

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, JANUARY 8, 2013, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, JANUARY 8, 2013, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Captain Bobby Jackson, with the Salvation Army.

PLEDGE OF ALLEGIANCE TO THE FLAG led by Keith Ellis, of the Military Officers Association of America.

Those in attendance may stand if they wish.

1. VISITORS/CITIZENS FORUM:

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

2. CONSENT AGENDA:

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

2A. Approval of minutes of the regular meeting held on October 9, 2012. (staff)

2B. Authorize amendment to the existing agreement with Freese and Nichols, Inc. for the Birkdale lift station and force mains capital improvement project and increase the contract by \$18,917.00 to provide additional construction administration services required as a result of the city dividing the construction portions of the overall project into two separate construction contracts.

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, January 4, 2013 at 10:00 a.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

2C. Authorize amendment to the existing agreement with Freese and Nichols, Inc. (FNI) to provide professional engineering design and construction administration services for the Jefferson lift station force and gravity main – Phase 1, the amendment will include a credit to the original scope of work for the FNI agreement to provide an alignment study in an amount of \$8,965.00. (staff)

2D. A resolution amending the City of Kerrville fee schedule by revising fees charged for various services and uses provided or offered by the city. (staff)

2E. A resolution providing Jim Boyle of Herrera & Boyle, PLLC with the authority to act on behalf of the city in connection with the settlement, if any, of the Aqua Texas rate proceeding for the southwest region which is pending before the Texas Commission of Environmental Quality and the State Office of Administrative Hearings. (staff)

END OF CONSENT AGENDA

3. ORDINANCES, FIRST READING:

3A. An ordinance amending Chapter 30 "businesses," of the City's Code of Ordinances by adopting a new Article I "Group Homes and Boarding Home Facilities"; establishing the registration, permitting, and inspection of Group Homes and Boarding Home Facilities; 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)

3B. An ordinance amending Chapter 66, "Library," of the Code of Ordinances of the City of Kerrville, Texas; by amending Article II "Library Advisory Board" to change the composition and qualifications of the Library Advisory Board; containing a cumulative clause; containing a savings and severability clause; and providing other matters relating to this subject. (staff)

3C. An ordinance amending Chapter 102 "Traffic and Vehicles," Article II "Administration; Enforcement" of the Code of Ordinances of the City of Kerrville, Texas by amending Sections 102-35 and 102-36 to increase the penalty for parking violations; adopting a new Section 102-37 to establish presumptions applicable to the adjudication of parking citations; containing a cumulative clause; containing a savings and severability clause; providing for an effective date; ordering publication; and providing other matters related thereto. (staff)

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4. CONSIDERATION AND POSSIBLE ACTION:

4A. Request from the Kerrfest Committee for city sponsorship for the 3rd Annual Kerrfest event. (staff)

4B. A resolution supporting the application of Communities for Veterans to construct low income rental housing pursuant to the low income housing tax credit program administered by the Texas Department of Housing and Community Affairs. (Craig Taylor)

4C. Approval of pavement management system projects for FY13. (staff)

4D. Authorize request for proposals process for the sale of the former city hall at 800 Junction Highway. (staff)

4E. Authorize revisions to the city of Ingram wholesale wastewater agreement by modifying the Ingram wastewater service area to include approximately 10 acres west of Goat Creek Cutoff Road. (staff)

4F. Possible designation of potential threatened or endangered species that could implicate the City of Kerrville's interests. (staff)

5. INFORMATION AND DISCUSSION

5A. Staff update on the status of the zoning ordinance rewrite. (ZOIC Committee)

5B. Water resources report. (staff)

5C. Budget/Economic Update. (staff)

6. BOARD APPOINTMENTS:

6A. Appointment to the Kerr Emergency 9-1-1 Network. (staff)

6B. Appointments to the zoning board of adjustments.

6C. Appointment to the Charter Review Commission. (staff)

7. ITEMS FOR FUTURE AGENDAS

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8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

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

9. EXECUTIVE SESSION:

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

Section 551.074:

- Appointments to the planning and zoning commission.
- Appointments to the zoning board of adjustments

Sections 551.071 and 551.072:

- Discuss the purchase, exchange, lease, sale, or value of real property, the public discussion of which would not be in the best interests of the city's bargaining position with third parties, regarding property interests related to the following public works projects:
 - Jefferson Street lift station
 - G Street sewer project
 - River trail.
- Authorize request for proposals for former city hall at 800 Junction Highway.

Section 551.071:

- Possible designation of potential threatened or endangered species that could implicate the City of Kerrville's interests.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

11. ADJOURNMENT.

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Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Approval of minutes of the regular meeting held on October 9, 2012. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
OCTOBER 9, 2012

On October 9, 2012, the Kerrville City Council meeting was called to order by Mayor Pratt and Former Mayor Tom Pollard at 6:00 p.m., the last council meeting in the city hall council chambers at 800 Junction Highway. The invocation was offered by Reverend John Standridge, Christ Church Presbyterian, followed by the Pledge of Allegiance led by Bob Avery of the Military Officers Association of America.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT:

Gene Allen	Councilmember
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CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Charvy Tork	Director of Information Technology Systems
Mike Erwin	Director of Finance
Robert Ojeda	Fire Chief
John Young	Police Chief
Kim Meismer	Director of General Operations
Jason Lutz	City Planner
Eric Maloney	EMS Coordinator
Malcolm Matthews	Parks and Recreation Director

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

1. VISITORS/CITIZENS FORUM

- 1A. Carolyn Lipscomb commended city employees for participating in National Night Out.
- 1B. Mack McElvain noted that UGRA was planning to put bird nets under the Loop 534 and Sidney Baker bridges to keep birds from nesting under the bridges. He wanted people to understand the consequences of this plan, i.e. birds eat mosquitos, and make the decision with due diligence.
- 1C. Richard Ferris questioned the city paying to provide wireless network in the downtown area, noting that businesses that wanted wireless already had it, and it

was discriminatory in that 99% of the people were having to pay to provide wireless to the 1%. Mr. Parton noted that wireless was being contemplated for the immediate downtown historic core area and Peterson Plaza, with possible expansion to Louise Hays Park and Butt-Holdsworth Library.

2. PRESENTATIONS AND RECOGNITIONS:

2A. Introduction of a special guest. Mayor Pratt introduced Former Mayor Tom Pollard who called to order the first city council meeting in the city hall at 800 Junction Highway in 1984.

2B. Resolutions of commendation to Tim Dylina for service on the City of Kerrville Golf Course Advisory Board.

2C. Recognition of Assistant Fire Chief Mark Beavers, Battalion Chief Tony Lenard, and Firefighter/Paramedic Jeff Neal by the National Fire Academy for completion of courses at the National Emergency Training Center in Emmitsburg, Maryland, presented by Fire Chief Ojeda.

3. CONSENT AGENDA:

Mr. MacDonald moved for approval of items 3A through 3D; Mr. Conklin seconded the motion and it passed 4-0:

3A. Minutes of the Kerrville City Council regular meetings held September 11 and September 25, 2012.

3B. Resolution No. 38-2012 canceling the regular meeting of the Kerrville City Council scheduled for December 25, 2012.

3C. Purchase of a Type 1 ambulance from Dallas Dodge Chrysler Jeep at a price not to exceed \$110,875.00.

3D. Contracts for the purchase of various chemicals to be used at the wastewater treatment plant, at a total annual cost not to exceed \$98,119.50.

END OF CONSENT AGENDA

4. ORDINANCE, FIRST READING:

4A. An ordinance creating a "Planned Development District" for an approximate 4.241 acres consisting of Tracts I and II, Texas National Guard Armory Board in the Samuel Wallace Survey No. 113, Abstract No. 761, within the City of Kerrville, Kerr County Texas, and more commonly known as 411 Meadowview Lane, adopting a phased concept plan and conditions related to the development of said district to include a phased development schedule; containing a cumulative clause; containing a savings and severability clause; establishing a penalty or fine not to exceed \$2,000 for each day of violation of any provision hereof; and ordering publication. Mayor Pratt read the ordinance by title only.

Mayor Pratt declared the public hearing open at 6:14 p.m.; no one spoke; Mayor Pratt closed the public hearing at 6:14 p.m.

Mr. Lutz noted the Veterans of Foreign Wars proposed to use the existing facility to provide assistance to veterans seeking benefits from various programs and to

provide a meeting place for veterans and community groups. Mr. Lutz discussed the requirements stated in the PDD, and proposed that the facility be allowed to open now and those requirements be met in subsequent phases. Phase I, to be completed within three years of adoption of the ordinance, would address requirements for: parking, Type A screening along the boundary lines adjacent to developed properties, fire lane, and hammerhead turnaround. He noted that sufficient parking spaces were already available. Phase II, to be completed within five years, would address requirements for: screening of the remainder of the property, meet ADA requirements, and complete optional elements, such as a children's playground and vegetable garden. He noted that ADA requirements may be triggered during building renovation, regardless of the phasing schedule stated in the ordinance.

Mr. MacDonald moved for approval of the ordinance on first reading; Mr. Conklin seconded the motion and it passed 4-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Recommendation from the City of Kerrville Main Street Advisory Board to initiate a downtown streetscape enhancement master plan.

Mr. Parton noted council previously directed staff to evaluate a proposal for the enhancement of the downtown 58 block area to create an attractive, pedestrian friendly environment. The city received a proposal from Peter Lewis Architect + Associates to create a downtown streetscape enhancement master plan. The main street advisory board recommended council initiate a downtown streetscape enhancement master plan; city staff recommended staff be instructed to make an application to the economic improvement corporation for funding the master plan for approximately \$36,500.

Mrs. Keeble moved to approve MSAB's recommendation to authorize a downtown streetscape enhancement master plan and to direct staff to make application to EIC for funding. Mr. Conklin seconded the motion and it passed 4-0.

5E. Report and provide direction regarding the regulation of group homes within the City of Kerrville. This matter was held earlier in the meeting following Item 5A.

Mr. Parton noted that federal law, i.e. the Fair Housing Act limited the city's ability to regulate group homes and noted the city could not control or regulate many of the issues found to be undesirable to the public. He discussed the problem of group homes being located in existing single family residential neighborhoods, e.g. compatibility issues, nuisances, and safety.

Mr. Parton identified four tools that could be used:

1. Annual registration and licensing application process, could include criminal background check and fee charged.
2. Periodic inspection of each registered and licensed facility.
3. Density control. Require maximum separation between facilities.
4. Occupancy limits. Current code limited residential occupancy to 1 person/200 sq. ft. living space. Enforcement would have to be city-wide and could impact

existing single family homes and families with unintended consequences.

Regarding implementation to regulate group homes, Mr. Parton proposed an additional code enforcement officer to handle registration, licensing, and inspection of homes. He estimated the direct cost of the first year at \$77,220 for employee and capital needs. There could be additional indirect costs in municipal court and the legal department. Mr. Parton proposed a workshop to discuss specific issues regarding group housing and limitations facing city.

Mr. Hayes noted the group housing issue would require fact intensive analysis including the federal anti-discrimination laws. Recent ordinances adopted by other cities are being contested and may not be upheld.

The following persons spoke:

1. Nikki Saurage said she kept her group home clean, only had five cars, and provided a normal environment for women who were trying to stay sober. She had only one complaint in eight months from her neighbors. She agreed that the city should know where homes were located; the particulars of the residents, e.g. health issues; had functioning fire detectors; maintained insurance for multi-living; etc. Students attending college also lived in group homes, and any ordinance created should be fair and equal to everyone.
2. Mark Keller recognized that such a service was needed; however, he discussed problems associated with the halfway house that recently opened in his neighborhood; e.g. multiple cars (eight) parked on the street, discarded items, noise, too many people in one house, etc., which could lead to declining property values. If he had known that halfway houses were allowed in the neighborhood, he would have paid less for his home.
3. Mariam Watson said she was licensed by the Department of State Health Services as a drug and alcohol treatment center. The facility was located in a commercial zone; however, housing was not provided; over 400 people were treated in six years with an 85% recovery rate. While people attended the treatment facility, they lived in sober living homes (SLH); she discussed the benefits that group homes provided to the community, i.e. employed professional people, paid taxes, etc. People in treatment worked minimum wage jobs and paid their taxes. The problems mentioned, i.e. trash, cars, language, etc. are in all neighborhoods, whether there is a SLH there or not. She noted that the Texas Department of Health had received complaints about SLH in our community, and they may adopt licensing and regulations for group homes which may make it almost impossible to operate a SLH, for example, they may require trained staff on site and require that property meet all code requirements, i.e. ADA. She supported regulations for SLH if handled correctly and she volunteered to help the city establish reasonable rules and regulations that were fair to all.
4. Kimber Falkinburg attended a recovery treatment center and lived in a sober living home. The purpose of such homes was to help them overcome their

problems and become productive people. She appreciated the opportunity to participate in group home discussions.

5. Bobby Templeton noted problems with several residents living in a group home in his neighborhood, i.e. bad language, speeding and reckless driving, loud noise at night, trash thrown into his yard and on the street, traffic, and as many as 12-14 cars parked on the street and blocking driveways. He acknowledged that SLH provided valuable service; however, his neighborhood was zoned single family residential, and the city should enforce zoning regulations; the city should regulate the number of people living in one dwelling. There was no one to address grievances to. He wanted to be part of the workshop. The lady who owned the SLH in his neighborhood owned five halfway houses in Kerrville but lived in Houston; she had stated that she chose to set up halfway houses in Kerrville because it was nothing but people exiting drug and alcohol rehab and retirees, and there were no regulations for those who leased out SLH.

6. Liz Cravens stated that her friends lived in the SLH on East Lane and she apologized for the things cited; in particular, the large number of vehicles was because they were working on an event fundraiser. There were not 14 people living in the house. She asked that neighbors talk to the people who lived in the SLH and discuss the problems, also, that neighbors take into consideration that they were talking about people's lives; get to know people.

7. Jay Meldman stated he lived next door to the halfway house on East Lane. He previously lived in a SLH and they regulated the number of cars, and when there was an issue, they resolved it. There were good SLH and bad, and in some instances a SLH can be dangerous for residents; the issue was how to regulate them. He stated that Alcoholics Anonymous had nothing to do with hallway homes.

8. Jimmie Spradling noted some people purchased houses and established halfway homes as a business without any regulations on the people who lived there. He offered to attend workshops and suggested the city regulate the number of occupants and require the owner to live in the home; absentee property owners were operating as a business and making money without any regulations. He opined that drunk driving was epidemic in the community, and it was good that people were getting sober and not having accidents.

9. Cody Leicht stated that staff was familiar with the Fair Housing Act. He battled alcohol and drug abuse most of his life and until he moved into a SLH in 2007 in Kerrville he was not able to maintain sobriety. The majority of the SLH operators were good and wanted to be part of creating the regulations. He opined that federal laws regulating SLH were drastic; he wanted the opportunity to work with the city to establish regulations. He owned four sobriety houses with a capacity of 40 people, three were in neighborhoods, and one was in a commercial area. In 2008 the county environmental health office closed one house because the septic system was insufficient to handle that many people.

10. Ann Moore had been sober for 22 years and lived in the Kerrville area for 10 years. She said she never lived in or owned a halfway house, but they provided a place for people to live as they transitioned out of treatment and learned job skills and tried to rebuild their life. People in a treatment program remain anonymous but they hold each other accountable; if there is a problem, send them a text and let them know. Some SLH were good and some bad housing. Regulations and licensing would not ensure a good product. Most managers and owners run a tight facility and density was not an issue; some hold meetings and studies and teach behavioral skills.

11. Greg Masters stated he purchased his home in the East Lane neighborhood and felt there was protection granted him under the city zoning ordinance and the legal covenants of the subdivision. He respected what SLH were trying to do, but described the issues that the neighborhood had to deal with and the number of people and situations at the SLH. The city zoned the area as single family residential and the city should enforce the zoning ordinance.

12. Michael (?), 936 Barnett, asked when workshops would be held to discuss halfway houses. The city will post public notice on the website and at city hall, and he can get on the list to be notified personally. He cautioned the city to be careful in setting regulations because without SLH there would be more people on drugs and alcohol and more drunk driving, accidents, and drug overdoses if there were no SLH for people to live in during treatment.

Council also discussed the following points:

- Council is responsible for public safety; not opposed to halfway houses but against neighbors not feeling safe and against operating without a license. Without a license process, the city did not know where halfway houses were located and inspections were not being held.
- Questioned the city's responsibility for licensing and establishing requirements and regulations on sober living homes.
- Can the city require residents to provide evidence that they are attending meetings and undergoing treatment.
- Against signs that identify property as a halfway house.
- Property be maintained in good condition; require security and property maintenance plan as part of permitting.
- Neighbors should report violations to code enforcement.
- Absentee property owners did not know the issues going on with their property.
- SLH provided necessary service, but residents should not be allowed to infringe on the rights of their neighbors. SLH should provide a safe, sober environment for their residents as well as the neighborhood and community.
- Consider density in a single family residential area and whether to restrict the number of people in a home.
- No interest in putting an end to halfway houses as they serve a need in the community; not turn away support system; however, creates detrimental effects

on neighborhood and community.

- Regulations should be fair and equal to everyone.
- Concern on property values; taxes decrease when property values decrease.

The consensus of the council was to hold a workshop within 30 days, staff provide example ordinances from other cities, particularly El Paso and Dallas.

5B. Creation of a City of Kerrville Beautification Advisory Committee (BAC).

Mr. Parton noted that council previously directed staff to prepare a plan for the organization of a BAC. He presented an outline of the committee charge and its roles and responsibilities, and a process for the creation and appointment of the committee. He proposed that the BAC would review and recommend projects for council's consideration.

Mr. Parton expressed concern that the committee may have expectation of using city funds and staff resources, i.e. to provide information on properties and projects, create documents, and secretarial support to prepare agendas and minutes. He requested if the committee was established, that the budget be set at \$10,000 for office supplies, training, advertising, and council approved projects.

Council also discussed the following points:

- Focus on improvements to property, landscape, buildings, etc., e.g. EIC had funds earmarked for a building incentive program that could be included in the process.
- Envisioned that the committee would not have any staff support or city resources.
- What improvements did the council envision that needed a committee? What can a committee accomplish with no staff and no resources?
- If the city takes the lead on projects, others will follow.
- The committee would be advisory only and council would have to take action on any projects.

Ms. Keeble moved that council proceed to form the committee, with the requirement that members be citizens or property owners in the city, and members be allowed to serve a maximum of three term limits. Mr. MacDonald seconded the motion.

The following person spoke:

1. Mack McElvain noted river corridor zoning issues were discussed a few years ago. He was concerned that a committee might impact private property and whether property owners would have to meet landscape requirements. If the committee was only addressing issues with city owned properties, that would be agreeable with him, but he was concerned that the committee might discuss issues that would impact private property.

The motion passed 4-0.

5C. Municipal Maintenance Agreement (MMA) with Texas Department of Transportation (TxDOT).

Mr. Hastings noted in 1969 the City and TxDOT executed a MMA stating the City's and TxDOT's responsibilities regarding maintenance of state highways within the city limits. TxDOT revised their standard MMA and proposed to enter into the new MMA with the city. He noted that the old MMA did not include all highways currently within the city because they did not exist at the time the MMA was executed. The new agreement better defines responsibility for mowing and maintenance, and reassigns maintenance of sidewalks, ramps, and accessibility areas. Mr. Hastings expressed some concern about future financial liability associated with sidewalk reconstruction and maintenance, noting 14 miles of existing, and 64 miles of potential, sidewalks in state right of ways inside the city. The expected life span of sidewalks was 50 years, and in the future, sidewalks would have to be reconstructed or replaced; the current cost of constructing sidewalks is \$187,500 per mile. In addition, other areas needed to be addressed, in particular, the issue of drainage responsibility. Mr. Hastings recommended council authorize the city manager to negotiate a MMA with TxDOT that addressed city staff's concerns.

Council also discussed grass growing in the cracks between curbs and sidewalks and cracks in sidewalks be included in the MMA.

Mr. Parton offered to prepare an estimate of the long term fiscal implication to the city under TxDOT's proposed MMA.

Mr. Conklin moved to authorize the city manager to negotiate a new MMA and bring it back to city council for final approval. Mr. MacDonald seconded the motion and it passed 4-0.

5D. Report from staff regarding West Nile Virus (WNV), evaluation of city codes regulating mosquito habitats, and direction to city staff regarding these matters.

Mr. Parton noted that city codes required the sanitary maintenance of property by removing objectionable and unsanitary matter that could allow mosquito breeding and habitats to develop. He opined that the codes were adequate and recommended that issues be handled on a complaint basis through the code compliance department. Staff would seek voluntary compliance and issue citations when necessary. He noted that one case of WNV had been documented for Kerr County; however, that diagnosis was not documented to have occurred in Kerr County, rather it was attributed to Kerr as the place of residence. Further, 80% of persons infected with WNV show any symptoms; 20% of those infected exhibit symptoms that clear within two weeks; and less than 1% of those have severe symptoms. The body typically fights the infection and an infected person becomes immune. He stressed that no deaths were reported to have occurred in Kerr County from WNV.

Eric Maloney noted the local medical community was involved in WNV surveillance, data collection and dissemination of information; if found, any cases

would be reported to the Texas Department of State Health Services Epidemiology in San Antonio. The case attributed to Kerr County was diagnosed from Tarrant or Travis counties. The local medical community and hospital were more focused on influenza, and he noted an average of 36,000 fatalities annually in the US due to influenza.

Mayor Pratt noted that the city was on top of WNV and would take action as appropriate.

5E. Report and provide direction regarding the regulation of group homes within the City of Kerrville. This matter was held earlier in the meeting following Item 5A.

5F. Designation of distribution to benefit the Butt-Holdsworth Memorial Library from the Robert E. Lee Residuary Trust and the Robert E. Lee Charitable Trust, #2. Mr. Hayes noted the city library was a beneficiary of the above trusts. The last beneficiary died, and the trustee contacted the city and three other beneficiaries and requested they designate the preferred manner of distribution of the remaining trust assets, which included stocks, bonds, mutual funds, mineral rights, and oil and gas interests. All four beneficiaries must agree on distribution, and the other three have recommended to liquidate the trust and that distribution be made in cash.

Mr. MacDonald moved to authorize the city manager to execute the appropriate documents to designate that the city will receive the residuary distribution from the Robert E. Lee Residuary Trust and the Robert E. Lee Charitable Trust #1 in cash. Mr. Conklin seconded the motion and it passed 4-0.

5G. Acceptance of \$40,000 grant award from the Hal and Charlie Peterson Foundation (HCPF) for replacement of lights in the downtown parking garage.

Mr. Parton stated he was notified by the HCPF that the city had been awarded a \$40,000 grant to upgrade the lighting system in the parking garage with LED lighting. The Cailloux Foundation submitted the grant on behalf of the city. He confirmed that the city had already planned to do this project, and now funding was complete: \$110,000, Cailloux Foundation; \$40,000, KPUB; \$40,000, Hal and Charlie Peterson Foundation; and \$40,000, City of Kerrville. The total project cost was estimated at \$230,000. He estimated the current lighting system cost \$32,000 annually; the new LED lighting system would cost about \$9,000, saving the city about \$23,000 annually.

Ms. Keeble moved to accept the grant and authorize the city manager to execute the agreement; Mr. Conklin seconded the motion and it passed 4-0.

6. INFORMATION AND DISCUSSION

6A. Report on strategies to maximize parking amenities in the downtown area for retail customers and visitors.

Mr. Parton noted that accessibility and parking issues along Earl Garrett and Water streets continued to be an issue during peak times. The key concern was

employees and business owners who occupied on street parking spaces that could be used for customer parking. The Main Street Advisory Board (MSAB) was evaluating several strategies: peer-to-peer business relationships, marketing the downtown parking garage as a free public amenity with covered parking and no time limit, and enforcement of parking restrictions. The Historic Downtown Business Alliance (HDBA) requested the city establish a three-hour parking limit and increase penalties for parking violations from the current \$5. He estimated 800-850 parking spaces in downtown. The city had signs posted for a two-hour parking limit, but the city had not been enforcing the limit for several reasons and was seeking voluntary compliance. He discussed several options that would provide consistent non-discriminatory parking enforcement.

The following persons spoke:

1. Traci Carlson noted the downtown businesses had done a study and determined that two hours did not allow sufficient time to visit several locations to shop, eat, etc., and recommended a three hour parking limit.
2. Carolyn Lipscomb noted the city had adequate signage for two hour parking and the parking garage was available free of charge to the public.
3. Jon Wolfmueller stated that whether the limit was two hours or three hours some business owners and employees would continue to abuse on-street parking. He recommended the city enforce the time limit and issue tickets to violators; also, increase the parking fine from \$5 to \$50, and if violators did not pay the fine, have their vehicle towed. He did not believe parking meters would deter people from shopping downtown as people were used to paying to park. Until action was taken to raise the fine and enforce the limit, nothing would change. He asked that the city advertise that the parking garage was available free to the public, and when city hall moves downtown that city employees be told not to take up parking spaces outside the parking garage.
4. Scott Rain, MSAB chairman, noted they were evaluating downtown parking issues and asked that the council allow the MSAB 90 days to complete the report. Their recommendations were to advertise the free covered parking garage and work with business and property owners for voluntary compliance; the last option was enforcement of parking time limits.
5. Jimmie Spradling questioned the availability of the bank's parking lot. Mr. Parton noted it was privately owned and may soon be on the market.
6. Vickie Love stated that at a recent meeting persons who had been violating the parking limit asked when the city would begin enforcement. She agreed that education, voluntary compliance and marketing the parking garage were good ideas, but until the city begins enforcement and puts "teeth" into the ordinance, violations would continue, for example, the real estate office took up most of the spaces on Water Street and told their employees to park in the bank's parking lot when they could rent parking spaces directly behind their building.

7. William Rector stated that merchants did not want parking issues to impact their customers, but the problems created were by some business owners and employees, not customers. He opined that a three hour parking limit would not affect customers. He would like to see something done before the Christmas season as holiday sales would determine the survival of some businesses.

Chief Young expressed concerned about pulling police personnel from traffic patrol and service calls to enforce parking. He discussed parking meter technology and enforcement options, and agreed that a \$5 fine was insignificant.

Mr. Parton noted the MSAB report should be completed in 90 days. An increase in the fine would require two readings of an ordinance. If enforcement begins, a citation would be issued to all violators, whether shoppers or business owners.

Council discussed parking technology and enforcement options and the possibility of the Citizens on Patrol program being expanded to include monitoring of downtown parking. The goal was to improve vehicle parking rotation for customers and tourists. The consensus of the council was to increase the fine from \$5 to \$50 and await the MSAB report.

6B. Report on Kerr Economic Development Corporation activities.

Councilmember Conklin reported the issue of privatization of the Kerrville State Hospital had been denied by the state, saving 114 local jobs. Fox Tank building construction continued and they were moving forward with expansion. KEDC had begun promoting a wine trail and discussed a marketing strategy. A hotel/conference center incentive package was out and they had met with potential developers; plan to solicit bids in the future.

6C. Water resources report.

Mr. Hastings reported the Kerr area continued to be in severe drought; rainfall August-October totaled 6.29 inches; river flow was at 40 cfs; ASR storage was at 720 mg; the city would remain in Stage 1 through the end of the year.

6D. River trail update.

Mr. Matthews noted that Package A was 75% complete and he anticipated dedication ceremony around Thanksgiving. Staff was working on the metes and bounds for that section of the trail east of Louise Hays Park.

6E. Economic update.

Mr. Erwin reported sales tax was 12% above September 2011. City revenue exceeded expenditures in the general fund and the water and sewer fund. The auditors would start October 29 and the auditors would be back in Kerrville in November.

7. ITEMS FOR FUTURE AGENDAS

- Ordinance to increase fines for parking violations.

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Free Wi-Fi available in Peterson Plaza; may expand Wi-Fi in the future.

9. EXECUTIVE SESSION:

Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071, 551.072, and 551.073 of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 4-0 to discuss the following matters:

Sections 551.071 and 551.072:

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

- Jefferson Street lift station.
- G Street sewer project.
- River trail.

At 9:50 p.m. the regular meeting recessed and council went into executive closed session at 9:59 p.m. At 10:29 the executive closed session recessed and council returned to open session at 10:29 p.m. The mayor announced that no action had been taken in executive session.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

ADJOURNMENT. The meeting adjourned at 10:30 p.m.

APPROVED: _____

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

Agenda Item:

2B. Authorize amendment to the existing agreement with Freese and Nichols, Inc. for the Birkdale lift station and force mains capital improvement project and increase the contract by \$18,917.00 to provide additional construction administration services required as a result of the city dividing the construction portions of the overall project into two separate construction contracts. (staff)

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

SUBJECT: Council authorization for the City Manager to amend the existing professional service agreement with Freese and Nichols, Inc. for the Birkdale Lift Station and Force Mains Capital Improvement Project and increase the contract by \$18,917.00 to provide additional construction administration services required as a result of the City dividing the construction portions of the overall project into two separate construction contracts.

FOR AGENDA OF: January 8, 2013

DATE SUBMITTED: December 14, 2012

SUBMITTED BY: Dieter Werner, P.E. *(Signature)*
Director of Engineering

CLEARANCES: Kristine Ondrias *(Signature)*
Assistant City Manager

EXHIBITS: Contract Amendment

AGENDA MAILED TO: Freese and Nichols, Inc.

APPROVED FOR SUBMITTAL BY CITY MANAGER: *(Signature)*

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$18,917.00	\$5,068,860.49	\$6,300,000.00	W96

PAYMENT TO BE MADE TO: Freese and Nichols, Inc.
4040 Broadway, Suite 600
San Antonio, TX 78209

REVIEWED BY THE FINANCE DIRECTOR: *(Signature)*

SUMMARY STATEMENT

Birkdale was listed as the number one wastewater system priority in the 2008 Utility Master Plan. The design and construction of this lift station, gravity mains, and force mains will free up capacity in Legion and Quinlan lift stations and allow for new development in the Birkdale, Broadway, Comanche Trace, G Street, Jefferson, and Legion Basins. The development of the Birkdale system is the cornerstone in our ability to supply wastewater services throughout the City. The scope of engineering services for this project is to prepare a complete set of contract documents including the plans, bid documents, general/supplementary conditions, technical specifications, and other related documents for replacement of the City of Kerrville's Birkdale Lift Station and installation of a 20" force main from the lift station to the City's wastewater treatment plant.

The original scope was based on constructing the lift station and force main as a single construction project. In attempts to reduce project costs, it was determined that an alternate to divide the work into two construction projects would be included in the bid proposal to give the City the option to move forward with the work as either one or two construction projects based on which option was most economical. When bids were opened, it was determined

that dividing the work into two separate construction projects was more economical, resulting in an initial construction cost savings of approximately \$348,000.

This amendment provides for fair compensation to Freese and Nichols for the additional construction administration responsibilities created as a result of the City's decision to separate the construction projects into two independent activities. Administering the construction contract for two projects requires more construction phase effort than for a single project. The scope of construction administration did not change, but by having two separate construction contracts, efforts for the construction administration tasks will be increased by varying levels with some being doubled. These additional tasks include, but are not limited to, review and processing of additional submittals including requests for information, record data, certified test reports and shop drawings, as well as coordination with the individual contractors. Added tasks also include the preparation of agendas and minutes, as well as the oversight responsibilities, for approximately fifteen additional progress meetings. Additional construction phase tasks also include substantial and final inspections, coordination with the contractor for close-out activities, and review of as-built drawings at project completion. This contract amendment does not require additional funds to be added to the project.

RECOMMENDED ACTION

The Director of Engineering recommends City Council authorize the City Manager to amend the existing professional service agreement with Freese and Nichols, Inc. for the Birkdale Lift Station and Force Mains Capital Improvement Project and increase the contract by \$18,917.00 to provide additional construction administration services required as a result of the City dividing the construction portions of the overall project into two separate construction contracts.



CONTRACT CHANGE AUTHORIZATION FORM
Amendment #3

Client: City of Kerrville
701 Main Street
Kerrville, Texas 78028
Attn: Ms. Kristine Ondrias

FNI Project No.: KER09334

Client Contract Ref.:

Date: December 13, 2012

Project Description: Birkdale Lift Station, Force Main and Emergency Flow Diversion Structure

Description of Services Added/Deleted:

The original scope was based on constructing the lift station and force main as one project. In attempts to reduce project costs, it was determined that an alternate to divide the work into two projects would be included in the bid proposal to give the City the option to move forward with the work as either one or two projects based on which option was most economical. When bids were opened, it was determined that dividing the work into two projects was more economical resulting in an initial construction savings of approximately \$348,000.

Additional Construction Phase Services:

- Administering the construction contract for two projects requires more construction phase effort than for just one project. The scope of construction work did not change, but by having two separate construction contracts, efforts for the construction administration tasks will increased by varying levels with some being doubled. Below is a list of tasks that will require additional effort for a second project:
 - Conformed Documents – Prepare conformed construction documents
 - Project Documentation – Maintain document tracking system. Manage documentation system including the review and processing of approximately 50 additional submittals including requests for information, record data, certified test reports, and shop drawings, including additional coordination with contractor
 - Progress Meetings – Prepare agenda, conduct meeting, prepare minutes on approximately 15 additional meetings
 - Daily Coordination – Communicate and coordinate with contractor and City as needed to interpret contract documents and address general construction issues
 - Contract Modifications – Review and evaluate contract modifications
 - Substantial/Final Completion and Closeout – Conduct substantial and final inspections, and coordinate close-out activities with contractor, and review as-builts.

Deliverables:

Construction phase services in accordance with the scope in the original agreement.

Compensation shall be adjusted as follows:

Added – Construction Phase Services for a Second Construction Project - Eighteen Thousand Nine Hundred Seventeen Dollars (\$18,917)

	Original Contract	\$526,000
	Amendment No. 1	\$30,000
	Amendment No. 2	\$117,000
	Amendment No. 3	\$18,917
	Revised Total Contract	\$691,917

Schedule shall be adjusted as follows:

No change to schedule. Services to be provided for duration of construction phase.

The above described services shall proceed upon return of this Contract Change Authorization. Services will be billed as they are done. All other provisions, terms, and conditions of the agreement for services which are not expressly amended shall remain in full force and effect.

This Contract Change Authorization will serve as contract modification.

FREESE AND NICHOLS, INC.:

BY: _____

John M. New, P.E.

Print or Type Name

TITLE: _____ Principal

DATE: _____

CITY OF KERRVILLE:

BY: _____

Print or Type Name

TITLE: _____

DATE: _____

Agenda Item:

2C. Authorize amendment to the existing agreement with Freese and Nichols, Inc. (FNI) to provide professional engineering design and construction administration services for the Jefferson lift station force and gravity main – Phase 1, the amendment will include a credit to the original scope of work for the FNI agreement to provide an alignment study in an amount of \$8,965.00. (staff)

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

SUBJECT: Council authorization for the City Manager to amend a Professional Services Agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration services for the Jefferson Lift Station Force and Gravity Main – Phase 1, specifically to provide separate bid sets for the proposed gravity sewer portion of the project, which includes the inclusion of a parallel water line (design provided by Pape-Dawson Engineering) and a required archeological survey provided by Prewitt and Associates in an amount not to exceed \$83,000.00. Additionally, this amendment will include a credit to the original scope of work for the FNI contract to provide an alignment study in an amount of \$8,965.00.

FOR AGENDA OF: January 8, 2013

DATE SUBMITTED: December 14, 2012

SUBMITTED BY: Dieter Werner, P.E.
Director of Engineering

CLEARANCES: Kristine Ondrias
Assistant City Manager

EXHIBITS: Professional Service Agreement

Amendment #1 Contract Change Authorization for credit of \$8,965.00, and
Additional Services not to exceed \$83,000.00

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

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$68,633.00	\$514,168.67	\$744,500.00	W92
\$14,367.00	\$5,990,550.80	\$6,000,000.00	B05

PAYMENT TO BE MADE TO: Freese and Nichols, Inc.

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

This project was identified in the 2008 Water & Wastewater Master Plan as a critical upgrade due to it currently operating beyond its firm capacity, which is defined as the total pumping capacity of a lift station at maximum day demand with the largest pump out of service. Jefferson Lift Station will be expanded to increase its firm pumping capacity, its wet well capacity, and be sized to accommodate future pumps to serve the existing and future peak flows from the Jefferson Basin and Ingram wholesale area. In addition to the lift station improvements, a new force main & gravity main will be constructed to convey flow across the Guadalupe River to the proposed G Street Interceptor that is currently under design and slated for construction commencement by April 2013.

The purpose of the proposed amendment is to separate the Louise Hays portion of the project, including both the water and sewer utilities into a separate bid set for the purpose of maintaining anticipated construction schedules for park improvements and providing coordination with the water main design consultant to incorporate their construction documents into a single set for construction bidding through the park. Additionally, this amendment provides for the funding of a required archeological study. The requirement for the archeological study was uncertain at the time the preliminary engineering study was prepared by Freese and Nichols. The Texas Historical Society has since confirmed this requirement. This amendment also includes a credit to the City for services not required under the original FNI contract for the gravity main alignment study in the credit amount of \$8,965.00

Engineering Service	Proposed Not to Exceed Fee
Basic Services	
Original FNI Alignment Study Amount	\$71,000.00
Alignment Study Credit	-\$8,965.00
Revised Alignment Study Contract	\$62,035.00
Original FNI Design Contract	\$627,783.00
Contract Amendment Amount	\$83,000.00
Amended Design Contract Amount	710,783.00

RECOMMENDED ACTION

The Director of Engineering recommends the City Council authorize the City Manager to amend a Professional Services Agreement with Freese and Nichols, Inc. in an amount not to exceed \$83,000.00 to provide professional engineering design and construction administration services for the Jefferson Lift Station Force and Gravity Main – Phase 1, specifically coordinating with the design consultant of the proposed water main and providing separate bid sets to expedite completion of the utility project through Louise Hays Park, for a revised design contract in an amount not to exceed \$710,783.00.

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

ENGINEERING SCOPE OF SERVICES

PROJECT DESCRIPTION: As an amendment to the current Jefferson Lift Station scope, FNI will provide a separate bid set for the 7,000 linear feet of 21-inch gravity sewer, including the parallel waterline (design provided by Pape-Dawson Engineering) and archeological survey provided by Prewitt and Associates. FNI will also provide separate bid and construction phase services for this separate bid set. All of the design and coordination aspects of the project are included in the original scope of services for the Jefferson Lift Station Project. Services listed below are additional effort beyond the original scope of work.

PROJECT SCOPE/ASSUMPTIONS:

A. General

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

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

A. 90% DESIGN PHASE (\$7,000): FNI shall provide professional services in this phase as follows:

1. Phase Deliverables
 - a) Monthly 1-Page Reports.
 - b) 90% Design Plans:
 1. Five (5) hard copies in 22"x34" (full-size) format.
 2. One (1) electronic copy in PDF format.
 - c) Design Specifications:
 1. Three (3) hard copies.
 2. One (1) electronic copy in PDF format.
 - d) Updated OPCC for the project.

B. 100% SUBMITTAL (\$4,801): FNI will incorporate any comments made by the City in the 90% design submittal and resubmit a 100% complete submittal for review.

1. Phase Deliverables
 - a) 100% Design Plans: One (1) electronic copy in PDF format.
 - b) Design Specifications: One (1) electronic copy in PDF format.
 - c) Updated OPCC for the project.

C. BID OR NEGOTIATION PHASE (\$4,334): Upon completion of the design services and approval bid drawings and specifications by City, FNI will proceed with the performance of services in this phase as follows:

1. Meetings:
 - a) FNI will not attend the prebid meeting or bid opening.

2. **Bid Phase Services:**

- a) FNI will set up the project on CivCastusa.com to distribute the bid documents to prospective bidders and plan rooms. Electronic sets of documents will be made available at no charge to plan holders. Hard copy plans will not be provided by the Engineer except as indicated below.
- b) Assist City by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders if necessary.
- c) The City will tabulate and analyze the bids received and review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project.
- d) Recommend award of contracts or other actions as appropriate to be taken by the City.
- e) Provide Notice of Award of Contract to the Contractor and provide letter with directions for the execution of the contract documents.
- f) Assist City in the preparation of the Construction Contract Documents.

3. **Phase Deliverables:**

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

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

D. CONSTRUCTION PHASE (\$5,627):

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

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

1. Meetings:
 - a) FNI will not attend the Pre-Construction Meeting.
 - b) No construction site visits are included within this scope.
2. Construction Phase Services:
 - a) The City will review all construction submittals. FNI will not provide review of shop drawings, record data and/or other contractor submittals.
 - b) FNI will aid the City by providing responses to RFI's and interpreting the drawings and specifications for City and Contractor. The City will contact Pape-Dawson for questions pertaining to the waterline. FNI will not be responsible for coordinating questions from the City and/or Contractor pertaining to the waterline design. Investigations, analyses, and studies for substitutions of equipment and/or materials or deviations from the drawings and specifications are an additional service.
 - c) FNI is not responsible for maintaining or monitoring the Contractor for adherence to the Contract and/or specifications.
3. Phase Deliverables:
 - a) Project Record Drawings:
 1. Two (2) sets of full size plans.
 2. CD with Record Drawings in PDF Format, project survey files, project CAD files in AutoCad or Microstation formats and shapefiles in GIS format if needed.

E. ARCHEOLOGICAL SURVEY (\$54,029 - By Subconsultant)

The scope of work for the archeological survey includes two phases: 1) sewer and gravity main 2) lift station and force main 3) Louise Hays Park Improvements

1. Sewer and Water Main Phase (\$29,238):

The archeological survey includes 7,000 linear feet along the proposed sewer and water main corridor just south and west of the Guadalupe River in the 100-year floodplain. The north end is immediately north of FM 394 (Francisco Lemos Street) and the south end is immediately south of G Street. The corridor will have a 25-ft-wide permanent easement and an adjacent 20-ft-wide temporary construction easement along private land and a 45-ft-wide construction limit will apply where it crosses city-owned land. The total horizontal Area of Potential Effects (APE) will encompass 7.2 acres. The vertical APE will range from 3.5 to 14.5 ft.

- a) Pre-field efforts will consist of three main tasks:
 1. A file search using the Texas Historical Commission's Archeological Sites Atlas to collect information on known sites that could be impacted by the project.
 2. Review of existing literature on archeological investigations nearby.
 3. Completion of an application for an antiquities permit from the Texas Historical Commission.
- b) After receipt of the permit and private property access provided by the OWNER, field work will be conducted by a two-person crew who will perform intensive survey of the full length and width of the corridor, including:
 1. Examination of the ground surface and existing exposures for evidence of archeological remains.
 2. Excavation of up to 20 (20) backhoe or trackhoe trenches to search for buried archeological remains.
 - (a) Twenty (20) trenches will be placed at regular intervals along the route to meet the requirements of the Texas Historical Commission's Archeological Survey Standards for Texas.

3. The trenches will be approximately 20 - 25 ft long and 3 ft wide and will be dug to the anticipated depth of disturbance or to bedrock, whichever is shallower.
- c) The survey will identify and document all archeological resources within the project area and existing disturbances and any other factors that could preclude archeological deposits with good contextual integrity. Any archeological materials discovered will be recorded on State of Texas Archeological Site Data Forms for subsequent submittal in TexSite format to the Texas Archeological Research Laboratory. The survey will be conducted under a limited-collection policy in which only temporally diagnostic artifacts (dart points, arrow points, prehistoric ceramics, and diagnostic historic artifacts) will be retained for curation.
- d) Analysis of the information recovered and preparation of a report providing discussions of background research, work accomplished, results of field investigations, and recommendations concerning eligibility for State Archeological Landmark designation and listing in the National Register of Historic Places will be conducted following completion of the fieldwork. The report will meet the requirements of the Council of Texas Archeologists' guidelines and will provide all information required for consultation with regulatory agencies. After receipt of any review comments, the report will be modified as necessary, and a final report will be produced.

2. Lift Station and Force Main Phase (\$10,424):

The archeological survey includes the Jefferson lift station site and 3,300 linear feet along the proposed force main corridor. The corridor starts just south of the Guadalupe River at FM 394 (Francisco Lemos Street), crosses the river, and proceeds generally northeast just west of and along Town Creek. Part of the route will be in existing road right of way; the northern 1,400 ft will have a 20-ft permanent easement and a 20-ft temporary construction easement. The total horizontal Area of Potential Effects (APE) will encompass about 2 acres. The vertical APE will be 5 ft or less.

- a) Pre-field efforts will consist of three main tasks:
 1. A file search using the Texas Historical Commission's Archeological Sites Atlas to collect information on known sites that could be impacted by the project.
 2. Review of existing literature on archeological investigations nearby.
 3. Completion of an application for an antiquities permit from the Texas Historical Commission.
- b) After receipt of the permit and private property access provided by the OWNER, field work will be conducted by a two-person crew who will perform intensive survey of the full length and width of the corridor, including:
 1. Careful examination of the ground surface and existing exposures for evidence of archeological remains.
 2. Excavation of up to ten (10) shovel tests and four (4) backhoe trenches to search for buried archeological remains.
 - (a) The intensity of shovel testing and trenching will conform to the requirements of the Texas Historical Commission's Archeological Survey Standards for Texas.
 - (b) Shovel tests will be 1 ft in diameter and up to 2.5 ft deep.
 - (c) The trenches will be approximately 20 - 25 ft long and 3 ft wide and will be dug to the anticipated depth of disturbance or to bedrock, whichever is shallower.
- c) The survey will identify and document all archeological resources within the project area and existing disturbances and any other factors that could preclude archeological deposits with good contextual

integrity. Any archeological materials discovered will be recorded on State of Texas Archeological Site Data Forms for subsequent submittal in TexSite format to the Texas Archeological Research Laboratory. The survey will be conducted under a limited-collection policy in which only temporally diagnostic artifacts (dart points, arrow points, prehistoric ceramics, and diagnostic historic artifacts) will be retained for curation.

- d) Analysis of the information recovered and preparation of a report providing discussions of background research, work accomplished, results of field investigations, and recommendations concerning eligibility for State Archeological Landmark designation and listing in the National Register of Historic Places will be conducted following completion of the fieldwork. The report will meet the requirements of the Council of Texas Archeologists' guidelines and will provide all information required for consultation with regulatory agencies. After receipt of any review comments, the report will be modified as necessary, and a final report will be produced.

3. Louise Hays Park Improvements Phase (\$14,367):

The archeological survey includes the 91-acre Louise Hays and Lehmann and Monroe Parks Redevelopment project in Kerrville, Texas. The project area is just south and west of the Guadalupe River and north and east of Thompson Drive. The two parks are contiguous, with State Highway 16 (Sidney Baker Street) bisecting the north part. Proposed improvements for the redevelopment include renovation of the large pavilion and barbecue facility, construction of a new amphitheater, construction of a new sprayground with parking, construction of trailheads to the River Trail, improvements to existing parking areas and park roads, improvements to river access for recreation, construction of additional playground and picnic areas, and restroom and utility improvements. Most of these improvements will be in a 20-acre area close to Thompson Drive.

- a) Prefield efforts will consist of three main tasks:
 1. A file search using the Texas Historical Commission's Archeological Sites Atlas to collect information on known sites that could be impacted by the project.
 2. Review of existing literature on archeological investigations nearby.
 3. Completion of an application for an antiquities permit from the Texas Historical Commission.
- b) After receipt of the permit, fieldwork will be conducted by a two-person crew who will perform intensive survey of the full 91-acre project area (minus the 45-ft-wide proposed sewer line corridor that runs through the middle of both parks, and that will be surveyed as a separate project), with a focus on areas where specific ground-disturbing improvements are proposed. Intensive survey will include:
 1. Careful examination of the ground surface and existing exposures for evidence of archeological remains
 2. Excavation of up to 35 shovel tests and backhoe trenches to search for buried archeological remains.
 - (a) It is anticipated that shovel testing will be adequate for subsurface investigation in most of the park, since most proposed improvements will have shallow impacts.
 - (b) Shovel tests will be about 1 ft in diameter and up to 2 ft deep.
 - (c) Backhoe trenching will be used for subsurface investigation where deeper impacts are anticipated (e.g., where the large pavilion and barbecue facility will be renovated, the new amphitheater will be constructed, and the new sprayground and parking lot will be constructed).
 - (d) Trenches will be 20–25 ft long, 3 ft wide, and 3–4 ft deep. The survey will identify and document all archeological resources within the project area and existing disturbances and any other factors that could preclude archeological deposits with good contextual integrity. Any

archeological materials discovered will be recorded on State of Texas Archeological Site Data Forms for subsequent submittal in TexSite format to the Texas Archeological Research Laboratory. The survey will be conducted under a limited collection policy in which only temporally diagnostic artifacts (dart points, arrow points, prehistoric ceramics, and diagnostic historic artifacts) will be retained for curation.

- c) Analysis of the information recovered and preparation of a report providing discussions of background research, work accomplished, results of field investigations, and recommendations concerning eligibility for State Archeological Landmark designation and listing in the National Register of Historic Places will be conducted following completion of the fieldwork. The report will meet the requirements of the Council of Texas Archeologists' guidelines and will provide all information required for consultation with regulatory agencies. After receipt of any review comments, the report will be modified as necessary, and a final report will be produced.

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

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

Basic Services

Compensation to FNI for the Basic Services shall be a not-to-exceed fee of EIGHTY-THREE THOUSAND DOLLARS (\$83,000.00). If FNI sees the Scope of Services changing so that additional services are needed, including but not limited to those services described as Additional Services in Exhibit A, FNI will notify City for City's approval before proceeding. Additional Services shall be computed based on the Schedule of Charges below.

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

TASK	COST
Design Phase	\$11,801
Bid Phase	\$4,334
Construction Contract Administration	\$5,627
Subconsultant Fees	\$54,029
Expenses	\$7,209
Total Basic Services Fee	\$83,000

Schedule of Charges for Additional Work:

Staff Member Salary Cost Times Multiplier of 2.11

Resident Representative **Salary Cost Times Multiplier of 2.0**

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

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

Rates for In-house Services

Computer

\$10.00 per hour

Printing

Black and White

\$0.10 per copy

Plotter

Bond	\$ 2.50 per plot
Special	\$ 5.00 per plot
Color	\$ 5.75 per plot

Color

\$0.50 per copy

Binding

\$5.75 per book

Testing Apparatus

Density Meter	\$700.00 per month
Gas Detection	\$ 20.00 per test

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

PROJECT SCHEDULE

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

Milestone/Deliverable	Calendar Days
90% Design Phase Submittal	30 days following receipt of comments from City on 60% Design Submittal
100% Design Phase Submittal	14 days following receipt of comments from City on 90% Design Submittal
Bid Phase Documents	7 days following receipt of comments from City on 100% Design Submittal
Bid Phase	±60 days for advertisement & contract execution
Construction Phase	150 days (120 days for Construction + 30 days for Preparation of Record Drawings)

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



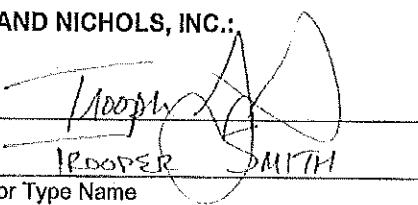
CONTRACT CHANGE AUTHORIZATION FORM
Amend #1

<p>Client: City of Kerrville 701 Main Street Kerrville, TX 78028 Attn: Dieter Werner, P.E., CFM</p>	<p>FNI Project No.: KER12186 Client Contract Ref.: Date: October 30, 2012</p>						
<p>Project Description: Jefferson Lift Station Expansion</p>							
<p>Description of Services Added/Deleted: Please refer to Exhibit A – Engineering Scope of Services</p>							
<p>Deliverables: Please refer to Exhibit A – Engineering Scope of Services</p>							
<p>Compensation shall be adjusted as follows: Please refer to Exhibit B – FNI Compensation</p>							
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33.33%; padding: 2px;">Original Contract</td> <td style="width: 33.33%; padding: 2px;">\$627,783.00</td> </tr> <tr> <td style="width: 33.33%; padding: 2px;">Amended Amount</td> <td style="width: 33.33%; padding: 2px;">\$83,000.00</td> </tr> <tr> <td style="width: 33.33%; padding: 2px;">Revised Total Contract</td> <td style="width: 33.33%; padding: 2px;">\$710,783.00</td> </tr> </table>		Original Contract	\$627,783.00	Amended Amount	\$83,000.00	Revised Total Contract	\$710,783.00
Original Contract	\$627,783.00						
Amended Amount	\$83,000.00						
Revised Total Contract	\$710,783.00						
<p>Schedule shall be adjusted as follows: Please refer to Exhibit C – Project Schedule</p>							

The above described services shall proceed upon return of this Contract Change Authorization. Services will be billed as they are done. All other provisions, terms, and conditions of the agreement for services which are not expressly amended shall remain in full force and effect.

A contract modification will be submitted.
 This Contract Change Authorization will serve as contract modification.

FREESE AND NICHOLS, INC.:

BY: 
 Print or Type Name

TITLE: PRINCIPAL

DATE: 10/30/12

CITY OF KERRVILLE:

BY: _____
 Print or Type Name

TITLE: _____

DATE: _____

Agenda Item:

2D. A Resolution amending the City of Kerrville fee schedule by revising fees charged for various services and uses provided or offered by the City. (staff)

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

SUBJECT: Amend FY2013 Fines and Fee Schedule for the Butt-Holdsworth Memorial Library

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 13, 2012

EXHIBITS: Proposed FY2013 Fines and Fee Schedule for the Butt-Holdsworth Memorial Library

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required: \$ 0	Current Balance in Account: \$ 0	Amount Budgeted: \$ 0	Account Number:
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PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

As directed at the December 11, 2012 City Council Meeting, staff has amended the Nonresident Charges for patrons who reside outside Kerrville City limits.

Fees for Use of Library Services

Materials Checkout Only – Annual	\$35
Computer Usage Only – Annual	\$35
Full Annual Membership (Materials & Computer)	\$65
30 Day Membership	\$8

Active Library volunteers (minimum 10 hours per month) or donors who make an annual donation to the Library (minimum \$100 annually) will receive a complimentary full annual membership.

The Library Advisory Board recommended at a Special Meeting held December 4, 2012 that the Library adopts a policy for the collection of library fines to include:

Payment Schedule

- Fines/fees between \$1.00 - \$4.99 – Patrons must pay \$1.00 each time they use the library.
- Fines/fees between \$5.00 – \$9.99 – Patrons must pay \$2.00 each time they use the library.
- Fines/fees \$10.00 and greater - Borrowing privileges will be suspended.

Outstanding Balances

Patrons whose accounts hold a fine balance greater than \$25 and have not made payments towards their account for more than 30 days may be turned over to a collection agency. If a patron is turned over to the collection agency, an additional fee will be charged to their account for the service.

Billed Items

Patrons who fail to return library materials with a total billed value of \$50 or greater will be sent a certified letter 2 weeks after the Bill is mailed to inform them they have 15 days to return the materials or to make payment arrangements. Patrons who fail to comply may receive a citation for violation of the City of Kerrville Code of Ordinances, Section 66-39(g) for failure to return property to the Library.

The amended fines and fee schedule will go into effect February 1, 2013.

RECOMMENDED ACTION

Staff recommends City Council approves the amended FY2013 Fines and Fee Schedule for the Butt-Holdsworth Memorial Library.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2013**

**A RESOLUTION AMENDING THE CITY OF KERRVILLE FEE
SCHEDULE BY REVISING FEES CHARGED FOR VARIOUS SERVICES
AND USES PROVIDED OR OFFERED BY THE CITY**

WHEREAS, the City Council of the City of Kerrville adopted a Fee Schedule by Resolution No. 91-138 on September 24, 1991, and has amended said document on a number of occasions; and

WHEREAS, City staff recommends fees charged for various services and uses provided or offered by the City be changed, and the City Council has determined it is in the public interest of the citizens of Kerrville to revise such fees;

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

The Fee Schedule of the City of Kerrville, Texas, is amended as set forth in **Exhibit A**, attached hereto and incorporated herein by reference, such changes to be effective February 1, 2013.

PASSED AND APPROVED ON this _____ day of _____ A.D., 2013.

Jack Pratt, Jr., Mayor

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary

Exhibit A

BUTT-HOLDSWORTH MEMORIAL LIBRARY FY 2013 AMENDED FEE SCHEDULE

	FINES / FEES
LIBRARY DEPARTMENT:	
Meeting Room:	
Meeting Room (per day)	\$20.00
Piano (per day)	\$10.00
Repair of damaged furniture, equipment or facility	Actual Cost
Gazebo:	
Gazebo (per day)	\$30.00
Duplicating Services:	
Photocopiers (per page) - Black & White	\$0.10
Photocopiers (per page) - Color	\$0.25
Microform Reader/Printers (per page)	\$0.10
Computer/Internet Printing (per page) - Black & White	\$0.10
Circulation Charges:	
Resident Card	No Charge
Nonresident Membership Materials Checkout Only (renewed each year)	\$35.00
Nonresident Membership Computer Use Only (renewed each year)	\$35.00
Nonresident Full Membership (renewed each year)	\$65.00
Nonresident Temporary Membership Card (renewed each month)	\$8.00
Library Card Replacement	\$1.00
Fax Transmissions:	
United States (per page)	\$1.00
International (first page)	\$5.00
Each additional international page	\$1.00
Any provider fees or surcharges	Actual Cost
Overdue Fines:	
• Fines/fees between \$1.00 - \$4.99 – Patrons must pay \$1.00 each time they use the library.	
• Fines/fees between \$5.00 - \$9.99 – Patrons must pay \$2.00 each time they use the library.	
• Fines/fees \$10.00 and above – Borrowing privileges suspended.	
Books - Adults (per day/per item; \$12.00 maximum)	\$0.10
Books - Children (per day/per item; \$5.00 maximum)	\$0.10
Audiobooks and CDs (per day/per item; \$12.00 maximum)	\$0.10
DVDs and BluRay (per day/per item; \$12.00 maximum)	\$1.00
Story Time Kits (per day/per kit; \$12.00 maximum)	\$5.00
Other Kits (per day/per kit; \$12.00 maximum)	\$0.10
Overdue Electronic Device (per day; up to cost of item)	\$10.00
Process Fee:	
Lost or Damaged Items - Non Electronic Device (per item plus actual replacement cost)	\$6.00
Lost or Damaged Electronic Device Processing Fee	\$25.00
Collection Agency Submission for Fine Non-Payment	\$10.00
Electronic Device Fees	
Electronic Device Deposit	
Electronic Device not returned according to policy	\$25.00
Programs/Applications charged to the Library Account	Actual Cost plus \$6.00 Process Fee
Lost / Damaged Items	
Book (BHML - all ages)	Actual Cost plus \$6.00 Process Fee
Book (History Center, rare, out of print)	Lesser of appraised value of item or \$100
CDs (Book on CD, Music CD, MP3 CD)	Actual Cost plus \$6.00 Process Fee
Individual CD in a set when available (Book, Music, or MP3)	\$10.00 per disc plus \$6.00 Process Fee
DVD (All ages - includes set)	Actual Cost plus \$6.00 Process Fee
Kits (All ages)	Actual Cost plus \$6.00 Process Fee
Apple iPad 2 (includes accessories)	
Amazon Kindle Fire (includes accessories)	
Dell Latitude E5410 laptop (includes accessories)	
Dell Latitude 2120 Mini Laptops (includes accessories)	
Samsung Galaxy Tablet (includes accessories)	
Electronic Device Accessories	Actual Cost of item or next available generation of item if original is no longer on the market plus \$25.00 process fee.

BUTT-HOLDSWORTH MEMORIAL LIBRARY FY 2013 AMENDED FEE SCHEDULE

FINES / FEES

Interlibrary Loan:

Any overdue item (per day/per item; \$15.00 maximum)	\$1.00
Lost or Damaged Item	Assessed by Lending Library
Lost or Damaged Item Processing (per item)	\$6.00
Return Postage	No Charge

Any additional fees or charges to be determined
by the lending library are the patron's responsibility

Replacement of Miscellaneous Parts:

CD/DVD case (Single)	\$1.00
DVD case (Multiple)	\$4.00
Book on CD case (Multiple, up to 12 CDs)	\$12.00
Book on CD case (Multiple, up to 24 CDs)	\$16.00
CD Jewel Case (Multiple, 2 disk)	\$3.00
AV storage bags	\$1.00

Research Fees (requested from outside of service area)

Handling Fee/Postage	\$3.00
Photocopy	\$0.10/page
Fax (United States)	\$1.00/per page
Fax (International)	\$5.00 first page / \$1.00 each additional page

BHML Patron Fines and Fees Policy

I. Notice of Overdue Materials

- **Courtesy Notice:** Patrons may sign up to receive a reminder email to be sent 3 days before their materials are due.
- **First Overdue Notice:** A letter or email is sent reminding the patron that they have overdue materials.
- **Second Overdue Notice:** A second letter or email is sent reminding the patron that they have overdue materials.
- **Bill:** A bill will be mailed to the address on the patron's account indicating the cost of replacement of the material and processing charge.

II. Payment Schedule

- **Fines/fees between \$1.00 - \$4.99** – Patrons must pay \$1.00 each time they use the library.
- **Fines/fees between \$5.00 – \$9.99** – Patrons must pay \$2.00 each time they use the library.
- **Fines/fees \$10.00 and greater** - Borrowing privileges will be suspended.

III. Outstanding Balances

Patrons whose accounts hold a fine balance greater than \$25 and have not made payments towards their account for more than 30 days may be turned over to a collection agency. If a patron is turned over to the collection agency, an additional fee will be charged to their account for the service.

IV. Billed Items

Patrons who fail to return library materials with a total billed value of \$50 or greater will be sent a certified letter 2 weeks after the Bill is mailed to inform them they have 15 days to return the materials or to make payment arrangements. Patrons who fail to comply may receive a citation for violation of the City of Kerrville Code of Ordinances, Section 66-39(g) for failure to return property to the Library.

Parents/Guardians are held financially responsible for items checked out on their minor's library card.

Agenda Item:

2E. A resolution providing Jim Boyle of Herrera & Boyle, PLLC with the authority to act on behalf of the city in connection with the settlement, if any, of the Aqua Texas rate proceeding for the southwest region which is pending before the Texas Commission of Environmental Quality and the State Office of Administrative Hearings. (staff)

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

SUBJECT: A RESOLUTION PROVIDING JIM BOYLE OF HERRERA & BOYLE, PLLC WITH THE AUTHORITY TO ACT ON BEHALF OF THE CITY IN CONNECTION WITH THE SETTLEMENT, IF ANY, OF THE AQUA TEXAS RATE PROCEEDING FOR THE SOUTHWEST REGION WHICH IS PENDING BEFORE THE TEXAS COMMISSION OF ENVIRONMENTAL QUALITY AND THE STATE OFFICE OF ADMINISTRATIVE HEARINGS

FOR AGENDA OF: Jan. 8, 2013 **DATE SUBMITTED:** Dec. 18, 2012

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

EXHIBITS: Resolution

AGENDA MAILED TO:

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

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City Council previously authorized the City to enter the Aqua Texas rate proceeding. The City then hired an attorney to represent the City's interests. At some point, the attorney may need authority to enter into a settlement agreement with Aqua Texas. The attached Resolution provides this authority.

RECOMMENDED ACTION

Adoption of the Resolution.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2013**

**A RESOLUTION PROVIDING JIM BOYLE OF HERRERA
& BOYLE, PLLC WITH THE AUTHORITY TO ACT ON
BEHALF OF THE CITY OF KERRVILLE IN
CONNECTION WITH THE SETTLEMENT, IF ANY, OF
THE AQUA TEXAS RATE PROCEEDING FOR THE
SOUTHWEST REGION WHICH IS PENDING BEFORE
THE TEXAS COMMISSION OF ENVIRONMENTAL
QUALITY AND THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

WHEREAS, on or about December 21, 2011, Aqua Texas, Inc., Kerrville South Water Company, Inc. and Harper Water Company, Inc. (collectively referred to as "Aqua Texas") filed an application to increase rates in the Southwest Region of Aqua Texas with the City Secretary for the City of Kerrville ("City"); and

WHEREAS, the City, acting through its City Council at its meeting held on May 22, 2012, rejected the increase in rates and adopted, in a final decision, the rates in effect prior to the application to increase rates by Aqua Texas; and

WHEREAS, Aqua Texas filed an appeal of the City's final decision with the Texas Commission on Environmental Quality ("TCEQ") on or about August 13, 2012, and said appeal was docketed by the Commission as TCEQ Docket No. 2012-1989-UCR; and

WHEREAS, on or about October 24, 2012 the TCEQ referred the appeal of the City's final decision on the Aqua Texas rate case to the State Office of Administrative Hearings ("SOAH") and the appeal was docketed as SOAH Docket No. 582-13-0755; and

WHEREAS, Aqua Texas filed an application to increase rates in areas outside of cities ("environs") at the TCEQ at the same time as it sought to increase rates inside the City and TCEQ referred the environs application to SOAH, which was docketed as SOAH Docket No. 582-12-6658; and

WHEREAS, the environs proceeding was referred to mediation before two Administrative Law Judges, which were judges other than those in charge of the rate case at SOAH; and

WHEREAS, on October 30, 2012, the City sought to consolidate the appeal of the City's decision with the environs proceeding so that the City could participate in the on-going mediation; and

WHEREAS, on November 9, 2012, the Administrative Law Judges at SOAH, assigned to the rate proceeding, entered an order conditionally consolidating the appeal of the City's decision with the environs proceeding; and

WHEREAS, on November 20, 2012, an all-day mediation session took place at the Kerr County Courthouse with the City's participation and further offers and counter-offers have taken place since that meeting; and

WHEREAS, since the negotiations are at a very delicate stage, it is important that Special Counsel for the City, Jim Boyle of Herrera & Boyle, PLLC, be given full authority to enter into a settlement if he feels that the settlement is in the best interest of ratepayers within the City;

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

SECTION ONE. The findings set out in the preamble to this Resolution are hereby in all things approved and adopted.

SECTION TWO. Special Counsel, Jim Boyle of Herrera & Boyle, PLLC is authorized to enter into a settlement on behalf of the City which in his opinion is reasonable after considering the law and circumstances related to the case and the probable outcomes of a final decision made by the TCEQ.

SECTION THREE. Special Counsel is directed to seek to have all rate case expenses, including the City's, to be placed below the line so that they are not borne by ratepayers located within the City.

SECTION FOUR. The City Secretary is directed to send a copy of this Resolution to Mr. Jim Boyle, Herrera & Boyle, PLLC, 816 Congress Avenue, Suite 1250, Austin, Texas 78701.

SECTION FIVE. The meeting at which this Resolution was adopted was in all things conducted in strict compliance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

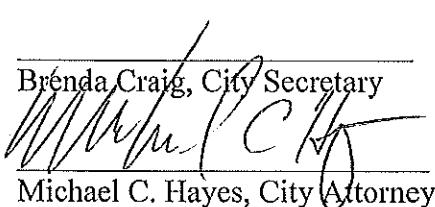
SECTION SIX. This Resolution shall become effective from and after its passage.

PASSED AND APPROVED this _____ day of _____, 2013.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda Craig, City Secretary



Michael C. Hayes, City Attorney

Agenda Item:

3A. An ordinance amending Chapter 30 "businesses," of the City's Code of Ordinances by adopting a new Article I "Group Homes and Boarding Home Facilities"; establishing the registration, permitting, and inspection of Group Homes and Boarding Home Facilities; 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: An Ordinance amending Chapter 30 "Businesses," of the Code of Ordinances of the City of Kerrville, Texas; by adopting a new Article I "Group Homes" to adopt regulations applicable to such businesses.

FOR AGENDA OF: Jan. 8, 2013 **DATE SUBMITTED:** Dec. 14, 2012

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

EXHIBITS: Ordinance

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

City Council has, over the course of several meetings, considered the adoption of regulations applicable to "group homes". Based upon comments made from Council at those meetings, the attached ordinance will adopt regulations applicable to such businesses.

RECOMMENDED ACTION

Consideration of Ordinance.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2013-__

AN ORDINANCE AMENDING CHAPTER 30 "BUSINESSES" OF THE CITY'S CODE OF ORDINANCES BY ADOPTING A NEW ARTICLE I "GROUP HOMES AND BOARDING HOME FACILITIES"; ESTABLISHING THE REGISTRATION, PERMITTING, AND INSPECTION OF GROUP HOMES AND BOARDING HOME FACILITIES; 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, Section 215.075 of the Texas Local Government Code grants home-rule municipalities the authority to license any lawful business or occupation that is subject to the police power of the municipality; and

WHEREAS, City Council has considered the issue of the regulation of group homes and boarding home facilities in several public meetings, including a workshop meeting which was dedicated to this issue and where citizens and operators of such homes were given an opportunity to directly address Council; and

WHEREAS, City Council believes that the standards in this Ordinance will provide adequate standards to protect the health and safety of the residents of group home and boarding home facilities, including ensuring that adequate life-safety measures are present; and

WHEREAS, City Council has determined that the regulation of boarding home facilities through this Ordinance, which includes the adoption of standards, the issuing of permits, the inspection of boarding home facilities and the ability to enforce the provisions of the Ordinance is in the best interest of the public and will promote the public health, safety, and welfare of the City;

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

SECTION ONE. Chapter 30 "Businesses" of the Code of Ordinance of the City of Kerrville, Texas, is amended by adding a new Article I "Group Homes and Boarding Homes" to add the language that is underlined (added) and deleting the language that is bracketed and stricken ([~~deleted~~]) as follows:

DRAFT 1/2/13

“Chapter 30 BUSINESSES

ARTICLE I. GROUP HOMES AND BOARDING HOME FACILITIES

DIVISION 1. GENERAL

Sec. 30-1. Purpose.

- (a) The purpose of this division is for the City to maintain a record of group homes licensed by the State of Texas. These records will enable the City to try to ensure adequate fire, police, or emergency response vehicles or patrols are available, to identify and facilitate appropriate emergency responses for residents who may require special assistance during an emergency, and to enable enforcement of the spacing requirement between group homes, as defined by Chapter 123 of the Texas Human Resources Code. These standards are implemented pursuant to the City’s home-rule authority under Article XI, Section 5 of the Texas Constitution and the authority to license or permit lawful businesses subject to the City’s police power granted by Sections 54.005 and 215.075 of the Texas Local Government Code.
- (b) The City seeks and intends that this chapter is legally compliant with the Federal Fair Housing Amendments Act of 1988 (“FHA”), the Americans with Disabilities Act of 1990 (“ADA”), and the Americans with Disabilities Amendments Act of 2008, and all other applicable state and federal legislation. It is the express intent of the City that this chapter be construed in a manner consistent with the FHA, the ADA, and all other applicable state and federal legislation at all times.

DIVISION 2. GROUP HOMES LICENSED BY THE STATE

Sec. 30-6. Registration. The owners or operators of the following types of group homes, as defined by applicable state law, shall register with the City’s Development Services Department (“Department”) and provide proof of State licensure:

- (a) Home and community support services licensed under Chapter 142 of the Texas Health and Safety Code;
- (b) Convalescent and nursing homes and related institutions licensed under Chapter 242 of the Texas Health and Safety Code;

DRAFT 1/2/13

- (c) Continuing care facilities licensed under Chapter 246 of the Texas Health and Safety Code;
- (d) Assisted living facilities licensed under Chapter 247 of the Texas Health and Safety Code;
- (e) Intermediate care facilities for the mentally retarded licensed under Chapter 252 of the Texas Health and Safety Code;
- (f) A person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation (“TDMHMR”) and monitored by TDMHMR or its designated local authority in accordance with standards set by TDMHMR; and
- (g) A child-care facility as defined by Section 42.002 of the Texas Human Resources Code.

DIVISION 3. BOARDING HOME FACILITIES.

See. 30-11. General prohibition. A boarding home facility, as defined, is prohibited within all residential zoning districts except the R-3 “Multifamily Residential District” and the RT “Residential Transition” districts. The City recognizes that a group home for persons with disabilities may fall under the definition of a boarding home facility. The City also recognizes that it is necessary to allow a group home for persons with disabilities, which is not licensed by the State of Texas, to locate within other residential zoning districts, so that persons with disabilities who reside in boarding home facilities may live in residences of their choice in the community.

Sec. 30-12. Applicability. This division applies to all boarding home facilities within the City and does not apply to:

- (a) Home and community support services licensed under Chapter 142 of the Texas Health and Safety Code (“Hospice”);
- (b) Convalescent and nursing homes and related institutions licensed under Chapter 242 of the Texas Health and Safety Code;

DRAFT 1/2/13

- (c) Continuing care facilities licensed under Chapter 246 of the Texas Health and Safety Code;
- (d) Assisted living facilities licensed under Chapter 247 of the Texas Health and Safety Code;
- (e) Intermediate care facilities for the mentally retarded licensed under Chapter 252 of the Texas Health and Safety Code;
- (f) A person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation (“TDMHMR”) and monitored by the TDMHMR or its designated local authority in accordance with standards set by the TDMHMR;
- (g) An establishment conducted by or for the adherents of a well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing, without the use of any drug or material remedy, if the establishment complies with safety, sanitary, and quarantine laws and rules;
- (h) A monastery or convent;
- (i) A child-care facility as defined by Section 42.002 of the Texas Human Resources Code;
- (j) Family violence shelter center as defined by Section 51.002 of the Texas Human Resources Code; or
- (k) A sorority or fraternity house or other dormitory operated by an institution of higher education.

Sec. 30-13. Definitions. The following definitions apply:

- (a) Boarding home facility means a residence or dwelling, other than a hotel, wherein three or more rooms, with or without individual or group cooking facilities are rented to individuals under separate rental agreements or lease, either written or oral, whether or not an owner, agent, or rental manager is in residence.

DRAFT 1/2/13

- (b) Department means the department designated by the city manager to enforce and administer this chapter.
- (c) Director means the director of the department designated by the City Manager to enforce and administer this chapter and includes representatives, agents, or department employees designated by the director.
- (d) Group home for persons with disabilities means any home, residence, facility, or premises which provide temporary, interim, or permanent housing to persons who are disabled as defined by state or federal law in a group setting where such home, residence, facility, or premises is not licensed by the State of Texas.
- (e) Operator means the person in control of a boarding home facility.
- (f) Owner means an individual who has an ownership interest in a corporation or other legal entity operating a boarding home facility or the owner of the real property where a boarding home facility is located.
- (g) Person with a disability means a person with a mental, physical, or developmental disability that substantially impairs the person's ability to provide adequately for the person's care or protection and who is eighteen years of age or older or under eighteen years of age who has had the disabilities of minority removed.
- (h) Resident means a person who is residing in a boarding home facility.
- (i) Sleeping room means rooms intended and occupied for sleeping purposes. Kitchens, bathrooms, hallways, and garages may not be used as sleeping rooms.

Sec. 30-14. Permit required.

- (a) No person may operate a boarding home facility without first obtaining a permit from the City and paying the established fee for such permit. The Department is responsible for issuance of a permit. A permit issued under this division will allow the permittee to engage in the operation of a boarding home facility, subject to compliance with these regulations.

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(b) A person commits an offense if he owns or operates a boarding home facility in the City without a valid permit issued under this chapter.

Sec. 30-7 Permit Application.

To obtain a permit to operate a boarding home facility, a person must submit an application to the director on a form provided for that purpose. The applicant must be the owner or operator of the boarding home facility. If the owner or operator is not an individual, an authorized officer or agent of the owner or operator must submit the form. The application must contain the following information before it is considered complete:

- (a) The name, street address, mailing address, email address, telephone number, a legible copy of the driver's license or other official state or federal identification card, and the date of birth of the applicant. The street address may not be the address of the boarding home facility unless the application actually resides full-time at the boarding home facility.
- (b) The name, street address, mailing address, email address, telephone number, a legible copy of the driver's license or other official state or federal identification card, and position of the authorized officer or agent filing the form on behalf of the applicant, if the applicant is not an individual. The street address may not be the address of the boarding home facility unless the authorized officer or agent actually resides full-time at the boarding home facility.
- (c) The form of business of the applicant; the name, street address, mailing address, email address, telephone number, a legible copy of the driver's license or other official state or federal identification card, and the date of birth of a high managerial agent of the business; and, if the business is a legal entity, such as a corporation or association, a copy of the documents establishing the business.
- (d) If the operator of the boarding home is renting or leasing the home or facility , then the operator must present a letter from the owner of the real property authorizing the use of the rental property to operate a boarding home and acknowledging the requirements for the property to be used as a boarding home set out within this article.
- (e) The street address and telephone number of the boarding home facility.

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- (f) The name, street address, mailing address, email address, and telephone number of a person or persons to contact in an emergency.
- (g) Documentary evidence of a payment of ad valorem taxes, fees, fines, and penalties owed to the City in connection with real property used to operate the boarding home facility.
- (h) The names, street addresses, mailing addresses, email addresses, telephone numbers, legible copies of the drivers' licenses or other official state or federal identification cards, and dates of birth of any owners, operators, or employees of the boarding home facility other than the applicant. The street address may not be the address of the boarding home facility, unless the owner, operator, or employee actually resides full-time at the boarding home facility.
- (i) The maximum number of residents that will reside at the boarding home facility.
- (j) The services to be offered or provided to the residents of the boarding home facility.
- (k) A zoning verification letter stating that the proposed use of the property complies with the City's codes.
- (l) If the boarding home facility has one or more residents with a disability, a list of the general disabilities of the residents.
- (m) A statement that, by filing this application, the applicant swears or affirms under penalty of perjury that, to the best of the applicant's knowledge, all information contained in the application is true and correct and that the application is complete and includes all information required to be disclosed under this section.
- (n) Such additional information as the applicant desires to include or that the director deems necessary to aid in the determination of whether the requested permit should be granted.

Sec. 30-8 Notification of Change of Information.

The permit holder shall notify the director within 10 days after any material change in the information contained in the application for a permit to operate a boarding home facility,

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including any change in ownership or operation of the property and any new disabilities served by the boarding home facility.

Sec. 30-9 Fees.

- (a) The fee for a permit to operate a boarding home facility is as determined from time to time by City Council.
- (b) No refund of a permit fee will be made.

Sec. 30-10 Issuance and Denial of Permit.

- (a) Upon payment of all required fees and the submission of a complete application, the director shall issue a permit to operate a boarding home facility to the applicant if the director determines that:
- (b) The applicant has complied with all requirements for issuance of the permit;
- (c) The applicant, owners, operators, or employees of the boarding home facility do not own or operate another permitted boarding home facility in the City for which the permit is currently suspended or has been revoked;
- (d) The applicant has not made a false statement as to a material matter in the application for a permit;
- (e) The condition and use of the boarding home facility complies with the zoning regulations, and all other standards in this article applicable to the property;
- (f) The applicant, owners, and operators do not owe the City any ad valorem taxes, fees, fines or penalties; and
- (g) The proposed boarding home facility is not within one-half mile of an existing boarding home facility. For purposes of this section, the measurement of the one-half mile shall be in a straight line, without regard to intervening structures or objects, from the nearest property line of the lot on which the proposed boarding home facility is located, to the nearest property line of the existing registered and permitted boarding home facility described in the above section, which requires separation.

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- (h) City Council may grant a variance to the proposed boarding home facility authorizing its location within one-half mile of another permitted boarding home facility consistent with this article.
- (i) If the director determines that the requirements of (a) have not been met, and, if applicable, a variance under the article has been denied, the director shall deny the permit.
- (j) If the director determines that an applicant should be denied a permit, the director shall notify the applicant in writing that the application is denied and include in the notice the reason for denial and a statement informing the applicant of the right to appeal.

Sec. 3-11. Variance from Distance Requirement

- (a) The fee to file an application for the variance from the distance requirement set out in Section 30-10(b) shall be determined from time to time by City Council.
- (b) The variance procedure is as follows:
 - (1) Application. When requesting a variance in accordance with section 30-10(b) the applicant shall submit the following information:
 - A. Completed variance request form with the following information:
 - i. The name and address of the applicant for the boarding home facility;
 - ii. The name and address of the boarding home facility subject to the request, if applicable;
 - iii. The name of the property owner where the boarding home facility will be located;
 - iv. The name and address of the registered permitted boarding home facility currently in existence which triggered the request for variance;
 - v. Notarized authorization by the property owner consenting to the variance request.
 - B. Statement of Justification for the variance, and how the variance meets the criteria in this section;

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C. A Site and Floor Plan showing the following information:

- i. North arrow and scale;
- ii. Boundaries of the property;
- iii. Location and dimensions of all buildings and structures; and
- iv. All fences, parking area, and landscape area,

(2) Hearing. The director shall set a date for a public hearing on the first available city council agenda after the passage of thirty (30) days from the date a complete variance application is received;

(3) Notices. No later than ten (10) days prior to the date of the hearing, the director shall send written notice of the variance request, to include the date and time of the scheduled public hearing, to:

A. The property owner of the registered permitted boarding home facility currently in existence which triggered the request for variance;

B. The applicant requesting the variance;

C. Registered neighborhood associations within a half-mile radius; and

D. Each owner, as indicated by the most recently approved municipal tax roll, of real property, within two hundred (200) feet of the property.

(4) City Council may grant a variance to the proposed boarding home facility authorizing its location within one-half mile of another registered permitted boarding home facility, as that distance is determined by the manner of measurement prescribed by Section 30-10(a)(6)(A) provided that City Council finds the following:

A. Enforcement of the distance separation requirement is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the City Council, after consideration of health, safety, and welfare of the public and the equities of the situation.

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B. If at the conclusion of the public hearing the City Council grants the applicant's request for a variance, the City Council may impose additional conditions on the granting of the variance, where such conditions are intended to mitigate the impacts caused by the boarding home facility and are in the public interest.

(5) Renewal and Transfer. A variance granted pursuant to this subsection is valid for subsequent renewals of the registration for which a variance was sought. A variance granted pursuant to this subsection may not be transferred to another location, or to another operator, except in the event when city council approves as a condition of the variance the transfer to another location.

(c) Variance Violation. The Director may request the City Attorney to seek any and all remedies available at law and or equity to assure the conditions imposed on the granting of the variance are enforced.

(d) If a variance is denied, no new application for the same location shall be accepted within twelve (12) months from date of the denial.

Sec. 30-12. Suspension of Permit; Prohibition of New Residents.

(a) The director may suspend a boarding home facility permit for a period not to exceed Ninety (90) days if the director finds that the permit holder or an employee of the boarding home facility has:

(1) Failed to comply with any provision of this article, any other ordinance, or any state or federal law applicable to the operation of a boarding home facility; or

(2) Intentionally or knowingly impeded or refused to allow an inspection by the director authorized under this chapter.

(3) A boarding home facility for which the permit has been suspended may not admit any new residents during the time the permit is suspended.

(4) In lieu of suspending a permit for a boarding home facility, the director, at his sole discretion, may enter into a compliance agreement with a permit holder if the director determines that the compliance agreement would eliminate the

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noncompliance that would otherwise justify a suspension, result in prompt future inspections, and elevate one or more conditions at the boarding home facility to a standard above the requirements of this chapter.

- (5) The director shall send a written statement of the reasons for the suspension, the date the suspension is to begin, the duration of the suspension, and the permit holder's right to appeal by certified mail, return receipt requested.
- (6) A permit holder whose permit is suspended may not be granted a permit to operate additional boarding home facilities during the period of suspension.
- (7) A permit holder commits an offense if he operates or owns a boarding home facility that admits new residents during the time that the suspension of the permit is in effect.

Sec. 30-13 Revocation of Permit.

- (a) Except as provided in Subsection (b), the director shall revoke any permit issued to operate a boarding home facility if the director determines that:
 - (1) The permit holder intentionally made a false statement as to a material matter in the application or in a hearing concerning the permit;
 - (2) The permit holder failed to pay a fee required by this article at the time it was due; or
 - (3) A cause for suspension has occurred and the permit has already been suspended at least once within the preceding 12 months.
- (b) In lieu of revoking a permit for a boarding home facility, the director, at his sole discretion, may enter into a compliance agreement with a permit holder if the director determines that the compliance agreement would eliminate the noncompliance that would otherwise justify a revocation, result in prompt future inspections, and elevate one or more conditions at the boarding home facility to a standard above the requirements of this chapter.
- (c) Before revoking a license under Subsection (a), the director shall notify the permit holder in writing by certified mail, return receipt requested, that the permit is being

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considered for revocation. The notice must include the reason for the proposed revocation, action the permit holder must take to prevent the revocation, and a statement that the permit holder has ten (10) calendar days to comply with the notice.

- (d) If, after ten (10) calendar days from the date of the notice required in Subsection (c) Was sent or delivered (whichever is later), the permit holder has not complied with required actions listed in the notice, the director shall revoke the permit and notify the permit holder in writing of the revocation. The notice must include the reason for the revocation, and a statement information the permit holder of the right of appeal.
- (e) If a permit has been revoked, the permit holder has ten (10) calendar days from the date the notice was sent or delivered (whichever is later), to relocate the residents of the facility and cease operations. An appeal of the revocation does not suspend or toll this deadline.

Sec. 30-14 Appeals.

If the director denies issuance or renewal of a permit or suspends or revokes a permit issued under this article, the action is final unless the permit holder files a written appeal within ten (10) business days with the appropriate appellate entity.

Sec. 30-15 Expiration and renewal of permit.

- (a) A permit to operate a boarding home facility expires one year after the date of issuance.
- (b) A permit holder shall apply for renewal at least thirty (30) calendar days before the expiration of the permit on a form provided by the director. The permit holder shall update the information contained in the original permit application required under this Chapter or any subsequent renewals under this section, if any of the information has changed. The permit holder shall sign a statement affirming that there is either no change in the information contained on the original permit application and any subsequent renewal applications, or that any information that has been updated is accurate and complete.
- (c) The director shall follow the procedures set forth in this Article when determining whether to renew a permit.

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(d) The fee for the renewal of a permit to operate a boarding home facility shall be determined by city council from time to time.

Sec. 30-16. Non-transferability.

A permit to operate a boarding home facility is not transferable to another owner, operator, or location.

Sec. 30-17. Posting Requirements.

The permit holder shall prominently and conspicuously post for display in a public area inside the boarding home facility that is readily available to residents, the operator, employees, and visitors the following:

- (a) The permit issued under this chapter to operate the boarding home facility. The permit must be presented upon request to the director or to a peace officer for examination.
- (b) A sign prescribed by the director specifying how complaints may be registered with the city.
- (c) A notice in a form prescribed by the director stating that inspection and related reports are available at the facility for public inspection and proving a telephone number that may be used to obtain information concerning the facility.
- (d) A copy of the most recent inspection report relating to the facility by the city or a concise and accurate summary of that inspection report.
- (e) A notice in a form prescribed by the director that lists the name, location, and contact information for:
 - (1) The closest local public health services agency in the proximity of the facility; and
 - (2) A local organization or entity that represents, advocates, or serves elderly persons or persons with disabilities, including any related toll-free contact information for reporting emergencies to the organization or entity.

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Sec. 30-18. Reasonable Accommodations.

- (a) Purpose. The city intends to ensure that all persons with a disability have any equal opportunity to use and enjoy a dwelling by providing such persons with reasonable accommodations in rules, policies, practices, and procedures promulgated under this chapter consistent with the FHAA and the ADA, as amended.
- (b) Method of submitting a request for reasonable accommodation is as follows:
 - (1) A request for a reasonable accommodation may be submitted at any time that the accommodation may be necessary to ensure equal access to housing.
 - (2) A request for a reasonable accommodation may be submitted by an individual with a disability, the person's representative, or a permit holder providing housing for one or more individuals with disabilities.
 - (3) A request for a reasonable accommodation must be submitted in writing to the director on the form provided by the department, or in the form of a letter.
 - (4) There is no fee for an application requesting a reasonable accommodation.
 - (5) If an individual needs assistance in making a request for a reasonable accommodation, the city will provide assistance to ensure that the application process is accessible to the individual.
- (c) Application. An applicant shall submit the following information before an application for a reasonable accommodation is considered to be complete:
 - (1) The applicant's name, mailing address, street address, telephone number, and email address.
 - (2) The applicant's relation to the individual or individuals with a disability, if applicable.
 - (3) The address of the property to which the requested reasonable accommodation would apply.

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A disability determination by the Social Security Administration or the Department of Veteran's Affairs, or other substantially equivalent medical determination, that substantiates that the individual who would obtain the benefit of the reasonable accommodation is:

- A. An individual with a physical or mental impairment that substantially limits one or more major life activities;
- B. An individual who is regarded as having such an impairment or
- C. An individual with a record of such impairment.

- (4) The section, or sections, of this chapter from which a reasonable accommodation is being requested.
- (5) A brief explanation of why the requested accommodation is necessary for the individual or individuals with disabilities to have equal access to housing.

(d) Review of application by director; required findings.

- (1) Upon receipt of a complete application for a reasonable accommodation, the director shall review the application and issue a written ruling that grants, grants with conditions, or denied the application.
- (2) Before making a decision, the director may request an inspection of the boarding home facility and the land on which it is located. If the director makes such a request, the applicant must make the property, the facility, and its records available for the inspection within twenty (20) calendar days after the date of the request or the application shall be automatically denied.
- (3) If the director deems it necessary to request additional information from the applicant consistent with federal law, the director shall contact the applicant in writing and specify the additional information that is required. If the director makes such a request, the applicant must provide the additional information to the director within twenty (20) calendar days after the date of the request or the application shall be automatically denied.

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- (4) All proposed decisions of the director shall be submitted to the city attorney for legal review to determine if the proposed decision complies with local, state, and federal laws and regulations.
- (5) The director may impose reasonable conditions on any accommodation granted consistent with the purpose of this chapter.
- (6) The written decision must be consistent with the FHAA and based on a consideration of the following factors:
 - A. Whether the housing that is the subject of the request will be used by one or more individuals with a disability;
 - B. Whether the requested accommodation is necessary to make specific housing available to one or more individuals with a disability;
 - C. Whether the requested accommodation would impose an undue financial or administrative burden on the city;
 - D. Whether the requested accommodation would require a fundamental alteration in the nature of the city program or law;
 - E. The potential impacts of the requested accommodation on the applicant, the other residents of the boarding home facility, and the surrounding neighborhood;
 - F. Whether a failure to grant an accommodation would result in the property having no economically viable use; and
 - G. Whether there are alternative accommodations that are reasonable and have an equal, or less of an, impact on the city, the applicant, the other residents of the boarding home facility, and the surrounding neighborhood.
- (e) Written decision; appeal.
 - (1) The director shall issue a written decision within twenty (20) business days of:

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- A. Receipt of a completed application, provided that the director is able to issue a decision based on the information provided in the original request; or
- B. The completed inspection of the property, facility, and its records, as requested by the director; or
- C. The director's receipt of all additional requested information.

(2) All written decisions must explain in detail the basis of the decision and notify the applicant of the right to appeal the director's decision to the appropriate appeals authority.

Sec. 30-19. Inspection; Fees.

- (a) Required inspections.
 - (1) A boarding home facility must pass all required inspections.
 - (2) The permit holder shall keep a current file of reports and other documentation on site that is needed to demonstrate compliance with applicable ordinances, laws, regulations, including, but not limited to, documentation of requirements set out in this article. Inspection records must be signed and dated by the appropriate authority and there must be no pending corrective actions.
 - (3) The following inspections are required:
 - A. Permitting inspection;
 - B. Annual permit renewal inspection; and
 - C. Annual fire inspection;
- (b) Other inspections. The director may inspect any boarding home facility for the purpose of ascertaining whether violations of this article or any other city ordinances exist. The director is authorized at a reasonable time to inspect:
 - (1) The exterior of a structure and the surrounding premises; and

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- (2) The interior of a structure if the permission of the owner, occupant, or person in control is given or a search warrant is obtained.
- (c) Consequences of refusal to inspect. If the owner, occupant, or person in control denies permission to search any part of the interior or exterior of the structure or the surrounding premises, the director may suspend the permit to operate a boarding home facility.
- (d) Re-inspections. Whenever a boarding home facility is inspected by the director and a violation of this code is found, the building or premises will, after the expiration of any time limit for compliance given in the notice or order issued because of the violation, be re-inspected by the director to determine that the violation has been eliminated.
- (e) Re-inspection fee. The permit holder shall pay:
 - (1) To the director a fee for each re-inspection after the first inspection by that department that must be conducted before the violation is determined to be eliminated; and
 - (2) To the director of any other city department the fee required (if any) by the applicable code for each re-inspection by that department that must be conducted before the violation is determined to be eliminated.

Sec. 30-20. Standards, Structure, and Maintenance.

- (a) Each permit holder shall ensure the residents' health, safety, comfort, and protection from hazards and shall comply with the following standards:
- (b) Each boarding home facility must comply with the following codes and regulations:
 - (1) City zoning and building codes;
 - (2) Federal, state, and City adopted fire codes and applicable standards;
 - (3) Federal, state, and City health and safety codes; and
 - (4) Federal and state accessibility regulations;

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- (c) Public pathways and stairways in a building must maintain a minimum unobstructed width in accordance with the local fire code, as amended, and must be provided with a convenient light switch controlling an adequate light system.
- (d) Maintenance.
 - (1) The permit holder shall maintain the dwelling and premises in a clean and sanitary condition.
 - (2) The permit holder shall be responsible for the extermination of any insects, rodents, or other pests in the rooms occupied by residents, storage areas, attics, or on the premises or yard.
 - (3) The permit holder shall keep the boarding home facility in good repair and maintenance that will promote health, comfort, safety, and well-being of residents.
- (e) Mobile homes may not be used for boarding home facility purposes;
- (f) Boarding home facilities may not have more than six (6) occupants, including tenants, boarders, renters, employees, managers, or operators of the boarding home facility who reside on the premises;
- (g) Residents of a boarding home facility may not keep for the use of residents, operators of the home, manager of the home, either on the premises of the home or on a public right-of-way adjacent to the home, motor vehicles in numbers that exceed the number of bedrooms in the home;
- (h) Operation of a boarding home facility may not result in illegal or nuisance activities, including disturbance of the peace, illegal drug activity, harassment of passers-by, public urination, theft, assault, vandalism, littering, illegal parking, loud noise, disorderly conduct, lewd conduct, or police detention and/or arrests; and
- (i) Each room occupied for sleeping purposes by one occupant must contain at least 70 square feet of floor space, and every room occupied for sleeping purposes by more than one person must contain at least 50 square feet of floor space for each occupant.

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(j) A telephone that is connected to a land line must be available 24 hours a day, be easily accessible, and afford privacy for use by residents. A list of emergency telephone numbers, including the numbers of the local police department, local fire department, ambulance, the City department that issued the boarding home permit, the Texas Department of Family and Protective Services (DFPS), the local mental health authority, and the Texas Information and Referral Network, must be placed in plain view on or next to the telephone and made accessible to persons who are visually or hearing impaired, as needed.

Sec. 30-21 Kitchen.

- (a) A kitchen must be accessible to each resident without going through a sleeping room of another resident;
- (b) A kitchen must have a food preparation area of at least six square feet that is smooth, impermeable, free of cracks, and easily cleanable;
- (c) If a boarding home facility has a kitchen it must contain a minimum floor space of sixty square feet for dining area. A kitchen with an attached dining area must be at least 100 square feet in area;
- (d) A kitchen must contain a sink with at least two compartments for manual dishwashing;
- (e) A kitchen must contain an operational cooking stove with at least two burners fueled by gas or electricity;
- (f) A kitchen must contain at least one cabinet with a minimum of five cubic feet of storage space per resident, suitable for storage of food and utensils;
- (g) The permit holder shall keep the kitchen in a clean and sanitary condition.

Sec. 30-22 Emergency Precautions.

- (a) The permit holder shall provide fire escapes and exits that are kept in good repair and accessible at all times in accordance with applicable fire codes, as amended.
- (b) The permit holder shall implement a written fire and evacuation plan that sets forth the responsibilities and steps to be taken by staff and residents in the event of a fire or other emergency. If a boarding home facility has a resident who has a mobility--impairment, the permit holder shall submit the written plan to the local fire department and obtain its approval of the plan.
- (c) The permit holder shall post an emergency evacuation plan in each sleeping room and the kitchen of the facility.

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- (d) The permit holder shall ensure that each resident receives training on the emergency evacuation plan at least two times per year and shall maintain documentation of such training.
- (e) Flammable supplies and gasoline--operated maintenance equipment and lawn care equipment must be stored in the garage of the facility or in a detached storage shed.
- (f) The permit holder shall ensure that all residents are shown how to use all emergency exits from the boarding home facility within 24 hours after arrival at the boarding home facility. The permit holder shall maintain documentation of such training.
- (g) First aid supplies.
 - (1) The permit holder shall provide first aid supplies as recommended by the American Red Cross.
 - (2) The permit holder shall ensure that the first aid supplies are readily accessible to all the residents and inform the residents of the location of the supplies.

Sec. 30-23. Poisonous, Toxic, and Flammable Materials.

- (a) The permit holder shall ensure that poisonous, toxic, and flammable materials:
 - (1) Are stored and maintained away from bed linens, towels, food items, and kitchen equipment; and
 - (2) Are not used in a way that contaminates food equipment or utensils or constitutes a hazard to employees or residents.
- (b) The permit holder shall prominently and distinctly label poisonous, toxic, and flammable materials for easy identification of contents.

Sec. 30-24 Violations; Penalty

- (a) A permit holder, employee, or other person who violates any provision of this chapter, or who fails to perform a duty required by this chapter, commits an offense.
- (b) An offense under this chapter is punishable by a fine not to exceed \$2,000.
- (c) A separate offense occurs each day or part of a day that the violation is committed, continued, or permitted.
- (d) Emergency closing order.

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- (1) If the director finds a boarding home facility operating in violation of the standards prescribed by this chapter and the violations create an immediate threat to the health and safety of a resident in the facility, the director may order immediate closing of all or part of the facility.
- (2) The order of immediate closure is effective immediately on providing written notice of the order to the owner or operator by facsimile, email or hand---delivery.
- (3) The order of closure of all or part of a boarding home facility is valid for 10 days after its effective date.
- (4) If the permit holder does not promptly relocate the residents of the boarding home facility upon receiving the order of closure for that facility, the city shall provide for the relocation of those residents. If possible, the city will relocate those residents to a boarding home facility in the city for which there is a current valid permit. The relocation may not be to a facility with a more restrictive environment unless all other reasonable alternatives are exhausted. The director is authorized to seek to recover the cost of relocating the residents from the owner and operator of the closed facility.
- (5) The director and the Building Related and Fire Codes Appeals and Advisory Board, or other appropriate technical board or committee, shall expedite any hearing or decision involving an emergency closing order issued under this section.
- (e) The city attorney may petition a district court or a county court at law for civil penalties and for injunctive relief to restrain a continuing violation of the standards or permit requirements for a boarding home facility under this chapter if the violations create an immediate threat to the health or safety of the facility residents.
- (f) The city attorney may petition a district court or a county court at law for civil penalties and for injunctive relief to restrain the continuing operation of a facility that is providing services inconsistent with those prescribed by this article and state law until such time as said facility becomes appropriately licensed by the State of Texas or meets the requirements to obtain a permit under this article.
- (g) The remedies and procedures in this section and in other laws are cumulative law, and the use of any particular remedy or procedure does not prevent the enforcement of any other law.

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

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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.

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 1-7, 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., 2013.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2013.

ATTEST:

Jack Pratt, Jr., Mayor

Brenda G. Craig, City Secretary

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APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

Agenda Item:

3B. An ordinance amending Chapter 66, "Library," of the Code of Ordinances of the City of Kerrville, Texas; by amending Article II "Library Advisory Board" to change the composition and qualifications of the Library Advisory Board; containing a cumulative clause; containing a savings and severability clause; and providing other matters relating to this subject. (staff)

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

SUBJECT: Consideration of the First Reading of the Revisions to the Code of Ordinances, Chapter 66, "Library," Article II "Library Advisory Board" and Article III "Library Regulations"

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 11, 2012

EXHIBITS: Chapter 66, "Library," Article II and Article III
Revised Article II, "Library Advisory Board Ordinance"
Revised Article III, "Library Regulations Ordinance"

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

As Kerr County will not be funding the Butt-Holdsworth Memorial Library and with the addition of electronic devices to the collection, regulations regarding the Library Advisory Board and Library Regulations need to be adopted.

Article II – Library Advisory Board

The Library Advisory Board (LAB) currently consists of four members appointed by City Council and one member appointed by the Friends of the Butt-Holdsworth Memorial Library, with the stipulation that all members reside in Kerr County.

As of November 1, 2012, the County has decided not to fund the Butt-Holdsworth Memorial Library. As the County will not be participating in the operation of the Butt-Holdsworth Memorial Library, it is recommended the qualifications for appointment be revised to stipulate all members are residents of the City of Kerrville. It is also recommended that the qualifications for appointment be revised to stipulate all members must be an active library card holder in good standing.

In addition, the Ex-Officio appointments will be amended to remove the County

Commissioner's position on the Library Advisory Board.

Article III – Library Regulations

In March 2012 the Library incorporated electronic devices into the collection and began lending the devices to patrons. Some patrons have failed to return the devices to the Library. It is recommended to include the phrase "electronic devices" in Section 66-39 subsection (b) Violation of Lending Privileges and subsection (c) Failure to Return Books.

RECOMMENDED ACTION

Staff recommends City Council approve the recommended changes to the Code of Ordinances, Chapter 66, "Library."

ARTICLE I. IN GENERAL

Secs. 66-1—66-30. Reserved.

ARTICLE II. LIBRARY ADVISORY BOARD***Sec. 66-31. Definitions.**

The following terms shall have the meanings as follows:

Board means the library advisory board.

City means the City of Kerrville, Texas.

Commissioners court means the governing body of Kerr County, Texas.

Council means the governing body of the City of Kerrville, Texas.

County means Kerr County, Texas.

Library means the Butt-Holdsworth Memorial Library.

Procedural rules means the Procedural Rules for Kerrville City Boards as adopted by City Council.

(Ord. No. 2010-05, § 1, 3-9-2010)

Sec. 66-32. Creation.

A library advisory board has been created to be composed of five members.

(Ord. No. 2010-05, § 1, 3-9-2010)

Sec. 66-33. Duties and responsibilities of the board.

The board shall constitute an advisory board to the council. The board shall have authority to hold meetings within the city and to consider and make recommendations to the council from time to time on any and all matters pertaining to the library. All recommendations made by the board to the council shall be by a majority vote of the

*Editor's note—Ord. No. 2010-05, § 1, adopted March 9, 2010, amended former Art. II, §§ 66-31—66-34, in its entirety to read as herein set out. Former Art. II pertained to the same subject matter and derived from Ord. No. 2005-19, adopted Nov. 22, 2005.

Cross references—Administration, ch. 2; boards and commissions, § 2-91 et seq.

total membership of the board. Three voting members shall constitute a quorum for the transaction of all matters considered by the board. The board shall adhere to the procedural rules, which the city secretary shall provide to each board member at the time that he or she gives an oath of office.

Sec. 66-34. Composition of and appointment to the board; ex-officio members; terms; vacancies; absences, officers, compensation; meetings.

(a) *Composition.* The board shall be composed of five members with appointments to be made as follows:

- (1) Council shall appoint four members; and
- (2) The Friends of the Butt-Holdsworth Memorial Library shall appoint one of its members.

(b) *Ex officio members.* Ex officio members of the board shall consist of a member of the council, a member of the commissioners court, a member of the Kerrville Genealogical Society, and the library director. Such ex official members shall serve without voting privileges and may act in an advisory capacity to the board.

(c) *Terms.* All board appointments shall serve two-year terms. No board member shall serve more than two consecutive two-year terms on the board without having at least one full year off of the board between terms. A majority of the members' terms shall expire in even-numbered years with the remaining members' terms expiring in odd-numbered years.

(d) *Vacancies.* When a vacancy occurs by means other than the expiration of the term of a board member, the entity responsible for making the appointment, either the council, commissioners court, or Friends of the Butt-Holdsworth Memorial Library, shall appoint a person to fill the vacancy for the remainder of the unexpired term.

(e) *Absences.* Members shall be subject to the attendance requirements established by the procedural rules.

(f) *Officers.* From its regular members, the board shall appoint a chair and vice-chair. The library director, or designee, shall act as secre-

tary. It shall be the duty of the chair to preside at all meetings of the board and the secretary shall keep a record of all the proceedings of the board.

(g) *Compensation.* Service on the board is without compensation.

(h) *Meetings.* The board shall meet on dates and times as agreed upon by the board members, which schedule may be changed from time to time. All such meetings of the board shall be held in accordance with the Texas Open Meetings Act.

(i) *Qualifications.* Each board member shall be a resident of Kerr County.
(Ord. No. 2010-05, § 1, 3-9-2010; Ord. No. 2011-16, § 1, 8-9-2011)

Secs. 66-35—66-38. Reserved.

ARTICLE III. LIBRARY REGULATIONS

Sec. 66-39. Generally.

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Director means the director or librarian of the Butt-Holdsworth Memorial Library.

Public library means the Butt-Holdsworth Memorial Library, and any branch libraries or mobile library unit.

(b) *Violation of lending privileges.* Every person who shall take from the public library any book, pamphlet, periodical, paper, print of a painting, film, phonograph record, magnetic tape, or other property, except in accordance with the rules of such library, is in violation of this section.

(c) *Failure to return books.* Every person who shall take or borrow from the public library any book, pamphlet, periodical, paper, print of a painting, film, phonograph record, magnetic tape, or other property, and fail to return such material within two weeks from the date of mailing a notice to the person's address, is in violation of this section.

(d) *Suspension of library privileges.* If a person is determined by the director to be in violation of this section, all of the person's library privileges, including borrowing privileges and the privileges of being on the library premises, may be suspended by the director.

(e) *Appeal of suspension.* If a person's library privileges are suspended by the director pursuant to subsection (e) of this section, the person may appeal the director's ruling to the board within 30 days of such ruling. Thereafter, such person may appeal the decision of the board to the city council by giving written notice of such appeal to the city clerk within 30 days of the board's decision.

(f) *Civil liability.* Each person who is in violation of this section, or who fails to return books or property (for whatever reason) or returns defaced or damaged books or property (however caused) shall be liable for the replacement cost of such books and property, reasonable attorneys' fees, and court costs. Acts of third persons, impossibility of performance, or other force majeure shall be no defense to civil liability.

(g) *Criminal liability.* Each person who is in violation of this section shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalty provided in section 1-7. Except, however, it shall be a defense to criminal liability, if the defendant can prove, beyond a reasonable doubt, that the violation was the result of acts of third persons, impossibility of performance, or other force majeure.

(h) *Notice.* Before a person shall be liable (civil or criminal) under this section, the person shall be given 15 days' written notice of violation. Such notice shall state the amount of restitution or damages claimed, and payment thereof within 15 days shall absolve such person from liability under this section for that particular violation. Such notice shall be given by mailing the notice to the person's last known mailing address.

(i) *Separate violations.* A violation as to each book or item of library property constitutes a separate violation of this section.
(Ord. No. 84-58, 1-8-1985; Ord. No. 87-61, 1-12-1988; Code 1968, art. 2-V-8(a)—(c), (e)—(j))

DRAFT 1/3/12

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2012-_____**

**AN ORDINANCE AMENDING CHAPTER 66, "LIBRARY,"
OF THE CODE OF ORDINANCES OF THE CITY OF
KERRVILLE, TEXAS, BY AMENDING ARTICLE II
"LIBRARY ADVISORY BOARD" TO CHANGE THE
COMPOSITION AND QUALIFICATIONS OF THE
LIBRARY ADVISORY BOARD; CONTAINING A
CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND
SEVERABILITY CLAUSE; AND PROVIDING OTHER
MATTERS RELATING TO THIS SUBJECT**

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

WHEREAS, the City Council previously established a Library Advisory Board ("LAB") for the purpose of advising and making recommendations to the City Council on matters pertaining to the Library; and

WHEREAS, the LAB is currently made up of five (5) members who are appointed by City Council, and each member must reside within Kerr County; and

WHEREAS, the LAB now recommends that City Council amend the ordinance regarding the qualifications of the LAB such that each member must reside within the city of Kerrville; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to amend Chapter 66, Article II of the Code of Ordinances of the City of Kerrville to revise the LAB as provided above;

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

SECTION ONE. Section 66-34 of Chapter 66 "Library," Article II "Library Advisory Board" of the Code of Ordinance of the City of Kerrville, Texas, is amended by adding the language that is underlined in blue (added) and deleting the language that is bracketed and stricken in red ([deleted]) as follows:

"Sec. 66-34. Composition of and appointment to the Board; ex-officio members; terms; vacancies; absences, officers, compensation; meetings.

:

DRAFT 1/3/12

- (b) *Ex officio members.* Ex officio members of the board shall consist of a member of the Council, ~~a member of the commissioners court,~~ a member of the Kerrville Genealogical Society, and the Library Director. Such ex official members shall serve without voting privileges and may act in an advisory capacity to the board.
 - ⋮
 - (i) *Qualifications.* Each Board member shall be a resident of the City of Kerrville ~~[Kerr County]~~ and must maintain a library card in good standing.”

SECTION TWO. Section 66-39 of Chapter 66 “Library,” Article III “Library Regulations” of the Code of Ordinance of the City of Kerrville, Texas, is amended by adding the language that is underlined in blue (added) and deleting the language that is bracketed and stricken in red (~~deleted~~) as follows:

“**Sec. 66-39. Generally.**

- ⋮
- (b) *Violation of lending privileges.* Every person who shall take from the public library any book, pamphlet, periodical, paper, print of a painting, film, phonograph record, magnetic tape, electronic device, or other property, except in accordance with the rules of such library, is in violation of this section.
- (c) *Failure to return ~~books~~ items.* Every person who ~~shall~~ takes or borrows from the public library any book, pamphlet, periodical, paper, print of a painting, film, phonograph record, magnetic tape, electronic device, or other property, and fails to return such material within two weeks from the date of mailing a notice to the person’s address, is in violation of this section.”

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

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

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

DRAFT 1/3/12

sentence, clause, or phrase hereof irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid.

PASSED AND APPROVED ON FIRST READING, this the ____ day of _____, 2012.

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of
_____, 2012.**

Jack Pratt, Jr., Mayor

APPROVED AS TO FORM:

ATTEST:

Michael C. Hayes, City Attorney

Brenda G. Craig, City Secretary

Agenda Item:

3C. An ordinance amending Chapter 102 "Traffic and Vehicles," Article II "Administration; Enforcement" of the Code of Ordinances of the City of Kerrville, Texas by amending Sections 102-35 and 102-36 to increase the penalty for parking violations; adopting a new Section 102-37 to establish presumptions applicable to the adjudication of parking citations; containing a cumulative clause; containing a savings and severability clause; providing for an effective date; ordering publication; and providing other matters related thereto. (staff)

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

SUBJECT: Ordinance amendment to increase the fines for violation of the City of Kerrville parking regulations

FOR AGENDA OF: Jan. 8, 2013

DATE SUBMITTED: Dec. 21, 2012

SUBMITTED BY: Todd Parton,
City Manager

CLEARANCES: Mike Hayes
City Attorney

EXHIBITS: Ordinance

AGENDA MAILED TO:

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

Expenditure Required:	Current Balance in Account: \$	Amount Budgeted: \$	Account Number:
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PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Attached is an ordinance presented for first reading to increase the city's fine for parking violations from \$5 to \$25.

This fine will be applicable to all parking violations throughout the City of Kerrville. The ordinance also contains a provision to double the fine for those who fail to appear in municipal court or fail to pay the fine prior to their municipal court appearance date. Furthermore, the ordinance contains provisions for the issuance of an arrest warrant for those who fail to address a parking ticket.

Representatives of the Main Street Advisory Board (MSAB) and Historic Downtown Business Alliance (HDBA) are concluding their downtown parking strategy. The MSAB is scheduled to present its findings at the City Council meeting of January 22, 2013, to coincide with the second and final reading of this ordinance.

The recommended fine amount has been reduced from the original proposed amount of \$50. Staff believes that a \$25 fine achieves a balance that will deter violations while not being a significant deterrent to downtown customers and visitors.

As reported in November, 2012, the MSAB and HDBA have initiated peer-to-peer efforts to resolve parking issues and have launched a marketing campaign for the downtown parking garage. An example of this marketing effort is hosting the January 2013 Wineshare in the lower level of the parking garage.

RECOMMENDED ACTION

Staff recommends that the City Council adopt the ordinance to increase parking fines from \$5 to \$25.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2012-_____

AN ORDINANCE AMENDING CHAPTER 102 "TRAFFIC AND VEHICLES," ARTICLE II "ADMINISTRATION; ENFORCEMENT" OF THE CODE OF ORDINANCES OF THE CITY OF KERRVILLE, TEXAS; BY AMENDING SECTIONS 102-35 AND 102-36 TO INCREASE THE PENALTY FOR PARKING VIOLATIONS; ADOPTING A NEW SECTION 102-37 TO ESTABLISH PRESUMPTIONS APPLICABLE TO THE ADJUDICATION OF PARKING CITATIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATED THERETO

WHEREAS, Chapter 102 of the Code of Ordinances ("Code") for the City of Kerrville, Texas ("City"), establishes the enforcement process for violations of the City's parking regulations; and

WHEREAS, due to concerns expressed by downtown property and business owners about parking and the enforcement process, the City Council believes it necessary to amend Chapter 102 to address those concerns; and

WHEREAS, Council finds it to be in the public interest to amend Sections 102-35 and 102-36 of the Code and to adopt a new section, Section 102-37, which establishes a presumption applicable to the adjudication of parking citations;

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

SECTION ONE. Chapter 102 "Traffic and Vehicles," Article II "Administration and Enforcement" of the Code of Ordinances of the City of Kerrville, Texas, is amended by amending Section 102-35 by adding the language that is underlined (added) and deleting the language that is stricken and bracketed ([deleted]) to provide as follows:

"Sec. 102-35. Parking fines, court costs, and procedures for collection.

(a) A person, or other legal entity, violating any of the provisions of state law or this chapter regarding stopping, standing, or parking of a vehicle shall [have 14 days to] pay a fine to the City on or before their first court appearance date in the following amounts or otherwise to enter an appearance in municipal court:

- (1) For parking offenses specifically set forth in the state transportation code or where a fine is not otherwise set forth in this section, the fine shall be in accordance with Section 1-7;
- (2) For parking offenses arising from parking in a parking space for a period of time longer than the posted time limit, the fine shall be [\$5.00] \$25.00 per violation;

(b) If a person fails to pay the fine or enter an appearance in municipal court for parking offenses described in subsection (a)(2) of this section [within the stated 14 days] on or before their first court appearance date, then the fine thereafter shall be doubled for each violation, and the clerk of the municipal court shall send to the owner of the motor vehicle, at his last known address, a letter informing him of the violation and giving him notice that he must either pay the fine within ten days of the notice of the letter, or return a notice in writing to the clerk promising to appear on a trial date.

(c) If a person requests a trial date, the clerk shall promptly notify him by mail of such trial date.

(d) If the person fails to respond to the ten-day notice letter or fails to appear on the trial date, then he shall be found guilty of the offense and a fine of [\$5.00] \$25.00 shall be assessed against such person. In addition, if the fine so assessed remains unpaid after an additional ten days, a complaint may be filed and an arrest warrant may be issued for such person."

SECTION TWO. Chapter 102 "Traffic and Vehicles," Article II "Administration and Enforcement" of the Code of Ordinances of the City of Kerrville, Texas, is amended by amending Section 102-36 by adding the language that is underlined (added) and deleting the language that is stricken and bracketed ([deleted]) to provide as follows:

"Sec. 102-36. Owner liable for illegal parking.

In any prosecution charging a violation of any regulation covering the standing or parking of a vehicle, the registered owner of a vehicle shall be liable for the parking violation, proof that the particular vehicle described in the notice or ticket was parked in violation of any such regulation, together with proof that the defendant was at the time of such parking a registered owner of such a vehicle, shall render the registered owner liable for the fines and court costs set forth in this chapter. This provision for liability of the owner shall in no way affect the owner's rights to obtain indemnity for all such amounts from any person who actually parked such vehicle in violation of this chapter."

SECTION THREE. Chapter 102 "Traffic and Vehicles," Article II "Administration and Enforcement" of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding a new Section 102-35 as indicated by the language that is underlined (added) to provide as follows:

"Sec. 102-37. Presumption.

In a court proceeding to adjudicate a parking citation:

- (a) It is presumed that the registered owner of the vehicle is the person who stopped, stood, or parked the vehicle at the time and place of the parking violation; and
- (b) The Texas Department of Transportation's computer-generated record of the registered vehicle owner is *prima facie* evidence of the contents of the record."

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

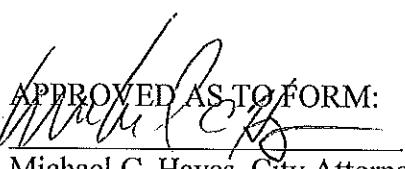
SECTION FIVE. The City Secretary is authorized and directed to send this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the amendments adopted herein, to correct any typographical errors, and to index, format, number, and letter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

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

PASSED AND APPROVED ON FIRST READING, this _____ day of _____, 2012.

PASSED AND APPROVED ON SECOND AND FINAL READING, this _____ day of _____, 2012.


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

Jack Pratt, Jr., Mayor

ATTEST:

Brenda G. Craig, City Secretary

Agenda Item:

4A. Request from the Kerrfest Committee for city sponsorship for the 3rd Annual Kerrfest event. (staff)

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

SUBJECT: Request from the Kerrfest Committee for in-kind services for the 3rd Annual Kerrfest event.

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 21, 2012

SUBMITTED BY: Ashlea Boyle **CLEARANCES:** Todd Parton
Special Projects Coordinator City Manager

EXHIBITS: Letter from Kerrfest Committee, Dated December 20, 2012

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required: \$	Current Balance in Account: \$	Amount Budgeted: \$	Account Number:
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PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Attached is a letter of request from the Kerrfest Committee for in-kind Police and Fire / EMS services for the 3rd Annual Kerrfest event to be held May 17-18, 2013. Services requested is consistent with the 2012 in-kind sponsorship and are as follows:

Kerrville Police Department:

Friday, May 17, 2013, 6:00 p.m. – 11:00 p.m.: 3 Officers + 1 marked unit (5 hours)

Saturday, May 18, 2013, 10:00 a.m. – 6:00 p.m.: 1 Officer + 1 marked unit (8 hours)

Saturday, May 18, 2013, 6:00 p.m. – 1:00 a.m.: 4 Officers + 2 marked units (7 hours)

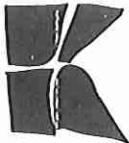
Kerryville Fire Department / EMS:

Friday, May 17, 2013, 6:00 p.m. – 11:00 p.m.: Ambulance on-site (5 hours)

Saturday, May 18, 2013, 10:00 a.m. – 11:00 p.m.: Ambulance on-site (13 hours)

RECOMMENDED ACTION

City staff recommends consideration and approval of the In-Kind Services Request for the 2013 Kerrfest event.



Kerrville

KERRVILLE AREA CHAMBER OF COMMERCE

It's all right here.

December 20, 2012

Todd Parton
City of Kerrville
701 Main St.
Kerrville, TX 78028

RECEIVED
CITY OF KERRVILLE
ADMINISTRATION
DATE: 12.20.12 BY: *Abayle*

Dear Todd,

On behalf of the Kerrfest Committee, we respectfully request the following in-kind services as a sponsorship from the City of Kerrville for the 3rd Annual Kerrfest, set for May 17-18, 2013:

Kerrville Police Department

Friday, May 17, 2013, 6:00 p.m. – 11:00 p.m.: 3 Officers + 1 marked unit (5 hours)

Saturday, May 18, 2013, 10:00 a.m. – 6:00 p.m.: 1 Officer + 1 marked unit (8 hours)

Saturday, May 18, 2013, 6:00 p.m. – 1:00 a.m.: 4 Officers + 2 marked units (7 hours)

Kerrville Fire Department/EMS

Friday, May 17, 2013, 6:00 p.m. – 11:00 p.m.: Ambulance on-site

Saturday, May 18, 2013, 10:00 a.m. – 11:00 p.m.: Ambulance on-site

We had over 1500 attendees last year, and we look forward to growing that number this year. We appreciate the wonderful support we received from the city for this event last year; your support is vital to the success of this event! We are honored to host an event with the coordination of the Kerrville Area Chamber of Commerce, Kerr County, the City of Kerrville, Kerrville Convention and Visitors Bureau, Kerrville Economic Development Corporation, and a large host of local businesses. This event pumps quite a bit of money into our town over a three-day period. We will work with the CVB and KEDC this year to get a good reporting of the economic impact of this event and look forward to bringing that report to City Council.

Our request is akin to that of the 2012 event. Again, thank you for the City's past support of this event through your in-kind police and EMS services, and we respectfully ask for the same or higher level of support for the 3rd Annual Kerrfest.

Sincerely,

Kristan D. Weaver
Vice-President of Operations
Kerrville Area Chamber of Commerce

Denny Foster
Chairman
Kerrfest Committee

Agenda Item:

4B. A resolution supporting the application of Communities for Veterans to construct low income rental housing pursuant to the low income housing tax credit program administered by the Texas Department of Housing and Community Affairs. (Craig Taylor)

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

SUBJECT: Request for community support of the tax credit application to the Texas Department of Housing and Community Affairs for the proposed Freedoms Path veterans housing project planned on the Kerrville VA Medical Center, 3600 Memorial Highway

FOR AGENDA OF: Jan. 8, 2013

DATE SUBMITTED: Dec. 21, 2012

SUBMITTED BY: Todd Parton,
City Manager

CLEARANCES:

EXHIBITS:

1. Freedom's Path Project Overview
2. Freedom's Path Questions and Answers
3. Freedom's Path Project Opinion Letter
4. Freedom's Path Concept Plan
5. Resolution of Support

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Communities for Veterans of Sarasota, Florida, are planning to reapply to the Texas Department of Housing and Urban Affairs (TCHCA) for housing tax credits for the Freedom's Path veterans housing project for 2013. This application is for a project that is similar to the one proposed for TDHCA's 2012 tax credit program.

The attached project overview provides a detailed explanation of the project which is proposed at the Kerrville VA Medical Center property located at 3600 Memorial Highway.

This project is proposed to serve veterans only with first priority being veterans with service connected disabilities. Any available units not rented to veterans with service connected disabilities would remain restricted to occupancy by military veterans.

A project opinion letter has been provided by Communities for Veterans. The letter was crafted by Broad and Cassel Attorneys and Law and provides an opinion that this project may legally be restricted to occupancy by military veterans.

Freedom's Path is planned as a phased development to ultimately consist of 100 units. The application is for the initial 49 units. The future 51 units are planned to provide

housing and services for disabled and aging veterans with higher needs for services. The future units would include assisted living and memory care amenities.

The first 49 units would provide for 27 one-bedroom and 22 two-bedroom units. Amenities in the first phase will be able to meet the specific needs of the tenants. Each unit will be designed to encourage independent living. Community amenities will include on-site management, a fitness center, community/dining room, and a fully-appointed commercial kitchen. In addition, the development will provide for social services through arrangements with other organizations and providers and will be available as needed or desired by each tenant. The cost associated with providing the social services will be borne.

The TDHCA tax credit application is very competitive and applications must attain the maximum amount of points to have a realistic chance of success. Community financial support is a primary source of points toward a project. Accordingly, the City of Kerrville will be requested to provide approximately \$160,000 toward construction of the 49 units. This financial commitment could be in the form of cash contributions, loans or in kind matches – i.e. permit fee waivers, utility extensions, etc. Communities for Veterans are proposing that the City of Kerrville secure its local financial match from an independent source such as a grant awarded from a non-profit foundation. City staff is researching whether such a match qualifies under the program rules.

City Council may attach conditions to its resolution of support. These conditions could address occupancy, uses, services, and other items pertinent to the proposed project. City Council should incorporate any such conditions into a resolution of support to ensure that the developed project remains consistent with the original intent over time.

RECOMMENDED ACTION

Staff recommends that the City Council approve a resolution of support for the Freedom's Path project subject to the following conditions:

1. Occupancy is restricted to military veterans only;
2. Each unit has its own kitchen to include a fully functional sink, refrigerator, stove, oven, dishwasher, and microwave oven;
3. A fully appointed commercial kitchen be constructed in the common areas in order to facilitate community support and community events;
4. A minimum of half the facilities are configured for veterans with service related disabilities;
5. A local financial match is provided only through qualifying third party resources – i.e. no local financial resources would be provided by the City of Kerrville as cash contributions or loans; and
6. Any other conditions established by the City Council.

Exhibit 1
Freedom's Path Project Overview

Project Overview

Freedom's Path at Kerrville

This project is part of the Department of Veterans Affairs (VA) effort to address the housing challenges facing Veterans. This VA effort has varying emphases around the country, ranging from aging Veterans, to female Veterans, to homeless Veterans, to disabled Veterans. One approach being used by the VA has been to utilize the private sector, selected through a Request for Proposals (RFP) process, to generate privately funded housing located on VA Medical Center campuses, to meet some of these housing needs of Veterans. Communities for Veterans, LLC was selected in a competitive process as the preferred developer to build housing on a five acre tract of land being leased from the Kerrville Division of the VA South Texas Healthcare System.

This development will house only Veterans. Communities for Veterans has made an explicit commitment to set-aside at least 50% of the units specifically to Veterans with Service Connected disabilities. While the balance of the units may also house this same population, if not, then the rest of the units will house senior Veterans (age 62 and older).

Communities for Veterans is a collaborative effort among Beneficial Communities, a Florida based affordable housing developer, CORE Construction, an Illinois based General Contractor with offices in seven states, including Texas, and Affordable Housing Solutions, a Georgia based not-for-profit with housing linked to special needs services as its focus.

Communities for Veterans has proposed a two phase development with the first phase consisting of a 49-unit community serving Veterans with Service Connected disabilities. The second phase will consist of an additional 51-units for disabled and aging Veteran households with a higher need for services, to include assisted living and memory care components.

The first phase will be one, 3 story, 49 unit elevator equipped building. The first phase unit mix will include 27 one bedroom, and 22 two bedroom units with proposed Tax Credit collected rents ranging from \$303 to \$557 for one bedroom units, and \$364 to \$679 for two bedroom units. The second phase will include 28 one bedroom and 23 two bedroom units.

The proposed project will offer an amenities package that will meet the specific needs of disabled Veterans. All 49 units will be disabled accessible, adaptable and visitable. Each unit will promote independent living, and will include a refrigerator, electric range, microwave oven, dishwasher, window blinds, central heating and air conditioning, washer and dryer hookups, a patio/balcony, a security system, internet access and emergency call buttons.

Community amenities include on-site management, a fitness center, community/dining room, and an elevator. The project will include a fully appointed commercial kitchen.

The services concept relies heavily on the proximity of the housing to the VA Medical Center. The attraction and benefit of the housing will focus on two features: 1) living in a community of other Veterans with similar life conditions and experiences, and 2) living in immediate proximity to the VA Medical Center, where the main locus of needed services and benefits are to be found. All medical, dental, pharmacy, and therapeutic services will be provided by the VA. If not available at the Kerrville Division Medical Center, then free transportation is provided to the Audie Murphy complex in San Antonio.

Apart from the VA core services, the project features maximum flexibility with an optional benefit package. It will be possible to live totally independent of any additional program services. Alternatively, meals, housekeeping, laundry, and personal assistance with daily living tasks can be included on an optional basis.

The project will have 24 hour supervision, and will include two case managers to provide assistance in linking Veterans with VA services and entitlements. Inasmuch as there are non-related VA needs such as housekeeping or personal assistance, the case managers will also assist the Veterans in accessing those services.

The project will be financed primarily using Low Income Housing Tax Credit (LIHTC) equity and target special needs (service connected disabled Veteran) households with incomes of up to 60% of Area Median Household Income (AMHI). Overall, the project will cost about \$7.5 million. The sources of funding will come from tax credit equity, the City of Kerrville, the VA, and a deferred developer fee.

The use of Tax Credits requires the formation of a limited partnership, and the placement of 99.99% of the ownership in that partnership with the buyer of the tax credits for a period of 15 years. This is the structure planned for this project. The General Partner for the project will be a single purpose entity controlled by Communities for Veterans, LLC. This entity will control the development and operations of the project through the project principals and will operate the property long-term for the express benefit of disabled Veterans. At the end of the 15 year tax credit compliance period, the Limited Partner tax credit purchaser will typically donate its interest to the non-profit participant, in this case Affordable Housing Solutions, Inc. That is the progression contemplated for this project.

The operating expenses of the project will be paid from the rental income from the residents. It is expected that project based rental assistance will be in place for some of the units in the project. It is the intent that no resident will pay more than 30% of his or her income for housing. The rental levels being proposed are typical of tax credit rent structures, and therefore all of the rental levels will be affordable to residents who have incomes less than 60% of the median income, with some units set aside for 50% and 30% median income tenants. There will not be any market rate units.

2 - 1 BR/1BA (668 sf) @ \$303 per month
8 - 1 BR/1BA (668 sf) @ \$506 per month
17 - 1 BR/1BA (668 sf) @ \$557 per month
2 - 2 BR/1BA (812 sf) @ \$364 per month
5 - 2 BR/1BA (812 sf) @ \$607 per month
15 - 2 BR/1BA (812 sf) @ \$679 per month

According to local Veteran Service Organizations, there are approximately 18,500 Veterans living within the 17 county service area for the Kerrville Division of the VA South Texas Healthcare System. This is the primary marketing area. However, it is anticipated that a portion of the future population will be drawn to the proposed development from outside this 17 county area. Linkages are being created with the Wounded Warrior Battalion, Catholic Charities of San Antonio, and subject to its approval, the Wounded Warrior Project, to enlist service disabled Veterans for residency.

Communities for Veterans has a national foot-print with projects underway in New York, Ohio (2), Illinois, Georgia (2), Montana, Washington and this project in Texas. It has further correspondent relationships with projects in Virginia and Iowa. As such, it will draw upon a national population of VA medical centers, Veteran Service Organization, and non-profit service providers to ensure that disabled Veterans who wish to will be served in the Kerrville project.

As noted above, this is Phase I of a two phased project. Due to the limitation on tax credit allocations (and that is the preferred financing option for this housing), it is not possible to build the entire complex at once. Further, it is the project concept that this development will be a continuum of care community. The second phase anticipates that as disabled Veterans age in place, there will be the need for more intensive services. Therefore, the second phase housing incorporates more services, generally the type of services associated with assisted living housing. Communities for Veterans is developing a Veterans Assisted Living community in New York on Long Island, where the Northport VAMC already has sufficient housing in other need areas. That model will be used for the second phase of the Kerrville Freedom's Path project.

Exhibit 2
Freedom's Path Questions and Answers

Freedom's Path Questions and Answers

Will the project serve Veterans Only?

Yes. We have an opinion letter from tax counsel that supports our position that we can lease to Veterans only under IRS Code Section 42. We continue to stand by this commitment.

What is the target group of Veterans to be served?

The project will primarily market to Veterans with Service Connected disabilities. At least 50% of the units will be set-aside for Veterans meeting this criterion. Veterans will need to have at least a 30% Service Connected disability. The balance of the housing will be marketed to Veterans 62 and older.

Will any medical services be offered on-site as part of the housing program?

No. All Veterans will be directed to the Kerrville Medical Center facility for medical, dental, pharmacy, and therapeutic treatment, and as needed, the VA will provide transportation service for Veterans to travel to Audie Murphy Hospital.

Is there any non-profit involvement in the project?

Yes, the principal entity in this initiative is Communities for Veterans. One of the three organizations that comprises Communities for Veterans is Affordable Housing Solutions, Inc., a 501(c)(3) organization with 25 years of experience in the affordable housing and special needs housing industry.

Does the Owner/Developer have site control?

Yes. On December 27, 2011, the VA and Communities for Veterans, through its single purpose legal entity established to do this project, entered into a five (5) year lease for the site. The purpose of this lease is to allow time to put together the development project. Once the project is a "go," the VA and Communities for Veterans will enter into a long-term lease (75 year lease including extension options).

Is it the intent of the Owner/Developer to "flip" this project after completion?

No. The two Owner/Developer entities involved in this project, Beneficial Communities and Affordable Housing Solutions together own more than 3,000 units of affordable housing, and through their respective organizational histories, have never sold their interests in any project. This is a long-term missional commitment of the organizations to help and serve Veterans.

Why is it that cost per unit is high compared to conventional rental housing?

The housing will be primarily financed with tax credits administered by the Texas Department of Housing and Community Affairs (TDHCA). TDHCA has a construction cost target of no more than \$80 per square foot for its housing. This project falls within that limit. Requirements for energy efficiency, disabled accessibility, site and unit amenities, and our own construction quality standards are typically higher than would be the case for conventional rental housing.

Is there a second phase to this project?

Yes. This first phase will focus on disabled and senior Veterans, and is planned as part of a continuum of housing that will include a second phase to address Veterans with greater care needs, such as assistance with daily living tasks and memory care.

Why not build both phases at once?

As noted, the financing for the project involves housing tax credits. In order to make the housing affordable to Veterans with limited incomes, it is important to do the housing without debt. The amount of credits available for any one project in rural Texas is limited, which will only allow for developments of smaller unit counts.

Will services outside of the VA medical services be offered?

Yes. The project owners will employ case managers who will work directly with each Veteran resident to assist in procuring needed services both from the VA and from outside agencies when resident needs are beyond the scope of VA offered services. The project owners will not provide those services, but through the case managers will assist Veterans in accessing all available help in the private market.

Will local contractors/laborers and local building supplies be utilized?

Yes. The third member of Communities for Veterans is CORE Construction, a national general contractor with offices in Dallas. There will be the requirement that CORE Construction hire local and buy local. This is both good economics and good policy.

Exhibit 3
Freedom's Path Project Opinion Letter



390 NORTH ORANGE AVENUE
SUITE 1400
ORLANDO, FLORIDA 32801
P.O. BOX 4961 (32802-4961)
TELEPHONE: 407.839.4200
FACSIMILE: 407.425.8377
www.broadandcassel.com

GENE E. CRICK, JR., P.L.
DIRECT LINE: (407) 839-4274
DIRECT FACSIMILE: (407) 650-0918
EMAIL: GCRICK@broadandcassel.com

December 17, 2012

Freedom's Path at Kerrville
c/o Don Paxton
Communities for Veterans
2206 Jo-An Drive
Sarasota, Florida 34231

Re: Freedom's Path at Kerrville (the "Partnership")

Dear Don:

The Partnership will be developing and constructing a residential rental housing project in Kerrville, Texas which will have all of its units set aside for rental to military veterans. The Partnership is leasing land for the project from the Veterans Administration. If a residential rental unit in a building is not held for use by the general public, the unit generally is not eligible for a Section 42 credit. To meet this requirement for general public use, a unit must be rented in a manner consistent with housing policy governing non-discrimination, as evidenced by the rules and regulations of HUD. Treas. Reg. Sec. 1.42-9. Further, Section 42(g)(9) of the Internal Revenue Code of 1986, as amended, provides that a project will not fail to meet the general public use requirements of Section 42 solely because of occupancy restrictions or preferences that favor tenants who are members of a specified group under a Federal program that supports housing for such a specified group. The Veterans Administration adopts Federal programs that support and provide housing for military veterans and is the lessor of the land for the project. Accordingly, the Partnership, by providing residential rental units in the project solely to military veterans, should not violate the general public use requirements under Section 42.

Very truly yours,

BROAD AND CASSEL

GEC:dr

CONTACT INFORMATION

*Bank of America Center
390 North Orange Avenue
Suite 1400
Orlando, FL 32801-4961*

Phone: 407.839.4200
Fax: 407.425.8377
www.broadandcassel.com

Email: gcrick@broadandcassel.com

CAREER PROFILE

POSITION:

Partner

AREAS OF PRACTICE:
Affordable Housing and Tax Credit
Corporate and Securities
Taxation
International Law

ADMITTED:
Florida, 1993
Texas, 1990

EDUCATION:
University of Florida College of Law
Gainesville, Florida, 1992
LL.M., Master of Law

Vanderbilt University School of Law
Nashville, Tennessee, 1989
J.D., Doctor of Jurisprudence

University of Mississippi
Oxford, Mississippi, 1984
B.Acct., Bachelor of Accountancy

AFFILIATIONS:
The Florida Bar
Member, Tax Section

American Bar Association
Member, Tax Section

ATTORNEY PROFILE

Gene Crick

Mr. Gene Crick is a Partner in the Orlando office of Broad and Cassel. He is a member of the Firm's Corporate and Securities, Taxation, International Law and Affordable Housing and Tax Credit Practice Groups.

- Mr. Crick began his career at Arthur Andersen as a Certified Public Accountant and tax accountant. Mr. Crick practiced in two law firms as a tax attorney before joining Broad and Cassel.
- Mr. Crick handles income tax issues and transactional legal work with respect to the buying and selling of entities or assets for various business clients.
- His transaction and tax experience includes affordable housing, historic buildings and commercial buildings qualifying for federal income tax credits.
- Mr. Crick primarily renders federal income tax advice for partnerships, limited liability companies, corporations and tax-exempt entities in transactions domestically and abroad. Mr. Crick is also knowledgeable in many international tax matters.
- Due to his experience, he is frequently engaged to analyze and offer solutions to sophisticated income tax issues. In some cases, this results in submission of requests for private letter rulings from the IRS National Office.
- Mr. Crick also has extensive experience representing clients in tax controversy matters before the IRS.

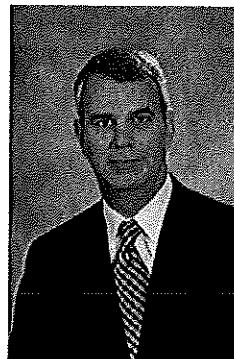


Exhibit 4
Freedom's Path Concept Plan

KERRVILLE SUPPORTIVE APARTMENTS

ENHANCED LEASE DEVELOPMENT PROJECT

SUPPORTIVE HOUSING

KERRVILLE, TEXAS



ARCHITECTURE | PLANNING | INTERIOR DESIGN
4776 NEW BROAD ST. SUITE 200
ORLANDO, FLORIDA 32814

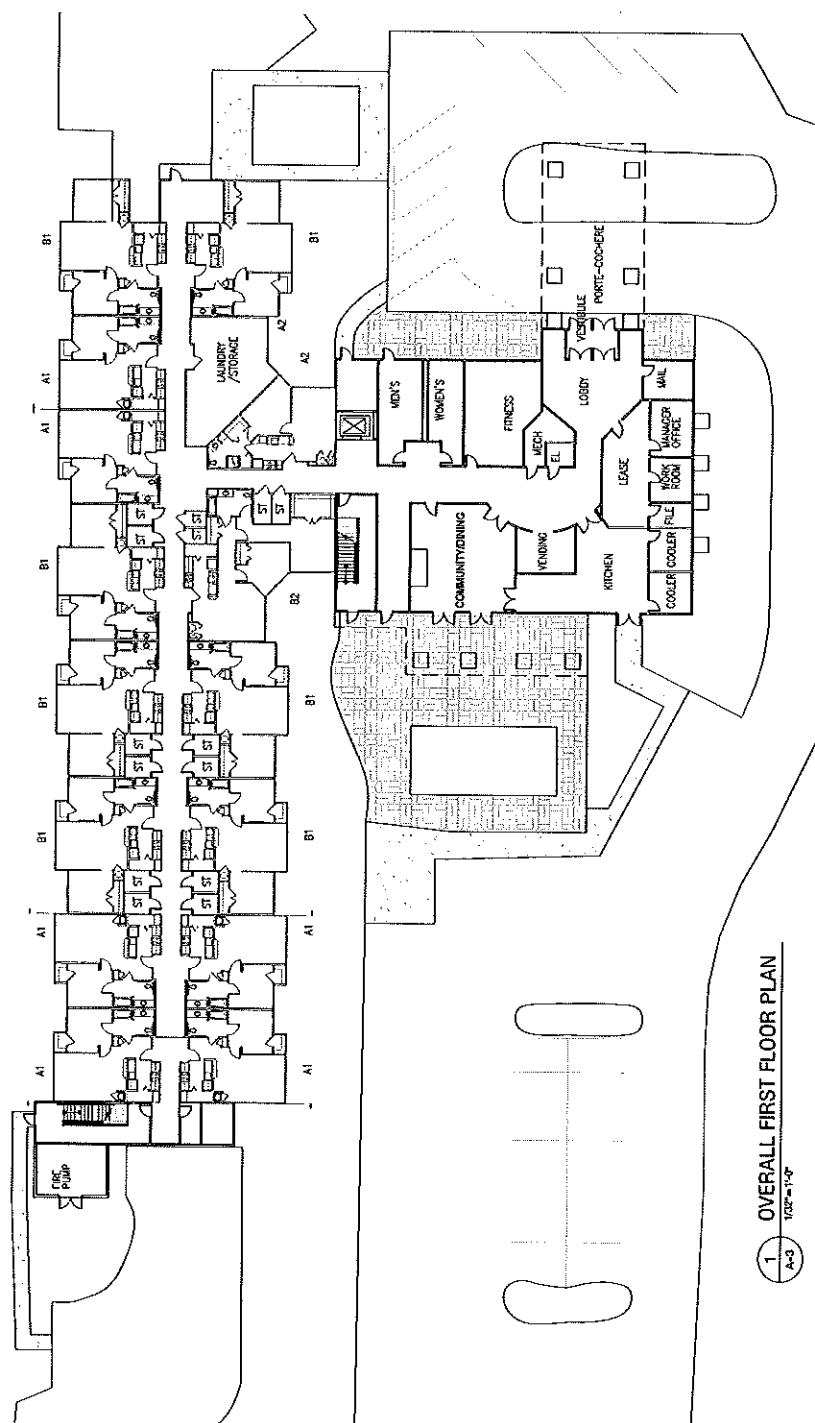
DRAWING INDEX

A-1	COVER SHEET	1
A-2	SITE PLAN	2
A-3	OVERALL FIRST FLOOR PLANS	3
A-4	OVERALL SECOND & THIRD FLOOR PLANS	4
A-5	TYPICAL UNITS FLOOR PLANS	5
A-6	TYPICAL UNITS FLOOR PLANS	6
A-7	BUILDING ELEVATIONS	7

PROJECT SUMMARY (PHASE 1)					
ENHANCED LEASE DEVELOPMENT PROJECT					
TYPE	DESCRIPTION	QTY.	UNIT S.F.**		S.F.
UNIT A1*	ONE BEDROOM, ONE BATH	13	638	12384	
UNIT A2*	ONE BEDROOM, ONE BATH	9	642	5778	
TOTAL TYPE A		27		18162	
UNIT B1*	TWO BEDROOM, ONE BATH	21	866	18136	
UNIT B2*	TWO BEDROOM, ONE BATH	1	1147	1147	
TOTAL TYPE B		22		19333	
TOTAL UNITS		49		37495	
COMMUNITY CENTER (CONDITIONED)				5578	
PROJECT TOTAL				43073	
CORRIDORS					
FIRST FLOOR				3110	
SECOND FLOOR				2473	
THIRD FLOOR				2473	
TOTAL FULLY ACCESSIBLE HANDICAP UNITS: 8 UNITS					
TOTAL SIGHT AND HEARING IMPAIRED UNITS PROVIDED: 2% OF 49 = 0.98 (2 UNITS)					
*ALL UNITS WILL BE DISABLED ADAPTABLE AND VISITABLE					
**THE AREA OF EACH UNIT INCLUDES AREA ATTRIBUTED TO REMOTE STORAGE SPACE					
PARADING: (PHASE 1)					
SUPPORTIVE HOUSING DEVELOPMENT: 1.00 SPACE PER UNIT + 1.00 PER OFFICE					
TOTAL PROVIDED: 60 SPACES					
MINIMUM 3 ACCESSIBLE SPACES REQUIRED					

VA - EUL KERRVILLE, TX
COVER SHEET

A-1



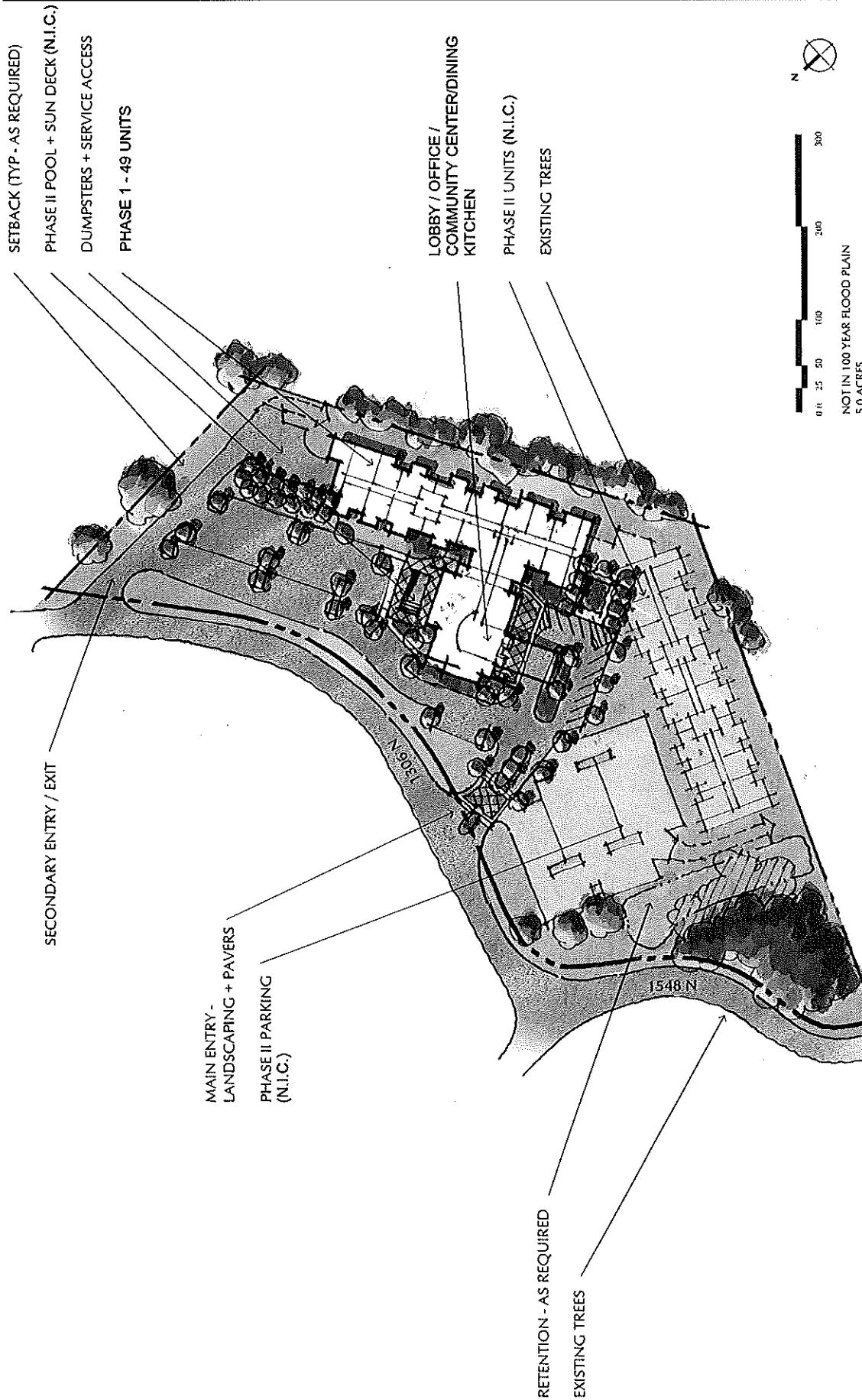
1 1/32'-0" A-3
OVERALL FIRST FLOOR PLAN

6' 24' 12' 48' 72' 96'

SCALE 1/32'-0"

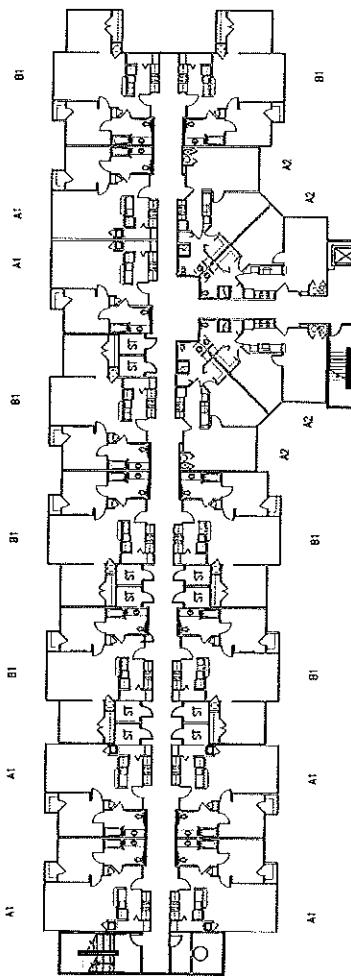
A-3

OVERALL FIRST FLOOR PLANS

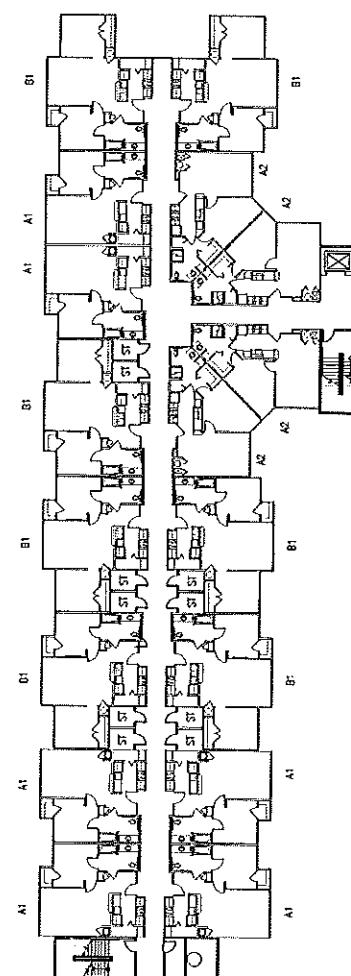


C O N C E P T U A L S I T E D I A G R A M

V A - F U L K E R R V I L L E , T X



2 **OVERALL THIRD FLOOR PLAN** 1/32" = 1'-0"
A-4



1 **OVERALL SECOND FLOOR PLAN**

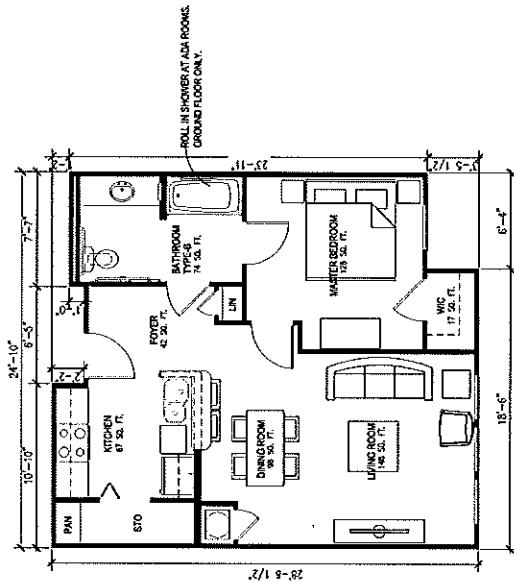
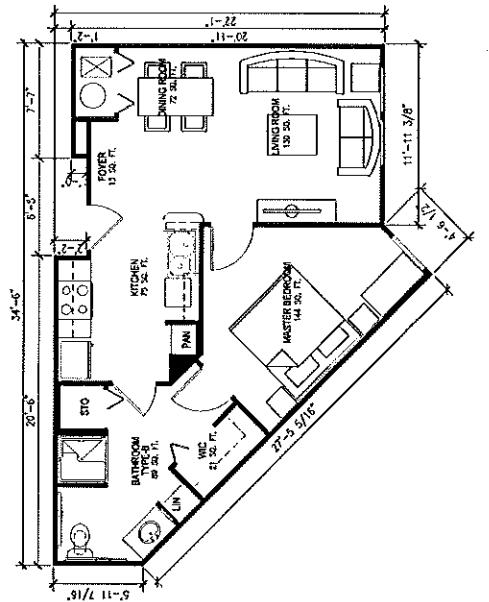
SCALE 1/32nd 1'-0"

SCALE 1/32 = 1'-0"

VA - EUL KERRVILLE, TX

OVERALL SECOND & THIRD FLOOR PLANS

A-4



Unit A1 - Floor Plan 688 SF² (A/C)
 1 BED / 1 BATH
 (2 UNITS TO BE FULLY HANDICAP ACCESSIBLE)
 A-5

Unit A2 - Floor Plan

642 SF. (A/C)
INCLUDES 21 SF OF REMOTE
STORAGE SPACE

24'

12'

8'

4'

2'

0'

SCALE 1/8'-1'-0"

VA - EUL KERRVILLE, TX

TYPICAL UNITS FLOOR PLANS

This architectural floor plan illustrates the layout of a house with various rooms and their dimensions. The plan includes a Living Room, Dining Room, Kitchen, and multiple bedrooms. Key dimensions are provided for each room and the overall structure.

Rooms and Dimensions:

- LIVING ROOM:** 14'-0" x 11'-0" (160 sq. ft.)
- DINING ROOM:** 8'-0" x 6'-0" (48 sq. ft.)
- KITCHEN:** 11'-0" x 8'-0" (88 sq. ft.)
- BEDROOM 1:** 11'-0" x 10'-0" (110 sq. ft.)
- BEDROOM 2:** 10'-0" x 10'-0" (100 sq. ft.)
- BEDROOM 3:** 12'-0" x 11'-0" (132 sq. ft.)
- BATHROOM:** 8'-0" x 6'-0" (48 sq. ft.)
- STO:** 4'-0" x 3'-0" (12 sq. ft.)
- PAN:** 3'-0" x 2'-0" (6 sq. ft.)
- ROLL-IN SHOWERS ADA ROOMS:** (Ground floor only)
- W.C.:** 4'-0" x 2'-0" (8 sq. ft.)

Overall Dimensions:

- Width: 39'-3 1/2" (11.56 m)
- Length: 40'-5 1/2" (12.32 m)

2 Unit B2 - Floor Plan 1147 SF (A/C)
A-4 2 BD / 2 BA (2 COUNTS TO BE FULLY HANDICAP ACCESSIBLE)

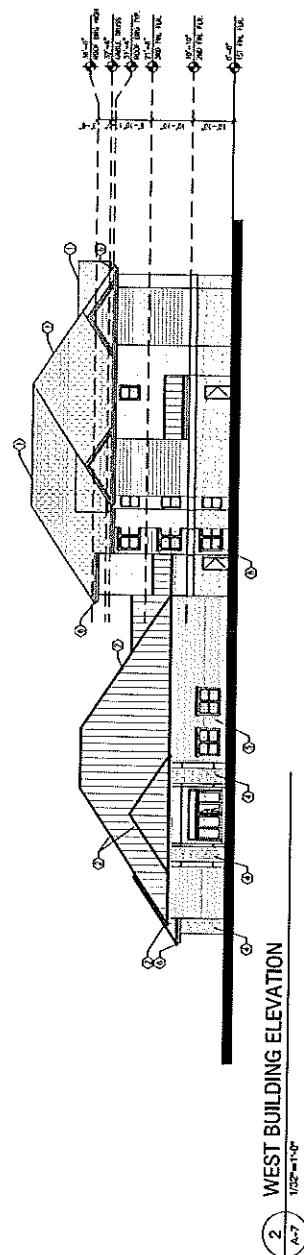
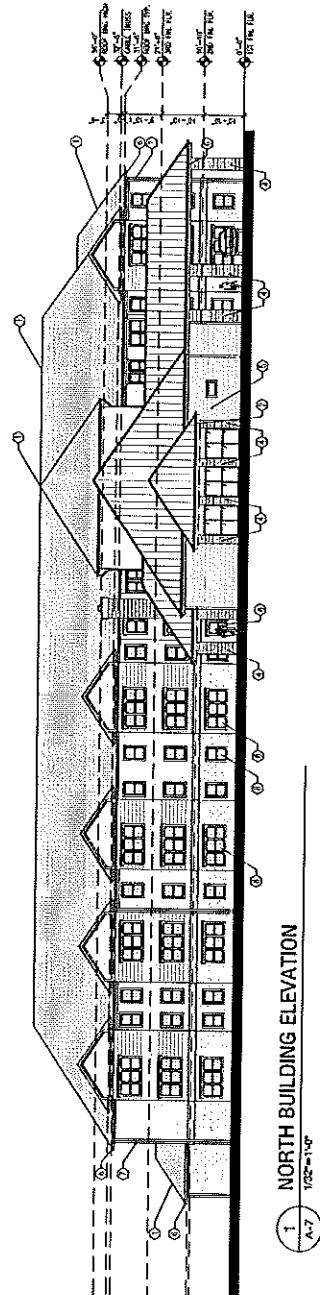
 Unit B1 - Floor Plan	866 SF (A/C) <small>INCLUDES B101 OF REMOTE STORAGE SPACE</small>
1  A-6 <small>2 BED / 1 BATH 12' UNITS TO BE FULLY HANDICAP ACCESSIBLE</small>	

TYPICAL UNITS FLOOR PLANS

A-6

KEYNOTES:

- ① CONCRETE, STILE
- ② STANDING SEAM METAL ROOF
- ③ TRIM
- ④ STONE VENEER
- ⑤ FIBER GLASS SIDING
- ⑥ ALUMINUM GUTTER
- ⑦ ALUMINUM DOWNSPOUT
- ⑧ 3' x 5' WINDOWS



6' 24' 12' 48' 72' 96'

SCALE 1/32" = 1'-0"

BUILDING ELEVATIONS

A-7

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____ - 2013

**A RESOLUTION SUPPORTING THE APPLICATION OF
COMMUNITIES FOR VETERANS TO CONSTRUCT LOW
INCOME RENTAL HOUSING PURSUANT TO THE LOW INCOME
HOUSING TAX CREDIT PROGRAM ADMINISTERED BY THE
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY
AFFAIRS.**

WHEREAS, Communities for Veterans is submitting applications to the Texas Department of Housing and Community Affairs requesting assistance through its Low Income Housing Tax Credit Program for the construction of a 49-unit multi-family apartment community to be located on property leased from the Kerrville Veterans Administration Hospital, 3600 Memorial Highway, Kerrville, Texas 78028, hereinafter referred to as the "Community"; and,

WHEREAS, the Community will address the needs of our military veterans who have valiantly served our community and our nation; and,

WHEREAS, the City Council of the City of Kerrville recognizes the need to provide an inventory of decent affordable housing to accommodate our military veterans who have suffered service related injuries; and,

WHEREAS, the Community will serve tenants whose incomes are within the following area median income categories: 32 of the units (65%) will serve tenants whose incomes are at or below 60% of the area median; 17 of the units (34%) will serve tenants whose incomes are at or below 50% of the area median; and,

WHEREAS, the City Council of the City of Kerrville, Texas, finds it in the public interest to support and endorse efforts by the private development sector to construct decent affordable housing in Kerrville to serve our military veterans and their families;

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

SECTION ONE. The City Council hereby supports and endorses the application of Communities for Veterans to the Texas Department of Housing and Community Affairs pursuant to its Low Income Housing Tax Credit Program related to the construction of the above described apartment community to be generally located at 3600 Memorial Boulevard with the following stipulations:

- A. That the occupancy for this project will be limited to military veterans who have received active duty honorable discharges and that this occupancy limitation will be incorporated into the Tenant Occupancy Plan portion of the land lease negotiated

between Communities for Veterans and the U.S. Department of Veterans Affairs for the Community; and

- B. That the City Council will provide a local financial match to the project through a grant awarded to the City of Kerrville and will make an application for the funds upon acceptance of the application; said local match shall not exceed the actual grant amount awarded to the City of Kerrville; and
- C. That each unit will be constructed with its own kitchen to include a fully functional sink, refrigerator, stove, oven, dishwasher, and microwave oven; and
- D. That the Community will be constructed with a fully appointed commercial kitchen in the common area in order to facilitate events and efforts of within the Kerrville community to support the tenants; and
- E. That a minimum of half the residential units are configured for veterans with service related disabilities; and
- F. That the Community will be developed in accordance with all applicable zoning, subdivision, building, fire, and life safety codes and ordinances of the City of Kerrville; and
- G. That the Community will be subject to all applicable building permit and building inspection requirements of the City of Kerrville; and
- H. That all annual property taxes will be paid each year as required by law.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2013.

Jack Pratt, Jr., Mayor

ATTEST:

Brenda Craig, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

Agenda Item:

4C. Approval of pavement management system projects for FY13. (staff)

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

SUBJECT: Approval of pavement management system projects for FY13

FOR AGENDA OF: 1/8/13

DATE SUBMITTED: 12/14/12

SUBMITTED BY: Charlie Hastings *CH* **CLEARANCES:** Todd Parton
Public Works Director City Manager

EXHIBITS: 2013 Proposed Street Rehab Map

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Kerrville's Pavement Management System, adopted in 2004, utilizes the Asphalt Institute Pavement Rating System (Information Series No. 169) to determine, in an objective and systematic way, street rehabilitation needs. A schedule is then developed based on construction logistics, budgetary constraints, and coordination with other planned construction projects. The following streets are targeted for rehabilitation in the spring and summer of 2013 beginning as early as April, and are shown on the attached map:

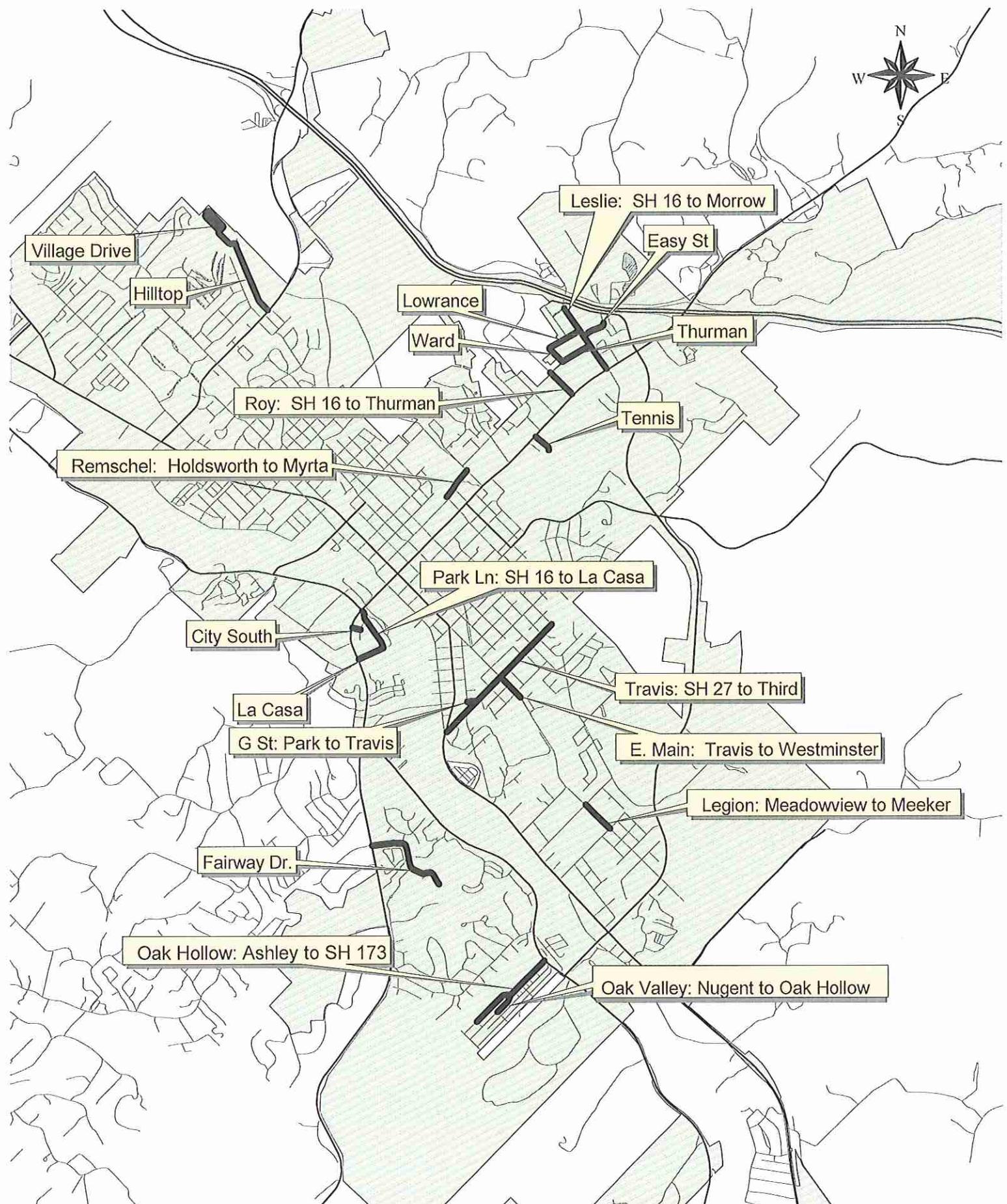
- Hilltop
- Leslie: SH 16 to Morrow
- Roy: SH 16 to Thurman (city limits)
- Tennis
- Park Lane: SH 16 to La Casa
- La Casa
- City South
- G St.: Park to Travis
- Travis: SH 27 to Third

- East Main: Travis to Westminster
- Legion: Meadowview to Meeker
- Fairway Drive
- Oak Hollow: Ashley to SH 173
- Oak Valley: Nugent to Oak Hollow
- Alternate - Village Drive
- Alternate - Easy St
- Alternate - Thurman
- Alternate - Ward
- Alternate - Lowrance
- Alternate - Remschel: Holdsworth to Myrta

Once approved by Council, this list of streets targeted for rehabilitation in 2013 will be forwarded to franchise utility companies to allow them 90 days to relocate buried utilities that are determined to be in conflict with the proposed construction activities. Alternate streets are listed to ensure allocated street rehabilitation funds are completely expended and to allow for fluctuations in the price of asphalt materials.

RECOMMENDED ACTION

The Director of Public Works recommends that council approve of the list of streets targeted for rehabilitation in 2013 as listed herein.



Kerrville Pavement Management System
2013 Targeted Street Rehab
Subject to Revision

1 0 1 Miles

Agenda Item:

4D. Authorize request for proposals process for the sale of the former city hall at 800 Junction Highway ift. (staff)

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

SUBJECT: Authorize Request for Proposals (RFP) process for the sale of the former City Hall location at 800 Junction Highway, Kerrville, TX 78028

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 21, 2012

SUBMITTED BY: Ashlea Boyle **CLEARANCES:** Todd Parton
Special Projects Coordinator City Manager

EXHIBITS: Draft RFP

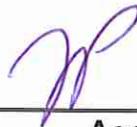
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:



SUMMARY STATEMENT

Staff has prepared an RFP process and timeline for the sale of the former city hall property located at 800 Junction Highway, Kerrville, Texas. The RFP is a two part component for proposals of (A) the purchase of the building and land; and (B) the purchase of solely the land. The RFP process would solicit sealed proposals with the objective to complete the property transaction by mid-2013 calendar year.

The process must include two legal notices and the passage of an ordinance authorizing the sale. The ordinance will take two readings.

Staff has also provided for an optional pre-bid meeting in which staff will provide clarifying information about the property, provide for a tour of the land and building, disclose any items of importance, and answer questions.

Staff proposes the following procedure and timeline:

January 8, 2013 RFP for City Council Consideration

January 11 & 18, 2013 RFP notice in newspaper (2)

January 22, 2013 Pre-Proposal Meeting and Tour of Facility

January 29, 2013 Proposals due by 3:00 PM CST

February 12, 2013	Proposals Considered by City Council and First Reading of Ordinance
February 26, 2013	Second Reading of Ordinance

Should the City Council decide to initiate the RFP process, City Staff requests general direction on the following topics:

1. Proposal Criteria – is there any additional criteria to be included in the RFP for the evaluation and selection process?
2. Proposal Minimum – what is the minimum dollar amount to be considered in the proposals for (A) the purchase of the building and land; and (B) the purchase of solely the land?
3. Other – are there any other provisions the City Council would like city staff to include in the RFP?

RECOMMENDED ACTION

City staff is requesting input and authorization to initiate a RFP for the sale of the former City Hall location of 800 Junction Highway.

CITY OF KERRVILLE



**Notice of Sale
Former City Hall Building
800 Junction Highway**

**REQUEST FOR BIDS AND
PROPOSAL FOR USE
("RFP")**

RFP CALENDAR:

1.	January 8, 2013	RFP to City Council for Consideration
2.	January 11 & 18, 2013	Advertise RFP
3.	January 22, 2013	Voluntary Pre-Proposal Meeting and Tour of Facility
4.	January 29, 2013	RFP'S DUE BY 3:00 PM CST and OPEN RFP's – City Hall City Council Chambers
5.	February 12, 2013	Proposals Considered by City Council and First Reading of Ordinance Authorizing the Sale
6.	February 26, 2013	Award of Proposal and Second Reading of Ordinance Authorizing the Sale

Note - These dates are subject to change.

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CITY OF KERRVILLE

Former City Hall
800 Junction Highway

INSTRUCTION FOR RFP

INSTRUCTION FOR BID AND PROPOSAL PACKAGE

I. PROPOSALS REQUESTED

The City of Kerrville is requesting proposals to purchase all or a portion of property it owns at 800 Junction Highway, Kerrville, Texas, 78028. This property is the site of the City of Kerrville's former city hall facility. Proposals may contemplate purchase of the building and land, land only, or a portion of the land.

II. EXAMINATION OF DOCUMENTS

Each person, group, or company submitting a proposal ("bidder") shall thoroughly examine and be familiar with the Request for Bids and Proposal for Uses ("RFP"). The submission of a bid and proposal for use shall constitute an acknowledgment that the bidder has thoroughly examined and is familiar with the RFP. The failure or neglect of a bidder to receive or examine any of the RFP shall in no way relieve bidder from any obligations with respect to the proposal or any ensuing contract.

III. ADDENDA AND INTERPRETATION OF DOCUMENTS

No interpretations of the RFP or other prepared documents will be made to any bidder orally. Every request for an interpretation shall be submitted in writing, addressed to the City's Budget / Purchasing Manager, and in order to receive consideration, shall be received at least five days prior to the date fixed for opening of the RFPs. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications, which, if issued, will be mailed or otherwise delivered to each bidder. Failure of any bidder to receive any such addendum shall not relieve such bidder from any obligation under the RFP as submitted. All addenda issued shall become a part of the contract documents.

IV. VOLUNTARY PRE-PROPOSAL MEETING AND TOUR OF FACILITY

The City will hold a voluntary pre-proposal meeting at 800 Junction Highway, Kerrville, Texas 78028, at 9 a.m. on Tuesday, January 22, 2013, to allow bidders the opportunity to view the property, ask questions, and receive an orientation of the property by Kerrville city staff.

V. PREPARATION OF PROPOSAL

Bids and proposals must be submitted by filling in with ink (or typing) each and every blank provided for such purpose; or if the bidder is required to provide a special form appropriate to the nature of his proposal, then such form shall be complete in all respects as required by the RFP, if it is to merit consideration by the City. All amounts proposed shall be listed in figures and words. Written amounts shall take precedence where there is a conflict between the written and the figure. If the proposal is made by a partnership, it should contain the name of each partner and should be signed in the firm name followed by the signature of a partner or that of a person duly authorized to act for and on behalf of such partnership. If made by a corporation, the proposal should be signed with the name of the corporation and the state in which incorporated followed by the written signature of the qualified officer and the designation of the office he holds in the corporation in whose behalf the proposal is submitted. The bidder shall comply with all other specific requirements of the RFP.

VI. ALTERATION OF DOCUMENTS PROHIBITED

Except as may be provided otherwise herein, bids and proposals which are incomplete, or are conditioned in any way, contain unverified erasures or alterations, or include items which are not named in the RFP or which are unlawful, may be rejected by the City.

VII. SUBMISSION OF PROPOSAL

Interested proposers must submit one (1) original, five (5) copies and one (1) electronic version (PDF) of the proposal which must then be submitted in a sealed envelope bearing the name and address of the proposer.

Each bid and proposal, together with appropriate attachments, shall be completely sealed in a package addressed as required by the official advertisement, marked with the name of the bidder, marked "800 Junction Highway RFP", and must be delivered to the City Secretary at City Hall, 701 Main Street, Kerrville, Texas, at or before 3:00 p.m. CST, January 29, 2013. If forwarded by mail, the sealed envelope shall be addressed to the City Secretary, City Hall, 701 Main Street, Kerrville, Texas 78028. RFPs will be considered invalid if delivered to any address other than 701 Main Street.

The deadline for submitting the RFP to the City is Tuesday, January 29, 2013 at 3:00 p.m. CST

VIII. MODIFICATION OF PROPOSAL

A change to a bid and proposal already delivered will be permitted only if a request for the privilege of making such modification is made in writing signed by the bidder and the specific modification itself is stated prior to the specified submission date. To be effective, every modification must be made in writing over the signature of the bidder, and no other procedure will be acceptable.

IX. WITHDRAWAL OF PROPOSAL

A bid and proposal may be withdrawn at any time prior to 3:00 p.m. on January 29, 2013. This may be done by the bidder in person or upon a written request. A telephone request for withdrawal of a proposal will NOT be recognized. If withdrawal is made personally, a written acknowledgment thereof will be required.

After the scheduled closing time for filing the RFP, no bidder will be permitted to withdraw his bid and proposal unless no award of contract has been made prior to the expiration of sixty (60) days immediately following the date when bids and proposals are opened.

Bids and proposals received after the scheduled closing time or at any address other than 701 Main Street will not be considered and will be returned to the bidder unopened.

X. OPENING OF PROPOSALS

All bids and proposals received prior to the scheduled closing time and which are not withdrawn will be publicly opened and read aloud in the Kerrville City Hall City Council Chambers, 701 Main Street, Kerrville, Texas, at 3:00 p.m. on Tuesday, January 29, 2013. Bids and proposals will then be evaluated based on conditions set below. The opening and reading of a bid and proposal shall not be construed as an acceptance of the bidder as a qualified, responsible bidder.

XI. AWARD OF PROPOSAL

Within sixty (60) calendar days after the opening of bids and proposals, the City will award the contract or reject all proposals. Formal award of a bid and proposal can be made only by the City Council or their authorized representative. **The City reserves the right to reject any or all proposals, to solely determine the best proposal, and to waive any informalities.**

XII. CONTACTS

Questions regarding this RFP may be addressed in writing to:

1. Ashlea Boyle
Special Projects Coordinator
701 Main Street
Kerrville, TX 78028
Phone: (830) 258-1153
ashlea.boyle@kerrilletx.gov

2. Sai Vongchampa
Budget / Purchasing Manager
701 Main Street
Kerrville, TX 78028
Phone: (830) 258-1122
sai.vongchampa@kerrilletx.gov

REQUEST FOR PROPOSAL – AWARD CRITERIA

The City is accepting bids and proposals for the purchase of the City's 800 Junction Highway property. The property was formerly used as the Kerrville City Hall Building. All bids and proposals must be for all of the real property described. **No late bids and proposals will be accepted after 3 p.m. CST on January 29, 2013.**

City's Rights: The City reserves the following rights, which it may or may not invoke:

- To reject any or all proposals as in its sole judgment may be deemed to be in the City's best interest.
- The right to waive any minor irregularity or technicality with respect to a submitted bid and proposal.
- The right to negotiate with any or all bidders as deemed by the City in its sole judgment, which may or may not include the bidder with the highest bid price.

Description / Location: All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, out and part of survey No.129 in the name of Walter Block 24, J.D. Brown addition to the City of Kerrville and being more particularly described in Exhibit "A" attached hereto. Additionally, the herein described property is subject to the following conditions as described below. Maps may be reviewed at the City of Kerrville Engineering Offices or Kerr County Records offices.

Zoning Classification: District 10-W.

The primary purpose of District 10-W is for the development of smaller commercial businesses which will not substantially increase the impact of traffic along the Highway 27 corridor. District 10-W is generally not suitable for the development of residential uses; however, single family residential development may occur as a conditional use, provided such development occurs only on lots which do not have direct access to Highway 27. District 10-W is not intended to be expanded. Regardless of use, development along Town Creek should be limited to uses that will not negatively impact the creek and, consequently, the Guadalupe River. Should limited business development be determined in the future to be appropriate on lots abutting but not located in District 10-W, but that are not zoned for such use, Conditional Use Permits or the RT zoning district should be used.

Information and Deposit Required with Submission: Each submitted bid and proposal shall include the following for consideration for a two part proposal (A and B). Included in the plans should be the schedule to accomplish zoning changes, if applicable, and a construction start and finish date. Proposals must include both A and B components listed below. Proposals

lacking either of the components will not be considered.

- **A – Building and Land:** Provide a detailed plan with purchase price for the purpose of the building and land including a renovation description of interior and exterior design, construction materials, parking lot, and exterior signage.
- **B – Land:** Provide a detailed plan with purchase price for the purpose of the land in the event the building is demolished and removed by the current property owner.
- Deposit of \$500 which will be refunded upon non selection.

Evaluation of Proposal

The City's evaluation of proposals will give strong consideration to the following:

- Proposed use and appearance of the finished building and land (A) and proposed use and appearance of the land (B).
- Purchase amount, for building and land (A), MUST be equal or greater than \$7.75 per square foot.
- Purchase amount for the land (B), MUST be equal or greater than \$5.34 per square foot.

Exhibit A – Property Detail

FIELD NOTES DESCRIPTION OF A 2.15 ACRE TRACT OF LAND
SITUATED IN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS

BEING ALL OF A CERTAIN TRACT OR PARCEL OF LAND CONTAINING 2.15 ACRES, MORE OR LESS,
OUT OF THE WALTER FOSGATE SURVEY NO. 120, ABSTRACT NO. 138, IN THE CITY OF KERRVILLE,
KERR COUNTY, TEXAS; THE SAME PROPERTY CONVEYED FROM LOWER COLORADO RIVER
AUTHORITY TO CITY OF KERRVILLE BY WARRANTY DEED EXECUTED THE 16TH DAY OF FEBRUARY,
1984, AND RECORDED IN VOLUME 291, PAGE 90, DEED RECORDS OF KERR COUNTY, TEXAS,
BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a $\frac{1}{2}$ " iron pipe found in the southwest right-of-way line of Lois Street, a public street,
for the east corner hereof, the north corner of that 0.30 acre tract conveyed to Manuel Zamora et
ux by deed recorded in Volume 1345, Page 154, Real Property Records of Kerr County, Texas;

THENCE along the southeast line hereof: 1) S 44° 57' 49" W 119.30 ft. to a $\frac{1}{2}$ " iron stake found at
the west corner of said 0.30 acre tract, the north corner of Lot No. 1, Block One, of Del Norte
Addition, Two, a subdivision of record in Volume 6, Page 311, Plat Records of Kerr County, Texas;
and 2) S 44° 36' 20" W 335.98 ft. to a 1" iron pipe found in the northeast right-of-way line of State
Highway No. 27 (Junction Highway), for the south corner hereof, from which a $\frac{1}{2}$ " iron stake found
at the west corner of said Lot No. 1 bears 10.21 ft. S 46° 24' 02" W;

THENCE with said right-of-way line of Highway No. 27, N 60° 29' 45" W 146.46 ft. to a $\frac{1}{2}$ " iron
stake found at the south corner of that 1.10 acre tract conveyed to Edward R. Pollard et ux by deed
recorded in Volume 857, Page 751, Real Property Records of Kerr County, Texas, for the southerly
west corner hereof;

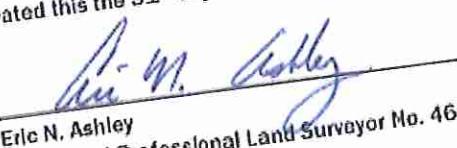
THENCE with the common line of said 1.10 acre tract: 1) N 29° 28' 26" E 36.88 ft. to a found $\frac{1}{2}$ "
iron stake, from which a 5/8" iron stake bears 0.5 ft. S 03° 36' W; 2) N 44° 37' 15" E 262.88 ft. to
a found $\frac{1}{2}$ " iron stake, the east corner of said 1.10 acre tract; and 3) N 45° 23' 30" W 150.65 ft. to
a $\frac{1}{2}$ " iron stake found in the southeast line of that 2.442 acre tract conveyed to Arvind A. Patel by
deed recorded in Volume 601, Page 816, Real Property Records of Kerr County, Texas, the north
corner of said 1.10 acre tract, the northerly west corner hereof;

THENCE along the northerly northwest line hereof, N 44° 08' 10" E at 9 ft. passing the east corner
of said 2.442 acre tract, the south corner of that 0.492 acre tract described as "Tract 2" in a deed
to Tom Garry Cale et ux, recorded in Volume 1479, Page 429, Real Property Records of Kerr
County, Texas, continuing for a total distance of 144.88 ft. to a 5/8" iron pipe found in the
southwest right-of-way line of Lois Street, for the north corner hereof, the east corner of said 0.492
acre tract;

THENCE along the northeast line hereof, the southwest right-of-way line of Lois Street: 1) S 59° 20'
10" E 6.36 ft. to a found 3/8" iron pipe; and 2) S 54° 39' 54" E 301.30 ft. to the PLACE OF
BEGINNING, containing 2.15 acres of land, more or less, within these metes and bounds. A plat of
this survey has been prepared.

The foregoing field notes represent a survey
made on the ground under my direction.

Dated this the 31st day of October, 2012


Eric N. Ashley
Registered Professional Land Surveyor No. 4617
(Kerrville City Hall, fnd)



ERIC N. ASHLEY LAND SURVEYOR • 317 'A' STREET • KERRVILLE, TEXAS 78028 • (830) 257-7722

PLATTE ADVALI AND TITLE CO.
P.O. BOX 311
Kerrville, Texas
INDEXED
#1259. COMPARE

WD

⑤
FEB 16 1984
Kerrville, Texas
PATRICK DYE
Kerr County Clerk, San Saba, Texas
Deputy
By _____

City of Kerrville

FILED FOR RECORD
At 4:30 o'clock 2/16/84

FEB 16 1984
Kerrville, Texas
PATRICK DYE
Kerr County Clerk, San Saba, Texas
Deputy
By _____

RECORDED
RECORDED
RECORDED

Return to:

The City of Kerrville City Council
Date February 1984
Volume 25 page 22
Signed Patricia Dye



DATE 2/16/84
RECORDED 2/16/84
RECORDED 2/16/84
RECORDED 2/16/84
RECORDED 2/16/84

FEB 21 1984

Patricia Dye
COUNTY CLERK, KERR COUNTY, TEXAS

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BEGINNING at an iron pin set for the intersection of the North right-of-way line of Texas State Highway No. 27 with the Northwest line of Westland Place Addition to the City of Kerrville, Texas;

THENCE N. 60 deg. 11' W. 146.19 feet with the North right-of-way line of said Highway 27 to an iron pin set for the West corner of the herein described tract;

THENCE N. 29 deg. 49' E. 36.85 feet to an iron pin for corner;

THENCE N. 45 deg. E. 262.73 feet to an iron pin set for the North corner of the herein described tract;

THENCE S. 45 deg. E. 150.74 feet to an iron pin set for the East corner of the herein described tract in the Northwest line of Westland Place Addition to the City of Kerrville, Texas;

THENCE S. 45 deg. W. 260.00 feet with the Northwest line of said Westland Place Addition to the PLACE OF BEGINNING. The tract of land herein conveyed is a part of the same tract which was conveyed to A.M. Biedenharn, Trustee, by B.D. Powell and wife, Lorene Powell by deed dated September 3, 1954, and recorded in Vol. 97, Page 15, Deed Records of Kerr County, Texas.

THIS CONVEYANCE IS MADE AND ACCEPTED SUBJECT TO:

1. City of Kerrville Zoning Ordinances

2. Four (4') foot utility easement to City of Kerrville, recorded in Vol. 1, Page 336, Basement Records, Kerr County, Texas;

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said Grantee, its successors and assigns forever; and it does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

EXECUTED this 16th day of February, 1984.

LOWER COLORADO RIVER

AUTHORITY

By Elof H. Soderberg
Its GENERAL MANAGER
(Elof H. Soderberg)

Grantee's Address:
600 Main
Kerrville, Texas 78028

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THE STATE OF TEXAS
THE COUNTY OF TRAVIS

BEFORE ME, the undersigned authority, on this day personally appeared ELOE H. SODERBERG, who is the GENERAL MANAGER of Lower Colorado River Authority, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed same for the purposes and consideration therein expressed, as the act and deed of said Lower Colorado River Authority, and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this 14 day of FEBRUARY, 1984.

Lisa A. Moore
Notary Public
State of Texas
LISA A. MOORE
Notary Public State of Texas
4/1/87



PLAT
OF
27 AC. TRACT OF LAND
OUT OF
THE W. FOSGATE SUR.
120, ABSTRACT NO. 138
VOL. 101, PG. 616
VOL. 101, PG. 617

SCALE: 1" = 30'

1.30 AC. TRACT OF LAND
VOL. 101, PG. 616

0.97 AC. TRACT OF LAND
VOL. 101, PG. 617

EXISTING BUILDING
(See detail)

EXISTING
PARKING LOT
23 SPACES

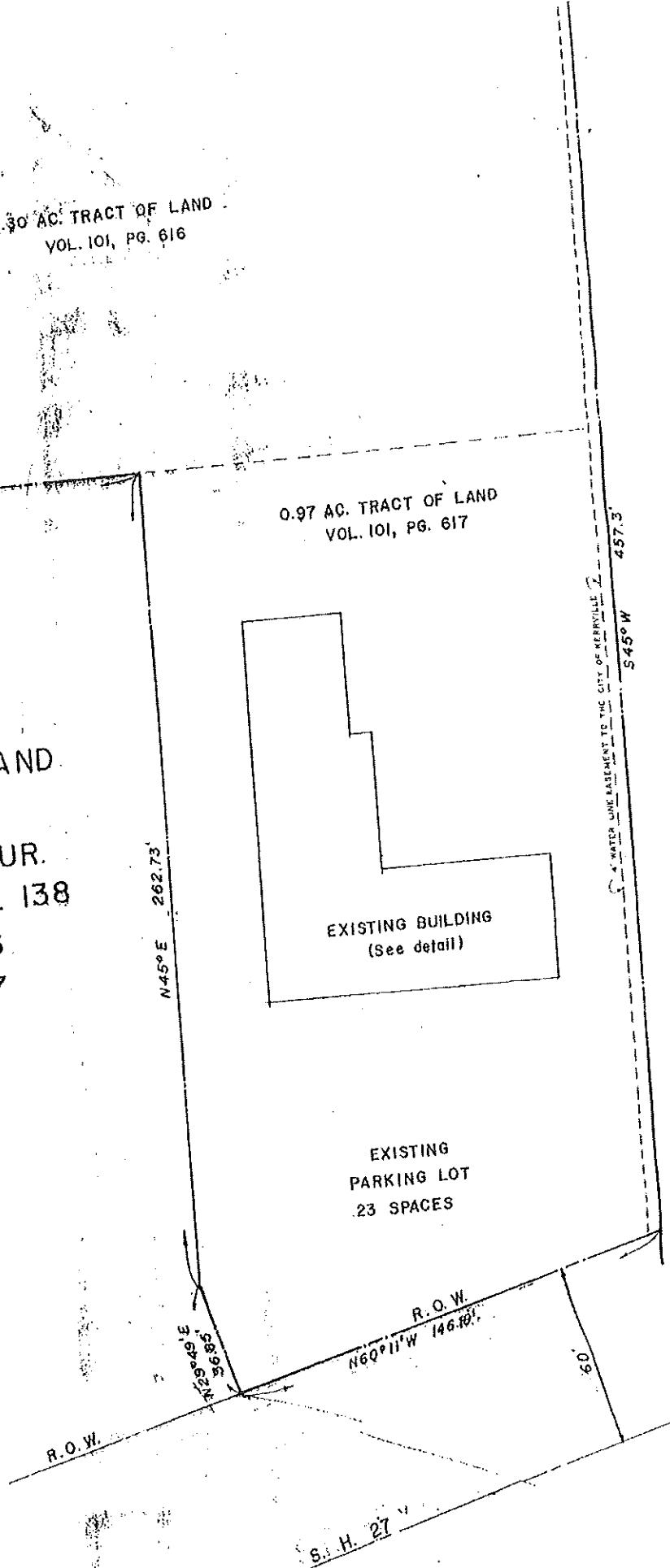


Exhibit B – Market Appraisal
(Excerpt – Full Report Available for Review in
the office of the City Secretary)

A full copy of the property valuation report is available for viewing at:

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

(830) 258-1117

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**REAL PROPERTY APPRAISAL
and
VALUATION ANALYSIS**

in a

**SUMMARY APPRAISAL REPORT
of the office building
located at
800 Junction Highway,
City of Kerrville, Kerr County, Texas**

as of

**October 24, 2012
“As Is”**

prepared for

CITY OF KERRVILLE

by

**WEISSLER APPRAISAL COMPANY, INC.
4212 SAN PEDRO AVENUE, SUITE 103
SAN ANTONIO, TEXAS 78212**

Weissler Appraisal Company, Inc.

REAL ESTATE APPRAISERS AND CONSULTANTS
4212 SAN PEDRO AVENUE, SUITE 103
SAN ANTONIO, TEXAS 78212
(210) 342-4900
FAX: (210) 342-4440
Email: john@weisslersa.com

John F. Weissler, MAI

Wm. A. Graham II
William C. Robinson, III
Bradford Martin
Richard Knoespel, Jr
August F. Herff, IV

November 14, 2012

INVOICE/STATEMENT No. 2012-58WR

City of Kerrville
200 Sidney Baker North
Kerrville, Texas 78028

Attn. Mr. Bobby Gore, CFM

RE: The office building located at 800
Junction Highway, City of Kerrville,
Kerr County, Texas

Dear Sir:

In accordance with your request, we have made an investigation and appraisal of the office building located at 800 Junction Highway, City of Kerrville, Kerr County, Texas.

The purpose of this appraisal was to render our opinion of the "market value" of the "fee simple estate" in the office building located at 800 Junction Highway, City of Kerrville, Kerr County, Texas, in "as is" condition, as of October 24, 2012. Attached to this letter is an outline of the data gathered during the course of our investigation and of the reasoning used in arriving at our conclusion of "market value."

The appraisal assignment has been to conduct a *Real Property Appraisal*, which was to be developed under the Uniform Standards of Professional Appraisal Practice – Standards Rule 1. The type of report to be prepared under Standards Rule 2-2(b) is a *Summary Appraisal Report*. This *Summary Appraisal Report* is intended to comply with the reporting requirements as set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Foundation, as well as the OCC’s Regulation 12 CFR – Part 34.44 (FIRREA). As such, it presents only summary discussion of the data, reasoning, and analyses that were used in the appraisal process to develop our opinion of value. Additional supporting documentation is retained in the appraisers’ files and, by reference, is considered to be an integral part hereof.

The depth of discussion contained in the report is specific to the needs of the client and for the intended purpose stated herein. The appraisers are not responsible for the unauthorized use of the report. The appraisal report was prepared for the sole and exclusive use of the City of Kerrville. No third parties are authorized to rely upon the appraisal report without the express written consent of the appraisers.

It is an extraordinary assumption of the report that there are no toxic materials or hazardous components pertaining to the subject property. Furthermore, the employment of the appraisers was not contingent on the appraisal producing a specific value, a value within a given range, nor for the approval of a loan.

The extraordinary assumptions noted in this report are related specifically to this appraisal assignment, as of the effective valuation dates of the assignment results. If the extraordinary assumptions are found to be false, the appraiser’s opinions or conclusions could be altered.

The appraisers have considered only two of the three typical approaches to value. The appraisers have utilized the Sales Comparison Approach and the Income Capitalization Approach in the valuation of the subject property. The Cost Approach is typically applicable but not necessary and was not processed due to the age of the structural improvements. The exclusion of this approach to value does not affect the creditability of the value conclusion herein contained.

The subject property comprises a 2.150 acres or 93,668 square foot tract of land improved with a one story office building. The improvements have a gross building area of 12,916 square feet. The subject property has a land to building ratio of 7.25 to 1.00. Due to the location of the subject improvements on the subject site, the appraisers are of the opinion that the southeast most 1.647 acres or 71,750 square feet of the subject site is

appurtenant to the subject improvements and the northwest most 0.503 acre or 21,918 square feet of the subject site is excess land. This results in a land-to-building ratio of 5.56 to 1.00 (excluding excess land).

Based upon our inspection, appraisal, and herein noted extraordinary assumptions, it is the opinion of the appraisers that the "market value" of the "fee simple estate" in the office building located at 800 Junction Highway, City of Kerrville, Kerr County, Texas, in "as is" condition, as of October 24, 2012, in "as is" condition, including excess land, was:

**SEVEN HUNDRED SIXTY THOUSAND DOLLARS
(\$760,000)**

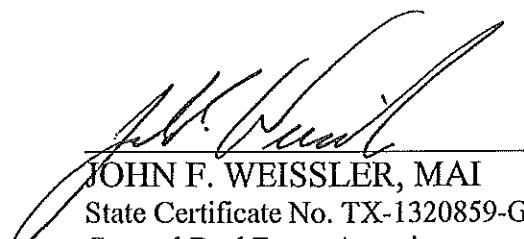
The excess land has a contributory value of \$60,000.

The appraisers have noted an appropriate exposure time for the sale of the subject property at each of the above noted "market value" conclusions to be one to two years, provided the subject property is actively and competently marketed.

Respectfully submitted,

Weissler Appraisal Company, Inc.

By:



JOHN F. WEISSLER, MAI
State Certificate No. TX-1320859-G
General Real Estate Appraiser
Expiration Date: May 31, 2013



WILLIAM C. ROBINSON, III
Authorization No. TX-1337830-Trainee
Appraiser Trainee
Expiration Date: March 31, 2014

SUMMARY OF SALIENT FACTS AND CONCLUSIONS

Property Appraised	The office building located at 800 Junction Highway, City of Kerrville, Kerr County, Texas.
Purpose of the Appraisal.....	To render our opinion of the "market value" of the "fee simple estate" in the office building located at 800 Junction Highway, City of Kerrville, Kerr County, Texas, in "as is" condition, as of October 24, 2012.
Intended Use of the Appraisal	To assist the City of Kerrville, the client, with determining "market value" of the subject property.
Zoning	"W-10" – Commercial District & "R-3" – Multi-Family Residential District
Highest and Best Use: "As Though Vacant" Condition	Future mixed use development as warranted by demand.
"As Is" Condition.....	Continued use of the subject improvements and appurtenant land as an office building with future multi-family or single-family residential development of the excess land as warranted by demand.
Land Area: Appurtenant Land Area	1.647 acres or 71,750 square feet
Excess Land Area	<u>0.503 acres or 21,918 square feet</u>
Total Land Area	2.150 acres or 93,668 square feet
Gross Building Area	12,916 square feet
Flood Prone Area	None

Date of Inspection	October 24, 2012
Dates of Valuation	October 24, 2012
Date of Report	November 14, 2012
2012 Assessed Value	\$932,403
2012 Taxes	\$20,691.89
Delinquent Taxes	None

**Conclusions of "Market Value" – "Fee Simple Estate"
"As Is" Condition**

Sales Comparison Approach.....	\$770,000
Income Capitalization Approach	\$750,000

**Final Conclusion of "Market Value" -
"Fee Simple Estate" -
"As Is" Condition.....**

Exposure Time	\$760,000
Extraordinary Assumptions	One to two years

Please refer to the "Extraordinary Assumptions" section of the attached report for the assumptions and conditions considered by the appraisers.

PURPOSE OF THE APPRAISAL

The purpose of this appraisal was to render our opinion of the "market value" of the "fee simple estate" in the office building located at 800 Junction Highway, City of Kerrville, Kerr County, Texas, in "as is" condition, as of October 24, 2012.

EFFECTIVE DATES OF THE APPRAISAL

The effective date of this appraisal, in "as is" condition, is as of October 24, 2012 – the date of physical inspection of the subject property. The date of this report is as of November 14, 2012. The report was prepared between October 24, 2012 and November 14, 2012.

INTENDED USE OF THE APPRAISAL

The intended use of this appraisal report is to assist the City of Kerrville, the client, with determining "market value" of the subject property for possible disposition.

INTENDED USERS OF THE APPRAISAL

The intended users of this appraisal report include representatives with the City of Kerrville, the client.

EXTRAORDINARY ASSUMPTIONS

The depth of discussion contained in the report is specific to the needs of the client and for the intended purpose stated herein. The appraisers are not responsible for the unauthorized use of the report. The appraisal report was prepared for the sole and exclusive use of the City of Kerrville. No third parties are authorized to rely upon the appraisal report without the express written consent of the appraisers.

It is an extraordinary assumption of the report that there are no toxic materials or hazardous components pertaining to the subject property. Furthermore, the employment of the appraisers was not contingent on the appraisal producing a specific value, a value within a given range, nor for the approval of a loan.

SCOPE OF WORK

In preparing this appraisal, the appraisers have:

- Physically inspected the interior and exterior of the subject improvements, measured the subject improvements, and have taken sufficient photographs to adequately depict the property in "as is" condition.
- Gathered, confirmed information on, and have inspected the comparable land sales, comparable improved sales and comparable rentals utilized in forming our opinion;
- Utilized the Sales Comparison Approach whereby sales of vacant land sites were compared to the excess land in the subject property. Adjustments were made for the differences between subject and the comparable land sales to result in a value indication from each sale. The indicated values were then correlated by the appraisers and a conclusion of value for the excess land was noted by the Sales Comparison Approach;
- Utilized the Sales Comparison Approach whereby sales of improved properties were compared to the subject property. Adjustments were made for the differences between subject and the comparable improved sales to result in a value indication from each sale. The indicated values were then correlated by the appraisers and a conclusion of value was noted by the Sales Comparison Approach;
- Utilized the Income Capitalization Approach whereby rentals of similar improved properties were compared to subject in order to estimate an economic or market rent. From the estimated gross annual income were subtracted typical ownership expenses. This results in a net operating income, before debt service and depreciation. The resulting NOI was then capitalized at a rate considered appropriate by market analysis to result in a value indication for the subject property by the Income Capitalization Approach;
- Correlated the value indications from the Sales Comparison Approach and the Income Capitalization Approach to result in a final "market value" conclusion for subject;

- Have completed a summary appraisal report as defined by the Uniform Standards of Professional Appraisal Practice.

COMPETENCY PROVISION

John F. Weissler and William C. Robinson III have experience in the appraisal of office buildings in the City of Kerrville. The undersigned appraisers are, therefore, in conformance with the *Competency Provision* of USPAP.

INSTRUCTIONS TO THE APPRAISERS

The appraisal assignment has been to conduct a *Real Property Appraisal*, which was to be developed under the Uniform Standards of Professional Appraisal Practice – Standards Rule 1. The type of report to be prepared under Standards Rule 2-2(b) is a *Summary Appraisal Report*. This *Summary Appraisal Report* is intended to comply with the reporting requirements as set forth under Standards Rule 2-2(b) of the Uniform Standards of Professional Appraisal Practice as adopted by the Appraisal Foundation, as well as the OCC's Regulation 12 CFR – Part 34.44 (FIRREA). As such, it presents only summary discussion of the data, reasoning, and analyses that were used in the appraisal process to develop our conclusions of value. Additional supporting documentation is retained in the appraisers' files and, by reference, is considered to be an integral part hereof.

DEFINITION OF TERMS

The term “**market value**” is defined as follows:¹

Market value is the major focus of most real property appraisal assignments. Both economic and legal definitions of market value have been developed and refined. A current economic definition agreed upon by agencies that regulate federal financial institutions in the United States of America is:

The most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specific date and the passing of title from seller to buyer under conditions whereby:

¹ *Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA – 12CFR 34.42 (g)).*

1. buyer and seller are typically motivated;
2. both parties are well informed or well advised, and acting in what they consider their best interests;
3. a reasonable time is allowed for exposure in the open market;
4. payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto;
5. the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

The term "**fee simple estate**" is understood to mean the absolute ownership unencumbered by any other interest or estate; subject only to the limitations, imposed by the governmental powers of taxation, eminent domain, police power, and escheat.²

The term "**exposure time**" may be defined as the estimated length of time the property interest being appraised would have been offered on the market prior to the hypothetical consummation of a sale at market value on the effective date of the appraisal; a retrospective estimate based upon an analysis of past events assuming a competitive and open market.³

The term "**extraordinary assumption**" may be defined as an assumption, directly related to a specific assignment, which, if found to be false, could alter the appraiser's opinions or conclusions. Extraordinary assumptions presume as fact otherwise uncertain information about physical, legal, or economic characteristics of the subject property; or about conditions external to the property, such as market conditions or trends; or about the integrity of data used in an analysis.³

PROPERTY INTEREST APPRAISED

The property rights appraised in this report are those constituting the "fee simple estate" in "as is" condition. All liens and encumbrances, if any, have been disregarded and the property is appraised as though free and clear and under responsible ownership and competent management.

² *The Dictionary of Real Estate Appraisal*, Fifth Edition, 2010, Page 78.

³ *The Dictionary of Real Estate Appraisal*, Fifth Edition, 2010, Pages 73.

³ *The Dictionary of Real Estate Appraisal*, Fifth Edition, 2010, Pages 73.

HISTORY OF THE PROPERTY

A detailed title search has not been carried out in relation to the subject property. According to the records of Kerr County, Texas, the subject property is in ownership of the City of Kerrville. The current owner has been in possession of the subject property for a period in excess of three years.

As of the date of inspection the subject improvements were vacant.

There have been no other known sales or transactions over the past 3 years. No further information regarding the history of the subject property was made available to the appraisers.

LEGAL DESCRIPTION

The subject property is legally described as follows:

Being all of a certain tract or parcel of land containing 2.15 acres, more or less, out of the Walter Fosgate Survey no. 120, Abstract No. 138, in the City of Kerrville, Kerr County, Texas.

A complete Metes and Bounds Legal Description can be found on the following page.

Agenda Item:

4E. Authorize revisions to the city of Ingram wholesale wastewater agreement by modifying the Ingram wastewater service area to include approximately 10 acres west of Goat Creek Cutoff Road. (staff)

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

SUBJECT: Authorize the City Manager to execute revisions to the City of Ingram Wholesale Wastewater Agreement by modifying the Ingram Wastewater Service Area to include approximately 10 acres west of Goat Creek Cutoff Road.

FOR AGENDA OF: 1/8/13

DATE SUBMITTED: 12/19/12

SUBMITTED BY: Charlie Hastings *CH* **CLEARANCES:** Todd Parton
Public Works Director City Manager

EXHIBITS: Modified Ingram Wastewater Service Area exhibit

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Kerrville entered into a 40-year interlocal agreement for wholesale wastewater services with Ingram in 2005 where Ingram's wastewater system connects to the Kerrville system near Kerrville's western city limits. The agreement allows for a maximum of 425,000 gallons per day; Ingram currently has approximately 300 connections that, in 2012, accounted for a peak daily flow of approximately 28,000 gallons per day. Ingram's immediate plans are to add another 270 connections through year 2014 thereby doubling that flow. In addition, they have received requests for service from customers outside of their service area. The wholesale agreement specifies that in the event Ingram wishes to extend their wastewater service area, Ingram shall notify Kerrville in writing of such request and the parties shall enter into negotiations regarding possible expansion.

Ingram has notified Kerrville in writing of a desire to expand their wastewater service area to include approximately 10 lots/10 acres east of Goat Creek Cutoff on Junction Highway. This request was shared with council at the November 27, 2012 meeting where direction was given to the City Manager to negotiate revisions to the agreement. Proposed modifications to the Ingram Wastewater Service Area exhibit are attached.

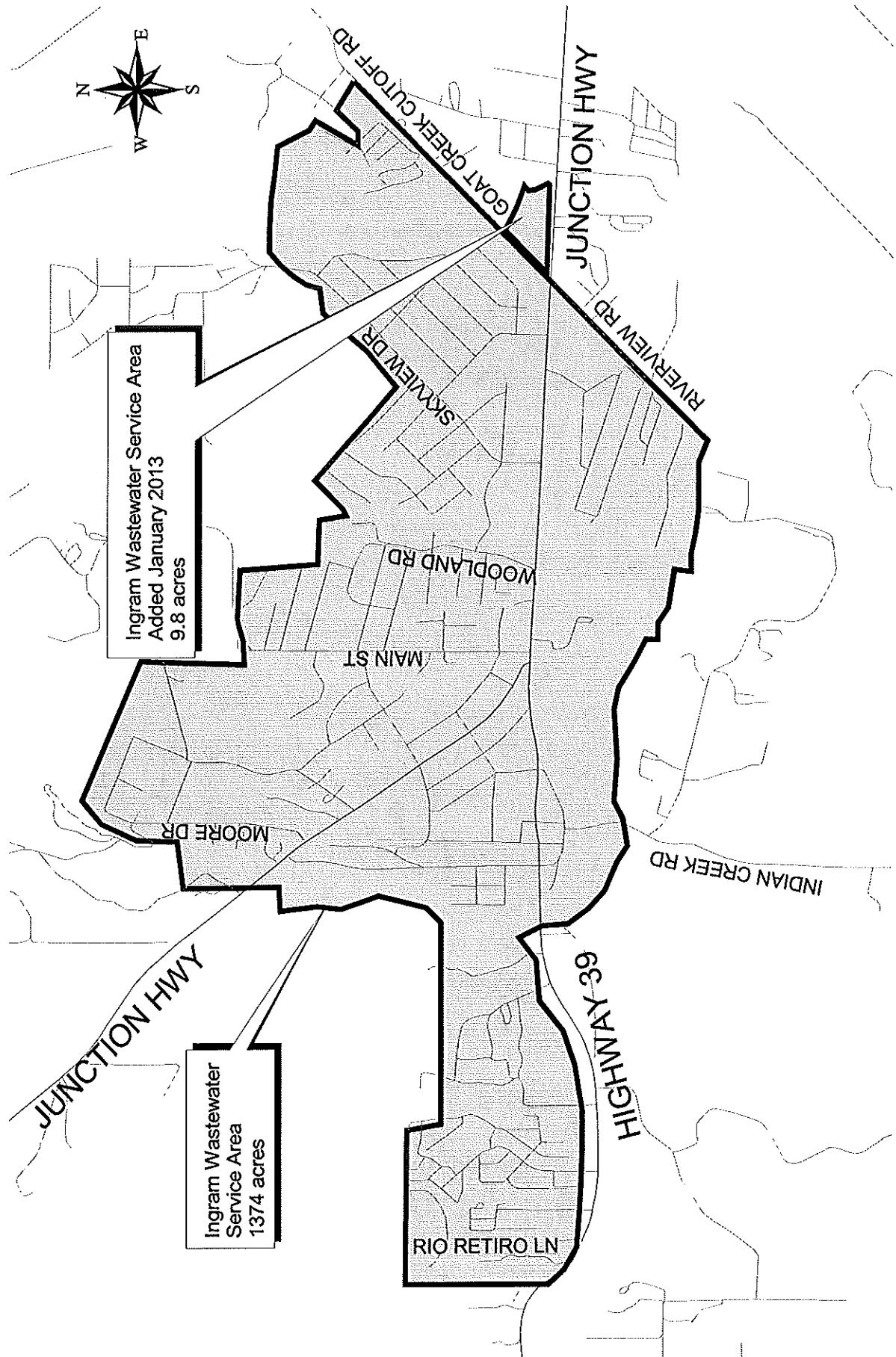
RECOMMENDED ACTION

Staff recommends that Council authorizes the City Manager to execute revisions to the City of Ingram Wholesale Wastewater Agreement by modifying the Ingram Wastewater Service Area to include approximately 10 acres west of Goat Creek Cutoff Road per the attached exhibit.

EXHIBIT "B"
Ingram Wastewater Service Area
Ingram, TX

cph 12/19/12

0.6 Miles



Agenda Item:

4F. Possible designation of potential threatened or endangered species that could implicate the City of Kerrville's interests. (staff)

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

SUBJECT: Potential threatened or Endangered Species that could implicate City of Kerrville's interests.

FOR AGENDA OF: Jan. 8, 2013 **DATE SUBMITTED:** Dec. 14, 2012

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

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

The United States Fish & Wildlife Service is currently studying whether to list several dozen species across Texas as endangered, including several alleged to live in the Guadalupe River. The outcome of this listings process may well have significant implications to the City and area businesses. With this in mind, the City joined other communities and groups to hire a law firm to monitor the initial proceedings and takes steps to influence the USFWS's possible listing of these species. Staff needs to update Council on this issue.

RECOMMENDED ACTION

Receive report from staff and take action, as appropriate.

Agenda Item:

5A. Staff update on the status of the zoning ordinance rewrite. (ZOIC Committee)

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

SUBJECT: ZOIC Committee Report, Status Update - An update on the status of the zoning ordinance rewrite (John Mosty).

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 20, 2012

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Status Update:

The following tasks have been completed by the Zoning Ordinance Input Committee:

- 42 Commercial Districts and Miscellaneous districts have been reduced to 8.
 - Regional Commercial
 - Light Commercial
 - Neighborhood Commercial
 - Central Business District
 - Light Industrial District
 - Heavy Industrial District
 - Airport District
 - Public Institution District
- The Gateway District & Guadalupe River District have been deleted.
- The Central Business District has been adopted by council.
- The land uses for all of the commercial districts have been finalized
- Setbacks and screening requirements for these districts have been finalized
 - Setbacks and screening are based on a zone to zone matrix vs. land use to land use.

Next Steps:

The following tasks are scheduled for completion in the next few months:

- Drafts of each of the commercial sections of the proposed zoning code will be presented to the ZOIC committee for approval.
- The residential sections of the zoning code will be reviewed, modified and rewritten based on the committee's recommendations for land uses, lot frontages, lot areas, setbacks, and density.
- Upon completion of the residential review, drafts of the residential sections will be presented for the committee's review and modifications.
- Staff will continue to update the city's GIS zoning layer in order to begin the process of public notifications. Some of the areas to be rezoned will require changes to the city's adopted comprehensive plan.
- A series of public workshops will need to be held to begin to present the proposed changes to the public.

Agenda Item:

5B. Water resources report. (staff)

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

SUBJECT: Water Resources Report

FOR AGENDA OF: 1/8/13

DATE SUBMITTED: 12/14/12

SUBMITTED BY: Charlie Hastings *CH*
Public Works Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JH*

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Staff will present an update on the water supply and availability as it relates to the drought.

RECOMMENDED ACTION

Information and discussion.

Agenda Item:

5C. Budget/Economic Update. (staff)

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

SUBJECT: Kerrville Budget/Economic Update

FOR AGENDA OF: January 08, 2013 DATE SUBMITTED: December 14, 2012

EXHIBITS: Economic Update

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required: \$	Current Balance in Account: \$	Amount Budgeted: \$	Account Number:
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PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

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

RECOMMENDED ACTION

No action required information purposes only.

CITY OF KERRVILLE
ECONOMIC UPDATE AS OF JANUARY 2, 2012

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
National					
Unemployment	7.70%	7.90%	8.70%	↓	November
Consumer Confidence	73.7	73.1	55.2	↑	November
1 year T-Bills	0.15%	0.17%	0.11%	↓	12/31/12
State					
Monthly Unemployment	5.80%	6.20%	7.20%	↓	November
Monthly Sales Tax	\$2,339.2m	\$2,028.0m	\$2,068.8m	↑	November
Local					
Monthly Unemployment (Kerr Co.)	4.90%	5.20%	5.80%	↓	November
Median Listing Price	\$162,900	\$163,000	\$197,000	↓	12/16/12
Monthly Sales Tax	\$409,616	\$421,537	\$416,501	↓	December
Monthly EIC Tax	\$204,782	\$210,744	\$208,227	↓	November
Monthly HOT	\$67,532	\$104,277	\$60,628	↑	December
	FY13 Budget	FY13 as of 11/30/2012	FY13 % Received	FY12 as of 11/30/2011	FY12 % Received
General Fund					
Tax Revenue	\$14,939,900	\$1,957,588	13.10%	\$1,925,070	13.27%
Property Tax	\$8,050,000	\$902,804	11.21%	\$906,321	11.47%
Sales Tax	\$4,885,000	\$873,405	17.88%	\$846,731	18.61%
Permits & Fees	\$324,975	\$61,960	19.07%	\$50,609	15.62%
Intergovernmental	\$1,191,000	\$242,437	20.36%	\$356,971	30.43%
Service Revenues	\$2,411,860	\$444,889	18.45%	\$367,398	14.29%
Grant Revenue	\$29,500	\$0	0.00%	\$0	0.00%
Fines & Forfeitures	\$506,618	\$78,088	15.41%	\$71,295	14.60%
Interest & Misc.	\$240,850	\$37,263	15.47%	\$30,852	8.11%
Transfers In	\$1,250,000	\$208,333	16.67%	\$208,333	16.44%
Total General Fund	\$20,894,703	\$3,030,558	14.50%	\$3,010,528	14.52%
Total General Fund Expenditures	\$20,594,703	\$3,253,704	15.80%	\$3,313,001	16.28%
Water/Sewer Fund					
Water Sales	\$4,500,000	\$885,137	19.67%	\$710,299	16.13%
Sewer Sales	\$3,800,000	\$590,128	15.53%	\$625,528	16.70%
Other Revenue	\$725,500	\$126,585	17.45%	\$138,740	18.87%
Total Water & Sewer Fund	\$9,025,500	\$1,601,849	17.75%	\$1,474,567	16.59%
Total W&S Fund Expenditures	\$8,849,989	\$1,313,536	14.84%	\$1,347,076	12.75%

Agenda Item:

6A. Appointment to the Kerr Emergency 9-1-1 Network. (staff)

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

SUBJECT: Appointment to the 9-1-1 Board

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 17, 2012

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

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

SUMMARY STATEMENT

Consider appointment to the following board:

Kerr Emergency 9-1-1 Network Board: One regular member position that expired September 1, 2012: William E. Price.

RECOMMENDED ACTION

Consider appointment.

Kerr Emergency 9-1-1 Network Board of Managers And Staff as of August 2011

Mr. William E. Price,
Board Chairman
Representing the City of Kerrville
429 Sidney Baker
Kerrville, Texas 78028
830-792-2730
830-257-2711 (Fax)
williamp@kerrville.org
Original Appointment: 12/2003 (filled unexpired term)
Current Term expires 9/2012

Mr. Gerald "Jerry" Vincent,
Board-Vice Chairman
Member Representing the Volunteer Fire Departments
728 Elm Pass II Rd
Center Point, TX 78010
830-634-7814
gcv1@hctc.net
Original Appointment: 07/2008
Current Term Expires: 09/2012

Mr. Ronald Vick
Member Representing the County
1645 Harper Road
Kerrville, Texas 78028
830-792-4111
830-257-7080 (Fax)
rvick@ft.newyorklife.com
Original Appointment: 10/2004
Current Term Expires: 05/2013

Mr. Stephen B. Schulte, Attorney at Law
Representing the Board of Managers
One Main Plaza, 820 Main Street, Ste. 100
Kerrville, Texas 78028
830-896-3811
830-257-6119 (Fax)
sschulte@ktc.com

Mr. Hugh R. Jons, Jr.
Member Representing the County
829 Main Street, Ste. B
Kerrville, Texas 78028
830-896-8383
830-896-3535 (Fax)
hugh@jonslaw.com
Original Appointment: 10/2005
Current Term Expires: 05/2013

Mr. William E. Amerine
Executive Director & Ex-Officio Secretary
For Kerr Emergency 9-1-1 Network Board
of Managers
819 Water Street, Ste. 270
Kerrville, Texas 78028
830-792-5911
830-739-5911
830-792-5923 (Fax)
wea@kerr911.org

Mrs. Dene' Huffaker
Member Representing the City of Ingram
158 Ranchland Dr (Po Box 204)
Mountain Home, Texas 78052
830-367-5115
830-367-3175 (Fax)
dhuffaker@ingramtx.com
Original Appointment: 04/2009
Current Term Expires: 05/2013

Mr. Mark W. Del Toro
Associate Director
819 Water Street, Ste. 270
Kerrville, Texas 78028
830-792-5911
830-739-5912
830-792-5923 (Fax)
mdeltoro@kerr911.org

Mr. William Russell Henderson,
Non Voting Member
Representing Windstream Communications
P.O. Box 290130
Kerrville, Texas 78029
830-257-9133
830-896-8029 (Fax)
whenderson@windstream.net

Agenda Item:

6B. Appointments to the zoning board of adjustments. (staff)

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

SUBJECT: Appointments to the Zoning Board of Adjustment

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** December 17, 2012

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

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: *JP*

SUMMARY STATEMENT

Consider appointments to the following board:

Zoning Board of Adjustment: Three regular member positions and one alternate member position expired September 30, 2012: William Morgan, Robert Irvin, Joe Rogers and alternate Paul Zohlen.

RECOMMENDED ACTION

Consider appointments.

ZONING BOARD OF ADJUSTMENT

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
MORGAN, WILLIAM 1744 Glen Road Chairman	257-6263 (H) 739-9655 (C)	06-28-05**	10-07-10	9-30-12
ANDREW, GLENN CLARK 3553 La Cumbre Dr. Vice-Chair	895-0676 (H)	10-09-07* 10-28-08**	10-11-11	9-30-13
STILWELL, LINDA 415 Timber Ridge Dr.	329-6456 (C)	10-11-11* 01-10-12**		9-30-13
ROGERS, JOE M. 1015 Jackson Rd.	792-5114 (H)	6-22-10*	10-11-11**	9-30-12
IRVIN, ROBERT 2128 Bluff Ridge	896-0586 (H) 315-2000 (O)	11-24-09	10-07-10	9-30-12
<u>ALTERNATES:</u>				
ZOHLEN, PAUL 384 Englewood	890-5854 (H) 281-474-5474 (C)	01-10-12*		9-30-12
WALLER, BOB 33 Antelope Trail	792-6088 (H)	01-10-12*		9-30-13
CITY STAFF:				
Jason Lutz Senior Planner	258-1184 (O)			
Qualifications:	The board shall be composed of five members all of whom shall be residents and qualified voters of the city of Kerrville.			
Alternate Members:	Two alternate members will be appointed who shall be qualified voters of the city to serve concurrent terms as the regular members. The alternate members will serve on the board in place of an absent member when requested to do so by the chairperson of the board so that all cases to be heard by the board shall always be heard by a minimum of four members.			
Powers and Duties:	<ol style="list-style-type: none">1. The board shall hear and decide an appeal that alleges an error in any order, decision, or determination made by an administrative official of the city in the interpretation or enforcement of Chapter 211 of the Texas Local Government Code, as amended, or the zoning code.2. The board shall grant, upon written request, variances from the height, yard, area, coverage, floor-to-area, and buffering regulations and required number of parking and loading spaces prescribed by the zoning code, which variances are not contrary to the public interest, and which, because of special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.			
Term of Office:	Two years. The members shall be appointed by a majority vote of the members of the city council. No member or alternate member shall serve more than two consecutive full terms on the board without having at least one full year off of the board between terms.			
Quorum:	Four members			
Number of Members:	Five with two alternates			

Meeting Time & Place: At the call of the chairperson and at such other times as the members of the board shall determine.

Absences: Cause for removal of a member of the board by the city council shall be deemed to exist if during any period of twelve consecutive months for any reason other than a medical reason which prevents the member's attendance, the member is absent from the greater of three called meetings of the board or 25 percent of the called meetings of the board.

Established by: Ordinance No. 1997-07

Revised: September 19, 2012

* Appointed as alternate

** Appointed as full member

Agenda Item:

6C. Appointment to the Charter Review Commission. (staff)

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

SUBJECT: Appointment to the Charter Review Commission

FOR AGENDA OF: January 8, 2013 **DATE SUBMITTED:** January 3, 2013

SUBMITTED BY: Brenda Craig
City Secretary

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

SUMMARY STATEMENT

Consider appointment to the following board:

Kerrville Charter Review Commission: One position, due to the resignation of Michael A. Robinson.

RECOMMENDED ACTION

Consider appointment.

CHARTER REVIEW COMMISSION

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
BRINKMAN, HARVEY 306 Riverhill Blvd.	896-3290 (H) 896-8888 (O)	12-11-12		6-11-13
HERRING, JOE R., JR. 615 Water Street	257-7242 (O)	12-11-12		6-11-13
MOSTY, JOHN 2313 Trails End	257-2134 (H) 285-1697 (C)	12-11-12		6-11-13
MOTHERAL, BRUCE 812A Sidney Baker	257-2087 (H) 257-6360 (O)	12-11-12		6-11-13
MYERS, THOMAS M. 305 Riverhill Blvd.	377-6059 (H)	12-11-12		6-11-13
ROBINSON, MICHAEL 124 Jasper Lane	830-928-7960 (H)	12-11-12		6-11-13
SMITH, EUGENE C. One Antelope Trail	257-2428 (H)	12-11-12		6-11-13

Qualifications: Members must reside within the city limits of Kerrville.

Purpose:

- Cause the Charter to conform with federal and state law where conflict or inconsistencies exist;
- Revise in an effort to clarify and condense as necessary or possible or where a section is confusing or believed to be ineffective;
- Consider the following provisions, as specifically provided for in Section 14.07 of the Charter:
 - i. Consider the operation of the City government under the Charter and determine whether any Charter sections require revision. To this end, at least one public hearing shall be held and the commission shall have the power to compel the attendance of any officer or employee of the City and to require the submission of any of the City records which it may deem necessary to the conduct of such hearing.
 - ii. Propose recommendations, if any, it deems desirable to ensure compliance with the Charter by the City government.
 - iii. Propose amendments, if any, to the Charter to improve the effective application of the Charter to current conditions and operations.
- Consider all other provisions of the Charter as the Charter Review Commission may determine if necessary.

Term of Office: Six (6) months

Quorum: majority

Number of Members: Seven (7)

Meeting Time & Place:

Established by: The Kerrville City Council.