

**AGENDA FOR REGULAR MEETING**

**KERRVILLE CITY COUNCIL**

**TUESDAY, DECEMBER 13, 2011, 6:00 P.M.**

**CITY HALL COUNCIL CHAMBERS**

**800 JUNCTION HIGHWAY, KERRVILLE, TEXAS**

**KERRVILLE CITY COUNCIL AGENDA**  
**REGULAR MEETING, TUESDAY, DECEMBER 13, 2011, 6:00 P.M.**  
**CITY HALL COUNCIL CHAMBERS**  
**800 JUNCTION HIGHWAY, KERRVILLE, TEXAS**

**CALL TO ORDER**

**INVOCATION** offered by Reverend Mike Williams, Zion Lutheran Church.

**PLEDGE OF ALLEGIANCE TO THE FLAG** led by Ed Nail 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 take all actions necessary for each approval:

2A. Approval of the minutes of the regular city council meeting held November 22, 2011; and the special city council meetings held November 15 and 18, 2011.

2B. Authorize submission of a grant application to the Cailloux Foundation for the purchase of street paving equipment. (staff)

2C. A resolution endorsing the existence of the Kerrville Citizen Police Academy Alumni Association and authorizing and requesting that the Texas Municipal League-Intergovernmental Risk Pool provide liability insurance coverage to the members of the association and errors and omission liability coverage to its board of directors. (staff)

2D. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas (parks and trail system improvement project). (staff)

**END OF CONSENT AGENDA**

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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: December 9, 2011 at 3:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

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City Secretary, City of Kerrville, Texas

**3. ORDINANCE, SECOND AND FINAL READING:**

3A. An ordinance amending the budget for fiscal year 2012 to account for changes in the status of various capital improvement projects; and to amend other city funds to account for balances for approved purposes. (staff)

**4. REPORT FROM CITY SECRETARY ON POSSIBLE PETITION.**

4A. Report regarding the possible submission, and subsequent verification of a petition submitted in accordance with Section 271.049 of the Texas Local Government Code, protesting the issuance of debt instruments to finance the river trail project and requiring a bond election be held prior to issuance. (staff)

**5. ORDINANCE, FIRST AND ONLY READING:**

5A. An ordinance authorizing the issuance, sale and delivery of \$3,500,000 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2011A"; securing the payment thereof by authorizing the levy of an annual ad valorem tax and a pledge of certain surplus revenues of the city's waterworks and sewer system; and approving and authorizing the execution of a paying agent/registrar agreement, an official statement and all other instruments and procedures related thereto. (staff)

**6. PUBLIC HEARING AND RESOLUTION:**

6A. A resolution granting a conditional use permit for an approximate 0.50 acre parcel of land, making up part of Lots 6, 7, 8, 9, and 10, Block 25, and out of the Westland Place Addition, a subdivision within the City of Kerrville, Kerr County, Texas, otherwise known as 506 Junction Highway (State Highway 27) and located within the 10-W zoning district; by permitting said property to be used for a vehicle maintenance and repair facility; and making said permit subject to certain conditions and restrictions. (staff)

**7. CONSIDERATION AND POSSIBLE ACTION:**

7A. A resolution supporting the proposal by the Upper Guadalupe River Authority to amend its water permit to remove the permit's restriction that the water may not be used for municipal use within the city. (staff)

7B. Presentation and request for approval of the FY12 airport budget by the Kerrville-Kerr County Joint Airport Board. (Bruce McKenzie, Airport Manager)

7C. A resolution granting a tempering to the requirement to provide water and wastewater service to the property being developed at 510 Benson Drive (Christ the King Foundation Prayer Garden site). (staff)

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City Secretary, City of Kerrville, Texas

7D. Authorize the city manager to execute additional change orders to the JM Lowe contract which may exceed \$50,000 on the library renovation/expansion project but not an amount to exceed a total change order limit of \$348,000. (staff)

7E. Authorize execution of a Certificate of Convenience and Necessity (CCN) agreement designating retail water service territory between the City of Kerrville and Aqua Texas within the Kerrville South area. (staff)

7F. Accept deed for city hall property at 701 Main Street, approve lease agreements for parking garage facility at 201 Clay Street and its adjacent buildings at 219 Clay Street, and 200 Sidney Baker Street, grant temporary construction easement for the city owned property, and accept temporary construction easement from the Cailloux Foundation. (staff)

7G. Authorize execution of a construction contract with Huser Construction Company, Inc. for the construction of a city hall facility and the renovation of existing buildings in the amount of \$2,409,000.00 and authorize the city manager to execute additional change orders in an amount not to exceed \$300,000.00. (staff)

**8. INFORMATION AND DISCUSSION:**

8A. Water resources report. (staff)

8B. Budget and economic update. (staff)

**9. BOARD APPOINTMENTS:**

9A. Appointments to the food service advisory board. (staff)

9B. Appointments to the library advisory board. (staff)

9C. Appointment to the economic improvement corporation. (staff)

**10. ITEMS FOR FUTURE AGENDAS**

**11. 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

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City Secretary, City of Kerrville, Texas

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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.

**12. 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 matters:

Section 551.071 and 551.087:

Discuss or deliberate regarding commercial or financial information that the City Council has received from a business prospect that the Council seeks to have locate, stay, or expand in the City and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to such business prospect.

Section 551.074:

- Appointment to the economic improvement corporation.
- Appointment of municipal court judges.
- Annual evaluation of the city attorney.
- Annual evaluation of the city manager.

**13. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION**

**14. ADJOURNMENT.**

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City Secretary, City of Kerrville, Texas

**Agenda Item:**  
**(Staff)**

2A. Approval of the minutes of the regular city council meeting held November 22, 2011; and the special city council meetings held November 15 and 18, 2011.

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
NOVEMBER 22, 2011

On November 22, 2011, the Kerrville City Council meeting was called to order by Mayor Wampler at 6:00 p.m. in the city hall council chambers, 800 Junction Highway. The invocation was offered by Reverend Bob Allen, First United Methodist Church, followed by the Pledge of Allegiance led by Antonio Flores, and Brandon Aycock representing Boy Scouts of America Troop 111, Notre Dame Catholic Church.

COUNCILMEMBERS PRESENT:

David Wampler	Mayor
Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember
T. Scott Gross	Councilmember
Stacie Keeble	Councilmember

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary
Kristine Ondrias	Assistant City Manager
Travis Cochrane	Director of Information Technology
Mike Erwin	Director of Finance
Charlie Hastings	Director of Public Works
Kim Meisner	Director of General Operations
Mindy Wendele	Director of Business Programs
Robert Ojeda	Fire Chief
John Young	Police Chief

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

1. VISITORS/CITIZENS FORUM: The following persons spoke:

1A. Jack Burch, Hill Country Shooting Sports Center, presented the city with an award from the US Olympic Committee recognizing Kerrville as an official Olympic training site. He noted in October HCSSC hosted over 200 people for the Olympic trials. He estimated over the six year period of operation the HCSSC had brought a total economic impact of \$18.6 million to the community for the \$1.5 million investment from the city.

1B. Eric Cooper of the San Antonio Food Bank noted that last year the SAFB provided \$70 million in emergency food and products to people in 16 counties, including Kerr. The SAFB served 58,000 people each week. He reviewed the results of the 2009 Food Insecurity Survey prepared by Feeding America based on USDA data. He challenged the city to become an advocate for the food bank and help find ways to meet the needs in Kerrville. The city can help by learning where problems are in the community and letting them know.

## **2. PRESENTATION:**

2A. Resolution by the Kerrville Area Chamber of Commerce in support of the parks and trail improvement project. Traci Carlson, President and CEO of the Chamber, presented a resolution of support of the city's plan to create the Guadalupe River Trail, and committed to educating the public and business members on the facts of the trail. In her opinion, the river trail was important to the citizens and would be an economic benefit to the downtown area and along the river. The funding plan had been designed so it would not tie up a large amount of the economic improvement corporation's annual budget and limit EIC's ability to respond to economic projects. The river trail would be environmentally safe and the chamber supported the plan, and she appreciated council's forward thinking.

2B. Official statement by the Kerrville Economic Development Corporation in support of the parks and trail system improvement project. Ray Watson, KEDC executive director, noted that on November 9 the KEDC Board voted 7-0 to support the Kerrville River Trail project and felt it would be an asset to the community. He noted that quality of life projects were an important factor in business recruitment and retention.

The following persons spoke:

1. Robert Naman discussed the food bank presentation and the needs in our community, and the city was spending \$6 million on the river trail. He felt the proposed cost was too high and the city should not do it on the basis of economic development as it would take many years before there was any economic return for the money spent. He understood the project would be funded with EIC tax and not ad valorem tax.

2. J.E. Johnson noted he was a landowner along the river and requested more detailed information on the exact location of the trail and the engineering aspect of the project. He asked when property owners would be advised of the process, and when the project would start to impact their property. The city should also consider the cost of repairing flood damage. Mayor Wampler noted the city was in the preliminary stage of project scope and cost estimates. He urged Mr. Johnson to contact the parks and recreation director for details; however, the exact location of the trail had not been designed.

## **3. CONSENT AGENDA:**

Mr. Allen moved for approval of items 3A – 3E; Mr. Conklin seconded the motion and it passed 5-0:

3A. Approval of the minutes of the regular city council meetings held October 25 and November 8, 2011.

3B. Professional services agreement with Freese & Nichols, Inc. to perform a wastewater collection system master plan update and provide a master plan for the wastewater treatment plant in an amount not to exceed \$149,900.00.

3C. Project funding agreement between the City of Kerrville, Texas and the City of Kerrville, Texas Economic Improvement Corporation for Harper Highway utility improvement Phase II project in an amount not to exceed \$1,000,000.00.

3D. Purchase of three new replacement vehicles for the police department.

3E. Municipality master service interlocal contract between Harris County Department of Education and the City of Kerrville.

#### **END OF CONSENT AGENDA**

#### **4. ORDINANCE, SECOND AND FINAL READING:**

4A. Ordinance No. 2011-21 to continue the taxation of tangible personal property, goods-in-transit, which would otherwise be exempt pursuant to Texas Tax Code Section 11.253. Mayor Wampler read the ordinance by title.

Mr. Hayes noted that approval of the ordinance would allow the city to continue to tax goods in transit when applicable. Currently, as confirmed by KCAD, no property in Kerrville would be affected. The ordinance would allow qualified goods to be taxed in the future; however, the council could waive the tax as an economic incentive. A public hearing was held on November 8; no change since first reading.

Mr. Conklin moved for passage of Ordinance No. 2011-21 on second and final reading; Ms. Keeble seconded the motion and it passed 5-0.

#### **5. ORDINANCE, FIRST READING:**

5A. An ordinance amending the budget for fiscal year 2012 to account for changes in the status of various capital improvement projects; and to amend other city funds to account for balances for approved purposes. Mayor Wampler read the ordinance by title.

Mr. Erwin reviewed amendments to the FY12 budget to recognize the closure of several capital projects and fund transfers, projects discussed in detail were:

- Move \$750,000 from the water/sewer fund to the water sewer debt service fund to increase the fund balance.
- Move \$1 million from water/sewer fund to the city hall project. When the current city hall building is sold, the proceeds will be reimbursed to the water/sewer fund.
- Proceeds from the sale of Rodriguez Street (\$100,000) would be used for street maintenance.
- Recognize \$100,000 in the PEG (public education government) revenue and expenditures.

Mr. Allen moved for approval of the ordinance on first reading; Ms. Keeble seconded the motion and it passed 5-0.

#### **6. INFORMATION AND DISCUSSION:**

6A. Water resources report.

Mr. Hastings presented a graph depicting the aquifer storage recovery wells; the

city had 800 million gallons in January 2011, and had used 200 MG. The city received small rains on a few occasions that increase the river level slightly; he noted normal river flow for November was 150 cfs; currently it was at 60 cfs. The aquifer was about 40 ft. low but holding steady. Until significant rainfall is received, the river level and the wells would not increase and the city would remain in Stage 4; the city could sustain Stage 4 for many years if necessary.

6B. Budget and economic update.

Mr. Erwin noted local unemployment dropped to 6.3%. General fund revenue was below expenditures for October; however, property tax payments should begin to come in. Water and sewer fund revenue was above expenditures. He noted that payments for city services for October and November had been received from the county, and an invoice had been sent for December.

7. BOARD APPOINTMENTS:

7A. Parks and recreation advisory board:

Ms. Keeble moved to remove Stephen Roberts from the board due to non-attendance, Mr. Gross seconded the motion and it passed 5-0.

Ms. Keeble moved to appoint Edgar Wallace with term to expire March 31, 2013; Mr. Gross seconded the motion and it passed 5-0.

8. ITEMS FOR FUTURE AGENDAS: None.

9. ANNOUNCEMENTS OF COMMUNITY INTEREST:

9A. Ms. Keeble announced she had signed up for the Polar Bear Challenge on New Year's Day; proceeds would benefit Partners in Ministry; she encouraged other councilmembers to participate.

9B. Mr. Parton reported over 100 people attended the town hall meeting on November 15. He recognized the Chamber of Commerce as a very strong partner in the event.

9C. Kevin Coleman, director of development services, accepted the position of city manager in Yoakum, Texas.

10. EXECUTIVE SESSION:

Ms. Keeble moved for the city council to go into executive closed session under Sections 551.071 (consultation with attorney), and 551.087 (deliberation regarding economic development negotiations) of the Texas Government Code; the motion was seconded by Mr. Gross and passed 5-0 to discuss the following items:

• Section 551.071 and 551.087:

Discuss or deliberate regarding commercial or financial information that the City Council has received from a business prospect that the Council seeks to have locate, stay, or expand in the City and with which the governmental body is conducting economic development negotiations; or to deliberate the offer of a financial or other incentive to such business prospect.

At 6:58 p.m. the regular meeting recessed and council went into executive closed session at 6:58 p.m. At 7:17 p.m. the executive closed session recessed and council returned to open session at 7:17 p.m. Mayor Wampler announced that no action had been taken in executive session.

11. **ACTION ON ITEM DISCUSSED IN EXECUTIVE SESSION:** None.

12. **ADJOURNMENT.** The meeting adjourned at 7:18 p.m.

APPROVED: \_\_\_\_\_

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES  
TOWN HALL MEETING

KERRVILLE, TEXAS  
NOVEMBER 15, 2011

On November 15, 2011, the Kerrville City Council held a town hall meeting at 5:30 p.m. at the Inn of the Hills Conference Center Grand Ballroom, 1001 Junction Highway, Kerrville, Texas.

COUNCILMEMBERS PRESENT:

David Wampler	Mayor
Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember
T. Scott Gross	Councilmember
Stacie Keeble	Councilmember

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary
Kristine Ondrias	Assistant City Manager
Mike Erwin	Director of Finance
Charlie Hastings	Director of Public Works
Kim Meismer	Director of General Operations
Mindy Wendele	Director of Business Programs
Robert Ojeda	Fire Chief
John Young	Police Chief
Travis Cochran	Director of Information Technology
Malcolm Matthews	Director of Parks and Recreation

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

**Presentation by Mayor David Wampler: State of the City of Kerrville and the City's Financial and Strategic Planning Efforts**

Mayor Wampler reviewed existing conditions of the city and several goals of the city council. He noted in 2008-10 city expenditures exceeded revenue and the council authorized spending out of the reserve fund. He reviewed the efforts of the current council to achieve fiscal sustainability and operate within the revenue received while maintaining an adequate service level and sustaining the current tax rate of \$0.5625, which was 4% below the effective tax rate, while the cost of providing services continued to increase. In FY11 council reduced general fund expenditures by 15% through attrition and employee cuts, from 323 full time employees in FY10 to 305 proposed for FY12. One goal of the council was to build the reserve fund to 25% of annual operating expenditures.

Council's goal was to maintain the current tax rate and there would not be any increase in debt in the general fund (ad valorem tax based) until growth increased sufficiently to fund any debt payment. Mayor Wampler noted that 13%

of the current tax rate was allocated to debt service. The city's current per capita debt was \$1,500, relatively low as compared to other Texas cities.

Council's objective was to focus on projects related to infrastructure, quality of life, and projects in the comprehensive plan—a document prepared in 2000 by a 30-member citizens committee. Mayor Wampler noted that between 2000-05 the city budgeted an average of \$1.2 million annually for water, wastewater, streets, and drainage improvements; in FY12 the council budgeted almost \$4 million. Council's priority was to allocate resources on projects that would facilitate growth and development. The proposed FY13 and FY14 bond issues would provide \$17 million to increase water and wastewater capacity to support economic growth.

Mayor Wampler reviewed the vision of the community based on the comprehensive plan and other planning documents; he noted several current projects:

- Kerrville River Trail: \$500,000 from the 2002 bond issue were proposed for Phase I, Louise Hays Park to the Riverside Nature Center. The city proposed \$3.5 million FY11 debt and \$3.5 million FY12 debt to fund construction of a six mile river trail from Kerrville-Schreiner Park to the 1400 block of Junction Highway, and \$2 million of improvements in Louise Hays Park. The debt would be paid by sales tax funds through the economic improvement corporation as a quality of life project.
- City Hall: Land, parking garage, and several office buildings had been gifted to the city in the center of downtown; construction of the main city hall building was scheduled to begin February 2012.
- Airport: Economic tool for the community; developing a facility that would be self-sustaining in the future.
- Butt-Holdsworth Memorial Library: major renovations were underway.
- Certificate of Convenience and Necessity: The city received the CCN from the state to provide utilities within the two mile ETJ area outside city limits; the goal was to provide sustainable utility service and control infrastructure development outside the city. He noted when the city annexed areas with substandard utilities, the city had to fund improvements to bring utilities up to standards.
- Aquifer Storage and Recovery (ASR): The city's third ASR well was currently under construction; through the ASR system, the city removed water from the river during peak flow, treated the water, and stored it in underground wells.

### **Public Questions and Comments**

Jeff Talarico served as moderator and directed the public's questions and comments to council and staff.

**ADJOURNMENT.** Meeting adjourned at 6:55 p.m.

APPROVED: \_\_\_\_\_

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David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES  
OF A SPECIAL MEETING

KERRVILLE, TEXAS  
NOVEMBER 18, 2011

On Friday November 18, 2011, the meeting between the Kerrville City Council and the Convention and Visitors Bureau was called to order by Mayor Wampler at 10:05 a.m. in the City Hall Council Chambers, 800 Junction Highway, Kerrville, Texas.

MEMBERS PRESENT:

David Wampler	Mayor
Carson Conklin	Councilmember
T. Scott Gross	Councilmember
Stacie Keeble	Councilmember

MEMBERS ABSENT:

Gene Allen	Mayor Pro Tem
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CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Brenda G. Craig	City Secretary
Mindy Wendele	Director of Business Programs
Sandra Yarbrough	Assistant Director of Finance

CVB BOARD PRESENT:

Lew Williams	Tom Myers
Jan Lynch	John Helm
John Grimes	Karol Schreiner
Michael Lemmons	

CVB STAFF PRESENT:

Sudie Burditt, Executive Director

**Consideration and Possible Action: Special Events Coordinator Concept.**

Mr. Parton reviewed the special events coordinator concept and identified the type of activities, productions and events that could be solicited; these should be new events and not compete against existing events. He discussed existing city amenities and things the city could do to create more venues that could be marketed.

Ms. Burditt noted tourism was the primary industry in Kerrville and the basis for the CVB; the special event concept aligned well with CVB's mission statement, i.e. to create maximum hotel occupancy through a marketing program aimed at attracting overnight visitors who will spend money in the Kerrville area. She identified market segments that could be targeted or expanded in the future and felt this concept fell into their expertise if the budget was funded by the city. She questioned what goal the city was trying to accomplish, i.e. events planner, or sales and marketing. Events planning might be more appropriately handled through the city, whereas sales and marketing would be appropriate through the CVB.

Ms. Burditt identified the strengths upon which the sales effort could capitalize, e.g. Guadalupe River, Shooting Sports Center air hall that could handle large events, and the availability of several parks, golf courses and camps. She acknowledged a list of weaknesses and suggested a plan to address some of those weaknesses. The main weaknesses were: scattered accommodations, lack of air transportation and shuttle service, and sufficient meeting space to accommodate large groups.

She opined that the purpose of the special events coordinator should be to market and bring new events to town during slow periods, e.g. winter months, when rooms are available and not compete with existing events and times when hotels were already full. The project should focus on groups that already have organized events in place and have some sponsorship funds; local sponsors were tapped out and asking for additional funding would result in competing events and likely pull funds from existing events.

The city council would determine the success of the special events project. The coordinator's office would be at the CVB, and that person would report directly to Ms. Burditt. Special events reports would be made to city council by Ms. Burditt as a separate part of the CVB report; special events funds would be a separate line item within the CVB budget and not melded into the regular CVB budget. If the project was not accomplishing the goals set in four years, the city and CVB would reevaluate the concept and set new priorities and performance marketing measures or discontinue the project. Ms. Burditt also asked council to consider the lost business report; events that cannot come to Kerrville due to lack of convention center space and accommodations for large events.

Ms. Burditt noted that city staff was assisting in writing the profile and job description for the position and placing advertisements with Texas CVB and TML; the goal was to have someone hired in January 2012. Mr. Parton noted the description included performance-based marketing measures.

The council and CVB Board also discussed the following issues:

- Need to have measureable accountability of tax funds that are provided to the CVB.
- How to measure the success of the project; consider economic impact to the community, not just hotel nights.
- Position should focus on sales and marketing, not production.
- City should provide in kind services and venues; no additional tax funds outside of the budget (\$105,000) should be provided.
- Suggested marketing the tag line "On The River".
- The city was planning to build an amphitheater in Louise Hays Park as part of the planned improvements in the \$2 million bonds planned to be sold in 2012.
- Suggested the city build a baseball and soccer field complex; 500-700 people participate in sports each weekend.
- Hill Country Shooting Sports Center was a large investment that was not being utilized to full potential.

The following persons spoke:

1. William Beltrone opined that \$500,000 would be better spent on infrastructure and amenities; such improvements would attract events; the city should take advantage of what the city has. Ms. Burditt stated that spending HOT funds on infrastructure and amenities was not a legal use of HOT funds.

2. Bob Miller suggested when marketing events in Louise Hays Park, two major issues should be considered: there was no electricity in most of the park and there was no way to control entry into the park. He questioned what role the city would have in helping with local events production and promotion. Mayor Wampler noted the city should participate with in kind services and make facilities available, noting that for some events this amounted to \$30,000; the city should not provide cash.

The meeting adjourned at 11:35 a.m.

APPROVED: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
David Wampler, Mayor

\_\_\_\_\_  
Brenda G. Craig, City Secretary

## **Agenda Item:**

2B. Authorize submission of a grant application to the Cailloux Foundation for the purchase of street paving equipment. (staff)

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

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**SUBJECT:** Authorize the Public Works department to submit a grant application for the purchase of street equipment

**FOR AGENDA OF:** 12/13/11

**DATE SUBMITTED:** 12/2/11

**SUBMITTED BY:** Charlie Hastings <sup>CHA</sup>  
Public Works Director

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:**

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The Kerrville Street Division of Public Works is responsible for maintaining nearly 150 miles of asphalt street pavement within the corporate city limits. Management of the pavement system includes scoring the streets on a scale of 0 to 100 points based on pavement condition. The current average score for all Kerrville maintained pavement is 79, with a minimum of no less than 75 and a goal of improving and maintaining that score to 85 over the course of approximately fifteen years or less.

To reach the goal of 85, Kerrville needs to allocate additional funds and resources to the pavement management system on a yearly basis. Currently, Kerrville budgets \$60,000 per year towards rental of various paving equipment. \$20,000, of that budget is for paving rollers (pad-foot soil compactor and steel wheel vibratory paving roller).

The Kerrville Street Division of Public Works has an opportunity to apply for a grant from the Cailloux Foundation in the amount of \$200,000 that would be combined with \$20,000 of Kerrville's rental budget to purchase two new rollers. The rollers are expected to have an effective life of ten years or more, and the yearly rental savings of \$20,000 would be applied towards material purchase of asphalt for each year following purchase of the rollers (an equivalent of 0.2 miles of asphalt street construction per year).

Please note that Public Works has previously been authorized by Council to submit an application for a grant to purchase an asphalt paver; this is a second and final grant application to street equipment (rollers).

**RECOMMENDED ACTION**

The Director of Public Works recommends that council authorize staff to submit an application for a grant to purchase street equipment from the Cailloux Foundation.

## **Agenda Item:**

2C. A resolution endorsing the existence of the Kerrville Citizen Police Academy Alumni Association and authorizing and requesting that the Texas Municipal League-Intergovernmental Risk Pool provide liability insurance coverage to the members of the association and errors and omission liability coverage to its board of directors. (staff)

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

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**SUBJECT:** Approve Resolution to provide the Kerrville Citizen Police Academy Alumni Association with Liability Insurance for the membership and Errors & Omissions Insurance for its Board of Directors from the Texas Municipal League Intergovernmental Risk Pool through the City of Kerrville's policy.

**FOR AGENDA OF:** December 13, 2011      **DATE SUBMITTED:** November 18, 2011

**SUBMITTED BY:** Kimberly Meisner *KME*      **CLEARANCES:** Todd Parton  
Director of General Operations                      City Manager

**EXHIBITS:** Letter of Request Dated 11/16/2011, KCPAAA Bylaws, IRS Determination Letter, Prospect Non-Profit Corporation Form and Liability, Property & APD Member Qualifications document from TML-IRP

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *TP*

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
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**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

The Kerrville Citizen Police Academy Alumni Association (KCPAAA) is currently covered under the City of Kerrville's Workers Compensation policy with Texas Municipal League Intergovernmental Risk Pool (TML-IRP) as volunteers. They have requested that the City of Kerrville allow the membership to be added to the City's Liability coverage and the Board of Director's to be added to the City's Errors & Omissions coverage.

The KCPAAA is a non-profit organization and has agreed to reimburse the City for the costs associated with adding their organization to our coverage.

**RECOMMENDED ACTION**

Staff recommends approval of the Resolution to provide the Kerrville Citizen Police Academy Alumni Association with Liability Insurance for the membership and Errors & Omissions Insurance for its Board of Directors from the Texas Municipal League Intergovernmental Risk Pool through the City of Kerrville's policy.



## KERRVILLE CITIZEN POLICE ACADEMY ALUMNI ASSOCIATION

P.O. Box 290629  
Kerrville, TX 78029-0629

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Telephone: 830-792-2745  
E-mail: info@kerrvillecitizenpolice.com

November 16, 2011

Ms. Kim Meisner  
Director of General Operations  
City of Kerrville  
800 Junction Highway  
Kerrville, TX 78028

Ms. Meisner,

I have been in contact with Ms. Tamara Chafin, the representative for the Texas Municipal League Intergovernmental Risk Pool, concerning the possibility of TMLIRP insurance coverage (errors and omissions and general liability) for our board of directors and general membership. She consulted with their underwriting manager and their legal advisor and subsequently reported that, from their standpoint, it appeared possible; but that the City of Kerrville would also have to concur. She provided your name as contact point at the City.

As we are a non-profit organization with the sole mission of supporting the Kerrville Police Department, we are hopeful that this can happen, as it will result in a much lower insurance premium than what we would be forced to pay if purchased from a commercial insurance carrier.

I've attached a copy of the e-mail correspondence between Ms. Chafin and myself, along with a copy of our Association bylaws, the IRS determination of our non-profit status, and a copy of our brochure which summarizes our organization's mission and activities. Also attached is the "Prospect Non-Profit Corporations" form that Ms. Chafin indicates must be completed by the City. I will be pleased to work with you in the completion of this form.

We respectfully request your assistance.

Sincerely,

  
William H. Cafferty  
President



# KERRVILLE CITIZEN POLICE ACADEMY ALUMNI ASSOCIATION

## BYLAWS

(As amended June 9, 2011)

### ARTICLE I - INCORPORATION

#### SECTION 1 - NAME

The name of this non-profit, organization shall be "Kerrville Citizen Police Academy Alumni Association," also known as the KCPAAA, hereinafter referred to as the "Association." The address of record for the Association is the Kerrville Police Department, 429 Sidney Baker St., Kerrville, TX 78028

#### SECTION 2 - ORGANIZATION

- A. The Association is organized exclusively for public benefit and charitable purposes to meet Internal Revenue Code requirements for 501(c)(3) organizations. The Association's non-profit federal tax identification number is 20-5767084.
- B. No part of the net earnings of the Association shall inure to the benefit of, or be distributed to, its members, trustees, officers or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of these purposes.

#### SECTION 3 - FISCAL YEAR

The fiscal year of the Association shall be from October 1st through September 30th.

#### SECTION 4 - BOARD OF DIRECTORS

The management and affairs of the Association shall be at all times under the direction of a Board of Directors, hereinafter referred to as "The Board," whose operations in governing the Association shall be defined by the Association's bylaws. The Board shall conform to the guidelines set forth in Article V below.

### ARTICLE II - MISSION STATEMENT AND PURPOSE

#### SECTION 1- MISSION

The mission of the Association shall be to promote and enhance the relationship between the community and the Kerrville Police Department (KPD). The Association will accomplish this through continued law enforcement education of our members; supporting and promoting the Kerrville Citizen Police Academy and Junior Citizen Police Academy; supporting and promoting special projects that strengthen the services provided by the Kerrville Police Department; and assisting the Kerrville Police Department in specific projects when requested by that organization.

## SECTION 2 - PURPOSE

Kerrville Citizen Police Academy Alumni Association is organized exclusively for charitable and educational purposes under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

The Association shall not engage in any activities or exercise any powers that are not in furtherance of its primary purpose.

The Association shall not carry on propaganda, or otherwise attempt to influence legislation. The Association shall not participate in, intervene in (including publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. Notwithstanding any other provision of this Article, the Association shall not conduct any other activities not permitted to be conducted by an organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.

## ARTICLE III - MEMBERSHIP

### SECTION 1 - MEMBERSHIP

There are two classifications of membership:

- A. REGULAR: Anyone shall be eligible for membership in the Association upon completion of and graduation from the Kerrville Citizen Police Academy course.
- B. ASSOCIATE: Associate membership shall be open to the spouse or son/daughter, who is at least 18 years old, of a regular member, or any person nominated by the Board of Directors and approved by a majority vote of the members at any regular or special meeting.

No person shall be denied membership in the Association based on race, religion, gender or ethnicity.

### SECTION 2 - RIGHTS OF MEMBERS

#### A. REGULAR MEMBERS

- o Attend and participate in all monthly and special meetings, and join in recommendations to the Board of Directors with respect to the implementation of the goals and purposes of the Association.
- o Receive reports from the Board of Directors at monthly and special meetings with respect to the general affairs of the Association.
- o Serve as a committee member of the Association, if so elected or appointed.
- o Cast one vote for any matter put to a vote of the members at any monthly or special meeting.

#### B. ASSOCIATE MEMBERS

- o May attend monthly and special meetings as an observer and join in any discussion regarding the implementation of the goals and purposes of the Association.
- o While encouraged to volunteer for activities in support of the Kerrville Police Department, may not participate in any event or activity in which duties involve public support of the Kerrville Police Department (e.g., traffic control, duty desk, etc.).
- o Associate members do not have voting rights.

### SECTION 3 - CONDUCT

No regular or associate member shall promote or represent himself or herself on behalf of the Association for personal, political or financial gain.

#### SECTION 4 - TERMINATION OF MEMBERSHIP

- A. The Board of Directors, after an appropriate hearing and an affirmative vote of a majority of its members, may censure, suspend or terminate a regular or associate member for cause.
- B. The Board of Directors, after an affirmative vote of a majority of its members, may terminate the membership of any member who shall be in default in the payment of dues for the period fixed in these bylaws.

#### SECTION 5 - RESIGNATION

Any member may resign by filing a written resignation with the Association.

#### SECTION 6- REINSTATEMENT

Upon written request signed by a former member and filed with the Secretary, the Board of Directors may reinstate such former member upon an affirmative vote of a majority of its members and payment of the required dues.

#### SECTION 7 - APPEALS

Any former member may present an appeal to a decision of the Board of Directors before the general membership by submitting a request to the Secretary for consideration. Such appeal shall be presented to the members at the next general meeting. After discussion before the members at a general meeting, such matter shall be resolved by a majority vote of the members attending the meeting.

#### SECTION 8 - MEMBERSHIP DUES

- A. Annual membership dues shall be \$25 per member or \$45 per couple (e.g., husband-wife) for a regular membership, and \$20 per associate member. Dues are payable not later than the last day of October in each fiscal year. A forthcoming year's dues notice shall be sent to each member in September via e-mail or, if the member does not have e-mail, the U.S. Postal Service. Payments may be paid in person at a monthly meeting or mailed to the Association at P.O. Box 290629, Kerrville, TX 78029-0629.
- B. If a member does not pay annual dues by the last day of October, the member will be removed from the member mailing list and shall have no rights as a member until dues for the current fiscal year are paid in full.

### **ARTICLE IV - GOVERNANCE**

The management of the Association shall be vested in a Board of Directors consisting of seven (7) members, to be elected by the general membership.

The rules contained in the current edition of Robert's Rules of Order (<http://www.robertsrules.com>) shall govern the organization in all cases in which they are applicable and in which they are not in conflict with these bylaws.

### **ARTICLE V - BOARD OF DIRECTORS**

#### SECTION 1- ELECTIONS

- A. Members will be elected to the Board of Directors for a term of three (3) years.
- B. Service beyond three years is permitted only when re-nominated and confirmed by a vote of the membership.

- C. The Nominating Committee will meet in July to recruit and identify nominees for Board vacancies that will occur in the upcoming fiscal year. A number of nominees not less than the number required to fill upcoming vacancies will be identified by the Nominating Committee.
- D. The Nominating Committee will present the list of nominees to the Board of Directors at the August Board of Directors meeting for approval and presentation to the general membership at the following (August) meeting.
- E. Following the August meeting, members will be notified via e-mail, or for those members without e-mail, the U.S. mail, and advised of the upcoming election at the annual meeting in September and the identity of the nominees.
- F. The notification will contain an advisory that a proxy may be appointed to vote for them should they not be able to attend the September meeting. Such proxies must be signed by the member and include the identification of the member to serve as his/her proxy and any preferred voting specification(s).
- G. Members possessing one or more proxies will, upon arrival at the September meeting, surrender them to the Secretary, who will validate them.
- H. Nominees will introduce themselves and present their qualifications at the September general membership meeting. Nominations from the floor will then be accepted.
- I. Regular members will then vote to elect the new Board members, utilizing previously prepared ballots that contain the names of all nominees, along with space for the write-in candidate(s).
- J. Each regular member present shall receive one copy of the ballot; each member that has presented a validated proxy will also receive an absentee (proxy) ballot to vote for that absent member. If the absent member has specified who he/she wants to vote for, his/her selections will be made on the ballot prior to being given to the proxy holder.

## SECTION 2 - POSITIONS

The Association Board of Directors shall consist of the following:

- President
- Vice President
- Secretary
- Treasurer
- Director
- Director
- Director

## SECTION 3 - APPOINTMENTS AND TERMS

Board members will, at their October meeting, vote to elect the officers for the forthcoming year. All terms will be for one year; however, a recurring year may be served by a member in his/her current position upon a majority vote by all members.

## SECTION 4 - REMOVAL

The Board of Directors shall have the power and full discretion to remove any member of the Board for conduct prejudicial to the interests of the Association or failure, refusal or inability to perform his or her duties, by an affirmative vote of a majority of the members.

## SECTION 5 - GENERAL DUTIES OF THE BOARD OF DIRECTORS

- A. Meet monthly to transact necessary business as has been referred to it by the general membership or the Kerrville Police Department.
- B. Have the power to create special committees, as necessary, and monitor the plans of work of all committee chairs.
- C. Prepare and submit an annual budget to the membership for adoption at the annual election meeting.
- D. Have only such power as is delegated to it by these bylaws.
- E. A simple majority of Board members present will constitute a quorum in any voting situation.

## SECTION 6 - OFFICERS AND DIRECTORS DUTIES AND RESPONSIBILITIES

### A. President

- Preside over all general membership and Board of Directors meetings; convene special meetings as necessary.
- Act as primary liaison with the Kerrville Police Department for policy and regulatory matters.
- Appoint a member to fill a Board vacancy, if needed (such appointment lasting for the balance of the year).

### B. Vice President

- Perform the duties of the President when the President is unable or unavailable to do so.
- Perform the duties of the Secretary when the Secretary is unable or unavailable to do so.
- Act as liaison with the Kerrville Police Department for policy and regulatory matters in the absence of the President.
- Perform other duties as prescribed by the President.

### C. Secretary

- Prepare draft agenda for monthly Board and general meetings and e-mail them to all Board members for comments/recommendations; then e-mail the final agenda no later than Tuesday of the week of the meeting.
- Record and report minutes at meetings of the Board of Directors and general membership, with said reports being made available via e-mail and/or website in accordance with the Policies and Procedures Manual.
- Preside at any meeting not attended by the President and Vice President.
- Work with the Treasurer to maintain and file, in a timely manner, all documents required by local, state or federal entities.
- Maintain a current list of Association members, with contact information.
- Perform other duties as prescribed by the President.

### D. Treasurer

- Have custody of, and responsibility for, all funds of the Association, maintaining such funds at a financial institution approved by the Board of Directors.
- Keep accurate financial records, including, but not limited to, bank statements, paid receipts, invoices, budgets, cancelled checks and a current list of paid membership dues; ensuring that the Secretary has copies of said records.
- Work with the Secretary to maintain and file, in a timely manner, all documents required by local, state or federal entity.
- Make disbursements in accordance with the Policies and Procedures Manual.
- Create and present an updated operating statement at each BOD and membership meeting.

E. Director

Perform, at the request of the President, specific functions and duties not assigned to, or the direct responsibility of, other Board members.

F. Newly elected officers and directors may request assistance from outgoing officers or directors until fully qualified to carry out their duties.

**ARTICLE VI - COMMITTEES**

**SECTION 1- GENERAL REQUIREMENTS**

- A. The Board of Directors may create standing and ad hoc committees and appoint the chairpersons thereof.
- B. The President will appoint a Board member to be the liaison to, and ex-officio member of, each committee.
- C. Committees will meet monthly in person, telephonically or electronically, unless the nature of the committee is such that there is no committee business within a given month.
- D. Committee chairpersons will prepare and submit, through their Board member liaison, a monthly report outlining committee activities subsequent to the previous Board meeting/report. If there was no meeting, a negative report will be submitted. This report will be submitted in sufficient time to be presented by the BOD liaison at the monthly Board meeting.

**SECTION 2- STANDING COMMITTEES**

- A. **Finance** - It is the responsibility of the Finance Committee, chaired by the Treasurer, to provide financial oversight for the organization, to include budgeting and financial planning, financial reporting, and the creation and monitoring of internal controls and accountability policies.
- B. **Membership** - It is the responsibility of the Membership Committee to take actions necessary to contact and attract graduates of the Kerrville Citizen Police Academy for membership in the Association; and to make recommendations to the Board of Directors, as appropriate, for policy and procedure enhancements to augment the value of membership, thus assuring appropriate recognition and retention of the membership.
- C. **Events and Activities** - It is the responsibility of the Events and Activities Committee, in coordination with the KPD Community Services Officer, to facilitate KPD requests for assistance, solicit Association volunteers and schedule volunteers to participate in routine administrative assistance, special events and other volunteer activities in support of the KPD.
- D. **Fundraising** - It is the responsibility of the Fundraising Committee to plan, coordinate and implement fundraising activities in support of the Association, ensuring that all activities are in conformance with the mission and purpose of the Association.
- E. **Training** - It is the responsibility of the Training Committee to identify, administer and manage the training of Association members, and to further their education in the field of law enforcement in support of the activities undertaken by the Association to assist the Kerrville Police Department.

**ARTICLE VII - MEETINGS**

**SECTION 1- BOARD OF DIRECTORS MEETINGS**

- A. Board meetings shall be the first Thursday of each month at 6PM at the KPD or at other dates/time/locations, as announced.

- B. Special meetings of the Board of Directors may be called at any time by the President or by four (4) or more Board members. The Secretary shall give notice of each Board meeting by e-mailing a notice to each Board member.
- C. A quorum shall exist when at least four (4) Board members are in attendance.

## **SECTION 2 - GENERAL MEMBERSHIP MEETINGS**

- A. General membership meetings shall be the second Thursday of each month at 6PM at the KPD or other date/time/location, as announced. Notification of meetings shall be published to the general membership via e-mail and Internet web site at least seven days prior to the proposed meeting date.
- B. Special meetings of the general membership may be called at any time by order of the President, or by a majority vote of the Board of Directors, or by written request to the Secretary, signed by at least ten members of the Association, in which the subject of such meeting is stated, along with the reason(s) why it cannot wait until the next monthly meeting date.
- C. A quorum shall exist at general membership meetings when at least ten (10) members are present.

## **ARTICLE VIII - LIAISON**

The Association will maintain liaison with the KPD through its Community Services Officer or other official designated by the Chief, KPD. The KPD liaison is invited to attend all meetings and serve on any committee, but is not eligible for regular or associate membership.

## **ARTICLE IX - UNIFORMS**

- Uniform items will be worn by regular members only.
- Designated uniform items shall be worn at public events in which the Association is providing public support to the KPD.
- Members will be provided advance information as to uniform items to be worn at each event by the committee chairperson in charge of that event.
- Members shall wear uniform items only when performing official duties of the Association. The exception is the ball cap, which may be worn at any time.
- Uniform items shall not be given away, sold or donated. If any KCPAAA uniform item is no longer fit for wear or no longer needed, it will be destroyed or given to any member of the Board of Directors for appropriate disposition.

## **ARTICLE X - CODE OF CONDUCT**

Members shall conduct themselves at all times in a manner that upholds local, state and federal laws. Members shall not commit any act, or become involved in any activity, that would damage the reputation of the Association. Violations of this Code of Conduct will be investigated by the Board of Directors and, if confirmed, will result in termination of the member's membership in the Association.

## **ARTICLE XI - DISSOLUTION**

Upon dissolution of the Association, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or shall be distributed to the federal government or to a state or local government for public purpose.

## **ARTICLE XII - AMENDMENTS**

These bylaws may not be altered or amended, or any portion thereof repealed, except by a majority vote of the members present at any monthly meeting or special meeting called for that purpose and of which a

seven (7) day notice has been provided, along with a copy of the proposed revision. If only specific portions of these bylaws are amended, the amendment will reflect the specific meeting date and certification of the general membership's approval over the signature of the President and Secretary.

Board members certifying adoption.

*Bill Cafferty* 13 Oct 11  
BILL CAFFERTY, President - Date

*Jacques Duhr* 11-3-11  
JACQUES DUHR, Vice President - Date

*Jessie Valdez* 10-27-11  
JESSIE VALDEZ, Secretary - Date

*Cristina Hobratschk* 10-27-11  
CRISTINA HOBRATSCHK, Treasurer - Date

*Jim Burgin* 11-3-11  
JIM BURGIN, Director - Date

*Bob Coker* 11-3-11  
BOB COKER, Director - Date

*Milton Wilson* 11-18-11  
MILTON WILSON, Director - Date

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: JUL 18 2011

KERRVILLE CITIZEN POLICE ACADEMY  
ALUMNI ASSOCIATION  
PO BOX 290629  
KERRVILLE, TX 78029-0629

Employer Identification Number:  
20-5767084  
DLN:  
17053178316011  
Contact Person: JOAN C KISER ID# 31217  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
September 30  
Public Charity Status:  
509(a)(2)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
June 21, 2011  
Contribution Deductibility:  
Yes  
Addendum Applies:  
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. We determined that you are a public charity under the Code section(s) listed in the heading of this letter.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Sincerely,



Lois G. Lerner  
Director, Exempt Organizations

Enclosure: Publication 4221-PC

Letter 947 (DO/CG)

**PROSPECT NON-PROFIT CORPORATIONS**

Complete this form only if you wish to include liability coverage for any non-profit corporations (community development corporations, etc.) sponsored by your entity. Each corporation must have its own separate form.

Name : \_\_\_\_\_

1. Did you as the Member entity pass a resolution either creating the corporation or endorsing its existence?  
*(Please include a copy of the resolution.)*

Yes  No

2. Briefly describe the purpose of the corporation: \_\_\_\_\_  
*(Please include copies of the corporation's charter, by-laws, and articles of incorporation.)*

\_\_\_\_\_

\_\_\_\_\_

3. Does your government accept responsibility for cooperation required by the TML Pool's Interlocal Agreement and coverage documents?

Yes  No

4. Do you either appoint individuals to the corporation's board of directors or have members of your governing board serving on the corporation board with voting rights?

Yes  No

5. Does your entity accept responsibility for seeing that financial reporting is provided to the Pool?

Yes  No

6. Does corporation meet all requirements of Texas Non-Profit Corporation Act, including reversion of assets upon dissolution of the corporation to your entity or one that will carry out the same purpose as the corporation?

Yes  No

7. Estimated annual expenditures: \$ \_\_\_\_\_ *(Please include a copy of the budget for each non-profit corporation).*

8. Does the corporation participate in any joint ventures or partnerships?

Yes  No

If so, please describe: \_\_\_\_\_

- From TML
- A. Members eligible to join the Fund are specified Texas political subdivisions authorized by law to enter Interlocal Agreements, including but not limited to the following:
1. Cities, towns, villages;
  2. Special districts that perform services and functions similar to cities such as municipal utility districts, municipal power authorities, fire prevention and emergency services districts, health districts, irrigation districts, navigation districts, port authorities, flood control districts, 911 authorities, appraisal districts, housing authorities, subsidence districts, transit authorities, airport authorities, toll road authorities, library districts and tax increment reinvestment zones;
  3. Councils of government;
  4. Local Workforce Development Boards.

B. Liability coverages may be afforded for member-sponsored non-profit corporations such as community development corporations that meet the following criteria (refer to Underwriting Bulletin UB104):

1. The non-profit corporation was created by a process that included a resolution passed by the governing body of the member or the existence of the non-profit corporation is endorsed by the governing body of the member by passage of a resolution indicating the purposes of the non-profit corporation, the finding by the governing body that such purposes are a continuation of the activities of the member and carry out a public purpose, and a finding by the governing body that it will accept responsibility for insuring that the non-profit corporation provides full cooperation to the Fund in all matters set forth in the Interlocal Agreement and the coverage documents.
2. The member either appoints one or more members to the board of directors of the non-profit corporation, or has one or more elected or appointed officials of the member serve on the board of directors with the right to vote on that board of directors.
3. The member accepts responsibility either for the accounting and financial reporting for the non-profit corporation or to see that the financial reports, including audits, are provided to the Fund.
4. The non-profit corporation meets all the requirements of the Texas Non-Profit Corporation Act, including the stipulation that, upon dissolution, the assets of the non-profit corporation revert to the member or an entity that will carry out the same purposes as the non-profit corporation, with such entity to be approved by the member.

If the above conditions have been met, the non-profit corporation may be added as a covered party with the budget of the non-profit corporation and its salaries considered as part of the budget and salaries of the member after the elimination of any duplicate accounting. If the non-profit corporation performs operations that fall under separately rated classifications, it should be rated accordingly (Example: Day Care Operations for Housing Authorities). *The minimum General Liability contribution for each non-profit corporation added will be \$100 at the \$300,000 limit.*

The request from the member to include a non-profit corporation as a covered party will require a formal resolution of the governing body of the member. A copy of the non-profit corporation's

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_-2011**

**A RESOLUTION ENDORSING THE EXISTENCE OF THE  
KERRVILLE CITIZEN POLICE ACADEMY ALUMNI  
ASSOCIATION AND AUTHORIZING AND REQUESTING  
THAT THE TEXAS MUNICIPAL LEAGUE-  
INTERGOVERNMENTAL RISK POOL PROVIDE  
LIABILITY INSURANCE COVERAGE TO THE MEMBERS  
OF THE ASSOCIATION AND ERRORS AND OMISSION  
LIABILITY COVERAGE TO ITS BOARD OF DIRECTORS**

**WHEREAS**, the Kerrville Police Department (“KPD”) started and continues to offer a program called the Kerrville Citizens Police Academy; and

**WHEREAS**, the Citizens Police Academy is designed to provide interested persons with insight into the operations of the KPD; and

**WHEREAS**, after completing the course, applicants are invited to become members of the Kerrville Citizen Police Academy Alumni Association (“KCPAAA”); and

**WHEREAS**, the KCPAAA is a non-profit organization under Texas law; and

**WHEREAS**, the KCPAAA, as volunteers providing services to the City and the community, is currently covered under the City’s workers compensation policy with Texas Municipal League-Intergovernmental Risk Pool (“TML-IRP”); and

**WHEREAS**, in addition to this coverage, the KCPAAA also wishes to be covered under the City’s liability and errors and omissions policies with the TML-IRP and has agreed to reimburse the City for the costs associated with adding their organization under the City’s coverage; and

**WHEREAS**, TML-IRP will provide such coverage to the KCPAAA provided, in part, that the City approves; and

**WHEREAS**, the City Council finds it to be in the public interest to add the KCPAAA to its insurance policies as provided herein;

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

**SECTION ONE.** The City Council endorses the existence of the Kerrville Citizens Police Academy and finds that the purposes for which the KCPAAA operates work to supplement the activities of the City and its KPD and carry out a public purpose.

**SECTION TWO.** The City Council authorizes and requests that the Texas Municipal

League-Intergovernmental Risk Pool provide liability insurance coverage to the members of the KCPAAA and errors and omission liability coverage to its Board of Directors.

**SECTION THREE.** The City Council accepts responsibility for insuring that the KCPAAA will provide full cooperation to the TML-IRP in all matters with respect to the liability coverage provided to KCPAAA by the TML-IRP.

**SECTION FOUR.** Pursuant to TML-IRP's coverage requirements, the City Council directs that the City Attorney draft an agreement with KCPAAA setting forth the terms by which the City will authorize the insurance coverage approved in Section Two, above, with terms to include the conditions stated herein and the following:

A. The City Council will appoint one or more of the members to the Board of Directors of the KCPAAA, which may include the appointment of a Councilmember. Any such appointed member will have the right to vote as a member of that Board.

B. Upon request from the City, the KCPAAA shall furnish any and all information regarding its operations and finances, including audits, to the City or the TML-IRP.

C. The KCPAAA will continue to meet all the requirements of the Texas Non-Profit Corporation Act, including the stipulation that, upon dissolution, KCPAAA's assets revert to the City or a successor entity that will carry out the same purposes as the KCPAAA, with any such entity to be approved by the City.

**SECTION FIVE.** The City Manager has the authority to take whatever actions are necessary to acquire and maintain the insurance coverage as specified in Section Two, above, including entering into the agreement specified in Section Four, above.

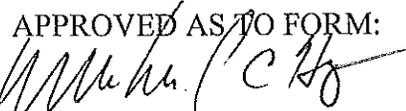
**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2011.**

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

2D. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas (parks and trail system improvement project). (staff)

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

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**SUBJECT:** Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and City of Kerrville regarding Parks and River Trail System Improvement Project

**FOR AGENDA OF:** December 13, 2011    **DATE SUBMITTED:** December 8, 2011

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

**EXHIBITS:** Funding Agreement

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$ 0	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

On October 17, 2011 city staff made a presentation and funding request concerning the Parks and Trail System Improvement Project proposed for Louise Hays Park and a six mile river trail along the Guadalupe River.

Following the presentation, the EIC board members voted to direct staff to hold a public hearing and draft a funding agreement. A public hearing was conducted on November 21, 2011 and funding agreement presented and approved for a total \$8,000,000.00.

**RECOMMENDED ACTION**

Approve funding agreement

**PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS (PARKS AND TRAIL SYSTEM IMPROVEMENT PROJECT)**

**THIS PROJECT FUNDING AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Kerrville, Texas ("City"), a Texas home rule municipality, and the City of Kerrville, Texas Economic Improvement Corporation ("EIC"), a Texas non-profit corporation established by City pursuant to Section 4B of Article 5190.6 of the Texas Revised Civil Statutes and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code (otherwise known as the Development Corporation Act of 1979 and hereafter called "the Act").

**WITNESSETH:**

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

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

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

**WHEREAS**, the City Council of the City (the "City Council") and the Board of Directors of the EIC (the "Board") have determined to undertake a project to provide improvements to the City's parks, including an approximate six (6) mile river trail, pavilion, cooking facility, amphitheater, sprayground, parking areas, roadways, playground equipment, picnic areas, restrooms, utilities, and other related improvements (collectively, the "Improvements"), all as authorized by the Act; and

**WHEREAS**, the City Council and the Board find that the costs related to the Improvements to be paid from the 4B Sales Tax pursuant to this Agreement will not exceed the costs of such Improvements that are eligible to be paid from the 4B Sales Tax; and

**WHEREAS**, after due consideration of the available means to finance the costs of the Improvements, the benefit to the City, the EIC, and the citizens of the City of providing the Improvements, and the purposes for which the EIC was created and the 4B Sales Tax was authorized,

the City Council and Board have further determined that the most cost effective and beneficial arrangement would be for the City to issue certificates of obligation secured in part from the City's ad valorem tax taxing authority with the understanding and agreement that the EIC would pay the costs of such Improvements as described below by remitting to the City from the receipts from the 4B Sales Tax amounts equal to the principal of and interest on the obligations issued by the City to finance the costs of such Improvements as such principal and interest becomes due and payable; and

**WHEREAS**, the City Council and the Board find it necessary and advisable to enter into this Agreement with respect to the Improvements in accordance Section 501.054 of the Act to set forth the duties and responsibilities of the respective parties for the funding, acquisition, and construction of the Improvements; and

**WHEREAS**, the Board and the City Council find that the Improvements constitute a "project", as authorized and defined by Section 505.152 of the Act, which will greatly enhance both the community's health and economic base by developing amenities and public space improvements that will help attract both residents and tourists to the Kerrville area; and

**WHEREAS**, EIC has determined that this grant complies with the Act and is in keeping with the mission of EIC and the *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will enhance the "quality of life" within the community; and

**WHEREAS**, the Board and the City Council find that it is in the public interest to enter into this Agreement to provide 4B Sales Tax to City for the Improvements; and

**WHEREAS**, on November 21, 2011, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditures of 4B Sale Tax for the Improvements;

**NOW THEREFORE**, for and in consideration of the recitals set forth above and the promises made herein, City and EIC agree as follows:

1. **Findings**. The facts and findings set forth in the preamble above are hereby found to be true and correct and are adopted.
2. **"Improvements" Defined**.
  - a. When used in this Agreement, "Improvements" shall mean the project summaries described and depicted in **Exhibits A and B** attached hereto and included herein for all purposes. Said descriptions and depictions shall not be substantively altered in any respect without the prior approval of the EIC.
  - b. The parties agree that the City may use the 4B Sales Tax for the acquisition of property interests, to include appraisals, surveys, and other costs necessary for such purposes; as well as the design, bidding, acquisition, and construction of the Improvements. The City will use such payments made by EIC to City for "costs" as defined in the Act.

3. **Financing of Improvements.** The parties agree that the cost of acquiring and constructing the Improvements and paying for the cost of the issuances of bonds is estimated at an amount which shall not exceed \$8,000,000.00. \$7,000,000.00 of this amount will be paid from the proceeds of the certificates of obligation (the "Certificates of Obligation") to be issued and sold by City under and pursuant to Subchapter C of Chapter 271, Texas Local Government Code, as amended (also known as the "Certificate of Obligation Act of 1971"). The City intends to issue and sell the Certificates of Obligation in two, separate offerings, the first such offering being held in December 2011 and the second offering expected to be held in 2012. The offerings are intended to be for approximately \$3,500,000.00 each. The remaining \$1,000,000.00 will be paid from either the proceeds of another issuance of certificates of obligation issued by EIC, or from payments of 4B Sales Tax from EIC to City.

4. **Obligation of the EIC.**

(a) EIC pledges and agrees to pay City 100% of the debt service for the Certificates of Obligation currently scheduled to be issued in the total amount of \$7,000,000.00, with such payments being subject to EIC's annual budgeting and appropriations. The amounts currently expected to be paid by EIC are set forth in **Exhibit C** ("Payment Schedule") attached hereto and are presented as an estimate of the yearly debt payment. Upon a firm delivery date being established for each issuance of the Certificates of Obligation, City agrees to notify EIC of such dates and confirm in writing such delivery dates. Following each delivery of the Certificates of Obligation, City shall furnish EIC with an updated Payment Schedule, showing the final, actual payments to be made by EIC to City in accordance with this Agreement. Such amounts shall be considered acceptable by EIC without the necessity of obtaining further approval from the Board. EIC shall make each payment to the City at least thirty (30) days prior to each scheduled debt service payment date specified by the Payment Schedule.

(b) EIC also pledges and agrees to pay City either i) 100% of the debt service for Certificates of Obligation on the remaining \$1,000,000.00; or ii) direct payments to the City from 4B Sales Tax in an amount not to exceed \$1,000,000.00.

(c) EIC agrees that City shall be entitled to a first claim on and right to the amounts budgeted each year by EIC for the payment of debt service on the Certificates of Obligation; provided, however, that, EIC's obligation to make the payments due hereunder shall be subordinate to the payment of debt service payments and reserves required in connection with any bonds or other obligations heretofore or hereafter issued by EIC under the Act; and further provided that with the approval of the City Council, the Board may issue or incur other obligations secured by and payable from a superior lien on and pledge of the 4B Sales Tax superior to its obligations hereunder.

5. **Construction Contracts; Ownership of Improvements.**

(a) City shall own and construct the Improvements and shall be solely responsible for the acquisition, construction, maintenance, and operation of the Improvements. EIC shall have no liability with respect to the acquisition, construction, maintenance, and operation of the

Improvements or the Certificates of Obligation other than to make the payments to the City herein contemplated from EIC's receipt of the 4B Sales Tax.

(b) Prior to the advertisement of bids for the acquisition or construction of the Improvements or any portion thereof, the Board or a designated representative thereof shall have the opportunity to review the design plans and specifications and make its recommendations to the City regarding such design plans and specifications.

(c) City will provide monthly reports to EIC with respect to the funding, design, acquisition, and construction of the Improvements.

6. **Financing of the Improvements, Construction, and Completion.** City agrees that upon receipt of the proceeds of sale of the Certificates of Obligation it will proceed with due diligence with the acquisition, construction, and completion of the Improvements. City does not anticipate delays in the acquisition and construction of the Improvements and EIC shall not be liable for any damages caused by any delays in completion of the Improvements or any additional costs in reference to the Improvements.
7. **Force Majeure.** If by reason of Force Majeure either party shall be rendered unable wholly or in part to carry out its obligations under this Agreement, then such party shall give notice and full particulars of such Force Majeure in writing to the other party within a reasonable time after occurrence of the event or cause relied upon, and the obligation of the party giving such notice, so far as it is affected by such Force Majeure, shall be suspended during the continuance of the inability then claimed, except as hereinafter provided, but for no longer period, and any such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as used herein, shall mean acts of God, strikes, lockouts or other industrial disturbances, acts of public enemy, orders of any kind of the government regarding landslides, lightning, earthquakes, fires, hurricanes, storms, floods, washouts, droughts, arrests, restraint of government and people, civil disturbances, explosions, breakage or accidents to machinery, pipelines, or canals, or other causes not reasonably within the control of the party claiming such inability. It is understood and agreed that the settlement of strikes and lockouts shall be entirely within the discretion of the party having the difficulty, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes and lockouts by acceding to the demands of the opposing party or parties when such settlement is unfavorable to it in the judgment of the party having the difficulty. It is specifically excepted and provided, however, that in no event shall any Force Majeure relieve City of its obligation to transfer 4B Sales Tax to EIC as required under the Act.
8. **Regulatory Bodies.** This Agreement shall be subject to all valid rules, regulations, and laws applicable thereto passed or promulgated by the United States of America, the State of Texas, or any governmental body or agency having lawful jurisdiction or any authorized representative or agency of any of them.
9. **Counterparts.** This Agreement may be executed in a number of identical counterparts, each of which shall be deemed an original for all purposes.

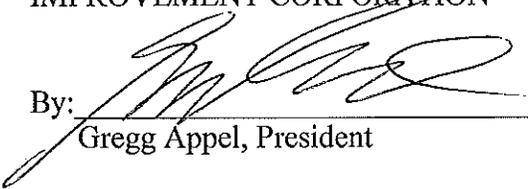
10. **Severability.** In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
11. **Term of Agreement.** The term of this Agreement shall be for the period during which the Certificates of Obligation are outstanding.
12. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement shall be proper only in Kerr County, Texas.

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

CITY OF KERRVILLE, TEXAS

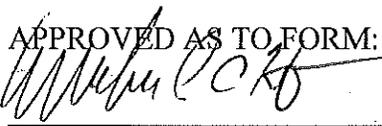
CITY OF KERRVILLE, TEXAS ECONOMIC  
IMPROVEMENT CORPORATION

By: \_\_\_\_\_  
David Wampler, Mayor

By:   
Gregg Appel, President

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:  
  
\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

3A. An ordinance amending the budget for fiscal year 2012 to account for changes in the status of various capital improvement projects; and to amend other city funds to account for balances for approved purposes. (staff)

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

**SUBJECT:** Second Reading of an Ordinance Amending the FY 2012 Budget

**FOR AGENDA OF:** December 13, 2011 **DATE SUBMITTED:** November 29, 2011

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

**EXHIBITS:** Ordinance, Spreadsheet  
**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OR FINANCE:**

**SUMMARY STATEMENT**

Staff requests to amend the FY 2012 City of Kerrville's budget to reflect the following changes to the Operating Budget and the opening, amendments and closures in the following Capital Improvement Projects.

**Operating Budgets**

**Library** – Move \$26,500 from the General fund operating budget to the Library furniture project, (G96), new amount \$226,500.

**Water and Sewer Fund** – Move \$750,000 of retained earnings from the Water and Sewer Fund to the Water and Sewer Debt Service Fund to increase the fund balance to one year debt service payment and move \$1,000,000 of Water and Sewer retained earnings to the City Hall project, (G96).

**General Fund** – Recognize \$100,000 of additional revenue from the sale of Rodriguez Street and increase the street maintenance expenditures by the \$100,000.

**General Fund** – Recognize \$100,000 in PEG revenue and expenditures in the General Fund.

**Capital Improvement Projects**

**Butt-Holdsworth Memorial Library Renovation/Expansion (G95)** – Increase the project budget by \$100,000 with the receipt of a gift from \$2,165,000 to \$2,265,000.

**Butt-Holdsworth Memorial Library Renovation/Expansion (G95)** – Recognize revenue of \$27,500 from Library Endowment Fund and increase expenses by the \$27,500 for security gate at library.

**Butt-Holdsworth Memorial Library Roof (L01)** – Close project and transfer balance of \$19,656.94 to Butt-Holdsworth Memorial Library Renovation/Expansion (G95)

**Library Furniture Project (G96)** – Increase the budget from \$200,000 to \$226,500 with \$26,500 from the Library's General Fund operating budget.

**Art in Public Places** – Create a new Arts in Public Places project, \$73,000.

**City Hall Project (G88)** – Increase the budget from \$2,119,233 to \$3,119,233 with additional funding from the Water and Sewer Fund.

**Paver Purchase** – Create a new project for the purchase of a paver in the amount not to exceed \$300,000 with \$30,000 from the General Fund's Street Department and the remaining amount from a grant.

**Water/Wastewater Master Plan** – Combine the regional water plan (W94) and the regional wastewater plan (W95) into one master plan.

### **RECOMMENDED ACTION**

Staff recommends the City Council approve the second and final reading of an ordinance amending the FY 2012 budget and authorize staff to make all necessary entries and adjustments to reflect the attached changes.

CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2011-\_\_\_\_\_

AN ORDINANCE AMENDING THE BUDGET FOR FISCAL YEAR 2012 TO  
ACCOUNT FOR CHANGES IN THE STATUS OF VARIOUS CAPITAL  
IMPROVEMENT PROJECTS; AND TO AMEND OTHER CITY FUNDS TO  
ACCOUNT FOR BALANCES FOR APPROVED PURPOSES

WHEREAS, Ordinance No. 2011-19, dated September 27, 2011, adopted the Fiscal Year 2012 Budget; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that amending the City's Fiscal Year 2012 Budget is in the best interest of the citizens of the City of Kerrville;

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

In accordance with Section 8.07 of the City Charter, the Official Budget for Fiscal Year 2012 shall be amended as set forth in **Exhibit A**.

PASSED AND APPROVED ON FIRST READING, this the 22<sup>nd</sup> day of November, A.D., 2011.

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

\_\_\_\_\_  
David Wampler, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

Budget Amendment 12/13/2011						
Name	FUNDS	Current Budget	Amended Budget	Increase/(Decrease)	Reason	
General Fund - Library Furniture Project	01-865-102	\$26,500	\$0	(\$26,500)	move to Library furniture project	
Water & Sewer Fund - Debt Service and City Hall	02-35197	\$4,600,000 \$4,000,000	\$2,600,000 \$2,250,000	(\$2,000,000) (\$1,750,000)	move to debt service and City Hall	
General Fund - Sale of Rodriguez St.	01-6701	\$100	\$100,100	\$100,000	Sale of Rodriguez St.	
	01-870-207b	\$0	\$100,000	\$100,000	Additional street maintenance funds	
General Fund - PEG	01-6126	\$0	\$100,000	\$100,000	Recognize use of PEG funds	
	01-870-311	\$0	\$100,000	\$100,000	Use of PEG funds	
Name	PROJECTS	Approved Budget	Amended Budget	Increase/(Decrease)	Reason	
Library Renovation	G95	\$2,165,000	\$2,265,000	\$100,000	Gift of \$100,000	
Library Renovation	G95	\$2,265,000	\$2,292,500	\$27,500	Library Endowment Fund disbursement	
Library Renovation	G95	\$2,292,500	\$2,312,157	\$19,657	Moved from Library Roof (L01)	
Library Roof	L01	\$126,365	\$106,708	(\$19,657)	Move to Library Renovation (G95)	
Library Furniture	G96	\$200,000	\$226,500	\$26,500	Move from Operating Budget	
Art in Public Places	New	\$0	\$73,000	\$73,000	Create a new Art in Public Places Project	
City Hall Project	G88	\$2,119,233	\$3,119,233	\$1,000,000	Water & Sewer Funding for City Hall	
Paver Purchase	New	\$0	\$300,000	\$300,000	Purchase of a New Paver	
Master Plan	W94 & W95	\$200,000	\$200,000	\$0	Combine two regional plans into one master plan	

## **Agenda Item:**

### **4. REPORT FROM CITY SECRETARY ON POSSIBLE PETITION.**

4A. Report regarding the possible submission, and subsequent verification of a petition submitted in accordance with Section 271.049 of the Texas Local Government Code, protesting the issuance of debt instruments to finance the river trail project and requiring a bond election be held prior to issuance. (staff)

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

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**SUBJECT:** Report from the City Secretary and City Attorney regarding the submission and verification of a petition that may be submitted in accordance with Section 271.049 of the Texas Local Government Code, protesting the issuance of debt instruments to finance the river trail project and requiring a bond election be held prior to issuance; and possible action on the petition

**FOR AGENDA OF:** December 13, 2011 **DATE SUBMITTED:** November 30, 2011

**SUBMITTED BY:** Brenda G. Craig, *BC* **CLEARANCES:** Todd Parton, City Manager  
City Secretary Mike Hayes, City Attorney

**EXHIBITS:** None

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *JP*

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<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The city secretary will report on the submission and verification of a petition submitted in accordance with Section 271.049 of the Texas Local Government Code, protesting the issuance of debt instruments to finance the river trail project and requiring a bond election be held prior to any issuance.

**RECOMMENDED ACTION**

Hear report from the city secretary and city attorney and consider action on petition.

## **Agenda Item:**

5A. An ordinance authorizing the issuance, sale and delivery of \$3,500,000 in aggregate principal amount of "City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation, Series 2011A"; securing the payment thereof by authorizing the levy of an annual ad valorem tax and a pledge of certain surplus revenues of the city's waterworks and sewer system; and approving and authorizing the execution of a paying agent/registrar agreement, an official statement and all other instruments and procedures related thereto. (staff)

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

**SUBJECT:** First Reading And Only Reading Of An Ordinance Authorizing The Issuance, Sale And Delivery Of \$3,500,000 In Aggregate Principal Amount Of "City Of Kerrville, Texas Combination Tax And Revenue Certificates Of Obligation, Series 2011a"; Securing The Payment Thereof By Authorizing The Levy Of An Annual Ad Valorem Tax And A Pledge Of Certain Surplus Revenues Of The City's Waterworks And Sewer System; And Approving And Authorizing The Execution Of A Paying Agent/Registrar Agreement, An Official Statement And Other Instruments And Procedures Related Thereto

**FOR AGENDA OF:** December 13, 2011 **DATE SUBMITTED:** December 6, 2011

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

**EXHIBITS:** Ordinance and agreements will be completed after the December 14, 2011 pricing and will be provided upon request.

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OR FINANCE:**

**SUMMARY STATEMENT**

The FY 12 budget includes CIP projects for the City's parks and trail system. These funds will specifically be used for the City's proposed trail system along the Guadalupe River and for improvements to Louise Hays Park. The City plans to issue the additional \$3,500,000 in the spring for a total debt issuance of \$7,000,000. The Kerrville Economic Improvement Corporation will enter into an agreement with the City to pay the debt service through 4B sales tax.

This issuance of \$3,500,000, along with the \$6,100,000 issued in April, total below \$10,000,000. Because it is less than \$10,000,000, this issue will be bank qualified which should make it more attractive to banks because of the tax benefits associated with this type of issue and lead to lower borrowing costs.

**RECOMMENDED ACTION**

Approve first and only reading of the ordinance authorizing issuance of 2011a Certificates of Obligation in the amount of \$3,500,000.

**ORDINANCE NO. 2011-\_\_**

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**ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO**

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**DATE OF APPROVAL: DECEMBER 13, 2011**

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ORDINANCE NO. 2011-06

ORDINANCE AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF \$3,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF "CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A"; SECURING THE PAYMENT THEREOF BY AUTHORIZING THE LEVY OF AN ANNUAL AD VALOREM TAX AND A PLEDGE OF CERTAIN SURPLUS REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM; AND APPROVING AND AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, AN OFFICIAL STATEMENT AND ALL OTHER INSTRUMENTS AND PROCEDURES RELATED THERETO

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

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

WHEREAS, the City Council of the City hereby determines that it is necessary and desirable to acquire, construct and equip renovations and improvements to the City's parks and trails system (collectively, the "*Project*"); and

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

WHEREAS, on September 27, 2011, the City Council adopted a resolution authorizing and directing the City Secretary to give notice of intention to issue Certificates of Obligation; and

WHEREAS, said notice has been duly published in the *Kerrville Daily Times*, which is a newspaper of general circulation in the City in its issues of October 5, 2011, and October 12, 2011; and

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

WHEREAS, in 1995, the City created the CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION (the "*EIC*") pursuant to Section 4B of the Development Corporation Act of 1979 (then Article 5190.6, Texas Vernon's Civil Statutes, as amended, now codified in

Chapters 501, 502 and 505 of the Texas Local Government Code and referred to collectively herein as the "*Act*"; and

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

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

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

**WHEREAS**, on November 21, 2011, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the Board of Directors of the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of the 4B Sales Tax for the Project; and

**WHEREAS**, on December 13, 2011, the City Council of the City and the Board of Directors of the EIC approved a **PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS (PARKS AND TRAIL SYSTEM IMPROVEMENT PROJECT)** pursuant to which the EIC has committed to provide to the City from the receipts of the 4B Sales Tax amounts equal to the principal of and interest on the obligations issued by the City to finance the Project (i.e., the certificates of obligation authorized to be issued pursuant to this Ordinance); and

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

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

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

**SECTION ONE. AMOUNT AND PURPOSE OF THE CERTIFICATES OF OBLIGATION.** The certificate of obligation or certificates of obligation of the City further

described in Section 2 of this Ordinance and referred to herein as the "Certificates of Obligation" are hereby authorized to be issued and delivered in the aggregate principal amount of **\$3,500,000 FOR THE PURPOSE OF PAYING, IN WHOLE OR IN PART, CONTRACTUAL OBLIGATIONS TO BE INCURRED TO ACQUIRE, CONSTRUCT AND EQUIP RENOVATIONS AND IMPROVEMENTS TO THE CITY'S PARKS AND TRAILS SYSTEM AND TO PAY COSTS OF ISSUANCE.**

**SECTION TWO. DESIGNATION, DATE, DENOMINATIONS, NUMBERS AND MATURITIES OF THE CERTIFICATES OF OBLIGATION.** Each certificate of obligation issued pursuant to and for the purpose described in Section 1 of this Ordinance shall be designated: **CITY OF KERRVILLE, TEXAS COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A**, and initially there shall be issued, sold and delivered hereunder one fully registered certificate of obligation, without interest coupons, dated December 1, 2011, in the aggregate principal amount of **\$3,500,000**, numbered T-1 (the "*Initial Certificate of Obligation*"), with certificates of obligation issued in replacement thereof being in the denomination of \$5,000 or any integral multiple thereof and numbered consecutively from R-1 upward, all payable to the initial registered owner thereof (with the Initial Certificate of Obligation being payable to the initial purchaser designated in Section 16 hereof), or to the registered assignee or assignees of said certificates of obligation or any portion or portions thereof (in each case, the "*Registered Owner*"), and (subject to the right of the winning bidder to combine two or more of the following maturities into "Term Certificates" as set forth in the Notice of Sale and Bidding Instructions referred to in Section 16 hereof or to the City's right reserved in such Notice of Sale and Bidding Instructions to modify the principal amount of each maturity by up to 15%), the certificates of obligation shall mature and be payable serially on *February 15* in each of the years and in the principal amounts, respectively, as set forth in the following schedule:<sup>1</sup>

<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT (\$)</u>	<u>YEAR OF MATURITY</u>	<u>PRINCIPAL AMOUNT (\$)</u>
2015	160,000	2021	190,000	2027	230,000
2016	160,000	2022	195,000	2028	240,000
2017	165,000	2023	200,000	2029	250,000
2018	170,000	2024	210,000	2030	260,000
2019	175,000	2025	215,000	2031	270,000
2020	185,000	2026	225,000		

The term "*Certificates of Obligation*" as used in this Ordinance shall mean and include the Certificates of Obligation initially issued and delivered pursuant to this Ordinance and all substitute

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<sup>1</sup>The maturity schedule may be revised following the adoption of this Ordinance to reflect any changes related to the creation of Term Certificates or other adjustment of principal amounts as permitted and described in the Notice of Sale and Bidding Instructions referred to in Section 16 hereof.

certificates of obligation exchanged therefor, as well as all other substitute certificates of obligation and replacement certificates of obligation issued pursuant hereto, and the term "*Certificate of Obligation*" shall mean any of the Certificates of Obligation.

**SECTION THREE. INTEREST.** The Certificates of Obligation shall bear interest calculated on the basis of a 360-day year composed of twelve 30-day months from the dates specified in the FORM CERTIFICATE OF OBLIGATION set forth in this Ordinance to their respective dates of maturity or prior redemption at the per annum rates of interest prescribed in Section \_\_\_\_ hereof. Said interest shall be payable in the manner provided and on the dates stated in the FORM OF CERTIFICATE OF OBLIGATION set forth in this Ordinance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**FORM OF CERTIFICATE OF OBLIGATION**

R-__	<b>UNITED STATES OF AMERICA</b> <b>STATE OF TEXAS</b> <b>COUNTY OF KERR</b> <b>CITY OF KERRVILLE, TEXAS</b>	<b>PRINCIPAL</b> <b>AMOUNT</b> \$ _____
<b>COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION</b> <b>SERIES 2011A</b>		

<b>INTEREST RATE</b>	<b>MATURITY DATE</b>	<b>DATE OF SERIES</b>	<b>CUSIP NO.</b>
___%	February 15, 20__	December 1, 2011	492422 ___

**REGISTERED OWNER:**

**PRINCIPAL AMOUNT:** **DOLLARS**

**ON THE MATURITY DATE** specified above, the **CITY OF KERRVILLE, TEXAS** (the "**City**"), being a political subdivision and home-rule municipality of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "**Registered Owner**"), the Principal Amount specified above, and to pay interest thereon (calculated on the basis of a 360-day year of twelve 30-day months) from the date of initial delivery of the series of which this Certificate of Obligation is a part (as shown on the records of the Paying Agent/Registrar identified below) at the Interest Rate per annum specified above, payable on August 15, 2012, and semiannually on each February 15 and August 15 thereafter to the Maturity

Date specified above, or the date of redemption prior to maturity; except that if this Certificate of Obligation is required to be authenticated and the date of its authentication is later than the first Record Date (hereinafter defined), such Principal Amount shall bear interest from the interest payment date next preceding the date of authentication, unless such date of authentication is after any Record Date but on or before the next following interest payment date, in which case such principal amount shall bear interest from such next following interest payment date; provided, however, that if on the date of authentication hereof the interest on the Certificate of Obligation or Certificates of Obligation, if any, for which this Certificate of Obligation is being exchanged is due but has not been paid, then this Certificate of Obligation shall bear interest from the date to which such interest has been paid in full.

**THE PRINCIPAL OF AND INTEREST ON** this Certificate of Obligation are payable in lawful money of the United States of America, without exchange or collection charges. The principal of this Certificate of Obligation shall be paid to the Registered Owner hereof upon presentation and surrender of this Certificate of Obligation at maturity or upon the date fixed for redemption prior to maturity, at the designated corporate trust or commercial banking office (currently located in Houston, Texas) of BOKF, NA dba BANK OF TEXAS, which is the "**Paying Agent/Registrar**" for this Certificate of Obligation. The payment of interest on this Certificate of Obligation shall be made by the Paying Agent/Registrar to the Registered Owner hereof on each interest payment date by check, dated as of such interest payment date, drawn by the Paying Agent/Registrar on, and payable solely from, funds of the City required by the Ordinance authorizing the issuance of this Certificate of Obligation (the "**Ordinance**") to be on deposit with the Paying Agent/Registrar for such purpose as hereinafter provided; and such check shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid, on each such interest payment date, to the Registered Owner hereof, at its address as it appeared on the last business day of the month next preceding each such date (the "**Record Date**") on the Registration Books kept by the Paying Agent/Registrar, as hereinafter described. In the event of a non-payment of interest on a scheduled payment date, and for 30 days thereafter, a new record date for such interest payment (a "**Special Record Date**") will be established by the Paying Agent/Registrar if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (the "**Special Payment Date**" which shall be 15 days after the Special Record Date) shall be sent at least five business days prior to the Special Record Date by United States mail, first class, postage prepaid, to the address of each Registered Owner appearing on the Registration Books of the Paying Agent/Registrar at the close of business on the last business day next preceding the date of mailing of such notice. Any accrued interest due upon the redemption of this Certificate of Obligation prior to maturity as provided herein shall be paid to the Registered Owner upon presentation and surrender of this Certificate of Obligation for redemption and payment at the designated corporate trust office of the Paying Agent/Registrar (unless the redemption date is a regularly scheduled interest payment date, in which case accrued interest on such redeemed Certificates of Obligation shall be payable in the regular manner described above). The City covenants with the Registered Owner of this Certificate of Obligation that on or before each principal payment date, interest payment date and accrued interest payment date for this Certificate of Obligation it will make available to the Paying Agent/Registrar, from the "Interest and Sinking Fund" created by the Ordinance, the amounts required to provide for the payment, in immediately available funds, of all principal of and interest on the Certificates of Obligation, when due.

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

***THIS CERTIFICATE OF OBLIGATION*** is one of a series of Certificates of Obligation dated as of December 1, 2011, authorized in accordance with the Constitution and laws of the State of Texas in the aggregate principal amount of **\$3,500,000 FOR THE PURPOSE OF PAYING, IN WHOLE OR IN PART, CONTRACTUAL OBLIGATIONS TO BE INCURRED TO ACQUIRE, CONSTRUCT AND EQUIP RENOVATIONS AND IMPROVEMENTS TO THE CITY'S PARKS AND TRAILS SYSTEM AND TO PAY COSTS OF ISSUANCE.**

***ON FEBRUARY 15, 2020***, or on any date thereafter, the Certificates of Obligation of this Series maturing on and after February 15, 2021, may be redeemed prior to their scheduled maturities, at the option of the City, with funds derived from any available and lawful source, as a whole, or in part (provided that a portion of a Certificate of Obligation may be redeemed only in an integral multiple of \$5,000), at the redemption price of the principal amount of Certificates of Obligation called for redemption, plus accrued interest thereon to the date fixed for redemption. The City shall determine the maturity or maturities, and the principal amount of Certificates of Obligation within each maturity, to be redeemed. If less than all Certificates of Obligation of a maturity are to be redeemed, the particular Certificates of Obligation to be redeemed shall be selected by the Paying Agent/Registrar at random and by lot.

[Note: The following paragraph shall be included only if Term Certificates are designated on the Accepted Bid described in Section 16 of this Ordinance. The years to be inserted in the first paragraph shall be those years for which Term Certificates are designated in the Accepted Bid. The years and amounts to be inserted in the table shall be the principal installments and respective years designated in Section 2 for those maturities consolidated into the Term Certificates designated in the Accepted Bid.]

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

TERM CERTIFICATES MATURING FEBRUARY 15, 20__		TERM CERTIFICATES MATURING FEBRUARY 15, 20__	
Mandatory Redemption Date	Redemption Amount	Mandatory Redemption Date	Redemption Amount
February 15, 20__	\$ _____	February 15, 20__	\$ _____
February 15, 20__ (maturity)	_____	February 15, 20__ (maturity)	_____

TERM CERTIFICATES MATURING FEBRUARY 15, 20__	
Mandatory Redemption Date	Redemption Amount
February 15, 20__	\$ _____
February 15, 20__ (maturity)	_____

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

**AT LEAST 30 DAYS** prior to the date fixed for any redemption of Certificates of Obligation or portions thereof prior to maturity, a written notice of such redemption shall be sent by the Paying Agent/Registrar by United States mail, first-class postage prepaid to the Registered Owner of each

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

***ALL CERTIFICATES OF OBLIGATION OF THIS SERIES*** are issuable solely as fully registered Certificates of Obligation, without interest coupons, in the denomination of any integral multiple of \$5,000. As provided in the Ordinance, this Certificate of Obligation, may, at the request of the Registered Owner or the assignee or assignees hereof, be assigned, transferred and exchanged for a like aggregate principal amount of fully registered Certificates of Obligation, without interest coupons, payable to the appropriate Registered Owner, assignee or assignees, as the case may be, having the same denomination or denominations in any integral multiple of \$5,000 as requested in writing by the appropriate Registered Owner, assignee or assignees, as the case may be, upon surrender of this Certificate of Obligation to the Paying Agent/Registrar for cancellation, all in accordance with the form and procedures set forth in the Ordinance. Among other requirements for such assignment and transfer, this Certificate of Obligation must be presented and surrendered to the Paying Agent/Registrar, together with proper instruments of assignment, in form and with guarantee of signatures satisfactory to the Paying Agent/Registrar, evidencing assignment of this Certificate of Obligation or any portion or portions hereof in any integral multiple of \$5,000 to the assignee or assignees in whose name or names this Certificate of Obligation or any such portion or portions hereof is or are to be registered. The form of Assignment printed or endorsed on this Certificate of Obligation may be executed by the Registered Owner to evidence the assignment hereof, but such method is not exclusive, and other instruments of assignment satisfactory to the Paying Agent/Registrar may be used to evidence the assignment of this Certificate of Obligation or any portion or portions hereof from time to time by the Registered Owner. The Paying Agent/Registrar's

reasonable standard or customary fees and charges for transferring and exchanging any Certificate of Obligation or portion thereof shall be paid by the City, but any taxes or governmental charges required to be paid with respect thereto shall be paid by the one requesting such assignment, transfer or exchange as a condition precedent to the exercise of such privilege. The Paying Agent/Registrar shall not be required to make any such transfer or exchange during the period commencing with the close of business on any Record Date and ending with the opening of business on the next following principal or interest payment date.

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

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

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

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

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

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

Countersigned:

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

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

(CITY SEAL)

**FORM OF REGISTRATION CERTIFICATE  
OF THE COMPTROLLER OF PUBLIC ACCOUNTS:**

**COMPTROLLER'S REGISTRATION CERTIFICATE: REGISTER NO. \_\_\_\_\_**

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

Witness my signature and seal this

(COMPTROLLER'S SEAL)

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

*[The remainder of this page intentionally left blank]*

**FORM OF PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

**PAYING AGENT/REGISTRAR'S AUTHENTICATION CERTIFICATE**

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

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

Dated

**BOKF, NA dba BANK OF TEXAS**  
Houston, Texas  
Paying Agent/Registrar

By \_\_\_\_\_  
Authorized Representative

*[The remainder of this page intentionally left blank]*

**FORM OF ASSIGNMENT:**

**ASSIGNMENT**

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

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

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

Dated: \_\_\_\_\_

Signature Guaranteed:

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

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

**INITIAL CERTIFICATE OF OBLIGATION INSERTIONS**

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

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

***"ON THE RESPECTIVE MATURITY DATES*** specified below, the ***CITY OF KERVILLE, TEXAS*** (the "*City*"), being a political subdivision and municipal corporation of the State of Texas, hereby promises to pay to the Registered Owner specified above, or registered assigns (hereinafter called the "***Registered Owner***"), the respective Principal Installments specified below, and to pay interest thereon (calculated on the basis of a 360-day year composed of twelve 30-day months) from the date of initial delivery of the series of which this Certificate of Obligation is a part at the respective Interest Rates per annum specified below, payable on August 15, 2012, and

semiannually on each February 15 and August 15 thereafter to the respective Maturity Dates specified below, or the date of redemption prior to maturity. The respective Maturity Dates, Principal Installments and Interest Rates for this Certificate of Obligation are set forth in the following schedule:

MATURITY DATE (FEB. 15)	PRINCIPAL INSTALLMENT (\$)	INTEREST RATE (%)	MATURITY DATE (FEB. 15)	PRINCIPAL INSTALLMENT (\$)	INTEREST RATE (%)

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

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

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

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

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

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

**SECTION EIGHT. CONSTRUCTION FUND.** There is hereby created and established in the depository of the City, a fund to be called the *City of Kerrville, Texas Combination Tax and Revenue Certificates of Obligation (Series 2011A) Construction Fund* (herein called the "*Construction Fund*"). Proceeds from the sale and delivery of the Certificates of Obligation (other than proceeds representing accrued interest on the Certificates of Obligation and any premium on the Certificates of Obligation that is not used by the City to pay costs of issuance in accordance with the provisions of Section 1201.042(d), Texas Government Code, as amended, which shall be deposited in the Interest and Sinking Fund) shall be deposited in the Construction Fund. Money in the Construction Fund shall be subject to disbursements by the City for payment of all costs incurred in carrying out the purpose for which the Certificates of Obligation are issued, including but not limited to costs for construction, engineering, architecture, financing, financial consultants and legal services related to the project being financed with proceeds of the Certificates of Obligation and the issuance of the Certificates of Obligation. All funds remaining on deposit in the Construction Fund upon completion of the projects being financed with the proceeds from the Certificates of Obligation, if any, shall be transferred to the Interest and Sinking Fund.

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

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

**SECTION ELEVEN. DEFEASANCE OF THE CERTIFICATES OF OBLIGATION.**

*(a) Defeasance.* Any Certificate of Obligation and the interest thereon shall be deemed to be paid, retired and no longer outstanding (a "*Defeased Certificate of Obligation*") within the meaning of this Ordinance, except to the extent provided in subsection (d) of this Section, when payment of the principal of such Certificate of Obligation, plus interest thereon to the due date (whether such due date be by reason of maturity or otherwise) either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for on or before such due date by irrevocably depositing with or making available to the Paying Agent/Registrar in accordance with an escrow agreement or other instrument (the "*Future Escrow Agreement*") for such payment (1) lawful money of the United States of America sufficient to make such payment and/or (2) Defeasance Securities that mature as to principal and interest in such amounts and at such times as will insure the availability, without reinvestment, of sufficient money to provide for such payment, and when proper arrangements have been made by the City with the Paying Agent/Registrar for the payment of its services until all Defeased Certificates of Obligation shall have become due and payable. At such time as a Certificate of Obligation shall be deemed to be a Defeased Certificate of Obligation hereunder, as aforesaid, such Certificate of Obligation and the interest thereon shall no longer be secured by, payable from, or entitled to the benefits of, the ad valorem taxes or revenues herein levied and pledged as provided in this Ordinance, and such principal and interest shall be payable solely from such money or Defeasance Securities. Notwithstanding any other provision of this Ordinance to the contrary, it is hereby provided that any determination not to redeem Defeased Certificates of Obligation that is made in conjunction with

the payment arrangements specified in subsection (a)(i) or (ii) of this Section shall not be irrevocable, provided that: (1) in the proceedings providing for such payment arrangements, the City expressly reserves the right to call the Defeased Certificates of Obligation for redemption; (2) gives notice of the reservation of that right to the owners of the Defeased Certificates of Obligation immediately following the making of the payment arrangements; and (3) directs that notice of the reservation be included in any redemption notices that it authorizes.

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

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

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

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

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

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

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

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

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

(e) Authority for Issuing Replacement Certificates of Obligation. In accordance with Chapter 1201, Texas Government Code, as amended, this Section of this Ordinance shall constitute authority for the issuance of any such replacement certificate of obligation without necessity of further action by the governing body of the City or any other body or person, and the duty of the replacement of such certificates of obligations is hereby authorized and imposed upon the Paying Agent/Registrar, and the Paying Agent/Registrar shall authenticate and deliver such Certificates of

Obligation in the form and manner and with the effect, as provided in Section 4(a) of this Ordinance for Certificates of Obligation issued in exchange for other Certificates of Obligation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

holders. The Rebate Fund is established for the additional purpose of compliance with section 148 of the Code.

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

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

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

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

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

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

#### SECTION FIFTEEN. CONTINUING DISCLOSURE UNDERTAKING.

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

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

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

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

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

(b) Annual Reports. The City shall provide annually to the MSRB through EMMA within six months after the end of each fiscal year ending in or after 2011, financial information and operating data with respect to the City of the general type included in the final Official Statement authorized by this Ordinance being the information described in *Exhibit B* hereto. Any financial statements so to be provided shall be (1) prepared in accordance with the accounting principles described in *Exhibit B* hereto, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation, and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided. If the audit of such financial statements is not complete within such period, then the City shall provide (1) unaudited financial statements for such fiscal year within such six

month period, and (2) audited financial statements for the applicable fiscal year to the MSRB through EMMA when and if the audit report on such statements become available.

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

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

(c) Event Notices.

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

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

(ii) The City shall notify the MSRB through EMMA in an electronic format as prescribed by the MSRB, in a timely manner (but not in excess of ten business days after the occurrence of the event) of any of the following events with respect to the Certificates of Obligation, without regard to whether such event is considered material within the meaning of the federal securities laws:

1. Principal and interest payment delinquencies;

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

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

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

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

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

REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.

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

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

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

**SECTION SIXTEEN. SALE AND DELIVERY OF THE CERTIFICATES OF OBLIGATION.** The Certificates of Obligation are hereby officially sold and awarded to the bidder offering the lowest true interest cost rate for the Certificates (the "*Purchaser*"), as determined and accepted by the City Council in accordance with the Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated December 6, 2011, prepared and distributed in connection with the sale of the Certificates of Obligation, at the price set forth in the bid submitted by such Purchaser (the "*Accepted Bid*"). The Certificates shall bear interest at the rates set forth for each maturity in the Accepted Bid, shall have Term Certificates if so designated on the Accepted Bid, and shall initially be registered in the name of the Purchaser or its designee.

**SECTION SEVENTEEN. APPROVAL OF OFFICIAL STATEMENT.** The City hereby approves the form and content of the Official Statement relating to the Certificates of Obligation and any addenda, supplement, or amendment thereto, and approves the distribution of the Official Statement in the reoffering of the Certificates of Obligation by the Underwriters in final

form, with such changes therein or additions thereto as the officer executing the same may deem advisable, such determination to be conclusively evidenced by his execution thereof. The distribution and use of the Preliminary Official Statement for the Certificates of Obligation, dated December 6, 2011, prior to the date hereof is hereby ratified and confirmed. The City Council finds and determines that the Preliminary Official Statement and the Official Statement were and are "deemed final" as of each of their respective dates within the meaning, and for the purpose, of Rule 15c2-12 promulgated under authority granted by the Federal Securities and Exchange Act of 1934.

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

**SECTION NINETEEN. ORDINANCE A CONTRACT; AMENDMENTS.** This Ordinance shall constitute a contract with the Registered Owners of the Certificates of Obligation, binding on the City and its successors and assigns, and shall not be amended or repealed by the City as long as any Certificate of Obligation remains outstanding except as permitted in this Section. The City may, without the consent of or notice to any Registered Owners, amend, change, or modify this Ordinance as may be required (i) by the provisions hereof, (ii) for the purpose of curing any ambiguity, inconsistency, or formal defect or omission herein, or (iii) in connection with any other change which is not to the prejudice of the Registered Owners. The City may, with the written consent of the Registered Owners of a majority in aggregate principal amount of the Certificates of Obligation then outstanding affected thereby, amend, change, modify, or rescind any provisions of this Ordinance; provided that without the consent of all of the Registered Owners affected, no such amendment, change, modification, or rescission shall (i) extend the time or times of payment of the

principal of and interest on the Certificates of Obligation, reduce the principal amount thereof or the rate of interest thereon, (ii) give any preference to any Certificate of Obligation over any other Certificate of Obligation, (iii) extend any waiver of default to subsequent defaults, or (iv) reduce the aggregate principal amount of Certificates of Obligation required for consent to any such amendment, change, modification, or rescission. Whenever the City shall desire to make any amendment or addition to or rescission of this Ordinance requiring consent of the Registered Owners, the City shall cause notice of the amendment, addition, or rescission to be sent by first class mail, postage prepaid, to the Registered Owners at the respective addresses shown on the Registration Books. Whenever at any time within one year after the date of the giving of such notice, the City shall receive an instrument or instruments in writing executed by the Registered Owners of a majority in aggregate principal amount of the Certificates of Obligation then outstanding affected by any such amendment, addition, or rescission requiring the consent of the Registered Owners, which instrument or instruments shall refer to the proposed amendment, addition, or rescission described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the City may adopt such amendment, addition, or rescission in substantially such form, except as herein provided. No Registered Owner may thereafter object to the adoption of such amendment, addition, or rescission, or to any of the provisions thereof, and such amendment, addition, or rescission shall be fully effective for all purposes.

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

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

**SECTION TWENTY-ONE. APPROPRIATION TO PAY INTEREST.** The City Council hereby finds that there are sufficient funds available to pay the interest on the Certificates coming due on August 15, 2012, and hereby directs the City Manager and the Director of Finance to transfer on or before such date available funds to the Interest and Sinking Fund in an amount sufficient to pay the interest coming due on such date.

**SECTION TWENTY-TWO. INTERESTED PARTIES.** Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Underwriters and the registered owners of the Certificates of

Obligation, any right, remedy or claim under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Underwriters and the registered owners of the Certificates of Obligation.

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

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

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

*[The remainder of this page left blank intentionally.]*

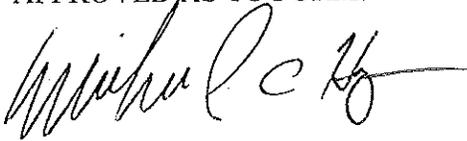
PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
KERRVILLE, TEXAS AT A REGULAR MEETING ON THE 13<sup>TH</sup> DAY OF DECEMBER,  
2011, AT WHICH MEETING A QUORUM WAS PRESENT.

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

\_\_\_\_\_  
David Wampler, Mayor

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

(CITY SEAL)

\*\* \*\* \* \*\* \*

EXHIBIT A

**FORM OF PAYING AGENT/REGISTRAR AGREEMENT**

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

EXHIBIT B

**FORM OF PURCHASE CONTRACT**

THE PURCHASE CONTRACT IS OMITTED AT THIS POINT AS IT APPEARS IN EXECUTED FORM ELSEWHERE IN THIS TRANSCRIPT.

## EXHIBIT C

### **DESCRIPTION OF ANNUAL FINANCIAL INFORMATION**

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

#### **Annual Financial Statements and Operating Data**

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

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

2. All quantitative financial information and operating data with respect to the City of the general type included in the Official Statement under Tables 1 through 6 and 8 through 15.

#### **Accounting Principles**

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

EXHIBIT D

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

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

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

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

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

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

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

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION ACCEPTING AND AWARDING THE BID FOR THE  
PURCHASE OF THE CITY OF KERRVILLE, TEXAS COMBINATION TAX  
REVENUE CERTIFICATES OF OBLIGATION, SERIES, 2011A**

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

§  
§  
§

WHEREAS, the CITY OF KERRVILLE, TEXAS (the "City"), pursuant to a Notice of Sale and Bidding Instructions, Official Bid Form and Official Statement, dated December 6, 2011, has offered for sale its COMBINATION TAX AND REVENUE CERTIFICATES OF OBLIGATION, SERIES 2011A (the "Certificates"); and

WHEREAS, pursuant to said offer bids have been submitted for the purchase of the Certificates; and

WHEREAS, the City Council hereby finds and determines that the bid hereinafter accepted produces the lowest interest cost to the City and should be accepted in order to award the sale of the Certificates pursuant to the ordinance authorizing the issuance of the Certificates approved by the City Council on December 13, 2011 (the "*Ordinance*"); and

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

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

**SECTION ONE. ACCEPTANCE OF WINNING BID.** The City Council hereby finds and determines that the bid submitted by \_\_\_\_\_ is the bid that provides the lowest true interest cost submitted for the purchase of the Certificates of Obligation in accordance with the Notice of Sale and Bidding Instructions and said bid is hereby accepted for the purpose of awarding the sale of the Certificates Obligation pursuant to the Ordinance. Accordingly, the Certificates of Obligation are hereby initially sold and shall be delivered to \_\_\_\_\_ for cash for the par value thereof, plus a net original issue premium of \$\_\_\_\_\_, and no accrued interest. A copy of the accepted bid, showing the interest rates to be paid on each principal maturity amount of the Certificates and designating Term Certificates (as defined in the Ordinance), if any, is attached hereto as Exhibit A and incorporated herein as a part of the operative provisions hereof. The Certificates of Obligation initially shall be registered in the name of \_\_\_\_\_.

It is hereby officially found, determined, and declared that the Certificates of Obligation have been sold at public sale to the bidder offering the lowest true interest cost rate, after receiving sealed bids pursuant to an Official Notice of Sale and Bidding Instructions and the Preliminary Official Statement, dated December 6, 2011, prepared and distributed in connection with the sale of the Certificates of Obligation. In satisfaction of Section 1201.022(a)(3), Texas Government Code, and upon consultation with the City's Financial Advisor, the City Council hereby determines that the final terms of the Certificates of Obligation as set forth in the Ordinance and in this Resolution and resulting from the receipt of such competitive bids are in the City's best interests.

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

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

*[The remainder of this page intentionally left blank]*

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
KERRVILLE, TEXAS AT A SPECIAL MEETING ON THE 14<sup>TH</sup> DAY OF DECEMBER,  
2011, AT WHICH MEETING A QUORUM WAS PRESENT.

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

\_\_\_\_\_  
David Wampler, Mayor

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

(CITY SEAL)

\*\* \*\* \* \*\* \*

## **Agenda Item:**

6A. A resolution granting a conditional use permit for an approximate 0.50 acre parcel of land, making up part of Lots 6, 7, 8, 9, and 10, Block 25, and out of the Westland Place Addition, a subdivision within the City of Kerrville, Kerr County, Texas, otherwise known as 506 Junction Highway (State Highway 27) and located within the 10-W zoning district; by permitting said property to be used for a vehicle maintenance and repair facility; and making said permit subject to certain conditions and restrictions. (staff)

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

---

**SUBJECT:** Public Hearing: Conditional Use Permit (CUP) Request – Consider a request for a CUP for a Vehicle Maintenance and Repair Facility (oil Change and State vehicle inspection) for a 0.50 acre tract located at 506 Junction Highway. Zoned: W-10. (File No. 2011-51)

**FOR AGENDA OF:** December 13, 2011 **DATE SUBMITTED:** December 2, 2011

**SUBMITTED BY:** Gordon Browning  **CLEARANCES:** Kristine Ondrias 

**EXHIBITS:** Location Map, Applicant's Request, Resolution

**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:**

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**SUMMARY STATEMENT**

Project Timeline:

- June 10, 1997 – The City's current Zoning Code is adopted.
- July 1997 – AutoSpa, a car wash, oil change and State inspection facility is permitted, the facility received a Certificate of Occupancy in April 1998.
- January 2011 – Auto Wash Depot discontinues operating making the oil change and vehicle inspection functions non-conforming under the Zoning Code.
- October 17, 2011 – Application for CUP for vehicle maintenance and repair (oil change and vehicle inspection) is submitted for review and consideration.
- November 3, 2011 – Notice of the required public hearing published in The Kerrville Daily Times and mailed to property owners within 200-feet of the subject property.
- November 11, 2011 – Staff comments and draft resolution to applicant.

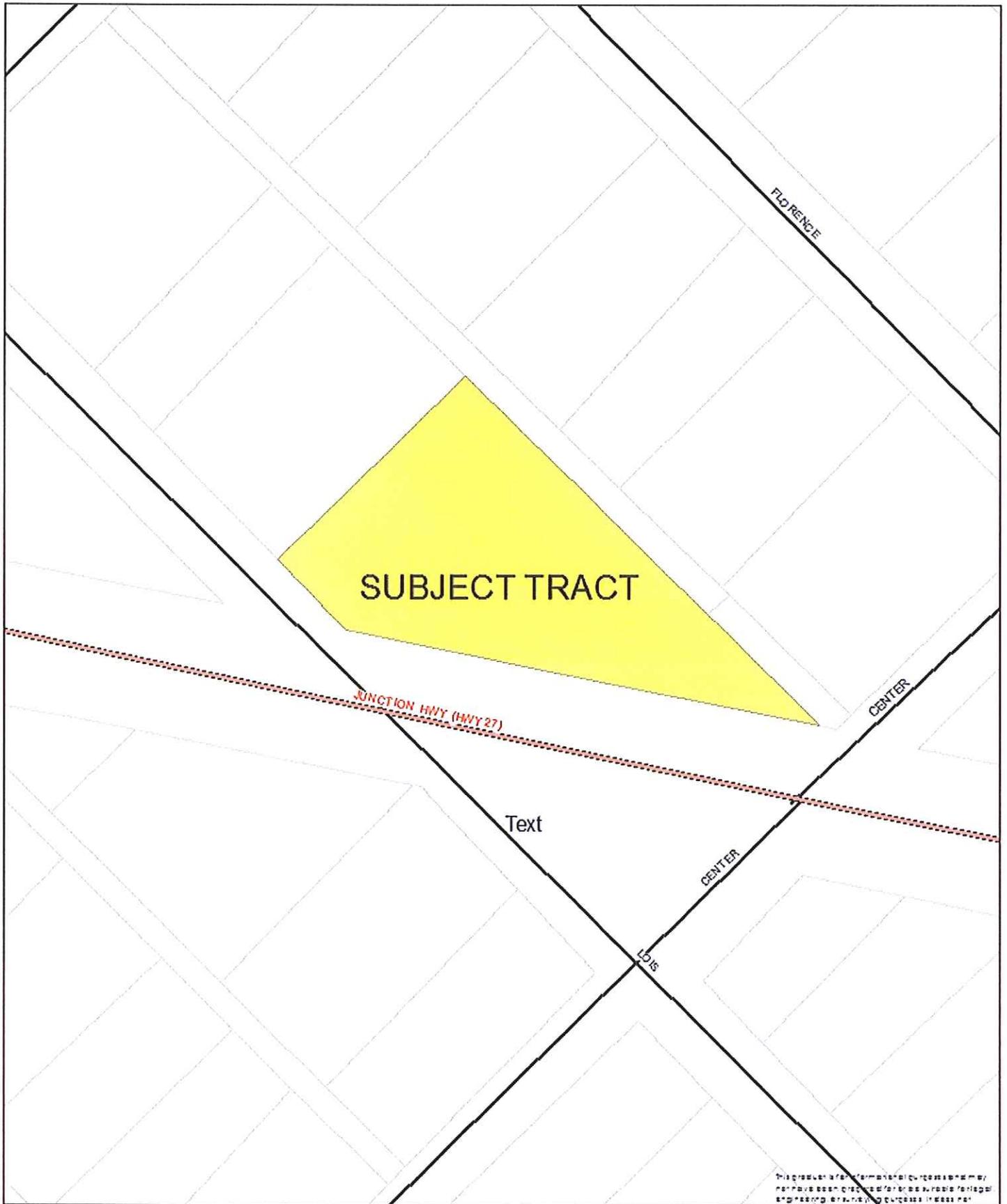
- November 17, 2011 – Public hearing before the Planning and Zoning Commission (P&Z) and consideration of a recommendation to the City Council.
- December 13, 2011 – Public hearing before the City Council and consideration of a resolution approving the CUP.

CUP Process/Summary:

- The applicant is requesting to re-establish the car wash, oil change and inspection facility as originally constructed and operated at 506 Junction Highway. A Conditional Use permit (CUP) is required for the vehicle maintenance and repair components (oil change and inspection) of the operation.
- Auto Wash Depot operated as a legal non-conforming use following the adoption of the 1997 Zoning Code until the operation ceased. Prior to the adoption of the 1997 code, the subject property was zoned C-2. Under that zoning district the use was permitted at this location.
- As presented in the applicant's request and shown on the attached site plan, no changes to the structure or site are proposed.
- Per the Zoning Code, the Planning and Zoning Commission and/or City Council may impose additional requirements and conditions of approval as are needed to ensure that a use requested by a CUP is compatible and complementary to adjacent properties.
- Staff recommends approval of the CUP as requested subject to the conditions in the resolution.
- The Planning and Zoning Commission at their November 17, 2011 meeting, following a public hearing, recommended approval of the CUP subject to limiting the vehicle maintenance and repair facility to oil change and State vehicle inspections. No one from the public spoke at the hearing.

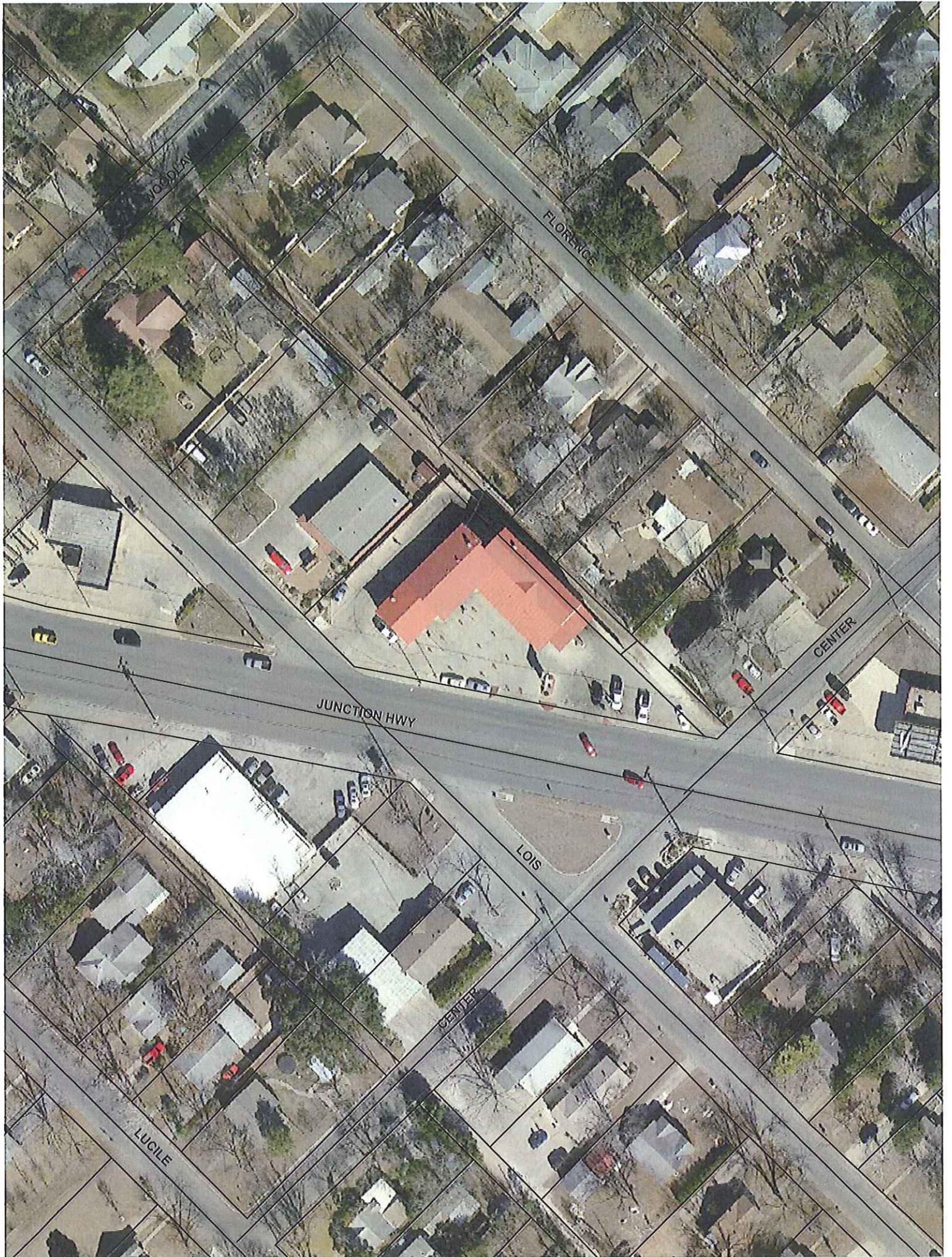
## RECOMMENDED ACTION

1. Open the public hearing and receive comments, and
2. Approve the CUP as requested subject to the stipulations in the attached resolution.



This product is for informational purposes only and may not have been prepared for or used as a basis for legal engineering or planning purposes. It does not constitute an offer of insurance or any other financial product. Please contact your agent for more information.





## **Conditional Use Permit (CUP) Request Documentation:**

- 1, On behalf of owner, GRC Executive Group:**

**Lynn Niles, Broker Associate  
Commercial Realty Services Inc.  
324 Clay St., Kerrville TX 78028  
(830) 792-5775 office  
(830) 285-4224 cell**

- 2. Full Legal Description:**

**All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, comprising 0.50 acre, more or less; being part of Lots 6, 7, 8, 9 and 10, Block 25, Westland Place Addition, a subdivision of Kerr County, Texas, according to the plat of said subdivision recorded in Volume 1, Page 26A, Plat Records of Kerr County, Texas and being more particularly described by metes and bounds in Exhibit "A".**

- 3. 506 Junction Hwy. will be used, as in the past, as a full service car wash, with oil change and lube services, plus State of Texas Vehicle Inspections, under the name of Auto Wash Depot.**

- 4. Ten (10) copies of the survey are attached.**

- a. Parking conforms to all applicable municipal requirements and is unchanged.**

- b. Load/unloading, service and utility areas are unchanged.**

- c. The existing use of all properties contiguous is:**

**West: Ark Veterinary Hospital, 512 Lois St. N.**

**East: TSO, 501 Florence St.**

**North: 505, 507 and 509 Florence are residential properties.**

**South: Highway 27**

- d. Please see attached survey.**

- e. Please see attached survey.**

- f. Property is bordered by Highway 27, Lois St. Florence St. and an alley behind that separates it from the 3 contiguous residences. The other 2 neighbors are commercial (TSO and Ark Veterinary Hospital).**

- 5. No exterior changes are proposed other than paint. Photographs are included showing facades.**

- 6. a. Being on Highway 27, the traffic pattern is not likely to be changed other than cars turning into the car wash. Cars are able to exit onto Highway 27 to the south, Florence St. to the east and Lois St. to the west. There will be minor effect to the properties within 500 feet.**

- b. The estimated number of employees is 12 to 15 (new jobs to be created).**

- c. The proposed hours are 8:00 a.m. to 7:00 p.m., seven days per week.
7. Three licenses are required: City of Kerrville Conditional Use Permit, Texas Vehicle Inspection Permit issued by the State of Texas, and Sales Tax Permit issued by the Comptroller, State of Texas.
  8. There are no similar uses within 1,000 feet of the subject property.
  9. N/A as to slope greater than 15%.
  10. N/A as to existing water well.

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I have read and understand in its entirety Article 11-1-13 of the Comprehensive Zoning Ordinance No. 97-07 for the City of Kerrville and understand that the requirements for a Conditional Use Permit are subject to the terms and conditions therein. This Conditional Use Permit checklist is used to insure compliance with the Ordinance and, in some instances, the City may require more information for approval. An endorsement of this application checklist by the applicant shall be acknowledgement that all of the items on the above list have been reviewed and complied with or variances have been requested.

**Project Name:** Formerly Classic Car Care, to be operated in the future by new ownership as Auto Wash Depot

**Owner:** GRC Executive Group, LLC

**Date:** October 9, 2011

**Owner Address:** 4225 Research Forest Dr. #204, The Woodlands, TX 88381-4393

**Phone:** 210-834-7699

**SEE ATTACHED FOR SIGNATURE**



**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_-2011**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR AN APPROXIMATE 0.50 ACRE PARCEL OF LAND, MAKING UP PART OF LOTS 6, 7, 8, 9, AND 10, BLOCK 25, AND OUT OF THE WESTLAND PLACE ADDITION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, OTHERWISE KNOWN AS 506 JUNCTION HIGHWAY (STATE HIGHWAY 27) AND LOCATED WITHIN THE 10-W ZONING DISTRICT; BY PERMITTING SAID PROPERTY TO BE USED FOR A VEHICLE MAINTENANCE AND REPAIR FACILITY; AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS**

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

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

**SECTION ONE.** A Conditional Use Permit is granted to permit the property described below to be used for a Vehicle Maintenance and Repair Facility, as currently defined in Article 11-1-3 of the Code of Ordinances of the City of Kerrville, Texas, subject to the provisions of this Resolution and other applicable City ordinances and regulations:

**An approximate 0.50 acre parcel of land making up part of Lots 6, 7, 8, 9, and 10, Block 25, and out of of the Westland Place Addition, a subdivision within the City of Kerrville, Kerr County, Texas, the plat of which is filed in Volume 1, Page 26A, of the plat records of Kerr County, Texas, said parcel being more particularly described in Exhibit A, referred to herein as the "Property".**

**SECTION TWO.** In addition to the use and development regulations currently applicable to the Property, which includes the right to use the Property as a car wash, the Property may be used and developed for a Vehicle Maintenance and Repair Facility, but limited to oil changes and state vehicle inspections, and shall be subject to the following additional regulations:

- A. **Site Plan:** The development of the Property shall conform substantially with the site plan, which may be found in **Exhibit B**, as attached. The Vehicle Maintenance and

Repair Facility may not expand beyond the building located in the southwest corner of the site plan, which is specified on the plan as the "one story stucco and brick" building.

- B. **Vehicle Maintenance and Repair:** All vehicle maintenance and repair shall be performed entirely within the interior of a building. No vehicle parts or supplies, including tires, body parts, or petroleum products shall be kept or stored on the exterior of any building. Vehicles waiting for repair shall be located in a secure area on-site. No off-site or on street parking or storage is permitted.
- C. **Signs:** The design, installation, location, operation, and maintenance of signs shall comply with the City's ordinances regulating signs.
- D. **Exterior Lighting:** Any exterior lighting shall be located, shielded, and aimed in such a manner so as not to allow light to directly fall onto adjacent properties or streets.
- E. **Parking:** The design and number of parking spaces shall be in accordance with the City's regulations. All required parking spaces shall be constructed of asphalt or concrete and shall be marked and kept available for customers and employees.
- F. **Screening:** Screening shall be required in accordance with City regulations.
- G. **Visibility Triangles:** Visibility triangles shall be established and maintained pursuant to existing City regulations for the entrance to the Property from any street.
- H. **Outdoor Storage:** The outdoor storage of vehicles and materials shall be within a fenced area and at no time be located closer to the street than the face of any building.
- I. **Trash and Other Solid Waste:** Solid waste collection bins and dumpsters shall be equipped with lids and screened with a gate with an opaque screen on one side and finished to look substantially like the adjacent building(s) on the remaining three sides. No solid waste collection bin and/or dumpster shall be located closer to the street than the face of the main building.
- J. **Landscaping Regulations:** Landscaping shall be installed in accordance with the following:
  - 1. Plant materials planted on the property shall be from the list of recommended plants set forth in the most recent edition of Recommended Plants for the Kerrville Area published by the City at the time of planting.
  - 2. All landscaping shall be maintained in a healthy, growing condition.
- K. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in Title 11, Chapter I of the Code of

Ordinances of the City of Kerrville, as amended or superseded, the provisions of this Resolution shall prevail.

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

**PASSED AND APPROVED ON** this the \_\_\_\_ day of \_\_\_\_\_ A.D., 2011.

\_\_\_\_\_  
David Wampler, Mayor

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

# Exhibit "A"

## WETES AND BOUNDS DESCRIPTION

All of that certain tract or parcel of land lying and being situated in the City of Kerrville, County of Kerr, State of Texas, comprising 0.50 Acre, more or less, being parts of Lots 6, 7, 8, 9, and 10, Block 25, according to Plat of Westland Place Addition, as recorded in Volume 1, Page 28A, Plat Records of Kerr County, Texas, said tract being more particularly described, as follows:

BEGINNING at a found  $\frac{1}{2}$ " iron rod in the northeast R.O.W. line of Lois Street (a 40' Public R.O.W.) for the west corner of the herein described tract, the south corner of said Lot 5, the west corner of said Lot 6;

THENCE leaving said R.O.W., along and with the southeast line of said Lot 5, the northwest line of Lot 6, North  $44^{\circ}55'26''$  East 144.11 feet (called North  $44^{\circ}59'00''$  East 144.00 feet) to a found  $\frac{1}{2}$ " iron rod for the north corner of the herein described tract, the east corner of said Lot 5, the north corner of said Lot 6, said rod lying in the southwest R.O.W. line of a 12' wide alley through said Block 25;

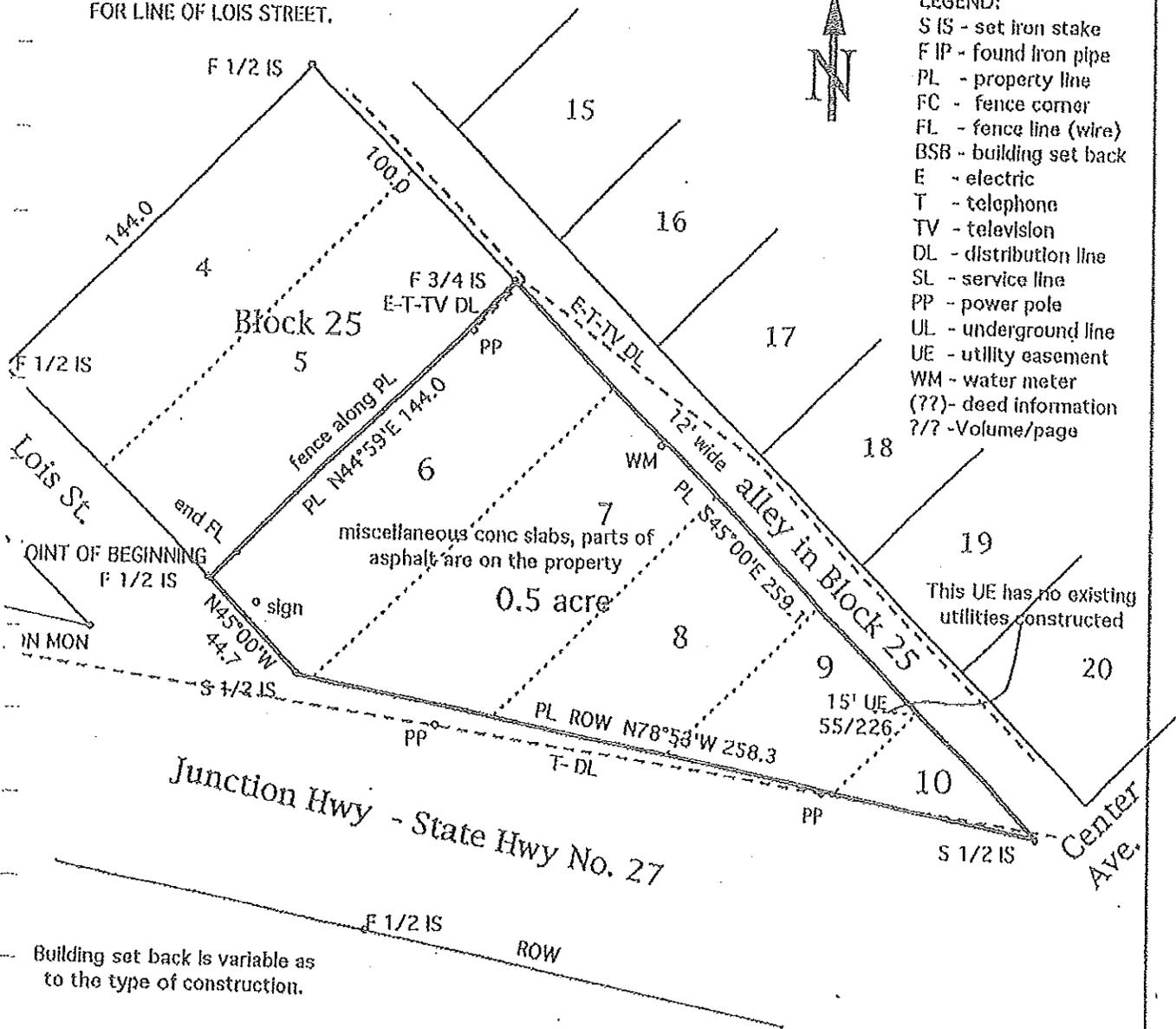
THENCE along and with said Alley, along the northeast line of said Lots 6 and 10, South  $44^{\circ}59'44''$  East 259.37 feet (called South  $45^{\circ}00'00''$  East 259.10 feet) to a found  $\frac{1}{2}$ " iron rod for the east corner of the herein described tract, the intersection of said alley and the north R.O.W. line of Junction Hwy (A.K.A. St. Hwy. 27, an 80' Public R.O.W.);

THENCE along and with said R.O.W., North  $78^{\circ}53'00''$  West 258.35 feet (called North  $78^{\circ}53'00''$  West 258.30 feet) to a found  $\frac{1}{2}$ " iron rod for the south corner of the herein described tract at the intersection of the northerly R.O.W. line of said Junction Hwy, and the northeast R.O.W. line of Lois Street;

THENCE along and with the northeast R.O.W. line of said Lois Street, the southwest line of said Lot 6, North  $45^{\circ}04'34''$  West 44.70 feet (called North  $45^{\circ}00'00''$  West 44.70 feet) to the POINT OF BEGINNING and containing 0.50 Acres, more or less.

BEARINGS BASED ON PLAT RECORD  
FOR LINE OF LOIS STREET.

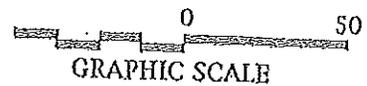
- LEGEND:
- S IS - set iron stake
  - F IP - found iron pipe
  - PL - property line
  - FC - fence corner
  - FL - fence line (wire)
  - BSB - building set back
  - E - electric
  - T - telephone
  - TV - television
  - DL - distribution line
  - SL - service line
  - PP - power pole
  - UL - underground line
  - UE - utility easement
  - WM - water meter
  - (??) - deed information
  - ?? - Volume/page



PART OF LOTS 6, 7, 8, 9, & 10, BLOCK 25  
**Westland Place Addition**

IN THE  
STATE OF TEXAS  
COUNTY OF KERR  
CITY OF KERRVILLE  
SCALE 1" = 50 FEET  
December, 1996

DOMINGUES & ASSOC.  
609 SIDNEY BAKER ST.  
KERRVILLE, TEXAS 78028  
TEL. 210 896 6900  
FAX 210 896 6901



CF No. 96-881 Job No. 4532

Keller - Ricketts  
Page 1 of 2



## **Agenda Item:**

7A. A resolution supporting the proposal by the Upper Guadalupe River Authority to amend its water permit to remove the permit's restriction that the water may not be used for municipal use within the city. (staff)

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

**SUBJECT:** Resolution supporting UGRA's proposal to amend their water right to remove the restriction of municipal water use within the City of Kerrville.

**FOR AGENDA OF:** 12/13/11

**DATE SUBMITTED:** 12/7/11

**SUBMITTED BY:** Charlie Hastings *CA*  
Public Works Director

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Resolution

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

**SUMMARY STATEMENT**

The Upper Guadalupe River Authority's (UGRA) 2009-2013 Strategic Plan identifies many goals, one of which is promoting and providing dependable water supplies for Kerr County. UGRA's water right permit No. 5394A, which utilizes Kerrville's water impoundment (Lake Nimitz) as a diversion location, currently has language that prohibits the municipal use of water within the City of Kerrville. UGRA wishes to utilize this water right for the benefit of Kerr County, and has concluded that removing the prohibition is a step in that direction.

In 2008, Kerrville City Council participated with UGRA in a lobby effort to have the aforementioned prohibition removed from UGRA's water right. That lobby effort failed during the 2009 Texas Legislative Session and the lobbying cost was split 50/50 between UGRA and Kerrville (\$25,000 each).

Now, UGRA officials are taking a different approach to amend their water right by making application through the Texas Commission on Environmental Quality (TCEQ). UGRA officials have asked that Kerrville adopt a Resolution supporting their proposal to amend their water right to remove this prohibition, there will be no monetary support needed from Kerrville. Specifically, UGRA will make application with TCEQ to amend section no. 5(D)(i) of permit 5394A to strike the following language as noted: "Not to exceed 1,661 acre-feet of water per annum may be contracted for municipal use by Kerr County

entities ~~other than the City of Kerrville~~ (either water diverted directly from the river or surface water injected into the aforesaid aquifer and subsequently retrieved)." The amendment would effectively remove the restriction that currently prohibits municipal use by the City of Kerrville; however, it would not guarantee Kerrville's use of this water.

This proposal is the first in a two phase process where phase 1 is to remove the limitations in order to maximize the water right throughout the entirety of Kerr County (including Kerrville), and phase 2 is to identify and evaluate the options to utilize those water rights. The UGRA Board has already established a committee to complete phase 2. UGRA acknowledges Kerrville has no obligation to treat UGRA's water.

### **RECOMMENDED ACTION**

The Director of Public Works recommends that Council adopt a Resolution supporting UGRA's proposal to amend water right 5394A to remove the restriction of municipal water use with the City of Kerrville as written in the attached Resolution.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_\_-2011**

**A RESOLUTION SUPPORTING THE PROPOSAL BY THE UPPER  
GUADALUPE RIVER AUTHORITY TO AMEND ITS WATER PERMIT TO  
REMOVE THE PERMIT'S RESTRICTION THAT THE WATER MAY NOT  
BE USED FOR MUNICIPAL USE WITHIN THE CITY**

WHEREAS, the Upper Guadalupe River Authority ("UGRA") 2009-13 Strategic Plan identifies goals, one of which is promoting and providing dependable water supplies for Kerr County; and

WHEREAS, UGRA's water right permit (No. 5394A) provides it with the authority to divert water from the Guadalupe River; and

WHEREAS, this permit currently has a restriction that prohibits the use of any such water for municipal use with the City; and

WHEREAS, UGRA is seeking to have this restriction removed; and

WHEREAS, the City Council commends the UGRA for this initiative and supports its efforts to remove this restriction; and

WHEREAS, the City Council finds it to be in the public interest to support UGRA's proposal to amend its water right permit to remove the restriction that prohibits the use of any such water for municipal use within the City;

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

The City Council of the City of Kerrville supports the proposal by the Upper Guadalupe River Authority to amend its water right permit (No. 5394A) by removing the restriction which prohibits the use of any such water for municipal use within the City.

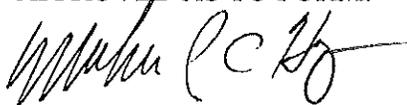
**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_, A.D.,  
2011.**

\_\_\_\_\_  
David Wampler, Mayor

ATTEST:

\_\_\_\_\_  
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

7B. Presentation and request for approval of the FY12 airport budget by the Kerrville-Kerr County Joint Airport Board. (Bruce McKenzie, Airport Manager)

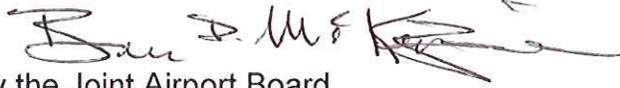
**TO BE CONSIDERED BY THE CITY COUNCIL  
CITY OF KERRVILLE, TEXAS**

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**SUBJECT:** Kerrville-Kerr County Airport Budget

**FOR AGENDA OF:** December 13, 2011    **DATE SUBMITTED:** November 18, 2011

**SUBMITTED BY:** Bruce McKenzie    **CLEARANCES:**  
Airport Manager



**EXHIBITS:** FY 2012 Budget approved by the Joint Airport Board

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**



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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The Kerrville-Kerr County Joint Airport Board would like to present the FY 2012 Airport budget for approval.

**RECOMMENDED ACTION**

This item is for discussion and possible action. The Joint Airport Board would like to request approval by the Kerrville City Council for the FY 2012 Airport Budget at the December 13, 2011, City Council meeting.

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

Revenues	2006	FY 2006 thru FY 2010 are from the City			2010	2011 Budget Approved	2011 YTD Actual Thru 9/30/11	2012 Board Approved	2012 City Approved	2012-Revised Board Approved	Averages
		2007	2008	2009							
<b>47-AIRPORT</b>											
INTERGOVERNMENTAL REVENUE											
47-300-602	258,400	195,249	188,334	262,000	601,850					110,000	289,068
47-300-603	274,012	195,249	188,334	262,000	391,732	0	250	175,000	110,000	110,000	218,596
47-300-604	0	0	0	0	0	0	0	0	-	-	
47-300-606	33,643	3,991	0	0	0	0	0	0	-	-	
<b>TOTAL INTERGOVERNMENTAL REVENUE</b>	<b>566,055</b>	<b>394,489</b>	<b>376,668</b>	<b>524,000</b>	<b>993,582</b>	<b>306,497</b>	<b>228,822</b>	<b>350,000</b>	<b>220,000</b>	<b>220,000</b>	
LEASE/RENTAL INCOME											
47-325-301	106,895	110,592	103,503	94,940	102,318	128,050	112,451	108,864	108,864	113,969	105,118
47-325-602	0	7,144	14,141	14,354	12,206	13,145	14,275	15,361	15,361	15,213	12,424
47-325-603	48,900	43,600	48,250	44,438	43,644	44,000	49,938	52,400	52,400	47,100	46,462
47-325-604	3,525	3,808	3,951	3,187	3,165	3,500	3,585	3,528	3,528	3,585	3,537
47-325-605	1,975	1,321	1,320	1,320	2,737	1,300	1,320	1,320	1,320	1,320	1,665
<b>TOTAL LEASE/RENTAL INCOME</b>	<b>161,294</b>	<b>166,465</b>	<b>171,164</b>	<b>158,239</b>	<b>164,070</b>	<b>189,995</b>	<b>181,580</b>	<b>181,493</b>	<b>181,493</b>	<b>181,187</b>	
REIMBURSEMENT											
47-350-601	27,835	38,712	39,427	32,969	30,132	36,000	31,712	35,310	35,310	32,000	33,465
47-350-602	0	0	0	0	0	0	86	0	-	-	86
<b>TOTAL REIMBURSEMENT</b>	<b>27,835</b>	<b>38,712</b>	<b>39,427</b>	<b>32,969</b>	<b>30,132</b>	<b>36,000</b>	<b>31,798</b>	<b>35,310</b>	<b>35,310</b>	<b>32,000</b>	
INTEREST INCOME											
47-380-601	14,631	7,425	6,404	2,639	2,661	100	137	100	100	100	5,650
<b>TOTAL INTEREST INCOME</b>	<b>14,631</b>	<b>7,425</b>	<b>6,404</b>	<b>2,639</b>	<b>2,661</b>	<b>100</b>	<b>137</b>	<b>100</b>	<b>100</b>	<b>100</b>	
TRANSFER IN											
47-390-601	0	378,000	0	0	0	0	0	0	-	-	378,000
47-390-610	0	50,000	0	0	95,249	0	0	0	-	-	72,624
<b>TOTAL TRANSFER IN</b>	<b>0</b>	<b>428,000</b>	<b>0</b>	<b>0</b>	<b>95,249</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<b>*** TOTAL REVENUES ***</b>	<b>769,815</b>	<b>1,035,091</b>	<b>593,664</b>	<b>717,847</b>	<b>1,285,693</b>	<b>532,592</b>	<b>442,337</b>	<b>566,903</b>	<b>436,903</b>	<b>433,287</b>	<b>807,408</b>

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD												
BUDGET COMPARISON												
FOR 2006 - 2012												
Expenses	2006	2007	2008	2009	2010	2011	2011	2011	2012	2012	2012	2012-Revised
	Actual	Actual	Actual	Actual	Actual	Budget	YTD Actual	Thru 9/30/11	Board	City	Approved	Board
						Approved*			Approved	Approved		Approved
<b>SALARIES &amp; BENEFITS</b>												
47-700-101	0	0	0	71,000	76,000	80,000	80,000	80,000	84,000	80,000	80,000	80,000
47-700-102	0	0	0	20,908	23,494	25,054	25,144	25,054	26,317	25,054	25,054	25,054
47-700-104	0	0	0	0	0	0	0	0	0	0	0	0
47-700-205	0	0	0	0	0	0	0	0	0	0	0	0
800-003	0	0	0	0	0	0	0	0	0	0	0	0
800-004	0	0	0	0	0	0	0	0	0	0	0	0
47-700-201	0	0	0	7,003	7,611	8,037	8,020	8,037	8,439	8,037	8,037	8,037
800-005	0	0	0	0	0	0	0	0	0	0	0	0
47-700-202	0	0	0	7,996	8,063	15,720	7,860	26,200	7,860	7,860	7,860	7,860
47-700-203	0	0	0	9,296	10,954	11,566	11,542	12,587	11,566	11,566	11,682	10,597
47-700-204	0	0	0	0	0	7,594	2,700	2,599	2,599	3,440	3,440	900
<b>TOTAL SALARIES &amp; BENEFITS</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>116,203</b>	<b>126,122</b>	<b>147,971</b>	<b>135,265</b>	<b>160,142</b>	<b>135,116</b>	<b>136,072</b>		
<b>AIRPORT</b>												
47-800-008	0	0	0	5,957	5,070	10,000	6,687	7,500	6,000	6,000	6,000	5,905
47-800-009	0	0	0	67	235	600	525	600	600	600	600	276
47-800-010	9,403	50,063	17,314	5,513	0	15,000	8,307	25,000	10,000	10,000	9,500	18,120
47-800-101	604	1,140	3,840	2,894	2,180	2,000	1,049	2,000	2,000	2,000	1,500	1,951
47-800-102	528	156	1,741	401	523	6,000	5,352	4,100	5,000	5,000	5,000	1,450
47-800-103	6,586	4,992	6,901	2,516	3,919	4,000	4,000	4,000	4,000	4,000	4,000	4,819
47-800-104	0	0	0	490	514	4,340	3,603	5,000	4,000	4,000	4,000	1,536
47-800-105	0	43	585	-217	903	600	94	600	600	600	600	281
47-800-106	0	708	1,253	1,984	2,318	3,700	2,025	2,400	2,400	2,400	2,200	1,657
800-107	0	0	0	0	0	0	0	0	0	0	0	0
47-800-107	586	536	273	205	451	750	71	500	300	300	200	354
47-800-108	0	0	0	0	0	0	0	0	0	0	0	0
800-111	1,062	3,648	1,800	0	0	0	0	0	0	0	0	2,170
47-800-109	4,404	167	0	0	0	0	0	0	0	0	0	2,286
47-800-110	0	0	0	349	0	0	0	0	0	0	0	349
47-800-111	0	0	0	0	0	0	0	0	0	0	0	0
47-800-201	23,478	28,835	25,923	22,992	29,864	47,500	25,771	47,500	35,000	35,000	25,000	26,144
47-800-202	14,632	29,205	9,676	20,555	33,339	36,000	14,013	30,000	10,000	10,000	15,000	20,236
47-800-203	0	200	0	0	667	0	0	0	0	0	0	433
800-204	0	0	0	654	102	0	0	0	0	0	0	378
47-800-204	0	488	1,680	1,522	1,820	2,000	1,778	1,500	2,000	2,000	1,500	1,458
47-800-205	17,024	7,073	917	8,326	7,492	17,000	14,765	12,500	5,000	5,000	8,000	9,266
47-800-206	0	354	0	0	0	0	0	0	0	0	0	354
47-800-207	0	159	142	-659	-331	6,000	5,695	1,000	1,000	1,000	1,000	1,001
47-800-208	0	0	0	0	0	0	0	0	0	0	0	0

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD

BUDGET COMPARISON

FOR 2006 - 2012

Expenses	2006	2007	2008	2009	2010	2011	2011	2011	2012	2012	2012	2012-Revised
	Actual	Actual	Actual	Actual	Actual	Budget Approved	YTD Actual Thru 9/30/11	Board Approved	City Approved	Board Approved	Board Approved	Averages
47-800-209	0	0	186	286	0	3,000	2,610	1,500	1,000	2,500	1,027	
800-214	0	0	0	0	0	0	0	0	0	0	0	
47-800-301	0	0	0	0	0	0	0	0	0	0	0	
47-800-302	0	0	0	0	0	0	0	0	0	0	0	
47-800-303	8,657	10,372	10,745	0	0	0	0	0	0	0	9,925	
47-800-304	0	0	0	24,440	0	0	0	0	0	0	24,440	
47-800-305	0	20	72	1,219	276	3,100	2,694	4,000	2,500	2,500	856	
47-800-306	0	794	0	0	0	300	111	300	300	300	452	
47-800-307	225,206	223,134	343,545	268,318	251,000	158,524	158,524	158,524	158,524	158,524	244,954	
47-800-308	0	0	0	96,165	126,122	0	0	0	0	0	111,143	
47-800-309	0	95,151	0	0	0	0	0	0	0	0	95,151	
47-800-310	0	0	0	0	0	0	0	0	0	0	0	
47-800-311	0	0	0	0	0	10,000	7,910	10,000	10,000	5,000	7,910	
47-800-401	1,183	3,027	261	624	973	2,700	1,748	1,200	2,400	900	1,303	
47-800-402	0	0	0	0	0	0	0	0	0	0	0	
47-800-403	8,501	13,082	9,472	6,310	10,598	10,200	10,662	13,000	12,000	12,000	9,771	
47-800-406	0	0	0	1,628	0	0	0	0	0	0	1,628	
47-800-404	133	427	336	661	937	750	686	1,000	1,000	750	530	
47-800-405	0	0	0	0	0	0	0	0	0	0	0	
47-800-501	0	0	0	586	0	0	0	0	0	0	586	
47-800-503	0	0	525	851	327	1,385	1,539	1,500	1,500	750	810	
800-503	0	0	19,941	0	0	0	0	0	0	0	19,941	
47-800-505	100	4,789	2,540	2,709	2,516	4,600	2,409	4,800	0	0	2,511	
47-800-507	0	0	10,500	0	16,004	15,000	7,640	15,000	5,000	10,000	11,381	
47-800-509	0	0	0	0	0	0	0	0	0	0	0	
800-510	0	666	0	0	0	0	0	0	0	0	666	
47-800-511	0	0	0	0	0	0	0	0	0	0	0	
47-800-513	0	0	0	0	0	0	0	0	0	0	0	
47-800-901	656,407	445,116	50,289	275,350	696,916	0	0	0	0	0	424,816	
47-800-902	0	0	0	0	0	0	0	0	0	0	0	
47-800-903	0	0	0	0	0	0	0	0	0	0	0	
TOTAL AIRPORT	978,494	924,345	520,804	727,907	1,219,175	365,049	290,269	355,024	280,924	276,124		

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 9/30/11	2012 Board Approved	2012 City Approved	2012- Revised Board Approved	Averages
TERMINAL											
47-801-101 SUPPLIES	0	0	0	0	0	0	0	0	-	-	0
47-801-300 PHONE SERVICES - Term phones & Fire Alarm	0	0	1,131	572	575	420	331	420	420	2,191	652
47-801-301 LIGHT & POWER	0	0	11,851	7,828	10,454	9,600	9,482	12,000	11,000	11,000	9,904
47-801-302 PROPANE GAS	0	0	3,871	825	4,407	5,500	4,281	5,500	5,500	5,000	3,346
47-801-303 WATER & SEWER	0	0	2,510	3,008	2,263	2,500	2,710	2,500	3,000	2,750	2,623
<b>TOTAL 01-TERMINAL</b>	<b>0</b>	<b>0</b>	<b>19,362</b>	<b>12,234</b>	<b>17,699</b>	<b>18,020</b>	<b>16,803</b>	<b>20,420</b>	<b>19,920</b>	<b>20,941</b>	
<b>*** TOTAL EXPENSES ***</b>	<b>978,494</b>	<b>924,345</b>	<b>540,166</b>	<b>740,140</b>	<b>1,236,875</b>	<b>531,040</b>	<b>442,337</b>	<b>535,586</b>	<b>435,960</b>	<b>433,138</b>	
REVENUE OVER/(UNDER) EXPENDITURES	(208,679)	110,746	53,498	(22,293)	48,818	1,552	-	31,317	943	149	
<b>M&amp;O EXPENDITURES</b>	<b>322,087</b>	<b>479,229</b>	<b>489,877</b>	<b>464,790</b>	<b>539,959</b>	<b>531,040</b>	<b>442,337</b>	<b>535,586</b>	<b>435,960</b>	<b>433,138</b>	
Note:	Changes approved by Board										

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

	2006	2007	2008	2009	2010	2011	2011	2012	2012	2012-Revised
Revenues	Actual	Actual	Actual	Actual	Actual	YTD Actual Thru 9/30/11	Budget Approved	Board Approved	City Approved	Board Approved
<b>48 - AIRPORT CAPITAL</b>										
Reimbursement										
48-350-100 CAPITAL GRANTS - TXDOT	0	0	0	0	7,196,490	0	0	0	-	-
REIMBURSEMENT FM TX DOT	27,456	1,170	29,046	54,543	54,543	50,000	50,000	50,000	50,000	50,000
<b>TOTAL Reimbursement</b>	<b>27,456</b>	<b>1,170</b>	<b>29,046</b>	<b>54,543</b>	<b>7,251,033</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>
Intergovernmental										
48-351-100 KERR COUNTY RAMP GRANT M	0	0	0	0	0	25,000	25,000	25,000	25,000	25,000
48-351-101 CITY OF KVILLE RAMP GRANT	0	0	0	0	0	25,000	25,000	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	-	-
<b>TOTAL Intergovernmental</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>	<b>50,000</b>
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	-	-
<b>TOTAL Transfers In</b>	<b>851,474</b>	<b>268,310</b>	<b>275,000</b>	<b>621,916</b>	<b>376,364</b>	<b>6,072</b>	<b>6,072</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL REVENUES</b>	<b>878,930</b>	<b>269,480</b>	<b>304,046</b>	<b>676,459</b>	<b>7,627,397</b>	<b>106,072</b>	<b>106,072</b>	<b>100,000</b>	<b>100,000</b>	<b>100,000</b>

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 9/30/11	2012 Board Approved	2012 City Approved	2012-Revised Board Approved
<b>CAPITAL OUTLAY</b>										
800-201	0	0	49,678	0	0	0	0	0	0	0
800-202	0	0	0	0	0	0	0	0	0	0
800-405	0	0	0	150,304	0	0	0	0	0	0
800-600-101	0	0	0	0	0	0	0	0	0	0
800-600-102	0	18,524	122,390	112,429	112,429	0	0	0	0	0
800-507	0	94,402	0	0	0	0	0	0	0	0
48-600-103	0	0	15,798	319,138	296,876	294,480	294,480	0	0	0
800-500	0	0	0	0	7,196,490	0	0	0	0	0
48-600-104	0	0	0	0	0	100,000	81,965	100,000	100,000	100,000
48-600-105	0	0	0	0	0	0	0	0	0	0
48-600-106	0	0	0	0	0	0	0	0	0	0
48-600-107	0	0	0	0	0	0	0	0	0	0
48-600-108	0	0	0	0	0	0	0	0	0	0
48-600-109	0	0	0	0	0	132,852	20,993	0	0	0
48-600-110	0	0	0	0	0	0	0	0	0	0
48-600-111	0	0	0	0	0	0	0	0	0	0
48-600-112	0	14,770	0	19,950	19,950	0	0	0	0	0
48-600-113	0	0	0	0	0	0	0	0	0	0
48-600-114	0	0	0	0	0	0	0	0	0	0
48-600-115	0	0	0	0	0	0	0	0	0	0
800-517	0	0	0	0	0	0	0	0	0	0
800-518	0	0	0	0	0	0	0	0	0	0
800-519	0	0	0	0	0	0	0	0	0	0
800-520	0	0	0	0	0	0	0	0	0	0
800-948	105,829	2,248	6,374	95,249	0	0	0	0	0	0
<b>TOTAL CAPITAL OUTLAY</b>	<b>105,829</b>	<b>129,945</b>	<b>194,240</b>	<b>697,070</b>	<b>7,625,745</b>	<b>527,332</b>	<b>397,439</b>	<b>100,000</b>	<b>100,000</b>	<b>100,000</b>
<b>TOTAL EXPENDITURES</b>	<b>105,829</b>	<b>129,945</b>	<b>194,240</b>	<b>697,070</b>	<b>7,625,745</b>	<b>533,404</b>	<b>403,511</b>	<b>100,000</b>	<b>100,000</b>	<b>100,000</b>
<b>REVENUE OVER/(UNDER) EXPENDITURES</b>	<b>773,101</b>	<b>139,536</b>	<b>109,806</b>	<b>(20,610)</b>	<b>1,652</b>	<b>(433,404)</b>	<b>(353,511)</b>	<b>-</b>	<b>-</b>	<b>-</b>
Note:	Changes Approved by Board									

## Kerrville-Kerr County Airport Future CIP

**Funding Source: Airport**

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	TOTAL
New Hangars at Airport	\$ -	\$ 300,000	\$ -	\$ -	\$ -	\$ 300,000
New Taxiways at Airport	\$ -	\$ 120,000	\$ -	\$ -	\$ -	\$ 120,000
Rehab Airport Runway 03/21	\$ -	\$ 90,000 <i>originally in FY 12, 13</i>	\$ -	\$ -	\$ -	\$ 90,000
Routine Airport Maintenance Program (RAMP) Grants	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 250,000
Site Preparation for Hangar Development	\$ -	\$ 150,000 <i>originally in FY 12</i>	\$ -	\$ -	\$ -	\$ 150,000
T-Hangar Building	\$ -	\$ 325,000 <i>originally in FY 11</i>	\$ -	\$ -	\$ -	\$ 325,000
<b>TOTALS</b>	<b>\$ 50,000</b>	<b>\$ 1,035,000</b>	<b>\$ 50,000</b>	<b>\$ 50,000</b>	<b>\$ 50,000</b>	<b>\$ 1,235,000</b>

**Funding Source: Grants**

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	TOTAL
Routine Airport Maintenance Program (RAMP) Grants	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 50,000	\$ 250,000
<b>TOTALS</b>	<b>\$ 50,000</b>	<b>\$ 250,000</b>				

## **Agenda Item:**

7C. A resolution granting a tempering to the requirement to provide water and wastewater service to the property being developed at 510 Benson Drive (Christ the King Foundation Prayer Garden site). (staff)

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

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**SUBJECT:** Waiver Request: The Coming King Foundation – Consider a request for a waiver to the Subdivision Regulations, Article 10-IV-4, Development Procedures, Section A, Minimum Development Improvements; utility extensions, for the Coming King Sculpture Prayer Garden development. (File No. 2011-54)

**FOR AGENDA OF:** December 13, 2011 **DATE SUBMITTED:** December 2, 2011

**SUBMITTED BY:** Gordon Browning  **CLEARANCES:** Kristine Ondrias   
Robert Ojeda 

**EXHIBITS:** Location Map, Applicant's Request

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

Procedure:

The process for requesting, hearing and the deposition of waiver requests are detailed in Article 10-IV-4, Section B of the Subdivision Regulations, see attached, Exhibit B.

The City Council, following a recommendation from the Planning and Zoning Commission, may waive the full application of the required improvements, where because of the nature of the development, lot size, topography, distance from the City, remoteness, the improvements required would be impractical at the time of platting to install and/or maintain. Final approval for waivers must be authorized by an affirmative vote of a majority of the City Council.

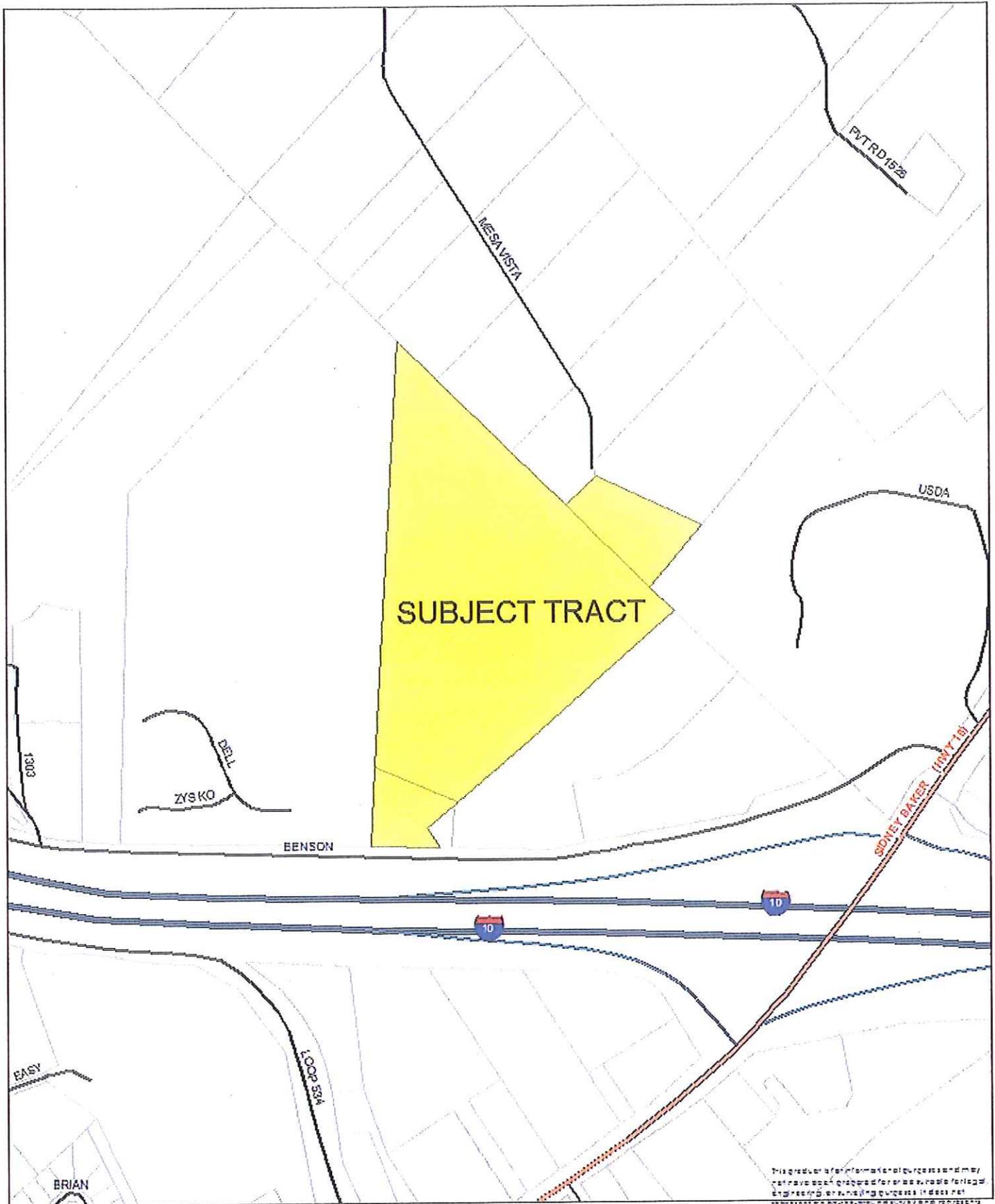
Request:

The Coming King Foundation is developing a sculpture prayer garden on a two (2) lot, 22.89 acre tract north of IH-10 at 510 Benson Drive. The first phase of the multi-phase development will consist of a parking lot; engineering plans for this phase of the development have been approved. The applicant's request is to waive the requirement to provide City services by off-site extensions, Article 10-IV-4 (A)(e and f), until either habitable structures or overnight RV parking is permitted on the site.

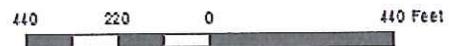
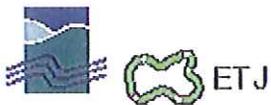
The Planning and Zoning Commission approved the preliminary plat for this development, with conditions, at their November 17, 2011 meeting and recommended approval of the waiver as requested.

**RECOMMENDED ACTION**

1. Open the discussion on the request, and
2. Render a decision.



This document is for informational purposes only and may not be used for legal or engineering purposes. It does not represent an engineering survey and registration only approximate relative to others.



DATE: October 21, 2011

MEMO TO: Gordon Browning  
Senior Planner

FROM: Lee C. Voelkel

SUBJECT: Preliminary Plat  
The Coming King Sculpture Prayer Garden

Gordon:

Please accept this memo as a formal request from my client, The Coming King Foundation, for a waiver from required off-site utility improvements providing fire flow to The Coming King Sculpture Prayer Garden (a proposed 22.89 acre subdivision fronting on Benson Drive in the city of Kerrville), deferring that requirement until either habitable structures or overnight RV stay is permitted on the site.

  
Lee C. Voelkel

copy: The Coming King Foundation

(2) Streetlights easements of five (5) feet in width (2 1/2 feet on each side of lot line) shall be provided for the purpose of service wire installment, when necessary for service.

k. Utility Placement. All utilities shall be placed underground or if the Developer so elects, they may be placed overhead if located within service drives, alleys, or rear lot easements.

#### SECTION (B) WAIVERS.

The City Planning Commission may recommend to City Council a waiver or the tempering of the full application of the required improvements, where because of the nature of the development, lot size, topography, distance from the City, remoteness, the improvements required would be impractical at the time of platting to install and/or maintain. Provisions for required improvements to occur following recording in the form of deed restrictions should accompany all waiver requests. All requests for improvement waivers shall be submitted in writing to the City Planning Commission and shall be accompanied with the following information;

1. Statement of intended development,
2. Statement justifying the requested waiver,
3. The nature of the waiver (ex., request for reduction of sidewalks from both sides of street to on
4. Plan identification of the waiver.

Final approval for waivers must be authorized by an affirmative vote of majority of the City Council.

#### SECTION (C) DEVELOPMENT COSTS

1. Developer. The developer shall, at developer's expense, construct all improvements – both on site and off site – required by this ordinance and, water pumping stations, sewage lift stations, bridges, major drainage structures, and other improvements required to service the development proposed. All streets, utilities, and improvements within the City Limits shall become the property of the City of Kerrville upon completion and acceptance. The developer, at developer's expense, shall extend all water mains, sewer lines, other utilities and streets to the outer boundaries of the subdivision for future use beyond the subdivision.
2. City. Except as otherwise provided herein, where the City requires improvements of a cost greater than that required for the subdivision itself, then the City shall pay any additional cost thereof.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_\_-2011**

**A RESOLUTION GRANTING A TEMPERING TO THE REQUIREMENT TO  
PROVIDE WATER AND WASTEWATER SERVICE TO THE PROPERTY BEING  
DEVELOPED AT 510 BENSON DRIVE**

**WHEREAS**, the Coming King Foundation (“Owner”) is currently developing its approximately 22.89 acre property located at 510 Benson Drive (“Property”) as a sculpture prayer garden; and

**WHEREAS**, pursuant to the City’s Subdivision Ordinance (“Ordinance”), specifically Article 10-IV-4(B), Owner, at the November 17, 2011 meeting of the Planning and Zoning Commission, requested that the City grant it a waiver or a tempering to the requirements of Article 10-IV-4(A) i.e. and f. of the Ordinance to construct the extension of water and wastewater (sanitary sewer) services to the Property (collectively referred to herein as “Public Improvements”); and

**WHEREAS**, the Owner’s waiver and tempering request was based upon the nature of its development of the Property; and

**WHEREAS**, at its meeting, the Planning and Zoning Commission considered the Owner’s testimony regarding the development of the Property and the fact that the Owner intends at the present time to limit the development of the Property to a parking lot and the sculpture garden; and

**WHEREAS**, the Planning and Zoning Commission recommended that City Council approve tempering the requirements of the Ordinance by deferring the construction of the Public Improvements until additional development or use of the Property; and

**WHEREAS**, based upon the above considerations, the Owner has requested that City Council temper the full requirement of the Ordinance by granting a deferral for the construction of the Public Improvements by the Owner until such time that permits for habitable structures are applied for regarding the Property or, the Property is used to accommodate the overnight parking of recreational vehicles; and

**WHEREAS**, the City Council of the City of Kerrville, Texas, finds that the public interest will not be adversely affected by granting a tempering of the full application of the required construction of Public Improvements subject to the conditions specified below;

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

In accordance with Art. 10-IV-4(B) of the Ordinance, the request to temper the full application of the requirements set forth in Art. 10-IV-4(A) i.e. and f. of the Ordinance for the Owner to construct the extension of water and wastewater (sanitary sewer) service to the Property, is hereby granted by allowing a deferral as to the time when Public Improvements must be constructed subject to the following conditions:

- 1) The construction of the Public Improvements shall be deferred until the earlier of the following events:
  - a) Where a permit for any type of habitable structure is applied for regarding the Property;  
or

- b) Where the Property is used to accommodate the overnight parking of recreational vehicles.
- 2) The deferral granted herein shall be specifically noted on the plat of the property and that plat shall be file in the Plat Records for Kerr County, Texas.
- 3) The provisions of this Resolution and the deferral granted herein apply only to the Public Improvements. The Owner, or successors in interest, shall comply with all other development improvements required by the Ordinance.

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

ATTEST:

\_\_\_\_\_  
David Wampler, Mayor

\_\_\_\_\_  
Brenda Craig, City Secretary

APPROVED AS TO FORM:



\_\_\_\_\_  
Michael C. Hayes, City Attorney

## **Agenda Item:**

7D. Authorize the city manager to execute additional change orders to the JM Lowe contract which may exceed \$50,000 on the library renovation/expansion project but not an amount to exceed a total change order limit of \$348,000.  
(staff)

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

**SUBJECT:** Authorize the City Manager to execute additional change orders which may exceed \$50,000.00 on the Library Renovation/Expansion Project but not an amount not to exceed the total amount of \$348,000.00.

**FOR AGENDA OF:** December 13, 2011      **DATE SUBMITTED:** December 5, 2011

**SUBMITTED BY:** Kristine Ondrias *KO*      **CLEARANCES:** Todd Parton  
Assistant City Manager

**EXHIBITS:**

**AGENDA MAILED TO:**

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

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$148,000.00	\$1,322,267.55	\$2,312,157.00	N/A

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:** *[Signature]*

**SUMMARY STATEMENT**

The City of Kerrville awarded the original construction project for the renovation/expansion of the Butt-Holdsworth Memorial Library in the amount of \$1,478,000.00. City Council also authorized the City Manager to execute additional change orders in an amount not to exceed \$200,000.00.

In October, the City was notified an additional grant in the amount of \$100,000.00 was being awarded to the City by the Library Foundation. These funds would be available to renovate the basement meeting area. Additional funds from the closing of the Library Roof Project (\$19,657.00) and the Library Endowment Fund (\$27,500.00) were also identified to help with the basement renovation and the addition of security gates at the entrance.

This item authorizes the City Manager to execute additional change orders in an amount not to exceed \$148,000.00 for a total change order limit of \$348,000.00.

**RECOMMENDED ACTION**

Authorize the City Manager to execute additional change orders which may exceed \$50,000.00 on the Library Renovation/Expansion Project but not an amount not to exceed the total amount of \$348,000.00.

## **Agenda Item:**

7E. Authorize execution of a Certificate of Convenience and Necessity (CCN) agreement designating retail water service territory between the City of Kerrville and Aqua Texas within the Kerrville South area. (staff)

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

**SUBJECT:** Council authorization for the City Manager to execute a Certificate of Convenience and Necessity ("CCN") Agreement Designating Retail Water Service Territory between the City of Kerrville and Aqua Texas.

**FOR AGENDA OF:** 12/13/11

**DATE SUBMITTED:** 12/1/11

**SUBMITTED BY:** Charlie Hastings  
Public Works Director

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Agreement Designating Retail Water Service Territory

**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 July of 2009, the City of Kerrville filed an application with the Texas Commission on Environmental Quality (TCEQ) to expand its existing water Certificate of Convenience and Necessity (CCN) to encompass its city limits including up to a two mile buffer in some surrounding areas. During the process, TCEQ found an overlapping CCN with Aqua Texas in the Kerrville South area. An Agreement with Aqua Texas was drafted by the Kerrville Legal Department that better defines boundaries between Kerrville and Aqua Texas as well as a dual service area (the Brinkman property off Highway 16 and Lehmann Drive will be the only property served by both water systems). By executing this agreement, the City of Kerrville and Aqua Texas will be eliminating numerous future conflicts and allow TCEQ to proceed with the issuance of Kerrville's CCN application.

**RECOMMENDED ACTION**

Aqua Texas has confirmed they are substantially agreeable to the Agreement. With the holidays fast approaching and only one Council meeting this month, The Director of Public Works recommends that Council authorize the City Manager to execute the attached service area agreement with Aqua Texas and file it with TCEQ as soon as Aqua Texas has executed it.

**AGREEMENT DESIGNATING RETAIL  
WATER SERVICE TERRITORY**

STATE OF TEXAS

§  
§  
§

COUNTY OF KERR

This Agreement Designating Retail Water Service Territory ("Agreement") is made and executed by and between the Kerrville South Water Company ("Kerrville South"), and the City of Kerrville, Texas ("City"). Kerrville South and the City may be collectively referred to herein as the "Parties."

**I. RECITALS**

WHEREAS, Kerrville South Water Company, an investor-owned retail public utility is owned and operated by Aqua Texas, Inc., and has water Certificate of Convenience and Necessity ("CCN") No. 11484; and

WHEREAS, the City is a Texas municipal corporation which holds water CCN No. 12928;

WHEREAS, Kerrville South and the City agree it is mutually beneficial to both parties to designate certain customers and territory to be served by each entity to avoid disputes regarding service to the areas identified on Exhibit A attached to this Agreement; and

WHEREAS, Kerrville South and the City stipulate that this Agreement is an agreement under Texas Water Code § 13.248; and

NOW, THEREFORE, for and in consideration of the foregoing mutual benefits, covenants, and agreements herein expressed and other good and valuable consideration, the receipt of which is hereby acknowledged, Kerrville South and the City agree as follows:

**II. TERMS OF AGREEMENT**

IN CONSIDERATION of the mutual promises and covenants contained in this Agreement, including the recitals set forth above, and other good and valuable consideration, the receipt of which is hereby acknowledged, by their representatives affixing signatures below, Kerrville South and the City agree as follows:

(1) Service Area. Kerrville South and the City hereby agree to the following:

a. The City and Kerrville South may both provide retail water service to the area identified on Exhibit A as "Shared Service;"

b. The City may provide exclusive retail water service to the area identified on Exhibit A as property added to the City's water service area; and

c. Kerrville South may provide exclusive retail water service to the area highlighted on Exhibit A as "Aqua Texas Service Area" and to the area designated as the area added to Aqua Texas' water service area.

(2) Customers and Facilities in the Areas. No facilities or customers will be transferred from Kerrville South to the City or from the City to Kerrville South under this Agreement.

(3) Amendment of CCNs. As soon as possible after the Effective Date of this Agreement, Kerrville South and the City shall jointly file this Agreement with the Texas Commission on Environmental Quality ("TCEQ") to effectuate the designation of CCN service territory identified on Exhibit A, and to request that this Agreement be incorporated into the respective CCNs of the City and Kerrville South pursuant to Texas Water Code § 13.248. Kerrville South and the City shall endeavor to obtain TCEQ approval of this Agreement in an expeditious manner and will support and cooperate with each other and the TCEQ to accomplish this goal. The City shall prepare all of the required documents and maps required by the TCEQ to incorporate this Agreement into the respective CCNs of the City and Kerrville South.

(4) Effective Dates. This Agreement is effective and enforceable as between Kerrville South and the City on the date on which this Agreement is executed by the last to sign of Kerrville South and the City.

(5) Section 13.248. This Agreement shall be construed and interpreted in accordance with Section 13.248 of the Texas Water Code. Nothing in this Agreement limits or otherwise prohibits either Party from obtaining or transferring territory pursuant to Texas Water Code §§ 13.254 or 13.255, or limits or prohibits the City from exercising its original jurisdiction over water rates and service requirements of investor-owned utilities serving within the city limits of the City.

### III. MISCELLANEOUS

(1) Applicable Texas Law. This Agreement shall be governed by and construed and enforced under the laws of the State of Texas.

(2) Performance. The obligations and undertakings of each of the parties to this Agreement shall be performed in Kerr County, Texas. Except for matters within the jurisdiction of the TCEQ (or its successor), the Parties expressly agree that all judicial proceedings to enforce any of the provisions of this Agreement shall take place in Kerr County, Texas.

(3) Entire Agreement. This Agreement contains the entire agreement of Kerrville South and the City with respect to the subject matter of the Agreement. No agreement, statement, or promise made by any Party or to any employee, agent, or officer of any Party, that is not contained in this Agreement shall be valid, binding, or of any force or effect. Any amendments to this Agreement must be in writing and signed by the Parties.

(4) Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective successors, heirs, representatives, and assigns.

(5) Agreement Drafted Equally. This Agreement shall be deemed drafted equally by the Parties hereto. The language of all parts of this Agreement shall be construed as a whole according to its fair meaning, and any presumption or principle that the language herein is to be construed against either Party shall not apply.

(6) Severability. Should any provision of this Agreement be declared void by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect.

(7) Attorney's Fees. In the event of any suit or other adjudication between the Parties to enforce any claim arising out of this Agreement, or to interpret the terms of this Agreement, the prevailing Party shall be entitled to recover its fees, damages, costs, attorneys' fees, and such other and further relief from the non-prevailing Party, general or special, at law or in equity.

(8) Covenant of Authority. The respective signatories to this Agreement covenant that they are fully authorized to sign this Agreement on behalf of their respective party.

(9) Notices. Unless expressly required otherwise, any notice required or permitted hereunder shall be in writing and shall be deemed to be delivered on the date received if delivered by hand to the address shown hereinafter for Kerrville South or the City, as appropriate, or, if deposited in the mail, such notice shall be deemed to be delivered, whether actually received or not, on the first business day after having been deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to Kerrville South or the City, as appropriate, at the address shown hereinafter. The addresses for Kerrville South or the City for all purposes under this Agreement shall be the following:

If to Kerrville South:                   Aqua Texas Inc.  
  1106 Clayton Lane, Ste. 400W  
  Austin, Tx 78723

If to the City:                            City of Kerrville  
  800 Junction Hwy  
  Kerrville TX 78028

The parties hereto shall have the right from time to time to change their respective addresses, and each shall have the right to specify as its address any other address within the United States of America by at least five (5) days written notice to the other party.

(10) Business Days. In the event that any date or any period provided for in this Agreement shall end on a Saturday, Sunday or legal holiday, the applicable period shall be extended to the first business day following such Saturday, Sunday or legal holiday. As used herein, the term "legal holiday" means any state or federal holiday for which financial institutions or post offices are generally closed in the State of Texas.

(11) Exhibits. All references to exhibits contained herein are references to exhibits attached hereto, all of which are made a part hereof.

(12) Recitals. The recitals in this agreement are true, correct, and incorporated by reference.

IN WITNESS WHEREOF, EXECUTED by the \_\_\_\_\_ of Kerrville South and the City Manager of the City of Kerrville under the authority of their respective governing bodies in Duplicate Originals on the dates indicated below.

**KERRVILLE SOUTH, INC.**

BY: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF KERRVILLE**

BY: \_\_\_\_\_  
Todd Parton, City Manager

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
City Secretary of the City of Kerrville

City of Kerrville / Aqua Texas Water Service Limits  
As of 09/2010

Legend

- Shared Service
- Aqua Texas Service Area

This area has been added to Aqua Texas water service area (09/2010)

This Property has been added to the City of Kerrville's water service area (09/2010).

## **Agenda Item:**

7F. Accept deed for city hall property at 701 Main Street, approve lease agreements for parking garage facility at 201 Clay Street and its adjacent buildings at 219 Clay Street, and 200 Sidney Baker Street, grant temporary construction easement for the city owned property, and accept temporary construction easement from the Cailloux Foundation. (staff)

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

**SUBJECT:** City Council authorization for the City Manager to execute the acceptance of the Special Warranty Deed for a .66 acre parcel of land located on the corner of Sidney Baker and Main Street for the construction of a new City Hall; execute leases for the parking garage facility, 219 Clay Street and 200 Sidney Baker for the renovation of new office space; and execute temporary construction easements with the Cailloux Foundation.

**FOR AGENDA OF:** December 13, 2011 **DATE SUBMITTED:** December 5, 2011

**SUBMITTED BY:** Kristine Ondrias  **CLEARANCES:** Todd Parton, City Manager  
Assistant City Manager Mike Hayes, City Attorney

**EXHIBITS:** Deed for City Hall Property at the corner of Sidney Baker / Main Streets  
Leases for Parking Garage Facility, 219 Clay Street and 200 Sidney Baker  
Temporary Construction Easements

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
<b>\$</b>	<b>\$</b>	<b>\$</b>	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

**SUMMARY STATEMENT**

At the March 8, 2011 meeting, the City Council gave the mayor authority to approve the agreement with the Cailloux Foundation to accept the gift of property for a city hall, and the authority to approve the pedestrian crosswalk assumption agreement to consent to the transfer of the crosswalk from Sid Peterson Memorial Hospital to the Cailloux Foundation property. Design documents were completed and bid in October with scheduled award of the construction contract on December 13, 2011.

Prior to award of the construction contract, the City Council will need to authorize execution of the acceptance of the special warranty deed, the leases for parking garage facility and adjacent office spaces as well as temporary construction easements.

**RECOMMENDED ACTION**

City Council authorize the City Manager to execute the acceptance of the Special Warranty Deed for a .66 acre parcel of land located on the corner of Sidney Baker and Main Street for the construction of a new City Hall; execute leases for the parking garage facility, 219 Clay Street and 200 Sidney Baker for the renovation of new office space; and execute temporary construction easements with the Cailloux Foundation.

**“NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER’S LICENSE NUMBER.”**

**Special Warranty Deed**

Date: \_\_\_\_\_, 2011

Grantor: CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company

Grantor's Mailing Address: P.O. Box 291276, Kerrville, Kerr County, Texas 78029-1276

Grantee: CITY OF KERRVILLE

Grantee's Mailing Address: 800 Junction Hwy., Kerrville, Kerr County, Texas 78028

Fee Simple Determinable Condition: The Property will be used for the construction of the City Hall of the City of Kerrville within three (3) years after the date hereof and will be used and occupied as the City Hall for the City of Kerrville for ninety-nine (99) years; so that if such use ceases at any time during such 99-year period and/or such construction is not completed within such 3-year period the Property will automatically revert to and be owned by Grantor.

Consideration: Grantor’s intention to make a gift and other good and valuable consideration in hand paid by Grantee, receipt of which is hereby acknowledged, and for which no lien, expressed, or implied, is retained or shall exist.

Property: All that certain tract or parcel of land lying and being situated in the County of Kerr, State of Texas, more particularly described in **Exhibit "A"**, attached hereto and made a part hereof for all purposes.

Exceptions to Conveyance and Warranty: Those certain exceptions set forth in **Exhibit "B"**, attached hereto and made a part hereof for all purposes, but only to the extent any such exception is valid and subsisting and affects the Property but without waiving rights or defenses relating to any such exception and without ratifying, creating or reviving any such exception.

Grantor, for the Consideration and subject to the Exceptions to Conveyance and Warranty, gives, grants, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, TO HAVE AND TO HOLD the Property, subject as aforesaid, unto Grantee and Grantee's successors and assigns, for as long as the Fee Simple Determinable Condition is satisfied, and if the Fee Simple Determinable Condition is not satisfied or ceases to be satisfied (the Property is not occupied and used for the purposes specified in the definition above of the Fee Simple Determinable Condition, the Property will automatically revert

to and be owned by Grantor without the necessity of any further act on the part of Grantor, it being Grantor's intent to convey a fee simple determinable estate to Grantee, and Grantor binds Grantor and Grantor's heirs and successors to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof by, through or under Grantor but not otherwise, except as to and subject to the Exceptions to Conveyance and Warranty.

Grantor, as the fee simple owner of the Property, establishes the following Restrictions ("Restrictions") as covenants, conditions, and restrictions, whether mandatory, prohibitive, permissive, or administrative, to regulate the structural integrity, appearance, and uses of the Property and the improvements placed on the Property; it being agreed and stipulated by Grantor and Grantee that (1) the Restrictions touch and concern the Property; (2) privity of estate exists by reason of the ownership of the Property; (3) notice is given by filing this instrument in the real property records of the county in which the Property is situated; and (4) the Restrictions are reasonable, their purposes being for the common benefit of Grantor, Grantee, and the Owners of the land ("Affected Land") which is owned by Grantor which is adjacent to the Property and which is described in Deeds recorded in Volume 1828, Page 0087 and Volume 1839, Page 0010, Official Public Records, Kerr County, Texas, who are affected by the structural integrity, appearance, and uses of the Property; and provided further that the Restrictions run with the land making up the Property, are binding on Grantee and Grantee's successors and assigns forever, and inure to the benefit of Grantor, the Owners of the Affected Land and their successors and assigns forever:

1. The construction, use and occupancy of the Property shall be solely for the City Hall (herein so called) of the City of Kerrville.
2. Grantor, its successors and assigns, shall have architectural review and approval of all improvements and all improvements on the Property (based on a standard of compatibility with the other buildings and architectural style of other buildings in the Kerrville Downtown area).
3. The City Hall and all improvements on the Property shall not be more than two stories.

The Restrictions shall exist for a period of 99 years from the date of this instrument unless sooner terminated by Grantor and the Owners of the Affected Land, or their successors or assigns. Enforcement of the Restrictions shall be in Kerr County, Texas, and shall be by any proceeding at law or in equity against any person or persons, violating or attempting to violate them, or to recover damages and failure or delay to enforce any of the Restrictions shall in no event be deemed a waiver of the right to do so thereafter. If Grantor, Owners of the Affected Land or their successors or assigns brings suit to enforce these Restrictions Grantee agrees to pay all court and legal costs of Grantor, Owners of the Affected Land and their successors and assigns.

Anything contained herein to the contrary notwithstanding and in furtherance of the Restrictions, no erection of buildings or additions or alterations to any building situated upon the Property nor

erection of or changes or additions in fences, hedges, walls and other structures, nor construction of any improvements nor any changes in the exterior color of any building, structure, fence, wall or other improvement, shall be commenced, erected or maintained until (1) a preliminary sketch showing the basic plan and general specifications of same shall have been submitted to and approved by Grantor (it's successors or assigns) and the Owners of the Affected Land, and (2) the final plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design, appearance and location in relation to surrounding structures and topography by Grantor (it's successors or assigns) and the Owners of the Affected Land. If approval is granted, construction shall be commenced within six (6) months thereafter, and if not, such approval shall be automatically withdrawn. The building of any approved structure must be completed within six (6) months of commencement of construction. In the event the Grantor (it's successors or assigns) and the Owners of the Affected Land fail to approve or disapprove such design, location or variance request within thirty (30) days after said plans and specifications have been submitted it shall be presumed that same are disapproved and same shall be deemed disapproved.

By acceptance of this Deed GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY AND GRANTOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OR CONDITION, HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IN RESPECT OF THE PROPERTY, AND SPECIFICALLY, THAT GRANTOR HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS REGARDING COMPLIANCE WITH ANY LAWS, RULES, REGULATIONS, AND ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATIONS OR ORDERS. GRANTEE FURTHER ACKNOWLEDGES AND AGREES THAT by acceptance of this Deed GRANTEE IS NOT RELYING ON ANY INFORMATION PROVIDED OR TO BE PROVIDED BY GRANTOR AND FURTHER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE TRANSFER OF THE PROPERTY IS MADE ON AN "AS-IS" CONDITION AND BASIS WITH ALL FAULTS.

When the context requires, singular nouns and pronouns include the plural.

CAILLOUX FOUNDATION PROPERTIES, LLC

BY: \_\_\_\_\_

THE STATE OF TEXAS           §

COUNTY OF KERR               §

This instrument was acknowledged before me on \_\_\_\_\_, 2011, by \_\_\_\_\_, of CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

DRAFT

**EXHIBIT "A"**

**FIELD NOTES DESCRIPTION FOR 0.66 ACRE OF THE  
CAILLOUX FOUNDATION PROPERTIES, LLC LAND IN  
THE CITY OF KERRVILLE, KERR COUNTY, TEXAS**

Being all of a certain tract or parcel of land out of B. F. Cage Survey No. 116, Abstract No. 106, in the City of Kerrville, Kerr County, Texas; part of 2.31 acres conveyed as Tract One to Cailloux Foundation Properties, LLC from Sid Peterson Memorial Hospital by a Special Warranty Deed executed the 9<sup>th</sup> day of February, 2011 and recorded in Volume 1828 at Page 87 of the Official Public Records of Kerr County, Texas; comprising all of Lots No. 97 and No. 98 and parts of Lots No. 99, No. 105, No. 107, No. 108 and No. 109 in Block 8 of J. D. Brown's Addition to the City of Kerrville, the plat of which is recorded in Volume 1 at Page 1 of the Plat Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron stake previously set in a concrete sidewalk for the north corner of the herein described tract and said 2.31 acres at the intersection of the southeast right-of-way line of Sidney Baker Street, State Highway No. 16, with the southwest right-of-way line of Main Street, State Highway No. 27, at the north corner of said Lot No. 97;

THENCE, with the southwest right-of-way line of said Main Street, State Highway No. 27, the northeast line of said Lots No. 97, No. 98 and No. 99, S.45°05'27"E. 125.00 ft. to a ½" iron stake set in a concrete sidewalk for the east corner of the herein described tract;

THENCE: upon, over and across said Lots No. 99, No. 105 and No. 109, S.44°58'08"W. 229.80 ft. to the south corner of the herein described tract; and upon, over and across said Lots No. 109, No. 108 and No. 107, N.45°05'27"W. 125.00 ft. to a ½" iron stake set at the southeast edge of a concrete sidewalk for the west corner of the herein described tract in the northwest line of said Lot No. 109, the southeast right-of-way line of said Sidney Baker Street, State Highway No. 16;

THENCE, with the southeast right-of-way line of said Sidney Baker Street, State Highway No. 16, the northwest line of said Lots No. 107, No. 105 and No. 97, N.44°58'08"E. 229.80 ft. to the PLACE OF BEGINNING containing 0.66 acre of land, more or less, within these metes and bounds.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: November 3 & 4, 2011

Dated this 10<sup>th</sup> day of November, 2011



Don W. Voelkel  
Registered Professional Land Surveyor No. 3990



## EXHIBIT "B"

1. Easement dated January 29, 1949 to L.C.R.A., recorded in Volume 1, Page 156, Easement Records, Kerr County, Texas.
2. Easement dated September 30, 1949, to L.C.R.A., recorded in Volume 1, Page 193, Easement Records, Kerr County, Texas.
3. Easement dated October 9, 1948, to the City of Kerrville recorded in Volume 1, Page 556, Easement Records, Kerr County, Texas.
4. Party Wall Agreement and Easement dated June 30, 1952, recorded in Volume 97, Page 153, Deed Records, Kerr County, Texas, having extended a previous agreement reserved in deed dated August 25, 1937, recorded in Volume 62, Page 396, Deed Records, Kerr County, Texas.
5. Easement dated November 10, 1977 to L.C.R.A., recorded in Volume 9, Page 632, Easement Records, Kerr County, Texas.
6. Thirty (30) ft. wide access easement and 20 ft. x 20 ft. sign easement reserved in deed dated September 18, 2000, recorded in Volume 1085, Page 71, Real Property Records, Kerr County, Texas.
7. Sign Easement Agreement to the City of Kerrville, Texas, dated October 2, 2000 recorded in Volume 1090, Page 170, Real Property Records, Kerr County, Texas.
8. Easement and Right-of-Way dated April 27, 2004, to Kerrville Public Utility Board and Time Warner Cable, recorded in Volume 1356, Page 61, Real Property Records, Kerr County, Texas.
9. Unrecorded Multiple Use Agreement Between The State of Texas and The City of Kerrville, Texas For the Construction of a Pedestrian Overpass Across S.H. 16 (Sidney Baker Street) Between Water Street and Main Street (S.H.27) of Kerrville, Texas dated May 8, 1987, and contemporaneously adding Sid Peterson Memorial Hospital and the Hal and Charlie Peterson Foundation.
10. Any visible and/or apparent roadways or easements over or across the subject property and any discrepancies, conflicts or shortages in area or boundary lines, or any encroachments or protrusions, or any overlapping of improvements.
11. Taxes and assessments for 2011.

# Lease

## Basic Terms

Date: November \_\_, 2011

Landlord: CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company

Landlord's Address: P. O. Box 291276, Kerrville, Kerr County, Texas 78029-1276

Tenant: CITY OF KERRVILLE

Tenant's Address: 800 Junction Highway, Kerrville, Kerr County, Texas 78028

Premises: As set forth in **Exhibit "B"**, attached hereto and made a part hereof for all purposes, subject to the Permitted Use provisions as to Cancer Center

Term: Ninety-nine (99) years commencing on the date hereof subject to the following limitation and condition that the property being acquired by Tenant concurrently, which property is described in **Exhibit "A"**, attached hereto and made a part hereof for all purpose, will be used for the construction of the City Hall of the City of Kerrville within three (3) years after the date hereof and will be used and occupied as the City Hall for the City of Kerrville for 99 years; so that if such use ceases at any time during such 99-year period and/or such construction is not completed within such 3-year period the term of this Lease shall end and terminate and the term of this Lease shall for as long as such condition and provision is satisfied, and if not satisfied or ceases to be satisfied (such property is not occupied and used for the purposes specified as provided above, the term of this Lease shall then end and terminate and all rights and interests will automatically revert to Landlord without the necessity of any further act on the part of Landlord.

Rent: \$100.00 paid concurrently, the receipt of which is hereby acknowledged.

Permitted Use:(i) Parking garage portion of the Premises will be used for public parking and will be maintained by Tenant as a public downtown parking garage (no fees or charges for use) subject to existing leases and use agreements and certain spaces mutually approved by Landlord and Tenant will be designed for use by Tenant employees and staff and by Landlord as to retail and commercial users in downtown.

(ii) Cardiac Rehab portion of the Premises will be used and maintained by Tenant for City offices.

(iii) Clay Street portion of the Premises at 219 Clay Street will be used and maintained by Tenant for City offices.

(iv) Cancer Center portion of the Premises will be included in this Lease if and when the current lease for this portion of the Premises terminates and it will be used and maintained by Tenant for City offices. Landlord agrees that in no event shall the current lease term be extended beyond the current term and option thereto.

Tenant's Insurance: Tenant agrees to:

1. Maintain the property and/or liability insurance policies required below and such other insurance coverages and/or higher policy limits as may be required by Landlord during the Term and any period before or after the Term when Tenant is present on the Premises.

<b>Type of Insurance or Endorsement</b>	<b>Minimum Policy or Endorsement Limit</b>
---	--

*General Liability Insurance Policies Required of Tenant:*

Commercial general liability (occurrence basis)	Per occurrence: \$ _____ General aggregate: \$ _____
--	---

*Required Endorsements to Tenant's General Liability:*

Designated location(s) general aggregate limit	\$ _____  \$ _____
---	--------------------------

*Additional Liability Insurance Required of Tenant:*

Umbrella liability (occurrence basis)	\$ _____
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*Property Insurance Policy Required of Tenant:*

Causes of loss—special form	100 percent of replacement cost of (a) all items included in the definition of Tenant's Rebuilding Obligations and (b) all of Tenant's furniture, fixtures, equipment, and other business personal property located in the Premises
-----------------------------	---

2. Comply with the following additional insurance requirements:

- a. The commercial general liability (or business owner's property policy) must be endorsed to name Landlord as "additional insured" and must not be endorsed to exclude the sole negligence of Landlord from the definition of "insured contract."

- b. Additional insured endorsements must not exclude coverage for the sole or contributory ordinary negligence of Landlord.
- c. Property insurance policies must contain waivers of subrogation of claims against Landlord.
- d. Policies of insurance and copies of any additional insured and waiver of subrogation endorsements must be delivered by Tenant to Landlord before entering the Premises and thereafter at least ten days before the expiration of the policies.

3. Obtain the approval of Landlord with respect to the following: the forms of Tenant's insurance policies, endorsements and certificates, and other evidence of Tenant's Insurance; the amounts of any deductibles or self-insured retentions amounts under Tenant's Insurance; and the creditworthiness and ratings of the insurance companies issuing Tenant's Insurance.

Tenant's Rebuilding Obligations: If the Premises are damaged by fire or other elements, Tenant will be responsible for repairing or rebuilding the Premises.

#### **Definitions**

"Injury" means (1) harm to or impairment or loss of property or its use, (2) harm to or death of a person, or (3) "personal and advertising injury" as defined in the form of liability insurance Tenant is required to maintain.

"Rent" means Base Rent plus any other amounts of money payable by Tenant to Landlord.

#### **Clauses and Covenants**

##### **A. Tenant agrees to—**

1. Lease the Premises for the entire Term subject to the exceptions set forth in Exhibit "C", attached hereto and made a part hereof for all purposes.
2. Accept the Premises in their present condition "AS IS," the Premises being currently suitable for the Permitted Use.
3. Obey (a) all laws relating to Tenant's use, maintenance of the condition, and occupancy of the Premises, and (b) any requirements imposed by utility companies serving or insurance companies covering the Premises.
4. Pay any taxes imposed or payable for the Premises.
5. Maintain the Tenant's Insurance.
6. Obtain and pay for all utility services used or needed by Tenant.

7. Allow Landlord to enter the Premises to inspect the Premises.
8. Repair, replace, and maintain the Premises including without limitation roof, foundation, structure and walls (exterior and interior), normal wear excepted.
9. Vacate the Premises at the end/termination of the Term.
10. INDEMNIFY, DEFEND, AND HOLD LANDLORD AND IT'S AGENTS, HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES AND OTHER FEES AND COURT AND OTHER COSTS) OCCURRING IN ANY PORTION OF THE PREMISES. **THE INDEMNITY CONTAINED IN THIS PARAGRAPH (a) IS INDEPENDENT OF TENANT'S INSURANCE, (b) WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES OR DAMAGES PAID UNDER THE WORKERS' COMPENSATION ACT OR SIMILAR EMPLOYEE BENEFIT ACTS, (c) WILL SURVIVE THE END OF THE TERM, AND (d) WILL APPLY EVEN IF AN INJURY IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF LANDLORD BUT WILL NOT APPLY TO THE EXTENT AN INJURY IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF LANDLORD AND IT'S RESPECTIVE AGENTS.**

**B. Tenant agrees not to—**

1. Use the Premises, or any portion thereof, for any purpose other than the Permitted Use, for each portion thereof.
2. Create a nuisance.
3. Permit any waste.
4. Use the Premises in any way that would increase insurance premiums or void insurance on the Premises.
5. Alter the Premises.
6. Allow a lien to be placed on the Premises.
7. Assign this Lease or sublease any portion of the Premises without Landlord's prior written consent.

**C. Landlord agrees to lease to Tenant the Premises for the Term, subject to the limitations and conditions herein set forth.**

**D. Landlord agrees not to—**

1. Interfere with Tenant's possession of the Premises as long as Tenant is not in default and/or the limitations and conditions herein set forth are satisfied.

2. Unreasonably withhold consent to a proposed assignment or sublease.

**E. Landlord and Tenant agree to the following:**

1. *Alterations.* Any physical additions or improvements to the Premises made by Tenant will become the property of Landlord. Landlord may require that Tenant, at the end of the Term and at Tenant's expense, remove any physical additions and improvements, repair any alterations, and restore the Premises to the condition existing at the commencement of this Lease, normal wear excepted.

2. *Abatement.* Tenant's covenant to pay Rent and Landlord's covenants are independent. Except as otherwise provided, Tenant will not be entitled to abate Rent for any reason.

3. *Release of Claims/Subrogation.* LANDLORD AND TENANT RELEASE EACH OTHER, AND THEIR RESPECTIVE AGENTS, FROM ALL CLAIMS OR LIABILITIES FOR DAMAGE TO THE PREMISES, DAMAGE TO OR LOSS OF PERSONAL PROPERTY WITHIN THE PREMISES, AND LOSS OF BUSINESS OR REVENUES THAT ARE COVERED BY THE RELEASING PARTY'S PROPERTY INSURANCE OR THAT WOULD HAVE BEEN COVERED BY THE REQUIRED INSURANCE IF THE PARTY FAILS TO MAINTAIN THE PROPERTY COVERAGES REQUIRED BY THIS LEASE. THE PARTY INCURRING THE DAMAGE OR LOSS WILL BE RESPONSIBLE FOR ANY DEDUCTIBLE OR SELF-INSURED RETENTION UNDER ITS PROPERTY INSURANCE. LANDLORD AND TENANT WILL NOTIFY THE ISSUING PROPERTY INSURANCE COMPANIES OF THE RELEASE SET FORTH IN THIS PARAGRAPH AND WILL HAVE THE PROPERTY INSURANCE POLICIES ENDORSED, IF NECESSARY, TO PREVENT INVALIDATION OF COVERAGE. THIS RELEASE WILL NOT APPLY IF IT INVALIDATES THE PROPERTY INSURANCE COVERAGE OF THE RELEASING PARTY. **THE RELEASE IN THIS PARAGRAPH WILL APPLY EVEN IF THE DAMAGE OR LOSS IS CAUSED IN WHOLE OR IN PART BY THE ORDINARY NEGLIGENCE OR STRICT LIABILITY OF THE RELEASED PARTY OR ITS AGENTS BUT WILL NOT APPLY TO THE EXTENT THE DAMAGE OR LOSS IS CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF THE RELEASED PARTY OR ITS AGENTS.**

5. *Casualty/Total or Partial Destruction*

- a. If the Premises are damaged by casualty and can be restored Tenant will, at its expense, restore the roof, foundation, and structural soundness of the exterior walls and all improvements within and of the Premises to substantially the same condition that existed before the casualty and Tenant will, at its expense, be responsible for replacing any of its damaged furniture, fixtures, and personal property and performing Tenant's rebuilding obligations. If Tenant fails to complete the restoration for which Tenant is responsible with all due diligence, Landlord may terminate this Lease by written notice to Tenant.
- b. Tenant will notify Landlord in writing of the estimated time to restore and give Landlord an option to terminate this Lease by notifying Tenant in

writing within ten (10) days from receipt of such estimate. If Landlord does not notify Tenant timely of its election to terminate this Lease, the Lease will continue and Tenant will restore the Premises as provided in a. above.

6. *Condemnation/Substantial or Partial Taking*

- a. If the Premises cannot be used for the purposes contemplated by this Lease because of condemnation or purchase in lieu of condemnation, this Lease will terminate.
- b. If there is a condemnation or purchase in lieu of condemnation and this Lease is not terminated, Tenant will, at Tenant's expense, restore the Premises.
- c. Tenant will have no claim to the condemnation award or proceeds in lieu of condemnation.

7. *Default by Landlord/Events.* Defaults by Landlord are failing to comply with any provision of this Lease within thirty days after written notice.

8. *Default by Landlord/Tenant's Remedies.* Tenant's remedies for Landlord's default are to sue for damages or terminate this Lease.

9. *Default by Tenant/Events.* Defaults by Tenant are (a) not satisfying the conditions and limited herein provided, (b) abandoning or vacating any portion of the Premises, and (c) failing to comply within ten days after written notice with any provision of this Lease other than the defaults set forth in (a) and (b).

10. *Default by Tenant/Landlord's Remedies.* Landlord's remedies for Tenant's default are to (a) enter and take possession of the Premises, or such portion as Landlord shall elect in its sole discretion, and Tenant agrees to reimburse Landlord for any expenditures made in order to retake possession, (b) enter the Premises or such portion as Landlord shall elect in its sole discretion and perform Tenant's obligations, and (c) terminate this Lease as to such portion of the Premises as Landlord shall elect in its sole discretion by written notice and sue for damages. Landlord may enter and take possession of the Premises by any lawful means and may lock out Tenant or any other person who may be occupying the Premises (or such portion), until the default is cured, without being liable for damages.

11. *Default/Waiver/Mitigation.* It is not a waiver of default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any remedies set forth in this Lease does not preclude pursuit of other remedies in this Lease or provided by applicable law. Landlord and Tenant have a duty to mitigate damages.

12. *Holdover.* If Tenant does not vacate the Premises following termination of this Lease, Tenant will become a tenant at will and must vacate the Premises on receipt of notice

from Landlord. No holding over by Tenant, whether with or without the consent of Landlord, will extend the Term.

13. *Attorney's Fees.* If either party retains an attorney to enforce this Lease, the party prevailing in litigation is entitled to recover reasonable attorney's fees and other fees and court and other costs.

14. *Venue.* Exclusive venue is in the county in which the Premises are located.

15. *Entire Agreement.* This Lease, its exhibits, addenda, and riders constitute the entire agreement of the parties concerning the lease of the Premises by Landlord to Tenant. There are no representations, warranties, agreements, or promises pertaining to the lease of the Premises by Landlord to Tenant that are not in this Lease and any exhibits, addenda, and riders.

16. *Amendment of Lease.* This Lease may be amended only by an instrument in writing signed by Landlord and Tenant.

17. *Limitation of Warranties.* THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OR OF ANY OTHER KIND ARISING OUT OF THIS LEASE, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THOSE EXPRESSLY STATED IN THIS LEASE.

18. *Notices.* Any notice required or permitted under this Lease must be in writing. Any notice required by this Lease will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Lease. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

19. *Abandoned Property.* Landlord may retain, destroy, or dispose of any property left on the Premises at the end of the Term.

20. *Memorandum.* At the option of Landlord or Tenant the parties will execute, acknowledge and record a Memorandum of Lease.

LANDLORD: CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company

BY: \_\_\_\_\_

TENANT: CITY OF KERRVILLE

BY: \_\_\_\_\_

**Memorandum of Lease**

Date: November \_\_\_\_, 2011

Landlord: CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company

Landlord's Mailing Address: P.O. Box 291276, Kerrville, Kerr County, Texas 78029-1276

Tenant: CITY OF KERRVILLE

Tenant's Mailing Address: 800 Junction Highway, Kerrville, Kerr County, Texas 78028

Date of Lease: November \_\_\_\_, 2011

Premises: As set forth in **Exhibit "B"**, attached hereto and made a part hereof for all purposes.

The Lease is incorporated by reference and is binding on Landlord and Tenant. If a conflict exists between any term of this Memorandum of Lease and the Lease, the Lease controls.

LANDLORD:

CAILLOUX FOUNDATION PROPERTIES, LLC,  
a Texas limited liability company

BY: \_\_\_\_\_

TENANT:

CITY OF KERRVILLE

BY: \_\_\_\_\_

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on November \_\_\_\_, 2011, by \_\_\_\_\_ of CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on November \_\_\_\_, 2011, by \_\_\_\_\_, \_\_\_\_\_ of CITY OF KERRVILLE, on behalf of the CITY OF KERRVILLE.

\_\_\_\_\_  
Notary Public, State of Texas

DRAFT

## Temporary Construction Easement Agreement

**Notice of confidentiality rights: If you are a natural person, you may remove or strike any or all of the following information from any instrument that transfers an interest in real property before it is filed for record in the public records: your Social Security number or your driver's license number.**

Date: \_\_\_\_\_, 2011

Grantor: CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company

Grantor's Mailing Address: P.O. Box 291276, Kerrville, Kerr County, Texas 78029-1276

Grantee: CITY OF KERRVILLE

Grantee's Mailing Address: 800 Junction Highway, Kerrville, Kerr County, Texas 78028

Dominant Estate Property: That certain .66 acre (more or less) tract described in **Exhibit "A"**, attached hereto and made a part hereof for all purposes.

Easement Property: The area adjacent to and within fifty feet (50') of the boundary of the Dominant Estate Property.

Easement Purpose: For the temporary installation and construction of City Hall of Grantee on the Dominant Estate Property and related facilities (collectively, the "Facilities"), during and limited to the period of the construction of said City Hall but no longer than six (6) months after the date hereof ("Temporary Period").

Consideration: Good and valuable consideration, the receipt and sufficiency of which are acknowledged by Grantor.

Exceptions: Those exceptions set forth in **Exhibit "C"**, attached hereto and made a part hereof for all purposes.

Grant of Easement: Grantor, for the Consideration subject to the Exceptions grants, sells, and conveys to Grantee and Grantee's heirs, successors, and assigns the non-exclusive easement in common with Grantor over, on, and across the Easement Property for the Easement Purpose (collectively, the "Easement"), to have and to hold the Easement to Grantee and Grantee's successors and assigns forever. Grantor binds Grantor and Grantor's heirs, successors, and assigns to warrant and forever defend the title to the Easement in Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the Easement subject to the Exceptions to the extent that such claim arises by, through, or under Grantor but not otherwise.

Terms and Conditions: The following terms and conditions apply to the Easement granted by this Easement:

1. *Character of Easement.* The Easement is appurtenant to, runs with, and inures to the benefit of all or any portion of the Dominant Estate Property. The Easement is nonexclusive. The Easement is for the benefit of Grantee and Grantee's successors and assigns who at any time need access for such construction.

2. *Duration of Easement.* The duration of the Easement is for the Temporary Period.

3. *Reservation of Rights.* Grantee's right to use the Easement Property is nonexclusive, and Grantor reserves for Grantor and Grantor's successors and assigns the right to use all or part of the Easement Property in conjunction with Grantee as long as such use by Grantor and Grantor's successors and assigns does not interfere with the use of the Easement Property by Grantee for the Easement Purpose.

4. *Construction Easement.* Grantee has the right to use as much of the surface of the property that is within the Easement Property as may be reasonably necessary to install and maintain the Facilities within the Easement Property and that are reasonably suited for the Easement Purpose. However, Grantee must promptly restore the Easement Property to its previous physical condition if changed by use of the rights granted by the Easement.

5. *Equitable Rights of Enforcement.* This Easement may be enforced by restraining orders and injunctions (temporary or permanent) prohibiting interference and commanding compliance. Restraining orders and injunctions will be obtainable on proof of the existence of interference or threatened interference, without the necessity of proof of inadequacy of legal remedies or irreparable harm, and will be obtainable only by the parties to or those benefited by this agreement; provided, however, that the act of obtaining an injunction or restraining order will not be deemed to be an election of remedies or a waiver of any other rights or remedies available at law or in equity.

6. *Attorney's Fees.* If either party retains an attorney to enforce this Easement, the party prevailing in litigation is entitled to recover reasonable attorney's fees and court and other costs.

7. *Binding Effect.* This Easement binds and inures to the benefit of the parties and their respective heirs, successors, and permitted assigns.

8. *Choice of Law.* This Easement will be construed under the laws of the state of Texas, without regard to choice-of-law rules of any jurisdiction. Venue is in the county or counties in which the Easement Property is located.

9. *Counterparts.* This Easement may be executed in any number of counterparts with the same effect as if all signatory parties had signed the same document. All counterparts will be construed together and will constitute one and the same instrument.

10. *Waiver of Default.* It is not a waiver of or consent to default if the nondefaulting party fails to declare immediately a default or delays in taking any action. Pursuit of any

remedies set forth in this Easement does not preclude pursuit of other remedies in this Easement or provided by law.

11. *Further Assurances.* Each signatory party agrees to execute and deliver any additional documents and instruments and to perform any additional acts necessary or appropriate to perform the terms, provisions, and conditions of this Easement and all transactions contemplated by this Easement.

12. *Indemnity.* Each party agrees to indemnify, defend, and hold harmless the other party from any loss, attorney's fees, expenses, or claims attributable to breach or default of any provision of this Easement by the indemnifying party.

13. *Entire Agreement.* This Easement and any Exhibits constitute the entire agreement of the parties concerning the grant of the Easement by Grantor to Grantee. There are no representations, agreements, warranties, or promises that are not expressly set forth in this Easement and any Exhibits.

14. *Legal Construction.* If any provision in this Easement is for any reason unenforceable, to the extent the unenforceability does not destroy the basis of the bargain among the parties, the unenforceability will not affect any other provision hereof, and this Easement will be construed as if the unenforceable provision had never been a part of the Easement. Whenever context requires, the singular will include the plural and neuter include the masculine or feminine gender, and vice versa. Article and section headings in this Easement are for reference only and are not intended to restrict or define the text of any section. This Easement will not be construed more or less favorably between the parties by reason of authorship or origin of language.

15. *Notices.* Any notice required or permitted under this Easement must be in writing. Any notice required by this Easement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Easement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

16. *Recitals.* Any recitals in this Easement are represented by the parties to be accurate, and constitute a part of the substantive agreement.

17. *Time.* Time is of the essence.

GRANTOR:

CAILLOUX FOUNDATION PROPERTIES, LLC,  
a Texas limited liability company

BY: \_\_\_\_\_

GRANTEE:

CITY OF KERRVILLE

BY: \_\_\_\_\_

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on November \_\_, 2011, by \_\_\_\_\_, \_\_\_\_\_ of CAILLOUX FOUNDATION PROPERTIES, LLC, a Texas limited liability company, on behalf of said company.

\_\_\_\_\_  
Notary Public, State of Texas

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on November \_\_, 2011, by \_\_\_\_\_ of the CITY OF KERRVILLE, on behalf of the CITY OF KERRVILLE.

\_\_\_\_\_  
Notary Public, State of Texas

## **Agenda Item:**

7G. Authorize execution of a construction contract with Huser Construction Company, Inc. for the construction of a city hall facility and the renovation of existing buildings in the amount of \$2,409,000.00 and authorize the city manager to execute additional change orders in an amount not to exceed \$300,000.00.  
(staff)

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

**SUBJECT:** Council authorization for the City Manager to execute a construction contract with Huser Construction Company Inc. for the Construction of a City Hall facility and the renovation of existing adjacent administrative space in the amount of \$2,409,000.00 and authorize the City Manager to execute additional change orders which may exceed \$50,000.00 but not to exceed the total amount of \$300,000.00.

**FOR AGENDA OF:** December 13, 2011      **DATE SUBMITTED:** December 2, 2011

**SUBMITTED BY:** Kristine Ondrias  **CLEARANCES:** Todd Parton  
Assistant City Manager

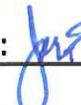
**EXHIBITS:** Bid Tabulation

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$2,709,000.00	\$2,943,165.96	\$3,119,233.00	G88

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:** 

**SUMMARY STATEMENT**

At the March 8, 2011 meeting, the City Council gave the mayor authority to approve the agreement with the Cailloux Foundation to accept the gift of property for a city hall, and the authority to approve the pedestrian crosswalk assumption agreement to consent to the transfer of the crosswalk from Sid Peterson Memorial Hospital to the Cailloux Foundation property.

On March 22, 2011, City Council approved a design contract with Peter Lewis Architect + Associates to scope the design of a new 15,000 sqft City Hall facility and the renovation of existing adjacent administrative space which is included as leased space in the agreement.

The project was advertised for bid on October 7<sup>th</sup> and October 14<sup>th</sup>. A mandatory pre-bid meeting was held on October 18<sup>th</sup> and opened at 2:00 p.m. on November 8<sup>th</sup>. Bid tabulation is attached.

Peter Lewis and staff have evaluated the bids received. Peter Lewis and staff recommend awarding the bid to the lowest responsible bidder, Huser Construction Company, Inc. in the amount of \$2,409,000.00. Additionally, staff is recommending authorizing the City Manager to execute additional change orders which may exceed \$50,000.00 but not to exceed the

total amount of \$300,000.00.

**RECOMMENDED ACTION**

The City Council authorize the City Manager to execute a construction contract with Huser Construction Company Inc. for the Construction of a City Hall facility and the renovation of existing adjacent administrative space in the amount of \$2,409,000.00 and authorize the City Manager to execute additional change orders which may exceed \$50,000.00 but not to exceed the total amount of \$300,000.00.

Architect: Peir W. Lewis Architect + Associates, PLLC  
 Project No.: 20-113  
 Bid Date: November 8, 2011, 2:00 PM  
 Bid Opening: November 8, 2011, 2:00 PM

	CF Jordan	Corbet Group	Davis Construction	D. Wilson Construction	Huser Construction Co. Inc.	Kendrel Kesper Construction	M.J. Boyle General Contractor	O'Heaver Contractors	Comments
2 c. completed COX Construction Contract w orig. signature	X	X	X	X	X	X	X	X	
Asenda Acknowledgement:	X	X	X	X	X	X	X	X	
Addendum No. 1 : 11/01/11	X	X	X	X	X	X	X	X	
Addendum No. 2 : 11/02/11	X	X	X	X	X	X	X	X	
Addendum No. 3: 11/04/11	X	X	X	X	X	X	X	X	
Addendum No. 4: 11/07/11	X	X	X	X	X	X	X	X	
10% Bid Security (Certified Check, Cashier's Check, or Bid Bond)	X	X	X	X	X	X	X	X	
Bidder's Qualification Statement: AIA Form A335	X	X	X	X	X	X	X	X	
List of similar projects completed by G.C.	X	X	X	X	X	X	X	X	
Identification and resumes of personnel	X	X	X	X	X	X	X	X	
Item : Base Bid	\$2,889,000	\$2,694,000	\$2,698,000	\$2,629,000	\$2,450,000	\$2,808,000	\$2,870,000	\$2,820,000	
Per Removal (Unit Price)	\$300	\$300	\$315	\$300	\$1,000	\$300	\$345	\$300	
Item : Deductive Alternate No. 1	\$25,000	\$10,195	\$21,000	\$17,000	\$21,000	\$4,300	\$18,000	\$18,000	

Section 070

CITY OF KERRVILLE

CONSTRUCTION CONTRACT

This agreement made this day by and between the City of Kerrville, Texas, called "City," and the undersigned "Contractor" as follows:

1. THE WORK

The Contractor shall perform all the work as required by this contract for:

City Hall/Development Services and Engineering/Information Technology-City of Kerrville

Reference Construction Plans signed and sealed by Peter Lewis Architect + Associates, PLLC on October 7, 2011 and awarded by the City of Kerrville on December 13<sup>th</sup>, 2011.

Base Bid

- A. Construction of a new 15,000 SF. 2 story steel framed Municipal Office Building in accordance with the Construction Plans.
- B. Selective demolition and remodeling of 2 office spaces for City of Kerrville Development Services & Engineering and Information Technology in accordance with the Construction Plans.

The following are incorporated herein:

- a. General Requirements
- b. Technical Specifications
- c. Addenda issued prior to receipt of Bid
- d. Plans
- e. Instructions to Bidders
- f. Proposal

Some of such documents may not be physically attached hereto but are on file at City Hall, and copies may be obtained upon request.

2. TIME

Construction substantial completion time will be 300 (three hundred) calendar days and 30 calendar days after for final completion from the date of written notice to proceed. Working days are defined in specification section 123.20. The project shall not be considered complete until all improvements have been accepted and are operational and performing to its intended purpose. The Contractor's obligations to the project however, are not complete and retainage will not be released until all

construction items are 100% complete including disturbed areas being restored to their original condition and as specified in the plans and/or specifications).

### 3. LIQUIDATED DAMAGES

Liquidated damages are hereby established for work which is not substantially complete in the amount of Three Hundred and no/100 Dollars (\$300.00) per working day for each working day after the date established in the Notice to Proceed. The City may offset any such liquidated damages against any sums from time to time due by the City to Contractor.

The completion time assumes that fifteen percent of the working days are "bad weather days," days on which the work cannot proceed; therefore, the time for completion shall not be extended on account of bad weather until the said number of assumed "bad weather days" has been exceeded.

The time for completion shall not be extended except by written memorandum executed by the Contractor and the Director of Engineering. Contractor shall make written application to the City not later than ten (10) days after the day, event, or cause claimed by Contractor to be a delay. Failure to make such written claim within such time shall result in a waiver by Contractor of an extension based on those particular days, events, or causes. If, for example, this contract assumes twenty (20) bad weather days and Contractor desired a one-day extension for the twenty-first day of rain, Contractor shall make a written claim not later than ten (10) days after the occurrence of such twenty-first day.

The said amount per day is not a penalty but an agreed amount of actual damages which are difficult to calculate. Such damages include loss of staff time, answering complaints by citizens who have been inconvenienced by the work, City Council time, loss of use, and other damages difficult to reasonably anticipate or calculate.

### 4. PAYMENTS

The city shall pay the Contractor ninety percent (90%) of the portion of Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and ninety percent (90%) of the portion of the Contract Sum properly allocable to materials and equipment suitably stored at the site or at some other location agreed upon in writing and verified, less the aggregate of previous payments made by the City, and, upon substantial completion of the entire Work, a sum sufficient to increase the total payments to ninety percent (90%) of the Contract Sum. All retainages from progress payments shall be withheld without liability for interest. Upon acceptance, the City shall make payment to Contractor such that one hundred percent (100%) of the completed work has been paid.

The City may choose to award a contract for the amount of the base bid plus no alternates or any combination of alternates.

5. LIABILITY INDEMNITY

THE CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF KERRVILLE, TEXAS, AND ALL OF THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OF DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CONTRACTOR, THE CITY OF KERRVILLE, TEXAS, OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS IN THE EXECUTION, SUPERVISION, AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, WHETHER OR NOT THE ACT OR OMISSION OF THE CITY OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, OR AGENTS WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH THE NEGLIGENCE OF THE CONTRACTOR OR ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, OR SUBCONTRACTORS, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT.

6. LIABILITY INSURANCE

Prior to the commencement of any work and not later than fifteen (15) days following the execution of this contract, the Contractor shall furnish the City copies of paid-up policies (to the City Risk Manager/City Hall) providing Liability and Workman's Compensation Coverage as follows minimum limits):

TYPE OF INSURANCE	LIMITS
a. Workman's Compensation covering all employees	Statutory
b. Employer's Liability	<u>\$100,000.00</u>
c. Comprehensive General Liability	
Bodily Injury & Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$1,000,000.00</u>
(Premises/Operations Products/Completed Operations/Independent Contractors/Contractual Liability/Coverages may not be excluded). XCU must be supplied if any exposure.	
d. Business Automobile Liability covering owned vehicles, rented and non-owned vehicles and employee non-ownership	
Bodily Injury Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$1,000,000.00</u>

The Commercial General Liability and the Automobile Liability policies shall name the City of Kerrville, Texas, as additional insured and all policies shall provide for a waiver of subrogation in favor of the City of Kerrville. The policy and any renewal certificate shall provide that the City be notified thirty (30) days prior to cancellation or modification of any coverage. Language to the effect that the company will "Endeavor" or "Attempt" to so notify the City of Kerrville is not sufficient. Renewal certificates must be received by the City at least ten (10) days prior to any cancellation date. Policies will be in effect until final acceptance or cancellation of this contract, unless otherwise specified. The City may, at its sole option, terminate this agreement and file a claim on the Contractor's bid bond if the Contractor fails to deliver the required policies and certificates within 15 days after execution of this contract.

It shall be the responsibility of the Contractor to insure that all Subcontractors comply with the same insurance requirements as the said Contractor.

#### 7. CASUALTY INSURANCE

In the event the work includes structures or buildings susceptible to damage by fire, windstorm, or other casualty, then the Contractor before being authorized to begin work shall furnish the City a duplicate original of an insurance policy naming the City of Kerrville as an additionally insured. Such insurance shall insure both the City of Kerrville and Contractor, during the term of the work, against loss by fire, windstorm, vandalism, theft, or other casualty. Such policy shall be in the total amount of this contract.

#### 8. QUALITY OF WORK

All work shall be of good workmanship. Contractor shall comply with all applicable City of Kerrville Codes as well as all applicable professional and technical standards. Materials shall be of first quality.

#### 9. CHANGES AND EXTRAS

No change of this Contract, whether for additional work, additional compensation, or other, shall be effective unless prior thereto a written change order has been authorized by the Director of Engineering. Employees of the City other than the City Manager or designee do not have the authority to issue change orders.

#### 10. ADDENDA

Contractor acknowledges the receipt of the following addenda:

- |    |                                |                                   |
|----|--------------------------------|-----------------------------------|
| 1. | Dated: <u>November 1, 2011</u> | Acknowledged by: <u>Rob Booth</u> |
| 2. | Dated: <u>November 2, 2011</u> | Acknowledged by: <u>Rob Booth</u> |
| 3. | Dated: <u>November 4, 2011</u> | Acknowledged by: <u>Rob Booth</u> |
| 4. | Dated: <u>November 7, 2011</u> | Acknowledged by: <u>Rob Booth</u> |

11. CONTRACT SUM

Proposal: Contractor agrees to provide all labor, materials, and all incidentals necessary to complete "The Work" for the following complete and in place:

TOTAL BASE BID : TWO MILLION FOUR HUNDRED NINE THOUSAND

DOLLARS (use words) (\$ 2,409,000.<sup>00</sup>) (figures)

ITEM NO.	APPROX QUANTITY	UNIT	DESCRIPTION OF ITEM	UNIT PRICE	TOTAL AMOUNT
1.	TBD	EA	Remove pier to a maximum elevation of 6 Ft. below existing grade.	\$ <u>1,000.<sup>00</sup></u>	\$ <u>—</u>
2.			Deductive Alternate #1 - Price supplied and Installed pneumatic Tube System and Drive thru Kiosk structure details 2,7,8,9/A1.1		\$ <u>21,000.<sup>00</sup></u>
<u>TWENTY-ONE THOUSAND DOLLARS</u>				\$	<u>21,000.<sup>00</sup></u>

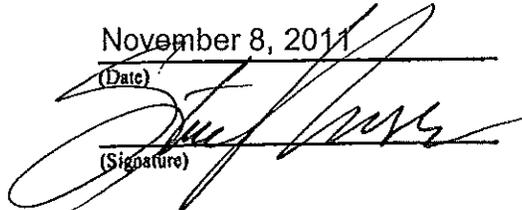
COMPLETED BY

DATE

Steve T. Huser  
 \_\_\_\_\_  
 (Printed Name)

November 8, 2011  
 \_\_\_\_\_  
 (Date)

President  
 \_\_\_\_\_  
 (Title)



\_\_\_\_\_  
 (Signature)

Huser Construction Company, Inc.  
 \_\_\_\_\_  
 (Company Name)

Sub-Contractors:

	NAME	ADDRESS	PHONE	WORK TO BE PERFORMED
1.	See attached listing of subcontractors			
2.				
3.				

(Attach additional sheet if required)

BONDING AGENT

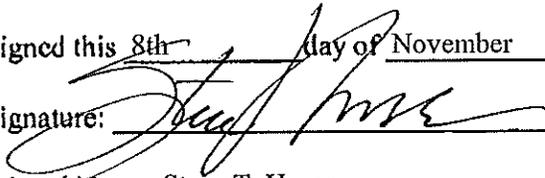
NAME ADDRESS PHONE POLICY

1. IBTX Risk Services, 5726 Hausman Rd., #100, San Antonio, Texas 78249

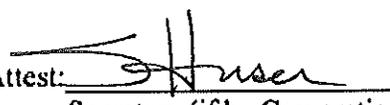
2. \_\_\_\_\_

3. \_\_\_\_\_

Signed this 8th day of November, 2011

Signature: 

Printed Name: Steve T. Huser

Attest:   
Secretary (if by Corporation)

Firm Name: Huser Construction Company, Inc.

Title: President

Business Address:

410 Cotton Gin Lane

Kerrville, Texas 78028

Phone: (830) 257-8588

E-mail: rbooth@huserco.com

FAX: (830) 257-8589



ACCEPTED THIS \_\_\_\_\_

day of \_\_\_\_\_, 2011

By: \_\_\_\_\_  
Jeffrey T. Parton, City Manager  
City of Kerrville, Texas.

ATTEST: \_\_\_\_\_  
Brenda G. Craig, City Secretary

CITY SEAL

APPROVED AS TO FORM:

\_\_\_\_\_  
Michael C. Hayes, City Attorney

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A2.1	FIRST FLOOR PLAN
A2.2	SECOND FLOOR PLAN
A2.3	CLERESTORY PLAN
A3.1	EXTERIOR ELEVATIONS
A4.1	BUILDING SECTIONS
A4.2	BUILDING SECTIONS
A4.3	WALL SECTIONS
A4.4	WALL SECTIONS
A4.5	WALL SECTIONS
A5.1	ROOF PLAN AND DETAILS
A6.1	REFLECTED CEILING PLANS
A7.1	OPENINGS & SCHEDULES
A7.2	DETAILS
A8.1	INTERIOR ELEVATIONS
A8.2	INTERIOR DETAILS
A9.1	FINISHES PLAN
A10.1	SPECIALITIES PLANS
A10.2	SCHEDULES
<b>STRUCTURAL</b>	
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S2.1	SECOND FLOOR FRAMING PLAN
S2.2	ROOF FRAMING PLANS
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S3.2	DETAILS
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MEP1.1	MEP SITE PLAN
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M1.2	HVAC CLERESTORY
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E1.2	ELECTRICAL LIGHTING PLAN
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E2.2	ELECTRICAL POWER PLAN
E2.3	MECHANICAL EQUIP. ELECTRICAL PLAN
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E4.2	ELECTRICAL SCHEDULE, LEGEND AND ONE-LINE

**PLUMBING**

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P1.2	2 <sup>ND</sup> FLOOR PLUMBING WASTE & VENT PLAN
P1.3	1 <sup>ST</sup> FLOOR PLUMBING DOMESTIC WATER PLAN
P1.4	2 <sup>ND</sup> FLOOR PLUMBING DOMESTIC WATER PLAN
P2.1	PLUMBING SCHEDULES AND DETAILS

**CIVIL**

C1	DIMENSION CONTROL PLAN
C2	GENERAL NOTES
C3	UTILITY LAYOUT
C4	SAN SEWER PROFILE AND DETAILS

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A2.0ds	DEMOLITION & FLOOR PLAN
A2.1ds	REFLECTED CEILING & FINISHES PLAN
A2.2it	DEMO PLAN, FLOOR PLAN, REFLECTED CEILING
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E1.1ds	DEMOLITION LIGHTING & POWER PLAN
E2.1ds	ELECTRICAL LIGHTING & POWER PLAN
E3.1ds	ELECTRICAL SCHEDULES, LEGEND & ONE-LINE
E4.1it	DEMOLITION LIGHTING & POWER PLAN
E5.1it	ELECTRICAL LIGHTING & POWER PLAN
E6.1it	ELECTRICAL SCHEDULES, LEGEND, AND ONE-LINE
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# PROJECT MANUAL

## City Hall Development Services Information Technology

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## **Agenda Item:**

8A. Water resources report. (staff)

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

---

**SUBJECT:** Water Resources Report

**FOR AGENDA OF:** 12/13/11

**DATE SUBMITTED:** 12/2/11

**SUBMITTED BY:** Charlie Hastings *CH*  
Public Works Director

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:**

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *TP*

---

<b>Expenditure</b>	<b>Current Balance</b>	<b>Amount</b>	<b>Account</b>
<b>Required:</b>	<b>in Account:</b>	<b>Budgeted:</b>	<b>Number:</b>
\$	\$	\$	

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

---

**SUMMARY STATEMENT**

Staff will present an update on the water supply and availability as it relates to the drought.

**RECOMMENDED ACTION**

Information and discussion.

# **Agenda Item:**

8B. Budget and economic update. (staff)

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

---

**SUBJECT:** Kerrville Budget/Economic Update

**FOR AGENDA OF:** December 13, 2011      **DATE SUBMITTED:** November 29, 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:** 

---

<b>Expenditure Required:</b>	<b>Current Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$	\$	\$	

**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 DECEMBER 7, 2011

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
<b>National</b>					
Unemployment	8.60%	9.00%	9.80%	↓	November
Consumer Confidence	56	40.9	54.3	↑	November
1 year T-Bills	0.11%	0.08%	0.26%	↔	12/7/11

<b>State</b>					
Monthly Unemployment	8.00%	8.40%	7.90%	↓	October
Monthly Sales Tax	\$1,874.6m	\$1,756.1m	\$1,617.7m	↑	October

<b>Local</b>					
Monthly Unemployment (Kerr Co.)	6.30%	7.00%	6.10%	↓	October
Median Listing Price	\$223,000	\$223,000	\$215,000	↑	11/1/11
Monthly Sales Tax	\$415,045	\$406,810	\$339,147	↑	December
Monthly EIC Tax	\$207,522	\$203,379	\$169,550	↑	December
Monthly HOT	\$78,259	\$69,508	\$75,212	↑	November

	FY12 Budget	FY12 as of 11/30/2011	FY12 % Received	FY11 as of 11/30/2010	FY11 % Received
<b>General Fund</b>					
Tax Revenue	\$14,401,600	\$1,780,974	12.37%	\$1,935,479	13.21%
Property Tax	\$7,900,000	\$776,014	9.82%	\$1,003,573	12.39%
Sales Tax	\$4,550,000	\$846,731	18.61%	\$783,204	17.40%
Permits & Fees	\$323,980	\$50,609	15.62%	\$47,967	11.92%
Intergovernmental	\$1,173,000	\$356,971	30.43%	\$207,559	29.36%
Service Revenues	\$2,571,246	\$367,286	14.28%	\$412,980	16.02%
Grant Revenue	\$26,500	\$0	0.00%	\$0	0.00%
Fines & Forfeitures	\$488,310	\$71,181	14.58%	\$90,043	18.85%
Interest & Misc.	\$217,770	\$30,394	13.96%	\$64,542	27.42%
Transfers In	\$1,250,000	\$208,333	16.67%	\$166,667	16.67%
<b>Total General Fund</b>	<b>\$20,452,406</b>	<b>\$2,865,750</b>	<b>14.01%</b>	<b>\$2,925,237</b>	<b>14.57%</b>
<b>Total General Fund Expenditures</b>	<b>\$20,052,133</b>	<b>\$3,123,444</b>	<b>15.58%</b>	<b>\$3,255,082</b>	<b>16.22%</b>
<b>Water/Sewer Fund</b>					
Water Sales	\$4,404,842	\$710,299	16.13%	\$870,338	19.78%
Sewer Sales	\$3,746,176	\$625,528	16.70%	\$597,996	15.90%
Other Revenue	\$735,226	\$137,665	18.72%	\$112,498	7.66%
<b>Total Water &amp; Sewer Fund</b>	<b>\$8,886,244</b>	<b>\$1,473,492</b>	<b>16.58%</b>	<b>\$1,580,832</b>	<b>16.42%</b>
<b>Total W&amp;S Fund Expenditures</b>	<b>\$8,809,460</b>	<b>\$1,277,570</b>	<b>14.50%</b>	<b>\$1,544,950</b>	<b>16.72%</b>

## **Agenda Item:**

9A. Appointments to the food service advisory board. (staff)



**FOOD SERVICE ADVISORY BOARD**

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
BADING, DEBBIE LYNN Chair 627 Lois #14	257-2515 (O) 210-326-3316(C)	12-11-07	12-08-09	12-01-11
DUHR, JACQUES Co-Chair 129 Catalina Court	896-1294 (H)	12-09-08	01-11-11	12-01-12
CROCKER, ROBBIE 1029 Bluebonnet Dr.	257-2433 (O) 257-5514 (H)	09-09-08	01-11-11	12-01-12
McCRACKEN, SUSAN 406 Ave. B	895-4655 (O) 377-9847 (H)	12-08-09		12-01-11
SOUTHERN, MELISSA 615 Schreiner	257-3877 (O) 257-1923 (H)	12-09-08	01-11-11	12-01-12
VARWIG, KELLY 1315 Jackson Rd.	817-797-8148 (O)	12-08-09		12-01-11
ABEL VAZQUEZ 158 Valley View	257-0606 (O) 896-9899 (H)	01-11-11		12-01-12

**COUNCIL LIAISON:**

Scott Gross 792-5555 (O)  
2908 Dry Hollow 210-363-1144 (C)  
PO Box 291277

**CITY STAFF:**

Compliance Center Manager 258-1171 (O)  
896-0517 (F)

**Qualifications:** Shall be composed of local certified food managers from the food service or food processing industry, any member of the local restaurant association who owns or conducts business in the city of Kerrville or any citizen of Kerr County qualified by training and/or experience to advise on the application of the food code.

**Powers and Duties:** To hear appeals and make recommendations to the health official for variances from provisions of the code; to provide assistance to the health official concerning interpretations of the code; to advise the city manager, at his request, regarding the suspension or revocation of food permits; and to consider and make recommendations to city council regarding any matters relating to the food service program.

**Term of Office:** Two Years; no member shall serve more than two consecutive terms.

**Quorum:** Four

Number of Members: Seven

Meeting Time & Place: Quarterly (Mar, Jun, Sep & Dec), Third Tuesday, 3:00 p.m., Council Chambers

Absences: Any member who misses three consecutive regular meetings shall thus cause his/her seat on the board to become vacant. The council shall then appoint a new member to fill the vacancy.

Established by: Ordinance 1989-30; amended by Ordinance 1994-11  
Code of Ordinances: Chapter 58 - Article II - Section 58-34

Revised: March 31, 2011

## **Agenda Item:**

9B. Appointments to the library advisory board. (staff)

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

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**SUBJECT:** Appointments to the Library Advisory Board

**FOR AGENDA OF:** December 13, 2011    **DATE SUBMITTED:** December 9, 2011

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

**EXHIBITS:** Board List

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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**SUMMARY STATEMENT**

Consider appointments to the following board:

**Library Advisory Board:** Two terms expired November 22, 2011: Diana K. Martin and Janet Moseley; and one term due to the resignation of Kenneth Ellenwood, due to expire November 22, 2013.

**RECOMMENDED ACTION**

Consider appointments.

**LIBRARY ADVISORY BOARD**

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
* MOSELEY, JANET 151 Bluff Hill Rd., Hunt, Texas 78024 Chairperson	238-4436 (H)	07-09-07	12-08-08	11-22-11
* CARR, JUDY 103 Creekside Dr. Vice-Chairperson	895-3740 (H)	11-23-10		11-22-12
** EHRENREICH, DAN 520 Sand Bend Dr.	896-0858 (H)	01-18-11		11-22-12
* ELLENWOOD, KENNETH 619 Milton	257-0979 (H) 257-3171 x2804 (O)	08-23-11		11-22-13
* MARTIN, DIANA K. 3931 Kite Ct.	896-3300 (H)	03-10-09	01-12-10	11-22-11

**EX OFFICIO MEMBERS:**

Scott Gross 792-5555 (O) 03-09-10  
City Council, Place 3 210-363-1144 (C)  
2908 Dry Hollow  
PO Box 291277

Jonathan Letz 792-2216 (O) 03-09-10  
County Commissioner, Pct. 3  
Kerr County Courthouse  
700 Main St.

Daniel Schwartz 258-1260 (O) 11-15-10  
Library Director  
800 Junction Hwy

\*\*\*\* Mike Bowlin  
425 Water St. 03-09-10  
Kerrville Genealogical Society

**CITY STAFF:**

Kim Meismer 258-1140 (O)  
Director of General Operations  
800 Junction Highway 377-7691 (C)

Qualifications: Four board members shall be appointed by Kerrville City Council and one board member shall be appointed by The Friends of the Butt-Holdsworth Memorial Library.

Powers and Duties: The Board is an advisory board to the city council; shall have the authority to hold

meetings within the city and to consider and make recommendations to the Council from time to time on any and all matters pertaining to the Library. Upon a majority vote of the total membership.

Term of Office: All Board appointments shall serve two (2) year terms. No Board member shall serve more than two (2) consecutive two (2) year term on the Board without having at least one (1) full year off of the Board between terms. A majority of the members' terms shall expire in even-number years with the remaining members' terms expiring in odd-numbered years.

Quorum: Three members

Number of Members: Five members

Meeting Time & Place: Third Tuesday of Every Month; 3:00 pm; City Council Chambers

Absences: Any member who is absent from twenty-five percent (25%) of the board's regular meetings during any twelve (12) month period, or who is absent from any three (3) consecutive regular meetings, shall be considered for removal by the City Council. The staff member has the responsibility of reporting a member's non-attendance to the City Council in writing, and the City Secretary shall notify the board member in writing that their non-attendance has been reported to the City Council. However, a member whose absences are directly related to a medical or family emergency may seek consideration from the board upon which they serve to qualify such absences as excused.

Established by: Ordinance No. 1967-17; amended by Ordinance Nos. 80-5, 84-14, 84-58, 85-01, 87-24, 87-60, 87-61, and 2005-19 (in its entirety); Resolution Nos. 045-2006, 107-2006, 076-2007, and 122-2007 did not change this board. Code of Ordinances: Chapter 66 - Article II – Sections 66-31 through 66-34; Amended by Ordinance No. 2010-05; Amended by Ordinance No. 2011-16.

Revised: August 24, 2011

\* Appointed by Kerrville City Council – voting member

\*\* Appointed by Friends of the Butt-Holdsworth Memorial Library

\*\*\*\* Appointed By Kerrville Genealogical Society

## **Agenda Item:**

9C. Appointment to the economic improvement corporation. (staff)

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

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**SUBJECT:** Appointment to the Economic Improvement Corporation

**FOR AGENDA OF:** December 13, 2011

**DATE SUBMITTED:** November 30, 2011

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

**CLEARANCES:** Todd Parton  
City Manager

**EXHIBITS:** Board List

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** *MP*

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**SUMMARY STATEMENT**

Consider appointment to the following board:

**Economic Improvement Corporation:** One member resigned, effective November 30, 2011: Tony Roberts, term to expire June 1, 2013.

**RECOMMENDED ACTION**

Consider appointment.

# ECONOMIC IMPROVEMENT CORPORATION

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
APPEL, GREGG President 201 Hummingbird Ln.	896-5000 (O) 895-4058 (H)	05-25-10		06-01-12
EARLY, KENNETH Vice President 2756 Indian Wells Dr. E	792-1966 (O) 896-3495 (H)	05-24-11		06-01-13
ROBERTS, TONY Secretary 3512 Trail Head Dr.	895-1676 (O) 896-5374 (H)	05-24-11		06-01-13
BOYLAND, REX 1343 Bandera Hwy.	895-8028 (O) 257-0042 (H)	05-25-10		06-01-12
HOWARD, LARRY 650 Oakland Hill Ln.	895-4400 (O) 895-1988 (H)	05-24-11		06-01-13
KEEBLE, STACIE Place 2 3533 La Cumbre Drive	895-7725 (H)	05-24-11		06-01-13
RICKERT, POLLY 2768 Indian Wells	443-4320 (O) 792-0745 (H)	09-13-10		06-01-12

## **CITY STAFF:**

Mindy Wendele 792-8343 (O)  
Director of Business Programs

Qualifications: Resident of the city and at least three directors must be persons who are not employees, officers or members of the governing body of the city.

Purpose: Benefiting and accomplishing public purposes of the city permitted by Section 4B of the Act including, but not limited to, the promotion and development of industrial and manufacturing enterprises to promote and encourage employment and the public welfare, and financing the acquisition, construction and/or equipping, and/or the maintenance and operating costs of any "Project" (as defined in Section 4B of the Act).

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

Quorum: Majority

Number of Members: Seven

Meeting Time & Place: Third Monday, 4:00 p.m., City Hall Council Chambers

Established by: Resolution No. 1995-112, amended by Resolution Nos. 1999-184; 032-2009

Revised: September 14, 2011