

## **AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING**

**TUESDAY, MAY 26, 2020, 6:00 P.M.**

**KERRVILLE CITY HALL, COUNCIL CHAMBERS**

**701 MAIN STREET, KERRVILLE, TEXAS**

### **The Community Vision**

*Kerrville will be a vibrant, welcoming and inclusive community that:*

- *Respects and protects the natural environment that surrounds it;*
- *Seeks to attract economic growth and development;*
- *Provides opportunities for prosperity, personal enrichment and intellectual growth for people of all ages; and*
- *Does so while preserving the small-town charm, heritage, arts and culture of the community.*



Kerrville2050



**KERRVILLE CITY COUNCIL MEETING AGENDA**  
**MAY 26, 2020 6:00 PM**  
**CITY HALL, COUNCIL CHAMBERS**  
**701 MAIN STREET, KERRVILLE, TEXAS**



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***Council Meeting Procedures during the Disaster Declaration***

COVID-19 (Coronavirus) provides a unique concern in that gathering members of the public, City Council, and City staff within a physical setting constitutes a public health risk. On March 16, 2020, the Texas Governor suspended certain requirements of the Open Meetings Act to permit open meetings to occur in a fully virtual setting (e.g., telephonic or videoconference meeting).

In an effort to avoid and mitigate health risks, and limited occupancy levels in Council Chambers, City Council will convene in a virtual forum and attendance will be limited to only those persons essential to holding the meeting. No member of the public will be admitted into City Hall during this time.

Citizens can provide public comment on specific agenda items through Zoom. Zoom telephone numbers are toll free: **1-877-853-5247** or **1-888-788-0099**. The Meeting ID is **926 1322 0544#**. (You must enter the pound sign (#) after the Meeting ID.) \*See Citizen Participation Guidelines. Remember that a speaker must call in by 5:45 p.m., May 26, 2020 and register with the Zoom moderator, and each speaker is limited to four minutes.

A person may also submit written comments on specific agenda items, to include public hearings, and comments will be read into the meeting record. Comments must include a name, address, and a reference to the relevant item. Comments that do not include such information will not be read. Comments must be received by 5:45 p.m., May 26, 2020. Comments may be:

- a. dropped off at the City Hall Utility Payments Drop-Box; or
- b. emailed to [shelley.mcelhannon@kerrvilletx.gov](mailto:shelley.mcelhannon@kerrvilletx.gov).

Citizens may view and hear the City Council meetings on Spectrum Channel 2 or by live-streaming via the City's website ([www.kerrvilletx.gov](http://www.kerrvilletx.gov)). City Council meetings are recorded and the recordings are posted on the City's website.

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**CALL TO ORDER:**

**INVOCATION AND PLEDGE OF ALLEGIANCE:**

Led by Councilmember Kim Clarkson.

**1 CONSENT AGENDA:**

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

- 1.A. Service agreement with Hill Country Telephone Co-Op (HCTC) in the amount of \$212,000.  
Attachments:  
[20200526\\_Agreement\\_HCT Service Agreement.pdf](20200526_Agreement_HCT Service Agreement.pdf)
- 1.B. Minutes for the City Council regular meeting held May 12, 2020.  
Attachments:  
[20200526\\_Minutes-Regular meeting 6pm on 5-12-20.pdf](20200526_Minutes-Regular meeting 6pm on 5-12-20.pdf)

**END OF CONSENT AGENDA**

## **2 RESOLUTIONS:**

2.A. Resolution No. 11-2020. A Resolution authorizing the City Manager, as the City's designated representative, to execute a Principal Forgiveness Agreement with the Texas Water Development Board for funding in the amount of \$500,000 (Clean Water Revolving Fund).

Attachments:

[20200526\\_Resolution\\_11-2020 Water Development Board Funding 500K Clean Water Revolving Fund.pdf](#)

[20200526\\_Resolution\\_Project information.pdf](#)

## **3 ORDINANCES, SECOND READING:**

3.A. Ordinance No. 2020-09. Second reading. An Ordinance amending Ordinance No. 2003-26, which created a Planned Development District for Retail Trade I and Building Construction-Specialist Development for a tract of land located at 3001 Memorial Boulevard (State Highway 27); by amending the site plan for the property.

Attachments:

[20200526\\_Ordinance\\_2020-09 Second reading 3001 Memorial Blvd zone change.pdf](#)

3.B. Ordinance No. 2020-10. Second reading. An Ordinance repealing Ordinance No. 2009-08, which created a Planned Development District for a tract of land generally located at the southwest corner of Memorial Boulevard (State Highway 27) and Loop 534 (Veterans Highway) intersection by rezoning the property as a General Commercial District (C-3).

Attachments:

[20200526\\_Ordinance\\_2020-10 Second reading 3135 Memorial Blvd zone change.pdf](#)

3.C. Ordinance No. 2020-11. Second reading. An Ordinance rezoning the property located at 1104 Lois Street from a Single-family Residential zoning district (R-1) to a Residential Transition zoning district (RT).

Attachments:

[20200526\\_Ordinance\\_2020-11 Second reading 1104 Lois Street zone change.pdf](#)

3.D. Ordinance No. 2020-12. Second reading. An Ordinance repealing Ordinance No. 2006-04, which created a Planned Development District for a tract located between Meeker Road and Beech Street, and rezoning the property as a Medium Density Residential District (R-2).

Attachments:

[20200526\\_Ordinance\\_2020-12 Second reading Meeker Street zone change.pdf](#)

## **4 CONSIDERATION AND POSSIBLE ACTION:**

4.A. Briefing and possible action as to the City's ongoing preparedness and response to COVID-19 (Coronavirus).

## **5 INFORMATION & DISCUSSION:**

5.A. Financial update for the month ended April 30, 2020.

Attachments:

[20200526\\_Presentation\\_April 2020 financial presentation.pdf](#)

## **6 BOARD APPOINTMENTS:**

6.A. Appointment of new Joint Airport Board Place #3 member.

6.B. Appointments to the Food Service Advisory Board.

Attachments:

[20200324\\_Board Roster\\_Food Service.pdf](#)

6.C. Appointment to the Parks and Recreation Advisory Board.

Attachments:

[20200414\\_Board Roster\\_Parks and Recreation Advisory Board.pdf](#)

**7 EXECUTIVE SESSION:**

*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/officers), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code.*

**K**  
KERRVILLE  
2050>

7.A. Sky Master business development project (551.072, 551.087)

**K**  
KERRVILLE  
2050>

7.B. EIC Property: 300 Peterson Farm Road (551.087)

**8 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

**ADJOURN**



## ALTERNATIVE CITIZEN/PUBLIC PARTICIPATION GUIDELINES (Due to COVID-19 Pandemic Disaster Declaration)



**Despite the necessity to restrict public access to Kerrville City Council meetings/workshops in the interest of public health during the COVID-19 pandemic, citizens and visitors are welcome to participate in Kerrville City Council meetings and workshops in several alternative ways as outlined below.**

### **Instructions for callers:**

Dial one of the following numbers:

877 853 5247 (Toll Free) or

888 788 0099 (Toll Free)

If you cannot get through on one of the numbers due to network congestion, call the other number.

When your call is answered you will hear "**Welcome to Zoom, enter your Meeting ID followed by pound.**" Enter in the Meeting ID followed by the pound sign (#). The Meeting ID is found on the Meeting Agenda or Workshop Agenda.

If the Zoom moderator has not started the meeting yet, you will hear "*The meeting has not started yet, please hold or call back later.*"

Once you have called into the meeting, your microphone will be placed on mute and your call will be placed in the call queue. At this point, you will hear silence on the phone. Do not hang up. The moderator will unmute your microphone as he/she is going down the list. Once the meeting has started, you will be able to listen to proceedings even if your microphone is muted.

The moderator will begin accepting calls one hour prior to the scheduled meeting. The deadline to place your call in order to participate in speaking on a specific item is 15 minutes before the scheduled Council meeting starts. You will be queued to speak. Any calls made after the deadline will not be answered, and microphones will be kept muted.

### **Instructions for written comments:**

Written comments will be accepted for any agenda items. Written comments will be read into record, and can be provided in two different ways:

**OPTION 1 by hard copy** – Comments may be dropped off at the City Hall Utility Payments Drop-Box on the north side of City Hall at least 15 minutes before the scheduled Council meeting starts. You are required to provide your first and last name, address, and identify the item you wish to comment on.

**OPTION 2 by email** - Comments can be emailed to **shelley.mcelhannon@kerrvilletx.gov** and must be received at least 15 minutes before the scheduled Council meeting starts. You are required to provide your first and last name, address, and identify the item you wish to comment on. In addition, anyone may email Councilmembers via their City email addresses as specified on the City's website.

For either option, provide **all required information** in order for your comments to be accepted. Thank you for your participation!



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

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**SUBJECT:** Service agreement with Hill Country Telephone Co-Op (HCTC) in the amount of \$212,000.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 18, 2020

**SUBMITTED BY:** Charvy Tork

**EXHIBITS:** [20200526\\_Agreement\\_HCT Service Agreement.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$70,545 per year	\$48,462 for FY20	\$71,000 for FY21	01-0107-3050

**PAYMENT TO BE MADE TO:** HCTC

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	F - Public Facilities and Services
<b>Guiding Principle</b>	F3. Address long-term technology needs through public-private partnerships to support public safety, information services and the library

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**Action Item**

**SUMMARY STATEMENT:**

Currently, the City of Kerrville is utilizing Charter Communications for leased fiber / internet services. The contract term has expired and the City requested a proposal from Charter Communications for renewal of services. In addition to Charter Communications, the City also reached out to Windstream / Kinetic and HCT for leased fiber / internet services proposals.

We currently pay \$7,174 per month for leased fiber / internet services. Charter Communications' proposal came in at \$11,170 per month, Windstream was a no bid and HCT came in at \$5,879 per month. As you can see, HCT's proposal came in much lower than that of Charter Communications. In addition, there would be a REDUCTION of \$15,540 per year in fiber / internet services from our current costs. The City is familiar with the reliability of HCT's optical fiber network and the responsiveness of their customer service. The execution of this contract will provide fast, reliable and scalable connectivity

between city facilities. Also, we were able to negotiate a clause that would allow us to triple the speed at the majority of our facilities when we have the equipment to accept those speeds. This will be provided at NO ADDITIONAL COST. It will also allow the City time to continue to evaluate a partnership with KPUB and other entities for City-owned fiber. Staff recommends that the City enters into an agreement with HCT for fiber / internet services at \$70,545 per year for a term of three years.

**RECOMMENDED ACTION:**

Authorize the City Manager to execute the agreement with HCTC.



## SERVICE AGREEMENT

Transparent Local Area Network (TLAN) services to be provided by Hill Country Telecommunications, LLC, (HCT) for direct, OSI layer 2 connectivity between City of Kerrville, Texas (City) service locations are listed below. These rates and terms will be applicable to additional locations that may be added in the future.

Speed (Mbps/sec)	Monthly Recurring Charge	Non Recurring Charge
100 Mbps	\$ 270 per location	No Charge
500 Mbps	\$ 510 per location	No Charge
1000 Mbps (1 Gbps)	\$ 670 per location	No Charge

All City TLAN locations connected at 100 Mbps will be permitted to increase to 300 Mbps with no increase in cost at any time between the date that this agreement is signed and June 30, 2025. Upon request from the City, HCT shall make the increase in bandwidth

Term of Agreement is three years from the date that this agreement is signed and will be automatically renewable for two (2) consecutive one-year terms thereafter.

In the event that no funds are appropriated by the City for HCT fiber services, the City reserves the right to cancel/terminate this agreement. The City shall be relieved of any and all responsibilities and/or obligations, without penalty(ies) of any sort. HCT shall be notified in written form of the City's intent to cancel/terminate said agreement to lack of funds.

### TLAN Service Locations in Kerrville, Texas:

- Fire Station 1 at 1012 Water Street
- Fire Station 2 at 1750 Goat Creek Road
- Fire Station 3 at 3225 Legion Drive
- Fire Station 4 at 725 Alpine Drive
- Fire Administration at 87 Coronado
- City IT Center at 219 Clay Street
- Kerrville Police Department at 429 Sidney Baker Street
- Butt-Holdsworth Library at 425 Water Street
- Municipal Court at 301 McFarland Street
- City Streets Department at 710 Hays Street
- City Golf Course at 1 Country Club Drive
- Parks Administration at 2385 Bandera Hwy\*
- Water Production at 1000 Thompson Drive
- Water Reclamation at 3650 Loop 534
- Athletic Center Maintenance Building at 111 Home Run Drive

*\*Service to Parks Administration at 2385 Bandera Highway will require the placement of a new telecommunications cabinet on Bandera Highway. City of Kerrville will allow an easement for the placement of this telecommunications cabinet. The cost of installation of this will be borne by HCT.*

The City is not obliged to connect TLAN services to each and every one of these locations and the City may add additional locations under these terms and rates as long as the new locations fall within the existing HCTC service area.

Signed and agreed to:

**CITY OF KERRVILLE**

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Mark McDaniel  
City Manager

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Date

**HILL COUNTRY TELECOMMUNICATIONS, LLC**

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R. Craig Cook  
Chief Executive Officer

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Date



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

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**SUBJECT:** Minutes for the City Council regular meeting held May 12, 2020.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** Mar 12, 2020

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20200526\\_Minutes-Regular meeting 6pm on 5-12-20.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
0	N/A	N/A	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

Minutes for the City Council regular meeting held May 12, 2020 at 6:00 p.m.

**RECOMMENDED ACTION:**

Approve minutes as presented.

CITY COUNCIL MINUTES  
REGULAR MEETING

KERRVILLE, TEXAS  
MAY 12, 2020

On May 12, 2020, at 6:00 p.m. the meeting was called to order by Mayor Bill Blackburn in the City Hall Council Chambers at 701 Main Street. The invocation was offered by Councilmember Gary Cochrane, followed by the Pledge of Allegiance led by Councilmember Cochrane.

**COUNCILMEMBERS PRESENT:**

Bill Blackburn	Mayor
Judy Eychner	Mayor Pro Tem
Kim Clarkson	Councilmember
Gary Cochrane	Councilmember
Delayne Sigerman	Councilmember

**COUNCILMEMBER ABSENT:** None

**CITY EXECUTIVE STAFF PRESENT:**

Mark McDaniel	City Manager
E.A. Hoppe	Deputy City Manager
Mike Hayes	City Attorney
Shelley McElhannon	City Secretary
Drew Paxton	Chief Planning Officer
Dannie Smith	Fire Chief

**VISITORS PRESENT:** No citizens were present physically at the City Council meeting due to the COVID-19 pandemic restrictions and the Governor's Disaster Declaration on March 16, 2020; public participation was engaged through telephone and by email.

**1. CONSENT AGENDA:**

Mayor Blackburn advised that item 1A had been pulled by a citizen. Councilmember Cochrane moved to approve items 1B and 1C as presented. Councilmember Kim Clarkson seconded, and the motion passed 5-0.

1B. Minutes for the City Council regular meeting held April 28, 2020.

1C. Minutes for the City Council special-called meeting held May 05, 2020.

**END OF CONSENT AGENDA**

1A. Construction contract with Wagner Materials & Construction for the 2020 Base Repair project in an amount of \$128,000.00.

The following person spoke by telephone:

- George Baroody

E.A. Hoppe presented information.

Councilmember Judy Eychner made a motion to authorize the City Manager to finalize and execute a construction contract with Wagner Materials & Construction. Councilmember Delayne Sigerman seconded, and the motion passed 5-0.

**2A. PUBLIC HEARING AND ORDINANCES, FIRST READING:**

2A. Ordinance No. 2020-08. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map in accordance with the City's Comprehensive Plan, such Chapter more commonly known as the City's Zoning Code; by changing the zoning and classification of a property generally located west of and adjacent to Loop 534 North (Veterans Highway) and north of its intersection with Cypress Creek Road (FM 1341); comprising approximately 3.88 acres; from a Single-family Residential Zoning District (R-1) to a Multifamily Residential Zoning District (R-3); amending the Comprehensive Plan (Kerrville 2050) to make it consistent with such amendment; providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

The title caption was read into record by Shelley McElhannon.

Drew Paxton presented information and responded to questions by City Council.

Mayor Blackburn opened the Public Hearing at 6:29 p.m.

The following person spoke by telephone:

- Bruce Stracke

Discussion ensued among City Council.

Mayor Blackburn closed the Public Hearing at 6:48 p.m.

Councilmember Eychner moved to approve the appeal Ordinance No. 2020-08 zone change to R3, and Councilmember Cochrane seconded. The motion failed 2-3, with Councilmember Cochrane and Councilmember Sigerman voting in favor and Mayor Blackburn, Councilmember Clarkson, and Councilmember Eychner voting against.

2B. Ordinance No. 2020-09. An Ordinance amending Ordinance No. 2003-26, which created a Planned Development District for Retail Trade I and Building Construction-Specialist Development on an approximately 1.93 acre tract of land known as the Martin Addition, Block 1, Lots 1-3, out of the Samuel Wallace Survey No. 112, Abstract No. 360; and more commonly known as 3001 Memorial Boulevard (State Highway 27), as located within the City of Kerrville, Kerr County, Texas; by amending the site plan for the property; amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map, such Chapter more commonly known as the City's Zoning Code as appropriate; providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters related to the subject.

The title caption was read into record by Shelley McElhannon.

Drew Paxton presented information and responded to questions.

Mayor Blackburn opened the Public Hearing at 6:52 p.m.

No citizen speakers during this Public Hearing.

Mayor Blackburn closed the Public Hearing at 6:53 p.m.

Councilmember Sigerman made a motion to approve Ordinance No. 2020-09 as presented. Councilmember Eychner seconded, and the motion passed 5-0.

2C. Ordinance No. 2020-10. An Ordinance repealing Ordinance No. 2009-08, which created a Planned Development District on an approximate 3.06 acre tract of land out of the Samuel Wallace Survey No. 112, Abstract No. 360, within the City of Kerrville, Texas; and generally located at the southwest corner of Memorial Boulevard (State Highway 27) and Loop 534 (Veterans Hwy) intersection; establishing the zoning on the same property as a General Commercial District (C-3) in accordance with Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map pursuant to the City's Comprehensive Plan; such Chapter more commonly known as the City's Zoning Code; providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

The title caption was read into record by Shelley McElhannon. Drew Paxton presented information and responded to questions. Mayor Blackburn opened the Public Hearing at 7:00 p.m.

The following person spoke by telephone:

- Bruce Stracke

Mayor Blackburn closed the Public Hearing at 7:01 p.m.

Councilmember Sigerman made a motion to approve Ordinance No. 2020-10 as presented. Councilmember Eychner seconded, and the motion passed 5-0.

2D. Ordinance No. 2020-11. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map in accordance with the City's Comprehensive Plan, such Chapter more commonly known as the City's Zoning Code; by changing the zoning and classification of a property located on the northwest corner of and adjacent to the intersection of Harper Road (State Highway FM 783) and Lois Street, more commonly known as 1104 Lois Street; comprising approximately 3.97 acres; from a Single-family Residential Zoning District (R-1) to a Residential Transition Zoning District (RT); providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

The title caption was read into record by Shelley McElhannon. Drew Paxton presented information and responded to questions. Mayor Blackburn opened the Public Hearing at 7:09 p.m.

The following person spoke by telephone:

- Bruce Stracke

Mayor Blackburn closed the Public Hearing at 7:11 p.m.

Councilmember Cochrane made a motion to approve Ordinance No. 2020-11 as presented. Councilmember Clarkson seconded, and the motion passed 5-0.

2E. Ordinance No. 2020-12. An Ordinance repealing Ordinance No. 2006-04, which created a Planned Development District on an approximate 7.47 acre tract of land out of the Samuel Wallace Survey No. 112, Abstract No. 360, within the City of Kerrville,

Texas; said tract located between Meeker Road and Beech Street; establishing the zoning on this same property as Medium Density Residential District (R-2) in accordance with Chapter 60 of the Codes of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map pursuant to the City's Comprehensive Plan; such Chapter more commonly known as the City's Zoning Code; providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matter relating to the subject.

The title caption was read into record by Shelley McElhannon. Drew Paxton presented information and responded to questions. Mayor Blackburn opened the Public Hearing at 7:18 p.m.

The following person spoke by telephone:

- Travis Page

Mayor Blackburn closed the Public Hearing at 7:21 p.m.

Councilmember Eychner made a motion to approve Ordinance No. 2020-12 as presented. Councilmember Cochrane seconded, and the motion passed 5-0.

**3. CONSIDERATION AND POSSIBLE ACTION:**

3A. Briefing and possible action as to the City's ongoing preparedness and response to COVID-19 (Coronavirus).

Mark McDaniel and Chief Smith presented information and responded to questions.

Councilmember Eychner made a motion to re-open the Kerrville pools in June 2020, and Councilmember Sigerman seconded. The motion passed 5-0.

Councilmember Sigerman, Councilmember Eychner, Councilmember Clarkson, and Mike Hayes provided updates on community services.

**4. EXECUTIVE SESSION:**

None.

**5. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:**

None.

**ADJOURN**

The meeting was adjourned at 7:47 p.m.

APPROVED:

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Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

APPROVED BY COUNCIL: \_\_\_\_\_



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

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**SUBJECT:** Resolution No. 11-2020. A Resolution authorizing the City Manager, as the City's designated representative, to execute a Principal Forgiveness Agreement with the Texas Water Development Board for funding in the amount of \$500,000 (Clean Water Revolving Fund).

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 18, 2020

**SUBMITTED BY:** Amy Dozier

**EXHIBITS:** [20200526\\_Resolution\\_11-2020 Water Development Board Funding 500K Clean Water Revolving Fund.pdf](#)  
[20200526\\_Resolution\\_Project information.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

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

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	W - Water / Waste-Water / Drainage
<b>Guiding Principle</b>	W1. Develop and maintain long-range water plans that prioritize infrastructure needs and identify funding sources.
<b>Action Item</b>	W1.2 - Determine short- and long-range timelines for increasing water supply (i.e., the amount to be added per period in accordance with the master plan)

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**SUMMARY STATEMENT:**

On April 9, 2020, the Texas Water Development Board approved \$500,000 in disaster recovery funding for the City of Kerrville through the State's Clean Water Revolving Fund. This award will be used to relocate reuse infrastructure that was damaged during flooding on the Guadalupe River near Loop 534 in October 2018. The funding assistance is in the form of a loan forgiveness program and will be combined with \$1.0 million in similar funding awarded from TWDB in June 2019. This resolution authorizes the City Manager to sign the loan forgiveness documents in order to receive the disaster recovery funds.

Steps already completed in the process are as follows:

1. 12/10/2019 - Council passed Resolution 54-2019 authorizing the filing of an application for financial assistance from TWDB's Clean Water State Revolving Fund.
2. 1/14/2020 - Completed application filed with TWDB.
3. 4/9/2020 - TWDB awarded \$500,000 in funding assistance from the Clean Water State Revolving Fund.

Next steps in the process are as follows:

1. 5/26/2020 - City Council authorizes City Manager to enter into the funding agreement with this resolution.
2. 6/16/2020 - All documents will be signed and disaster recovery assistance will be funded to an escrow account.
3. City will submit outlay requests to TWDB for expenditure reimbursement as expenditures occur.

The City is in the process of finalizing engineering plans for the Guadalupe River utility crossing project and obtaining necessary approvals from TXDOT related to the Loop 534 bridge. The project is scheduled to be complete in FY2021.

**RECOMMENDED ACTION:**

Approve Resolution No. 11-2020 as presented.

CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 11-2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER, AS THE CITY'S DESIGNATED REPRESENTATIVE, TO EXECUTE A PRINCIPAL FORGIVENESS AGREEMENT WITH THE TEXAS WATER DEVELOPMENT BOARD FOR FUNDING IN THE AMOUNT OF \$500,000 (CLEAN WATER REVOLVING FUND)**

**WHEREAS**, the Texas Water Development Board made a commitment to provide financial assistance in the form of a grant in the amount of \$500,000.00 to the City of Kerrville, Texas, to finance a water system project upon execution of a principal forgiveness agreement;

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

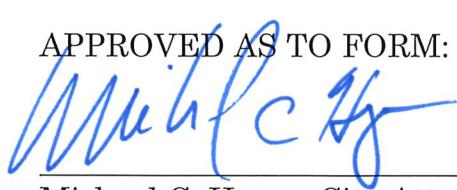
**SECTION ONE. Approval of Agreement.** The Principal Forgiveness Agreement (Clean Water State Revolving Fund), which sets out the terms and conditions of the financial assistance between the Texas Water Development Board and the City of Kerrville, Texas ("City"), attached as **Exhibit A**, is approved and the City's Designated Representative for such agreement is the City Manager, who is authorized to execute the agreement on behalf of the City.

**SECTION TWO. Effective Date.** This Resolution shall become effective immediately after its adoption.

**PASSED AND APPROVED ON** this the \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2020.

\_\_\_\_\_  
Bill Blackburn, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

\_\_\_\_\_  
ATTEST:

\_\_\_\_\_  
Shelley McElhannon, City Secretary



# **Principal Forgiveness Agreement Clean Water State Revolving Fund**

**TEXAS WATER DEVELOPMENT BOARD  
AND  
CITY OF KERRVILLE**

**TWDB COMMITMENT NO. LF1001128**

**TWDB PROJECT NO. 73840 (IUP FISCAL YEAR 2020)**

**TWDB RESOLUTION NO. 20-044**

**CFDA No. 66.458**

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CITY OF KERRVILLE  
TWDB COMMITMENT NO. LF1001128  
TWDB PROJECT NO. 73840  
TWDB RESOLUTION NO. 20-044

PRINCIPAL FORGIVENESS AGREEMENT

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EXHIBITS

TWDB Resolution No. 20-044 .....	EXHIBIT A
City of Kerrville's Resolution .....	EXHIBIT B
List of Federal Laws and Authorities (Cross-Cutters).....	EXHIBIT C
Davis-Bacon Contract and Subcontract Provisions .....	EXHIBIT D
Project Schedule .....	EXHIBIT E
Project Budget .....	EXHIBIT F
Escrow Agreement.....	EXHIBIT G

THE STATE OF TEXAS §

TWDB Commitment No. \_\_\_\_\_ LF1001128

COUNTY OF TRAVIS §

**PRINCIPAL FORGIVENESS AGREEMENT  
BETWEEN THE  
TEXAS WATER DEVELOPMENT BOARD  
AND THE  
CITY OF KERRVILLE**

WHEREAS, the City of Kerrville (City), located in Kerr County, has filed an application with the Texas Water Development Board (TWDB) for financial assistance in the amount of \$500,000 from the Clean Water State Revolving Fund (CWSRF) to finance the construction of a disaster recovery project identified as Project No. 73840; and

WHEREAS, on April 9, 2020 the TWDB determined that the City qualifies for principal forgiveness as an Emergency Relief Project pursuant to 31 TAC Chapter 375 and the criteria set forth in the 2020 CWSRF Intended Use Plan (IUP), and agreed, pursuant to the TWDB Resolution, to provide financial assistance in the amount of \$500,000 to the City and further agreed that \$500,000 will be forgiven; and

WHEREAS, the TWDB and the City are the Parties to this Agreement.

NOW, THEREFORE, the Parties mutually agree to adhere to the terms of this Agreement and to administer the Principal Forgiveness Funds provided through this Agreement in conformance with all applicable state and federal laws and regulations, the TWDB Resolution, and all terms and conditions set forth herein.

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**ARTICLE I. DEFINITIONS**

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The following terms, as used in this Agreement, have the meanings assigned below:

Agreement means this Principal Forgiveness Agreement and the attached exhibits.

CFR means the Code of Federal Regulations.

Commitment means an offer by the TWDB to provide financial assistance to an Applicant as evidenced by a TWDB resolution.

Construction Account means an account dedicated to the payment of Project costs, as defined by 31 TAC § 375.1(16) and required by the TWDB Resolution.

CWSRF means the Clean Water State Revolving Fund, a program of financial assistance administered by the TWDB pursuant to the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*; applicable federal regulations; Texas Water Code, Chapter 15, §§ 15.601 – 15.618; and 31 TAC Chapter 375.

Eligible Expenses means the expenses allowed by TWDB program requirements and authorized by the TWDB in the approved Project Budget.

EPA means the U.S. Environmental Protection Agency.

Escrow Account means an account established by the City that will be used to manage the Principal Forgiveness Funds in accordance with an escrow agreement acceptable to the Executive Administrator, which is attached hereto as **EXHIBIT G**, until such time as the Executive Administrator authorizes the release of the Principal Forgiveness Funds to the Construction Account.

Emergency Relief Project means a project addressing an imminent threat to public health, safety, the environment or public welfare resulting from a recent disaster as further defined in the IUP for State Fiscal Year 2020.

Executive Administrator means the Executive Administrator of the TWDB or designated representative.

Financial Assistance means funding made available to eligible Applicants, as authorized in 33 U.S.C. §1383(d), including principal forgiveness

Force Majeure means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, war, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, droughts, tornadoes, hurricanes, arrests and restraints of government and people, explosions, breakage or damage to machinery, pipelines or canals, and any other inabilities of either party, whether similar to those enumerated or otherwise, and not within the control of the party claiming such inability, which by the exercise of due diligence and care such party could not have avoided.

Green Project means a project or portion of a project, if applicable, that meets the EPA criteria for inclusion in the Green Project Reserve, including green infrastructure, water or energy efficiency improvements or other environmentally innovative activities.

Green Project Reserve means the equivalent amount of the EPA capitalization grant that is reserved for projects, if applicable, that meet the EPA's criteria for green projects.

IUP means the Intended Use Plan, State Fiscal Year 2020, approved by the TWDB and the EPA in which the Project was prioritized for funding.

Outlay Report means the TWDB form regarding the total amount of costs incurred by the City relating to the Project for the specified period.

Parties or Party means the TWDB and the City and their authorized successors and assignees.

Principal Forgiveness Funds means the portion of the Financial Assistance that is forgiven, identified as LF1001128, in an amount not to exceed \$500,000.

Project means the project for which the TWDB is providing financial assistance under this Agreement and as further described in the TWDB Resolution and identified as Project No. 73840.

State means the State of Texas.

TWDB Resolution means TWDB Resolution No. 20-044, dated April 9, 2020, approving the application for financial assistance filed by the City and authorizing the execution of this Agreement.

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## ARTICLE II. AUTHORITY AND RECITALS

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**2.01. AUTHORITY.** This Agreement is authorized and required by the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, and is also governed by the terms of the IUP; Texas Water Code, Chapter 6; Texas Water Code; Chapter 15, §§ 15.601 – 15.618; 31 TAC Chapter 375; and the TWDB Resolution.

**2.02. RECITALS.** The Parties agree that the following representations are true and correct and form the basis of this Agreement.

- A. The TWDB may provide financial assistance in the form of additional subsidization, such as principal forgiveness, for all or a portion of the Project costs in an amount which the TWDB has determined to be eligible.
- B. On April 9, 2020, the TWDB considered an Application filed by the City for financial assistance from the CWSRF program. Based on the representations made by the City in that Application, the TWDB adopted its Resolution in which it:
  1. determined that the City qualifies for principal forgiveness and is eligible for financial assistance; and
  2. made a commitment to provide financial assistance in an amount not to exceed \$500,000 for the construction of the Project and to provide additional subsidization in the form of principal forgiveness to the City in an amount not to exceed \$500,000 as Principal Forgiveness Funds without the expectation of repayment.
- C. The TWDB and the City enter this Agreement to memorialize and set forth the terms and conditions for the Principal Forgiveness Funds in an amount not to exceed \$500,000. The Executive Administrator is authorized to execute this Agreement on behalf of the TWDB pursuant to the TWDB Resolution, which is attached to this Agreement as **EXHIBIT A**. The City is authorized to execute this Agreement through

its authorized representative designated in a resolution duly adopted by the governing body of the City, a copy of which is attached hereto as **EXHIBIT B**.

D. Nothing in this Agreement supersedes or affects any provisions of the Obligations relating to the Financial Assistance amount not forgiven.

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### ARTICLE III. LEGAL REQUIREMENTS

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**3.01. APPLICABLE LAWS**. In consideration of the performance of the mutual agreements set forth in this Agreement, the City, by and through its designated and authorized representatives, agrees to plan, design, and construct the Project in compliance with the following:

- A. the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, and EPA regulations at 40 CFR Part 35;
- B. all federal laws and regulations identified on **EXHIBIT C**;
- C. Texas Water Code, Chapter 15, §§ 15.601 – 15.618; and
- D. 31 TAC Chapter 375.

**3.02. LABOR STATUTES AND REGULATIONS**. The City agrees to comply with the following statutes and regulations, and shall execute the certifications required by the TWDB related to same. Further, the City shall ensure that each contract for work on the Project shall also contain the following requirements.

- A. Equal Employment Opportunity. The City shall comply with Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and U.S. Department of Labor regulations at 41 CFR Chapter 60, relating to Office of Federal Contract Compliance, EEO. The City shall include this provision in any contract or subcontract in excess of \$10,000 as required by 40 CFR § 31.36.
- B. Davis-Bacon Act Wage Rates. In accordance with the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, and the applicable IUP and TWDB Guidance on Davis-Bacon Wage Rate Requirements, the City, its contractors and its subcontractors, for the Project that is funded in whole or in part with Principal Forgiveness Funds, shall pay all laborers and mechanics at rates not less than those prevailing on similar projects in the same locality, as determined by the U.S. Secretary of Labor’s Wage and Hour Division, in conformance with the Davis-Bacon Act, 40 U.S.C. §§ 3141 - 3148, 29 CFR Part 5, relating to Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction, and 29 CFR Part 3, relating to Contractors and Subcontractors on Public Work Financed in Whole or in Part by Loans or Grants from the United States. All contracts and subcontracts for the

construction of the Project carried out in whole or in part with assistance made available as stated herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as attached hereto as **EXHIBIT D**.

C. Contract Work Hours and Safety Standards Act. The City shall ensure that its contractors and subcontractors comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3701 - 3708 and 29 CFR Part 5.

**3.03. NO LOBBYING.** The City agrees to comply with 40 CFR Part 34, relating to New Restrictions on Lobbying. The City understands and agrees that none of the Principal Forgiveness Funds provided under this Agreement shall be expended to pay any person for influencing or attempting to influence an officer or employee of any federal entity, or a Member of Congress, with regard to the awarding of any federal contract, federal grant, federal loan, or the extension, continuation, renewal, amendment or modification of any federal contract, loan, or grant. The City shall require that all contracts in excess of \$100,000 for work implementing the Project contain the following statement: IN ACCORDANCE WITH THE BYRD ANTI-LOBBYING AMENDMENT, ANY RECIPIENT WHO MAKES A PROHIBITED EXPENDITURE UNDER TITLE 40 CFR PART 34 OR FAILS TO FILE THE REQUIRED CERTIFICATION OR LOBBYING FORMS SHALL BE SUBJECT TO A CIVIL PENALTY OF NOT LESS THAN \$10,000 AND NOT MORE THAN \$100,000 FOR EACH SUCH EXPENDITURE.

**3.04. IRON AND STEEL.** The City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States as required by the Federal Water Pollution Control Act, 33 U.S.C. § 1388, related EPA SRF Policy Guidelines and the TWDB American Iron and Steel Guidance, unless the City has requested and obtained a waiver from EPA pertaining to the Project. This section applies in a manner consistent with United States obligations under international agreements. If the City is a signatory to such an agreement, then the City is under the obligation to determine its applicability and requirements and document the actions taken to comply for the TWDB.

**3.05. PROCUREMENT.** The City shall comply with the following when procuring goods and services for work on the Project according to the requirements in this section:

A. Debarred and Suspended Vendors. Prior to selecting any contractor, the City shall ensure that the contractor is not listed on the federal Excluded Parties List System and is not suspended or disbarred by either the State or the federal government. See the following websites for lists of suspended and debarred federal and State vendors: [www.sam.gov](http://www.sam.gov) and [www.window.state.tx.us/procurement/prog/vendor\\_performance/debarred](http://www.window.state.tx.us/procurement/prog/vendor_performance/debarred).

B. State Procurement Requirements. All purchases for goods, services or commodities made with funds provided under this Agreement shall comply with State and local procurement and contracting laws.

C. Business Enterprises. The City agrees to comply with 40 CFR Part 33, relating to Participation by Disadvantaged Business Enterprises in United States Environmental

Protection Agency Programs.

D. Contracts for Architectural or Engineering Professional Services. The City agrees to comply with 33 U.S.C. § 1382(b)(14) (Section 602(b)(14) of the Federal Water Pollution Control Act), relating to Capitalization Grant Agreements and 40 U.S.C. §§ 1101 *et seq.*, relating to the Selection of Architects and Engineers.

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## ARTICLE IV. CONSTRUCTION

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**4.01. PROJECT REQUIREMENTS.** The City shall comply with the following:

- A. Plans and Specifications. The City shall construct the Project in accordance with the plans and specifications as sealed by a State licensed engineer and as approved by the Executive Administrator in compliance with 31 TAC Chapter 375, Subchapter F.
- B. Changes to Plans and Specifications. The City shall not make or implement any changes to the scope of the Executive Administrator's approved Project or to the specifications for the Project including, but not limited to, changes to the Green Project Reserve portion of the Project without the written approval of the Executive Administrator.
- C. Project Schedule. The City shall adhere to the TWDB approved Project schedule, attached as **EXHIBIT E**, and shall timely and expeditiously use funds and complete the Project. The City shall not exceed or revise the Project schedule except upon written approval from the TWDB. The City shall not delay the Project completion date except by Amendment to this Agreement.
- D. Project Budget. The City shall be solely responsible for all costs that exceed the TWDB approved Project budget, attached as **EXHIBIT F**. The City shall notify the Executive Administrator immediately when it appears that the Project budget may not be sufficient to complete the Project. The City shall not exceed the Project budget except by Amendment to this Agreement.
- E. Environmental Compliance. The City shall comply with all environmental conditions and shall implement environmental mitigation measures as required through TWDB environmental review under 31 TAC Chapter 375, Subchapter E.

**4.02. PROGRESS REPORTS.** The Executive Administrator may request reports on the progress of the Project at any time. The reports shall contain information as directed by the Executive Administrator and shall be submitted periodically as requested. The City shall respond as requested and a failure to respond may result in withholding the release of funds from the Escrow Account.

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## ARTICLE V. SPECIAL COVENANTS AND REPRESENTATIONS

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**5.01. CONDITIONS FOR DISBURSEMENT OF PRINCIPAL FORGIVENESS FUNDS.** No Principal Forgiveness Funds shall be deposited into the Escrow Account or released until the applicable requirements and conditions in the TWDB Resolution and 31 TAC § 375.93, relating to Disbursement of Funds, are met. Construction funds shall not be released unless the City has complied with 31 TAC Chapter 375, Subchapter E, relating to Environmental Reviews and Determinations and 31 TAC Chapter 375, Subchapter F, relating to Engineering Review and Approval. If other conditions affect the release of funds, the Parties agree to negotiate in good faith regarding any new or different terms or conditions that become applicable to the release of Principal Forgiveness Funds.

**5.02. DELIVERY OF PRINCIPAL FORGIVENESS FUNDS.** The TWDB shall deposit the Principal Forgiveness Funds in an approved Escrow Account to be released to the City's Construction Account at the direction of the Executive Administrator.

A. Outlay Reports and Invoices. The City shall submit the following documentation:

1. TWDB Outlay Report forms identifying:
  - a. the total amount of expenses incurred by the City for the period covered by the Outlay Report; and
  - b. invoices, receipts or other documentation satisfactory in form and in substance to the TWDB sufficient to establish the requested amount as an eligible expense incurred by the City.
2. Outlay Report forms are due to TWDB quarterly during the planning, acquisition and design phases and monthly during the construction phase of the Project until the completion of the Project.

B. Release from Escrow Account. The Executive Administrator shall authorize the release of Principal Forgiveness Funds from Escrow when Outlay Reports have been approved by the TWDB.

**5.03. INELIGIBLE EXPENSES.** The City must use Principal Forgiveness Funds for Eligible Expenses. The City must return any Principal Forgiveness Funds that are used for expenses that cannot be verified as eligible or that are ineligible. The amount of Principal Forgiveness Funds used for any ineligible or unverified expenses shall be credited against verified Eligible Expenses. If the total amount of Eligible Expenses is insufficient to fully offset the amount of improperly expended Principal Forgiveness Funds, the City must use other funds to fully repay the TWDB.

**5.04. MAINTENANCE OF PROJECT ACCOUNTS.** The City must maintain all project accounts containing funds disbursed for the planning, acquisition, design, or construction of a project,

as applicable, in compliance with generally accepted accounting principles (GAAP), including the reporting of underlying infrastructure assets.

**5.05. FINAL ACCOUNTING.** The City shall provide a final accounting of funds expended on the Project pursuant to 31 TAC § 375.106 and return any remaining Principal Forgiveness Funds in a manner determined by the Executive Administrator.

**5.06. WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN.** If applicable, the City shall adopt and implement a water conservation and drought contingency plan that complies with Texas Water Code §§ 16.4021.

**5.07. WATER AUDIT.** If the City is a retail public utility as defined in Texas Water Code § 13.002 and the City provides potable water, then the City annually shall perform and file a water audit computing the City's most recent annual system water loss with the TWDB. The first water audit shall be submitted by May 1<sup>st</sup> following the passage of one year after the effective date of this Agreement and then by May 1<sup>st</sup> every year thereafter during the term of this Agreement. The City agrees to comply with 31 TAC § 358.6 relating to water audits.

**5.08. REGISTRATION REQUIREMENT.** Pursuant to the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252, the City shall obtain a Data Universal Numbering System (DUNS) Number and shall maintain registration in the System for Award Management (SAM).

**5.9. ANNUAL FINANCIAL AUDIT.** During the Term of this Agreement, the City shall submit an annual audit of the general purpose financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) by a certified public accountant or licensed public accountant. Audits shall be submitted to the TWDB no later than 180 days after the close of the City's fiscal year.

**5.10. INVESTMENT AND COLLATERALIZATION OF PUBLIC FUNDS.** Financial Assistance funds are public funds and, as such, these funds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257.

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## ARTICLE VI. NON-PERFORMANCE AND REMEDIES

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### **6.01. STOP WORK ORDERS.**

- A. **Stop Work Order (SWO).** The Executive Administrator may issue a written SWO to the City at any time for failure to comply with any provision of this Agreement. The SWO shall provide the City with notice of the facts supporting the determination to issue the SWO. The SWO may require cessation of work immediately or at a definite future date. The SWO shall provide the City with a specified time to cure.

- B. City's Response. The City shall provide a written response to the SWO and shall provide the Executive Administrator with a detailed plan to address and cure the conditions causing the SWO. The City shall provide the response within five business days from its receipt of the SWO.
- C. Executive Administrator's Reply. The Executive Administrator may accept, reject or amend the City's plan and shall provide notice of such action to the City within five business days of receipt of the plan. The Executive Administrator may issue an amended SWO that allows resumption of work contingent upon the City's execution of the plan to cure. The Executive Administrator may modify the City's plan to cure only in a manner consistent with the terms and conditions of this Agreement.
- D. City's Option. The City shall notify the Executive Administrator within five business days whether it accepts the amended plan. If the City does not accept the amended plan, the Executive Administrator may terminate this Agreement. Upon successful completion of the plan to cure the conditions causing the SWO, the City shall continue work to complete all obligations under this Agreement.

**6.02. TERMINATION.** The TWDB may terminate this Agreement in writing at any time. Upon receipt of a notice of termination, the City shall immediately discontinue all work in connection with the performance of this Agreement and shall promptly cancel all existing orders or other financial commitments chargeable to funding provided pursuant to this Agreement, provided, however, that any costs for Eligible Expenses incurred prior to the receipt of such written notice by the City shall be payable from the funding provided pursuant to this Agreement.

Within thirty days of the notice of termination, the City shall submit a statement showing in detail the work performed, all payments received by the City, and all payments made by or due from the City to any contractor prior to the date of termination.

#### **6.03. SURVIVAL OF TERMS AND CONDITIONS.**

- A. Termination or expiration of this Agreement for any reason shall not release either Party from any liabilities or obligations set forth in this Agreement that:
  1. the Parties have expressly agreed shall survive any such termination or expiration, if any; or
  2. by their nature, would be intended to be applicable following any such termination or expiration.
- B. The Parties expressly agree that the following terms and conditions survive the termination or expiration of this Agreement.
  1. Article V, Sections 5.03, 5.04, 5.05, 5.07, 5.08, and 5.09.

2. Article VII, General Terms and Conditions.

**6.04. REAL ESTATE.** If the City purchases real estate for the Project with Principal Forgiveness Funds and any of the real estate or portion of the real estate is not used for the Project, the City shall repay to the TWDB the full amount of the Principal Forgiveness Funds for purchase of the real estate that is not used for the Project. Such amount shall be due and payable within 90 days after termination or expiration of this Agreement.

**6.05. REMEDIES.**

- A. The City shall have all remedies available in law or equity.
- B. The TWDB shall have all remedies available in law or equity, including remedies available under Texas Water Code §§ 6.114 and 6.115.

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**ARTICLE VII. GENERAL TERMS AND CONDITIONS**

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**7.01. INSURANCE AND INDEMNIFICATION.**

- A. The City shall at all times keep insured with a responsible insurance company or companies such portions of the Project as are customarily insured by political subdivisions in the State that operate like properties in similar locations under similar circumstances. The City shall insure against risks, accidents, casualties or loss in an amount that is customarily carried by such municipalities and political subdivisions and is at least sufficient to protect the TWDB's interest in the Project.
- B. The City is solely responsible for liability resulting from acts or omissions of the City, its employees, contractors, or agents. The City shall indemnify and hold the TWDB and the State harmless to the extent that the City may do so in accordance with State law.
- C. Principal forgiveness proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law.

**7.02. PERMITS.** The City shall be responsible for timely filing applications for all licenses, permits, registrations and other authorizations that the City has identified in the application for financial assistance as required for the construction of the Project. The City shall submit copies of all of these final licenses, permits, registrations and other authorizations issued by

local, state and federal agencies to the TWDB within thirty (30) days of receipt from the issuing agency.

**7.03. RECORDS.** The City shall comply with all terms and conditions relating to records of the Project as follows:

- A. **Duty to Maintain Records.** The City shall maintain financial accounting records relating to the Project in accordance with Generally Accepted Accounting Principles. The City shall also require its contractors to maintain financial accounting records consistent with Generally Accepted Accounting Principles and with State laws applicable to government accounting. All accounting and other financial documentation shall be accurate, current, and shall reflect recordation of the transactions at or about the time the transactions occurred;
- B. **Green Projects.** If all or part of the Project is designated as a Green Project, then the City shall maintain separate tracking of the expenses related to that Project or portion of the Project that has been designated as an approved Green Project.
- C. **Duty to Retain Records.** The City shall retain all financial records and supporting documents and any other documents pertinent to the Project in accordance with the requirements of 31 TAC § 375.107, relating to Records Retention. The TWDB requires the City to retain all records related to this Agreement for a period of three (3) years after Project completion.
- D. **Public Records.** The City understands and agrees that all documents relating to this Agreement are subject to the Public Information Act, Texas Government Code, Chapter 552, and that such documents may not be withheld from public disclosure, except in accordance with law and with the rulings of the Texas Attorney General. The City is required to make any information created or exchanged pursuant to this Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge. The City shall promptly respond to a request by the TWDB for copies of any of the City's records related to this Agreement; and
- E. **Access to Records.**
  1. **State Auditor.** By executing this Agreement, the City accepts the authority of the Texas State Auditor's Office to conduct audits and investigations in connection with all Principal Forgiveness Funds received pursuant to this Agreement. The City shall comply with directives from the Texas State Auditor and shall cooperate in any such investigation or audit. The City agrees to provide the Texas State Auditor with access to any information the Texas State Auditor considers relevant to the investigation or audit. The City also agrees to include a provision in any contract or subcontract related to this Agreement that requires the contractor and the subcontractor to submit to audits and investigations by the Texas State Auditor's Office in connection with all

Principal Forgiveness Funds received pursuant to the contract or subcontract.

2. **TWDB, EPA, and Comptroller General of the United States.** The City agrees that the TWDB, the EPA, and the Comptroller General of the United States shall have full access to any books, documents, papers, and records which are related to the funds expended under this Agreement and that further these federal entities may audit, examine, copy excerpts, and make transcriptions of any such books, documents, papers, and records. The standards of administration, property management, audit procedures, procurement and financial management, and the records and facilities of the City and its contractors are subject to audit and inspection by the TWDB and by the EPA and by any other authorized state or federal entity. All books, documents, papers, and records of the City related to this Agreement shall be made available for audit, examination, excerpt, and transcription by the staff of the TWDB within a reasonable time after a request from the TWDB. The City understands and agrees that the EPA's Regional Administrator may, after a thirty day written notice, review any records the Regional Administrator deems necessary to determine compliance with all requirements concerning the Principal Forgiveness Funds provided under this Agreement.

**7.04. UPDATING INFORMATION.** The City shall provide the TWDB with updated information, reports, statements and certifications as requested by the Executive Administrator relating to the financial condition of the City or the Project and the use of Principal Forgiveness Funds. The City shall promptly notify the TWDB of any material change in the activities, prospects or conditions of the City relating to the Project, or its ability to observe and perform its duties, covenants, obligations and agreements under this Principal Forgiveness Agreement.

**7.05. FORCE MAJEURE.** Unless otherwise provided, neither the City nor the TWDB nor any agency of the State shall be liable to the other for any delay in or failure of performance of a requirement contained in this Agreement caused by *Force Majeure*. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing Party exercises all reasonable due diligence to perform. Each Party must inform the other in writing with proof of receipt within five (5) business days of the existence of such *Force Majeure* or otherwise waive this right as a defense.

**7.06. NON-ASSIGNABILITY.** The terms and conditions of the financial assistance provided by this Agreement may not be assigned, transferred, or subcontracted in any manner without the express written consent of the TWDB.

**7.07. ENTIRE AGREEMENT AND AMENDMENT.** This Agreement, which incorporates all attached Exhibits, constitutes the entire agreement between the Parties. This Agreement may be amended only in writing signed by the Parties. The changes allowed under Section 4.01 do not require an amendment to this Agreement unless a change to the Project Schedule, **EXHIBIT E** or the Project Budget, **EXHIBIT F**, results in a different project completion date

or total budget amount.

**7.08. NO WAIVER.** The failure of any Party to insist upon the strict performance of any of the terms, provisions, or conditions of this Agreement shall not be construed as a waiver or relinquishment for the future of the strict performance of any such term, provision, or condition or any other term, provision, or condition.

**7.09. NO DEBT CREATED.** Each Party agrees and understands that, by this Agreement, the State, acting through the TWDB, is not lending its credit or in any manner creating a debt on behalf of the State. To the extent that the City is not securing the Obligations with ad valorem taxes, each Party agrees and understands that, pursuant to this Agreement, the City is not lending its credit or in any other manner creating a debt on behalf of the City.

**7.10. LAW AND VENUE.** The validity, operation, and performance of this Agreement shall be governed and controlled by the laws of the State of Texas and applicable federal regulations, and the terms and conditions of this Agreement shall be construed and interpreted in accordance with the laws of the State. The Parties understand and agree that this Agreement is for the provision of financial assistance for the planning, design, acquisition and construction of the Project and as such all or part of the performance of the terms and obligations of the Agreement will be performed in Kerr County, Texas. Notwithstanding the location of the Project, the Parties understand and agree that any proceeding brought for any breach of this Agreement involving the TWDB shall be in Travis County, Texas. This section does not waive the sovereign immunity of the State or the TWDB.

**7.11. NOTICES.** All notices, notifications, or requests required or permitted by this Agreement shall be in writing and shall be transmitted by personal delivery or transmitted by United States certified mail, return receipt requested, postage prepaid, to the addresses of the Parties shown below. Notice shall be effective when received by the Party to whom notice is sent.

Texas Water Development Board  
Attn: Executive Administrator  
Physical Address:  
1700 N. Congress Ave., 6<sup>th</sup> Floor  
Austin, Texas 78701-1496  
Mailing Address:  
P.O. Box 13231  
Austin, Texas 78711-3231

City of Kerrville  
Attn: Amy Dozier  
Physical Address:  
701 Main Street  
Kerrville, Texas 78028-0000  
Mailing Address:  
701 Main Street  
Kerrville, Texas 78028-0000

**7.12. TERM.** This Agreement is effective on the date signed by the Executive Administrator. The Agreement shall expire upon the successful completion of the Project and Final Accounting in accordance with Section 5.05 of this Agreement.

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**TEXAS WATER DEVELOPMENT BOARD**

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Jeff Walker  
Executive Administrator

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Date

**CITY OF KERRVILLE**

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Mark McDaniel  
City Manager

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Date

**EXHIBIT A**  
**TWDB Resolution No. 20-044**

A RESOLUTION OF THE TEXAS WATER DEVELOPMENT BOARD  
APPROVING AN APPLICATION FOR FINANCIAL ASSISTANCE  
TO THE CITY OF KERRVILLE  
FROM THE CLEAN WATER STATE REVOLVING FUND  
THROUGH \$500,000 IN PRINCIPAL FORGIVENESS

(20-044)

WHEREAS, the City of Kerrville (City), located in Kerr County, has filed an application for financial assistance in the amount of \$500,000 from the Clean Water State Revolving Fund (CWSRF) to finance additional construction of a disaster recovery project on the Guadalupe River identified as Project No. 73840; and

WHEREAS, the City seeks financial assistance from the Texas Water Development Board (TWDB) in the amount of \$500,000 with 100 percent to be forgiven, as is more specifically set forth in the application and in recommendations of the TWDB's staff; and

WHEREAS, the TWDB hereby finds:

1. that no debt obligations are to be assumed by the City for the financial assistance and no taxes or revenues are required to be pledged by the City in accordance with Texas Water Code § 15.607;
2. that the application and assistance applied for meet the requirements of the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*, as well as state law, in accordance with Texas Water Code § 15.607;
3. that the City is exempt from requirements to adopt a water conservation program because the TWDB's financial assistance will be \$500,000 or less;
4. that the project has been rated an emergency relief project as determined by 31 TAC § 375.31(f) and the current Intended Use Plan, and is eligible for funding in the amount of \$500,000 with 100 percent Principal Forgiveness.

NOW, THEREFORE, based on these findings, the TWDB resolves as follows:

A commitment is made by the TWDB to the City of Kerrville for financial assistance in the amount of \$500,000 from the Clean Water State Revolving Fund with 100 percent to be forgiven. This commitment will expire on July 31, 2020.

Such commitment is conditioned as follows:

Standard Conditions

1. this commitment is contingent on a future sale of bonds by the TWDB or on the availability of funds on hand;

- 2. this commitment is contingent upon the City's compliance with all applicable requirements contained in 31 TAC Chapter 375;
- 3. this commitment is contingent on the City executing a Principal Forgiveness Agreement in a form and substance acceptable to the Executive Administrator;
- 4. the City shall return any principal forgiveness funds that are determined to be surplus funds in a manner determined by the Executive Administrator;
- 5. the Principal Forgiveness Agreement must contain a provision that the City agrees to comply with all of the conditions set forth in the TWDB Resolution, which conditions are incorporated herein;
- 6. the Principal Forgiveness Agreement must contain a provision that the TWDB may exercise all remedies available to it in law or equity, and any provision of the Principal Forgiveness Agreement that restricts or limits the TWDB's full exercise of these remedies shall be of no force and effect;
- 7. financial assistance funds are public funds and, as such, the Principal Forgiveness Agreement must include a provision requiring that these proceeds shall be held at a designated state depository institution or other properly chartered and authorized institution in accordance with the Public Funds Investment Act, Government Code, Chapter 2256, and the Public Funds Collateral Act, Government Code, Chapter 2257;
- 8. financial assistance funds proceeds shall not be used by the City when sampling, testing, removing or disposing of contaminated soils and/or media at the project site. The Principal Forgiveness Agreement shall include an environmental indemnification provision wherein the City agrees to indemnify, hold harmless and protect the TWDB from any and all claims, causes of action or damages to the person or property of third parties arising from the sampling, analysis, transport, storage, treatment and disposition of any contaminated sewage sludge, contaminated sediments and/or contaminated media that may be generated by the City, its contractors, consultants, agents, officials and employees as a result of activities relating to the project to the extent permitted by law;
- 9. prior to closing, and if not previously provided with the application, the City shall submit executed contracts for engineering and, if applicable, financial advisor and bond counsel contracts, for the project that are satisfactory to the Executive Administrator. Fees to be reimbursed under the contracts must be reasonable in relation to the services performed, reflected in the contract, and acceptable to the Executive Administrator;
- 10. prior to closing, when any portion of the financial assistance is to be held in escrow or in trust, the City shall execute an escrow or trust agreement, approved as to form and substance by the Executive Administrator, and shall submit that executed agreement to the TWDB;

### State Revolving Fund Conditions

11. the City shall submit outlay reports with sufficient documentation on costs on a quarterly or monthly basis in accordance with TWDB outlay report guidelines;
12. the Principal Forgiveness Agreement must include a provision stating that all laborers and mechanics employed by contractors and subcontractors for projects shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality in accordance with the Davis-Bacon Act, and the U.S. Department of Labor's implementing regulations. The City, all contractors, and all sub-contractors shall ensure that all project contracts mandate compliance with Davis-Bacon. All contracts and subcontracts for the construction of the project carried out in whole or in part with financial assistance made available as provided herein shall insert in full in any contract in excess of \$2,000 the contracts clauses as provided by the TWDB;
13. the Principal Forgiveness Agreement must include a provision stating that the City shall provide the TWDB with all information required to be reported in accordance with the Federal Funding Accountability and Transparency Act of 2006, Pub. L. 109-282, as amended by Pub. L. 110-252. The City shall obtain a Data Universal Numbering System (DUNS) Number and shall register with System for Award Management (SAM), and maintain current registration at all times during the term of the Principal Forgiveness Agreement;
14. the Principal Forgiveness Agreement shall provide that all funds will be timely and expeditiously used, as required by 40 CFR § 35.3135(d), and also shall provide that the City will adhere to the approved project schedule;
15. the Principal Forgiveness Agreement must contain a covenant that the City will abide by all applicable construction contract requirements related to the use of iron and steel products produced in the United States, as required by 31 TAC § 375.3, 33 U.S.C. § 1388, and related State Revolving Fund Policy Guidelines;

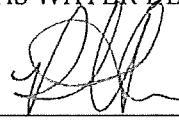
### Clean Water State Revolving Fund Conditions

16. prior to release of funds for professional services related to architecture or engineering, including but not limited to contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or other architectural and engineering services as defined in 40 U.S.C. § 1102(2)(A)(C), the City must provide documentation that it has met all applicable federal procurement requirements as more specifically set forth in 40 U.S.C. § 1101 *et seq* and 33 U.S.C. § 1382(b)(14); and
17. prior to release of funds for professional consultants including, but not limited to, the engineer, financial advisor, and bond counsel, as appropriate, the City must provide documentation that it has met all applicable state procurement

requirements as well as all federal procurement requirements under the Disadvantaged Business Enterprises program.

APPROVED and ordered of record this 9th day of April, 2020.

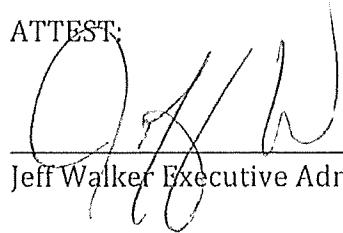
TEXAS WATER DEVELOPMENT BOARD



Peter M. Lake, Chairman

DATE SIGNED: 4/10/20

ATTEST:



Jeff Walker Executive Administrator

**EXHIBIT B**  
**City of Kerrville's Resolution**

## **EXHIBIT C**

### **List of Federal Laws and Authorities (Cross-Cutters)**

The basic rules for complying with cross-cutting federal authorities are set-out in the CWSRF regulations at 40 C.F.R. § 35.3145 and in the DWSRF regulations at 40 C.F.R. § 35.3575. A list of and link to these authorities is provided below and also available from the Environmental Protection Agency (EPA) at: <https://www.epa.gov/drinkingwatersrf>. A handbook on the applicability of the cross-cutting federal authorities is available from EPA at <https://www.epa.gov/sites/production/files/2015-08/documents/crosscutterhandbook.pdf>.

#### **Environmental Authorities**

- Archeological and Historic Preservation Act of 1974, Pub. L. 86-523, as amended
- Clean Air Act, Pub. L. 84-159, as amended
- Coastal Barrier Resources Act, Pub. L. 97-348
- Coastal Zone Management Act, Pub. L. 92-583, as amended
- Endangered Species Act, Pub. L. 93-205, as amended
- Environmental Justice, Executive Order 12898
- Floodplain Management, Executive Order 11988 as amended by Executive Order 12148
- Protection of Wetlands, Executive Order 11990
- Farmland Protection Policy Act, Pub. L. 97-98
- Fish and Wildlife Coordination Act, Pub. L. 85-624, as amended
- National Historic Preservation Act of 1966, PL 89-665, as amended
- Safe Drinking Water Act, Pub. L. 93-523, as amended
- Wild and Scenic Rivers Act, Pub. L. 90-542, as amended

#### **Economic and Miscellaneous Authorities**

- Demonstration Cities and Metropolitan Development Act of 1966, Pub. L. 89-754, as amended, Executive Order 12372
- Procurement Prohibitions under Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans
- Procurement Requirements for Architectural and Engineering Services under 40 U.S.C. § 1101 and Section 602 of the Clean Water Act
- Uniform Relocation and Real Property Acquisition Policies Act, Pub. L. 91-646, as amended
- Debarment and Suspension, Executive Order 12549

#### **Social Policy Authorities**

- Age Discrimination Act of 1975, Pub. L. 94-135
- Title VI of the Civil Rights Act of 1964, Pub. L. 88-352 (2)
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, Pub. L. 92-500 (the Clean Water Act)
- Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (including Executive Orders 11914 and 11250)

**The Civil Rights Act and related anti-discrimination statutes apply to all the operations of the SRF program.**

## **EXHIBIT D**

### **Davis-Bacon Contract and Subcontract Provisions**

#### **(3) CONTRACT AND SUBCONTRACT PROVISIONS.**

(a) The subrecipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of treatment work under the CWSRF or a construction project under the DWSRF financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in 29 CFR 5.1 the Water Resources Reform and Development Act of 2014, for a CWSRF-funded project or the Consolidated Appropriations Act, 2016 (or subsequent federal law) for a DWSRF-funded project the following clauses:

##### **(1) Minimum Wages**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Subrecipients may obtain wage determinations from the U.S. Department of Labor's web site, <https://beta.sam.gov>.

(ii)(A) The subrecipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The TWDB shall approve a request for an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the subrecipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), documentation of the action taken and the request, including the local wage determination shall be sent by the subrecipient(s) to the TWDB. TWDB will transmit the request, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210 and to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the TWDB or will notify the TWDB within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the subrecipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the TWDB shall refer the request and the local wage determination, including the views of all interested parties and the recommendation of TWDB, to the Administrator for determination. The request shall be sent to the EPA DB Regional Coordinator concurrently. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt of the request and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **(2) Withholding**

The subrecipient(s) shall, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the EPA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## **(3) Payrolls and basic records**

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or

her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the subrecipient, that is, the entity that receives the funds from the STWDB. Such documentation shall be available on request of the TWDB or EPA. As to each payroll copy received, the subrecipient shall provide written confirmation in a form satisfactory to the TWDB indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the subrecipient(s) for transmission to the TWDB or EPA if requested by EPA, the TWDB, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the subrecipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the TWDB, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the EPA or TWDB may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

#### **(4) Apprentices and trainees**

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess

of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

**(5) Compliance with Copeland Act requirements**

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**(6) Subcontracts.**

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**(7) Contract termination; debarment.**

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**(8) Compliance with Davis-Bacon and Related Act requirements.**

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**(9) Disputes concerning labor standards.**

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and subrecipient(s), TWDB, EPA, the U.S. Department of Labor, or the employees or their representatives.

**(10) Certification of eligibility.**

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**4. CONTRACT PROVISIONS FOR CONTRACTS IN EXCESS OF \$100,000**

(a) Contract Work Hours and Safety Standards Act. The subrecipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

**(1) Overtime requirements**

No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**(2) Violation; liability for unpaid wages; liquidated damages.**

In the event of any violation of the clause set forth in paragraph (a)(1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

**(3) Withholding for unpaid wages and liquidated damages**

The subrecipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (a)(2) of this section.

**(4) Subcontracts**

The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.

(b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Subrecipient shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the EPA, TWDB and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## **(5) COMPLIANCE VERIFICATION**

(a) The subrecipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that contractors or subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The subrecipient must use Standard Form 1445 (SF 1445) found in TWDB guidance document TWDB-0156 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are also available from EPA on request.

(b) The subrecipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. Subrecipients must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with DB. Subrecipients shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.

(c) The subrecipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The subrecipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by contractors or subcontractors and the duration of the contract or subcontract. At a minimum, if practicable, the subrecipient should spot check payroll data within two weeks of each contractor or subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Subrecipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with DB. In addition, during the examinations the subrecipient shall verify evidence of fringe benefit plans and payments there under by contractors and subcontractors who claim credit for fringe benefit contributions.

(d) The subrecipient shall periodically review contractors and subcontractor's use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.

(e) Subrecipients must immediately report potential violations of the DB prevailing wage requirements to the EPA Region 6 DB Coordinator, TWDB, and to the appropriate DOL Wage and Hour District Office listed at <http://www.dol.gov/whd/america2.htm>.

**EXHIBIT E**  
**Project Schedule**

## Project Schedule

Project: Kerrville-73840 Infrastructure Removal and Storage - Emergency Relief

Project Task	Schedule Date
Engineering Feasibility Report Approved	8/3/2020
Design Phase Complete	10/27/2020
Start of Construction	1/26/2021
Construction Complete	4/26/2021

**EXHIBIT F**  
**Project Budget**



## Project Budget Summary

Kerrville

73840 - Infrastructure Removal and  
Storage - Emergency Relief

Budget Items	Commitment LF1001128
<b>Construction</b>	
Construction	\$435,000
Construction Contract	\$0
<b>Subtotal for Construction</b>	<b>\$435,000</b>
<b>Basic Engineering Services</b>	
Construction Engineering	\$15,000
Design	\$0
Planning	\$0
<b>Subtotal for Basic Engineering Services</b>	<b>\$15,000</b>
<b>Special Services</b>	
Environmental	\$0
Geotechnical	\$0
Inspection	\$10,000
Permits	\$10,000
Project Management (by engineer)	\$15,000
Surveying	\$0
Testing	\$0
<b>Subtotal for Special Services</b>	<b>\$35,000</b>
<b>Other</b>	
Land/Easements Acquisition	\$0
<b>Subtotal for Other</b>	<b>\$0</b>
<b>Contingency</b>	
Contingency	\$15,000
<b>Subtotal for Contingency</b>	<b>\$15,000</b>
<b>Total</b>	<b>\$500,000</b>

**EXHIBIT G**  
**Escrow Agreement**

## **ESCROW AGREEMENT**

THIS ESCROW AGREEMENT (Agreement), made by and between City of Kerrville, Texas, a political subdivision of the State of Texas in Kerr County, Texas (City), acting by and through its City Council and City Manager; and U.S. Bank National Association, as Escrow Agent, together with any successor in such capacity;

W I T N E S S E T H:

WHEREAS, pursuant to a resolution finally adopted on May 26, 2020, the City Council of the City approved and authorized the execution by the City of a Principal Forgiveness Agreement, pursuant to which the City will accept certain contractual obligations (Obligations) to obtain financial assistance from the Texas Water Development Board (TWDB) for the purpose of funding water or wastewater system improvements (Project); and

WHEREAS, the Escrow Agent is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code, Chapter 404, Subchapter D and is otherwise qualified and empowered to enter into this Agreement, and hereby acknowledges its acceptance of the terms and provisions hereof; and

WHEREAS, a condition of the Obligations is the deposit of the proceeds of the Obligations (Proceeds) in escrow subject to being withdrawn only with the approval of the Executive Administrator or another designated representative; provided, however, the Proceeds can be transferred to different investments so long as all parties hereto consent to such transfer;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and in consideration of the amount of fees to be paid by the City to the Escrow Agent, as set forth on EXHIBIT A, the receipt of which is hereby acknowledged, and in order to secure the delivery of the Obligations, the parties hereto mutually undertake, promise and agree for themselves, their respective representatives and successors, as follows:

**SECTION 1: ESCROW ACCOUNTS.** Upon the delivery of the Obligations described above, the Proceeds identified under TWDB Commitment Number LF1001128 shall be deposited to the credit of special escrow account (Escrow Account) maintained at the Escrow Agent on behalf of the City and the TWDB and shall not be commingled with any other accounts or with any other proceeds or funds. The Proceeds received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as Escrow Agent under the terms of this Agreement.

The Escrow Accounts shall be entitled "City of Kerrville, Texas Principal Forgiveness Agreement, Texas Water Development Board Commitment No. LF1001128 Escrow Account"

and shall not be subject to warrants, drafts or checks drawn by the City but shall be disbursed or withdrawn to pay the costs of the Project for which the Obligations were issued or other purposes in accordance with the respective Principal Forgiveness Agreements and solely upon written authorization from the Executive Administrator or his/her designated representative. The Escrow Agent shall provide to the City and to the TWDB the Escrow Account bank statements upon request.

**SECTION 2: COLLATERAL.** All cash deposited to the credit of such Escrow Account and any accrued interest in excess of the amounts insured by the FDIC and remaining uninvested under the terms of this Agreement shall be continuously secured by a valid pledge of direct obligations of the United States of America or other collateral meeting the requirements of the Public Funds Collateral Act, Texas Government Code, Chapter 2257.

**SECTION 3: INVESTMENTS.** While the Proceeds are held in escrow, the Escrow Agent shall only invest escrowed Proceeds in investments that are authorized by the Public Funds Investment Act, Texas Government Code, Chapter 2256 (PFIA). It is the City's responsibility to direct the Escrow Agent to invest all public funds in a manner that is consistent not only with the PFIA but also with its own written investment policy.

**SECTION 4: DISBURSEMENTS.** The Escrow Agent shall not honor any disbursement from the Escrow Account, or any portion thereof, unless and until it has been supplied with written approval and consent by the Executive Administrator or his/her designated representative. However, no written approval and consent by the Executive Administrator shall be required if the disbursement involves transferring Proceeds from one investment to another within the Escrow Accounts provided that all such investments are consistent with the PFIA requirements.

**SECTION 5: UNEXPENDED FUNDS.** Any Proceeds remaining unexpended in the Escrow Account after completion of the respective Project and after the final accounting has been submitted to and approved by the TWDB shall be disposed of pursuant to the provisions of the Principal Forgiveness Agreement. The City shall deliver a copy of such TWDB approval of the final accounting to the Escrow Agent together with instructions concerning the disbursement of unexpended Proceeds hereunder. The Escrow Agent shall have no obligation to ensure that such unexpended Proceeds are used as required by the provisions of the Principal Forgiveness Agreements, that being the sole obligation of the City.

**SECTION 6: CERTIFICATIONS.** The Escrow Agent shall be authorized to accept and rely upon the certifications and documents furnished to the Escrow Agent by the City and shall not be liable for the payment of any funds made in reliance in good faith upon such certifications or other documents or approvals, as herein recited.

**SECTION 7: LIABILITY OF ESCROW AGENT.** To the extent permitted by law, the Escrow Agent shall not be liable for any act done or step taken or omitted by it or any mistake of fact or law,

except for its negligence or default or failure in the performance of any obligation imposed upon it hereunder. The Escrow Agent shall not be responsible in any manner for any proceedings in connection with the Obligation or any recitation contained in the Obligation.

**SECTION 8: RECORDS.** The Escrow Agent will keep complete and correct books of record and account relating to the receipts, disbursements, allocations and application of the money deposited to the Escrow Account, and investments of the Escrow Account and all proceeds thereof. The records shall be available for inspection and copying at reasonable hours and under reasonable conditions by the City and the TWDB.

**SECTION 9: MERGER/CONSOLIDATION.** In the event that the Escrow Agent merges or consolidates with another bank or sells or transfers substantially all of its assets or corporate trust business, then the successor bank shall be the successor Escrow Agent without the necessity of further action as long as the successor bank is a state or national bank designated by the Texas Comptroller as a state depository institution in accordance with Texas Government Code, Chapter 404, Subchapter C, or is a designated custodian of collateral in accordance with Texas Government Code Chapter 404, Subchapter D. The Escrow Agent must provide the TWDB with written notification within 30 days of acceptance of the merger, consolidation, or transfer. If the merger, consolidation or other transfer has occurred between state banks, the newly-created entity shall forward the certificate of merger or exchange issued by the Texas Department of Banking as well as the statement filed with the pertinent chartering authority, if applicable, to the TWDB within five business days following such merger, consolidation or exchange.

**SECTION 10: AMENDMENTS.** This Agreement may be amended from time to time as necessary with the written consent of the City and the TWDB, but no such amendments shall increase the liabilities or responsibilities or diminish the rights of the Escrow Agent without its consent.

**SECTION 11: TERMINATION.** In the event that this Agreement is terminated by either the City or by the Escrow Agent, the Escrow Agent must report said termination in writing to the TWDB within five business days of such termination. The City is responsible for ensuring that the following criteria are satisfied in selecting the successor escrow agent and notifying the TWDB of the change in escrow agents: (a) the successor escrow agent must be an FDIC-insured state or national bank designated by the Texas Comptroller as a state depository; (b) the successor escrow agent must be retained prior to or at the time of the termination; (c) an escrow agreement must be executed by and between the City and the successor escrow agent and must contain the same or substantially similar terms and conditions as are present in this Agreement; and (d) the City must forward a copy of the executed escrow agreement with the successor escrow agent within five business days of said termination. No funds shall be released by the TWDB until it has received, reviewed and approved the escrow agreement with the successor escrow agent. If the City has not appointed a successor escrow agent within thirty (30) days of the notice of termination, the Escrow Agent may petition any court of competent jurisdiction in Texas for the appointment of a successor escrow agent or for other

appropriate relief, and any such resulting appointment shall be binding upon the City. Whether appointed by the City or a court, the successor escrow agent and escrow agreement must be approved by the TWDB for the appointment to be effective. The Escrow Agent is responsible for performance under this Agreement until a successor has been approved by the TWDB and has signed an acceptable escrow agreement.

**SECTION 12: EXPIRATION.** This Agreement shall expire upon final transfer of the funds in the Escrow Account to the City.

**SECTION 13: POINT OF CONTACT.** The points of contact for the Escrow Agent and the TWDB are as follows:

U.S. Bank National Association  
Attn: Zeina Moorefield  
8 Greenway Plaza, Suite 1100  
Houston, Texas 77046  
Phone: 713-212-7577  
Fax: 713-212-3718  
Email: Zeina.Moorefield@usbank.com

Executive Administrator  
Texas Water Development Board  
1700 North Congress Avenue  
Austin, Texas 78701

**SECTION 14: CHOICE OF LAW.** This Agreement shall be governed exclusively by the applicable laws of the State of Texas. Venue for disputes shall be in the District Court of Travis County, Texas.

**SECTION 15: ASSIGNABILITY.** This Agreement shall not be assignable by the parties hereto, in whole or in part, and any attempted assignment shall be void and of no force and effect.

**SECTION 16: ENTIRE AGREEMENT.** This Agreement evidences the entire Escrow Agreement between the Escrow Agent and the City and supersedes any other agreements, whether oral or written, between the parties regarding the Proceeds or the Escrow Account. No modification or amendment of this Agreement shall be valid unless the same is in writing and is signed by the City and consented to by the Escrow Agent and the TWDB.

**SECTION 17: VALIDITY OF PROVISIONS.** If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

**SECTION 18: COMPENSATION FOR ESCROW SERVICES.** The Escrow Agent shall be entitled to compensation for its services as stated in Exhibit A, which compensation shall be paid by the City but may not be paid directly from the Escrow Account.

**SECTION 19: Anti-Boycott Verification.** The Escrow Agent represents that, to the extent this Agreement constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, neither the Escrow Agent nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Escrow Agent (i) boycotts Israel or (ii) will boycott Israel through the term of this Agreement. The terms "boycotts Israel" and "boycott Israel" as used in this paragraph have the meanings assigned to the term "boycott Israel" in Section 808.001 of the Texas Government Code, as amended.

**SECTION 20: IRAN, SUDAN AND FOREIGN TERRORIST ORGANIZATIONS.** The Escrow Agent represents that, to the extent this Agreement constitutes a governmental contract within the meaning of Section 2252.151 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2252 of the Texas Government Code, and except to the extent otherwise required by applicable federal law, neither the Escrow Agent nor any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of the Escrow Agent (i) engages in business with Iran, Sudan, or any foreign terrorist organization as described in Chapters 806 or 807 of the Texas Government Code, or Subchapter F of Chapter 2252 of the Texas Government Code, or (ii) is a company listed by the Texas Comptroller of Public Accounts under Sections 806.051, 807.051, or 2252.153 of the Texas Government Code. The term "foreign terrorist organization" in this paragraph has the meaning assigned to such term in Section 2252.151 of the Texas Government Code.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective upon signature of both parties.

**City of Kerrville, Texas**

By: \_\_\_\_\_  
City Manager  
Date: \_\_\_\_\_

701 Main Street  
Kerrville, Texas 78028

**U.S. Bank National Association**  
as Escrow Agent

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

8 Greenway Plaza, Suite 1100  
Houston, Texas 77046  
Attention: Zeina Moorefield

**EXHIBIT A**  
Fee Schedule



Schedule of Fees for Services as  
Escrow Agent  
For  
City of Kerrville, Texas, Series 2020  
Texas Water Development Board Deal

<b>Escrow Agent Depository</b> - Annual fee for the standard escrow agent depository services associated with the administration of the account. Administration fees are payable in advance.	Amount \$300.00
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**Direct Out of Pocket Expenses.** Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel's fees and expenses after the initial closing, travel expenses, and filing fees will be billed at cost.

**Extraordinary Administration Services.** Extraordinary Administration Services ("EAS") are duties, responsibilities or activities not expected to be provided by the trustee or agent at the outset of the transaction, not routine or customary, and/or not incurred in the ordinary course of business, and may require analysis or interpretation. Billing for fees and expenses related to EAS is appropriate in instances where particular inquiries, events or developments are unexpected, even if the possibility of such circumstances could have been identified at the inception of the transaction, or as changes in law, procedures, or the cost of doing business demand. At our option, EAS may be charged on an hourly (time expended multiplied by current hourly rate), flat or special fee basis at such rates or in such amounts in effect at the time of such services, which may be modified by us in our sole and reasonable discretion from time to time. In addition, all fees and expenses incurred by the trustee or agent, in connection with the trustee's or agent's EAS and ordinary administration services and including without limitation the fees and expenses of legal counsel, financial advisors and other professionals, charges for wire transfers, checks, internal transfers and securities transactions, travel expenses, communication costs, postage (including express mail and overnight delivery charges), copying charges and the like will be payable, at cost, to the trustee or agent. EAS fees are due and payable in addition to annual or ordinary administration fees. Failure to pay for EAS owed to U.S. Bank when due may result in interest being charged on amounts owed to U.S. Bank for extraordinary administration services fees and expenses at the prevailing market rate. Redemptions will be processed with a \$300 fee.

**General.** Your obligation to pay under this Fee Schedule shall govern the matters described herein and shall not be superseded or modified by the terms of the governing documents, and survive any termination of the transaction or governing documents and the resignation or removal of the trustee or agent. This Fee Schedule shall be construed and interpreted in accordance with the laws of the state identified in the governing documents without giving effect to the conflict of laws principles thereof. You agree to the sole and exclusive jurisdiction of the state and federal courts of the state identified in the governing documents over any proceeding relating to or arising regarding the matters described herein. Payment of fees constitutes acceptance of the terms and conditions described herein.

Account approval is subject to review and qualification. Fees are subject to change at our discretion and upon written notice. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account.

For a non-individual person such as a business entity, a charity, a Trust or other legal entity we will ask for documentation to verify its formation and existence as a legal entity. We may also ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation.



# Guadalupe River Utility Crossing Project

**City Council Meeting**  
**May 26, 2020**





# Project Information

- **Project Name: Guadalupe River Utility Crossing**
- **Project Budget: \$ 1.5 million**
- **Debris removal completed in February 2019**
- **Engineering by Kimley-Horn in process**
- **TXDOT approval in preliminary review**
- **Project completion in FY2021**



# Funding Timeline

- \$1.5 million in principal forgiveness loans through Disaster Recovery Funding
- \$500,000 – Clean Water State Revolving Fund  
\$500,000 – Drinking Water State Revolving Fund
  - \* 2/26/19 – Resolution authorizing application
  - \* 3/15/19 – Application completed
  - \* 6/24/19 – Funding awarded
  - \* 7/23/19 – Resolutions authorizing funding agreement
  - \* 9/11/19 - \$1.0 million funded to 2 escrow accounts
- \$500,000 – Clean Water State Revolving Fund
  - \* 12/10/19 – Resolution authorizing application
  - \* 1/14/20 – Application completed
  - \* 4/09/20 – Funding awarded
  - \* 5/26/20 – Resolution authorizing funding agreement**
  - \* 6/16/20 – Anticipated funding to escrow account
- Funding disbursements are on a reimbursement basis



# **Questions or comments from Council**





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

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**SUBJECT:** Ordinance No. 2020-09. Second reading. An Ordinance amending Ordinance No. 2003-26, which created a Planned Development District for Retail Trade I and Building Construction-Specialist Development for a tract of land located at 3001 Memorial Boulevard (State Highway 27); by amending the site plan for the property.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 28, 2020

**SUBMITTED BY:** Drew Paxton

**EXHIBITS:** [20200526\\_Ordinance\\_2020-09 Second reading 3001 Memorial Blvd zone change.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

Proposal

This is a request to amend the concept plan for Planned Development 03-26, on Lots 1, 2 & 3, Block 1, Martin Addition; and generally located 3001-3019 Memorial Blvd.

**Staff Analysis and Recommendation**

Consistency with the Kerrville 2050 Comprehensive Plan: The property and the surrounding area are designated as Community Commercial. Community Commercial development is characterized by small, free-standing buildings containing one or more service-sector businesses. Unlike larger centers that may attract customers from throughout the region, Community Commercial place types provide services for area

neighborhoods and, to a lesser extent, the city. Goods are often smaller and services are experience-oriented. Business types may include restaurants, local retail, small offices, banks, venues, and other retail and service uses.

The Kerrville 2050 Plan encourages the reinvestment into existing properties within the current city limits. The existing land use and PDD are primarily consistent with the Kerrville 2050 Plan.

#### Adjacent Zoning and Land Uses

##### Subject Property

Current Zoning: PD Planned Development

Existing Land Uses: Landscaping service business

Direction: North

Current Zoning: C-2 Light Commercial

Existing Land Uses: various retail and commercial service businesses

Direction: South

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: single family homes

Direction: East

Current Zoning: C-2 Light Commercial

Existing Land Uses: multifamily

Direction: West

Current Zoning: C-2 Light Commercial

Existing Land Uses: single family home

Thoroughfare Plan: With existing connection and frontage to an arterial street, Memorial Boulevard, there should be no additional impact on the thoroughfare system.

Traffic Impact: With existing connection and frontage to an arterial street, Memorial Boulevard, there should be no additional impact on traffic.

Parking: Based on similar uses in the zoning code, the project would require an additional 3 parking spaces. This will be reviewed and confirmed through the building permitting process.

#### Procedural Requirements

Nineteen (19) letters were mailed February 20, 2020, to adjacent property owners. The public notice was published in the Kerrville Daily Times on February 13, 2020.

One letter was received stating there was not opposition to the case. One adjacent owner spoke during the P&Z public hearing to ask for more information and did not oppose case.

Recommendation:

The Planning and Zoning Commission approved the case with a unanimous vote on March 5, 2020.

City Council approved Ordinance No. 2020-09 first reading, May 12, 2020.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2020-09 second reading, as presented.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2020-09**

**AN ORDINANCE AMENDING ORDINANCE NO. 2003-26, WHICH  
CREATED A PLANNED DEVELOPMENT DISTRICT FOR  
RETAIL TRADE I AND BUILDING CONSTRUCTION-  
SPECIALIST DEVELOPMENT ON AN APPROXIMATELY 1.93  
ACRE TRACT OF LAND KNOWN AS THE MARTIN ADDITION,  
BLOCK 1, LOTS 1-3, OUT OF THE SAMUEL WALLACE SURVEY  
NO. 112, ABSTRACT NO. 360; AND MORE COMMONLY KNOWN  
AS 3001 MEMORIAL BOULEVARD (STATE HIGHWAY 27), AS  
LOCATED WITHIN THE CITY OF KERRVILLE, KERR COUNTY,  
TEXAS; BY AMENDING THE SITE PLAN FOR THE PROPERTY;  
AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES,  
CITY OF KERRVILLE, TEXAS, WHICH ADOPTED ZONING  
REGULATIONS, USE DISTRICTS, AND A ZONING MAP, SUCH  
CHAPTER MORE COMMONLY KNOWN AS THE CITY'S  
ZONING CODE AS APPROPRIATE; PROVIDING A  
CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY;  
PROVIDING AN EFFECTIVE DATE; ORDERING  
PUBLICATION; AND PROVIDING OTHER MATTERS  
RELATING TO THE SUBJECT**

**WHEREAS**, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 12, 2020, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in an amendment to Ordinance 2003-26, as adopted on or about December 9, 2003, said amendment to change the Site Plan and other requirements adopted as part of Ordinance 2003-26; and

**WHEREAS**, Ordinance No. 2003-26 and the uses it authorized for the "Property", as defined below, while still applicable to the Property, are no longer used by the City, as the City has adopted a new Zoning Code, which is found within Chapter 60 of the City's Code of Ordinances; and

**WHEREAS**, on May 12, 2020, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

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

**SECTION ONE.** Ordinance No. 2003-26, as enacted by City Council on or about December 9, 2003 is hereby amended by adopting a revised Site Plan, which is attached as **Exhibit A**, as applicable to the Planned Development (Zoning) District (PDD) and eliminating the requirement that the Property comply with a Landscape Plan, Façade Plan, or that the building elevations are of a similar quality, color, texture, or architectural style, all of which applies to the following described property:

**Legal Description:** Being all of a certain tract or parcel of land comprising approximately 1.93 acres out of Samuel Wallace Survey No. 112, Abstract No. 360, and known as the Martin Addition, Block 1, Lot 1 through 3, as recorded in Volume 7, Page 173 of the Kerr County Plat Records, and located within the City of Kerrville, Kerr County, Texas, referred to herein as the "Property." Note that following the adoption of Ordinance No. 2003-26, the owner of the Property replatted the property into three lots.

**General Description:** 3001 Memorial Boulevard (State Highway 27)

**SECTION TWO.** The City Manager or designee is authorized and directed to amend the City's *Official Zoning Map* to reflect this amendment, as appropriate, and to take other actions contemplated by and in accordance with the City's Zoning Code.

**SECTION THREE.** The City Manager or designee is authorized and directed to amend the City's Comprehensive Plan (*Kerrville 2050*), together with its *Future Land Use Map*, as necessary to make it consistent with the amendment(s) to the Zoning Code authorized by this Ordinance.

**SECTION FOUR.** 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 FIVE.** The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

**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 the 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 3.07 of the City Charter.

**PASSED AND APPROVED ON FIRST READING, this the 12 day of May, A.D., 2020.**

**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ of \_\_\_\_\_, A.D., 2020.**

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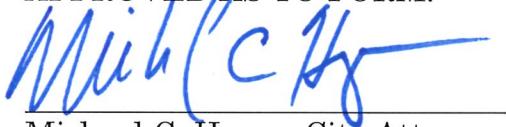
Bill Blackburn, Mayor

ATTEST:

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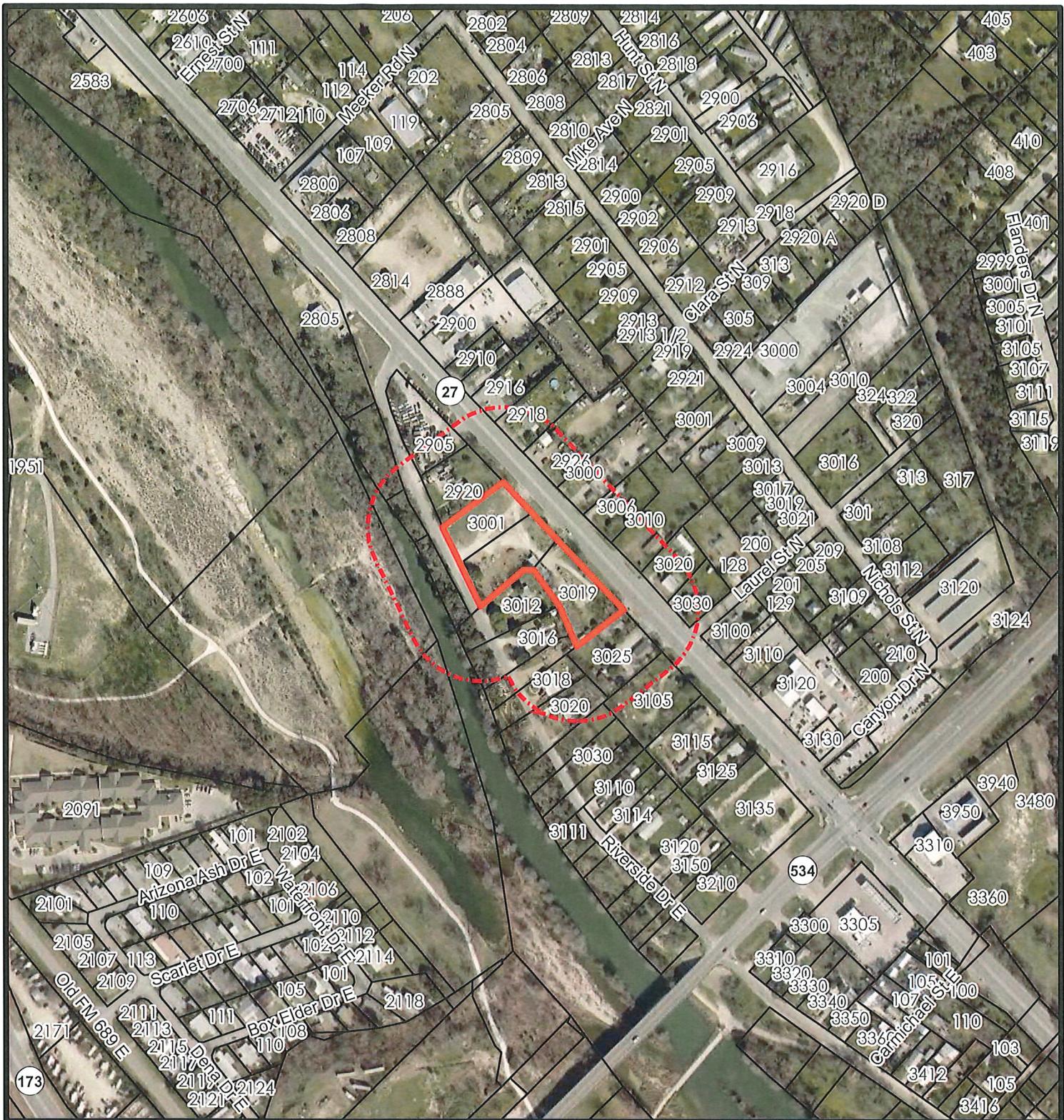
Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

# **EXHIBIT A**



## Location Map

Case # 2020-007

Location:  
3001 Memorial Blvd

### Legend

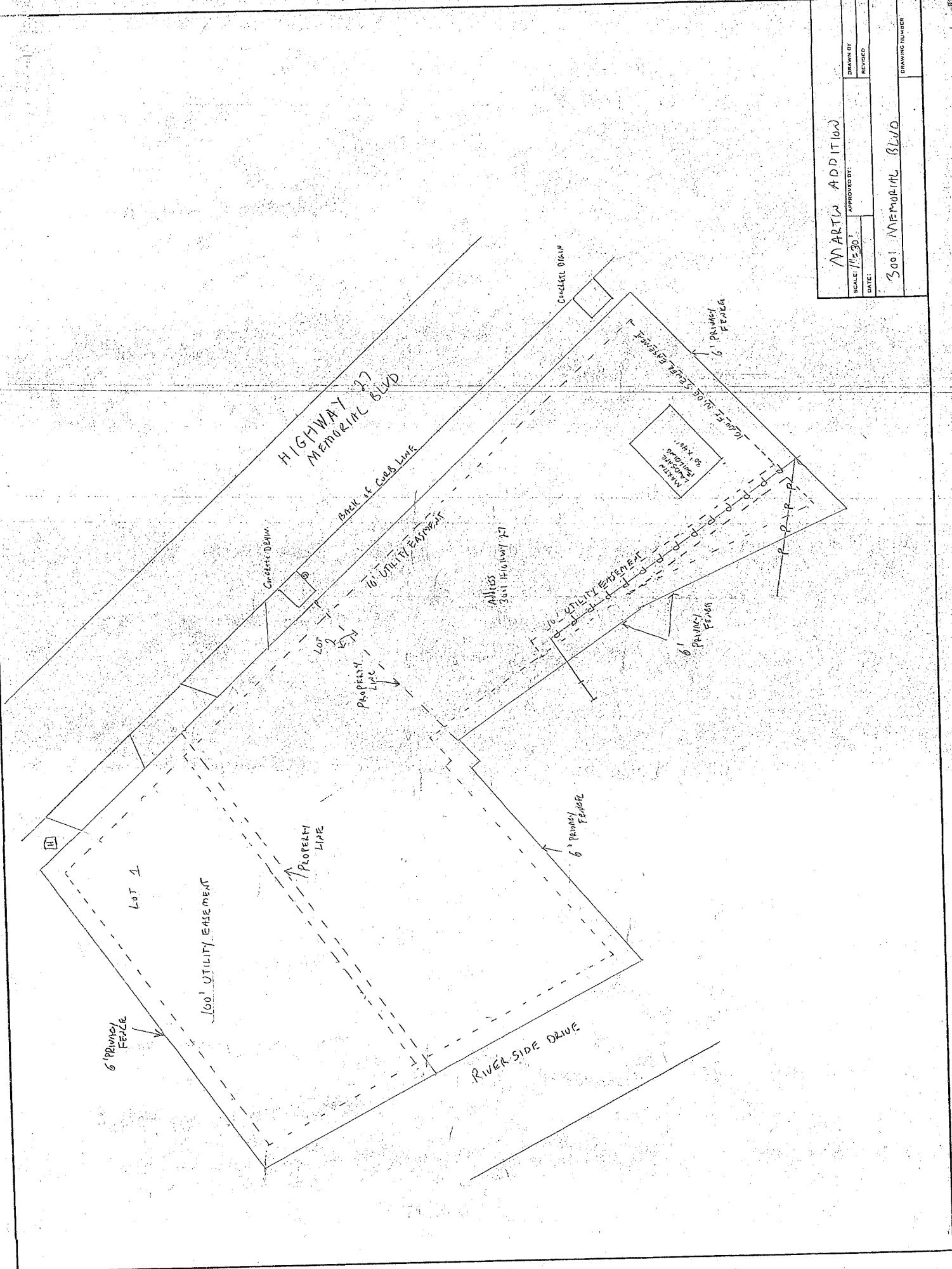
200' Notification Area  
Subject Properties



0 125 250 500

Scale In Feet

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





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

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**SUBJECT:** Ordinance No. 2020-10. Second reading. An Ordinance repealing Ordinance No. 2009-08, which created a Planned Development District for a tract of land generally located at the southwest corner of Memorial Boulevard (State Highway 27) and Loop 534 (Veterans Highway) intersection by rezoning the property as a General Commercial District (C-3).

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 13, 2020

**SUBMITTED BY:** Drew Paxton

**EXHIBITS:** [20200526\\_Ordinance\\_2020-10 Second reading 3135 Memorial Blvd zone change.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

Proposal:

This is a request to change the zoning from PDD (Planned Development District 09-08) to C-3 General Commercial District on approximately 3.06 acres of land out of the Samuel Wallace Survey No. 112 Abstract A0360; and generally located at 3105, 3115, 3125, and 3135 Memorial Blvd.

Staff Analysis and Recommendation:

Consistency with the Kerrville 2050 Comprehensive Plan: The property and surrounding area are designated as Community Commercial. Community Commercial development is characterized by small, free-standing buildings containing one or more service-sector

businesses. Unlike larger centers that may attract customers from throughout the region, Community Commercial place types provide services for area neighborhoods and, to a lesser extent, the city. Goods are often smaller and services are experience-oriented. Business types may include restaurants, local retail, small offices, banks, venues, and other retail and service uses.

The Kerrville 2050 Plan encourages the reinvestment into existing properties and infill properties within the current city limits. The request for C-3 zoning at the intersection of two primary arterials is consistent with the policies in the Kerrville 2050 Plan.

#### Adjacent Zoning and Land Uses

##### Subject Property

Current Zoning: PD Planned Development

Existing Land Uses: multifamily and vacant

Direction: North

Current Zoning: C-3 General Commercial

Existing Land Uses: agriculture supply store and trailer dealership

Direction: South

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: single family homes

Direction: East

Current Zoning: C-2 Light Commercial

Existing Land Uses: convenience store with fuel sales

Direction: West

Current Zoning: C-2 and Planned Development

Existing Land Uses: multifamily and landscaping service business

Thoroughfare Plan: With existing access and frontage on two primary arterial streets, there should be little impact on the thoroughfare system.

Traffic Impact: To be determined with proposed project.

Parking: To be determined with the proposed project.

There are some land use restrictions from any flood plain area, however this limitations are increased for Nimitz Lake Impoundment Area. Below is a summary of the river/flood plain related protections from Section 60-60 Supplementary Development Requirements.

This requirement impacts the following uses:

Fuel Sales, Retail/Gasoline Sales and Truck Stop and Fueling Station

Automobile Service and Repair, Major or Minor and Automobile Parts Store

Car Wash

These uses are prohibited within one hundred feet (100.0') of the 100-year flood plain. In addition, where such use is within five hundred feet (500.0') of the 100-year flood plain or within one thousand feet (1,000.0') of the Nimitz Lake Impoundment Area, such use will require the adoption of a Conditional Use Permit pursuant to this Code. The calculation of these distances shall be based on the approved Federal Emergency Management Agency (FEMA) map in place at the time of development and the distance shall be measured from the closest point of the flood plain or impoundment area to the closest point on the property line of the tract containing the car wash facility.

#### Procedural Requirements

Twenty-two (22) letters were mailed February 20, 2020, to adjacent property owners.

The public notice was published in the Kerrville Daily Times on February 13, 2020.

No letters were received in favor or in opposition of the zone change. Two citizens spoke during the P&Z public hearing with questions and concerns about access to Riverside Drive.

#### Recommendation:

The Planning and Zoning Commission approved the case with a 6-1 vote on March 5, 2020.

City Council approved Ordinance No. 2020-10 first reading, May 12, 2020.

#### **RECOMMENDED ACTION:**

Approve Ordinance No. 2020-10 second reading, as presented.

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2020-10**

**AN ORDINANCE REPEALING ORDINANCE NO. 2009-08, WHICH CREATED A PLANNED DEVELOPMENT DISTRICT ON AN APPROXIMATE 3.06 ACRE TRACT OF LAND OUT OF THE SAMUEL WALLACE SURVEY NO. 112, ABSTRACT NO. 360, WITHIN THE CITY OF KERRVILLE, TEXAS; AND GENERALLY LOCATED AT THE SOUTHWEST CORNER OF MEMORIAL BOULEVARD (STATE HIGHWAY 27) AND LOOP 534 (VETERANS HIGHWAY) INTERSECTION; ESTABLISHING THE ZONING ON THIS SAME PROPERTY AS A GENERAL COMMERCIAL DISTRICT (C-3) IN ACCORDANCE WITH CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, WHICH ADOPTED ZONING REGULATIONS, USE DISTRICTS, AND A ZONING MAP PURSUANT TO THE CITY'S COMPREHENSIVE PLAN; SUCH CHAPTER MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 12, 2020, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in the change of a zoning district for a property generally located at the southwest corner of Memorial Boulevard (State Highway 27) and Loop 534 (Veterans Highway) intersection; such change to result in the zoning applicable to the property changing from a Planned Development (Zoning) District (PDD) to placement within a General Commercial Zoning District (C-3); and

**WHEREAS**, on May 12, 2020, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

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

**SECTION ONE.** The Zoning Code for the City of Kerrville, Texas, as enacted by City Council and effective October 1, 2019 and included within Chapter 60 of the

Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* be and the same are hereby amended to designate the following described property zoned as a General Commercial Zoning District (C-3):

**Legal Description:** Being all of a certain tract or parcel of land comprising approximately 3.06 acres out of the Samuel Wallace Survey No. 112, Abstract No. 360, within the City of Kerrville, Kerr County, Texas; said tract being more specifically described and depicted at Exhibit A, attached hereto and made a part hereof for all purposes, and hereafter referred to as the "Property."

**General Description:** 3105, 3115, 3125, and 3135 Memorial Boulevard.

**SECTION TWO.** The City Manager or designee is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

**SECTION THREE.** The City Manager or designee is authorized and directed to amend the City's Comprehensive Plan (*Kerrville 2050*), together with its *Future Land Use Map*, as necessary to make it consistent with the amendment(s) to the Zoning Code authorized by this Ordinance.

**SECTION FOUR.** 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. Ordinance No. 2009-08 is repealed.

**SECTION FIVE.** The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

**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 the 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 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 12 day of MAY, A.D., 2020.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_ of \_\_\_\_\_, A.D., 2020.

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Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

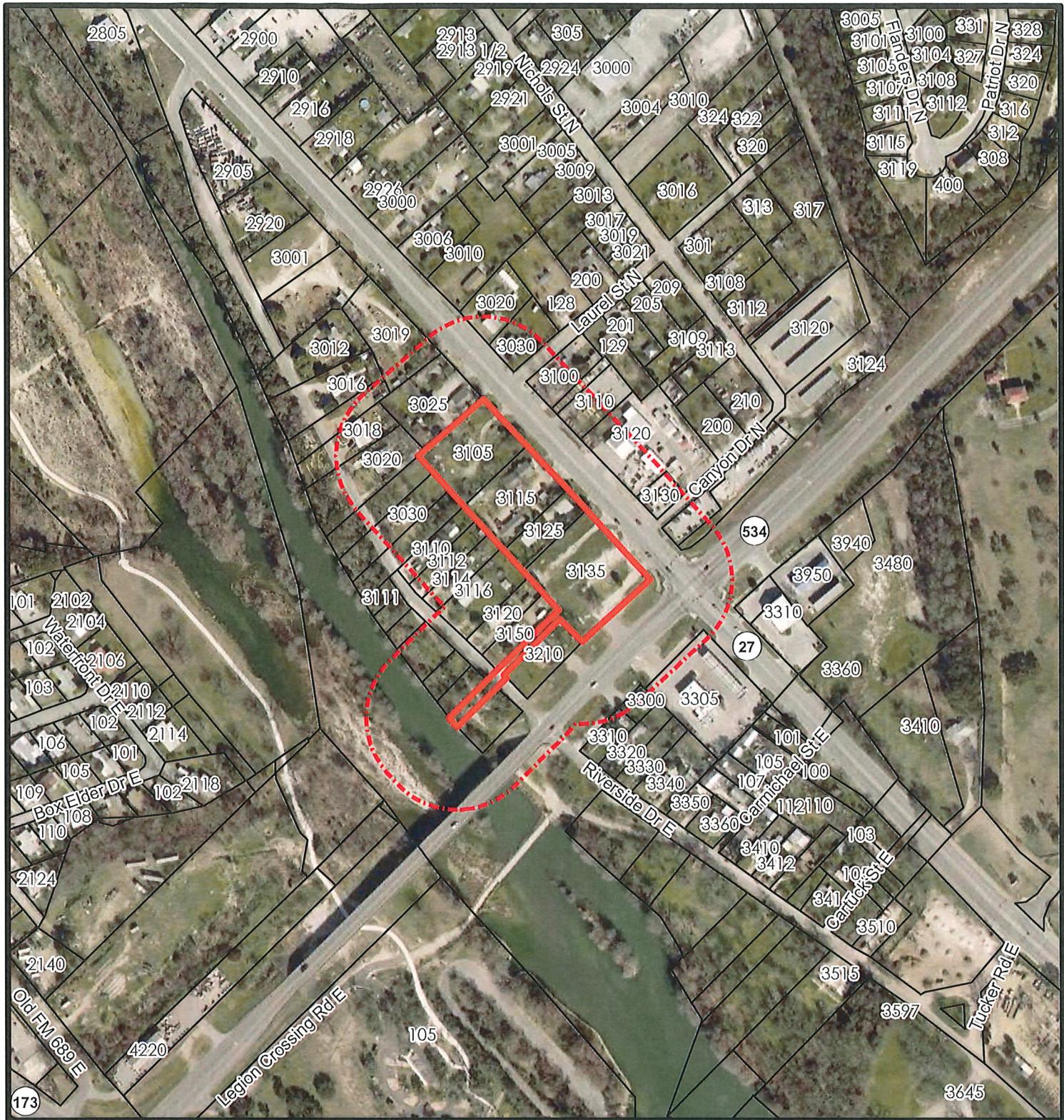
APPROVED AS TO FORM:



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Michael C. Hayes, City Attorney

# **EXHIBIT A**



## Location Map

Case # 2020-009

Location:  
3105-3135 Memorial Blvd

Legend  
200' Notification Area  
Subject Properties



0 125 250 500

Scale In Feet

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



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

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**SUBJECT:** Ordinance No. 2020-11. Second reading. An Ordinance rezoning the property located at 1104 Lois Street from a Single-family Residential zoning district (R-1) to a Residential Transition zoning district (RT).

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 13, 2020

**SUBMITTED BY:** Drew Paxton

**EXHIBITS:** [20200526\\_Ordinance\\_2020-11 Second reading 1104 Lois Street zone change.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

Proposal:

This is a request to change the zoning from R-1 Single-family Residential District to RT Residential Transitional District on approximately 3.97 acres out of the Walter Fosgate Survey No. 120, Abstract 138; and generally located at 1104 Lois Street.

Staff Analysis and Recommendation:

Consistency with the Kerrville 2050 Comprehensive Plan: The property and surrounding area are designated Neighborhood Residential within the Future Land Use Plan. Neighborhood Residential is a very common place type that is predominantly single-family housing on detached lots. Home sites are located in platted subdivisions, on residential streets, and with sidewalks. This place type is serviced by at least one provider for every utility. Units are typically larger than those of the Preservation Residential place type.

Limited amounts of local retail and services may be appropriate in certain locations as needed to support the primary land use.

Primary Land Use: Single-family detached homes.

Secondary Land Use: Civic and institutional uses, parks, open space, small amounts of neighborhood serving retail and office in carefully chosen locations.

The Kerrville 2050 Plan encourages the reinvestment into existing properties and infill properties within the current city limits. The request for RT, Residential Transitional zoning in this location, at the intersection of a collector street (Lois Street) and a principle arterial, is a good location for office or retail as allowed in the RT District and is therefore consistent with the Kerrville 2050 Plan.

Adjacent Zoning and Land Uses

Subject Property

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: single family home

Direction: North

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: single family homes

Direction: South

Current Zoning: C-3 General Commercial; R-2

Medium Density Residential

Existing Land Uses: Town-homes

Direction: East

Current Zoning: R-3 Multifamily Residential

Existing Land Uses: apartments

Direction: West

Current Zoning: R-1 Single-Family Residential

Existing Land Uses: single family homes

Thoroughfare Plan: Located at the intersection of a collector and principle arterial, this parcel already serves as a transitional buffer to the neighborhood north and west. The zoning change to RT should have little impact on the thoroughfare system.

Traffic Impact: To be determined with the future proposed uses. Generally, with access to a collector and arterial, there should be limited impact on traffic.

Parking: To be determined.

Procedural Requirements:

Nineteen (19) letters were mailed February 20, 2020, to adjacent property owners. No letters/comments were received in favor or in opposition to the zone change.

The public notice was published in the Kerrville Daily Times on February 13, 2020.

Recommendation:

The Planning and Zoning Commission approved the case with a unanimous vote on March 5, 2020.

City Council approved Ordinance No. 2020-11 first reading, May 12, 2020.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2020-11 second reading, as presented.

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2020-11**

**AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, WHICH ADOPTED ZONING REGULATIONS, USE DISTRICTS, AND A ZONING MAP IN ACCORDANCE WITH THE CITY'S COMPREHENSIVE PLAN, SUCH CHAPTER MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; BY CHANGING THE ZONING AND CLASSIFICATION OF A PROPERTY LOCATED ON THE NORTHWEST CORNER OF AND ADJACENT TO THE INTERSECTION OF HARPER ROAD (STATE HIGHWAY FM 783) AND LOIS STREET, MORE COMMONLY KNOWN AS 1104 LOIS STREET; COMPRISING APPROXIMATELY 3.97 ACRES; FROM A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT (R-1) TO A RESIDENTIAL TRANSITION ZONING DISTRICT (RT); PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 12, 2020, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in the change of a zoning district for a property generally located at the northwest corner of and adjacent to the intersection of Harper Road (State Highway FM 783); such change to result in the removal of the property from a Single-Family Residential Zoning District (R-1) to placement within a Residential Transition Zoning District (RT); and

**WHEREAS**, on May 12, 2020, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

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

**SECTION ONE.** The Zoning Code for the City of Kerrville, Texas, as enacted by City Council and effective October 1, 2019 and included within Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* be

and the same are hereby amended to designate the following described property zoned as a Residential Transition Zoning District (RT):

**Legal Description:** Being all of a certain tract or parcel of land comprising approximately 3.97 acres out of the Walter Fosgate Survey No. 120, Abstract No. 138, within the City of Kerrville, Kerr County, Texas; said tract being more particularly described and depicted at Exhibit A, attached hereto and made a part hereof for all purposes, and hereafter referred to as the “Property.”

**General Description:** 1104 Lois Street

**SECTION TWO.** The City Manager or designee is authorized and directed to amend the City’s *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City’s Zoning Code.

**SECTION THREE.** The City Manager or designee is authorized and directed to amend the City’s Comprehensive Plan (*Kerrville 2050*), together with its *Future Land Use Map*, as necessary to make it consistent with the amendment(s) to the Zoning Code authorized by this Ordinance.

**SECTION FOUR.** 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 FIVE.** The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

**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 the 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 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 12 day of  
MAY, A.D., 2020.

PASSED AND APPROVED ON SECOND AND FINAL READING, this  
the \_\_\_\_\_ of \_\_\_\_\_, A.D., 2020.

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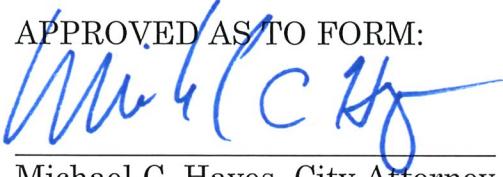
Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

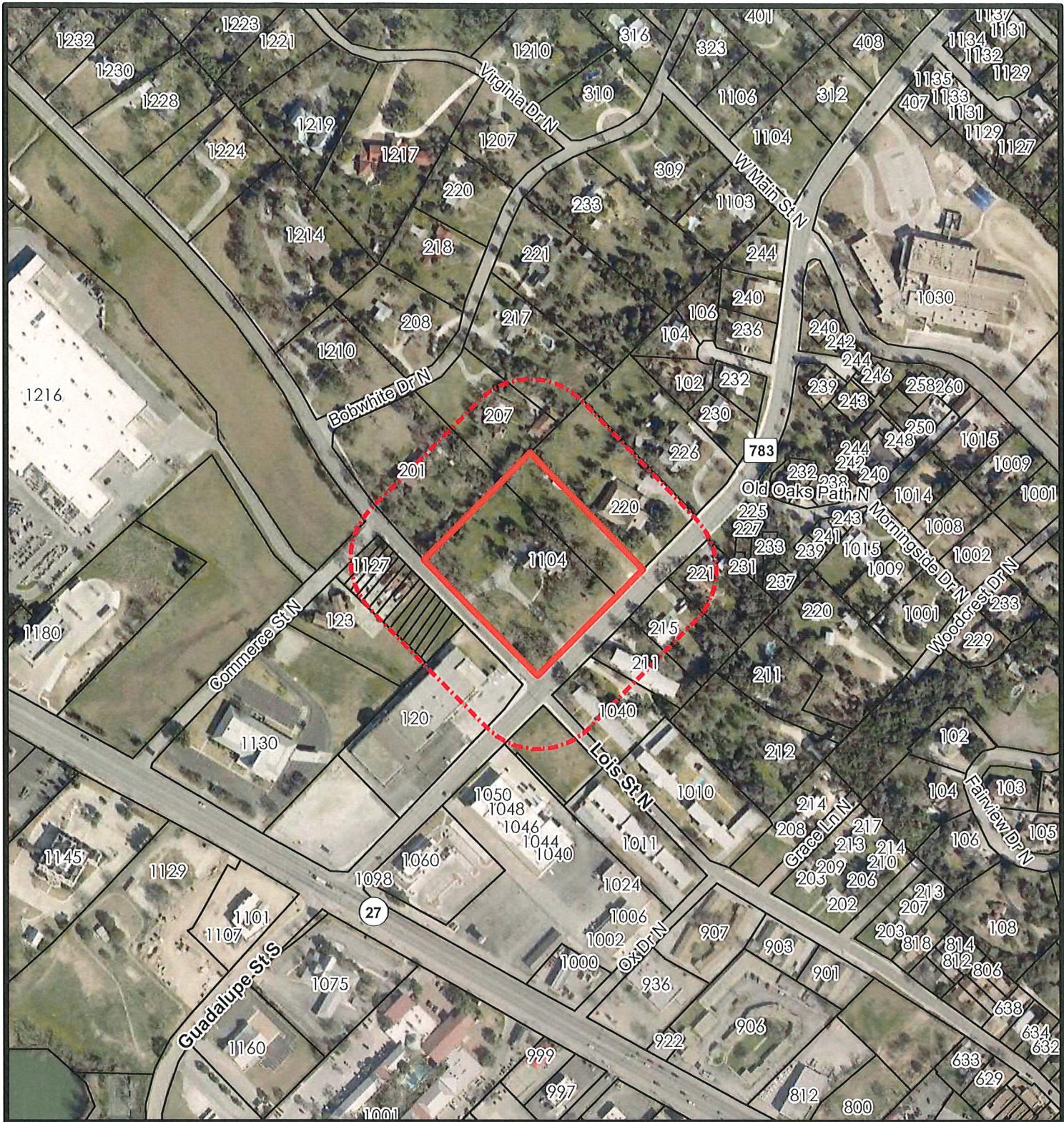
APPROVED AS TO FORM:



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Michael C. Hayes, City Attorney

# **EXHIBIT A**



## Location Map

Case # 2020-010

Location:  
1104 Lois St N

### Legend

200' Notification Area  
Subject Properties



0 125 250 500

Scale In Feet

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

LAND USES	sidential Distr	
	R-1	R-T
Accessory Building or Structure	P	P
Amenity Center	P2	
Artisan's/Craftsman's Workshop		P
Assisted Living Facility		C2A
Barber or Beauty Shop		P
Boarding Home Facility	P5	P5
Building Contractor, Temporary Field Office	P6	P6
Caretaker's Residence	P	P
Cemetery	C	C
Church, Temple, Mosque, or Place of Worship	P	P
Civic, Fraternal, Philanthropic, Charitable, or Nonprofit Organization		P
College or University, Public	P	P
Community Garden	P8	P8
Community Home	P8A	P8A
Country Club	C	
Day Care Services, Adult		C10
Day Care Services, Children		C10
Dormitory, sorority or fraternity house	P	
Dwelling, Duplex	P	
Dwelling, Live/Work	P	
Dwelling, Multifamily	C	
Dwelling, Patio Home (Zero Lot Line Home)		
Dwelling, Single-Family Detached	P	P
Dwelling, Single-Family Detached with Accessory Dwelling Unit	C	P
Dwelling, Small-Lot Single-Family Detached		
Dwelling, Townhome		
Golf Course	C	
Guest House	P	P
Guidance Services		C
Halfway House	P5	P5
Home Occupation	P12	P12
Independent Living Facility for Seniors		C
Modular Home	P	P
Museum		P
Nursing Home		C
Office, General (Business or Professional)		P
Office, Medical		P
Pet and Pet Supply Sales		P
Pet Grooming		P

LAND USES	Residential Distr	
	R-1	R-T
Photography Studio		P
Public or Institutional Facility or Use	P	P
Recreational Skills Classes		C
Rectory/Parsonage	P	P
Residential Care Service	P5	P5
School, Private, Elementary	C	C
School, Private, Intermediate and Secondary	C	C
School, Public, Elementary	P	P
School, Public, Intermediate and Secondary	P	P
Short-term Rental Unit	C	P
Special Care Facility		C
Utility, Local	P	P
Utility, Private or Franchise	C	C
Utility, Public	P	P



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

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**SUBJECT:** Ordinance No. 2020-12. Second reading. An Ordinance repealing Ordinance No. 2006-04, which created a Planned Development District for a tract located between Meeker Road and Beech Street, and rezoning the property as a Medium Density Residential District (R-2).

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 13, 2020

**SUBMITTED BY:** Drew Paxton

**EXHIBITS:** [20200526\\_Ordinance\\_2020-12 Second reading Meeker Street zone change.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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

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<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	H - Housing
<b>Guiding Principle</b>	H1. Provide a diverse range of housing options to meet the needs and desires of all age groups, income levels, and lifestyles

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**Action Item**

**SUMMARY STATEMENT:**

Proposal:

Public hearing, consideration, and action to recommend an ordinance to change the zoning from PDD (Planned Development District 06-04) to R-2 Medium Density Residential District on approximately 7.629 of land out of the Samuel Wallace Survey Number 112, Abstract No. 360; and generally located east of Meeker Road and south of Poplar Street.

Staff Analysis and Recommendation:

Consistency with the Kerrville 2050 Comprehensive Plan: The property and surrounding area are designated as Transitional Residential within the Future Land Use Plan.

Transitional Residential areas support a variety of housing types in a compact network of complete, walkable streets that are easy to navigate by car, bike, or on foot. Housing types can include small-lot, single-family detached homes, patio homes, townhomes, duplexes, condominiums, or apartments. Limited amounts of local retail and services may be appropriate in certain locations as needed to support the primary land uses.

Primary Land Use: Small lot, single-family detached homes, patio homes, townhomes, duplexes, condominiums, apartments.

Secondary Land Use: Civic and institutional uses, parks and open space, small amounts of neighborhood-serving retail and office in carefully chosen locations.

The Kerrville 2050 Plan encourages the reinvestment into existing properties and infill properties within the current city limits. The request for R-2 Medium Density Residential is consistent with the policies contained within the Kerrville 2050 Plan, the Future Land Use Plan, and the zoning of the surrounding neighborhoods.

Adjacent Zoning and Land Uses

Subject Property

Current Zoning: PDD

Existing Land Uses: vacant

Direction: North

Current Zoning: R-2

Existing Land Uses: Single family homes

Direction: South

Current Zoning: R-2

Existing Land Uses: Single family homes and manufactured homes

Direction: East

Current Zoning: R-2

Existing Land Uses: Single family homes

Direction: West

Current Zoning: R-2

Existing Land Uses: Single family homes

Thoroughfare Plan: For a residential project within an existing neighborhood, there should be no impact on the Thoroughfare Plan.

Traffic Impact: With the addition of new homes there will be some additional traffic, but nothing outside of a normal traffic generation within a neighborhood.

Parking: Each lot developed will be required adequate parking as per the zoning code.

Procedural Requirements

Thirty-five (35) letters were mailed February 20, 2020, to adjacent property owners. No letters/comments received for people in favor or in opposition to the zone change.

The public notice was published in the Kerrville Daily Times on February 13, 2020.

Recommendation:

The Planning and Zoning Commission approve the case with a unanimous vote on March 5, 2020.

City Council approved Ordinance No. 2020-12 first reading, May 12, 2020.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2020-12 second reading, as presented.

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2020-12**

**AN ORDINANCE REPEALING ORDINANCE NO. 2006-04, WHICH CREATED A PLANNED DEVELOPMENT DISTRICT ON AN APPROXIMATE 7.47 ACRE TRACT OF LAND OUT OF THE SAMUEL WALLACE SURVEY NO. 112, ABSTRACT NO. 360, WITHIN THE CITY OF KERRVILLE, TEXAS; SAID TRACT LOCATED BETWEEN MEEKER ROAD AND BEECH STREET; ESTABLISHING THE ZONING ON THIS SAME PROPERTY AS MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2) IN ACCORDANCE WITH CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, WHICH ADOPTED ZONING REGULATIONS, USE DISTRICTS, AND A ZONING MAP PURSUANT TO THE CITY'S COMPREHENSIVE PLAN; SUCH CHAPTER MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on May 12, 2020, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in the change of a zoning district for a property located between Meeker Road and Beech Street; such change to result in the zoning applicable to the property changing from a Planned Development (Zoning) District (PDD) to placement within a Medium Density Residential Zoning District (R-2); and

**WHEREAS**, on May 12, 2020, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

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

**SECTION ONE.** The Zoning Code for the City of Kerrville, Texas, as enacted by City Council and effective October 1, 2019 and included within Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* be

and the same are hereby amended to designate the following described property zoned as a Medium Density Residential Zoning District (R-2):

**Legal Description:** Being all of a certain tract or parcel of land comprising approximately 7.47 acres out of the Samuel Wallace Survey No. 112, Abstract No. 360, within the City of Kerrville, Kerr County, Texas; said tract being more specifically described and depicted at Exhibit A, attached hereto and made a part hereof for all purposes, and hereafter referred to as the "Property."

**SECTION TWO.** The City Manager or designee is authorized and directed to amend the City's *Official Zoning Map* to reflect the change in districts adopted herein and to take other actions contemplated by and in accordance with the City's Zoning Code.

**SECTION THREE.** The City Manager or designee is authorized and directed to amend the City's Comprehensive Plan (*Kerrville 2050*), together with its *Future Land Use Map*, as necessary to make it consistent with the amendment(s) to the Zoning Code authorized by this Ordinance.

**SECTION FOUR.** 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. Ordinance No. 2006-04 is repealed.

**SECTION FIVE.** The terms and provisions of this Ordinance shall be deemed to be severable in that if any portion of this Ordinance is declared to be invalid, the same shall not affect the validity of the other provisions of this Ordinance.

**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 the 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 3.07 of the City Charter.

PASSED AND APPROVED ON FIRST READING, this the 12 day of  
MAY, A.D., 2020.

PASSED AND APPROVED ON SECOND AND FINAL READING, this  
the \_\_\_\_\_ of \_\_\_\_\_, A.D., 2020.

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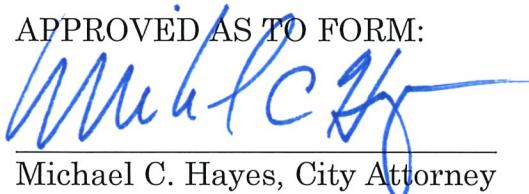
Bill Blackburn, Mayor

ATTEST:

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Shelley McElhannon, City Secretary

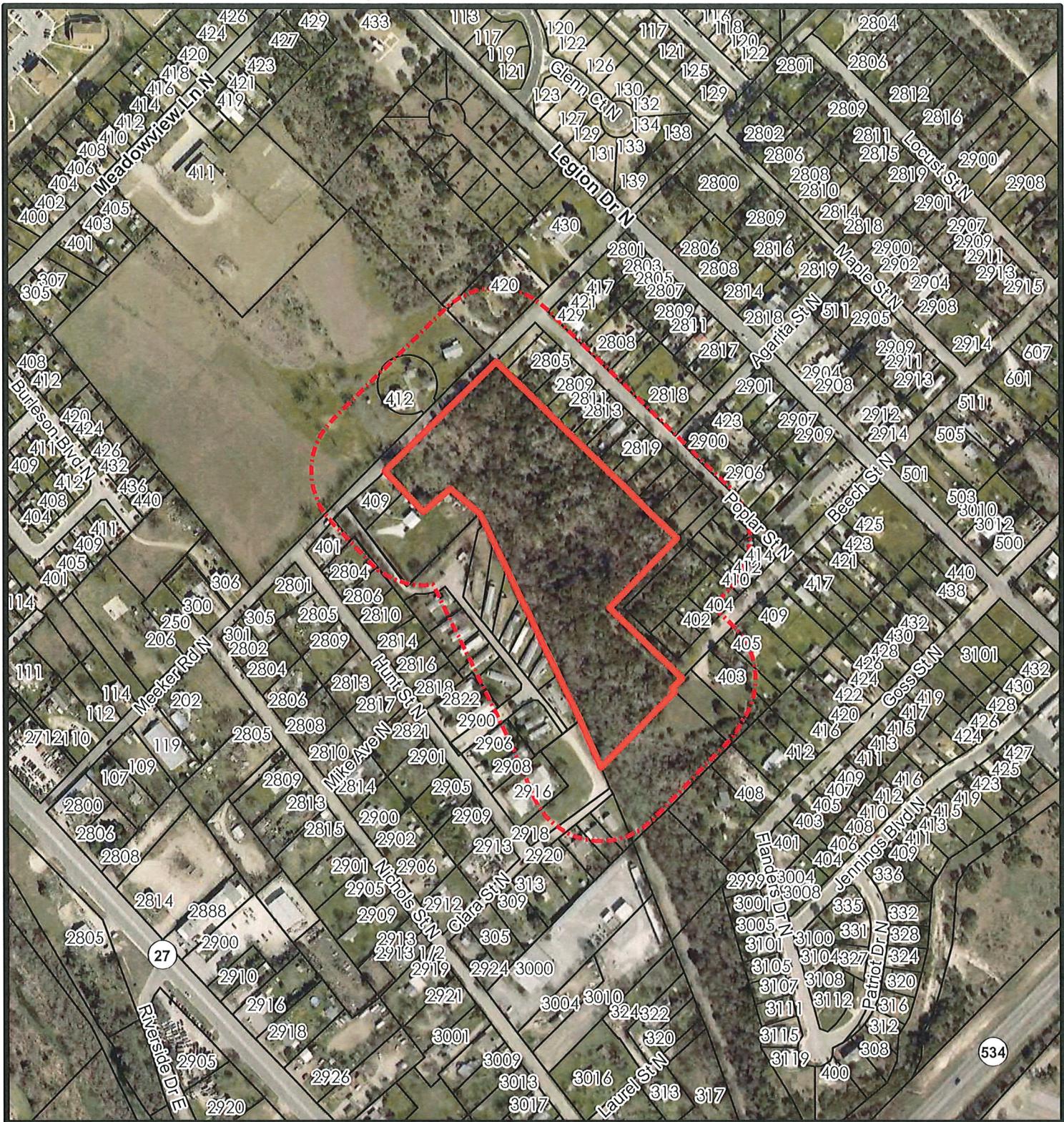
APPROVED AS TO FORM:



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Michael C. Hayes, City Attorney

# **EXHIBIT A**



## Location Map

Case # 2020-011

Location:

ABS A0360 Wallace,  
SUR 112, ACRES 7.47

### Legend

200' Notification Area  
Subject Properties



0 125 250 500

Scale In Feet

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





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

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**SUBJECT:** Briefing and possible action as to the City's ongoing preparedness and response to COVID-19 (Coronavirus).

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** Mar 19, 2020

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
N/A	N/A	N/A	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

**SUMMARY STATEMENT:**

On-going responsiveness to changing conditions and situations.

**RECOMMENDED ACTION:**

Actions for the preparedness and response to COVID-19 (Coronavirus) circumstances.



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

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**SUBJECT:** Financial update for the month ended April 30, 2020.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** May 18, 2020

**SUBMITTED BY:** Amy Dozier

**EXHIBITS:** [20200526\\_Presentation\\_April 2020 financial presentation.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	N/A	N/A	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

See attached presentation regarding financial results through April 30, 2020 and the financial impacts of COVID-19.

**RECOMMENDED ACTION:**

No action required; information only.



# **Financial update for the month ended April 30, 2020**

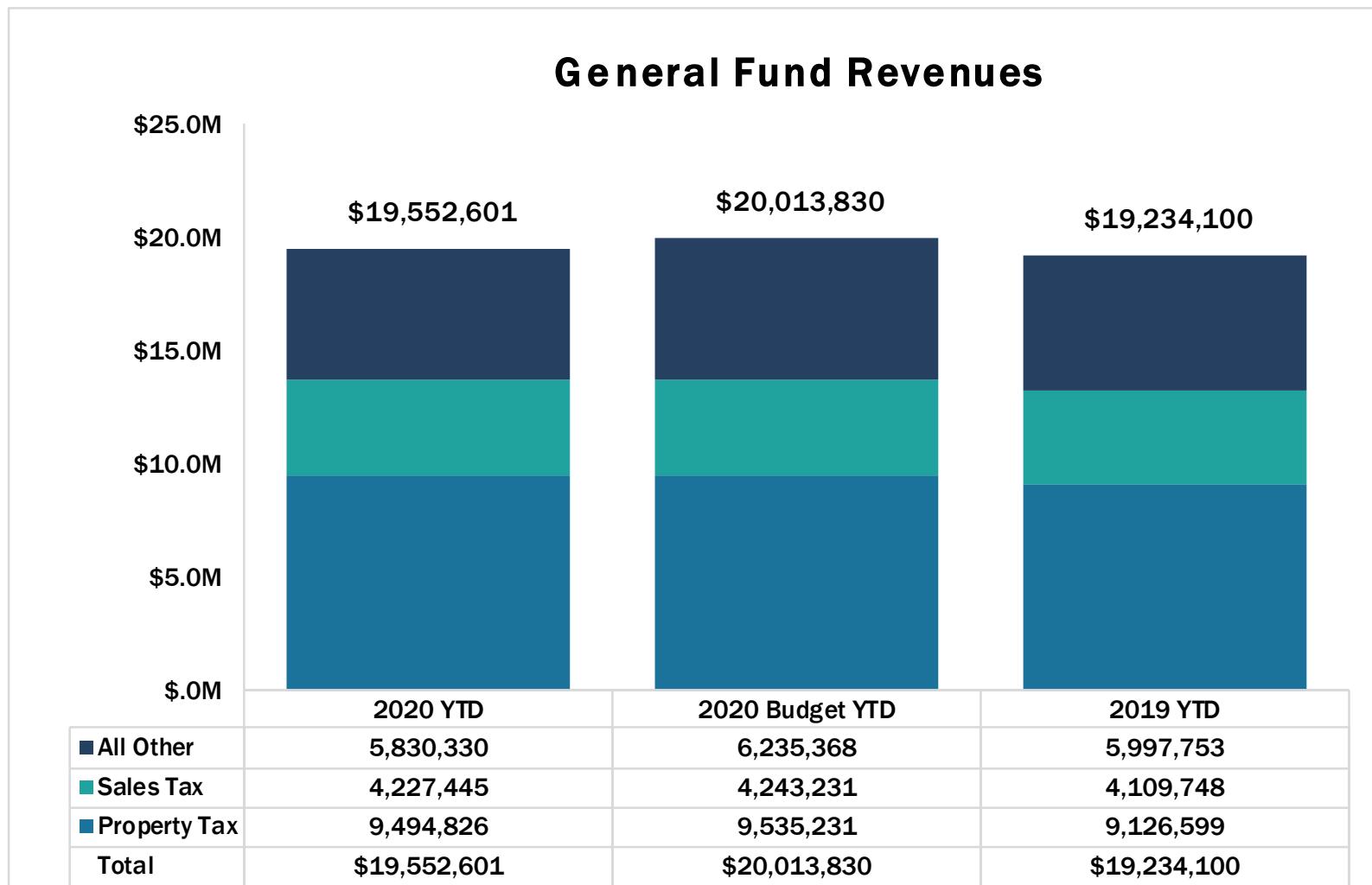
**City Council Meeting  
May 26, 2020**



# General Fund Summary

<b>Fund</b>	Total	Year to Date	Year to Date	Better /	Year to Date	Change
	FY2020	FY2020	FY2020	(Worse)	FY2019	from
	Budget	Budget	Actual	than Budget	Actual	FY2019
<b>General Fund</b>						
Revenues						
Property Tax	\$ 9,922,412	\$ 9,535,231	\$ 9,494,826	\$ (40,405)	\$ 9,126,599	\$ 368,227
Sales Tax	7,470,865	4,243,231	4,227,445	(15,786)	4,109,748	117,697
Other Revenue	<u>11,368,800</u>	6,235,368	5,830,330	(405,039)	5,997,753	(167,423)
Total Revenue	28,762,077	20,013,830	19,552,601	(461,229)	19,234,100	318,500
Expenditures	28,762,077	15,061,178	14,526,821	534,357	14,563,141	(36,320)
Net	\$ -	\$ 4,952,652	\$ 5,025,780	\$ 73,128	\$ 4,670,960	\$ 354,820

# General Fund Revenues



# General Fund Revenues

## EMS Revenue

- **YTD - \$194K lower than budget**
- **April 2020 – base charge revenue down 33.1% compared to April 2019**

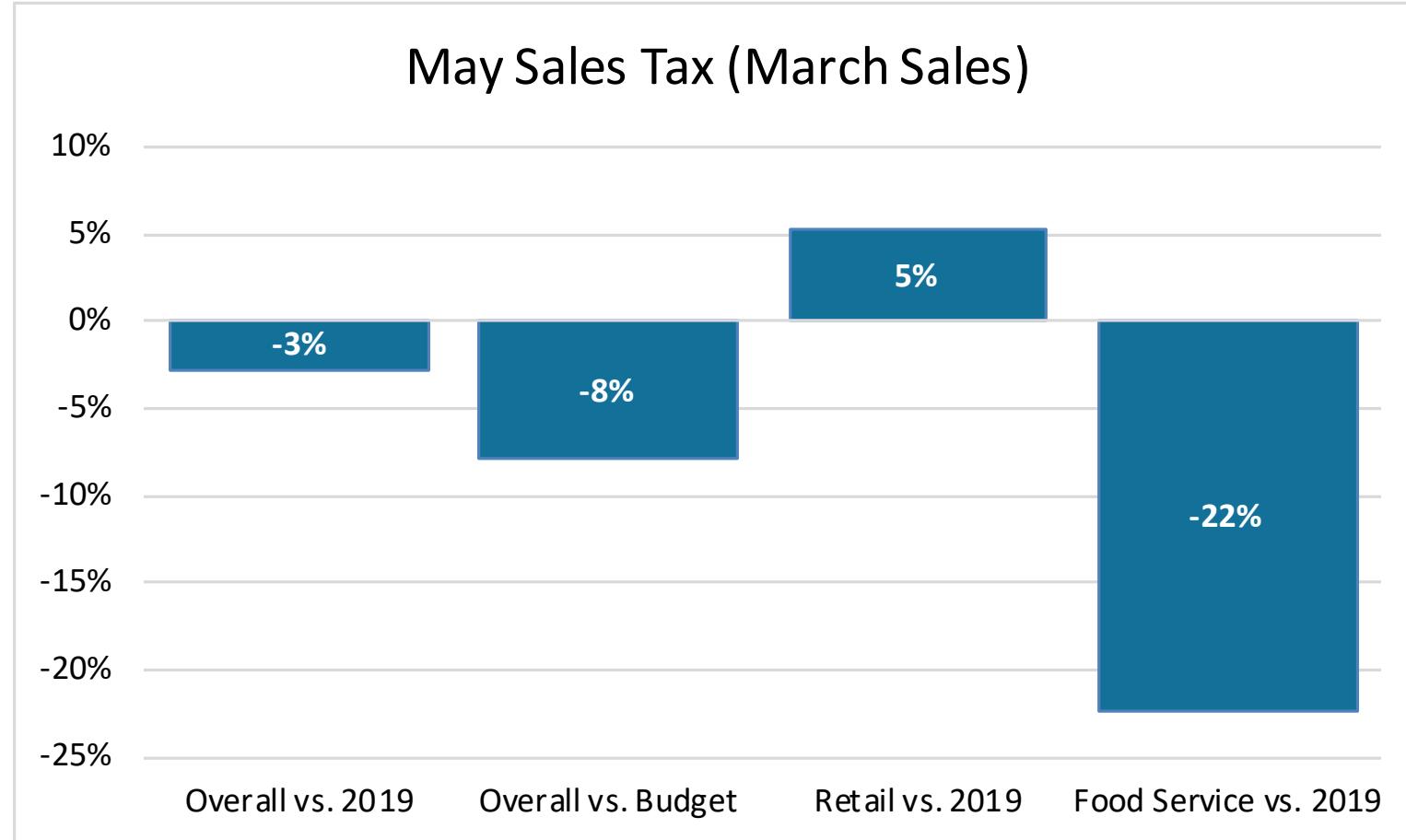
## Recreation Revenue

- **YTD - \$79K lower than budget**
- **April 2020 – revenue down 97.3% compared to April 2019**

## Municipal Court

- **YTD - \$161K lower than budget**
- **April 2020 – revenue down 74.6% compared to April 2019**

# May Sales Tax



**COVID model assumed less than budget by:**

**May (March sales): 15%**  
**June (April sales): 40%**  
**July (May sales): 40%**  
**Aug (June sales): 25%**  
**Sept (July sales): 15%**

**June (April sales) sales tax information will be received June 10<sup>th</sup>.**



# COVID Funding Opportunities

## **Office of the Governor Grant – Department of Justice**

- Texas received \$37.8 million, AACOG received \$3.1 million
- Application submitted 5/7/2020
- \$201K request after OOG initial review

## **CARES Act, Coronavirus Relief Fund**

- Texas received \$11.2 billion
- Cities < 500,000 get \$55 per population allocation
- \$1.3 million for Kerrville, 20% allocation - \$266K requested 5/13/2020
- Limitations on how money can be spent, but potential for community spending



# COVID Funding Opportunities

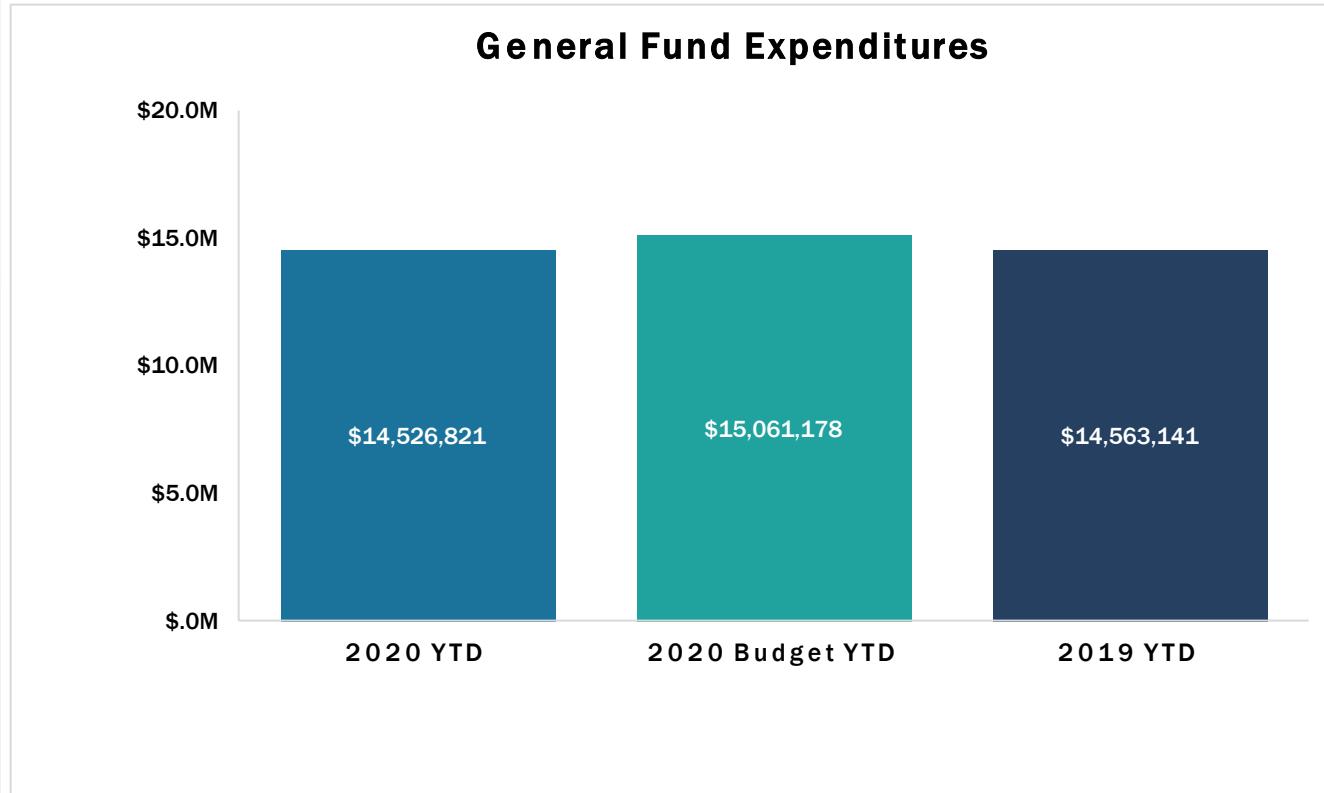
## **CARES Provider Relief Fund - Health and Human Services**

- **\$100 billion total allocation, Tranche 1 - \$30 billion**
- **\$67K received on 4/10/2020, no application required**
- **Allocation based on Medicare fees received in 2019**
- **Can be used to cover lost revenue**
- **Looking into eligibility for Tranche 2 funding**

## **FEMA Funding**

- **Funding of last resort**
- **75% reimbursement**
- **Initial document filed to allow possibility for future funding**
- **Administratively complicated and lengthy process**

# General Fund Expenditures

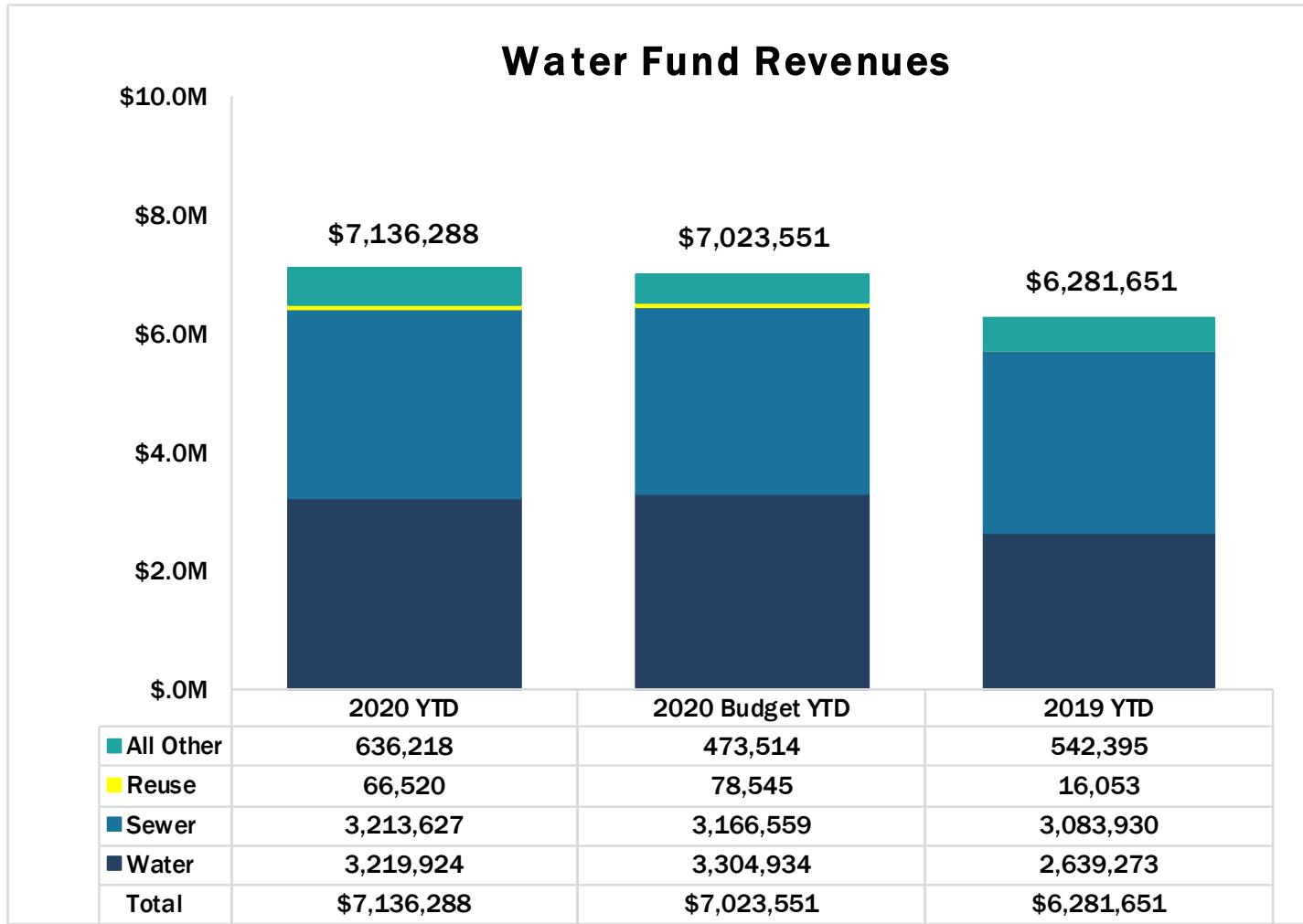


- **Vacancies in Parks, Police, Fire, Engineering, IT**
- **Reduced supplies, equipment and maintenance – especially in Parks**
- **Reduced Fire OT**
- **No travel, reduced training**
- **First paving expenses of the season occurred in April**

# Water Fund Summary

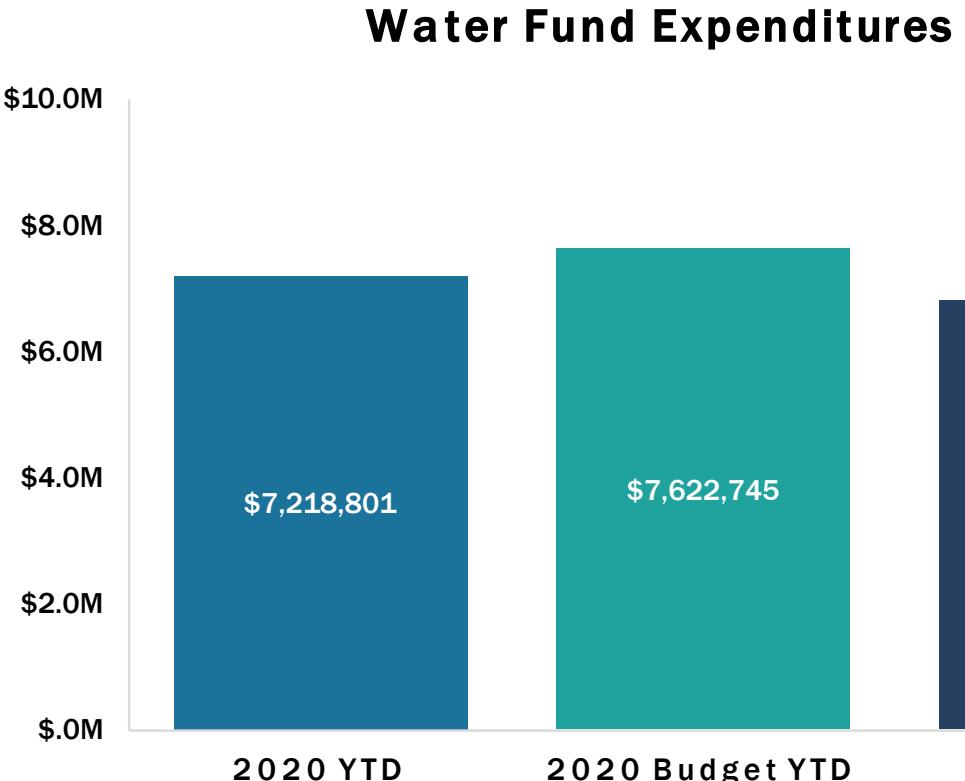
Fund	Total	Year to Date	Year to Date	Better /	Year to Date	Change
	FY2020	FY2020	FY2020	(Worse)	FY2019	from
	Budget	Budget	Actual	than Budget	Actual	FY2019
<b>Water Fund</b>						
Revenues						
Water Sales	\$ 6,487,507	\$ 3,304,934	\$ 3,219,924	\$ (85,010)	\$ 2,639,273	\$ 580,651
Sewer Sales	5,525,753	3,166,559	3,213,627	47,068	3,083,930	129,696
Reuse Sales	154,181	78,545	66,520	(12,025)	16,053	50,467
Other Revenue	868,153	473,514	636,218	162,704	542,395	93,823
Total Revenue	13,035,594	7,023,551	7,136,288	112,737	6,281,651	854,638
Expenditures	13,035,594	7,622,745	7,218,801	403,944	6,822,445	396,356
Net	\$ -	\$ (599,194)	\$ (82,513)	\$ 516,682	\$ (540,795)	\$ 458,282

# Water Fund Revenues



- **Commercial consumption down 27% compared to May 2019, down 35% compared to “historical average” year**
- **Commercial sewer based on monthly consumption not sewer averaging**

# Water Fund Expenditures



- **Vacancies in Wastewater Collections, Water Distribution**
- **Reduced maintenance, supplies expense**
- **No contingency spending for large repairs this year**

# Other Funds Summary

Fund	Total	Year to Date	Year to Date	Better /	Year to Date	Change
	FY2020	FY2020	FY2020	(Worse)	FY2019	from
	Budget	Budget	Actual	than Budget	Actual	FY2019
<b>Development Services Fund</b>						
Revenues						
Permits & Fees	\$ 688,870	\$ 460,174	\$ 641,684	\$ 181,510	\$ 265,488	\$ 376,196
Transfer In	237,422	138,496	138,496	-	413,401	(274,905)
Total Revenue	926,292	598,670	780,180	181,510	678,889	101,291
Expenditures	926,292	511,491	481,533	29,958	819,069	(337,536)
Net	-	87,179	298,647	211,468	(140,179)	438,827
<b>Golf Fund</b>						
Revenues						
Recreation	917,537	478,805	372,423	(106,382)	408,054	(35,632)
Transfer In	80,000	40,833	40,833	-	40,833	-
Total Revenue	997,537	519,638	413,256	(106,382)	448,888	(35,632)
Expenditures	997,537	536,817	510,685	26,132	512,724	(2,039)
Net	-	(17,179)	(97,429)	(80,250)	(63,836)	(33,593)
<b>Hotel Occupancy Tax Fund</b>						
Revenues	1,458,500	727,405	688,954	(38,451)	752,962	(64,008)
Expenditures	1,458,500	1,026,325	884,915	141,410	606,061	278,854
Net	\$ -	\$ (298,920)	\$ (195,961)	\$ 102,959	\$ 146,901	\$ (342,862)



# Fund Analysis

## Development Services Fund

- On track to meet revenue budget – school and hotel projects progressing
- Planning vacancy earlier in the year, lower software costs

## Golf Fund

- Closed April 11-21, No carts April 22-30
- Green fees 66.7% lower than April 2019

## Hotel Occupancy Tax Fund

- YTD – Revenues are \$38K lower than budget
- April 2020 occupancy tax is 56.6% lower than April 2019
- Early May results – 84.7% lower than May 2019



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

---

**SUBJECT:** Appointment of new Joint Airport Board Place #3 member.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** Mar 12, 2020

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
0	N/A	N/A	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

The Joint Airport Board will have one vacancy for Place #3, due to Bill Wood's term expiring May 31, 2020.

Applicants the Board considered: Barry Dowlen, Peter Hakala, Scott Schellhase, Stephen Schmerbeck, John Trolinger.

The Joint Airport Board members have interviewed and chosen Stephen Schmerbeck to fill this vacancy on the Board. The Joint Airport Board would like to present this selection for your approval.

Regarding appointment to the Airport Board:

1. The Board shall recommend persons to the County and City for consideration of appointment.
2. In the event that a candidate recommended by the Board is not appointed by either Party, the Board shall recommend an alternative candidate.

3. In the event that this second candidate is not appointed by either Party, the Board shall select another candidate who will be automatically appointed to the Board without the approval of the Parties.

**RECOMMENDED ACTION:**

Joint Airport Board members request your approval of Stephen Schmerbeck as new member of the Joint Airport Board, effective June 1, 2020.



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

---

**SUBJECT:** Appointments to the Food Service Advisory Board.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** Jan 13, 2020

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20200324\\_Board Roster\\_Food Service.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

Three vacancies exist for the Food Service Advisory Board, due to terms which expired December 2019.

Five applications have been received: Shonna Ebert, Wendy Massey, Martino Ortega (reappointment), Marcus Willis, and Bernadette Winn.

**RECOMMENDED ACTION:**

Appoint members.



City of Kerrville  
701 Main Street  
Kerrville, Texas 78028  
(830) 257-8000

## FOOD SERVICE ADVISORY BOARD

As Needed: Third Thursday of Month @ 3:00 p.m.

NAME	APPT	EXP	TERM#
Monica Egelston	3/28/2017, 2/26/19*	12/1/20	0
Angela Fiedler	3/28/17, 2/26/19*	12/1/20	0
Monty Rusch Vice-Chairperson	3/28/17, 2/26/19*	12/2/20	0
Seth White	3/28/17, 2/26/19*	12/1/20	0
<b>VACANT</b>		12/1/21	
<b>VACANT</b>		12/1/21	
<b>VACANT</b>		12/1/21	

**City Staff:** Daryle Poe, Health Specialist and Drew Paxton, Planning Director

**Qualifications:** Shall be composed of local certified food managers from the food service industry, any member of the local restaurant association who owns or conducts business in Kerrville or any citizen of Kerr County qualified by training and/or experience to advise on the food code.

**Functions:** To hear appeals and make recommendations to the health official for variance from the code; to provide assistance to the health official concerning interpretations of the code; to advise the city manager, at his request, regarding the suspension or revocation of food permits; and to make recommendations to city council regarding any matters relating to the food service.

**Number of Members:** Seven **Quorum:** Four

**Established By:** Ordinance 1989-30; amended by Ordinance 1994-11

Code of Ordinances: Chapter 58 - Article II - Section 58-34

**Term Limit:** 2 **Term Date:** Exp December 1 - 2 YR Terms

\*Reappointed Date



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

---

**SUBJECT:** Appointment to the Parks and Recreation Advisory Board.

**AGENDA DATE OF:** May 26, 2020      **DATE SUBMITTED:** Jan 13, 2020

**SUBMITTED BY:** Shelley McElhannon

**EXHIBITS:** [20200414\\_Board Roster\\_Parks and Recreation Advisory Board.pdf](#)

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$0	\$0	\$0	N/A

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

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<b>Kerrville 2050 Item?</b>	No
<b>Key Priority Area</b>	N/A
<b>Guiding Principle</b>	N/A
<b>Action Item</b>	N/A

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**SUMMARY STATEMENT:**

Three vacancies exist due to terms expiring March 2020.

Ten applications have been received: Lynda Ables (reappointment), Morgan Bond, Celeste Hamman (reappointment), Coreena Hazelett, Katy Kappel, Rick Martin, Diane McMahon, Michael Sigerman, Matt Thurlow (reappointment), and Sue Tiemann.

**RECOMMENDED ACTION:**

Appoint members.

**PARKS AND RECREATION ADVISORY BOARD**  
**Quarterly, third Thursday of the month at 8:15 a.m.**

NAME	EXP
Lisa Nye-Salladin Vice-Chair	3/31/21
Rose Bradshaw	3/31/21
Dr. Charles Hueber	3/31/21
Jesse Olivera	3/31/21
Greg Peschel	3/31/21
Wayne Uecker	3/31/21
<b>Vacant</b>	<b>3/31/22</b>
<b>Vacant</b>	<b>3/31/22</b>
<b>Vacant</b>	<b>3/31/22</b>

**City Staff:** Ashlea Boyle, Director of Parks & Recreation

**Qualifications:** A majority shall be residents of the city of Kerrville, and all shall be residents of Kerr County.

**Functions:** Shall constitute an advisory board to the city council and shall periodically assist city staff in procedural matters. The board shall have authority to hold hearings in the city and to consider and make recommendations to the city council in writing on any and all matters pertaining to the city's parks and recreation system.

**Number of Members:** Nine **Quorum:** Five

**Established By:** Ordinance No. 1984-37, amended by Ordinance No. 1987-24; amended by Ordinance 2017-12.

**Term Limit:** 2    **Term Date:** Exp March 31 - 2 year terms