, and shall not be subject to or included in the rate cap limitations set forth in subsection IV (a)-(b) of the Rider RRM tariff.

6. Atmos and ACSC agree that the projected incremental direct costs incurred to replace steel service lines on or after October 1, 2010 shall be separately identified and shall not be subject to or included in the rate cap limitations set forth in subsection IV (a)-(b) of the Rider RRM tariff. Atmos and ACSC further agree that such projected direct incremental costs incurred to replace steel service lines after October 1, 2010, shall be separately calculated and recovered as a discrete component of customer charges in the Company's annual RRM filings as set forth below:
 - a. Atmos and ACSC agree that Atmos shall be entitled to separately adjust rates for the Rate Effective Period as defined in the Rider RRM tariff to allow recovery of the projected annual revenue requirement associated with direct incremental costs to be incurred in connection with a steel service line replacement program, that are not otherwise included within the RRM cost of service, including a return on equity of 9.0% within the overall weighted cost of capital applied to net investment (net plant additions, less accumulated depreciation and accumulated deferred income taxes), depreciation expense and applicable taxes;
 - b. Atmos and ACSC further agree that the capital structure used to calculate the steel service line replacement rate adjustment will be the actual Evaluation Period (as defined in the Rider RRM tariff) ratio of long-term debt and equity, with an equity percentage not to exceed 50%;
 - c. Rate recovery associated with a steel service line replacement program shall occur through an adjustment to the Residential and Commercial customer charges. Current year recovery factors as of October 1, 2010 shall be \$0.15 for residential customers and \$0.41 for commercial customers. The rates will be adjusted annually, however, Atmos and ACSC agree that in no case will the per customer monthly cost recovery factors attributable to a steel service line replacement program exceed \$0.44 for residential customers or \$1.22 for commercial customers, either prior to or during the pendency of the general rate case Atmos will file on or before June 1, 2013.
 - d. Atmos and ACSC further agree that any per customer amount attributable to cost recovery for a steel service line replacement program shall be subject to review by the regulatory authority in a subsequent Evaluation Period as defined in the Rider RRM tariff and all incremental costs associated with a steel service line replacement program shall be subject to a prudence/reasonableness review in the general rate case to be filed by Atmos on or before June 1, 2013.
7. With respect to the Company's annual RRM filings, Atmos agrees to pay all reasonable and necessary expenses of each entity having original jurisdiction that are incurred to review the Company's annual RRM filings. Atmos further agrees that in calculating the proposed rate for any Rate Effective Period, the Company shall not include: (1) any external legal, expert, or consultant costs to prepare and/or provide supportive information related to its filing; or (2) reimbursements to original jurisdiction entities.
8. Notwithstanding paragraph 7 of this Settlement Agreement, Atmos and ACSC agree that in the event of an appeal of an original jurisdiction entity's decision regarding a proposed RRM adjustment, recovery of rate case expenses shall be determined

according to Chapters 103 and 104, TEX. UTIL. CODE ANN. Further, in the event of such appeal(s), Atmos shall recover any reimbursement made to the original jurisdiction entity through a surcharge to all customer rates that are subject to the Commission's jurisdiction in that proceeding or proceedings that might be joined therewith, regardless of whether such reimbursements are made during the initial review period or appeal period.

9. The ACSC Cities agree that they will not challenge the legal basis of the rates, terms, and conditions reflected in Exhibit A, or any annual RRM adjustment that is implemented pursuant to Rider RRM.
10. Atmos and the ACSC Cities further agree that the express terms of the Rider RRM are supplemental to the filing, notice, regulatory review, or appellate procedural process of the ratemaking provisions of Chapter 104 of the Texas Utilities Code. If the statute requires a mandatory action on behalf of the municipal regulatory authority or Atmos, the parties will follow the provisions of such statute. If the statute allows discretion on behalf of the municipal regulatory authority, the ACSC Cities agree that they shall exercise such discretion in such a way as to implement the provisions of the RRM tariff. If Atmos appeals an action or inaction of an ACSC City regarding an RRM filing to the Railroad Commission, the ACSC Cities agree that they will not oppose the implementation of interim rates or advocate the imposition of a bond by Atmos consistent with the RRM tariff. Atmos agrees that it will make no filings on behalf of its Mid-Tex division under the provisions of TEX. UTIL. CODE ANN. § 104.301 while the Rider RRM is in place. In the event that a regulatory authority fails to act or enters an adverse decision regarding the proposed annual RRM adjustment, the Railroad Commission of Texas shall, pursuant to the provisions of the Texas Utilities Code, have exclusive appellate jurisdiction to review the action or inaction of the regulatory authority exercising exclusive original jurisdiction over the RRM request. In addition, the Signatories agree that this Settlement Agreement shall not be construed as a waiver of the ACSC Cities' right to initiate a show cause proceeding or the Company's right to file a Statement of Intent under the provisions of the Texas Utilities Code.
11. Atmos and ACSC further agree that the ordinance or resolution adopting this Settlement Agreement shall include a provision authorizing Atmos to establish regulatory asset account(s) for costs related to working gas in storage. Atmos and ACSC further agree that the language authorizing these regulatory asset account(s) shall be the same as that set forth in the 4th Ordering Paragraph (Page 10 of 11) of the Final Order Nunc Pro Tunc issued by Railroad Commission of Texas in GUD No. 9869 on February 23, 2010. This language states as follows:

IT IS FURTHER ORDERED that Atmos shall be allowed to establish a regulatory asset for the ad valorem taxes related to working gas in storage. In addition, Atmos shall be allowed to establish a regulatory asset for (1) the costs associated with Accumulated Deferred Income Tax for UNICAP Section 263A, (2) the WACOG to FIFO change, and (3) an amount equal to the rate of return approved in this RRM Proceeding for the Accumulated Deferred Income Tax items related to working gas in storage. Atmos shall record these amounts in Other Regulatory Assets (Account 182.3). These deferred items shall be considered, along with the

investment in working gas, for consideration and possible inclusion in rates for Atmos Pipeline-Texas in that entity's next filed rate case. If the Commission determines that such deferred items are not properly included in the rates of Atmos Pipeline – Texas, the items shall be further deferred until the next Atmos Mid-Tex rate case filed after the final decision in the Atmos Pipeline-Texas rate case for inclusion with the working gas investment in the Atmos Mid-Tex rates.

12. Atmos and ACSC agree that each ACSC city should approve this Settlement Agreement and adopt an ordinance or resolution to implement for the ACSC Cities the rates, terms, and conditions reflected in the tariffs attached to this Settlement Agreement as Exhibit A, as well as the regulatory asset authorization language discussed in paragraph 12 of this Settlement Agreement.
13. The Signatories agree that the terms of the Settlement Agreement are interdependent and indivisible, and that if any ACSC city enters an order that is inconsistent with this Settlement Agreement, then any Signatory may withdraw without being deemed to have waived any procedural right or to have taken any substantive position on any fact or issue by virtue of that Signatory's entry into the Settlement Agreement or its subsequent withdrawal. If any ACSC city rejects this Settlement Agreement, then this Settlement Agreement shall be void *ab initio* and counsel for the ACSC Cities shall thereafter only take such actions as are in accordance with the Texas Disciplinary Rules of Professional Conduct.
14. The Signatories agree that all negotiations, discussions and conferences related to the Settlement Agreement are privileged, inadmissible, and not relevant to prove any issues associated with Atmos' 2010 RRM filing.
15. The Signatories agree that neither this Settlement Agreement nor any oral or written statements made during the course of settlement negotiations may be used for any purpose other than as necessary to support the entry by the ACSC Cities of an ordinance or resolution implementing this Settlement Agreement.
16. The Signatories agree that this Settlement Agreement is binding on each Signatory only for the purpose of settling the issues set forth herein and for no other purposes, and, except to the extent the Settlement Agreement governs a Signatory's rights and obligations for future periods, this Settlement Agreement shall not be binding or precedential upon a Signatory outside this proceeding.
17. The Signatories agree that this Settlement Agreement may be executed in multiple counterparts and may be filed with facsimile signatures.

Agreed to this ___ day of August, 2010.

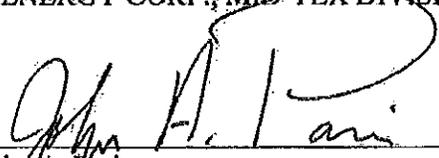
ATMOS ENERGY CORP., MID-TEX DIVISION

By:

John A. Paris
President, Mid-Tex Division

Agreed to this 20 day of August, 2010.

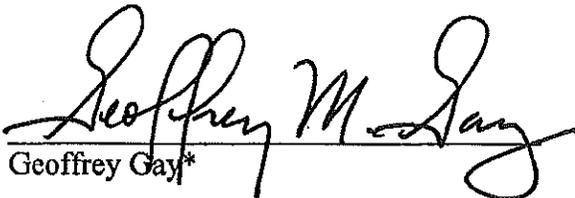
ATMOS ENERGY CORP., MID-TEX DIVISION

By: 

John A. Paris
President, Mid-Tex Division

Agreed to this 20th day of August 2010.

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

By: 
Geoffrey Gay*

* Subject to approval by ACSC City Councils

Agenda Item:
(Staff)

- 5A. A Resolution granting a Conditional Use Permit for an approximate 2.19 acre tract of land, being Lots 134 through 143, inclusive, of Block 2 of the J.D. Brown Addition, a subdivision within the City of Kerrville, Kerr County, Texas, and otherwise known as 620 Main Street (State Highway 27) and located within zoning district 11-C (Central City); by permitting said property to be used for vehicle sales/service-used and vehicle maintenance and repair; and making said permit subject to certain conditions and restrictions.

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

SUBJECT: Public Hearing: Conditional Use Permit (CUP) – Consider a request for a CUP to allow Vehicle Sales-Used and Vehicle Maintenance and Repair on a 2.19 acre tract located at 620 Main Street (National Car Sales).

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 17, 2010

SUBMITTED BY: Gordon Browning *GB* **CLEARANCES:** Kevin Coleman *KC* *EQ*

EXHIBITS: Location Map, Resolution with concept plan

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

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

PAYMENT TO BE MADE TO:

APPROVED FOR SUBMITTAL BY DIRECTOR OF ADMINISTRATIVE SERVICES:

SUMMARY STATEMENT

Project Timeline:

- July 6, 2010 – CUP application accepted as complete by Staff.
- July 21, 2010 – Development Review Committee (DRC) review process completed.
- July 22, 2010 – In accordance with Statute and local ordinance, notice of the request and the required public hearings are published in The Kerrville Daily Times and mailed to all property owners within 200-feet of the subject tract.
- July 30, 2010 – Staff comments and draft resolution to applicant.
- August 5, 2010 – Following a discussion between staff and the applicant it was decided to postpone the request and continue discussions.
- August 18, 2010 – Notice of the rescheduled public hearings was published in The Kerrville Daily Times and notices mailed to property owners within 200-feet of the subject tract.
- August 27, 2010 – Staff comments and re-drafted resolution to applicant.

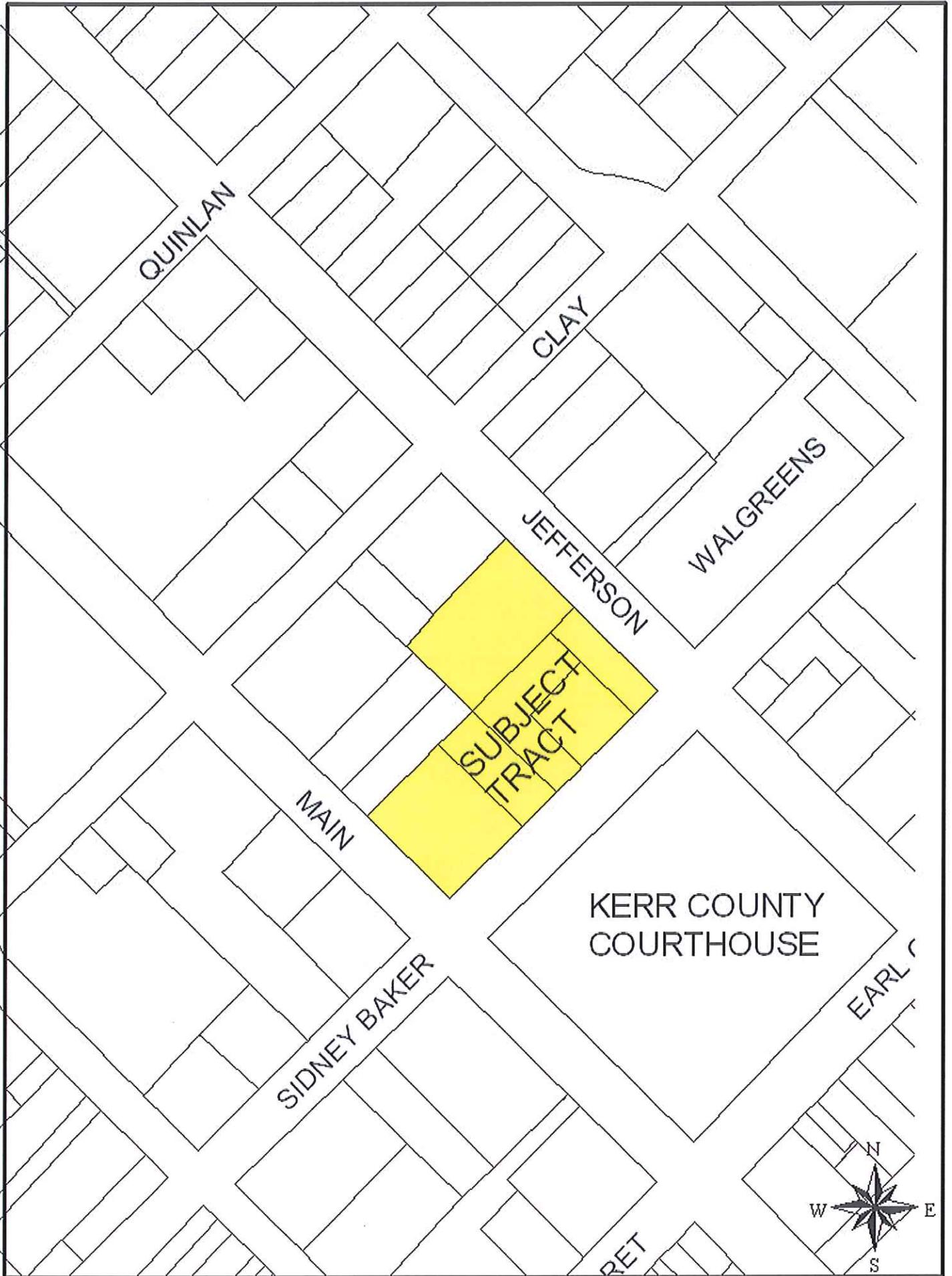
- September 2, 2010 – Public hearing before the Planning and Zoning Commission (P&Z) and consideration of a recommendation to the City Council.
- September 28, 2010 – Public hearing before the City Council and consideration of a resolution regarding the requested CUP.

Background/CUP Process:

- National Car Sales is an existing retail auto sales center located at the northwest corner of SH-27 (Main Street) and SH-16 (Sidney Baker), zoned C-11 (Central City District). The CUP being requested is for Vehicle Sales-Used and Maintenance and Repair.
- National Car Sales is operating as a “new” car facility under the current Zoning Code. By current definition “new cars” includes program cars and previously leased vehicles not older than two (2) years old. Used car sales and vehicle maintenance and repair both require a CUP in the C-11 District.
- As presented on the concept plan, the applicant proposes to construct a new, 4500 square foot, vehicle repair facility accessed from Jefferson Street.
- In addition to the uses and development regulations currently applicable to the property, staff styled the proposed resolution based on the current operation and development of the site and previous resolutions for like projects.
- Per the Zoning Code, the Planning and Zoning Commission and/or City Council may impose additional requirements and conditions of approval as are needed to ensure that a use requested by a CUP is compatible and complementary to adjacent properties.
- The Planning and Zoning Commission at their September 2, 2010 meeting, following a public hearing and discussion, recommended approval of the request subject to the conditions outlined in the attached resolution.

RECOMMENDED ACTION

1. Open the public hearing and receive comments, and
2. Render a decision regarding the requested CUP.



QUINLAN

CLAY

JEFFERSON

WALGREENS

SUBJECT TRACT

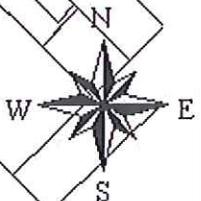
MAIN

SIDNEY BAKER

KERR COUNTY COURTHOUSE

EARL C

RET



**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ___-2010**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR AN APPROXIMATE 2.19 ACRE TRACT OF LAND, BEING LOTS 134 THROUGH 143, INCLUSIVE, OF BLOCK 2 OF THE J.D. BROWN ADDITION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, AND OTHERWISE KNOWN AS 620 MAIN STREET (STATE HIGHWAY 27) AND LOCATED WITHIN ZONING DISTRICT 11-C (CENTRAL CITY); BY PERMITTING SAID PROPERTY TO BE USED FOR VEHICLE SALES/SERVICE-USED AND VEHICLE MAINTENANCE AND REPAIR; AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS

WHEREAS, the City Planning and Zoning Commission and the City Council of the City of Kerrville, Texas, in compliance with the City Charter and state law with reference to the granting of conditional use permits under Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, Texas, and the official zoning map adopted thereby, having given the requisite notices by United States mail, publication and otherwise; and after holding due hearings and affording a full and fair hearing to all of the property owners generally, and particularly to those interested persons situated in the affected area and in the vicinity thereof, the City Council of the City of Kerrville, Texas, finds that the health, safety and general welfare will be best served by the granting of a Conditional Use Permit, set out hereinafter, subject to the special conditions and restrictions set out hereinafter on the property described in Section One hereof;

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

SECTION ONE. A Conditional Use Permit is granted to permit the property described below to be used and developed for Vehicle Sales/Service-Used and Vehicle Maintenance and Repair, as those terms are defined by Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, Texas, and such uses are subject to the provisions of this Resolution and other applicable City ordinances and regulations:

An approximate 2.19 acre tract of land made up of Lots 134 through Lot 143, inclusive, of Block 2 of the J.D. Brown Addition, a subdivision within the City of Kerrville, Kerr County, Texas, according to the plat recorded in Volume 1, Page 1 of the Real Property Records of Kerr County, Texas, and more commonly known as 620 Main Street.

Hereafter referred to as "the Property."

SECTION TWO. In addition to the use and development regulations currently applicable to the Property, which includes the right to use the Property for Vehicle Sales-New, the Property may be used and developed for Vehicle Sales/Service-Used and Vehicle Maintenance and Repair and shall be subject to the following additional regulations:

- A. **Concept Plan:** The development of the Property shall conform substantially with the concept plan, attached as **Exhibit A**.
- B. **Vehicle Sales.** Vehicle sales, whether new or used, are limited to only automobiles and pick-up trucks.
- C. **Vehicle Maintenance and Repair.** All vehicle maintenance and repair shall be performed entirely within the interior of a building. No vehicle parts or supplies, or body parts, shall be kept or stored on the exterior of any building, except that oil, waste oil, and tires may be stored outside the repair facility if screened from public view. Vehicles waiting for repair shall be located on-site and no off-site or on-street parking or storage is permitted. The use of the Property shall also comply with the following:
1. vehicle maintenance and repair shall only be a secondary use of the Property, with the primary use being vehicle sales or rentals; and
 2. auto body work is prohibited.
- D. **Platting:** An administratively complete application for a replat of the Property must be submitted to the City for approval within one-hundred and eighty (180) days of the approval of this Resolution by Council.
- E. **Signs:** All signage on the Property shall comply with the following:
1. On-premise, free standing signage adjacent to Sidney Baker shall be limited to three (3) existing monument signs and their existing sizes and dimensions;
 2. One (1) wall sign facing Jefferson Street may be allowed but shall be restricted to no greater than 36 square feet;
 3. One (1) on-premise, free standing sign may be allowed to be placed adjacent to Jefferson Street but shall be restricted to no greater than 24 square feet; and
 4. Any additional signage on the Property, including those allowed above, shall be subject to the approval of the Planning and Zoning Commission.
- F. **Exterior Lighting:** Any exterior lighting shall be located, shielded, and aimed in such a manner so as not to allow light to directly fall onto adjacent properties or streets.
- G. **Parking:** The design and number of parking spaces shall be in accordance with the City's regulations in effect at the time that this Resolution is approved by the City Council. All parking spaces, display areas, and driveways shall be constructed of asphalt or concrete and shall be marked.
- H. **Landscaping Requirements:** The development and use of the Property shall comply with the following landscaping requirements:

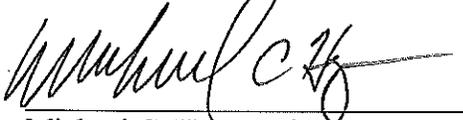
1. Any plant materials planted on the Property shall be on the list of recommended plants set forth in the most recent edition of *Recommended Plants for the Kerrville Area* published by the City at the time of planting.
 2. The landscaped borders currently existing along the Property lines and adjacent to the street rights-of-way of Main Street, Sidney Baker, and Jefferson Street shall continue to be maintained at all times in a healthy growing condition and shall be properly irrigated.
- I. **Visibility Triangles:** Visibility triangles shall be established and maintained pursuant to existing City regulations for the entrance to the Property from any street.
- J. **Trash and Other Solid Waste:** No solid waste collection bins and/or dumpsters shall be located closer to the street than the face of any building.
- K. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superseded, the provisions of this Resolution shall prevail.

SECTION THREE. This Resolution and the Conditional Use Permit granted herein shall be subject to termination in accordance with Article 11-I-13 of the Code of Ordinances of the City of Kerrville, Texas.

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

David Wampler, Mayor

APPROVED AS TO FORM:



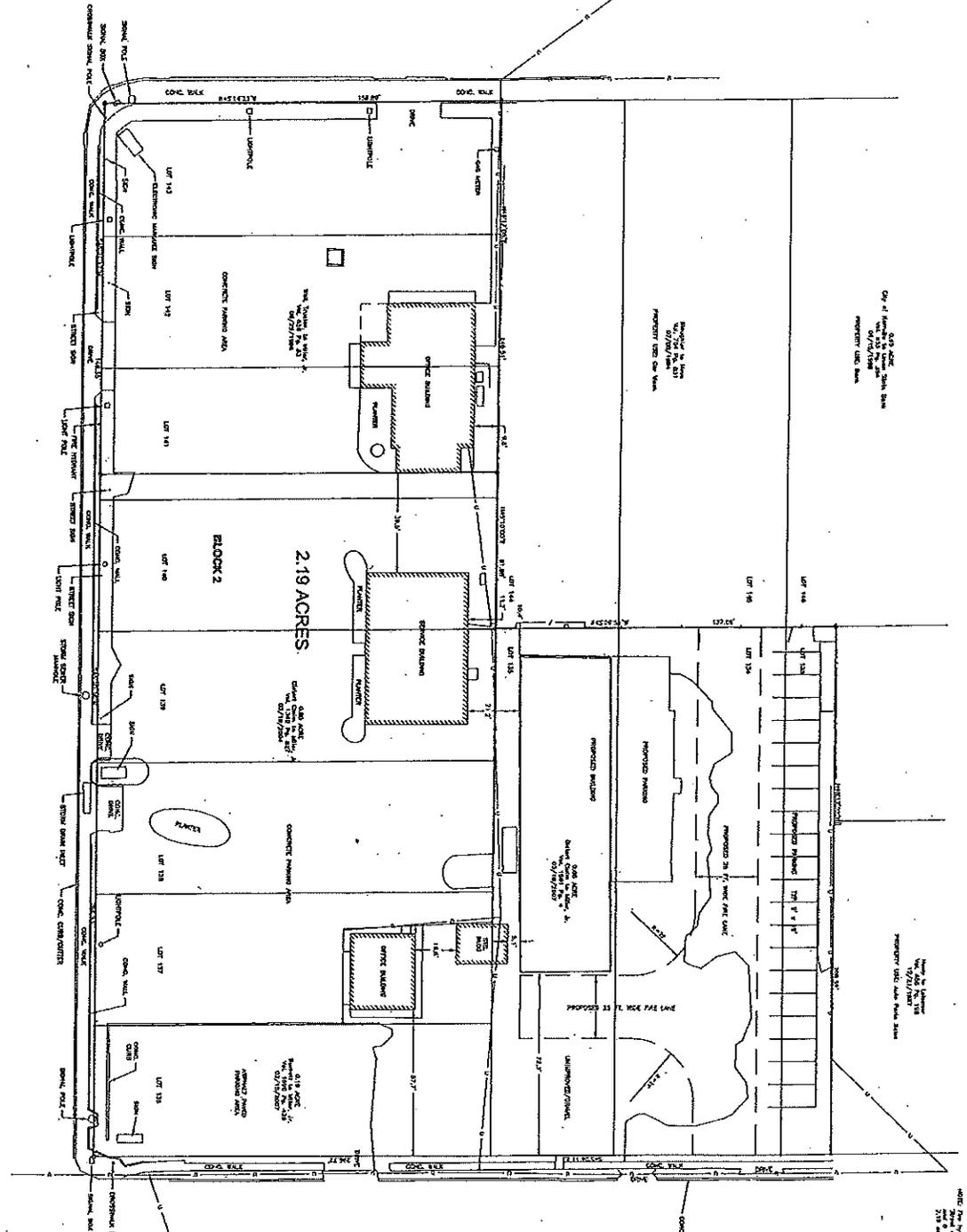
Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary

STATE HIGHWAY NO. 27 - MAIN STREET

STATE HIGHWAY NO. 16 - SIDNEY BAKER STREET



2.19 ACRES

BLOCK 2

JEFFERSON STREET

SCALE: 1" = 20'

1. Survey of Block 2, 2.19 Acres, Survey No. 116, Abstract No. 106, in the City of Kerrville, Kerr County, Texas, comprising part of Lot No. 133 and all of Lot Nos. 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, and 146, and Block 2 on the J.D. Brown Addition, 1st Addition, in Volume 17 of the Official Public Records of Kerr County, Texas, and comprising all of the following tracts: 1) That land conveyed to Michael N. Wall, Trustee, to John Miller, Jr. by a Warranty Deed with Vendor's Lien Executed the 29th Day of June, 1986, and recorded in Volume 855 at Page 530 of the Real Property Records of Kerr County, Texas; 2) A certain 0.89 Acre Tract conveyed from Dietrich Claim Senior Children, Inc. to John W. Miller, Jr. by a Special Warranty Deed, dated and recorded in Volume 855 at Page 531 of the Real Property Records of Kerr County, Texas; 3) A certain 0.19 Acre Tract conveyed from Phyllis Ann Burkett, et al. to John W. Miller, Jr. by a Warranty Deed with Vendor's Lien Executed the 15th Day of March, 2007, and recorded in Volume 1580 at Page 439 of the Official Public Records of Kerr County, Texas; and 4) A certain 0.66 Acre Tract conveyed from Dietrich Claim Senior Center, Inc. to John W. Miller, Jr. by a Special Warranty Deed with Vendor's Lien Executed the 15th Day of March, 2007, and recorded in Volume 1580 at Page 440 of the Official Public Records of Kerr County, Texas.

SURVEY PLAT FOR 2.19 ACRES OF LAND, MORE OR LESS, OUT OF B.F. COLE SURVEY NO. 116, ABSTRACT NO. 106, IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, COMPRISING PART OF LOT NO. 133 AND ALL OF LOT NOS. 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, AND 146, AND BLOCK 2 ON THE J.D. BROWN ADDITION, 1ST ADDITION, IN VOLUME 17 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; AND COMPRISING ALL OF THE FOLLOWING TRACTS: 1) THAT LAND CONVEYED TO MICHAEL N. WALL, TRUSTEE, TO JOHN MILLER, JR. BY A WARRANTY DEED WITH VENDORS LIEN EXECUTED THE 29TH DAY OF JUNE, 1986, AND RECORDED IN VOLUME 855 AT PAGE 530 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS; 2) A CERTAIN 0.89 ACRE TRACT CONVEYED FROM DIETRICH CLAIM SENIOR CHILDREN, INC. TO JOHN W. MILLER, JR. BY A SPECIAL WARRANTY DEED, DATED AND RECORDED IN VOLUME 855 AT PAGE 531 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS; 3) A CERTAIN 0.19 ACRE TRACT CONVEYED FROM PHYLLIS ANN BURKETT, ET AL. TO JOHN W. MILLER, JR. BY A WARRANTY DEED WITH VENDORS LIEN EXECUTED THE 15TH DAY OF MARCH, 2007, AND RECORDED IN VOLUME 1580 AT PAGE 439 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; AND 4) A CERTAIN 0.66 ACRE TRACT CONVEYED FROM DIETRICH CLAIM SENIOR CENTER, INC. TO JOHN W. MILLER, JR. BY A SPECIAL WARRANTY DEED WITH VENDORS LIEN EXECUTED THE 15TH DAY OF MARCH, 2007, AND RECORDED IN VOLUME 1580 AT PAGE 440 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS.

VOELKEL
 LAND SURVEYING, INC.
 1000 N. W. 10th St., Suite 100
 Ft. Worth, Texas 76104
 Phone: 817-335-1111
 Fax: 817-335-1112
 www.voelkel.com

JUNE 2010

Agenda Item:

(Staff)

- 6A. An Ordinance authorizing the issuance of City of Kerrville, Texas general obligation refunding bonds, Series 2010, authorizing the execution of an escrow or deposit agreement, a paying agent/registrars agreement, a purchase contract and other instruments and procedures related thereto, delegating authority to certain city officials to select outstanding obligations to be refunded and approve all final terms of the bonds, approving an official statement, and calling certain obligations for redemption.

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

SUBJECT: First and Only Reading of an Ordinance Authorizing the General Obligation Refunding Bonds, Series 2010.

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 17, 2010

SUBMITTED BY: Mike Erwin  Director of Finance **CLEARANCES:** Todd Parton
City Manager

EXHIBITS: Ordinance, Calendar, and Presentation

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

Ms. Ann Entrekin, of First Southwest Company will present the sale of the General Obligation Refunding Bonds Series, 2010 in the amount of \$4,705,000. This action should provide a net present value savings of \$200,000 or more. The refunding will be priced on Monday, October 11 & Tuesday, October 12 to make sure that there is a net present value savings of at least \$200,000. If the net present value savings is less than \$200,000, there may not be a refunding at this time.

RECOMMENDED ACTION

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF KERRVILLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010, AUTHORIZING THE EXECUTION OF AN ESCROW OR DEPOSIT AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO, DELEGATING AUTHORITY TO CERTAIN CITY OFFICIALS TO SELECT OUTSTANDING OBLIGATIONS TO BE REFUNDED AND APPROVE ALL FINAL TERMS OF THE BONDS, APPROVING AN OFFICIAL STATEMENT, AND CALLING CERTAIN OBLIGATIONS FOR REDEMPTION



Sep-10							Oct-10							Nov-10							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
			1	2	3	4						1	2			1	2	3	4	5	6
5	6	7	8	9	10	11	3	4	5	6	7	8	9	7	8	9	10	11	12	13	
12	13	14	15	16	17	18	10	11	12	13	14	15	16	14	15	16	17	18	19	20	
19	20	21	22	23	24	25	17	18	19	20	21	22	23	21	22	23	24	25	26	27	
26	27	28	29	30			24	25	26	27	28	29	30	28	29	30					
							31														

□ = Holiday

Approximately \$ _____*
CITY OF KERRVILLE, TEXAS
GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010

PROPOSED TIMETABLE OF EVENTS
Dated September 13, 2010

<u>DATE</u>	<u>EVENT</u>
Tuesday, September 14, 2010	Briefing of the City Council on a potential refinancing opportunity.
Wednesday, September 15, 2010	Begin drafting preliminary official statement and related documents.
Tuesday, September 21, 2010	Distribute first draft of POS to working group for comments.
Tuesday, September 28, 2010	Regular meeting of the City Council to consider the adoption of a Bond Ordinance to refund certain debt obligations and to delegate authority to certain City Officials to approve the final terms.
	Comments on first draft of POS due from working group.
Wednesday, September 29, 2010	Distribute second draft of POS to working group for comments.
	Send POS and related documents to Standard & Poor's.
To Be Determined	Discussion and/or presentation to Standard & Poor's rating agency.
Friday, October 1, 2010	Comments on second draft of POS due from working group.
Monday, October 4, 2010	POS goes to i-Deal for posting
Friday, October 8, 2010	Receive rating.
Monday and Tuesday, October 11 & 12, 2010	Pricing.
Tuesday, October 12, 2010	Approval Certificates are executed by Delegated City Officials.
	Regular meeting to brief the City Council on the final terms of the Refunding Bonds and to present the transaction summary.
Wednesday, November 10, 2010	Closing date; City delivers the Refunding Bonds to Underwriter and receives funds.

*Preliminary; subject to change.



Contact

Anne Burger Entrekin

Managing Director

70 Northeast Loop 410, Suite 710

San Antonio, Texas 78216

Direct: 210.308.2200

Fax: 210.349.7585

Anne.Entrekin@firstsw.com

Lizzeth Gamboa

Analyst

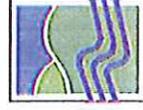
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Fax: 210.349.7585

Lizzeth.Gamboa@firstsw.com

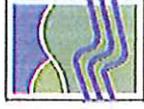


Refunding Opportunity Presentation
General Obligation Refunding Bonds, Series 2010

September 2, 2010

City of Kerrville, Texas

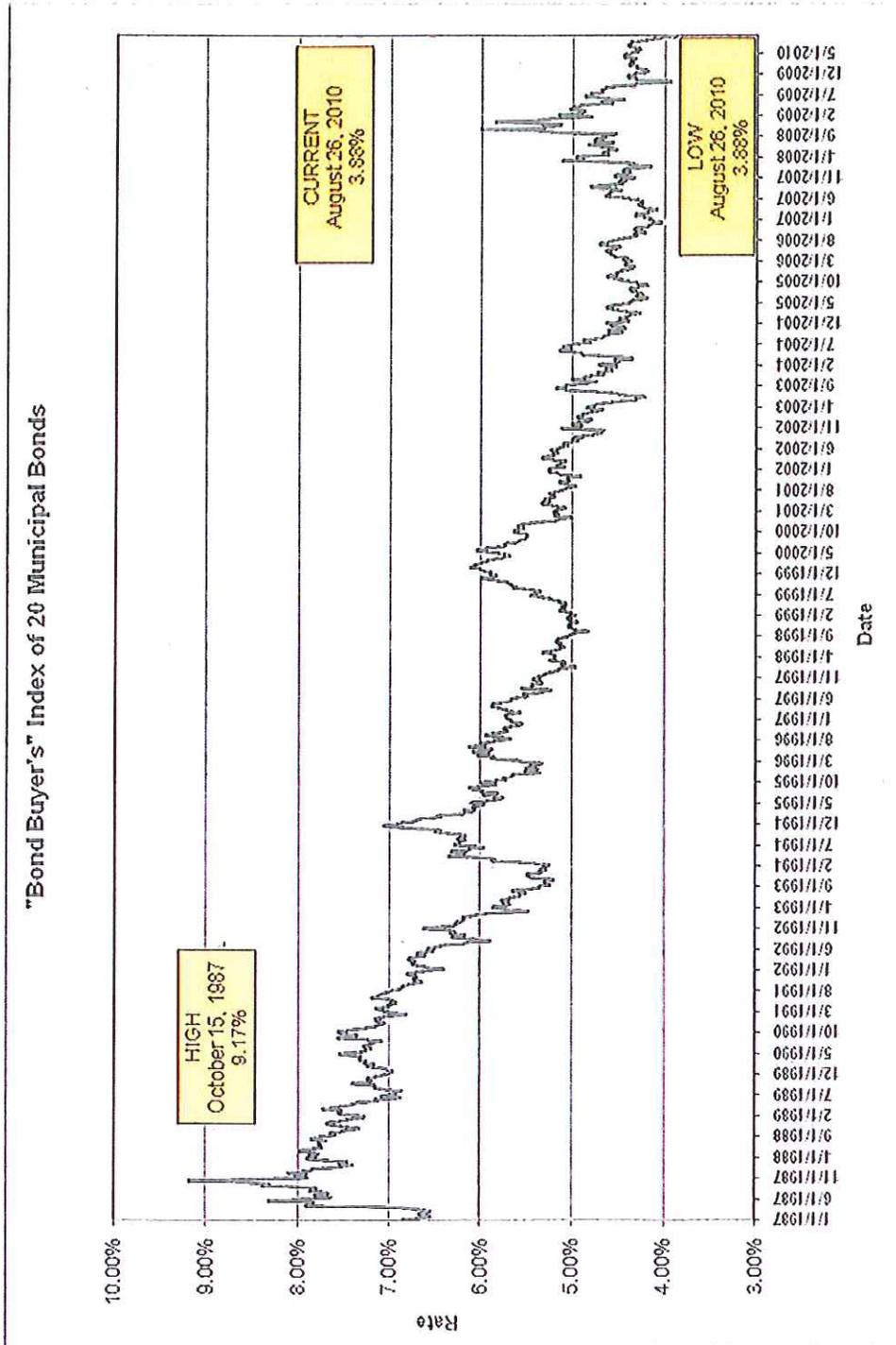
MARKET UPDATE
AS OF AUGUST 30, 2010





Market Update

The current BBI is the lowest its been since 1987

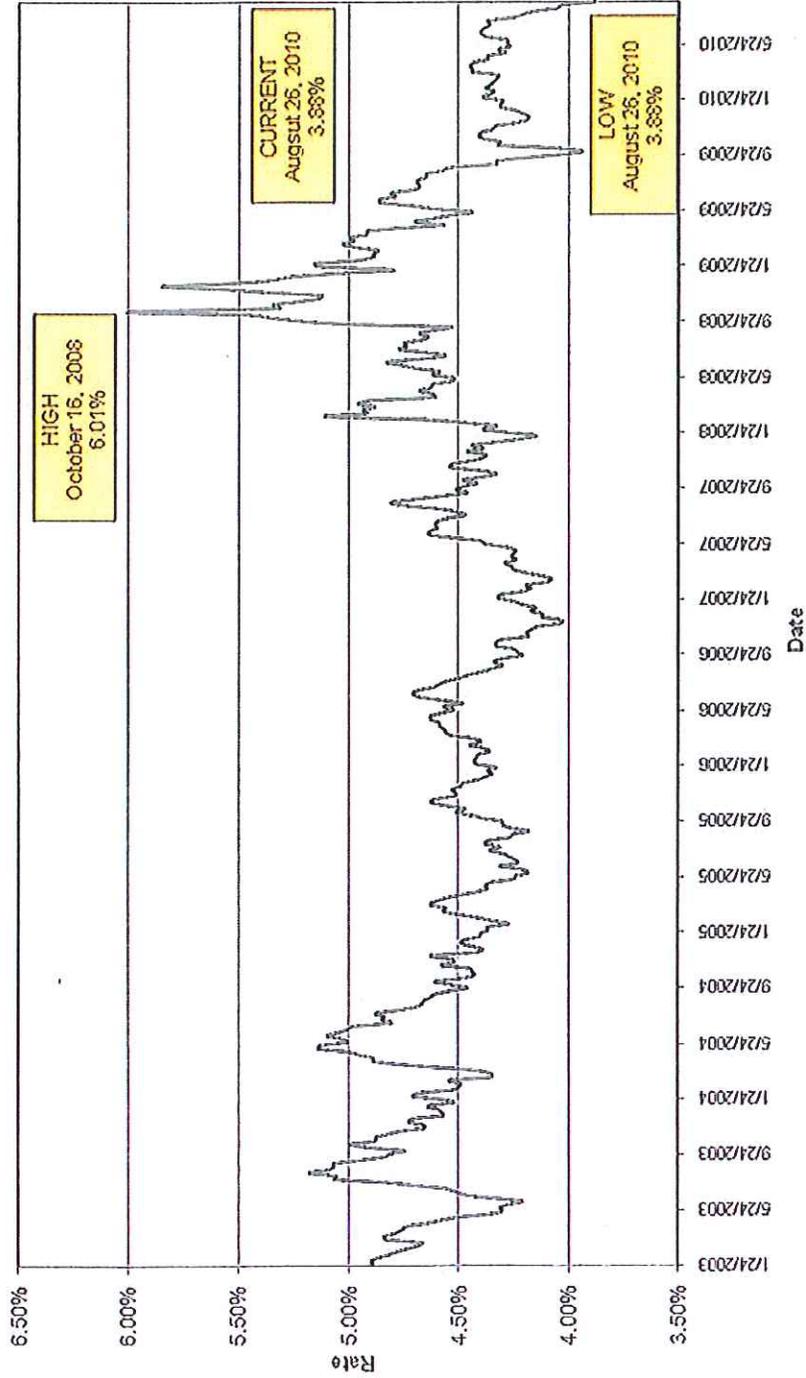




Market Update

Since January 1, 2003, interest rates have been very volatile, especially in 2008 when the financial markets experienced significant stress

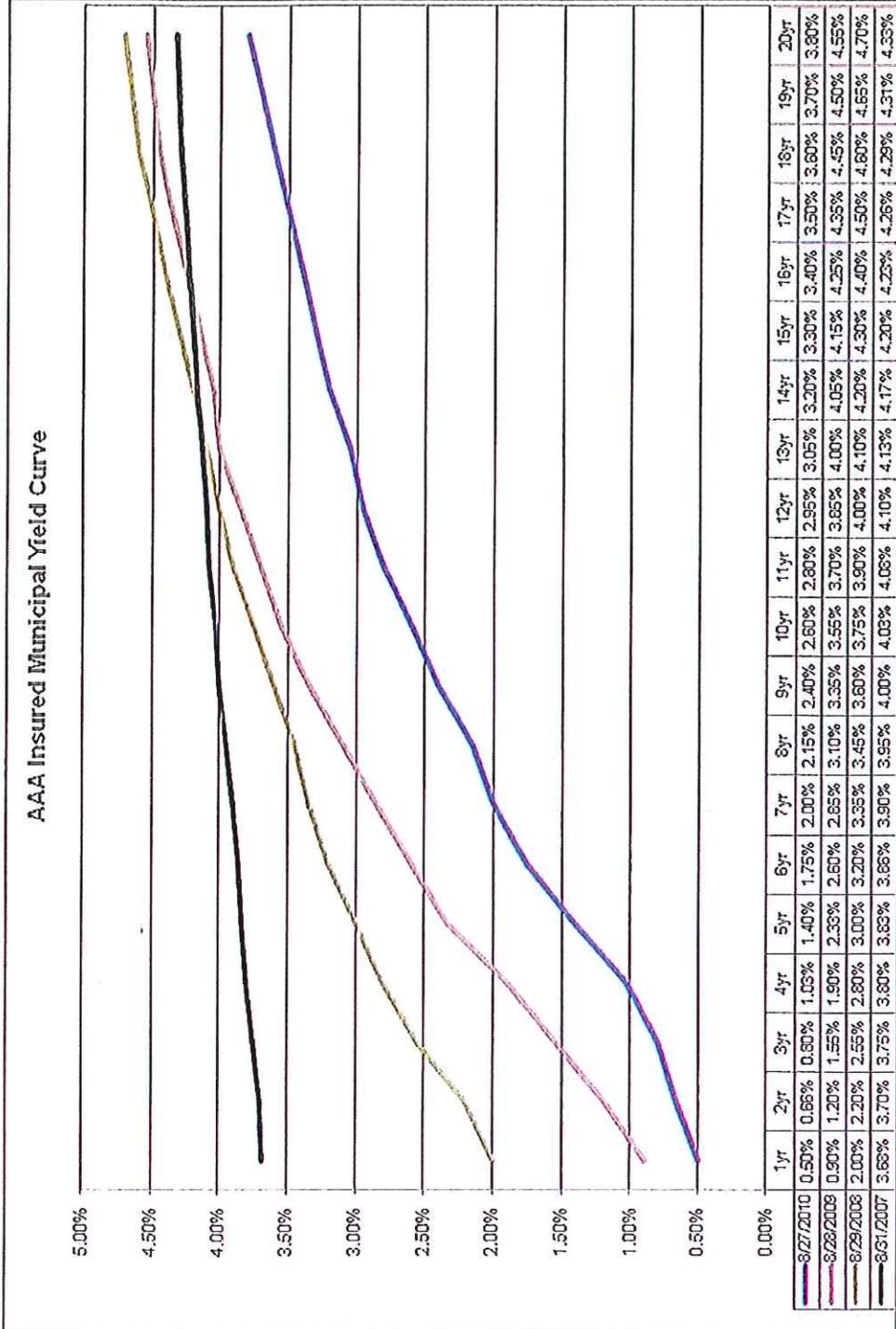
"Bond Buyer's" Index of 20 Municipal Bonds





Market Update

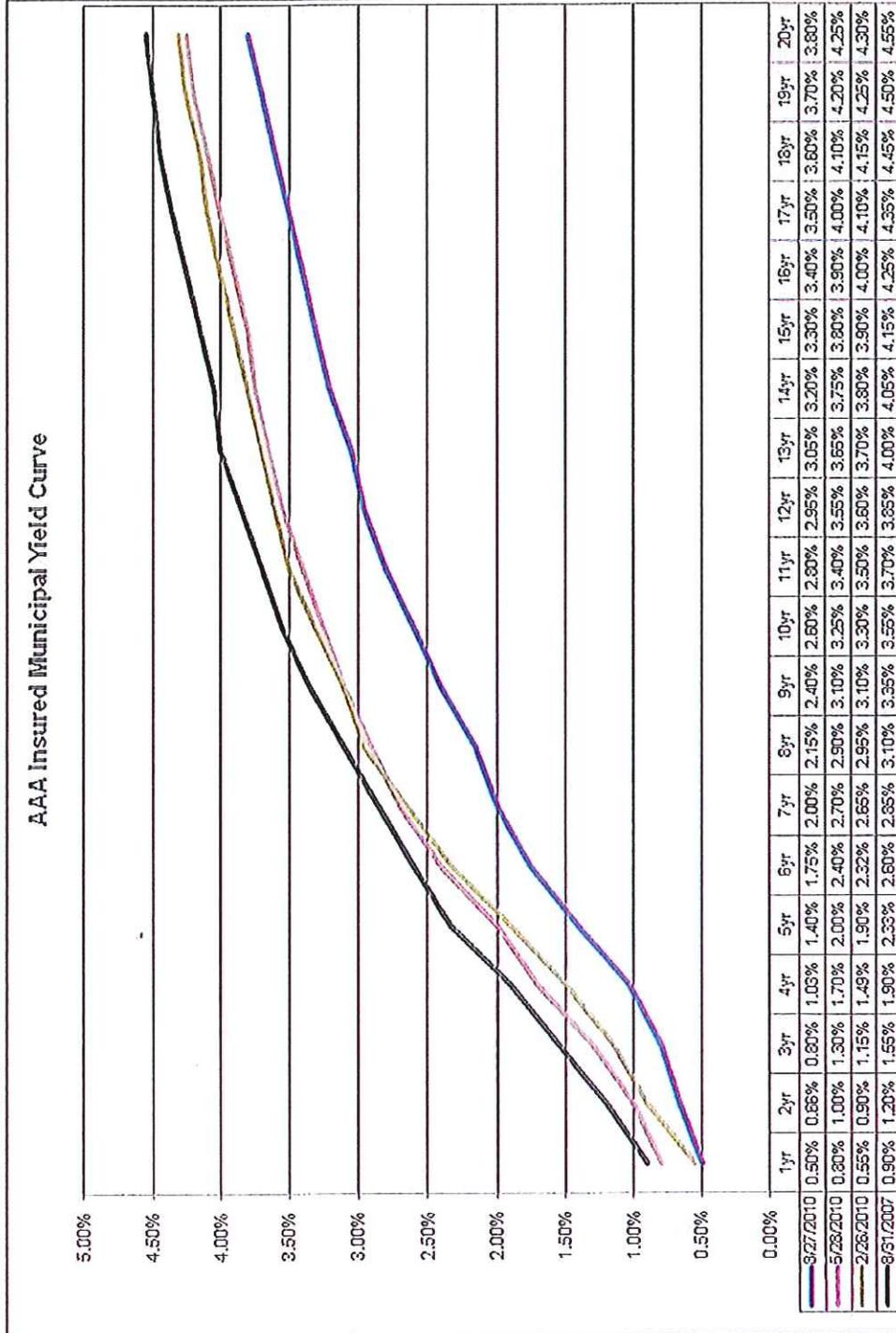
Over the past 3 years, the yield curve has become more steep, benefiting shorter term issues



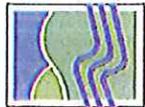


Market Update

Over the last year (2009-present), there has been dramatic movement in the market that has produced historically low interest rates



REFUNDING OPPORTUNITY
AS OF AUGUST 30, 2010



Proposed Refunding Opportunity*



<u>The Proposed Refunding Bonds</u>	
-	<i>General Obligation Refunding Bonds, Series 2010</i>
-	Proposed Par Amount of Bonds \$4,705,000
-	Estimated Gross Savings \$240,175.83
-	Estimated Net PV Savings \$224,401.65
-	Estimated Negative Arbitrage \$73,273.70
-	Estimated Present Value Benefit as a Percent 5.111%
-	Proposed Refunding Maturities 2011 – 2017
-	Coupons – 2.00% - 2.25%
-	Non Callable

<u>The Refunded Bonds</u>	
-	<i>Combination Tax & Revenue Certificates of Obligation, Series 2002</i>
-	Original Principal Amount \$15,000,000
-	Proposed Principal Refunded \$4,390,000
-	Proposed Refunded Maturities 2013 – 2017
-	Coupons – 5.00% – 4.900%
-	Callable 2/15/2012

*Market Rates as of September 1, 2010, Uninsured AA- scale. Preliminary; subject to change.



Preliminary Savings Analysis*



SAVINGS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-)

Preliminary; subject to change

Date	Prior Debt Service	Refunding Debt Service	Savings
9/30/2011	210,730.00	179,385.42	31,344.58
9/30/2012	210,730.00	173,662.50	37,067.50
9/30/2013	985,855.00	949,212.50	36,642.50
9/30/2014	986,775.00	951,712.50	35,062.50
9/30/2015	987,007.50	953,812.50	33,195.00
9/30/2016	989,365.00	955,512.50	33,852.50
9/30/2017	988,642.50	955,631.25	33,011.25
	5,359,105.00	5,118,929.17	240,175.83

Savings Summary

Savings PV date	10/15/2010
Savings PV rate	2.146299%
PV of savings from cash flow	221,527.58
Plus: Refunding funds on hand	2,874.07
Net PV Savings	\$ 224,401.65

*Market Rates as of September 1, 2010, Uninsured AA- scale.
 Preliminary; subject to change.



TABLE OF CONTENTS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
General Obligation Refunding Bonds, Series 2010
FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
Preliminary; subject to change

Report	Page
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Savings	5
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Escrow Requirements	8
Escrow Statistics	9
Escrow Descriptions	10
Prior Bond Debt Service	11

SUMMARY OF REFUNDING RESULTS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
General Obligation Refunding Bonds, Series 2010
FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
Preliminary; subject to change

Dated Date	10/15/2010
Delivery Date	10/15/2010
Arbitrage yield	1.505795%
Escrow yield	0.288230%
Bond Par Amount	4,705,000.00
True Interest Cost	1.700130%
Net Interest Cost	1.717157%
All-In TIC	2.146299%
Average Coupon	2.075006%
Average Life	4.240
Par amount of refunded bonds	4,390,000.00
Average coupon of refunded bonds	4.802382%
Average life of refunded bonds	4.430
PV of prior debt to 10/15/2010 @ 2.146299%	4,912,912.53
Net PV Savings	224,401.65
Percentage savings of refunded bonds	5.111655%

SOURCES AND USES OF FUNDS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Dated Date 10/15/2010
 Delivery Date 10/15/2010

Sources:

Bond Proceeds:	
Par Amount	4,705,000.00
Premium	109,024.95
	4,814,024.95

Uses:

Refunding Escrow Deposits:	
Cash Deposit	0.88
SLGS Purchases	4,688,510.00
	4,688,510.88
Delivery Date Expenses:	
Cost of Issuance	85,000.00
Underwriter's Discount	37,640.00
	122,640.00
Other Uses of Funds:	
Additional Proceeds	2,874.07
	4,814,024.95

BOND PRICING

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Bond Component	Maturity Date	Amount	Rate	Yield	Price	Premium (-Discount)
serials 2011-2017:						
	02/15/2011	100,000	2.000%	0.500%	100.498	498.00
	02/15/2012	80,000	2.000%	0.600%	101.856	1,484.80
	02/15/2013	865,000	2.000%	0.750%	102.885	24,955.25
	02/15/2014	885,000	2.000%	1.000%	103.269	28,930.65
	02/15/2015	905,000	2.000%	1.400%	102.513	22,742.65
	02/15/2016	925,000	2.000%	1.650%	101.778	16,446.50
	02/15/2017	945,000	2.250%	2.000%	101.478	13,967.10
		4,705,000				109,024.95

Dated Date	10/15/2010	
Delivery Date	10/15/2010	
First Coupon	02/15/2011	
Par Amount	4,705,000.00	
Premium	109,024.95	
Production	4,814,024.95	102.317215%
Underwriter's Discount	-37,640.00	-0.800000%
Purchase Price	4,776,384.95	101.517215%
Accrued Interest		
Net Proceeds	4,776,384.95	

SUMMARY OF BONDS REFUNDED

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Bond	Maturity Date	Interest Rate	Par Amount	Call Date	Call Price
Combination Tax & Revenue Certificates of Obligation, Series 2002, S2002:					
SERIAL	02/15/2013	5.000%	795,000.00	02/15/2012	100.000
	02/15/2014	4.600%	835,000.00	02/15/2012	100.000
	02/15/2015	4.700%	875,000.00	02/15/2012	100.000
	02/15/2016	4.800%	920,000.00	02/15/2012	100.000
	02/15/2017	4.900%	965,000.00	02/15/2012	100.000
			4,390,000.00		

SAVINGS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

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Net PV Savings	224,401.65

BOND SUMMARY STATISTICS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Dated Date	10/15/2010
Delivery Date	10/15/2010
First Coupon	02/15/2011
Last Maturity	02/15/2017
Arbitrage Yield	1.505795%
True Interest Cost (TIC)	1.700130%
Net Interest Cost (NIC)	1.717157%
All-In TIC	2.146299%
Average Coupon	2.075006%
Average Life (years)	4.240
Duration of Issue (years)	4.069
Par Amount	4,705,000.00
Bond Proceeds	4,814,024.95
Total Interest	413,929.17
Net Interest	342,544.22
Bond Years from Dated Date	19,948,333.33
Bond Years from Delivery Date	19,948,333.33
Total Debt Service	5,118,929.17
Maximum Annual Debt Service	955,631.25
Average Annual Debt Service	808,251.97
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	8.000000
Total Underwriter's Discount	8.000000
Bid Price	101.517215

Bond Component	Par Value	Price	Average Coupon	Average Life
series 2011-2017	4,705,000.00	102.317	2.075%	4.240
	4,705,000.00			4.240

	TIC	All-In TIC	Arbitrage Yield
Par Value	4,705,000.00	4,705,000.00	4,705,000.00
+ Accrued Interest			
+ Premium (Discount)	109,024.95	109,024.95	109,024.95
- Underwriter's Discount	-37,640.00	-37,640.00	
- Cost of Issuance Expense		-85,000.00	
- Other Amounts			
Target Value	4,776,384.95	4,691,384.95	4,814,024.95
Target Date	10/15/2010	10/15/2010	10/15/2010
Yield	1.700130%	2.146299%	1.505795%

BOND DEBT SERVICE

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
02/15/2011	100,000	2.000%	32,154.17	132,154.17	
08/15/2011			47,231.25	47,231.25	
09/30/2011					179,385.42
02/15/2012	80,000	2.000%	47,231.25	127,231.25	
08/15/2012			46,431.25	46,431.25	
09/30/2012					173,662.50
02/15/2013	865,000	2.000%	46,431.25	911,431.25	
08/15/2013			37,781.25	37,781.25	
09/30/2013					949,212.50
02/15/2014	885,000	2.000%	37,781.25	922,781.25	
08/15/2014			28,931.25	28,931.25	
09/30/2014					951,712.50
02/15/2015	905,000	2.000%	28,931.25	933,931.25	
08/15/2015			19,881.25	19,881.25	
09/30/2015					953,812.50
02/15/2016	925,000	2.000%	19,881.25	944,881.25	
08/15/2016			10,631.25	10,631.25	
09/30/2016					955,512.50
02/15/2017	945,000	2.250%	10,631.25	955,631.25	
09/30/2017					955,631.25
	4,705,000		413,929.17	5,118,929.17	5,118,929.17

ESCROW REQUIREMENTS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Period Ending	Interest	Principal Redeemed	Total
02/15/2011	105,365.00		105,365.00
08/15/2011	105,365.00		105,365.00
02/15/2012	105,365.00	4,390,000.00	4,495,365.00
	316,095.00	4,390,000.00	4,706,095.00

ESCROW STATISTICS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Total Escrow Cost	Modified Duration (years)	Yield to Receipt Date	Yield to Disbursement Date	Perfect Escrow Cost	Value of Negative Arbitrage	Cost of Dead Time
Global Proceeds Escrow: 4,688,510.88	1.298	0.288230%	0.288230%	4,615,237.17	73,273.70	0.01
4,688,510.88				4,615,237.17	73,273.70	0.01

Delivery date 10/15/2010
 Arbitrage yield 1.505795%

ESCROW DESCRIPTIONS

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Type of Security	Type of SLGS	Maturity Date	First Int Pmt Date	Par Amount	Rate	Max Rate
Oct 15, 2010:						
SLGS	Certificate	02/15/2011	02/15/2011	100,963	0.150%	0.150%
SLGS	Certificate	08/15/2011	08/15/2011	98,691	0.200%	0.200%
SLGS	Note	02/15/2012	02/15/2011	4,488,856	0.290%	0.290%
				4,688,510		

SLGS Summary

SLGS Rates File	01SEP10
Total Certificates of Indebtedness	199,654.00
Total Notes	4,488,856.00
Total original SLGS	4,688,510.00

PRIOR BOND DEBT SERVICE

CITY OF KERRVILLE TEXAS - GENERAL OBLIGATION DEBT
 General Obligation Refunding Bonds, Series 2010
 FSC Uninsured Scale as of 9/1/2010 (AA-/Aa3)
 Preliminary; subject to change

Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
02/15/2011			105,365.00	105,365.00	
08/15/2011			105,365.00	105,365.00	
09/30/2011					210,730.00
02/15/2012			105,365.00	105,365.00	
08/15/2012			105,365.00	105,365.00	
09/30/2012					210,730.00
02/15/2013	795,000	5.000%	105,365.00	900,365.00	
08/15/2013			85,490.00	85,490.00	
09/30/2013					985,855.00
02/15/2014	835,000	4.600%	85,490.00	920,490.00	
08/15/2014			66,285.00	66,285.00	
09/30/2014					986,775.00
02/15/2015	875,000	4.700%	66,285.00	941,285.00	
08/15/2015			45,722.50	45,722.50	
09/30/2015					987,007.50
02/15/2016	920,000	4.800%	45,722.50	965,722.50	
08/15/2016			23,642.50	23,642.50	
09/30/2016					989,365.00
02/15/2017	965,000	4.900%	23,642.50	988,642.50	
09/30/2017					988,642.50
	4,390,000		969,105.00	5,359,105.00	5,359,105.00

DRAFT DATE: SEPTEMBER 22, 2010

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF KERRVILLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO, DELEGATING AUTHORITY TO CERTAIN CITY OFFICIALS TO SELECT OUTSTANDING OBLIGATIONS TO BE REFUNDED AND APPROVE ALL FINAL TERMS OF THE BONDS, APPROVING AN OFFICIAL STATEMENT, AND CALLING CERTAIN OBLIGATIONS FOR REDEMPTION

DATE OF APPROVAL: SEPTEMBER 28, 2010

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SIGNATURES

Exhibit A	Form of Approval Certificate
Exhibit B	Form of Certificate Approving Series 2002 Certificates Selected for Refunding
Exhibit C	Paying Agent/Registrar Agreement
Exhibit D	Description of Annual Financial Information
Exhibit E	Form of Escrow Agreement
Exhibit F	Notice of Redemption
Exhibit G	Requirements of the Insurer with Respect to the Municipal Bond Insurance Policy

ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF KERRVILLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010, AUTHORIZING THE EXECUTION OF AN ESCROW AGREEMENT, A PAYING AGENT/REGISTRAR AGREEMENT, A PURCHASE CONTRACT AND OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO, DELEGATING AUTHORITY TO CERTAIN CITY OFFICIALS TO SELECT OUTSTANDING OBLIGATIONS TO BE REFUNDED AND APPROVE ALL FINAL TERMS OF THE BONDS, APPROVING AN OFFICIAL STATEMENT, AND CALLING CERTAIN OBLIGATIONS FOR REDEMPTION

THE STATE OF TEXAS §
COUNTY OF KERR §
CITY OF KERRVILLE §

WHEREAS, among numerous series of bonds of the CITY OF KERRVILLE, TEXAS (the "City") which are secured by the full faith and credit of the City and a pledge by the City to levy ad valorem taxes sufficient to pay principal of and interest on such bonds as they become due, within the limits permitted by law, there are specifically outstanding the following series of obligations:

City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2002, dated February 1, 2002, maturing on February 15 in the years 2011 through 2017, currently outstanding in the aggregate principal amount of \$4,390,000 (the "Series 2002 Certificates"); and

WHEREAS, pursuant to the ordinance which authorized the Series 2002 Certificates, such obligations maturing on and after February 15, 2013, are subject to redemption at the option of the City on February 15, 2012, and on any date thereafter at the redemption price of par; and

WHEREAS, the City now desires to authorize the refunding of all or a portion of the Series 2002 Certificates, which are more fully described as follows:

SERIES 2002 CERTIFICATES ELIGIBLE TO BE REFUNDED				
MATURITY (FEB. 15)	PRINCIPAL AMOUNT MATURING IN YEAR (\$)	PRINCIPAL AMOUNT ELIGIBLE TO BE REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP No. (492422)
2013	795,000	795,000	5.000	
2014	835,000	835,000	4.600	
2015	875,000	875,000	4.700	
2016	920,000	920,000	4.800	
2017	<u>965,000</u>	<u>965,000</u>	4.900	
Totals	4,390,000	4,390,000	***	***

WHEREAS, pursuant to the provisions of Section 1207.007(a)(4), Texas Government Code, the City now desires to delegate to the Mayor and the City Manager of the City the authority to select the specific maturities and principal amounts of the Series 2002 Certificates described in the preceding recital to be refunded with proceeds of the bonds authorized pursuant to this Ordinance and effect the sale of such bonds; and

WHEREAS, the Series 2002 Certificates selected by the Mayor and the City Manager to be refunded as authorized by Section 1(c) of this Ordinance are hereafter referred to as the "**Refunded Obligations**"; and

WHEREAS, Chapter 1207, Texas Government Code, as amended ("**Chapter 1207**"), authorizes the City to issue refunding bonds and to deposit the proceeds from the sale thereof, and any other available funds or resources, directly with a place of payment (paying agent) for the Refunded Obligations, or with another trust company or commercial bank that does not act as a depository for the City, in an amount sufficient to provide for the payment and/or redemption of the Refunded Obligations, and such deposit, if made before such payment dates, shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the Refunded Obligations; and

WHEREAS, Chapter 1207 (specifically Section 1207.062, Texas Government Code) further authorizes the City to enter into an escrow agreement with any paying agent for the Refunded Obligations, or with another trust company or commercial bank that does not act as a depository for the City, with respect to the safekeeping, investment, reinvestment, administration and disposition of any such deposit, upon such terms and conditions as the City and such paying agent may agree; provided that such deposits may be invested and reinvested in:

(i) direct noncallable obligations of the United States, including obligations that are unconditionally guaranteed by the United States,

(ii) noncallable obligations of an agency or instrumentality of the United States, including obligations that are unconditionally guaranteed or insured by the agency or instrumentality and that, on the date the City Council of the City adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent, and

(iii) noncallable obligations of a state or an agency or a county, municipality, or other political subdivision of a state that have been refunded and that, on the date the City Council of the City adopts or approves this Ordinance, are rated as to investment quality by a nationally recognized investment rating firm not less than AAA or its equivalent,

and all of which must mature and bear interest payable at such times and in such amounts as will be sufficient to provide for the scheduled payment or redemption of the Refunded Obligations; and

WHEREAS, U.S. BANK NATIONAL ASSOCIATION (the "*Refunded Obligations Paying Agent*") currently serves as the paying agent for the Refunded Obligations; and

WHEREAS, the Escrow Agreement hereinafter authorized between the City and the Refunded Obligations Paying Agent shall constitute an escrow agreement of the kind authorized and permitted by Chapter 1207; and

WHEREAS, the City Council of the City hereby finds and declares a public purpose and deems it advisable and in the best interests of the City to issue a series of bonds (defined in Section 2 hereof as the "*Bonds*"), the proceeds of which will be used to pay costs of issuance and refund the Refunded Obligations in order to achieve a gross debt service savings and a net present value debt service savings for the benefit of the taxpayers of the City; provided, however, in no event shall Bonds be issued unless the City is able to achieve a net present value debt service savings of at least 3% of the principal of the Refunded Obligations; and

WHEREAS, the Bonds hereinafter authorized and designated are to be issued and delivered pursuant to Chapter 1207; and

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

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

SECTION 1. AMOUNT AND PURPOSE OF THE BONDS; DELEGATION OF AUTHORITY TO MAYOR AND CITY MANAGER. (a) Authorization to Issue General Obligation Refunding Bonds. General obligation bonds of the City are hereby authorized to be issued and delivered in the aggregate principal amount as designated by the Mayor and the City Manager of the City pursuant to the provisions of Section 1(b) of this Ordinance ***FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE ISSUER'S OUTSTANDING GENERAL OBLIGATION INDEBTEDNESS, AND TO PAY FOR COSTS OF ISSUANCE.***

(b) Delegation of Final Terms. As authorized by Section 1207.007, Texas Government Code, the Mayor and the City Manager of the City are hereby authorized, appointed, and designated as the officers of the City authorized to act on behalf of the City to effect the sale of the Bonds and to establish the terms and details related to the issuance and sale of the Bonds including the total aggregate principal amount of Bonds to be issued (but in no event to exceed the principal amount of the Refunded Obligations), the price at which the Bonds will be sold, the date of the Bonds, the aggregate principal amount of each maturity thereof, the due date of each maturity (but in no event later than *February 15, 2017*), the rate of interest to be borne on the principal amount of each such maturity (but in no event to exceed a net effective interest rate for all of the Bonds of _____% per annum), the interest payment periods, the dates, price and terms upon and at which the Bonds shall be subject to any mandatory sinking fund redemption provisions for any maturity, and all other matters relating to the issuance, sale and delivery of the Bonds. The Mayor and City Manager, acting for and on behalf of the City, are further authorized to complete and attach *Exhibit A* of this Ordinance with the final terms of the Bonds approved pursuant to the authority granted herein and to enter into, execute and carry out an agreement to purchase the Bonds (the "***Purchase Contract***") with the Underwriters named in Section 13 herein.

(c) Delegation of Authority to Select Series 2002 Certificates for Refunding. As authorized by Section 1207.007(a)(4), Texas Government Code, the Mayor and the City Manager of the City are hereby authorized to select all or any portion of the Series 2002 Certificates to be refunded with proceeds of the Bonds and to evidence the selection of such Series 2002 Certificates by executing and attaching to this Ordinance as *Exhibit B* a certificate describing the maturities and the principal amount of such maturities of the Series 2002 Certificates to be refunded with the proceeds of the Bonds.

SECTION 2. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF BONDS. Each Bond issued pursuant to this Ordinance shall be designated: **CITY OF KERRVILLE, TEXAS GENERAL OBLIGATION REFUNDING BOND, SERIES 2010**, and initially there shall be issued, sold and delivered hereunder one fully registered bond, numbered T-1 (the "**Initial Bond**"), without interest coupons, dated as of the date determined by the Mayor and the City Manager and set forth in *Exhibit A*, and payable on the dates and in the principal amounts determined by the Mayor and the City Manager and set forth in *Exhibit A*, with Bonds issued and delivered in substitution for the Initial Bond being in the denomination of \$5,000 or any integral multiple thereof, being numbered consecutively from R-1 upward, and being payable to the initial registered owner designated in Section 13 hereof, or to the registered assignee or assignees of said Bonds or any portion or portions thereof (the "**Registered Owner**").

SECTION 3. INTEREST. The Bonds shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM OF BONDS set forth in this Ordinance to their respective dates of maturity at the rates per annum determined by the Mayor and City Manager as set forth in *Exhibit A* attached hereto. Said interest shall be payable in the manner provided and on the dates stated in the FORM OF BONDS set forth in this Ordinance.

SECTION 4. CHARACTERISTICS OF THE BONDS. (a) Registration, Transfer, and Exchange; Authentication. The City shall keep or cause to be kept at the designated corporate trust or commercial banking office of _____ (currently located in _____, Texas) (the "**Paying Agent/Registrar**"), books or records for the registration of the transfer and exchange of the Bonds (the "**Registration Books**"), and the City hereby appoints the Paying Agent/Registrar as its registrar and transfer agent to keep such books or records and make such registrations of transfers and exchanges under such reasonable regulations as the City and Paying Agent/Registrar may prescribe; and the Paying Agent/Registrar shall make such registrations, transfers and exchanges as herein provided. Attached hereto as *Exhibit C* is a copy of the Paying Agent/Registrar Agreement between the City and the Paying Agent/Registrar which is hereby approved in substantially final form, and the Mayor and City Secretary of the City are hereby authorized to execute the Paying Agent/Registrar Agreement and approve any changes in the final form thereof.

The Paying Agent/Registrar shall obtain and record in the Registration Books the address of the registered owner of each Bond to which payments with respect to the Bonds shall be mailed, as herein provided; but it shall be the duty of each registered owner to notify the Paying Agent/Registrar in writing of the address to which payments shall be mailed, and such interest payments shall not be mailed unless such notice has been given. To the extent possible and under reasonable circumstances, all transfers of Bonds shall be made within three business days after request and presentation thereof. The City shall have the right to inspect the Registration Books during regular business hours of the Paying Agent/Registrar, but otherwise the Paying Agent/Registrar shall keep the Registration Books confidential and, unless otherwise required by law, shall not permit their inspection by any other entity. The Paying Agent/Registrar's standard or customary fees and charges for making such registration, transfer, exchange and delivery of a

substitute Bond or Bonds shall be paid as provided in the FORM OF BONDS set forth in this Ordinance. Registration of assignments, transfers and exchanges of Bonds shall be made in the manner provided and with the effect stated in the FORM OF BONDS set forth in this Ordinance. Each substitute Bond shall bear a letter and/or number to distinguish it from each other Bond.

Except as provided in (c) below, an authorized representative of the Paying Agent/Registrar shall, before the delivery of any such Bond, date and manually sign the Paying Agent/Registrar's Authentication Certificate, and no such Bond shall be deemed to be issued or outstanding unless such Certificate is so executed. The Paying Agent/Registrar promptly shall cancel all paid Bonds and Bonds surrendered for transfer and exchange. No additional ordinances, orders, or resolutions need be passed or adopted by the governing body of the City or any other body or person so as to accomplish the foregoing transfer and exchange of any Bond or portion thereof, and the Paying Agent/Registrar shall provide for the printing, execution, and delivery of the substitute Bonds in the manner prescribed herein, and said Bonds shall be of type composition printed on paper with lithographed or steel engraved borders of customary weight and strength. Pursuant to Sections 1201.061 through 1201.067 of the Public Securities Code, Chapter 1201, Texas Government Code, the duty of transfer and exchange of Bonds as aforesaid is hereby imposed upon the Paying Agent/Registrar, and, upon the execution of said Certificate, the transferred and exchanged Bond shall be valid, incontestable, and enforceable in the same manner and with the same effect as the Bonds which initially were issued and delivered pursuant to this Ordinance, approved by the Attorney General, and registered by the Comptroller of Public Accounts.

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

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

by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) Substitute Paying Agent/Registrar. The City covenants with the registered owners of the Bonds that at all times while the Bonds are outstanding the City will provide a competent and legally qualified bank, trust company, financial institution, or other entity to act as and perform the services of Paying Agent/Registrar for the Bonds under this Ordinance, and that the Paying Agent/Registrar will be one entity and shall be an entity registered with the Securities and Exchange Commission. The City reserves the right to, and may, at its option, change the Paying Agent/Registrar upon not less than 120 days written notice to the Paying Agent/Registrar, to be effective not later than 60 days prior to the next principal or interest payment date after such notice. In the event that the entity at any time acting as Paying Agent/Registrar (or its successor by merger, acquisition, or other method) should resign or otherwise cease to act as such, the City covenants that promptly it will appoint a competent and legally qualified bank, trust company, financial institution, or other agency to act as Paying Agent/Registrar under this Ordinance. Upon any change in the Paying Agent/Registrar, the previous Paying Agent/Registrar promptly shall transfer and deliver the Registration Books (or a copy thereof), along with all other pertinent books and records relating to the Bonds, to the new Paying Agent/Registrar designated and appointed by the City. Upon any change in the Paying Agent/Registrar, the City promptly will cause a written notice thereof to be sent by the new Paying Agent/Registrar to each registered owner of the Bonds, by United States mail, first-class postage prepaid, which notice also shall give the address of the new Paying Agent/Registrar. By accepting the position and performing as such, each Paying Agent/Registrar shall be deemed to have agreed to the provisions of this Ordinance, and a certified copy of this Ordinance shall be delivered to each Paying Agent/Registrar.

(e) Book-Entry Only System for Bonds. The Bonds issued in exchange for the Bonds initially issued to the purchaser specified in Section 13 herein shall be initially issued in the form of a separate single fully registered Bond for each of the maturities thereof. Upon initial issuance, the ownership of each such Bond shall be registered in the name of Cede & Co., as nominee of The Depository Trust Company of New York ("**DTC**"), and except as provided in subsection (i) hereof, all of the outstanding Bonds shall be registered in the name of Cede & Co., as nominee of DTC.

With respect to Bonds registered in the name of Cede & Co., as nominee of DTC, the City and the Paying Agent/Registrar shall have no responsibility or obligation to any securities brokers and dealers, banks, trust companies, clearing corporations and certain other organizations on whose behalf DTC was created ("**DTC Participant**") to hold securities to facilitate the clearance and settlement of securities transaction among DTC Participants or to any person on behalf of whom such a DTC Participant holds an interest in the Bonds. Without limiting the immediately preceding sentence, the City and the Paying Agent/Registrar shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any

DTC Participant or any other person, other than a registered owner of the Bonds, as shown on the Registration Books, of any notice with respect to the Bonds, or (iii) the payment to any DTC Participant or any other person, other than a registered owner of Bonds, as shown in the Registration Books of any amount with respect to principal of or interest on the Bonds. Notwithstanding any other provision of this Ordinance to the contrary, the City and the Paying Agent/Registrar shall be entitled to treat and consider the person in whose name each Bond is registered in the Registration Books as the absolute owner of such Bond for the purpose of payment of principal and interest with respect to such Bond, for the purpose of registering transfers with respect to such Bond, and for all other purposes whatsoever. The Paying Agent/Registrar shall pay all principal of and interest on the Bonds only to or upon the Ordinance of the registered owners, as shown in the Registration Books as provided in this Ordinance, or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to payment of principal of and interest on the Bonds to the extent of the sum or sums so paid. No person other than a registered owner, as shown in the Registration Books, shall receive a Bond certificate evidencing the obligation of the City to make payments of principal and interest pursuant to this Ordinance. Upon delivery by DTC to the Paying Agent/Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the provisions in this Ordinance with respect to interest checks being mailed to the registered owner at the close of business on the Record Date, the words "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

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

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

(h) DTC Letter of Representation. The officers of the City are herein authorized for and on behalf of the City and as officers of the City to enter into one or more Letters of

Representation, if necessary, with DTC establishing the book-entry only system with respect to the Bonds.

(i) *Delivery of Initial Bond.* On the closing date, one Initial Bond representing the entire principal amount of the Bonds and, payable in stated installments to the initial registered owner named in Section 13 of this Ordinance or its designee, executed by manual or facsimile signature of the Mayor or Mayor Pro-Tem and the City Secretary of the City, approved by the Attorney General of Texas, and registered and manually signed by the Comptroller of Public Accounts of the State of Texas, will be delivered to the initial purchaser or its designee. Upon payment for the Bonds, the Paying Agent/Registrar shall cancel the Initial Bond and deliver to the initial registered owner or its designee one registered definitive Bond for each year of maturity of the Bonds, in the aggregate principal amount of all of the Bonds for such maturity.

SECTION 5. FORM OF BONDS. The form of the Bonds, including the form of Paying Agent/Registrar's Authentication Certificate, the form of Assignment and the form of Registration Certificate of the Comptroller of Public Accounts of the State of Texas (to be attached only to the Bonds initially issued and delivered pursuant to this Ordinance), shall be, respectively, substantially as follows, with such appropriate variations, omissions, or insertions as are permitted or required by this Ordinance.

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FORM OF BOND

UNITED STATES OF AMERICA
STATE OF TEXAS
COUNTY OF KERR
CITY OF KERRVILLE, TEXAS
GENERAL OBLIGATION REFUNDING BOND, SERIES 2010

INTEREST RATE	DATE OF SERIES	MATURITY DATE	CUSIP NO.
_____%	_____, 2010	February 15, 20__	492422 ____

REGISTERED OWNER:

PRINCIPAL AMOUNT: _____ **DOLLARS**

ON THE MATURITY DATE specified above, the *CITY OF KERRVILLE, TEXAS* (the "*City*"), being a political subdivision and home-rule municipality of the State of Texas, hereby promises to pay to the Registered Owner set forth above, or registered assigns (hereinafter called the "*Registered Owner*") the Principal Amount set forth above, and to pay interest thereon from _____, 2010, at the Interest Rate per annum specified above, on _____ 15, 2011, and semiannually on each February 15 and August 15 thereafter to the Maturity Date specified above; except that if this Bond is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such Principal Amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Bond or Bonds, if any, for which this Bond is being exchanged or converted from is due but has not been paid, then this Bond shall bear interest from the date to which such interest has been paid in full.

THE PRINCIPAL OF AND INTEREST ON THIS BOND are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Bond shall be paid to the Registered Owner hereof upon presentation and surrender of this Bond at maturity at the designated corporate trust or commercial banking office (initially located in _____, Texas) of _____, which is the "*Paying Agent/Registrar*" for this Bond. The payment of interest on this Bond shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check or draft, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds

of the City required by the ordinance authorizing the issuance of the Bonds (the "**Bond Ordinance**") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check or draft shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month next preceding each such date (the "**Record Date**") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In addition, interest may be paid by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the Registered Owner. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "**Special Record Date**") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first-class postage prepaid, to the address of each owner of a Bond appearing on the Registration Books at the close of business on the last business day next preceding the date of mailing of such notice. The City covenants with the Registered Owner of this Bond that on or before each principal payment date and interest payment date for this Bond it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Bond Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Bonds, when due.

IF THE DATE FOR ANY PAYMENT DUE on this Bond shall be a Saturday, Sunday, a legal holiday, or a day on which banking institutions in the city where the Designated Trust Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day on which banking institutions are authorized to close, and payment on such date shall have the same force and effect as if made on the original date payment was due.

THIS BOND IS ONE OF A SERIES OF BONDS dated as of _____, 2010, authorized in accordance with the Constitution and laws of the State of Texas in the principal amount of \$_____ ***FOR THE PURPOSE OF PROVIDING FUNDS TO REFUND A PORTION OF THE CITY'S GENERAL OBLIGATION INDEBTEDNESS AND TO PAY FOR COSTS OF ISSUANCE.***

THE BONDS OF THIS SERIES ARE NOT SUBJECT TO OPTIONAL REDEMPTION PRIOR TO STATED MATURITY.

[The following two paragraph will appear only if the Underwriter chooses to designate a portion of the Bonds as "Term Bonds."]

THE BONDS MATURING on February 15 in the years 20__ and 20__ (collectively, the "**Term Bonds**") are subject to mandatory redemption prior to maturity in part by lot, at a price equal to the principal amount thereof plus accrued interest to the date of redemption, on the dates

and in the respective principal amounts shown below:

TERM BONDS MATURING _____, 20__		TERM BONDS MATURING _____, 20__	
Mandatory Redemption Date	Redemption Amount	Mandatory Redemption Date	Redemption Amount
. 20		. 20	
. 20		. 20	
. 20		. 20	

The principal amount of the Term Bonds required to be redeemed pursuant to the operation of such mandatory redemption requirements may be reduced, at the option of the City, by the principal amount of any such Term Bonds which, prior to the date of the mailing of notice of such mandatory redemption, (i) shall have been acquired by the City and delivered to the Paying Agent/Registrar for cancellation, (ii) shall have been purchased and canceled by the Paying Agent/Registrar at the request of the City, or (iii) shall have been redeemed pursuant to the optional redemption provisions described in the preceding paragraph and not theretofore credited against a mandatory redemption requirement.

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

multiple of \$5,000, at the written request of the Registered Owner, and in an aggregate principal amount equal to the unredeemed portion thereof, will be issued to the Registered Owner upon the surrender thereof for cancellation, at the expense of the City, all as provided in the Bond Ordinance.

ALL BONDS OF THIS SERIES are issuable solely as fully registered Bonds, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Bond Ordinance, this Bond may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred, converted into and exchanged for a like aggregate amount of fully registered Bonds, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having any authorized denomination or denominations as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Bond to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Bond Ordinance. Among other requirements for such assignment and transfer, this Bond must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Bond or any portion or portions hereof in any authorized denomination to the assignee or assignees in whose name or names this Bond or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Bond may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Bond or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's reasonable standard or customary fees and charges for assigning, transferring, converting and exchanging any Bond or portion thereof will be paid by the City. In any circumstance, any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer, conversion or exchange, as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange of a Bond during the period commencing with the close of business on any Record Date immediately preceding a principal or interest payment date for such Bond and ending with the opening of business on the next following principal or interest payment date.

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

IN THE EVENT ANY PAYING AGENT/REGISTRAR for the Bonds is changed by the City, resigns, or otherwise ceases to act as such, the City has covenanted in the Bond Ordinance that it promptly will appoint a competent and legally qualified substitute therefor, and cause written notice thereof to be mailed to the registered owners of the Bonds.

FORM OF REGISTRATION CERTIFICATE OF
THE COMPTROLLER OF PUBLIC ACCOUNTS:

COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. _____

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

Witness my signature and seal this

(COMPTROLLER'S SEAL)

Comptroller of Public Accounts
of the State of Texas

FORM OF STATEMENT RELATING TO BOND INSURANCE

STATEMENT RELATING TO BOND INSURANCE

[To come from Insurer, if any]

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FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE

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

It is hereby certified that this Bond has been issued under the provisions of the Bond Ordinance described in the text of this Bond; and that this Bond has been issued in conversion or replacement of, or in exchange for, a bond, bonds, or a portion of a bond or bonds of a Series which originally was approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

Dated

_____, Texas
Paying Agent/Registrar

By _____
Authorized Representative

FORM OF ASSIGNMENT:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned Registered Owner of this Bond, or duly authorized representative or attorney thereof, hereby assigns this Bond to

_____/_____

(Assignee's Social Security or
Taxpayer Identification)

(Print or typewrite Assignee's name and address, including zip code)

and hereby irrevocably constitutes and appoints

attorney to register the transfer of the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

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

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

INITIAL BOND INSERTIONS

The Initial Bond shall be in the form set forth above except that:

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

"ON THE RESPECTIVE MATURITY DATES specified below, the ***CITY OF KERRVILLE, TEXAS*** (the "***City***"), being a political subdivision and home-rule municipality of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "***Registered Owner***"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from _____, 2010 at the respective Interest Rates per annum specified below, payable on _____ 15, 2010, and semiannually on each February 15 and August 15 thereafter to the respective Maturity Dates specified below. The respective Maturity Dates, Principal Installments and Interest Rates for this Bond are set forth in the following schedule:

MATURITY DATE (FEBRUARY 15)	PRINCIPAL INSTALLMENT	INTEREST RATE

[Insert information from Exhibit A]

- (C) The Initial Bond shall be numbered "T-1."

SECTION 6. INTEREST AND SINKING FUND; TAX LEVY. A special "***Interest and Sinking Fund***" is hereby created and shall be established and maintained by the City at an official depository bank of the City. Said Interest and Sinking Fund shall be kept separate and apart from all other funds and accounts of the City, and shall be used only for paying the interest on and the principal of said Bonds. Immediately after the issuance and delivery of the Bonds, all accrued interest on the Bonds, together with any premium on the Bonds that is not used by the City to pay costs of issuance in accordance with the provisions of Section 1201.042(d), Texas Government Code, as amended, shall be deposited to the credit of the Interest and Sinking Fund. In addition, all ad valorem taxes levied and collected for and on account of said Bonds shall be

deposited, as collected, to the credit of said Interest and Sinking Fund. For each fiscal year while any of the Bonds or interest thereon are outstanding and unpaid, the governing body of the City shall compute and ascertain a rate and amount of ad valorem tax which will be sufficient to raise and produce the money required to pay the interest on the Bonds as such interest comes due, and to provide and maintain a sinking fund adequate to pay the principal of the Bonds as such principal matures (but never less than 2% of the original principal amount of the Bonds as a sinking fund each year); and said tax shall be based on the latest approved tax rolls of the City, with full allowance being made for tax delinquencies and the cost of tax collection. Said rate and amount of ad valorem tax is hereby levied, and is hereby ordered to be levied, against all taxable property in the City for each year while any of the Bonds or interest thereon are outstanding and unpaid; and said tax shall be assessed and collected each such year and deposited to the credit of the Interest and Sinking Fund created by this Ordinance. Said ad valorem taxes sufficient to provide for the payment of the interest on and principal of the Bonds, as such interest comes due and such principal matures, are hereby pledged for such payment, within the limit prescribed by law.

SECTION 7. INVESTMENTS. Funds on deposit in the Interest and Sinking Fund shall be secured by the depository bank of the City in the manner and to the extent required by law to secure other public funds of the City and may be invested from time to time in any investment authorized by applicable law, including but not limited to the Public Funds Investment Act (Chapter 2256, Texas Government Code), and the City's investment policy adopted in accordance with the provisions of the Public Funds Investment Act; provided, however, that investments purchased for and held in the Interest and Sinking Fund shall have a final maturity no later than the next principal or interest payment date on which such funds will be needed. Income and profits from such investments shall be deposited in the Interest and Sinking Fund. It is further provided, however, that any interest earnings on proceeds which are required to be rebated to the United States of America pursuant to Section 11 hereof in order to prevent the Bonds from being arbitrage bonds shall be so rebated and not considered as interest earnings for the purposes of this Section.

SECTION 8. DEFEASANCE OF BONDS. *(a) Defeasance.* Any Bond and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "**Defeased Bond**") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Bond, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "**Future Escrow Agreement**") for such payment (1) lawful money of the United States of America sufficient to make such payment or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the City with the Paying Agent/Registrar for the payment of its services until all Defeased Bonds shall have become due and payable. At such time as a Bond shall be deemed to be a

Defeased Bond hereunder, as aforesaid, such Bond and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities.

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

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

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

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

SECTION 9. DAMAGED, MUTILATED, LOST, STOLEN, OR DESTROYED BONDS. (a) Replacement Bonds. In the event any outstanding Bond is damaged, mutilated, lost, stolen, or destroyed, the Paying Agent/Registrar shall cause to be printed, executed, and delivered, a new bond of the same principal amount, maturity, and interest rate, as the damaged, mutilated, lost, stolen, or destroyed Bond, in replacement for such Bond in the manner hereinafter provided.

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

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

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

(e) Authority for Issuing Replacement Bonds. In accordance with Chapter 1201, Texas Government Code, as amended, this Section of this Ordinance shall constitute authority for the issuance of any such replacement bond without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such bonds is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Bonds in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Bonds issued in conversion and exchange for other Bonds.

SECTION 10. CUSTODY, APPROVAL, AND REGISTRATION OF BONDS; BOND COUNSEL'S OPINION; CUSIP NUMBERS; AND OTHER MATTERS. The

Mayor or Mayor Pro-Tem of the City is hereby authorized to have control of the Bonds initially issued and delivered hereunder and all necessary records and proceedings pertaining to the Bonds pending their delivery and their investigation, examination, and approval by the Attorney General of the State of Texas, and their registration by the Comptroller of Public Accounts of the State of Texas. Upon registration of the Bonds said Comptroller of Public Accounts (or a deputy designated in writing to act for said Comptroller) shall manually sign the Comptroller's Registration Certificate attached to such Bonds, and the seal of said Comptroller shall be impressed, or placed in facsimile, on such Certificate. The approving legal opinion of the City's Bond Counsel (with an appropriate certificate pertaining thereto executed by facsimile signature of the City Secretary of the City) and the assigned CUSIP numbers may, at the option of the City, be printed on the Bonds issued and delivered under this Ordinance, but neither shall have any legal effect, and shall be solely for the convenience and information of the registered owners of the Bonds. In addition, if bond insurance is obtained, the Bonds may bear an appropriate legend as provided by the insurer.

SECTION 11. COVENANTS REGARDING TAX EXEMPTION OF INTEREST ON THE BONDS. (a) *Covenants.* The City covenants to take any action necessary to assure, or refrain from any action which would adversely affect, the treatment of the Bonds as obligations described in section 103 of the Internal Revenue Code of 1986, as amended (the "*Code*"), the interest on which is not includable in the "gross income" of the holder for purposes of federal income taxation. In furtherance thereof, the City covenants as follows:

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

(2) to take any action to assure that in the event that the "private business use" described in subsection (1) hereof exceeds 5 percent of the proceeds of the Bonds or the Refunded Obligations or the projects financed or refinanced therewith (less amounts deposited into a reserve fund, if any) then the amount in excess of 5 percent is used for a "private business use" which is "related" and not "disproportionate," within the meaning of section 141(b)(3) of the Code, to the governmental use;

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

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

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

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

(A) proceeds of the Bonds invested for a reasonable temporary period of three years or less or, in the case of a refunding bond, for a period of thirty days or less until such proceeds are needed for the purpose for which the Bonds are issued,

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

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

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

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

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

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

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

(e) Disposition of Project. The City covenants that the property constituting the projects financed or refinanced with the proceeds of the Bonds will not be sold or otherwise disposed in a transaction resulting in the receipt by the City of cash or other compensation, unless the City obtains an opinion of nationally-recognized bond counsel that such sale or other disposition will not adversely affect the tax-exempt status of the Bonds. For purposes of the foregoing, the portion of the property comprising personal property and disposed in the ordinary course shall not be treated as a transaction resulting in the receipt of cash or other compensation. For

purposes hereof, the City shall not be obligated to comply with this covenant if it obtains an opinion that such failure to comply will not adversely affect the excludability for federal income tax purposes from gross income of the interest.

(f) Designation as Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as "qualified tax-exempt bonds" as defined in section 265(b)(3) of the Code. In furtherance of such designation, the City represents, covenants and warrants the following: (i) that during the calendar year in which the Bonds are issued, the City (including any subordinate entities) has not designated nor will designate bonds, which when aggregated with the Bonds, will result in more than \$30,000,000 of "qualified tax-exempt bonds" being issued; (ii) that the City reasonably anticipates that the amount of tax-exempt obligations issued, during the calendar year in which the Bonds are issued, by the City (or any subordinate entities) will not exceed \$30,000,000; and (iii) that the City will take such action or refrain from such action as necessary, and as more particularly set forth in this Section, in order that the Bonds will not be considered "private activity bonds" within the meaning of section 141 of the Code.

SECTION 12. COMPLIANCE WITH RULE 15c2-12.

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

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

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

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

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

(b) Annual Reports. The City shall provide annually to the MSRB through EMMA within six months after the end of each fiscal year ending in or after 2010, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by this Ordinance being the information described in *Exhibit D* hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in *Exhibit D* hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide (1) unaudited financial statements for such fiscal year within such six month period, and (2) audited financial statements for the applicable fiscal year to the MSRB through EMMA when and if the audit report on such statements become available.

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

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

(c) Material Event Notices. The City shall notify the MSRB through EMMA in a timely manner, of any of the following events with respect to the Bonds, if such event is material within the meaning of the federal securities laws:

- A. Principal and interest payment delinquencies;
- B. Non-payment related defaults;
- C. Unscheduled draws on debt service reserves reflecting financial difficulties;
- D. Unscheduled draws on credit enhancements reflecting financial difficulties;
- E. Substitution of credit or liquidity providers, or their failure to perform;
- F. Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- G. Modifications to rights of holders of the Bonds;
- H. Certificate of Obligation calls;
- I. Defeasances;
- J. Release, substitution, or sale of property securing repayment of the Bonds; and
- K. Rating changes.

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

(d) Limitations, Disclaimers, and Amendments. The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an "obligated person" with respect to the Bonds within the meaning of the Rule, except that the City in any event will give notice of any deposit made in accordance with Section 8 of this Ordinance that causes Bonds no longer to be outstanding.

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

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

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

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

The provisions of this Section may be amended by the City from time to time to adapt to changed circumstances that arise from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule since such offering as well as such changed circumstances and (2) either (a) the holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a person that is unaffiliated with the City (such as nationally recognized bond counsel) determined that such amendment will not materially impair the interest of the holders and beneficial owners of the

Bonds. The City may also amend or repeal the provisions of this continuing disclosure agreement if the SEC amends or repeals the applicable provision of the Rule or a court of final jurisdiction enters judgment that such provisions of the Rule are invalid, but only if and to the extent that the provisions of this sentence would not prevent an underwriter from lawfully purchasing or selling Bonds in the primary offering of the Bonds. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided in accordance with paragraph (b) of this Section an explanation, in narrative form, of the reason for the amendment and of the impact of any change in the type of financial information or operating data so provided.

SECTION 13. SALE OF BONDS. The Bonds are hereby authorized to be sold and shall be delivered to *Southwest Securities, Inc.* (the "*Underwriter*") at a price determined by the Mayor and City Manager as set forth in *Exhibit A* attached hereto, and pursuant to the terms and provisions of a Purchase Contract in the form approved by the Mayor or the City Manager, which the Mayor or the City Manager is hereby authorized and directed to execute and deliver. The City will initially deliver to the Underwriter the Initial Bonds described in Section 3 hereof, which shall be registered in the name of *Southwest Securities, Inc.*

SECTION 14. APPROVAL OF OFFICIAL STATEMENT. The City hereby authorizes the Mayor or the City Manager to approve the form and content of an Official Statement relating to the Bonds and any addenda, supplement, or amendment thereto, and to approve the distribution of the Official Statement in the reoffering of the Bonds by the Underwriter in final form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The preparation, distribution and use of a Preliminary Official Statement for the Bonds is also hereby approved.

SECTION 15. APPROVAL OF ESCROW AGREEMENT; REFUNDING OF REFUNDED OBLIGATIONS. Concurrently with the initial delivery of the Bonds the City shall deposit an amount from the proceeds from the sale of the Bonds and other available funds of the City, if required, with U.S. BANK NATIONAL ASSOCIATION (the "*Escrow Agent*"), sufficient to provide for the refunding of the Refunded Obligations, all in accordance with Chapter 1207. Attached hereto as *Exhibit E* is an Escrow Agreement between the City and the Escrow Agent, which is hereby approved in substantially final form, and the Mayor or Mayor Pro-Tem and City Secretary of the City are hereby authorized, for and on behalf of the City, to approve any changes in the Escrow Agreement from the form attached hereto and to execute the Escrow Agreement in final form.

SECTION 16. REDEMPTION OF REFUNDED OBLIGATIONS. There are attached to this Ordinance as *Exhibit F* and made a part hereof for all purposes the form of a *NOTICE OF REDEMPTION* for the Refunded Obligations. The Refunded Obligations shall be called for redemption at par plus unpaid accrued interest on the date determined by the Mayor and the City Manager of the City and set forth in *Exhibit A* attached hereto, but in no event shall such redemption date be earlier than will permit the giving of proper notice as described in the

following sentence. As soon as practicable after the execution of the certificate in substantially the form attached hereto as *Exhibit A*, and in no event less than 30 days prior to the date set for redemption, a copy of such *NOTICE OF REDEMPTION* shall be (i) published one time in the Texas Bond Reporter or such other financial newspaper or journal of general circulation among securities dealers published in the State of Texas, and (ii) sent to all registered owners of the Refunded Bonds by first class mail postage prepaid, addressed to such registered owners at their respective addresses shown on the registration books of the paying agent/registrar for the Refunded Obligations.

SECTION 17. MUNICIPAL BOND INSURANCE POLICY. On the date of delivery of the Bonds, the City will obtain from _____ (the "*Insurer*") a municipal bond insurance policy in support of the Bonds. To that end, for so long as said policy is in effect, the ordinance requirements of the Insurer, as a condition to the issuance of said policy, attached hereto as *Exhibit G*, are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. The City is authorized to use proceeds of the Bonds to purchase such policy.

SECTION 18. AUTHORITY FOR OFFICERS TO EXECUTE DOCUMENTS AND APPROVE CHANGES. The Mayor, Mayor Pro-Tem, City Secretary, City Manager and Director of Finance of the City, and all other officers, employees, and agents of the City, and each of them, shall be and they are hereby expressly authorized, empowered, and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge, and deliver in the name and under the corporate seal and on behalf of the City all such instruments, whether or not herein mentioned, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance, the Bonds, the sale of the Bonds, the Official Statement, and the Paying Agent/Registrar Agreement. In addition, prior to the initial delivery of the Bonds, the Mayor, Mayor Pro-Tem, City Secretary, City Manager, Director of Finance, City Attorney and Bond Counsel are hereby authorized and directed to approve any technical changes or correction to this Ordinance or to any of the instruments authorized and approved by this Ordinance necessary in order to (i) correct any ambiguity or mistake or properly or more completely document the transactions contemplated and approved by this Ordinance and as described in the Official Statement, (ii) obtain a rating from any of the national bond rating agencies or satisfy any requirements of the provider of a municipal bond insurance policy, if any, or (iii) obtain the approval of the Bonds by the Attorney General's office. In case any officer whose signature shall appear on any Bond shall cease to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The Director of Finance of the City is further authorized to pay to the Attorney General of Texas prior to the delivery of the Bonds, for the Attorney General's review of the transcript of proceedings related to the Bonds, the amount required pursuant to Section 1202.004, Texas Government Code, as amended.

SECTION 19. ORDINANCE A CONTRACT; AMENDMENTS. This Ordinance shall constitute a contract with the registered owners of the Bonds, binding on the City and its successors and assigns, and shall not be amended or repealed by the City as long as any Bond

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

SECTION 20. INTERESTED PARTIES. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City and the registered owners of the Bonds, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City and the registered owners of the Bonds.

SECTION 21. SECURITY INTEREST. Chapter 1208, Texas Government Code, applies to the issuance of the Bonds and the pledge of the ad valorem taxes granted by the City under Section 6 of this Ordinance, and is therefore valid, effective, and perfected. If Texas law is amended at any time while the Bonds are outstanding and unpaid such that the pledge of the ad valorem taxes granted by the City under Section 6 of this Ordinance is to be subject to the filing requirements of Chapter 9, Texas Business & Commerce Code, then in order to preserve to the registered owners of the Bonds the perfection of the security interest in said pledge, the City agrees to take such measures as it determines are reasonable and necessary under Texas law to

comply with the applicable provisions of Chapter 9, Texas Business & Commerce Code, and enable a filing to perfect the security interest in said pledge to occur.

SECTION 22. REMEDIES IN EVENT OF DEFAULT. In addition to all the rights and remedies provided by the laws of the State of Texas, it is specifically covenanted and agreed particularly that in the event the City (i) defaults in the payment of the principal, premium, if any, or interest on the Bonds, (ii) defaults in the deposits and credits required to be made to the Interest and Sinking Fund, or (iii) defaults in the observance or performance of any other of the covenants, conditions or obligations set forth in this Ordinance and the continuation thereof for 30 days after the City has received written notice of such defaults, the holders of any of the Bonds shall be entitled to seek a writ of mandamus issued by a court of proper jurisdiction compelling and requiring the governing body of the City and other officers of the City to observe and perform any covenant, condition or obligation prescribed in this Ordinance. Notwithstanding the foregoing, the Insurer shall have the right to direct all remedies upon an event of default, and the Insurer shall be recognized as the registered owner of the Bonds for the purposes of exercising all rights and privileges available to the holders.

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

SECTION 23. INCORPORATION OF RECITALS. The City hereby finds that the statements set forth in the recitals of this Ordinance are true and correct, and the City hereby incorporates such recitals as a part of this Ordinance.

SECTION 24. SEVERABILITY. If any provision of this Ordinance or the application thereof to any circumstance shall be held to be invalid, the remainder of this Ordinance and the application thereof to other circumstances shall nevertheless be valid, and this governing body hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 25. EFFECTIVE DATE. Pursuant to the provisions of Section 1201.028, Texas Government Code, this Ordinance shall become effective immediately after its adoption by the City Council.

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***PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
KERRVILLE, TEXAS AT A REGULAR MEETING HELD ON THE 28TH DAY OF
SEPTEMBER, 2010, AT WHICH MEETING A QUORUM WAS PRESENT.***

Mayor, City of Kerrville, Texas

ATTEST:

City Secretary
City of Kerrville, Texas

(City Seal)

** ** * * *

[EXECUTION PAGE TO THE BOND ORDINANCE]

5. **INTEREST ON BONDS.** As provided in Section 4 of the Ordinance and in the FORM OF BONDS contained in Section 5 of the Ordinance, interest on the Bonds shall be payable on each February 15 and August 15, commencing on _____, 20__, until stated maturity or redemption.

6. **NO OPTIONAL REDEMPTION.** As provided in the Ordinance, the Bonds are not subject to optional redemption prior to stated maturity.

[The following two paragraph will appear only if the Underwriter chooses to designate a portion of the Bonds as "Term Bonds."]

7. **MANDATORY SINKING FUND REDEMPTION.** The Bonds maturing on February 15 in the years 20__ and 20__ (collectively, the "*Term Bonds*") are subject to mandatory redemption prior to maturity in part by lot, at a price equal to the principal amount thereof plus accrued interest to the date of redemption, on the dates and in the respective principal amounts shown below:

TERM BONDS MATURING _____, 20__		TERM BONDS MATURING _____, 20__	
REDEMPTION DATE	REDEMPTION AMOUNT	REDEMPTION DATE	REDEMPTION AMOUNT
_____, 20__	\$ _____	_____, 20__	\$ _____
_____, 20__ (MATURITY)	_____	_____, 20__ (MATURITY)	_____

8. **INITIAL PURCHASER AND PURCHASE PRICE.** The Bonds shall be sold to **SOUTHWEST SECURITIES, INC.** as the initial purchaser thereof pursuant to a negotiated underwriting and shall be purchased at a price equal to \$_____ (which amount is equal to par, plus/less an original issue premium/discount on the Bonds of \$_____, less Underwriter's discount of \$_____), plus accrued interest on the Bonds from _____, 2010, to the date of delivery. The Initial Bond shall be registered in the name of **SOUTHWEST SECURITIES, INC.**

9. **REDEMPTION DATE FOR REFUNDED OBLIGATIONS.** The Refunded Obligations shall be redeemed on February 15, 2012, which date is not earlier than will permit the giving of proper notice as required by Section 16 of the Ordinance.

10. **DETERMINATION OF DEBT SERVICE SAVINGS.** Pursuant to the Ordinance, the City Council authorized the issuance of the Bonds in order to "achieve a gross debt service savings and a present value debt service savings for the benefit of the taxpayers of the City." The final terms of the Bonds as set forth in this Certificate have achieved such purpose, for the issuance of the Bonds - the proceeds of which will be used, and are hereby authorized to be used, to refund the Series 2002 Certificates described in Exhibit B attached to Bond Ordinance and to pay costs of issuance - will result in a gross debt service savings of \$_____ and a present value debt service savings of \$_____ (___% of the principal amount of the Refunded Obligations), after taking into account a contribution from the City in the amount of \$_____.

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***APPROVED BY THE MAYOR AND CITY MANAGER OF THE CITY OF
KERRVILLE, TEXAS ON THE ____ DAY OF _____, 2010 IN ACCORDANCE WITH
SECTION 1(b) OF THE ORDINANCE.***

MAYOR, CITY OF KERRVILLE, TEXAS

CITY MANAGER, CITY OF KERRVILLE, TEXAS

SIGNATURE PAGE TO
CERTIFICATE APPROVING FINAL TERMS OF THE BONDS

EXHIBIT B

FORM OF CERTIFICATE APPROVING
SERIES 2002 CERTIFICATES SELECTED FOR REFUNDING

CERTIFICATE APPROVING
SERIES 2002 CERTIFICATES SELECTED FOR REFUNDING

We, the Mayor and the City Manager of the **CITY OF KERRVILLE, TEXAS** (the "**City**"), pursuant to authority granted by the provisions of Section 1207.007(a)(4), Texas Government Code, and by the City Council of the City in Section 1(c) of an ordinance approved by the City Council of the City on September 28, 2010, relating to the issuance of the Bonds defined below (the "**Ordinance**"), hereby certify as follows:

1. This Certificate is given in connection with the issuance by the City of the **CITY OF KERRVILLE, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2010** (the "**Bonds**") which, pursuant to the Ordinance, have been authorized by the City Council.

2. All capitalized terms used in this Certificate which are not otherwise defined herein shall have the same meanings as set forth in the Ordinance.

3. Pursuant to Section 1(c) of the Ordinance, the City Council authorized the undersigned, as the Mayor and the City Manager of the City, to select all or a portion of the outstanding Series 2002 Certificates to be refunded with proceeds of the Bonds. In accordance with such authority, and after consulting with the City's financial advisors, we hereby determine and approve all of the outstanding Series 2002 Certificates to be refunded with proceeds of the Bonds, which are further described as follows:

SERIES 2002 CERTIFICATES TO BE REFUNDED				
MATURITY (FEB. 15)	PRINCIPAL AMOUNT MATURING IN YEAR (\$)	PRINCIPAL AMOUNT ELIGIBLE TO BE REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP No. (492422)
2013	795,000	795,000	5.000	
2014	835,000	835,000	4.600	
2015	875,000	875,000	4.700	
2016	920,000	920,000	4.800	
2017	<u>965,000</u>	<u>965,000</u>	4.900	
Totals	4,390,000	4,390,000	***	***

***APPROVED BY THE MAYOR AND CITY MANAGER OF THE CITY OF
KERRVILLE, TEXAS ON THE ____ DAY OF _____, 2010, IN ACCORDANCE
WITH SECTION 1(c) OF THE ORDINANCE.***

MAYOR, CITY OF KERRVILLE, TEXAS

CITY MANAGER, CITY OF KERRVILLE, TEXAS

SIGNATURE PAGE TO
CERTIFICATE APPROVING SERIES 2002 CERTIFICATES SELECTED FOR REFUNDING

EXHIBIT C

FORM OF PAYING AGENT REGISTRAR AGREEMENT

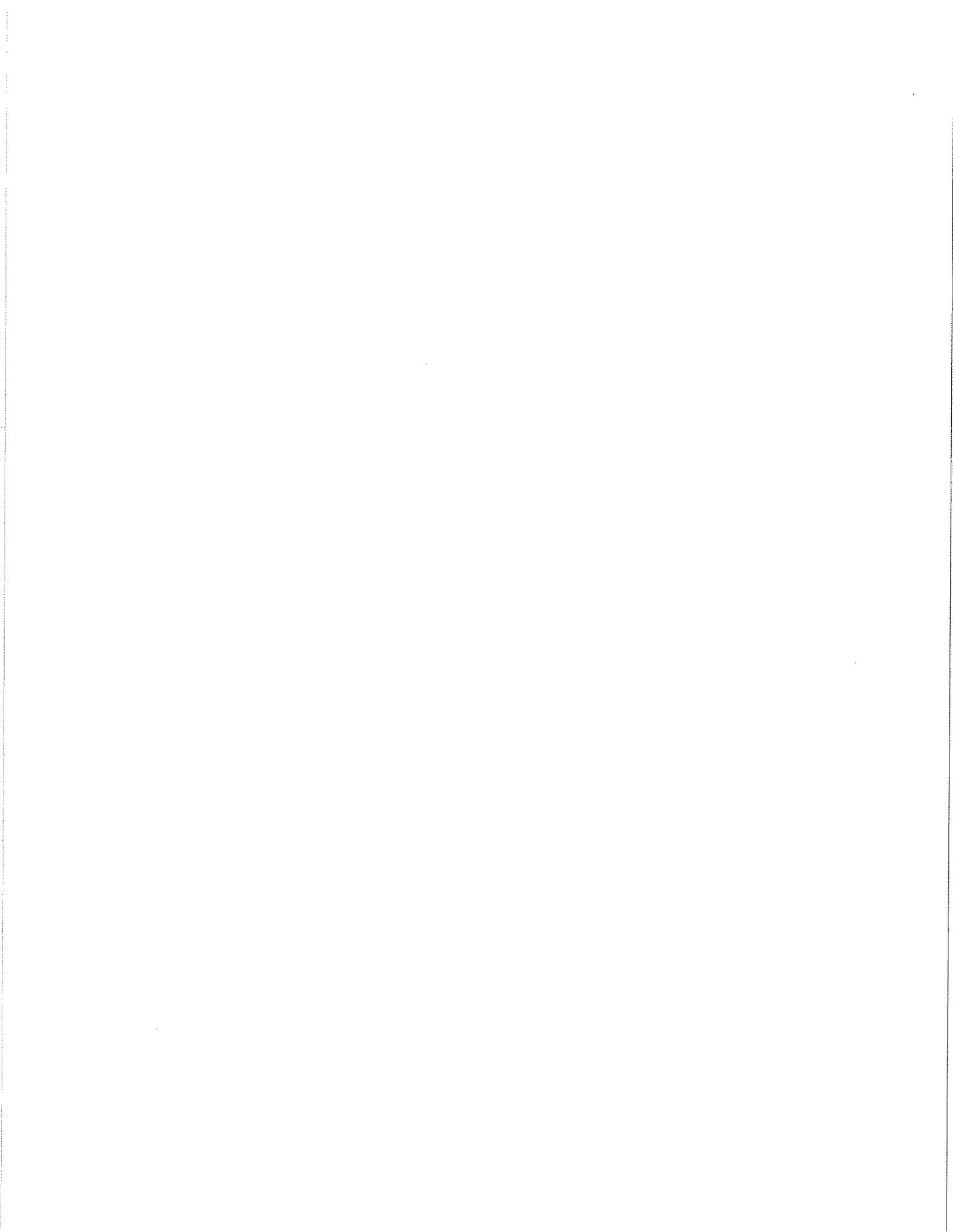


EXHIBIT D

DESCRIPTION OF ANNUAL FINANCIAL INFORMATION

The following information is referred to in Section 12 of this Ordinance.

Annual Financial Statements and Operating Data

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

1. The annual audited financial statements of the City or the unaudited financial statements of the City in the event audited financial statements are not completed within six months after the end of any fiscal year.

2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 6 and 8 through 13 thereof.

Accounting Principles

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

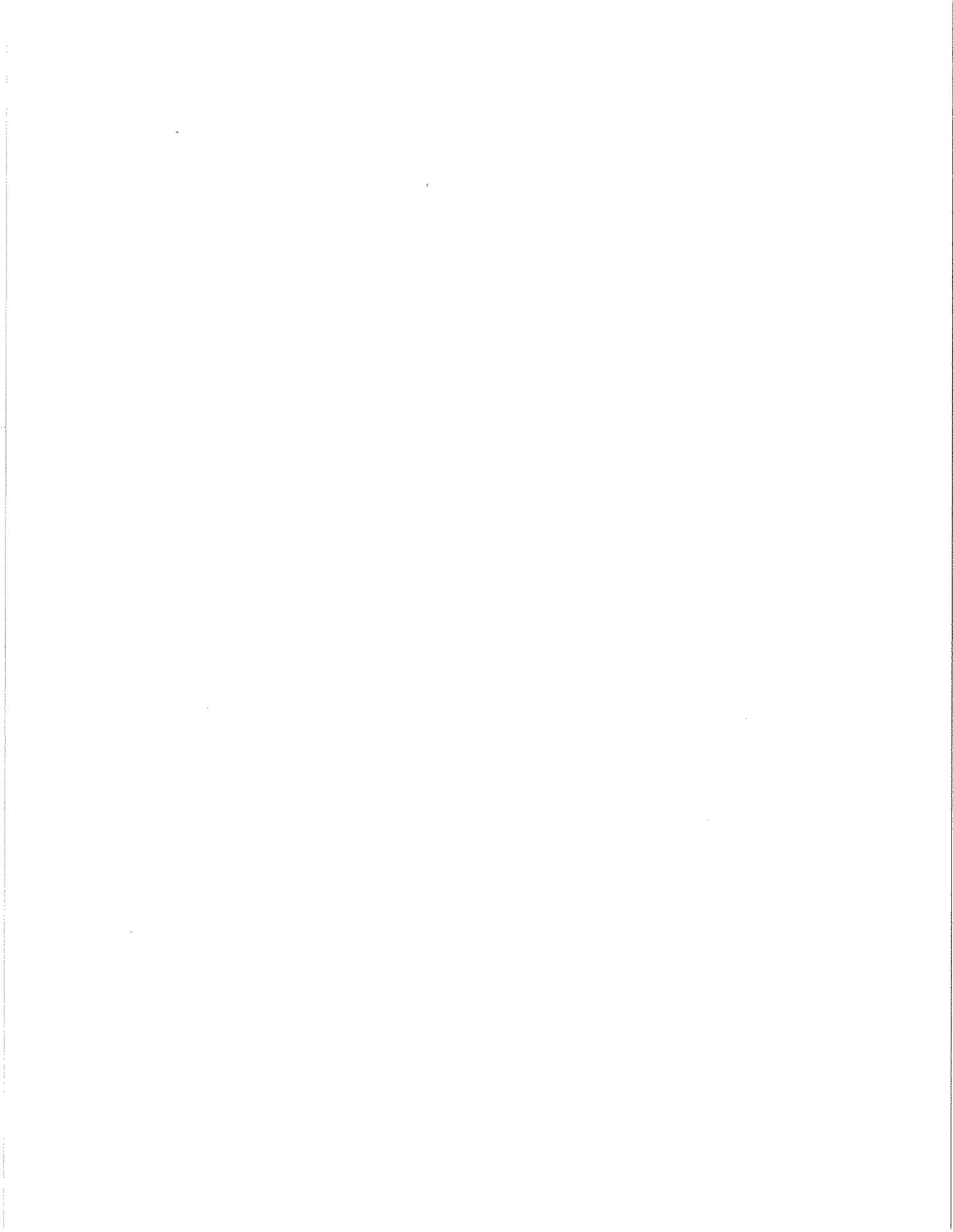


EXHIBIT E
FORM OF ESCROW AGREEMENT

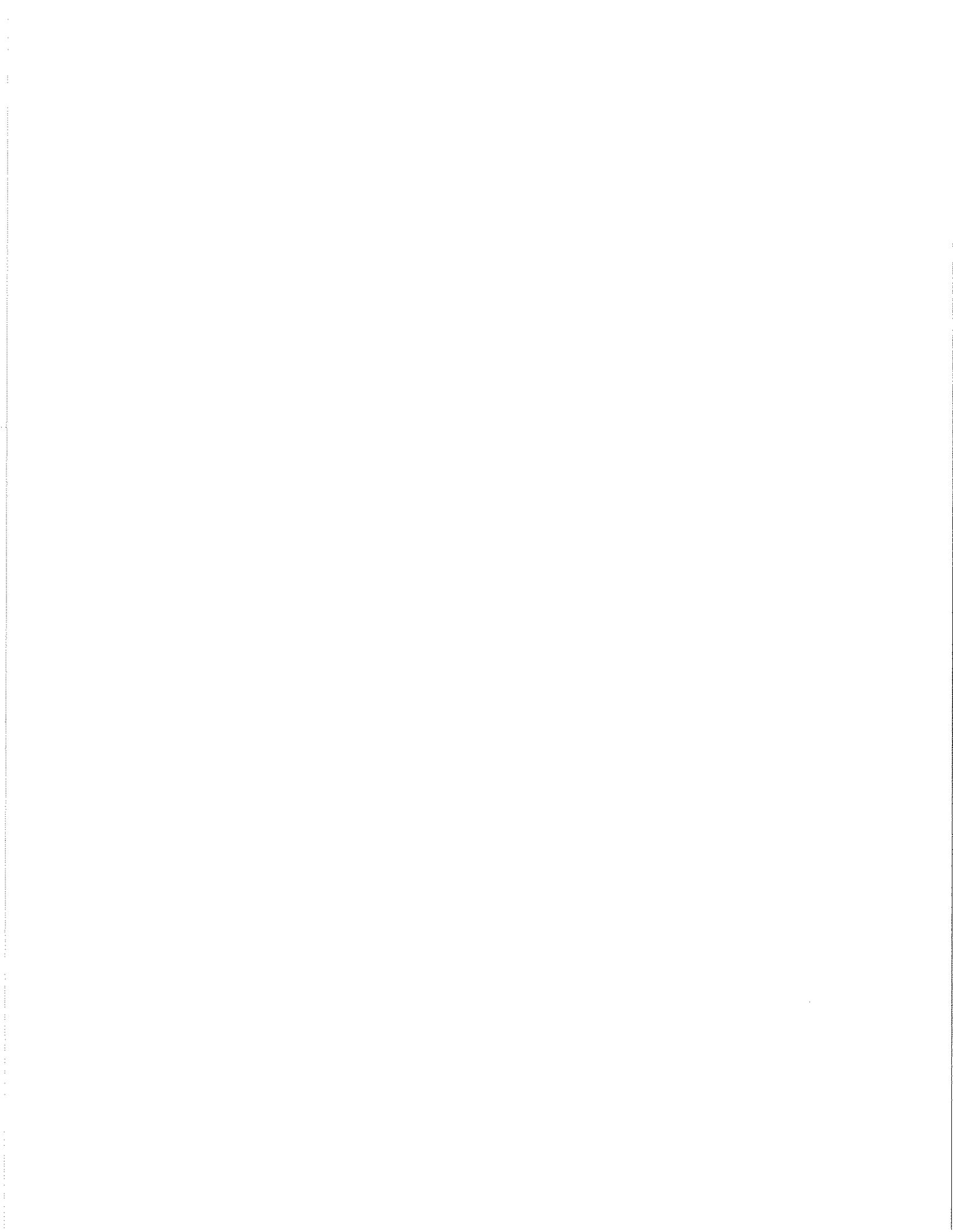


EXHIBIT F

FORM OF NOTICE OF REDEMPTION

NOTICE OF REDEMPTION

To the Holders of the
**CITY OF KERRVILLE, TEXAS
COMBINATION TAX REVENUE
CERTIFICATES OF OBLIGATION, SERIES 2002**
(Maturing on February 15 in the years 2013 through 2017)

NOTICE IS HEREBY GIVEN that the CITY OF KERRVILLE, TEXAS (the "City"), in Kerr County, Texas, has called for redemption at par on February 15, 2012 (the "Redemption Date") the following maturities of the City's outstanding COMBINATION TAX REVENUE CERTIFICATES OF OBLIGATION, SERIES 2002, dated February 1, 2002 (the "Refunded Obligations"), at the Redemption Price equal to 100% of par plus accrued interest to the Redemption Date:

MATURITY (FEBRUARY 15)	PRINCIPAL AMOUNT MATURING IN YEAR (\$)	PRINCIPAL AMOUNT BEING REFUNDED (\$)	STATED INTEREST RATE (%)	CUSIP No. (492422)
2013	795,000	795,000	5.00	
2014	835,000	835,000	4.60	
2015	875,000	875,000	4.70	
2016	920,000	920,000	4.80	
2017	965,000	965,000	4.90	

The Refunded Obligations shall be redeemed and shall become due and payable on the Redemption Date, and the interest thereon shall cease to accrue from and after the Redemption Date.

NOTICE IS FURTHER GIVEN THAT the Refunded Obligations will be payable at and should be submitted either in person or by certified or registered mail to the following address:

First Class/Registered/Certified Mail
U.S. Bank Corporate Trust Services
Attn: Specialized Finance
P.O. Box 64485
St. Paul, MN 55164-9549

By Overnight or Courier
U.S. Bank Corporate Trust Services
Attn: Specialized Finance, First Floor
60 Livingston Avenue
St. Paul, MN 55164-2292

By Hand
U.S. Bank Corporate Trust Services
Attn: Specialized Finance, First Floor
60 Livingston Avenue
St. Paul, MN 55164-2292

To avoid a backup withholding tax required by Section 3406 of the Internal Revenue Code of 1986, holders must submit a properly completed IRS Form W-9.

* THE ABOVE REFERENCED CUSIP NUMBERS ARE PROVIDED FOR THE CONVENIENCE OF THE HOLDERS. NEITHER THE PAYING AGENT NOR THE CITY ARE RESPONSIBLE FOR ANY ERROR OF ANY NATURE RELATING TO THE CUSIP NUMBERS.

EXHIBIT G

REQUIREMENTS OF THE INSURER
WITH RESPECT TO THE MUNICIPAL BOND INSURANCE POLICY

Agenda Item:
(Jeff Carroll)

- 7A. Request to review and approve abandonment of a portion of Rodriguez Street between Main Street (State Highway 27 and Water Street and a portion of an alley adjacent to Crenwelge Motors.

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

SUBJECT OF REQUEST: We request council to review and make motion on conceptual approval of the abandonment of a portion of Rodriguez Street between Highway 27 and Water Street, and a portion of alley, all adjacent to Crenwelge Motors.

AGENDA DATE: 9/28/2010

DATE SUBMITTED: 9/10/2010

REQUESTED/SUBMITTED BY: Crenwelge Motors

ORGANIZATION REPRESENTING: MatkinHoover Engr. **PHONE:** 830-249-0600

MAILING ADDRESS: 8 Spencer Road #100
Boerne TX 78006

EMAIL ADDRESS: jcarroll@matkinhoover.com

EXHIBITS/INFORMATION: Attached conceptual plan

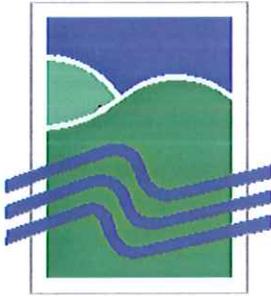
APPROVED FOR SUBMITTAL BY CITY MANAGER: 

**WILL THIS ITEM REQUIRE CITY COUNCIL TO AUTHORIZE THE
EXPENDITURE OF CITY FUNDS? YES: _____ NO: _____**

IF YES, STATE AMOUNT REQUESTED: \$ _____

DESCRIPTION OF REQUEST

RECOMMENDED COUNCIL ACTION



City of Kerrville
Development Services
800 Junction Highway
Kerrville, Texas 78028-5069
830.792-8351 (O)
830.896-0517 (F)
Kevin.coleman@kerrvilletx.gov

MEMORANDUM

TO: Kristine Ondrias, Assistant City Manger

FROM: Kevin Coleman, Director of Development Services *KC*

DATE: September 22, 2010

SUBJECT: Review of Preliminary ROW Abandonment Request

This request was first presented to staff in September, 2009 through the Public Works Director (see attached letter). The request is triggered by the owner's plan to renovate his existing facilities and his need to expand out towards and perhaps across Rodriguez Street. Rodriguez Street carries limited local traffic and is neither an existing nor future collector, on the Master Thoroughfare Plan.

As an initial response, staff recommended to the owner that he tie the ROW abandonment request to his renovation/expansion, since it will require a building permit and re-plat the entire area. The owner committed to engaging an engineer, surveyor or architect to provide detail to his request moving forward.

In May, 2010, Matkin Hoover, on behalf of the owner, presented the concept to the Development Review Committee for review and direction. Staff laid out the following steps at that time:

1. Submittal of a Concept Plan for review. Concept plan needs to show all proposed improvements to the site, including any utility relocation or extensions that may be required, drainage mitigation, planned fire access, and TXDOT approved access points on SH27
2. Surveys of Alley and Street
3. Appraisal of Alleys and Street
4. Preliminary Approval of Abandonment from Council
5. Prepare and submit Subdivision Plat and any utility/drainage relocation plans
6. Final Council approval of abandonment
7. Plat approval by Planning and Zoning

Upon approval of the plat, the owner could move forward with his Development Site Plan approval and building permit approval as needed.

The item on Council's agenda is the owner's request to shift the steps outlined above and seek preliminary approval of the concept to abandon the street. Therefore the owner will have some assurance, though not a guarantee, that City Council will approve the abandonment prior to investing dollars and time in the development of his plan.

Staff has no issue with Council's preliminary approval.



September 25, 2009

Mr. Charlie Hastings, P.E.
Director of Public Works
City of Kerrville
800 Junction Highway
Kerrville, TX 78028

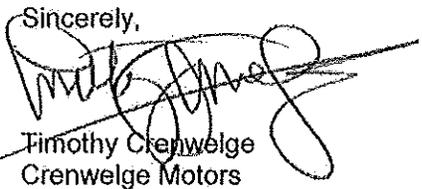
Re: Proposed Abandonment of Right of Way
Rodriguez Street
Kerrville, TX

Dear Charlie:

On behalf of Crenwelge Motors, I would like to request the City of Kerrville's review and approval for abandonment of the right of way for the section of Rodriguez Street between Highway 27/Main Street and Water Street. I would like to close this street to through traffic for safety concerns since Crenwelge Motors has daily operations on both sides of Rodriguez Street. We would like to install a curb and sidewalk along Main Street to close traffic from entering and exiting while leaving the Water Street entrance open for our use.

Thank you for reviewing this proposal and please let me know if you have any particular questions or direction for what might be the next step in this process. You can contact me at 830-739-2200.

Sincerely,



Timothy Crenwelge
Crenwelge Motors

Cc: file

Agenda Item:
(Staff)

7B. A Resolution adopting the Lytle Park site Master Plan.

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

SUBJECT: Resolution adopting the Lytle Park Master Plan

FOR AGENDA OF: Sept. 28, 2010

DATE SUBMITTED: Sept. 17, 2010

SUBMITTED BY: Malcolm Matthews
Director of Parks and
and Recreation

CLEARANCES: Kristine Ondrias
Assistant City Manager

EXHIBITS: Site Master Plan, Resolution

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO: N/A

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The draft of the master plan for Lytle Park has been completed and needs final adoption by the City Council. The master plan process was initiated to guide the renovation of the park, with the first phase funded in the 5 year Capital Improvements Program. City staff received public input on park needs and improvements through three meetings held May 14th, June 24th, and September 8th at B.T. Wilson School. Information and input received provided the plan elements and set priorities.

Lytle Park was dedicated as a public park in 1890 and has been used for a variety of purposes since that time. The park is now used and classified as a neighborhood park and future improvements will reflect that classification.

The major priorities identified by the public include: add new playground and perimeter walking trail, improve parking area, create a multi-purpose space (not just baseball), remove restrooms, add group pavilion, improve security lighting, and design for maintenance. Attached is the site plan reflecting the proposed improvements. The Master Plan was presented to the Parks and Recreation Board on September 16th and they recommended that the plan be adopted by the City Council.

Staff will present the plans and elements of the park to the City Council, along with Phase 1 improvements and costs. The available funding for construction is approximately \$100,000. The majority of the improvements will be installed by City crews with construction commencing in November, 2010.

RECOMMENDED ACTION

Approval of the resolution adopting the Lytle Park Master Plan.

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2010

**A RESOLUTION ADOPTING THE LYTLE PARK SITE
MASTER PLAN**

WHEREAS, the City owns and maintains a number of parks and recreational areas which are intended to be used by and to benefit the public; and

WHEREAS, in September 2008, City Council passed Resolution 74-2008, which adopted the *Kerrville Parks, Recreation and Open Spaces Master Plan*; and

WHEREAS, pursuant to Council direction, staff from the City's Parks and Recreation Department held meetings on May 14th and June 24th of this year to gather public input as to the types of improvements and priorities for the City's Lytle Park; and

WHEREAS, following this meeting, staff obtained planning services to develop conceptual drawings for a Master Plan for Lytle Park; and

WHEREAS, once the drawings were completed, staff then held another public meeting on September 8, 2010, to gather input from citizens interested in the improvement and development of Lytle Park and then presented the drawings and the public's input to the City's Parks and Recreation Advisory Board, which recommended a Lytle Park Site Master Plan; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to adopt the Lytle Park Site Master Plan as presented;

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

The City Council of the City of Kerrville, Texas, adopts the document titled the *Lytle Park Site Master Plan* as attached as **Exhibit A**.

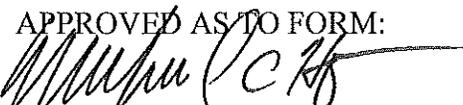
PASSED AND APPROVED ON this the ____ day of _____, A.D., 2010.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

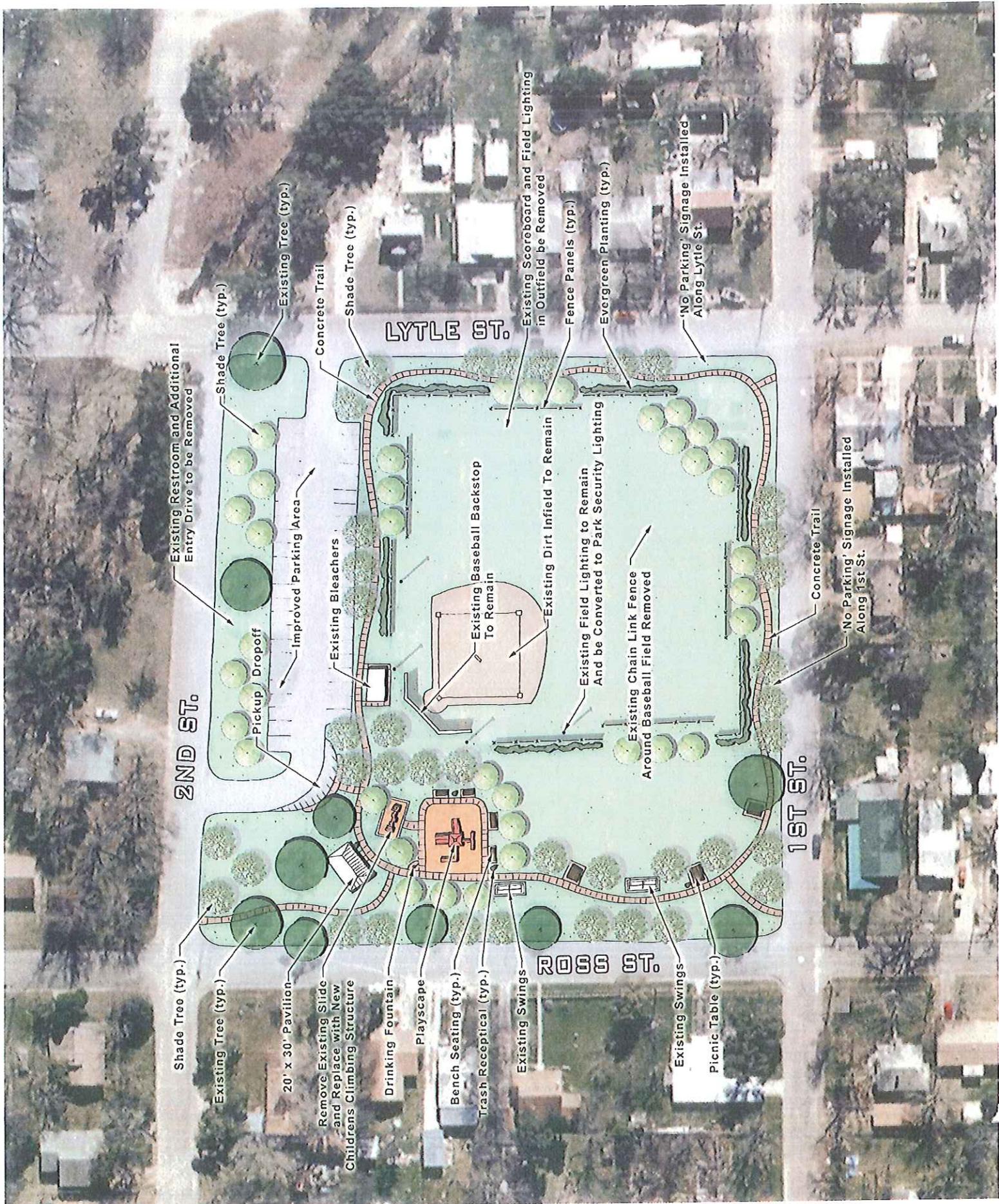


AUGUST 2010

LYTLE PARK

KERRVILLE, TEXAS





2ND ST

LYTLE ST.

1ST ST

ROOSE ST.

Existing Restroom and Additional Entry Drive to be Removed

Shade Tree (typ.)

Pickup / Dropoff

Improved Parking Area

Existing Bleachers

Existing Tree (typ.)

Concrete Trail

Shade Tree (typ.)

Existing Baseball Backstop To Remain

Existing Scoreboard and Field Lighting in Outfield to be Removed

Fence Panels (typ.)

Evergreen Planting (typ.)

'No Parking' Signage Installed Along Lytle St.

Existing Field Lighting to Remain And be Converted to Park Security Lighting

Existing Chain Link Fence Around Baseball Field Removed

Concrete Trail

'No Parking' Signage Installed Along 1st St.

Shade Tree (typ.)

Existing Tree (typ.)

20' x 30' Pavilion

Remove Existing Slide and Replace with New Childrens Climbing Structure

Drinking Fountain

Playscape

Bench Seating (typ.)

Trash Receptical (typ.)

Existing Swings

Existing Swings

Picnic Table (typ.)

Existing Swings

Picnic Table (typ.)

Agenda Item:
(Mayor Wampler)

- 7C. Accept report from Mayor Wampler regarding the response to and resolution of issues raised by the Kerrville Performing Arts Society (KPAS) for their use of the Cailloux Theatre.

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

SUBJECT: Accept a report from Mayor Wampler regarding the response to and resolution of issues raised by the Kerrville Performing Arts Society (KPAS) for their use of the Cailloux Theatre.

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 23, 2010

SUBMITTED BY: David Wampler **CLEARANCES:** NA
Mayor

EXHIBITS: Letter to KPAS Dated September 22, 2010

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

In April 2010, KPAS approached the City Council regarding some concerns they had in their use of the Cailloux Theatre. Since that meeting, I have been engaged in a proactive process to validate and resolve any and all complaints. These efforts have been circumspect in nature with the ultimate objective being a final solution.

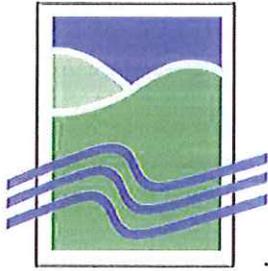
Since the April presentation to the City Council, I attended meetings with members of KPAS on July 21, 2010, and September 13, 2010. On September 15, 2010, I also attended a meeting with representatives of Playhouse 2000. The purposes of these meetings were to identify issues, provide responses and reach agreement amongst the parties concerned.

During this time, city staff has also assisted with an analysis of Playhouse 2000 and KPAS tax filings and other available financial data in order to review the financial issues relating to KPAS productions and theatre operations.

The attached letter to KPAS explains my findings and my recommendations. The contents in this letter have been agreed to accepted by all parties and constitute a successful conclusion to the outstanding issues.

RECOMMENDED ACTION

Accept the attached letter and consider that the KPAS concerns have been adequately addressed.



CITY OF KERRVILLE

MAYOR AND CITY COUNCIL

800 Junction Highway

Kerrville, Texas 78028

830-257-8000 / www.kerrvilletx.gov

September 22, 2010

Tom Murray
1120 N. Lake Drive
Kerrville, TX 78028

Dear Tom,

Thank you again for the opportunity to discuss the concerns of KPAS regarding management and operations of the Cailloux Theater. As you know, I have been personally committed to finding a resolution to KPAS's concerns. I believe the arts are a key component of the quality of life we enjoy in Kerrville and I hope that a strong tradition of quality programming can continue at our theater. The following points are those which we agreed are most important to KPAS and which constitute the entirety of KPAS's concerns which led to the cancellation of the remainder of your season. I understood from our meeting on September 3, that KPAS would return to Kerrville if resolution to your concerns was forthcoming.

1. Building Ownership

The Cailloux Theater and real property are owned by the City of Kerrville. The original Kerrville Municipal Auditorium was the property leased and renovated as part of the Development and Operations Agreement of February 1, 2000 between the City and Playhouse 2000, Inc. The Agreement allows for the City, Playhouse 2000, or a third party to provide additional real property to the theater property, stipulating that the City will acknowledge that any real property acquired will be accepted and conveyed to the City if it is in the vicinity of the theater property and is a functional part of the facility. Additional properties along Washington, Main, and Jefferson Streets were conveyed to the City in 2009. A replat of the expanded City owned theater property was completed and filed (see attached). At that time, the City of Kerrville elected not to transfer ownership of the V-K Garage, which is owned by Playhouse 2000, but the City did not wave its right to seek conveyance of this property in the future, per the Agreement.

2. Liability/Indemnity

Playhouse 2000 is required to maintain insurance in the form and amount identified in the Agreement. Additionally, the Agreement requires that Playhouse 2000 be the exclusive manager and operator of the facility, with the sole responsibility for and full control and discretion in the facility's operation, direction, management, leasing, licensing, and supervision. Playhouse 2000 indemnifies the City against any claims or negligence caused by Playhouse 2000.

3. Insurance Certificate

Associated with #2 above, Playhouse 2000 is required to carry the listed insurance. Certificates of Insurance are provided to the City. While the current insurance does not list the City of Kerrville as an additional insured, Playhouse 2000 is working to correct this and add the City.

4. Merchandising

While the City understands KPAS has vendor contracts which stipulate concessions, Section 5 of the Agreement states that Playhouse 2000 will provide, or have provided, all promotion, marketing, concession of items, vendor contracts, advertising contracts, and naming rights associated with the facility, and will have the duty and sole right to negotiate, execute, and perform all contracts related to same.

This is an item which needs to be negotiated directly with Playhouse 2000. It is our understanding this item has never been enforced and that Playhouse 2000 is willing to consider terms on a case-by-case basis.

5. Audit

The City's Finance Department completed a report of Playhouse 2000/Cailoux Theater profit and loss statements for years 2007, 2008, and 2009 and financial data for 2006 - 2010 (ytd). At this time, the City does not believe an outside independent audit is necessary.

6. Fire Inspection

The City of Kerrville Fire Marshal's Office completed a fire inspection on August 11, 2009. Attached are the Fire Inspections Report and compliance documents. As part of this inspection, it was brought to Playhouse 2000's attention that the fire alarm system and extinguisher inspections need to be completed annually. This was brought into compliance in 2009 and was inspected again in 2010.

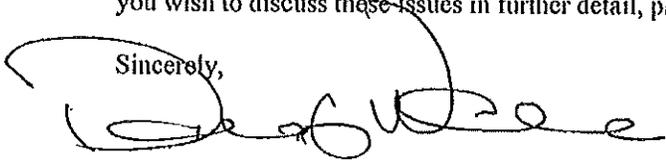
Additionally, Code Compliance and Building Divisions performed an inspection of the facility May 6, 2010 following concerns by KPAS regarding the cleanliness and maintenance of the facility. The results of the inspection indicated the overall condition of the facility to be good. As far as general operations of the facility, there have been ongoing problems with the HVAC system that are design-based. To totally correct the problem, a new system will need to be installed. A Cailloux Foundation endowment fund has been created to help address this issue. Playhouse 2000 will continue to maximize the performance of the existing system to the best of their ability.

7. Evacuation Plan

Playhouse 2000 provides for theater evacuation. Attached evacuation charts are installed in the building.

I hope this correctly identifies your concerns and helps clarify the agreement terms and current status. If you wish to discuss these issues in further detail, please don't hesitate to contact me.

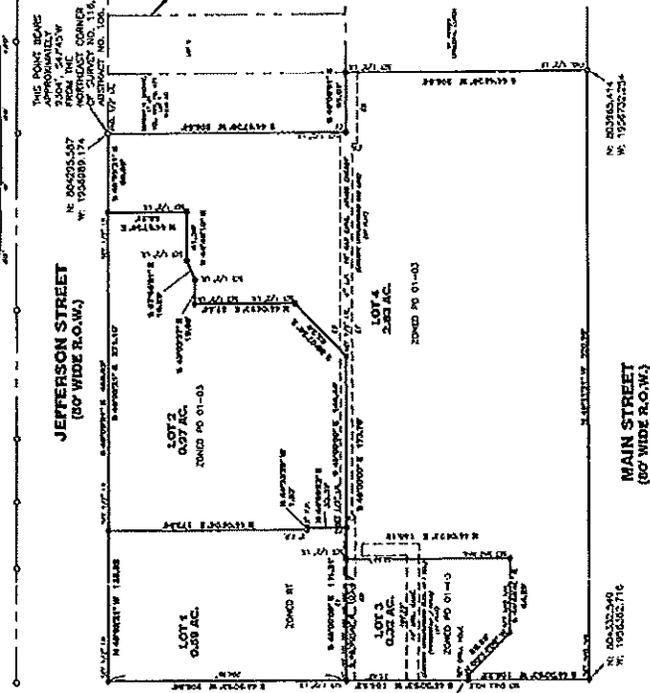
Sincerely,



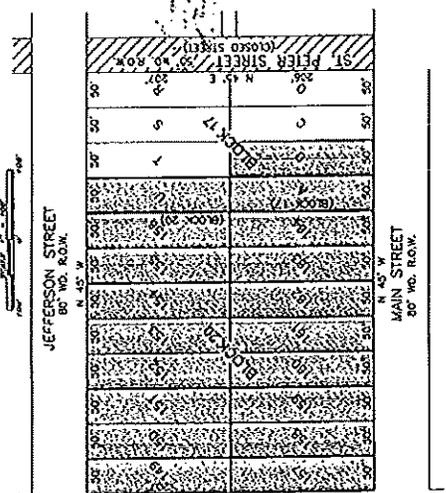
David Wampler, Mayor
City of Kerrville



TAX CERT # 2574



TYPE	DATE	REMARKS
1	11/11/09	RECORDED
2	11/11/09	RECORDED
3	11/11/09	RECORDED
4	11/11/09	RECORDED
5	11/11/09	RECORDED
6	11/11/09	RECORDED
7	11/11/09	RECORDED
8	11/11/09	RECORDED
9	11/11/09	RECORDED
10	11/11/09	RECORDED



- NOTES:
1. THIS IS A PRELIMINARY PLAT FOR THE CITY OF COLUMBIA, MISSOURI. THE CITY ENGINEER HAS REVIEWED THIS PLAT AND HAS DETERMINED THAT IT COMPLIES WITH THE REQUIREMENTS OF THE CITY CHARTER AND THE CITY CODE. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
 2. THE PLAT IS SUBJECT TO THE CITY ENGINEER'S REVIEW AND APPROVAL. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.
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 5. THE PLAT IS SUBJECT TO THE CITY ENGINEER'S REVIEW AND APPROVAL. THE CITY ENGINEER'S REVIEW IS LIMITED TO THE TECHNICAL ASPECTS OF THE PLAT AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

That City of Columbia hereby certifies that it is in compliance with the provisions of the City Charter and the City Code. The City Engineer has reviewed this plat and has determined that it complies with the requirements of the City Charter and the City Code. The City Engineer's review is limited to the technical aspects of the plat and does not constitute a guarantee of the accuracy of the information contained herein.

[Signature]
 City Engineer



PLAT FOR THE CITY OF COLUMBIA, MISSOURI, SHOWING THE LOTS AND BLOCKS OF THE CAILLOUX CENTER ADDITION, BLOCK 1, LOTS 1-4.

[Signature]
 City Engineer

PLAT FOR THE CITY OF COLUMBIA, MISSOURI, SHOWING THE LOTS AND BLOCKS OF THE CAILLOUX CENTER ADDITION, BLOCK 1, LOTS 1-4.

[Signature]
 City Engineer

PLAT FOR THE CITY OF COLUMBIA, MISSOURI, SHOWING THE LOTS AND BLOCKS OF THE CAILLOUX CENTER ADDITION, BLOCK 1, LOTS 1-4.

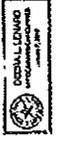
[Signature]
 City Engineer

PLAT FOR THE CITY OF COLUMBIA, MISSOURI, SHOWING THE LOTS AND BLOCKS OF THE CAILLOUX CENTER ADDITION, BLOCK 1, LOTS 1-4.

[Signature]
 City Engineer

STATE OF MISSOURI
 COUNTY OF COUMBERLAND

[Signature]
 City Engineer

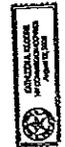


STATE OF MISSOURI
 COUNTY OF COUMBERLAND

[Signature]
 City Engineer

STATE OF MISSOURI
 COUNTY OF COUMBERLAND

[Signature]
 City Engineer

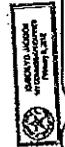


STATE OF MISSOURI
 COUNTY OF COUMBERLAND

[Signature]
 City Engineer

STATE OF MISSOURI
 COUNTY OF COUMBERLAND

[Signature]
 City Engineer



STATE OF MISSOURI
 COUNTY OF COUMBERLAND

[Signature]
 City Engineer

CAILLOUX CENTER ADDITION
BLOCK 1, LOTS 1-4

REPLAT OF
 BLOCK 1, LOTS 1 AND 2, A
 REPLAT OF LOTS 16-16A,
 BLOCK 20 AND LOTS A, B,
 U AND PARTS OF LOTS C
 AND T, BLOCK 17, D
 BROWN ADDITION

APRIL 17, 2009



KERRVILLE FIRE MARSHAL'S OFFICE
 87 CORONADO DRIVE KERRVILLE, TEXAS 78028
 OFFICE: 830.257.8449 FAX: 830.257.8455

FIRE INSPECTION REPORT

Carloux Theater 910 Main Street 896-9393 W2.2.3
 Name of Business Address Phone Number
Assembly Inspection - Annual August 11, 2009
 Occupancy Classification Type of Inspection Date of Inspection
Heathly Cunningham 830 329 2936 (cell)
 Owner/Manager Emergency Contact Name Emergency Contact Phone

NOTICE OF FIRE SAFETY VIOLATIONS: You are hereby notified that an inspection of your premises has disclosed the following fire and/or life safety violations of the provisions of appropriate local and state fire and life safety codes.

EXITS		Approved FDC locking caps		912.3.1
Doors locked and/or blocked	1008.1	X	Spare sprinkler heads and wrench (NFPA 25)	5.2.1.3
Doors inoperative or swing wrong direction	1008.1.2		Impaired sprinkler heads	901.6
Door locks to open without special effort	1008.1.8		X <u>Sprinkler System Inspection - (Call FM 158)</u>	
Exits are clear from obstructions	1003.6		STORAGE AND HOUSEKEEPING	
X Approved exit signs <u>Ballroom Lobby Area</u>	1011.1		Storage to high (18" sprinkler/24" non-sprinkler)	315.2.1
Exit signs working properly	1011.4		Flammables/combustibles improperly stored	3404.3
Y Emergency lighting <u>verify</u>	1006.3		Holes in walls and ceilings	703.1
			Damaged or missing ceiling tiles	703.1
			Secure compressed gas cylinders	3003.5.3
FIRE EXTINGUISHERS			High grass, weeds and brush	304.1.2
Approved fire extinguisher	906.3		Accumulation of trash, debris, dust, lint and waste	304.1
Clear access to fire extinguisher	906.6		Interior finishes and decorations flame retardant	803.1
Fire extinguisher mounted properly	906.7		ELECTRICAL	
Inspected annually	906.2		X No permanent use of extension cords	605.5
COMMERCIAL COOKING SUPPRESSION			Cover plates on junction boxes, outlets, panel boxes	605.6
Approved fire suppression system	904.11		Label panel boxes	605.3.1
Manual pull station within distance	904.11.1		Clearance around electrical panel	605.3
Hood, vent duct and filters clean	904.11.6		Use of multi-plug adapters	605.4
Proper quantity of Class K fire extinguishers	904.11.3		Use of temporary wiring/decorative lighting	605.9
Inspected biannually	904.11.6		Abatement of electrical hazards	605.1
FIRE PROTECTION SYSTEMS			X Improper power strip - power tap <u>in office</u>	605.4.1
X Fire alarm system inspected annually	907.20		Cords go through ceiling, walls or doors	703.1
Smoke and/or heat detectors inoperative	907.20.1		MISCELLANEOUS	
Detectors within 3 feet of appliance (NFPA 72)	A5.7.4.1		Fire lanes properly marked	503.3
Sprinkler system not monitored	903.4		Address plainly visible from street	505.1
Sprinkler system inspected annually	903.5		X Knox box and keys	506.1
Valves labeled and locked (NFPA 13)	6.7.4.1		Doors to mechanical, electrical, HVAC labeled	605.3.1
X Approved FDC sign	912.4			

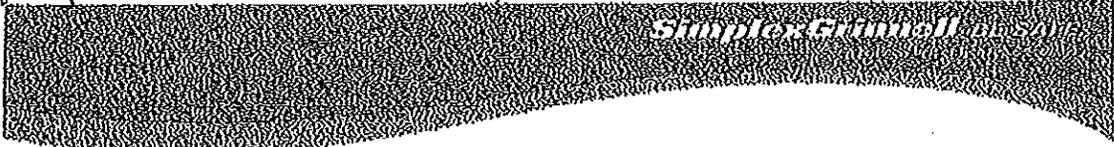
COMMENTS: Host stand needs inspected; FDC Area needs cleaned
Fire Alarm system and Sprinkler system needs to be inspected

ORDER TO COMPLY: As such conditions are contrary to law, you are hereby required to correct said conditions upon receipt of this notice. An inspection to determine whether you have complied will be conducted on or after 7/20/09. Failure to comply with the foregoing order before the date of such re-inspection may render you liable to the penalties provided by law for such violation.

Michael Short
 RECEIVED BY

Ed Smith FM
 FIRE INSPECTOR

2/31 - E-MAIL



Sprinkler Deficiency Notification

Date: 8-26-09

Facility Name: Callhous City Center of Performing Arts

Address: 910 Main St
Kerrville, TX 78028
Phone: 330-896-9393

Attention: Heather Cunningham

A SimplexGrinnell technician recently performed a service/inspection on your Life safety systems. Upon completion, your system was Yellow tagged for the following deficiencies;

1. Raise (1) head at stairs leading to upper mezzanine.
2. Relocate approx (3) uprights to pendants in concession area.
3. Add (1) pendant in women's RR.
4. There are approx (82) painted concealed plates (Reliable) that are painted. Locations are: (4) above stage, (3) in ticket booth, (7) women's rr, (1) entrance to women's rr, (2) east entrance, (4) breakroom/janitor room, (6) men's rr, (1) unisex rr, (11) 1st floor lobby, (37) 2nd floor lobby, (2) west meeting room, (2) east meeting room, (2) west entrance

Note: Visually inspected and re-racked hoses. (Recommend hydro testing or replacing them (100' 1 1/2 hoses))

Note: Tested backflow on this inspection Check #1- 1.8, Check #2- 1.2

Check to see if they were painted or ordered that color. - Provide proof.

Should be was mistaken to 'must be' Hydro.

A SimplexGrinnell representative will be contacting you within the next few days to help you address these deficiencies. If you do not hear from the representative within 5 days of receipt of this notice, then please give me a call.

Respectfully,
 Robert Nickle
 Deficiency Specialist
 1070 Arlon Cx.
 San Antonio, TX 78216
 210-402-6311 cell 210-825-8299

PER STATE LAW, WE ARE REQUIRED TO NOTIFY THE LOCAL AUTHORITIES WITHIN 24 HOURS OF THE CONDITIONS LISTED IN THIS LETTER.

D-U-11-8 69-4738067
FDG. ID 99-2608861

SimplexGrinnell, DE SAFE.

A Tyco International Company
District # 492
1070 ARTORI CIRCLE #102
SAN ANTONIO, TX 78216-0000
210-402-6311
Billing Questions, Contact *

65356174

02-23-10

15079566

11-17-09

[Redacted]

[Redacted]

Due upon receipt

Bill To: 492-02003151
Playhouse 2000
P O Box 290080
KERRVILLE TX 78029

Ship To: 492-00850866
Cailloux City Center Of
910 Main St
Performing Arts Theatre
KERRVILLE TX 78028-0000

"Let us know how we're doing"
www.simplexgrinnell.com

Service Requested By: Nicolas Roland

Requestors Phone Number: 210-307-7081 x0008

Fixed Price Service Request

Scope of work for service performed on your Wet Sprinkler System is not covered by your service agreement

Description of work

Material and labor to shut down the system and replace the upright heads in the Naxxon rooms with pendant heads. Added a head in the women's restroom. Rerout a drop at stairway leading to the electrical room, put system back in service.

Labor	\$0.00
Material	\$2,230.00
Other	
Invoice Amount	\$2,230.00
Taxes	\$183.90
Total Invoice Amount	\$2,413.90
Payment Received	\$0.00

Total Amount Due **\$2,413.90**

SimplexGrinnell DE SAFE
A Tyco International Company

REMITTANCE COPY

TOTAL AMOUNT DUE
\$2,413.90

BILL TO Playhouse 2000
492-02003151
SHIP TO Cailloux City Center Of
492-00850866

INVOICE NUMBER 65356174

INVOICE DATE 02-23-10

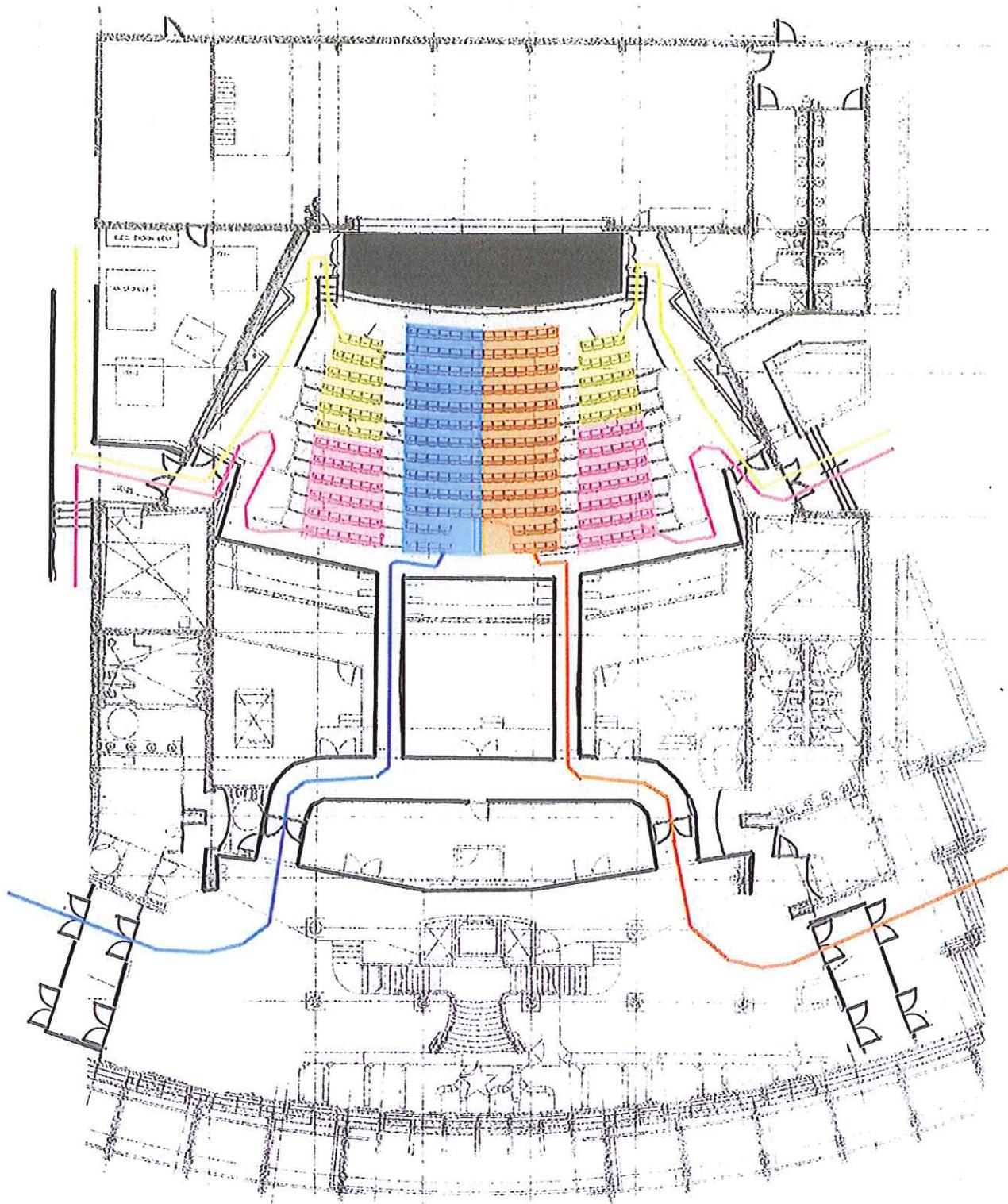
CUSTOMER P.O.

SHIP TO SimplexGrinnell
Dept. CH 10320
Palatine

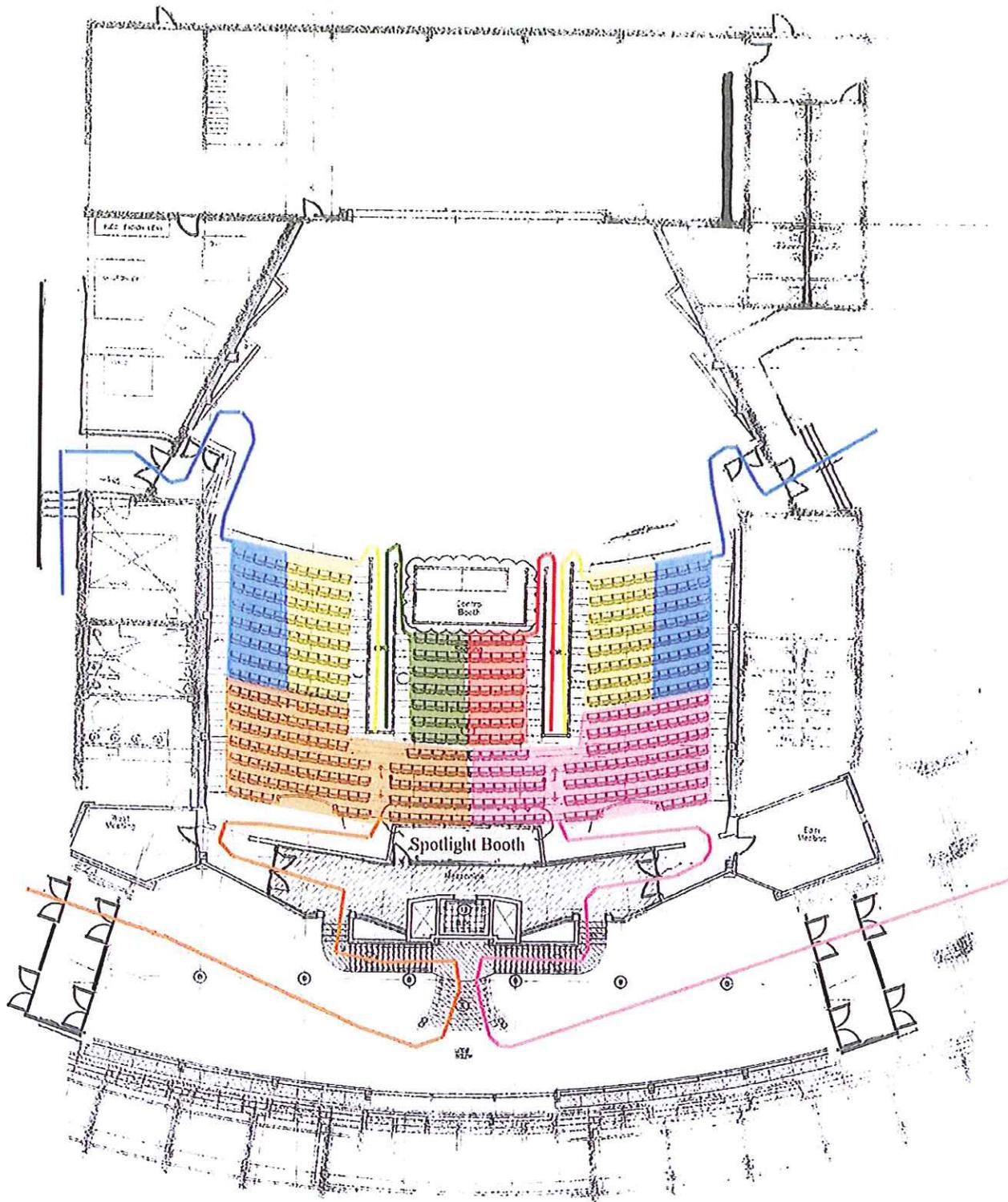
IL 60055-0320

6000241394765356174

Check Box and Complete Reverse Side for Credit Card Payments OR Pay Online at www.simplexgrinnell.com



Cailloux Theater - Evacuation Chart
Downstairs



Cailloux Theater - Evacuation Plan

Upstairs

Agenda Item:
(Staff)

- 7D. Authorize the execution of a Construction Contract with Huser Construction Co., Inc. for construction of the waste water service facility building in the amount of \$460,000.

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

SUBJECT: Authorization for the City Manager to execute a construction contract with Huser Construction Co., Inc. for construction of the Waste Water Service Facility Building in the amount of \$442,963.00 and authorize the release of the remainder funds (\$17,037.00) for project contingency.

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 17, 2010

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

EXHIBITS: Contract, Bid Tabulation

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$460,000.00	\$467,321.24	\$500,000.00	W76

PAYMENT TO BE MADE TO: Huser Construction Co., Inc.
410 Cotton Gin Lane
Kerrville, TX 78028

REVIEWED BY THE FINANCE DIRECTOR: 

SUMMARY STATEMENT

As part of the CIP, the City Council approved the Equipment Storage Facility project at the Waste Water Service Facility to house, protect, and extend the life of critical equipment utilized by the Waste Water Division.

In May 2009, Council approved a Professional Service Agreement with Johnson Seefeldt Architects, Inc. (JSA) in the amount of \$34,500.00 plus reimbursables (estimated \$5,500.00) for the preparation of the architectural building plans and Texas Department of License and Regulations reviews. The civil engineering plans for this project were prepared in-house by the City's Engineering Department. All plans were finalized and the bid phase initiated in July of this year with a bid opening in August.

Based upon the sealed bid process, Huser Construction Co. Inc. of Kerrville, Texas submitted the lowest combination of base bid and alternates. The following table summarizes the overall base bid and bid alternates.

BID SECTION	DESCRIPTION OF BID SECTIONS
Base Bid	All materials, labor, equipment and services required to construct a 6,025 square foot concrete foundation, metal building, and site work including interior build-out and all electrical, mechanical, masonry, paving, etc. complete and in place.
Alternate #1	Additive to include public sidewalk along Loop 534 R.O.W. frontage.
Alternate #2	Deduction to eliminate proposed building interior build-out.
Alternate #3	Deduction for using an alternate pavement section.
Alternate #4	Deduction for eliminating all proposed asphalt pavement from project.

The Engineering Department is recommending awarding the combination of base bid with Alternates #1, 2, and 4. Note that Alternate #4 will eliminate all paving from the project; however, the Public Works Department will provide the required paving materials and workmanship in-house via the Street Division at an anticipated cost savings. The subject paving will be funded with the remaining project contingency funds in combination with the \$50,000.00 FY11 CIP funds for the WWTP Paving for Building.

The budget history of this project is as follows:

- o The initial budget for the project was established at \$450,000.00 (utilizing FY09 water/sewer debt) when the project was created in 2009.
- o A budget amendment in September of 2010 in the amount of \$50,000 increased the project budget to \$500,000.00.

RECOMMENDED ACTION

The Director of Engineering recommends that Council authorize the City Manager to execute a construction contract with Huser Construction Co., Inc., in the amount of \$442,963.00 for the Waste Water Service Facility Building base bid and Alternates #1, 2, and 4, and authorize the release of the remaining funds, which are estimated to be \$17,037.00, for project contingencies.

BID TABULATION FOR THE WASTEWATER SERVICE FACILITY (EQUIPMENT STORAGE BUILDING)

General Contractor	Base Bid	Alternate #1 (Add Sidewalk)	Alternate #2 (Deduct Interior)	Alternate #3 (Alt Pvmt)	Alternate #4 (Deduct all Pvmt)	# Days	Sum for Base + Alts 1, 2, & 4	Sum for Base + Alts 2 & 4
M. J. Boyle G.C.	\$611,107.00	\$24,012.50	(\$51,000.00)	\$21,840.00	(\$86,506.50)	154	\$497,613.00	\$473,600.50
JIM Lowe & Company	\$614,250.00	\$21,566.00	(\$58,250.00)	(\$910.00)	(\$85,540.00)	150	\$492,026.00	\$470,460.00
Cambridge Construction	\$733,359.00	\$29,000.00	(\$125,000.00)	(\$12,599.00)	(\$105,983.00)	89	\$531,376.00	\$502,376.00
Huser Construction Co, Inc.	\$551,738.00	\$20,125.00	(\$40,000.00)	(\$14,000.00)	(\$88,900.00)	120	\$442,963.00	\$422,838.00

Public Works has asked for \$50K in the FY11 CIP to pave the site.

ADVERTISEMENT FOR BID

Sealed bids for the **Waste Water Service Facility** will be received by the office of the City Secretary, City Hall, 800 Junction Highway, Kerrville, Texas 78028 until Tuesday 3:00 p.m. on August 24, 2010 and will then be publicly opened and read aloud in Council Chambers at City Hall.

The date and time of opening the bids shall be clearly marked on the outside of the sealed envelope. No bids will be accepted after 3:00 p.m. on the date of bid opening.

The bidding documents, plans, specifications, etc. may be examined by all bidders at the engineering office at City Hall, 800 Junction Highway, Kerrville, Texas, 78028, 830-792-8312, or on the City's website www.kerrvilletx.gov and non-returnable, nonrefundable copies may be purchased at Jackson Reprographics, 250 W. Main, (830-896-2679), or Lone Star Reprographics in San Antonio, Texas. Electronic copies will also be available at www.jsarch.com.

Each bid must be accompanied by a certified check, cashier's check, or bid bond payable to the City of Kerrville, Texas, in the amount of ten percent (10%) of the amount bid as a guarantee that the contract and bond will be entered in to within ten (10) days after the award is made.

A Payment/Performance bond in the amount of one hundred percent (100%) of the total contract price will be required.

No bidder may withdraw their bid within sixty (60) days after the actual date of the opening.

A non-mandatory pre-bid conference shall be held at 3:00 PM on August 10, 2010 in Council Chambers at City Hall. **All questions regarding this project shall be directed to Mr. Jack Seefeldt, JSA Architects, Inc., 1-888-774-6565 ext. 201 or jackws@jsarch.com.**

Advertised:	July 23, 2010 July 30, 2010
Pre-Bid Meeting:	3:00 PM, August 10, 2010
Bid Opening:	August 24 2010, Tuesday 3:00 p.m.
Bid Award	September 14, 2010

**WASTE WATER
SERVICE FACILITY**

Bid Form

City of Kerrville PW 09 - 0019
Kerrville, Texas

The undersigned, having examined the Site of the proposed Work for the City of Kerrville, Kerrville, Texas, hereby proposes to furnish all materials, labor, equipment and services necessary to complete the work in conformity with all of the Contract Documents by JSA Architects, Inc and The City of Kerrville , including:

Addenda(s) No. #01 08/11/10, #02 08/19/10 and #03 08/23/10

For the **TOTAL BASE BID SUM OF** as shown on attached Unit Breakdown sheet at the bottom of Page 3.

The contractor agrees that this Bid shall be good and may not be withdrawn for a period of sixty (60) calendar days after the scheduled closing time for received proposals. Work is to commence within seven (7) days of an executed Contract and issuance of a Notice to Proceed by Architect.

PROPOSED COMPLETION DATE:

ONE HUNDRED TWENTY

(Calendar Days: 120 DAYS) *

Proposed Metal Building Manufacturer

RED DOT

Subject to submission of Bonds, Insurance Certificates and Executed Agreement, the Contractor shall start/commence work and complete the project as per Section 01 32 00.

Document on the Unit Breakdown sheets the bid amounts for the alternates as outlined on Page 4.

ALTERNATE NO. ONE -- Add new side walk along Loop 534

ALTERNATE NO. TWO -- Deduct for Omitting Interior Build-out

ALTERNATE NO. THREE -- Add Alternate Pavement Section

ALTERNATE NO. FOUR -- Deduct ALL Asphalt Pavement from the Project

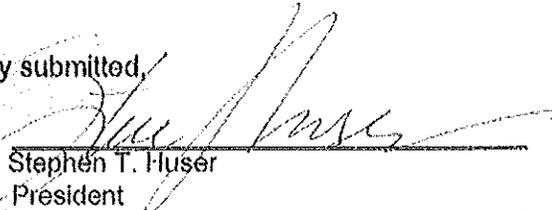
- A. I have enclosed the following with my BID:
1. Bid Security.
 2. Unit Breakdown of Construction Cost, Page 3 and 4 of Bid Form.
- B. Within 72 hours OF OPENING, I AGREE TO SUBMIT TO ARCHITECT:
1. Final list of all subcontractors and major suppliers
 2. Requested Subcontractors Qualifications
 3. Proposed Project Superintendent and Project Manager
- C. Prior to a Notice to Proceed, I will submit the following:
1. Payment Bond and Performance Bond in the amount of one hundred percent (100%) of the Contract Sum.
 2. Insurance Certificates verifying coverage as specified.
 3. An Executed Contract between Owner and Contractor.

City of Kerrville reserves the right to accept any qualified BIDS or to reject all BIDS. The City of Kerrville does not discriminate on the basis of race, color, national origin, sex, religion, age and disability in employment or the provision of services.



(Sealed if Corporation)
State whether Corporation
Partnership or Individual

Respectfully submitted,

Signed: 

Stephen T. Huser

Title:

President

Firm:

Huser Construction Co., Inc.

Address:

410 Cotton Gin Lane, Kerrville, TX 78028

Telephone:

830-257-8588

FAX:

830-257-8589

UNIT BREAKDOWN OF CONSTRUCTION COST - BID FORM

Project Name: Wastewater Service Facility
 Engineering #: PW09-0019

JSA Architects

ITEM NO.	QUANTITY	UNIT	DESCRIPTION Base Bid	UNIT PRICE	TOTAL PRICE
MATERIAL & LABOR, INCLUDING ALL APPURTENANT WORK, COMPLETE IN PLACE, THE FOLLOWING ITEMS					
BASE BID					
SITE WORK & PAVING					
1	3640	SY	Typical Asphalt Pavement Section - 2" Type D HMA over 4" Type B HMA over 8" of stabilized subgrade complete and in place.	\$ 22.14	\$ 80,600 ⁻
2	7	EA	Wheel Stops complete and in place.	\$ 61 ⁻	\$ 427 ⁻
3	1300	LF	Striping for Fire Lane complete and in place.	\$.80	\$ 112 ⁻
4	13	EA	Striping for Parking Spaces complete and in place.	\$ 11 ⁻	\$ 143 ⁻
5	1	EA	Striping for Handicap Parking Space complete and in place.	\$	\$ INCL.
6	1	EA	Striping for Handicap Accessible Aisle Space complete and in place.	\$	\$ INCL.
7	1	LS	Retaining Wall complete and in place.	\$	\$ 750 ⁻
8	1	LS	Site Grading complete and in place.	\$	\$ 31,470 ⁻
UTILITIES					
9	1	EA	1" Water Service, Meter Box, & Meter (Domestic) complete and in place.	\$	\$
10	1	EA	1" RPZ Backflow Prevention Device complete and in place.	\$	\$
11	225	LF	1 1/2" Water Line complete and in place.	\$	\$
12	71	LF	1 1/2" Gas Line complete and in place.	\$	\$
13	230	LF	4" Schedule 40 Sanitary Sewer Line complete and in place.	\$	\$
14	1	EA	Connect to Existing 4" Sanitary Sewer Line complete and in place.	\$	\$
15	2	EA	Cleanout over 4" Sanitary Sewer Line complete and in place.	\$	\$
16	40	LF	Pavement Repair for Utility Cuts in Existing Asphalt Pavement complete and in place.	\$	\$ 14,000 ⁻
MISCELLANEOUS					
17	400	LF	Silt Fence complete and in place.	\$ 2 ⁻	\$ 800 ⁻
18	1	LS	Final Stabilization for all Disturbed Areas complete and in place.	\$	\$ 773 ⁻
19	1	LS	Stabilized Construction Entrance/Exit complete and in place.	\$	\$ 800 ⁻
20	25	LF	Rock Berm complete and in place.	\$ 30 ⁻	\$ 750 ⁻
21	1	LS	Preparation & Use of SWPPP complete and in place.	\$	\$ 750 ⁻
22	1	AA	Contingency - to be used as approved by City - or per Section 012100 complete and in place.	\$10,000	\$10,000
23	1	LS	All other non-Civil Related items not listed above including the Architectural, Structural, Mechanical, Plumbing, and Electrical items as outlined in the plans and specifications complete and in place.	\$	\$ 485,437 ⁻
TOTAL BASE BID = \$				\$ 551,738⁻	

NOT AVAILABLE

TOTAL UTILITIES

20931

UNIT BREAKDOWN OF CONSTRUCTION COST - BID FORM

Project Name: Wastewater Service Facility

JSA Architects

Engineering #: PW09-0019

ITEM NO.	QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
MATERIAL & LABOR, INCLUDING ALL APPURTENANT WORK, COMPLETE IN PLACE, THE FOLLOWING ITEMS					
ALTERNATE #1					
1	585	SY	Add 5' wide concrete sidewalk along Loop 634 R.O.W., complete and in place	\$ 35.00	\$ 20,125
Total Alternate # 1 = \$					20,125
ALTERNATE #2					
1	1	LS	Deduct for omitting Interior Build-out	\$	\$ 40,000
Total Alternate # 2 = \$					40,000
ALTERNATE #3					
1	3640	SY	Deduct for omitting Item #1 from Base Bid for Typical Asphalt Pavement Section - 2" Type D HMAC over 4" Type B HMAC over 8" stabilized subgrade	\$	\$
2	3640	SY	Add for Alternate Pavement Section - 2.5" Type C or D HMAC over 9" flexible base over Tensar Geogrid (Tx-5) over 8" of stabilized and compacted subgrade, complete and in place	\$	\$
Total Alternate # 3 = \$					14,000
ALTERNATE #4					
1	3640	SY	Deduct Item #1 from Base Bid for Typical Asphalt Pavement Section - 2" Type D HMAC over 4" Type B HMAC over 8" stabilized subgrade	\$ 22.14	\$ 80,600
2	7	EA	Deduct Item #2 from Base Bid for Wheel Stops	\$ 61	\$ 427
3	1390	LF	Deduct Item #3 from Base Bid for Striping for Fire Lane	\$ 80	\$ 1112
4	13	EA	Deduct Item #4 from Base Bid for Striping for Parking Spaces	\$ 11	\$ 143
5	1	EA	Deduct Item #5 from Base Bid for Striping for Handicap Paking Spaces	\$	\$ 100
6	1	EA	Deduct Item #6 from Base Bid for Striping for Handicap Accessible Aisle Space	\$	\$ 100
Total Alternate # 4 = \$					88,900

AIA[®] Document A701[™] – 1997

Instructions to Bidders

for the following PROJECT:

(Name and location or address)

Waste Water Service Facility
3315 Loop 534, Landfill Road
Kerrville, Texas 78028

THE OWNER:

(Name, legal status and address)

City of Kerrville
800 Junction Highway
Kerrville, Texas 78028

THE ARCHITECT:

(Name, legal status and address)

JSA Architects, Inc.
213 C Street
Kerrville, Texas 78028

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

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| 6 | POST-BID INFORMATION |
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ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement or Invitation to Bid, Instructions to Bidders, Supplementary Instructions to Bidders, the bid form, and other sample bidding and contract forms. The proposed Contract Documents consist of the form of Agreement between the Owner and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, AIA Document A201, or in other Contract Documents are applicable to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or from which Work may be deleted for sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment or services or a portion of the Work as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.

ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 The Bidder by making a Bid represents that:

§ 2.1.1 The Bidder has read and understands the Bidding Documents or Contract Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.

§ 2.1.2 The Bid is made in compliance with the Bidding Documents.

§ 2.1.3 The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.

§ 2.1.4 The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 COPIES

§ 3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement or Invitation to Bid in the number and for the deposit sum, if any, stated therein. The deposit will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten days after receipt of Bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the Bidding Documents and the Bidder's deposit will be refunded.

§ 3.1.2 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the Advertisement or Invitation to Bid, or in supplementary instructions to bidders.

§ 3.1.3 Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

§ 3.1.4 The Owner and Architect may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

§ 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

§ 3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.

§ 3.2.2 Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the Architect at least seven days prior to the date for receipt of Bids.

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

§ 3.3 SUBSTITUTIONS

§ 3.3.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

§ 3.3.2 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least ten days prior to the date for receipt of Bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.3 If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

§ 3.3.4 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.4 ADDENDA

§ 3.4.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents.

§ 3.4.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 PREPARATION OF BIDS

§ 4.1.1 Bids shall be submitted on the forms included with the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.

§ 4.1.4 Interlineations, alterations and erasures must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change."

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

§ 4.2 BID SECURITY

§ 4.2.1 Each Bid shall be accompanied by a bid security in the form and amount required if so stipulated in the Instructions to Bidders. The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. The amount of the bid security shall not be forfeited to the Owner in the event the Owner fails to comply with Section 6.2.

§ 4.2.2 If a surety bond is required, it shall be written on AIA Document A310, Bid Bond, unless otherwise provided in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

§ 4.2.3 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn or (c) all Bids have been rejected.

§ 4.3 SUBMISSION OF BIDS

§ 4.3.1 All copies of the Bid, the bid security, if any, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.2 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

§ 4.3.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted bids will not be considered.

§ 4.4 MODIFICATION OR WITHDRAWAL OF BID

§ 4.4.1 A Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.

§ 4.4.2 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the

signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.

§ 4.4.3 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

§ 4.4.4 Bid security, if required, shall be in an amount sufficient for the Bid as resubmitted.

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 OPENING OF BIDS

At the discretion of the Owner, if stipulated in the Advertisement or Invitation to Bid, the properly identified Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders.

§ 5.2 REJECTION OF BIDS

The Owner shall have the right to reject any or all Bids. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.

§ 5.3 ACCEPTANCE OF BID (AWARD)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interests.

§ 5.3.2 The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

§ 6.2 OWNER'S FINANCIAL CAPABILITY

The Owner shall, at the request of the Bidder to whom award of a Contract is under consideration and no later than seven days prior to the expiration of the time for withdrawal of Bids, furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Unless such reasonable evidence is furnished, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

§ 6.3 SUBMITTALS

§ 6.3.1 The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, furnish to the Owner through the Architect in writing:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 6.3.2 The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder in writing if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1)

withdraw the Bid or (2) submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 BOND REQUIREMENTS

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds may be secured through the Bidder's usual sources.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 If the Owner requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.

§ 7.2 TIME OF DELIVERY AND FORM OF BONDS

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to be commenced prior thereto in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on AIA Document A101, Standard Form of Agreement Between Owner and Contractor Where the Basis of Payment Is a Stipulated Sum.

Additions and Deletions Report for AIA[®] Document A701[™] – 1997

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 16:23:49 on 03/18/2010.

PAGE 1

Waste Water Service Facility
3315 Loop 534, Landfill Road
Kerrville, Texas 78028

...

City of Kerrville
800 Junction Highway
Kerrville, Texas 78028

...

(Name, legal status and address)
JSA Architects, Inc.
213 C Street
Kerrville, Texas 78028

SECTION 00 10 00 – SUPPLEMENTARY INSTRUCTIONS TO BIDDERS

1. GENERAL PROVISIONS

AIA Document A701, 1997 Edition is included in it's entirety. The following Supplements modify, change, delete from or add to "Instruction to Bidders". Where an article, paragraph, subparagraph or clause thereof to Bidders is modified or deleted by these Supplements, the unaltered provisions remain in effect.

2. BIDDERS REPRESENTATIONS

- 2.1.5 (Add paragraph); Because of the nature and scope of this Project, each Bidder must correlate his personal observations with the requirements of the Contract Documents. The Bidder shall carefully study and compare the requirements of the Contract Documents and shall report to the Architect any errors, inconsistencies or ambiguities discovered prior to submission of his Bid. Performance by the Contractors shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the intended results.

Plans will be placed and available for review in the following locations:

JSA Architects	City Hall - Engineering Dept.
213 C Street	800 Junction Highway
Kerrville, Texas	Kerrville, Texas
830-257-7635	830-792-8315
www.jsarch.com	

- 2.1.6 (Add paragraph); In submitting a proposal, the bidder acknowledges the rights of the Owner to:
- A. Reject any or all Proposals and to waive any informality or irregularity in any Bid received.
 - B. To reject a Proposal of a Bidder if the Bidder failed to furnish any required Bid Security or to submit the date required by the Documents, or if the Contract to any bidder who has a history of inferior quality or performance.
 - C. To not award the Contract to any Bidder not meeting the requirements of Article 5 of this Document.
 - D. To not award the Contract to any Bidder who has not proven a history of successful, timely completion of projects of similar size, type and scope.
- 2.1.7 (Add paragraph); Bidder represents that he has taken due diligence to confirm that all Subcontractors, including but not limited to those listed on the Proposal Form, are fully capable of performing the services required to produce the intended results.

3.1 COPIES

- 3.1.1 (Delete and Add the following); Copies of Drawings and Specifications are on file and may be seen at the office of the Architect or at Kerrville City Hall, 800 Junction Hwy, Kerrville. An electronic copy of bid documents will be accessible thru JSA Architects web page at <http://www.jsarch.com>. General Contractors may obtain non-returnable; non-refundable sets of documents at Jackson Reprographics, 250 W. Main, (830-896-2679) Kerrville or Lone Star Reprographics in San Antonio, Texas.

3.3 SUBSTITUTIONS

- 3.3.2 (Modify to provide); Proposed Substitutions must be received by the Architect at least five (5) days prior to the date for receipt of Proposals. Refer to Division 01 25 00 of this manual for additional requirements. The unaltered provisions of Article 3.3.2 remain in effect.

3.4 ADDENDA

- 3.4.5 (Add paragraph); It is the intent that Addenda be made available to all plan holders, however, it shall be the responsibility of the General Contractor to assure that Addenda items have been included in the Base Bid. Each Bidder will ascertain before bid opening that he/she has received all Addenda.

4.1 PREPARATION OF PROPOSALS

- 4.1.8 (Add paragraph); All items will be bid under the General Contract. The Contract between the Owner and Contractor will be for the full amount of the work, including accepted Alternates.

4.2 BID SECURITY

- 4.2.1 (Add); ***EACH BIDDER must submit a BID BOND payable without recourse to the order of the CITY of KERRVILLE in the largest amount, including Alternates*** in the amount of TEN percent (10%) of the BID. This is considered a guarantee that the Bidder will enter into a Contract and execute Contract Surety within seven (7) days.

- 4.2.3 (Add); If the Bid is not accepted within sixty (60) days after the time set for the submission of the bids, or if the successful Bidder executes and delivers Agreement, Bonds and Insurance Certificates, the Bid Bond will be returned.

4.3 SUBMISSION OF PROPOSALS

- 4.3.5 (Add paragraph); Identify Addenda(s) received on the outside of the "Proposal Envelope".

- 4.3.6 (Add paragraph); All General Contractors shall complete for their Contractor's Qualification Statement one AIA Document A305, 1986 Edition or use their firm standard format with similar outline of requested information. Seal the completed Qualification Statement in a separate opaque envelope. Identify the envelope as "Qualification Statement". This Qualification Statement shall be **turned in with the BID** in a separate envelope. This Document may be used by the Owner, at his discretion, for determining the qualifications of the Contractor for this Project only. Unsuccessful Bidder's Statements will be returned unopened.

- 4.3.7 (Add paragraph); Naming of Subcontractors on Bid Form is a requirement of each Contractor bidding the Project. **A single Subcontractor firm shall be named in each category. Failing to name Subcontractors as required on the Bid Form is cause for rejection of Bid.** After Bid opening, request for change from Subcontractors named shall be regarded as a request for substitution and must comply with requirements for substitutions listed in Section 01 25 00.

4.4 MODIFICATION OR WITHDRAWAL OF PROPOSAL

- 4.4.5 (Add paragraph); No bid may be withdrawn within (60) sixty days after bid opening without consent of the Owner.

- 6.1 (Add) Contractor's Qualification Statement shall be turned in with the Bid on Bid day.

ARTICLE 7 PERFORMANANCE AND PAYMENT BONDS

7.1.4 (ADD) The successful Bidder shall furnish One Hundred Percent (100%) bonds covering the faithful performance of Contract and payment of all obligations arising thereunder. Bonds shall be written on City of Kerrville standard forms that are included after this section. Both bonds shall be written in the entire amount of the Lump Sum Contract Sum.

7.2.2 (Change to read) Bonds shall be written on the City of Kerrville standard forms that are included after this section.

ARTICLE 8 --- CONTRACT - City of Kerrville

8.1 (Delete and Add) The City of Kerrville's Standard Construction Contract is hereby included in these Specifications and will be used as the agreement between the Owner and Contractor.

**NOTE: REFER TO SECTION 00 73 00 SUPPLEMENTARY GENERAL CONDITIONS.
ARTICLE 9 – PAYMENTS AND COMPLETION.
ARTICLE 11 – INSURANCE AND BONDS.**

INDEX OF DRAWINGS: See Cover Sheet for list of Drawings

END OF SECTION 00 10 00

CITY OF KERRVILLE

CONSTRUCTION CONTRACT

This agreement made this day by and between the City of Kerrville, Texas, called "City," and the undersigned "Contractor" as follows:

1. THE WORK

The Contractor shall perform all the work as required by this contract for:

Waste Water Service Facility for the City of Kerrville, Texas
Reference Contract Documents signed and sealed by JSA Architects, Inc on 07/21/10
and approved by the City of Kerrville on 07/21/10.

Base Bid

For the construction of a New Waste Water Service Center at 3650 Loop 534, Kerrville, Texas.

Alternates

Alternate No. One: Add new sidewalk along Loop 534 - Included Yes ___ No

Alternate No. Two: Deduct for omitting Interior build out -- Included Yes ___ No

Alternate No. Three: Add Alternate Pavement Section -- Included ___ Yes No

Alternate No. Four: Deduct All Asphalt Pavement -- Included Yes ___ No

The following are incorporated herein as the Contract Documents:

- a. General Conditions and Supplementary General Conditions
- b. Specifications
- c. Addenda issued prior to receipt of Bid
- d. Plans / Drawings
- e. Instructions to Bidders
- f. Bid Form

Some of such documents may not be physically attached hereto but are on file at City Hall, and copies may be obtained upon request.

2. TIME

Construction substantial completion time will be 120 calendar days and 30 calendar days after for final completion from the date of written notice to proceed. Working days are defined in specification section. The project shall not be considered complete until all improvements have been accepted and are operational and performing to its intended purpose. The Contractor's obligations to the project however, are not complete and retainage will not be released until all construction items are 100% complete.

3. LIQUIDATED DAMAGES

Liquidated damages are hereby established for work which is not substantially complete in the amount of Three Hundred Dollars (\$300.00) per working day for each working day after the date established in the Notice to Proceed. The City may offset any such liquidated damages against any sums from time to time due by the City to Contractor.

The completion time assumes that fifteen percent of the working days are "bad weather days," days on which the work cannot proceed; therefore, the time for completion shall not be extended on account of bad weather until the said number of assumed "bad weather days" has been exceeded.

The time for completion shall not be extended except by written memorandum executed by the Contractor and the City Engineer. Contractor shall make written application to the City not later than ten (10) days after the day, event, or cause claimed by Contractor to be a delay. Failure to make such written claim within such time shall result in a waiver by Contractor of an extension based on those particular days, events, or causes. If, for example, this contract assumes twenty (20) bad weather days and Contractor desired a one-day extension for the twenty-first day of rain, Contractor shall make a written claim not later than ten (10) days after the occurrence of such twenty-first day.

The said amount per day is not a penalty but an agreed amount of actual damages which are difficult to calculate. Such damages include loss of staff time, answering complaints by citizens who have been inconvenienced by the work, City Council time, loss of use, and other damages difficult to reasonably anticipate or calculate.

4. PAYMENTS

The City shall pay the Contractor ninety-five percent (95%) of the portion of Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and ninety-five percent (95%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site or at some other location agreed upon in writing, less the aggregate of previous payments made by the City, and, upon substantial completion of the entire Work, a sum sufficient to increase the total payments to ninety-five percent (95%) of the Contract Sum. All retainages from progress payments shall be withheld without liability for interest. Upon acceptance, the City shall make payment to Contractor such that one hundred percent (100%) of the completed work has been paid.

The City may choose to award a contract for the amount of the base bid plus no or any combination of additive alternates.

5. LIABILITY INDEMNITY

THE CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF KERRVILLE, TEXAS, AND ALL OF THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OF DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CONTRACTOR, THE CITY OF KERRVILLE, TEXAS, OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS IN THE EXECUTION, SUPERVISION, AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, WHETHER OR NOT THE ACT OR OMISSION OF THE CITY OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, OR AGENTS WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH THE NEGLIGENCE OF THE CONTRACTOR OR ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, OR SUBCONTRACTORS, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT.

6. LIABILITY INSURANCE

Prior to the commencement of any work and not later than fifteen (15) days following the execution of this contract, the Contractor shall furnish the City copies of paid-up policies (to the City Risk Manager/City Hall) providing Liability and Workman's Compensation Coverage as follows minimum limits):

TYPE OF INSURANCE	LIMITS
a. Workman's Compensation covering all employees	Statutory
b. Employer's Liability	<u>\$100,000.00</u>
c. Comprehensive General Liability	
Bodily Injury & Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$1,000,000.00</u>
(Premises/Operations Products/Completed Operations/Independent Contractors/Contractual Liability/Coverages may not be excluded). XCU must be supplied if any exposure.	
d. Business Automobile Liability covering owned vehicles, rented and non-owned vehicles and employee non-ownership	
Bodily Injury Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$1,000,000.00</u>

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

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

7. CASUALTY INSURANCE

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

8. QUALITY OF WORK

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

9. CHANGES AND EXTRAS

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

10. ADDENDA

Contractor acknowledges the receipt of the following addenda:

1. Number 01 Dated: 08/11/10 Acknowledged by: Scott L. Rain
2. Number 02 Dated: 08/19/10 Acknowledged by: Scott L. Rain
3. Number 03 Dated: 08/23/10 Acknowledged by: Scott L. Rain

11. CONTRACT SUM

Proposal: Contractor agrees to provide all labor, materials, and all incidentals necessary to complete "The Work" for the following complete and in place Lump Sum Price:

TOTAL BASE BID \$ 551,738.00

ALTERNATES INCLUDED -----

Number One \$ 20,125.00

Number Two \$ (40,000.00)

Number Three \$

Number Four \$ (88,900.00)

GRAND TOTAL - CONTRACT SUM \$ 442,963.00

(written amount)

Four hundred forty-two thousand, nine hundred sixty-three and no/100 dollars

COMPLETED BY DATE

Scott L. Rain
(Printed Name)

September 21, 2010
(Date)

Director of Operations
(Title)

Huser Construction Company
(Company Name)

Sub-Contractors:

NAME	ADDRESS	PHONE	WORK TO BE PERFORMED
1. See Attached Exhibit A			
2.			
3. (Attach additional sheet if required)			

INSURANCE AGENT

NAME ADDRESS PHONE POLICY

1. IBTX Risk Services, 5726 Hausman Road, #100, San Antonio, TX 78249

2. IBTX phone# 210-696-6688 & contact is Joe Clayburne

3. _____

BONDING AGENT

NAME ADDRESS PHONE POLICY

1. IBTX Risk Services, 5726 Hausman Road, #100, San Antonio, TX 78249

2. IBTX phone# 210-696-6688 & contact is Joe Clayburne

3. _____

Signed this 21st day of September, 2010

Huser Construction Company, Inc.
Contractor

BY: [Signature]
Title: Stephen T. Huser, President

Business Address:
410 Cotton Gin Lane
Kerrville, Texas 78028

Phone: 830-257-8588

E-mail: shuser@huserco.com

FAX: 830-257-8589

ACCEPTED THIS _____

day of _____, 2010

By: _____
Todd Parton, City Manager
City of Kerrville, Texas.

ATTEST: _____
Brenda Craig, City Secretary

CITY SEAL

APPROVED AS TO FORM:

Mike Hayes, City Attorney

Attest: [Signature]
Secretary (if by Corporation)
Shawwna L. Huser, Vice President



EXHIBIT A

HUSER CONSTRUCTION COMPANY
PRELIMINARY/PROPOSED SUB LIST*
WASTEWATER SERVICES FACILITY

8/26/2010

SITE	THE BRAND COMPANY
CONCRETE	KEYSTONE OR AXIOM
MASONRY	MEZA MASONRY (DELETED?)
MILLWORK	TRAVIS MILLWORK (DELETED?)
DOORS, FRAMES, HW	ARCHITECTURAL DIVISION EIGHT
OH DOORS	ALAMO DOOR
TILE & BASE	CLARLYLE (DELETED?)
PAINTING	TRAGOTT
PEMB	RED DOT AND JKB OR FRAZAR OR STS ERECTORS
PLUMBING/UTILITIES	WHELAN AND/OR HARDIN PLUMBING
HVAC	HARDIN HEATING & COOLING
ELECTRICAL	AWESOME ELECTRIC

PROPOSED SUPERINTENDENT - MICHAEL HOCKER

PROPOSED PROJECT MANAGER - MARTY DRESSEN

* WE RESERVE THE RIGHT TO SUBSTITUTE OTHER FIRMS SUBJECT TO CONFIRMATION OF CAPABILITIES AND RESOURCES OF LISTED SUBCONTRACTORS.

PROPOSED PROJECT MANAGER AND SUPERINTENDENT SUBJECT TO PROJECT START DATE.



ROBERT S. BOOTH
SENIOR ESTIMATOR

Agenda Item:
(Staff)

- 7E. Authorize the execution of a Radio Antenna Tower Lease Agreement between the Grand Lodge of Hermann Sons and the City of Kerrville.

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

SUBJECT: Approval of a Radio Antenna Tower Lease Agreement between the Grand Lodge of Hermann Sons and the City of Kerrville.

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 22, 2010

SUBMITTED BY: Robert Ojeda **CLEARANCES:**
Fire Chief

EXHIBITS: Copy of the Radio Antenna Tower Lease Agreement between the Grand Lodge of Hermann Sons and the City of Kerrville.

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

On October 1, 2010 the current two (2) year Radio Tower Lease Agreement between the Grand Lodge of Hermann Sons and the City of Kerrville expires. Submitted for Council approval is a new tower lease agreement with the Grand Lodge of Herman Sons. In 2006, because of poor radio communications in that area of Kerr County and its effect on public safety responses, the Kerrville Fire Department received approval from the Hermann Sons Lodge to locate an antenna, radio repeater and associated equipment on their water tank and pump house. This equipment is located within the Hermann Sons Retirement Home property at 220 Altenheim in Comfort, Texas. There is no cost to the City and the Grand Lodge of Hermann Sons provides this tower access at no charge as their contribution to public safety.

RECOMMENDED ACTION

The Fire Chief recommends approval of the Radio Antenna Tower Lease Agreement between the Grand Lodge of Hermann Sons and the City of Kerrville to address the public safety radio communications of the area.

LEASE AGREEMENT BETWEEN
GRAND LODGE OF HERMANN SONS
AND CITY OF KERRVILLE

THE STATE OF TEXAS

COUNTY OF KERR

GRAND LODGE OF HERMANN SONS, hereinafter referred to as "Lessor", and **THE CITY OF KERRVILLE, TEXAS**, hereinafter referred to as "Lessee", in consideration of the mutual consideration of the mutual covenants herein contained, agree as follows:

I. LEASED PREMISES

Lessor grants permission to Lessee to install communication equipment on Lessor's property and upon Lessor's water tank and pump house located thereon. Upon the terms and provisions hereinafter set out within this lease agreement ("Lease"), and subject to the limitations hereinafter contained, Lessor hereby grants permission to Lessee to maintain the following equipment and antenna systems at Lessee's risk and expense on Lessor's property:

A. Water tank and pump house located within the Hermann Sons Retirement Home property at polar coordinates 29°56'44"North, 98°55'72"West, at Hermann Sons Retirement Home, 220 Altenheim, Comfort, Texas 78013. Lessor agrees to consider and explore with Lessee other alternatives for installation of antenna, repeater and associated equipment on said property in the event the water tank and/or pump house must be removed by Lessor.

B. The approximately 21' antenna shall be placed on the uppermost ladder that is attached to the tank; the repeater and associated equipment shall be attached to the outside wall of the pump house, near the base of the tank, in a weather proof housing; 110v power shall be furnished by Lessor and accessed through the wall to the breaker box inside the pump house.

II. LEASE TERM

A. Initial Lease Term: This Lease shall be for an initial term of two (2) years, commencing on October 1, 2010 and terminating as of September 30, 2012.

B. Lease Term Extension: The initial lease term as set forth in Paragraph II.A, above, shall be extended for an additional term of two (2) years, but only if:

1. Lessee notifies Lessor in writing not less than ninety (90) days prior to the end of the initial lease term of Lessee's desire to extend this lease; and

2. Not later than sixty (60) days after Lessee has given Lessor the notice required by subparagraph II.B.1, above, Lessor and Lessee have agreed on such extended term.

C. Early Termination: Either party shall have the right to terminate this Lease for any cause or no cause at all, provided such termination shall not become effective earlier than the 180th day after the party desiring to terminate gives the other party written notice of desire to terminate.

D. Termination on Default: In the event of breach of any covenant of either party, the non-breaching party shall have the right to terminate the Lease after the 30th day after written notice to the party in default provided that such breach still exists and provided that in the event of interference, Section VI hereof shall prevail.

E. Removal of Equipment Upon Termination: Lessee shall remove the Antenna System and all of its other facilities from Lessor's premises and account to Lessor for all amounts and obligations owing to Lessor not later than ninety (90) days after termination of Lease.

III. WAIVER OF RENTAL FEE

Lessor hereby agrees to waive any monthly lease charge for use of the site and will absorb the cost of the electricity required by the repeater and related equipment, as a community service.

IV. RIGHT OF ACCESS

Lessor agrees that Lessee, at its own risk and expense, shall have access to the water tank, pump house and to Lessor's premises for the purpose of maintaining and repairing the Antenna System, feed line, and electronic equipment; provided, however, Lessee's right of access shall be subject to such reasonable limitations as may be imposed by Lessor, consistent with the other uses to which the water tank and pump house are put from time to time and with proper operating practices. Lessee's right of access shall be further limited to Lessee's authorized engineers, employees, or contractors and Federal Communications Commission inspectors or persons under direct supervision.

V. INSTALLATION REQUIREMENTS

Lessee agrees to use its best efforts to maintain and operate Lessee's equipment in a manner which will not damage the water tank's structure or any other buildings or structures now or hereafter situated on Lessor's premises. Lessee further agrees that all such equipment will be maintained and operated in such a way to avoid interference with guy lines and other antennas on the premises and so as not to damage any other property of Lessor or others in, on, or about the water tank and Lessor's premises, and so as not to interfere with the use of the water tank by Lessor or others.

VI. INTERFERENCE

A. Prior Installation: Lessee warrants and agrees that its equipment shall be of a type and frequency that shall not cause interference to other users of Lessor's water tank whose equipment and antennas were installed on Lessor's premises prior to the installation of Lessee's antenna and equipment and hereby agrees to make no changes in equipment and frequency without prior approval of Lessor. If, in the opinion of Lessor, Lessee's equipment causes any such interference, Lessor shall so notify Lessee, and Lessee will forthwith take such steps as are necessary to correct and eliminate the interference within thirty (30) days. Lessor shall have the right to cancel this Lease and require Lessee to remove its equipment from the water tank and Lessor's premises if the interference described in this paragraph cannot be eliminated in the time required herein.

B. Subsequent Installations: Lessor warrants and agrees that Lessor will not permit or suffer the installation and existence of any other improvement, including transmission or reception devices, upon the Lessor's premises and any adjoining real property owned or leased by Lessor, if such improvement interferes with transmission or reception by Lessee's communications facilities in any manner whatsoever. If, in the opinion of Lessee, equipment subsequently installed on Lessor's premises causes any such interference, Lessee shall notify Lessor, and the Lessor will forthwith take such steps as are necessary to correct and eliminate the interference within thirty (30) days.

VII. GENERAL MAINTENANCE RESPONSIBILITIES

During the term of this Lease and subject to Lessee's complying with its obligations and duties hereunder, Lessor agrees to maintain the water tank and appurtenant property, which includes painting and repairing said water tank and property at Lessor's cost. Lessee shall make and pay for any necessary maintenance of and repairs to Lessee's Antenna System and associated equipment.

VIII. FCC COMPLIANCE

The operation and maintenance of Lessee's equipment shall conform to all applicable rules and regulations of the Federal Communications Commission, and any other such agency or public authority having jurisdiction. Lessor assumes no responsibility for the licensing, operation and/or maintenance of Lessee's equipment.

IX. TAXES AND LIENS

Lessor shall be responsible for payment of all applicable taxes or assessments against property owned by Lessor. Lessee, a Texas home rule municipality, warrants and represents that it is a tax-exempt entity which is not required to pay sales or property taxes. Lessee further agrees that Lessee shall not cause any lien or security interest to attach to the water tank or Lessor's premises on account of Lessee's property.

X. DAMAGE TO LESSEE'S EQUIPMENT

While Lessor agrees to use ordinary care with respect to Lessee's equipment, Lessor shall not be liable to Lessee for any damages to its equipment caused by force majeure, any other third party or by any circumstances reasonably beyond Lessor's control.

XI. INSURANCE

Lessee represents that it presently maintains in effect general liability insurance coverage with a combined single limit of \$1,000,000 per occurrence for personal injury and property damage. If during the term of this Lease Lessee determines to reduce the above coverage limits or to terminate such insurance coverage without replacing it with insurance coverage or a self-insured insurance fund which will provide substantially similar coverage, Lessee agrees to provide Lessor written notification of such reduction or termination in coverage not later than thirty (30) days prior to the effective date such reduction or termination. Lessor shall have the right to terminate this Lease by providing Lessee written notice not later than fifteen (15) days prior to date of termination if Lessee reduces or terminates its insurance coverage; provided however, such termination shall not be earlier than the effective date of said reduction or termination of coverage. Upon request, Lessee agrees to furnish Lessor with certificates of the insurance certifying that Lessee has the above-specified insurance.

XII. NOTICES

The respective addresses of Lessor and Lessee to which notices hereunder may be mailed or delivered and for all other purposes hereof are:

To Lessor: Lee Vogel
V.P. of Fraternal Grand Lodge of Hermann Sons
P.O. Box 1941
San Antonio, Texas 78297

To Lessee: City Manager
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028

With Copy to: Fire Chief
Kerrville Fire Department
800 Junction Highway
Kerrville, Texas 78028

Either party may change its address by giving written notice to the other party of such change.

XIII. GOVERNING LAW AND VENUE

This Lease shall be governed by and constructed in accordance with the laws and court decision of the State of Texas. The obligations of the parties to this Lease are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

XIV. COUNTERPARTS AUTHORIZED

This Lease may be executed in any number of counterparts, each of which shall be deemed an original and constitute one the same instruments.

XV. ENTIRE AGREEMENT

This Lease embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties which relate to matters herein.

XVI. BINDING EFFECT

The terms hereof shall extend to and be binding upon the respective successors and assigns of Lessor and Lessee, but Lessee shall not assign its rights or obligations hereunder without the consent of Lessor.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the _____ day of _____, 2010, in multiple originals.

GRAND LODGE OF HERMANN SONS

By _____
Lee Vogel, V.P. of Fraternal
Grand Lodge of Hermann Sons

CITY OF KERRVILLE, TEXAS

By _____
Todd Parton, City Manager

APPROVED AS TO FORM



Michael C. Hayes, City Attorney

ATTEST

Brenda Craig, City Clerk

Agenda Item:
(Staff)

- 7F. Authorize the City Manager to intervene in the Wiedenfeld Water Works, Inc. application to amend its Water Certificate of Convenience and Necessity No. 12052.

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

SUBJECT: Council authorization to intervene in the Wiedenfeld Water Works, Inc. application to amend its Water Certificate of Convenience and Necessity No. 12052

FOR AGENDA OF: 09/28/10 **DATE SUBMITTED:** 09/22/10

SUBMITTED BY: Charlie Hastings  **CLEARANCES:** Todd Parton
Director of Public Works City Manager

EXHIBITS: Notice of Application for Certificate of Convenience and Necessity to provide water utility service in Kerr County, Texas

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 DIRECTOR:

SUMMARY STATEMENT

Wiedenfeld Water Works, Inc. has filed an application to amend Certificate of Convenience and Necessity (CCN) No. 12052 with the Texas Commission on Environmental Quality (TCEQ) to provide water utility service in Kerr County. The proposed amendment conflicts with portions of Kerrville's CCN application. The notice was mailed on 9/17/2010 with a 30 day deadline to oppose and intervene.

RECOMMENDED ACTION

The Director of Public Works recommends that council authorize the City Manager to oppose and intervene the portions of CCN No. 12052 that conflict with Kerrville's CCN application.

Notice to Neighboring Systems, Landowners and Cities

NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY
(CCN) TO PROVIDE WATER UTILITY SERVICE IN KERR
COUNTY, TEXAS

To: **City of Kerrville**
800 Junction Hwy
Kerrville, TX 78028
Attn: Charlle Hastings

Date Notice Mailed: 9/17, 2010

(ty)

(City State Zip)

Wiedendfeld Water Works, Incorporated has filed an application to amend CCN No. 12052 with the Texas Commission on Environmental Quality to provide water utility service in Kerr County.

The proposed utility service area is located approximately 3 miles north and 5 miles south of downtown Kerrville, Texas, and is generally bounded on the north by Mica Ln.; on the east by Elm Pass Rd.; on the south by Riverview Dr.; and on the west by Camino Real St. The total area being requested includes approximately 720 acres and 50 current customers. The proposed amendment affects customers and/or areas located in the following zip codes: 78010 and 78028. See enclosed map of the proposed service area.

A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing.

Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no

settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

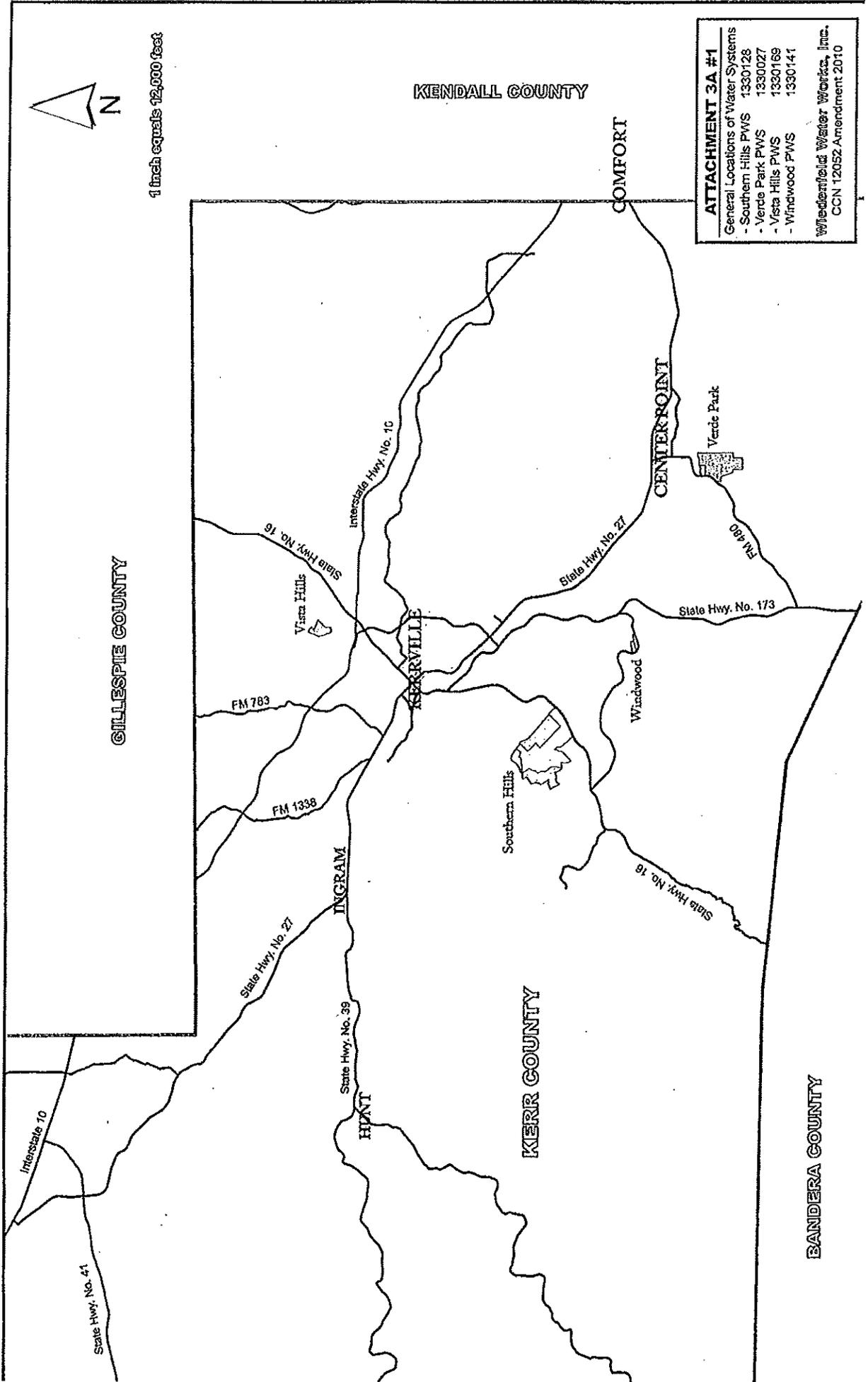
If you are a landowner with a tract of land at least 25 acres or more, that is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or "opt out") by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All request to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Texas Commission on Environmental Quality
Water Supply Division
Utilities and Districts Section, MC-153
P. O. Box 13087
Austin, TX 78711-3087

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-239-0200.



ATTACHMENT 3A #1
 General Locations of Water Systems

- Southern Hills PWS	1330128
- Verde Park PWS	1330027
- Vista Hills PWS	1330169
- Windwood PWS	1330141

Wiederfeld Water Works, Inc.
 CCN 12052 Amendment 2010



1 inch equals 12,000 feet

KENDALL COUNTY

GILLESPIE COUNTY

COMFORT

CENTERPOINT

SEBASTIANVILLE

INGRAM

KERR COUNTY

BANDERA COUNTY

Interstate 10

State Hwy. No. 41

State Hwy. No. 27

State Hwy. No. 39

HDNT

FM 783

FM 1338

State Hwy. No. 27

State Hwy. No. 173

FM 480

State Hwy. No. 16

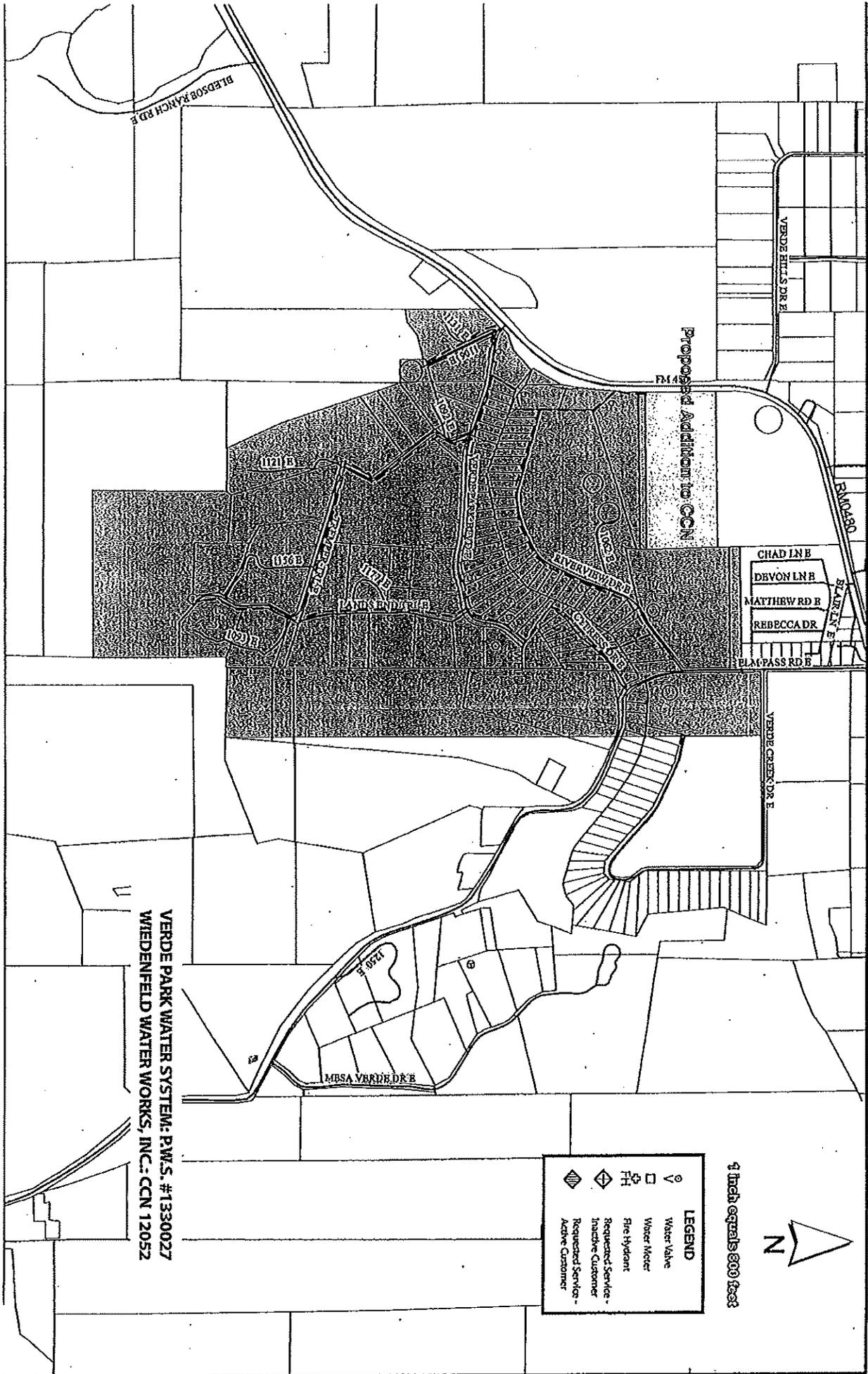
Interstate Hwy. No. 10

Vista Hills

Southern Hills

Windwood

Verde Park



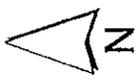
Proposed Addition to CCN

VERDE PARK WATER SYSTEM: P.W.S. #1330027
 WIENFELD WATER WORKS, INC.: CCN 12052



1 inch equals 800 feet

LEGEND	
	Water Valve
	Water Meter
	Fire Hydrant
	Requested Service - Inactive Customer
	Requested Service - Active Customer



1 inch equals 1,000 feet

LEGEND	
	Water Valve
	Water Meter
	Fire Hydrant
	Requested Service - Inactive Customer
	Requested Service - Active Customer



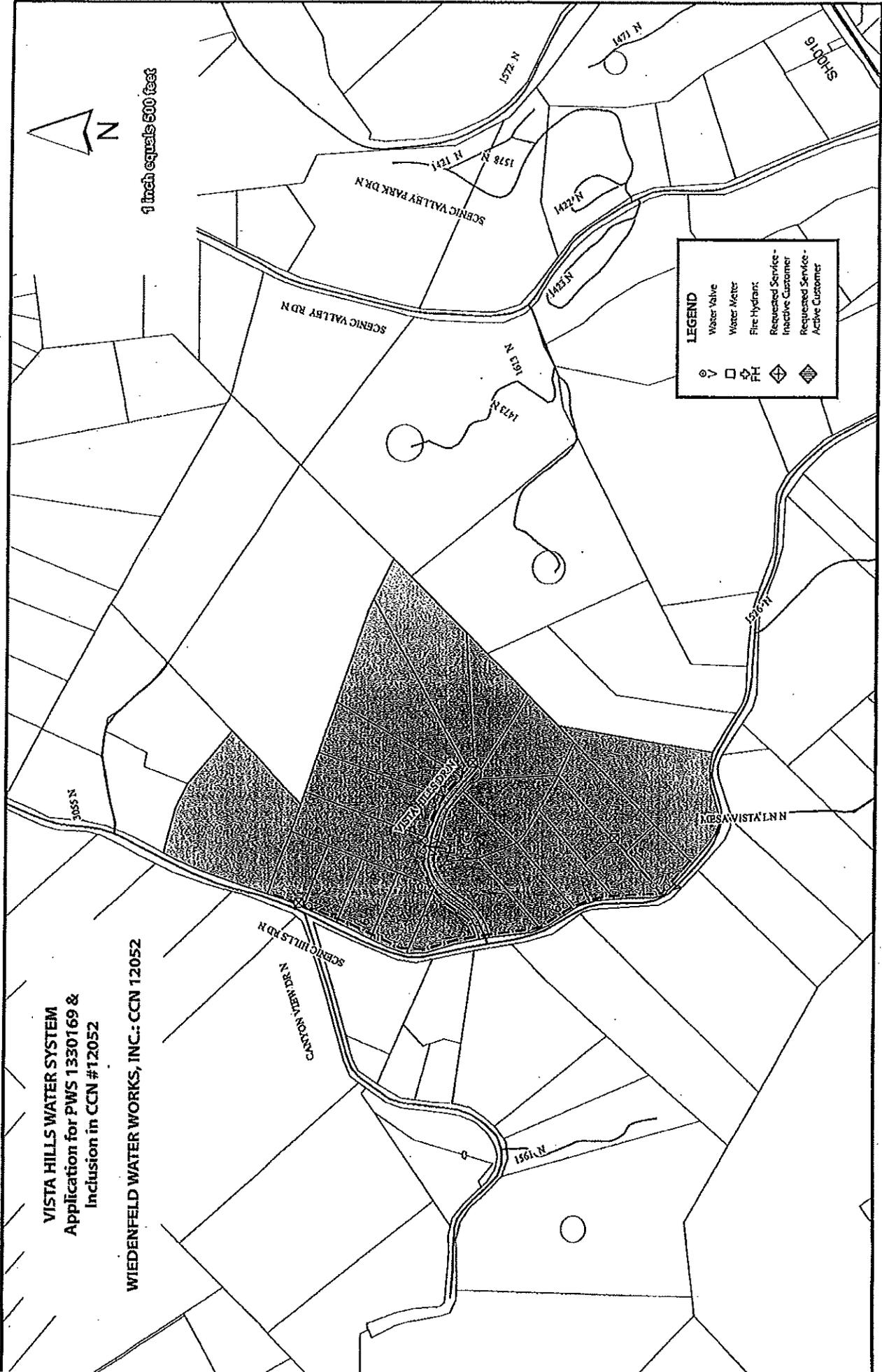
SOUTHERN HILLS WATER SYSTEM: P.W.S. #1330128
WIEDENFELD WATER WORKS, INC.: CCN 12052



1 inch equals 500 feet

VISTA HILLS WATER SYSTEM
Application for PWS 1330169 &
Inclusion in CCN #12052

WIEDENFELD WATER WORKS, INC.: CCN 12052



LEGEND

-  Water Valve
-  Water Meter
-  Fire Hydrant
-  Requested Service - Inactive Customer
-  Requested Service - Active Customer

Agenda Item:
(Staff)

8A. Library renovation project.

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

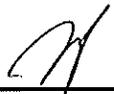
SUBJECT: Update on Library renovation project.

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 15, 2010

SUBMITTED BY: Kimberly Meisner  **CLEARANCES:**
Director of General Operations

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 FINANCE DEPARTMENT:

SUMMARY STATEMENT

Victoria Mosty Wilson, President of the Mary Elizabeth Holdsworth Library Foundation will present the following updates:

- Received 501(c)(3) designation.
- Chosen as recipients of the 2011 Charity Ball Grant - Mark your calendars for April 30, 2011.
- Hired Dini Partners as Fund Raising Consultants.
- Jeana Krause selected as a member of Leadership Kerr County Class of 2011.

RECOMMENDED ACTION

For information only, no action is recommended at this time.

Agenda Item:
(Staff)

- 8B. Sign regulations in the proposed Central Business Zoning District.

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

SUBJECT: Discussion of Sign Regulations in the Proposed Central Business District

FOR AGENDA OF: Sept. 28, 2010 **DATE SUBMITTED:** Sept. 17, 2010

SUBMITTED BY: Kevin Coleman *KE* **CLEARANCES:** Kristine Ondrias *KO*

EXHIBITS: Attachment A –
Highlighted excerpts from section 6-35 of the sign ordinance (signs permitted by zone) that would apply in the proposed CBD without amendment
Attachment B –
Highlighted excerpts from section 6-33 of the sign ordinance (signs exempted from certain regulations), that should be reviewed within the proposed CBD
Attachment C –
Staff recommendations for sign regulation in the CBD

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JK*

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Adoption of the proposed Central Business District (CBD) into the zoning ordinance creates the opportunity to assess appropriate signage within this critical, highly visible area of town. Business signage is a community issue that should be guided by the input from affected property owners and the overall community. Input from City Council, downtown stakeholders, and affected business owners is needed.

Upon Council review and initial input on those issues, proposed amendments will be vetted to downtown stakeholders for their input, and given that input, presented to Council for adoption, at time of adoption of the zoning district.

Under this agenda item, staff will present its input on CBD signage issues to City Council for consideration. Potential issues include restricting off premise signage, large on-premise pole signage and roof signage; lessening the permitted use of banners, flags and temporary signs; and increasing the use of pedestrian oriented signage.

Staff has drawn from the City's Comprehensive Plan, amendments to the sign

ordinance requiring monument signage in the General River (GR) district, along portions of Loop 534 and portions of SH173, and recent Conditional Use Permits and Planned Development Districts approved in the downtown area in developing its recommendations.

Specific to the Comprehensive Plan, the 2008 update to the Central City link lays out the following policy statements concerning signage in downtown:

- Create an aesthetic and physically appealing character in Central City that results in a unique destination for visitors.
- Coordinate public and private efforts to reduce elements that negatively impact the appearance of Central City.
- Amend the sign ordinance to reduce the negative visual impact of on-site business signs without impacting competition.
- Prohibit highway-style billboard signage in the Central City area.

RECOMMENDED ACTION

Council is asked to review the information presented and, after any needed discussion, provide staff direction on how to move forward.

Attachment A

Highlighted excerpts from section 6-35 of the sign ordinance (signs permitted by zone) that would apply in the proposed CBD without amendment

Sec. 6-35. Signs permitted by zone.

All of the signs listed within this section shall be required to meet the standards of this article, and, except for banner signs, shall require a permit be obtained from the building official.

(1) The following signs shall be permitted in the R-1, R-1A, R-C, and RM zoning districts:

- a. Subdivision name sign, not exceeding 32 square feet in sign area.
- b. All signs listed in section 6-33 that are applicable to residential uses, or as may be allowed with a home occupation.

(2) The following signs shall be permitted in the R-3 and PI districts, and zoning districts 7-W, 8-W, 13-C, 34-S and 35-S:

- a. As permitted in subsection (1) of this section.
- b. One projecting sign per building face of each business which cannot extend more than nine feet from the building face (wall), and cannot be more than six feet in width from the building edge of the sign to the outside edge of the sign measured perpendicularly to the building.

NOTE: This section would apply to signage in the proposed CBD, unless the sign code is amended with adoption of the CBD.

(3) **The following signs shall be permitted in all zoning districts** except district 7-W, 8-W, 13-C, 34-S, 35-S, R-1, R-1A, R-3, RM, RC, RT or PI:

- a. As permitted in subsection (2) of this section.
- b. **Freestanding signs on lots or building lots 50 feet in width but less than 200 feet in width. One freestanding sign** is permitted for each building lot as outlined as follows, with the exceptions as noted:
 - 1. Sign area.** The maximum allowable sign area shall equal **100 square feet.**
 - 2. Sign height.** The maximum height of any sign shall equal **30 feet.**
 - 3. Location of signs.**
 - i. No freestanding sign shall be located on a building lot that is less than 50 feet in width. However, if lots less than 50 feet are combined to form a building lot for one business or a commercial center and the resulting width of the building lot equals or exceeds 50 feet, then one freestanding sign is allowed. However, in no case shall freestanding signs be located less than 50 feet apart, and in no case shall there be more than one freestanding sign for a commercial center.
 - ii. A through lot is allowed to have one freestanding sign on each of the two parallel street frontages, provided that the signs meet all

other requirements of this article, including the distance requirement of 50 feet between signs.

- c. **Freestanding signs on building lots 200 feet in width but less than 400 feet in width. One freestanding sign** is permitted for each building lot or commercial center. The freestanding sign shall meet the following criteria:
 1. **Sign area.** The maximum allowable sign area shall equal **150 square feet.**
 2. **Sign height.** The maximum allowable sign height shall equal **35 feet.**
 3. *Location of signs.*
 - i. No freestanding sign shall be located within 60 feet of any other freestanding sign.
 - ii. A through lot is allowed to have one freestanding sign on each of the two parallel street frontages, provided that the signs meet all other requirements of this article, including the distance requirement of 60 feet between signs.
- d. **Freestanding signs on building lots 400 feet or greater in width. Two freestanding signs** are allowed for each building lot or commercial center. The freestanding signs shall meet the following criteria:
 1. **Sign area.** The maximum allowable sign area shall equal **200 square feet for one sign, and 100 square feet for the other.**
 2. **Sign height.** The maximum allowable sign height shall equal **40 feet for the larger sign, and 30 feet for the smaller sign.**
 3. *Location of signs.* No sign shall be closer than 70 feet from any other freestanding sign.
- e. **Off-premises advertising signs.** All off-premises advertising signs, to include billboards, are defined as freestanding signs and shall be required to meet the same standard as any other freestanding sign as follows:
 1. **Sign area.** The maximum allowable sign area shall equal **100 square feet.**
 2. **Sign height.** The maximum allowable height of any sign shall equal **30 feet.**
 3. *Number of signs.* No off-premises advertising sign shall be located on any un-platted lot, nor shall it be located on a platted lot less than 50 feet in width. The off-premises advertising sign located on any building lot shall be considered as the one freestanding sign allowed for such building lot. Any existing or future building located on the same building lot shall not be allowed to erect or place another freestanding sign on the same building lot with the off-premises advertising sign.
 4. *Off-premises advertising signs.* All off-premises advertising signs, in addition to the requirements listed in this section, shall not be placed upon the wall or roof of a building.

- f. **Banner signs**, if and only if:
1. The entire banner sign covers portions of (i) the outside wall of any building, or (ii) a wall or fence which is built along the perimeter of the property, or along the perimeter of a substantial part of such property.
 2. The entire square footage of banner signs at one business location shall not exceed 80 square feet.
 3. The banner is, and remains in good condition and without torn, or tattered portions.

NOTE: This section would no longer apply to signage in the proposed CBD, unless the sign code is amended with adoption of the CBD.

4. The following signs shall be permitted in the Central Business District as defined in Article 11-I-3(a.) of the former code of ordinances: The same sign regulations that are listed in this subsection (3) shall apply to the central business district with the following exceptions: Signs may extend over the sidewalk, but shall remain at least two feet from the curb face, and with a minimum vertical clearance of 7 1/2 feet above the sidewalk.

5. Within any planned development district or specific use district, or for any conditional use permit, the sign regulations shall be as approved in the development plan for that district or that permit.

6. The following signs shall be permitted in the RT residential transition district, or on property used for personal services, limited or retail trade, limited, as described in title 11, chapter I of the former Code of Ordinances:

- i. One freestanding sign which:
 - A. Has a sign area of not greater than 24 square feet;
 - B. Does not exceed six feet in height above the ground; and
 - C. Is not internally illuminated; and
- ii. One wall sign or projecting sign which:
 - A. Has a sign area not greater than 24 square feet; and
 - B. Is not internally illuminated.

7. Off-premises advertising signs. All signs permitted in this section may be used as either on-premises or off-premises advertising signs; provided, however, no off-premises advertising sign may be located on the wall or roof of a building, nor on any fence or wall.

8. No part of a sign face shall be located within a plane from three feet to eight feet above the curb of a driveway or intersecting side street, if such sign face is located both (i) within ten feet of the back curb of a driveway, and (ii) within 15 feet of the back of curb of any street. Provided, however, if the driveway is at a lower elevation than the street curb, the building official may require that the no obstruction plane be extended to ground level within the ten-foot by 15-foot area in order to prevent traffic visibility problems.

Attachment B

Highlighted excerpts from section 6-33 of the sign ordinance (signs exempted from certain regulations), that should be reviewed within the proposed CBD

Sec. 6-33. Signs exempted from certain regulations.

#8, #16, #17, and #18 are flagged as sign types that should be reviewed within the CBD

All signs listed in this section, as defined, are exempt from the regulations listed in this article. However, these signs shall remain subject to construction and electrical standards of the building and electrical codes or to chapter 26, article V, of this Code when they may be applicable, and except that no prohibited sign as listed in section 6-34 shall be allowable as a sign exempted in this section.

(1) Realty signs advertising the sale, lease or rental of the premises upon which the sign is located, which shall not exceed 32 square feet in area, except in all residential districts where the area of the sign shall not be more than six square feet. This exception includes "garage sale" or similar signs in residential areas. Realty signs shall be limited to one per street frontage.

(2) One professional nameplate or "shingle sign" not to exceed four square feet in area.

(3) Signs denoting the name and address of the occupants of the premises, not to exceed four square feet in area.

(4) One sign or bulletin board customarily incidental to places of worship, libraries, museums, social clubs, societies, or charitable organizations and which shall be located on the premises of such institution and which shall not exceed 32 square feet.

(5) One sign per street frontage of a building which is under construction or structural alteration or repair announcing the character of the building, enterprise or the purpose for which the building is intended, including names of architects, engineers, contractors, developers, financiers, and others, provided the area of such sign shall not exceed 32 square feet in all districts, except 16 square feet in residential districts. Individual contractor signs, not exceeding three square feet in area, are allowed in addition to the construction sign listed in this subsection. All such contractor or construction signs shall be removed within 30 days of the completion of the construction project. All such signs which are larger than the subcontractor sign limitation of three square feet shall be set back from the property line to the normal building setback line required in the applicable zoning district.

(6) Governmental signs not exceeding 32 square feet in area.

(7) Community service signs. A service community sign which is not placed on or over the public right-of-way shall not exceed 32 square feet in area in nonresidential zones, and six square feet in residential zones. If such signs are placed on or over the public right-of-way, such signs shall obtain a street use permit to be placed only at one of the officially designated banner pole locations. To obtain a street use permit, an applicant must apply to the building official and pay the required permit fee and demonstrate compliance with the requirements for the banners as promulgated by resolution of the city council. The conditions of the street use permit shall be:

a. The city shall put the banners up and take them down. The banners shall be installed within three working days from the day the permit is issued and the banner is delivered to the city, but no sooner than six weeks before the event.

The banners shall be taken down within ten days after the event and may then be picked up from the building official.

b. The building official shall cause the sign to be removed without the sign owner's permission and without a refund of the permit fee if the sign becomes damaged or unsafe.

c. The entitlement to a community service sign, the installation and removal of the banners, and other interpretation, or application, of this subsection pertaining to community service signs, shall be solely within the discretion of the city manager.

(8) Flags or pennants attached to a building, but which are not extended over parking lots or other open areas, nor in any manner are supported apart from the building. Also exempted are flags, not to exceed six in number, mounted on poles which are governmental flags, or flags carrying the emblem of the business located on the same building lots. In no case shall any one flag exceed 50 square feet in size.

(9) Commemorative plaques placed by governmental or civic organizations, or integral signs.

(10) Signs specifically approved in a planned development district.

(11) Rearrangement/replacement of letters, numbers, characters, or pictures on existing signs, provided that the sign area is not enlarged.

(12) Political election signs, providing that such signs shall not exceed 32 square feet in area in nonresidential areas and six square feet in residential areas, and provided that such signs not be placed earlier than six weeks prior to the election, and must be removed within ten days following the election, and provided that such signs shall not be placed in the public right-of-way.

(13) Public service signs indicating time and temperature.

(14) Auxiliary signs.

(15) Canopy signs.

(16) Roof signs.

(17) Wall signs.

(18) Window signs.

(19) Directional signs.

(20) Signs placed on benches, trash cans, or other structures which are located in the public right-of-way, provided that the city council has authorized the placement of the structure or receptacle in the right-of-way, and has additionally authorized the placement of the sign on the structure or receptacle.

Attachment C

Staff recommendations for sign regulation in the CBD

The following is staff's recommendation on sign regulation specific to the proposed Central Business District. All other signs prohibited or permitted under the existing sign ordinance would continue to be permitted or prohibited after the proposed amendment.

Existing signs, that would become non-compliant, would need to be brought into compliance, as follows:

Upon notice from the city if prohibited

Upon major repair or removal of existing sign structure, excluding sign face;

Upon change of use and tenancy of the property.

Allowed signage

Free-standing sign, subject to the following regulations:

- In the case of a single building or tenant, one (1) free-standing sign is permitted with the following criteria:
 - Sign Area: The maximum allowable sign area shall be sixty-four (32.0) square feet.
 - Sign Height: The maximum allowable height shall be eight feet (8.0') above the top of the adjacent street or driveway level;
 - Location of Sign: The free-standing sign shall not be located closer than sixty feet (60.0') from another free-standing sign.
 - Lighted Area: The free-standing sign shall be front lit with ground-mounted lights or backlit, but shall not be internally lit.
 - Sign Material: The free-standing sign shall be anchored in a native colored masonry or other similar material to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or other material similar to the building(s) constructed on the property.

- In the case of multiple buildings or tenants one (1) free-standing sign is permitted with the following criteria:
 - Sign Area: The maximum allowable sign area shall be one hundred (64.0) square feet.
 - Sign Height: The maximum allowable height shall be fifteen feet (15.0') above the top of the adjacent street or driveway level.
 - Location of Sign: The free-standing sign shall not be located closer than sixty feet (60.0') from any other free-standing sign.
 - Lighted Area: The free-standing sign shall be front lit with ground-mounted lights or backlit, but shall not be internally lit.
 - Sign Material: The free-standing sign shall be anchored in native colored masonry or other materials similar to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or other

material similar to the building(s) constructed on the property.

Marquee signs and Canopy signs. Such may extend over the sidewalk, but shall remain at least two feet from the curb face, and with a minimum vertical clearance of 7 1/2 feet above the sidewalk.

Projecting sign.

Unattached or portable A-frame signs, and sandwich signs, not to exceed six square feet per sign face.

Allowed, but restricted signage

Banner sign, subject to the following regulations:

- The entire banner sign covers portions of (1) the outside wall of any building, or (2) a wall or fence which is built along the perimeter of the property, or along the perimeter of a substantial part of such property, but cannot be placed in the required front setback of a property.
- The entire square footage of banner signs at one business location shall not exceed 40 square feet.
- The banner is, and remains in, good condition and without torn, or tattered portions.
- Allowed by permit, for 60 days in any calendar year.

Wall signs, not to exceed the lesser of 100 square feet or 25% of the wall.

Window signs, excepting auxiliary signs, not to exceed the lesser of 64 square feet or 50% of the window area on any given wall on any given floor.

Prohibited signage in CBD

Off-premise signs

Pennant signs, regardless of placement

Flags carrying the emblem of non governmental entities, regardless of placement

Roof signs

Agenda Item:

(Staff)

- 8C. Update regarding Lower Colorado River Authority Transmission Services Corporation's application for the proposed McCamey D to Kendall to Gillespie CREZ project (PUC Docket No. 38354).

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

SUBJECT: Update regarding Lower Colorado River Authority Transmission Services Corporation application for the proposed McCamey D to Kendall to Gillespie CREZ project (PUC Docket No. 38354).

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 23, 2010

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

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City Staff will provide on update regarding the CREZ Project.

RECOMMENDED ACTION

No additional action is required at this time.

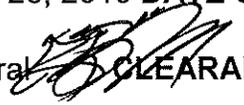
Agenda Item:
(Councilmember Motheral)

8D. Consider conceptual community events.

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

SUBJECT: Consideration of conceptual community events.

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 23, 2010

SUBMITTED BY: Bruce Motheral  **CLEARANCES:** NA
Place 1

EXHIBITS: List of Conceptual Community Events

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Attached is a list of potential special events that can be used to increase tourism and open the opportunity for expanded river trails and other public amenities. This list of events was offered by citizens of the City of Kerrville. Council direction on moving forward with these events is requested.

The successful implementation of this community event initiative is dependent on volunteer groups and citizens stepping forward to provide organization, manpower and funding.

RECOMMENDED ACTION

Initiate the process to move forward with some or all of these events in cooperation with local volunteer organizations and other community involvement.

- **Kite Festival**
 - Nominal Entry Fee for Competition
 - Food vendors / Fundraiser for Boy/Girl scouts
 - Kite Sales (fundraiser)
 - Concert/DJ/Dance
 - Children's activities face painting/bouncy castle

- **Botanical Gardens**
 - Rental Fee Income

- **Hiking or Biking Trail**
 - 5K-10K Events

- **Park Theatre**
 - Theatre Performances
 - Concert Dance in the Park (local dance schools)
 - Doggy Days of Summer (dog show)
 - Rental Fee Income
 - School performances

- **Riverside Pool (recreational water play area fed by river)**
 - Nominal Daily Fees or Summer Pass

- **Sculpture Garden or Art in the Park**
 - Projects from local schools
 - Garden Parties
 - Rental Fees

Concerns:

Increased number of transients

Perception of lack of safety

Play area blocked by and located close to apartments

Infrequent monitoring by police

Agenda Item:
(Staff)

8E. Kerrville budget/economic update.

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

SUBJECT: Kerrville Budget/Economic Update

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 16, 2010

SUBMITTED BY: Mike Erwin 
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Economic Update
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

The City of Kerrville staff will present and update Council on a biweekly basis as to the status of the City's budget and current economic trends affecting the City.

RECOMMENDED ACTION

No action required information purposes only.

CITY OF KERRVILLE
ECONOMIC UPDATE AS OF SEPTEMBER 23, 2010

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
National					
Unemployment	9.60%	9.50%	9.70%	↔	August
Consumer Confidence	53.5	51	54.5	↔	August
1 year T-Bills	0.25%	0.24%	0.41%	↓	9/23/10

State					
Monthly Unemployment	8.40%	8.50%	8.10%	↔	August
Monthly Sales Tax	\$1,766.7m	\$1,686.5m	\$1,752.2m	↔	August

Local					
Monthly Unemployment (Kerr Co.)	6.20%	6.20%	5.80%	↔	August
Median Listing Price	\$182,500	\$183,000	\$198,000	↓	8/31/10
Monthly Sales Tax	\$372,641	\$443,423	\$379,436	↓	September
Monthly EIC Tax	\$186,321	\$221,711	\$189,718	↓	September
Monthly HOT	\$98,775	\$108,059	\$109,433	↓	August

	FY10 Budget	FY10 YTD - Sep	FY10 % Received	FY09 YTD - Sep	FY09 % Received
General Fund					
Tax Revenue	\$15,055,218	\$14,227,285	94.50%	\$15,323,174	97.64%
Property Tax	\$8,468,618	\$8,165,361	96.42%	\$8,306,611	100.80%
Sales Tax	\$4,624,000	\$4,488,319	97.07%	\$5,017,127	97.91%
Permits & Fees	\$370,750	\$316,940	85.49%	\$416,882	96.21%
Intergovernmental	\$695,156	\$626,271	90.09%	\$833,660	99.90%
Service Revenues	\$3,311,183	\$3,007,045	90.81%	\$3,271,836	99.75%
Grant Revenue	\$10,000	\$10,525	105.25%	\$39,657	129.73%
Fines & Forfeitures	\$504,510	\$495,951	98.30%	\$505,465	117.78%
Interest & Misc.	\$460,211	\$506,631	110.09%	\$424,044	89.17%
Transfers In	\$1,260,825	\$1,106,910	87.79%	\$887,050	100.06%
Total General Fund	\$21,667,853	\$20,297,558	93.68%	\$21,701,767	98.36%

Water/Sewer Fund					
Water Sales	\$5,060,000	\$4,493,370	88.80%	\$4,847,039	106.20%
Sewer Sales	\$3,900,000	\$3,702,521	94.94%	\$3,415,190	96.31%
Other Revenue	\$669,500	\$820,854	122.61%	\$825,706	114.61%
Total Water & Sewer Fund	\$9,629,500	\$9,016,745	93.64%	\$9,087,935	102.91%

Agenda Item:
(Staff)

9A. Appointments to the Parks and Recreation Advisory Board.

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

SUBJECT: Appointments to the Parks and Recreation Advisory Board

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 23, 2010

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

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *W*

SUMMARY STATEMENT

Consider appointments to the following board:

Parks and Recreation Advisory Board: Two regular terms due to expire on March 31, 2011 due to the resignations of Misty Blevins and Robert Petty.

RECOMMENDED ACTION

Consider appointments.

PARKS AND RECREATION ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
ZUBER, RUSTIN Chairperson 514 East Lane	895-2829 (O) 895-4913 (H) 895-1673 (F)	04-08-08	04-13-10	03-31-12
MICHAHON, DIANE Vice-Chairperson 1904 Danielle Drive	896-3195 (H)	04-14-09		03-31-11
BLEVINS, MISTY 1225 Virginia	377-2175 (C) 257-5295 (H)	04-14-09		03-31-11
GARDNER, JIM 607 W. Water Street	896-1122 (O) 896-5117 (H)	04-14-09		03-31-11
NYE-SALLADIN, LISA 1015 Morningside Dr.	377-7198 (C) 896-3834 (H)	04-13-10		03-31-12
PETTY, ROBERT 112 Ridgerock Cove	896-9161 (H)	04-10-07	06-09-09	03-31-11
SANDER, SUSAN 500 Josephine	329-6923 (C) 896-7936 (H)	04-13-10		03-31-12
SCHMERBER, SCOTTY 429 Mack Hollimon	459-6883 (C) 896-5475 (H)	04-14-09		03-31-11
COUNCIL LIAISON: Stacie Keeble 3533 La Cumbre Drive	895-7725 (H)			
CITY STAFF: Kristine Ondrias, Assistant City Manager	792-8384 (O)			
Malcolm Matthews Director of Parks & Recreation	258-5506 (O)			

Qualifications: A majority shall be residents of the city of Kerrville, and all shall be residents of Kerr County.

Powers and Duties: Shall constitute an advisory board to the city council and shall periodically assist city staff in procedural matters. The board shall have authority to hold hearings in the city and to consider and make recommendations to the city council in writing on any and all matters pertaining to the city's parks and recreation system.

Term of Office: Two years with a maximum of two terms. No member shall serve more than two terms without having at least one full year off between terms.

Quorum: Five

Members: Eight

Meeting Time & Place: Third Thursday, 8:30 a.m., City Council Chambers

Absences: Any member having three consecutive unexcused absences shall have his membership reviewed by the board. By majority vote, the board may recommend to the council that such member be removed from office. The council may then act upon such recommendation and either remove or retain such member.

Established by: Ordinance No. 1984-37, amended by Ordinance No. 1987-24
Code of Ordinances: Chapter 74 - Article II – Sections 74-31 through 74-38
Revised: May 28, 2010

Agenda Item:
(Staff)

9B. Appointment to the Planning and Zoning Commission.

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

SUBJECT: Appointment to the Planning and Zoning Commission

FOR AGENDA OF: September 28, 2010 **DATE SUBMITTED:** September 20, 2010

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

EXHIBITS: P&Z Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *W*

SUMMARY STATEMENT

Consider appointment to the following board:

Planning and Zoning Commission: One regular term to expire on January 1, 2011 due to the resignation of Andy Phillips.

RECOMMENDED ACTION

Consider appointment.

PLANNING AND ZONING COMMISSION

	<u>Telephone</u>	<u>Orig. Appt. Date</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
PHILLIPS, ANDY Chairperson P.O. Box 291697	257-8989 (O) 895-2314 (H)	01-24-06	12-09-08	01-01-11
KESSLER, JAMES Vice-Chairperson 131 Homestead	895-7831 (H)	04-12-05	01-08-08	01-01-11
BUELL, HAROLD 1214 Jack Dr.	896-0114 (O) 895-2444 (H)	01-09-07	01-12-10	01-01-12
MACDONALD, JUSTIN 2951 Fall Creek Road	257-5323 (O) 896-4821 (H)	06-24-08	12-09-08	01-01-11
WATTERSON, DAVID 177 Phoenix Dr.	895-4048 (O) 377-6400 (H)	01-12-10		01-01-12

ALTERNATES:

SIGERMAN, MICHAEL 154 Wharton Rd.	305-634-3469(O) 895-7765 (H)	01-12-10		01-01-11
TONY ROBERTS 2390 Memorial Blvd.	895-1676 (O) 896-5374 (H)	08-24-10		01-01-12

COUNCIL LIAISON:
Bruce Motheral
812A Sidney Baker
257-6360 (O)

CITY STAFF:
Gordon Browning
Senior Planner
792-8350 (O)

Qualifications: At least four of the regular members shall be residents and eligible voters of the city; one regular member may reside in the city's extraterritorial jurisdiction (ETJ) and must be an eligible voter of Kerr County. At least one alternate member shall be a resident and eligible voter of the city; one alternate member may reside in the city's extraterritorial jurisdiction (ETJ) and must be an eligible voter of Kerr County.

- Powers and Duties:**
1. Shall formulate and recommend to the city council for adoption a Comprehensive Plan for the orderly growth and development of the city and its environs. On a yearly basis the commission shall review and if necessary recommend such changes in the plan as it finds will facilitate the movement of people and goods, and the health, recreation, safety and general welfare of the citizens of the city.
 2. Shall formulate a zoning plan (ordinance) as may be deemed best to carry out the goals of the Comprehensive Plan; hold public hearings and make recommendations to the city council relating to the creation, amendment, and implementation of zoning regulations and districts as provided in state law.
 3. Shall exercise all powers of a commission as to approval or disapproval of plans, plats, or replats as set out by state law and the city's subdivision regulations.
 4. Shall initiate for consideration at public hearings, proposals for the original zoning of annexed areas or for the change of zoning district boundaries on an area wide basis.
 5. Shall consider and take appropriate action, upon written request, variances as prescribed to the city's subdivision and sign regulations.

6. Shall from time to time recommend such changes to the subdivision regulations, sign regulations, and any other ordinance the city council assigns to their review that will facilitate the general health, safety and welfare of the citizens of the city.

Term of Office: Two years. No regular member shall serve more than three consecutive full terms on the Commission without having at least one full year off the Commission between terms.

Quorum: Three (may include an alternate member but only where substitution for and acting as a regular member)

Number of Members: Five regular members and two alternates.

Meeting Time & Place: First and third Thursdays, 4:30 p.m., City Hall

Absences: Any member who is absent from twenty-five percent (25%) of the board's regular meetings during any twelve (12) month period, or who is absent from any three (3) consecutive regular meetings, shall be considered for removal by the city council. The staff member has the responsibility of reporting a member's non-attendance to the city council in writing, and the city secretary shall notify the board member in writing that their non-attendance has been reported to the city council. However, a member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

Established by: Minutes of 12-18-44 Council meeting; amended by Ordinance Nos. 1979-37, 1987-24, and 2008-24 (which deleted from Code of Ordinances book Chapter 82 – Article II – Sections 82-31 through 82-36 and rolled into Zoning Code which is not codified)

Revised: May 28, 2010