

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, JANUARY 24, 2017, 6:00 P.M.

KERRVILLE CITY HALL COUNCIL CHAMBERS

701 MAIN STREET, KERRVILLE, TEXAS

KERRVILLE CITY COUNCIL AGENDA
REGULAR MEETING, TUESDAY, JANUARY 24, 2017, 6:00 P.M.
CITY HALL COUNCIL CHAMBERS
701 MAIN STREET, KERRVILLE, TEXAS

CALL TO ORDER

INVOCATION OFFERED BY COUNCILMEMBER GENE ALLEN

PLEDGE OF ALLEGIANCE TO THE FLAG

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. CONSENT AGENDA:

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

2A. Amendment to Property Listing Agreement for the property located at 800 Junction Highway (old city hall site). (staff)

2B. Microsoft Enterprise enrollment agreement authorizing the City's use of Microsoft products and services. (staff)

END OF CONSENT AGENDA

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 830-257-8000 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: January 20, 2017 at 4:00 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Brenda Craig
City Secretary, City of Kerrville, Texas

3. ORDINANCES, SECOND AND FINAL READING:

3A. Ordinance No. 2017-05 abandoning and vacating all right, title, and interest in a portion of a public right-of-way, consisting of an unimproved portion of "H" Street, as located west of and intersecting with Water Street; being an approximate 0.396 of one acre tract of land out of the Thomas Hand Survey No. 115, Abstract No. 193, as shown on the plat of J.A. Tivy's First Addition, a plat recorded in Volume "P", Page 16 of the Real Property Records of Kerr County, Texas, and within the City of Kerrville, Texas; finding that said portion is not required for future use as a public street; making the effective date subject to certain conditions; and ordering recording. (staff)

3B. Ordinance No. 2017-06 amending the budget for Fiscal Year 2017 to account for various changes to the city's operational budget, including additional revenues and allocations for capital improvement projects. (staff)

4. CONSIDERATION AND POSSIBLE ACTION

4A. Resolution No. 03-2017 designating the official newspaper for the City of Kerrville, Texas, providing authority for the City Manager to act as may be appropriate; providing for an effective date; and repealing all other resolutions in conflict herewith. (staff)

4B. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas for the design of and improvements to the City's H-E-B Tennis Center, in an amount not to exceed \$1,500,000.00. (staff)

4C. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; and Schreiner University; for the construction of a reclaimed water distribution line to be owned by the city and used in conjunction with the provision of reclaimed water to Schreiner University for irrigation purposes, in an amount not to exceed \$900,000.00. (staff)

4D. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; and Riverhill CC, LP; for the construction of a reclaimed water distribution line to be owned by the city and used in conjunction with the provision of reclaimed water to Riverhill Golf Club for irrigation purposes, in an amount not to exceed \$600,000.00. (staff)

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Brenda Craig
City Secretary, City of Kerrville, Texas

4E. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas for the construction of a reclaimed water distribution line used for the provision of reclaimed water to the City's Kerrville Sports Complex, in an amount not to exceed \$1,500,000.00. (staff)

4F. Execute a construction contract with Qro Mex Construction Co., Inc. for the reuse distribution mains project in the amount of \$4,790,240.25 and authorize the city manager to execute additional change orders which will not exceed a total contract value of \$5,500,000.00. (staff)

4G. Execute a construction contract with JM Lowe & Company in the amount of \$1,701,500.00 for the indoor athletic facility project and authorize the city manager to execute additional change orders which will not exceed a total contract value of \$2,035,000.00. (staff)

4H. Scheduling a worksession to discuss meeting procedures. (Councilmember Summerlin)

5. INFORMATION AND DISCUSSION:

5A. Report on meeting with Kerr County regarding the proposed floodplain revisions along Third Creek. (staff)

5B. Budget and economic update. (staff)

6. APPOINTMENTS TO BOARDS AND COMMISSIONS:

6A. Recovery Community Coalition. (staff)

7. ITEMS FOR FUTURE AGENDAS

8. 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.

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City Secretary, City of Kerrville, Texas

9. EXECUTIVE SESSION:

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

10. ACTION ON ITEMS DISCUSSED IN EXECUTIVE SESSION

11. ADJOURNMENT.

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Brenda Craig
City Secretary, City of Kerrville, Texas

Agenda Item:

2A. Amendment to Property Listing Agreement for the property located at 800 Junction Highway (old city hall site). (staff)

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

SUBJECT: Amendment to Contract for Sale of 800 Junction Highway

FOR AGENDA OF: 01/24/17

DATE SUBMITTED: 01/19/17

SUBMITTED BY: Don Davis **CLEARANCES:**
Interim City Manager



EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$ 0	\$ 0	\$ 0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

On September 13, 2016, the City Council approved a contract with Commercial Realty Services, Inc. for the exclusive right to sell the City-owned property at 800 Junction Highway (former City Hall). Ms. Sue Tiemann was the broker associate. Ms. Tiemann recently contacted the staff and requested that there be an amendment to the contract. That amendment is to change the broker from Commercial Realty Services, Inc. to Brinkman Preferred Properties. Ms. Tiemann will remain as the broker associate. Attached is a copy of the amendment to the listing.

RECOMMENDED ACTION

Staff recommends that the amendment to the listing be approved, and that the city manager be authorized to sign the amendment.



TEXAS ASSOCIATION OF REALTORS®

AMENDMENT TO LISTING

USE OF THIS FORM BY PERSONS WHO ARE NOT MEMBERS OF THE TEXAS ASSOCIATION OF REALTORS® IS NOT AUTHORIZED.
©Texas Association of REALTORS®, Inc. 2004

AMENDMENT TO LISTING AGREEMENT BETWEEN THE UNDERSIGNED PARTIES CONCERNING THE PROPERTY AT

800 Main Street, Kerrville, TX 78028

"Owner" means the seller or landlord of the above-referenced Property.

Effective **January 1, 2017**, Owner and Broker amend the above-referenced Listing as follows:

- ☐ A. The Listing Price in Paragraph 3 of the Listing is changed to: \$ _____.
- ☐ B. The date the Listing ends in Paragraph 4 of the Listing is changed to: _____.
- ☐ C. Owner instructs Broker to cease marketing the Property on _____ and to resume marketing the Property on: ☐ (1) receipt of further instructions from Owner; or ☐ (2) _____.

The Listing is not terminated and remains in effect for all other purposes.

- ☒ D. Paragraph(s) **1** are changed as follows:

Parties: Broker: Brinkman Preferred Properties

631 Water Street, Ste. A

Kerrville, TX 78028

PO Box 294748

Kerrville, TX 78029

sue.tiemann@gmail.com

830-377-9466

Brinkman Preferred Properties

Broker's (Company's) Printed Name

License No.

Seller or Landlord

Date

City of Kerrville

By:

Broker's Associate's Signature

Date

Seller or Landlord

Date

Sue Tiemann, Broker Associate

Don Davis, Interim City Manager

(TAR-1404) 1-7-04

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Agenda Item:

2B. Microsoft Enterprise enrollment agreement authorizing the City's use of Microsoft products and services. (staff)

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

SUBJECT: Authorization for City Manager to Execute Contract for Renewal of Microsoft Enterprise Agreement

FOR AGENDA OF: January 24, 2017 **DATE SUBMITTED:** January 11, 2017

SUBMITTED BY: Charvy Tork **CLEARANCES:** Kimberly Meismer
Director of Information Technology Director of General Operations

EXHIBITS: Microsoft Enterprise Agreement Contract

AGENDA MAILED TO:



APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 58,806.50	\$	\$ 70,670	01-807-217

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The Information Technology (IT) Department is requesting to renew our existing Microsoft Enterprise Agreement. With changing technology, the use of the Microsoft Enterprise Agreement is recommended as the most effective and economical mean of managing licenses and new purchases of Microsoft products. The largest cost savings utilizing this approach will be realized as our desktops and laptops are upgraded to current versions of Microsoft products on a regular interval.

The proposed number of desktops and laptops to be covered under the Microsoft Enterprise Agreement is 250. This includes all desktops and laptops with the current IT system which are required to be covered. The Microsoft Enterprise Agreement will be purchased from SHI, under a cooperative contract of the Texas Department of Information Resources (DIR).

RECOMMENDED ACTION

It is recommended that the City Council authorize the City Manager to execute a contract to renew the City's Microsoft Enterprise Agreement in an amount not to exceed \$60,000 for the first year. The cost for year 1 has been included in the IT Department budget for FY 17. Future annual costs will be budgeted accordingly.



Enterprise Enrollment

State and Local

Enterprise Enrollment number
(Microsoft to complete)

73118629

Previous Enrollment number
(Reseller to complete)

7021665

Framework ID
(if applicable)

This Enrollment must be attached to a signature form to be valid.

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) the Product Terms, (5) the Online Services Terms, (6) any Supplemental Contact Information Form, Previous Agreement/Enrollment form, and other forms that may be required, and (7) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement. By entering into this Enrollment, Enrolled Affiliate agrees to be bound by the terms and conditions of the Enterprise Agreement.

All terms used but not defined are located at <http://www.microsoft.com/licensing/contracts>. In the event of any conflict the terms of this Agreement control.

Effective date. If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. If this Enrollment is renewed, the effective date of the renewal term will be the day after the Expiration Date of the initial term. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to "anniversary date" refers to the anniversary of the effective date of the applicable initial or renewal term for each year this Enrollment is in effect.

Term. The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. The renewal term will expire 36 full calendar months after the effective date of the renewal term.

Terms and Conditions

1. Definitions.

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product Terms and chosen by Enrolled Affiliate under this Enrollment.

"Community" means the community consisting of one or more of the following: (1) a Government, (2) an Enrolled Affiliate using eligible Government Community Cloud Services to provide solutions to a Government or a qualified member of the Community, or (3) a Customer with Customer Data that is subject to Government regulations for which Customer determines and Microsoft agrees that the use of Government Community Cloud Services is appropriate to meet Customer's regulatory requirements.

Membership in the Community is ultimately at Microsoft's discretion, which may vary by Government Community Cloud Service.

"Enterprise Online Service" means any Online Service designated as an Enterprise Online Service in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

"Enterprise Product" means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

"Expiration Date" means the date upon which the Enrollment expires.

"Federal Agency" means a bureau, office, agency, department or other entity of the United States Government.

"Government" means a Federal Agency, State/Local Entity, or Tribal Entity acting in its governmental capacity.

"Government Community Cloud Services" means Microsoft Online Services that are provisioned in Microsoft's multi-tenant data centers for exclusive use by or for the Community and offered in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-145. Microsoft Online Services that are Government Community Cloud Services are designated as such in the Use Rights and Product Terms.

"Industry Device" (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) ("Industry Program"). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

"Managed Device" means any device on which any Affiliate in the Enterprise directly or indirectly controls one or more operating system environments. Examples of Managed Devices can be found in the Product Terms.

"Qualified Device" means any device that is used by or for the benefit of Enrolled Affiliate's Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Pro locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure ("VDI"). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, (2) an Industry Device, or (3) not a Managed Device. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate's Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

"Qualified User" means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product Terms.

"Reseller" means an entity authorized by Microsoft to resell Licenses under this program and engaged by an Enrolled Affiliate to provide pre- and post-transaction assistance related to this agreement;

"Reserved License" means for an Online Service identified as eligible for true-ups in the Product Terms, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

"State/Local Entity" means (1) any agency of a state or local government in the United States, or (2) any United States county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state's jurisdiction and geographic boundaries.

"Tribal Entity" means a federally-recognized tribal entity performing tribal governmental functions and eligible for funding and services from the U.S. Department of Interior by virtue of its status as an Indian tribe.

"Use Rights" means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at the Volume Licensing Site. The Use Rights supersede the terms of any end user license agreement (on-screen or otherwise) that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Terms. The Use Rights for Online Services are published in the Online Services Terms.

"Volume Licensing Site" means <http://www.microsoft.com/licensing/contracts> or a successor site.

2. Order requirements.

- a. Minimum order requirements.** Enrolled Affiliate's Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.
 - (i) Enterprise commitment.** Enrolled Affiliate must order enough Licenses to cover all Qualified Users or Qualified Devices, depending on the License Type, with one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services (as long as all Qualified Devices not covered by a License are only used by users covered with a user License).
 - (ii) Enterprise Online Services only.** If no Enterprise Product is ordered, then Enrolled Affiliate need only maintain at least 250 Subscription Licenses for Enterprise Online Services.
- b. Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products.
- c. Use Rights for Enterprise Products.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.
- d. Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.
- e. Resellers.** Enrolled Affiliate must choose and maintain a Reseller authorized in the United States. Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders must be submitted to the Reseller who will transmit the order to Microsoft. The Reseller and Enrolled Affiliate determine pricing and payment terms as between them, and Microsoft will invoice the Reseller based on those terms. Throughout this Agreement the term "price" refers to reference price. Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- f. Adding Products.**
 - (i) Adding new Products not previously ordered.** New Enterprise Products or Enterprise Online Services may be added at any time by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order

is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.

- (ii) **Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products other than Online Services may be added at any time but must be included in the next true-up order. Additional Licenses for Online Services must be ordered prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product Terms or (2) included as part of other Licenses.
- g. **True-up requirements.** Enrolled Affiliate must submit an annual true-up order that accounts for any changes since the initial order or last order. If there are no changes, then an update statement must be submitted instead of a true-up order.
 - (i) **Enterprise Products.** For Enterprise Products, Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.
 - (ii) **Additional Products.** For Additional Products that have been previously ordered under this Enrollment, Enrolled Affiliate must determine the maximum number of Additional Products used since the latter of the initial order, the last true-up order, or the prior anniversary date and submit a true-up order that accounts for any increase.
 - (iii) **Online Services.** For Online Services identified as eligible for true-up in the Product Terms, Enrolled Affiliate may place a reservation order for the additional Licenses prior to use and payment may be deferred until the next true-up order. Microsoft will provide a report of Reserved Licenses ordered but not yet invoiced to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retroactively to the month in which they were ordered.
 - (iv) **Subscription License reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses at the Enrollment anniversary date on a prospective basis if permitted in the Product Terms, as follows:
 - 1) For Subscription Licenses that are part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices and Qualified Users (if ordering user-based Licenses) identified on the Product Selection Form, and includes any additional Qualified Devices and Qualified Users added in any prior true-up orders. Step-up Licenses do not count towards this total count.
 - 2) For Enterprise Online Services that are not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.
 - 3) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.
 - (v) **Update statement.** An update statement must be submitted instead of a true-up order if, since the initial order or last true-up order, Enrolled Affiliate's Enterprise: (1) has not changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) has not increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative.
 - (vi) **True-up order period.** The true-up order or update statement must be received by Microsoft between 60 and 30 days prior to each Enrollment anniversary date. The third-

year true-up order or update statement is due within 30 days prior to the Expiration Date, and any license reservations within this 30 day period will not be accepted. Enrolled Affiliate may submit true-up orders more often to account for increases in Product usage, but an annual true-up order or update statement must still be submitted during the annual order period.

(vii) **Late true-up order.** If the true-up order or update statement is not received when due, Microsoft will invoice Reseller for all Reserved Licenses not previously invoiced and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).

h. Step-up Licenses. For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

(i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.

(ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.

i. Clerical errors. Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

j. Verifying compliance. Microsoft may, in its discretion and at its expense, verify compliance with this Enrollment as set forth in the Enterprise Agreement.

3. Pricing.

a. Price Levels. For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment.

b. Setting Prices. Enrolled Affiliate's prices for each Product or Service will be established by its Reseller. Except for Online Services designated in the Product Terms as being exempt from fixed pricing, As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service ordered will be fixed throughout the applicable initial or renewal Enrollment term. Microsoft's prices to Resellers are reestablished at the beginning of the renewal term.

4. Payment terms.

For the initial or renewal order, Enrolled Affiliate may pay upfront or elect to spread its payments over the applicable Enrollment term. If an upfront payment is elected, Microsoft will invoice Enrolled Affiliate's Reseller in full upon acceptance of this Enrollment. If spread payments are elected, unless indicated otherwise, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and remaining installments will be invoiced on each subsequent Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

5. End of Enrollment term and termination.

- a. **General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. **Renewal option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing this Enrollment for one additional 36-month term or by signing a new Enrollment. Microsoft must receive a Renewal Form, Product Selection Form, and renewal order prior to or at the Expiration Date. Microsoft will not unreasonably reject any renewal. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.
- c. **If Enrolled Affiliate elects not to renew.**
 - (i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring a new License with Software Assurance.
 - (ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product Terms, the following options are available at the end of the Enrollment initial or renewal term.
 - 1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment: An extended term feature that allows Online Services to continue month-to-month ("Extended Term") for up to one year, unless designated in the Product Terms to continue until cancelled, is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price as of the Expiration Date plus a 3% administrative fee. If Enrolled Affiliate wants an Extended Term, Enrolled Affiliate must submit a request to Microsoft at least 30 days prior to the Expiration Date.
 - 2) **Cancellation during Extended Term.** At any time during the first year of the Extended Term, Enrolled Affiliate may terminate the Extended Term by submitting a notice of cancellation to Microsoft for each Online Service. Thereafter, either party may terminate the Extended Term by providing the other with a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received or issued the notice.
 - (iii) **Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.
- d. **Termination for cause.** Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement. In addition, it shall be a breach of this Enrollment if Enrolled Affiliate or any Affiliate in the Enterprise that uses Government Community Cloud Services fails to meet and maintain the conditions of membership in the definition of Community.
- e. **Early termination.** Any early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, or if Microsoft terminates an Online Service for regulatory reasons, Microsoft will issue Reseller a credit for any amount paid in advance for the period after termination.

6. Government Community Cloud.

- a. Community requirements.** If Enrolled Affiliate purchases Government Community Cloud Services, Enrolled Affiliate certifies that it is a member of the Community and agrees to use Government Community Cloud Services solely in its capacity as a member of the Community and, for eligible Government Community Cloud Services, for the benefit of end users that are members of the Community. Use of Government Community Cloud Services by an entity that is not a member of the Community or to provide services to non-Community members is strictly prohibited and could result in termination of Enrolled Affiliate's license(s) for Government Community Cloud Services without notice. Enrolled Affiliate acknowledges that only Community members may use Government Community Cloud Services.
- b.** All terms and conditions applicable to non-Government Community Cloud Services also apply to their corresponding Government Community Cloud Services, except as otherwise noted in the Use Rights, Product Terms, and this Enrollment.
- c.** Enrolled Affiliate may not deploy or use Government Community Cloud Services and corresponding non-Government Community Cloud Services in the same domain.
- d. Use Rights for Government Community Cloud Services.** For Government Community Cloud Services, notwithstanding anything to the contrary in the Use Rights:
 - (i)** Government Community Cloud Services will be offered only within the United States.
 - (ii)** Additional European Terms, as set forth in the Use Rights, will not apply.
 - (iii)** References to geographic areas in the Use Rights with respect to the location of Customer Data at rest, as set forth in the Use Rights, refer only to the United States.

Enrollment Details

1. Enrolled Affiliate's Enterprise.

- a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:

☒ Enrolled Affiliate only

☐ Enrolled Affiliate and all Affiliates

☐ Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):

☐ Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:

- b. Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Exclude future Affiliates

2. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.microsoft.com/licensing/servicecenter>.

- a. **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

Name of entity (must be legal entity name)* City of Kerrville

Contact name* First Charvy Last Tork

Contact email address* charvy.tork@kerrvilletx.gov

Street address* 800 Junction Hwy

City* Kerrville

State/Province* TX

Postal code* 78028-2215-

(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)

Country* United States

Phone* 830-258-1290

Tax ID

** indicates required fields*

- b. **Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized to order Reserved Licenses for eligible

Online Services, including adding or reassigning Licenses and stepping-up prior to a true-up order.

☒ Same as primary contact (default if no information is provided below, even if the box is not checked).

Contact name* First Charvy Last Tork

Contact email address* charvy.tork@kerrvilletx.gov

Street address* 800 Junction Hwy

City* Kerrville

State/Province* TX

Postal code* 78028-2215-

(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)

Country* United States

Phone* 830-258-1290

Language preference. Choose the language for notices. English

☐ This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.

** indicates required fields*

- c. **Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses and step-up prior to a true-up order.

☐ Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

Contact name*: First Charvy Last Tork

Contact email address* charvy.tork@kerrvilletx.gov

Phone* 830-258-1290

☐ This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.

** indicates required fields*

- d. **Reseller information.** Reseller contact for this Enrollment is:

Reseller company name* SHI International Corp.

Street address (PO boxes will not be accepted)* 290 Davidson Ave

City* Somerset

State/Province* NJ

Postal code* 08873

Country* United States

Contact name* Danielle Sydlo

Phone* 888-764-8888

Contact email address* msteam@shi.com

** indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

Signature* _____

Printed name*

Printed title*

Date*

** indicates required fields*

Changing a Reseller. If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

- e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact and Online Administrator remains the default.*
- (i) Additional notices contact
 - (ii) Software Assurance manager
 - (iii) Subscriptions manager
 - (iv) Customer Support Manager (CSM) contact

3. *Financing elections.*

Is a purchase under this Enrollment being financed through MS Financing? ☐ Yes, ☒ No.

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft.

Program Signature Form

MBA/MBSA number		
Agreement number	01E73535	

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Enrollment (Indirect)	X20-10634
Product Selection Form	0562144.003_PSF

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* City of Kerrville
Signature* _____
Printed First and Last Name* Don Davis
Printed Title Interim City Manager
Signature Date*
Tax ID 74-6001490

* indicates required field

Microsoft Affiliate
Microsoft Corporation
Signature _____
Printed First and Last Name
Printed Title
Signature Date (date Microsoft Affiliate countersigns)
Agreement Effective Date (may be different than Microsoft's signature date)

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

** indicates required field*

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

** indicates required field*

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
Dept. 551, Volume Licensing
6100 Neil Road, Suite 210
Reno, Nevada 89511-1137
USA

Agenda Item:

3A. Ordinance No. 2017-05 abandoning and vacating all right, title, and interest in a portion of a public right-of-way, consisting of an unimproved portion of "H" Street, as located west of and intersecting with Water Street; being an approximate 0.396 of one acre tract of land out of the Thomas Hand Survey No. 115, Abstract No. 193, as shown on the plat of J.A. Tivy's First Addition, a plat recorded in Volume "P", Page 16 of the Real Property Records of Kerr County, Texas, and within the City of Kerrville, Texas; finding that said portion is not required for future use as a public street; making the effective date subject to certain conditions; and ordering recording. (staff)

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

SUBJECT: Ordinance abandoning and vacating all right, title, and interest in a portion of a public right-of-way, consisting of an unimproved portion of "H" Street, as located west of and intersecting with Water Street; being an approximate 0.396 of one acre tract of land out of the Thomas Hand Survey No. 115, Abstract No. 193, as shown on the plat of J.A. Tivy's 1st Addition, a plat recorded in volume "P", page 16 of the real property records of Kerr county, Texas, and within the City of Kerrville, Texas; finding that said portion is not required for future use as a public street; making the effective date subject to certain conditions; and ordering recording

FOR AGENDA OF: January 24, 2017

DATE SUBMITTED: January 18, 2017

SUBMITTED BY: E.A. Hoppe
Deputy City Manager

CLEARANCES: Don Davis
Interim City Manager

EXHIBITS: Ordinance and survey exhibits

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 was recently approached by BKIP, LLC to consider the abandonment and vacation of a portion of H Street right-of-way that is located to the west of Water Street. This is a non-paved section of right-of-way (ROW) where an existing fenced water well site and storm drainage infrastructure is located. As such, the ROW is not considered viable for any future public roadway expansion. The ROW to be abandoned is approximately 60-feet wide measured along the existing water well fence line in parallel with the Water Street frontage and approximately 287 feet deep. It is important that if City Council abandons and vacates the ROW that other utility easements are dedicated via the platting process in order to assure future access for the maintenance of current public infrastructure located in the existing ROW. Staff supports the request to vacate and convey the H Street right-of-way. Vacating this portion of the H Street right-of-way will not have a negative impact on the surrounding properties, which are owned by BKIP, LLC or investors of BKIP, LLC. This item was reviewed on first reading by the City Council on January 10, 2017 and was unanimously approved.

RECOMMENDED ACTION

City staff recommends City Council consider and take action on abandoning and vacating a portion of H Street right-of-way, subject to the terms of the Ordinance.

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2017-05**

AN ORDINANCE ABANDONING AND VACATING ALL RIGHT, TITLE, AND INTEREST IN A PORTION OF A PUBLIC RIGHT-OF-WAY, CONSISTING OF AN UNIMPROVED PORTION OF "H" STREET, AS LOCATED WEST OF AND INTERSECTING WITH WATER STREET; BEING AN APPROXIMATE 0.396 OF ONE ACRE TRACT OF LAND OUT OF THE THOMAS HAND SURVEY NO. 115, ABSTRACT NO. 193, AS SHOWN ON THE PLAT OF J.A. TIVY'S 1ST ADDITION, A PLAT RECORDED IN VOLUME "P", PAGE 16 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS, AND LOCATED WITHIN THE CITY OF KERRVILLE, TEXAS; FINDING THAT SAID PORTION IS NOT REQUIRED FOR FUTURE USE AS A PUBLIC STREET; MAKING THE EFFECTIVE DATE SUBJECT TO CERTAIN CONDITIONS; AND ORDERING RECORDING

WHEREAS, "H" Street, generally located between Water Street and Broadway (State Highway 27), presently contains an unimproved portion of public right-of-way; and

WHEREAS, this right-of-way interest is no longer required for public use as the City has no plan to improve and extend "H" Street; and

WHEREAS, the City currently owns and operates a water well within this property interest that is fenced and gated; and

WHEREAS, the property owner who owns property on both sides of the right-of-way and has plans for the development of that property ("Owner"), has asked the City to abandon and vacate the right-of-way; and

WHEREAS, Owner has agreed to grant easements to the City including those that allow the City to continue to operate and maintain the well site, maintain a sanitation easement around such site as required by law, account for existing drainage ways, and for the possible future extension of the river trail across the property; and

WHEREAS, as the right-of-way which is requested to be abandoned and vacated is unimproved and will not be needed as a future public street, City staff recommends that the City formally abandon and vacate this right-of-way property interest, but subject to the granting of various easements and the performance of other actions as specified below; and

WHEREAS, the City of Kerrville, Texas, is a home-rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Transportation Code Section 311.007 authorizes any such city to abandon, vacate, or close any street or alley; and

WHEREAS, City Council held a public hearing beginning at approximately 6:00 p.m. on January 10, 2017, as advertised, to consider public comments regarding the issue of vacation and abandonment; and

WHEREAS, in return for the abandonment and vacation of this unimproved right-of-way, the property owner has agreed to convey various easements to the City as described below and these conveyances along with the City never having to extend or maintain an extension of "H" Street, provides a reasonable amount of value to the City to support its abandonment and vacation; and

WHEREAS, pursuant to the actions contemplated to be taken below and in order to avoid any future cost to the public required with respect to the future improvement and maintenance of the unimproved public right-of-way, the City Council of the City of Kerrville, Texas, acting pursuant to state law and to facilitate the development of property, finds it to be in the public interest and advisable to abandon and vacate the right-of-way interest described herein and subject to the limitations and conditions which follow;

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

SECTION ONE. The facts and matters set forth in the preamble to this Ordinance are hereby found to be true and correct.

SECTION TWO. Subject to the limitations and conditions which follow, the City Council hereby abandons, vacates, and quitclaims in favor of the abutting property owner(s), as appropriate, all of the City's right, title, and interest of the public in and to the following public street right-of-way, constituting an improved portion of "H" Street, as it continues west from Water Street, and being more particularly described and depicted in **Exhibit A**, attached hereto and incorporated herein by reference.

SECTION THREE. The abandonment and vacation of the right-of-way described in **Exhibit A** is subject to all existing easement rights of others, if any, whether apparent or non-apparent, aerial, surface, underground or otherwise owned by third-parties.

SECTION FOUR. The City Secretary is authorized and directed to prepare a certified copy of this Ordinance and furnish the same to abutting property owner(s), and in addition, record this abandonment Ordinance in the Official Public Records of Kerr County, Texas, which such recording shall serve as the quitclaim deed of the City of Kerrville, Texas, of all the right, title, or interest of the City in and to said street right-of-way described in **Exhibit A**, but only to that interest that the City Council may lawfully abandon and vacate and subject to the limitations and conditions of this Ordinance.

SECTION FIVE. The City Manager is authorized to execute any documents necessary to complete the abandonment and vacation contemplated herein and other required actions.

SECTION SIX. This Ordinance shall not become effective nor shall the City abandon and vacate the right-of-way interest until the City receives and approves easements for the

following interests, as are generally depicted on **Exhibit A**, and which are then filed in the property records by the grantor, and other actions are taken as specified herein:

- a. Well Easement, to include description, for the City's continued ownership and operation of a water well, to include fencing and ancillary equipment; said fencing shall be improved to meet security and aesthetic issues;
- b. Sanitary Control Easement, to include description, for the City's water well in accordance with state law, equal to an approximately One Hundred Fifty Foot radius around the well head;
- c. Two Drainage Easements, to include descriptions, in appropriate sizes and locations to account for the existing drainage ways from the public right of way and which currently allow storm water to traverse the property. Said drainage ways and structures may be combined to create a single drainage feature but in any case, the existing drainage structures shall be improved and repaired to meet City specifications and to the extent that Owner desires to use the surface above said drainage feature(s), Owner shall acknowledge such use; and
- d. Recreation Easement(s) (public river trail), to include descriptions, for the possible extension of the City's river trail through the property.

SECTION SEVEN. This Ordinance shall not become effective nor shall the City abandon and vacate the right-of-way interest until the property, subject to the above described easements, is platted in accordance with the City's Subdivision Ordinance.

 **PASSED AND APPROVED ON FIRST READING, this the 10th day of June, A.D., 2017.**

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of _____, A.D., 2017.

Bonnie White, Mayor

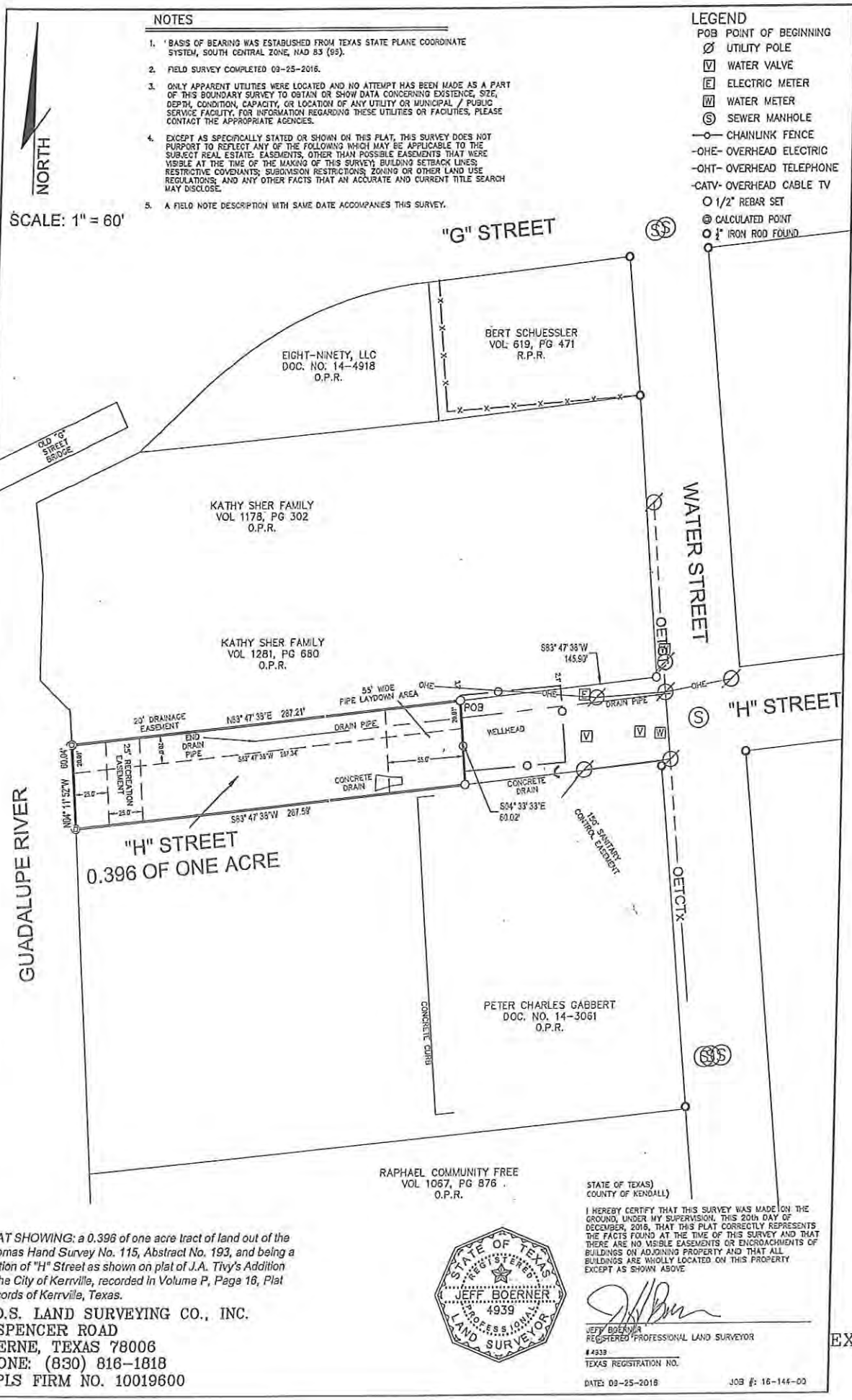
APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary



NOTES

1. BASIS OF BEARING WAS ESTABLISHED FROM TEXAS STATE PLANE COORDINATE SYSTEM, SOUTH CENTRAL ZONE, NAD 83 (95).
2. FIELD SURVEY COMPLETED 03-25-2018.
3. ONLY APPARENT UTILITIES WERE LOCATED AND NO ATTEMPT HAS BEEN MADE AS A PART OF THIS BOUNDARY SURVEY TO OBTAIN OR SHOW DATA CONCERNING EXISTENCE, SIZE, DEPTH, CONDITION, CAPACITY, OR LOCATION OF ANY UTILITY OR MUNICIPAL / PUBLIC SERVICE FACILITY. FOR INFORMATION REGARDING THESE UTILITIES OR FACILITIES, PLEASE CONTACT THE APPROPRIATE AGENCIES.
4. EXCEPT AS SPECIFICALLY STATED OR SHOWN ON THIS PLAT, THIS SURVEY DOES NOT PURPORT TO REFLECT ANY OF THE FOLLOWING WHICH MAY BE APPLICABLE TO THE SUBJECT REAL ESTATE: EASEMENTS, OTHER THAN POSSIBLE EASEMENTS THAT WERE VISIBLE AT THE TIME OF THE MAKING OF THIS SURVEY; BUILDING SETBACK LINES; RESTRICTIVE COVENANTS; SUBDIVISION RESTRICTIONS; ZONING OR OTHER LAND USE REGULATIONS; AND ANY OTHER FACTS THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE.
5. A FIELD NOTE DESCRIPTION WITH SAME DATE ACCOMPANIES THIS SURVEY.

LEGEND

- POB POINT OF BEGINNING
- UTILITY POLE
- WATER VALVE
- ELECTRIC METER
- WATER METER
- SEWER MANHOLE
- CHAINLINK FENCE
- OHE- OVERHEAD ELECTRIC
- OHT- OVERHEAD TELEPHONE
- CATV- OVERHEAD CABLE TV
- 1/2" REBAR SET
- CALCULATED POINT
- 1/2" IRON ROD FOUND

SCALE: 1" = 60'

NORTH

GUADALUPE RIVER

"G" STREET

WATER STREET

"H" STREET

"H" STREET
0.396 OF ONE ACRE

EIGHT-NINETY, LLC
DOC. NO. 14-4918
O.P.R.

BERT SCHUESSLER
VOL: 619, PG 471
R.P.R.

KATHY SHER FAMILY
VOL 1178, PG 302
O.P.R.

KATHY SHER FAMILY
VOL 1281, PG 680
O.P.R.

PETER CHARLES GABBERT
DOC. NO. 14-3061
O.P.R.

RAPHAEL COMMUNITY FREE
VOL 1067, PG 876
O.P.R.

PLAT SHOWING: a 0.396 of one acre tract of land out of the Thomas Hand Survey No. 115, Abstract No. 193, and being a portion of "H" Street as shown on plat of J.A. Tivy's Addition to the City of Kerrville, recorded in Volume P, Page 18, Plat Records of Kerrville, Texas.

M.D.S. LAND SURVEYING CO., INC.
8 SPENCER ROAD
BOERNE, TEXAS 78006
PHONE: (830) 816-1818
TBPLS FIRM NO. 10019600



STATE OF TEXAS
COUNTY OF KENDALL

I HEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND, UNDER MY SUPERVISION, THIS 20th DAY OF DECEMBER, 2018, THAT THIS PLAT CORRECTLY REPRESENTS THE FACTS FOUND AT THE TIME OF THIS SURVEY AND THAT THERE ARE NO VISIBLE EASEMENTS OR ENCROACHMENTS OF BUILDINGS ON ADJOINING PROPERTY AND THAT ALL BUILDINGS ARE WHOLLY LOCATED ON THIS PROPERTY EXCEPT AS SHOWN ABOVE

JEFF BOERNER
REGISTERED PROFESSIONAL LAND SURVEYOR
#4939
TEXAS REGISTRATION NO.
DATE: 03-25-2018

JOB #: 18-144-02

EXHIBIT A

MDS

LAND SURVEYING COMPANY, INC.
Boundary ♦ Topographic ♦ Construction
8 Spencer Road
Boerne, TEXAS 78006
Phone: 830-816-1818
Email: mdsinc@gvvc.com Firm no. 10019600

FIELD NOTES FOR A 0.396 OF ONE ACRE TRACT

BEING a 0.396 of one acre tract of land out of the Thomas Hand Survey No. 115, Abstract No. 193, and being a portion of "H" Street as shown on plat of J.A. Tivy's Addition to the City of Kerrville, recorded in Volume P, Page 16, Plat Records of Kerrville, Texas, said 0.396 of one acre tract being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod with "MDS" cap set in the north right-of-way line of "H" Street (60' right-of-way), for the northeast corner of the herein described tract, said point being **S 83° 47' 38" W, a distance of 145.90'** from the intersection of the north right-of-way line of "H" Street, with the west right-of-way line of Water Street (60' right-of-way);

- (1) Thence, **S 04° 33' 33" E**, departing the north right-of-way line of "H" Street, with the east boundary line of the herein described tract, **a distance of 60.02'** to a ½" iron rod with "MDS" cap set for corner in the south right-of-way line of "H" Street, said point being in the north boundary line of the Peter Charles Gabbert tract recorded in Document No. 14-3061, Official Public Records of Kerr County, Texas;
- (2) Thence, **S 83° 47' 38" W**, with the south right-of-way line of "H" Street, the north boundary line of the Peter Charles Gabbert tract, with the south boundary line of the herein described tract, **a distance of 287.59'** to a calculated point for corner in the east bank of the Guadalupe River at the northwest corner of the Peter Charles Gabbert tract;
- (3) Thence, **N 04° 11' 52" W**, with the east bank of the Guadalupe River, the west boundary line of the herein described tract, **a distance of 60.04'** to a calculated point for corner at the southwest corner of the Kathy Sher Family tract recorded in Volume 1281, Page 680, Official Public Records of Kerr County, Texas, the ;
- (4) Thence, **N 83° 47' 38" E**, with the south boundary line of the Kathy Sher Family tract, the north right-of-way line of "H" Street, the north boundary line of the

herein described tract, a distance of 287.21' to the PLACE OF BEGINNING and containing 0.396 of one acre of land, more or less.

Note: This description is based on an on the ground survey performed in August of 2016. The basis of bearings was derived from the Texas State Plane Coordinate System, South Central Zone. A survey plat with same date accompanies this description.



Jeff Boerner RPLS # 4939

Date: 09-12-2016 Job # 16-144-00 H St.



Agenda Item:

3B. Ordinance No. 2017-06 amending the budget for Fiscal Year 2017 to account for various changes to the city's operational budget, including additional revenues and allocations for capital improvement projects. (staff)

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

SUBJECT: Second reading of an ordinance amending the FY2017 Budget

FOR AGENDA OF: January 24, 2017

DATE SUBMITTED: January 11, 2017

SUBMITTED BY: Sandra Yarbrough
Director of Finance

CLEARANCES: Don Davis
Interim City Manager

EXHIBITS: Ordinance Amending FY2017 Budget
Attachment A – detailing changes
Letter from Freese and Nichols
Letter from BKD, LLC



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 DEPARTMENT:

SUMMARY STATEMENT

The attached ordinance provides for the first amendment to the FY2017 budget. There are three transactions included in this amendment as shown on Attachment A.

1. Attachment A reflects the purchase of 185,000 cubic feet of earthen fill material for the Reuse Pond and Pump Station project. The earthen fill material is to be purchased from a general fixed asset property (landfill area) for a proprietary fund project (Reuse Water and Pump Station project). The amount of earthen fill material is based on Freese and Nichols final design along with projected costs obtained by Freese and Nichols from discussion with local contractors and suppliers (see attached letter from Freese and Nichols).
2. Attachment A also includes funds received by General Fund for purchase of earthen fill material for Reuse Pond and Pump Station project is to be transferred to General Capital Projects Fund for future capital projects including an indoor athletic facility.
3. Attachment A also reflects a donation received from the Duhr Estate and designated to the library as the beneficiary. The planned use of a part of these proceeds is for an electronic message sign at library.

RECOMMENDED ACTION

There have been no changes since first reading of ordinance on January 10, 2017. It is recommended that the City Council approve the second reading of the ordinance amending the FY2017 budget and authorize city staff to make all necessary entries and adjustments to reflect the attached changes.



Innovative approaches
Practical results
Outstanding service

4040 Broadway St, Suite 600 • San Antonio, Texas 78209 • 210-298-3800 • FAX 210-298-3801

www.freese.com

December 22, 2016

City of Kerrville
200 Sidney Baker Street
Kerrville, Texas 78028

Attn: Kyle Burow, P.E.
City Engineer

Re: Kerrville Reuse Pond and Pump Station Project
Basis for Developing the Estimated Construction Cost for Fill Material

Mr. Burow:

This letter is being provided to illustrate how the cost for earthen fill material was determined during the course of the design of the referenced project.

During the preparation of the feasibility report for this project in mid-2014, we developed a footprint for the pond and a typical cross section based on other similar projects we have designed. We then used this data to quantify the amount of excavation and fill that would be required. These quantities were conservative in nature because a detailed design of the berm around the pond had not yet commenced. We also contacted several material suppliers in the Kerrville and San Antonio areas to obtain budget pricing for fill material. These prices were budget level and were somewhat conservative because the specifications for the soil characteristics our engineers needed had not yet been developed.

As the design began, our engineers worked to minimize the total amount of fill needed for the project. As with every large earthwork project, we attempt to balance the excavation and fill quantities in order to eliminate as much excess excavation material as possible and reduce the off-site fill requirements as much as possible. We also began adjusting the size and location of the berm to better fit the site and to avoid causing any increase in the 100 year flood elevation on any neighboring property. During this period we refined the estimated quantities and prices for all portions of the project including the fill material.

As the design was finalized, our engineers were able to reduce the total fill quantity required to 185,000 cubic yards. In discussions with local contractors and suppliers, we received a varying range of costs of up to \$20 per cubic yard for fill material. We understood that the higher unit costs were still somewhat budget in nature and were basically retail rates rather than wholesale rates, and we believed that there would be a "volume discount" that would most likely be offered by suppliers when actual quotes were provided to contractors. Considering these factors along with our experience on projects requiring a similar quality and quantity of fill, and the fact that the material available on City property met the specified fill requirements; we determined that the market value of the fill material was approximately \$11 per cubic yard. Therefore, the total cost for the fill material on this project was estimated at about \$2,000,000.

Please call me at 210-865-5461 if you have any questions.

Sincerely,

Freese and Nichols, Inc.


John M. New, P.E., CCM

Vice President/Construction Services Manager

Ms. Sandra Yarbrough, Director of Finance
City of Kerrville, Texas
701 Main Street
Kerrville, Texas 78028

We have been engaged to report on the appropriate application of the requirements of accounting principles generally accepted in the United States of America to the specific transaction described below. This report is being issued to the City of Kerrville, Texas, for assistance in evaluating accounting principles for the described specific transaction. Our engagement has been conducted in accordance with standards established by the American Institute of Certified Public Accountants.

Description of Transaction

The facts, circumstances and assumptions relevant to the specific transaction as provided to us by the management of the City of Kerrville (City) are as follows:

The City of Kerrville began work on the Kerrville Reuse Pond and Pump Station Project (Project) during fiscal year ended September 30, 2015. The Project is being accounted for in the City's Water and Sewer Infrastructure Projects Fund 71 (Fund 71). Fund 71 and three other funds, Water and Sewer Fund 2, Water and Sewer Replacement Fund 19 and Water and Sewer Debt Fund 53, are presented together in the City's Comprehensive Annual Report as the Water and Sewer Fund, a major enterprise fund.

During the preparation of the feasibility report, Freese and Nichols, the general contractor for the Project, developed a footprint for the pond and a typical cross section based on their experience with similar projects. The data was used to quantify the amount of excavation and fill that would be required. As the Project design was finalized, Freese and Nichols' engineers determined that approximately 185,000 cubic yards of fill dirt would be required. They received cost information of up to \$20 per cubic yard for material. Their understanding was that this rate was a retail rate rather than a wholesale rate and that volume discounts would likely be available.

Coincidentally, the City's General Government owns a 209 acre tract of land that was purchased in 1929 for \$12,000. The land tract now houses the City's landfill and hosts the water reclamation facility. It is also proximal to the location where the aforementioned reuse pond will be built. This land contains sufficient soil that can be used as fill dirt for the Project. The land is accounted for in General Fixed Assets Fund 17 (Fund 17). The only assets in Fund 17 are capital assets. Cash used to purchase capital assets for the General Government are typically paid for by either the General Fund 1 (Fund 1) or the Capital Projects Fund 70.

Based on these factors and their experience and the fact that the material on City property met the specified fill requirements, Freese and Nichols determined that the market value of fill material available from the City is approximately \$11 per cubic yard. Therefore the total cost for the fill material is estimated at approximately \$2,035,000 (\$11 x 185,000). Although the Water and Sewer Fund could purchase fill dirt from an outside supplier, it would be less expensive to purchase the fill dirt from the General Government that is on the current city site.

The Project is being funded from a variety of sources including bond funding, cash fund, Economic Improvement Corporation funding, and a Kerrville Public Utility Board loan. Cash funding for the project totals \$4.2 million to date.

The City contacted Thomas K. Spurgeon, of McCall Parkhurst & Horton, LLP, the City's bond counsel, regarding this issue in January 2016. Mr. Spurgeon advised the City that although proceeds from certificates of obligations could not be used to purchase the fill dirt from the General Government, he saw no state law or federal tax issue with using available cash on hand to make the purchase.

Therefore, the City's intention is to use cash on hand in Fund 71 to buy 185,000 cubic yards of fill dirt for \$2,035,000 from the General Government.

Appropriate Accounting Principles

The transaction described above should be accounted for under the guidance of GASB Statement No. 48, *Sales and Pledges of Receivables and Future Revenues and Intra-Entity Transfers of Assets and Future Revenues*. Specifically see paragraph 15, Intra-Entity Transfer of Assets and Future Revenues, excerpts below.

15. "When accounting for the transfer of capital and financial assets and future revenues within the same financial reporting entity, the transferee should recognize the assets or future revenues received at the carrying value of the transferor. For example, in an intra-entity sale of receivables, the transferee government should recognize the receivables acquired at the carrying value of the transferor government. The difference between the amount paid (exclusive of amounts that may be refundable) and the carrying value of the receivables transferred should be reported as a gain or loss by the transferor and as a revenue or expenditure/expense by the transferee in their separately-issued statement, but reclassified as transfers or subsidies, as appropriate, in the financial statement of the reporting entity."

In this transaction, Fund 17, which holds the soil, is the transferor and Fund 71, which records the project, is the transferee. The soil asset carrying value in Fund 17 is \$0. Therefore, the Fund 71 should recognize the soil at the carrying value of Fund 17, \$0.

However, because the parcel of land itself, which has a carrying value of \$12,000, is not being deeded to Fund 71 and Fund 17 holds no cash, the transfer of Cash will occur from Fund 71 to Fund 1. Note that the City of Kerrville has no separately-issued financial statements; therefore, the transaction should be recorded as a transfer.

Therefore, the appropriate accounting entry at the fund level to record the exchange is:

Fund 71		
Transfer out to Fund 1	\$2,035,000	
Cash		\$2,035,000
Fund 1		
Cash	\$2,035,000	
Transfer in from Fund 71		\$2,035,000

No entry is needed in Fund 17 and no additional entries are needed for government-wide presentation.

Concluding Comments

The ultimate responsibility for the decision on the appropriate application of the requirements of accounting principles generally accepted in the United States of America for an actual transaction rests with the preparers of financial statements. Our judgment on the appropriate application of the requirements of accounting principles generally accepted in the United States of America for the described specific transaction is based solely on the facts provided to us as described above; should these facts and circumstances differ, our conclusion may change.

Restricted Use

This report is intended solely for the information and use of the City of Kerrville and is not intended to be and should not be used by anyone other than these specified parties

BKD, LLP

Dallas, Texas
January 5, 2017

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2017-06**

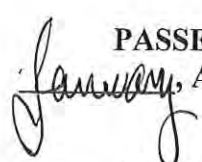
**AN ORDINANCE AMENDING THE BUDGET FOR FISCAL YEAR 2017
TO ACCOUNT FOR VARIOUS CHANGES TO THE CITY'S
OPERATIONAL BUDGET, INCLUDING ADDITIONAL REVENUES AND
ALLOCATIONS FOR CAPITAL IMPROVEMENT PROJECTS**

WHEREAS, Ordinance No. 2016-15 dated September 27, 2016 adopted the Fiscal Year 2017 Budget; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that amending the City's Fiscal Year 2017 Budget is in the best interest of the citizens of the City of Kerrville;

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

In accordance with Section 8.07 of the City Charter, the Official Budget for Fiscal Year 2017 is amended as set forth in **Attachment A**.

 **PASSED AND APPROVED ON FIRST READING, this the 10th day of January, A.D., 2017.**

PASSED AND APPROVED ON SECOND AND FINAL READING, this the _____ day of _____, A.D., 2017.

Bonnie White, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary

Attachment A - Budget Amendment - January 2017

[illegible]

Agenda Item:

4A. Resolution No. 03-2017 designating the official newspaper for the City of Kerrville, Texas, providing authority for the City Manager to act as may be appropriate; providing for an effective date; and repealing all other resolutions in conflict herewith. (staff)

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

SUBJECT: Designating the City's official newspaper

FOR AGENDA OF: 01/24/17

DATE SUBMITTED: 01/20/17

SUBMITTED BY: Don Davis
Interim City Manager

CLEARANCES:



EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$0	\$0	\$0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Neice Bell, publisher of the Kerrville Daily Times (KDT), met with me and requested that the City consider naming the KDT as the official newspaper. Currently, the Hill Country Community Journal (HCCJ) has that designation.

In reviewing the history of this, it was learned that the last official action of Council was in 1997. At that time Council passed Resolution 97-186 designating KDT as the City's official newspaper. In January 2015 the Council discussed this matter and considered adopting a policy for designating an official paper. No action was taken. Finally, sometime in August 2014, the City Administration began using the HCCJ as the city's official newspaper.

From the staff's standpoint, there are two issues: the circulation of the papers and timing of legal ads. The KDT has approximately five times the subscribers as the HCCJ. Being a "daily" newspaper, the KDT is more convenient for the City and our customers when placing legal ads.

For FY2016 the City paid the HCCJ \$4,766.01, and KDT \$1,070.75

RECOMMENDED ACTION

Staff recommends that the KDT be designated as the Official Newspaper for the City of Kerrville.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. 03-2017**

**A RESOLUTION DESIGNATING THE OFFICIAL
NEWSPAPER FOR THE CITY OF KERRVILLE, TEXAS;
PROVIDING AUTHORITY FOR THE CITY MANAGER TO
ACT AS MAY BE APPROPRIATE; PROVIDING FOR AN
EFFECTIVE DATE; AND REPEALING ALL OTHER
RESOLUTIONS IN CONFLICT HEREWITH**

WHEREAS, the Texas Local Government Code anticipates that a home-rule city will designate an official newspaper; and

WHEREAS, at various times and for various purposes, both the Charter of the City of Kerrville and state and other laws require the publication of ordinances, notices, and other matters in a newspaper of general circulation; and

WHEREAS, the City Council of the City of Kerrville, Texas, find it to be in the public interest to designate the City's official newspaper;

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

SECTION ONE. The City Council designates the _____ as the official newspaper of the City of Kerrville, Texas. In addition, and based upon delivery area, publication schedule, paid readership, community involvement, and advertising, Council determines that the _____ is a newspaper of general circulation.

SECTION TWO. The City Manager is authorized to act under the direction of, and on behalf of, the City of Kerrville in all matters related to the official newspaper.

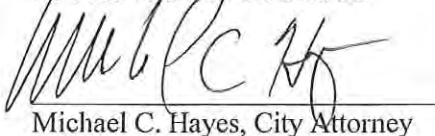
SECTION THREE. All other previously adopted resolutions are repealed to the extent of any conflict with this Resolution.

SECTION FOUR. This Resolution shall become effective immediately upon its passage and execution.

PASSED AND APPROVED ON this the _____ day of _____, A.D., 2017.

Bonnie White, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST: _____

Brenda G. Craig, City Secretary

Agenda Item:

4B. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas for the design of and improvements to the City's H-E-B Tennis Center, in an amount not to exceed \$1,500,000.00. (staff)

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

SUBJECT: Approval of a funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville in an amount not to exceed \$1,500,000 for improvements to the H-E-B Tennis Center

FOR AGENDA OF: January 24, 2017 **DATE SUBMITTED:** January 18, 2017

SUBMITTED BY: Ashlea Boyle
Assistant Director of Parks and Recreation

CLEARANCES: E.A. Hoppe
Deputy City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$1,500,000	\$750,000	\$750,000	75-800-202

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

At its meeting of October 25, 2016, City Council authorized staff to submit an application to the Economic Improvement Corporation (EIC) in the amount of \$1.5 million for improvements to the Tennis Center.

As discussed in previous meetings and workshops, the EIC has programmed dollars into the FY17 and FY18 budgets for improvements to the Tennis Center at \$750,000 respectively per year totaling to \$1.5 million. This allocation in the EIC's budget was included in the FY17 budget that was adopted by City Council on September 27, 2016.

If funded, the City intends to solicit and hire a consulting firm that will facilitate a design / engineering process. This process will engage various tennis-related community stakeholders (KTA, KISD, Schreiner University, etc.) in a planning and design process for the future of the facility. That input will culminate in construction engineering documents that will be utilized to bid and construct the identified improvements.

Staff has identified the following minimum infrastructure improvements, but additional elements may be identified by the stakeholders during the design process:

- Improving path of travel and ADA access to areas such as the pavilion, practice area, pro shop, lower parking, and observation areas
- Resurfacing all post tension concrete courts
- Evaluate the newly resurfaced asphalt courts in regards to upgrading to post tension concrete courts

- Address drainage and parking issues
- Address irrigation and landscaping
- Address lighting
- Address signage, fencing, windscreens, and net equipment
- Address the existing playground
- Improvements to the observation areas, seating, shade, etc.
- Evaluation / renovation of existing buildings.

The EIC board approved the initial application request on November 21, 2016 and directed staff to prepare a funding agreement for consideration in addition to holding a public hearing. The public hearing was held on Tuesday January 17, 2016 and the funding agreement was unanimously approved. The last step in this funding agreement process is consideration and final approval by City Council. Later steps in the overall process will include Council approval of the design / engineering firm contract as well as the actual construction project contract.

RECOMMENDED ACTION

Staff recommends approval of the funding agreement between the EIC and the City of Kerrville in the amount of \$1,500,000 for improvements to the H-E-B Tennis Center as presented.

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS FOR THE DESIGN OF AND IMPROVEMENTS TO THE CITY'S H-E-B TENNIS CENTER

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2017, by and between the City of Kerrville, Texas Economic Improvement Corporation ("Corporation"), a Texas non-profit corporation established by the City of Kerrville pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979 and hereafter called "the Act"), and the City of Kerrville, Texas ("City"), a Texas home-rule municipality.

WITNESSETH:

WHEREAS, pursuant to Chapter 505 of the Act, EIC is authorized to pay the costs of projects, which the EIC finds to be encompassed by the definition of "projects", as that word is defined in Chapters 501 and 505 of the Act; and

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

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

WHEREAS, the City Council of the City (the "City Council") and the Board of Directors of the EIC (the "Board") have determined to undertake a project to design and provide improvements to the City's H-E-B Tennis Center ("Center"), to include improving walking paths, ADA access, lighting, parking, seating areas, irrigation, landscaping, signage, and drainage; the resurfacing of tennis courts; remodeling buildings; and other related improvements (the "Project"), all as authorized by the Act; and

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

WHEREAS, the EIC finds that the Project includes land, buildings, equipment, facilities, and improvements to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, and tourist purposes and events facilities and other related improvements that enhance any of these items; and

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

WHEREAS, on January 17, 2017, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **"Project" Defined**: When used in this Agreement, the phrase "Project" means the project summary and estimate specified in **Exhibit A** attached hereto and included herein for all purposes. City will manage the funding it receives from EIC and the bidding and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC.
2. **Agreement to Fund Project**: The EIC agrees to provide City an amount up to and not to exceed \$1,500,000.00 in 4B Revenues to be used for the design, bidding and/or request for proposals, acquisition, construction, and installation of the Project.
3. **Payments Authorized**: City is authorized to make payments for the herein described purposes directly from the Sales Tax Improvement Fund (Fund 40) or by making a transfer of 4B Revenues from the Sales Tax Improvement Fund (Fund 40) to one or more funds described in the City's approved budget.
4. **Eligible Costs**: Payments made by City from 4B Revenues as authorized by Section 3, above, shall be limited to the payment of "costs" as defined in the Act.
5. **Project Timeline**: The City shall begin design activities for the Project on or before September 30, 2017. Should such activities not occur, EIC may elect to cancel and withhold its pledge of funds for the Project.
6. **Severability**: The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment**: This Agreement may be amended only by written amendment signed by the parties.
8. **Notices**: All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested

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

For EIC

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

For City

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

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

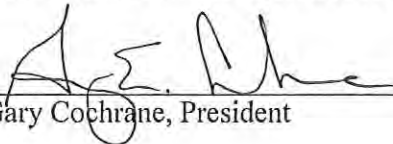
IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the year and as of the date indicated.

CITY OF KERRVILLE, TEXAS

CITY OF KERRVILLE, TEXAS
IMPROVEMENT CORPORATION

ECONOMIC

By: _____
Bonnie White, Mayor

By:  _____
Gary Cochrane, President

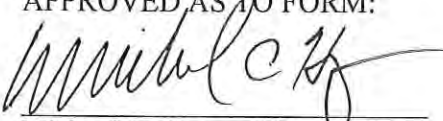
ATTEST:

Brenda G. Craig, City Secretary

ATTEST:

 _____
Cheryl Brown, Secretary for the EIC

APPROVED AS TO FORM:

 _____
Michael C. Hayes, City Attorney



City of Kerrville

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

Exhibit A: PROJECT DESCRIPTION

The project consists of design / engineering process and subsequent physical improvements to the City of Kerrville's H-E-B Tennis Center located at 801 Tennis Drive. The original complex was built in 1978 with six courts. Improvements consisting of an additional eight lit courts, trail, and playground were completed in 1993. The current facility now consists of a total of 14 lighted courts.

In mid-2016, the original battery of asphalt courts were resurfaced and re-striped to seal cracks. This repair was a temporary solution with no guarantee on life expectancy with the knowledge that the courts would eventually need to be overlaid with a concrete cap. Striping for Jr. Courts and Pickleball was also added at this time to support programming needs.

If funded, the City intends to hire a consulting firm that will facilitate a design / engineering process. This process will engage various tennis-related community stakeholders (KTA, KISD, Schreiner University, etc.) in a planning and design process for the future of the facility. That input will culminate in construction engineering documents that will be utilized to bid and construct the identified improvements.

Staff has identified the following minimum infrastructure improvements, but additional elements may be identified by the stakeholders during the design process:

- Improving path of travel and ADA access to areas such as the pavilion, practice area, pro shop, lower parking, and observation areas.
- Resurfacing all post tension concrete courts.
- Evaluate the newly resurfaced asphalt courts in regards to upgrading to post tension concrete courts.
- Address drainage and parking issues.
- Address irrigation and landscaping.
- Address lighting.
- Address signage, fencing, windscreens, and net equipment.
- Address the existing playground.
- Evaluation / renovation of existing buildings.

Agenda Item:

4C. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; and Schreiner University; for the construction of a reclaimed water distribution line to be owned by the city and used in conjunction with the provision of reclaimed water to Schreiner University for irrigation purposes, in an amount not to exceed \$900,000.00. (staff)

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

SUBJECT: Consideration of a Funding Agreement with the City of Kerrville and Schreiner University for Construction of Reclaimed Water Distribution Infrastructure of a maximum of \$900,000.

FOR AGENDA OF: January 24, 2017 **DATE SUBMITTED:** January 18, 2017

SUBMITTED BY: E.A. Hoppe **CLEARANCES:** Don Davis
Deputy City Manager  Interim City Manager

EXHIBITS: Funding Agreement 

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$900,000	\$0	\$1,500,000	40-800-975-03

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Attached is a Funding Agreement from the City of Kerrville to fund up to \$900,000 for the construction of distribution infrastructure to deliver reclaimed water from the city's planned water reclamation storage project to Schreiner University. The water will be used for irrigation of the University's 200+ acre facility located off HWY 27.

This Funding Agreement has been submitted as a quality of life project. The City Council reviewed this item in May 2016 and approved staff to develop an application for EIC review. An application was subsequently reviewed and approved with a 7-0 vote by the EIC on September 19, 2016. On October 25, the City Council awarded a construction contract for the construction of a 105 million gallon storage facility for reclaimed water and a new pump station. Consequently, a Funding Agreement was developed for EIC review for the distribution of reclaimed water. A public hearing was held on Nov. 21, 2016 and the Funding Agreement was subsequently unanimously approved. The reclaimed water distribution system has been bid and a construction contract is also on the Council's agenda.

As discussed in previous meetings and workshops, the EIC has programmed dollars into the FY17 and FY18 budgets for these improvements at \$1,500,000 per year totaling to \$3 million in total for all three reclaimed water distribution lines (Sports Complex, Schreiner University, and Riverhill Golf Course). This allocation in the EIC's budget was included in the FY17 budget that was adopted by City Council on September 27, 2016.

RECOMMENDED ACTION

This is a qualified quality of life project and is an allowable use of 4B sales tax revenues. City Staff recommends approval of the Funding Agreement, per the previous policy direction voted on by the City Council and EIC.

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION; THE CITY OF KERRVILLE, TEXAS; AND SCHREINER UNIVERSITY; FOR THE CONSTRUCTION OF A RECLAIMED WATER DISTRIBUTION LINE TO BE OWNED BY THE CITY AND USED IN CONJUNCTION WITH THE PROVISION OF RECLAIMED WATER TO SCHREINER UNIVERSITY FOR IRRIGATION PURPOSES

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2017, by and between the City of Kerrville, Texas Economic Improvement Corporation ("EIC"), a Texas non-profit corporation established by City pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 ("the Act"); the City of Kerrville, Texas ("City"), a Texas home-rule municipality; and Schreiner University, a Texas nonprofit corporation ("Schreiner").

WITNESSETH:

WHEREAS, pursuant to Chapter 505 of the Act, the EIC may undertake, or provide funding to City to undertake, projects which the EIC finds to be encompassed by the definition of "projects" as that word is defined in Chapters 501 and 505 of the Act; and

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

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

WHEREAS, Schreiner is an independent liberal arts college offering a variety of four-year and master degrees; and

WHEREAS, Schreiner's campus consists of approximately 200 acres and includes athletic fields; and

WHEREAS, Schreiner is a Division III member of the National Collegiate Athletic Association and supports thirteen different collegiate athletic teams as well as intermural sport programs, most of which use various athletic fields throughout its campus; and

WHEREAS, Schreiner currently employs approximately 300 employees; and

WHEREAS, Schreiner's participation in intercollegiate athletics increases its ability to attract students to the university, causes teams from other schools to come to Kerrville for competitions, and provides an amenity for local sports participants and fans; and

WHEREAS, Schreiner uses a combination of potable water from the City, river (surface) water, and groundwater for irrigating its campus, including its athletic fields ("Schreiner's Property"); and

WHEREAS, the irrigation system for Schreiner's Property is an integral component of its campus, to include its athletic and recreational facilities, where a variety of turf grasses are required for sports or other activities; and

WHEREAS, over the past several years, Schreiner has sought an alternative water supply due primarily to drought conditions, which at times have meant restrictions to aid in rationing imposed by the City pursuant to its water management plan; and

WHEREAS, City has offered to construct and install the necessary improvements to deliver reclaimed water (effluent) from the City's Water Reclamation Plant to a specific point of delivery in order to serve Schreiner's Property with reclaimed water for irrigation purposes (the "Project"); and

WHEREAS, Schreiner will then construct and install the necessary improvements to store and utilize the reclaimed water on Schreiner's Property; and

WHEREAS, by serving Schreiner Property with reclaimed water provided by City, Schreiner will have the possibility of using less potable water, river water, and groundwater, all of which may instead be used for domestic purposes; and

WHEREAS, following the City's construction and installation of the Project, Schreiner will connect its system to the Project and begin using the reclaimed water pursuant to a use agreement with the City, said use agreement to provide terms covering issues to include the maximum peak daily demand, rates, and use requirements; and

WHEREAS, the Project, estimated to cost \$900,000.00, will provide Schreiner with another reliable water source for irrigation, which will help Schreiner maintain the health and condition of Schreiner Property; and

WHEREAS, the City seeks grant funding from the EIC in the amount of \$900,000.00, for the City to use in bidding, awarding, managing, and constructing the Project; and

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

WHEREAS, the EIC finds that the Project includes equipment, facilities, and improvements to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, and tourist purposes and events, and related water facilities and other related improvements that enhance any of the items described above; and

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

WHEREAS, on November 21, 2016, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **"Project" Defined:** When used in this Agreement, the phrase "Project" means the project summary and cost itemization specified in **Exhibit A** attached hereto and included herein for all purposes. City will manage the funding it receives from EIC and the bidding and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC.
2. **Agreement to Fund Project:** The EIC agrees to provide City an amount up to and not to exceed \$900,000.00 in 4B Revenues to be used for the Project.
3. **Payments Authorized:** City is authorized to make payments for the herein described purposes directly from the Sales Tax Improvement Fund (Fund 40) or by making a transfer of 4B Revenues from the Sales Tax Improvement Fund (Fund 40) to one or more funds described in the City's approved budget.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project Timeline:** The City shall begin construction activities for the Project on or before May 1, 2017. Should such activities not occur, EIC may elect to cancel and withhold its pledge of funds for the Project.
6. **Conditions Under which City may Suspend Performance of its Obligations under this Agreement:** under any of the following conditions, the City may, at its option, after at least fifteen (15) days written notice to Schreiner, suspend further performance under this Agreement until such time as Schreiner shall have cured the condition(s) and so notified the City, in writing, that the condition(s) have been cured:
 - a. Schreiner 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 Schreiner, 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 Schreiner as bankrupt.

d. The filing by Schreiner 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 Schreiner within ninety (90) days, Schreiner will be considered to have breached this Agreement and City may, at its option, with written notice to Schreiner, terminate this Agreement and Schreiner shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

7. **Schreiner's Representations, Warranties, and Performance:**

a. Schreiner represents and warrants as of the date hereof:

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

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

(iii) No litigation or governmental proceeding is pending, or, to the knowledge of Schreiner, threatened against or affecting Schreiner, which may result in a material adverse change in Schreiner's business; properties, to include Schreiner's Property; or operations sufficient to jeopardize Schreiner's legal existence;

(iv) No written application, written statement, or correspondence submitted by Schreiner to EIC or the City in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of Schreiner, 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; and

(v) following the completion of the Project, Schreiner shall meet or exceed the same number of employees that it presently employs for a period of time not less than two (2) years;

(vi) Schreiner affirms that its capital investment with respect to converting and expanding its present irrigation system for the use of reclaimed water and connecting it to the Project is estimated to meet or exceed \$920,000.00; and

(vii) Prior to its connection to the Project, Schreiner shall enter into a supply and use agreement with the City with respect to its possession and use of reclaimed water, said agreement to cover, in general, the terms of the *Letter of Intent for Supply of*

Reclaimed Water, as signed by Schreiner and City as of August 1, 2016, attached hereto as **Exhibit B**, and included herein for all purposes.

- b. Except as expressly set forth in this section, Schreiner makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.
8. **Reimbursement:** Should Schreiner fail to comply with its performance requirements under this Agreement, Schreiner shall reimburse EIC Nine Hundred Thousand and No/100 Dollars (\$900,000.00). The reimbursement shall be made 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 written demand. Upon repayment thereof, Schreiner shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding repayment and may require partial payment in appropriate circumstances. Failure to reimburse EIC within thirty (30) days of Schreiner's receipt of such demand shall constitute a breach of this Agreement. Notwithstanding any other provision in this Agreement, Schreiner shall in no event be required to pay any amount in excess of \$900,000.00.
9. **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.
10. **Amendment:** This Agreement may be amended only by written amendment signed by the parties.
11. **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 – Gary Cochrane
City of Kerrville, Texas, Economic Improvement Corporation
City Hall, 701 Main Street
Kerrville, Texas 78028

Facsimile: (830) 792-3850

For City

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

Schreiner University

Bill Muse
Vice President for Administration and Finance
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028
Facsimile: (830) 792-7207

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

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

CITY OF KERRVILLE, TEXAS

By: _____
Bonnie White, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

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

By: _____
Gary Cochrane, President

ATTEST:

Cheryl Brown, Secretary for the EIC

SCHREINER UNIVERSITY

By: _____
Bill Muse, Vice President for Administration
and Finance



CITY OF KERRVILLE
ENGINEERING DEPARTMENT
 200 Sidney Baker North
 Kerrville, Texas 78028-5069
 830.258.1170 / www.kerrvilletx.gov

Date: January 18, 2017
 To: EA Hoppe, Deputy City Manager
 From: Kyle Burow, P.E., CFM, Director of Engineering
 Re: Reclaimed Water Distribution System

The City of Kerrville wishes to extend reclaimed water from the proposed reuse pond and pump station to newly acquired customers. This project will consist of approximately 31,000 linear feet of distribution lines installed at various points along the existing reuse system to each proposed and existing reuse customer. Existing reuse customers include Schreiner Golf Course, Tivy High School, Comanche Trace Golf Course, and Kerr County Animal Shelter. Proposed reuse customers include Riverhill Country Club, Schreiner University, and the Youth Sports Complex. Each new customer will require the installation of new lines to a predetermined point of delivery to access the reuse water as depicted below.

Riverhill Country Club will utilize an existing reuse main to tie in near the Loop 534 and State Highway 173 intersection. The installation route will proceed northwest along Old FM 689 to Riverhill Blvd. then approximately 900 feet to the point of delivery on the Riverhill golf course for a total of 3,100 linear feet. In addition, the existing main will require a connection to the proposed reuse pond and pump station along Legion Drive sharing the cost of installation with the Schreiner University extension.

Schreiner University will utilize the same existing reuse main along Loop 534 connecting near the Legion Drive intersection. The installation route will proceed approximately 6,000 linear feet along Legion Drive and East Main to a point of delivery near the existing ball fields. Over the next 12 to 18 months, Schreiner University intends to construct an irrigation pond onsite valued at approximately \$1 million.

The Holdsworth extension will tie in to the existing reuse main near the Scott Schreiner golf course at Loop 534. The route will proceed through the golf course and residential streets to Holdsworth Drive where it will continue for approximately 15,000 linear feet to the point of delivery at the Youth Sports Complex (an irrigation pond is proposed to be designed and constructed by the City over the next 12 to 18 months).

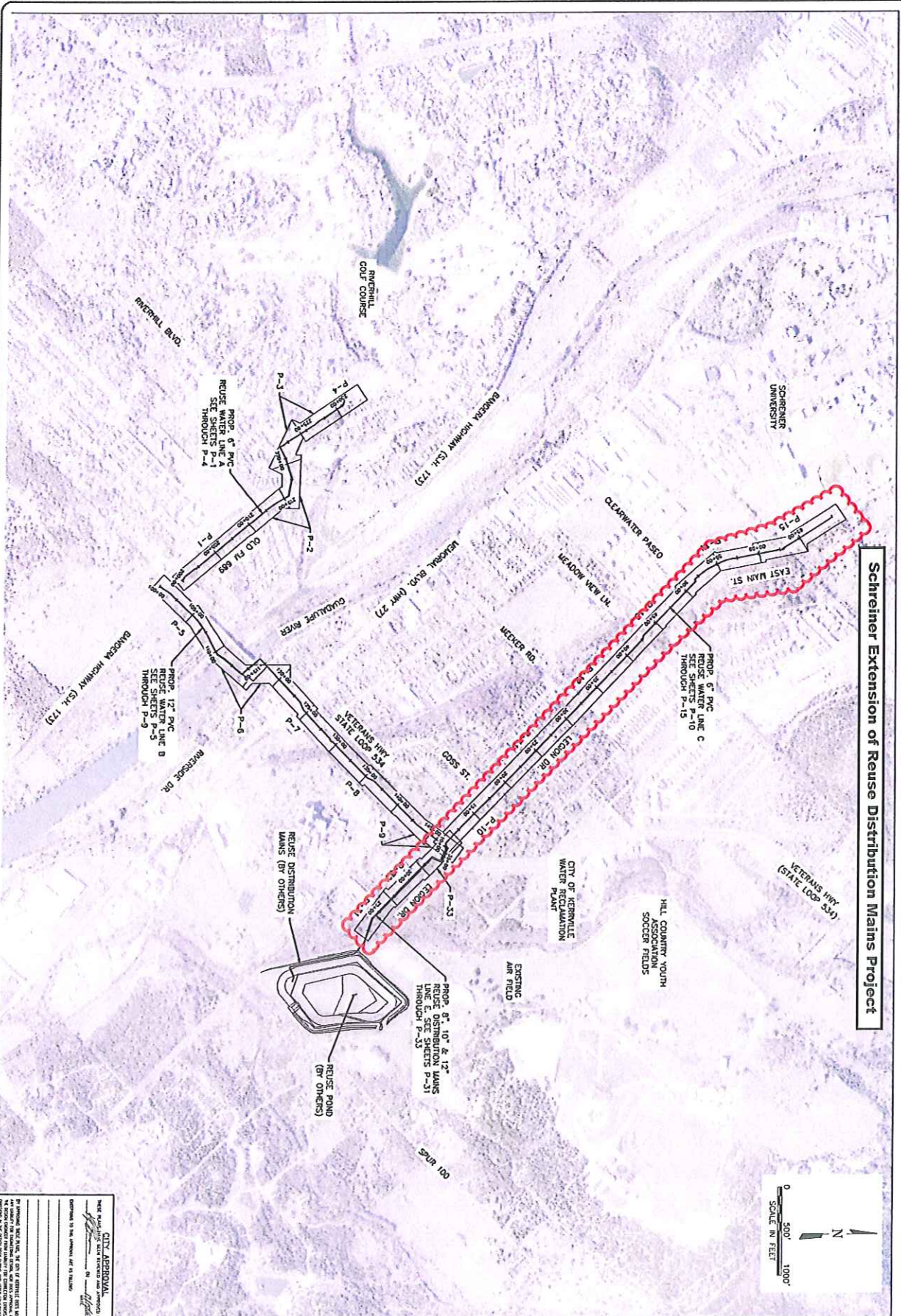
Description	Construction Cost	Description	EIC Funding**
Riverhill Extension	\$625,404	Riverhill Extension	\$600,000
Schreiner University Extension	\$837,690	Schreiner University Extension	\$900,000
Holdsworth Extension	\$1,606,932	Holdsworth Extension	\$1,500,000
Other Distribution Upgrades	\$1,720,214	Other Distribution Upgrades	\$0
Total Cost	\$4,790,240	Total Contributions	\$3,000,000

***Maximum contribution amounts*

The anticipated construction schedule for the project is:

Construction March 2017 – February 2018

Plot Date: 12/14/2016 4:22 PM Plot By: 02515 Filename: N:\STANDARD\GN-0VPL-SITE.dwg



Schreiner Extension of Reuse Distribution Mains Project

CITY APPROVAL

DESIGNED BY: *[Signature]*
 CHECKED BY: *[Signature]*
 DATE: 12/14/16
 PROJECT: MSC
 DRAWN BY: ESI
 FILE NAME: GN-0VPL-SITE.dwg

NO.	REVISION	DATE	BY	CHK	APP
1	ISSUE				

VERIFY SCALE: Bar is one inch on original drawing, if not one inch on this sheet, adjust scale.

CITY OF KERRVILLE
KERRVILLE REUSE DISTRIBUTION SYSTEM
 CIVIL
OVERALL PROJECT LAYOUT
 LINES A, B, C & E

FRESH NICHOLS
 4240 Broadway Street, Suite 600
 San Antonio, Texas 78209-5200
 Phone - (210) 298-3600
 Fax - (210) 298-3621
 Web - www.fresh-nichols.com

Prosser and Nichols, Inc.
 Texas Registered Engineering Firm F-2144

12-14-16

103447



EXHIBIT "B"

City of Kerrville

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

Letter of Intent for Supply of Reclaimed Water

June 22, 2016

Mr. Bill Muse
Vice President of Administration and Finance
Schreiner University
2100 Memorial Boulevard
Kerrville, Texas 78028

Dear Mr. Muse,

This letter is to confirm the mutual intent between the City of Kerrville ("City") and Schreiner University to enter into a funding and use agreement(s) for the provision of reclaimed water for irrigation purposes at the university campus. The City of Kerrville is designing a reclaimed water project with the capability of delivering an adequate supply of non-potable water to irrigate the athletic fields and landscaped areas and to the chiller plant at Schreiner University. Completion of the City's reclaimed water project (the "Project") is anticipated early in the 2018 calendar year.

By virtue of signing below, the parties acknowledge both the scope and timing of the Project and the general terms and conditions as follows:

1. City will deliver reclaimed water to a point within the Schreiner University property as mutually agreed to by both parties ("Delivery Point");
2. City will cause to be designed, constructed, and installed all the improvements required to deliver reclaimed water to the Delivery Point at its sole expense. Said improvements to include, distribution mains, pump station as the City of Kerrville Water Reclamation Plant, valve system(s) at the Delivery Point, SCADA system(s), and related appurtenances;
3. Schreiner University will cause to be designed, constructed, and installed all the improvements required for the storage and use of reclaimed water on its property at its sole expense. Said improvements to include, surface storage, pumping systems, distribution systems, and related appurtenances;
4. Schreiner University agrees to coordinate with the City on the design of the Project by identifying the location of on-site utility systems, location of on-site water storage facilities, and, if appropriate, the dedication of easements to the City on the university's property to accommodate the location and maintenance of reclaimed water infrastructure;
5. City intends to apply to the City of Kerrville Economic Improvement Corporation for funds adequate to cover the costs for the construction and installation of the distribution portion of the Project to deliver reclaimed water from the City of Kerrville Water Reclamation Plant to the Delivery Point. Schreiner University agrees to be a party to the application;

6. Schreiner University agrees that it will take all actions necessary to begin utilizing reclaimed water for irrigation purposes within 24 months of the City's completion of the Project;
7. City's Project will provide a peak daily demand of 250,000 gallons of reclaimed water to the Delivery Point subject to the following conditions:
 - a. A weekly pumping schedule established by the City of Kerrville and Schreiner University that will satisfy the peak daily demand at the Delivery Point ,
 - b. Except where the City needs to utilize reclaimed water supply as part of its potential direct potable reuse program; and
 - c. City will not add additional reclaimed water customers that impede the City's ability to meet the peak daily demand.
8. Schreiner University and the City will enter into a reclaimed supply funding and use agreement(s) that will include, the following provisions:
 - a. 20-year term,
 - b. Application of standard base and volumetric rates established by the City in effect at the time that Schreiner University begins to take reclaimed water;
 - c. Initial base and volumetric rates to remain frozen for the first (7) seven years of consumption;
 - d. Maximum cap of two percent (2%) on annual increases to base and volumetric rates after the first seven (7) years of consumption; and
 - e. Guarantee that Schreiner University will use its reclaimed water in accordance with state and federal law; and
9. This Letter of Intent does not constitute or create, and shall not be deemed to constitute or create, any legally binding or enforceable obligation on the part of either party to this letter of intent. No such obligation shall be created, except by the execution of a separate written agreement between the parties regarding the proposed transaction, and then only in accordance with the terms and conditions of such separate agreement.

By providing the signatures below, each party confirms its acceptance of the terms and conditions of this Letter of Intent.

Sincerely,



Todd Parton
City Manager

By affixing my signature below I acknowledge that I am duly authorized to execute this MOU on behalf of my organization and accept the terms and conditions outlined herein.

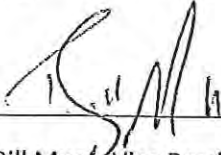
On behalf of Schreiner University:

On behalf of the City of Kerrville:

Date: 7-22-16

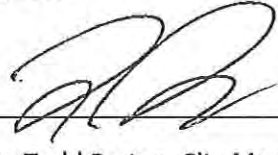
Date: 8/1/2016

Signed:

A handwritten signature in black ink, appearing to read "Bill Muse", written over a horizontal line.

Mr. Bill Muse, Vice President of
Administration and Finance
Schreiner University

Signed:

A handwritten signature in black ink, appearing to read "Todd Parton", written over a horizontal line.

Mr. Todd Parton, City Manager
City of Kerrville, Texas

Agenda Item:

4D. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas; and Riverhill CC, LP; for the construction of a reclaimed water distribution line to be owned by the city and used in conjunction with the provision of reclaimed water to Riverhill Golf Club for irrigation purposes, in an amount not to exceed \$600,000.00. (staff)

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

SUBJECT: Consideration of a Funding Agreement with the City of Kerrville and Riverhill CC, LP for Construction of Reclaimed Water Distribution Infrastructure of a maximum of \$600,000.

FOR AGENDA OF: January 24, 2017 **DATE SUBMITTED:** January 18, 2017

SUBMITTED BY: E.A. Hoppe **CLEARANCES:** Don Davis
Deputy City Manager *EAH* Interim City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$600,000	\$0	\$1,500,000	40-800-975-03

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Attached is a Funding Agreement from the City of Kerrville to fund up to \$600,000 for the construction of distribution infrastructure to deliver reclaimed water from the city's planned water reclamation storage project to Riverhill Golf Course, owned by Riverhill CC, LP. The water will be used for irrigation at the facility.

This Funding Agreement has been submitted as a business development project. The City Council reviewed this item in May 2016 and approved staff to develop an application for EIC review. An application was subsequently reviewed and approved with a 7-0 vote by the EIC on September 19, 2016. On October 25, the City Council awarded a construction contract for the construction of a 105 million gallon storage facility for reclaimed water and a new pump station. Consequently, a Funding Agreement was developed for EIC review for the distribution of reclaimed water. A public hearing was held on Nov. 21, 2016 and the Funding Agreement was subsequently unanimously approved. The reclaimed water distribution system has been bid and a construction contract is also on the Council's agenda.

As discussed in previous meetings and workshops, the EIC has programmed dollars into the FY17 and FY18 budgets for these improvements at \$1,500,000 per year totaling to \$3 million in total for all three reclaimed water distribution lines (Sports Complex, Schreiner University, and Riverhill Golf Course). This allocation in the EIC's budget was included in the FY17 budget that was adopted by City Council on September 27, 2016.

RECOMMENDED ACTION

This is a qualified quality of life project and is an allowable use of 4B sales tax revenues. City Staff recommends approval of the Funding Agreement, per the previous policy direction voted on by the City Council and EIC.

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION; THE CITY OF KERRVILLE, TEXAS; AND RIVERHILL CC, LP; FOR THE CONSTRUCTION OF A RECLAIMED WATER DISTRIBUTION LINE TO BE OWNED BY THE CITY AND USED IN CONJUNCTION WITH THE PROVISION OF RECLAIMED WATER TO RIVERHILL GOLF CLUB FOR IRRIGATION PURPOSES

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2017, by and between the City of Kerrville, Texas Economic Improvement Corporation ("EIC"), a Texas non-profit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and codified in Chapters 501, 502, and 505 of the Texas Local Government Code, otherwise known as the Development Corporation Act of 1979 ("the Act"); the City of Kerrville, Texas ("City"), a Texas home-rule municipality; and Riverhill CC, LP ("RCC"), a Texas limited partnership.

WITNESSETH:

WHEREAS, pursuant to Chapter 505 of the Act, the EIC may undertake, or provide funding to City to undertake, projects which the EIC finds to be encompassed by the definition of "projects" as that word is defined in Chapters 501 and 505 of the Act; and

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

"expenditures that are found by the EIC to be required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, limited to streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, site improvements, and related improvements as specified by Section 501.103 of the Act; and, land, buildings, equipment, facilities, and improvements found by the EIC to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, tourist, convention, and public park purposes and events, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, parks and park facilities, open space improvements, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of the items described by Section 505.152 of the Act (emphasis supplied); and

WHEREAS, RCC owns and operates Riverhill Country Club, which includes the 18 hole Riverhill Golf Course as certified by the United States Golf Association ("USGA"), and is open to members and for other events, including tournaments, meetings, and weddings; and

WHEREAS, RCC currently employs approximately 45 employees, which maintain and operate the golf course, tennis and pool amenities, and restaurants; and

WHEREAS, the Riverhill Golf Club hosts more than 30 tournaments each year, including those organized by or pursuant to the Texas Golf Association, USGA Men's Amateur Local Qualifying, USGA Boy's Junior Amateur Qualifying, Southern Senior Women's National Championship, and Region IV High School Boy's Championship, all of which draw golfers and guests to Kerrville from other parts of the state; and

WHEREAS, RCC uses a combination of potable water from the City, river (surface) water, and groundwater for irrigating its golf course ("RCC's Property"); and

WHEREAS, the irrigation system for RCC's Property is an integral component of the athletic or recreational facility where turf grass is required for the sport or activity; and

WHEREAS, over the past several years, RCC has sought an alternative water supply due primarily to drought conditions, which has significantly reduced its supply of both river water and groundwater, thereby negatively impacting the health and condition of its golf course and the number of available rounds of golf played by golfers; and

WHEREAS, City has offered to construct and install the necessary improvements to deliver reclaimed water (effluent) from the City's Water Reclamation Plant to a specific point of delivery in order to serve RCC's Property with reclaimed water for irrigation purposes (the "Project"); and

WHEREAS, RCC will construct and install the necessary improvements to store and utilize the reclaimed water on RCC's Property; and

WHEREAS, by serving RCC Property with reclaimed water provided by City, RCC will have the possibility of using less potable water, river water, and groundwater, all of which may instead be used for domestic purposes; and

WHEREAS, following the City's construction of the Project, RCC will connect its system to the Project and begin using the reclaimed water pursuant to a use agreement with the City, said use agreement to provide terms covering issues to include the maximum peak daily demand, rates, and use requirements; and

WHEREAS, the Project, estimated to cost \$600,000.00, will provide RCC with another reliable water source for irrigation, which will help RCC maintain the health and condition of RCC Property and maintain a recreational and tourist amenity that improves the quality of life of area residents and continues to draw golfers and visitors from all over the state to Kerrville; and

WHEREAS, the City seeks grant funding from the EIC in the amount of \$600,000.00, for the City to use in bidding, awarding, managing, and constructing the Project; and

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

WHEREAS, the EIC finds that the Project is required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises, which in this case the infrastructure being water utilities, site, and related improvements; and

WHEREAS, the EIC also finds that the Project includes equipment, facilities, and improvements to be required or suitable for use for professional and amateur sports, including children's sports, athletic, entertainment, and tourist purposes and events, and related water facilities and other related improvements that enhance any of the items described above; and

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

WHEREAS, on November 21, 2016, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **"Project" Defined:** When used in this Agreement, the phrase "Project" means the project summary and cost itemization specified in **Exhibit A** attached hereto and included herein for all purposes. City will manage the funding it receives from EIC and the bidding and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC.
2. **Agreement to Fund Project:** The EIC agrees to provide City an amount up to and not to exceed \$600,000.00 in 4B Revenues to be used for the Project.
3. **Payments Authorized:** City is authorized to make payments for the herein described purposes directly from the Sales Tax Improvement Fund (Fund 40) or by making a transfer of 4B Revenues from the Sales Tax Improvement Fund (Fund 40) to one or more funds described in the City's approved budget.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project Timeline:** The City shall begin construction activities for the Project on or before May 1, 2017. Should such activities not occur, EIC may elect to cancel and withhold its pledge of funds for the Project.
6. **Conditions Under which City may Suspend Performance of its Obligations under this Agreement:** under any of the following conditions, the City may, at its option, after at least fifteen (15) days written notice to RCC, suspend further performance under this Agreement until such time as RCC shall have cured the condition(s) and so notified the City, in writing, that the condition(s) have been cured:

- a. RCC 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 RCC, 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 RCC as bankrupt.
- d. The filing by RCC 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 RCC within ninety (90) days, RCC will be considered to have breached this Agreement and City may, at its option, with written notice to RCC, terminate this Agreement and RCC shall be obligated to refund the EIC the full amount of any Grant funding received from the EIC.

7. **RCC's Representations, Warranties, and Performance:**

a. RCC represents and warrants as of the date hereof:

- (i) RCC is a Texas corporation existing in good standing and authorized to do business in the State of Texas;
- (ii) Execution of this Agreement has been duly authorized by RCC and this Agreement is not in contravention of RCC's governing authority or any agreement or instrument to which RCC is a party or by which it may be bound as of the date hereof;
- (iii) No litigation or governmental proceeding is pending, or, to the knowledge of RCC, threatened against or affecting RCC, which may result in a material adverse change in RCC's business; properties, to include RCC's Property; or operations sufficient to jeopardize RCC's legal existence;
- (iv) No written application, written statement, or correspondence submitted by RCC to EIC or the City in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of RCC, 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;
- (v) following the completion of the Project, RCC shall retain the same number of employees that it presently employees for a period of time not less than two (2) years;

(vi) RCC affirms that its capital investment with respect to converting its present irrigation system for the use of reclaimed water and connecting it to the Project is estimated to meet or exceed \$160,000.00; and

(vii) Prior to its connection to the Project, RCC shall enter into a supply and use agreement with the City with respect to its possession and use of reclaimed water, said agreement to cover, in general, the terms of the *Letter of Intent for Supply of Reclaimed Water*, as signed by RCC and City on July 27, 2016, attached hereto as **Exhibit B**, and included herein for all purposes.

b. Except as expressly set forth in this section, RCC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

8. **Reimbursement:** Should RCC fail to comply with its performance requirements under this Agreement, RCC shall reimburse EIC Six Hundred Thousand and No/100 Dollars (\$600,000.00). The reimbursement shall be made 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 written demand. Upon repayment thereof, RCC shall have no further obligation under this Agreement. EIC shall have the discretion to consider relevant circumstances before demanding repayment and may require partial payment in appropriate circumstances. Failure to reimburse EIC within thirty (30) days of RCC's receipt of such demand shall constitute a breach of this Agreement. Notwithstanding any other provision in this Agreement, RCC shall in no event be required to pay any amount in excess of \$600,000.00.
9. **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.
10. **Amendment:** This Agreement may be amended only by written amendment signed by the parties.
11. **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 – Gary Cochrane
City of Kerrville, Texas, Economic Improvement Corporation
City Hall, 701 Main Street
Kerrville, Texas 78028
Facsimile: (830) 792-3850

For City

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

For Riverhill CC, LP

Chief Executive Officer/Manager – John Junker
100 Riverhill Club Lane
Kerrville, Texas 78028

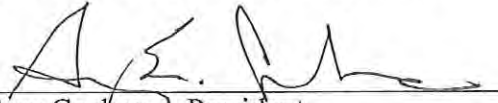
12. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County,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

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

CITY OF KERRVILLE, TEXAS

By: _____
Bonnie White, Mayor

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

By: 
Gary Cochrane, President

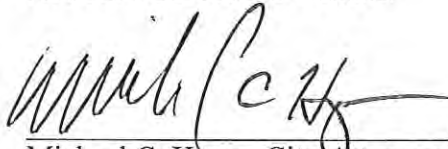
ATTEST:

Brenda G. Craig, City Secretary

ATTEST:


Cheryl Brown, Secretary for the EIC

APPROVED AS TO FORM:


Michael C. Hayes, City Attorney

RIVERHILL CC, LP

By: _____
John Junker, Manager



CITY OF KERRVILLE
ENGINEERING DEPARTMENT
 200 Sidney Baker North
 Kerrville, Texas 78028-5069
 830.258.1170 / www.kerrvilletx.gov

Date: January 18, 2017
 To: EA Hoppe, Deputy City Manager
 From: Kyle Burow, P.E., CFM, Director of Engineering
 Re: Reclaimed Water Distribution System

The City of Kerrville wishes to extend reclaimed water from the proposed reuse pond and pump station to newly acquired customers. This project will consist of approximately 31,000 linear feet of distribution lines installed at various points along the existing reuse system to each proposed and existing reuse customer. Existing reuse customers include Schreiner Golf Course, Tivy High School, Comanche Trace Golf Course, and Kerr County Animal Shelter. Proposed reuse customers include Riverhill Country Club, Schreiner University, and the Youth Sports Complex. Each new customer will require the installation of new lines to a predetermined point of delivery to access the reuse water as depicted below.

Riverhill Country Club will utilize an existing reuse main to tie in near the Loop 534 and State Highway 173 intersection. The installation route will proceed northwest along Old FM 689 to Riverhill Blvd. then approximately 900 feet to the point of delivery on the Riverhill golf course for a total of 3,100 linear feet. In addition, the existing main will require a connection to the proposed reuse pond and pump station along Legion Drive sharing the cost of installation with the Schreiner University extension.

Schreiner University will utilize the same existing reuse main along Loop 534 connecting near the Legion Drive intersection. The installation route will proceed approximately 6,000 linear feet along Legion Drive and East Main to a point of delivery near the existing ball fields. Over the next 12 to 18 months, Schreiner University intends to construct an irrigation pond onsite valued at approximately \$1 million.

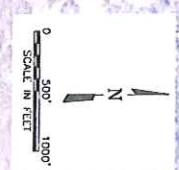
The Holdsworth extension will tie in to the existing reuse main near the Scott Schreiner golf course at Loop 534. The route will proceed through the golf course and residential streets to Holdsworth Drive where it will continue for approximately 15,000 linear feet to the point of delivery at the Youth Sports Complex (an irrigation pond is proposed to be designed and constructed by the City over the next 12 to 18 months).

Description	Construction Cost	Description	EIC Funding**
Riverhill Extension	\$625,404	Riverhill Extension	\$600,000
Schreiner University Extension	\$837,690	Schreiner University Extension	\$900,000
Holdsworth Extension	\$1,606,932	Holdsworth Extension	\$1,500,000
Other Distribution Upgrades	\$1,720,214	Other Distribution Upgrades	\$0
Total Cost	\$4,790,240	Total Contributions	\$3,000,000

***Maximum contribution amounts*

The anticipated construction schedule for the project is:

Construction March 2017 – February 2018

[illegible]

SHEET G-3	NO.	CODE	BY	DATE	PLAN JOB NO.
					KER10543
					SUE 12/14/16
					DESIGNED MSC
					CHECKED ESI
					REVIEWED
VERIFY SCALE ☐ Bar is one inch on original drawing. If not one inch on this sheet, adjust scale.			FILE NAME 2N-CVPL-SITE.dwg		

CITY OF KERRVILLE
KERRVILLE REUSE DISTRIBUTION SYSTEM
CIVIL
OVERALL PROJECT LAYOUT
LINES A, B, C & E

FRESH NICHOLS
4040 Broadway Street, Suite 800
San Antonio, Texas 78209-5250
Phone - (210) 298-3000
Fax - (210) 298-3801
Web - www.fresh.com

Fraser and Nichols, Inc.
Texas Registered Engineering Firm F-2144

12-14-15

STATE OF TEXAS
ANNE C. HIGDON
103447
LICENSED
PROFESSIONAL ENGINEER

Ann H



EXHIBIT B

City of Kerrville

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

Letter of Intent for Supply of Reclaimed Water

July 21, 2016

Mr. John Junker
CEO – Southern Golf Properties
100 Riverhill Club Lane
Kerrville, Texas 78028

Dear Mr. Junker,

This letter is to confirm the mutual intent between the City of Kerrville ("City") and Southern Golf Properties to enter into a funding and use agreement(s) for the provision of reclaimed water for irrigation purposes at the Riverhill Golf Course. The City of Kerrville is designing a reclaimed water project that with the capability of delivering adequate supplies of non-potable water that will allow the Riverhill Golf Course to irrigate with reclaimed water. Completion of the city's reclaimed water project (the "Project") is anticipated early in the 2018 calendar year.

Both parties agree to work cooperatively according to the principal terms and conditions outlined as follows:

1. City will deliver reclaimed water to a point within the Riverhill Golf Course property as mutually agreed to by both parties ("Delivery Point");
2. City will cause to be designed, constructed, and installed all the improvements required to deliver reclaimed water to the Delivery Point at its sole expense. Said improvements to include, but not be limited to, distribution mains, pump station as the City of Kerrville Water Reclamation Plant, valve system(s) at the Delivery Point, SCADA system(s), and other related appurtenances;
3. Southern Golf Properties will cause to be designed, constructed, and installed all the improvements required for the storage of reclaimed water at the Delivery Point and the on-site use of the reclaimed water at its sole expense. Said improvements to include, but not be limited to, surface storage, pumping systems, distribution systems, and other related appurtenances;
4. Southern Golf Properties agrees to coordinate with the City on the design of the Project by identifying the location of on-site utility systems, location of on-site reclaimed water storage facilities, and, if appropriate, the dedication of easements or rights-of-way to the City on the Southern Golf Property's property to accommodate the location and maintenance of reclaimed water infrastructure;
5. City intends to apply to the City of Kerrville Economic Improvement Corporation for funds adequate to cover the costs for the construction and installation of the distribution system portion of the Project to deliver reclaimed water from the City of Kerrville Water Reclamation Plant to the Delivery Point. Southern Golf Properties agrees to be a party to the application;

6. Southern Golf Properties agrees that it will take all actions necessary to begin utilizing reclaimed water for irrigation purposes within 24 months of the city's completion of the Project;
7. City's Project will provide a peak daily demand of 600,00 gallons of reclaimed water to the Delivery Point subject to the following conditions:
 - a. A weekly pumping schedule established by the City and Southern Golf Properties that will satisfy the peak daily demand at the Delivery Point,
 - b. Except where the City needs to utilize reclaimed water supply as part of its potential direct potable reuse program, and
 - c. City will not add additional reclaimed water customers that impede the City's ability to meet the peak daily demand.
8. Southern Golf Properties and the City will enter into a reclaimed supply funding and use agreement(s) that will include the following provisions:
 - a. 20-year term,
 - b. Application of standard base and volumetric rates established by the City in effect at the time that Southern Golf Properties begins to take reclaimed water,
 - c. Riverhill will be billed monthly with charges being the base rate in addition to the application of the volumetric rate for actual gallons delivered to the Delivery Point, which shall be metered. The monthly statement sent by the City will show the gallons metered to the Delivery Point;
 - d. Initial base and volumetric rates to remain frozen for the first (7) seven years of consumption;
 - e. Maximum cap of two percent (2%) on annual increases to base and volumetric rates, and
 - f. Guarantee that Southern Golf Properties will use its reclaimed water in accordance with state and federal law; and
9. This Letter of Intent does not constitute or create, and shall not be deemed to constitute or create, any legally binding or enforceable obligation on the part of either party to this letter of intent. No such obligation shall be created, except by the execution of a separate written agreement between the parties regarding the proposed transaction, and then only in accordance with the terms and conditions of such separate agreement.

By providing the signatures below, each party confirms its acceptance of the terms and conditions of this Letter of Intent.

Sincerely,



Todd Parton
City Manager

By affixing my signature below I acknowledge that I am duly authorized to execute this MOU on behalf of my organization and accept the terms and conditions outlined herein.

On behalf of Southern Golf Properties:

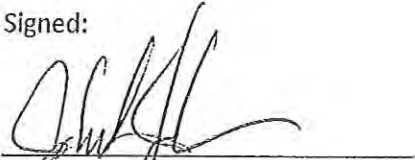
On behalf of the City of Kerrville:

Date: 7/21/16

Date: 7/21/2016

Signed:

Signed:



Mr. John Junker, CEO
Southern Golf Properties

Mr. Todd Parton, City Manager
City of Kerrville, Texas

Agenda Item:

4E. Project funding agreement between the City of Kerrville, Texas, Economic Improvement Corporation and the City of Kerrville, Texas for the construction of a reclaimed water distribution line used for the provision of reclaimed water to the City's Kerrville Sports Complex, in an amount not to exceed \$1,500,000.00.
(staff)

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

SUBJECT: Consideration of a Funding Agreement with the City of Kerrville for Construction of Reclaimed Water Distribution Infrastructure of a maximum of \$1.5 million.

FOR AGENDA OF: January 24, 2017 **DATE SUBMITTED:** January 18, 2016

SUBMITTED BY: E.A. Hoppe **CLEARANCES:** Don Davis
Deputy City Manager Interim City Manager

EXHIBITS: Funding Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Balance	Amount	Account
Required:	in Account:	Budgeted:	Number:
\$1,500,000	\$0	\$1,500,000	40-800-975-03

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

Attached is a Funding Agreement from the City of Kerrville to fund up to \$1.5 million for the construction of distribution infrastructure to deliver reclaimed water from the City's planned water reclamation storage project to the City of Kerrville Sports Complex. The water will be used for irrigation at the complex.

This Funding Agreement has been submitted as a quality of life project. The City Council reviewed this item in May 2016 and approved staff to develop an application for EIC review. An application was subsequently reviewed and approved with a 7-0 vote by the EIC on September 19, 2016. On October 25, the City Council awarded a construction contract for the construction of a 105 million gallon storage facility for reclaimed water and a new pump station. Consequently, a Funding Agreement was developed for EIC review for the distribution of reclaimed water. A public hearing was held on Nov. 21, 2016 and the Funding Agreement was subsequently unanimously approved. The reclaimed water distribution system has been bid and a construction contract is also on the Council's agenda.

As discussed in previous meetings and workshops, the EIC has programmed dollars into the FY17 and FY18 budgets for these improvements at \$1,500,000 per year totaling to \$3 million in total for all three reclaimed water distribution lines (Sports Complex, Schreiner University, and Riverhill Golf Course). This allocation in the EIC's budget was included in the FY17 budget that was adopted by City Council on September 27, 2016.

RECOMMENDED ACTION

This is a qualified quality of life project and is an allowable use of 4B sales tax revenues. City Staff recommends holding a public hearing and also recommends approval of the Funding Agreement, per the previous policy direction voted on by the City Council and EIC.

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS, FOR THE CONSTRUCTION OF A RECLAIMED WATER DISTRIBUTION LINE USED FOR THE PROVISION OF RECLAIMED WATER TO THE CITY'S KERRVILLE SPORTS COMPLEX

THIS PROJECT FUNDING AGREEMENT (the "Agreement") is entered into this _____ day of _____, 2017, by and between the City of Kerrville, Texas Economic Improvement Corporation ("Corporation"), a Texas non-profit corporation established by the City of Kerrville pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979 and hereafter called "the Act"), and the City of Kerrville, Texas ("City"), a Texas home-rule municipality.

WITNESSETH:

WHEREAS, pursuant to Chapter 505 of the Act, the EIC may undertake, or provide funding to City to undertake, projects which the EIC finds to be encompassed by the definition of "projects" as that word is defined in Chapters 501 and 505 of the Act; and

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

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

WHEREAS, City is in the process of developing an approximate 104 acre tract of land as a sports complex, currently named the "Kerrville Sports Complex"; and

WHEREAS, the Kerrville Sports Complex will consist of eleven fields for baseball and softball use and 20 acres which will be used for soccer fields; and

WHEREAS, all of the fields will consist of natural turf and require irrigation; and

WHEREAS, the City's development and provision of the Kerrville Sports Complex will add another athletic and recreational facility to the City's park system and allow it to market itself to and attract multi-team tournaments;

WHEREAS, City seeks to construct and install the necessary improvements to deliver reclaimed water (effluent) from the City's Water Reclamation Plant to the Kerrville Sports Complex in order to serve the property with reclaimed water for irrigation purposes (the "Project"); and

WHEREAS, the City will also construct and install the necessary improvements to store and utilize the reclaimed water at the Kerrville Sports Complex; and

WHEREAS, by serving the Kerrville Sports Complex with reclaimed water provided by City, the City will use less potable water, which may instead be used for domestic purposes; and

WHEREAS, the Project, estimated to cost \$1,200,000.00, will provide the City with a reliable water source for irrigation; and

WHEREAS, the City seeks grant funding from the EIC in the amount of \$1,200,000.00, for the City to use in bidding, awarding, managing, and constructing the Project; and

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

WHEREAS, the EIC finds that the Project includes equipment, facilities, and improvements to be required or suitable for use for professional and amateur sports, including children’s sports, athletic, entertainment, and tourist purposes and events, and related water facilities and other related improvements that enhance any of the items described above; and

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

WHEREAS, on November 21, 2016, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means the project summary and cost itemization specified in **Exhibit A** attached hereto and included herein for all purposes. City will manage the funding it receives from EIC and the bidding and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC.
2. **Agreement to Fund Portion of Project.** The EIC agrees to provide City an amount up to and not to exceed \$1,200,000.00 in 4B Revenues to be used for the Project.
3. **Payments Authorized:** City is authorized to make payments for the herein described purposes directly from the Sales Tax Improvement Fund (Fund 40) or by making a transfer of 4B Revenues from the Sales Tax Improvement Fund (Fund 40) to one or more funds described in the City’s approved budget.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of “costs” as defined in the Act.

5. **Project Timeline:** The City shall begin construction activities for the Project on or before May 1, 2017. Should such activities not occur, EIC may elect to cancel and withhold its pledge of funds for the Project.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
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For EIC

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

For City

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

9. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County, Texas.
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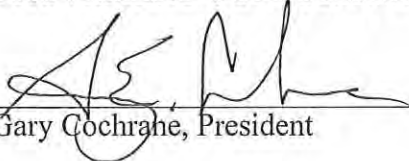
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14. **Entire Agreement:** This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

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

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

By: _____
Bonnie White, Mayor

By:  _____
Gary Cochrane, President

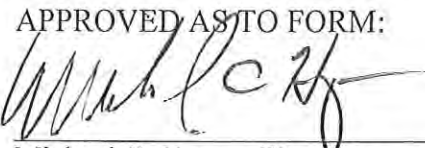
ATTEST:

Brenda G. Craig, City Secretary

ATTEST:

 _____
Cheryl Brown, Secretary for the EIC

APPROVED AS TO FORM:

 _____
Michael C. Hayes, City Attorney



CITY OF KERRVILLE
ENGINEERING DEPARTMENT
 200 Sidney Baker North
 Kerrville, Texas 78028-5069
 830.258.1170 / www.kerrvilletx.gov

Date: January 18, 2017
 To: EA Hoppe, Deputy City Manager
 From: Kyle Burow, P.E., CFM, Director of Engineering
 Re: Reclaimed Water Distribution System

The City of Kerrville wishes to extend reclaimed water from the proposed reuse pond and pump station to newly acquired customers. This project will consist of approximately 31,000 linear feet of distribution lines installed at various points along the existing reuse system to each proposed and existing reuse customer. Existing reuse customers include Schreiner Golf Course, Tivy High School, Comanche Trace Golf Course, and Kerr County Animal Shelter. Proposed reuse customers include Riverhill Country Club, Schreiner University, and the Youth Sports Complex. Each new customer will require the installation of new lines to a predetermined point of delivery to access the reuse water as depicted below.

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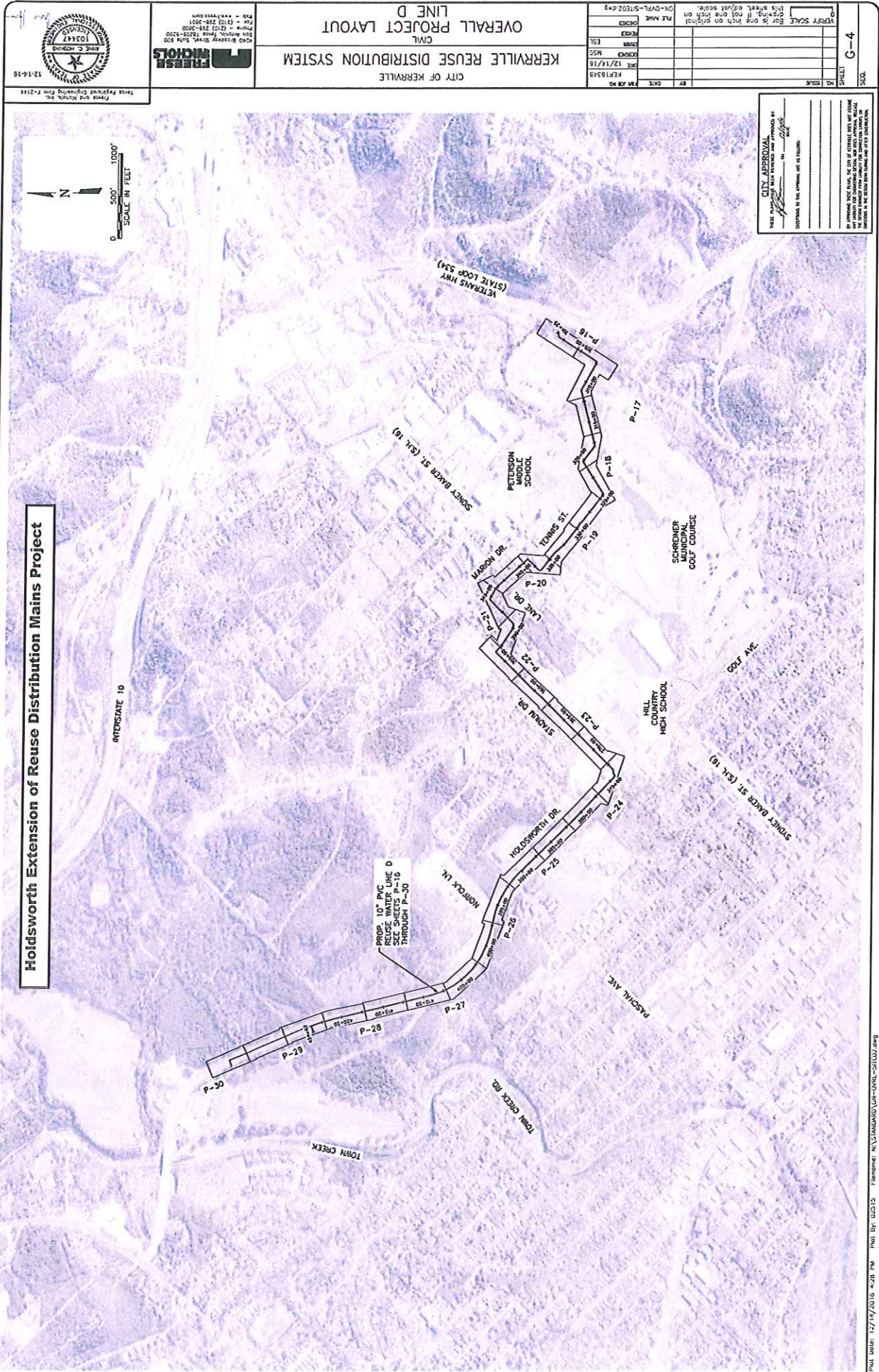
Description	Construction Cost	Description	EIC Funding**
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Schreiner University Extension	\$837,690	Schreiner University Extension	\$900,000
Holdsworth Extension	\$1,606,932	Holdsworth Extension	\$1,500,000
Other Distribution Upgrades	\$1,720,214	Other Distribution Upgrades	\$0
Total Cost	\$4,790,240	Total Contributions	\$3,000,000

***Maximum contribution amounts*

The anticipated construction schedule for the project is:

Construction March 2017 – February 2018

Holdsworth Extension of Reuse Distribution Mains Project



CITY APPROVAL

THIS PROJECT HAS BEEN REVIEWED BY THE CITY OF KERRVILLE AND APPROVED FOR CONSTRUCTION. THE CITY OF KERRVILLE HAS NO LIABILITY FOR THE DESIGN OR CONSTRUCTION OF THIS PROJECT.

APPROVED BY: _____

DATE: _____

NO.	DATE	BY	DESCRIPTION
1	12/14/16	KEH/SLD	REVISED
2	12/14/16	KEH/SLD	REVISED
3	12/14/16	KEH/SLD	REVISED
4	12/14/16	KEH/SLD	REVISED
5	12/14/16	KEH/SLD	REVISED
6	12/14/16	KEH/SLD	REVISED
7	12/14/16	KEH/SLD	REVISED
8	12/14/16	KEH/SLD	REVISED
9	12/14/16	KEH/SLD	REVISED
10	12/14/16	KEH/SLD	REVISED

KERRVILLE REUSE DISTRIBUTION SYSTEM

CITY OF KERRVILLE

CIVIL

OVERALL PROJECT LAYOUT

LINE D

FRISCH

4000 Westinghouse Drive, Suite 100
 Fort Worth, Texas 76120-1000
 Phone: (817) 298-2000
 Fax: (817) 298-2001
 Web: www.frisch.com



Agenda Item:

4F. Execute a construction contract with Qro Mex Construction Co., Inc. for the reuse distribution mains project in the amount of \$4,790,240.25 and authorize the city manager to execute additional change orders which will not exceed a total contract value of \$5,500,000.00. (staff)

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

SUBJECT: Council authorization for the City Manager to execute a construction contract with Qro Mex Construction Co., Inc. for the Reuse Distribution Mains Project in the amount of \$4,790,240.25 and authorize the City Manager to execute additional change orders which will not exceed a total contract value of \$5,500,000.00.

FOR AGENDA OF: January 24, 2017

DATE SUBMITTED: January 18, 2017

SUBMITTED BY: Kyle Burow, P.E., CFM
Director of Engineering

CLEARANCES: E.A. Hoppe
Deputy City Manager

EXHIBITS: Bid Tabulation
Recommendation Letter



PAYMENT TO BE MADE TO: Qro Mex Construction Co., Inc.
2801 Prairie Creek Rd.
Granite Shoals, TX 78654

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$5,500,000.00	\$19,669,454.11	\$21,500,000.00	U08

REVIEWED BY THE FINANCE DIRECTOR:

In May 2016, the City contracted Freese and Nichols, Inc. to provide services for the design, bid and construction phases of the project consisting of approximately 30,000 linear feet of 6, 8, 10, and 12-inch distribution lines connecting to the pump station currently being constructed as part of the Reuse Pond and Pump Station project. The Reuse Distribution Mains project will connect to the reuse system to provide reuse water to each proposed and existing reuse customer. Existing reuse customers include Schreiner Golf Course, Tivy High School, Comanche Trace Golf Course, and Kerr County Animal Shelter. Proposed reuse customers include Riverhill Country Club, Schreiner University, and the Kerrville Sports Complex.

At the December 13, 2016 regular City Council meeting, the City Council authorized staff to proceed with soliciting bids for the Reuse Distribution Mains Project as generally presented. On January 17, 2017, four bids were opened and read aloud with Qro Mex Construction Co., Inc. being the apparent lowest bid. City staff along with FNI evaluated

the contractor and recommends awarding the Reuse Distribution Mains Project base bid in the amount of \$4,790,240.25.

RECOMMENDED ACTION

Authorize the City Manager to execute a construction contract with Qro Mex Construction Co., Inc. for the Reuse Distribution Mains Project in the amount of \$4,790,240.25 and authorize the City Manager to execute additional change orders which will not exceed a total contract value of \$5,500,000.00.

Project Name : Reuse Distribution Mains

Engineering Number: PW#13-018

Bid Opening: January 17, 2017

[illegible]



Innovative approaches
Practical results
Outstanding service

10431 Morado Circle, Suite 300 • Austin, Texas 78759 • 512-617-3125 • FAX 512-617-3101

www.freese.com

January 19, 2017

City of Kerrville
City Hall
701 Main Street
Kerrville, Texas 78028

Attn: Kyle Burow, P.E.
City Engineer

Re: Kerrville Reuse Distribution System
Recommendation of Award

Mr. Burow:

Listed below is the summary of bids for the Kerrville Reuse Distribution System Project. A total of four bids were received on January 17, 2017.

Below is a summary of bids in the order they were opened and read aloud:

<u>Bidder</u>	<u>Base Bid</u>
Resicom, Inc.	*\$6,850,737.75
Qro Mex Construction Co., Inc.	\$4,790,240.25
Nelson Lewis, Inc.	\$7,647,886.50
Spieß Construction Co., Inc.	\$6,743,876.00

**Resicom, Inc. submitted their bid without the required \$96,805.00 allowance for SCADA services included. Their bid with the allowance added is \$6,850,737.75.*

Freese and Nichols' estimate for construction of the project was approximately \$5.7 million.

Based on our previous experience with the City of Kerrville and based on the references checked, Qro Mex Construction Co., Inc. appears to be qualified and capable of performing the work on this type of project. Therefore, Freese and Nichols recommends that the City of Kerrville award the construction contract for this Project to Qro Mex Construction Co., Inc. in the amount of \$4,790,240.25.

Please call me at 512-617-3125 if you have any questions.

Sincerely,

Freese and Nichols, Inc.

A handwritten signature in black ink, appearing to read 'Anne Hoskins'.

Anne Hoskins, P.E.
Project Manager, Associate

Agenda Item:

4G. Execute a construction contract with JM Lowe & Company in the amount of \$1,701,500.00 for the indoor athletic facility project and authorize the city manager to execute additional change orders which will not exceed a total contract value of \$2,035,000.00. (staff)

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

SUBJECT: Council authorization for the City Manager to execute a construction contract with JM Lowe & Company in the amount of \$1,701,500.00 for the Indoor Athletic Facility Project and authorize the City Manager to execute additional change orders which will not exceed a total contract value of \$2,035,000.00.

FOR AGENDA OF: January 24, 2017

DATE SUBMITTED: January 18, 2017

SUBMITTED BY: Kyle Burow, P.E., CFM
Director of Engineering

CLEARANCES: E.A. Hoppe
Deputy City Manager

EXHIBITS: Indoor Athletic Facility Site Plan and Perspective
Bid Tabulation
Recommendation of Award



PAYMENT TO BE MADE TO: JM Lowe & Company
720 Earl Garrett
Kerrville, TX 78028

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$2,035,000.00	\$2,070,715.52**	\$2,196,000.00**	B22

****amount after budget amendment on 01-24-17**

REVIEWED BY THE FINANCE DIRECTOR:

In February 2016, Peter Lewis Architects were hired to provide architectural services for the design and construction of the indoor athletic facility at the Kerrville Sports Complex. City staff and representatives of BTP Baseball Ventures LLC worked with the architects and presented an alternative to the original scope of the project to Council on September 13, 2016. The modified building scope has been accepted by all parties, per the lease contract, and includes:

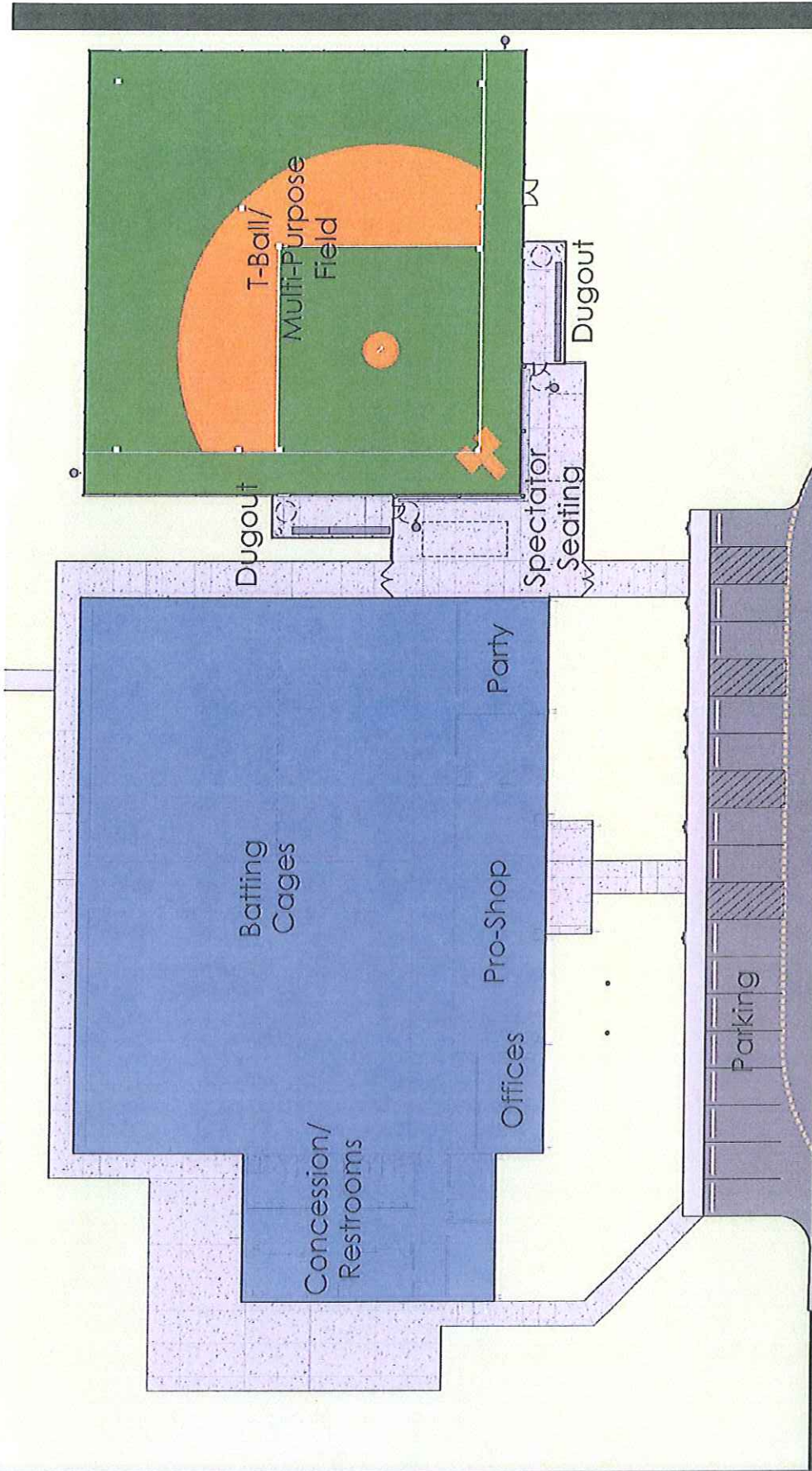
- Pre-engineered metal structure;
- Single story consisting of a 17,714 square foot building footprint
- Indoor area contains – an area for the proshop, administrative offices, parent observation/meeting room, storage room, concession area; and

- Outdoor multi-use space consisting of 11,736 square feet – an area to accommodate t-ball games and practices, use for other purposes, constructed with artificial turf. This area will be connected to the indoor facility with sidewalks, includes covered spectator seating, and would also allow it to be enclosed at a future date.

On November 30, 2016, ten bids were received and opened with JM Lowe & Company being the apparent lowest bid. City staff and Peter Lewis Architects evaluated the contractor and recommend award to JM Lowe & Company for the base bid and alternate (outdoor multi-use space) for a total construction contract amount of \$1,701,500.00.

RECOMMENDED ACTION

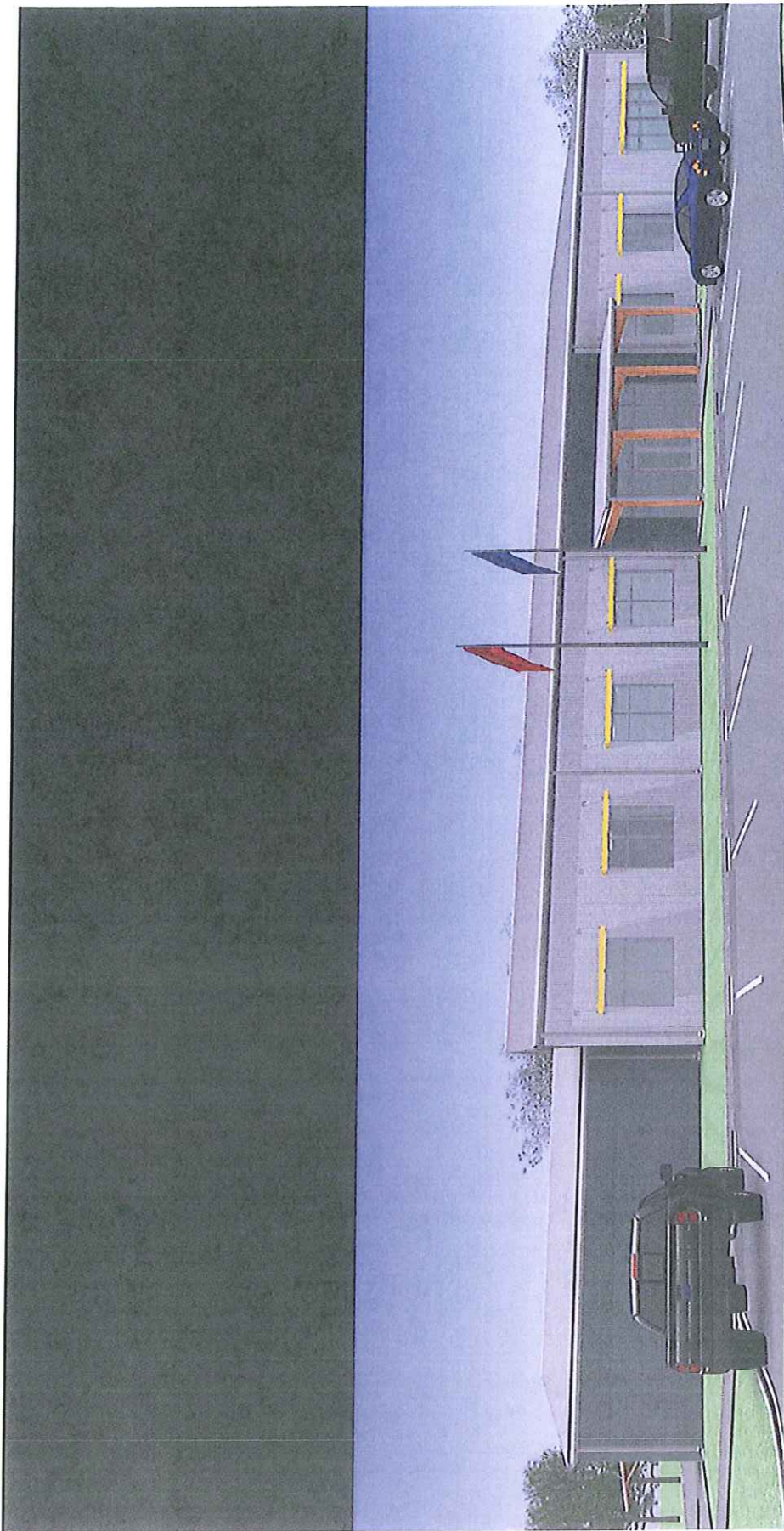
Authorize the City Manager to execute a construction contract with JM Lowe & Company in the amount of \$1,701,500.00 for the Indoor Athletic Facility Project and authorize the City Manager to execute additional change orders which will not exceed a total contract value of \$2,035,000.00.



Site Plan

August 9, 2016

PETER LEWIS
ARCHITECT + ASSOCIATES



Perspective

August 9, 2016

PETER LEWIS
ARCHITECT + ASSOCIATES



Project Name: Athletic Complex Field House

Engineering Number: PW#16-001

Bid Opening: November 30, 2016

General Contractors	Bid Security	Addendum No. One Acknowledged	Addendum No. Two Acknowledged	Addendum No. Three Acknowledged	Base Bid	Alternate Bid
Allbrite Construction	✓	✓	✓	✓	\$1,828,777.00	\$338,777.00
Huband-Mantor Construction	✓	✓	✓	✓	\$1,608,000.00	\$373,409.00
Huser Construction Co.	✓	✓	✓	✓	\$1,410,000.00	\$326,000.00
Zuber Construction	✓	✓	✓	✓	\$1,529,000.00	\$320,000.00
Kendnel Kasper Construction	✓	✓	✓	✓	\$1,509,081.00	\$352,872.00
O'Haver Contractors	✓	✓	✓	✓	\$1,510,000.00	\$333,000.00
JM Lowe & Company	✓	✓	✓	✓	\$1,354,000.00	\$347,500.00
Vertex Corporation	✓	✓	✓	✓	\$1,784,000.00	\$339,000.00
Davila Construction	✓	✓	✓	✓	\$1,728,000.00	\$406,000.00
D. Wilson Construction	✓	✓	✓	✓	\$1,678,000.00	\$359,000.00



PETER LEWIS
ARCHITECT + ASSOCIATES

January 12, 2017

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

RE: City of Kerrville Athletic Complex Field House

Dear Kyle:

Pursuant to receipt of bids for the referenced project, on November 30, 2016 J.M. Lowe & Company General Contractors is the apparent low bidder. Our previous experience with J.M. Lowe on City of Kerrville projects, including recent improvements to Louise Hays Park and Additions & Alterations to the Butt-Holdsworth Memorial Library has been very positive resulting in the successful and timely completion of those projects.

It is therefore our recommendation that the City of Kerrville accept J.M. Lowe & Company General Contractors' Bid and enter into negotiations for the Construction Contract.

Should you have any questions, please feel free to contact me.

Very truly yours,

Peter W. Lewis, Architect
Principal

Agenda Item:

4H. Scheduling a worksession to discuss meeting procedures. (Councilmember Summerlin)

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

SUBJECT: Consider scheduling a work session to discuss meeting procedures.

FOR AGENDA OF: 01/24/17

DATE SUBMITTED: 01/20/17

SUBMITTED BY: Mary Ellen Summerlin
Place 3

CLEARANCES: Don Davis
Interim City Manager

EXHIBITS:

AGENDA MAILED TO:



APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 0	\$ 0	\$ 0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

At the last council meeting, I requested that an item be placed on the January 24, 2017 agenda to vote on having a "workshop with a consultant from TML to review meeting procedures".

After staff spoke with a TML representative they were informed that TML does not provide this type of training on an individual city basis. However, there are consultants who do this.

RECOMMENDED ACTION

Recommend that the City Manager be instructed to obtain more information on this and make arrangements for a meeting.

Agenda Item:

5A. Report on meeting with Kerr County regarding the proposed floodplain revisions along Third Creek. (staff)

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

SUBJECT: Meeting with County on floodplain

FOR AGENDA OF: 01/24/17

DATE SUBMITTED: 01/19/17

SUBMITTED BY: Don Davis
Interim City Manager

CLEARANCES:



EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$ 0	\$ 0	\$ 0	

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DEPARTMENT:

SUMMARY STATEMENT

As per the Council's instructions, staff and representatives from Freese & Nichols met with representatives from the County on Wednesday, January 18. Those in attendance representing the City were: E.A. Hoppe, Stuart Barron, Kyle Burow and Mayor White. Representing the County were: Charlie Hastings, Jonathan Letz and Tom Moser. Representing FNI were: John New, Kim Patak and Jay Scanlon.

The meeting was led by Stuart Barron, and the group discussed each point/question that was mentioned in the County's letter dated January 12, 2017. City staff and FNI answered all of the County's questions. During the discussion, City staff agreed to limit the study area (subject to FEMA approval) to an area between the city limits and the confluence of Second and Third creeks, at the cross section 3383. This solution appeared to be acceptable to all parties. Mr. Letz and Mr. Moser said they would visit with the other commissioners on Monday during Commissioners Court.

At the end of the discussion, the City staff asked if there any more questions from the County. There being none, the meeting was adjourned at 9:10 a.m.

RECOMMENDED ACTION

Report only. No Council action required.

Agenda Item:

5B. Budget and economic update. (staff)

- Reuse project - construction to begin in the near future.
- Library Campus – History Center renovations are near completion
- Utility Construction Building – construction is on going

Permits issued for new residential locations fiscal year-to-date were 14.

Value of commercial permits issued in December was \$500,000. Commercial permits issued for new locations and major remodels are an estimated value of \$3,523,000 fiscal year-to-date. Values of these sites will be reflected on the property tax roll in the following tax year of completion.

Real estate transactions remain steady with a moderate inventory available.

Unemployment at national, state, and local levels has remained at a relatively low percentage for several months.

RECOMMENDED ACTION

Information purposes only, no action required.

City of Kerrville
Month ending December 31, 2016
 (Month 3 of FY2017)

	Current Month	Year To-Date	Budget @ 25.0%	Prior Year To-Date	change from prior year
General Fund					
Total Revenues	\$ 2,740,775	\$ 5,970,349	23.27%	\$ 5,374,638	11.08%
Property tax	\$ 1,482,936	\$ 2,476,625	27.53%	\$ 1,790,681	38.31%
Sales tax	\$ 521,571	\$ 1,608,715	24.97%	\$ 1,520,561	5.80%
Total Expenditures	\$ 2,300,570	\$ 6,208,273	24.19%	\$ 5,441,766	14.09%

Water and Sewer Fund					
Total Revenues	\$ 897,081	\$ 2,937,395	24.29%	\$ 2,966,550	-0.98%
Water Sales	\$ 398,593	\$ 1,412,279	11.68%	\$ 1,475,372	-4.28%
Sewer Service	\$ 442,887	\$ 1,352,970	24.36%	\$ 1,316,484	2.77%
Expenditures	\$ 945,487	\$ 2,839,916	23.49%	\$ 2,530,627	12.22%

Hotel/Motel Fund					
Revenues	\$ 85,176	\$ 297,981	27.12%	\$ 269,145	10.71%
Expenditures	\$ 12,500	\$ 258,950	24.20%	\$ 227,850	13.65%

	Project Budget	Current Month	P-T-D Expense	Budget Balance
Community Investment Plan				
Athletic Complex	\$ 10,500,000	\$ 656,199	\$ 4,095,305	\$ 6,404,695
Library Campus - History Center	\$ 693,206	\$ 14,558	\$ 528,664	\$ 164,542
Reuse - Construction	\$ 18,800,000	\$ 63	\$ 63	\$ 18,799,938
Reuse - Design	\$ 2,800,000	\$ 36,697	\$ 1,773,032	\$ 1,026,968
River Trail	\$ 6,000,000		\$ 5,023,643	\$ 976,357
Utility Construction Building	\$ 1,450,000	\$ 110,151	\$ 692,980	\$ 757,020

Development Services:

Residential # of permits	Commercial permits value
Oct 6	\$1,523,000
Nov 4	\$1,500,000
Dec 4	\$500,000

Housing (December)

Local:

451 active residential listings; 57 residential sales December 2016
 \$13,194,923 total residential sales dollars for December 2016
 \$175,997,860 total residential sales dollars Y-T-D for 2016
 (Source: Kerrville Board of Realtors)

Unemployment: (November)

National	4.4%
Texas	4.2%
Local	3.4%

(Source: Texas Workforce Commission)

YTD 14 \$3,523,000

Agenda Item:

6A. Recovery Community Coalition. (staff)

**BUSINESS OF THE CITY COUNCIL
CITY OF KERRVILLE, TEXAS**

SUBJECT: Appointment to the Recovery Community Coalition

FOR AGENDA OF: January 24, 2017 **DATE SUBMITTED:** January 18, 2017

SUBMITTED BY: Brenda Craig
City Secretary

CLEARANCES: Don Davis
Interim City Manager

EXHIBITS:

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

SUMMARY STATEMENT

Consider appointment to the Recovery Community Coalition

RECOMMENDED ACTION

Consider appointment to the Recovery Community Coalition.

RECOVERY COMMUNITY COALITION

	<u>Telephone</u>	<u>Appt. Date</u>	<u>Exp. Date</u>
ANDREW, GLENN City Council P. 2 3553 La Cumbre Dr.	370-0362 (C) 895-0676 (H)	1-10-17	
BROWN, WALTER 120 G St. #11	512-986-0988 (H) 896-2211 (W) Ext. 6269 Unit 1A	1-10-17	
DRIGGERS, SHAWN 613 Wheless Ave.	285-4536 (H) 895-5969 (W)	1-10-17	
FINE, STEPHEN City Council Pl. 1 1210 Virginia Dr.	285-4234 (C)	1-10-17	
GEISLER, BLAIR 381 A Guadalupe St.	713-972-5001 (C)	1-10-17	
GODWIN, LAURA 312 Lytle St.	214-293-7353 (H)	1-10-17	
KOHLER, KORY 220 Riverhill Club Ln.	928-4254 (H) 896-2211 (W) Ext. 6268	1-10-17	
PAUTLER, JOHN 113 Los Cedros Loop	258-7054 (W)	1-10-17	
PETER, PAMELA 1036 Creek Run	257-6423 (H) 459-8527 (C)	1-10-17	
RICHNER, CLAUDIA 3864 Rock Barn Dr.	816-532-0078 (H)	1-10-17	
ROBINSON, ROSS 3144 Double Eagle Cr.	896-1752 (H) 512-983-7834 (C) 792-3300 (W) Ext. 2025	1-10-17	
STOLPMAN, RICHARD 115 Plaza Dr. #205	777-9153 (H) 320-304-0736 (C)	1-10-17	

TREES, DALE	928-5420 (H)	1-10-17
115 Plaza Dr. #2007	238-4222 (W)	
	Ext. 510	
WOOD, JULIE	936-615-7844 (H)	1-10-17
404 Meadowview Ln.	792-5775 (W)	

VACANT

Purpose: The purpose of the Coalition is to enhance the opportunities for the recovery community to become fully integrated into the fabric of Kerrville. The Coalition shall work toward considering and identifying strategies and techniques for reducing barriers for the recovery community to be fully integrated into the local community as well as to identify and advocate goals and ideas for enhancing positive relationships by and amongst the recovery community.

Qualifications: **At least one member from each of the following, but any of which may include more than one member:**

- owner of a male boarding home facility with a valid permit issued by the City;
- owner of a female boarding home facility with a valid permit issued by the City;
- member of the recovering community;
- citizen of Kerrville with interest in these issues;
- representative of mental health support organizations such as Kerrville State Hospital;
- representative of Peterson Health;
- representative of Hill Country MHDD Centers;
- representative from a residential addiction treatment facility located within Kerr County; and
- two Councilmembers

Powers and Duties: On an annual basis, or more frequently as deemed proper by the Coalition or City Council, the Coalition should attend and report its conclusions, achievements, ideas, desires, and plans to the City Council. It is recommended that the initial issue with which the Coalition is charged to review is Ordinance No. 2013-06 (Chapter 30, Article I, Code of Ordinances), which addresses the operation of group homes and boarding home facilities operating within the City.

Term of Office: Each member shall be subject to two-year terms; provided, however, that at the Coalition's organizational meeting, the members shall draw lots to establish the duration of the initial terms, with an exact majority of the members serving an initial term of two years and the remaining members serving a one-year term. The expiration date of all terms shall be December 31 of the year corresponding with the results of the drawing of lots.

Quorum: Eight members

Number of Members: Fifteen

Absences: Any member who misses 25% of the regular meetings or three consecutive regular meetings may be replaced by City Council.

Meeting Time & Place: Meetings are to be held at least once each calendar quarter.

Established by: Resolution No. 26-2016

Revised Date: January 12, 2017