

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, APRIL 24, 2012, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, APRIL 24, 2012, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Reverend Michael Williams, Zion Lutheran Church.

PLEDGE OF ALLEGIANCE TO THE FLAG led by Bill Nolan 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. PRESENTATION:

2A. Proclamation designating the week of May 5-13, 2012, as Williams Syndrome Awareness Week. (Mayor Wampler)

2B. Presentation of Certified Government Finance Officer designation from the Government Finance Officers Association of Texas to Sai Vongchampa. (staff)

3. CONSENT AGENDA:

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

3A. Minutes of the regular city council meetings held February 28, and March 13, 2012. (staff)

3B. Contract with MuniServices, LLC for collection and auditing of hotel occupancy taxes in the amount of \$8,200. (staff)

3C. Amendment to the contract with WellsOne Commercial Card for revenue sharing for purchase card use. (staff)

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 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: April 20, 2012 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig
City Secretary, City of Kerrville, Texas

3D. Professional services agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration services for the Jefferson lift station force and gravity mains in an amount not to exceed \$627,783. (staff)

3E. Construction contract with Westar Construction Company for the construction of the river trail package A project in the amount of \$667,427.35 and authorize the city manager to execute additional change orders which may exceed \$50,000 but not to exceed the total amount of \$735,000.00. (staff)

END OF CONSENT AGENDA

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Update on amendments to the sign ordinance. (staff)

4B. Agreement with Playhouse 2000 to perform Shakespeare in the Park, tentatively scheduled June 1-3, 2012, in Louise Hays Park. (staff)

4C. Interlocal service agreement with Kerr Emergency 9-1-1 Network for addressing. (staff)

5. INFORMATION AND DISCUSSION:

5A. Update on wayfinding signage project. (staff)

5B. Report on Kerr Economic Development Corporation activities. (Mayor Wampler)

5C. Budget and economic update. (staff)

6. ITEMS FOR FUTURE AGENDAS

7. ANNOUNCEMENTS OF COMMUNITY INTEREST:

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

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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: April 20, 2012 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig

City Secretary, City of Kerrville, Texas

8. 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.

9. ADJOURNMENT.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

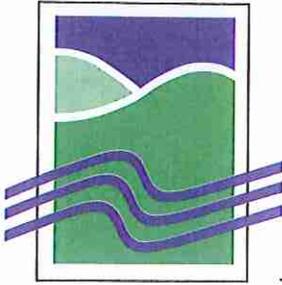
I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time: April 20, 2012 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig

City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Proclamation designating the week of May 5-13, 2012, as Williams Syndrome Awareness Week (Mayor Wampler)



CITY OF KERRVILLE
MAYOR AND CITY COUNCIL
800 Junction Highway
Kerrville, Texas 78028
830-257-8000 / www.kerrvilletx.gov

PROCLAMATION

WHEREAS, Williams Syndrome is a rare genetic condition that is present at birth, affects more than 25,000 individuals in the United States, and is characterized by lifelong medical problems, including cardiovascular disease, developmental delays, and learning disabilities; and

WHEREAS, The Williams Syndrome Association (WSA) founded in 1982, is a non-profit organization and the most comprehensive resource for people and families living with Williams Syndrome as well as for doctors, researchers and educators. Through its efforts, from raising public awareness, to funding critical new research, and providing valuable information and support to families, the WSA has improved the quality of life and futures of those affected by Williams Syndrome; and

WHEREAS, To generate awareness about Williams Syndrome and raise funding for critical WSA programs and initiatives, the WSA has organized WS Awareness Week which includes the Walk for Williams and will encompass 45 walks across 30 states;

NOW, THEREFORE, I, David Wampler, Mayor of the City of Kerrville, Texas, do hereby proclaim May 5-13, 2012 to be:

“WILLIAMS SYNDROME AWARENESS WEEK”

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



IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Kerrville to be affixed hereto, the ____ day of _____, 2012.

David Wampler, Mayor

Agenda Item:

2B. Presentation of Certified Government Finance Officer designation from the Government Finance Officers Association of Texas to Sai Vongchampa.

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

SUBJECT: Presentation of Certified Government Finance Officer designation from the Government Finance Officers Association of Texas to Sai Vongchampa.

FOR AGENDA OF: April 24, 2012

DATE SUBMITTED: April 19, 2012

SUBMITTED BY: Mike Erwin 
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

The City of Kerrville is pleased to announce that Sai Vongchampa has earned the Certified Government Finance Officer designation from the Government Finance Officers Association of Texas. Sai is one of less than 300 Finance professionals in the State of Texas

I am proud that our organization has such an outstanding employee that has made the effort to earn this certification.

RECOMMENDED ACTION

The Mayor will present the certification and a special recognition to the Sai Vongchampa, Finance Department.

Agenda Item:

3A. Minutes of the regular city council meetings held February 28, and March 13, 2012. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
FEBRUARY 28, 2012

On February 28, 2012, 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 Charlie Hastings, Director of Public Works, followed by the Pledge of Allegiance led by EMS Person of the Year Jason Lackey, Firefighter of the Year Dwain Kutzer, and Police Officer of the Year John H. Latham.

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 Cochran	Director of Information Technology
Mike Erwin	Director of Finance
Charlie Hastings	Director of Public Works
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: No one spoke.

2. PRESENTATIONS:

- 2A. Kerrville EMS Person of the Year Award for 2012 to Firefighter/Paramedic Jason Lackey.
- 2B. Kerrville Firefighter of the Year Award for 2012 to Driver/Paramedic Dwain Kutzer.
- 2C. Kerrville Police Officer of the Year Award for 2012 and Police Commendation Award to John H. Latham.
- 2D. Proclamation designating March as Texas History Month, Daughters of the Republic of Texas.

2E. Bob Rose, Meteorologist with Lower Colorado River Authority, drought information.

Bob Rose gave the following statistics: 2011 was the driest calendar year on record in Texas with 14.88 inches and the second hottest on record at 67.2 degrees; Kerrville received 13.10 inches and the normal is 32.05. He predicted the drought in the Kerrville area would continue through 2012.

3. CONSENT AGENDA:

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

3A. Award construction contract to Alsay, Inc. in the amount of \$71,950, for the Lois Street well rehabilitation project.

END OF CONSENT AGENDA

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Resolution No. 04-2012 supporting the application of Kerrville Senior Veterans Residences, L.P. (KSVR) to construct low income rental housing pursuant to the low income housing tax credits program administered by the Texas Department of Housing and Community Affairs (TDHCA).

Mr. Parton noted the city received a request to support KSVR's application for TDHCA tax credit funding to create a 50 unit housing project on the Kerrville Veterans Administration (KVA) property. Since the meeting of January 24, staff received confirmation from the General Counsel of the US Department of Veterans Affairs that guaranteed the housing project would be limited to veterans only. The TDHCA application targeted low to moderate income families, and KSVR requested a resolution of support and \$50,000 (\$1,000/unit) funding from the city to make the application competitive. The city could apply for HOME funds through a government grant to meet the \$50,000 local match.

Mr. Parton recommended approval of the resolution of support for the tax credit application with five stipulations:

1. Occupancy limited to military veterans, their spouses and dependents, and the occupancy limitation be incorporated into the land lease agreement; the General Counsel for the VA supported inclusion of this statement.
2. KSVR be authorized by resolution (Item 4B of this agenda) to submit a joint application on behalf of the city to the TDHCA for housing tax credits and HOME Investment Partnership Program funds in the amount of \$49,000.
3. The housing project meets all city development, zoning, subdivision, building, and life safety codes and ordinances.
4. The project would be subject to all building permit and inspection requirements.
5. Annual property taxes would be paid as required by law. He noted that since the project was on federal land, assessment would be on building improvements only.

Craig Taylor, with Communities for Veterans in Atlanta, Georgia, representing KSVR, provided additional information and he understood that the main issue with the city council previously was that the project be for veterans only, and in January

he stated that he could not commit to a veterans only facility despite the fact that that was their intent. He noted a similar situation in California, and a recent ruling there allowed that a project could be limited to veterans only on a VA campus, provided that protected groups under the Fair Housing Act were not discriminated against within the veterans category. He confirmed that the VA agreed to put this requirement into the lease and the developer would be in default if they allowed housing to a non-veteran. KSVR would be paying their fair share in taxes as the development improvements would be subject to property tax. In order to be competitive in the bidding process and to achieve the points necessary to receive the TDHCA funding, KSVR requested approval of the resolution of support and the joint application for \$50,000 HOME funding (HUD funds), which now required the project to fall under HUD associated programs. He agreed to submit the joint application as stated in item 2 of the resolution, and to meet all building and safety codes as stated in the resolution. The project would be a high quality veterans' only housing development that would pay its share of taxes and would be something the community would be proud to have.

Mayor Wampler stated that one month ago the council was informed that the developer could not guarantee that the project on the VA campus would be housing for veterans. The council had been asked to fund a project using city tax dollars without any assurance that the project would house veterans. The council did not reject the issue of veteran housing on the VA property; rather, council rejected the first proposal due to insufficient information and lack of assurance that the project would in fact be for veterans. Also, the \$14 million project presented by Mr. Taylor in January was for 80 units. Mr. Taylor was now presenting a project of 49 units and stating the city council's concerns were the reason for scaling down the project; however, Mr. Taylor noted a weak housing market in January and stated he would have a national campaign to recruit veterans for the project. Mr. Taylor also stated in January that it was a requirement of the grant that the city provide \$80,000 in matching funds; staff had since learned that the city could use HOME funds as its match. Mayor Wampler felt that the proposal presented by Mr. Taylor now answered many of council's questions and provided information council requested.

The following persons spoke:

1. John Moorman, American Veterans Post 1000, stated the economic benefits of the development and estimated a one-time increase in construction jobs and materiel purchases at \$7 million, and additional 12 full time equivalent employees at \$300,000 plus \$450,000 operating budget annually. The facility could accommodate possible expansion in the future. In the past, the VA Hospital had been targeted for attempted closure and was currently seeing a loss of programs and services being moved to San Antonio. This housing project could help keep the VA in Kerrville.

2. Vicki Marsh noted that veterans need to live close to where they receive health care, and living among other veterans would contribute to their well-being. Also, patients' electronic health records were readily accessible through the VA system.

3. Justin MacDonald noted his company tried to establish a similar program a year ago; however, their proposal had quite a bit of community opposition: 1) they could not commit to a veterans only facility; and 2) payment of fair share. If Mr. Taylor found a way to meet these points, then he would lend his support to the project.
4. Gary McVey stated he delivered meals on wheels to many veterans who were living in substandard housing. There were 5,700 veterans living in Kerr County, and he would appreciate any help from the city in resolving the housing issue. He noted that council supported Fox Tank and recognized the need for training and felt this may also assist returning veterans as well as high school graduates.
5. Jim Myers, member of AM Vets Post 1000 and Hill Country Religious Society of Friends (Quakers), stated they supported the project without reservation last year and they still did. Council's issues were resolved and he asked council to pass the resolution and fix the details later.
6. Gary Noller noted he received health care at the VA and wanted to be buried in a veterans' cemetery. Veterans help veterans, and this facility would allow veterans to be with other veterans.
7. James Price noted he was currently working with a non-profit group on a grant through the VA to help veterans find housing, and he currently had a waiting list of veterans looking for housing. Veterans need this project; there were other places available to rent, but veterans could not afford them.
8. Allen Hill stated he was Volunteer Veterans Service Officer at the VA and a member of the Texas Hill Country Honor Guard. Single veterans received a maximum pension of \$1,021 month. He asked council to support the project as it would give veterans a place to live near the VA where they could get services.
9. Fred Pentz stated he knew several homeless veterans who needed a place to live; the developer would not have to recruit veterans to come to Kerrville because they already come to the VA Hospital.
10. Gwen Rideout read the poem "A Hero's Hero" and said we owe veterans a lot.
11. Bill Cantrell, member of AM Vets 1000, noted the chamber of commerce awarded members of the Hill Country Honor Guard the Volunteers of the Year award. He stated that the council had done the veterans a favor with their vote of disapproval in January as it brought veterans together as a team. It appeared that the vote in January was based on economics rather than needing veterans in the community. It seemed like the mayor was putting the blame on the developer, but the developer was trying to reach out to city council before the January 24 meeting and maybe things could have been ironed out. Mr. Taylor had to satisfy the city council's issues, Mr. Taylor was a veteran and he supported Mr. Taylor.

Mayor Wampler appreciated the public's comments, but the city council was charged with overseeing the spending of all the city taxpayers' money and balancing all issues. The fact was that Mr. Taylor had taken a different approach and the scope of the project had changed since the original proposal in January, e.g. the funding mechanism, taxation, and the fact that housing would be provided to nonveterans. The city council had shown responsibility in asking those questions and solutions were now being presented that addressed those concerns. Council had never been against housing for veterans, rather, against the project that was presented in January. The number one concern that he heard from veterans last year was that they were opposed to that project because the developers could not guarantee that it would serve only veterans; last month, the council had the same concern about this project.

The following points were also discussed by council:

- The decision in January to deny was based on the proposal presented; took exception to the comments in the community questioning councilmembers' integrity and loyalty.
- If council's decisions to give tax funds to support groups and projects were based on emotion, the requests would be endless and the city's resources were not council's to give. The project presented in January did not make sense and it would not be fair to the citizens of Kerrville to levy their tax to support a project based on emotion. The fact was that this was not the same project presented in January.
- Agreed there would be advantage to having a veterans' housing project at the VA Hospital; council had other concerns and requested assurance that the project would be for veterans only and other criteria and issues have now been addressed.

Mr. Allen moved for approval of Resolution No. 04-2012; Mr. Gross seconded the motion and it passed 5-0.

4B. Resolution No. 05-2012 authorizing Kerrville Senior Veterans Residences, L.P. to include the City of Kerrville, Texas, in the submission of a joint application to the Texas Department of Housing and Community Affairs for home investment partnership program funds.

Mr. Gross moved for approval of Resolution No. 05-2012; Mr. Allen seconded the motion and it passed 5-0.

4C. Scheduling the Kerrville Independence Day fireworks display for June 30, 2012, to coincide with Kerrville's 4th on the River Celebration.

Mr. Parton noted that Kerrville's 4th on the River celebration was being scheduled for the weekend before the 4th, and the group requested city council consider moving the fireworks display to June 30 instead of July 4th. He noted the city did not have the resources, financial and personnel, to hold two events. The person who contributed funds to purchase the fireworks had been contacted and did not express a preference for either date, and whatever the city decided to do was acceptable to him.

Mr. Conklin stated he was part of the planning group and the intent was to hold the event on the weekend so more people could attend, particularly to bring people from out of town. The fireworks donor had been contacted and was agreeable to changing the date of the fireworks display. The planning group would require the city to donate its services in order to put on the event.

Mr. Allen moved to approve moving the date of the fireworks display to coincide with the Kerrville's 4th on the River Celebration, contingent upon approval of the fireworks donor. The motion was seconded by Ms. Keeble and passed 5-0.

4D. Provide direction to staff regarding way finding signs.

Mr. Gross proposed way finding signs to better market the community's amenities and direct the public; signs should coordinate with the street scrapes downtown.

Mr. Parton reviewed points and requested direction on a way finding program:

- Two types of signs: major message boards to bring visitors from I-10, and localize signage to direct visitors to key points of interest.
- Sign locations and whether to place signs in right of ways or on private property. He noted that TxDOT requested amending the mutual maintenance agreement (MMA) to reflect many of the things that the city was already doing, such as routine maintenance along the state's ROWs and de-icing bridges and streets in the city.
- Method of funding; suggested using HOT funds.

Council also discussed the following:

- The previous concern with placing signs in the state's ROW was the cost and obligations associated with amending the MMA and the responsibilities that the city would have to assume. Ms. Ondrias noted that TxDOT had expressed a desire to amend the MMA and relook at placing signs in state right of ways; they were not taking as hard a position as previously believed.
- Questioned the number of signs needed. Mr. Parton noted staff identified 12 street level markers, and three message boards: I-10 and 16, I-10 and Harper, and centralized sign downtown.

The consensus of council was to instruct staff to discuss the use of the state's right of ways with TxDOT and determine what the city's responsibilities and financial obligations would be under a new MMA. Staff should then prepare a way finding sign plan including potential sites and cost implementation and place it on a future council agenda for consideration.

5. INFORMATION AND DISCUSSION:

5A. Report on the progress of the FY 2011 Comprehensive Annual Financial Report (CAFR) by the audit firm of BKD, LLP.

Mr. Erwin noted the audit committee (Ms. Keeble, Mr. Allen, and staff) met with the auditors. He presented the draft audit and noted the report would be on the

March 13 agenda for council's approval.

5B. Budget and economic update.

Mr. Erwin reported sales tax up 9.4% over February 2011 and 10.5% ahead of 2011; HOT tax was 6% ahead of 2011; 96% of ad valorem taxes had been collected; \$11.8 million had been collected and \$6.5 million spent in the general fund; and in the water/sewer fund \$2.8 million revenue was received and \$2.6 million spent.

5C. Report on Kerrville Economic Development Corporation activities.

Mr. Parton noted that Fox Tank Company was in the process of closing on the property, and engineering and design was under way.

Mayor Wampler reported that KEDC approved the concept of a conference hotel as a major component of economic development. KEDC was discussing potential funding and creating an incentive package to present to potential developers. He discussed other potential projects, including long term health care facility, fast food chain, LeMeilleur expansion, and Culligan Water expansion. The airport board had voted to lease property to the Alamo Community College District to develop a welding training facility.

6. BOARD APPOINTMENTS:

6A. Appointment to the Kerrville Public Utility Board. Matter was deferred to executive session.

7. ITEMS FOR FUTURE AGENDAS: None.

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Ruth Spradling noted there had been a lot of misunderstanding and uninformed people involved with the VA housing project. The project presented at the January meeting was not the same project presented at this meeting. The actions that council took were right.
- The City and KISD were hosting a mobile technology event February 29, 4:30 p.m. at the Cailloux Theater; participants were coming from Boerne and San Antonio school districts.
- The Rotary Club held an awards ceremony to recognize several firefighters and law enforcement personnel from local entities.
- The Mardi Gras on Main event was very well attended and a report would be given at the next meeting.
- Starkey School sausage supper would be on March 1.
- Partners in Ministry was looking for projects and volunteers for the Community Service Infusion event to be held Saturday, March 24.

9. EXECUTIVE SESSION:

Mr. Gross moved for the city council to go into executive closed session under Sections 551.074 (personnel matters) of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 5-0 to discuss the following matter:
Section 551.074:

- Appointment to the Kerrville Public Utility Board.

At 8:21 p.m. the regular meeting recessed and council went into executive closed session at 8:24 p.m. At 8:33 p.m. the executive closed session recessed and council returned to open session at 8:33 p.m. Mayor Wampler announced that no action had been taken in executive session.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

6A. Appointment to the Kerrville Public Utility Board:

Mr. Allen moved to appoint Phillip Stacy to the KPUB board of directors with term to expire April 21, 2017; Mr. Conklin seconded the motion and it passed 5-0.

11. ADJOURNMENT. The meeting adjourned at 8:34 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
MARCH 13, 2012

On March 13, 2012, 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 Noah Diggs, Pastor of Mount Olive Baptist Church, followed by the Pledge of Allegiance led by Sam Barker of the Military Officers Association of America.

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
Mindy Wendele	Director of Business Programs
Robert Ojeda	Fire Chief
John Young	Police Chief
Johnna Wade	Main Street Manager

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

1. VISITORS/CITIZENS FORUM: No one spoke.

2. PRESENTATIONS:

2A. Resolutions of Commendation to Kyle Bond and Peter Lewis for service on the Main Street Advisory Board.

2B. Resolution of Commendation to Debbie Bading for service on the Food Service Advisory Board.

2C. Resolution of Commendation to Janet Moseley for service on the Library Advisory Board.

3. CONSIDERATION AND POSSIBLE ACTION:

3A. Lease agreement between the Kerrville-Kerr County Joint Airport Board and Alamo Community College District (ACCD) for airport property located at 1994

Airport Loop Road for the purpose of establishing a welding and fabrication school.

Mr. Parton noted the airport board voted to recommend approval of a lease of said airport property to the ACCD to establish a welding facility and training school. He recommended proceeding with the lease under the following conditions: two (2) year term, option for one (1) year lease extension, annual payment of \$1, and leased "as is" and ACCD required to make all improvements, renovations, meet all applicable codes for occupancy, provide insurance, and cover utility expenses. If council approved the request, staff would work with ACCD to evaluate the technical requirements for the building, determine what improvements would be needed to meet code compliance issues, and proceed to prepare a lease agreement to be signed by all entities.

Shawna Fahrenthold, representing ACCD, noted a proposal had been submitted to the Texas Workforce Commission to establish a welding training facility capable of training ten welders per class. ACCD had classrooms, but not a facility to perform welding. ACCD had a grant to fund building renovations, electricity upgrades, and ventilation improvements and to purchase and install welding machines. ACCD planned to seek additional grants to secure their own building in the future, and the improvements made to this building would remain. She noted that Fox Tank Company and other local companies had an immediate need for welders.

The council noted that the airport board requested the city prepare the lease agreement as they did not have staff to do so. Mr. Parton stated that the city attorney had started work on the lease.

Mr. Conklin moved to direct staff to negotiate a lease agreement with Alamo Community College District as presented; Mr. Allen seconded the motion and it passed 5-0.

3B. Disposal of City Hall, located at 800 Junction Highway.

Mr. Parton noted that construction was underway for the new city hall building, scheduled for occupancy in September. He requested direction on disposition of the current city hall site and discussed a sealed request for proposals (rfp) bid process and a market sale. If the city proceeded to a sealed rfp process, the city was under no obligation to accept a bid; the city could reject any and all bids and then put the property on the market. City policy required a market appraisal, and he provided a copy of the 2008 market appraisal. He also recommended staff determine whether any easements were necessary on the property. Mr. Parton noted that funds from the sale of the property would be used to reimburse the utility fund for funds advanced for the construction of the new city hall.

Council discussed the following:

- Attendance to any meetings for potential bidders/buyers should be voluntary, not mandatory.
- The sale would put the 800 Junction Highway property on the tax roll.

Mr. Conklin moved to direct staff to generate a request for proposal and timeline outlining the process for the sale of the property for council's consideration at the April 10 meeting; the motion was seconded by Mr. Gross and passed 5-0.

3C. Authorization to implement the Citizens On Patrol (COP) with the Kerrville Police Department.

Chief Young noted the Citizen Police Academy Alumni Association proposed to provide volunteer assistance to the police department through the Citizens On Patrol (COP) program. Upon completion of mandatory training, volunteers would assist with minor traffic violations, initially with handicap parking violations. The COP program would provide services that would not otherwise exist, or which are provided on a limited basis, within the current budget. The CPAAA has complied with the TML insurance; about 15 people have volunteered for the mandatory training. A 2003 vehicle had been donated (Item 3D below); the city would provide vehicle maintenance and insurance. He recommended implementation of the COP program under the police department, and if successful, the program could be expanded to crime prevention issues, such as vacation house security checks, parking lot security, and other parking violations such as downtown limited time parking.

Mr. Allen moved to authorize implementation of the Citizens on Patrol program within the Kerrville Police Department as presented; Ms. Keeble seconded the motion and it passed 5-0.

3D. Accept vehicle donation for the Kerrville Police Department.

Chief Young noted a 2003 vehicle had been donated to the police department for use by the CPAAA (Item 3C above). The vehicle would be equipped with radio equipment but not emergency equipment (lights and siren). He requested permission to accept the vehicle donation.

Mr. Allen moved to accept the vehicle donation as presented; Ms. Keeble seconded the motion and it passed 5-0.

3E. Approval of the FY 2011 Comprehensive Annual Financial Report (CAFR).

Mr. Erwin presented a draft of the 2011 CAFR as prepared by city staff. He noted net assets of \$112 million, and the fund balance in the general fund was \$3.4 million of which \$800,000 was added in FY11. He recommended approval of the CAFR and noted the city engaged the audit firm of BKD, LLP of Dallas to perform the annual audit and financial report.

Ms. Keeble moved to accept the comprehensive annual financial report as presented; Mr. Allen seconded the motion and it passed 5-0.

4. INFORMATION AND DISCUSSION:

4A. Update on 2012 Mardi Gras on Main and the progress of the downtown

public art project.

Ms. Wade noted 20 sponsors and 250-300 attendees participated in the 2012 event. Proceeds from the Mardi Gras events for the past four years were dedicated to the construction of a downtown public art project, "Mother's Love" designed by James Avery. The 2012 event netted \$20,000, which should complete the construction and placement of the art piece, budgeted at \$45,000, and anticipated unveiling was May 11, Mother's Day weekend.

4B. Water resources report.

Mr. Hastings noted 9-12 inches of rainfall was needed in a three month period to end the drought, and the city had received 5.36 inches. The aquifer level for March was under 1380; the 5 year average was 1396. The river flow in January 2011 was almost 70 cfs, and was about the same now; the 25 year average was 125 cfs; he expected river flow to drop as trees begin to use water. The ASR low in 2011 was 575 mg; currently ASR was above 723 mg and the city was recharging. The city was still well below average in all three resources. He anticipated having the Methodist Encampment well on line in a few weeks.

The council requested staff develop a better plan to give customers adequate notice ahead of time when pending changes in water stages are anticipated. Mr. Hastings will prepare a plan for council's consideration.

4C. Budget and economic update.

Mr. Erwin noted sales tax was 9.6% ahead of 2011; general fund was at 96% collection; revenue was ahead of operating expenditures in the general fund and in the water and sewer fund.

5. **BOARD APPOINTMENTS:**

5A. Appointments to the Main Street Advisory Board.

Mr. Gross moved to appoint Shelby Braswell and Aaron John Yates with terms to expire January 31, 2013; further, to not appoint a member at this time to the term to expire January 31, 2014. Mr. Conklin seconded the motion and it passed 5-0.

6. **ITEMS FOR FUTURE AGENDAS:** None.

7. **ANNOUNCEMENTS OF COMMUNITY INTEREST:** None.

8. **EXECUTIVE SESSION:** None.

9. **ADJOURNMENT.** The meeting adjourned at 6:55 p.m.

APPROVED: _____

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

Agenda Item:

3B. Contract with MuniServices, LLC for collection and auditing of hotel occupancy taxes in the amount of \$8,200. (staff)

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

SUBJECT: Enter into a contract with MuniServices, LLC for collection and auditing of hotel occupancy taxes

FOR AGENDA OF: April 24, 2012

DATE SUBMITTED: April 12, 2012

SUBMITTED BY: Mike Erwin, 
Director of Finance

CLEARANCES: Todd Parton,
City Manager

EXHIBITS: Contract from MuniServices, LLC

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$8,200	\$10,000	\$10,000	20-800-405

APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:

SUMMARY STATEMENT

For the past three years MuniServices, LLC has provided auditing services on hotels for compliance with the hotel occupancy tax. This past year the City recouped over \$20,000 from the audit. MuniServices, LLC offers a service where the company will manage the billing and collection of hotel occupancy tax for the City along with providing continued auditing services. The cost of the services is as follows below:

\$100 per lodging provider, currently 22 providers
\$1,500 per audit, minimum of 10% of providers per year
\$1,500 one-time set fee for online payments

Total cost first year, \$8,200.

Currently the collection work is performed by Finance staff at a cost to the General Fund. This action places the expenditure with the revenue.

RECOMMENDED ACTION

Staff recommends that the City Council authorize the City Manager to enter into the contract with MuniServices, LLC for hotel occupancy tax collection and auditing services.

MuniServices, LLC
Consultant Services Agreement

1. Us.

We are MuniServices, LLC, a Delaware limited liability company, and a wholly owned subsidiary of Portfolio Recovery Associates, Inc.; with an office at 7335 N. Palm Bluffs Avenue, Fresno, California 93711. In this Agreement we are referred to as "MuniServices" or "we", "our", "us. We use our sister company, RDS, to assist us with work. Sometimes we will refer to you and us as the "Parties."

If you need to contact us a short list of helpful contacts is attached as Attachment 3.

If you are sending us a notice required by this Agreement, send it to:

MuniServices, LLC
Attn: Legal Department
7335 N. Palm Bluffs Avenue
Fresno, CA 93711
Email: legal@muniservices.com
Facsimile: 559.312.2957

When providing notice to us, you must also provide a copy of the notice to: PRA General Counsel, 120 Corporate Blvd., Suite 100, Norfolk, VA 23502. All notices, including notices of address changes, provided under this Agreement are deemed received on the third day after mailing if sent by regular mail, or the next day if sent overnight delivery. We do not accept notices by email or facsimile. Notice of rate changes or distribution changes must be sent by certified mail.

2. You.

You are the City of Kerrville. You are a municipal corporation of the State of Texas. In this Agreement we will refer to you as "you", "your", "yours". If we are sending you a notice required by this Agreement, we will send it to:

City of Kerrville

Attn: Mike Erwin, Finance Director
800 Junction Highway
Kerrville, TX 78028
Email: mike.erwin@kerrvilletx.gov
Facsimile: 830.792.8309

3. Our Services and your payment.

We will provide you with the services listed in Attachment 1 (the "Services"). You will pay us the fees listed in that same Attachment. If we are providing more than one Service, each service will have a separate attachment and will be labeled Attachment 1-1, 1-2, etc.

4. What our Services do not include.

We do not provide to you or any third-parties any legal advice or services. We also do not provide tax advice to you or third parties. Also we cannot and therefore do not establish: the tax rates due from taxpayers; and the penalties and fees that are assessed against taxpayers (though we will calculate these amounts for you as part of the Services once you have established the rates). We also do not determine either the amount of refunds or the proper government account(s) that taxpayer receipts shall be deposited into.

5. Term of this Agreement.

The initial term of this Agreement begins on _____, 2012 (the "Effective Date") and continues for a period of three years from the Effective Date. Thereafter this Agreement will automatically renew for successive one year terms (each a "Renewal Term"), unless either party notifies the other in writing of its intent not to renew 90 days prior to the end of the initial term or any Renewal Term. There are some other ways this Agreement can end and those are found in Article I of the General Provisions, Attachment 2.

6. General Provisions.

The parties are also bound by the General Provisions as set forth in Attachment 2 of this Agreement, which are by this reference incorporated into this Agreement. If something in this Agreement contradicts the General Provisions, then what is said in this Agreement governs rather than the General Provisions.

The Parties are signing this Agreement on the Effective Date indicated in Section 5 above.

MuniServices, LLC

**City of Kerrville,
a Municipal Corporation**

By: 
Marc Herman
Title: President

By: _____
Title: _____

By: 
Doug Jensen
Title: SVP Client Services

ATTEST:

City Clerk



ATTACHMENT 1
Local Occupancy Tax Program
Audit and Administration



Article 1-Objectives and Methods

MuniServices' Local Occupancy Tax Program is intended to assist the City in maximizing lodging tax revenue, through a triple pronged compliance approach of Audit and Administration. The Audit service provides for examination of taxpayer records to verify compliance and proper accounting for receipts subject to the tax. Only 10% of the lodging properties per year will be audited. The Administration service offers a turnkey approach to ensure appropriate collection, deposit, recording, delinquency follow up and reporting of the local lodging tax. This service includes all correspondence, forms and other such services to ensure appropriate and timely remittance of the tax.

Article 2-Scope of Work

A. Audit Services

1. Perform on-site examinations of the records of those providers requested by City and/or identified through analysis or compliance efforts to warrant further investigation, but only as authorized by City;
2. Provide City staff with a detailed list of all records required to be made available by lodging providers for the further reviews, together with a draft engagement announcement letter to be sent to each lodging provider requiring examination;
3. In coordination with City staff, schedule and conduct reviews at the property locations of those providers identified and authorized for examination;
4. Verify accuracy of filed lodging tax returns with daily and monthly activity summaries;
5. Review a random sample of the daily and monthly summaries to determine if the daily summaries reconcile to the monthly summaries;
6. Review bank statements to verify that deposits reconcile with the reported revenue on the lodging tax returns';
7. Review exempted revenue for proper qualifying documentation;
8. Review a random sample of exempted guest revenue and trace registration and/or other source documents to verify compliance with the City ordinance;
9. Where possible, compare the State lodging tax filings with City's tax returns;
10. For each error/omission identified and confirmed, submit substantiating documentation to designated City staff in order to facilitate collection of revenue due from lodging providers for prior periods;
11. Coordinate with designated City official(s) as necessary to review findings and recommendations;
12. Prepare draft Notices of Deficiency Determination, and commendation, warning and credit letters, as applicable, for City to advise lodging providers of examination results
13. Provide assistance to City in reviewing any matters submitted in extenuation and mitigation by lodging providers in contesting a deficiency determination; and
14. Prepare and document any changes to the review findings and provide revised tax, interest or penalty amounts due the City.

B. Administration Services

Remittance Processing

1. Taxes Processed: MuniServices will perform remittance processing for lodging taxes as designated by the City.
2. Taxpayer Notification and Remittance: MuniServices will send individualized tax forms to all known lodging providers ("Taxpayer(s)"). Taxpayers will remit payments as indicated in Exhibit A, Distribution Confirmation, attached and incorporated herein by reference. Upon reasonable notice to City, MuniServices may change the address for payments.
 - i. Optional Online File and Pay- For an additional set up fee, online filing and remittance using standard MuniServices formatting will be provided for the Taxpayers convenience.
3. Deposit Process: Deposits are made to the extent that funds have been received, via Automated Clearing House of the amounts and to the designated recipients as instructed by the City for each type of tax collected, as shown in more detail on Exhibit A.
4. Posting Process: Taxpayer accounts are posted with payment information captured in the MuniServices revenue system. Additional information such as net sales, deductions, credit sales, measure of tax, name change and address change is captured and added to the payment data and taxpayer master file (as determined necessary by MuniServices). Late payments (postmarked by U.S. Postal Service after the due date) are invoiced at penalty amounts required by State code. Under-payments are invoiced for remaining tax due plus any required penalties.
5. Changes to Exhibit A: The City shall notify MuniServices in writing immediately of all changes in amounts to be deposited into the accounts of designated recipients. An amended Exhibit A shall be prepared and executed by the Parties as soon as reasonably possible. In addition, MuniServices shall provide documentation confirming each change under the preceding sentence with the first monthly report reflecting the applicable change. If the changes reflected in the monthly report do not properly reflect the intended changes of the City, then the City shall immediately notify MuniServices and, thereafter, MuniServices shall take the steps necessary to insure that designated recipients receive the amounts intended by the City.

Compliance Services

1. Taxes Reviewed: MuniServices will perform compliance services for lodgings taxes designated by City under Remittance Processing Services. MuniServices will provide delinquency notification and follow-up. This includes correspondence, calls, and collection procedures and the related documentation. Delinquency policies and procedures will be applied consistently and within applicable tax laws. Unless otherwise directed by the City, MuniServices will make reasonable efforts to collect taxes designated by the City hereunder. Where deemed reasonably appropriate, accounts may be turned over to audit or third party collection. If the City elects to have its attorney pursue collection of certain uncollected accounts, MuniServices will assist the City attorney as reasonably requested at its normal hourly rate as reflected herein.
2. Conduct of Compliance Services: To assure that all taxpayers are treated fairly and consistently and all compliance services are performed in a similar manner, MuniServices representatives who perform compliance services will use a similar compliance plan for each compliance service conducted. All funds due from compliance services will be remitted to City in the same manner as provided for pursuant to *Section B*, above.

General Provisions

1. Information Provided: The City represents that the information provided to MuniServices in the performance of services hereunder shall be provided free and clear of the claims of third parties. The City represents that it has the

right to provide this information to MuniServices and that said information shall not be defamatory or otherwise expose MuniServices to liability to third parties.

2. Compliance with laws: Each Party accepts responsibility for its compliance with federal, state, or local laws and regulations.
3. Taxpayer service: MuniServices will provide a taxpayer assistance number for taxpayer questions. MuniServices will provide standard informational brochures for placement in the City offices, Chamber of Commerce offices, libraries and any other facilities as requested and/or deemed necessary.

Article 3-Deliverables

Field Audit Services

Provide City staff with a draft Audit Announcement Letter to be sent to each lodging provider to be examined; and a written report of the findings of such examinations together with draft Notices of Deficiency Determination, and/or credit, warning or commendation letters as applicable;

Review any extenuation or mitigation proffered to deficiency determinations and prepare draft response to City staff; and

Provide other collections advice upon request.

Administration Services

MuniServices will make available to City detailed online reporting, including detailed payment listing, daily/weekly/monthly reconciliation reports, etc.

MuniServices will provide the City with monthly reports including, but not limited to, payment listings showing all taxes received related to net receipts reported, a general ledger distribution that corresponds to the City's account numbers and all fees paid to MuniServices. These reports will be provided by the 10th of the month following the tax month;

The City AGREES TO EXAMINE THIS REPORT IMMEDIATELY. IF NO ERROR IS REPORTED BY THE City TO MuniServices WITHIN 60 DAYS, THE STATEMENT WILL BE DEEMED ACCURATE; All items credited will be subject to receipt of payment.

Article 4 - Compensation

Audit

The Audit Services shall be provided for a fixed fee of \$1,000 for each bed and breakfast lodging property audited, and a fixed fee of \$1,500 for all other lodging properties audited with 50% due at the time of audit approval and 50% upon completion of the audit.

Administration

The Administration Services shall be provided for an annual fixed fee of one hundred dollars (\$100) per lodging property.

Optional Online File and Pay

By initialing in the space provided here, the City indicates it is selecting the optional online file and pay and authorizing MuniServices to bill the City for the one-time set up fee of \$1,500 which will be invoiced upon execution of this Agreement. _____

Travel and Out-of-Pocket

Reasonable travel and other out-of-pocket expenses associated with the performance of field audits will not exceed \$150 per audited property without the prior written approval of the City. Such reimbursement shall be billed annually.

Additional Consulting

City may request that MuniServices provide additional consulting services at any time during the term of this Agreement. If MuniServices and City agree on the scope of the additional consulting services requested, then MuniServices shall provide the additional consulting on a Time and Materials basis. Depending on the personnel assigned to perform the work, standard hourly rates range from \$75 per hour to \$300 per hour.

These additional consulting services will be invoiced at least monthly based on actual time and expenses incurred.

Article 5 – City Obligations

The City shall assist MuniServices by providing necessary information and assistance to include, but not be limited to, the following:

Field Audit Services

Send Audit Announcement Letter to each lodging provider to be examined with a copy to MuniServices.

Inform MuniServices of any circumstances concerning existing payees.

Administration Service

Prior to the start of the work to be performed, provide MuniServices with (1) the most recent registration to collect the tax and (2) returns for the time period requested as needed to compile a historical database for the period of the statute of limitations;

Inform MuniServices of any circumstances concerning current existing payees;

Inform MuniServices of the development of new lodging properties no later than the Certificate of Occupancy being granted;

Cooperate in the transition by reviewing proposed processing and materials, offering comments and suggestions and providing timely approvals;

Undergo training in the use of online applications.

Distribution Confirmation

The City will fill in the account information requested on Exhibit A and attach the same to the fully executed Agreement. Should there be any changes to the account or percentages in Exhibit A, the City shall immediately notify MuniServices in writing of all changes in amounts to be deposited into the accounts of designated recipients.

MuniServices Helpful Contacts

Lisa Broussard, Client Services Manager

lisa.broussard@muniservices.com

Phone: 713.459.5079

Ted Kamel, Client Services Rep/Sr. Auditor

ted.kamel@muniservices.com

Phone: 903.952.9794

Brenda Anderson, Client Services Rep

brenda.anderson@muniservices.com

Phone: 817.771.4066

Kandance (Kandi) Warnock, HOT Manager

kandance.warnock@muniservices.com

Phone: 817.905.7027

Andrea Hunter, VP Audit Services

ahunter@revds.com

Phone: 205.533.0297

Billing Department

billing@muniservices.com

Phone: 559.271.6946

Contract Department

Patricia Dunn

patricia.dunn@muniservices.com

Phone: 559.271.6852

EXHIBIT A
DISTRIBUTION CONFIRMATION

February 8, 2012

City of Kerrville
Attn: Mike Erwin, Finance Director
80 Junction Highway
Kerrville, Texas 78028

Dear Mr. Erwin:

Funds will be distributed in the following accounts pursuant to this Agreement:

Agency	Routing #	Account #	Distribution %	Tax Type
			100%	Lodging

If at any time there are any discrepancies between the schedule set out above and the City's records, please notify us in writing immediately.

IT IS YOUR RESPONSIBILITY TO PROVIDE NOTICE TO US OF ANY CHANGES IN TAX RATES OR IN THE DISTRIBUTION OF FUNDS. NOTICE MUST BE IN WRITING AND SENT, VIA CERTIFIED MAIL, TO:

MuniServices, LLC
7335 North Palm Bluffs Ave.
Fresno, CA 97311
Attn.: Traci Hall, Accounting Manager

Thank you for your assistance. If you have any questions, or if I may be of assistance, please let me know.

Traci Hall, Accounting Manager
MuniServices, LLC
(Phone): 559-271-6851
(Fax): 559-312-2851
(E-mail): traci.hall@muniservices.com

I have reviewed the above distribution and verify that it is correct.

By: _____

Name: _____

Title: _____

**ATTACHMENT 2
General Provisions**

Article I

Within 5 business days after signing this agreement.	You will designate, in writing, one individual to whom we may address communications concerning this Agreement. This person or such person's designee will be the principal point of contact for us in obtaining decisions, information, approvals, and acceptances.
10 business days after you receive our invoice.	You have until this date to dispute in the invoice, or a portion of it, in writing. Your written dispute must be post-marked by this date and must be sent to the addresses in paragraph 1 of the Agreement. (Paragraph 1 is located on the front page of the agreement and is titled "Us".)
10 business days after we receive your written notice that you dispute an invoice or part of an invoice.	We will either correct the error or explain to you why we think the invoice is correct. During this time, we will not try to collect the amount being disputed.
30 days after receiving our invoice.	You must pay our invoice(s) by this date. If you do not pay by that time, we have the right to charge you interest at the rate of one and one-half percent (1.5%) per month, or the maximum amount permitted by law, on any amounts you do not pay within thirty days. If we refer your account to an attorney for collection of past due amounts, we may charge you for our reasonable attorney fees, including costs for attorneys who are employed by us, and court costs incurred by us to the extent permitted by law. Any settlement of your account balance for less than what is owed requires our written consent.
40 days after receiving our invoice	If you have not paid, and have not disputed an invoice as provided above, then we may terminate this Agreement with no further notice and we have no further obligation to you.
When you provide us with information for use in the Services.	<p>By providing us information, you represent that:</p> <ul style="list-style-type: none"> • you have the right to provide us the information without violating the rights of third-parties; • your release of the information to us does not violate any applicable laws and regulations; and • to the best of your knowledge the information is accurate and not defamatory. <p>You will notify us immediately if there is a change in the information you have provided to us.</p>
If we send you a report or other deliverable.	You will review all reports we provide to you in a timely fashion and you will notify us immediately if you find a discrepancy in any of the information we have provided to you. Upon payment therefore, we will grant you all right, title, and interest in and to the reports, charts, graphs, and other deliverables we are required to produce under this Agreement.
While the Agreement is effective.	We will keep in full force and effect insurance coverage during the term of this Agreement including without limitation statutory workers' compensation insurance; employer's liability and commercial general liability insurance; comprehensive automobile liability insurance; professional liability and fidelity insurance. You may at any time request copies of our certificates.
90-days after prior written notice.	This Agreement terminates for convenience but only if the terminating party sends the notice to the person designated to receive notices under this Agreement (see paragraph 1 or 2, as applicable, of this Agreement).

<p>After giving written notice of a breach other than a failure to pay.</p>	<p>The non-breaching party may immediately terminate this Agreement if:</p> <ul style="list-style-type: none"> • the written notice of the breach was sent to the person designated to receive notices for the breaching party under this Agreement (see paragraph 1 or 2, as applicable, of this Agreement); and the breach is not your failure to pay (that situation is addressed separately below.); and • the breach has not been cured in a reasonable time after the breaching party received notice. <p>Ordinarily, 30 days will be a reasonable time to cure the breach but if the party receiving notice of the breach can demonstrate that the breach will take more than 30 days to cure, the non-breaching party and breaching party will agree on an extended period to cure the breach.</p>
<p>After the occurrence of a "financial default"</p>	<p>A party may terminate this Agreement immediately if the other party experiences a "financial default." A "financial default" means:</p> <ul style="list-style-type: none"> • a material adverse change in a party's financial condition that adversely affects its ability to perform hereunder; or • a party becomes or is declared insolvent or bankrupt; or • a party is the subject of any proceedings relating to liquidation or insolvency or for the appointment of a receiver; or • a party makes an assignment for the benefit of all or substantially all of its creditors; or • a party enters into an agreement for the composition, extension, or readjustment of all or substantially all of its obligations. <p>If you experience a "financial default" then we may, at our option, declare the entire outstanding amounts and costs owing to us hereunder immediately due and payable.</p>
<p>This Agreement is terminated or expires.</p>	<p>You remain obligated to: (1) pay us for Services performed through the effective date of the termination or expiration; (2) if applicable, provide us with all the information necessary for us to calculate what you owe us on revenue you receive after the termination or expiration; and (3) if applicable pay invoices we send you after the expiration or termination of this Agreement for Services performed before termination or expiration or for continuing payments required by the Scope of Work or for both.</p>

Article II. The parties also agree to the following miscellaneous terms.

1. *Independent Contractor.* We are an independent contractor. Nothing in this Agreement is to be interpreted as: creating the relationship of employer and employee between you and us or between you and any of our employees or agents; or creating a partnership or joint venture between you and us. We are responsible for any subcontractors we use in performing Services for you and we are solely responsible to pay those subcontractors. We may perform similar services for others during this Agreement and you agree that our representation of other government sector clients is not a conflict of interest.
2. *Compliance with Laws.* The parties agree to comply with all applicable local, state and federal laws and regulations during the term of this Agreement.
3. *Intellectual Property.* We retain all right, title, and interest in and to the processes, procedures, models, inventions, software, ideas, know-how, and any and all other patentable or copyrightable material used, developed, or reduced to practice in the performance of this Agreement.
4. *Waiver.* Either party's failure to insist upon strict performance of any provision of this Agreement are not to be construed as a waiver of that or any other of a party's rights under this Agreement at any later date or time.
5. *Force Majeure.* Neither party is liable for failing to perform its obligations hereunder (other than payment obligations) where performance is delayed or hindered by war, riots, embargoes, strikes or acts of its vendors or suppliers, accidents, acts of God, or any other event beyond its reasonable control.
6. *Counterparts.* This Agreement may be signed in separate counterparts including facsimile copies. Each counterpart (including facsimile copies) is deemed an original and all counterparts are deemed on and the same instrument and legally binding on the parties.
7. *Assignment.* MuniServices may assign this Agreement, in whole or in part, without your consent to any corporation or entity into which or with which MuniServices has merged or consolidated; any parent, subsidiary, successor or affiliated corporation of MuniServices; or any corporation or entity which acquires all or substantially all of the assets of MuniServices. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties and their successors or assigns.
8. *Public Release and Statements.* Neither you nor we nor each of our representatives or agents shall disseminate any oral or written advertisement, endorsement or other marketing material relating to each other's activities under this Agreement without the prior written approval of the other Party. No Party or its agent will use the name, mark or logo of the other Party in any advertisement or printed solicitation without first having prior written approval of the other Party. The Parties shall take reasonable efforts to ensure that its Subcontractors shall not disseminate any oral or written advertisement, endorsement or other marketing materials referencing or relating to the other Party without that Party's prior written approval. In addition, the Parties agree that their contracts with all Subcontractors will include appropriate provisions to ensure compliance with the restrictions of this Section.
9. *Entire Agreement.* This Agreement is the entire Agreement between us and you for the Service(s). This Agreement supersedes and replaces any prior Agreements, of whatever kind or nature, for the Service(s) Any prior Agreements, discussions, or representations not expressly set forth in this Agreement are of no force or effect. No additional terms, Purchase Order Terms and Conditions, or oral or written representations of any kind are of any force and effect unless in writing and signed with the same formality as this Agreement
10. *No Oral Modification.* No modification of this Agreement is effective unless set forth in writing and signed with the same formality as this Agreement.
11. *Invalidity.* If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the remaining provisions of this Agreement remain in full force, if the essential provisions of this Agreement for each party remain valid, binding, and enforceable.
12. *Construction.* This Agreement is to be construed in accordance with the laws of the State of Texas without regard to its conflict of laws principals.
13. *Headings.* The section headings herein are for convenience and reference purposes only and are not to serve as a basis for construction or interpretation.

Attachment 3
MuniServices Helpful Contacts

Contact	Project Role	Phone	Email
Ted Kamel	Client Services Manager/Sr. Auditor	903.952.9794	ted.kamel@muniservices.com
Brenda Anderson	Client Services Manager	817.771.4066	brenda.anderson@muniservices.com
Doug Jensen	Sr. Vice President Client Services	559.288.8943	doug.jensen@muniservices.com
Lisa Broussard	Vice President Client Services	713.459.5079	lisa.broussard@muniservices.com
Andrea Hunter	Vice President Audit Services	205.533.0297	ahunter@revds.com
Kandi Warnock	TOT Production Manager	817.905.7027	kandi.warnock@muniservices.com
	Billing Department	559.271.6946	billing@muniservices.com
Patricia A. Dunn	Contracts Manager	559.271.6852	patricia.dunn@muniservices.com

Agenda Item:
(Staff)

3C. Amendment to the contract with WellsOne Commercial Card for revenue sharing for purchase card use. (staff)

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

SUBJECT: Amendment to the contract with WellsOne Commercial Card for revenue sharing for purchase card use.

FOR AGENDA OF: April 24, 2012

DATE SUBMITTED: April 12, 2012

SUBMITTED BY: Mike Erwin, 
Director of Finance

CLEARANCES: Todd Parton,
City Manager

EXHIBITS: Contract from WellsOne

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
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APPROVED FOR SUBMITTAL BY DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The City currently is under contract with WellsOne, A Wells Fargo Company, for use of purchase cards, also known as P-Cards. This amendment will allow the City to receive revenue sharing based upon usage of the cards. The schedule is shown below:

**Standard (non-qualified Large Ticket) Revenue Share Schedule:
Revenue Share will be paid in January on previous calendar year volume.**

Net Purchase Volume*		Revenue Share
\$ 0	to \$ 1,499,999	-0- basis points (bps)
\$ 1,500,000	to \$ 2,999,999	55 bps
\$ 3,000,000	to \$ 4,999,999	70 bps
\$ 5,000,000	to \$ 6,999,999	85 bps
\$ 7,000,000	to \$ 9,999,999	95 bps
\$ 10,000,000	and above	105 bps

In calendar year 2011, the City had charges of approximately \$1,600,000, which would equate to revenue sharing of \$8,800.

RECOMMENDED ACTION

Staff recommends that the City Council authorize the City Manager to enter into the contract with WellsOne for revenue sharing.

AMENDMENT TO WELLSONE® COMMERCIAL CARD EXPRESS AGREEMENT

This Amendment to WellsOne® Commercial Card Express Agreement (this "Amendment") is made and entered into effective as of April 10, 2012 (the "Effective Date"), by and between Wells Fargo Bank, N.A. ("Wells Fargo") and City of Kerrville ("Customer"). Wells Fargo and Customer have entered into that certain WellsOne® Commercial Card Express Agreement dated August 7, 2009, (as the same may have been amended, supplemented or restated from time to time, the "Agreement"); and desire to amend the Agreement as more particularly set forth herein below. In exchange for the mutual promises and agreements hereinafter set forth, and for other good and valuable consideration, and intending to be legally bound hereby, Customer and Wells Fargo hereby agree as follows:

- 1. Incorporation and Effect.** This Amendment and all Attachments are hereby made a part of and incorporated into the Agreement as though fully set forth therein. As supplemented by the terms and conditions set forth in this Amendment, the provisions of the Agreement shall remain in full force and effect, *provided that*, in the event of a conflict between any provision of this Amendment and any provision of the Agreement, the provision of this Amendment shall control.
- 2. Definitions.** Capitalized terms herein that are not otherwise specifically defined herein shall have the same meanings as set forth in the Agreement.
- 3. New Attachment C-2 ("Revenue Share Calculation").** The Agreement shall be amended and supplemented by adding the following new Attachment "C-2" ("Revenue Share Calculation") attached hereto.
- 4. Miscellaneous.** This Amendment, together with the provisions of the Agreement not expressly inconsistent herewith, constitutes the entire agreement between the parties with respect to the matters addressed herein, and shall supersede all prior oral or written negotiations, understandings and commitments. No modification of or supplement to this Amendment shall be effective unless it is in a writing signed by Customer and an executive officer of Wells Fargo. This Amendment may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall be deemed to constitute one and the same agreement. A facsimile and other copy of this Amendment with facsimile or copied signatures shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

WELLS FARGO BANK, NATIONAL ASSOCIATION

City of Kerrville

Authorized Officer: _____

Authorized Officer: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

WELLSONE® COMMERCIAL CARD EXPRESS AGREEMENT
ATTACHMENT C-2
REVENUE SHARE CALCULATION
April 10, 2012

Customer Name: City of Kerrville

Standard (non-qualified Large Ticket) Revenue Share Schedule:

Revenue Share will be paid in January on previous calendar year volume.

Net Purchase Volume*		Revenue Share
\$ 0 to	\$ 1,499,999	-0- basis points (bps)
\$ 1,500,000 to	\$ 2,999,999	55 bps
\$ 3,000,000 to	\$ 4,999,999	70 bps
\$ 5,000,000 to	\$ 6,999,999	85 bps
\$ 7,000,000 to	\$ 9,999,999	95 bps
\$ 10,000,000	\$ and above	105 bps

Beginning January 2013 and annually thereafter ("Anniversary Date"), the Revenue Share amount to be paid to Customer (if any) shall be calculated and applied retroactively by multiplying the applicable Revenue Share bps times the Net Purchase volume for the previous year. No Revenue Share shall be owed for the previous year if: (i) Customer terminates this Agreement prior to the Anniversary Date, or (ii) Wells Fargo terminates this Agreement for cause prior to the Anniversary Date. No Revenue Share shall be owed for the previous year if the Customer's average transaction size falls below \$200.

*Total volume minus credits and cash advances (if applicable). Wells Fargo reserves the right to segregate Large Ticket Transactions (defined below and as qualified by Visa as applicable) should such Large Ticket Transactions exceed five percent (5%) of Customer's total Net Purchase Volume. The term "Large Ticket Transaction" as used here in shall mean certain transactions subject to select transaction requirements, qualified and determined by Visa, in its sole and absolute discretion. Such Visa transaction qualification requirements for large ticket interchange shall include, but not be limited to: custom payment service qualification with Level II and Level III data included with the transaction, registration with Visa U.S.A. by participating merchants and payment of a merchant registration fee. All non-travel service Merchant Category Codes (MCC) are eligible.

The following terms and conditions shall apply under this Attachment: i) Customer must obtain an annual minimum Net Purchase Volume of \$1,500,000, which may include both qualified and non-qualified Large Ticket Transactions, to receive a Revenue Share payment under this Attachment, ii) Wells Fargo will segregate Large Ticket Transactions (as qualified by Visa), and iii) If such Large Ticket Transactions are segregated, Customer's Net Purchase Volume will be segregated into either the Standard non-qualified Large Ticket Revenue Share Schedule set forth above or the Qualified large Ticket Revenue Share Schedule set forth below for purposes of Revenue Share calculation:

Qualified Large Ticket Revenue Share Schedule:

Net Purchase volume of qualified Large Ticket Transactions*

\$ 1.00 and above

Revenue Share

-25- basis points (bps)

Wells Fargo Bank, National Association

Customer: City of Kerrville

Authorized Officer: _____

Authorized Officer: _____

Signature: _____

Signature: _____

Title: _____

Title: _____

Date: _____

Date: _____

Agenda Item:

3D. Professional services agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration services for the Jefferson lift station force and gravity mains in an amount not to exceed \$627,783.
(staff)

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

SUBJECT: Council authorization for the City Manager to execute a Professional Services Agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration services for the Jefferson Lift Station Force and Gravity Mains in an amount not to exceed \$627,783.00.

FOR AGENDA OF: April 24, 2012 **DATE SUBMITTED:** April 16, 2012

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

EXHIBITS: Professional Service Agreement
Aerial Map of Proposed Utility Route

AGENDA MAILED TO: Freese and Nichols, Inc.
Attention: Charles Kucherka, P.E.
4040 Broadway, Suite 600
San Antonio, Texas 78209

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$627,783.00	\$690,390.90	\$744,500.00	W92

PAYMENT TO BE MADE TO: Freese and Nichols, Inc.
REVIEWED BY THE FINANCE DIRECTOR: 

SUMMARY STATEMENT

This project was identified in the 2008 Water & Wastewater Master Plan as a critical upgrade due to it currently operating beyond its firm capacity, which is defined as the total pumping capacity of a lift station at maximum day demand with the largest pump out of service. Jefferson Lift Station will be expanded to increase its firm pumping capacity, its wet well capacity, and be sized to accommodate future pumps to serve the existing and future peak flows from the Jefferson Basin and Ingram wholesale area. In addition to the lift station improvements, a new force main & gravity main will be constructed to convey flow across the Guadalupe River to the proposed G Street Interceptor that is currently under design and slated for construction commencement by August 2012.

As part of the FY11 budget amendments, the Jefferson Lift Station and Force Main – Preliminary Engineering project was approved to perform a preliminary engineering study and provide a preliminary engineering report so a route for the wastewater mains can be finalized and easement acquisition initiated prior to developing the final set of construction documents. The preliminary engineering was approved for an amount not to exceed \$71,000.00.

As a part of their preliminary engineering study, FNI evaluated the current Jefferson site, as well as potential sites for construction of a new lift station, including a site near the end of Hamilton Street along Town Creek. The result of the preliminary evaluation was the determination that upgrading the existing lift station would be more beneficial and cost effective than relocating the lift station altogether. This determination was based on analysis of the existing limits of the 100-year floodplain; noise, odor control, and aesthetics which would need to be addressed and mitigated during design to maintain or improve existing conditions for adjacent property owners; the need for less collection and discharge piping to tie in to existing infrastructure; and proximity to the Legion Basin primary and emergency interceptor tie-in location.

Additionally, design and construction of this project will include a force main sanitary sewer which will require one bore beneath the Guadalupe River and one bore beneath the TxDOT right of way at Lemos Street, to include all relevant coordination and permitting through TxDOT and the State of Texas General Land Office. Routing of the proposed force main will be beneath and to the south side of the Guadalupe River, at which point the sewer will transition to a gravity system and will be routed through Louise Hays Park, in parallel with a proposed water transmission main being designed under a separate contract, and will convey flows to the gravity interceptor sanitary sewer, also being designed under a separate contract, near the location of the existing G-Street lift station.

Engineering Service	Proposed Not to Exceed Fee
Basic Services	
Design Phase	\$446,438.00
Survey for Design	40,480.00
Geotechnical Analysis	34,217.00
Bid Phase	27,412.00
Construction Phase	79,236.00
Total Basic Services	\$627,783.00

RECOMMENDED ACTION

The Director of Engineering recommends the City Council authorize the City Manager to execute a Professional Services Agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration services for the Jefferson Lift Station Force and Gravity Mains in an amount not to exceed \$627,783.00.

Professional Engineering Services Agreement

Between

Freese and Nichols, Inc., and City of Kerrville

THIS AGREEMENT is made as of this _____ day of _____, 2012, between the CITY OF KERRVILLE, a Texas home rule municipality with principal offices at 800 Junction Highway, Kerrville, Texas, 78028-5069, hereinafter referred to as "CLIENT", and Freese and Nichols, Inc., with its offices located at 4040 Broadway, Suite 600, San Antonio, Texas 78209, hereinafter referred to as "ENGINEER", for the performance of professional engineering services in consideration of the following terms, conditions, and agreements:

PART I. SERVICES

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

- A. ENGINEER shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by ENGINEER under this Agreement, ENGINEER shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and others services.
- B. ENGINEER hereby agrees to comply with all Federal, State, and Local laws and ordinances applicable to the work or services under this Agreement.
- C. ENGINEER shall hold periodic conferences with CLIENT or CLIENT's representatives to the end that the project as developed shall have the full benefit of CLIENT's experience and knowledge and be consistent with CLIENT's objectives for this project.
- D. ENGINEER shall periodically report project status to CLIENT as is appropriate to keep CLIENT informed regarding project progress.
- E. ENGINEER shall perform all services under this Agreement in a manner which is consistent with generally accepted standards of professional engineering practice.

PART II. CLIENT'S RESPONSIBILITIES

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

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

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

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

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

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

PART III. WORK ORDER AMENDMENTS

- A. CLIENT may at any time, by written Work Order, make changes relating to services to be performed. If such changes cause an increase or decrease in ENGINEER's cost of, or time required for, performance of any services, an agreeable equitable adjustment shall be made and reflected in a properly executed Work Order. ENGINEER must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date of receipt by ENGINEER of the notification of change, unless CLIENT grants a further period of time before the date of final payment under this Agreement.
- B. No services for which additional compensation will be charged by ENGINEER shall be furnished without a properly executed Work Order signed by CLIENT.
- C. In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after the date of execution of this Agreement, the increased or decreased cost of performance of the services provided in this Agreement and subsequent Work Orders shall be reflected in an appropriate Work Order.

PART IV. COMPENSATION

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

PART V. PAYMENTS

ENGINEER will invoice CLIENT in accordance with the terms and conditions as set forth in **Exhibit A**. CLIENT agrees to promptly pay ENGINEER at its office located at 4055 International Plaza, Suite 200, Fort Worth, Texas 76109, the full amount of each such invoice upon receipt. In no event shall ENGINEER's failure to invoice constitute a default under the terms and conditions of this Agreement.

PART VI. INSURANCE

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

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

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

PART VII. TERMINATION

A. CONDITIONS OF TERMINATION

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

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

B. ACTIONS ON TERMINATION

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

C. COMPENSATION PAYABLE ON TERMINATION

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

PART VIII. MISCELLANEOUS

A. REUSE OF DOCUMENTS

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

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

B. OPINION OF COST

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

C. TRENCH SAFETY DESIGN

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

D. LATE PAYMENT

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

E. ATTORNEY'S FEES

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

F. PERIOD OF SERVICE

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

G. CONSTRUCTION OBSERVATION

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

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

H. SALES AND USE TAXES

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

I. SUCCESSORS AND ASSIGNS

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

J. CONTROLLING LAW; VENUE

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

K. SEVERABILITY AND WAIVER

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

L. EXTENT OF AGREEMENT

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

M. AMENDMENTS

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

Executed on this _____ day of _____, 2012.

CITY OF KERRVILLE

FREESE & NICHOLS, INC.

BY: _____
Jeffrey Todd Parton
City Manager

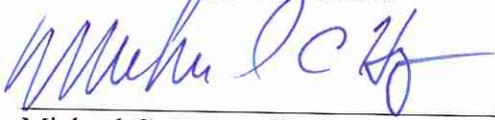
BY: _____
Name

Title

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF KERRVILLE
AND FREESE AND NICHOLS, INC.

ENGINEERING SCOPE OF SERVICES

PROJECT DESCRIPTION: The objective of this project is to prepare a complete set of contract documents including the plans, bid documents, general/supplementary conditions, technical specifications, and other related documents for the expansion of the City of Kerrville's Jefferson Street Lift Station, installation of approximately 3,200 linear feet of 12-inch force main, approximately 7,000 linear feet of 18-inch gravity sewer, and replace approximately 1000 linear feet of existing parallel force mains within Jefferson Street. Project elements will be as shown on the attached figure titled "Jefferson Street Lift Station – Conceptual Project Configuration." Design of force main and gravity sewer will follow the City approved alignment indicated in the "Jefferson Lift Station Force and Gravity Main Alignment Study" currently being developed by FNI.

SUBCONSULTANTS:

- A. Surveyor – MDS Land Surveying Company, Inc.
- B. Geotechnical Drilling – Austin Geo-Logic
- C. Geotechnical Testing Lab – TRI Environmental

PROJECT SCOPE/ASSUMPTIONS:

- A. Lift Station Design (Based on current WW Master Plan or as modified by plan currently being developed by Freese and Nichols, Inc. (FNI))
 - 1. Proposed lift station will be located at the same site as the existing Jefferson Lift Station.
 - 2. Design will include wet well capacity for 10.7 mgd (7,430 gpm).
 - 3. Initial (Phase I) firm peak pumping capacity will be 6.9 mgd (4,800 gpm).
 - 4. Lift station will be designed to accommodate additional capacity expansions within the Phase I structure:
 - a) Phase II expansion from 6.9 mgd (4,800 gpm) firm capacity to at least 9.5 mgd (6,600 gpm) firm capacity
 - b) Phase III expansion from 9.5 mgd (6,600 gpm) firm capacity to at least 10.7 mgd (7,430 gpm) firm capacity.
 - 5. New lift station will be designed in a submersible pump configuration, without dry pit or building superstructure.
 - 6. Lift station will be designed around a maximum of four (4) pump manufacturers.
 - 7. Top of lift station structure will be set one foot above 100-year floodplain elevation.
 - 8. Lift Station will pump into one (1) existing force main to Quinlan basin, one (1) proposed force main to Legion basin, and one (1) proposed force main to the Birkdale Basin.
 - 9. Flanged ductile iron pipe will be used for lift station discharge lines and headers.
 - 10. New lift station will be enclosed with a chain-link fence with 3-strand barbed wire on top per TCEQ requirements.
 - 11. Landscaping and/or irrigation system is not required at the lift station site.
 - 12. Noise control and hazardous waste assessments and abatement are not included.
 - 13. Lift Station Electrical and Controls
 - a) Electrical gear will be installed in weather-proof enclosures mounted on top of the lift station structure or on a separate elevated steel platform as required.
 - b) Project will be designed with an onsite generator that may be required to be elevated on a steel platform.

- c) Pumps will be equipped with constant speed motors with reduced voltage (soft) starters.
- d) Pump controls will be supplied with the pumps by the pump manufacturer as a turnkey system
- e) The City will provide and install the SCADA system provided by BLOC Design (Robert Durham). FNI will coordinate controls design with City's SCADA provider.

B. Site Piping Design at Lift Station

- 1. Relocate on east side of Town Creek, five (5) existing gravity lines discharging to existing Jefferson Street Lift Station.
- 2. Project will include design and construction of one (1) new junction box near existing lift station site to agglomerate incoming flows, equipped with a sluice gate, knife gate valve, etc. to control flows to the new lift station.
- 3. Project will include construction of new manholes on east side of Town Creek for tie-in to existing gravity lines.
- 4. Project will include the construction of one (1) force main from proposed lift station to the opposite side of Town Creek and one (1) force main from proposed lift station to the existing Legion Basin interceptor.
- 5. Minor relocation of existing force main within existing lift station parcel may be required to accommodate new lift station.

C. Existing Structures and Lift Station

- 1. Existing lift station will not be re-used.
- 2. Existing lift station will be demolished to 3-feet below finished ground.
- 3. Existing odor control facilities may need to be relocated to facilitate construction.
- 4. City will provide Asbestos Survey as required for demolition of lift station structure.

D. Force Main Design

- 1. AWWA C-900 PVC will be used for force main. The force main will be horizontally directionally drilled under the Guadalupe River using fusible PVC (FPVC) C-900 pipe. The proposed force main will be designed around only one pipe material.
- 2. New crossing of Town Creek will be via boring or other method that will require consultation or permitting under Section 404 of the Clean Water Act.
- 3. Force main and other pressurized pipe design does not include restrained joint design and shall use concrete thrust blocking for the primary resistance to thrust.

E. Gravity Sewer Line Design

- 1. The sewer shall be designed using applicable PVC pipe materials.
- 2. The sewer line shall parallel and share an easement with a waterline currently being designed by Pape-Dawson Engineering (PD). The gravity sewer line will terminate at a manhole currently being designed by LNV Engineering (LNV).
 - a) FNI will coordinate design efforts with PD and LNV Engineers.
 - b) PD will provide easement acquisition and easement survey file to FNI for all the shared easements south of the Guadalupe River.
 - c) FNI will include design plans and applicable specifications for the waterline designed by PD within a single bid document for this project. PD will be responsible for all aspects of the design of their waterline and shall be the engineer of record for applicable design plans and specifications. FNI will receive PD's plans and specifications in .pdf format and will combine plans and specifications for all review, bid and construction submittals to the City.

F. General

- 1. Project will be designed, bid and constructed as a single bid package.
- 2. Project will utilize FNI standard contract documents and specifications after City review/approval.
- 3. Project will be procured using the standard bid process in conformance with City policy and state law. Procurement by other means such as Competitive Sealed Proposal shall be an additional service.
- 4. Storm Water Pollution Prevention Plan(s) will be provided by Contractor.

5. Traffic Control Plan(s) will be provided by the Contractor.
6. Required "By-Pass" pumping plan(s) will be provided by the Contractor.
7. City will provide construction materials testing within a separate contract.
8. City will provide any required "Special Inspections" required by the International Building Code.
9. Project includes a tree survey for trees greater than ten (10) inches.

I. **BASIC SERVICES:** FNI shall render the following professional services in connection with the development of the Project:

A. PROJECT MANAGEMENT

1. Prepare subconsultant agreements:
 - a) Austin Geo-Logic Subconsultant agreement
 - b) MDS Land Surveying Company, Inc. Subconsultant agreement
2. Prepare project handbook: The project manual will contain the following:
 - a) A project organization chart
 - b) A project directory with contact info of all project team members
 - c) Contact protocols for project communications
 - d) A copy of the executed agreement
 - e) A work plan (detailed description of the project approach)
 - f) A project schedule, including meeting dates and milestones
 - g) Other pertinent data as appropriate.
3. Conduct Internal Kickoff Meeting: Purpose of this meeting is to orient the team members to the work, review project scope, schedule, and budget, and make initial task assignments.
4. Conduct Project Kickoff Meeting with City Staff: Purpose of this meeting is to introduce the FNI project team to City staff, establish project communications protocols, confirm project goals and objectives, review scope, schedule and budget, and coordinate initial project tasks.
 - a) FNI will prepare and distribute a kickoff meeting agenda at least one week prior to the meeting.
 - b) FNI will schedule and attend the kickoff meeting in Kerrville.
 - c) FNI will prepare and distribute meeting minutes within one week following the project kickoff meeting.
5. Monthly invoicing: FNI will prepare and submit monthly invoices to City for payment in accordance with Exhibit B of the Professional Services Agreement .
6. 1-Page Monthly Reports: FNI will prepare and submit monthly status reports to the City with FNI's monthly invoice. Monthly status reports will comprise a one page summary of the progress to date on the project, work completed during the prior month, work anticipated to be completed during the upcoming month, and discussion of any scope, schedule, or budget issues that may need to be resolved.
7. Quality Assurance/Quality Control: FNI will develop and implement a QA/QC plan for the work. Elements of the QA/QC plan will include the following:
 - a) FNI will develop a Quality Control Plan that will identify scheduled reviews of project deliverables, and individuals responsible for review.
 - b) FNI will implement the quality control plan developed in the prior task, then monitor and document implementation of the QC plan through project completion. Implementation will include:
 1. Internal checks of deliverables prior to delivery to City.
 2. Checks of subconsultant-prepared materials prior to delivery to City.

8. Quality Assurance:
 - a) Quality Assurance Reviews. Senior FNI staff will meet with project staff and verify that FNI quality control guidelines and the project-specific quality control plans are being implemented. We anticipate two Quality assurance reviews:
 1. Interim Quality Assurance Review: FNI shall prepare for and conduct an internal quality assurance review at approximately the mid-point of the project schedule
 2. Final Quality Assurance Review: FNI shall prepare for and conduct an internal quality assurance review prior to submittal of the 90 percent drawings to the City.

B. PRELIMINARY DESIGN PHASE – 30% Schematic Design

1. Geotech Investigation: Provide geotechnical investigation services required to complete the design of the lift station, force main, and gravity sewer.
2. Survey: Survey will be initiated at the start of preliminary design.
3. Meetings/Site Visits:
 - a) Project Kickoff Meeting
 - b) Site Visit(s) for data collection. Maximum of 3.
 - c) Design Memo Workshop
 - d) PD & LNV Engineering Coordination Meeting. Maximum of 1.
4. Data Collection:

Collect existing record drawings and other available information for the project from the City
5. Pump Selection and Lift Station Sizing:

Pump Selection: Based on City's preferred operational modes and hydraulic analyses, select pumps for phasing indicated above.
6. Power Availability Evaluation:
 - a) Purpose: Evaluate power availability, reliability, and cost of power infrastructure at the Jefferson Street Lift Station site.
 - b) Coordinate with electrical utility provider and evaluate availability and reliability of power at project site.
 - c) Develop costs to upgrade electrical service as necessary for new Jefferson Street Lift station.
 - d) Develop costs for alternative/emergency power to the new lift station in accordance with current TCEQ requirements.
7. Odor Control Investigation: Evaluate up to two (2) alternatives for odor control at the lift station. The alternatives evaluated along with FNI's recommendations will be included in the design memo. The final design will incorporate the recommended and approved alternatives.
8. Storm Sewer Collection Line Relocation: Existing storm sewer through lift station will be relocated around proposed lift station and new outfall to Town Creek.
9. Force Main Hydraulics Analysis:
 - a) Review existing data regarding force mains, etc. relevant to hydraulic analysis.
 - b) Evaluate existing Jefferson Street Lift Station Force mains:
 1. Meet with City Staff and Review existing Jefferson Street Lift Station force main operations.
 2. Determine, with City, preferred operational modes for existing and future force mains, and phasing for future force mains.
 3. Field-evaluate existing force main discharge conditions.
 4. Field-evaluate existing force main capacity via pressure and flow measurement estimates.
 5. Document force main operational modes, discharge conditions, and capacity in Design Memo.
 - c) Hydraulic Analysis
 1. Develop existing force main system head curves
 2. Develop proposed force main system head curves

10. Develop Design Memo:

- a) Assemble findings of preliminary investigations into a draft Design Memo. The Design Memo will include preliminary drawings for lift station orientation, force main alignment, gravity sewer alignment, odor control investigation, preliminary pump selection and hydraulic analyses, lift station sizing and power availability.
- b) Prepare Preliminary opinion of probable construction cost (OPCC).
- c) Submit the draft Design Memo to the City for review.
- d) Meet with the City to review draft Design Memo.
- e) Incorporate City comments as appropriate and prepare final Design Memo.
- f) Submit five copies of the Final Design Memo to the City.

11. Phase Deliverables:

- a) Monthly 1-Page Reports
- b) Draft Design Memo:
 1. Five (5) hard copies
 2. One (1) electronic copy in PDF format.
- c) Final Design Memo:
 1. Five (5) hard copies
 2. One (1) electronic copy in PDF format.
- d) Furnish to the City an updated written opinion of probably construction costs for the Project.

C. **60% DESIGN PHASE:** FNI shall provide professional services in this phase as follows:

1. Meetings:

- a) 60% Design Workshop:
Meeting to discuss comments made on the 60% design submittal. Prepare meeting agenda and minutes
- b) Monthly Progress Meetings
- c) Texas Department of Transportation (TxDOT) Coordination Meeting (Kerrville Office)
- d) PD and LNV Engineering Coordination Meeting. Maximum of 1.

2. Utility Coordination: Coordinate with the utility companies for any necessary relocations/adjustments that may be required and indicate on the preliminary plans.

3. Permitting: Prepare all permits required for the project and obtain permits or cause permits to be obtained by the City.

4. Survey:

Upon approval of the 30% schematic layout and design surveyor will initiate preparing easement documentation for up to 8 parcels as required for the force main and per the scope below.

5. Environmental Services:

- a) Cultural Resources/Texas Historical Commission: Submit a letter to Texas Historical Commission.
- b) Water Resources/Waters of the U.S.
- c) Threatened and Endangered Species Assessment
- d) Hazardous Materials: Perform a pedestrian survey to identify hazardous materials.

6. Phase Deliverables

- a) Monthly 1-Page Reports.
- b) 60% Design Plans:
 1. Five (5) hard copies in 22"x34" (full-size) format
 2. One (1) electronic copy in PDF format
- c) List of project details and specifications.
- d) Updated Opinion of Probable Construction Cost (OPCC) for the project.

D. 90% DESIGN PHASE: FNI shall provide professional services in this phase as follows:

1. Meetings:
 - a) 90% Design Workshop: Meeting to discuss comments made on the 90% design submittal. Prepare meeting agenda and minutes
 - b) Monthly Progress Meetings
 - c) PD & LNV Engineering Coordination Meeting. Maximum of 1.
2. Coordination with the TCEQ:
Provide documentation and coordination with the TCEQ for project plan approval.
3. Coordination with the Texas Department of Transportation:
Provide documentation and coordination with the TXDOT for permitting.
4. Survey:
Continued preparation of easement documentation for up to 8 parcels as required for the force main and per the scope below.
5. Environmental and Permitting:
Prepare and submit permit application for force main crossing the Guadalupe River. All fees required by permit shall be paid for by the City. Exhibits shall be provided by surveyor.
6. Transient Analysis:
A transient (surge) analysis will be conducted on the proposed pumping system and appropriate surge mitigation features will be provided within the design of the project.
7. Phase Deliverables
 - a) Monthly 1-Page Reports.
 - b) 90% Design Plans:
 1. Five (5) hard copies in 22"x34" (full-size) format
 2. One (1) electronic copy in PDF format
 - c) Design Specifications:
 1. Three (3) hard copies.
 2. One (1) electronic copy in .pdf format.
 - d) Updated OPCC for the project.

E. 100% Submittal: FNI will incorporate any comments made by the City in the 90% design submittal and resubmit a 100% complete submittal for review.

Phase Deliverables

1. 100% Design Plans: One (1) electronic copy in PDF format
3. Design Specifications: One (1) electronic copy in .pdf format.
2. Updated OPCC for the project.

F. BID OR NEGOTIATION PHASE: Upon completion of the design services and approval bid drawings and specifications by City, FNI will proceed with the performance of services in this phase as follows:

1. Meetings:
 - a) Prebid Meeting: Assist the City in conducting a pre-bid conference for the construction project and coordinate responses with City. Response to the pre-bid conference will be in the form of addenda issued after the conference.
 - b) Bid Opening: Attend project bid opening and open bids as required by the City.
2. Bid Phase Services:
 - a) FNI will set up the project on CivCastusa.com to distribute the bid documents to prospective bidders and plan rooms. Electronic sets of documents will be made available at no charge to plan holders. Hard copy plans will not be provided by the Engineer except as indicated below.

- b) Assist City by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders if necessary.
- c) Tabulate and analyze the bids received. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project.
- d) Recommend award of contracts or other actions as appropriate to be taken by City.
- e) Provide Notice of Award of Contract to the Contractor and provide letter with directions for the execution of the contract documents.
- f) Assist City in the preparation of the Construction Contract Documents.

3. Phase Deliverables:

- a) Bid Sets
 - 1. Provide City two (2) sets of bid documents. (Contract documents and 11"x17" plans)
 - 2. Provide City a CD with bid documents in PDF format.
- b) Conformed Construction Documents
 - 1. For City:
 - a) Contractor will provide two original documents with bid submittal that will be used for execution. FNI will provide a letter to the Contractor with directions for contract execution.
 - b) Three (3) copies of full size and five (5) copies of half-size conformed construction plans and five (5) copies of the contract documents bound with hard covers for use during construction.
 - c) One (1) electronic copy of conformed construction documents for use during construction.
 - 2. For Construction Contractor:
 - a) Five (5) copies of conformed construction plans (full size) and documents bound with hard covers for use during construction.
 - b) One (1) electronic copy of conformed construction documents for use during construction.

Additional sets of documents can be provided as an additional service.

G. CONSTRUCTION PHASE:

Upon completion of the bid or negotiation phase services, FNI will proceed with the performance of construction phase services as described below. FNI will endeavor to protect the City in providing these services however, it is understood that FNI does not guarantee the Contractor's performance, nor is FNI responsible for supervision of the Contractor's operation and employees. FNI shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. FNI shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the Project.

These services are based on the use of FNI standard General Conditions for construction projects. Modifications to these services required by use of other general conditions or contract administration procedures are an additional service. If general conditions other than FNI standards are used, the City agrees to include provisions in the construction contract documents that will require the construction contractor to include FNI and their subconsultants on this project to be listed as an additional insured on contractor's insurance policies.

1. Meetings:

- a) Pre-Construction Meeting: Assist the City in conducting pre-construction conference with the Contractor. Prepare project meeting minutes.

- b) Construction Site Visits/Construction Progress Meetings: Make up to 12 site visits during the course of construction (estimated to be approximately 12 months construction schedule), as distinguished from the continuous services of a Resident Project Representative, to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Contract Documents. If Freese and Nichols is requested to visit the site more frequently than the specified number of visits each month or construction time extends beyond the time anticipated, the requested visits shall be considered an Additional Service and Freese and Nichols shall be entitled to additional compensation.
- c) Punchlist Meeting: Conduct, in company with City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation of final payment. Visiting the site to review completed work in excess of one trip is an additional service.

2. Construction Phase Services:

- a) Establish and maintain a project documentation system (FN Manager Pro) consistent with the requirements of the construction Contract Documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Produce monthly reports indicating the status of all submittals in the review process. Review contractor's submittals, including, requests for information, modification requests, shop drawings, schedules, and other submittals in accordance with the requirements of the construction Contract Documents for the projects. Monitor the progress of the contractor in sending and processing submittals to see that documentation is being processed in accordance with schedules.
- b) Notify City of Contractor's non-conforming work observed on site visits. Review quality related documents provided by the contractor such as test reports, equipment installation reports or other documentation required by the Construction Contract Documents.
- c) Interpret the drawings and specifications for City and Contractor. Investigations, analyses, and studies requested by the Contractor and approved by City, for substitutions of equipment and/or materials or deviations from the drawings and specifications is an additional service.
- d) Coordinate the work of testing laboratories and inspection bureaus required for the testing or inspection of materials, witnessed tests, factory testing, etc. for quality control of the Project. The cost of such quality control shall be paid by the City and is not included in the services to be performed by Freese and Nichols, Inc.
- e) Consult with and advise the City during construction, make recommendations to the City regarding materials and workmanship, and prepare change orders with the City's approval.
- f) Review samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of material and test equipment, and other data pursuant to the General Conditions of the Construction Contract.
- g) Assist the City in arranging for testing of materials and laboratory control during construction to be conducted at the City's expense.
- h) Review and comment on monthly and final estimates for payment to Contractor pursuant to the General Conditions of the Construction Contract.
- i) Conduct, in company with the City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Contract Documents, and review and comment on the Certificate of Completion and the recommendation for final payment to the Contractor.
- j) Provide construction staking for project as specified above.

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

H. ENVIRONMENTAL EVALUATION AND PERMITTING

1. The City Kerrville proposes to construct a new lift station adjacent to the existing Jefferson Street Lift Station, new force main and gravity sewer within new and existing easements. Based on preliminary review of the potential alignment, it will include at least one crossing of waters of the U.S., so construction will likely require 404 permit authorization. This scope assumes that the project can be designed and authorized under the terms and conditions of Nationwide Permit (NWP) 12, *Utility Line Activities*, or other NWP, without a pre-construction notification. FNI proposes the following scope of services to address these requirements:
 - a) Compile Information - Assemble data such as aerial photos, ROW limits, and alignments in digital format for use in GPS data logger. Create Data Dictionary for GPS data logger for data collection. Print paper maps and CAD drawings as necessary for field work.
 - b) Conduct site visit for pipeline alignment and other project features (e. g., lift station(s)) - FNI environmental scientists will conduct a site visit to make observations along the proposed routes in order to document existing conditions (environment) and assess project impacts. The presence and locations of waters of the U.S., including wetlands; potential threatened/endangered species habitat; and vegetation cover types will be identified in the proposed ROW.
 - c) Consult with Texas Historical Commission - FNI will prepare a letter to the Texas Historical Commission describing the project and requesting the Committee's review.
 - d) Prepare Technical Memorandum - FNI will prepare a technical memorandum documenting the results of the field study including a preliminary jurisdictional determination forms, wetland delineation data forms, photos, GPS information, and an opinion on the Section 404 permitting requirements. FNI will then recommend what, if any, additional studies are needed and a proposed course of action needed to get the project authorized under a Section 404 permit.
 - e) Meet with Client - FNI environmental scientists will attend up to two meetings with the Client to discuss project details, schedules, draft report comments, and/or the USACE permitting process.
2. Additional Environmental Services - Freese and Nichols will notify the Client if any of the following services will be necessary to comply with USACE permit requirements. The following services can be provided upon written authorization by the Client:
 - a) Meetings or consultations with regulatory agencies, pedestrian surveys, or preparation of documentation related to the cultural resources investigations should an issue be identified during the preliminary archeological survey.
 - b) Preparation of a detailed wetland delineation and jurisdictional determination report.
 - c) Preparation of a pre-construction notification for nationwide or regional general 404 permit coverage.
 - d) Preparation of a formal written request for USACE authorization under a letter of permission procedure.

- e) Preparation of a standard individual Section 404 permit application.
- f) Preparation of Environmental Information Document, Environmental Assessment, or an Environmental Impact Statement.
- g) Meetings or consultation with the USACE or other resource agencies, except as specifically noted in the scope of services.
- h) If required by the USACE, FNI can assist the District with holding a Public Hearing by preparing public notices, submitting notices to local newspaper(s); providing verbatim transcript services, attending the public hearing; and incorporating the hearing record into the EA.
- i) Presence/absence surveys for federally listed threatened/endangered species.
- j) Preparation of a mitigation plan to compensate for impacts to waters of the U.S.
- k) Application to Texas Commission on Environmental Quality for individual 401 Water Quality Certification.
- l) Application for General Land Office easements.
- m) Application for Texas Parks & Wildlife Department Sand and Gravel Permit.
- n) Additional field investigations or analysis required to respond to public or regulatory agency comments.
- o) Consultation with the U. S. Fish and Wildlife Service under Section 7 of the Endangered Species act.
- p) Expert representation at legal proceedings or at contested hearings.
- q) Mitigation monitoring if required by permit conditions.
- r) Monitoring compliance with permit conditions.
- s) Additional modifications to the compensatory mitigation plan.
- t) Payment of an EID processing fee if levied by the USACE.

I. GEOTECHNICAL INVESTIGATION

1. Coordinate field activities for site access.
2. Contact Texas One Call System to locate buried utilities within existing easements and right-of-way.
3. FNI will subcontract with drilling contractor to provide:
 - a) Two (2) borings to a depth of 60 feet at the lift station site.
 - b) Two (2) borings to a depth of 80 feet at the Guadalupe River HDD crossing.
 - c) Three (3) borings to a depth of 25 feet for the force main alignment.
 - d) Seven (7) borings to a depth of 25 feet for the gravity sewer alignment.
4. During drilling, obtain soil samples for testing using 3-inch diameter Shelby tubes for cohesive soils and using a 2-inch diameter split-barrel sampler for non-cohesive soils. Collect rock samples with a NX-size core barrel at the lift station and creek crossings. In areas where rock core is not collected or recovery is poor, perform Texas Cone Penetrometer (TCP) tests. Backfill borings with cuttings and plug the upper foot of each boring with quick-setting concrete mix.
5. During drilling, observations of seepage and groundwater will be recorded.
6. Provide an engineer or geologist to log the borings, direct the drilling, record the blow counts from field tests, and handle and store the samples.
7. Select samples for laboratory testing, assign tests, deliver samples to a subcontract laboratory selected by FNI, and review test results. Tests are expected include classification tests (liquid and plastic limits and percent passing the #200 Sieve), moisture contents, and unconfined compression tests.
8. Review subsurface conditions and soil properties found by the field and laboratory work and discuss the implications for design with FNI engineers.

9. Prepare a technical memorandum summary report of the geotechnical investigation presenting the boring locations, boring logs, lab test results and a discussion of general subsurface conditions. The report will include recommended foundation type(s) and allowable loading for the lift station, lateral earth pressures for below grade walls, and a general discussion of construction issues. Subsurface conditions will be generally characterized along the force main and gravity sewer alignments.

J. SURVEY (By Subconsultant)

1. Locate and verify existing survey control. The work shall include all horizontal and vertical coordinates of the survey. The survey shall use the same coordinate system typically used by the City of Kerrville and compatible with the City's existing survey data. Additionally, the proposed project shall connect to a gravity sewer line designed by another engineering firm. Surveyor shall verify this project's survey coordinate system is compatible with that project. FNI will provide information on other engineering firm's coordinate system to the surveyor. The surveyor is responsible for locating any benchmarks necessary to establish his work in this coordinate system. These benchmarks shall be located at the proposed lift station site and at 1,000 LF spacing along the force main and gravity sewer line.
2. Provide survey data for the following:
 - a) Proposed lift station site: Approximate 300'x300' site; including topography, boundary and ROW.
 - b) Replace Existing Force Main: Survey right-of-way to right-of-way along Jefferson Street to approximately 1,000 linear feet. Survey flow line elevations for two (2) 10" and an 18" existing force mains at tie-in location at lift station site as determined by Engineer and end of force mains at manholes off-site.
 - c) Horizontal Direction Drilling (HDD) area on North and South Side of Guadalupe River: The City owns the property on the north side of the river. An approximate 250'x250' area will need to be surveyed for boring operation. Scope includes writing up to two (2) easements on the north side of the river, including topography, boundary and adjacent ROW.
 - d) Force Main: Approximately 3,200 L.F. of 20-foot wide permanent easement and 20-foot wide temporary construction easement from the lift station site to Hamilton Street. Proposed easement may be paralleling existing easements along the alignment. The force main is expected to be within the Lowry Street ROW (approximately 800LF) until the HDD boring area north of the Guadalupe River. Scope includes topography, a boundary and locating adjacent ROW. Scope includes writing easements as required for the force main for up to 6 parcels.
 - e) Guadalupe River: Survey a 40' wide area across the river including the bottom profile of the river. Scope shall include providing exhibits and writing easements required to obtain permits for crossing the river.
 - f) Gravity Main: Approximately 7,000 L.F. of 40-foot wide permanent easement and 20-foot wide temporary construction easement from the boring area south of the Guadalupe River to the end of the pipeline near the G Street interceptor, including topography and ROW. Supplement existing water main survey by PD for sewer alignment changes and 100-foot cross sections.
3. Tie in all existing features and structures on the survey. These shall include, but are not limited to: tops of curbs, edges of pavement, bridges, retaining walls, drainage structures (top, edges and flow line), channels and drainage ways (tops, toes and flow line), manholes (rim, flow lines and diameters of pipes), valves, slabs, utility signs and structures, fences, landscaping features, shrubbery, buildings (edges and finished floor), trees greater than ten (10) inches in diameter (include species and diameter), tree canopies, cleanouts, mailboxes, driveways, sidewalks, property pins, utility poles, site equipment, storage tanks (footprint and top), dams (tops and toes), edges of impounded water, floors

of lakes and ponds (by sounding or rodding), and vaults (top, edges and flow line). Indicate the material and type of each item tied in.

4. Research utilities and easements within the project boundaries. Obtain drawings of existing agency and municipal owned utilities and include locations of these utilities in the survey. Provide copies of all existing utility plans to the Engineer in PDF format as they are received.
5. Coordinate utility marking with Dig Tess (level B), conduct survey and locate utilities within the project boundary. Obtain the services of a utility locator service (such as DIGTESS) and coordinate flagging of existing franchise utilities. Tie in the locations of the existing utilities on the survey. Surveyor shall bear all costs for the services of such a locator. The City will provide support for locating existing utilities within the existing lift station site. Subsurface utility exploration (SUE) may be provided by the City as directed by the Engineer. Surveyor shall coordinate with the Engineer and the City to survey SUE utilities, maximum of 4 locations.
6. Provide control staking for the project. Stake the centerline of the alignment at maximum 500' intervals, at PI's, PC's, PT's and beginning and ending of project. If required by FNI, offset the stakes by an amount specified by FNI. On each stake, indicate station number, offset to centerline and required cut or fill to final grade.
7. Provide sufficient ground shots to create one (1) foot contours for the project.
8. Surveyor shall locate proposed geotechnical boring locations and provide required utility locates as indicated above within those areas. There will be approximately 14 geotechnical bores for the project.
9. Where necessary along route, the surveyor shall contact private property owner and attempt to ascertain permission to enter and survey within private properties. If surveyor encounters a hostile property owner, surveyor will consult with FNI and/or the City for directions for resolution.
10. Construction Staking: Provide construction staking for proposed project as specified in Item 2 above. The control staking will be remarked at thirty (30) foot offsets to the points above on each side of the proposed alignment. For each point, wooden stakes shall be installed indicating station number, offset distance to centerline, and grade elevation. Construction staking is expected to be required in 2013. Construction staking for proposed project will be provided at an additional cost. An estimate of that cost can be provided upon approval of plans.
11. Parcels and Field Notes:
 - a) Perform deed, plat and courthouse record research and prepare metes and bounds descriptions, survey parcels and field notes for up to 8 impacted parcels of land for permanent and temporary right-of-way acquisition and for the Guadalupe River Crossing. The descriptions shall each contain drawing Exhibit A and verbal description Exhibit B, in accordance with State surveying standards. Provide FNI with 3 copies each of the descriptions, each with original seal and signature.
 - b) Obtain copies of deeds and easement documents.
 - c) Survey existing property corners, fences and appurtenant property evidence along the alignment route.
 - d) Stake Final easement corridor from alignment data.
 - e) Show ownership and adjoiner ownership data for properties along the route.
 - f) Revise parcel descriptions and field notes per comments and final title report.
 - g) Stake all parcels.

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

- A. Design of primary electrical service to the site from the power company.
- B. Obtaining the services of a SCADA integration subconsultant.
- C. Identification and evaluation of future wastewater system improvements.
- D. Updates to wastewater master plan and/or model that are not directly related to this project.
- E. Environmental services as defined above in Section G. ENVIRONMENTAL EVALUATION AND PERMITTING.
- F. Design of any modifications to existing lift stations or force mains that might aid in flow equalization.
- G. Preparation of separate bid packages, i.e. Lift Station Package, Force Main Package, Gravity Sewer Package, etc.
- H. Preparation of Storm Water Pollution Prevention Plan(s).
- I. Preparation of construction traffic control plan(s).
- J. Investigations involving consideration of operation, maintenance and overhead expenses, and the preparation of rate schedules, earnings and expense statements, feasibility studies, appraisals, evaluations, assessment schedules, and material audits or inventories required for certification of force account construction performed by the City.
- K. Preparing applications and supporting documents for government grants, loans, or planning advances and providing data for detailed applications.
- L. Providing shop, mill, field or laboratory inspection of materials and equipment.
- M. Preparing Operation and Maintenance Manuals or conducting operator training.
- N. Preparing data and reports for assistance to the City in preparation for hearings before regulatory agencies, courts, arbitration panels or any mediator, giving testimony, personally or by deposition, and preparations therefore before any regulatory agency, court, arbitration panel or mediator.
- O. Assisting City in claims disputes with Contractor(s).
- P. Performing investigations, studies and analyses of substitutions of equipment and/or materials or deviations from the plans and specifications.
- Q. Assisting City in the defense or prosecution of litigation in connection with or in addition to those services contemplated by this proposal. Such services, if any, shall be furnished by FNI on a fee basis negotiated by the respective parties outside of and in addition to this proposal.
- R. Providing environmental support services including the design and implementation of ecological baseline studies, environmental monitoring, impact assessment and analyses, permitting assistance, and other assistance required to address environmental issues.
- J. Easement preparation for gravity main.

PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF KERRVILLE AND FREESE AND NICHOLS, INC.

FNI COMPENSATION LUMP SUM WITH ADDITIONAL WORK BASED ON COST TIMES MULTIPLIER

Basic Services

Compensation to FNI for the Basic Services shall be the lump sum of \$627,783.00. If FNI sees the Scope of Services changing so that additional services are needed, including but not limited to those services described as Additional Services in Exhibit A, FNI will notify City for City's approval before proceeding. Additional Services shall be computed based on the Schedule of Charges below.

A breakdown of major task items and their associated costs are as follows:

Table with 2 columns: TASK and COST. Rows include Topographic Survey/Easement Acquisition (\$40,480), Geotechnical Analysis (\$34,217), Design Phase (\$446,438), Bid Phase (\$27,412), Construction Contract Administration and Site Visits (\$79,236), and Total Basic Services Fee (\$627,783).

Schedule of Charges for Additional Work:

Staff Member Salary Cost Times Multiplier of 2.3

Resident Representative Salary Cost Times Multiplier of 2.0

Salary Cost is defined as the cost of payroll of engineers, draftsmen, stenographers, surveyors, clerks, laborers, etc., for the time directly chargeable to the project, plus social security contributions, unemployment compensation insurance, retirement benefits, medical and insurance benefits, longevity payments, sick leave, vacation and holiday pay applicable thereto. (Salary Cost is equal to 1.632 times payroll. This factor is adjusted annually).

Other Direct Expenses Actual Cost Times Multiplier of 1.15

Other direct expenses shall include outside printing and reproduction expense, communication expense, travel, transportation and subsistence away from the FNI office and other miscellaneous expenses directly related to the work, including costs of laboratory analysis, test, and other work required to be done by independent persons other than staff members. For Resident Representative services performed by non-FNI employees and CAD services performed In-house by non-FNI employees where FNI provides workspace and equipment to perform such services, these services will be billed at cost times a multiplier of 2.0. This markup approximates the cost to FNI if an FNI employee was performing the same or similar services.

Rates for In-house Services

Computer

\$10.00 per hour

Plotter

Bond \$ 2.50 per plot

Special \$ 5.00 per plot

Color \$ 5.75 per plot

Testing Apparatus

Density Meter \$700.00 per month

Gas Detection \$ 20.00 per test

Printing

Black and White

\$0.10 per copy

Color

\$0.50 per copy

Binding

\$5.75 per book

**PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF KERRVILLE
AND FREESE AND NICHOLS, INC.**

PROJECT SCHEDULE

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

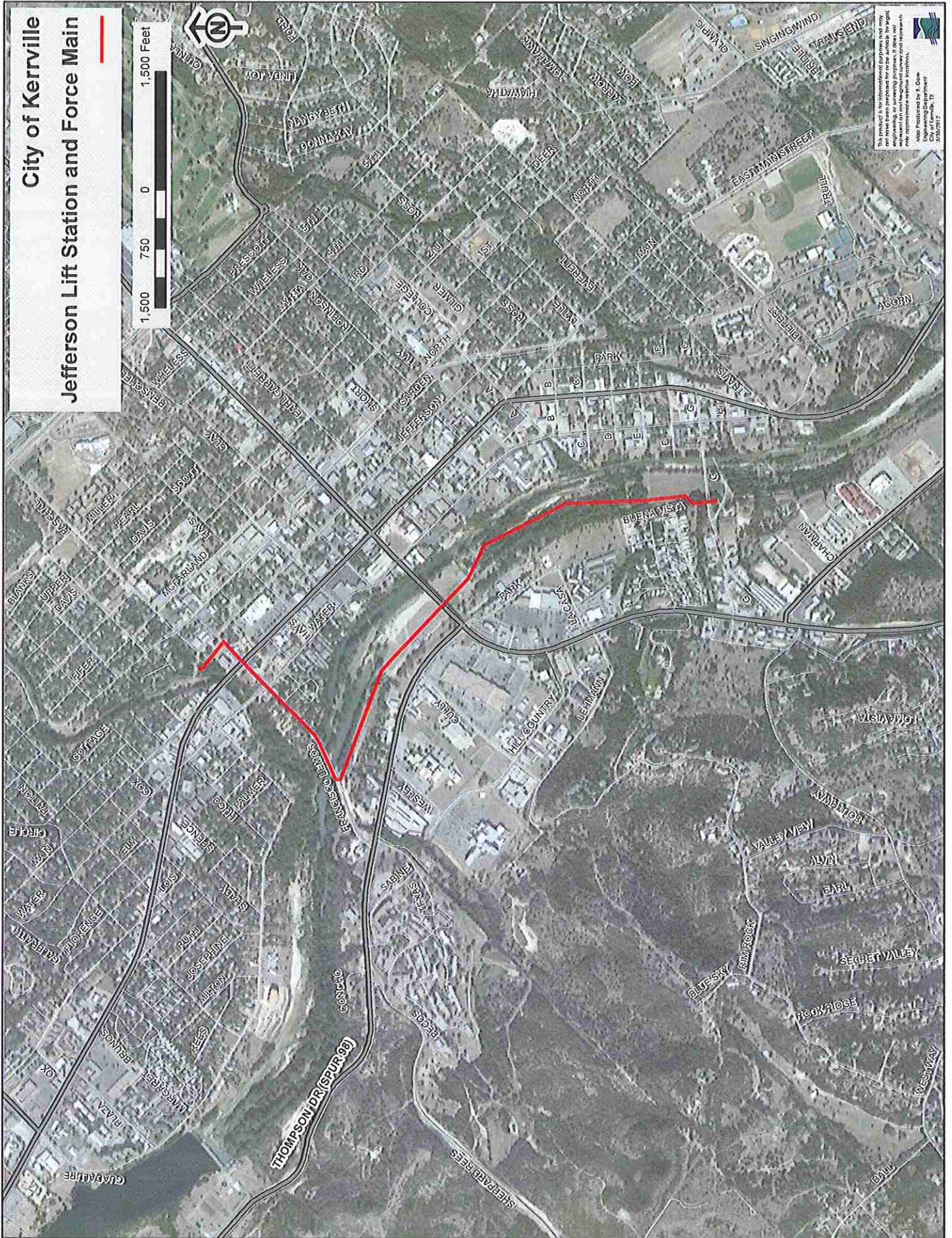
Milestone/Deliverable	Calendar Days
Preliminary Design Phase / 30% Schematic Design	60 days following Notice to Proceed
Finalize Preliminary Design Phase Report	15 days following receipt of comments from City
60% Design Phase Submittal	60 days following receipt of comments from City on 30% Design Submittal
90% Design Phase Submittal	90 days following receipt of comments from City on 60% Design Submittal
100% Design Phase Submittal	30 days following receipt of comments from City on 90% Design Submittal
Bid Phase Documents	14 days following receipt of comments from City on 100% Design Submittal
Bid Phase	±60 days for advertisement & contract execution
Construction Phase	390 days (360 days for Construction + 30 days for Preparation of Record Drawings)

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

City of Kerrville

Jefferson Lift Station and Force Main

1,500 Feet
0
750



This project is for informational purposes only and does not constitute a contract. The City of Kerrville is not responsible for any errors or omissions in this document. It does not represent an engineering or architectural representation.
Also Prepared by: E. Cole
Engineering & Planning
Kerrville, TX
5/20/2017

Agenda Item:

3E. Construction contract with Westar Construction Company for the construction of the river trail package A project in the amount of \$667,427.35 and authorize the city manager to execute additional change orders which may exceed \$50,000 but not to exceed the total amount of \$735,000.00. (staff)

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

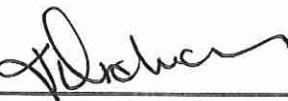
SUBJECT: Authorization for the City Manager to execute a construction contract with Westar Construction Company for the construction of the River Trail Package A project in the amount of \$667,427.35 and authorize the City Manager to execute additional change orders which may exceed \$50,000 but not to exceed the total amount of \$735,000.00.

FOR AGENDA OF: April 24, 2012 **DATE SUBMITTED:** April 19, 2012

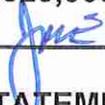
SUBMITTED BY: Dieter Werner, P.E. **CLEARANCES:** Kristine Ondrias 
Director of Engineering Assistant City Manager

EXHIBITS: Contract and Bid Tabulation
Aerial Map of Proposed Trail Route

PAYMENT TO BE MADE TO: Westar Corporation
4500 Williams Dr.
Georgetown, TX 78633

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$382,470.00	\$396,505.48	\$525,000.00	G27
<u>\$352,530.00</u>	\$6,000,000.00	<u>\$6,000,000.00</u>	B05
\$735,000.00		\$6,525,000.00	

REVIEWED BY THE FINANCE DIRECTOR: 

SUMMARY STATEMENT

In 2002 and 2007, the City of Kerrville approved a Capital Improvement Project for the River Trail in the amount of \$525,000.00. As part of the December 13, 2011 regular City Council meeting, Council approved the 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 Capital Improvement Project is funded by bond proceeds (B05) and includes a \$6,000,000.00 budget for engineering related services & construction. Funding from bond proceeds is as follows:

- \$3,449,745.15 from 2011A Bonds
- \$2,550,254.85 from 2012 Bonds

Package A of this project includes approximately 3000 linear feet of concrete trail, 690 linear feet of crushed granite trail, and a 90 foot long pedestrian bridge spanning a

portion of the Guadalupe River to Tranquility Island. Construction of this portion of the trail project will also include improvements at the Riverside Nature Center including construction of 55 linear feet of 8-foot cedar fencing, relocation of an existing T-Link fence and gate, removal and underground relocation of existing overhead power lines, relocation of an existing water storage tank, and the installation of limestone pavers along the trail.

The project's construction documents were completed and advertised for bids in April, 2012. Four bids were received for the project on April 17, 2012. The lowest qualified bidder was Westar Construction Company who bid the project at \$667,427.35. The Director of Engineering recommends awarding the project at a not to exceed amount of \$735,000.00 to cover the base bid and unforeseen change orders up to a 10% contingency amount that may occur during the course of construction.

RECOMMENDED ACTION

The Director of Engineering recommends that Council authorize the City Manager to execute a construction contract with Westar Construction Company for the construction of the River Trail Package A project in the amount of \$667,427.35 and authorize the City Manager to execute additional change orders which may exceed \$50,000 but not to exceed \$735,000.00.

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

SUBJECT: Authorization for the City Manager to execute a construction contract with Westar Construction Company for the construction of the River Trail Package A project in the amount of \$667,427.35 and authorize the City Manager to execute additional change orders which may exceed \$50,000 but not to exceed the total amount of \$735,000.00.

FOR AGENDA OF: April 24, 2012 **DATE SUBMITTED:** April 19, 2012

SUBMITTED BY: Dieter Werner, P.E. **CLEARANCES:** Kristine Ondrias *KO*
 Director of Engineering Assistant City Manager

EXHIBITS: Contract and Bid Tabulation
 Aerial Map of Proposed Trail Route

PAYMENT TO BE MADE TO: Westar Corporation
 4500 Williams Dr.
 Georgetown, TX 78633

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

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$382,470.00	\$397,060.48	\$525,000.00	G27
<u>\$352,530.00</u>	\$5,999,445.00	<u>\$6,000,000.00</u>	B05
<u>\$735,000.00</u>		<u>\$6,525,000.00</u>	

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

^{ca 2007} In 2002, the City of ^{525K} Kerrville approved a Capital Improvement Project for the River Trail in the amount of ~~\$500,000.00~~, funded by a bond issuance. As part of the December 13, 2011 regular City Council meeting, Council approved the 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 Capital Improvement Project is funded by bond proceeds (B05) and includes a \$6,000,000.00 budget for engineering related services & construction. Funding from bond proceeds is as follows:

- \$3,449,745.15 from 2011A Bonds
- \$2,550,254.85 from 2012 Bonds

Package A of this project includes approximately 3000 linear feet of concrete trail, 690 linear feet of crushed granite trail, and a 90 foot long pedestrian bridge spanning a

portion of the Guadalupe River to Tranquility Island. Construction of this portion of the trail project will also include improvements at the Riverside Nature Center including construction of 55 linear feet of 8-foot cedar fencing, relocation of an existing T-Link fence and gate, removal and underground relocation of existing overhead power lines, relocation of an existing water storage tank, and the installation of limestone pavers along the trail.

The project's construction documents were completed and advertised for bids in April, 2012. Four bids were received for the project on April 17, 2012. The lowest qualified bidder was Westar Construction Company who bid the project at \$667,427.35. The Director of Engineering recommends awarding the project at a not to exceed amount of \$735,000.00 to cover the base bid and unforeseen change orders up to a 10% contingency amount that may occur during the course of construction.

RECOMMENDED ACTION

The Director of Engineering recommends that Council authorize the City Manager to execute a construction contract with Westar Construction Company for the construction of the River Trail Package A project in the amount of \$667,427.35 and authorize the City Manager to execute additional change orders which may exceed \$50,000 but not to exceed \$735,000.00.

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:

Construction of approximately 3,300 square yards of mostly 10-foot wide concrete trail, 520 square yards of mostly 8-foot wide crushed granite trail, three span 90-foot long pedestrian bridge and associated retaining walls, grading and drainage improvements in Kerrville, Texas, as detailed in Section 090 "Description of Work".

The following are incorporated herein:

- a. General Provisions
- 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 140 calendar days and 10 calendar days after for final completion from the date of written notice to proceed. Working days are defined in specification section 123.20. The Contractor's obligations to the project however, are not complete and retainage will not be released until all disturbed areas within Kerrville right-of-way have been re-vegetated to the satisfaction of the City Engineer.

3. LIQUIDATED DAMAGES

Liquidated damages are hereby established for work which is not substantially complete in the amount of Three Hundred Dollars (\$300.00) per working day for each working day after the date established in the Notice to Proceed. The City may offset any such liquidated damages against any sums from time to time due by the City to Contractor.

The completion time assumes that fifteen percent of the working days are "bad weather days," days on which the work cannot proceed; therefore, the time for completion shall not be extended on account of bad weather until the said number of assumed "bad weather days" has been exceeded.

The time for completion shall not be extended except by written memorandum executed by the Contractor and the City Manager. Contractor shall make written application to the City not later than ten (10) days after the day, event, or cause claimed by Contractor to be a delay. Failure to make such written claim within such time shall result in a waiver by Contractor of an extension based on those particular days, events, or causes. If, for example, this contract assumes twenty (20) bad weather days and Contractor desired a one-day extension for the twenty-first day of rain, Contractor shall make a written claim not later than ten (10) days after the occurrence of such twenty-first day.

The said amount per day is not a penalty but an agreed amount of actual damages which are difficult to calculate. Such damages include loss of staff time, answering complaints by citizens who have been inconvenienced by the work, City Council time, loss of use, and other damages difficult to reasonably anticipate or calculate.

4. PAYMENTS

The City shall pay the Contractor ninety-five percent (95%) of the portion of Contract Sum properly allocable to labor, materials, and equipment incorporated in the Work and constructed in place, less the aggregate of previous payments made by the City. No payments for materials on-hand or stored at the site will be made. All retainages from progress payments shall be withheld without liability for interest. Upon acceptance, the City shall make payment to Contractor such that one hundred percent (100%) of the completed work has been paid.

The City may choose to award a contract for the amount of the base bid plus no or any combination of additive alternates.

5. LIABILITY INDEMNITY

THE CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF KERRVILLE, TEXAS, AND ALL OF THEIR RESPECTIVE OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OF DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF THE CONTRACTOR, THE CITY OF KERRVILLE, TEXAS, OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS IN THE EXECUTION, SUPERVISION, AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT, WHETHER OR NOT THE ACT OR OMISSION OF THE CITY OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, OR AGENTS WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH THE NEGLIGENCE OF THE CONTRACTOR OR ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, OR SUBCONTRACTORS, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE PERFORMANCE OF THIS AGREEMENT.

6. LIABILITY INSURANCE

Prior to the commencement of any work and not later than fifteen (15) days following the execution of this contract, the Contractor shall furnish the City copies of paid-up policies (to the City Risk Manager/City Hall) providing Liability and Workman's Compensation Coverage as follows minimum limits):

TYPE OF INSURANCE	LIMITS
a. Workman's Compensation covering all employees	Statutory
b. Employer's Liability	<u>\$100,000.00</u>
c. Comprehensive General Liability	
Bodily Injury & Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$1,000,000.00</u>
(Premises/Operations Products/Completed Operations/Independent Contractors/Contractual Liability/Coverages may not be excluded). XCU must be supplied if any exposure.	
d. Business Automobile Liability covering owned vehicles, rented and non-owned vehicles and employee non-ownership	
Bodily Injury Property Damage (per occurrence)	<u>\$1,000,000.00</u>
Aggregate	<u>\$1,000,000.00</u>

The Commercial General Liability and the Automobile Liability policies shall name the City of Kerrville, Texas, as additional insured and all policies shall provide for a waiver of subrogation in favor of the City of Kerrville. The policy and any renewal certificate shall provide that the City be notified thirty (30) days prior to cancellation or modification of any coverage. Language to the effect that the company will "Endeavor" or "Attempt" to so notify the City of Kerrville is not sufficient. Renewal certificates must be received by the City at least ten (10) days prior to any cancellation date. Policies will be in effect until final acceptance or cancellation of this contract, unless otherwise specified. The City may, at its sole option, terminate this agreement and file a claim on the Contractor's bid bond if the Contractor fails to deliver the required policies and certificates within 15 days after execution of this contract.

It shall be the responsibility of the Contractor to insure that all Subcontractors comply with the same insurance requirements as the said Contractor.

7. CASUALTY INSURANCE

In the event the work includes structures or buildings susceptible to damage by fire, windstorm, or other casualty, then the Contractor before being authorized to begin work shall furnish the City a duplicate original of an insurance policy naming the City of Kerrville as an additionally insured. Such insurance shall insure both the City of Kerrville and Contractor, during the term of the work, against loss by fire, windstorm, vandalism, theft, or other casualty. Such policy shall be in the total amount of this contract.

8. QUALITY OF WORK

All work shall be of good workmanship. Contractor shall comply with all applicable City of Kerrville Codes as well as all applicable professional and technical standards. Materials shall be of first quality.

9. CHANGES AND EXTRAS

No change of this Contract, whether for additional work, additional compensation, or other, shall be effective unless prior thereto a written change order has been authorized by the City Engineer.

10. ADDENDA

Contractor acknowledges the receipt of the following addenda:

1. Dated: April 13, 2012 Acknowledged by: Mark Williamson
2. Dated: _____ Acknowledged by: _____

11. AWARD OF CONTRACT

The lowest qualified bidder will be awarded the base bid plus any combination of additive alternates pending availability of funds and City Council approval.

12. CONTRACT SUM

Proposal: Contractor agrees to provide all labor, materials, and all incidentals necessary to complete "The Work" for the following Unit Prices:

ITEM NO.	APPROX. QUANTITY	UNIT	DESCRIPTION OF ITEM	UNIT PRICE	TOTAL AMOUNT
BASE BID					
1	1	LS	Mobilization and Bonds (5% of Base Bid Max)	\$ 31,000 ⁰⁰	\$ 31,000 ⁰⁰
2	29	STA	Preparing ROW	\$ 500 ⁰⁰	\$ 14,500 ⁰⁰
3	220	CY	Excavation	\$ 18 ⁰⁰	\$ 3,960 ⁰⁰
4	650	CY	Embankment	\$ 36 ⁰⁰	\$ 23,400 ⁰⁰
5	3300	SY	10-foot wide Concrete Sidewalk (5 1/2-inch depth with 30-inch toedowns)	\$ 69 ⁹³	\$ 230,769 ⁰⁰
6	95	SY	5-foot wide Concrete Sidewalk (5 1/2-inch depth with no toedowns)	\$ 69 ⁹³	\$ 6,643 ³⁵
7	615	SY	Crushed Granite Trail-(6-inch depth)	\$ 27 ⁰⁰	\$ 16,605 ⁰⁰
8	15	LF	Install 18-inch Reinforced Concrete Pipe (CI III) complete and in place	\$ 30 ⁰⁰	\$ 450 ⁰⁰
9	30	LF	Install 4x2 Reinforced Concrete Box (CI III) complete and in place	\$ 150 ⁰⁰	\$ 4,500 ⁰⁰
10	212	CY	Grouted Rock Riprap (Common), complete and in place	\$ 50 ⁰⁰	\$ 10,600 ⁰⁰
11	20	CY	Installation of Type C1 and C2 Curb, complete and in place	\$ 600 ⁰⁰	\$ 12,000 ⁰⁰
12	82	CY	Installation of Type F1/F2/F3 Curb, complete and in place	\$ 600 ⁰⁰	\$ 49,200 ⁰⁰
13	72	EA	Installation of Limestone Blocks, complete and in place	\$ 150 ⁰⁰	\$ 10,800 ⁰⁰
14	1	LS	Riverside Nature Center Improvements including fencing, parking as shown on plans	\$ 33,000 ⁰⁰	\$ 33,000 ⁰⁰
15	1	LS	Overhead Electric Removal and Replacement at Riverside Nature Center	\$ 13,000 ⁰⁰	\$ 13,000 ⁰⁰
16	1	LS	Pedestrian Bridge including abutment protection, complete and in place	\$ 177,000 ⁰⁰	\$ 177,000 ⁰⁰
17	1	LS	Traffic control and regulation-complete in place	\$ 6,500 ⁰⁰	\$ 6,500 ⁰⁰
18	1	LS	Preparation and installation of SWPPP, complete and in place	\$ 13,500 ⁰⁰	\$ 13,500 ⁰⁰
19	1	LS	Landscaping allowance to be used only at the direction and approval (in writing) from the City Parks Director	\$ 10,000	\$ 10,000
TOTAL BASE BID				\$	\$ 667,427 ³⁵

COMPLETED BY

Westar Construction, Inc.
General Contractor Name

April 17, 2012
Date

Mark Williamson
General Contractor Representative

President
Title

Sub-Contractors:

	NAME	ADDRESS	PHONE	WORK TO BE PERFORMED
1.	Woolery Custom Fence	190 Monkey Rd. Elgin, TX 78621	512.801.9867	**Fencing and Handrail
2.				
3.				

(Attach additional sheet if required)

*Westar is still evaluating bids for Concrete, Granite, and Steel Suppliers

*Westar will attempt to use local business for these items.

INSURANCE AGENT

NAME ADDRESS PHONE POLICY

1. Time Insurance Agency 1405 East Riverside Dr. Austin, TX 78741 (512) 447-7773

2. *Several Policies Including: GL, Auto, WC, and Umbrella

3. _____

BONDING AGENT

NAME ADDRESS PHONE POLICY

1. Cowan- Hill Bond Agency P.O. Box 54020 Lubbock, TX 79453 (806) 722-2663

2. *Provides all Bid Bonds, Performance Bonds, & Payment Bonds

3. _____

BIDDER'S EXPERIENCE

In order to make a responsive bid, the Bidder must attach evidence of a minimum of three (3) successfully completed projects within the last five (5) years of similar nature to the River Trail Package A Project. The bidder must attach a letter of reference from the Owner of the three projects completed during this time period. Similar project types must include the construction of trails with concrete retaining walls, construction within a floodplain and construction of a bridge or pedestrian bridge of at least similar scope as the proposed bridge in this project.

* Please See Attached Letters and Photos

Signed this 17th day of April, ~~2011~~ 2012

Attest: [Signature] Westar Construction, Inc Contractor

Secretary
(if bid by a Corporation)

BY: [Signature]

Title: President

SEAL

Business Address:

4500 Williams Dr.

Suite 212-PMB 411

Georgetown, TX 78633

Phone: 512.630.5930

Fax: 512.233.0691

ACCEPTED THIS _____

day of _____, 2012

By: _____

Todd Parton, City Manager
City of Kerrville, Texas.

ATTEST:

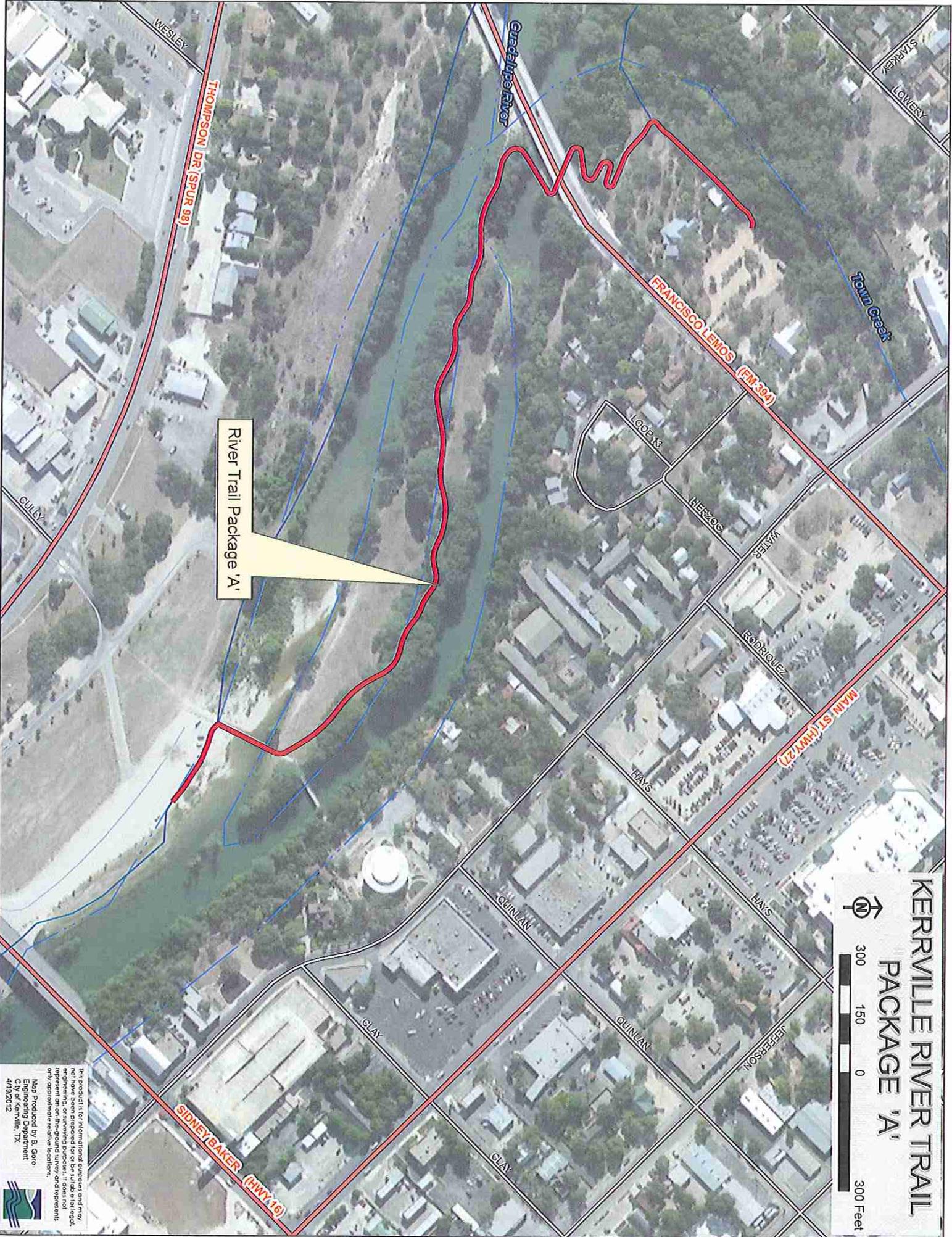
Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

[Signature]

Mike Hayes, City Attorney

KERRVILLE RIVER TRAIL PACKAGE 'A'



River Trail Package 'A'

This product is for informational purposes and may not be used for any other purpose. It is not a legal document and does not constitute an offer of insurance. It is not intended to be used as a substitute for legal advice. It is not intended to be used as a substitute for an on-the-ground survey and represents only approximate relative locations.

Map Produced by: B. Gale
Engineering Department
City of Kerrville, TX
4/19/2012



Agenda Item:

4A. Sign Regulations – Chapter 6, Article II of the City Code. (staff)

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

SUBJECT: Sign Regulations – Chapter 6, Article II of the City Code

FOR AGENDA OF: April 24, 2012 *mcH* **DATE SUBMITTED:** April 19, 2012

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

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *RP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

Update from City staff regarding the drafting of a sign code, timeline, and involvement of community groups and interests.

RECOMMENDED ACTION

Discussion and action where appropriate.

Agenda Item:

4B. Consideration of an agreement between Playhouse 2000 and the City of Kerrville to conduct a free production of Shakespeare in the Park tentatively scheduled for June 1 through 3, 2012, at Louse Hays Park. (staff)

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

SUBJECT: Consideration of an agreement between Playhouse 2000 and the City of Kerrville to conduct a free production of Shakespeare in the Park tentatively scheduled for June 1 through 3, 2012, at Louise Hays Park

FOR AGENDA OF: April 24, 2012 **DATE SUBMITTED:** April 19, 2012

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

EXHIBITS: Draft Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

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

SUMMARY STATEMENT

At its last meeting of April 10, 2012, City Council voted to participate with Playhouse 2000 (P2K) to conduct a free Shakespeare in the Park production. The event is planned for the first weekend of June 2012 in Louise Hays Park.

A draft agreement for the event is attached to this agenda bill. The proposal presented to the City Council provided for in-kind contributions in addition to a contribution of \$5,500 toward the project. One primary caveat is that P2K implement a marketing plan.

The agreement outlines the roles and responsibilities of both the City of Kerrville and P2K. It also provides that the city's contributions would actually be used to purchase and lease equipment for the production. The decision to purchase some of the equipment instead of renting is predicated upon the fact that rental fees amount to approximately half of the cost to purchase. Equipment purchased with city funds would be added to the Cailloux Theatre inventory and would be available for city sponsored events at no cost. A definitive list of equipment to be purchased has been attached to the agreement.

RECOMMENDED ACTION

Staff recommends that the City Council approve and accept the attached agreement.

LICENSE AGREEMENT FOR SPECIAL EVENT
(Shakespeare in the Park)

THIS LICENSE AGREEMENT ("Agreement") is entered into and effective as of the _____ day of _____, 2012, by and between City of Kerrville, Texas ("City"), a Texas home-rule municipal corporation, acting herein through its City Manager; and Playhouse 2000, Incorporated ("Playhouse"), a Texas nonprofit corporation, acting by and through its duly authorized officer. Collectively the City and Playhouse may be referred to as the "Parties" and individually as the "Party".

BACKGROUND

WHEREAS, City and Playhouse are working together to produce Shakespeare in the Park event for the citizens of Kerrville and others; and

WHEREAS, this Agreement is intended to formalize the relationship and further illustrate the collaboration between the Parties by setting forth understandings regarding this production and to help ensure the establishment of appropriate safeguards for a safe and successful event; and

WHEREAS, the City will to provide funding for Playhouse to acquire specified equipment for use in the production of Shakespeare in the Park now and in the future; and

WHEREAS, the City Council finds that Shakespeare in the Park to be held within the City's Louise Hays Park will benefit the public through the offering of entertainment and may encourage tourism;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the Parties have agreed as follows:

I. APPOINTMENT OF PLAYHOUSE AS COORDINATOR; LICENSE FOR USE OF CITY PROPERTY

- 1.1** City hereby appoints Playhouse and Playhouse hereby accepts the appointment as the official coordinator of the event known as Shakespeare in the Park (the "Event").
- 1.2** City hereby grants Playhouse the right to temporarily use and occupy the entertainment stage, large park pavilion, and any associated facilities within the City's Louise Hays Park ("Licensed Premises") for the Event, subject to the terms and conditions of this Agreement. Playhouse shall use the License Premises solely for the operation of this Event and for no other purpose.
- 1.3** Playhouse, at all times, shall control its contractors, agents, representatives, and volunteers. City may remove any and all such persons from the Licensed Premises who engage in disorderly or unsafe conduct. In the event of the exercise of this authority,

Playhouse hereby waives any and all claims for damages against the City and its officers, employees, and agents on account thereof.

II. TERM

- 2.1 The term of this Agreement is from the date that this Agreement is signed by both Parties through June 4, 2012.

III. IMPROVEMENTS

- 3.1 Playhouse shall not construct, or allow to be constructed, any permanent improvements or structures on the Licensed Premises nor shall Playhouse make, or allow to be made, any alterations to the Licensed Premises unless approved by the City's Director of Parks and Recreation ("Director") or designee.

IV. RULES, REGULATIONS, AND RESPONSIBILITIES

- 4.1 Playhouse shall comply with any request of the City's Police Department and its officers and the City's Fire Marshal.
- 4.2 City, through its Parks and Recreation Department, Police, Fire, EMS, and/or other representatives, shall have the right at any time to enter any portion of the Licensed Premises for any purpose. The Licensed Premises shall at all times remain under the sole charge and control of the Director or his designated representatives. The entrances and exits of the Licensed Premises shall be open or closed under the direction of the Director in accordance with the terms of this Agreement and the normal constraints for public safety as determined by the Director or designated representatives.
- 4.3 Playhouse shall ensure that all pathways, entrances, and points of ingress and egress remain unobstructed and that such is not used for any other purposes other than public ingress or egress.
- 4.4 Playhouse shall not bring or permit anyone to bring or keep anything into the Licensed Premises that will or may increase the fire hazard or adversely affect the Licensed Premises. Playhouse shall not bring any personal property onto the Licensed Premises or place or put up any decorations that may damage Licensed Premises without the consent of the City.
- 4.5 Playhouse shall permit anyone to enter the Licensed Premises with ice chests, coolers, thermoses, lounge chairs, blankets, towels or similar products.
- 4.6 Playhouse and its contractors, agents, representatives, and volunteers shall conduct the Event in accordance with federal, state, and local laws, including applicable noise regulations.

- 4.7 Playhouse may use and place only temporary advertisements, signs, decorations, posters, banners, inflatable balloons, and displays ("signage") in, on, or about the Licensed Premises. All signage shall be subject to the prior written approval of City. Playhouse agrees to remove and properly dispose of all signage from the Licensed Premises when Playhouse vacates the Licensed Premises.
- 4.8 No activity or method of operation shall be allowed in, on, or about the Licensed Premises which exposes patrons to nudity or to partial nudity. "Nudity" means total absence of clothing or covering for the human body. "Partial nudity" means exposure of the female breast or the exposure of the male or female pubic area or buttocks.
- 4.9 Discrimination on account of race, color, sex, age, disability, or national origin, directly or indirectly, in employment or in the use of or admission to the Licensed Premises is prohibited.
- 4.10 Playhouse shall assign an event coordinator to ensure compliance with this Agreement and provide City with a single point of contact. Playhouse shall provide City with all contact information for the event coordinator, such information to include cell, business, and home telephone numbers and an email address.
- 4.11 Playhouse assumes all liabilities and costs arising from the use of patented, trademarked, or copyrighted materials, equipment, devices, processes or dramatic and performance rights used on or incorporated in conducting the Event. Playhouse shall ensure that all applicable licensing fees are paid, such as the American Society of Composers, Authors, and publishers (ASCAP) fee. **PLAYHOUSE SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ALL DAMAGES, COSTS, AND EXPENSES IN LAW OR EQUITY FOR OR ON ACCOUNT OF ALL CLAIMS ARISING OUT OF THE USE OF ANY PATENTED, TRADEMARKED OR COPYRIGHTED MATERIALS, EQUIPMENT, DEVICES, PROCESSES OR DRAMATIC OR PERFORMANCE RIGHTS FURNISHED OR USED BY PLAYHOUSE, AND ALL CLAIMS ARISING INCIDENT TO THIS AGREEMENT.**
- 4.12 Playhouse shall be responsible for the marketing of the Event and all production costs associated with marketing.
- 4.13 Playhouse shall take all appropriate steps to prevent and pick-up litter from the Licensed Premises and surrounding area.
- 4.14 Playhouse shall provide twenty-four hour security to monitor the entertainment stage, including tent and equipment, between performances.
- 4.15 City shall allow Playhouse to make electrical connections to existing electrical service for use by Playhouse during the Event, including the provision of electricity for the

entertainment stage. Any electrical or water service required for the Event beyond that which is currently available will be the responsibility of Playhouse.

- 4.16 City shall allow Playhouse access to Louise Hays Park facilities, entertainment stage, and tent.
- 4.17 City shall provide transportation and assembly of the stage tent prior to the first performance and following the last performance.
- 4.18 City shall provide assistance on the morning of June 1, 2012, transporting equipment from the Playhouse office to Licensed Premises.
- 4.19 City shall reserve the Licensed Premises for the Event, pursuant to the Special Events Permit, attached as **Exhibit A**.
- 4.20 City shall provide \$5,500.00 to Playhouse for the purchase of equipment, a detailed list of which is attached as **Exhibit B**.
- 4.21 Purchased equipment described in **Exhibit B** shall be owned by the City and available for Playhouse to lease out as part of their regular inventory. Such equipment shall be made available for any and all City sponsored events without charge.
- 4.22 City shall post information about the Event on the City's website prior to the Event.

V. DEFAULT AND REMEDIES

- 5.1 During the Event, a default occurs that is of a nature that threatens public safety or property damage or is a material breach in the operation of the Event by Playhouse and Playhouse shall not cure such failure within one hour after verbal notice thereof to Playhouse through the appointed event coordinator. If a breach cannot be cured within one hour, Playhouse shall attempt the cure within one hour and thereafter diligently pursue a remedy.
- 5.2 Upon the occurrence of an event of default as heretofore provided, City may, at its option, declare this Agreement, and all rights and interests created by it, terminated. Upon City electing to terminate, this Agreement shall cease and come to an end as if that were the day originally fixed herein for the expiration of the term hereof; or City may, at its option, resume possession of the Licensed Premises.
- 5.3 Any termination of this Agreement as included herein shall not relieve Playhouse from any claim for damages then or theretofore accruing against Playhouse hereunder, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from Playhouse for any default hereunder. All rights, options, and

remedies of City contained in this Agreement shall be cumulative of the other and City shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement. No waiver by City of a breach of any of the covenants, conditions, or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction herein contained.

VI. INDEMNIFICATION

- 6.1 **PLAYHOUSE COVENANTS AND AGREES TO FULLY INDEMNIFY, DEFEND, AND HOLD HARMLESS CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS, INDIVIDUALLY OR COLLECTIVELY, FROM AND AGAINST ANY AND ALL DEFENSE COSTS, CLAIMS, LIENS, DAMAGES, JUDGMENTS, LOSSES, EXPENSES, FEES, FINES, PENALTIES, PROCEEDINGS, ACTIONS, DEMANDS, CAUSES OF ACTION, LIABILITY, AND SUITS OF ANY KIND IN LAW OR IN EQUITY AND NATURE: (1) ARISING OUT OF OR IN CONNECTION WITH PLAYHOUSE'S USE AND/OR OCCUPANCY OF THE LICENSED PREMISES TO THE EXTENT IT ARISES OUT OF ANY NEGLIGENT ACT OR OMISSION OF PLAYHOUSE OR ANY OF PLAYHOUSE'S CONSULTANTS, CONTRACTORS, AGENTS, REPRESENTATIVES, VOLUNTEERS, PATRONS, GUESTS, OR INVITEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS AND REPRESENTATIVES, INCLUDING ANY DAMAGE TO OR LOSS OF ANY PROPERTY BELONGING TO: (A) PLAYHOUSE OR PLAYHOUSE'S CONSULTANTS, CONTRACTORS, AGENTS, REPRESENTATIVES, VENDORS, PATRONS, GUESTS, OR INVITEES AND THEIR RESPECTIVE OFFICERS, AGENTS, EMPLOYEES, DIRECTORS, AND REPRESENTATIVES; OR (B) CITY AND ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS. THE INDEMNITY PROVIDED FOR HEREIN SHALL NOT APPLY TO ANY LIABILITY RESULTING FROM A NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT OF CITY, ITS ELECTED OFFICIALS, EMPLOYEES, OFFICERS, AGENTS, REPRESENTATIVES, AND VOLUNTEERS IN INSTANCES WHERE SUCH NEGLIGENCE CAUSES PERSONAL INJURY, DEATH, OR PROPERTY DAMAGE, EXCEPT TO THE EXTENT PROVIDED BELOW. IN THE EVENT PLAYHOUSE AND CITY ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY SHALL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH TEXAS STATE LAW, WITHOUT, HOWEVER, WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO CITY, ITS ELECTED OFFICIALS, OFFICERS, AND EMPLOYEES UNDER TEXAS LAW AND WITHOUT WAIVING ANY OTHER LAWFUL DEFENSES AVAILABLE TO OTHERS.**

- 6.2 Playhouse shall promptly advise City in writing of any claim or demand against City or Playhouse known to Playhouse related to or arising out of Playhouse 's or City's activities under this Agreement. Further, Playhouse shall see to the investigation and defense of any such claim or demand against Playhouse or City at Playhouse's sole cost until such time as City is found to be negligent by a court of competent jurisdiction. City shall have the right, at its option and at its own expense, to participate in such defense without relieving Playhouse of any of its obligations under this paragraph.
- 6.3 The provisions of this INDEMNIFICATION are solely for the benefit of the Parties and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 6.4 Playhouse and its contractors, agents, representatives, and volunteers while engaged in the performance of any work required by the City or any work related to this Agreement shall be considered representatives, agents, or volunteers of Playhouse only and not of City. Any and all claims that may result from any obligation for which Playhouse may be held liable under any Workers' Compensation, Unemployment Compensation, or Disability Benefits law or under any similar law on behalf of said representatives, agents, or volunteers shall be the sole obligation and responsibility of Playhouse.
- 6.5 All personal property placed within the Licensed Premises shall be at the sole risk of the Playhouse. City shall not be liable and Playhouse waives all claims for any damage either to the person or property of Playhouse or to other persons due to the Licensed Premises or any part of appurtenances thereof becoming out of repair or arising from bursting or leaking of water, gas, waste pipes, or defective wiring or excessive or deficient electrical current; or from any act or omission of or other occupants of the Licensed Premises, or any other persons; due to the happening of any accident in or about said Licensed Premises. **PLAYHOUSE SHALL SAVE AND HOLD HARMLESS CITY FROM ANY CLAIMS ARISING OUT OF DAMAGE TO PLAYHOUSE'S PROPERTY OR DAMAGE TO PLAYHOUSE'S BUSINESS.**

VII. INSURANCE REQUIREMENTS

- 7.1 Prior to the commencement of the Event, Playhouse shall furnish copies of all required endorsements and an original completed Certificate(s) of Insurance to the City, which shall clearly indicate the Event in the Description of Operations block of the Certificate. The original Certificate(s) shall be completed by an agent and signed by a person authorized by that insurer to bind coverage on its behalf. City will not accept Memorandum of Insurance or Binders as proof of insurance. The original certificate(s) or form must have the agent's original signature, including the signer's company affiliation, title, and phone number, and be mailed, with copies of all applicable endorsements, directly from the insurer's authorized representative to the City. City shall have no duty to perform under this Agreement until such certificate and endorsements have been received and approved by the City. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

- 7.2 The City reserves the right to review the insurance requirements of this section and to modify insurance coverages and their limits when deemed necessary and prudent by the City's Risk Manager based upon changes in statutory law, court decisions, or circumstances surrounding the Agreement, but in no instance will the City allow modification whereupon the City may incur increased risk.
- 7.3 As the Playhouse's financial integrity is of interest to City, therefore, subject to Playhouse's right to maintain reasonable deductibles in such amounts as are approved by City, Playhouse shall obtain and maintain in full force and effect for the duration of the Agreement, at Playhouse's sole expense, insurance coverage written, on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and rated A.M. Best's rating of no less than A-(VII), in the following types and for an amount not less than the amount listed.

TYPE	AMOUNT
Commercial General (Public) Liability a) Premises/Operations b) Independent Contractors umbrella or excess liability c) road Form Contractual Liability coverage d) Products/completed operations e) Broad form property damage, to include fire legal liability f) Personal Injury	Statutory \$1,000,000/\$1,000,000/\$1,000,000 For Bodily Injury and Property Damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate or its equivalent in

- 7.4 City shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by City and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation and are binding upon either party hereto or the underwriter of any such policies.
- 7.5 Playhouse agrees that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- A. Name City and its elected officials, employees, officers, agents, representatives, and volunteers as additional insureds by endorsement as respects operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of: the workers' compensation and professional liability policies;

- B. Provide for an endorsement that the "other insurance" clause shall-not apply to the City where the City is an additional insured shown on the policy;
 - C. Workers' compensation, employers' liability, and property insurance policies will provide a waiver of subrogation in favor of the City; and
 - D. Provide immediate written notice directly to the City of any suspension cancellation, or material change in coverage.
- 7.6 City shall have the option to suspend Playhouse's performance should the required insurance be cancelled or modified during this Agreement. Playhouse's failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement. All notices, replacement certificates of insurance and endorsements shall be delivered to the City to the address indicated below or as may be directed by City.
- 7.7 In addition to any other remedies the City may have upon Playhouse's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, City shall have the right to order Playhouse to stop work hereunder and vacate the Licensed Premises until Playhouse demonstrates compliance with the requirements hereof.
- 7.8 Nothing herein contained shall be construed as limiting in any way the extent to which Playhouse may be held responsible for payments of damages to persons or property resulting from the performance of work covered under this Agreement by Playhouse or its contractors, agents, representatives, vendors, concessionaires, and volunteers.
- 7.9 Playhouse agrees that its insurance shall be deemed primary and noncontributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.
- 7.10 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

VIII. SEPARABILITY

- 8.1 If any clause or provision of this Agreement is illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement, then and in that event it is the intention of the Parties that the remainder of this Agreement shall not be affected thereby; and, it is also the intention of the Parties to this Agreement that in lieu of each clause or provision of this Agreement that is illegal, invalid, or unenforceable, there be added as a part of this Agreement a clause or provision as similar in terms to such illegal, invalid, or unenforceable clause or provision may be possible and be legal, valid, and enforceable.

IX. NOTICES

- 9.1 Notices to City required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered; mailed, Registered or Certified mail, Postage Prepaid; or faxed to the addresses and telephone number as follows:

City Manager
City of Kerrville
800 Junction Highway
Kerrville, Texas 78028
FAX (830) 792-5804

With a copy to:
Director, Parks and
Recreation Department
City of Kerrville
800 Junction Highway
Kerrville, Texas
FAX (830) 896-6220

Or to such other address as may have been designated in writing by City.

Notices to Playhouse required or appropriate under this Agreement shall be deemed sufficient if in writing and hand delivered; mailed, Registered or Certified mail, Postage Prepaid; or faxed to the addresses and telephone number as follows:

Playhouse 2000
Jeffrey Brown, Executive Director
P.O. Box 290088
Kerrville, Texas 78029

Or to such other address as may have been designated in writing by City.

X. PARTIES BOUND

- 10.1 The covenants and agreements herein contained shall insure to the benefit of and be binding upon the Parties; their respective heirs, legal representatives, successors, and such assigns as have been approved by City.

XI. TEXAS LAW TO APPLY

- 11.1 This Agreement shall be construed under and in accordance with the laws of the state of Texas and all obligations of the Parties are performable in Kerr County, Texas.

XII. RELATIONSHIPS OF PARTIES

12.1 Nothing contained herein shall be deemed or construed by the Parties hereto or by any third party as creating the relationship of employer and employee, principal and agent, partners, joint ventures, or any other similar relationship between the Parties.

XIII. GENDER

13.1 Any words of gender used in this Agreement shall be held and construed to include any other gender and words in the singular number shall be held to include the plural, unless the context otherwise requires.

XIV. CAPTIONS

14.1 The captions contained in this Agreement are for convenience of reference only and in no way limit or enlarge the terms and conditions of this Agreement.

XV. ENTIRE AGREEMENT AND AMENDMENT

15.1 This Agreement constitutes the entire agreement between the Parties and any other written or oral agreements with City being expressly waived by Playhouse.

15.2 No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof, and duly executed by the Parties hereto.

XVI. AUTHORITY

16.1 The signer of this Agreement for Playhouse hereby represents and warrants that he or she has full authority to execute this Agreement on behalf of Playhouse.

SIGNED ON THIS ____ DAY OF _____, 2012.

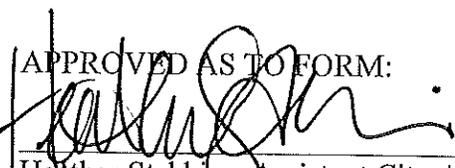
City of Kerrville, Texas

Playhouse 2000:

By: _____
Jeffrey Todd Parton, City Manager

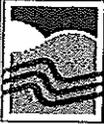
By: _____

APPROVED AS TO FORM:



Heather Stebbins, Assistant City Attorney

T:\Legal\Parks & Recreation\Contract\Shakespeare in the Park License Agreement for Special Event 041812 DRAFT.docx



City of Kerrville APPLICATION FOR SPECIAL EVENTS PERMIT

Application Date: 4/10/2012

Note: Application must be submitted no later than 30 days prior to date of event or set up date, whichever comes first.

Name of Event: SITAKE SPEAR IN THE PARK

Purpose of Event: Public Entertainment

Location of Event: Louise Hays Park Parking Location:

Date of Event: JUN 12 2012 Time - From: 7:30 To: 9:30

Date of Event set-up: May 31 Time - From: 8 AM To: 8 PM

Sponsor/Co-Sponsor: Play House 2000

Contact Person: J. Grey Brown Mailing Address: P.O. Box 290088, 78029

Contact Phone #: 876-9395 x 227 Alternate #: 786-9410 Email Address: jbrown@callsoftheater.com

Approximate number attending: 350 (9:AM) Sanitary Facilities (i.e. port-a-potties): Y/N

Will you require temporary street closure: Y/N

If yes which location: _____ public works approval

Will food or beverages be served to the public? Y/N required permit

Note: If there will be food served please make sure you have submitted a Temporary Health Permit Application.

Will alcoholic beverages be served? Y/N if yes; required permit

Please indicate whether you will have any of the following involved in the event:

Temporary structures, tents, canopies, membrane structures or air-filled amusement structures (i.e. bounce house, mazes or slides): Y/N Please specify: TENT for Control Booth + STAGE

Motorized rides: Y/N Fire Pits (i.e. barbeque cookers): Y/N Bonfires: Y/N

Deep Fat Fryers: Y/N Pyrotechnics: Y/N Animals: Y/N

Aerial Attractions: Y/N Electrical Equip.: Y/N Other:

Fuel-powered equip. (generators, amusement rides, air-blowers): Y/N
If you indicated "Y" (Yes) on any of the above activities, permits are required from the Fire Marshal's Office prior to setting the activities and/or event up. required permit

Please Read Before Signing

The undersigned applicant agrees to indemnify and hold harmless the City of Kerrville, its officers, employees, agents and representatives against all claims of liability and causes of action resulting from injury or death, or damage to persons or property arising out of this Special Event.

The undersigned applicant acknowledges that he/she has been provided a copy of the Special Events Ordinance, No. 88-09, the Park Rules Ordinance, No. 88-36 and, if applicable, the downtown Street Closure Resolution, No. 96-133.

The undersigned applicant acknowledges and agrees that any costs incurred by the city, associated with this event, may become the applicant's financial responsibility.

The undersigned applicant acknowledges and agrees that clean-up will be completed the same day that the event closes or before 7:30am the following morning or the deposit will automatically be forfeited.

Signature of Applicant: [Signature] Date: 4/10/2012

**Exhibit B
Equipment Acquisition List**

Item	Purchase		Lease		TOTAL COST
	No.	Cost	No.	Cost	
Sound					
Sennheiser ew-122 G3 (or similar)	5	\$ 2,350.00			\$ 2,350.00
Electro Voice ZX5 90B (or similar)	2	\$ 1,050.00			\$ 1,050.00
PA Amplifier/EQ Systems			2	\$ 250.00	\$ 252.00
Light					
ETC Smartfade (or similar)	1	\$ 1,850.00			\$ 1,850.00
TOTAL		\$ 5,250.00		\$ 250.00	\$ 5,500.00

Agenda Item:

4C. Consideration of an interlocal service agreement between the City of Kerrville and the Kerr Emergency 9-1-1 Network for addressing. (staff)

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

SUBJECT: Consideration of an interlocal service agreement between the City of Kerrville and the Kerr Emergency 9-1-1 Network for addressing

FOR AGENDA OF: April 24, 2012 **DATE SUBMITTED:** April 19, 2012

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

EXHIBITS: Draft Interlocal Agreement for Addressing

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Attached is a copy of a draft Interlocal agreement between the City of Kerrville and the Kerr Emergency 9-1-1 Network (Kerr 9-1-1) for addressing. This agreement was discussed by the Kerr 9-1-1 Board at its meeting of April 19, 2012. The Board made positive comments on the proposed changes to Attachment A and the new procedures and processes in Attachment B. The Board wants to amend Section Three, Paragraph a. to state that the City of Kerrville is providing the authority to Kerr 9-1-1 to engage in the addressing function. Wording for this provision needs to be finalized between the attorneys for both parties.

With the exception of Section Three, Paragraph a. there is no other change requested or proposed to the document presented to the council on April 10, 2012.

The Kerr 9-1-1 Board tabled action on the agreement until such time that the city made its final review and approval. Additionally, they stated that any ordinance changes needed for enforcement of this agreement would need to be drafted and presented to them before they would authorize the execution of the agreement.

RECOMMENDED ACTION

It is recommended that the City Council authorize the city attorney to finalize the language in Section Three, Paragraph a. with the Kerr 9-1-1 attorney and direct the city attorney to initiate the ordinance amendments necessary to provide for the enforcement provisions of the draft agreement.

STATE OF TEXAS)(

CITY OF KERRVILLE)(

INTERLOCAL SERVICE AGREEMENT

THIS AGREEMENT is made and entered this _____ day of _____, 2012, by and between **City of Kerrville**, a political subdivision of the State of Texas, hereinafter referred to as the "City", and **Kerr Emergency 9-1-1 Network**, an emergency communication district organized under the laws of the State of Texas, hereinafter referred to as "Kerr 9-1-1."

WHEREAS, City is a duly organized political subdivision of the State of Texas engaged in the administration of city government and related services for the benefit of the citizens of Kerrville; and

WHEREAS, Kerr 9-1-1 is a duly organized emergency communication district in Kerr County, Texas, created pursuant to Texas Health and Safety Code Chapter 772, Subchapter D, et seq., and engaged in the improvement and development of emergency communication procedures and facilities and other related services for the benefit of the citizens of Kerr County; and

WHEREAS, City has previously instituted and currently maintains an urban style addressing scheme which facilitates a quick response to any person or business calling the telephone number 9-1-1 seeking police, fire, medical, rescue and/or other emergency services; and

WHEREAS, City and Kerr 9-1-1 recognize the need to maintain the addressing system and to modify current addresses as public safety dictates or add new addresses as development occurs; and

WHEREAS, City and Kerr 9-1-1 mutually desire to be subject to provisions of the Texas Government Code, Chapter 791, the Interlocal Cooperation Act; and

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree and understand as follows:

Section One. City agrees to:

- a. retain Kerr 9-1-1 as its physical addressing agent;
- b. allow Kerr 9-1-1 to execute all physical addressing tasks;
- c. maintain the "source" records for all approved road names within the City;
- d. shall coordinate survey (individual) and subdivision plats and road name requests with Kerr 9-1-1 as specified in **Attachment A**;

- e. through its City Council, act as the authority and agent for final approval of road name changes as specified in **Attachment B**; and
- f. ensure compliance with addressing and road name assignments established pursuant to this Agreement via enforcement of City codes, ordinances, and regulations.

Section Two. Kerr 9-1-1 agrees to:

- a. assume the responsibility for and to provide the services necessary to maintain the physical addressing of the City such that it will have review and approval authority over physical addressing and street naming associated with survey (individual) and subdivision plats as further specified in **Attachment B**;
- b. enter future property address access points in the Kerr 9-1-1 working-address file as required;
- c. review, approve, and coordinate future new road/street names and add them to the "Center Line Road" Kerr 9-1-1 working-address file;
- d. submit for City coordination and approval all address and road name changes to currently addressed properties and streets. These changes will be identified and recommended based on public safety issues that exist, as specified in **Attachment B**;
- e. notify the United States Postal Service of all newly added addresses;
- f. maintain the Master Street Address Guide (MSAG);
- g. maintain the "Center Line Road" G.I.S. file, which will be considered the "source" cartographic record for all named roads/streets within the City;
- h. maintain the 9-1-1 working address file, which will be considered the "source" record for all 9-1-1 addresses in the City. This is not the PSAP Emergency ANI/ALI file which is covered under state law;
- i. respond to inquiries regarding City addressing from the public; and
- j. participate in meetings, as requested, with the City in order to facilitate the flow of information between the parties.

Section Three. The parties make the following acknowledgments:

- a. Kerr 9-1-1 stipulates and concurs that City has original and final authority on physical addressing issues within its jurisdiction.

- b. City and Kerr 9-1-1 agree that the services specified within this Agreement shall be accomplished without any compensation paid by City to Kerr 9-1-1.
- c. In the event that any portion of this Agreement shall be found to be contrary to law, it is the intent of the parties that the remaining portion shall remain valid and in full force and effect to the extent possible.
- d. The covenants, conditions, and terms hereof are to be construed under the laws of the State of Texas and are performable by all parties in Kerrville, Texas.
- e. This Agreement may be terminated by either party upon thirty (30) days written notice to the other party. The City may, without cause, order Kerr 9-1-1 in writing to suspend, delay, or interrupt any or all of the services specified by this Agreement, in whole or in part for such period of time as the City may determine.
- f. 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 such party shall endeavor to remove or overcome such inability with all reasonable dispatch. The term Force Majeure as used here shall mean acts of God, strikes, lockouts, or other industrial disturbances, act of public enemy, orders of any kind of government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquake, fires, hurricanes, storms, floods, washouts, drought, 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 by any Force Majeure shall be remedied with all reasonable dispatch and shall not require the settlement of strikes and lockouts by acceding to the demand of the opposing party or parties when such settlement is unfavorable in the judgment of the party having the difficulty.
- g. No claim or right arising out of a breach of this Agreement may be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.
- h. This Agreement may be modified only by writing, signed by both of the parties or their duly authorized agents.
- i. This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their

agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Agreement. Acceptance or acquiescence in the course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party has knowledge of the performance and opportunity for objection.

- j. The parties mutually agree that venue for any litigation arising from this Agreement shall lie in Kerrville, Kerr County, Texas.
- k. The undersigned officers and agents of the parties hereto are the properly authorized officials and have the necessary authority to execute this Agreement on behalf of the respective parties and each party certifies to the other that any and all necessary resolutions extending said authority have been duly passed and are now in full force and effect.
- l. Any notices required to be given by any party to this agreement shall be mailed or faxed to the other party at the following addresses:

City of Kerrville
Building Official
800 Junction Highway
Kerrville, Texas 78028
(830) 257-8000

with a copy to:
City Manager
800 Junction Highway
Kerrville, Texas 78028
(830) 257-8000

Kerr Emergency 9-1-1 Network
Executive Director
819 Water Street, STE 270
Kerrville Texas 78028
FAX (830) 792-5923

A party may change the address to which notices under this agreement are to be given in written notification of the address change to the other party.

EXECUTED at Kerrville, Kerr County, Texas, on the day and year first written above.

CITY

Kerr 9-1-1

BY: _____
David Wampler
Mayor

BY: _____
William E. Amerine
Executive Director

ACTING ON BEHALF AND BY THE
AUTHORITY OF THE KERRVILLE

ACTING ON BEHALF AND BY THE
AUTHORITY OF THE BOARD OF

CITY COUNCIL

MANAGERS OF KERR EMERGENCY 9-1-1 NETWORK

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

Attachment A
Road Name and Addressing Procedures

I. Road Name Characteristics

- A. In most instances, road names shall not exceed 48 characters, including spaces between the elements.
- B. The elements of a road name, in proper logical order, are:
 - 1. The *street prefix directional indicator* (e.g., N, SW, etc.) is a National Emergency Number Association (“NENA”) standard convention but is not recommended. If utilized it will not exceed two characters, including spaces.
 - 2. The *primary street name*, an essential element, is the parent name of the road and shall not exceed the NENA recommended maximum length of forty characters, including spaces.
 - 3. The *suffix*, an essential element, which indicates the road type (e.g., STREET, DRIVE, AVENUE, etc.), may not exceed four characters when abbreviated per United States Postal Service (“USPS”) and NENA standards.
 - 4. A *directional indicator*, indicating the geo-region in which a road lies, is limited to a two-character maximum and shall be one of the eight NENA approved abbreviated directional indicators (i.e., N, E, W, S, NW, SW, NE, and SE). Directional indicators are optional. They are being replaced by Emergency Service Numbers (“ESN”) which provide uniqueness when duplicates within the City exist.

II. Naming Conventions

- A. Each road shall have only one official name.
- B. The official names of roads shall be those finally approved by Kerr 9-1-1.
- C. A road name should be appropriate with a short primary street name so that it is easy to read and remember in an emergency, and may promote tradition, history, geography, and character.
- D. Frivolous or complicated words or unconventional spellings should not be used for primary street names.
- E. A road should be essentially continuous, without gaps.

- F. Where practicable, each continual road shall have the same primary street name and suffix throughout its entire length, regardless of the boundaries of local political subdivisions.
- G. A proposed or new road that is obviously an extension of an existing named road shall bear the assigned name of the existing road.
- H. Alias road names are not permitted.
- I. Special characters shall not be permitted in road names (i.e., hyphens, periods, apostrophes, etc.).
- J. A primary street name should not consist of a suffix or directional indicator (e.g., COURT ST or NORTH AVE).
- K. The alteration or inversion of the proper, logical order of road name elements (e.g., AVE OF CEDARS or BLVD BLUE) shall not occur.
- L. Roman numerals shall not be used in a road name.
- M. Numeric street names should not be spelled out, but abbreviated per USPS standards. (i.e., 8TH ST instead of EIGHTH ST).
- N. USPS route numbers shall not be used as road names.
- O. There shall be no duplication of road names within the City of Kerrville or within its extraterritorial jurisdiction, except in extraordinary circumstances; i.e., one short cul-de-sac and/or one short loop that intersect no other street than the parent street, may bear the primary street name of the parent street, but with a different suffix. Examples of duplicate road names are:
 1. CATHY LANE compared to KATHY LANE;
 2. LAKE VIEW ROAD compared to LAKEVIEW ROAD;
 3. JONDO STREET compared to JONDO CROSSING or HONDO STREET;
 4. PINE TREE LANE compared to PINE TREES LANE or PINES TREE LANE;
 5. MAIN PARKWAY compared to MAIN STREET.
- P. Every road name shall have a corresponding standard suffix, abbreviated per USPS guidelines, that complies with NENA and USPS standards as follows:

HIGHWAY (**HWY**) – A State highway classified as a major thoroughfare (designated by the State as a highway, expressway, freeway, turnpike, etc.)

PARKWAY (**PKWY**) – A State highway classified as a minor thoroughfare or a non-thoroughfare (Farm-to-Market, Park Road, etc.)

ALLEY (**ALY**) – A narrow lane between or behind a row of buildings

AVENUE (**AVE**) – A principal road in a densely populated area

BOULEVARD (**BLVD**) – A street with a median reflecting the boulevard character

CIRCLE (**CIR**) – Self-terminating circular streets

COURT (**CT**) – A permanently closed street ending in a cul-de-sac

COVE (**CV**) – A short permanently closed road ending in a cul-de-sac

DRIVE (**DR**) – A curvilinear street

LANE (**LN**) – A secondary dead-end road

LOOP (**LOOP**) – A crescent shaped road that connects two or more different roads

PATH (**PATH**) – A minor road, usually consisting of a single traffic lane

RIDGE (**RDG**) – A scenic road, usually in urban areas

ROAD (**RD**) – A common collector road, usually in rural areas

ROW (**ROW**) – A minor short road

RUN (**RUN**) – A minor road, usually in a residential subdivision

STREET (**ST**) – A common collector road, usually in urban areas

TRAIL (**TRL**) – A secondary curvilinear road

VIEW (**VW**) – A scenic road, usually in rural areas

WAY (**WAY**) – A minor roadway

Other suffixes for roads not listed above may be considered at the discretion of the City and Kerr 9-1-1 provided the suffix meets these guidelines and is a valid street suffix and abbreviated, as defined in USPS publication, Postal Addressing Standards, 1997, Publication 28.

- Q. Where a private restricted road is an extension of a public access road, substantially continuing the same level of service as the public road; from a public safety perspective it is recommended that the private road carry the name of the public road, if there is no obvious demarcation (i.e., an intersection, cattle guard, permanent gate) to easily indicate a change in road status.
- R. Jurisdictionally mandated changes or modification to a road name along a continuous road way should occur only at a major intersection or similar demarcation.
- S. Road names memorializing living individuals or politicians are not appropriate and should not be used.
- T. Road names that are obviously offensive, libelous or derogatory in spelling or pronunciation are prohibited.

III. Roads Requiring Names

- A. All publicly maintained roads shall be named and signed.
- B. A public access road, or a private restricted road exceeding one-quarter mile (1,320 feet) in length, providing easement to two or more unique properties, upon which exists, or potentially exists, more than two uniquely owned buildings should be named and properly signed.
- C. Any road, regardless of length, that provides access to more than two properties should be named and signed under the following circumstances:
 - 1. The location or arrangement of the buildings confuses or hinders consistent address assignment from a named road.
 - 2. A named road intersects the road, but due to topography or distance, buildings along the unnamed road are not easily viewed or located from the named intersecting road.
 - 3. Naming of the road is necessary to adequately direct emergency responders to a building(s) or uniquely owned properties.
 - 4. Any road that leads to one or more roads that provide access to uniquely owned properties or buildings should be named and signed.

- D. A private restricted road may not require naming, and will be treated as a driveway when the road is:
 - 1. the access to a single property, and
 - 2. is entered from a named road, allowing address assignment at that intersection.
- E. A driveway need not be named even if the driveway serves multiple buildings if the buildings are visible so that they can be addressed from a named road intersecting the driveway.

IV. Road Naming Authority

Except as otherwise set forth in this exhibit, final authority for road names rests with Kerr 9-1-1 for roads in the City and its Extraterritorial Jurisdiction (“ETJ”), as defined by state law. Kerr 9-1-1 shall name roads in accordance with the procedures outlined in **Attachment B**.

V. Renaming of Roads

- A. Reasons to rename an existing road are:
 - 1. to eliminate duplication and confusion;
 - 2. to eliminate confusion when a permanent gap occurs in a previous continuous road;
 - 3. to change the classification, type or, status of a road;
 - 4. to correct misspelling;
 - 5. to improve or maintain continuity and parity of street numbering;
 - 6. to provide a required suffix; or
 - 7. to recognize a person or organization.
- B. If an existing road requires renaming the procedures specified in **Attachment B** shall be followed.

VI. Addressing Authority

Except as otherwise set forth in this exhibit, final authority for addressing rests with Kerr 9-1-1 for properties in the City and its Extraterritorial Jurisdiction (“ETJ”), as defined by

state law. Kerr 9-1-1 shall provide addressing in accordance with the procedures outlined in **Attachment B**.

VII. Renumbering of Addresses

- A. Reasons to renumber existing addresses are:
 - 1. to eliminate duplication and confusion;
 - 2. to eliminate confusion when a permanent gap occurs in a previous continuous road;
 - 3. to correct errors;
 - 4. to improve or maintain continuity and parity of street numbering;
 - 5. to accommodate redevelopment of a property; or
 - 6. to recognize a person or organization.
- B. If existing addresses require renumbering the procedures specified in **Attachment B** shall be followed.

Attachment B
Protocols for Road Naming and Addressing

I. Naming of New or Previously Unnamed Roads

- A. New Public Access Roads and Private Restricted Roads – Kerr 9-1-1 shall have the sole authority to approve names for new public access roads or private restricted roads as provided herein. Kerr 9-1-1 shall approve a road naming plan approved in conjunction with the approval process for subdivision plats. The process shall be as follows:
1. The City of Kerrville shall forward all applications for plat approval to Kerr 9-1-1,
 2. Final plat applications shall include street names proposed by the applicant,
 3. Kerr 9-1-1 shall provide in writing to the City of Kerrville its final designation of road names with said road names being implemented on the final plat document prior to approval by the City of Kerrville, and
 4. Should Kerr 9-1-1 fail to provide a written verification of the designated road names within ten (10) business days from the date of transmittal of a final plat application by the City of Kerrville, the City of Kerrville reserves the sole right to designate road names.
- B. Previously Unnamed Public Access Road or Private Restricted Road –
1. Road Name Application
 - a. Persons desiring to name (1) a previously unnamed public access road that is located wholly or partially within the Kerrville corporate limits or (2) a private restricted road that is located wholly or partially within the Kerrville corporate limits or its extraterritorial jurisdiction shall submit an application to Kerr 9-1-1 on a form provided by Kerr 9-1-1.
 - b. Kerr 9-1-1 shall provide a copy of road naming applications to the Kerrville City Engineer for public safety compliance review prior to commencement of formal action on the application.
 - c. Kerr 9-1-1 has the authority to review and approve all road name applications. Approval shall ensure that road naming standards specified in **Attachment A** are met and approval shall not be unreasonably withheld.
 - d. Once it has taken action on the road naming application Kerr 9-1-1 shall provide the Kerrville City Engineer with an accurate scale map of the road location from its inception to termination and its relationship to other established roads.

2. Road Naming Process Initiated by Kerr 9-1-1, Any Affected Local Authority, USPS or Simple Majority of Land Owners

- a. The process to name an unnamed existing public access road may be initiated by Kerr 9-1-1, any affected local authority, USPS, or by petition of a simple majority of land owners along the road, by application to Kerr 9-1-1.
 - b. Kerr 9-1-1 shall provide a copy of these road naming requests to the Kerrville City Engineer for public safety compliance review prior to commencement of formal action on the application.
 - c. Kerr 9-1-1 has the authority to review and approve all road name applications. Approval shall ensure that road naming standards specified in **Attachment A** are met and approval shall not be unreasonably withheld.
 - d. Once it has taken action on the road naming application Kerr 9-1-1 shall provide the Kerrville City Engineer with an accurate scale map of the road location from its inception to termination and its relationship to other established roads.
- C. The naming or final name approval of a privately maintained road shall not constitute nor imply acceptance of the road for public maintenance.

II. Road Renaming Procedures

- A. Renaming of a public access road may be initiated by Kerr 9-1-1, any affected local authority, USPS, or by petition of a simple majority of landowners along the road, by application to Kerr 9-1-1.
- B. Renaming of a private restricted road may be initiated by a petition of landowners along the road or a local authority, by application presented to the City, county or both.
- C. Kerr 9-1-1 shall ensure that the proper procedures of the City of Kerrville or Kerr County shall be followed. If a road to be renamed is under the jurisdiction of more than one local authority, the jurisdiction within which lies the greater portion of the road shall have precedence in the renaming action.
- D. Kerr 9-1-1 shall provide a copy of these road renaming applications to the Kerrville City Engineer for public safety compliance review prior to commencement of formal action on the application.

- E. Any approved actions to rename a road must conform to the road naming standards specified in **Attachment A** and approval shall not be unreasonably withheld.
- F. Public Notice and Public Hearing Required for Road Renaming Process Initiated by Kerr 9-1-1, a Local Authority or USPS
 - 1. Where renaming affects more than four (4) properties
 - a. A public hearing must be held by Kerrville City Council and must be scheduled by Kerr 9-1-1 on a regular meeting date of the Kerrville City Council.
 - b. Kerr 9-1-1 shall provide written notification to affected property owners at least fifteen (15) calendar days prior to the public hearing. The written notice is deemed to have been provided by placement within the U.S. postal service.
 - c. Kerr 9-1-1 shall provide public notice of the public hearing in a paper of general circulation within the City of Kerrville at least ten (10) calendar days prior to the public hearing.
 - d. City Council shall take action to approve or reject the renaming proposal within thirty (30) calendar days after the public hearing.
 - 2. Where renaming affects four (4) or fewer properties
 - a. Kerr 9-1-1 shall provide written notification to affected property owners within ten (10) calendar days after its acceptance of the application. The written notice is deemed to have been provided by placement within the U.S. postal service.
 - b. Kerr 9-1-1 shall provide public notice of the renaming application in a paper of general circulation within the City of Kerrville within ten (10) calendar days of its acceptance of a renaming application.
 - c. Kerr 9-1-1 shall take administrative action on the renaming application no earlier than fifteen (15) calendar days after its acceptance of a renaming application and no later than thirty (30) calendar days of its acceptance of a renaming application.

III. Addressing

- A. Kerr 9-1-1 shall have the sole authority to assign street addresses for properties located adjacent to public access roads or private restricted roads as provided

herein. Kerr 9-1-1 shall approve an addressing plan approved in conjunction with the approval process for subdivision plats. The process shall be as follows:

1. The City of Kerrville shall forward all applications for plat approval to Kerr 9-1-1,
 2. Kerr 9-1-1 shall provide in writing to the City of Kerrville its final addressing plan prior to approval by the City of Kerrville, and
 3. Should Kerr 9-1-1 fail to provide an addressing plan within ten (10) business days from the date of transmittal of a final plat application by the City of Kerrville, the City of Kerrville reserves the sole right to establish an addressing plan.
- B. Addressing shall be established on a distance basis and in accordance with the specifications included in **Attachment A**.

Agenda Item:

5A. Way finding Sign Project Update (staff)

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

SUBJECT: Way finding Sign Project Update

FOR AGENDA OF: April 24, 2012

DATE SUBMITTED: April 19, 2012

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

EXHIBITS: Exhibit A: Identified Locations
Exhibit B: Map
Exhibit C: Report from National Sign Plaza

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

Staff was directed to research and develop a plan to erect way finding signs along our major corridors. Work has begun with discussions with TxDot officials and National Sign Plazas (NSP) representatives. During preliminary staff discussions buildings and/or venues were identified along with the need to work in phases.

Phase I would concentrate on larger signs erected at IH10 at SH16 and IH10 at FM783. Phase II would be the kiosk type signs with directional arrows and the third phase would be City Hall/Peterson Plaza signage.

Representatives from NSP have been to Kerrville to do preliminary research for locations and types of signs for the locations. They have provided us with a report for a master plan for the project to include costs and a timeline from approval to installation. Estimated cost is \$99,000-\$118,000 depending on the sign material option including design, planning, fabrication, installation and service. An additional expense to be considered will be a maintenance cost of approximately 3-5% annually of the total program cost. This will cover sign replacement, vandalism, weather related repairs, etc.

Comparing projects, costs, timeline and maintenance fees of projects in other cities, staff is finding these estimates are in line with what other cities have paid. The bid process will allow us to receive other vendors proposals for the fabrication and installation.

The timeline suggested from approval to installation would be approximately 120 days depending on the design section of the process. Once the design is completed and agreed upon, the fabrication and installation sections take place relatively quick.

RECOMMENDED ACTION

For discussion and direction.

Possible Wayfinding Locations
March 27, 2012

Phase I - Large

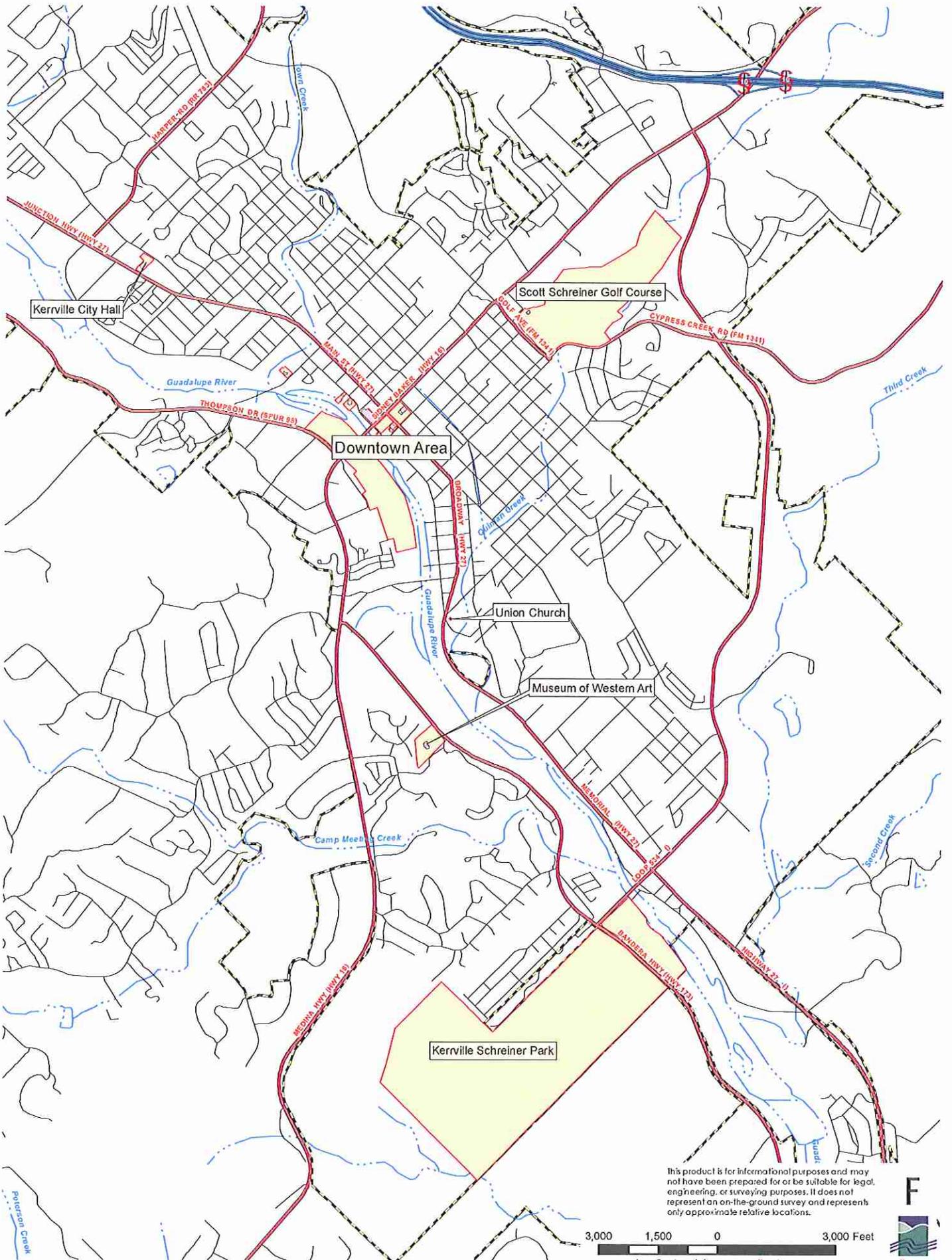
IH 10 @ SH 16
IH 10 @ FM783

Phase II - Kiosk

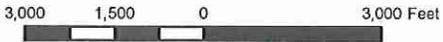
City Hall
Peterson Plaza
Museum of Western Art
Butt Holdsworth Memorial Library
Downtown Pavilion
Louise Hays Park
River Trail System
History Center
Schreiner Mansion
Kerrville Schreiner Park
Scott Schreiner Golf Course
Riverside Nature Center
Kerr Arts and Cultural Center
Peterson Plaza
Union Church
Kathleen C. Cailloux City Center for the Performing Arts
Downtown Visitors Center
Mother's Love
Public Parking
Kerr County Courthouse

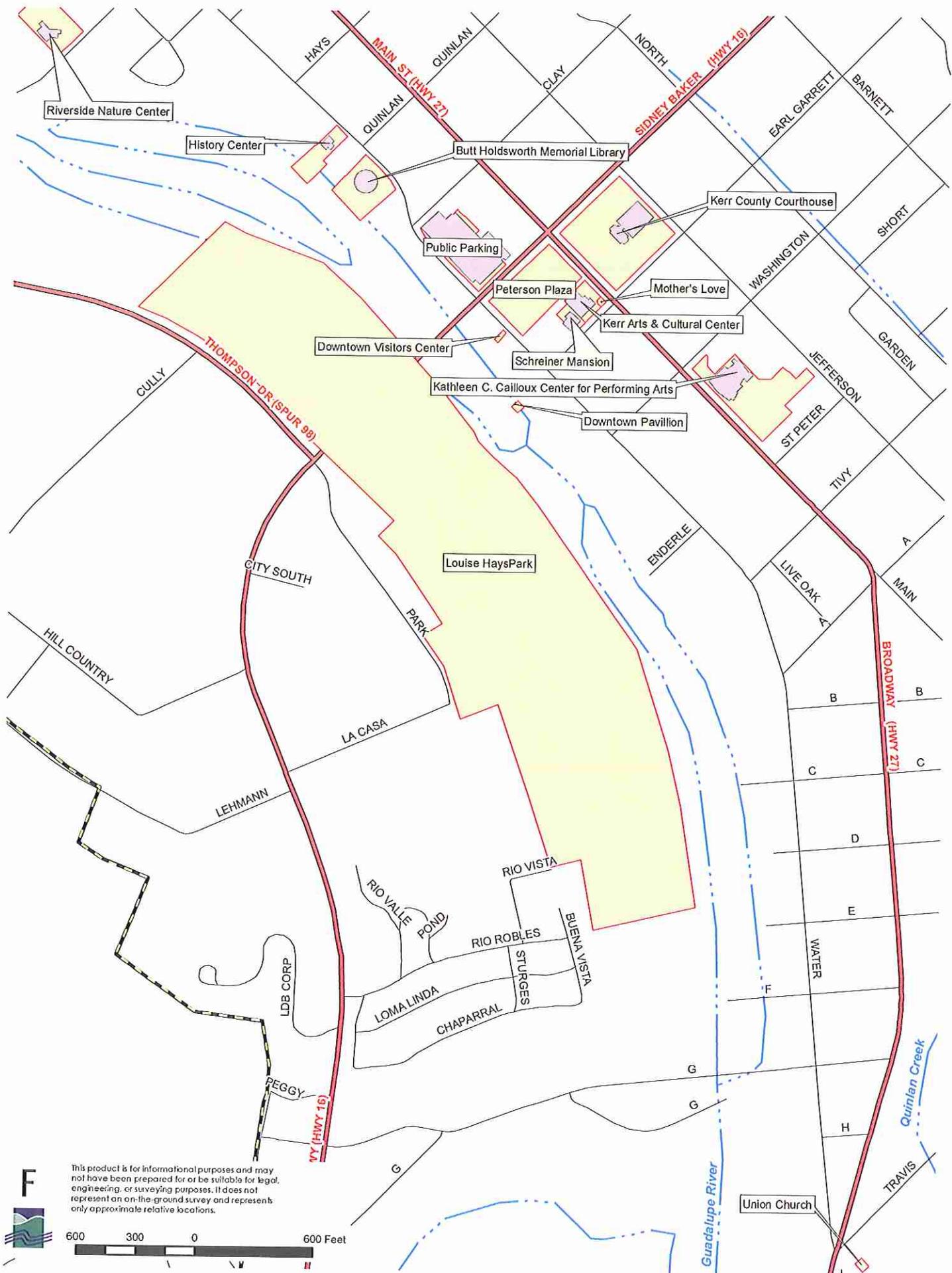
Phase III – City Hall

Pedestrian and Vehicular signage



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





Riverside Nature Center

History Center

Butt Holdsworth Memorial Library

Kerr County Courthouse

Public Parking

Peterson Plaza

Mother's Love

Downtown Visitors Center

Schreiner Mansion

Kerr Arts & Cultural Center

Kathleen C. Cailloux Center for Performing Arts

Downtown Pavilion

Louise Hays Park

HILL COUNTRY

LEHMANN

LA CASA

RIO VALLE POND

RIO ROBLES

RIO VISTA

BUENA VISTA

LOMA LINDA

CHAPARRAL

STURGES

PEGGY

LDB CORP

Guadalupe River

Quinian Creek

Union Church

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

F

600 300 0 600 Feet





NATIONAL SIGN PLAZAS





NATIONAL SIGN PLAZAS

Mindy Wendele
Director of Business Programs
City of Kerrville
715 Water Street
Kerrville, TX 78028

April 18, 2012

Re: Development of a Wayfinding Sign System

Ms. Wendele:

Thank you for the opportunity to put this proposal together for the City of Kerrville. We understand that this has been an exhausting process for the City and we believe that we can finally help bring a finished product to the City landscape. I would like to address a couple of items in this cover letter to ensure that they are not overlooked or misunderstood in the proposal.

First, I want to reiterate that NSP functions as a single point of contact that will handle every aspect of the design, development, fabrication and installation of the City's wayfinding program. This not only allows for lower pricing overall, but it also expedites the entire process by alleviating the need for a second vendor selection.

Second, the pricing that we put together is really not more than a useful guide. We have built the categorical prices based on our historical experience and our initial investigation in to the City landscape. They should be construed as a "middle of the road" price and not as the highest or lowest price for this type of system. The final pricing for each sign type can only be addressed after an initial design has been approved by the City; this is most apparent when addressing the *Large Entry/Gateway* signs.

Lastly, the quote for design and planning services is shown as a flat fee. We can also develop these services on per hour pricing, but in our experience the flat fee is the best way to manage this process. The flat fee allows the City to request meetings and information without concern for additional costs and it alleviates the need to track a budget for the duration of the project.

Please feel free to contact Steve or me directly should you have any questions about this proposal.

We look forward to hearing from you.

Grant Hayzlett

Grant Hayzlett
Director of Operations



NATIONAL SIGN PLAZAS

CITY OF KERRVILLE MASTER PLAN

Proposal for the design, development, fabrication and
installation of wayfinding sign system

National Sign Plazas has prepared the following proposal based on information that has been provided by the City of Kerrville. This proposal is not a formal bid, but has been developed as a tool to help the City understand the general nature and costs associated with developing a wayfinding sign system.

April 18, 2012

“A wayfinding system links different people together by guiding them through the same space with a single system of communication.”

Wayfinding Introduction

Over the past thirty years Cities and Counties all over the Nation have begun to identify the functional and decorative aspects of a planned wayfinding system. Since no two landscapes are the same, each system needs to be carefully designed and planned with a specific community in mind. Right-of-way use, existing signage, landscaping and a number of other factors can negatively affect the finished product if they are not planned for in the beginning. Conversely, a design that considers all aspects of the existing City layout, the City's history, future and branding can thrive in design and function. However, the need for expertise doesn't end with a great design...a skilled fabricator must be able to fashion that design in to a real-world application in order to give it life.

NSP has been working in the wayfinding design/plan and fabrication/installation fields for the past 15 years and is one of the only companies that manages both design and installation of wayfinding systems. Many Cities around the Nation have contracted to design a wayfinding system only to discover that the designer has little or no concern whether the program is ever installed. Others have spent time and money developing their unique system only to contract with a fabricator that fails to build the system correctly. Our unique approach ensures that our Clients get the best of both worlds. Our design/plan process is always sensitive to the fact that we must deliver a tangible product and our fabrication process never fails to live up to the customized features of the design.

Wayfinding in Kerrville

In an effort to address every item that can affect the wayfinding system we have arranged each of the categories in to individual statements. These statements have been drafted to be concise, but to completely explain the proposed solution.

- ***DESIGN:*** With a rich history, a thriving community and a large volume of visitors every year the City of Kerrville will need to address many end users in the design of a wayfinding system. This can become confusing when not properly focused; NSP has developed a number of solutions in previous designs that have allowed a diverse group of people to use the system in the same way. For example, we have applied different wayfinding models, created unique graphics that allow for more information per location and segmented systems in to quadrants that allow users to easily identify where they are within the system. Once we have completed a comprehensive investigation of the Kerrville landscape we can begin to identify the design(s) that will allow the system to communicate the same message to every user.
- ***PLANNING:*** Existing signage, ordinances, limited rights-of-way TXDOT and a number of other factors all have to be considered in the planning phase. Creating an intuitive system that allows users to easily predict what exists is far more than placing dots on a map. An effective plan must consider what people will “think” when presented with the need to make a decision in a car or on foot. A chaotic system or one that does not communicate enough information to the user will become unutilized and can even lead

to car accidents resulting from erratic behavior. Planning a system has as much to do with predicting human nature as it does with getting people from point A to point B.

- **FABRICATION:** Depending on the variations within the proposed design the fabrication process can require many different skill sets. If the design includes exotic materials or has a unique breakaway system subcontractors may need to be used in order to achieve the properly engineered specifications. Other designs may require a standard assembly that does not require subcontractors, but each will require a dedicated and skilled team to ensure that the product is delivered to the site in perfect condition. NSP directly employees 90-100% of the team that is involved in our fabrication and installation process.
- **INSTALLATION:** The installation process is made up of so much more than erecting the sign. Our installation teams work with outside vendors to identify and avoid underground cabling, make on-site decisions about how to correctly manage the foundation, address line-of-sight issues and MUTCD regulations...all to ensure the proper function of the finished product. In the event that site adjustments are required our staff will diligently note the alterations and we will submit these changes to the appropriate City staff.
- **SERVICE:** Our dedication to the proper design and function of your wayfinding system does not end with the final installation. At 1 month, 3 month and 6 month intervals our staff will routinely inspect each part of the wayfinding system. They will check to ensure not only that our labor and materials are holding up as they should, but they will also inspect for warranty failures. In the event that we identify a warranty failure, we will work directly with the manufacturer to have the problem resolved.

Working with NSP

In our effort to help our Clients develop unique and functional wayfinding systems we provide a number of services along the way that help support the categorical features listed above. Some of these services are designed to build awareness about issues that can negatively affect the finished product and others are offered in order to illustrate further opportunities for the City to enhance the wayfinding system.

The following list identifies some of the services that NSP provides as a wayfinding design consultant.

- Existing signage assessment
- Alterations and/or additions to existing sign ordinance(s)
- Landscape assessments and recommendations
- Value added engineering
- Presentation(s) to advisory committees and other interested parties
- End-user surveys focused on tailoring the system to those that will use it

The Broad Strokes

Based on our preliminary investigation in to the traffic patterns, destinations and future development of the program within the City, we have developed an initial recommendation for the placement of wayfinding signage. All of the signage currently fits in to one of three categories (entrance, vehicular or

pedestrian); however, once the design and plan have been completed the need may arise for the addition of functional signage (parking, emergent, or public) to complete the system. In total, we believe that the finished wayfinding system will include 16-22 individual sign locations.

- **Large Entrance/Gateway (2)** – These signs have a large footprint and are designed to greet users as they enter the City limits. They can also be placed on the interior of the City if the environemnt dictates.
- **Vehicular (12-16)** – For the placement along major and minor arterial streets within the City. This sign type will make up the bulk of the program driving citizens and visitors to area attractions, City facilities, parks and other points of interest.
- **Pedestrian (4-6)** – Pedestrian signs can be both directional and informational and can serve a number of different functions. Depending on the proposed placement of these signs they may or may not require a breakaway system and are very adaptable to the surrounding landscape.

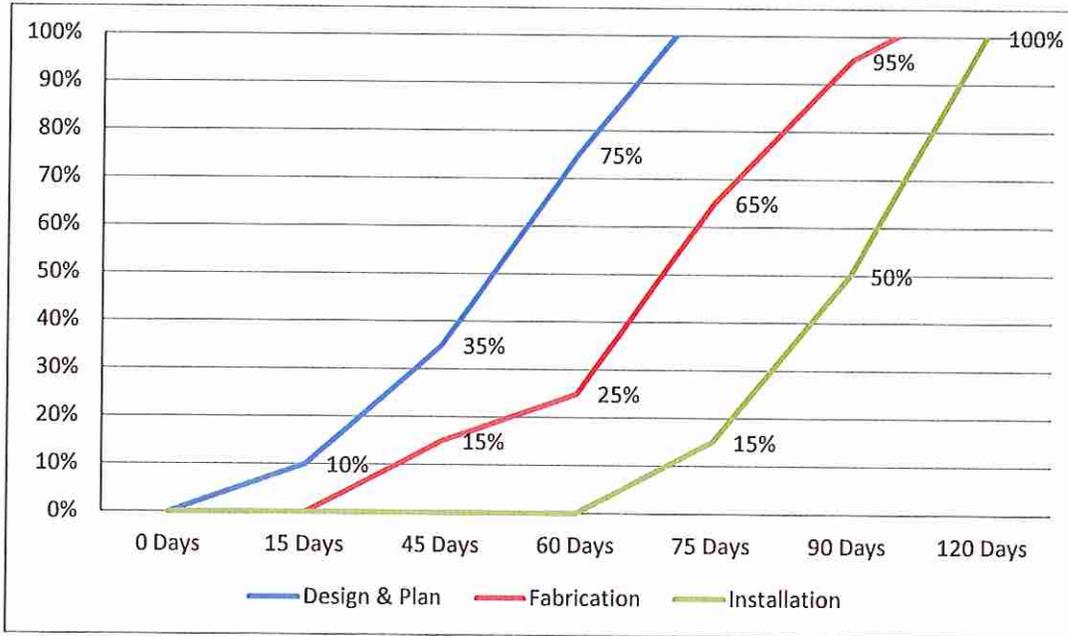
Upon the development a program narrative and the determination of the “purpose” of the sign system it may become clear that other sign types are needed. These signs need not be incorporated in to an initial phase and can easily be developed within the design manual without ever being installed in the environment. It is important to develop these subsidiary signs within the design manual so that future phases will not require additional design fees. Some examples of signs that are not included in the initial recommendation are:

- **Small Entrance/Gateway** – Similar to the Large Gateway signs, this type of sign is commonly used at high-profile interior destinations as a marker. They can also be adapted to incorporate directional or historic information.
- **Functional** – Depending on the destinations that are serviced within the wayfinding system the need may arise for parking signs, public facilities signs or even street signs. These signs help support the function of the other signs in the system and help end-users locate items of common interest.

Timeline

Time is always of the essence and NSP understands that many of our Clients have spent a great deal of time developing the decision to establish a wayfinding system. Further, we understand that once that decision has been made our Clients are anxious to see progress. Our unique process of handling both design/plan and fabrication/installation allows us to address many areas of need at the same time. For example, a designer can create a map and construction documents at the same time, but they will not be able to address field surveys and site inspections because they do not offer that service. Similarly, a fabricator will not be able to start the process of foundation installation until a completed plan has been established; NSP can address all of these items concurrently.

Based upon the recommendation of 16-22 individual sign locations NSP is confident that we can design, plan, build and install a completed system within one hundred and twenty days from an executed agreement for services. In theory, an executed agreement on May 1st would allow for a comprehensive system to be installed by Labor Day. The following graph illustrates general timing for the individual actions listed in this proposal.



Project Phasing

Depending on the needs and the budget dedicated to this wayfinding system NSP can structure a project phasing schedule that will allow for the timely, but segmented installation of the comprehensive system. It is not uncommon for our Clients to ask us to develop a phasing schedule in order to meet fiscal requirements, allow for the completion of road work or any number of other reasons. The use of this tactic allows our Clients to complete the design and plan manual without committing to the purchase and installation of every aspect illustrated within it. Further, they can use the manual as a menu of sorts, allowing for future purchases and expansion of the wayfinding system.

If the City would like to explore this option NSP can develop a phasing schedule along with the design and plan manual.



PROPOSAL

NATIONAL SIGN PLAZAS

To: City of Kerrville
 Mindy Wendele
 Director of Business Programs
 715 Water Street
 Kerrville, TX 78028

Re: Development of a wayfinding sign system

Representative	Job	Bid Terms
Steve Startzell, Government Relations	Kerrville Master Plan	Informal and non-binding on either party

Notes This *Proposal* contains information that NSP has put together at the request of the City of Kerrville and should not be construed as a formal *Bid*. The content of this *Proposal* has been created to support the preceding information. The pricing contained herein is “general” and has been developed to help the City staff understand the costs associated with the development of a wayfinding sign system.

The cost of the *Large Entrance/Gateway* signs can vary greatly. It is difficult to project the costs on this sign without a design in place. Two options have been included to illustrate the difference between a stone sign (option 1) and an aluminum sign (option 2). Additionally, the costs of the *Vehicular Directional Sign* can also vary depending on the sign construction. The pricing included herein should be seen as the center of the curve and not as the highest or lowest price for this kind of wayfinding system.

The *Design and Plan* services have been listed as a flat fee and will include the completion of the wayfinding sign manual. In short, the manual will summarize everything that is developed for the City’s wayfinding system including, but not limited to, final artwork, font designation, problem statements, color codes, construction documents, mapping, instructions on how to use the manual, history of the program and final inspection reports.

Service or Sign Type	Unit Price	Quantity	Pricing
Thematic design and construction documentation Comprehensive layout of each sign type, material, and structural element Engineering and wind load testing Identification of color schemes, fonts, branding, and the like	N/A	N/A	\$5,500.00
Programmatic design and planning of each system component Creation of route maps, placement standards for individual signs Creation of program schedules (sign content) and adherence to the MUTCD Site reports and analysis for each sign location TXDOT permitting and filing (if necessary) Easement acquisition (if necessary) Presentation(s) to City staff	N/A	N/A	\$11,000

All information contained within this Statement is submitted to the City of Kerrville in trust and shall not be delineated to anyone outside of the City except as governed by law

Large Entry/Gateway Sign (option 1) Stone Monument Sign with decorative base Cast aluminum lettering face mounted to the stone or stucco substrate Landscaping and lighting incorporated in to the base perimeter	2	\$17,500	\$35,000
Large Entry/Gateway Sign (option 2) Two pole "I" beam installation with minimum clearance of 7' from grade Aluminum sign face, sealed construction Cast aluminum lettering face mounted to the aluminum substrate Landscaping and lighting incorporated in to the base perimeter	2	\$5,000	\$10,000
Vehicular Directional Sign Steel posts with decorative base and finial TXDOT approved breakaway system Aluminum sign face painted to match City approved design, cut vinyl lettering and vandal resistant fasteners	14	\$3,500	\$49,000
Pedestrian Directional Sign Steel posts with decorative base and finial TXDOT approved breakaway system Aluminum sign face painted to match City approved design, cut vinyl lettering and vandal resistant fasteners	4	\$3,000	\$12,000

Sub-Total (option 1)	\$112,500
Installation	\$5,500
Total	\$118,000

Sub-Total (option 2)	\$93,500
Installation	\$5,500
Total	\$99,000

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Agenda Item:

5B. Update on Kerrville Economic Development Corporation (KEDC) (Mayor Wampler)

Agenda Item:

5C. Budget and economic update. (staff)

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

SUBJECT: Kerrville Budget/Economic Update

FOR AGENDA OF: April 24, 2012 **DATE SUBMITTED:** April 18, 2012

SUBMITTED BY: Mike Erwin *ME*
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Economic Update
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

The City of Kerrville staff will present and update Council on a biweekly basis as to the status of the City's budget and current economic trends affecting the City.

RECOMMENDED ACTION

No action required information purposes only.

