

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

**TUESDAY, OCTOBER 24, 2023, 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 MEETING AGENDA

OCTOBER 24, 2023 6:00 PM

**CITY HALL, 701 MAIN STREET, KERRVILLE, TEXAS**

**Council Meeting Procedures, City Council and City Staff Safety,  
And Citizen Participation Guidelines**



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

Citizens wishing to speak during a meeting shall submit a completed "speaker request form" to the City Secretary before the item is introduced, but are encouraged to submit the form before the meeting begin. Each speaker is limited to four minutes.

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property.

Thank you for your participation!

**CALL TO ORDER:** By Mayor Judy Eychner

**INVOCATION AND PLEDGE OF ALLEGIANCE:** Led by Councilmember Place 4 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 citizens; upcoming events sponsored by the city or other entity where city officials or employees are scheduled to attend; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.

2. **PRESENTATIONS:**

2.A Proclamation recognizing November 6-10, 2023 as Municipal Court week.

2.B Kerrville Pets Alive presentation.

Attachment: [20231024\\_Presentation KPA!.pdf](http://20231024_Presentation KPA!.pdf)

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 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:

4.A Resolution No. 37-2023. A Resolution authorizing the waiver of Parade and Parks fees for the Veterans of Foreign Wars Post 1480 and the Hill Country Veterans Center pursuant to events it plans to hold on November 11, 2023 in and around the City's Louise Hays Park.

Attachments: [20231024\\_Reso 37-2023 Waiver Parade-Park fees.pdf](http://20231024_Reso 37-2023 Waiver Parade-Park fees.pdf)

[20231024\\_Letter - waive parade fees.pdf](http://20231024_Letter - waive parade fees.pdf)

4.B Standard Rental Service Agreement with Cintas Corporation.

Attachment: [20231024\\_Agreement Cintas with A-B addendums.pdf](http://20231024_Agreement Cintas with A-B addendums.pdf)

- 4.C City Council workshop minutes, October 10, 2023.  
Attachment: 20231024\_Minutes 10-10-23 CC workshop 4pm.pdf

- 4.D City Council meeting minutes, October 10, 2023.  
Attachment: 20231024\_Minutes CC meeting 10-10-23 6pm.pdf

**END OF CONSENT AGENDA.**

**5. ORDINANCES, SECOND READING:**

- 5.A Ordinance No. 2023-27, second reading. An Ordinance amending Chapter 58, Article III of the City's Code of Ordinances, titled "Smoking in Enclosed Public Places and Places of Employment"; to clarify various sections; revise regulations in accordance with State Law, to include the definition of a "Minor"; and to change defenses to affirmative defenses; ordering publication; and providing other matters related to the subject.

Attachment: 20231024\_Ord 2023-27 Smoking Ord revision, second.pdf

**6. CONSIDERATION AND POSSIBLE ACTION:**

- 6.A Interlocal Agreement for the improvement of Al Mooney Road from its intersection with Peterson Farm Road to its intersection with Memorial Boulevard (SH 27) and a portion of Peterson Farm Road from its 300 block to its intersection with Al Mooney Road.

Attachment: 20231024ILA\_Kerr Co improve Mooney Rd.pdf

- 6.B Economic Development Grant Agreement between Lennar Homes of Texas Land and Construction, Ltd., and the City of Kerrville, Texas Economic Improvement Corporation.

Attachment: 20231024\_Lennar Homes preliminary layout.pdf

- 6.C An Advance Funding Agreement (AFA) with the Texas Department of Transportation for Transportation Alternatives Set-Aside (TASA) Project.

Attachment: 20231024\_Advance Funding Agreement\_City of Kerrville \_SAT Contract Packet.pdf

**7. INFORMATION & DISCUSSION:**

- 7.A Annular Solar Eclipse recap.

- 7.B Financial update for month-ended September 30, 2023.

**8. BOARD APPOINTMENTS:**

- 8.A Ad Hoc Animal Regulations Review Committee member.

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.*

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

**11. ITEMS FOR FUTURE AGENDAS:** *City Council may suggest items or topics for future agendas.*

**ADJOURN.**

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

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**SUBJECT:** Proclamation recognizing November 6-10, 2023 as Municipal Court week.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 29, 2023

**SUBMITTED BY:** Mayor Judy Eychner

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area**      N/A

**Guiding Principle**      N/A

**Action Item**      N/A

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**SUMMARY STATEMENT:**

Recognizing November 6-10, 2023 as Municipal Court week in the City of Kerrville.

**RECOMMENDED ACTION:**

Present proclamation.



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

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**SUBJECT:** Kerrville Pets Alive presentation.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 29, 2023

**SUBMITTED BY:** Kim Meismer, Assistant City Manager, and Karen Guerriero

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Karen Guerriero will provide an update on Kerrville Pets Alive!

**RECOMMENDED ACTION:**

Presentation only.

**ATTACHMENTS:**

[\*20231024\\_Presentation KPA!.pdf\*](#)



**COMMUNITY SERVICE AGREEMENT BY AND BETWEEN THE CITY OF KERRVILLE AND KERRVILLE  
PETS ALIVE! – Submitted October 18, 2023**

**Attachments:**

1. Community Service Agreement
2. KPA! 2022 Financials
3. KPA! 2023 Budget
4. List of events, programs and services hosted.
5. The budget and actual expenditures related to City-supported events.
6. Animal Balance News Release

***Presentation Photos:*** Chip and Snip Clinic, KCAS adoptions, June Vaccine Clinic

***Agreement requires KPA! to provide:***

Coordinate and provide a spay and neuter clinic twice a year.

Pet microchipping and adoption services

Overall pet wellness services to the community

A report of the number of people served, including City residents directly benefitted by the services provided under this Agreement or such other similar information as the City shall require.

**COMMUNITY SERVICES AGREEMENT  
BY AND BETWEEN THE CITY OF KERRVILLE, TEXAS,  
AND KERRVILLE PETS ALIVE!**

This Community Services Agreement ("Agreement") entered into by and between the **City of Kerrville, Texas**, a home-rule municipality with its offices located at City Hall, 701 Main Street, in the City of Kerrville, Texas ("CITY") and the **Kerrville Pets Alive!** whose mailing address is 317 Sidney Baker South, Suite 400, Kerrville, Texas 78028 ("SERVICE ORGANIZATION").

**WITNESSETH**

**WHEREAS**, SERVICE ORGANIZATION possesses specialized expertise, personnel, equipment, and training necessary to provide certain community-based specialized services unique to the organization; and

**WHEREAS**, CITY desires to enter into this Agreement with the SERVICE ORGANIZATION to provide such specialized services to the CITY and its citizens; and

**WHEREAS**, the SERVICE ORGANIZATION will provide certain specialized services as described herein and as further described in the SERVICE ORGANIZATION's mission statement to the community that will benefit the CITY by providing specialized services: 1) for which the CITY has limited or no expertise; 2) in a more efficient manner and at a lower cost; and 3) under a recognized name and as a recognized resource in the community; and

**WHEREAS**, City Council finds and determines that contracting with said SERVICE ORGANIZATION will benefit the health, safety, and welfare of the citizens of the City of Kerrville in the furtherance of a public purpose;

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF THESE PREMISES** and the mutual consideration as set out herein, CITY and SERVICE ORGANIZATION agree as follows:

**I. Obligation to Provide Services**

SERVICE ORGANIZATION shall provide the following services to CITY and its citizens during the term of this Agreement:

*Coordinate and provide a spay and neuter clinic twice a year as well as pet microchipping services, adoption services, and overall pet wellness events to the community.*

SERVICE ORGANIZATION shall inform CITY as to the dates of such events so that CITY may help promote and market the events.

## **II. Funding**

For and in consideration of these services, CITY agrees to provide partial funding to the SERVICE ORGANIZATION. CITY will issue a one-time payment to SERVICE ORGANIZATION in the amount of SIX THOUSAND DOLLARS AND NO/100 (\$6,000.00) within 60 days following execution of this Agreement. Upon receipt of aforesaid one-time payment, SERVICE ORGANIZATION shall be obligated to provide the services throughout the term of this Agreement.

## **III. Reporting**

No later than ninety (90) days prior to the termination of this Agreement as provided herein, SERVICE ORGANIZATION shall provide to CITY the following information in writing:

1. Financial statements for the most recent year-ended to include (a) Profit Loss Statement and (b) Balance Sheet;
2. Approved budget for upcoming fiscal year that includes expenses for most recent year-ended;
3. A list of events, programs, or services hosted aligning with services provided under this Agreement;
4. The budget and actual expenditures related to events SERVICE ORGANIZATION is obligated to host;
5. A report of the number of people served, including City residents, directly benefitted by the services provided under this Agreement or such other similar information as the City shall require;
6. The budget and actual expenditures related to City-supported events; and
7. Any other information CITY may reasonably require.

## **IV. Agreement Term**

This Agreement shall begin on January 1, 2023, and terminate on December 31, 2023, unless terminated earlier as provided herein.

## **V. Termination**

This Agreement may be terminated by either party hereto at any time upon ten (10) days written notice of termination to the other party. Such notice may be delivered personally to the address shown in this agreement or by forwarding said notice to the other party by certified mail, return receipt requested and shall be effective ten (10) days following receipt thereof by the other party. If the SERVICE ORGANIZATION terminates the Agreement prior to providing all the services required herein, the SERVICE ORGANIZATION shall refund that portion of the funding it has received on a pro rata basis.

## **VI. Release/Indemnification**

BY ENTERING INTO THIS AGREEMENT, THE SERVICE ORGANIZATION EXPRESSLY AGREES TO DEFEND, INDEMNIFY, AND HOLD THE CITY OF KERRVILLE, TEXAS AND ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS FROM AND AGAINST ALL DAMAGES, INJURIES, INCLUDING DEATH; CLAIMS; PROPERTY DAMAGES, INCLUDING LOSS OF USE; LOSSES; DEMANDS; PENALTIES; SUITS; JUDGMENTS AND COSTS, INCLUDING ATTORNEY'S FEES AND EXPENSES; IN ANY WAY ARISING OUT OF, RELATED TO, OR RESULTING FROM THE SERVICE ORGANIZATION'S ACTIVITIES OR SERVICES PROVIDED UNDER THIS AGREEMENT AND/OR CAUSED BY THE NEGLIGENCE, ERRORS, OMISSIONS, OR INTENTIONAL WRONGFUL ACTS OF THE SERVICE ORGANIZATION OR THE SERVICE ORGANIZATION'S OWNERS, OFFICERS, EMPLOYEES, OR AGENTS.

## **VII. No Waiver of Immunity**

It is expressly understood and agreed that under this Agreement CITY does not waive, nor shall be deemed to waive, any immunity or defense that would otherwise be available to it against claims arising in the exercise of governmental powers and functions.

## **VIII. Coordination/Independent Contractor**

SERVICE ORGANIZATION's Director, or designated representative, and CITY's Manager, or designated representative, shall coordinate, as needed, toward efforts to ensure effective implementation of this Agreement. SERVICE ORGANIZATION shall be considered for all purposes under this Agreement an independent contractor, and not an employee, agent, or other representative of CITY. Nothing in this Agreement shall change the SERVICE ORGANIZATION's independent contractor status or create any kind of joint enterprise between the SERVICE ORGANIZATION and the CITY.

## IX. Notices

Any notices due under the provisions of this Agreement shall be made in writing and shall be addressed to the following:

CITY:	SERVICE ORGANIZATION:
Kimberly Meismer	Kerrville Pets Alive!
City of Kerrville	President
City Hall, 701 Main Street	317 Sidney Baker South, Suite 400
Kerrville, Texas 78028	Kerrville, Texas 78028
Office: (830) 258-1140	
Fax: (830) 792-8346	

## X. Miscellaneous

**A. Assignment.** This Agreement may be assigned by SERVICE ORGANIZATION only with the express written consent of the City Manager, or designated representative.

**B. Venue.** SERVICE ORGANIZATION and CITY agree that the services provided under this Agreement are to be performed within Kerr County, Texas, and venue for any and all legal actions arising under this Agreement, if any, shall lie exclusively in the State Courts of Kerr County, Texas and in the Federal Courts for the Western District of Texas.

**C. Severability.** This Agreement, and every provision hereof, shall be considered severable, and the invalidity or partial invalidity of any section, clause, or provisions of this Agreement shall not affect the validity of any other portion of this Agreement.

**D. Amendment.** This Agreement may be amended or modified by the mutual agreement of both parties in writing, such writing to be attached hereto and incorporated into this Agreement.

**E. Entire Agreement.** This Agreement contains all commitments and obligations of the parties and represents the entire Agreement of said parties. No verbal or written conditions not contained herein shall have any force or effect to alter any term of this Agreement.

**F. Authority.** This Agreement shall be executed by the duly authorized official(s) of SERVICE ORGANIZATION and CITY as expressed in the approving resolution or order of the governing body of such party.

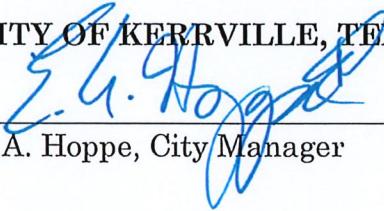
**G. Headings.** The captions, numbering sequences, titles, paragraph headings, punctuation, and organization used in this Agreement are for convenience only and shall in no way define, limit, or describe the scope or intent of this Agreement or any part of it.

**H. Understanding, Fair Construction.** By execution of this Agreement, the parties acknowledge that they have read and understand each provision, term, and obligation contained in this Agreement. This Agreement, although drawn by one party, shall be construed fairly and reasonably and not more strictly against the drafting party than the non-drafting party.

**I. Texas Law.** This Agreement shall be interpreted exclusively under the laws and ordinances of the State of Texas and the City.

IN WITNESS WHEREOF, the parties to these presents have executed this Agreement on this 02 day of FEBRUARY, 2023.

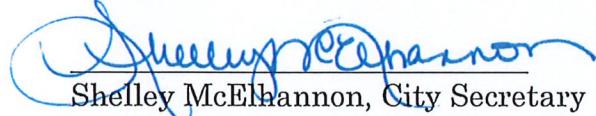
CITY OF KERRVILLE, TEXAS

  
E.A. Hoppe, City Manager

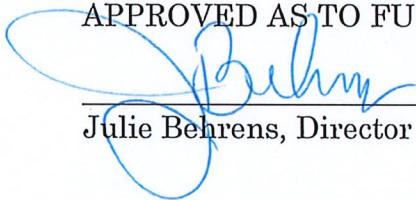
KERRVILLE PETS ALIVE!

  
Karen Guerriero, President

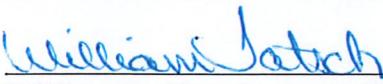
ATTEST:

  
Shelley McElhannon, City Secretary

APPROVED AS TO FUNDING:

  
Julie Behrens, Director of Finance

APPROVED AS TO FORM:

  
William L. Tatsch, Asst. City Attorney

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10/17/23  
Cash Basis

**Kerrville Pets Alive!**  
**Balance Sheet**  
**As of December 31, 2022**

Dec 31, 22

<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
11000 · TX Hill Country Bank Checking	
11001 · Unrestricted Contributions	136,762.10
11005 · Spay/Neuter City of Kerrville	134.86
Total 11000 · TX Hill Country Bank Checking	136,896.96
<b>Total Checking/Savings</b>	136,896.96
<b>Other Current Assets</b>	
12000 · Undeposited Funds	7,255.00
12100 · Donated Auction Items Inventory	725.00
12800 · Cash Advance	600.00
13000 · Prepaid Expenses	
13101 · Prepaid Kerrville Vet Clinic	85.48
13200 · Cat Fund (whales) Freeman Fritt	256.72
Total 13000 · Prepaid Expenses	342.20
13110 · Prepaid Gift Cards Donated	7.80
<b>Total Other Current Assets</b>	8,930.00
<b>Total Current Assets</b>	145,826.96
<b>Fixed Assets</b>	
16500 · Trailer	6,750.00
17100 · Accum Depr - Furn and Equip	-723.00
<b>Total Fixed Assets</b>	6,027.00
<b>TOTAL ASSETS</b>	<b>151,853.96</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Equity</b>	
30000 · Opening Balance Equity	15,681.64
32000 · Unrestricted Net Assets	32,422.63
Net Income	103,749.69
<b>Total Equity</b>	<b>151,853.96</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>151,853.96</b>

KERRVILLE PETS ALIVE!

PROPOSED BUDGET

2023

Income

Grants	56,000
Contributions	125,000
Fur Ball	150,000
Special Events	10,000
Giving Tuesday	25,000
<b>Total Income</b>	<b>366,000</b>

Expense

Fur Ball Expenses	60,000
Contracted Services	26,000
Public Assistance	32,400
Spay/Neuter Clinic	35,000
Rescue Donations	3,000
Rescue Vetting/Donations, Dogs	100,000
Rescue Vetting/Donations, Cats	25,000
KCAS Trauma/Medical/Salvaged Souls, Misc	20,000
KCAS Support	6,000
Foster Support	5,000
Fundraising Platform Fees	1,000
Operations	14,100
Other Expense	2,500
Special Events	10,000
Trailer	5,000
<b>Total Expense</b>	<b>345,000</b>
<b>Surplus (Deficit)</b>	<b>21,000</b>

***List of Events and Programs Hosted:***

Pet Wellness Clinic – June 19, 2023

Free microchips and discounted adoptions at Kerr County Animal Services – Year round

Chip and Snip Clinic – September 30 to October 2, 2023

Public Assistance with pet wellness and spay and neuter surgeries

P.E.M.A. – Pet Emergency Medical Assistance

***Pet Microchipping and Adoption Services –***

Funded Kerr County Animal Services with \$1000 for half-off adoption fees (to date for 2023).

Funded The Hill Country Animal League \$ 3,000 to pay for spay and neuter surgeries for animals.

adopted from Kerr County Animal Services

Provided over 300 Free microchips for pet owners at Kerr County Animal Services. (Cost is \$7.50 per chip)

***Overall pet wellness services – Vaccine Clinic and Public Assistance***

June 19, 2023 – Free Pet Wellness Clinic

200 residents served.

300 vaccines administered.

81 microchips implanted.

### *City Supported Event - Budget / Expenses*

#### *Chip and Snip Clinic – September 30<sup>th</sup> to October 2nd, 2023*

200 residents were served - 139 of which were Kerrville residents.

Pets received spay or neuter surgery, exam, vaccines, nail clips, flea medication and microchips. The cost was \$15 per cat and \$20 per dog.

\$40,000 was budgeted for the event which was operated by Animal Balance and a host of KPA! volunteers and sponsors.

- 201 sterilized, 203 serviced, 52 dog spays, 39 dog neuters, 60 cat spays, 50 cat neuters, 158 Rabies vaccines administered, 64 DHPP (Dogs) and 90 FVRCP (Cats).

Expenses included:

- Labor, Medicine, Equipment - \$34,650
- Rabies Vaccines - \$1,000
- Microchips – \$1,125
- Hospitality and Supplies – \$213
- Publicity – Banner: - \$225
- Security - \$300

NET = \$2,487 + \$3,470 (Owner Contributions) = \$5,957

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10/17/23

Cash Basis

**Kerrville Pets Alive!**  
**Profit & Loss**  
January through December 2022

Jan - Dec 22

## Ordinary Income/Expense

## Income

43300 · Direct Public Grants	
43315 · Government Grant	6,000.00
<b>Total 43300 · Direct Public Grants</b>	<b>6,000.00</b>
43400 · Contributions	
43401 · Corporate Sponsorship	300.00
43402 · In-Kind Contrib Prof Services	1,198.14
43403 · In-Kind Contrib - Fixed Asset	6,750.00
43410 · Cash/Check	75,789.56
43420 · Paypal	30,640.55
43421 · Wedding Cash/Ck/Paypal (Babb)	5,523.66
43430 · Network for Good	23,902.14
43431 · Cuddly Group, Inc.	2,638.96
43440 · Cat Fund (Whales)	
43441 · Golden Antler Toys	398.08
43442 · Buzzie's BBQ Whale Toys	102.34
43443 · East End Market Toys	309.06
43445 · Office	137.00
43446 · Other (Private Donations)	63.00
43447 · Pop Hair Art	72.85
43448 · Creek Boutique	23.70
43440 · Cat Fund (Whales) - Other	0.00
<b>Total 43440 · Cat Fund (Whales)</b>	<b>1,106.03</b>
43450 · Cash Box Donations	
43451 · UPS Store	197.84
43452 · Grape & Grain	372.79
43453 · Office General Donation Box	4,235.71
43454 · PAX	198.50
43455 · Buddy's Burgers (Ingram)	22.57
43456 · Buzzie's BBQ Cash Box	12.06
43457 · Blue Oak Cash Box	23.79
43450 · Cash Box Donations - Other	25.50
<b>Total 43450 · Cash Box Donations</b>	<b>5,088.76</b>
43460 · Amazon Smile	322.85
<b>Total 43400 · Contributions</b>	<b>153,260.65</b>
43500 · Direct Public Support	
43540 · Gifts/Gift Card in-Kind - Goods	600.00
43541 · Auction Items In-Kind Donated	725.00
<b>Total 43500 · Direct Public Support</b>	<b>1,325.00</b>
44400 · Fur Ball	
44401 · Sponsorships	73,500.00
44402 · Individual Tickets	10,200.00
44403 · Live Auction	13,500.00
44404 · Silent Auction	15,085.00
44405 · Other Donations Non-cash	468.00
44406 · Fur Ball Monetary Donations	5,080.00
<b>Total 44400 · Fur Ball</b>	<b>117,833.00</b>
49000 · Special Events Income	
49004 · EasterFest	405.28
49005 · Spring "Pawty" La Escondida	465.00
49010 · Special Events Misc	1,303.00
49012 · Chamber of Comm Business Expo	214.98
49014 · Swap Meet	2,611.54
49015 · Triathlon	118.00
49017 · Cafe at the Ridge	94.00
49018 · Microchip Event Donation Income	476.31

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10/17/23

Cash Basis

**Kerrville Pets Alive!**  
**Profit & Loss**  
January through December 2022

	Jan - Dec 22
49022 · Fill Their Bowls Food Drive	4,015.00
Total 49000 · Special Events Income	9,703.11
49100 · Giving Tuesday	
49101 · Giving Tuesday Cash/Checks	14,377.00
49102 · Giving Tuesday - Paypal	8,995.00
49103 · Giving Tuesday - Square	50.00
Total 49100 · Giving Tuesday	23,422.00
Total Income	311,543.76
Gross Profit	311,543.76
Expense	
60100 · Fur Ball Expenses	
60101 · Band & Entertainment	7,850.00
60102 · Food & Beverage	19,496.88
60103 · Decorations and Favors	5,507.54
60104 · Square Fees Fur Ball	1,295.72
60105 · Printing & Reproduction	1,350.66
60106 · Venue/Rentals	4,070.00
60107 · Fur Ball Paypal Fees	2.48
60108 · Miscellaneous	1,448.00
Total 60100 · Fur Ball Expenses	41,021.28
62100 · Contract Services	
62120 · In-Kind Professional Services	1,198.14
Total 62100 · Contract Services	1,198.14
62800 · Facilities and Equipment	
62810 · Depr and Amort - Allowable	723.00
62890 · Rent, Parking, Utilities	1,200.00
Total 62800 · Facilities and Equipment	1,923.00
62900 · Public Assistance	
62901 · Blue Dog Fund	23,680.59
62902 · Pet Food & Supplies	2,412.26
62900 · Public Assistance - Other	-85.06
Total 62900 · Public Assistance	26,007.79
62930 · City of Kerrville Spay/Neuter	5,833.14
63000 · Rescue Expenses	
63100 · Rescue Donations - General	
63102 · The Big Fix Homeless Cat Projec	0.00
63105 · Operation Kindness	500.00
63106 · Hill Country SPCA	500.00
63100 · Rescue Donations - General - Other	1,800.40
Total 63100 · Rescue Donations - General	2,800.40
63200 · Rescue Vetting/Donations, Dogs	
63201 · Veterinary Expenses, Dog	37,271.90
63202 · Rescue Donation, Dog	3,590.55
63203 · Boarding, Dog	20,396.51
63204 · Transport, Dog	450.00
63200 · Rescue Vetting/Donations, Dogs - Other	5,298.17
Total 63200 · Rescue Vetting/Donations, Dogs	67,007.13
63300 · Rescue Vetting/Donations, Cats	
63301 · Veterinary Expenses, Cat	10,862.10
63302 · Rescue Donation, Cat	2,747.82
Total 63300 · Rescue Vetting/Donations, Cats	13,609.92

1:48 PM

10/17/23

Cash Basis

**Kerrville Pets Alive!**  
**Profit & Loss**  
January through December 2022

	Jan - Dec 22
63400 · KCAS Trauma/Medical Fund	11,370.76
63410 · Salvaged Souls	6,169.43
63500 · Miscellaneous	2.39
63600 · Cat Fund (Whales)	1,807.95
<b>Total 63000 · Rescue Expenses</b>	<b>102,767.98</b>
64000 · KCAS Support	
64010 · KCAS Tests & Medicines	383.20
64012 · KPA Reduce Fee Adoptions	2,600.00
64014 · Livestock Estray Boarding	98.50
64015 · KCAS Printing/Banners	216.00
64020 · Microchips	1,450.00
64040 · Food	146.52
64041 · Staff Lunch	641.35
<b>Total 64000 · KCAS Support</b>	<b>5,535.57</b>
64100 · Fundraising Platform Fees	
64101 · Square Fees	8.90
64110 · Paypal Fees	1,043.52
64111 · Benevity Fund Cause Support Fee	0.72
64112 · Cuddly Check Processing Fee	25.00
64100 · Fundraising Platform Fees - Other	0.00
<b>Total 64100 · Fundraising Platform Fees</b>	<b>1,078.14</b>
65000 · Operations	
65001 · Memberships	150.00
65002 · Postage	60.98
65003 · Post Office Box Rental	120.00
65007 · Bank Expenses	16.79
65030 · Printing and Copying	1,545.86
65040 · Supplies	145.74
65050 · Website Hosting & Design	601.25
65060 · Software	228.00
65111 · Marketing	1,282.28
<b>Total 65000 · Operations</b>	<b>4,150.90</b>
65100 · Other Types of Expenses	
65101 · Promotional Goods	626.48
65110 · Advertising Expenses	459.00
65120 · Insurance - D and O	736.00
65160 · Other Costs	212.17
<b>Total 65100 · Other Types of Expenses</b>	<b>2,033.65</b>
65200 · Special Events	
65202 · Microchip Event, Misc Expenses	3,524.43
65204 · Christmas Parade Expense	30.00
65205 · Promotional Exp - Babb Wedding	900.00
65206 · EasterFest	90.39
65207 · Spring "Pawty" at La Escondida	121.68
65208 · July 4th on the River	150.00
65209 · Miscellaneous Special Event Exp	1,816.67
<b>Total 65200 · Special Events</b>	<b>6,633.17</b>
66300 · Trailer Expenses	
66301 · Insurance	1,759.00
66302 · Repair & Maintenance	6,910.81
66303 · Storage	900.00
66304 · Trailer Registration /Licensing	41.50
<b>Total 66300 · Trailer Expenses</b>	<b>9,611.31</b>
<b>Total Expense</b>	<b>207,794.07</b>

1:48 PM  
10/17/23  
Cash Basis

**Kerrville Pets Alive!**  
**Profit & Loss**  
January through December 2022

---

	Jan - Dec 22
Net Ordinary Income	103,749.69
<b>Net Income</b>	<b>103,749.69</b>



FOR IMMEDIATE RELEASE  
SEPTEMBER 24, 2023

Contact: Karen Guerriero  
[info@kerrvillepetsalive.org](mailto:info@kerrvillepetsalive.org)  
713.855.6291

## KERRVILLE PETS ALIVE! HOSTS THE INTERNATIONAL ORGANIZATION ANIMAL BALANCE FOR A 200-PET KERR COUNTY SPAY & NEUTER CLINIC

(KERR COUNTY, TX) All spots are filled for the three-day, 200-pet, low-cost spay and neuter clinic set for September 30<sup>th</sup> to October 2<sup>nd</sup>. Kerrville Pets Alive! will host the organization Animal Balance to spay and neuter 200 cats and dogs for a fee of \$15 for cats and \$20 for dogs. Pets will also receive vaccinations and microchips. Animal Balance will provide a team of veterinarians, vet techs and equipment for the clinic which will be held at the American Red Cross Facility, 333 Earl Garrett St., in Kerrville. **(MEDIA IS ONLY ALLOWED OUTSIDE OF THE BUILDING).**

There is a **waiting list** for the clinic. Any Kerr County residents interested in registering their pet, should email [kpaclinics@gmail.com](mailto:kpaclinics@gmail.com) and note "registration" in the subject line. A KPA! representative will respond with instructions.

"There is a shortage of veterinarians across the country and a lack of access to affordable spay and neuter services in Kerr County. Thanks to our supporters, we are able to provide this needed service to our community. We hope that Animal Balance will empower KPA! to hold our own spay and neuter clinics in the future," said KPA! President Karen Guerriero.

-MORE-

PG. 2

Animal Balance is an international organization dedicated to creating a world in which human and animal communities can coexist through compassion and collaboration. AB is committed to providing long-term solutions to animal welfare and conservation issues by deploying teams around the world to work with local communities. AB strives to bridge the gap between humans and animals, and to make lasting impact in the lives of people and animals alike.

This clinic is made possible by The City of Kerrville, Petco Love, area foundations and donors. Volunteers and funds for the event are still needed. Please consider making a tax-deductible donation through the KPA! website at [kerrvillepetsalive.org](http://kerrvillepetsalive.org), by mail, KPA!, 317 Sidney Baker, S, Ste. 400, PMB 345, Kerrville, Tx, 78028 or in person at 414 Clay St., M, W, F between 10 and 2. Individuals interested in volunteering may email [info@kerrvillepetsalive.org](mailto:info@kerrvillepetsalive.org).

Kerrville Pets Alive! is an all-volunteer, 501c3 nonprofit organization serving Kerr County Texas. KPA's mission is to Save Kerr County Pets from Euthanasia by assisting and providing resources to Kerr County Animal Services and Kerr County Pet Owners in need.

-END-



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

---

**SUBJECT:** Resolution No. 37-2023. A Resolution authorizing the waiver of Parade and Parks fees for the Veterans of Foreign Wars Post 1480 and the Hill Country Veterans Center pursuant to events it plans to hold on November 11, 2023 in and around the City's Louise Hays Park.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** October 13, 2023

**SUBMITTED BY:** Ashlea Boyle, Director Parks & Recreation

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

The Hill Country Veterans Center is planning a Veterans Day parade for November 11, 2023, and has submitted a letter requesting fees to be waived. Applicable fees include the special event permit application fee, parade permit fee, park rental fees, parade permit fee, and staff fees. These fees are estimated at a total cost of \$2,025, with \$1,050 eligible for a refundable deposit. The cost breakdown is below. The net loss to the City would be \$975. The request letter and the corresponding resolution are attached should the Council decide to approve this request. The parade route is Cully Drive to Louise Hays Park.

As a reminder, staff's recommendation last year was to approve the fee waiver for the first year only and to assess fees for subsequent years pursuant to the adopted fee schedule, ordinance, and consistent with other community events. The City Council approved the request for 2022 via Resolution No. 70-2022.

**Cost Breakdown:**

<b>ITEM</b>	<b>Fee</b>	<b>Deposit</b>	<b>Department</b>
Special Event Application Permit	\$75		Parks and Recreation

Centennial Stage Rental	\$300	\$300	Parks and Recreation
Parade Permit	\$100	\$750	Police
Staff (\$50 per hour, 2-hour minimum, 5 staff)	\$500		Police
<b>TOTAL</b>	<b>\$975</b>	<b>\$1,050</b>	

**RECOMMENDED ACTION:**

Consider Resolution No. 37-2023.

**ATTACHMENTS:**

[\*20231024\\_Reso 37-2023 Waiver Parade-Park fees.pdf\*](#)

[\*20231024\\_Letter - waive parade fees.pdf\*](#)

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 37-2023**

**A RESOLUTION AUTHORIZING THE WAIVER OF PARADE  
AND PARKS FEES FOR THE VETERANS OF FOREIGN WARS  
POST 1480 AND THE HILL COUNTRY VETERANS CENTER  
PURSUANT TO EVENTS IT PLANS TO HOLD ON NOVEMBER  
11, 2023 IN AND AROUND THE CITY'S LOUISE HAYS PARK**

**WHEREAS**, the Veterans of Foreign Wars Post 1480 and the Hill Country Veterans Center (the "Organizations") plan to hold a parade and public gathering in Louise Hays Park on Saturday, November 11, 2023; and

**WHEREAS**, as the events include both a parade and gathering which will utilize Louise Hays Park, multiple permits are required such as a parade permit from the Kerrville Police Department, special event permit, and rental fees from the Parks and Recreation Department; and

**WHEREAS**, the Organizations are requesting that City Council waive all applicable City fees for this event; and

**WHEREAS**, City Council determines that waiving the applicable City fees is in the public interest;

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

**SECTION ONE.** The above findings are found to be true and correct.

**SECTION TWO.** City Council authorizes the waiver of all applicable fees for the Organizations and their holding of a parade and public gathering to commemorate Veterans Day, to be held in and around the City's Louise Hays Park on Saturday, November 11, 2023.

**PASSED AND APPROVED ON this the \_\_\_\_\_ day of \_\_\_\_\_ A.D.,  
2023.**

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

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Judy Eychner, Mayor

ATTEST:

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Shelley McElhannon, City Secretary



HILL COUNTRY VETERANS CENTER  
411 MEADOW VIEW LANE  
KERRVILLE TX 78028  
830-315-3100  
501(c)(3) EIN# 46-2802506

12 October 2023

To Kerrville Parks & Recreation Department,

The Kerrville Veterans Day committee is requesting to have a Veterans Day Parade on Saturday, November 11, 2023, at Louise Hays Park. The parade is scheduled to start at 9am and conclude by 12pm.

We are anticipating 200 participants to attend, with approximately 20 floats entries.

We will have a small PA system set up at Centennial Stage for a guest speaker and military music.

Please accept this letter as our formal request to waive all City of Kerrville and Parks & Recreation fees for this event.

We respectfully request a waiver of the following fees:

- Special Event permit fees
- Parade permit fee
- Centennial stage fee
- Cleaning deposit
- Kerrville Police & Fire department fees

Thank you for your consideration.

Sarah Kocurek  
Executive Director  
Veteran Service Officer  
Hill Country Veterans Center  
(830) 343-7742



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

---

**SUBJECT:** Standard Rental Service Agreement with Cintas Corporation.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 28, 2023

**SUBMITTED BY:** Julie Behrens, Director of Finance

**EXHIBITS:**

<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$24,250 in FY2024	\$24,256	\$24,256	Multiple - each department has their own expense line

**PAYMENT TO BE MADE TO:** Cintas

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Cintas provides rental services to the City including uniforms for some employees, rugs, floor mats, and other janitorial items. Services include delivery and pickup, laundry, replacement of damaged items, and set up for new items. Cintas is a member of Omnia Partners Purchasing Co-Op contract # R-BB-19002, which satisfies purchasing compliance for this agreement.

**RECOMMENDED ACTION:**

Authorize City Manager to finalize and execute agreement.

**ATTACHMENTS:**

[\*20231024\\_Agreement Cintas with A-B addendums.pdf\*](#)

**STANDARD RENTAL SERVICE AGREEMENT**Location No. 0087 Agreement No. 210188016 Customer No. 13023234 Date 11-1-2023Customer City of Kerrville Phone 8302578000 Address 701 Main St  
City Kerrville State TX Zip 78028 UNIFORM PRICING:

Material #	Description	Rental Freq.	Inventory	Unit Price
X330	COTTON WORK SHIRT - Rental	01	ANY	0.386
X382	CARHARTT CARP JN - Rental	01	ANY	0.915
X64031	U 65/35 CREW SHIRT - Rental	01	ANY	0.673
X677	PERMA LINED JKT - Rental	01	ANY	0.450
X394	Cintas Denim Jean	01	ANY	0.612
X80516	PERMA LINED JKT - Rental	01	ANY	0.485
X894	DENIM JEAN - Rental	01	ANY	0.441
X74533	Carhartt Pant RPSTP	01	ANY	1.066
X935	COMFORT SHIRT - Rental	01	ANY	0.294
X7303	Cowboy Jean	01	ANY	.981
X970	HIP LENGTH JKT - Rental	01	ANY	0.487
X396	CARHARRT RUGGED FLEX SHIRT	01	ANY	1.082

## FACILITY SERVICES PRODUCTS PRICING:

Material #	Description	Rental Freq.	Inventory	Unit Price
X10184	3X5 ACTIVE SCRAPER - Rental	02	ANY	6.445
X8072	Sig San - Rental	02	ANY	6.66
X84335	3x5 Black MAT - Rental	02	ANY	2.35
X9559	Sig Hand Stand- Rental	02	ANY	5.00
X10184	3x5 Active Scraper - Rental	04	ANY	8.625
X2160	Red Shop Twl - Rental	04	ANY	0.067
X2964	Stripe Swipe - Rental	04	ANY	0.123
X6680	Urinal Mat SVC - Rental	04	ANY	8.800
X6789	Disp Commode Mat	04	ANY	10.37
X84330	3X5 Gray MAT - Rental	04	ANY	3.135
X84430	4x6 Grey MAT - Rental	04	ANY	6.27
X10184	3X5 Active MAT - Rental	01	ANY	5.37
X10196	3x5 Traffic Mat - Rental	01	ANY	3.913
X10197	4x6 Traffic Mat - Rental	01	ANY	5.69
X10198	3x10 Traffic Mat - Rental	01	ANY	5.69
X1810	3x4 Duralite - Rental	01	ANY	2.82
X2160	Shop Towel - Rental	01	ANY	0.065
X2191	Fender Cover - Rental	01	ANY	0.487

X2477	3x5 Scraper - Rental	01	ANY	2.82
X2700	TERRY TOWEL - Rental	01	ANY	0.116
X6680	Urinal Mat SVC - Rental	01	ANY	2.200
X7717	White Microfiber - Rental	01	ANY	0.341
X8072	Sig Sant SVC - Rental	01	ANY	3.330
X84030	3x10 Gray Mat - Rental	01	ANY	4.88
X84235	3x4 Black Mat - Rental	01	ANY	1.957
X84335	3x5 Black Mat - Rental	01	ANY	1.958
X84430	4x6 Gray Mat - Rental	01	ANY	3.92
X1911	3x5 Wellness Mat	01	ANY	4.00
X2740	King Bath Towel - Rental	01	ANY	0.222
X2965	#2 Bar Towel - Rental	01	ANY	0.681

- This agreement is effective as of the date of execution for a term of 36 months from date of installation.
  - The additional charges listed below are subject to adjustment by Company effective upon notice to Customer, which notice may be in the form of an invoice.
  - COD Terms      \$ \_\_\_\_\_ per week charge for delayed payment ( if Amount Due is Carried to Following Week)
  - Credit Terms - Charge Payments due 10 Days After End of Month
  - Automatic Lost Replacement Charge:      Material X2964      % of Inventory \_\_\_\_\_ 2,000 \$ .580 EA.
  - Automatic Lost Replacement Charge:      Material \_\_\_\_\_ % of Inventory \_\_\_\_\_ \$ \_\_\_\_\_ EA.
  - Make-Up charge      \$ 2,500 per garment.
  - Non-Standard/Special Cut Garment (i.e., non-standard, non-stocked unusually small or large sizes, unusually short or long sleeve or length, etc.) premium \$ 0.033 per garment
  - Artwork Charge for Logo Mat      \$ \_\_\_\_\_
  - Under no circumstances will the Company accept textiles bearing free liquid. Shop towels may not be used to clean up oil or solvent spills.
  - Service Charge:      \$ \_\_\_\_\_ per delivery.  
This Service Charge is used to help Company pay various fluctuating current and future costs including, but not limited to, costs directly or indirectly related to the environment, energy issues, service and delivery of goods and services, in addition to other miscellaneous costs incurred or that may be incurred in the future by Company.
  - Size Change: Customer agrees to have employees measured by a Cintas representative using garment "size samples". A charge of \$ 8,000 per garment will be assessed for employees size changed within 4 weeks of installation.
  - Uniform Advantage      \$ 0.040 per garment. Premium Advantage \$ 0.060 per garment.  
Uniform and Premium Advantage covers damaged garments needing to be replaced outside of normal wear. Uniform Advantage and Premium Advantage do not cover lost or unreturned garments. The Customer or Company may cancel Uniform Advantage and Premium Advantage at any time.
  - Emblem Advantage \$ 0.050 per garment. Emblem Advantage covers name and company emblems initially selected by Customer. The Customer or Company may cancel Emblem Advantage at any time after six months from date of installation..
  - Prep Advantage \$ 0.04 per garment. Prep Advantage covers all costs associated with garment preparation. The Customer or Company may cancel Prep Advantage at any time after six months from date of installation.
  - Other:      Any items in addendum supersede standard agreement.

Initial and check box if Unilease. All garments will be cleaned by Customer.

it is  is not a federal, state, or local government branch or agency.



**This agreement is subject to the terms and conditions on the back of this agreement. By signing below, Customer agrees to and accepts the terms and conditions on the back of this agreement.**

Cintas Loc. No. 087  
By Brooklyn Union  
Title KAM  
Accepted-GM: \_\_\_\_\_

**CUSTOMER:**  
Please Sign Name \_\_\_\_\_  
Please Print Name \_\_\_\_\_  
Please Print Title \_\_\_\_\_  
E-mail \_\_\_\_\_



## STANDARD UNIFORM RENTAL SERVICE AGREEMENT RENEWAL

1. The Customer, its successors and assigns ("Customer") orders from CINTAS CORPORATION or any of its subsidiaries, successors and assigns ("Company") all of the Customer's requirements of garment rental services and other materials covered by this agreement during the term of this agreement all in accordance with the pricing, terms and conditions contained herein. Pricing is based on 52 weeks billing per rental material per year.
2. All garments and other rented materials will be cleaned and maintained by Company and remain the property of the Company. Any garments that require replacement due to normal wear will be replaced by Company at no charge to Customer.
3. Unless specified otherwise, the garments supplied under this Agreement are not personal protective equipment and have no special protective or other characteristics, including but not limited to, flame resistant or acid resistant properties. Specialty apparel and personal protective equipment may be available from Company upon request and would be covered under additional terms. Customer warrants that none of the employees for whom garments are supplied under this agreement require flame retardant or acid resistant clothing.
4. Customer is ultimately responsible for choosing the type and placement of any floor mats provided by Company and ensuring floor safety conditions at its locations. If a mat needs to be replaced for any reason prior to its next scheduled service, Customer should remove it and contact Company to request replacement.
5. Customer agrees to notify Company, in writing, of any hazardous materials, including lead, arsenic, hexavalent chromium and cadmium, that may be picked up by Company in the soiled garments or other textiles serviced under this agreement. In no case will hazardous materials be present to the extent that they may be harmful to Company's employees.
6. The weekly rental charge for any individual leaving the employ of Customer can be terminated, but only after all garments issued to that individual, or the current replacement value of same, have been returned or paid to Company. Any non-standard, or special products (i.e., logo mats) must be purchased by the Customer if service is stopped for any reason. If materials are lost or damaged by any means Customer will pay the then current replacement values for said materials. Should Customer require garment sizes that are outside the standard size range, Customer agrees to pay the specific premium price for those materials and sizes designated under Uniform Pricing.
7. This agreement is effective as of the date of execution. The initial term of this agreement shall be thirty-six (36) months from the date of execution. Company has the right to increase prices. The Customer has the right to reject the price increase within ten (10) days of the notice. If Customer rejects the price increase, Company may terminate this agreement. All invoices must be paid within ten days after the end of the month. Interest will accrue on any amounts which are not paid when due from the date due to the date of payment in full at an annual percentage rate equal to the lesser of (a) eighteen percent 18% or (b) the maximum rate permitted by applicable law.
8. Company is a licensee and not the owner of the Carhartt trademarked products. If Company should no longer have such license, then Company will substitute the Carhartt trademarked garments with garments of similar material and quality.
9. To extent allowed by law, company and customer each agree to defend, indemnify, and hold the other harmless from claims for injury or property damage arising out of the performance of this contract, but only in proportion to and to the extent such injury or property damage is caused by or results from negligence of the indemnifying party.
10. **Company guarantees to deliver the highest quality textile rental service at all times. Any complaints about the quality of the service which have not been resolved in the normal course of business must be sent by registered letter to Company's General Manager. If Company then fails to resolve any material complaint in a reasonable period of time, Customer may terminate this agreement provided all rental materials are paid for at the then current replacement values or returned to Company in good and usable condition.**
11. Additional customer employees, products and services may be added to this agreement and shall automatically become a part of and subject to the terms and provisions of this agreement. If this agreement is terminated early, the parties agree that the damages sustained by Company will be substantial and difficult to ascertain. Therefore, if this agreement is terminated by Customer prior to the applicable expiration date for any reason other than documented quality of service reasons which are not cured as set forth above, or terminated by Company for cause at any time, Customer will pay to Company, as liquidated damages and not as a penalty, the greater of 50% of the remaining term except for good faith analysis where the City cannot appropriate funding. Customer shall also be responsible for any unpaid charges on Customer's account upon termination. While this agreement is in effect, Customer agrees to pay a weekly minimum charge equal to 75% of (a) the charges on the initial invoice and (b) the charges for additional products and services added after the initial invoice.
12. Any dispute or matter arising in connection with or relating to this agreement shall be resolved by binding and final arbitration. The arbitration shall be conducted pursuant to applicable state or federal arbitration laws. Any such dispute shall be determined on an individual basis, shall be considered unique as to its facts, and shall not be consolidated in any arbitration or other proceeding with any claim or controversy of any other party. The exclusive jurisdiction and forum for resolution of any such dispute shall lie within the state where Customer is located.
13. Customer certifies that Company is in no way infringing upon any existing contract between Customer and any other service provider.
14. This agreement contains the entire agreement of the parties with respect to the subject matter of this agreement and supersedes all prior negotiations, agreements and understandings with respect thereto, and any terms and conditions set forth in subsequent purchase orders or other documents issued by customer, in which case, the terms of this agreement shall control.
15. This agreement may not be modified, amended or supplemented except in writing signed by an authorized representative of Company, provided, however, if a federal, state or local government body or its representative is a party to this agreement, the proposal modification, amendment, or supplement must be in a writing signed by a President or a Senior Vice President of Company.
16. Company agrees to provide high quality customer service, including timely accurate deliveries.



## Addendum A

Line 7. "... Company has the right to increase prices. Annual price increase is limited to no more than 3 percent."

Line 11. Clarification:

This agreement is subject to annual budget appropriation. Should the City Council not approve appropriation of funds for this agreement, the City shall have the right to cancel the agreement without penalty.

Added Line 17: Company agrees to provide high quality customer service, including timely and accurate deliveries. Failure to provide such service can be considered justification for termination of agreement.

Cintas: Brandon Limon

Title: Service Manager; Cintas

Date: 1-1-2023

City of Kerrville: Dalton Rice

Title: City Manager

Date: \_\_\_\_\_



## Location Addendum B

The signed Service Agreement dated 11-1-2023 between City of Kerrville and Cintas, authorizes Cintas to service the following locations:

Sold to Party	Sold to Name	Address 1	City	State
13023296	KERRVILLE WASTEWATER TREATMENT	3650 LOOP 534	KERRVILLE	TX
13023403	CITY OF KERRVILLE	2385 BANDERA HWY	KERRVILLE	TX
13023222	CITY OF KERRVILLE	701 MAIN ST	KERRVILLE	TX
13023292	CITY OF KERRVILLE	505 WATER ST	KERRVILLE	TX
13023342	CITY OF KERRVILLE	429 SIDNEY BAKER	KERRVILLE	TX
13023316	CITY OF KERRVILLE	1012 WATER ST	KERRVILLE	TX
13023448	CITY OF KERRVILLE	1000 THOMPSON DR	KERRVILLE	TX
13023320	CITY OF KERRVILLE	1000 THOMPSON DR	KERRVILLE	TX
13023275	CITY OF KERRVILLE	1 COUNTRY CLUB DR	KERRVILLE	TX
13023234	CITY OF KERRVILLE	620 HAYS ST	KERRVILLE	TX
13023333	CITY OF KERRVILLE	620 HAYS ST	KERRVILLE	TX
13023392	KERRVILLE CITY GARAGE	620 HAYS ST	KERRVILLE	TX

Cintas Loc. No: 087

Customer Signature: \_\_\_\_\_

By: Brendan Zinov

Customer Printed: \_\_\_\_\_

Title: KAM

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

Date: 11-1-2023

Date: \_\_\_\_\_



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

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**SUBJECT:** City Council workshop minutes, October 10, 2023.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 6, 2023

**SUBMITTED BY:** Shelley McElhannon, City Secretary

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

City Council workshop minutes held October 10, 2023 at 4:00 p.m., City Hall.

**RECOMMENDED ACTION:**

Approve minutes as presented.

**ATTACHMENTS:**

[\*20231024\\_Minutes 10-10-23 CC workshop 4pm.pdf\*](#)

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

**OCTOBER 10, 2023 4:00 PM  
701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER:** On October 10, 2023 at 4:00 p.m., the City Council workshop was called to order by Mayor Judy Eychner at City Hall Council Chambers, 701 Main Street. Mayor Eychner officially welcomed City Manager Dalton Rice.

**COUNCILMEMBERS PRESENT:**

Judy Eychner, Mayor  
Roman Garcia, Council Place 1  
Jeff Harris, Council Place 2  
Joe Herring Jr, Council Place 3  
Brenda Hughes, Council Place 4/Mayor Pro Tem

**COUNCILMEMBERS ABSENT:**

None

**CITY STAFF PRESENT:**

Dalton Rice, City Manager  
Kim Meismer, Asst City Manager  
Michael Hornes, Asst City Manager  
Mike Hayes, City Attorney

Julie Behrens, Director of Finance  
Guillermo Garcia, Exec Director Innovation  
Eric Maloney, Fire Chief  
Shelley McElhannon, City Secretary

**VISITOR(S) PRESENT:** None

**1. PUBLIC COMMENT:** None

**2. DISCUSSION, CONSIDERATION, POSSIBLE ACTION:**

2A. Funding options for purchase of firetruck.

Chief Maloney, Julie Behrens, Guillermo Garcia, and Dalton Rice provided information and responded to questions. "Next Steps" were discussed. Mayor Eychner questioned City Council of the comfort level with tax notes. General consensus given by City Council.

Councilmember Brenda Hughes made a motion to proceed with looking into issuance of a tax note, seconded by Councilmember Jeff Harris. The motion passed 5-0.

Councilmember Roman Garcia made a motion to convene Executive Session under 551.071 (consultation with attorney), 551.074 (officers/personnel), and 551.087 (deliberation regarding economic development negotiations), seconded by Councilmember Harris. The motion passed 5-0. At 4:38 p.m., the open workshop recessed and Council convened into closed Executive Session.

**3. EXECUTIVE SESSION:**

3A. Economic Development projects update: Litecrete Inc, Windridge (Lennar Homes of Texas Land and Construction, LTD) (551.071, 551.087).

3B. City Attorney annual evaluation (551.074).

At 5:50 p.m., the closed Executive Session adjourned and the open workshop reconvened. No action taken during Executive Session.

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

**ADJOURN.** The workshop adjourned at 5:51 p.m.

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

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

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**SUBJECT:** City Council meeting minutes, October 10, 2023.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 18, 2023

**SUBMITTED BY:** Shelley McElhannon, City Secretary

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

City Council meeting minutes held October 10, 2023 at 6:00 p.m., City Hall.

**RECOMMENDED ACTION:**

Approve minutes as presented.

**ATTACHMENTS:**

[\*20231024\\_Minutes CC meeting 10-10-23 6pm.pdf\*](#)

**CITY COUNCIL MINUTES  
REGULAR MEETING**

**KERRVILLE, TEXAS  
OCTOBER 10, 2023 6:00 PM**

On October 10, 2023 at 6:00 p.m., Mayor Judy Eychner called the Kerrville City Council meeting to order in City Hall Council Chambers, 701 Main Street. Councilmember Joe Herring, Jr. provided the invocation and led the Pledge of Allegiance.

**COUNCILMEMBERS PRESENT:**

Judy Eychner, Mayor  
Roman Garcia, Councilmember Place 1  
Jeff Harris, Councilmember Place 2  
Joe Herring, Jr., Councilmember Place 3  
Brenda Hughes, Councilmember Place 4

**COUNCILMEMBER ABSENT:**

None

**CITY EXECUTIVE STAFF:**

Kim Meismer, Interim City Manager  
Mike Hayes, City Attorney  
Michael Hornes, Asst City Manager  
Shelley McElhannon, City Secretary

Stuart Cunyus, Public Information Officer  
Guillermo Garcia, Exec Director Innovation  
Eric Maloney, Fire Chief  
Chris McCall, Police Chief  
Drew Paxton, Director of Planning/Zoning

**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.

Amy Dozier, CFO Kerrville Public Utility Board Mike Wittler, CEO Kerrville Public Utility Board  
Clifton Karam, Lennar Homes James McKnight, Lennar Homes Lawyer

**1. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

Announcements of Community Interest provided by Stuart Cunyus and Mayor Eychner.

**2. PRESENTATION(S):**

2A. Proclamation recognizing October 2023 as Fire Prevention month.

Mayor Eychner presented a proclamation recognizing October 2023 as Fire Prevention month to Fire Chief Eric Maloney, firefighters, and personnel from the Kerrville Fire Department.

2B. Proclamation recognizing Mini Mart 50<sup>th</sup> Anniversary.

Mayor Eychner presented a proclamation recognizing the 50<sup>th</sup> Anniversary of Mini Mart and the company's philanthropic contributions to the City of Kerrville and citizens of Kerr County. The proclamation was received by Sylvia Fritz Dobbs and David Fritz.

Mayor Eychner requested speakers to limit comments to three minutes.

**3. VISITORS FORUM:**

The following person(s) spoke:

- George Baroody
- Peggy McKay
- Brad Willson
- Sarah Kocurek
- Bill Blackburn

**4. CONSENT AGENDA:**

Councilmember Roman Garcia made a motion to approve Consent Agenda items 4A through 4E with the amendment to 4D, seconded by Councilmember Herring. The motion passed 5-0.

4A. Resolution No. 28-2023. A Resolution canceling the regular meetings of the City Council scheduled for November 28, 2023 and December 26, 2023.

4B. Amendment to the Professional Services Agreement with Freese & Nichols, Inc. for the Public Safety Facility Design-Build Advisor Services in the amount of \$640,888.00.

4C. Professional Services Agreement with Utility Engineering Group, PLLC for the Wastewater Lift Station Rehabilitations project in the amount of \$64,620.00.

4D. City Council workshop minutes, September 26, 2023.

The minutes were amended with the adjourn time as 6:00 p.m.

4E. City Council meeting minutes, September 26, 2023.

**END OF CONSENT AGENDA.**

At 6:30 p.m. Councilmember Jeff Harris departed Council dais, recusing himself from item 5A due to conflict of interest.

**5. PUBLIC HEARINGS AND RESOLUTIONS:**

5A. Resolution No. 33-2023. A Resolution granting a Conditional Use Permit to authorize an Independent Living Facility for Seniors on property generally located adjacent to Memorial Boulevard (SH 27) and between its intersection with Meeker Road and Laurel Street; comprising an approximate 0.53 acres and more commonly known as 2916 Memorial Blvd; said property is located within a Light Commercial Zoning District (C-2); and making said permit subject to certain conditions and restrictions.

Shelley McElhannon read Resolution No. 33-2023 caption into record.

Drew Paxton provided information and responded to questions.

Applicant Rick Perry spoke and responded to questions.

Mayor Eychner opened the public hearing at 6:35 p.m.

No person(s) spoke.

Mayor Eychner closed the public hearing at 6:35 p.m.

Councilmember Brenda Hughes made a motion to approve Resolution No. 33-2023, seconded by Councilmember Herring. The motion passed 4-0.

At 6:36 p.m. Councilmember Harris re-joined Council dais.

**6. PUBLIC HEARING AND ORDINANCES, FIRST READING:**

6A. Ordinance No. 2023-29. An Ordinance annexing an approximate 214.1-acre tract of land, which includes an adjacent right-of-way existing as a portion of Olympic Drive, all of which is out of the Samuel Wallace Survey No. 114, Abstract No. 348, and Samuel Wallace Survey No. 113, Abstract No. 347, into the corporate limits of the City of Kerrville, Texas; such property being located within Kerr County, Texas, and the extraterritorial jurisdiction of the City of Kerrville, Texas; and generally located adjacent to Loop 534 and north of Olympic Drive; further describing the property to be annexed; adopting a service plan for the property annexed; and establishing the zoning both for the property annexed and a contiguous tract of land located adjacent to Loop 534, and providing other matters relating to the subject.

Shelley McElhannon read Ordinance No. 2023-29 caption into record. Drew Paxton, Dalton Rice, Mike Hayes, Michael Hornes, and (applicant representatives) James McKnight and Pablo Brinkman provided information and responded to questions. Mayor Eychner opened the public hearing at 6:48 p.m.

The following person(s) spoke:

- Cory Edmonson, letter read into record
- Brad Barnett
- Pablo Brinkman
- Nikki Caines
- Jerry Wolff
- Bruce Stracke
- Clifton Karam
- George Baroody
- James McKnight

Mayor Eychner closed the public hearing at 7:09 p.m.

Councilmember Herring made a motion to adopt Ordinance No. 2023-29 annexing approximately 214.1 acre tract of land on first reading, seconded by Councilmember Harris. The motion passed 4-1 with Mayor Eychner, Councilmember Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

6B. Ordinance No. 2023-30. An Ordinance of the City Council of the City of Kerrville, Texas, designating the Windridge Tax Increment Reinvestment Zone (TIRZ), a petition-initiated TIRZ to be named Tax Increment Reinvestment Zone Number Two, Windridge, City of Kerrville, Texas, pursuant to Chapter 311, Texas Tax Code; and generally located north of Olympic Drive and on an approximate 100.36 acre tract of undeveloped property; describing the boundaries of the Zone; creating a Board of Directors for the Zone; establishing a Tax Increment fund for the Zone; containing a findings related to the creation of the Zone; providing a date for the termination of the Zone; providing that the Zone take effect immediately upon passage of the Ordinance; providing a severability clause; and providing an effective date.

Shelley McElhannon read Ordinance No. 2023-30 caption into record.

Michael Hornes and applicant representative James McKnight provided information and responded to questions. Applicant Clifton Karam spoke.

Mayor Eychner opened the public hearing at 7:49 p.m.

The following person(s) spoke:

- Cory Edmonson, letter previously read into record
- Jaclyn Hall
- Brad Barnett
- Pablo Brinkman, passed to speak when called
- Nikki Caines
- Peggy McKay
- Jerry Wolff

Dalton Rice clarified issues and provided information.

- Bruce Stracke
- George Baroody
- James McKnight

Mayor Eychner closed the public hearing at 8:17 p.m.

Michael Hornes clarified issues and provided information.

Mike Hayes and Dalton Rice provided information and responded to questions.

Councilmember Garcia made a motion to table Ordinance No. 2023-30 until the October 24, 2023 meeting. Mayor Eychner called for a second, with no second forthcoming. Motion to table Ordinance No. 2023-30 died for lack of second.

Councilmember Herring made a motion to adopt Ordinance No. 2023-30 to create a Windridge TIRZ on first reading, seconded by Councilmember Harris. The motion passed 4-1 with Mayor Eychner, Councilmember Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

At 8:36 p.m., Mayor Eychner recessed the meeting.

At 8:44 p.m., Mayor Eychner reconvened the meeting.

#### **7. ORDINANCES, FIRST READING:**

7A. Ordinance No. 2023-27. An Ordinance amending Chapter 58, Article III of the City's Code of Ordinances, titled "Smoking in Enclosed Public Places and Places of Employment"; to clarify various sections; revise regulations in accordance with State Law, to include the definition of a "Minor"; and to change defenses to affirmative defenses; ordering publication; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2023-27 caption into record.

Guillermo Garcia provided information and responded to questions.

Councilmember Garcia made a motion to adopt Ordinance No. 2023-27 on first reading, seconded by Councilmember Hughes. The motion passed 5-0.

#### **8. ORDINANCES, SECOND READING:**

8A. Ordinance No. 2023-24, second reading. An Ordinance amending in part Ordinance No. 99-18, as amended by adopting revised rate schedules for residential services, and distributed generation rider; containing a cumulative clause; containing a severability clause; and establishing an effective date.

Shelley McElhannon read Ordinance No. 2023-24 caption into record.

Amy Dozier and Mike Wittler were present for any questions.

Councilmember Hughes made a motion to approve Ordinance No. 2023-24 on second reading, seconded by Councilmember Garcia. The motion passed 5-0.

#### **9. CONSIDERATION AND POSSIBLE ACTION:**

9A. Resolution No. 32-2023. A Resolution authorizing the City Manager to contract with a Real Estate Broker for the sale of real property located at 505 Center Point Drive E, such property described as Lot 1 Oak View Estates, a Subdivision out of the Benjamin B. Peck Survey No. 51, Abstract No. 266, and consisting of approximately 17.68 acres.

Shelley McElhannon read Resolution No. 32-2023 caption into record.

Guillermo Garcia and Dalton Rice provided information and responded to questions.

Councilmember Herring made a motion to approve Resolution No. 32-2023 to enter into a contract with a real estate broker for the sale or disposition of real property, seconded by Councilmember Hughes. The motion passed 5-0.

9B. Resolution No. 34-2023. A Resolution nominating a candidate(s) to Kerr Central Appraisal District Board of Directors. (This item is eligible for Executive Session 551.074.).

Shelley McElhannon read Resolution No. 34-2023 caption into record.

Mayor Eychner provided information and responded to questions.

City Council passed on Resolution, and no action occurred.

9C. Resolution No. 35-2023. A Resolution creating an Ad Hoc Animal Regulations Review Committee.

Mayor Eychner read Resolution No. 35-2023 caption into record.  
Councilmember Hughes provided information and responded to questions.

Councilmember Hughes made a motion to approve Resolution No. 35-2023 and appoint the following members to the Ad Hoc Animal Regulations Review Committee: Karen Guerriero with Kerrville Pets Alive, Jennifer Houghton with Town and Country Veterinary Clinic, Amy Underwood with Kerrville Pets Alive, Leslie Jones with Big Fix, and Curtis Thomason retired Assistant Police Chief, seconded by Councilmember Herring. The motion passed 4-1 with Mayor Eychner, Councilmember Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

**10. INFORMATION AND DISCUSSION:**

10A. Solar Eclipse update.

Chief McCall and Chief Maloney provided information and responded to questions.

**11. EXECUTIVE SESSION:** Executive Session not called nor convened.

11A. Resolution No. 34-2023. A Resolution nominating a candidate(s) to Kerr Central Appraisal District Board of Directors. (551.074.)

**12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY.** N/A

**13. ITEM(S) FOR FUTURE AGENDAS:**

- Councilmember Harris requested to add to the October 24, 2023 Council agenda to waive Parade and Park fees for the November 11, 2023 Veterans Day Parade. This item was sponsored by Councilmember Hughes, and seconded by Councilmember Herring. Consensus to add item 5-0.

**ADJOURN.** The meeting adjourned at 9:33 p.m.

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

APPROVED:

ATTEST:

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Judy Eychner, Mayor

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Shelley McElhannon, City Secretary



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

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**SUBJECT:** Ordinance No. 2023-27, second reading. An Ordinance amending Chapter 58, Article III of the City's Code of Ordinances, titled "Smoking in Enclosed Public Places and Places of Employment"; to clarify various sections; revise regulations in accordance with State Law, to include the definition of a "Minor"; and to change defenses to affirmative defenses; ordering publication; and providing other matters related to the subject.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 28, 2023

**SUBMITTED BY:** Guillermo Garcia

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Over the last several months, staff has worked through a review of the City's existing smoking regulations, which are found in Ch. 58, Art. III of the City's Code of Ordinances (the "Regulations"). Staff identified several sections within the Regulations for amendment, which are before you now. Those amendments may be summarized as follows:

- Per state law, the City needs to change the age of legal smoking. The Texas Legislature increased this age to 21.
- Based upon some enforcement issues and confusion, the City should add a definition for "bingo halls". Bingo halls in operation prior to the City's adoption of the regulations in September 2001 are exempted from the smoking prohibition. Staff has needed to work through the question of What is a bingo hall on several occasions.
- The City Attorney's office is recommending that the City change several defenses to violations of the Regulations to affirmative defenses instead. What this means is that a person cited for a particular provision under the Regulations, who argues a defense to the charge should be applied, will now have the burden to prove that defense during

trial. Without this, the burden is on the prosecutor to do this during the initial stage of the trial, even where a defense may not exist or even be argued.

- The City Attorney's office is recommending that the City remove expired language within the Regulations.
- The City Attorney's office is recommending that the City add new statutory exclusions for minors who are in the military, purchase tobacco products as part of their employment or participate in governmental inspections.
- Per other regulations, the City Attorney's office is recommending that the Regulations identify the City Manager or designee as the person who may enforce the Regulations.

On October 10, 2023, City Council unanimously approved Ordinance No. 2023-27 on first reading.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2023-27 on second reading.

**ATTACHMENTS:**

[\*20231024\\_Ord 2023-27 Smoking Ord revision, second.pdf\*](#)

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2023-27**

**AN ORDINANCE AMENDING CHAPTER 58, ARTICLE III OF THE CITY'S CODE OF ORDINANCES, TITLED "SMOKING IN ENCLOSED PUBLIC PLACES AND PLACES OF EMPLOYMENT"; TO CLARIFY VARIOUS SECTIONS; REVISE REGULATIONS IN ACCORDANCE WITH STATE LAW, TO INCLUDE THE DEFINITION OF A "MINOR"; AND TO CHANGE DEFENSES TO AFFIRMATIVE DEFENSES; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT**

**WHEREAS**, the City of Kerrville is a home-rule city acting under its home-rule Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution; and,

**WHEREAS**, it is recognized throughout the country that smoking is injurious to the health of both smokers as well as persons who are in the presence of those who are smoking, including at workplaces and other locations where the public gathers, such as in restaurants, grocery stores, hospitals, schools, and retail establishments; and,

**WHEREAS**, the City Council enacted Ordinance 2001-16 on September 19, 2001, which regulated smoking in public places; and

**WHEREAS**, Ordinance 2001-16 was codified into Chapter 58 "Health and Safety Code", Article III "Smoking in Enclosed Public Places and Places of Employment" of the City's Code of Ordinances ("Code"); and

**WHEREAS**, City Council desires to amend Chapter 58, Article III of the Code to clarify various sections, to include definitions, and to align the City's regulations with changes to state law; and

**WHEREAS**, the City Council finds that in order to promote the public health, safety, and welfare of the City and its citizens, it is in the best interest of the City and its citizens to amend the Chapter 58, Article III of the Code of Ordinances as set forth below;

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

**SECTION ONE.** Chapter 58, Article III, of the Code of Ordinances of the City of Kerrville, Texas, is amended by adding the language that is underlined (added)

and deleting the language that is stricken (~~deleted~~) to the sections as follows:

**"CHAPTER 58 HEALTH & SANITATION  
ARTICLE III. SMOKING IN ENCLOSED PUBLIC PLACES AND PLACES  
OF EMPLOYMENT; USE OF ELECTRONIC VAPING DEVICES**

**Sec. 58-61. Purpose.**

The purpose of this article is to protect the public health and welfare by prohibiting smoking in certain public places and places of employment.

**Sec. 58-62. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bar* means an establishment in which more than 50 percent of the annual gross sales is derived from the sale of alcoholic beverages for on-premises consumption.

*Bingo hall* means an establishment that is used as a bingo hall at least one day a week and that is regulated pursuant to the Bingo Enabling Act found within Chapter 2001 of the Texas Occupations Code.

*Business* means any sole proprietorship, partnership, joint venture, corporation, or other business entity, including establishments where goods or services are sold as well as entities where professional services are delivered or sold.

*Downtown streets* means all or a part of any of those streets located within the "Central City" "Downtown Arts and Culture" zoning district, as amended, pursuant to the city's zoning ordinance, and in general, those streets including and east of Francisco Lemos, including and north of Water Street, including and west of Tivy Street, and including and south of Barnett Street.

*Electronic vaping device* means any electronically or battery powered device that uses an atomizer or similar device allowing users to inhale nicotine vapor or any other vapor to simulate the smoking of tobacco or other substances, to include electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof.

*Employee* means any person who is employed by any employer in the consideration for monetary compensation or profit.

*Employer* means any person, partnership, corporation, governmental entity, or nonprofit entity, who employs the services of one or more employees.

*Enclosed area* means all space between a floor and ceiling which is enclosed on all sides by solid walls or windows, exclusive of door or passageways, which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid.

*Large public gathering* means an outdoor assembly of 100 or more persons that may reasonably be expected to continue for two hours or more.

*Liquid nicotine* means any liquid product composed either in whole or in part of pure nicotine and propylene glycol and/or any other substance and manufactured for use with an electronic vaping device.

*Minor* means any person under the age of **1821** years of age.

*Place of employment* means any enclosed area under the control of an employer where employees normally frequent during the course of employment, including but not limited to work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a place of employment unless it is used for adult day care, paid child care for unrelated children, or health care facility.

*Private membership club* means an association of people that:

- (1) Grants membership to an applicant after submission of a written application to the club for determination of eligibility and/or approval;
- (2) Owns, leases, or rents a building, or a space in a building of such extent and character as is suitable and adequate for the club's membership and their guests; and
- (3) Collects annual membership fees, dues, or other income from its members that defrays a substantial portion of the operating expenses of the club.

*Public place* means any enclosed area to which the public is invited or to which the public is permitted. A private residence is not a public place.

*Restaurant* means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, and any other eating establishment which gives or offers food for sale to the public, guests, or employees, except that the term "restaurant" shall not include a "bar" as defined in this section.

*Retail store* means any establishment the primary purpose of which is to sell or offer for sale to consumers, not for resale, any goods, wares, merchandise, or articles for use or consumption off-premises.

*Retail tobacco store* means a retail store utilized primarily for the sale of tobacco products, electronic vaping devices, liquid nicotine, and accessories and in which the sale of other products is merely incidental.

*Retailer* means a person who engages in the practice of selling electronic vaping devices, liquid nicotine, or tobacco products to consumers.

*Separate ventilation* means a separate heating, ventilation, and air conditioning (HVAC) system such that air coming from the room is exhausted directly to the outside and not circulated within the building or mixed with the general dilution ventilation for the building and that creates a negative pressure away from the door

into the room sufficient to substantially prevent the flow of smoke or smoke odors from a designated smoking area to other areas of the building.

*Service line* means any line in which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

*Smokes and smoking* mean the possessing, carrying, or holding of a lighted cigar, cigarette, pipe, or any other lighted smoking equipment or device that contains any tobacco product; ~~and/or~~ the lighting of or setting on fire, emitting or exhaling the smoke of a pipe, cigar, or cigarette of any kind; and/or the use of an electronic vaping device and/or liquid nicotine.

*Sports arena* means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys, and similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

**See. 58-63. Application of article to city-owned facilities.**

~~All enclosed facilities owned by the city shall be subject to the provisions of this article.~~

**See. 58-64. Prohibition of smoking within city parks.**

~~No person shall smoke or use an electronic vaping device within any city park and recreation area, as defined within chapter 74 of this Code.~~

**See. 58-65. Prohibition of smoking on or along downtown streets during large public gatherings.**

~~No person shall smoke on or adjacent to downtown streets, which includes the public sidewalk, during large public gatherings.~~

**Sec. 58-663. Prohibition of smoking in certain public places.**

(a) ~~Except for public places not regulated in accordance with section 58-69 or where smoking is otherwise permitted in designated smoking areas in compliance with section 58-71, A person commits an offense in violation of this Article if he/she smokes in any of the following public places: no person shall smoke in any enclosed public place within the city, including but not limited to the following places:~~

- (1) Elevators.
- (2) Restrooms, lobbies, reception areas, hallways, and any other common-use areas.
- (3) Buses, taxicabs, and other means of public transit under the authority of the city, and ticket, boarding, and waiting areas of public transit depots.

- (4) Service lines.
  - (5) Retail stores.
  - (6) All areas available to and customarily used by the general public in all business and nonprofit entities patronized by the public.
  - (7) Restaurants.
  - (8) Bars.
  - (9) Private membership clubs.
  - (10) ~~Public areas~~ Areas of aquariums, galleries, libraries, and museums ~~when~~ open to the public.
  - (11) Any public theatre, or any facility ~~which that~~ is primarily used for exhibiting any motion picture, stage or dramatic production, lecture, musical recital or other similar performance, or any auditorium, stage, dressing room, fly or property room belonging to any such place, except performers, when smoking is part of a stage production.
  - (12) Sports arenas and convention halls, including bowling facilities.
  - (13) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city.
  - (14) Waiting rooms, hallways, wards and semiprivate rooms of health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices.
  - (15) Polling places.
  - (16) City buildings; City parks, as defined within chapter 74 of this Code; or any portion thereof owned or leased by the City and used for City purposes;
  - (17) Any establishment or facility, or any portion thereof that has been designated as nonsmoking by the owner, operator, manager, or other person who controls the establishment or facility.
  - (18) Downtown streets, which includes the adjacent public sidewalks, during large public gatherings.
- (b) It shall be an affirmative defense to a violation of this section that the signs required to be posted in section 58-~~7067~~ ~~are~~were not posted at the location where the offense occurred.

**Sec. 58-674. Prohibition of smoking in places of employment.**

- (a) *Applicability of section.* This section shall be applicable only to employers who employ three or more employees who are not related to the employer. For purpose of this section, an employee is related to an employer if the employee is related within the third degree of consanguinity or the third degree of affinity as determined in accordance with [V.T.C.A., Chapter 573 of the Texas Government Code](#)~~eh. 573~~.
- (b) *Smoking limited to designated area.* No person shall smoke in a place of employment except in a room with separate ventilation that has been designated as a smoking room by the employer.
- (c) *Designation of entire workplace prohibited; exception.* An employer is prohibited from designating an entire place of employment as a smoking area unless all employees smoke.
- (d) *Smoking policy required.* Not later than 90 days after the effective date of the ordinance from which this article is derived, each employer having an enclosed place of employment located within the city shall adopt, implement, make known, and maintain a written smoking policy that contains at least the following:
  - (1) A provision indicating that smoking is prohibited in the place of employment or that smoking is prohibited in the place of employment except in the designated smoking area;
  - (2) A provision indicating to whom within the place of employment complaints or questions regarding compliance with the employer's policy may be directed; and
  - (3) A section that reads "Questions regarding the City of Kerrville's ordinance regulating smoking in this place of employment or complaints regarding alleged violations of such ordinance may be directed to the City of Kerrville Health Department, 701 Main Street, Kerrville, Texas 78028, phone (830) 257-8000."
- (e) *Written copy provided.* All employers shall post a written copy of the smoking policy in a conspicuous place within the place of employment.

**Sec. 58-685. Smoking near entrances prohibited.**

No person shall knowingly or intentionally smoke within 20 feet of any entrance of an enclosed area where smoking is prohibited. It shall be an [affirmative](#) defense to the violation of this section that:

- (1) The person smoking within the area regulated by this section immediately extinguished the smoking materials upon entering the area without continuing to smoke; and
- (2) The signs required to be posted in accordance with subsections 58-7067(a) and (b) were not posted.

**Sec. 58-696. Locations ~~W~~here smoking is not prohibited.**

~~Notwithstanding any other provision of this article to the contrary, s~~Smoking shall not be prohibited in the following areas:

- (1) Private residences, except when used as a child care, adult day care, or health care facility.
- (2) Hotel and motel rooms rented to guests.
- (3) Retail tobacco stores.
- (4) An enclosed area within a public place where a private social event is then taking place and the event is under the control of the sponsor of the event and not the owner or operator of the public place.
- (5) Nursing home facilities and other assisted living facilities.
- (6) Buildings specifically designated as bingo halls prior to the adoption of the ordinance from which this section is derived.
- (7) Churches, synagogues, mosques, and other places of worship, along with their associated buildings.
- (8) Designated smoking areas:
  - a. Within places of employment as authorized by section 58-674; and
  - b. Within restaurants as authorized by section 58-7168.
- (9) Any building while it is being operated as a bingo hall on the days bingo is played in the building.

**Sec. 58-7067. Posting of signs.**

The owner, operator, manager or other person having control of an enclosed public place must conspicuously post the following signs at the following locations:

- (1) At the public and employee entrances to public places where smoking is prohibited in the entire public place, signs that state "NO SMOKING PERMITTED IN THIS BUILDING" or language substantially similar thereto which indicates smoking is prohibited within the public place, which signs may include, but not be limited to "No Smoking" signs of the international "No Smoking" symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.
- (2) At the public and employee entrances to public places in which are located designated smoking areas authorized by this article, signs that read "NO SMOKING EXCEPT IN DESIGNATED SMOKING AREAS" or substantially similar language.

- (3) At entrances to designated smoking areas within a restaurant, signs that state "SMOKING PERMITTED IN THIS AREA" or substantially similar language.

**Sec. 58-7168. Designation of smoking areas in restaurants.**

- (a) *Designated areas described.* The owner or manager of a restaurant may designate a smoking area in the restaurant that complies with the following:
  - (1) Such designated smoking area must be located in a separately ventilated totally enclosed area of the restaurant;
  - (2) The total of all designated smoking areas may not exceed 30 percent of the seating area of the restaurant;
  - (3) The designated smoking area cannot be located in such a manner that requires patrons to travel through the smoking area to reach a nonsmoking area, cashier, or restroom; and
  - (4) The designated smoking area must contain ashtrays, containers, or other facilities for extinguishing smoking materials.
- (b) *Unenclosed smoking areas.* Notwithstanding subsection (a) of this section, an owner or manager of a restaurant operating on November 1, 2001, that allows smoking in public areas that do not comply with subsection (a) of this section may continue to allow smoking in such restaurants in designated smoking areas until November 1, 2004, without complying with subsection (a)(1) of this section but only subject to the following:
  - (1) The total of all designated smoking areas may not exceed 30 percent of the seating area of the restaurant;
  - (2) The designated smoking area cannot be located in such a manner that requires patrons to travel through the smoking area to reach a nonsmoking area, cashier, or restrooms;
  - (3) The designated smoking area must contain ashtrays, containers, or other facilities for extinguishing smoking materials;
  - (4) The designated smoking area may not be located within five feet of the entrance, customer waiting area, or a nonsmoking area of the restaurant;
  - (5) The designated smoking area must be located in an area where air is not drawn or blown into or across nonsmoking areas;
  - (6) In addition to the signs required by section 58-70(2), a sign not less than nine inches tall by 15 inches wide must be posted at each public entrance to the restaurant that states "WARNING DESIGNATED SMOKING AREAS ARE NOT ENCLOSED. CUSTOMERS MAY BE SUBJECT TO SECOND HAND TOBACCO SMOKE."

## Sec. 58-~~72~~69. Removal of ashtrays.

All ashtrays and other smoking paraphernalia shall be removed from any area where smoking is prohibited by this article by the owner, operator, manager, or other person having control of such area. It shall be an affirmative defense to a violation of this section that:

- (1) The ashtray or other smoking paraphernalia constitutes inventory for sale for off-premises use; or
- (2) The ashtray is located within the area exterior to the entrance to the place where smoking is otherwise prohibited for the purpose of allowing people to extinguish smoking materials prior to entering such place.

## Sec. 58-~~73~~70. Enforcement.

- (a) ~~City department of development services~~City Manager to enforce. Enforcement of this article shall be implemented by ~~the department of development services~~the City Manager or designee.
- (b) *Filing citizen complaints.* Any citizen who desires to register a complaint under this article may do so with the city health officer.

## Sec. 58-~~74~~71. Violations and penalties.

- (a) *Failure to comply with article.* It shall be unlawful for any person ~~who owns, manages, operates, or otherwise controls the use of a public place or place of employment subject to regulation under this article to intentionally or knowingly~~ fail to comply with the requirements of this article ~~regarding the posting of signs, placement of ashtrays or other suitable containers, the adoption of smoking policies for places of employment, and/or the designation of smoking areas.~~
- (b) *Fines to be assessed.* A person convicted of a violation of any provision of this article shall be required to pay a fine of not less than \$100.00 or more than \$~~500~~2,000.00.

## Sec. 58-~~75~~72. Other applicable laws.

This article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable federal, state, or local laws, ordinances, or regulations.

## Sec. 58-~~76~~73. Right to establish own policy.

This article shall not be construed as:

- (1) Prohibiting any owner, operator, manager, or other person who controls any establishment or facility to declare the entire establishment or facility as a nonsmoking establishment;

- (2) Require any owner, operator, manager, employer, or other person who controls any establishment or facility to establish designated smoking areas; or
- (3) Preempting any owner, operator, manager, employer, or other person who controls any establishment or facility from taking any lawful action to enforce the policies and procedures established for such establishment or facility relating to smoking.

**Sec. 58-774. Sale or provision of electronic vaping devices and/or liquid nicotine to a minor.**

- (a) It is unlawful and a person or retailer commits an offense if the person sells, provides, or causes to be sold or provided an electronic vaping device and/or liquid nicotine to a minor.
- (b) ~~If the offense under this section occurs in connection with a sale of an electronic vaping device and/or liquid nicotine at a business by an employee of the business, the employee who committed the offense is subject to prosecution.~~
- (c) This section is intended to apply strict liability to sellers and providers of electronic vaping devices and/or liquid nicotine. A culpable mental state is not required to prove a violation of this section.
- (d) It is an affirmative defense to prosecution under this section that the person to whom the electronic vaping device and/or liquid nicotine was sold or provided presented to the person who sold or provided the electronic vaping device and/or liquid nicotine an apparently valid Texas driver's license or identification card, issued by the department of public safety and containing a physical description consistent with the person's appearance that purported to establish the person was 18~~21~~ years of age or older.

**Sec. 58-785. Purchase of electronic vaping device and/or liquid nicotine by a minor.**

- (a) It is unlawful and a person commits an offense if he is a minor and intentionally or knowingly purchases or attempts to purchase an electronic vaping device and/or liquid nicotine within the incorporated limits of the city.
- (b) It is unlawful and a person commits an offense if he or she is a minor and the minor (1) falsely states to any person engaged in the business of selling electronic vaping devices and/or liquid nicotine within the incorporated limits of the city that the minor person is not a minor or (2) presents to any person engaged in the business of selling electronic vaping devices and or liquid nicotine within the incorporated limits of the city any document that purports to establish that the minor is not a minor.

- (c) It is not a violation of this section if the minor purchases an electronic vaping device and/or liquid nicotine while under the direction and supervision of a police officer in the process of enforcing any provision of this article.
- (d) It is not a violation of this section if the minor was at least 18 years of age and presents at the time of purchase a valid military identification card of the United States military forces or the state military forces.
- (e) It is not a violation of this section if the minor can show they purchased the cigarette, electronic vaping device, or tobacco product in the presence of an employer, if the possession or receipt is part of their duties as an employee.
- (f) It is not a violation of this section if the minor was participating in an inspection or test for seller compliance in accordance with Section 161.088 of the Texas Health and Safety Code.

**Sec. 58-796. Possession of electronic vaping devices and/or liquid nicotine by a minor.**

- (a) It is unlawful and a person commits an offense if he is a minor as defined under this article and intentionally or knowingly possesses an electronic vaping device and/or liquid nicotine within the incorporated limits of the city.
- (b) It is an affirmative defense to prosecution under this section that the minor's parent or legal guardian consented to the possession of the electronic vaping device and/or liquid nicotine by the minor and such possession was either in the residence of the minor's parent or legal guardian or in the presence of the minor's parent or legal guardian.
- (c) It is an affirmative defense to prosecution under this section that the minor possessed an electronic vaping device and/or liquid nicotine as an employee of a commercial establishment that sells or distributes electronic vaping devices and/or liquid nicotine pursuant to a requirement by the minor's employer that the minor possessed electronic vaping device and/or liquid nicotine in the performance of the minor's duties as an employee of the commercial establishment.
- (d) It is not a violation of this section if the minor possesses the electronic vaping device and/or liquid nicotine while under the direction and supervision of a peace officer in the process of enforcing any provision of this article.”

**SECTION TWO.** The City Secretary is authorized and directed to submit this amendment to the publisher of the City's Code of Ordinances and the publisher is authorized to amend the Code to reflect the adopted amendments, to correct any typographical errors, and to index, format, number, and letter the paragraphs to the existing Code, as appropriate.

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

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

**SECTION FIVE.** Pursuant to Texas Local Government Code §52.013(a) and Section 3.07 of the City's Charter, the City Secretary is 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.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7, or its successor section, of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

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

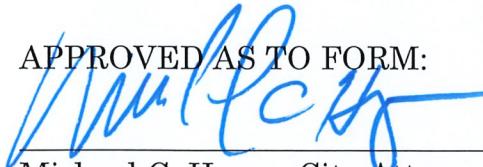
PASSED AND APPROVED ON FIRST READING, this the 10 day of OCTOBER, A.D., 2023.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Judy Eychner, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

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Shelley McElhannon, City Secretary



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

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**SUBJECT:** Interlocal Agreement for the improvement of Al Mooney Road from its intersection with Peterson Farm Road to its intersection with Memorial Boulevard (SH 27) and a portion of Peterson Farm Road from its 300 block to its intersection with Al Mooney Road.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** October 13, 2023

**SUBMITTED BY:** Michael Hornes, Assistant City Manager

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** Yes

**Key Priority Area**      E - Economic Development

**Guiding Principle**      N/A

**Action Item**      N/A

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**SUMMARY STATEMENT:**

The Kerrville Economic Improvement Corporation (EIC) have been involved in negotiations with a manufacturer of concrete products that seeks to develop a manufacturing facility in Kerrville and on property located adjacent to the Kerrville-Kerr County Airport owned by the EIC. Based upon the company's plans and use, the City and County believe that Al Mooney Road and a portion of Peterson Farm Road must be improved to accommodate commercial vehicles which need access to the property. The project, as more specifically defined in this Agreement, is in general the construction and improvement of Al Mooney Road and a portion of Peterson Farm Road from Al Mooney to the 300 block of Peterson Farm Road, in ways which will improve vehicle safety, enhance traffic flow, and increase accessibility to the Property, and such Project is desired by the City and the County. This desire to improve Al Mooney, will aid not only the EIC land, but also serve to add opportunities to the Kerrville-Kerr County Airport on western portion.

The Opinion of Probable Cost of this project, including engineering, surveying and other professional services, outlined in the exhibits attached to the Interlocal Agreement, comes out to just under \$1,700,000 or \$850,000 for each entity. Funding will need to be secured

by both parties, and is not currently in either budget. However, the manufacturer will need 24 months to complete their building construction, so time is available to consider this request in the following fiscal years budget, if funding cannot be secured within our current fiscal year. Staff recommends approval of the interlocal agreement to work with the County on a cost share of these improvements to Al Mooney and Peterson Farm Road.

**RECOMMENDED ACTION:**

Approve Interlocal Agreement.

**ATTACHMENTS:**

[\*20231024ILA\\_Kerr Co improve Mooney Rd.pdf\*](#)

**INTERLOCAL AGREEMENT FOR THE IMPROVEMENT OF AL  
MOONEY ROAD FROM ITS INTERSECTION WITH PETERSON  
FARM ROAD TO ITS INTERSECTION WITH MEMORIAL  
BOULEVARD (SH 27) AND A PORTION OF PETERSON FARM  
ROAD FROM ITS 300 BLOCK TO ITS INTERSECTION WITH AL  
MOONEY ROAD**

*This Interlocal Agreement for the Improvement of Al Mooney Road from its Intersection with Peterson Farm Road to its Intersection with Memorial Boulevard (SH 27) and a portion of Peterson Farm Road from its 300 Block to its Intersection with Al Mooney Road* (the “Agreement”) is made and entered into pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Section 251.012 of the Texas Transportation Code, by and between the City of Kerrville, Texas, a municipal corporation and home-rule city of the State of Texas, situated in Kerr County, acting by and through its City Council, (“City”); and Kerr County, Texas, a body corporate and politic under the laws of the State of Texas, acting by and through its Commissioners Court (“County”). City and County may be referred to collectively as the “Parties”.

**RECITALS**

**WHEREAS**, City and County have been involved in negotiations with a manufacturer of concrete products that seeks to develop a manufacturing facility in Kerrville and on property located adjacent to the Kerrville-Kerr County Airport (the “Property”); and

**WHEREAS**, based upon the company’s plans and use, City and County believe that Al Mooney Road must be improved to accommodate commercial vehicles which need access to the Property (the “Project”); and

**WHEREAS**, the Project, as more specifically defined in this Agreement, is in general the construction and improvement of Al Mooney and Peterson Farm Roads in ways which will improve vehicle safety, enhance traffic flow, and increase accessibility to the Property, and such Project is desired by the City and the County; and

**WHEREAS**, following the effective date of this Agreement, the Parties, as provided below, will seek a design for the Project, which may result in a realignment of Al Mooney Road and an increase in the Project’s estimated costs; and

**WHEREAS**, pursuant to Section 251.012 of the Texas Transportation Code and Section 791.032 of the Texas Government Code, City approves of the expenditure of County money and the terms of this Agreement to finance the construction, improvement, maintenance, or repair of a street or alley in the County that is located

within the City; and

**WHEREAS**, County finds that the Project contemplated in this Agreement serves a County purpose; and

**WHEREAS**, City and County agree to participate in this Project according to the terms of this Agreement; and

**WHEREAS**, the governing bodies of City and County have authorized this Agreement;

**NOW, THEREFORE**, for and in consideration of the mutual covenants, agreements, and benefits to both Parties, it is agreed as follows:

### **AGREEMENT**

**Section 1. Purpose.** The purpose of this Agreement is to establish funding obligations of the City and County related to the improvements to Al Mooney and Peterson Farm Roads.

#### **Section 2. Definitions.**

**A. City** means the City of Kerrville, Texas.

**B. County** means Kerr County, Texas.

**C. Project** means the improvements to Al Mooney Road from its intersection with Peterson Farm Road to Memorial Boulevard (SH 27) and improvements to Peterson Farm Road from its 300 block to its intersection with Al Mooney Road. The general and proposed scope for the Project is specified in **Exhibit A**, which is the letter dated Oct. 3, 2023, to the City from 6S Engineering, Inc. The Parties recognize and agree that this definition of "Project" is a general description and that the definition may change once the design work begins. Such changes may include a complete realignment of Al Mooney Road, in which case whether for this change or others, the Parties would need to agree in writing to any changes in scope and/or costs.

**D. Eligible Project Costs** means costs for the Project, to include construction of roadway improvements, engineering design and services related to the completion of Plans, Specifications, and Estimates ("PS&E"), drainage facilities, utility and pipeline conflicts, approved traffic control devices, and construction related services for such roadway improvements. Eligible Project Costs shall include any costs necessary for the resolution of utility conflicts created by construction of Project elements and similar facilities proposed to be part of the Project. Eligible Project Costs shall exclude all costs related to

the design and construction of landscaping; irrigation; lighting; reconstruction of utilities, except utility conflicts created by the construction of Project elements; and design and construction costs of upgrades to eligible Project components and similar facilities requested by the City to be included in the Project. As of October 2, 2023, the Eligible Project Costs are estimated at 1,687,452.31, which consists of the engineering fees ("Payments to Engineer") identified in **Exhibit A**; and the costs identified in the document titled "*Opinion of Probable Construction Cost*", dated Oct. 2, 2023 and attached as **Exhibit B**. The Parties acknowledge and agree that the Eligible Project Costs for the Project will most likely be revised as City works with the design engineer for the Project.

**Section 3. Incorporation of Recitals.** The representations, covenants, and recitations set forth in the foregoing recitals are material to this Agreement and are incorporated into this Agreement.

**Section 4. County's Rights and Obligations.**

- A. County shall have the right to review final design plans and thereafter approve such plans, prior to commencement of any construction.
- B. During work on the Project, County shall have the right to review all documents, maps, plats, records, photographs, reports, and drawings affecting the construction and to inspect the work in progress, provided however, that in conducting such inspections, County shall not interfere with the work in progress. County may provide notice of any deficiencies to the City Manager, which shall be writing. City shall promptly address such deficiencies. County agrees that City is the contracted Party and County shall not provide any direction to the consultant or the contractor, except with concurrence of the City Manager.
- C. County shall have the right to participate in the final inspection of the Project. At that time, any deficiencies noted by County shall be promptly addressed by City.
- D. Subject to any changes agreed to by the Parties as to scope and/or costs, County's sole obligation under this Agreement is to provide funding for the Eligible Project Costs to the City as specified in this Section. County agrees to pay City an amount equal to the lesser of the following:
  - i) Fifty percent (50%) of Eligible Project Costs; or
  - ii) \$850,000.00.

Following City's and County's final approval of the Project and Eligible Project Costs, the Parties will approve a process as to how payments are processed between the Parties. For example, the City may agree to pay all

bills and then seek reimbursement of  $\frac{1}{2}$  of each payment from the County following the City's submission of an invoice and other evidence as required by the County.

- E. County is not obligated to expend any further funds above \$850,000.00 on the Project nor shall County's share of the Project exceed fifty percent (50%) of the Eligible Project Costs or exceed the amount contributed by the City, and an amount contributed by the City may include grants obtained by the City for the Project, City bond funds, City General Fund revenues, gifts to the City for the Project, and similar sources providing funding to the City for the Project.
- F. Should City fail to initiate Project design or construction by the dates provided below, or elect to forego construction for any reason, County shall have, within its sole discretion to exercise, the right to re-allocate its contribution as it determines appropriate.

#### **Section 5. City's Rights and Obligations.**

- A. City is responsible for managing the design, overseeing the construction and completion of the Project, and complying with the applicable state and federal laws.
- B. City agrees to initiate design of the Project no later than one-year (365 days) after approval of this Agreement by both City Council and the Commissioners Court.
- C. City agrees to initiate construction of the Project no later than sixty (60) business days after bid opening.
- D. In the event City fails to initiate Project design or construction within the time prescribed above, determines the Project lacks feasibility, or for any other reason elects to forego its construction, City shall provide written notice to the County of such failure or its decision to forego construction. This Agreement shall automatically terminate upon City's election to forego construction of the Project. However, in the case of City's delay in initiating Project design or construction, County shall have the option to proceed with its obligations under this Agreement, notwithstanding such delay.
- E. City shall submit reports to County describing in sufficient detail the progress of the Project. These reports shall be submitted to County at increments agreed to between the Parties as appropriate for the various phases of the Project. Reports received by City from contractors detailing the progress of the Project shall suffice for the requirements of this section, so long as City has reviewed such reports and confirmed accuracy of the contractor's report.

- F. City will submit the plans for the Project to the County Engineer for review. During the work on the Project, the County may review the documents, maps, plats, records, photographs, reports, and drawings pertaining to the Project and may inspect the work in progress, provided that it does not interfere with the work.
- G. Upon completion of the Project, but no later than ninety (90) days after final payments to all vendors, City will furnish County with a full accounting of the funds expended on the Project and an electronic copy of the record drawings showing the Project as constructed. The County may review City's records regarding this Project.
- H. If, after completion of the Project and City's receipt of the funds as stated in Section 4, there are funds remaining and/or savings from the Project, the City shall return to the County the County's prorated portion of such funds, if any, within thirty (30) days of the County's acceptance of the full accounting required in Section 5.G. above.

**Section 6. Liability.** City and County are entitled to the immunities and defenses of the Texas Tort Claims Act. Nothing in the Agreement shall be construed to waive either party's sovereign immunity.

**Section 7. Maintenance.** Upon completion of the Project, each party shall maintain that portion of the Project within its own jurisdiction.

**Section 8. Limit of Appropriation.**

- A. Prior to the execution of this Agreement, City has been advised by County, and City clearly understands and agrees, and such understanding and agreement being of the absolute essence to this Agreement, that County has available, and the total maximum funding that City may become entitled to hereunder and the maximum amount that County will reimburse City hereunder will not exceed and the total maximum amount of fifty percent (50%) of the Eligible Project Costs or \$850,000.00, whichever amount is less, specifically allocated to fully discharge any and all liabilities that may be incurred by County for the Project. This provision is subject to any changes in scope and/or costs as agreed to by the Parties.
- B. Each party paying for the performance of its obligations under this Agreement shall make those payments from current revenues available to and budgeted by that party.

**Section 9. Insurance Requirements.** City agrees that it will require Contractor's insurance policies to name County as well as City as additional insureds on all policies except for Workers' Compensation and Professional Liability. Any such insurance policies shall include at least the following minimum coverage:

- A. Worker's Compensation in the amount required by law. The policy shall include the All States Endorsement.
- B. Comprehensive General Liability Insurance including contractual liability insurance, \$1,000,000 per occurrence, \$2,000,000 aggregate (defense costs excluded from face amount of policy).
- C. Comprehensive Automobile Liability Insurance, including owned, non-owned and hired vehicles used for the Project, with bodily injury and property damage with a combined limit of not less than \$1,000,000 each occurrence.
- D. City may require insurance in excess of the amount of coverage set out above, as it deems necessary, in such cases County shall remain an additional insured. City will provide County with proof of insurance within thirty (30) days of City's award of the contract for the Project construction.

**Section 10. Assignment.** No party hereto shall make, in whole or in part, any assignment of this Agreement or any obligation hereunder without the prior written consent of the other party.

**Section 11. No Third Party Beneficiaries.** The Parties do not intend that any specific third party obtain a right by virtue of the execution or performance of this Agreement.

**Section 12. Notices.** All notices and communications under this Agreement shall be mailed by certified mail, return receipt requested, or delivered to the following addresses:

**County Judge**  
**Kerr County Courthouse**  
**700 Main Street**  
**Kerrville, TX 78028**

**City Manager**  
**City of Kerrville**  
**City Hall, 701 Main Street**  
**Kerrville, TX 78028**

Or, to such other addresses as the parties may designate to each other in writing.

**Section 13. Entire Agreement.** This Agreement contains the entire agreement between the Parties relating to the rights granted and the obligations assumed. Any modifications concerning this instrument shall be of no force or effect, unless a subsequent modification in writing is signed by all Parties hereto. If a court finds or rules that any part of this Agreement is invalid or unlawful, the remainder of the Agreement continues to be binding on the Parties.

**Section 14. Applicable Law.** This Agreement has been made in and shall be construed in accordance with the laws of the State of Texas. Venue shall be in Kerr County, Texas.

**Section 15. Execution.** This Agreement has been executed by the City and the County upon and by the authority of their respective governing bodies. This Agreement shall become effective on the date executed by the final party, and remain in effect until the Project is complete and the obligations under Sections 4 and 5 of this Agreement are fulfilled.

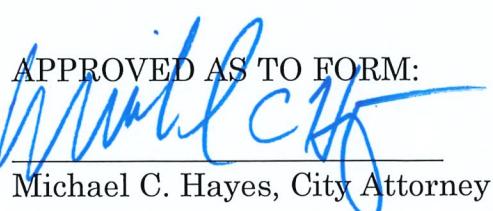
CITY OF KERRVILLE, TEXAS

By: \_\_\_\_\_  
Judy Eychner, Mayor  
Date: \_\_\_\_\_

ATTEST:

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

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

COUNTY OF KERR, TEXAS  
By: \_\_\_\_\_  
Rob Kelly, County Judge  
Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Jody Grinstead, Court Coordinator

APPROVED AS TO FORM:

\_\_\_\_\_  
Heather Stebbins, County Attorney

October 3, 2023

City of Kerrville  
701 Main Street  
Kerrville, Texas 78028

Attn: Mr. Stuart Barron, Director of Public Works

Regarding: 2023 Al Mooney Reconstruction  
6S Project No. 2023-004-05

Dear Mr. Barron:

6S Engineering, Inc. is pleased to provide you this proposal to perform professional engineering services for the City of Kerrville ("City"). The project is defined as a rehabilitation and roadway reconstruction project.

**PROJECT DESCRIPTION:**

6S will provide an engineering design for Al Mooney and Peterson Roadway reconstruction and rehabilitation. The length of the roadway is approximately 3635 FT. The approximate roadway width is currently 17 feet and is anticipated to be widened to 28 ft to accommodate an increase in truck traffic and provide more roadway width with better lines of sight or visibility. Drainage crossings will need to be upgraded as part of the project.

**SCOPE OF SERVICES TO BE PERFORMED BY ENGINEER ON THE PROJECT:**

6S will provide design engineering services for the project described above. The scope of work to complete the design includes the following:

- A. Project Start-up- A 6S manager will meet with the City as a preliminary kickoff meeting and visit the site. This segment of the project includes initial budgeting and setup for the project. This item will also include Agency Coordination with the City of Kerrville and the County.
- B. Project Geotechnical (Additional Service)- 6S will utilize Arias Geo-Professionals to provide a maximum of 5 geotechnical bore holes for the project site. Existing soil conditions for the project site will be documented as well as the development of a potential pavement section for the project. This will also include a recommendation for two sections that are to be rehabilitated with cement and emulsion treatment.
- C. Project Survey (Additional Service)- 6S will utilize Sur-Gis of Texas to provide basic survey services for the project. Benchmarks will be placed and documented with a signed control sheet in the plans. Cross sections will be provided at 100 ft intervals with approximately 4 drainage structures being located.

D. Utility Coordination- 6S will coordinate with the City to gather water and sewer as-built data or block maps for the immediate location. If sewer, water, or electrical lines are documented in the crossing location they will be shown on the plan view sheets. Water and sewer design are not anticipated as part of the project scope. There are apparent dry utilities within the right-of-way.

E. Plan Development- 6S will develop a plan set that includes the following sheets:

- Cover Sheet (1 Sheet)
- General Construction notes and special notes (1 Sheet)
- Existing Roadway Section and Proposed Typical Section and project quantities (1 sheet)
- Plan Sheets (10 Sheets) – Plan sheets will be double banked and will have a plan view with an aerial image. These sheets will include a centerline stationing offset from a stationary point. 11" x 17" sheets
- Special Detail Sheets (1 Sheet) – It is anticipated that only one special detail sheet will be necessary.
- SW3P- Stormwater Pollution Prevention – (1 Sheet) EPIC narrative Sheet. BMP measures will be indicated on the plan sheets.
- Drainage Design Sheet - 6S will visit the project site and coordinate with the city to view areas that may currently be ponding. 6S will develop a drainage area sheet and will size the culverts. The areas may be low water crossings and are anticipated to remain the same but may have some increased pipe sizes depending on flows. The current opinion of construction cost only accounts for reinforced concrete pipe of equal size to existing.

E. Front end bidding documents, general conditions and special project specifications will be provided for select items as deemed necessary by the Engineer.

F. Traffic Control Plans- 6S will provide one traffic control and project phasing sheet. TxDOT typical detail sheets will be used to support the traffic control plan sheets. Sections of the roadway may need to be shut down completely. Other access is available along Peterson Roadway.

G. Opinions of Probable Construction Cost – Opinions of Probable construction cost will be estimated at 60% and Final Design. These will be based on experience and using regional bid unit prices and quantities from agencies such as TxDOT and other local government area bids.

QA/QC:

6S will provide a Quality Assurance/Quality Control review on the project prior to final plan reproduction.

Mr. Stuart Barron  
City of Kerrville  
October 3, 2023  
Page 3 of 7

**60% and Final Design Submittal:**

6S will provide one (1) 22"x34" hard copy plan set at 60% review along with a pdf file. At final design 6S will provide (2) hard copy sets at 22"x34" and a pdf file for review. The 6S Project manager will attend a City review meeting at each phase of design and provide revisions to comments.

**Final Plans & Contract Documents:**

6S will Provide (1) one 22"x34" sealed plan set and one (1) PDF copy to the City along with the front end documents and specifications.

**Public Meetings:**

Not Anticipated

**Bid Phase Services (Additional Service)**

6S will prepare the advertisement of the bid for the City.

Prepare and provide complete sets of the bid package, including plans, specifications, and instructions to bidders, general provisions, and bid proposal as documentation for the City to advertise for bids for construction. Plans will be available on CIVCAST FOR BIDDING

Attend pre-bid conference and prepare necessary addenda to provide clarification and interpretation to bidders.

Complete a bid tabulation and analysis of bids and furnish a recommendation on the award of the construction contract.

**Construction Administration Services (Additional Service)**

Attend the Pre-Construction conference with the representatives of the interested City departments and the contractor. Prepare a summary record of the Pre-Construction conference as scheduled by the City.

Attend bi-weekly construction meetings (once every 2 weeks) to discuss job progress, revisions, plan clarification and coordination. Sub-consultants shall be included as attendees as necessary in these meetings. 6S will prepare summary record to be distributed to all attendees after review by the City.

6S will visit the site to observe as an experienced and qualified design professional the progress and quality of the executed work, and to determine in general if the work is proceeding in accordance with the plans and specifications. During such visits and on the basis of on-site observations, 6S shall consult and advise the City during construction, and submit monthly reports to the City relating to such visits. 6S shall not be required to make exhaustive or continuous on-site inspections to check the quality and quantity of the work; 6S shall not be responsible to the means, methods, techniques, sequences or

procedures of construction selected by the contractor or the safety precautions and programs incident to the work of the contractor. 6S's efforts will be directed towards providing 6S's best judgment to the City that the completed project will conform to the plans and specifications. 6S shall not be responsible for the failure of the contractor to perform the construction work in accordance with plans and specifications and the contractor's contract; however, 6S shall report to the City any deficiencies in the work actually observed by 6S. During such visits and on the basis of on-going observations, 6S shall consult and advise the City during construction.

After contractor's approval, 6S shall review and take appropriate action (approve with modifications, reject, etc.) upon the contractor's submittals such as shop drawings, product data and samples, but only for conformance with the design concept of the project and compliance with the information given in the contract documents. Such action shall be taken with reasonable promptness so as to minimize delay. Such reviews and approvals or other action shall not extend to means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs incident thereto. The approval of a specific item shall not indicate approval of an assembly of which the item is a component.

Review monthly estimates and recommend approval or other appropriate action on estimates submitted by the contractor.

Develop, at the request of the City, any changes, alterations or modifications to the project that appear to be advisable and feasible and in the best interest of the City. Routine changes made during construction (change orders/field alterations) that are within the original scope of the project will be made at no additional cost to the City. Such alterations shall appear on or be attached to the City's form "Field Alteration Request". At the direction of the City, 6S shall obtain the contractor's price of the proposed alteration prior to submitting it to the City for its approval.

Perform in company with the City representative(s) a "conditional approval" and a "Final" inspection of the project to observe any apparent defects in the completed construction with regard to conformance with design concept and intent of the contract documents. Assist the City in consultation and discussions with contractor(s) concerning such deficiencies, and make recommendations as a replacement or correction of the defective work.

After completion of the work, and before final payment to the contractor, the City shall receive from the contractor two (2) sets of "Record Drawings". 6S, after receiving the information, shall transfer the information to AutoCAD files (CD's) compatible to Microstation showing all items of work actually installed in the project (hereinafter called "Plan of Record") for the City's permanent file. 6S shall not be held liable for the information supplied by the contractor and/or City representative.

The City will require the contractor to submit to 6S who shall review and deliver to the City, manufacturer's warranties or bonds on materials and equipment incorporated in the project for which such warranties or bonds were required by the specifications.

Prepare the "Final Field Alteration" recapitulations (over and under) of the project in conjunction with the final request for payment.

Mr. Stuart Barron  
City of Kerrville  
October 3, 2023  
Page 5 of 7

**Term of Construction Phase Service (estimated not to exceed 8 months). Additional Services will be necessary after this period.**

**Exclusions:**

- Traffic Impact Analysis
- Bridge design
- Profile design
- Profile views and vertical design for the roadway section.
- Sewer and Water design
- Utility Design
- ADA Review
- Obelisk Design and Construction/Entry Monument on Al Mooney

**OWNER'S RESPONSIBILITIES:**

City shall coordinate with Engineer and provide engineer with As-Built documentation for existing sanitary sewer, water mains, and other City services in the project area.

**PERIOD OF DESIGN SERVICE:**

5 months from authorization

**PAYMENTS TO ENGINEER:**

6S Engineering Group proposes the following lump sum fees for the above referenced services:

**BASIC SERVICES**

Project Start-up .....	\$1,852.00
Utility Coordination: .....	\$1,124.00
Plan Development 30%: .....	\$58,466.00
Plan Development 60% .....	\$47,356.00
Plan Development FINAL.....	\$32,946.00
Drainage Area Map Sheet .....	\$8,768.00
Drainage Detail Sheet.....	\$1,836.00
Front End Documents & Specifications:.....	\$3,816.00
Traffic Control Phasing Plans:.....	\$2,798.00
Opinions of Construction Cost: .....	\$1,906.00
QA/QC:.....	\$1,910.00
Bid Phase .....	\$2,948.00
<b>Base Service Fee (Lump Sum):.....</b>	<b>\$165,726.00</b>

Mr. Stuart Barron  
City of Kerrville  
October 3, 2023  
Page 6 of 7

**ADDITIONAL SERVICES**

Geotechnical Engineering (Arias): .....	\$12,300.00
Survey Services (SUR-Gis) .....	\$15,930.00
Survey Field Topo Check.....	\$1,242.00
Construction Phase.....	\$20,064.00
Mileage and Expenses .....	\$1,200.00

**Additional Service Fee (Lump Sum):.....\$50,736.00**

**Total Project Cost (Lump Sum): .....\$216,462.00**

Invoicing will occur monthly on a percent complete basis. The attached Terms & Conditions (Attachment "A") are a part of this agreement.

If this proposal is acceptable to you, please indicate by signing in the space provided below and return the original to this office. If you have any questions, please call our office. We appreciate the opportunity to submit this proposal and look forward to being of service.

Signature of this professional services agreement is understood to constitute authorization to proceed as of the date signed by the client.

Sincerely,

Jess W. Swaim, P.E.  
Vice President

ACCEPTED:

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

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

Date: \_\_\_\_\_

**6S Engineering, Inc.**  
**Attachment "A" – Terms and Conditions**

**1. AUTHORIZATION TO PROCEED**

Signing this Agreement shall be construed as express authorization by CLIENT for 6S to proceed with the work, unless otherwise provided for in the Agreement.

**2. USE OF DOCUMENTS**

All documents produced by 6S under this Agreement shall be considered "Instruments of Service" for which 6S retains the copyright. Notwithstanding the foregoing, 6S grants to CLIENT a nonexclusive license to reproduce such Instruments of Service for the completion of the Project, provided that CLIENT complies with all obligations, including prompt payment of all sums when due, under this Agreement. Should CLIENT use any documents in circumstances in which 6S is no longer involved in the Project, the CLIENT shall defend and indemnify 6S on account of any such use and any claims made arising out of any modifications or changes to any such documents.

Unless specifically provided for in the Agreement, files in electronic media will not be transmitted. Files in electronic media format of text, data, graphics, or other types, if any, will be furnished by 6S only for convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

**3. STANDARD OF CARE**

6S shall use the care and skill ordinarily used by members of the design profession practicing under similar conditions at the same time and locality of the Project. Where construction phase services are included, it is understood that the proposed services specifically exclude any review of the Contractor's means and methods of construction and safety procedures. The means, methods and safety procedures will remain the sole responsibility of the Contractor and 6S shall have no liability or obligation with respect thereto.

**4. COST ESTIMATES**

Any cost estimates provided by 6S will be on a basis of experience and judgment, but since it has no control over market conditions or bidding procedures, 6S cannot and does not warrant that b6S or ultimate construction costs will not vary from these cost estimates.

**5. PAYMENT TO 6S**

Monthly invoices will be issued by 6S for all work performed under the terms of this Agreement. Invoices are due and payable in full on receipt. Interest at the rate of 1.5% per month will be charged on all past-due amounts (45 days after invoice date), unless not permitted by law, in which case, interest will be charged at the highest amount permitted by law. No retainage will be withheld from payment.

**6. DIRECT EXPENSES**

Certain expenses incurred by 6S in performing this assignment will be billed to the CLIENT at direct cost. These include regulatory fees, reproduction costs, travel expenses when traveling outside 6S's local office and adjacent counties, including meals, lodging, use of automobile at the current IRS approved rate and airline fares. Reimbursement for these EXPENSES shall be on the basis of actual charges when furnished by commercial sources and on the basis of usual commercial charges when furnished by 6S.

**7. OUTSIDE SERVICES**

When technical or professional services are furnished by an outside source, when approved by CLIENT, an additional amount shall be added to the cost of these services for 6S's administrative costs, as provided for in this Agreement.

**8. ADDITIONAL SERVICES**

Services in addition to those specified in Scope will be provided by 6S if authorized by CLIENT. Additional services will be paid by CLIENT as provided for in this Agreement.

**9. SALES TAX**

In accordance with the State Sales Tax Codes, certain professional and surveying services are taxable. Applicable sales tax is not included in the proposed fee. Sales tax at the applicable rate will be indicated on invoice statements and shall become part of the amount due and payable pursuant to the Agreement.

**10. SUSPENSION/TERMINATION**

When invoices are delinquent for more than forty-five (45) days, CLIENT will be considered in breach of this Agreement and all services may be suspended. 6S shall not be responsible for delays in the Project caused by such suspension. Either CLIENT or 6S may terminate this Agreement by giving 30 days written notice to the other party. In such event CLIENT shall forthwith pay 6S in full for all work previously authorized and performed prior to effective date of termination or receipt of such notice, whichever is later. If no notice of termination is given, relationships and obligations created by this Agreement shall be terminated upon completion of all applicable requirements of this Agreement.

**11. LIMITATION OF LIABILITY**

6S's liability to the CLIENT for any cause or combination of causes is in the aggregate, limited to an amount no greater than the fees earned under this Agreement.

To the fullest extent permitted by law, neither Company, nor the Consultant, nor their sub consultants, if any, nor their respective affiliates shall be liable for any special, indirect, consequential, incidental, punitive or exemplary damages (extraordinary damages), whether or not foreseeable, arising out of or in connection with this Agreement, regardless of whether liability is based on breach of contract, breach of warranty, tort (including negligence and strict liability) or any other basis of liability.

**12. MEDIATION**

All claims, disputes, and other matters in question arising out of, or relating to, this Agreement or the breach thereof may be decided by mediation. Either CLIENT or 6S may initiate a request for such mediation, but consent of the other party to such procedure shall be mandatory. No mediation arising out of, or relating to this Agreement may include, by consolidation, joinder, or in any other manner, any additional party not a party to this Agreement.

**13. LITIGATION**

This Agreement shall be construed under and in accordance with the internal law, and not the law of conflicts, of the State of Texas. In the event legal action is brought by CLIENT or 6S against the other to enforce any of the obligations hereunder or arising out of any dispute concerning the terms and conditions hereby created, the losing party shall pay the prevailing party such reasonable amounts for fees, costs and expenses as may be set by the court.

**14. SURVEYING SERVICES**

In accordance with the Professional Land Surveying Practices Act of 1989, revised July 1999, CLIENT is informed that any complaints about surveying services may be forwarded to the Texas Board of Professional Land Surveying, 12100 Park 35 Circle, Building A, Suite 156, Austin, Texas 78753, (512) 239-5263.

**15. SEVERABILITY**

In case any one or more of the provisions contained in this Agreement shall be held illegal or invalid, the enforceability of the remaining provisions contained herein shall not be impaired thereby and the provision which is determined to be illegal or invalid shall be replaced by a legal and valid provision which reflects the expressed intent of the parties to the maximum extent allowed by applicable law.



ENGINEERING, INC.

TBPE F-18435

EXHIBIT B

OPINION OF PROBABLE CONSTRUCTION COST

10/02/2023

AL MOONEY/PETERSON/NEW HIGH SECTION		L=3632 FT	WE=17	WP=28	
ITEM NO.	ITEM DESCRIPTION	APPROXIMATE QUANTITIES	UNIT	UNIT BID PRICE	EXTENDED AMOUNT
100 2001	PREPARING ROW	36	STA	\$ 400.00	\$ 14,400.00
110.0	EXCAVATION (ROADWAY)	2600	CY	\$ 18.00	\$ 46,800.00
132.0	EMBANKMENT	750	CY	\$ 15.00	\$ 11,250.00
150 6003	BLADING/HAUL OFF	7200	LF	\$ 4.00	\$ 28,800.00
500 2001	MOBILIZATION	1	LS	\$ 80,000.00	\$ 80,000.00
502 6001	BARRICADES, SIGNS AND TRAFFIC HANDLING	8	MO	\$ 4,500.00	\$ 36,000.00
644 6078	REMOVE SM RD SN	3	LS	\$ 200.00	\$ 600.00
644 6080	REPLACE SM RD SN	3	LS	\$ 350.00	\$ 1,050.00
SP1	RECLAMATION/EMULSION TREATMENT 6"	6707	SY	\$ 5.25	\$ 35,211.75
SP2	EMULSION INTEGRATION 6" (2.3 gal/SY)	15426	GAL	\$ 5.50	\$ 84,843.00
SP3	TENSAR TX5 GEOGRID	11300	SY	\$ 5.25	\$ 59,325.00
SP4	FLEX BASE COMPACTED IN PLACE 6"	6763	SY	\$ 17.00	\$ 114,971.00
SP5	FLEX BASE COMPACTED IN PLACE 10"	4977	SY	\$ 19.00	\$ 94,563.00
SP SPEC	INSURANCE AND BOND	1	LS	\$ 7,000.00	\$ 7,000.00
202	PRIME COAT	2825	GAL	\$ 6.50	\$ 18,362.50
205	TYPE D ASPHALT (2" COMPACTED IN PLACE)	11324	SY	\$ 24.00	\$ 271,776.00
SP SPEC	REMOVE AND REPLACE MAILBOXES	3	EA	\$ 180.00	\$ 540.00
SP SPEC	CULVERT UPGRADE with HEADWALL (D)	1	LS	\$ 15,000.00	\$ 15,000.00
SP SPEC	CULVERT UPGRADE with HEADWALL (E)	1	LS	\$ 15,000.00	\$ 15,000.00
SP SPEC	CULVERT UPGRADE with HEADWALL (F) (2-@36")	1	LS	\$ 40,000.00	\$ 40,000.00
SP SPEC	CULVERT UPGRADE with HEADWALL (G) (1-@24")	1	LS	\$ 24,000.00	\$ 24,000.00
SP SPEC	CULVERT UPGRADE with HEADWALL (H) (2-@42")	1	LS	\$ 50,000.00	\$ 50,000.00
SP SPEC	GUARDRAIL	360	LF	\$ 220.00	\$ 79,200.00
SP SPEC	ROW CLEARING (MULCHING)	1	LS	\$ 25,000.00	\$ 25,000.00
SP SPEC	LIMESTONE BLOCKS (Natural Retaining Wall)	30	EA	\$ 520.00	\$ 15,600.00
SP SPEC	ENTRY MONUMENT	1	EA	\$ 7,500.00	\$ 7,500.00
				CONSTRUCTION TOTAL (BASE BID )	\$1,176,792.25
				CONTINGENCY (25%)	\$294,198.06
				CONSTRUCTION TOTAL (BASE BID )	\$1,470,990.31

\*\* CONFLICTS/OBSTACLES - ENTRY MONUMENT GATES

Cost estimates were prepared on the basis of experience and judgment, utilizing historical bid costs for similar work if available. Actual bids and ultimate construction costs may vary based on market conditions, inflation, and unforeseen field conditions. The final determination of construction cost is made through the bidding process with contractor(s).



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

**SUBJECT:** Economic Development Grant Agreement between Lennar Homes of Texas Land and Construction, Ltd., and the City of Kerrville, Texas Economic Improvement Corporation.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** October 13, 2023

**SUBMITTED BY:** Michael Hornes, Assistant City Manager

### EXHIBITS:

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

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

**Kerrville 2050 Item?** Yes

**Key Priority Area** H - Housing

**Guiding Principle** N/A

**Action Item** H1.2 - Research potential funding mechanisms for the development of workforce housing, defined as 80% to 120% of area median household income

### **SUMMARY STATEMENT:**

Lennar homes is planning to build a 500+ unit single family subdivision along Loop 534 and Olympic Drive. In addition to this residential development Lennar will be providing regional infrastructure to the area. Their request is a grant to help fund construction of the Regional Infrastructure in support of the commercial expansion of the area, in addition their detention needs. This infrastructure is necessary to promote or develop new or expanded business enterprises and to promote the expansion of additional housing stock needed to encourage the relocation to the City of people entering the local employment pool. This grant complies with the Act and is in keeping with the mission of EIC and the City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures.

*“Regional Infrastructure”* means, collectively, the public infrastructure required to be constructed in association with the development of the Development, to include all public streets, alleys, sidewalks, public water and wastewater services, and drainage facilities,

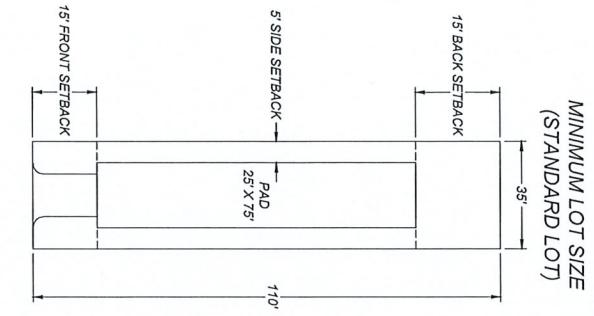
which, when extended to the border of the Property in accordance with the Development Regulations, will also serve to ready adjacent commercial properties for utility connections, which the Company will design and construct. Lennar intends to construct collector streets for the Development in two phases in accordance with the attached as **Exhibit E** titled the "Collector Phasing Exhibit".

**RECOMMENDED ACTION:**

Approve the Economic Development Grant Agreement between Lennar Homes of Texas Land and Construction, Ltd.

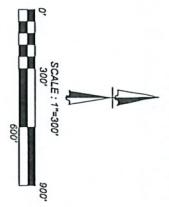
**ATTACHMENTS:**

[\*20231024\\_Lennar Homes preliminary layout.pdf\*](#)



**Exhibit A**

LOT SUMMARY TABLE		
LOT SIZE	# OF LOTS	ACREAGE
35'x110'	23	2.347
45'x110'	58	23.47
45'x110'	50	10.54
35'x110'	103	13.13
45'x110'	98	12.13
35'x110'	113	14.79
45'x110'	33	1.87
<b>TOTAL</b>	<b>511 LOTS</b>	<b>100.39 A.C.</b>



0' 300' 600'  
SCALE: 1=400'

BOUNDARY  
PROPOSED COMMERCIAL  
DRAINAGE

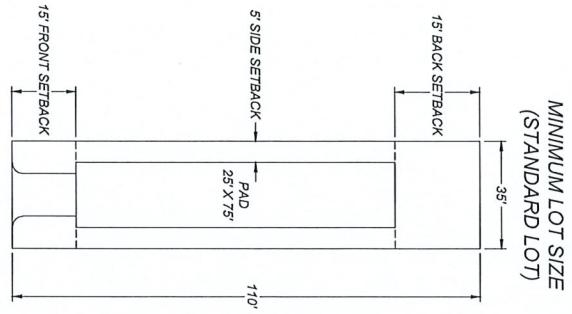
**KERRVILLE LOOP 534 TRACT**  
**KERRVILLE, TEXAS**  
**ACREAGE LAYOUT EXHIBIT**

100' NO.  
DATE  
SHEET NO.  
SHEET NUMBER:  
1 OF 1

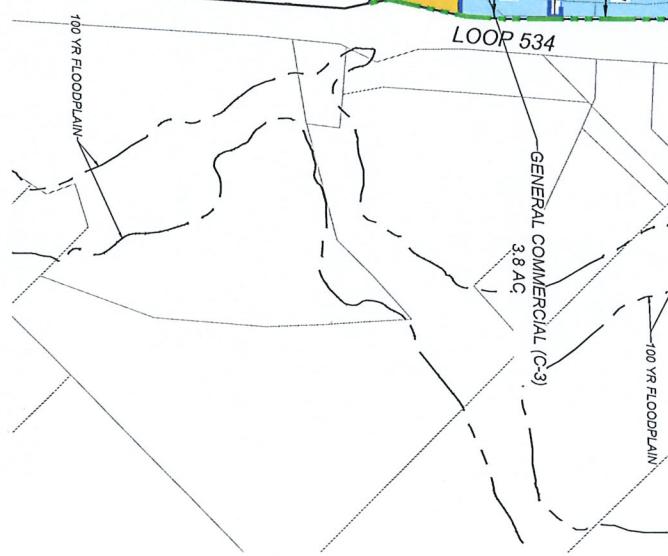
**KFW**  
ENGINEERS + SURVEYING  
3411 Financial Pkwy, Suite 200, San Antonio, TX 78231  
Phone: P: (210) 873-5214 • Fax: F: (210) 873-5441  
TELE: F: (210) 873-5213 • E-MAIL: E: (210) 873-2233



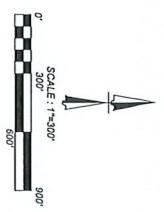
AGRICULTURE (AG)  
101.2 AC



## Exhibit C



The diagram illustrates proposed commercial drainage lines. It features a vertical yellow line on the left, a vertical blue line in the center, and a vertical green line on the right. The text 'PROPOSED COMMERCIAL DRAINAGE' is written vertically along the center blue line, and the word 'BOUNDARY' is written vertically along the right green line.



LOT SUMMARY		
	LOT/STORY/TYPE	ACREAGE
PHASE I/A	35x10	.23
PHASE I/B	45x10	.59
PHASE I/C	45x10	.50
PHASE II/A	45x10	.63
PHASE II/B	35x10	.68
PHASE II/C	35x10	.33
<b>TOTAL</b>	<b>511 LOTS</b>	<b>100.39 AC.</b>

*KERRVILLE LOOP 534 TRACT  
KERRVILLE, TEXAS  
ACREAGE LAYOUT EXHIBIT*

Exhibit D



**Kerrville Loop 534 Tract**  
**OPINION OF PROBABLE COST**

**Collectors**

UNIT: NA DATE: August 10, 2021  
NO. OF LOTS: STATUS OF DESIGN: No Design  
SF ACREAGE: DENSITY:

**STREET & DRAINAGE IMPROVEMENTS**

Linear Feet 60' ROW Collectors = 6,158 Acres= 8.5

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
1. Clearing		Acre	8.5	\$2,000.00	\$16,964.19
2. Excavation		CY	15,965	\$3.00	\$47,895.56
3. Embankment in Street ROW		CY	5,322	\$3.50	\$18,626.05
4. Embankment on Site (including clearing)		CY	10,643	\$6.00	\$63,860.74
5. 6" Granular Base		SY	28,737	\$10.00	\$287,373.33
6. 6" HMAC Type B		SY	28,737	\$22.00	\$632,221.33
7. 2" HMAC Type D		SY	28,737	\$10.00	\$287,373.33
8. 6" Limetreated Subgrade		SY	28,737	\$11.00	\$316,110.67
9. Concrete Curb		LF	12,316	\$12.00	\$147,792.00
10. 5' Sidewalk each side of Road		SY	6,850	\$50.00	\$342,500.00
11. Signage		LS	1	\$15,000.00	\$15,000.00
12. Turf (Irrigated)		SF	80,000	\$1.60	\$128,000.00
13. Turf (Non-Irrigated)		SF	40,000	\$0.80	\$32,000.00
14. Streetscape Trees (every 200')		EA	62	\$350.00	\$21,700.00
15. Irrigation		EA	350	\$200.00	\$70,000.00
16. Streetlights (every 200')		EA	62	\$5,500.00	\$341,000.00
17. TPDES		LS	1	\$30,000.00	\$30,000.00
18. Channel Excavation		CY	5,000	\$4.00	\$20,000.00
19. Channel Embankment		CY	1,667	\$3.00	\$5,000.00
20. 3-5x4 BC (70LF each barrel)		LF	210	\$370.00	\$77,700.00
21. 1-4x4 BC		LF	70	\$345.00	\$24,150.00
22. 1-4x4 BC		LF	70	\$345.00	\$24,150.00
23. Headwall		CY	15	\$2,250.00	\$33,750.00
24. 6" Concrete Rip Rap		SY	60	\$110.00	\$6,600.00
25. Handrail		LF	80	\$100.00	\$8,000.00
26. 36" Storm Pipe		LF	4,600	\$170.00	\$782,000.00
27. 5x5 Junction Box		EA	12	\$10,000.00	\$120,000.00
28. 10' Curb inlets		EA	16	\$15,000.00	\$245,925.00
29. Baffle Blocks		LS	1	\$4,500.00	\$4,500.00

**TOTAL STREET & DRAINAGE IMPROVEMENTS:** **\$4,150,192.20**

**Exhibit D**

**WATER IMPROVEMENTS**

Linear Feet Collector= 6,158

ITEM NO.	DESCRIPTION	UNIT	QTY	UNIT PRICE	AMOUNT
1.	12" PVC Water pipe	LF	6158	\$72.00	\$443,376.00
2.	12" Gate Valve	EA	31	\$2,800.00	\$86,212.00
3.	Fire Hydrant	EA	15	\$4,500.00	\$69,277.50
4.	Fittings	TN	6.2	\$4,900.00	\$30,174.20
5.	1" Irrigation Service	EA	11	\$800.00	\$9,052.80
6.	Joint Restraints	LS	1	\$30,790.00	\$30,790.00
7.	Trench Protection	LF	6158	\$2.50	\$15,395.00

**TOTAL WATER IMPROVEMENTS:** **\$684,277.50**

**SEWER IMPROVEMENTS**

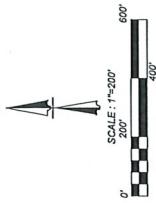
12" Linear Feet= 6158

ITEM NO.	DESCRIPTION	UNIT	QTY	PRICE	AMOUNT
1.	12" Sanitary Sewer	LF	6158	\$70.00	\$431,060.00
2.	Standard Manhole	EA	21	\$5,000.00	\$102,633.33
3.	Manhole Extra Depth	VF	62	\$425.00	\$26,171.50
4.	Manhole Ring Encasement	EA	21	\$800.00	\$16,421.33
5.	Manhole Coating with Sewer coat	EA	21	\$1,690.00	\$34,690.07
6.	Trench Protection	LF	6158	\$2.50	\$15,395.00
7.	TV Sewer Main	LF	6158	\$2.00	\$12,316.00

**Subtotal:** **\$638,687.23**

**TOTAL SEWER IMPROVEMENTS:** **\$638,687.23**

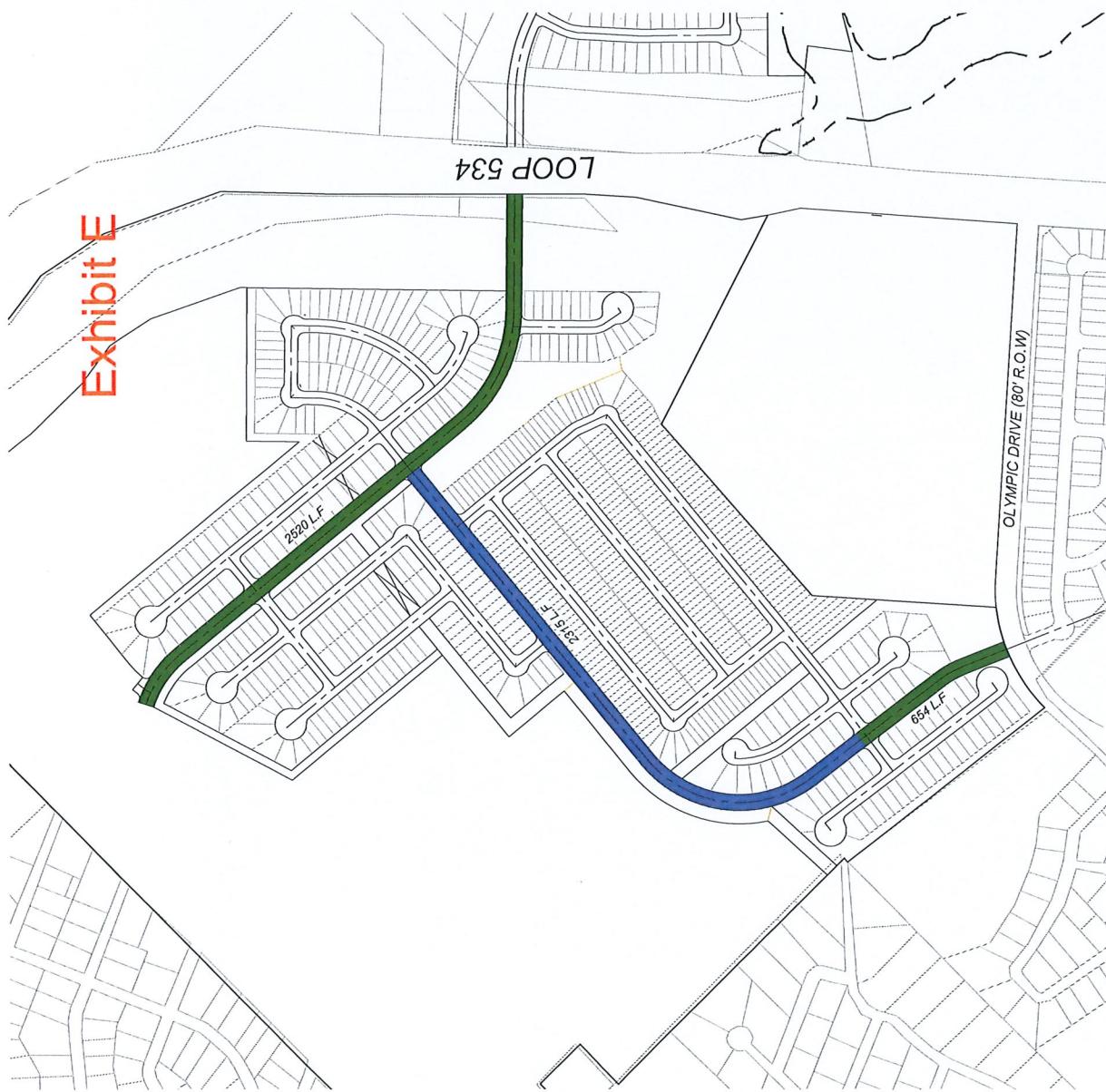
Total	\$5,473,156.93
3% Mobilization	\$164,194.71
10% Contingency	\$547,315.69
10% Eng. Cost	\$547,315.69
<b>TOTAL COST:</b>	<b>\$6,731,983.03</b>



## LEGEND:

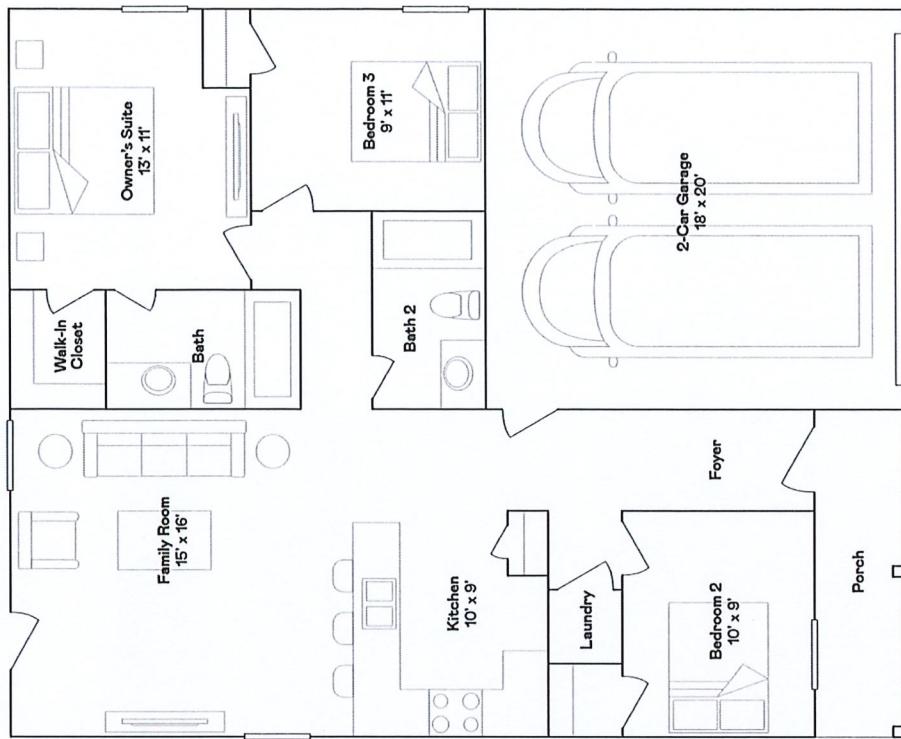
**COLLECTOR PHASE- I**  
(TOTAL LENGTH = 3174 L.F.)





**Malvern**  
Watermill collection

1,047 sq ft. - Plan 3403  
1-story  
3 beds - 2 baths - 2-car garage



**Malvern**  
Watermill collection

1,047 sq ft. - Plan 3403  
1-story  
3 beds - 2 baths - 2-car garage



Malvern A



Malvern B



Malvern C



Malvern D

**LENNAR**

Starts 05.30.22  
210-393-8095 | [Lennar.com](http://Lennar.com)

Features, amenities, floor plans, elevations, and designs vary and are subject to change or substitution without notice. Items shown are artist's renderings and may contain options that are not standard on all models or not included in the purchase price. Availability may vary. Sq. Ft. (above) dimensions are estimated; actual sq. ft. (decreased dimensions) is determined by a surveyor. This is not an offer or contract where prior registration is required. Void where prohibited by law. Copyright © 2022 Lennar Corporation. Lennar, the Lennar logo and all other Lennar trademarks, service marks and/or service marks of Lennar Corporation and/or its subsidiaries. 03/22.

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1,217 sq ft - Plan 3410  
1-story  
3 beds · 2 baths · 2-car garage

## Fullerton

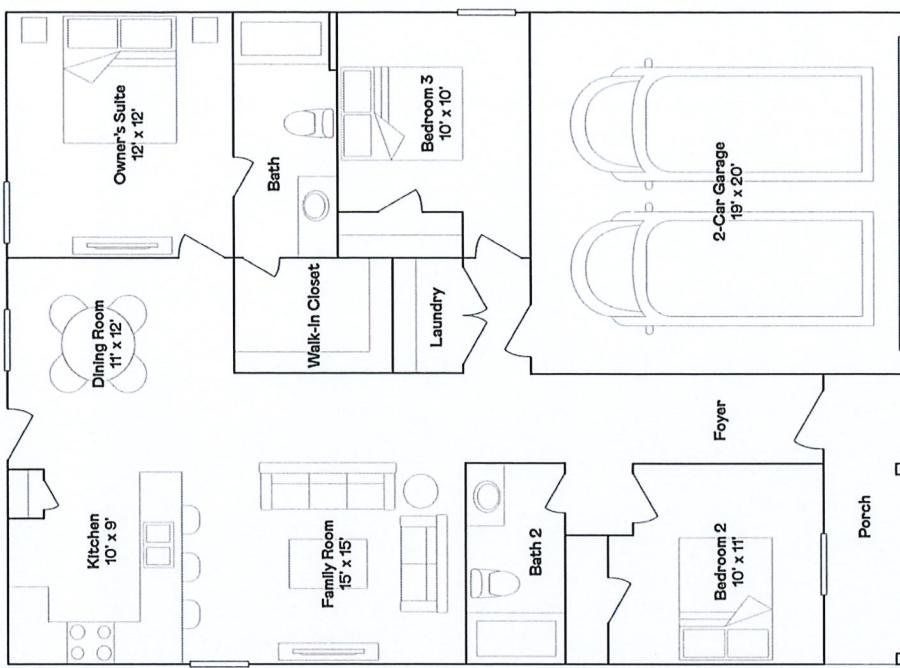
Waterville Collection

1,217 sq ft - Plan 3410  
1-story  
3 beds · 2 baths · 2-car garage

1,217 sq ft - Plan 3410  
1-story  
3 beds · 2 baths · 2-car garage

## Fullerton

Waterville Collection



Fullerton B



Fullerton A



Fullerton D



Fullerton C

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**Gannes**  
Watermill collection  
1,474 sq ft - Plan 3420  
1-story  
3 beds - 2 baths - 2 car garage

1,474 sq ft • Plan 3420  
1-story  
3 beds • 2 baths • 2 car g



Gaines A



Gaines B



Gannes D

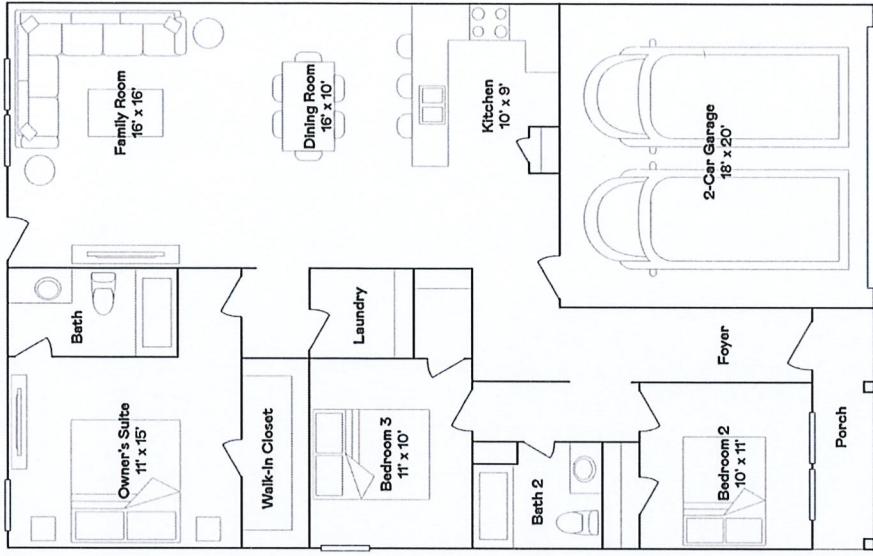


Gaines C

Gannes  
Watermill collect

Gannes  
Watermill collection

1,474 sq. ft. • Plan 3420  
1-story  
3 beds • 2 baths • 2 car garage



Starts 05.30.22  
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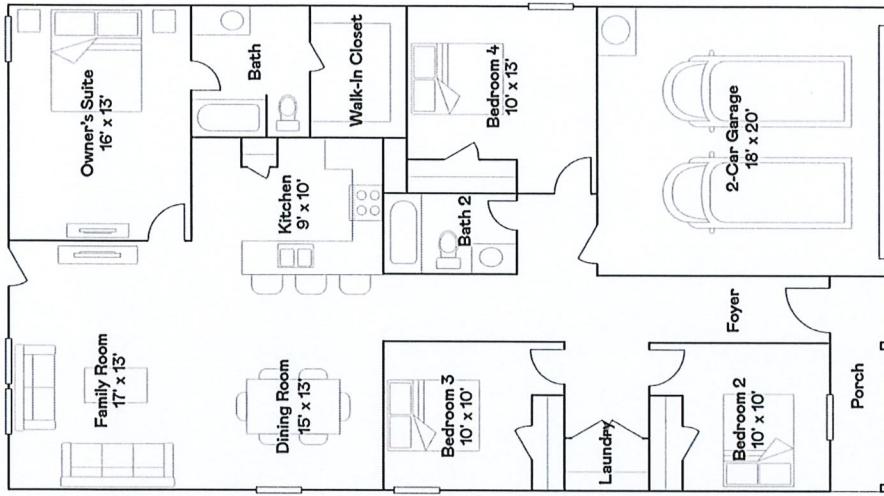
data on all models or not included in the purchase price. Availability may vary. Sq. Ft./acreage/dimensions are estimated; actual sq. ft./acreage/dimensions will differ. Garage/bay sizes may vary from home to home and may not accommodate all vehicles. This is not an offer in states where prior registration is required. Void where prohibited by law. Copyright © 2022 Lennar Corporation. Lennar, The Lennar

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**Nettleton**  
Watermill collection

1,667sq ft - Plan 3430  
1-story  
4 beds - 2 baths - 2 car garage



**Nettleton**  
Watermill collection

1,667sq ft - Plan 3430  
1-story  
4 beds - 2 baths - 2 car garage



Nettleton A



Nettleton B



Nettleton C



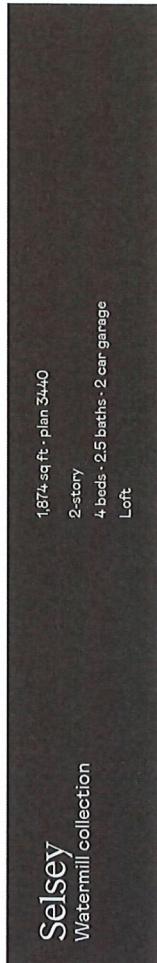
Nettleton D

Starts 05/30/22  
210-593-8095 | Lennar.com

210-593-8095 | Lennar.com

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Second Floor

First Floor

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Selsey A



Selsey B



Selsey C



Selsey D

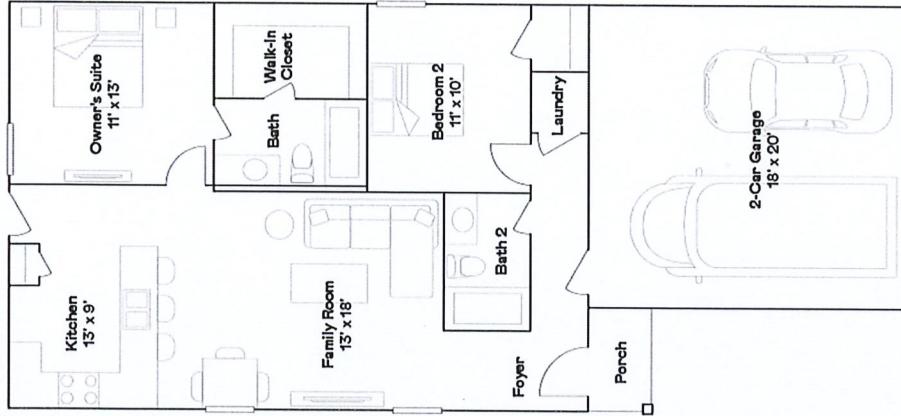
**LENNAR**

**LENNAR**

## Howell

Belmar Collection

925 Sq ft - Plan 24:00  
1 story  
2 beds - 2 baths - 2 car garage



Howell A



Howell B



Howell C



Howell D

925 Sq ft - Plan 24:00  
1 story  
2 beds - 2 baths - 2 car garage

**LENNAR**

Starts 02.28.22  
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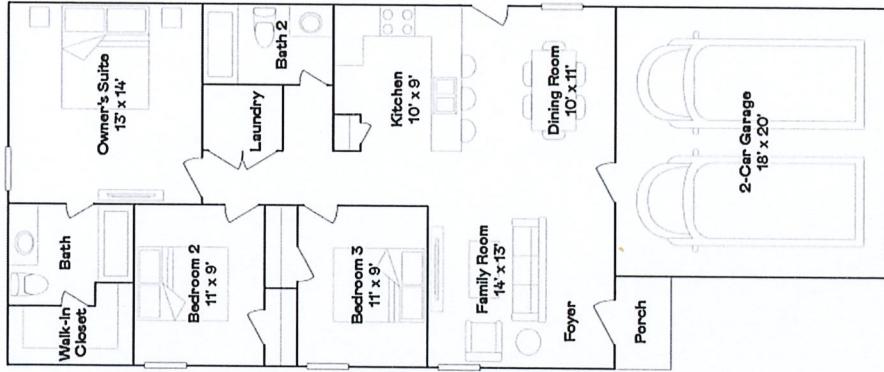


**LENNAR**

## Remsen

Belmar Collection

1,129 Sq ft. • Plan 2410  
1 story  
3 beds - 2 baths - 2 car garage



1,129 Sq ft. • Plan 2410  
1 story  
3 beds - 2 baths - 2 car garage



Remsen B



Remsen D



Remsen A



Remsen C

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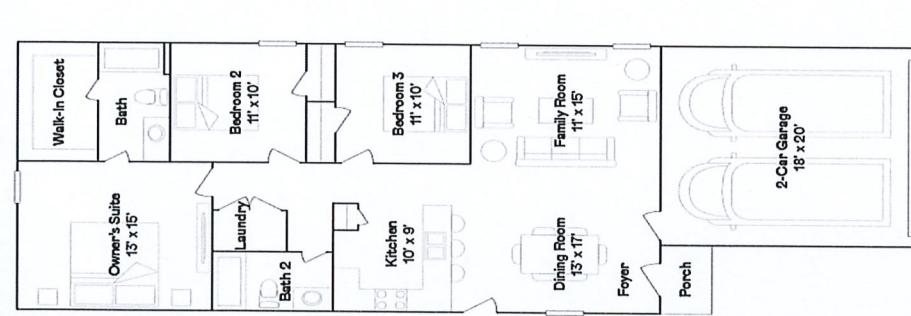
**LENNAR**



**LENNAR**

**Pitney**  
Belmar Collection

1,300 Sq ft · Plan 2420  
1 story  
3 beds · 2 baths · 2 car garage



**Pitney**  
Belmar Collection

1,300 Sq ft · Plan 2420  
1 story  
3 beds · 2 baths · 2 car garage



Pitney B



Pitney A



Pitney D



Pitney C

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**LENNAR**

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**Trenton**  
Belmar Collection

1,492 Sq. ft. - Plan 2430  
1 story  
4 beds - 2 baths - 2 car garage



Trenton A



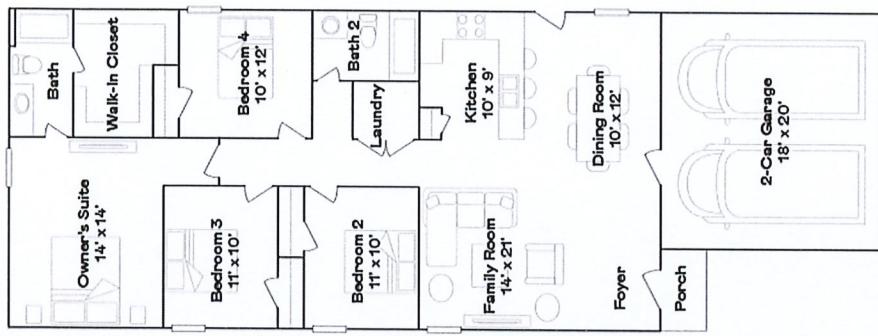
Trenton C



Trenton D

**Trenton**  
Belmar Collection

1,492 Sq. ft. - Plan 2430  
1 story  
4 beds - 2 baths - 2 car garage



Starts 02/28/22  
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**LENNAR**

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

---

**SUBJECT:** An Advance Funding Agreement (AFA) with the Texas Department of Transportation for a Transportation Alternatives Set-Aside (TASA) Project.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** October 13, 2023

**SUBMITTED BY:** Kyle Burow, Director Engineering

**EXHIBITS:**

---

<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$57,858.00	\$113,616.16	\$2,000,000.00	Project #70-19010

**PAYMENT TO BE MADE TO:** Texas Department of Transportation

---

**Kerrville 2050 Item?** Yes

**Key Priority Area** W - Water / Waste-Water / Drainage

**Guiding Principle** N/A

**Action Item** W7.3 - Explore a variety of options, including bond funding or city-wide drainage fees, to address drainage infrastructure concerns

---

**SUMMARY STATEMENT:**

In 2018, City Council contemplated the development of a citywide drainage master plan and additional topics including review of drainage design standards, FEMA Flood Maps, maintenance of urban ditches, flooded streets, streams, and waterways. City Council was also presented with the effect of using streets as the community's primary means of stormwater drainage, and the consequential effects on the street pavement condition. It was determined at the meeting that the City should develop a citywide stormwater drainage master plan to help address the top rated drainage issues around the community. In addition, during the Kerrville 2050 Comprehensive Planning process, the citizens of Kerrville requested the City take a more holistic approach to providing development guidance for stormwater management, as well as a means to better enforce the design criteria for the benefit of the overall community. The direction from the Kerrville 2050 plan was to create a master plan to both update current development/drainage standards for future community growth, as well as outline strategies to address existing problematic stormwater areas. Council directed staff to incorporate a program to address specific drainage projects already known by City staff and the community, as well as future project planning.

In January 2019, the City hired LNV Engineering to evaluate the drainage improvement needs for the 13 problem areas identified, with proposed solutions for each area. In June 2019, a draft of the stormwater master plan presented an initial prioritization of the 13

problematic drainage areas based off of weighted criteria, recommend changes to drainage facility construction standards and development codes, identify funding opportunities, and provide a road map for future implementation. In August 2019, City Council authorized the issuance of \$10.5 million in Certificates of Obligation for street and drainage improvements based on the two highest-ranking identified projects.

In 2014, the City hired Hewitt Engineering Inc. to perform a topographic survey and conduct a preliminary engineering analysis for drainage channel adjacent to the Take-It-Easy RV Park. The analysis included verification of contributing watershed, peak flow determination during various storm events, and evaluation of several solutions for future improvements. With this level of prior service and exploration regarding the identified project area, the City staff hired Hewitt Engineering Inc. to perform the necessary design and engineering services to develop construction bid documents for the Take-It-Easy RV channel and Lois Street drainage projects identified as priority projects ranked #1 and #2 in the Stormwater Master Plan. The project design was completed and placed for advertisement for the Take-It-Easy RV drainage channel design with the Lois Street drainage project on hold pending modifications to the existing culverts to be done by the Texas Department of Transportation (TxDOT). In 2022, the construction of the Take-It-Easy RV drainage project was completed by M&C Fonseca Construction Co., Inc. allowing for TxDOT to proceed with the design and construction of the SH 27 (Junction Highway) culvert modifications.

As part of the Junction Highway culvert modification project, TxDOT requires utility adjustments within the right-of-way (ROW) to be made by the utility providers prior to TxDOT letting of the project. To better serve the community, City and TxDOT staff elected to proceed with a joint-bid project to reduce the number of shut downs for lane and road closures, water service, etc. To perform a joint-bid project with TxDOT, the responsibilities are established through an Advanced Fund Agreement (AFA) in which TxDOT will solicit bids, award a construction contract, and provide project management. The City will be responsible for the funding, design, and inspection of the existing water main relocation in Junction Highway affected by the TxDOT culvert project. The design is near completion and is expected to advertise for bids in early 2024 pending all utility clearances. The City participation of funding for the project is \$57,858.00, plus 100% of overruns and non-reimbursables. Upon execution of the resolution, the City will comply with the TxDOT requirements for payment in conformance to TxDOT standards. Construction is anticipated to be complete near the end of 2024.

**RECOMMENDED ACTION:**

Authorize the City Manager and Mayor to finalize and execute any actions necessary to satisfy any TxDOT requirements.

**ATTACHMENTS:**

[20231024\\_Advance Funding Agreement\\_City of Kerrville \\_SAT Contract Packet.pdf](#)

CCSJ #0142-04-052  
RCSJ #0142-04-053  
AFA CSJ #0142-04-052  
Utility ID: U00010389  
District #15 AFA ID Z00008305  
Code Chart 64 #22150  
Project: SH 27 At Irene Creek

**STATE OF TEXAS §  
COUNTY OF TRAVIS §**

# ADVANCE FUNDING AGREEMENT FOR VOLUNTARY UTILITY RELOCATION CONTRIBUTIONS ON STATE HIGHWAY IMPROVEMENT PROJECTS

**THIS AGREEMENT** is made by and between the State of Texas, acting through the Texas Department of Transportation ("State") and City of Kerrville ("Utility"),

## WITNESSETH

**WHEREAS**, Transportation Code, Chapters 201, 221, and 361, authorize the State to lay out, construct, maintain, and operate a system of streets, roads and highways that comprise the State Highway System; and,

**WHEREAS**, Transportation Code, Chapter 203, Subchapter E, Transportation Code §203.092 authorizes the State to regulate the placement of public utility facilities along a state highway; and,

**WHEREAS**, Texas Transportation Commission Minute Order Numbers 116292 & 116073 authorizes the State to undertake and complete a highway improvement generally described as: Replace existing 8" water main on SH 27 at Irene Creek ("Project"); and,

**WHEREAS**, Utility possesses facilities that are affected by the above mentioned highway improvement and Utility, and the State agrees that it is more economical or efficient for such relocation to be effected by including said contract in the State's highway construction contract;

**NOW THEREFORE**, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them kept and performed as hereafter set forth, the State and Utility do agree as follows:

## AGREEMENT

## 1. Time Period Covered

This agreement becomes effective when signed by the last party whose signing makes the agreement fully executed, and the State and Utility will consider it to be in full force and effect until the Project described in this agreement has been completed and accepted by all parties or unless terminated, as provided.

## 2. Project Funding and Work Responsibilities

- A. The State will authorize the performance of only those Project items of work which are eligible for relocation reimbursements or for which Utility has requested and has agreed to pay for as described in Attachment A - Payment Provision and Work Responsibilities, which is attached to and made a part of this contract. In addition to identifying those items of work

CCSJ #0142-04-052 \_\_\_\_\_  
RCSJ #0142-04-053 \_\_\_\_\_  
AFA CSJ #0142-04-052 \_\_\_\_\_  
Utility ID: U00010389 \_\_\_\_\_  
District #15 AFA ID Z00008305 \_\_\_\_\_  
Code Chart 64 #22150 \_\_\_\_\_  
Project: SH 27 At Irene Creek \_\_\_\_\_

to be paid for by payments to the State, Attachment A - Payment Provision and Work Responsibilities, also specifies those Project items of work that are the responsibility of Utility and will be carried out and completed by Utility, at no cost to the State. The Utility shall be responsible for costs that are shown on Attachment B, Estimated Utility Costs, which is attached to and made a part of this agreement.

- B.** If the Utility will perform any work under this contract for which reimbursement will be provided by or through the State, the Utility must complete training before a letter of authority is issued. Training is complete when at least one individual who is working actively and directly on the Project successfully completes and receives a certificate for the course entitled *Local Government Project Procedures and Qualification for the Texas Department of Transportation*. The Utility shall provide the certificate of qualification to the State. The individual who receives the training certificate may be an employee of the Utility or an employee of a firm that has been contracted by the Utility to perform oversight of the Project. The State in its discretion may deny reimbursement if the Utility has not designated a qualified individual to oversee the Project.
- C.** Payment under this contract beyond the end of the current fiscal biennium is subject to availability of appropriated funds. If funds are not appropriated, this contract shall be terminated immediately with no liability to either party.

### **3. Termination**

- A.** This agreement may be terminated in the following manner:
  1. By mutual written agreement and consent of both parties;
  2. By either party upon the failure of the other party to fulfill the obligations set forth in this agreement; or
  3. By the State if it determines that the performance of the Project or utility work is not in the best interest of the State.
- B.** If the agreement is terminated in accordance with the above provisions, Utility will be responsible for the payment of Project costs incurred by the State on behalf of Utility up to the time of termination.

### **4. Right of Access**

If Utility is the owner of any part of the Project site, Utility shall permit the State or its authorized representative access to the site to perform any activities required to execute the work.

### **5. Adjustments Outside the Project Site**

Utility will provide for all necessary right of way and utility adjustments needed for performance of the work on sites not owned or to be acquired by the State.

### **6. Responsibilities of the Parties and Indemnity**

Utility acknowledges that it is not an agent, servant, employee of the State, nor is it engaged in a joint enterprise, and it is responsible for its own acts and deeds and for those of its agents or employees during the performance of the work on the Project. To the extent permitted by law,

CCSJ #0142-04-052  
RCSJ #0142-04-053  
AFA CSJ #0142-04-052  
Utility ID: U00010389  
District #15 AFA ID Z00008305  
Code Chart 64 #22150  
Project: SH 27 At Irene Creek

Utility agrees to indemnify and hold harmless the State, its agents and employees, from all suits, actions, or claims and from all liability and damages for any and all injuries or damages sustained by any person or property in consequence with the performance of design, construction, maintenance, or operation of the Utility facility. Such indemnity includes but is not limited to any claims or amounts arising or recovered under the "Worker's Compensation Law", the Texas Tort Claims Act, Chapter 101, Texas Civil Practice and Remedies Code; or any other applicable laws or regulations, all as time to time may be amended.

## **7. Sole Agreement**

In the event the terms of the agreement are in conflict with the provisions of any other existing agreements between Utility and the State, the latest agreement shall take precedence over the other agreements in matters related to the Project.

## **8. Successors and Assigns**

The State and Utility each binds itself, its successors, executors, assigns, and administrators to the other party to this agreement and to the successors, executors, assigns, and administrators of such other party in respect to all covenants of this agreement.

## **9. Amendments**

By mutual written consent of the parties, the scope of work and payment provisions of this agreement may be amended prior to its expiration.

## **10. Inspection and Conduct of Work**

Unless otherwise specifically stated in Attachment A - Payment Provision and Work Responsibilities, to this contract, the State will supervise and inspect all work performed hereunder and provide such engineering inspection and testing services as may be required to ensure that the Project is accomplished in accordance with the approved plans and specifications. All correspondence and instructions to the contractor performing the work will be the sole responsibility of the State. Unless otherwise specifically stated in Attachment A to this contract, all work will be performed in accordance with the Utility Accommodation Rules as set forth in 43 Texas Administrative Code §21.31 et. seq. adopted by the State and incorporated in this agreement by reference, or special specifications approved by the State.

## **11. Maintenance**

Upon completion of the Project, Utility will assume responsibility for the maintenance of the completed Utility facility unless otherwise specified in Attachment A to this agreement.

## **12. Notices**

All notices to either party by the other required under this agreement shall be delivered personally or sent by certified or U.S. mail, postage prepaid, addressed to such party at the following addresses:

CCSJ #0142-04-052  
RCSJ #0142-04-053  
AFA CSJ #0142-04-052  
Utility ID: U00010389  
District #15 AFA ID Z00008305  
Code Chart 64 #22150  
Project: SH 27 At Irene Creek

Utility:	State:
City Manager City of Kerrville 701 Main Street Kerrville, TX 78028	Director of Contract Services Texas Department of Transportation 125 E. 11 <sup>th</sup> Street Austin, Texas 78701

All notices shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided in this agreement. Either party may change the above address by sending written notice of the change to the other party. Either party may request in writing that such notices shall be delivered personally or by certified U.S. mail and such request shall be honored and carried out by the other party.

### **13. State Auditor**

The state auditor may conduct an audit or investigation of any entity receiving funds from the State directly under this contract or indirectly through a subcontract under this contract. Acceptance of funds directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. An entity that is the subject of an audit or investigation must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

### **14. Signatory Warranty**

Each signatory warrants that the signatory has necessary authority to execute this agreement on behalf of the entity represented.

### **15. Access to Information**

The Utility is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.

CCSJ #0142-04-052  
RCSJ #0142-04-053  
AFA CSJ #0142-04-052  
Utility ID: U00010389  
District #15 AFA ID Z00008305  
Code Chart 64 #22150  
Project: SH 27 At Irene Creek

Each party is signing this agreement on the date stated under that party's signature.

**THE UTILITY**

---

Dalton Rice  
City Manager

---

Date

**THE STATE OF TEXAS**

---

Gina Gallegos  
District Engineer

---

Date

CCSJ #0142-04-052 \_\_\_\_\_  
RCSJ #0142-04-053 \_\_\_\_\_  
AFA CSJ #0142-04-052 \_\_\_\_\_  
Utility ID: U00010389 \_\_\_\_\_  
District #15 \_\_\_\_\_ AFA ID Z00008305 \_\_\_\_\_  
Code Chart 64 #22150 \_\_\_\_\_  
Project: SH 27 At Irene Creek \_\_\_\_\_

## **ATTACHMENT A** **PAYMENT PROVISION AND WORK RESPONSIBILITIES**

### **1. Description of the Work Items**

The parties agree that the existing 8"Water Main Pipe (PVC) shall be relocated and adjustments shall be made along SH 27 at Irene Creek. 8"Water Main Pipe (PVC) facilities shall be owned, operated, and maintained by Utility from and after completion and final acceptance by the State and Utility. The estimated total construction cost for the relocated and adjusted facilities is \$57,858.00. The parties agree that it is their intent to complete the relocation improvements within this estimate of cost.

### **2. Actual Cost Agreement**

Utility will be responsible for paying all costs associated with the planning, specification, and estimate (PS&E) development, and construction of the proposed utility work to the extent such is not reimbursed pursuant to state law. All the costs associated with construction of the 8"Water Main Pipe (PVC) items for the Project shall be provided as defined under the Standard Utility Agreement, Utility Joint Use Agreement, and/or the Agreement to Contribute Funds executed between the State and Utility.

### **3. Schedule of Payments**

- A.** At least forty-five (45) days prior to the date set for receipt of the construction bids, the Utility shall remit its remaining financial share for the State's estimated construction oversight and construction costs. Utility must advance to the State one hundred percent (100%) of its share of the estimated Project utility construction costs. The amount to be advanced for the utility improvements is estimated to be \$ 57,858.00. (See Attachment B – Estimated Utility Costs)
- B.** In the event the State determines that additional funding is required by the Utility at any time during the Project, the State will notify the Utility in writing. The Utility is responsible for one hundred percent (100%) of the authorized project cost and any overruns. The Utility will make payment to the State within thirty (30) days from receipt of the State's written notification.
- C.** Whenever funds are paid by the Utility to the State under this agreement, the Utility will remit a warrant made payable to the "Texas Department of Transportation." The warrant will be deposited by the State and managed by the State. Until the final Project accounting, funds may only be applied by the State to the Project.
- D.** Upon completion of the Project, the State will perform an audit of the Project costs. Any funds due by the Utility, the State, or the Federal Government will be promptly paid by the owing party.

#### **A. Work Responsibilities The Utility shall provide the following services under this contract:**

- i.** Responsible for engaging the services of a Texas Registered Professional Engineer to prepare drawings and technical specifications for waterline relocations and adjustments along SH 27 at Irene Creek

- ii. Provide the plans and specifications to the State to include in the current planning specifications and estimate package being prepared by representatives of the Texas Department of Transportation's San Antonio District North Bexar Area Office.
  - iii. Secure all necessary permitting as may be required for the installation of the 8"Water Main Pipe (PVC) line.
  - iv. Arrange and coordinate with the contractor, through the State, materials and equipment testing, rejection of all work not conforming to minimum requirements of the construction contract documents, maintenance of the proposed 8"Water Main Pipe (PVC) during construction, and the relocation of 8"Water Main Pipe and connection of services to customers.
  - v. Advise the State of work that Utility determines should be corrected or rejected.
  - vi. Arrange, observe, and inspect all acceptance testing and notify the State of the results of these activities.
  - vii. Provide inspection services for the construction, notify the State of defects and deficiencies in the work, and observe actions of the contractor to correct such defects and deficiencies.
  - viii. Assume all responsibility for the maintenance of the existing 8"Water Main Pipe (PVC) during and upon completion of the construction contract.
  - ix. Ensure all Texas Commission on Environmental Quality and all other regulatory rules, regulations and laws are strictly adhered to.
  - x. Prepare and submit both a certificate of substantial completion and a list of observed items requiring completion or correction for the relocations and adjustments to the Project Engineer for concurrence.
  - xi. Coordinate all construction activities performed by Utility's staff for the relocations and adjustments through the Project Engineer.
- B.** The **State** shall provide the following services under this contract:
- i. Combine the 8"Water Main Pipe relocation and adjustment plans with the plans being prepared for the Project.
  - ii. Review and approve the final construction plans prior to any construction-related activities. In order to ensure federal and/or state funding eligibility, projects must be authorized by the State prior to advertising for construction.
  - iii. Advertise for construction bids, issue bid proposals, receive and tabulate the bids, and award and administer the contract for construction of the Project.
  - iv. Negotiate and administer all field changes and change orders required for the Project. All change orders increasing construction costs for Utility's Project shall be submitted to Utility for review and approval together with an evaluation. Utility agrees to review and either approve or disapprove all change orders within five (5) business days after receipt of such order unless Utility Board's approval is necessary in which case Utility shall bring the item to Utility Board as soon as reasonably possible.
  - v. Provide overall project management to supervise the day-to-day activities of the construction and monitor the activities of the contractor to promote the timely and

CCSJ #0142-04-052 \_\_\_\_\_  
RCSJ #0142-04-053 \_\_\_\_\_  
AFA CSJ #0142-04-052 \_\_\_\_\_  
Utility ID: U00010389 \_\_\_\_\_  
District #15 \_\_\_\_\_ AFA ID Z00008305 \_\_\_\_\_  
Code Chart 64 #22150 \_\_\_\_\_  
Project: SH 27 At Irene Creek \_\_\_\_\_

efficient completion of the Project in accordance with the approved Plans and Specifications and construction schedule.

- vi. Conduct field observations and coordinate with Utility's inspectors and the contractor to cure defects and deficiencies in the construction prior to final acceptance.
- vii. Make timely payment to the contractor for work performed in connection with the Project.
- viii. Ensure access and permit Utility's inspectors and other authorized representatives to inspect the waterline construction at all times.
- ix. Conduct and coordinate final inspection of the Project in the presence of Utility's Engineer and Inspector, transmit final list of items to be completed or repaired and observe contractor correction of same.
- x. Maintain job file.

CCSJ #0142-04-052 \_\_\_\_\_  
RCSJ #0142-04-053 \_\_\_\_\_  
AFA CSJ #0142-04-052 \_\_\_\_\_  
Utility ID: U00010389 \_\_\_\_\_  
District #15 \_\_\_\_\_ AFA ID Z00008305 \_\_\_\_\_  
Code Chart 64 #22150 \_\_\_\_\_  
Project: SH 27 At Irene Creek \_\_\_\_\_

## ATTACHMENT B ESTIMATED UTILITY COSTS

Based on various calculations, following are those amounts due and payable for Utility's costs associated with this project.

Total Estimated Costs

\$ 57,858.00

Less Betterment Amount Due from Utility

\$ 0

**Amount of total utility relocation Costs**

\$ 57,858.00

Estimated Amount Eligible for Reimbursement

(Calculated eligibility Ratio – 0 %)

\$

Amount of Utility Adjustment Due from Utility

\$ 57,858.00

### Estimated amount to be included in Construction Agreement

A. Betterment \$ 0

B. Utility Adjustment \$ 57,858.00

**GRAND TOTAL** **\$ 57,858.00**

### Betterment Ratio Calculation

Estimated Betterment Costs

1. ...  
2. ...

Betterment Calculation:

<b>Total Costs of Betterment</b>	<b>(Estimated)</b>	-	<b>\$ 0</b>
<b>Total Costs of Project (Estimated)</b>		-	<u><b>\$ 57,858.00</b></u>

CCSJ #0142-04-052 \_\_\_\_\_  
RCSJ #0142-04-053 \_\_\_\_\_  
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Code Chart 64 #22150 \_\_\_\_\_  
Project: SH 27 At Irene Creek \_\_\_\_\_

**Betterment Percentage for final cost determination: .\_\_0\_\_ % of final cost of relocation**  
**Determination of Betterment – Comparison of estimated cost to replace “as is”**  
**versus estimated costs associated with the betterment.**

Item A:

Item B:



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

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**SUBJECT:** Annular Solar Eclipse recap.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** September 29, 2023

**SUBMITTED BY:** Eric Maloney, Fire Chief

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Review the Emergency Management response for the October 14, 2023 Annular Eclipse.

**RECOMMENDED ACTION:**

Emergency Management response recap for the Annular Solar Eclipse.



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

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**SUBJECT:** Financial update for month-ended September 30, 2023.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** October 24, 2023

**SUBMITTED BY:** Julie Behrens, Director of Finance

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Financial update for month-ended September 30, 2023.

**RECOMMENDED ACTION:**

NA



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

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**SUBJECT:** Ad Hoc Animal Regulations Review Committee member.

**AGENDA DATE OF:** October 24, 2023      **DATE SUBMITTED:** October 17, 2023

**SUBMITTED BY:** Shelley McElhannon, City Secretary

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Due to unforeseen circumstances, an original member of the Ad Hoc committee is unable to commit to membership, so another member will need to be appointed for the comprehensive review of Chapter 18 to consider issues and report findings, conclusions, and proposals to Council.

**RECOMMENDED ACTION:**

Appoint member.