

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, MAY 10, 2016, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, MAY 10, 2016, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION: by Brett Coe, Senior Minister, First Christian Church.

PLEDGE OF ALLEGIANCE TO THE FLAG: Those in attendance may stand if they wish.

1. VISITORS/CITIZENS FORUM:

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

2. PRESENTATIONS:

2A. Proclamation declaring May as Williams Syndrome Awareness Month. (Mayor Pratt)

3. CONSENT AGENDA:

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

3A. Minutes of the special joint KPUB/City Council meeting held March 22, 2016, and the regular meetings held April 12 and April 26, 2016. (staff)

3B. Request from Kerrville Festival of the Arts to waive public safety service costs in the amount of \$2,640.00 for the Kerrville Festival of the Arts event to be held May 28-29, 2016. (staff)

3C. Professional services agreement with Freese and Nichols, Inc. to provide engineering and construction management services related to the distribution lines for the reuse pond project in an amount not to exceed \$926,500.00. (staff)

END OF CONSENT AGENDA

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

I do hereby certify that this notice of meeting was posted on the bulletin board at the City hall of the City of Kerrville, Texas, and said notice was posted on the following date and time: May 6, 2016 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig
City Secretary, City of Kerrville, Texas

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Application by the City of Kerrville to the Kerrville Economic Improvement Corporation for a maximum of \$3 million for construction of reuse distribution lines. (staff)

4B. Select development team(s) pursuant to Request for Qualifications 2016-01 for a potential workforce housing project located at 300 Peterson Farm Road. (staff)

5. APPOINTMENTS TO CITY BOARDS AND COMMISSIONS:

5A. Beautification Advisory Committee. (Mayor Pratt)

5B. Mayor's Youth Advisory Council. (Mayor Pratt)

6. ITEMS FOR FUTURE AGENDAS

7. ANNOUNCEMENTS OF COMMUNITY INTEREST:

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

8. EXECUTIVE SESSION:

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Sections 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code, including the following matter:

8A. Sections 551.071 and 551.072:

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

- River trail.

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Brenda Craig
City Secretary, City of Kerrville, Texas

9. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

10. ADJOURNMENT.

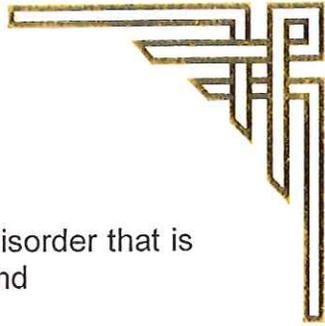
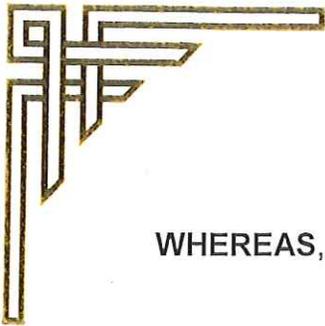
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Brenda Craig
City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Proclamation declaring May as Williams Syndrome Awareness Month.
(Mayor Pratt)



PROCLAMATION

- WHEREAS,** Williams Syndrome is a rare genetic developmental disorder that is present at birth, and affects many parts of the body; and
- WHEREAS,** Williams Syndrome impacts an estimated 1 in 7,500 to 10,000 people in the United States; and
- WHEREAS,** Williams Syndrome is characterized by medical and cognitive problems including cardiovascular disease, developmental delays, and learning disabilities; and
- WHEREAS,** The Williams Syndrome Association (WSA), founded in 1982, is a non-profit organization that provides comprehensive resources for people and families living with Williams Syndrome as well as doctors, researchers, and educators; and
- WHEREAS,** Through its efforts to raise public awareness, fund critical new research, share valuable information, and support families, the WSA has improved the quality of life and futures of those affected by Williams Syndrome; and
- WHEREAS** The Williams Syndrome Association as well as the families and friends of those with Williams Syndrome should be commended for their hard work, compassion, and commitment to educating our communities about this rare disorder,

NOW, THEREFORE, I, Jack Pratt, Mayor of the City of Kerrville, Texas, do hereby proclaim the month of May as

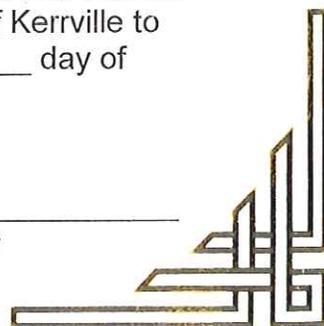
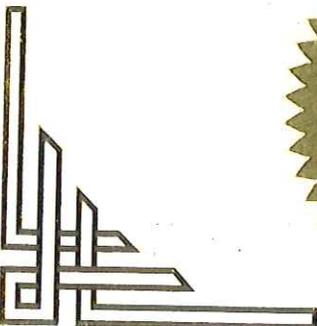
WILLIAMS SYNDROME AWARENESS MONTH

In the City of Kerrville and urge our fellow citizens to recognize that the Williams Syndrome Association and the families and friends of those with Williams should be commended for their hard work, compassion, and courage for educating the country about this rare disorder.



IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Kerrville to be affixed this _____ day of May, 2016.

Jack Pratt, Jr., Mayor



Agenda Item:

3A. Minutes of the special joint KPUB/City Council meeting held March 22, 2016, and the regular meetings held April 12 and April 26, 2016. (staff)

CITY COUNCIL MINUTES OF A JOINT MEETING
WITH KERRVILLE PUBLIC UTILITY BOARD

KERRVILLE, TEXAS
MARCH 22, 2016

On Tuesday, March 22, 2016, at 5:34 p.m. the Kerrville City Council meeting was called to order by Mayor Jack Pratt, and the KPUB meeting was called to order by Chairman Stephen Fine, at the Kerrville City Hall Upstairs Conference Room, 701 Main Street, Kerrville, Texas.

CITY COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Gary Stork	Mayor Pro Tem
Stephen Fine	Councilperson
Bonnie White	Councilperson
Gene Allen	Councilperson

CITY COUNCILMEMBERS ABSENT: None

KPUB TRUSTEES PRESENT:

Stephen Fine	Chairman
Philip Stacy	Vice Chairman
John Sample	Secretary
Fred Gamble	Treasurer
Jack Pratt	

KPUB TRUSTEES ABSENT: None

CITY STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary

KPUB STAFF PRESENT:

Mike Wittler	General Manager and Chief Operating Officer
Lidia Goldthorn	Executive Assistant
Jill Sodberry	Chief Financial Officer
Steve Schulte	Legal Counsel
John Davidson	Legal Counsel

Proposal for a loan from the Kerrville Public Utility Board to the City of Kerrville to provide funding for the City of Kerrville water reuse project in an amount not to exceed \$8,500,000.

Mr. Fine noted the proposal was initiated by KPUB and not by the City. KPUB had funds on hand from recent litigation with LCRA. KPUB's long term goal in 2023 was to purchase or build a power plant to help offset electrical costs and benefit the entire KPUB system. KPUB proposed to loan funds, up to \$8.5 million, to the city at the rate of 2.4%, comparable to the city's latest bond issue. KPUB was currently earning less than

1% on its investments. The city would save the cost of financing a bond issue, usually \$200,000-300,000. KPUB's attorneys and the city attorney looked at the proposal and said it could be done and it would not mess up KPUB's bond rating or violate anything in KPUB's bond ordinance. This proposal would save money for city taxpayers and raise revenue for KPUB ratepayers.

Mr. Whittler noted KPUB had accumulated funds to partially finance future electric system improvements, which were planned to commence in 2023. KPUB had set aside \$6.9 million during the lawsuit with LCRA in case of an adverse outcome, and an additional \$8 million in the rate stabilization fund. Once the lawsuit with LCRA was concluded, KPUB instructed staff to find ways to invest funds at a higher rate to help fund future projects that were planned for 2023.

Mr. Whittler noted the KPUB board received an opinion from John Davidson, KPUB's Special Counsel, and Jeffrey Kuhn, KPUB's Bond Counsel: "KPUB had the authority to grant or loan the funds to the city provided it satisfied the funding and rate covenants contained in and otherwise complied with the provisions of Ordinance No. 2013-21 as adopted by the city council on October 22, 2013." Mr. Davidson prepared a promissory note, loan agreement and KPUB resolution for a loan not to exceed \$8.5 million. The documents were reviewed by Mr. Kuhn, Mr. Hayes, and KPUB and City staffs. Mr. Whittler reported that Steven Adams, KPUB's financial advisor, reviewed KPUB's financial statements, existing loan agreement with Broadway Bank, and KPUB's wholesale power agreements for credit and collateral requirements and he found no reason that KPUB could not make a loan to the city. KPUB notified Broadway Bank, who held the note on existing KPUB debt, and Bill Fisher of BKD, KPUB's auditor, that a loan from KPUB to the city was contemplated; neither raised concern about the proposed loan. He noted this was not an investment under the Public Funds Investment Act.

Mr. Whittler reviewed sections of KPUB's Resolution 16-08 and the terms in the loan. The proposed loan would commence August 1, 2016, and have a ten year repayment term, with a 2.4% interest rate and the first three years interest only payments. The length of the loan and the interest rate were based on the city's recent loan for the wastewater facility. KPUB was currently earning 0.3% average interest on standard commercial terms. A loan to the city would keep interest earned in the local community and not paid to bond holders out of state; this would put funds back into the utility system. The note was not collateralized but was secured solely by a lien on and pledge of the net revenues of the city's water and wastewater system. Any default or failure to pay any principal or interest when due would result in KPUB withholding transfer payments to the city as established in Section 35(c) of Ordinance No. 2013-21, which was 3% of KPUB revenue, until the default was resolved. Mr. Whittler stated the note was not pledged by city ad valorem tax revenue, and the loan was not deemed to be a public security under Texas Government Code.

KPUB could have chosen to use the funds to temporarily lower today's rates; however, Mr. Whittler opined it was more important to invest in the infrastructure and future projects that would ensure stable and competitive rates. KPUB started 25 years ago

and in 2013 paid off \$25.5 million debt, and in 2013 KPUB issued more bonds; all funds in the system were paid by ratepayers.

Councilmember White noted Section 3.06 of the city charter stated that ordinances and resolutions should be read at two regular council meetings; since this was a special meeting, it should be reposted for a regular meeting and considered in 4-5 months. Protocol was to present items to KPUB and City Council on their agendas to discuss the matter, then bring it to a vote. She questioned why the urgency for a special meeting to approve the resolution now as the city had \$4.1 million on deposit, \$1.3 for construction in certificates of obligation, and the design plan was not finished.

Mr. Fine noted KPUB had previously met and discussed the proposal prior to bringing the issue to the city council. KPUB had discussed this for several months; however, they waited until the water reuse ad hoc committee had made its recommendation on the water reuse project. In order for both bodies to meet together, the agenda had to be posted as a special meeting.

Mr. Hayes noted the charter provision applied only to ordinances, and this was a resolution. There was no requirement to have two readings of a resolution and a resolution could be passed at a special meeting; however, council did not have to vote today, and the resolution could be posted for the April 12 regular meeting.

The following persons spoke:

1. Ed Shuler noted KPUB had expenses now and infrastructure projects underway; he wanted KPUB to have a larger contingency fund, at least \$2.5 million.

2. William Spencer Hart opined this was all cooked up to be done during Holy Week and the mayor wanted to get it done before he left office. He objected to Mr. Fine being involved and opined Mr. Fine had a conflict of interest because he was serving dual offices. Also, state law required meeting notices be posted at a place convenient to the public at least 72 hours prior to the meeting; Mr. Hart opined that the agenda posting was not in compliance with the law as it was posted for only 46.3 business hours and did not qualify as an emergency notice. Based on population (22,389 KPUB ratepayers and 22,347 city citizens, the cost would be \$379.6 per person for KPUB customers and \$380 per person for city residents. Some of the funds accumulated by KPUB were because LCRA overcharged KPUB and KPUB overcharged its customers.

Mr. Fine noted that prior to his running for city council he contacted the office of the attorney general and they did not see a problem. Mr. Hart questioned if the attorney general's opinion gave Mr. Fine authority to vote on matters of lending money between the two entities, and he wanted to see a written legal opinion stating it was constitutionally legal. Mr. Fine noted he was a full board member on both KPUB and City Council.

Mr. Hayes noted the public meeting notice was posted more than 72 hours prior to the meeting, as required by state law.

3. Robert Naman asked if the \$8.5 million loan would be paid all up front or on draw when needed. Mr. Fine stated it would be a maximum \$8.5 million lump sum.

4. Carl Meek questioned if the 2023 infrastructure project could be done sooner and help rate payers sooner. Mr. Whittler noted that KPUB had solicited proposals for a 40-75 megawatt regional plant; possibly with one or more partners. KPUB could start the project sooner; however, KPUB would be operating a plant in a competitive market. Also, KPUB had a contract to purchase 100% of power from ERCOT until 2023.

Approval of Kerrville Public Utility Board consideration of Kerrville Public Utility Board Resolution No. 16-08.

Mr. Sample moved for approval of KPUB Resolution No. 16-08; Mr. Gamble seconded the motion and it passed 5-0.

Approval of City of Kerrville Resolution No. 09-2016 a resolution authorizing the city to enter into a loan agreement with and a promissory note to the Kerrville Public Utility Board for an amount not to exceed \$8,500,000; such funding to be used by the city for improving its wastewater treatment facilities to include reuse

Mr. Stork moved for approval of City of Kerrville Resolution No. 09-2016; Mr. Allen seconded the motion and it passed 4 to 1 with Councilmembers Stork, Allen, Fine, and Pratt voting in favor of the motion and Councilmember White voting against the motion.

ADJOURNMENT: The meeting adjourned at 6:25 p.m.

APPROVED: _____

Jack Pratt, Mayor

Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
APRIL 12, 2016

On April 12, 2016, the Kerrville City Council meeting was called to order at 6:33 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Stockton Williams, Rector at St. Peter's Episcopal Church, followed by the Pledge of Allegiance led by Police Chief David Knight.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

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

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

1. VISITORS/CITIZENS FORUM:

1A. Mr. Fine noted that Mayor Pratt was interviewed by *Town and City* magazine published by Texas Municipal League for his service to the community.

2. PRESENTATIONS:

2A. Proclamation declaring April 19 as Congenital Diaphragmatic Hernia Awareness Day in honor of Baby Elijia James Lerma.

3. CONSENT AGENDA:

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

3A. Minutes of the regular city council meetings held February 9, 2016, and the budget workshop held February 11, 2016.

3B. Reject construction bid for renovations of the Kerr Regional History Center.

END OF CONSENT AGENDA

4. PUBLIC HEARING AND ORDINANCE, FIRST READING:

4A. Ordinance No.2016-06, annexing an approximate 194.79 acre tract of land into the City of Kerrville, Texas, and extending the boundary limits of the city to include the property within the city limits; said property generally located south of and adjacent to State Highway 27 and between Oak Way Street and Split Rock Road; said tract out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas; said tract located adjacent to the corporate limits of the City of Kerrville, Texas, and more commonly known as 337 Split Rock Road; further describing the territory to be annexed; adopting a service plan for the territory annexed; and establishing the zoning for the area annexed as "R-1" Single Family Residential in accordance with the City's Comprehensive Plan. Mayor Pratt read the ordinance by title only. Mr. Robertson noted 37 notices for zoning and annexation were mailed to owners within 200 ft.; no response was received. Martin Marietta (MM), property owner, was developing the property as a sand and gravel pit. Any pre-existing operation that is verified at the time of annexation would be considered legal non-conforming use and subject to Art 11-1-16 of the zoning ordinance. The city's comprehensive plan and land use designation was R-1 low density residential; therefore, staff recommended R-1 zoning. He noted that the planning and zoning commission (PZC) recommended denial and asked that another zoning district be classified by city council.

Mr. Parton reported on the two meetings held with Martin Marietta on March 29 and April 26, 2016. A non-annexation development agreement had been discussed with MM whereby the property would not be annexed as long as certain commitments were met, and MM had restated the commitments previously made at public meetings. Another meeting was scheduled for April 14.

Mayor Pratt declared the public hearing open at 6:18 and the following persons spoke:

1. Mitchell Hogg, neighbor on Hwy. 27, noted that the comp plan stated that rural undeveloped land for which current and future use was undefined, when annexed, is zoned at the most restrictive zoning, or zoning applicable to the immediate planned use. He did not understand how residential zoning conformed to the immediate planned use.

Mr. Hayes noted the land use plan showed the subject property to be residential. State law required that if the land use plan has the property as residential, zoning must follow that; after the property is annexed it can be changed by the city or the property owner can request a zone change. In general, when city's annex they generally apply the most restrictive zoning, which is single family residential.

2. Bruce Stracke asked if MM had asked for a particular zoning designation. Staff noted they had not.

3. Judy Lackey, neighboring property owner, asked what the city could do; they had dirt in their homes from the MM operation now and MM was operating during

the night. She was concerned about decrease in home values and it would probably be in operation for 25 years.

Mayor Pratt noted there was no way the city could prohibit MM from operating.

No one else spoke and Mayor Pratt closed the public hearing at 6:24 p.m.

EXECUTIVE SESSION:

Mr. Fine moved for the city council to go into executive closed session under Sections 551.071 of the Texas Government Code; motion was seconded by Mr. Allen and passed 5-0 to discuss the following:

4A. Section 551.071:

Ordinance No. 2016-06, annexing an approximate 194.79 acre tract of land into the City of Kerrville, Texas, and extending the boundary limits of the city to include the property within the city limits; said property generally located south of and adjacent to State Highway 27 and between Oak Way Street and Split Rock Road, and more commonly known as 337 Split Rock Road.

At 6:28 p.m. the regular meeting recessed. Council went into executive closed session at 6:30 p.m. At 7:02 p.m. the executive closed session recessed and council returned to open session at 7:05 p.m. Mayor Pratt announced no action was taken in executive session.

Mr. Pratt moved to approve Ordinance No. 2016-06 on first reading and to direct staff to prepare to consider an application from property owner Martin Marietta; Mr. Stork seconded the motion and it passed 4 to 1 with Councilmembers Pratt, Stork, Allen, and White voting in favor of the motion, and Councilmember Fine voting against the motion.

4B. Ordinance No. 2016-03, repealing Ordinance No. 2010-22, which created a "Planned Development District" for the approximate 1.2 acre tract of land, being Lots 3 through 8, inclusive, Block 27 of the J.A. Tivy Addition, a subdivision within the City of Kerrville, Texas, and otherwise known as 1001 Jefferson Street; said property to return to the "RT" Residential Transition Zoning District. Mayor Pratt read the ordinance by title only.

Mr. Robertson noted 26 notices mailed out to owners within 200 ft.; one responded in favor and many phone calls were received in favor; zero opposed. The proposed zoning was consistent with the future land use plan. Staff saw no adverse impact on neighboring properties, which had similar zoning and land uses. PZC recommended approval 5-0.

Mayor Pratt declared the public hearing open at 7:08; the following person spoke:

1. Rob Irvin, broker representing buyer and seller; noted the buyer planned to renovate the property back to its historic elegance as a single family residence. The PDD zoning would allow high density development, single-family would be less disruptive to neighborhood.

Council noted the property had a state historical marker.

No one else spoke and Mayor Pratt closed the public hearing at 7:10 p.m.

Mr. Stork moved to approve Ordinance No. 2016-03 on first reading; Mr. Allen seconded the motion and it passed 5-0.

5. ORDINANCE, SECOND AND FINAL READING:

5A. Ordinance No. 2016-05 amending Ordinance 2001-23 which annexed property into the city and adopted zoning for the same property pursuant to a "Planned Development District" (PDD); said property consisting of an approximate 75.73 acre tract of land located adjacent to State Highway 27 and between Colvin Ranch Road East and Sutherland Lane East with an address of 155 Colvin Ranch Road East; said amendments consisting of various changes to the authorized uses for the property. Mayor Pratt read the ordinance by title only. Mr. Robertson noted that amending the ordinance would amend the PDD to make regulations less restrictive and the property would be easier to develop.

Mr. Fine moved to approve Ordinance No. 2016-05 on second and final reading; Ms. White seconded the motion and it passed 5-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Second Amendment to Airport Commerce Park Development Agreement for the property generally located southeast of Airport Commerce Parkway East, between Highway 27 and Colvin Ranch Road East, with an address of 155 Colvin Ranch Road East.

Mr. Robertson noted that with the passage of Ordinance 2016-05 (Item 5A), the development agreement could be amended.

Mr. Stork moved to approve the second amendment as presented; Mr. Fine seconded the motion and it passed 5-0.

6B. Execute construction contracts with: J3 Company, LLC for "Bid Package A – Civil" in the amount of \$2,994,430.00; Mid-America Sports Construction for "Bid Package B – Fields" in the amount of \$3,923,870.00; JK Bernhard Construction Company., LLC for "Bid Package C -- Buildings" in the amount of \$1,567,469.00; and DW Electric Company for "Bid Package D – Electrical" in the amount of \$1,322,216.00 for the Kerrville Sports Complex Project on Holdsworth Drive and authorize the City Manager to execute separate change orders, each of which may exceed \$50,000, but total combined amount for this project will not exceed \$10,500,000.00.

Mr. Parton noted that representatives for each bidder were present to answer questions, as well as Steve Huser who had been the project manager since inception. The concept had been discussed by city council and the economic improvement corporation since June 2012, and funding for the project would be provided by EIC (sales tax) and the Cailloux Foundation (CF); no ad valorem tax

funds would be used to fund the project. The project consisted of a total of 105 acres on both sides of Holdsworth Drive, with 70 improved acres with tournament quality playing surfaces and fields, 11 baseball and softball fields built to Little League and industry standards, 20 acres of irrigated turf area for soccer, and 791 paved parking stalls and restroom/meeting/storage/concession areas.

He reviewed the bid process and noted bids were distributed to 11 potential contractors nationwide and 4 contractors submitted statement of qualifications. He reviewed contractor evaluation criteria. Two bids were received as one large complete package (A-D) including project management services: Journeyman Construction for \$11,700,871; and D. Wilson Construction for \$11,638,000. The project was also divided into four packages, and bids were received and evaluated by staff and the design team and it was recommended that the following contracts be awarded:

Package A-Civil	J3 Company	\$2,994,430
Package B-Sports Field Const.	Mid America Sports Construction	\$3,923,870
Package C-Buildings	J. K. Bernhard	\$1,567,469
Package D-Electrical	D.W. Electric	\$1,322,216
Total		\$9,807,985
Contingency		\$ 692,015

Mr. Parton noted the bids came in within the \$10.5 million allocated for the project.

Council also discussed the following:

- Staff saved \$1.8 million by breaking down the project into packages.
- \$9 million would come from the bond issuance; where would the remaining funds come from? Mr. Parton noted the remainder would be funded by the Cailloux Foundation in addition to what they had already provided: the 105 acres, design services and specifications, land grading, and infrastructure. A big thank you to the Cailloux Foundation.
- Wanted to make sure the top soil provided met specifications. Mr. Parton advised that staff went through an exhaustive review of the bids and confirmed with each bidder that they understood the bid specifications and all contractors said they would commit to the specifications and to completion of the project.

Mayor Pratt moved to authorize the city manager to execute construction contracts for Packages A, B, C and D as stated above, for the Kerrville Sports complex project and to authorize the city manager to execute additional change orders which may exceed \$50,000 but not to exceed the total amount of \$10,500,000. Mr. Stork seconded the motion and it passed 5-0.

6C. Initiate request for qualifications (RFQ) 2016

Mr. Parton noted the city had previously initiated an engineering analysis of the water and wastewater improvements necessary to serve the property owned by the EIC on Peterson Farm Road for development and public safety purposes; those reports had been presented to city council and EIC. Mr. Parton suggested initiating a RFQ to development groups that might be interested in a

public/private partnership to establish workforce housing on the EIC property. The RFQ would only ask for their qualifications, type of work done and financial stability; however, there would be nothing binding or obligating the city. Council could then review the RFQs and determine whether to proceed.

Council also discussed the following:

- Concern about issuing more debt when expenditures the city was already obligated to were high. Mr. Parton noted that most of the utility infrastructure that would serve this area of Peterson Farm Road was already in the capital plan. He did not anticipate selling any debt or raising utility rates to fund this project.
- Concern that the deadline was too short. Mr. Parton noted that most companies already have their qualification packets readily available.

Mayor Pratt moved to authorize staff to issue an RFQ to see if council would desire to enter into a public/private partnership for the development of workforce housing on the Peterson Farm Road property.

7. ITEMS FOR FUTURE AGENDAS: None.

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Semiannual bulk waste collection was scheduled the next two weeks.
- The spray fountain at Louise Hays Park was closed this week for maintenance. The spray ground at Carver Park was open 10 a.m. to 7 p.m.
- Violation of state law to tamper or remove election campaign signs; the public should report offenders to the police department.
- Kerrville Police Department was accepting applications through April 29 for the Junior Citizen Police Academy for ages 11-14; classes would run June 6-16.
- Kerrville Police Department "Got Drugs" event would be held April 30, 10 a.m. to 2 p.m. collecting unwanted drugs for destruction.
- Congratulated the Christian Men's Job Corp for coordinating Community Service Infusion (CSI) event last Saturday.
- Recognized Todd Parton for serving as city manager for seven years.
- April 15, Playhouse 2000 featuring Larry Gatlin and the Blackwood Quartet.
- Playhouse 2000, VK Garage now playing a Mark Twain event, Is He Dead.

9. EXECUTIVE SESSION:

Held earlier in the meeting after Item 4A.

ADJOURNMENT. The meeting adjourned at 7:47 p.m.

APPROVED: _____
ATTEST: _____

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
APRIL 26, 2016

On April 26, 2016, the Kerrville City Council meeting was called to order at 6:33 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Ann Buck, Executive Director of The Christian Women's Job Corps, followed by the Pledge of Allegiance led by Fire Chief Dannie Smith.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

CITY CORE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Day	Deputy City Manager
Brenda Craig	City Secretary
Sandra Yarbrough	Director of Finance
Ashlea Boyle	Special Projects Manager
David Knight	Police Chief
Dannie Smith	Fire Chief
Trent Robertson	City Planner
Kaitlin Berry	Special Projects Manager

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

1. VISITORS/CITIZENS FORUM: None.

2. PRESENTATIONS:

- 2A. Proclamation declaring May as Lupus Awareness Month.
- 2B. Proclamation declaring May 3 as The Big Give S.A. Day.
- 2C. Proclamation declaring May 5 as National Day of Prayer.
- 2D. Resolution of Commendation for Meg Scott-Johnson for service on the Parks and Recreation Advisory Board.
- 2E. Recognition of Kerrville Fire Department Division Chief Tony Lenard for 32 years of service.

3. CONSENT AGENDA:

Ms. White requested item 3F be removed from the consent agenda.

Mr. Stork moved to approve consent agenda items 3A through 3E; Mr. Fine seconded the motion, and the motion passed 5-0:

3A. Minutes of the regular city council meetings held February 23, 2016, March 8, and March 22, 2016.

3B. Acceptance of a grant from the Anonymous Fund III, a donor advised fund of The Community Foundation of the Hill Country, to the City of Kerrville in the amount of approximately \$699,000 for the purpose of maintaining the Kathleen C. Cailloux Center for the Performing Arts.

3C. Request from the Cailloux Foundation to waive public safety service costs in the amount of \$3,200 for the Kerrville Chalk Festival to be held October 15-16.

3D. License agreement with Revolution Broadcasting, LLC for the REVVEST music event in Louise Hays Park on October 15, 2016.

3E. Request from Revolution Broadcasting, LLC to waive public safety service costs in the amount of \$4,768.12 for REVVEST.

END OF CONSENT AGENDA

3F. Professional services agreement with John Hewitt Engineering Inc. to perform design and construction phase services for the development of aquifer storage and recovery (ASR) water supply Well #3 and site improvements in an amount not to exceed \$112,300.00.

Ms. Day noted the agreement was for the design of an ASR well to be located in the vicinity of the reuse pond so it could also serve as a well for direct potable reuse (DPR) water. Two possible well sites had been selected.

Council questioned why the well was needed now since the DPR water would not be available for six years. Ms. Day noted the city needed the ASR well to store groundwater from the river; ASR #3 could also be used for DPR in the future. The existing distribution line on Spur 100 could tie in to the existing system.

Mr. Stork moved for approval of the agreement; Mr. Fine seconded the motion and it passed 5-0.

4. PUBLIC HEARING AND RESOLUTION:

4A. Resolution No. 10-2016, granting a Conditional Use Permit (CUP) for an approximate 1.36 acre tract of land out of the Samuel Wallace Survey No. 112, Abstract 360, within the City of Kerrville, Kerr County, Texas, and otherwise known as 2814 Memorial Boulevard; said tract located within the E-31 Zoning District; by permitting said property to be used for Business Services II purposes (automotive towing services); and making said permit subject to certain conditions and restrictions.

Mr. Robertson noted the applicant requested to amend the CUP to allow towing services; this would not allow a salvage or wrecking yard. The applicant planned to keep the existing building and meet all landscaping and screening requirements. Staff had not received any responses from the notifications that were mailed. There were no residential properties in the immediate area. The requested use was similar to neighboring land uses and consistent with the comprehensive plan. Staff recommended approval with the conditions stated in the CUP.

Mayor Pratt declared the public hearing open at 6:28 p.m.; no one spoke and Mayor Pratt closed the public hearing at 6:29 p.m.

Ms. White moved for approval of Resolution No. 10-2016; Mr. Fine seconded the motion and it passed 5-0.

5. ORDINANCES, SECOND AND FINAL READING:

5A. Ordinance No.2016-06, annexing an approximate 194.79 acre tract of land into the City of Kerrville, Texas, and extending the boundary limits of the city to include the property within the city limits; said property generally located south of and adjacent to State Highway 27 and between Oak Way Street and Split Rock Road; said tract out of the William Watt Survey No. 69, Abstract No. 367 and the W.T. Crook Survey No. 70, Abstract No. 113, Kerr County, Texas; said tract located adjacent to the corporate limits of the City of Kerrville, Texas, and more commonly known as 337 Split Rock Road; further describing the territory to be annexed; adopting a service plan for the territory annexed; and establishing the zoning for the area annexed as "R-1" Single Family Residential in accordance with the City's Comprehensive Plan. Mayor Pratt read the ordinance by title only. Mr. Robertson noted that all of the state and local requirements, including public hearings for the annexation and zoning, had been met. There were no changes to the ordinance since first reading.

The following person spoke:

1. Garrett Harmon, member of the planning and zoning commission (PZC), noted that PZC did not agree with the recommended R-1 single family residential zoning classification. March 17 staff brought PZC a zoning classification of R-1, and PZC voted unanimously that R-1 was not appropriate considering its current land use. Mr. Harmon noted there was not any discussion about a district overlay. He also noted that the comp plan allowed a future land use for rural undeveloped land; that is, when annexed it should be zoned at the most restrictive use or a zone applicable to its immediate planned use. PZC did not recommend a zoning classification and directed staff to bring back to PZC an alternate zoning classification; staff did not bring back an alternate zoning classification for PZC to consider. He felt that PZC was bypassed. Council proceeded with R-1 zoning classification. Mr. Harmon asked:
1) Why did staff not come back to PZC with an alternate zoning classification?
2) Why did the city pursue R-1 zoning when there were other zoning options that were more appropriate?

Mr. Parton noted that PZC was the recommending body; zoning was presented to PZC for a recommendation to city council; PZC recommended zoning be forwarded to city council for consideration. R-1 zoning was consistent with the comprehensive plan.

Council also discussed the following:

1. Questioned the public hearing notice designating R-1 zoning being sent to the newspaper prior to the meeting at which zoning was voted on. Mr. Parton noted

the notice must be published in the newspaper 15 days prior to the meeting in order to meet state notification requirements. Public hearings were held March 17 by PZC and March 22 by city council

2. Annexation would not stop MM from operating their business.

EXECUTIVE SESSION:

Mr. Fine moved for the city council to go into executive closed session under Sections 551.071 of the Texas Government Code; motion was seconded by Mr. Allen and passed 5-0 to discuss the following:

Section 551.071:

Ordinance No. 2016-06, annexing an approximate 194.79 acre tract of land into the City of Kerrville, Texas, and extending the boundary limits of the city to include the property within the city limits; said property generally located south of and adjacent to State Highway 27 and between Oak Way Street and Split Rock Road, and more commonly known as 337 Split Rock Road.

At 6:40 p.m. the regular meeting recessed. Council went into executive closed session at 6:41 p.m. At 7:07 p.m. the executive closed session recessed and council returned to open session at 7:08 p.m. Mayor Pratt announced no action was taken in executive session.

1. Aleisha Knochenhauer, regional environmental manager for Martin Marietta (MM), owner of the property, stated MM would support a development agreement as an alternative to annexation and potential litigation process, and MM had been working with the city to put together the agreement; MM preferred not to be annexed.

ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION:

Mayor Pratt moved to adopt Ordinance 2016-06 as presented. Mr. Stork seconded the motion and it passed 3 to 2 with Councilmembers Pratt, Stork, and Allen voting in favor of the motion and Councilmembers White and Fine voting against the motion.

5B. Ordinance No. 2016-03, repealing Ordinance No. 2010-22, which created a "Planned Development District" for the approximate 1.2 acre tract of land, being Lots 3 through 8, inclusive, Block 27 of the J.A. Tivy Addition, a subdivision within the City of Kerrville, Texas, and otherwise known as 1001 Jefferson Street; said property to return to the "RT" Residential Transition Zoning District. Mayor Pratt read the ordinance by title only.

Mr. Robertson noted many calls had been received in favor, and zero in opposition, to the proposed zone change. The item was approved by PZC; there were no changes since first reading.

Mr. Allen moved to approve Ordinance No. 2016-03 on first reading; Mr. Fine seconded the motion and it passed 5-0.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Participation in construction of road to Hangar 19 and paving of apron and taxiway at the Kerrville/Kerr County Airport.

Bruce McKenzie, airport manager, noted the airport board proposed to construct and pave the apron around Hangar 19 and repave the existing taxiway. The county agreed to build the 650 ft. roadway from Peterson Farm Road, estimated at \$30,000. He asked the city to furnish the labor and equipment to pave the apron and taxiway at a time convenient for the city. The airport board would furnish the material, 400 tons of asphalt, at a cost of about \$30,000. Once completed, the hangar could be leased to store four airplanes for a total \$1,700 per year and generate revenue that would lessen the city/county contribution each year.

Mr. Parton noted the city's priority was city road rehabilitation; he requested council give him the option of performing the work with city crews, or contracting out the project.

Mr. Stork moved to approve participation in the project as outlined. Mr. Fine seconded the motion and it passed 5-0.

6B. Consideration of the FY2016-17 Kerrville-Kerr County Airport budget.

Bruce McKenzie, airport manager, presented the airport budget for FY2016-17. The total budget was \$397,165; the city's and county's contribution was \$21,000 each. Mr. Parton noted \$21,000 was already appropriated in the city's budget.

Mr. Allen moved to approve the FY2016-17 airport budget in the amount of \$21,000.00 as presented; Mr. Fine seconded the motion and it passed 5-0.

6C. Text amendments to the City's Zoning Code and building codes regarding the use of temporary structures, including construction trailers, and recreational vehicles.

Mr. Robertson noted the text amendment would address the location and requirements of temporary structures, including construction trailers and recreational vehicles. Requests had been received: 1) to allow construction trailers to be located on different lots in the development during construction; and 2) complaints that RVs were being located on property and connected to utilities for people to reside in. The proposed text amendments would also require a review and possible amendments to the zoning code and building code. The process to amend the zoning code would go through PZC; the process to amend the building codes would be through city council.

Council consensus was that staff should prepare a recommendation.

7. INFORMATION AND DISCUSSION:

7A. Budget and economic update.

Ms. Yarbrough gave the financial report year to date for the period ending March 31, 2016: general fund revenues totaled \$16,131,392 and expenditures \$11,262,406; water and sewer fund revenues totaled \$5,513,586 and

expenditures \$5,423,013; hotel/motel fund revenues totaled \$460,218 and expenditures \$457,600; 43 permits for new residential construction and 2 for new commercial construction. She provided budget information for seven major capital projects: Jefferson lift station, Broadway lift station, wastewater treatment plant clarifier/motor control center improvements, river trail, Louise Hays and Lehmann/Monroe Park, athletic complex, and reuse pond/distribution.

8. ITEMS FOR FUTURE AGENDAS: None.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Violation of state law to tamper or remove election campaign signs; the public should report offenders to the police department.
- Kerrville Police Department was accepting applications through April 29 for the Junior Citizen Police Academy for ages 11-14; classes would run June 6-16.
- Kerrville Police Department "Got Drugs" event would be held April 30, 10 a.m. to 2 p.m. collecting unwanted drugs for destruction.
- Registration underway for swimming lessons to begin May 1.
- City was accepting applications for lifeguards.
- Mr. Parton announced that Ashlea Boyle had been promoted to assistant parks and recreation director.
- Mr. Parton introduced Kaitlin Berry as the special projects manager.
- Early voting by personal appearance was underway at the Cailloux Theater, Monday – Friday, 8:00 a.m. – 5:00 p.m., ending Tuesday, May 3. Election Day would be Saturday, May 7.

10. EXECUTIVE SESSION:

Mr. Pratt moved for the city council to go into executive closed session under Sections 551.071 of the Texas Government Code; motion was seconded by Mr. Allen and passed 5-0 to discuss the following:

Sections 551.071 and 551.072:

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

- River trail.

Section 551.071 and 551.072:

Discuss City of Kerrville, Texas vs. Stadter, 216th District Court of Kerr County, No. 131160A (condemnation).

At 7:36 p.m. the regular meeting recessed. Council went into executive closed session at 7:38 p.m. At 8:00 p.m. the executive closed session recessed and council returned to open session at 8:05 p.m. Mayor Pratt announced no action was taken in executive session.

11. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION: No action was taken.

ADJOURNMENT. The meeting adjourned at 8:05 p.m.

APPROVED: _____

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

Agenda Item:

3B. Request from Kerrville Festival of the Arts to waive public safety service costs in the amount of \$2,640.00 for the Kerrville Festival of the Arts event to be held May 28-29, 2016. (staff)

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

SUBJECT: Request from Kerrville Festival of the Arts to waive public safety service costs in the amount of \$2,640 for the Kerrville Festival of the Arts event to be held May 28-29, 2016

FOR AGENDA OF: May 10, 2016

DATE SUBMITTED: April 29, 2016

SUBMITTED BY: Ashlea Boyle
Assistant Director of Parks and Recreation

CLEARANCES: Kristine Day
Deputy City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:



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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The *Kerrville Festival of the Arts* event will be held Memorial Day Weekend, May 28-29, 2016 in Historic Downtown Kerrville. Event organizers have requested in-kind police services for overnight security during the event. The total value of this request is \$2,640.

RECOMMENDED ACTION

City staff is requesting consideration of the request as presented.

Agenda Item:

3C. Professional services agreement with Freese and Nichols, Inc. to provide engineering and construction management services related to the distribution lines for the reuse pond project in an amount not to exceed \$926,500.00. (staff)

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

SUBJECT: Authorize the City Manager to execute a Professional Services Agreement with Freese and Nichols to provide engineering and construction management services related to the distribution lines for the reuse pond project in an amount not to exceed \$926,500.00.

FOR AGENDA OF: May 10, 2016

DATE SUBMITTED: April 6, 2016

SUBMITTED BY: Kristine Day
Deputy City Manager

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Professional Services Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$926,500.00	\$13,393,190.00	\$14,100,00.00	Project # U08

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The attached Professional Services Agreement provides for engineering design and construction administration related services of the proposed Kerrville Reuse Pond Distribution System. The overall project will consist of design, bid and construction phase services for approximately 31,200 linear feet of 6, 8, 10 and 12-inch distribution lines from the existing system to the following proposed customers.

Riverhill Country Club
Schreiner University
Athletic Complex
Peterson Middle School Campus
H.E.B. Tennis Facility

The scope for this design also includes survey, geotechnical services and SCADA.

RECOMMENDED ACTION

Staff recommends authorizing the City Manager to enter into a Professional Services Agreement with FNI to provide engineering and construction administration services related to the to the distribution lines for the reuse pond project in an amount not to exceed \$926,500.00.

PROFESSIONAL SERVICES AGREEMENT

[FIRM: Freese and Nichols | PROJECT-SERVICES: City of Kerrville Reuse Distribution System – Design, Bid and Construction Phase Services]

THIS AGREEMENT is entered into the _____ day of _____, 2016 (“Effective Date”), by and between the **CITY OF KERRVILLE, TEXAS** (“CITY”) and **FREESE AND NICHOLS**, (“CONSULTANT”), and at times, collectively referred to herein as “parties”.

WHEREAS, CITY hires CONSULTANT to perform certain work and services set forth in Scope of Services, marked **Exhibit A**, and attached hereto and incorporated herein, toward completion of the Project; and

WHEREAS, CONSULTANT agrees to perform said work and services as specified under Article I of this Agreement;

NOW, THEREFORE, the parties agree as follows:

I. CONSULTANT’S SERVICES

CONSULTANT shall perform and pay for all labor, tools, materials, equipment, supplies, transportation, and management necessary to perform all services set forth in **Exhibit A** and all other professional services reasonably inferable from **Exhibit A** and necessary for complete performance of CONSULTANT’s obligations under this Agreement, collectively referred to herein as “Services”. CITY may, at any time, stop CONSULTANT from performing the Services upon giving CONSULTANT written notice. To the extent of any conflict between the terms of this Agreement and **Exhibit A**, the terms of this Agreement will prevail.

II. CONSULTANT’S RESPONSIBILITIES

A. CONSULTANT, upon its review of a general description of the Project provided by CITY, has prepared and provided to CITY the specific Services required to complete the Project, which is attached as **Exhibit A**.

B. CONSULTANT shall use its best efforts, skill, judgment, and abilities in performing the Services in an expeditious and timely manner consistent with the applicable professional standards of care and the orderly progress of the Project. CONSULTANT shall at all times provide sufficient personnel to accomplish the Services in a timely manner. CONSULTANT shall manage the Services, administer the Project, and coordinate other professional services as necessary for the complete performance of CONSULTANT’s obligations under this Agreement. CONSULTANT shall periodically report the status of the Services to CITY as is appropriate to keep CITY informed as to the status of the work.

C. CONSULTANT shall perform the Services in compliance with all applicable federal, state, and municipal laws, to include building codes and accessibility standards (e.g., Americans with Disabilities Act) and with those of any other entity having jurisdiction over the Project. In

addition, CONSULTANT shall perform the Services in a manner consistent with generally accepted standards for its profession.

D. Plans, drawings, specifications, and/or other reports produced by CONSULTANT (collectively referred to herein as "Design Documents") pursuant to the Services must be reasonably accurate and free from material errors or omissions. CONSULTANT shall promptly correct any known or discovered error, omission, or other defect in the Design Documents without any additional cost or expense to CITY and notify of CITY of same.

E. CONSULTANT shall designate a representative primarily responsible for its performance of the Services. The designated representative shall act on behalf of CONSULTANT with respect to all phases of the Services and shall be available as required for the benefit of the Project and CITY. CONSULTANT shall not change the designated representative without prior written approval of CITY, which approval may not be unreasonably withheld.

III. CITY'S RESPONSIBILITIES

A. CITY has provided CONSULTANT with a general description of the Project.

B. CITY shall furnish surveys, geotechnical reports, or other special investigations or tests, including structural, mechanical, and chemical, for the Project site as requested by the CONSULTANT and as reasonably necessary for the completion of the Services. The parties will agree to this work prior to entering into this Agreement and such work will not be included as part of the Services specified in **Exhibit A**.

C. CITY shall review the Design Documents and shall notify CONSULTANT of any design fault or defect in the Services or Design Documents of which CITY becomes aware.

D. CITY shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Services.

E. CITY designates KYLE BUROW, ACTING CITY ENGINEER, (830) 258-1410 as its representative authorized to act on its behalf with respect to the Project.

IV. PAYMENT

CITY shall compensate CONSULTANT for the Services in the amount and manner described and set forth in the Payment Schedule, attached hereto and incorporated herein as **Exhibit A**. The amount will not exceed **\$926,500.00**.

V. TIME FOR PERFORMANCE

A. CONSULTANT shall commence its work immediately upon the parties' execution of this Agreement and proceed diligently with said work, except for delays beyond the reasonable control of CONSULTANT.

B. In the event CONSULTANT's performance of this Agreement is delayed or interfered with by acts of CITY or others, CONSULTANT may request an extension of time for the performance of same as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays unless such delays exceed 90 days.

C. CITY is not obligated to approve and may not approve any allowance of an extension of time for any cause whatever claimed or made by CONSULTANT, unless CONSULTANT shall have made written request upon CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and unless CITY and CONSULTANT have agreed in writing upon the allowance of additional time to be made.

VI. DOCUMENTS

A. CONSULTANT shall submit all Design Documents to CITY for approval. All Design Documents must be professionally sealed as required by law or by CITY.

B. CONSULTANT shall deliver the Design Documents, together with any necessary supporting documents, to CITY and CITY has unlimited rights, for the benefit of CITY, in all Design Documents, including the right to use same on any other work of CITY without additional cost to CITY. If CITY uses the Design Documents on any work of CITY other than that specified in the Services, then under those circumstances and only to the extent allowed by law, CONSULTANT, its officers, agents, servants, and employees will not be liable for damages or claims arising from any inaccuracy or any use of the Design Documents with respect to such other work, and except where CONSULTANT participates in such other work.

C. CONSULTANT grants CITY a royalty-free, perpetual license and right, to survive the termination of this Agreement, to all Design Documents which CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws. This license includes CITY's right to use and reproduce these documents as necessary to implement any CITY project which may require the use of these documents. Further, CONSULTANT acknowledges that CITY is subject to Chapter 552 of the Government Code, commonly known as the "Texas Public Information Act," and hereby waives and releases the CITY from any claims against CITY for providing copies of the Design Documents in compliance with that Act. CONSULTANT, after completion of the Project, shall immediately furnish originals of all Design Documents to CITY.

D. CONSULTANT shall ensure that all text documents supplied to CITY as provided herein are fully compatible with MS Word and that all drawings are fully compatible with Adobe PDF format.

VII. TERMINATION

A. CITY or CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the other party. In the event suspension or termination is without cause, CITY's payment to CONSULTANT, in accordance with this

Agreement, will be made on the basis of the Services reasonably determined by CITY to be satisfactorily performed to date of suspension or termination. In addition, CITY's payment is subject to the CONSULTANT's delivery of all documents and reports reasonably required by CITY, to include Design Documents, invoices, statements, and accounts.

B. Should CITY require a modification to this Agreement, and in the event CITY and CONSULTANT fail to agree upon such modification, either CITY or CONSULTANT have the option of terminating this Agreement. Thereafter, CITY shall pay CONSULTANT in accordance with this Agreement for the Services mutually agreed upon by CITY and CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

VIII. INSURANCE

CONSULTANT shall provide and maintain in full force and effect during the term of this Agreement the following types of insurance and liability coverage:

A. Workers Compensation Insurance: in an amount meeting statutory requirements of the State of Texas on all CONSULTANT's employees carrying out the Services.

B. Automobile Liability Insurance: with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage must include all owned, hired, and non-owned motor vehicles used in the performance of this Agreement by CONSULTANT or its employees.

C. General Liability Insurance: on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage and for Bodily Injury and Property Damage, no less than \$1,000,000. As a minimum, coverage for Premises, Operations, Products, and Completed Operations shall be \$2,000,000. This coverage must protect the public or any person from injury or property damages sustained by reason of CONSULTANT or its employees providing the Services. The general aggregate must be no less than \$2,000,000.

D. Professional Liability Errors and Omissions Insurance: with limits of liability not less than \$1,000,000 per occurrence covering all work performed by CONSULTANT, its employees, subcontractors, or independent contractors. If this coverage may only be obtained on a "claims made" basis, the certificate of insurance must clearly state coverage is on a "claims made" basis and coverage must remain in effect for at least two years after final payment with CONSULTANT continuing to furnish the City certificates of insurance.

E. Subcontractor: in the case of any work sublet, CONSULTANT shall require subcontractor and independent contractors working under the direction of either CONSULTANT or a subcontractor to carry and maintain the same workers compensation and liability insurance required of CONSULTANT.

F. Qualifying Insurance: the insurance required by this Agreement must be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B"

or better by the A.M. Best Companies. All policies must be written on a “per occurrence basis” and not a “claims made” form.

IX. INDEMNIFICATION FOR INJURY AND PERFORMANCE

A. CONSULTANT shall protect, indemnify, and hold harmless CITY, its officers, agents, servants, and employees, hereinafter individually and collectively referred to as “Indemnitee(s)”, from and against suits, actions, claims, losses, liability, or damage of any character and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages, or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of CONSULTANT, its officers, employees, servants, agents, or subcontractors, or anyone else under CONSULTANT’s, direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of the Services, or from conditions created by the performance or non-performance of said work. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, CONSULTANT shall indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

B. CONSULTANT is not responsible for the actions of the CITY’s contractor to perform the construction of the improvements covered under this Agreement.

C. Acceptance and approval of any work or final plans by CITY neither constitutes nor may be deemed a release of this responsibility and liability of CONSULTANT, its employees, associates, agents, and consultants for the accuracy or competency of their designs, working drawings, and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by CITY for any defect in the Design Documents, or CONSULTANT’s employees, contractor, agents, and consultants.

X. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION

CONSULTANT agrees that it is an independent contractor and not an agent of CITY, and that CONSULTANT is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONSULTANT’s employees as employees of CITY for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. **CONSULTANT shall indemnify and hold CITY harmless and reimburse it for any expenses or liability incurred under said statutes in connection with employees of CONSULTANT.**

XI. INDEMNIFICATION FOR PERFORMANCE

CONSULTANT shall defend and indemnify Indemnitees against and hold CITY and the premises harmless from any and all claims, suits, or liens based upon or alleged to

be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation, and management costs incurred by CONSULTANT in performing the Services.

XIV. DEFAULT OF CONSULTANT

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with this Agreement as to the quality or character of the Services or time of performance, and the failure is not corrected within ten (10) days after written notice from CITY to CONSULTANT, CITY may, at its sole discretion, without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed will equal actual costs, including reasonable salaries and travel expenses of CONSULTANT to and from meetings called by CITY at which CONSULTANT is required to attend, but shall not include any loss of profit of CONSULTANT. In the event of such termination, CITY may complete the services in any manner deemed proper by CITY, either by the use of its own forces or by assigning the work to others. In either event, CONSULTANT is liable for all costs in excess of the total contract price under this Agreement incurred to complete the Services and CITY may deduct the costs CITY incurs out of such monies as may be due or that may thereafter become due to CONSULTANT under this Agreement.

B. CITY may, without terminating this Agreement or taking over the Services, furnish the necessary materials, equipment, supplies, and/or help necessary to remedy the situation, at the expense of CONSULTANT.

XV. MISCELLANEOUS PROVISIONS

A. Entire Agreement. This Agreement supersedes all prior agreements, written or oral, between CITY and CONSULTANT and constitutes the entire and integrated Agreement and understanding between the parties with respect to the subject matter of the Agreement. This Agreement may only be amended by a written instrument signed by both parties.

B. Assignment. This Agreement is a personal service contract for the services of CONSULTANT and CONSULTANT's interest in this Agreement, duties hereunder, and/or fees due may not be assigned or delegated to a third party without the written consent of CITY. Sale of more than fifty percent (50%) ownership of CONSULTANT will be considered an assignment.

C. Adjustment in Services. CONSULTANT shall not make any claims for extra services, additional services, or changes in the Services without a written agreement with CITY prior to the performance of such services.

D. Applicable Law. This Agreement must be construed, interpreted, and applied in accordance with and governed by and enforced under the laws of the State of Texas without giving effect to principles of conflict of law. Venue will occur in Kerr County, Texas.

E. Waiver. A delay or omission by either party in exercising any right or power under the Agreement may not be construed as a waiver of that right or power. A waiver by either party of any term or condition of the Agreement may not be construed as a waiver of any subsequent breach of that term or condition or of any other term or condition of the Agreement. Further, neither CITY's review, approval, or acceptance of, nor payment for any of the Services may be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

F. Severability. If any provision of this Agreement is determined to be invalid or unenforceable in any respect, that determination may not affect any other provision of this Agreement which will be interpreted as if the invalid or unenforceable provision had not been included.

G. Independent Contractor. CONSULTANT agrees that CONSULTANT is engaged as an independent contractor and that City has no responsibility to provide CONSULTANT or its employees with any benefits associated with employee status. CONSULTANT shall neither hold itself out as nor claim to be an officer, partner, employee, or agent of CITY.

H. Exhibits. The following exhibit(s) is attached to this Agreement and are included herein for all purposes:

Exhibit A Scope of Services

I. Execution Becomes Effective. This Agreement is effective as of the Effective Date.

J. Notices and Authority. CONSULTANT shall send all notices required under this Agreement to the City Manager at City Hall, 701 Main Street, Kerrville, TX 78028. CONSULTANT agrees that only the City Manager, or designee, has the authority to represent CITY or bind CITY under this Agreement. CITY shall send all notices required under this Agreement to the CONSULTANT at:

Freese and Nichols
BY: _____
TITLE: _____
ADDRESS: 4040 Broadway, Suite 600
San Antonio, Texas 78209

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OWNER
THE CITY OF KERRVILLE

CONSULTANT
FREESE AND NICHOLS

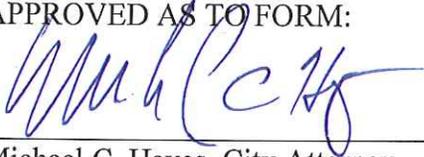
BY: _____
NAME: TODD PARTON,
TITLE: CITY MANAGER

BY: _____
NAME: _____
TITLE: _____

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Michael C. Hayes", written over a horizontal line.

Michael C. Hayes, City Attorney



**CITY OF KERRVILLE, TEXAS
KERRVILLE REUSE DISTRIBUTION SYSTEM
EXHIBIT A - SCOPE OF SERVICES**

GENERAL SCOPE AND PROJECT DESCRIPTION:

This document provides details for the design of the proposed Kerrville Reuse Distribution System for the City of Kerrville. The proposed reuse distribution lines have been identified and included in Exhibit A.

The overall project will consist of design, bid and construction phase services. The general aspects of the proposed project are defined below along with our understanding of the improvements as it pertains to the project.

Kerrville Reuse Distribution System consists of the following scope:

1. Proposed Distribution Mains - Approximately 31,200 linear feet of 6, 8, 10 and 12-inch distribution lines will be installed from different points along the existing reuse system to each existing and proposed reuse customer.

Existing reuse customers include:

- a. Comanche Trace Golf Course
- b. Kerr County Animal Shelter
- c. Schriener Golf Course
- d. Tivy High School

Proposed reuse customers include:

- b. Riverhill Country Club
- c. Schreiner University
- d. Kerrville Athletics Complex
- e. Peterson Middle School

2. SCADA, Metering and Valving Improvements at Existing Customer Sites

Control valves, meters and SCADA instrumentation will be provided at each of the existing customer sites indicated above.

1.0 PROJECT ASSUMPTIONS:

A. REUSE DISTRIBUTION LINES TO SERVE PROPOSED CUSTOMERS

1. All distribution lines will be installed within existing ROW along the alignments indicated in Exhibit A. A detailed routing study is not included within the scope of this project. If the ROW is surveyed and no alignment is found, any efforts for additional survey or identifying alternate routes is an additional service.
2. Distribution mains for proposed customers will be designed to a point of delivery designated by the City of Kerrville. This does not include any improvements for storage or distribution beyond that point.
3. Alignment of reuse line crossing the Guadalupe River along Veterans HWY (534) will need to be evaluated during the project. There are three possible routes identified:

- a. The line may be able to be hung from the TXDOT 534 bridge. FNI will coordinate with TXDOT and the City to evaluate if this is a viable option.
- b. Mounting the line to the low water crossing, Legion Crossing Rd.
- c. Boring the Guadalupe River on the south side of 534.

FNI will evaluate the three options and provide the City with a recommendation. If the reuse line is to be hung from the bridge, or mounted to the low water crossing, any structural engineering and coordination with TxDOT will be an additional service. GLO permitting fees for crossing the Guadalupe River are not included in this scope.

4. The following permanent and temporary easements for the reuse lines are anticipated for the project, all other easements will be an additional service:
 - a. Schriener Golf Course, plus 2 additional easements for alignment to HWY 16, three total.
5. Reuse lines will be drawn in plan view only, 2 views per sheet. Profile views will only be provided at TXDOT ROW crossings and at the crossing of the Guadalupe River, if that option is selected.
6. It is assumed that trench repair will be specified for lines constructed within paved areas. Scope and fee does not include complete pavement and striping rehabilitation.

B. REUSE DISTRIBUTION LINE TO CONNECT TO EXISTING DISTRIBUTION SYSTEM

1. A distribution line will be installed within existing city property along the alignment indicated in Exhibit A to connect from the pump station to be constructed as part of the reuse pond project to the existing reuse distribution system. No additional easements will be required for this line.
2. This distribution line will be designed and constructed to meet the demands of the existing customers as well as the proposed customers.
3. The reuse distribution line will be drawn in plan view only, 2 views per sheet. Profile views will only be provided at TXDOT ROW crossings if applicable.
4. It is assumed that trench repair will be specified for the distribution line constructed within paved areas. Scope and fee does not include complete pavement and striping rehabilitation.

C. IMPROVEMENTS AT EXISTING CUSTOMER PONDS

At existing ponds, FNI will prepare modifications to the existing inlets to provide a control valve, meter and associated instrumentation. Modifications will be indicated using site photographs, available aerial mapping and generic details. Existing pond sites will not be surveyed for development of individual site plans. No other modifications to the ponds are included in this scope. It is assumed the City will coordinate access to the site for the Contractor and no permanent or construction easements will be required.

D. ELECTRICAL SYSTEM IMPROVEMENTS AT EXISTING CUSTOMER SITES

1. Data Flow Systems for the City of Kerrville SCADA will be bid as a pre-negotiated fee
2. No security systems will be required at remote sites
3. All SCADA at remote sites will be owned and operated by the City

4. The existing sites have existing electrical services and spare circuits for new equipment

E. CONSTRUCTION DOCUMENTS, PERMITS, PUBLIC MEETINGS

1. Project will be designed as one project with one set of plans and specifications. The project will be configured to allow for dividing the project after bid into a maximum of 2 construction projects, and be able to be awarded to up to 2 contractors.
2. Review fees of any kind from city, state, federal or other sources will be paid by the client and are not included in this proposal.
3. Public Meetings are not included.
4. Improvements to existing reuse lines and/or additional reuse lines are not included within this scope of work.

2.0 SUBCONSULTANTS:

- A. Surveyor
- B. Geotechnical Drilling
- C. Geotechnical Testing Lab

3.0 BASIC SERVICES: FNI shall provide the following professional services in connection with the development of the Kerrville Reuse Distribution System:

A. PROJECT MANAGEMENT

1. Prepare subconsultant agreements as required for the project.
2. Conduct Project Kickoff Meeting with City Staff: Purpose of this meeting is to introduce the FNI project team to City staff, establish project communications protocols, confirm project goals and objectives, review scope, schedule and budget, and coordinate initial project tasks.
3. Quality Assurance/Quality Control: FNI will develop and implement a QA/QC plan for the work.

B. GEOTECHNICAL ENGINEERING FOR DISTRIBUTION SYSTEM MAINS

This section provides details for the geotechnical investigation for the proposed Kerrville Reuse Distribution System line.

1. Field Exploration
 - a. Select appropriate locations for the Guadalupe River crossing along Veterans Highway (534) for exploratory borings. The Engineer will coordinate with the City of Kerrville and Texas 811 regarding underground utilities within the vicinity of the planned boring locations and obtain relevant right-of-way permit(s) prior to commencement of the field exploration activities.
 - b. Subcontract with a drilling contractor to drill a total of two (2) 80-foot borings. If room is not available to drill off the pavement, the borings will be drilled through the existing pavement within alternate travel lanes or roadway shoulders, when possible.
 - 1) Subsurface samples will be collected using 3-inch diameter Shelby tubes for cohesive soils and a 2-inch diameter split-spoon sampler in conjunction with the Standard Penetration Test (SPT) for intermediate and non-cohesive soils. Rock

and rock-like materials will be tested in-situ using the TxDOT Cone Penetration Test or the SPT, as appropriate for the material.

- 2) Groundwater observations within the borings will be recorded at the time of drilling and at the completion of drilling and sampling.
 - 3) At completion of drilling and sampling, the borings will be backfilled with auger cuttings and the pavement section will be patched to match the existing pavement surface.
 - 4) Traffic control consisting of flagmen, cones, and signs is not included in this scope.
- c. Provide an Engineer or Geologist experienced in logging borings to direct the drilling, log the borings, and handle and transport the samples. Visual classification of the subsurface stratigraphy shall be provided according to ASTM D2488 and the Unified Soil Classification System (USCS) during drilling and sampling.
2. Laboratory Testing
- a. Testing shall be performed on samples obtained from the borings to determine soil classification and pertinent engineering properties of the subsurface materials.
 - b. The Engineer will select samples for laboratory testing, assign tests, and review the test results.
 - c. Laboratory tests will be appropriately assigned for the specific subsurface materials encountered during exploration, but are expected to include:
 - 1) Classification tests (liquid and plastic limits and percent passing the no. 200 sieve or gradation)
 - 2) Moisture content
 - 3) Dry unit weight
 - 4) Unconfined compressive strength
3. Data Report
- a. Prepare a Geotechnical Investigation Report summarizing the field exploration, laboratory testing, and engineering analysis to include the following:
 - 1) Appendix with the boring locations, boring logs, laboratory test results, and a key to the symbols used.
 - 2) Discussion of subsurface conditions and soil properties indicated by the field and laboratory work and the implications for design.
 - 3) Earthwork related recommendations for use during development of plans and specifications.
 - b. Submittals will include one (1) paper copy and one (1) electronic PDF copy of the Geotechnical Investigation Report.

C. SURVEY AND EASEMENT PREPARATION

The proposed survey scope of work will consist of topographical survey. This work will be performed by a subconsultant under the direction of FNI.

1. Provide topographical survey and survey of existing features and structures within the project limits. The project limits include the ROW for all of the proposed distribution mains as indicated in Exhibit A. No survey is included within existing or proposed customer sites.
2. Provide survey of geotechnical borings.
3. Research utilities and easements within the project boundaries. Obtain drawings of existing agency and municipal owned utilities and include locations of these utilities in the survey.
4. Coordinate utility marking with Dig Tess (level B), conduct survey and locate utilities within the project boundary. Obtain the services of a utility locator service (such as DIGTESS) and coordinate flagging of existing franchise utilities. Tie in the locations of the existing utilities on the survey.
5. Subsurface utility exploration (SUE) may be provided by the City as directed by the Engineer. Surveyor shall coordinate and survey uncovered utilities.
6. Provide control staking for the project. Construction staking shall be provided by the Contractor.
7. Parcels and Field Notes
 - a. Perform deed, plat and courthouse record research and prepare metes and bounds descriptions, survey parcels and field notes for up to 3 possible impacted parcels of land for permanent and temporary easement acquisition. The descriptions shall each contain drawing Exhibit A and verbal description Exhibit B, in accordance with State surveying standards.
 - b. Obtain copies of deeds and easement documents.
 - c. Survey existing property corners, fences and appurtenant property evidence along the alignment route.
 - d. Stake Final easement corridor from alignment data.
 - e. Show ownership and adjoiner ownership data for properties along the route.
 - f. Revise parcel descriptions and field notes per comments and final title report.
 - g. Stake all parcels.

D. ENVIRONMENTAL EVALUATION AND PERMITTING

1. The scope outlined below assumes that there is no major opposition in the permitting process and that there are no unusual permitting problems. If opposition develops or permitting problems occur, the scope and fee limit will be revised and submitted to Owner for approval. The scope of work does not include studies, reports, permit applications, etc. for electrical power line easements or utility relocation. This scope assumes that the project can be designed and authorized under the terms and conditions of Nationwide Permit (NWP) 12, Utility Line Activities, or other NWP, without a pre-construction notification.
2. Prior to making a field visit, FNI will obtain information for the vicinity such as soils maps, National Wetland Inventory maps, topographic maps, floodplain maps, and other readily available, pertinent data. This information will be evaluated to guide the field survey described below. FNI's scientists will conduct a pedestrian survey of the

proposed water reuse distribution system, existing ponds, and associated facilities to assess the site conditions.

3. Waters of the U. S. are regulated by the USACE and require a permit for activities conducted within the jurisdictional boundaries. The presence of jurisdictional waters such as ephemeral, intermittent, or perennial streams; wetlands; or other open waters will be documented and mapped. FNI will prepare a technical memorandum that will include a description of field observations described above; and if so, the type(s) of waters; an estimate of the area of impact to waters of the U.S.; and a discussion of USACE 404 permit authorizations.
 4. Threatened and Endangered Species. Conduct reconnaissance-level field surveys within the area of the proposed water reuse ponds to identify potential habitat and document any threatened or endangered (T&E) species encountered. Emphasis will be on federally listed species, but the Texas Parks and Wildlife Department T&E species database will be reviewed and documented. The results of the T&E species review will be documented in a site visit memorandum.
 5. The Antiquities Code of Texas was passed in 1969. It requires that the Texas Historical Commission staff review any action that has the potential to disturb historic and archaeological sites on public land.
 6. Additional actions that need review under the Antiquities Code of Texas include any construction program that takes place on land owned or controlled by a state agency or a state political subdivision, such as a city or a county.
 7. If there is a requirement for a Section 404 permit, compliance with the conditions of the National Historic Preservation Act is required. No activity which may affect historic properties listed or eligible for listing in the National Register of Historic Places can be authorized until the USACE District Engineer has complied with the provisions of 33 CFR part 325, Appendix C.
 8. Freese and Nichols, Inc. environmental scientist will provide desktop review of the Texas Archaeological Research Laboratory (TARL) to determine the likelihood and potential extent of coordination with the Texas Historical Commission (THC). Subsequent activities, potentially including shovel test and/or backhoe trenching, may require the services of a qualified archaeologist, as an additional service.
 9. FNI will provide the Storm Water Pollution Prevention Plan (SWPPP) for the project.
- E. 30% DESIGN PHASE: FNI shall provide professional services in this phase as follows:
1. Project Plans for this phase shall consist of:
 - a. Plan of existing conditions
 - b. Construction survey and project features controls
 - c. Horizontal alignment of proposed reuse lines
 - d. Critical details to support proposed concept
 - e. Proposed easement boundaries identified
 - f. General electrical sheets and system architecture
 2. Meetings/Site Visits
 - a. Project Kickoff Meeting with the City

- b. Project site visit for environmental permitting
 - c. Project site visit for survey coordination, maximum of 2.
 - d. Site visits for data collection and coordination, maximum of 3.
 - e. Attend 30% design review meeting with the City
3. Deliverables
- a. Monthly 1-Page Reports
 - b. Project schedule
 - c. FNI will provide separate submittals for each project at the 30% submittal as follows:
 - 1) 5 hard copies in 22"x34" (full-size) format
 - 2) 1 electronic copy in PDF via FTP
 - 3) Opinion of Probable Construction Cost (OPCC)
 - d. Environmental Memorandum
- F. 60% DESIGN PHASE: FNI shall provide professional services in this phase as follows:
- 1. Project Plans for this phase shall consist of:
 - a. Finalized horizontal alignment based on 30% comments
 - b. Profile views at all TxDOT crossings
 - c. Finalized and approved easement boundaries
 - d. Typical sections of critical project features
 - e. Critical details to support proposed concept
 - f. Electrical one-line diagrams, locations of control racks, legends and demolition plans.
 - 2. Meetings/Site Visits
 - a. Attend 60% design review meeting with the City
 - 3. Deliverables
 - a. Monthly 1-Page Reports
 - b. Project schedule
 - c. 3 copies of parcel/easement documents, as required
 - d. FNI will provide separate submittals for each project at the 60% submittal as follows:
 - 1) 5 hard copies in 22"x34" (full-size) format
 - 2) 1 electronic copy in PDF via FTP
 - 3) Opinion of Probable Construction Cost (OPCC)
- G. 99% DESIGN PHASE:
- 1. Project plans for this phase shall be substantially completed drawings, all sheets: general site drawings, civil drawings, structural drawings with reinforcement details,

- mechanical and electrical drawings. Contract documents and project specifications will be provided during this phase.
2. After City review, FNI will issue complete signed and sealed drawings, issued for bid and agency review. FNI will provide engineering reports, plans and required documentation required for applicable agency review, including the TCEQ, TxDOT and other agencies.
 3. Meetings/Site Visits
 - a. Attend 99% design review meeting with the City
 4. Deliverables
 - a. Monthly 1-Page Reports
 - b. Project Schedule
 - c. FNI will provide separate submittals for each project at the 90% submittal as follows:
 - 1) 5 hard copies in 22"x34" (full-size) format
 - 2) 5 hard copies of contract documents and project specifications.
 - 3) 1 electronic copy in PDF via FTP
 - 4) Opinion of Probable Construction Cost (OPCC)
- H. BID OR NEGOTIATION PHASE: Upon completion of the design services indicated above, and approval bid drawings and specifications by City, FNI will proceed with the performance of services in this phase as follows:
1. Meetings:
 - a. Prebid Meeting: Assist the City in conducting one pre-bid conference for the construction project and coordinate responses with City. Response to the pre-bid conference will be in the form of addenda issued after the conference.
 - b. Bid Opening: Attend project bid opening and open bids as required by the City. FNI will attend one bid opening.
 2. Bid Phase Services:
 - a. FNI will set up the projects on CivCastusa.com to distribute the bid documents to prospective bidders and plan rooms. Electronic sets of documents will be made available at no charge to plan holders. Hard copy plans will not be provided by the Engineer except as indicated below.
 - b. Assist City by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders if necessary.
 - c. Tabulate and analyze the bids received. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project.
 - d. Recommend award of contracts or other actions as appropriate to be taken by City.
 - e. Provide Notice of Award of Contract to the Contractor and provide letter with directions for the execution of the contract documents.

- f. Assist City in the preparation of the Construction Contract Documents.
- 3. Phase Deliverables (FNI will provide documents for 2 contracts, if the project is divided after bid):
 - a. Conformed Construction Documents
 - 1) For contract execution:
 - 3 copies of the contract documents (6 maximum)
 - 2) For City for use during construction:
 - a. 3 hard copies in 22"x34" (full-size) format (6 maximum)
 - b. 5 hard copies in 11"x17" (half-size) format (10 maximum)
 - c. 5 hard copies of contract documents and project specifications. (10 maximum)
 - d. 1 electronic copy in PDF via FTP
 - 3) For Construction Contractor:
 - a. 3 hard copies in 22"x34" (full-size) format (6 maximum)
 - b. 5 hard copies in 11"x17" (half-size) format (10 maximum)
 - c. 5 hard copies of contract documents and project specifications. (10 maximum)
- I. CONSTRUCTION PHASE:

The construction phase scope and fee is based on services to manage one construction contract. If multiple contractors are selected for the project, additional construction management and support will be an additional service.

- 1. Upon completion of the bid or negotiation phase services, FNI will proceed with the performance of construction phase services for one project as described below.
- 2. FNI will endeavor to protect the City in providing these services however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor.
- 3. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.
- 4. These services are based on the use of FNI standard General Conditions for construction projects. Modifications to these services required by use of other general conditions or contract administration procedures are an additional service. If general conditions other than FNI standards are used, the City agrees to include provisions in the construction contract documents that will require the construction contractor to include FNI and their subconsultants on this project to be listed as an additional insured on contractor's insurance policies.

5. FNI will furnish construction contract administration services in support of full time on-site inspection personnel provided by the Owner.
6. Meetings:
 - a. Pre-Construction Meeting: Assist the City in conducting one pre-construction conference with the Contractor and prepare project meeting minutes.
 - b. Weekly Construction Progress Meetings: FNI will attend weekly progress meetings by phone conference. Progress meetings will be conducted by the City.
 - c. Construction Site Visits: Make up to 7 site visits during the course of construction (estimated to be approximately 7 months construction schedule), as distinguished from the continuous services of a Resident Project Representative, to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Contract Documents. Site visits in excess of the specified number shall be considered an Additional Service.
 - d. Punchlist Meeting: Conduct, in company with City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation of final payment. Visiting the site to review completed work in excess of one trip is an additional service.
7. Construction Phase Services:
 - a. Establish and maintain a project documentation system consistent with the requirements of the construction Contract Documents.
 - b. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation.
 - c. Produce monthly reports indicating the status of all submittals in the review process.
 - d. Review contractor's submittals, including:
 - 1) Requests for information
 - 2) Modification requests
 - 3) Shop drawings
 - 4) Schedules
 - 5) Certified test reports
 - 6) Other submittals
 - e. Monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.
 - f. Notify City of Contractor's non-conforming work observed on site visits. Review quality related documents provided by the contractor such as test reports, equipment installation reports or other documentation required by the Construction Contract Documents.
 - g. Interpret the drawings and specifications for City and Contractor. Investigations, analyses, and studies requested by the Contractor and approved by City, for

substitutions of equipment and/or materials or deviations from the drawings and specifications is an additional service.

- h. Coordinate the work of testing laboratories and inspection bureaus required for the testing or inspection of materials, witnessed tests, factory testing, etc. for quality control of the Project. The cost of such quality control shall be paid by the City and is not included in the services to be performed by Freese and Nichols, Inc.
- i. Consult with and advise the City during construction, make recommendations to the City regarding materials and workmanship, and prepare change orders with the City's approval.
- j. Review samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of material and test equipment, and other data pursuant to the General Conditions of the Construction Contract.
- k. Assist the City in arranging for testing of materials and laboratory control during construction to be conducted at the City's expense.
- l. Review and comment on monthly and final estimates for payment to Contractor pursuant to the General Conditions of the Construction Contract.
- m. Conduct, in company with the City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Contract Documents, and review and comment on the Certificate of Completion and the recommendation for final payment to the Contractor.

8. Phase Deliverables:

- a. Monthly 1-Page Reports.
- b. Project site visit memos and construction progress meeting minutes
- c. Project Record Drawings:
 - 1) 2 sets of full size plans
 - 2) 1 set of full size plans on mylar
 - 3) CD with Record Drawings in PDF Format, project survey files, project CAD files in AutoCad or Microstation formats and shapefiles in GIS format if needed.

4.0 **ADDITIONAL SERVICES:** Additional Services to be performed by FNI, if authorized by the City, which are not included in the above described basic services, are described as follows:

- A. Design of proposed customer ponds, reuse lines within existing and proposed customer properties and any valving, SCADA or electrical coordination for proposed customers.
- B. Archeological services required by the Texas Historical Commission
- C. Coordination of review and approval of construction documents by TCEQ Dam Safety
- D. Clearing of trees to access geotechnical boring locations
- E. Preparation of construction traffic control plan(s).
- F. Furnishing full time on-site construction Resident Representation services.
- G. Furnishing Special Inspections required under chapter 17 of the International Building Code. These Special Inspections are often continuous, requiring an inspector dedicated to inspection of the individual work item, and they are in addition to General Representation

and Resident Representation services noted elsewhere in the contract.

- H. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by the City.
- I. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- J. Providing shop, mill, field or laboratory inspection of materials and equipment.
- K. Preparing Operation and Maintenance Manuals or conducting operator training.
- L. Preparing data and reports for assistance to the City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- M. Assisting City in claims disputes with Contractor(s).
- N. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the plans and specifications.
- O. Assisting City in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this proposal. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this proposal.
- P. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
- Q. Construction Staking.
- R. Additional Environmental Services - Freese and Nichols will notify the City if any of the following services will be necessary to comply with USACE permit requirements. The following services can be provided as an additional service and upon written authorization by the City:
 - 1. Performing special environmental studies and other studies not specifically described in the basic scope of services.
 - 2. Tree survey
 - 3. Presence/absence surveys for federally listed threatened/endangered species.
 - 4. Consultation with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species act.
 - 5. Expert witness representation in legal proceedings or contested permit hearings.
 - 6. Preparation of permittee-responsible mitigation plans in accordance with the USACE Mitigation Rule dated April 10, 2008 (33 CFR Parts 325 and 332) or other regulations.
 - 7. Cultural resources investigation, mitigation, or data recovery activities.
 - 8. Mitigation monitoring if required by permit conditions.
 - 9. Monitoring for compliance with permit conditions.



- 10. Testing for site contamination, and remediation of contaminated properties.
- 11. Environmental Site Assessments (ESA's).
- S. Archaeological testing requiring excavations by a backhoe or excavator and any other efforts required by the state beyond those specifically indicated in the Basic Services.

5.0 SCHEDULE

TIME OF COMPLETION: FNI is authorized to commence work on the Project upon execution of this AGREEMENT and agrees to complete the services in accordance with the following schedule:

Milestone/Deliverable	Calendar Days
Anticipated Notice to Proceed	June 2016
30% Design Phase Submittal	165 days from Notice to Proceed
60% Design Phase Submittal	90 days following receipt of comments from City on 30% Design Submittal
99% Design Phase Submittal	60 days following receipt of comments from City on 60% Design Submittal
TCEQ Review Time, if required	60 Days
Anticipated Issued for Bid	October 2017
Anticipated Issued for Construction	December 2017
Construction Completion	July 2017
Provide Record Drawings	30 days from Project Completion

If FNI's services are delayed through no fault of FNI, FNI shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in City or regulatory reviews, delays on the flow of information to be provided to FNI, governmental approvals, etc.

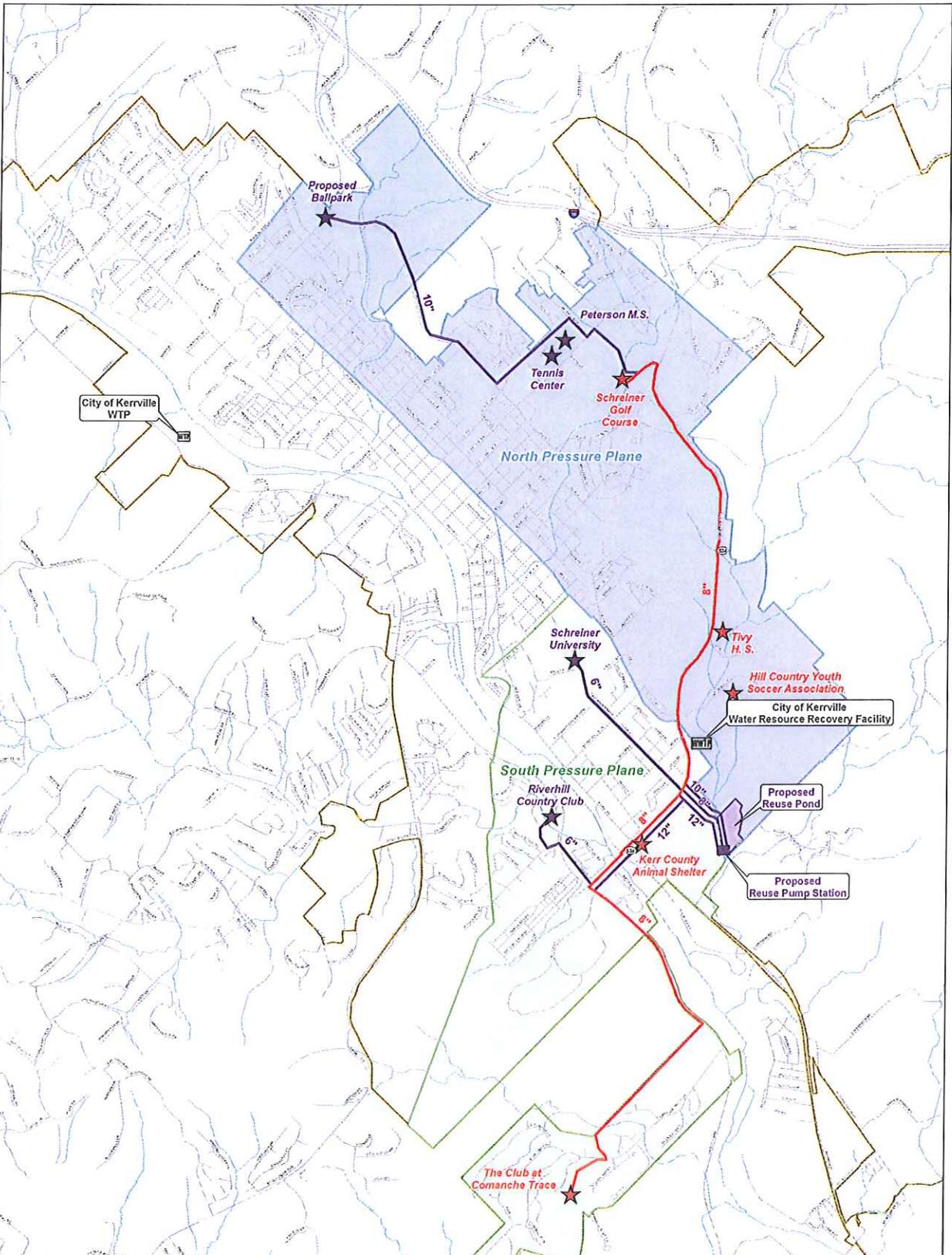
6.0 COMPENSATION

Basic Services

Compensation to FNI for the Basic Services shall be the lump sum of \$926,500.00. If FNI sees the Scope of Services changing so that additional services are needed, including but not limited to those services described as Additional Services, FNI will notify City for City's written approval before proceeding.

FEE BREAKDOWN FOR REUSE DISTRIBUTION SYSTEM

PHASE	COMPENSATION
Reuse Distribution Main Design	\$677,500
Bid Phase Services	\$17,000
Construction Phase Services	\$76,000
Survey	\$156,000
TOTAL REUSE DISTRIBUTION SYSTEM	\$926,500



**EXHIBIT A
CITY OF KERRVILLE
EXISTING AND PROPOSED REUSE SYSTEM**

LEGEND

- | | |
|-----------------------------|----------------------|
| Wastewater Treatment Plant | Existing Customer |
| Water Treatment Plant | Proposed Customer |
| Proposed Reuse Pump Station | Proposed Reuse Line |
| Road | Existing Reuse Line |
| Stream | North Pressure Plane |
| City Limit | South Pressure Plane |



Agenda Item:

4A. Application by the City of Kerrville to the Kerrville Economic Improvement Corporation for a maximum of \$3 million for construction of reuse distribution lines. (staff)

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

SUBJECT: Application by the City of Kerrville to the Kerrville Economic Improvement Corporation for a maximum of \$3 million for construction of reuse distribution lines

FOR AGENDA OF: Mar. 22, 2016 **DATE SUBMITTED:** Mar. 16, 2016

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

EXHIBITS: Letter from Riverhill Golf Club
Letter from Schreiner University

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

Attached are letters from Riverhill Country Club and Schreiner University stating that they are interested in purchasing reuse water provided that the City of Kerrville funds the design and construction of the infrastructure from the reuse pond to their on-site delivery points. The City of Kerrville may use 4B sales tax revenues to fund the utility extensions to these users as well as to the Kerrville athletics complex on Holdsworth Drive.

It is estimated that the construction cost of the distribution mains to the golf course, university, and athletics complex would not exceed \$3 million. This estimate includes a 20% contingency. The use of these funds would decrease the amount of funds that the city planned to borrow from KPUB for the reuse water project.

At question is whether the City Council is willing to fund the cost of the infrastructure to deliver the effluent to the Riverhill Country Club and to Schreiner University. This would be consistent with the city's development agreement with Comanche Trace where the City of Kerrville extended its effluent distribution system to the development and the developer then funded the construction of the on-site storage and internal distribution system.

Should the City Council agree to the extension of the reuse distribution lines as requested, letters of intent with each entity should be executed prior to initiating design.

RECOMMENDED ACTION

City staff recommends the following:

1. that the City Council agree to extend the reuse distribution lines to the Riverhill Country Club and Schreiner University as requested by both entities. Said extension to be restricted to the delivery of reuse water to an on-site delivery point at which point the entity would fund and construct its own on-site storage and distribution systems;
2. that the City Council direct staff to negotiate and execute letters of intent with Riverhill Country Club and Schreiner University for the extension of the reuse distribution lines; and
3. that the City Council authorize city staff to apply to the Kerrville Economic Improvement Corporation for a maximum amount of \$3 million to fund the construction of the effluent distribution infrastructure to the Riverhill Country Club, Schreiner University, and athletics complex.

Todd Parton

Subject: FW: Effluent Water to Riverhill Country Club

From: jjunker@southerngolfproperties.com [mailto:jjunker@southerngolfproperties.com]

Sent: Friday, April 01, 2016 10:01 AM

To: Jack Pratt <jpratt@jack-pratt.com>; Jack Pratt <jpratt@jackpratt.net>

Cc: Charles Midkiff <cmidkiff@orionpartnersinc.com>

Subject: Effluent Water to Riverhill Country Club

Mayor Pratt,

This email is confirmation that Riverhill Country Club is interested in moving forward with the City of Kerrville on the Effluent Water project pending the agreement that the EIC will be funding the infrastructure and engineering costs for the Effluent water project for the City of Kerrville.

Please confirm receipt of this letter and let me know if you need further information.

Sincerely,



Schreiner University

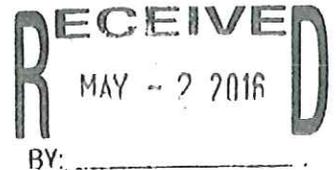
LEARNING BY HEARTSM

OFFICE OF THE
VICE PRESIDENT FOR
ADMINISTRATION
AND FINANCE

2100 MEMORIAL BLVD.
KERRVILLE, TEXAS 78028-5697
830.792.7355

April 25, 2016

City Council
City of Kerrville
701 Main Street
Kerrville Texas, 78028



Honorable Mayor and City Council,

Please accept this letter as confirmation that Schreiner University is interested in working with the City of Kerrville to receive reuse water through the city's planned water reuse project pending an agreement that the City of Kerrville funds the infrastructure and engineering costs for the off-site extension of reuse water to the university's property through its 4B sales tax revenues or other such revenues as the city may deem appropriate.

The university would cause to be constructed at its sole expense the on-site infrastructure improvements to use the reuse water for irrigation purposes and would convert to reuse water within two years of the completion of the off-site infrastructure.

Schreiner University looks forward to working with the City of Kerrville on this very exciting and important project.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Muse".

Bill Muse
Vice President for Administration & Finance

cc: Dr. Tim Summerlin, President, Schreiner University

Agenda Item:

4B. Select development team(s) pursuant to request for qualifications 2016-01 for a potential workforce housing project located at 300 Peterson Farm Road.
(staff)

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

SUBJECT: Select development team(s) pursuant to Request for Qualifications 2016-01 for a potential workforce housing project located at 300 Peterson Farm Road

FOR AGENDA OF: May 10, 2016 **DATE SUBMITTED:** May 6, 2016

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

At its regular meeting of April 22, 2016, the City Council voted to initiate Request for Qualifications 2016-01 (RFQ) to solicit sealed proposals for a workforce housing project contemplated at 300 Peterson Farm Road. This is the property that was originally acquired by the City of Kerrville Economic Improvement Corporation for the relocation of the USDA tick lab.

This RFQ process will allow the City Council to consider submissions from interested development teams and to consider one that it feels is qualified to work with city through a public private partnership. This is a non-binding process and will not result in contractual obligation of any of the parties. City Council could reject any and all submissions.

Two entities responded with qualified submissions, 210 DG out of San Antonio and MacDonald out of Kerrville. The respondents were interviewed by a panel that consisted of the following individuals:

City of Kerrville – Jack Pratt, Todd Parton, Kristine Day, and Trent Robertson; and
KEDC – Jonas Titas.

Upon completing the interviews, the panel reviewed the submissions of both respondents according to the evaluation criteria established in the RFQ.

RECOMMENDED ACTION

Based upon its review of the submissions and the results of the interview, the panel recommends that the City Council select MacDonald Companies as the development team and authorize the city manager to execute a memorandum of understanding.

Should a development team be selected and a memorandum of understanding selected, the city would begin working with the development team to prepare a detailed development concept for consideration by the City Council.

Agenda Item:

5A. Beautification Advisory Committee. (Mayor Pratt)

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

SUBJECT: Appointments to the Kerrville Beautification Advisory Committee

FOR AGENDA OF: May 10, 2016 **DATE SUBMITTED:** May 4, 2016

SUBMITTED BY: Brenda Craig
City Secretary *BC* **CLEARANCES:** Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

SUMMARY STATEMENT

Consider appointments to the following board:

Kerrville Beautification Advisory Committee: Three positions with terms that expired December 11, 2014, and two positions with terms that expired December 11, 2015.

RECOMMENDED ACTION

Consider appointments.

BEAUTIFICATION ADVISORY COMMITTEE

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
DOUGLASS, BRANDON Chair 909 Tanglewood Lane	739-9882 (O)	12-11-12		12-11-15
WILLIAMSON, JAMES Vice-Chair Secretary 432 Fitch Street	257-2860 (H) 257-9673 (W)	08-13-13		12-11-14
RISHER, JOHN 114 Crestwood Dr.	459-3336 (H)	05-28-13		12-11-15
TRITENBACH, DAVID 216 Riverhill Blvd.	895-1953 (H)	12-11-12		12-11-14
VACANT				12-11-14

COUNCIL EX-OFFICIO: Jack Pratt

Staff Contact Person:

David Barrera 258-1223

Qualifications: Resident of the city.

Purpose:

- Evaluate the community on issues and matters pertaining to beautification of the community and to provide a report to the City Council;
- Educate the public and increase awareness regarding beautification of the community;
- Prepare and implement a beautification recognition program as approved by the City Council;
- Coordinate community beautification efforts;
- Prepare and present to the City Council for its consideration and approval a set of goals and objectives for a community beautification program; and
- Provide a report to the City Council at least twice a year on Kerrville Beautification Advisory Committee matters.

Term of Office: Two years; maximum of two consecutive terms

Quorum: Majority

Number of Members: Minimum of three, no more than five.

Meeting Time & Place: First Thursday of each month; 1:00 p.m.; City Hall Upstairs Conference Room.

Established by: Resolution 40-2012, November 13, 2012

Revised: February 26, 2016

Agenda Item:

5B. Mayor's Youth Advisory Council. (Mayor Pratt)

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

SUBJECT: Appointments to the Mayor's Youth Advisory Council

FOR AGENDA OF: May 10, 2016

DATE SUBMITTED: May 6, 2016

SUBMITTED BY: Brenda Craig
City Secretary 

CLEARANCES: Todd Parton
City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

SUMMARY STATEMENT

Consider appointments to the Mayor's Youth Advisory Council

RECOMMENDED ACTION

Consider appointments to the Mayor's Youth Advisory Council.