

**AGENDA FOR REGULAR MEETING**

**KERRVILLE CITY COUNCIL**

**TUESDAY, JUNE 26, 2012, 6:00 P.M.**

**KERRVILLE CITY HALL COUNCIL CHAMBERS**

**800 JUNCTION HIGHWAY, KERRVILLE, TEXAS**

**KERRVILLE CITY COUNCIL AGENDA**  
**REGULAR MEETING, TUESDAY, JUNE 26, 2012, 6:00 P.M.**  
**CITY HALL COUNCIL CHAMBERS**  
**800 JUNCTION HIGHWAY, KERRVILLE, TEXAS**

**CALL TO ORDER**

**INVOCATION** offered by Associate Pastor Tom Murray of the Saint Peter's Episcopal Church.

**PLEDGE OF ALLEGIANCE TO THE FLAG** led by Mr. Art Modgling of the Vietnam Veterans Post #863 of Kerrville, Texas.

Those in attendance may stand if they wish.

**1. VISITORS/CITIZENS FORUM:**

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

**2. CONSENT AGENDA:**

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

2A. Minutes of the City Council meeting on May 31, 2012. (staff)

2B. Authorization for City Manager to enter into a lease agreement with PNC Equipment Finance LLC for the Schreiner Golf Course cart fleet. (staff)

2C. Agreements between the City and Riverside Nature Center Association, Incorporated, pursuant to the River Trail to include an Amendment to Lease, Recreation Easement, Special Warranty Deed, and Subordination and Consent. (staff)

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The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 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, June 22, 2012 at 4:30 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

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Cheryl Brown  
Deputy City Secretary, City of Kerrville, Texas

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2D. Agreement renewal with the Texas Parks and Wildlife Department for the 2012 Kerrville-Schreiner Park Managed Bow Hunt. (staff)

**END OF CONSENT AGENDA**

**3. PUBLIC HEARINGS AND RESOLUTIONS:**

3A. A Resolution granting a Conditional Use Permit for an approximately 1.34 acre tract of land consisting of lots 1, 2 and 3, and portions of lots 12, 13, 14, and 15, Block 1 of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas, otherwise known as 505 Sidney Baker Street (State Highway 16) and located within the City's central business zoning district (CBD); by permitting said property to be used for a gasoline station (sales) with convenience store and making said permit subject to certain conditions and restriction. (staff)

3B. A Resolution granting a Conditional Use Permit for an approximately 1.15 acre tract of land consisting of part of Lot 2, Block 1 of the Bryant Addition, a subdivision of the City of Kerrville, Kerr County, Texas, and located in the 1800 block of Junction Highway (State Highway 27) and located within the City's 3-W zoning district; by permitting said property to be used for agricultural services (kennels/animal shelters); and making said permit subject to certain conditions and restrictions. (staff)

**4. PUBLIC HEARING:**

4A. Annexation and zoning of approximately 9.83 acre tract of land, out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas and consisting of the property addressed as 5623 State Highway 27.

**5. ORDINANCE SECOND AND FINAL READING:**

5A. An Ordinance repealing and replacing the City's sign regulations found in Article II of Chapter 6 of the City's Code of Ordinances and repealing Section 27 of Ordinance No. 85-59 and all ordinances which amended Section 27 and pertain to the regulation of signs; adopting new regulations concerning the installation and maintenance of signs within the City of Kerrville, Texas and within the extraterritorial jurisdiction of the City; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication, providing an effective date; and providing other matters related to the subject. (staff)

**6. CONSIDERATION AND POSSIBLE ACTION:**

6A. A Resolution approving the Alamo Area Council of Governments (AACOG) Regional Multi-Hazard Mitigation Plan. (staff)

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6B. Direct staff to investigate the condition of that portion of the Town Creek drainage channel located south of Main Street and provide a report to City Council on the parties who have maintenance responsibility and the City's options for ongoing maintenance and repair. (Mayor Pratt)

6C. Creation of a task force to review the City's long-term financial situation and develop recommendations. (Mayor Pratt)

6D. The City's oversight of private halfway houses in Kerrville. (Mayor Pratt)

**7. INFORMATION AND DISCUSSION:**

7A. Implementation of zero based budgeting (ZBB) practices to the City of Kerrville Annual Budget to contain costs and better serve the city's residents. (Mayor Pratt)

7B. Budget and economic update. (staff)

7C. River Trail Update (staff)

7D. Report on Kerrville Economic Development Corporation activities (Conklin)

**8. ITEMS FOR FUTURE AGENDAS**

**9. 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.

**10. 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.

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

**12. ADJOURNMENT.**

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Deputy City Secretary, City of Kerrville, Texas

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## **Agenda Item:**

2A. Minutes of the City Council Meeting on May 31, 2012 (staff)

CITY COUNCIL MINUTES  
SPECIAL MEETING

KERRVILLE, TEXAS  
MAY 31, 2012

On May 31, 2012, the Kerrville City Council meeting was called to order by Mayor Pratt at 9:00 a.m. in the city hall council chambers, 800 Junction Highway.

COUNCILMEMBERS PRESENT:

Jack Pratt	Mayor
Carson Conklin	Councilmember
Stacie Keeble	Councilmember
Justin MacDonald	Councilmember

COUNCILMEMBER ABSENT:

Gene Allen	Mayor Pro Tem
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CITY EXECUTIVE STAFF PRESENT:

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

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

**DISCUSSION OF WASTEWATER TREATMENT SYSTEM MASTER PLAN:**

Mr. Parton noted that the city hired the engineering firm Freese and Nichols to analyze the wastewater treatment plant and system, to evaluate and prioritize immediate and long term needs based on growth projections, and to recommend what investment was the best value for the city.

Representatives from Freese and Nichols discussed the following:

- Plant history and overview of plant processes; noted that currently all flow coming into the plant was pumped through a series of lift stations.
- Kerrville had one of the most stringent permit requirements in the state.
- F&N performed a condition assessment of the plant and reviewed parameters and scoring criteria used to assign condition, criticality, and risk assessment

scores for each asset and group.

- Reviewed the results of the risk assessment for WWTP equipment and identified potential problems.
- Identified processes and bottlenecks that limited the capacity of the plant.

Freese and Nichols discussed three alternatives and associated costs:

- Alternative 1: Rehabilitate current plant to address high risk components and eliminate hydraulic bottlenecks; nine projects proposed totaling \$10,657,000.
- Alternative 2: Add new parallel 1.5 mgd treatment train to existing site to provide redundancy and additional treatment capacity; most of the projects listed in Alternative 1 would still be required; proposed total cost \$17,339,000.
- Alternative 3: Construct new plant off-site that would provide better gravity flow; engineering and construction estimated at \$37,960,000; this estimate did not include the cost of land purchase, environmental studies, or rerouting the collection system.

Freese and Nichols recommended Alternative 1 as it addressed high risk problems, peak flow hydraulic bottlenecks, and aging infrastructure issues. The existing plant met TCEQ permitted effluent limits, capacity was sufficient to support growth for 20 year planning period, and it had the lowest capital cost.

Council also discussed the following:

- Did fowl and animals contribute to WWTP issues? F&N noted there was no connection to plant operations.
- How did Kerrville's WWTP compare to plant operations in other cities? F&N noted Kerrville had a relatively good operation. The city should begin implementing projects listed in Alternative 1 to address issues before they became problematic, in particular, adding a new clarifier and rehabilitation of the existing clarifier were critical. Electrical and mechanical system upgrades were necessary as equipment wears out and the system becomes outdated and new components are not available, which could create compliance and safety issues. The whole system was outdated, parts were no longer available for some of the equipment; the city needed efficient and reliable electric equipment. As the equipment aged, it would become more of a risk; F&N recommended reevaluating the system every five years.
- Would like more information and definitive time line on medium risk items.

#### **DISCUSSION OF RIVER TRAIL PROJECT INCLUDING ROUTING AND ALIGNMENT OPTIONS :**

Staff reviewed alignment options and advantages/disadvantages, approximate costs, and sections where conflicts may exist for the six mile river trail from Kerrville Schreiner Park to Knapp Park.

Package A: Riverside Nature Center to Tranquility Island, 0.6 mile includes pedestrian bridge under Lemos Street bridge, currently under construction.

Package B between Lehmann & Monroe Park and G Street bridge: Option 1 continue along the river but the 150 property owners in Rio Robles Mobile Home Park may not grant an easement (\$120,000); Option 2 along La Casa Drive and Hwy. 16 to G Street, safety issues with routing pedestrians onto a major highway, requires reconstruction of street and drainage infrastructure (\$500,000).

Ms. Ondrias noted two major issues regarding Rio Robles: 1) The city's thoroughfare plan designated the future extension of Park Lane to G Street through their property along the river; and 2) Currently, several homes were located on top of a city utility easement, and the city preferred to abandon that easement in exchange for a new utility easement in the undeveloped property on the north side of the Rio Robles property.

Several councilmembers stated Option 1 as the preferred route for Package B and instructed staff to work with Rio Robles including the possibility of removing the Park Lane extension from the thoroughfare plan, and offering to abandon the existing utility easement in exchange for a new utility easement as stated.

Package C: Guadalupe Street from Riverside Nature Center to Guadalupe Park had three options: Option 1 continue along the north bank of the river and connect to 700 foot of existing trail; majority of property owners were agreeable, but may involve condemnation of a few tracts (\$875,000); Option 2 from the north side of the river connect to the south side of the river with a pedestrian bridge near Dietert Center, the private property owner on the south side wanted the river trail, and discussions with the state for an easement on the state hospital property had been positive, would add .7 mile to the project, (\$1,770,000); Option 3 move trail away from river up to Guadalupe Street, safety issues with vehicles so close to pedestrians, required use of private property fronting Guadalupe Street in existing city easements, would require eliminating curb side parking on Guadalupe Street, may not require condemnation (\$700,000).

Several councilmembers stated Option 1 as the preferred route with Option 2 as an alternative route for Package C.

Package F, 1.9 miles from G Street to Kerrville Schreiner Park (KSP): Option 1 terminate river trail at Birkdale lift station and no connection to KSP, avoided easement issues (\$430,000); Option 2 along river and connect to KSP, required construction of a pedestrian bridge and may require condemnation, (\$875,000); Option 3 along Hwy. 173 and FM 689, safety and accessibility issues with vehicles so close to pedestrians, (\$950,000).

Several councilmembers stated Option 2 as the preferred route with Option 1 as an alternative route for Package F.

Council's preference on all segments was to stay on the river. The consensus of council was to instruct staff to contact property owners and learn what their

individual issues and concerns were and offer compensation where appropriate, and report back to council in a few weeks.

**EXECUTIVE SESSION:** None.

**ADJOURNMENT:** Mr. MacDonald moved to adjourn the meeting; the motion was seconded by Mr. Conklin and passed 4-0. The meeting adjourned at 11:08 a.m.

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

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

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

## **Agenda Item:**

2B. Authorization for City Manager to enter into a lease agreement with PNC Equipment Finance LLC for the Schreiner Golf Course cart fleet. (staff)



## **RECOMMENDED ACTION**

City staff recommends that the City Council authorize the City Manager to execute a lease agreement with PNC Equipment Finance LLC for the Scott Schreiner Golf Course cart fleet on the basis of the following:

1. This 48-month lease term allows the city to maximize the effective life of the carts,
2. This lease allows the city to maintain a quality fleet for the customers,
3. This lease allows the city to lock in annual costs, and
4. This lease will provide E-Z-Go carts that are high quality and are a product that are familiar to the regular customers.

# Lease Agreement

Dated as of June 7, 2012  
Lease Number 163538000

Lessor: PNC Equipment Finance, LLC  
995 Dalton Avenue  
Cincinnati, OH 45203

Lessee: LESSEE FULL LEGAL NAME  
City of Kerrville  
899 Junction Highway  
Kerrville, TX 78028

FEDERAL TAX ID  
746001490

Equipment Description See attached Certificate of Acceptance for Equipment Description

Rent Payment Schedule Lease Term is for 48 months, with Rent payments due in Arrears  monthly;  quarterly;  semi-annual;  annually; each in the amount of \$4,326.59 beginning \_\_\_\_\_.

Lessee shall pay Rent payments exclusively from legally available funds in U.S. currency to Lessor in the amounts and on the dates set forth herein, without notice or demand.

### TERMS AND CONDITIONS

- LEASE.** Subject to the terms of this Lease, Lessee agrees to lease from Lessor the equipment (the "Equipment") described in the attached Certificate of Acceptance when Lessor accepts this Lease. Lessee agrees to be bound by all the terms of this Lease.
- DELIVERY AND ACCEPTANCE OF EQUIPMENT.** Acceptance of the Equipment occurs upon delivery. When Lessee receives the Equipment, Lessee agrees to inspect it and to verify by telephone or in writing such information as Lessor may require. Delivery and installation costs are the Lessee's responsibility. If Lessee signed a purchase contract for the Equipment, by signing this Lease Lessee assigns its rights, but none of its obligations under the purchase contract, to Lessor.
- RENT.** Lessee agrees to pay Lessor Rent (plus applicable taxes) in the amount and frequency stated above. Rent Payments under this Lease do not include the accrual of an interest portion. If Lessee's Rent payments are due in Advance, the first Rent payment is due on the date Lessee accepts the Equipment under the Lease. Lessor will advise Lessee as to (a) the due date of each Rent payment, and (b) the address to which Lessee must send payments. Rent is due whether or not Lessee receives an invoice from Lessor. Lessee will pay Lessor any required advance rent when Lessee signs this Lease. Lessee authorizes Lessor to change the Rent by not more than 15% due to changes in the Equipment configuration, which may occur prior to Lessor's acceptance of this Lease. Restrictive endorsements on checks Lessee sends to Lessor will not reduce obligations to Lessor. Unless a proper exemption certificate is provided, applicable sales and use taxes will be added to the Rent.  
**NON-APPROPRIATION OF FUNDS.** Lessee intends to remit all Rent and other payments to Lessor for the full Lease Term if funds are legally available. In the event Lessee is not granted an appropriation of funds at any time during the Lease Term for the Equipment subject to this Lease and operating funds are not otherwise available to Lessee to pay the Rent and other payments due and to become due under this Lease, and there is no other legal procedure or available funds by or with which payment can be made to Lessor, and the non-appropriation did not result from an act or omission by Lessee, Lessee shall have the right to return the Equipment in accordance with Section 16 of the Lease and terminate this Lease on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee, except as the portion of Rent for which funds shall have been appropriated and budgeted. At least thirty (30) days prior to the end of Lessee's fiscal year, Lessee's chief executive officer (or legal counsel) shall certify in writing that (a) funds have not been appropriated for the upcoming fiscal period, (b) such non-appropriation did not result from any act or failure to act by Lessee, and (c) Lessee has exhausted all funds legally available for the payment of Rent.
- UNCONDITIONAL OBLIGATION.** LESSEE AGREES THAT IT IS UNCONDITIONALLY OBLIGATED TO PAY ALL RENT AND ANY OTHER AMOUNTS DUE UNDER THIS LEASE IN ALL FISCAL YEARS IN WHICH FUNDS HAVE BEEN APPROPRIATED NO MATTER WHAT HAPPENS, EVEN IF THE EQUIPMENT IS DAMAGED OR DESTROYED, IF IT IS DEFECTIVE OR IF LESSEE HAVE TEMPORARY OR PERMANENT LOSS OF ITS USE. LESSEE IS NOT ENTITLED TO ANY REDUCTION OR SET-OFF AGAINST RENT OR OTHER AMOUNTS DUE UNDER THIS LEASE FOR ANY REASON WHATSOEVER.
- DISCLAIMER OF WARRANTIES.** THE EQUIPMENT IS BEING LEASED TO LESSEE IN "AS-IS" CONDITION. LESSEE AGREES THAT LESSOR HAS NOT MANUFACTURED THE EQUIPMENT AND THAT LESSEE HAS SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSEE HAS NOT RELIED ON ANY STATEMENTS LESSOR OR ITS EMPLOYEES HAVE MADE. LESSOR HAS NOT MADE AND DOES NOT MAKE ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WHATSOEVER, INCLUDING WITHOUT LIMITATION, THE EQUIPMENT'S MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SUITABILITY, DESIGN, CONDITION, DURABILITY, OPERATION, QUALITY OF MATERIALS OR WORKMANSHIP, OR COMPLIANCE WITH SPECIFICATIONS OR APPLICABLE LAW. Lessee is aware of the name of the Equipment manufacturer and will contact the manufacturer for a description of warranty rights. If the manufacturer has provided Lessor with a warranty, Lessor assigns its rights to such warranty to Lessee and Lessee may enforce all warranty rights directly against the manufacturer of the Equipment. Lessee agrees to settle any dispute regarding performance of the Equipment directly with the manufacturer of the Equipment.
- TITLE AND SECURITY INTEREST.** Unless otherwise required by the laws of the state where Lessee is located, Lessor shall have title to the Equipment, except as set forth in section 15.

7. **USE, MAINTENANCE AND REPAIR.** Lessee will not move the Equipment from the Equipment Location without Lessor's advance written consent. Lessee will give Lessor reasonable access to the Equipment Location so that Lessor can check the Equipment's existence, condition and proper maintenance. Lessee will use the Equipment in the manner for which it was intended, as required by all applicable manuals and instructions, and keep it eligible for any manufacturer's certification and/or standard full service maintenance contract. At Lessee's own cost and expense, Lessee will keep the Equipment in good repair, condition and working order, ordinary wear and tear excepted. Lessee will not make any permanent alterations to the Equipment.
8. **TAXES.** Lessee agrees to pay Lessor, when invoiced, all taxes (including any sales, use and personal property taxes), fines, interest and penalties relating to this Lease and the Equipment (excluding taxes based on Lessor's net income). Lessee agrees to file any required personal property tax returns and, if Lessor asks, Lessee will provide Lessor with proof of payment. Lessor does not have to contest any tax assessments.
9. **INDEMNITY.** Lessor is not responsible for any injuries, damages, penalties, claims or losses, including legal expenses, incurred by Lessee or any other person caused by the transportation, installation, manufacture, selection, purchase, lease, ownership, possession, modification, maintenance, condition, operation, use, return or disposition of the Equipment. To the extent permitted by law, Lessee agrees to reimburse Lessor for and defend Lessor against any claims for such losses, damages, penalties, claims, injuries, or expenses. This indemnity continues even after this Lease has expired, for acts or omissions that occurred during the Lease Term.
10. **IDENTIFICATION.** Lessee authorizes Lessor to insert or correct missing information on this Lease, including Lessee's official name, serial numbers and any other information describing the Equipment. Lessor will send Lessee copies of such changes. Lessee will attach to the Equipment any name plates or stickers Lessor provides Lessee.
11. **LOSS OR DAMAGE.** Lessee is responsible for any loss of the Equipment from any cause at all, whether or not insured, from the time the Equipment is shipped to Lessee until it is returned to Lessor. If any item of Equipment is lost, stolen or damaged, Lessee will promptly notify Lessor of such event. Then, at Lessor's option, Lessee will either (a) repair the Equipment so that it is in good condition and working order, eligible for any manufacturer's certification, or (b) pay Lessor an amount equal to the Net Book Value (as defined in Section 14) of the lost, stolen or damaged Equipment. If Lessee has satisfied Lessee's obligations under this Section 11, Lessor will forward to Lessee any insurance proceeds which Lessor receives for lost, damaged, or destroyed Equipment. If Lessee is in default, Lessor will apply any insurance proceeds Lessor receives to reduce Lessee's obligations under Section 14 of this Lease.
12. **INSURANCE.** Lessee agrees to (a) keep the Equipment fully insured against loss, naming Lessor as loss payee, and (b) obtain a general public liability insurance policy covering both personal injury and property damage in amounts not less than Lessor may tell Lessee, naming Lessor as additional insured, until Lessee has met all Lessee's obligations under this Lease. Lessor is under no duty to tell Lessee if Lessee's insurance coverage is adequate. The policies shall state that Lessor is to be notified of any proposed cancellation at least 30 days prior to the date set for cancellation. Upon Lessor's request, Lessee agree to provide Lessor with certificates or other evidence of insurance acceptable to Lessor. If Lessee does not provide Lessor with evidence of proper insurance within 10 days of Lessor's request or Lessor receives notice of policy cancellation, Lessor may (but Lessor is not obligated to) obtain insurance on Lessor's interest in the Equipment at Lessee's expense. Lessee will pay all insurance premiums and related charges.
13. **DEFAULT.** Lessee will be in default under this Lease if any of the following happens: (a) Lessor does not receive any Rent or other payment due under this Lease within 10 days after its due date, (b) Lessee fails to perform or observe any other promise or obligation in this Lease and does not correct the default within 10 days after Lessor sends Lessee written notice of default, (c) any representation, warranty or statement Lessee has made in this Lease shall prove to have been false or misleading in any material respect, (d) any insurance carrier cancels or threatens to cancel any insurance on the Equipment, (e) the Equipment or any part of it is abused, illegally used, misused, lost, destroyed, or damaged beyond repair, (f) a petition is filed by or against Lessee under any bankruptcy or insolvency laws, or (g) Lessee defaults on any other agreement between it and Lessor (or Lessor's affiliates).
14. **REMEDIES.** Upon the occurrence of a default, Lessor may, in its sole discretion, do any or all of the following: (a) provide written notice to Lessee of default, (b) as liquidated damages for loss of a bargain and not as a penalty, declare due and payable, the present value of (i) any and all amounts which may be then due and payable by Lessee to Lessor under this Lease, plus (ii) all Rent payments remaining through the end of the Lease Term, discounted at the higher of 3% or the lowest rate allowed by law, plus the Fair Market Value of the Equipment (collectively, the "Net Book Value"). Lessor has the right to require Lessee to make the Equipment available to Lessor for repossession during reasonable business hours or Lessor may repossess the Equipment, so long as Lessor does not breach the peace in doing so, or Lessor may use legal process in compliance with applicable law pursuant to court order to have the Equipment repossessed. Lessee will not make any claims against Lessor or the Equipment for trespass, damage or any other reason. If Lessor takes possession of the Equipment Lessor may (a) sell or lease the Equipment at public or private sale or lease, and/or (b) exercise such other rights as may be allowed by applicable law. Although Lessee agrees that Lessor has no obligation to sell the Equipment, if Lessor does sell the Equipment, Lessor will reduce the Net Book Value by the amounts Lessor receives. Lessee will immediately pay Lessor the remaining Net Book Value. Lessee agrees (a) that Lessor only needs to give Lessee 10 days advance notice of any sale and no notice of advertising, (b) to pay all of the costs Lessor incurs to enforce Lessor's rights against Lessee, including attorney's fees, and (c) that Lessor will retain all of Lessor's rights against Lessee even if Lessor does not choose to enforce them at the time of Lessee's default.
15. **LESSEE'S OPTION AT END OF LEASE.** Notwithstanding anything contained in the Lease to the contrary, so long as no default shall have occurred and be continuing, Lessee may, at Lessee's option, purchase the Equipment leased pursuant to this Rental Schedule on an "as is, where is" basis, without representation or warranty, express or implied, at the end of the Initial Term at a price equal to the Fair Market Value thereof, plus applicable taxes. "Fair Market Value" shall be equal to the value which would be obtained in an arms-length transaction between an informed and willing buyer and an informed and willing seller under no compulsion to sell, and in such determination, costs of removal of the Equipment from its location of current use shall not be a deduction from such value. If Lessee and Lessor cannot agree on the Fair Market Value thereof, such value shall be determined by appraisal at the sole expense of Lessee. Appraisal shall be a procedure whereby two recognized independent appraisers, one chosen by Lessee and one by Lessor, shall mutually agree upon the amount in question. If the appraisers are unable to agree upon the amount in question, a third recognized independent appraisers' evaluation shall be binding and conclusive on Lessee and Lessor. This purchase option as applicable shall only be available if Lessee gives Lessor ninety (90) days prior written notice of Lessee's irrevocable intent to exercise such option and Lessor and Lessee shall have agreed to all terms and conditions of such purchase prior to the expiration date of the Initial Term. Until the Equipment is returned as required below, all terms of the Lease shall remain in full force and effect including the obligation to pay Rent.
16. **RETURN OF EQUIPMENT.** If (a) default occurs, (b) a non-appropriation of funds occurs in accordance with Section 3, or (c) Lessee does not purchase the Equipment pursuant to Section 15, Lessee will immediately return the Equipment to any location(s) in the continental United States and aboard any carriers(s) Lessor may designate. The Equipment must be properly packed for shipment in accordance with the manufacturer's recommendations or specifications, freight prepaid and insured, maintained in accordance with Section 7, and in "Average Saleable Condition." "Average Saleable Condition" means that all of the Equipment is immediately available for use by a third party buyer, user or lessee, other than

Lessee named in this Lease, without the need for any repair or refurbishment. All Equipment must be free of markings. Lessee will pay Lessor for any missing or defective parts or accessories. Lessee will continue to pay Rent until the Equipment is received and accepted by Lessor.

17. **LESSEE'S REPRESENTATIONS AND WARRANTIES.** Lessee hereby represents and warrants to Lessor that as of the date of this Lease, and throughout the Lease Term: (a) Lessee is the entity indicated in this Lease; (b) Lessee is a State or a fully constituted political subdivision or agency of the State in which Lessee is located; (c) Lessee is duly organized and existing under the Constitution and laws of the State in which Lessee is located; (d) Lessee is authorized to enter into and carry out Lessee's obligations under this Lease, any documents relative to the acquisition of the Equipment and any other documents required to be delivered in connection with this Lease (collectively, the "Documents"); (e) the Documents have been duly authorized, executed and delivered by Lessee in accordance with all applicable laws, rules, ordinances, and regulations, the Documents are valid, legal, binding agreements, enforceable in accordance with their terms and the person(s) signing the Documents have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices indicated below their signature, each of which is genuine; (f) the Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of Lessee's authority and shall be used during the Lease Term only by Lessee and only to perform such function; (g) Lessee intends to use the Equipment for the entire Lease Term and shall take all necessary action to include in Lessee's annual budget any funds required to fulfill Lessee's obligations for each fiscal year during the Lease Term; (h) Lessee has complied fully with all applicable law governing open meetings, public bidding and appropriations required in connection with this Lease and the acquisition of the Equipment; (i) Lessee's obligations to remit Rent under this Lease constitutes a current expense and not a debt under applicable state law and no provision of this Lease constitutes a pledge of Lessee's tax or general revenues, and any provision which is so constructed by a court of competent jurisdiction is void from the inception of this lease; (j) all payments due and to become due during Lessee's current fiscal year are within the fiscal budget of such year, and are included within an unrestricted and unencumbered appropriation currently available for the lease of the Equipment; and (k) all financial information Lessee has provided to Lessor is true and accurate and provides a good representation of Lessee's financial condition.
18. **LESSEE'S PROMISES.** In addition to the other provisions of this Lease, Lessee agrees that during the term of this Lease (a) Lessee will promptly notify Lessor in writing if it moves Lessee's principal office or it changes names or its legal structure, (b) Lessee will provide to Lessor such financial information as may reasonably request from time to time, and (c) Lessee will take any action Lessor reasonably requests to protect Lessor's rights in the Equipment and to meet Lessee's obligations under this Lease.
19. **ASSIGNMENT. LESSEE WILL NOT SELL, TRANSFER, ASSIGN, PLEDGE, SUB-LEASE OR PART WITH POSSESSION OF THE EQUIPMENT OR FILE OR PERMIT A LIEN TO BE FILED AGAINST THE EQUIPMENT.** Lessee will not attach any of the Equipment to any real estate. Upon Lessor's reasonable request and at Lessee's cost, Lessee will obtain from each person having an interest in the real estate where the Equipment is located a waiver of any rights they may have in the Equipment.
20. **ASSIGNMENT BY LESSOR.** This Lease, and the rights of Lessor hereunder and in and to the Equipment, may be assigned and reassigned in whole or in part to one or more assignees by Lessor or its assigns at any time without the necessity of obtaining the consent of Lessee; provided, however, no such assignment or reassignment shall be effective unless and until Lessee shall have been given written notice of assignment disclosing the name and address of the assignee or its agent authorized to receive payments and otherwise service this Lease on its behalf. Upon receipt of notice of assignment, Lessee agrees to record the same in records maintained for such purpose, and further, to make all payments as designated in the assignment, notwithstanding any claim, defense, setoff or counterclaim whatsoever (whether arising from a breach of this Lease or otherwise) that Lessee may from time to time have against Lessor or Lessor's assigns. Lessee agrees to execute all documents, including acknowledgments of assignment, which may reasonably be requested by Lessor or its assigns to protect their interests in the Equipment and in this Lease.
21. **COLLECTION EXPENSES, OVERDUE PAYMENT.** Lessee agrees that Lessor can, but does not have to, take on Lessee's behalf any action which Lessee fails to take as required by this Lease, and Lessor's expenses will be in addition to that of the Rent which Lessee owes Lessor. If Lessor receives any payment from Lessee after the due date, Lessee shall pay Lessor on demand as a late charge five percent (5%) of such overdue amount, limited, however, to the maximum amount allowed by law.
22. **AGREED LEASE RATE FACTOR.** Lessee understands that the Equipment may be purchased for cash (the "Equipment Cost") or it may be leased. By signing this Lease, Lessee acknowledges that it has chosen to lease the Equipment from Lessor for the Lease Term and that Lessee has agreed to pay Rent. Each payment of Rent includes a principal amount based on the Equipment Cost and a lease charge rate. If it is determined that Lessee's payments under this Lease result in an interest payment higher than allowed by applicable law, then any excess interest collected will be applied to the repayment of principal and interest will be charged at the highest rate allowed by law. In no event will Lessor charge or receive or will Lessee pay any amounts in excess of the legal amount.
23. **MISCELLANEOUS.** This Lease contains the entire agreement and supersedes any conflicting provision of any equipment purchase order or any other agreement. **TIME IS OF THE ESSENCE IN THIS LEASE.** If a court finds any provision of Lease to be unenforceable, the remaining terms of this Lease shall remain in effect. **TO THE EXTENT THAT THIS LEASE IS FOUND TO NOT BE A TRUE LEASE, THIS LEASE IS A "FINANCE LEASE" AS DEFINED IN ARTICLE 2A OF THE UNIFORM COMMERCIAL CODE.** Lessee authorizes Lessor (or Lessor's agent) to (a) obtain credit reports, (b) make such other credit inquiries as Lessor may deem necessary, and (c) furnish payment history information to credit reporting agencies. To the extent permitted by law, Lessor may charge Lessee a fee of \$250.00 to cover Lessor's documentation and investigation costs.
24. **NOTICES.** All of Lessee's written notices to Lessor must be sent by certified mail or recognized overnight delivery service, postage prepaid, to Lessor at Lessor's address stated in this Lease, or by facsimile transmission to Lessor's facsimile telephone number, with oral confirmation of receipt. All of Lessor's notices to Lessee may be sent first class mail, postage prepaid, to Lessee's address stated in this Lease. At any time after this Lease is signed, Lessee or Lessor may change an address or facsimile telephone number by giving notice to the other of the change.
25. **WAIVERS. LESSOR AND LESSEE EACH AGREE TO WAIVE, AND TO TAKE ALL REQUIRED STEPS TO WAIVE, ALL RIGHTS TO A JURY TRIAL.** To the extent Lessee is permitted by applicable law, Lessee waives all rights and remedies conferred upon a lessee by Article 2A (Sections 508-522) of the Uniform Commercial Code including but not limited to Lessee's rights to: (a) cancel or repudiate this Lease; (b) reject or revoke acceptance of the Equipment; (c) recover damages from Lessor for any breach of warranty or for any other reason; (d) grant a security interest in any Equipment in Lessee's possession. To the extent Lessee is permitted by applicable law, Lessee waives any rights they now or later may have under any statute or otherwise which requires Lessor to sell or otherwise use any Equipment to reduce Lessor's damages, which requires Lessor to provide Lessee with notice of default, intent to accelerate amounts becoming due or acceleration of amounts becoming due, or which may otherwise limit or modify any of Lessor's rights or remedies. **ANY ACTION LESSEE TAKES AGAINST LESSOR FOR ANY DEFAULT, INCLUDING BREACH OF WARRANTY OR INDEMNITY, MUST BE STARTED WITHIN ONE (1) YEAR AFTER THE EVENT, WHICH CAUSED IT.** Lessor will not be liable for specific performance of this Lease or for any losses, damages, delay or failure to deliver Equipment.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS LEASE SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. TERMS OR ORAL PROMISES WHICH ARE NOT CONTAINED IN THIS WRITTEN AGREEMENT MAY NOT BE LEGALLY ENFORCED. THE TERMS OF THIS LEASE MAY ONLY BE CHANGED BY ANOTHER WRITTEN AGREEMENT BETWEEN LESSEE AND LESSOR. LESSEE AGREES TO COMPLY WITH THE TERMS AND CONDITIONS OF THIS LEASE. LESSEE AGREES THAT THE EQUIPMENT WILL BE USED FOR BUSINESS PURPOSES ONLY AND NOT FOR PERSONAL, FAMILY OR HOUSEHOLD PURPOSES.

LESSEE CERTIFIES THAT ALL THE INFORMATION GIVEN IN THIS LEASE AND LESSEE'S APPLICATION WAS CORRECT AND COMPLETE WHEN THIS LEASE WAS SIGNED. THIS LEASE IS NOT BINDING UPON LESSOR OR EFFECTIVE UNLESS AND UNTIL LESSOR EXECUTES THIS LEASE. THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF THE LESSEE.

City of Kerrville  
("Lessee")

PNC Equipment Finance, LLC  
("Lessor")

X  
\_\_\_\_\_  
Authorized Signature

X  
\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title:

\_\_\_\_\_  
Title:

Date  
899 Junction Highway  
Kerrville, TX 78028

995 Dalton Ave.  
Cincinnati, OH 45203

**OPINION OF COUNSEL**

I have acted as counsel to the above-referenced Lessee (the "Lessee") with respect to this Lease Agreement by and between the Lessee and Lessor (the "Lease"), and in this capacity have reviewed the original or duplicate originals of the Lease and such other documents as I have deemed relevant. Based upon the foregoing, I am of the opinion that: (A) Lessee is a state or a fully constituted political subdivision or agency of a state within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended; (B) the execution, delivery and performance of the Lease by Lessee has been duly authorized by all necessary action on the part of Lessee; (C) the Lease constitutes a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except as limited by laws of general application affecting the enforcement of creditors' rights, and does not constitute a debt of Lessee which is prohibited by state law; (D) the authorization, approval and execution of the Lease and all other proceedings of Lessee related to the transactions contemplated thereby have been performed in accordance with all open-meeting laws, public bidding laws, and all other applicable state laws. The undersigned certifies that (s)he is an attorney duly authorized to practice law in the State of \_\_\_\_\_.

The foregoing opinions are limited to the laws of such State and federal laws of the United States.

Attorney of Lessee

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Law firm: \_\_\_\_\_

## **Agenda Item:**

2C. Lease renewal with Riverside Nature Center. (staff)

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

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**SUBJECT:** Agreements between the City and Riverside Nature Center Association, Incorporated, pursuant to the River Trail to include an Amendment to Lease, Recreation Easement, Warranty Deed, and Subordination and Consent.

**FOR AGENDA OF:** June 26, 2012

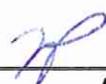
**DATE SUBMITTED:** June 22, 2012

**SUBMITTED BY:** Malcolm Matthews  
Director of Parks  
and Recreation

**CLEARANCES:** Kristine Ondrias   
Assistant City Manager

**EXHIBITS:** Amendment to Lease, Recreation Easement, Warranty Deed, and Subordination and Consent

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:** N/A

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The Riverside Nature Center (RNC) has been working closely with the City on planning and development of the River Trail project. The RNC has agreed to allow the City to utilize RNC property for a portion of the River Trail and related public parking. City owned property is currently leased to the RNC, which they have asked to be amended/renewed, which expires February 28, 2013. This leased property has allowed the RNC to extend their complex down to the Guadalupe River. The lease amendment/renewal consists of approximately one acre. This lease renewal has been modified to allow the City to access and utilize the leased premises for utility purposes and for River Trail construction, operation, and public access.

The City is also securing a Recreation Easement for the River Trail along the west property line of the RNC for trail/trail head construction and operation as the public access point to the trail.

There have also been small, detached tracts removed from the original leased premises which the City intends to transfer to the RNC. The tracts removed from the current lease, the site of an abandoned lift station and sewer main (approximately 0.7 acres), do not

affect the intent of this lease or impact the River Trail construction or operation, but will relieve the City from liability as owner of those tracts.

**RECOMMENDED ACTION**

Staff recommends that the City Council approve and accept the attached agreements between the City and Riverside Nature Center Association, Incorporated, pursuant to the River Trail to include an Amendment to Lease, Recreation Easement, Warranty Deed, and Subordination and Consent.

## AMENDMENT TO LEASE

Date: \_\_\_\_\_, 2012

Lease:

Date: March 2, 1998

Landlord: CITY OF KERRVILLE, TEXAS

Tenant: RIVERSIDE NATURE CENTER ASSOCIATION, INCORPORATED

For and in consideration of the agreements between the parties and in accordance with and as an inducement to such agreements, the mutual covenants herein set forth and other good and valuable consideration, Landlord and Tenant agree to the following modifications of the above-referenced Lease:

- A. The Lease Term specified in paragraph 2 of the Lease is amended to extend the Term to March 1, 2037, with the option to Tenant to extend for an additional 10 years.
- B. The deletion from the Lease of the portion of the Leased Premises which are conveyed by Landlord to Tenant as set forth in the Deed from Landlord to Tenant, said Special Warranty Deed attached hereto and filed at Volume \_\_, Page \_\_\_\_, within the Real Property Records of Kerr County, Texas.
- C. Paragraph 3.A. of the Lease is amended to add the following language: "This paragraph will not obligate or require Tenant to do any of the maintenance or clean-up specified above with respect to the Landlord's River Trail or utility construction, both of which will be the responsibility of Landlord."
- D. The deletion of the following paragraphs from the Lease: 3.B and 3.C
- E. The consent required under paragraph 15 will not be unreasonably withheld, conditioned or delayed.
- F. The permitted uses under paragraph 4 shall include any and all uses related to the mission and purposes of Tenant and the nature center owned and operated by Tenant on adjoining land.
- G. Landlord shall be responsible and obligated for all site damage caused by construction of the the River Trail and any construction and maintenance for utility purposes within the Leased Premises and shall restore and repair same after any such construction and maintenance.

The Lease shall remain in full force and effect in accordance with its terms, as amended hereby, and is ratified as amended.

Tenant hereby confirms, represents and acknowledges that:

- A. The Lease is in full force and effect.
- B. The Lease has not been modified or amended, except as provided in this Amendment.
- C. Neither Landlord nor Tenant are in default under the Lease and each has fully performed its obligations under the Lease accruing through the date hereof.

EXECUTED in multiple counterparts which when taken together shall be and constitute one document as of the \_\_\_ day of \_\_\_\_\_, 2012, it being agreed that execution transmitted by telefax shall be binding on the parties.

LANDLORD:

TENANT:

CITY OF KERRVILLE, TEXAS

RIVERSIDE NATURE CENTER  
ASSOCIATION, INCORPORATED

BY: \_\_\_\_\_  
Jack Pratt, Jr., Mayor

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

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

APPROVED AS TO FORM:

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

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

**RECREATION EASEMENT  
(Public River Trail)**

THE STATE OF TEXAS           §  
  §  
COUNTY OF KERR           §

That RIVERSIDE NATURE CENTER ASSOCIATION, INCORPORATED, a Texas non-profit corporation (“Grantor”), whose address is 150 Francisco Lemos, Kerrville, Texas 78028, for good and valuable consideration, has GRANTED AND CONVEYED and by these presents does hereby GRANT AND CONVEY to the CITY OF KERRVILLE, TEXAS (“Grantee”), its successors and assigns, subject to any and all exceptions, easements and encumbrances of record, an easement (“Easement”) along, across, over, and under that certain tract of land, which is described in **Exhibit “A”**, attached hereto and made a part hereof, and subject to the terms and conditions herein specified for the purpose of creating, constructing, and maintaining a public river trail, consisting of materials such as concrete or natural materials to be solely determined by the Grantee, for exercising, walking, jogging, bicycling, and other recreational uses and amenities related thereto such as the placement, installation, and construction of restrooms, pavilions, playground equipment, trash receptacles, lighting, security telephones, park benches, water fountains, irrigation, and signage, the types and locations of which to be solely determined by the Grantee, and hereinafter the trail and amenities collectively referred to as the “Facilities.” The Facilities shall include, and Grantee shall install and construct as part of its construction of the public river trail, a fence on the boundary of the Easement which

## **DRAFT 6/22/12**

is contiguous with the adjacent property of Grantor and trash and recycling receptacles at the trail head on the Easement. The Grantee will install, construct, and position all such Facilities as depicted in **Exhibit "B"**, attached hereto and made a part hereof, which includes construction drawings that specify the type of fence to be constructed. Grantee shall move, as part of the construction of the river trail and its use of the Easement, the viewing area for wildlife located on adjacent land owned by Grantee and leased to Grantor. Grantee's rights shall include the right to bring and operate such equipment upon the Easement as may be necessary or appropriate to effectuate the purposes for which the Easement is granted, which include public use, and for the purposes of creating, constructing, and maintaining the Facilities. Grantee shall not commence the placement, installation, and construction of the Facilities without first notifying Grantor in writing within a reasonable period of time prior to such placement, installation, and construction, such period not to be less than fifteen (15) days. Grantee shall construct, operate, and maintain its Facilities in an efficient and workmanlike manner and shall not interfere with Grantor's use and enjoyment of its property and any entry on the Easement and any such construction, removal, and planting as herein provided will not interfere with the use of Grantor's property and will be scheduled with Grantor upon reasonable notice so that there shall not be any interference with any event of Grantor. Subject to the foregoing Grantee shall have the right to remove any and all vegetation from the Easement, including trees and brush, which may be necessary or appropriate to effectuate the purpose for which the Easement is granted conditioned upon written notice not to be less than fifteen (15) days to Grantor of same and conditioned upon the mutual approval of Grantor and Grantee, which approval shall not be unreasonably withheld, conditioned, or delayed, including the determination and right of Grantee, in its sole discretion, to plant vegetation, including trees and shrubs, within the Easement as a way of enhancing public

## **DRAFT 6/22/12**

use of Grantee's linear park. Grantee agrees to restrict use of the Easement to pedestrians, skaters, and bicyclists and for other non-motorized uses, except in cases where motorized vehicles are used by Grantee to maintain the Facilities or where such vehicles are used to monitor and patrol the Easement or respond to emergencies. Grantee shall install and maintain signs to provide public notice of the prohibition of motorized vehicle use. Grantee shall enforce all rules and regulations for City park and recreation areas. Grantee also acknowledges that the Facilities to be installed or constructed shall belong to the Grantee and that Grantee, not Grantor, shall be responsible for the maintenance, repair, or removal of any of the Facilities and for all liability, costs, or claims arising from the Grantee's or the public's use of the Easement or the Facilities. Further, Grantee shall be responsible for the periodic removal of trash and debris within the Easement. Further it is agreed, acknowledged, and stipulated by Grantor and Grantee, by its acceptance hereof, that Grantee shall have control of the Easement subject to the rights and conditions herein set forth of Grantor to approve certain matters and Grantee assumes all risk for, and shall be liable and responsible for, all claims, obligations, and liabilities related to the Easement, the property, and premises within the Easement and its use as herein provided.

Grantee, its successor, and assigns shall enjoy the rights, benefits, and privileges herein conveyed until such time as the Easement may be abandoned, at which time all right, title, and interest in the Easement shall automatically and immediately cease to exist. However, any such "abandonment" shall only be effective and occur upon formal action taken by the Kerrville City Council.

This instrument contains the entire agreement of the parties with respect to the Easement. There are no other or different agreements or understandings between Grantor and Grantee or its agents regarding the Easement. Grantor, in executing and delivering this instrument, has not

**DRAFT 6/22/12**

relied upon any promises, inducements, or representations of Grantee or its agents or employees, except as such are set forth herein, and Grantee accepts the Easement in its present condition “AS IS” without any representation or warranty and Grantor DISCLAIMS any and all express or implied representations or warranties regarding the Easement. This instrument and the rights, easement, and agreements herein contained shall be covenants running with the land and shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors, and assigns of the parties hereto.

TO HAVE AND TO HOLD the Easement, together with all and singular the rights and appurtenances thereto in any wise belonging, unto Grantee, its successors, assigns, and legal representatives and Grantor hereby binds itself and its successors, assigns, and legal representatives to warrant and forever defend all and singular the Easement unto Grantee, its successors, assigns, and legal representatives against every person whomsoever lawfully claiming or to claim the same or any part thereof by through or under Grantor, but not otherwise, subject to any and all exceptions, easements, and encumbrances of record or visible / apparent thereon.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

RIVERSIDE NATURE CENTER ASSOCIATION,  
INCORPORATED, a Texas non-profit corporation

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF TEXAS           §  
  §  
COUNTY OF KERR       §

On this day the \_\_\_\_ day of \_\_\_\_\_, 2012, before me the undersigned notary public, personally appeared \_\_\_\_\_, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that the same was the act of the said RIVERSIDE NATURE CENTER ASSOCIATION, INCORPORATED, a Texas non-profit corporation, and that such person has executed the same as the act of such corporation for the purposes and consideration therein expressed, and in the capacity therein stated.

\_\_\_\_\_  
Notary Public in and for the State of Texas  
My Commission Expires: \_\_\_\_\_

(SEAL)

APPROVED AND ACCEPTED:

\_\_\_\_\_  
Todd Parton, City Manager  
City of Kerrville, Texas

**AFTER RECORDING RETURN TO:**

**Office of the City Secretary  
City of Kerrville, Texas  
City Hall  
800 Junction Highway  
Kerrville, Texas 78028**

T:\Legal\Parks & Recreation\River Trail\RNC\_062212 REDLINED Draft from City staff based upon RNC's review.doc

FIELD NOTES DESCRIPTION FOR A RIVER TRAIL EASEMENT  
UPON, OVER AND ACROSS THE RIVERSIDE NATURE CENTER  
LAND IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 0.26 acre, more or less, out of J.C. Hays Survey No. 117, Abstract No. 182 in the City of Kerrville, Kerr County, Texas; part of Lot Nos. 201, 202, and 203 in Block 35 of the Charles Schreiner Addition, a subdivision of Kerr County according to the plat of record in Volume K at Page 1 of the Deed Records of Kerr County, Texas; and part of that land conveyed from B & E Ventures to Riverside Nature Center Association Inc. by a Warranty Deed with Vendor's Lien executed the 8<sup>th</sup> day of July, 1992 and recorded in Volume 648 at Page 786 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fencepost in the southeast line of a certain 0.437 acre tract conveyed from Mrs. A.S. Anderson and Mrs. Emma Lennox to the City of Kerrville by a Warranty Deed executed the 15<sup>th</sup> day of January, 1940 and recorded in Volume 66 at Page 222 of the Deed Records of Kerr County, Texas for the north corner of the herein described tract, the northwest common corner of Lot Nos. 203 and 204, the north corner of said Riverside Nature Center tract (Vol. 648 Pg. 786), and the west corner of a certain tract conveyed from Ollie Hughs, et ux to the City of Kerrville by a Warranty Deed executed the 25<sup>th</sup> day of October, 1939 and recorded in Volume 65 at Page 219 of the Deed Records of Kerr County, Texas;

THENCE, with the common line between said Lot Nos. 203 and 204, and the common line between said Riverside Nature Center tract and City of Kerrville tract (Vol. 65 Pg. 219) S.44°36'58"E., 18.48 ft. to a ½" iron stake set for the northeast corner of the herein described tract;

THENCE, upon, over and across said Lot Nos. 203, 202, and 201, and said Riverside Nature Center tract: S.48°18'47"W., 119.04 ft. to a set ½" iron stake; S.42°44'03"W., 196.83 ft. to a fence cornerpost for a reentrant corner of the herein described tract; and S.54°49'00"E., 142.43 ft. to a ½" iron stake set in the south line of Lot No. 201 and Riverside Nature Center tract for the southeast corner of the herein described tract;

THENCE, with the said south line of Lot No. 201 and Riverside Nature Center tract S.86°15'09"W., 75.00 ft. to a ½" iron stake set for the southwest corner of the herein described tract;

THENCE, upon, over and across said Lot. No. 201 and Riverside Nature Center tract N.57°25'01"W., 111.85 ft. to a ½" iron stake set in the northwest line of Lot No. 201 and Riverside Nature Center tract, and the southeast line of a certain 6.305 acre tract conveyed from Lowery Walter McNeil to Alice Jane Gardner-McNeil by a Special Warranty Deed executed the 16<sup>th</sup> day of April, 2010 and recorded in Volume 1785 at Page 213 of the Official Public Records of Kerr County, Texas for the west corner of the herein described tract;

THENCE, with the northwest lines of said Lot Nos. 201, 202 and 203, and the common line between said Riverside Nature Center tract and 6.305 acre tract N.44°50'20"E., at 357.05 ft. passing a ½" iron stake found for an easterly corner of 6.305 acre tract and the south corner of said 0.437 acre tract, then continuing with the common line between Riverside Nature Center tract and 0.437acre tract for a total distance of 371.79 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

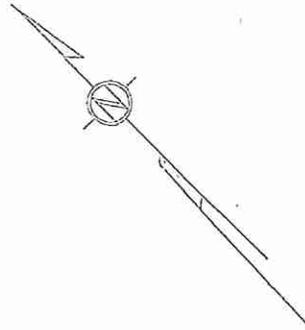
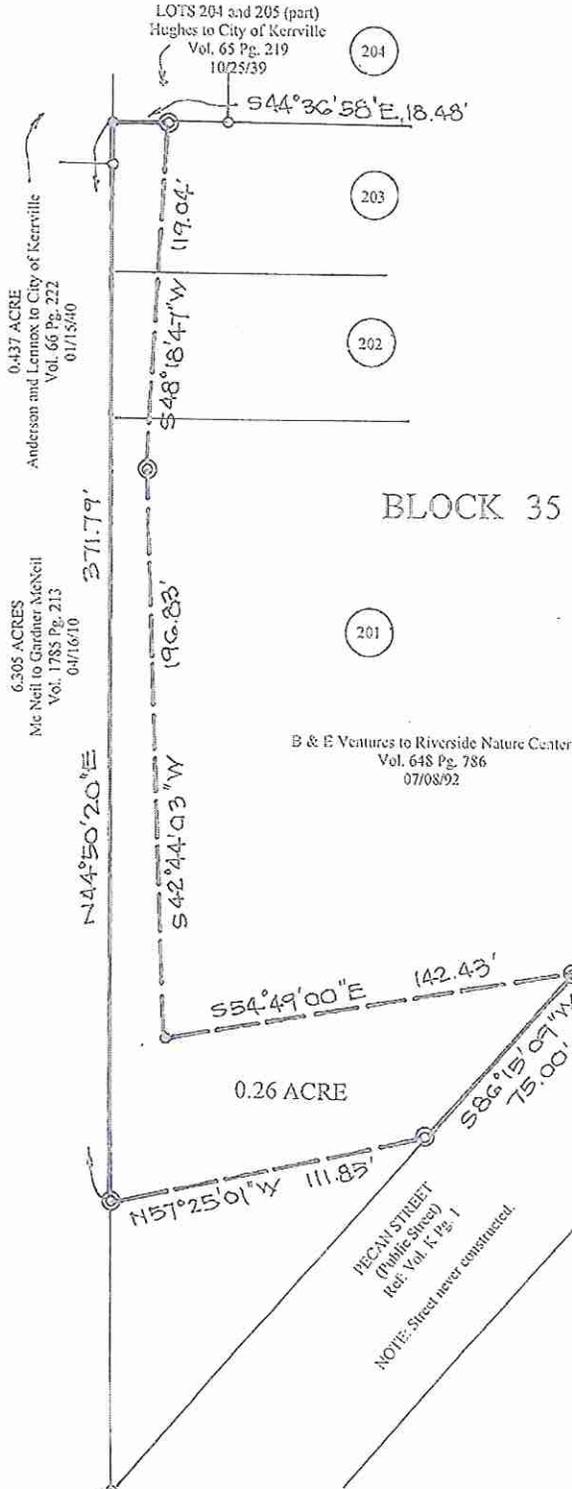
(Bearing basis = True north based on GPS observations)

Dated this 23<sup>rd</sup> day of April, 2012

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas



SURVEY PLAT FOR 0.26 ACRE OF LAND, MORE OR LESS, OUR OF J.C. HAYS SURVEY NO. 117, ABSTRACT NO. 182 IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS; PART OF LOT NOS. 201, 202, AND 203 IN BLOCK 35 OF THE CHARLES SCHREINER ADDITION, A SUBDIVISION OF KERR COUNTY ACCORDING TO THE PLAT OF RECORD IN VOLUME K AT PAGE 1 OF THE DEED RECORDS OF KERR COUNTY, TEXAS, AND PART OF THAT LAND CONVEYED FROM B & E VENTURES TO RIVERSIDE NATURE CENTER ASSOCIATION INC. BY A WARRANTY DEED WITH VENDOR'S LIEN EXECUTED THE 8<sup>TH</sup> DAY OF JULY, 1992 AND RECORDED IN VOLUME 648 AT PAGE 786 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS



SCALE: 1" = 50'

LEGEND

- found 1/2" iron stake
- ⊙ set 1/2" iron stake
- fencepost

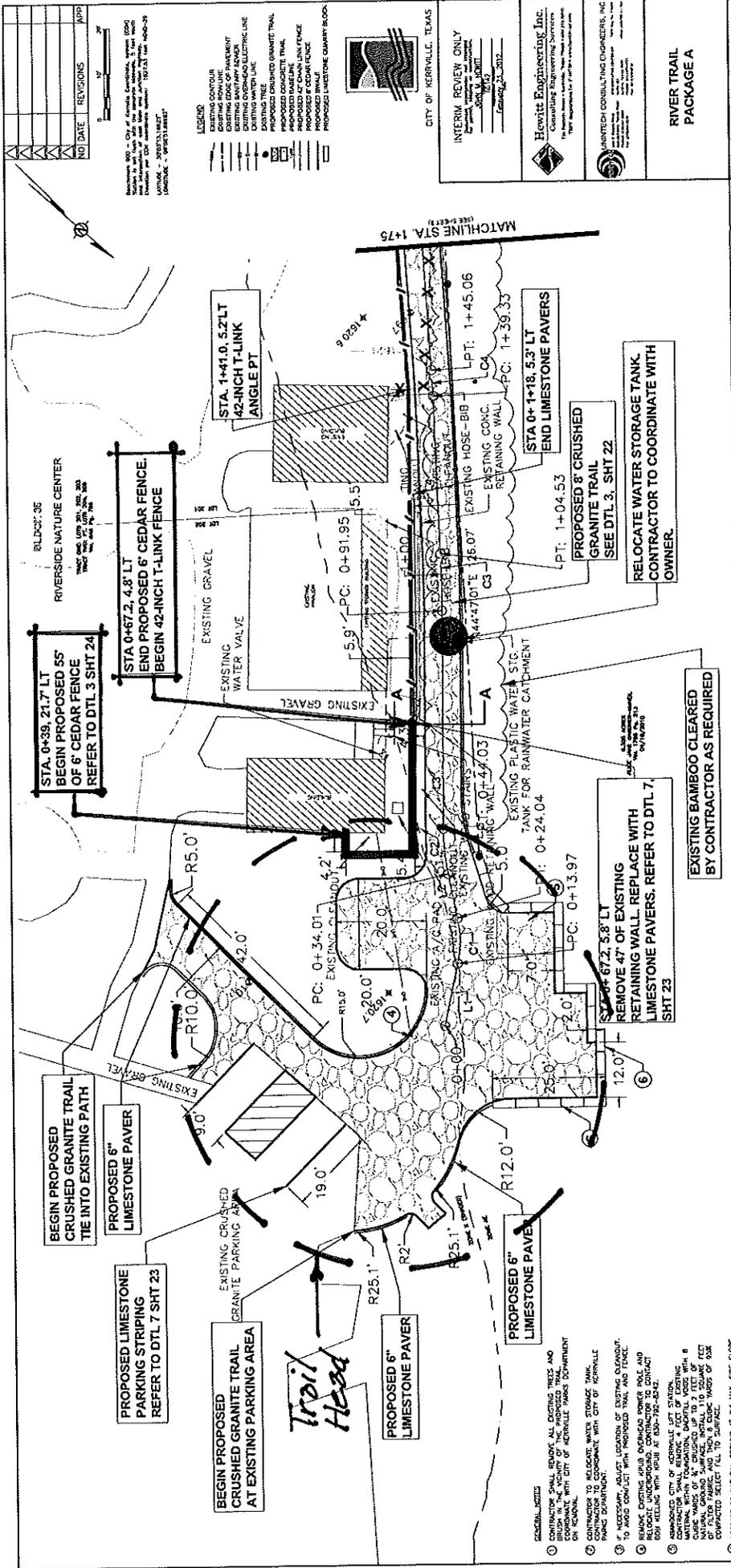
I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.  
(Bearing basis = True north based on GPS observations)

Dated this 23<sup>rd</sup> day of April, 2012

*Lee C. Voelkel*

Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas





**CITY OF KERRVILLE, TEXAS**

INTERIM REVIEW ONLY

**Hewitt Engineering Inc.**  
Consulting Engineering Services

**MAINTENANCE CONSULTING ENGINEERS, INC.**

**RIVER TRAIL PACKAGE A**

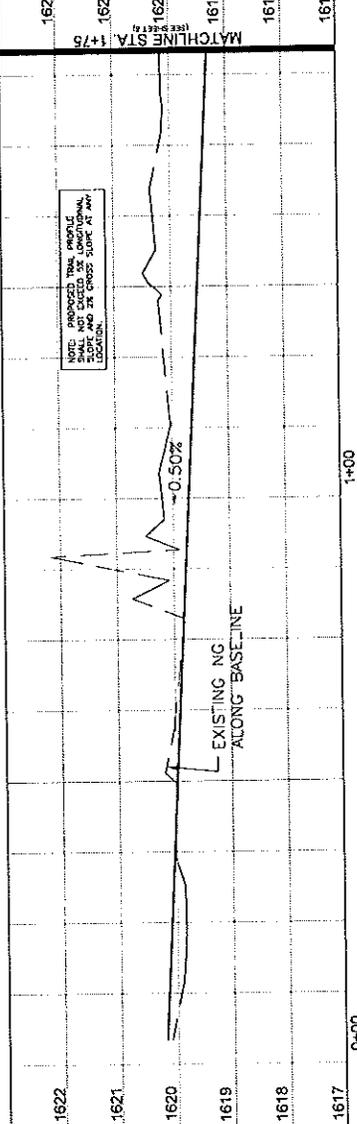
**RIVER TRAIL PLAN AND PROFILE (STA 0+00 - STA. 1+75)**

CITY APPROVAL

DATE: 02/21/2012

PROJECT NO. 1123

SHEET NO. 7 OF 41



**Line Table: Alignments**

Line #	Length	Start Point	End Point
L2	537' 35"	(162402.241,3292504.30)	(1623368.713,3292506.11)
L1	13.97'	(162402.241,3292504.30)	(162416.213,3292506.81)
L3	4732'	(1623368.713,3292506.81)	(1623368.713,3292506.81)
L4	34.60'	(1623368.713,3292506.81)	(1623368.713,3292506.81)
L5	134.72'	(1623368.713,3292506.81)	(1623368.713,3292506.81)

**Curve Table: Alignments**

Curve #	Radius	Length	Chord Direction	Start Point	End Point
C1	24.81	10.07'	547' 41"	(162410.213,3292506.81)	(162402.241,3292504.30)
C2	46.33	10.02'	547' 47"	(1623368.713,3292506.81)	(1623368.713,3292506.81)
C3	300.00	12.29'	548' 24"	(1623368.713,3292506.81)	(1623368.713,3292506.81)
C4	200.00	5.73'	548' 22"	(1623368.713,3292506.81)	(1623368.713,3292506.81)

1. CONTINUOUS SHALL BE USED FOR ALL EXISTING TRAIL AND FENCE COORDINATE WITH CITY OF KERRVILLE PARKS DEPARTMENT ON RECORD.

2. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

3. IF NECESSARY, ADJUST LOCATION OF EXISTING OUTLET.

4. REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

5. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

6. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

7. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

8. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

9. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.

10. CONTRACTOR TO REMOVE EXISTING TRAIL AND FENCE TO MAINTAIN EXISTING TRAIL AND FENCE.



## DRAFT 6/22/12

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

### SPECIAL WARRANTY DEED

THE STATE OF TEXAS §

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF KERR §

THAT CITY OF KERRVILLE, TEXAS, hereinafter referred to as "GRANTOR", whether one or more, for and in consideration of the sum of TEN AND NO/100 (\$10.00) DOLLARS cash, and other good and valuable consideration, in hand paid by RIVERSIDE NATURE CENTER ASSOCIATION, INCORPORATED, hereinafter referred to as "GRANTEE", whether one or more, receipt of which is hereby acknowledged, and for which no lien, expressed, or implied, is retained or shall exist, has GRANTED, BARGAINED, SOLD and CONVEYED, and by these presents does GRANT, BARGAIN, SELL and CONVEY unto GRANTEE, the property, lying and being situated in Kerr County, Texas, together with all rights, benefits, privileges, tenements, hereditaments and appurtenances thereon or in anywise appertaining thereto and together with any and all improvements thereon (collectively, the "Property") described as follows:

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

SAVE AND EXCEPT, and there is hereby reserved unto GRANTOR and its successors and assigns, and the title to the Property is hereby expressly made subject to, an easement on, over, across and under the Property in the present location of City lines, for the purposes of maintaining, operating, installing, repairing and removing the utilities and lines thereon.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, subject as aforesaid, unto GRANTEE, and GRANTEE's heirs, legal representatives, successors and assigns, forever; and GRANTOR does hereby bind GRANTOR, and GRANTOR's heirs, legal representatives, successors and assigns to WARRANT AND FOREVER DEFEND, all and singular the Property, subject as aforesaid, unto GRANTEE, and GRANTEE's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under GRANTOR, but not otherwise.

EXECUTED this the \_\_\_ day of \_\_\_\_\_, 2012.

CITY OF KERRVILLE, TEXAS

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

Grantee's name and address:

Riverside Nature Center Association, Incorporated  
150 Francisco Lemos  
Kerrville, Texas 78028

THE STATE OF TEXAS     §

COUNTY OF KERR         §

This instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2012, BY  
\_\_\_\_\_, \_\_\_\_\_ of the CITY OF KERRVILLE, TEXAS,  
on behalf of the CITY OF KERRVILLE, TEXAS.

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

# DRAFT 6/22/12

## SUBORDINATION AND CONSENT

THIS SUBORDINATION AND CONSENT, made and entered into by RIVERSIDE NATURE CENTER ASSOCIATION, INCORPORATED ("Tenant"), to and in favor of CITY OF KERRVILLE, TEXAS ("City");

### WITNESSETH:

Tenant in consideration of the agreements between the parties and other good and valuable consideration, the sufficiency of which are hereby acknowledged and confessed, does hereby covenant, stipulate, agree and declare as follows:

1. Consent. Tenant, as the tenant of the Property under that certain Lease Agreement dated March 2, 1998, as amended, ("Lease") hereby consents to the Public River Trail ("River Trail") and subordinates the Lease, and all rights and privileges under the Lease, to City, its construction, and the public's use of the River Trail.

2. Further Assurances. The parties hereto agree to execute and deliver such further instruments as may be reasonably requested from time to time by the other party hereto as necessary or appropriate to fully carry out the intent and purpose hereof, which is the construction and thereafter the public's use of the River Trail.

3. Binding Effect. This instrument is binding upon and shall inure to the benefit of the heirs, executors, administrators, successors and assigns of each of the parties hereto.

EXECUTED on this the \_\_\_\_ day of \_\_\_\_\_, 2012.

RIVERSIDE NATURE CENTER ASSOCIATION,  
INCORPORATED, a Texas non-profit corporation

BY: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## **Agenda Item:**

2D. Agreement renewal with the Texas Parks and Wildlife Department for the 2012 Kerrville-Schreiner Park Managed Bow Hunt. (staff)

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

**SUBJECT:** Authorization to the City Manager to enter into an agreement renewal with the Texas Parks and Wildlife Department for the 2012 Kerrville-Schreiner Park Managed Bow Hunt.

**FOR AGENDA OF:** June 26, 2012

**DATE SUBMITTED:** June 22, 2012

**SUBMITTED BY:** Malcolm Matthews  
Director of Parks and Recreation

**CLEARANCES:** Kristine Ondrias   
Asst. City Manager

**EXHIBITS:** Contract

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

**SUMMARY STATEMENT**

Since 2008, the Kerrville Parks and Recreation Department has hosted an annual managed bow hunt in Kerrville-Schreiner Park (KSP), in conjunction with the Texas Parks and Wildlife Department (TPWD) Managed Hunt Program held statewide. The purpose of the hunt, which occurs in December each year, is to assist with the over-population of wildlife on properties that have difficulty in supporting their current populations. Included in our participation in this state program, TPWD pays the City of Kerrville \$4800 for allowing this hunting opportunity. Over 450 prospective hunters applied to TPWD for the 60 slots available for the 2011 KSP bow hunt, and it is projected that that interest will continue.

Prior to the first year of the hunt, excessive numbers of deer were being hit on Hwy 173, causing both severe damage to vehicles and wildlife. That situation has now been dramatically curtailed. Continuation of the bow hunt program restores balance to the ecological system of the park and the proper management of healthy wildlife.

**RECOMMENDED ACTION**

Staff recommends the City Council authorize the City Manager to proceed with the Kerrville-Schreiner Park Managed Bow Hunt for 2012.

LEASE AGREEMENT FOR MANAGEMENT HUNTS FOR  
ANTLERLESS AND SPIKE BUCK WHITE-TAILED DEER, AXIS, and BLACKBUCK ANTELOPE  
BETWEEN  
CITY OF KERRVILLE  
AND  
TEXAS PARKS AND WILDLIFE DEPARTMENT

THE STATE OF TEXAS

§

§

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF TRAVIS

§

That this Lease Agreement is made by and between the City of Kerrville, Kerr County, Texas, called Lessor, and the TEXAS PARKS AND WILDLIFE DEPARTMENT, an administrative agency of the State of Texas, acting by and through the Director of Wildlife, with its principal office in Austin, Travis County, Texas, called Lessee.

WITNESSETH:

For and in consideration of the mutual benefits and covenants hereof, Lessor gives and grants to Lessee a lease for management hunts for white-tailed deer, Axis, or Blackbuck Antelope on those certain lands owned by Lessor in Kerr County(s), Texas, containing approximately 460 acres, called the Kerrville-Schreiner Park and being more particularly described at Exhibit A attached hereto and made a part hereof for all purposes under the following terms and conditions:

1. "Premises" as used herein, shall include all of those tracts of real property as described at Exhibit A.
2. The rights granted herein by Lessor to Lessee expressly include the right to issue Special Permits for a limited number of individuals selected by Lessee to enter upon the Premises to participate in management hunts for White-tailed deer, Axis, and Blackbuck Antelope under the following specified conditions, restrictions and periods of time:
  - a. Those individuals issued a Special Permit by Lessee valid for the Premises and hunt period shall have the right to enter upon the Premises and participate in management hunts for White-tailed deer, Axis, Blackbuck Antelope as described herein and in compliance with the Park Rules and shown at Exhibit B.
  - b. Individuals issued a Special Permit for a management hunt for White-tailed deer, Axis, Blackbuck Antelope on the Premises will be authorized to enter the Premises only during the hunt period specified on the Special Permit. The Special Permit will not authorize the named individual or any other person to enter the Premises at any time other than during the specified hunt period.
  - c. The number of individuals issued a Special Permit by Lessee to participate in each hunt period of management hunts for White-tailed deer, Axis, Blackbuck Antelope on the Premises shall not exceed the number of management hunter positions authorized herein by Item 2 i.

- d. Statewide regulations applicable to archery deer hunting in the county in which the Premises are located shall govern the management hunts for White-tailed deer, Axis, Blackbuck Antelope.
- e. The Lessor or Lessor's agent may stipulate additional Park Rules and Procedures defining authorized activities and appropriate use of the Premises during the management hunts for White-tailed deer, Axis, Blackbuck Antelope.
- f. Legal animals to be taken during management hunts for white-tailed deer shall be restricted to white-tailed deer that are antlerless or spike buck only or exotics of either sex.
- g. The Special Permit issued to each individual shall identify the management hunt for white-tailed deer in which the individual is authorized to participate as being a Private Lands Antlerless/Spike (PLA) Hunt.
- h. Individuals holding a Special Permit for a Private Lands Antlerless/Spike (PLA) Hunt shall be authorized to harvest four White - Tailed Deer ( antlerless or spike buck only).
- i. Management hunts for antlerless/spike buck white-tailed deer, Axis, Blackbuck Antelope are authorized to be conducted on the Premises only during the following hunt periods (dates and times):

From		To		Number of PLA Hunters
Time	Date	Time	Date	
Noon	Dec. 3, 2012	Noon	Dec. 5, 2012	12
Noon	Dec. 7, 2012	Noon	Dec. 9, 2012	12
Noon	Dec. 10, 2012	Noon	Dec. 12, 2012	12
Noon	Dec. 14, 2012	Noon	Dec. 16, 2012	12
Noon	Dec. 17, 2012	Noon	Dec. 19, 2012	12

Total Number of PLA Hunter Positions ----- 60

- j. The price to be paid by Lessee to Lessor for the management deer hunts shall be as follows:  
\$80.00 for each of 60 PLA hunter positions for a Total of \$4,800

3. Responsibilities of Lessee:

- a. Lessee shall, through public hunt drawings, select the desired number of individuals authorized to participate in each management deer hunt period on the Premises.
- b. Lessee shall collect all fees from applicants and participants in the management hunts.
- c. Lessee shall provide individuals selected to participate in the management hunts with information needed to inform them when, where, and to whom to report for their hunt, and all applicable Rules and Procedures.
- d. Lessee shall, in advance of each management hunt period, provide the Lessor or Lessor's agent with the names and telephone numbers of the individuals selected to participate in management hunts on the Premises and the hunt period to which each individual is assigned.
- e. Lessee shall, upon conclusion of all management hunts on the Premises as specified herein in Item 2 i and within 45 days of receipt of an invoice for such from Lessor, process payment to Lessor of the total price of the management hunts as specified herein in Item 2 j.

4. Responsibilities of Lessor:

- a. Lessor shall provide access to the Premises on which to conduct the management deer hunts during the hunt periods and accommodating the number of public hunters as specified herein in Item 2 i.
- b. Lessor shall provide all staffing needed to conduct the management hunts including checking in hunters at the start of each hunt period, informing hunters of rules governing the hunts and use of the premises, directing hunters to their assigned hunting areas, overseeing hunting activities, and checking out hunters upon the conclusion of each hunt period.
- c. Lessor shall, no later than September 1, 2012 inform Lessee of the name, mailing address and telephone number of the person who will be supervising each of the management hunt periods and to whom the hunters will report at the start of the hunt.
- d. Lessor shall, no later than September 1, 2012 inform Lessee of the exact location, date, and time that public hunters are to report at the start of each management hunt period, and all applicable Rules and Procedures.

5. It is clearly understood and agreed by the parties that Lessor is making its Premises available to the Lessee in order that certain individuals, to whom Lessee has issued a Special Permit valid for management hunts for white-tailed deer, Axis, and Blackbuck Antelope may enter upon such Premises and participate in the activity. The Lease Agreement and the permission for entry upon the Premises is granted by Lessor expressly upon and subject to Chapter 75 of the Texas Civil Practices and Remedies Code, and upon and subject to the following terms and limitations:

- (a) Lessor does not assure that the Premises are safe for the purpose.
- (b) Lessor does not owe to the person to whom the permission is granted a greater degree of care than is owed to a trespasser on the Premises.
- (c) Lessor does not assume responsibility or incur liability for any injury to any individual or property caused by any act of the person to whom permission is granted.
- (d) Lessee is not responsible to Lessor for actions of the Permittee not authorized by this Lease Agreement.

6. Lessor understands that Chapter 75 of the Texas Civil Practice and Remedies Code provides him/her with a greater degree of protection from liability if the total revenue derived in the prior calendar year by Lessor for hunting and other recreational use of the Premises does not exceed an amount equal to twenty times the ad valorem taxes imposed on the Premises for the prior calendar year. Lessor is advised to require each participant in the management deer hunts to sign, immediately upon arrival at the Premises, a waiver of liability for personal injury and/or property damage incurred on the Premises.

7. This Lease Agreement shall be for a term from date of execution through the conclusion of management hunts for white-tailed or mule deer on the Premises as specified herein in Item 2 i.

Prior to the public hunt drawings as specified herein in Item 3 a, either party hereto may for any reason terminate this Agreement after thirty (30) days prior written notice to the other party as specified herein in Item 10 and each party's obligation for the unfulfilled portion of the Agreement shall cease. Once the public hunt drawings have been conducted, this Agreement may be terminated only by mutual consent of both Lessor and Lessee and each party's obligation for the unfulfilled portion of the Agreement shall cease. If funds are not appropriated by the Texas legislature or are otherwise unavailable to the Licensee to make payments as provided in Item # 6, Licensee will notify Licensor in writing at least 45 days prior to the date scheduled for initiation of public hunting activity, and this Agreement will terminate 30 days after the date of such written notice.



**AFFIRMATION OF LESSOR'S AUTHORITY TO CONVEY RIGHTS FOR MANAGEMENT HUNTS FOR WHITE-TAILED DEER:**

By signature below, "Lessor" agrees to the terms of this Lease Agreement and attests that he/she possesses full control of the rights to conduct management hunts for white-tailed or mule deer on the Premises and is authorized to convey such rights as described in this Lease Agreement to the "Lessee".

\_\_\_\_\_  
"LESSOR" Todd Parton, City Manager

74-6001490

\_\_\_\_\_  
"LESSOR'S" Vendor's I.D. Tax Number or Social Security Number

SIGNED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

////////////////////////////////////

By signature below, "Lessee" agrees to the terms of this Lease Agreement.

\_\_\_\_\_  
Clayton Wolf, Director of Wildlife

"LESSEE"  
TEXAS PARKS AND WILDLIFE DEPARTMENT

SIGNED THIS \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

////////////////////////////////////

This Lease Agreement was negotiated on behalf of the LESSEE by:

**Kelly Edmiston**  
*(name)*  
**Program Specialist III**  
*(title)*  
**512/389-4595**  
*(telephone number)*

I, as a TPWD employee, understand that I may not participate in or work on a contract knowing that a state employee or member of their immediate family has an actual or potential financial interest in the contract or solicit or accept anything of value from an actual or potential licensor.

////////////////////////////////////

Attachments: Exhibit A - Map of Premises  
Exhibit B - Ranch Rules and Procedures

# Exhibit 'A' Kerrville Schreiner Park



Bow Hunt Area



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.

## EXHIBIT B

# Kerrville-Schreiner Park Hunting Rules

1. No shooting except from designated areas, and firing range.
2. Don't drive off established roads. Hunters will be taken to hunting areas.
3. Do not cut any tree even if you think it is dead.
4. All harvested animals must be brought to the designated area for processing.
5. If you shoot anything but antlerless or spike Whitetail Deer, Blackbuck Antelope or Axis Deer of either sex you lose your hunting privileges and will be asked to leave the park after a visit with the Game Warden.
6. Pick up all trash!
7. Don't shoot beyond marked areas for your assigned location; Which will be flagged.
8. Don't cross a fence as it is against the law. Get authorization from the hunt master before tracking a wounded animal outside of your designated hunting area.
9. No smoking anywhere in the park. It is illegal.
10. During a youth hunt, the parent or guardian is not permitted to hunt.
11. Every hunter must have a current Texas Parks and Wildlife Department hunting license in his or her name.
12. The named youth hunter must carry their hunting license and hunter education certification card at all times while in possession of archery equipment.
13. Participants must wear a minimum of 400 square inches of blaze orange.
14. Hunters will be required to participate in a proficiency shoot to demonstrate competency and insure equipment is operating correctly.

**\*\*\*The penalty for violation of any rules will be immediate forfeiture of your permit, then termination of your hunt, and expulsion from the Park\*\*\***

## **Agenda Item:**

3A. A Resolution granting a Conditional Use Permit for an approximately 1.34 acre tract of land consisting of Lots 1, 2 and 3, and portions of Lots 12, 13, 14, and 15, Block 1 of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas, otherwise known as 505 Sidney Baker Street (State Highway 16) and located within the City's central business zoning district (CBD); by permitting said property to be used for a gasoline station (sales) with convenience store and making said permit subject to certain conditions and restrictions. (staff)

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

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**SUBJECT: Public Hearing & Consideration: Conditional Use Permit (CUP)**

Consider a request for Gasoline Stations with Convenience Store for a 1.340 acre or 58,376 square feet, more or less, tract of land consisting of lots 1, 2, and 3, and portions of lots 12, 13, 14, 15, and 16 in Block 1 of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas; being part of that certain 2.56 acre tract conveyed to Esquina, L.P. in a Warranty Deed recorded in Volume 1420, Page 695 of the Real Property Records of Kerr County, Texas, and more commonly known as 505 Sydney Baker Street. Zoned CBD – Central Business District.

**FOR AGENDA OF:** June 26, 2012      **DATE SUBMITTED:** June 14, 2012

**SUBMITTED BY:** Jason Lutz

**CLEARANCES:** Kristine Ondrias 

**EXHIBITS:** Location Map, Site Plan, Elevations & Signs, CUP – Resolution, Protest Letter

**AGENDA MAILED TO:** Chris Vela, 1 Valero Way, San Antonio, Texas 78249

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

---

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

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**SUMMARY STATEMENT**

**Conditional Use Permit Request Timeline:**

- May 04, 2012 – CUP application delivered to Development Services for review.
- May 16, 2012 – Development Review Committee (DRC) review completed.
- May 21, 2012 – Staff comments to applicant.
- May 22, 2012 – Notice of the required public hearing published in The Kerrville Daily Times and mailed to property owners within 200-feet of the subject tract.
- June 07, 2012 – Planning and Zoning Commission (P&Z) public hearing on proposed CUP and recommendation to the City Council.
- **June 26, 2012 – City Council conducts public hearing and consideration of a resolution approving the CUP**

### Summary:

The applicant has submitted a request for Gasoline Stations with Convenience Stores, which are allowed in the CBD zoning district with conditions. The applicant intends to demolish the existing church and construct a Valero Gas Station.

There are 12 conditions, which must be satisfied in order to allow Gasoline Sales in the CBD. Currently all but two conditions have been met. The Conditions are as follows:

1. A minimum street frontage of 120-feet is required – condition satisfied.
2. The primary use of a gasoline sales establishment in any district in which it is permitted shall be the sale of gasoline with incidental sales of sundries. The operation of a convenience store shall be permitted in conjunction with gasoline sales. Vehicle sales and repair shall not be considered an accessory use. Automated car washes, as an accessory use, may be permitted – condition satisfied.
3. No outdoor sales or storage shall be permitted in conjunction with gasoline sales facilities – condition satisfied.
4. Pump islands shall be located a minimum of twenty-five feet from any street right-of-way – condition satisfied.
5. Pump islands shall be located a minimum of one-hundred feet from any residential district – condition satisfied.
6. The location of the refueling area shall be located a minimum of one-hundred feet from any residential district and twenty – twenty five feet from any street right-of-way. In addition, an area must be provided for the refueling truck outside the required drive aisles, fire lands and required parking – condition satisfied.
7. Any canopy placed over the pump island may not extend closer than fifteen feet to any street right-of-way – condition satisfied.
8. An eight foot solid fence shall be constructed and maintained along any property line adjoining a residential district – condition satisfied.
9. All lighting shall be designed and installed to prevent glare or light from being emitted onto adjacent properties – condition to be regulated during the building and permitting process.
10. Signage shall comply with the City's Sign Regulations existing at the time of permitting and installation, except canopy signage. Canopy signs shall not exceed 25% of the canopy face and shall be limited to two (2) sides – condition satisfied.
11. All self-service facilities shall provide an emergency shut-off switch to completely eliminate the flow of gasoline from all pumps upon activation in an emergency situation – condition to be regulated during the building and permitting process.
12. This use is prohibited within one-hundred feet of the 100-year flood plain. In addition, where such use is within five-hundred feet of the 100-year

flood plain or within one-thousand feet of the UGRA Lake/City Impoundment Area, such use will require the adoption of a Conditional Use Permit pursuant to this code. These distances are based on the Federal Emergency Management Agency (FEMA) map at the time of development and are to be measured to the property line – condition satisfied.

This Valero Station will consist of a 3,600 square feet convenience store, with expected hours of operation to be 24 hours with 7-8 employees per shift. The applicant expects a minimum of 600 customers per day.

The land uses immediately adjacent to the property are commercial restaurants across Sidney Baker, civic uses (Police Station) across North Street, vacant land behind the property (South), and a commercial business Northwest of the property.

This property does adjoin a residentially zoned neighborhood at the NE corner of the property and would require Type A screening starting from that corner extending 25 feet along those property lines.

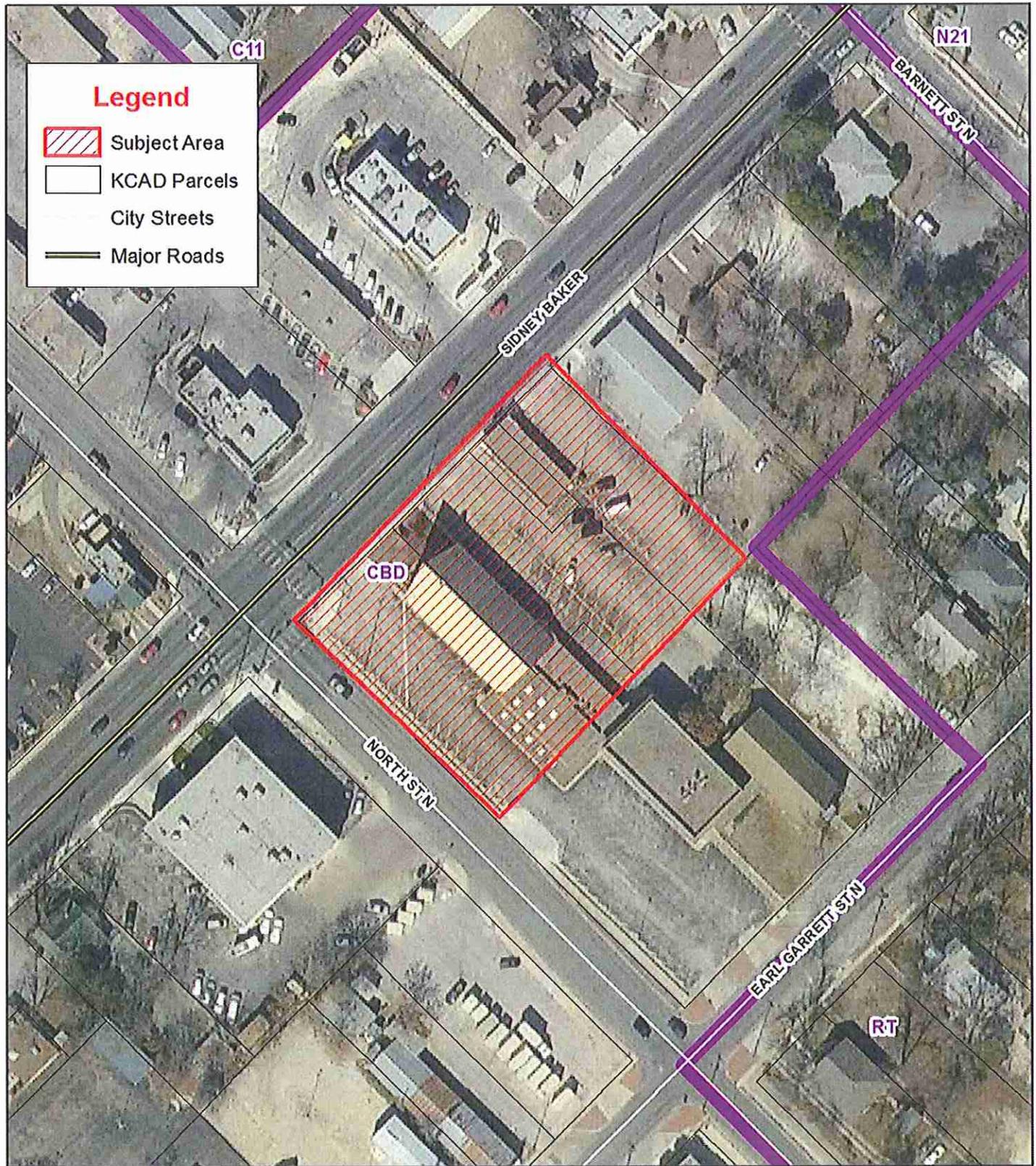
This application conforms to the Comprehensive Plan as the future land use category for this property is Central Business District.

The Planning and Zoning Commission, at their June 7, 2012 meeting following a public hearing, recommended approval of the CUP, allowing the use of a Gasoline Station with a Convenience Store by a vote of 4-0.

Ms. Barbara Burton, 235 Guadalupe Street, clarified that her letter is not a protest. She gave a brief biography and then discussed environmental issues pertaining to the CUP. The Applicant Chris Vela answered Commissioners' questions, and 1 adjacent land owner objected to the CUP via letter.

### **RECOMMENDED ACTION**

1. Open the public hearing and receive comments.
2. Consider the resolution granting the conditional use permit.



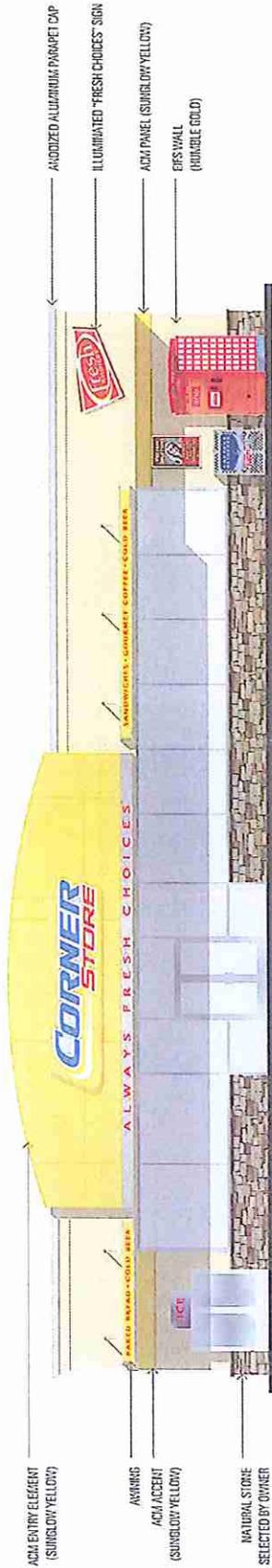
This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only approximate relative locations.

0 50 100 200 Feet

1 inch = 100 feet

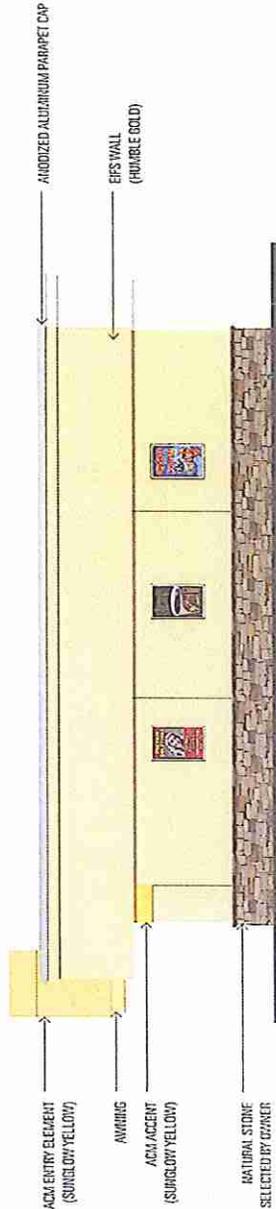






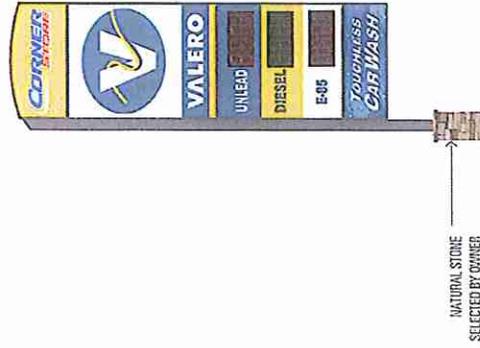
**SOUTH ELEVATION**

SCALE: 1/8" = 1'-0"



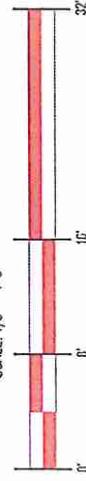
**WEST ELEVATION**

SCALE: 1/8" = 1'-0"



**SIGN ELEVATION**

SCALE: 1/8" = 1'-0"



3600 PROTOTYPE  
**VRH #1073**  
 Sidney Baker & North St., Kerrville, TX

**1203-A**  
 CONCEPT ELEVATIONS - R2

DESIGNED BY  
 MICHAEL IMBIBO INC.  
 ALL RIGHTS RESERVED



APRIL 12, 2012

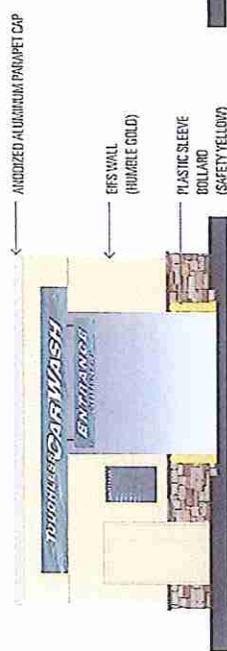
**MICHAEL IMBIBO INC.**  
 architects

1000 LA PRINCE ST. #210 | MIDLAND, TEXAS 79701  
 TEL: 409.303.3100



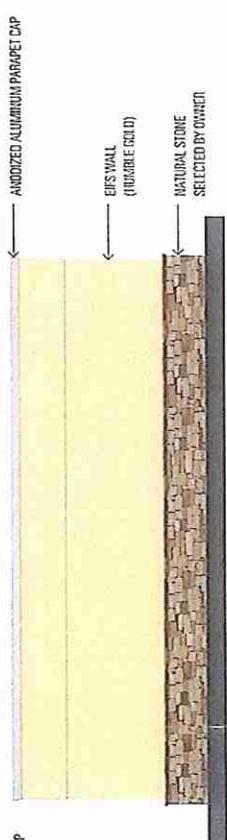
**WEST ELEVATION**

SCALE: 1/8" = 1'-0"



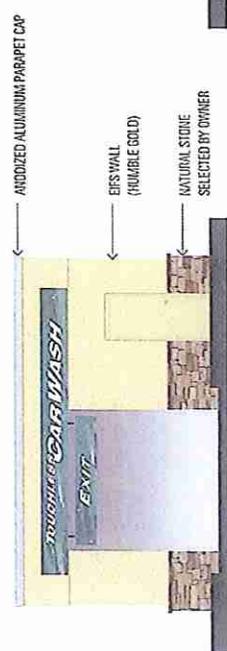
**SOUTH ELEVATION**

SCALE: 1/8" = 1'-0"



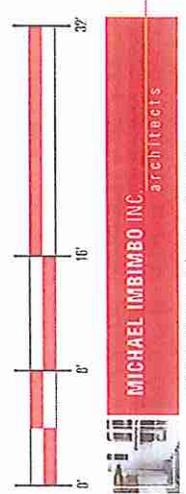
**EAST ELEVATION**

SCALE: 1/8" = 1'-0"



**NORTH ELEVATION**

SCALE: 1/8" = 1'-0"

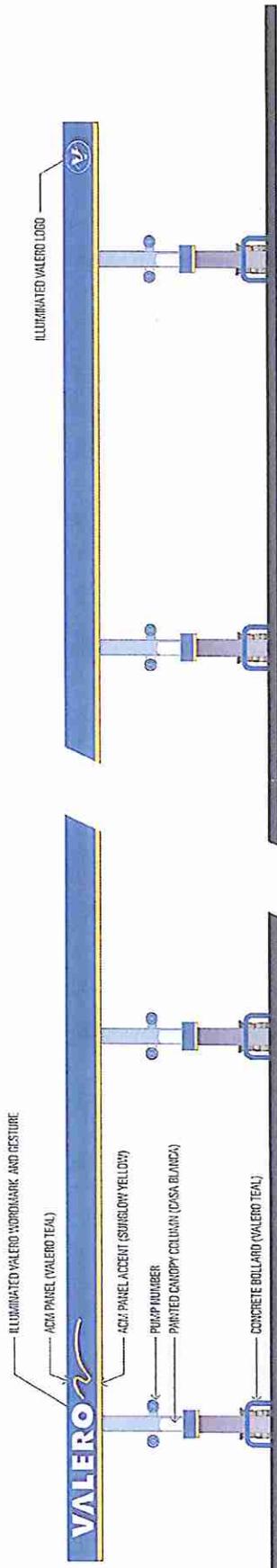


3600 PROTOTYPE  
**VRH #1073**  
 Sidney Baker & North St., Kerrville, TX  
**1203-A CONCEPT ELEVATIONS - R2**  
 COPYRIGHT © 2012  
 MICHAEL IMBIBO INC.  
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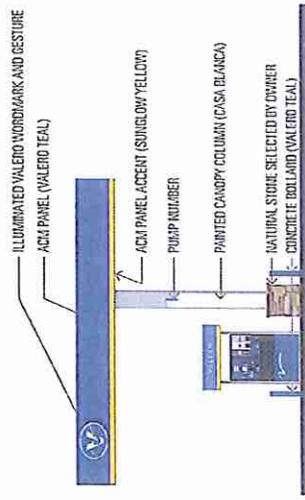
APRIL 12, 2012

4000 RAY AVENUE STE 204 MICHAELIMBIBO.COM  
 SAN ANTONIO, TEXAS 78222 TEL: 1403 3636



**SOUTH ELEVATION**

SCALE: 1/8" = 1'-0"



**WEST ELEVATION**

SCALE: 1/8" = 1'-0"

3600 PROTOTYPE

**VRH #1073**

Stiney Baker & North St., Kerrville, TX

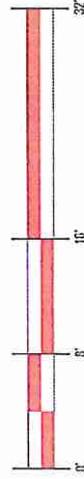
**1203-A CONCEPT ELEVATIONS - R2**

CONCEPTUAL SCALE: 1/2"  
MICHAEL IMBIMBO INC.  
ALL RIGHTS RESERVED



APRIL 12, 2012

MICHAEL IMBIMBO INC. ARCHITECTS  
10000 W. BRIDGES BLVD. SUITE 100 | HOUSTON, TEXAS 77036  
TEL: 281.440.3300 | WWW.MIMBO.COM



**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_-2012**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR AN APPROXIMATELY 1.34 ACRE TRACT OF LAND CONSISTING OF LOTS 1, 2, AND 3, AND PORTIONS OF LOTS 12, 13, 14, 15, AND 16, BLOCK 1 OF THE B.F. CAGE ADDITION, A SUBDIVISION OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, OTHERWISE KNOWN AS 505 SIDNEY BAKER STREET (STATE HIGHWAY 16) AND LOCATED WITHIN THE CITY'S CENTRAL BUSINESS ZONING DISTRICT (CBD); BY PERMITTING SAID PROPERTY TO BE USED FOR A GASOLINE STATION (SALES) WITH CONVENIENCE STORE; AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS**

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

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

**SECTION ONE.** A Conditional Use Permit is granted to permit the property described below to be used and developed for a Gasoline Station (Sales) with Convenience Store as that term is defined by Title 11, Chapter I of the Zoning Code of the City of Kerrville, Texas ("Zoning Code"), and such use is subject to the provisions of this Resolution and other applicable City ordinances and regulations:

**A 1.340 acre or 58,376 square feet, more or less, tract of land consisting of lots 1, 2, and 3, and portions of lots 12, 13, 14, 15, and 16 in Block 1 of the B.F. Cage Addition, a subdivision of the City of Kerrville, Kerr County, Texas; being part of that certain 2.56 acre tract conveyed to Esquina, L.P. in a Warranty Deed recorded in Volume 1420, Page 695 of the Real Property Records of Kerr County, Texas, and more commonly known as 505 Sydney Baker Street.**

Hereafter referred to as "the Property."

**SECTION TWO.** In addition to the development and use regulations currently applicable to the Property, the Property may be developed and used for a Gasoline Station with Convenience

Store, which includes Gasoline Sales, as defined by the Zoning Code, and shall be subject to the following additional regulations:

- A. **Site Plan:** The use of the Property must conform to the site plan, attached as **Exhibit A**.
- B. **Supplementary Development Requirements:** The use of the Property must comply with the Supplementary Development Requirements, as specified within Article 11-1-19(a) of the Zoning Code.
- C. **Platting:** An administratively complete application for a replat of the Property must be submitted to the City for approval before the issuance of a building permit.
- D. **Elevations and Signs:** All elevations and signs on the Property must conform to the elevation plan, attached as **Exhibit B**, and any other applicable regulations of the City, to include the City's Sign Code.
- E. **Parking:** The design and number of parking spaces must be in accordance with the City's regulations in effect at the time that this Resolution is approved. All parking spaces, display areas, and driveways must be constructed of asphalt or concrete and must be marked.
- F. **Screening:** Screening is required in accordance with the City's regulations. More specifically, screening must be constructed along the northern and eastern lines of the Property for a distance of twenty-five feet (25'), beginning at the northeastern corner of the lot to which these lines meet and intersect.
- G. **Visibility Triangles:** Visibility triangles must be established and maintained pursuant to existing City regulations for entrance onto the Property from any street.
- H. **Trash and Other Solid Waste:** No solid waste collection bins and/or dumpsters shall be located closer to the street than the face of any building.
- I. **Landscaping Regulations:** Landscaping must be installed in accordance with the following:
  - 1. Plant materials planted on the property must be from the list of recommended plants set forth in the most recent edition of Recommended Plants for the Kerrville Area published by the City at the time of planting.
  - 2. All landscaping must be maintained in a healthy, growing condition.
- J. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in Title 11, Chapter I of the Zoning Code, as amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set

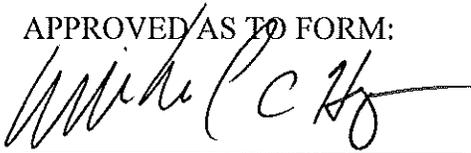
forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superseded, the provisions of this Resolution shall prevail.

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

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2012.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

APPROVED AS TO FORM:



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

ATTEST:

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

# Charles & Sandy Domingues

June 1, 2012

City of Kerrville Planning & Zoning Commission

Re: Conditional Use Permit  
northeast intersection of Sidney Baker & North St.

Dear Commissioners:

My wife and I own the property that is adjacent to and northeast from the proposed Conditional Use Permit for the property located northeast from the intersection of Sidney Baker & North St.

Since we purchased this property in 1979, the Planning & Zoning Commission has approved regulations and revised regulations for type of allowed businesses, building setbacks, green areas, parking and driveway setbacks, etc. to enhance the aesthetics of future buildings and property in this area. These regulations have been welcomed, as it enhanced our property, even though it restricted using parts of the property for buildings and cover.

We are disappointed that a business that requires a Conditional Use Permit is being planned. I talked to several real-estate brokers about the planned gasoline station to be constructed next door. One said my property would be devalued by as much as 25% because of the gas station, but most others said it might not devalue our property, but it sure would not be an enhancement.

I secured a copy of the site plan from the city and am delighted that the adherence the green areas is being planned. But, where is their sign going? Is it going to be at the north corner of the property? Is it going to block the view of our building from automobiles traveling north on Sidney Baker St.? Is screening going to be required from adjacent properties? If screening is required what kind is going to be constructed. Is sound abatement going to be constructed at the car wash to reduce the noise? Is the building, car wash and pump island going to be constructed with a plain metal exterior or are they going to have a rock or brick exterior? Is the roofs trim and fascia going to be metal? Are the proposed improvements going to look "plastic"?

We would be in favor of the Conditional Use Permit if what is constructed adjacent to our property could be approved by us, otherwise we are not in favor of the approval of the Conditional Use Permit.

If you have any questions please contact me.

Sincerely,



Charles B. Domingues, RPLS

*Charles & Sandy Domingues*

Office/ mailing - 609 Sidney Baker St. Kerrville, TX. 78028 - Res. 127 Lost Dog Bluff Trail  
Office 830/ 896 6900 - Res. 830/ 367 5963 - Fax 830/ 896 6901 -- [cdomingues@kvc.com](mailto:cdomingues@kvc.com)

## **Agenda Item:**

3B. A Resolution granting a Conditional Use Permit for an approximately 1.15 acre tract of land consisting of part of Lot 2, Block 1 of the Bryant Addition, a subdivision of the City of Kerrville, Kerr County, Texas, and located in the 1800 block of Junction Highway (State Highway 27) and located within the City's 3-W zoning district; by permitting said property to be used for agricultural services (kennels/animal shelters); and making said permit subject to certain conditions and restrictions. (staff)

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

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**SUBJECT: Public Hearing & Consideration: Conditional Use Permit (CUP)**

Consider a resolution granting a conditional use permit for an approximately 1.15 acre tract of land consisting of part of Lot 2, Block 1 of the Bryant Addition, a subdivision of the City of Kerrville, Kerr County, Texas, and located in the 1800 Block of Junction Highway (State Highway 27) and located within the City's 3-W Zoning District; by permitting said property to be used for Agricultural Services; and making said permit subject to certain conditions and restrictions.

**FOR AGENDA OF:** June 26, 2012      **DATE SUBMITTED:** June 14, 2012

**SUBMITTED BY:** Jason Lutz      **CLEARANCES:** Kristine Ondrias *KL*

**EXHIBITS:** Location Map, Site Plan, CUP – Resolution, Protest Letter

**AGENDA MAILED TO:** Mike Wellborn, 600 Cardinal Drive, Kerrville, Texas 78028

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

---

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

---

**SUMMARY STATEMENT**

**Conditional Use Permit Request Timeline:**

- May 14, 2012 – Application for CUP accepted for review and consideration by the City.
- May 16, 2012 – Development Review Committee (DRC) review process completed.
- May 21, 2012 – Staff comments from DRC to applicant.
- May 22, 2012 – Notice of the required public hearing published in The Kerrville Daily Times and mailed to property owners within 200-feet of the subject tract.
- June 7, 2012 – Planning and Zoning Commission (P&Z) public hearing on proposed CUP and recommendation to the City Council.
- June 26, 2012 – **City Council conducts public hearing and consideration of a resolution approving the CUP**

## Summary:

The applicant has requested a CUP for Agricultural Services in order to increase kennel capacity. The permitted use of Personal Services II, in the 3-W zoning district, allows both veterinary clinics and kennels with a maximum of 12. Since the kennels are limited to 12 the applicant would like to expand the number of kennels to a maximum of 50 by obtaining a CUP for Agricultural Services.

The 3-W zoning district does allow Agricultural Services conditionally. This land use allows for the use of kennels of more than 12. The applicant would like to add Agricultural Services as an additional use to the property, along with the Personal Services II land use.

The facility will consist of a 4,200 square feet veterinary clinic and a 1,200 square feet kennel, which will employ 13 employees, with hours of operation from 8:00 a.m. to 5:30 p.m.

The applicant expects twenty (20) – thirty (30) animals per day. The animals would be allowed outside from 8:00 a.m. to 9:00 a.m. for exercise and cleaning of kennels, and again from 4:30 p.m. to 5:30 p.m.

The requested 50 kennels would be for approximately 20 indoor cages for cats, 10 indoor cages for small dogs, and 20 inside dog runs that would be connected to an outdoor run.

This property does adjoin a residential neighborhood to the south and would require Type B screening along that property line.

This application conforms to the Comprehensive Plan as the future land use category for this property is General Commercial.

The Planning and Zoning Commission, at their June 7, 2012 meeting following a public hearing, recommended approval of the CUP, allowing the use of Agricultural Services (for Kennels only and a maximum of 50) by a vote of 4-0.

Dr. Cardwell spoke before the Commission, and 1 adjacent land owner objected to the CUP via letter.

## **RECOMMENDED ACTION**

1. Open the public hearing and receive comments.
2. Consider the resolution granting the conditional use permit.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_-2012**

**A RESOLUTION GRANTING A CONDITIONAL USE PERMIT FOR AN APPROXIMATELY 1.15 ACRE TRACT OF LAND CONSISTING OF PART OF LOT 2, BLOCK 1 OF THE BRYANT ADDITION, A SUBDIVISION OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, AND LOCATED IN THE 1800 BLOCK OF JUNCTION HIGHWAY (STATE HIGHWAY 27) AND LOCATED WITHIN THE CITY'S 3-W ZONING DISTRICT; BY PERMITTING SAID PROPERTY TO BE USED FOR AGRICULTURAL SERVICES (KENNELS/ANIMAL SHELTERS); AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS**

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

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

**SECTION ONE.** A Conditional Use Permit is granted to permit the property described below to be used and developed for Agricultural Services as that term is defined by Title 11, Chapter I of the Zoning Code of the City of Kerrville, Texas ("Zoning Code"), but within that definition, the use is limited to kennels or animal shelters as further specified below:

**A 1.15 acres, more or less, out of F. Lara Survey No. 123, Abstract No. 225 in the City of Kerrville, Kerr County, Texas; part of Lot 2 in Block One of the Bryant Addition, a subdivision of Kerr County according to the plat of record in Volume 7 at Page 255 of the Plat Records of Kerr County, Texas, and as more specifically described and depicted in Exhibit A.**

Hereafter referred to as "the Property."

**SECTION TWO.** In addition to the development and use regulations currently applicable to the Property, including the regulations applicable to the 3-W Zoning District within which the Property is located, the Property may be developed and used for Agricultural Services and is subject to the following regulations:

A. **Site Plan:** The use of the Property must conform to the site plan, attached as **Exhibit B.**

- B. Supplementary Use Requirements:** With respect to the use of the Property for Agricultural Services, which is among other uses intended for the Property, to include Veterinary Services and Kennels as part of Personal Services-II, as those terms are defined within the Zoning Code, the development and use of the Property must comply with the following:
1. Agricultural Services is limited to the use and operation of kennels for domestic dogs and cats not to exceed fifty (50) such kennels;
  2. the temporary housing of dogs and cats may not exceed fifty (50) animals as follows:
    - a. the number of housed cats may not exceed twenty (20);
    - b. the number of housed dogs may not exceed ten (10) small dogs (up to twenty-five [25] pounds) and twenty (20) larger dogs (greater than twenty-five [25] pounds); and
    - c. the number of outdoor kennels may not exceed twenty (20).
  3. all waste material must be accounted for in ways that ensure that such material does not wash onto adjacent property; and
  4. the outdoor storage or display of any materials, supplies, inventory, or equipment, whether contained in cargo containers or similar containers, is prohibited.
- C. Platting:** An administratively complete application for a replat of the Property must be submitted to the City for approval before the issuance of a building permit.
- D. Signs:** All signage on the Property must comply with the City's Sign Code in existence at the time of sign permitting .
- E. Parking:** The design and number of parking spaces must be in accordance with the City's regulations in effect at the time that this Resolution is approved. All parking spaces, display areas, and driveways must be constructed of asphalt or concrete and must be marked.
- F. Screening:** Screening is required in accordance with the City's regulations. More specifically, screening must be constructed along the Property lines that abut residential zoning districts and must meet the requirements of Type B screening as specified in Article 11-I-18(e) of the Zoning Code.
- G. Visibility Triangles:** Visibility triangles must be established and maintained pursuant to existing City regulations for entrance onto the Property from any street.

H. **Trash and Other Solid Waste:** No solid waste collection bins and/or dumpsters shall be located closer to the street than the face of any building.

I. **Landscaping Regulations:** Landscaping shall be installed in accordance with the following:

1. Plant materials planted on the property must be from the list of recommended plants set forth in the most recent edition of Recommended Plants for the Kerrville Area published by the City at the time of planting.

2. All landscaping must be maintained in a healthy, growing condition.

J. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in Title 11, Chapter I of the Zoning Code, as amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in Title 11, Chapter I of the Code of Ordinances of the City of Kerrville, as amended or superseded, the provisions of this Resolution shall prevail.

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

**PASSED AND APPROVED ON this the \_\_\_\_ day of \_\_\_\_\_ A.D., 2012.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

APPROVED/AS TO FORM:



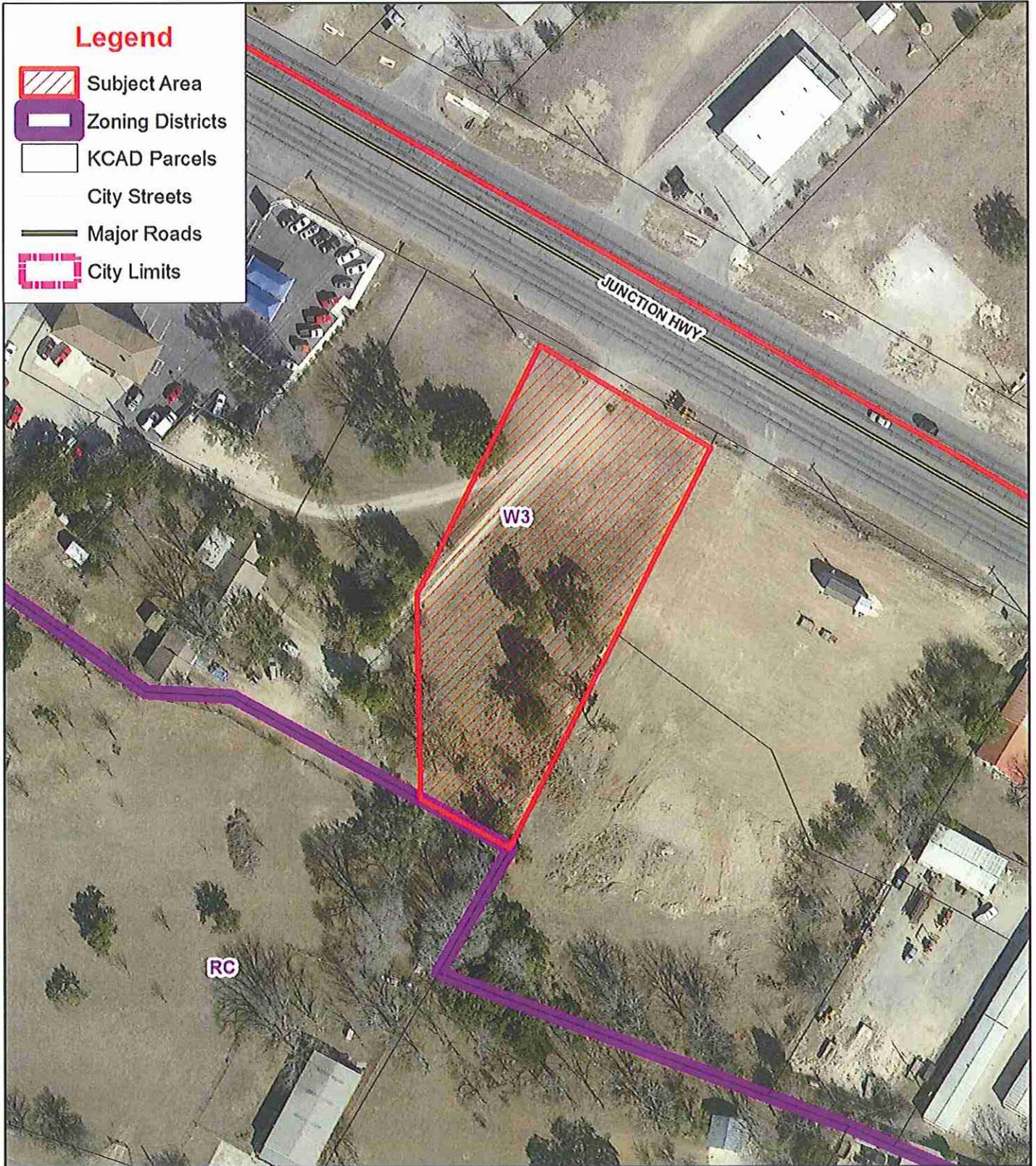
\_\_\_\_\_  
Michael C. Hayes, City Attorney

ATTEST:

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

## Legend

-  Subject Area
-  Zoning Districts
-  KCAD Parcels
-  City Streets
-  Major Roads
-  City Limits



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.

0 50 100 200 Feet



1 inch = 100 feet



FIELD NOTES DESCRIPTION FOR 1.15 ACRES OF LAND OUT  
OF LOT 2, BLOCK ONE OF THE BRYANT ADDITION IN THE  
CITY OF KERRVILLE, KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 1.15 acres, more or less, out of F. Lara Survey No. 123, Abstract No. 225 in the City of Kerrville, Kerr County, Texas; part of Lot 2 in Block One of the Bryant Addition, a subdivision of Kerr County according to the plat of record in Volume 7 at Page 255 of the Plat Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron stake found in the southwest right-of-way line of State Highway No. 27 (Junction Highway) for the east corner of the herein described tract and said Lot 2, and the north corner of a certain 2.65 acre tract conveyed from Troy Faust, et al to Charles Terry Allen and Letha B. Allen by a Warranty Deed executed the 24<sup>th</sup> day of August, 2006 and recorded in Volume 1550 at Page 5 of the Official Public Records of Kerr County, Texas; which point bears, approximately, 1536 ft. N.45°E. and 305 ft. S.60°E. from the west or upper river corner of said Survey No. 123;

THENCE, with the common line between said Lot 2 and 2.65 acre tract S.28°55'32"W., 357.33 ft. to a fence cornerpost for the south corner of the herein described tract and Lot 2, and the east corner of a certain 4.12 acre tract conveyed from Roger C. Van Cleave and Shirely Van Cleave to The Radar Family Living Trust by a Warranty Deed with Vendor's Lien executed the 10<sup>th</sup> day of January, 2005 and recorded in Volume 1407 at Page 315 of the Official Public Records of Kerr County, Texas;

THENCE, along a fence with the common line between said Lot 2 and 4.12 acre tract N.60°18'20"W., 80.00 ft. to an unmarked point for the west corner of the herein described tract;

THENCE, upon, over and across said Lot 2: N.00°23'55"E., 157.04 ft. to an unmarked point; and N.28°55'32"E., 220.00 ft. to an unmarked point in the northeast line of Lot 2 and said southwest right-of-way line of State Highway No. 27 for the north corner of the herein described tract;

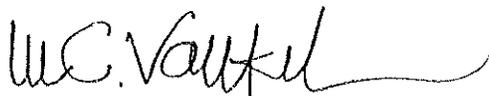
THENCE, with the northeast line of said Lot 2 and southwest right-of-way line of said State Highway No. 27, S.60°26'19"E., 155.00 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

(Bearing basis = Record bearing along State Highway No. 27)

Date Surveyed: September 1, 2004

Dated this 10<sup>th</sup> day of May, 2012



Lee C. Voelkel  
Registered Professional Land Surveyor No. 3909  
County Surveyor for Kerr County, Texas





June 6, 2012

FAX # 830-596-0517

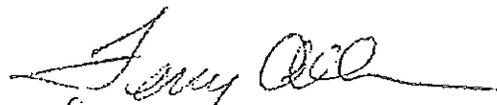
Phone # 830-258-1184

Jason Lutz

Planning Dept. of Kerrville, Tx

In regards to a zoning change on the property at 1871 Junction Hwy. He wishes to increase the amount of pet boarding from ~~25~~ to 50. This should be denied in the city. We are totally opposed to outdoor dog runs. If any, they should be enclosed with good sound proofing and odor control. We would not oppose 25 boarders but 50 is too much for the city. Our lot is next door and if there is a problem it becomes ours. Also, we intend to sell our property in the future and feel this zoning would hurt the value.

The zoning change stays with the property and David may not always be there and the next owner may not respect his neighbors. Please let us know the decision on this change.

  
Leena B. Allen

P.O. Box 1048  
San Marcos, Tx 78667  
512-396-2922

## **Agenda Item:**

4A. Annexation and zoning of approximately 9.83 acre tract of land, out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas and consisting of the property addressed as 5623 Highway 27. (staff)

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

---

**SUBJECT:** Public Hearing, Annexation & Zoning Request – First Public hearing of the annexation and zoning of approximately 9.83 acre tract of land, out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas and consisting of the property addressed as 5623 Highway 27.

**FOR AGENDA OF:** June 26, 2012      **DATE SUBMITTED:** June 14, 2012

**SUBMITTED BY:** Jason Lutz

**CLEARANCES:** Kristine Ondrias



**EXHIBITS:** Location Map, Resolution Accepting the Petition for Annexation, Annexation & Zoning Request Ordinance

**AGENDA MAILED TO:** Lee Voelkel, 212 Clay Street, Kerrville, Texas 78028

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**



---

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OF FINANCE:**

---

**SUMMARY STATEMENT**

Annexation-Zoning Timeline:

- April 24, 2012 – Annexation petition and zoning request submitted for review and consideration.
- May 8, 2012 – City Council considers and accepts annexation petition for the subject tract by resolution No. 12-2012.
- May 22, 2012 – Notice of public hearing published in The Kerrville Daily Times.
- June 7, 2012 – Planning and Zoning Commission (P&Z) public hearing on proposed annexation and recommendation of zoning designation to the City Council.
- **June 26, 2012 – City Council conducts the first required public hearing on the proposed annexation.**
- June 28, 2012 – Notice of the second required public hearing published in The Kerrville Daily Times and written notification to property owners, franchise utilities, Texas Department of Transportation (TxDot) and Kerrville Independent School District (KISD).
- July 10, 2012 – City Council conducts the second required public hearing on the proposed annexation zoning the subject tract.
- August 14, 2012 – City Council considers an ordinance on first reading annexing

and zoning the subject tract.

- August 28, 2012 – City Council considers an ordinance on second and final reading annexing and zoning the subject tract.

Summary:

The applicant requested annexation and zoning of a 9.83 acre tract out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas, located at 5263 Highway 27 and adjacent to the corporate limits of the City of Kerrville. This 9.83 acre tract is the remaining part of a 10.43 acre tract owned by the applicant, with 0.6 acres currently inside the city limits and zoned (GR) Guadalupe River District.

The land owner is proposing to use this site for the manufacturing of production equipment in the oil and gas industry, including oilfield storage tanks and other specialty oilfield production products. Fox Tank, Inc. will produce, store, and distribute its products from this location.

Given the property's use of manufacturing, staff recommends that the zoning district of 26-E be assigned to this property. According to Art. 11-1-8 (a)(3) of the city's zoning code, District 26-E is primarily to be developed as the primary industrial area for the City. Both heavy and limited industrial uses are listed as permitted, though other uses primarily intended to compliment the industrial uses are also allowed. District 26-E is intended to be expanded through annexation.

An eight inch sanitary sewer line and a twelve inch water main are located in the Highway 27 right-of-way to serve this property.

According to the City of Kerrville's Comprehensive Plan, the future land use category for this area is Industrial.

The Planning and Zoning Commission at their June 7, 2012 meeting following a public hearing, recommended annexing the subject tract and establishing a zoning designation of 26-E, by a vote of 4-0.

No one from the public appeared at the public hearing.

**RECOMMENDED ACTION**

1. Open the public hearing and receive comments.
2. No action is to be taken at this time.

CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 12-2012

A RESOLUTION GRANTING A PETITION REQUESTING THE ANNEXATION OF AN APPROXIMATELY 9.83 ACRE TRACT OUT OF THE F. RODRIGUEZ SURVEY NO. 72, ABSTRACT NO. 280, WITHIN KERR COUNTY, TEXAS, AND CONSISTING OF THE PROPERTY ADDRESSED AS 5263 HIGHWAY 27; AND ORDERING THE PREPARATION OF AN ANNEXATION ORDINANCE

WHEREAS, on April 24, 2012, the owner of an approximately 9.83 acre tract out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas, and more commonly known as 5263 Highway 27, filed a petition with the City pursuant to Texas Local Government Code Section 43.028 and requested the annexation of the property; and

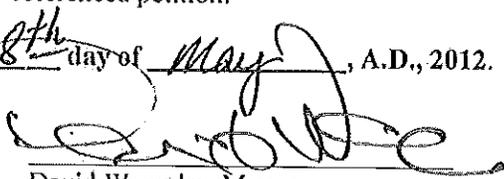
WHEREAS, having considered the petition and hearing the recommendation from City staff, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to grant said petition and to initiate the annexation process, which includes the preparation of an ordinance annexing the subject property;

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

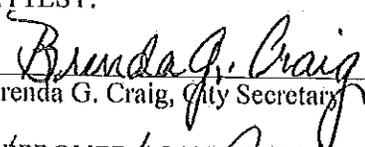
SECTION ONE. The petition requesting annexation of an approximately 9.83 acre tract out of the F. Rodriguez Survey No. 72, Abstract No. 280, within Kerr County, Texas, and consisting of the property addressed as 5263 Highway 27, and more fully described in said petition, a copy of which is attached as Exhibit A, is granted.

SECTION TWO. City staff is directed to initiate the annexation process and to prepare an ordinance annexing the subject property described in the above-referenced petition.

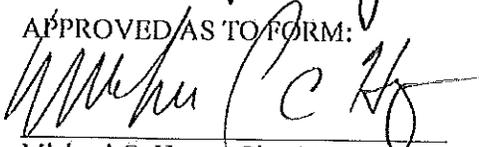
PASSED AND APPROVED ON this the 8<sup>th</sup> day of May, A.D., 2012.

  
David Wampler, Mayor

ATTEST:

  
Brenda G. Craig, City Secretary

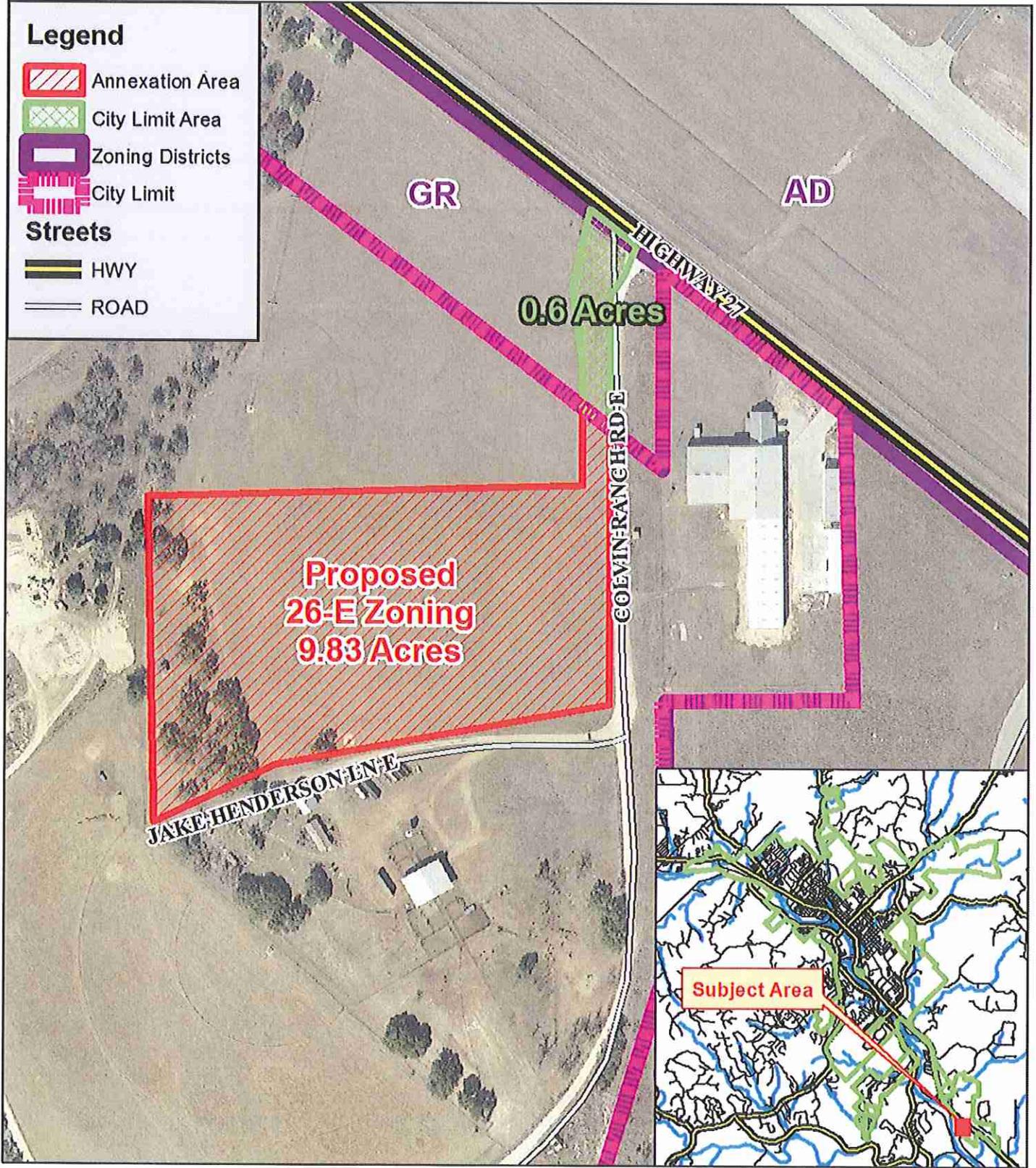
APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

# Case #2012-007 Annexation & Zoning Aerial Map

## Legend

-  Annexation Area
-  City Limit Area
-  Zoning Districts
-  City Limit
- Streets**
-  HWY
-  ROAD



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.

0 62.5 125 250 Feet



1 inch = 250 feet



**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2012-\_\_\_\_\_**

**AN ORDINANCE ANNEXING AN APPROXIMATELY 9.83 ACRE TRACT OF LAND OUT OF THE F. RODRIGUEZ SURVEY NO. 72, ABSTRACT NO. 280, WITHIN KERR COUNTY, TEXAS; SAID PROPERTY BEING LOCATED ADJACENT TO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS, AND BEING MORE PARTICULARLY DESCRIBED AS 5623 HIGHWAY 27; DESCRIBING THE TERRITORY TO BE ANNEXED; ADOPTING A SERVICE PLAN FOR THE TERRITORY ANNEXED; AND ESTABLISHING THE ZONING FOR THE AREA ANNEXED**

**WHEREAS**, pursuant to Texas Local Government Code Section 43.052(h)(2), the owner of the property described in Section One, below, has petitioned the City of Kerrville, Texas ("City"), to annex said property into the corporate limits of the City; and

**WHEREAS**, having provided all required public notices, held all required public hearings at which people with an interest in the matter were provided an opportunity to be heard, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to approve an ordinance annexing the subject property, adopt a service plan as required by state law, and establish zoning regulations for the area;

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

**SECTION ONE.** The property described and depicted in **Exhibit A** is annexed and incorporated into the corporate limits of the City of Kerrville, Texas, for all legal purposes.

**SECTION TWO.** The petition for annexation concerning the property described in Section One, above, is attached as **Exhibit B** and incorporated herein by reference.

**SECTION THREE.** The service plan regarding the provision of public services, as set forth in **Exhibit C**, attached hereto and incorporated herein by reference, is hereby adopted for the property described in Section One, above, as required by Texas Local Government Code §43.056.

**SECTION FOUR.** Upon the adoption of this Ordinance, the property as described in Section One, above, shall be subject to a zoning designation of District 26-E.

**SECTION FIVE.** The provisions of this Ordinance are to be cumulative of all Ordinances or parts of Ordinances governing or regulating the same subject matter as that

covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent of any such inconsistency or conflict.

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

**SECTION SEVEN.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-1-9 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

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

**SECTION NINE.** In accordance with Section 43.028(d) of the Texas Local Government Code, the City Secretary is directed to file a certified copy of this Ordinance together with a copy of the petition requesting annexation with the Kerr County Clerk.

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.**

**PASSED AND APPROVED ON SECOND READING, this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2012.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

ATTEST:

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

APPROVED AS TO FORM:

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

EXHIBIT A

FIELD NOTES DESCRIPTION FOR 9.83 ACRES OF LAND OUT OF THE FOX TANK COMPANY PROPERTY ALONG STATE HIGHWAY NO. 27 IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 9.83 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
44	O. V. Robinson	282	0.56
72	F. Rodriguez	280	9.27

part of a certain 10.43 acre tract conveyed from Heath M'Gehee, et ux to Fox Tank Company by a Special Warranty Deed with Vendor's Lien executed the 10<sup>th</sup> day of April, 2012 and recorded in File No. 12-2266 of the Official Public Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fence cornerpost for the southeast corner of the herein described tract and said 10.43 acre tract; which point bears, approximately, 3563 ft. North and 53 ft. East from the south common corner of said Survey Nos. 44 and 72;

THENCE, along a fence with the south line of said 10.43 acre tract: S.80°30'24"W., 549.70 ft. to a fence anglepost; S.79°49'06" W., 80.75 ft. to a fence anglepost; and S.65°51'12"W., 266.34 ft. to a fence cornerpost in the east line of a certain 6.21 acre tract conveyed as TRACT II from Richard B. Colvin and Nancy W. Colvin to John G. Rountree by a Warranty Deed with Vendor's Lien and Reservation of Adjudicated Water Rights and Restrictive Covenants executed the 5<sup>th</sup> day of June, 2009 and recorded in Volume 1742 at Page 856 of the Official Public Records of Kerr County, Texas for the southwest corner of the herein described tract and 10.43 acre tract;

THENCE, along a fence with the common line between said 10.43 and 6.21 acre tracts N.01°28'00"W., at 333.18 ft. passing a ½" iron stake found for the northeast corner of 6.21 acre tract and the southeast corner of a certain 14.58 acre tract conveyed as TRACT I in said Colvin to Rountree deed (Vol. 1742 Pg. 856), then continuing with the common line between said 10.43 and 14.58 acre tracts for a total distance of 607.75 ft. to a fence anglepost for the westerly northwest corner of the herein described tract and 10.43 acre tract;

THENCE, with the north line of said 10.43 acre tract: N.88°45'27"E., 821.49 ft. to a ½" iron stake found for a reentrant corner of the herein described tract and 10.43 acre tract; and N.01°14'33"W., 127.20 ft. to an unmarked point for the northerly northwest corner of the herein described tract;

THENCE, upon, over and across said 10.43 acre tract S.52°11'40"E., 64.38 ft. to an unmarked point in a fence, the east line of 10.43 acre tract for the northeast corner of the herein described tract;

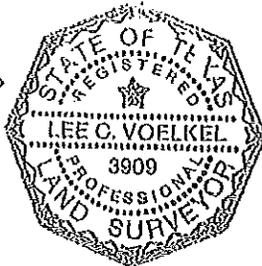
THENCE, along or near said fence with the east line of said 10.43 acre tract S.01°14'33"E., 499.30 ft. to the PLACE OF BEGINNING.

I hereby certify that these field notes are an accurate representation of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.

(Bearing basis = True north based on GPS observations)

Dated this 24<sup>th</sup> day of April, 2012

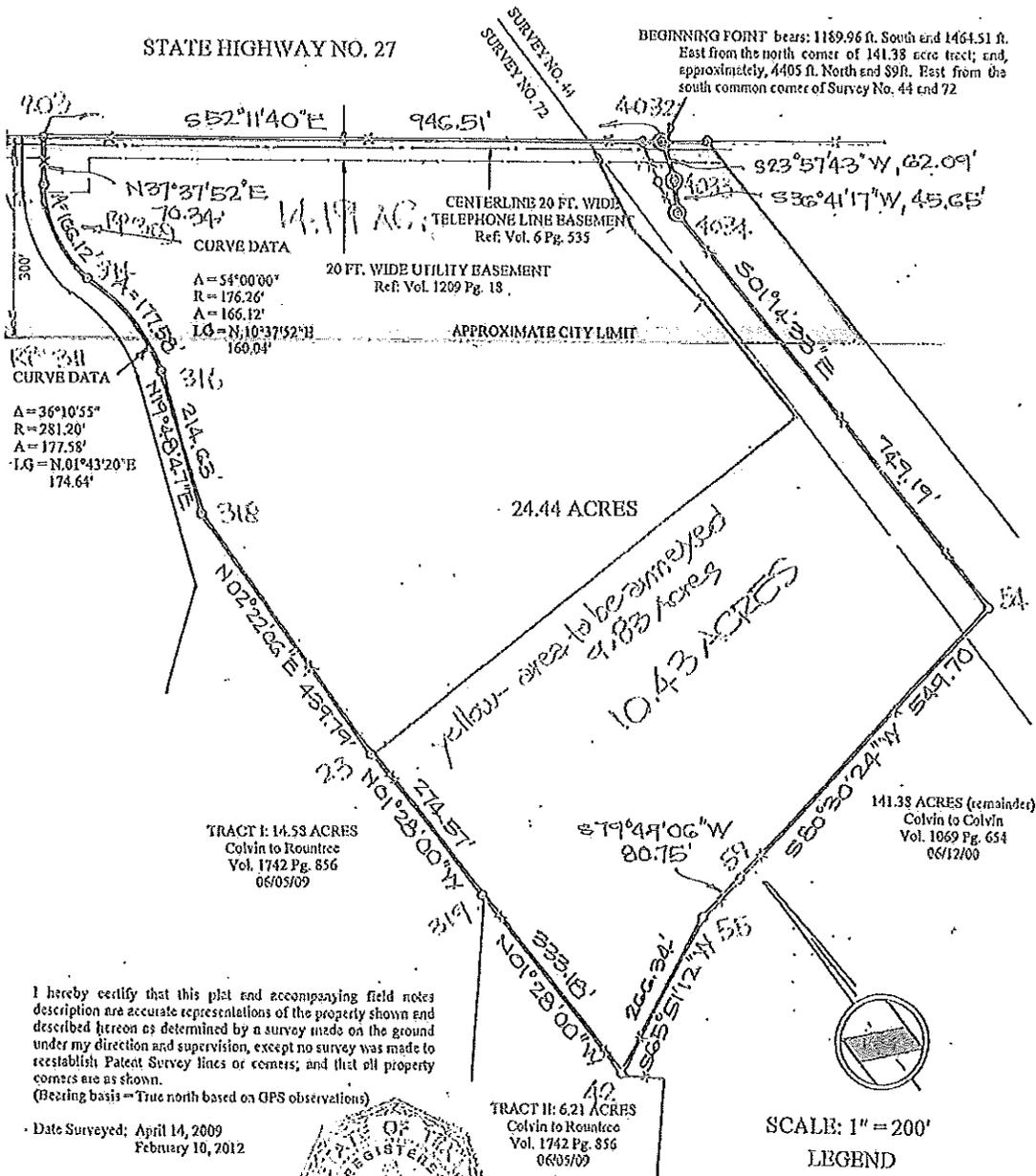
*Lee C. Voelkel*  
 Leo C. Voelkel  
 Registered Professional Land Surveyor No. 3909  
 County Surveyor for Kerr County, Texas



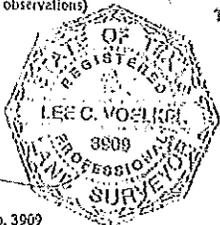
**SURVEY PLAT FOR 24.44 ACRES OF LAND, MORE OR LESS, OUT OF ORIGINAL PATENT SURVEYS IN KERR COUNTY, TEXAS AS FOLLOWS:**

SURVEY NO.	SURVEY	ABSTRACT NO.	ACRES
44	O. V. ROBINSON	282	0.99
72	F. RODRIGUEZ	280	23.45

PART OF A CERTAIN 141.38 ACRE TRACT CONVEYED FROM R.B. COLVIN TO RICHARD B. COLVIN, ET UX BY A CASH WARRANTY DEED EXECUTED THE 12<sup>TH</sup> DAY OF JUNE, 2000 AND RECORDED IN VOLUME 1069 AT PAGE 654 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS



I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown.  
 (Bearing basis - True north based on GPS observations)



Dated this 21<sup>st</sup> day of February, 2012

Lee C. Voelkel  
 Registered Professional Land Surveyor No. 3909  
 County Surveyor for Kerr County, Texas



## EXHIBIT C

### ANNEXATION SERVICE PLAN

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Animal Control	The provisions of animal control services shall be in effect following annexation of the property.	Immediately following annexation
Code Enforcement	The provisions of Code Enforcement services, including the application and enforcement of building, electrical, plumbing, and other related code requirements adopted by the City shall be made immediately to the area upon annexation. The preparation of a zoning plan shall serve as a basis for the zoning of land following annexation. The adoption of the zoning plan shall be in accordance with the procedures of the City's Zoning Ordinance.	Immediately following annexation, zoning to be concurrent with annexation
Fire Protection and Suppression	Fire protection and suppression personnel and equipment from the Kerrville Fire Department will be provided to the area as needed.	Immediately following annexation
Fire Prevention	The services of the City's Fire Marshall shall be provided to the area.	Immediately following annexation.
Library	Future residents of the area, if any, will continue to be entitled to utilize all City's Library facilities.	Immediately following annexation.
Parks and Recreation	The City's Parks and Recreation services will continue to be available to any area residents.	Immediately following annexation
Police Protection	Kerrville Police Department protection personnel and equipment shall be provided to the area immediately upon annexation. Police enforcement and protection services shall be provided through regular patrol activities.	Immediately following annexation

ANNEXATION SERVICE PLAN (CONTINUED)

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Public Services - Street Department	Public streets not maintained by the Texas Department of Transportation within the area shall be maintained by the City.	Immediately following annexation
Sanitation (Refuse Collection)	Refuse collection shall be available to any residents of the annexed area at the same costs and procedures as required of City residents and businesses.	Immediately following annexation
Traffic Engineering	Traffic control devices and street markers shall be installed where deemed necessary by the City Street Department, except as provided by the Texas Department of Transportation.	Immediately following annexation
Utilities (Water Distribution and Wastewater Collection)	Extension of utilities to the property shall be in accordance with the City's Subdivision Ordinance.	As the property develops

## **Agenda Item:**

5A. An Ordinance repealing and replacing the City's sign regulations found in Article II of Chapter 6 of the City's Code of Ordinances and repealing Section 27 of Ordinance No. 85-59 and all ordinances which amended Section 27 and pertain to the regulation of signs; adopting new regulations concerning the installation and maintenance of signs within the City of Kerrville, Texas and within the extraterritorial jurisdiction of the city; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication, providing an effective date; and providing other matters related to the subject. (staff)

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

---

**SUBJECT:** Second Reading of an Ordinance repealing and replacing the City's sign regulations found in Article II of Chapter 6 of the City's Code of Ordinances and repealing Section 27 of Ordinance No. 85-59 and all ordinances which amended Section 27 and pertain to the regulation of signs; adopting new regulations concerning the installation and maintenance of signs within the City of Kerrville, Texas and within the extraterritorial jurisdiction of the city; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication, providing an effective date; and providing other matters related to the subject.

**FOR AGENDA OF:** June 26, 2012

**DATE SUBMITTED:** June 22, 2012

**SUBMITTED BY:** Jeff Finley

**CLEARANCES:** Kristine Ondrias

**EXHIBITS:** Ordinance

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

---

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

**PAYMENT TO BE MADE TO:**

**APPROVED FOR SUBMITTAL BY DIRECTOR OF ADMINISTRATIVE SERVICES:**

---

**SUMMARY STATEMENT**

This is the second reading of an ordinance which repeals the existing sign code and adopts new regulations concerning the installation and maintenance of signs in the city. Attached is the ordinance approved on first reading at the June 19, 2012 City Council meeting.

**RECOMMENDED ACTION**

Approve the second reading of an Ordinance repealing and replacing the City's sign regulations found in Article II of Chapter 6 of the City's Code of Ordinances and repealing Section 27 of Ordinance No. 85-59 and all ordinances which amended Section 27 and pertain to the regulation of signs; adopting new regulations concerning the installation and maintenance of signs within the City of Kerrville, Texas and within the extraterritorial jurisdiction of the city; containing a cumulative clause; containing a savings and severability clause; providing for penalties not to exceed \$2,000.00; ordering publication, providing an effective date; and providing other matters related to the subject.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2012-\_\_**

**AN ORDINANCE REPEALING AND REPLACING THE CITY'S SIGN REGULATIONS FOUND IN ARTICLE II OF CHAPTER 6 OF THE CITY'S CODE OF ORDINANCES AND REPEALING SECTION 27 OF ORDINANCE NO. 85-59 AND ALL ORDINANCES WHICH AMENDED SECTION 27 AND PERTAIN TO THE REGULATION OF SIGNS; ADOPTING NEW REGULATIONS CONCERNING THE INSTALLATION AND MAINTENANCE OF SIGNS WITHIN THE CITY OF KERRVILLE, TEXAS, AND WITHIN THE EXTRATERRITORIAL JURISDICTION OF THE CITY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR PENALTIES NOT TO EXCEED \$2,000.00; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, the City Council of the City of Kerrville, Texas ("City Council") seeks to provide for the orderly development and use of property within the corporate limits of the City of Kerrville, Texas ("City") and its extraterritorial jurisdiction (ETJ); and

**WHEREAS**, City Council seeks to maintain the value of Kerrville's scenic beauty and rural charm, both of which are significant attributes of the City's quality of life, through a comprehensive regulatory program that includes zoning, subdivision control, and the regulation of signs; and

**WHEREAS**, Ordinance No. 85-59, adopted on October 22, 1985, established zoning regulations governing the use and development of land located within the City; and

**WHEREAS**, Section 27 of Ordinance No. 85-59 established regulations governing the location, size, design, installation, and maintenance of signs located within the City and its ETJ; and

**WHEREAS**, City Council has amended Section 27 of Ordinance No. 85-59 multiple times since its adoption 26 years ago; and

**WHEREAS**, the City, with the goal of remedying conflicts and inconsistencies between the City's sign regulations and state law and to clarify and condense confusing or ineffective sections, appointed an ad hoc committee ("Committee") made up of interested citizens including property owners, business owners, members of the Kerrville Chamber of Commerce, representatives of businesses engaged in the construction and placement of signs, as well as a member of City Council and the City's Planning and Zoning Commission; and

**WHEREAS**, the Committee reviewed the City's existing sign regulations and after

multiple meetings, developed a list of amendments to recommend to City Council; and

**WHEREAS**, City Council considered the Committee's list, which included new regulations for electronic message boards and various types of temporary signs, and directed City staff to incorporate these amendments into an ordinance; and

**WHEREAS**, City staff drafted an ordinance with the goal of making only those changes approved by City Council and also carrying over the remaining provisions of Section 27 of Ordinance No. 85-59 into a new ordinance; and

**WHEREAS**, at a meeting that was open to the public as required by law, the public notice of the time, place, and purpose of said meeting was given as required, and at which all citizens and parties in interest were given an opportunity to be heard; and after considering the recommendations of the Committee and City staff; and after considering among other things, the character of the various areas of the City and the suitability of particular uses in each area; and with a view to conserving the value of property, maintaining safety, and the public health, and encouraging the most appropriate use of land throughout the City; the Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville, Texas, to adopt new regulations concerning the installation and maintenance of signs within the City and its ETJ;

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

**SECTION ONE.** Chapter 6 "Advertising", Article II "Signs", of the Code of Ordinances of the City of Kerrville, Texas, is repealed and replaced in its entirety with a new Article II as provided for in **Exhibit A**, which is attached, included herein for all purposes, and hereby adopted. Said new Article II will be published and included within the City's Code of Ordinances.

**SECTION TWO.** The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the new Article II of Chapter 6 as adopted herein, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

**SECTION THREE.** The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance are expressly repealed to the extent of any such inconsistency or conflict. Specifically, Section 27 of Ordinance No. 85-59 and Ordinance Nos. 86-17, 86-19, 87-17, 88-10, 88-17, 88-33, 97-08, 2000-20, 2002-07, 2003-07, 2006-08, and 2008-20 are hereby repealed.

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

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

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

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

**PASSED AND APPROVED ON FIRST READING, this the \_\_\_ day of \_\_\_\_\_, A.D., 2012.**

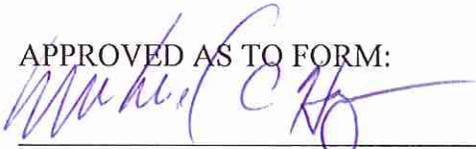
**PASSED AND APPROVED ON SECOND AND FINAL READING, this the day of \_\_\_\_\_, A.D., 2012.**

ATTEST:

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

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

APPROVED AS TO FORM:



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

# Exhibit A

## Chapter 6, Article II. Signs

**NOTE: This attachment (Ch. 6, Art. II Signs), which is included within the Agenda Packet for the Council Meeting to be held on 6/26/12, is a DRAFT. It uses redlining to show revisions made during Council's meeting where they considered the 1<sup>st</sup> reading of this Ordinance. Specifically, the motion approving the Ordinance upon 1<sup>st</sup> reading included the approval of several changes to the sign regulations, which were then included in the attached document. Prior to consideration of the Ordinance for 2<sup>nd</sup> reading, a final, clean copy of this attachment will be submitted to Council. In addition, the formatting, numbering, and lettering will change to conform to the City's Code of Ordinances.**

## Chapter 6 Article II. Signs

Deleted: Contents

- Sec. 6-31. In General .....
- Sec. 6-32. Purpose .....
- Sec. 6-33. Design Guidelines .....
- Sec. 6-34. Jurisdiction .....
- Sec. 6-35. Definitions .....
- (a) General Definitions .....
- (b) Types of Signs .....
- Sec. 6-36. Exemptions for Certain Types of Signs .....
- Sec. 6-37. Regulation of Signs within the Central Business District and the Downtown Core .....
- Sec. 6-38. Regulations for Certain Types of Signs .....
- (a) Awning Signs .....
- (b) Banners .....
- (c) Bulletin Boards.....
- (d) Roof Signs.....
- (e) Community Services Signs .....
- (f) Construction Signs .....
- (g) Directional Signs .....
- (h) Event Signs .....
- (i) Flags .....
- (j) Freestanding Signs .....
- (k) Governmental Flags.....
- (l) Handheld Signs .....
- (m) Integral Signs .....
- (n) Lighted Signs .....
- (o) Model Homes Signs .....
- (p) Monument Signs .....
- (q) Name Plates.....
- (r) Political Signs.....
- (s) Projecting Signs.....
- (t) Realty Signs .....
- (u) Residential Development Signs .....
- (v) Self-Supported Signs .....
- (w) Sidewalk Signs .....
- (x) Address Signs.....
- (y) Wall Signs.....
- Sec. 6-39. Prohibited Sign Types .....
- Sec. 6-40. Prohibited Sign Locations .....
- Sec. 6-41. Sign Permits.....
- (a) Permit and Fee Required.....

**DRAFT 6/22/12**

(b) Exemptions from Permit Requirement.....

(c) Expiration of Certain Permits .....

(d) Enforcement .....

**Sec. 6-42. Sign Maintenance .....**

    A. Maintenance Required .....

    B. Removal of Hazardous Signs.....

**Sec. 6-43. Nonconforming Signs .....**

    A. Continuation in Use.....

    B. Limitations on Modification .....

    C. Removal of Damaged Signs.....

**Sec. 6-44. VARIANCES .....**

    A. Application and Fee Required.....

    B. Conditions of Variances .....

**Sec. 6-45. RELATION TO OTHER ORDINANCES .....**

**Sec. 6-46. SEVERABILITY .....**

**Sec. 6-47. VIOLATIONS AND PENALTIES .....**

**DRAFT 6/22/12**

**Sec. 6-31. In General.**

A person shall not install, put up, place, reconstruct, repair, maintain, or use a sign, as defined, unless the sign complies with these regulations, known as the City's Sign Code, and any other applicable City code.

**Sec. 6-32. Purpose.**

The City Council finds that to protect the health, safety, property, and welfare of the public it is necessary to prevent the unregulated proliferation of signs while at the same time respecting the public's right to freely engage in constitutionally protected speech and the use of private property. The purpose of these rules and regulations is to provide uniform sign standards and regulations in order to improve visual safety for pedestrians and traffic; to provide for safe construction, location, and maintenance of signs; to prevent proliferation of unauthorized signs; to minimize the possible adverse effect of visual clutter on public and private property; and to promote a positive image for the City by reflecting order, harmony, and consistency, and thereby strengthening the economic viability of the City's residential, commercial, cultural, and historical areas.

**Sec. 6-33. DESIGN GUIDELINES**

It is City policy to encourage signs which are appropriate to a rural, Hill Country setting and to discourage signs which are in conflict with the character of the community. To this end, all sign owners, operators, and installers are encouraged to conform to the following guidelines for sign location, configuration, design, and materials:

- A. Signs should be located with sensitivity to preserving the natural landscape, environment, and surrounding views.
- B. Signs should be incidental to the principal use of a site and should never be allowed to visually dominate a site.
- C. The height, width, and area of a sign should relate to the adjacent street type and the length of street frontage.

**SECTION 4. JURISDICTION**

These sign regulations apply within the City's boundaries and within the extraterritorial jurisdiction (ETJ) of the City, as defined by state law.

**SECTION 5. DEFINITIONS**

Words and phrases used in this Article will have the meanings set forth in this section. Words and phrases which are not defined in this Article but are defined within the City's Zoning Ordinance are given the meanings set forth in the [City's Zoning Ordinance, as may be amended](#).

**DRAFT 6/22/12**

Other words and phrases are given their common, ordinary meanings unless the context clearly requires otherwise. Headings and captions are for reference purposes only and may not be used in the interpretation of these regulations.

**A. General Definitions.**

**Area:** the square foot area enclosed by the perimeter of the sign face with each face contributing to the aggregate area but not counting double-faced sign faces, which are counted only as the area of one face. In addition, the sign face excludes decorative wood, metal devices, frames, or sign supports to include sign supports which are defined as a monolith. In cases where the sign, or a portion, is composed only of letters, figures, or other characters not standing against a sign face background or secured to a monolith, then the sign face area is the sum of the area of the smallest simple imaginary figure, such as a circle, triangle, rectangle, or other figure, which fully contains all words, figures, devices, designs, or trademarks which constitute the sign. See **Illustration 1** for a depiction.

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**Central Business District:** all of Blocks 1, 2, 6, 7, 8, 23, 24, 25, and the Kerr County Court House block, J.D. Brown's Addition, City of Kerrville, Kerr County, Texas, said property being generally bordered by Jefferson Street on the north, the Guadalupe River on the south, Clay Street on the west, and Washington Street on the east. The street borders include properties on both sides of the street.

**City:** the City of Kerrville, Texas.

**City Council:** the City Council of the City of Kerrville, Texas.

**City Manager:** the City Manager or his/her designee.

**Commercial Complex:** a development consisting of two or more establishments on a single platted lot such as a shopping center or an Industrial Park/Business Park, or Campus on two or more contiguous lots, which may be separated only by a right-of-way.

**Downtown Core:** an area within the Central Business District generally bounded by the Guadalupe River on the south, extending north on Clay Street, east on Main Street, north on Earl Garrett Street, east on Jefferson Street, and south on Washington Street. The street borders include properties on both sides of the street.

**Establishment:** a use of land for any purpose which requires a building on the land, regardless of the commercial, nonprofit, or public nature of the activity, but excluding a residence or active agricultural use in any form.

**Extraterritorial Jurisdiction (ETJ):** the unincorporated area beyond the City's boundaries, the size of which is determined by state law.

**DRAFT 6/22/12**

**Height:** the vertical distance between the highest attached component of a sign or of its supporting structure, whichever is higher, and the average established ground level beneath the sign. The established ground level beneath the sign is the lower of: (1) the existing grade prior to construction of the sign; or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign, unless the curb elevation at the street in front of the sign is higher than the established ground level, in which case the height shall be measured from curb level.

**Industrial Park/Business Park or Campus:** a development intended to be either the site for a number of manufacturing, industrial, warehousing, and related uses, or a mixed-use development which includes a number of separate office, commercial, wholesaling, and compatible laboratory, industrial, and other uses which primarily support the function or employees of those uses and which are designed and developed as an integrated unit but typically the establishments are on individual lots.

**NIT:** a unit of visible-light intensity used to specify brightness. One nit is equivalent to one candela per square meter.

**Nonresidential Area:** the area within any zoning district inside the City which includes nonresidential uses; in the City’s extraterritorial jurisdiction, any lot or tract of land which is the site of an establishment or commercial complex or which is vacant or in any form of agricultural use.

**Planning and Zoning Commission:** the City’s Planning and Zoning Commission.

**Residential Area:** the area within any zoning district inside the City which includes residential uses; in the City’s extraterritorial jurisdiction, any lot or tract of land in which the principal use of the land is as a residence.

**Responsible Party:** the person, firm, organization, or other entity whose product, service, activity, or enterprise of any character is announced or advertised by a sign, or whose message is carried by a sign, and/or the owner of the land upon which the sign is located.

**B. Types of Signs.**

For the purposes of this Article, a sign means any letters, figures, symbols, trademarks, or devices designed either to inform a person or to attract the attention of a person to an individual, firm, profession, business, organization, institution, goods, product, service, activity, cause, or purpose, and which are viewed from any public right-of-way. Particular types of signs are defined by their purpose or use, by their location, and by the nature of their construction, and therefore any one sign may be encompassed by multiple definitions and may be subjected to regulations in multiple sections of this Article. Depictions of the types of various signs are found at **Illustration 1**. Lights used to outline buildings within the Central Business District or for holiday lighting are not considered signs provided that the holiday lighting is not used to advertise a product, service, or business, for example, by spelling out words and such lights are

**Deleted:** which is vacant or in any form of agricultural use, or

**Deleted:** Thoroughfare Plan: a plan adopted by the City Council that specifies the classification of streets within and outside the City’s limits. ¶

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**DRAFT 6/22/12**

removed within fourteen (14) days from the holiday. Types of signs which are regulated by this Article are defined as follows:

**Address Sign:** a sign, other than a name plate, which identifies the name of the occupants and/or the address of a single family or duplex residence, but excluding any commercial sign.

**Auxiliary Sign:** a sign of any construction, not exceeding one square foot in area, which is not part of another sign and which is customarily secondary and incidental to the principal use of any nonresidential premises, such as one indicating hours of operation, credit cards accepted, or restrictions of sale to minors, or which is customarily secondary and incidental to a residence, such as “no soliciting” or “beware of the dog.”

**Awning Sign:** a sign painted on or attached to the outside of an awning or similar structure such as is typically extended in front of a window or door or over a patio, deck, or walkway as protection from the sun or rain, regardless of whether the structure is retractable.

**Balloon:** a nonporous, inflatable bag or device with or without letters, symbols, or numbers that is filled with either air or gas.

**Banner:** a flexible sign intended to be hung or mounted either with or without frames, made of paper, plastic, fabric, or any other flexible material. Flags are distinguished from banners for the purposes of this Article.

**Beacon:** any light with a beam directed into the atmosphere or directed at a point which is not on the same lot or tract of land as the light source, or a light with one or more beams that rotate or move.

**Billboard:** any sign used or designed to be used to advertise or call attention to any product or service which is produced at a place other than on the premises on which the sign is located, or to advertise or call attention to any establishment which is not located on the same premises as the sign. This type of sign is sometimes known as an “off-premise sign.”

**Bulletin Board:** a sign principally devoted to posting announcements concerning the activities of an organization, such as is customarily installed by a church, social club, society, or charitable organization, which is located on the premises of such an organization.

**Canopy Roof Sign:** a sign which is mounted above a canopy roof parallel to the facing wall and which may not project higher than the main roof of the building.

**Canopy Sign:** a sign which is suspended from the underside of a canopy structure or which projects into the space enclosed within or beneath a canopy structure. A sign which is painted on or attached to the outside of an awning or canopy structure is an awning sign.

**DRAFT 6/22/12**

**Changeable Copy Sign:** a sign or part of a sign on which characters, letters, or illustrations can be changed manually without altering the face or surface of the sign, such as a theater marquee, a gasoline price sign, or a sign identifying the occupants of a shopping center.

**Commercial Sign:** any sign, regardless of its location or construction, whose wording or other contents, directly or indirectly, names, advertises, or calls attention to any business, product, service, institution, organization, event, cause, purpose, or other activity.

**Community Service Sign:** a temporary sign, often in the form of a banner, soliciting support for, or participation in, a nonprofit, nonpolitical, community, public, or social purpose, cause, event, or activity, such as one marking a holiday or one supporting school activities, charitable programs, religious activities, or community interest events. This sign is often installed over state-owned public right-of-way pursuant to consent from the Texas Department of Transportation.

**Construction Sign:** a sign placed on a site currently undergoing active construction activities which identifies or announces the character of the project and/or the names of the owners, developers, financiers, architects, engineers, contractors, leasing agents, and others associated with the project.

**Directional Sign:** a sign which is separate from other signs, incidental and secondary to the principal use of the property on which it is located, and whose primary purpose is to give directions to parking lots, exits, entrances, or drive-through windows, or directives such as “no parking” or “loading only.”

**Deleted:** Digital Wrap Sign: a freestanding sign made out of flexible material mounted on sign board or a similar rigid product.†

**Electronic Sign:** a sign with moving or traveling lights that digitally or electronically produce color and/or black and white images or a sign or device which uses or projects lights to form traveling messages or messages which change or has the ability to change more than once per day. Such signs to include those that use Light Emitting Diodes (LED) and Liquid Crystal Display (LCD) technology.

**Event Sign:** a sign advertising or indicating the location of an occasional event on the same site, such as the location of a civic or other noncommercial ceremony, of an event for the members of an organization, or of an event at a residence such as a home for sale, real estate open house, or private party.

**Feather Sign:** any variety of fabric signs commonly called bow, feather flags, sale banners, tear drop, or ribbon signs that may or may not display a message and are supported by a horizontal or vertical pole.

**Flag:** a piece of fabric, usually rectangular, bearing the name, logo, or symbolic emblem of a governmental entity, business, institution, or organization.

**Freestanding Sign:** a permanent sign installed on a pole anchored in the ground.

## DRAFT 6/22/12

**Governmental Sign:** a sign owned or sponsored by the City or other governmental entity that is used to provide information, directions, or warnings to the public regardless of whether located on public or private property.

**Handheld Sign:** a sign which is not permanently or temporarily attached to the ground or to a permanent structure and which is designed to be transported or carried by an individual.

**Integral Sign:** a sign indicating the name of a building, as distinct and clearly distinguished from the name of a business, institution, or other entity occupying the building, or indicating the date or other information of historical interest about a building's construction, when such sign is cut or molded into a masonry surface which forms part of a wall of a building or when it is constructed as a plaque or tablet of bronze or other incombustible material and permanently mounted on the face of a building.

**Lighted Sign:** a sign that is back-lighted or lighted from within, a neon sign, an LED or LCD sign but not a sign that is only illuminated by external lights that shine upon it.

**Mobile Billboard:** a sign installed or displayed on a vehicle operating in the public right-of-way for the purpose of advertising a business or entity that is unrelated to the owner of the vehicle's primary business. The term does not include a sign that is displayed or installed on a vehicle operated in the normal course of the vehicle owner's business if the sign contains advertising or identifying information directly related to the business and is not used to display advertising that is unrelated to the business. This sign does not include a political sign.

**Model Home Sign:** a sign which is located on the same lot as a model home in a residential subdivision and which calls the attention to the purpose of the model home.

**Monument Sign:** a sign which is built as a monument on the ground and independent of any other structure for its support and which may include a changeable copy feature.

**Moving Sign:** a sign or any part of a sign which rotates, moves, or uses lighting to simulate motion but not to include a barbershop with barber pole that has a turning, striped, cylinder not exceeding forty-two inches (42") in height is allowed.

**Name Plate:** a sign, such as a "shingle" sign, mounted flat against the wall of a building and not projecting more than one inch from the face of the wall and indicating the name and/or address of the building and/or the name of an occupant thereof and/or the practice of a permitted home occupation therein.

**Neon Sign:** a gas-filled glass tubing sign.

**Nonconforming Sign:** a sign that does not conform to all regulations of this Article or other applicable City ordinance.

**DRAFT 6/22/12**

**Political Sign:** a sign which is primarily political in nature or which supports or opposes any candidate for public office or any proposition to be voted upon at an election, or which makes a political statement in the nature of constitutionally protected noncommercial free speech.

**Portable Sign:** a sign designed to be transported, whether on attached wheels or otherwise and regardless if permanently attached or affixed to the ground or a permanent structure, but excluding construction signs, event signs, realty signs, and sidewalk signs.

**Projecting Sign:** a sign, other than an awning sign or canopy sign, whose outside edge extends a distance from the face of a wall to which it is attached or which extends at any point above or beyond a wall to which it is attached.

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**Realty Sign:** a sign which advertises the property on which it is located for sale, lease, or rent.

**Residential Development Sign:** a sign at the entrance to a residential development, such as townhouses, an apartment complex, or residential subdivision, and which identifies the name and/or the address of the residential development.

**Roof Sign:** any sign mounted on or above the roof of a building or whose principal support fixtures are attached to a wall but excluding a projecting sign, and a wall sign which is either painted directly on a sloping roof or mounted directly on a sloping roof in the same plane as the roof.

**Sidewalk Sign:** a sign, regardless of its construction, which is designed to be temporarily placed on the ground or sidewalk adjacent to an establishment in order to advertise or call attention to the goods or services offered at that establishment.

**Snipe Sign:** a sign made of any material when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences, other objects or into the ground, and the advertising matter appearing thereon is not applicable to the use of the premises upon which such sign is located. A “garage sale” sign is an example.

**Vehicular Sign:** a sign attached, mounted, or painted on a vehicle, whether motorized, a trailer, or operational or not, where: 1) the sign is visible from a public right-of-way; and 2) where the advertising pertains to a product, service, or business which is located, conducted, or produced at a place other than on the premises upon which the vehicle is located, especially where the vehicle is left abandoned for more than (2) hours. This term does not include a customary sign on a vehicle where the vehicle is being used in the normal course of the vehicle owner’s business or is in a vehicle window advertising the vehicle itself for sale or containing an incidental noncommercial statement. This sign does not include a political sign.

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**Wall Sign:** a sign, other than a name plate, mounted parallel to the face of any building. A sign which is painted on a sloping roof or mounted on a sloping roof in the same plane as the roof is also a wall sign.

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## DRAFT 6/22/12

**Window or Door Sign:** a sign which is painted or placed inside or upon a window or door, or mounted against a window or door and oriented so as to be read from a public right-of-way.

### SECTION 6. EXEMPT SIGNS

The following signs do not require a sign permit from the City; however, these signs may be subject to construction and electrical standards found within City building codes:

- A. A sign inside a building or a window or door sign such as a “help wanted” sign, but not including a lighted window or door sign.
- B. A banner but limited to one (1) per establishment and not exceeding eighty (80) square feet in area. The banner must be: 1) securely attached to a building or other permanent structure, such as a wall; and 2) remain in good condition without torn or tattered portions.
- C. A commemorative plaque and historical marker mounted on the face of a building or installed on a site as a freestanding monument, when placed by a governmental entity, historical society, or other civic organization to commemorate a person, event, or other matter of historical interest.
- D. A government sign but not exceeding thirty-two (32) square feet in area.
- E. A handheld sign but not exceeding six (6) square feet in area.
- F. A realty sign, but not exceeding thirty-two (32) square feet in area, except in all residential areas where the sign area must not exceed six (6) square feet. Realty signs are limited to one sign per street frontage and may include banner, in which case, the banner must be mounted on a solid board or a similar rigid product.
- G. One name plate or “shingle sign” per establishment but not exceeding four (4) square feet in area.
- H. An address sign but not exceeding two (2) square feet in area.
- I. A bulletin board but not exceeding thirty-two (32) square feet.
- J. A construction sign but limited to one per street frontage for a building or property undergoing construction and which does not exceed sixty-four (64) square feet in area within a nonresidential area and sixteen (16) square feet within a residential area. Individual contractor signs not exceeding three (3) square feet in area are allowed in addition to the construction sign listed in this subsection. All contractor or construction signs must be removed within thirty (30) days of the completion of the construction project and any sign exceeding eight (8) square feet in area must be set back from the property line to the normal building setback line required in the applicable zoning district.

**DRAFT 6/22/12**

- | **K.** A community service sign.
- | **L.** A flag, not exceeding three (3) per establishment, attached to a building or pole. In no case may any flag exceed one hundred fifty (150) square feet in area, unless located on property directly adjacent to Interstate 10. Government flags placed for holidays are also exempt.
- | **M.** Integral sign.
- | **N.** The rearrangement or replacement of letters, numbers, characters, or pictures on an existing, permitted sign, provided that the area is not enlarged.
- | **O.** A political sign which does not exceed thirty-six (36) square feet in area, eight feet (8') in height, is lighted, or uses any moving elements. A political sign may only be placed on property with the consent of the property owner. No political sign may be placed in, on, or over any public right-of-way or City owned property.
- | **P.** Auxiliary sign.
- | **Q.** Window sign.
- | **R.** Directional sign.

**SECTION 7. PROHIBITED SIGNS.**

The following signs and devices are prohibited:

- A. Any sign which has been or is erected, altered, repaired, or relocated without having received an applicable permit from the City to include building and electrical codes, or in accordance with the regulations of this Article.
- B. Any sign or support, other than those required by governmental authority or for which a street use permit has been issued, which is located on or over the public right-of-way.
- C. A moving sign.
- D. No external lighting device used for the illumination of signs, buildings, or grounds may employ sources of light which are directed at streets or any adjacent residential properties. This subsection does not apply to street lights. Any internal lighting devices designed to light any sign must have the source of light shielded and not visible from the street or adjacent residential properties, except that light bulbs which do not exceed the lumen output of a 40-watt incandescent bulb may be visible from the street.
- E. A sign which, by reason of its size, location, movement, content, coloring, or manner of illumination, may be confused with or construed as a traffic control sign, signal, or device, or

**DRAFT 6/22/12**

the lights of emergency or road equipment vehicles or which hide from view any traffic or street sign or signal or device.

F. A sign which emits sound.

G. A damaged sign, a sign that is located on property which becomes vacant and is unoccupied for a period of twelve (12) months or more, or any sign which pertains to a dated event or purpose which no longer applies. This provision does not apply to realty or off-premise signs.

H. An unattached or portable sign,

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I. Vehicular sign.

J. Mobile billboard.

K. Snipe sign.

L. Beacons.

**Deleted:** L. . Balloons or other inflatable sign.¶

M. Posters, pennants, ribbons, streamers, spinners, flutter flags, pleated fans, windsocks, or strings of any such things or similar devices.

**SECTION 8. REGULATIONS OF SIGNS WITHIN THE CENTRAL BUSINESS DISTRICT, INCLUDING THE DOWNTOWN CORE**

**Deleted:** O. . A wall sign which is painted on.¶

The following regulations apply to establishments and signs located within the Central Business District and the Downtown Core. Such regulations are in addition to other regulations found within this Article unless a conflict arises between those provided here and any other, in which case the regulations found within this section will apply:

A. Electronic, freestanding, and feather signs are prohibited within the Downtown Core.

**Deleted:** A. Add MATRIX for authorized area of WALL/WINDOW signs based upon type of street & frontage.¶  
B

B. Sidewalk signs.

1. One (1) sidewalk sign is permitted for each establishment within the Central Business District;
2. A sidewalk sign, prior to placement, may be required to apply for and receive a public right-of-way license agreement from the City, which grants authority to use the sign on City property and will provide conditions for its use;
3. A sidewalk sign may only be used when the establishment to which it refers is open for business and must be removed upon the close of business;

**DRAFT 6/22/12**

4. A sidewalk sign may not be placed in a manner that endangers public safety, creates a pedestrian or traffic hazard, or creates an obstacle or barrier in a sidewalk or public right-of-way; and
5. A sidewalk sign may not exceed eight (8) square feet in area, two feet (2') in width, and four feet (4') in height.

**SECTION 9. REGULATIONS FOR CERTAIN TYPES OF SIGNS**

The following signs require a permit from the City and must comply with the following regulations:

**A. *Awning Signs.*** An awning sign:

1. may not be greater than the width of the awning; and
2. is subject to a size limitation as described in subsection 9.Q., below.

**B. *Balloons.*** A balloon(s):

1. may not be displayed more than twenty (20) days within any calendar year; and
2. permit will not be issued for less than five (5) days.

**C. *Canopy Signs.*** A canopy sign:

1. is limited to one (1) per entrance to an establishment;
2. may not extend beyond an edge of the canopy structure to which it is attached;
3. perpendicular to a building face may not exceed two-thirds (2/3) of the width of the canopy structure. A minimum spacing of ten feet (10') must be provided between such canopy signs;
4. parallel to a building face, shall not exceed two-thirds (2/3) of the length of the canopy structure;
5. may not extend more than two feet (2') either above or below the horizontal underside of the canopy structure. No canopy sign may be less than seven feet (7') from ground clearance; and
6. is subject to a size limitation as described in subsection 9.Q., below.

D. Canopy Roof Signs. A canopy roof sign:

- 1. is limited to one (1) per establishment;
- 2. is allowed only as business identifier mounted parallel to the building wall face on top of a canopy roof which may not extend above the main building roof line. Canopy roof sign area will count against allowed area signage at the establishment and will only be allowed in lieu of a projecting sign or wall sign; and
- 3. may not exceed eighteen inches (18") in height with a maximum length of five (5) feet or ten percent (10%) of the width of the canopy or wall to which the canopy is attached, whichever is greater; and
- 4. is subject to a size limitation as described in subsection 9.Q., below.

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E. Feather signs. A feather sign:

- 1. is limited to five (5) per establishment;
- 2. may not be displayed more than twenty (20) days within any calendar year; and
- 3. permit will not be issued for less than five (5) days.

Deleted: D. . Banners. A banner;

<#>is limited to one (1) per establishment;

<#>may not be displayed more than one hundred twenty (120) days within any calendar year;

3. . may not exceed eighty (80) square feet in area;

<#>must be securely attached to a building or other permanent structure such as a permanent wall;

<#>must remain in good condition and without torn or tattered portions;

<#>permit will not be issued for less than five (5) days; and

<#>must be removed by the responsible party on or before the day that the banner permit expires.

F. Directional Signs. A directional sign:

- 1. may not contain any commercial message except the name, logo, or other symbolic identification of the establishment;
- 2. may not exceed six (6) square feet in area;
- 3. may not exceed six feet (6') in height; and
- 4. must be permanently mounted or installed.

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G. Freestanding Signs.

- 1. One (1) freestanding sign is allowed on nonresidential property for an establishment that does not have a monument sign and which fronts one of the following highways or streets, but excluding the area within the Downtown Core:

a. State Highways 16, 27, 173, FM 783, Loop 534, and Spur 98;

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b. Holdsworth Drive;

Deleted: and Spur 98, but only between Francisco Lemos Street and Sidney Baker Street;

Deleted: ; Loop 534.

c. Water Street, for the area between its intersections with State Highway 27 on the west to its termination with State Highway 27 on the east;

d. Schreiner Street, for the area between its intersections with State Highway 16 and Paschal Avenue;

e. McFarland Street, for the area between its intersections with Clay Street and Paschal Avenue;

f. Clay Street, Quinlan Street, and Hays Street, for the area between their intersections with McFarland Street and State Highway 27;

h. Rodriguez Street, for the area between its intersections with McFarland Street and Jefferson Street; and

i. Francisco Lemos Street, for the area between Schreiner Street and Water Street.

2. A freestanding sign may not be located on a lot that is less than fifty feet (50') wide. However, where a lot is less than fifty feet (50') wide but is combined within another lot for one business or as part of a commercial complex and the resulting width of the combined lots equal or exceed fifty feet (50'), then one freestanding sign is allowed. In addition, where a freestanding sign is prohibited by the fifty foot (50') lot width requirement, a monument sign will be allowed.

Deleted: 2. . A freestanding sign is prohibited with the Central Business District.†  
1

3. A freestanding sign may not be located within fifty feet (50') of another freestanding sign and no commercial complex may have more than one (1) freestanding sign.

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4. A freestanding sign located on a lot between fifty feet (50') and two hundred (200') feet in width:

- a. may not exceed one hundred (100) square feet in area;
- b. may not exceed thirty feet (30') in height;
- c. may not be located within fifty feet (50') of any other freestanding sign; and
- d. located on a through lot is allowed to have one freestanding sign on each of the two (2) parallel street frontages, provided that the signs meet all other requirements of this article, including the distance requirement of fifty feet (50') between signs.

5. A freestanding sign located on a lot between two hundred feet (200') and four hundred (400') feet in width:

- a. may not exceed one hundred fifty (150) square feet in area;

**DRAFT 6/22/12**

- b. may not exceed thirty-five (35') feet in height; and
- c. may not be located within sixty feet (60') of any other freestanding sign.
- d. located on a through lot is allowed to have one freestanding sign on each of the two (2) parallel street frontages, provided that the signs meet all other requirements of this article, including the distance requirement of sixty feet (60') between signs.

6. Up to two (2) freestanding signs may be located on a lot greater than four hundred (400') feet in width. Such a freestanding sign(s):

Deleted: between two hundred feet (200') and

- a. may not exceed two hundred (200) square feet in area for one (1) sign and one hundred (100) square feet for the other;
- b. may not exceed forty feet (40') in height for the larger sign and thirty feet (30') for the smaller one, if any; and
- c. may not be located within sixty feet (70') of any other freestanding sign.

**K. Monument Signs.**

1. One (1) monument sign is allowed for each establishment that does not have freestanding sign. For a monument sign that is located on property that is fifty feet (50') or less in width, such sign:

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- a. may not exceed thirty-two (32) square feet in area;
- b. may not exceed six (6') feet in height;
- c. may not be located within twenty-five (25') of another freestanding sign;
- d. may be lit; and
- e. must be anchored in a native colored masonry or similar material to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or material similar to the building(s) constructed on the property.

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- Deleted: monument
- Deleted: must be front lit with ground-mounted lights or backlit, but may not be internally lit

2. For a monument sign that is located on property that exceeds fifty feet (50') in width, such sign:

- a. may not exceed sixty-four (64) square feet in area;
- b. may not exceed eight feet (8') in height above the top of the adjacent street or driveway level;

c. may not be located within fifty feet (50') of another freestanding sign;

d. may be lit; and

Deleted: must be front lit with ground-mounted lights, backlit, or internally lit

e. must be anchored in a native colored masonry or similar material to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or material similar to the building(s) constructed on the property.

2. In the case of a commercial complex, one (1) monument sign is allowed. Such a monument sign:

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a. may not exceed one hundred (100) square feet in area;

b. may not exceed fifteen feet (15') above the top of the adjacent street or driveway level;

c. may not be located within sixty feet (60') of another monument sign;

d. may be lit; and

Deleted: must be front lit with ground-mounted lights or backlit, but may not be internally lit

e. must be anchored in native colored masonry or similar material to the building(s) constructed on the property and framed on all four (4) sides by, at a minimum, six inches (6") of native colored masonry, or similar material to the building(s) constructed on the property.

H. *Off-Premise, Freestanding Signs.* All off-premise signs, to include billboards, are defined as freestanding signs and are required to meet the same standard as any other freestanding sign as follows:

1. may not exceed one hundred (100) square feet in area;

2. may not exceed thirty feet (30') in height; and

3. no off-premise sign may be located on any unplatted lot, nor shall it be located on a platted lot less than fifty (50) feet in width. The off-premise advertising sign located on any lot will be considered as the one (1) freestanding sign allowed for the lot. Any existing or future building or business located on the same lot will not be allowed to erect or place another freestanding sign on the same building lot with the off-premise advertising sign.

I. *Lighted Signs.*

An establishment may only have one (1) lighted window or door sign per establishment, not to exceed three (3) square feet in area. Such signs must not blink or move and must be turned off

**DRAFT 6/22/12**

when the establishment is closed for business. Illuminated exterior signs not lit by internal lighting may be illuminated by down lighting methods; "up-lighting" is prohibited.

J. *Model Home Signs.* A model home sign:

1. may be installed but only on the site of a model home and is limited to one (1) per site;
2. may not exceed sixteen (16) square feet in area or six feet (6') in height;
3. may not be internally illuminated; and
4. must be immediately removed after one hundred percent (100%) of the lots within the subdivision are sold by the developer or his/her successor in interest.

L. *Projecting Signs.* A projecting sign:

1. is limited to one (1) per establishment;
2. may not exceed sixteen (16) square feet in area within any residential area or thirty (32) square feet in area within a nonresidential area;
3. may not exceed twenty feet (20') in height;
4. may not extend either above the roof of the building or beyond the end of the wall to which it is attached by more than nine feet (9') at the point of attachment; and
5. attached to a building on private property may not extend over any public right-of-way except a sidewalk adjacent to a building which is lawfully built up to the public right-of-way.

M. *Residential Development Signs.* A residential development sign:

1. besides providing the name and/or the address of the residential development, may incorporate incidental leasing information and/or the contents of a directional sign;
2. may not exceed thirty-two (32) square feet in area with six (6) or fewer residential units and the lesser area of either five (5) square feet per residential unit or fifty (50) square feet in total if more than six (6) residential units;
3. may not be internally illuminated; and
4. placed in a condominium development or in a subdivision in which the sign is common property of the subdivision homeowners, must include adequate assurance that the condominium regime or restrictive covenants that the landscaped area, if present, at the base of the sign, will be properly maintained by the condominium or homeowners association.

**DRAFT 6/22/12**

N. *Roof signs.* A roof sign:

1. is allowed but only for an establishment that chooses not to install or use a wall sign;
2. may not exceed the height of the apex of the roof; and
3. may not exceed twelve percent (12%) of the square footage of the area of the front building façade.

Deleted: freestanding

Deleted: is subject to a size limitation as described in subsection 9.Q., below

O. *Wall Signs.* A wall sign:

1. is allowed for each wall but may not exceed twelve percent (12%) of the square footage of the façade to which the sign is mounted;
2. must be securely mounted to and supported by the wall throughout the length and width of the sign;
3. may not project over any public land or public right-of-way, or extend more than one foot (1') from the face of the wall to which the sign is mounted, or extend at any point above or beyond the end of such wall; and
4. may not be painted directly on the wall unless the painting is a mural which has an artistic composition and which depicts a scene or subjects unrelated to the products, goods, or services offered by the establishment within the building. In addition, a mural will not be considered a sign and is not subject to the size limitation provided above.

Deleted: and

P. *Electronic Signs.* An electronic sign:

1. may not exceed thirty-two percent of the width of frontage of the property upon which the sign is to be located, with a minimum sign area equal to thirty-two (32) square feet;
2. may use color images;
3. must operate in a way that its message remains static for four (4) seconds;
4. must operate in a way that all screen transitions occur within one (1) second such that the initial message does not fade, dissolve, or travel;
5. may not use motion;
6. may be allowed as a wall sign or window sign instead of a freestanding sign;
7. may not exceed a light intensity of 500 NITS at night or 7,000 NITS during the day; and

Deleted: (32) square feet

Deleted: in area

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Deleted: 8

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4. is prohibited within a residential area, within one hundred feet (100') of a residential area, within the Downtown Core, or within one hundred feet (100') of the Downtown Core; ¶

**DRAFT 6/22/12**

8. operating within two hundred feet (200') of a residential area must be turned off from 8:00 PM to 6:00 AM.

Q. *Area limitation for awning sign, canopy sign, canopy roof sign, or projecting sign.* Where an establishment chooses to use any one or a combination of an awning sign, canopy sign, canopy roof sign, or projecting sign, the combined total area of any one or multiple signs may not exceed the area allowed for a freestanding sign.

**Deleted:** twelve percent (12%) of the square footage of the front façade

**SECTION 10. PROHIBITED SIGN LOCATIONS**

No sign may be located within the City or extraterritorial jurisdiction as follows:

- A. No sign may be placed on or attached to any tree.
- B. No sign may be placed on or attached to any utility pole or pedestal, except by a utility company owning the pole or pedestal or operating facilities mounted on the pole or in the pedestal.
- C. No sign or part of a sign, including mounting fixtures and supporting structures, may be located on or above any City property to include public rights-of-way, except as permitted by other provisions of this Article.
- D. No sign or part of a sign, including mounting fixtures and supporting structures, which is mounted above or projects over any sidewalk, street, drive, or parking area, whether on public or private property, may be hung with less than seven feet of vertical clearance above the sidewalk or less than twelve feet (12') of vertical clearance above the street, drive, or parking area.
- E. No sign or part of a sign frame may be located between two feet (2') and ten feet (10') above the established ground level within the area of a clear sight triangle for traffic extending twenty-five feet (25') in each direction from the point of a street intersection.
- F. No sign may be located closer than eight feet (8') to a power line.
- G. No lighted sign and no permanent sign may be mounted or placed on or extend above the side wall or rear wall of any building, or be located in the side yard or rear yard of any lot or tract of land, when such sign faces upon and is visible from a contiguous residential area not separated from the building, lot or tract containing the sign **by a public right-of-way.**

**SECTION 11. SIGN PERMITS**

A. Permit and Fee Required.

No person may install, place, alter, repair, or relocate those signs specified within Sections 8 and 9 above, without first obtaining a sign permit from the City. For purposes of this subsection,

**DRAFT 6/22/12**

“repair” is defined as work or alterations required to be done to a sign which amounts to fifty percent (50%) or more of the value of the sign. Each permit will be granted for one (1) year. Signs not requiring a sign permit may, however, require a permit pursuant to the City’s building codes. Each application for a sign permit must be accompanied by the appropriate fee established by City Council and by such drawings, descriptions, and specifications as determined by the City to be necessary for review of the application. Upon receipt of an administratively complete application accompanied, as determined by the City, and the requisite fee(s), the City will approve or deny said permit as soon as possible but in no instance longer than thirty (30) days of receipt thereof.

**B. Exemptions from Permit Requirement.**

The following actions are exempt from the requirement of a sign permit: repainting or replacing letters or characters on an existing sign, provided that the area of the sign is not enlarged and that the height of the sign is not increased, and that the sign does not advertise or announce a new business; changing the copy on a bulletin board or changeable copy sign; and replacing the fabric or other material of an awning sign when no other change is made in the sign.

**C. Expiration of Certain Permits.**

A sign permit for any sign whose use is limited to a time period specified by this Article or whose removal is required at a certain time by this Article, will be issued for a specified term which will not exceed the time limit established by this Article.

**D. Enforcement.**

Following the issuance of a sign permit by the City, it is unlawful to change, modify, alter, or otherwise deviate from the terms and conditions of the permit without prior approval of the City. Where the City obtains evidence of a sign that was installed, constructed, altered, repaired, or relocated in violation of this Article or any other regulation of the City, the City may require the responsible party to remove it. If the responsible party fails to remove the sign within 72 hours after being notified to do so, or if it appears to the City that the illegal sign placement poses an immediate danger to the public, then such sign may be removed by the City and the City’s actual cost of removal will be charged to the responsible party. The City will impound any sign so removed and will not return it to the responsible party until all applicable charges are paid. If any sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.

**SECTION 12. SIGN MAINTENANCE**

**A. Maintenance Required.**

All signs must be maintained in a structurally safe condition and/or in good repair. The City will notify, by certified mail, the responsible party for any sign not so maintained and the responsible party shall perform the necessary maintenance or repairs within thirty (30) days of the postmark

**DRAFT 6/22/12**

on the notice. The City may remove any sign not repaired within the allotted time and the actual cost of such removal will be charged to the responsible party. If the City removes an unmaintained or disrepaired sign and the sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.

*B. Removal of Hazardous Signs.*

Any sign which in the judgment of the City has become an imminent hazard to public safety, either because of an incident of damage or because of neglect of maintenance, shall be repaired or removed by the responsible party without delay. Notice of the existence of the hazard shall specify the maximum time allowed for repairs or removal in order to insure public safety, and the notice may be served upon the responsible party by any means available. A hazardous sign which is not repaired or removed within the time specified in the notice will be removed by the City and the cost of such removal shall be charged to the responsible party. If the City removes a sign and the sign remains unclaimed for a period of more than thirty (30) days, the City may destroy, sell, or otherwise dispose of the sign.

**SECTION 13. NONCONFORMING SIGNS**

*A. Continuation in Use.*

The lawful use of signs in existence at the time of the adoption of this Article, including a sign which does not comply with the regulations contained in this Article, may continue as a legal, nonconforming sign, except as follows:

1. signs which require a permit under this Article, such as a banner or feather sign, must be permitted;
2. temporary signs, such as banners and feather signs, which are prohibited within certain areas and other temporary signs, such as balloons, window and door signs, must be removed within thirty (30) days of the adoption of this Article;
3. an electronic sign must comply with the operational regulations found with subsection 9.P. within thirty (30) days of the adoption of this Article;
4. where an electronic sign exceeds thirty-two (32) square feet but is prohibited by this Article from exceeding this size, such sign may be replaced to equal its existing area but may not exceed this area; and
5. if the use of any nonconforming sign is discontinued for a period of one hundred and eighty (180) consecutive days or more, then the responsible party must remove or alter the sign to meet the regulations found within this Article and any future use of the sign must fully comply with this Article.

## **DRAFT 6/22/12**

### *B. Limitations on Modification.*

No nonconforming sign may be enlarged in area, increased in height, moved, altered, or remodeled unless and until its construction, area, height and location are all in conformity with this Article. A lawfully existing sign may be repainted and the letters or characters on the sign may be rearranged or replaced, however the changes cannot be made to advertise a new business.

### *C. Removal of Damaged Signs.*

A responsible party must remove a nonconforming sign which is damaged by any cause to the extent of fifty percent (50%) or more of its value within thirty (30) days of the damage. A nonconforming sign damaged to the extent of fifty percent (50%) or more of its value may not be replaced or rebuilt except by a sign that complies with this Article.

## **SECTION 14. VARIANCES**

### *A. Application.*

Any person, business, or other organization desiring to continue in use, locate, construct or otherwise place any sign which does not conform to the provisions of this Article may make application to the Planning and Zoning Commission for a variance to continue in use, locate, construct, or otherwise place such a sign.

### *B. Process.*

An application for a variance must be filed with the City and include the following:

1. name/address of the applicant/owner;
2. address or legal description of the property;
3. statement that the applicant is the owner of the property, represents the owner, or is acting pursuant to a contract for sale;
4. site plans, elevations, improvement plans, and such other drawings or depictions, including photographs, that sufficiently indicate property lot lines; the location, appearance, and intended use of building/structures and signs on the property; location of other improvements, parking and loading areas, vehicular and pedestrian access, landscaped areas, and utility service lines; and the approximate location of buildings/structures and signs located on adjacent properties;
5. a drawing or sketch in sufficient detail to determine the location and type of construction for the proposed sign; and
6. fee established by City Council.

**DRAFT 6/22/12**

*C. Administrative Timeline.*

Upon receipt of an administratively complete application, as determined by the City, and accompanied by the requisite fee, the Planning and Zoning Commission will approve, approve with modifications, or deny said variance within thirty (30) days of receipt thereof.

*D. Preliminary conference.*

The applicant must meet with the City to consider alternatives and the nature of the application prior to or during the application process.

*E. Public hearing.*

The Planning and Zoning commission will hold a public hearing on each application for a variance using the same notice requirements as required for Planning and Zoning Commission hearings conducted for zoning ordinance amendments. At the public hearing, the Planning and Zoning Commission will review the application and receive pertinent evidence concerning the proposed variance.

*F. Report of the Development Services.*

The City's Development Services Department will review the application prior to the hearing.

*G. Action by the Planning and Zoning Commission.*

The Planning and Zoning Commission may grant the variance as presented or in a modified form or subject to conditions, or it may deny the application on the grounds of being incompatible with a neighboring use(s), traffic safety, the purpose statements as listed in this Article, or that it will give a business an unfair competitive advantage over other businesses. The Planning and Zoning Commission may impose such conditions or requirements in a variance as are necessary in its judgment to protect the overall character of the community and to achieve the fundamental purposes of this Article and the City's development plan and other regulations. A responsible party who fails to comply with any such conditions or requirements is in violation of this Article.

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*H. Evaluation Criteria.*

1. The Planning and Zoning Commission must use the following criteria when considering variances to this article and no variance may be granted until it makes the following findings:
  - (a) that there are exceptional circumstances or conditions applicable to the property on which the application is made related to size, shape, area, topography, surrounding condition(s) or location that do not apply generally to other property in the same area and/or the same zoning district;

**DRAFT 6/22/12**

(b) that exceptional circumstances or conditions are such that literal enforcement of the provisions of this Article would result in an unnecessary hardship inconsistent with the general purpose and intent of this Article;

(c) that the granting of such variance will not be contrary to the public interest, materially detrimental to the public welfare, or injurious to the property or improvements in the zoning district or area in which the property is located;

(d) that the granting of such variance will not be contrary to the objectives and principles contained in the City's Comprehensive Plan;

(e) that the variance to be granted is the minimum variance that will relieve the proven hardship;

(f) that the variance is not being granted to relieve the applicant of conditions or circumstances:

(i) a which are not inherent in the property itself, but are the result of the use or development of the property, or

(ii) which are caused by a division of land on or after June 16, 1997, other than a division of land resulting from the sale of a property interest to a governmental entity, which division of land caused the property to be unusable for any reasonable development under the existing regulations, or

(iii) which were otherwise self-imposed by the present or a previous owner;

(g) that the variance is not grounded solely upon the opportunity to make the property more profitable or to reduce expense to the current or any future owner;

(h) that the variance would not modify or effectively repeal any development or use regulations set forth in a Conditional Use Permit or an ordinance or resolution adopting a Development Site Plan or establishing a Special Use District or Planned Development District which are in addition to the generally applicable use and development regulations set forth in the City's Zoning Code; and

(i) that the variance would only affect a specific sign and is not of such a general nature as to effectively constitute a change in zoning.

2. No variance may be granted for signs that are listed as a prohibited sign.

**DRAFT 6/22/12**

*I. Conditions of Variances.*

If a variance is granted and the sign so authorized is not substantially under construction within six (6) months of the date of approval of the variance, the variance will lapse and become of no force or effect.

**SECTION 15. RELATION TO OTHER ORDINANCES**

This Article will not be construed to require or allow any act that is prohibited by any other City code or ordinance. This Article is specifically subordinate to any other ordinance or regulation of the City pertaining to building and construction safety or to pedestrian and traffic safety.

**SECTION 16. SEVERABILITY**

If any portion of this Article or any section or subdivision thereof be declared unconstitutional or in violation of the general laws of the state, such declaration shall not affect the remainder of this Article which shall remain in full force and effect.

**SECTION 17. ENFORCEMENT**

*A. Violations and penalties.*

Wherever by the provisions of this Article the performance of any act is required or the performance of any act is prohibited, or wherever any regulation, dimension or limitation is imposed on the location, design or use of any sign, a failure to comply with the provisions of this Article shall constitute a violation of this Article. The City Manager may institute any appropriate action or proceedings to prevent the unlawful installation, construction, reconstruction, relocation, alteration, repair, or use of any sign and to restrain, correct, or abate such violation. Every day on which a violation exists will constitute a separate violation and a separate offense. The penalty for each offense will not exceed two thousand dollars (\$2,000.00) but in no case shall the fine for any violation hereof be less than two hundred dollars (\$200.00).

*B. Civil remedies.*

Nothing in this Article shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this Article and to seek remedies as allowed by law, including the following:

1. injunctive relief to prevent specific conduct that violates the Article or to require specific conduct that is necessary for compliance with the Article; and
2. a civil penalty up to five hundred dollars (\$500.00) a day when it is shown that the defendant was notified of the provisions of the Article and after receiving notice committed acts in violation of the Article or failed to take action necessary for compliance with the Article; and

**DRAFT 6/22/12**

3. any other remedy available by law.

## **Agenda Item:**

6A. A Resolution approving the Alamo Area Council of Governments' (AACOG) Regional Multi-Hazard Mitigation Plan. (staff)

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

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**SUBJECT:** Approval of a Resolution approving the Alamo Area Council of Governments (AACOG) Regional Multi-Hazard Mitigation Plan.

**FOR AGENDA OF:** June 26, 2012

**DATE SUBMITTED:** June 15, 2012

**SUBMITTED BY:** Pat Dunlap, Fire Marshal

**CLEARANCES:** Michael C. Hayes, City Attorney

**EXHIBITS:** Due to its length, a copy of the AACOG Regional Multi-Hazard Mitigation Plan is available for viewing in the Kerrville City Secretary's Office and is also available for viewing on-line at: <http://www.aacog.com/index.aspx?NID=405>.

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

The Disaster Mitigation Act of 2000, also known as DMA 2000, among its other features, established a requirement that in order to remain eligible for federal disaster assistance and federal grant funds, local and state governments must develop and adopt hazard mitigation plans.

The City of Kerrville, City of Ingram and Kerr County have participated in the AACOG Regional Multi-Hazard Mitigation Plan since 2005. Beginning in the summer of 2010, the City of Kerrville, City of Ingram and Kerr County, in conjunction with AACOG and its member cities and counties, began reviewing and updating the Regional Multi-Hazard Mitigation Plan. After more than a year of review, discussion, and revision, the Federal Emergency Management Administration (FEMA) and the Texas Department of Emergency Management (TDEM) have found the Alamo Area Council of Governments (AACOG) Regional Multi-Hazard Mitigation Plan Update to be Approvable Pending Adoption (APA). This means that both FEMA and TDEM will approve the current draft of this plan, once the following actions are complete and the verifying documentation has been submitted to them:

1. Federal regulations require that each jurisdiction desiring to participate in the plan adopt the final plan, by whatever means they would normally adopt such plans. This is the final step in the participant's planning process, and one that is required for approval by FEMA.
2. Each jurisdiction desiring to participate in the plan must provide a copy of the signed and dated adoption resolution for submission to TDEM/FEMA. FEMA will issue the approval letter for the plan as a whole once they receive the first adoption resolution from any AACOG regional participating jurisdiction. Note that each participating jurisdiction will have to adopt the plan *individually* in order to be approved. The approval date for the plan will be based on the date that the first jurisdiction submits the adoption paperwork. Once the *individual* local or state jurisdiction receives approval from TDEM/FEMA, the *individual* local or state jurisdiction is then eligible to apply for and receive FEMA mitigation grant funding. This includes the following FEMA mitigation funding programs:
  - **Hazard Mitigation Grant Program (HGMP or 404)** – This is post disaster mitigation funding used to reduce the risk of loss of life and property from future disasters during the reconstruction process following a disaster.
  - **Pre-Disaster Mitigation (PDM)** – This grant is designed to assist communities in implementation of a sustained pre-disaster natural hazard mitigation program.
  - **Flood Mitigation Assistance (FMA)** – The goal of this grant is that of reducing or eliminating claims under the National Flood Insurance Program (NFIP).
  - **Repetitive Flood Claims (RFC)** – This grant program is for pre-disaster, annual funding for NFIP repetitive loss properties.
  - **Severe Repetitive Loss (SRL)** – The program goal of the SRL is reducing flood damages to residential properties that have experienced severe repetitive losses under flood insurance coverage.

The Alamo Area Council of Governments Regional Hazard Mitigation Plan is designed to protect people and property from the effects of natural and human-caused hazards. By taking action today, we can reduce the likelihood of injuries, loss of life and damage to our communities. In addition to developing a framework for action, the AACOG Regional Multi-Hazard Mitigation Plan enables eleven (11) participating counties, forty-six (46) municipalities and the San Antonio River Authority to apply for pre and post-disaster mitigation funding that would not otherwise be available. This funding can help local jurisdictions implement desired goals and objectives outlined in the plan.

### **RECOMMENDED ACTION**

Staff recommends that the City Council pass a Resolution approving the Alamo Area Council of Governments (AACOG) Regional Multi-Hazard Mitigation Plan.

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. \_\_\_\_\_-2012**

**A RESOLUTION APPROVING THE ALAMO AREA COUNCIL OF  
GOVERNMENTS (AACOG) REGIONAL MULTI-HAZARD MITIGATION  
PLAN**

**WHEREAS**, the City of Kerrville, Texas (“City”), similar to other communities, is vulnerable to multiple types of natural and human-caused hazards; and

**WHEREAS**, in order to reduce the effects of these hazards, counties and municipalities are strongly encouraged to develop and participate in a local hazard mitigation plan; and

**WHEREAS**, the City desires to prepare and mitigate for hazards and seeks to promote its public health and general welfare and the safe, orderly, and healthful development of its community; and

**WHEREAS**, the City has worked with the Alamo Area Council of Governments (“AACOG”) and other participating jurisdictions to develop a hazard mitigation plan; and

**WHEREAS**, hazard mitigation is defined as actions taken to reduce the effects of natural hazards on a place and its population and AACOG has developed a hazard mitigation plan due to such hazards, especially natural hazards, such as flood and wind, which have the potential to affect people, physical assets, and operations; and

**WHEREAS**, the Federal Disaster Mitigation Act of 2000 (DMA 2000), among other features, requires that in order to remain eligible for federal disaster assistance and grant funds, local and state governments must develop and adopt hazard mitigation plans; and

**WHEREAS**, a hazard mitigation plan requires a description of the hazards that can affect a community, an assessment of the community’s risks from and vulnerability to those hazards, and a description of actions or projects that the community desires to undertake to mitigate its vulnerability; and

**WHEREAS**, a hazard mitigation plan must conform to federal law and all applicable mitigation planning guidance issued by FEMA; and

**WHEREAS**, a community must be a participant in a current, FEMA-approved hazard mitigation plan to be eligible for FEMA mitigation grant funding; and

**WHEREAS**, grant funding for updating AACOG’s *Regional Multi-Hazard Mitigation Plan* (“Plan”) became available in 2010 and such updating began in June 2010 and concluded in April 2011; and

**WHEREAS**, the Plan is designed to protect people and property from the effects of natural

and human-caused hazards and by adopting, implementing, and following the Plan, the City can reduce the likelihood of injuries, loss of life, and damage; and

**WHEREAS**, the Plan will help the City understand its vulnerabilities to hazards, work to reduce the impacts of any such hazards, and develop a framework for action, to include enabling the City to apply for pre and post-disaster mitigation funding that would not otherwise be available; and

**WHEREAS**, the Texas Department of Emergency Management and FEMA required modifications to the Plan and after making these modifications, the Plan was published for additional public comments and responses from the applicable governmental entities; and

**WHEREAS**, the City's Fire Chief recommends that the City adopt the update to the *Alamo Area Council of Governments Regional Multi-Hazard Mitigation Plan*; and

**WHEREAS**, the City Council deems it in the public interest to adopt the Plan;

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

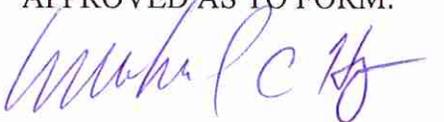
The City Council hereby adopts the most recently updated *Alamo Area Council of Governments Regional Multi-Hazard Mitigation Plan*, a copy of which will be kept on file in the Office of the Fire Chief and Office of the City Secretary.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 2012.**

\_\_\_\_\_  
Jack Pratt, Jr., Mayor

APPROVED AS TO FORM:

ATTEST:

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

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

## **Agenda Item:**

6B. Direct staff to investigate the condition of that portion of the Town Creek drainage channel located south of Main Street and provide a report to City Council on the parties who have maintenance responsibility and the city's options for ongoing maintenance and repair. (staff)

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

**SUBJECT:** Direct staff to investigate the condition of that portion of the Town Creek drainage channel located south of Main Street and provide a report to City Council on the parties who have maintenance responsibility and the city's options for ongoing maintenance and repair

**FOR AGENDA OF:** June 26, 2012      **DATE SUBMITTED:** June 22, 2012

**SUBMITTED BY:** Jack Pratt      **CLEARANCES:**  
Mayor

**EXHIBITS:** None

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

**SUMMARY STATEMENT**

That portion of the Town Creek drainage channel located south of Main Street is a significant drainage way for the City of Kerrville. Vegetative materials are overgrown and there is a significant amount of trash and debris. The overgrown vegetation and the trash and debris limits the capacity of this important regional drainage facility and in the event of a major storm event there could be a threat of property damage as well as a threat to public safety.

This drainage way should be routinely inspected and maintained. The City of Kerrville needs to identify who has the responsibility for maintenance and needs to evaluate the options to ensure it is maintained and cleaned on a regular basis.

**RECOMMENDED ACTION**

It is recommended that the City Council direct staff to investigate the condition of that portion of the Town Creek drainage channel located south of Main Street and provide a report at the City Council meeting scheduled for July 10, 2012, as to the parties with the maintenance responsibility and the city's options for ongoing maintenance and repair.

## Agenda Item:

6C. Creation of a task force to review the City's long-term financial situation and develop recommendations. (Mayor Pratt)

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

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**SUBJECT:** Long Range Financial Management

**FOR AGENDA OF:** Jun 26, 2012

**DATE SUBMITTED:** Jun. 19, 2012

**SUBMITTED BY:** Jack Pratt  
Mayor

**CLEARANCES:**

**EXHIBITS:** None

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

Kerrville, similar to most every other city, county, and states across the nation, faces significant budgetary challenges because of a wide array of factors including: increasing percentage of legacy costs; rising health care and pension costs; unpredictable revenue; aging infrastructure; high debt load; increasing costs of city services; and an overall demand for more services coupled with expectation of lower taxation. These challenges have caused many cities to experience very serious financial difficulties forcing dramatic cuts in services.

Good government and sound financial management begin with a careful assessment of where we stand and where we are headed.

City Council requires adequate input and information to address both the short-term and long-term financial needs of the City.

The Task Force will review the City's long-term financial situation and develop recommendations for a long-term plan of action for Council discussion and adoption. The Task Force will address long-range plans to include the City's unfunded liabilities, infrastructure (to include water treatment facilities, infrastructure updates, pension plans, benefit management, long-term indebtedness, and all other City financial obligations. The Task Force shall

present its final report to the Mayor, followed by a meeting of the Committee of the Whole not later than December 1, 2012.

The final report will include a recommendation on whether continued existence of the group, in its current or altered form, would be beneficial. The Task Force shall maintain as privileged and confidential any work product or draft document used to compose its final report.

The task force shall be advisory only.

### **RECOMMENDED ACTION**

It is recommended that the City Council authorize the creation of a Long-Range Financial Management Task Force. The Long-Range Financial Management Task Force will be a dedicated and diverse group brought together with the common goal of strengthening the City of Kerrville's long-term financial sustainability.

Within 30 days, the City Council shall appoint a Long-Range Financial Management Task Force consisting of a mayor's representative, a representative of the Staff, a representative from the City's Public Works Department, and four members of the community representing businesses and residents comprised of financial and actuarial experts, business interests and community leaders.

## **Agenda Item:**

6D. The City's oversight of private halfway houses in Kerrville. (Mayor Pratt)

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

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**SUBJECT:** Halfway Houses in Kerrville, TX

**FOR AGENDA OF:** Jun 26, 2012

**DATE SUBMITTED:** Jun. 19, 2012

**SUBMITTED BY:** Jack Pratt  
Mayor

**CLEARANCES:**

**EXHIBITS:** None

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

Many people pass through the more than 70 Kerrville community halfway houses annually. No one disagrees with the intention of helping people re-enter society as productive citizens.

Private halfway houses have minimal supervision, allowing them to become further breeding grounds for unacceptable behaviors. These facilities are about bottom lines not public safety. We certainly don't want to be accused of lax oversight and accountability in our communities halfway houses. We have an obligation to ensure the program is effectively and safely operating in our city today.

I take our responsibility to properly protect the public very seriously and we need to monitor the halfway houses with site visits, an inspection system and fines for noncompliance.

The city needs to require permitting of the halfway houses and provide more oversight on their operations and inspect the facilities.

The City of Kerrville would set up inspections and report violations as well as recommendations to the City Manager who will intern make a report to the city council.

# **Agenda Item:**

7A. Zero based budgeting. (Mayor Pratt)

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

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**SUBJECT:** Zero-based budgeting

**FOR AGENDA OF:** Jun 26, 2012

**DATE SUBMITTED:** Jun. 20, 2012

**SUBMITTED BY:** Jack Pratt  
Mayor

**CLEARANCES:**

**EXHIBITS:** None

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DEPARTMENT:**

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**SUMMARY STATEMENT**

**Zero-based Budgeting**

Kerrville needs to adopt a practice of zero-based budgeting—to contain costs and to better serve our residents.

Kerrville's population is approximately 23,000 and has a 2012 annual budget of \$45 million. We need to look at ways to improve services and offset costs.

Zero-based budgeting will provide us an improved way to look at cost and enable us to better restructure the way we deliver services and manage taxpayer dollars.

Zero-based budgeting involves a bottom-up approach to rethinking all expenses and line-items. Instead of simply increasing or decreasing assumptions from last year, Zero-based budgeting avoids baseline assumptions and incentivizes managers to identify savings, improve operations, eliminate waste, and find opportunities to save taxpayer dollars. ZBB often leads to improved communication, and staffers take greater initiative as they become motivated by their responsibility for—and impact on—the decision-making process.

# **Agenda Item:**

7B. Budget and economic update. (staff)

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

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**SUBJECT:** Kerrville Budget/Economic Update

**FOR AGENDA OF:** June 26, 2012    **DATE SUBMITTED:** June 15, 2012

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

**EXHIBITS:** Economic Update  
**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:** 

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE DIRECTOR OR FINANCE:**

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**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.



# **Agenda Item:**

7C. River Trail update. (staff)

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

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**SUBJECT:** River Trail Status Monthly Report

**FOR AGENDA OF:** June 26, 2012      **DATE SUBMITTED:** June 15, 2012

**SUBMITTED BY:** Malcolm Matthews      **CLEARANCES:** Kristine Ondrias

**EXHIBITS:** Monthly Report

**AGENDA MAILED TO:**

**APPROVED FOR SUBMITTAL BY CITY MANAGER:**

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

**PAYMENT TO BE MADE TO:**

**REVIEWED BY THE FINANCE DIRECTOR:**

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**SUMMARY STATEMENT**

Monthly Report to the City Council on the status of the River Trail project.

**RECOMMENDED ACTION**

No action required.

City of Kerrville

# Monthly Status Report

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## River Trail Project

June 29, 2012

4B Funds

\$6,000,000 (River Trail)

\$2,000,000 (Louise Hays and Lehmann & Monroe Parks Renovation)

# Status Report Kerrville River Trail

# Package A

## SCOPE

**Package A** extends from a new trailhead at the Riverside Nature Center parking lot, along the west property line of the RNC, down to the river's edge, under the Lemos St. Bridge, construction of a trail bridge across the river, through Tranquility Island, to the west end of the parking area in Louise Hays Park. The 10' wide trail will be constructed of concrete, except for the segment that runs along the RNC western property line. *Total trail length: 0.6 miles*

## Amenities

Trailheads with lighting, observation areas, seating areas, trail bridge, drainage, and signage. [Note: additional amenities, such as trail entries, kiosks, and interpretive signage, will be added with future packages, once designed with future packages.]

PHASING	Action Item	Schedule (Status)	Task/Issues	Comments/Risks
Recreation easements or Property Agreements	easement to CoK from RNC	complete by 6/12	RNC to provide easement to City	requires RNC approval
	lease renewal to RNC of CoK property	complete by 6/12	City to provide lease to RNC	requires City Council approval
	approval from TxDOT and GLO for use of state property	(complete)	TxDOT approval of plans and Const./Maint. Agreement	SA office approval; include in MMA
	construction easements, <del>if needed</del>	NA	NA	NA
Property Survey	M&B and Topo surveys	(complete)	identify property boundary and grades	
Misc. Reports/Permits	LOMR	submit 7/31/12	flood level impact, if any	submittal to FEMA
	TPWD (land & water permit)	(complete)	coffer dam - bridge construction review	review by TPWD
	USACE	(complete)	involves jurisdictional waters of the US	no USACE individual permit required
Design	under contract - Hewitt Engineering			
	location of trail	(complete)	define gradients and layout (complete)	
Preliminary Design	schematic plans with amenities;	50% review - 12/2/11 (complete)	all project elements	
	prelim. costs	75% review - 1/13/12 (complete)	all project elements	
		90% review - 2/20/12 (complete)	all project elements	
Construction Drawings Bidding/Contracts	final plans/specs/costs/ documents	(complete)	all project elements	
	secure contractor	Bid March 2012; award May 2012 to Westar Construction	bid process, contract prep	project delay, bid cost, permit approvals, etc.
Construction	build project	start May 2012; complete Sept. 2012	sequencing of work	typical delays/field alterations

FUNDING - BUDGET		Allocation	Expended - Encumbered	Balance	Cost Est. for Package	Needed to Complete Package
G.O. bonds (2002) Park Dedication Funds	\$500,000 25,000 \$525,000	2002 bonds \$147,112 [includes completion of the River Trail Master Plan and survey work]	\$377,888	Construction bid: \$667,427 plus 10% contingency \$735,000	2002 bonds \$377,888 2011 bonds \$357,112 (includes contingency)	
COs (4B)	\$357,112					

## Package B, Package C, and Parks Project

## Status Report Kerrville River Trail

### SCOPE

**Package B, Package C, and Parks Project** extends the trail from Guadalupe Park, connects to Package A at the west end of the Louise Hays Park parking lot, through Louise Hays Park and Lehmann & Monroe Park, to G St. r.o.w. The 10' wide trail will be constructed of concrete. This Package will be coordinated with the Jefferson Wastewater Project and Water transmission Line Project, both slated for completion in the first half of 2013. This Package will include the entire scope of work for the Louise Hays Park/Lehmann & Monroe Park Project, as funded by 4B. *Total trail length: 2.5 miles*

### Amenities

Trail - trailheads with lighting, observation areas, seating areas, bridging, drainage, signage, trail entries, kiosks, and interpretive signage.  
Parks - park amenities, amphitheater/stage, playground/sprayground, picnic areas, group pavilion upgrades, river access, restrooms, parking, lighting, utilities, landscaping, and signage.

PHASING	Action Item	Schedule (Status)	Task/Issues	Comments/Risks
Recreation easements or Property Agreements	easements to CoK from property owners	complete by 1/31/13	CoK to secure easements from property owners; title work and surveys	requires property owner approval, purchase, or other; coord. possible use of KSH property.
Property Survey	construction easements, if needed	complete by 1/31/13	determine need by 11/30/12	requires property owner approval
Misc. Reports/Permits	M&B and Topo surveys	(partially complete)	identify property boundary and grades	
	LOMR		flood impact, if any	may require submittal to FEMA
	TPWD (land & water permit)		if needed	review by TPWD
	GLO (state property use)	6/1/12	routing preference	approval by State, if needed
Design	-Trail Routing Options/Cost agreement - Haliff team	complete	define route options w/ costs	complete May; prior to final design contract
	-Final Design Contract - Haliff Team	To follow trail route confirmation	all remaining design phases	requires Council approval
Preliminary Design	schematic plan with amenities; prelim. costs	50% review - (partially complete) 75% review - 90% review -	all project elements all project elements all project elements	coord. with utilities projects
Construction Drawings	final plans/specs/costs/ documents	complete by	all project elements	project delay assoc. with approvals
Bidding/Contracts	secure contractor	late 2013	bid process, contract prep	project delay, bid cost, etc.
Construction	build project	early 2014	sequencing of work	typical delays/field alterations

FUNDING - BUDGET		Allocation	Expended - Encumbered	Balance	Cost Est. for Package	Needed to Complete Package
COs (4B) [will include LHP/LMP Project 4B funding]						

## Status Report Kerrville River Trail

## Package D

### SCOPE

Package D extends from a new trailhead at the Knapp Crossing Boat Ramp parking lot, runs adjacent to the river, ties into the Guadalupe St. r.o.w. (Package C). The 10' wide trail will be constructed of concrete. TBD - this package's design/construction expected to be integrated with private sector improvements. Total trail length: 0.2 miles

### Amenities

Trailheads with lighting, observation areas, seating areas, trail bridge, drainage, signage, trail entries, kiosks, interpretive signage, and private improvement interface.

PHASING	Action Item	Schedule (Status)	Task/Issues	Comments/Risks
Recreation easements or Property Agreements	easement to CoK from property owners	complete by 1/31/13	CoK to secure easements from property owners	requires property owner approval, purchase, or other
	construction easements, if needed	complete by 1/31/13	determine need by 11/30/12	requires property owner approval
Property Survey	M&B and Topo surveys	(partially complete)	identify property boundary and grades	
Misc. Reports/Permits	LOMR		flood impact, if any	may require submittal to FEMA
	TPWD (land & water permit)		if needed	review by TPWD
Design	TBD	(partially complete)		
	location of trail	(partially complete)	define gradients and layout	
Preliminary Design	schematic plan with amenities;	50% review -	all project elements	
	prelim. costs	75% review -	all project elements	
Construction Drawings	final plans/specs/costs/ documents	complete by	all project elements	project delay assoc. with approvals
	secure contractor	2014	bid process, contract prep	project delay, bid cost, etc.
Construction	build project	2014	sequencing of work	typical delays/field alterations

FUNDING - BUDGET		Allocation	Expended - Encumbered	Balance	Cost Est. for Package	Needed to Complete Package
COs (4B)						

# Status Report Kerrville River Trail

## Package E

<b>SCOPE</b>	<u>Package E</u> extends from west terminus of trail on Junction Hwy along the river's edge, connect to a new trailhead at the Cypress Boat Ramp parking lot, to the trailhead at the Knapp Crossing trailhead. The 10' wide trail will be constructed of concrete. <i>Total trail length: up to 1 mile</i>
<b>Amenities</b>	Trailheads with lighting, observation areas, seating areas, trail bridge, drainage, signage, trail entries, kiosks, and interpretive signage.

PHASING	Action Item	Schedule (Status)	Task/Issues	Comments/Risks
Recreation easements or Property Agreements	easement to CoK from property owners	complete by 1/31/13	CoK to secure easements from property owners	requires property owner approval, purchase, or other
	construction easements, if needed	complete by 1/31/13	determine need by 11/30/12	requires property owner approval
Property Survey	M&B and Topo surveys	(partially complete)	identify property boundary and grades	
Misc. Reports/Permits	LOMR		flood impact, if any	may require submittal to FEMA
	TPWD (land & water permit)		if needed	review by TPWD
Design	-Trail Confirmation/Cost agreement - Half team	approval 3/19/12	define route options w/ costs	complete March 20; prior to final design contract
	-Final Design Contract --Half Team	negotiate by 4/14/12	all remaining design phases	requires Council approval (May)
Preliminary Design	schematic plan with amenities; prelim. costs	50% review -- (partially complete) 75% review -- 90% review --	all project elements all project elements all project elements	coord. with utilities projects
Construction Drawings	final plans/specs/costs/ documents	complete by	all project elements	project delay assoc. with approvals
Bidding/Contracts	secure contractor	2014	bid process, contract prep	project delay, bid cost, etc.
Construction	build project	2014	sequencing of work	typical delays/field alterations

FUNDING - BUDGET	Allocation	Expended - Encumbered	Balance	Cost Est. for Package	Needed to Complete Package
COs (48)					

# Status Report Kerrville River Trail

# Package F

**SCOPE**  
Package E extends from G St. (Package B terminus) along the river to near Kerrville Schreiner Park. The 10' wide trail will be constructed of concrete. Consultant team scope will include design criteria used throughout the River Trail Project. *Total trail length: up to 2 miles*

**Amenities**  
 Trailheads with lighting, observation areas, seating areas, trail bridge, drainage, signage, trail entries, kiosks, and interpretive signage.

PHASING	Action Item	Schedule (Status)	Task/Issues	Comments/Risks
Recreation easements or Property Agreements	easement to CoK from property owners	complete by 1/31/13	CoK to secure easements from property owners	requires property owner approval, purchase, or other
Property Survey	construction easements, if needed	complete by 1/31/13	determine need by 11/30/12	requires property owner approval
Misc. Reports/Permits	M&B and Topo surveys	partially complete	identify property boundary and grades	coord. w/ utilities projects
	LOMR		flood impact, if any	may require submittal to FEMA
	TPWD (land & water permit)		if needed	
Design	-Trail Confirmation/Cost agreement - Terra Design Group (TDG) team	approval 3/19/12	define route options w/ costs	complete March 20; prior to final design contract
Preliminary Design	-Final Design Contract – TDG Team schematic plans with amenities; prelim. costs	negotiate by 4/14/12	all remaining design phases	requires Council approval (May)
		50% review –	all project elements	coord. with utilities projects
		75% review –	all project elements	
		90% review –	all project elements	
Construction Drawings	final plans/specs/costs/ documents	complete by	all project elements	project delay assoc. with approvals
Bidding/Contracts	secure contractor	mid 2013	bid process, contract prep	project delay, bid cost, etc.
Construction	build project	late 2013	sequencing of work	typical delays/field alterations

FUNDING - BUDGET	Allocation	Expended - Encumbered	Balance	Cost Est. for Package	Needed to Complete Package
COs (4B)					

## **Other Services to be Evaluated**

Required reporting and permitting may dictate additional professional services or consolidation of services assigned to the design teams. These include, but are not limited to, the following.

1. Floodplain/Floodway Impact, Hydraulic Analysis, Section 404 – Clean Water Act submittals (Corps of Engineers), and Flood Insurance Rate Map/ Letter of Map Revision preparation and submittal (CoK, FEMA) may be best completed by one firm in order to comprehensively address the issues and data collection/reporting. This could avoid multiple submittals (costs) and reduce mistakes and need for resubmittals. We will make a determination on this approach in the near future.
2. Archeological and Environmental Surveys and Section 404 review will need to be completed in areas where sensitive site conditions are probable. We anticipate now extreme findings in the initial surveys/reports; however, if further study is required by state or federal agencies, those services will require amendments to the consultant contracts.
3. TDLR permitting for ADA compliance, CoK building permits, Texas Historical Commission plan review, any other city or state agency submittals, will best be submitted by each of the design teams at the time of plan completion. This keeps regulation compliance with the design teams.

## **Agenda Item:**

7D. Report on Kerrville Economic Development Corporation (KEDC) activities.  
(Conklin)

