

AGENDA FOR THE KERRVILLE CITY COUNCIL MEETING

TUESDAY, MARCH 26, 2024, 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

MARCH 26, 2024 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). 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 Mayor Eychner*

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

2. PRESENTATIONS:

2.A Kerrville Kindness Award: Corbyn Loftin nature bags for Kerr Citizen and Visitors Bureau.

2.B Proclamation recognizing 35 years of service by Habitat for Humanity Kerr County.

2.C Proclamation recognizing March 2024 as Texas History Month in Kerrville, Texas.

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

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

4.A Professional Services Agreement with Freese and Nichols, Inc. for Travis Street Booster Pump Station Expansion and Surface Water Treatment Plant Filter Replacement.
Attachment: 20240326_PSA FNI - Travis St Booster Station.pdf

4.B Change order decreasing the total contract price with D&D Contractors, Inc. due to decreased work for the Westminster Street Reconstruction Project.
Attachment: 20240326_Change Order_Westminster Reconstruction Deduct Closeout.pdf

4.C Authorization to negotiate a Professional Services Agreement for the Comprehensive Plan Update.

4.D City Council workshop minutes March 12, 2024.
Attachment: 20240326_Minutes CC workshop 3-12-24.pdf

4.E City Council meeting minutes March 12, 2024.
Attachment: 20240326_Minutes CC meeting 3-12-24.pdf

END OF CONSENT AGENDA.

5. ORDINANCE(S), SECOND READING:

5.A Ordinance No. 2024-03, second reading. An Ordinance amending the City's Code of Ordinances by repealing Chapter 78 "Peddlers and Solicitors" in its entirety and replacing it with a new Article VI "Solicitations" within Chapter 30 "Businesses" of the City's Code of Ordinances; this new Article adopts revised regulations concerning peddlers, solicitors, and canvassers as those terms are defined; providing for penalties not to exceed \$500.00; ordering publication; providing an effective date; and providing other matters related to the subject.

Attachment: 20240326_Ord 2024-03 Door-to-Door peddlers-solicitors 2nd reading.pdf

6. ORDINANCE(S), FIRST READING:

6.A Ordinance No. 2024-07. An Ordinance amending the City of Kerrville fee schedule by adopting a revised fee to be charged for each solicitation permit.

Attachment: 20240326_Ord 2024-07 Solicitation Permit fee.pdf

7. PUBLIC HEARING AND ORDINANCES, FIRST READING:

7.A Ordinance No. 2024-06. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map in accordance with the City's Comprehensive Plan, such Chapter more commonly known as the City's Zoning Code; by changing the zoning and classification of the property consisting of an approximate 86.71 acre tract out of the W.T. Crook Survey No. 71, Abstract No. 114, Kerr County, Texas, and more commonly known as 300 Peterson Farm Rd; from being a Planned Development District established by Ordinance No. 2010-03, to an Industrial and Manufacturing Zoning District (IM); providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

Attachment: 20240326_Ord 2024-06 Zone change Megaacrete.pdf

8. CONSIDERATION AND POSSIBLE ACTION:

8.A Request for "major waiver" of requirements of Subdivision Code for property located adjacent to 3200 Oak Hollow, Kerrville, TX 78028, and consisting of a 0.32 acre tract.

Attachment: 20240326_Major Waiver_for LammersStreet lot.pdf

8.B Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas; for improvements made to the City's Scott Schreiner Golf Course.

Attachment: 20240326_EIC Funding Agreement - Schreiner Golf Course.pdf

8.C Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas; for improvements made to the City's Olympic Pool.

Attachment: 20240326_EIC Funding Agreement - Olympic Pool.pdf

8.D Public Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; for improvements made to the City's Cailloux Theater.

Attachment: 20240326_EIC Funding Agreement - Cailloux Theater.pdf

8.E General Contract between the City of Kerrville, Texas and Christopher Sharp for remodel of the Golf Course Maintenance Building.

Attachment: 20240326_Contract Christopher Sharp Golf Maint Bldg.pdf

8.F Professional Services Agreement between the City of Kerrville, Texas, and Hewitt Engineering, Inc. for renovation of Golf Course Bridges.

Attachment: 20240326_PSA Hewitt Eng - reno golf course bridges.pdf

9. INFORMATION & DISCUSSION:

9.A Update on Solar Eclipse planning.

9.B Monthly Financial Report for month-ended 1-31-2024.
Attachment: [20260326_Financial report.pdf](#)

10. BOARD APPOINTMENTS:

10.A Appointment(s) to the Parks & Recreation Advisory Board.

10.B Appointment(s) to the Main Street Advisory Board.

10.C Appointment(s) to the Senior Services Advisory Committee.

10.D Appointment(s) to the Zoning Board of Adjustment (ZBA).

11. 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.*

12. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY.

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

ADJOURN.



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

SUBJECT: Kerrville Kindness Award: Corbyn Loftin nature bags for Kerr Citizen and Visitors Bureau.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Mayor Judy Eychner

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

The City of Kerrville recognizes and honors individuals or entities for acts of kindness.

RECOMMENDED ACTION:

Present award.



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

SUBJECT: Proclamation recognizing 35 years of service by Habitat for Humanity Kerr County.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 26, 2024

SUBMITTED BY: Mayor Judy Eychner

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

RECOMMENDED ACTION:

Present proclamation.



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

SUBJECT: Proclamation recognizing March 2024 as Texas History Month in Kerrville, Texas.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 15, 2024

SUBMITTED BY: Mayor Judy Eychner

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

The City of Kerrville recognizes March 2024 as Texas History month.

RECOMMENDED ACTION:

Present proclamation.



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

SUBJECT: Professional Services Agreement with Freese and Nichols, Inc. for Travis Street Booster Pump Station Expansion and Surface Water Treatment Plant Filter Replacement.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 6, 2024

SUBMITTED BY: David Barrera, Assistant Director of Public Works

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$123,000	\$340,000	\$340,000	Account #71-7100-5500, Project #71-22002

PAYMENT TO BE MADE TO: Freese and Nichols

Kerrville 2050 Item? Yes

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

Guiding Principle N/A

Action Item W9.3 - Maximize the use of surface water in the city and surrounding areas to help maintain groundwater levels

SUMMARY STATEMENT:

This contract is to expand the existing Travis Street Booster station to accommodate a capacity increase from 250 gallons per minute (gpm) to approximately 600 gpm, and to replace the existing filter backwash system located at the Surface Water Plant. The added capacity Travis Street Booster station will supply potable water to numerous developments along the Loop 534 corridor.

RECOMMENDED ACTION:

Award contract.

ATTACHMENTS:

[20240326_PSA FNI - Travis St Booster Station.pdf](#)

PROFESSIONAL SERVICES AGREEMENT
[FIRM: Freese and Nichols, Inc. PROJECT-SERVICES: Travis Street
Booster Pump Station Expansion and Surface Water Treatment Plant
Filter Replacement]

THIS AGREEMENT is entered into the _____ day of _____, 2024 ("Effective Date"), by and between the **CITY OF KERRVILLE, TEXAS** ("CITY") and **FREESE AND NICHOLS, INC.** ("CONSULTANT"), and at times, collectively referred to herein as "parties."

WHEREAS, CITY hires CONSULTANT to perform certain work and services set forth in Scope of Services, marked **Exhibit A**, and attached hereto and incorporated herein; and

WHEREAS, CONSULTANT agrees to perform said work and services as specified under Article I of this Agreement;

NOW, THEREFORE, the parties agree as follows:

I. CONSULTANT'S SERVICES

CONSULTANT shall perform and pay for all labor, tools, materials, equipment, supplies, transportation, and management necessary to perform all services set forth in **Exhibit A** and all other professional services reasonably inferable from **Exhibit A** and necessary for complete performance of CONSULTANT's obligations under this Agreement, collectively referred to herein as "Services." CITY may, at any time, stop CONSULTANT from performing the Services upon giving CONSULTANT written notice. To the extent of any conflict between the terms of this Agreement and **Exhibit A**, the terms of this Agreement will prevail. CONSULTANT shall diligently pursue completion of its Services, provide CITY with periodic updates as to its review of each assignment, and promptly inform CITY of any anticipated delay.

II. CONSULTANT'S RESPONSIBILITIES

A. CONSULTANT, upon its review of a general description of the work requested by CITY, has prepared and provided to CITY the specific Services required, which is attached as **Exhibit A**.

B. CONSULTANT shall use its best efforts, skill, judgment, and abilities in performing the Services in an expeditious and timely manner consistent with the applicable professional standards of care and the orderly progress of the Services. CONSULTANT shall at all times provide sufficient personnel to accomplish the Services in a timely manner. CONSULTANT shall manage the Services and

coordinate other professional services as necessary for the complete performance of CONSULTANT's obligations under this Agreement. CONSULTANT shall periodically report the status of the Services to CITY as is appropriate to keep CITY informed as to the status of the work.

C. CONSULTANT shall perform the Services in compliance with all applicable federal, state, and municipal laws and any other entity having jurisdiction over the Services. In addition, CONSULTANT shall perform the Services in a manner consistent with generally accepted standards for its profession.

D. Plans, drawings, specifications, and/or other reports produced by CONSULTANT (collectively referred to herein as "Design Documents") pursuant to the Services must be reasonably accurate and free from material errors or omissions. CONSULTANT shall promptly correct any known or discovered error, omission, or other defect in the Design Documents without any additional cost or expense to CITY and notify CITY of same.

E. CONSULTANT shall designate a representative primarily responsible for its performance of the Services. The designated representative shall act on behalf of CONSULTANT with respect to all phases of the Services and shall be available as required for the benefit of the CITY. CONSULTANT shall not change the designated representative without prior written approval of CITY, which approval may not be unreasonably withheld.

III. CITY'S RESPONSIBILITIES

A. CITY has provided CONSULTANT with a description of the Services.

B. CITY shall furnish surveys, geotechnical reports, or other special investigations or tests, including structural, mechanical, and chemical, if CITY possesses any, as requested by the CONSULTANT and as reasonably necessary for the completion of the Services.

C. CITY shall review the Design Documents and shall notify CONSULTANT of any design fault or defect in the Services or Design Documents of which CITY becomes aware.

D. CITY shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Services.

E. CITY designates Stuart Barron, Executive Director for Public Works and Engineering, who may be reached at (830) 258-1230, as its representative authorized to act on its behalf with respect to the Services. CITY may, upon notice to CONSULTANT, change such designation at any time.

IV. PAYMENT

CITY shall compensate CONSULTANT for the Services in the amount and manner described and set forth in the Fee Breakdown, attached hereto and incorporated herein as **Exhibit A**. The amount of payment shall not exceed the rates specified in that breakdown unless additional services are requested by CITY.

V. AGREEMENT TERM

This Agreement shall begin on the Effective Date and end on October 31, 2024, unless terminated earlier in accordance with VII, below.

VI. DOCUMENTS

- A. CONSULTANT shall submit all Design Documents to CITY for approval. All Design Documents must be professionally sealed as required by law or by CITY.
- B. CONSULTANT shall deliver the Design Documents, together with any necessary supporting documents, to CITY, and CITY has unlimited rights, for the benefit of CITY, in all Design Documents, including the right to use same on any other work of CITY without additional cost to CITY. If CITY uses the Design Documents on any work of CITY other than that specified in the Services, then under those circumstances and only to the extent allowed by law, CONSULTANT, its officers, agents, servants, and employees will not be liable for damages or claims arising from any inaccuracy or any use of the Design Documents with respect to such other work, except where CONSULTANT participates in such other work.
- C. CONSULTANT grants CITY a royalty-free, perpetual license and right, to survive the termination of this Agreement, to all Design Documents that CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws. This license includes CITY's right to use and reproduce these documents as necessary. Further, CONSULTANT acknowledges that CITY is subject to Chapter 552 of the Government Code, commonly known as the "Texas Public Information Act," and hereby waives and releases the CITY from any claims against CITY for providing copies of the Design Documents in compliance with that Act. CONSULTANT shall immediately furnish originals of all Design Documents to CITY.
- D. CONSULTANT shall ensure that all text documents supplied to CITY as provided herein are fully compatible with MS Word and that all drawings are fully compatible with Adobe PDF format.

VII. TERMINATION

A. CITY or CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the other party. In the event suspension or termination is without cause, CITY's payment to CONSULTANT, in accordance with this Agreement, will be made on the basis of the Services reasonably determined by CITY to be satisfactorily performed as of the date of suspension or termination. In addition, CITY's payment is subject to the CONSULTANT's delivery of all documents and reports reasonably required by CITY, to include Design Documents, invoices, statements, and accounts.

B. Should CITY require a modification to this Agreement, and in the event CITY and CONSULTANT fail to agree upon such modification, either CITY or CONSULTANT have the option of terminating this Agreement. Thereafter, CITY shall pay CONSULTANT in accordance with this Agreement for the Services mutually agreed upon by CITY and CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

C. This Agreement is subject to the CITY's appropriation of funds within the budget year for which they are paid. Any payment made by CITY to CONSULTANT must be made solely from the annual budgeting and appropriations of CITY. In the event that CITY does not appropriate funds in any fiscal year, CITY will thereafter have the right to terminate this Agreement, to be effective at the end of CITY's then existing fiscal year (September 30). CITY shall provide notice of its decision on or before August 1 of any year.

VIII. INSURANCE

CONSULTANT shall provide and maintain in full force and effect during the term of this Agreement the following types of insurance and liability coverage:

A. Workers Compensation Insurance: in an amount meeting statutory requirements of the State of Texas on all CONSULTANT's employees carrying out the Services.

B. Automobile Liability Insurance: with either a combined limit of at least \$1,000,000 per occurrence for bodily injury and property damage or split limits of at least \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage must include all owned, hired, and non-owned motor vehicles used in the performance of this Agreement by CONSULTANT or its employees.

C. General Liability Insurance: on a per occurrence basis with limits of liability not less than \$1,000,000 for each occurrence and for fire damage and for Bodily Injury and Property Damage, no less than \$1,000,000. At a minimum, coverage for

Premises, Operations, Products, and Completed Operations shall be \$2,000,000. This coverage must protect the public or any person from injury or property damages sustained by reason of CONSULTANT or its employees providing the Services. The general aggregate must be no less than \$2,000,000.

D. Professional Liability Errors and Omissions Insurance: with limits of liability not less than \$1,000,000 per occurrence covering all work performed by CONSULTANT, its employees, subcontractors, or independent contractors. If this coverage may only be obtained on a "claims made" basis, coverage must remain in effect for at least two years after final payment with CONSULTANT continuing to furnish the CITY insurance policies and applicable endorsements.

E. Subcontractor: in the case of any work sublet, CONSULTANT shall require subcontractor and independent contractors working under the direction of either CONSULTANT or a subcontractor to carry and maintain the same workers compensation and liability insurance required of CONSULTANT.

F. Qualifying Insurance: the insurance required by this Agreement must be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B" or better by the A.M. Best Companies. Except as addressed above, all policies must be written on a "per occurrence basis" and not a "claims made" form.

IX. INDEMNIFICATION FOR INJURY AND PERFORMANCE

A. CONSULTANT shall protect, indemnify, and hold harmless CITY, its officers, agents, servants, and employees, hereinafter individually and collectively referred to as "Indemnitee(s)," from and against suits, actions, claims, losses, liability, or damage of any character and from and against costs and expenses, including, in part, attorney fees incidental to the defense of such suits, actions, claims, losses, damages, or liability on account of injury, disease, sickness, including death, to any person or damage to property including, in part, the loss of use resulting therefrom, arising from any negligent act, error, or omission of CONSULTANT, its officers, employees, servants, agents, or subcontractors, or anyone else under CONSULTANT's direction and control, and arising out of, resulting from, or caused by the performance or failure of performance of the Services, or from conditions created by the performance or non-performance of said work. In the event one or more of the Indemnitees is determined by a court of law to be jointly or derivatively negligent or liable for such damage or injury, CONSULTANT shall indemnify Indemnitee(s) as provided herein on a proportionate basis in accordance with the final judgment, after all appeals are exhausted, determining such joint or derivative negligence or liability.

B. CONSULTANT is not responsible for the actions of the CITY's contractor to perform the construction of the improvements covered under this Agreement.

C. Acceptance and approval of any work or final plans by CITY neither constitutes nor may be deemed a release of the responsibility and liability of CONSULTANT, its employees, associates, agents, and consultants for the accuracy or competency of their designs, working drawings, and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by CITY for any defect in the Design Documents, or CONSULTANT's employees, contractor, agents, and consultants.

X. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION

CONSULTANT agrees that it is an independent contractor and not an agent of CITY and that CONSULTANT is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONSULTANT's employees as employees of CITY for the purpose of keeping records or making reports or payments of Unemployment Compensation taxes or contributions. **CONSULTANT shall indemnify and hold CITY harmless and reimburse it for any expenses or liability incurred under said statutes in connection with employees of CONSULTANT.**

XI. INDEMNIFICATION FOR PERFORMANCE

CONSULTANT shall defend and indemnify Indemnitees against and hold CITY and the premises harmless from any and all claims, suits, or liens based upon or alleged to be based upon the non-payment of labor, tools, materials, equipment, supplies, transportation, and management costs incurred by CONSULTANT in performing the Services.

XII. DEFAULT OF CONSULTANT

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with this Agreement as to the quality or character of the Services or time of performance, and the failure is not corrected within ten (10) days after written notice from CITY to CONSULTANT, CITY may, at its sole discretion, without prejudice to any other right or remedy:

A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed will equal actual costs, including reasonable salaries and travel expenses of CONSULTANT to and from meetings called by CITY at which CONSULTANT is required to attend, but shall not include any loss of profit of CONSULTANT. In the

event of such termination, CITY may complete the services in any manner deemed proper by CITY, either by the use of its own forces or by assigning the work to others. In either event, CONSULTANT is liable for all costs in excess of the total contract price under this Agreement incurred to complete the Services, and CITY may deduct the costs CITY incurs out of such monies as may be due or that may thereafter become due to CONSULTANT under this Agreement.

B. CITY may, without terminating this Agreement or taking over the Services, furnish the necessary materials, equipment, supplies, and/or help necessary to remedy the situation, at the expense of CONSULTANT.

XIII. MISCELLANEOUS PROVISIONS

A. Entire Agreement. This Agreement supersedes all prior agreements, written or oral, between CITY and CONSULTANT and constitutes the entire and integrated Agreement and understanding between the parties with respect to the subject matter of the Agreement. This Agreement may only be amended by a written instrument signed by both parties.

B. Assignment. This Agreement is a personal service contract for the services of CONSULTANT, and CONSULTANT's interest in this Agreement, duties hereunder, and/or fees due may not be assigned or delegated to a third party without the written consent of CITY. Sale of more than fifty percent (50%) ownership of CONSULTANT will be considered an assignment.

C. Adjustment in Services. CONSULTANT shall not make any claims for extra services, additional services, or changes in the Services without a written agreement with CITY prior to the performance of such services.

D. Applicable Law. This Agreement must be construed, interpreted, and applied in accordance with and governed by and enforced under the laws of the State of Texas without giving effect to principles of conflict of law. Venue will occur in Kerr County, Texas.

E. Waiver. A delay or omission by either party in exercising any right or power under the Agreement may not be construed as a waiver of that right or power. A waiver by either party of any term or condition of the Agreement may not be construed as a waiver of any subsequent breach of that term or condition or of any other term or condition of the Agreement. Further, neither CITY's review, approval, or acceptance of, nor payment for any of the Services may be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

F. Severability. If any provision of this Agreement is determined to be invalid or unenforceable in any respect, that determination may not affect any other provision of this Agreement, which will be interpreted as if the invalid or unenforceable provision had not been included.

G. Independent Contractor. CONSULTANT agrees that CONSULTANT is engaged as an independent contractor and that CITY has no responsibility to provide CONSULTANT or its employees with any benefits associated with employee status. CONSULTANT shall neither hold itself out as nor claim to be an officer, partner, employee, or agent of CITY.

H. Attachments. The following Attachment(s) is attached to this Agreement and is included herein for all purposes:

Exhibit A – Scope of Services

I. Execution Becomes Effective. This Agreement is effective as of the Effective Date.

J. Notices and Authority. CONSULTANT shall send all notices required under this Agreement to the City Manager at City Hall, 701 Main Street, Kerrville, TX 78028. CONSULTANT agrees that only the City Manager, or designee (pursuant to III.E., above), has the authority to represent CITY or bind CITY under this Agreement. CITY shall send all notices required under this Agreement to the CONSULTANT at:

Freese and Nichols, Inc.
John New, P.E.
Vice-President
9601 McAllister Freeway, Suite 1008
San Antonio, Texas 78216

K. Prohibition on Contracts with Companies Boycotting Israel. CONSULTANT hereby verifies the following per Section 2271.002, Texas Government Code:

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

L. Prohibition Against Business with Iran, Sudan, or Foreign Terrorist Organization. CONSULTANT warrants, covenants, and represents that CONSULTANT is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

M. Prohibition on Contracts with Companies Boycotting Energy Companies. CONSULTANT hereby verifies the following per Section 2276.002, Texas Government Code:

1. CONSULTANT does not boycott energy companies; and
2. CONSULTANT will not boycott energy companies during the term of the Agreement.

N. Written Verification as to Firearm Entities. CONSULTANT hereby verifies the following per Section 2274.002, Texas Government Code:

1. CONSULTANT does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. CONSULTANT will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

O. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure,” as defined by Section 2274.0101, Texas Government Code, CONSULTANT verifies (1) that it is not owned by or the majority of stock or other ownership interest of the company is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

P. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Within thirty (30) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Commercial Mediation Rules published by the American Arbitration Association. In the event that the dispute has not been resolved within thirty (30) days following mediation, or such longer period as the parties may agree, either party may initiate formal proceedings against the other party.

Q. Consequential Damages Waiver. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER CONSULTANT NOR CITY NOR EITHER PARTY'S SUPPLIERS, AGENTS, OFFICERS, OR DIRECTORS SHALL HAVE ANY LIABILITY REGARDLESS OF THE THEORY OF RECOVERY, INCLUDING BREACH OF CONTRACT OR NEGLIGENCE, TO THE OTHER

PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, COST OR EXPENSE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, WHETHER ACTUAL OR ANTICIPATED, LOSS OF USE, FAILURE TO REALIZE ANTICIPATED SAVINGS, LOSS OF OR DAMAGE TO DATA OR OTHER COMMERCIAL OR ECONOMIC LOSS. THIS WAIVER OF CONSEQUENTIAL DAMAGES IS MADE REGARDLESS OF WHETHER (I) EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (II) SUCH DAMAGES MAY BE FORESEEABLE.

R. Limitation of Liability. Notwithstanding any other provision of this Agreement, CITY agrees to limit CONSULTANT's liability to CITY and to all persons having contractual relationships with CITY to the total fee or compensation received by CONSULTANT for the work under which the liability arises.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OWNER
THE CITY OF KERRVILLE

BY: _____
NAME: Dalton Rice
TITLE: City Manager

CONSULTANT
FREESE AND NICHOLS, INC.

BY: _____
NAME: John New, P.E.
TITLE: Vice-President

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FUNDING

APPROVED AS TO INSURANCE

Julie Behrens, Director of Finance

Kimberly Meismer, Asst. City Manager

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:



William L. Tatsch, City Attorney

Stuart Barron, Director for Public Works & Engineering

City of Kerrville
Miscellaneous Water System Improvements

Travis St Pump Booster Pump Station and Surface Water Treatment Plant

Scope of Services

PROJECT DESCRIPTION: The Miscellaneous Water System Improvements project consists of design, bid, and construction phase services required to:

- (1) Expand the existing Travis St Booster Pump Station to accommodate a firm capacity increase from 250 gpm to approximately 600 gpm;
- (2) Replace the existing filter backwash system at the Surface Water Treatment Plant (WTP) including replacement of piping, valves, and appurtenances to accommodate the replacement equipment.

PROJECT ASSUMPTIONS:

1. General Requirements
 - a. Project will be designed, bid, and constructed as a single bid package using conventional design-bid-build procurement and in conformance with City policy and State law.
 - b. No external funding, such as from the Texas Water Development Board (TWDB), will be necessary.
 - c. Project Documents will utilize City of Kerrville standard contract documents and general conditions.
 - d. Design Drawings will be developed using a combination of Autodesk AutoCAD software and photo documentation.
 - e. Owner shall be responsible for submitting and procuring any necessary permit applications and/or inspections, including IBC Ch. 17 Special Inspections, as applicable.
 - f. Construction at both sites will occur concurrently.
2. Travis St Booster Pump Station Expansion:
 - a. A variance from TCEQ will be granted to allow the pump station to continue pulling directly from the water transmission pipeline (not from a ground storage tank).
 - b. Existing electrical service, equipment, and circuits are adequate to accommodate the replacement equipment.
3. Filter Backwash System Improvements:
 - a. Proposed improvements will be isolated to the existing Filter System and will include the following items:
 - i. Evaluate up to two (2) potential manufacturers for a replacement filter backwash system.

- ii. Develop Drawings, Specifications, and Cost Estimates summarizing the proposed replacement system.
- b. The proposed design will be in accordance with current TCEQ Chapter 217 requirements.
- c. Design drawings will be developed using existing record data and current photo documentation. No mechanical plan or section views will be developed.
- d. The proposed improvements will be isolated to the Filter Backwash System and will exclude the Filter Basins from this scope of work. The limits of improvements for the Filter Backwash System consist of equipment located only in the Vacuum Tank Building.
- e. No major electrical modifications will be necessary to accommodate the replacement system and existing wiring and conduits can be reused to provide electrical services for the proposed equipment. No modifications to controls or instrumentation will be necessary.
- f. No major structural modifications will be necessary to support the proposed equipment.

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

1. PROJECT MANAGEMENT:

- A. Internal Project Kickoff Meeting: Conduct internal Project Kickoff Meeting with design team.
- B. External Project Kickoff Meeting: Conduct virtual Project Kickoff Meeting with City Staff.
- C. Subconsultant Management: Prepare subconsultant agreements as required for the project.
- D. QA/QC Plan: FNI will develop and implement a Quality Assurance/Quality Control (QA/QC) plan.
- E. Monthly Reporting: Prepare One Page Reports, invoices, schedules and periodic client communications (approximately 18 months for total project duration).
- F. Deliverables:
 - 1) Monthly one-page reports, schedules, and invoices
 - 2) External project kickoff meeting agenda and minutes

2. 30% DESIGN PHASE: The project 30% design phase will focus on establishing basis of design for the Travis Pump Station Expansion. The WTP backwash system replacement first submittal will be at the 75% design phase.

- A. Existing Data Acquisition and Review: FNI will coordinate with the City to acquire and review available existing data on the Travis St Pump Station and equipment, and the WTP Backwash system and equipment.
- B. Site Visit: FNI will complete one (1) site visit with process and leads to the Travis St Pump Station only. Sufficient information has already been gathered for the WTP backwash system from previous site visits so no additional site visits to the WTP will be made during design.

- C. Hydraulic Modeling Analysis (Travis St PS Expansion): The FNI Hydraulic Modeling team will review the existing hydraulic model to confirm the final proposed firm capacity of the Travis St Booster Pump Station. Minimum regulatory requirements will also be evaluated to identify and document pumping and storage capacities.
- D. Pump Selection (Travis St PS Expansion): FNI will coordinate with pump manufacturers for pump selection and budgetary costs. The selected expansion alternative, system curves and firm capacity to be provided by hydraulic modeling team. FNI will evaluate discharge and site piping improvements required to meet TCEQ regulations and accommodate additional capacity.
- E. Pump Base Plate Replacement (Travis St PS Expansion): FNI will callout pump base plate replacement with grout if needed, given the current condition of the pump base plate.
- F. Electrical Evaluation (Travis St PS Expansion): FNI will perform electrical evaluation related to the pump selection required for the capacity increase
 - 1) Evaluate pathways and conductors from existing equipment to new pumps.
- G. TCEQ Variance Evaluation (Travis St PS Expansion): FNI will prepare a variance request for the pump station to pull directly from the water transmission pipeline (not from a ground storage tank). If the variance is not approved, a new ground storage tank will need to be added which is not part of this scope.
- H. Opinion of Probable Construction Cost (OPCC) (Travis St PS Expansion): Prepare OPCC as a Class 4 estimate based on the guidelines set forth by the American Association of Cost Engineers (AACE).
- I. Technical Memorandum (TM) (Travis St PS Expansion): FNI will prepare a technical memorandum detailing the basis of design for the Travis St Pump Station Expansion portion of the project and summarizing proposed capacity improvements to meet TCEQ regulations. The TM will include a summary of the hydraulic modeling evaluations. FNI will conduct internal quality control review of the draft technical memorandum and address all review comments before submission to the City.
 - 1) FNI will furnish one (1) electronic copy of the preliminary technical memorandum and conduct review workshop in person with the City.
 - 2) FNI will furnish one (1) electronic copy of the final technical memorandum with City comments / decisions incorporated.
- J. 30% Design QC Review: Prepare TM and OPCC for QC Review. FNI senior advisors to provide QC review.
- K. 30% Design Review Workshop: Prepare meeting materials and facilitate 30% Design Review Workshop virtually with the City to review findings and confirm Travis St Booster Pump Station Expansion improvements for final design.
- L. Deliverables:

- 1) Technical Memorandum Draft – one (1) electronic copy
- 2) Final Technical Memorandum – one (1) electronic copy
- 3) 30% Design Review Workshop agenda and minutes

3. **75% DESIGN PHASE:** Upon completion of the 30% Design Phase services, FNI will proceed with the performance of 75% Design Phase services for the project as described below.

- A. **75% Design Drawings:** Prepare 75% design plans for the Travis St PS Expansion and WTP filter backwash system replacement including but not limited to:
 - Cover
 - Sheet Index page
 - General Notes page(s)
 - Existing Site Layouts
 - Proposed Site Plans
 - Abandonment/Demolition Plan Sheet(s)
 - Pump Station Plan and Section
 - Mechanical Details
 - Electrical Plans
 - Electrical One-lines
 - Electrical Details
- B. **75% Design Specifications:** Develop technical specifications per the 50 division CSI format. The City will provide preliminary front-end documents for review and inclusion.
- C. **75% OPCC:** Prepare OPCC as a Class 3 Estimate as described in AACE. Recommended Practice No. 17R-97 and 56R-08
- D. **75% Design QC Review:** Prepare 75% Design plans, specifications, and OPCC for QC Review. FNI senior advisors to provide QC review.
- E. **75% Design Review Workshop:** Prepare meeting materials and facilitate virtual 75% Design Review Workshop with the City.
- F. **Deliverables:**
 - 1) 75% Design Drawings – one (1) electronic copy
 - 2) 75% Design Specifications – one (1) electronic copy
 - 3) 75% Design OPCC – one (1) electronic copy

- 4) 75% Design Review Workshop Agenda and Minutes
4. **100% DESIGN PHASE:** Upon completion of the 75% Design Phase services, FNI will proceed with the performance of 100% Design Phase services for one project as described below.
 - A. **100% Design Drawings:** Prepare 100% Design plans.
 - B. **100% Design Specifications:** Develop technical specifications per the 50 division CSI format. The City will provide preliminary front-end documents for review and inclusion.
 - C. **100% OPCC:** Prepare OPCC as a Class 1 Estimate as described in AACE. Recommended Practice No. 17R-97 and 56R-08
 - D. **100% Design QC Review:** Prepare 100% Design plans, specifications, and OPCC for QC Review. FNI senior advisors to provide QC review.
 - E. **TCEQ Submittal:** Prepare and submit TCEQ plan review submittal package.
 - F. **Deliverables:**
 - 1) 100% Design Drawings – one (1) electronic copy
 - 2) 100% Design Specifications – one (1) electronic copy
 - 3) 100% Design OPCC – one (1) electronic copy
 - 4) Electronic copies of meeting materials and minutes.
5. **BID PHASE:** Upon completion of the 100% Design Phase services, FNI will proceed with the performance of bid phase services for the project as described below.
 - A. **CIVCAST Setup:** FNI will set up the project on CIVCASTUSA.com to distribute the bid documents to prospective bidders and plan rooms. Electronic sets of documents will be made available at no charge to plan holders. Hard copy plans will not be provided by the Engineer except as indicated below.
 - B. **Addenda:** Assist City by responding to questions and interpreting bid documents. Prepare and issue addenda to the bid documents to plan holders if necessary.
 - C. **Pre-Bid Conference:** Assist the City in conducting a pre-bid conference for the construction project and coordinate responses with City. Response to the pre-bid conference will be in the form of addenda issued after the conference.
 - D. **Bid Analysis:** Tabulate and analyze the bids received. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project.
 - E. **Recommendation of Award:** Provide Recommendation of Award letter.
 - F. **Deliverables:**
 - 1) Recommendation of Award Letter – one (1) electronic copy
 - 2) Issued for Bid Drawings – one (1) electronic copy
 - 3) Issued for Bid Specifications – one (1) electronic copy

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

These services are based on FNI standard General Conditions for construction projects. If general conditions other than FNI standards are used, the City will include provisions in the construction contract documents that will require the construction contractor to include FNI and any subconsultants on this project to be listed as an additional insured on contractor's insurance policies.

- A. **Conformed Construction Documents:** Incorporate design and contract changes made via addenda into project contract documents and prepare for Contractor.
- B. **Contract Administration Services:** FNI will furnish construction contract administration services in support of on-site inspection personnel provided by the City.
- C. **Meetings:**
 - a. Pre-Construction Meeting: Assist the City in conducting one pre-construction conference with the Contractor and prepare project meeting minutes.
 - b. Construction Site Visits: Make up to 2 site visits during the course of construction (estimated to be approximately 9-month construction schedule), as distinguished from the continuous services of a Resident Project Representative, to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Contract Documents. Site visits in excess of the specified number shall be considered an Additional Service.
 - c. Virtual Monthly Meetings: Facilitate up to 9 virtual monthly construction progress meetings, including preparation of meeting agenda and minutes. Meetings in excess of the specified number shall be considered an Additional Service.
 - d. Punchlist Meeting: Conduct, in company with City's representative, a final review of the Project for conformance with the design concept of the Project and general compliance with the Construction Contract Documents. Prepare a list of deficiencies to be corrected by the contractor before recommendation of final payment.

D. General Representation:

- a. Establish and maintain a project documentation system consistent with the requirements of the construction Contract Documents.
- b. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation.
- c. Review contractor's submittals, including Requests for Information, Contract Modification Requests, Shop drawings, Schedules, Certified test reports, etc.
 - i. Investigations, analyses, studies or design of substitution or equipment or materials, corrections of defective or deficient work of the Contractor or other deviations from the construction contract documents requested by the Contractor and approved by the Owner are an additional service.
- d. Coordinate the work of testing laboratories and inspection bureaus required for the testing or inspection of materials, witnessed tests, factory testing, etc. for quality control of the Project. The cost of such quality control shall be paid by the City and is not included in the services to be performed by Freese and Nichols, Inc.
- e. Consult with and advise the City during construction, make recommendations to the City regarding materials and workmanship, and prepare change orders with the City's approval.
- f. Review and comment on monthly and final estimates for payment to Contractor pursuant to the General Conditions of the Construction Contract.
- g. Review and comment on the Certificate of Completion and the recommendation for final payment to the Contractor.

E. Start-up Testing: Perform one (1) site visit to verify the Travis St Pump Station pumps are installed and operating, as specified, and prepare report documenting pump testing results and deficiencies observed, if any. No site visits for startup will be made for the WTP backwash filter replacement.

F. Deliverables:

- a. Conformed Construction Drawings – one (1) electronic copy
- b. Conformed Construction Specifications – one (1) electronic copy
- c. Project site visit memos
- d. Start-up Testing Report (Travis St Pump Station)
- e. Project Record Drawings – one (1) electronic copy in CADD format and PDF format

3.0 ADDITIONAL SERVICES: Additional Services to be performed by FNI, if authorized by the City, which are not included in the above described basic or supplemental services, are described as follows:

- A. Field boundary, topographic, utility surveys
- B. Geotechnical investigation
 - a. Environmental and cultural resources
- C. TWDB Funding Assistance
- D. Design for more pump station capacity of more than 600 gpm if dictated by hydraulic modeling analysis results
- E. Design of chemical addition, grading, yard piping or other mechanical improvements.
- F. Major structural or electrical modifications.
- G. Structural inspection of slabs or other structural components and any resulting analysis or design
- H. New ground storage tank if TCEQ variance is not approved
- I. Electrical:
 - a. Utility coordination.
 - b. Replacement, upsizing, or modifications to electrical service, gear, panels, conduit/wire, or controls if required by motor starter replacement.
 - c. Specifying new and/or upgrading existing control schemes, controls or instrumentation.
 - d. Demolition plans or specifications.
 - e. Lighting, security, and access controls.
 - f. Electrical startup Services.
 - g. Back-up power provisions.
- J. Construction site visits in excess of those listed or if construction at the two sites is not performed concurrently.

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

Milestone/Deliverable	Calendar Days
Anticipated Notice to Proceed	February 2024
30% Design Phase Submittal	45 days from Notice to Proceed
75% Design Phase Submittal	75 days following receipt of comments from City on 30% Design Submittal

100% Design Phase Submittal	30 days following receipt of comments from City on 75% Design Submittal
TCEQ Review Time	60 Days following approval of 100% Design Submittal
Anticipated Issued for Bid	September 2024
Anticipated Issued for Construction	October 2024
Construction Completion	July 2025
Provide Record Drawings	30 days from Project Completion

5.0 **COMPENSATION:** Compensation to FNI for the Basic Services shall be the lump sum of **\$123,000.** If FNI sees the Scope of Services changing so that additional services are needed, including but not limited to those services described as Supplemental Services or Additional Services, FNI will notify City for City's written approval before proceeding.

FEE BREAKDOWN	
PHASE	COMPENSATION
Project Management	\$10,655.00
Design Phase	\$74,021.00
Bid Phase	\$4,458.00
Construction Phase	\$33,866.00
TOTAL BASIC SERVICES	\$123,000.00
Supplemental Services	\$0.00
TOTAL SERVICES	<u>\$123,000.00</u>



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

SUBJECT: Change order decreasing the total contract price with D&D Contractors, Inc. due to decreased work for the Westminster Street Reconstruction Project.

AGENDA DATE OF: March 26, 2024

DATE SUBMITTED: March 13, 2024

SUBMITTED BY: Kyle Burow, Director Engineering

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
-\$85,658.49	\$126,031.75	\$1,905,000.00	Project #70-21001

PAYMENT TO BE MADE TO: D&D Contractors, Inc.

Kerrville 2050 Item? Yes

Key Priority Area M - Mobility / Transportation

Guiding Principle N/A

Action Item M4.2 - Continue implementing the plan for street repairs, including a timeline and funding, based on the road conditions data collection and evaluation completed in 2016

SUMMARY STATEMENT:

In January 2023, the City contracted D&D Contractors, Inc. to rehabilitate Westminster Street from First Street to Lang Street as part of the remaining group of reconstruction streets identified in the 2019 Pavement Management Plan. The reconstruction streets were funded in 2019 by the issuance of \$10.5 million in Certificates of Obligation for street and drainage improvements. D&D Contractors, Inc. was deemed substantially complete with the reconstruction of Westminster Street and worked on punchlist items while opening the road for public use. The project has now been fully completed and the closeout of the project involves a deductive change order in the amount of \$85,658.49 for items not utilized by the contractor to finalize contractual obligations for construction.

RECOMMENDED ACTION:

Authorize the City Manager to execute a deductive change order.

ATTACHMENTS:

[20240326_Change Order_Westminster Reconstruction Deduct Closeout.pdf](#)



CHANGE ORDER

PROJECT: Westminster Street Reconstruction

OWNER: City of Kerrville

OWNER PROJ # 21-015

CONTRACTOR: D&D Contractors, Inc.

CONTRACTOR # 1288

ENGINEER: 6S Engineering

ENG. PROJ. #

CHANGE ORDER NO.

4

CHANGE ORDER DATE:

2/5/2024

Make following additions/deletions or modifications to work described in the Contract Documents:

	Description of Change	Cost
4	Clean up Change Order	-\$85,658.49
TOTAL COST OF THIS CHANGE ORDER:		-\$85,658.49

The compensation agreed to upon in this change order is full, complete and final payment for all costs the Contractor may incur as a result of or related to this change whether said costs are known, unknown, foreseen or unforeseen at this time, including without limitation, any cost for delay, extended overhead, ripple or impact cost, or any other affect on changed or unchanged work as a result of this Change Order.

Contract Cost and/or Time Impacts:

Original Contract Amount	\$1,846,158.40
Previously Approved Change Order Amount	\$62,635.48
Adjusted Contract Amount	\$1,908,793.88
Proposed Change Order Amount (this change order)	-\$85,658.49
Revised Contract Amount	\$1,823,135.39
Previous Contract Time	250
Previous Substantial Completion Date	7-Oct-23
Previous Final Completion Date	6-Nov-23
Net Change in Contract Time	12
Revised Contract Time	262
Revised Substantial Completion Date	19-Oct-23
Revised Final Completion Date	18-Nov-23

Recommended by:

(Architect/Engineer)

By

Jess W. Swain

03/13/2024

Date

Approved by:

(Contractor)

By

Gerald E McLeod Jr

2/5/2024

Date

Approved by:

(Owner)

By

[Signature]

Date



D & D Contractors, Inc.
Master Client Change Order Agreement



Project #	1287	Owner	City of Kerrville
Project	Westminster Street	Date:	2/5/2024
D&D Co#	4	SUB CO#	

This authorization provides for the following modifications or additions: Over & Under Clean up Change Order

Item No	Description	Unit	QTY	Unit Price	Total
3	Removing Concrete Curb	LF	-28	\$2.41	-\$67.48
4	Removing Sidewalk & Driveways	SF	750	\$1.23	\$922.50
5	Street Excavation	CY	-575	\$18.16	-\$10,442.00
6	Street Embankment	CY	-47	\$5.95	-\$279.65
10	GeoGrid base reinforcement HX5.5	SY	-503	\$3.71	-\$1,866.13
11	Portland Cement Concrete Driveways	SY	143	\$130.19	\$18,617.17
12	Concrete Curb & Gutter	LF	164	\$22.26	\$3,650.64
13	Concrete Sidewalk	SY	-111	\$77.88	-\$8,644.68
14	8" PVC water line	LF	-70	\$72.14	-\$5,049.80
15	10" PVC water line	LF	10	\$108.28	\$1,082.80
17	1" Long Water Service	EA	3	\$1,775.30	\$5,325.90
22	Pipe Fittings (all sizes and Types)	TON	-0.38	\$12,268.43	-\$4,662.00
24	Hydrostatic Testing	EA	-2	\$1,229.06	-\$2,458.12
31	Trench Excavation Safety Protection	LF	-70	\$2.32	-\$162.40
34	Vegetative Watering	MG	-185	\$9.30	-\$1,720.50
38	STOP Signs & Assembly (CIP)	EA	-1	\$319.66	-\$319.66
40	ADA Curb Cuts & Ramps	SY	-99	\$149.88	-\$14,838.12
41	6" Flexible Pavement Repair (Labor and Materials)	SY	-302	\$54.48	-\$16,452.96
44	10" Flexible Base	SY	-503	\$15.68	-\$7,887.04
45	Aggr (ty PB Gr5 SAC-B)	CY	-85	\$331.87	-\$28,208.95
46	ASPH (AC-15P)	GAL	-2280	\$5.35	-\$12,198.00
	TOTAL				-\$85,658.49

Contract Value:

The Original Contract Sum	\$1,846,158.40
Net Change by Previously Authorized Requests and Change Orders	\$62,635.48
The Contract Sum Prior to This Change Order	\$1,908,793.88
The Contract Sum will be Increased/Decreased by this change order	-\$85,658.49
The New Contract Sum including this Change order Request	\$1,823,135.39

Except for such CHANGES as are set forth herein, all of the terms and conditions of your contract, and as it may have been before modified in writing, shall be and remain the same.

Owner/ Engineer	D & D Contractors - Project Manager	
Name	Name	Gerald McLeod, Jr.
X	X	Gerald E McLeod Jr
Date:	Date:	2/5/2024



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

SUBJECT: Authorization to negotiate a Professional Services Agreement for the Comprehensive Plan Update.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 21, 2024

SUBMITTED BY: Drew Paxton, Planning Director

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
TBD	\$200,000	\$200,000	N/A

PAYMENT TO BE MADE TO: TBD

Kerrville 2050 Item? Yes

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

The Kerrville 2050 Comprehensive Plan was adopted by the City Council in 2018. It is typical for cities to update the comprehensive plan every 5-10 years. This is a proposed update for specific chapters, Economic Development, Mobility and Transportation, Housing, a small area amendment to the Future Land Use Plan, and Implementation action items according to the update. This is not intended to be a new comprehensive plan.

As part of the adopted FY24 budget, the City Council authorized the procurement of a firm to perform an update to the comprehensive plan. Request for Proposals (RFP) was issued on January 20, 2024, and four (4) submissions were received on February 27, 2024. A multidepartmental review committee rated the proposals based on the scoring criteria contained in the RFP packet. The proposals and rankings will be reviewed in the 3/26/24 City Council workshop, and vendor selection will be publicly announced. The draft contract has been completed, but not approved by the vendor.

The next step is to allow the City Manager to negotiate, finalize, and execute the Professional Services Agreement.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute a Professional Services Agreement.



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

SUBJECT: City Council workshop minutes March 12, 2024.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

City Council workshop minutes March 12, 2024 at 4:00 p.m.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*20240326_Minutes CC workshop 3-12-24.pdf*](#)

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

**MARCH 12, 2024 5:00 PM
701 MAIN STREET, KERRVILLE, TEXAS**

CALL TO ORDER: On March 12, 2024 at 5:00 p.m., the City Council workshop was called to order by Mayor Judy Eychner at City Hall Council Chambers, 701 Main Street.

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
Shelley McElhannon, City Secretary

Mike Hayes, City Attorney
Michael Hornes, Asst City Manager

VISITOR(S) PRESENT: None.

1. PUBLIC COMMENT: None.

Councilmember Roman Garcia motioned to convene Executive Session under 551.074 (personnel/officers), seconded by Councilmember Jeff Harris. The motion passed 5-0. At 5:00 p.m., the open workshop recessed and Council convened into closed Executive Session.

2. EXECUTIVE SESSION:

2A. City Manager six-month review (551.074).

At 6:00 p.m., the closed Executive Session adjourned and the open workshop reconvened. No action taken during Executive Session.

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

ADJOURN. The workshop adjourned at 6:00 p.m.

APPROVED BY COUNCIL: _____ ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: City Council meeting minutes March 12, 2024.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

City Council meeting minutes March 12, 2024 at 6:00 p.m.

RECOMMENDED ACTION:

Approve minutes as presented.

ATTACHMENTS:

[*20240326_Minutes CC meeting 3-12-24.pdf*](#)

**CITY COUNCIL MINUTES
REGULAR MEETING**

**KERRVILLE, TEXAS
MARCH 12, 2024 6:00 PM**

On March 12, 2024 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 Jeff Harris 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:

Dalton Rice, City Manager
Mike Hayes, City Attorney
Michael Hornes, Asst City Manager
Kim Meismer, Asst City Manager
Shelley McElhannon, City Secretary
Stuart Barron, Executive Director

Julie Behrens, Director of Finance
Stuart Cunyus, Public Information Officer
Guillermo Garcia, Executive Director
Eric Maloney, Fire Chief
Chris McCall, Police Chief
Drew Paxton, Planning Director

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.

Kevin Kemp, Partner with Forvis, LLP

1. ANNOUNCEMENTS OF COMMUNITY INTEREST:

Community announcements provided by Stuart Cunyus and Mayor Eychner.

2. PRESENTATION(S):

Mayor Eychner shifted item 2B forward.

2B. Commendation of Recognition for Grant Terry, retired employee Public Works Department.

Stuart Barron and Mayor Eychner honored Grant Terry for his years of service with the City.

Mayor Eychner shifted item 2C forward.

2C. Recognition of the City of Kerrville Finance Department for receiving the Government Finance Officers Association Triple Crown Award.

Dalton Rice and Julie Behrens recognized the City's Finance Department for the Triple Crown Award accomplishment. Julie Behrens introduced the Finance Department personnel present: Jacob Bogusch, Sureena Cripps, Trina Rodriguez, and Tara Rogers.

2A. Kerrville Fire Department EMS Person of the Year.

Fire Chief Eric Maloney presented the 2023 Kerrville Fire Department Emergency Medical Services Person of the Year award to Patrick Brunelli.

2D. Proclamation recognizing March 2024 as American Red Cross month in Kerrville, Texas.

Mayor Eychner presented the March 2024 as American Red Cross month proclamation to Hill Country Chapter American Red Cross Executive Director Debbie Zabica.

2E. State of the City video presentation.

Dalton Rice presented information and video, and responded to questions.

3. VISITORS FORUM:

The following person(s) spoke:

- George Baroody

4. CONSENT AGENDA:

Councilmember Brenda Hughes made a motion to adopt the Consent Agenda as presented, seconded by Councilmember Joe Herring, Jr. The motion passed 5-0.

4A. Interlocal Cooperation Agreement between the City of Kerrville and the Kerrville Independent School District for the use of facility.

4B. City Council workshop minutes February 27, 2024.

4C. City Council meeting minutes February 27, 2024.

Title of item 5 will be corrected to read as Public Hearing.

END OF CONSENT AGENDA.

5. ORDINANCES, FIRST READING:

5A. Ordinance No. 2024-03. An Ordinance amending the City's Code of Ordinances by repealing Chapter 78 "Peddlers and Solicitors" in its entirety and replacing it with a new Article VI "Solicitations" within Chapter 30 "Businesses" of the City's Code of Ordinances; this new Article adopts revised regulations concerning peddlers, solicitors, and canvassers as those terms are defined; providing for penalties not to exceed \$500.00; ordering publication; providing an effective date; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2024-03 caption into record.

The following person(s) spoke:

- Jaclyn Hall
- Barbara Dewell-Ferguson
- Nikki Caines
- George Baroody

Guillermo Garcia and Mike Hayes provided information and responded to questions.

Councilmember Herring made a motion to adopt Ordinance No. 2024-03 on first reading, seconded by Councilmember Harris. Councilmember Roman Garcia requested a roll call vote, which was executed by the City Secretary. The motion passed 4-1 with Mayor Eychner, Councilmember Harris, Councilmember Herring, and Councilmember Hughes voting in favor, and Councilmember Garcia opposed.

6. CONSIDERATION AND POSSIBLE ACTION:

6A. Presentation of the City's FY2023 audit and overview of the Annual Comprehensive Financial Report (ACFR) by Kevin Kemp, Partner with Forvis, LLP, the City's audit firm.

Julie Behrens introduced the item and Kevin Kemp, who provided information.

The following person(s) spoke:

- George Baroody

Julie Behrens provided information and responded to questions.

Councilmember Hughes made a motion to accept the annual financial report, seconded by Councilmember Herring. The motion to accept passed 5-0.

7. **EXECUTIVE SESSION:** Executive Session not called nor convened.
8. **ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION, IF ANY.** N/A

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

Councilmember Herring – discussion regarding existing grants, available for facade improvements for small businesses, seconded by Mayor Eychner. Consensus for agenda item was unanimous.

ADJOURN. The meeting adjourned at 7:30 p.m.

APPROVED BY COUNCIL: _____

APPROVED:

ATTEST:

Judy Eychner, Mayor

Shelley McElhannon, City Secretary



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

SUBJECT: Ordinance No. 2024-03, second reading. An Ordinance amending the City's Code of Ordinances by repealing Chapter 78 "Peddlers and Solicitors" in its entirety and replacing it with a new Article VI "Solicitations" within Chapter 30 "Businesses" of the City's Code of Ordinances; this new Article adopts revised regulations concerning peddlers, solicitors, and canvassers as those terms are defined; providing for penalties not to exceed \$500.00; ordering publication; providing an effective date; and providing other matters related to the subject.

AGENDA DATE OF: March 26, 2024

DATE SUBMITTED: March 14, 2024

SUBMITTED BY: Guillermo Garcia

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Chapter 78 - Peddlers and Solicitors is being replaced with a new chapter within Chapter 30 "Business". The purpose of this new ordinance is to protect against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruption of privacy, and otherwise preserve public health, safety, and welfare by regulating, controlling, and licensing canvassers, solicitors, and peddlers.

The new ordinance establishes the following:

- Hours in which canvassing, solicitation, and peddling may occur at private residences;
- Permit requirements
- Application requirements
- Revocation and Appeals process

On March 12, 2024, City Council approved Ordinance No. 2024-03 on first reading with a 4-1 vote.

RECOMMENDED ACTION:

Approve Ordinance No. 2024-03 second reading.

ATTACHMENTS:

[20240326_Ord 2024-03 Door-to-Door peddlers-solicitors 2nd reading.pdf](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-03**

AN ORDINANCE AMENDING THE CITY'S CODE OF ORDINANCES BY REPEALING CHAPTER 78 "PEDDLERS AND SOLICITORS" IN ITS ENTIRETY AND REPLACING IT WITH A NEW ARTICLE VI "SOLICITATIONS" WITHIN CHAPTER 30 "BUSINESSES" OF THE CITY'S CODE OF ORDINANCES; THIS NEW ARTICLE ADOPTS REVISED REGULATIONS CONCERNING PEDDLERS, SOLICITORS, AND CANVASSERS AS THOSE TERMS ARE DEFINED; PROVIDING FOR PENALTIES NOT TO EXCEED \$500.00; ORDERING PUBLICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING OTHER MATTERS RELATED TO THE SUBJECT

WHEREAS, the City of Kerrville, Texas ("City") is a home-rule municipality possessing the full power of local self-government, pursuant to Article 11, Section 5 of the Texas Constitution, Section 51.072 of Texas Local Government Code, as amended, and the City's Charter; and

WHEREAS, regulations on peddlers and other solicitation activities in the City were adopted as early as 1968, and have since been amended and modified multiple times by the City Council as it deemed fit; and

WHEREAS, City residents expect their local government to assist them in preserving their privacy and avoiding petty annoyances that disrupt their quiet enjoyment of their homes; and

WHEREAS, other persons often desire to interrupt and intrude into the quiet enjoyment of a person's home to solicit donations for causes believed to be worthy of support; to canvas for support for particular religious, ideological, or political causes; or for reasons for securing sales of products or services; and

WHEREAS, pursuant to Section 215.075, Texas Local Government Code, City Council has the power and authority to license any lawful business or occupation; and

WHEREAS, an important part of the freedom enjoyed by all citizens and residents of the United States is the right to speak freely, to express ideas that may be unpopular, and to engage others in debate without government interference; and

WHEREAS, the United States Supreme Court consistently recognizes the right and obligation of local governments to protect their citizens from fraud and harassment, particularly when the solicitation of money is involved; and

WHEREAS, a responsibility of government, to include local governments such as cities, is to balance these competing interests in a manner consistent with both the United States and Texas Constitutions, while protecting the privacy of its citizens and attempting to prevent crime and minimize fraud; and

WHEREAS, the current provisions of Chapter 78, "Peddlers and Solicitors", are out of date and no longer adequate to meet the needs of the community; and

WHEREAS, City Council finds that the regulation of solicitations and similar activities within the City is in the best interest of the health, safety, and welfare of the citizens of the City; and

WHEREAS, based upon the important public policies expressed above, City Council finds it to be in the public interest to repeal Chapter 78 of the City's Code of Ordinances in its entirety and to replace said chapter with a new Article VI within Chapter 30 of the Code as provided herein;

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

SECTION ONE. The facts, recitations, and findings contained in the preamble of this Ordinance are found to be true and correct and are incorporated by reference herein and expressly made a part hereof, as if copied verbatim.

SECTION TWO. Chapter 78 "Peddlers and Solicitors" of the Code of Ordinances of the City of Kerrville, Texas, is repealed and replaced in its entirety with a new Article VI "Solicitations" to be placed within Chapter 30, as provided for in **Exhibit A**, which is attached, included herein for all purposes, and hereby adopted.

SECTION THREE. The City Secretary is authorized and directed to submit this Ordinance to the publisher of the City's Code of Ordinances and the publisher is authorized to amend said Code to reflect the provisions adopted herein, to include the repeal and deletion of Chapter 78 in its entirety; the addition of a new Article VI to be found in Chapter 30 of the Code; to correct typographical errors and to index, format, and number and letter paragraphs to the existing Code as appropriate.

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

this Ordinance are expressly repealed to the extent of any such inconsistency or conflict. Ordinance Nos. 86-62 and 91-12 are repealed.

SECTION FIVE. It is officially found and determined that the meetings at which this Ordinance is passed were open to the public as required and that public notice of the time, place, and purpose of said meetings was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

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

SECTION SEVEN. The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Section 1-7 of the Code of Ordinances of the City of Kerrville, Texas and specifically a fine not exceeding FIVE HUNDRED DOLLARS (\$500.00) per day for each violation hereof.

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

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

PASSED AND APPROVED ON FIRST READING, this the 12 day of MARCH A.D., 2024.

**PASSED AND APPROVED ON SECOND AND FINAL READING,
this the _____ day of _____, A.D., 2024.**

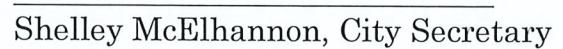
Judy Eychner, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:



Shelley McElhannon, City Secretary

EXHIBIT A

“CHAPTER 30 BUSINESSES

ARTICLE VI. - SOLICITATIONS

Sec. 30-176. - Purpose.

The purpose of this article is to protect against criminal activity, including fraud and burglary, minimize the unwelcome disturbance of citizens and the disruption of privacy, and to otherwise preserve the public health, safety, and welfare by regulating, controlling, and/or licensing peddlers, solicitors, and canvassers.

Sec. 30-177. - City Manager.

The City Manager shall administer the provisions of this article.

Sec. 30-178. - Definitions.

Business day means any calendar day except Saturday, Sunday, or any City holiday.

Canvasser means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident for the primary purpose of (1) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue, or candidate, even if incidental to such purpose the canvasser accepts the donation for money for or against such cause; or (2) distributing a handbill or flyer advertising a non-commercial event or service.

City Manager means the City Manager or designee.

Official means the City Manager, City's Peace Officers, or Code Enforcement Officers.

Peddler means a person who attempts to make personal contact with a resident at his or her residence without prior specific invitation or appointment from the resident for the primary purpose of attempting to sell goods, merchandise, wares, or other personal property of any nature or service.

Peddle and any form of the word means all activities ordinarily performed by a peddler.

Solicitation, soliciting, solicited, or any form of the word solicit means any activities ordinarily performed by a solicitor.

Solicitor means any person who goes upon the premises of any residence in the City, not having been invited by the occupant thereof for the purpose of taking or attempting to take orders for the sale of goods, merchandise, wares, or other personal property of any nature for future delivery, or for services to be performed in the future. This definition includes any person who, without invitation, goes upon the premises of any residence in the City to request a contribution of funds or anything of value, or sell goods or services for educational, political, charitable, religious, or other non-commercial purposes.

Sec. 30-179. - Hours of Peddling, Soliciting, or Canvassing at Private Residences.

It is unlawful for any person, whether permitted or exempted from needing a permit, to peddle, solicit, or canvass at residences between the hours of 8:00 p.m. and 8:00 a.m. unless permission is otherwise posted by the private property owner or by someone with apparent authority to act for the owner. This section does not apply where the peddler, solicitor, or canvasser is on the property by express, prior invitation of the owner of the property or a person residing on the premises.

Sec. 30-180. - Entry upon Premises Unlawful.

It is unlawful for any person to peddle, solicit, or canvass upon any private property in the City where the owner, occupant, or person legally in charge of the premises has posted at the entry to the premises, or at the entry to the principal building on the premises, a sign bearing the words "No Solicitors", "No Trespassing", or words of similar intent.

Sec. 30-181. - Penalty for violation.

- (a) Any person, firm, partnership, corporation, association, agent, or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not less than \$50.00 nor more than \$500.00 for each offense. Each and every hour that such violation shall continue shall be deemed to constitute a separate offense.
- (b) The culpable mental state required by Section 6.02, Texas Penal Code, is hereby specifically negated. The offenses under this article shall be strict liability offenses.

Sec. 30-182. - Permit Requirements and Exemptions.

It is unlawful for any person to engage in peddling or solicitation activities within the City without first obtaining a permit issued by the City Manager. The following activities are exempted from the provisions of this section:

- (1) A canvasser;
- (2) A peddler or solicitor currently licensed by the state to engage in the activity;
- (3) persons selling fresh produce;
- (4) mobile food establishments and temporary food establishments that are required to get a food establishment permit from the City to sell food; and
- (5) temporary sales sponsored by charitable, non-profit organizations including, Boy Scouts and Girl Scouts, service clubs, and school organizations.

Sec. 30-183. - Solicitation on public property.

- (a) It is unlawful for any person to peddle, hawk, sell, solicit, distribute, or take orders for any services, wares, merchandise, or goods, including magazines, encyclopedias, tools, photographs, flowers, candy, or plants on the streets, street rights-of-way, or medians of the City. This prohibition shall apply to and include any institution or group organized for a political, religious, or charitable purpose, or individuals engaging in such activities on behalf of any such institution or group.
- (b) No permit provided for herein shall be issued for selling in the above manner.
- (c) An exception applies to vendors authorized to sell within the City's parks and recreational areas pursuant to permission granted by the City Manager, authorized by law, or where similarly authorized by other public entities.

Sec. 30-184. - Exhibition of Permit Required.

- (a) It is unlawful for any peddler or solicitor to fail to conspicuously display on or about their person the permit issued by the City.

(b) "Conspicuously displayed" shall mean displayed to the front and visible to whomever the permit holder is conversing at all times they are engaged in a permitted activity.

Sec. 30-185. - Permits for Minor Peddlers and Solicitors.

- (a) It is unlawful for any person under the age of 18 to engage in peddling or soliciting except as provided in this section.
- (b) A permit shall be obtained by a sponsoring person, company, or organization for the conduct of any peddling or soliciting activities involving in whole or in part a sales force of one or more persons under the age of eighteen years of age.
- (c) The sponsor shall be responsible for supervising and controlling all persons peddling or soliciting under the sponsor's permit.
- (d) The sponsor shall provide to each individual peddling or soliciting under its authority a badge or other easily readable form of identification that identifies the name of the sponsor and the name of the individual. The sponsor shall require all individuals to wear the identification so that it is clearly visible at all times while peddling or soliciting.

Sec. 30-186. - Application.

Applicants for permits under this article shall file with the City Manager an application in writing on a form obtained from the officer and provide the following:

- (1) A valid Texas driver's license or state issued photo identification;
- (2) The number of the limited sales tax permit issued to the business by the state comptroller's office, if applicable;
- (3) A brief description of the activity or business to be conducted;
- (4) The appropriate fee;
- (5) Proof of status necessary to receive an exception under Sections 30-182 or 30-189 of this article.

Sec. 30-187. - Investigation by the police department.

- (a) Upon the initial submission of permit application, the police department shall obtain the applicant's fingerprints and run a background check on

the applicant as the police department deems necessary. If the applicant returns to renew the application within the calendar year of the initial submission, the retaking of fingerprints will not be required as long as the individual can present valid identification that corresponds with the initial identification. A background check will be conducted each time the permit is renewed and fingerprints will be retaken during the first application process in each calendar year.

- (b) The police department is authorized to investigate the affairs of any person peddling or soliciting in violation of this article.
- (c) The police department may recommend denial of a permit to any applicant for good cause, which may include the following:
 - (1) being a fugitive from justice;
 - (2) providing false and/or misleading statements on the permit application; or
 - (3) conducting peddling or soliciting activities contrary to regulations contained herein.

Sec. 30-188. - Application fee.

The City shall charge a nonrefundable fee for the administration and investigation of the application. Such fee shall not be prorated and shall be paid at the time the application is made and shall not be returned to the applicant, regardless of whether a permit is issued. The fees and charges for permits furnished by the City are established by City Council and adopted as part of the City's annual fee schedule.

Sec. 30-189. - Exceptions to fee.

The following organizations are exempt from paying a permit fee; however, all peddlers and solicitors are required to comply with all other applicable provisions of this article unless otherwise exempted:

- (1) Any local church or other religious group, or to ministers or agents thereof soliciting funds for the support of such religious group;
- (2) Any established society, association, or corporation that is organized and operated exclusively for educational, philanthropic, benevolent, fraternal, or charitable purposes, not operated for pecuniary profit, where no part of the net earnings inures to the benefit of any person,

private shareholder, or individual, where the peddling or soliciting of such organization is:

- a. conducted among the members thereof by other members or officers thereof, voluntarily and without remuneration for the activity; or
- b. in the form of collections or contributions at the regular exercises or services of any society, lodge, benevolent order, or fraternity or similar organization, or any branch thereof.

(3) Sales of goods, wares, and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some charitable, religious, or philanthropic purposes.

(4) Sales of goods, wares, and merchandise by any bonafide charitable, religious, or philanthropic organization.

Sec. 30-190. - Issuance.

Upon presentation of an administratively complete application, the City shall issue a permit to the applicant within 10 business days unless grounds for denial exist under Section 30-194.

Sec. 30-191. - Contents.

- (a) Each permit issued under this article shall show the name of the permitted individual, business address, a description of the type of peddling or soliciting, product, or activity, the date of issuance, and the expiration date of such permit.
- (b) The City will number each permit and include the following language prominently displayed: *"The issuance of this Permit is not an endorsement by the City of Kerrville, or any of its officers or employees, and expires _____."*

Sec. 30-192. - Expiration.

All permits issued under the provisions of this article shall expire 90 days from the date of issuance.

Sec. 30-193. - Transfer.

No permit issued under the provisions of this article shall be transferred or assigned.

Sec. 30-194. - Denial.

The City Manager may deny issuing a permit to a person under this article for the following reasons:

- (1) Because of a person's conviction of a felony or misdemeanor if the crime directly relates to the conduct of a business or results from an assault against a person.
- (2) An investigation reveals that the applicant falsified information on the application.
- (3) The applicant is a registered sex offender.

Sec. 30-195. - Revocation.

- (a) Permits issued under the provision of this article may be revoked for any of the following causes by any official other than the City Manager:
 1. Fraud, misrepresentation, or false statement contained in the application for permit;
 2. Fraud, misrepresentation, or false statement made in the course of carrying out business or other activities;
 3. Any violation of this article;
 4. Conviction of a misdemeanor or any felony if the crime directly relates to the conduct of business; or
 5. Conducting the business of peddling or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, and general welfare of the public.
- (b) The official revoking the permit shall provide notice of the revocation both verbally and in writing and shall specify the basis of a revocation.
- (c) When the peddler or solicitor receives notice that his/her permit has been revoked, said person shall immediately surrender the permit to the City.

Sec. 30-196. Appeals.

- (a) A permit holder may appeal the act of denial or revocation of any permit to the City Manager within 5 business days from the date of denial or revocation.
- (b) Such appeal shall be taken by filing with the City Manager a written statement setting forth fully the grounds for the appeal.
- (c) The City Manager shall issue a decision on the denial or revocation in writing within 5 business days of receipt of the appeal.
- (d) The revocation or denial is not stayed pending the City Manager's decision.
- (e) The decision and order of the City Manager on such appeal is final and conclusive."



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

SUBJECT: Ordinance No. 2024-07. An Ordinance amending the City of Kerrville fee schedule by adopting a revised fee to be charged for each solicitation permit.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 20, 2024

SUBMITTED BY: Guillermo Garcia

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A
Guiding Principle N/A
Action Item N/A

SUMMARY STATEMENT:

If the City Council approves the second reading of the Door-to-Door Ordinance, it will be necessary to revise the associated fees. Currently, the fees are \$600 for one person for one year. Any additional persons covered by the permit are charged \$10 for 30 days or \$100 for one year. The proposed fees to accompany the adoption of the Door-to-Door Ordinance is \$86 Solicitation Permit Fee.

RECOMMENDED ACTION:

Approve Ordinance No. 2024-07 first reading.

ATTACHMENTS:

[*20240326_Ord 2024-07 Solicitation Permit fee.pdf*](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-07**

AN ORDINANCE AMENDING THE CITY OF KERRVILLE FEE SCHEDULE BY ADOPTING A REVISED FEE TO BE CHARGED FOR EACH SOLICITATION PERMIT

WHEREAS, City Council, through its adoption of the budget for fiscal year 2024 (the "Budget"), adopted fees for various services provided by the City; and

WHEREAS, the City's fees are contained within the City's Fee Schedule, which is included as an appendix to the Budget; and

WHEREAS, as part of City Council's consideration of an ordinance which will amend the City's existing regulations as to the door-to-door solicitation and peddling of good and services, the Development Services Department, after consultations with other departments, recommends amending the City's Fee Schedule to adopt a fee for the City to apply for each application for a solicitation permit; and

WHEREAS, processing and issuing each permit requires time and resources by City staff to review the application and City staff has studied the time and resources necessary and believes that the recommended fee bears a reasonable relationship to the City's total cost of providing this service; and

WHEREAS, City Council has determined it is in the public interest of the citizens of Kerrville to adopt the fee as provided herein;

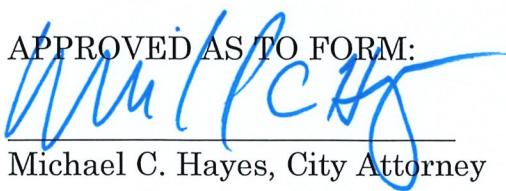
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KERRVILLE, KERR COUNTY, TEXAS:

City Council amends the Fee Schedule of the City of Kerrville, Texas, as set forth in **Exhibit A**, and attached and incorporated herein by reference, such change to be effective immediately.

PASSED AND APPROVED ON this the _____ day of _____ A.D., 2024.

Judy Eychner, Mayor

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

ATTEST:

Shelley McElhannon, City Secretary

Estimate **Solicitation Permit Fee**

Cost Item	Cost	Hourly Cost	Hourly	Cost
Personnel				
Permit Tech	56,456.06	27.14	0.25	6.79
Permit Tech	70,636.26	33.96	0.25	8.49
Code Enforcement Manager	88,170.30	42.39	0.25	10.60
Police Personnel	56,456.06	27.14	1.00	27.14
Personnel Cost				<u>53.02</u>
Supplies				
Office Supplies	1,500.00	0.72	0.25	0.18
Supplies Cost				<u>0.18</u>
Maintenance				
Vehicle	91,331.50	43.91	0.50	21.95
Vehicle Fuel	3,249.00	1.56	0.50	0.78
Vehicle Maintenance	78.00	0.04	0.50	0.02
Vehicle Registration & Inspection	14.50	0.01	0.50	0.00
Software Maintenance	40,000.00	19.23	0.25	4.81
Maintenance Cost				<u>27.57</u>
Service				
Phone Service	4,032.00	1.94	0.50	0.97
Credit Card Service	18,000.00	8.65	0.50	4.33
Service Cost				<u>5.30</u>
Estimated Fee				<u>86.06</u>

Proposed Fee	\$86.00
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TO BE CONSIDERED BY THE CITY COUNCIL CITY OF KERRVILLE, TEXAS

SUBJECT:

Ordinance No. 2024-06. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, which adopted zoning regulations, use districts, and a zoning map in accordance with the City's Comprehensive Plan, such Chapter more commonly known as the City's Zoning Code; by changing the zoning and classification of the property consisting of an approximate 86.71 acre tract out of the W.T. Crook Survey No. 71, Abstract No. 114, Kerr County, Texas, and more commonly known as 300 Peterson Farm Rd; from being a Planned Development District established by Ordinance No. 2010-03, to an Industrial and Manufacturing Zoning District (IM); providing a cumulative clause; providing for severability; providing an effective date; ordering publication; and providing other matters relating to the subject.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 20, 2024

SUBMITTED BY: Drew Paxton, Planning Director

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Proposal: An ordinance to change the zoning from Planned Development District, PDD 10-03, to IM Industrial and Manufacturing on approximately 86.71 acres out of the W.T. Crook Survey No. 71, Abstract No. 114, Kerr County, TX; and more commonly known as 300 Peterson Farm Rd. (Case No. PZ-2024-2)

The applicant requests a zoning change from an existing Planned Development District, PDD 10-03, to IM Industrial and Manufacturing to accommodate a proposed manufacturing business with associated office space. A majority of this property is directly adjacent to County land and the airport is directly adjacent to the south. The property fronts Peterson

Farm Road, which serves as the primary access to the property. The K2050 Comprehensive Plan identifies this area for future development as Catalyst Area 11, allowing for Heavy Commercial and Light Industrial uses. The applicant is requesting zoning that is consistent with the K2050 Plan.

Procedural Requirements: The City, in accordance with state law, mailed 9 letters on 2/22/2024 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 2/15/2024. In addition, a public hearing notification sign was posted on the property frontage on 2/23/24. At the time of drafting this agenda bill, no public comments had been received.

Staff Analysis and Recommendation:

Consistency with the Kerrville 2050 Comprehensive Plan: The property is designated as Strategic Catalyst Area 11 (SCA 11). The place types for SCA 11 allow for heavy commercial, light industrial, agriculture and outdoor tourism, stating that heavy commercial, light industrial uses are best adjacent to the airport. Because the proposed development meets the place type description, it is appropriate that the property be rezoned as requested from the current PDD to IM Industrial and Manufacturing since it is consistent with the K2050 Plan.

Adjacent Zoning and Land Uses:

Subject Property

Current Zoning: Planned Development District PDD 10-03

Existing Land Uses: Vacant Land

Direction: North

Current Zoning: County Land

Existing Land Uses: Vacant Land; Church

Direction: South

Current Zoning: AD Airport

Existing Land Uses: Airport and associated businesses.

Direction: West

Current Zoning: County Land; RM Residential Mix

Existing Land Uses: Vacant Land; Residential

Direction: East

Current Zoning: County Land

Existing Land Uses: Vacant Land; Some Residential

Thoroughfare Plan: There should be no impact to the thoroughfare system. This property fronts Peterson Farm Road for access.

Traffic Impact: A traffic study will be required for future development.

Parking: To be determined and consistent with zoning regulations once a final site plan has been submitted for review and approval.

Recommendation: Based on consistency with the Kerrville 2050 Plan, adjacent land uses, and that fact that the underlying zoning still remains as an industrial use, staff recommends the case for approval

RECOMMENDED ACTION:

Approve Ordinance No. 2024-06 first reading.

ATTACHMENTS:

[20240326_Ord 2024-06 Zone change Megaacrete.pdf](#)

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2024-06**

AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, WHICH ADOPTED ZONING REGULATIONS, USE DISTRICTS, AND A ZONING MAP IN ACCORDANCE WITH THE CITY'S COMPREHENSIVE PLAN, SUCH CHAPTER MORE COMMONLY KNOWN AS THE CITY'S ZONING CODE; BY CHANGING THE ZONING AND CLASSIFICATION OF THE PROPERTY CONSISTING OF AN APPROXIMATE 86.71 ACRE TRACT OUT OF THE W.T. CROOK SURVEY NO. 71, ABSTRACT NO. 114, KERR COUNTY, TEXAS, AND MORE COMMONLY KNOWN AS 300 PETERSON FARM RD; FROM BEING A PLANNED DEVELOPMENT DISTRICT ESTABLISHED BY ORDINANCE NO. 2010-03, TO AN INDUSTRIAL AND MANUFACTURING ZONING DISTRICT (IM); PROVIDING A CUMULATIVE CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; ORDERING PUBLICATION; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT

WHEREAS, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on March 26, 2024, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on an ordinance, the adoption of which will result in the change of a zoning district for the property known as 300 Peterson Farm Rd., consisting of an 86.71 acre tract out of the W.T. Crook Survey No. 71, Abstract No. 114; such amendment to result in the zoning of the property changing from a Planned Development District, as established by Ordinance No. 2010-03, to an Industrial and Manufacturing Zoning District (IM); and

WHEREAS, on March 26, 2024, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

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

SECTION ONE. The Zoning Code for the City of Kerrville, Texas, as enacted by City Council and effective October 1, 2019 and included within Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* be and the same are hereby amended to designate the following described property zoned as an Industrial and Manufacturing Zoning District (IM):

All that certain tract or parcel of land, lying and being situated within the City of Kerrville, Texas, and being approximately 86.71 acres out of the W.T. Crook Survey No. 71, Abstract No. 114, Kerr County, Texas; commonly known as 300 Peterson Farm Road; and more particularly described and depicted at Exhibit A, attached hereto and made a part hereof for all purposes, and hereafter referred to as the "Property."

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

SECTION THREE. The provisions of this Ordinance are cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent with or in conflict with any of the provisions of this Ordinance. Ordinance No. 2010-03 is repealed.

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

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

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

PASSED AND APPROVED ON FIRST READING, this the _____ day of
_____, A.D., 2024.

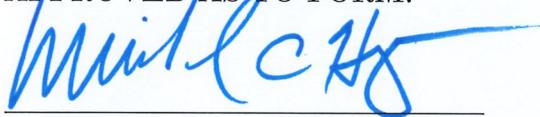
PASSED AND APPROVED ON SECOND AND FINAL READING, this
the _____ of _____, A.D., 2024.

Judy Eychner, Mayor

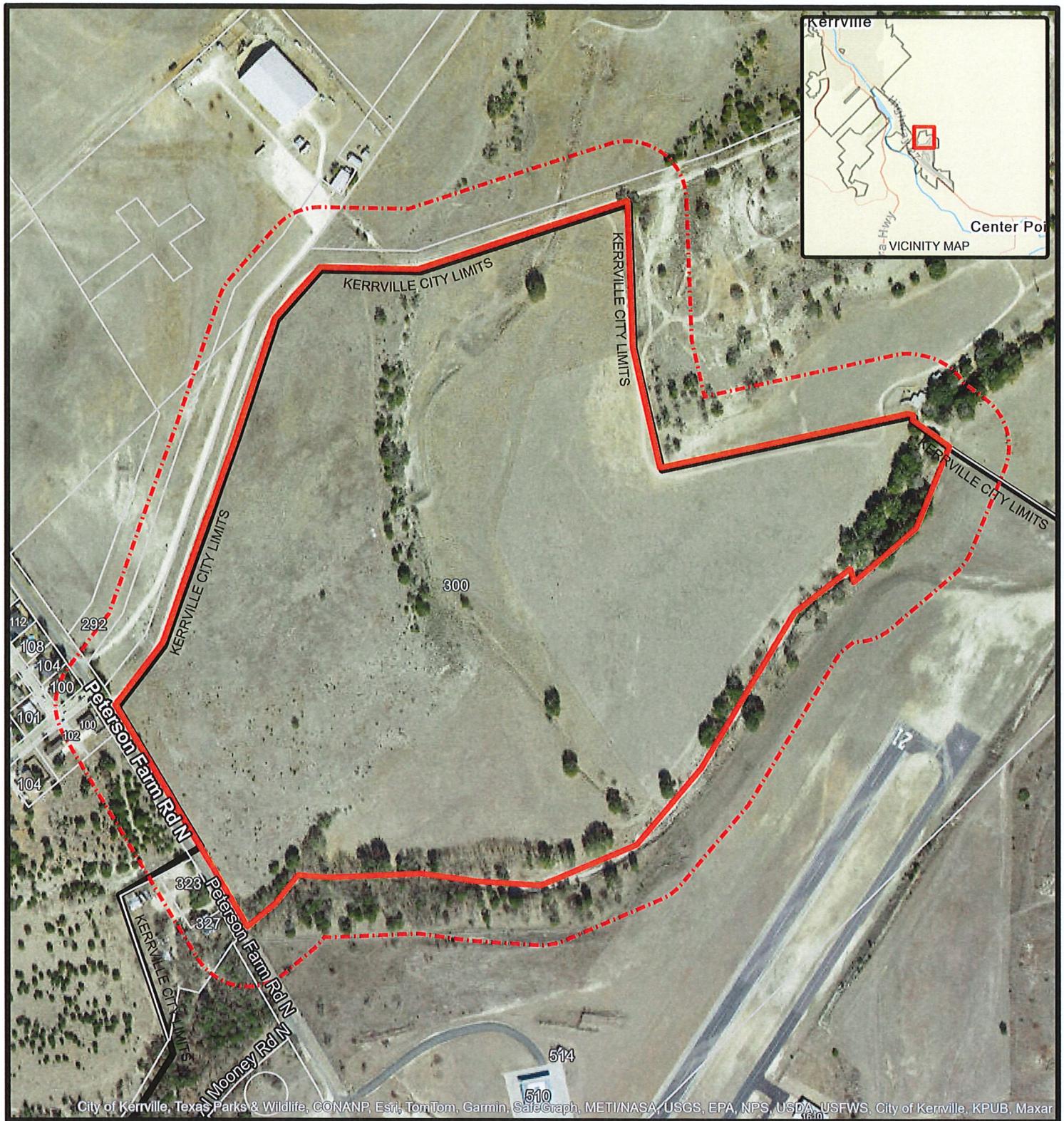
ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



Location Map

Case #PZ-2024-2

Location:

300 Peterson Farm Rd N

Legend

-  Subject Properties
-  200 Feet Notification Area



02/21/2024

0 150 300 600

Scale In Feet



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

SUBJECT: Request for "major waiver" of requirements of Subdivision Code for property located adjacent to 3200 Oak Hollow, Kerrville, TX 78028, and consisting of a 0.32 acre tract.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 14, 2024

SUBMITTED BY: Drew Paxton, Planning Director

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A
Guiding Principle N/A
Action Item N/A

SUMMARY STATEMENT:

The applicant requests a waiver of the City's Subdivision Code (Ch. 82, Code of Ordinances, "Code"). The request is for a "major waiver" of the application of the Code pursuant to Section 82-37 of the Code. The applicant owns a 0.32-acre tract (the "Tract"), which was previously subdivided from another property without platting as, at that time, this subdivision was exempt from the Code's platting requirement. In essence, the applicant now seeks for the City to allow for construction on the Tract without extending a wastewater main, extending a residential street (Lammers), and dedicating the necessary right-of-way for each. These extensions are required by the Code but may be waived pursuant to Council approval. Thus, the applicant is seeking a "major waiver" from Council pursuant to this agenda item.

The Tract is not developable in its current state, but requires platting, dedication of easements for both the wastewater main and street, and thereafter, extension of the main and street across the Tract's property to the adjacent property located to the northwest.

The applicant's letter to Mr. Paxton cites the section of the Code that requires platting, which is as follows:

Sec. 82-5. Platting required.

(b) The following subdivisions are exempted from the above-stated platting requirement:

(3) Any property subdivided prior to February 12, 2012, provided that each part of the subdivided property was adequately served by the following after the subdivision: ...

- a. Streets constructed and previously accepted for maintenance by the city or county, whichever is applicable;
- b. Water improvements as currently required by this or other applicable ordinances;
- c. Wastewater or individual OSSF disposal system as currently required by this or other ordinances;
- d. Storm drainage facilities as currently required by this or other applicable ordinances; and
- e. Easements or rights-of-way as may be currently required by this or other applicable ordinance for the installation of any of the above-stated improvements.

Although the Tract was subdivided prior to February 12, 2012, the Tract does not meet this exemption in the Code as it is not adequately served by a public street, a wastewater disposal system, or corresponding rights-of-way. Therefore, the applicant has requested the major waiver to avoid extending and constructing public infrastructure as required by the Code.

Council may request a “major waiver” pursuant to the following Code section:

Sec. 82-37. Relief procedures; waivers.

City council may authorize major waivers from these subdivision regulations upon a request by an applicant. The director or commission may authorize minor waivers in accordance with the following:

(a) *Request for waiver.* Prior to any application for plat or subdivision plan approval, an applicant who seeks a major waiver, as specified below, to the standards in these regulations shall submit the request for the waiver(s) to the director for consideration by city council. The request shall be accompanied by a detailed statement of the reasons for the waiver and addressing the criteria for approval of the request, together with a schematic showing the plat or subdivision plan with and without the waiver. No application for plat or subdivision approval shall be accepted for filing until council has acted upon the waiver request. Any waiver request that is based upon the alleged disproportionate costs of dedicating land, construction, or payment of fees for a public infrastructure will be classified as an appeal of a rough proportionality determination and processed under section 82-38. Determinations on request for waivers will be handled in the following manner:

(1) *Minor waivers.* Request for waivers that will be considered minor amendments to the subdivision regulations may only include minor adjustments in street or alley alignments, and lengths, and minor adjustments to lot lines that do not result in creation of additional lots or

any non-conforming lots, provided that such amendments are consistent with applicable approved prior plats and subdivision plans. Minor waivers may be approved by the director. However, if the plat or subdivision plan goes to the commission, then the waiver shall be decided in the commission's report with the recommendation of the director. If a minor waiver is requested in an application for a replat, the minor waiver shall be approved by the commission following the procedures in subsection 82-35(b), above.

(2) *Major waivers.* All other proposed changes that do not meet the criteria to be a minor waiver to the subdivision regulations shall be deemed major amendments that require approval of the major waiver by city council.

(b) *Criteria for approval of waiver.*

(1) In deciding a major waiver request, council shall consider the hardship of the applicant in complying with the standards for which the waiver is sought, the nature of the proposed use of land involved and existing uses of the land in the vicinity, and the probable effect of such waivers upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity. No major waiver will be granted unless council finds that:

- a. There are special circumstances or conditions affecting the land to be platted such that the strict application of the provisions of these subdivision regulations would result in unnecessary hardship to the applicant and/or the waiver accomplishes one of the following:
- b. To preserve environmental features that would be otherwise be affected by a strict application of these regulations, including tree preservation, geologic formations, steep slopes, springs, or similar conditions;
- c. To enable more efficient use of the land;
- d. To minimize or correct previous adverse effects from placement of drainage courses, transmission lines, or septic systems; or
- e. To enable orientation of lots for greater solar advantage; and
- f. The granting of the waiver will not be detrimental to the public health, safety, general welfare, or injurious to surrounding properties; and
- g. The granting of the waiver will not have the effect of preventing the orderly subdivision of other land in the area in accordance with these subdivision regulations.

(2) The director or the commission may grant a minor waiver utilizing the criteria in subsection (a)(1), above.

(3) No waiver may be granted that would constitute a violation of a city ordinance.

(c) *Decision and effect.* Council or the director, as the case may be, or in the event of a minor waiver for a replat, the commission, shall provide the applicant with its written decision on the waiver request. Where council grants a major waiver, the applicant is authorized to submit an application for plat or subdivision plan approval that incorporates the major waiver(s), which shall not be altered by the director or commission, as the case may be, nor shall an approved waiver be the basis for a denial of the application.

Staffs' analysis: Approval of this waiver request would limit the ability of the adjacent vacant property to the northwest from any potential development by depriving it of access to a public street and connection to the City's wastewater main. Put another way, if Council grants the major waiver, should the adjacent property owner seek future development of its property, the owner would need to extend the street and wastewater main to its property and before doing so, negotiate the public dedication of easements from the owner of the Tract. Staff does not believe any of the reasons or findings specified in subsection 82-37(b)(1) apply. Thus, Development Services and Public Works staff recommend denial of the request.

RECOMMENDED ACTION:

Recommend denial of request.

ATTACHMENTS:

[*20240326_Major Waiver_for LammersStreet lot.pdf*](#)

February 29, 2024

Drew Paxton
Director of Planning & Development
200 Sidney Baker St.
Kerrville, Texas 78028

Mr. Paxton,

My client, Beverly Nyitrai, owns Lot 1 in Block 10 of Oak Hollow Estates Section Two and the adjoining 0.32 acre tract (not a part of Oak Hollow Estates). She wants to sell the .32-acre tract to a buyer who wants to build a single-family residence. The .32-acre tract was created by metes and bounds deed conveyance in December 2001.

We feel like this tract is exempted from the City of Kerrville platting requirements under Sec. 82-05.9(b)(3). We think the property can be sold and a building permit issued to the new owner without the requirement of a plat.

Lee Voelkel surveyed the property September 19, 2023 which shows a 50 ft. easement to David Wilson's adjoining property.

Ms. Nyitrai is requesting a major waiver on this tract from the City Council. She is requesting that the required public improvements be installed at a later date with the future development of David Wilson's adjacent property if necessary, at that time.

I have attached the following concerning the tract along with the Owner affidavit:

1. Owner Affidavit
2. Survey
3. Vicinity Map (from KCAD map R-67266)
4. City utility map showing existing water and sanitary sewer mains in the right -of-way of the public street adjoining the tract.
5. Sec.82-05. (b)(3) of the City of Kerrville Subdivision Ordinance.
6. Owners Deed (creating the tract).

Call me if you have any questions or need clarification regarding her request.

Regards,



Calvin Holland
Sherman & Co. Realtors
327 Earl Garrett, Suite 108
calvin@shermanco.com
830-739-3908



Owner Affidavit (Individual)

Development Services Department

I, BEVERLY MITRAI, having first been duly sworn, do hereby testify as follows:

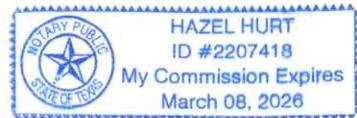
I am more than 18 years of age and fully capable of making this affidavit;

I am the record owner of the property described as 0.32 ACRE TRACT Adjoining and
Lot 1, Block 10 of Dark Hollow II
I hereby authorize Calvin Holland to submit this
application for the purpose of using the property for and to act on my behalf in all matters related
to this application.

Beverly M. Itrai
Signature of Property Owner

SWORN AND SUBSCRIBED before me this

22 Day of February, 2024
by Hazel Hurt.



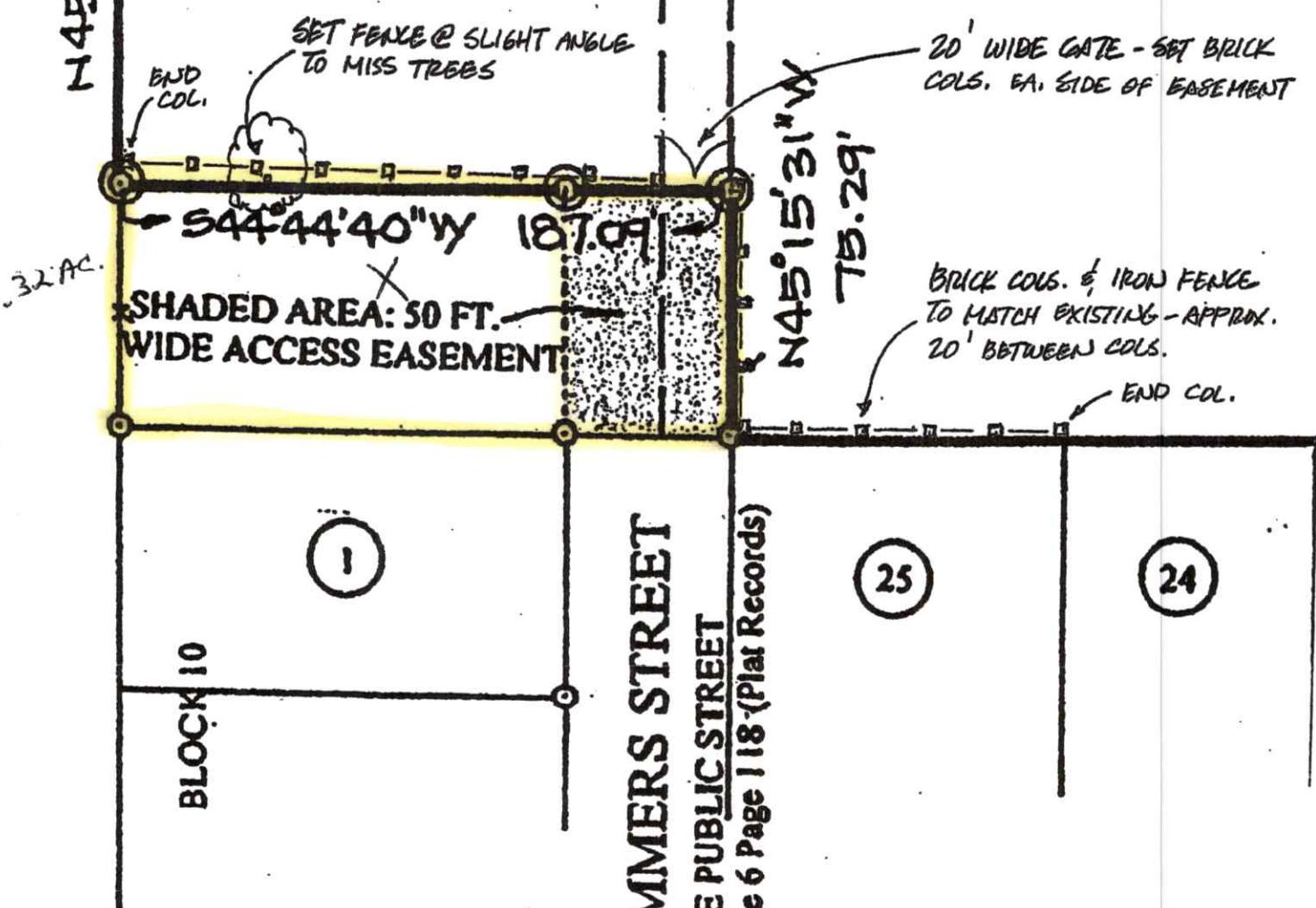
Notary Public, State of Texas

N 45° 06' 56" W 217.3'

NOTE:

GATE TO MATCH NEW FRONT GATE
BUT MANUAL OPERATION AND 20'
WIDE TO CLEAR EASEMENT. CONSTRUCT
WITH METHOD FOR PADLOCK AND ONE
SIDE OF GATE HELD IN PLACE WITH
CAME BOLT.

20 FT. WIDE WATER LINE
Creal to City of Kerr
Volume 817 Page 223 (Real Pr
03/06/95



ADDITIONAL FENCE & GATE FOR
DAVID & VICTORIA WILSON

4/29/03

Rec'd 5.27.03

40.52 ACRES
GMU Partnership to Keeble
Volume 1039 Page 554 (Real Property Records)
11/19/99

KERRVILLE-SCHREINER
STATE PARK

500 ACRES
City of Kerrville to State of Texas
Volume 58 Page 116 (Deed Records)
12/10/34

8.57 ACRES

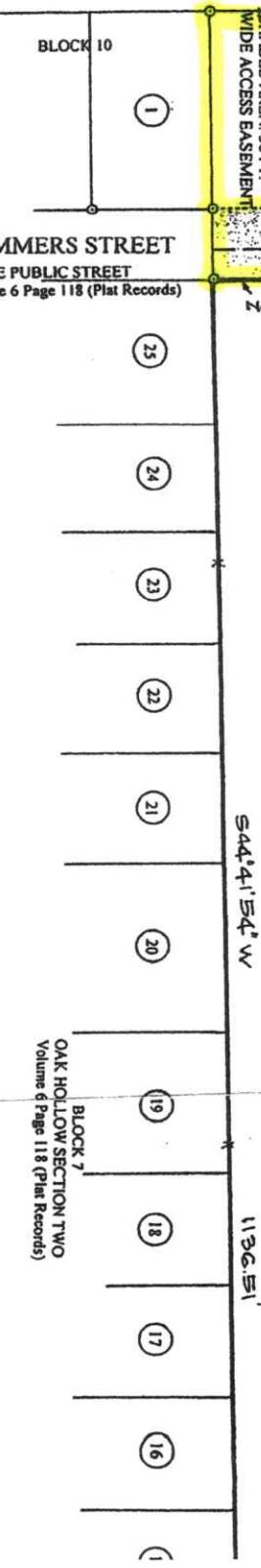
20 FT. WIDE WATER LINE EASEMENT
Creal to City of Kerrville
Volume 817 Page 223 (Real Property Records)
03/06/95

20 FT. WIDE WATER LINE EASEMENT
Creal to City of Kerrville
Volume 836 Page 556 (Real Property Records)
02/12/96

20 FT. WIDE WATER LINE EASEMENT
Creal to City of Kerrville
Volume 817 Page 223 (Real Property Records)
03/06/95

OAK HOLLOW SECTION TWO
Volume 6 Page 118 (Plat Records)

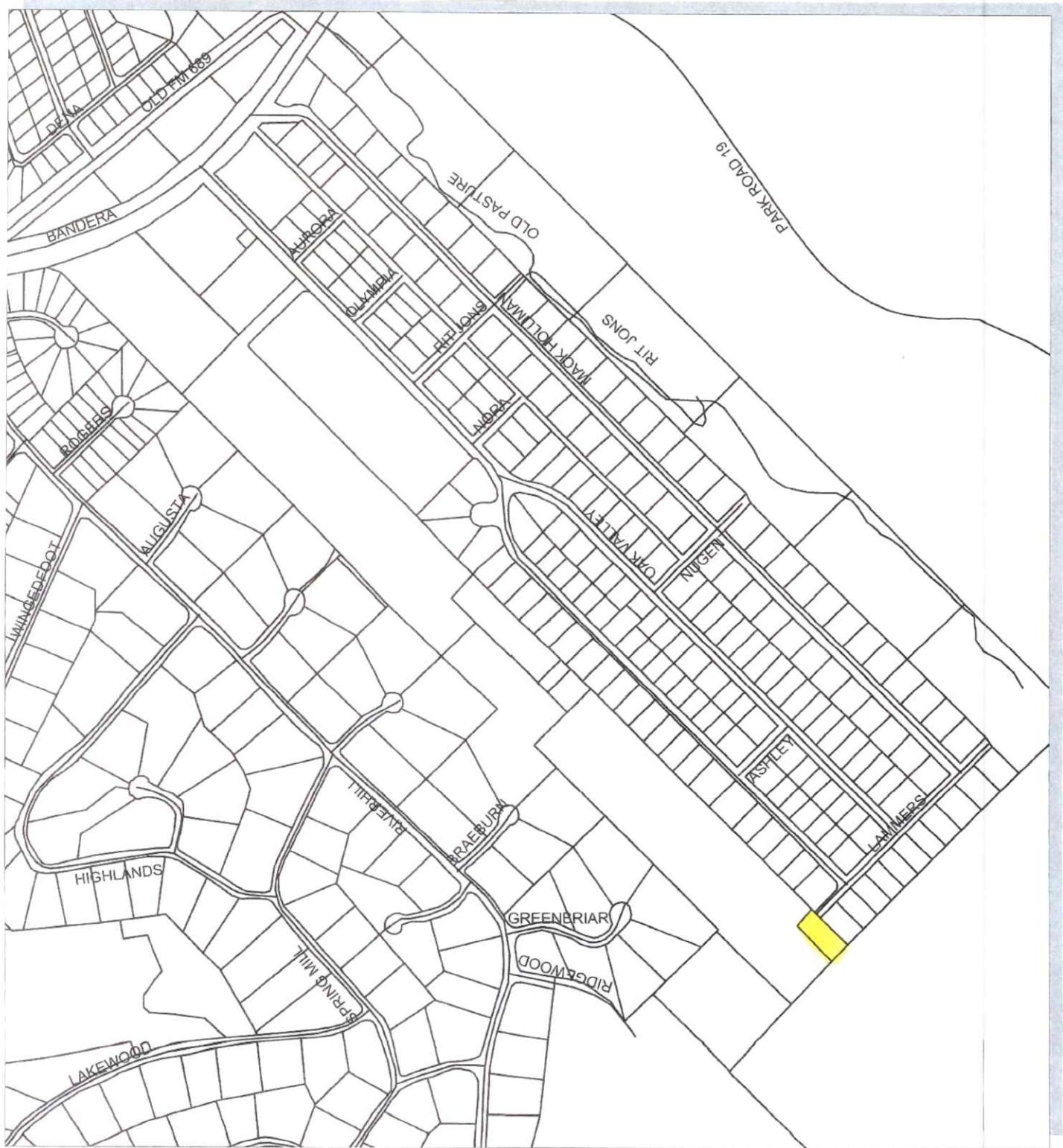
50 FT. WIDE PUBLIC STREET
Reference: Volume 6 Page 118 (Plat Records)



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

Date surveyed: August 2, 2001







Site Address Point

● Water Hydrant Valve

■ Municipal Boundary

● Water System Valve - Opened

■ Tax Parcel 2022

● Water Hydrant - In Service

— Water Lateral

● Water Service Connection

— Water Main

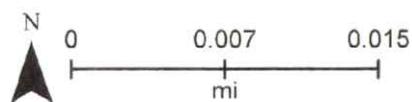
● Sewer Gravity Main

○ Water Meter Box

● Sewer Clean Out

○ Water Fittings

Utility Admin Map



09/21/2022 09:25 AM

Utility Admin

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

Attachment A

Texas Commission on Environmental Quality ("TCEQ") means the environmental agency for the state or its successor.

Thoroughfare Plan means the City's adopted planning document and maps, along with any amendments or supplements, which is used as a guide for the layout and configuration of major and secondary streets and highways and is a component part of the Comprehensive Plan.

Undevelopable lot means a lot that is unbuildable or cannot be feasibly developed due to conditions such as shape, size, topography, amount of floodplain or floodway, unable to meet setbacks, unable to meet minimum size requirements for lots or improvements, lots less than one acre in size located in the ETJ, unable to accommodate utilities to serve the lot, incapable of meeting all applicable requirements for constructing utilities and buildings, or other impairments to lawful development.

Vested right means a right of an applicant in accordance with Chapter 245, Texas Local Government Code, as amended, requiring the City to review and decide the application under standards in effect prior to the effective date of the standards of the subdivision regulations or any subsequent amendments thereto.

Waiver, major has the meaning set forth in Sec. 82-37.

Waiver, minor has the meaning set forth in Sec. 82-37.

Wastewater means a waterborne industrial waste, recreational waste, domestic waste, or combination of these wastes, as defined by the TCEQ.

Zoning plan means a concept plan, site plan, or similar document required to determine compliance with land use regulations which are authorized under Chapter 211, Texas Local Government.

Sec. 82-05. - Platting Required.

(a) *Duty to file plat.* Except as otherwise provided in Sec. 82.06, the owner of land located within the City or extraterritorial jurisdiction who proposes to divide or develop the land shall have a plat of the land approved as provided in this Code. A division of land under this section includes a division of land by metes and bounds, or in a contract for a deed, contract of sale, or other executory contract for conveyance. No improvements to the land shall be commenced or any type of development or building permit shall be issued until compliance

Attachment A

with this Code is achieved.

(b) *Exemptions*. The following subdivisions are exempted from the above-stated platting requirement:

(1) A conveyance of land by dedication, lease, or sale to a public agency for a street or other type of right-of-way, utility line, or drainage facility, provided that said conveyance is accepted and approved by the public agency.

(2) Leases, including a lease of public property at the Kerrville Airport.

(3) Any property subdivided prior to February 12, 2012, provided that each part of the subdivided property was adequately served by the following after the subdivision:

- a. Streets constructed and previously accepted for maintenance by the City or County, whichever is applicable;
- b. Water improvements as currently required by this or other applicable ordinances;
- c. Wastewater or individual OSSF disposal system as currently required by this or other ordinances;
- d. Storm drainage facilities as currently required by this or other applicable ordinances; and
- e. Easements or rights-of-way as may be currently required by this or other applicable ordinance for the installation of any of the above-stated improvements.

(4) In accordance with Section 212.004(a), Texas Local Government Code, the division of land into two or more parts provided that:

- a. all parts after the division of land are larger than five acres;
- b. no public improvement is required by this Code to be dedicated; and,
- c. after the division, each part has access.

10121

Cash Warranty Deed

SUBJECT TRACT

Date: Oct 10, 2001Grantor: **KENNETH L. CREAL**, a single man

Grantor's Mailing Address:

2780 Skypark Drive, Suite 310
 Torrance, California 90505
 Los Angeles County

Grantee: **KALMAN NYITRAI and wife, BEVERLY NYITRAI**

Grantee's Mailing Address:

3200 Lammers
 Kerrville, Texas 78028
 Kerr County

FILED FOR RECORD
 at 11:08 o'clock A.M.

DEC 20 2001

JANNETT PIEPER
 Clerk County Court, Kerr County, Texas
[Signature]

Consideration:

TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration.

Property (including any improvements):

I. See Exhibit "A" attached hereto and made a part hereof.

II. All of Grantor's rights under that certain easement agreement dated October 11, 2001, recorded in Volume 1149, Page 126 of the Real Property Records of Kerr County, Texas.

Reservations from Conveyance:

None

Exceptions to Conveyance and Warranty:

1. Liens described as part of the Consideration and any other liens described in this deed as being either assumed or subject to which title is taken; validly existing easements, rights-of-way, and prescriptive rights, whether or record or not; all presently recorded and validly existing instruments, other than conveyances of the surface fee estate, that affect the Property; and taxes for 2001, which Grantee assumes and agrees to pay.
2. Easement dated October 11, 2001, recorded in Volume 1149, Page 126 of the

\$1

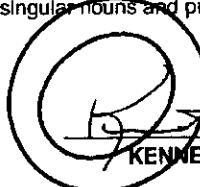
1

Real Property Records of Kerr County, Texas.

Grantee, by accepting this deed and causing it to be recorded, acknowledges 1) that Grantee is taking the property "AS IS" with any and all latent and patent defects; 2) that there is no warranty by Grantor that the Property is fit for a particular purpose; 3) that it is not relying upon any representations, statements, assertions or non-assertions by the Grantor with respect to the Property, but is relying solely upon its examination of the Property; and 4) that Grantee takes the Property with the express understanding there are no express or implied warranties (except for the warranties of title set forth herein).

Grantor, for the Consideration and subject to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty, grants, sells, and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any way belonging, to have and to hold it to Grantee and Grantee's heirs, successors, and assigns forever. Grantor binds Grantor and Grantor's heirs and successors to warrant and forever defend all and singular the Property to Grantee and Grantee's heirs, successors, and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the Reservations from Conveyance and the Exceptions to Conveyance and Warranty.

When the context requires, singular nouns and pronouns include the plural.


KENNETH L. CREAL

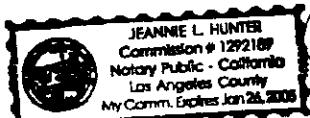
ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

\$
\$
\$

On 12/10/10 before me, Jeannie L. Hunter,
(name of officer) personally appeared KENNETH L. CREAL, personally known
to me -OR- proved to me on the basis of satisfactory evidence to be the person
whose name is subscribed to the within instrument and acknowledged to me that he
executed the same in his authorized capacity (ies), and that by his signature on the
instrument the person, or the entity upon behalf of which the person acted, executed the
instrument.



Notary Public, State of California

Prepared in the Law Offices of
Pattillo, Richards & Harpold, P.C.
Attorneys at Law
280 Thompson Drive, Suite B
Kerrville, Texas 78028

AFTER RECORDING RETURN TO:
KALMAN NYITRAI
3200 Lammers
Kerrville, Texas 78028

Previous person which received the sale, rental or use of the described property because of color or race is invalid and unenforceable under Federal Law.
THE STATE OF TEXAS]
COUNTY OF KERR]
I hereby certify that the instrument was FILED in the Public Record Bureau on the date and at the time stamped herein by me and was duly RECORDED in the Office of Public Records of Real Property of Kerr County, Texas on

DEC 21 2001



Janet L. Peiper
COUNTY CLERK, KERR COUNTY, TEXAS

RECORD VOL 1162 PG 180
RECORDING DATE DEC 21 2001
RECORDED BY *Janet L. Peiper*
COUNTY CLERK, KERR COUNTY, TEXAS

SUBJECT TRACT

FIELD NOTES DESCRIPTION FOR 0.32 ACRE OF LAND OUT OF
THE KENNETH L. CREAL LAND BETWEEN OAK HOLLOW
AND RIVERHILL IN THE CITY OF KERRVILLE, KERR
COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 0.32 acre, more or less, out of John Southmayd Survey No. 148, Abstract No. 288 in the City of Kerrville, Kerr County, Texas; part of a certain 21.13 acre tract (Save and Except 1.55 acres) conveyed from E. T. Alcorn, et ux to Kenneth L. Creal, et ux by a Warranty Deed with Vendor's Lien executed the 29th day of July, 1994 and recorded in Volume 757 at Page 703 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a $\frac{1}{2}$ " iron stake found at a fence cornerpost in the northeast line of a certain 500 acre tract (known as Kerrville-Schreiner State Park) conveyed from the City of Kerrville to the State of Texas by a deed dated December 10, 1934 and recorded in Volume 58 at Page 116 of the Deed Records of Kerr County, Texas for the south corner of the herein described tract and said 21.13 acre tract and the west corner of Lot 1, Block 10 of Oak Hollow Section Two, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 118 of the Plat Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 21.13 and 500 acre tracts N.45°06'56"W., 74.91 ft. to a $\frac{1}{2}$ " iron stake set for the west corner of the herein described tract;

THENCE, upon, over and across said 21.13 acre tract; N.44°44'40"E., 187.09 ft. to a $\frac{1}{2}$ " iron stake set for the north corner of the herein described tract; and S.45°15'34"E., 78.29 ft. to a $\frac{1}{2}$ " iron stake found in the southeast line of 21.13 acre tract at its intersection with the northeast right-of-way line of Lammers Street, a fifty (50) ft. wide public street at its northwest terminus for the east corner of the herein described tract and west corner of Lot 25, Block 7, Oak Hollow Section Two;

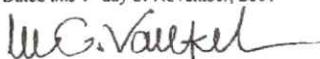
THENCE, with the said southeast line of 21.13 acre tract and northeast end of said Lammers Street S.45°03'53"W., 50.06 ft. to a $\frac{1}{2}$ " iron stake found for the west corner of Lammers Street and north corner of said Lot 1, Block 10;

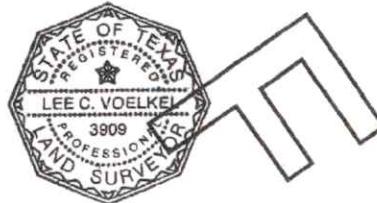
THENCE, along a fence with the common line between said 21.13 acre tract and Lot 1, Block 10, S.44°47'16"W., 137.22 ft. to the PLACE OF BEGINNING.

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

Date Surveyed: August 2, 2001

Dated this 1st day of November, 2001


Lee C. Voelkel
Registered Professional Land Surveyor No. 3909



RECORDERS NOTE
AT TIME OF RECORDATION INSTRUMENT FOUND
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TO BE CONSIDERED BY THE CITY COUNCIL CITY OF KERRVILLE, TEXAS

SUBJECT: Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas; for improvements made to the City's Scott Schreiner Golf Course.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 14, 2024

SUBMITTED BY: Ashlea Boyle, Director Parks & Recreation

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$4,000,000	N/A	\$4,000,000	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle N/A

Action Item P5.11 - Explore potential bond funding for enhancements to the Scott Schreiner Golf Course related to replacing the greens and renovating the bathrooms

SUMMARY STATEMENT:

On November 13, 2023, the EIC held a public hearing and passed a resolution authorizing the issuance of \$20M of sales tax revenue bonds for several quality-of-life projects, including the Scott Schreiner Golf Course. The Kerrville City Council subsequently passed a resolution and approved the bond issuance on November 14, 2023. This bond issuance is a culmination of several months of planning with both the EIC and City Council.

On January 23, 2024, staff presented the Golf Course Project Plan to the City Council and received a consensus to proceed with the recommendation. The plan is to complete this project in two major phases. Phase 1 in 2024 for the Planning and Secondary Projects, and Phase 2 in 2025 for the Course Renovation. This plan provides better planning, bidding, budgeting, and contractor availability.

Phase 1: Planning and Secondary Projects (2024)

- Execute the contract with our consultant, True Club Solutions, to prepare and complete the bid process.

- Award the bid in the summer and execute contracts.
- Engage and begin secondary course projects such as building improvements, maintenance area parking improvements, cart area improvements, etc.

Phase 2: Course Renovations (2025)

- Complete major course renovations (greens, sand bunkers, cart paths, netting, trees, bridges, etc.).
- A closure is required due to the extent of the renovation, concurrent projects, and the grow-in period, which is 90-120 days.
- Course to close in January 2025 and open at the end of July / early August. Dates are subject to change, barring any unforeseen delays, issues, or for the benefit of the project.

On February 12, 2024, the EIC approved the project plan and funding application in the amount of \$4,000,000.

On March 18, 2024, the EIC held a public hearing and approved the funding agreement. The final step in the approval process is the consideration and approval of the City Council.

RECOMMENDED ACTION:

Approval of the agreement.

ATTACHMENTS:

[*20240326_EIC Funding Agreement - Schreiner Golf Course.pdf*](#)

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS; FOR IMPROVEMENTS MADE TO THE CITY'S SCOTT SCHREINER GOLF COURSE

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2024 ("Effective Date"), by and between the **City of Kerrville, Texas Economic Improvement Corporation** ("EIC"), a Texas non-profit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code; otherwise known as the Development Corporation Act of 1979 ("the Act"); and the **City of Kerrville, Texas** ("City"), a Texas home-rule municipality. EIC and City may be collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, pursuant to the Act, EIC is authorized to provide funding relating to projects which EIC finds to be encompassed within the definitions of "Projects", as that word is defined by Chapters 501 and 505 of the Act; and

WHEREAS, EIC was formed to administer the sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects defined by the Act, including:

land, buildings, equipment, facilities, and improvements found by the EIC to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by Section 505.152 of the Act (emphasis supplied); and

WHEREAS, over the past year, City staff, along with a recommendation from the City's Parks and Recreation Advisory Board, and then pursuant to an application to the EIC from City Council, all recognized the need for significant improvements to be undertaken at the City's Scott Schreiner Golf Course ("Golf Course"); and

WHEREAS, toward that end, the EIC included an estimated cost of the proposed work for the Golf Course as part of its bond issuance, which the EIC and City Council approved in 2023; and

WHEREAS, City proposes to design and then renovate the greens, bunkers, bridges, cart paths, safety nets, and landscaping at the Golf Course, along with making improvements to its maintenance shop, restrooms, parking area, cart washing area, and potentially, an expansion to the pro shop, all of which is collectively referred to as the “Project”; and

WHEREAS, the City currently estimates the total cost of the Project to be \$4,000,000.00; and

WHEREAS, the City, following approval from its City Council, seeks grant funding from the EIC in an amount not to exceed \$4,000,000.00, for estimated costs stemming from the Project; and

WHEREAS, EIC finds that the Project as described generally above constitutes a “project” as defined by the Act; and

WHEREAS, more specifically, EIC finds that the Project includes equipment, facilities, and improvements required or suitable for use for athletic, tourist, and public park purposes and events, including parks and park facilities and open space improvements and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, EIC finds that it will be in the public interest to enter into this Agreement with City to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to City for costs related to the Project; and

WHEREAS, the EIC published notice for the Project on August 31, 2023, and held a hearing regarding same on November 13, 2023; and

WHEREAS, on March 18, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held an additional public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, the EIC and City agree as follows:

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means design work and then construction based upon the *“Estimate of Probable Costs”* as specified in **Exhibit A**, attached hereto and included herein for all purposes. City will manage the funding it receives and the design, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its

design, timing, and costs. Where the bidding and/or procurement processes determine that the cost of the Project will exceed the City's estimated cost of the Project (\$4,000,000.00), the City is under no obligation to proceed but may choose to suspend its performance until discussing this issue with the EIC and/or may terminate this Agreement.

2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$4,000,000.00 in 4B Revenues for the Project.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the EIC's General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project's Timeline:** The City estimates that design work will begin immediately following approval by City Council of this Agreement and the application of Section 505.160, Texas Government Code. Thereafter, the City anticipates that construction activities will begin on or before January 1, 2025. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the Parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC

President

City of Kerrville, Texas, Economic Improvement Corporation
City Hall, 701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

For City

City Manager, City of Kerrville
City Hall, 701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

9. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County, Texas.
10. **Interpretation:** Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement will therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.
11. **No Joint Venture:** Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between any or all of the Parties.
12. **Parties in Interest:** Nothing in this Agreement shall entitle any Party other than EIC or City to any claim, cause of action, remedy, or right of any term of this Agreement.
13. **Survival of Terms:** All rights, duties, liabilities, and obligations accrued prior to termination will survive termination.
14. **Term.** The term of this Agreement (the "Term") shall commence on the Effective Date and shall terminate on the earlier of: (i) October 1, 2025, or when the requirements set forth in this Agreement are completed; (ii) when terminated by mutual agreement of the Parties; or, (iii) at City's discretion, upon City returning all Grant Funding to EIC that it has received under this Agreement. Upon termination of this Agreement as specified herein, all rights, duties, and

obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.

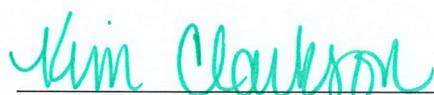
15. **Entire Agreement:** This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in the year and as of the date indicated.

CITY OF KERRVILLE, TEXAS

Judy Eychner, Mayor

**CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION**

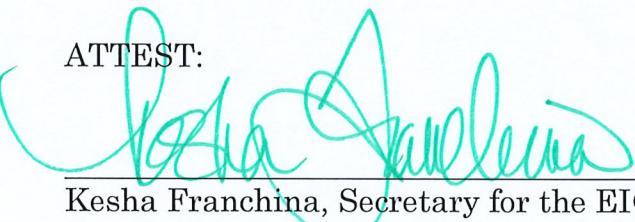


Kim Clarkson, President

ATTEST:

Shelley McElhannon, City Secretary

ATTEST:



Kesha Franchina, Secretary for the EIC

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Scott Schreiner Golf Course Improvement Project - Scope of Work

ITEM	ESTIMATED PROBABLE		NOTES
	COST		
Course Renovations (Project Manager - Troon)			See attached scope of work
Greens, bunkers, drainage, overhead, misc.	\$ 1,783,024		
Estimated Consultant Fees	\$ 118,632		
Course Renovations Grand Total	\$ 1,901,656		
Other Projects (Project Manager - City)			
Maintenance Building Improvements			
Renovations	\$ 70,000	Offices, bathroom, breakroom, HVAC	
Fence	\$ 37,370	Security	
Equipment Storage Cover	\$ 22,252	20 X 60 X 12; 3-sided structure	
Parking Area Improvements	\$ 150,000	Currently dirt, improve to asphalt and concrete	
Total	\$ 279,622		
Cart Paths and Bridges			
Engineering Fee	\$ 52,500	PSA	
Bridges and Cart Paths	\$ 1,350,300	Hole 1 bridge, Hole 3 bridges (2), Hole 6 bridge, Hole 7 bridge, and cart path improvements	
	\$ 1,402,800		
Golf Cart Storage / Washing Area			
Washing Area	\$ 18,500	Replace sheets on building and add lean-to roof	
Replace Garage / Roll-up Doors (25)	\$ 38,500	Maintenance Building and Cart Storage	
Total	\$ 57,000		
Course Restrooms			
Tear Down and Re-build Old Restroom	\$ 50,000	Hole 2	
New Self-Sustaining Bathroom	\$ 154,000	Back 9 - Potential alternate subject to budget	
Total	\$ 204,000		
Park and Office Furniture			
Tables, trash cans, water cooler stands, signs, etc.	\$ 40,000		
Total	\$ 40,000		
Other Projects Subtotal	\$ 1,983,422		
Other Projects Contingency	\$ 114,922		
Other Projects Grand Total	\$ 2,098,344		
Course Renovations Grand Total	\$ 1,901,656		
Other Projects Grand Total	\$ 2,098,344		
Grand Total	\$ 4,000,000		
*Costs are estimated and subject to change based on bids.			
**Pro Shop Improvements possible contingent on budget.			

A	B	C	D	E	F	G
1	2	3	4	5	6	7
8	TROON	9	10	11	12	13
14	PROJECT OVERHEAD	15	16	17	18	19
20	GREEN RENOVATION	21	22	23	24	25
26	27	28	29	30	31	32
33	34	35	36	37	38	39
40	41	42	43	44	45	46
47	48	49	50	51	52	53
54	55	56	57	58	59	60
61	62	63	64	65	66	67
68	69	70	71	72	73	74
75	76	77	78	79		

2024 GOLF COURSE IMPROVEMENTS -- ESTIMATE OF PROBABLE COSTS

Scott Schreiner Golf Course
Kerrville, Texas
March 12, 2024

PROJECT OVERHEAD

Item	Quantities	Units	Unit Cost	Amount
1 Mobilization	1	LS	\$ 55,000.00	\$ 55,000
2 General Conditions	1	LS	\$ 102,000.00	\$ 102,000
3 Survey (all bunker perimeters, Cap-flo surfaces, green perimeters, new drain lines, and areas of disturbance)	1	LS	\$ 15,000.00	\$ 15,000
				\$ 172,000

GREEN RENOVATION

4 Strip Sod From Greens & Collars (Herbicide by Owner)	142,000	SF	\$ 0.35	\$ 49,700
5 Remove greensmix to a depth of (4") Below Original Greens Surface & Spread On Approaches	111,500	SF	\$ 0.40	\$ 44,600
6 Install 90/10 Greensmix (4" with Profile) To Re-fill Green Cavities	111,500	SF	\$ 1.80	\$ 200,700
7 Finish-grade Green Cavities & Collars	142,000	SF	\$ 0.30	\$ 42,600
8 Sod Collars With Bermuda 419 (soil-based)	30,500	SF	\$ 0.80	\$ 24,400
9 Sprig Greens With TifEagle	111,500	SF	\$ 0.75	\$ 83,625
				\$ 445,625

BUNKER RENOVATION

10 Bunker Sand Removal and Stockpile On Each Hole	40,000	SF	\$ 0.75	\$ 30,000
11 Bunker Gravel/Pipe Removal & Disposal (Allowance)	3,000	LF	\$ 3.00	\$ 9,000
12 Perforated (4") N-12 Drain Pipe With Gravel (Allowance)	4,000	LF	\$ 11.90	\$ 47,600
13 Bunker Removal With On-site Material Incl Shaping & Tie-in	5,000	SF	\$ 0.70	\$ 3,500
14 Sod Strip For Bunker Removal Tie-in	7,500	SF	\$ 0.35	\$ 2,625
15 Bunker Edging and Floor Contouring (incl: drainage verification, leading edge lowering, & slope reduction)	35,000	SF	\$ 1.20	\$ 42,000
16 JH Evalith Bunker Liner (40%)	14,000	SF	\$ 1.00	\$ 14,000
17 Cap-Flo Bunker Liner	21,000	SF	\$ 3.50	\$ 73,500
18 Bunker Sand Purchase (\$120/Ton)	35,000	SF	\$ 2.65	\$ 92,750
19 Bunker Sand Placement (Compacted: 4" min, 6" max)	35,000	SF	\$ 0.65	\$ 22,750
20 Bermuda 419 Sod (Soil-based) For Access Repair & Area Of Disturbance Including Prep (Allowance)	18,000	SF	\$ 0.90	\$ 16,200
				\$ 353,925

DRAINAGE ALLOWANCES

21 Solid (4") N-12 Drain Pipe (Allowance)	1,000	LF	\$ 10.50	\$ 10,500
22 Solid (6") N-12 Drain Pipe (Allowance)	1,000	LF	\$ 14.75	\$ 14,750
23 In-line Catch Basin With Metal Grate (12") (Allowance)	10	EA	\$ 650.00	\$ 6,500
				\$ 31,750

MISCELLANEOUS ITEMS

24 Removed by client				
25 Wooden Bridge (12' wide) #12 Tee	65	LF	\$ 675.00	\$ 43,875
26 Bridge Demolition	1	LS	\$ 18,000.00	\$ 18,000
27 Protective Netting Around The Course	1	LS	\$ 125,500.00	\$ 125,500
28 Replace RR Tie Walls With Stone	1	LS	\$ 103,000.00	\$ 103,000
29 Removed by client				
30 Removed by client				
31 TifEagle Nursery With 90/10 Greensmix (6") Including Shaping	9,200	SF	\$ 3.15	\$ 28,980
32 Purchase & Install RPE Lake Liner In Proposed Pond On #11	40,000	SF	\$ 1.70	\$ 68,000
33 Tree Planting (4" caliper)	11	EA	\$ 1,000.00	\$ 11,000
34 Tree Removal	10	EA	\$ 2,000.00	\$ 20,000
35 Tree Pruning (Allowance)	1	LS	\$ 75,000.00	\$ 75,000
36 Remove & Replace Decking On #12 Greenside Bridge (off-site disposal)	350	SF	\$ 2.85	\$ 998
37 Strip, Re-grade, & Re-sod To Solve Drainage Issue At #16 Tee	2,500	SF	\$ 1.45	\$ 3,625
38 Shift / Expand & Sod Tees (#2, #7, #14, & DR)	10,000	SF	\$ 3.45	\$ 34,500
39 Strip, Add (1") of excavated green sand, Laser-level, & Re-sod Existing DR Tee	18,000	SF	\$ 1.70	\$ 30,600
40 Irrigation Additions & Adjustments (Allowance)	1	LS	\$ 100,000.00	\$ 100,000
				\$ 663,078

Contingency (7%)

				\$ 116,646
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PROJECT TOTAL

				\$ 1,783,024
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CONSULTANT FEES

Phase 1 - Design and Probable Costs	1	\$ 15,000.00	\$ 15,000
Phase 2 - Bid Process	1	\$ 10,000.00	\$ 10,000
Phase 3 - Project Management 5% of project	1	*estimate	\$ 93,632
CONSULTANT FEES TOTAL			\$ 118,632

Troon Projects Grand Total

				\$ 1,901,656
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TO BE CONSIDERED BY THE CITY COUNCIL CITY OF KERRVILLE, TEXAS

SUBJECT: Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas; for improvements made to the City's Olympic Pool.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 14, 2024

SUBMITTED BY: Ashlea Boyle, Director Parks & Recreation

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$7,000,000	N/A	\$7,000,000	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle N/A

Action Item P5.5 - Complete a feasibility study and consider bond funding and local partnerships with KISD and Schreiner University to rebuild/build the city's Olympic pool and aquatics amenities

SUMMARY STATEMENT:

On November 13, 2023, the EIC held a public hearing and passed a resolution authorizing the issuance of \$20M of sales tax revenue bonds for several quality-of-life projects. The Kerrville City Council subsequently passed a resolution and approved the bond issuance on November 14, 2023. This bond issuance is a culmination of several months of planning with both the EIC and City Council.

The Olympic Pool Improvement Project was included in the sales tax revenue bond package for \$7,000,000. Improvements will include modifying the existing pool for an outdoor competition pool, and building improvements. The design and bidding phase is expected to be complete in 2024 with construction in 2025 and early 2026. This project would require the pool to be closed for the 2025 season. A phased approach to the goal of a year-round facility would likely occur and may take several years to accomplish due to operations, funding, and staffing ability. Once the project is complete, it would allow for a competitive summer swim program and an extended season contingent on budget and staff.

Scope: \$6,315,137

- New entrance
- New locker / toilet / shower room
- New First-Aid room
- New pool mechanical room and renovation of existing pool mechanical system
- (includes heating the pool)
- New pool equipment storage room
- New pool chemical storage rooms
- Renovation of existing building to update to modern building code and major renovations of restrooms
- Renovation of existing building exterior and interior finishes
- Addition of air conditioning for all enclosed public spaces
- Replacement of existing toddler pool
- Replace all existing pool deck
- Addition of two bulkheads for 25-yard competitive swim
- Replace diving stands
- New spectator seating, including event sound system and shade structure
- Replacement of pool recirculation piping
- Update existing pool interior finishes
- Monument sign (add service)

The estimated cost is under budget for now; however, due to the facility's age, it is expected to have additional costs with unforeseen issues once construction has started. Staff recommended approving the funding request for \$7,000,000 for contingency.

On February 12, 2024, the EIC approved the funding application in the amount of \$7,000,000.

On March 18, 2024, the EIC held a public hearing and approved the funding agreement. The final step in the approval process is the consideration and approval of the City Council.

RECOMMENDED ACTION:

Approval of the agreement.

ATTACHMENTS:

[*20240326_EIC Funding Agreement - Olympic Pool.pdf*](#)

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS; FOR IMPROVEMENTS MADE TO THE CITY'S OLYMPIC POOL

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2024 ("Effective Date"), by and between the **City of Kerrville, Texas Economic Improvement Corporation** ("EIC"), a Texas non-profit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code; otherwise known as the Development Corporation Act of 1979 ("the Act"); and the **City of Kerrville, Texas** ("City"), a Texas home-rule municipality. EIC and City may be collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, pursuant to the Act, EIC is authorized to provide funding relating to projects which EIC finds to be encompassed within the definitions of "Projects", as that word is defined by Chapters 501 and 505 of the Act; and

WHEREAS, EIC was formed to administer the sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects defined by the Act, including:

land, buildings, equipment, facilities, and improvements found by the EIC to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by Section 505.152 of the Act (emphasis supplied); and

WHEREAS, over the past several years, City staff, along with a recommendation from the City's Parks and Recreation Advisory Board, and then pursuant to an application to the EIC from City Council, all recognized the need for significant improvements to be undertaken to the City's Olympic Pool and its facilities ("Pool"); and

WHEREAS, toward that end, the EIC included an estimated cost of the proposed work for the Pool as part of its bond issuance, which the EIC and City Council both

approved in 2023; and

WHEREAS, City proposes to design and then renovate and reconstruct the Pool, all of which is collectively referred to as the “Project”; and

WHEREAS, the City currently estimates the total cost of the Project not to exceed \$7,000,000.00; and

WHEREAS, the City, following approval from its City Council, seeks grant funding from the EIC in the amount of \$7,000,000.00, for estimated cost stemming from the Project; and

WHEREAS, EIC finds that the Project as described generally above constitutes a “project” as defined by the Act; and

WHEREAS, more specifically, EIC finds that the Project includes equipment, facilities, and improvements required or suitable for use for athletic, tourist, and public park purposes and events, including parks and park facilities and open space improvements and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, EIC finds that it will be in the public interest to enter into this Agreement with City to provide sales tax revenues collected pursuant to the Act (“4B Revenues”) to City for costs related to the Project; and

WHEREAS, the EIC published notice for the Project on August 31, 2023, and held a hearing regarding same on November 13, 2023; and

WHEREAS, on March 18, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held an additional public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, the EIC and City agree as follows:

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means the “*A/E Proposed Scope and Fee for Construction Administrative Services*”, which is a project scope, fees, and total project estimate, to date, as specified in **Exhibit A**, attached hereto, and included herein for all purposes. City will manage the funding it receives and the design, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its design,

timing, and costs. Where the bidding and/or procurement processes determines that the cost of the Project will exceed the City's estimated cost of the Project (\$7,000,000.00), the City is under no obligation to proceed but may choose to suspend its performance until discussing this issue with the EIC and/or terminate this Agreement.

2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$7,000,000.00 in 4B Revenues for the Project.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the EIC's General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project's Timeline:** The City estimates that design work will begin immediately following approval by City Council of this Agreement and the application of Section 505.160, Texas Government Code. Thereafter, the City anticipates that construction activities will begin on or before March 1, 2025. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the Parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC

President

City of Kerrville, Texas, Economic Improvement Corporation
City Hall, 701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

For City

City Manager, City of Kerrville
City Hall, 701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

9. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County, Texas.
10. **Interpretation:** Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement will therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.
11. **No Joint Venture:** Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between any or all of the Parties.
12. **Parties in Interest:** Nothing in this Agreement shall entitle any Party other than EIC or City to any claim, cause of action, remedy, or right of any term of this Agreement.
13. **Survival of Terms:** All rights, duties, liabilities, and obligations accrued prior to termination will survive termination.
14. **Term.** The term of this Agreement (the "Term") shall commence on the Effective Date and shall terminate on the earlier of: (i) July 1, 2026, or when the requirements set forth in this Agreement are completed; (ii) when terminated by mutual agreement of the Parties; or, (iii) at City's discretion, upon City returning all Grant Funding to EIC that it has received under this Agreement. Upon termination of this Agreement as specified herein, all rights, duties, and

obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.

15. **Entire Agreement:** This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in the year and as of the date indicated.

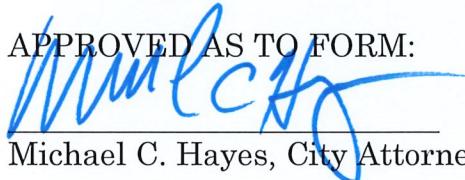
CITY OF KERRVILLE, TEXAS

Judy Eychner, Mayor

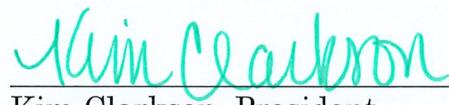
ATTEST:

Shelley McElhannon, City Secretary

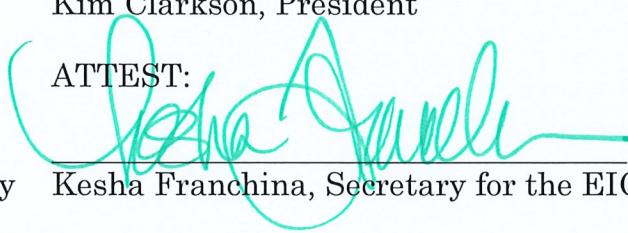
APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

**CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION**


Kim Clarkson, President

ATTEST:


Kesha Franchina, Secretary for the EIC

January 9, 2024

Revised January 12, 2024

Revised January 31, 2024

Revised February 1, 2024

Ashlea Boyle
Director of Parks and Recreation
City of Kerrville
Parks and Recreation Department
2385 Bandera Highway
Kerrville, Texas 78028

Re: A/E Proposed Scope and Fee for Design and Construction Administration Services
Olympic Pool Facility Expansion & Renovation

Dear Mrs. Boyle:

Thank you for this opportunity to submit this proposal to you for the scope and fee proposed for design services. As requested, please find herein our proposal for architectural, engineering, and special design consultant services for programming validation and cost update to the Kerrville Olympic Pool Feasibility Study dated Oct. 21, 2022, development of facility proforma, and design / construction administration of the project.

Our proposed consultant team is as follows:

- Architecture, Interior Design & Project Management – Marmon Mok
- Aquatics/Pool Consultant – Counsilman Hunsaker
- MEP & Fire Protection – MEP Engineering, Inc.
- Structural – Intelligent Engineering Services (I.E.S.)
- Civil – R/K Engineering, LLC
- Landscape Architecture & Irrigation – CFZ Group, LLC
- Audio-Visual, Telecommunications & Security – Datacom Design Group
- Cost Estimating – Project Cost Resources, Inc.

We have worked closely with our proposed consultants to prepare a comprehensive scope of services which provides the services per our Scope of Services meeting held on December 15, 2023. This proposal also includes all additional services discussed in that meeting.

PROJECT SCOPE:

Our understanding of the project scope is defined by the City of Kerrville approved design Option A as outlined in the Kerrville Olympic Pool Feasibility Study dated Oct. 21, 2022, prepared by Marmon Mok, and further defined by our discussions during the December 15, 2023, Scope of Services meeting. Please reference *Attachment D - Schedule of Services* outlining that discussion. Marmon Mok understands the total Project Cost to be approximately \$6,500,000.00 and a Construction Cost anticipated at approximately \$5,150,000.00. See *Attachment A - Total Project Budget Summary – Rev 1*. The construction budget to be confirmed by AE based on a Program Validation discussion to be conducted in the Project Kick-off Meeting.

It is understood the project construction will be Competitive Sealed Proposal delivery method, will not be phased construction, not require any sustainability certifications such as LEED or SITES.

We have developed a tentative Project Schedule assuming design phases services Notice To Proceed might be February 5, 2024; reference *Attachment B, Tentative Project Schedule – Rev 1*. Based on previous discussions, attached tentative Project Schedule, and the assumed construction duration (to be confirmed by contractor), the actual start date could be revised to as late as April 1, 2024 as still open pool facility by May 1, 2026 summer pool season.

This proposal includes full AE services understood to be required by the project scope. Additional Services are proposed services outside the basic building design services, some of which may be required by local statute, or provided by the Owner, for project development.

The AE understand the scope for the proposed project will consist of the following subject to budget constraints:

1. New Building Entrance.
2. New Team Locker/Toilet/Shower Room.
3. New First Aid Room.
4. New Pool Mechanical Room and Renovation of Existing Pool Mechanical System.
5. New Pool Equipment Storage Room.
6. New Pool Chemical Storage Rooms (2 rooms).
7. Renovation of Existing Building as required bring existing facility into code compliance including major renovation of public toilet rooms.
8. Renovation of existing Building Exterior and Interior Finishes.
9. Addition of Air Conditioning for all enclosed public spaces.
10. Replacement existing Toddler Pool of similar size.
11. Replace all existing Pool Deck.
12. Addition of two Bulkheads to accommodate 25-yard competitive / practice course.
13. Replace Diving Stands.
14. New Spectator Seating including event sound system and Spectator Seating Shade Structure.
15. Replacement of Pool recirculation piping.
16. Update existing Swimming Pool Interior Finishes.
17. New Facility Entrance Monument Sign (Add Service)

The design of the following systems and/or components are excluded from the scope of services:

1. Timing and scoreboard/display systems.
2. Modifications to existing site parking and on-site traffic.
3. Modifications to site drainage outside of drainage required for new construction.
4. Site lighting other than that required for code compliance.
5. F.F.E. Design and Procurement Documentation

FEES:

Basic Design Services fee is proposed as a lump sum for all work designed and documented by the Architect. As requested, we have separated the fees into two contract phases.

Phase 1 will include all basic service deliverables associated with Schematic Design, Design Development, and Construction Documents, and all proposed Phase 1 Additional Services and Reimbursable Expenses. Phase 2 will include all basic services associated with Bidding/Permitting and Construction Administration including Clouse out, and all proposed Phase 2 Additional Services and Reimbursable Expenses.

The Basic Services consultant team for both phases consists of Architectural, Civil, Landscape Architecture & Irrigation, Interior Design, Aquatics Design and Engineering, Structural, Mechanical, Plumbing, Electrical, Fire Protection Engineering, and AV-IT, Security. Cost Estimating consultant will be a part of Phase 1 only.

AE BASIC SERVICES DETAILED FEE BREAKDOWN:

- Schematic Design Phase \$139,724.00
 - Architect (Prime)..... \$74,157.00
 - Civil..... \$3,960.00
 - Landscape / Irrigation..... \$1,530.00
 - Structural..... \$9,450.00
 - Aquatics..... \$26,974.00
 - MEP & FP..... \$13,500.00
 - AV-IT-Sec..... \$4,107.00
 - Cost Estimator..... \$6,045.00
- Design Development Phase \$172,015.00
 - Architect (Prime)..... \$90,637.00
 - Civil..... \$4,840.00
 - Landscape / Irrigation..... \$1,870.00
 - Structural..... \$11,550.00
 - Aquatics..... \$32,968.00
 - MEP & FP..... \$16,500.00
 - AV-IT-Sec..... \$5,020.00
 - Cost Estimator..... \$8,630.00

- Construction Documents Phase.....\$267,181.00
 - Architect (Prime).....\$144,195.00
 - Civil.....\$7,700.00
 - Landscape / Irrigation.....\$2,975.00
 - Structural.....\$18,375.00
 - Aquatics.....\$52,450.00
 - MEP & FP.....\$26,250.00
 - AV-IT-Sec.....\$7,986.00
 - Cost Estimator.....\$7,250.00
- Bidding/Permitting Phase.....\$14,853.00
 - Architect (Prime).....\$8,240.00
 - Civil.....\$440.00
 - Landscape / Irrigation.....\$170.00
 - Structural.....\$1,050.00
 - Aquatics.....\$2,997.00
 - MEP & FP.....\$1,500.00
 - AV-IT-Sec.....\$456.00
- Construction Administration Phase\$155,958.00

The Construction Administration Phase Fee is determined for a twelve (12) month construction duration; if construction extends into a fourteenth (14th) month or longer construction phase, AE will require additional CA Phase fees to be negotiated.

 - Architect (Prime).....\$86,517.00
 - Civil.....\$4,620.00
 - Landscape / Irrigation.....\$1,785.00
 - Structural.....\$11,025.00
 - Aquatics.....\$31,470.00
 - MEP & FP.....\$15,750.00
 - AV-IT-Sec.....\$4,791.00
- Project Closeout Phase.....\$14,853.00
 - Architect (Prime).....\$8,240.00
 - Civil.....\$440.00
 - Landscape / Irrigation.....\$170.00
 - Structural.....\$1,050.00
 - Aquatics.....\$2,997.00
 - MEP & FP.....\$1,500.00
 - AV-IT-Sec.....\$456.00

TOTAL AE BASIC SERVICES FEE:.....\$764,584.00

ADDITIONAL SERVICES DETAILED FEE BREAKDOWN:

- Existing Facility Record Drawing Development (Lump Sum) \$5,806.00
Perform field verified dimensions and structure survey of existing facilities in effort to develop dimensionally and structurally correct record drawing of existing structures. Excludes pool structure other than dimensionally locating relative to building structures.
(Marmon Mok)
- Geotechnical Investigation and Report (Not To Exceed) \$24,750.00
Commission geotechnical engineering firm to perform geotechnical investigation and develop report as required for foundation design recommendations for expansion and existing pool slab correction relative to pool structure leak.
(Consultant: TBD)
- Topographic and Surface Feature Survey (Lump Sum) \$7,150.00
Provide topographic, tree and surface feature survey for use in design of areas required for expansions, assumed areas needed for drainage design for all new construction and any identified existing drainage issues associated with the existing building and pool structures.
(R/K Engineering)
- Storm Water Management Plan - If Required (Lump Sum) \$4,950.00
Provide design and documentation as required for bidding, regulatory review, and construction for storm water management. At this time, it is assumed this scope will not be necessary.
(R/K Engineering)
- Storm Water Detention Design - If Required (Lump Sum) \$4,950.00
Provide design and documentation as required for bidding, regulatory review, and construction of storm water detention. At this time, it is assumed this scope will not be necessary.
(R/K Engineering)
- Monument Sign (Lump Sum) \$13,760.00
Design and detailing of the monument sign at pool facility entrance as required for bidding, regulatory review, and construction.
(AE Team)
- *Hazardous Material CD Documentation (Lump Sum)* \$6,450.00
Development of Construction Document drawings and specification coordinating the removal of hazardous materials identified in Owner furnished report, as required for bidding, regulatory review, and construction.
(Marmon Mok)

- Code Required Commissioning Services (Lump Sum).....\$5,500.00
Perform code required commissioning investigation to confirm compliance with IECC and furnish report to owner and contractor for all new MEP systems to ensure correct and energy efficient operation.
(Alderson and Associates, Inc.)
- Enhanced Commissioning Services (Lump Sum).....\$14,000.00
Perform enhanced commissioning investigation in addition to code required commissioning services and furnish report to owner and contractor for all new MEP systems to ensure correct and energy efficient operation.
(Alderson and Associates, Inc.)
- Record Drawing Documents – Digit Format (Lump Sum).....\$11,976.00
Prepare Record Drawings based upon the GC's As-builts drawings. Each discipline will update drawings sheets and/or BIM model or cad file. Architectural, Structural, MEP and the Aquatics disciplines will be in the form of BIM model. Civil, Landscape/Irrigation, and AV-IT will be in the form of cad files. A complete PDF set will be developed and included on the BIM Models CDs to be furnished to the Owner.
(AE Team)

TOTAL ADDITIONAL SERVICE FEES:.....\$99,292.00

REIMBURSABLE EXPENSES DETAILED FEE BREAKDOWN:

- Fire Flow Test (Not To Exceed)\$1,100.00
- Preliminary Plan Review (Assumed).....\$2,500.00
- Travel expenses\$2,136.00
 - For out-of-town consultants (including airfare, ground transportation, lodging and meals)
 - Aquatics Consultant - 1 trip total @ \$800/trip = \$800.00
 - Travel expense for architect and consultants in San Antonio
 - Maximum expense of \$1,336.00
- Courier Service.....\$500.00
- Printing\$15,211.00
 - Printing of Plans and Specifications as required by the Owner. Fee assumes 16 sets of half-size drawings, 8 sets of full-size drawings, and 24 sets of specifications for entire design phase services. Printing of sets for bidding and construction used by the contractors are not included.

TOTAL REIMBURSABLE FEES:.....\$32,836.00

SUMMARY OF FEES:

TOTAL BASIC SERVICES FEE: \$764,584.00

TOTAL ADDITIONAL SERVICES FEE: \$99,292.00

TOTAL REIMBURSABLES FEE: \$32,836.00

TOTAL AE FEE: \$896,712.00

A detailed Basic Services scope to be defined in an Agreement Between Owner and Architect. Additional Consultants are proposed as added expertise for specific areas of the project. Additional Services are offered and/or proposed services outside the Basic Services, but which may be required by local statute, for additional work required or provided by the Owner, for project development.

Please call me with any questions you may have.

Sincerely,



Edgar Farrera, AIA, NCARB, LEED DB+C

Associate Partner

Enclosure

cc:

Attachments:

Attachment A - Total Project Budget Summary – Rev 1

Attachment B - Tentative Project Schedule – Rev 1

Attachment C (not used)

Attachment D - Schedule of Services

C:\Users\shawn\Desktop\Kerrville Olympic Pool\KerrvilleOlympic AE Basic Services Proposal_01-12-2024.docx

Kerrville Olympic Pool Reno/Expansion				
TOTAL PROJECT BUDGET ESTIMATE				
		1/31/2024		Notes
	TOTAL			
Construction Cost	\$ 4,998,750	79.16%	of project budget	
Allowance - Soils	\$ -	0.00%		
Construction Contingency	\$ 149,963	3.00%	In Construction Cost	
Total Cost of Construction	\$ 5,148,713			
FFE				
Furniture	\$ 50,000		Assumption	
Other Owner Costs				
Signage & Graphics	\$ -		See AE Add Services	
Tree Assessment	\$ -		n/a	
Tree Survey	\$ -		n/a	
Pre-engineering report	\$ -		n/a	
Boundary Verification Survey	\$ -		n/a	
Platting	\$ -		n/a	
Topographic Survey	\$ -		See AE Add Services	
Geotech	\$ -		See AE Add Services	
MEP Systems Commissioning	\$ -		See AE Add Services	
LEED Services (Excluding Cx)	\$ -		n/a	
City Regulatory Review & Permitting Fees	\$ 30,000		Assumption based on CoK Web Site Fee Schedule	
Impact Fees	\$ -		n/a	
Utility Tap Fees	\$ -		n/a	
Audio Visual Equipment	\$ -		n/a	
Telephone System	\$ -		n/a	
Security System	\$ -		AE Basic Service	
TxDot Driveway Permit	\$ -		n/a	
Traffic Impact Analysis	\$ -		n/a	
Easement Documents	\$ -		n/a	
Civil Engineering	\$ -		AE Basic Service	
TPDES Storm Water Pollution Prevention Plan	\$ 6,500		Assumption	
Storm Water Management Plan	\$ -		See AE Add Services	
Fire Flow Test	\$ 750		Assumption	
Owner Contingency	\$ 149,963	3.00%	Assumption	
Asbestos Report	\$ 12,500		Assumption	
Asbestos Abatement	\$ -		See AE Add Services	
Existing Building Measured Drawings	\$ -		See AE Add Services	
Material Testing	\$ 20,000		Assumption	
Archeological Summary	\$ -		n/a	
Archeological Survey	\$ -		n/a	
Phase 1 Environmental Assessment	\$ -		n/a	
A/E Basic Services Fees	\$ 764,584			
A/E Additional Services Fees	\$ 99,292			
Reimbursable Expenses	\$ 32,836			
Total Project Budget	\$ 6,315,137			
TOTAL PROJECT FUNDS AVAILABLE	TBD			

SD	DD	CD	Bid/Permitting	GC Procurement	Construction	Project Mtg. w/ Owner
January					February	
					March	
Su	Mo	Tu	We	Th	Fr	Sa
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			
April					May	
Su	Mo	Tu	We	Th	Fr	Sa
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
start SD Cost Estim.						
28	29	30				
June					July	
Su	Mo	Tu	We	Th	Fr	Sa
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19	20	21	22	23	24	25
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August					September	
Su	Mo	Tu	We	Th	Fr	Sa
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31
October					November	
Su	Mo	Tu	We	Th	Fr	Sa
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6	7	8	9	10	11	12
start 65% CD Cost Estim.						
13	14	15	16	17	18	19
20	21	22	23	24	25	26
75% CD Owner Review						
27	28	29	30	31		
December					January	
Su	Mo	Tu	We	Th	Fr	Sa
					1	2
3	4	5	6	7	8	9
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2025

start 75% CD Cost Estim.

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31						

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2026

January

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25	26	27	28	29	30	31

February

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March

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May

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31						

June

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21	22	23	24	25	26	27
28	29	30				

July

Su	Mo	Tu	We	Th	Fr	Sa
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5	6	7	8	9	10	11
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August

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September

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27	28	29	30			

October

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4	5	6	7	8	9	10
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November

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8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December

Su	Mo	Tu	We	Th	Fr	Sa
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8	9	10	11	12	13	14
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Attachment D – Schedule of Services

This exhibit lists the schedule of services to be provided by the City of Kerrville (Owner) or by the Architect-Engineer (Architect) for the City of Kerrville Olympic Pool Renovation and Expansion. The Phase of the Work for each service is indicated.

Project Description

The project consists of approximately 3,800 square foot renovation (update for building and ADA codes) of the existing building with new exterior finishes HVAC. Approximately 3,825 gross square feet of expansion for a Team Locker/Shower Room addition and pool mechanical / First Aid Room addition. Replacement of existing pool deck, add two moveable bulk heads for competition swim, update diving boards, and spectator seating with shade structure and new facility building entrance. Total Cost of Construction for the Current Expansion is projected to be \$6,500,000.

Services	Responsibility (Architect, Owner, or Not Provided)	Location of Service Description
1. Programming Validation	Architect	Architect Proposal Letter (Phase 1)
2. Land Survey Services	Architect	Add Service
3. Geotechnical Investigation & Report	Architect	Add Service
4. Geologic Assessment	Not Provided	
5. Existing Facilities Investigation	Architect	Add Service
6. Feasibility Study-Market Research & Pro Forma	Architect	Architect Proposal Letter (Phase 1) Counsilman-Hunsaker
7. Site Analysis / Master Plan	Not Provided	
8. Utility Assessment	Not Provided	
9. Stormwater Management Plan / Detention	Architect	Basic Services
10. Phase I Environmental Study (ESA) - Update	Not provided	
11. Environmental Studies and Reports	Not provided	
12. Asbestos Abatement	Contractor	Add Service/Under GC's scope during construction
13. Owner-Supplied Data Coordination	Kerrville	
14. Detailed Cost Estimating	Architect	Basic Services
15. Government Fees for applications & permits	Owner	
16. Construction Materials Testing	Owner	
17. Design Phase Schedule Development & Monitoring	Architect	Architect Proposal Letter (Exhibit C)
18. Space Schematics/Flow Diagrams	Architect	Basic Services
19. Civil Engineering Design	Architect	Basic Services
20. Landscape / Irrigation Design	Architect	Basic Services
21. Architectural Design	Architect	Basic Services
22. Interior Design	Architect	Basic Services
23. Furniture Selection	Owner	Please confirm if necessary
24. Custom Furniture Design	Not Provided	
25. Structural Engineering Design	Architect	Basic Services
26. MEP Engineering Design	Architect	Basic Services
27. Fire Sprinkler Engineering Design	Architect	Basic Services (Performance Specification)
28. A/V-IT Design	Architect	Basic Services
29. Food Service Design	Not Provided	
30. Signage/Graphics Design	Architect	Additional Service (monument on Olympic Drive)
31. Lighting Design	Architect	Basic Services
32. Security Design	Architect	Basic Services
33. Special Bidding or Negotiation	Not Provided	
34. Value Analysis	Not Provided	
35. On-Site Project Representation	Not Provided	
36. Construction Management	Not Provided	
37. Start-up Assistance	Not Provided	
38. Post-Contract Evaluation	Not Provided	
39. Tenant-Related Services	Not Provided	
40. Expert Witness/Litigation Services	Not Provided	

Services	Responsibility (Architect, Owner, or Not Provided)	Location of Service Description
41. Archeological Survey (Tier I)	Not Provided	
42. Environmental Impact Analysis (Phase I)	Not Provided	
43. Traffic Impact Analysis (Level I) – if required	Not Provided	
44. Platting	Not Provided	
45. Re-Zoning	Not Provided	
46. Easement Documents	TBD - Civil	Additional Services
47. Utility Service Agreement	Not Provided	
48. Water Quality Plan	Architect	Basic Services
49. Private Wastewater Lift Station – if required	Not Provided	Basic Services
50. Perspective Renderings or Models	Not Provided	Additional Services
51. Record Drawings - Revit	TBD - Architect	Additional Services
52. Economic Impact Study	Not Provided	
53. Coordination of Owner-Furnished Items or Consultants	N/A	
54. Facility Marketing Brochure Design	Not Provided	
55. Community Group Presentations	Not Provided	
56. Asbestos Assessment/Report	Kerrville	
57. Sustainability Requirements	TBD	Additional Services
58.		
59.		
60.		
61.		
62.		
63.		
64.		
65.		

C:\Users\shawn\Desktop\Kerrville Olympic Pool\Exhibit A_Schedule of Services_12-07-2023v1.doc



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

SUBJECT: Public Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; for improvements made to the City's Cailloux Theater.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 8, 2024

SUBMITTED BY: Michael Hornes, Assistant City Manager

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area D - Downtown Revitalization

Guiding Principle N/A

Action Item D7.4 - Consider earmarking resources such as general obligation (G.O.) bonds and/or EIC grants specifically for Downtown improvement projects

SUMMARY STATEMENT:

Now that the sales tax bond has been approved, EIC held a public hearing on 3/18/24 for the renovations to the Kathleen C. Cailloux Theater. In discussion with the tenant, Playhouse 2000, we agreed to set a schedule to begin construction in March of 2025. This will allow for a few things. The theater can hold their full schedule for this season, which is planned for months, or a year, in advance. In addition, this will allow for us to work through the remainder of the plans to get to 100% construction documents and order those long lead time items with room to spare.

Attached is the estimate from 2022, which shows a cost of roughly \$3,000,000. Staff is requesting a funding agreement in an amount not to exceed \$4,000,000 due to volatility in the market over the last 18 months, along with the unknowns of uncovering unexpected challenges during construction. As construction progresses, the need for contingency will be reduced and our hope is to come back to EIC with savings that can be allocated to additional quality of life projects.

RECOMMENDED ACTION:

Approve funding application.

ATTACHMENTS:

[20240326_EIC Funding Agreement - Cailloux Theater.pdf](#)

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS; FOR IMPROVEMENTS MADE TO THE CITY'S CAILLOUX THEATER

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this ____ day of _____, 2024 ("Effective Date"), by and between the **City of Kerrville, Texas Economic Improvement Corporation** ("EIC"), a Texas non-profit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code; otherwise known as the Development Corporation Act of 1979 ("the Act"); and the **City of Kerrville, Texas** ("City"), a Texas home-rule municipality. EIC and City may be collectively referred to herein as "Parties" and individually as "Party".

WITNESSETH:

WHEREAS, pursuant to the Act, EIC is authorized to provide funding relating to projects which EIC finds to be encompassed within the definitions of "Projects", as that word is defined by Chapters 501 and 505 of the Act; and

WHEREAS, EIC was formed to administer the sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects defined by the Act, including:

land, buildings, equipment, facilities, and improvements found by the EIC to be required or suitable for use for professional and amateur sports, including children's sports, athletic, *entertainment, tourist, convention*, and public park purposes and events, including stadiums, ball parks, *auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by Section 505.152 of the Act* (emphasis supplied); and

WHEREAS, the City owns and operates the Cailloux Theater ("Theater"); and

WHEREAS, Playhouse 2000, Inc. ("P2K"), pursuant to an operation agreement with the City, produces a wide variety of performing arts and entertainment programming and is the manager of the Theater; and

WHEREAS, over the past few years, the City and P2K have discovered the

deterioration of the Theater's roof and air-conditioning and heating systems, such that both require full-scale replacement; and

WHEREAS, based upon presentations from City staff as to the community value of the Theater and its failing systems, the EIC included an estimated cost of proposed work for the Theater as part of its bond issuance, which the EIC and City Council both approved in 2023; and

WHEREAS, City proposes to design and then oversee the complete reconstruction and replacement of the Theater's roof and HVAC systems all of which is collectively referred to as the "Project"; and

WHEREAS, the City currently estimates the total cost of the Project to not exceed \$4,000,000.00; and

WHEREAS, the City, following approval from its City Council, seeks grant funding from the EIC in the amount of \$4,000,000.00, for estimated costs stemming from the Project; and

WHEREAS, EIC finds that the Project as described generally above constitutes a "project" as defined by the Act; and

WHEREAS, more specifically, EIC finds that the Project includes buildings, equipment, facilities, and improvements required or suitable for use for entertainment, tourist, convention, purposes and events, including auditoriums, concert halls, exhibition facilities, and related store, restaurant, concession, and other related improvements that enhance any of the items described by Section 505.152 of the Act; and

WHEREAS, EIC finds that it will be in the public interest to enter into this Agreement with City to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to City for costs related to the Project; and

WHEREAS, the EIC published notice for the Project on August 31, 2023, and held a hearing regarding same on November 13, 2023; and

WHEREAS, on March 18, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held an additional public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, the EIC and City agree as follows:

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means design work and then construction based upon the proposed phasing plan, estimated costs, and facility layout, as specified in **Exhibit A**, attached hereto, and included herein for all purposes. City will manage the funding it receives and the design, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its design, timing, and costs. Where bidding and/or other procurement processes determine that the cost of the Project will exceed the City’s estimated cost of the Project (\$4,000,000.00), the City is under no obligation to proceed but may choose to suspend its performance until discussing this issue with the EIC and/or may terminate this Agreement.
2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$4,000,000.00 in 4B Revenues for the Project.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the EIC’s General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of “costs” as defined in the Act.
5. **Project’s Timeline:** The City estimates that design work will begin immediately following approval by City Council of this Agreement and the application of Section 505.160, Texas Government Code. Thereafter, the City anticipates that construction activities will begin on or before April 1, 2025. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the Parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery,

or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC

President

City of Kerrville, Texas, Economic Improvement Corporation

City Hall, 701 Main Street

Kerrville, Texas 78028

Facsimile: (830) 792-3850

For City

City Manager, City of Kerrville

City Hall, 701 Main Street

Kerrville, Texas 78028

Facsimile: (830) 792-3850

9. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County, Texas.
10. **Interpretation:** Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement will therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the Parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any Party.
11. **No Joint Venture:** Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between any or all of the Parties.
12. **Parties in Interest:** Nothing in this Agreement shall entitle any Party other than EIC or City to any claim, cause of action, remedy, or right of any term of this Agreement.
13. **Survival of Terms:** All rights, duties, liabilities, and obligations accrued prior to termination will survive termination.

14. **Term.** The term of this Agreement (the "Term") shall commence on the Effective Date and shall terminate on the earlier of: (i) May 1, 2026, or when the requirements set forth in this Agreement are completed; (ii) when terminated by mutual agreement of the Parties; or, (iii) at City's discretion, upon City returning all Grant Funding to EIC that it has received under this Agreement. Upon termination of this Agreement as specified herein, all rights, duties, and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.
15. **Entire Agreement:** This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement in the year and as of the date indicated.

CITY OF KERRVILLE, TEXAS

Judy Eychner, Mayor

**CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION**



Kim Clarkson, President

ATTEST:

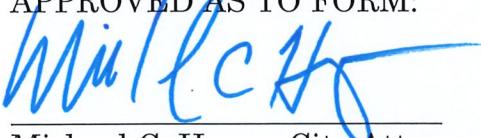
Shelley McElhannon, City Secretary

ATTEST:



Kesha Franchina, Secretary for the EIC

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ROB BOOTH
QUALITY AND PROCESS CONSULTING

August 30, 2022

Mr. Peter W. Lewis
Peter W. Lewis Architect + Associates, PLLC
334 West Water Street
Kerrville, Texas 78028

Re: 100% Schematic Design Construction Budget Phasing Breakout
Cailloux Theater Re-roofing & Remodeling
Kerrville, TX

Dear Peter,

As requested at our August 19 meeting with the City of Kerrville, I reviewed your phasing documents package dated August 24, 2022, and gathered additional information to re-analyze the overall scope of the project.

Based on that phasing, the construction budget should be allocated as follows:

• Phase I (The HVAC portion of Phase I is +/- \$402,000.00)	\$648,354.00
• Phase II	1,069,500.00
• Phase III	<u>1,229,400.00</u>
Total Phased Scope Budgeting	\$2,947,254.00

This pricing reflects current market conditions and all qualifications noted in the previous budgeting documents.

We maintained the previous estimating contingency of \$75,000.00, which is pro-rated in the above amounts. Please note and caution your client that pricing in the construction industry is still particularly volatile due to many variables in the marketplace right now. We recommend your client plan for a +/- 5% range to the pricing noted above, and to plan for 8-10% cost inflation per year for future phasing.

We appreciate the confidence of you and your client in preparing this information and hope we have met your expectations. I trust this concludes the services you asked us to provide, however, we're happy to continue with any further assistance at your discretion. Thank you again for the opportunity to be of service. Should you have any questions or need additional information, please call me.

Sincerely,

Rob Booth
Quality and Process Consulting
for the Construction Industry



Robert S. Booth
Consultant

CC: QGC File 2022-01

Quality: qual·i·ty [kwälēdē]: *the process of exactly defining the requirements for a given thing or process, and then meeting or exceeding those requirements the first time and every time.*

Cailloux Theater Reroof Project

Proposed Phasing Plan

31 August 2022

- TPO vs Bitumen ~~modifed~~ ~~bitumen~~ ~~modifed~~ ~~bitumen~~
- Repair vs Replace @ West low roof
↑ thermal integrity?

Phase 1 (2023) -Replace west side low roofing and equipment including:

- New TPO on R-25 roofing over West low roof only Men RR, Jan and West Mech Room.
- Repair TPO roofing leaks along Stagehouse to Orchestra Pit
- Repair TPO roofing leaks above Dressing Rooms
- Repair TPO roofing leaks at east side low roof over Women RR
- Repair TPO roof leaks over Mezz West Meeting Room.
- Repair TPO roof leak over Mezz East Meeting Room.
- Cosmetic repairs in Men RR, Women RR, Jan, East Meeting, West Meeting Room.
- Cosmetic repairs at Stage and Stage flooring
- Replace with new rooftop equip CU-4 (serves Lobby ceiling), CU-5 (serves Lobby floor), CU-6 (serves Men's Restroom). (Note: the existing envelope remains < R25)
- Replace with new AHU-4, controls and dampers (serves Lobby ceiling), AHU-5, controls and dampers (serves Lobby floor) (Note: the existing envelope remains < R25)
- Relocate existing AHU-6 (serves Men RR) in West Mech Room to access filters.

Note: Existing West roof equip to remain until expiration: OAI-6, OAI-4, EF-3, EF-5, CU-10 & AHU-10 (serves Sound Booth), CU-9 & AHU-9 (serves West Meeting Room & Jan)

Note: Existing East low roof Equip to remain until expiration: OAI-5, OAI-7, EF-2, CU-7, CU-8, CU-11.

Phase 2 (2024) – Balance of Reroof Project including:

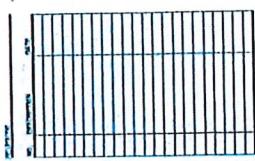
- New TPO on R-25 roofing and flashings over Theater Seating, Lobby, Stagehouse
- New TPO on R-25 roofing over Women RR
- New TPO on Exterior Covered Entries.
- Seal Stagehouse brick
- New fixed access ladders to roofs

Phase 3 (2025) - Replace Stagehouse and Theater Seating conditioning equipment including:

- Add structural platform and rail at west low stagehouse roof surrounding AHU-1
- Replace with new AHU-1 and controls on west Stagehouse low roof and CU-1 in Mech yard (serves Stage)
- Replace with new CU-2 (serves West Seating), CU-3(serves East Seating) in Mech Yard
- Replace with new AHU-2 and controls (serves West Seating), AHU-3 and controls (serves East Seating)
- Extend existing return air ducting back of stage house

Note: Existing AHU-12 and CU-12 (on low Stagehouse roof serves stage equip mezz) to remain

Note: Existing RTU-1 (on east low roof serves Dressing Rooms) to remain



PHASE 1
PHASE 2
PHASE 3

100%
REVIEW SET
11 AUG 2022

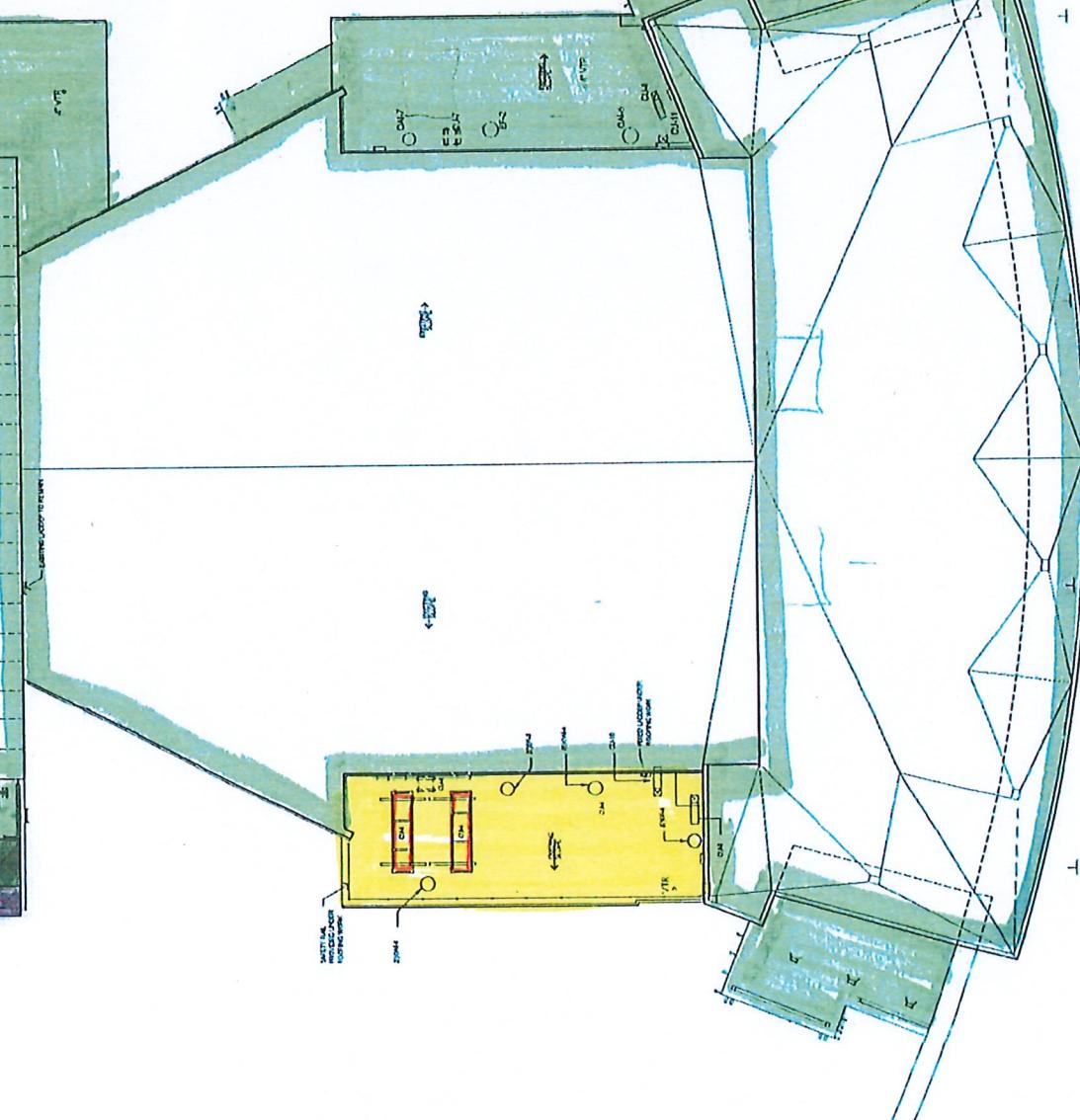
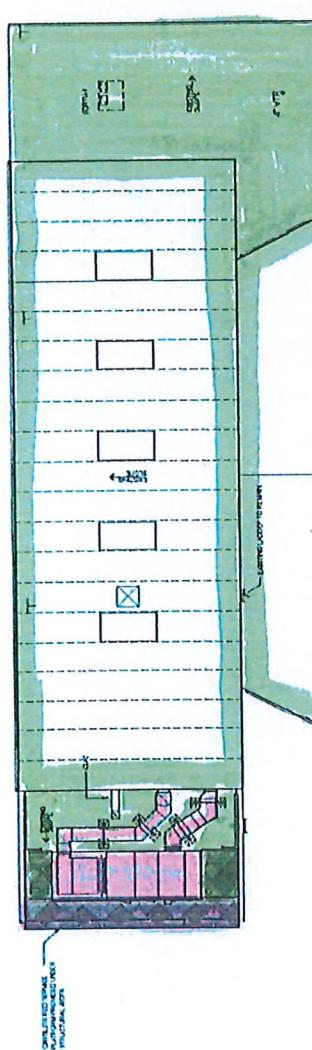
Cailloux
Theater
Reroof



Floor Plan

A5-1

REFER TO ROOFING, MEP
AND STRUCTURAL PLANS
FOR NOTES THIS SHEET





TODAY

100%
REVIEW SET
11 AUG 2022

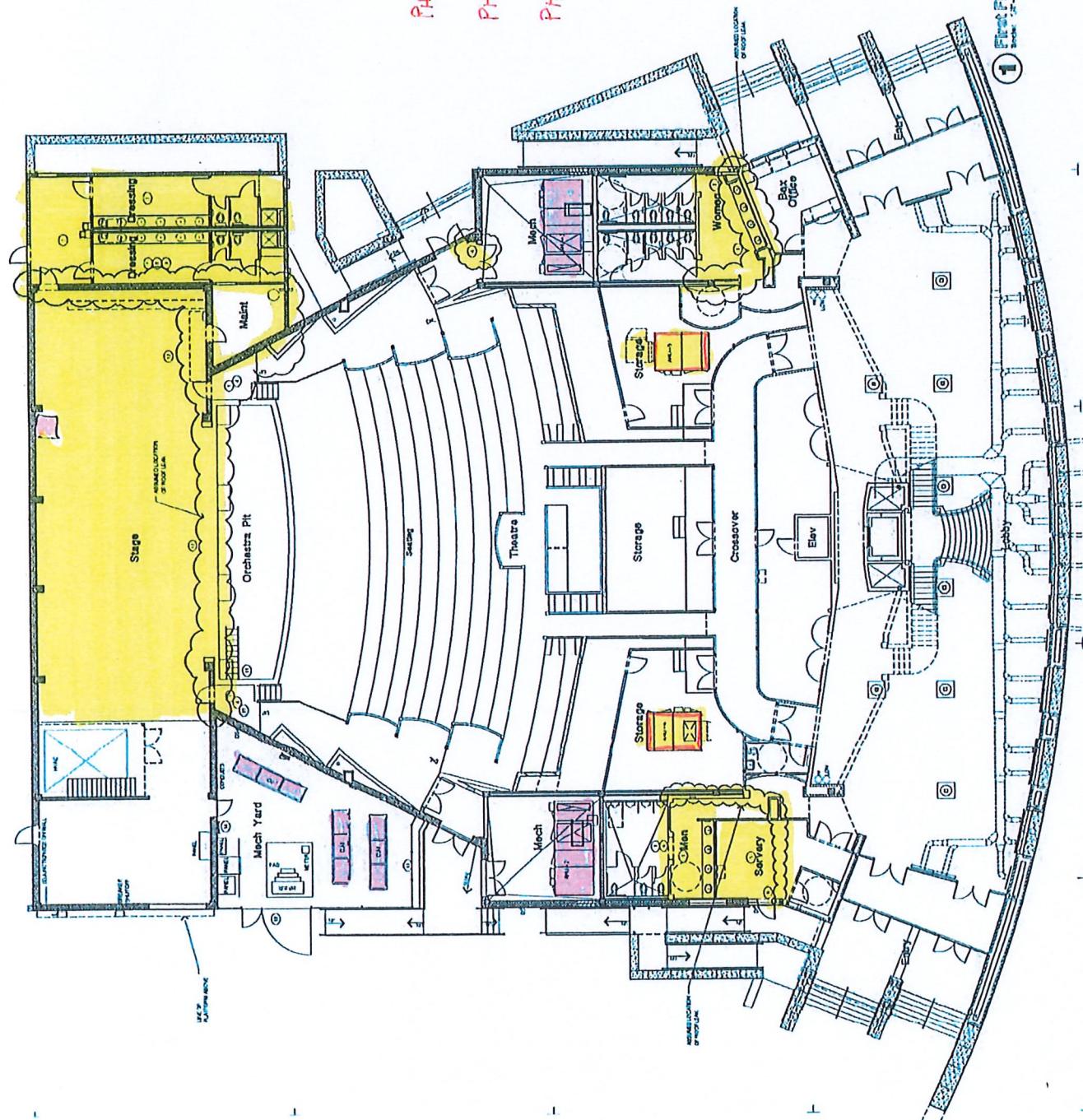
**Cailloux
Theater
Reroof**

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DATE
11 AUG 2022

Floor plan
A2-1

PHASE 1
PHASE 2
PHASE 3





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

SUBJECT: General Contract between the City of Kerrville, Texas and Christopher Sharp for remodel of the Golf Course Maintenance Building.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 14, 2024

SUBMITTED BY: Ashlea Boyle, Director Parks & Recreation

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$55,276	N/A	\$4,000,000	N/A

PAYMENT TO BE MADE TO: Christopher Sharp, 1154 Midwaters Drive, Mountain Home, Texas 78058

Kerrville 2050 Item? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle N/A

Action Item P5.11 - Explore potential bond funding for enhancements to the Scott Schreiner Golf Course related to replacing the greens and renovating the bathrooms

SUMMARY STATEMENT:

Attached is a small project contract in the amount of \$55,276 to improve the Golf Course Maintenance Shop. This project is included in the \$4M Scott Schreiner Golf Course Improvement Project, funded through the EIC Sales Tax Revenue Bond. The EIC project funding agreement is also on this agenda for consideration and approval. Should the Council approve the funding agreement, staff is also requesting approval of this contract.

The project scope includes remodeling of the office, bathroom, breakroom, ceiling and HVAC improvements, etc. The full scope of work is attached to the contract.

This contract requires City Council approval for compliance with the City's purchasing policy and State law due to the project amount. Staff recommends approval of this expenditure and authorization for the City Manager to finalize and execute the contract.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute the agreement.

ATTACHMENTS: [20240326_Contract Christopher Sharp Golf Maint Bldg.pdf](#)

GENERAL CONTRACT - SMALL PROJECT
Christopher Sharp / Remodel of Golf Course Maintenance Building

THIS CONTRACT, entered into this _____ day of _____, 2024, by and between the **City of Kerrville, Texas**, hereinafter referred to as the "City" or "Owner," and **Christopher Sharp**, an individual, with his mailing address being 1154 Midwaters Drive, Mountain Home, Texas 78058, hereinafter referred to as the "Contractor," is made for the following considerations:

1. The Contractor shall perform all work described in the proposal, attached hereto as **Exhibit A**, and incorporated herein by reference, in accordance with plans and specifications provided to Contractor by City. In the event that the attached proposal fails to provide details related to the work to be performed, the work shall be performed in accordance with the directions of the Owner's Representative **in the amount of \$55,276.00**.
2. Whenever the words "Owner's Representative" or "representative" are used in this contract, they shall be understood as referring to Ashlea Boyle, Director of Parks and Recreation, or to such other representative, supervisor, or inspector as may be authorized by the Owner to act in any particular capacity under this agreement.
3. Unless otherwise stipulated, the Contractor shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the contract documents. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words that so applied have well known, technical or trade meanings shall be held to refer to such recognized standards.
4. The Contractor shall comply with all laws, ordinances, rules and regulations governing the Contractor's performance of the contract, including the pulling of required permits.
5. All work shall be done and all materials furnished in strict conformity with the contract.
6. The Owner's Representative:
 - a. may make periodic visits to the site to observe the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the contract documents;

- b. will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work, nor be responsible for the construction means, methods, techniques, sequences or procedures, or the safety precautions incident thereto; and
- c. will not be responsible for the Contractor's failure to perform the work in accordance with the contract.

7. All minor detail of the work not specifically mentioned in the Specifications but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are named in the contract. The Contractor will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this contract shall be understood to mean and include all work that may be required by Owner to be done by the Contractor to accomplish any alteration or addition to the work as shown on the Specifications. It is agreed that the Contractor shall perform all extra work under the direction of the Owner's Representative when presented with a written work order signed by the Owner's Representative, subject, however, to the right of the Contractor to require written confirmation of such extra work order by the Owner. Payment for extra work shall be as agreed in the work order.

8. The Contractor shall at all times exercise reasonable precaution for the safety of employees and others on or near the work and shall comply with all applicable provisions of federal, state and municipal laws and building codes.

9. **THE CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF KERRVILLE, TEXAS AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR OR ANY OF CONTRACTOR'S OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS IN THE EXECUTION, SUPERVISION, AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THEIR PERFORMANCE OF THIS AGREEMENT.**

10. **CONTRACTOR AGREES THAT IT WILL INDEMNIFY AND SAVE THE OWNER HARMLESS FROM ALL CLAIMS GROWING OUT OF ANY**

DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES INCURRED IN THE FURTHERANCE OF THE PERFORMANCE OF THIS CONTRACT. When Owner so requests, Contractor shall furnish satisfactory evidence that all obligations of the nature hereinabove designated have been paid, discharged or waived.

11. Contractor shall carry insurance in the following types and amounts for the duration of this contract and furnish copies of policies and all policy endorsements as evidence thereof to Owner through Owner's representative:
 - a. To the extent required by Texas Labor Code §406.096, certify to the Owner by his signature below that Contractor has in effect workers' compensation insurance to cover Contractor's employees;
 - b. Commercial General Liability Insurance with a minimum bodily injury, property damage, fire damage, and premises operations liability, in an amount not less than \$1,000,000.00 combined single limit, per occurrence, and \$2,000,000 aggregate. This coverage must protect the public or any person from injury or property damages sustained by reason of Contractor or its employees providing the services. The general aggregate must be \$2,000,000. The policy must also provide contractual liability coverage for liability assumed under this contract, independent contractor's coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the Owner.
 - c. The insurance required by this Agreement must be written by a non-assessable insurance company licensed to do business in the State of Texas and currently rated "B" or better by the A.M. Best Companies. All policies must be written on a "per occurrence basis" and not a "claims made" form.

Contractor shall not commence work under this contract until it has obtained all required insurance and provided a copy of the insurance policy(ies) and endorsement(s) to the City. Contractor shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this contract or the six-month period following completion, in the case of a claims-made policy. All policies shall include a clause to the effect that the policies may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after Owner has received written notice of such cancellation or change.

In the case of any work sublet, Contractor shall require subcontractor(s) and independent contractor(s) working under the direction of either Contractor or

a subcontractor to carry and maintain the same workers compensation and liability insurance required of Contractor.

12. It is agreed by and between the parties that a Performance Bond and a Payment Bond shall be furnished by the Contractor in favor of Owner. The Performance Bond and Payment Bond shall be executed by a surety company authorized to do business in the State of Texas, and copies of the Performance Bond and Payment Bond shall be provided to the Owner's representative before any work is commenced.
13. Contractor shall promptly remove from Owner's premises all materials condemned by the Owner's Representative on account of failure to conform to the contract, whether actually incorporated in the work or not, and Contractor shall at its own expense promptly replace such condemned materials with other materials conforming to the requirements of the contract. Contractor shall also bear the expense of restoring all work of other contractors damaged by any such removal or replacement. If Contractor does not remove and replace any such condemned materials within a reasonable time after a written notice by the Owner, Owner may remove and replace it at Contractor's expense.
14. Neither the final payment nor any provision in this contract shall relieve the Contractor of responsibility for faulty materials or workmanship, and it shall remedy any defects due thereto and pay for any damage to other work resulting therefrom, which shall appear within a period of one (1) year from the date of substantial completion. The Owner shall give notice of observed defects with reasonable promptness.
15. The Owner may, on account of subsequently discovered evidence, withhold the whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:
 - a. Defective work not remedied.
 - b. Claims filed or reasonable evidence indicating possible filing of claims.
 - c. Failure of the Contractor to make payments promptly to subcontractors or for material or labor that the Owner may pay as an agent for the Contractor.
 - d. Damages to another contractor or subcontractor.

When the above grounds are removed, or the Contractor provides a surety bond satisfactory to the Owner, which will protect the Owner in the amount

withheld because of them, payment will be issued subject to paragraph number 17.

16. This contract may not be assigned in any way without the specific, written consent of the Owner.
17. Owner shall pay Contractor \$27,638 upon execution of this Agreement. Owner will retain \$27,638, which it will pay after all work is completed by the Contractor and the Owner has inspected and approved that work. The Owner shall be the final judge of when work is completed by the Contractor.
18. This Contract shall be governed by and construed in accordance with the Laws of the State of Texas. Venue for any suits arising from or related to this contract shall be in Kerr County, Texas.
19. In the event of conflict between the provisions of any attachments or exhibits to this Contract and the provisions of this Contract, the provisions of this Contract shall prevail.
20. Each person signing below represents that he or she is duly authorized to execute this Agreement on behalf of the party indicated below by his or her name and agrees on behalf of such party that such party will be bound by the terms of this Agreement.
21. Prohibition on Contracts with Companies Boycotting Israel. CONSULTANT hereby verifies the following per Section 2271.002, Texas Government Code:
 1. CONSULTANT does not boycott Israel; and
 2. CONSULTANT will not boycott Israel during the term of the Agreement.
22. Prohibition Against Business with Iran, Sudan, or Foreign Terrorist Organization. CONSULTANT hereby verifies that CONSULTANT is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
23. Prohibition on Contracts with Companies Boycotting Energy Companies. CONSULTANT hereby verifies the following per Section 2276.002, Texas Government Code:
 1. CONSULTANT does not boycott energy companies; and
 2. CONSULTANT will not boycott energy companies during the term of the Agreement.
24. Written Verification as to Firearm Entities. CONSULTANT hereby verifies

the following per Section 2274.002, Texas Government Code:

1. CONSULTANT does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. CONSULTANT will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

25. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure,” as defined by Section 2274.0101, Texas Government Code, CONSULTANT verifies (1) that it is not owned by or the majority of stock or other ownership interest of the company is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

SIGNED AND AGREED THIS _____ DAY OF _____, 2024.

OWNER: City of Kerrville, Texas

By: _____
Dalton Rice, City Manager

CONTRACTOR: Christopher Sharp

By: _____
Christopher Sharp, an Individual

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FUNDING:

Julie Behrens, Director of Finance

APPROVED AS TO FORM:

William L. Tatsch
William L. Tatsch,
Assistant City Attorney

APPROVED AS TO INSURANCE:

Kimberly Meismer, Asst. City Manager

APPROVED AS TO CONTENT:

Ashlea Boyle,
Director of Parks and Recreation

T:\Legal\PARKS & RECREATION\Golf Course\Contracts\General Contract_Chris Sharp_Golf Course Building Remodel_031124.docx

ESTIMATE

EXHIBIT A

sharp construction sharpconstruction1234@gmail.com
154 Midwaters Dr +1 (903) 283-3963
Mountain Home, TX 78058

schreiner

Bill to
City of Kerrville Tx

Ship to
City of Kerrville Tx

Estimate details

Estimate no.: 1010
Estimate date: 03/05/2024
Expiration date: 04/05/2024

#	Date	Product or service	SKU	Amount
1.		Demo Tear out existing location		\$3,900.00
2.		Windows Remove existing office and breakroom windows and replace with Low E double pane with metal frame windows.		\$1,900.00
3.		Sheetrock Sheetrock Office and closet two bathrooms and breakroom and tape bed and texture		\$7,600.00
4.		Trim Material Material for trim work colonial style		\$1,300.00
5.		Trim Labor Trim out two windows and base and new closet selves and rod labor		\$2,500.00
6.		Cabinets 12 Linear feet of lowers and uppers paint grade cabinets with one sink opening, (Replace sink with existing sink)		\$5,200.00
7.		paint Paint walls trim and cabinets material included		\$6,400.00
8.		Plumbing (Plumbing material) 2 commodes and two hand sinks (contractor Grade)and new hardware (faucets and lines)		\$1,800.00
9.		Plumbing Labor Install 2 commodes and two hand sinks (contractor Grade) and one kitchen sink		\$1,200.00
10.		Electrical Material 9 2x2 Led ceiling, two vanity lights. new plugs and switches and covers		\$2,580.00

11.	Electrical labor Labor to install material	\$2,100.00
12.	Exterior Doors 3 exterior steel insulated doors also 3 interior doors (non-insulated)	\$2,900.00
13.	counter Tops 13 Linear feet of counter top (Formica)	\$550.00
14.	Tile Material 12x12 neutral tile , versa bond ,grout, and joint sealer	\$2,000.00
15.	Tile Labor to lay ,grout and seal tile	\$3,500.00
16.	Drop ceiling Install drop ceiling (white) 2x2 grid with insulated tiles	\$9,846.00

Total **\$55,276.00**

Expiry
date 04/05/2024



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

SUBJECT: Professional Services Agreement between the City of Kerrville, Texas, and Hewitt Engineering, Inc. for renovation of Golf Course Bridges.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 14, 2024

SUBMITTED BY: Ashlea Boyle, Director Parks & Recreation

EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$52,500	N/A	\$4,000,000	N/A

PAYMENT TO BE MADE TO: Hewitt Engineering, Inc.

Kerrville 2050 Item? Yes

Key Priority Area P - Parks / Open Space / River Corridor

Guiding Principle N/A

Action Item P5.11 - Explore potential bond funding for enhancements to the Scott Schreiner Golf Course related to replacing the greens and renovating the bathrooms

SUMMARY STATEMENT:

Attached is a Professional Services Agreement in the amount of \$52,500 for engineering design services for the bridges at the Scott Schreiner Golf Course. This project is included in the \$4M Scott Schreiner Golf Course Improvement Project, funded through the EIC Sales Tax Revenue Bond. The EIC project funding agreement is also on this agenda for consideration and approval. Should the Council approve the funding agreement, staff is also requesting approval of this contract.

The scope includes design plans and specifications for five bridges listed below. The proposal and scope of work are attached.

- Hole #7 bridge
- Hole #6 bridge
- Hole #3 bridge near tee box
- Hole #3 bridge near green
- Hole #1

This contract requires City Council approval for compliance with the City's purchasing policy and State law due to the amount. Staff recommends approval of this expenditure and authorization for the City Manager to finalize and execute the contract.

RECOMMENDED ACTION:

Authorize the City Manager to finalize and execute the agreement.

ATTACHMENTS:

20240326_PSA_Hewitt_Eng - reno golf course bridges.pdf

PROFESSIONAL SERVICES AGREEMENT
[FIRM: Hewitt Engineering, Inc. | PROJECT-SERVICES: Renovation of
Golf Course Bridges]

THIS AGREEMENT is entered into the _____ day of _____, 2024 (“Effective Date”), by and between the **CITY OF KERRVILLE, TEXAS** (“CITY”) and **HEWITT ENGINEERING, INC.** (“CONSULTANT”), and at times, collectively referred to herein as “parties.”

WHEREAS, CITY needs to hire CONSULTANT to perform certain work and services set forth in Scope of Services, marked **Exhibit A**, and attached hereto and incorporated herein; and

WHEREAS, CONSULTANT agrees to perform said work and services as specified under Article I of this Agreement;

NOW, THEREFORE, the parties agree as follows:

I. CONSULTANT'S SERVICES

CONSULTANT shall perform and pay for all labor, tools, materials, equipment, supplies, transportation, and management necessary to perform all services set forth in **Exhibit A** and all other professional services reasonably inferable from **Exhibit A** and necessary for complete performance of CONSULTANT's obligations under this Agreement, collectively referred to herein as “Services.” CITY, at any time, may stop CONSULTANT from performing the Services upon giving CONSULTANT written notice. To the extent of any conflict between the terms of this Agreement and **Exhibit A**, the terms of this Agreement will prevail.

II. CONSULTANT'S RESPONSIBILITIES

A. CONSULTANT, upon its review of a general description of work required by City, has prepared and provided to CITY the specific Services required to complete such work and the manner in which CONSULTANT will do so, which is attached as **Exhibit A**.

B. CONSULTANT shall use skill, judgment, and abilities in performing the Services in an expeditious and timely manner consistent with the applicable professional standards of care. CONSULTANT shall at all times provide sufficient personnel to accomplish the Services in a timely manner. CONSULTANT shall manage the Services and coordinate other professional services as necessary for the complete performance of CONSULTANT's obligations under this Agreement. CONSULTANT

shall periodically report the status of the Services to CITY as is appropriate to keep CITY informed as to the status of the work.

C. CONSULTANT shall perform the Services in compliance with all applicable federal, state, and municipal laws, to include building codes and accessibility standards (e.g., Americans with Disabilities Act) and with those of any other entity having jurisdiction over the work. In addition, CONSULTANT shall perform the Services in a manner consistent with generally accepted standards for its profession.

D. Plans, drawings, specifications, and/or other reports produced by CONSULTANT (collectively referred to herein as "Design Documents") pursuant to the Services shall be performed in a manner consistent with generally accepted standards for its profession. CONSULTANT shall promptly correct any known or discovered error, omission, or other defect in the Design Documents without any additional cost or expense to CITY and notify of CITY of same; provided CONSULTANT receives written notice from CITY of said deficiencies within twelve (12) months of the date of completion of the CONSULTANT's services.

E. CONSULTANT shall designate a representative primarily responsible for its performance of the Services. The designated representative shall act on behalf of CONSULTANT with respect to all phases of the Services and shall be available as required for the benefit of the CITY. CONSULTANT shall not change the designated representative without prior written approval of CITY, which approval may not be unreasonably withheld.

III. CITY'S RESPONSIBILITIES

A. CITY has provided CONSULTANT with a general description of the work CITY requires.

B. CITY shall furnish surveys, geotechnical reports, or other special investigations or tests, including structural, mechanical, and chemical requested by CONSULTANT and as reasonably necessary for the completion of the Services.

C. CITY shall review the Design Documents and shall notify CONSULTANT of any design fault or defect in the Services or Design Documents of which CITY becomes aware.

D. CITY shall furnish required information and other services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Services.

E. CITY designates Ashlea Boyle, Director of Parks and Recreation, (830) 258-1153, as its primary representative authorized to act on its behalf with respect to this Agreement.

IV. PAYMENT

CITY shall compensate CONSULTANT for the Services in the amount and manner described and set forth in the Payment Schedule, attached hereto and incorporated herein as **Exhibit A**. The amount will not exceed **\$52,500.00**.

V. TIME FOR PERFORMANCE

CONSULTANT shall commence its work immediately upon the parties' execution of this Agreement and proceed diligently with said work, except for delays beyond the reasonable control of CONSULTANT. The Agreement will terminate upon CONSULTANT's completion and City's acceptance of Services, unless sooner terminated as provided herein.

VI. DOCUMENTS

A. CONSULTANT shall submit all Design Documents to CITY for approval. All Design Documents must be professionally sealed as required by law or by CITY.

B. CONSULTANT shall deliver the Design Documents, together with any necessary supporting documents, to CITY and CITY has unlimited rights, for the benefit of CITY, in all Design Documents, including the right to use same on any other work of CITY without additional cost to CITY. If CITY uses the Design Documents on any work of CITY other than that provided by CONSULTANT, then under those circumstances and only to the extent allowed by law, CONSULTANT, its officers, agents, servants, and employees will not be liable for damages or claims arising from any inaccuracy or any use of the Design Documents with respect to such other work, and except where CONSULTANT participates in such other work.

C. Upon receipt of payment by CONSULTANT, CONSULTANT shall grant CITY a royalty-free, perpetual license and right, to survive the termination of this Agreement, to all Design Documents, which CONSULTANT may cover by copyright and to all designs as to which CONSULTANT may assert any rights or establish any claim under the design patent or copyright laws. This license includes CITY's right to use and reproduce these documents as necessary to implement any CITY project, which may require the use of these documents. Further, CONSULTANT acknowledges that CITY is subject to Chapter 552 of the Government Code, commonly known as the "Texas Public Information Act," and hereby waives and releases the CITY from any claims against CITY for providing copies of the Design

Documents in compliance with that Act. CONSULTANT, after completion of the Services, shall immediately furnish originals of all Design Documents to CITY.

D. CONSULTANT shall ensure that all text documents supplied to CITY as provided herein are fully compatible with MS Word and that all drawings are fully compatible with Adobe PDF format.

VII. TERMINATION

A. CITY or CONSULTANT may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to the other party. In the event suspension or termination is without cause, CITY's payment to CONSULTANT, in accordance with this Agreement, will be made on the basis of the Services reasonably determined by CITY to be satisfactorily performed to date of suspension or termination. In addition, CITY's payment is subject to the CONSULTANT's delivery of all documents and reports reasonably required by CITY, to include Design Documents, invoices, statements, and accounts.

B. Should CITY require a modification to this Agreement, and in the event CITY and CONSULTANT fail to agree upon such modification, either CITY or CONSULTANT have the option of immediately terminating this Agreement. Thereafter, CITY shall pay CONSULTANT in accordance with this Agreement for the Services mutually agreed upon by CITY and CONSULTANT to be properly performed by the CONSULTANT prior to such termination date.

VIII. INSURANCE

CONSULTANT shall provide and maintain in full force and effect during the term of this Agreement the following types of insurance and liability coverage:

A. Workers Compensation Insurance: in an amount meeting statutory requirements of the State of Texas on all CONSULTANTS' employees carrying out the Services.

B. Automobile Liability Insurance: with either a combined limit of \$1,000,000 per occurrence for bodily injury and property damage or split limits of \$1,000,000 for bodily injury per person per occurrence and \$1,000,000 for property damage per occurrence. Coverage must include all owned, hired, and non-owned motor vehicles used in the performance of this Agreement by CONSULTANT or its employees.

C. General Liability Insurance: on a per occurrence basis with limits of \$1,000,000 for each occurrence and for fire damage and for Bodily Injury and Property Damage, \$1,000,000. Coverage for Premises, Operations, Products, and Completed Operations shall be \$2,000,000. This coverage must protect the public or any person

from injury or property damages sustained by reason of CONSULTANT or its employees providing the Services. The general aggregate must be \$2,000,000.

D. Professional Liability Errors and Omissions Insurance: with limits of \$1,000,000 per occurrence covering all work performed by CONSULTANT, its employees, subcontractors, or independent contractors. If this coverage may only be obtained on a "claims made" basis, the certificate of insurance must clearly state coverage is on a "claims made" basis and coverage must remain in effect for at least two years after final payment with CONSULTANT continuing to furnish the City certificates of insurance.

E. Subcontractor: in the case of any work sublet, CONSULTANT shall require subcontractor and independent contractors working under the direction of either CONSULTANT or a subcontractor to carry and maintain the same workers compensation and liability insurance required of CONSULTANT.

F. Qualifying Insurance: the insurance required by this Agreement must be written by non-assessable insurance company licensed to do business in the State of Texas and currently rated "B" or better by the A.M. Best Companies. With the exception of Professional Liability Errors and Omissions Insurance, all policies must be written on a "per occurrence basis" and not a "claims made" form.

IX. INDEMNIFICATION FOR INJURY AND PERFORMANCE

A. CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS CITY, ITS OFFICERS AND EMPLOYEES, HEREINAFTER INDIVIDUALLY AND COLLECTIVELY REFERRED TO AS "INDEMNITEE(S)," FROM AND AGAINST LOSSES, LIABILITY, OR DAMAGE OF ANY CHARACTER AND FROM AND AGAINST COSTS AND EXPENSES, INCLUDING, IN PART, ATTORNEY FEES INCIDENTAL TO THE DEFENSE OF SUCH LOSSES, DAMAGES, OR LIABILITY ON ACCOUNT OF INJURY, DISEASE, SICKNESS, INCLUDING DEATH, TO ANY PERSON OR DAMAGE TO PROPERTY INCLUDING, IN PART, THE LOSS OF USE RESULTING THEREFROM OF CONSULTANT, ITS OFFICERS, EMPLOYEES, OR ANYONE ELSE UNDER CONSULTANT'S, DIRECTION AND CONTROL, AND ARISING OUT OF, RESULTING FROM, OR CAUSED BY THE PERFORMANCE OR FAILURE OF PERFORMANCE OF THE SERVICES, OR FROM CONDITIONS CREATED BY THE NEGLIGENT PERFORMANCE OR NON-PERFORMANCE OF SAID WORK.

B. CONSULTANT is not responsible for the actions of the CITY's contractor to perform the construction of the improvements covered under this Agreement.

C. Acceptance and approval of any work or final plans by CITY neither constitutes nor may be deemed a release of this responsibility and liability of CONSULTANT, its employees, associates, agents, and consultants for the accuracy or competency of their designs, working drawings, and specifications, or other documents and work; nor shall such approval be deemed to be an assumption of such responsibility by CITY for any defect in the Design Documents, or CONSULTANT's employees, contractor, agents, and consultants.

X. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION

CONSULTANT agrees that it is an independent contractor and not an agent of CITY, and that CONSULTANT is subject, as an employer, to all applicable Unemployment Compensation Statutes, so as to relieve CITY of any responsibility or liability from treating CONSULTANT's employees as employees of CITY for the purpose of keeping records, making reports or payments of Unemployment Compensation taxes or contributions. **CONSULTANT SHALL INDEMNIFY AND HOLD CITY HARMLESS AND REIMBURSE IT FOR ANY EXPENSES OR LIABILITY INCURRED UNDER SAID STATUTES IN CONNECTION WITH EMPLOYEES OF CONSULTANT.**

XI. INDEMNIFICATION FOR PERFORMANCE

CONSULTANT SHALL DEFEND AND INDEMNIFY INDEMNITEES AGAINST AND HOLD CITY AND THE PREMISES HARMLESS FROM ANY AND ALL CLAIMS, SUITS, OR LIENS BASED UPON OR ALLEGED TO BE BASED UPON THE NON-PAYMENT OF LABOR, TOOLS, MATERIALS, EQUIPMENT, SUPPLIES, TRANSPORTATION, AND MANAGEMENT COSTS INCURRED BY CONSULTANT IN PERFORMING THE SERVICES.

XII. DEFAULT OF CONSULTANT

In the event CONSULTANT fails to comply or becomes disabled and unable to comply with this Agreement as to the quality or character of the Services or time of performance, and the failure is not corrected within ten (10) days after written notice from CITY to CONSULTANT, CITY may, at its sole discretion, without prejudice to any other right or remedy:

- A. Terminate this Agreement and be relieved of the payment of any further consideration to CONSULTANT except for all work determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed will equal actual costs, including reasonable salaries and travel expenses of CONSULTANT to and from meetings called by CITY at which CONSULTANT is required to attend, but shall not include any loss of profit of CONSULTANT. In the event of such termination, CITY may**

complete the services in any manner deemed proper by CITY, either by the use of its own forces or by assigning the work to others. In either event, CONSULTANT is liable for all costs in excess of the total contract price under this Agreement incurred to complete the Services, but in no event shall such expenses exceed 125% of the Contract Price. CITY may deduct the costs CITY incurs out of such monies as may be due or that may thereafter become due to CONSULTANT under this Agreement.

B. CITY may, without terminating this Agreement or taking over the Services, furnish the necessary materials, equipment, supplies, and/or help necessary to remedy the situation, at the expense of CONSULTANT.

XIII. MISCELLANEOUS PROVISIONS

A. Entire Agreement. This Agreement supersedes all prior agreements, written or oral, between CITY and CONSULTANT and constitutes the entire and integrated Agreement and understanding between the parties with respect to the subject matter of the Agreement. This Agreement may only be amended by a written instrument signed by both parties.

B. Assignment. This Agreement is a personal service contract for the Services of CONSULTANT and CONSULTANT's interest in this Agreement, duties hereunder, and/or fees due may not be assigned or delegated to a third party without the written consent of CITY. Sale of more than fifty percent (50%) ownership of CONSULTANT will be considered an assignment.

C. Adjustment in Services. CONSULTANT shall not make any claims for extra services, additional services, or changes in the Services without a written agreement with CITY prior to the performance of such services.

D. Applicable Law. This Agreement must be construed, interpreted, and applied in accordance with and governed by and enforced under the laws of the State of Texas without giving effect to principles of conflict of law. Venue will occur in Kerr County, Texas.

E. Waiver. A delay or omission by either party in exercising any right or power under the Agreement may not be construed as a waiver of that right or power. A waiver by either party of any term or condition of the Agreement may not be construed as a waiver of any subsequent breach of that term or condition or of any other term or condition of the Agreement. Further, neither CITY's review, approval, or acceptance of, nor payment for any of the Services may be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

F. Severability. If any provision of this Agreement is determined to be invalid or unenforceable in any respect, that determination may not affect any other provision of this Agreement, which will be interpreted as if the invalid or unenforceable provision had not been included.

G. Independent Contractor. CONSULTANT agrees that CONSULTANT is engaged as an independent contractor and that City has no responsibility to provide CONSULTANT or its employees with any benefits associated with employee status. CONSULTANT shall neither hold itself out as nor claim to be an officer, partner, employee, or agent of CITY.

H. Exhibit(s). The following exhibit(s) is attached to this Agreement and are included herein for all purposes:

Exhibit A Scope of Services

I. Execution Becomes Effective. This Agreement is effective as of the Effective Date.

J. Notices and Authority. CONSULTANT shall send all notices required under this Agreement to the City Manager at City Hall, 701 Main Street, Kerrville, TX 78028. CONSULTANT agrees that only the City Manager, or designee, has the authority to represent CITY or bind CITY under this Agreement. CITY shall send all notices required under this Agreement to the CONSULTANT at:

Hewitt Engineering, Inc.
John Hewitt
716 Barnett Street
Kerrville, Texas 78028

K. Prohibition on Contracts with Companies Boycotting Israel. CONSULTANT hereby verifies the following per Section 2271.002, Texas Government Code:

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

L. Prohibition Against Business with Iran, Sudan, or Foreign Terrorist Organization. CONSULTANT warrants, covenants, and represents that CONSULTANT is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

M. Prohibition on Contracts with Companies Boycotting Energy Companies. CONSULTANT hereby verifies the following per Section 2274.002, Texas Government Code:

1. CONSULTANT does not boycott energy companies; and
2. CONSULTANT will not boycott energy companies during the term of the Agreement.

N. Written Verification as to Firearm Entities. CONSULTANT hereby verifies the following per Section 2274.002, Texas Government Code:

1. CONSULTANT does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
2. CONSULTANT will not discriminate against a firearm entity or firearm trade association during the term of the Agreement.

O. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure”, as defined by Section 2274.0101, Texas Government Code, CONSULTANT verifies (1) that it is not owned by or the majority of stock or other ownership interest of the company is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

M. Dispute Resolution. The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiation between executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved during the normal course of business. Within thirty (30) days after delivery of the initial notice, the executives of both parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. In the event that the parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Commercial Mediation Rules published by the American Arbitration Association. In the event that the dispute has not been resolved within thirty (30) days following mediation, or such longer period as the parties may agree, either party may initiate formal proceedings against the other party.

N. Consequential Damages Waiver. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER CONSULTANT NOR CITY NOR EITHER PARTY'S SUPPLIERS, AGENTS, OFFICERS, AND DIRECTORS SHALL HAVE ANY LIABILITY REGARDLESS OF THE THEORY OF RECOVERY, INCLUDING BREACH OF CONTRACT OR NEGLIGENCE, TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT,

INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, COST OR EXPENSE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, WHETHER ACTUAL OR ANTICIPATED, LOSS OF USE, FAILURE TO REALIZE ANTICIPATED SAVINGS, LOSS OF OR DAMAGE TO DATA OR OTHER COMMERCIAL OR ECONOMIC LOSS. THIS WAIVER OF CONSEQUENTIAL DAMAGES IS MADE REGARDLESS OF WHETHER (I) EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (II) SUCH DAMAGES MAY BE FORESEEABLE.

O. Limitation of Liability. Notwithstanding any other provision of this Agreement, CITY agrees to limit CONSULTANT's liability to CITY and to all persons having contractual relationships with CITY to the total fee or compensation received by CONSULTANT for the work under which the liability arises

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

OWNER
THE CITY OF KERRVILLE

BY: _____
NAME: Dalton Rice
TITLE: City Manager

CONSULTANT
HEWITT ENGINEERING, INC.

BY: _____
NAME: John Hewitt, P.E.
TITLE: President

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FUNDING:

Julie Behrens, Director of Finance

APPROVED AS TO FORM:

William Tatsch
William L. Tatsch, Asst. City Attorney

APPROVED AS TO INSURANCE:

Kimberly Meismer, Asst. City Manager

APPROVED AS TO CONTENT:

Ashlea Boyle, Director of Parks and Recreation



March 12, 2024

Mr. Kyle Burow
Director of Engineering
City of Kerrville
701 Main Street
Kerrville, TX 78028

**Re: Scott-Schreiner Golf Course Cart Bridge Improvements
Final Design Fee Estimate**

Dear Kyle,

Per your request, I have prepared a scope and fee schedule for the preparation of final design plans and specifications associated with the Scott-Schreiner Golf Course Cart Bridge Improvements. The project will consist of preparing construction plans and specifications for replacement of five existing bridge crossings across creeks on the golf course. The five crossings include:

Hole #7 bridge – 29-feet long and 8-feet wide
Hole #6 bridge – 21.5 – feet long and 8-feet wide
Hole #3 bridge (near tee box) – 30-feet long and 8-feet wide
Hole #3 bridge (near green) – 30-feet long and 8-feet wide
Hole #1 bridge – 32-feet long and 8-feet wide

The Hole No. 12 bridge is a pre-manufactured aluminum bridge and will remain in place. The proposed cart crossings will consist of 8-foot-wide concrete box culverts with one-foot concrete curbs on each side of the crossing. The plans and specifications will also include the addition of approximately 20,000 square feet of additional cart path to supplement the existing cart paths on the course.

The scope of services for this project includes the following tasks:

1. Prepare Plan & Profile Sheets and Details
2. Prepare Technical Specifications and Bid Documents
3. Submit 60%, 90% and 100% Plans and Specifications to the City
4. Prepare Project Scheduling, Bid Quantities, and Cost Estimates
5. Coordinate with City staff, and Subconsultants
6. Attend Prebid conference, evaluate bids and prepare contractor recommendation
7. Construction Phase Services during construction
8. Survey Services

The scope of the project will not include the following:

- Geotechnical Services
- Environmental Services including wetlands/jurisdictional waters determination

- Cultural Resources Study including archaeological research and archeological field survey

The final result of this project will be five full size sets of signed and sealed original drawings and technical specifications in order to solicit contractor bids. The total lump sum design fee to perform these tasks including Basic and Additional Services including all expenses is \$52,500. This fee consists of Basic Design Services of \$29,900, \$9,975 for the surveying subconsultant, Searchers Surveyors LLC., \$2,325 for Bid Phase Services, \$7,300 for Construction Phase Services and \$3,000 for Reimbursable Expenses. The subconsultant proposal for Searchers Surveyors LLC is attached.

The fee schedule for Basic and Additional Services described above is summarized in the following table:

BASIC AND ADDITIONAL SERVICES FEE SCHEDULE:

1. Final Design Plans and Specifications	\$29,900.00
2. Bid Phase Services.....	\$2,325.00
3. Construction Phase Services	\$7,300.00
4. Survey Subconsultant	\$9,975.00
5. Reimbursable Expenses (including CivCast)	\$3,000.00

TOTAL BASIC SERVICES FEE PROPOSAL.....\$52,500.00

Please feel free to contact me at 830-315-8800 or by email at jmhewitt@hewitt-inc.com if you have any questions or need any additional information.

Sincerely,

HEWITT ENGINEERING INC.
Texas Registered Engineering Firm F-10739



John M. Hewitt, P.E., CFM

Attachments



4585 OLD PONTOTOC ROAD, MASON, TEXAS 76856
720 MUSTANG STREET, FREDERICKSBURG, TEXAS 78624
830-383-1211 | F-10193966 | SEARCHERS.NET

Surveying Services Agreement

1. This agreement is between:

Client. Hewitt Engineering, Inc. (Hereinafter "Client")

Surveyor. Searchers LLC dba Searchers (Hereinafter "Searchers")

2. Property to be Surveyed. Kerrville Scott Schreiner Golf Course: Hole 1 Bridge, Hole 3 Bridge, Hole 6 Bridge, Hole 7 Bridge, and Hole 12 Bridge.

3. Scope of Services (to be performed by Searchers).

- a.** Collect topographic data on the ground for
 - i.** Cart path approaches to each bridge,
 - ii.** existing bridge, and
 - iii.** drainageways to approximately 10' upstream and downstream
- b.** Prepare topographic survey plat showing improvements and topographic contours for each location
- c.** Provide Client with CAD file

4. Fee. The fee for this survey will be \$8,500.

5. Schedule. The survey will be completed in a timely manner. Searchers is not responsible for delays by others.

6. Timely Payment. Searchers will issue an invoice upon completion of the survey. All invoices are due when delivered to Client. Invoices that are not paid within 30 calendar days of delivery will be considered past due.

7. Fee Adjustment. If project is not completed within 1 year, Searchers may increase rates by up to 5% for services performed after the first year.

8. Limited Scope. Engineering, construction staking, and legal services are outside the scope of this proposal.

9. Ownership of Documents. All documents, including original drawings, field notes, and data provided or furnished by Searchers pursuant to this Agreement are instruments of service in respect to the Project and Searchers shall retain ownership and property interest

Surveying Services Agreement – Hewitt Engineering

therein whether or not the project is completed. The Client may make copies for use on the Project, however, such documents are not intended or suitable for reuse by the Client or others on extensions of the Project or any other Project.

10. **Standard of Care.** Searchers will endeavor to perform surveying services with the same standard of care and skill as a reasonable Texas surveyor would under the same or similar circumstances.
11. **Limitation of Liability.** Searchers will endeavor to perform surveying services with the same standard of care and skill as a reasonable Texas surveyor would under similar circumstances. In order for Client to obtain the benefit of a fee which includes a lesser allowance for risk funding, Client agrees to limit the liability of Searchers and the Surveyor such that the total aggregate liability shall not exceed double the compensation for services rendered on this project.
12. **Entire Agreement.** This proposal contains the entire and integrated agreement. No modification of this agreement will be binding unless it is in writing and signed by both the Client named above and an authorized representative of Searchers.
13. **Cancel Agreement.** Either party may at any time cancel this contract. Client will pay for any time or expenses that were expended prior to cancelation of this agreement.
14. **Assignment.** This agreement shall not be assigned without the written consent of the other party.
15. **Severability.** Any provision or part of the Agreement held to be void or unenforceable shall be deemed stricken and all remaining provisions shall be valid and binding.
16. **Governing Law and Venue.** This agreement shall be governed by the laws of the State of Texas, and the parties agree that venue shall be proper in Gillespie County, Texas.
17. **Offer Expiration.** This agreement offer expires if not accepted within 15 days. No work will be scheduled until this agreement is signed and returned.

Signing this Agreement for services shall be authorization by the Client for Searchers to proceed with work unless otherwise stated in the Agreement.

Thank you for the opportunity to work with you on this project. If you have any questions please call me at 830-383-1211 or email me at josh@searchers.net.



Josh W. Leamons, for
Searchers LLC

, for
Hewitt Engineering, Inc.



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

SUBJECT: Update on Solar Eclipse planning.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 19, 2024

SUBMITTED BY: Eric Maloney, Fire Chief

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Provide an update on planning for the April 8, 2024 Total Eclipse.

RECOMMENDED ACTION:

Emergency Management planning update.



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

SUBJECT: Monthly Financial Report for month-ended 1-31-2024.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** March 18, 2024

SUBMITTED BY: Julie Behrens , Director of Finance

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Financial report for month-ended 1-31-2024

RECOMMENDED ACTION:

NA

ATTACHMENTS:

[*20260326_Financial report.pdf*](#)

2024

**FINANCIAL REPORT
MONTH ENDING
FEBRUARY 29, 2024**

**CITY COUNCIL
MEETING
MARCH 26, 2024**



GENERAL FUND

GENERAL FUND - BUDGET SUMMARY FEBRUARY 29, 2024

	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES					
Property Tax	11,957,339	11,957,339	11,239,899	11,560,595	320,696
Sales Tax	10,523,261	10,523,261	4,335,584	4,229,399	(106,185)
Franchise Fees	2,233,534	2,233,534	712,97	575,660	(136,838)
Total Taxes	24,714,134	24,714,134	16,287,980	16,365,653	77,674
Permits and Fees	235,610	235,610	99,192	85,013	(14,179)
Intergovernmental Revenue	1,872,507	1,872,507	1,011,153.78	1,036,961	25,807
Service Revenue	5,621,288	5,621,288	2,248,515	2,357,503	108,987
Recreation Revenue	1,876,551	1,876,551	694,324	574,185	(120,139)
Fines and Forfeitures	429,500	429,500	160,633	145,286	(15,347)
Grant & Donation Revenue	44,902	44,902	16,793	12,562	(4,232)
Interest and Miscellaneous	432,724	432,724	173,090	427,027	253,937
Operating Transfer In	2,411,858	2,411,858	1,004,941	1,004,941	-
TOTAL REVENUES	\$ 37,639,074	\$ 37,639,074	\$ 21,696,621	\$ 22,009,130	\$ 312,509
EXPENDITURES					
Personnel	26,841,827	26,841,827	10,683,047	10,385,072	297,975
Supplies	1,865,153	1,864,153	714,354	718,383	(4,029)
Maintenance	4,098,039	4,098,039	1,335,961	1,383,357	(47,397)
Services	3,082,478	3,067,278	1,516,579	1,493,390	23,189
Other Expenses	703,193	701,993	418,400	219,808	198,592
Capital Outlay	-	-	-	-	-
Operating Transfers Out	1,048,384	1,048,384	553,493	553,493	-
TOTAL EXPENDITURES	\$ 37,639,074	\$ 37,621,674	\$ 15,221,834	\$ 14,753,503	\$ 468,331

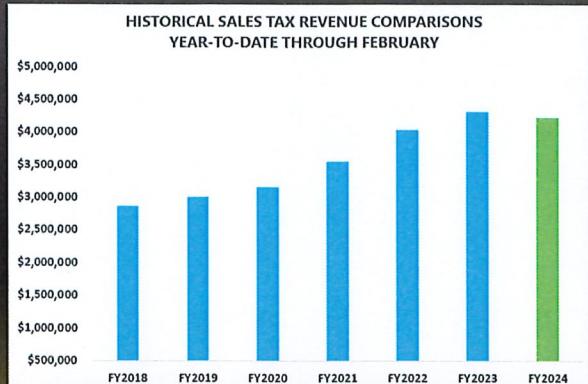
Revenues:

- Taxes and Franchise fees are \$78K better than budget estimate
 - primarily due to Property Tax collections
 - 96% collected
 - Property is budgeted based on 98% collection rate
 - Sales Tax is \$106K behind budget estimate (more detail in coming slides)
 - Franchise Fees \$137K behind budget estimate primarily due to KPUB revenues
 - The cost to supply power for this time period was very low due to great performance in renewable hedges.
 - Rates/Revenues are based on the actual cost of power
 - March has been received and is higher than last year
- Other revenues
 - Intergovernmental close to budget – variance related to actual KISD-KPD expenses for School Resource Officers
 - Service Revenue \$109K better than budget
 - Primarily due to EMS – Base Rate and EMS – Mileage
 - Solid Waste Surcharge Revenue is \$48K better than last year
 - Recreation Revenue \$120K behind budget estimate
 - Sales tax is flattening. Consumers not spending on extracurricular activities
 - Interest Income about 5% compared to budgeted 3% returns

Expenses:

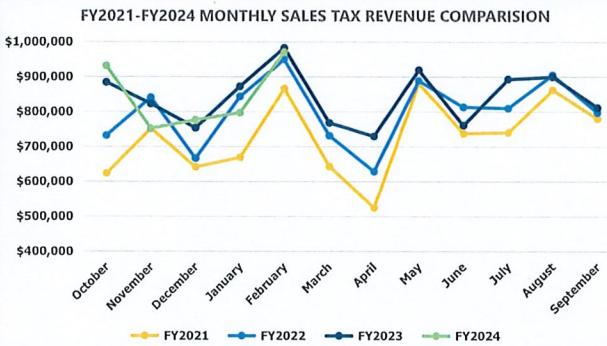
- Personnel \$298K better than budget estimate
 - Includes salaries, overtime, benefits, training, travel
- Maintenance \$47K behind budget estimate
 - Compared to history - unexpected HVAC Repairs and Elevator Repairs
 - Property Tax Services a little higher due to collection rate (expense based on dollars collected)
- Other shows \$199K better than estimate but contingency is in this category and is difficult to predict until closer to year-end

GENERAL FUND- SALES TAX



SALES TAX HISTORICAL INFORMATION

- FY2024 is budgeted slightly less than FY2023 based on trends and other economic factors
- Graph on left illustrates YTD revenues with FY2024 a little behind FY2023
 - Waiting on corrected remittance from one of larger taxpayers
 - FY2024 through Feb:
 - 41% higher than FY2019
 - 19% higher than FY2021
- Graph on the bottom right illustrates a historical view of monthly sales tax
- February 2024 1% down to February 2023 (December Sales)



Water Fund

WATER FUND - BUDGET SUMMARY FEBRUARY 29, 2024

	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES						
Water	7,550,971	7,550,971	2,817,267	2,366,965	(450,302)	
Sewer	6,856,655	6,856,655	2,842,083	2,825,822	(16,262)	
Reuse	175,000	175,000	51,275	64,952	13,677	
Waste Disposal	350,000	350,000	137,795	122,300	(15,495)	
Interest & Misc	139,500	139,500	58,213	147,175	88,961	
Taps & Meters / Other Fees	471,800	471,800	196,882	193,572	(3,310)	
Total Revenue	\$ 15,543,926	\$ 15,543,926	\$ 6,103,516	\$ 5,720,786	\$ (382,731)	
EXPENDITURES						
Personnel	4,431,141	4,431,141	1,713,079	1,686,551	26,528	
Supplies	911,280	911,280	392,306	309,935	82,371	
Maintenance	1,197,068	1,164,271	501,219	252,735	248,484	
Services	1,096,981	1,096,981	473,896	490,039	(16,144)	
Other Expenses	338,292	338,292	135,317	59,906	75,411	
Capital	144,980	177,778	71,111	67,154	3,957	
Operating Transfers Out	7,424,183	7,424,183	3,282,993	3,282,993	-	
TOTAL EXPENDITURES	\$ 15,543,926	\$ 15,543,926	\$ 6,569,921	\$ 6,149,313	\$ 420,608	

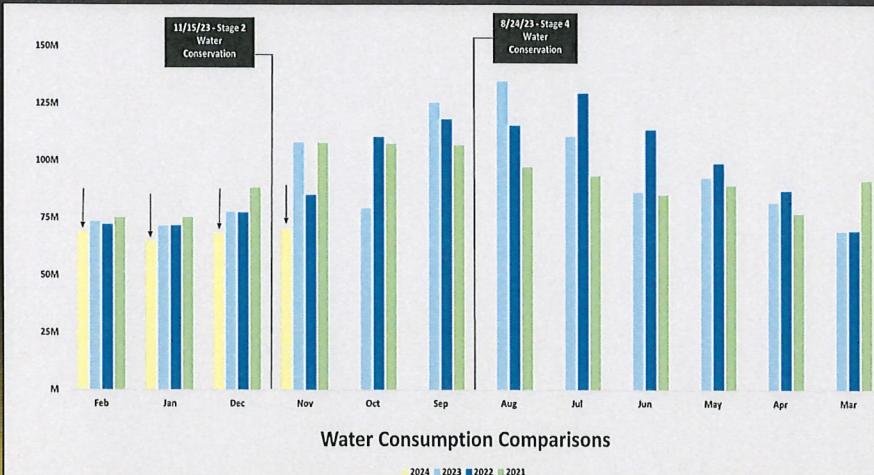
Revenues:

- Water \$450K behind budget estimate
 - consumption down 25% compared to prior 3 year average primarily due to Stage 4 Water Conservation
- Sewer \$16K behind budget estimate
 - Stage 4 restrictions affected irrigation revenue from commercial accounts (commercial sewer is based on water consumption)
 - Winter residential sewer averaging will be complete with March 10th readings - New averages will be calculated and reflected on April bills
- Reuse slightly better than budget estimate
- Waste Disposal is slightly behind, but tracking closely to budget
- Interest Income earning 5.5% compared to budgeted 2.5% returns

Expenses:

- Personnel \$26K better than budget, partially due to vacancies
 - Includes salaries, overtime, benefits, training, travel
- Maintenance \$248K better than budget estimate. Holding where we can on some purchases - watching revenue performance

Water Fund



- 8/24/23 - Stage 4 Water Restrictions
- 11/15/23 - Stage 2 Water Restrictions
- FY2024 thru February behind revenue budget estimate by 6% of overall \$450K
- Average 3 year consumption comparison
 - FY2024 consumption down 20%
- Weather is shifting and starting to see the consumption gap close.
- March 2024 bills reflect a 1.1M increase in consumption over March 2023.
 - Water sales \$25K better than
 - Sewer sales \$50K better than

Development Services Fund

DEVELOPMENT SERVICES FUND - BUDGET SUMMARY FEBRUARY 29, 2024

	FY2024 Original Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES				
Permits & Fees	926,648	370,659	214,414	(156,245)
Interest & Misc	5,000	2,000	80	(1,920)
Transfers-In	247,980	103,325	103,325	-
Total Revenue	\$ 1,179,628	\$ 475,984	\$ 317,819	\$ (158,165)
EXPENDITURES				
Personnel	1,056,458	428,922	416,607	12,315
Supplies	13,180	5,492	5,128	364
Maintenance	41,694	17,373	12,805	4,567
Services	63,443	26,435	32,848	(6,413)
Other Expenses	4,854	2,023	881	1,142
TOTAL EXPENDITURES	\$ 1,179,628	\$ 480,243	\$ 468,268	\$ 11,975

- Permits and Fees \$156K behind budget estimate
 - During Stage 4 Water Restrictions no commercial projects were allowed to pull a permit. There were no major commercial project submittals during this time. Revenue earned this fiscal year is predominately residential-driven.
- Interest Income \$1,920 behind budget estimate
 - Due to a negative fund balance, this fund has not been allocated interest since October.

Hotel Occupancy Tax

HOTEL OCCUPANCY TAX FUND - BUDGET SUMMARY FEBRUARY 29, 2024					
	FY2024 Original Budget	FY2024 Current Budget	FY2024 YTD Budget Estimate	FY2024 YTD Actual	Better/Worse Than Estimated
REVENUES					
Taxes	1,719,032	1,719,032	636,042	552,535	(83,507)
Merchandise Sales & Other	25,000	87,126	34,850	56,586	21,735
Eclipse Sponsors/Donations	40,000	40,000	24,000	24,950	950
CAP Grant	100,000	100,000	150,000	150,000	-
Interest & Misc	35,000	35,000	14,000	45,514	31,514
Total Revenue	\$ 1,919,032	\$ 1,981,158	\$ 858,892	\$ 829,584	\$ (29,308)
EXPENDITURES					
Maintenance	-	-	2,969	2,969	-
Services (including CVB)	1,432,602	1,432,602	793,625	800,414	(6,789)
Other (including events)	454,500	1,014,500	273,915	266,217	7,698
Transfers	85,000	85,000	35,417	35,417	-
Total Expenditures	\$ 1,972,102	\$ 2,532,102	\$ 1,105,926	\$ 1,105,017	\$ 909

- Revenue overall \$29K behind budget estimate
 - Occupancy Tax \$83K behind budget estimate.
 - Merchandise sales are ramping back up for Eclipse event
- Current YTD expenses in line with estimates
- Tracking regular expenses by historical percentage and all others through ongoing eclipse planning
- Visit www.Kerrvilleeclipse.com to find out more information regarding the Eclipse.



Solar Eclipse Tracking

Too soon to report any estimates

- Merchandise sales, park vendors and parking tracking better than anticipated
- Donations estimated better than expected due to commitments from unexpected donors
- Multiple In-Kind donations
- Finance continues to meet with departments to review updated estimated expenditures
- Tracking all expenses using a project code and specific account to ensure accuracy
- Making plans to manage cash handling, expense tracking, equipment / rolling stock data, etc. in accordance with Texas Department of Emergency Management & FEMA guidelines for potential reimbursement

FAQ

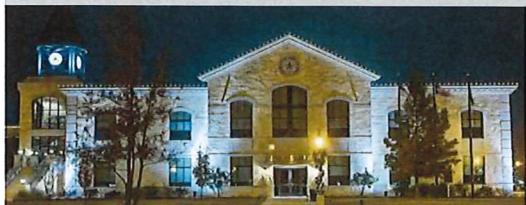
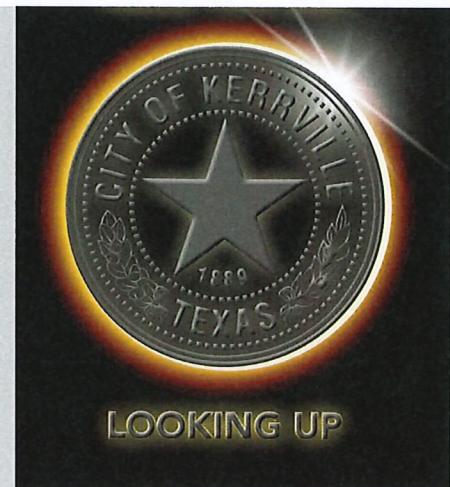
- \$1M in additional taxable sales = \$10K in sales tax revenue
- 1155 hotel rooms in Kerrville
Average \$400/night with 3/night minimum
If every room booked for all 3 nights:
\$1.4M gross revenue for hoteliers
\$97K in HOT revenue to City
- Short-Term Rentals account for (on average) 13% of monthly HOT revenue
Using that assumption and same 3 night minimum
STR revenue for eclipse estimated: \$13K

Calendar

March	
March 29th Submitting applications to GFOA for ACFR & PAFR Awards	
April	
April 8th Solar Eclipse!!!	
April 9th Long-range Asset Replacement presentation at Council Workshop	
April 25th Receive preliminary property tax roll from KCAD	
May/June	
May/June City Council Priorities Retreat	
June	
June 20th City Council Budget Workshop	
July	
July 18th City Council Budget Workshop	
July 25th Certified roll from KCAD	



Questions?





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

SUBJECT: Appointment(s) to the Parks & Recreation Advisory Board.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

Three terms expire March 31, 2024.

Ten applications have been received: Lynda Ables, Sara Cotton, Paul Devine, Steven Dye, Cabe Johnson (eligible for reappointment), Katy Kappel, Tara Legenza, Lisa Nye-Salladin (eligible for reappointment), Miles Pitman, Barry Rollman.

Interview Team is Councilmember Place 2 Jeff Harris and Councilmember Place 3 Joe Herring, Jr.

Staff liaison is Parks & Recreation Director Ashlea Boyle.

RECOMMENDED ACTION:

Appoint member(s).



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

SUBJECT: Appointment(s) to the Main Street Advisory Board.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area D - Downtown Revitalization

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

A vacancy has occurred in the Main Street Advisory Board due to a resignation.

Five applications remain on file in the City Secretary Office, and one new application has been received: George Eychner, Brian Hardin, Maggie Megee, Jimmy Mullins, Delayne Sigerman, and Howard Taylor.

Council interview team: Mayor Eychner and Councilmember Garcia.

Staff Liaison: Megan Folkerts.

RECOMMENDED ACTION:

Appoint member(s).



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

SUBJECT: Appointment(s) to the Senior Services Advisory Committee.

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Megan Folkerts, Senior Management Analyst

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? Yes

Key Priority Area C - Community / Neighborhood Character and Place Making

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

A vacancy has occurred in the Senior Services Advisory Committee due to a resignation.

Two applications remain on file in the City Secretary Office: Mark Cowan, and Mandy Kisiel, and one new application received: Nissa Kendall.

Council interview team: Councilmember Harris and Councilmember Herring.

Staff Liaison: Megan Folkerts.

RECOMMENDED ACTION:

Appoint member(s).



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

SUBJECT: Appointment(s) to the Zoning Board of Adjustment (ZBA).

AGENDA DATE OF: March 26, 2024 **DATE SUBMITTED:** February 9, 2024

SUBMITTED BY: Shelley McElhannon, City Secretary

EXHIBITS:

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

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item? No

Key Priority Area N/A

Guiding Principle N/A

Action Item N/A

SUMMARY STATEMENT:

The ZBA currently has two regular member vacancies and one alternate member vacancy. Alternate member Donald Chute has requested consideration of appointment as a regular member.

Council interview team: Mayor Judy Eychner Councilmember Brenda Hughes.

Staff Liaison: Guillermo Garcia.

RECOMMENDED ACTION:

Appoint member(s).