

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, JUNE 08, 2021, 6:00 P.M.

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



CITY COUNCIL AGENDA
JUNE 8, 2021, 6:00 PM
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS



Citizens may speak to the City Council on posted agenda items. Prior to speaking, each speaker must fill out the speaker request form and submit it to the City Secretary. The speaker request form must be submitted before the item is called or read into record. Each speaker is limited to four minutes.

CALL TO ORDER:

INVOCATION AND PLEDGE OF ALLEGIANCE:

Led by Councilmember Brenda Hughes.

1 ANNOUNCEMENTS OF COMMUNITY INTEREST:

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

2 PRESENTATIONS:

- 2.A. Kerrville Kindness award - Kerr Konnect and Enterprise Fleet Management.
- 2.B. Commendations for outgoing Economic Improvement Corporation members.

3 VISITORS/CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. The speaker request form must be submitted to the City Secretary before the item is called or read into record. City Council may not discuss or take any action on an item but may place the issue on a future agenda. Each speaker is limited to four minutes.

4 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:

- KERRVILLE 4.A.** Agreement between the City of Kerrville, Texas and High Five Events, LLC for use of hotel occupancy tax funds.

Attachments:

[20210608_HOT Agreement_High Five Events for Kerrville Triathlon.pdf](#)

- KERRVILLE 4.B.** Agreement between the City of Kerrville, Texas and Kerrville's Fourth on the River, Inc. for use of hotel occupancy tax funds.

Attachments:

[20210608_HOT Agreement_Kerrvilles Fourth on the River for 4th July.pdf](#)

- KERRVILLE 4.C.** License Agreement for Special Event - Kerrville's Fourth on the River, Inc. (July 4, 2021 Event).

Attachments:

[20210608_License Agreement_Kerrvilles 4th on the River.pdf](#)

- 4.D. Professional services contract with BKD, LLP to perform financial audit services for the City of Kerrville.

Attachments:

[20210608_Contract_Audit Contract.pdf](#)

- 4.E. Construction Agreement with Hayden Paving, Inc. for the 2021 Street Maintenance project in an amount of \$368,708.23.

Attachments:

[20210608_Bid_2021 Street Maintenance_Received Bids.pdf](#)

[20210608_Letter_6S Engineering Recommendation of Award - Hayden Paving.pdf](#)

- 4.F. Change order with Dowtech Specialty Contractors, Inc. for Water Plant Improvements to be completed as part of the Water Treatment Plant Trihalomethanes (THM) Control Facility project construction contract in the amount of \$140,816.00.

Attachments:

[20210608_Contract Change Order_THM Facility Project.pdf](#)

- 4.G. Minutes for the City Council workshop held May 25, 2021.

Attachments:

[20210608_Minutes_Council workshop 4pm 5-25-21.pdf](#)

- 4.H. Minutes for the City Council meeting held May 25, 2021.

Attachments:

[20210608_Minutes_Council meeting 6pm 5-25-21.pdf](#)

END OF CONSENT AGENDA.

5 PUBLIC HEARINGS AND RESOLUTIONS:

- 5.A. Resolution No. 27-2021. A Resolution granting a Conditional Use Permit to authorize a short-term rental unit on the property consisting of approximately 0.207 acres, comprising part of Lots 710 and 711, Block 101, B.C. Richards Addition, a Subdivision within the City of Kerrville and more commonly known as 222 Rawson; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to certain conditions and restrictions contained herein.

Attachments:

[20210608_Resolution_27-2021 CUP 222 Rawson STR.pdf](#)

- 5.B. Resolution No. 28-2021. A Resolution allowing a variance to a distance requirement as between the restaurant located at 208 Cully Drive and child-care facility located within 300 feet of said restaurant.

Attachments:

[20210608_Resolution_28-2021 Variance 208 Cully Drive.pdf](#)

6 PUBLIC HEARING AND ORDINANCES, FIRST READING:

- 6.A. Ordinance No. 2021-14. An Ordinance annexing an approximate 149.519 and 2.775 acre tracts of land, both located within the Comanche Trace Residential Development, into the City of Kerrville, Texas and extending the boundary limits of the City so as to include such property within the City limits; approving a service agreement for the annexed property; and adopting the zoning for the annexed property as a Medium Density Residential District (R-2).

Attachments:

[20210608_Ordinance_2021-14 Annexation approx 152 acre Comanche Trace.pdf](#)

- 6.B. Ordinance No. 2021-15. An Ordinance amending Chapter 60, Code of Ordinances, City of Kerrville, Texas; Chapter 60 more commonly known as the City's Zoning Code; by changing the zoning of a property known as 601 Spur 100 and consisting of Lot 2-R, Block 1, of the Freeman-Fritts addition,

a Subdivision within the City of Kerrville, Kerr County, Texas; from a Public and Institutional Zoning District (PI) to a Residential Mix Zoning District (RM); providing a cumulative clause; providing for severability; providing an effective date; and ordering publication.

Attachments:

[20210608_Ordinance_2021-15 Zoning Code change 601 Spur 100.pdf](#)

7 ORDINANCES, SECOND READING:

- 7.A. Ordinance 2021-13. Second reading. An ordinance amending the City's Fiscal Year 2021 budget to account for the disbursement of additional funds, the receipt of additional revenue, and to make other amendments as provided herein.

Attachments:

[20210608_Ordinance_2021-13 FY2021 budget amendment second reading.pdf](#)

8 ITEMS FOR FUTURE AGENDAS:

City Council may suggest items or topics for future agendas.

9 EXECUTIVE SESSION:

City Council may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above 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. City Council also reserves the right to meet in executive session on the following issues:

10 ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:

ADJOURN.



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

SUBJECT: Kerrville Kindness award - Kerr Konnect and Enterprise Fleet

Management. **AGENDA DATE OF:** June 8, 2021

DATE SUBMITTED: May

28, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

A citizen or entity who has impacted the City of Kerrville in a positive way.

Recipient: Kerr Konnect and Enterprise Fleet Management.

RECOMMENDED ACTION:

Recognize recipients.



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

SUBJECT: Commendations for outgoing Economic Improvement Corporation members.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Recognize Economic Improvement Corporation members Kent McKinney and Aaron Yates.

RECOMMENDED ACTION:

Present commendations.



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

SUBJECT: Agreement between the City of Kerrville, Texas and High Five Events, LLC for use of hotel occupancy tax funds.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 24, 2021

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20210608_HOT Agreement_High Five Events for Kerrville Triathlon.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$25,000	\$25,000	\$25,000	20-2000-4320

PAYMENT TO BE MADE TO: High Five Events, LLC

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.5 - Facilitate or expand more City activities around the river, especially during cooler times of the year

SUMMARY STATEMENT:

Attached is an agreement between the City of Kerrville and High Five Events, Inc. for use of hotel occupancy tax funds (HOT) for the Kerrville Triathlon Festival to be held September 25-26, 2021. The maximum eligible reimbursement is \$25,000. As a reminder, an allocation of HOT funds was approved in the FY21 adopted budget for the following tourism generating events: Robert Earl Keen's Fourth on the River, Kerrville Triathlon Festival, Kerrville River Festival. This event has received HOT support for the past several years and the agreement is consistent with prior years.

RECOMMENDED ACTION:

Approval of agreement as presented.

**AGREEMENT BETWEEN CITY OF KERRVILLE AND HIGH FIVE EVENTS, LLC
FOR USE OF HOTEL OCCUPANCY TAX FUNDS**

THIS AGREEMENT made and entered into this _____ day of _____, 2021, between the City of Kerrville, Texas, a home rule municipal corporation ("City"), and High Five Events, LLC, ("HFE").

WITNESSETH:

WHEREAS, the City levies a tax within the City and its extraterritorial jurisdiction upon the occupancy of any room or space furnished by any hotel or motel and, pursuant to the provisions of Chapter 351 of the Texas Tax Code, disperses the proceeds of said tax to various organizations for their use pursuant to Chapter 351; and

WHEREAS, HFE produces and hosts and will continue to do so its Kerrville Triathlon Festival ("Triathlon") in early fall, which consists of a spring distance triathlon and relay, intermediate distance triathlon, half distance triathlon and relay, kids fun run, and a health and fitness exposition; and

WHEREAS, HFE advertises and promotes the Triathlon in an effort to reach interested persons throughout the state; and

WHEREAS, it is the desire of the parties hereto to combine their efforts for the purpose of attracting tourists to the City so as to promote tourism and the hotel industry in the City;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of Kerrville, Texas, the parties have agreed and do hereby agree as follows:

ARTICLE I

In consideration of HFE promoting the City of Kerrville and conducting the Triathlon, the City agrees to pay HFE the total sum of up to TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), which HFE may use for the following purposes:

- A. Printing of material and other costs directly relating to the advertising and promotion of the Triathlon; and
- B. Such other purposes as may be authorized by Chapter 351 of the Texas Tax Code and the City.

ARTICLE II

Payment of funds shall be on a reimbursable basis. To receive payment, HFE must submit a written request to the City accompanied by a copy of an invoice issued to HFE requesting payment for services rendered in furtherance of the purposes set forth in Article I. HFE shall have

the discretion to determine how to allocate the funds granted by the City among the permitted uses specified in Chapter 351 of the Texas Tax Code; however, the City's obligation to reimburse HFE shall not exceed \$25,000.00.

ARTICLE III

HFE understands that the funds paid to HFE by the City are derived from tax revenues collected under the City's Hotel Occupancy Tax Ordinance and that the City has estimated the tax revenues to be collected during the term of this Agreement in its budget for the fiscal year 2020-2021. HFE further understands, acknowledges, and agrees that if the tax revenues actually collected by the City are less than the estimated tax revenues to be collected during the City's fiscal year 2020-2021, City will be under no obligation to reimburse HFE for the full amount set forth in Article I, above.

ARTICLE IV

The term of this Agreement is for a period beginning on August 1, 2021, and ending on October 31, 2021.

ARTICLE V

In conjunction with its request for payment, HFE shall provide a written report and full documentation showing the expenditures made pursuant to this Agreement and that the funds provided by City pursuant to this Agreement were used only for the purposes authorized by this Agreement and Texas Tax Code §351.101, as amended. HFE shall maintain books of account with correct entries of all expenditures that are made according to the terms of this Agreement and of funds allocated from other sources. Any and all books of account of HFE for the Triathlon shall be at all times open to inspection by the City or any of its officers or duly authorized agents. Upon such inspection, the City or its officers or agents shall be afforded the opportunity on premises to make photographic copies of any and all documentation of books of account for the Triathlon, including but not limited to statements of account relating to the disposition of funds provided by the City under this Agreement and funds allocated from other sources. HFE shall maintain these books of account for a period of three (3) years following the expiration of the term for which they are applicable. Notwithstanding Article II, above, City shall be under no obligation to make any reimbursements if the reports required by this Article V have not been delivered to City.

ARTICLE VI

Not later than October 31, 2021, HFE shall provide the City Manager with a written report of its accomplishments related to the services provided for herein, including the effectiveness of its advertising and promotions to cause tourists to attend the Triathlon and the outcome of the Triathlon.

ARTICLE VII

This Agreement does not create any joint venture, partnership, or agency relationship between City and HFE, it being the intent of the Parties that HFE shall at all times be and operate hereunder as an independent contractor. HFE shall have exclusive control of, and the exclusive right to control the details of the work to be performed hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of HFE's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

ARTICLE VIII

In the event of any default by HFE hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I, above, City may cease all future payments hereunder and terminate this Agreement. In addition, HFE shall, at City's request, refund to City funds that are not spent in accordance with this Agreement and any unspent and unobligated funds previously paid to HFE.

ARTICLE IX

HFE AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE CARRYING ON OF WORK OR IN THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER. HFE COVENANTS AND AGREES TO, AND DOES HEREBY INDEMNIFY, DEFEND AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, AND EXPENSES OF ANY CHARACTER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR INCURRED ON ACCOUNT OF ANY INJURIES OR DAMAGES, WHETHER REAL OR ASSERTED, SUSTAINED BY ANY PERSON OR PROPERTY BY OR IN CONSEQUENCE OF ANY INTENTIONAL OR NEGLIGENT ACT, OMISSION, OR CONDUCT OF HFE, ITS AGENTS, SERVANTS OR EMPLOYEES.

ARTICLE X

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

ARTICLE XI

HFE shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this Agreement any and all federal, state and local licenses and permits which may be required of HFE generally.

ARTICLE XII

HFE may not assign this Agreement without the written consent of the City Manager, or his designee.

ARTICLE XIII

The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

ARTICLE XIV

The obligations of the parties to this Agreement are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

ARTICLE XV

This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

ARTICLE XVI

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

ARTICLE XVII

Neither City nor HFE shall be required to perform any term, condition or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of City or HFE except as herein provided, and which by the exercise of due diligence City or HFE is unable, wholly or in part, to prevent or overcome.

ARTICLE XVIII

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement.

ARTICLE XIX

KFOR hereby verifies the following per Section 2270.02, Texas Government Code:

1. KFOR does not boycott Israel; and
2. KFOR will not boycott Israel during the term of the Agreement.

ARTICLE XX

KFOR warrants, covenants, and represents that KFOR is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

SIGNED AND AGREED by City and HFE on the dates indicated below.

THE CITY OF KERRVILLE

BY: _____
NAME: E.A. HOPPE
TITLE: CITY MANAGER
DATE: _____

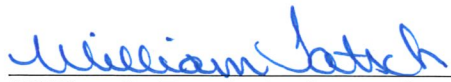
HIGH FIVE EVENTS, LLC

BY: _____
NAME: DANIEL P. CARROLL
TITLE: MANAGING PARTNER
DATE: _____

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



William L. Tatsch, Assistant City Attorney

APPROVED AS TO CONTENT:

Ashlea Boyle, Director
Parks & Recreation Department



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

SUBJECT: Agreement between the City of Kerrville, Texas and Kerrville's Fourth on the River, Inc. for use of hotel occupancy tax funds.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 24, 2021

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20210608_HOT Agreement_Kerrvilles Fourth on the River for 4th July.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$25,000	N/A	\$25,000	20-2000-4320

PAYMENT TO BE MADE TO: Kerrville's Fourth on the River, Inc.

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

Attached is an agreement between the City of Kerrville and Kerrville's Fourth on the River, Inc. for use of hotel occupancy tax funds (HOT) for the Robert Earl Keen's Fourth on the River event held on July 4th. The maximum eligible reimbursement is \$25,000. As a reminder, an allocation of HOT funds was approved in the FY21 adopted budget for the following tourism generating events: Robert Earl Keen's Fourth on the River, Kerrville Triathlon Festival, Kerrville River Festival. This event has received HOT support for the past several years and the agreement is consistent with prior years.

RECOMMENDED ACTION:

Approval of agreement as presented.

**AGREEMENT BETWEEN CITY OF KERRVILLE, TEXAS, AND KERRVILLE'S
FOURTH ON THE RIVER, INC. FOR USE OF HOTEL OCCUPANCY TAX FUNDS**

THIS AGREEMENT made and entered into this _____ day of _____, 2021, between the City of Kerrville, Texas, a home rule municipal corporation ("City"), and Kerrville's Fourth on the River, Inc., a Texas nonprofit corporation, ("KFOR").

WITNESSETH:

WHEREAS, City levies a tax within the City and its extraterritorial jurisdiction upon the occupancy of any room or space furnished by any hotel or motel and, pursuant to the provisions of Chapter 351 of the Texas Tax Code, disperses the proceeds of said tax to various organizations for their use pursuant to Chapter 351; and

WHEREAS, KFOR produces and hosts in conjunction with the City's July 4th fireworks display on July 4, 2021, an Independence Day celebration within Louise Hays Park (the "Event"); and

WHEREAS, KFOR advertises and promotes the Event in an effort to reach interested persons throughout the state; and

WHEREAS, it is the desire of the parties hereto to combine their efforts for the purpose of attracting tourists to the City so as to promote tourism and the hotel industry in the City;

NOW, THEREFORE, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of Kerrville, Texas, the parties have agreed and do hereby agree as follows:

ARTICLE I

In consideration of KFOR promoting the City of Kerrville and conducting the event in an effort to attract tourists to both visit and stay in the City, City agrees to pay KFOR a total sum of up to TWENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$25,000.00), which KFOR may use for the following purposes:

- A. Printing of material and other costs directly relating to the advertising and promotion of the Event; and
- B. Such other purposes as may be authorized by Chapter 351 of the Texas Tax Code and the City.

ARTICLE II

Payment of funds shall be on a reimbursable basis. To receive payment, KFOR shall submit a written request to the City accompanied by a copy of an invoice issued to KFOR requesting payment for services rendered in furtherance of the purposes set forth in Article I.

KFOR shall have the discretion to determine how to allocate the funds granted by the City among the permitted uses specified in Chapter 351 of the Texas Tax Code; however, the City's obligation to reimburse KFOR shall not exceed \$25,000.00.

ARTICLE III

KFOR understands that the funds paid to KFOR by the City are derived from tax revenues collected under the City's Hotel Occupancy Tax Ordinance and that the City has estimated the tax revenues to be collected during the term of this Agreement in its budget for the fiscal year 2020-2021. KFOR further understands, acknowledges, and agrees that if the tax revenues actually collected by the City are less than the estimated tax revenues to be collected during the City's fiscal year 2020-2021, City will be under no obligation to reimburse KFOR for the full amount set forth in Article I, above.

ARTICLE IV

The term of this Agreement is for a period beginning on June 1, 2021, and ending on July 31, 2021, unless this Agreement is terminated sooner.

ARTICLE V

In conjunction with its request for payment, KFOR shall provide a written report and full documentation showing the expenditures made pursuant to this Agreement and that the funds provided by City pursuant to this Agreement were used only for the purposes authorized by this Agreement and Texas Tax Code §351.101, as amended. KFOR shall maintain books of account with correct entries of all expenditures that are made according to the terms of this Agreement and of funds allocated from other sources. Any and all books of account of KFOR for the event shall be at all times open to inspection by the City or any of its officers or duly authorized agents. Upon such inspection, the City or its officers or agents shall be afforded the opportunity on premises to make photographic copies of any and all documentation of books of account for the event, including but not limited to statements of account relating to the disposition of funds provided by the City under this Agreement and funds allocated from other sources. KFOR shall maintain these books of account for a period of three (3) years following the expiration of the term for which they are applicable. Notwithstanding Article II, above, City shall be under no obligation to make any reimbursements if the reports required by this Article V have not been delivered to City.

ARTICLE VI

Not later than July 31, 2021, KFOR shall provide the City Manager with a written report of its accomplishments related to the services provided for herein, including the effectiveness of its advertising and promotions to cause tourists to attend the Event and the outcome of the Event.

ARTICLE VII

This Agreement does not create any joint venture, partnership, or agency relationship between City and KFOR, it being the intent of the Parties that KFOR shall at all times be and operate hereunder as an independent contractor. KFOR shall have exclusive control of, and the exclusive right to control the details of the work to be performed hereunder and all personnel performing same, and shall be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of KFOR's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

ARTICLE VIII

In the event of any default by KFOR hereunder, including, but not limited to, use of the funds provided herein for purposes other than those stated in Article I, above, City may cease all future payments hereunder and terminate this Agreement. In addition, KFOR shall, at City's request, refund to City funds that are not spent in accordance with this Agreement and any unspent and unobligated funds previously paid to KFOR.

ARTICLE IX

KFOR AGREES TO ASSUME AND DOES HEREBY ASSUME ALL RESPONSIBILITY AND LIABILITY FOR DAMAGES SUSTAINED BY PERSONS OR PROPERTY, WHETHER REAL OR ASSERTED, BY OR FROM THE CARRYING ON OF WORK OR IN THE PERFORMANCE OF SERVICES PERFORMED AND TO BE PERFORMED HEREUNDER. KFOR COVENANTS AND AGREES TO, AND DOES HEREBY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, AND EXPENSES OF ANY CHARACTER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR INCURRED ON ACCOUNT OF ANY INJURIES OR DAMAGES, WHETHER REAL OR ASSERTED, SUSTAINED BY ANY PERSON OR PROPERTY BY OR IN CONSEQUENCE OF ANY INTENTIONAL OR NEGLIGENT ACT, OMISSION, OR CONDUCT OF KFOR, ITS AGENTS, SERVANTS OR EMPLOYEES.

ARTICLE X

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

ARTICLE XI

KFOR shall adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and shall maintain in effect during the term of this

Agreement any and all federal, state and local licenses and permits which may be required of KFOR generally.

ARTICLE XII

KFOR may not assign this Agreement without the written consent of the City Manager, or his designee.

ARTICLE XIII

The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

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The obligations of the parties to this Agreement are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

ARTICLE XV

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ARTICLE XVI

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

ARTICLE XVII

Neither City nor KFOR shall be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods, and any other cause not reasonably within the control of City or KFOR except as herein provided, and which by the exercise of due diligence City or KFOR is unable, wholly or in part, to prevent or overcome.

ARTICLE XVIII

This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement.

ARTICLE XIX

KFOR hereby verifies the following per Section 2270.02, Texas Government Code:

1. KFOR does not boycott Israel; and
2. KFOR will not boycott Israel during the term of the Agreement.

ARTICLE XX

KFOR warrants, covenants, and represents that KFOR is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

SIGNED AND AGREED by City and KFOR on the dates indicated below.

THE CITY OF KERRVILLE

KERRVILLE'S FOURTH ON THE RIVER, INC.

BY: _____
NAME: E.A. HOPPE
TITLE: CITY MANAGER
DATE: _____

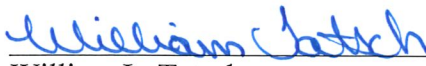
BY: _____
NAME: LARRY HOWARD
TITLE: PRESIDENT
DATE: _____

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



William L. Tatsch
Assistant City Attorney

Ashlea Boyle
Director of Parks & Recreation



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

SUBJECT: License Agreement for Special Event - Kerrville's Fourth on the River, Inc. (July 4, 2021 Event).

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [20210608_License Agreement_Kerrvilles 4th on the River.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	Yes
Key Priority Area	P - Parks / Open Space / River Corridor
Guiding Principle	P8. Provide recreational opportunities for people of all ages and abilities, both residents and tourists
Action Item	P8.3 - Enhance park programming for public gatherings/events

SUMMARY STATEMENT:

Attached is a license agreement renewal between the City of Kerrville and Kerrville's Fourth on the River, Inc. for use of Louise Hays Park for the annual July 4th celebration. The current agreement expired, thus necessitating a renewal. Kerrville's Fourth on the River produces the event, while the City provides in-kind support, hotel / motel occupancy tax allocation in accordance with Chapter 351 of the Texas Tax Code (under a separate agreement on this agenda), and manages the fireworks display.

Staff recommends approval of the agreement as presented.

RECOMMENDED ACTION:

Approval of the agreement as presented.

LICENSE AGREEMENT FOR SPECIAL EVENT
(Kerrville's 4th on the River)

THIS LICENSE AGREEMENT ("Agreement") is entered into and effective as of the _____ day of _____, 2021, by and between City of Kerrville, Texas ("City"), a Texas home-rule municipal corporation, acting through its City Manager; and Kerrville's 4th on the River ("KFOR"), a Texas nonprofit corporation, acting by and through its duly authorized officer. Collectively the City and KFOR may be referred to as the "Parties" and individually as the "Party".

BACKGROUND

WHEREAS, City and KFOR are working together to produce a July 4th celebration for the citizens of Kerrville and others; and

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

WHEREAS, the July 4th celebration to be held primarily within the City's Louise Hays Park, as indicated on the map found at **Exhibit A**, will benefit the public through the offering of entertainment and will encourage tourism and the promotion of the downtown area;

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

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

- 1.1** City appoints KFOR and KFOR accepts the appointment as the official coordinator of the event known as the Kerrville's 4th on the River, to include securing musical entertainment, food and drink vendors, and the necessary staging, fencing, and booths required for each (the "Event").
- 1.2** City grants KFOR the right to temporarily use and occupy the City's Louise Hays Park ("Licensed Premises") and the Centennial Stage area within the Licensed Premises for musical performances ("Performance Area") for the Event, subject to the terms and conditions of this Agreement. The term "Licensed Premises" includes and means "Performance Area". The Licensed Premises and Performance Area shall be located as indicated on the map, which is attached as **Exhibit A**. KFOR shall use the Licensed Premises solely for the operation of this Event and for no other purpose.
- 1.3** KFOR, at all times, shall control its contractors, agents, representatives, vendors, concessionaires, and volunteers. City may remove any and all such persons from the Licensed Premises who engage in disorderly or unsafe conduct. In the event of the exercise of this authority, KFOR waives any and all claims for damages against the City and its officers, employees, and agents on account thereof.

II. TERM AND TERMINATION

- 2.1** The term of this Agreement is from the date that this Agreement is signed by both Parties and will continue through August 1, 2021. Pursuant to this Agreement, KFOR shall have the authority to produce an Event on July 4, 2021, which may include the time necessary for set-up and take down. Each Party has the right to terminate this Agreement upon providing the nonterminating Party with thirty (30) days written notice of an intent to terminate this Agreement.

III. IMPROVEMENTS

- 3.1** KFOR shall not construct, or allow to be constructed, any permanent improvements or structures on the Licensed Premises nor shall KFOR make, or allow to be made, any alterations to the Licensed Premises unless approved by the City Manager or designee ("City Manager").

IV. RULES, REGULATIONS, AND RESPONSIBILITIES

- 4.1** KFOR shall comply with any request of the City Manager, the City's Police Department and its officers, and the City's Fire Marshal or designee(s) with respect to the health and safety of the public, including crowd management and control. Contingency plans for security and public services necessary for a larger crowd than anticipated will be discussed and agreed to with the City prior to the Event.
- 4.2** City, to include its City Manager and employees of its Parks and Recreation Department, Police, Fire, EMS, designee(s) and/or other representatives, shall have the right at any time to enter any portion of the Licensed Premises for any purpose. The entrances and exits of the Performance Area will be open or closed under the direction of KFOR in accordance with the terms of this Agreement and the normal constraints for public safety as solely determined by the City Manager.
- 4.3** KFOR shall ensure that all pathways, entrances, and points of ingress and egress remain unobstructed and that such is not used for any other purposes other than public ingress or egress.
- 4.4** KFOR is responsible for providing and installing fencing around the Performance Area, if deemed necessary by KFOR. If fencing is installed, fencing must include easily removed sections for safety and crowd management purposes. Fencing installation and removal should include a visual inspection of the grounds to remove wire clippings and product(s) that may have become dislodged or dropped during installation. KFOR shall ensure that any entrance and exit gates to the Performance Area do not impede the public right of ways and will accommodate a smooth and efficient flow of persons without causing undue wait times or conditions that may create crowd assembly.
- 4.5** KFOR shall not bring or permit anyone to bring or keep anything into the Licensed Premises or Performance Area that will or may increase the fire hazard or adversely affect the Licensed Premises. KFOR shall not bring any personal property onto the Licensed

Premises or place or put up any decorations that may damage Licensed Premises without the consent of the City Manager.

- 4.6 KFOR shall not admit into the Performance Area more persons than is determined by the City Manager and/or Fire Marshal can safely or freely move about within the Performance Area, and the decision of the City in this respect will be final.
- 4.7 KFOR shall comply with all rules of the Texas Alcoholic Beverage Commission (TABC) with respect to the sale and consumption of alcohol, to include the receipt of appropriate license(s) for its activities.
- 4.8 KFOR may permit persons to enter the Licensed Premises with lounge chairs, blankets, towels, or similar products. KFOR shall take reasonable steps to prohibit and prevent anyone from bringing alcohol or glass containers into the Licensed Premises.
- 4.9 KFOR shall allow attendees to enter the Licensed Premises with factory sealed water bottles in clear plastic containers. KFOR shall ensure that this policy is clearly expressed to the public in its marketing and promotion materials prior to the Event and at the entrance to the Licensed Premises.
- 4.10 KFOR and its contractors, agents, representatives, vendors, concessionaires, and volunteers shall conduct the Event in accordance with federal, state, and local laws, including applicable noise regulations.
- 4.11 KFOR shall pay all applicable federal, state, and local taxes in connection with the Event and Event performances, exhibitions, or entertainment, and shall furnish City all necessary information in order that City may report the transactions to the proper authorities. KFOR is responsible for the collection and reporting of all taxes due any governmental entity for the sale of tickets or sale of other taxable items, including vending and concessions. **KFOR AGREES TO INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS ARISING OUT OF THE COLLECTION, REPORTING, AND/OR PAYMENT OF TAXABLE SALES OCCURRING IN CONNECTION WITH THE EVENT.**
- 4.12 KFOR may use and place only temporary advertisements, signs, decorations, posters, banners, inflatable balloons, and displays ("signage") in, on, or about the Licensed Premises. All signage shall be subject to the prior written approval of City. KFOR agrees to remove and properly dispose of all signage from the Licensed Premises when KFOR vacates the Licensed Premises.
- 4.13 KFOR shall establish a first aid/comfort station.
- 4.14 KFOR should ensure that its vendors have ample water supplies for sale and/or distribution to the public. In addition, KFOR is encouraged to ensure that an ample amount of free public water sources are available as appropriate for the weather conditions existing at the time.

- 4.15 KFOR is prohibited from selling, distributing, promoting, and/or advertising tobacco or adult-oriented companies, products, or organizations in any manner.
- 4.16 KFOR shall take all appropriate steps to discourage profanity and obscenity.
- 4.17 KFOR shall take all appropriate steps to ensure that no activity or method of operation is allowed in, on, or about the Licensed Premises that exposes patrons to nudity or to partial nudity. "Nudity" means total absence of clothing or covering for the human body. "Partial nudity" means exposure of the female breast or the exposure of the male or female pubic area or buttocks.
- 4.18 KFOR shall take all appropriate steps to ensure that the operation of a massage business, tanning salon, gambling casino, or gambling of any nature does not occur in, on, or about the Licensed Premises.
- 4.19 Discrimination on account of race, color, sex, age, disability, or national origin, directly or indirectly, in employment or in the use of or admission to the Licensed Premises is prohibited.
- 4.20 City shall obtain any required parking permits or street closure permits from the Texas Department of Transportation at least ten (10) days prior to the Event.
- 4.21 KFOR shall secure and provide information to the public regarding parking and designated ADA parking accommodations.
- 4.22 City shall have final approval for KFOR's placement of all equipment, stages, portable amenities, and signage ("Event Structures") within the Licensed Premises. KFOR shall remove all Event Structures from the Licensed Premises on or before the time specified in the Event Plan, as defined in Section V below.
- 4.23 KFOR shall secure all local and state permits associated with the Event or require its authorized concessionaires and vendors to obtain such permits.
- 4.24 KFOR shall assign an event coordinator to ensure compliance with this Agreement and provide City with a single point of contact. KFOR shall provide City with all contact information for the event coordinator, such information to include cell, business, and home telephone numbers and an email address.
- 4.25 KFOR assumes all liabilities and costs arising from the use of patented, trademarked, or copyrighted materials, equipment, devices, processes, or dramatic and performance rights used on or incorporated in conducting the Event. KFOR shall ensure that all applicable licensing fees are paid, such as the American Society of Composers, Authors, and publishers (ASCAP) fee. **KFOR SHALL INDEMNIFY AND HOLD CITY HARMLESS FROM ALL DAMAGES, COSTS, AND EXPENSES IN LAW OR EQUITY FOR OR ON ACCOUNT OF ALL CLAIMS ARISING OUT OF THE USE OF ANY PATENTED, TRADEMARKED, OR COPYRIGHTED MATERIALS, EQUIPMENT, DEVICES, PROCESSES OR DRAMATIC AND PERFORMANCE**

RIGHTS FURNISHED OR USED BY KFOR, AND ALL CLAIMS ARISING INCIDENT TO THIS AGREEMENT.

- 4.26 KFOR shall be responsible for the marketing of the Event and all production costs associated with marketing.
- 4.27 City grants to KFOR the sole and exclusive right to sell drinks, food, souvenirs, or other merchandise of any sort on the Licensed Premises. KFOR shall be responsible for recruiting and contracting directly with food, beverage, and merchandise vendors and entertainment and KFOR shall be responsible for ensuring all associated permits and licenses have been obtained and are current and available for inspection. KFOR may lease all concession or vending rights to any person or persons, subject to prior, written approval by City. KFOR shall provide City with a list or copy of permits of all permitted food and beverage vendors for the Event.
- 4.28 KFOR shall take all appropriate steps to prevent and pick-up litter including efforts to prevent and remove litter from the Licensed Premises and Guadalupe River.
- 4.29 KFOR is prohibited from selling or using glass containers with respect to the serving of food or beverages or where used on any product, merchandise, and/or novelty item. All cardboard boxes and packaging brought on site shall be broken down and collected for recycling provided by City. Samples, merchandise, and other items for sale should be removed from plastic and/or paper packaging and recycled or disposed of accordingly.
- 4.30 KFOR, its contractors, agents, representatives, vendors, concessionaires, and volunteers or the patrons attending the Event are prohibited from giving away free samples or merchandise without the prior, written consent of the City Manager.
- 4.31 KFOR shall be responsible for the creation and distribution of credentials for the Licensed Premises and Performance Area, including the issuance of any parking passes.
- 4.32 City, at its option, may provide fencing for the Event. In addition, and subject to availability of City staff, City may transport and/or install both fencing and vendor booths needed for the Event.
- 4.33 City shall allow KFOR to make electrical connections to existing electrical service for use by KFOR during events, including the provision of electricity for the vendors and the entertainment stage. KFOR should coordinate electrical service directly with the City, KPUB, and licensed electricians. Any electrical or water service required for the Event beyond that which is currently available will be the responsibility of KFOR.
- 4.34 KFOR shall be responsible for removing trash during the Event and is responsible for providing, placing, maintaining, and removing trash containers, portable toilets, and grease traps.
- 4.35 KFOR shall provide portable toilets in an amount not less than 1 per 100 attendees, to be calculated based upon the estimated peak attendance period. In addition, KFOR shall

ensure that at least 10% of portable toilets comply with the ADA. The location of the portable toilets shall be identified in the Event Plan, per Section 5.1. KFOR shall remove the portable toilets on or before July 6, 2021. KFOR shall provide separate portable toilets for both entertainer and vendor areas. KFOR shall ensure that hand sanitation stations are provided. City reserves the right to request and approve adjustments to portable toilet services depending on Event size, scope, and details.

- 4.36 City shall be responsible for street closures and traffic control outside of the Licensed Premises and in accordance with the TxDOT approved traffic control plan.
- 4.37 City shall reserve the Licensed Premises for use in conjunction with the Event.
- 4.38 City shall provide police, fire, and EMS personnel at the event, and shall place at least one (1) ambulance within the Licensed Premises.
- 4.39 KFOR shall monitor crowd activities, the operation of ticket booths, and the placement, use, and security of any ATM machines.
- 4.40 At least thirty (30) days prior to the Event, KFOR shall provide notice to the owner and/or manager of Park Lane Apartments regarding the Event, its date and hours.

V. EVENT PLAN

- 5.1 KFOR and City shall develop an event plan (“Event Plan”) outlining specific responsibilities of KFOR and City based upon duties and responsibilities found within this Agreement. The Event Plan must include: a) security; b) location of structures and equipment; c) Event date/times; d) staging date/times; e) breakdown dates/times; f) advertising and signage; g) street and/or lane closures; h) electrical requirements; i) coordination with local businesses; j) press releases; and k) any other logistical or operational requirements. KFOR shall clearly diagram the location of all vendors and concessionaires on a site plan in a “booth-by-booth” manner.
- 5.2 The Event Plan must be in writing, finalized, and agreed to by KFOR and City not later than thirty (30) days prior to the Event. Modifications after that date must be in writing and agreed to by the City.

VI. DEFAULT AND REMEDIES

- 6.1 Where a default occurs during the Event that is of a nature that threatens public safety or property damage or is a material breach in the operation of the Event by KFOR, KFOR shall cure such default or breach within one hour of the City’s verbal notice to KFOR through KFOR’s event coordinator. If a breach cannot be cured within one hour, KFOR shall attempt the cure within one hour and thereafter diligently pursue a remedy.
- 6.2 Upon the occurrence of an event of default as provided, City may, at its option, declare this Agreement, and all rights and interests created by it, terminated. Upon City electing to terminate, this Agreement will cease and come to an end as if that were the day originally

fixed for the expiration of the term hereof; or City may, at its option, resume possession of the Licensed Premises.

- 6.3 Any termination of this Agreement does not relieve KFOR from any claim for damages then or theretofore accruing against KFOR, and any such sum or sums or claim for damages by any remedy provided for by law, or from recovering damages from KFOR for any default. All rights, options, and remedies of City contained in this Agreement shall be cumulative of the other and City shall have the right to pursue any one or all of such remedies or any other remedy or relief available at law or in equity, whether or not stated in this Agreement. No waiver by City of a breach of any of the covenants, conditions, or restrictions of this Agreement shall be construed or held to be a waiver of any succeeding or preceding breach of the same or any other covenant, condition, or restriction.

VII. INDEMNIFICATION

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

WITHOUT WAIVING ANY OTHER LAWFUL DEFENSES AVAILABLE TO OTHERS.

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

VIII. INSURANCE REQUIREMENTS

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

by the City. No officer or employee, other than the City's Risk Manager, shall have authority to waive this requirement.

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

TYPE	AMOUNT
1. Commercial General (Public) Liability a) Premises/Operations b) Independent Contractors umbrella or excess liability c) road Form Contractual Liability coverage d) Products/completed operations e) Broad form property damage, to include fire legal liability f) Personal Injury g) Host Liquor Liability h) Liquor Legal Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000 For Bodily Injury and Property Damage of \$1,000,000 per occurrence, \$2,000,000 general aggregate or its equivalent in
2. Comprehensive Automobile Liability a) Owned/Leased Vehicles b) Non-owned Vehicles c) Hired Vehicles	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent
3. Property Insurance: For physical damage to the property of KFOR, including improvements and betterment to the Licensed Premises	Coverage for a minimum of eighty percent (80%) of the replacement cost of the KFOR's property

- 8.4** KFOR shall provide Host Liquor and Liquor Liability insurance coverage in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, or its equivalent in umbrella or excess liability coverage or require any person or entity that KFOR has conveyed concession rights for the sale and disbursement of alcoholic beverages, to purchase Liquor Liability insurance and provide a Certificate of Insurance and Endorsement that names the KFOR and the City as an additional insured.

- 8.5 KFOR shall obtain General Liability insurance with minimum limits of not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate from each vendor or concessionaire sublicensed by KFOR, and provide a Certificate of Insurance and Endorsement that names KFOR and City as an additional insured.
- 8.6 City is entitled, upon request and without expense, to receive copies of the policies and all endorsements as they apply to the limits required by City and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation and are binding upon either party or the underwriter of any such policies.
- 8.7 KFOR agrees that with respect to the above-required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:
- A. Name of City and its elected officials, employees, officers, agents, representatives, and volunteers as additional insureds by endorsement as respects operations and activities of, or on behalf of, the named insured performed under contract with City, with the exception of: the workers' compensation and professional liability policies;
 - B. Provide for an endorsement that the "other insurance" clause shall-not apply to the City where the City is an additional insured shown on the policy;
 - C. Workers' compensation, employers' liability, and property insurance policies will provide a waiver of subrogation in favor of the City; and
 - D. Provide immediate written notice directly to the City of any suspension cancellation, or material change in coverage.
- 8.8 City shall have the option to suspend KFOR's performance should the required insurance be cancelled or modified during this Agreement. KFOR's failure to provide and to maintain the required insurance shall constitute a material breach of this Agreement. All notices, replacement certificates of insurance and endorsements shall be delivered to the City to the address indicated below or as may be directed by City.
- 8.9 In addition to any other remedies the City may have upon KFOR's failure to provide and maintain any insurance or policy endorsements to the extent and within the time required, City shall have the right to order KFOR to stop work and vacate the Licensed Premises until KFOR demonstrates compliance with the requirements hereof.
- 8.10 Nothing herein contained shall be construed as limiting in any way the extent to which KFOR may be held responsible for payments of damages to persons or property resulting from the performance of work covered under this Agreement by KFOR or its contractors, agents, representatives, vendors, concessionaires, and volunteers.

- 8.11 KFOR agrees that its insurance shall be deemed primary and noncontributory with respect to any insurance or self-insurance carried by City for liability arising out of operations under this Agreement.
- 8.12 It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this Agreement.

IX. SEPARABILITY

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

X. NOTICES

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

City Manager
City of Kerrville
City Hall, 701 Main Street
Kerrville, Texas 78028
FAX (830) 792-5804

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

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

Kerrville's 4th on the River
PO Box 295081
Kerrville, Texas 78029-5081

With a copy to:
John Carlson
Attorney for Kerrville's 4th on the River
717 Sidney Baker
Kerrville, Texas 78028

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

XI. PARTIES BOUND

- 11.1 This Agreement inures to the benefit of and is binding upon the Parties, their respective heirs, legal representatives, successors, and such assigns as have been approved by City.

XII. TEXAS LAW TO APPLY

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

XIII. RELATIONSHIPS OF PARTIES

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

XIV. GENDER

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

XV. CAPTIONS

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

XVI. ENTIRE AGREEMENT AND AMENDMENT

- 16.1 This Agreement constitutes the entire agreement between the Parties and any other written or oral agreements with City being expressly waived by KFOR.
- 16.2 No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed by the Parties hereto.

XVII. AUTHORITY

- 17.1 The signer of this Agreement for KFOR represents and warrants that he or she has full authority to execute this Agreement on behalf of KFOR.

(Signatures follow on next page)

SIGNED ON THIS _____ DAY OF _____, 2021.

City of Kerrville, Texas:

Kerrville 4th on the River:

By: _____
E.A. Hoppe, City Manager

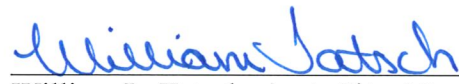
By: _____
Larry Howard, President

ATTEST:

Shelly McElhannon, City Secretary

APPROVED AS TO FORM:

APPROVED AS TO SUBSTANCE:



William L. Tatsch, Asst. City Attorney

Ashlea Boyle, Director of Parks and
Recreation

Exhibit A



Subject to change



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

SUBJECT: Professional services contract with BKD, LLP to perform financial audit services for the City of Kerrville.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: Jun 01, 2021

SUBMITTED BY: Amy Dozier

EXHIBITS: [20210608_Contract_Audit Contract.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
see attached contract	N/A - expenditure will not occur until FY2022	Expenditure will be budgeted at contract amount	01-0106-3111

PAYMENT TO BE MADE TO: BKD, LLP

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

SUMMARY STATEMENT:

The City's five year audit contract with BKD, LLP ended with the FY2020 audit. Historically we request proposals from multiple audit firms every five years and choose the best proposal. Because auditors provide professional services, they are specifically exempt from bid requirements. Accordingly, the City is not required to request multiple proposals before choosing an auditor.

City staff is recommending a three year contract extension with BKD, LLP without seeking additional proposals for several reasons:

1. There is a new Government Accounting Standards Board (GASB) pronouncement called GASB 87 that specifically relates to accounting for leases. The new standard is complicated and is going to have a significant impact on our financial statements. GASB 87 was supposed to be implemented for FY2020, but it was delayed for 18 months by

GASB due to COVID. This means that the standard must be implemented for FY2022. The City had already begun working on implementation of GASB 87 with BKD when the standard was delayed. BKD has developed a robust software tool called LeaseVision to assist clients with the transition. If we renew the audit contract with BKD, we will not lose any of the work previously done for the transition, BKD will provide training on the new standard and has agreed to provide the LeaseVision tool to the City at no cost, rather than the usual \$10,000 fee for the software.

2. BKD has provided a high level of service to the City, including free training, year around consultation on accounting issues and continual communication so that there are no surprises for either side during the audit process.

3. BKD is a national firm that uses a rigorous national level review process by government accounting subject matter experts before any financial statements are released. This ensures that the City's annual financial statements are of the highest quality.

For these reasons, City staff is recommending a three year contract extension with BKD, LLP. This should ensure a smooth transition to GASB 87 in the initial year of adoption (FY2022) and the subsequent year (FY2023).

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute a professional services contract with BKD, LLP for audit services.

PROFESSIONAL SERVICES CONTRACT

This Professional Services Contract is executed this ____ day of _____, 2021 by and between the **City of Kerrville, Texas**, hereinafter called the City, and **BKD, LLP**.

WHEREAS, the City has requested the professional services of BKD, LLP to conduct an Independent Audit; and

WHEREAS, BKD, LLP submitted an engagement letter and fee schedule to provide such professional services;

WITNESSETH: IN CONSIDERATION of mutual promises of the parties contained herein and other good and valuable consideration, the parties agree as follows:

1. BKD, LLP shall provide the City with the necessary professional services to audit all funds including those that are covered under the provisions of the Single Audit Act, a federal law that applies to entities that accept federal funds.

2. The term of the contract shall run from the date of execution and continue through the auditing of three (3) fiscal years of the City, specifically Fiscal Years 2021, 2022, and 2023. Termination of the contract shall automatically occur at the end of this three (3) year period following the submission and the City's acceptance of a completed audit for the City's fiscal year ending September 30, 2023. During the term of this contract, the City may terminate the contract each year as part of its budget considerations.

3. The professional accounting services shall be provided in accordance with the terms and conditions set forth in the Engagement Letter attached hereto as **Exhibit A**. A new engagement letter may be executed each year by authorized representatives of both parties.

4. BKD, LLP shall be compensated for services rendered under this contract in accordance with the following terms and conditions:

	FY 2021		FY 2022		FY 2023
Financial Statement	\$79,000		\$81,500		\$84,000
Single Audit (if necessary)	\$10,000		\$10,500		\$11,000
GASB 87 Implementation			\$5,000 ¹		
TOTAL	\$89,000		\$97,000		\$95,000

¹ The BKD LeaseVision tool shall be provided free of charge (a \$10,000 value).

No work shall be performed beyond the present scope of this contract without express prior written approval by either the City Manager or the governing body of the City, as appropriate.

5. The City or BKD, LLP shall have the right to terminate the contract upon 30 days written notice.

6. In the event of a conflict between any terms and conditions of this contract and the Exhibit, the terms and conditions of the contract shall take precedent.

7. Neither party may assign any of its rights or delegate any of its obligations under this contract, without the express written consent of the other.

8. It is agreed that this failure of any party to invoke any of the available remedies under this contract or under law in the event of one or more breaches or defaults by any party under the contract shall not be construed as a waiver of such provisions and conditions and shall not prevent the parties from invoking such remedies in the event of any future breach or default.

9. Each paragraph of this contract is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

10. This contract shall be interpreted according to and enforced under the laws of the State of Texas. Venue shall occur in Kerr County, Texas.

11. This contract, which includes the Exhibit, contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This contract supersedes all prior agreements, contracts, and understandings of any kind between the parties relating to the subject matter hereof. This contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this professional services contract on or as of the date first written above.

BKD, LLP

CITY OF KERRVILLE, TEXAS

BY: 

Printed Name: DARRYL MARTINEZ

Title: MANAGING DIRECTOR

E.A. Hoppe, City Manager

APPROVED AS TO FORM:

ATTEST:



William L. Tatsch, Assistant City Attorney

Shelly McElhannon, City Secretary

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June 3, 2021

Honorable Mayor Bill Blackburn
and Members of City Council
Mr. E.A Hoppe, City Manager
Ms. Amy Dozier, Chief Financial Officer
City of Kerrville, Texas
701 Main Street
Kerrville, Texas 78028

We appreciate your selection of **BKD, LLP** as your service provider and are pleased to confirm the arrangements of our engagement in this contract. Within the requirements of our professional standards and any duties owed to the public, regulatory, or other authorities, our goal is to provide you **Unmatched Client Service®**.

In addition to the terms set forth in this contract, including the detailed **Scope of Services**, our engagement is governed by the following, incorporated fully by this reference:

- HIPAA Business Associate Agreement
- Terms and Conditions Addendum
- City of Kerrville Professional Services Contract

Summary Scope of Services

As described in the attached **Scope of Services**, our services will include the following:

- City of Kerrville
 - Audit Services for the year ended September 30, 2021

Engagement Fees

The fee for our services will be \$89,000 which includes travel costs and fees for services from other professionals, if any, as well as an administrative fee of four (4) percent to cover items such as copies, postage and other delivery charges, supplies, technology-related costs such as software licensing, user access, and research tools, and similar expense items. This fee also includes a Single Audit fee of \$10,000. Should a Single Audit not be necessary the fee will be \$79,000.

Our pricing for this engagement and our fee structure are based upon the expectation that our invoices will be paid promptly. Payment of our invoices is due upon receipt.

Additional Costs Related to Implementing New Standards

Assistance and additional time as a result of the adoption of new standards, such as those listed in the attached **New Auditing and Accounting Standards**, are not included within our standard engagement fees. These fees will be based on time expended and will vary based on the level of assistance and procedures required.

Contract Agreement

Please sign and return this contract to indicate your acknowledgment of, and agreement with, the arrangements for our services including our respective responsibilities.

BKD, LLP

BKD, LLP

Acknowledged and agreed to as it relates to the entire contract, including the **Scope of Services, HIPAA Business Associate Agreement**, and **Terms and Conditions Addendum**, on behalf of City of Kerrville.

BY _____
E.A. Hoppe, City Manager

DATE _____

BY _____
Amy Dozier, Chief Financial Officer

DATE _____

Scope of Services

The following apply for all services:

Assistance Our timely completion of services depends on the assistance you provide us in accumulating information and responding to our inquiries. Inaccuracies or delays in providing this information or the responses may result in untimely filings or inability to meet other deadlines.

Responsibility for Outcomes We may perform additional services for you that are not covered by this contract. You agree to assume full responsibility for the substantive outcomes of the contracted services and for any other services we may provide, including any findings that may result.

You also acknowledge these services are adequate for your purposes, and you will establish and monitor the performance of these services to ensure they meet management's objectives. All decisions involving management responsibilities related to these services will be made by you, and you accept full responsibility for such decisions.

We understand you have designated (or will) a management-level individual to be responsible and accountable for overseeing the performance of these services, and you have determined (or will) this individual is qualified to conduct such oversight.

Boycott Israel As required by Chapter 2271, Texas Government Code, we represent that we do not boycott Israel and will not boycott Israel through the term of this engagement. For purposes of this representation, "boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

Audit Services

We will audit the basic financial statements and related notes to the basic financial statements for the following entity with the objective of expressing an opinion on the financial statements; issuing a report on your compliance based on the audit of your financial statements; issuing a report on your internal control over financial reporting based on the audit of your financial statements; expressing an opinion on your compliance, in all material respects, with the types of compliance requirements described in the *U.S. Office of Management and Budget (OMB) Compliance Supplement* that are applicable to each of your major federal award programs; issuing a report on your internal control over compliance based on the audit of your compliance with the types of compliance requirements that are applicable to each of your major federal award programs; and issuing a report on your schedule of expenditures of federal awards:

- City of Kerrville as of and for the Year ended September 30, 2021

We will also express an opinion on whether the Combining Statements and Budgetary Comparison Schedules (“supplementary information”) is fairly stated, in all material respects, in relation to the financial statements as a whole.

We will also provide you with the following nonattest services:

- We will complete the auditee portion of the Form SF-SAC (Data Collection Form) through the Federal Audit Clearinghouse. We will not make the submission on your behalf. You will review a draft(s) of the submission prior to transmission and agree that you are solely responsible for approving the final draft for transmission as well as for the auditee submission and certification
- Preparing a draft of the financial statements and related notes
- We will propose for your review and approval the adjusting entries to convert your modified accrual accounting records to full accrual-basis accounting records. Management is responsible for the propriety of the accrual adjustments

Danny Martinez, Managing Director, is responsible for supervising the engagement and authorizing the signing of the report or reports.

We will issue written reports upon completion of our audit, addressed to the following parties:

- Honorable Mayor Bill Blackburn and Members of City Council

You are responsible to distribute our reports to other officials who have legal oversight authority or those responsible for acting on audit findings and recommendations, and to others authorized to receive such reports.

The following apply for the audit services described above:

**Our
Responsibilities**

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (GAAS), the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States and Title 2 U.S. *Code of Federal Regulations* (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards require that we plan and perform the audit of the financial statements to obtain reasonable rather than absolute assurance about whether the financial statements are free of material misstatement, whether caused by fraud or error, and the audit of compliance with the types of compliance requirements described in the *OMB Compliance Supplement* applicable to each major federal award program to obtain reasonable rather than absolute assurance about whether noncompliance having a direct and material effect on a major federal award program occurred.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

**Limitations &
Fraud**

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance having a direct and material effect may not be detected exists, even though the audit is properly planned and performed in accordance with GAAS.

In making our risk assessments, we consider internal control relevant to your preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances but not for the purpose of expressing an opinion on the effectiveness of your internal control. However, we will communicate to you in writing any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we identify during the audit. Also, in the future, procedures could become inadequate because of changes in conditions or deterioration in design or operation. Two or more people may also circumvent controls, or management may override the system.

We are available to perform additional procedures with regard to fraud detection and prevention at your request, subject to completion of our normal engagement acceptance procedures. The actual terms and fees of such an engagement would be documented in a separate contract to be signed by you and **BKD, LLP**.

Opinion

We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other matter paragraph(s), or withdraw from the engagement. If we discover conditions that may prohibit us from issuing a standard report, we will notify you as well. In such circumstances, further arrangements may be necessary to continue our engagement.

**Your
Responsibilities**

Management and, if applicable, those charged with governance acknowledge and understand their responsibility for the following:

- For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America (or other basis if indicated in the contract)
- For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error
- For identifying and ensuring compliance with the laws, regulations, contracts, and grants applicable to your activities (including your federal award programs)
- To provide us with:
 - Access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters
 - Additional information that we may request for the purpose of the audit
 - Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence

The results of our tests of compliance and internal control over financial reporting performed in connection with our audit of the financial statements may not fully meet the reasonable needs of report users. Management is responsible for obtaining audits, examinations, agreed-upon procedures, or other engagements that satisfy relevant legal, regulatory, or contractual requirements or fully meet other reasonable user needs.

**Written
Confirmations
Required**

As part of our audit process, we will request from management and, if applicable, those charged with governance written confirmation acknowledging certain responsibilities outlined in this contract and confirming:

- The availability of this information
- Certain representations made during the audits for all periods presented
- The effects of any uncorrected misstatements, if any, resulting from errors or fraud aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements taken as a whole

**Peer Review
Report**

Government Auditing Standards require that we provide you with a copy of our most recent external peer review report and any letter of comment, and any subsequent peer review reports and letters of comment received during the period of the contract. Our most recent peer review report accompanies this contract.

**Supplementary
Information**

With regard to any supplementary information that we are engaged to report on:

- Management is responsible for its preparation in accordance with applicable criteria
- Management will provide certain written representations regarding the supplementary information at the conclusion of our engagement
- Management will include our report on this supplementary information in any document that contains this supplementary information and indicates we have reported on the supplementary information
- Management will make the supplementary information readily available to intended users if it is not presented with the audited financial statements

**Assistance with
Application of
Standards**

Transactions or changes in business may require you to apply existing standards differently each year, such as when business operations create new revenue streams, operations are discontinued, liquidity or operational challenges are encountered, business combinations are executed, etc. We welcome your questions throughout the year and are happy to provide general guidance and routine support; however, our engagement does not include substantive effort to assist you with applying standards to these circumstances, unless otherwise indicated in the contract.

New Auditing and Accounting Standards

Fiduciary Activities

Governmental Accounting Standards Board Statement No. 84, *Fiduciary Activities*, is effective for fiscal years beginning after December 15, 2019, with retrospective application in the year the update is first applied. The Statement is expected to significantly change how entities evaluate and report fiduciary activities.

Leases

Governmental Accounting Standards Board Statement No. 87, *Leases*, is effective for fiscal years beginning after June 15, 2021. Early application is encouraged.

Statement No. 87 establishes a single model for lease accounting based on the foundational principle that leases are financings of the right to use an underlying asset. Under this Statement, a lessee is required to recognize a lease liability and an intangible right-to-use lease asset, and a lessor is required to recognize a lease receivable and a deferred inflow of resources. We can assist you with the adoption by providing services which may include, but are not limited to:

- Assessing your readiness by assisting with the evaluation of your:
 - Current controls and policies
 - Current internal resources and system capabilities
- Assisting with changes required to adopt Statement No. 87, including:
 - Assisting with information gathering to develop an inventory of all lease agreements, service contracts, and other arrangements that may contain right-to-use lease assets
 - Recommending enhancements to existing controls and policies or suggesting new controls and policies to address Statement No. 87
 - Documenting any changes from your previous lease recognition and reporting methods
 - Drafting the required disclosures

The time it will take to perform the above assistance and our additional audit procedures relating to the adoption of the Statement, and any time to assist you with the adoption, may be minimized to the extent your personnel will be available to provide timely and accurate documentation and information as requested by us.

HIPAA Business Associate Agreement

We agree not to use or disclose Protected Health Information (“PHI”) obtained or produced in any form of media during the course of our work in a manner prohibited by the *Health Insurance Portability and Accountability Act of 1996* (“HIPAA”), as amended. We may use or disclose PHI for purposes of (a) performing our engagement, (b) management and administration of BKD, or (c) carrying out legal responsibilities of BKD. We will not further disclose information except as permitted or required by this contract or as required by law. When using or disclosing PHI in relation to this engagement, we will limit disclosures as required by HIPAA. We will not use PHI in any marketing activities in a manner that would violate HIPAA. We represent to you that we have implemented what we consider to be appropriate administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of PHI as required for us as a business associate to comply with HIPAA.

With respect to your PHI, we will report to you any breach (as defined in 45 CFR 164.402), material security incident, or use or disclosure not authorized by this agreement and, to the extent practical, assist you in mitigating any harmful effects caused by breaches, material security incidents, or unauthorized uses or disclosures of which we become aware. To assist you in fulfilling your responsibility to notify impacted individuals and others of a breach involving unsecured PHI (as required under 45 CFR 164.400 et seq.), in this report we will identify to you, to the extent reasonably possible:

1. Each individual whose unsecured PHI was subject to the breach.
2. Any other available information you are required to include in your notification to such individual(s) or others under 45 CFR 164.404(c).

We agree that any material violation of these confidentiality provisions by us entitles you to terminate this engagement. Similarly, if we become aware of a violation of HIPAA by you that cannot be or is not timely cured, we may be obligated to terminate this engagement.

BKD agrees to:

1. Upon their request, make available to the Secretary of Health and Human Services (HHS) our internal practices and books and records relating to the use and disclosure of PHI for purposes of determining your compliance with the Security and Privacy Rule, subject to any applicable legal privileges.
2. Make available information necessary for you to make an accounting of disclosures of PHI about an individual.
3. To the extent we maintain information that is part of a Designated Record Set, make available information necessary for you to respond to requests by individuals for access to PHI that is not in your possession but is considered part of a Designated Record Set.
4. Upon receipt of a written request from you, incorporate any amendments or corrections to PHI contained in our workpapers in accordance with the Security and Privacy Rule to the extent such PHI is considered part of a Designated Record Set.

For purposes of this agreement, the term “Security and Privacy Rule” refers to the final rules published to implement the Administrative Simplification provisions of the *Health Insurance Portability and Accountability Act of 1996*, specifically 45 CFR Parts 160 and 164. The terms “Protected Health Information” and “Designated Record Set” have the same meaning as defined in the Security and Privacy Rule.

At the conclusion or termination of this engagement, any PHI retained by us will be subject to the same safeguards as for active engagements.

We will obtain from any agents, including subcontractors, to whom we provide PHI received from you, or created or received by us on behalf of you, an agreement to the same restrictions and conditions that apply to us with respect to such PHI.

To the extent that any relevant provision of HIPAA is eliminated or held to be invalid by a court of competent jurisdiction, the corresponding portion of this agreement shall be deemed of no force and effect for any purpose. To the extent that any relevant provision of HIPAA is materially amended in a manner that changes the obligations of business associates or covered entities that are embodied in term(s) of this engagement, the Parties agree to negotiate in good faith appropriate amendment(s) to this engagement to give effect to such revised obligations. In addition, the terms of this engagement should be construed in light of any interpretation and/or guidance on HIPAA issued by HHS from time to time.

BKD, LLP Terms and Conditions Addendum

GENERAL

1. **Overview.** This addendum describes **BKD, LLP's** standard terms and conditions ("Terms and Conditions") applicable to Our provision of services to the Client ("You"). The Terms and Conditions are a part of the contract between You and **BKD, LLP**. For the purposes of the Terms and Conditions, any reference to "Firm," "We," "Us," or "Our" is a reference to **BKD, LLP** ("BKD"), and any reference to "You" or "Your" is a reference to the party or parties that have engaged Us to provide services.

BILLING, PAYMENT, & TERMINATION

2. **Billing and Payment Terms.** We will bill You for Our professional fees and costs as outlined in Our contract. Interest will be charged on any unpaid balance after 30 days at the rate of 10 percent per annum, or as allowed by law at the earliest date thereafter, and highest applicable rate if less than 10 percent.

We reserve the right to suspend or terminate Our work for this engagement or any other engagement for nonpayment of fees. If Our work is suspended or terminated, You agree that We will not be responsible for Your failure to meet governmental and other deadlines, for any penalties or interest that may be assessed against You resulting from Your failure to meet such deadlines, and for any other damages (including but not limited to consequential, indirect, lost profits, or punitive damages) incurred as a result of the suspension or termination of Our services.

Our fees may increase if Our duties or responsibilities are increased by rulemaking of any regulatory body or any additional new accounting or auditing standards. Our engagement fees do not include any time for post-engagement consultation with Your personnel or third parties, consent letters and related procedures for the use of Our reports in offering documents, inquiries from regulators, or testimony or deposition regarding any subpoena. Charges for such services will be billed separately.

3. **Billing Records.** If these services are determined to be within the scope and authority of Section 1861(v)(1)(I) of the Social Security Act, We agree to make available to the Secretary of Health and Human Services, or to the U.S. Comptroller General, or any of their duly authorized representatives, such of Our books, documents, and records that are necessary to certify the nature and extent of Our services, until the expiration of four (4) years after the furnishing of these services. This contract allows access to contracts of a similar nature between subcontractors and related organizations of the subcontractor, and to their books, documents, and records.
4. **Termination.** Either party may terminate these services in good faith at any time for any reason, including Your failure to comply with the terms of Our contract or as We determine professional standards require. Both parties must agree, in writing, to any future modifications or extensions. If services are terminated, You agree to pay BKD for time expended to date. In addition, You will be billed costs and fees for services from other professionals, if any, as well as an administrative fee of four (4) percent to cover items such as copies, postage and other delivery charges, supplies, technology-related costs such as software licensing, user access, and research tools, and similar expense items.

DISPUTES & DISCLAIMERS

5. **Mediation.** Any dispute arising out of or related to this engagement will, prior to resorting to litigation, be submitted for nonbinding mediation upon written request by either party. Both parties agree to try in good faith to settle the dispute in mediation. Unless the parties agree otherwise, the American Arbitration Association ("AAA") will administer any such mediation in accordance with its Commercial Mediation Rules. The mediator will be selected by agreement of the parties. If We cannot agree, a mediator shall be designated by the AAA. The mediation proceeding shall be confidential. Each party will bear its own costs in the mediation, but the fees and expenses of the mediator will be shared equally.
6. **Indemnification.** Unless disallowed by law or applicable professional standards, You agree to hold BKD harmless from any and all claims which arise from knowing misrepresentations to BKD, or the intentional withholding or concealment of information from BKD by Your management or any partner, principal, shareholder, officer, director, member, employee, agent, or assign of Yours. You also agree to indemnify BKD for any claims made against BKD by third parties, which arise from any wrongful actions of Your management or any partner, principal, shareholder, officer, director, member, employee, agent, or assign of Yours. The provisions of this paragraph shall apply regardless of the nature of the claim.
7. **Statute of Limitations.** You agree that any claim or legal action arising out of or related to this contract and the services provided hereunder shall be commenced no more than one (1) year from the date of delivery of the work product to You or the termination of the services described herein (whichever is earlier), regardless of any statute of limitations prescribing a longer period of time for commencing such a claim under law. This time limitation shall apply regardless of whether BKD performs other or subsequent services for You. A claim is understood to be a demand for money or services, demand for mediation, or the service of suit based on a breach of this contract or the acts or omissions of BKD in performing the services provided herein. This provision shall not apply if enforcement is disallowed by applicable law or professional standards.
8. **Limitation of Liability.** You agree that BKD's liability, if any, arising out of or related to this contract and the services provided hereunder, shall be limited to the amount of the fees paid by You for services rendered under this contract. This limitation shall not apply to the extent it is finally, judicially determined that the liability resulted from the intentional or willful misconduct of BKD or if enforcement of this provision is disallowed by applicable law or professional standards.
9. **Waiver of Certain Damages.** In no event shall BKD be liable to You or a third party for any indirect, special, consequential, punitive, or exemplary damages, including but not limited to lost profits, loss of revenue, interruption, loss of use, damage to goodwill or reputation, regardless of whether You were advised of the possibility of such damages, regardless of whether such damages were reasonably foreseeable, and regardless of whether such damages arise under a theory of contract, tort, strict liability, or otherwise.

10. **Severability.** If any portion of this contract is deemed invalid or unenforceable, said finding shall not operate to invalidate the remainder of the terms set forth in this contract.
11. **Assignment.** You acknowledge and agree that the terms and conditions of this contract shall be binding upon and inure to the parties' successors and assigns, subject to applicable laws and regulations.
12. **Disclaimer of Legal or Investment Advice.** Our services do not constitute legal or investment advice.

RECORDS, WORKPAPERS, DELIVERABLES, & PROPRIETARY INFORMATION

13. **Maintenance of Records.** You agree to assume full responsibility for maintaining Your original data and records and that BKD has no responsibility to maintain this information. You agree You will not rely on BKD to provide hosting, electronic security, or backup services, e.g., business continuity or disaster recovery services, to You unless separately engaged to do so. You understand that Your access to data, records, and information from BKD's servers, i.e., BKDconnect, can be terminated at any time and You will not rely on using this to host Your data and records.
14. **BKD Workpapers.** Our workpapers and documentation retained in any form of media for this engagement are the property of BKD. We can be compelled to provide information under legal process. In addition, We may be requested by regulatory or enforcement bodies (including any State Board) to make certain workpapers available to them pursuant to authority granted by law or regulation. Unless We are prohibited from doing so by law or regulation, BKD will inform You of any such legal process or request. You agree We have no legal responsibility to You in the event We determine We are obligated to provide such documents or information. In addition, to the extent allowed by law, You agree to compensate or reimburse BKD for all costs and expenses, including reasonable attorney's fees, associated with BKD's compliance with requests or demands for its workpapers or other information related to this engagement, and for any testimony required by summons or subpoena.
15. **Use of Deliverables and Drafts.** You agree You will not modify any deliverables or drafts prepared by Us for internal use or for distribution to third parties. You also understand that We may on occasion send You documents marked as draft and understand that those are for Your review purpose only, should not be distributed in any way, and should be destroyed as soon as possible.

Our report on any financial statements must be associated only with the financial statements that were the subject of Our engagement. You may make copies of Our report, but only if the entire financial statements (exactly as attached to Our report, including related footnotes and supplementary information, as appropriate) are reproduced and distributed with Our report. You agree not to reproduce or associate Our report with any other financial statements, or portions thereof, that are not the subject of Our engagement.

16. **Proprietary Information.** You acknowledge that proprietary information, documents, materials, management techniques, and other intellectual property are a material source of the services We perform and were developed prior to Our association with You. Any new forms, software, documents, or intellectual property We develop during this engagement for Your use shall belong to Us, and You shall have the limited right to use them solely within Your business. All reports, templates, manuals, forms, checklists, questionnaires, letters, agreements, and other documents which We make available to You are confidential and proprietary to Us. Neither You, nor any of Your agents, will copy, electronically store, reproduce, or make any such documents available to anyone other than Your personnel except as necessary to comply with city and state record retention requirements. This provision will apply to all materials whether in digital, "hard copy" format, or other medium.

REGULATORY

17. **U.S. Securities and Exchange Commission ("SEC") and other Regulatory Bodies.** Where We are providing services either for (a) an entity that is registered with the SEC, (b) an affiliate of such registrant, or (c) an entity or affiliate that is subject to rules, regulations, or standards beyond those of the American Institute of Certified Public Accountants ("AICPA"), any term of this contract that would be prohibited by or impair Our independence under applicable law or regulation shall not apply to the extent necessary only to avoid such prohibition or impairment.
18. **Offering Document.** You may wish to include Our report(s) on financial statements in an exempt offering document. You agree that any report, including any auditor's report, or reference to Our firm, will not be included in any such offering document without notifying us. Any agreement to perform work in connection with an exempt offering document, including providing agreement for the use of the auditor's report in the exempt offering document, will be a separate engagement.

Any exempt offering document issued by You with which We are not involved will clearly indicate that We are not involved by including a disclosure such as, "BKD, LLP, our independent auditor, has not been engaged to perform and has not performed, since the date of its report included herein, any procedures on the financial statements addressed in that report. BKD, LLP also has not performed any procedures relating to this offering document."

19. **BKD Not a Municipal Advisor.** BKD is not acting as Your municipal advisor under Section 15B of the *Securities Exchange Act of 1934*, as amended. As such, BKD is not recommending any action to You and does not owe You a fiduciary duty with respect to any information or communications regarding municipal financial products or the issuance of municipal securities. You should discuss such matters with internal or external advisors and experts You deem appropriate before acting on any such information or material provided by BKD.

TECHNOLOGY

20. **Electronic Sites.** You agree to notify Us if You desire to place Our report(s), including any reports on Your financial statements, along with other information, such as a report by management or those charged with governance on operations, financial summaries or highlights, financial ratios, etc., on an electronic site. You recognize that We have no responsibility to review information contained in electronic sites.
21. **Electronic Signatures and Counterparts.** This contract and other documents to be delivered pursuant to this contract may be executed in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same agreement or document, and will be effective when counterparts have been signed by each of the parties and delivered to the other parties. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this contract are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this contract or any other document contemplated hereby, bearing an original manual or electronic signature by facsimile transmission (including a facsimile delivered via the internet), by electronic mail in "portable document format" (".pdf") or similar format intended to preserve the original graphic and pictorial appearance of a document, or through the use of electronic signature software, will have the same effect as physical delivery of the paper document bearing an original signature.
22. **Electronic Data Communication and Storage.** In the interest of facilitating Our services to You, We may send data over the internet, temporarily store electronic data via computer software applications hosted remotely on the internet, or utilize cloud-based storage. Your confidential electronic data may be transmitted or stored using these methods. In using these data communication and storage methods, We employ measures designed to maintain data security. We use reasonable efforts to keep such communications and electronic data secure in accordance with Our obligations under applicable laws, regulations, and professional standards.

You recognize and accept that We have no control over the unauthorized interception or breach of any communications or electronic data once it has been transmitted or if it has been subject to unauthorized access while stored, notwithstanding all reasonable security measures employed by us. You consent to Our use of these electronic devices and applications during this engagement.

OTHER MATTERS

23. **Third-Party Service Providers.** BKD may from time to time utilize third-party service providers, e.g., domestic software processors or legal counsel, or disclose confidential information about You to third-party service providers in serving Your account. BKD maintains, however, internal policies, procedures, and safeguards to protect the confidentiality and security of Your information. In addition, BKD will secure confidentiality agreements with all service providers to maintain the confidentiality of Your information. If We are unable to secure an appropriate confidentiality agreement, You will be asked to consent prior to BKD sharing Your confidential information with the third-party service provider.
24. **Independent Contractor.** When providing services to You, We will be functioning as an independent contractor; and in no event will We or any of Our employees be an officer of You, nor will Our relationship be that of joint ventures, partners, employer and employee, principal and agent, or any similar relationship giving rise to a fiduciary duty to You.
25. **Use of BKD Name.** Any time You intend to reference BKD's firm name in any manner in any published materials, including on an electronic site, You agree to provide Us with draft materials for review and approval before publishing or posting such information.
26. **Praxity.** BKD is an independent accounting firm allowed to use the name "Praxity" in relation to its practice. BKD is not connected, however, by ownership with any other firm using the name "Praxity." BKD will be solely responsible for all work carried out on Your behalf. In deciding to engage BKD, You acknowledge that We have not represented to You that any other firm using the name "Praxity" will in any way be responsible for Our work.
27. **BKD Status as LLP.** BKD is a registered limited liability partnership under Missouri law. Under applicable professional standards, partners of **BKD, LLP** have the same responsibilities as do partners in a general accounting and consulting partnership with respect to conformance by themselves and other professionals in BKD with their professional and ethical obligations. However, partners in a registered limited liability partnership do not have individual civil liability, directly or indirectly, for any debts, obligations, or liabilities of or chargeable to the registered limited liability partnership or each other, whether arising in tort, contract, or otherwise.
28. **Entire Agreement.** The contract, including this *Terms and Conditions Addendum* and any other attachments or addenda, encompasses the entire agreement between You and BKD and supersedes all previous understandings and agreements between the parties, whether oral or written. Any modification to the terms of this contract must be made in writing and signed by both You and BKD.
29. **Force Majeure.** We shall not be held responsible for any failure to fulfill Our obligations if such failure was caused by circumstances beyond Our control.



8550 United Plaza Blvd., Ste. 1001 — Baton Rouge, LA 70809
225-922-4600 Phone — 225-922-4611 Fax — pnpcpa.com

Postlethwaite & Netterville and Associates, L.L.C.

Report on the Firm's System of Quality Control

To the Partners of BKD, LLP
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of BKD, LLP (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at www.aicpa.org/prsummary. The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act; audits of employee benefit plans, audits performed under FDICIA, an audit of a broker-dealer, and examinations of service organizations [SOC 1 and SOC 2 engagements].

As part of our peer review, we considered reviews by regulatory entities as communicated to the firm, if applicable, in determining the nature and extent of our procedures.

Opinion

In our opinion, the system of quality control for the accounting and auditing practice of BKD, LLP applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended May 31, 2020, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. BKD, LLP has received a peer review rating of *pass*.

Postlethwaite & Netterville

Baton Rouge, Louisiana
November 2, 2020



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

SUBJECT: Construction Agreement with Hayden Paving, Inc. for the 2021 Street Maintenance project in an amount of \$368,708.23.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Kyle Burow

EXHIBITS: [20210608_Bid_2021 Street Maintenance_Received Bids.pdf](#)
[20210608_Letter_6S Engineering Recommendation of Award - Hayden Paving.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$368,708.23	\$1,101,974.94	\$1,800,000.00	01-0161-2420

PAYMENT TO BE MADE TO: Hayden Paving, Inc.

Kerrville 2050 Item?	Yes
Key Priority Area	M - Mobility / Transportation
Guiding Principle	M4. Place a high priority on the maintenance of existing streets
Action Item	M4.2 - Continue implementing the plan for street repairs, including a timeline and funding, based on the road conditions data collection and evaluation completed in 2016

SUMMARY STATEMENT:

As part of the adopted FY2019 budget, 6S Engineering, Inc. was hired to update the Pavement Master Plan and reassess the current street conditions and maintenance practices. The 6S Engineering, Inc. team evaluated the current street condition assessment gathered for each street segment to analyze the deterioration estimates based on the effectiveness of the current street repair methods and degradation of street segments compared to the initial report, combined multiple street segments to minimize construction costs, and reevaluated the prioritization of streets. The prioritization of all streets were based on PCI, Ride Condition Index (RCI), and Roadway Classification (i.e. Collector, Residential). Upon completion of the analysis, 6S Engineering, Inc. developed a 10-year maintenance plan to assist with future budgeting and maintenance methods to be adopted by City Council. The maintenance plan was adopted and the City consulted 6S

Engineering, Inc. to develop construction specifications for the 2021 Street Maintenance project. The scope of this project is to prepare the roads for the Year 2 slurry seal maintenance method of the updated Pavement Management Plan for approximately 12 lane miles of roadway. The scope of the project includes performing near-term level up and asphalt repairs on the roadway. The roadway repair maintenance will be followed by crack seal to prepare the roads for the slurry seal project to be completed in the September/October time frame. The project was placed for advertisement, the bid opening was held and four bids were received, with Hayden Paving, Inc. as the apparent low bid. Staff, along with 6S Engineering, Inc. evaluated the contractor and recommend awarding the base bid contract amount of \$365,057.65.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute a construction contract.

APPARENT LOW BIDDERS

Kerrville - 2021 Street Maintenance Project

Bid Summary	
Engineers Estimate	No Estimate
Total Bids	4
AMLT \$	\$411,486.35
AMLT %	112.72%
Average Bid	\$942,202.60

	Bidder	BASE BID
1	Hayden Paving <i>Submitted: 6/01/2021 12:02:32 PM</i>	\$365,057.65
2	Wagner Materials & Construction <i>Submitted: 6/01/2021 2:38:11 PM</i>	\$776,544.00
3	Alamo City Constructors, Inc. <i>Submitted: 6/01/2021 1:19:21 PM</i>	\$895,948.50
4	Clark Construction of Texas <i>Submitted: 6/01/2021 12:21:34 PM</i>	\$1,731,260.25

Bids opened at: 6/01/2021 3:05:32 PM



June 2, 2021

Mr. Kyle Burow, City Engineer
City of Kerrville
701 Main St.
City of Kerrville, TX 78028

Reference: Contract Award Letter – 2021 Street Maintenance Project
6S Job No. 2021-004-01

Dear Mr. Burow:

On June 1, 2021, bids for the referenced project were opened and read aloud. Based on the information we received, to the best of our knowledge and belief, the lowest and best qualified bid is that of Hayden Paving, Inc. with a base bid of \$368,708.23. We recommend the award of the contract to Hayden Paving, Inc. in the amount of \$368,708.23.

If you have any questions, please contact us.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe A. Cantu", with a stylized flourish at the end.

Joe A. Cantu, P.E.
Vice President

Attachments: Bid Tabulation

G:\2017-003-01_Universal City Parking Lot\450 CPS\060 Corres\Recommendation of Award\Recommendation of Award Letter.docx



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

SUBJECT: Change order with Dowtech Specialty Contractors, Inc. for Water Plant Improvements to be completed as part of the Water Treatment Plant Trihalomethanes (THM) Control Facility project construction contract in the amount of \$140,816.00.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Kyle Burow

EXHIBITS: [20210608_Contract Change Order_THM Facility Project.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$140,816.00	\$1,088,162.93	\$5,000,000	71-7100-5500, Project #71-17005

PAYMENT TO BE MADE TO: Dowtech Specialty Contractors, Inc.

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

SUMMARY STATEMENT:

In 2019, the City of Kerrville (City) contracted Dowtech Specialty Contractors, Inc. to assist in developing a project to bring the City into compliance with TCEQ and EPA revised standards for trihalomethanes (THMs). The scope of the original project was to complete the addition of GAC filters at the Water Treatment Plant. With the volatility in today's construction market, staff explored pricing options with Dowtech Specialty Contractors, Inc. to assist staff in other Water Treatment Plant modifications. The scope of this change order would consist of making modifications to the clearwell, including a large access hatch, as well as replacement of existing piping within the plant. The performance of the scope through the current contract with the contractor would allow the City to lock in pricing immediately as opposed to hiring a consultant to develop plans and procure through the bid process with the constant increasing of construction costs. The THM project is funded by the Texas Water Development Board (TWDB) but the scope of this change order would

be funded separately by the City's Water/Sewer fund since it is not inclusive in the original plans approved by the TWDB. The contractor is continuing to address punchlist and snow storm related items and will not charge a mobilization cost to perform this work. City staff and Freese & Nichols evaluated the pricing and find it highly competitive and beneficial to the City due to the constant increase in pricing of materials and contractor availability.

The original contract amount was \$4,001,801 and previously approved change order (not including this one) total \$113,306.80. This change order approval would bring the total change order amount to \$254,122.80 (6.4% over the original contract price).

RECOMMENDED ACTION:

Authorize the City Manager to execute the change order.

Proposal

Item of Work	Quantity	Material/Equipment		Labor		Total
	No. Units Unit Meas.	Unit Price	Subtotal	Unit Price	Subtotal	M/E & Labor
Cut in and install hatch	1 lot	14360	14360	35	4,550.00	18,910.00
Fabricate S.S. baffle	1 lot	27,652	27652	35	4,935.00	32,587.00
Installation of Baffle	1 lot	9,620.00	9,620.00	35	7,910.00	17,530.00
Piping Remove and Replace	1 lot	29,633	29,633.00	35	4,340.00	33,973.00
Expenses				14	8,694.00	8,694.00
15% OH&P						16,754.00
1.5% Bond						1,927.00
Subtotal						130,375.00
Extended Insurance						10,441.00



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

SUBJECT: Minutes for the City Council workshop held May 25, 2021.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20210608_Minutes_Council workshop 4pm 5-25-21.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Minutes for the City Council workshop held May 25, 2021 at 4:00 p.m. at the City Hall Council Chambers and Upstairs Conference Room.

RECOMMENDED ACTION:

Approve minutes as presented.

**CITY COUNCIL MINUTES
WORKSHOP, CITY HALL COUNCIL CHAMBERS**

**MAY 25, 2021 4:00 PM
KERRVILLE, TEXAS**

CALL TO ORDER: On May 25, 2021 at 4:00 p.m., the City Council workshop was called to order by Mayor Bill Blackburn at the City Hall Council Chambers, 701 Main Street.

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
Kim Clarkson	Mayor Pro Tem, Councilmember Place 2
Roman Garcia	Councilmember Place 1
Judy Eychner	Councilmember Place 3
Brenda Hughes	Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY STAFF PRESENT:

E.A. Hoppe	Deputy City Manager	Guillermo Garcia, Exec Dir Innovation
Mike Hayes	City Attorney	Kim Meisner, Exec Dir General Ops
Shelley McElhannon	City Secretary	Drew Paxton, Planning Director
Megan Folkerts	Senior Management Analyst	

VISITORS PRESENT: No visitors were present at the workshop.

1. **PUBLIC COMMENTS:** No person(s) signed up to speak.

2. **INFORMATION AND DISCUSSION:**

2.A. Creation of Neighborhood Empowerment Zone (NEZ #1 for Doyle Community Area).

E.A. Hoppe and Megan Folkerts provided information and responded to questions. Megan Folkerts will provide City Council with the PowerPoint presentation and maps. A location will be chosen for a public information session to open communication regarding advantages of a NEZ and gather feedback from the Doyle community.

Councilmember Judy Eychner made a motion the City Council adjourn into closed executive session under 551.071 (consultation with attorney) and 551.074 (personnel/officers), and Councilmember Brenda Hughes seconded. The motion passed 5-0.

Mayor Blackburn recessed the meeting at 4:50 p.m., and reconvened in closed executive session in the Upstairs Conference room.

3. **EXECUTIVE SESSION:**

3.A. Board Appointments – Economic Improvement Corporation (551.074)

3.B. RBM-JSM, LLC, Plaintiff v. City of Kerrville Zoning Board of Adjustments and Drew Paxton, Defendants; Cause No. 19788A; 216th Judicial District Court, Kerr County, Texas. (551.071).

The closed executive session adjourned, Council returned to open session at 5:45 p.m.

4. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION IF ANY:** None.

ADJOURN. The workshop was adjourned at 5:45 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Bill Blackburn, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: Minutes for the City Council meeting held May 25, 2021.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Shelley McElhannon

EXHIBITS: [20210608_Minutes_Council meeting 6pm 5-25-21.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Minutes for the City Council meeting held May 25, 2021 at 6:00 p.m. at the City Hall Council Chambers.

RECOMMENDED ACTION:

Approve minutes as presented.

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
MAY 25, 2021**

On May 25, 2021, at 6:00 p.m. the meeting was called to order by Mayor Bill Blackburn at the City Hall Council Chambers, 701 Main Street. Councilmember Judy Eychner provided the invocation and led the Pledge of Allegiance.

COUNCILMEMBERS PRESENT:

Bill Blackburn	Mayor
Kim Clarkson	Mayor Pro Tem, Councilmember Place 2
Roman Garcia	Councilmember Place 1
Judy Eychner	Councilmember Place 3
Brenda Hughes	Councilmember Place 4

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF:

Mark McDaniel	City Manager	Kyle Burow, Director of Engineering
E.A. Hoppe	Deputy City Manager	Stuart Cunyus, Public Information Officer
Mike Hayes	City Attorney	Megan Folkerts, Senior Mgmt Analyst
Shelley McElhannon	City Secretary	Kim Meisner, Exec Director Gen Ops
Ashlea Boyle	Director Parks & Rec	Drew Paxton, Chief Planner

VISITORS PRESENT: A list of the citizen speakers present during the meeting is on file in the City Secretary's Office for the required retention period.

Mayor Blackburn shifted forward Agenda item 2 "Presentations" before Announcements of Community Interest.

2. PRESENTATIONS:

2A. Kerrville Kindness award – Guns and Hoses Committee.

Mayor Blackburn presented the Kerrville Kindness award to the Guns and Hoses Committee, represented by Carrie Bock, Jaren Floyd, Jaron Ince, and Amber Thomason, along with Misty Kothe representing Families in Literacy.

1. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Items of interest to the community were presented by Stuart Cunyus, Councilmember Eychner, and Councilmember Roman Garcia.

Mayor Blackburn and City Council presented certificate of recognition, several items, and remarks to City Manager Mark McDaniel and Cindy McDaniel. Mark McDaniel provided comments.

This item was shifted forward before Agenda item 1, see above.

2. PRESENTATIONS:

2A. Kerrville Kindness award – Guns and Hoses Committee.

3. VISITORS FORUM:

The following person(s) spoke:

- George Baroody
- Mike Hayes clarified correct language of the Open Meetings Act.

- George Eychner

4. CONSENT AGENDA:

Councilmember Brenda Hughes provided clarification on item 4C, Mayor Blackburn pulled item 4B and 4D, and Councilmember Eychner pulled item 4E. Councilmember Eychner made a motion to approve items 4A, 4C, 4F, and 4G on the consent agenda, and Councilmember Brenda Hughes seconded. The motion passed 5-0.

4A. Agreement between Magic in the Sky, LLC, and the City of Kerrville, Texas for Fireworks Displays for July 4th and River Festival Events (3 years).

4C. Resolution No. 22-2021. A Resolution authorizing the waiver of fees regarding public safety staffing and other applicable fees for the Kerrville Chalk Festival scheduled to be held October 16-17, 2021, in Peterson Plaza.

4F. Minutes for the City Council Canvass of the Election and City Council meeting held May 11, 2021.

4G. Minutes for the City Council special-called meeting held May 18, 2021.

END OF CONSENT AGENDA.

4B. Professional Services Agreement with Rock Engineering and Testing Laboratory, Inc. for the 2021 Reconstruction Streets project in the amount of \$78,000.00.

Kyle Burow presented information and responded to questions.

Councilmember Eychner made a motion to approve item 4B, and Councilmember Kim Clarkson seconded. The motion passed 5-0.

4D. Resolution No. 23-2021. A Resolution authorizing the use of internal combustion engines on Nimitz Lake upstream of the City's impoundment dam for the Kerrville Triathlon and the safety of competitors.

Ashlea Boyle provided information.

Councilmember Eychner made a motion to approve Resolution No. 23-2021, and Councilmember Hughes seconded. The motion passed 5-0.

4E. Resolutions regarding the Texas Department of Transportation's 2021 Transportation Alternatives (TA) Program Application. (Three items will be presented together.)

1. Resolution No. 24-2021. A Resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2021 Transportation Alternatives (TA) Program call for projects. Kerrville Tom Daniels Elementary School.
2. Resolution No. 25-2021. A Resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2021 Transportation Alternatives (TA) Program call for projects. Kerrville Tally Elementary School.
3. Resolution No. 26-2021. A Resolution supporting the City of Kerrville's application to the Texas Department of Transportation's 2021 Transportation

Alternatives (TA) Program call for projects. Kerrville Hwy. 16 and Hwy. 98 Pedestrian and Traffic Improvements.

Kyle Burow and E.A. Hoppe provided information, and responded to questions.

The following persons spoke:

- Jerry Wolff
- Peggy McKay
- Terri Hall
- George Baroody
- Brian McDowell

Councilmember Garcia made a motion to approve Resolution No. 24-2021 and Resolution No. 25-2021. The motion failed for lack of second.

Councilmember Clarkson made a motion to approve item 4E: Resolution No. 24-2021, Resolution No. 25-2021, and Resolution No. 26-2021, and Councilmember Eychner seconded. The motion passed 4-1, with Mayor Blackburn, Councilmember Clarkson, Councilmember Eychner, and Councilmember Hughes voting in favor of the motion, and Councilmember Garcia voting against.

5. ORDINANCE(S), SECOND READING:

5A. Ordinance No. 2021-10, second reading. An Ordinance amending Chapter 60, Code of Ordinances, City of Kerrville, Texas; Chapter 60 more commonly known as the City's Zoning Code; by changing the zoning of a property known as 1555 Highway 173 and consisting of an approximate 7.158 acre tract of land out of the William C. Francis Survey No. 146, Abstract No. 137, and within the City of Kerrville, Kerr County, Texas; from an Agriculture District (AG) to a Multifamily Residential Zoning District (R-3); providing a cumulative clause; providing for severability; providing an effective date; and ordering publication.

Shelley McElhannon read Ordinance No. 2021-10 caption into record.

Councilmember Hughes moved to approve Ordinance No. 2021-10 on second reading, and Councilmember Eychner seconded. The motion passed 5-0.

6. ORDINANCE(S), FIRST READING:

6A. Ordinance No. 2021-13. An Ordinance amending the City's Fiscal Year 2021 budget to account for the disbursement of additional funds, the receipt of additional revenue, and the make other amendments as provided herein.

Shelley McElhannon read Ordinance No. 2021-13 caption into record.
Amy Dozier provided information and responded to questions.

Councilmember Clarkson moved to approve Ordinance No. 2021-13 on first reading, and Councilmember Garcia seconded. The motion passed 5-0.

7. CONSIDERATION AND POSSIBLE ACTION:

7A. Review of Declaration of local state of disaster due to a public health emergency, March 20, 2020.

Shelley McElhannon read Agenda item 7A caption into record.
E.A. Hoppe and Amy Dozier provided information and responded to questions.

7B. Restated Interlocal Agreement for the continued existence of a Joint Airport Board to provide management of Kerrville/Kerr County Airport.

E.A. Hoppe presented information and responded to questions.
The following person spoke:

- Mark Mosier

Councilmember Eychner moved to approve the Interlocal Agreement, and Councilmember Garcia seconded. The motion passed 5-0.

8. ITEMS FOR FUTURE AGENDAS:

- Protecting the natural environment (Blackburn)
- City Council interview teams for Boards/Commissions (Garcia)
- Review Kerrville Area Leadership Academy (Garcia)

Councilmember Eychner made a motion the City Council adjourn into closed executive session under 551.074 (personnel/officers), and Councilmember Hughes seconded. The motion passed 5-0.

Mayor Blackburn recessed the meeting at 8:01 p.m., and reconvened in closed executive session in Council Chambers Conference room.

9. BOARD APPOINTMENTS:

9A. Appoint members to the Economic Improvement Corporation.

This item was discussed in Executive Session.

10. EXECUTIVE SESSION:

10A. Appoint members to the Economic Improvement Corporation. (551.074)

The closed executive session adjourned, Council returned to open session at 8:22 p.m.

11. ACTIONS ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY:

Councilmember Eychner moved to re-appoint Danny Almond and Greg Richards, and to appoint Gregg Appel and Councilmember Kim Clarkson as new members. Councilmember Hughes seconded and the motion passed 5-0.

ADJOURN. The meeting adjourned at 8:23 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Bill Blackburn, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: Resolution No. 27-2021. A Resolution granting a Conditional Use Permit to authorize a short-term rental unit on the property consisting of approximately 0.207 acres, comprising part of Lots 710 and 711, Block 101, B.C. Richards Addition, a Subdivision within the City of Kerrville and more commonly known as 222 Rawson; said property is located within a Single-Family Residential Zoning District (R-1); and making said permit subject to certain conditions and restrictions contained herein.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 27, 2021

SUBMITTED BY: Drew Paxton

EXHIBITS: [20210608_Resolution_27-2021 CUP 222 Rawson STR.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Proposal

Public hearing, consideration and action to recommend a resolution to allow a Conditional Use Permit for Short Term Rental on Richards BC, Block 101, Lot 710 PT, Lot 711 PT, City of Kerrville, Kerr County, Texas; and more commonly known as 222 Rawson Street.

Procedural Requirements

30 letters were mailed on 4/26/2021 to adjacent property owners. The public notice was published in the Kerrville Daily Times on 4/15/2021. At the time of drafting this Agenda Bill, one email in opposition to the CUP request had been received, please see attached.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: R-1 Single Family Residential

Existing Land Use: Single Family Residence

Direction: North, South, West, East

Current Zoning: R-1 Single Family Residential

Existing Land Uses: Single Family Residences

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property and surrounding area are designated Neighborhood Residential (NR) in the Kerrville 2050 Comprehensive Plan. NR allows, primarily, for single family detached homes. Because the underlying zoning is not changing for the subject property, the request is consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on a residential street.

Traffic Impact:

No traffic impact is anticipated.

Parking:

A Short Term Rental requires one (1) off street parking space per bedroom and one (1) additional off street parking space for a manager that does not live onsite. This rental has two (2) bedrooms and no onsite manager so three (3) off street parking spaces are required. The property has a long driveway on the right side of the house that can easily accommodate the three (3) required off street parking spaces.

Case Summary:

The applicant is proposing to use an existing home as a non-owner occupied Short Term Rental.

The subject property is located within an R-1 zoning district. As such, a Short Term Rental requires a Conditional Use Permit.

A Short Term Rental, non-owner occupied, is defined as follows:

A facility, located in a residential zoning district, used for the purpose of providing short-term lodging (less than thirty days) for compensation, architecturally designed to look like a single-family dwelling, which may also be separate lodging units such as cabins,

guest homes, or similar residential-scale structures, with no more than six (6) bedrooms total on the property, and offering meals only to those who receive lodging.

Required legal and public notices have been sent. Proposed CUP conditions have been drafted for consideration to address staff comments and any comments submitted by adjacent property owners and other interested citizens. There was no amenity list provided for this property.

Recommendation:

Because the Conditional Use Permit request is consistent with the Kerrville 2050 Comprehensive Plan, will meet all zoning regulations, and there are numerous amenities in relatively close proximity to this proposed Short Term Rental location, staff recommends approval with consideration and inclusion of the attached Proposed CUP Conditions.

Proposed CUP Conditions

Short Term Rental

A. Guest Notification: The owner or operator of the Property shall post "Guest Notification" in a conspicuous place within the rental unit on the Property. Guest Notification is shown on the following page.

B. Occupancy Taxes: The owner or operator of the Property shall comply with the City's occupancy tax requirements as found within Ch. 94, Division III, of the City's Code of Ordinances.

C. Sign: The Property may not use more than one non-illuminated, on-site sign, in conjunction with its Short Term Rental unit. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and not exceeding six square feet in size and three feet in height. Any such sign shall comply with the City's Sign Code.

D. Minimum Off-Street Parking: One space per bedroom, plus parking required for the manager, if living off-site.

E. Maximum Occupancy: The maximum occupancy for any Short Term Rental is ten (10) guests. Short term rental owner / operator may set occupancy limits at less than ten (10) guests, however, in no case shall occupancy limits exceed ten (10) guests.

F. Other Zoning Regulations: The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

On May 6th, the Planning and Zoning Commission recommended the case with a 4-3 vote.

RECOMMENDED ACTION:

Approve Resolution No. 27-2021.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 27-2021**

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO AUTHORIZE A SHORT-TERM RENTAL UNIT ON THE PROPERTY CONSISTING OF APPROXIMATELY 0.207 ACRES, COMPRISING PART OF LOTS 710 AND 711, BLOCK 101, B.C. RICHARDS ADDITION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE AND MORE COMMONLY KNOWN AS 222 RAWSON; SAID PROPERTY IS LOCATED WITHIN A SINGLE-FAMILY RESIDENTIAL ZONING DISTRICT (R-1); AND MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

WHEREAS, the owner of the property known as 222 Rawson and graphically depicted at **Exhibit A** (the "Property"), said exhibit being attached hereto and made a part hereof for all purposes, is requesting approval of a Conditional Use Permit ("CUP") to authorize a short-term rental unit on the Property, which is located within a Single-Family Residential Zoning District (R-1); and

WHEREAS, the City Planning and Zoning Commission (the "Commission"), in compliance with state law and the Zoning Code of the City of Kerrville, Texas (Chapter 60, Code of Ordinances) ("Zoning Code"), and in particular, the procedures for obtaining a CUP; having given the requisite notices by United States mail, publication, and otherwise; and after holding a public hearing and affording a full and fair hearing to all property owners generally and particularly to those interested persons situated in the affected area and in the vicinity thereof, the Commission recommends that City Council grant the CUP applied for and referenced herein, subject to the special conditions and restrictions set out hereinafter and applied to the Property; and

WHEREAS, City Council, in compliance with state law and the Zoning Code, and likewise having given the requisite notices and holding a public hearing on June 8, 2021, finds that the health, safety, and general welfare will be best served by the granting of the CUP as recommended by the Commission and referenced herein on the Property;

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

SECTION ONE. A Conditional Use Permit is granted to permit the Property described as follows, and located within a Single-Family Residential Zoning District (R-1), to be developed and used for a Short-Term Rental Unit ("STRU") as that term is defined in and pursuant to the Zoning Code, such use subject to the provisions of this Resolution and other City ordinances and regulations:

Legal Description: approximately 0.207 acres of land,
comprising part of Lots 710 and 711, Block 101 of the B.C.

Richards Addition, a subdivision of Kerr County and the city of Kerrville, and being more specifically described and depicted on the site plan and location map found at **Exhibit A**.

General Description: 222 Rawson, Kerrville, TX 78028.

SECTION TWO. In addition to the development and use regulations currently applicable to the Property, development and use of the Property is subject to the following additional conditions:

- A. **Guest Notification:** The owner or operator of the Property shall post a “guest notification” in a conspicuous place within the rental unit on the Property, said notification attached as **Exhibit B**.
- B. **Occupancy Taxes:** The owner or operator of the Property shall comply with the City’s occupancy tax requirements as found within Ch. 94, Division III, of the City’s Code of Ordinances.
- C. **Sign:** The Property may not use more than one non-illuminated, on-site sign, in conjunction with its STRU. The sign may either be: (i) flush-mounted to one of the residential structures and may not exceed one-square foot in size; or, (ii) freestanding and placed in the front yard but no closer than 20 feet to any property line and may not exceed six square feet in size and three feet in height. Any such sign shall comply with the City’s Sign Code.
- D. **Parking:** The Property must include at a minimum, one off-street parking space per bedroom, plus an additional space for the manager, if living off-site.
- E. **Maximum Occupancy:** The Property is subject to a maximum occupancy of ten (10) guests, which may be lower per rules set by the owner or operator.
- F. **Other Zoning Regulations:** The regulations set forth in this Resolution are in addition to those set forth in the Zoning Code, as may be amended or superseded. In the event of any irreconcilable conflict between this Resolution and the regulations set forth in the Zoning Code, the provisions of this Resolution will prevail.

SECTION THREE. This Resolution and the CUP granted herein are subject to termination in accordance with the Zoning Code.

SECTION FOUR. City Council finds and determines that its adoption of this Resolution promotes the health, safety, and general welfare of the public and is a proper valid exercise of the City's police powers.

SECTION FIVE. If any section, subsection, sentence, clause, phrase, or portion of this Resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION SIX. This Resolution is effective upon adoption.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2021.

Bill Blackburn, Mayor

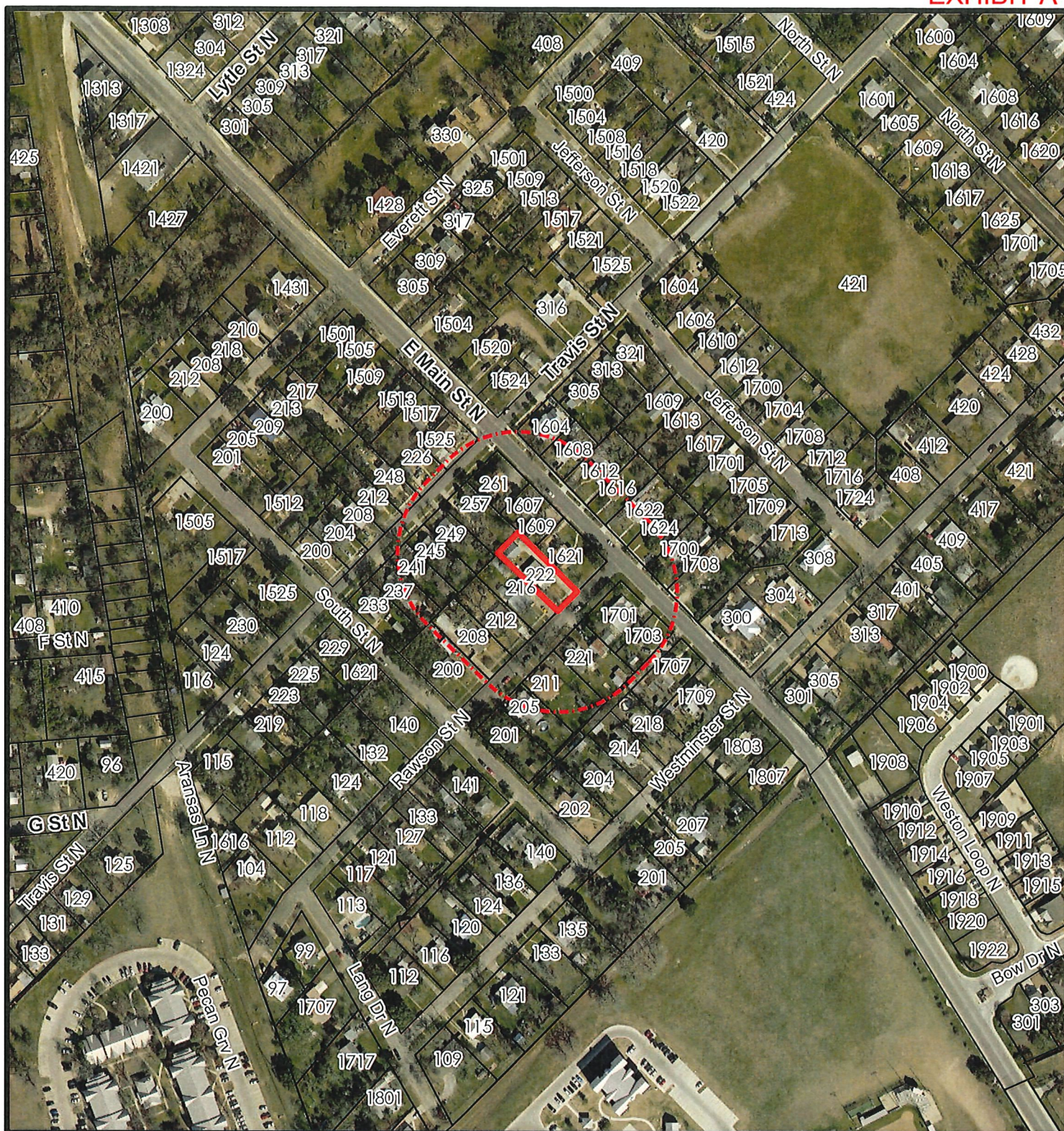
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # PZ-2021-8

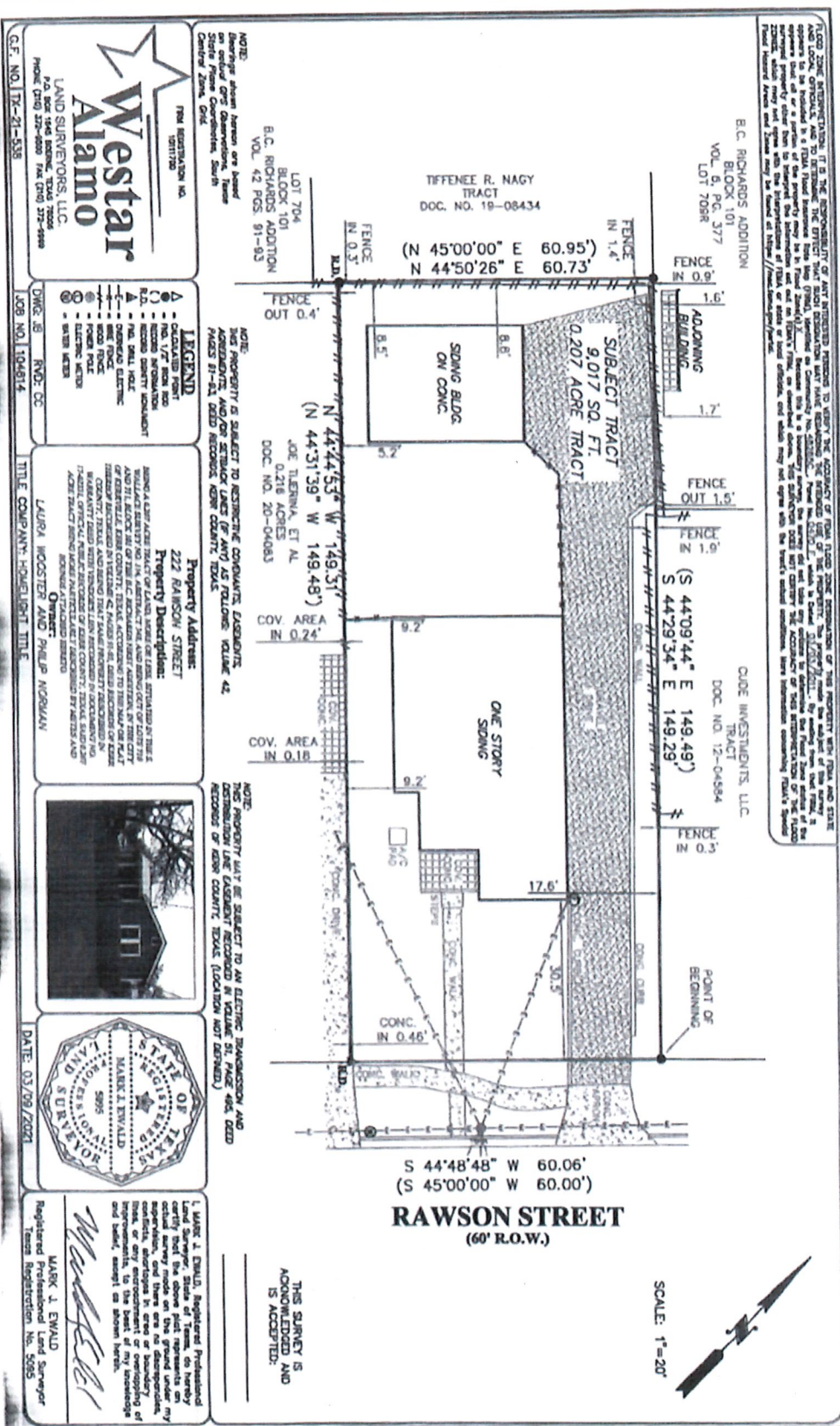
Location:
222 Rawson St

Legend

200' Notification Area ---
Subject Properties ---



0 100 200 400
Scale In Feet





SHORT TERM RENTAL CONDITIONAL USE PERMIT GUEST NOTIFICATION

CUP Resolution Number _____

This short term rental has been permitted by the City of Kerrville as a conditional use under the above referenced resolution within a residential neighborhood and requires all guests to be aware of the following:

Because this short term rental is located within a residential neighborhood, proper etiquette should be observed at all times. The conditional use permit was issued in an effort **“to preserve the health, safety, and general welfare of adjacent property and its occupants and to protect such property and occupants from excessive noise, vibration, dust, dirt smoke, fumes, gas, odor, traffic, explosion, glare, surface water drainage, offensive view, or other undesirable hazardous conditions....”**

As a guest, please be aware of the proximity of your neighbors and be respectful of their right to privacy, a quiet environment, and unobstructed access to their property. Loud music, loud parties and excessive noise should be avoided. Parking should be limited to onsite parking spaces provided by short term rental management. Place trash and recycling in the appropriate containers.

As per the Conditional Use Permit, the **maximum occupancy is ten (10) guests**. The Short Term Rental owner may have other occupancy restrictions for fewer guests, however, in no case shall guest occupancy exceed ten (10) guests.

If you should have any questions regarding this notification, please contact the short term rental management.

Thank you!

This Guest Notification should be posted by short term rental management in a location clearly visible by all guests and provided with check-in information. Posting of duplicate copies of this Guest Notification within each guest room is highly encouraged to clearly communicate the importance of proper etiquette within a residential neighborhood. Thank you!



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

SUBJECT: Resolution No. 28-2021. A Resolution allowing a variance to a distance requirement as between the restaurant located at 208 Cully Drive and child-care facility located within 300 feet of said restaurant.

AGENDA DATE OF: June 8, 2021 **DATE SUBMITTED:** May 27, 2021

SUBMITTED BY: Drew Paxton

EXHIBITS: [20210608_Resolution_28-2021 Variance 208 Cully Drive.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	40	N/A

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Pursuant to Section 10-3 of the City of Kerrville Code of Ordinances, the owner of China Bowl has submitted a request for a new TABC license (Wine and Beer Retailer's Permit, BG) to sell beer and wine at the restaurant. This property, 208 Cully Drive, is within 300 feet of a day care facility, located at 321 Thompson Drive.

The restaurant currently holds a TABC license (Mixed Beverage Permit, MB) that was issued in 2017. At the time of this approval, the city's ordinances did not require a distance of separation from day cares. The ordinance update in 2019 added this requirement. Since this application is for a new permit, the newer separation requirements are in effect.

On May 25, notices were mailed to property owners within 200', pursuant to Section 10-3 of the Code of Ordinances. At the time of drafting this agenda bill, no comments have been received.

After holding a public hearing, the City council may allow a variance to this section if it

determines that the enforcement of the regulation in a particular circumstance:

- (1) Is not in the best interests of the public;
- (2) Constitutes waste or inefficient use of land or other resources;
- (3) Creates an undue hardship on the applicant for a permit or license;
- (4) Does not serve its intended purpose;
- (5) Is not effective or necessary; or
- (6) For any other reason the city council, after consideration of the health, safety, and welfare of the public and the equities of the situation, determines is in the best interest of the community.

RECOMMENDED ACTION:

Approve Resolution No. 28-2021.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 28-2021**

**A RESOLUTION ALLOWING A VARIANCE TO A DISTANCE
REQUIREMENT AS BETWEEN THE RESTAURANT LOCATED
AT 208 CULLY DRIVE AND A CHILD-CARE FACILITY
LOCATED WITHIN 300 FEET OF SAID RESTAURANT**

WHEREAS, the owner of the China Bowl restaurant, located at 208 Cully Dr. and within the City of Kerrville, Texas, has applied for a new permit from the Texas Alcoholic Beverage Commission ("TABC") to sell beer and wine for on premise consumption; and

WHEREAS, the owner, including its predecessors, have previously held and currently hold licenses to sell alcohol from the TABC; and

WHEREAS, pursuant to City Code of Ordinances Section 10-3 ("Section 10-3"), and as authorized by the Texas Alcoholic Beverage Code, the sale of any alcohol at this location must be at least 300 feet from a child-care facility; and

WHEREAS, under Section 10-3, a property owner may apply to City Council for a variance from the distance limitations, which Council may allow depending upon the particular circumstances; and

WHEREAS, City Council in accordance with Section 10-3 and in particular, its holding of a public hearing, providing the requisite public notices, and thereafter determining that a particular circumstance is found, finds it be in the public interest to allow the variance as provided below;

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

City Council, as the governing board of the City of Kerrville, Texas, and pursuant to the Texas Alcoholic Beverage Code and Section 10-3 of the City's Code of Ordinances, and after consideration of the circumstances found within subsection (g) of Section 10-3, hereby allows a variance from the applicable provisions of Section 10-3 at the following location:

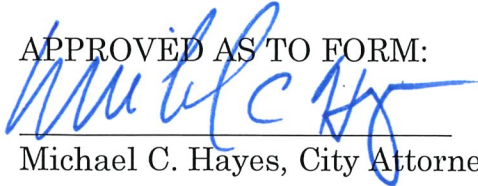
**China Bowl, 208 Cully Dr., Kerrville, Texas. Said
location is depicted on the map found at Exhibit A.**

This variance shall remain in effect for so long as a Wine and Beer Retailer's Permit and subsequent like use, if any, are in effect at the above-referenced location.

PASSED AND APPROVED ON this the ____ day of _____, A.D.,
2021.

Bill Blackburn, Mayor

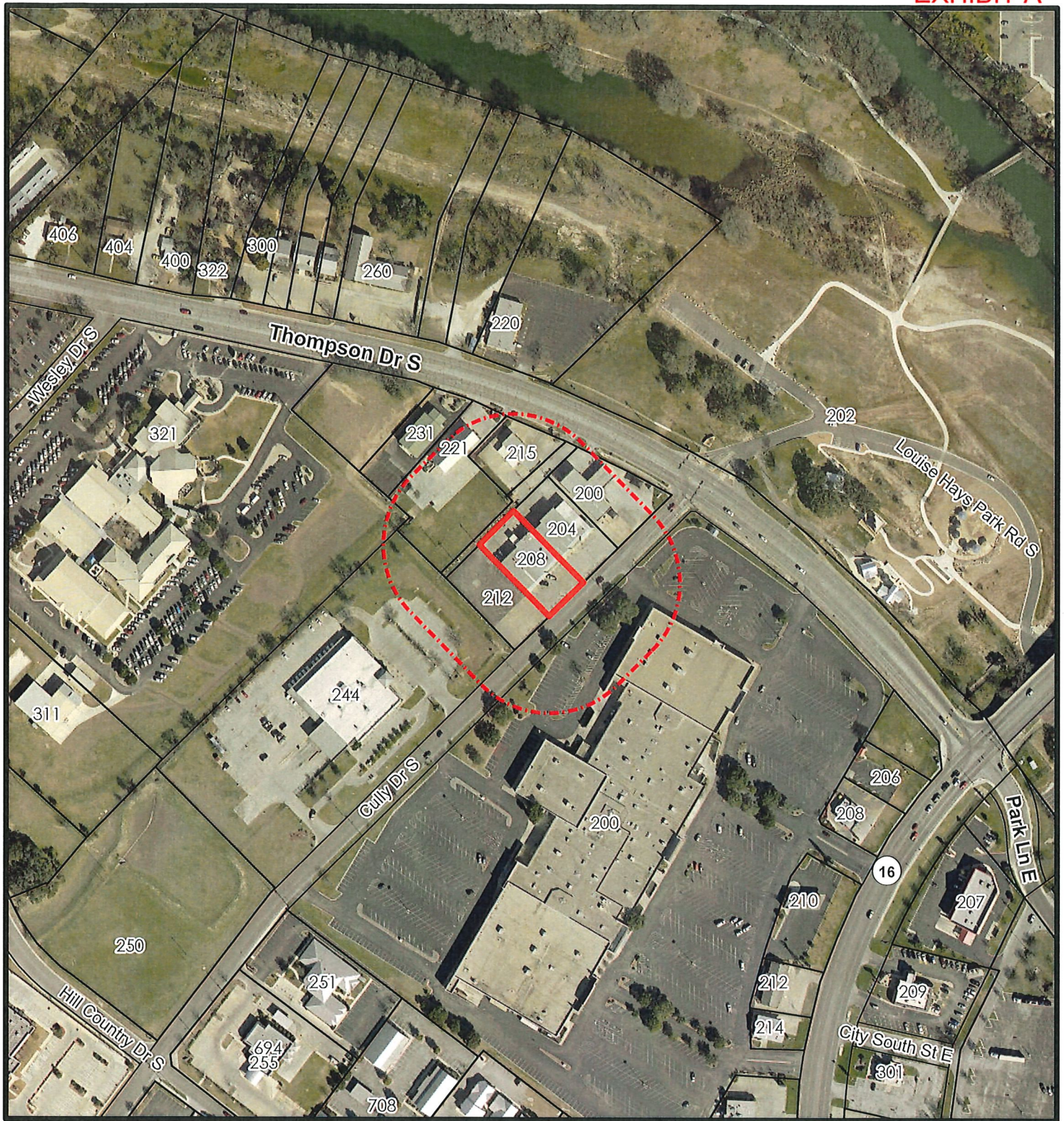
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary



Location Map

Case # 2021-028

Location:
208 Cully Dr STE 218

Legend

200' Notification Area
Subject Properties



0 100 200 400

Scale In Feet



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

SUBJECT: Ordinance No. 2021-14. An Ordinance annexing an approximate 149.519 and 2.775 acre tracts of land, both located within the Comanche Trace Residential Development, into the City of Kerrville, Texas and extending the boundary limits of the City so as to include such property within the City limits; approving a service agreement for the annexed property; and adopting the zoning for the annexed property as a Medium Density Residential District (R-2).

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 27, 2021

SUBMITTED BY: Drew Paxton

EXHIBITS: [20210608_Ordinance_2021-14 Annexation approx 152 acre Comanche Trace.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Proposal

Public hearing consideration and action to recommend an ordinance for annexation and a zoning change to R-2 Medium Density Residential District on approximately 152 acres located within Wilson Watt Survey No. 65, Abstract No. 364, Kerr County, Texas; and generally located within the Comanche Trace development.

Procedural Requirements

59 letters were mailed 4/26/2021 to adjacent property owners. The public notice was published in the Kerrville Daily Times on 4/15/2021. At the time of drafting this Agenda Bill,

no written comments had been received.

Staff Analysis and Recommendation

This is a continuation of the existing Comanche Trace development.

Consistency with the Kerrville 2050 Comprehensive Plan: The property and surrounding area are designated as Strategic Catalyst Area 10 (SCA 10) and Preservation Residential. Allowable place types within both SCA 10 and Preservation residential support rural residential, consistent with what the Comanche Trace development already provides. The annexation and requested R-2 Medium Density Residential are consistent with the Kerrville 2050 Comprehensive Plan.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: N/A

Existing Land Uses: Vacant

Direction: North, South, West, East

Current Zoning: PDD 99-26, R-1 Single Family, County

Existing Land Uses: Single Family Residential

Thoroughfare Plan: The property is located within Comanche Trace residential streets.

Traffic Impact: To be determined.

Parking: To meet zoning code at time of development.

Recommendation:

Based on the consistency with the Kerrville 2050 Comprehensive Plan, staff recommends approval of the annexation and zoning request.

On May 6th, the Planning and Zoning Commission recommended the case with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2021-14 on first reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-14**

AN ORDINANCE ANNEXING AN APPROXIMATE 149.519 AND 2.775 ACRE TRACTS OF LAND, BOTH LOCATED WITHIN THE COMANCHE TRACE RESIDENTIAL DEVELOPMENT, INTO THE CITY OF KERRVILLE, TEXAS AND EXTENDING THE BOUNDARY LIMITS OF THE CITY SO AS TO INCLUDE SUCH PROPERTY WITHIN THE CITY LIMITS; APPROVING A SERVICE AGREEMENT FOR THE ANNEXED PROPERTY; AND ADOPTING THE ZONING FOR THE ANNEXED PROPERTY AS A MEDIUM DENSITY RESIDENTIAL DISTRICT (R-2)

WHEREAS, the owner of an area made up of two tracts of land has requested annexation of the area by the City of Kerrville, Texas ("City"), pursuant to Local Government Code Section 43.0671; and

WHEREAS, all of the herein-described property lies within the extraterritorial jurisdiction of the City; and

WHEREAS, in conjunction with the approval of this Ordinance, City Council also approves a Service Agreement for the subject property; and

WHEREAS, Section 60-37 of the City's Zoning Code creates procedures for initial zoning of newly annexed areas; and

WHEREAS, the City has complied with all prerequisites of state law and the City Charter as to the annexation and the application of zoning to the area;

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

SECTION ONE. City Council finds and declares the facts and recitations contained in the preamble of this Ordinance true and correct.

SECTION TWO. City Council annexes into the City limits for all legal purposes all of a certain tracts or parcels of land, which when combined contain 151.794 acres, more or less, out of William Watt Survey No. 65, Abstract No. 364 in Kerr County, Texas; generally located within the Comanche Trace Residential Development; and being more particularly described and depicted in **Exhibit A** (the "Property").

SECTION THREE. City Council authorizes and directs the City Manager, or designee, to amend the City's official boundary map in accordance with the annexation taken in Section Two.

SECTION FOUR. The petition for annexation concerning the Property is attached as **Exhibit B** and incorporated herein by reference, said petition, which triggered the process specified in Subchapter C-3, Chapter 43, Texas Local Government Code, authorizing the annexation of the Property.

SECTION FIVE. Pursuant to Section 43.0672 of the Texas Local Government Code, the City has negotiated and hereby enters into a Service Agreement (the "Agreement") with the owner of land for the provision of services in the area. The Agreement is attached to this Ordinance as **Exhibit C** and by this reference is incorporated into it. Upon annexation of the Property, the City shall provide the Property with the municipal services set forth in the Agreement pursuant to the schedule set forth therein, such services making up the City's full municipal services. The City shall have no obligation to provide services to the Property not listed in the Agreement.

SECTION SIX. Upon the adoption of this Ordinance, and in accordance with Section 60-37 of the City's Zoning Code, the Property is zoned as a Medium Density Residential District (R-2).

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

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

SECTION NINE. In accordance with the Texas Local Government Code and other applicable laws, the City Secretary is directed to file a certified copy of this Ordinance together with a copy of the petition requesting annexation with the Kerr County Clerk, Kerr Central Appraisal District, and the Texas Comptroller.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____ A.D., 2021.

PASSED AND APPROVED ON SECOND READING, this the _____ day of _____ A.D., 2021.

Bill Blackburn, Mayor

APPROVED AS TO FORM:

ATTEST:



Michael C. Hayes, City Attorney

Shelley McElhannon, City Secretary

Exhibit A

FIELD NOTES FOR A 149.519 ACRE TRACT OF LAND

A **149.519 acre** tract of land, out of the William Watt Survey No. 64, Abstract 363, and the William Watt Survey No. 65, Abstract 364, Kerr County, Texas, being a portion of a called 510.53 acre tract of land, of record, in Volume 1498 Page 321, a portion of a called 1131.78 acre tract of land, of record, in Volume 971, Page 698, all of a called 21.85 acre tract of land, of record, in Volume 1730, Page 594, all three documents of the Official Public Records of Kerr County, Texas, and a portion of a called 1.784 acre tract of land shown as a Variable Width Private Drainage Easement (V.W.P.D.E.), of record in Volume 8, Pages 57-59 of the Plat Records of Kerr County, Texas. Said **149.519 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a point in the east right-of-way line of Club House Road, a variable width right-of-way, as shown on the Comanche Trace, Phase 13, Amending Plat Subdivision, of record in Document 18-07561 of the Plat Records of Kerr County, Texas, for the northwest corner of Lot 34, Block C of said subdivision, and the tract described herein;

THENCE: N 06° 00' 23" W, with the east right-of-way line of said Club House Road and the west line of said Lot 34, a distance of **87.76 feet** to a point in a northwest line of said 510.53 acre tract and a northwest corner of the tract described herein;

THENCE: Departing said right-of-way line, with the north line of said 510.53 acre tract the following six (6) courses:

1. S 73° 27' 23" E, a distance of **133.40 feet** to a point for a corner,
2. S 13° 28' 08" E, a distance of **1068.78 feet** to a point for a corner,
3. N 76° 31' 52" E, a distance of **450.00 feet** to a point for a corner,
4. N 13° 28' 08" W, a distance of **917.60 feet** to a point for a corner,
5. N 84° 07' 40" E, a distance of **305.05 feet** to a point for a corner, and
6. N 09° 12' 38" E, at 381.36 feet a north corner of said 510.53 acre tract and continuing into and across said 1131.78 acre tract for a total distance of **701.46 feet** to a point for a corner,

THENCE: Continuing over and across said 1131.78 acre tract the following eleven (11) courses:

1. N 00° 27' 55" E, a distance of **639.41 feet** to a point for a corner,
2. N 43° 24' 10" E, a distance of **339.27 feet** to a point of curvature,
3. With a curve to the right having a radius of **399.02 feet**, an arc length of **36.12 feet**, a delta angle of **005° 11' 11"** and a chord which bears, N 46° 00' 09" E, a distance of **36.11 feet** to a point of non-tangency,
4. S 41° 23' 51" E, a distance of **40.00 feet** to a point for a corner,
5. N 50° 37' 18" E, a distance of **25.23 feet** to a point of curvature,
6. With a curve to the right having a radius of **358.00 feet**, an arc length of **127.55 feet**, a delta angle of **020° 24' 51"** and a chord which bears, N 62° 50' 53" E, a distance of **126.88 feet** to a point of non-tangency,
7. N 74° 52' 23" E, a distance of **22.72 feet** to a point for a corner,
8. S 13° 18' 31" E, a distance of **20.00 feet** to a point for a corner,
9. N 81° 22' 42" E, a distance of **318.02 feet** to a point of curvature,
10. With a curve to the left having a radius of **338.00 feet**, an arc length of **152.66 feet**, a delta angle of **025° 52' 43"** and a chord which bears, N 68° 39' 45" E, a distance of **151.37 feet**, to a point of non-tangency and a corner of the tract described herein, and
11. S 47° 22' 44" E, a distance of **30.44 feet** to a point for the west corner of said 21.85 acre tract and an interior corner of the tract described herein;

THENCE: With the northwest, northeast and southeast lines of said 21.85 acre tract, the following three (3) courses:

1. N 44° 27' 48" E, a distance of **360.33 feet** to a point a corner
2. S 45° 03' 54" E, a distance of **1833.28 feet** to a point for a corner, and
3. S 44° 38' 58" W, a distance of **845.12 feet** to a point in a northeast line of said 1131.78 acre tract, for the south corner of said 21.85 acre tract and an interior corner of the tract described herein;

THENCE: S 23° 23' 27" E, with the northeast line of said 1131.78 acre tract, a distance of **176.08 feet** to a point for the north corner of a called 101.41 acre tract, of record in Volume 1697, Page 565 of the Official Public Records of Kerr County, Texas, an easterly corner of said 1131.78 acre tract and the tract described herein;

THENCE: S 44° 28' 18" W, with the northeast line of said 101.41 acre tract and said 1131.78 acre tract, a distance of **1764.79 feet** to a point for the north corner of The Homestead at Turtle Creek Subdivision, of record in Volume 6, Page 309 of the Plat Records of Kerr County, Texas, the west corner of said 101.41 acre tract and an angle point of the tract described herein;

THENCE: S 44° 31' 28" W, with the northeast line of said Turtle Creek subdivision and said 1131.78 acre tract, a distance of **937.54 feet** to a point for the south corner of the tract described herein;

THENCE: N 45° 29' 30" W, over and across said 1131.78 acre tract and said 510.53 acre tract, a distance of **882.65 feet** to a point for the east corner of Lot 18, Block B of the Comanche Trace Phase 11 Subdivision, of record in Volume 8, Pages 57-59 of the Plat Records of Kerr County, Texas, an interior corner of said V.W.P.D.E. and a west corner of the tract described herein;

THENCE: N 62° 26' 12" W, with the northeast line of said Lot 18, Block B and a southwest line of said V.W.P.D.E., a distance of **130.88 feet** to a point in the west right-of-way line of Comanche Hills as shown on Comanche Trace, Phase 15 Subdivision, of record in Document No. 19-00814 of the Plat Records of Kerr County, Texas, and a west corner of the tract described herein

THENCE: N 27° 33' 48" E, leaving said right-of-way line, over and across said V.W.P.D.E., a distance of **50.00 feet** to a point in the northeast right-of-way line of said Comanche Hills, for the south corner of Lot 12, Block A of said Phase 15 of Comanche Trace and an angle of the tract described herein,

THENCE: With a southeast and a northeast line of said Phase 15 of Comanche Trace the following courses thirteen (13):

1. N 25° 14' 12" E, a distance of **125.10 feet** to a point for an angle,
2. N 61° 19' 33" W, a distance of **53.00 feet** to a point for an angle,
3. N 54° 50' 00" W, a distance of **51.96 feet** to a point for an angle,
4. N 46° 31' 19" W, a distance of **51.98 feet** to a point for an angle,
5. N 37° 06' 22" W, a distance of **51.95 feet** to a point for an angle,
6. N 33° 40' 27" W, a distance of **56.31 feet** to a point for an angle,
7. N 33° 31' 16" W, a distance of **59.44 feet** to a point for an angle,
8. N 38° 02' 16" W, a distance of **61.43 feet** to a point for an angle,
9. N 41° 10' 14" W, a distance of **61.43 feet** to a point for an angle,
10. N 44° 45' 16" W, a distance of **61.46 feet** to a point for an angle,
11. N 50° 05' 34" W, a distance of **61.44 feet** to a point for an angle,
12. N 50° 36' 14" W, a distance of **55.27 feet** to a point for an angle,
13. N 51° 05' 18" W, a distance of **48.44 feet** to a point for the north corner of said Phase 15 of Comanche Trace and the southeast corner of Lot 22, Block C of said Phase 13 of Comanche Trace and an angle of the tract described herein,

THENCE: With the southeast line of said Phase 13 of Comanche Trace the following eleven (11) courses:

1. N 08° 33' 22" W, a distance of **103.35 feet** to a point for an angle,
2. N 39° 29' 03" E, a distance of **104.46 feet** to a point for an angle,
3. N 37° 47' 47" E, a distance of **63.42 feet** to a point for an angle,
4. N 35° 13' 00" E, a distance of **68.44 feet** to a point for an angle,
5. N 26° 57' 33" W, a distance of **68.85 feet** to a point for an angle,
6. N 19° 45' 46" E, a distance of **69.25 feet** to a point for an angle,

7. N 12° 31' 27" E, a distance of **69.64 feet** to a point for an angle,
8. N 07° 16' 48" W, a distance of **70.32 feet** to a point for an angle,
9. N 03° 53' 19" W, a distance of **66.91 feet** to a point for an angle,
10. N 06° 00' 23" W, a distance of **58.66 feet** to a point for an angle, and
11. S 83° 59' 37" W, a distance of **125.300 feet** to the **POINT OF BEGINNING** and containing **149.519 acres** of land situated in Kerr County, Texas.

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

FIELD NOTES FOR A 2.775 ACRE TRACT OF LAND

A **2.775 acre** tract of land, out of the William Watt Survey No. 65, Abstract 364, Kerr County, Texas, being a portion of a called 510.53 acre tract of land, of record, in Volume 1498 Page 321, of the Official Public Records of Kerr County, Texas. Said **2.775 acre** tract being more particularly described by metes and bounds as follows:

BEGINNING at a point in the southeast right-of-way line of Club House Road, a variable width right-of-way, as shown on the Comanche Trace, Phase 13, Amending Plat Subdivision, of record in Document 18-07561 of the Plat Records of Kerr County, Texas, for the west corner of Lot 19, Block B of said subdivision and the northwest corner of the tract described herein;

THENCE: Along the southerly line of said subdivision the following three (3) courses:

1. **S 53° 19' 50" E**, a distance of **192.12 feet** to a point for a corner,
2. **N 33° 36' 21" E**, a distance of **201.36 feet** to a point for a corner, and
3. **S 75° 49' 28" E**, a distance of **48.28 feet** to a point for the most westerly corner of Comanche Trace, Phase 15 Subdivision, of record in Document No. 19-00814 of the Plat Records of Kerr County, Texas, a southerly corner of Lot 21, Block B of said Phase 13 of Comanche Trace Subdivision and for a corner of the tract described herein,

THENCE: With the southerly line of said Phase 15 of Comanche Trace Subdivision the following four (4) courses:

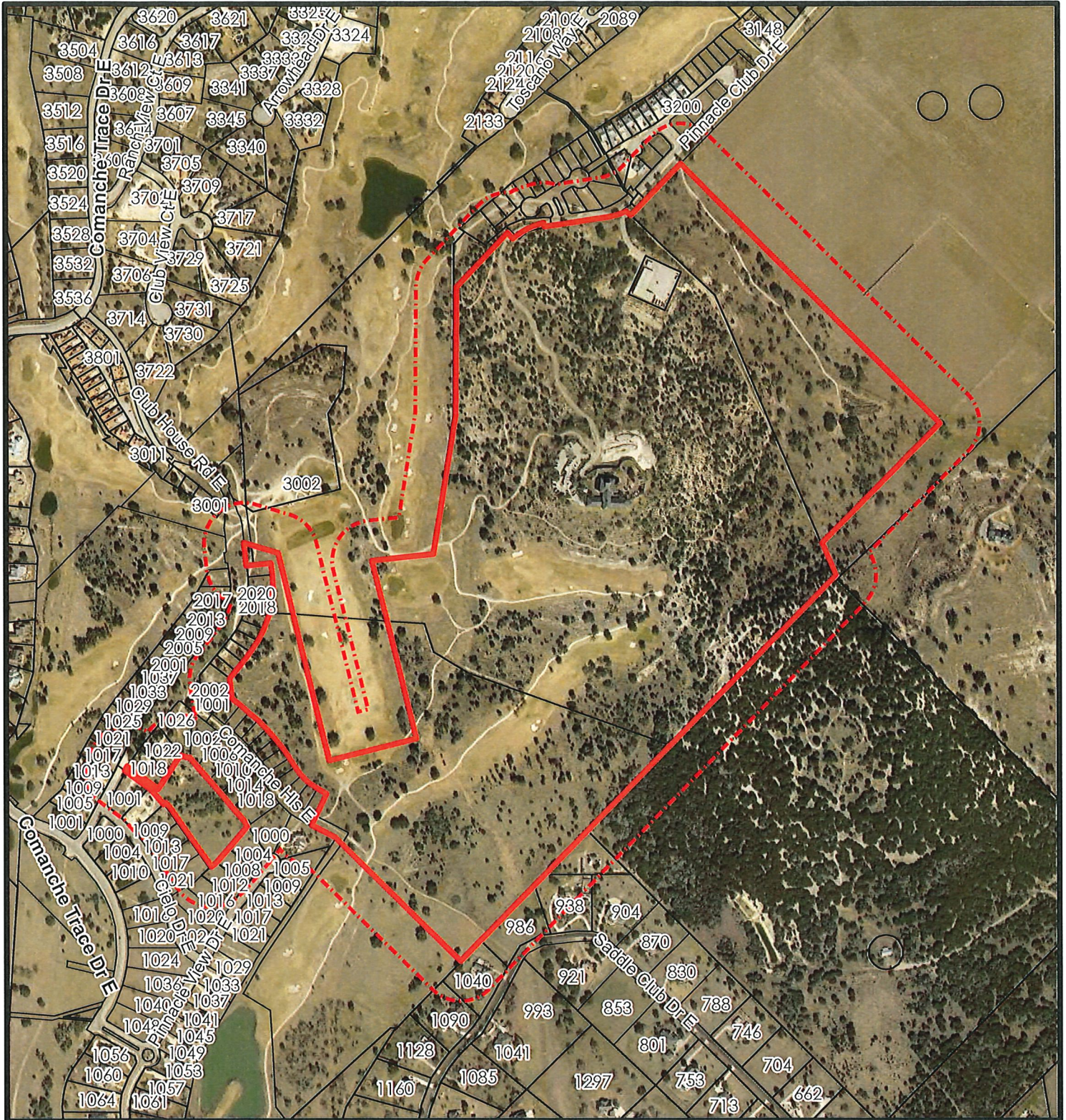
1. **S 42° 26' 59" E**, a distance of **52.24 feet** to a point for an angle,
2. **S 42° 31' 50" E**, a distance of **90.16 feet** to a point for an angle,
3. **S 40° 14' 54" E**, a distance of **183.60 feet** to a point for an angle, and
4. **S 40° 15' 32" E**, a distance of **90.83 feet** to a point for a north corner of a 20' wide Sanitary Sewer Easement of the Comanche Trace Phase 11 Subdivision, of record in Volume 8, Pages 57-59 of the Plat Records of Kerr County, Texas, and an easterly corner of the herein described tract;

THENCE: With a westerly and northerly line of said Phase 11 of Comanche Trace Subdivision the following nine (9) courses:

1. **S 58° 07' 43" W**, a distance of **13.83 feet** to a point for a corner,
2. **S 31° 55' 31" E**, a distance of **28.70 feet** to a point for a corner,
3. **S 41° 13' 32" W**, a distance of **223.71 feet** to a point for a corner,
4. **S 49° 52' 19" W**, a distance of **31.14 feet** to a point for a corner,
5. **N 34° 34' 51" W**, a distance of **363.57 feet** to a point for an angle,
6. **N 42° 19' 20" W**, a distance of **27.18 feet** to a point for a corner,
7. **S 47° 40' 40" W**, a distance of **16.55 feet** to a point for a corner,
8. **N 42° 19' 20" W**, a distance of **103.83 feet** to a point for an angle, and
9. **N 53° 12' 09" W**, a distance of **152.07 feet** to a point at the northwest corner of Lot 5 of said Phase II of Comanche Trace Subdivision, in the southeast right-of-way said Club House Road and for a point of curvature of the tract described herein;

THENCE: With the southeast right-of-way line of said Club House Road and with a curve to the right having a radius of **975.00 feet**, an arc length of **20.08 feet**, a delta angle of **001° 10' 48"** and a chord which bears, **N 31° 29' 56" E**, a distance of **20.08 feet** to the **POINT OF BEGINNING** and containing **2.775 acres** of land situated in Kerr County, Texas;

"This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."



Location Map

Case # PZ-2021-7

Location:

Legend

200' Notification Area ---
Subject Properties ---



0 250 500 1,000

Scale In Feet

AN APPROXIMATELY 149.519 ACRE TRACT OF LAND LOCATED IN THE WILLIAM WATT SURVEY NO. 65, ABSTRACT NO. 364 KERR COUNTY, TEXAS BEING A PORTION OF A CALLED REMAINING PORTION OF A 150.53 ACRE TRACT OF RECORD IN VOLUME 1498, PAGE 321 OFFICIAL PUBLIC RECORDS, OF KERR COUNTY, TEXAS AND A 21.85 ACRES OF RECORD IN VOLUME 1730, PAGE 594 O.P.R., KERR COUNTY TEXAS AND AN APPROXIMATELY 2.775 ACRE TRACT OF LAND BEING OUT OF REMAINING PORTION OF 510.53 ACRES VOLUME 1498, PAGE 321 O.P.R., KERR COUNTY TEXAS

EXHIBIT B

PETITION REQUESTING ANNEXATION TO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS, OF TEXAS ACRES OUT OF THE WILLIAM WATT NO. 65 Survey, Abstract Number 364, KERR COUNTY TEXAS

TO THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF KERRVILLE, TEXAS:

Comanche Trace Ranch & Golf Club, LLLP Is the sole owner of an approximately 149.5 acre tract of land located adjacent to the incorporated limits of the City of Kerrville which is out of the Survey No. 65 Abstract No. 364 Kerr County, Texas, and is more particularly described as follows:

SEE ATTACHED SURVEY AND METES & BOUNDS DESCRIPTION.

In accordance with Texas Local Government Code §43.028, Comanche Trace Ranch & Golf Club, LLLP hereby respectfully requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS 17th day of March.

By: [Signature]
Legally authorized signature

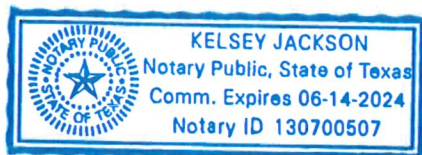
ACKNOWLEDGEMENT

THE STATE OF TEXAS

§
§
§

COUNTY OF KERR

This instrument was acknowledged before me on the 17th day of March,
by Trevor Hyde for and on behalf of Comanche Trace Ranch & Golf Club, LLLP.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Kelsey Jackson

My Commission Expires: 06-14-2024

EXHIBIT C

SERVICE AGREEMENT

This Services Agreement (the "Agreement") is entered into between the City of Kerrville, a Texas Home-Rule Municipal Corporation (the "City") and the Comanche Trace Ranch & Golf Club, LLLP (the "Owner"). The City and the Owner are collectively referred to as the Parties.

WHEREAS, pursuant to a lawfully submitted petition for annexation from Owner, City intends to institute annexation proceedings for a tract(s) of land described more fully hereinafter (referred to herein as the "Subject Property"); and,

WHEREAS, *Section 43.0672 of the Tex. Loc. Gov't Code* requires a written agreement for the provision of services in the area first be entered into between City and Owner of the Subject Property; and,

WHEREAS, City and Owner agree each will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by City which are good and valuable consideration for the Owner to request annexation and for the Parties to enter into this Agreement for City to provide the listed services upon annexation and in accordance with this Agreement; and,

WHEREAS, it is found that the statutory requirements have been satisfied and City is authorized by *Chapter 43, Tex. Loc. Gov't. Code*, to annex the Subject Property into the City;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

Section 1. Property Description. The legal description of the Subject Property is as set forth in **Exhibit 1**, attached hereto and incorporated herein.

Section 2. Services. City will provide the services listed and specified in **Exhibit 2**, attached hereto and incorporated herein, for the Subject Property on the effective date of annexation of the Subject Property.

Section 3. Owner's Obligations. Owner shall not file for approval a subdivision plat, site plan, or related development document with City for the Subject Property or portion thereof; or construct, or allow to be constructed, any building or structure on the Subject Property or portion thereof until City has obtained authorization.

Section 4. Term. The term of this Agreement (the "Term") is ten (10) years from the Effective Date.

Section 5. Vested Rights Claims. This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

Section 6. Authorization. All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

Section 7. Covenant Running with the Land. This Agreement shall run with the Subject Property, and this Agreement may be recorded in the Official Public Records of Kerr County, Texas. Owner and City acknowledge and agree that this Agreement is binding upon City and Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

Section 8. Severability. If any provision of this Agreement is held by a court of competent and final jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.

Section 9. Amendment and Modifications. This Agreement may be amended or modified only in a written instrument that is executed by both City and Owner after it has been authorized by the City Council.

Section 10. Gender, Number and Headings. Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

Section 11. Governmental Immunity; Defenses. Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

Section 12. Enforcement; Waiver. This Agreement may be enforced by Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

Section 13. Effect of Future Laws. No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

Section 14. Venue and Applicable Law. Venue for this Agreement shall be in Kerr County, Texas. This Agreement shall be construed under and in accordance with the laws of the State of Texas.

Section 15. Counterparts. This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

Section 16. Effective Date. This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

Section 17. Sections to Survive Termination. This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to water service to the Subject Property by the City.

EXECUTED this ____ day of _____, 2021.

Trevor Hyde, _____,
Comanche Trace Ranch & Golf
Club, LLLP

STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me on the ____ day of _____, 2021, by Trevor Hyde, _____, Comanche Trace Ranch & Golf Club.

Notary Public, State of Texas

E.A. Hoppe, City Manager, City
of Kerrville, Texas

STATE OF TEXAS §
 §
COUNTY OF KERR §

 This instrument was acknowledged before me on the ____ day of
_____, 2021, by E.A. Hoppe, City Manager, City of Kerrville, Texas.

Notary Public, State of Texas

Upon Recording, Return to:
City of Kerrville, Texas
City Secretary
City Hall, 701 Main Street
Kerrville, Texas 78028

EXHIBIT 1
LEGAL DESCRIPTION OF SUBJECT PROPERTY

(NOTE: *see* Exhibit A to Ord. No. 2021-14 for description; description to be included as an attachment to this agreement prior to execution)

EXHIBIT 2
ANNEXATION SERVICE PLAN

- I. INTRODUCTION:** This service plan for the extension of municipal services to the area to be annexed was developed in accordance with state law. Municipal facilities and services to the annexed area described above will be provided or made available on behalf of the City of Kerrville, Texas ("City") at the levels and schedule specified below.
- II. UNIFORM LEVEL OF SERVICES:** The City shall provide services by any of the methods by which it extends the services to any other area of the municipality, based upon differing characteristics of topography, land use, and population density, which may be considered a sufficient basis for providing differing levels of service.
- III. SPECIFIC FINDINGS:** City Council finds and determines that this Service Plan, as provided below, will provide full municipal services to the annexation area both adequate to serve the annexation area and commensurate with the levels of services provided in other parts of the City with the same or similar topography, land use, and population density, and it will not provide a lower level of service in the annexation area than were in existence at the time immediately preceding the effective date of annexation.

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Code Enforcement	The provisions of Code Enforcement services, including the application and enforcement of building, electrical, plumbing, and other related code requirements adopted by the City of Kerrville shall be made immediately applicable to the area upon annexation. The preparation of a zoning plan shall serve as a basis for the zoning of land following annexation. The adoption of the zoning plan shall be in accordance with the procedures of the City of Kerrville's Zoning Ordinance (Ch. 60, Code of Ordinances).	Immediately following annexation, zoning to be concurrent with annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Fire Protection and Emergency Medical Services (EMS)	Fire protection and emergency medical services will be provided to the annexation area. The City will serve the annexation area from existing fire stations closest to the area of annexation. Emergency dispatch assignment of Fire Services resources to the annexation area would be the same as currently provided in areas of similar land use and population within the City.	Immediately following annexation
Fire Prevention	The services of the City of Kerrville Fire Marshall shall be provided to the area.	Immediately following annexation.
Library	Residents of the area will be entitled to utilize all City of Kerrville Library facilities.	Immediately following annexation.
Police Protection	Police Services will provide protection and law enforcement services to the annexation area. The level of service will be at the same level as currently provided in areas of similar land use and population within the City. These services include the following: 1) regular patrol of the area, 2) handling of complaints and incidents, 3) traffic enforcement, and 4) special units, such as criminal investigations, narcotics, crime prevention, neighborhood services, and special weapons and tactics.	Immediately following annexation
Maintenance of Existing Roads & Streets	The City's Public Works Department will maintain any existing public roads and streets, drainage, and regulatory signs on the effective date of annexation. The same basis and level of services currently provided throughout the City will be adhered to as follows:	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
	<p>1. Emergency maintenance of streets to include repair of hazardous potholes, ice and snow monitoring of major thoroughfares necessary for traffic flow.</p> <p>2. Routine maintenance of public streets and rights-of-way performed within the City.</p> <p>3. Street sweeping services may occur based upon need and funding.</p> <p>4. Installation and maintenance of traffic signs, street markings, and other traffic control devices as the need is established by appropriate study and traffic standards. Private streets, including ingress/egress easements, access easements, common areas, common driveways and anything else which has not been specifically dedicated and accepted as public right-of-way, will not be maintained by the City. Public streets will be included in the City's preventive maintenance program. Preventive maintenance projects are prioritized and scheduled based on a variety of factors, including surface condition, transversibility, age, traffic volume, density of dwellings per block, adjacent street conditions and available funding. Any necessary rehabilitation or reconstruction will be considered on a citywide priority basis.</p>	
Solid Waste Collection	Solid Waste collection to the annexation area will be provided on the same basis and at the same level as provided throughout the City, in accordance with applicable law.	Immediately following annexation
Traffic Engineering	Traffic control devices and street markers shall be installed on public roads and streets where deemed necessary by the City.	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
Water Service	The City will provide for the maintenance of City-owned public water lines within the annexation area. Water service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that water extensions are the responsibility of the developer of property will be applied in this area.	As the property develops
Wastewater Service	The City will provide for the maintenance of sanitary sewer lines within the annexation area. Sanitary sewer service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that sanitary sewer extensions are the responsibility of the developer of property will be applied to this area. Maintenance of all parts of the sewer system will begin as those parts are put into service. The sewer system will be maintained with the same frequency and level of effort as comparable parts of the system in other parts of the City.	As the property develops
Provision for Other City Services	Other City services that may be provided by the City such as planning, inspection, code enforcement, animal control, library, parks and recreation, municipal court, and general administration will be made available on the same basis and at the same level as provided throughout the City.	Immediately following annexation



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

SUBJECT: Ordinance No. 2021-15. An Ordinance amending Chapter 60, Code of Ordinances, City of Kerrville, Texas; Chapter 60 more commonly known as the City's Zoning Code; by changing the zoning of a property known as 601 Spur 100 and consisting of Lot 2-R, Block 1, of the Freeman-Fritts addition, a Subdivision within the City of Kerrville, Kerr County, Texas; from a Public and Institutional Zoning District (PI) to a Residential Mix Zoning District (RM); providing a cumulative clause; providing for severability; providing an effective date; and ordering publication.

AGENDA DATE OF: June 8, 2021 **DATE SUBMITTED:** May 27, 2021

SUBMITTED BY: Drew Paxton

EXHIBITS: [20210608_Ordinance_2021-15 Zoning Code change 601 Spur 100.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

Proposal

Public hearing, consideration and action to recommend an ordinance changing the zoning from PI Public and Institutional District to RM Residential Mix District for a Recreational Vehicle or Trailer Park on Freeman Fritts, Block 1, Lot 2-R, City of Kerrville, Kerr County, Texas; and more commonly known as 601 Spur 100.

The applicant has also applied for the Conditional Use Permit to allow the Recreational Vehicle Park. Pending approval of the zoning change, the resolution for this CUP request

will come on a later Council agenda.

Procedural Requirements

8 letters were mailed on 4/26/2021 to adjacent property owners. The public notice was published in the Kerrville Daily Times on 4/15/2021. At the time of drafting this Agenda Bill, no comments had been received.

Staff Analysis and Recommendation

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: PI Public and Institutional

Existing Land Uses: Former location of VA Dogs

Direction: North

Current Zoning: PI Public and Institutional

Existing Land Uses: Kerrville Landfill

Direction: South

Current Zoning: N/A

Existing Land Uses: County

Direction: West

Current Zoning: C-2 Light Commercial

Existing Land Uses: Animal Shelter

Direction: East

Current Zoning: R-M Residential Mix

Existing Land Uses: Single Family Residence

Consistency with the Kerrville 2050 Comprehensive Plan:

The subject property is located within an Agriculture and Outdoor Tourism Entertainment (AOT) district of the Kerrville 2050 Comprehensive Plan. The primary land uses for AOT are agriculture, outdoor tourism such as camping, hunting and other nature-based recreational activities, and single-family homes. Because the request to change from PI Public and Institutional district to RM Residential Mix district and the type of development requested through the CUP, recreational vehicles and cabins, is associated with a more outdoor and rural use, the requested zoning change and CUP appear to be consistent with the Kerrville 2050 Comprehensive Plan.

Thoroughfare Plan:

The subject property is located on Spur 100, a Primary Arterial.

Traffic Impact:

Traffic impact will be evaluated during project design phase.

Parking:

All parking requirements of the zoning code shall be met as development plans are finalized and will be approved prior to construction.

Case Summary:

Applicant is requesting a zoning change and Conditional Use Permit (CUP) to allow for the development of an RV park with cabins. This is the former location of VA Dogs and some of the existing infrastructure will be used to accommodate the new development.

Recommendation:

Because the requested zoning change and CUP are consistent with future K2050 Agriculture and Outdoor Tourism zoning, it seems reasonable to grant this zoning change. Based on these circumstances staff recommends approval.

One May 6th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2021-15 on first reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-15**

AN ORDINANCE AMENDING CHAPTER 60, CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS; CHAPTER 60 MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; BY CHANGING THE ZONING OF A PROPERTY KNOWN AS 601 SPUR 100 AND CONSISTING OF LOT 2-R, BLOCK 1, OF THE FREEMAN-FRITTS ADDITION, A SUBDIVISION WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS; FROM A PUBLIC AND INSTITUTIONAL ZONING DISTRICT (PI) TO A RESIDENTIAL MIX ZONING DISTRICT (RM); PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND ORDERING PUBLICATION

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 June 8, 2021, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for the property located at 601 Spur 100; such change to result in the removal of the property from a Public and Institutional Zoning District (PI) to placement within a Residential Mix Zoning District (RM); and

WHEREAS, on June 8, 2021, 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, Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within a Residential Mix Zoning District (RM):

Legal Description: Being a certain tract of land, consisting of Lot 2-R, Block 1, out of the Freeman-Fritts subdivision, and within the City of Kerrville, Kerr County, Texas; said tract depicted at Exhibit A, attached hereto and made a part hereof for all purposes.

Address: 601 Spur 100, Kerrville, TX 78028.

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

SECTION FOUR. 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 FIVE. 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 SIX. 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 ____ day of _____, A.D., 2021.

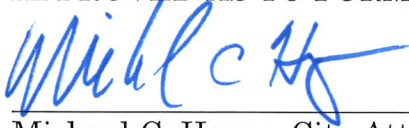
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ of _____, A.D., 2021.

Bill Blackburn, Mayor

ATTEST:

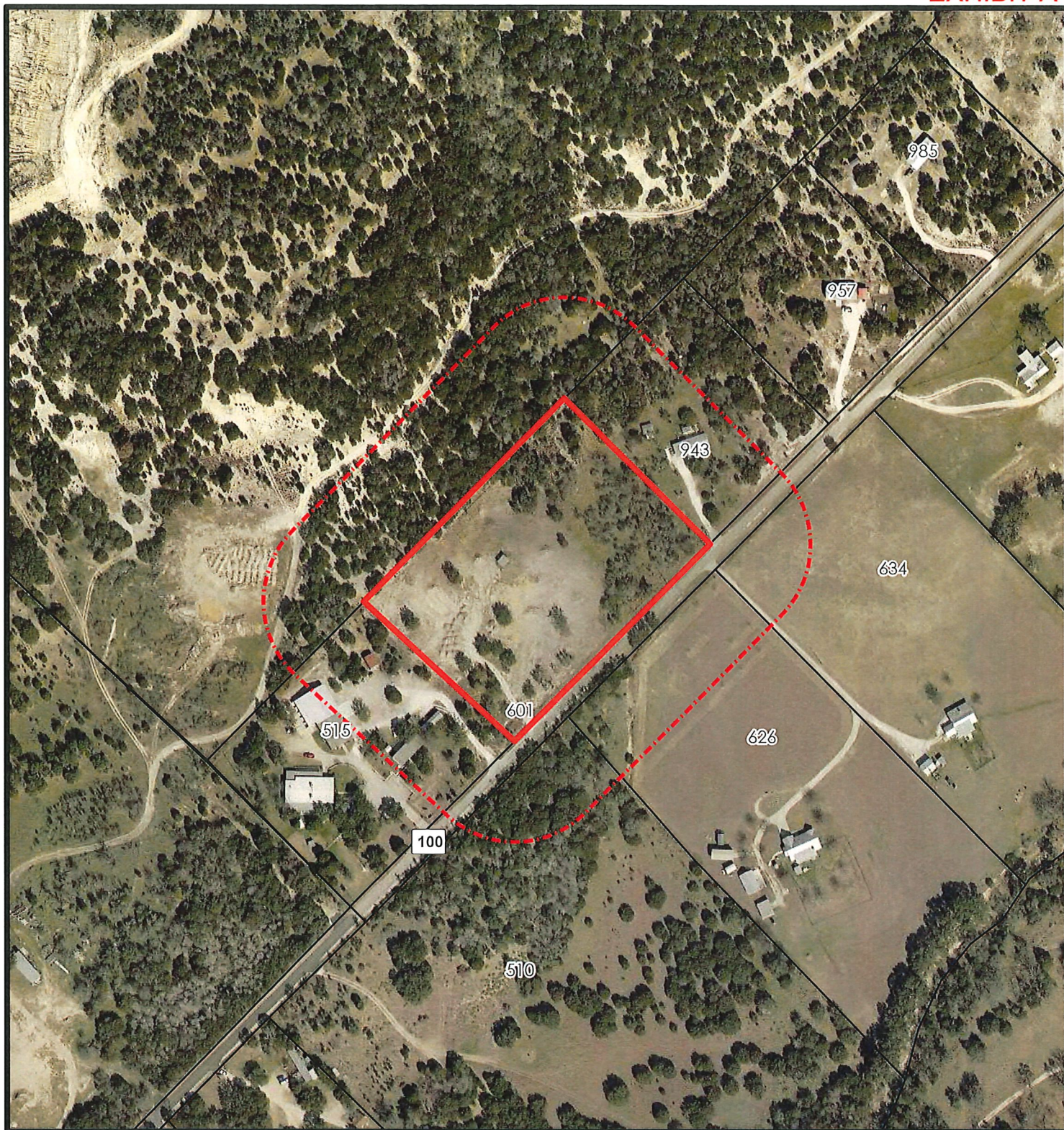
Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

T:\Legal\DEVELOPMENT SERVICES (Planning)\Zoning\ORD\601 Spur 100_P1 to RM_060221.docx



Location Map

Case # PZ-2021-6

Location:
601 Spur 100

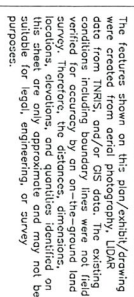
Legend

200' Notification Area
Subject Properties



0 100 200 400

Scale In Feet



The aerial photography used for this plan/exhibit/drawing is provided to show relative approximate locations and may not be suitable for legal, engineering, or survey purposes.



Revisions		
No.	Date	Description
1	04.19.2021	Preliminary - Concept A

Concept Plan
for
Diamond Spur
601 Spur 100 N
Kerrville, Texas

This document is released for interim purposes only. It is incomplete and may not be used for regulatory approval, permit, or construction.

Michael Wellborn, P.E.
License # 88685

831 Water Street
Kerrville, TX 78028
phone: 830-217-7100
Texas Registration No. F-776
wellbornengineering.com



WELLBORN
ENGINEERING &
SURVEYING

CP-A



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

SUBJECT: Ordinance 2021-13. Second reading. An ordinance amending the City's Fiscal Year 2021 budget to account for the disbursement of additional funds, the receipt of additional revenue, and to make other amendments as provided herein.

AGENDA DATE OF: June 8, 2021

DATE SUBMITTED: May 28, 2021

SUBMITTED BY: Amy Dozier

EXHIBITS: [20210608_Ordinance_2021-13 FY2021 budget amendment second reading.pdf](#)

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

PAYMENT TO BE MADE TO: N/A

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

SUMMARY STATEMENT:

On 5-25-2021, City Council approved Ordinance No. 2021-13 on first reading.

There has been one minor change to the amendment since the first reading. Attachment A in the first reading inadvertently listed EMS equipment purchases related funded with a grant twice. The equipment (\$32,064) was listed as a General Fund purchase and a Grant Fund purchase. This has been corrected to show only one equipment purchase happening in the Grant Fund.

RECOMMENDED ACTION:

Approve Ordinance 2021-13 on second reading.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2021-13**

**AN ORDINANCE AMENDING THE CITY'S FISCAL YEAR 2021
BUDGET TO ACCOUNT FOR THE DISBURSEMENT OF
ADDITIONAL FUNDS, THE RECEIPT OF ADDITIONAL
REVENUE, AND TO MAKE OTHER AMENDMENTS AS
PROVIDED HEREIN**

WHEREAS, Ordinance No. 2020-16, as approved upon second reading on September 8, 2020, adopted the Fiscal Year 2021 Budget for the City of Kerrville, Texas; and

WHEREAS, since the beginning of the Fiscal Year 2021, the City has experienced better than budgeted revenues due to the receipt of grant funding, better than expected sales tax revenue, and insurance proceeds among other reasons; and

WHEREAS, since October 1, 2020, the City has experienced increased expenditures due primarily to the February winter storm, unexpected maintenance, step increases for public safety personnel, early repayment of a KPUB loan, and several other reasons; and

WHEREAS, due to higher than projected revenues and expenditures, the City needs to amend its Fiscal Year 2021 Budget; and

WHEREAS, City Council finds that amending the City's Fiscal Year 2021 Budget is in the best interest of the citizens of the City of Kerrville;

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

In accordance with Section 8.06 of the City Charter, the Official Budget for Fiscal Year 2021 is amended as set forth in **Attachment A**.

PASSED AND APPROVED ON FIRST READING, this the 25 day of MAY, A.D., 2021.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of _____, A.D., 2021.

Bill Blackburn, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary

Attachment A
City of Kerrville
FY2021 Budget Amendments

Account #	Account Name	Description	Debit	Credit
1. GENERAL FUND				
01-6114	Sales Tax	better than budget revenues		330,668
01-7085	Transfer In - General Fund	OOG COVID grant		103,332
01-7085	Transfer In - General Fund	HHS - CARES Act - Lost EMS revenue		174,932
01-6478	EMS - Ambulance Supplement	notice of no funding in FY2021	174,932	
	TOTAL GENERAL FUND REVENUE BUDGET INCREASE			434,000
01-0152-2040	Pool Maintenance	leak repair	27,000	
01-0152-5100	Building & Structures	pump house repairs	130,000	
various	Salary & Benefits	reinstate step plans for Public Safety	111,000	
01-0151-3125	Engineering Services	KSP RV Park concept design	16,000	
various	Salary, benefits & supplies	winter storm impact	150,000	
	TOTAL GENERAL FUND EXPENDITURE BUDGET INCREASE		434,000	
2. WATER FUND				
02-0200-9019	Transfer Out - Asset Replacement	excess funds from FY2020	100,000	
3. GENERAL ASSET REPLACEMENT				
18-1861-5200	Streets - Vehicles	FY20 YE Transfer - upsize Streets dump trucks	30,710	
18-1813-3410	PD - Vehicle Lease	FY20 YE Transfer - Chief - vehicle lease & upfitting	15,315	
18-1813-5300	PD - Tasers	FY20 YE Transfer - Taser purchase	26,884	
18-1813-5200	PD - Vehicles	FY20 Budget - vehicles arrived in FY2021	173,730	
18-1813-5200	PD - Vehicles	FY20 order - replacement for totaled vehicle	41,235	
18-1821-5200	Fire - Vehicles	FY20 YE Transfer - Fire - Brush Truck	78,863	
18-1830-5200	EMS - Vehicles	FY20 YE Transfer - EMS - powerload system for ambulance	25,025	
18-1830-5300	EMS - Equipment	FY20 YE Transfer - EMS - Lucas Device	15,537	
	TOTAL GENERAL ASSET REPLACEMENT EXPENDITURE BUDGET INCREASE		407,299	
4. GENERAL DEBT SERVICE				
50-6350	EIC Debt Funding	Early repayment of KPUB loan		1,000,000
50-5000-4002	KPUB Loan Expense	Early repayment of KPUB loan	1,000,000	

Attachment A
City of Kerrville
FY2021 Budget Amendments

Account #	Account Name	Description	Debit	Credit
5. GRANT FUND				
85-6713	Police - Grants	Justice Assistance Grant - Throwbot		25,131
85-6719	COVID Grants	Office of the Governor COVID grant		194,288
85-6719	COVID Grants	HHS - CARES Act - EMS lost revenue		174,932
85-6730	EMS - Grants	EMS Trauma Care System Funds (via STRAC)		32,064
85-8513-5320	Police - Technology Equipment	Throwbot	25,131	
85-8513-5320	Police - Technology Equipment	Temperature Detection system	14,178	
85-8513-5300	Police - Equipment	Ozone Sterilizers	15,240	
85-8513-1100	Police - Equipment	UV Sterilizer	779	
85-8530-5300	Fire - Equipment	Aeroclave decontamination units (4)	60,759	
85-8500-0100	Transfer Out - General Fund	Remaining OOG Grant	103,332	
85-8500-0100	Transfer Out - General Fund	HHS - CARES Act - EMS lost revenue	174,932	
85-8530-1100	EMS - Equipment	EMS Equip (ventilators, ballistic vests, etc.)	32,064	
TOTAL GRANT FUND CHANGE			426,415	426,415
6. INSURANCE RESERVE				
90-6921	Insurance Reimbursement	Additional claims revenue		96,402
90-9000-9018	Transfer Out - General Asset Replacement	Claims proceeds - totaled vehicles	11,521	
90-9000-9019	Transfer Out - Water Asset Replacement	Claims proceeds - property damage	31,581	
90-9000-5100	Buildings and Structures	Winter Storm - Golf course	53,300	
TOTAL INSURANCE RESERVE FUND CHANGE			96,402	96,402