AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, MARCH 26, 2013, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, MARCH 26, 2013, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION offered by Heather Mitchell, Minister of Music at First Baptist Church.

PLEDGE OF ALLEGIANCE TO THE FLAG led by cadet Staff Sergeant Derrick DeLeon, of the Tivy High School Junior Reserve Officers Training Corps.

Those in attendance may stand if they wish.

1. VISITORS/CITIZENS FORUM:

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

2. RECOGNITION AND COMMENDATIONS:

2A. Proclamation declaring March 29, 2013 as Vietnam Veterans Day. (Mayor Pratt)

2B. Recognition of Sheriff Rusty Hierholzer for his selection by the Kerrville Masonic Lodge, #697, A.F.A.M., for the 2013 Community Builder Award. (Mayor Pratt)

3. CONSENT AGENDA:

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

3A. Minutes of the regular meeting held on February 12, 2013, and the special meetings held on February 26 and February 28, 2013. (staff)

3B. Economic Development Grant Agreement between Fox Tank Company, Inc. and the City of Kerrville Economic Improvement Corporation. (staff)

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time, March 22, 2013 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

3C. Economic Development Grant Agreement between Texas Arts & Craft Educational Foundation, Inc. and the City of Kerrville, Texas Economic Improvement Corporation. (staff)

3D. Purchase of a Ford F550 Truck from Grande Truck Center. (staff)

3E. Computer recycling agreement with the Christian Women's Job Corps. (staff)

3F. A Resolution relating to establishing the City's intention to authorize the Kerrville Public Utility Board (KPUB) to reimburse itself for KPUB'S prior lawful expenditure of funds relating to constructing various capital infrastructure improvements to the City's electric utility system from the proceeds of the tax-exempt obligations not to exceed $6,300,000 to be issued by the City on behalf of KPUB for authorized purposes; authorizing other matters incident and related thereto. (staff)

END OF CONSENT AGENDA

4. CONSIDERATION AND POSSIBLE ACTION:

4A. Request by citizen to investigate possible property encroachment (1301 Paragon Place). (John W. Bauer, Jr.)

4B. Approve and accept Fiscal Year 2012 City of Kerrville Comprehensive Annual Financial Report (audit). (staff)

4C. A Resolution supporting the Texas Department of Transportation's construction of an improved interchange at Interstate Highway 10 and Farm to Market Road 783 (Harper Highway). (staff)

4D. Award contract for construction and installation of wayfinding signage (staff)

4E. Authorize City Manager to enter into an agreement with Friends of the Kerr County Historical Commission for the exclusive use of the former Main Street Office located at 715 Water Street specifically for the creation and operation of a museum. (staff)

4F. Pending legislation from the 83rd Texas Legislature, Regular Session. (staff)

5. INFORMATION AND DISCUSSION

5A. Economic update. (staff)

5B. Kerrville Economic Development Corporation update. (Councilmember Conklin)

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time, March 22, 2013 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

6. ITEMS FOR FUTURE AGENDAS

7. 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.

8. EXECUTIVE SESSION:

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

Sections 551.071 and 551.072:

- Jefferson Street lift station
- G Street sewer project
- River Trail

9. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

10. ADJOURNMENT.

The facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-258-1117 for further information.

I do hereby certify that this notice of meeting was posted on the bulletin board at the city hall of the city of Kerrville, Texas, and said notice was posted on the following date and time, March 22, 2013 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Cheryl Brown
Deputy City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Proclamation declaring March 29, 2013 as Vietnam Veterans Day. (Mayor Pratt)

City of Kerrville
701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

PROCLAMATION

WHEREAS, On March 29, 1973, the last American troops were withdrawn from South Vietnam, thus ending the longest war in our country's history; and

WHEREAS, Vietnam Veterans, who served during a time of social and political discord at home, deserve the greatest respect we can give them; and

WHEREAS, In the quarter century since its unveiling, the Vietnam Memorial has helped heal a nation deeply divided by the Vietnam War and has paid eternal tribute to the more than 58,000 U.S. service members who made the ultimate sacrifice; and

WHEREAS, With their common bonds of selflessness and bravery, our veterans are a credit to our nation and our state. Their legacy of courage and conviction endures; and

WHEREAS, To recognize the commitment of Vietnam Veterans to their flag, their nation and the cause of freedom, we celebrate and honor these brave heroes; and

NOW, THEREFORE, I, Jack Pratt, Mayor of the City of Kerrville, Texas, do encourage all citizens both in public ceremonies and in private thoughts and prayers to gratefully acknowledge and pay tribute to our Vietnam Veterans and do hereby proclaim March 29, 2013 as

VIETNAM VETERANS DAY

And thereby honor those who served and sacrificed for freedom. We encourage all citizens to recognize and thank our service members for their endless contributions and sacrifices they have made to the cause of peace and freedom around the world.

IN WHITNESS WHEREOF, I have hereunto set my hand and caused the seal of the City of Kerrville to be affixed hereto, the _____ day of _____, 2013

_____
Jack Pratt. Jr.. Mavor

Agenda Item:

2B. Recognition of Sheriff Rusty Hierholzer for his selection by the Kerrville Masonic Lodge, #697, A.F.A.M., for the 2013 Community Builder Award. (Mayor Pratt)

City of Kerrville
701 MAIN STREET • KERRVILLE, TEXAS 78028 • 830.257.8000 • KERRVILLETX.GOV

RECOGNITION

WHEREAS, W.R. "Rusty" Hierholzer has faithfully served the residents of Kerr County for more than 32 years as a law enforcement officer; and

WHEREAS, Those 32 years of dedication to the community includes service as a deputy sheriff, police officer, and investigator; and

WHEREAS, W.R. "Rusty" Hierholzer is a prominent member, leader and mentor of our community whose importance is evidenced by the more than 13 years he has served as Kerr County Sheriff; and

WHEREAS, Sheriff Hierholzer has also enhanced our community as a dedicated husband and father of four; and

WHEREAS, The Kerrville Masonic Lodge #697, A.F.A.M., has seen fit to recognize him for his dedication to his chosen career, his community, and to show appreciation for his outstanding community-oriented achievements and the fact that he has been instrumental in building a better community for all people to live, work and play;

NOW, THEREFORE, I, Jack Pratt, Jr., Mayor of the City of Kerrville, Texas, do hereby recognize Sheriff Rusty Hierholzer for receiving the Texas Masonic Grand Lodge

2013 COMMUNITY BUILDERS AWARD

IN WITNESS WHEREOF,
I have hereunto set my hand and caused the Seal of the City of Kerrville to be affixed hereto, the _____ day of _____ 2013.

_____
Jack Pratt, Jr., Mayor

Agenda Item:

3A. Minutes of the regular meeting held on February 12, 2013, and the special meetings held on February 26 and February 28, 2013. (staff)

CITY COUNCIL MINUTES
REGULAR MEETING

KERRVILLE, TEXAS
FEBRUARY 12, 2013

On February 12, 2013, the Kerrville City Council meeting was called to order at 5:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street. The invocation was offered by Father Tom Murray, of St. Peters Episcopal Church, followed by the Pledge of Allegiance led by Jerry Lane, of the Military Officers Association of America.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

Gene Allen	Councilmember

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary
Charvy Tork	Director of Information Technology Systems
Mike Erwin	Director of Finance
Robert Ojeda	Fire Chief
John Young	Police Chief
Kim Meismer	Director of General Operations
Charlie Hastings	Director of Public Works

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

1. VISITORS/CITIZENS FORUM No one spoke.

2. RECOGNITION AND COMMENDATIONS

2A. Proclamation declaring February 13, 2013 as "National Salute to Veteran Patients Day" was issued by Mayor Pratt.

3. CONSENT AGENDA:

Items 3A and 3F were removed from the consent agenda.

Mr. Conklin moved for approval of items 3B, 3C, 3D, 3E, and 3G; Ms. Keeble seconded the motion and it passed 4-0:

3B. Call to artists for art in public places project.

3C. Amendment to a professional services agreement with Freese and Nichols, Inc. to provide professional engineering design and construction administration

services for the Jefferson lift station force and gravity main—phase 1, Ridgewood transmission line—phase 1, and a required archeological survey provided by Prewitt and Associates in an amount not to exceed $103,869.00.
3D. Request for proposals for a formal classification and compensation study, with health and fringe benefits as an add-alternate.
3E. Professional services agreement with Freese and Nichols, Inc. to provide professional engineering design services for design of the Riverhill/Ridgewood storage tank transmission line in an amount not to exceed $210,733.00.
3G. Resolution No. 06-2013 ordering that a general election be held on May 11, 2013, for the election of two city councilmembers; appointing election judges; adopting an electronic counting system; establishing a central counting station; appointing a central counting station manager; appointing a tabulation supervisor; appointing the central counting station presiding judge; and authorizing the early processing of ballots.
3G. UNA RESOLUCIÓN 06-2013 QUE PIDE QUE UNA ELECCIÓN GENERAL SE LLEVE A CABO EL 11 DE MAYO DE 2013, PARA LA ELECCIÓN DE UNO ALCALDE, DOS MIEMBROS DEL AYUNTAMIENTO DE LA CIUDAD: NOMBRAR UN GERENTE PÚBLICO PARA LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE LA TABULACIÓN: ESTABLECER LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE TABULACIÓN: ESTABLECER LA ESTACIÓN CENTRAL DE CUENTAS: NOMBRANDO SU JUEZ: AUTORIZANDO EL PROCESO TEMPRANO DE LAS BALOTAS DE LA ELECCIÓN GENERAL, QUE SE LLEVARÁ A CABO EL 11 DE MAYO DE 2013.
END OF CONSENT AGENDA

3A. Minutes of the regular meetings held on November 27, and December 11, 2012.
Mr. MacDonald clarified the intent of his motion on December 11, 2012, Item 4B, was to "establish library membership fees as presented by staff in the staff report with exceptions to those who volunteer in kind services or donate to the Friends of the Library"—not the library foundation as stated.

Ms. Keeble moved to approve the December 11, 2012 minutes with this correction to the December 11, 2012 minutes; Mr. Conklin seconded the motion and it passed 4-0.

Ms. Keeble moved to approve the November 27, 2012 minutes as written; Mr. MacDonald seconded the motion and it passed 4-0.

3F. Resolution supporting the application of Communities for Veterans to construct low income rental housing pursuant to the low income housing tax credit program administered by the Texas Department of Housing and Community Affairs. The matter was rescheduled to the February 26 agenda.

4. ORDINANCE, FIRST READING:
4A. An ordinance amending the budget for Fiscal Year 2013 to account for

various changes to the city's operational budgets, supplemental appropriations, and closing out and supplementing capital improvement projects.
Mayor Pratt read the ordinance by title only.

Mr. Erwin noted the ordinance had changed since first reading on January 22 to include the addition of funding for central fire station renovation and the employee compensation study as instructed by council at the budget workshop on January 25. He noted there were no changes to the amendments that were presented at the January 22 meeting, and the city budget would still maintain a 25% fund balance; he recommended approval.

Council discussed two items requested by municipal court during the budget workshop; Mr. Erwin said those items would be considered in the FY2014 budget.

Mr. Conklin moved to approve the ordinance on first reading; Mr. MacDonald seconded the motion and it passed 4-0.

5. CONSIDERATION AND POSSIBLE ACTION:

5A. Construction contract with JM Lowe and Company for the construction of the Scott Schreiner Municipal Golf Course pavilion and parking lot improvements project in the amount of $328,150.00 and additional change orders which may exceed $50,000.00 but not exceed the total amount of $393,750.00.
Mr. Conklin filed a conflict of interest affidavit and recused himself from the meeting at 5:14 p.m.

Ms. Ondrias noted the project would improve the parking lot and construct a 40 ft. x 40 ft. pavilion at the Scott Schreiner Municipal Golf Course. Five bids were opened on February 5, and staff recommended the bid be awarded to the low bidder, JM Lowe and Company, including authority to issue change orders not to exceed the total amount of $393,750. She noted the project would require the contractor to provide a performance bond, and construction would begin in early March with anticipated completion in mid-May.

Mr. MacDonald moved to authorize the city manager to execute a construction contract with JM Lowe and Company for construction of the Scott Schreiner Golf Course pavilion and parking lot improvements project as presented; Ms. Keeble seconded the motion and it passed 3 to 0 with Members MacDonald, Keeble, and Pratt voting in favor of the motion; and Mr. Conklin abstaining.

Mr. Conklin returned to the meeting at 5:17 p.m.

5B. Appeal by a citizen requesting a waiver of the perimeter sidewalk construction for property located along the north side of State Highway 173 and being generally located across the highway from the Riverhill subdivision.
Ms. Keeble filed a conflict of interest affidavit and recused herself from the meeting at 5:17 p.m.

Mr. Parton presented a request by Robert Keeble to waive the requirements of "Section 26-36: Sidewalks required within all street rights-of-way adjacent to all commercial tracts/lots" for two tracts of land along Hwy. 173. He noted that under the ordinance the city engineer could grant an administrative waiver only if he determined that adequate right of way did not exist. Mr. Keeble requested an administrative waiver from the city engineer; however, that request was rejected, and Mr. Keeble was appealing to the city council based on topographic restrictions.

Mr. Parton noted the purpose of the sidewalk plan was to provide safe pedestrian walkways. The sidewalk master plan identified a pedestrian corridor along the subject tract; however, it also specified significant topographic issues that warranted additional consideration. Topographic restrictions were a viable basis for granting a sidewalk waiver under the ordinance, and he noted the grade from the highway to the bottom of the berm was 25 feet, which would require significant fill. One-third of the subject property was in the floodway and the remainder was in the floodplain, and under FEMA guidelines, the owner cannot fill within a floodway. He noted that TxDOT had to provide a significant amount of fill to build the berm to accommodate the construction of Highway 173. In addition, the construction of a five foot sidewalk would have to meet ADA compliance and provide additional protective measures, such as railings along the interior section of the sidewalks, for pedestrian safety.

Mr. Parton noted that commercial properties along Hwy. 173 from Hwy. 16 to Loop 534 that were out of the floodplain were already developed and had sidewalks setback several feet from Hwy. 173. The Riverhills Subdivision, across the highway from the subject property, was developed without sidewalks along Hwy. 173. There was not a sidewalk from Camp Meeting Creek to Loop 534. In addition, there were significant grade separations between properties, and a major draw at Loop 534 that would require a pedestrian bridge. The city planned to construct Birkdale lift station on the property immediately to the east.

Mr. Parton suggested the city's proposed river trail could serve as an alternative pedestrian corridor in this area. He noted that TxDOT had previously constructed an ADA access ramp and sidewalk at the Loop 534 and Hwy. 173 intersection, and there was potential to connect this area to the proposed river trail through TxDOT's abandoned FM 689 right of way.

Mr. Parton recommended approval of the waiver based on three of the eligible criteria as established in the ordinance:
1. Topographic restrictions. Significant grade exists adjacent to Hwy. 173 which would require major fill, drainage structures, and railings for public safety; sidewalk maintenance and pedestrian and bike safety would be a challenge; and constructing an interconnection across Camp Meeting Creek would be costly.
2. If adjacent property has been developed without sidewalks. In this case, not all properties adjacent to the subject tract are exempt from the ordinance, and some already have sidewalks; however, if a waiver is granted for the subject

property, council should also consider a waiver for adjacent undeveloped tracts.
3. Require undue hardship on the property owner. Majority of tract is subject to major flooding and could not be developed.

He further recommended the council consider sidewalk variances for the two properties immediately to the west, as those properties faced similar topographic challenges, by finding alternative pedestrian routing, such as connection to the river trail.

1. David McElvain noted that one aspect presented for consideration of the waiver was connection to the river trail, and he noted that the preferred route for the trail in this area had not been finalized, so there may be a difference in the river trail route that could affect pedestrian access to Loop 534. He stated that he had no problem with the sidewalk waiver.

Mr. Parton noted that the sidewalk waiver request still met other sidewalk ordinance criteria for a waiver to be granted due to the topographic constraints of the property. The drawings presented were conceptual only, and once finalized, if the river trail alignment was different than presented in the conceptual drawings, the city may look at other options to provide a connection.

Council also discussed the following:

- A sidewalk immediately adjacent to Highway 173 would present pedestrian safety issues and significant maintenance challenge.
- A large portion of subject property almost entirely in floodplain and FEMA requirement to build up for construction would require massive amount of fill.
- Was the city contemplating putting in a sidewalk in front of Birkdale lift station? Mr. Parton noted the city was not required to provide sidewalks on property used for a lift station; also, there was no connectivity to other property in the area and the west boundary was Camp Meeting Creek.
- Since it was unfeasible for the city to construct a sidewalk at Birkdale due to topography, the city should not require a private owner to construct a sidewalk in this immediate area.

Mr. MacDonald moved to grant the sidewalk waiver request as outlined in the staff recommendation; Mr. Conklin seconded the motion and it passed 3 to 0 with Members MacDonald, Conklin, and Pratt voting in favor of the motion; and Ms. Keeble abstaining.

Ms. Keeble returned to the meeting at 5:42 p.m.

Council clarified that the motion included instruction to staff that the waiver also applied to property immediately adjacent to the subject tract.

6. INFORMATION AND DISCUSSION

6A. Budget/Economic Update.

Mr. Erwin reported local sales tax up 7% and hotel occupancy tax up 6% from

2012. Revenue exceeded expenditures in the general fund and the water and sewer fund.

6B. Water resources report.
Mr. Hastings reported the small rain in January brought the river up to an average of 52 cfs and the city was able to store some water; in comparison, in January 2012 the city was able to store 200-250 MG in ASR.

7. ITEMS FOR FUTURE AGENDAS: None

8. ANNOUNCEMENTS OF COMMUNITY INTEREST:

- Ms. Craig announced that the city secretary's office was currently accepting petitions and applications for a place on the ballot for the positions of Place One and Place Two on the Kerrville City Council. The deadline to file was Friday, March 1, 5 p.m.

9. EXECUTIVE SESSION:
Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071, 551.072, and 551.074 of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 4-0 to discuss the following matters:
Sections 551.071 and 551.072:

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

At 5:46 p.m. the regular meeting recessed and council went into executive closed session at 5:48 p.m. At 6:10 p.m. the executive closed session recessed and council returned to open session at 6:12 p.m. The mayor announced that no action had been taken in executive session.

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION
No action was taken following executive session.

ADJOURNMENT. The meeting adjourned at 6:12 p.m.

APPROVED: _____ _____
Jack Pratt, Jr., Mayor

ATTEST:

_____
Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
SPECIAL MEETING

KERRVILLE, TEXAS
FEBRUARY 26, 2013

On February 26, 2013, the Kerrville City Council meeting was called to order at 5:00 p.m. by Mayor Pratt in the city hall council chambers at 701 Main Street.

COUNCILMEMBERS PRESENT:

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

COUNCILMEMBER ABSENT: None

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Mike Hayes	City Attorney
Kristine Ondrias	Assistant City Manager
Brenda G. Craig	City Secretary

EXECUTIVE SESSION:
Mr. MacDonald moved for the city council to go into executive closed session under Sections 551.071 and 551.072 of the Texas Government Code; the motion was seconded by Mr. Conklin and passed 5-0 to discuss the following matter:

Sections 551.071 and 551.072:
City of Kerrville, Texas v. C&C Groundwater Services, LLC and Old Republic Insurance Company; In the 216th Judicial District Court of Kerr County, Texas; Cause No. 12276A

At 5:01 p.m. the regular meeting recessed and council went into executive closed session at 5:01 p.m. At 5:40 p.m. the executive closed session recessed and council returned to open session at 5:41 p.m. The mayor announced that no action had been taken in executive session.

ADJOURNMENT. The meeting adjourned at 5:41 p.m.; followed by the regular meeting at 6:00 p.m.

APPROVED: _____ _____
Jack Pratt, Jr., Mayor

ATTEST:

_____
Brenda G. Craig, City Secretary

CITY COUNCIL MINUTES
INFORMAL SOCIAL MEETING

KERRVILLE, TEXAS
FEBRUARY 28, 2013

On February 28, 2018, the Kerrville City Council attended an informal social meeting sponsored by the Kerrville Fire Department at 5:30 p.m. at St. Peter's Episcopal Church, Tucker Hall, 320 St. Peter's Street, Kerrville, Texas.

CITY COUNCIL MEMBERS PRESENT:

Jack Pratt, Jr.	Mayor
Stacie Keeble	Mayor Pro Tem
T. Justin MacDonald	Councilmember

CITY COUNCIL MEMBERS ABSENT:

Gene Allen	Mayor Pro Tem
Carson Conklin	Councilmember

CITY EXECUTIVE STAFF PRESENT:

Todd Parton	City Manager
Robert Ojeda	Fire Chief
John Young	Chief of Police

FIRE DEPARTMENT ANNUAL AWARDS AND RECOGNITIONS CEREMONY:
Awards and recognitions were presented to many members of the Kerrville Fire Department.

2013 EMS Person of the Year: Misty Gordon.
2013 Firefighter of the Year: Mark Dunning.

The ceremony ended at 7:30 p.m.

APPROVED: _____

_____
Jack Pratt, Jr., Mayor

ATTEST:

_____
Brenda G. Craig, City Secretary

Agenda Item:

3B. Economic Development Grant Agreement between Fox Tank Company, Inc. and the City of Kerrville Economic Improvement Corporation. (staff)

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

SUBJECT: Funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Fox Tank Company

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 20, 2013

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

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: TP

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

At its meeting of March 18, 2013 the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the Fox Tank Company to expand its manufacturing operation at its Kerrville location. This expansion will allow for the manufacture of field separators to be used in oil and gas production. The new operation will add 30 new full time jobs – 28 machinists and welders and 2 clerical. Total gross payroll for this project will be $1.2 million per year. The amount of funding would not exceed $150,000 to include reimbursement of costs for utility extensions necessary to serve the project and the purchase and installation of cranes for the manufacture of the separators.

Attached is the final draft of the funding agreement between the Fox Tank Company and the EIC. This agreement has been drafted as per direction of the EIC and has been finalized though negotiations of both entities.

RECOMMENDED ACTION

City staff recommends the consideration and approval of this funding agreement as presented.

ECONOMIC DEVELOPMENT GRANT AGREEMENT
BETWEEN FOX TANK COMPANY, INC. AND
THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

This Agreement entered into by and between FOX TANK COMPANY, INC., a Texas corporation ("Fox"), acting herein by and through its duly authorized Vice President, R. Nathan Fox ("Fox Officer"), and the CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION ("EIC"), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code) (hereafter referred to as "the Act"), acting by and through its duly authorized President.

WITNESSETH:

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 including but not limited to:

> *Land, buildings, equipment, facilities, expenditures, targeted infrastructure, and improvements that are for the creation or retention of primary jobs, as that term is defined by the Act, and found by the EIC to be required or suitable for the development, retention, or expansion of manufacturing and industrial facilities as provided by Section 501.101 of the Act*; and

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

WHEREAS, Fox is a manufacturer of production equipment in the oil and gas industry, including oilfield storage tanks and other specialty oilfield production products; and

WHEREAS, Fox is seeking to expand its manufacturing operations through the construction of an additional facility to be located within the City of Kerrville; and

WHEREAS, Fox intends to use the new facility to manufacture field separators, which are used in the production of oil and gas; and

WHEREAS, Fox has applied for a grant from EIC for funding necessary to build the new facility; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will help develop, retain, and expand a manufacturing and industrial facility and a business enterprise and create and retain primary jobs; and

WHEREAS, based upon the terms of this Agreement, the EIC believes that a return on its investment will occur within the next ten (10) years; and

WHEREAS, the EIC finds that it will be in the public interest to enter into an agreement with Fox to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to Fox for its cost necessary for the construction of a new manufacturing facility; and

WHEREAS, on March 18, 2013, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

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

ARTICLE I.
EIC'S OBLIGATIONS

A. EIC hereby grants to Fox up to One Hundred Fifty Thousand and No/100 Dollars ($150,000.00) ("Grant") for costs relating to the design, construction, and equipping of a new manufacturing facility to be located at 117 Airport Commerce Parkway, Kerrville, Texas 78028 ("Project"). In general, the Project consists of the extension of public utilities to the property and the purchase and installation of a crane(s), the estimated costs of which are specified in the attached **Exhibit A**. The EIC derived the value of said grant from the assignment of the amount of $5,000.00 for each employee that Fox is required to employ at the Project, as specified in Article II.

B. Subject to the terms and conditions set forth in Article II, EIC will administer and provide the Grant to Fox as follows:

(1) EIC shall pay Fox an amount not to exceed One Hundred and Fifty Thousand and No/100 Dollars ($150,000.00) at the time that the City of Kerrville ("City") issues Fox a certificate of occupancy for the Project; and

(2) EIC shall administer the Grant on a reimbursable basis such that prior to any payment from EIC, Fox must first submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval. Following the submission and verification thereof, which may include on-site inspections to confirm purchase and installation, EIC shall then reimburse Fox for the cost.

C. Payments made by EIC to Fox from 4B Revenues shall be limited to the payments of "costs" as defined by the Act and as specified above for the Project.

D. In no event shall the total amount of the Grant exceed One Hundred Fifty Thousand and No/100 Dollars ($150,000.00).

ARTICLE II.
FOX'S OBLIGATIONS

A. Once the City issues a certificate of occupancy for the Project, Fox shall begin hiring employees for work at the Project.

B. Through the term of this Agreement, Fox shall comply with the following requirements with respect to its employment at the Project, such terms to be collectively referred to herein as the "Employment Requirements":

(1) the minimum level of employment must be at least thirty (30) full-time equivalent employees, which Fox must reach within one hundred twenty (120) days of its receipt of a certificate of occupancy;

(2) Sixty percent (60%) of the employees must reside and continue to reside within Kerr County during their employment;

(3) the minimum gross payroll must equal at least $1.2 million for each year of this Agreement, beginning for the year ending December 31, 2014; and

(4) each employee must work full-time, which means for purposes of this Agreement that Fox pays each employee for at least forty (40) hours of work per week, with the exception of where an employee is on some form of leave.

C. Once Fox reaches the employment of thirty (30) full-time equivalent employees for the Project, Fox shall thereafter submit to the EIC on a quarterly basis for the remaining term of this Agreement written evidence, including its quarterly tax payroll submission to the State Comptroller and a sworn statement from the Fox Officer, confirming the Employment Requirements and in particular, those employees hired for the Project, for review and verification. Fox shall submit such information to the EIC on or before the thirtieth (30) day of the month following the quarter that Fox is reporting. The failure by Fox to provide this information to EIC constitutes a breach of this Agreement.

D. Should Fox fail to comply with the Employment Requirements, Fox, as a penalty, shall provide a refund to the EIC equal to $1000.00 for each employee that fails to meet such Employment Requirements. For example, where Fox employs only twenty-five (25) full-time equivalent employees, a penalty of $5,000.00 would be assessed against Fox. Fox shall pay the refund as soon as commercially practicable after the receipt of a written demand by EIC, but in no event later than thirty (30) days from the receipt of such demand. Failure to reimburse the EIC within thirty (30) days of Fox's receipt of such demand constitutes a breach of this Agreement.

E. Within twenty-four (24) months of the EIC's payment of the Grant to Fox, Fox shall relocate all of its operations and employees from its Comfort, Texas, facility(s) to the location of the Project and/or Fox's adjacent facility(s).

F. On or before December 31, 2013, Fox must apply for ASME certification.

G. Fox will comply with all applicable development regulations of the City, to include building codes, subdivision regulations, and zoning, in its development and construction of the Project. Fox's failure to comply with this provision constitutes a breach of this Agreement.

H. Fox shall keep and maintain complete and accurate records relating to its costs of designing and constructing the Project and employment information, separate and

identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the term of this Agreement and for three (3) years thereafter, upon reasonable notice. Fox's failure to comply with this provision constitutes a breach of the Agreement.

I. Should Fox breach this Agreement as specified herein, Fox shall pay and refund the EIC the appropriate amount specified below, which is dependent upon the length of time that this Agreement has been in existence, with each year to be considered as a calendar year from the Effective Date:

(1) Year 1 = $150,000.00
(2) Year 2 = $135,000.00
(3) Year 3 = $120,000.00
(4) Year 4 = $105,000.00
(5) Year 5 = $90,000.00
(6) Year 6 = $75,000.00
(7) Year 7 = $60,000.00
(8) Year 8 = $45,000.00
(9) Year 9 = $30,000.00
(10) Year 10 = $15,000.00

Fox shall provide any such refund to the EIC within thirty (30) days of written demand from EIC and following refund, this Agreement will terminate and Fox will have no further obligation under this Agreement.

J. Fox shall only be liable to EIC up to the actual amount of the Grant and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by Fox under the terms of this Agreement.

ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF FOX

A. A sale of all or any of the assets of Fox shall not release Fox from its duties and responsibilities to EIC under the terms of this Agreement and shall not result in the assignment of this Agreement by such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld; provided, that Fox's proposed successor shall have the financial condition to fully satisfy Fox's duties and responsibilities hereunder and agrees to assume Fox's responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.

B. In the event of any proposed merger or other consolidation of Fox with any third party not affiliated with Fox, Fox shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the Fox's obligations hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial

condition to fully satisfy Fox's duties and responsibilities hereunder. Failure to provide such information constitutes a breach of this Agreement.

C. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving Fox. In the event of any sale or merger involving Fox or its affiliates, the surviving entity shall assume Fox's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.
FOX'S REPRESENTATIONS AND WARRANTIES

A. Fox represents and warrants as of the date hereof:

(1) Fox is a Texas corporation existing in good standing and authorized to do business in the State of Texas;

(2) Execution of this Agreement has been duly authorized by Fox and this Agreement is not in contravention of Fox's corporate charter, or any agreement or instrument to which Fox is a party or by which it may be bound as of the date hereof;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of Fox Officer, threatened against or affecting Fox, which may result in a material adverse change in Fox's business, properties, or operations sufficient to jeopardize Fox's legal existence or for-profit viability; and

(4) No written application, written statement, or correspondence submitted by Fox to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of Fox Officer, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.

B. Except as expressly set forth in this Article IV, Fox makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

ARTICLE V.
EIC'S REPRESENTATIONS AND WARRANTIES

A. EIC represents and warrants as of the date hereof:

(1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;

(2) Execution of this Agreement has been duly authorized by EIC;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

(4) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.

B. Except as expressly set forth in this Article V, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

ARTICLE VI.
CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT

Under any of the following conditions EIC may, at its option, after fifteen (15) days written notice to Fox, suspend its further performance under this Agreement until such time as Fox shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

A. Fox becomes insolvent. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.

B. The appointment of a receiver of Fox, or of all or any substantial part of the Property, and the failure of such receiver to be discharged within sixty (60) days thereafter.

C. The adjudication of Fox as bankrupt.

D. The filing by Fox of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

Should any of these conditions not be cured by Fox within ninety (90) days, Fox will be considered to have breached this Agreement and EIC may, at its option, with written notice to Fox, terminate this Agreement and Fox shall be obligated to refund the EIC the appropriate amount specified in Article II. G.

ARTICLE VII.
REMEDIES

A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any party hereto, or any successor to such party, such defaulting or breaching party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary

or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act. This provision and specifically the notice and time to cure shall not apply to the obligation of Fox found within Article II.B.

B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, the non-breaching party shall have the sole right and discretion to either terminate this Agreement and/or pursue any and all remedies which may be provided by law and this Agreement. Each party acknowledges and agrees that no party hereunder shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement.

C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by another party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor shall any waiver in fact be made by any party with respect to any specific default by any other party except to the extent specifically waived in writing.

ARTICLE VIII.
GENERAL PROVISIONS

A. 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 shall 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.

B. Amendment. This Agreement may be amended only by written amendment signed by both parties.

C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue shall lie in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

D. Notices. All notices given with respect to this Agreement shall be in writing and shall 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
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

With a copy to:
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

For Fox
R. Nathan Fox
Vice President
Fox Tank Company, Inc.
South Texas Office
104 Hwy. 87
P.O. Box 658
Comfort, TX 78013
Facsimile: (830) 995-5022
Email: nathan@foxtankcompany.com

E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, this Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a party consents to any valid assignment of this Agreement by the other party hereto, the assigning party shall be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement. Fox may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Fox or by the parent, subsidiary, or affiliate of Fox provided the entity assumes all of Fox's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical, and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of Fox and Fox provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

F. Parties In Interest. Nothing in this Agreement shall entitle any party other than Fox or EIC to any claim, cause of action, remedy or right of any kind except as expressly provided in Article IV.

G. Term. Subject to approval by the City Council and if applicable, compliance with Section 505.160 of the Act, the term of this Agreement (the "Term") commences on March 18, 2013 (the "Effective Date"), and terminates on the earlier of (i) March 18, 2023; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Articles VI or VII; (iv) at Fox's sole and absolute discretion, upon Fox's return of the Grant funding to EIC that it has received under this Agreement; or (v) upon Fox's repayment of all monies that are demanded by EIC and are in fact required to be repaid by Fox under Article III. Upon termination of this Agreement as specified herein, all rights, duties, and obligations of any kind under this Agreement will automatically expire and terminate and be of no other force and effect.

H. Interpretation. Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination shall survive termination.

K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board; and by Fox Tank Company, Inc., acting through its duly authorized official.

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

David Wampler, President

FOX TANK, INC.

R. Nathan Fox, Vice President

ATTEST:

Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:

Michael C. Hayes, Attorney for EIC

T:\Legal\EIC\Contract\Fox Tank\EIC Grant Agreement_II_030413.docx

Exhibit A

Fox Tank Reimbursement Schedule
Phase 2 Expansion - Separator Facility

Reimbursement Item		Maximum Reimbursement
Utilities		
Extensions (Water, Sewer, Electric)	$	50,000
Subtotal	**$**	**50,000**
Equipment		
Cranes (Includes Purchase and Installation)	$	100,000
Subtotal	**$**	**100,000**
TOTAL MAXIMUM REIMBURSEMENT	**$**	**150,000**

Agenda Item:

3C. Economic Development Grant Agreement between Texas Arts & Craft Educational Foundation, Inc. and the City of Kerrville, Texas Economic Improvement Corporation. (staff)

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

SUBJECT: Funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the Texas Arts and Crafts Educational Foundation

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 20, 2013

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

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: TP

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

At its meeting of March 18, 2013 the Economic Improvement Corporation (EIC) held a public hearing and approved a funding agreement with the Texas Arts and Crafts Foundation for rented items in conjunction with hosting the 42nd Annual Official Texas Arts and Crafts Fair during Memorial Day Weekend at River Star Events Park. The event will be held Friday, May 24 through Sunday, May 26, 2013 and will consist of a variety of activities such as showcasing of art, vendors, carnival, live music and more.

The gate count has been consistent with approximately 5,000-6,000 attendees for the past several years. The Texas Arts and Crafts Foundation's mission is to promote appreciation of fine arts and craft skills and create educational opportunities in the visual and creative arts in Texas. In addition to professional artists, the Fair is the home of the Emerging Texas Artist Scholarship Program, which provides a venue for college-level student artists to show and sell their work, as well as compete for scholarship funds for continuing education.

The overall projected cost of the event is $182,555. The funding request is for a total of $15,500 for rental of:

- Tents ($12,000)
- Golf Carts ($2,000)
- Porta potties ($1,500)

Attached is the final draft of the funding agreement between the Texas Arts and Crafts

Educational Foundation and the EIC. This agreement has been drafted as per direction of the EIC and has been finalized though negotiations of both entities.

RECOMMENDED ACTION

City staff recommends the consideration and approval of this funding agreement as presented.

ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN TEXAS ARTS & CRAFT EDUCATIONAL FOUNDATION, INC. AND THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

This Agreement entered into by and between TEXAS ARTS & CRAFTS EDUCATIONAL FOUNDATION, INC., a Texas nonprofit corporation ("TACEF"), acting herein by and through its duly authorized President, Mark Haufler ("TACEF Officer"), and the CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION ("EIC"), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code) (hereafter referred to as "the Act"), acting by and through its duly authorized President, David Wampler.

WITNESSETH:

WHEREAS, EIC was formed to administer a sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for economic development projects; and

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

> *Equipment 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, and events, including stadiums, auditoriums, parks and park facilities, exhibition facilities, and related store, restaurant, and concessions and other related improvements that enhance any of the items described by Section 505.152 of the Act*; and

WHEREAS, TACEF is hosting the 42nd Annual Official Texas Arts and Crafts Fair ("Fair) during Memorial Day weekend at River Star Events Park; and

WHEREAS, TACEF's mission is to promote appreciation of fine arts and craft skills and to create educational opportunities in visual and creative arts in Texas; and

WHEREAS, TACEF has applied for a grant from EIC for funding to rent equipment, including tents, golf carts, and porta-potties for the Fair from May 24, 2013 through May 26, 2013; and

WHEREAS, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and *City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures* in that it will enhance the "quality of life" within the community; and

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with TACEF to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to TACEF for its cost in renting equipment for use at the Fair; and

WHEREAS, on March 18, 2013, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

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

ARTICLE I.
EIC'S OBLIGATIONS

A. EIC hereby grants to TACEF an amount up to Fifteen Thousand Five Hundred and No/100 Dollars ($15,500.00) ("Grant") for costs relating to the rental of equipment (collectively referred to herein as "Equipment") for the Fair. The specific items approved for rental by the TACEF are listed on the attachment included as **Exhibit A**.

B. Subject to the terms and conditions set forth in Article II, the Grant will be provided to TACEF by EIC and EIC shall administer the Grant on a reimbursable basis. Prior to any payment from EIC, TACEF must first submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval. Following the submission and verification thereof, EIC shall then reimburse TACEF for the cost.

C. Payments made by EIC to TACEF from 4B Revenues will be limited to the payments of "costs" as defined by the Act and as specified above for the Project.

D. In no event will the total amount of the Grant exceed Fifteen Thousand Five Hundred and No/100 Dollars ($15,500.00).

ARTICLE II.
TACEF'S OBLIGATIONS

A. TACEF must rent the equipment for the Fair. Such equipment shall not be used for any other purpose.

B. TACEF must keep and maintain complete and accurate records relating to the costs of the Equipment, separate and identifiable from its other records, for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the term of this Agreement and for three (3) years thereafter, upon reasonable notice.

C. TACEF will only be liable to EIC for the actual amount of the Grant to be conveyed to TACEF and will not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by TACEF under the terms of this Agreement.

D. TACEF shall provide a written report to the EIC no later than 30 days following the Fair. The report shall include, but may not be limited to: attendance for each day of the Fair, gross receipts for the Fair, total expenses for the Fair, total ticket sales for the Fair, list of exhibitors, and the estimated number of attendees from outside of Kerr County.

ARTICLE III.
SALE OF PROJECT, MERGER OR CONSOLIDATION OF TACEF

A. A sale of all or any of the assets of TACEF will not release TACEF from its duties and responsibilities to EIC under the terms of this Agreement and shall not result in the assignment of this Agreement by such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld; provided, that TACEF's proposed successor shall have the financial condition to fully satisfy TACEF's duties and responsibilities hereunder and agrees to assume TACEF's responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor's financial condition is satisfactory.

B. In the event of any proposed merger or other consolidation of TACEF with any third party not affiliated with TACEF, TACEF shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC regarding: (1) the surviving entity's assumption and satisfaction of the TACEF's obligations hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity has the financial condition to fully satisfy TACEF's duties and responsibilities hereunder. Failure to provide such information may be considered a breach of this Agreement.

C. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving TACEF. In the event of any sale or merger involving TACEF or its affiliates, the surviving entity shall assume TACEF's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV.
TACEF'S REPRESENTATIONS AND WARRANTIES

A. TACEF represents and warrants as of the date hereof:

(1) TACEF is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;

(2) Execution of this Agreement has been duly authorized by TACEF and this Agreement is not in contravention of TACEF's governing authority or any agreement or instrument to which TACEF is a party or by which it may be bound as of the date hereof;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of TACEF Officer, threatened against or affecting TACEF, which may result in a material adverse

change in TACEF's business, properties, or operations sufficient to jeopardize TACEF's legal existence; and

(4) No written application, written statement, or correspondence submitted by TACEF to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of TACEF Officer, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.

B. Except as expressly set forth in this Article IV, TACEF makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

ARTICLE V.
EIC'S REPRESENTATIONS AND WARRANTIES

A. EIC represents and warrants as of the date hereof:

(1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;

(2) Execution of this Agreement has been duly authorized by EIC;

(3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

(4) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.

B. Except as expressly set forth in this Article V, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

ARTICLE VI.
CONDITIONS UNDER WHICH EIC MAY SUSPEND PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT

A. Under any of the following conditions EIC may, at its option, after fifteen (15) days written notice to TACEF, suspend its further performance under this Agreement until such time as TACEF shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

(1) TACEF becomes insolvent. "Insolvent" is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.

(2) The appointment of a receiver of TACEF, or of all or any substantial part of the Property, and the failure of such receiver to be discharged within sixty (60) days thereafter.

(3) The adjudication of TACEF as bankrupt.

(4) The filing by TACEF of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.

B. Should any of these conditions not be cured by TACEF within ninety (90) days, TACEF will be considered to have breached this Agreement and EIC may, at its option, with written notice to TACEF, terminate this Agreement and TACEF shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

ARTICLE VII.
REMEDIES

A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement by any party hereto, or any successor to such party, such defaulting or breaching party (or successor) shall upon written notice from the other party, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief.

B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VII, the non-breaching party shall have the sole right and discretion to either terminate this Agreement and/or pursue any and all remedies which may be provided by law and this Agreement. Each party acknowledges and agrees that TACEF is not entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that EIC, pursuant to a breach and failure to cure by TACEF in accordance with this Agreement, is entitled to recover attorney fees, collection costs, and any other costs due to its pursuit of repayment and remedies under this Agreement.

C. Any delay by any party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights will not, so long as the breach or default by another party is continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor will any waiver in fact be made by any party with respect to any specific default by any other party except to the extent specifically waived in writing.

ARTICLE VIII.
GENERAL PROVISIONS

A. 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.

B. Amendment. This Agreement may be amended only by written amendment signed by both parties.

C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue will lie in Kerr County, Texas; and this Agreement is governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

D. 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
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

With a copy to:
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

Texas Arts & Crafts Educational Foundation, Inc.
Mark R. Haufler
President
Texas Arts & Crafts Educational Foundation, Inc.
4000 Riverside Drive
Kerrville, Texas 78028
Email: mark.r.haufler@wellsfargo.com

E. Assignment. This Agreement is binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, this Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a party consents to any valid assignment of this Agreement by the other party hereto, the assigning party will be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement. TACEF may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by TACEF or by the parent, subsidiary, or affiliate of TACEF provided the entity assumes all of TACEF's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical, and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of TACEF and TACEF provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

F. Parties In Interest. Nothing in this Agreement shall entitle any party other than TACEF or EIC to any claim, cause of action, remedy or right of any.

G. Term. The term of this Agreement (the "Term") shall commence on the date that signatures of the parties are affixed to this Agreement (the "Effective Date"), and will terminate on the earlier of: (i) either on June 26, 2013, or when the requirements set forth in this Agreement are completed, whichever date is later; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Articles VI or VII; (iv) or at the TACEF's sole and absolute discretion, but only upon the TACEF's return of 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.

H. 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 arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

I. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.

J. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination will survive termination.

K. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

EXECUTED AND EFFECTIVE, as of the date indicated above, by the City of Kerrville, Texas, Economic Improvement Corporation, by and through its Board President, duly authorized to execute same by action of the Board; and by Texas Arts & Crafts Education Foundation, Inc., acting through the TACEF Officer.

CITY OF KERRVILLE, TEXAS

_____
Jack Pratt, Jr., Mayor
Date: _____

TEXAS ARTS & CRAFTS EDUCATIONAL FOUNDATION, INC.

_____
Mark Haufler, President
Date: _____

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION

_____
David Wampler, President
Date: _____

ATTEST:

_____
Cheryl Brown, Recording Secretary

APPROVED AS TO FORM:

_____
Michael C. Hayes, City Attorney

T:\Legal\EIC\Contract\EIC Grant Agreement (Texas Arts & Crafts Educational Foundation)_031313.doc

EXHIBIT A

Texas Arts & Crafts
EDUCATIONAL FOUNDATION

SECTION IV- PROJECT DESCRIPTION

The request the Texas Arts and Crafts Educational Foundation, Inc. is making is for the following items that are *rented* in conjunction with hosting the Official Texas Arts & Crafts Fair during the Memorial Day weekend. The Fair is held at the River Star Events Park located at 4000 Riverside Drive in Kerrville, TX. All of these items are paid for *after* the conclusion of the Fair.

Tents	$12,000.00
Golf carts	$2,000.00
Porta potties	$1,500.00

Your consideration of our request is greatly appreciated.

Sincerely,

Mark R. Haufler
Board President
Texas Arts and Crafts Educational Foundation, Inc

4000 Riverside Drive ★ Kerrville, Texas 78028 ★ 830/896-5711 ★ 830/896-5569 Fax
fair@tacef.org ★ www.tacef.org

Agenda Item:

3D. Purchase of a Ford F550 Truck from Grande Truck Center. (staff)

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

SUBJECT: Approval of purchase of a Ford F550 Truck from Grande Truck Center.

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 13, 2013

SUBMITTED BY: Mike Erwin
Finance Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Price Sheet Attached

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
$ 52,145.00	$ 61,900	$ 61,900	02-883-503

PAYMENT TO BE MADE TO:
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

In the FY2013 Approved Budget the Utility Construction Division budgeted $61,900 for the purchase of a new Ford F550 Truck. The truck is being purchased through BuyBoard from Grande Truck Center out of San Antonio, TX.

RECOMMENDED ACTION

Recommend approval of purchase.

TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE

BUYBOARD

PRODUCT PRICING BASED ON CONTRACT

Customer: City of Kerrville

Product Description: Ford F550 Super Cab

A: Base Price in **Bid/Proposal Number** **358-10** $ 26,005.00

B: Published Options [Itemize each item below]

Diesel	$ 7,960.00	Knapheide Service Body	$ 5,628.00
Auto Trans with Diesel eng	$ 190.00	to Cust spec	
Crew Cab 4x4	$ 9,615.00	Std Light Kit	$ 752.00
Power Group	$ 850.00	Del to Kerrville	$ 325.00
19,500 GVWR	$ 1,155.00		
4.88 L/S Axle	$ 360.00		
Skid Plates	$ 100.00		
Block Heater	$ 75.00		
brake controller	$ 230.00		
	$ -		
Subtotal Column 1:	$ 20,535.00	Subtotal Column 2:	$ 6,705.00

Published Options added to Base Price (Subtotal of "Col 1" + "Col 2") $ 27,240.00

C: Subtotal of A + B => $ 53,245.00

D: UnPublished Options _____ %

crew cab discount	$ (1,500.00)		$ -
	$ -		$ -
			$ -
			$ -
			$ -
Subtotal Column 1:	$ (1,500.00)	Subtotal Column 2:	$ -

Body $ (1,500.00)

E: Contract Pride Adjustment {If any, explain here} _____ $ - $ -

F: Total of C + D ± E {Not including Buy Board Fee} => $ 51,745.00

G: Quantity Ordered {Units x F} => # of Units 1 $ 51,745.00

H: BUYBOARD Fee {From Fee Schedules, Table: _____ => @ _____%} $ 400.00

I: Non-Equipment Charges & Credits {ie: Ext. Warranty, Trade-In, Cost of Factory trips, etc.}

	$ -
	$ -

Subtotal of Non-Equipment Charges $ -

J: **TOTAL PURCHASE PRICE INCLUDING {G + H +I} =>** $ 52,145.00

Grande Truck Center
PO Box 201210
San Antonio, Texas 78220

Rocky Shoffstall
PH 210-666-7112
FX 210-666-7216
800-779-7672 X112

Agenda Item:

3E. Computer recycling agreement with the Christian Women's Job Corps. (staff)

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

SUBJECT: Council authorization for the City Manager to execute a computer recycling agreement with the Christian Women's Job Corps

FOR AGENDA OF: 3/26/13 **DATE SUBMITTED**: 3/12/13

SUBMITTED BY: Charlie Hastings CH
Public Works Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Request for Recycled Laptops from Christian Women's Job Corps, Computer Recycling Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: TP

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Ann Buck, Executive Director of Christian Women's Job Corps (CWJC), has submitted a request for laptops from the Community Recycling Center (CRC). They wish to enter into an agreement where volunteers from their organization can have the recycled laptops and rebuild them for use in their Job Corps program. The CRC obtains an average of 30 laptops per year, each with a recycled value of approximately $3/each.

RECOMMENDED ACTION

The Director of Public Works recommends that Council authorize the City Manager to execute a computer recycling agreement with the Christian Women's Job Corps.

Christian Women's Job Corps®
of Kerr County

1140 Broadway
Kerrville, Texas 78028
830-895-3660 Fax 830-896-8558
email: cwjc@ktc.com
www.cwjckerrcounty.org

February 13th, 2013

Subject: Laptop/notebook computers for Christian Women's Job Corps

To: David Barrera - City of Kerrville, Solid Waste Supervisor

Recently one of our volunteers (Jim Froemke) visited with you to discuss the availability of disposed laptop/notebook computers. We need several laptop/notebook computers each semester for our students to practice their lessons.

Our volunteers can rebuild some of these computers but, need access to disposed laptop/notebook computers and their parts. If possible, and with minimum disruption to your recycling process, we're requesting that you put these aside for our use.

Please advise if you're in agreement and we'll contact you to work out the details. If you have any questions feel free to contact me.

Sincerely,

Ann Buck

Ann Buck, Executive Director

Christian Women's Job Corps

www.cwjckerrcounty.org

830-895-3660

AGREEMENT OF TERMS AND CONDITIONS FOR PARTICIPATION IN COMPUTER RECYCLING

This Agreement, made and entered into as of the _____ day of _____, 2013, by and between the City of Kerrville, Texas, hereinafter referred to as "CITY" and Christian Women's Job Corp, hereinafter referred to as "CWJC".

WITNESSETH:

WHEREAS, the CITY receives laptop and notebook computers at the Community Recycling Center (CRC) for recycling purposes; and

WHEREAS, CWJC is a non-profit organization whose mission is community service; and

WHEREAS, CWJC currently needs laptop and notebook computers for its Job Corp program aimed at helping members of the community develop computer knowledge and skills; and

WHEREAS, improper disposal of laptop and notebook computers can cause environmental hazards; and

WHEREAS, making these laptop and notebook computers available to CWJC for re-use not only provides a valuable resource for the community, but also encourages proper disposal of such components; and

WHEREAS, CITY finds it to be in the public's best interest to allow CWJC to take advantage of computer recycling opportunities throughout the year;

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 AGREEMENT OF PARTIES

1.1 Members, agents, representatives, employees, volunteers, staff or contractors of CWJC will be permitted the opportunity to participate in screening laptop and notebook computers brought to the CRC throughout the year, and shall be entitled to select laptop and notebook computers that are brought to the CRC for recycling for their use, without charge.

2.0 RESPONSIBLITIES

2.1 CWJC shall be responsible for providing the means to transport the computers selected by it from the Center throughout the year.

2.2 The CITY shall not be liable for damage to or loss of any laptop or notebook computers selected by CWJC which are not removed from the Center.

2.3 CWJC agrees that it shall not resell any laptop or notebook computers it obtains from the CRC.

2.4 CWJC agrees that it shall conduct all activities associated with this Agreement in accordance with all applicable requirements of the United States Department of Transportation (DOT) and the United States Environmental Protection Agency (EPA) under the Toxic Substances Control Act (TSCA), the Resource Conservation and Recovery Act (RCRA), and all other federal, state and local statutes, regulations and ordinances.

2.5 CWJC agrees that it shall not improperly store, transport, maintain, use, display or dispose of any laptop or notebook computers improperly, and shall adhere to all applicable federal, state, and local statutes, regulations, and ordinances.

2.6 CWJC agrees that it shall return any unused laptop and notebook computers to the CRC.

3.0 DISCLAIMER AND WAIVER OF WARRANTY OF MERCHANTABILITY

3.1 The CITY HEREBY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY WITH RESPECT TO THE GOODS CONVEYED UNDER THIS AGREEMENT AS DESCRIBED IN BUSINESS AND COMMERCE CODE SECTION 2.314, AND CWJC EXPRESSLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY WITH RESPECT TO THOSE GOODS. THE GOODS CONVEYED UNDER THIS AGREEMENT ARE ACCEPTED BY CWJC AS IS, AND THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE OF THIS AGREEMENT.

4.0 INDEMNIFICATION AND SUBROGATION

4.1 CWJC AGREES TO INDEMNIFY, SAVE HARMLESS AND DEFEND CITY FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, PENALITIES, FORFEITURES, SUITS, AND THE COSTS AND EXPENSES INCIDENT THERETO (INCLUDING COSTS OF DEFENSE, SETTLEMENT, REASONABLE ATTORNEY'S FEES) WHICH CITY MAY HEREAFTER INCUR, BECOME RESPONSIBLE FOR, OR PAY OUT AS A RESULT OF DEATH OR BODILY INJURY TO ANY PERSON, DESTRUCTION, OR DAMAGE TO ANY PROPERTY, CONTAMINATION OF OR ADVERSE EFFECTS ON THE ENVIRONMENT, OR ANY VIOLATION OF GOVERNMENTAL LAWS, REGULATIONS OR ORDERS, TO THE EXTENT THAT SUCH DAMAGE WAS CAUSED BY ANY NEGLIGENT, INTENTIONAL OR WILLFUL ACT OR OMISSION OF CWJC OR ITS EMPLOYEES OR AGENTS.

5.0 TERM

5.1 This Agreement shall become effective on April 9, 2013 and shall terminate three (3) years thereafter ("Initial Term"), subject to renewal or earlier termination as herein provided.

5.2 Not later than ninety (90) days prior to the end of the term, the parties agree to commence negotiations in good faith for a renewal term not exceeding three (3) years and upon such conditions and provisions as the parties may agree. If no renewal agreement is entered into prior to the end of the term, this Agreement shall expire and terminate and be of no force and effect provided that CWJC is not in default hereunder.

5.3 City and CWJC each shall have the right, either with or without cause, to terminate this Agreement upon not less than thirty (30) days prior written notice to the other party. Upon such termination, City and CWJC shall be relieved of all further obligations hereunder except only for obligations accruing prior to the effective date of termination.

6.0 GENERAL PROVISIONS

6.1 This Agreement constitutes the entire Agreement between the parties, and all previous representations relative thereto, either written or oral, are hereby annulled and superseded. No modification shall be binding on the parties unless in writing and signed by both parties.

7.0 APPROVAL AUTHORITY

7.1 In this License, wherever an act requires approval by or consent of the City, such approval or consent may be obtained from the Director of Public Works, or designee.

8.0 NOTICE

8.1 Any notice required to be given by the terms of this Agreement shall be delivered by hand or mailed to at the following or to such other address for either party as that party may, by notice, designate.

Christian Women's Job Corp of Kerr County
1140 Broadway
Kerrville, Texas 78028

City of Kerrville
701 Main Street
Kerrville, Texas 78028

IN WITNESS WHEREOF, CWJC and CITY have each caused this Agreement to be executed by its duly authorized representative on the day and year set forth.

ACCEPTED:

Christian Women's Job Corp of Kerr County

_____
Ann Buck, Executive Director

ACCEPTED:

City of Kerrville

_____
Todd Parton, City Manager

ATTEST:

_____

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

_____

Heather Stebbins, Asst. City Attorney

T:\Legal\public works\solid waste-landfill-recycling\recycle center\computer recycling_CWJC_030713:doc

Agenda Item:

3F. A Resolution relating to establishing the City's intention to authorize the Kerrville Public Utility Board (KPUB) to reimburse itself for KPUB'S prior lawful expenditure of funds relating to constructing various capital infrastructure improvements to the City's electric utility system from the proceeds of the tax-exempt obligations not to exceed $6,300,000 to be issued by the City on behalf of KPUB for authorized purposes; authorizing other matters incident and related thereto. (staff)

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

SUBJECT: Resolution relating to establishing the city's intention to authorize the Kerrville Public Utility Board (KPUB) to reimburse itself for KPUB's prior lawful expenditure of funds relating to constructing various capital infrastructure improvements to the city's electric utility system from the proceeds of tax-exempt obligations not to exceed $6,300,000 to be issued by the city on behalf of KPUB for authorized purposes; authorizing other matters incident and related thereto

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 21, 2013

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: KPUB Letter Dated March 15, 2013
Reimbursement Resolution

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: TP

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Attached is a letter from Tracy L. McCuan, General Manager and CEO of KPUB, requesting that the City Council pass a reimbursement resolution that would allow KPUB to reimburse itself for capital improvements that are underway through the issuance of bonds to be funded in the 2014 calendar year.

This letter contains four exhibits that detail the purpose for the reimbursement and KPUB's plan to issue bonds (in an amount not to exceed $6,300,000) in 2014. Debt service would be paid through electric utility rates and the letter also includes a rate analysis.

KPUB is an entity of the city and the issuance of debt by KPUB must be authorized by the City Council according to the same rules and procedures required of any other city debt issue. All debt issued by KPUB is credited toward the city's bank qualified debt cap. This issue would limit the City Council's ability to issue bank qualified debt for the 2014 calendar year to $3,700,000. There are no plans to issue this amount of additional debt for the 2014 calendar year.

KPUB's debt issuance calendar indicates that the City Council would consider approving an ordinance issuing the anticipated bonds on October 22, 2013.

RECOMMENDED ACTION

City staff recommends approving this reimbursement resolution for the following reasons:

1. that KPUB will be able to reimburse itself through the issuance of the debt in 2014 for current expenditures on the Stadium Substation, which will spend an estimated $1.2 million of its reserve funds (reserves at the beginning of FY2013 were at $12 million or 25% of operating costs);

2. that KPUB will be able to issue the bonds as contemplated and take advantage of the current municipal bond market;

3. that the issuance of no more than $6.3 million in bonds as described herein will be bank qualified and will not hinder other capital projects and capital expenditures; and

4. that the action to approve the resolution does not authorize the bond issuance and the ordinance actually authorizing the bonds would be considered separately by the City Council with such consideration be scheduled for October 22, 2013.

KERRVILLE
PUBLIC
UTILITY
BOARD

2250 Memorial Blvd. • P.O. Box 294999 • Kerrville, Texas 78029-4999 • 830-257-3050 • FAX 830-257-8078

March 15, 2013

Mr. Todd Parton
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028

RE: City of Kerrville, Texas Utility System Revenue Bonds, Series 2013

Dear Todd,

Thank you for placing the Reimbursement Resolution associated with the above referenced revenue bonds on the March 26, 2013, City Council Agenda. For the Council's information in considering this Resolution, I have attached the following items:

A) Bond Projects lists the specific projects to be funded from the proceeds of the revenue bonds. One of these projects is already underway, hence the need for the Reimbursement Resolution.
B) KPUB Capital Improvement Plan showing 5 fiscal years of historical data, the current fiscal year, and projections for fiscal years 2014 – 2012. The projects to be funded from the Revenue Bond proceeds are highlighted in Blue and other major capital projects are highlighted in Yellow.
C) Revised Capital Letter from Utility Financial Solutions, LLC (UFS) who performed the cost of service and rate study for KPUB that was the point of discussion at the joint Kerrville City Council and Kerrville Public Utility Board meeting of August 20, 2012, and resulted in KPUB's revised rates that went into effect on October 1, 2012. This letter contains a review of KPUB's new long term Capital Improvement Plan and its effects on rates and revenue bonds sales.
D) Timetable of Events associated with the above referenced revenue bonds.

Please feel free to contact me should you have any questions or need additional information.

Yours truly,

Tracy L. McCuan
General Manager and CEO

TLM/lg

cc: Mike Hayes, City Attorney

Attachment A

City of Kerrville Utility System Revenue Bonds, Series 2013
Projects to be funded by Bond Proceeds

SUBSTATION TRANSFORMER	KVA RATING	DATE INSTALLED	CURRENT AGE	REPLACEMENT FYE	DRIVER	REPLACEMENT COST	TOTAL
STADIUM T2	22,400	1965	47	2013	Age	$ 1,149,018	
LEGION	22,400	1963	49	2014	Transmission	$ 2,035,421	
TRAVIS T1	22,400	1980	32	2015	Transmission	$ 1,869,805	
BARKER T1	10,500	1971	41	2016	Age	$ 1,229,623	$ 6,283,867

KPUB Capital Improvement Plan

Attachment B

	FYE 2008	FYE 2009	FYE 2010	FYE 2011	FYE 2012	FYE 2013	FYE 2014	FYE 2015	FYE 2016	FYE 2017	FYE 2018	FYE 2019	FYE 2020	FYE 2021
I. METERS:														
Existing AMR Systems	$ 25,500	$ 55,000	$ 65,000	$ 65,000	$ 50,000	$ 70,000	$ 70,000	$ 71,400	$ 72,800	$ 74,300	$ 75,800	$ 77,300	$ 78,800	$ 80,400
Meter Reading Handhelds	$ 27,500													
AMR/Load Control/PrePay Smartgrid Pilot		$ 25,000					$ 100,000	$ 100,000						
AMR/Smartgird Deployment						$ -	$ -		$ 1,925,000	$ 1,925,000				
TOTAL METERS	**$ 53,000**	**$ 80,000**	**$ 65,000**	**$ 65,000**	**$ 50,000**	**$ 70,000**	**$ 170,000**	**$ 171,400**	**$ 1,997,800**	**$ 1,999,300**	**$ 75,800**	**$ 77,300**	**$ 78,800**	**$ 80,400**
II. LINE CONSTRUCTION:														
Ordinary Replacements	$ 100,000	$ 50,000	$ 50,000	$ 56,000	$ 84,000	$ 132,000	$ 132,000	$ 128,300	$ 138,800	$ 149,300	$ 159,800	$ 170,300	$ 180,800	$ 191,300
Customer Extensions	$ 560,000	$ 900,000	$ 850,000	$ 520,000	$ 629,000	$ 629,000	$ 629,000	$ 641,600	$ 654,400	$ 667,500	$ 680,900	$ 694,500	$ 708,400	$ 722,600
System Improvements	$ 130,000	$ 130,000	$ 130,000	$ 244,000	$ 173,000	$ 224,000	$ 224,000	$ 252,600	$ 270,900	$ 289,200	$ 307,500	$ 325,900	$ 344,200	$ 362,500
Pole Inspection Replacements			$ 73,000	$ 240,000	$ 233,000	$ 350,000	$ 257,000	$ 312,000	$ 318,200	$ 324,600	$ 331,100	$ 337,700	$ 344,500	$ 351,400
Power Factor Improvement	$ 15,000	$ 20,000	$ 20,000	$ 20,000	$ 20,000	$ 12,000	$ 20,000	$ 20,400	$ 20,800	$ 21,200	$ 21,600	$ 22,000	$ 22,400	$ 22,800
Street Lights (Sidney Baker 50% LED)	$ 2,500	$ 1,500	$ 76,400	$ 76,400	$ 84,040	$ 268,500	$ 6,800	$ 6,900	$ 7,000	$ 7,100	$ 7,200	$ 7,300	$ 7,400	$ 7,500
Misc. Improvement Projects	$ 720,500	$ 361,000	$ 239,045	$ 95,800	$ 265,000	$ 245,000	$ 245,000	$ 249,900	$ 254,900	$ 260,000	$ 265,200	$ 270,500	$ 275,900	$ 281,400
LED Streetlights								$ 753,400						
LED Securitylights								$ 375,100						
TOTAL LINE CONSTRUCTION	**$ 1,528,000**	**$ 1,462,500**	**$ 1,438,445**	**$ 1,252,200**	**$ 1,488,040**	**$ 1,860,500**	**$ 1,513,800**	**$ 2,740,200**	**$ 1,665,000**	**$ 1,718,900**	**$ 1,773,300**	**$ 1,828,200**	**$ 1,883,600**	**$ 1,939,500**
III. HEAVY EQUIPMENT & VEHICLES:														
Equipment	$ 100,000					$ 140,000		$ 34,300	$ 35,000	$ 35,700	$ 36,400	$ 37,100	$ 37,800	$ 38,600
Bucket/Derrick Truck	$ 120,000				$ 175,000	$ 150,000	$ 157,500	$ 160,700	$ 163,900	$ 167,200	$ 170,500	$ 173,900	$ 177,400	$ 180,900
Small Vehicles	$ 81,000	$ 76,000	$ 76,386		$ 17,000		$ 40,000	$ 58,000	$ 59,200	$ 60,400	$ 61,600	$ 62,800	$ 64,100	$ 65,400
TOTAL HEAVY EQUIPMENT & VEHICLES	**$ 301,000**	**$ 76,000**	**$ 76,386**	**$ -**	**$ 192,000**	**$ 290,000**	**$ 197,500**	**$ 253,000**	**$ 258,100**	**$ 263,300**	**$ 268,500**	**$ 273,800**	**$ 279,300**	**$ 284,900**
IV. GENERAL PLANT/OTHER:														
Normal IT	$ 198,494	$ 240,000	$ 204,650	$ 269,690	$ 261,000	$ 177,000	$ 160,000	$ 185,000	$ 188,700	$ 192,500	$ 196,400	$ 200,300	$ 204,300	$ 208,400
Major IT									$ 236,300	$ 241,000		$ 250,700	$ 255,700	
Enterprise Resource Planning (ERP) System			$ 190,000	$ 275,200										
IT Disaster Recovery (DR)						$ 220,000	$ 260,000							
Offsite IT Shelter DR						$ 75,000	$ 75,000							
Offsite DR Shelter Land							$ 180,000							
Communications to Support DR						$ 154,000	$ 120,000							
Dispatch	$ 5,000	$ 10,000	$ 49,850	$ 27,500	$ 12,500	$ 25,000	$ 80,000	$ 29,900	$ 30,500	$ 31,100	$ 31,700	$ 32,300	$ 32,900	$ 33,600
Office Furniture	$ 5,000	$ 5,000	$ 5,000	$ 10,000	$ 5,000	$ 5,000	$ 5,000	$ 5,100	$ 5,200	$ 5,300	$ 5,400	$ 5,500	$ 5,600	$ 5,700
Facilities Improvements (Remodel, Security, F	$ 40,500	$ 190,000	$ 306,500	$ 96,127	$ 57,978	$ 42,000		$ 122,200		$ 127,100		$ 132,200		$ 137,500
Misc. Building Improvement				$ 5,000	$ 5,000	$ 15,000	$ 15,000	$ 15,300	$ 15,600	$ 15,900	$ 16,200	$ 16,500	$ 16,800	$ 17,100
Energy Efficiency			$ 25,000	$ 20,000	$ 20,000	$ 20,000	$ 20,000	$ 20,400	$ 20,800	$ 21,200	$ 21,600	$ 22,000	$ 22,400	$ 22,800
Capital Tools	$ 35,500	$ 75,300	$ 26,200	$ 25,500	$ 70,995	$ 27,500	$ 27,500	$ 41,200	$ 42,000	$ 42,800	$ 43,700	$ 44,600	$ 45,500	$ 46,400
TOTAL GENERAL PLANT/OTHER	**$ 284,494**	**$ 520,300**	**$ 807,200**	**$ 729,017**	**$ 432,473**	**$ 760,500**	**$ 942,500**	**$ 419,100**	**$ 539,100**	**$ 676,900**	**$ 315,000**	**$ 704,100**	**$ 583,200**	**$ 471,500**
V. SUBSTATIONS:														
Minor improvements	$ 10,000	$ 63,000	$ 248,614	$ 55,000	$ 20,000	$ 20,000	$ 20,000	$ 114,500	$ 116,800	$ 119,100	$ 121,500	$ 123,900	$ 126,400	$ 128,900
Relay Replacements	$ 96,000				$ 98,700	$ 170,000								
Jack Furman Substation			$ 352,367											
Travis Substation Phase 1				$ 1,639,309										
Stadium Substation						$ 1,149,018								
Legion Substation							$ 2,035,421							
Travis Substation Phase 2 (FY 2014-2015)								$ 1,869,805						
CenterPoint Substation (FY 2015-2016)									$ 1,229,623					
Fiber Optic Communications							$ 1,385,000	$ 1,035,000						
Harper Rd. Substation T1											$ 1,725,295			
Stadium Substation T3												$ 1,549,060		
Jack Furman Substation T2													$ 2,146,264	
TOTAL SUBSTATIONS	**$ 106,000**	**$ 63,000**	**$ 600,981**	**$ 1,694,309**	**$ 118,700**	**$ 1,339,018**	**$ 3,440,421**	**$ 3,019,305**	**$ 1,346,423**	**$ 119,100**	**$ 1,846,795**	**$ 1,672,960**	**$ 2,272,664**	**$ 128,900**
TOTAL CAPITAL BUDGET	**$ 2,272,494**	**$ 2,201,800**	**$ 2,988,012**	**$ 3,740,526**	**$ 2,281,213**	**$ 4,320,018**	**$ 6,264,221**	**$ 6,603,005**	**$ 5,806,423**	**$ 4,777,500**	**$ 4,279,395**	**$ 4,556,360**	**$ 5,097,564**	**$ 2,905,200**
TOTAL EXCLUDING MAJOR PROJECTS	**$ 2,272,494**	**$ 2,201,800**	**$ 2,988,012**	**$ 2,101,217**	**$ 2,281,213**	**$ 3,171,000**	**$ 2,843,800**	**$ 2,569,700**	**$ 2,651,800**	**$ 2,852,500**	**$ 2,554,100**	**$ 3,007,300**	**$ 2,951,300**	**$ 2,905,200**

Major projects to be funded with 2014 revenue bond proceeds

Other major capital improvement projects

Attachment C

Utility Financial Solutions, LLC

March 13, 2013

Mr. Tracy McCuan
Kerrville Public Utility Board
2250 Memorial Blvd
Kerrville, TX 78028

Dear Mr. McCuan,

We are pleased to present an executive summary for Kerrville Public Utility Board (KPUB) for a sensitivity analysis performed on the financial projection provided in 2012. The projection was updated with a revised capital plan as provided by KPUB.

The specific purposes of the analysis are:

1. Determine the KPUB's revenue requirements for the projection period with the revised capital plan and compare the revenue requirements with projected revenues.
2. Determine operating income and compare to projected operating income
3. Compare projected cash flow with recommended minimum cash target
4. Compare projected debt coverage ratio with minimum target
5. Recommend projected bond issuances
6. Recommend rate adjustments needed to work toward revenue requirements, minimum cash target, and minimum debt coverage ratio

The results of the projection provided to KPUB in 2012 are below:

Fiscal Year	Projected Rate Adjustments	Projected Revenues	Projected Expenses	City Transfer (%)	City Transfer $	Adjusted Operating Income	Projected Cash Balances	Capital Improvements	Bond Issues	Debt Coverage Ratio
2012	3.75%	43,233,586	41,171,072	3.0%	1,214,560	2,062,514	8,240,888	2,281,213		2.14
2013	0.00%	44,628,731	42,828,328	3.0%	1,279,025	1,800,403	8,341,659	4,555,905	-	2.53
2014	0.00%	46,086,279	44,562,631	3.0%	1,320,713	1,523,648	10,890,134	4,435,421	3,000,000	19.46
2015	0.00%	47,608,903	46,352,051	3.0%	1,364,272	1,256,852	10,638,814	4,269,805		26.50
2016	0.00%	49,199,387	48,188,593	3.0%	1,409,781	1,010,794	10,934,582	3,629,623	-	26.28
Recommended Target in 2012						$ 1,857,189	$ 9,173,919			1.65
Recommended Target in 2016						$ 2,120,627	$ 9,030,873			1.65

The Projection showed the need for a 3.75% increase in 2012 and an increase in 2017 of around 3% as operating income targets were not being met by the end of the projection period. It also showed the need for a $3.0 million bond in 2014.

The financial projection was updated with the revised capital plan as provided by KPUB and the results are summarized in the table below:

Fiscal Year	Projected Rate Adjustments	Projected Revenues	Projected Expenses	City Transfer (%)	City Transfer $	Adjusted Operating Income	Projected Cash Balances	Capital Improvements	Bond Issues	Debt Coverage Ratio
2012	3.75%	43,233,586	41,171,072	3.0%	1,214,560	2,062,514	8,240,888	2,281,213		2.14
2013	0.00%	44,628,731	42,823,610	3.0%	1,279,025	1,805,121	8,577,546	4,320,018	-	2.53
2014	0.00%	46,086,279	44,589,771	3.0%	1,320,713	1,496,508	12,486,439	6,264,221	6,300,000	13.89
2015	3.00%	49,018,684	46,462,432	3.0%	1,364,272	2,556,252	11,111,434	6,603,005		15.87
2016	0.00%	50,623,265	48,431,467	3.0%	1,452,074	2,191,799	10,389,247	5,806,423	-	15.75
Recommended Target in 2012						$ 1,857,189	$ 9,594,356			1.65
Recommended Target in 2016						$ 2,467,749	$ 9,520,798			1.65

The projection shows the increase would move up 2 years and should be placed in 2015 at 3%. The bond issuance would be between $6.0 and $7.0 million depending how revenues and actual capital expenses materialize.

The results of the analysis using the revised capital plan as provided by KPUB are summarized below:

1. The rate increase is recommended to be moved up from 2017 to 2015 at 3%
2. The bond issue is recommended in 2014 as originally planned, but increase from $3.0 million to between $6.0 - $7.0 million.

The recommended rate increase and actual bond issuance will need to be updated as revenues, expenses and capital spending materialize as actual amounts may vary.

This report is intended for information and use by management and the Board of Directors for purposes stated above and is not intended to be used by anyone except the specified parties.

Sincerely,

Dawn Lund, Vice President

Utility Financial Solutions, LLC

Attachment D

SPECIALIZED PUBLIC FINANCE INC.
FINANCIAL ADVISORY SERVICES

$6,300,000
City of Kerrville, Texas
Utility System Revenue Bonds, Series 2013
Preliminary Timetable of Events

July						
S	M	T	W	T	F	S
	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			

August						
S	M	T	W	T	F	S
				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

September						
S	M	T	W	T	F	S
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					

October						
S	M	T	W	T	F	S
		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		

Tuesday, February 21, 2013	**KPUB adopts a Resolution requesting City Council to adopt a Reimbursement Resolution and requests City Council to issue the Bonds.**
Tuesday, March ~~12~~ 26, 2013	**City Council passes a Reimbursement Resolution relating to the Projects.**
Week of Monday, September 2, 2013	**Distribute Preliminary Official Statement for comments** **SPFI makes application to the rating agencies and bond insurance companies.**
Week of September 9, 2013	**KPUB Board selects underwriting syndicate; Bond Counsel distributes drafts of bond documents and Underwriter's Counsel distributes purchase contract to the team.**
Week of: Monday, September 16, 2013	**Rating Agency calls/meetings.**
Wednesday, October 9, 2013	**Receive ratings from rating agencies and bond insurance premium quotes.**
Monday, October 21, 2013	**<u>Bond Pricing</u>–Negotiate prices, yields and terms of the Bonds with the Underwriters.**
Tuesday, October 22, 2013	**<u>Award</u>-The KPUB Board will consider the ordinance authorizing the issuance of the Bonds with a recommendation for approval to the City Council.** **<u>Award</u>-The City Council will consider the ordinance authorizing the issuance of Bonds to the Underwriters.**
Thursday, January 2, 2014	**<u>Closing Date</u>-Bond proceeds delivered to construction fund.**

Denotes Sale Date

FULBRIGHT
& Jaworski L.L.P.
Attorneys at Law

W. Jeffrey Kuhn
Partner

300 Convent Street, Suite 2100 • San Antonio, Texas 78205-3792
wkuhn@fulbright.com • Direct: 210 270 7131 • Main: 210 224 5575 • Facsimile: 210 270 7205

March 20, 2013

BY E-MAIL

Mr. Todd Parton
City Manager
City of Kerrville
701 Main Street
Kerrville, Texas 78028

Re: City of Kerrville, Texas Utility System Revenue Bonds, Series 2013

Dear Todd:

As requested, I enclose a revised Reimbursement Resolution and the City Secretary's Certificate pertaining to the captioned matter as revised by Mr. Mike Hayes, both clean and blacklined versions. Please print a copy of the clean versions and replace them in the file folders sent to you on February 22, 2013. Please also print five (5) copies of each signature page for execution at the March 26, 2013 meeting.

Thank you, in advance, for your prompt attention to this matter. If I can provide any additional assistance concerning this matter, please do not hesitate to contact me.

Very truly yours,

W. Jeffrey Kuhn

WJK/jcq
Enclosure
cc: **BY E-MAIL**
Mr. Mike Hayes (City of Kerrville, Texas)
Mr. Mike Erwin (City of Kerrville, Texas)
Mr. Tracy McCuan (Kerrville Public Utility Board)
Mr. Scott McGough (Kerrville Public Utility Board)
Ms. Ann Burger Entrekin (First Southwest Company)
Mr. Tom Spurgeon (McCall, Parkhurst & Horton L.L.P.)

57060997.1

Mr. Steven Adams (Specialized Public Finance Inc.)
Mr. Clay Binford (Firm)
Mr. William T. Avila (Firm)
Ms. Rachel S. Lisenby (Firm)

CERTIFICATE OF CITY SECRETARY

THE STATE OF TEXAS	§
	§
COUNTY OF KERR	§
	§
CITY OF KERRVILLE	§

THE UNDERSIGNED HEREBY CERTIFIES that:

1. On the 26th day of March, 2013, the City Council (the *City Council*) of the City of Kerrville, Texas (the *City*) convened in regular session in the regular meeting place of the City at the City Hall (the *Meeting*), the duly constituted members of the City Council being as follows:

Jack Pratt, Jr.	Mayor
Stacie Keeble	Mayor Pro Tem
Carson Conklin	Councilman
T. Justin MacDonald	Councilman
Gene Allen	Councilman

and all of such persons were present at the Meeting, except the following: _____, thus constituting a quorum. Among other business considered at the Meeting, the attached resolution (the *Resolution*) entitled:

> A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO AUTHORIZE THE KERRVILLE PUBLIC UTILITY BOARD (KPUB) TO REIMBURSE ITSELF FOR KPUB'S PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS CAPITAL INFRASTRUCTURE IMPROVEMENTS TO THE CITY'S ELECTRIC UTILITY SYSTEM FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS NOT TO EXCEED $6,300,000 TO BE ISSUED BY THE CITY ON BEHALF OF KPUB FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO

was introduced and submitted to the City Council for passage and adoption. After presentation and discussion of the Resolution, a motion was made by Councilman _____ that the Resolution be finally passed and adopted. The motion was seconded by Councilman _____ and carried by the following vote:

_____ voted "For" _____ voted "Against" _____ abstained

all as shown in the official Minutes of the City Council for the Meeting.

2. The attached Resolution is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the City Council on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the City Council was given actual notice of the time, place, and purpose of the

Meeting and had actual notice that the Resolution would be considered; and the Meeting and deliberation of the aforesaid public business, was open to the public and written notice of said meeting, including the subject of the Resolution, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this 26th day of March, 2013.

_____

City Secretary
City of Kerrville, Texas

(CITY SEAL)

CITY OF KERRVILLE, TX
RESOLUTION NO. _____

A RESOLUTION RELATING TO ESTABLISHING THE CITY'S INTENTION TO AUTHORIZE THE KERRVILLE PUBLIC UTILITY BOARD (KPUB) TO REIMBURSE ITSELF FOR KPUB'S PRIOR LAWFUL EXPENDITURE OF FUNDS RELATING TO CONSTRUCTING VARIOUS CAPITAL INFRASTRUCTURE IMPROVEMENTS TO THE CITY'S ELECTRIC UTILITY SYSTEM FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS NOT TO EXCEED $6,300,000 TO BE ISSUED BY THE CITY ON BEHALF OF KPUB FOR AUTHORIZED PURPOSES; AUTHORIZING OTHER MATTERS INCIDENT AND RELATED THERETO

WHEREAS, the City Council (the *Governing Body*) of the City of Kerrville, Texas (the *Issuer*) or the Board of Trustees of the Kerrville Public Utility Board (the *Board*), acting on behalf of the Issuer, has entered into or will enter into various contracts pertaining to the expenditure of lawfully available funds of the Issuer or the Board to finance the costs associated with (i) acquiring, purchasing, constructing, improving, extending, enlarging, and repairing the City's electric, light, and power system as improved, maintained, and/or operated by the Board (the *Construction Costs*), (ii) the payment of various engineering costs, including design testing, design engineering, and construction inspection related to the Construction Costs (the *Engineering Costs*), (iii) the payment of various architectural costs, including preparation of plans and specifications and various other plans and drawings related to the Construction Costs (the *Architectural Costs*), and (iv) the payment of various administrative costs, including the fees of bond counsel, financial advisors, project manager, project consultant, other professionals, and bond printer (the *Administrative Costs*) [the Construction Costs, the Engineering Costs, the Architectural Costs, and Administrative Costs collectively constitute costs of the Issuer's projects that are the subject of this Resolution (the *Project*)]; and

WHEREAS, the Governing Body has delegated, pursuant to the provisions of Chapter 1502, as amended, Texas Government Code, the management, operation, and maintenance of the electric utility system to the Board;

WHEREAS, the Board has requested and recommended that the Governing Body take this action;

WHEREAS, the provisions of Section 1201.042, as amended, Texas Government Code (*Section 1201.042*) provide that the proceeds from the sale of obligations issued to finance the acquisition, construction, equipping, or furnishing of any project or facilities, such as the Project, may be used to reimburse the Issuer, or the Board, acting on behalf of the Issuer, for costs attributable to such project or facilities paid or incurred before the date of issuance of such obligations; and

WHEREAS, the United States Department of Treasury (the *Department*) released Regulation Section 1.150-2 (the *Regulations*) which establishes when the proceeds of obligations

are spent and therefore are no longer subject to various federal income tax restrictions contained in the Internal Revenue Code of 1986, as amended (the *Code*); and

WHEREAS, the Issuer or the Board intend to reimburse themselves, within eighteen months from the later of the date of expenditure or the date the property financed is placed in service (but in no event more than three years after the original expenditures are paid), for the prior lawful capital expenditure of funds from the proceeds of one or more series of obligations that the Issuer currently contemplates issuing in an amount not to exceed $6,300,000 (the *Obligations*) to finance a portion of the costs of the Project; and

WHEREAS, under the Regulations, to fund such reimbursement with proceeds of the Obligations, the Issuer or the Board, acting on behalf of the Issuer, must declare their expectation ultimately to make such reimbursement before making the expenditures; and

WHEREAS, the Issuer, acting through the Board, hereby finds and determines that the reimbursement for the prior expenditure of funds of the Issuer or the Board is not inconsistent with the Issuer's or the Board's budgetary and financial circumstances; and

WHEREAS, the Governing Body hereby finds and determines that the adoption of this Resolution is in the best interests of the citizens of the Issuer; now, therefore,

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

SECTION ONE: This Resolution is a declaration of intent to establish the Issuer's and the Board's reasonable, official intent under section 1.150-2 of the Regulations to reimburse themselves from certain of the proceeds of the Obligations for any capital expenditures previously incurred (not more than 60 days prior to the date hereof) or to be incurred with respect to the Project from lawfully available general funds or other funds of the Issuer or the Board.

SECTION TWO: The Issuer intends to issue the Obligations and allocate within 30 days after the date of issue of the Obligations the proceeds therefrom to reimburse the Issuer or the Board for prior lawful expenditures with respect to the Project in a manner to comply with the Regulations.

SECTION THREE: The reimbursed expenditure will be a type properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles.

SECTION FOUR: The Issuer and the Board intend to otherwise comply, in addition to those matters addressed within this Resolution, with all the requirements contained in the Regulations.

SECTION FIVE: This Resolution may be relied upon by the appropriate officials at the Office of the Attorney General for the State of Texas and establishes compliance by the Issuer and the Board with the requirements of Texas law and the Regulations.

SECTION SIX: With respect to the proceeds of the Obligations allocated to reimburse the Issuer or the Board for prior expenditures, neither the Issuer nor the Board shall employ an abusive device under Treasury Regulation Section 1.148-10, including using within one year of the reimbursement allocation, the funds corresponding to the proceeds of the Obligations in a manner that results in the creation of replacement proceeds, as defined in Treasury Regulation Section 1.148-1, of the Obligations or another issuer of tax-exempt obligations.

SECTION SEVEN: The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Resolution for all purposes and are adopted as a part of the judgment and findings of the Governing Body

SECTION EIGHT: All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

SECTION NINE: This Resolution shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION TEN: If any provision of this Resolution or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Resolution and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Governing Body hereby declares that this Resolution would have been enacted without such invalid provision.

SECTION ELEVEN: It is officially found, determined, and declared that the meeting at which this Resolution is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Resolution, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION TWELVE: This Resolution shall be in force and effect from and after its final passage, and it is so resolved.

[The remainder of this page intentionally left blank.]

PASSED AND APPROVED, this the 26th day of March, 2013.

CITY OF KERRVILLE, TEXAS

_____

Jack Pratt, Jr., Mayor

ATTEST:

_____

Brenda Craig, City Secretary

(CITY SEAL)

APPROVED AS TO FORM:

_____

Michael C. Hayes, City Attorney

Agenda Item:

4A. Request by citizen to investigate possible property encroachment (1301 Paragon Place). (John W. Bauer, Jr.)

TO BE CONSIDERED BY THE CITY COUNCIL

CITY OF KERRVILLE, TEXAS

SUBJECT OF REQUEST: Multi City Code Violations - STRUCTURE ON ADJACENT PROPERTY

AGENDA DATE: MARCH 26, 2013 **DATE SUBMITTED:** MARCH 13, 2013

REQUESTED/SUBMITTED BY: JOHN W. BAUER, JR. **PHONE:** 895-8522
ORGANIZATION REPRESENTING: self
MAILING ADDRESS: 1301 PARAGON PL, KERRVILLE, TX, 78028

EMAIL ADDRESS: dbauer@ktc.com

EXHIBITS/INFORMATION: Citing: Kerrville City Codes AND ORDINANCES; State WATER Code (TX)

APPROVED FOR SUBMITTAL BY CITY MANAGER: N

WILL THIS ITEM REQUIRE CITY COUNCIL TO AUTHORIZE THE EXPENDITURE OF CITY FUNDS? YES: _____ NO: ✓ - AT THIS TIME

IF YES, STATE AMOUNT REQUESTED: $_____

DESCRIPTION OF REQUEST

* Alert City Council TO MONITOR REPORT OF: BASE = 290 sq ft.
Re: REAR PATIO/BASE/POSTS/ROOF ON ADJACENT PROPERTY: 1303 PARAGON PL; ROOF = 350 sq ft.
Violations: REAR LOT; SIDE AND REAR SET-BACK(S); NON-COMPLIANCE; Ref: KV; ARTICLE 11-1-17, AMENDING ARTICLE 11-1-17(b), JUNE 8, 2010 Agenda, (MAY 28) 2010, MEETING MAY 20, 2010, NOTE: CHART with set-backs FOR CATEGORY 3; / Bldg. Dept. RESEARCH: NO plans, NO bldg. permit, NO ELECTR. permit, NO water drainage easement, NO City plan REVIEW, NO CONTRACTOR lisc or NAME on file, NO City FINAL INSPECTION; Ref: Kerrville City Code Chapter 26, 26 - SECTS: 61, 65, 66; 171-106.5.1, AND the Int'l Residential Bldg. Codes, AS A RESULT OF ROOF OVERHANG AND PROXIMITY due to SET-BACK violations there is "sheet flow" AND water ENCROACHMENT ON TO my property; Texas Water Code; SECTION 11.086
ON File with Bldg. SERVICES: OFFICIAL SURVEY/VOELKEL LAND SURVEY, SEPT. 10, 2012.

ACTION

RECOMMENDED COUNCIL

Agenda Item:

4B. Approve and accept Fiscal Year 2012 City of Kerrville Comprehensive Annual Financial Report (audit). (staff)

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

SUBJECT: Presentation and Council Approval of the FY 2012 City of Kerrville Comprehensive Annual Financial Report (CAFR)

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 15, 2013

SUBMITTED BY: Mike Erwin, Director of Finance **CLEARANCES:** Todd Parton, City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The FY 2012 City of Kerrville Comprehensive Annual Financial Report will be presented at the meeting. The City engaged the audit firm of BKD, LLP in Dallas to perform the annual audit and to prepare the financial report. Kevin Kemp, Audit Partner from BKD, met with the Audit Committee and presented the highlights of the CAFR to Council at the March 12 meeting.

RECOMMENDED ACTION

The Director of Finance recommends Council's approval of the FY 2012 City of Kerrville Comprehensive Annual Financial Report.

Agenda Item:

4C. A Resolution supporting the Texas Department of Transportation's construction of an improved interchange at Interstate Highway 10 and Farm to Market Road 783 (Harper Highway). (staff)

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

SUBJECT: Resolution requesting TXDOT improvements to the Harper Road interchange with Interstate 10

FOR AGENDA OF: 3/26/13 **DATE SUBMITTED**: 3/13/13

SUBMITTED BY: Charlie Hastings CH
Public Works Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Resolution

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

In a recent meeting with TxDOT officials, a point of discussion that was very important to Kerrville was getting TxDOT to construct an interchange at I-10 and Harper Road (FM 783) to allow oversized loads to bypass the bridge instead of driving through town and causing safety issues or damage to facilities. It was suggested that TxDOT could make these improvements a priority if Kerrville were to adopt a resolution in support of it.

RECOMMENDED ACTION

The Director of Public Works recommends that Council adopt a resolution requesting TxDOT make construction improvements to the Harper Road (FM 783) and I-10 interchange a high priority for the Kerrville Area to allow oversize loads to bypass the bridge.

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. _____- 2013

A RESOLUTION SUPPORTING THE TEXAS DEPARTMENT OF TRANSPORTATION'S CONSTRUCTION OF AN IMPROVED INTERCHANGE AT INTERSTATE HIGHWAY 10 AND FARM TO MARKET ROAD 783 (HARPER HIGHWAY)

WHEREAS, Texas Department of Transportation ("TxDOT") has requested that City Council support the construction of a improvements to the interchange at Interstate Highway 10 ("I-10") and Farm to Market Road 783 ("FM 783")in order for TxDOT to prioritize such improvements for funding and construction; and

WHEREAS, construction of an improved interchange at I-10 and FM 783 will allow oversized loads to bypass the bridge at that location; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to support TxDOT's construction of an improved interchange at I-10 and FM 783;

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

The City Council supports TxDOT's construction of an improved interchange at I-10 and FM 783 to accommodate oversized loads by allowing them to bypass the bridge at this location.

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

_____
Jack Pratt, Jr., Mayor

ATTEST:

_____
Brenda Craig, City Secretary

APPROVED AS TO FORM:

_____
Heather Stebbins, Assistant City Attorney

T:\Legal\Resolutions-General\Supporting TxDOT Construction of Interchange at I-10 and FM783_031513.doc

Agenda Item:

4D. Award contract for construction and installation of wayfinding signage (staff)

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

SUBJECT: Authorize the City Manager to enter into a contract with National Sign Plaza, Inc. for the Fabrication and Installation of the Wayfinding Program in an amount not to exceed $142,000.00

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 21, 2013

SUBMITTED BY: Ashlea Boyle, AB
Special Projects Coordinator

CLEARANCES: Todd Parton,
City Manager

EXHIBITS: Bid Tabulation
Proposal by National Sign Plaza, Inc.

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Upon authorization at the February 26, 2013 City Council meeting, staff prepared an RFP process for the Fabrication and Installation of the Wayfinding Sign Program. Four different sign concepts will be incorporated into the Wayfinding system.

- VEH.01 - complete directional signage
- VEH.02 - to be mounted to existing downtown lamp poles
- VEH.03 - TXDOT regulatory signage
- PED.01 - pedestrian directional signage / kiosk

The RFP included bids for two different designs of the VEH.03 signs (concrete posts– the preferred design and galvanized steel posts) which are contingent on TXDOT approval. The design master plan will be presented to TXDOT for review and approval by the awarded vendor. The $142,000.00 project budget would be funded through HOT fund reserves as previously discussed with City Council. The annualized maintenance for this project will be 5% of the total project cost.

Phasing priorities included in the RFP are as follows:

- Base Bid – Navigation from I-10 to downtown
- Alternative 1 – Main Street / Junction Highway vehicular signage
- Alternative 2 – Downtown pedestrian and vehicular signage

Three proposals were received on March 18, 2013 and the bid tabulation is attached. The

low base bid for the concrete post (preferred design) was National Sign Plaza, Inc. in the amount of $42,000.00 with Alternative 1 at $68,250.00 and Alternative 2 at $31,750.00. National Sign Plaza's Base Bid for the galvanized steel post design was $24,000.00 with Alternative 1 at $39,000.00 and Alternative 2 at $27,250.00.

Staff recommends awarding the fabrication and installation contract to National Sign Plaza, Inc. for the Base Bid, Alternative 1 and Alternative 2 for the concrete post design in the amount of $142,000.00.

RECOMMENDED ACTION

City staff is requesting authorization for the City Manager to enter into a contract with National Sign Plaza, Inc. for the Fabrication and Installation of the Wayfinding Program in an amount not to exceed $142,000.00.

Project Name : Wayfinding Program - Fabrication and Installation

	Included in the Proposal X = yes							Based on VEH.03 with Concrete Post*				Based on VEH.03 with Galvanized Steel Post				
General Contractors	Overall Quality of Proposal	Ability to meet schedule	Current workload	Addressed Scope of Services	Past work and references	Industry Experience	Status of firm ownership	Base Bid	Alternative 1	Alternative 2	Total	Base Bid	Alternative 1	Alternative 2	Exception	Total
James Edward Moore	Good	Yes	X	X	X	X	X	no bid	no bid	no bid	no bid	$23,650.24	$38,431.64	$5,912.56 (VEH.03 only)	$11,355.10	**$79,349.54**
National Sign Plaza	Excellent	Yes	X	X	X	X	X	$42,000.00	$68,250.00	$31,750.00	$142,000.00	$24,000.00	$39,000.00	$27,250.00	n/a	**$90,250.00**
Color Ad Signs and Exhibits	Excellent	June 27, 2013	X	X	X	X	X	$57,036.00	$91,496.00	$40,558.00	$189,090.00	$48,284.00	$77,272.00	$38,192.00	n/a	**$163,750.00**

*Preferred design contigent on TXDOT approval

Alternative if preferred design is not approved by TXDOT

NATIONAL SIGN PLAZAS

NATIONAL SIGN PLAZAS

City of Kerrville,
701 Main Street
Kerrville, TX 78028

March 18, 2013

RE: RFP Wayfinding Program - Fabrication & Installation

Selection Committee:

We are very excited to be submitting our response to the aforementioned RFP. The process of designing and developing the City's wayfinding sign system has been rewarding and we feel that the City has chosen a design that will enhance the existing landscape and help further define Kerrville as a beautiful hill country destination.

We have drafted this cover letter for two reasons. The first is to illustrate that we have **NO EXCEPTIONS** to the RFP as it has been released and second, to reiterate that NSP has a unique understanding of this project and we are better prepared to bring this wayfinding program to life than any contractor of similar services. Our knowledge of the plan that is in place and the City's desires for the program have been developed through the design/plan process and will enable our staff to quickly and efficiently build and install your wayfinding program.

We have enjoyed our working relationship with the City of Kerrville thus far and we look forward to that relationship continuing through the development of the wayfinding signage.

Sincerely,

Grant Hayzlett

President
National Sign Plazas, Inc.

Toll Free 888.982.1234
www.nsp.biz

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Project Approach & Methodology

Every wayfinding project requires a multitude of technical skills that enable the designer/contractor to effectively deliver the product(s) expected by the customer and overcome challenges along the way. In our experience these skills and challenges can be categorized in to 5 focus areas that govern the overall management of the wayfinding project. This section not only addresses common challenges that exist in every project, but also defines a number of potential challenges that may already exist in this project.

- ***DEVELOPMENT***: Possibly more important than the sign design is the correct and effective placement of these wayfinding signs. The erratic and haphazard placement of directional signage renders them useless; a flaw that no creative design can overcome. NSP works diligently in every metro that we serve to identify jurisdictional boundaries, right-of-way ownership, traffic patterns, easements and many other factors to identify the correct locations to place these wayfinding signs. An effective wayfinding program is much more than the sum of the individual sign locations. Every location within the wayfinding system needs to serve a purpose and have a connection to the surrounding signage and area. It must first be effective in bringing traffic from point "A" to point "B" and then it must also be intuitive. The assumption that travelers will "get it" too often has a negative effect on the ability of a wayfinding program to do its job. The signage truly needs to predict what travelers will encounter while observing the signage in order to serve the needs of those travelers. Our staff has worked closely with City planners, landscape architects and many other industry professionals in order to compile a complete perspective of how to develop an effective wayfinding signage system.

  The planning challenge for this project is to create efficiency while reducing redundancy. With so many unique locations within the City it is imperative to establish a system that allows for hierarchical placement within the system; however, establishing a hierarchy will not absolve all of the challenges in planning. Frequently, individual locations become cluttered with too much information because they are high-profile intersections that seem appropriate to every destination. Common solutions to this challenge are to develop a unique set of icons or symbols that can be used to represent destinations rather than using the destination's full name. This allows for each line on the sign face to show as many 3 possible destinations and it also allows the end user to process the information faster. Categorical sectoring is another solution to this challenge. By using general descriptions such as "Shopping District" or "Water Park" rather than the complete name of the destination will also increase the functionality of each location. This wayfinding system will service commuters, citizens, tourists, students and a multitude of other users. A skilled planner will be able to apply an existing wayfinding model to this landscape and adapt it to meet the needs of the City. Additionally, creative Phasing schedules will help the City of Kerrville achieve success as they develop all aspects of their program.

- ***FABRICATION***: Once the best conceptual design has been agreed upon a sturdy construction is the only thing that will allow that design to flourish. Just as the design process can become flawed if the construction process is not considered, the sign fabrication must remain true to the sign design. Accurate welding, the use of high-grade materials and the incorporation of the latest techniques and materials all allow for a solid fabrication that will allow a sign and its design to endure. NSP works diligently with our material suppliers to inspect and review all of our materials prior to incorporating them in to our sign's construction. We challenge them as we challenge ourselves; to remain up to date on the best use, fabrication and adaptation of all of our materials. The right sign materials can mean as much to the

fabricating process as the overall construction. NSP works hard in the design process in an effort to ensure that the construction and fabrication process is as smooth as possible.

The fabrication challenge for this project lies within identifying a qualified vendor that can handle the comprehensive nature of this project. Few companies are set up to address the needs of both design/plan and fabrication/installation; NSP is built this way. The City has outlined a very distinctive RFP, one that is targeted at locating a qualified vendor that can create a seamless transition from design to build to management. NSP has built our business model on this principle and we work through every project with the goal of creating efficiency through ease of communication and limiting the number of actions that the City must take to progress the project. However, even if a vendor suggests that they can handle the comprehensive nature of the project their skill set as fabricators must be flawless in order to bring your design to life. Unfortunately, there are many examples of poor craftsmanship that each of us encounters every day; NSP clients are never left with a failing product.

- ***INSTALLATION***: For NSP, a sign's installation is governed by much more than the foundation. It is true that all elements of a sign's installation are critical, but focusing on the micro-elements and forsaking the macro-elements can create many problems. NSP develops a great body of knowledge prior to digging any foundation in an effort to make certain that we do the job right the first time. Our staff works closely with TXDOT, underground locating companies, and adjacent communities all in an effort to identify the correct jurisdictional boundaries, breakaway requirements, MUTCD regulations, right-of-way ownership and underground cabling. NSP staff knows that many of these elements are constantly changing and we never take any of them for granted. It is our goal to provide the most up to date information to our customers and clients rather than rely on them for the same.

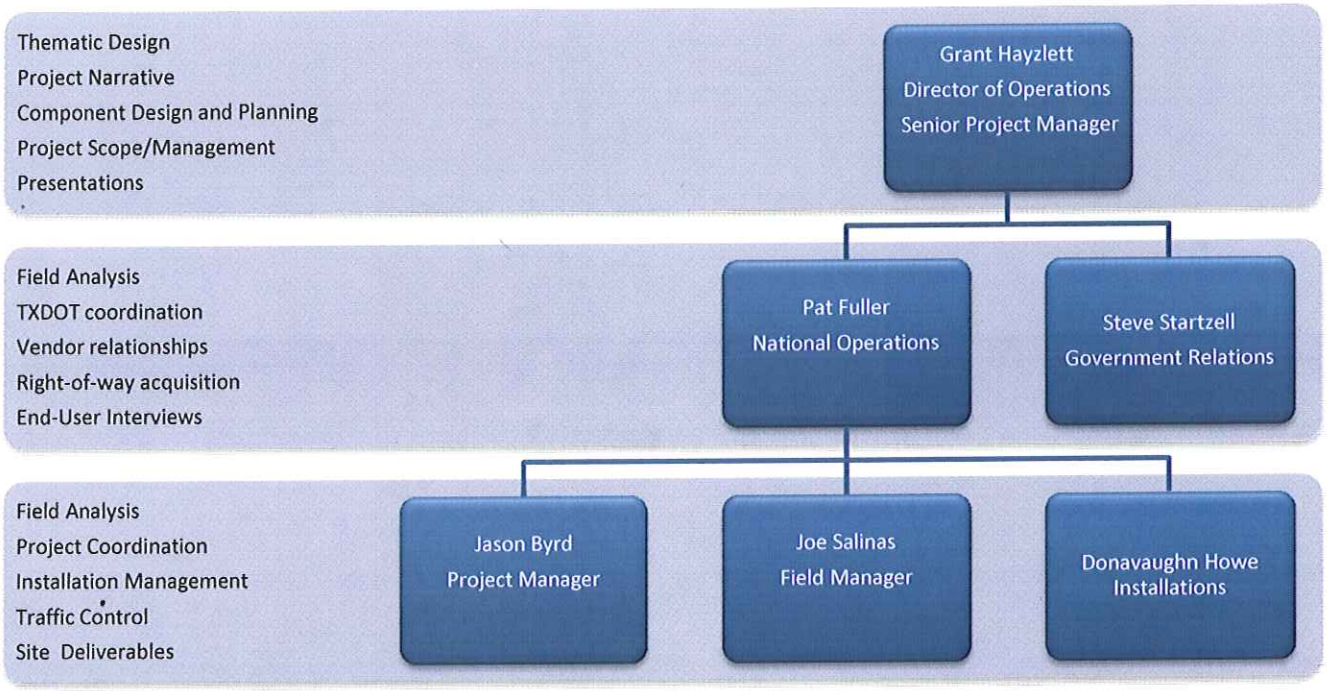
  The installation challenge for this project will be the successful approval of the sign location plan in coordination with TXDOT. Large gaps in a directional route can leave the user feeling as though they have missed something and change their direction. Often, this frustration can lead to the end user "giving up" on the signage. The Cities carefully need to consider whether or not the successful proposer can meet the needs of this installation challenge. Part of NSP's core service is the negotiation of right-of-way use, permitting and regulation through agencies such as TXDOT.

  Another critical element of the installation process is to identify the "real world" application of the mapping and planning process. Our installation staff is charged not only with quality control at the point of installation, but also to identify and measure the effectiveness of the signs once installed. Our sign installers are given the authority to stop the installation process if they feel that a sign's effectiveness has been miscalculated. This is not an effort to hamper the installation process; rather an effort to ensure that the finished product is in the best possible condition for our customers and clients.

- ***SERVICE***: NSP's involvement and accountability does not end once the wayfinding program has been completely installed. We continue to monitor our clients programs for effective construction, additional signage needs and any other element that may be negatively affecting the overall condition of the wayfinding program. Our clients should be just as satisfied with their wayfinding program 5 and even 10 years after installation as they were on the first day. NSP stands behind all of their products with an ardent dedication to quality and customer service. If there is a problem with your wayfinding system, we will fix it.

The service challenge for this project is based in the overlapping interests of the entities that will be serviced by the wayfinding program. During and after installation, NSP staff will continue to work with downtown businesses, chambers of commerce, City staff and the like to determine that the final installations are the best. Often times the physical environment and traffic patterns can change and this will in turn change how individual elements of the program must function. Our ongoing attention to this allows us to help the City continue to meet the needs of those people that are meant to benefit from the wayfinding system. There are many moving parts to this project and failure to service the Cities needs, the needs of the community and the needs of the end users will impede the program's success

Project Staff



Grant Hayzlett - As Director of Operations & Senior Project Manager, Grant Hayzlett leads the NSP team through the initial consultations and project analyses. Grant has been managing NSP on a day-today basis as well as Project Management for the past 8 years. He has been instrumental in developing NSP's design/build platform and has acted as project manager for each of our wayfinding programs in the State of Texas. Grant works directly with TXDOT offices in Austin and is constantly educating himself on their practices relative to wayfinding systems. Additionally, Grant is the lead creative designer for the NSP wayfinding programs and has received a number of accolades from our customer base.

Patrick Fuller – Working with all of our divisions nationally, Pat has developed the seamless and efficient nature of our procedural development throughout these projects. While he is based in our Austin office, Pat is constantly learning about all of the factors that affect these programs on a national level and he brings that insight to bear on projects here in Texas. Pat collaborates with the Senior Project Manager relative to the effective and ideal planning of these systems and has created several unique solutions to overcome environmental limitations.

Steve Startzell – Steve is our acting Government Relations Officer for the State of Texas and his role in the development of our wayfinding systems is to collaborate with City staff, TXDOT engineers, advisory committees and other parties of interest that may have a bearing on the development of the program. Steve will also handle presentations to both Council and committee relative to project management and milestone

updates. Steve is an indispensable part of our consultation process and something that many companies overlook as they began to plan these projects. Steve is also the person that approaches all of our Clients in the State of Texas proving to them that NSP is the right consultant for the job.

Jason Byrd – Jason has been working for NSP out of our Austin and Dallas Divisions for more than 6 years and has proven that he has a creative eye for detail. Overall, Jason's job is deploying the systems that have achieved final design and construction approval, but he always amazes our clients with how diligent he is to the details of their program. Jason puts forth great effort to ensure that, when it is ready, each wayfinding element is built and installed to specification; guaranteeing that the final product matches the proposed design.

Joe Salinas – Over the past 6 years Joe has been our lead installer on wayfinding projects in the State of Texas. Joe works closely with Jason and Pat to keep projects on schedule and prioritized correctly. Additionally, Joe helps NSP staff learn knew and cutting edge techniques for use in the field. Joe's attention to detail has helped our clients identify potential problems in the environment prior to installation, alleviating safety and replacement concerns.

Donavaughn Howe – Over the past 8 years Donny has been dedicated to perfection within the installation process. He has worked on many of our projects throughout the State of Texas and is aware of the many environmental factors that can affect a standard installation. He has worked on several projects that overlap State road right-of-way and is constantly learning about TXDOT regulations.

All of the members outlined here are projected to play a role in the Kerrville project and are employed directly by NSP. We maintain a statewide staff with personnel in Houston, Austin and Dallas and rarely have the need to work with subcontract labor.

Relevant Experience & Qualifications

Incorporated in 1997, National Sign Plazas, Inc. (NSP) has been working in the wayfinding and environmental graphic design industry for 16 years. We have been focused exclusively on the design, development, implementation and management of these wayfinding programs our entire existence. We focus almost exclusively on the public suburban wayfinding environment contracting with Cities, Counties, Villages and the like all over the country. We have a unique approach as one of the only companies in this industry that provides a comprehensive design/build service. Generally, designers don't fabricate and fabricators don't design, but we have created a business model based on the fact that a great deal of money and time is wasted in separating these two arenas. Not only does it generally require multiple RFP/ITB, costing staff more time and energy, but it often leaves the City/County with nothing more than a sliver of what they were trying to achieve in the first place.

Too often a City will exhaust their budget in the design phase and be left unable to afford the sign program that they sought after or they will spend so much time developing their system that they are simply too tired to consider pursuing the system assembly. Potentially more bothersome, are those that make it through their second public offering only to award their beautiful design to a fabricator that is not skilled enough to bring the idea to life. The time and cost involved with bringing that vendor up to speed is more waste and another drain on the success of the system. These are just a few examples of the multitude of things that can go wrong when these two overlapping actions are separated in to individual actions.

We work with all types of government agencies, large and small, and we provide the same dedicated service to a 4 sign program as we do to a 104 sign program. The bulk of our wayfinding expertise has been placed right here in the State of Texas and with that comes the knowledge of how to get them done. We maintain first person relationships with each of the local engineers in charge of the TXDOT district offices and we regularly meet with the staff in the right-of-way division to ensure that we are current on their policies and procedures. TXDOT is sort of maze and finding your way out of the maze is not easy. It takes savvy, relationships and experience; NSP has all three.

Our real value comes with our consultation. We truly are experts at the design, planning and construction of these wayfinding systems, but that is not why our Clients enjoy working with us. The benefit of working with NSP comes through our management of your project from start to finish and our ability to help you avoid common pitfalls. We are not interested in maximizing your design budget as so many designers are, nor are we interested in slamming a bunch of signs in the air and leaving them for you to deal with. NSP is built on the foundation of a true consultation; one that takes your goals and desires to heart and brings them to bear in a tangible and functional, real world application.

Since NSP staff has worked with Kerrville in developing the system design and sign location plan we have a greater understanding of how to move this project efficiently through fabrication/installation than any other contractor. Simply put, we know more about this project than any company of similar services and have a unique perspective on how to bring the program to lofe.

Organization & Structure

a) National Sign Plazas, Inc. (NSP)

b) See preceding page

c) NSP Profile
   i. NSP is a (C) corporation with three offices throughout the State of Texas
   ii. NSP was incorporated in June of 1997 and is about to turn 15
   iii. Because of our unique design/build platform, NSP is not structured like most design companies of similar services. In total, there are 22 full time employees working for NSP in jobs ranging from field installer to fabricator to graphic designer to government relations.
   iv. Our specific are of concentration is projects exactly like this one. We focus completely on suburban environmental graphic design with an emphasis on those Cities/Counties that understand the need for a beautiful, functional system and want to finish with a great project, nit a great design.
   v.

Austin	**O:** (512) 670-3717	**F:** (512) 670-3719
Houston	**O:** (713) 673-2590	**F:** (713) 673-2585
Dallas	**O:** (972) 918-0603	**F:** (972) 918-0605

Project Understanding
The City of Kerrville has put forth a great and concerted effort to establish a vision of what they would like their City to become. City staff has coordinated that effort with local business, citizens and the like to create something that the community will truly embrace. Wayfinding and streetscaping are so much more than signage and placing dots on a map. It is about intuitively predicting what your citizens and visitors will want within your town and how you will shape those desires to fit in to the vision for your City. The City of Kerrville understands this and NSP can bring it to life. From the diligent planning for parking, to the understanding that pedestrian needs are not currently being met wayfinding is going to be crucial to the success of this development. In our minds, wayfinding is like a light switch in a house. All of the electrical wiring is there, the bulb is screwed in, but if you don't turn the switch on, then nothing happens.

A well designed wayfinding system will illuminate all of the other plans that have been put in to place and will truly help the end users understand what the City is striving for. It will increase community identity and it will increase your citizen's quality of life.

Relevant Project Experience
Please refer to the following portfolio pages for this information.

Project Approach

Overall, we approach every project as a design/build feature…to put it simply, we make certain all of our initial actions have a reason. These reasons will eventually tie in to and produce the finished elements of the system. Wandering aimlessly without direction or placing your "finish line" any earlier then project completion will inevitably waste time and money. The greatest focus for NSP as we analyze this project is to develop a finished plan for TXDOT submission and approval. With two possible designs put forth for the placement of signage on TXDOT right-of-way it will be important to approach that approval process with consideration for TXDOT rules and regulations. If TXDOT will approve the preferred design then we will want to figure that out early to avoid delays in material ordering.

Ongoing, this project will have to be successfully phased in to ensure success. With as many as three separate phases that are quite different from one another, the consultant will need to have been planning for these phases from the beginning in order to be ready and on schedule when they are slated to start. Additionally, the contractor of award will need to make certain that they are not creating a disabled program by removing critical locations from the sign location plan. This ties easily in to one of our greatest strengths and that is total project management. The ability to coordinate several actions at the same time, delineate information to the appropriate staff and tie it all together in the end is what makes NSP so good at these multi-phase projects. Further, since NSP has developed the plan we are aware of the best methods by which to phase the system without crippling the effect of the signage.

Quality Control and Litigation History

NSP has never been involved in litigation relative to any of our dealings with Clients throughout the Nation. Never has one of our Clients encountered troubles with their wayfinding program and been left without NSP staff quickly and diligently responding.

References

Since June of 1997, National Sign Plazas has contracted with more than 50 clients in 5 different and challenging States. A sample list of our current clients is below and I am certain that all of them would give the City of Kerrville a strong recommendation to work with National Sign Plazas. Those Clients shown in **bold** have contracted with NSP within the last 3-5 years:

Texas (General)
City of College Station
City of Bryan
City of Goliad
City of Kerrville

Texas (Austin/San Antonio)
City or Georgetown
City of Pflugerville
City of Leander
City of Hutto
City of Round Rock
City of Kyle
City of Cibolo
City of San Marcos
City of Selma

Arizona
City of Surprise
City of El Mirage
Town of Queen Creek
Town of Youngtown

Texas (Houston)
City of Pearland
City of Rosenberg
City of Conroe
City of Texas City
City of Richmond
City of La Marque
City of Seabrook

Texas (Dallas/Ft Worth)
City of Wylie
City of Sachse
City of Murphy
City of Princeton
City of Little Elm
City of Waxahachie
City of Kennedale
City of Anna
City of Royse City

Colorado
City of Johnstown
City of Firestone
Town of Timnath

Georgia
Cherokee County
Fulton County
Walton County
Woodstock County
City of Statham
City of Holly Springs
Douglas County
City of Villa Rica
Dawson County
Lumpkin County
City of Powder Springs
Paulding County
City of Douglasville

Illinois
Village of Plainfield
Village of Lockport
Village of Minooka
Village of Shorewood
Village of Monee
Village of Peotone

City of Georgetown, TX (Austin MSA)
Shelly Hargrove, Main Street Director
www.georgetown.org
(512) 930-2027

City of Sachse, TX (Dallas MSA)
Marc Kurbansade, Director of Community Development
www.cityofsachse.com
(469) 429-4781

City of Wylie, TX (Dallas MSA)
Renae Ollie, Planning Director
www.wylietexas.gov
(972) 442-8157

City of Pearland, TX (Houston MSA)
Attn: Mike Hodge, Assistant City Manager
www.ci.pearland.tx.us
(281) 652-1600

Insurance

Through our independent agent, Mr. Jim Capponi of Malloy, Imrie and Vasconi Insurance Services, LLC, of St. Helena, California, we have acquired the following coverage:

GENERAL COMMERCIAL AND
PROPERTY DAMAGE LIABILITY:

$2,000,000.00

Both are Policy Number 3539-05-08

AUTOMOBILE LIABILITY: $1,000,000.00

Policy Number 7499-63-71

ADDITIONAL UMBRELLA COVERAGE:

$3,000.000.00

Policy Number 7984-11-52

CARRIER FOR ABOVE: Chubb Group of Insurance Companies
Federal Insurance Company
Renewal Date December 1, 2013

WORKER'S COMPENSATION:

$1,000,000.00

Policy Number 21 WEC GF8066

CARRIER: The Hartford
Renewal Date November 9, 2013

City of Kerrville, Texas will be named as additionally insured parties. Proof of continuous coverage shall be supplied on each anniversary date and upon contract execution, if requested.

Anticipated Problems, Proposed Solutions & Supporting Information

This project is complex and will require a multitude of disciplines to properly execute it. It would be a mistake to award this RFP and the resulting project to any vendor/consultant that has a singular focus. Only a consultant that has a background in comprehensive project management, not just project design, will be able to meet the needs, schedules, desires and goals of the City of Kerrville and their citizens. The plan is in place, the vision is there; now the City must select the appropriate vendor to shine the light on the beauty of that vision. National Sign Plazas is that company.

Some potential problems have been stated within this proposal; however, in our experience there is a short list of items that are generally overlooked by less qualified vendors and commonly have a negative effect on the finished product(s).

- Failure of the consultant to completely educate themselves about the project history and the Client's visions
- A contractor placing their vision ahead of their client's
- A lack of understanding for the inner workings of TXDOT and the regulations that they impose
- The inability to negotiate for land acquisition where right-of-way may be limited
- A lack of understanding of the MUTCD and the creation of non-functional designs
- The ineffective placement of signage to such a degree that it actually inhibits user intuition
- Contractors developing overly complicated construction techniques that drive up the cost of the finished products
- Fabricators failing to build projects as they are designed in order to maximize their profit margins
- A lack of total accountability with a single company

This list could probably go on for two more pages, but that would not service the City's ability to make an informed decision here. This list has been put together simply to illustrate all of the little things that can go wrong when inefficient planning and communication take place.

If the City desires to develop a beautiful and functional program, one that increases community and quality of life, they should select National Sign Plazas, Inc. as the contractor of choice for this RFP.

FORM "A" - SUBMISSION CHECKLIST

This form is provided as assistance to the vendor. The omission of a required item from this list does not release the vendor from the obligation to provide all of the required information in the proposal package. Vendors are responsible to read and understand the entire RFP. Incomplete submissions may be rejected.

- A LIST OF REFERENCES
- ADDENDA HAVE BEEN ACKNOWLEDGED AND SIGNED (IF NECESSARY)
- PRICING HAS BEEN COMPLETED
- COMPANY HISTORY AND LIST OF CURRENT PROJECTS
- ALL FORMS HAVE BEEN COMPLETED
- RESPONSE HAS BEEN SIGNED AND DATED
- AT LEAST ONE LETTER OF REFERENCE HAS BEEN INCLUDED
- 5 COMPLETE, FULL COLOR COPIES AND 1 PDF VERSION HAVE BEEN ENCLOSED
- THE PROPOSAL IS BEING SENT IN AN ENVELOPE THAT IS CORRECTLY MARKED
- OUTLINE OF VENDOR'S UNIQUE APPROACH TO THE PROJECT
- STATEMENT OF "EXCEPTIONS" OR "NO EXCEPTIONS" TO THE RFP
- THE PROPOSAL IS BEING SENT TO:

City of Kerrville
Attn: City Secretary
701 Main Street
Kerrville, Texas 78028
RE: RFP – Wayfinding Program – Fabrication and Installation

FORM "B" – LETTER OF TRANSMITTAL

I, (name) Grant Hayzlett, (title) President for (company)_National Sign Plazas, Inc., confer this statement of transmittal with the submission of our proposal to the City of Kerrville.

(company)National Sign Plazas, Inc. is submitting this proposal in full receipt and understanding of the terms provided by the City in RFP- Wayfinding Program – Fabrication and Installation. I am submitting this proposal as an authorized representative of (company)National Sign Plazas, Inc. and fully capable of binding the company contractually. My contact information is as follows:

Grant Hayzlett, President
7076 South Alton Way, Building E-2
Centennial, CO 80112
(720) 482-9293
ghayzlett@nsp.biz

National Sign Plazas, Inc._____
Company

Grant Hayzlett _____
Authorized Signer Signature

President_____3/18/2013_____
Title Date

FORM "C" – CONFLICT OF INTEREST

CONFLICT OF INTEREST QUESTIONNAIRE

FORM CIQ

For vendor or other person doing business with local governmental entity

This questionnaire reflects changes made to the law by H.B. 1491, 80th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code by a person who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the person meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the person becomes aware of facts that require the statement to be filed. *See* Section 176.006, Local Government Code.

A person commits an offense if the person knowingly violates Section 176.006, Local Government Code. An offense under this section is a Class C misdemeanor.

OFFICE USE ONLY

Date Received

1 **Name of person who has a business relationship with local governmental entity.**

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.**

(The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date the originally filed questionnaire becomes incomplete or inaccurate.)

3 **Name of local government officer with whom filer has employment or business relationship.**

_____
Name of Officer

This section (item 3 including subparts A, B, C & D) must be completed for each officer with whom the filer has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the filer of the questionnaire?

☐ Yes ☐ No

B. Is the filer of the questionnaire receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer named in this section AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

C. Is the filer of this questionnaire employed by a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership of 10 percent or more?

☐ Yes ☐ No

D. Describe each employment or business relationship with the local government officer named in this section.

4

_____ _____
Signature of person doing business with the governmental entity Date

FORM "D" – REFERENCES

Within the past five (5) years the undersigned vendor has completed the following three (3) projects that are similar to this project. Please make sure to label all of the duties that the vendor performed for each project listed. Vendors may recreate this form if more space is needed.

1. Name of Project: City of Georgetown, TX
   Location of Project: Austin MSA
   Description of Project: Wayfinding and Homebuilder Directional Signage
   Project Cost: $145,000.00
   Design Services Provided: ■ YES ☐ NO
   Planning Services Provided: ■ YES ☐ NO
   Fabrication Services Provided: ■ YES ☐ NO
   Installation Services Provided: ■ YES ☐ NO
   Consulting Services Provided: ■ YES ☐ NO
   Contact Name: Shelly Hargrove, Main Street Director
   Contact Number: (512) 930-2027

2. Name of Project: Cities of Bryan & College Station
   Location of Project: Bryan & College Station, TX
   Description of Project: Multi-city wayfinding with over 140 locations
   Project Cost: $400,000.00
   Design Services Provided: ■ YES ☐ NO
   Planning Services Provided: ■ YES ☐ NO
   Fabrication Services Provided: ■ YES ☐ NO
   Installation Services Provided: ■ YES ☐ NO
   Consulting Services Provided: ■ YES ☐ NO
   Contact Name: Shannon Overby, CEO Bryan-College Station CVB
   Contact Number: (979) 260-9898

3. Name of Project: City of Sachse, TX
   Location of Project: Dallas MSA
   Description of Project: Wayfinding and Directional Signage
   Project Cost: $85,000.00
   Design Services Provided: ■ YES ☐ NO
   Planning Services Provided: ■ YES ☐ NO
   Fabrication Services Provided: ■ YES ☐ NO
   Installation Services Provided: ■ YES ☐ NO
   Consulting Services Provided: ■ YES ☐ NO
   Contact Name: Marc Kurbansade, Director of Community Development
   Contact Number: (469) 429-4781

FORM "E" – CONTRACTOR CERTIFICATION

CONTRACTOR INFORMATION

Name: National Sign Plazas, Inc. (NSP)

Address: 7076 South Alton Way, Building E-2

Line 2: Centennial, CO 80112

Principal Contact: Grant Hayzlett, President

Tax ID Number or SSN: 77-0471997

Project Number:

Project Name:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

Indicate in the appropriate box which statement applies to the covered contractor:

- ■ The potential contractor certifies, by submission of this certification, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any federal department or agency or by the State of Texas.

- □ The potential contractor is unable to certify to one or more of the terms of this certification. In this instance, the potential Contractor must attach an explanation for each of the above terms to which he is unable to make certification. Attach the explanation(s) to this certification.

The undersigned certifies that the potential Contractor will not knowingly enter in to any subcontract with a person who is excluded, debarred, suspended, declared ineligible or voluntarily excluded from participation in this covered transaction, unless authorized by the City of Kerrville, Texas. The undersigned further certifies that the potential Contractor will include this section regarding exclusion, debarment, suspension, ineligibility and voluntary exclusion without modification in any subcontracts or solicitations for subcontracts.

The undersigned sears that he/she is authorized to legally bind the prospective Contractor to the above-described certification and is fully aware that this certification is made under penalty of perjury under the laws of the State of Texas.

Signature/Authorized Official	Grant Hayzlett, President Typed Name and Title
National Sign Plazas, Inc. Organization	March 18, 2013 Date Signed
State Contractor's License # (if applicable)	

FORM "F" – ANTICIPATED TIMELINE

Outlined below is the proposed schedule for the completion of this project. The dates listed have been set up to allow for a reasonable amount of time to complete each task. If the vendor feels that they can exceed the proposed timeline or that they cannot meet the proposed timeline they are required to fill in their own proposed scheduling in the empty table at the bottom of this form. They will also be required to attach a short description explaining how / why they can / cannot meet the proposed timeline.

If the vendor is willing to accept the proposed timeline they will not need to fill out the empty table, but they will need to acknowledge the proposed schedule by checking the box at the bottom of this form.

Proposed Timeline

Event	Date
RFP Release and Advertisement	March 1, 2013
Responses to RFP are Due	March 18, 2013
Proposals Considered and Awarded by City Council	March 26, 2013
Final Installation(s) Complete	May 24, 2013
Final Walkthrough and Warranty Assessment	May 31, 2013

Event	Date
RFP Release and Advertisement	
Responses to RFP are Due	
Proposals Considered and Awarded by City Council	
Final Installation(s) Complete	
Final Walkthrough and Warranty Assessment	

☐ National Sign Plazas, Inc. (company name) acknowledges and accepts the proposed timeline outlined in this form. **Additionally, we are aware that the City may elect to implement a fine or penalty system associated with a failure to meet or exceed this timeline.** Fines or penalties may be assessed on a per day basis or they may be implemented as reductions to the payments that are due to the vendor. The City will determine at the time of contract negotiation whether or not they will elect to implement said fines and / or penalties.

Signature _____ Date _____

Print Name _____ Title _____

FORM "G" – PRICING

The City of Kerrville is requesting vendors to assemble a gross bid based on the proposed cost of all goods and services addressed in this RFP. Vendors shall specify the costs for items listed below and include any and all other associated costs for this project.

Fabrication and installation costs include foundations, footings and the location of underground utilities. Contractor is responsible for any soil analysis and/or site work that may be unique to any location.

Vendors shall include all costs associated with this turn-key project. The City of Kerrville is not responsible for additional unforeseen costs due to ineffective foresight of the vendor.

Item	Sign Type	Pricing
Pricing Based on VEH.03 with Concrete Post		
Base Bid	Navigation from I-10 to downtown	$ 42,000.00
	VEH.01 (0) VEH.02 (0) **VEH.03 (16)** PED.01 (0)	
Alternative 1	Main Street / Junction Highway vehicular signage	$ 68,250.00
	VEH.01 (0) VEH.02 (0) **VEH.03 (26)** PED.01 (0)	
Alternative 2	Downtown pedestrian and vehicular signage	$ 31,750.00
	VEH.01 (6) VEH.02 (2) **VEH.03 (4)** PED.01 (2)	
	TOTAL BID	$ 142,000.00
Pricing Based on VEH.03 with Galvanized Steel Post		
Base Bid	Navigation from I-10 to downtown	$ 24,000.00
	VEH.01 (0) VEH.02 (0) **VEH.03 (16)** PED.01 (0)	
Alternative 1	Main Street / Junction Highway vehicular signage	$ 39,000.00
	VEH.01 (0) VEH.02 (0) **VEH.03 (26)** PED.01 (0)	
Alternative 2	Downtown pedestrian and vehicular signage	$ 27,250.00
	VEH.01 (6) VEH.02 (2) **VEH.03 (4)** PED.01 (2)	
	TOTAL BID	$ 90,250.00

EST. 1843
GEORGETOWN
TEXAS

INSPECTION SERVICES
CITY OF GEORGETOWN

January 11, 2011

To Whom It May Concern:

The City of Georgetown, TX is a unique community north of the City of. In 2008 we contracted with National Sign Plazas to develop a wayfinding sign program throughout our City including our historic downtown. The sign program consists of several sign types that service vehicular traffic on large arterial streets, small community roads and pedestrian traffic within our downtown.

National Sign Plazas' quality of work and attention to the overall continuity of the signage has truly made our sign program a success. Several proposed sign locations fell within TXDOT jurisdiction and NSP worked with our local traffic engineers to ensure proper permitting and placement of the signage.

National Sign Plazas is a reliable and capable vendor and has the endorsement of the City of Georgetown. Please contact me directly if you have questions about our sign program or NSP's involvement in our City program.

Sincerely,

David F. Hall, CFM
Director of Inspection Services
City of Georgetown

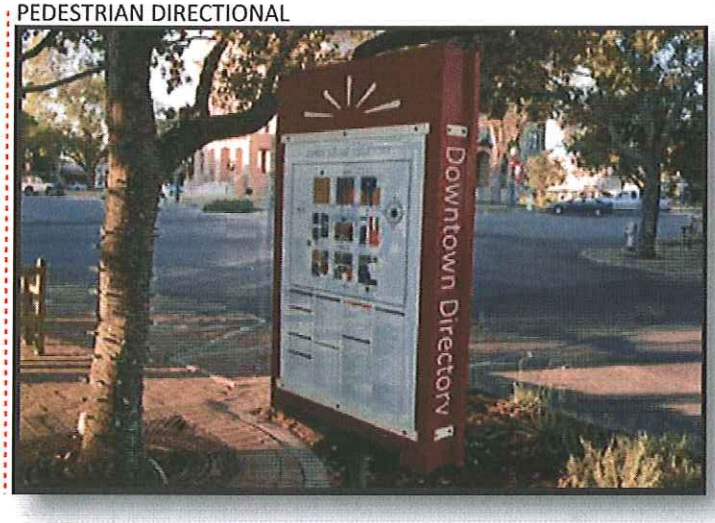
300-1 Industrial Ave. | P.O. Box 1458 | Georgetown, Texas 78627-1458 | (512) 930-2550 | (512) 930-5892 (fax)
www.georgetown.org | inspection@georgetowntx.org

Portfolio (Georgetown, TX)

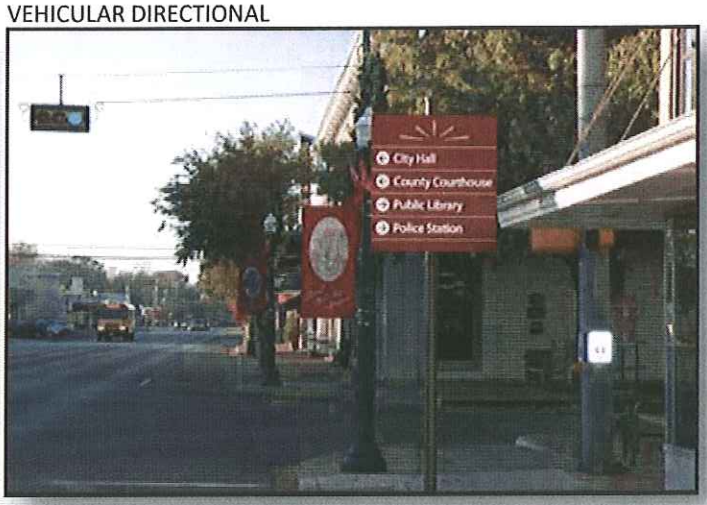
In 2006 the City of Georgetown contracted with NSP to construct and install a wayfinding system that was to be incorporated in to every detail of the City's signage. Vehicular directionals, pedestrian maps, parking, public restrooms and general civic identifiers were all previously designed by an outside architectural firm and handed out in an active bid process. NSP was awarded the bid, but as we began to investigate the installation process we found that the sign design was not only dysfunctional, but it would not be allowed in the state road right-of-way due to a poorly designed breakaway system. By this time, the City was ready to move in to the construction phase, so NSP handled the process of designing new signage as we compiled the construction documents. We were able to work with TXDOT, our steel supplier and other vendors to determine the complete scope of the breakaway standards, the right material to fabricate the sign and several design changes to accommodate the rest. Overall, this process was completed in less than 2 months and we were able to keep the construction/installation schedule in tact.

Currently, the City's program is fully deployed and they continue to add signage as their needs increase. The program currently includes 16 vehicular directionals, 6 pedestrian maps, 12 parking signs and several miscellaneous identifiers for the City. This project was completed on the projected schedule and met the projected budget outlined at the beginning of the construction pahse.

PEDESTRIAN DIRECTIONAL



VEHICULAR DIRECTIONAL



Time to completion

From the time of the award the design, construction and installation of the City's program took less than 5 months.

Deliverables

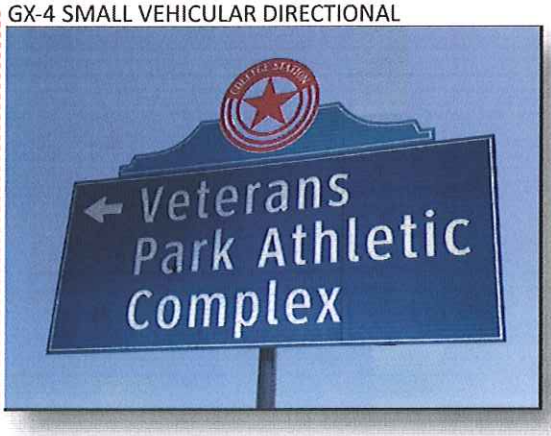
- Materials to be used for each element
- Final designs for each system element
- Site location details
- Installation guidelines
- Construction documents
- Final message schedules

Portfolio (Bryan & College Station, TX)

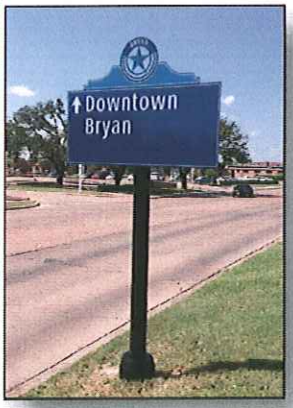
In April of 2012 the Cities of Bryan and College Station contracted with NSP to give their wayfinding system life. Three years prior they had contracted with a different firm to draft an initial design and plan for a complex, multi-city system that incorporated historic downtowns, tourist destinations and Texas A&M university. Due to a multitude of reasons, the project was left in the design phase and the Cities were not able to realize construction of the project. In order to achieve installation, they knew that they would require a team that could update and revise the existing designs, phase the project, manage their budgets and work with TXDOT for program approval. They elected to work with NSP because of our expertise in wayfinding and our track record of success. The first program phase was completed 6 months after RFP award and phase 2 is slated to start in 2013.

Currently, the entire program spans across Bryan, College Station and Texas A&M university. It is made up of 6 different sign types covering large extruded freeway signs down to parking and pedestrian directional signs. There are more than 140 individual locations; 122 of which reside in TXDOT right-of-way.

GX-4 SMALL VEHICULAR DIRECTIONAL



GX-4A DECORATIVE



GX-6 LARGE VEHICULAR DIRECTIONAL

Time to completion

Phase one of this program spanned a total of 6 months from RFP award to final installation. In that time NSP staff redesigned the signage, created a new placement and mapping plan, created a phasing schedule, and built and installed 141 individual signs.

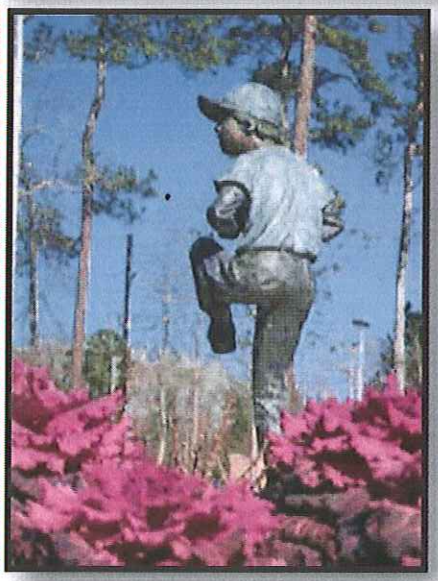
Deliverables

- Design specs for each sign type
- Phasing schedules for I and II
- Construction materials
- TXDOT assessment and approval
- Site location details
- Installation guidelines
- Construction documents
- Final message schedules

Portfolio (Conroe, TX)

North of the City of Houston, the City of Conroe is a gateway City that boasts more than 10 public parks and open spaces. In 2008 they finished construction on their flagship public recreation area, the Carl Barton, Jr. Memorial Park. As construction was being finalized the City approached NSP to design and develop signage in and around the park that would include 15 baseball fields, 10 soccer fields, a fishing pond, picnic areas and hiking trails. Additionally, they asked for the design and development of monument stone entry signs, exterior wayfinding signage leading motorists in to the park and park facilities signage such as rules, parking, etc. Being that the project was run through a budget that was dedicated to the park's program and not through the City's general fund they were very cautious about spending and asked us to be very creative in our pricing. By the end of the construction process NSP had every sign installed (totaling more than 75 individual signs) and maintained the cost of the signage under the projected budget.

The City of Conroe has continued to utilize NSP for the design, fabrication and installation of wayfinding signage in several other open space and recreational areas within the City.



BRONZE STATUE IN PLANTER

MONUMENT ENTRY

PARK RULES & CONDITIONS

Time to completion

The installation of this project was governed by the park opening. From the first design compositions to the final installation this project took 12 weeks to complete.

Deliverables

- Materials to be used for each element
- Master design plan outling each feature of the system.
- Final designs for each system element
- Site location details
- Shop Drawings
- Construction documents
- Final message schedules
- Street signage and exterior wayfinding
- Bronze statues and planter beds

Portfolio (Surprise, AZ)

The City of Surprise, AZ was one of the first municipalities across the nation to implement and develop a directional wayfinding program dedicated to helping motorists identify and locate new residential development. NSP has been managing this program for the City since its inception in 1998 and the City has never stopped recommending us to outside clients nor have they stopped providing us with additional signage opportunities within the City. The largest of these opportunities was presented to us 2 years ago as the City invested over $20 million in the development and construction of a state of the art civic center. NSP contracted with the City to design, build and install the pedestrian and vehicular wayfinding signage, the additional street signage and a monument wall that is placed at the focus of the civic center.

By the time the general contractor was ready for NSP to install the signage they were 2 months behind schedule and the City began to worry that they would not be ready for the Grand Opening. NSP staff worked closely with the contractor and the City to develop an alternate installation schedule that allowed us to begin the installation process ahead of schedule. As our staff worked in to the night for roughly 2 weeks in a row we began to gain ground on the proposed deadline. After the project was completed NSP's efforts had helped the contractor get back on schedule and the City was able to open the streets as scheduled.

PEDESTRIAN DIRECTIONAL

MONUMENT ENTRY

Time to completion

This project took place in 2 separate phases as we were not able to start the installation process until the sidewalk and gutter flatwork had been compleeted. The design/fabrication phase took 6 weeks and the installation/construction phase lasted only 2 weeks

Deliverables

- Materials to be used for each element
- Master design plan outling each feature of the system.
- Final designs for each system element
- Site location details
- Shop Drawings
- Staff meetings with the General Contractor
- Construction documents
- Final message schedules
- Street signage and identifiers

Portfolio (Sachse, TX)

In 2008 the City of Sachse contracted with NSP to design, plan, build and implement a wayfinding program targeted at managing new residential development and points of Civic interest throughout the City. Shortly after the program was installed, the City approached us about developing an addition to the wayfinding system that would highlight and focus traffic towards their new Municipal Campus.

The Campus was brand new and they were looking for a completely new sign design that would reflect this, but one that still incorporated elements of the existing sign program. Drawing on the family of designs that we originall developed for them, our design team was able to create a new sign design that reflected the Municipal Campus without compromising the integrity of the original wayfinding system. Based on our ongoing relationship with the City we were able to develop the overall design, construction elements and installation requirements for these signs in less than 5 weeks. We quickly had them fabricated and installed and were able to meet the City's deadline prior to the Campus opening.

The project is still being expanded upon, but the project to date is 5% under the projected budget that was established for the sign program. In total, this program consists of 14 vehicular directionals, 6 pedestrian kiosks and 8 Campus oriented signs.

VEHICULAR DIRECTIONAL

PEDESTRIAN DIRECTIONAL

VEHICULAR DIRECTIONAL

Time to completion

This wayfinding system is still developing and is slated for completion in June of 2011. The program design began in November 2008 and the first signs were installed in March 2009.

Deliverables

- Materials to be used for each element
- Master design plan outling each feature of the system.
- Final designs for each system element
- Site location details
- Installation guidelines
- Interface with end users prior to installations
- Construction documents
- Final message schedules
- Mapping and route planning

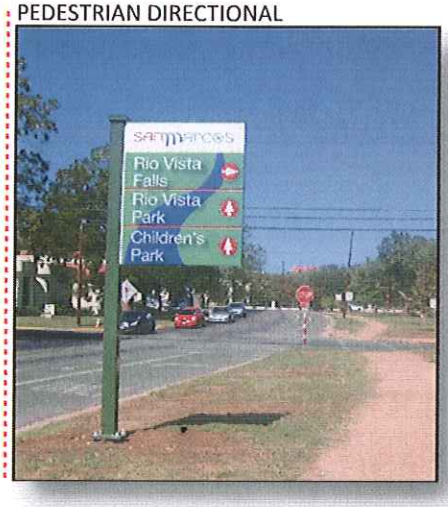
Portfolio (San Marcos, TX)

In September of 2011 National Sign Plazas, began the process of deploying a wayfinding program for the City of San Marcos. They had previously contracted with an outside design team to develop their sign concept and reached out to NSP to help them manage the fabrication and installation of the system. While they had a design they did not have a defined system for the placement of the signage nor did they have the ability to install all of their signage in one phase. The City was under a very tight schedule (45 days) to issue a bid, award the bid and have the first signs installed. The first phase of signs was only to include six (6) individual locations, but with fabrication scheduled to last two to three weeks we had very little time to prepare the sites and install the signage. Our staff worked diligently on this project for several weeks and when the last sign was installed there were still two days remaining on their schedule.

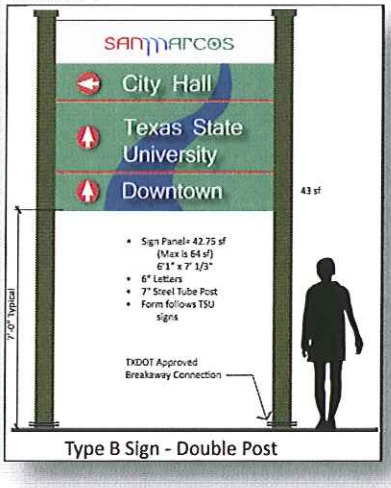
Currently, the City of San Marcos is working with NSP to develop the strategy that will govern the subsequent phases of their wayfinding sign program. When the system is completed it will be comprised of more than sixty (60) individual locations, pedestrian and vehicular directionals. Under consideration for the upcoming planning phases are budgets, City events and a comprehensive plan.

We anticipate that the City of San Marcos will begin their second installation phase in the next 60-90 days. When completed, the total cost of the sign program will be more than $100,000.00.

PEDESTRIAN DIRECTIONAL



CONCEPT



VEHICULAR DIRECTIONAL

Time to completion

The City's sign program is still under planning and a schedule for completion has yet to be clearly defined. We expect that the next phase of the program will begin in 60-90 days and will take approximately 2 months to complete.

Deliverables

- Materials to be used for each element
- Shop Drawings
- ITB Draft
- Final designs for each system element
- Site location details
- Installation guidelines
- Construction documents
- Final message schedules

NSP Headquarters

7076 South Alton Way Bldg. E2
Centennial, Colorado 80112

Phone: 720.482.9293
Toll Free: 888.982.1234
Fax: 303.790.0924

NSP Austin

6448 East Highway 290, B-106
Austin, Texas 78723

Phone: 512.670.3717
Toll Free: 888.982.1234
Fax: 512.670.3719

NSP Houston

2502 Central Parkway, C-13
Houston, Texas 77092

Phone: 713.673.2590
Toll Free: 888.982.1234
Fax: 713.673.2585

NSP Atlanta

6850 Shiloh Road East, Suite D
Alpharetta, Georgia 30005

Phone: 678.947.4400
Toll Free: 888.982.1234
Fax: 678.947.4404

NSP Phoenix

16411 North 90th Street, #107
Scottsdale, Arizona 85260

Phone: 480.968.2978
Toll Free: 888.982.1234
Fax: 480.968.2988

NSP Chicago

20155 W Division Street, Suite M
Crest Hill, Illinois 60441

Phone: 630.551.8011
Toll Free: 888.982.1234
Fax: 630.551.8010

Agenda Item:

4E. Authorize City Manager to enter into an agreement with Friends of the Kerr County Historical Commission for the exclusive use of the former Main Street Office located at 715 Water Street specifically for the creation and operation of a museum. (staff)

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

SUBJECT: Authorize City Manager to enter into an agreement with the Friends of the Kerr County Historical Commission for the exclusive use of the former Main Street Office located at 715 Water Street specifically for the creation and operation of a museum.

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 18, 2013

SUBMITTED BY: Kimberly Meismer
Director of General Operations

CLEARANCES: Todd Parton
City Manager

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The Kerr County Historical Commission is a branch of the Texas Historical Commission. Our local branch was organized in 1976. KCHC's state statutory mission: To protect, preserve and promote Kerr County's rich cultural and historical resources. In addition, HCHC also has a Friends of the Kerr County Historical Commission group.

Since the Main Street Office located at 715 Water Street relocated to the new City Hall in October 2012, the building has been vacant. We are asking Council to authorize the City Manager to enter into an agreement with the Friends of the KCFC for the exclusive use of the property specifically for the creation and operation of a museum.

It is proposed that the City will provide the building to the Friends of the KCHC at no cost and the Friends of the HCHC will pay for the utilities and provide the insurance either through a separate policy or reimburse the City for coverage under our policy.

By allowing the Friends of the KCHC use of the building at 715 Water Street, we could protect, preserve and promote the history of our great county in a big way. In establishing a small local history museum in that building, we also would accomplish something that has not been successful since the first attempt to get a museum started here in 1931. Another plus would be that it would be a new attraction to draw visitors to downtown.

According to the Texas Historical Commission, Texas has the largest state museum association in the country. There are over 1200 museums in the state. Over 700 of those are local history museums. Eleven counties in Texas do not have a local history museum, Kerr County being one of the counties.

There are over 500 Main Street Projects in Texas in which Kerrville is one. A majority of these boast a museum in their designated Main Street area. The Friends of the Kerr County Historical Commission would love to see that happen at 715 Water Street.

RECOMMENDED ACTION

Staff recommends Council authorize the City Manager to enter into an agreement with the Friends of the Kerr County Historical Commission for the exclusive use of the former Main Street Office located at 715 Water Street specifically for the creation and operation of a museum.

Agenda Item:

4F. Pending legislation from the 83rd Texas Legislature, Regular Session. (staff)

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

SUBJECT: Discussion and direction to city staff regarding pending legislation under consideration by the State of Texas 83rd Legislative Session

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 14, 2013

SUBMITTED BY: Todd Parton, City Manager **CLEARANCES:**

EXHIBITS: Legislative Update (Texas Municipal League) – March 8, 2013, Number 9

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:
REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The State of Texas has convened the 83rd Legislative Session. There are many bills that have been filed by members of the House of Representatives and the Senate. Many of these bills could impact the City of Kerrville. This item will be placed on each regular City Council meeting to provide an opportunity to discuss any pending bills, establish an official position on any pending bill, and officially authorize an individual to represent the City of Kerrville before an appropriate body.

Attached is a legislative update authored by the Texas Municipal League. This provides a comprehensive list and brief synopsis of each bill.

RECOMMENDED ACTION

Staff requests that the City Council review the list of bills and provide direction regarding any bill that is deemed of interest to the City of Kerrville.

March 8, 2013
Number 9

TML's Legislative Webinar Series: Don't Forget to Register!

From bag bans and texting while driving to funding for the state water plan and financial transparency, activity is heating up at the Capitol.

Find out about the bills filed in the final days before the filing deadline by participating in the League's *Legislative Webinar Training Series*. These webinars are the best and quickest way to get an update on what's happening in Austin, and to help protect your authority to govern your city as you see fit, without state interference.

The first webinar, "Legislative Status Report: the Countdown Begins," is scheduled for March 22. Please go to www.tml.org and click on "Training" for more information on that event and future webinars.

House Committee Considers Municipal Rate Case Participation

On March 5, the House Committee on State Affairs considered H.B. 1148 and H.B. 1149, which are two bills that could limit municipal participation in gas and electric rate cases.

Proponents of the bill spoke of "streamlining" the process by taking cities out of the process. They would prefer that rate cases go directly to the Railroad Commission or the Public Utility Commission. Their position is that, by removing cities from the equation, consumers would save money by not having to bear the costs of the cities' participation. (A city's lawyers and consultants are reimbursed through a utility's rates.)

Of course, nothing could be further from the truth. City participation in rate cases has saved consumers hundreds of millions of dollars, with relatively miniscule costs incurred by the cities. It is unlikely that the staff of any state agency has the resources or the wherewithal to accomplish those same results. In fact, municipal original jurisdiction over gas cases often results in settlement at the city level. Without it, a state agency would likely be overwhelmed.

Over a dozen city officials showed up to testify against the bills. Collectively, they argued that a city's original jurisdiction provides many benefits to consumers: (1) a city can take action to reduce rates or force concessions that benefit city residents when a monopoly utility company is overearning and the state agency refuses to take action; (2) a city can, particularly in gas rate cases, resolve a rate increase request at the local level, which helps to avoid costly litigation at the state level; (3) discovery that is begun at the local level reduces the amount of discovery necessary once a case gets to the state agency; and (4) local media is more likely to follow rate regulatory matters when the city is involved, which leads to greater transparency and greater citizen confidence that someone is looking out for their interests.

The two bills were left pending in the House Committee on State Affairs for now. To view the lengthy hearing, click here and fast forward to 2 hours and 49 minutes into the hearing.

Sequestration Update

Congress and President Obama failed to reach an agreement avoiding the sequestration (i.e., billions of dollars in automatic spending cuts in federal programs in order to reduce the federal deficit) by March 1, 2013. As a result, President Obama ordered broad cuts in federal government spending.

The sequester began with $85 billion in automatic spending cuts to defense and non-defense programs. Congress now has until March 27 to authorize general funding for the remainder of the 2013 fiscal year in order to prevent a federal government shutdown.

The spending cuts that are now in effect will be felt gradually in the weeks and months ahead. In a report released last September, the White House Office of Management and Budget provided preliminary estimates of the sequestration impact on more than 1,200 budget accounts. According to the report, the following cuts could affect cities:

- The Community Development Fund, which includes the Community Development Block Grant, could be cut by $279 million.
- The Home Investment Partnership Program could be cut by $82 million.
- Department of Justice State and Local Law Enforcement Assistance Grants could be cut by $92 million.

- The Community Oriented Policing Services Program could be cut by $13 million.
- Environmental Protection Agency State and Tribal Assistance Grants, which include funding for the Clean and Safe Drinking Water State Revolving Funds, could be cut by $293 million.
- FEMA State and Local Programs, which include Urban Area Security Initiative grants and the State Homeland Security Grant program, could be cut by $183 million.

The National League of Cities continues to work in Washington, D.C., to protect municipal interests.

Updated FMLA Poster: Post by March 8, 2013

The U.S. Department of Labor has issued a new Family and Medical Leave Act (FMLA) poster to accompany its updated FMLA regulations. All covered employers, including all cities, must post the new poster by **March 8, 2013.**

The text for the new poster is available at:
https://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf

Other posters that must be posted in your city workplace are discussed at:
http://www.tml.org/legal_pdf/EmplawPosters.pdf

Municipal Bond Exemption Update

The National League of Cities issued the following press release on February 27:

MAYORS, COUNTY AND LOCAL LEADERS OPPOSE MOVE TO CAP TAX-EXEMPT MUNICIPAL BONDS THAT WOULD HARM INFRASTRUCTURE, JOBS

For Immediate Release:

Washington, D.C. – The U.S. Conference of Mayors (USCM), The National League of Cities (NLC) and the National Association of Counties (NACo) today called on Congress and the Administration to reject any proposals to hamstring the financing of local infrastructure projects by changing the tax-exempt status of municipal bonds. Municipal bonds provide a low-cost and efficient way for cities and counties to finance much of America's critical infrastructure, including schools, hospitals, airports, water and sewer systems, and roads and bridges.

During a roundtable at the National Press Club held for reporters by mayors, county and local leaders of all three non-partisan organizations released a report to highlight the broad use of municipal bonds in more than thirty locales around the country. Municipal

bonds are the country's most important source of financing for vital infrastructure and are used to finance everything from multibillion transportation projects to school expansions in communities large and small.

"Municipal bonds are essential financing tools used by mayors and local officials in their communities," said USCM Vice President Mesa, AZ, Mayor Scott Smith. "Municipal bonds allow communities to build the streets, bridges, water lines, and police and fire stations that not only serve the needs of citizens, but also create jobs and drive the economy. Without them, our communities will suffer."

The joint report also shows in the last decade, state and local governments financed over $1.65 trillion of infrastructure investment using tax-exempt bonds—nearly all in just six categories:

- $514 billion in primary and secondary schools;
- $288 billion in hospitals;
- $258 billion in water and sewer facilities;
- $178 billion in roads, highways and streets;
- $147 billion in public power projects and;
- $106 billion in mass transit.

If the proposed 28-percent cap had been in effect during that time, the borrowing costs to states and localities of these bonds would have increased by $173 billion and would have prevented many infrastructure projects from moving forward. In 2012 alone, more than 6,600 tax-exempt municipal bonds financed over $179 billion worth of infrastructure projects – the bulk of which were primary and secondary education, water and sewer facilities, and hospitals.

Of the cap proposal, NACo President Chris Rodgers, Commissioner, Douglas County, Nebraska said, "Counties build, maintain and pay for much of America's infrastructure including schools, roads, water and sewer systems, airports, bridges and hospitals. Counties own and maintain 44 percent of the nation's roadways, 228,026 bridges and almost one third of the nation's transit systems and airports. Counties own 964 hospitals and 677 nursing homes. Tax-exempt municipal bonds are the single most important tool that counties use for financing our critical infrastructure. Any change to the taxation status of often voter-approved debt issued by counties risks local public works projects that benefit communities and puts into question the nature of the U.S. federalist partnership."

In effect, the 28-percent cap on tax-exempt interest would be borne almost exclusively by state and local governments in the form of higher interest rates on their borrowing. Market analysts have estimated that this proposed tax on municipal bond interest would raise state and local borrowing costs by up to 70 basis points (0.70 percentage point) or more. Because the tax would apply not only to new state and local borrowing, but also to all outstanding bonds, investors would be taxed on investment which they reasonably

expected would be tax-exempt as long as they are outstanding—an unprecedented form of retroactive taxation.

"Talk of eliminating the tax exemption on municipal bonds is more about politics—on both sides—than economics," says NLC representative Houston City Controller Ronald Green. "No one can argue about how cities, counties and states have utilized municipal bonds to great effect to finance their capital projects such as roads and highways, water projects, schools, libraries, fire stations and, while doing this, saving on interest costs with tax exempt 'muni' bonds. The yield from taxable bonds—if that was the only option for municipalities—would pale in comparison to the increased taxes residents would have to pay to fund infrastructure projects. Or, the alternative, simply to postpone needed projects."

Finally, local leaders explained that municipal bonds represent a partnership among the federal government, state and local governments, and private investors in contributing to public infrastructure, which creates jobs and improves economic efficiency. Tax-exempt bonds maintain decision-making and project selection at the state and local level, where citizens and elected officials can best determine where needs are greatest and where investments will generate the maximum return.

Tim Firestine, Chief Administrative Officer for Montgomery County, MD, President-elect of the Government Finance Officers Association and NACo representative, elaborated on the impact that uncertainty would create, "Our county has about $2.1 billion of general-obligation bonds outstanding at this time, on which we pay interest of $93 million a year. Eliminating or even capping the tax exemption on investors would cause them to look for higher-yielding investments and we would have to offer more interest to lure them back. This simply drives up the county cost to local taxpayers to maintain our infrastructure. [And] the burden will be transferred to the property tax."

The report concludes that curtailing or eliminating the tax-exemption would raise costs for financially strapped state and local governments, and would result in less investment in infrastructure, particularly at a time when jobs are scarce and the physical state of public works and infrastructure is deteriorating.

The Texas Commission on Fire Protection Seeks Committee Members

The Texas Commission on Fire Protection is seeking applicants for a new Head of Department ad hoc committee. The committee will review the newly-adopted head of department curriculum, as well as the rules, definitions, and guidelines for the head of department certification.

The commission is seeking a diverse applicant pool, including: (1) paid and volunteer chiefs of small, medium, and large departments; (2) heads of a variety of departments, including suppression/prevention and prevention-only departments; (3) city managers or county judges and administrators; and (4) fire service leaders with in-state and out-of-state experience.

To apply, go to http://www.tcfp.texas.gov/notices/HOD_ad_hoc_application.pdf. Contact Deborah Cowan at deborah.cowan@tcfp.texas.gov with questions. The commission will accept applications through April 19, 2013.

Significant Committee Actions

S.B. 53 (Zaffirini), relating to life support services provided by certain emergency medical services personnel. Reported from the Senate Committee on Health and Human Services.

S.B. 148 (Williams), relating to legal advice rendered to public servants. Reported from the Senate Committee on State Affairs.

S.B. 193 (West), relating to the exemption from ad valorem taxation of certain property used to provide low-income and moderate-income housing. Reported from the Senate Committee on Intergovernmental Relations.

S.B. 247 (Carona), relating to the transfer of property tax liens. Reported from the Senate Committee on Business and Commerce.

S.B. 259 (Carona), relating to telecommunications service markets. Reported from the Senate Committee on Business and Commerce.

S.B. 327 (Carona), relating to termination of franchises to provide cable or video service in municipalities. Reported from the Senate Committee on Business and Commerce.

S.B. 359 (Hinojosa), relating to the selection of certain members of the board of directors of an appraisal district. Reported from the Senate Committee on Intergovernmental Relations.

S.B. 411 (Carona), relating to regulation of temporary common worker employers. Reported from the Senate Committee on Business and Commerce.

City-Related Bills Filed

PROPERTY TAX

H.B. 1830 (N. Gonzalez) – Appraisal Process: would create a pilot program in El Paso county that would provide that, in an appraisal protest filed by a commercial or industrial property owner relating to a property with an appraised or market value of at least $1 million, the chief appraiser may file a request with the appraisal review board to compel the property owner to disclose to the chief appraiser information relating to the sales price, rate of occupancy, lease or rental income, or production capacity and income of the property that is the subject of the protest.

H.B. 1897 (Eiland) – Property Tax Exemption: would provide that, for purposes of the "Prop 2" property tax exemption for pollution control property: (1) a determination that a facility, device, or method is used wholly or partly for the control of air, water, or land pollution is effective January 1 of the year following the year in which the determination becomes final, or is finally determined on appeal; and (2) the executive director of the Texas Commission on Environmental Quality may require a person who is allowed an exemption for pollution control property in a prior year to file a new permit application or exemption request to confirm the person's current qualification for the exemption.

H.B. 1904 (Eiland) – Delinquent Tax Suits: would require a taxing unit to pay attorney ad litem fees in connection with a delinquent tax suit.

H.B. 1913 (Bohac) – Delinquent Taxes: would: (1) allow a city council to waive penalties and interest on a delinquent tax for any tax year preceding the tax year in which the owner acquired the property if: (a) the owner or another person liable for the tax pays the tax not later than 181 days after the date the property owner receives notice of the delinquent tax; and (b) the delinquency is the result of taxes imposed on omitted property entered into the appraisal records or erroneously exempted property or appraised value added to the appraisal roll; and (2) provide that the waiver of penalties and interest under (1), above, applies only to the tax lien on the property and does not relieve the person who owned or acquired the property on January 1 of the year for which the delinquent tax was imposed from any personal obligation for the accrued penalties and interest on the tax.

H.B. 1943 (Bohac) – Appraisal Cap: would reduce the property tax appraisal cap on homesteads from ten to five percent. (Please see **H.J.R. 102**, below.)

H.B. 1946 (Bohac) – Appraisal Cap: would: (1) limit re-appraisals of residential homesteads to no more often than once every two years; and (2) prevent taxable value increases in years in which homesteads are not re-appraised. (Note: the intended effect of this bill is to create a five-percent appraisal cap on homesteads, but its constitutionality—absent an accompanying constitutional amendment—is questionable.)

H.B. 1998 (Kleinschmidt) – Property Tax Exemption: would make land used for supporting outdoor education eligible for appraisal as open-space land for property tax purposes.

H.B. 2001 (Anchia) – Property Tax Exemption: would allow an applicant for a residence homestead property tax exemption who does not have a driver's license or state-issued personal identification certificate to apply for the exemption using a sworn-affidavit stating that: (1) the applicant does not have a driver's license or state-issued personal identification certificate; and (2) the property for which the applicant is claiming the exemption is the applicant's residence homestead.

H.B. 2024 (E. Rodriguez) – Tax Lien: would provide that a tax lien is perfected upon attachment of the lien, and that perfection requires no further action by the taxing unit except that the lien on personal property – including manufactured housing – requires recording of the lien under certain circumstances.

H.B. 2192 (Murphy) – Appraisal Process: would authorize a property owner to appeal through binding arbitration an appraisal review board order determining a protest filed due to unequal appraisal of the owner's property if the property is the owner's residence homestead and is valued at $1 million or less.

H.B. 2224 (Hilderbran) – Appraisal Districts: would, among other things: (1) impose training and licensing requirements on chief appraisers of appraisal districts; and (2) authorize the comptroller to appoint a chief appraiser for an appraisal district if the chief appraiser is ineligible to serve.

H.B. 2231 (Simmons) – Property Tax Exemption: would provide that a property owner is subject to additional taxes if the property owner conveys land that has been appraised as agricultural property to a person, state, or political subdivision who changes the use of the land, and the property owner regains possession of the land on or before the fifth anniversary of the conveyance and uses the land in a way that would have initially subjected the land to the additional tax.

H.B. 2314 (Otto) – Appraisal Districts: would: (1) require appraisal district board members to annually complete open government training and training relating to the operation of the appraisal district; and (2) provide that not completing the training makes a board member ineligible to continue to serve on the board.

H.B. 2324 (N. Gonzalez) – Delinquent Property Taxes: would provide that a delinquent property tax incurs a penalty of interest calculated at an annual rate that is equal to the most recent prime rate published by the Federal Reserve Board as of the first day of the month in which the tax becomes delinquent (capped at six percent) of the amount of the tax for the first calendar month it is delinquent, plus one percent for each additional month prior to July 1 of the year in which it becomes delinquent.

H.J.R. 102 (Bohac) – Appraisal Cap: would amend the Texas Constitution to authorize the legislature to reduce the property tax appraisal cap on homesteads from ten to five percent. (Please see **H.B. 1943**, above.)

S.B. 835 (Lucio) – Appraisal Cap: would provide that a replacement for a structure that was rendered uninhabitable or unusable by casualty or by wind or water damage is not considered to be a new improvement for property tax appraisal cap purposes if the disaster recovery program administered by the General Land Office required: (1) the square footage of the replacement structure to exceed that of the replaced structure; or (2) the exterior of the replacement structure be of higher quality construction and composition than that of the replaced structure.

S.B. 1030 (Taylor) – Property Tax Exemption: would provide a property tax exemption for energy storage systems used or constructed to wholly or partly meet environmental regulations that are located in a designated non-attainment area and have a capacity of at least ten megawatts.

S.B. 1076 (Hegar) – Appraisal Review Board: would require the appraisal review board to conduct a closed hearing if the property owner or the chief appraiser plans to disclose proprietary information at the hearing.

S.B. 1085 (Eltife) – Property Tax Exemption: would limit the types of individuals who qualify as heavy equipment inventory dealers for purposes of the property taxes imposed on heavy equipment inventory. (Companion bill is **H.B. 826** by **Harless**.)

SALES TAX

H.B. 1923 (Thompson) – Sales Tax Administration: would, among other things:

1. allow the comptroller to delegate to a person employed or designated by a city the power to investigate and examine the records of a person doing business in the state for local sales tax liability purposes;
2. require the comptroller to include in its additional report requested by a city certain information relating to local sales taxes, including: (a) a statement of the proportional allocation to the municipality of a partial payment of sales taxes; (b) a statement showing the tax periods covered by the delinquencies and the amount of delinquency during each period; and (c) a statement of the date by which the comptroller will make the appropriate allocation to a city, if the comptroller did not initially make the appropriate allocation;
3. if a city determines and reports to the comptroller that a person doing business in the city has wholly or partly collected or reported sales taxes incorrectly und the chapter, provide that the comptroller may provide additional information in response to the city's report, including: (a) a statement that the person is obligated for the municipal tax and the tax is delinquent, which must include: (i) a description of the action the comptroller is taking to collect the delinquent tax; (ii) an estimate of the delinquent tax due to the city and the tax periods covered by the delinquency; (iii) the date by which the comptroller will complete the review and the date by which the comptroller will make all delinquent funds available to the municipality; and (iv) the date and periods covered by the most recent audit of the person by the comptroller or a statement that the comptroller has not conducted an audit of the person; (b) a certification that the person is obligated for the city sales tax, including the periods for which the person is obligated for the city sales tax, the full amount of the tax due in each period that the person is obligated, and a statement as to whether the tax due has been credited to the city's account; or (c) a statement authorizing a person employed by or designated by the city to investigate and examine the records of the person doing business in the city that has wholly or partly collected or reported taxes incorrectly;
4. authorize a city to petition the comptroller for a redetermination if the city disagrees with a determination made by the comptroller;
5. authorize the comptroller to set and collect reasonable fees from a city to cover the expense of compiling and providing information or providing access to the administrative appeals process;
6. on the request of a city, require the comptroller to provide the city with information relating to the gross sales, taxable sales, and taxable purchases by each person doing

business in the municipality by individual outlet as reported to the comptroller on a sales and use tax return;

7. on the request of a city, require the comptroller to provide the city with a sales and use tax audit report related to applicable local sales tax collections and corrections, including any supporting documentation;
8. authorize a city that has adopted a sales tax to submit a clarification request to the comptroller for a determination of the appropriate location at which sales or uses were consummated, which may include a question in relation to specific sales or uses or may include a fact pattern relating to sales and uses;
9. require the comptroller to respond to the request by a city under (8), above, not later than 90 days after the date the comptroller receives the request, and allow the city to use the response from the comptroller in communications with a person, office, or outlet to encourage or compel compliance with state law.

H.B. 2047 (Lozano) – Sales Tax Exemption: would exempt certain tangible personal property and services related to mineral exploration and production from sales and use taxes.

H.B. 2271 (Morrison) – Sales Tax Exemptions: would: (1) provide that certain hurricane preparation items are exempt from sales taxes between the dates of May 25 and May 31; and (2) allow the comptroller to add items to the list of hurricane preparation items.

H.B. 2288 (Zerwas) – Sales Tax Exemption: would exempt from sales and use taxes hospital mattresses and intravenous systems, supplies, and replacement parts designed or intended to be used in the diagnosis, cure, mitigation, treatment, or prevention of disease, illness, injury, or pain in humans.

S.B. 859 (Deuell) – Sales Tax Exemption: would exempt from sales and use taxes the sale or use of tangible personal property used or consumed in qualified research or services if the property or services are sold to, leased or rented to, or stored, used, or consumed by, a person who is engaged in qualified research and will not claim a credit on a franchise tax report for the period during which the sale or use occurs.

S.B. 862 (Taylor) – Sales Tax Exemption: would provide that boats greater than 65 feet in length that are not used for commercial shipping are subject to the state-only sales tax on boats and boat motors, and therefore not subject to city sales and use taxes.

S.B. 935 (Davis) – Sales Tax Exemption: would exempt from sales and use taxes the services used to create a computer program and the sale or storage, use, or other consumption of a computer program if: (1) the computer program is sold by the creator to a purchaser; (2) the computer program is created at the request of the purchaser; (3) the exclusive rights to the computer program are transferred from the creator to the purchaser; and (4) the computer program is created: (a) without the use of existing programming code; or (b) with the use of existing programming code only if the existing programming code is available for use without charge by everyone.

S.B. 997 (Deuell) – Sales Tax Sourcing: would provide that, if a retailer has more than one place of business in the state, the consummation of a sale of a taxable item does not take place where the retailer first receives the order if: (1) the taxable item is shipped or delivered from a warehouse that: (a) is located in a city with a population of 5,000 or less; (b) is a place of business of the retailer; (c) the retailer entered into an economic development agreement with a city or an economic development corporation prior to January 1, 2009; and (d) the city provided information relating to the economic development agreement to the comptroller as provided by state law; and (2) the place of business of the retailer at which the retailer first receives the order is a retail outlet that is served by the warehouse. (Companion bill is **H.B. 1466** by **Hughes**.)

PURCHASING

H.B. 1977 (Kuempel) – Construction Managers: would provide that: (1) a governmental entity's construction manager-agent for a project may not serve, alone or in combination with another person, as the project's construction manager-at-risk; and (2) a construction manager-at-risk contract may not be awarded to a governmental entity's engineer, architect, construction manager-agent, or program director or certain related entities, with certain exceptions.

H.B. 1994 (Reynolds) – Commodity Items: would allow a state agency to purchase certain information technology commodity items through a contract developed by certain local government purchasing cooperatives if the commodity item is unavailable for purchase under an existing contract developed by the Department of Information Resources.

ELECTIONS

H.B. 1840 (Wu) – Elections: would provide that a poll watcher shall wear a badge that prominently displays the words "Poll Watcher" while the watcher is observing election activity. (Companion bill is **S.B. 160** by **Huffman**.)

H.B. 600 (Taylor) – Military and Overseas Voter Empowerment (MOVE) Act: would, among other things: (1) require the secretary of state to make a checklist or similar guidelines available for optional use by early voting clerks in processing an application and providing balloting materials to a military or overseas voter; and (2) repeal the authority of the secretary of state to adjust or modify election dates or procedures affected by the state implementation of the MOVE Act. (Companion bill is **S.B. 904** by **Van de Putte**.)

H.B. 666 (R. Miller) – Voting by Mail: would provide that an application for a ballot to be voted by mail is considered to be an application for a ballot for each election in which the county clerk serves as early voting clerk if the application: (1) is submitted to the county clerk indicating the grounds of eligibility is age or disability; and (2) does not specify the election for which a ballot is requested.

H.B. 1837 (Wu) – One-Stop Early Voting: would (1) create a one-stop early voting polling place for the general election for state and county officers; and (2) provide that a person shall be accepted during early voting by personal appearance at a one-stop voting location for voting the

ballot for the precinct of the person's residence as shown by the identification presented on the day the person offers to vote.

H.B. 1838 (Wu) – Voter Registration: would provide that either an active or discharged military person who is eligible to vote shall be accepted for voting in the precinct of the person's residence on the day the person offers to vote if the person: (1) submits a voter registration application; (2) presents a United States military identification card that contains the person's photograph; (3) presents a deployment order indicating that the person was deployed on or after the 60th day before election day; and (4) presents proof of residence.

H.B. 1839 (Wu) – Voter Registration: would provide that a senior citizen or a person with a disability who is not registered to vote shall be accepted for voting in the precinct of the person's residence as shown by identification presented at the polling place; and (2) an election officer serving a polling place for early voting by personal appearance is a deputy voter registrar and has the same authority as a regular deputy registrar.

H.B. 1911 (Klick) – Election Dates: would, among other things: (1) set the general primary date as the first Saturday in March of each even-numbered year; and (2) set the primary runoff date as the fourth Saturday in May following the general primary election.

H.B. 1958 (Turner, Sylvester) – Elections: would provide that the secretary of state shall adopt rules and procedures to inform and educate the public and to provide training for election officers regarding the availability of voting to voter who is physically unable to enter a polling place.

H.B. 2006 (Klick) – Central Station Manager: would provide that person who is an employee of the political subdivision that adopts or owns a voting system may be eligible for appointment as the central station manager.

H.B. 2023 (Rodriguez) – Early Voting: would allow a person to vote a limited ballot by personal appearance at any early voting polling place.

H.B. 2093 (Harless) – Early Voting: would provide that: (1) the period for early voting by personal appearance begins on the 10th day before election day and continues through the fourth day before election day; and (2) early voting shall be conducted on each weekday and Saturday of the early voting period and during the hours that the county clerk's or city secretary's main business office is regularly open for business. (Companion bill is **H.B. 2106** by **Aycock**.)

H.B. 2106 (Aycock) – Early Voting: this bill is the same as **H.B. 2093**, above.

H.B. 2110 (Kolkhorst) – Election Officers: would provide that: (1) a person is ineligible to serve as an election judge or clerk in an election if the person is employed by or related within the second degree to an officer in any precinct in which the office appears on the ballot; and (2) each election officer shall be issued a form of identification by the secretary of state to be displayed by the officer during the officer's hours of service at the polling place.

H.B. 2262 (R. Miller) – Early Voting: would, among other things, provide that: (1) the secretary of state shall prescribe a system for assigning a confidential early voting by mail audit number to each registered voter; (2) a person commits a misdemeanor if the person discloses an early voting by mail audit number to a person other than the voter; (3) the voter's early voting by mail audit number must be contained on the voter registration certificate; (4) an application for ballot voted by mail may be submitted via e-mail containing a scanned image of the application, if the clerk has an e-mail address; (5) the early voting clerk shall deliver to the early voting board a list of early voting by mail audit numbers for those voters who requested an early voting by mail ballot; and (6) a poll watcher may challenge the acceptance of any early voting by mail ballot by calling attention to an irregularity or violation to a chair of the early voting ballot board.

H.B. 2306 (Thompson) – Early Voting: would provide: (1) that a qualified voter is eligible for permanent mail voter status if the voter is: (a) 65 years of age or older on election day; or (b) has a sickness or physical condition that prevents the voter from appearing at the polling place; (2) for procedures to implement permanent mail voting; and (3) that the early voting clerk shall notify the early voting clerks serving every authority that orders elections in the clerk's jurisdiction of the voter's permanent mail voter status.

H.B. 2317 (Aycock) – Elections: would provide that the early voting clerk authorized to order early voting on a Saturday or Sunday shall order such voting on receipt of a written request submitted by at least 50 registered voters of the territory covered by the election.

S.B. 904 (Van de Putte) – Military and Overseas Voter Empowerment Act: this bill is the same as **H.B. 600**, above.

S.B. 910 (Duncan) – Elections: would, among other things, provide that: (1) a delivery, submission, or filing of a document or paper may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission; (2) the secretary of state shall determine whether the information required to be filed for a death must be filed electronically and inform the appropriate entities of the determination; (3) a person employed by a county solely as an early voting clerk is not employed by a candidate and may serve as an election judge or clerk; (4) an election for an office for which candidates are not nominated by primary election may not be held within 30 days before or after the date of the general election for state and county officers, general primary election, or runoff primary election; (5) the secretary of state may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses a direct recording electronic voting machines, to conform to the formatting requirements of the system; (6) an election officer shall conduct the same procedures to a person who is unable to enter a polling place during early voting as election day; (7) the balloting materials for voting by mail may be mailed to the residence address provided on the early voting ballot application or the registered mailing address if different, if the early voting clerk provides a form for a statement of residence; and (8) dates and deadlines for filing various applications are modified.

S.B. 928 (Paxton) – Electioneering: would provide that a public building selected as a polling place shall not prohibit or restrict electioneering, including but not limited to posting political

signs, on the buildings premises outside the prescribed limits within which electioneering is prohibited during the early voting and on election day.

OPEN GOVERNMENT

H.B. 2190 (Turner) – Personal Financial Statements: would make various changes to the contents of the personal financial statements filed by public officials and candidates in cities with a population of 100,000 or greater.

H.B. 2246 (Harper-Brown) – Public Information: would: (1) allow, in a suit filed under the Public Information Act, the information at issue to be filed with the court for in camera inspection; and (2) require the court, upon receipt of information for in camera inspection, to enter an order preventing the release to or access by any person other than the court, a court of appeals, or parties permitted to inspect the information. (Companion bill is **S.B. 983** by **Ellis**.)

S.B. 881 (Ellis) – Public Information: would: (1) designate information that is confidential by law as publicly available information on or after the 75th anniversary of the date the information was originally created or received by the governmental body or after the expiration of a specified period for maintaining the confidentiality of the information; and (2) except from (1), above, certain archeological or historical resources and landmarks and certain social security numbers.

S.B. 983 (Ellis) – Public Information: this bill is the same as **H.B. 2246**, above.

S.B. 984 (Ellis) – Open Meetings: would: (1) provide that a meeting of a state governmental body or a governmental body that extends into three or more counties may be held by videoconference call if the member of the governmental body presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting (current law requires a quorum to be physically present); (2) require that the notice of a meeting described in (1), above, specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location; and (3) require that the location where the member of the governmental body presiding over the meeting is physically present as described in (1), above, and each remote location from which a member of the governmental body participates have two-way communication with each other location during the entire meeting. (Companion bill is **H.B. 1749** by **Perry**.)

S.B. 988 (Hegar) – Public Information: would: (1) except from public disclosure records of telephone calls, text messages, e-mails, or other electronic communication to which a peace officer is a party; (2) provide that communications described in (1), above, are subject to disclosure under an appropriate court order, subpoena, or order compelling disclosure in discovery; and (3) authorize a law enforcement agency or officer to redact information described in (1), above, without requesting a decision from the attorney general.

OTHER FINANCE/ADMINISTRATION BILLS

H.B. 7 (Darby) – Dedicated Revenue: would: (1) provide that the legislative budget board shall take various measures to reduce state government's reliance on dedicated revenue for the purposes of certification of the state budget; (2) lower the amount of the current solid waste "tipping fee" and provide that the portion of the tipping fee that goes to local and regional solid waste projects is reduced by 25 percent (form two-thirds to one-half of total collections); (3) authorize 9-1-1 fee revenue to be appropriated to the Texas A&M Forest Service for providing assistance to volunteer fire departments; (4) authorize funds in the trauma facility and emergency medical services account (funded through the state's portion of municipal red light camera fines) to go to the Texas Higher Education Coordinating Board for graduate-level medical education programs or nursing education programs.

H.B. 1861 (Dutton) – Service of Process: would allow a city officer to be served with citation, notices, writs, orders and other papers issued by a court in a suit by delivery: (1) in person: (a) to the person to be served; (b) to a coresident, who is at least 16 years of age, of the person to be served at the person's place of residence; (c) to an agent authorized by appointment or by law to receive service of process on behalf of the person to be served; or (d) in certain instances, to a person of suitable age, discretion, and authority at the principal office of the person to be served; or (2) by registered or certified mail to the place of residence of the person to be served.

H.B. 1864 (Wu) – Combined Heating and Power Systems: would mandate that the State Energy Conservation Office establish procedures for a governmental entity's evaluation, when constructing or extensively renovating a critical governmental facility or replacing major heating, ventilation, and air-conditioning equipment for a critical governmental facility, of whether equipping the facility with a combined heating and power system would result in expected energy savings that would exceed the expected costs of purchasing, operating, and maintaining the system over a 20-year period.

H.B. 1886 (Farias) – Payday and Auto Title Lending: would subject payday and motor vehicle title lenders to a number of regulations, including: (1) a requirement that all credit services organizations provide documents to a consumer that are written in the language in which the contract is negotiated that is easily understood by the average consumer and printed in an easily readable font and type size; (2) a prohibition on a credit services organization to assist a consumer with, or charge a consumer a fee in connection with, a loan or other extension of credit that is not in the form of a payday transaction or motor vehicle title loan; (3) a requirement that the amount of a payday loan may not exceed 20 percent of a consumer's gross monthly income; (4) a requirement that the amount of a motor vehicle title loan may not exceed three percent of a consumer's gross annual income or 70 percent of the retail value of the motor vehicle; (5) a requirement that a multi-payment payday or motor vehicle title loan may not be payable in more than four installments that must repay at least 25 percent of the principal amount of the debt, and may not be refinanced or renewed; (6) a requirement that a single payment payday or motor vehicle title loan may not be refinanced or renewed more than three times, with proceeds from each refinancing or renewal being used to repay at least 25 percent of the principal amount of the original debt; and (7) a requirement that any extension of consumer credit made to a consumer on or before the seventh day after the date the consumer has paid a previous extension of consumer credit made by the same person is considered a refinance or renewal of the previous debt.

H.B. 1917 (Rodriguez) – Alcohol Advertising: would: (1) allow a public bus or taxi to advertise alcohol if it operates primarily in an entertainment district of a city; and (2) allow a city to define the boundaries of such an entertainment district.

H.B. 1950 (Thompson) – State Regulation: would repeal the criminal penalties for violations of certain regulatory laws, including those for day laborer employers, property tax appraisers, collectors, and assessors, industrialized housing companies, and other occupations regulated by the Texas Department of Licensing and Regulation. (Companion bill is **S.B. 972** by **Carona**.)

H.B. 1982 (Murphy) – Enterprise Zones: would authorize a county to nominate for designation as an enterprise project a project or activity of a qualified business that is located in the county and in the extraterritorial jurisdiction of a city primarily located in a different county.

H.B. 1983 (Murphy) – Municipal Debt: would: (1) require every city to prepare an annual financial report that contains financial information for each city fund, as well as a significant amount of information relating to the city's debt obligations; and (2) require a city to maintain an Internet website on which it posts the annual financial report continuously along with the city's relevant contact information.

H.B. 1984 (Murphy) – Enterprise Zone: would: (1) allow an enterprise project designation to be split in half; (2) provide that the maximum number of jobs that the Texas Economic Development Bank may allocate to an enterprise project that was split in half is 250; and (3) provide that a half enterprise project is eligible for a maximum refund of $125,000 in each state fiscal year.

H.B. 2019 (Craddick) – Payday Lending: would provide that an extension of consumer credit by a credit services organization is subject to the state's usury laws.

H.B. 2021 (E. Rodriguez) – Debt Collection: would authorize a county or city to contract with a private attorney or public or private vendor for the collection of a debt owed in relation to a civil case if the debt is more than 60 days overdue, and to collect a fee of not more than 30 percent of the amount collected in order to compensate the attorney or vendor.

H.B. 2064 (Gooden) – Unsworn Declaration: would allow a city or state agency employee to file an unsworn declaration that does not include their birth date or residence.

H.B. 2078 (Thompson) – Mixed Beverage Tax: would create an additional one-cent mixed beverage tax dedicated to the crime victim compensation fund.

H.B. 2167 (Davis) – Forfeiture of Office: would: (1) provide that a person holding an elected or appointed state or local office forfeits that office if the person: (a) willfully fails to enforce a state or federal law in the course of the person's official duties; (b) directs others subject to the person's supervision or control not to enforce a state or federal law; or (c) states orally or in writing that the person does not intend to enforce a state or federal law in the course of the person's official duties; (2) except from (1), above, laws that have been held invalid by or

challenged in a court with jurisdiction over the territory served by the officer; and (3) provide that a person found guilty under (1), above, is removed from office and disqualified from public office for a period of ten years.

H.B. 2176 (Kolkhorst) – Certificates of Obligation: would: (1) provide that, except in a case of grave public necessity to meet an unusual and unforeseen condition, a city may not issue a certificate of obligation (CO) if the voters voted down a bond proposition for the same purpose within the preceding three years; (2) extend the timeframe to publish newspaper notice of intention to issue a CO from 30 to 45 days before the passage of the ordinance; (3) require a city issuing a CO to maintain an Internet website, and to continuously post notice of intention to issue a CO on its website for 45 days before the passage of the CO issuance ordinance; (4) require that the notice of intention to issue a CO include: (a) the total amount and per capita amount of the principal of all outstanding debt; (b) the combined principal and interest required to pay all outstanding debt; (c) the principal of the COs to be authorized; (d) the estimated combined principal and interest required to pay the COs to be authorized; (e) the estimated rate of interest for the COs to be authorized; (f) the maturity date of the bonds to be authorized; and (g) the process by which a petition may be submitted requesting an election on the issuance of the certificates; (5) change the threshold number of voters needed to petition to force an election on the issuance of a CO from five percent of the qualified voters of the issuer to five percent of the total number of voters that voted in the most recent gubernatorial general election in the city; and (6) make COs issued for personal or professional services subject to the notice requirements.

H.B. 2198 (Anchia) – Pension Review Board: this is the Pension Review Board sunset bill. Of interest to cities, the bill would: (1) continue the Pension Review Board until 2025; (2) authorize the board to provide training to retirement trustees and administrators; (4) exempt some fire fighter pension plans from the certain state law requirements; (5) require an audit for a public retirement system that is separate from a governmental entity's general audit; (6) require that a public retirement system inform its participants within 31 days of any significant change in the ordinances or regulations of the system that could affect contributions, benefits, or eligibility; and (7) eliminate certain actuarial valuations for defined contribution plans. (Companion bill is **S.B. 200** by **Patrick**.)

H.B. 2259 (Moody) – City Council Attendance: would provide that a city councilmember in a type A general law city is considered to have an unexcused absence if he or she departs before a meeting is adjourned, unless a unanimous vote of the rest of council allows the departure.

H.B. 2281 (Phillips) – Abandoned Motor Vehicles: would, among other things, provide that a person applying to the Department of Motor Vehicles to dispose of an abandoned motor vehicle must, on the filing of the application, give the same type of notice as does a law enforcement agency that takes an abandoned vehicle into custody.

H.B. 2315 (Villarreal) – Consumer Loans: would authorize the Texas Finance Commission to prescribe by rule the maximum amount of an administrative fee and acquisition charge associated with certain consumer loan contracts.

H.B. 2319 (Parker) – Overnight Shelters: would: (1) prohibit a city from adopting an ordinance, or enforcing an existing ordinance, that prohibits a church from providing overnight shelter for children 17 years of age and younger; (2) provide that a city ordinance or regulation that relates to the safe and sanitary operation of a homeless shelter applies to a church that provides overnight shelter for children; and (3) make a church immune from civil liability for any act or omission resulting in injury to a child or in damage to or loss of a child's property while the child is using a church as an overnight shelter, unless the act or omission is intentional, willful, wantonly negligent, or done with conscious indifference or reckless disregard for the safety of others.

H.J.R. 105 (Taylor) – State Agency Rules: would amend the Texas Constitution to provide that the legislature by general law may provide for legislative review or approval of rules adopted by agencies in the executive department, including procedures regarding rules; conditions for rules to take effect; and provisions for the suspension, repeal, or expiration of rules.

S.B. 18 (Carona) – Windstorm Insurance: would provide comprehensive reform of the Texas Windstorm Insurance Program by, among many other things: (1) creating a state-managed pool (the Texas Property Insurance Program) in which private insurers would be forced to cover wind and hailstorm policies currently covered by the Texas Windstorm Insurance Association; (2) funding reforms through surcharges (in an amount of five percent for those located in a catastrophe area (e.g., coastal regions) and one percent for those located outside of a catastrophe area (e.g., inland counties)) on all property and automobile policies that are issued or renewed on or after Jan. 1, 2014, that are deposited to a state-managed Catastrophe Reserve Trust Fund used to pay damages from storms.

S.B. 19 (Carona) – Catastrophe Loss Mitigation: would provide that: (1) the Texas Insurance Commissioner, in cooperation with the office of public insurance counsel, shall develop and implement statewide emergency preparedness and loss mitigation programs designed to reduce potential insured residential property losses; (2) the Texas Department of Insurance or the office of public insurance counsel, jointly or severally, may enter into agreements with any individual or entity, including a political subdivision, a state or federal agency, a trade association, a university, or a nonprofit entity or other private entity as appropriate to implement this bill; (3) the Texas Windstorm Insurance Association, at the direction of the commissioner, shall provide money to provide funding for grants available only to residential property owners in the seacoast territory; (4) the commissioner by rule may identify actuarially justified: (a) premium credits that may be given for a residential property insurance policy if mitigation measures been implemented, added, or installed in an insured structure; or (b) premium surcharges that may be imposed by an insurer for a residential property insurance policy if the insured structure or the construction of the structure does not meet building code standards adopted by the commissioner by rule; (5) the current law relating to county building code authority is expanded, including a requirement that a county shall require the issuance of a certificate of compliance as a precondition to obtaining utility services; (6) a roofing contractor advisory board is created to provide advice and recommendations to the commission on the adoption of rules governing the repair of a roofing system; (7) a person may not act as or offer to act as a roofing contractor unless the person holds a license issued by the Department of Insurance under the bill; and (8)

the license under the bill is in addition to any required licensure of persons in this state, and the bill is not intended to conflict with or affect the authority of any state or local agency, board, or department that administers or enforces any law or ordinance or that establishes, administers, or enforces a policy, rule, qualification, or standard for a trade or profession.

S.B. 843 (Paxton) – Special Districts: would, among other things, require the comptroller to create an Internet database containing information relating to special districts, including sales and use tax rates and property tax rates for each district, and update the information in the data base regarding taxes annually.

S.B. 933 (Davis) – Local Parks Funding: would repeal the state law prohibiting the state comptroller from crediting to the Parks and Wildlife Department or the Texas Historical Commission any amount of taxes imposed on the sale of sporting goods in excess of the amounts appropriated to the department or commission, respectively. (Companion bills are **H.B. 162** by **Larson** and **S.B. 175** by **Estes**.)

S.B. 936 (Davis) – State Budget: would provide that: (1) the legislative budget board shall: (a) develop and implement a process to review new legislative enactments that create dedicated revenues and the appropriation and accumulation of dedicated revenues and available dedicated revenues; (b) develop and implement tools to evaluate the use of available dedicated revenues for state government financing and budgeting; and (c) develop specific and detailed recommendations on actions the legislature may reasonably take to reduce state government's reliance on available dedicated revenues for the purposes of state budget certification; (2) the availability of dedicated fee revenues for purposes of state budget certification is limited through a phase-in process culminating in 2021; and (3) interest or other earnings that accrue on unspent dedicated fees are available for any general governmental purpose, and the comptroller shall deposit the interest and earnings to the credit of the general revenue fund.

S.B. 972 (Carona) – State Regulations: would repeal the penalties for violations of certain regulatory laws including those for day laborer employers, property tax appraisers, collectors, and assessors, industrialized housing companies, and other professionals. (Companion bill is **H.B. 1950** by **S. Thompson**).

S.B. 998 (Davis) – Payday and Auto Title Lending: would prohibit a credit access business from assisting a consumer in obtaining a payday or motor vehicle title loan unless the loan contract provides that the lender must accept partial repayment of the principal balance of the loan from the consumer, with no additional fees or penalties, at any time during regular business hours.

S.B. 999 (Davis) – Payday and Auto Title Lending: would provide that state law regulating payday and motor vehicle title loans does not preempt a municipal ordinance regulating a credit access business or an extension of consumer credit that a credit access business obtains for a consumer or assists a consumer in obtaining.

S.B. 1000 (Davis) – Payday or Auto Title Lending: would expressly authorize a city to adopt an ordinance that regulates the fees that may be charged to a borrower in connection with a payday or motor vehicle title loan.

S.B. 1001 (Davis) – Payday or Auto Title Lending: would provide that payday and motor vehicle title lenders are subject to the same level of state regulation and oversight as other credit services organizations, and cannot assist a consumer in obtaining an extension of credit that is not in the form of a payday or motor vehicle title loan. (Companion bill is **H.B. 786** by **E. Rodriguez**.)

S.B. 1081 (Lucio) – Structural Engineering: would create a new classification of "structural engineer" in the Texas Engineering Practices Act and would provide that a person may not practice structural engineering without a certificate issued by the Texas Board of Professional Engineers.

S.J.R. 41 (Davis) – Payday and Auto Title Lending: would amend the Texas Constitution to provide that any fee charged by a third party to a borrower for arranging or otherwise facilitating an extension of consumer credit that is used primarily for personal, family, or household purposes and is unsecured or secured by a non-purchase money security interest in personal property is attributable to the lender and included in the computation of interest for purposes of regulating interest rates.

MUNICIPAL COURTS

H.B. 1921 (Thompson) – Prosecutors: would prohibit the Commission for Lawyer Discipline from giving a private reprimand for a violation of a disciplinary rule that requires a prosecutor to disclose to the defense all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense. (Companion bill is **S.B. 825** by **Whitmire**.)

H.B. 2025 (Capriglione) – Jurisdiction: would clarify that the provision in current law allowing a city to enter into an agreement with a contiguous city to establish concurrent jurisdiction of the municipal courts applies to an offense committed or conduct that occurs before, on, or after May 19, 2011.

H.B. 2040 (Giddings) – Complaints: would: (1) prohibit a police officer from issuing a citation to a child who is alleged to have committed a school offense; (2) allow a school to file a complaint against a child who is alleged to have committed a school offense with a criminal court; and (3) provide additional requisites for a school offense complaint, including a statement from a school employee.

H.B. 2230 (Wu) – Order of Nondisclosure: would: (1) require a filing fee of $50 for a petition for an order of nondisclosure of criminal history record information; (2) allow a defendant to petition a municipal court for an order of nondisclosure, if the defendant was convicted or granted a dismissal by the municipal court; and (3) allow the court to require the defendant to perform community service, pay a fee, or both as a condition to granting the petition.

H.B. 2266 (Larson) – Child Defendants: would: (1) require a defendant who is a child to elect in writing at the time of conviction to either discharge the fine and courts costs by performing community service or making payments; (2) prohibit all records and files relating to a child from being disclosed to the public, except in very limited circumstances; (3) prohibit a child on school property from being issued a citation; (4) provide additional requisites for a complaint charging a child with the commission of a Class C misdemeanor; (5) allow an attorney representing the state to adopt rules pertaining to the filing of a complaint that the state considers necessary in order to determine probable cause, review the allegations for legal sufficiency, and see that justice is done; (6) require that a court where there is a pending complaint against a child alleging a violation of a misdemeanor offense punishable by fine only, other than a traffic offense, waive its jurisdiction and refer the child to juvenile court if the court has previously dismissed a complaint because of mental illness or disability; (7) amend the Penal Code to: (a) prohibit a person younger than 10 years of age from being prosecuted for a misdemeanor punishable by fine only or a city ordinance violation; and (b) create a presumption that a person between the ages of 10 and 15 is incapable of committing a misdemeanor punishable by fine only or violating a city ordinance; and (8) create a defense to criminal responsibility for a child with a mental illness, developmental disability, or lacking the capacity to understand the proceedings in criminal court.

H.J.R. 100 (Dutton) – Judicial Sanctions: would amend the Texas Constitution to expand the ability of the State Commission on Judicial Conduct to sanction a judge. (Companion resolution is **S.J.R. 42** by **Huffman**.)

S.B. 825 (Whitmire) – Prosecutors: this bill is the same as **H.B. 1921**, above.

S.B. 915 (West) – Juvenile Records: would require the automatic sealing of the records in the case of a person who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision, if a court finds that the defendant is: (1) sixteen years of age or younger and two years have elapsed since the final discharge; or (2) seventeen years of age or older and before the person's 17th birthday, the defendant was finally discharged or the last official action in the person's case occurred if there was no adjudication.

S.B. 966 (West) – Judicial Branch Certification Commission: would establish the Judicial Branch Certification Commission to oversee the regulatory programs for court reporters, appointed guardians, and court interpreters.

S.J.R. 42 (Huffman) – Judicial Sanctions: this bill is the same as **H.J.R. 100**, above.

COMMUNITY AND ECONOMIC DEVELOPMENT

H.B. 866 (Paxton) – Technology Centers: would allow a local government, including a city, to request to be considered for a contract with a state technology center for the center to provide the city with technological services or operations. (Companion bill is **H.B. 1744** by **Elkins**.)

H.B. 1832 (R. Miller) – Military Airport Zoning: would grant to certain cities and counties certain additional zoning authority over an area that extends not more than five nautical miles

from the centerline and not more than five nautical miles from each end of the paved surface of the landing strip at an air force facility.

H.B. 1874 (Lewis) – Eminent Domain: would provide that a city may appeal an interlocutory order of a statutory probate court. (Note: certain probate courts have jurisdiction over eminent domain matters, and this bill would authorize appeals from those courts as is allowed from other trial courts under current law.) (Companion bill is **S.B. 1083** by **Rodriguez**.)

H.B. 1888 (Anchia) – Low Income Housing: would change the definition of an at-risk development for the purpose of awarding low income housing tax credits to include a development that proposes to rehabilitate or reconstruct certain public housing and Section 9 units.

H.B. 1908 (Eiland) – Venue Projects/Hotel Occupancy Taxes: would: (1) limit the definition of "venue" for purposes of a venue project by excluding civic centers, civic center buildings, auditoriums, and exhibition halls from the permissible types of venue projects; (2) require a ballot proposition authorizing the imposition of a hotel occupancy tax to support a venue project to include specific ballot language that lists the maximum hotel occupancy tax rate imposed from all sources; and (3) prohibit a city or county from proposing a hotel occupancy tax rate that would cause the combined hotel occupancy tax rate imposed from all sources at any location in the city or county to exceed 17 percent of the price paid for a room in a hotel. (Note: City officials should carefully check the following in relation to this bill: (1) current total hotel occupancy tax rate; (2) plans for future city venue projects; and (3) how those plans would be impacted by a 17-percent cap on total hotel occupancy tax rates. Cities with concerns should contact Shanna Igo, TML Deputy Executive Director, at sigo@tml.org.)

H.B. 1912 (Elkins) – Public Improvement Districts: would, among other things:

1. authorize a public improvement district to include two or more noncontiguous areas separated by: (a) a right-of-way or other land dedicated to governmental, tax-exempt, charitable, or utility entities; or (b) not more than 2,500 feet between the nearest points on the property lines of the closest situated noncontiguous areas;
2. authorize a public improvement district project to be undertaken inside or outside a public improvement district if the project confers a special benefit on property inside the district;
3. expand the list of proper public improvement district projects to include: (a) acquisition, construction, improvement, or rerouting of rail facilities; (b) the right to receive water, wastewater, or drainage services, the right to acquire a certificate of convenience and necessity to provide those services, and the obligation to pay service-related costs and expenses (including tap fees, connection fees, and impact fees authorized by law); (c) the establishment or improvement of open spaces and recreation facilities; and (d) facilities or equipment for firefighters, police, sheriffs, and emergency service providers;
4. authorize a public improvement project to be conveyed or provided to, or for the benefit of, another political subdivision or other entity approved by the city council;
5. provide that a public improvement project may include the acquisition, construction, or improvement of facilities used for higher education;

6. provide that the failure of a property owner to receive notice of a proposed district does not invalidate the public hearing held on the district;
7. allow a city to publish a caption of the resolution authorizing the district, instead of the entire resolution;
8. provide that the 20-day waiting period to begin construction or acquire an improvement may be waived at any time if two-thirds of the property owners within the district file a written waiver with the city secretary;
9. authorize the governing body of a city or county to dissolve a district by resolution approved by two-thirds of the governing body (in addition to process to dissolve by petition of property owners) , so long as governing body holds a hearing and mails notice of the dissolution to each property owner in the district;
10. authorize the governing body of a city or county to exclude all or a portion of an owner's property from the district, or include an owner's property in the district, if the governing body receives a petition from the owner, publishes notice and holds a public hearing on the exclusion or inclusion, and adopts a resolution excluding or including the property;
11. authorize a county commissioners' court to include property in a home rule city's extraterritorial jurisdiction in a district unless the city objects to the inclusion of the property within 30 days;
12. provide that a city or county is responsible for payments against exempt municipal or county in the district only if payment is expressly authorized by the governing body of the city or county;
13. provide for a flexible assessment plan to provide for various development scenarios, and allow an assessment to vary from a proposed service plan, proposed assessment plan, or proposed assessment roll so long as the total cost of an assessment does not exceed the cost of improvements provided in the notice of assessment roll;
14. authorize a city to issue bonds or certificates of obligation to: (a) pay costs; (b) refund any obligations like installment sales contracts, reimbursement agreements, time warrants, or temporary notes; or (c) be payable from and secured by special assessments;
15. provide that an assessment or obligation issued that is payable and secured by the assessment, does not constitute a debt or pledge of the full faith and credit of the city or county, State of Texas, or any other political subdivision or agency of the state.

(Companion bill is **S.B. 968** by **West**.)

H.B. 1935 (Schaefer) – Economic Development Corporations: would: (1) authorize a Type A or Type B economic development corporation to make expenditures for general infrastructure improvements, including: (a) transportation facilities; (b) solid waste disposal facilities; (c) sewage facilities; (d) facilities for furnishing water to the general public; (e) air or water pollution control facilities; (f) airports or airport-related facilities; and (g) ports or port-related facilities; and (2) provide that an election on the adoption of a proposed sales and use tax for the benefit of a Type A or Type B corporation has no effect unless 25 percent of the registered voters of the municipality vote in the election in which the adoption of the sales and use tax is on the ballot.

H.B. 1988 (Perry) – Building Materials: would provide that: (1) corrugated stainless steel tubing in each residential dwelling constructed in this state must conform to the standards of the

2008 International Residential Code or to a version of that code that is adopted by ordinance of the largest municipality in the county in which the dwelling is located and that is at least as stringent as the 2008 version of that code; and (2) corrugated stainless steel tubing in each commercial structure constructed in this state must conform to the minimum standards adopted by state fire marshal order.

H.B. 2048 (Lozano) – Rural Economic Development: would create the Texas Rural Development Fund as an account in the state's general revenue fund, which would consist of legislative appropriations and donations, and that funds may be spent in rural areas of the state on entrepreneurship programs, regional planning, rural leadership enhancement, and rural youth corps programs.

H.B. 2062 (J. Davis) – Plumbers: would provide that: (1) the installation, repair, and service of equipment for rainwater harvesting is considered "plumbing" for purposes of state law; and (2) a water supply protection specialist is authorized to treat rainwater or repair rainwater harvesting systems.

H.B. 2170 (E. Rodriquez) – Emergency Services District: would provide that an annexation plan that includes the annexation of territory of an emergency services district may provide that the required fire and police protection and emergency medical services in the area of the district be provided by the district or by cooperation of the city and the district.

H.B. 2171 (E. Rodriguez) – Emergency Services District: would clarify current law to require that a city must provide an emergency services district written notice of removal of territory from the district only if the city intends to be the sole provider of emergency services to the territory.

H.B. 2181 (Stephenson) – Economic Development Corporations: would provide that a proper project to be funded by an economic development corporation (EDC) would include primary job training facilities or programs, including expenditures for training equipment at: (1) a public junior college, public technical institute, or high school located in the authorizing municipality of an EDC; and (2) a public junior college the service area of which includes any portion of the authorizing municipality of an EDC.

H.B. 2220 (Wu) – Crafted Precious Metal Dealers: would: (1) authorize a county or city to require a person to obtain a license or permit, and pay a related fee, before engaging in the business of purchasing and selling crafted precious metal in that county or city; and (2) provide that failure to obtain a metal dealer permit or license required by a county or city is a class B misdemeanor. (Companion bill is **H.B. 488** by **S. Turner**.)

H.B. 2272 (Morrison) – Venue Project Election: would amend the required ballot language for an election to approve and finance a municipal or county venue project to read: "impose a new" or "authorize the use of the existing" tax. (Companion bill is **S.B. 169** by **Hegar**.)

S.B. 829 (Huffman) – Property Acquisition/Eminent Domain: would provide that private property acquired through eminent domain or through purchase in connection with an initial

offer must be initially used for the public use for which it was acquired. (Companion bill is **H.B. 1250** by **Frank**.)

S.B. 837 (Ellis) – Nuisance Authority: would limit the authority of a city to regulate rubbish to only those situations listed in specific statutes.

S.B. 867 (Paxton) – Special Districts: would provide that most special districts must undertake a self-imposed "sunset process" under which, at least once every three years, the governing body of the special district conducts a comprehensive review of the district to determine whether the district should be continued or dissolved.

S.B. 968 (West) – Public Improvement Districts: this bill is the same as **H.B. 1912**, above.

S.B. 985 (Zaffirini) – Sale of Real Property: would: (1) authorize a home-rule city to contract with a broker to sell a tract of real property owned by the city and pay the broker a fee if he/she produces a ready, willing, and able buyer to purchase the property; (2) provide that if a contract is made as described in (1), above, to list a property for sale for at least 30 days with a multiple-listing service (MLS), the governing body on or after the 30th day after the date the property is listed may sell the property to a ready, willing, and able buyer who is produced by any broker using the MLS and submits the highest cash offer; and (3) allow the governing body to sell a tract of property as described in (2), above, without complying with the public auction or notice and bidding requirements prescribed by law. (Companion bill is **H.B. 1795** by **Isaac**.)

S.B. 1028 (Dan Patrick) – Metal Dealers: would provide that a crafted precious metal dealer's failure to obtain a municipal city license or permit is a state law offense.

S.B. 1083 (Rodriguez) – Eminent Domain: this bill is the same as **H.B. 1874**, above.

S.B. 1084 (Hinojosa) – Enterprise Zones: would, among other things: (1) provide that a veteran is a "qualified employee" for purposes of the enterprise zone program; (2) provide that the Texas Economic Development Bank may not designate more than ten projects in each of the application rounds during the biennium, except to designate an enterprise project of qualified business considered by the office to be a state priority project; (3) authorize the Texas Economic Development Bank to split the designation level of a proposed project based on the number of projected new permanent jobs or retained jobs; and (4) provide that state and federally-mandated capital investments, including pollution control abatement equipment, do not qualify as committed capital investment in an enterprise project.

PERSONNEL

H.B. 1914 (Cortez) – Unemployment Compensation: would, if an employer does not provide adequate documentation within a specified time, require the Unemployment Compensation Commission to charge an employer, including a city, for unemployment payments made to an individual, even if the decision to make the payments is later overturned.

H.B. 1925 (J. Davis) – Unemployment Benefits: would: (1) require an employer to properly classify construction workers as either employees or independent contractors; (2) provide an administrative penalty for misclassification of employees; and (3) require the Workforce Commission to notify a city or other governmental entity of non-compliant employers. (Companion bill is **S.B. 676** by **Carona**.)

H.B. 1939 (Orr) – Veteran Employment: would require a public entity to give an interview to any applicant that is eligible for a veteran's employment preference.

H.B. 1980 (Parker) – Political Contributions: would require: (1) that any contribution given by an employee to the political committee of a labor organization or corporation be given separately and documented separately from any dues the employee pays; and (2) an employer to document separately any deduction taken from an employee's wages for a political committee of a labor organization or corporation.

H.B. 2015 (J. Davis) – Personnel: would: (1) require the Texas Workforce Commission to adopt rules requiring a person who contracts with a governmental entity, including a city, to properly classify its employees as either employees or independent contractors; and (2) include a penalty for those who do not comply with the commission's rules.

H.B. 2301 (G. Bonnen) – E-Verify: would: (1) require a governmental entity, including a city, to use E-verify to verify each employee's immigration status; (2) require the immediate termination of a city employee in charge of verifying employee status who fails to comply with the e-verify regulations; and (3) require a city to suspend the license of any private employer who hires individuals who are unlawfully present in the United States.

PUBLIC SAFETY

H.B. 1768 (Canales) – Fire Hydrants and Flush Valves: would modify the provision in current law providing that an entity that owns a fire hydrant or similar device shall paint it black if it is nonfunctioning or otherwise unavailable for use by an entity providing fire suppression services in a fire emergency by: (1) defining a "hydrant" as a fire hydrant or a metal flush valve that has the appearance of a fire hydrant and is located in a place that an entity responsible for providing fire suppression services in a fire emergency would expect a fire hydrant to typically be located; (2) providing that each public water system responsible for any hydrant shall: (a) paint all or the cap of the hydrant white if the hydrant is available to be used only to fill a water tank on a fire truck used for fire suppression services; and (b) paint all or the cap of the hydrant black if the hydrant is unavailable for use by the entity providing fire suppression services in a fire emergency; (3) providing that a hydrant is "unavailable for use in a fire emergency" if it is unavailable for pumping directly from the hydrant or is unavailable for use in filling a water tank on a fire truck used for fire suppression services; (4) allowing a public water system to place a black tarp over the hydrant or use another means to conceal the hydrant instead of painting all or the cap of the hydrant black if the hydrant is temporarily unavailable for use in a fire emergency for a period not to exceed 45 days; (5) providing that, not later than the 45th day after the date a hydrant is concealed in the manner allowed by (4), above, the public water system responsible for the hydrant shall paint all or the cap of the hydrant black if it continues to

be unavailable for use in a fire emergency; (6) providing that a hydrant is considered to be unavailable for use by an entity responsible for providing fire suppression services in a fire emergency if: (a) the public water system is not obligated by ordinance, regulation, or contract to provide water for fire suppression services and elects not to provide water for those services; or (b) the hydrant delivered less than 50 gallons of water per minute during its most recent flow test under normal conditions; (7) stating that the fact that all or the cap of a hydrant for which a public water system is responsible under this section is not painted black does not constitute a guarantee by the public water system that the hydrant will deliver a certain amount of water flow at all times; (8) exempting a public water system from liability for a hydrant's inability to provide adequate water supply in a fire emergency; (9) providing that the bill does not apply within the jurisdiction of a governmental entity that maintains its own system for labeling or color coding its hydrants; and (10) limiting the application of the law as amended by the bill to certain counties in the Rio Grande Valley.

H.B. 1849 (Carter) – Felony Forfeiture Funds: would: (1) provide that forfeiture funds received by a law enforcement agency can be used solely for a "law enforcement purpose," which is defined to mean an expenditure made for an activity of a law enforcement agency that relates to the criminal and civil enforcement of the laws of this state, including an expenditure made for: (a) salary and overtime of employees; (b) equipment, including vehicles, computers, firearms, protective body armor, furniture, software, uniforms, and maintenance equipment; (c) supplies, including office supplies, mobile phone and data account fees for employees, and Internet services; (d) investigative and training-related travel expenses, including payment for hotel rooms, airfare, meals, rental of and fuel for a motor vehicle, and parking; (e) conferences and training expenses, including fees and materials; (f) investigative costs, including payments to informants and lab expenses; (g) crime prevention and treatment programs; (h) facility costs, including building purchase, lease payments, remodeling and renovating, maintenance, and utilities; (i) witness-related costs, including travel and security; and (j) audit costs and fees, including audit preparation and professional fees; (2) require that a law enforcement agency audit of forfeiture funds be performed annually by the auditor of the agency, the political subdivision, or the attorney representing the state, as appropriate, or an accounting professional under contract for the purpose of complying with the audit requirement; and (3) authorize the attorney general to adopt a secure process for electronically completing, verifying, and submitting the audit described in (2), above. (Companion bill is **S.B. 878** by **Patrick**.)

H.B. 1856 (Burkett) – Warrantless Apprehension: would require a police officer to transport an arrested person to a medical facility if the person suffers from certain conditions or injuries.

H.B. 1858 (Workman) – Tree or Vegetation Removal: would provide that a city, county, or other political subdivision may not enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner's property that the owner believes poses a risk of fire to a structure on the property or adjacent property.

H.B. 1872 (Simmons) – Firearms: would provide that a person who voluntarily identifies himself to the Department of Public Safety or a local law enforcement agency as a person with mental illness can be precluded from possessing a firearm.

H.B. 1896 (P. King) – Concealed Handguns: would: (1) authorize a school district or open-enrollment charter school to adopt written regulations that authorize an employee who has successfully completed a firearms training program described by the bill to carry or possess a handgun on the physical premises of a school, any grounds or building on which an activity sponsored by a school is being conducted, or a passenger transportation vehicle of a school; (2) provide that the Commission on Law Enforcement Officer Standards and Education conduct the training program and shall issue a certification to each person the commission determines has successfully completed the training program; and (3) provide that the commission shall submit, for each person issued a certification, the name and date of birth of the person, the person's concealed handgun license number, and the address of the person's place of employment to various entities, including the chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district or open-enrollment charter school located within a city.

H.B. 1927 (Menendez) – Texas Military: would: (1) change the department responsible for Texas military affairs from Adjutant General's Office to the Texas Military Department; and (2) repeal the provision giving a city or county the authority to call up the state military forces in an emergency situation if the governor could not be reached. (Duplicate bill is **H.B. 1542** by **Flynn**.)

H.B. 1931 (Guillen) – Sale of Abandoned Vehicle: would allow an attorney representing the state, defined as a district attorney, criminal district attorney, or county attorney, to use funds transferred from a city or county's general fund to property owners whose property was damaged as a result of a pursuit involving a law enforcement agency.

H.B. 1951 (S. Thompson) – Telecommunicators: would: (1) give the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) additional authority over telecommunicators (essentially a 911 dispatcher and defined as "a person acknowledged by TCLEOSE and employed by or serving a law enforcement agency that performs law enforcement services on a 24-hour basis who receives, processes, and transmits public safety information and criminal justice data for the agency by using a base radio station on a public safety frequency"); (2) require that any telecommunicator hired by a city be licensed by TCLEOSE; (3) require a city to provide 40 hours of training to telecommunicators every 2 years; and (4) give current telecommunicators one year to obtain a license.

H.B. 1960 (Cortez) – Emergency Medical Services Personnel: would grant state EMS certification to EMS personnel certified by the U.S. military.

H.B. 1961 (S. Turner) – Law Enforcement: would adopt the Law Enforcement Officers' Due Process Act, which includes provisions that: (1) limit the way in which a city may conduct a disciplinary investigation or question a peace officer; (2) limit the times and places that a peace officer may be questioned; (3) provide right to counsel to a peace officer under investigation or questioning; (4) give a right to access to documents related to the investigation to peace officers being investigated; (5) require the employing city to give a notice of investigation or questioning within a specific period of time; (6) provide for hearing procedures for peace officer investigations and the resulting employment action; (7) require a written or taped record of any

proceedings; and (8) prohibit an officer from engaging in political activity while on duty or in uniform.

H.B. 1972 (Kleinschmidt) – 9-1-1 Service: would provide that a service provider of communications service, a manufacturer of equipment used, a developer of software, a third party or other entity involved in providing 9-1-1 service, or an officer, director, or employee of the provider, manufacturer, developer, third party, or other entity involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

H.B. 1993 (Guillen) – Firearms: would: (1) provide that a person commits an offense if the person, while hunting or engaging in recreational shooting, knowingly discharges a firearm and the projectile from the firearm travels across the property line of an educational facility; and (2) make an offense under (1), above, a class C Parks and Wildlife misdemeanor unless it is shown that students were present, which elevates the offense to a class A Parks and Wildlife misdemeanor.

H.B. 2045 (Turner) – Controlled Substances: would reduce the penalty for the offenses of manufacture, delivery, or possession of a Penalty 1 group controlled substance if the amount of the controlled substance is less than one gram, from a State Jail Felony to a Class C misdemeanor.

H.B. 2053 (Phillips) – Municipal Jails: would authorize a county with a population of 10,000 or less to contract with a city to hold a county prisoner in a city jail for a period not to exceed 72 hours.

H.B. 2063 (Gooden) – Handguns: would provide, among other things, that a municipal attorney who holds a concealed handgun license may, either in a concealed or open manner, carry a handgun in most places.

H.B. 2083 (Workman) – 9-1-1 Fees: would provide that: (1) fees collected to support 9-1-1 service shall be appropriated and used for the purpose for which they were collected; (2) the comptroller shall not divert these funds for any other purpose nor shall these funds be allowed to accumulate to an amount greater than ten percent of the estimated annual collection; (3) the Commission on Emergency Communications shall distribute funds to the regional planning commissions in proportion to the geographic region in which they were collected; and (4) the comptroller shall deposit funds previously collected into the general revenue fund of the state, except that the comptroller shall leave within the account an amount equal to ten percent of the estimated revenues for the 2014-2015 biennium.

H.B. 2090 (Canales) – Custodial Interrogation: would permit written confessions in different languages.

H.B. 2113 (Raymond) – Cottage Food: would prohibit a cottage food production operation from using in a cottage food product an ingredient that is not intended for human consumption, including an edible decoration.

H.B. 2131 (Dutton) – DWI: would allow the commissioners court of a county or the governing body of a city to create a "Direct Intervention using Voluntary Education, Restitution, and Treatment," or DIVERT program for certain first-time DWI offenders.

H.B. 2164 (Eiland) – Emergency Management: would: (1) allow a city to delegate authority to an officer of the city, including the city manager, during a disaster; and (2) prohibit delegation of authority that is given exclusively to the governing body or official by the Texas Constitution.

H.B. 2186 (Workman) – Detention of Person with Mental Illness: would authorize a mental health facility, certain hospitals, and certain freestanding emergency medical care facilities that examine or treat a person who requests treatment from the facility to detain the person for four hours if the person tries to leave the facility before the exam or treatment is complete and the facility has reason to believe the person has a mental illness, there is a substantial risk that the person will harm himself or others, and there is not sufficient time to file an application for emergency detention or order for protective custody.

H.B. 2187 (Krause) – Law Enforcement: would require a law enforcement agency, including a police department, to: (1) verify the immigration status of an arrested person within 48 hours and before the person can be released on bond using the federal Secure Communities program or from another law enforcement officer who is authorized to verify immigration status, unless the person's status has already been determined by another agency from which the individual was transferred; (2) notify the judge authorized to rule on the person's release if information reveals the person is unlawfully present in the United States; and (3) detain the person as required by the immigration detainer.

H.B. 2221 (Wu) – Citations Issued on School Property: would require the superintendent of a school district to demonstrate compliance with the Civil Rights Act by sending a compliance report on the total number of criminal citations issued to the United State Department of Education every school year.

H.B. 2225 (McClendon) – Pedestrian Safety: would: (1) require a driver to operate a car safely around pedestrians and others who are not in vehicles; and (2) increase the penalties for violations of this section if the violation results in property damage or personal injury.

H.B. 2227 (Wu) – Search Warrants: would: (1) allow a sworn statement to be provided to a magistrate by telephone or other appropriate means; (2) require a magistrate to fully document a sworn affidavit provided by telephone; and (3) allow a magistrate to electronically record any statement communicated orally.

H.B. 2268 (Frullo) – Search Warrants: would modify the provisions in state law relating to search warrants issued in this state and other states for certain customer data, communications, and other information held in electronic storage in this state and other states by providers of

electronic communications services and remote computing services. (Companion bill is **S.B. 1052** by **Carona**.)

H.B. 2297 (Naishtat) – Medical Laboratories: would provide for the licensing and regulation of medical laboratory professionals, including providing for penalties and imposing fees. (Note: Any city that operates a crime lab should review the provisions of this bill carefully.)(Companion bill is **S.B. 761** by **Lucio**.)

H.B. 2310 (Zedler) – Wire Taps: would expand the allowable felony offenses for which a judge can order a wire type if the prosecutor shows probable cause to believe the interception will provide evidence of the commission of such a felony.

S.B. 767 (Patrick) – DNA Records: would require an individual convicted or placed on deferred adjudication for any offense punishable as a class B misdemeanor or higher to provide one or more DNA samples for the purpose of creating a DNA record. (Companion bill is **H.B. 1063** by **Hernandez Luna**.)

S.B. 861 (Davis) – Alcohol Permit Holders: would require notice of DWI penalties to be posted on the premises of certain alcoholic beverage retailers.

S.B. 878 (Patrick) – Felony Forfeiture Funds: this bill is the same as **H.B. 1849**, above.

S.B. 884 (West) – Metal Recycling Facilities: would, among other things: (1) establish a general class C misdemeanor penalty for violating laws, including a city ordinance, related to metal recycling facilities; and (2) provide that if the conduct constitutes an offense under certain other state laws then the person must be prosecuted under those laws rather than the general penalty described in (1), above.

S.B. 897 (Estes) – Documenting Police Activity: would create a civil cause of action against a governmental unit that employed any police officer who accused a person of certain obstruction offenses of which the person was acquitted, if the person shows by a preponderance of the evidence that: (1) the person was filming, recording, photographing, documenting, or observing the officer and (2) the officer's accusation was made in retaliation for the person's act of filming, recording, photographing, or observing the officer.

S.B. 955 (Schwertner) – Mental Health Training: would require the Department of State Health Services, if money is available, to provide grants to local mental health authorities to provide mental health training to train its own employees and educators.

S.B. 965 (Williams) – Police Termination Reports: would: (1) provide that the Texas Commission on Law Enforcement Officers Standards and Education may change a police termination report (F5 report) instead of requiring the police chief to do so; and (2) repeal the penalty against a police chief who does not change a termination report.

S.B. 969 (West) – Custodial Interrogation: would require that written confessions must be videotaped.

S.B. 970 (Huffman) – DNA Specimen: would provide that a warrant issued to collect a DNA specimen for the purpose of connecting a person to an offense may be executed in any county in the state, regardless of whether the issuing court's jurisdiction extends outside the county in which that court is located.

S.B. 987 (Hegar) – Gun Regulation: would require the attorney general to file suit against a city or county who regulates firearms or sport shooting ranges in a way that is contrary to certain state laws.

S.B. 1010 (Taylor) – Search and Rescue Dogs: would: (1) prohibit the owner, manager, or operator or an employee or agent of the owner, manager, or operator of a public facility from denying a search and rescue dog or the dog's handler admittance because of the presence of the dog; (2) prohibit the owner, manager, or operator or an employee or agent of the owner, manager, or operator of a common carrier plan, train, bus, streetcar, boat, or other public conveyance or mode of transportation from: (a) refusing to accept as a passenger a search and rescue dog or the dog's handler; and (b) requiring the dog's handler to pay an additional fare because of the search and rescue dog; (3) prohibit a public facility from adopting a policy that prohibits the use of the facility by a search and rescue dog or the dog's handler; (4) provide that a search and rescue dog's handler is entitled to full and equal access to all housing accommodations offered for rent, lease, or compensation in this state, subject to any condition or limit established by law that applies to all persons, except that a handler may not be required to pay an extra fee or charge or security deposit for the search and rescue dog; (5) provide penalties for discrimination against a search and rescue dog and the dog's handler; (6) allow a person to maintain a civil cause of action against a handler for personal injury, property damage, or death resulting from the failure of the handler to properly harness or leash the dog; (7) make a handler liable for property damage caused by a search and rescue dog to a public facility or housing accommodation; (8) waive immunity from suit and liability of a governmental entity owning a search and rescue dog or employing the dog's handler for liability described in (6) and (7), above; and (9) authorize a person to ask a search and rescue dog handler to display proof that the handler is a peace officer, firefighter, or member of a state or nationally-recognized search and rescue agency. (Companion bill is **H.B. 1200** by **Taylor**.)

S.B. 1025 (Seliger) – Concealed Handguns: would provide that a city may allow a concealed handgun license holder to carry in a public meeting pursuant to written regulations or written authorization of the city.

S.B. 1052 (Carona) – Search Warrants: this bill is the same as **H.B. 2268**, above.

UTILITIES AND ENVIRONMENT

H.B. 1863 (Wu) – Railroad Commission Fines: would increase the maximum amount of various civil penalties issued by the Railroad Commission for a violation of pipeline safety or pollution rules. (Companion bill is **S.B. 900** by **Fraser**.)

H.B. 1900 (Eiland) – Cable Television Tax Exemption: would provide an exemption from the state sales tax for the first $75 of a cable television bill if the provider is paying a franchise fee to a city pursuant to a state-issued certificate of franchise authority.

H.B. 1910 (W. Smith) – Recycling: would: (1) prohibit a person who is in the business of recycling and who purchases a plastic bulk merchandise container from an individual from purchasing the container with cash, unless the person verifies that the individual is acting on behalf of a corporation, business, government, or governmental subdivision or agency; (2) require a record of the method of payment for each transaction; and (3) provide for a civil penalty for a violation.

H.B. 1973 (Lucio) – Fire Flow: would provide that: (1) a city may adopt standards that require an investor-owned utility or a water supply or sewer service corporation to install fire hydrants and to maintain sufficient water pressure for service to fire hydrants adequate to protect public safety in the city and the city's extraterritorial jurisdiction; (2) the Texas Commission on Environmental Quality shall assess areas in a city and the city's extraterritorial jurisdiction that are subject to a standard adopted under the bill to ensure that all investor-owned utilities and water supply or sewer service corporations serving the municipal area are complying with the standards; and (3) the commission shall require a city acting as a regulatory authority to make appropriate revisions to standards the commission considers to be inadequate within a reasonable time established by the commission.

H.B. 1986 (Perry) – Liquefied Petroleum Gas: would provide that the rules adopted by the Railroad Commission relating to liquefied petroleum gas do not preempt or supersede any ordinance, order, or rule adopted by a political subdivision of this state relating to any aspect or phase of the liquefied petroleum gas industry.

H.B. 1963 (S. Turner) – Public Utility Commissioner: would provide that the Public Utility Commission (PUC) consists of one elected commissioner and his or her appointed deputy commissioner. (Note: Currently, the PUC is composed of three appointed commissioners.)

H.B. 2026 (Sanford) – Renewable Energy: would repeal that state's goals for renewable energy.

H.B. 2082 (Ritter) – Texas Commission on Environmental Quality: would: (1) allow an interested person who filed a comment on certain permit applications or participated in a public hearing on the permit application at the Texas Commission on Environmental Quality (TCEQ) to file a petition for administrative review of the permit decision by the State Office of Administrative Hearings (SOAH); (2) allow SOAH to grant the petition only if the petitioner demonstrates: (a) a finding of fact or conclusion of law is clearly erroneous; or (b) there is an exercise of discretion or an important policy consideration that SOAH should review; (3) allow for the filing of amicus briefs from interested persons; (4) specify that judicial review of SOAH decisions go to the Austin Court of Appeals; (5) establish an environmental quality division at SOAH to perform contested case hearings and administrative review of certain permit decision for TCEQ; (6) allow an interested person to request a public hearing after a preliminary decision has been issued on an application for a permit, permit renewal, or permit amendment for certain

specified permits; (7) obligate an interested person to raise all reasonably ascertainable issues and submit all reasonably available arguments supporting the person's position on the preliminary decision before the close of the public comment period; and (8) require the TCEQ executive director, after approval, to prepare a draft permit that includes the findings of fact and conclusions of law that support the issuance of the draft permit. (Companion bill is **S.B. 957** by **Fraser**.)

H.B. 2089 (Herrero) – Municipal Electric Utilities: relates to the powers and duties of the General Land Office, including the abolition of the Texas Facilities Commission and the transfer of its duties to the General Land Office. Of particular interest to cities, the bill would provide that: (1) the Land Commissioner may, under the State Energy Marketing Program, sell or otherwise convey power or natural gas generated directly to a state facility, including a state facility in the certificated service area of a municipally owned utility or an electric cooperative; (2) in providing electricity to a state facility under the State Energy Marketing Program, the Land Commissioner is entitled to nondiscriminatory access to the transmission and distribution system for the certificated service area in which the customer is located, including the certificated service area of a municipally owned utility or an electric cooperative; (3) a municipally owned utility or an electric cooperative may continue to bill directly a state facility only if the utility opts into electric deregulation; (4) if requested by the Land Commissioner, metering and billing services shall be performed by the transmission and distribution utility, municipally owned utility, or electric cooperative in whose certificated service area the state facility is located; (5) the authority of the Land Commissioner to provide electricity to a state facility under the bill does not constitute the introduction of customer choice in the certificated service area of a municipally owned utility or electric cooperative; and (6) the General Land Office may lease any amount of space in a state-owned building to a private tenant for use as private office space.

H.B. 2120 (Taylor) – Reservoirs: would: (1) require an application for the construction of a storage reservoir to include a draft permit authorizing the construction of the reservoir; (2) require the Texas Commission on Environmental Quality to grant or deny an application for a permit to construct a storage reservoir within 180 days; and (3) consider the application granted and the draft permit included in the application issued if the commission does not grant or deny the application within the required 180 days.

H.B. 2121 (Taylor) – Interbasin Transfers: would: (1) require an application for an interbasin transfer to include a draft water right or amendment to a permit, certified filing, or certificate of adjudication authorizing the transfer; (2) require the Texas Commission on Environmental Quality to grant or deny an application for an interbasin transfer within 180 days; and (3) consider the application granted and the draft water right or amendment included in the application issued if the commission does not grant or deny the application within the required 180 days.

H.B. 2122 (Anchia) – Railroad Commission: would require the Railroad Commission to post on its Internet website comprehensive information regarding the commission's enforcement of certain rules, orders, licenses, permits, and certificates issued.

H.B. 2142 (Frullo) – Water Conservation Advisory Council: would require that the Water Conservation Advisory Council's report to the legislature include specific statutory, budgetary, and policy recommendations to improve water conservation and management.

H.B. 2143 (Frullo) – Water Conservation Advisory Council: would require the Water Conservation Advisory council to evaluate new technologies for possible inclusion in the best management practice guide, including technologies associated with agricultural and landscaping irrigation, plumbing retrofits, and hydraulic shock-prevention systems.

H.B. 2152 (Callegari) – Water Rates: would prohibit a municipally owned utility from assessing fees on recreational vehicle parks that would not otherwise apply to any other commercial businesses.

H.B. 2156 (Callegari) – Water Service: would provide that: (1) while a city may impose city taxes and franchise fees on a retail public utility (including another city, a water supply corporation, or an investor owned utility) operating in the boundaries of the city, it may not by franchise agreement, limit, restrict, regulate, or prevent a retail public utility's extension of service or operation of facilities; and (2) except as expressly authorized by state law, a city may not regulate a retail public utility, including any zoning or subdivision regulation adopted by the municipality under Local Government Code Chapters 211 or 212; and (3) a retail public utility may, the sole discretion of the retail public utility, locate the retail public utility's facilities at any location whatsoever.

H.B. 2157 (Gutierrez) – Irrigation Systems: would make it a Class C misdemeanor for a person to maintain or repair an irrigation system without holding a license.

H.B. 2166 (D. Bonnen) – Railroad Commission: this is the Texas Railroad Commission sunset bill. Of particular interest to cities, the bill would provide that: (1) the agency is renamed as the Texas Energy Commission and continued in existence until 2023; (2) the commission is composed of three commissioners elected for six-year terms at the general election for state and county officers; (3) the commission shall adopt guidelines, after public input, to be used in determining the amount of administrative penalties issued by the commission; (4) the guidelines adopted under (3), above, must provide for different penalties for different violations based on the seriousness of the violation and any hazard to the health or safety of the public resulting from the violation; (5) the commission by rule may establish pipeline safety and regulatory fees to be assessed for permits or registrations for pipelines under the jurisdiction of the commission's pipeline safety and regulatory program; and (6) the commission shall adopt rules that include safety standards related to the prevention of damage to interstate and intrastate hazardous liquid or carbon dioxide pipeline facilities resulting from the movement of earth by a person in the vicinity of such a facility, other than movement by tillage that does not exceed a depth of 16 inches. (Companion bill is **S.B. 212** by **Nichols**.)

H.B. 2179 (J. Davis) – Backflow Prevention: would require an individual to have a certificate from the Texas State Board of Plumbing Examiners to engage in the repair or testing of a backflow prevention assembly.

H.B. 2237 (Isaac) – Rate Cases: would, if a local regulatory authority holds a hearing on rates and a water and sewer utility fails to appear at or fully participate in that hearing, prohibit a regulatory authority from including for ratemaking purposes any rate case expenses incurred by a water and sewer utility in a contested proceeding or appeal.

H.B. 2265 (Dukes) – Propane Utilities: would include a propane utility under the definition of "gas utility" in the Public Utility Regulatory Act, thereby making the propane utility subject to, among other things, the jurisdiction of a city and/or the Railroad Commission.

H.B. 2277 (Crownover) – Hydraulic Fracturing: would provide that a pit used to store flowback or produced water from an oil or gas well on which a hydraulic fracturing treatment has been performed is not required to be lined if the fluid stored in the pit is of a quality that meets or exceeds the quality of the water that was used in the hydraulic fracturing treatment.

H.B. 2290 (Lozano) – Supplemental Environmental Projects: would allow a local government that receives money to implement a supplemental environmental project from the Texas Commission on Environmental Quality to retain up to ten percent of the amount received for administrative costs associated with implementing the project.

H.B. 2292 (Gonzalez) – TCEQ Permits: would require an applicant for certain Texas Commission on Environmental Quality permits to mail notice of intent to obtain a permit to each owner or occupant of real property located five miles or less from the facility that is the subject of the permit.

H.B. 2332 (Bell) – Pipeline Safety: would provide that an operator who fails to properly mark its underground facilities is liable for: (1) three times the amount of actual damages, including damages incurred by an excavator for damage to equipment or costs of project delays and damages incurred by a third party caused by the excavator in reliance on the operator's presumed compliance; and (2) reasonable attorney's fees and court costs.

S.B. 212 (Nichols) – Railroad Commission: this bill is the same as **H.B. 2166**, above.

S.B. 873 (Hegar) – Drilling Permits: would prohibit a groundwater conservation district from providing an exemption to the district's requirement to obtain a permit for a water well used to supply water for the performance of hydraulic fracturing or other activities related to the production of oil or gas.

S.B. 875 (Eltiffe) – Recycling: Companion bill is **H.B. 1910**, above.

S.B. 885 (Hinojosa) – Gas Rate Notices: would provide that, instead of mailing a customer notice of a rate increase, a gas utility may send the notice by e-mail if the customer's e-mail address is available to the utility. (Companion bill is **H.B. 1488** by **Harper Brown**.)

S.B. 900 (Fraser) – Railroad Commission Fines: this bill is the same as **H.B. 1863**, above.

S.B. 901 (Fraser) – Pipeline Safety: would provide that: (1) various state laws governing pipeline safety and referencing federal law are modified to reflect the current federal law cite; and (2) "hazardous liquid" includes any nonpetroleum fuel, including biofuel, that is flammable, toxic, or corrosive or would be harmful to the environment if released in significant quantities and a substance or material, other than liquefied natural gas, determined by the United States secretary of transportation to pose an unreasonable risk to life or property when transported by a hazardous liquid pipeline facility in a liquid state. (Companion bill is **H.B. 1792** by **Paddie**.)

S.B. 902 (Fraser) – Water Districts: would make numerous changes to the laws that affect water districts. Of particular interest to cities, the bill would provide that: (1) a city may enter into a contract with a water district or with a non-profit water supply corporation under which the district or corporation will acquire for the benefit of and convey to the city, either separately or together, one or more water, sewer, drainage, or road projects; (2) that the contract under (1), above, may provide that any payments due are payable from and are secured by a pledge of a specified part of the revenues of the city, including revenues from municipal sales and use taxes; (3) a peace officer contracted for by a water district, individually or through a county, sheriff, constable, or city, is an independent contractor, and the district is responsible for the acts or omissions of the peace officer only to the extent provided by law for other independent contractors; (4) a water district providing potable water or sewer service to household users may, separately or jointly with another district, city, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all fire-fighting services within the district and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply; and (5) a city may provide in its written consent for the inclusion of land in a district that is initially located wholly or partly outside the corporate limits of the city that a contract ("allocation agreement") between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. (Note: Any city in an area with water districts should carefully review the provisions of this bill to determine its impact on the city's relationship with those districts.) (Companion bill is **H.B. 168** by **Callegari**.)

S.B. 923 (Hinojosa) – State Tax on Water: would: (1) require each retail public utility, which includes a city, to collect a water usage fee of three cents for each 1,000 gallons of water sold to the ultimate consumer each month; (2) require a $1 surcharge for each 1,000 gallons in excess of 12,000 gallons from an ultimate consumer if the consumer is a resident of a single-family dwelling or a dwelling until of a multifamily dwelling; (3) exempt the following entities from the fee or surcharge: (a) the United States, (b) an instrumentality of the United States, (c) a corporation that is an agency or instrumentality of the United States, (d) the State of Texas, (e) a county, city, special district, or other political subdivision of Texas, (f) a state, or a governmental unit of a state that borders this state, (g) an organization created for religious, educational, or charitable purposes, (h) an organization qualifying for an exemption from federal income taxes under Section 501(c)(3), (i) a nonprofit organization engaged exclusively in providing athletic competition among persons under 19 years old if no financial benefit goes to an individual or shareholder; (j) a company, department, or association organized for the purpose of answering fire alarms and extinguishing fires or for the purpose of answering fire alarms, extinguishing fires, and providing emergency medical services, and (k) a chamber of commerce or a

convention and tourist promotional agency representing at least one Texas city or county if the chamber of commerce or the agency is not organized for profit; (4) require the utility to pay the comptroller the total amount of the fees and surcharge collected each month; (5) allow a utility that makes timely payment to the comptroller to retain one-half of one percent of the total amount of the fees and surcharges; (6) require a utility to submit a monthly report to the comptroller on water sold; (7) require that the revenue collected by the comptroller be deposited to the state water plan fund; (8) establish the state water plan fund to be used for financing projects included in the state water plan; and (9) allow amounts from the state water plan fund to be transferred to various other funds for water infrastructure projects.

S.B. 941 (Davis) – Oil and Gas Industry: would provide that the Railroad Commission shall adopt rules relating to the exploration for and production of gas in the unincorporated areas of Dallas and Tarrant counties that must promote gas exploration and production while securing the quality of life and existing economic interests, including property values and development plans, in the unincorporated areas of the counties.

S.B. 942 (Davis) – Oil and Gas Industry: would provide that certain penalties levied against an oil or gas company are deposited into a new Railroad Commission of Texas Operating Account to be used only for the operation of the Railroad Commission.

S.B. 957 (Fraser) – Texas Commission on Environmental Quality: this bill is the same as **H.B. 2082**, above.

S.B. 958 (Fraser) – Water Districts and Authorities: would provide that a local water district or water authority that enters into a written contract to provide water to a purchaser for use in connection with the generation of electricity waives sovereign immunity to suit for the purpose of adjudicating a claim that the local district or authority breached the contract by not providing water, or access to water, according to the contract's terms.

S.B. 981 (Van de Putte) – Municipal Electric Utility Discounts: would provide that the governing body of a municipally owned utility may establish a bill payment assistance program for a customer who is a military veteran who a medical doctor certifies has a significantly decreased ability to regulate the individual's body temperature because of severe burns received in combat.

S.B. 1039 (Rodriguez) – Water Conservation Advisory Council: would require that the Water Conservation Advisory Council's report to the legislature include specific recommendations to improve water conservation and management.

S.B. 1063 (Hegar) – Public Facility Corporations: would provide that natural gas purchased by a public facility corporation for resale to a local government under an interlocal cooperation contract is considered a public facility for the purposes of this chapter.

TRANSPORTATION

H.B. 1878 (McClendon) – Transportation Funding: would provide that a certain portion of the motor vehicle sales tax be deposited to the credit of the Texas rail relocation and improvement fund.

H.B. 1949 (Gutierrez) – Speed Limits: would authorize the Texas Transportation Commission to establish a speed limit of 85 miles per hour on a part of the state highway system if: (1) that part of the highway system is designed to accommodate travel at that established speed or a higher speed; and (2) the commission determines, after an engineering and traffic investigation, that the established speed limit is reasonable and safe for that part of the highway system.

H.B. 2043 (Pickett) – Transportation Funding: would provide that: (1) debt obligations for state transportation needs may not be issued after January 1, 2013; and (2) the Texas Mobility Fund may be used to repay the principal and interest on bonds that have already been issued for state transportation needs.

H.B. 2101 (Guillen) – Travel Information Centers: would provide that: (1) the Texas Department of Transportation (TxDOT) may: (a) transfer to a local government the operation of a travel information center located in the local government's boundaries; or (b) issue a request for proposals to private and nonprofit entities for the operation of a travel information center; and (2) TxDOT may maintain and operate the center as a rest area without staff if: (a) a local government does not assume the operation of a center; or (b) none of the private offers to its request for proposals acceptable.

H.B. 2144 (Riddle) – Vehicle Registration Fees: would increase the state's motor vehicle registration fees and provide that one dollar of the increased amount be deposited in the state's general revenue fund and the remaining amount be used to fund the Texas Department of Motor Vehicles.

H.B. 2148 (Hilderbran) – Transportation Funding: would, among other things; (1) impose a state motor fuels tax on the sale of compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle; (2) provide for certain exemptions, not including city vehicles, and refunds of the tax; and (3) provide that three-fourths of the tax shall be deposited to the credit of the state highway fund.

H.B. 2202 (Pickett) – Vehicle Registration Fees: would provide that certain amounts of the state's motor vehicle registration fees be deposited in the state's general revenue fund, certain amounts be deposited in the state highway fund, and certain amounts be used to fund the Texas Department of Motor Vehicles.

H.B. 2204 (Pickett) – Speed Limits: would: (1) authorize the Texas Transportation Commission by rule to establish a variable speed limit program to allow the temporary lowering of a prima facie speed limit to address inclement weather, congestion, construction, or other condition that affects the safe and orderly movement of traffic on a roadway; (2) provide that a speed limit established under (1), above, may be displayed on a stationary or portable changeable message sign; and (3) provide that a speed limit established under (1), above, be based on an engineering and traffic investigation, be effective for all or a designated portion of the highway

for any period of the day or night, and be effective only when the speed limit is posted on a sign not less than 500 feet but not more than 1,000 feet before the point at which the speed limit begins.

H.B. 2244 (Harper-Brown) – Billboards: would provide that a city must pay just compensation to a billboard owner and a landowner who leases property to a billboard owner if a billboard has to be removed from a city or a city's extraterritorial jurisdiction because: (1) of the widening, construction, or reconstruction of a highway that is part of a state highway project; and (2) it cannot be moved to another place in the city because of a city ordinance or regulation.

H.B. 2278 (Phillips) – Transportation Funding: would provide that the amount of the proceeds from the collection of the taxes imposed on the sale, storage, or use of new and used motor vehicle tires and new and used motor vehicle parts shall be deposited to the credit of the state highway fund.

H.B. 2316 (Pickett) – Transportation Funding: would provide for the imposition of an additional motor vehicle registration fee in the amount of $50 to be deposited into the Texas Mobility Fund.

H.B. 2333 (Bell) – Transportation Funding: would provide that motor vehicle title application fees shall be deposited to the credit of the Texas Mobility Fund

H.J.R. 107 (Pickett) – Transportation Funding: would amend the Texas Constitution to provide that the legislature may impose an additional motor vehicle registration fee, the revenue from which shall be deposited to the credit of the Texas Mobility Fund.

H.J.R. 108 (Phillips) – Transportation Funding: would amend the Texas Constitution to provide that certain revenues from motor vehicle registration fees, taxes on motor fuels and lubricants and motor vehicle tires and parts, and certain revenues received from the federal government may be used only to construct and maintain highways.

City Officials Testify

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take their time to travel to Austin to speak out on important city issues should be applauded by us all.

Among the city officials who recently testified in front of legislative committees are the following:

- Tom Schoolcraft, Mayor, Helotes
- Keith Stretcher, City Attorney, Midland
- John Dugan, Community Development Director, San Antonio
- Mark Solomon, City Councilman, Richardson
- Jay Doegey, City Attorney, Arlington

- Ignacio Ramirez, City Attorney, Baytown
- Frank Seffrood, Mayor Pro Tem, Copperas Cove
- Connie Standridge, City Manager, Corsicana
- Vonciel Jones Hill, Councilmember, Dallas
- Stephen Costello, Councilmember, Houston
- Jim Finley, City Attorney, Longview
- Jim Gerlt, Councilmember, Lubbock
- Ed Smith, Mayor, Marshall
- Frank Johnson, City Manager, Marshall
- Malcolm Duncan, Mayor, Waco
- Nick Fehrenbach, Manager of Regulatory Affairs and Utility Franchising, Dallas

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Agenda Item:

5A. Economic update. (staff)

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

SUBJECT: Kerrville Budget/Economic Update

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 15, 2013

SUBMITTED BY: Mike Erwin
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Economic Update

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OR FINANCE:

SUMMARY STATEMENT

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

RECOMMENDED ACTION

No action required information purposes only.

CITY OF KERRVILLE
ECONOMIC UPDATE AS OF MARCH 21, 2013

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
National					
Unemployment	7.70%	7.90%	8.30%	↓	February
Consumer Confidence	69.6	58.4	71.6	↑	February
1 year T-Bills	0.14%	0.15%	0.20%	↓	3/21/13
State					
Monthly Unemployment	6.90%	6.00%	7.50%	↑	January
Monthly Sales Tax	$2,082.8m	$2,122.8m	$2,007.8m	↑	February
Local					
Monthly Unemployment (Kerr Co.)	5.90%	5.00%	6.30%	↑	January
Median Listing Price	$168,000	$165,000	$218,000	↔	3/13/13
Monthly Sales Tax	$410,009	$568,401	$373,675	↑	March
Monthly EIC Tax	$205,004	$284,177	$186,812	↑	March
Monthly HOT	$44,373	$48,837	$42,434	↑	January

	FY13 Budget	FY13 as of 2/28/2013	FY13 % Received	FY12 as of 2/28/2012	FY12 % Received
General Fund					
Tax Revenue	$14,939,900	$10,717,402	71.74%	$10,551,521	72.76%
Property Tax	$8,050,000	$7,780,218	96.65%	$7,693,442	97.39%
Sales Tax	$4,885,000	$2,286,768	46.81%	$2,200,888	48.37%
Permits & Fees	$324,975	$125,676	38.67%	$133,602	41.24%
Intergovernmental	$1,191,000	$484,874	40.71%	$721,250	61.49%
Service Revenues	$2,411,860	$1,064,458	44.13%	$1,007,202	39.17%
Grant Revenue	$29,500	$16,144	54.73%	$17,359	65.51%
Fines & Forfeitures	$513,618	$186,343	36.28%	$203,578	41.69%
Interest & Misc.	$240,850	$105,039	43.61%	$69,305	18.21%
Transfers In	$1,250,000	$520,833	41.67%	$520,833	41.09%
Total General Fund	$20,901,703	$13,220,769	63.25%	$13,224,651	63.79%
Total General Fund Expenditures	$21,209,503	$8,486,016	40.01%	$7,771,968	38.19%
Water/Sewer Fund					
Water Sales	$4,500,000	$1,962,424	43.61%	$1,625,529	36.90%
Sewer Sales	$3,800,000	$1,427,115	37.56%	$1,542,370	41.17%
Other Revenue	$725,500	$285,964	39.42%	$322,490	43.86%
Total Water & Sewer Fund	$9,025,500	$3,675,502	40.72%	$3,490,389	39.28%
Total W&S Fund Expenditures	$8,931,239	$3,366,934	37.70%	$5,101,096	48.29%

Agenda Item:

5B. Kerrville Economic Development Corporation update. (Councilmember Conklin)

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

SUBJECT: Update on Kerrville Economic Development Corporation (KEDC) activities.

FOR AGENDA OF: March 26, 2013 **DATE SUBMITTED**: March 19, 2013

SUBMITTED BY: Carson Conklin
Councilmember Place 1

CLEARANCES: Todd Parton
City Manager

EXHIBITS: None

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Councilmember Conklin is the City Council representative to the Kerrville Economic Development Corporation (KEDC) Board of Directors. One of the functions of each board member is to provide an update on KEDC activities, programs and initiatives. In accordance with his board duties and responsibilities, Councilmember Conklin will brief the City Council regarding KEDC matters.

RECOMMENDED ACTION

This is a routine report and no action will be required.