AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY JULY 12, 2011, 6:00 P.M.

CITY HALL COUNCIL CHAMBERS

800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, JULY 12, 2011, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Reverend Randall Carr of the Kerrville Church of Christ.

PLEDGE OF ALLEGIANCE TO THE FLAG led by Al Kardos of the Military Officers Association of America.

1. VISITORS/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. 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. 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 council approve the following items which will grant the Mayor or City Manager the authority to execute all documents necessary for each transaction:

2A. Authorize the execution of a professional services agreement with LNV, Inc. to provide professional engineering design services for a route study and preliminary engineering survey and design of the G Street wastewater interceptor in an amount not to exceed $87,265.00. (staff)

2B. Authorize the execution of a professional services agreement with Pape-Dawson Engineers, Inc. to provide professional engineering design services for a route study and preliminary engineering survey and design of the Riverhill/Ridgewood storage tank transmission line in an amount not to exceed $99,000.00. (staff)

2C. Authorized execution of a design services and license agreement with James Avery Craftsman, Inc. for the inaugural art piece to be placed at Earl Garrett and Main streets. (staff)

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

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: July 8, 2011 at 3:00 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

2D. Approval of a one year extension to the interlocal cooperation contract for City of Kerrville ambulance/emergency medical services to the Department of State Health Services on behalf of its facility, Kerrville State Hospital located at 721 Thompson Drive. (staff)

END OF CONSENT AGENDA

3. ORDINANCE, SECOND AND FINAL READING:

3A. An ordinance amending Chapter 58, Article II "food establishments" of the Code of Ordinances of the City of Kerrville, Texas, by adding a new Section 58-33 "mobile food establishments", to establish regulations applicable to mobile food vending and to require a permit for such activities; containing a cumulative clause; containing a savings and severability clause; ordering publication; providing for an effective date; and providing other matters relating to the subject. (staff)

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Request by Hill Country Telephone Cooperative to install two internet protocol (IP) cameras (web-cams) in the city of Kerrville. (Margie Dominguez, HCTC)

4B. A resolution providing for the city's approval or disapproval of the Kerrville-Kerr County Joint Airport Board's fiscal year 2012 budget. (staff)

4C. Interlocal agreements between the City of Kerrville and Kerr County regarding fire, emergency medical services, library, airport, and animal control operations. (staff)

4D. Zoning Ordinance Input Committee's (ZOIC) review of the zoning ordinance. (staff)

4E. Update regarding Lower Colorado River Authority Transmission Services Corporation (LCRA-TSC) application for the proposed McCamey D to Kendall to Gillespie CREZ project PUC Docket No. 38354; City of Kerrville, Kerrville Public Utility Board, and City of Junction v. PUC, Cause No. D-1-GV-000324, in the 98th District Court of Travis County. (staff)

5. INFORMATION AND DISCUSSION:

5A. Update on Library statistics. (staff)

5B. Budget and economic update. (staff)

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Brenda Craig

City Secretary, City of Kerrville, Texas

6. BOARD APPOINTMENTS:

6A. Golf course advisory board. (staff)

7. ITEMS FOR FUTURE AGENDA

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

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

9. EXECUTIVE SESSION:

The City Council reserves the right to adjourn into executive session at any time to discuss any of the matters listed as permitted by law 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:

Section 551.071:

- LCRA Transmission Services Corporation proposed McCamey D to Kendall to Gillespie 345-kV CREZ Transmission Line in Schleicher, Sutton, Menard, Kimble, Mason, Gillespie, Kerr, and Kendall Counties, Texas. Public Utility Commission of Texas (PUC) Docket No. 38354; City of Kerrville, Kerrville Public Utility Board, and City of Junction v. PUC, Cause No. D-1-GV-000324, in the 98th District Court of Travis County.

10. ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION

11. ADJOURNMENT.

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Brenda Craig

City Secretary, City of Kerrville, Texas

Agenda Item:
(Staff)

2A. Authorize the execution of a professional services agreement with LNV, Inc. to provide professional engineering design services for a route study and preliminary engineering survey and design of the G Street wastewater interceptor in an amount not to exceed $87,265.00.

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

SUBJECT: Council authorization for the City Manager to execute a Professional Services Agreement with LNV, Inc. to provide professional engineering design services for a Route Study and Preliminary Engineering Survey and Design of the G Street Wastewater Interceptor.

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: June 29, 2011

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

CLEARANCES: Kristine Ondrias
Assistant City Manager

EXHIBITS: Professional Service Agreement

AGENDA MAILED TO: LNV, Inc.
Attention: Derek Naiser, P.E.
801 Navigation, Suite 300
Corpus Christi, TX 78408

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
$87,265.00	$308,000.00	$308,000.00	W98

PAYMENT TO BE MADE TO: LNV, Inc.
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

As part of the FY2011Budget, the G Street Interceptor Design project was approved and funded by FY2011 Water & Sewer Debt in the amount of $308,000.00. In lieu of commencing with full design services, the Engineering Department is submitting this phase of the project so that a route for the wastewater main can be finalized and easement acquisition initiated prior to developing the final set of construction documents.

This project was identified in the 2008 Water & Wastewater Master Plan to relieve the Legion Lift Station and to decommission the G Street Lift Station. The plan calls for new 24"/27" sewer mains/interceptors to be constructed so that flows can be conveyed from the G Street Basin to the New Birkdale Lift Station that is currently under design & slated for construction commencement this year (2011).

LNV, Inc. was selected as the design engineer for this project based upon their experience and qualifications with municipal wastewater systems. LNV has also served as the design consultant for the Safe Routes to School Project and the Phase 2 & 3 Wastewater Inflow and Infiltration Rehabilitation/Replacement Project. LNV's fee proposal for this project is summarized in the following table:

Engineering Service	Proposed Not to Exceed Feed
Surveying	$14,178.00
Preliminary Engineering (Report, Plan & Profile, Environmental Study, & Reimbursables)	$50,287.00
Easement Allowance for 19 Easement Exhibits	$22,800.00
Total	**$87,265.00**

RECOMMENDED ACTION

The Director of Engineering recommends the City Council authorize the City Manager to execute a Professional Services Agreement with LNV, Inc. to provide professional engineering design services for a Route Study and Preliminary Engineering Survey and Design of the G Street Wastewater Interceptor in an amount not to exceed $87,265.00.

Professional Services Agreement

Between

LNV Incorporated and The City of Kerrville

THIS AGREEMENT is made as of this _____ day of _____, 2011, between the CITY OF KERRVILLE, a Texas home rule municipality with principal offices at 800 Junction Highway, Kerrville, Texas, 78028-5069, hereinafter referred to as "CLIENT", and LNV Incorporated, with its offices at 8918 Tesoro Drive, Suite 401, San Antonio, Texas 78217, hereinafter referred to as "ENGINEER", for the performance of professional engineering services in consideration of the following terms, conditions, and agreements:

PART I. SERVICES

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

A. ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by ENGINEER under this Agreement, ENGINEER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and others services.

B. ENGINEER hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work or services under this Agreement.

C. ENGINEER shall hold periodic conferences with CLIENT or CLIENT's representatives to the end that the Project as developed shall have the full benefit of CLIENT's experience and knowledge and be consistent with CLIENT's objectives for this Project.

D. ENGINEER shall periodically report Project status to CLIENT as is appropriate to keep CLIENT informed regarding project progress.

E. ENGINEER shall perform all services under this Agreement in a manner which is consistent with generally accepted standards of professional engineering practice.

PART II. CLIENT'S RESPONSIBILITIES

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

ENGINEER whenever CLIENT observes or otherwise becomes aware of any defect in ENGINEER's submissions.

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

1. Furnish to ENGINEER, upon ENGINEER's notification that data is required, data including but not limited to core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; geologic assessments, environmental impact studies, and endangered species studies; and any other information previously made available to CLIENT, which may be required by ENGINEER; all of which ENGINEER may rely upon as accurate in performing ENGINEER's services provided, however, ENGINEER shall not be entitled to rely on any inaccuracy or incompleteness of information or services provided by CLIENT or at CLIENT's direction if a professional ENGINEER using generally accepted engineering practices and procedures would have discovered such inaccuracy or incompleteness reviewing any other data other than the document or information provided.

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

3. Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project.

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

PART III. WORK ORDER AMENDMENTS

A. CLIENT may at any time, by written Work Order, make changes relating to services to be performed. If such changes cause an increase or decrease in ENGINEER's cost of, or time required for, performance of any services, an agreeable equitable adjustment shall be made and reflected in a properly executed Work Order. ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date of receipt by ENGINEER of the notification of change, unless CLIENT grants a further period of time before the date of final payment under this Agreement.

B. No services for which additional compensation will be charged by ENGINEER shall be furnished without a properly executed Work Order signed by CLIENT.

C. In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after

the date of execution of this Agreement, the increased or decreased cost of performance of the services provided in this Agreement and subsequent Work Orders shall be reflected in an appropriate Work Order.

PART IV. COMPENSATION

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

PART V. PAYMENTS

ENGINEER will invoice CLIENT monthly in accordance with the terms and conditions as set forth in **Exhibit A**. CLIENT agrees to promptly pay ENGINEER at its office at 8918 Tesoro Drive, San Antonio, Texas 78217, the full amount of each such invoice upon receipt. In no event shall ENGINEER's failure to invoice constitute a default under the terms and conditions of this Agreement.

PART VI. INSURANCE

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

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

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

PART VII. TERMINATION

A. CONDITIONS OF TERMINATION

This Agreement and/or Work Order(s) may be terminated without cause at any time prior to completion of ENGINEER's services, either by CLIENT or by ENGINEER, upon written notice to the other at the address of record. Upon receipt of written notice from CLIENT to discontinue work, ENGINEER shall discontinue work under this Agreement immediately. In the event CLIENT terminates the Agreement based on CLIENT's reasonable opinion ENGINEER has failed or refused to prosecute the work efficiently, promptly, or with diligence, ENGINEER shall have fifteen (15) business days, from the receipt of written notification by CLIENT, to cure such failure to perform in accordance with the terms of the Agreement.

B. ACTIONS ON TERMINATION

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

C. COMPENSATION PAYABLE ON TERMINATION

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

PART VIII. RISK ALLOCATION

In recognition of the relative risks, rewards and benefits of the project to both the Owner and the ENGINEER, the risks have been allocated such that the Owner agrees that, to the fullest extent permitted by law, the ENGINEER's total liability to the Owner for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement from any cause or causes, shall not exceed total Fees paid to the ENGINEER. Such causes include, but are not limited to, the ENGINEER's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

PART IX. MISCELLANEOUS

A. REUSE OF DOCUMENTS

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

B. OPINION OF COST

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

C. LATE PAYMENT

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

D. ATTORNEY'S FEES

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

E. PERIOD OF SERVICE

ENGINEER shall diligently pursue completion of services and shall promptly inform CLIENT of any anticipated delay. ENGINEER shall not be liable or responsible for any delays caused by circumstances beyond ENGINEER's control.

F. SUCCESSORS AND ASSIGNS

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

G. CONTROLLING LAW; VENUE

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

H. SEVERABILITY AND WAIVER

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

I. EXTENT OF AGREEMENT

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

J. AMENDMENTS

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made a part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. No one has authority to make variations in, or additions to the terms of this Agreement on behalf of ENGINEER other than the undersigned Principal, and then only in writing.

Executed on this _____ day of _____, 2011.

CITY OF KERRVILLE

BY: _____
Jeffrey Todd Parton,
City Manager

APPROVED AS TO FORM:

_____
Heather Stebbins,
Assistant City Attorney

LNV Incorporated

BY: _____

_____, _____
(Name) *(Title)*

ATTEST:

_____
Brenda G. Craig, City Secretary

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July 5, 2011

Michael Wellborn, P.E.
Director of Engineering
City of Kerrville
800 Junction Hwy.
Kerrville, TX 78028

RE: G Street Interceptor Project
Engineering Services Fee Proposal - Revised

Dear Mr. Wellborn,

Please find enclosed LNV Inc.'s revised fee proposal for professional services for the above-referenced project.

Project Understanding
The City's Water and Wastewater Master Plan (2008) calls for a new 24"/27" sewer interceptor to send existing and future wastewater flows from the existing G Street Lift Station to the proposed Birkdale Lift Station. This project will involve development of a preliminary engineering report for the proposed new 24"/27" gravity main. The new main will start at the current G Street Lift Station location, generally follow along the Guadalupe River and terminate at the proposed Birkdale Lift Station (approximately 8,000 linear feet). The proposed Birkdale Lift Station will be constructed on the East Side of Bandera Highway, across from the existing Birkdale Lift Station. The proposed Birkdale Lift Station is currently in design and is scheduled to be bid in September 2011.

The Rio Robles Mobile Home and RV Park is currently being served with a 12" main that runs from the north to the south along one of their properties (Property ID 17149). In the future, the City would like to tie in their services into a new 18" main that would run closer to the river through another of their parcels (Property ID 13888). The new 18" gravity main as depicted in the Master Plan will be up-gradient of and connected to the G Street Interceptor at its start point (near the existing G Street Lift Station location). It will convey some of the flows from the Jefferson Lift Station through a proposed force main that will cross the river near the library. LNV has been requested to also evaluate the feasibility of a portion of this 18" gravity main from the G Street lift station location proceeding north through the Rio Robles, Inc. Property and tying in the existing Rio Robles service lines into the new main.

8918 TESORO DRIVE | SUITE 401 | SAN ANTONIO, TEXAS 78217

OFFICE 210.822.2232 | FAX 210.822.4032 | WWW.LNVINC.COM

EXHIBIT "A"

Project Approach
The following describes the project tasks and deliverables:

Task 110 – Study and Report Phase (Preliminary Engineering Report)
Under this task, LNV and Hewitt Engineering, Inc. will develop a Preliminary Engineering Report (PER) for the proposed 24"/27" sewer interceptor. A separate section of the report will also be developed for approximately 900 feet of the proposed 18" gravity sewer (going upstream and north from the existing G Street Lift Station) across the Rio Robles, Inc. property to evaluate the feasibility of tying the Rio Robles property into it. For the purposes of the report, the alignment of this section of proposed 18" main and new main to connect to Rio Robles will be evaluated by assuming TCEQ minimum slope and a minimum of 3 ft. of cover. It will also be assumed that the proposed invert of the new 18" main at the tie in point to the G Street Interceptor will be the same or lower than the invert elevation of the existing 15" main where it ties into the G Street Lift Station.

The PER will be developed based on the City's GIS information, field investigations, limited topographic surveying, existing deed records, and the existing and proposed flows reported in the City's 2008 Master Plan.

LNV and Hewitt Engineering (HE) will perform the following subtasks as part of Tasks 110A and 110B:

- Project meetings and coordination with City (up to 2 meetings);
- Project Site Visits to gather data and determine existing site conditions;
- Collection and review of pertinent design documents and data (design memos, as-built drawings, proposed lift station plans, City's Master Plan);
- Utility coordination (Obtain and review utility block maps, correspond with utility companies concerning potential conflicts);
- Research deed records and determine owners of properties along proposed alignment;
- Obtain right-of-entry from property owners for survey and field investigations;
- Evaluate feasible horizontal alignments, identify recommended and alternative alignment and easement locations (up to three alignments);
- Develop and evaluate vertical alignments for recommended route and (up to three) alternatives. Route will be proposed to avoid need for aerial crossings and siphons if possible;
- Verify proposed size of main based on proposed profile (slope), and master plan flows;
- Prepare a schematic alignment exhibit and strip map for proposed alignment. Strip map will include R.O.W limits, property lines, and property ownership information;
- Identify potential alternatives for pipe materials and construction methods;
- Identify Federal and State regulatory requirements and permits needed;
- Conduct Environmental Study of the proposed alignment to identify possible environmental conflicts (wetlands, endangered species, historical/archeological sites). Environmental Study will be limited to a field investigation, records search, and a desktop review of available documents.

- Notifications to US Army Corps of Engineers, Texas Historical Commission and TX Parks and Wildlife for concurrence with results of environmental study.
- Develop a project schedule for design through construction;
- Coordination with TxDOT for locations in or near TxDOT ROW and identification of any TxDOT permit requirements;
- Development of Construction Cost Estimate for proposed main;
- Preparation and submittal of the draft PER (5 copies) which will include recommendations for preferred route and strip map to facilitate ROW/Easement Acquisition;
- Review and addressing City comments on the PER; and
- Submission of a Final PER (4 copies).

It is anticipated that Hewitt Engineering, Inc. will perform approximately 30% of the work for this contract and will be responsible for completing the major tasks associated with utility coordination, deed research, right of entry, and evaluation of feasible horizontal alignments.

Task 210 – Survey for Preliminary Engineering
Under this task, LNV will perform a limited topographic survey of the proposed alignment in order to develop a schematic profile for the proposed sewer main. The topographic survey will include a limited number of ground cross sections along the route (especially at major grade changes and drainage locations), verification of invert elevations at tie-in points and tying in existing improvements along the proposed route. LNV will also verify property boundaries of affected properties along the proposed alignment and locate all major trees (8-inch in diameter and larger).

Task 512 – Easements
Under this task, LNV will perform the necessary field boundary surveying for proposed permanent sanitary sewer (or combined sewer and water) easements. At this time it is anticipated that at least nineteen (19) permanent easements will be needed (including the easement across the Rio Robles, Inc. Property). LNV will also provide easement documents (exhibits and metes and bounds descriptions) signed and sealed by a Texas Registered Professional Land Surveyor.

Please note that the scope and fee noted within this proposal **does not include** the following:

- Existing or future service area and flow determinations;
- Final Design phase services;
- Bid phase services;
- Construction phase services;
- Geotechnical Engineering;
- Stream Velocity and Scour Analysis;
- Recommendations or design of stream or embankment protections;
- Environmental permitting or design;

- Full topographic survey of the proposed sanitary sewer main alignment.

Our fee proposal for the City of Kerrville G Street Interceptor Project based on the above scope of work is **$ 87,265.00**. It is anticipated that the Basic Services can be completed in 90 calendar days. Following is a breakdown of the fee proposal:

BASIC SERVICES	FEE
Preliminary Engineering	$ 50,287.00
Survey for PER	$ 14,178.00
Total Basic Services	**$ 64,465.00**
ADDITIONAL SERVICES	
Easements	$ 1,200.00 per easement
Estimated @	19 Ea.
Total Not to Exceed Amount	**$ 22,800.00**
TOTAL FEE PROPOSAL AMOUNT	**$ 87,265.00**

Basic services amounts are lump sum fees that will be invoiced based on percent complete. Additional services amounts for easements (preparation of plat and field notes) are not to exceed amounts. Please note that up to 19 easements are anticipated at this time.

Final scope and fee for additional services will be identified during the preliminary engineering design phase. LNV will provide written request for authorization of scope and fee prior to starting work on additional services.

If you have any questions or concerns, please feel free to contact me at 210-822-2232. We look forward to working with you on this project.

Sincerely,
LNV, Inc.
TBPE Firm No. F-366

Derek E. Naiser, P.E.
Vice President

Agenda Item:

(Staff)

2B. Authorize the execution of a professional services agreement with Pape-Dawson Engineers, Inc. to provide professional engineering design services for a route study and preliminary engineering survey and design of the Riverhill/Ridgewood storage tank transmission line in an amount not to exceed $99,000.00.

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

SUBJECT: Council authorization for the City Manager to execute a Professional Services Agreement with Pape-Dawson Engineers, Inc. to provide professional engineering design services for a Route Study and Preliminary Engineering Survey and Design of the Riverhill/Ridgewood Storage Tank Transmission Line.

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: June 29, 2011

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

CLEARANCES: Kristine Ondrias
Assistant City Manager

EXHIBITS: Professional Service Agreement

AGENDA MAILED TO: Pape-Dawson Engineers, Inc.
Attention: Paul A. Bizier, P.E., BCEE
555 East Ramsey
San Antonio, Tx 78216

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
$99,000.00	$100,000.00	$100,000.00	N/A

PAYMENT TO BE MADE TO: Pape-Dawson Engineers, Inc.
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

As part of the FY2011Budget Amendment approved during the June 28th Council meeting, the Riverhill/Ridgewood Storage Tank Transmission Line project was created as a three (3) step process to the larger CIP projects requiring land and easement acquisition. This first phase of the project will be to delineate the most practical alignment of the water transmission main so that easement acquisition can then be initiated and finalized prior to commencement of the final design phase. This project has been identified as a solution to multiple future CIP projects in the Water/Wastewater Master Plan to provide needed capacity and the ability to fill the Ridgewood Elevated Storage Tank. The final design and construction phases will be included as part of the FY12 CIP.

This phase of the project is funded at $100,000.00 through W/S Cash from the closure of W85 - UTC Building Project ($39,172.82); 2010 W/S Bond Funds from the closure of W91 - SH 27 Fire Flow Enhancement project ($16,934.15); and Fund 71 – W/S Capital projects fund balance ($43,938.03).

This project includes the construction of a 16" water transmission main to accommodate future higher flow rates from the expanded Riverhill Pump Station improvements. The

dedicated 16" water main, with appropriate interconnections to the existing mains within the Stadium Pressure Plane, will increase the current flow capacities to the River Hills elevated tank and improve system operating pressures within the entire Stadium Pressure Plane, and enhance the system's ability to maintain desired water levels in all of the existing water storage tanks.

Pape-Dawson Engineers, Inc. (P-D) was selected as the design engineer for this project based upon their experience and qualifications with municipal water systems and their familiarity with the city's water infrastructure after their preliminary engineering report on the High Service Pump at the Water Treatment Plant Clearwell. P-D's proposal is summarized in the following table:

Engineeering Service	Proposed Not to Exceed Feed
Surveying	$32,000.00
Preliminary 16" Water Transmission Design	$20,000.00
Preliminary Environmental & Cultural Restraints Evaluation	$3,000.00
Anticipated Reimbursable Expenses	$2,000.00
Easement Allowance for 42 Easement Exhibits	$42,000.00
Total	**$99,000.00**

RECOMMENDED ACTION

The Director of Engineering recommends the City Council authorize the City Manager to execute a Professional Services Agreement with Pape-Dawson Engineers, Inc. to provide professional engineering design services for a Route Study and Preliminary Engineering Survey and Design of the Riverhill/Ridgewood Storage Tank Transmission Line in an amount not to exceed $99,000.00.

Professional Engineering Services Agreement

Between

Pape-Dawson Engineers and City of Kerrville

THIS AGREEMENT is made as of this _____ day of _____, 2011, between the CITY OF KERRVILLE, a Texas home rule municipality with principal offices at 800 Junction Highway, Kerrville, Texas, 78028-5069, hereinafter referred to as "CLIENT", and Pape-Dawson Engineers with its offices located at 555 East Ramsey, San Antonio, Texas 78216, hereinafter referred to as "ENGINEER", for the performance of professional engineering services in consideration of the following terms, conditions, and agreements:

PART I. SERVICES

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

A. ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by ENGINEER under this Agreement, ENGINEER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and others services.

B. ENGINEER hereby agrees to comply with all Federal, State, and Local laws and ordinances applicable to the work or services under this Agreement.

C. ENGINEER shall hold periodic conferences with CLIENT or CLIENT's representatives to the end that the project as developed shall have the full benefit of CLIENT's experience and knowledge and be consistent with CLIENT's objectives for this project.

D. ENGINEER shall periodically report project status to CLIENT as is appropriate to keep CLIENT informed regarding project progress.

E. ENGINEER shall perform all services under this Agreement in a manner which is consistent with generally accepted standards of professional engineering practice.

PART II. CLIENT'S RESPONSIBILITIES

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

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

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

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

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

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

PART III. WORK ORDER AMENDMENTS

A. CLIENT may at any time, by written Work Order, make changes relating to services to be performed. If such changes cause an increase or decrease in ENGINEER's cost of, or time required for, performance of any services, an agreeable equitable adjustment shall be made and reflected in a properly executed Work Order. ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date of receipt by ENGINEER of the notification of change, unless CLIENT grants a further period of time before the date of final payment under this Agreement.

B. No services for which additional compensation will be charged by ENGINEER shall be furnished without a properly executed Work Order signed by CLIENT.

C. In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after the date of execution of this Agreement, the increased or decreased cost of performance of the services provided in this Agreement and subsequent Work Orders shall be reflected in an appropriate Work Order.

PART IV. COMPENSATION

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

PART V. PAYMENTS

ENGINEER will invoice CLIENT in accordance with the terms and conditions as set forth in **Exhibit A**. CLIENT agrees to promptly pay ENGINEER at its office located at 555 East Ramsey, San Antonio, Texas 78216, the full amount of each such invoice upon receipt. In no event shall ENGINEER's failure to invoice constitute a default under the terms and conditions of this Agreement.

PART VI. INSURANCE

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

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

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

PART VII. TERMINATION

A. CONDITIONS OF TERMINATION

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

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

B. ACTIONS ON TERMINATION

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

C. COMPENSATION PAYABLE ON TERMINATION

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

PART VIII. MISCELLANEOUS

A. REUSE OF DOCUMENTS

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

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

B. OPINION OF COST

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

C. TRENCH SAFETY DESIGN

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

D. LATE PAYMENT

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

E. ATTORNEY'S FEES

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

F. PERIOD OF SERVICE

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

G. CONSTRUCTION OBSERVATION

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

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

ENGINEER shall not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project.

H. SALES AND USE TAXES

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

I. SUCCESSORS AND ASSIGNS

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

J. CONTROLLING LAW; VENUE

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

K. SEVERABILITY AND WAIVER

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and binding

upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed as a waiver of a subsequent breach of the same by the other party.

L. EXTENT OF AGREEMENT

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

M. AMENDMENTS

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made a part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. No one has authority to make variations in, or additions to the terms of this Agreement on behalf of ENGINEER other than the undersigned Principal, and then only in writing.

Executed on this _____ day of _____, 2011.

CITY OF KERRVILLE

BY: _____
Jeffrey Todd Parton,
City Manager

ATTEST:

_____
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

_____
Heather Stebbins, Assistant City Attorney

PAPE-DAWSON ENGINEERS

BY: _____
Paul A. Bizier, P.E., BCEE
Vice President, Water and Wastewater

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June 15, 2011
(revised June 21, 2011)

Mike Wellborn, P.E.
Director of Engineering
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028-5069

Re: Scope for Preliminary Engineering Survey and Design – 16" Water Main

Dear Mr. Wellborn:

Pape-Dawson is pleased to submit this scope for surveying and preliminary design of the proposed 16" water main. As discussed previously, this water main is intended to connect the City's water plant and the River Hills Elevated Storage Tank. The proposed project includes preliminary engineering survey and design of this water main.

For purposes of this scope, the following assumptions have been made:

- The proposed water main will follow essentially the route outlined in the Engineering letter report signed and sealed on May 27, 2011, except that, where feasible, the northern portion of the line shall be constructed parallel to and along the Guadalupe River.
- The City of Kerrville shall be responsible for preparing easement dedication legal documents, obtaining necessary signatures from owners, and filing the documents.
- The City of Kerrville shall be responsible to locate and mark existing utilities owned by the City along the proposed pipeline route.
- The City of Kerrville shall be responsible to locate and expose discharge piping at the water plant.
- Preliminary design shall be in accordance with current (June 2011) City of Kerrville and TCEQ Standards.
- No geotechnical borings will be required for preliminary survey and design.
- All necessary information will be provided by the City of Kerrville in a timely fashion.

Based on these assumptions, the following scope of work will be provided:

I. SURVEYING **$32,000**

- Prior to authorizing surveying, Consultant will meet with City staff to finalize the proposed route to be surveyed. Based on this meeting, the surveyor will be provided a proposed route map for surveying purposes.

- Consultant will perform a preliminary route survey of the proposed water main corridor. This survey, to be performed by MDS Surveying, will include the following items:

  - Determine elevations along proposed pipe centerline and 50' to either side at 200' intervals, and at major grade changes.
  - Locate above-ground improvements along proposed pipe centerline and 50' to either side.
  - Locate markings (by others) of existing underground utilities. MDS shall notify area utilities to mark their infrastructure prior to beginning surveying.
  - Locate abutments for existing roadway bridges.
  - Locate discharge piping at the existing water plant clear well.
  - Locate existing well and discharge piping east of intersection of State Highway 16 and 98.
  - Locate existing rights-of-way and property lines along the proposed alignment.
  - Locate existing easements, based upon information contained in GIS property records. Title searches are not included.
  - Locate major trees (>12" above base height at five (5) feet above existing grades).
  - Locate edges of river banks.
  - Identify required easements. Easement width will be based upon City of Kerrville guidance. Preparation of legal descriptions and graphical exhibits for easements shall be on a unit price basis.

Note: The unit price to prepare legal descriptions for easements, in accordance with Texas Board of Professional Land Surveyors Rule 663, is anticipated to be $1,000 per easement description. Based on the route identified in the May 2011 report, it is anticipated that 42 easements will be required. Therefore, a $42,000 allowance will be provided for preparation of easement descriptions. These easement descriptions will be billed on a unit cost basis.

II. 16" WATER MAIN DESIGN **$20,000**

- Consultant will prepare a preliminary design for the proposed water main. Consultant will prepare plan sheets for the pipeline route, from the water plant to the River Hills elevated storage tank. The drawings will be completed to a 30% level, and will not include profiles or details.
- Consultant will review survey and other data to confirm the limits of the Water of the United States and evaluate the requirements for Army Corps of Engineers Section 404 permitting. These requirements shall be summarized in the final letter report.

- Consultant will review survey and other data to confirm the limits of authority for the Texas Department of Transportation (TxDOT). The permitting requirements for TxDOT shall be summarized in the final letter report.
- Consultant will review survey and other data to confirm the limits of authority for the Texas Parks and Wildlife Department Sand and Gravel permitting. These requirements shall be summarized in the final letter report.
- Consultant will submit four (4) sets of drawings in 24"x36" format, and one electronic copy, to the City for review. These drawings will include strip maps showing the proposed alignment, right-of-way and property lines, and ownership information (obtained from Kerr County GIS).
- Consultant will attend one meeting with City staff to review the 30% drawings and discuss any required revisions.
- Consultant will revise the preliminary drawings as appropriate based on City comments.
- Consultant will prepare a preliminary opinion of probable construction cost (OPCC) based on the 30% drawings.
- Consultant will prepare a preliminary schedule for design, permitting and construction of the proposed improvements. This schedule will be in the form of a bar chart, based on available information and the preliminary design.
- Consultant will submit a brief letter report outlining the proposed construction, together with the preliminary OPCC and the preliminary schedule. This submittal will also include updated preliminary drawings. Four (4) sets of printed copies and one electronic copy shall be submitted.

II. PRELIMINARY ENVIRONMENTAL AND CULTURAL RESTRAINTS EVALUATION $3,000

- Complete an initial walk-through of the project to identify possible sites or areas that may be impacted by proposed construction.
- Prepare brief letter report identifying these areas and provide recommendations for route alignment revisions and further field investigations, if warranted.

III. SUMMARY

I.	Surveying	$32,000
II.	16" Water Main Design	$20,000
III.	Preliminary Environmental & Cultural Restraints Evaluation	$3,000
	Tasks Subtotal:	**$55,000**
	Easement Description Allowance	$42,000
	Direct Expenses	$2,000
	Estimated Total Budget:	**$99,000**

IV. COMPENSATION

Basis of Compensation

Pape-Dawson's compensation for the above services will be a charge for personnel services plus an hourly charge for specialized equipment and computers. A budget of $99,000 is the estimated cost of Pape-Dawson's current understanding of the services identified above. This budget figure does not include any Direct Expenses (defined below) nor applicable sales tax on services.

Direct Expenses shall include reproduction, travel, long distance telephone calls, express mail, special deliveries and subcontractor expenses directly related to these services. Direct Expenses shall include a 10% markup on cost. Direct expenses will be billed separately, and will not exceed $2,000 without prior written authorization by the Client. This budget figure will not be exceeded without written modification of this Agreement.

Agreement

Upon Client's signing of this Proposal, this Proposal and the attached Terms and Conditions become the Agreement between the Client and Pape-Dawson. The services outlined above, through completion of the preliminary plans, will be completed within 75 days of receipt of written authorization and receipt of all rights-of-entry.

We appreciate the opportunity to work with you on this project. Please find attached duplicate originals of our Professional Services Agreement. If this proposal and agreement meets with your approval, please acknowledge such by signing this proposal letter and the attached duplicate originals of the Professional Services Agreement and returning one original of each to our office for our records. Receipt of the executed documents will serve as your authorization for us to proceed with the work.

Sincerely,
Pape-Dawson Engineers, Inc.
Texas Board of Professional Engineers, Firm Registration # 470

Paul A. Bizier, P.E., BCEE
Vice President, Water and Wastewater

Attachment

City of Kerrville

Signature:_____
Name:_____
Title:_____
Date:_____

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PAPE-DAWSON ENGINEERS, INC.
PROFESSIONAL SERVICES AGREEMENT
RE: PRELIMINARY ENGINEERING SURVEY AND DESIGN – 16" WATER MAIN
PART I - TERMS AND CONDITIONS

WHEREAS: This Professional Services Agreement is made and entered into between CITY OF KERRVILLE, hereinafter referred to as "Client" and PAPE-DAWSON ENGINEERS, INC., a Texas corporation, 555 East Ramsey, San Antonio, Texas, 78216-4640, hereinafter referred to as "Engineer". This Agreement consists of two parts, Part I - Terms and Conditions, Part II – Work Order/Proposal - Scope of Services and Compensation.

ARTICLE 1: SERVICES

Engineer agrees to perform Professional Services in conformance with the descriptions, definitions, terms and conditions as set forth herein and on Work Order(s) and/or Proposal, and Amendment(s), subsequently attached hereto.

ARTICLE 2: WORK ORDERS AND PROPOSALS

2.1 Properly executed individual and consecutively numbered Work Order(s) and/or Proposal shall be attached and are hereby made a part of this Agreement.

2.2 The Work Order(s) and/or Proposal shall identify the specific Scope of Services to be performed and the amount and type of compensation for the specific services.

2.3 Client shall authorize and Engineer shall commence work upon Engineer's receipt of the properly executed and signed Work Order(s) and/or Proposal.

ARTICLE 3: CHANGES

3.1 The Client may at any time, by written Amendment, make changes within the general scope of individual Work Order(s) or Proposal relating to services to be performed. If such changes cause an increase or decrease in the Engineer's cost of, or time required for, performance of any services, an equitable adjustment shall be made and reflected in a properly executed Amendment.

3.2 The Engineer is not obligated to begin work on a change of scope or deliver that work product until a properly executed Work Order/Proposal amendment is signed by the Client.

3.3 In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after the date of execution of this Agreement, the increased or decreased cost of performance of the services provided for in this Agreement and subsequent Work Orders/Proposal shall be reflected in an appropriate Work Order/Proposal Amendment.

ARTICLE 4: THE TERM

4.1 Term. Engineer shall be retained by Client as of the date Client executes the attached Work Order and/or Proposal, which together with these Terms and Conditions constitutes the Agreement, and continuing until the Services have been fully performed or until the Engineer's Services are terminated under provisions of the Agreement.

ARTICLE 5: DUTIES

5.1 Access. Client will provide Engineer with access to the Property or to any other site as required by Engineer for performance of the Services.

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

Client shall also do the following and pay all costs incident thereto: Furnish to Engineer core borings, probings and subsurface exploration, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements, and any other information previously made available to the Client, which may be required by Engineer, all of which Engineer may rely upon in performing its services.

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

5.3 Other Information. Engineer will rely upon commonly used sources of data, including database searches and agency contacts. Engineer does not warrant the accuracy of the information obtained from those sources and has not been requested to independently verify such information.

5.4 Indemnity. The Engineer agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless for damages and losses arising from the negligent acts, errors or omissions of the Engineer in the performance of the professional services under this Agreement, to the extent that the Engineer is responsible for such damages and losses on a comparative basis of fault and responsibility between the Engineer and the Client. The Engineer is not obligated to indemnify the Client for the Client's own negligence.

5.5 Ownership of Documents. All designs, drawings, specifications, documents, and other work products of the Engineer, whether in hard copy or in electronic form, are instruments of service for the Services, whether Services are completed or not. Reuse, change or alteration by the Client or by others acting through or on behalf of the Client of any such instruments or service without the written permission of the Engineer will be at the Client's sole risk. Client agrees to indemnify the Engineer, its officers, partners, employees, and subcontractors from all claims, damages, losses, and costs, including, but not limited to, litigation expenses and attorney's fees, arising out of or related to such unauthorized reuse, change or alteration.

5.6 Reporting Obligations. Client has responsibility for complying with all legal reporting obligations. Nothing in the Agreement precludes Engineer from providing any notices or reports that it may be required by law to give to governmental entities.

5.7 Laboratory Services. In performing environmental services, Engineer may make use of an independent testing laboratory. Engineer will not, and Client shall not rely upon

Engineer to, check the quality or accuracy of the testing laboratory's services.

5.8 Changed Conditions. The Client shall rely on the Engineer's judgment as to the continued adequacy of the Agreement in light of occurrences or discoveries that were not originally contemplated by or known to the Engineer. Should Engineer call for contract renegotiation, the Engineer shall identify the changed conditions necessitating renegotiation and the Engineer and the Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the right to terminate the Agreement.

5.9 Opinions of Cost. Should Engineer provide any cost opinions, it is understood that those opinions are based on the experience and judgment of Engineer and are merely opinions. Engineer does not warrant that actual costs will not vary from those opinions because, among other things, Engineer has no control over market conditions.

5.10 Construction Observation. If construction phase services are included in the basic services, the Engineer shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. The Client has not retained the Engineer to make detailed inspections or to provide exhaustive or continuous project review and observation services. The Engineer does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s).

ARTICLE 6: COMPENSATION OF SERVICES

6.1 Compensation of Services. Engineer's compensation for services shall be set forth in individual Work Orders or as identified in Proposal.

Compensation. Client agrees to pay Engineer for Professional Services in accordance with the descriptions, definitions, terms and conditions as set forth herein and in Work Order(s) and/or Proposal, and Amendments subsequently attached hereto. Expenses directly related to these services, including reproduction, travel, long distance telephone bill, express mail, special deliveries and subcontractor expenses shall include a 10% markup on cost.

Payments. Engineer will invoice Client monthly in accordance with the terms and conditions of the Work Order and/or Proposal, and Work Order Amendment for Services and reimbursables. Client agrees to promptly pay Engineer at his office at 555 East Ramsey, San Antonio, Texas 78216, the full amount of each such invoice upon receipt. In no event shall Engineer's failure to bill monthly constitute default under the terms and conditions of this Agreement.

6.2 Sales and Use Tax. Effective July 1, 1990, a State, City and MTA Sales Tax must be collected on Surveying Fees for the establishment of Real Property Boundaries and determining the location of structures or improvements in relation to the boundaries. Charges for prints and reproductions are also subject to a Sales Tax. Client agrees to pay Engineer the applicable Sales Tax on services and said tax is not considered a part of Engineer's compensation for services. In the event subsequent taxes are levied by Federal, State or Local authorities, relating to the services in writing and such modifications as are required shall be made a part of this Agreement.

6.3 Right to Stop Performance. If Client does not pay any amount due to Engineer within thirty (30) days after the invoice date, Engineer may, upon three (3) additional days' verbal or written notice to Client, stop performance of the Services until payment of the amount owed has been received.

6.4 Interest. Payments due and unpaid to Engineer under the Agreement shall bear interest at the rate of twelve percent (12%) per annum, or lesser if required by law, calculated from the date of the invoice, if the payment is not made within thirty (30) days of the date of the invoice.

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

ARTICLE 7: TERMINATION OF SERVICES

7.1 Termination. This Agreement and/or Work Order(s) may be terminated without cause at any time prior to completion of Engineer's services, either by Client or by Engineer, upon written notice to the other at the address of record. Upon receipt of written notice from Client to discontinue work, the Engineer shall discontinue work under this Agreement and/or Work Order immediately. In the event Client terminates the Agreement and/or Work Order based on Client's reasonable opinion the Engineer has failed or refused to prosecute the work efficiently, promptly or with diligence, the Engineer shall have ten (10) days, from the receipt of written notification by Client, to cure such failure to perform in accordance with the terms of this Agreement and/or Work Order(s).

7.2 Compensation in Event of Termination. On termination, by either Client or Engineer, Client shall pay Engineer with respect to all contracted services rendered and expenses incurred before termination an amount fixed by applying the Engineer's Standard Hourly Rates, in force at the time of termination, to all services performed to date, in addition to termination settlement costs the Engineer reasonably incurs relating to commitments which had become firm before the termination.

ARTICLE 8: RELATIONSHIP OF PARTIES

8.1 Independent Contractor: It is understood that the relationship of Engineer to Client shall be that of an independent contractor. Neither Engineer nor employees of Engineer shall be deemed to be employees of Client.

ARTICLE 9. LIMITATION OF LIABILITY

9.1 Limitation of Liability. To the fullest extent permitted by law, the total liability of Engineer and its subconsultants and subcontractors to Client for any and all injuries, claims, losses, expenses, or damages whatsoever from any cause or causes, including, but not limited to, strict liability, breach of contract, breach of warranty, negligence, or errors or omissions (collectively "Claims") shall not exceed the Engineer's total fee. In no event will Engineer, its subconsultants or subcontractors be liable for punitive, special, incidental, or consequential damages.

9.2 No Certification. Engineer shall not be required to sign any documents, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain. The Client also agrees not to make resolution of any dispute with Engineer or

payments of any amount due to Engineer in any way contingent upon Engineer's signing any such certification.

9.3 Execution of Documents. The Engineer shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the sole judgment of the Engineer, increase the Engineer's risk or the availability or cost of its professional or general liability insurance.

ARTICLE 10: MISCELLANEOUS

10.1 Entire Agreement. The Agreement (including any exhibits) contains the entire agreement between Engineer and Client, and no oral statements or prior written matter shall be of any force or effect. The Agreement may be modified only by a written document executed by both parties.

10.2 Governing Law. The Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10.3 Venue. Venue of any action under the Agreement shall be exclusively in Bexar County, Texas.

10.4 Severability. If any provision of the Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision, there shall be added automatically as a part of the Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

10.5 Construction of Agreement. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and revised the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement or any amendments or exhibits.

10.6 Successor and Assigns: Third Party Beneficiary. The Agreement shall be binding upon Engineer, Client and their respective legal representatives, successors and permitted assigns. Neither Engineer nor Client may assign the Agreement nor any right or obligation under it without the prior written consent of the other party. Nothing in the Agreement restricts Engineer's ability to hire subcontractors in connection with the Services. The Services and any report prepared under this Agreement are for the sole benefit and sole use of Client and are not for the use of any other person. Only Client may rely upon the Agreement and the Services, unless Engineer gives Client prior and specific written approval.

10.7 Dispute Resolution. Any claim, dispute or other matter in question arising out of or related to the Agreement of the Services provided thereunder shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation. Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other Party to this Agreement and with the American Arbitration Association. No arbitration arising out of or relating to the Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement. The foregoing agreement to arbitration shall be specifically enforceable in accordance with applicable law in any court having jurisdiction. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

10.8 Mediation: Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to the institution of legal proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or other legal proceedings.

Each party agrees to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their respective subcontractors, suppliers, and subconsultants, thereby providing for mediation as the initial method for dispute resolution between the parties to all those agreements.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the county where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

10.9 No Warranty. Engineer makes no warranty, either expressed or implied, as to Engineer's findings, recommendations, plans, specifications, or professional advice. Engineer has endeavored to perform its services in accordance with generally accepted standards of practice by recognized professional firms in performing services of a similar nature in the same locality, under similar circumstances. Client recognizes that neither Engineer nor any of Engineer's subconsultants or subcontractors owes any fiduciary responsibility to Client.

10.10 Survival of Provisions. Termination of the Services for any reason whatsoever shall not affect (a) any right or obligation of any party that is accrued or vested prior to such termination, and any provision of the Agreement relating to any such right or obligation shall be deemed to survive the termination of the Services or (b) any continuing obligation, liability or responsibility of Engineer and of Client which would otherwise Survive termination of the Services.

10.11 Complaints regarding surveying may be filed with the Texas Board of Professional Land Surveying, Building A, Suite 156, 12100 Park 35 Circle, Austin, TX 78753.

10.12 Invalidation. If the attached Proposal is not executed by Client within thirty (30) days of the date signed by Engineer, it shall become invalid.

Engineer: PAPE-DAWSON ENGINEERS, INC.
Texas Board of Professional Engineers, Firm Registration # 470

By: Brice Moczygemba

Name: Brice Moczygemba, P.E.

Title: Sr. Vice President Date: June 21, 2011

Client: City of Kerrville

By: _____

Name: Todd Parton

Title: City Manager Date: 7-12-11

Agenda Item:
(Staff)

2C. Authorized execution of a design services and license agreement with James Avery Craftsman, Inc. for the inaugural art piece to be placed at Earl Garrett and Main streets.

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

SUBJECT: Approval of Design Services and License Agreement between the City of Kerrville and James Avery Craftsman, Inc. for the Inaugural Art Piece to be placed at Earl Garrett & Main Streets

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED:** June 16, 2011

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

EXHIBITS: Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

In March 2010, the City Council approved a Public Art Policy and Guidelines developed by the KMS Design Committee. Immediately following approval, KMSAB members identified possible locations for the placement of public art pieces concentrating in the Main Street district area.

The Kerr Arts and Cultural Center, at the corner of Earl Garret and Main Street, was selected for the inaugural art piece. Construction of the art piece would be confined to the northwest, Main Street frontage of the KACC lawn. A survey has been completed depicting the area. The art would become the property of the City of Kerrville and maintained by city staff. In February 2011, the city council approved a lease agreement with Kerr Arts & Cultural Center allowing for the construction and maintenance of the art piece.

Mr. James Avery, founder of James Avery Craftsman, LLC, was chosen as the artist for this inaugural piece. Approval of the design services and license agreement with Mr. Avery is the next step in the process. Construction is anticipated to begin this summer.

RECOMMENDED ACTION

Approve agreement.

DESIGN SERVICES AND LICENSE AGREEMENT

This Design Services and License Agreement (this "Agreement") is made and entered into as of July 15, 2011 (the "Effective Date") by and between James Avery Craftsman, Inc. ("JAC"), a Texas corporation with its principal place of business at 145 Avery Road, Kerrville, Texas, and the City of Kerrville (the "City"), a home-rule municipality with principal offices at 800 Junction Highway, Kerrville, Kerr County, Texas. JAC and the City are collectively referred to herein as the Parties.

WHEREAS, JAC's Mother's Love Design is a copyrighted design and is covered by Copyright Registration Nos. VA 855-189, VA 1-033-299, and VA 1-055-295 ("JAC's Mother's Love Design"), copies of which are attached hereto as **Exhibit A**; and

WHEREAS, the City desires to commission JAC to produce a three-dimensional sculpture based upon JAC's Mother's Love Design (the "Work"), set forth in the attached **Exhibit B**; and

WHEREAS, JAC desires to produce the Work for the City; and

WHEREAS, the City desires to install and publicly display the Work at the general location of the corner of Main Street (Highway 27) and Earl Garrett, in Kerrville, Texas; and

WHEREAS, JAC desires to permit the City to install and publicly display the Work subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the premises and the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, JAC and the City agree as follows:

1. JAC agrees to produce the Work for the City. JAC agrees to deliver the Work to the City no later than May 31, 2012.

2. City agrees to pay JAC, or JAC's subcontractors (as directed by JAC), for all expenses associated with the production and fabrication of the Work, such expenses not to exceed forty thousand dollars ($40,000.00). Prior to any payment from the City, JAC must first submit written evidence of costs, such as invoices, receipts and bills of sale for review and approval. Following each submission and verification thereof, which may include on-site inspections to confirm construction, the City shall then reimburse JAC for the cost.

3. JAC and its subcontractors shall perform all the services under this Agreement in a timely, cost effective manner.

4. The term of this Agreement shall begin July 15, 2011, and end May 31, 2012. JAC understands and agrees that time is of the essence. All services are to be completed and delivered to the City by the termination date unless an extension of time is approved by the City.

5. JAC warrants that: (a) JAC's Mother's Love Design and the Work are the original products of JAC's creative efforts and are not the subject of an existing patent or copyright owned by any other person or entity; and (b) unless otherwise stipulated, the Work is original. The warranties stated in this paragraph shall survive the termination of this Agreement.

6. Subject to the City's compliance with the terms and conditions of this Agreement, JAC hereby agrees to allow the City to use JAC's Mother's Love Design and the Work, and hereby grants the City a limited, revocable, non-exclusive, non-transferable, non-sublicensable license to use JAC's Mother's Love Design and the Work in the following manner:

a. The Work will be installed and publicly displayed at the general location of the corner of Main Street (Highway 27) and Earl Garrett, , in Kerrville, Texas, as set forth in the attached **Exhibit C**.

b. The Work will be accompanied by a copyright notice of the form set forth in the attached **Exhibit D**.

c. The City will provide and install in a visually perceptible area of the Work a permanent plaque that recognizes JAC as the owner of JAC's Mother's Love Design and acknowledges that the Work is used as a public art display with the permission of JAC. The wording of the plaque will be subject to JAC's approval, which will not be unreasonably withheld.

d. The City agrees and acknowledges that JAC owns all intellectual property rights in and to JAC's Mother's Love Design and the Work, including without limitation all copyrights.

e. The City shall ensure that all vendors, contractors or other parties working on its behalf with respect to JAC's Mother's Love Design or the Work abide by and comply with the terms and conditions of this Agreement.

The license granted by JAC to City as provided herein shall be perpetual unless earlier terminated as provided in this Agreement.

7. The City shall be responsible for the ongoing maintenance of the Work and the area in which it is displayed. If the Work or area in which the Work is displayed is not maintained by the City, JAC shall provide notice to the City, as provided in Paragraph 15, and an opportunity to cure the disrepair. If, at the end of the City's 30-day opportunity to cure, the Work has not been repaired and restored to its original condition, JAC shall have the right, but not the obligation, to demand removal of the Work. The City agrees and acknowledges that JAC may, at its sole discretion, exercise its right to demand removal of the Work. Should removal be required, the City is responsible for payment for the removal; however, JAC shall be provided with the option of purchasing the Work, as set out in Paragraph 8, below.

8. If, at any time, the City wishes to remove the Work from the general location of the corner of Main Street (Highway 27) and Earl Garrett, in Kerrville, Texas, the City shall provide notice of such decision to JAC at least thirty (30) days prior to removal, and JAC shall be provided with the option of purchasing Work for the sum paid by City pursuant to paragraph 2 above, before

the Work is offered to any other party for sale.

9. The City acknowledges and agrees that JAC is and shall remain the sole owner of JAC's Mother's Love Design and all patent, trademark, copyright, trade secret, and other intellectual property rights in and to JAC's Mother's Love Design. In addition, the City acknowledges and agrees that JAC is and shall remain the sole owner of all patent, trademark, copyright, trade secret, and other intellectual property rights in and to the Work.

10. The City shall not have any right, title, or interest in or to JAC's Mother's Love Design, the Work or any embodiment thereof apart from the limited right to use JAC's Mother's Love Design and the Work as set forth in Paragraph 6 above. All rights not expressly granted in this Agreement are reserved by JAC.

11. The City shall not copy, distribute, transmit, edit, modify, reverse engineer, publicly display, publicly perform, create derivative works of, or otherwise use JAC's Mother's Love Design or the Work in any manner other than as expressly set forth in Paragraph 6 above. Should the City desire to use JAC's Mother's Love Design or the Work in any other medium in any form whatsoever, such use shall be negotiated separately with JAC. JAC may refuse to grant such further use of JAC's Mother's Love Design or the Work at its sole discretion.

Notwithstanding the prior prohibition on the public display of the Work in any manner other than as expressly set forth in Paragraph 6 above, JAC will allow the City to take pictures of the Work but not of the design in other forms, and use those pictures of the Work in marketing materials, brochures, and on its website. This exception is specifically limited to pictures of the Work.

12. JAC agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless against any and all claims, lawsuits, judgments, costs and expenses for any infringement of patent or copyright arising out of the services performed by JAC under this Agreement regardless of whether or not JAC or the City had knowledge of any existing patents or copyrights during the course of performance of this Agreement.

13. As a condition of this Agreement, JAC covenants that JAC will take all necessary actions to insure that, in connection with any work under this Agreement, JAC and its employees will not discriminate in the treatment or employment of any individual or groups of individuals on the grounds of race, color, religion, national origin, age, sex or handicap unrelated to job performance either directly, indirectly or through contractual or other arrangements. In this regard, JAC shall keep, retain and safeguard all records relating to this Agreement or work performed hereunder for a minimum period of three (3) years from final Agreement completion, with full access allowed to authorized representatives of the City, upon request, for purposes of evaluating compliance with this and other provisions of the Agreement.

14. The City may terminate this Agreement, in whole or in part, for cause or the convenience of the City, upon ten (10) days written notice to JAC with the understanding that all

services being performed under this Agreement shall cease upon the date specified in such notice. JAC shall invoice the City for all services completed and shall be compensated or reimburse the City accordingly for all services performed by JAC prior to the date specified in such notice. Upon notice of termination, JAC shall promptly discontinue all services affected (unless otherwise directed by the notice).

15. All notices, communications, and reports required or permitted under this Agreement shall be personally delivered or mailed to the respective parties by depositing same in the United States mail, postage prepaid, at the addresses shown below, unless and until either party is otherwise notified in writing by the other party, at the following addresses. Mailed notices shall be deemed communicated as of five (5) days after mailing.

To James Avery Craftsman, Inc.:
Mr. Chris Avery
James Avery Craftsman, Inc.
145 Avery Road North
Kerrville, Texas 78028
(830) 895-6601 (fax)

With a copy to:
Mr. J. Daniel Harkins
Cox Smith Matthews Incorporated
112 E. Pecan Street, Suite 1800
San Antonio, Texas 78205
(210) 226-8395 (fax)

To City of Kerrville:
City of Kerrville
City Manager
800 Junction Highway
Kerrville, Texas 78028
(830) 792-3850 (fax)

16. In performing services under this Agreement, the relationship between the City and JAC, is that of independent contractor, and the City and JAC by the execution of this Agreement do not change the independent contractor status of JAC. JAC shall exercise independent judgment in performing its duties under this Agreement and is solely responsible for setting working hours, scheduling or prioritizing the work flow and determining how the work is to be performed. No term or provision of this Agreement or act of JAC in the performance of this Agreement shall be construed as making JAC the agent, servant or employee of the City, or making JAC or any of its employees eligible for the fringe benefits, such as retirement, insurance and worker's compensation, which the City provides it employees.

17. The City acknowledges that a breach of this Agreement by the City would cause irreparable harm to JAC for which monetary damages would not be an adequate remedy. Therefore, in the event of a breach of this Agreement by the City, JAC shall be entitled to injunctive relief in

addition to any other remedy to which JAC may be entitled at law or in equity. If JAC breaches this Agreement, the City may immediately terminate this Agreement by giving written notice to JAC of such termination. Further, if the City breaches this Agreement, JAC may immediately terminate this Agreement by giving written notice to the City of such termination, whereupon the City shall immediately cease any and all use of JAC's Mother's Love Design and the Work, and shall remove JAC's Mother's Love Design and the Work from the general location of the corner of Main Street (Highway 27) and Earl Garrett, in Kerrville, Texas. The City shall deliver to JAC a signed, notarized certification of its compliance with the foregoing within thirty (30) days of receipt of the notice of termination.

18. This Agreement shall be governed by the laws of the state of Texas without regard to its rules regarding conflicts of laws, and exclusive jurisdiction and venue for its enforcement shall be in the courts of Kerr County, Texas. This agreement is made subject to the provisions of the Charter and ordinances of the City, as amended, and all applicable State and Federal laws.

19. If any provision of this Agreement is or may be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nonetheless survive and continue in full force and effect without being impaired or invalidated in any way.

20. JAC shall not assign this Agreement or its rights or responsibilities hereunder to any other party without prior express written permission of the City. The City shall not assign this Agreement or its rights or responsibilities hereunder to any other party without the prior express written permission of JAC.

21. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and each of which shall constitute but one and the same instrument.

22. Each Party acknowledges that this Agreement constitutes the full, final and complete settlement of their differences and supersedes all other written or oral exchanges, arrangements, or negotiations between them concerning the subject matter of this Agreement, and further acknowledges that there are no representations, agreements, arrangements, or understandings, oral or written, concerning the subject matter of this Agreement that are not fully expressed herein or therein.

23. This Agreement shall not be construed or interpreted against either Party, either by having drafted this Agreement or otherwise, but shall be construed and interpreted as to give the fullest effect to the releases set forth herein. All terms of this Agreement are contractual, and none are a mere recital. The recitals of this Agreement are considered a material part hereof.

24. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators and, except as otherwise provided in this Agreement, their assigns.

25. Each Party expressly represents and warrants to the other that it has carefully read this Agreement, understands its contents, and signs this Agreement as its own free act.

[Signatures follow on next page.]

IN WITNESS WHEREOF, JAC and the City have executed this Agreement by their duly authorized representatives as of the Effective Date.

James Avery Craftsman, Inc.

By: _____

(Signature)

Name: _____

(Please print)

Its: _____

(Title)

City of Kerrville, Texas

By: _____

Todd Parton, City Manager

ATTEST:

_____

Brenda Craig, City Secretary

APPROVED AS TO FORM:

_____

Heather Stebbins, Assistant City Attorney

T:\Legal\BUSINESS PROGRAMS (main st.)\JAC _ City of Kerrville _ design license agreement_REDLINED_062311.doc

CERTIFICATE OF REGISTRATION

FORM VA
UNITED STATES COPYRIGHT OFFICE

RI

VA 855-189

EFFECTIVE DATE OF REGISTRATION

MAY 19 1997
Month Day Year

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

UNITED STATES COPYRIGHT OFFICE · THE LIBRARY OF CONGRESS

OFFICIAL SEAL

Marybeth Peters

REGISTER OF COPYRIGHTS
United States of America

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼
Mother's Love Pin (P-911)

NATURE OF THIS WORK ▼ See instructions
Jewelry Design

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2

NAME OF AUTHOR ▼
a JAMES AVERY CRAFTSMAN, INC.

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☒ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ▶ USA
Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No
If the answer to either of these questions is "Yes," see detailed instructions.

NOTE

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼
Original Jewelry Design

NAME OF AUTHOR ▼
b

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of country
OR { Citizen of ▶
Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼
c

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ▶
Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☐ No
Pseudonymous? ☐ Yes ☐ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

3

a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given in all cases.
1996 ◀ Year

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information ONLY if this work has been published.
Month ▶ July Day ▶ 26 Year ▶ 1996
USA ◀ Nation

4

See instructions before completing this space.

COPYRIGHT CLAIMANT(S) Name and Address must be given even if the claimant is the same as the author given in space 2. ▼
J.A., accepted alternate designation for
JAMES AVERY CRAFTSMAN, INC.
P. O. Box 1367, Kerrville, TX 78029-1367

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

DO NOT WRITE HERE OFFICE USE ONLY

APPLICATION RECEIVED
MAY 19 1997

ONE DEPOSIT RECEIVED
MAY 19 1997

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

MORE ON BACK ▶ • Complete all applicable spaces (numbers 5-9) on the reverse side of this page • See detailed instructions • Sign the form at line 8

DO NOT WRITE HERE

EXHIBIT "A"

EXAMINED BY

CHECKED BY

☐ CORRESPONDENCE Yes

FORM VA

FOR COPYRIGHT OFFICE USE ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?
☐ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼

☐ This is the first published edition of a work previously registered in unpublished form.

☐ This is the first application submitted by this author as copyright claimant.

☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼ Year of Registration ▼

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b for a derivative work; complete only 6b for a compilation.

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

6

See instructions before completing this space.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

JAMES AVERY CRAFTSMAN, INC.
P. O. BOX 1367
KERRVILLE, TX 78029-1367

Area Code & Telephone Number ▶ 210-896-1122

Be sure to give your daytime phone number

CERTIFICATION* I, the undersigned, hereby certify that I am the

Check only one ▼

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of JAMES AVERY CRAFTSMAN, INC.
Name of author or other copyright claimant, or owner of exclusive right(s) ▲

8

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

GLORIA R. CORTEZ date ▶ 05/13/97

Handwritten signature (X) ▼ Gloria R. Cortez

MAIL CERTIFICATE TO

Certificate will be mailed in window envelope

Name ▼
JAMES AVERY CRAFTSMAN, INC.

Number/Street/Apartment Number ▼
P. O. BOX 1367

City/State/ZIP ▼
KERRVILLE, TX 78029-1367

9

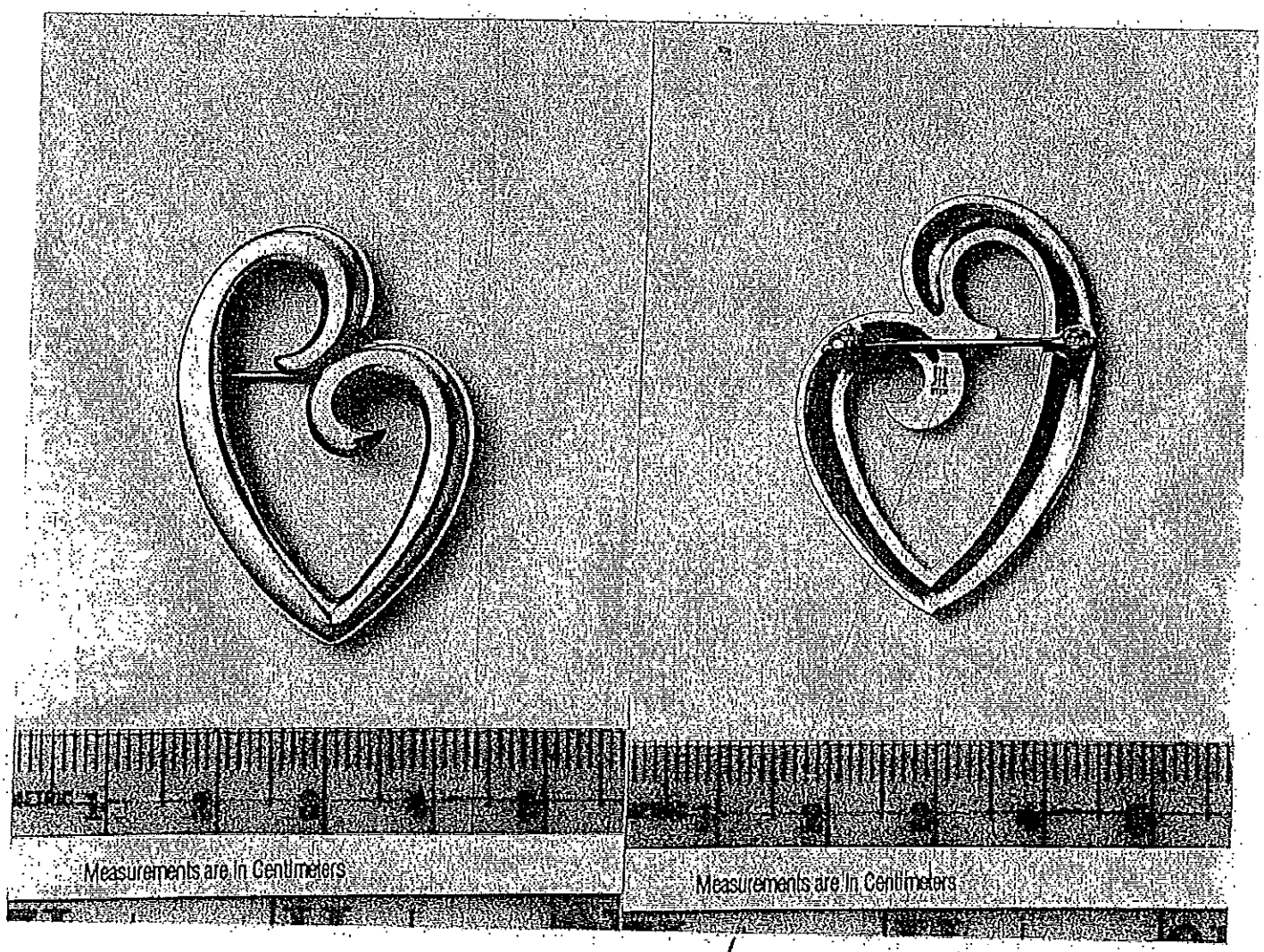
YOU MUST:
- Complete all necessary spaces
- Sign your application in space 8

SEND ALL THREE IN THE SAME PACKAGE:
1. Application form
2. Non-refundable $10 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO:
Register of Copyrights
Library of Congress
Washington, D.C. 20559

17 U.S.C. § 506(e) Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than $2,500.

Mother's Love Pin (P-911) 1 9/16"



07-26-96

FORM VA
UNITED STATES COPYRIGHT OFFICE

REGISTRATION VA 1-033-299

(VA) VAU

EFFECTIVE DATE OF REGISTRATION

MAY 16 2000
Month Day Year

CERTIFICATE OF REGISTRATION

UNITED STATES COPYRIGHT OFFICE · THE LIBRARY OF CONGRESS

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
REGISTER OF COPYRIGHTS
United States of America

OFFICIAL SEAL

SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼
" MOTHER'S LOVE " CHARM (CM-1530)

NATURE OF THIS WORK ▼ See instructions
Jewelry Design

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2 a NAME OF AUTHOR ▼
JAMES AVERY CRAFTSMAN, INC.

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☒ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
OR { Citizen of ▶ USA
Domiciled in ▶

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No
If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼
Original Jewelry Design

NOTE
Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

b NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☐ Yes
☐ No

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OR { Citizen of ▶
Domiciled in ▶

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OR { Citizen of ▶
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If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of the material created by this author in which copyright is claimed. ▼

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given in all cases.
2000 ◀ Year

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information ONLY if this work has been published.
Month ▶ April Day ▶ 25 Year ▶ 2000
USA ◀ Nation

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼
AVERY, accepted alternate designation for
JAMES AVERY CRAFTSMAN, INC.
P. O. Box 1367, Kerrville, TX 78029-1367

See instructions before completing this space.

TRANSFER If the claimant(s) named here in space 4 are different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

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APPLICATION RECEIVED
MAY 16 2000

ONE DEPOSIT RECEIVED
MAY 16 2000

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

MORE ON BACK ▶ • Complete all applicable spaces (numbers 5-9) on the reverse side of this page. • See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE

EXAMINED BY Mf

CHECKED BY Wm

☐ CORRESPONDENCE Yes

FORM VA

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PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office? 5

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box) ▼

☐ This is the first published edition of a work previously registered in unpublished form.

☐ This is the first application submitted by this author as copyright claimant.

☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number ▼ Year of Registration ▼

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b for a derivative work; complete only 6b for a compilation. 6

a. Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

See instructions before completing this space.

b. Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account. 7

Name ▼ Account Number ▼

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

JAMES AVERY CRAFTSMAN, INC.
P. O. BOX 1367
KERRVILLE, TX 78029-1367

Be sure to give your daytime phone number

Area Code & Telephone Number ▶ 210-895-1122

CERTIFICATION* I, the undersigned, hereby certify that I am the 8

Check only one ▼

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of JAMES AVERY CRAFTSMAN, INC.
Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

GLORIA R. CORTEZ date ▶ 05-04-00

Handwritten signature (X) ▼ Gloria R. Cortez

MAIL CERTIFICATE TO

Certificate will be mailed in window envelope

Name ▼
JAMES AVERY CRAFTSMAN, INC.

Number/Street/Apartment Number ▼
P. O. BOX 1367

City/State/ZIP ▼
KERRVILLE, TX 78029-1367

9

YOU MUST:
- Complete all necessary spaces
- Sign your application in space 8

SEND ALL 3 ELEMENTS IN THE SAME PACKAGE:
1. Application form
2. Non-refundable $10 filing fee in check or money order payable to Register of Copyrights
3. Deposit material

MAIL TO:
Register of Copyrights
Library of Congress
Washington, D.C. 20559

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U.S. GOVERNMENT PRINTING OFFICE: 1989—241-428/80,024

"MOTHER'S LOVE" CHARM (CM-1530) 5/8"

AVERY

04/25/00

CERTIFICATE OF REGISTRATION

FORM VA
UNITED STATES COPYRIGHT OFFICE

REGISTRATION NUMBER
VA 1-055-295

MAR 2 2000
Month Day Year

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters
REGISTER OF COPYRIGHTS
United States of America

OFFICIAL SEAL

SEPARATE CONTINUATION SHEET

1 TITLE OF THIS WORK ▼
MOTHER'S LOVE RING (R-1305)

NATURE OF THIS WORK ▼ See instructions
Jewelry Design

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2 a NAME OF AUTHOR ▼
JAMES AVERY CRAFTSMAN, INC.

DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"?
☒ Yes
☐ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country
USA
OR { Citizen of ▶ ____ Domiciled in ▶ ____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No
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Year Born ▼ Year Died ▼

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DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information Month ▶ JANUARY Day ▶ 25 Year ▶ 2000
ONLY if this work has been published.
USA ◀ Nation

4 See instructions before completing this space

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼
J.A., accepted alternate designation for
JAMES AVERY CRAFTSMAN, INC.
P. O. Box 1367, Kerrville, TX 78029-1367

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MAR 02 2000

TWO DEPOSITS RECEIVED

REMITTANCE NUMBER AND DATE

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MORE ON BACK ▶ • Complete all applicable spaces (numbers 5-9) on the reverse side of this page. • See detailed instructions. • Sign the form at line 8.

EXAMINED BY

CHECKED BY

CORRESPONDENCE
Yes

FORM VA

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Name ▼ Account Number ▼

ORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

JAMES AVERY CRAFTSMAN, INC.
P. O. BOX 1367
KERRVILLE, TX 78029-1367

Be sure to give your daytime phone number

Area Code & Telephone Number ▶ 210-895-1122

CERTIFICATION* I, the undersigned, hereby certify that I am the 8

Check only one ▼

☐ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☒ authorized agent of JAMES AVERY CRAFTSMAN, INC.
(Name of author or other copyright claimant, or owner of exclusive right(s)) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

GLORIA R. CORTEZ date ▶ 2-10-2000

Handwritten signature (X) ▼ Gloria R. Cortez

9

MAIL CERTIFICATE TO

Certificate will be mailed in window envelope

Name ▼
JAMES AVERY CRAFTSMAN, INC.

Number/Street/Apartment Number ▼
P. O. BOX 1367

City/State/ZIP ▼
KERRVILLE, TX 78029-1367

YOU MUST:
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- Sign your application in space 8

SEND ALL 3 ELEMENTS IN THE SAME PACKAGE:
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2. Non-refundable $30 filing fee in check or money order payable to Register of Copyrights
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Washington, D.C. 20559

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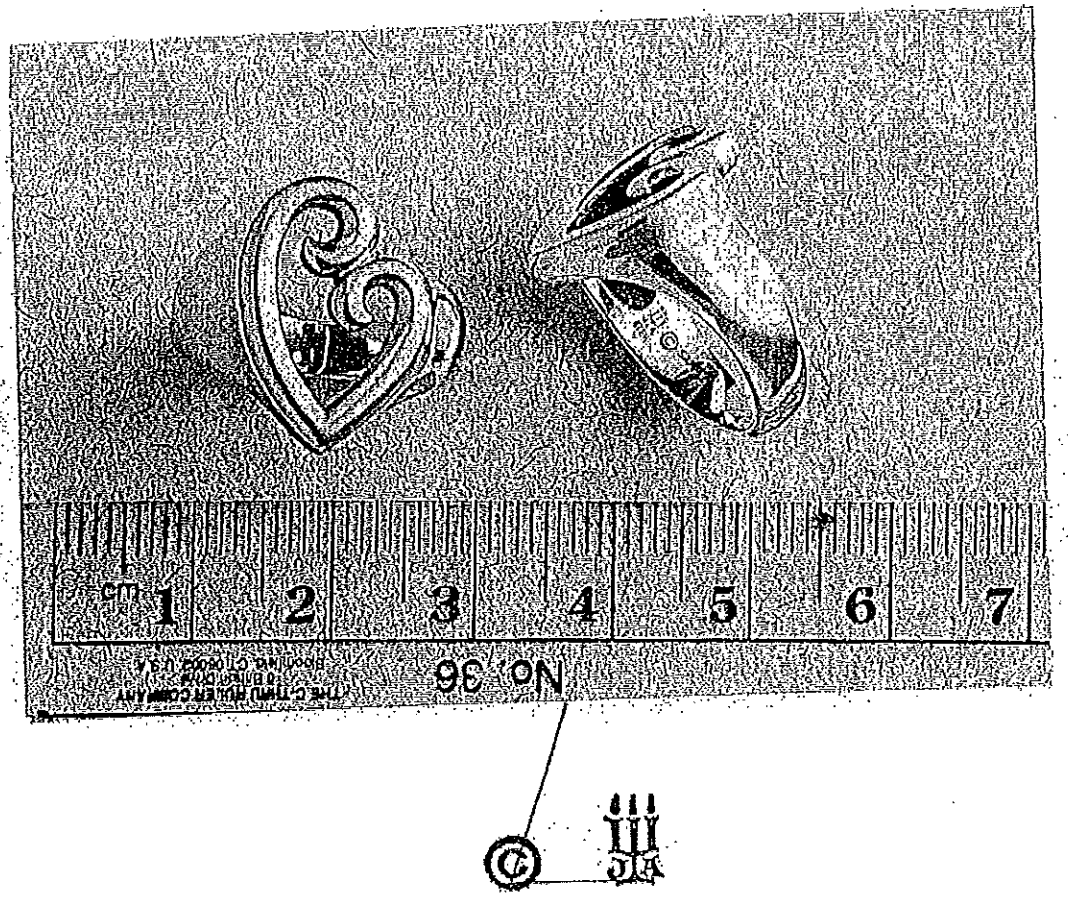
U.S. GOVERNMENT PRINTING OFFICE: 1999—341-409/10,074

MOTHER'S LOVE RING (R-1305) 3/4"



01/25/00

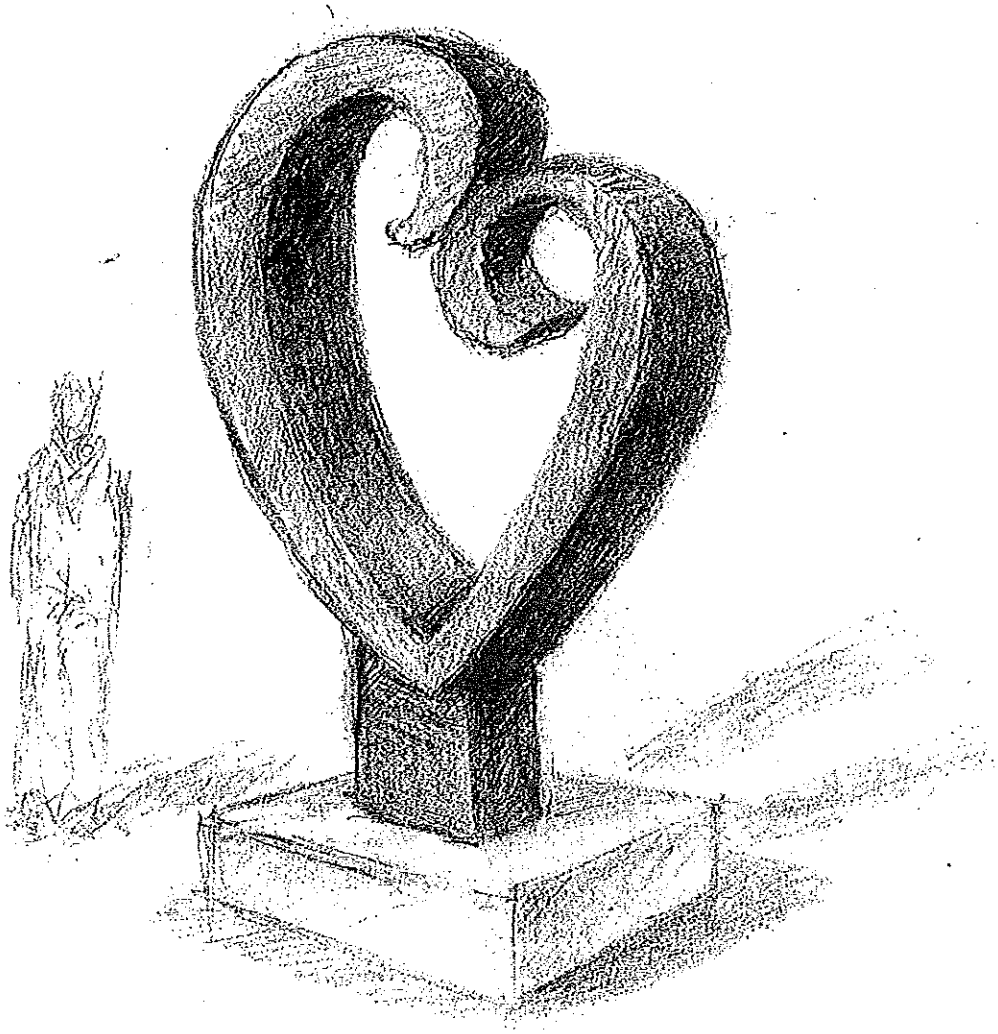


EXHIBIT "B"

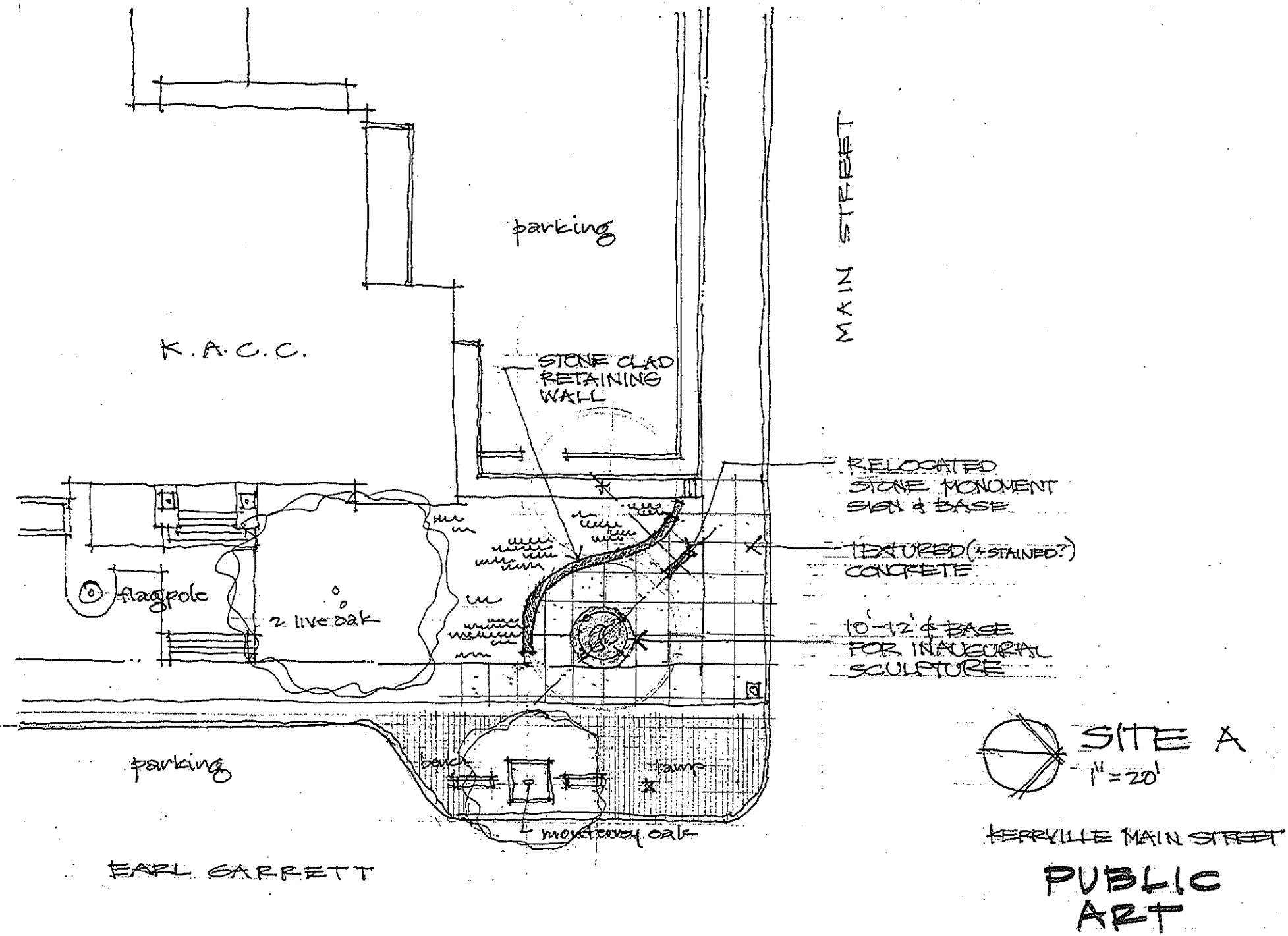

parking
K.A.C.C.
MAIN STREET
STONE CLAD RETAINING WALL
RELOCATED STONE MONUMENT SIGN & BASE
TEXTURED (+STAINED?) CONCRETE
10'-12' ϕ BASE FOR INAUGURAL SCULPTURE
flagpole
2 live oak
parking
bench
lamp
monterey oak
EARL GARRETT
SITE A
1" = 20'
KERRVILLE MAIN STREET
PUBLIC ART

EXHIBIT "C"

Exhibit D

Copyright 1997, James Avery Craftsman, Inc.
Reproduced by permission.

Agenda Item:

(Staff)

2D. Approval of a one year extension to the interlocal cooperation contract for City of Kerrville ambulance/emergency medical services to the Department of State Health Services on behalf of its facility, Kerrville State Hospital located at 721 Thompson Drive.

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

SUBJECT: Approval of a one (1) year extension to an Interlocal Cooperation Contract for City of Kerrville Ambulance/Emergency Medical Services to the Department of State Health Services on behalf of its facility, Kerrville State Hospital located at 721 Thompson Drive in Kerrville, Texas.

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED:** June 8, 2011

SUBMITTED BY: Chief Robert Ojeda **CLEARANCES:** Michael C. Hayes, City Attorney

EXHIBITS: Interlocal Cooperation Contract #537-9-0000048249 between the Department of State Health Services and the City of Kerrville as well as the Amendment #2 to this Interlocal Contract.

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

Currently, by contract, the City of Kerrville (City) provides Emergency Medical Services (EMS) to patients under the care of the Department of State Health Services (DSHS) at their Kerrville State Hospital (KSH) facility. Under said contract, the DSHS provides for payment of services to the City per the City's current fee schedule.

On August 31, 2011 the current Interlocal Cooperation Contract for City Ambulance/Emergency Medical Services to the DSHS on behalf of the KSH will expire. This action exercises an option to extend the existing contract for one (1) year from September 1, 2011 to August 31, 2012. This will be the second year option of three (3) to extend this contract.

By the execution of this Amendment to the Interlocal Contract, DSHS will pay for EMS services performed by the City at the KSH. The total amount of this contract shall not exceed $60,000 and the amount may be amended as needed during the term of the contract based on services provided.

RECOMMENDED ACTION

The Fire Chief recommends that the City Council authorize the City to exercise an option to extend the existing Interlocal Cooperation Contract for City Ambulance/Emergency Medical Services to the DSHS on behalf of the KSH for one (1) year from September 1, 2011 to August 31, 2012.

Contract Workforce: Yes
Outsourced: Yes

Contract Form # 004
Contract ID No. 537-9-0000048249
Provider No. 74-6001490
Source of Funds
Contract Manager Harry Schneider
***Certified HUB:** No
(*Verified on the CMBL)

AMENDMENT NO. 2
TO INTERLOCAL CONTRACT NO. 537-9-0000048249

By execution of this Amendment, the Department of State Health Services ("DSHS"), on behalf of its facility, **Kerrville State Hospital**, and **City of Kerrville** ("Contractor") agree that the certain **Interlocal** Contract by Department and Contractor, effective **September 1, 2008**, shall be amended in accordance with the following provisions, effective **September 1, 2011.**

1. Amend **Section VI. Term of Contract** by adding the following provision:

   DSHS and Contractor are exercising the option to extend said contract for one year. This will be the second option to extend of the three additional years. This second option shall be for the period September 1, 2011 thru August 31, 2012 with one additional renewal option remaining. The total amount of funds expended this second renewal term shall not exceed $60,000.00.

Except as amended herein, all other provisions of the Contract and any previous amendments thereto remain unchanged.

City of Kerrville

By: Todd Parton
Title: City Manager
Date:

DEPARTMENT OF STATE HEALTH SERVICES
KERRVILLE STATE HOSPITAL

By: Jay Norwood
Title: Interim Superintendent
Date:

THE STATE OF TEXAS
COUNTY OF KERR

Contract Form No. 004
Contract ID No. 537-9-00048249
Performer's TIN 74-6001490
Source of Funds
Contract Manager Harry Schneider

INTERLOCAL COOPERATION CONTRACT

THIS INTERLOCAL COOPERATION CONTRACT ("the Contract") is entered into by and between the governmental agencies shown below as Contracting Parties, pursuant to the authority granted and in compliance with the provisions of "The Interlocal Cooperation Act", Texas Government Code, Chapter 791.

I. CONTRACTING PARTIES:

The Receiving Agency: Department of State Health Services on behalf of its facility
Kerrville State Hospital, 721 Thompson Drive, Kerrville, Texas 78028
Contact: Harry Schneider Phone: 830-896-2211 #6208

The Performing Agency: City of Kerrville
800 Junction Hwy, Kerrville, Texas 78028
Contact: Eric Maloney Phone: 830-257-5333

II. STATEMENT OF SERVICES TO BE PERFORMED:

Ambulance/Emergency Medical Services (EMS)

III. BASIS FOR CALCULATING REIMBURSABLE COSTS:

Per City of Kerrville current fee schedule

IV. CONTRACT AMOUNT:

The total amount of this Contract shall not exceed: Sixty Thousand Dollars ($60,000.00). Contract dollar amount may be amended as needed during the term of the contract based on services provided.

V. PAYMENT FOR SERVICES:

DSHS will pay for services performed in accordance with this Contract: Payments for service performed shall be invoiced: Monthly.

Payments received by the Performing Agency shall be credited to its current appropriation item(s) or account(s) from which the expenditures of that character were originally made. This Contract is subject to the continued availability of funds. If funds become unavailable through lack of appropriations, budget cuts, transfer of funds between programs or agencies, amendment of the appropriation act, health and human services agency consolidations, or any other disruption of current appropriations, DSHS will terminate this Contract in accordance with Section VI of this Contract.

VI. TERM OF CONTRACT:

This Contract is to begin September 1, 2008, or the date signed by DSHS, whichever date is later, and shall terminate August 31, 2010. At which time contract can be extended for a period of three (3) years, in one year increments if agreed upon by both parties in writing prior to expiration.

The contracting parties may terminate this Contract prior to the expiration date by mutual agreement. Either contracting party may terminate this Contact by giving the other contracting party 30 days written notice.

VII. STATUTORY REQUIREMENTS:

If this Contract is funded in whole or in part with federal funds, Performing Agency must comply with all federal requirements, including, but not limited to the Uniform Contract and Grant Management Act, Texas Government Code, Chapter 783.

THE UNDERSIGNED CONTRACTING PARTIES do hereby certify that, (1) the services specified above are necessary and essential for activities that are properly within the statutory functions and programs of the effected contracting parties, (2) the proposed arrangements serve the interest of efficient and economical administration, and (3) the services, supplies, or materials contracted for are not required by Section 21 of Article 16 of the Constitution of Texas to be supplied under contract given to the lowest bidder.

DSHS further certify that it has the authority to contract for the above services by authority granted in

Texas Health and Safety Code, Titles 7 and 12, and the current General Appropriations Act
(Statute, Constitution, Appropriation Bill)

City of Kerrville (Performing Agency) further certify that it has the authority to perform the services contracted for by authority granted in

City Ordinance
(Statute, Constitution, Appropriation Bill)

Receiving Agency
Department of State Health Services
Kerrville State Hospital

Linda Highsmith
Authorized Signature

for Stephen R. Anfinson
Printed or Typed Name

Title: Superintendent

Date: 9-18-08

Performing Agency
City of Kerrville

Authorized Signature

Robert Ojeda
Printed or Typed Name

Title: Fire Chief

Date: 9/17/08

Agenda Item:

(Staff)

3A. An ordinance amending Chapter 58, Article II "food establishments" of the Code of Ordinances of the City of Kerrville, Texas, by adding a new Section 58-33 "mobile food establishments", to establish regulations applicable to mobile food vending and to require a permit for such activities; containing a cumulative clause; containing a savings and severability clause; ordering publication; providing for an effective date; and providing other matters relating to the subject.

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

SUBJECT: Approve on Second and Final Reading an Ordinance amending Chapter 58, Article II –Food Establishments to Expand the Definition of and to Modify the Regulations that Apply to Mobile Food Establishments and Commissaries

FOR AGENDA OF: June 29, 2011 **DATE SUBMITTED**: July 12, 2011

SUBMITTED BY: Kevin Coleman **CLEARANCES:** Kristine Ondrias

EXHIBITS:

- Proposed Ordinance Amending Chapter 58, Article II of the City's Code of Ordinances

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

Under this item, City Council is asked to approve on second reading an ordinance amending a portion of the City's Retail Food Establishments Ordinance and its regulation on Mobile Food Establishments,

Sections requiring the applicants to submit to a background check prior to permitting have been omitted per Council action on first reading. The balance of the ordinance is unchanged.

The proposed ordinance would:

- Create an expanded definition of mobile food units based on the product they sell and the basis of their operation.
- Create a definition of commissary as a licensed establishment.
- Outline the operational restrictions each type of mobile food vendors including restriction of sales outside the approved unit, sales of non-food items and requirements for on-site toilet facilities.
- Define permit requirements including a background check.
- Require inspection prior to permit and during operation.
- Define any separation restrictions from schools, residential districts, and as required by adopted building and fire codes.

- Define baseline sanitation requirements for all units including storage of water and waste water, solid waste containers, and appropriate packaging.
- Define additional sanitation requirements for unrestricted mobile food units.

The proposed ordinance would not effect:

- Fixed retail food establishments.
- Food vendor tied to a special event.
- Licensing requirements under the city's peddlers and solicitor's ordinance.
- Zoning restrictions on use of trailers as permanent businesses or sales in non-commercial areas.

The FSAB reviewed the proposed ordinance at its meeting on June 7 and recommended adoption of the ordinance attached. The FSAB recommendation includes striking a proposed 150 foot separation requirement between mobile and fixed based operators, relying on adopted building and fire codes to establish minimum separation. The FSAB deferred action on the need for a background check prior to permitting as an item that is beyond their purview tied to food safety issues. Staff has retained the requirement because of its value in addressing public safety concerns given the transient nature of these establishments.

The Kerrville Main Street Advisory Board has approved, in principle, the draft ordinance and the section that requires a special permit to operate a Mobile Food Establishment in the Central Business District. The Board requests review of any significant changes prior to adoption.

Per Council direction, staff will provide City Council a report on any negative effects the ordinance may have had on any potential applicants or operations. That report will be presented on or near the first meeting of January, 2012.

RECOMMENDED ACTION

Approve the proposed ordinance on second reading.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2011-___

AN ORDINANCE AMENDING CHAPTER 58, ARTICLE II "FOOD ESTABLISHMENTS" OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS, BY ADDING A NEW SECTION 58-33 "MOBILE FOOD ESTABLISHMENTS", TO ESTABLISH REGULATIONS APPLICABLE TO MOBILE FOOD VENDING AND TO REQUIRE A PERMIT FOR SUCH ACTIVITIES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, the City Council of the City of Kerrville, Texas, finds that the regulations of the City of Kerrville ("City") governing the sale of food within its corporate limits should be amended to establish updated standards for the preparation, handling, and serving of food; and

WHEREAS, health and safety issues exist with respect to the operation of mobile food establishments; and

WHEREAS, in furtherance of the health, safety, and welfare of the public, the City Council finds it is in the best interest of the City to make revisions to Chapter 58, Article II "Food Establishments" of the City Code of Ordinances to establishing a permitting process and other regulations applicable to mobile food establishments;

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

SECTION ONE. Chapter 58, Article II, of the Code of Ordinances of the City of Kerrville, Texas, is amended by amending Subsection 58-32(b) to add additional defined terms follows:

"*Commissary* means a food processing establishment or food service establishment approved by the regulatory authority as having complied with state law and in which food, containers, or supplies are kept, handled, prepared, packaged or stored for transportation by a mobile food establishment.

Mobile food establishment means the preparation of food for individual sale and offered from one of the following two types of mobile food units:

(1) A restricted unit that offers only prepackaged food in individual servings, beverages that are not potentially hazardous and are dispensed from covered urns or other protected vessels, and packaged frozen foods.

(2) An unrestricted unit that may cook, prepare, and assemble a full variety of food items as approved by the regulatory authority.

Site based vendor means a restricted or unrestricted unit that is stationary.

Route based vendor means a restricted unit that travels from location to location selling items.

Corn roaster means a rotisserie type of oven mounted on a vehicle, trailer, or pushcart that is designed to cook whole ears of corn with the shucks in place.

Simple snow cone or simple raspa means a food item consisting of crushed ice purchased pre-crushed from a licensed processor that is covered or mixed with syrup purchased prepackaged from an approved source.

Snow cone/shaved ice/raspa means a food item prepared from block or cubed ice by a shaving process that is covered or mixed with a syrup that may be prepared by the operator in a commissary or on the mobile food establishment or which is purchased prepackaged.

Sticker means a decal issued by the regulatory authority that is numbered and has the month and year of the expiration date of the food permit.

Vehicle means every device in, upon, or by which any food is or may be transported, pushed, or drawn.

Vend means the act of dispensing food by a person from a mobile food establishment or afoot within or without a building and shall include for the purpose of this chapter the act of offering to give away any food or any substances intended for use as food."

SECTION TWO. Chapter 58, Article II, of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Section 58-33 as follows:

"Sec. 58-33 Mobile Food Establishment.

(a) *Exclusions.* This section does not apply to those vehicles which are permitted, approved, or authorized to distribute food by the City pursuant to a retail food establishment permit or temporary food establishment permit.

(b) *Permit requirements; inspections.*

(1) No person or business shall operate a mobile food establishment or vend food afoot that does not possess a valid mobile food establishment permit from the regulatory authority as provided in this section. The permit shall specify the type of food authorized to be vended, the manner in which the food is to be vended, and include a description of any vehicle to be used in the food vending operation.

(2) A person seeking a mobile food establishment permit from the regulatory authority shall make application on a form provided by the regulatory authority and shall provide all of the following information as part of the application:

a. The name and address of the owner and/or operator;

b. If the applicant represents a corporation, association, or partnership, the names and addresses of the officers or partners;

c. The name under which the food vending operation will be operated;

d. A description of the types of food or specific foods to be vended; for example prepackaged peanuts, prepackaged candy, prepackaged food not potentially hazardous and nonperishable food, nonprepackaged food, and so forth;

e. The manner of mobile food vending operation to be conducted; for example foot vending, truck, trailer, pushcart, and so forth;

f. A description of any vehicle to be used in the mobile food vending operation along with the license, registration, and vehicle identification number;

g. The address and food establishment permit number of the commissary required by this section;

h. A notarized statement from the owner of a commissary stating that the mobile food establishment uses the facility as its base of operation; and

i. where applicable, a written agreement from a business within 150 feet from where the mobile food establishment will operate for the establishment's employees to have use of a flushable restroom during operation hours.

(3) Upon receiving an administratively complete permit application, the regulatory authority shall make appropriate inspections of the food, equipment, vehicles, and other reasonable inspections concerned with the mobile food vending operation and shall issue a permit and a sticker only if:

a. The application complies with subsection (2), above; and

b. The inspection(s) reveals compliance with the applicable requirements of all federal, state, and local regulations, including this chapter, governing the proposed mobile food establishment operation.

(4) City Council will establish the mobile food establishment permit fee.

(5) A permit holder shall post the sticker in a conspicuous place for public viewing within the premises where such food establishment is authorized to be established, maintained, or operated. In addition, the permit holder shall have available on-site the latest inspection report issued by the regulatory authority.

(6) Mobile food establishment permits are valid for only one year from the date of issuance unless sooner suspended or revoked.

(7) Mobile food establishment permits are not transferrable or assignable and shall be considered revoked should such occur.

(8) Where the character of the food vending operation is changed from that specified in the permit, the permit shall be considered revoked.

(9) Every mobile food establishment permit must be renewed each year in like manner as the original permit application, except that the report from the Chief of Police as required above, shall be renewed every two (2) years from the date of issuance as background checks are valid for two years.

(10) The regulatory authority may suspend or revoke a mobile food establishment permit if the regulatory authority determines that:

a. an applicant obtained the mobile food establishment by knowingly providing false information on the application;

b. a person involved in food vending is infected with or is a carrier of any foodborne communicable disease;

c. the continuation of the person's mobile food establishment permit presents a significant public health threat; or,

d. the mobile food establishment violates the terms and conditions of its permit.

(11) The regulatory authority shall make routine, unannounced inspections of mobile food establishments, and commissaries when applicable, to determine whether or not the vending operation is being conducted in such a manner as to comply with the conditions of the permit, the provisions of this section, other applicable City ordinances, including this chapter, and state and federal law.

(12) The regulatory authority may take or retain samples of food and other substances used in the preparation of food for examination and the detection of unwholesome and deleterious qualities. The regulatory authority may condemn and forbid the sale of or cause to be removed or destroyed, any food which is adulterated, tainted,

diseased, fermented, decaying, or otherwise unwholesome, unclean, or harmful to health. The owner, operator, or other person in charge of such food shall immediately and in the presence of the regulatory authority, destroy such adulterated, tainted, diseased, fermented, decaying, or otherwise unwholesome, unclean food as directed by the regulatory authority.

(c) *Operational requirements and restrictions.*

(1) Mobile food establishments are subject to the following requirements and restrictions:

a. It shall be unlawful for any mobile food establishment to sell any potentially hazardous food without a permit within the City.

b. It shall be unlawful for any mobile food establishment to sell from a stand or other temporary structure located upon any public street, sidewalk, right-of-way, or other adjacent public or private area without a permit as required under this chapter.

c. Where a mobile food establishment is permitted as a restricted unit, the establishment shall not prepare, assemble, or cook foods. Exceptions exist to allow for the preparing, assembling, and/or cooking of packaged frozen foods, simple snow cones or simple raspas, corn roasters, or commercially prepackaged items.

d. It shall be unlawful for the operator of a mobile food establishment to remove any food from the mobile establishment to vend from a stand or other temporary structure located upon any public street, sidewalk, right-of-way, or other adjacent public or private area without a permit as required by this section.

e. It shall be unlawful to operate a mobile food establishment on a street where a traffic hazard exists or may be created.

f. It shall be unlawful for a mobile food establishment to sell nonfood items.

g. Mobile food establishments may apply for permission to operate in City parks subject to applicable park regulations.

(2) Mobile food establishments may operate on private property where the property is properly zoned, the operator receives written permission from the property owner for use of a working restroom, and the operator locates within 150 feet of the restroom. An operator is prohibited from parking and operating from an unimproved lot or parking overnight.

(3) A route based vendor shall not operate at a location for more than thirty (30) minutes.

(4) Where a mobile food establishment uses tables and chairs, the establishment will be required to comply with applicable parking requirements and the provision of restroom facilities for customers.

(5) In addition to this article, mobile food establishments shall comply with state and federal law and nothing in this article shall exempt an establishment from the City's zoning regulations.

(6) Unless written permission is granted by the appropriate school, no person shall operate a mobile food establishment within three hundred (300) feet of the property line of any public or private elementary, middle, or high school one hour before, during, and after school hours.

(7) No person shall operate a mobile food establishment within fifty (50) feet of a residential district.

(8) Mobile food vending operations shall comply with the separation and distance requirements required by the City's building and fire codes.

(9) It shall be unlawful to operate a mobile food establishment within the central business district with the exception of establishments who have obtained a special permit from the City in addition to having all required valid mobile food establishment permit(s). The city manager shall have authority to establish policies and procedures governing the issuance and regulation of the special permit for mobile food establishments within the central business district.

(d) *Sanitation requirements.* Mobile food establishments shall comply with the following unless specifically addressed otherwise:

(1) Mobile food establishments shall comply with all sanitation and construction regulations as outlined in Texas Administrative Code §229.169 of the Texas Food Establishment Rules unless specifically addressed in this section.

(2) A mobile food establishment shall be operated from a commissary and shall return to the commissary each day of operation for cleaning and servicing. The mobile food establishment shall document each visit to the commissary and shall make that documentation available for inspection. Mobile food establishments dispensing fresh fish and shrimp; prepackaged novelty ice cream; and individual portion size nonperishable foods such as pickles, candy, peanuts and including snow cones/shaved ice/raspas are exempt from this provision.

(3) Mobile food establishments that dispense snow cones/shaved ice/raspas, shrimp, fish, shellfish, or crusteacea shall provide a gravity fed hand washing system, soap, and paper towels.

(4) Liquid waste resulting from any mobile vending operation shall be stored in permanently installed retention tanks of at least fifteen (15) percent larger capacity than the water supply tank but of no less than thirty (30) gallon capacity and shall be drained and thoroughly flushed during servicing operations. All liquid waste shall be discharged to an approved sanitary sewage disposal system at the commissary or at a location specifically approved by permit.

(5) All food that requires packaging or preparation by the mobile food establishment shall be processed in the commissary that is required as a support facility for an establishment.

(6) Mobile food establishments dispensing snow cones/shaved ice/raspas shall be designed so as to enable the operator of the unit to protect the equipment, syrup, ice, and utensils used in the operation of the unit from dust, insects, and rodents while the unit is in transit or overnight storage.

(7) Mobile food establishments shall provide waste containers for customers.

(e) *Sanitation requirements for unrestricted mobile food sales.* In addition to the sanitation requirements described above, establishments preparing and vending food from an unrestricted mobile food establishment shall comply with the following requirements:

(1) A mobile food establishment servicing area shall be provided at the required commissary and shall include at least overhead protection for any supplying, cleaning, or servicing operation. Within this servicing area, there shall be a location provided for the flushing and the draining of liquid waste separate from the location provided for water servicing and for the loading and the unloading of food and related supplies.

(2) The commissary shall provide a date/time device, with associated means to record the date and time, and require each mobile food establishment that is serviced to document the date and time of arrival and departure from the commissary. The mobile food establishment will make available for inspection the record of the date and time of the servicing at the commissary.

(3) Approved water storage facilities for potable water shall be provided on the mobile food establishment and shall be of sufficient capacity (minimum twenty-five (25) gallons) to furnish enough water for food preparation, utensil cleaning, sanitizing, and hand washing. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil, or grease and it shall be kept capped when not being used to fill the storage facility. The water inlet shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water and gas distribution pipes or tubing shall be constructed and installed in accordance with public health and plumbing standards as set out by City ordinances. The water for said operations shall be from an approved source.

(4) A ten-gallon capacity heating device, or an instantaneous heater, capable of producing water at one hundred ten (110) degrees Fahrenheit shall be provided in the mobile food establishment.

(5) All food service operations shall be carried on from within the mobile food establishment.

(6) Any additional equipment or the arrangement thereof other than approved when the permit was issued shall be prohibited unless approved in advance by the regulatory authority."

SECTION THREE. The City Secretary is authorized and directed to submit this amendment to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendment adopted herein and to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code, as appropriate.

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

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

SECTION SIX. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-8, Chapter 1 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS ($2,000.00).

SECTION SEVEN. Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is hereby authorized and directed to publish the descriptive caption of this Ordinance in the manner and for the length of time prescribed by the law as an alternative method of publication.

SECTION EIGHT. This Ordinance shall become effective immediately upon the expiration of ten days following publication, as provided for by Section 3.07b. of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 28th day of June, A.D., 2011.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2011.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

Heather Stebbins,
Assistant City Attorney

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Agenda Item:
(Margie Dominguez, HCTC)

4A. Request by Hill Country Telephone Cooperative to install two internet protocol (IP) cameras (web-cams) in the city of Kerrville. (Margie Dominguez, HCTC)

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

SUBJECT: Authorization to Install IP Cameras (web-cameras) for Public Use

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED:** July 6, 2011

SUBMITTED BY: Margie Dominguez **CLEARANCES:**
Hill Country Telephone Cooperative

EXHIBITS:

AGENDA MAILED TO: mdominguez@hctc.net

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

Hill Country Telephone Co-op (HCTC) and the Kerrville Public Utility Board (KPUB) would like to to install two internet protocol (IP) cameras (web-cam's) for general public use.

The first web-cam would be in Louis Hays Parks located on a utility pole east of the Sidney Baker Street bridge and southwest of the concrete slab next to the paved road. This utility pole has an existing breaker box and power outlets with a street light at the top. The camera would be mounted below the light. The second web-cam would be located across the street on US Highway 27 from the front of the Kerr County Courthouse on a KPUB owned utility pole

Since these cameras are IP based they are viewable online by the general public. Each camera would be set up on an automatic tour of their respective viewing area and when events happen (concerts at the park or Market Days at the Courthouse for example) the cameras could be set to allow views to watch the events online Each camera would be set up as to not infringe on anyone's privacy. It is also not intended to be used as a security camera, but could be accessed by law enforcement if necessary. Control of the cameras would be maintained by HCTC. They have similar camera setups in Mason, Leakey and Concan, Texas. Since KPUB will own the cameras and related equipment, they will provide all necessary power.

RECOMMENDED ACTION

Agenda Item:
(Staff)

4B. A resolution providing for the city's approval or disapproval of the Kerrville-Kerr County Joint Airport Board's fiscal year 2012 budget.

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

SUBJECT: Resolution providing for the city's approval or disapproval of the Kerrville-Kerr County Joint Airport Board's fiscal year 2012 budget.

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: July 5, 2011

SUBMITTED BY: Mike Erwin
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Resolution, FY 2012 Budget

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

The Kerrville-Kerr County Joint Airport Board has submitted its FY 2012 Proposed Budget for approval by the Kerrville City Council.

RECOMMENDED ACTION

The Director of Finance has no recommendation.

KERRVILLE
ERV
KERR COUNTY
LOUIS SCHREINER FIELD

Kerrville
Kerr County
Joint Airport
Board

Stephen King
President

Fred Vogt
Vice President

Mark Cowden
Board Member

Tom Moser
Board Member

Corey Walters
Board Member

June 18, 2011

Kerr County Commissioners' Court
Kerr County Courthouse
700 Main Street
Kerrville, TX 78028

Kerrville City Council
Kerrville City Hall
800 Junction Highway
Kerrville, TX 78028

Subject: FY 2012 Budget

Commissioners and Councilmembers:

Attached is the Airport Board approved FY 2012 Budget to the Governing bodies from the Joint Airport Board as required by the August 2008 Interlocal Agreement.

Respectfully submitted,

Bruce McKenzie
Airport Manager

cc: Airport Board

1877 Airport Loop
Kerrville, Texas 78028
Ph (830)896-9399 Fax (830)896-9440
www.kerrvilleairport.com

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. -2011

A RESOLUTION PROVIDING FOR THE CITY'S APPROVAL OR DISAPPROVAL OF THE KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD'S FISCAL YEAR 2012 BUDGET

WHEREAS, the Kerrville-Kerr County Joint Airport Board submitted its proposed fiscal year 2012 budget to the City Council for consideration; and

WHEREAS, the City Council may consider the Kerrville-Kerr County Joint Airport Board's budget and in the event Council does not approve, it may indicate this action via a resolution; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to either approve or disapprove of said proposed budget as is indicated below;

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

The Kerrville-Kerr County Joint Airport Board's proposed fiscal year 2012 budget, as set forth in **Exhibit A**, is _____ (APPROVED OR DISAPPROVED).

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2011.

_____
David Wampler, Mayor

ATTEST:

_____
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

_____
Heather Stebbins, Assistant City Attorney

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EXHIBIT "A"

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD
BUDGET COMPARISON
FOR 2006 - 2012

		2006	2007	2008	2009	2010	2011 Budget Approved	2011 YTD Actual Thru 5/31/11	2012 Proposed
Revenues									
47-AIRPORT									
INTERGOVERNMENTAL REVENUE									
47-300-602	KERR COUNTY	258,400	195,249	188,334	262,000	601,850	306,497	158,524	175,000
47-300-603	KERRVILLE	274,012	195,249	188,334	262,000	391,732		250	175,000
47-300-604	GRANTS	0	0	0	0	0	0	0	0
47-300-606	TX DOT REIMBURSEMENT	33,643	3,991	0	0	0	0	0	0
TOTAL INTERGOVERNMENTAL REVENUE		**566,055**	**394,489**	**376,668**	**524,000**	**993,582**	**306,497**	**158,774**	**350,000**
LEASE/RENTAL INCOME									
47-325-301	AIRPORT LAND LEASES	106,895	110,592	103,503	94,940	102,318	128,050	74,619	108,884
47-325-602	TERMINAL LEASES	0	7,144	14,141	14,354	12,206	13,145	9,515	15,361
47-325-603	T-HANGAR LEASES	48,900	43,600	48,250	44,438	43,644	44,000	35,250	52,400
47-325-604	VEHICLE RENTAL SURCHARGE	3,525	3,808	3,951	3,187	3,165	3,500	2,327	3,528
47-325-605	T-HANGAR STORAGE FACILITY LEASES	1,975	1,321	1,320	1,320	2,737	1,300	0	1,320
TOTAL LEASE/RENTAL INCOME		**161,294**	**166,465**	**171,164**	**158,239**	**164,070**	**189,995**	**121,711**	**181,493**
REIMBURSEMENT									
47-350-601	FUEL FLOW FEES	27,835	38,712	39,427	32,969	30,132	36,000	21,505	35,310
47-350-602	OTHER	0	0	0	0	0	0	86	0
TOTAL REIMBURSEMENT		**27,835**	**38,712**	**39,427**	**32,969**	**30,132**	**36,000**	**21,591**	**35,310**
INTEREST INCOME									
47-380-601	INTEREST INCOME	14,631	7,425	6,404	2,639	2,661	100	96	100
TOTAL INTEREST INCOME		**14,631**	**7,425**	**6,404**	**2,639**	**2,661**	**100**	**96**	**100**
TRANSFER IN									
47-390-601		0	378,000	0	0	0	0	0	0
47-390-610	TRANSFER IN	0	50,000	0	0	95,249	0	0	0
TOTAL TRANSFER IN		**0**	**428,000**	**0**	**0**	**95,249**	**0**	**0**	**0**
***** TOTAL REVENUES *****		**769,815**	**1,035,091**	**593,664**	**717,847**	**1,285,693**	**532,592**	**302,173**	**566,903**

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD
BUDGET COMPARISON
FOR 2006 - 2012

Expenses		2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Budget Approved*	2011 YTD Actual Thru 5/31/11	2012 Proposed
SALARIES & BENEFITS									
47-700-101	AIRPORT MANAGER	0	0	0	71,000	76,000	80,000	53,333	84,000
47-700-102	OFFICE PERSONNEL PART TIME	0	0	0	20,908	23,494	25,054	16,792	26,317
47-700-104	AIRPORT MAINTENANCE STAFF	0	0	0	0	0	0 *	0	0
47-700-205	OVERTIME	0	0	0	0	0	0	0	0
800-003	TEMPORARY EMPLOYEE	0	0	0	0	0	0	0	0
800-004	LONGEVITY	0	0	0	0	0	0	0	0
47-700-201	FICA	0	0	0	7,003	7,611	8,037 *	5,349	8,439
800-005	SOCIAL SECURITY	0	0	0	0	0	0	0	0
47-700-203	RETIREMENT	0	0	0	9,296	10,954	11,566 *	7,690	12,587
47-700-202	GROUP INSURANCE	0	0	0	7,996	8,063	15,720 *	5,240	26,200
47-700-204	WORKMAN'S COMP	0	0	0	0	0	7,594	1,638	2,599
TOTAL SALARIES & BENEFITS		0	0	0	116,203	126,122	147,971	90,043	160,142
AIRPORT									
47-800-008	PROFESSIONAL DEVELOPMENT	0	0	0	5,957	5,070	10,000	2,971	7,500
47-800-009	LOCAL MEETING EXPENSE	0	0	0	67	235	600	221	600
47-800-010	PROFESSIONAL SERVICES	9,403	50,063	17,314	5,513	0	30,000	8,149	25,000
47-800-101	OFFICE SUPPLIES	604	1,140	3,840	2,894	2,180	2,000	654	2,000
47-800-102	SMALL TOOLS AND EQUIPMENT	528	156	1,741	401	523	1,000	4,453	4,100
47-800-103	CHEMICAL AND MEDICAL SUPPLIES	6,586	4,992	6,901	2,516	3,919	4,000	33	4,000
47-800-104	FUEL AND OIL SUPPLIES	0	0	0	490	514	1,340	2,204	5,000
47-800-105	FOOD SUPPLIES	0	43	585	-217	903	600	42	600
47-800-106	JANITORIAL SUPPLIES	0	708	1,253	1,984	2,318	2,400	1,161	2,400
800-107	WEARING APPAREL	0	0	0	0	0		0	0
47-800-107	POSTAGE	586	536	273	205	451	750	37	500
47-800-108	UPS/FED-EX	0	0	0	0	0	0	0	0
800-111	COMPUTER UPGRADE	1,062	3,648	1,800	0	0		0	0
47-800-109	COMPUTER SOFTWARE	4,404	167	0	0	0	0	0	0
47-800-110	SOD, SEED, PLANTING	0	0	349	0	0	0	0	0
47-800-111	VEHICLE PARTS	0	0	0	0	0	0	0	0
47-800-201	LAND	23,478	28,835	25,923	22,992	29,864	47,500	13,632	47,500
47-800-202	BUILDINGS AND STRUCTURES	14,632	29,205	9,676	20,555	33,339	36,000	5,437	30,000
47-800-203	VEHICLE MAINTENANCE	0	200	0	0	667	0	0	0
800-204	PARTS @ CITY GARAGE	0	0	0	654	102		0	0
47-800-204	OFFICE EQUIPMENT	0	488	1,680	1,522	1,820	2,000	1,192	1,500
47-800-205	INSTRUMENTS AND APPARATUS	17,024	7,073	917	8,326	7,492	17,000	3,128	12,500
47-800-206	STREETS	0	354	0	0	0	0	0	0
47-800-207	TRAFFICE CONTROL DEVICES	0	159	142	-659	-331	1,000	367	1,000
47-800-208	TAXIWAYS/RUNWAYS	0	0	0	0	0	0	0	0

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD
BUDGET COMPARISON
FOR 2006 - 2012

Expenses		2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Budget Approved	2011 YTD Actual Thru 5/31/11	2012 Proposed
47-800-209	REPAIRS-GENERAL	0	0	186	286	0	1,000	429	1,500
800-214	RAMP GRANT MATCH	0	0	0	0	0		0	0
47-800-301	CONTRACT SERVICES	0	0	0	0	0	0	0	0
47-800-302	PROPERTY INSURANCE	0	0	0	0	0	0	0	0
47-800-303	LIABILITY INSURANCE	8,657	10,372	10,745	0	0	0	0	0
47-800-304	SPECIAL SERVICES	0	0	0	0	24,440	0	0	0
47-800-305	EQUIPMENT RENTAL	0	20	72	1,219	276	3,100	1,786	4,000
47-800-306	ADVERTISING	0	794	0	0	0	300	111	300
47-800-307	MANAGEMENT CONTRACT	225,206	223,134	343,545	268,318	251,000	158,524 *	158,524	158,524
47-800-308	REIMBURSE COUNTY EMPLOYEE	0	0	0	96,165	126,122 *	0	0	0
47-800-309	OUTSOURCED SERVICES	0	95,151	0	0	0	0	0	0
47-800-310	CONTINGENCY	0	0	0	0	0	0	0	0
47-800-311	LEGAL SERVICES	0	0	0	0	0	10,000	5,242	10,000
47-800-401	PHONE SERVICE	1,183	3,027	261	624	973	2,700	878	1,200
47-800-402	CELL PHONE SERVICE	0	0	0	0	0	0	0	0
47-800-406	LIGHT AND POWER	8,501	13,082	9,472	6,310	10,598	10,200	7,125	13,000
47-800-403	NATURAL GAS/PROPANE	0	0	0	1,628	0	0	0	0
47-800-404	WATER & SEWER	133	427	336	661	937	750	491	1,000
47-800-405	INTERNET PROVIDER	0	0	0	0	0	1300	0	0
47-800-501	CERTIFICATES, AWARDS, ETC	0	0	0	586	0	0	0	0
47-800-503	DUES AND SUBSCRIPTIONS	0	0	525	851	327	1,185	1,181	1,500
800-503	MOTOR VEHICLE	0	0	19,941	0	0		0	0
47-800-505	OTHER CHARGES	100	4,789	2,540	2,709	2,516	4,800	1,636	4,800
47-800-507	CONTINGENCY	0	0	10,500	0	16,004	15,000	6,800	15,000
47-800-509	DEPRECIATION EXPENSE	0	0	0	0	0	0	0	0
800-510	WATER SYSTEM IMPROVEMENTS	0	0	0	0	0	0	0	0
47-800-511	OTHER EXPENSE	0	666	0	0	0	0	0	0
47-800-513	RESERVE FOR CAPITAL	0	0	0	0	0	0	0	0
47-800-901	TRANSFER OUT - GENERAL	0	0	0	0	0	0	0	0
47-800-902	TRANSFER OUT - MAINTENANCE	656,407	445,116	50,289	275,350	696,916	0	0	0
47-800-903	TRANSFER OUT - ROAD & BR	0	0	0	0	0	0	0	0
TOTAL AIRPORT		978,494	924,345	520,804	727,907	1,219,175	365,049	227,884	355,024

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD
BUDGET COMPARISON
FOR 2006 - 2012

Expenses		2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Budget Approved	2011 YTD Actual Thru 5/31/11	2012 Proposed
TERMINAL									
47-801-101	SUPPLIES	0	0	0	0	0	0	0	0
47-801-300	PHONE SERVICES	0	0	1,131	572	575	420	181	420
47-801-301	LIGHT & POWER	0	0	11,851	7,828	10,454	9,600	4,922	12,000
47-801-302	PROPANE GAS	0	0	3,871	825	4,407	5,500	2,863	5,500
47-801-303	WATER & SEWER	0	0	2,510	3,008	2,263	2,500	1,344	2,500
TOTAL 01-TERMINAL		0	0	19,362	12,234	17,699	18,020	9,310	20,420
*** TOTAL EXPENSES ***		978,494	924,345	540,166	740,140	1,236,875	531,040	327,237	535,586
REVENUE OVER/(UNDER) EXPENDITURES		(208,679)	110,746	53,498	(22,293)	48,818	1,552	(25,064)	31,317
INCREASE IN EXPENDITURES									

Note: Changes approved by Board

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD
BUDGET COMPARISON
FOR 2006 - 2012

Revenues		2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Budget Approved	2011 YTD Actual Thru 5/31/11	2012 Proposed
48 - AIRPORT CAPITAL									
Reimbursement									
	CAPITAL GRANTS - TXDOT	0	0	0	0	7,196,490	0	0	0
48-350-100	REIMBURSEMENT FM TX DOT	27,456	1,170	29,046	54,543	54,543	50,000	0	50,000
TOTAL Reimbursement		**27,456**	**1,170**	**29,046**	**54,543**	**7,251,033**	**50,000**	**0**	**50,000**
Intergovernmental									
48-351-100	KERR COUNTY RAMP GRANT M	0	0	0	0	0	25,000	0	25,000
48-351-101	CITY OF KVILLE RAMP GRANT	0	0	0	0	0	25,000	25,000	25,000
48-351-102	KERR COUNTY PROJECT MATCH	0	0	0	0	0	0	0	0
48-351-103	CITY OF KERRVILLE PROJECT MATCH	0	0	0	0	0	0	0	0
TOTAL Intergovernmental		**0**	**0**	**0**	**0**	**0**	**50,000**	**25,000**	**50,000**
Transfers In									
48-500-100	TRANSFER IN - GENERAL	406,807	218,310	0	0	0	6,072	6,072	0
48-500-110	TRANSFER IN - AIRPORT	444,667	50,000	275,000	621,916	376,364	0	0	0
48-500-115	TRANSFER IN	0	0	0	0	0	0	0	0
TOTAL Transfers In		**851,474**	**268,310**	**275,000**	**621,916**	**376,364**	**6,072**	**6,072**	**0**
TOTAL REVENUES		**878,930**	**269,480**	**304,046**	**676,459**	**7,627,397**	**106,072**	**31,072**	**100,000**

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD
BUDGET COMPARISON
FOR 2006 - 2012

Expenses		2006 Actual	2007 Actual	2008 Actual	2009 Actual	2010 Actual	2011 Budget Approved	2011 YTD Actual Thru 5/31/11	2012 Proposed
CAPITAL OUTLAY									
800-201	LAND MAINTENANCE	0	0	49,678	0	0	0	0	0
800-202	BUILDING & STRUCTURE MAINT	0	0	0	0	0	0	0	0
800-405	OTHER CHARGES	0	0	0	150,304	0	0	0	0
48-600-101	LAND	0	0	0	0	0	0	0	0
48-600-102	BUILDINGS AND STRUCTURES	0	18,524	122,390	112,429	112,429	0	0	0
800-507	STREET IMPROVEMENTS	0	94,402	0	0	0	0	0	0
48-600-103	WATER SYSTEM IMPROVEMENTS	0	0	15,798	319,138	296,876	294,480	267,792	0
800-500	CAPITAL OUTLAY	0	0	0	0	7,196,490	0	0	0
48-600-104	GRANT MATCH	0	0	0	0	0	100,000	39,124	100,000
48-600-105	DRAINAGE IMPROVEMENTS	0	0	0	0	0	0	0	0
48-600-106	GRANT MATCH T-HANGAR 2001	0	0	0	0	0	0	0	0
48-600-107	TXDOT REIMBURSE 2000-2001	0	0	0	0	0	0	0	0
48-600-108	RELOCATE 12/30 PARALLEL	0	0	0	0	0	132,852	0	0
48-600-109	ENGINEERING SVCS/DESIGN	0	0	0	0	0	0	0	0
48-600-110	MASTER PLAN	0	0	0	0	0	0	0	0
48-600-111	SURVEYING	0	0	0	0	0	0	0	0
48-600-112	CONTRACT SERVICES	0	14,770	0	19,950	19,950	0	0	0
48-600-113	INSTRUMENTS AND APPARATUS	0	0	0	0	0	0	0	0
48-600-114	REHAB AIRPORT RUNWAY	0	0	0	0	0	0	0	0
48-600-115	SITE PREP FUTURE HANGAR	0	0	0	0	0	0	0	0
800-517	CITY T-HANGAR 2001	0	0	0	0	0	0	0	0
800-518	KERR COUNTY T-HANGAR 2001	0	0	0	0	0	0	0	0
800-519	GRANT MATCH LIGHTING IMPROVE	0	0	0	0	0	0	0	0
800-520	TXDOT REIMBURSEMENT LIGHTING	0	0	0	0	0	0	0	0
800-948	TRANSFER OUT	105,829	2,248	6,374	95,249	0	0	0	0
TOTAL CAPITAL OUTLAY		105,829	129,945	194,240	697,070	7,625,745	527,332	306,916	100,000
TOTAL EXPENDITURES		105,829	129,945	194,240	697,070	7,625,745	533,404	312,988	100,000
REVENUE OVER/(UNDER) EXPENDITURES		773,101	139,536	109,806	(20,610)	1,652	(433,404)	(287,988)	-

Note: Changes Approved by Board

Agenda Item:

(Staff)

4C. Interlocal agreements between the City of Kerrville and Kerr County for joint operations.

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

SUBJECT: Consideration of interlocal agreements between the City of Kerrville and Kerr County regarding fire, emergency medical services, library, airport and animal control operations.

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: July 8, 2011

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES: NA

EXHIBITS: Redlined Interlocal Agreements Received from Kerr County

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

On June 30, 2011, the city received redlined copies of the interlocal agreements. Staff is reviewing these proposed changes and has a deadline to provide comments back to legal by 5 p.m. on Friday, July 8, 2011. Staff responses will be provided to the City Council at the meeting of July 12, 2011.

Attached are copies of the redlined agreements.

RECOMMENDED ACTION

Consider interlocal services agreements and provide direction to city staff.

INTERLOCAL AGREEMENT FOR THE CONTINUED EXISTENCE OF A JOINT AIRPORT BOARD TO PROVIDE MANAGEMENT OF KERRVILLE/KERR COUNTY AIRPORT

This Joint Action Agreement ("Agreement"), pursuant to Chapter 22 of the Texas Transportation Code, is entered into between Kerr County, Texas ("County") and the City of Kerrville, Texas ("City"), also referred to individually as "Party", or collectively as "Parties", on the _____ day of _____, 20___.

WHEREAS, County and City jointly own the real property upon which is located the Kerrville/Kerr County Airport, sometimes referred to as Louis Schreiner Field ("Airport"); and,

WHEREAS, County and City have previously, by their actions, jointly managed said Airport under Tex. Rev. Civ. Stat. Ann. Art. 46d, Municipal Airport Act, the statutory predecessor to Chapter 22 of the Texas Transportation Code ("Code"); and

WHEREAS, County and City find that it is in the best interests of the citizens of County and City for the Airport to continue to be managed by a Joint Airport Board pursuant to the Code; and

WHEREAS, County and City are desirous of the continuous operation of the Airport in an effective manner; and

WHEREAS, County and City now reconstitute and reorganize the Joint Airport Board to reflect the terms of this Agreement;

NOW, THEREFORE, in consideration of these promises, covenants, and agreements, the Parties agree as follows:

1. **Duration of Agreement**: This Agreement shall be effective on the date it is fully executed by the Parties, and shall terminate on September 30, 2014. Thereafter, this Agreement shall automatically be renewed for five year terms, unless terminated as provided for below.

2. **Proportionate Interest in Airport Property**: Each Party owns an equal, undivided interest in the real property and assets located within the bounds of the Airport, more particularly described in **Exhibit A**, and as that property description may be expanded or developed, and in the buildings, improvements, and other fixtures located on the property. Title to all Airport property shall remain jointly vested in the County and City.

3. **Joint Airport Board**: The Parties affirm the creation and continued existence of the Joint Airport Board ("Board"). The Board ~~is reconstituted and~~ shall consist and operate as follows:

(a) Membership. The Board shall be comprised of five members. The approval by each Party is required to constitute an appointment to the Board. The current Board

members as of September 30, 2011, are hereby reappointed by the Parties to serve the remainder of their Term of Office left as of September 30, 2011.

(b) Term of Office. Each Board member shall be appointed for a two year term and shall continue to serve in this capacity until their successor is appointed and is duly qualified. Upon the death of any member or should any member resign or for any reason become unable to serve, a replacement shall be appointed in the same manner as provided below to fill the vacancy for the unexpired term.

(c) Oath and Bond. Following appointment, each Board member shall qualify for office by taking the required oath of office before the County Judge.

(d) Appointment. The process for appointment by action of each Party shall be as designated below:

1) The Board shall recommend persons to the County and City for consideration of appointment. The Board shall submit the names of such persons to each Party at least 60 days prior to the end of the particular place's term. In the event that a candidate recommended by the Board is not appointed by either Party, the Board shall recommend an alternative candidate. In the event that this second candidate is not appointed by either Party, the Board shall select another candidate who will be automatically appointed to the Board without the approcal of the Parties. ~~In the event that a candidate recommended by the Board is not appointed by either Party, the Board shall recommend an alternative candidate. In the event that this second candidate is not appointed by either Party, the Board shall select another candidate who will be automatically appointed to the Board without the approval of the Parties.~~Both parties must vote to appoint each member to the Board.

2) It is deemed desirable that all Board members possess and will contribute a balance of expertise in business, financial, aviation, or management training and experience. Appointments shall be made on or before June 1 of each year.

3) Replacement of members shall be in the same manner and under the same qualification as described above with such replacement being appointed to fulfill only that portion of the remaining term.

4) Any Board member may be removed by a majority vote of each Party, for any reason. In addition, the Board may recommend to the County and City that a Board member be removed.

5) Board members shall be eligible for reappointment, but Board members are prohibited from serving more than 3 consecutive, 2 year terms.

Only reappointments made after October 1, 2011, shall count towards this limitation.

(e) Officers: The Board shall appoint a President and Vice President who shall be selected from the Board's membership. If the Board appoints a Treasurer, the Treasurer shall execute a bond in an amount determined by the Board, with a corporate surety authorized to do business in the State of Texas and conditioned upon the faithful performance of the treasurer's duties. In addition, the Board shall appoint a secretary who shall record the minutes of the Board meetings. The term for each position shall be for two years.

(f) Compensation: Service on the Board is without compensation. However, each Board member is entitled to reimbursement for necessary expenses incurred in the performance of his/her duties as a Board member, subject to a written Board policy regarding the reimbursement of expenses, which has been approved by each Party. ~~However, each Board member is entitled to reimbursement for necessary expenses incurred in the performance of his/her duties as a Board member, subject to a written Board policy regarding the reimbursement of expenses, which has been approved by each Party.~~

(g) Authority, Powers and Duties: The Board shall have the following authority, powers and duties:

1) The Board may exercise on behalf of the Parties any power possessed by either Party and those specifically provided by the Code, including the power to lease property and facilities, and to buy and sell goods as an incident to the operation of the Airport. However, the Board is not authorized to impose a property tax, sell bonds, or otherwise enter into other debt instruments, dispose of Airport property, or exercise the power of eminent domain without the prior written consent of each Party.

2) The Board, following the prior written consent of each Party, has the authority to apply for and to execute grant funding agreements.

3) The Board may improve, equip, maintain, operate, manage, regulate, protect, and police the Airport.

4) The Board may realign, alter, acquire, abandon, or close a portion of a roadway or alleyway without a showing of paramount importance if the portions to be realigned, altered, abandoned, or closed are in the geographical boundaries of the Airport at the time of or after the realignment, alteration, acquisition, abandonment, or closing.

5) The Board shall have the responsibility and be in charge of the property, improvements, and other assets of the Airport and shall be in charge of the disbursement of Airport funds for Airport purposes~~, and pursuant to the~~

~~approved Board Budget~~. The Board shall also cause records to be kept of any and all revenues and disbursements.

6) The Board shall maintain a fund for the purpose of depositing all revenues of the Airport, including each Party's share of the operating costs. This fund shall be kept and managed by the Board and shall be established at a bank with a branch in Kerr County. Federal, state, or other contributions or loans and the revenue obtained from the operation of the Airport shall be deposited to the credit of the joint fund.

7) The Board shall have an audit of the financial affairs of the Board and its operation of the Airport conducted each year by an independent accountant and shall furnish the audit to each Party no later than ~~December 1~~ February 27 of each year.

8) The Board shall ensure that all records regarding the operation of the Airport are maintained, retained, and made available for public review in accordance with the Texas Public Information Act. All records shall be maintained at the Airport.

9) The Board shall hire and employ an Airport Manager ("Manager") and such other employees as are necessary for the operation of the Airport. ~~The Manager shall be hired as soon as possible after execution of this Agreement.~~

10) The Board, through its Manager and any other employees, shall be responsible for the day-to-day management of the Airport. Toward that end, the Board is authorized to enter into service contracts with other public or private entities~~, but where such a contract exceeds $25,000.00, both Parties must approve the contract~~.

11) The Board may adopt resolutions, rules, and orders for the operation of the Airport.

12) The Board may lease Airport property and may adopt fees and rental rates with respect to the use of Airport services or use of Airport property. Such fees and rates should, to the extent possible,~~should shall~~ be~~, to the extent possible,~~ included within the Board Budget.

13) The Parties acknowledge that the Airport property is within the City's limits and is subject to the City's regulations and that land adjacent to the Airport but outside the City limits is subject to the adoption, administration, and enforcement by either a County or Joint Airport Zoning Board of airport hazard area and compatible land use zoning. However, the Board shall monitor and consider appropriate zoning for the Airport and the immediately surrounding areas whose use may impact Airport operations.

14) The Board shall adopt policies and procedures for the purchase of goods and services and for the accounting of the Airport's finances, each in accordance with state law~~ and this Agreement~~.

15) The Board may insure itself, its contractors and subcontractors against liability arising from the operation of the Airport for damages to the person or property of others, workers' compensation, and officers' and employees' liability. The insurance may consist of self-insurance and/or purchased insurance.

~~The Board is prohibited from giving, leasing, or otherwise allowing the use of any part of the Airport for no value or less than market value, without first having received approval from both Parties.~~

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~~17)~~16) The Board shall comply with the Code and other state laws and local laws in all respects.

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(h) Meetings: The Board shall meet on dates and times as agreed upon by the Board, which schedule may be changed from time to time; however in no event shall the Board meet less frequently than once per calendar quarter. The President of the Board or any two Board members shall have the authority to call a meeting. All such meetings of the Board shall be held in accordance with the Texas Open Meetings Act and three members of the Board shall constitute a quorum of the Board. The Board shall make its own rules of order, by-laws, set the time and place for regular meetings, and shall keep minutes of its meetings.

(i) Fiscal year. The Board shall observe a fiscal year that begins each October 1 and ends September 30.

(j) Reporting. The Board shall provide quarterly written reports to each Party regarding the operations of the Airport and its finances.

(k) Litigation. The Board shall not enter into litigation of any kind without prior approval from both ~~the~~ Parties. However, the Board may provide an appropriate response to a lawsuit or claim filed against it in an effort to protect its rights and defenses prior to any approval from ~~the~~both Parties.

4. **Board Budget**: The Board is responsible for the operations and needs of the Airport and shall develop and approve ~~and approve~~ a budget for Airport operations ("Board Budget")~~ to be approved by both Parties~~. The Board Budget shall consist of the following parts: 1) maintenance and operations; and 2) capital improvements. For purposes of this Agreement, "capital improvements" are defined as a project that will result in a physical object with a value of $2~~2~~5,000 or more. The Board shall submit and present the Board Budget to the County and the City for approval. Should either Party not approve the Board Budget, the previous year's Board Budget shall be automatically adopted for the upcoming year.

(a) Submission Required. The Board shall submit the Board Budget to both Parties not later than June 1st ~~30th~~ of each year for Parties' consideration no later than September 30 of each year.

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(b) Content and Format. The Board Budget shall substantially conform to the format and line item content as specified and depicted in **Exhibit ~~B~~A**.

(c) Excess Spending Prohibited. Without the prior written approval of ~~each Party~~both Parties, the Board shall not spend nor incur obligations which at any time will exceed the total amount of ~~any line item of the total amount of~~ the Board Budget ~~approved and~~ adopted by the County and City for that current fiscal year.

(d) Airport Revenues. The Board shall only use revenues generated by operation of the Airport for Airport purposes.

(e) Board Budget Calculation. The Board shall determine the Board Budget ~~determine create a draft Board Budget the Board Budget~~ as follows:

(1) Total of all revenues, not including contributions from the Parties, less total expenses, which shall include all grant matches.

(2) Where a negative sum occurs, the Board shall seek contributions from the Parties as provided below.

5. **County and City Funding**: To assure the objective of the continuation of efficient Airport operations, each Party is obligated to the other Party to contribute funds as follows:

(a) Maintenance and Operations. Subject to the authority of each P~~p~~arty to terminate the Agreement at the end of any fiscal year, the County and City shall each fund one-half (1/2) of all the costs related to the maintenance and operations part of the Board Budget or the County and City shall each fund $175,000.00, whichever is less. ~~For each year of this Agreement, the County and City shall each contribute $175,000.00.~~

(b) Capital Improvements. The County and City shall be equally responsible for expenses directly resulting from the part of the Board Budget regarding capital improvements. On an annual basis as part of the draft Board Budget review process, both Parties must review proposed capital improvement projects. Only those projects ~~approved by both~~ budgeted shall move forward for bidding, where applicable, and construction. ~~The Board is prohibited from making any allocation for capital improvements until a final cost is known for the overall project.~~

~~(d)~~Schedule of Payments. Pursuant to the Board Budget and the amount of each Party's contributions, each Party shall forward 12 equal monthly payments to the

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Board in the amount of 1/12th of their total contribution on or before the 15th day of each month.

(c)

~~The County and Board shall amend their management services agreement to add a specific value for the services provided, a "termination for cause" provision, and a provision that the agreement only last one year, but automatically renews unless terminated by either the Board or the County.~~

~~7.~~6. **Amendment**: This Agreement may only be amended by written agreement of the Parties.

~~8.~~7. **Termination of Agreement Prior to Expiration**: This Agreement may be terminated by either Party to become effective at the end of the current fiscal year. To effectuate the termination, the Party seeking termination must provide written notice to the other Party at least 90 days prior to the end of the fiscal year.

~~9.~~8. **Notices**: Any notice required or permitted to be given pursuant to this Agreement or under the laws of this state shall be given in writing and may be given via the United States Postal Service, certified mail, or commercial courier service, addressed to the applicable Party at the address set forth below:

City: City of Kerrville
Attention: City Manager
800 Junction Highway
Kerrville, TX 78028

County: Kerr County, Texas
Attention: County Judge
Kerr County Courthouse
700 Main Street
Kerrville, TX 78028

Board: Joint Airport Board
Attention: Airport Manager
Kerrville/Kerr County Airport
1875 Airport Loop Road
Kerrville, TX 78028

~~10.~~9. **Governing Law and Venue**: This Agreement and all of the transactions contemplated herein shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any cause of action shall be in a court of competent jurisdiction in Kerr County, Texas.

~~11.~~10. **Severability**: If any provision of this Agreement is invalid or unenforceable, this Agreement shall be considered severable as to such provision, and the remainder of this

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Agreement shall remain valid and binding as though such invalid or unenforceable provision was not included.

~~12.~~11. **Captions**: Section headings are inserted herein only as a matter of convenience and for reference, and in no way defines, limits, or describes the scope or intent to any provision.

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~~13.~~12. **Use of Language**: Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular shall be held to include the plural, unless the context otherwise requires.

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~~14.~~13. **Entire Agreement**: This Agreement embodies the entire agreement between the Parties, and supersedes all prior agreements and understandings, whether written or oral, and all contemporaneous oral agreements and understandings relating to the subject matter. This Agreement shall not be amended, discharged or extended, except by written instrument executed by the Parties. The Parties agree that no representations or warranties shall be binding upon either Party unless expressed in writing in the Agreement.

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~~15.~~14. **Multiple Counterparts**: This Agreement may be executed in multiple counterparts, each of which constitutes an original.

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IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be legally executed this _____ day of _____, 20____.

CITY OF KERRVILLE

By:_____
David Wampler, Mayor

ATTEST:

_____
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

_____
Michael C. Hayes, City Attorney

COUNTY OF KERR, TEXAS

By:_____
Pat Tinley, County Judge

ATTEST:

_____
Jannett Pieper, County Clerk

AGREEMENT BETWEEN KERR COUNTY, TEXAS AND CITY OF KERRVILLE, TEXAS REGARDING PROVISION OF ANIMAL CONTROL SERVICES

This Interlocal Agreement for Animal Control Services between the City of Kerrville, Texas ("City") and Kerr County, Texas ("County") shall be effective as of October 1, 2011.

WHEREAS, Texas Health and Safety Code §826.016 authorizes the governing body of a municipality and the commissioners court of a county to enter into contracts with public entities to carry out the activities required or authorized under Chapter 826 of the Texas Health and Safety Code; and

WHEREAS, in order to preserve taxpayer funded resources through elimination of duplication, the Commissioners Court of Kerr County, Texas and the City Council of the City of Kerrville, Texas in the enforcement of the Rabies Control Act and other State laws, Parties find it to be in the public interest that the County be responsible for the enforcement off animal control regulations within the City and County; and

WHEREAS, the County agrees to provide animal control services within the municipal limits for the City of Kerrville as part of the services the City and County provide to each other for the public interest through various interlocal agreements; and

NOW, THEREFORE, in consideration of the recitals set forth above and covenants expressed herein, and in accordance with Texas Health and Safety §826.016 and the Interlocal Cooperation act, the City and County execute an Agreement pursuant to Interlocal Cooperation Act (Texas Government Code §791.001) whereby the County agrees to operate an animal control facility for the mutual benefit of City and County, and the City and County hereby agree as follows:

1. Purpose: The intent of this Agreement is to establish the terms and conditions between City and County whereby County agrees to enforce animal control laws and regulations within City's incorporated limits to the extent County does not already possess exclusive jurisdiction for enforcement, including but not limited to, enforcement of:

    a. The Rabies Control Act, as amended;

    b. Chapter 822 of the Texas Health and Safety Code, related to dangerous dogs, and other applicable state statutes of animals and animal diseases.

    Nothing herein shall obligate the County to enforce City animal control ordinance provisions.

2. Enforcement of Zoning Regulations Excluded: This Agreement does not require or authorize the County to enforce any provision of the zoning regulations for the City of Kerrville, Texas related to the use and development of property within the City's incorporated limits.

3. The term of this Agreement shall be from October 1, 2011 through September 30, 2014 ("Initial Term"). This Agreement shall remain in full force and effect through its Initial Term. This Agreement may be terminated by mutual agreement at any time upon such terms and conditions as the parties agree. The parties agree that this Agreement shall renew automatically for one-year periods following the Initial Term unless terminated in writing by either Party effective the expiration of the Initial Term. All terms and covenants of this Agreement shall apply to the renewal period.

4. Service: County agrees to provide the following services:

    a. Staff: County agrees to provide:

        i. Emergency call-out related to Rabies Control Act during all times other than weekday business hours;

        ii. Call response to City and County residents' complaints within a reasonable time period.

    b. Facility: County shall furnish a Facility sufficient to meet State of Texas requirements and provide the services stated herein.

    c. Operation: County shall operate and maintain the Facility in compliance with State statutes, rules and regulations. Such operation shall include:

        i. The Facility shall be open to the public for the delivery of animals five (5) days per week during normal business hours.

        ii. The Facility operator shall be on call outside of business hours in order to take emergency cases related to the Rabies Control Act or at law enforcement request, and if necessary open the Facility to the public for such cases.

        iii. County shall provide routine daily care of animals at the Facility including weekends and holidays.

        iv. County shall provide adequate segregated quarters at the Facility for the quarantining of animals in bite cases and other emergency cases, as provided by State law and City and County ordinances.

        v. County shall render euthanasia services pursuant to State law, and such that the Facility will be operated in an uncrowded manner. County will dispose of euthanized animals pursuant to State statutes.

        vi. County will accept for holding at the Facility stray dogs and cats from the public and from City and County animal control officers and City employees and officials.

vii. County will manage the reclamation of animals by their owners and the adoption of unclaimed animals by the public.

viii. County will not be responsible for collection of dead animals from street rights-of-way within the City.

d. Facility Fees: Fees charged those persons registering, reclaiming, or adopting an animal shall be determined pursuant and subject to the budget approval process provided by State statute.

5. Cooperation: City agrees to immediately notify Kerr County Animal Control of any animal bite cases. Kerrville Police Department agrees to fully cooperate with Kerr County Animal Control in the enforcement of animal control laws and regulations within City's incorporated limits.

6. Consideration: City agrees for County to retain all revenue generated from the issuance and collecting for animal licenses, fees and court costs from citations issued under this Agreement, and any and all other sums generated by the County through its provision of animal control services.

7. City Animal Control Revenues: During the terms of this Agreement and any extension thereof:

   a. County shall be responsible for issuing and collecting for animal licenses for those animals whose owners reside within the City limits and shall retain the revenue derived therefrom. Said revenues shall remain with the County.

      ii. County animal control officers shall file all Class "C" misdemeanors related to violation of animal control regulations, as defined in Section 1 of this Agreement, in the Justice of the Peace court for the precinct where the violation occurred including violations that occur within the City limits of Kerrville. All fee and court cost revenue shall remain with the County.

   b. County shall maintain confidentiality of certain information in dog and cat registry pursuant to Texas Health and Safety Code Chapter 826.

8. Appointment of Local Rabies Control Authority: During the term of this Agreement, City agrees that the person appointed by the County to serve as the Local Rabies Control Authority shall be the Kerr County Animal Control Director for purposes of the Rabies Control Act.

9. Default:

   a. In the event of default by County in the performance of its obligations hereunder, and County fails to cure such default within thirty (30) days after receipt of written notice from City, City, at its option, and without prejudice to any other

remedy City may have for County's breach of this Agreement, may terminate this Agreement not earlier than thirty (30) days after delivering written notice of termination to County.

10. Independent Operations: In the performance of its obligations hereunder, County has the exclusive right to supervise, manage, control, and direct its employees in the performance of the services hereunder. City shall look to County for results only and shall not have the right to direct the County or any of its officers or employees in the performance of such services or as to the manner, means, or methods in which the services are performed except as herein expressly provided

11. No Assignment: This Agreement shall be binding upon parties hereto: provided, however, that neither the City nor the County shall assign, sublet, or transfer their interest in this Agreement without the prior written consent of the other.

12. Applicable Law: This Agreement has been made in and shall be construed in accordance with the laws of the State of Texas. Venue shall be in Kerr County, Texas.

13. Notice: Notice to City provided herein shall be sufficient if sent by first class mail, postage prepaid to:

    City Manager's Office
    City of Kerrville
    800 Junction Highway
    Kerrville, TX 78028

    and notices to County, if sent by first class mail, postage prepaid addressed to:

    County Judge
    Kerr County Courthouse
    700 Main Street
    Kerrville, TX 78028

    Or to such other addresses as the parties may designate to each other in writing.

14. This Agreement is subject to the Texas Public Information Act.

SIGNED AND AGREED on the dates indicated by the parties below.

CITY OF KERRVILLE, TEXAS	COUNTY OF KERR, TEXAS
By:_____ David Wampler, Mayor	By:_____ Pat Tinley, County Judge
Date:_____	Date:_____

ATTEST:

_____

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

_____

Michael C. Hayes, City Attorney

ATTEST:

_____

Jannett Pieper, Kerr County Clerk

INTERLOCAL AGREEMENT FOR LIBRARY SERVICES BETWEEN CITY OF KERRVILLE, TEXAS, AND KERR COUNTY, TEXAS

This Interlocal Agreement for Library Services ("Agreement") is made and entered into between the City of Kerrville, Texas ("City") and Kerr County, Texas ("County") and shall be effective as of October 1, 2011, for the term stated below.~~**THIS AGREEMENT**, by and between the City of Kerrville, Texas ("City") and Kerr County ("County"), also referred to individually as "Party," or collectively as "Parties", is entered into on the _____ day of _____, 2011.~~

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WHEREAS, City owns and administers the Butt-Holdsworth Memorial Library ("Library"); and

WHEREAS, the Library provides services to all Kerr County residents including those who reside within the City;

NOW THEREFORE, for and in consideration of the premises and the mutual benefits, covenants, promises and agreements hereinafter set forth, City and County agree:

1. City assumes the function of a County free library system in accordance with Section 323.011, Texas Local Government Code.

2. Management, ownership, and control of the Library and its employees, resources, and equipment shall remain vested in and/or remain the sole responsibility of the City.

3. The Library shall maintain accreditation in accordance with the Texas Administrative Code, Title 13, Part 1, Chapter 1, Subchapter C with services based on a Kerr County population estimate of 48,381.

4. The Library Advisory Board shall remain in existence and it shall continue to provide oversight of Library operations.

5. Term:

   a. The term of this Agreement shall be from October 1, 2011 through September 30, 2014~~6~~ ("Initial Term"). This Agreement shall remain in full force and effect through its Initial Term, unless terminated pursuant to Section 6, below.

   ~~b. The Parties agree that this Agreement shall renew automatically for one-year periods following the Initial Term subject to the payment adjustment provisions of Section 7 below unless either Party provides written notice to the other Party no later than March 1 of its intention not to renew this~~

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~~Agreement, which such termination will not become effective until the end of the City's current fiscal year (September 30). All terms and covenants of this Agreement shall apply to any renewal period.~~

6. Termination:

   a. Based upon budgetary constraints, either City or County may terminate this Agreement by providing written notice to the other Party not later than March 1 of any year. Any such termination will not be effective until the end of the City's current fiscal year (September 30).

   b. This Agreement may be terminated for cause, provided that in the event of the breach, the non-breaching Party shall give written notice to the breaching Party specifically stating the provision of this Agreement alleged to have been breached and the factual basis underlying the alleged breach. Within thirty (30) days after receipt of notice, the breaching Party shall: i) cure said breach; or ii) contest the alleged breach. Failure to cure the breach or contest the alleged breach within this thirty (30) day period shall be deemed a material breach of this Agreement and shall authorize the non-breaching Party to unilaterally terminate this Agreement, upon delivery of written notice of termination via certified mail or personal delivery, to the breaching Party. Termination shall be effective upon receipt of said notice.

   c. This Agreement may be terminated at any time by mutual agreement of the Parties.

7. Payment by County:

   a. In exchange and consideration for the City's provision of Library services under this Agreement during the Initial Term, County agrees to pay City $200,000.00 ~~for the first year of this Agreement~~ annually contingent each year upon the award of a grant by the Cailloux Foundation to the County. ~~Such costs include costs relating to personnel, supplies, training, equipment, building operations, as well as other related expenses. Such costs do not include expenditures for capital improvements, major building maintenance, or depreciation.~~In the event that the Cailloux Foundation during the Initial Term elects not to donate to Kerr County for the purpose of funding the Library or elects to donate an annual sum less than $200,000.00, then Kerr County shall not have any obligation to pay any sum under this Agreement greater than the Cailloux Foundation's annual donation.

   ~~b.For each year following the first year of this Agreement, the Parties agree that, in exchange for the City's provision of services under this Agreement, the County shall increase its payment by adding an inflationary adjustment which shall be equal to the greater of 2% or the inflation increase as defined by the Consumer Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics (CPI) or its successor. This provision shall also apply to any annual extensions of this Agreement beyond the Initial Period.~~

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~~c.~~b. ~~Payment for the Initial Term shall be due and payable on or before February 1 with subsequent payments being due on or before February 1 for each year that the Agreement continues.~~Payment for the Initial Term shall be in equal monthly payments due and payable beginning on or before October 1, 2011, and continuing on the first day of each month.

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8. Payment by City: The City shall annually fund the Library at or above the annual payment made by the County for each fiscal year. In addition, the City shall be responsible for capital improvements, major building maintenance, and depreciation.

9. Library Budget:

   a. City shall develop and submit an annual budget for Library operations ("Library Budget") to the County.

   b. City shall submit its Library Budget to the County not later than July 1 of each year.

10. The City shall operate the Library and the hours that it is open to the public in a manner consistent with programming established in the approved budget. The City may change the standard operating hours from time to time for holidays, building renovations/construction, weather conditions, or other unforeseen situations. The City intends to add programming for youth services and to hire a Youth Services Librarian

11. This Agreement shall be binding upon Parties hereto; provide, however, that neither the City nor the County shall assign, sublet, or transfer their interest in this Agreement without the prior written consent of the other.

12. This Agreement has been made in and shall be construed in accordance with the laws of the State of Texas. Venue shall be in Kerr County, Texas.

13. Notice to City provided herein shall be sufficient if sent by first class mail, postage prepaid to:

    City Manager's Office
    City of Kerrville
    800 Junction Highway
    Kerrville, TX 78028

    And notice to County, if sent by first class mail, postage prepaid addressed to:

    County Judge
    Kerr County Courthouse
    700 Main Street, Ste. 101
    Kerrville, TX 78028

    Or to such other addresses as the Parties may designate to each other in writing.

~~CoK Draft 4/15/11~~

APPROVED AND ADOPTED by the City Council for the City of Kerrville on the _____day of _____2011; and by Commissioners Court of Kerr County, State of Texas, on the ____ day of _____2011.

CITY OF KERRVILLE, TEXAS

_____
David Wampler, Mayor

Date: _____

ATTEST:

_____
Brenda G. Craig, City Clerk

COUNTY OF KERR, TEXAS

_____
Pat Tinley, County Judge

Date: _____

ATTEST:

_____
Jannett Pieper, County Clerk

~~CoK Draft 4/15/11~~

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INTERLOCAL AGREEMENT FOR
FIREFIGHTING AND EMERGENCY MEDICAL SERVICES BETWEEN THE CITY OF KERRVILLE, TEXAS AND KERR COUNTY, TEXAS

AGREEMENT

This Interlocal Agreement for Firefighting and Emergency Medical Services between the CITY OF KERRVILLE, Texas, ("City") and KERR COUNTY, Texas, shall be effective as of October 1, 2011 ("Effective Date").

WITNESSED:

City shall provide firefighting and emergency medical services for the use and benefit of the citizens of Kerr County, Texas, to specified unincorporated areas of Kerr County, under the following terms and conditions, to-wit:

SECTION ONE. Firefighting Services.

A. 1st Response Area: It is understood that for the "Kerrville South" area, also known as the Kerrville Fire 1st Response Area and specifically identified in the service map attached as Exhibit A and incorporated herein by reference, the City shall be considered the "first responder" fire department for all types of fire department related emergencies and shall respond as necessary pursuant to City fire emergency response protocols to protect the public and property for any fire department related emergency within the Kerrville Fire 1st Response Area~~initially with 1 (one) engine and/or a brush truck, and/or a rescue truck with their respective personnel, as the City deems appropriate~~.

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B. Responses into the County:

1. *Firefighting*: For areas outside the City limits and the Kerrville Fire 1st Response Area, in the event of a request for service for any type of fire, including structural, grass/brush, and vehicle, and the volunteer fire department for that jurisdiction ("VFD") has not responded to that request within four minutes, the VFD for that jurisdiction or Sheriff's Department dispatch may request that the City respond ~~initially with 1 (one) engine, and/or a brush truck, and/or a rescue truck~~ with their respective personnel~~, as the City deems appropriate~~ as necessary for the fire emergency. Otherwise, City shall not be obligated to respond unless called for assistance by the VFD. ~~The engine shall have three personnel and equipment needed to fight a structure fire. If needed, City's brush truck may respond to assist.~~ In the event City receives a call for service from someone other than the VFD, City shall relay the call to the appropriate fire department in the County.

2. *Other Emergencies*: For all other non-fire types of emergencies including vehicle accidents, water and other types of rescues and searches, drowning, fuel spills, malicious and accidental false alarms, and smoke instigated responses (not actual fires), the City shall respond at the request of the VFD or Sheriff ~~initially with 1 (one)~~

~~engine, and/or a brush truck, and/or a rescue truck with their respective personnel, as the City deems appropriate~~as necessary to address the non-fire type of emergency. City shall respond to and assist with fire investigations as a courtesy to the Sheriff's Department, the Department of Public Safety, or the Texas Rangers in their determination of arson and the causes of fire.

SECTION TWO. Emergency Medical Services.

A. **EMS.** City agrees to furnish emergency medical services ("EMS") to the unincorporated areas of Kerr County. In addition, the City will continue its management of the Kerr County First Responder Program. For purposes of this Agreement, EMS shall include both responding to calls for emergency medical assistance and providing medical transportation services. The amount and type of equipment and number of personnel actually furnished by the City in response to any emergency call shall be pursuant to City EMS response protocols~~determined solely by City and its duly appointed agents, officers, directors, employees or subcontractors~~. ~~It is understood and agreed that City will give priority to calls within its own jurisdictional boundaries; however, City will use their best effort to make a timely response to each request for services within the Service Area.~~

B. **First Responder Program.** ~~For the purposes of this Agreement, "Management of the County First Responder Program" shall mean and include the following services: The City shall manage the operations of the First Responder Program by maintaining, ordering, storing and restocking equipment and supplies; request and manage the budget expenditures, in addition to grant writing and proposals to obtain non-budgeted equipment; assist personnel by managing and/or administering the medical continuing education program, and ensure the compliance with the EMS Medical Protocols and EMS Standard Operating Guidelines. The EMS Coordinator shall also be the Infection Control Officer, HIPAA Privacy Officer and representative to the Medical Director and Fire Department Personnel.~~For the purposes of this Agreement, "Management of the County First Responder Program" shall mean and include the following services: The City shall manage the operations of the First Responder services by maintaining, ordering, storing and restocking equipment and supplies; request and manage the budget expenditures, in addition to grant writing and proposals to obtain non-budgeted equipment; assist personnel by managing and/or administering the medical continuing education program, teaching and coordinating education classes; file and maintain patient care reports, ensuring performance improvement through periodic run review with the Medical Director, and ensure the compliance with the EMS protocols and Standard Operating Guidelines. The EMS Coordinator shall also be the Infection Control Officer, HIPAA Privacy Officer and representative to the Medical Director and Fire Department Personnel.

C. **Response Times.** City shall make reasonable efforts to maintain emergency response times for the unincorporated areas of Kerr County at an average of twelve (12) minutes for all calls. The City shall make reasonable efforts to provide at least two (2) ambulances manned 24 hours per day 365 days per year capable of responding to City and County calls for service. The ambulances shall be staffed in accordance with the City's EMS Medical Protocols and EMS Standard Operating Guidelines. City shall continuously monitor its compliance with this provision. However, such response times

may be waived in times of natural disasters or other catastrophic events which limits or renders performance standards substantially impossible.

D. **EMS Vehicles**. City shall maintain its EMS vehicles in accordance with the Texas Department of State Health Services EMS provider rules and regulations at all times, and shall provide patient care supplies, medical equipment, vehicle maintenance and regular equipment and vehicle inspections, calibrations and checks as determined by City to be appropriate.

E. **Medical Director**. The provision of EMS under this Agreement shall be directed, supported and supervised by a licensed physician who shall be designated by City as its Medical Director for EMS.

F. **Reports**. City shall provide quarterly run reports to County regarding the number of EMS responses made into the unincorporated areas of the County. Such report shall be a summary of the response codes obtained from "Emergency Response Report" provided as part of the EMS software used by the City. County may request additional reports as needed as long as the information sought does not impinge on required patient confidentiality, violate federal or state law, and County pays the cost of producing such additional reports.

G. **Additional Services**. In carrying out EMS, City shall provide vehicle extrication, additional personnel, and establishment of landing zones for helicopter services as needed and as determined by the incident commander. In furtherance of meeting its obligations under this Agreement, City may enter into such contracts and interlocal agreements with local governmental entities and/or private companies as they deem necessary or appropriate to provide the services and coverage required.

H. If personnel and equipment are available, City shall provide one (1) non-dedicated, stand-by ambulance at community events and activities within City or its Extraterritorial Jurisdiction (ETJ) upon fourteen (14) days written notice of such request by County at no additional cost. It is understood and agreed that an ambulance providing such service will remain available to respond to calls for services anywhere within Kerr County and will leave the assigned event when required for such calls. No replacement ambulance shall be provided for the event during the periods when the ambulance is being otherwise utilized.

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I. Should County desire a dedicated ambulance for a community event or activity, County must request such in writing with City a minimum of fourteen (14) days prior to the event or activity. If available, City shall locate an ambulance at the event or activity for its duration unless or until a transport from the event is needed. It is further understood should another ambulance not be available to transport a patient from the event, the assigned ambulance may be required to depart the assigned area. Upon the departure of the assigned ambulance, no replacement ambulance shall be available until such time as the assigned unit returns.

JH. **Patient and Third-party Billing**. City, including any and all of its agents and subcontractors operating hereunder, shall be entitled, in their sole discretion, to separately

charge the patient/customer for their services based on the prices set by the City. Prices charged shall be based upon a number of factors, including location of the call, level of service provided, type of care rendered, supplies used, personnel used, and other mitigating or contributing factors to include cost of Medicare disallowance, cost of collection, and other related costs. Any and all costs provided for herein shall survive the expiration of this Agreement.

SECTION THREE. County's Costs. County shall pay the City $500,000.00 for the City's firefighting services and $400,000.00 for emergency medical services. Payment shall be in equal monthly payments due and payable beginning on or before October 1, 2011 and continuing on the first day of each month.~~The County shall make each of these payments to the City on or before February 1 for each year of this Agreement.~~

SECTION FOUR. Following the first year of this Agreement, the costs to be paid by the County shall increase each year of the Agreement by adding an inflationary adjustment which shall be equal to the greater of 2% or the inflation increase as defined by the Consumers Price Index for All Urban Consumers, as published by the U.S. Department of Labor, Bureau of Labor Statistics or its successor (C.P.I.). If publication of the C.P.I. is discontinued, any similar index published and recognized by the financial community, as a substitute for the C.P.I. shall be used in its place.

SECTION FIVE. Term. This Agreement shall remain in effect from year to year, but may be terminated as of September 30, 2014~~5~~6, or any subsequent year, by either party giving one-hundred eighty (180) days written notice thereof.

SECTION SIX. Liability. Pursuant to Tex. Gov't Code §791.006, the Parties agree to be jointly and severally responsible for civil liability that arises from the furnishing or obtaining services under this Agreement.~~Pursuant to Section 791.006 of the Texas Government Code, County hereby accepts, and in so doing releases City from, responsibility for civil liability that arises from the furnishing or obtaining services under this Agreement. To the extent authorized by law, County agrees to indemnify and hold harmless City for any damages or injuries to any person, or the property of such person, which damage or injuries result from answering or performing fire calls outside the City.~~

SECTION SEVEN. ~~**City's Right to Terminate.** It is understood and agreed that should City's fire insurance rate be jeopardized in any manner as a result of answering fire calls outside City's limits, City shall have the right to terminate this Agreement upon giving sixty (60) days written notice hereof.~~

~~**SECTION EIGHT.**~~ **City Discretion in Providing Services.** The parties understand and agree that City's primary fire fighting responsibilities are ~~in the City and~~ at the site of the greatest emergency; therefore, City reserves the reasonable discretion to delay or fail to respond, or to pull away from any call~~, whether in City or out,~~ in order to respond adequately to ~~an in-City report, or to~~ other emergencies of the greatest degree, as solely determined by City.

SECTION ~~NINE~~EIGHT. City's Control. It is expressly understood that in the performance of the obligations taken under this Agreement, City is an independent contractor with the sole right to supervise, manage, control and direct the provision of its employees and agents. Further, County shall look to the City for performance only and shall have no right at any time to direct or supervise

the City, its agents, officers, directors, employees or subcontractors. Nothing in this Agreement shall constitute or be construed to create a partnership or a joint venture by and among the parties.

SECTION ~~TEN~~NINE. Compliance with Law. City shall observe and comply with all federal, state, and local laws, rules, ordinances, and regulations in providing services under this Agreement.

SECTION ~~ELEVEN~~TEN. Miscellaneous.

A. For purposes of this Agreement, all notices required hereunder shall be delivered to the following addresses of the respective parties via hand delivery or first class, prepaid mail:

For the City of Kerrville:

City of Kerrville c/o City Manager 800 Junction Highway Kerrville, TX 78028	with copy to:	City of Kerrville c/o Fire Chief 87 Coronado Kerrville, TX 78028

For the County:

Kerr County
c/o County Judge
Kerr County Courthouse
700 Main Street
Kerrville, TX 78028

B. This Agreement supersedes all written or oral representations of the parties as to the content, obligations or performance of the provision of emergency medical services by City to County. Any modification to this Agreement shall be of no force or effect unless in writing and signed by both parties. Each party hereto certifies that the covenants and obligations stated in this Agreement constitute the duly authorized act and agreement of the respective entity and that the persons affixing their signatures below have obtained all requisite approvals for the execution of this Agreement.

C. The validity of the Agreement and any of its terms or provisions as well as the rights and duties of the parties, shall be governed by the laws of the State of Texas. Exclusive venue for any action concerning this Agreement shall be in Kerr County, Texas.

D. Pursuant to Tex. Gov't Code §791.015, the Parties agree to submit disputes arising from this Agreement to the alternative dispute resolution procedures authorized by Chapter 2009 of the Texas Government Code.

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E~~D~~. In the event an Emergency Services District (ESD) is created whose purpose is to fund the services provided for under this Agreement, the County may, at its sole discretion, either terminate all or part of this Agreement with 180 days written notice to the City for the service whose purpose the ESD was created to provide OR assign this Agreement to the ESD with written notice to the City. Such an assignment is not effective

until the ESD agrees to assume the obligations assigned by the County from this Agreement; once the ESD has agreed to assume the assigned obligations including cost of providing the service, the County is released and discharged from its responsibility for those obligations under this Agreement. Otherwise, n~~N~~either party may assign any right under this Agreement, and any purported assignment will be null and void and a breach of the Agreement.

F~~E~~. Notwithstanding any provision to the contrary, it is agreed that none of the obligations contained within this Agreement shall run to or be enforceable by any party other than a party to this Agreement.

~~F. In the event either party pursues litigation in order to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees, in addition to any and all other remedies, costs and damages permitted by law.~~

EXECUTED this the _____ day of _____, A.D., 2011.

CITY OF KERRVILLE, TEXAS	COUNTY OF KERR, TEXAS
_____	_____
David Wampler, Mayor	Pat Tinley, County Judge
ATTEST	ATTEST
_____	_____
Brenda G. Craig, City Secretary	Jannett Pieper, County Clerk
APPROVED AS TO FORM	
_____	
Michael C. Hayes, City Attorney	

Agenda Item:
(Staff)

4D. Zoning Ordinance Input Committee's (ZOIC) review of the zoning ordinance.

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

SUBJECT: Discussion and possible action on the Zoning Ordinance Input Committee's Review of the City's Zoning Ordinance

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: June 28, 2011

SUBMITTED BY: Kevin Coleman **CLEARANCES:** Kristine Ondrias

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:
APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:

SUMMARY STATEMENT

On September 14, City Council reviewed a variety of recommendations from the Zoning Ordinance Input Committee (ZOIC).

Under the heading of "Future Steps of ZOIC Review", the committee laid out a number of elements of the ordinance as an outline it would follow in its path of review.

Under this agenda item, and using that outline, City Council will be updated on the committee's progress in those elements of review.

- A draft map lining out the geographic definition of each of the proposed commercial and industrial zones.

  Progress - The Committee has completed a use survey of all non-residential zones in the city, developing the skeleton of a map defining industrial, commercial and residential areas. The Committee will return to that map and generate its recommendation on the specific district boundaries of those zones upon completion of proposed land use charts for each proposed zone.

- The appropriateness of NAICS based land uses for each proposed commercial and industrial district so that the committee can finalize its recommendation on which uses are appropriately permitted, conditionally permitted and restricted in each of the proposed zones.

Progress - The Committee has completed the land use chart for the proposed Industrial and Light Industrial districts. Staff has presented those charts to the Joint Airport Board for a recommendation on developing a similar chart for the Airport District. The Committee has tabled development of the land use charts for the Regional Commercial, Light Commercial and Neighborhood Commercial zones so that it can complete an assessment of the appropriateness of development standards that will be applied in each of those zones.

Generally, the Committee plans to create a base level of development standards that will apply within each non-residential zone. The intent is that the use chart can be more permissive if appropriate development standards are used to address the density, separation and other design elements of future developments.

The development standards under consideration are:

- *Minimum setbacks (front, rear and side, from flood plain);*
- *Minimum lot sizes (total square feet, width and depth);*
- *Maximum lot coverage (building and impervious coverage);*
- *Screening, elevation and building height requirements.*

Upon completion of a draft set of development standards, the Committee will return to the use chart and its application to all non-industrial, non-residential zone.

- A land use survey of the proposed CBD district to identify which existing use(s) are nonconforming under the adopted CBD use chart.

  Progress - Staff has completed a survey of existing uses, and given the broad use allowance under the adopted CBD land use chart, has found only limited non conformity of use. That limited non conformity, as well as the application of updated parking and special development regulations, will be addressed as property in the area redevelops.

- Upon completion of staff recommendation, a review of changes to the ordinance sections dealing with the conditional use permit process, non-conformity, and home occupations.

  Progress - Staff has completed an initial draft of these sections of the ordinance. These drafts will be presented to the Committee as its work on the commercial districts nears a completion point.

- A review of the issues related to, and assessment of the need for, a Special Use Exception approval process, within the ordinance.

Progress - Staff has completed an initial draft of these sections of the ordinance. These drafts will be presented to the Committee as its work on the commercial districts nears a completion point.

Future Steps of Committee

Over the next two months, the Committee should complete its review of development standards and complete the use charts on all non-residential districts. Upon completion of that work, the Committee will draft proposed district lines for each district.

Upon completion of that work, the Committee will review the draft of the ordinance sections currently under draft review by staff. If the Committee can address those drafts without breaking its momentum on the creation of appropriate development standards, draft use charts and proposed district boundaries of the non-residential zones, it will begin its review of these drafts earlier.

It should be noted that the time spent by the Committee publically vetting the recently adopted code changes, the loss of Committee members and the process of educating new members has created a lag in the progress of the Committee in the past several months. However, in that, these issues are complete, the Committee will be able to focus more directly on the review discussed above. This focus should allow the Committee to move forward in more expeditious manner.

RECOMMENDED ACTION

Council is asked to review the information presented and, after any needed discussion, provide staff direction on how to move forward.

Agenda Item:
(Staff)

4E. Update regarding Lower Colorado River Authority Transmission Services Corporation (LCRA-TSC) application for the proposed McCamey D to Kendall to Gillespie CREZ project PUC Docket No. 38354; City of Kerrville, Kerrville Public Utility Board, and City of Junction v. PUC, Cause No. D-1-GV-000324, in the 98th District Court of Travis County.

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

SUBJECT: Update regarding Lower Colorado River Authority Transmission Services Corporation application for the proposed McCamey D to Kendall to Gillespie CREZ project.

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: July 5, 2011

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

City Staff will provide on update regarding the CREZ Project.

RECOMMENDED ACTION

Discussion and possible action as may be necessary.

Agenda Item:
(Staff)

5A. Update on Library statistics.

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

SUBJECT: Update on Library Statistics

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: July 1, 2011

SUBMITTED BY: Daniel C. Schwartz
Library Director

CLEARANCES: Kim Meismer
Director of General Operations

EXHIBITS: Circulation Statistics, Patron Statistics, Statistics By Fiscal Year

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

After going live on our new Integrated Library System (ILS) Millennium on January 24, 2011, the Butt-Holdsworth Memorial Library (BHML) has been able to provide more accurate statistics. The library presents the statistics as of June 30, 2011.

The Library closed as of 6 PM on May 21, 2011. There was very little action between that time and the present. Renewing books and processing outstanding Inter-library Loans (ILL) account for the only circulations for the month.

RECOMMENDED ACTION

This item is presented for information only, no action is required at this time.

Butt-Holdsworth Memorial Library (BHML)
Fiscal Year Statistics as of 06/30/11

Statistics	FY05	FY06	FY07	FY08	FY09	FY10	FY11 to date
Circulation of Library Materials	186,131	183,232	175,520	176,866	183,606	168,816	124,148
Reference Transactions	24,105	27,680	25,912	31,721	28,052	24,564	13,771
Gate Count	169,104	170,566	165,167	167,548	161,458	160,401	96,942
Internet/Electronic Resource Use	47,209	48,025	48,951	53,913	51,972	49,316	28,955
Born to Read Program *Started FY09*	0	0	0	0	65	390	262
Summer Program Participants	1,837	1,987	1,380	1,664	3,187	3,249	1,302

NOTE: "FY11 to date" column includes circulation statistics from Galaxy from the time period 10/01/2010 – 1/23/2011.

Agenda Item:
(Staff)

5B. Budget and economic update.

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

SUBJECT: Kerrville Budget/Economic Update

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: June 30, 2011

SUBMITTED BY: Mike Erwin
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Economic Update
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

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

SUMMARY STATEMENT

The City of Kerrville staff will present and update Council on a biweekly basis as to the status of the City's budget and current economic trends affecting the City.

RECOMMENDED ACTION

No action required information purposes only.

CITY OF KERRVILLE
ECONOMIC UPDATE AS OF JULY 7, 2011

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
National					
Unemployment	9.10%	9.00%	9.60%	↔	May
Consumer Confidence	60.8	66	62.7	↓	May
1 year T-Bills	0.19%	0.17%	0.30%	↔	7/7/11
State					
Monthly Unemployment	7.90%	7.70%	7.90%	↔	May
Monthly Sales Tax	$1,722.6m	$1,952.0m	$1,607.0m	↑	June
Local					
Monthly Unemployment (Kerr Co.)	6.40%	6.10%	6.00%	↑	May
Median Listing Price	$219,000	$210,000	$215,000	↑	6/1/11
Monthly Sales Tax	$372,933	$469,531	$365,192	↑	June
Monthly EIC Tax	$186,441	$234,742	$182,429	↑	June
Monthly HOT	$78,535	$92,623	$78,013	↔	June

	FY11 Budget	FY11 as of 06/30/2011	FY11 % Received	FY10 as of 06/30/2010	FY10 % Received
General Fund					
Tax Revenue	$14,647,100	$12,798,616	87.38%	$12,480,781	82.90%
Property Tax	$8,240,000	$8,166,209	99.10%	$8,037,985	94.91%
Sales Tax	$4,500,000	$3,492,667	77.61%	$3,313,010	71.65%
Permits & Fees	$402,450	$256,673	63.78%	$236,247	63.72%
Intergovernmental	$707,013	$584,500	82.67%	$520,920	74.94%
Service Revenues	$2,578,260	$1,905,156	73.89%	$2,350,420	70.98%
Grant Revenue	$22,571	$27,515	121.90%	$10,525	105.25%
Fines & Forfeitures	$477,710	$414,128	86.69%	$371,372	73.61%
Interest & Misc.	$235,372	$248,697	105.66%	$429,471	93.32%
Transfers In	$1,000,000	$816,408	81.64%	$907,926	72.01%
Total General Fund	$20,070,476	$17,051,694	84.96%	$17,307,662	79.88%
Total General Fund Expenditures	$20,070,476	$14,273,795	71.12%	$16,023,095	71.37%
Water/Sewer Fund					
Water Sales	$4,400,000	$3,683,452	83.71%	$2,955,182	6.29%
Sewer Sales	$3,760,000	$2,693,261	71.63%	$2,750,932	7.17%
Other Revenue	$782,124	$712,274	91.07%	$606,686	90.62%
Total Water & Sewer Fund	$8,942,124	$7,088,987	79.28%	$6,312,800	65.56%
Total W&S Fund Expenditures	$9,242,124	$6,475,734	70.07%	$6,258,263	66.05%

Agenda Item:
(Staff)

6A. Golf course advisory board.

BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS

SUBJECT: Appointments to the Golf Course Advisory Board

FOR AGENDA OF: July 12, 2011 **DATE SUBMITTED**: July 5, 2011

SUBMITTED BY: Brenda Craig BC
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

APPROVED FOR SUBMITTAL BY DIRECTOR OF ADMINISTRATIVE SERVICES:

SUMMARY STATEMENT

Consider appointments to the following board:

Golf Course Advisory Board: Four terms expired July 1, 2011: Pat Angell, B.K. Cody, James Howard, and Bill Thomas.

RECOMMENDED ACTION

Consider appointments.

GOLF COURSE ADVISORY BOARD

	Telephone	Orig. Appt.	Re-Appt. Date	Exp. Date
CODY, B. K. 1602 Quinlan Creek Chair	896-4472 (H)	06-24-08		07-01-11
ANGELL, PAT 2329 Rock Creek Vice-Chair	896-0347 (H)	04-08-08		07-01-11
BOYNTON, FRANK 4024 Comanche Trace Dr.	896-7186 (H) 896-7186 (O)	08-24-10		07-01-12
DYLINA, TIM 3801 Clubhouse Rd.	257-9207 (H) 209-769-5554 (O)	08-24-10		07-01-12
HERNANDEZ, JOE 2010 Vista Ridge Dr.	895-1915 (H) 739-7817 (C)	08-24-10		07-01-12
HOWARD, JAMES 1312 Water St.	903-399-3011 (H) 890-5464 (O)	08-24-10		07-01-11
THOMAS, BILL 435 Coronado Drive	895-2323 (O) 895-3695 (H)	07-28-09		07-01-11

COUNCIL LIAISON:

Carson Conklin 895-5205 (O)
720 Earl Garrett

CITY STAFF:

Kristine Ondrias 258-1106 (O)
Assistant City Manager

Scott McDonough 258-1400 (O)
General Manager of Golf & Tennis

Qualifications:	All must be residents of the city.
Purpose and Duties:	The purpose of the Board is to advise the City Council and city staff on matters relating to the operation of the Scott Schreiner Municipal Golf Course.
Term of Office:	Two Years. No member shall serve more than two consecutive full terms without having at least one full year off of the Board between terms.
Vacancies:	Upon the vacancy, removal, or expiration of the term of office of any member, the city council shall appoint a successor who shall hold that position for the unexpired term or for the period of two years when the appointment is made as the result of the expiration of a board member's term.
Quorum:	Four members of the board, excluding liaison members.
Number of Members:	Seven
Meeting Time & Place:	Fourth Monday at 4:30 p.m.; City Council Chambers
Absences:	The name of any member having three consecutive absences from regularly called meetings of the board, or who in any consecutive twelve-month period is absent from more than 25 percent of the regularly called meetings, shall be forwarded to

the city council for consideration for removal and replacement on the board.

Established by: Resolution No. 037-2009, which repealed Resolution Nos. 99-230, 99-307, 080-2000, and 136-2004

Revised: May 19, 2011