

AGENDA FOR REGULAR MEETING

KERRVILLE CITY COUNCIL

TUESDAY, JANUARY 25, 2011, 6:00 P.M.

CITY HALL COUNCIL CHAMBERS

800 JUNCTION HIGHWAY, KERRVILLE, TEXAS

Agenda Item:

(Staff)

2A. A resolution ordering that a general election be held on May 14, 2011, for the election of two city councilmembers; appointing election judges; adopting an electronic counting system; establishing a central counting station; appointing a central counting station manager; appointing a tabulation supervisor; appointing the central counting station presiding judge; and authorizing early processing of ballots. (Staff)

2A. UNA RESOLUCIÓN QUE PIDE QUE UNA ELECCIÓN GENERAL SE LLEVE A CABO EL 14 DE MAYO DE 2011, PARA LA ELECCIÓN DE DOS MIEMBROS DEL AYUNTAMIENTO DE LA CIUDAD: NOMBRAR UN GERENTE PÚBLICO PARA LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE LA TABULACIÓN: ESTABLECER LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE TABULACIÓN: ESTABLECER LA ESTACIÓN CENTRAL DE CUENTAS: NOMBRANDO SU JUEZ: AUTORIZANDO EL PROCESO TAMPRANO DE LAS BALOTAS DE LA ELECCIÓN GENERAL, QUE SE LLEVARÁ A CABO EL 14 DE MAYO DE 2011.

2. Election Day is Saturday, May 14, 2011, from 7:00 a.m. to 7:00 p.m. at the Cailloux City Center at 910 Main Street.

3. Appoint the following election judges:
Arita Raso, election judge
Eugenia Webb, alternate election judge; and
Michael Louise (Bonnie) Bond, early voting ballot board judge.
4. Establish the location of the central counting station as the county voter registrar's office at the Kerr County Courthouse, 700 Main Street, and appoint the central counting station workers as follows:
Diane Villarreal, central counting station presiding judge; and
Cindy Gaurdiola, tabulation supervisor; and
Sharon Smith, central counting station manager.
5. Official canvass of the election be held on May 24, 2011, at 10:00 a.m.

RECOMMENDED ACTION

The city secretary recommends approval of the resolution calling the General Election on May 14, 2011, and related matters.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. -2011**

A RESOLUTION ORDERING THAT A GENERAL ELECTION BE HELD ON MAY 14, 2011, FOR THE ELECTION OF TWO CITY COUNCILMEMBERS; APPOINTING ELECTION JUDGES; ADOPTING AN ELECTRONIC COUNTING SYSTEM; ESTABLISHING A CENTRAL COUNTING STATION; APPOINTING A CENTRAL COUNTING STATION MANAGER; APPOINTING A TABULATION SUPERVISOR; APPOINTING THE CENTRAL COUNTING STATION PRESIDING JUDGE; AND AUTHORIZING EARLY PROCESSING OF BALLOTS

WHEREAS, Section 2.03 of the City Charter establishes that terms of offices for Councilmembers shall be for two years and until their successor is elected; and

WHEREAS, the term of office for Councilmember Place One, and Councilmember Place Two, will expire in May 2011; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to call a general election to be held on May 14, 2011, for the election of persons to the offices of Councilmember Place One and Councilmember Place Two; and

WHEREAS, in order to more efficiently conduct the counting of ballots for the May 14, 2011, general election for the City of Kerrville, the City Council finds it to be in the public interest to appoint various officials and to adopt certain procedures for conducting said election;

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

SECTION ONE. A general election is ordered to be held in the City of Kerrville, Texas, on the 14th day of May 2011 for the purpose of electing persons to the offices of Councilmember Place One and Councilmember Place Two for the City of Kerrville, Texas.

SECTION TWO. The method of voting shall be by the Hart Voting System, which is an electronic touch screen voting system.

SECTION THREE. The municipal polling place for such election shall be the Kathleen C. Cailloux City Center of the Performing Arts, 910 Main Street, Kerrville, Texas, 78028.

SECTION FOUR. On election day, the polls shall be open from 7:00 AM to 7:00 PM. Early voting shall be conducted at the Kathleen C. Cailloux City Center of the Performing Arts, 910 Main Street, Kerrville, Texas, 78028, May 2 through May 10 as follows:

Monday, May 2, 2011: 7:00 AM to 7:00 PM

Tuesday, May 3, 2011: 7:00 AM to 7:00 PM

Wednesday, May 4 through Tuesday, May 10, 2011: 8:00 AM to 5:00 PM

SECTION FIVE. Applications for ballot by mail shall be addressed to: Nadene Alford, Kerr County Courthouse, 700 Main Street, Kerrville, Texas, 78028, and must be received no later than 5:00 PM on May 6, 2011.

SECTION SIX. The following persons are appointed as election judges pursuant to Texas Election Code §32.005 for the election to be held on May 14, 2011, inclusive of the early voting period:

Arita Raso – Election Judge

Eugenia Webb – Alternate Election Judge

Michael Louise (Bonnie) Bond – Early Voting Ballot Board Judge

SECTION SEVEN. In accordance with Texas Election Code §127.001, the City Council of the City of Kerrville, Texas, hereby declares that ballots for the May 14, 2011, City election shall be electronically counted by using the Hart E Scan System owned by Kerr County.

SECTION EIGHT. In accordance with Texas Election Code §127.001, the City Council hereby establishes that the central counting station for the counting of ballots in the May 14, 2011, election will be located in the office of the voter registrar of Kerr County, Texas, 700 Main Street, Kerrville, Texas.

SECTION NINE. That in accordance with Texas Election Code §127.005, Diane Villarreal is appointed to serve as presiding judge of the central counting station for the May 14, 2011, City election.

SECTION TEN. In accordance with Texas Election Code §127.003, Cindy Gaurdiola is appointed to serve as tabulation supervisor for the May 14, 2011, City election.

SECTION ELEVEN. In accordance with Texas Election Code §127.002, Sharon Smith is appointed to serve as central counting station manager for the May 14, 2011, City Council election.

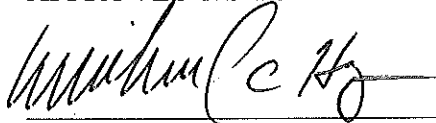
SECTION TWELVE. In accordance with Texas Election Code §127.124, the City Council hereby authorizes that the ballots cast during the early voting period for the May 14, 2011, City election may be processed on or after 9:00 AM on May 14, 2011.

SECTION THIRTEEN. City Council will conduct the official canvass of the election at a special meeting on Tuesday, May 24, 2011, beginning at 10:00 AM in the Council Chambers, City Hall, 800 Junction Highway.

PASSED AND APPROVED ON this the _____ day of _____ A.D., 2011.

David Wampler, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary

CITY COUNCIL ELECTION CALENDAR

This memo gives the dates for the various actions connected with the regular city election to be held on May 14, 2011, and lists the councilmembers whose terms are expiring. Please mark these dates on your calendar:

Feb. 12 – Mar. 14	Candidate may file application for place on ballot from 8:00 a.m. to 5:00 p.m. Monday-Friday The name of the candidate and place for which he is filing will be affixed by the city secretary at the time of issuance of a petition form.
Feb. 12– Mar. 21	Write-In candidate may file to declare candidacy at city secretary's office 8:00 a.m.-5:00 p.m. Monday-Friday
Mar. 17	City secretary conducts drawing for order of names on ballot at 3:00 p.m.
Apr. 14	Last day for submitting voter registration application or for requesting transfer of registration in time to vote in the election.
May 2– May 10	Early voting by personal appearance at Cailloux City Center at 910 Main Street on May 2 through May 10: - Monday, May 2: 7 a.m. to 7 p.m. - Tuesday, May 3: 7 a.m. to 7 p.m. - Wednesday, May 4 through Tuesday, May 10: 8 a.m. to 5 p.m.
May 14	ELECTION DAY, voting from 7:00 a.m. to 7:00 p.m. at Cailloux City Center, at 910 Main Street. Early voting results will be available at the Kerr County Courthouse after 7:00 p.m., and the unofficial tabulation results of election day will be available after 7:30 p.m. at the courthouse.
May 24	City council meeting at 10:00 a.m. to officially canvass election returns by city council, certificates of election issued, oaths of office given, newly elected officers assume duties, and mayor pro tem may be elected by city council.
May 24	Regular city council meeting at 6:00 p.m. at city hall, 800 Junction Highway.

Councilmembers whose terms are expiring are:

Place One – R. Bruce Motheral
Place Two – Stacie Keeble

**AYUNTAMIENTO
DE LA CIUDAD DE KERRVILLE, TEXAS**

TEMA: Elección general del Ayuntamiento de la resolución que ordena el 14 de Mayo de 2011, y Elejir y llenar la posicion de Juezes y establecer el lugar donde se llevara acabo

AGENDA : Enero 25, 2011

FECHA SOMETIDA: Enero 7, 2011

SOMETIDA POR: Brenda Craig ^{BC}
Secretaria de la Ciudad

SEPARACIONES: Todd Parton, Administrado
de la Ciudad
Mike Hayes, Abogado de la
Ciudad

OBGETIVOS: Calendario de la Resolucion

AGENDA ENVIADA A:

APPROVADA Y SOMETIDA POR EL ADMINISTRADOR MUNICIPAL:

RESUMEN DE LA DECLARACION

La resolution de este documento es mandatoria para la election General que se llevara a cabo el Sabado 14 del mes de Mayo del 2011. Para elejir dos miembros del consejo quienes sus terminos terminaran, ellos son:

Miembro del consejo Plazo Uno – R. Bruce Motheral
Miembro del Consejo Plazo Dos – Stacie Keeble

El periodo para llenar la application para un lugar en la boleta se llevara acabo el 12 de Frebero hasta el 14 de Marzo, del 2011. Los candidatos inscritos pueden aplicar hasta el 21 de Marzo del 2011.

La resolution aprobada establecera el periodo del voto temprano personal Y establecida por la fecha y tiempo para la sollicitación de votos De elecciones. La Secretaria de la Ciudad recomienda lo siguiente:

1. El voto temprano personal comenzara el 2 Mayol hasta el dia 10 de Mayo en El Cailloux Centro Publico obicado en La calle Main numero 910, Horario:

- Lunes, 2 de Mayo: 7 a.m. to 7 p.m.
- Martes, 3 de Mayo: 7 a.m. to 7 p.m.
- Miercoles, 4 de Mayo hasta el Martes, 10 de Mayo: 8 a.m. to 5 p.m.

2. El dia electoral sera el Sabado 14 del mes de Mayo, de las 7:00 a.m hasta alas 7:00 p.m. en El Cailloux Centro Publico obicado en La calle Main numero 910.

3. La eleccion official se llevara acabo el 24 de Mayo del 2011, alas 10:00 a.m.

4. Nombramiento de los siguientes solicitadores de votos:
Arita Raso, Juez de Eleccion
Eugenia Webb, Suplente Juez de Eleccion
Michael Louise (Bonnie) Bond, Juez de votacion temprano de bolletas.
5. Establecer el lugar central para la votacion que se encuentra en la oficina de la corte localizada en el condado de Kerr, localizada en la calle main numero 700. Elejir los siguientes trabajadores de cuenta centrales:
Diane Villarreal, Presidente del tribunal de cuentas centrales
Cindy Gaúrdiola, Supervisor de tabulacion
Sharon Smith, Gerente de cuentas centrales.

ACTION RECOMENDADA

La Secretaria de la Ciudad recomienda la aprovanza de la eleccion general se lleve acabo el 14 de Mayo del 2011, para establecer el periodo del voto temprano personal. Y establecer la fecha y hora para la eleccion general y de asuntos relacionados el 14 de Mayo del 2011, alas 10:00 a.m., 24 de Mayo, 2011.

CIUDAD DE KERRVILLE, TEXAS
RESOLUCION NO. -2011

UNA RESOLUCIÓN QUE PIDE QUE UNA ELECCIÓN GENERAL SE LLEVE A CABO EL 14 DE MAYO DE 2011, PARA LA ELECCIÓN DE DOS MIEMBROS DEL AYUNTAMIENTO DE LA CIUDAD: NOMBRAR UN GERENTE PÚBLICO PARA LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE LA TABULACIÓN: ESTABLECER LA ESTACIÓN DE CUENTAS CENTRAL: NOMBRAR UN SUPERVISOR DE TABULACIÓN: ESTABLECER LA ESTACIÓN CENTRAL DE CUENTAS: NOMBRANDO SU JUEZ: AUTORIZANDO EL PROCESO TAMPRANO DE LAS BALOTAS DE LA ELECCIÓN GENERAL, QUE SE LLEVARÁ A CABO EL 14 DE MAYO DE 2011.

CONSIDERANDO QUE la sección 2.03 de la Carta Constitucional de la Ciudad establece que los términos de los cargos para los miembros del ayuntamiento serán por dos años, y hasta que se elija se sucesor, y

CONSIDERANDO QUE el término de los Miembros del Ayuntamiento del Lugar Número Uno, y de los Miembros del Ayuntamiento del Lugar Número Dos, expirará en Mayo de 2011: y

CONSIDERANDO QUE el Ayuntamiento de la Ciudad de Kerrville, Texas, encuentra el estar en el interés público el llamar una elección general que tendrá lugar el 14 de Mayo de 2011, para la elección de personas para los cargos del Miembro del Ayuntamiento Lugar Uno, y el Miembro del Ayuntamiento Lugar Dos, y

CONSIDERANDO QUE el modo más eficiente para contar las balotas el día 14 de Mayo, del 2011, para la elección general de la Ciudad de Kerrville, El Ayuntamiento pone interés en nombrar varios oficiales y en adoptar ciertos procedimientos y métodos públicos para la elección.

AHORA, POR LO TANTO, SE HA RESUELTO POR EL AYUNTAMIENTO DE LA CIUDAD DE KERRVILLE, CONDADO DE KERR, TEXAS:

SECCIÓN UNA. Una elección general se llevará a cabo en la Ciudad de Kerrville, Texas, el 14 de Mayo, de 2011, con el propósito de elegir a personas a los cargos de Miembros del Ayuntamiento, Lugar Uno, y el del Miembro del Ayuntamiento Lugar Dos, para la Ciudad de Kerrville, Texas.

SECCIÓN DOS. El método de votación será por el Sistema de Votación de Hart, que es un sistema de votación con una pantalla de tacto electrónico.

SECCIÓN TRES. El sitio de votación para tal elección será el Kathleen C. Cailloux City Center of Performing Arts, 910 Calle Main, Kerrville, Texas, 78028.

SECCIÓN CUATRO. El día de la elección, los sitios de votación estarán abiertos a partir de las 7:00 A.M. La votación temprana tomará lugar en el Kathleen C. Cailloux City Center of the Performing Arts, 910 Calle Main, Kerrville, Texas, 78028, desde el 2 hasta el 10 de Mayo.

-Lunes, 2 de Mayo: 7 A.M. hasta 7 P:M:

-Martes, 3 de Mayo, 7 A:M: hasta 7 P:M:

-Miércoles, 4 de Mayo, hasta el Martes, 10 de Mayo: 8 A.M. hasta 5 P:M:

SECCIÓN CINCO. Las solicitudes para una balota por correo se dirigirán a: Nadene Alford, Kerr County Courthouse, 700 Main Street, Kerrville, Texas, 78028, y se deben recibir no más tarde que las 5:00 P.M: del 6 de Mayo, de 2011.

SECCIÓN SEIS: Las siguientes peronas se nombran como jeces de la elección, según el Código Electoral No. 32.005 para la elección del 14 de Mayo, 2011, inclusive el periodo de votación temprana.

Arita Raso - Juez de la elección
Eugenia Webb - Juez alternativo
Michael Louise (Bonnie) Bond - Juez de las balotas del voto temprano.

SECCIÓN SIETE: De acuerdo con la acordancia de la elección de Texas, Código 127.001, el Ayuntamiento establece por este medio que la cuenta central para contar las balotas para el 14 de Mayo de 2011, para la elección de la Ciudad, serán electornicamente contadas, usando el sistema Hart E. Scan, poseído por el Condado de Kerr.

SECCIÓN OCHO: De acuerdo con la acordancia de la elección de Texas, Código 127.001, el Ayuntamiento establece por este medio, que la cuenta central para contar las balotas de la elección el 14 de Mayo, 2011, se llevará a cabo en la oficina de la registradora del Condado de Kerr, Texas, en la calle Main en Kerrville, Texas.

SECCION NUEVE: De acuerdo con la acordancia de la elección de Texas, Código 127.005, Diana Villareal se ha designado para servir como Presidente del Tribunal de la estación de cuentas central de la elección de la Ciudad el 14 de Mayo, de 2011.

SECCIÓN DIEZ: De acuerdo con la acordancia de la elección de Texas, Código 127.03, Cindy Guardiola es designada a servir como supervisora de tabulación en la elección de la Ciudad el 14 de Mayo, de 2011.

SECCIÓN ONCE: De acuerdo con la acordancia de la elección de Texas, Código 127.02, Sharon Smith es designada a servir como Gerente de la Estación de Cuentas Centrales para el 14 de Mayo, del 2011, Elección del Ayuntamiento.

SECCIÓN DOCE: El Concilio de la Ciudad llevará a cabo la solicitud oficial de la elección en una reunión oficial el martes, 24 de mayo, 2011, comenzando a las 10:00 A.M. en la Cámara del Concilio, Casa Municipal, 800 Junction Hiway.

SECCIÓN TRECE: De acuerdo con la acordancia de la elección de Texas, Código 127.124, el Ayuntamiento de la ciudad autoriza, por este medio, que las balotas sometidas durante el periodo del voto temprano el 14 de Mayo, del 2011, en la elección de la Ciudad, serán procesadas durante o después de las 9:00 A.M. el 14 e Mayo, de 2011.

PASADO Y APROVADO EL ____DÍA DE ____a:d: 2011.

David Wampler, Alcalde

ATESTIGUADO:

Brenda G. Craig, Secretaria de la Ciudad

APROVANDO LA FORMA:

Michael C. Hayes, Abogado de la Ciudad

CALENDARIO DE LA ELECCIÓN DEL AYUNTAMIENTO DE LA CIUDAD

Este memorándum da las fechas para las varias acciones conectadas con la elección municipal que se tiene lugar el 14 de mayo, 2011 y lista los concejales cuyos períodos se acabarán.

12 Feb. – 14 Mar.	El candidato puede registrar su aplicación para una posición en la balota desde las 8 a.m. hasta las 5 p.m. Lunes-Viernes. El nombre del candidato y la posición para que registre será añadido por el Oficinista de la Ciudad a la emisión de una forma de petición.
12 Feb. – 21 Mar.	Un candidato no oficial (añadido por escrito) puede registrar para declarar su candidatura en la oficina del Oficinista de la Ciudad para a las 8 a.m.- 5 p.m. Lunes – Viernes.
17 Mar.	El Oficinista de la Ciudad hace un sorteo para la orden de los nombres en la balota a las 3 p.m.
14 Abr.	El último día para entregar la aplicación para la inscripción de votante o para pedir cambio de inscripción con tiempo para votar en la elección.
2 Mayo– 10 Mayo	Votar temprano por aparecer personalmente al Cailloux City Center en 910 Main Street de la noche y el 2 de mayo, 10 de mayo: - Lunes, 2 Mayo: 7 a.m. to 7 p.m. - Martes, 3 Mayo: 7 a.m. to 7 p.m. - Miercoles, 4 de de mayo hasta el Martes, 10 de Mayo, 8 a.m. to 5 p.m.
14 Mayo	DÍA DE ELECCIÓN, se puede votar desde las 7 a.m. hasta las 7 p.m. en Cailloux City Center, en 910 Main Street. Los resultados del voto temprano serán disponibles en la corte del condado de Kerr a las 7 p.m., y los resultados del día de la elección serán disponibles a eso de las 7:30 p.m. poco más tarde en la corte.
24 Mayo	La reunión del Ayuntamiento de la Ciudad a las 10 a.m. para examinar oficialmente los resultados de la elección por el Ayuntamiento de la Ciudad, entregar certificados de la elección, dar juramentos de oficio, los delegados recientemente elegidos asumen el cargo, y escoger el alcalde <i>pro tem</i> elegido por el Ayuntamiento.
24 Mayo	La reunion regular del Ayuntamiento de la Cuidad a las 6:00 p.m. a la oficina del ayuntamiento, 800 Junction Highway.

Los concejales cuyos períodos se acabarán son:

Lugar Uno – R. Bruce Motheral

Lugar Dos – Stacie Keeble

Agenda Item:
(Staff)

2B. Authorize the execution of a ground lease between the City of Kerrville, Texas and United Parcel Service, Inc. (Staff)

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

SUBJECT: Approval of a ground lease agreement between the United Parcel Service, Inc. and the City of Kerrville

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 14, 2011

SUBMITTED BY: Mindy N. Wendele, **CLEARANCES:** Todd Parton,
Director of Business Programs City Manager

EXHIBITS: Contract agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The City of Kerrville has been leasing property on Legion Drive to the United Parcel Service for approximately 13 years. The company desires to renew their existing contract leasing the property for another three years with an option to renew in one year increments. The contract attached to the resolution depicts the annual lease terms including lease payments for three years with an annual increase each year.

RECOMMENDED ACTION

Approve the lease agreement with United Parcel Service.

**GROUND LEASE BETWEEN THE CITY OF KERRVILLE,
TEXAS, AND UNITED PARCEL SERVICE, INC.**

This Lease Agreement made this day by and between **CITY OF KERRVILLE, TEXAS**, a Texas home rule municipality located in Kerr County, Texas, hereinafter called "Lessor", and **UNITED PARCEL SERVICE, INC.**, an Ohio Corporation doing business in the State of Texas, hereinafter called "Lessee" for and in consideration of the following promises and conditions made one to the other:

1. Leased Premises. In consideration of the rents, covenants, and agreements hereinafter reserved and contained on the part of Lessee to be paid, observed, and performed, Lessor hereby demises and leases to Lessee, and Lessee hereby takes and rents from Lessor, for the term provided below, property situated in the City of Kerrville, County of Kerr, Texas and more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference, hereinafter referred to as the "Leased Premises." In addition, Lessor leases to Lessee a strip of land fronting on Legion Drive, the same being twenty-nine feet (29') in width. Except, however, the same shall be used only for parking and as a driveway. In the event the Lessor requires the use of such twenty-nine foot (29') strip for utilities or the widening of Legion Drive, the Lessor may terminate this Lease as to the twenty-nine foot (29') strip by giving at least one year's written notice thereof, and such termination being at the end of initial term or each additional year thereafter.

2. Term. The initial term of this Lease shall commence at 12:00 a.m. on February 1, 2011, and end at 11:59 p.m. on January 31, 2014, subject to the terms, covenants and conditions herein set forth, unless earlier terminated or extended as set forth herein. After the initial term of this Lease expires, the Lease will automatically renew for additional terms of one year, unless 180 days prior to the expiration of the third year and each year thereafter, either party serves notice to cancel this Lease.

3. Rent. Lessee shall pay to Lessor as rent for the Leased Premises the following amounts:

- A. during the first year of the Lease Term, \$13,320.00, payable in twelve equal installments of \$1,110.00 each;
- B. during the second year of the Lease Term, \$13,644.00, payable in twelve equal installments of \$1,137.00 each;
- C. during the third year of the Lease Term, \$13,992.00, payable in twelve equal installments of \$1,166.00 each;
- D. during each subsequent year, the then established rent shall increase at a rate of two and one half percent (2.5%) per year and shall be payable in twelve equal installments.

Each installment of rent shall be due and payable on or before the first day of each calendar month during the Lease Term and each year thereafter, the first installment for any such period being due

on the first day of the particular lease term and subsequent installments due on the first day of each succeeding calendar month thereafter. Rent is due without offset of any kind.

4. Use. Lessee shall use, occupy and have access to and from a traveled street (Legion Drive), for any legal purpose for which it is authorized to transact business in the State of Texas during the term of this Lease. Lessee shall primarily use the Leased Premises for parcel distribution. All operations of Lessee on the Leased Premises with respect to storage of parcels, goods, and vehicle parts and equipment shall be conducted within enclosed structures constructed by Lessee on the Leased Premises.

5. Landscaping and Pavement: Lessee shall at all times keep during the Lease Term all landscaping on the Leased Premises, whether installed by Lessee or existing at the commencement of the Lease Term, in a healthy, growing condition. In the event that any plants, trees, or lawns installed by Lessee die, Lessee shall promptly replace such items with a similar plant, tree, or lawn grass unless a different type of plant, tree, or lawn grass is authorized by the City Manager. Lessee shall locate improvements on the Leased Premises in such a manner as to avoid the removal of as many existing trees as possible.

6. Vehicle Maintenance and Washing: Lessee may wash and perform maintenance on vehicles owned or leased by Lessee on the Leased Premises. Vehicle maintenance must be conducted in an enclosed structure or otherwise in a location where the work area is screened from public rights-of-way and adjacent properties. Washing of vehicles may be conducted in an open sided structure located on the Leased Premises. At no time shall spare parts, tires, and vehicle supplies be stored other than in an enclosed structure or otherwise screened from view in a manner approved by the City.

7. Indemnity. **LESSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY OF KERRVILLE, TEXAS AND ALL OF ITS OFFICERS, AGENTS AND EMPLOYEES FROM ALL SUITS, ACTIONS, CLAIMS, DAMAGES, PERSONAL INJURIES, LOSSES, PROPERTY DAMAGES, AND EXPENSES OF ANY CHARACTER WHATSOEVER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PROPERTY ON ACCOUNT OF ANY NEGLIGENT ACT OF THE LESSEE, THE CITY OF KERRVILLE, OR ANY OF THEIR RESPECTIVE OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS IN THE EXECUTION, SUPERVISION, AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH LESSEE'S USE OF THE LEASED PREMISES, WHETHER OR NOT AN ACT OR OMISSION OF THE LESSOR OR ANY OF ITS OFFICERS, EMPLOYEES, OR AGENTS WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH THE NEGLIGENCE OF THE LESSEE OR ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACTORS, OR SUBCONTRACTORS, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE USE OF THE LEASED PREMISES.**

8. Insurance. Lessee shall carry insurance in the following types and amounts for the duration of this Lease and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence thereof to Lessor:

- A. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy must provide contractual liability coverage for liability assumed under this contract, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the Lessor. If this coverage is underwritten on a claims made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Lessee shall maintain coverage for the duration of this Agreement and for six-months following completion of the construction improvements associated with this Lease. Lessee shall pay for this extended reporting period coverage.
- B. If insurance policies are not written for amounts specified in Subsection A, above, Lessee shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.
- C. Lessee shall provide Lessor at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.
- D. Lessee shall provide that all provisions of this Lease concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.
- E. Lessee shall produce an endorsement to each affected policy that contains the following:
 - (1) That names City of Kerrville, Texas, Attn.: City Manager, 800 Junction Highway, Kerrville, Texas, 78028, as additional insured, with right of subrogation against Lessor waived;
 - (2) That obligates the insurance company to notify Lessor of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;
 - (3) That the "other" insurance clause shall not apply to Lessor where Lessor is an additional insured shown on the policy. It is intended that the policies required in this Lease, covering both Lessor and Lessee, shall be considered primary coverage, as applicable.

F. Lessee shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Lease or the six-month period following completion, in the case of a claims-made policy.

G. Lessor reserves the right to review the insurance requirements of this Section 8 during the effective period of this Lease and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by Lessor based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Lessee. Lessor shall be entitled to review, upon request, and without expense to Lessor, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

H. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after Lessor has received written notice of such cancellation or change.

9. Assignment and Sublease. Part of the consideration to Lessor is Lessee's obligation to conduct business operations on the Leased Premises according to the uses stated herein. Therefore, this Lease may not be assigned, nor the premises subleased, without Lessor's prior written consent. An assignment or sublease without written consent is void.

10. Taxes and Utilities. Lessee shall be responsible for and shall timely pay any and all ad valorem taxes upon or with respect to, its leasehold interest in the Leased Premises, the improvements, and all water main, sewage, garbage or other assessments and charges with respect to the Leased Premises or Lessee's use thereof.

11. Default.

A. In the event of any failure of Lessee timely to pay in full any rental, additional rental, or any other amount due hereunder, or timely to perform in full any of Lessee's obligations under any of the provisions regarding payment of utilities, taxes and insurance for more than ten (10) days after written notice of such failure or default shall have been received by Lessee, or in the event of any failure fully to perform any other of the terms, conditions, or covenants of this Lease, for more than ninety (90) days after written notice of such other failure or default shall have been received by Lessee, or in the event of the insolvency of Lessee, then and in any of such events, Lessor shall have the right, at its option to terminate this Lease, and shall also have the immediate right of re-entry and may remove all persons and property from the Leased Premises, all without resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned hereby. Any property removed from the Leased Premises hereunder may be stored in a public warehouse or elsewhere at the cost and for the account of Lessee. Notwithstanding the foregoing provision hereof, in the event such non-monetary default is of the type that cannot be cured within such ninety (90) days, but Lessee shall commence within

such ninety (90) days to cure such default and shall thereafter proceed with due diligence to cure such default as soon as practically possible, then Lessor shall not have the right to terminate this Lease or otherwise disturb Lessee's possession of the Leased Premises.

B. Notwithstanding anything to the contrary above, in the event any default by Lessee shall be cured, including the payment to Lessor of all sums owing by Lessee hereunder with respect to such default, all prior to either the termination of this Lease or the re-entry of the Leased Premises by Lessor in accordance with the terms hereof, then all of the rights and interest of Lessee under this Lease shall continue in force unaffected by the occurrence of any such default to the same extent as if such default had not occurred.

C. In the event of termination of this Lease, then Lessor shall hereby acquire and own all of the improvements, buildings and appurtenant fixtures constructed by Lessee. Lessee shall be entitled to remove all other improvements, chattels, books, records, trade fixtures, equipment, and all other personal property from the Leased Premises, and Lessee shall not be further liable or responsible to Lessor for payment of further rent or performance of further obligations hereunder.

12. Lessor's Right of Entry. Lessor shall have the right, upon reasonable notice, to enter upon the Leased Premises at reasonable times for all reasonable purposes, including the purpose of inspecting the same and of exhibiting same to prospective purchasers or tenants, and commencing sixty (60) days prior to the termination of this Lease; for the purpose of exhibiting same to prospective tenants.

13. Surrender of Leased Premises. At the expiration of the Lease term, Lessee shall peaceably surrender the Leased Premises.

14. Interpretation. The singular shall be interpreted as the plural, and vice versa, if such treatment is necessary to a proper construction of this Lease, and if the feminine, masculine or neuter gender should for such purpose be one of the other genders it shall be so treated. Paragraph or section headings are for convenience only and shall be disregarded in interpretation. The laws of Texas shall govern the interpretation and validity of, and other matters pertaining to, this Lease.

15. Partial Invalidity. If any term, covenant, or condition of this Lease or the application hereof to any person or circumstance shall, to any extent, be invalid, illegal or unenforceable, the remainder of this Lease, or the application of such term, covenant or condition to persons or circumstance other than to those which it is held invalid, illegal or unenforceable, shall not be affected hereby and shall continue in full force and effect.

16. Entire Agreement. This Lease sets forth all the covenants, promises, agreements, conditions or understanding, either oral or written, between Lessor and Lessee concerning the subject matter and the Leased Premises and there are no covenants, promises, agreements, conditions, understandings or representations, oral or written, between them other than as are herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding on Lessor and Lessee unless reduced to writing and signed by both parties.

EXECUTED this _____ day of _____, 2011.

LESSOR

CITY OF KERRVILLE, TEXAS

LESSEE

UNITED PARCEL SERVICE, INC.

By: _____
J. Todd Parton, City Manager

By: _____

Name: _____

Title: _____

ATTEST:

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

T:\LEGAL\CITY PROPERTY\UPSLLEASE_UPS_012011.DOC

Agenda Item:

(Staff)

- 2C. Approval of the purchase and sale agreement between the City of Kerrville, Texas Economic Improvement Corporation and Kerrville Economic Development Foundation (KEDF) for the purchase of approximately 86.71 acres, addressed as 300 Peterson Farm Road, Kerrville, Texas.

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

SUBJECT: Consider proposal from Kerr Economic Development Foundation ("KEDF") for the Economic Improvement Corporation to enter into a Purchase and Sale Agreement with KEDF for the purchase of approximately 86.71 acres located at 300 Peterson Farm Road, which is intended to become the new site of the United States Department of Agriculture ("USDA") Knipling-Bushland Laboratory

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 18, 2011

SUBMITTED BY: Mindy N. Wendele **CLEARANCES:** Todd Parton
Director of Business Programs City Manager

EXHIBITS: Purchase and Sale Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure	Current Fund	Amount	Account
Required:	Balance:	Budgeted:	Number:
\$1,192,956.	\$2,103,820.	\$	40-800-306

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

In February 2008 the Kerr Economic Development Foundation purchased 86 +/- acres on Peterson Farm Road with the intent to secure the USDA Knipling-Bushland Laboratory expansion project. The Kerrville Economic Improvement Corporation entered into an agreement with the KEDF to help fund the purchase. The agreement called for a cap of \$525,000 for the project providing interest payments to the local lending institutions for 5 years and principal payments for 3 years.

Discussions in the fall of 2010 between the EIC and the KEDF produced a request of the KEDF Board to the EIC Board to purchase the 86 acres. The formal request was made to the EIC Board during their December 20, 2010 meeting. The Board directed staff to draft an agreement which was presented at the January 17, 2011 EIC meeting. The EIC Board approved the agreement.

A delegation of community leaders will be traveling to Washington, DC in early February to meet with our congressional and senatorial representatives. One of the many topics the delegation will be discussing is the building of the new USDA laboratory in Kerr County. Approving the purchase and sales agreement and completing the transaction before the scheduled trip is preferable. The EIC would own the property and be positioned to

continue the anticipated partnership with the United States Department of Agriculture.

RECOMMENDED ACTION

Approve purchase and sales agreement.



ECONOMIC DEVELOPMENT FOUNDATION

December 15, 2010

Economic Improvement Corporation
Attn: Mr. Bill Crumrine, Chairman
800 Junction Highway
Kerrville, Texas 78028

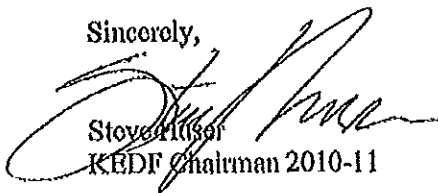
Dear Chairman Crumrine,

The Kerr Economic Development Foundation (KEDF) and local economic partners recently completed two land appraisal requests to determine the current value of the USDA property located at 2700 Fredericksburg Highway and the KBDF site located at 300 Peterson Farm Road. Summary of both appraisals in 2010 support the purchase price KEDF paid in February of 2008 in the amount of \$ 1,197,000.00. KEDF has led efforts in supporting the USDA KBUSLIRL Expansion/Retention project for many years and has been very successful in obtaining federal funding to complete several phases in the development of a new ARS facility in Kerrville, Texas.

The newly formed Kerrville Economic Development Corporation (KEDC) was recently structured to lead economic development efforts for our community. The new organization is now funded by EIC and, therefore, is now responsible for leading efforts to complete the development of a new USDA ARS Laboratory. In order to transfer the continuity and support for this project, KBDF is requesting that the Economic Improvement Corporation purchase the KBDF loan, for the actual balance of the loan at the time of closing, for the USDA Laboratory, approximately 87 acres, located at 300 Peterson Farm Road. Upon the purchase and taking over of the loan, KBDF will no longer be responsible for leading efforts in assisting the USDA ARS project and would have no responsibility for the loan repayment. EIC would assume control of the loan, the land, the land swap with the USDA and ultimately, the success of the project.

KEDF would like to acknowledge the appreciation of 4b funding over the last two years to support interest payments for the organization to successfully obtain federal funding in completing the design and engineering phase for this project. KEDF appreciates our history of working with EIC over the years and wishes your organization the very best for future economic development projects in the Kerrville community.

Sincerely,



Steven R. Fisher
KEDF Chairman 2010-11

First we work—then we play.

1700 Sidney Baker, Suite 200 • Kerrville, Texas 78028 • (830) 896-1167 Business • (830) 896-1166 Fax
Email: info@kerrredf.org Website: www.kerrredf.org



United States Department of Agriculture

Research, Education, and Economics
Agricultural Research Service

NOV 17 2010

Mr. Guy Overby
President
Kerr Economic Development Foundation
1700 Sidney Baker, Suite 200, #4
Kerrville, Texas 78028

Dear Mr. Overby:

Thank you for your letter dated August 25, 2010, concerning the relocation of the Knippling-Bushland U.S. Livestock Insect Research Laboratory. I am writing to update you on where the Agricultural Research Service (ARS) stands concerning the land exchange agreement and the long-term lease agreement. I apologize for the delay in this response.

As you know, ARS is in the process of developing a land exchange agreement in coordination with attorneys from the Department of Agriculture, Office of the General Counsel. This agreement will allow ARS and the Kerr Economic Development Foundation (KEDF) to move forward with preliminary studies of the proposed exchange. We will certainly keep you informed, as requested, of any impediments identified during review processes.

In concurrence with the development of the land exchange agreement, ARS is drafting a long-term lease agreement for the KEDF's review, taking into account the considerations outlined in your letter. As discussed in your recent communications with ARS Facilities Division (FD) staff, the long-term lease agreement will provide ARS with the opportunity to use the 87 acres on a trial basis to assess the property's suitability for relocation of our research laboratory. The long-term lease agreement will also provide ARS with the realty interest, required under ARS policy, to proceed with the design of the facility.



Office of the Administrator
Jamie L. Whitten Federal Building • Room 302-A • 1400 Independence Avenue, SW.
Washington, D.C. 20250-0300
An Equal Opportunity Employer

Mr. Guy Overby

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ARS continues to be willing to pursue this endeavor within the scope of available funds and appreciates your continued interest in working with us. If you need additional information concerning this issue, please contact Edward Reilly, Deputy Director, FD, at 301-504-1224.

Again, thank you for writing.

Sincerely,

Carol E. Resnord Jr.

for EDWARD B. KNIPLING
Administrator

cc:

J. Bradley, AFM

P. Barry, FD

E. Reilly, FD

L. Wurzberger, FD

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PURCHASE AND SALE AGREEMENT

This **Purchase and Sale Agreement** ("Agreement") to buy and sell real property is entered between Seller and Buyer as identified below and is effective on the date ("Effective Date") of the last of the signatures by Seller and Buyer as parties to this Agreement and approval of the parties respective governing bodies.

Seller: Kerr Economic Development Foundation, Inc., a Texas non-profit corporation
1700 Sidney Baker, Suite 200
Kerrville, Texas 78028
Attn: Steve Huser, Chairman
Phone: (830) 896-1157
Fax: (830) 896-1166
E-Mail: _____

Seller's Broker: None

Seller's Attorney: _____

Phone: (830) _____
Fax: (830) _____
E-Mail: _____

Buyer: Kerrville Economic Improvement Corporation, a Texas non-profit corporation
800 Junction Highway
Kerrville, Texas 78028
Attn: Chairman
Phone: (830) 792-3850
Fax: _____
E-Mail: _____

Buyer's Broker: None

Buyer's Attorney: Michael C. Hayes
800 Junction Highway
Kerrville, Texas 78028
Phone: (830) 792-8380
Fax: (830) 792-3850
E-Mail: mike.hayes@kerrvilletx.gov

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Title Company: Kerr County Abstract & Title Co.
712 Earl Garrett Street
Kerrville, Texas 78028
Attn: Diane Green, President
Phone: (830) 257-5151
Fax: (830) _____
E-Mail: diane.green@kerrtitle.com

Property: An approximately 86.71 acre tract of land, more or less, out of the W.T. Cook Survey No. 71, Abstract No. 114, Kerr County, Texas, and being more particularly described in **Exhibit "A,"** attached hereto and incorporated herein by reference.

Inspection Period: From Effective Date until Closing.

Closing Date: On or before February 5, 2011, subject to extension as provided herein.

Purchase Price: TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration including the amount equal to the balance of unpaid principal and accrued but unpaid interest due and owing as of the date of Closing on that certain Promissory Note dated February 5, 2008, in the original principal amount of \$1,192,956.18 signed by Kerr Economic Development Foundation, Inc., payable to HCSB, a copy of which is attached hereto as **Exhibit "B"** and incorporated herein by reference.

Earnest Money: None

NOW, THEREFORE, in consideration of the Purchase Price and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Sale and Purchase.** Seller agrees to sell, and Buyer agrees to purchase the Property as provided in this Agreement, including any and all improvements located thereon.

2. **Title, Survey, and Environmental Reports.**

(a) Not later than ten (10) days after the Effective Date, Seller will, at Buyer's expense, obtain:

(i) a current commitment for an Owner's Policy of Title Insurance for the Property from the Title Company, setting forth the state of title to the Property together with any easements or restrictions (existing or created pursuant hereto) benefiting or burdening the Property, together with all exceptions or conditions to such title;

(ii) legible copies of all documents referenced in the Title Commitment;

(iii) tax certificate(s) regarding the payment of ad valorem taxes for current and prior years on the Properties; and

(iv) copies of any environmental studies or reports in Seller's possession or control related to the Property.

(b) Not later than ten (10) days after the Effective Date hereof, Seller shall deliver to Buyer the most recent survey obtained by Seller with respect to the Property, and Buyer may, at Buyer's sole option and in lieu of obtaining a new survey, obtain a certificate from a surveyor subject to approval of the Title Company certifying that no changes have occurred since the prior survey. If Seller's survey is not satisfactory to Buyer or the Title Company, Buyer, at Buyer's sole option, cost and expense (even if the Closing does not occur), may have a survey (the "Survey") of the Property prepared by a duly licensed Texas Registered Public Land Surveyor. The Survey shall be staked on the ground, and the plat shall show the location of all improvements, highways, streets, roads, railroads, rivers, creeks, or other water courses, fences, easements, and rights-of-way on or adjacent to the Property, if any, and shall contain the surveyor's certification that there are no encroachments on the Property other than what are listed on the Title Report and shall set forth a metes and bounds description of the Property. The legal description contained in said Survey shall be used by the Parties as the legal description contained in the Special Warranty Deed.

(c) If Buyer objects to any of the exceptions contained in the Title Commitment, Buyer's objections must be made in writing to Seller not later than ten (10) calendar days after the date Buyer receives the title commitment and the survey. Seller shall in good faith attempt to satisfy or cure the objections to title prior to closing, but Seller shall not be required to incur any cost to do so.

(d) If Seller delivers written notice to Buyer on or before the Closing Date that Seller is unable to satisfy such objections, or if Seller is unable to convey title in accordance with Section 4, below, Buyer may either waive such objections and accept such title as Seller is able to convey, or terminate this Agreement by written notice to Seller.

3. Inspection Period.

(a) During the Inspection Period, Buyer and its agents or employees shall have the right to enter upon the Property during regular business hours upon reasonable notice and conduct such inspections, tests and studies as Buyer deems necessary.

(b) Buyer shall be solely responsible for any damages to the Property caused by Buyer's inspection of the Property.

(c) Buyer, at Buyer's sole option and expense, may obtain a Phase I Environmental Site Assessment ("Phase I ESA") with respect to the Property. If in preparation of the Phase I ESA the investigator determines there is reason to conduct additional investigation requiring a Phase II Environmental Assessment ("Phase II ESA"), Buyer may conduct, at Buyer's sole cost, the Phase II ESA that is recommended. If the consultant preparing the Phase I ESA recommends preparation of a Phase II ESA, the Closing shall be extended for a period not to exceed (30) days unless otherwise agreed by Seller.

(d) Buyer may terminate this Agreement by notifying Seller and Title Company in writing at any time prior to Closing. In such event, neither party shall have any further claim against the other under this Agreement.

4. **Closing.**

(a) The closing of the sale of the Property shall occur on the Closing Date at the Title Company, or at such other time as may be agreeable to the parties.

(b) At the closing, Seller shall deliver to the Title Company:

(i) a special warranty deed, in form and substance reasonably acceptable to Seller and Buyer, conveying good and indefeasible title to the Property to Buyer, free and clear of any and all encumbrances except the Permitted Exceptions; and

(ii) a Texas owner's policy of title insurance (or equivalent) in the amount of the Purchase Price, insuring such title to the Buyer;

(iii) possession of the Property, free of parties in possession;

(iv) such other documents, signed by Seller, as reasonably requested and required by Title Company.

(c) At the Closing, the Buyer shall deliver to Seller through the Title Company:

(i) the Purchase Price; and

(ii) such other documents, signed by Buyer, as reasonably requested and required by Title Company.

5. **Ad Valorem Taxes; Prorations.** Seller shall pay at or before Closing all ad valorem taxes, plus any penalties, interest, court costs, and attorneys fees, if any, due on delinquent amounts not paid, for tax years prior to the year in which Closing occurs. In addition, rents, lease commissions, interest, insurance premiums, maintenance expenses, operating expenses, and ad valorem taxes for the year of Closing will be prorated at the Closing effective as of the date of the Closing. Seller shall give a credit to Buyer at the Closing in the aggregate amount of any security deposits deposited by tenants under leases affecting the Property and Seller shall have no liability after the date of Closing for any security deposits not actually credited to Buyer. If the Closing occurs before the tax rate is fixed for the year of the Closing, the apportionment of the taxes will be upon the basis of the tax rate for the preceding year applied to the latest assessed valuation, but any difference between actual and estimated taxes for the year of the Closing actually paid by Buyer will be adjusted equitably between the parties upon receipt of a written statement of the actual amount of the taxes. This provision will survive the Closing.

6. Closing Costs.

- (a) Seller agrees to pay and be responsible for the following closing costs:
 - (i) one-half (1/2) of the Title Company's escrow fees;
 - (ii) all fees and premiums for the Basic Owner's Title Policy;
 - (iii) the cost of all tax certificates relating to all taxes and other assessments incurred or arising in relation to the Property;
 - (iv) all costs related to obtaining the release of any deed of trust liens and other liens on the Property, including the cost of preparation of any releases of lien and recording fees related to recording said releases;
 - (v) all costs and expenses incurred by or on behalf of the Seller, including Seller's attorney's fees; and
 - (vi) such other incidental costs and fees customarily paid by sellers of real estate in Kerr County, Texas for transactions of a similar nature to the transaction contemplated herein.
- (b) Buyer hereby agrees to pay and be responsible for the following closing costs:
 - (i) one-half (1/2) of the Title Company's escrow fees;
 - (ii) all fees and premiums for the Survey;
 - (iii) all costs and fees for preparing the Phase I environmental study, if not yet paid;
 - (iv) all fees and premiums for any endorsements to the Basic Owner's Title Policy desired by Buyer;
 - (v) all costs and expenses incurred by or on behalf of the Buyer, including Buyer's attorneys' fees;
 - (vi) recording fees for the special warranty deed; and
 - (vii) such other incidental costs and fees customarily paid by buyers of real estate in Kerr County, Texas, for transactions of a similar nature to the transaction contemplated herein.

7. Permitted Exceptions. The zoning, the lien for current taxes, and any exceptions to title to which no objection is made by Buyer pursuant to Section 2(c) are deemed to be Permitted Exceptions. In no case shall any exception noted on Schedule C of the Title Commitment be deemed a Permitted Exception.

8. **Representations and Covenants.** The parties represent and warrant that: (a) they have the authority to enter into this Agreement; and (b) no other person has any interests in or claims against the Property (other than as reflected by the Title Commitment), and it will not hereafter encumber the Property. The only representations made by any party concerning the Property and this Agreement are as set out in this Section 8.

9. **Property Sold As Is.**

(a) Buyer represents that as of the Closing Date that it:

(i) will have fully inspected the Property; and

(ii) will have made all investigations as it deems necessary or appropriate and will be relying solely upon its inspection and investigation of the Property for all purposes whatsoever, including, but not limited to, the determination of the condition of the structures, improvements, soils, subsurface, drainage, surface and groundwater quality, and all other physical characteristics; availability and adequacy of utilities; compliance with governmental laws and regulations; access; encroachments; acreage and other survey matters and the character and suitability of the Property.

(b) Buyer acknowledges and agrees that the Property is being purchased and will be conveyed "AS IS" with all faults and defects, whether patent or latent, as of the Closing.

(c) Except with respect to the quality of the title being conveyed by Seller pursuant to this Agreement, Buyer acknowledges and agrees that Seller has made no representations, warranties, guarantees, statements or information, express or implied, pertaining to the Property, its condition, or any other matters whatsoever, made to or furnished to Buyer by Seller or any employee or agent of Seller, except as specifically set forth in this Agreement.

10. **Remedies.** If Buyer defaults, Seller's sole remedy shall be to terminate this Agreement. If Seller defaults, Buyer's sole remedy shall be to terminate this Agreement.

11. **Notices.** Notices must be in writing to and given at the addresses stated above. Notice given by delivery service or fax shall be effective upon receipt at the address of the addressee; notice given by mail shall be effective upon receipt. In addition, copies of notices shall be to the party's attorney as shown above.

12. **Miscellaneous.**

(a) **Entireties.** This Agreement contains the entire agreement of the parties pertaining to the Property.

(b) **Modifications.** This Agreement may only be modified by a written document signed by both parties.

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(c) Assignment. Neither party may assign its rights under this Agreement without the prior written consent of the other party.

(d) Time is of the Essence. Time is of the essence with respect to the performance by the parties of their respective obligations hereunder.

(e) Effective Date. The Effective Date of this Agreement shall be the date on which the following conditions have been satisfied:

(i) authorized representatives of the parties have signed this Agreement; and

(ii) this Agreement has been approved, ratified, or otherwise authorized by Buyer's Board of Directors and the City Council of the City of Kerrville, Texas, in a joint or separate public meeting(s) held pursuant to the Texas Open Meetings Act.

(f) Non-Business Day. If the final date of any period provided herein for the performance of an obligation or for the taking of any action falls on a Saturday, Sunday, or holiday, then the end of such period shall be extended to the next business day.

(g) Brokers. The parties represent and warrant that they have not worked with any broker relative to this transaction and that no brokerage commission is due and payable upon the Closing. To the extent allowed by law, each party shall indemnify each other from any claim for brokers' commissions relative to the sale of the property and alleged to be due.

(h) Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes and constitute one and the same instrument; but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

(i) Legal Construction. In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

(j) Law Governing. This Agreement shall be construed under and in accordance with the laws of the State of Texas; and venue for any action arising from this Agreement shall be in the State District Court of Kerr County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

(k) Survival of Covenants. Any of the representations, warranties, covenants, and obligations of the parties, as well as any rights and benefits of the parties, pertaining to a period of time following the Closing shall survive.

(Signatures of Following Page)

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SIGNED AND AGREED this the _____ day of _____, 2011.

BUYER:
Kerrville Economic Improvement Corporation

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

Michael C. Hayes, Attorney for Buyer

SIGNED AND AGREED this the _____ day of _____, 2011.

Kerr Economic Development Foundation, Inc.

By: _____
Steve Huser, Chairman

RECEIPT OF CONTRACT

Title Company acknowledges receipt of a copy of this Agreement executed by both Buyer and Seller on the ____ day of _____, 2011.

By: _____
Diane Green, President
Kerr County Abstract & Title Co.
712 Earl Garrett Street
Kerrville, Texas 78028

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EXHIBIT "A"
DESCRIPTION OF PROPERTY

FIELD NOTES DESCRIPTION FOR 86.71 ACRES OF LAND OUT
OF THE EQUITECH-BIO, INC. LAND ALONG PETERSON FARM
ROAD IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 86.71 acres, more or less, out of W.T. Crook Survey No. 71, Abstract No. 114 in Kerr County, Texas; part of a certain 268.62 acre tract conveyed from James S. Emst, et ux to Equitech-Bio, Inc. by an Assumption Warranty Deed with Vendor's Lien executed the 8th day of November, 1995 and recorded in Volume 823 at Page 774 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron stake set in the northeast right-of-way line of Peterson Farm Road, a sixty (60) ft. wide public road and in the southwest line of said 268.62 acre tract for the most westerly corner of the herein described tract; which point bears: 64.57 ft. S.30°55'53"E. from a fence cornerpost, the most westerly corner of said 268.62 acre tract; and, approximately, 4646 ft. South and 3706 ft. West from the northwest corner of Survey No. 43;

THENCE, upon, over and across said 268.54 acre tract, parallel to and sixty (60) ft. east and southeast from the west line of 268.54 acre tract, all calls to set 1/2" iron stakes: N.37°23'22"E., 257.05 ft.; N.19°32'35"E., 746.64 ft.; N.18°32'29"E., 401.99 ft.; N.41°24'35"E., 226.79 ft.; S.89°03'43"E., 333.56 ft.; and N.71°57'13"E., 737.56 ft. to a 1/2" iron stake set in a fence for the northerly northeast corner of the herein described tract;

THENCE, along or near a fence continuing upon, over and across said 268.62 acre tract, all calls to fence angleposts: S.01°57'42"E., 482.78 ft.; S.13°11'05"E., 415.47 ft.; N.77°49'16"E., 753.33 ft.; N.77°58'21"E., 98.86 ft.; S.85°32'16"E., 12.08 ft.; S.74°27'14"E., 3.75 ft.; S.03°46'51"W., 17.24 ft.; and S.54°21'06"E., 154.52 ft. to a fence cornerpost in the south line of 268.62 acre tract and north line of a certain 142 acre tract conveyed as Parcel No. 1 from Ida E. Ingenhuett, et al to the City of Kerrville by a Warranty Deed executed the 16th day of August, 1941 and recorded in Volume 68 at Page 302 of the Deed Records of Kerr County, Texas;

THENCE, along a fence with the common line between said 268.62 and 142 acre tracts: S.22°36'31"W., 289.54 ft. to a fence anglepost; S.47°54'07"W., 280.75 ft. to a fence cornerpost; and N.18°05'29"W., at 29.8 ft. passing a fence endpost, then continuing for a total distance of 51.30 ft. to an unmarked point in the approximate center of Silver Creek;

THENCE, with the said approximate center of Silver Creek continuing with the said common line between 268.62 and 142 acre tracts, all calls to unmarked points: S.51°22'58"W., 235.04 ft.; S.32°29'44"W., 281.06 ft.; S.30°19'43"W., 330.44 ft.; S.40°56'47"W., 335.80 ft.; S.66°45'40"W., 349.28 ft.; N.85°35'12"W., 217.96 ft.; N.82°37'16"W., 178.69 ft.; S.88°45'46"W., 192.23 ft.; S.86°02'35"W., 125.33 ft.; N.86°48'11"W., 100.78 ft.; S.41°59'45"W., 120.64 ft.; and S.46°29'39"W., 120.34 ft. to an unmarked point in a fence, the said northeast right-of-way line of Peterson Farm Road for the southwest corner of the herein described tract and 268.62 acre tract;

THENCE, along a fence with the southwest line of said 268.62 acre tract and northeast right-of-way line of Peterson Farm Road N.30°55'53"W., 864.69 ft. to the PLACE OF BEGINNING.

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EXHIBIT "B"
COPY OF SELLER'S PROMISSORY NOTE

Promissory Note

Kerrville, Kerr County, Texas

Date: February 5, 2008

FOR VALUE RECEIVED, Borrower jointly and severally promises to pay to the order of Lender the Principal Amount or so much as may be advanced from time to time by Lender to Borrower or for the benefit of Borrower plus interest at the Annual Interest Rate. This Note is payable at the Place for Payment, or at such other place in Kerr County, Texas as the holder hereof shall designate from time to time in writing, in lawful money of the United States of America, and according to the Terms of Payment. All unpaid amounts are due by the Maturity Date.

Borrower (whether one or more): KERR ECONOMIC DEVELOPMENT FOUNDATION, INC.

Borrower's Mailing Address: 1700 Sidney Baker, Suite 100, Kerrville, Kerr County, Texas 78028

Lender: HCSB, a state banking association

Place for Payment: 1145 Junction Highway, Kerrville, Kerr County, Texas 78028

Principal Amount: ONE MILLION ONE HUNDRED NINETY TWO THOUSAND NINE HUNDRED FIFTY SIX AND 18/100 (\$1,192,956.18) DOLLARS

Maturity Date: February 5, 2013

Annual Interest Rate: Interest shall accrue and be charged on that part of the outstanding principal remaining from time to time unpaid from the date of advancement of principal hereunder until the full amount of the principal advanced hereunder has been paid. Beginning on the date of advancement of principal under this Note and continuing until the Initial Change Date (as hereinafter defined), Borrower agrees to pay interest at an annual rate of Five and One-Half Percent (5.50%) (the "Initial Interest Rate"). Interest at the rate herein specified shall be computed on the basis of the actual number of days elapsed in a year consisting of 360 days unless the Maximum Interest Rate would thereby be exceeded in which event, to the extent necessary to avoid exceeding the Maximum Interest Rate, the applicable interest shall be computed on the basis of the actual number of days elapsed in the applicable calendar year in which accrued. Commencing on the Initial Change Date and provided the maturity of this Note has not been accelerated, the interest rate that Borrower will pay will change in accordance with the provisions hereof but in no event to exceed the Maximum Interest Rate hereinafter set forth. Interest rate changes may occur on February 5, 2009 (herein sometimes called the "Initial Change Date") and on each February 5, of each year thereafter until the Maturity Date. Each date on which the rate of interest may change is hereinafter called a "Change Date". Any changes in the interest rate will be based on an interest rate index which is hereinafter called the "Index". The Index as used herein shall be the prime rate of interest as published in The Wall Street Journal, Money Rates guide (Southwest Edition); provided that if a range of U. S. "Prime Rate" or more than one U. S. "Prime Rate" is published, the higher rate shall be used. If the Prime Rate ceases to be so published, the Note interest rate will be

determined by a comparable index selected by Lender. To set the new interest rate, the Lender first will determine the current Index figure which shall be the most recently available index value, being defined herein as the Index figure available on each Change Date (herein called the "Current Index"). The Lender will then calculate the new interest rate by subtracting one-half (.50) percentage point from the Current Index. THE INTEREST RATE CALCULATED PURSUANT TO THESE PROVISIONS WILL NOT EXCEED THE MAXIMUM INTEREST RATE AS HEREIN DEFINED. Each new interest rate will become effective on the Change Date based upon the calculation of such change in interest rate as herein specified. Changes in Borrower's payments as a result of the change in the interest rate will commence as of the first payment due after the then current Change Date. Lender will send written notification to Borrower of the new interest rate and the amount of the new payments that will begin on the date of the next payment due after each such Change Date, if any. Payments on this Note, other than prepayments, shall first be applied to accrued unpaid interest and then to the principal balance hereof. All past due principal and interest shall bear interest at the Maximum Interest Rate hereinafter set forth.

The Maximum Interest Rate payable under this Note will be, and will not exceed, eighteen percent (18%) per annum or the maximum interest rate for which parties may contract under, and as permitted by, applicable laws (the so called state usury ceiling), whichever is less.

Late Charge: If any installment becomes overdue for more than ten (10) days, at Lender's option a late payment charge of five percent (5%) may be charged in order to defray the expense of handling the delinquent payment.

Terms of Payment: (1) Interest only shall be due and payable annually as it accrues, on the 5 day of February, 2009, and on the 5 day of February, 2010.

(2) The Principal Amount and interest shall be payable in consecutive annual installments, the first installment being due and payable on February __, 2011, and additional installments being due and payable on the same date of February of each year thereafter until the Maturity Date. Borrower's initial payments of the Principal Amount and interest will be in an amount set by Lender sufficient to amortize and to repay in full the unpaid principal balance of this Note, together with interest thereon at the current adjusted interest rate, in substantially equal payments over a period of thirteen (13) years. Any remaining unpaid principal, interest and other charges, if not sooner paid, shall be due and payable in full on the Maturity Date. THIS LOAN IS DUE IN FULL ON THE MATURITY DATE. AT MATURITY, YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE BANK IS UNDER NO OBLIGATION TO REFINANCE THE BALANCE OF THIS LOAN AT MATURITY. IF THE BANK ELECTS TO REFINANCE THIS LOAN, IT IS UNDERSTOOD THAT THE INTEREST RATE ON THE NEW LOAN WILL BE AT THE PREVAILING MARKET RATES WHICH MAY BE HIGHER THAN THE INTEREST RATE OF THIS LOAN.

In the event of interest rate changes, the amount of Borrower's payments will change. Increases in the interest rate will result in higher payments unless prepayments of principal since the last Change Date offset the increases in such payments. Decreases in the interest rate will result in lower payments. The Lender shall adjust the amount of Borrower's payments as of the day of each Change

Date on which a change in interest rate is made. The amount of Borrower's payments, as adjusted, will be in an amount sufficient to amortize and to repay in full the unpaid principal balance of this Note, together with interest thereon at the current adjusted interest rate, in substantially equal, annual payments over a period of thirteen (13) years less the number of years from the date of this Note to the Change Date on which the current interest rate has been adjusted as herein provided. In setting the adjusted payment amount, the Lender will assume that the Note interest rate will not change.

Prepayments: Borrower shall have the right to make a full or a partial prepayment of principal at any time without paying any penalty. In the event Borrower elects to make a prepayment, Borrower agrees to notify Lender in writing of such action. Lender will use all of such prepayments to reduce the amount of principal owed under this Note. In the event of a partial prepayment, there will be no delays in the due dates of the payments hereinbefore described unless Lender agrees, in writing, to such delays. A partial prepayment will reduce the amount of Borrower's payments after a change in interest rate (as herein defined) following the date of such partial prepayment; however, any reduction due to a partial prepayment may be offset by an interest rate increase.

Security Documents: This Note is secured by the following described lien and/or security documents (the "Security Documents"), covering certain property, which is more particularly described therein, to which Security Documents reference is hereby made for a description of the property mortgaged, the nature and extent of the security, and the rights of the holder hereof in respect to such security:

Vendor's lien retained in Deed and Deed of Trust and Security Agreement-Financing Statement of even date herewith executed and delivered by Borrower to and for the benefit of Lender.

The entire unpaid principal balance of, and all accrued interest on, this Note shall, at the option of the holder hereof, become immediately due and payable if (i) default shall be made by Borrower in the payment of the principal hereof or interest accrued hereon as and when same becomes due and payable in accordance with the terms hereof, or (ii) default shall be made in the performance or observance of, or under, any covenant, condition, provision or agreement contained in the Security Documents, or (iii) upon the occurrence of the bankruptcy or insolvency of, the assignment for the benefit of creditors by, or the appointment of a receiver of any of the property of any party liable for the payment of this Note, whether as maker, endorser, guarantor, surety or otherwise, or (iv) default in the payment of any other indebtedness due the holder hereof or default in the performance of any other obligation owed to the holder hereof by Maker or any other party liable for the payment hereof, whether as endorser, guarantor, surety or otherwise.

Borrower and each surety, endorser, guarantor and other party liable for payment of any sums payable on this Note, (i) jointly and severally waive protest, acceleration, demand, demand for payment, presentment, presentment for payment, dishonor, and all notices, including but not limited to notice of intention to accelerate, notice of dishonor, notice of nonpayment, notice of default, notice of protest, and notice of acceleration, (ii) jointly and severally waive the filing of suit and diligence in collecting this Note or enforcing any of the security herefor, (iii) jointly and severally

agree that their liability on this Note shall not be affected by any renewal or extension in time of payment hereof, by any indulgences, or by any release or change in any security for the payment of this Note, and (iv) jointly and severally consent to any and all renewals, extensions, indulgences, releases or changes, regardless of the number of such renewals, extensions, indulgences, releases or changes.

In the event this Note is placed in the hands of an attorney for collection, or in the event this Note is collected in whole or in part through bankruptcy, probate or other legal proceedings of any kind, legal or equitable, then in any such case, Borrower promises to pay all costs of collection incurred by the holder hereof whether or not suit is filed, including but not limited to all attorneys' fees and other costs incurred in connection therewith and all expenses incurred in connection with any foreclosure under the Security Documents; but in no event shall said attorneys' fees be less than ten percent of the then unpaid principal and interest.

Any notice or demand given hereunder by any holder hereof shall be deemed to have been given and received (i) when actually received by Borrower, if delivered in person, or (ii) when a letter containing such notice, certified or registered, with postage prepaid, addressed to Borrower is deposited in the United States mails. The address of Borrower is as set forth herein, or such other address as Borrower shall advise the holder hereof by certified or registered letter.

No delay on the part of the holder of this Note in the exercise of any power or right under this Note, or under the Security Documents, or under any other instrument executed pursuant hereto shall operate as a waiver thereof, nor shall a single or partial release of any other power or right preclude other or further exercise thereof or of the exercise of any other power or right. Enforcement by the holder of this Note of any security for the payment hereof shall not constitute any election by it of remedies so as to preclude the exercise of any other remedy available to it.

If any term hereof or of any documents securing this Note is susceptible of being construed as obligating Borrower or any guarantor or other party obligated hereon for the payment of interest in excess of that authorized by applicable law, it is agreed that such term is a mistake in calculation or wording, and notwithstanding the same, it is expressly agreed that neither Borrower, any guarantor nor any other person or entity obligated in any manner for the payment hereof shall ever be required or obligated to pay interest in excess of that authorized by applicable law. It is the intention of the holder hereof to conform strictly to the applicable laws now in force. All agreements between Borrower, any guarantor or any other party liable hereon and the holder hereof are expressly limited so that in no contingency or event whatsoever, shall the amount paid or agreed to be paid to the holder hereof for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under any and all applicable laws. If from any circumstances whatsoever, the holder hereof shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be first applied to the reduction of the unpaid principal balance due hereunder, and not to the payment of interest, and any remaining excess shall be refunded to Borrower or the party making such payment. All sums paid or agreed to be paid to the holder hereof for the use, forbearance or detention of the indebtedness specified herein shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such indebtedness until payment in full so that the actual rate

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of interest on account of such indebtedness is uniform throughout the term of this Note. These provisions shall control every other provision of all agreements between Borrower and any guarantor or party liable hereon and the holder hereof.

Each Borrower is responsible for all obligations represented by this Note.

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

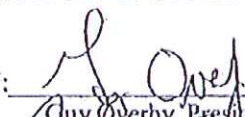
THE LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES.

THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

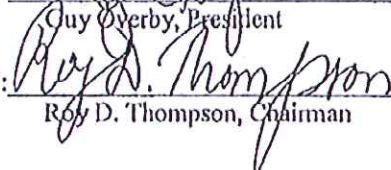
EXECUTED as of the day and year first above written.

KERR ECONOMIC DEVELOPMENT FOUNDATION, INC.

BY: _____


Guy Overby, President

BY: _____


Roy D. Thompson, Chairman

Agenda Item:
(Staff)

- 2D. A resolution authorizing participation in TexPool/TexPool Prime and designating authorized representatives.

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

SUBJECT: Resolution authorizing the participation in TexPool Prime and designating authorized representatives

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 13, 2011

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

EXHIBITS: Resolution

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The City of Kerrville maintains investment funds in TexPool's pooled cash account. Currently Todd Parton, Mike Erwin, Kathy Schneider and Sai Vongchampa are authorized to conduct transactions in this fund. The attached resolution authorizes the same employees to also participate in TexPool Prime, which typically pays a higher rate of return. (Example, January 13th: TexPool – 0.144% to TexPool Prime – 0.186%) Specifically, this will allow these individuals to move cash between the TexPool, TexPool Prime investment accounts and the City's consolidated cash account. For internal control purposes, all transactions must be handled by three to four different employees. Authorizing account access for these individuals provides a fail-safe in the case that the Director of Finance is unavailable, and ensures that the City always has access to its liquid reserves in TexPool.

RECOMMENDED ACTION

The Director of Finance recommends approval of the attached resolution authorizing the participation in TexPool Prime.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. _____-2011**

**A RESOLUTION AUTHORIZING PARTICIPATION IN
TEXPOOL/TEXPOOL PRIME AND DESIGNATING AUTHORIZED
REPRESENTATIVES**

WHEREAS, the City of Kerrville, Texas ("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, TexPool/TexPool Prime, a public funds investment pool, was created on behalf of entities whose investment objectives in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, pursuant to Resolution No. 025-2010, the City Council of the City of Kerrville, Texas, authorized certain City officers and employees to act on the Participant's behalf with respect to the Participant's participation in TexPool/TexPool Prime; and

WHEREAS, The City of Kerrville, Texas, finds it to be in the public interest to enter into a Participation Agreement for TexPool/TexPool Prime; and to designate authorized representation;

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

SECTION ONE. The City Manager is authorized to enter into a Participation Agreement between the City of Kerrville and the Comptroller of Public Accounts acting through the Texas Treasury Safekeeping Trust Company, Trustee of TexPool/TexPool Prime, a local Texas Government Investment Pool. The Participation Agreement is attached as **Exhibit A**.

SECTION TWO. The following individuals, whose signatures appear in this Resolution, are authorized representatives of the Participant and are hereby authorized to transmit funds for investment in TexPool/TexPool Prime and are further authorized to withdraw funds from time to time, to issue letters of instruction, to be issued P.I.N. numbers, and to take all other actions deemed necessary or appropriate for the investment of local funds:

Jeffrey Todd Parton, City Manager
Direct Phone: (830) 792-8304

Signature

Mike Erwin, Director of Finance
Direct Phone: (830) 792-8330

Signature

Sai Vongchampa, Budget/Purchasing Manager
Direct Phone: (830) 792-8332

Signature

Katherine Schneider, Accounting Clerk II
Direct Phone: (830) 792-8333

Signature

SECTION THREE. Mike Erwin, Director of Finance, is designated as the Authorized Representative that will have primary responsibility for performing transactions and receiving confirmations and monthly statements from TexPool/TexPool Prime.

SECTION FOUR. This Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool/TexPool Prime receives a copy of any such amendment or revocation.

SECTION FIVE. All previous Resolutions establishing authorized representation if the Participant for TexPool/TexPool Prime, including Resolution 025-2010, are repealed and the authority granted thereby is revoked.

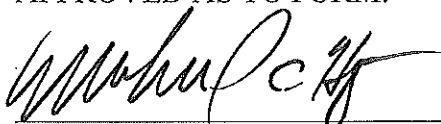
PASSED AND APPROVED, this the ____ day of _____, A.D., 2011.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



Texas Local Government Investment Pool

TexPool *Prime* Participation Agreement

PREAMBLE

This participation agreement (the "Agreement") is made and entered into by and between the Comptroller of Public Accounts (the "Comptroller"), acting through the Texas Treasury Safekeeping Trust Company (the "Trust Company"), Trustee of **TexPool *Prime***, a Texas Local Government Investment Pool, and City of Kerrville, Texas (the "Participant").

WHEREAS, the Interlocal Cooperation Act, TEX. GOV'T CODE ANN, ch. 791 authorizes a local government to contract with a state agency to perform governmental functions, including investment of public funds;

WHEREAS, the Public Funds Investment Act, TEX. GOV'T CODE ANN. ch. 2256 (the "Investment Acts") provides for the creation of a public funds investment pool in which a governmental investing entity may invest its funds and to which the entity may delegate, by contract, the authority to hold legal title as custodian of investments purchased with its local funds;

WHEREAS, the Trust Company is a special purpose trust company authorized pursuant to TEX. GOV'T CODE ANN. § 404.103 to receive, transfer and disburse money and securities belonging to state agencies and local political subdivisions of the state and for which the Comptroller is the sole officer, director and shareholder;

WHEREAS, **TexPool *Prime*** is a public funds investment pool, which funds are invested in certain eligible investments as more fully described hereafter;

WHEREAS, the Participant has determined that it is authorized to invest in a public funds investment pool created under the Investment Acts and to enter into this Agreement;

WHEREAS, the Participant acknowledges that the Trust Company is not responsible for independently verifying the Participant's authority to invest under the Investment Acts or to enter this Agreement;

WHEREAS, the Participant acknowledges that the performance of **TexPool *Prime*** is not guaranteed by the State of Texas, the Comptroller, or the Trust Company and that there is no secondary source of payment for the pool; and

WHEREAS, in an effort to ensure the continued availability of an investment pool as a vehicle for investment of local government funds and simultaneously provide for enhancement in services and potential decreases in management and administrative fees, Participant and Trust Company desire to provide in this Agreement that the Trust Company may obtain private professional investment management and related services.

NOW THEREFORE, for and in consideration of the mutual promises, covenants and agreements herein contained, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree with each other as follows:

ARTICLE I. DEFINITIONS

"Account" shall mean any account or accounts, established by the Participant in *TexPool Prime* in accordance with this Agreement and the Operating Procedures (as defined herein), which Account represents an undivided beneficial ownership in *TexPool Prime*.

"Authorized Investments" shall mean those investments which are authorized by the Investment Act (as herein defined) for investment of public funds.

"Authorized Representative(s) of the Participant" shall mean any individual who is authorized to execute documents and take such other necessary actions under this Agreement as evidenced by the duly enacted Resolution of the Participant.

"Authorized Representative(s) of the Trust Company" shall mean any employee of the Comptroller or Trust Company who is designated in writing by the Comptroller or the Trust Company's Chief Executive Officer to act as the authorized Trust Company representative for purposes of this Agreement and shall include employees of any private entity performing the obligations of the Comptroller under this Agreement.

"Board" shall mean the advisory board provided for in the Investment Act (as defined below).

"Fund" shall mean the _____ Fund created and established pursuant to Section 4.01 hereof.

"Investment Act" shall mean the Public Funds Investment Act, TEX. GOV'T CODE ANN. ch. 2256, as amended from time to time.

"Investment Policy" shall mean the written *TexPool Prime* Investment Policy, as amended from time to time, relating to the investment and management of funds in *TexPool* as established by the Trust Company consistent with the Investment Act.

"Letter of Instruction" shall mean a written authorization and direction to the Trust Company signed by an Authorized Representative of the Participant.

"Operating Procedures" shall mean the written procedures established by the Trust Company describing the management and operation of *TexPool Prime*, and providing for the establishment of, deposits to and withdrawals from the Accounts, as amended from time to time.

"Participant" shall mean any entity authorized by the Acts to participate in a public funds investment pool that has executed this Agreement pursuant to a Resolution.

"Resolution" shall mean the resolution adopted by the governing body of a local governmental entity authorizing the entity's participation in *TexPool Prime* and designating persons to serve as Authorized Representatives of the Participant.

**ARTICLE II.
GENERAL ADMINISTRATION**

Section 2.01. TexPool Prime Defined.

- (a) *TexPool Prime* is a public funds investment pool created pursuant to the Investment Acts.
- (b) Subject to Section 6.10, the Trust Company agrees to manage the Participant's Account in accordance with the Investment Act and the Investment Policy.

Section 2.02. Board.

- (a) The Board is composed of members appointed pursuant to the requirements of the Investment Act.
- (b) The Board shall advise the Trust Company on the Investment Policy and on various other matters affecting *TexPool Prime*, and shall approve fee increases.

Section 2.03. General Administration.

- (a) The Trust Company shall establish and maintain the Investment Policy specifically identifying the Authorized Investments consistent with the Investment Act and the general policy and investment goals for *TexPool Prime*.
- (b) The Trust Company shall establish and maintain the Operating Procedures, describing the management and operation of *TexPool Prime* and providing for procedures to be followed for the establishment of, deposits to, and withdrawals from the Accounts and such other matters as are necessary to carry out the intent of this Agreement.
- (c) The Trust Company shall have the power to take any action necessary to carry out the purposes of this Agreement, subject to applicable law and the terms of this Agreement.

Section 2.04. Ownership Interest. Each Participant shall own an undivided beneficial interest in the assets of *TexPool Prime* in an amount proportional to the total amount of such Participant's Accounts relative to the total amount of all Participant's Accounts in *TexPool Prime*, computed on a daily basis.

Section 2.05. Independent Audit. *TexPool Prime* is subject to annual review by an independent auditor consistent with Ch. 2256, TEX GOV'T CODE ANN. In addition, reviews of *TexPool Prime* may be conducted by the State Auditor's office and the Comptroller's office. The Trust Company may obtain such legal, accounting, financial or other professional services as it deems necessary or appropriate to assist *TexPool Prime* in meeting its goals and objectives.

Section 2.06. Liability. Any liability of the Comptroller, the Comptroller's office, the Trust Company, representatives or agents of the Trust Company, any Comptroller employee, Trust Company or any member of the Board for any loss, damage or claim, including losses from investments and transfers, to the Participant shall be limited to the full extent allowed by applicable laws. The Trust Company's responsibilities hereunder are limited to the management and investment of *TexPool Prime* and the providing of reports and information herein required.

Section 2.07. Disclosure Statement.

- (a) *TexPool Prime* is created to function like a money market mutual fund and seeks to maintain a 1.00 net asset value. Performance fluctuates on a daily basis, largely because net earnings fluctuate daily. The performance of *TexPool Prime* depends on such variables as portfolio quality, average portfolio maturity, type and value of portfolio securities, and changes in interest rates. Primary risk factors include:

- Interest Rate Risk. Prices of fixed income securities generally fall when interest rates rise.

- **Credit Risks.** A decline in the credit quality of an issuer can cause the price of a security held by the pool to decrease.

(b) Both net earnings and offering price per share are factors in the computation of yield and total return.

(c) The assets of **TexPool Prime** are the only source of payment to Participants. There is no secondary source of payment for the pool, and investment in **TexPool Prime** is not a deposit or an obligation of any bank, is not endorsed or guaranteed by any bank and is not insured or guaranteed by the U.S. government, The Federal Deposit Insurance Corporation, the Federal Reserve Board or any other government agency, including the State of Texas.

ARTICLE III. PARTICIPATION REQUIREMENTS

Section 3.01. The Participation Agreement. The Participant must execute this Agreement and provide a Resolution authorizing participation in **TexPool Prime** and designating persons to serve as Authorized Representatives of the Participant and any other documents as are required under, and substantially in the form prescribed by, the Operating Procedures before depositing any funds into **TexPool Prime**.

Section 3.02. Operating Procedures

- (a) The Participant acknowledges receipt of a copy of the Operating Procedures. The Operating Procedures describe in detail the procedures required for the establishment of accounts, deposits to and withdrawals from **TexPool Prime**, and related information.
- (b) The Operating Procedures may be modified by the Trust Company as appropriate to remain consistent with established banking practices and capabilities and when such modification is deemed necessary to improve the operation of **TexPool Prime**.
- (c) The Participant hereby concurs with and agrees to abide by the Operating Procedures.

ARTICLE IV. INVESTMENTS

Section 4.01. Investments. All monies held in **TexPool Prime** shall be invested and reinvested by the Trust Company or Authorized Representatives of the Trust Company only in Authorized Investments in accordance with the Agreement, the Investment Policy and the Investment Act. Participant hereby concurs with any such investment so made by the Trust Company. Available funds of **TexPool Prime** that are uninvested may be held at the Trust Company's account at the Federal Reserve Bank of Dallas, or any designated custodian account, or with a custodian selected by the Trust Company. All investment assets and collateral will be in the possession of the Trust Company and held in its book-entry safekeeping account at the Federal Reserve Bank, any designated custodian account, or with a custodian selected by the Trust Company.

Section 4.02. Failed Investment Transaction. In the extraordinary event that a purchase of securities results in a failed settlement, any resulting uninvested funds shall remain in the Trust Company's Federal Bank of Dallas account, any designated custodian account or with a custodian selected by the Trust Company. If an alternative investment can be secured after the failure of the trade to settle, **TexPool Prime** will receive all the income earnings, including but not limited to, any compensation from the purchaser failing in the trade and the interest income from the alternative investment.

Section 4.03. Investment Earnings and Losses Allocation. All interest earnings in **TexPool Prime** will be valued daily and credited to the Participant's Accounts monthly, on a pro rata allocation basis. All losses, if any, resulting from the investment of monies in **TexPool Prime** shall also be allocated on a pro rata allocation basis. All earnings and losses will be allocated to the Participant's Accounts in accordance with generally accepted accounting procedures.

Section 4.04. Commingling of Accounts. Participant agrees that monies deposited in **TexPool Prime** may be commingled with all other monies held in **TexPool Prime** for purposes of common investment and operational efficiency. However, each Participant will have separate Accounts on the books and records of **TexPool Prime**, as further provided for in the Operating Procedures.

ARTICLE V. FEES, EXPENSES AND REPORTS

Section 5.01. Fees and Expenses. The Participant agrees to pay the amount set forth in the fee schedule. Participant agrees that all fees shall be directly and automatically assessed and charged against the Participant's Accounts. The basic service fee shall be calculated as a reduction in the daily income earned, thus only the net income shall be credited to the Participant's Account. Fees for special services shall be charged to each Participant's account as they are incurred or performed. A schedule of fees shall be provided to the Participant annually. Each Participant will be notified thirty (30) days prior to the effective date of any change in the fee schedule.

Section 5.02. Reports. A monthly statement will be mailed to the Participant within the first five (5) business days of the succeeding month. The monthly statement shall include a detailed listing of the balance in the Participant's Accounts as of the date of the statement; all account activity, including deposits and withdrawals; the daily and monthly yield information; and any special fees and expenses charged. Additionally, copies of the Participant's reports in physical or computer form will be maintained for a minimum of three prior fiscal years. All records shall be available for inspection at all reasonable hours of the business day and under reasonable conditions.

Section 5.03. Confidentiality. The Trust Company and any private entity acting on behalf of the Trust Company for purposes of this Agreement will maintain the confidentiality of the Participant's Accounts, subject to the Public Information Act, TEX GOV'T CODE ANN. ch. 552, as amended.

ARTICLE VI. MISCELLANEOUS

Section 6.01. Notices. Any notices, Letters of Instructions or other information required or permitted to be given hereunder shall be submitted in writing and shall be deemed duly given when deposited in the U.S. mail postage prepaid or successfully transmitted via facsimile addressed to the parties as follows:

To the *Participant*:

Participant Name	_____		
Address	800 Junction Hwy _____		
City, State, Zip	Kerrville, Texas 78028 _____		
Telephone	830-792-8330 _____	Fax	830-792-8309 _____

To *Trust Company* with respect to contractual matters or disputes under this Agreement:

Texas Treasury Safekeeping Trust Company
Attn: TexPool Prime
Rusk State Office Building
208 East 10th Street, Suite 441
Austin, TX 78701
Telephone: (512) 463-5303
FAX No.: (512) 463-0823

To **TexPool Prime** with respect to operational matters, including enrollment documents; changes to Authorized Representatives; Bank Information Sheets; initiation of deposits or withdrawals of funds; changes to addresses; audit confirmation requests; and account inquiry:

TexPool Participant Services
C/O Federated Investors Inc
1001 Texas Ave., Suite 1400
Houston, TX 77002
Telephone: 1-866-839-7665 (1-866-TEX-POOL)
FAX No.: 1-866-839-3291 (1-866-TEX-FAX1)

The Participant and the Trust Company agree to notify the other of any change affecting this information and agree that unless and until so notified, the other party shall be entitled to rely on the last information provided.

Section 6.02. Taxpayer Identification Number. The Participant's taxpayer identification number assigned by the Internal Revenue Service is: _____. The Participant hereby agrees to notify the Trust Company of any change affecting this Taxpayer Identification number and agrees that unless and until so notified, the Trust Company shall be entitled to rely on same in providing any and all reports or other information necessary or required by the Federal tax laws as amended from time to time.

Section 6.03. Severability. If any provision of this Agreement shall be held or deemed to be in fact illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatsoever.

Section 6.04. Execution of Counterparts. This Agreement may be simultaneously executed in several separate counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 6.05. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Texas. Venue for any dispute under this Agreement shall be in Travis County, Texas.

Section 6.06. Captions. The captions or headings in this Agreement are for convenience only and in no way defined, limit or describe the scope or intent of any provisions, articles or sections of this Agreement.

Section 6.07. Amendments.

- (a) The Trust Company shall advise the Participant in writing of any amendments to this Agreement no less than 45 days prior to the effective date of such amendment. The Participant may ratify the proposed amendment of this Agreement by letter to the Trust Company. If the Participant elects not to ratify the amendment, the Participant may terminate this Agreement in accordance with Section 6.08. In the event the Participant fails to respond in writing to a notice of amendment prior to the effective date of such amendment, this Agreement shall be deemed amended.
- (b) The Trust Company may revise the Operating Procedures from time to time as it deems necessary for the efficient operation of **TexPool Prime**. The Participant will be bound by any amendment to the Operating Procedures with respect to any transaction occurring subsequent to the time such amendment takes effect, provided, however, that no such amendment shall affect the Participant's right to cease to be a Participant.

Section 6.08. Termination. This Agreement may be terminated by either party hereto, with or without cause, by tendering 30 days prior written notice in the manner set forth in Section 6.01 hereof.

Section 6.09. Term. Unless terminated in accordance with Section 6.08, this Agreement shall be automatically renewed on each anniversary date hereof.

Section 6.10. Limitation of Rights. With the exception of the rights herein expressly conferred nothing in or to be implied from this Agreement is intended or shall be construed to give any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement or in any of the covenants, conditions and provisions herein contained. Neither the Comptroller nor the Trust Company shall be liable for any losses from investments made and transfers made in accordance with the procedures set forth in this Agreement.

Section 6.11. Assignment. The Trust Company may enter into an agreement with a third party investment manager to perform its obligations and service under this Agreement, provided that such third party investment manager shall manage **TexPool Prime** according to the Investment Act, Investment Policy and in a manner consistent with that directed by the Trust Company. The Trust Company also shall have the right to assign its rights and obligations under the Agreement to a third party investment manager if the Trust Company determines that such assignment is in the best interest of the State and Participants. If a successor pool to **TexPool Prime** is deemed by the Trust Company to be in the best interest of the State and the Participant, the Trust Company may take any action it deems necessary to assign its rights and benefits under any third party agreements and transfer the assets from **TexPool Prime** to any successor pool.

In Witness Whereof, the parties hereto have caused this Agreement to be executed as of the dates set forth below, and the Agreement shall be effective as of the latest such date.

PARTICIPANT

**TEXAS TREASURY SAFEKEEPING TRUST
COMPANY**

Comptroller of Public Accounts

Signature _____

Signature _____

Printed Name _____

Printed Name _____

Title _____

Title _____

Date _____

Date _____

CERTIFICATE OF INCUMBENCY

The preceding signatory is a duly appointed, acting, and qualified officer of the Participant, who, in the capacity set forth above is authorized to execute this Agreement.

IN WITNESS WHEREOF, I have duly executed this certificate as of the ____ day of _____,
20____.

Signature _____

Printed Name _____

Title _____

OFFICIAL SEAL

Agenda Item:
(Staff)

- 2E. Authorize the execution of a professional services agreement with Peter Lewis Architect + Associates, PLLC for design of the renovation and expansion project at the Butt-Holdsworth Memorial Library in an amount not to exceed \$121,100.

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

SUBJECT: Authorize the City Manager to enter into a Professional Services Agreement with Peter Lewis Architect + Associates, PLLC for design of the renovation and expansion project at the Butt-Holdsworth Memorial Library in an amount not to exceed \$121,100.00.

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 19, 2011

SUBMITTED BY: Kristine Ondrias  **CLEARANCES:** Todd Parton, City Manager
Assistant City Manager

EXHIBITS: Professional Services Agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

At the January 11, 2011 meeting, the City Council directed staff to move forward with the renovation and expansion project at the Butt-Holdsworth Memorial Library based on the schedule and budget presented.

Timeline for the project:

December 2010	Commitment from HEB for advance funding of remaining donation
January 2011	Approval of design contract
April 2011	Bid Project
May 2011	Award Construction
June 2011	Begin Construction - Building
November 2011	Close Library and complete site work
January 2012	Grand Reopening

Proposed Budget for the project:

\$950,000.00	HEB donation
\$500,000.00	Donated funds to the City of Kerrville specific for Library use
\$ 86,000.00	EECBG grant for roof
\$ 60,000.00	433 Water Street fund
<u>\$ 55,000.00</u>	Donation from Charity Ball for 2011
\$1,651,000.00	Total

Staff has worked with Peter Lewis Architect + Associates to scope the renovation and expansion project. The proposal covers the site work, phase I of the building renovation and construction administration services for an amount not to exceed \$121,100.00. Civil plans will be designed by the City's Engineering Department staff, saving the project approximately \$50,000.00.

Funding for this design contract will be subject to the City Council approval of the February 8, 2011 Budget Amendment.

RECOMMENDED ACTION

Authorize the City Manager to enter into a Professional Services Agreement with Peter Lewis Architect + Associates, PLLC for design of the renovation and expansion project at the Butt-Holdsworth Memorial Library in an amount not to exceed \$121,100.00.

Professional Services Agreement

Between

Peter Lewis Architect & Associates, PLLC and City of Kerrville

THIS AGREEMENT is made as of this _____ day of _____, 2011, between the CITY OF KERRVILLE, a Texas home rule municipality with principal offices at 800 Junction Highway, Kerrville, Texas, 78028-5069, hereinafter referred to as "CLIENT", and Peter Lewis Architect & Associates, PLLC, with its offices at 334 West Water Street, Kerrville, Texas 78028, hereinafter referred to as "ARCHITECT", for the performance of professional architectural services in consideration of the following terms, conditions, and agreements:

PART I. SERVICES

ARCHITECT shall perform all work described in the proposal attached hereto as **Exhibit A** (the "Project").

- A. ARCHITECT shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by ARCHITECT under this Agreement. ARCHITECT shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in his designs, drawings, specifications, reports and others services.
- B. ARCHITECT hereby agrees to comply with all federal, state, and local laws and ordinances applicable to the work or services under this Agreement.
- C. ARCHITECT shall hold periodic conferences with CLIENT or CLIENT's representatives to the end that the Project as developed shall have the full benefit of CLIENT's experience and knowledge and be consistent with CLIENT's objectives for this Project.
- D. ARCHITECT shall periodically report Project status to CLIENT as is appropriate to keep CLIENT informed regarding project progress.
- E. ARCHITECT shall perform all services under this Agreement in a manner which is consistent with generally accepted standards of professional architectural practice.

PART II. CLIENT'S RESPONSIBILITIES

- A. CLIENT shall provide all criteria and full information as to CLIENT's requirements for the Project; designate a person to act with authority on CLIENT's behalf in respect of all aspects of the Project; examine and respond

promptly to ARCHITECT's submissions; and give prompt written notice to ARCHITECT whenever CLIENT observes or otherwise becomes aware of any defect in ARCHITECT's submissions.

B. CLIENT shall also do the following and pay all costs incident thereto:

1. Furnish to ARCHITECT, upon ARCHITECT's notification that data is required, data including but not limited to core borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements; geologic assessments, environmental impact studies, and endangered species studies; and any other information previously made available to CLIENT, which may be required by ARCHITECT; all of which ARCHITECT may rely upon as accurate in performing ARCHITECT's services provided, however, ARCHITECT shall not be entitled to rely on any inaccuracy or incompleteness of information or services provided by CLIENT or at CLIENT's direction if a professional architect using generally accepted architectural practices and procedures would have discovered such inaccuracy or incompleteness reviewing any other data other than the document or information provided.
2. Guarantee access to and make all provisions for ARCHITECT to enter upon public and private property.
3. Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project.

C. CLIENT shall pay all non-labor costs incident to obtaining bids or proposals from contractor(s).

PART III. WORK ORDER AMENDMENTS

- A. CLIENT may at any time, by written Work Order, make changes relating to services to be performed. If such changes cause an increase or decrease in ARCHITECT's cost of, or time required for, performance of any services, an agreeable equitable adjustment shall be made and reflected in a properly executed Work Order. ARCHITECT must assert any claim for adjustment under this clause in writing within thirty (30) calendar days from the date of receipt by ARCHITECT of the notification of change, unless CLIENT grants a further period of time before the date of final payment under this Agreement.
- B. No services for which additional compensation will be charged by ARCHITECT shall be furnished without a properly executed Work Order signed by CLIENT.

- C. In the event that there are modifications and/or additions to regulatory requirements relating to the services to be performed under this Agreement after the date of execution of this Agreement, the increased or decreased cost of performance of the services provided in this Agreement and subsequent Work Orders shall be reflected in an appropriate Work Order.

PART IV. COMPENSATION

CLIENT agrees to pay ARCHITECT for Professional Services in accordance with the descriptions, definitions, terms and conditions as set forth in **Exhibit A**.

PART V. PAYMENTS

ARCHITECT will invoice CLIENT monthly in accordance with the terms and conditions as set forth in **Exhibit A**. CLIENT agrees to promptly pay ARCHITECT at its office at 334 West Water Street, Kerrville, Texas 78028, the full amount of each such invoice upon receipt. In no event shall ARCHITECT's failure to invoice constitute a default under the terms and conditions of this Agreement.

PART VI. INSURANCE

ARCHITECT shall procure and maintain the following types and limits of insurance for the duration of this Agreement:

<u>Type of Insurance</u>	<u>Minimum Limits of Liability</u>
Workers' Compensation	Statutory
Employer's Liability	\$250,000.00
Commercial General Liability-Personal Injury/Property Damage	\$1,000,000.00 combined single limit per occurrence
Automobile Liability	\$1,000,000.00 combined single limit per occurrence – Hired car, owned and non-owned autos

The commercial general liability insurance required above will include contractual liability coverage. The commercial general liability and automobile liability policies shall be endorsed to name the CLIENT as an additional insured, and all policies shall be endorsed to show a waiver of subrogation in favor of CLIENT. ARCHITECT shall direct that a certificate of insurance be delivered to CLIENT before any services are performed pursuant to this Agreement. Such certification of insurance shall provide for not less than thirty (30) days written notice to CLIENT prior to cancellation or material modification by endorsement of any insurance referenced therein and shall indicate that all required coverage and endorsements are in effect.

PART VII. TERMINATION

A. CONDITIONS OF TERMINATION

This Agreement and/or Work Order(s) may be terminated without cause at any time prior to completion of ARCHITECT's services, either by CLIENT or by ARCHITECT, upon written notice to the other at the address of record. Upon receipt of written notice from CLIENT to discontinue work, ARCHITECT shall discontinue work under this Agreement immediately. In the event CLIENT terminates the Agreement based on CLIENT's reasonable opinion ARCHITECT has failed or refused to prosecute the work efficiently, promptly, or with diligence, ARCHITECT shall have fifteen (15) business days, from the receipt of written notification by CLIENT, to cure such failure to perform in accordance with the terms of the Agreement.

B. ACTIONS ON TERMINATION

Upon any termination, ARCHITECT shall: (1) promptly discontinue all services affected (unless a termination notice from CLIENT directs otherwise); and (2) upon full payment for services, deliver or otherwise make available to CLIENT all documents, data, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by ARCHITECT in performing this Agreement, whether completed or in process.

C. COMPENSATION PAYABLE ON TERMINATION

On termination, by either CLIENT or ARCHITECT, CLIENT shall pay ARCHITECT with respect to all contracted services rendered and expenses incurred before termination an amount fixed by applying the ARCHITECT's Standard hourly rates, in force at the time of termination, to all services performed to date, in addition to termination settlement costs ARCHITECT reasonably incurs relating to commitments which had become firm before the termination; however, in no case shall CLIENT be required to pay ARCHITECT more than the amount set forth in this Agreement.

PART VIII. RISK ALLOCATION

In recognition of the relative risks, rewards and benefits of the project to both the Owner and the Architect, the risks have been allocated such that the Owner agrees that, to the fullest extent permitted by law, the Architect's total liability to the Owner for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this Agreement from any cause or causes, shall not exceed total Fees paid to the Architect. Such causes include, but are not limited to, the Architect's negligence, errors, omissions, strict liability, breach of contract or breach of warranty.

PART IX. MISCELLANEOUS

A. REUSE OF DOCUMENTS

All documents, including Drawings and Specifications prepared or furnished by ARCHITECT pursuant to this Agreement, are instruments of service with respect to the PROJECT, are the property of both CLIENT and ARCHITECT, and may be used by both CLIENT and ARCHITECT, as they deem necessary in their reasonable discretion. Either CLIENT or ARCHITECT may retain copies, reproduce copies, and disseminate copies of said Instruments of Service as are reasonably necessary for the construction and on-going maintenance of the Project. Not later than 90 days after substantial completion, ARCHITECT shall deliver to CLIENT one (1) set of Record Drawings in CADD format incorporating all Addenda and Change Orders and consisting of one set of compact disks; provided, however, ARCHITECT reserves the right to remove all indicia of ownership and/or involvement from the disc/magnetic tape provided to CLIENT. The original CADD data will be retained by ARCHITECT. CLIENT hereby releases and holds harmless ARCHITECT from any claims, losses, or liability resulting from CLIENT's use of the Instruments of Service in a manner not authorized on this project by this Agreement. Any reuse without written verification or adaptation by ARCHITECT, for the specific purposes intended will be at CLIENT's sole risk and without liability or legal exposure to ARCHITECT. Any such verification or adaptation by ARCHITECT will entitle ARCHITECT to further compensation at rates to be agreed upon by CLIENT and ARCHITECT.

B. OPINION OF COST

Since ARCHITECT has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' method of determining prices, or over competitive bidding or market conditions, ARCHITECT's opinions of probable Project Cost and Construction Cost are to be made on the basis of ARCHITECT's experience and qualifications and represent ARCHITECT's best judgment as an experienced and qualified professional architect, familiar with the construction industry; but ARCHITECT cannot and does not warrant or guarantee ARCHITECT's opinions of cost as an "actual" cost and if an "actual" "Construction Cost" is required, and/or desired, then, construction bids should be obtained by CLIENT from appropriate sources. Opinions of cost may be supplied to applicable municipalities for bonding purposes and no representations, warranties, or guarantees are rendered hereby to any other person or entity. Opinions of cost for presentation to any mortgagee or lending institution will only be prepared by ARCHITECT at CLIENT's specific request. Preparation of such may involve substantial additional cost to CLIENT and ARCHITECT cannot and does not warrant or guarantee such opinion of cost as an "Actual" cost.

C. LATE PAYMENT

If CLIENT fails to make any payment due ARCHITECT for services and expenses in accordance with Parts IV and V herein, within thirty (30) calendar days from the date of ARCHITECT's invoice, thereafter the amounts due ARCHITECT shall include a charge at the rate of 1.50 % per month, calculated from the date of the invoice, and in addition, ARCHITECT may, after giving ten (10) business days written notice to CLIENT, suspend services under this Agreement until ARCHITECT has been paid in full all amounts due for services and expenses.

D. ATTORNEY'S FEES

In the event ARCHITECT's invoices for services are given to an attorney for collection, or if suit is brought for collection, or if they are collected through probate, bankruptcy, or other judicial proceeding, then CLIENT shall pay ARCHITECT all costs of collection, including the maximum attorney's fees allowed by Law and court costs, in addition to other amounts due.

E. PERIOD OF SERVICE

ARCHITECT shall diligently pursue completion of services and shall promptly inform CLIENT of any anticipated delay. ARCHITECT shall not be liable or responsible for any delays caused by circumstances beyond ARCHITECT's control.

F. SUCCESSORS AND ASSIGNS

CLIENT and ARCHITECT each binds himself, and his partners, successors, executors, administrators, and assigns to partners, successors, executors, administrators, in respect to all covenants of this Agreement. Neither CLIENT nor ARCHITECT shall assign, sublet, or transfer their interest in this Agreement without written consent of the other. Nothing herein shall be construed as giving any rights or benefits hereunder to anyone other than CLIENT or ARCHITECT.

G. CONTROLLING LAW; VENUE

This Agreement is to be governed by and construed in accordance with the laws of the State of Texas. Venue for any disputes between CLIENT and ARCHITECT arising from or related to this Agreement shall be in Kerr County, Texas.

H. SEVERABILITY AND WAIVER

In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions shall continue to be valid and binding upon the parties. One or more waivers by either party of any provision, term,

condition or covenant shall not be construed as a waiver of a subsequent breach of the same by the other party.

I. EXTENT OF AGREEMENT

This Agreement, including **Exhibit A**, and any and all amendments, modifications, and supplements duly executed by the parties in accordance with this Agreement, govern and supersede any and all inconsistent or contradictory terms, prior oral or written representations or understandings, conditions or provisions set forth in any purchase orders, requisition, request for proposal, authorization of services, notice to proceed or other form or document issued by CLIENT with respect to the project or ARCHITECT's services.

J. AMENDMENTS

The parties agree that no change or modification to this Agreement, or any attachments hereto, shall have any force or effect unless the change is reduced to writing, dated, and made a part of this Agreement. The execution of the change shall be authorized and signed in the same manner as this Agreement. No one has authority to make variations in, or additions to the terms of this Agreement on behalf of ARCHITECT other than the undersigned Principal, and then only in writing.

Executed on this _____ day of _____, 2011.

CITY OF KERRVILLE

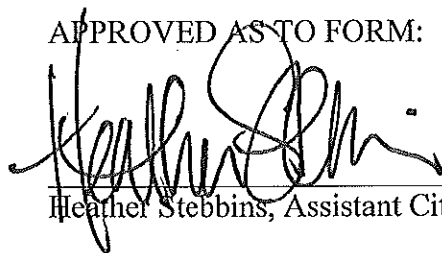
PETER LEWIS ARCHITECT &
ASSOCIATES, PLLC

BY: _____
Jeffrey Todd Parton, City Manager

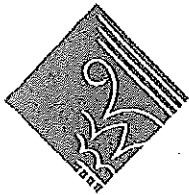
BY: _____
Peter Lewis, Architect

APPROVED AS TO FORM:

ATTEST:


Heather Stebbins, Assistant City Attorney

Brenda G. Craig, City Secretary



PETER LEWIS

ARCHITECT + ASSOCIATES

January 19, 2011

Kristine Ondrias, Assistant City Manager
City of Kerrville
800 Junction Highway
Kerrville, TX 78028

RE: Butt Holdsworth Memorial Library and Campus
Kerrville, Texas

Dear Kristine:

This is an exciting opportunity for Kerrville and Kerr County. Thank you for the opportunity to be a part of the Team! This is also as an excellent project to set the standard for the revitalization of downtown Kerrville with a focus on the natural environment along the Guadalupe River. Site and Building design will emphasize sustainability: practical land use; adaptive reuse of existing facilities, systems and materials; energy efficiency; sensible water use and accessibility. The reimagining of the Butt Holdsworth Memorial Library campus will be THE model for public/private building projects in our community.

Based on discussion at our meeting last Wednesday, January 12, I have put together a Work Scope and Professional Services Fee Schedule for your consideration. As agreed, this Proposal addresses Phase I of the Library and Site Development only.

I. Work Scope

A. Site

1. Site utilities: electrical and communication
2. Limestone retaining walls
3. Monument sign

B. Phase I Library Building: unless otherwise noted, all interior scope refers to Main and Mezzanine levels

1. New Entry/Plaza
2. New exterior storefront entries, doors and windows : Alternate
3. Masonry cleaning repairs/repointing
4. Selective interior demolition
5. Enclose Balcony and expand Mezzanine
6. Fire sprinkler system : all 3 levels
7. New Public Restrooms : Main Level
8. New lighting
9. New HVAC systems: all 3 levels
10. Upgrade Electrical systems: all 3 levels
11. New interior finishes
12. Life Safety and Building Code upgrades
13. ADA/TAS compliance

II. Scope of Services

- A. Meet with Library Director and staff, as required
- B. Meet with City of Kerrville Development Services staff, as required
- C. Coordinate Geotechnical Engineering Services : paving and foundation design; including backfill and soil compaction recommendations for 433 Water Street
- D. Demolition Plans

E. Design Development and Construction Document Services (DD/CD)

1. Architectural
2. Structural Engineering
3. Mechanical/Electrical/Plumbing
4. Interior Design : including signage/graphics
5. Project Specifications : incorporating City of Kerrville Standfard Specifications
6. Assist City of Kerrville during Bid Phase, as required

F. Construction Contract Administration (CCA)

1. Office Construction Administration
2. Shop Drawing and Submittal Review
3. Periodic Site visits
4. Monthly Site meeting with Owner and Contractor
5. Review Applications for Payment and issue Certificates for Payment
6. Issue Certificate of Substantial Completion
7. Prepare As-built Drawings, based on Contractor's mark-ups

III. Fixed Fee Schedule Basic Services Detail

A.	Design Development/Construction Documents	\$ 90,425.00
	<input type="checkbox"/> Design Development	\$ 37,175.00
	<input type="checkbox"/> Construction Documents	\$ 53,250.00
B.	Construction Contract Administration	\$ 15,675.00
Total Basic Services		\$ 106,100.00

IV. Reimbursable Expenses

Reimbursable expenses are defined as follows and will be billed at a multiple of 1.15 times cost (invoice): Geotechnical Engineering, ADA Plan Review & Inspection, reproduction of documents, shipping and mailing expenses, long distance telephone and fax, and out-of-town Project related mileage will be billed at current Standard Rate.

Estimated Reimbursable Expenses (excludes Bid Set Printing) \$ 15,000.00

This Professional Design Services Proposal generally describes the Services to be provided and their associated Fees. If we are in agreement on both of these items, please indicate so by signing and returning a copy of this Proposal. Please call me, if you have any questions.

We look forward to getting started!

Very truly yours,



Peter W. Lewis, Architect
Principal

Accepted

Date

Agenda Item:
(Staff)

2F. Right-of-way license agreement for sidewalk café at 701 Water Street.

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

SUBJECT: Approval of a Sidewalk Café permit for 701 Water Street, (Pampells)

FOR AGENDA OF: 1/25/11

DATE SUBMITTED: 1/10/11

SUBMITTED BY: Charlie Hastings
Public Works Director

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Copy of Application

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

The Public Works Department has received a permit application for a sidewalk café located at 701 Water Street (Pampells). The restaurant owner, New Pampells LLC., has satisfied the conditions and standards of the ordinance; the sidewalk café will consist of two 16.5" wide counter tops mounted flush with the face of the building at 701 Water Street (no chairs). Pursuant to Article II, Sidewalk Cafes, of the Kerrville Code of Ordinances, once authorized by council, the City Manager may execute a license agreement with the owner for this use of the city's right of way.

RECOMMENDED ACTION

The Director of Public Works recommends that council authorize the City Manager to execute a license agreement with New Pampells LLC. for a sidewalk café located at 701 Water Street.

SIDEWALK CAFE-APPLICATION

NAME OF ESTABLISHMENT: Pompells Nouveau
Type of Business: Restaurant and Bar
Phone 830-896-2000 Fax#: 830-792-0412
Address of Establishment: 701 Water St.
City, State, Zip Venue, TX, 78028

OWNER OF FEE TITLE INFORMATION

Owner's Name: New Pompells LLC
Phone # 830-896-2000 Fax # 830-792-0412
Owner's Address: 701 Water St.
City, State, Zip Venue, TX, 78028

Application must be made in writing to the Public Works Director and must include:

- ☒ Proof of ownership and any leasehold rights therein;
- ☒ A scale plan and sketch showing area to be licensed, including dimensions from face of building to curb and width of sidewalk café parallel to curb;
- ☒ Complete information on type of sidewalk to be established, including the number of tables, chairs and related appurtenances, their placement, name and address of restaurants adjacent to area to be licensed and used as the sidewalk café, and any other information required by the Public Works Department;
- ☒ Proof of general commercial liability insurance coverage (bodily injury and property damage) by a carrier acceptable to the city, in an amount not less than \$1,000,000 Combined single limit; and

Operated on one peninsula, under the following conditions:

The peninsula must be located within span of the restaurant façade, or the peninsula's leading edge is no more than 20 feet from the closest edge of the restaurants façade; and

The operation of the sidewalk café on a peninsula would meet the standards of section 30-55 of City Ordinance NO. 95-26

Reviews:

Hastings Public Works Director Charles Hastings Date 1/6/11
Callman Development Services Director [Signature] Date 1/6/11
Sold City Manager _____ Date _____
Patton

FIRST AID MEDICAL CENTER, INC.

2551 Boggy Creek Rd. Kissimmee, Fl.34744

Turk,

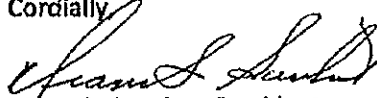
1/7/11

This letter will confirm our discussions in regards the outside bar at Pampells. I have spoken to Arlene Palazzolo who is the other investor in this property and neither she nor I have any objections to the outside bar.

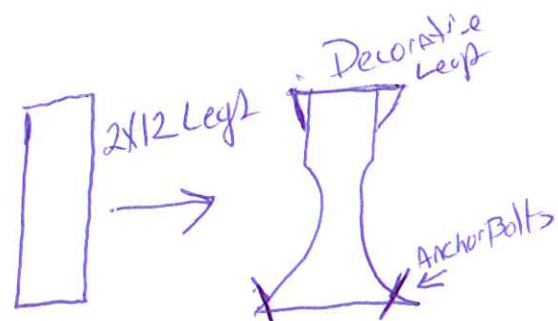
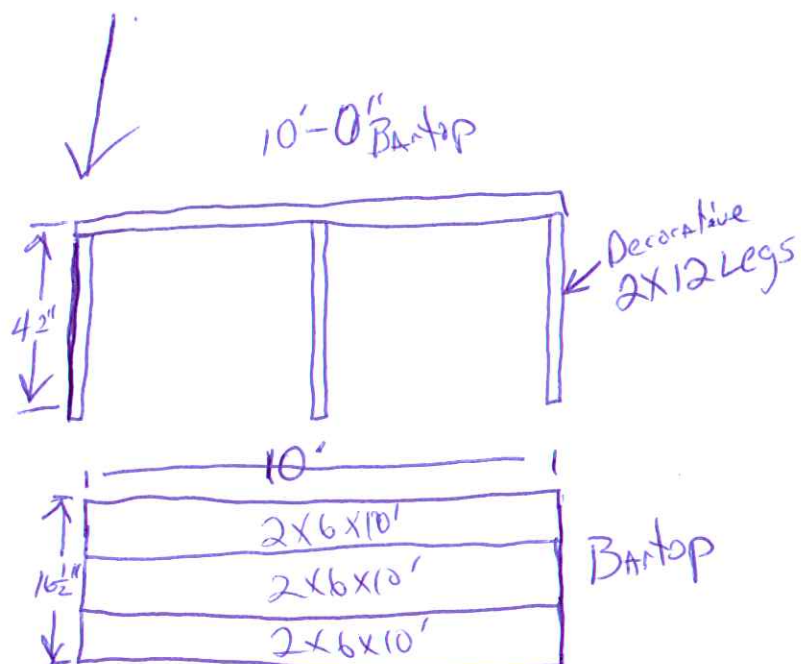
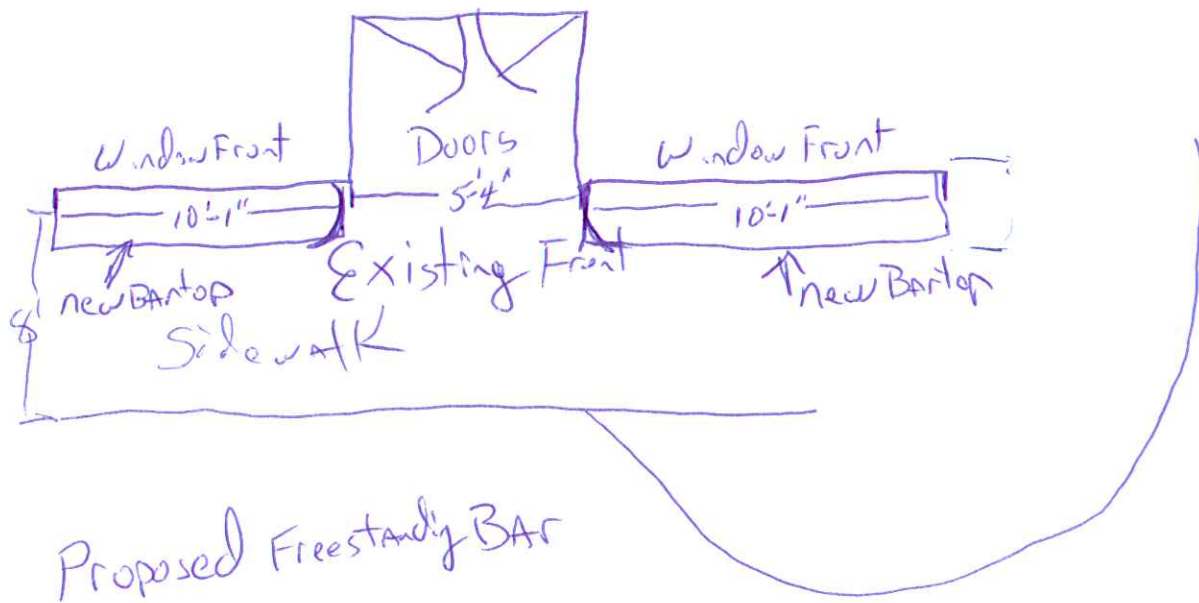
I reviewed the drawings provided and have no objection as these were apparently drawn by a city official.

Should the city of Kerrville have any questions of me I can be reached via cell at 407-496-4070.

Cordially



Diana S. Gauchat, President
First Aid Medical Center, Inc.



Total of 2 Outside Bartops.

Proposed to sit in front of Windows
Outside Existing Building Freestanding
Secured With Anchor Bolts For Security.

224pm Dec, 13, 2010

Dpls

Commercial Certificate of Insurance


FARMERS

Agency

Name

&

Address

Issue Date (MM/DD/YY) 12/13/2010

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policies shown below.

St. 19 Dist. 45 Agent 329

Companies Providing Coverage:

Insured

• MEVLUT, OTCU

Name

• NEW PAMPELLS LLC

&

• 701 WATER ST.

Address

• KERRVILLE, TX 78028

Company A Truck Insurance Exchange
LetterCompany B Farmers Insurance Exchange
LetterCompany C Mid-Century Insurance Company
LetterCompany D
Letter

Coverages

This is to certify that the policies of insurance listed below have been issued to the insured named above for the policy period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies. Limits shown may have been reduced by paid claims.

Co. Ltr.	Type of Insurance	Policy Number	Policy Effective Date (MM/DD/YY)	Policy Expiration Date (MM/DD/YY)	Policy Limits	
B	General Liability	604826629	05/29/2010	05/29/2011	General Aggregate	\$ 2,000,000
	× Commercial General Liability				Products-Comp/OPS Aggregate	\$ 1,000,000
	× - Occurrence Version				Personal & Advertising Injury	\$ 1,000,000
	Contractual - Incidental Only				Each Occurrence	\$ 1,000,000
	Owners & Contractors Prot.				Fire Damage (Any one fire)	\$ 150,000
					Medical Expense (Any one person)	\$ 5,000
	Automobile Liability				Combined Single Limit	\$ 1,000,000
	All Owned Commercial Autos				Bodily Injury (Per person)	\$
	× Scheduled Autos				Bodily Injury (Per accident)	\$
	× Hired Autos				Property Damage	\$
	× Non-Owned Autos				Garage Aggregate	\$
	Garage Liability					
	Umbrella Liability				Limit	\$
	Workers' Compensation and Employers' Liability				Statutory	
					Each Accident	\$
					Disease - Each Employee	\$
					Disease - Policy Limit	\$

Description of Operations/Vehicles/Restrictions/Special items:

701 WATER ST., KERRVILLE, TX 78028

Certificate Holder

• City Of Kerrville

Name

&

Address

Cancellation

Should any of the above described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail 30 days written notice to the certificate holder named to the left, but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives.

Authorized Representative

Secretary of State
P.O. Box 13697
Austin, TX 78711-3697
FAX: 512/463-5709

Filing Fee: \$300



**Certificate of Formation
Limited Liability Company**

Filed in the Office of the
Secretary of State of Texas
Filing #: 801273038 05/24/2010
Document #: 309104360002
Image Generated Electronically
for Web Filing

Article 1 - Entity Name and Type

The filing entity being formed is a limited liability company. The name of the entity is:

New Pampells, LLC

Article 2 - Registered Agent and Registered Office

☐ A. The initial registered agent is an organization (cannot be company named above) by the name of:

OR

☒ B. The initial registered agent is an individual resident of the state whose name is set forth below:

Name:

Mevlut Otcu

C. The business address of the registered agent and the registered office address is:

Street Address:

152 Jasper Lane Kerrville TX 78028

Consent of Registered Agent

☐ A. A copy of the consent of registered agent is attached.

OR

☒ B. The consent of the registered agent is maintained by the entity.

Article 3 - Governing Authority

☐ A. The limited liability company is to be managed by managers.

OR

☒ B. The limited liability company will not have managers. Management of the company is reserved to the members.

The names and addresses of the governing persons are set forth below:

Managing Member 1: **Mevlut Otcu**

Title: **Managing Member**

Address: **152 Jasper Lane Kerrville TX, USA 78028**

Managing Member 2: **Scott South**

Title: **Managing Member**

Address: **701 Water Street Kerrville TX, USA 78028**

Managing Member 3: **Diane Reiner**

Title: **Managing Member**

Address: **701 Water Street Kerrville TX, USA 78028**

Article 4 - Purpose

The purpose for which the company is organized is for the transaction of any and all lawful business for which limited liability companies may be organized under the Texas Business Organizations Code.

Supplemental Provisions / Information

[The attached addendum, if any, is incorporated herein by reference.]

Organizer

The name and address of the organizer are set forth below.

Mevlut T. Otcu 152 Jasper Lane, Kerrville, Texas 78028

Effectiveness of Filing

☒ A. This document becomes effective when the document is filed by the secretary of state.

OR

☐ B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

Execution

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

Mevlut T. Otcu

Signature of Organizer

FILING OFFICE COPY

DRAFT

RIGHT-OF-WAY LICENSE AGREEMENT

The City of Kerrville, Texas, a home rule municipal corporation ("City"), acting by and through its duly authorized City Manager and City Clerk, for sufficient consideration, does hereby grant to New Pampells, LLC., 701 Water Street, Kerrville, Kerr County, Texas ("Licensee"), a license to enter upon those certain parcels of land owned or controlled by the City of Kerrville in Kerr County, Texas, (the "Public Area"), in front of the building located at 701 Water Street, to wit:

That portion of the Public Area as shown on **Attachment A**, which is attached hereto and incorporated herein, and more specifically described as an approximately 56 square foot area of land located in front of Lot 1A, Block 24; J.D. Brown's Addition, an addition to the City of Kerrville, Texas, said area extending North easterly an approximate distance of three and one half feet (3.5') from the existing building into the City's public right of way toward Water Street, and for a distance of approximately ten feet (10') to the Northwest and six feet (6') to the Southeast from the existing door of the building on the side facing Water Street.

referred to herein as the "Licensed Premises", and to use the Licensed Premises for the purpose of establishing and maintaining a sidewalk café. City's consent to encroachment, as evidenced by this Right-of-Way License Agreement ("Agreement"), does not constitute its abandonment, partial or otherwise, of the Licensed Premises.

For and in consideration of the execution of this Agreement and the mutual promises and covenants of the parties hereto, it is mutually promised, understood and agreed as follows:

1. This Agreement shall be for a term of one (1) year, commencing on the date it is signed by both parties hereto (also known as the "Commencement Date"), unless terminated earlier as provided hereafter. Licensee shall have the option of renewing and extending the term of this Agreement for an additional one (1) year term by giving notice of renewal in writing to the City not less than thirty (30) days in advance of the date of termination of the original one (1) year term. However, such option shall not be automatic and will be subject to City review of the then existing conditions and an analysis to minimize potential harm, injury or interference to the public of the use of a public right-of-way. Following such review, the City Manager may authorize the extension of this Agreement for another one (1) year term.
2. In further consideration for the rights herein granted to Licensee, Licensee shall pay to City the sum of \$100.00 per year, payable on or before the Commencement Date and then on or before the anniversary thereof. The yearly license fee payment shall be made to City at the office of the City Manager, 800 Junction Highway, Kerrville, Texas, 78028. Following payment of the fee, no part shall be refunded for any reason, including early termination.
3. Licensee shall have the option to terminate this Agreement at any time upon giving the City written notice thirty (30) days in advance of such termination.

4. City shall have the option to terminate this Agreement for failure of Licensee to comply with any provisions or requirement contained in this License after thirty (30) days written notice to do so. City shall also have the option to terminate this Agreement should the City Manager make a finding that conditions have changed such that the location and maintenance of the sidewalk café can no longer be safely done. If such finding is made, the City will provide Licensee with thirty (30) days written notice of such finding.
5. The establishment and maintenance of the sidewalk café shall be in strict conformance with the scale plan and sketch showing the Licensed Premises. Said plan is shown as **Attachment A**, which is attached hereto and incorporated herein. Any deviation from the plan shall give the City the right to revoke this Agreement.
6. The Licensee shall comply with the following terms during the duration of this Agreement:
 - A. The sidewalk café shall be limited to 2 square 42 inch tables and no more than 8 chairs, which are placed within the Licensed Premises. Said tables and chairs shall not be placed within ten feet (10') of an entrance or doorway, which distance is measured in front of the doorway, and not the sides. No other furniture or equipment shall be placed within the Licensed Premises.
 - B. The sidewalk area outside the Licensed Premises shall have a minimum of six feet (6') of clear passage for pedestrians. The City may require additional pedestrian passage area, including area within the Licensed Premises, based upon pedestrian activity.
 - C. No fences, walls, partitions, barriers, signs or other fixtures or objects shall be placed within the Licensed Premises with the exception that a removable freestanding balustrade may be used to mark the boundaries of the sidewalk café.
 - D. Licensee shall clean the Licensed Premises and adjacent sidewalk and street areas of spills, debris and litter each day or night after the sidewalk café is closed.
 - E. The sidewalk café shall only be in operation during the hours that the adjacent business located at 804 Water Street is open to the public.
 - F. The sidewalk café shall comply with the Americans with Disabilities Act (ADA) requirements and any other federal or state accessibility requirements.
 - G. Licensee is responsible for the condition of the sidewalk and the making of repairs to the sidewalk area and to brick pavers. Repairs shall be made within thirty (30) days after notice from City.

- H. Licensee shall secure and weight all tables, chairs and umbrellas in such a way to prevent movement or damage during periods of wind or storms.
7. Licensee shall carry insurance in the following types and amounts for the duration of this Agreement and furnish Certificates of Insurance along with copies of policy declaration pages and all policy endorsements as evidence thereof to City:
- A. Commercial General Liability Insurance with a minimum bodily injury and property damage per occurrence limit of \$1,000,000. The policy must provide contractual liability coverage for liability assumed under this contract, products and completed operations coverage, independent contractors coverage, and a waiver of a Transfer of Right of Recovery Against Others in favor of the City. If this coverage is underwritten on a claims-made basis, the retroactive date shall be coincident with the date of this Agreement and the certificate of insurance shall state that the coverage is claims made and the retroactive date. Licensee shall maintain coverage for the duration of this Agreement and for six-months following termination of this Agreement. Licensee shall pay for this extended reporting period coverage.
 - B. If insurance policies are not written for amounts specified in Subsection A, above, Licensee shall carry umbrella or excess liability insurance for any differences in amounts specified. If excess liability insurance is provided, it must follow the form of the primary coverage.
 - C. Licensee shall provide City at least thirty (30) days written notice of erosion of the aggregate limit below the minimum required combined single limit coverage.
 - D. Licensee shall provide that all provisions of this Agreement concerning liability, duty, standard of care, together with the indemnification or defense provisions herein, shall be underwritten by contractual coverage sufficient to include such obligations within applicable policies.
 - E. Licensee shall not commence work under this Agreement until it has obtained all required insurance and until such insurance has been reviewed by the City.
 - F. Licensee shall produce an endorsement to each affected policy that contains the following:
 - (1) That names City of Kerrville, Texas, as additional insured, with right of subrogation against City waived;
 - (2) That obligates the insurance company to notify City of any non-renewal, cancellation, or material change to the policy, at least thirty (30) calendar days before the change or cancellation;

- (3) That the "other" insurance clause shall not apply to City where City is an additional insured shown on the policy. It is intended that the policies required in this Agreement, covering both City and Licensee, shall be considered primary coverage, as applicable.
- (4) Licensee shall not cause any insurance to be canceled or permit any insurance to lapse during the term of this Agreement or the six-month period following completion, in the case of a claims-made policy.
- (5) City reserves the right to review the insurance requirements of this Paragraph during the effective period of this Agreement and to make reasonable adjustments to insurance coverages, their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry or financial condition of the insurance company as well as that of Licensee. City shall be entitled to review, upon request, and without expense to City, to receive copies of the requisite insurance policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon either of the parties hereto or the underwriter on any of such policies.

G. All certificates shall include a clause to the effect that the policy may not be canceled, reduced, restricted, or limited until thirty (30) calendar days after City has received written notice of such cancellation or change.

- 8. **LICENSEE AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS CITY AND ALL OF CITY'S OFFICERS, AGENTS AND EMPLOYEES** from all suits, actions, claims, damages, personal injuries, losses, property damage and expenses of any character whatsoever, including attorney's fees, **BROUGHT FOR OR ON ACCOUNT OF ANY INJURIES OR DAMAGES RECEIVED OR SUSTAINED BY ANY PERSON OR PERSONS OR PROPERTY, ON ACCOUNT OF ANY INTENTIONAL OR NEGLIGENT ACT OR OMISSION OF LICENSEE, ITS OFFICERS, AGENTS, EMPLOYEES, TENANTS, OR CONTRACTORS AND ANY OF THEIR RESPECTIVE SUBCONTRACTORS,** arising out of the location of the sidewalk café within the public right-of-way, or any operations conducted on the Licensed Premises by Licensee, its officers, employees, contractors, or tenants, with respect to the establishment, maintenance operation of the, sidewalk café.
- 9. City reserves the right to use the Licensed Premises and the airspace above the Licensed Premises for any purpose allowed by law and to do and permit to be done, any work in connection therewith which may be deemed necessary or proper by the City on, across, along, under or over said Licensed Premises; and whenever by reason of said work in connection with said other purposes it shall be deemed necessary by

the City to alter, change, adapt, conform, relocate, remove, or otherwise disturb Licensee's sidewalk café or other property in any part of the Licensed Premises occupied by Licensee, such alterations or changes or relocations shall be made by the Licensee when ordered in writing by the City Manager without any claim for reimbursement for damages against the City.

10. Any notice or communication required in the administration of this License shall be sent to the City as follows:

City Manager
800 Junction Highway
Kerrville, Texas 78028

Any notice or communication required in the administration of this License shall be sent to the Licensee as follows:

Mevlut Otcu
New Pampells LLC
701 Water Street
Kerrville, Texas 78028

11. This License Agreement shall be governed by and construed in accordance with the laws of the State of Texas, and is fully performed in Kerr County, Texas.

IN WITNESS WHEREOF, the undersigned have set their hand on the day indicated, with the effective date of this License Agreement being the latter of the dates this agreement is signed by the respective parties.

CITY OF KERRVILLE, TEXAS

LICENSEE

By _____
Todd Parton, City Manager

By _____
Mevlut Otcu

Date: _____

Date: _____

ATTEST:

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney

ACKNOWLEDGMENTS

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on the ____ day of _____, 2011,
by TODD PARTON, CITY MANAGER, for and on behalf of the CITY OF KERRVILLE, TEXAS.

NOTARY PUBLIC, STATE OF TEXAS

Printed Name: _____

My Commission Expires: _____

THE STATE OF TEXAS §

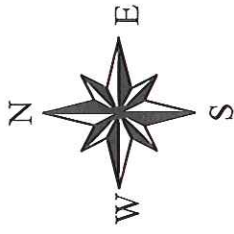
COUNTY OF KERR §

This instrument was acknowledged before me on the ____ day of _____, 2011,
by Mevlut Otcu.

NOTARY PUBLIC, STATE OF TEXAS

Printed Name: _____

My Commission Expires: _____



SIDNEY BAKER HWY

WATER ST E

Proposed tables
16.5" wide
Flush with face of bldg

Street Lamp

Required 7'8" space
for pedestrian passage

703

701

Proposed Sidewalk Cafe
701 Water Street

1/6/2011

30 Feet

20

10

0

10



Agenda Item:

(Staff)

2G. Approval of the economic development grant agreement between the Kerrville Economic Development Corporation (KEDC) and the City of Kerrville, Texas Economic Improvement Corporation.

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

SUBJECT: Approve a funding agreement between the City of Kerrville, Texas
Economic Improvement Corporation and Kerrville Economic Development Corporation

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 21, 2011

SUBMITTED BY: Mindy N. Wendele **CLEARANCES:** Todd Parton
Director of Business Programs City Manager

EXHIBITS: Funding agreement

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

Expenditure Required:	Current Balance in Account:	Amount Budgeted:	Account Number:
\$225,000	\$805,000 (Admin)	\$	40-800-306

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Representatives from the Kerrville Economic Development Corporation requested to be included on November 15, 2010 EIC Board meeting agenda to make a presentation and funding request for the newly formed Corporation. City Manager Todd Parton completed an application and provided the necessary support documents. He showed a brief PowerPoint presentation detailing the organization structure, purpose and goals for economic development activities for Kerrville and Kerr County.

The EIC board members voted to direct staff to hold a public hearing for consideration of the funding request during the December 20, 2010 meeting. The public hearing was conducted and the funding agreement between the Economic Improvement Corporation and the Kerrville Economic Development Corporation was approved. The funding amount is \$225,000.00.

RECOMMENDED ACTION

Approve the funding agreement.

**ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN KERRVILLE
ECONOMIC DEVELOPMENT CORPORATION (KEDC) AND THE CITY OF
KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION**

This Agreement entered into by and between **KERRVILLE ECONOMIC DEVELOPMENT CORPORATION** ("KEDC"), a Texas nonprofit corporation, acting herein by and through its duly authorized officer, Trevor Hyde ("KEDC President"), and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** ("EIC"), a Texas nonprofit corporation established pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 (otherwise known as the Development Corporation Act of 1979 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code) (hereafter referred to as "the Act"), acting by and through its duly authorized President, Bill Crumrine.

WITNESSETH:

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 to enhance economic development and/or the quality of life within the Kerrville area; and

WHEREAS, pursuant to the Act, the EIC is authorized to provide funding for promotional expenses, such expenses which are used to advertise or publicize the City for the purpose of developing new and expanded business enterprises; and

WHEREAS, KEDC is a private entity whose purpose is to support and promote the retention, expansion, and attraction of business entities in Kerr County in a manner that complements the efforts of its economic development partners and enhances the quality of life for residents of Kerrville and surrounding areas ; and

WHEREAS, KEDC has applied for funding from the EIC for marketing to expand and increase its efforts toward the promotion of economic development in the Kerrville area; and

WHEREAS, the EIC finds that the formation of the KEDC was intended to promote and develop new or expanded business enterprises and to foster the creation or retention of "primary jobs," as that term is defined by the Act; and

WHEREAS, Section 505.102 of the Act provides that a Type B corporation may contract with another private corporation to (1) carry out an industrial development program or objective; or (2) assist with the development or operation of an economic development program or objective consistent with the purposes and duties specified by the Act; and

WHEREAS, pursuant to Section 505.103 of the Act, the EIC is limited to spending not more than 10 percent of its current annual revenues for promotional expenses in any given year; and

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

WHEREAS, EIC finds that it will be in the public interest to enter into an agreement with KEDC to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to KEDC for costs related to marketing expenses for economic development; and

WHEREAS, on December 20, 2010, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B revenues for the purposes provided above;

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

ARTICLE I. EIC'S OBLIGATIONS

- A. The EIC hereby grants Two Hundred Twenty-Five Thousand and No/100 Dollars (\$225,000.00) ("Grant") to KEDC for KEDC's costs directly related to: i) carrying out an industrial development program or objective; and/or, ii) assisting with the development or operation of an economic development program or objective consistent with the purposes and duties specified by the Act as proposed by KEDC. Such activities are collectively referred to herein as "Economic Development."
- B. In no event shall the total amount of the Grant exceed Two Hundred Twenty-Five Thousand and No/100 Dollars (\$225,000.00).
- C. KEDC specifically agrees that EIC shall only be liable to KEDC for the actual amount of the Grant to be conveyed to KEDC and shall not be liable to KEDC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or costs of court for any act of default by EIC under the terms of this Agreement.

ARTICLE II. KEDC'S OBLIGATIONS

- A. Pursuant to the purposes for which the Grant was awarded and in strict accordance with Section 505.102 of the Texas Local Government Code, KEDC shall use the Grant for only those costs directly resulting from its Economic Development. Toward this end, eligible costs and expenses for Economic Development are limited to those activities and purposes specifically listed in **Exhibit A**.
- B. KEDC shall maintain complete and accurate records relating to the costs and expenditures made for Economic Development as specified in **Exhibit A**. KEDC shall maintain such records separate and identifiable from its other records and for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect the records during the term of this Agreement and for three (3) years thereafter, upon reasonable notice.

- C. KEDC shall make written quarterly reports to EIC, or before the last day of each calendar quarter. Said reports, at a minimum, shall include information on its Economic Development efforts, including its specific costs and expenses on the eligible items listed in **Exhibit A**.
- D. KEDC shall only be liable to EIC for the actual amount of the Grant to be conveyed to KEDC and shall not be liable to EIC for any other actual or consequential damages, direct or indirect, interest, attorney fees, or cost of court for any act of default by KEDC under the terms of this Agreement.

ARTICLE III. MERGER OR CONSOLIDATION OF KEDC

- A. In the event of any proposed merger or other consolidation of KEDC with any third party not affiliated with KEDC, KEDC shall at least thirty (30) days prior to any such merger or consolidation provide EIC with information and assurance reasonably acceptable to EIC and KEDC regarding: (1) the surviving entity's assumption and satisfaction of KEDC's obligations hereunder and (2) the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy KEDC's duties and responsibilities hereunder. Failure to provide such information shall be considered a breach of this Agreement.
- B. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving KEDC or its affiliates. In the event of any sale or merger involving KEDC or its affiliates, the surviving entity shall assume KEDC's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

ARTICLE IV. KEDC'S REPRESENTATIONS AND WARRANTIES

- A. KEDC represents and warrants as of the date hereof:
 - (1) KEDC is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
 - (2) Execution of this Agreement has been duly authorized by KEDC and this Agreement is not in contravention of KEDC's corporate charter, or any agreement or instrument to which KEDC is a party or by which it may be bound as of the date hereof;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of KEDC Officer, threatened against or affecting KEDC, which may result in a material adverse change in KEDC's business, properties or operations sufficient to jeopardize KEDC's legal existence; and
 - (4) No written application, written statement or correspondence delivered by KEDC to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of KEDC Officer, contains any untrue

statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading.

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

**ARTICLE V.
EIC'S REPRESENTATIONS AND WARRANTIES**

- A. EIC represents and warrants as of the date hereof:
- (1) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;
 - (2) Execution of this Agreement has been duly authorized by EIC;
 - (3) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and
 - (4) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.
- B. Except as expressly set forth in this Article V, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

**ARTICLE VI.
MAJOR FORCES PREVENTING KEDC FROM CARRYING
OUT ITS OBLIGATIONS UNDER THIS AGREEMENT**

If, by reason of force majeure, such as fire, flood, windstorm, drought, or other act of God, act of war, act of terrorism, labor strike, or economic downturn affecting KEDC, KEDC is reasonably unable to fulfill its obligations under this Agreement, KEDC shall use reasonable and diligent efforts to rectify the situation to allow it to perform its obligations specified herein with all due haste. In the event that the situation cannot be rectified within six (6) months after the occurrence of the force majeure, either party may terminate this Agreement by providing thirty (30) days advance written notice to the other without further liability hereunder. To the extent that KEDC has not expended funds from the Grant, KEDC shall immediately, but in any event within ten (10) days, return such funding to the EIC.

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

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

- A. The KEDC 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 KEDC, or of all or any substantial part of its property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- C. The adjudication of KEDC as bankrupt.
- D. The filing by KEDC 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 KEDC within a period of three (3) months EIC may, at its option, with written notice to KEDC, terminate this Agreement and the KEDC shall have no further obligations hereunder.

ARTICLE VIII.
REMEDIES

- A. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any party hereto, or any successor to such party, such defaulting or breaching party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act.
- B. Upon breach of this Agreement by either party and the failure to cure as permitted by this Article VIII, the non-breaching party shall have the sole right and discretion to either terminate this Agreement or pursue any and all remedies which may be provided by law and this Agreement. Each party acknowledges and agrees that no party hereunder shall be

entitled to recover any amounts in excess of the Grant contracted for under this Agreement and that no party hereunder shall be liable to the other party for any other actual or consequential damages for any act of default by such party under the terms of this Agreement.

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

ARTICLE IX. GENERAL PROVISIONS

- A. Severability. The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.
- B. Amendment. This Agreement may be amended only by written amendment signed by both parties.
- C. Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue shall lie in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.
- D. Notices. All notices given with respect to this Agreement shall be in writing and shall be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:
 - 1. For EIC
President – Bill Crumrine
City of Kerrville, Texas, Economic Improvement Corporation
800 Junction Highway
Kerrville, Texas 78028

Facsimile: (830) 792-3850
With a copy to:
Mindy Wendele
Director of Business Programs
City of Kerrville
800 Junction Highways
Kerrville, Texas 78028
Facsimile: (830) 792-3850

2. For KEDC
Trevor Hyde
1700 Sydney Baker South
Kerrville, Texas 78028
Facsimile: (830) 995-2169

- E. Assignment. This Agreement shall be binding upon the parties hereto and their successors and assigns. Except as set forth in Article III, this Agreement may not be assigned by either party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a party consents to any valid assignment of this Agreement by the other party hereto, the assigning party shall be relieved of any and all obligations and liabilities on the part of such assigning party under this Agreement. KEDC may, without written consent of EIC, assign this Agreement to any entity controlled and 100 percent owned by KEDC or by the parent, subsidiary or affiliate of KEDC provided the entity assumes all of KEDC's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of KEDC and KEDC provides a written guarantee of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.
- F. Parties In Interest. Nothing in this Agreement shall entitle any party other than KEDC or EIC to any claim, cause of action, remedy or right of any kind except as expressly provided in Article III.
- G. Term. The term of this Agreement (the "Term") shall commence on January 12, 2011 (the "Effective Date"), and shall terminate on the earlier of: (i) December 31, 2011, or when the requirements set forth in this Agreement are completed; (ii) when terminated by mutual agreement of the parties; (iii) when terminated pursuant to Article VIII, Paragraph B; (iv) when terminated pursuant to Article VII; (v) at KEDC's sole and absolute discretion, upon KEDC's return of all Grant funding to EIC that it has received under this Agreement; or, (vi) upon KEDC's repayment of all monies that are demanded by EIC. Upon termination of this Agreement as specified herein, all rights, duties and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.

- H. Interpretation. Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arms length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.
- I. Indemnity. **IT IS UNDERSTOOD AND AGREED BETWEEN THE PARTIES THAT KEDC, IN PERFORMING ITS OBLIGATIONS HEREUNDER, IS ACTING INDEPENDENTLY, AND EIC ASSUMES NO RESPONSIBILITY OR LIABILITY IN CONNECTION THEREWITH TO KEDC. KEDC AGREES TO INDEMNIFY AND HOLD HARMLESS EIC, ITS OFFICERS AND AGENTS, AGAINST ANY AND ALL CLAIMS, LAWSUITS, JUDGMENTS, COSTS AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS THAT MAY ARISE OUT OF OR BE OCCASIONED BY KEDC'S BREACH OF ANY OF THE TERMS OR PROVISIONS OF THIS AGREEMENT OR BY ANY NEGLIGENT ACT OR OMISSION OF KEDC, ITS OFFICER, AGENTS, ASSOCIATES OR EMPLOYEES, IN THE PERFORMANCE OF THIS AGREEMENT; AND NOTHING HEREIN SHALL BE CONSTRUED AS A WAIVER OF ANY GOVERNMENTAL IMMUNITY AVAILABLE TO EIC UNDER TEXAS LAW.**
- J. No Joint Venture. Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between the parties.
- K. Survival of Terms. All rights, duties, liabilities and obligations accrued prior to termination shall survive termination.
- L. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

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

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

**KERRVILLE ECONOMIC
DEVELOPMENT CORPORATION**

Bill Crumrine, President

By: _____
Trevor Hyde, President

ATTEST:

Alan Massey, Secretary to the Corporation

APPROVED AS TO FORM



Michael C. Hayes, City Attorney

Exhibit A

**KEDC Funding Request
FY 2011**

4B ELIGIBLE EXPENSES	
USDA Trip to DC	\$ 17,000
IT Support	\$ 1,500
Software Purchase	\$ 3,000
Recruitment, Marketing & Branding	\$ 106,500
Personnel:	
ED Director	\$ 128,183
Administrative Assistant	\$ 39,195
Professional Development	\$ 6,000
TOTAL ELIGIBLE EXPENSES	\$ 301,378
FY 2011 Funding Request	\$ 225,000
Expenses Over/(Under) Funding Request	\$ 76,378

Agenda Item:

(Staff)

2H. A resolution abandoning a waterline easement located within the Summit Phase V subdivision; and ordering recording.

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

SUBJECT: Authorization for the City Manager to execute a release of a 20' wide easement located in the Summit Phase Five subdivision.

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 21, 2011

SUBMITTED BY: Michael Wellborn, P.E. **CLEARANCES:** Kristine Ondrias
Director of Engineering Assistant City Manager

EXHIBITS: Existing Filed Easement
Letter of "No-Objection to Abandonment" from Atmos Energy
Resolution

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Bank of the Hills, a branch of Sterling Bank has requested the abandonment of a twenty foot wide easement that traverses Lot 21, Block 8 of the Summit Phase 5. The subject property has an existing house structure built over the easement and needs a release from the city so the property can be refinanced. The easement was originally filed and recorded in 1973; however, the Final Plat for the Summit Phase 5, which was recorded in 1995, does not identify the existence of the easement. The Public Works Department has investigated their records and notes that the water mains that once existed in the subject easement have been relocated. In addition to the above, Atmos Energy has also provided a release based upon correspondence from the City in 1985 allowing them to use the subject easement.

RECOMMENDED ACTION

The Director of Engineering recommends that Council authorize the City Manager to execute a partial release of the 20' easement recorded in Volume 8, Page 33, Plat of Records, Kerr County, Texas.



January 17, 2011

City of Kerrville
800 Junction Highway
Kerrville, Texas 78028-5069

Bank of The Hills
A Branch of Sterling Bank Mortgage Lending
1075 Junction Highway
Kerrville, Texas 78028

To Whom It May Concern:

Re: Atmos Energy Corporation – No Objection to Abandonment of existing 20' City Easement
(Volume 8 Page 33)
1922 Summit Ridge Drive, Kerrville Texas – Kerr County; Lot 21, Block 8; The Summit Phase 5

This letter is in reference to your request to release a 20' City Easement filed of record in Volume 8, Page 33, Kerr County Texas. As referenced in a letter to Lone Star Gas Company dated 11-1-85 whereby the City of Kerrville agreed to allow Lone Star Gas Company to use the existing 20' City Easement for a gas line installation.

After review of the subject request, Atmos Energy Corporation has no objection to the release of the easement as described on the attached Survey Plat.

Please be informed that we have no existing facilities or plans for future facilities in the dedicated easement. This letter may be used as Atmos Energy's approval for such permission as required by the City of Kerrville.

Please do not hesitate to call me at 214.206.2941 should you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "LJ Robinson".

LJ Robinson
Right of Way Agent

Attachments

November 1, 1985

Lone Star Gas Company
Commerce Place
301 S. Harwood
Dallas, Tx 75201

Attention: Mr. Sam Bridges
Right-of-Way Department

Dear Mr. Bridges,

As we discussed by telephone, the City of Kerrville is agreeable that Lone Star Gas Company may use an existing City easement for a gas line installation.

This twenty (20') foot easement is presently used by the City for an existing twelve (12") inch water main to supply the Kerrville North Water Reservoir. Said easement is described in Volume 8, page 33 as an Easement Deed.

Our understanding is that any damage to the twelve (12") inch water line that results from the gas line installation will be repaired by Lone Star Gas Company.

Also, that there will be a clear separation of five (5') feet between the existing twelve (12") inch water line and the proposed gas line.

And also that the Lone Star Gas Company will use concrete along their trench line to prevent erosion along the hillside.

Sincerely,

Frank Hicklen
Frank Hicklen,
Director of Engineering

FH/se
Enclosure

cc: C. R. Bellomy



KERRVILLE, TEXAS

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. - 2010**

**A RESOLUTION ABANDONING A WATERLINE EASEMENT LOCATED WITHIN
THE SUMMIT PHASE V SUBDIVISION; AND ORDERING RECORDING**

WHEREAS, a waterline easement ("Easement") was previously conveyed to the City of Kerrville, Texas ("City") for property located within the Summit Phase V Subdivision (the "Property"), as evidenced by the instrument recorded at Volume 8, Pages 32-35 of the Real Property Records of Kerr County, Texas; and

WHEREAS, the current owners of the Property have requested that the City abandon the Easement;
and

WHEREAS, in order to avoid any future cost to the public that might be required with respect to the future maintenance of the Easement, the City Council of the City of Kerrville, Texas finds it to be in the public interest to abandon the Easement;

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

SECTION ONE. The City Council of the City of Kerrville, Texas, finds that the Easement located within the Summit Phase V Subdivision, as conveyed to the City and recorded at Volume 8, Pages 32-35 of the Real Property Records of Kerr County, Texas, said Easement attached as **Exhibit A**, will no longer serve a public interest and should be abandoned.

SECTION TWO. Based upon the findings made in Section One, above, and in accordance with the City's policy regarding the disposition of real estate, the City Council authorizes the City Manager to execute and then file and record the Abandonment of Easement, as attached at **Exhibit B**, within the Real Property Records of Kerr County, Texas.

PASSED AND APPROVED ON this the _____ day of _____ A.D., 2011.

David Wampler, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary

5986

VOL 8 PAGE 33

EASEMENT DEED

THE STATE OF TEXAS §
COUNTY OF KERR § KNOW ALL MEN BY THESE PRESENTS

That Meek-Syfan Ranch Brokerage, Inc. and Carl Meek & Co., Inc., for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) to it in hand paid by the City of Kerrville, receipt of which is hereby acknowledged, and the further consideration of the City of Kerrville constructing additional water facilities to serve a proposed residential subdivision, do hereby give and grant to the said City of Kerrville, a municipal corporation of Kerr County, Texas, the right to construct, reconstruct and perpetually maintain a water line, with all necessary laterals and the right to construct, reconstruct and perpetually maintain a water storage tank on Tract I described below, and the further right to do any and all things necessary for the construction and maintenance of such water lines and storage tank, with all necessary laterals, in, upon and across the following described lands owned by Grantors and located in Kerr County, Texas:

Tract I.

That certain 0.344 acre tract of land out of the F. Vollmering Survey No. 1432 A.B. 1519, Kerr County, Texas, and more particularly described by metes and bounds by the field notes attached hereto signed by Baron B. Floyd, dated November 20, 1973, which attachment is incorporated herein by reference.

Tract II.

A 20-foot wide strip running from the 0.344 acre tract identified as Tract I herein, across the land owned by Grantors to that certain existing City of Kerrville Water Well No. 15 which is located just North of the property on which the existing Holiday Inn is located, which Holiday Inn property fronts on State Highway 16. The exact location of the center line of said strip shall be located at the time of, and coordinated with, the development of the proposed residential subdivision by Grantors.

TO HAVE AND TO HOLD the same to the City of Kerrville and its successors together with the right and privilege at any and all times to enter said premises, or any part thereof for the purpose of constructing, reconstructing, and maintaining said lines, laterals and tank, and for making connections

therewith; all upon the conditions that the City of Kerrville will at all times, after doing any work in connection with the construction, reconstruction, or repair of said lines or any lateral thereof, restore said premises to the condition in which same were found before such work was undertaken.

EXECUTED this 11 day of December, 1973.

ATTEST:

MEEK-SYFAN RANCH BROKERAGE, INC.

By: [Signature]

By: [Signature]

ATTEST:

CARL MEEK & CO., INC.

By: [Signature]

By: [Signature]

Filed 2 Day of Dec. A. D. 1973 at
EMMIE M. MUENKER, 2:52 p.m.
Clerk County Court, Kerr County, Texas
By: [Signature] Deputy

FIELD NOTES OF A SURVEY OF A 0.344-ACRE TRACT OF LAND
OUT OF THE F. VOLLUMBERING SURVEY NO. 1432 AB 1519 KERR
COUNTY, TX AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

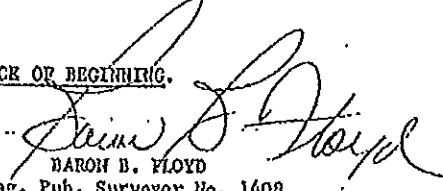
BEGINNING at a 1/2" iron pin set for the South Corner of this tract in a fence line on the Southeast Line of said Survey No. 1432; said line being the Southeast Line of that certain 301.8 acres of land conveyed to R. J. Phillips, Trustee by Edna M. Henke et al by Warranty Deed dated 15 November 1968 and recorded in Vol 135 Pages 674 through 681, Deed Records, Kerr County, TX and from said 1/2" iron pin the South Corner of Survey No. 1432 bears S 45° 02' W 2307.73 feet;

THENCE with said Southeast Survey Line N 45° 02' E 100.0 feet to a 1/2" iron pin for the East Corner of this tract;

THENCE N 44° 58' W 150.0 feet to a 1/2" iron pin set for the North Corner of this tract;

THENCE S 45° 02' W 100.0 feet to a 1/2" iron pin set for the West Corner of this tract;

THENCE S 44° 58' E 150.0 feet to the PLACE OF BEGINNING.


BARON B. FLOYD
Reg. Pub. Surveyor No. 1408

20 November 1973

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

ABANDONMENT OF EASEMENT

STATE OF TEXAS §
§
COUNTY OF KERR §

WHEREAS, by instrument dated December 11, 1973, executed by Meek-Syfan Ranch Brokerage, Inc. and Carl Meek & Co., Inc., recorded in Volume 8, Pages 33-35, Real Property Records, Kerr County, Texas, the undersigned City of Kerrville, Texas ("City"), obtained a twenty foot (20') wide easement for the right to construct, reconstruct, and perpetually maintain a water line, with all necessary laterals in, upon, and across the property described in said instrument (the "Easement"); and

WHEREAS, the current owners of the land which includes the Easement, William M. Hinds and Mary L. Hinds, a married couple, have requested that the City abandon the Easement, as there are no public utilities located within the Easement and in fact, several residences have been built over the Easement;

WHEREAS, the City Council of the City of Kerrville, Texas, has determined that the Easement, which was obtained by the City in the instrument referred to above, is no longer necessary to the operation of the City's water system and that as such, the Easement should be abandoned;

NOW THEREFORE, the City of Kerrville, Texas, by Resolution No. ____-2010 duly made and adopted at its regular meeting of January 25, 2011, has abandoned and does hereby evidence abandonment of the Easement.

EXECUTED this the ____ day of _____, 2011.

CITY OF KERRVILLE, TEXAS

 Jeffrey Todd Parton, City Manger

ATTEST:

 Brenda G. Craig, City Secretary

THE STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me on this the _____ day of _____, 2011, by JEFFREY TODD PARTON, City Manager, City of Kerrville, Texas, on behalf of said City.

Notary Public in and for the State of Texas

Agenda Item:

(Staff)

- 3A. An ordinance amending the budget for fiscal year 2011 to account for changes in the status of various capital improvement projects, to amend other city funds to account for balances for approved purposes, and to account for revenue resulting from the settlement of a claim and grant funding awards.

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

SUBJECT: First Reading of an Ordinance Amending the FY 2011 Budget

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 21, 2011

SUBMITTED BY: Mike Erwin 
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Ordinance
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

Staff requests to amend the FY 2011 City of Kerrville's budget to reflect the opening, amendments and closures in the following Capital Improvement Programs. Additionally, staff requests the amendments to the HOT, EIC, 433 Water Street, Grants, Utility Fund and General Operations Contingency budgets as outlined below.

Capital Improvement Projects

Holdsworth Drive (E04) – This project received final accounting from TxDOT and is now ready to be closed. A balance of \$9,187.66 in 4B funds remain and will be returned to the EIC fund.

Street Reconstruction 2009 (G85) – This project was completed in Fall 2010. No funds remain.

WWTP Headworks Replacement (W19) – This project was reopened in 2010 with a budget of \$50,000.00 to cover a potential settlement agreement with the vendor for this project. Funds for this project were from the 2010 Bond Issuance for the Water/Wastewater Systems. Legal has determined this project is settled with the vendor so the project can be closed. The balance of \$50,000 from this project will transfer to the Methodist Encampment Production Well (W82) to cover needed construction expenses.

Transfer Station (Landfill) Waterline (W89) – This project was completed in October 2010 and was funded by the Landfill Post Closure Fund. A balance of \$113,820.31 or current amount will be returned to the Landfill Post Closure Fund.

Travis Tank (W54) – This project was completed in December 2010 and was funded with Water Sewer cash. A balance of \$17,623.87 will be transferred to the Water Sewer Fund for legal expenses related to the CCN application.

2011 Water Supply Acquisition (W65) – This project was funded with \$50,000.00 of Water Sewer cash. This portion of the project will close and be transferred to the Water Sewer Fund for legal expenses related to the CCN application.

Methodist Encampment Production Well (W82) – This amendment would increase the project \$350,000.00. This project was bid in January 2011 and is anticipated to be awarded at the February 8, 2011 meeting subject to this budget amendment. This increase would be funded through the closure of the WWTP Headworks Replacement Project (W19) with \$50,000.00 of 2010 Bonds and \$300,000.00 of Fund 02 fund balance.

Birkdale Lift Station & New Force Main – Design (W75) – The project was funded with 2009 Water/Waste Water System Improvement Bond Funds. This amendment adds the design of the Force Main Co-Mingle Box at the WWTP since the design and construction of the Force Main Co-Mingle Box need to be done simultaneously in order for the Birkdale Lift Station & New Force Main to come on line. This amendment does not require additional funds to be added to the project since sufficient funds are available to cover design of this addition. *New project name will be Birkdale Lift Station & New Force Main / Co-Mingle Box at WWTP – Design.*

Birkdale Lift Station & New Force Main – Construction (unfunded until 2011 Bond Sale) Combine the construction of the Birkdale Lift Station & New Force Main with the Force Main Co-Mingle Box at WWTP. No change in funding required. *New project name will be Birkdale Lift Station & New Force Main / Co-Mingle Box at WWTP – Construction.*

Force Main Co-Mingle Box at WWTP – Construction (unfunded until 2011 Bond Sale) – Combine the construction of the Birkdale Lift Station & New Force Main with the Force Main Co-Mingle Box at WWTP. No change in funding required. *New project name will be Birkdale Lift Station & New Force Main / Co-Mingle Box at WWTP – Construction.*

Butt-Holdsworth Memorial Library Renovation/Expansion (unfunded until transfers made) – This project is being moved from FY 2012 to FY 2011 after staff's presentation of the Phase I Construction plan to the City Council on January 11, 2011. This amendment will increase funds for this project in the amount of \$1,615,000.00 and will come from the following sources: \$1,030,000.00 from the Library Foundation (\$950,000 from HEB and \$80,000 from Charity Ball 2011), \$560,000.00 from Fund 15 Library Donations, \$25,000 from Fund 67 433 Water Street Fund.

Broadway Utility Relocation Project (E09) – This project was funded through 1999 EIC Bonds and Water and Sewer Fund and was closed in 2006 prior to receiving final accounting from TxDOT. Upon receiving final accounting from TxDOT, a balance of \$45,063.28 was due and paid for through Water / Sewer contingency funds. Staff is reopening this project and will address repayment to the Water / Sewer fund and then

close the project.

Fund 67 - 433 Water Street Fund

This amendment will appropriate the balance of the fund in the amount of \$60,440.27 or current amount if different. At City Council's direction \$35,000.00 will be used for the moving of the building with the Texas Arts and Craft Education Foundation and remainder will be transferred to the Library Renovation CIP project.

Fund 15 – Library Donations

This amendment will appropriate the balance of the fund in the amount of \$560,000 or current amount. Approximately \$560,000.00 will be transferred to the Library Renovation CIP project.

Fund 01 – General Fund

The City settled a claim with Jacobs Carter Burgess on the Holdsworth CIP project in the amount of \$65,055.32. This amendment receives and appropriates those funds to the General Operations contingency to be used for legal services related to CREZ and other projects (\$40,000.00), surveying for the annexation of I10 Corridor (\$10,000.00), Fire Department Grant Match (\$5,000.00), and surveying for the Arts Project through Business Programs (\$2500.00).

Fund 02 – Water Sewer Fund

This amendment will appropriate \$300,000.00 from fund balance to the Methodist Encampment Production Well CIP project (W82).

Hotel Motel Tax Fund

Recognize refund for 2009 payment, \$5,000.

EIC Fund

Recognize expenditures related to purchase of KEDF-USDA land, \$1,300,000.

Grants Fund

Recognize pending grants in Fire, \$30,000; Police, \$75,000 and Library, \$86,000.

RECOMMENDED ACTION

Staff recommends the City Council approve the first reading of an ordinance amending the FY 2011 budget and authorize staff to make all necessary entries and adjustments to reflect the attached changes.

CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2011-_____

AN ORDINANCE AMENDING THE BUDGET FOR FISCAL YEAR 2011 TO ACCOUNT FOR CHANGES IN THE STATUS OF VARIOUS CAPITAL IMPROVEMENT PROJECTS, TO AMEND OTHER CITY FUNDS TO ACCOUNT FOR BALANCES FOR APPROVED PURPOSES, AND TO ACCOUNT FOR REVENUE RESULTING FROM THE SETTLEMENT OF A CLAIM AND GRANT FUNDING AWARDS

WHEREAS, Ordinance No. 2010-19, dated September 28, 2010, adopted the Fiscal Year 2011 Budget; and

WHEREAS, the City Council of the City of Kerrville, Texas, finds that amending the City's Fiscal Year 2011 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:

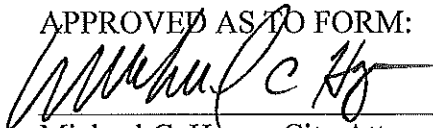
In accordance with Section 8.07 of the City Charter, the Official Budget for Fiscal Year 2011 shall be amended as set forth in **Exhibit A**.

PASSED AND APPROVED ON FIRST READING, this the _____ day of _____, A.D., 2011.

PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of _____, A.D., 2011.

David Wampler, Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

Brenda G. Craig, City Secretary

Agenda Item:

(Staff)

- 3B. An ordinance amending the zoning district boundaries of Lot 445, Block 60, Schreiner Addition, otherwise known as 509 Barnett Street and located within the City of Kerrville, Kerr County, Texas, from the "R1-A" residential district to "C-19" central city district; containing a cumulative clause; containing a savings and severability clause; and ordering publication.

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

SUBJECT: Public Hearing: Zoning Change Request – Consider a request to change the zoning from R-1A to C-19 (Central City) District on an approximately 9200 square foot lot located at 509 Barnett Street.

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 14, 2011

SUBMITTED BY: Gordon Browning  **CLEARANCES:** Kevin Coleman 

EXHIBITS: Location map, Applicant's request, Ordinance, 

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

APPROVED FOR SUBMITTAL BY DIRECTOR OF ADMINISTRATIVE SERVICES:

SUMMARY STATEMENT

Project Timeline:

- December 6, 2010 – Application submitted for zoning change.
- December 23, 2010 – Notice of the required public hearings published in The Kerrville Daily Times and mailed to property owners within 200-feet of the subject property.
- December 29, 2010 – Development Review Committee (DRC) review process completed.
- December 30, 2010 – Staff comments and draft ordinance to applicant.
- January 6, 2011 – Public hearing before the Planning and Zoning Commission (P&Z) and consideration of a recommendation to City Council.
- January 25, 2011 – Public hearing before City Council and consideration of an ordinance for a zoning change on first reading.
- February 8, 2011 – Second and final reading of an ordinance for a zoning change.

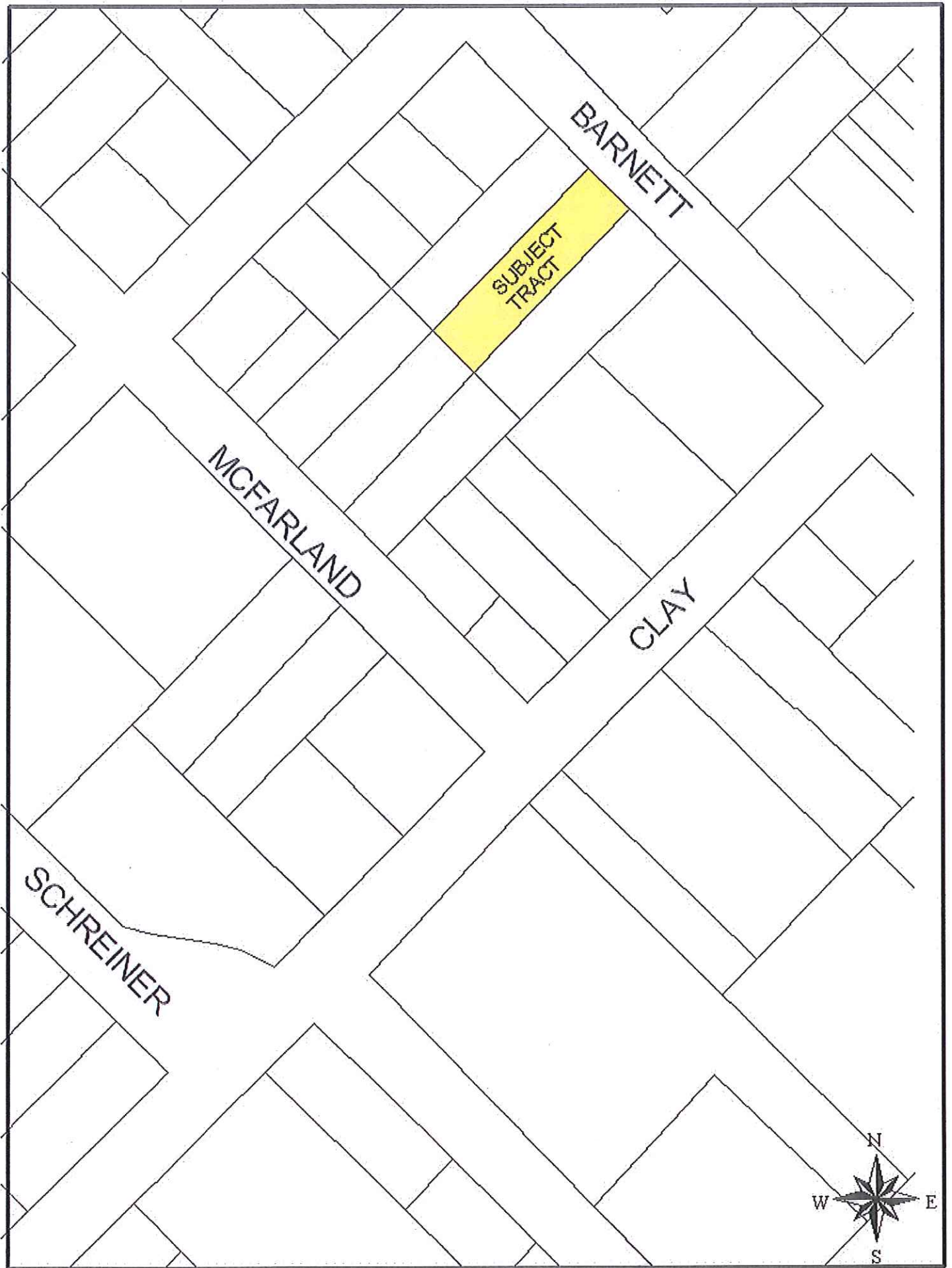
Zoning Change Process/Summary:

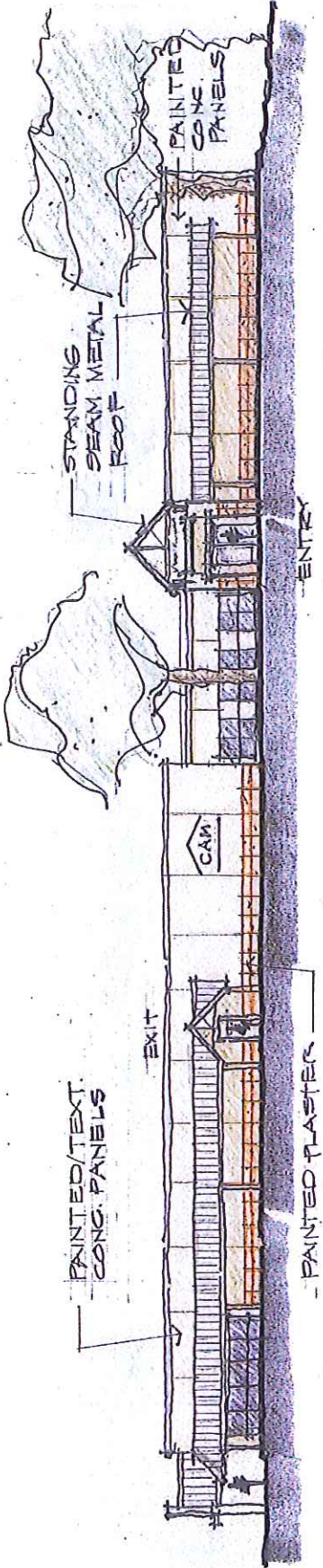
- Per the Zoning Code and the proposed use, a zoning change will be required by City Council. The C-19 (Central City) District is being proposed for the tract to allow CAM (Christian Assistance Ministry), who recently purchased the property, to have all of their property under a single zoning classification and to expand their current operation. CAM provides counseling, guidance and community out-reach as well as maintaining a food pantry.
- The applicant proposes to add reception, office and storage space to their existing 5000 square foot building, additional parking is also being provided. Access to the site will be from Clay and Barnett Streets.
- No underlying right exists to approve a zoning change request. The fact that the P&Z and City Council may review an application for a zoning change does not mean it must be approved. The burden falls on the applicant to show that the use would be a benefit to the particular area and to the general welfare of the City.
- Unless specifically addressed in the attached ordinance, approval of the zoning change does not exempt the property owner and/or developer from any other ordinance or requirement related to the development of the property described. Approval of the zoning change is not a permit for development and construction.
- Prior to submission of any building and/or civil construction plans, the applicant shall submit a replat of the property per the City's Subdivision regulations.
- The Planning and Zoning Commission at their January 6, 2011 meeting, following a public hearing and discussion, recommended approval of the zoning change as presented. No one from the public spoke at the public hearing.

RECOMMENDED ACTION

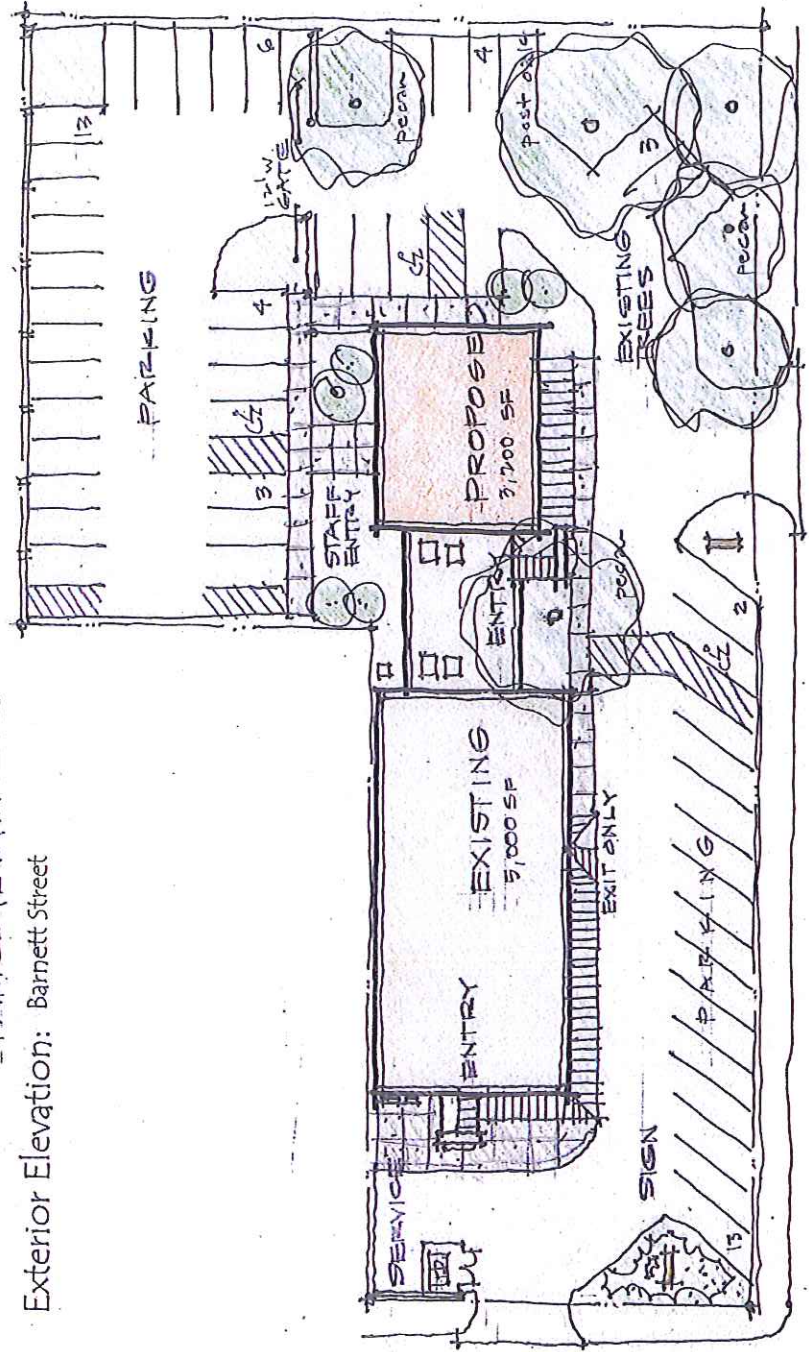
1. Open the public hearing and receive comments, and

2. Approve the zoning change requested as outlined in the attached ordinance on first reading.





Exterior Elevation: Barnett Street



Site Plan

CLAY STREET



Warehouse
&
Pantry

201029 11/16/10



PETER LEWIS
ARCHITECT + ASSOCIATES

BARNETT STREET

**CITY OF KERRVILLE, TEXAS
ORDINANCE NO. 2011-__**

AN ORDINANCE AMENDING THE ZONING DISTRICT BOUNDARIES OF LOT 445, BLOCK 60, SCHREINER ADDITION, OTHERWISE KNOWN AS 509 BARNETT STREET AND LOCATED WITHIN THE CITY OF KERRVILLE, KERR COUNTY, TEXAS, FROM THE "R1-A" RESIDENTIAL DISTRICT TO "C-19" CENTRAL CITY DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

WHEREAS, notice has been given to all parties in interest and citizens by publication in the official newspaper and otherwise of a hearing to be held before the City Council on January 25, 2011, to consider an amendment to the City's zoning regulations and map, by amending the existing zoning district boundaries for the property described in Section One hereof from "R1-A" Residential District to "C-19" Central City District, in accordance with the process set out in Article 11-I-21 of the Zoning Code of the City of Kerrville, Texas; and

WHEREAS, such public hearing was held in the Council Chambers beginning at approximately 6:00 p.m. on January 25, 2011, as advertised; and

WHEREAS, after a full hearing, at which all parties in interest and citizens were given an opportunity to be heard; and after receiving and considering the recommendations of the Planning and Zoning Commission; and after considering among other things, the character of the property involved and the surrounding area and its peculiar suitability for particular uses; and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, the Council finds it to be in the best interest of the health, safety, morals, and general welfare of the City of Kerrville to amend the zoning regulations accordingly;

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

SECTION ONE. The zoning for the property described as follows is amended by changing its zoning district from "R1-A" Residential District to "C-19" Central City District:

**Lot 445, Block 60, Schreiner Addition, a subdivision within the
City of Kerrville, Texas, more particularly described in Exhibit
A, attached hereto and made a part hereof for all purposes.**

SECTION TWO. The City Planning Director is authorized and directed to enter this amendment upon the City's official zoning map and take other actions contemplated by and in accordance with Section 11-I-4(c) of the City's Zoning Code.

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

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

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

PASSED AND APPROVED ON FIRST READING, this the ____ day of _____, 2011.

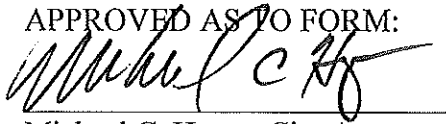
PASSED AND APPROVED ON SECOND AND FINAL READING, this the ____ day of _____, 2011.

David Wampler, Mayor

ATTEST:

Brenda G. Craig, City Clerk

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

Agenda Item:

(Staff)

4A. A resolution granting petitions requesting the annexation of various properties, such properties generally located beginning near the Town Creek Road and Morris Road intersection, north along Town Creek Road, across and including Interstate 10, continuing north through undeveloped property, and terminating at and including the James Avery Company headquarters, located along Avery Road, which intersects with Harper Road (FM 783); rejecting one petition for annexation for property within this same general area; and ordering the preparation of an ordinance to annex the petitioned properties and to include the annexation of Interstate 10 to an easterly point that it connects to the city's limits.

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

SUBJECT: Discussion and Possible Action on Resolutions Related to Annexation

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 16, 2011

SUBMITTED BY: Kevin Coleman  **CLEARANCES:** Kristine Ondrias 

AGENDA MAILED TO:

EXHIBITS:

- Resolution Accepting Property Owner Petitions
- Resolution Initiating Annexation of Property and Adjacent Roads
- Proposed Annexation Map/Path

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

REVIEWED BY THE FINANCE DIRECTOR:

SUMMARY STATEMENT

Under two related items, the City Council will consider resolutions related to the annexation of areas served by the Harper Road utility extension project. The proposed path begins near the Town Creek Road/Morris Road intersection running along Town Creek Road and Old Harper Road, across and including IH10, through a portion of undeveloped land, and then terminating at and including the James Avery Craftsmen Campus.

The first resolution, in accordance with a variety of development agreements between the property owners and the city, accepts six of the seven annexation petitions received. The petitions to be accepted include one from James Avery Craftsmen for their Kerrville campus. The petition received from Hilburn Management LLC should be rejected, in that the petitioned area will be included in the area proposed for city initiated annexation. Annexation of these areas will require the annexation of the paved roads within or adjacent to the properties. See area on attached map highlighted in pink.

The second resolution defines an area proposed for a city initiated annexation pursuant to state statute. The annexation of this area is needed to complete the proposed annexation path. To meet the requirements of state statute, the area will include the entire Higgins tract (+/- 55 acres), adjacent road sections of Town Creek Road, adjacent sections of Old Harper Road from FM 783 to the end of the paved road, all utility easements connected to the utility extension, a small portion of property owned by the Kerrville Pentecostal Church, and two small sections of the Hilburn property

completely surrounded by other annexed areas. See area on attached map highlighted in yellow.

In conjunction with action on the resolutions, city staff is seeking direction from City Council to determine the amount of IH10 right of way to include in this annexation action. Currently, the proposed path includes only the right of way directly adjacent to property annexed. Areas to be considered include the IH10 corridor from the defined area southeast to the current city limits and portions of the FM 783 and IH10 interchange. See area on attached map highlighted in green.

Additionally, in review of the annexation path and its effects on County maintenance, the County has asked the City to consider the annexation of the portion of Avery Road adjacent to the northeast corner of the Avery campus. This road section is not included in the annexation area as defined.

At Council direction, these additional areas can be surveyed and added to the proposed annexation. The funding for the cost of these additional surveys is not budgeted.

Upon approval of the resolutions, staff will present the properties proposed for annexation to the Planning and Zoning Commission for a zoning recommendation, schedule the required public hearings, and develop the ordinances needed to complete the action. Final action by Council is tentatively scheduled to be completed in May.

RECOMMENDED ACTION

Provide staff direction regarding extent of annexation of the IH10 corridor and Avery Road.

Pass the resolution accepting property owner petitions for annexation as presented.

Pass the resolution initiating annexation as presented.

**CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2011**

A RESOLUTION GRANTING PETITIONS REQUESTING THE ANNEXATION OF VARIOUS PROPERTIES, SUCH PROPERTIES GENERALLY LOCATED BEGINNING NEAR THE TOWN CREEK ROAD AND MORRIS ROAD INTERSECTION, NORTH ALONG TOWN CREEK ROAD, ACROSS AND INCLUDING INTERSTATE 10, CONTINUING NORTH THROUGH UNDEVELOPED PROPERTY, AND TERMINATING AT AND INCLUDING THE JAMES AVERY COMPANY HEADQUARTERS, LOCATED ALONG AVERY ROAD, WHICH INTERSECTS WITH HARPER ROAD (FM 783); REJECTING ONE PETITION FOR ANNEXATION FOR PROPERTY WITHIN THIS SAME GENERAL AREA; AND ORDERING THE PREPARATION OF AN ORDINANCE TO ANNEX THE PETITIONED PROPERTIES AND TO INCLUDE THE ANNEXATION OF INTERSTATE 10 TO AN EASTERLY POINT THAT IT CONNECTS TO THE CITY'S LIMITS

WHEREAS, the owners of six (6) properties have filed petitions with the City pursuant to Texas Local Government Code Section 43.028 and requested the annexation of their properties; and

WHEREAS, another property owner has filed a petition for annexation, but due to state law requirements regarding the annexation of public roads, City staff recommends rejecting this application as it does not include a full description of all the property, primarily consisting of a public road, which the City is required to annex; and

WHEREAS, having considered the petitions and hearing the recommendation from City staff, the City Council of the City of Kerrville, Texas, finds it to be in the public interest to grant the petitions and to initiate the annexation process, which includes the preparation of an ordinance annexing the subject properties;

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

SECTION ONE. The City Council grants each of the six (6) petitions requesting annexation of properties, such properties are depicted in the map attached as **Exhibit A**, and are more fully described in the petitions, copies of which are attached as **Exhibit B**.

SECTION TWO. The City Council rejects the petition requesting annexation of property, such property as more fully described in the petition, a copy of which is attached as **Exhibit C**.

SECTION THREE. City staff is directed to initiate the annexation process and to prepare an ordinance annexing the subject properties described in the petitions reference in Section One, above, along with Interstate 10 to an easterly point that it meets the City's limits.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2011.

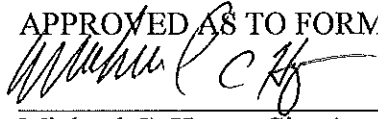
(signatures begin on next page)

ATTEST:

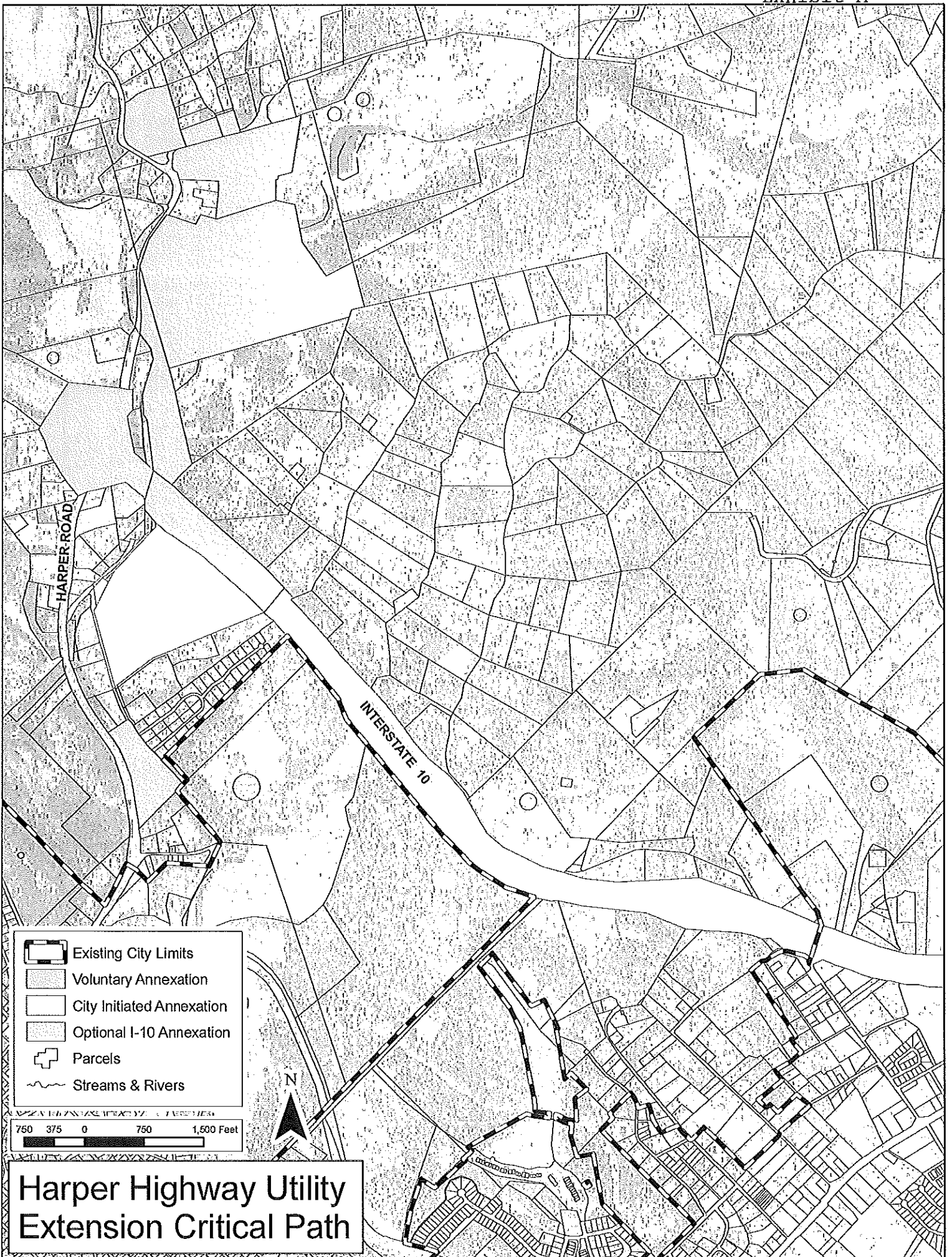
David Wampler, Mayor

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



Harper Highway Utility Extension Critical Path

EXHIBIT "B"

CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION *

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address 755 Harper Rd. Nearest Intersection _____
Minor Plat/Subdivision See property description Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent Lloyd Leifeste Phone _____ FAX _____
Email Address: _____
Mailing Address 1294 Bandera Hwy. City Kerrville, State TX Zip 78028
Property Owner Lloyd Leifeste Phone _____ FAX _____
Email Address: _____
Mailing Address 1294 Bandera Hwy. City Kerrville State TX Zip 78028

Transaction Code: 840.01-6236

Attach completed checklists for all projects

- | | | | |
|--|---------------|---|-------|
| <input checked="" type="checkbox"/> Annexation (2 copies /2 petitions) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Plat (15 copies) | _____ |
| | | \$300 + \$20/lot or \$10/acre (which ever is greater) | |
| <input type="checkbox"/> Administrative Appeal | \$150 | <input type="checkbox"/> Final Plat (15 copies) | _____ |
| | | \$150 + \$10/lot | |
| <input type="checkbox"/> Preliminary Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Minor Plat (15 copies) | _____ |
| | | \$150 + 10/lot | |
| <input type="checkbox"/> Final Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Final Minor Plat (15 copies) | _____ |
| | | \$150 + 10/lot | |
| <input type="checkbox"/> Concept Plan (15 copies) | \$500 | <input type="checkbox"/> Replat (15 copies) | _____ |
| | | \$150 + 10/lot | |

For plats in the ETJ:

(Payment due at the time of final plat, \$200.00 per lot)

- ☐ Parkland Fee (East) _____
08-6242
☐ Parkland Fee (West) _____
08-6243

Owner's Affidavit Required for: (Must attach to this Master Application Form)

- | | | | |
|---|-------|--|-------|
| <input type="checkbox"/> Conditional Use Permit (CUP) Request | _____ | <input type="checkbox"/> Zoning Change Request | _____ |
| 840. 01-6236 \$300 | | 840. 01-6236 \$300 | |
| <input type="checkbox"/> Variance Request | _____ | <input type="checkbox"/> Comp. Plan Amendment Request | _____ |
| 840. 01-6236 \$150 | | 840. 01-6236 \$300 | |
| <input type="checkbox"/> Planned Development District Request | _____ | <input type="checkbox"/> Specific Use Permit (SUP) Request | _____ |
| 840 .01-6236 \$300 | | 840. 01-6236 \$300 | |

Please provide a basic description of the proposed project:

Incorporation of property

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: Lloyd Leifeste Date: _____

RECEIVED
JAN 18 2011

PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS
OF THE CITY OF KERRVILLE, TEXAS, OF 11.52 ACRES OUT OF THE J.D.
Leavell Survey, Abstract Number 1435, KERR COUNTY TEXAS

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

Lloyd Leifeste is the sole owner of an approximately 11.52 acre tract of land located adjacent to the incorporated limits of the City of Kerrville which is out of the Survey No. 1862, Abstract No. 1435 Kerr County, Texas, and is more particularly described as follows:

SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, Lloyd Leifeste hereby requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.

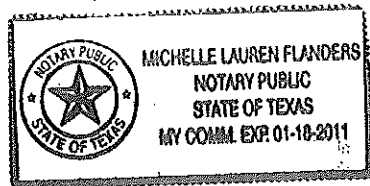
SUBMITTED THIS 5th day of January, 2011.

By: Lloyd Leifeste
Name: Lloyd Leifeste
Title: Owner

ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me on the 5th day of January, 2011 by Lloyd Leifeste.



Michelle Flanders
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Michelle Flanders
My Commission Expires: 1-18-2011

FIELD NOTES DESCRIPTION FOR 11.52 ACRES OF THE
LLOYD B. LEIFESTE LAND IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land out of J. D. Leavell Survey No. 1862, Abstract No. 1435, in Kerr County, Texas; comprising parts of 0.62 acre conveyed as Tract No. One and 11.55 acres conveyed as Tract No. Two to Lloyd B. Leifeste, et ux, from Dorothy L. Warren by a Warranty Deed with Vendor's Lien executed the 16th day of December, 1980 and recorded in Volume 242 at Page 510 of the Deed Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses, adjoiner calls shown in brackets):

BEGINNING at a 1/2" iron stake found in the occupied northeast right-of-way line of Town Creek Road, a public road, for the most easterly corner of the herein described tract and said 11.55 acres, in the northwest line of 279.027 acres conveyed as Tract I to Town Creek Companies, LLC from THR Corporation by a Warranty Deed with Vendor's Lien executed the 15th day of December, 1998 and recorded in Volume 986 at Page 778 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 11.55 acres and said 279.027 acres, S.45°19'40"W. (S.46°W.) 100.46 ft. to a 1/2" iron stake found at the north corner of 3.70 acres conveyed to Harvey Ray Yotngblood from Harvey Ray Youngblood, Successor Trustee by a Distribution Deed of Trustee executed the 22nd day of August, 2001 and recorded in Volume 1163 at Page 832 of the Real Property Records of Kerr County, Texas;

THENCE, with the northwest line of said 3.70 acres, S.45°34'45"W. (S.46°W.), with the southeast line of said 11.55 acres, at 50.30 ft. passing a fence endpost, then generally along a fence, at 500.4 ft. passing the easterly common corner of said 11.55 acres and said 0.62 acre, then with the southeast line of said 0.62 acre for a total distance of 682.20 ft. to a cornerpost for the south corner of the herein described tract and said 0.62 acre, the west corner of said 3.70 acres, in the northeast right-of-way line of State F. M. Highway No. 783, also known as Harper Road;

THENCE, with the southwest line of said 0.62 acre, the northeast right-of-way line of said State F. M. Highway No. 783, N.10°05'43"W. (N.10°15'W.) 14.41 ft. to a "P-K" nail set at the beginning of a 03°36'29" curve concave to the west having a radius of 1588.16 ft. (1588.16 ft.), at the south corner of 0.519 acre conveyed to the State of Texas from Hilary D. Mahin by a Deed executed the 17th day of November, 1966 and recorded in Volume 126 at Page 405 of the Deed Records of Kerr County, Texas;

THENCE, generally along a fence, upon, over and across said 0.62 acre and said 11.55 acres, with the northeast line of said 0.519 acre, continuing with the northeast right-of-way line of said State F. M. Highway No. 783: 250.79 ft. (252.8 ft.) with an arc of said 03°36'29" curve subtended by a central angle of 09°02'52" [long chord = N.06°04'07"W. 250.53 ft.] to a concrete right-of-way marker at its end; N.10°35'33"W. 282.80 ft. (N.10°28'W. 285.7 ft.) to a concrete right-of-way marker found at the beginning of a 03°50'09" curve concave to the west having a radius of 1493.82 ft. (1492.69 ft.); 656.71 ft. (656.4 ft.) with an arc of said 03°50'09" curve subtended by a central angle of 25°11'17" [long chord = N.23°11'12"W. 651.43 ft.] to its end, from which a found concrete right-of-way marker bears 2.10 ft. S.35°46'51"E.; and N.35°46'51"W. 78.72 ft. (N.35°40'W. 78.8 ft.) to the west corner of the herein described tract and said 11.55 acres, the south corner of 6.96 acres conveyed to Thomas R. Taylor, et al, from Cynthia Page Bristol by a Warranty Deed with Vendor's Lien executed the 12th day of November, 2004 and recorded in Volume 1396 at Page 218 of the Real Property Records of Kerr County, Texas;

THENCE, generally along a fence with the common line between said 11.55 acres and said 6.96 acres, N.55°58'33"E. 273.63 ft. [N.55°53'04"E. 274.63 ft.] to a three-way cornerpost marked with a found 1/2" iron stake at the east corner of said 6.96 acres in the southwest right-of-way line of said Town Creek Road;

THENCE, with the northwest line of said 11.55 acres, N.56°58'33"E. (N.56°35'E.), at approximately 26.4 ft. passing the southwest line of 2.00 acres conveyed to Elizabeth Nottingham from Clayson H. Lambert by a Warranty Deed executed the 18th day of October, 2005 and recorded in Volume 1476 at Page 665 of the Real Property Records of Kerr County, Texas, then upon, over and across said 2.00 acres for a total distance of 43.37 ft. to the north corner of the herein described tract and said 11.55 acres;

Page 2 – 11.52 Acres of the Lloyd E. Leifeste land on Town
Creek Road in Kerr County, Texas

THENCE, with the northeast line of said 11.55 acres, continuing upon, over and across said 2.00 acres, S.26°48'04"E., at 25.2 ft. passing a fence anglepost in the occupied northeast right-of-way line of said Town Creek Road, then along a fence with the occupied northeast right-of-way line of said Town Creek Road for a total distance of 65.85 ft. to a 1/2" iron stake found in the southwest line of said 2.00 acres;

THENCE, along a fence with the common line between said 11.55 acres and said 2.00 acres, the occupied northeast right-of-way line of said Town Creek Road, S.26°48'04"E. 43.65 ft. [S.26°25'12"E. 43.68 ft.] to a 1/2" iron stake found at a cornerpost at the south corner of said 2.00 acres, the west corner of Lot No. 1 in Block No. 3 of Horseshoe Oaks, a subdivision of record in Volume 4 at Page 152 of the Plat Records of Kerr County, Texas;

THENCE, with the common line between said 11.55 acres and said Horseshoe Oaks, the northeast right-of-way line of said Town Creek Road: with the southwest line of said Lot No. 1 in Block No. 3, S.28°37'33"E. 95.22 ft. [S.28°16'E. 95.21 ft.] to an unmarked point; and S.39°56'41"E., at 12.19 ft. [12.19 ft.] passing a 1/2" iron stake found for reference at the south corner of said Lot No. 1 in Block No. 3, then continuing for a total distance of 456.07 ft. [S.39°52'E. 456.37 ft.] to a 1/2" iron stake found at the south corner of Lot No. 1, Block No. 1;

THENCE, with the northeast line of said 11.55 acres, the occupied northeast right-of-way line of said Town Creek Road, S.26°58'28"E. 3.32 ft. to a 1/2" iron stake found at the west corner of 21.00 acres conveyed to Town Creek Companies, LLC from Durwood A. Merritt by a Warranty Deed executed the 15th day of April, 2004 and recorded in Volume 1348 at Page 552 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 11.55 acres and said 21.00 acres, the northeast right-of-way line of said Town Creek Road: S.40°29'18"E. 44.79 ft. [S.40°48'37"E. 44.54 ft.] to a 1/2" iron stake found at the base of a tree; and generally along a fence, S.44°32'47"E. 372.17 ft. [S.44°31'03"E. 372.67 ft.] to the PLACE OF BEGINNING containing 11.52 acres of land, more or less, within these metes and bounds.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

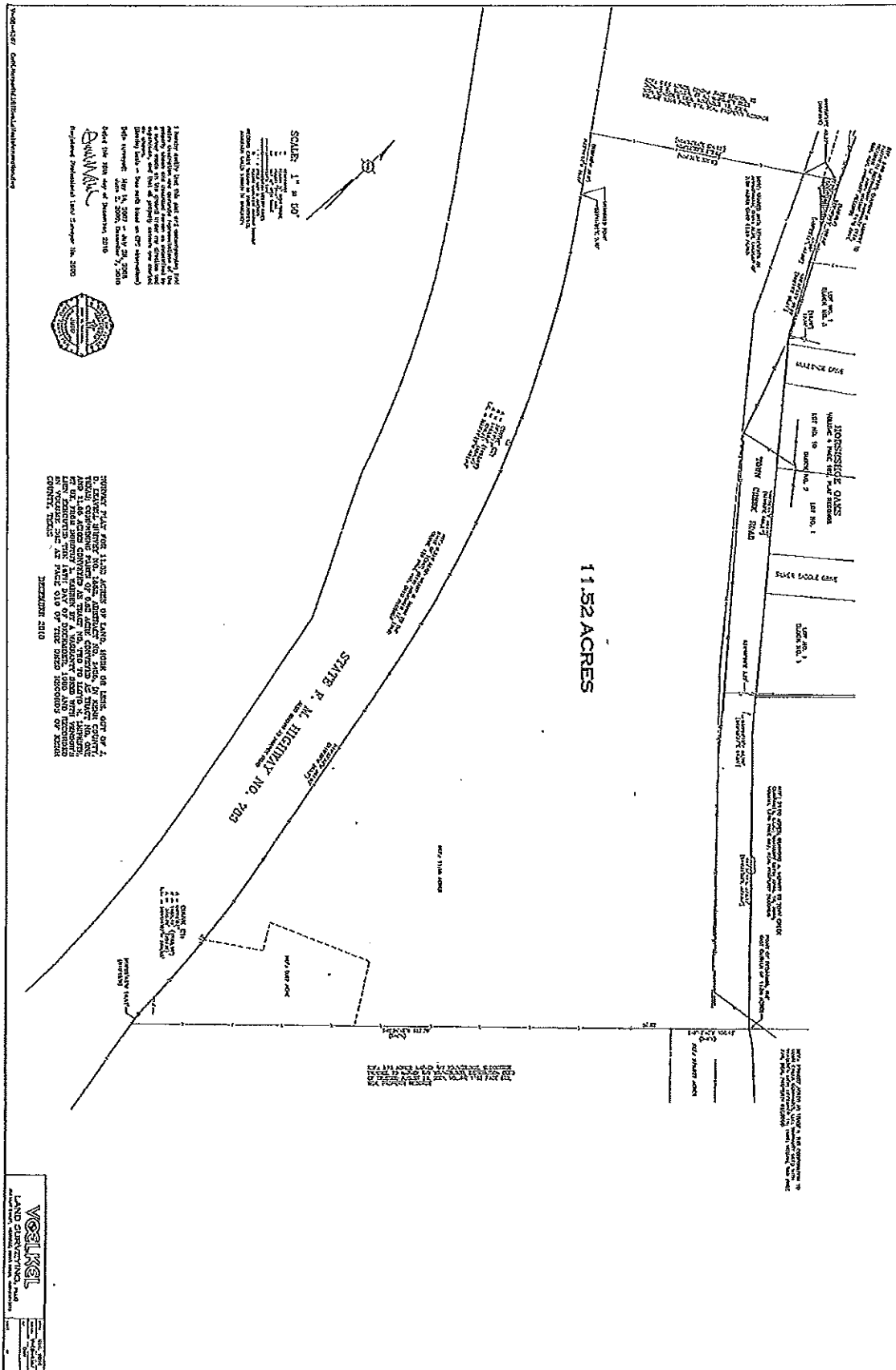
Date surveyed: May 14, 2007 – July 28, 2008
June 2, 2009; December 7, 2010

Dated this 15th day of December, 2010



Don W. Voelkel
Registered Professional Land Surveyor No. 3990





**CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION ***

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address 659 Town Creek Rd. Nearest Intersection _____
Minor Plat/Subdivision See property description Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent Elizabeth Nottingham Phone _____ FAX _____
Email Address: _____
Mailing Address _____ City _____ State _____ Zip _____
Property Owner Elizabeth Nottingham Phone 301-775-9033 FAX _____
Email Address: emnot39@hotmail.com
Mailing Address 20238 Sweet Meadow Lane City Gaithersburg State MD Zip 20882

Transaction Code: 840.01-6236

- | | |
|--|---------------|
| <input checked="" type="checkbox"/> Annexation (2 copies /2 petitions) | <u>No Fee</u> |
| <input type="checkbox"/> Administrative Appeal | \$150 |
| <input type="checkbox"/> Preliminary Site Plan (15 copies) | <u>No Fee</u> |
| <input type="checkbox"/> Final Site Plan (15 copies) | <u>No Fee</u> |
| <input type="checkbox"/> Concept Plan (15 copies) | \$500 |

Attach completed checklists for all projects

- | | |
|---|-------|
| <input type="checkbox"/> Preliminary Plat (15 copies) | _____ |
| \$300 + \$20/lot or \$10/acre (which ever is greater) | |
| <input type="checkbox"/> Final Plat (15 copies) | _____ |
| \$150 + \$10/lot | |
| <input type="checkbox"/> Preliminary Minor Plat (15 copies) | _____ |
| \$150 + 10/lot | |
| <input type="checkbox"/> Final Minor Plat (15 copies) | _____ |
| \$150 + 10/lot | |
| <input type="checkbox"/> Replat (15 copies) | _____ |
| \$150 + 10/lot | |

For plats in the ETJ:
(Payment due at the time of final plat, \$200.00 per lot)

- | | |
|--|-------|
| <input type="checkbox"/> Parkland Fee (East) | _____ |
| 08-6242 | |
| <input type="checkbox"/> Parkland Fee (West) | _____ |
| 08-6243 | |

Owner's Affidavit Required for: (Must attach to this Master Application Form)

- | | | | |
|---|-------|--|-------|
| <input type="checkbox"/> Conditional Use Permit (CUP) Request | _____ | <input type="checkbox"/> Zoning Change Request | _____ |
| 840. 01-6236 \$300 | | 840. 01-6236 \$300 | |
| <input type="checkbox"/> Variance Request | _____ | <input type="checkbox"/> Comp. Plan Amendment Request | _____ |
| 840. 01-6236 \$150 | | 840. 01-6236 \$300 | |
| <input type="checkbox"/> Planned Development District Request | _____ | <input type="checkbox"/> Specific Use Permit (SUP) Request | _____ |
| 840 .01-6236 \$300 | | 840. 01-6236 \$300 | |

Please provide a basic description of the proposed project: _____

Incorporation of property

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: [Signature] Date: _____

RECEIVED
JAN 18 2011

PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS
OF THE CITY OF KERRVILLE, TEXAS, OF 0.08 ACRES OUT OF THE Jesus
Hernandez Survey, Abstract Number 189, KERR COUNTY TEXAS

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

Elizabeth Nottingham is the sole owner of an approximately 0.08 acre tract of land
located adjacent to the incorporated limits of the City of Kerrville which is out of the
Survey No. 548, Abstract No. 189 Kerr County, Texas, and is more particularly described
as follows:

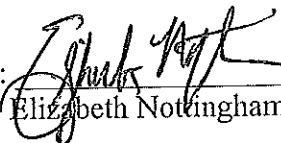
SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the
incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without
residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, Elizabeth Nottingham
hereby requests and petitions that the above-described property be annexed into the
incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS _____ day of _____ 20__.

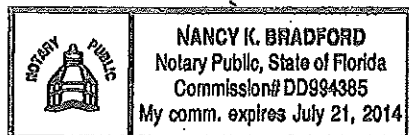
By:

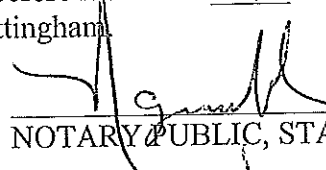

Elizabeth Nottingham

ACKNOWLEDGEMENTS

THE STATE OF ~~TEXAS~~ Florida §
COUNTY OF ~~KERR~~ Lee §

This instrument was acknowledged before me on the 11 day of
January, 20 11, by Elizabeth Nottingham.




NOTARY PUBLIC, STATE OF ~~TEXAS~~ Florida

Printed Name: Nancy K Bradford

My Commission Expires: 7-21-2014

Maryland Driver License Provided as ID

PARCEL NO. 7:

FIELD NOTES DESCRIPTION FOR A VARIABLE WIDTH
UTILITY EASEMENT ACROSS PART OF THE ELIZABETH
NOTTINGHAM LAND IN KERR COUNTY, TEXAS

Being all of a certain strip, tract or parcel of land out of Jesus Hernandez Survey No. 548, Abstract No. 189, in Kerr County, Texas; part of 2.00 acres conveyed to Elizabeth Nottingham from Clayson H. Lambert by a Warranty Deed executed the 18th day of October, 2005 and recorded in Volume 1476 at Page 665 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a $\frac{1}{4}$ " iron stake found in a fence along the northeast right-of-way line of Town Creek Road for the southeast corner of the herein described tract in the southwest line of said 2.00 acres, which point bears 43.65 ft. N.26°48'04"W. (43.68 ft. N.26°25'12"W.) from a $\frac{1}{4}$ " iron stake found at the southwest corner of said 2.00 acres;

THENCE, with the southwest line of said 2.00 acres: N.45°32'02"W. 52.30 ft. (N.45°15'25"W. 52.41 ft.) to a "P-K" nail found in the approximate centerline of said Town Creek Road; and along the approximate centerline of said Town Creek Road, N.26°53'15"W. 157.27 ft. (N.26°36'52"W. 157.20 ft.) to a "P-K" nail found at the northwest corner of said 2.00 acres, a southerly corner of the remainder of 20 acres conveyed to Horace C. Lambert, et ux, from George D. Messimer, et ux, by a Warranty Deed with Vendor's Lien executed the 7th day of August, 1972 and recorded in Volume 157 at Page 594 of the Deed Records of Kerr County, Texas;


THENCE, with the common line between said 2.00 acres and the remainder of said 20 acres, N.53°09'02"E. (N.53°25'25"E.), at approximately 15 ft. crossing a fence, then continuing for a total distance of 20.31 ft. to a $\frac{1}{4}$ " iron stake set for the northeast corner of the herein described tract;

THENCE, upon, over and across said 2.00 acres: S.26°53'15"E., northeast of and generally parallel with said fence, at approximately 100 ft. crossing said fence, then southwest of and generally parallel with said fence, at approximately 150 ft. crossing said fence, then northeast of and diverging from said fence for a total distance of 160.79 ft. to a set $\frac{1}{2}$ " iron stake; and northeast of and converging with said fence, S.23°06'05"E. 49.66 ft. to the PLACE OF BEGINNING containing 0.08 acre of land, more or less, within these metes and bounds.

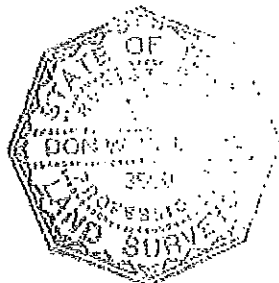
I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 – July 28, 2008

Dated this 30th day of September, 2008

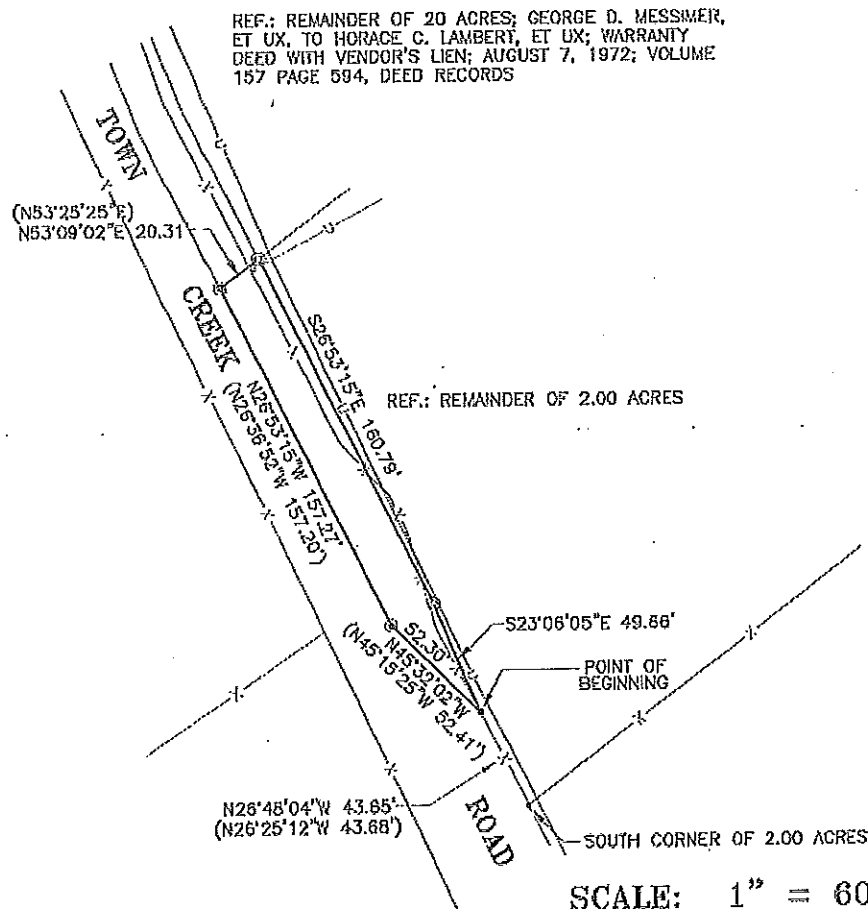


Don W. Voelkel
Registered Professional Land Surveyor No. 3990



SURVEY PLAT FOR 0.08 ACRE OF LAND, MORE OR LESS, OUT OF JESUS HERNANDEZ SURVEY NO. 54B, ABSTRACT NO. 189, IN KERR COUNTY, TEXAS; BEING A VARIABLE WIDTH STRIP OF LAND OUT OF 2.00 ACRES CONVEYED TO ELIZABETH NOTTINGHAM FROM CLAYSON H. LAMBERT BY A WARRANTY DEED EXECUTED THE 18TH DAY OF OCTOBER, 2005 AND RECORDED IN VOLUME 1476 AT PAGE 665 OF THE REAL PROPERTY RECORDS OF KERR COUNTY, TEXAS

EXHIBIT "B"



SCALE: 1" = 60'

○ FENCEPOST
 ● FOUND 1/4" IRON STAKE
 ⊙ FOUND "P-K" NAIL
 ⊙ SET 1/4" IRON STAKE
 --- FENCE LINE
 --- OVERHEAD UTILITY LINES
 --- POLE GUY & ANCHOR
 □ FOUND CONCRETE R-O-W MARKER
 RECORD CALLS SHOWN IN PARENTHESES

I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as shown.
 (Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 - July 28, 2008

Dated this 30th day of September, 2008

Don W. Voelkel

Don W. Voelkel
 Registered Professional Land Surveyor No. 3990
 CofK.HarperRd.Utilities.Parcel_7.dwg



VOELKEL

LAND SURVEYING, PLLC • PHONE: 810-257-1113 • 212 CLAY STREET, KEIRVILLE, TEXAS 78028

**CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION ***

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address 673 Town Creek Rd Nearest Intersection _____
Minor Plat/Subdivision See property description Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent _____ Phone _____ FAX _____
Email Address: _____
Mailing Address 14612 Drexel Street City Omaha State Nebraska Zip 68137
Property Owner Horace C. and Lavanaia Lambert, Revocable Trust Phone _____ FAX _____
c/o Suzanne Newell Dalton, Trustee
Mailing Address 14612 Drexel Street City Omaha State NE Zip 68137

Transaction Code: 840.01-6236

Attach completed checklists for all projects

- | | | | |
|---|---------------|---|-------|
| <input checked="" type="checkbox"/> Annexation (2 copies / 2 petitions) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Plat (15 copies) | _____ |
| | | \$300 + \$20/lot or \$10/acre (which ever is greater) | |
| <input type="checkbox"/> Administrative Appeal | \$150 | <input type="checkbox"/> Final Plat (15 copies) | _____ |
| | | \$150 + \$10/lot | |
| <input type="checkbox"/> Preliminary Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Minor Plat (15 copies) | _____ |
| | | \$150 + 10/lot | |
| <input type="checkbox"/> Final Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Final Minor Plat (15 copies) | _____ |
| | | \$150 + 10/lot | |
| <input type="checkbox"/> Concept Plan (15 copies) | \$500 | <input type="checkbox"/> Replat (15 copies) | _____ |
| | | \$150 + 10/lot | |

For plats in the ETJ:
(Payment due at the time of final plat, \$200.00 per lot)

- ☐ Parkland Fee (East) _____
08-6242
☐ Parkland Fee (West) _____
08-6243

Owner's Affidavit Required for: (Must attach to this Master Application Form)

- | | | | |
|---|-------|--|-------|
| <input type="checkbox"/> Conditional Use Permit (CUP) Request | _____ | <input type="checkbox"/> Zoning Change Request | _____ |
| 840. 01-6236 \$300 | | 840. 01-6236 \$300 | |
| <input type="checkbox"/> Variance Request | _____ | <input type="checkbox"/> Comp. Plan Amendment Request | _____ |
| 840. 01-6236 \$150 | | 840. 01-6236 \$300 | |
| <input type="checkbox"/> Planned Development District Request | _____ | <input type="checkbox"/> Specific Use Permit (SUP) Request | _____ |
| 840 .01-6236 \$300 | | 840. 01-6236 \$300 | |

Please provide a basic description of the proposed project: _____
Incorporation of property

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

RECEIVED

Owners Signature: Suzanne Newell Dalton, Trustee Date: _____
of the Horace C. and Lavanaia Lambert Revocable Trust JAN 18 2011

**PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS
OF THE CITY OF KERRVILLE, TEXAS, OF 0.12 ACRES OUT OF THE Jesus
Hernandez Survey, Abstract Number 189, KERR COUNTY TEXAS**

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

, is the sole owner of an approximately 0.12 acre tract of land located adjacent to the
incorporated limits of the City of Kerrville which is out of the Survey No. 548, Abstract
No. 189 Kerr County, Texas, and is more particularly described as follows:

SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the
incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without
residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, **Suzanne Newell Dalton,**
Trustee of the Horace C. and Lavanaia Lambert Revocable Trust, hereby requests and
petitions that the above-described property be annexed into the incorporated limits of the
City of Kerrville, Texas.

SUBMITTED THIS 7th day of January, 2011.

By: Suzanne Newell Dalton
Suzanne Newell Dalton,
Trustee of the Horace C. and Lavanaia
Lambert Revocable Trust

ACKNOWLEDGEMENTS

THE STATE OF NEBRASKA §
§
COUNTY OF DOUGLAS §

This instrument was acknowledged before me on the 7th day of January, 2011, by
Suzanne Newell Dalton, Trustee of the Horace C. and Lavanaia Lambert Revocable Trust.

Linda R. Bales
Notary Public, State of Nebraska

Printed Name: Linda R. Bales

My Commission Expires:

T:\Legal\DEVELOPMENT SERVICES (planning)\Annexation\Harper HWY WW Project\Lambert, Horace\Petition for Annexation_031210.doc

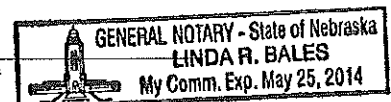


EXHIBIT "A"

PARCEL NO. 8:

FIELD NOTES DESCRIPTION FOR A VARIABLE WIDTH
UTILITY EASEMENT ACROSS PART OF THE HORACE
LAMBERT LAND IN KERR COUNTY, TEXAS

Being all of a certain strip, tract or parcel of land out of Jesus Hernandez Survey No. 348, Abstract No. 189, in Kerr County, Texas; part of 20 acres conveyed to Horace C. Lambert, et ux, from George D. Messimer, et ux, by a Warranty Deed with Vendor's Lien executed the 7th day of August, 1972 and recorded in Volume 157 at Page 594 of the Deed Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a "P-K" nail set in the approximate center of Town Creek Road in the southwest line of said 20 acres for the northwest corner of the herein described tract, the westerly southwest corner of 3.542 acres platted as The Elms Subdivision, of record in Volume 6 at Page 103 of the Plat Records of Kerr County, Texas; from which a nail found at the northwest corner of said 20 acres bears 32.30 ft. N.21°06'40"W.;

THENCE, upon, over and across said 20 acres with the south line of said 3.542 acres, N.52°51'45"E. (N.53°00"E.) 21.70 ft. to a "P-K" nail set for the northeast corner of the herein described tract, from which a fence endpost bears 4.0 ft. N.11°38'47"W.;

THENCE, continuing upon, over and across said 20 acres, northeast of and generally parallel with a fence: S.19°32'09"E. 31.18 ft. to a set 1/2" iron stake; S.21°56'17"E. 163.52 ft. to a set 1/2" iron stake; and S.26°53'15"E. 68.32 ft. to a 1/2" iron stake set for the southeast corner of the herein described tract, in the north line of 2.00 acres conveyed to Elizabeth Nottingham from Clayson H. Lambert by a Warranty Deed executed the 18th day of October, 2005 and recorded in Volume 1476 at Page 665 of the Real Property Records of Kerr County, Texas;

THENCE, continuing upon, over and across said 20 acres with the north line of said 2.00 acres, S.53°09'02"W. (S.53°25'25"W.), at approximately 5 ft. crossing a fence, then continuing for a total distance of 20.31 ft. to a "P-K" nail found in the approximate center of Town Creek Road for the southwest corner of the herein described tract, the northwest corner of said 2.00 acres, in the southwest line of said 20 acres;

THENCE, along the approximate centerline of said Town Creek Road with the southwest line of said 2.00 acres: N.26°53'15"W. (N.26°37'W.) 72.73 ft. to a set "P-K" nail; N.21°56'15"W. 164.50 ft. (N.21°40'W. 164.5') to a set "P-K" nail; and N.21°06'40"W. (N.15°16'W.) 25.32 ft. to the PLACE OF BEGINNING containing 0.12 acre of land, more or less, within these metes and bounds.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 - July 28, 2008

Dated this 30th day of September, 2008



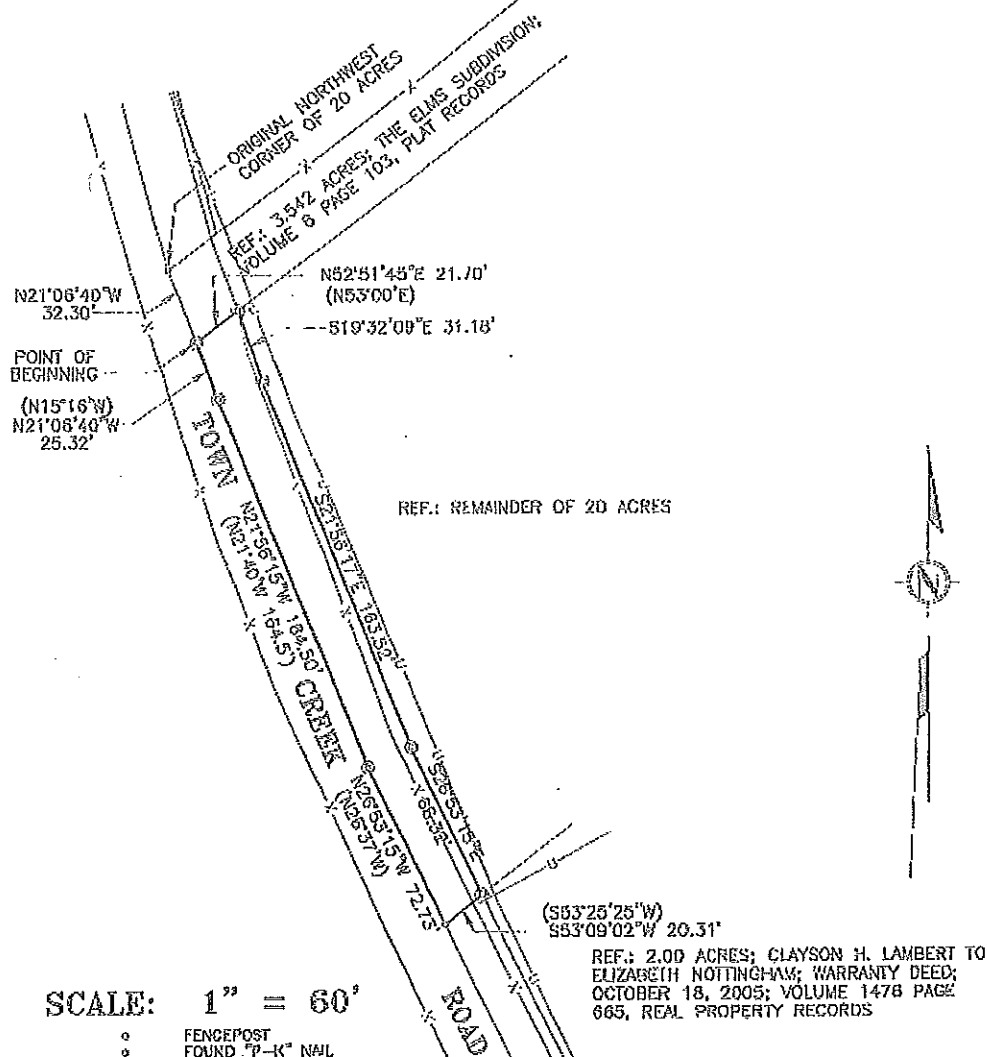
Don W. Voelkel
Registered Professional Land Surveyor No. 3990



VOELKEL

LAND SURVEYING PLLC • PHONE: 830-257-3313 • 212 CLAY STREET, KERRVILLE, TEXAS 78028

SURVEY PLAT FOR 0.12 ACRE OF LAND, MORE OR LESS, OUT OF JESUS HERNANDEZ SURVEY NO. 548, ABSTRACT NO. 189, IN KERR COUNTY, TEXAS; BEING A VARIABLE WIDTH STRIP OF LAND OUT OF 20 ACRES CONVEYED TO HORACE C. LAMBERT, ET UX, FROM GEORGE D. MESSIMER, ET UX, BY A WARRANTY DEED WITH VENDOR'S LIEN EXECUTED THE 7TH DAY OF AUGUST, 1972 AND RECORDED IN VOLUME 157 AT PAGE 594 OF THE DEED RECORDS OF KERR COUNTY, TEXAS



SCALE: 1" = 60'

- FENCEPOST
 - FOUND "P-K" NAIL
 - ⊙ SET "P-K" NAIL
 - ⊙ SET 1/2" IRON STAKE
 - - - FENCE LINE
 - - - OVERHEAD UTILITY LINES
 - - - POLE GUY & ANCHOR
 - FOUND CONCRETE R-O-W MARKER
- RECORD CALLS SHOWN IN PARENTHESES

I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as shown.

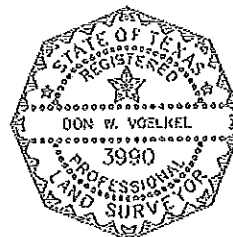
(Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 - July 28, 2008

Dated this 30th day of September, 2008

Don W. Voelkel

Don W. Voelkel
Registered Professional Land Surveyor No. 3990
CofK.HarperRd.Utilities.Parcel_8.dwg



7328

**CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION ***

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address _____ Nearest Intersection _____
Minor Plat/Subdivision _____ Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent DAVID & GABRIELA BADILO Phone 792-6470 FAX _____
Email Address: _____
Mailing Address 625 TOWN CREEK City Kerrville State TX Zip 78028
Property Owner DAVID & GABRIELA BADILO Phone 792-6470 FAX _____
Email Address: _____
Mailing Address 625 TOWN CREEK City Kerrville State TX Zip 78028

Transaction Code: 840.01-6236

Attach completed checklists for all projects

- | | | | |
|--|---------------|--|-------|
| <input checked="" type="checkbox"/> Annexation (2 copies /2 petitions) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Plat (15 copies)
\$300 + \$20/lot or \$10/acre (which ever is greater) | _____ |
| <input type="checkbox"/> Administrative Appeal | \$150 | <input type="checkbox"/> Final Plat (15 copies)
\$150 + \$10/lot | _____ |
| <input type="checkbox"/> Preliminary Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Minor Plat (15 copies)
\$150 + 10/lot | _____ |
| <input type="checkbox"/> Final Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Final Minor Plat (15 copies)
\$150 + 10/lot | _____ |
| <input type="checkbox"/> Concept Plan (15 copies) | \$500 | <input type="checkbox"/> Replat (15 copies)
\$150 + 10/lot | _____ |

For plats in the ETJ:
(Payment due at the time of final plat, \$200.00 per lot)

- ☐ Parkland Fee (East) _____
08-6242
☐ Parkland Fee (West) _____
08-6243

Owner's Affidavit Required for: (Must attach to this Master Application Form)

- | | | | |
|---|-------|--|-------|
| <input type="checkbox"/> Conditional Use Permit (CUP) Request
840. 01-6236 \$300 | _____ | <input type="checkbox"/> Zoning Change Request
840. 01-6236 \$300 | _____ |
| <input type="checkbox"/> Variance Request
840. 01-6236 \$150 | _____ | <input type="checkbox"/> Comp. Plan Amendment Request
840. 01-6236 \$300 | _____ |
| <input type="checkbox"/> Planned Development District Request
840. 01-6236 \$300 | _____ | <input type="checkbox"/> Specific Use Permit (SUP) Request
840. 01-6236 \$300 | _____ |

Please provide a basic description of the proposed project: _____

AS DESCRIBED IN ATTACHMENTS

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: [Signature] Date: 1/20/11
1/20/11

PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS
OF THE CITY OF KERRVILLE, TEXAS, OF 0.02 ACRES OUT OF THE Jesus
Hernandez Survey, Abstract Number 189, KERR COUNTY TEXAS

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

David Badillo and Gabriela A. Badillo are the sole owners of an approximately 0.02 acre
tract of land located adjacent to the incorporated limits of the City of Kerrville which is
out of the Survey No. 548, Abstract No. 189 Kerr County, Texas, and is more particularly
described as follows:

SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the
incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without
residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, David Badillo and Gabriella
A. Badillo hereby requests and petitions that the above-described property be annexed
into the incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS 20th day of January 2011.

By:

David Badillo

By:

Gabriella A. Badillo

ACKNOWLEDGEMENTS

THE STATE OF TEXAS

§

§

COUNTY OF KERR

§

This instrument was acknowledged before me on the 20th day of
Jan., 2011, by David Badillo.

NOTARY PUBLIC, STATE OF TEXAS



Printed Name: Teri Reena Kinsey

My Commission Expires: 9-24-13

THE STATE OF TEXAS

§
§
§

COUNTY OF KERR

This instrument was acknowledged before me on the 20th day of
Jan., 2011, by Gabriella A. Badillo.

Teri Reena Kinsey
NOTARY PUBLIC, STATE OF TEXAS



Printed Name: Teri Reena Kinsey

My Commission Expires: 9-24-13

PARCEL NO. 28:

FIELD NOTES DESCRIPTION FOR A VARIABLE WIDTH
UTILITY EASEMENT ACROSS PART OF THE ELMS
SUBDIVISION IN KERR COUNTY, TEXAS

Being all of a certain strip, tract or parcel of land out of Jesus Hernandez Survey No. 548, Abstract No. 189, in Kerr County, Texas; part of 3.542 acres platted as The Elms Subdivision, of record in Volume 6 at Page 103 of the Plat Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a nail found in the approximate center of Town Creek Road for the west corner of the herein described tract and said 3.542 acres, the southwest corner of 49.97 acres conveyed to Edwin D. Higgins, et al, from Lee Roy Kleypas by a Warranty Deed with Vendor's Lien executed the 28th day of June, 1996 and recorded in Volume 837 at Page 35 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 3.542 acres and said 49.97 acres, N.52°51'45"E. (N.53°00'E.) 22.63 ft. to a 1/4" iron stake set for the north corner of the herein described tract;

THENCE, upon, over and across said 3.542 acres, S.19°32'09"E. 32.57 ft. to a "P-K" nail set for the east corner of the herein described tract in the southeast line of said 3.542 acres, the northwest line of the remainder of 20 acres conveyed to Horace C. Lambert, et ux, from George D. Messinger, et ux, by a Warranty Deed with Vendor's Lien executed the 7th day of August, 1972 and recorded in Volume 157 at Page 594 of the Deed Records of Kerr County, Texas;

THENCE, with the southeast line of said 3.542 acres, the northwest line of the remainder of said 20 acres, S.52°51'45"W. (S.53°00"W.) 21.70 ft. to a "P-K" nail set in the approximate center of said Town Creek Road for the south corner of the herein described tract, the westerly south corner of said 3.542 acres;

THENCE, along the approximate centerline of said Town Creek Road with the southwest line of said 3.542 acres, N.21°06'40"W. (N.15°16'W.) 32.30 ft. to the PLACE OF BEGINNING containing 0.02 acre of land, more or less, within these metes and bounds.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 - July 28, 2008

Dated this 30th day of September, 2008

Don W. Voelkel

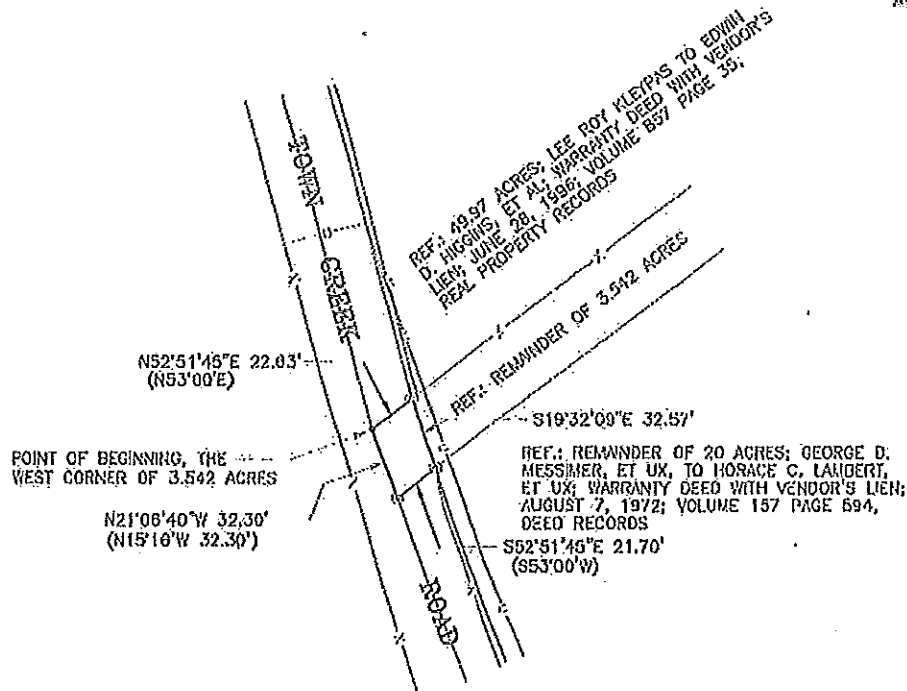
Don W. Voelkel

Registered Professional Land Surveyor No. 3990



SURVEY PLAT FOR 0.02 ACRE OF LAND, MORE OR LESS, OUT OF JESUS HERNANDEZ SURVEY NO. 548, ABSTRACT NO. 189, IN KERR COUNTY, TEXAS; BEING A VARIABLE WIDTH STRIP OF LAND OUT OF 3.542 ACRES PLATTED AS THE ELMS SUBDIVISION, THE PLAT OF WHICH IS RECORDED IN VOLUME 6 AT PAGE 103 OF THE PLAT RECORDS OF KERR COUNTY, TEXAS

EXHIBIT "B"



SCALE: 1" = 60'

" FENCEPOST
 o FOUND NAIL
 o SET "P-X" NAIL
 o SET "X" IRON STAKE
 x FENCE LINE
 --- OVERHEAD UTILITY LINES
 + POLE CUY & ANCHOR
 u FOUND CONCRETE R-O-W MARKER
 RECORD CALLS SHOWN IN PARENTHESES

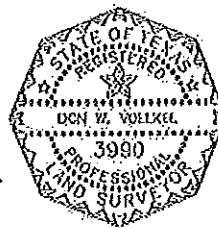
I hereby certify that this plat and accompanying field notes description are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as shown.
 (Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 - July 28, 2008

Dated this 30th day of September, 2008

Don W. Voelkel

Don W. Voelkel
 Registered Professional Land Surveyor No. 3990
 CofK.HarperRd.Utilities.Parcel_28.dwg



VOELKEL

LAND SURVEYING, PLLC • PHONE: 830.257.3111 • 712 CLAY STREET, KENNY, TEXAS 78948

**CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION ***

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address 1605 Harper Road Nearest Intersection Interstate 10 & Harper Road
Minor Plat/Subdivision See Exhibit A and B Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent Jerry Griffin, S.V.P. Phone 903-813-5917 FAX 903-813-5930
Email Address: jgriffin@abtexas.com
Mailing Address P.O. Box 1234 City Sherman State Tx Zip 75091-1234
Property Owner American Bank of Texas Phone 903-893-7555 FAX _____
Email Address: _____
Mailing Address _____ City _____ State _____ Zip _____

Transaction Code: 840.01-6236

Attach completed checklists for all projects

☒ Annexation (2 copies / 2 petitions) No Fee
☐ Administrative Appeal \$150
☐ Preliminary Site Plan (15 copies) No Fee
☐ Final Site Plan (15 copies) No Fee
☐ Concept Plan (15 copies) \$500

☐ Preliminary Plat (15 copies) _____
\$300 + \$20/lot or \$10/acre (which ever is greater)
☐ Final Plat (15 copies) _____
\$150 + \$10/lot
☐ Preliminary Minor Plat (15 copies) _____
\$150 + 10/lot
☐ Final Minor Plat (15 copies) _____
\$150 + 10/lot
☐ Replat (15 copies) _____
\$150 + 10/lot

For plats in the ETJ:
(Payment due at the time of final plat, \$200.00 per lot)

☐ Parkland Fee (East) _____
08-6242
☐ Parkland Fee (West) _____
08-6243

Owner's Affidavit Required for: (Must attach to this Master Application Form)

<input type="checkbox"/> Conditional Use Permit (CUP) Request _____	<input type="checkbox"/> Zoning Change Request _____
840. 01-6236 \$300	840. 01-6236 \$300
<input type="checkbox"/> Variance Request _____	<input type="checkbox"/> Comp. Plan Amendment Request _____
840. 01-6236 \$150	840. 01-6236 \$300
<input type="checkbox"/> Planned Development District Request _____	<input type="checkbox"/> Specific Use Permit (SUP) Request _____
840 .01-6236 \$300	840. 01-6236 \$300

Please provide a basic description of the proposed project: _____

RECEIVED

JAN 18 2011

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: _____

Date: _____

PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS, OF 104.58 ACRES OUT OF THE H.W. Johnson Survey, Abstract Number 779 (14.16 acres), and OUT OF THE G.P. Phillips Survey, Abstract Number 610 (89.78 acres), and OUT OF THE J.D. Leavell Survey, Abstract Number 1435 (89.78 acres), KERR COUNTY TEXAS

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

American Bank of Texas is the sole owner of an approximately 104.58 acre tract of land located adjacent to the incorporated limits of the City of Kerrville which is out of the Survey No. 627, Abstract No. 779, and Survey No. 628, Abstract No. 610, and Survey No. 1862, Abstract No. 1435 Kerr County, Texas, and is more particularly described as follows:

SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, the American Bank of Texas hereby requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS 7th day of January 2011.

By: [Signature] SVP
Name: Jerry Griffith
Title: Senior Vice President

ACKNOWLEDGEMENTS

THE STATE OF TEXAS

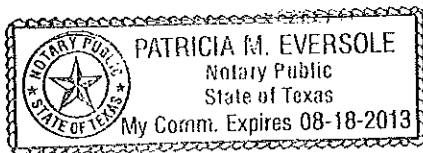
§

§

COUNTY OF KERR

§

This instrument was acknowledged before me on the 7th day of January, 2011, by Jerry Griffith, S.V.P. for American Bank of Texas.



[Signature]
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Patricia M Eversole
My Commission Expires: 8-18-13

FIELD NOTES DESCRIPTION FOR 104.58 ACRES OF LAND OUT OF THE
AMERICAN BANK OF TEXAS LAND ALONG FM HIGHWAY NO. 783
(HARPER ROAD) IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 104.58 acres, more or less, out of various Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
627	H.W. Johnson	779	14.16
628	G.P. Phillips	610	89.78
1862	J.D. Leavell	1435	0.64

part of a certain 326.49 acre tract conveyed from Town Creek Investments, LP to American Bank of Texas by a Warranty Deed dated December 5, 2008 and recorded in Volume 1712 at Page 347 of the Official Public Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a ¾" iron pipe found in the northeast right-of-way line of Interstate Highway No. 10 for the southwest corner of the herein described tract and said 326.49 acre tract, and the northwest corner of Kerrville Country Estates Section Two, a subdivision of Kerr County according to the plat of record in Volume 4 at Page 131 of the Plat Records of Kerr County, Texas; which point bears approximately 307 ft. S.45°W. from the north corner of Survey No. 548;

THENCE, with the west line of said 326.49 acre tract and northeast right-of-way line of Interstate Highway No. 10, N.48°31'14"W., 296.45 ft. to a ½" iron stake found for a westerly corner of the herein described tract and 326.49 acre tract;

THENCE, near a game-proof fence with the west line of said 326.49 acre tract: N.07°06'14"W., 609.85 ft. to a found ½" iron stake; N.22°54'20"W., 73.48 ft. to a found ½" iron stake; N.04°25'09"W., 228.63 ft. to a found ½" iron stake; N.15°59'51"E., up a bluff and along the top of said bluff 555.56 ft. to a found ½" iron stake; N.17°24'34"W., continuing along the top of said bluff 194.18 ft. to a found ½" iron stake; and N.42°06'13"W., down said bluff 174.62 ft. to a ½" iron stake found in the east right-of-way line of F.M. Highway No. 783 (Harper Road) for a westerly corner of the herein described tract and 326.49 acre tract;

THENCE, continuing with the said west line of 326.49 acre tract along the said east right-of-way line of F.M. Highway No. 783, all calls to ½" iron stakes found at road angles: N.02°33'27"W., 743.80 ft.; N.18°22'51"E., 464.00 ft.; N.29°34'56"E., 78.26 ft.; N.39°05'18"E., 169.33 ft.; N.37°12'56"E., 104.38 ft. to a ½" iron stake found for the northwest corner of the herein described tract, the westerly northwest corner of said 326.49 acre tract and the southwest corner of a certain 5.66 acre tract conveyed from Mary Helen Miller to Bibiano Ortega by a General Warranty Deed executed the 5th day of April, 2007 and recorded in Volume 1595 at Page 157 of the Official Public Records of Kerr County, Texas;

THENCE, with the common line between said 326.49 and 5.66 acre tracts: S.79°52'40"E., at 0.7 ft. passing a steel fence cornerpost, then continuing along a game-proof fence for a total distance of 121.44 ft. to a found ½" iron stake; S.71°02'32"E., along said game-proof fence 247.41 ft. to a steel fence cornerpost for a reentrant corner of the herein described tract and 326.49 acre tract and a southerly corner of 5.66 acre tract; N.20°25'20"E., along said game-proof fence 130.63 ft. to a steel fence cornerpost for a reentrant corner of 5.66 acre tract; and S.71°28'41"E., along said game-proof fence 198.02 ft. to a steel fence cornerpost for the southeast corner of 5.66 acre tract and the southwest corner of TRACT ONE of James Avery Craftsman Subdivision, a subdivision of Kerr County according to the plat of record in Volume 7 at Page 149 of the Plat Records of Kerr County, Texas;

THENCE, along a game-proof fence with the common line between said 326.49 acre tract and TRACT ONE N.72°42'35"E., 799.06 ft. to a steel fence cornerpost for the southeast corner of TRACT ONE;

Page 2 – 104.58 acres of land out of the American Bank of
Texas land along FM Highway No. 783 in Kerr
County, Texas

THENCE, with the north line of said 326.49 acre tract, all calls to set ½" iron stakes: S.78°17'04"E., 254.99 ft.; S.11°01'03"E., 489.10 ft.; S.35°44'25"E., 514.98 ft. to a reentrant corner of the herein described tract and 326.49 acre tract; and N.63°30'44"E., 408.44 ft. to an unmarked point for the northeast corner of the herein described tract;

THENCE, upon, over and across said 326.49 acre tract S.13°00'00"E., 626.22 ft. to an unmarked point in a fence, the south line of 326.49 acre tract and north line of said Kerrville Country Estates Section Two for the southeast corner of the herein described tract;

THENCE, along a game-proof fence with the common line between said 326.49 acre tract and Kerrville Country Estates Section Two: S.77°16'53"W., 175.00 ft. to a steel fence anglepost for a reentrant corner of the herein described tract and 326.49 acre tract; and S.19°52'39"W., 170.00 ft. to an unmarked point for an easterly corner of the herein described tract;

THENCE, upon, over and across said 326.49 acre tract: S.77°00'00"W., 2365.41 ft. to an unmarked point for a reentrant corner of the herein described tract; and S.13°00'00"E., 1316.64 ft. to an unmarked point in a fence, the south line of 326.49 acre tract and north line of Kerrville Country Estates Section Two for the southerly southeast corner of the herein described tract;

THENCE, along a game proof fence with the common line between said 326.49 acre tract and Kerrville Country Estates Section Two S.45°22'42"W., 307.61 ft. to the PLACE OF BEGINNING.

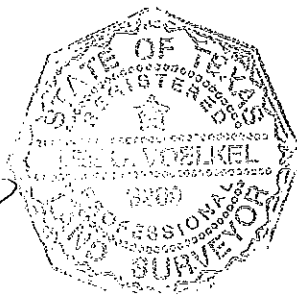
I hereby certify that these field notes and accompanying plat are accurate representations of the property shown and described hereon as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all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

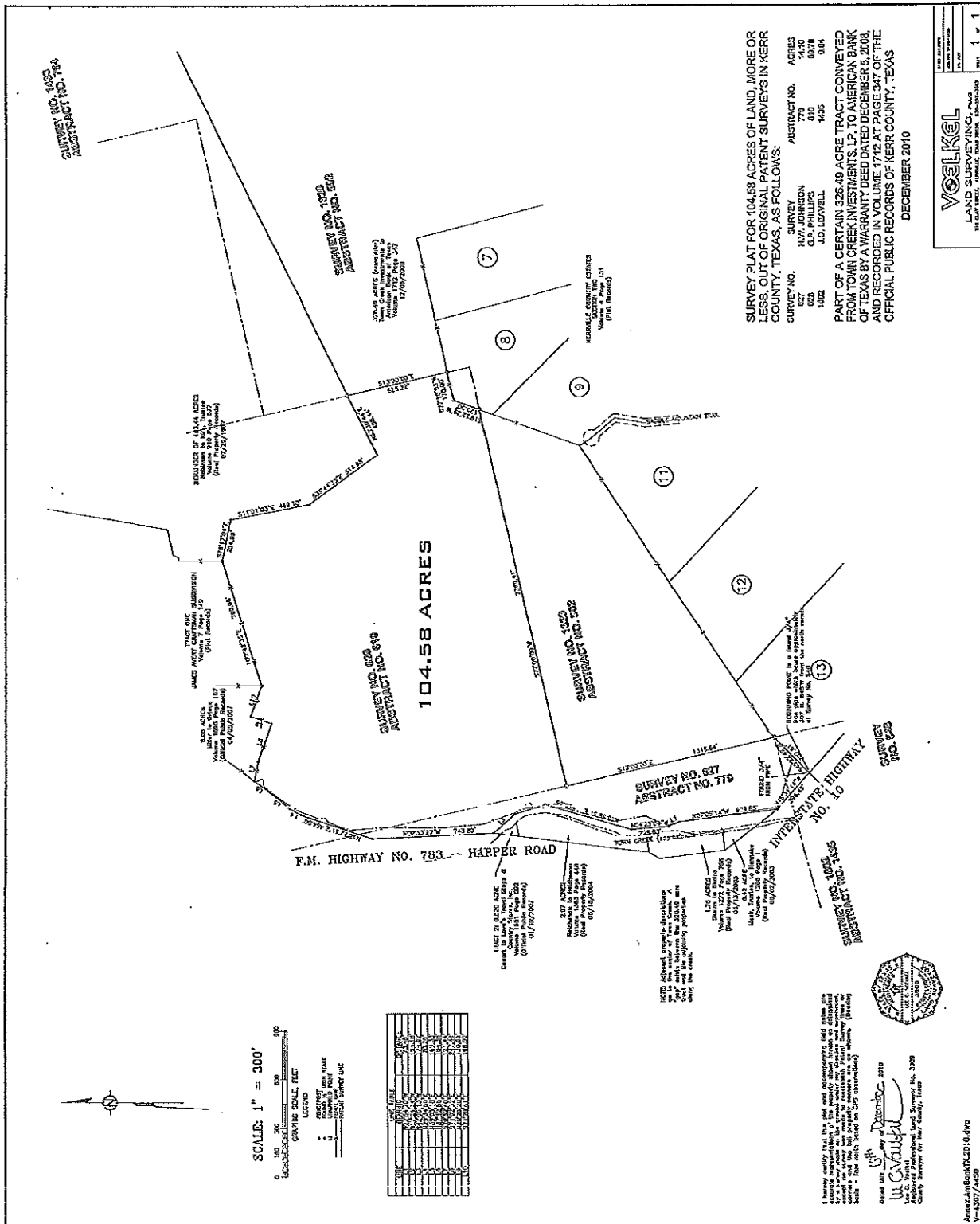
Dates Surveyed: October 20, 2008
February 12, 2009

Dated this 10th day of December, 2010

Lee C. Voelkel

Lee C. Voelkel
Registered Professional Land Surveyor No. 3909
County Surveyor for Kerr County, Texas





SURVEY PLAT FOR 104.58 ACRES OF LAND, MORE OR LESS, OUT OF ORIGINAL PATENT SURVEYS IN KERR COUNTY, TEXAS, AS FOLLOWS:

SURVEY NO. 637
H.W. JOHNSON
14.19
6/1/1902
1002

SURVEY NO. 132D
H.W. JOHNSON
14.19
6/1/1902
1002

PART OF A CERTAIN 326.49 ACRE TRACT CONVEYED FROM TOWN CREEK INVESTMENTS, LP, TO AMERICAN BANK OF TEXAS BY A WARRANTY DEED DATED DECEMBER 8, 2008, AND RECORDED IN VOLUME 1712 AT PAGE 947 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS

DECEMBER 2010

VOELKEL
LAND SURVEYING, PLLC
10000 E. Highway 10, Suite 100
Kerrville, Texas 78021
Phone: 361-2222
Fax: 361-2223
Email: info@voelkel.com
Web: www.voelkel.com



I hereby certify that this plat and accompanying field notes are a true and correct representation of the survey as shown on the plat and field notes, and that the same were made by me or under my direct supervision and that I am a duly licensed surveyor in the State of Texas.

W. Voelkel
W. Voelkel
Surveyor No. 3905
Kerr County, Texas

**CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION ***

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address 145 AVERY ROAD, N Nearest Intersection FM 703/HARPER RD) + AVERY RD
Minor Plat/Subdivision PROPERTY DESCRIPTION ATTACHED Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent KEITH JONES Phone 895-6629 FAX 895-0201
Email Address: KEITH.JONES@JMEKAVERY.COM
Mailing Address PO BOX 291367 City KERRVILLE State TEXAS Zip 78029-1367
Property Owner JAMES AVERY CRAFTSMAN, INC. Phone 895-1122 FAX 895-6601
Email Address: _____
Mailing Address PO BOX 291367 City KERRVILLE State TEXAS Zip 78029-1367

Transaction Code: 840.01-6236

Attach completed checklists for all projects

- | | | | |
|--|---------------|---|-------|
| <input checked="" type="checkbox"/> Annexation (2 copies /2 petitions) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Plat (15 copies) | _____ |
| | | \$300 + \$20/lot or \$10/acre (which ever is greater) | _____ |
| <input type="checkbox"/> Administrative Appeal | \$150 | <input type="checkbox"/> Final Plat (15 copies) | _____ |
| | | \$150 + \$10/lot | _____ |
| <input type="checkbox"/> Preliminary Site Plan(15 copies) | <u>No Fee</u> | <input type="checkbox"/> Preliminary Minor Plat (15 copies) | _____ |
| | | \$150 + 10/lot | _____ |
| <input type="checkbox"/> Final Site Plan (15 copies) | <u>No Fee</u> | <input type="checkbox"/> Final Minor Plat (15 copies) | _____ |
| | | \$150 + 10/lot | _____ |
| <input type="checkbox"/> Concept Plan (15 copies) | \$500 | <input type="checkbox"/> Replat (15 copies) | _____ |
| | | \$150 +10/lot | _____ |

For plats in the ETJ:

(Payment due at the time of final plat, \$200.00 per lot)

- ☐ Parkland Fee (East) _____
08-6242
☐ Parkland Fee (West) _____
08-6243

Owner's Affidavit Required for: (Must attach to this Master Application Form)

- | | | | |
|---|-------|--|-------|
| <input type="checkbox"/> Conditional Use Permit (CUP) Request | _____ | <input type="checkbox"/> Zoning Change Request | _____ |
| 840. 01-6236 | \$300 | 840. 01-6236 | \$300 |
| <input type="checkbox"/> Variance Request | _____ | <input type="checkbox"/> Comp. Plan Amendment Request | _____ |
| 840. 01-6236 | \$150 | 840. 01-6236 | \$300 |
| <input type="checkbox"/> Planned Development District Request | _____ | <input type="checkbox"/> Specific Use Permit (SUP) Request | _____ |
| 840 .01-6236 | \$300 | 840. 01-6236 | \$300 |

Please provide a basic description of the proposed project: INCORPORATION OF PROPERTY
BY THE CITY OF KERRVILLE **RECEIVED**

JAN 18 2011

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: Paul Ay Date: 1/13/11

PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS, OF 43.72 ACRES BEING ALL OF A REVISION OF HARTSHORN COUNTRY SITES, a subdivision of record in Volume 7, Page 148 of the plat records of Kerr County, and ALL OF THE JAMES AVERY CRAFTSMAN SUBDIVISION, a subdivision of record in Volume 7, Page 149, and portions of AVERY ROAD N AND LESSIE LANE within and between the two subdivisions.

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

James Avery Craftsman is the sole owner of an approximately 43.72 acre tract of land located adjacent to the incorporated limits of the City of Kerrville which is all of a revision of Hartshorn Country Sites, a subdivision of record in Volume 7, Page 148 of the plat records of Kerr County, and all of the James Avery Craftsman Subdivision, a subdivision of record in volume 7, page 149, and portions of Avery Road N and Lessie Lane within and between the two subdivisions, and is more particularly described as follows:

SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without residents or on which fewer than three qualified voters reside.

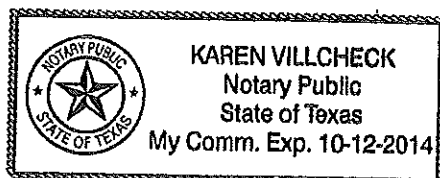
In accordance with Texas Local Government Code §43.028, James Avery Craftsman hereby requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS 13 day of JANUARY 2011.
By: Paul Avery
Name: PAUL AVERY
Title: EX. V.P. JAC INC.

ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me on the 13th day of January, 2011, by Paul Avery for and on behalf of James Avery Craftsman.



Karen Villcheck
NOTARY PUBLIC, STATE OF TEXAS
Printed Name: Karen Villcheck
My Commission Expires: 10-12-2014

FIELD NOTE DESCRIPTION
43.72 ACRES

EXHIBIT " A "

Being a tract of land containing 43.72 acres situated all in Kerr County, Texas and being all of A Revision of Hartshorn Country Sites, a subdivision of record in Volume 7, Page 148, Plat Records of Kerr County, and all of the James Avery Craftsman Subdivision, a subdivision of record in Volume 7, Page 149, Plat Records of Kerr County, and the portions of Avery Road N and Lessie Lane within and between the two subdivisions and being more particularly described by metes and bounds as follows:

BEGINNING at a ½" iron rod found for the southeast corner of a 3.03 acre tract of record in Volume 267, Page 434, Deed Records of Kerr County and being a north corner of a 483.44 acre tract of record in Volume 910, Page 577, Real Property Records of Kerr County and being the northeast corner of Tract One of said James Avery Craftsman Subdivision and being a northeast corner of the subject tract;

THENCE with the common lines of said 483.44 acre tract and the subject tract, the following calls:

S 09° 28' 50" W for 731.98 feet to an 8" steel fence corner post found for an angle point;
S 77° 05' 21" W for 160.19 feet to a ½" iron rod found at a fence corner post for an angle point;
S 20° 47' 31" W for 36.80 feet to a ½" iron rod found at an 8" fence corner post for an angle point;
S 86° 47' 11" W for 21.38 feet to a ½" iron rod found at an 8" fence corner post for an angle point;
S 00° 16' 52" E for 273.80 feet to an 8" steel fence corner post for a southeast corner of the subject tract;
S 72° 27' 38" W for 798.79 feet to a ½" iron rod found in concrete at a fence corner post for a southeast corner of a 5.66 acre tract of record in Volume 261, Page 504, Deed Records of Kerr County and being a southwest corner of the subject tract;

THENCE with the common lines of said 5.66 acre tract and the subject tract, the following calls:

N 07° 28' 58" E for 391.87 feet to a 3/8" iron rod found at a 2" fence angle post for an angle point;
N 01° 20' 36" W for 94.16 feet to a 2" steel fence corner post found for the northeast corner of said 5.66 acre tract;
S 87° 16' 08" W for 110.49 feet to a ½" iron rod found at a 2" fence angle post for an angle point;
N 87° 40' 13" W for 403.70 feet to a ½" iron rod found in the easterly right of way line of Texas F.M. Highway No. 783 (A.K.A. Harper Road) and being the northwest corner of said 5.66 acre tract;

THENCE with the easterly right of way line of said F.M. Highway No. 783, the following calls:

N 19° 08' 52" W for 90.90 feet to a ½" iron rod found for an angle point;
N 59° 34' 40" W for 58.41 feet to a ½" iron rod found at the intersection of the east right of way line of the aforementioned Avery Road N and said easterly right of way line of F.M. Highway No. 783;
N 59° 34' 40" W for 188.68 feet to a ½" iron rod found at the intersection of the north right of way line of said Avery Road N and the easterly right of way line of said F.M. Highway No. 783 and being a south corner of a 0.51 acre Green Area of the aforementioned James Avery Craftsman Subdivision;

N 58° 47' 55" W for 162.28 feet to a ½" iron rod found for the northwest corner of said 0.51 acre Green Area and being a southerly corner of Tract One of said A Revision of Hartshorn Country Sites;
N 60° 14' 00" W for 241.98 feet to a ½" iron rod found for an angle point;
N 47° 57' 00" W for 39.85 feet to a ½" iron rod found for an angle point;
N 32° 25' 00" W for 41.24 feet to a ½" iron rod found for an angle point;
N 20° 37' 00" W for 62.62 feet to a ½" iron rod found for an angle point;
N 09° 39' 00" W for 74.35 feet to a ½" iron rod found for an angle point;
N 03° 55' 00" W for 36.69 feet to a ½" iron rod found for an angle point;
N 00° 58' 14" E for 15.79 feet to a ½" iron rod found for an angle point;
N 04° 01' 00" E for 96.57 feet to a ½" iron rod found for an angle point;
N 06° 58' 00" E for 178.50 feet to a ½" iron rod found at the intersection of the south right of way line of Hartshorn Drive and the easterly right of way line of said F.M. Highway No. 783;

EXHIBIT "A"

THENCE with the south right of way lines of said Hartshorn Drive, the following calls:

N 53° 05' 00" E for 213.65 feet to a ½" iron rod found for an angle point;
N 62° 44' 00" E for 67.98 feet to a ½" iron rod found for an angle point;
N 66° 46' 00" E for 40.17 feet to a ½" iron rod found for an angle point;
N 76° 37' 00" E for 9.84 feet to a ½" iron rod found for an angle point;
N 76° 53' 00" E for 261.34 feet to a ½" iron rod found for the northwest corner of Site 10 of Hartshorn Country Sites, a subdivision of record in Volume 1, Page 68-69 Plat Records of Kerr County and being the northeast corner of said Tract One of said A Revision of Hartshorn Country Sites;

THENCE with the common line of said Site 10 and the subject tract, S 16° 47' 00" E for 359.80 feet to a ½" iron rod found for the northwest corner of a tract of land conveyed to Edward A Schoening of record in Volume 432, Page 588, Real Property Records of Kerr County;

THENCE with the common line of said Schoening's tract and the subject tract, S 16° 36' 55" E for 206.50 feet to a ½" iron rod found for the northwest corner of Tract Two of said A Revision of Hartshorn Sites;

THENCE with a south line of said Schoening's tract and subsequently another tract conveyed to Edward A Schoening of record in Volume 703, Page 588, Real Property Records of Kerr County and being the north line of said Tract Two, N 69° 40' 00" E for 451.37 feet to a ½" iron rod found in the west right of way line of the aforementioned Lessie Lane and being the north east corner of said Tract Two;

THENCE crossing said Lessie Lane, N 42° 48' 37" E for 46.64 feet to a ½" iron rod found for the southwest corner of a 0.08 acre tract of record in Volume 163, Page 728, Deed Records of Kerr County and being the northwest corner of Tract Three of said A Revision of Hartshorn Sites;

THENCE with the common line of said 0.08 acre tract and said Tract Three, N 73° 06' 00" E for 208.62 feet to a ½" iron rod found in the west line of Site 9 of the aforementioned Hartshorn Country Sites and being the northeast corner of said Tract Three;

THENCE with the common line of said Site 9 and said Tract Three, S 16° 50' 40" E for 240.84 feet to a ½" iron rod found in the north right of way line of the aforementioned Avery Road N and being the southeast corner of said Tract Three;

THENCE crossing said Avery Road N, S 16° 43' 33" E for 43.53 feet to a ½" iron rod found in the south right of way line of said Avery Road N and the north line of the aforementioned Tract One of James Avery Craftsman Subdivision and being the southwest corner of a 0.94 acre Green Area of said A Revision of Hartshorn Country Sites;

THENCE with the southerly right of way lines of said Avery Road N, the following calls:

N 65° 00' 27" E for 86.78 feet to a ½" iron rod found for an angle point;
N 54° 54' 00" E for 37.50 feet to a ½" iron rod found for an angle point;
N 46° 17' 28" E for 37.55 feet to a ½" iron rod found for an angle point;
N 40° 22' 14" E for 40.92 feet to a ½" iron rod found for an angle point;
N 35° 18' 00" E for 130.10 feet to a 20" Live Oak tree found for an angle point;
N 18° 31' 00" E for 47.80 feet to a ½" iron rod found for an angle point;
N 08° 41' 00" E for 82.33 feet to a ½" iron rod found for an angle point;
N 22° 48' 58" E for 25.67 feet to a ½" iron rod found for an angle point;
N 38° 10' 07" E for 42.69 feet to a ½" iron rod found for an angle point;
N 65° 11' 56" E for 62.84 feet to a ½" iron rod found in the approximate centerline of a creek and being the northwest corner the aforementioned 3.03 acre tract and the north corner of said 0.94 acre Green Area;

EXHIBIT "A"

THENCE with the common lines of said 3.03 acre tract and the subject tract, with the approximate centerline of said creek the following calls:

S 16° 47' 56" W for 147.80 feet to a ½" iron rod set for an angle point;
S 13° 52' 04" E for 133.10 feet to a ½" iron rod set for an angle point;
S 26° 12' 04" E for 65.29 feet to a ½" iron rod set in the north line of said Tract One of James Avery Craftsman Subdivision and being the southeast corner of said 0.94 acre Green Area;

THENCE with the common line of said 3.03 acre tract and the subject tract, N 74° 47' 31" E for 392.64 feet to the POINT OF BEGINNING and containing 43.72 acres within these metes and bounds.

This description is a companion to a Plat of Survey dated December 8, 2010 and was prepared this 15th day of December 2010.



Charles Digges RPLS
Texas Registration No. 4061
File #10121401 msword DP

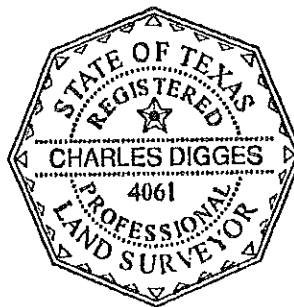


Exhibit A

**PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS OF
THE CITY OF KERRVILLE, TEXAS**

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

James Avery Craftsman is the sole owner of an approximately 40 acre tract of land located adjacent to the incorporated limits of the City of Kerrville, which is out of the Survey No. 1350, 628, Abstract No. 655, 610, Kerr County, Texas, and is more particularly described as follow:

SEE EXHIBIT A (with legal description and provide two copies of the survey with the legal description to Development Services Department).

The above-described property is (a) one-half mile or less in width, (b) contiguous to the incorporated limits of the City of Kerrville, Texas, and (c) is vacant and without residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, James Avery Craftsman hereby respectfully requests and petitions that the above-described property be annexed into the incorporated limits of the City of Kerrville, Texas.

SUBMITTED THIS 1st day of October, 2007.

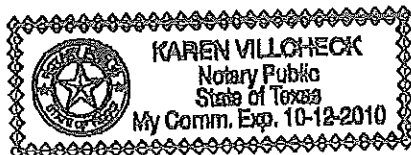
By: Chris Avery
NAME: CITRUS AVENUE
TITLE: CEO

ACKNOWLEDGEMENT

THE STATE OF TEXAS §

COUNTY OF KERR §

This instrument was acknowledged before me on the 1st day of October, 2007 by Karen Villcheck for and on behalf of James Avery Craftsman



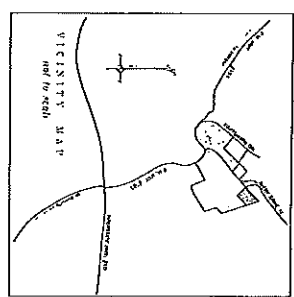
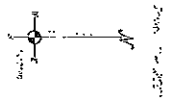
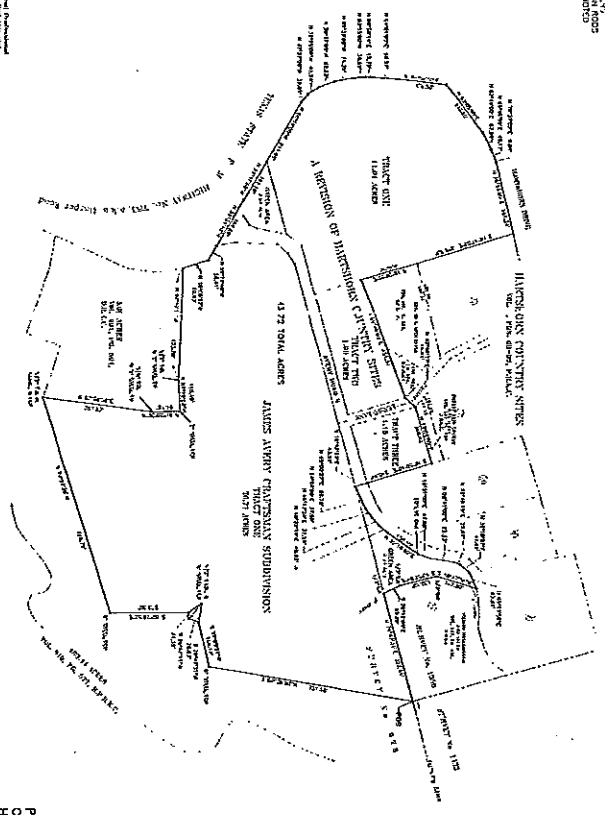
Karen Villcheck
NOTARY PUBLIC, STATE OF TEXAS

EXHIBIT "B"

LEGEND OF ABBREVIATIONS

ALL PROPERTY OWNERS
AND INTERESTS
SHOWN ON THIS MAP
ARE TO BE CONSIDERED
AS OF THE DATE OF THE
ORIGINAL SURVEY
UNLESS OTHERWISE NOTED

NOTE
ALL PROPERTY OWNERS
AND INTERESTS
SHOWN ON THIS MAP
ARE TO BE CONSIDERED
AS OF THE DATE OF THE
ORIGINAL SURVEY
UNLESS OTHERWISE NOTED



1. Certain Rights of Eminent Domain
are hereby reserved to the State of Texas
in and to the land shown on this map
which may be required for the
construction and maintenance of
highways, bridges, and other public
works, and for the use of the
land for any other purpose which
may be deemed to be in the public
interest.



GUADALUPE SURVEY COMPANY
217-A West Ninth Street, Suite 700, Fort Worth, Texas 76102
Phone: (817) 338-1500, Fax: (817) 338-3554

Plot of Survey of 43.72 acres situated all in Kerr
County, Texas, and lying between the
Harrison County Street and the
James Avery Foundation Subdivision, a
subdivision of record in Volume 7, Page 149, and
the portions of Avery Road N and Lasse Lane within
and between the two subdivisions.

NOTE:
THIS MAP OF RECORD IS A COMPLETION
OF THE SURVEY OF THE
SUBDIVISION OF 43.72 ACRES
DECEMBER 14, 2019

EX-117-13



CITY OF KERRVILLE DEVELOPMENT SERVICES DEPARTMENT
MASTER APPLICATION *

EXHIBIT "C"

PROPERTY INFORMATION: (Please PRINT or TYPE for all permits)

Project Address 156 Old Harper Rd. Nearest Intersection _____
Minor Plat/Subdivision _____ Lot _____ Block _____
Zoning Districts _____ Comprehensive Plan Designation _____

OWNER/APPLICANT INFORMATION: (Please PRINT or TYPE: For all permits)

Applicant/Authorized Agent Bette Yost Phone 210-573-4362 FAX _____
Email Address: byost@gvta.com
Mailing Address 140 Woodland Ranch Rd City Boerne State TX Zip 78015
Property Owner Hilburn Management, LLC Phone 210-573-4362 FAX _____
Email Address: byost@gvta.com
Mailing Address 140 Woodland Ranch Rd. City Boerne State TX Zip 78015

Transaction Code: 840.01-6236

Attach completed checklists for all projects

<input checked="" type="checkbox"/> Annexation (2 copies / 2 petitions)	No Fee	<input type="checkbox"/> Preliminary Plat (15 copies)	_____
		\$300 + \$20/lot or \$10/acre (which ever is greater)	_____
<input type="checkbox"/> Administrative Appeal	\$150	<input type="checkbox"/> Final Plat (15 copies)	_____
		\$150 + \$10/lot	_____
<input type="checkbox"/> Preliminary Site Plan (15 copies)	No Fee	<input type="checkbox"/> Preliminary Minor Plat (15 copies)	_____
		\$150 + 10/lot	_____
<input type="checkbox"/> Final Site Plan (15 copies)	No Fee	<input type="checkbox"/> Final Minor Plat (15 copies)	_____
		\$150 + 10/lot	_____
<input type="checkbox"/> Concept Plan (15 copies)	\$500	<input type="checkbox"/> Replat (15 copies)	_____
		\$150 + 10/lot	_____

For plats in the ETJ:
(Payment due at the time of final plat, \$200.00 per lot)

☐ Parkland Fee (East) _____
08-6242
☐ Parkland Fee (West) _____
08-6243

Owner's Affidavit Required for: (Must attach to this Master Application Form)

<input type="checkbox"/> Conditional Use Permit (CUP) Request	_____	<input type="checkbox"/> Zoning Change Request	_____
840. 01-6236 \$300		840. 01-6236 \$300	
<input type="checkbox"/> Variance Request	_____	<input type="checkbox"/> Comp. Plan Amendment Request	_____
840. 01-6236 \$150		840. 01-6236 \$300	
<input type="checkbox"/> Planned Development District Request	_____	<input type="checkbox"/> Specific Use Permit (SUP) Request	_____
840 .01-6236 \$300		840. 01-6236 \$300	

Please provide a basic description of the proposed project:

to be included in city initiated annexation

I hereby certify that I am the owner or duly authorized agent of the owner for the purposes of this application. I further certify that I have read and examined this application and know the same to be true and correct. If any of the information provided on this application is incorrect the permit or approval may be revoked.

Owners Signature: Bette Yost Date: JAN 18 2011

**PETITION REQUESTING ANNEXATION INTO THE CORPORATE LIMITS
OF THE CITY OF KERRVILLE, TEXAS, OF 0.51 ACRES OUT OF THE JESUS
HERNANDEZ Survey, Abstract Number 189, KERR COUNTY TEXAS**

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

Bette Jean Poeske Yost, Independent Executrix of the Estate of Harry H. Hilburn, Jr.,
Deceased is the sole owner of an approximately 0.51 acre tract of land located adjacent to
the incorporated limits of the City of Kerrville which is out of the Survey No. 548,
Abstract No. 189 Kerr County, Texas, and is more particularly described as follows:

SEE EXHIBITS "A" and "B" attached hereto.

The above-described property is (a) less than one-mile in width, (b) contiguous to the
incorporate limits of the City of Kerrville, Texas, and (c) presently vacant and without
residents or on which fewer than three qualified voters reside.

In accordance with Texas Local Government Code §43.028, Bette Jean Poeske Yost,
Independent Executrix of the Estate of Harry H. Hilburn, Jr., Deceased hereby requests
and petitions that the above-described property be annexed into the incorporated limits of
the City of Kerrville, Texas.

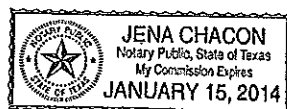
SUBMITTED THIS 11th day of Jan 2011.

By: Bette Jean Poeske Yost
Bette Jean Poeske Yost,
Independent Executrix of the Estate of
Harry H. Hilburn, Jr., Deceased

ACKNOWLEDGEMENTS

THE STATE OF TEXAS §
 §
COUNTY OF KERR §

This instrument was acknowledged before me on the 11 day of
January, 2011, by Bette Jean Poeske Yost, Independent Executrix of the Estate
of Harry H. Hilburn, Jr., Deceased.



Jena Chacon
NOTARY PUBLIC, STATE OF TEXAS

Printed Name: Jena Chacon

My Commission Expires: 01-15-2014

PARCEL NO. 5E:

FIELD NOTES DESCRIPTION FOR A VARIABLE WIDTH
UTILITY BASEMENT ACROSS PART OF THE H. H.
HILBURN LAND IN KERR COUNTY, TEXAS

Being all of a certain strip, tract or parcel of land out of Jesus Hernandez Survey No. 548, Abstract No. 189, in Kerr County, Texas; part of 7.87 acres conveyed to H. H. Hilburn, Jr., et ux, from E. O. Loudon, et ux, by a Warranty Deed with Vendor's Lien executed the 15th day of May, 1954 and recorded in Volume 96 at Page 286 of the Deed Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows (record calls shown in parentheses):

BEGINNING at a ½" iron stake set for the most northerly corner of the herein described tract in the common line between said 7.87 acres and 49.97 acres conveyed to Edwin D. Higgins, et al, from Lee Roy Kleypas by a Warranty Deed with Vendor's Lien executed the 28th day of June, 1996 and recorded in Volume 857 at Page 35 of the Real Property Records of Kerr County, Texas; which point bears 708.08 ft. S.49°54'41"E. from the northwest corner of said 7.87 acres;

THENCE, with the common line between said 7.87 acres and said 49.97 acres, S.00°44'22"W. (S.00°40'01"W.) 25.69 ft. to a ½" iron stake set for a southeasterly corner of the herein described tract;

THENCE, upon, over and across said 7.87 acres, each point marked with a set ½" iron stake: S.77°24'54"W. 54.37 ft.; S.42°30'40"W. 295.21 ft.; and S.33°46'25"W. 257.42 ft. to the common line between said 7.87 acres and said 49.97 acres;

THENCE, with the common line between said 7.87 acres and said 49.97 acres, S.42°47'46"W. (S.42°43'23"W.) 20.34 ft. to a set ½" iron stake;

THENCE, again upon, over and across said 7.87 acres: S.46°49'15"W. 101.57 ft. to a set ½" iron stake; and S.46°47'11"W. 206.08 ft. to a ½" iron stake set for the most southerly corner of the herein described tract in the common line between said 7.87 acres and 0.66 acre conveyed to Edwin D. Higgins, et al, from HLO Partners I, Ltd. by a Warranty Deed executed the 25th day of February, 1997 and recorded in Volume 888 at Page 582 of the Real Property Records of Kerr County, Texas;

THENCE, with the common line between said 7.87 acres and said 0.66 acre, N.54°19'49"W. (N.55°10'W.) 1.13 ft. to a ½" iron stake set for a northwest corner of the herein described tract and said 7.87 acres in the southeast right-of-way line of "Old" Harper Road;

THENCE, with a northwest line of said 7.87 acres, the southeast right-of-way line of said "Old" Harper Road: N.45°20'00"E. 325.00 ft. (N.45°20'E. 325 ft.) to a set ½" iron stake; and N.34°35'00"E. 117.54 ft. (N.34°35'E. 112 ft.) to a ½" iron stake set for a reentrant corner of the herein described tract and said 7.87 acres;

THENCE, with a southwest line of said 7.87 acres, crossing said "Old" Harper Road, N.59°57'30"W. (N.60°30'W.) 33.84 ft. to a ½" iron stake found in the west right-of-way line of said "Old" Harper Road at the southeast corner of 0.34 acre conveyed to Wesley Dewayne Skains from Stacey Lynn Skains by a Special Warranty Deed executed the 18th day of March, 2003 and recorded in Volume 1255 at Page 363 of the Real Property Records of Kerr County, Texas;

THENCE, upon, over and across said 7.87 acres with the east line of said 0.34 acre, the west right-of-way line of said "Old" Harper Road: N.25°45'56"E. 110.58 ft. (N.26°45'E. 110.7 ft.) to a set ½" iron stake; and N.21°00'56"E. 24.97 ft. (N.22°E. 25 ft.) to a ½" iron stake set at the northeast corner of said 0.34 acre;

THENCE, continuing upon, over and across said 7.87 acres with the approximate west right-of-way line of said "Old" Harper Road: N.25°05'53"E. 43.90 ft. to a set ½" iron stake; and N.12°49'12"E. 33.47 ft. to a set ½" iron stake;

VOELKEL

LAND SURVEYING, PLLC • PHONE: 830-257-3313 • 212 CLAY STREET, KERRVILLE, TEXAS 78028

Page 2 – A Variable Width Utility Easement across part of the
H. H. Hilburn land in Kerr County, Texas

THENCE, continuing upon, over and across said 7.87 acres, each point marked with a set 1/2" iron stake: crossing said "Old" Harper Road, S.77°11'15"E. 44.74 ft.; S.17°03'01"W. 40.39 ft.; S.63°47'01"E. 8.19 ft.; N.42°30'40"E. 262.96 ft.; and N.77°24'54"E. 68.15 ft. to the PLACE OF BEGINNING containing 0.51 acre of land, more or less, within these metes and bounds.

I hereby certify that these field notes and accompanying plat are accurate descriptions of the property contained therein as determined by a survey made on the ground under my direction and supervision, and that all property corners are marked as stated. (Bearing basis = True north based on GPS observations)

Date surveyed: May 14, 2007 – July 28, 2008
August 14, 2009; January 7, 2010

Dated this 11th day of January, 2010



Don W. Voelkel
Registered Professional Land Surveyor No. 3990



Agenda Item:

(Staff)

4B. A resolution authorizing issuance of notice of intent to annex various properties, including public roads, generally located northeast of the intersection of Town Creek Road and Old Harper Road.

CITY OF KERRVILLE, TEXAS
RESOLUTION NO. ____-2011

**A RESOLUTION AUTHORIZING ISSUANCE OF NOTICE OF INTENT TO
ANNEX VARIOUS PROPERTIES, INCLUDING PUBLIC ROADS,
GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF
TOWN CREEK ROAD AND OLD HARPER ROAD**

WHEREAS, the City Council of the City of Kerrville, Texas finds it in the public interest to annex several properties generally located to the northeast of the intersection of Town Creek Road and Old Harper Road and to include public roadways; and

WHEREAS, Texas Local Government Code §43.062(b) requires that before the 30th day before the date of the first public hearing related to an annexation of an area containing fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract, written notice must be given to certain defined parties;

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

The City Manager is authorized and directed to give the written notice required by Texas Local Government Code Section 43.062(b) of the intent of the City of Kerrville to annex the properties described in **Exhibit A**, which are depicted in **Exhibit B**.

PASSED AND APPROVED ON this the ____ day of _____, A.D., 2011.

David Wampler, Mayor

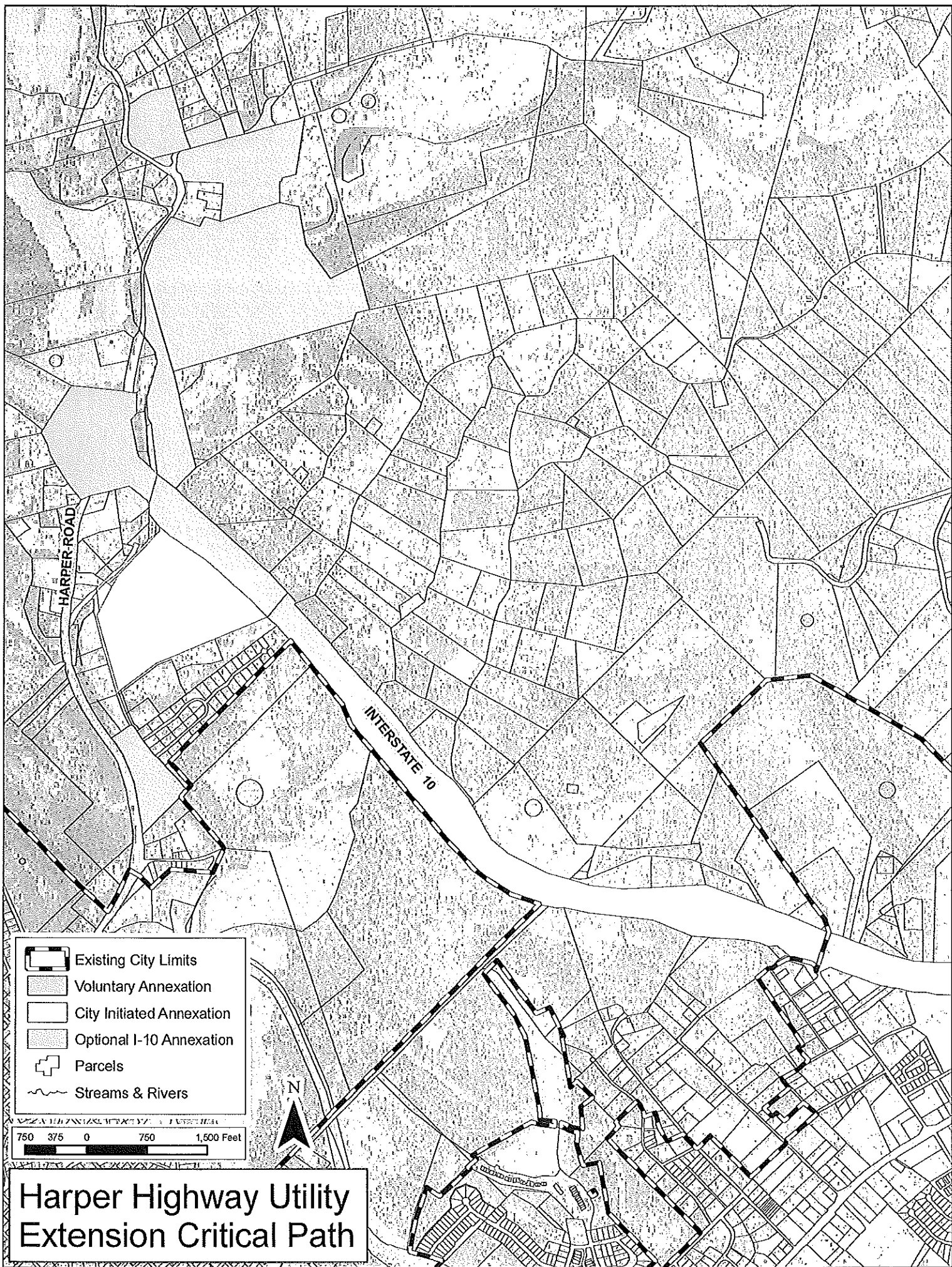
ATTEST:

Brenda G. Craig, City Secretary

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney



- Existing City Limits
- Voluntary Annexation
- City Initiated Annexation
- Optional I-10 Annexation
- Parcels
- Streams & Rivers

750 375 0 750 1,500 Feet

Harper Highway Utility Extension Critical Path

Agenda Item:

(Scott Evans, CEO, Courtesy EMS)

- 4C. Courtesy EMS request to approve a certificate of necessity to provide ambulance service in the City of Kerrville.

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

SUBJECT OF REQUEST: CERTIFICATE OF NECESSITY FOR
PRIVATE Ambulance SERVICE

AGENDA DATE: 01-25-11

DATE SUBMITTED: 01-10-11

REQUESTED/SUBMITTED BY: Scott Evans PHONE: 830-796-8900

ORGANIZATION REPRESENTING: COURTESY EMS

MAILING ADDRESS: 550 Earl Garrett #114
Kerrville, TX 78028

EMAIL ADDRESS: COURTESYEMS@hotmail.com

EXHIBITS/INFORMATION: PRESENTATION

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

IF YES, STATE AMOUNT REQUESTED: \$ _____

DESCRIPTION OF REQUEST

COURTESY EMS is seeking to provide
PRIVATE Ambulance SERVICE (Non-911) to
THE CITY OF KERRVILLE. WE ARE SEEKING
A CERTIFICATE OF CONVENIENCE and
NECESSITY FOR THE PUBLIC INTEREST under
ARTICLE III SECTION 42.79 SUBSECTION (4)(4)(J).

RECOMMENDED COUNCIL ACTION

Approval to provide Ambulance SERVICE
in THE CITY OF KERRVILLE.

Courtesy EMS

January 11, 2011

To: The Mayor and City Council of Kerrville, TX.
From: Courtesy EMS


Subject: Courtesy EMS is seeking a Certificate of Convenience and Necessity for the Public Interest under Article III. section 42-79. sub-section (a) (4) (j) of the Kerrville City Code.

DYML Group, Inc. dba Courtesy EMS is a Private Ambulance Service licensed through the Texas Department of State Health Services to Provide Ambulance service in accordance with such standards as set forth in the Texas Administrative Code, Title 25 Health Services Part 1 Department of State Health Services, Chapter 157 Emergency Medical Care, Subchapter B Emergency Medical Services Provider Licenses Rule §157e.

Courtesy EMS has identified the Kerrville, Texas Region as having a need for Private, and Non-emergency Ambulance Service. There are nine (9) Nursing Homes, Peterson Regional Medical Center, Veteran's Administration Hospital, and the State Hospital located in this region. According to our research, patients at these facilities are waiting an average of one hour or more for transfers. The City of Kerrville Fire Department has one (1) transfer ambulance. Having a dedicated Private Ambulance Service will, in most cases, eliminate this problem and allow the Kerrville Fire Department to better serve the emergency needs of the community. Courtesy EMS will seek "Second Call" contracts that will allow the Kerrville Fire Department to get the initial call. We will only respond if the estimated time of arrival (ETA) is greater than thirty (30) minutes.

Courtesy EMS will operate as Basic Life Support (BLS) with Mobile Intensive Care Unit (MICU) capability. Our protocols and standing orders are in line with National Standards. If there is a Disaster, a multi-casualty incident, or if the City has a large number of calls and cannot respond, Courtesy EMS will be available to assist. The current disaster protocols call for out of town ambulances.

Courtesy EMS is seeking to become an adjunct to the current EMS situation in Kerrville. We look forward to participating in the economic growth of Kerr County and bringing jobs to the area.


Scott E. Evans
Chief Executive Officer
Courtesy EMS

550 Earl Garrett #114 Kerrville, TX. 78028
Dispatch: (830) 257-0546 Fax: (830) 257-0353
E-mail: courtesyems@yahoo.com

Agenda Item:

(Staff)

- 4D. Discuss possible meeting dates and topics of discussion for joint meeting between the Kerrville City Council and the City of Kerrville, Texas Economic Improvement Corporation.

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

SUBJECT: Discuss possible meeting dates and topics of discussion for joint meeting between the Kerrville City Council and the City of Kerrville, Texas Economic Improvement Corporation.

FOR AGENDA OF: 1-25-11

DATE SUBMITTED: 1-21-11

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES:

EXHIBITS: None

AGENDA MAILED TO: NA

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT: NA

SUMMARY STATEMENT

At the City Council meeting of January 11, 2011, the City Council voted to have a joint meeting with the City of Kerrville, Texas Economic Improvement Corporation (EIC) to discuss a strategic approach to economic development efforts for the community. Staff suggests that the City Council consider establishing two alternative dates for the week of January 31.

At its last regular meeting, the EIC discussed holding a joint meeting with the City Council. During that discussion the EIC directed staff to contact the Texas Attorney General's (AG) office to request a briefing on permissible uses of 4B sales tax revenues and that they would use the input from the AG as the groundwork for their discussion regarding strategic planning for economic development. Staff is also working to schedule this meeting with the AG as directed by the EIC.

RECOMMENDED ACTION

Establish two alternative times and dates for a joint meeting between the City Council and the EIC and state the topics for discussion to be placed on the agenda.

Agenda Item:

(Staff)

5A. Update regarding Lower Colorado River Authority Transmission Services Corporation's (LCRA-TSC) application for the proposed McCamey D to Kendall to Gillespie CREZ project (PUC Docket No. 38354).

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

SUBJECT: Update regarding LCRA TSC's application for the McCamey D to Kendall to Gillespie CREZ project (**PUC Docket No. 38354**).

FOR AGENDA OF: 1-25-11

DATE SUBMITTED: 1-21-11

SUBMITTED BY: Todd Parton
City Manager

CLEARANCES: Todd Parton
City Manager

EXHIBITS: None

AGENDA MAILED TO: NA

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO: NA

REVIEWED BY THE FINANCE DEPARTMENT: NA

SUMMARY STATEMENT

City staff will provide a full briefing on the status of LCRA's CCN application for the McCamey D to Kendall to Gillespie CREZ line.

RECOMMENDED ACTION

Action as deemed appropriate by the City Council.

Agenda Item:

(Staff)


5B. Library of Congress—Gateway of Knowledge tour stop in Kerrville on February 18 and 19, 2011.

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

SUBJECT: Library of Congress – Gateway of Knowledge tour stop in Kerrville.

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 19, 2011

SUBMITTED BY: Daniel Schwartz
Library Director

CLEARANCES: Kimberly Meisner 
Director of General Operations

EXHIBITS: About the Exhibition; Introduction to the Traveling Exhibition;
Trailer Parking Specifications; Photos

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

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

PAYMENT TO BE MADE TO:

APPROVED FOR SUBMITTAL BY DIRECTOR OF ADMINISTRATIVE SERVICES:

SUMMARY STATEMENT

The Library of Congress' Gateway to Knowledge tour selected Kerrville, Texas as one of its stops on a tour of the mid-west and south. The exhibit will arrive the afternoon of Thursday, February 17, 2011. Tours will be held from 10 am to 6 pm on Friday, February 18 and Saturday, February 19, 2011.

We have partnered with Hastings Books & Music to utilize their side parking lot at Quinlan and Water St. for the parking of the exhibition.

An official press release will go out soon and information will be sent to the local public and private schools on how to schedule a tour. A ribbon cutting ceremony with local dignitaries will be planned for Friday, February 19, 2011 at 9:45 am.

RECOMMENDED ACTION

This is for information only. No action is required.

Library of Congress

GATEWAY TO KNOWLEDGE
Traveling Exhibition

About the Exhibition

The special Library of Congress traveling exhibition is mounted in a customized 18-wheel truck. The exhibit is free and is open to the public from 10 a.m. to 6 p.m.

The "Gateway to Knowledge" exhibition brings high-quality facsimiles of many of the Library's top treasures and information about the millions of resources in the Library's unparalleled collections to small towns and rural communities across America—areas that may not be aware of their access to the wealth of information in this publicly funded institution.

The exhibit and its national tour are made possible by the generous support of the Rapoport family. Bernie and Audre Rapoport are founding members of the James Madison Council, the Library's private-sector advisory group.

"As both a storehouse of world knowledge and primary resource for the U.S. Congress, the Library is energized by the prospects of the exhibition playing an important role in sharing the national collection with the people to whom it belongs," said Librarian of Congress James H. Billington.

The exhibit includes programming especially for teachers and students and provides relevant and engaging learning experiences for lifelong learners. The truck, which is staffed and driven by two docents well-versed in the Library and its collections, will be parked at various schools, libraries, community centers and other public venues.

The trailer expands to three times its road width, and visitors will enter from a central staircase to find several areas of museum-style exhibits including a welcoming multimedia display and computer terminals displaying Library of Congress websites. The websites will include the main site, www.loc.gov, the Center for the Book/Literacy Programs site, www.read.gov, and sites pertaining to U.S. collections, exhibitions and a special site for use by teachers.

The exhibition will outline the history of the Library, including Thomas Jefferson's role in re-establishing the Library, when he provided his personal book collection to the nation after the burning of the U.S. Capitol in 1814. Jefferson's

organization of his books by categories of “Memory, Reason and Imagination” will inform the organization of the exhibition.

The exhibition will feature **facsimiles** of such treasures as the 1507 Waldseemüller Map (the first document to use the word “America”); the 1455 Gutenberg Bible; the rough draft of the Declaration of Independence, in Thomas Jefferson’s hand with edits by Benjamin Franklin and John Adams; the 1962 drawings for the comic book that introduced Spider-Man to the world; the handwritten manuscript to jazz pioneer Jelly Roll Morton’s “Frog-i-More Rag”; and Walt Whitman’s poem “Leaves of Grass.”

Founded in 1800, the Library of Congress is the nation’s oldest federal cultural institution. The Library seeks to spark imagination and creativity and to further human understanding and wisdom by providing access to knowledge through its magnificent collections, programs and exhibitions.

Visit www.loc.gov/gateway to follow the tour and learn more about the vast resources available at the Library. Educational Resources are also available at www.loc.gov/gateway/resources



**Experiential Tours
& Equipment**

Introduction to the Traveling Exhibition

On behalf of the Library of Congress, we thank you for being the host for the "Gateway to Knowledge" Traveling Exhibition in your community.

MRA is managing the "Gateway to Knowledge" tour operations for the Library of Congress and will be coordinating many aspects of the exhibition's visit to your community.

The following information and attached items are provided to assist you with the planning of your event:

Location

Butt-Holdsworth Memorial Library

In the parking lot of Hastings Store, 501 Main Street, across from the library
Kerrville, TX 76710

Dates and Hours

Dates: February 18 and 19, 2011 (Friday & Saturday)

Hours: 10 AM – 6 PM

Exhibit will arrive after 3 PM on February 17 and leave on February 20.

MRA Contacts

General Tour and Local Event Planning Information:

Janet Torno, Event Planning & Local PR, (734) 395-4173, Jtorno@gomra.com

Mike Crosson, Program Development, (248) 761-0583, mikec@gomra.com

Arrival, Set-up, Parking, School Class scheduling, Local Media Interviews

Josh & Abigail Van Gelder, Driver & Docent Team, (734) 320-3202

AbigailVG@gomra.com

About the Exhibition

Attached is an overview of the exhibition which can be used for promoting the event. For additional information about the traveling exhibitions and the Library of Congress visit www.loc.gov/gateway.

As part of the exhibition information there are a several photos/images for your review to better understand the exhibition and for use in flyers and promotional materials.

Educational Resources

The Library of Congress has many educational resources available on-line at:
<http://www.loc.gov/gateway/resources>

Scheduling School Classes & Groups

In order to provide an exciting, immersive, educational experience for the students, it is necessary to schedule the classes with the tour Docent, Abigail Van Gelder (See MRA Contacts above).

However, to assist the schools with a) an understanding of the best grades to experience the exhibition; and, b) their preliminary scheduling; attached is the "Guidelines for Scheduling School Classes & Groups" document.

As part of the school group program, a Scavenger Hunt (Questionnaire) has been developed for the exhibition to create a sense of fun, discovery and participation while the students explore the exhibition to find the answers.

The attached Scavenger Hunt (questionnaire) is to be copied by the school and distribute to the students as they enter the exhibition. It is desirable for the school to provide clipboards and pencils for the students. In the event the school does not have clipboards and pencils available for the students, please advise the docent prior to the exhibition's arrival on-site and they will make arrangements for the school.

Press Release

The Library of Congress, Public Affairs Office will send a Press Release to local media organizations approximately 2 weeks prior to the event date. Donna Urschel, of the Public Affairs Office, may contact you for local media information at the appropriate time in the process.

Contact information: Donna Urschel, Public Affairs Specialist, Library of Congress, 202-707-1639, durschel@loc.gov

Exhibition Parking Requirements

Attached parking specifications document provides dimensional information regarding the space required for the tractor and double expandable exhibit trailer.

If there are any concerns about the available space, access, or feasibility of the location contact Abigail Van Gelder (See MRA Contacts above).

Opportunity for a Ribbon Cutting or other Opening Ceremony

It is suggested that a ribbon cutting or other opening ceremony be scheduled for the opening morning of the tour. The exact time of the ceremony can be coordinated with the open hours and to accommodate the schedules of the local dignitaries.

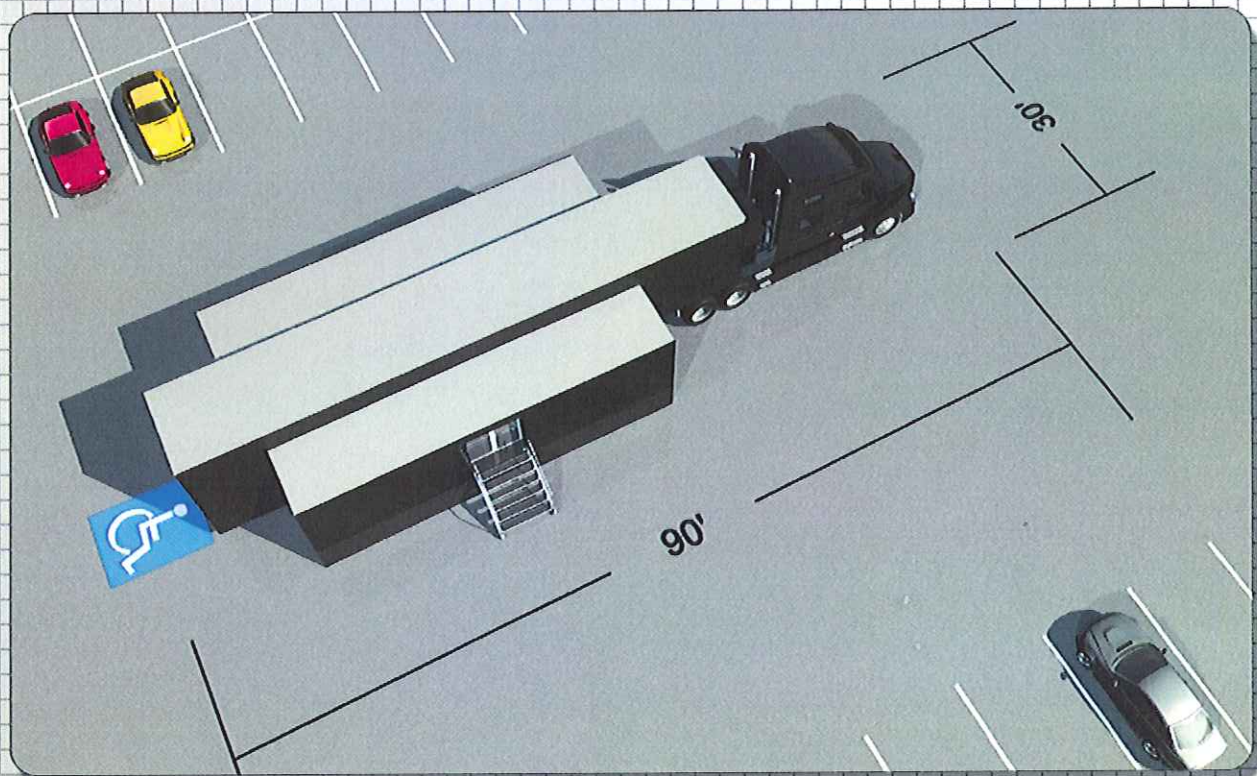
Suggested attendees:

- Local Choir or Band to sing/play the National Anthem
- Congressperson, Senator or a representative from their local offices if they are in Washington, DC
- State Representative and Senator
- Mayor, Manager or Supervisor and Council Members
- Library Director and Board Members
- School Superintendent and Board Members
- Leaders and Board Members of Local Museums
- Other Local Community Officials and Contributors
- Local Media

Specific Groups to Invite to Experience the Exhibition

- School & College Students, Administrators, Professors and Librarians
- Library Members
- Senior Citizen Groups
- Church Groups
- Community Groups: Rotary, Kiwanis, Knights of Columbus, VFW, etc.
- Historical Society and History Clubs
- Book Clubs
- Home School Groups
- PTOs , PTAs or Educational Foundations
- Literacy organizations
- Local members of the American Library Association and retired librarians
- Boy Scouts and Girl Scout Troops (Citizenship and other merit badges)
- Daughters of the American Revolution

Double Expandable Parking Specifications



ANY QUESTIONS:CALL

Vicki Sanders, Tour Manager

E: VickiS@goMRA.com

P: 586.778.8937

F: 586.445.1516





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The 2002 conference was held in a historic building in the heart of the city, and the program was designed to be both informative and enjoyable. The keynote address was given by the Mayor of the City of New York, and the conference was a great success. The speakers were all leading experts in their fields, and the audience was very attentive. The conference was a great opportunity for the city to showcase its progress and for the speakers to share their knowledge with the local community.



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Twenty years before founding the American Red Cross, Clara Barton (1821-1912) distributed supplies and tended to the wounded during the Civil War of 1861-65. Barton became one of the first female war correspondents, and she continued her efforts by doing volunteer hospital work with wounded soldiers returning from the Civil War. Barton's efforts to help the wounded during the war led to the founding of the American Red Cross in 1881. Barton's personal letters, 1820-1912, were officially published in 1962.



The delivery of Congress contains historical material about U.S. wars from the American Revolution onward. Civil War history is a particular strength of the collection, which contains many lectures and manuscript pages, as well as the contents of Abraham Lincoln's journals when he was assassinated. The items shown are a small sample of what can be seen at the Library and on its website.



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Agenda Item:

(Staff)

5C. Economic update. (Staff)

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

SUBJECT: Kerrville Budget/Economic Update

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 13, 2011

SUBMITTED BY: Mike Erwin
Director of Finance

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Economic Update
AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER:



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

PAYMENT TO BE MADE TO:

REVIEWED BY THE DIRECTOR OF FINANCE:

SUMMARY STATEMENT

The City of Kerrville staff will present and update Council on a biweekly basis as to the status of the City's budget and current economic trends affecting the City.

RECOMMENDED ACTION

No action required information purposes only.

**CITY OF KERRVILLE
ECONOMIC UPDATE AS OF JANUARY 20, 2011**

	Current Month	Previous Month	1 Year Ago	Trend	Current Month
National					
Unemployment	9.40%	9.80%	9.90%	↓	December
Consumer Confidence	52.5	54.3	53.6	↓	December
1 year T-Bills	0.26%	0.29%	0.30%	↓	1/20/11

State					
Monthly Unemployment	8.30%	7.90%	7.90%	↑	November
Monthly Sales Tax	\$1,807.9m	\$1,844.6m	\$1,653.1m	↑	December

Local					
Monthly Unemployment (Kerr Co.)	6.10%	5.90%	5.90%	↑	November
Median Listing Price	\$200,000	\$218,400	\$228,000	↓	1/5/11
Monthly Sales Tax	\$390,106	\$339,147	\$341,290	↑	January
Monthly EIC Tax	\$195,030	\$169,550	\$170,645	↑	January
Monthly HOT	\$40,581	\$57,006	\$45,303	↓	January

	FY11 Budget	FY11 as of 12/31/2010	FY11 % Received	FY10 as of 12/31/2009	FY10 % Received
General Fund					
Tax Revenue	\$14,647,100	\$5,555,205	37.93%	\$5,556,633	36.91%
Property Tax	\$8,240,000	\$4,081,837	49.54%	\$4,265,227	50.37%
Sales Tax	\$4,500,000	\$1,122,351	24.94%	\$1,079,190	23.34%
Permits & Fees	\$402,450	\$85,958	21.36%	\$69,263	18.68%
Intergovernmental	\$707,013	\$255,448	36.13%	\$158,450	22.79%
Service Revenues	\$2,578,260	\$595,555	23.10%	\$668,179	20.18%
Grant Revenue	\$10,000	\$144	1.44%	\$10,525	105.25%
Fines & Forfeitures	\$477,710	\$131,484	27.52%	\$113,519	22.50%
Interest & Misc.	\$170,317	\$88,542	51.99%	\$107,332	23.32%
Transfers In	\$1,000,000	\$250,000	25.00%	\$185,975	14.75%
Total General Fund	\$19,992,850	\$6,962,336	34.82%	\$6,869,877	31.71%

Water/Sewer Fund					
Water Sales	\$4,400,000	\$1,245,065	28.30%	\$973,782	6.29%
Sewer Sales	\$3,760,000	\$883,726	23.50%	\$917,210	7.17%
Other Revenue	\$714,500	\$158,243	22.15%	\$173,955	25.98%
Total Water & Sewer Fund	\$8,874,500	\$2,287,035	25.77%	\$2,064,947	21.44%

Agenda Item:

(Staff)

6A. Appointments to the main street advisory board.

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

SUBJECT: Appointments to the Main Street Advisory Board

FOR AGENDA OF: January 25, 2011

DATE SUBMITTED: January 18, 2011

SUBMITTED BY: Brenda Craig
City Secretary 

CLEARANCES: Todd Parton
City Manager

EXHIBITS: Board List

AGENDA MAILED TO:

APPROVED FOR SUBMITTAL BY CITY MANAGER: 

SUMMARY STATEMENT

Consider appointments to the following board:

Main Street Advisory Board: Five terms due to expire on January 31, 2011; Penni Carr, Lee Fry, Brett McDowell, Melissa Schneider, and Matt Sletten.

RECOMMENDED ACTION

Consider appointments.

MAIN STREET ADVISORY BOARD

	<u>Telephone</u>	<u>Orig. Appt.</u>	<u>Re-Appt. Date</u>	<u>Exp. Date</u>
SLETTEN, MATT Chairman 710 Rim Rock Rd	257-5151 (O) 895-1898 (H)	02-13-07	01-27-09	01-31-11
BOND, KYLE ALAN Vice-Chairman 419 East Lane	257-8233 (O) 459-0566 (H)	01-22-08	01-26-10	01-31-12
CARR, PENNI 202 Riverhill Blvd.	896-5569 (O) 896-0059 (H)	01-27-09		01-31-11
COONS, BECKY 131 Sandy Lane	895-2265 (O) 257-8873 (H)	01-22-08	01-26-10	01-31-12
FRY, LEE 120 Victoria Drive	367-7109 (H)	01-27-09		01-31-11
LEWIS, PETER 334 W. Water St.	896-4220 (O) 896-1707 (H)	01-22-08	01-26-10	01-31-12
McDOWELL, BRETT 106 Surrey Dr. Boerne, Texas 78006	830-815-1342 (O) 896-5000 (H)	08-10-10		01-31-11
SCHNEIDER, MELISSA 300 Ridge Road	896-2476 (H)	06-14-05	01-27-09	01-31-11
SMITH, KACY 125 Bushwhack Rd.	792-7865 (O) 792-4788 (H)	08-10-10		01-31-12
COUNCIL LIAISON: Scott Gross 2908 Dry Hollow PO Box 291277	792-5555 (O) 210-363-1144 (C)			
CITY STAFF: Johnna Wade 715 Water Street	792-8395 (O)			

Powers and Duties: To encourage participation in the Main Street Revitalization Program; to establish goals and priorities for the Main Street Program; to review design appropriateness for the purpose of participation in the main street low-interest loan program and incentive grant projects; and to advise and support the main street program manager.

Term of Office: Two years with a maximum of two full successive terms (Bylaws)

Quorum: Five members

Number of Members: Nine

Absences: Any member who miss three consecutive meetings may be replaced (Bylaws)

Meeting Time & Place: Fourth Thursday at noon, 715 Water Street

Established by: Resolution No. 1994-133

Revised: May 28, 2010

Agenda Item:
(Staff)

6B. Appointment to the zoning ordinance input committee.

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

SUBJECT: Appointment to the Zoning Ordinance Input Committee

FOR AGENDA OF: January 25, 2011 **DATE SUBMITTED:** January 18, 2011

SUBMITTED BY: Brenda Craig, 
City Secretary **CLEARANCES:** Todd Parton,
City Manager

EXHIBITS: Board List

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

Consider appointment to the:

Zoning Ordinance Input Committee: One term due to the resignation of Brian Bondy.

RECOMMENDED ACTION

Consider appointment.

ZONING ORDINANCE INPUT COMMITTEE (ZOIC)

	<u>Telephone</u>	<u>Appt. Date</u>
MOSTY, JOHN Chair 2313 Trails End	257-2134 (H)	01-27-2009
BONDY, BRIAN Vice Chair 420 West Crest	896-1175 (O) 896-5310 (H)	01-27-2009
BUFFINGTON, BEVERLY 608 Overhill Drive	257-7100 (O) 257-3440 (H)	01-27-2009
CONKLIN, CARSON 429 Jefferson	792-5261 (H)	01-27-2009
MacDONALD, T. JUSTIN 524 Oakland Hills Lane	257-5323 (O) 896-4821 (H)	11-10-2009
STARKEY, III, A.L. "CURG" 1006 A Junction Highway	895-4040 (O) 895-4686 (H)	01-27-2009
SCHELLHASE, WALTER 529 Water Street	896-6420 (H)	09-08-2009

STAFF MEMBER:

Kevin Coleman	792-8351 (O)
Director of Development Services	896-0517 (F)
800 Junction Highway	

Qualifications: Residents of the City of Kerrville

Powers and Duties: 1)Organize committee; 2)Arrange meeting schedule and location, with the fundamental goal that meeting times and locations be as accessible as possible to encourage public input; 3)Educate itself on the City's existing Zoning Ordinance (Ordinance No. 97-07); 4)Review the Zoning Ordinance and map for conformance with the City's land use plan and comprehensive plan updates; 5)Review the Zoning Ordinance for any deficiencies, voids, inconsistencies, inefficiencies, and technical errors; 6)Upon completion of the draft ordinance by staff and reviewed by the planning and zoning commission, ZOIC will be asked to review and comment on the document.

Term of Office: Completion of review of draft ordinance

Quorum: Four

Number of Members: Seven

Meeting Time & Place: At the call of the committee

Established by: Resolution No. 008-2009

Revised: May 28, 2010