

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

**TUESDAY, JULY 23, 2024, 6:00 P.M.**

**CITY HALL COUNCIL CHAMBERS**

**701 MAIN STREET, KERRVILLE, TEXAS**

### **The Community Vision**

*Kerrville will be a vibrant, welcoming and inclusive community that:*

- *Respects and protects the natural environment that surrounds it;*
- *Seeks to attract economic growth and development;*
- *Provides opportunities for prosperity, personal enrichment and intellectual growth for people of all ages; and*
- *Does so while preserving the small-town charm, heritage, arts and culture of the community.*



Kerrville2050



## CITY COUNCIL MEETING AGENDA

**JULY 23, 2024 6:00 PM**

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



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

Citizens may view and hear City Council meetings on Spectrum Channel 2 or by live-stream via the City's website ([www.kerrvilletx.gov](http://www.kerrvilletx.gov)). City Council meetings are recorded and the recordings are posted on the City's website. Citizens wishing to speak during a meeting shall submit a completed "speaker request form" to the City Secretary before the item is introduced, but are encouraged to submit the form before the meeting begin. Each speaker is limited to four minutes.

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

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

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

Thank you for your participation!

**CALL TO ORDER:** By Mayor Joe Herring, Jr.

**INVOCATION AND PLEDGE OF ALLEGIANCE:** Led by Councilmember Jeff Harris.

- 1. ANNOUNCEMENTS OF COMMUNITY INTEREST:** Announcement of items of community interest, including expressions of thanks, congratulations, or condolences; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by city officials or employees; and announcements involving imminent threats to the public health and safety of the city. No action will be taken.
- 2. PRESENTATIONS:**
  - 2.A Kerrville Kindness: Recognizing Lowe's, Home Depot, and Gibson's for donating fans to the City of Kerrville Senior Services Advisory Committee, who distributed the fans to citizens on July 12, 2024. (*Mayor Herring*)  
*Attachment: [20240723\\_Presentation Addressment\\_to\\_City\\_Council.pdf](#)*
  - 2.B Presentation introducing the Kerrville Police Association. (*Ed Holloway, President of the Kerrville Police Association*)  
*Attachment: [20240723\\_Presentation Addressment\\_to\\_City\\_Council.pdf](#)*
- 3. VISITORS/CITIZENS FORUM:** Any citizen with business not scheduled on the agenda may speak to the City Council. Prior to speaking, each speaker must fill out the speaker request form and give it to the City Secretary. The speaker request form must be submitted to the City Secretary before the item is called or read into record. City Council may not discuss or take any action on an item but may place the issue on a future agenda. Each speaker is limited to four minutes.
- 4. CONSENT AGENDA:** These items are considered routine and can be approved in one motion unless a Councilmember asks for separate consideration of an item. It is recommended that the City Council approve the following items which will grant the Mayor or City Manager the authority to take all actions necessary for each approval:
  - 4.A Ordinance No. 2024-17, second reading. An Ordinance annexing two tracts of land into the corporate limits of the City of Kerrville, Texas; one property consisting of approximately 2.02 acres generally located adjacent to and along State Highway 27 as it intersects with Peterson Farm Road; and the other property consisting of approximately 7.10 acres located adjacent to and along State Highway 27 and between the roadway and Peterson Farm Road; such properties more specifically described in this Ordinance; adopting a Service Agreement; establishing the zoning for the annexed properties as an Industrial and Manufacturing (IM) Zoning District; and providing other matters relating to this subject. (*D Paxton, Director of Planning and Development*)  
*Attachments: [20240723\\_Ord 2024-17 Annex-Zone Peterson Farm Rd-Hwy 27 2-read.pdf](#)*

[PZ-2024-14\\_Case Location Clarification Map.pdf](#)

[PZ-2024-14\\_Current Zoning Map.pdf](#)

[PZ-2024-14\\_Current Future Land Use Map.pdf](#)

4.B Ordinance No. 2024-18, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code, by changing the zoning of the properties known as 575 and 601 Peterson Farm Road from an Airport Zoning District to an Industrial and Manufacturing Zoning District; and providing other matters relating to the subject. (*D Paxton, Director of Planning & Development*).

Attachments: [20240723\\_Ord 2024-18 Zone 575 and 601 Peterson Farm Rd 2nd read.pdf](#)

[PZ-2024-15\\_Case Location Clarification Map.pdf](#)

[PZ-2024-15\\_Current Future Land Use Map.pdf](#)

[PZ-2024-15\\_Current Zoning Map.pdf](#)

[20240709\\_Letter opposed Featherstone.pdf](#)

4.C Resolution No. 30-2024. A Resolution authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefit Trust to pay for employee related group benefits for Fiscal Year 2025. (*K Meismer, Assistant City Manager*)

Attachments: [20240723\\_Reso 30-2024 EBT transfer funds FY25 Benefits.pdf](#)

[20240723\\_Presentation FY25 Employee Benefits Final.pdf](#)



4.D

Resolution No. 32-2024. A Resolution designating certain officials as being responsible for and authorized to act on behalf of the City in dealing with the Texas Parks & Wildlife Department for the purpose of participating in the local Park Grant Program. (*A Boyle, Director of Parks & Recreation*)

Attachments: [20240723\\_Reso 32-2024 TPW Local Park Grant Program.pdf](#)

[20240723\\_Application TXPW Grant Program.pdf](#)



4.E

Funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas; for improvements made to the Heart of the Hills Heritage Center, in an amount not to exceed \$2,000,000. (*M Horns, Assistant City Manager*)

Attachment: [20240723\\_EIC Project Funding Agmt - HHHC.pdf](#)



4.F

Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas; for improvements made to various City parks, in an amount not to exceed \$800,000. (*A Boyle, Director of Parks & Recreation*)

Attachment: [20240723\\_EIC Project Funding Agmt - various park improve.pdf](#)



4.G

Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas, for improvements made to Granger MacDonald Park, in an amount not to exceed \$2.2 million. (*A Boyle, Director of Parks & Recreation*)

Attachment: [20240723\\_EIC Project Funding Agmt - GrangerMacDonaldPark.pdf](#)



4.H

Professional Services Agreement between the City of Kerrville and Hewitt Engineering Inc. for design services for Granger MacDonald Park for \$219,800.00. (*A Boyle, Director of Parks & Recreation*)

Attachment: [20240723\\_PSA\\_Hewitt\\_Granger MacDonald Park Design.pdf](#)



4.I

General Contract-Vendor with CDW-G, LLC for the purchase of networking equipment for use in the Public Safety Facility, in an amount not to exceed \$530,247.00. (*C Tork, Director of Information Technology*)

Attachment: [20240723\\_Contract CDWG for PSF network equipt Draft.pdf](#)



4.J

City Council workshop minutes July 09, 2024. (*S McElhannon, City Secretary*)

Attachment: [20240723\\_Minutes CC workshop 7-09-24 4pm.pdf](#)



4.K

City Council meeting minutes July 09, 2024. (*S McElhannon, City Secretary*)

Attachment: [20240723\\_Minutes CC meeting 7-09-24 6pm.pdf](#)



**END OF CONSENT AGENDA.**



5.

## **CONSIDERATION AND POSSIBLE ACTION:**

Kerrville Economic Development Corporation (KEDC) Proposed Budget for Fiscal Year 2025. (*Gil Salinas, KEDC*)

Attachments: [20240723\\_Presentation KEDC FY2025 proposed budget.pdf](#)

[Funding Request.pdf](#)

[KEDC Performance Metrics.pdf](#)

[20240723\\_Annual Report\\_KEDC 2024.pdf](#)



5.B Kerrville Convention and Visitor's Bureau (KCVB) Proposed Budget for Fiscal Year 2025, which includes the budget for the Community Arts Program. (*Julie Davis, President/CEO KCVB*)

Attachments: [20240723\\_Draft Budget KCVB FY25.pdf](#)  
[20240723\\_Draft Budget\\_CAP FY25.pdf](#)  
[20240723\\_Contract 2024-79 KCVB convention-tourism services.pdf](#)  
[20240723\\_Agreement 2023-65 KCVB oversight of Community Arts Program.pdf](#)  
[20240723\\_Presentation KEDC FY2025 proposed budget.pdf](#)

5.C Kerrville Kerr-County Joint Airport Board Proposed Budget for Fiscal Year 2025. (*M Hornes, Assistant City Manager*)

Attachment: [20240723\\_Proposed Budget Airport FY2025.pdf](#)

**6. INFORMATION & DISCUSSION:**

6.A Financial Report for month-ended June 30, 2024. (*J Behrens, Director of Finance*)

**7. APPOINTMENT(S):**

7.A Reappointment to the Kerr 9-1-1 Emergency Board of Directors. (*C McCall, Chief of Police*)

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

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

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

**ADJOURN.**



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

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**SUBJECT:** Kerrville Kindness: Recognizing Lowe's, Home Depot, and Gibson's for donating fans to the City of Kerrville Senior Services Advisory Committee, who distributed the fans to citizens on July 12, 2024. (*Mayor Herring*)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 10, 2024

**SUBMITTED BY:** Kelly Hagemeier

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Recognizing an entity or citizen in the City of Kerrville.

**RECOMMENDED ACTION:**

Present the Kerrville Kindness Award.



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

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**SUBJECT:** Presentation introducing the Kerrville Police Association. (*Ed Holloway, President of the Kerrville Police Association*)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** July 12, 2024

**SUBMITTED BY:** Chris McCall, Police Chief

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

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

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**SUMMARY STATEMENT:**

**RECOMMENDED ACTION:**

Presentation.

**ATTACHMENTS:**

[\*20240723\\_Presentation Addressment\\_to\\_City\\_Council.pdf\*](#)



President Ed Holloway

Vice President Ben Ledesma

Treasurer Justin Gonzales Secretary Candi Behrens

# Kerrville Police Association

Good Evening Members of the Council,

We are here today to inform the City of Kerrville Council Members and the citizens of Kerrville of the creation of the Kerrville Police Association, our plans are to be active in the community and making positive impacts in the community and people's lives.

My name is Ed Holloway and I am the President of the Association, I am here today with Ben Ledesma whom is the Vice President of the Association, Also with us is Joey Sepulveda with the Texas Municipal Police Association (TMPA). The Kerrville Police Associations Mission is promoting benevolent, educational, charitable, civic, patriotic and fraternal activates among the members and the community. The specific objectives of the Association is to continue to foster the Kerrville Police Department's Vision Statement of "One Team in Service to our Community" and to preserve and strengthen comradery and morale among its members. The Kerrville Police Association is in the application process to become a non-profit organization 501(c)(5).

The Kerrville Police Association Vison Statement is "In Service to the Texas Hill Country"

The Kerrville Police Association will have several areas of focus, with the most important of building a stronger relationship between public safety and the citizens of the Hill Country. We will strive to achieve this effort by engaging in community events, assisting our citizens in need with a community relief fund, and a scholarship program for our youth in the community. The Association will also focus its efforts on honoring retirees within the Association and benevolence fundraisers to assist our first responders.

We have here with us a Certificate of Representation, which on behalf of the Members of the Association would like to present to our City Council Members. Also we have included the Association Challenge Coin. One side of the coin is the Association logo and the other side of the coin is the Associations Vision Statement with three Latin words Honoris (Honor), Integritas (Integrity), and Civitas (Community).

We wanted to be sure to tell the council who we are and be available to answer any questions the council might have.





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

**SUBJECT:** Ordinance No. 2024-17, second reading. An Ordinance annexing two tracts of land into the corporate limits of the City of Kerrville, Texas; one property consisting of approximately 2.02 acres generally located adjacent to and along State Highway 27 as it intersects with Peterson Farm Road; and the other property consisting of approximately 7.10 acres located adjacent to and along State Highway 27 and between the roadway and Peterson Farm Road; such properties more specifically described in this Ordinance; adopting a Service Agreement; establishing the zoning for the annexed properties as an Industrial and Manufacturing (IM) Zoning District; and providing other matters relating to this subject. (*D Paxton, Director of Planning and Development*).

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 10, 2024

**SUBMITTED BY:** Drew Paxton, Planning Director

### **EXHIBITS:**

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

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

**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

### **SUMMARY STATEMENT:**

**Proposal:** An ordinance to annex into the City of Kerrville's incorporated limits with a zoning classification of IM Industrial and Manufacturing, all of a certain tract or parcel of land containing 2.02 acres, more or less, out of William Watt Survey No 69, Abstract No. 367 in Kerr County, Texas; and all of a certain parcel of land containing 7.10 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows: William Watt Survey No. 69, Abstract No. 367, 6.54 acres; and W.T. Crook Survey No. 70, Abstract No. 113, 0.56 acres; located at the corner of Peterson Farm Road and Hwy 27 (KerrCAD Property ID 503437 and 503449), Kerr County, Texas.

(Case No. PZ-2024-14)

**Procedural Requirements:** The City, in accordance with state law, mailed 30 letters on

5/23/2024 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 5/16/2024. An informational sign was posted on the property on 5/24/2024. At the time of drafting this agenda bill, no public comment had been received.

### **Staff Analysis and Recommendation**

**Consistency with the Kerrville 2050 Comprehensive Plan:** The property is located within the Strategic Catalyst Area No. 11, characterized by the Kerrville Municipal Airport and Hwy 27. Future growth will capitalize on the airport and its industrial space while keeping a careful eye on the effect of these activities on nearby neighborhoods. Allowable place types in this location are Heavy Commercial and Light Industrial. In areas further from the airport and Hwy 27, and closer to the Guadalupe River, agriculture and outdoor tourism are recommended. SCA 11 appears to support the requested annexation and zoning. As such, this request is consistent with the goals of the Future Land Use Plan of the Kerrville 2050 Comprehensive Plan.

### **Adjacent Zoning and Land Uses:**

Subject Property

Current Zoning: None (County)

Existing Land Uses: Vacant

Direction: **North**

Current Zoning: None (County)

Existing Land Uses: Power Distribution; Rural Residential

Direction: **West**

Current Zoning: None (County)

Existing Land Uses: Hwy 27 and Residential

Direction: **South**

Current Zoning: AD Airport District and PDD (Our Lady of the Hills)

Existing Land Uses: Vacant and Our Lady of the Hills

Direction: **East**

Current Zoning: None (County) and AD Airport District

Existing Land Uses: Vacant and Rural Residential

**Thoroughfare Plan:** There should be no impact to the thoroughfare plan as these developments are anticipated on the Thoroughfare Plan, adjacent Hwy 27.

**Traffic Impact:** With much of the property fronting Hwy 27, TxDOT will most likely request a Traffic Impact Analysis as part of any future development. Any improvements necessary for the build out of the development are required to be built/installed at the development's expense.

**Parking:** To be determined, per project, at the time of the building permit.

**Recommendation:** Based on the consistency with the Kerrville 2050 Comprehensive Plan, staff recommends the case for approval.

On June 6th, the Planning and Zoning Commission recommend the case for approval with a 3-1 vote.

On July 09, 2024, City Council unanimously approved Ordinance No. 2024-17 on first reading. No speakers or citizens spoke during the public hearing, nor opposition received.

**RECOMMENDED ACTION:**

Approve Ordinance No. 2024-17 on second reading.

**ATTACHMENTS:**

[\*20240723\\_Ord 2024-17 Annex-Zone Peterson Farm Rd-Hwy 27 2-read.pdf\*](#)

[\*PZ-2024-14\\_Case Location Clarification Map.pdf\*](#)

[\*PZ-2024-14\\_Current Zoning Map.pdf\*](#)

[\*PZ-2024-14\\_Current Future Land Use Map.pdf\*](#)

**CITY OF KERRVILLE, TEXAS  
ORDINANCE NO. 2024-17**

**AN ORDINANCE ANNEXING TWO TRACTS OF LAND INTO THE CORPORATE LIMITS OF THE CITY OF KERRVILLE, TEXAS; ONE PROPERTY CONSISTING OF APPROXIMATELY 2.02 ACRES GENERALLY LOCATED ADJACENT TO AND ALONG STATE HIGHWAY 27 AS IT INTERSECTS WITH PETERSON FARM ROAD; AND THE OTHER PROPERTY CONSISTING OF APPROXIMATELY 7.10 ACRES LOCATED ADJACENT TO AND ALONG STATE HIGHWAY 27 AND BETWEEN THAT ROADWAY AND PETERSON FARM ROAD; SUCH PROPERTIES MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE; ADOPTING A SERVICE AGREEMENT; ESTABLISHING THE ZONING FOR THE ANNEXED PROPERTIES AS AN INDUSTRIAL AND MANUFACTURING (IM) ZONING DISTRICT; AND PROVIDING OTHER MATTERS RELATING TO THIS SUBJECT**

**WHEREAS**, an owner of land has requested annexation by the City of Kerrville, Texas (“City”) of its properties, pursuant to Local Government Code Section 43.0671; and

**WHEREAS**, the land to be annexed makes up a total of approximately 9.12 acres, but consists of two separate tracts (2.02 and 7.10 acres) as more specifically described below (collectively referred to as the “Property”); and

**WHEREAS**, the Property lies within the extraterritorial jurisdiction of the City and adjacent to the City’s limits; and

**WHEREAS**, in conjunction with the approval of this Ordinance, City Council also approves a service agreement for the Property in accordance with Section 43.0672 of the Texas Local Government Code; and

**WHEREAS**, Section 60-37 of the City’s Zoning Code creates procedures for initial zoning of newly annexed areas; and

**WHEREAS**, having provided all required public notices, held all required public hearings at which persons with an interest in the matter were provided an opportunity to be heard, and complying with other requirements in Section 43.0673 of the Texas Local Government Code, City Council finds it to be in the public interest to adopt this Ordinance annexing the Property, to

approve a service agreement as required by state law, and to establish zoning regulations for the Property;

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

**SECTION ONE. FINDINGS.** City Council finds and declares the facts and recitations contained in the preamble of this Ordinance true and correct.

**SECTION TWO. ANNEXATION.** The Property described and depicted in **Exhibit A** is annexed and incorporated into the corporate limits of the City of Kerrville, Texas, for all legal purposes.

**SECTION THREE. AMENDMENT TO CITY BOUNDARY.** City Council authorizes and directs the City Manager to amend the City's official boundary map in accordance with this annexation.

**SECTION FOUR. PETITION FOR ANNEXATION.** The petition for annexation concerning the Property is attached as **Exhibit B**, said petition, which triggered the process specified in Subchapter C-3, Chapter 43, Texas Local Government Code, authorizing the annexation of the Property.

**SECTION FIVE. AGREEMENT REGARDING SERVICES.** Pursuant to Section 43.0672 of the Texas Local Government Code, the City has negotiated and hereby enters into a Service Agreement (the "Agreement") with the owner of land for the provision of services in the area. The Agreement is attached to this Ordinance as **Exhibit C**. Upon annexation of the Property, the City shall provide the Property with the municipal services set forth in the Agreement pursuant to the schedule set forth therein, such services making up the City's full municipal services. The City shall have no obligation to provide services to the Property not listed in the Agreement.

**SECTION SIX. ZONING.** Upon the adoption of this Ordinance, and in accordance with Section 60-37 of the City's Zoning Code, the Property will be zoned as an Industrial and Manufacturing (IM) Zoning District, which will authorize such property to be used in ways consistent with those land uses specified in that district.

**SECTION SEVEN. CUMULATIVE CLAUSE.** The provisions of this Ordinance are to be cumulative of all 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 EIGHT. SEVERABILITY CLAUSE.** If any section, subsection, sentence, clause, or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. City Council 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 NINE. PENALTY.** The penalty for violation of this Ordinance shall be in accordance with the general penalty provisions contained in Article 1-1-7 of the Code of Ordinances of the City of Kerrville, Texas, which provides for a fine not exceeding TWO THOUSAND DOLLARS (\$2,000.00).

**SECTION TEN. PUBLICATION OF ORDINANCE.** 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.

**SECTION ELEVEN. POST ANNEXATION ACTIONS.** The City Manager shall provide a certified copy of this Ordinance to the Texas Secretary of State, Kerr County, and Kerr Central Appraisal District and any other entity as may be required.

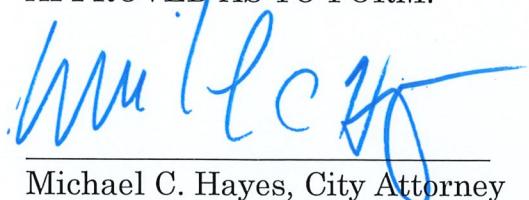
PASSED AND APPROVED ON FIRST READING, this the 09  
day of July A.D., 2024.

PASSED AND APPROVED ON SECOND READING, this the  
day of \_\_\_\_\_ A.D., 2024.

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Joe Herring Jr., Mayor

APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Michael C. Hayes".

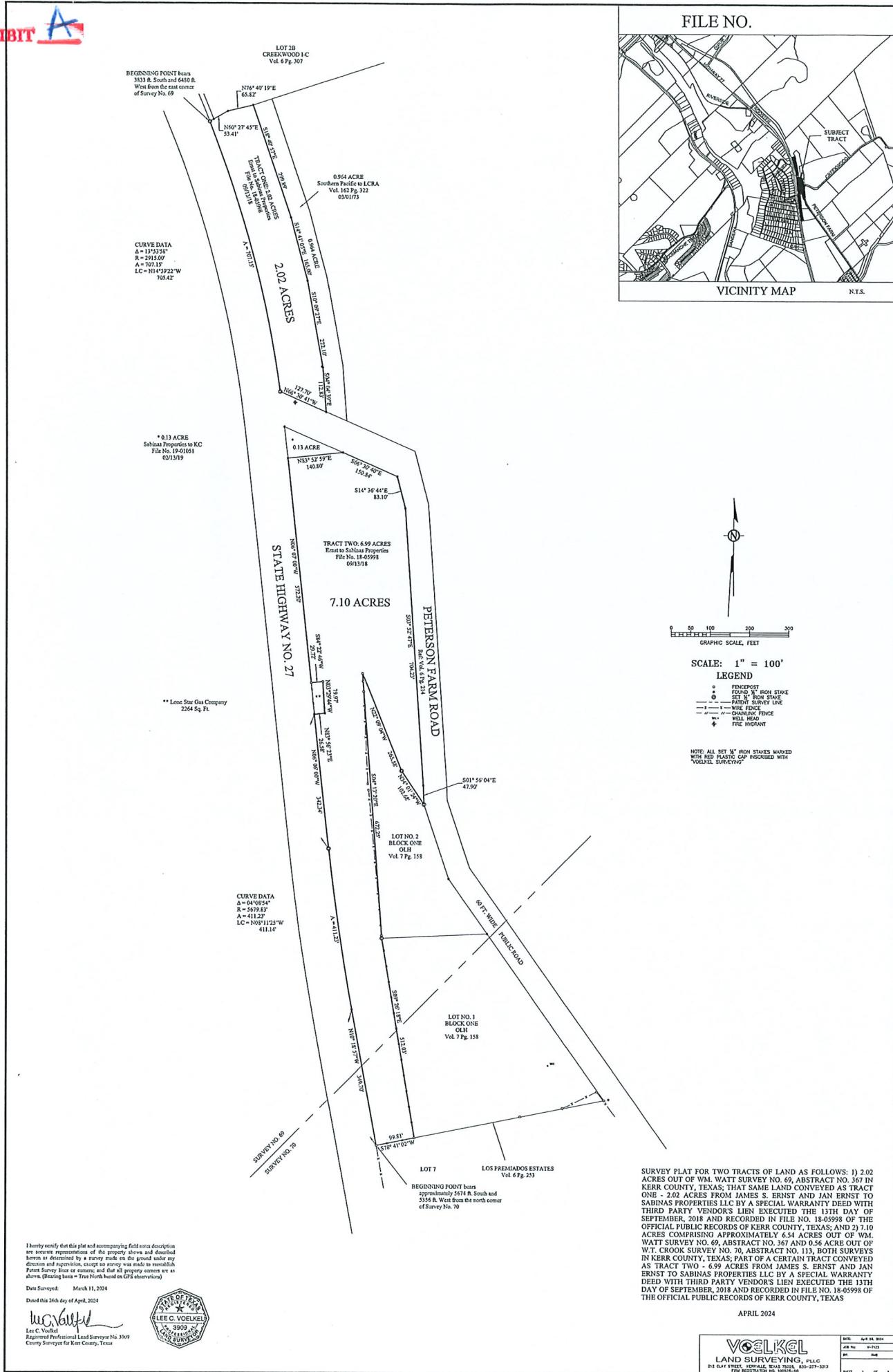
Michael C. Hayes, City Attorney

ATTEST:

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Shelley McElhannon, City Secretary

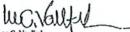
**EXHIBIT A**



I hereby certify that this plan and accompanying field notes description set forth are representations of the property shown and described herein as determined by a survey made on the ground under my direction and supervision, except the survey was made to establish property lines or to supplement the survey of the property as set forth. (Survey basis = True North based on GFS observational)

Date Surveyed: March 11, 2024

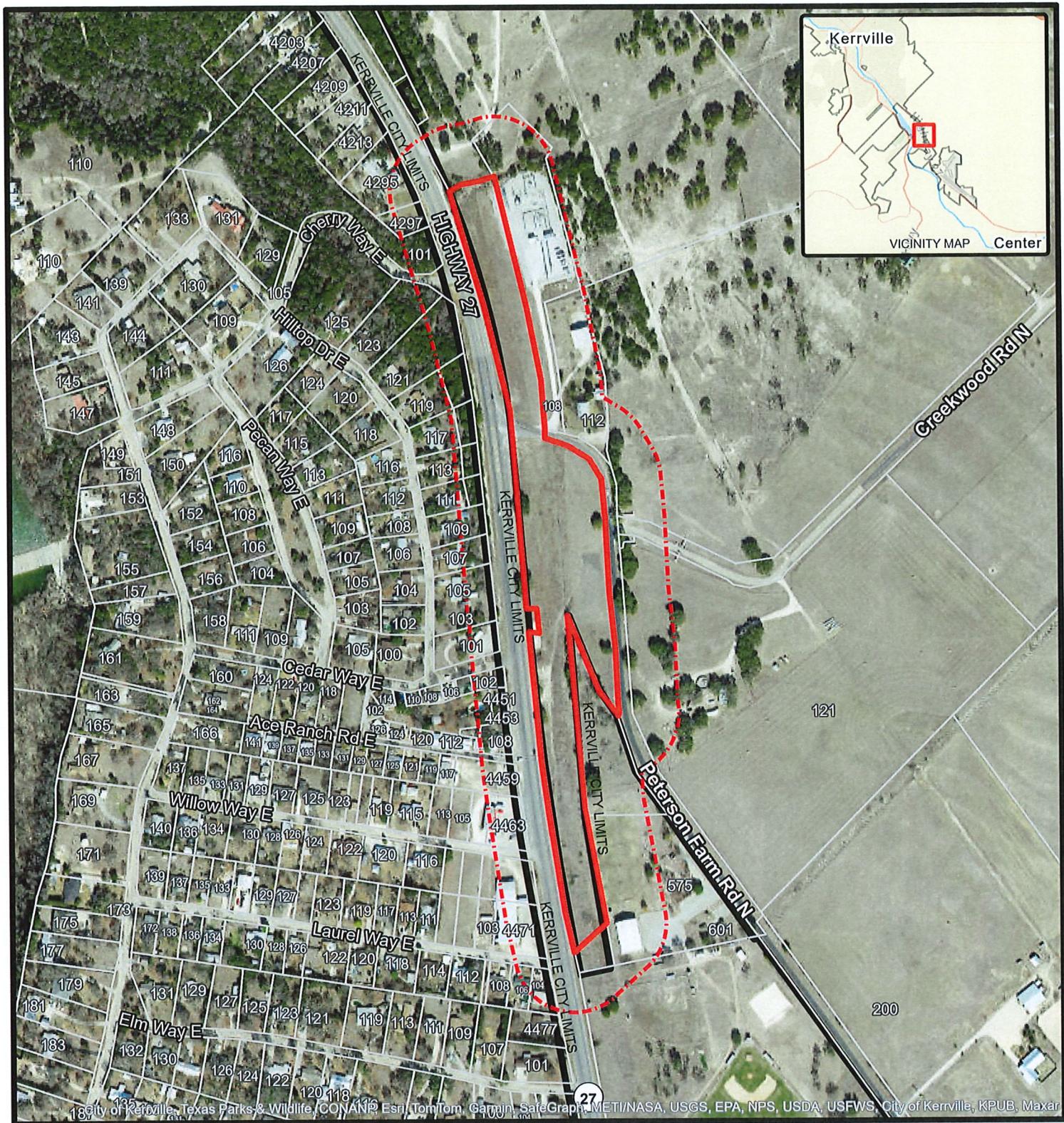
Dated this 26th day of April, 2024

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



**SURVEY PLAT FOR TWO TRACTS OF LAND AS FOLLOWS: 1) 2.02 ACRES OUT OF WM. WATT SURVEY NO. 69, ABSTRACT NO. 367 IN KERR COUNTY, TEXAS; THAT SAME LAND CONVEYED AS TRACT ONE - 2.02 ACRES FROM WM. WATT TO JAMES S. ERNST TO SABINAS PROPERTIES LLC BY A SPECIAL WARRANTY DEED WITH THIRD PARTY VENDOR'S LIEN EXECUTED THE 13TH DAY OF SEPTEMBER, 2018 AND RECORDED IN FILE NO. 18-05998 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; AND 2) 7.10 ACRES OUT OF WM. WATT SURVEY NO. 69, ABSTRACT NO. 367 AND 0.56 ACRES OUT OF W.T. CROOK SURVEY NO. 60, ABSTRACT NO. 368 AND 0.56 ACRES OUT OF W.T. CROOK SURVEY NO. 60, ABSTRACT NO. 368, BOTH SURVEYS IN KERR COUNTY, TEXAS; PART OF A CERTAIN TRACT CONVEYED AS TRACT TWO - 6.99 ACRES FROM JAMES S. ERNST AND JAN ERNST TO SABINAS PROPERTIES LLC BY A SPECIAL WARRANTY DEED WITH THIRD PARTY VENDOR'S LIEN EXECUTED THE 13TH DAY OF SEPTEMBER, 2018 AND RECORDED IN FILE NO. 18-05998 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS**

APRIL 2024



## Location Map

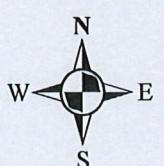
Case #PZ-2024-14

### Location:

Annexation & Zoning Notification Area

### Legend

- Subject Properties
- 200 Feet Notification Area



0 150 300 600

Scale In Feet

05/20/2024

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

EXHIBIT B

PETITION REQUESTING ANNEXATION BY AREA LANDOWNERS

TO THE MAYOR OF THE GOVERNING BODY OF KERRVILLE, TEXAS:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, or on which fewer than three qualified voters reside, hereby [if applicable: waive the requirement to be offered a development agreement pursuant to Section 43.016, and] petition your honorable Body to extend the present city limits so as to include as part of the City of Kerrville, Texas, the following described territory, to wit:

*TERITORY: 2.02 Acres and 7.10 acres (see attached field notes descriptions and plat)*  
(Here describe the territory covered by the petition)

I

We certify that the above described tract of land is contiguous and adjacent to the City of Kerrville, Texas, and that this petition is signed and duly acknowledged by each and every person having an interest in said land.

Signed: *[Signature]*

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

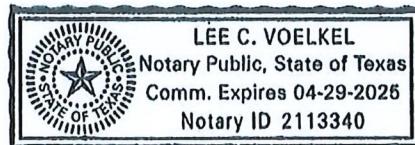
THE STATE OF TEXAS

COUNTY OF *KERR*

BEFORE ME, the undersigned authority, on this day personally appeared *Kash Morrow*, <sup>15</sup> known to me to be the persons whose names are subscribed to the foregoing instrument and each acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office, this 30th day of April,  
2024.

*Lee C. Voelkel*  
Notary Public in and for  
*Kerr* County, Texas.



# EXHIBIT C

## SERVICES AGREEMENT

This Services Agreement (the "Agreement") is entered into between the **CITY OF KERRVILLE, TX**, a Texas Home-Rule Municipal Corporation (the "City") and \_\_\_\_\_, (the "Owner(s)"). The City and the Owner are collectively referred to as the Parties.

**WHEREAS**, pursuant to a lawfully submitted petition for annexation from Owner, City intends to institute annexation proceedings for a tract(s) of land described more fully hereinafter (referred to herein as the "Subject Property"); and,

**WHEREAS**, *Section 43.0672 of the Tex. Loc. Gov't Code* requires a written agreement for the provision of services in the area first be entered into between City and Owner of the Subject Property; and,

**WHEREAS**, City and Owner agree each will benefit from the City's development restrictions and zoning requirements, as well as other municipal services provided by City which are good and valuable consideration for the Owner to request annexation and for the Parties to enter into this Agreement for City to provide the listed services upon annexation and in accordance with this Agreement; and,

**WHEREAS**, it is found that the statutory requirements have been satisfied and City is authorized by *Chapter 43, Tex. Loc. Gov't. Code*, to annex the Subject Property into the City;

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

**Section 1. Property Description.** The legal description of the Subject Property is as set forth in **Exhibit A** (same as provided in Ord. No. 2024-17).

**Section 2. Services.** City will provide the services listed and specified in **Exhibit B**, for the Subject Property on the effective date of annexation of the Subject Property.

**Section 3. Owner's Obligations.** Owner shall not file for approval a subdivision plat, site plan, or related development document with City for the Subject Property or portion thereof; or construct, or allow to be constructed, any building or structure on the Subject Property or portion thereof until City has approved and adopted the ordinance annexing such property.

**Section 4. Term.** The term of this Agreement (the "Term") is ten (10) years from the Effective Date.

**Section 5. Vested Rights Claims.** This Agreement is not a permit for the purposes of Chapter 245, Texas Local Government Code.

**Section 6. Authorization.** All parties and officers signing this Agreement warrant to be duly authorized to execute this Agreement.

**Section 7. Covenant Running with the Land.** This Agreement shall run with the Subject Property, and this Agreement may be recorded in the Official Public Records of Kerr County, Texas. Owner and City acknowledge and agree that this Agreement is binding upon City and Owner and their respective successors, executors, heirs, and assigns, as applicable, for the term of this Agreement.

**Section 8. Severability.** If any provision of this Agreement is held by a court of competent and final jurisdiction to be invalid or unenforceable for any reason, then the remainder of the Agreement shall be deemed to be valid and enforceable as if the invalid portion had not been included.

**Section 9. Amendment and Modifications.** This Agreement may be amended or modified only in a written instrument that is executed by both City and Owner after it has been authorized by the City Council.

**Section 10. Gender, Number, and Headings.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

**Section 11. Governmental Immunity; Defenses.** Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to either City or Owner, including governmental immunity, nor to create any legal rights or claims on behalf of any third party.

**Section 12. Enforcement; Waiver.** This Agreement may be enforced by Owner or the City by any proceeding at law or in equity. Failure to do so shall not be deemed a waiver to enforce the provisions of this Agreement thereafter.

**Section 13. Effect of Future Laws.** No subsequent change in the law regarding annexation shall affect the enforceability of this Agreement.

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

**Section 15. Counterparts.** This Agreement may be separately executed in individual counterparts and, upon execution, shall constitute one and same instrument.

**Section 16. Effective Date.** This Agreement shall be in full force and effect as of the date of approval of this Agreement by the City Council, from and after its execution by the parties.

**Section 17. Sections to Survive Termination.** This Agreement shall survive its termination to the extent necessary for the implementation of the provisions related to water service to the Subject Property by the City.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

STATE OF TEXAS  
COUNTY OF KERR

This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by \_\_\_\_\_, the \_\_\_\_\_, of \_\_\_\_\_

---

Notary Public, State of Texas

## CITY OF KERRVILLE, TX

---

## Dalton Rice, City Manager

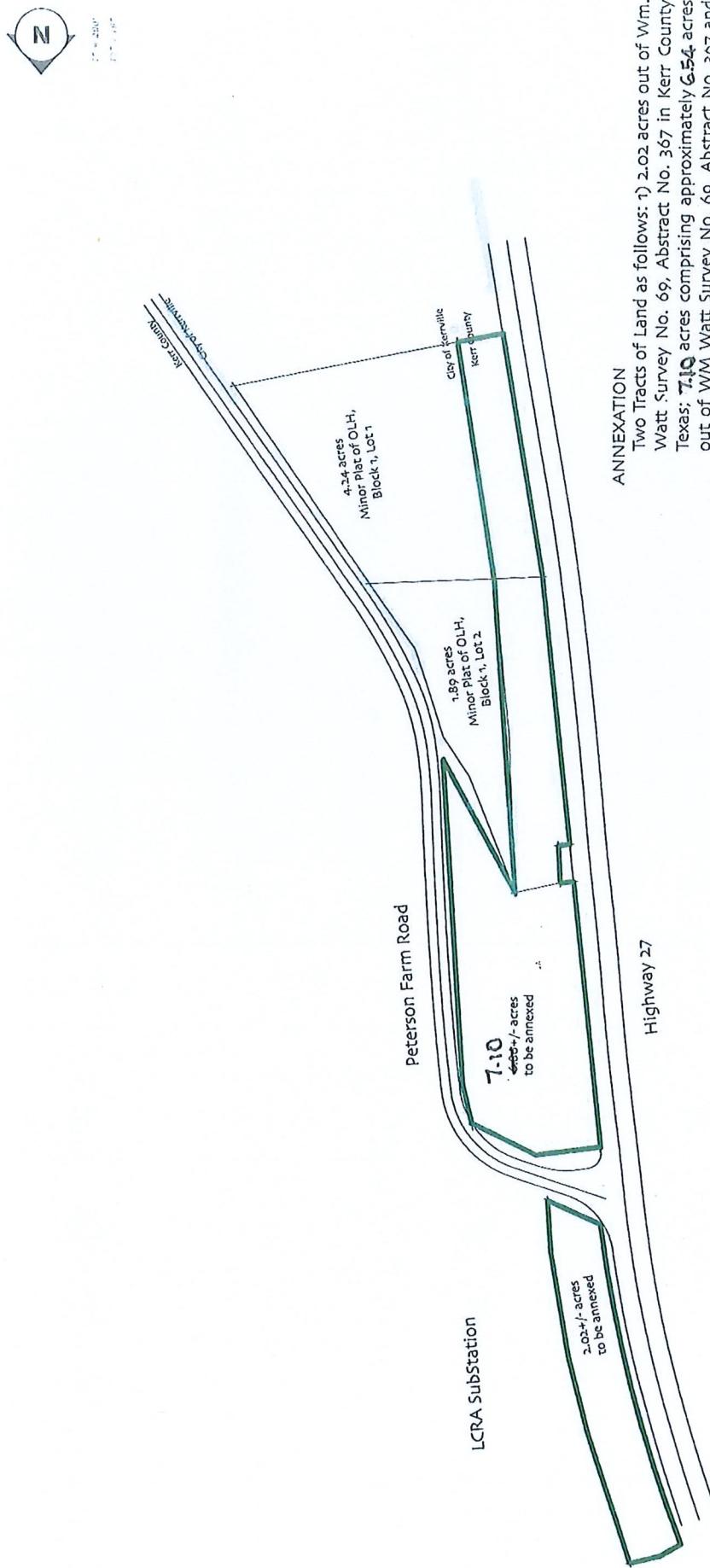
This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_\_, 2024, by Dalton Rice, City Manager, City of Kerrville, Texas.

---

Notary Public, State of Texas

Upon Recording, Return to:  
City of Kerrville, Texas  
City Secretary  
City Hall, 701 Main Street  
Kerrville, Texas 78028

Exhibit A



ANNEXATION

Two Tracts of Land as follows: 1) 2.02 acres out of Wm. Watt Survey No. 69, Abstract No. 367 in Kerr County Texas; **7.10** acres comprising approximately **6.54** acres out of W/M Watt Survey No. 69, Abstract No. 367 and 0.56 acre out of W. T. Crook Survey No. 70, Abstract No. 1134, both surveys in Kerr County, Texas; Conveyed to Sabinas, LLC, and recorded in Kerr County Public Records, Instrument No. 18-05998;

SAVE AND EXCEPT 0.13 acres, more or less, out of W/M Watt Survey No. 69, Abstract No. 367 in Kerr County, Texas; Conveyed to Kerr County and recorded as Instrument No. 19-01051 in the Real property Records of Kerr County, Texas.

**ZONING: the requested zoning is  
IM - Industrial Manufacturing.**

proposed-annexation-zoning-202404 :: annexation exhibit :: 2024.04.22

18-05998

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

SPECIAL WARRANTY DEED  
WITH THIRD PARTY VENDOR'S LIEN

*SUBJECT TRACT*

THE STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:  
COUNTY OF KERR

That We, JAMES S. ERNST and spouse, JAN ERNST, hereinafter referred to as GRANTOR, for and in consideration of the sum of TEN AND NO/100THS (\$10.00) DOLLARS and other valuable consideration to the undersigned paid by SABINAS PROPERTIES LLC, a Texas limited liability company, whose address is 103 Cypress Estates Pkwy, Ingram, Kerr County, Texas 78025-4401, hereinafter referred to as GRANTEE, the receipt of which is hereby acknowledged, and the further consideration of the execution and delivery by the GRANTEE herein of that one certain Promissory Note of even date herewith in the principal sum of ONE HUNDRED SEVENTY FIVE THOUSAND AND NO/100 (\$175,000.00) DOLLARS, payable to the order of BIER SCHWALE CREDIT AND LENDING CO., hereinafter referred to as LENDER, as therein provided and bearing interest at the rate therein specified and providing for acceleration of maturity in event of default and for attorney's fees, the payment of which note is secured by a vendor's lien herein retained, and is additionally secured by a deed of trust of even date herewith to CARROLL J. BRYLA, Trustee, have GRANTED, SOLD AND CONVEYED, and by these presents do GRANT, SELL AND CONVEY unto GRANTEE, all of the following described real property in Kerr County, Texas, including all improvements thereon to-wit:

*Tract One: All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being 2.02 acres, more or less, out of Wm. Watt Survey No. 69, Abstract No. 367; part of a certain 7.22 acre tract conveyed from the Farm Credit Bank of Texas to James S. Ernst and Jan Ernst by a Special Warranty Deed executed April 28, 1994, recorded in Volume 743, Page 642, Real Property Records of Kerr County, Texas, and being more particularly described by metes and bounds as follows in Exhibit "A".*

*Tract Two: All that certain tract or parcel of land, lying and being situated in the County of Kerr, State of Texas, and being 6.99 acres, more or less; comprising approximately 4.90 acres out of a part of a certain 7.22 acre tract conveyed from the Farm Credit Bank of Texas to James S. Ernst and Jan Ernst by a Special Warranty Deed executed April 28, 1994, recorded in Volume 743, Page 642, Real*

1  
FILED BY AND RETURN TO:  
40478  
KERR COUNTY ABSTRACT & TITLE CO.  
712 Earl Garrett Street  
Kerrville, Texas 78028

*Property Records of Kerr County, Texas, and approximately 2.09 acres of land out of a certain 1918.47 acre tract conveyed from the Farm Credit Bank of Texas to James S. Ernst and Jan Ernst by a Special Warranty Deed executed April 28, 1994, recorded in Volume 743, Page 646, Real Property Records of Kerr County, Texas; said 6.99 acres being more particularly described by metes and bounds as follows in Exhibit "A".*

Current ad valorem taxes on said property have been assumed by GRANTEE.

This conveyance is made subject to those items shown on SCHEDULE I attached hereto and made a part hereof to the extent, but only to the extent, the same are valid and subsisting and affect the property.

TO HAVE AND TO HOLD the above described premises, together with all and singular the rights and appurtenances thereto in anywise belonging, unto the said GRANTEE, GRANTEE'S successors and assigns forever; and GRANTOR does hereby bind GRANTOR, GRANTOR'S, heirs, successors and assigns to WARRANT AND FOREVER DEFEND all and singular the said premises unto the said GRANTEE, GRANTEE'S successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through and under Grantor but not otherwise.

But it is expressly agreed that the Vendor's Lien, as well as the Superior Title in and to the above described premises, is retained against the above described property, premises and improvements until the above described note and all interest thereon are fully paid according to the fact, tenor, effect and reading thereof, when this Deed shall become absolute.

LENDER at the instance and request of the GRANTEE herein, having advanced and paid cash to the GRANTOR herein that portion of the purchase price of the herein described property, as is evidenced by the hereinbefore described \$175,000.00 note, the vendor's lien, together with the superior title to said property is retained herein for the benefit of said LENDER, and the same is hereby TRANSFERRED AND ASSIGNED to said LENDER.

EXECUTED to be effective the 14 day of September, 2018.

  
James S. Ernst

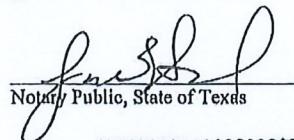
  
Jan Ernst

STATE OF TEXAS

COUNTY OF Kerr

BEFORE ME, the undersigned authority, on this day personally appeared James S. Ernst known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 13 day of September, 2018,

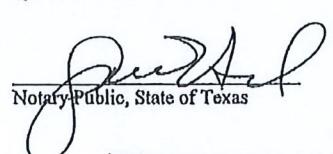
  
Notary Public, State of Texas

STATE OF TEXAS

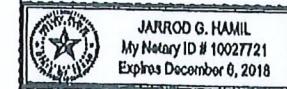
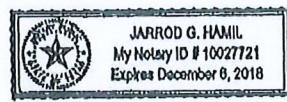
COUNTY OF Kerr

BEFORE ME, the undersigned authority, on this day personally appeared Jan Ernst known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 13 day of September, 2018.

  
Notary Public, State of Texas

After Recording Return to:  
Kerr County Abstract  
GF 40478



TRACT ONE;  
FIELD NOTES DESCRIPTION FOR 2.02 ACRES OF LAND  
OUT OF THE JAMES S. ERNST LAND ALONG STATE  
HIGHWAY NO. 27 IN KERR COUNTY, TEXAS.

## EXHIBIT "A"

Being all of a certain tract or parcel of land containing 2.02 acres, more or less, out of Win. Walt Survey No. 69, Abstract No. 367 in Kerr County, Texas; part of a certain 7.22 acre tract conveyed from the Farm Credit Bank of Texas to James S. Ernst and Jan Ernst by a Special Warranty Deed executed the 28<sup>th</sup> day of April, 1994 and recorded in Volume 743 at Page 642 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a  $\frac{1}{4}$ " iron stake set in the east right-of-way line of State Highway No. 27 for the northwest corner of the herein described tract and said 7.22 acre tract; which point bears, approximately, 3833 ft. South and 6480 ft. West from the east corner of said Survey No. 69;

THENCE, with the north line of said 7.22 acre tract; N60°27'48"E, at 11.58 ft. passing a  $\frac{1}{4}$ " iron stake found for the southwest corner of Lot 2B of Creekwood I-C, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 307 of the Plat Records of Kerr County, Texas, then continuing with the common line between 7.22 acre tract and Lot 2B for a total distance of 53.41 ft. to a found  $\frac{1}{4}$ " iron stake, and N76°40'16"E, continuing with the common line between 7.22 acre tract and Lot 2B, 65.82 ft. to a  $\frac{1}{4}$ " iron stake found for the northeast corner of the herein described tract and 7.22 acre tract, and the northwest corner of a certain 0.964 acre tract conveyed from Southern Pacific Transportation Co. to the Lower Colorado River Authority by a Warranty Deed executed the 1<sup>st</sup> day of March, 1973 and recorded in Volume 162 at Page 322 of the Deed Records of Kerr County, Texas;

THENCE, with the common line between said 7.22 and 0.964 acre tracts; S18°40'57"E, 299.89 ft. to a found  $\frac{1}{4}$ " iron stake; S14°41'05"E, 165.00 ft. to a found  $\frac{1}{4}$ " iron stake; S10°09'27"E, 222.10 ft. to a found  $\frac{1}{4}$ " iron stake; and S04°04'39"E, 112.83 ft. to a  $\frac{1}{4}$ " iron stake found in the northeast right-of-way line of Peterson Farm Road, a public road dedicated by the plat of Creekwood I, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 214 of the Plat Records of Kerr County for the southeast corner of the herein described tract;

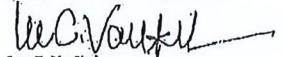
THENCE, upon, over and across said 7.22 acre tract with the northeast right-of-way line of said Peterson Farm Road N66°30'41"W, 127.70 ft. to a  $\frac{1}{4}$ " iron stake set in the west line of 7.22 acre tract and east right-of-way line of State Highway No. 27 for the southwest corner of the herein described tract;

THENCE, with the west line of said 7.22 acre tract along the east right-of-way line of said State Highway No. 27, 707.15 ft. along the arc of a 01°58' curve to the left subtended by a 13°53'58" central and 291.50 ft. radius (long chord: N14°39'22"W, 705.42 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 herein as determined by a survey made on the ground under my direction and supervision, except no survey was made to reestablish Patent Survey lines or corners; and that all property corners are as shown. (Bearing basis = True north based on GPS observations)

Date Surveyed: August 3, 2018

Dated this 20<sup>th</sup> day of August, 2018

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



VOELKEL	LAND SURVEYING, PLLC	PHONE: 830-257-3313	212 CLAY STREET, KERRVILLE, TEXAS 78028
Firm Registration # 100520-00			

**TRACT TWO:**  
 FIELD NOTES DESCRIPTION FOR 6.99 ACRES OF LAND  
 OUT OF THE JAMES S. ERNST LAND ALONG STATE  
 HIGHWAY NO. 27 IN KERR COUNTY, TEXAS

**EXHIBIT "A"**

Being all of a certain tract or parcel of land containing 6.99 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
69	Wm. Walt	367	6.43
70	W.T. Crook	113	0.56

comprising approximately 4.90 acres of land out of a certain 7.22 acre tract conveyed from the Farm Credit Bank of Texas to James S. Ernst and Jan Ernst by a Special Warranty Deed executed the 28<sup>th</sup> day of April, 1994 and recorded in Volume 743 at Page 642 of the Real Property Records of Kerr County, Texas and approximately 2.09 acres of land out of a certain 1918.47 acre tract conveyed from the Farm Credit Bank of Texas to James S. Ernst and Jan Ernst by a Special Warranty Deed with Vendor's Lien executed the 28<sup>th</sup> day of April, 1994 and recorded in Volume 743 at Page 646 of the Real Property Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGING at a fence cornerpost in the east right-of-way line of State Highway No. 27 for the southwest corner of the herein described tract and said 7.22 acre tract, and the northwest corner of Lot 7 of Los Pioneros Estates, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 253 of the Plat Records of Kerr County, Texas; which point bears, approximately, 5674 ft. South and 5356 ft. West from the north corner of said Survey No. 70;

THENCE, with the west line of said 7.22 acre tract along the east right-of-way line of said State Highway No. 27; N10°19'58" W, 349.69 ft. to a 1/2" iron stake set near a broken right-of-way marker at the beginning of a 01°00' curve to the right; 411.40 ft. along the arc of said curve to the right subtended by a 04°09'00" central angle and 5679.83 ft. radius (long chord: N08°10'30" W, 411.31 ft.) to a 1/2" iron stake set at its end; and N06°06'00" W, 342.18 ft. to a 1/2" iron stake found at a chain link fence cornerpost for a westerly corner of the herein described tract and 7.22 acre tract; and the southwest corner of a certain 2264 sq. ft. tract owned by Lone Star Gas Company;

THENCE, along a chain link fence with the common line between said 7.22 acre tract and 2264 sq. ft. tract; N83°56'23" E, 26.58 ft. to a 1/2" iron stake found at a chain link fence cornerpost for a reentrant corner of the herein described tract and 7.22 acre tract, and the southeast corner of 2264 sq. ft. tract; N03°29'44" W, 79.97 ft. to a chain link fence cornerpost for a reentrant corner of the herein described tract and 7.22 acre tract, and the northeast corner of 2264 sq. ft. tract; and S84°22'46" W, 29.72 ft. to a chain link fence cornerpost in the east right-of-way line of said State Highway No. 27 for a westerly corner of the herein described tract and 7.22 acre tract, and the northwest corner of 2264 sq. ft. tract;

THENCE, with the west line of said 7.22 acre tract along the east right-of-way line of State Highway No. 27, N06°07'00" W, 652.20 ft. to a 1/2" iron stake found at the intersection of the east right-of-way line of State Highway No. 27 and the southwest right-of-way line of Peterson Farm Road, a public road dedicated by the plat of Creekwood I, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 214 of the Plat Records of Kerr County, Texas for the northwest corner of the herein described tract;

THENCE, upon, over and across said 7.22 acre tract with the southwest right-of-way line of said Peterson Farm Road S66°30'41" E, at approximately 176.3 ft. passing the common line between 7.22 acre tract and said 1918.47 acre tract, then continuing upon, over and across 1918.47 acre tract for a total distance of 312.77 ft. to a 1/2" iron stake found for the northeast corner of the herein described tract;

THENCE, continuing upon, over and across said 1918.47 acre tract with the west right-of-way line of said Peterson Farm Road; S14°36'44" E, 83.10 ft. to a found 1/4" iron stake; and S03°32'47" E, 704.23 ft. to a 1/2" iron stake found in the south line of 1918.47 acre tract for the easterly southeasterly corner of the herein described tract;

THENCE, with the south line of said 1918.47 acre tract N29°05'44" W, 324.51 ft. to a 1/2" iron stake found in the east line of said 7.22 acre tract for a reentrant corner of the herein described tract;

**VogelKEL**

LAND SURVEYING, PLLC • PHONE: 830-267-3313 • 212 CLAY STREET, KERRVILLE, TEXAS 78028

Firm Registration No. 100528-00

## EXHIBIT "A"

Page 2... FIELD NOTES DESCRIPTION FOR 6.99 ACRES  
OF LAND OUT OF THE JAMES S. BRNST LAND  
ALONG STATE HIGHWAY NO. 27 IN KERR  
COUNTY, TEXAS

THENCE, along or near a fence with the east line of said 7.22 acre tract; S02°40'09"E, 337.43 ft. to a found 1/4" iron stake; S05°53'21"E, 316.61 ft. to a found 1/4" iron stake; and S09°26'18"E, 531.06 ft. to a fence cornerpost in the north line of said Lot 7 of Los Promedios Estates for the southeast corner of the herein described tract and 7.22 acre tract;

THENCE, along a fence with the common line between said 7.22 acre tract and Lot 7, S78°41'02"W, 99.81 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)

Date Surveyed: August 3, 2018

Dated this 20<sup>th</sup> day of August, 2018

*Lee C. Voelkel*  
Lee C. Voelkel  
Registered Professional Land Surveyor No. 391  
County Surveyor for Kerr County, Texas



VOELKEL	LAND SURVEYING, PLLC • PHONE: 320-267-0313 • 212 OLAY STREET, KERRVILLE, TEXAS 78028
---------	--

Firm Registration No. 100520-00

## SCHEDULE I

Height Restrictions of the airport zoning act articles 46B-1 and 46B-15 inclusive VACS  
Volume 757, Page 2; Volume 761, Page 243; Volume 761, Page 246; Volume 789, Page 671; Volume  
836, Page 587 and Volume 1302, Page 444, Real Property Records of Kerr County, Texas.

Minerals conveyed in deed dated December 17, 1970, executed by Southern Pacific Transportation  
Company to Bravo Oil Company recorded in Volume 16, Page 437, Oil & Gas Records of Kerr County,  
Texas.

Minerals reserved by the Hal and Charlie Peterson Foundation, recorded in Volume 135, Page 566,  
Deed Records of Kerr County, Texas.

Gas line easement to Lone Star Gas Co., recorded in Volume 1, Page 405, Easement Records of Kerr  
County, Texas, and as amended in Volume 836, Page 587, Real Property Records of Kerr County,  
Texas.

Electric line easement to LCRA, recorded in Volume 4, Page 58, Basement Records of Kerr County,  
Texas.

Gas line easement to Lone Star Gas Co., recorded in Volume 4, Page 204, Easement Records of Kerr  
County, Texas.

Electric line easement and right of way easement to LCRA, recorded in Volume 16, Page 231, Easement  
Records of Kerr County, Texas.

Electric line easement to LCRA, recorded in Volume 75, Page 218, Deed Records of Kerr County,  
Texas.

Basement to Southwestern Bell Telephone Company, recorded in Volume 3, Page 310 and Volume 7,  
Page 541, Basement Records of Kerr County, Texas.

Road right of way granted to The Farm Credit Bank of Texas as recorded in Volume 756, Page 839,  
Real Property Records of Kerr County, Texas.

Easement to City of Kerrville, dated December 21, 1998, recorded in Volume 988, Page 542, Real  
Property Records of Kerr County, Texas.

Overhead utilities, gas line, and all matters, as shown on plat of survey dated August 21, 2018 by Lee C. Voelkel, R.P.L.S. No. 3909.

Property lying inside the fenceline, but outside the property line, as shown on plat of survey dated August 21, 2018 by Lee C. Voelkel, R.P.L.S. No. 3909.

All leases, grants, exceptions or reservations of coal, lignite, oil, gas and other minerals, together with all rights, privileges, and immunities relating thereto, appearing in the Public Records whether listed in or not. There may be leases, grants, exceptions or reservations of mineral interest that are not listed.

Any visible and/or apparent roadways or easements over or across the subject property.



FIELD NOTES DESCRIPTION FOR 2.02 ACRES OF LAND  
OUT OF THE SABINAS PROPERTIES LLC LAND ALONG  
STATE HIGHWAY NO. 27 AND PETERSON FARM ROAD  
IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 2.02 acres, more or less, out of Wm. Watt Survey No. 69, Abstract No. 367 in Kerr County, Texas; that same land conveyed as TRACT ONE – 2.02 acres from James S. Ernst and Jan Ernst to Sabinas Properties LLC by a Special Warranty Deed with Third Party Vendor's Lien executed the 13<sup>th</sup> day of September, 2018 and recorded in File No. 18-05998 of the Official Public Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a  $\frac{1}{2}$ " iron stake set in the east right-of-way line of State Highway No. 27 for the northwest corner of the herein described tract and said TRACT ONE; which point bears, approximately, 3833 ft. South and 6480 ft. West from the east corner of said Survey No. 69;

THENCE, with the north line of said TRACT ONE: N60°27'45"E, at 11.58 ft. passing a  $\frac{1}{2}$ " iron stake found for the southwest corner of Lot 2B of Creekwood I-C, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 307 of the Plat Records of Kerr County, Texas, then continuing with the common line between TRACT ONE and Lot 2B for a total distance of 53.41 ft. to a found  $\frac{1}{2}$ " iron stake; and N76°40'19"E, continuing with the common line between TRACT ONE and Lot 2B, 65.82 ft. to a  $\frac{1}{2}$ " iron stake found for the northeast corner of the herein described tract and TRACT ONE, and the northwest corner of a certain 0.964 acre tract conveyed from Southern Pacific Transportation Co. to the Lower Colorado River Authority by a Warranty Deed executed the 1<sup>st</sup> day of March, 1973 and recorded in Volume 162 at Page 322 of the Deed Records of Kerr County, Texas;

THENCE, with the common line between said TRACT ONE and 0.964 acre tract: S18°40'57"E, 299.89 ft. to a found  $\frac{1}{2}$ " iron stake; S14°41'05"E, 165.00 ft. to a found  $\frac{1}{2}$ " iron stake; S10°09'27"E, 222.10 ft. to a found  $\frac{1}{2}$ " iron stake; and S04°04'39"E, 112.83 ft. to a  $\frac{1}{2}$ " iron stake found in the northeast right-of-way line of Peterson Farm Road, a public road dedicated by the plat of Creekwood I, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 214 of the Plat Records of Kerr County for the southeast corner of the herein described tract and TRACT ONE, and the southwest corner of 0.964 acre tract;

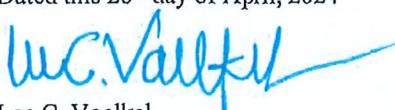
THENCE, with the south line of said TRACT ONE along the northeast right-of-way line of said Peterson Farm Road N66°30'41"W, 127.70 ft. to a  $\frac{1}{2}$ " iron stake set in the east right-of-way line of State Highway No. 27 for the southwest corner of the herein described tract and TRACT ONE;

THENCE, with the west line of said TRACT ONE along the east right-of-way line of said State Highway No. 27, 707.15 ft. along the arc of a 01°58' curve to the left subtended by a 13°53'58" central angle and 2915.00 ft. radius (long chord: N14°39'22"W, 705.42 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. All set  $\frac{1}{2}$ " iron stakes are marked with a red plastic cap inscribed with "Voelkel Surveying". (Bearing basis = True north based on GPS observations)

Date Surveyed: March 11, 2024

Dated this 26<sup>th</sup> day of April, 2024



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



FIELD NOTES DESCRIPTION FOR 7.10 ACRES OF LAND  
OUT OF THE SABINAS PROPERTIES LLC LAND ALONG  
STATE HIGHWAY NO. 27 AND PETERSON FARM ROAD  
IN KERR COUNTY, TEXAS

Being all of a certain tract or parcel of land containing 7.10 acres, more or less, out of Original Patent Surveys in Kerr County, Texas as follows:

Survey No.	Survey	Abstract No.	Acres
69	Wm. Watt	367	6.54
70	W.T. Crook	113	0.56

part of a certain tract conveyed as TRACT TWO – 6.99 acres from James S. Ernst and Jan Ernst to Sabinas Properties LLC by a Special Warranty Deed with Third Party Vendor's Lien executed the 13<sup>th</sup> day of September, 2018 and recorded in File No. 18-05998 of the Official Public Records of Kerr County, Texas; and being more particularly described by metes and bounds as follows:

BEGINNING at a fence cornerpost in the east right-of-way line of State Highway No. 27 for the southwest corner of the herein described tract and said TRACT TWO, and the northwest corner of Lot 7 of Los Premiados Estates, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 253 of the Plat Records of Kerr County, Texas; which point bears, approximately, 5674 ft. South and 5356 ft. West from the north corner of said Survey No. 70;

THENCE, with the west line of said TRACT TWO along the east right-of-way line of said State Highway No. 27: N10°18'57"W, 349.70 ft. to a ½" iron stake found near a broken right-of-way marker at the beginning of a 01°00' curve to the right; 411.23 ft. along the arc of said curve to the right subtended by a 04°08'54" central angle and 5679.83 ft. radius (long chord: N08°11'25"W, 411.14 ft.) to a ½" iron stake set at its end; and N06°06'00"W, 342.34 ft. to a ½" iron stake found at a chain link fence cornerpost for a westerly corner of the herein described tract and TRACT TWO, and the southwest corner of a certain 2264 sq. ft. tract owned by Lone Star Gas Company;

THENCE, along a chain link fence with the common line between said TRACT TWO and 2264 sq. ft. tract: N83°56'23"E, 26.58 ft. to a ½" iron stake found at a chain link fence cornerpost for a reentrant corner of the herein described tract and TRACT TWO, and the southeast corner of 2264 sq. ft. tract; N03°29'44"W, 79.97 ft. to a chain link fence cornerpost for a reentrant corner of the herein described tract and TRACT TWO, and the northeast corner of 2264 sq. ft. tract; and S84°22'46"W, 29.72 ft. to a chain link fence cornerpost in the east right-of-way line of said State Highway No. 27 for a westerly corner of the herein described tract and TRACT TWO, and the northwest corner of 2264 sq. ft. tract;

THENCE, with the west line of said TRACT TWO along the east right-of-way line of State Highway No. 27, N06°07'00"W, 572.20 ft. to a ½" iron stake found for the northwest corner of the herein described tract and the southwest corner of a certain 0.13 acre tract conveyed from Sabinas Properties LLC to Kerr County by a Warranty Deed executed the 13<sup>th</sup> day of February, 2019 and recorded in File No. 19-01051 of the Official Public Records of Kerr County, Texas;

THENCE, upon, over and across said TRACT TWO with the south line of said 0.13 acre tract N83°52'59"E, 140.80 ft. to a ½" iron stake found in the east line of TRACT TWO and the west right-of-way line of Peterson Farm Road, a public road dedicated by the plat of Creekwood I, a subdivision of Kerr County according to the plat of record in Volume 6 at Page 214 of the Plat Records of Kerr County, Texas;

THENCE, with the east line of said TRACT TWO along the west right-of-way line of said Peterson Farm Road: S66°30'40"E, 150.84 ft. to a found ½" iron stake; S14°36'44"E, 83.10 ft. to a found ½" iron stake; and S03°52'47"E, 704.23 ft. to a ½" iron stake found for the easterly southeast corner of TRACT TWO;

THENCE, continuing along the west right-of-way line of said Peterson Farm Road S01°56'04"E, 47.90 ft. to a ½" iron stake set in the east line of Lot No. 2 in Block One of OLH, a subdivision of Kerr County according to the plat of record in Volume 7 at Page 158 of the Plat Records of Kerr County, Texas;

THENCE, with the east line of said Lot No. 2: N34°01'24"W, 102.68 ft. to a set ½" iron stake; and N22°09'04"W, 265.58 ft. to a fencepost for a reentrant corner of the herein described tract and the north corner of Lot No. 2;

THENCE, near a fence with the west line of said Lot No. 2, S04°13'20"E, 672.25 ft. to a ½" iron stake set in the east line of said TRACT TWO for the southwest corner of Lot No. 2 and the northwest corner of Lot No. 1 in Block One of said OLH;

Page 2... FIELD NOTES DESCRIPTION FOR 7.10 ACRES  
OF LAND OUT OF THE SABINAS PROPERTIES  
LLC LAND ALONG STATE HIGHWAY NO. 27  
AND PETERSON FARM ROAD IN KERR  
COUNTY, TEXAS

THENCE, along a fence with the common line between said TRACT TWO and Lot No. 1, S09°26'18"E, 512.03 ft. to a fence cornerpost in the north line of said Lot 7 of Los Premiados Estates for the southerly southeast corner of the herein described tract and TRACT TWO, and the southwest corner of Lot No. 1;

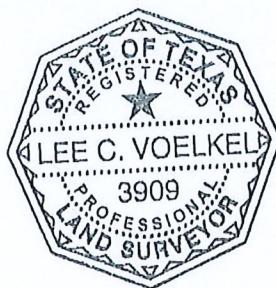
THENCE, along a fence with the common line between said TRACT TWO and Lot 7, S78°41'02"W, 99.81 ft. to the PLACE OF BEGINNING.

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. All set  $\frac{1}{2}$ " iron stakes are marked with a red plastic cap inscribed with "Voelkel Surveying". (Bearing basis = True north based on GPS observations)

Date Surveyed: March 11, 2024

Dated this 26<sup>th</sup> day of April, 2024

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



**EXHIBIT B**  
**ANNEXATION SERVICE PLAN**

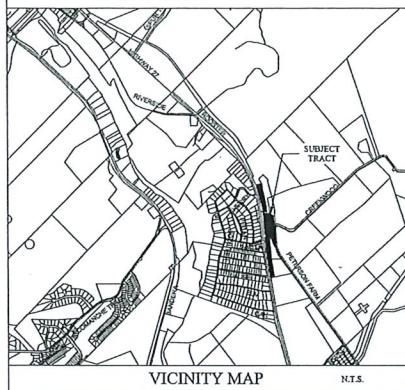
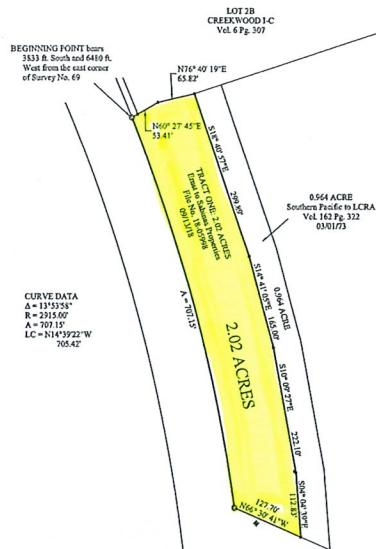
- I. INTRODUCTION:** This Service Plan for the extension of municipal services to the area to be annexed was developed in accordance with state law. Municipal facilities and services to the annexed area will be provided or made available on behalf of the City of Kerrville, Texas ("City") at the levels and schedule specified below.
- II. UNIFORM LEVEL OF SERVICES:** The City shall provide services by any of the methods by which it extends the services to any other area of the municipality, based upon differing characteristics of topography, land use, and population density, which may be considered a sufficient basis for providing differing levels of service.
- III. SPECIFIC FINDINGS:** City Council finds and determines that this Service Plan, as provided below, will provide full municipal services to the annexed area both adequate to serve the annexed area and commensurate with the levels of services provided in other parts of the City with the same or similar topography, land use, and population density, and it will not provide a lower level of service in the annexed area than were in existence at the time immediately preceding the effective date of annexation.

<b>SERVICE</b>	<b>DETAILS OF SERVICE PROVIDED</b>	<b>TIMETABLE</b>
<b>Code Enforcement</b>	The provisions of Code Enforcement services, including the application and enforcement of building, electrical, plumbing, and other related code requirements adopted by the City shall be made immediately to the area upon annexation. The adoption of zoning plan shall be in accordance with the procedures of the City's Zoning Code.	Immediately following annexation, zoning to be concurrent with annexation
<b>Fire Protection and Emergency Medical Services (EMS)</b>	Fire protection and emergency medical services will be provided to the annexed area. The City will serve the annexed area from existing fire stations closest to the area of annexation. Emergency dispatch assignment of Fire Services resources to the annexed area would be the same as currently provided in areas of similar land use and population within the City.	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
<b>Fire Prevention</b>	The services of the City's Fire Marshall shall be provided to the area.	Immediately following annexation.
<b>Library</b>	Residents of the area, if any, will continue to be entitled to utilize the City's Library facilities.	Immediately following annexation.
<b>Parks and Recreation Facilities</b>	The City will maintain park and recreation facilities located within the annexed area, if any, on the effective date of annexation on the same basis and at the same level as similar facilities are maintained throughout the City.	Immediately following annexation
<b>Police Protection</b>	Police Services will provide protection and law enforcement services to the annexed area. The level of service will be at the same level as currently provided in areas of similar land use and population within the City. These services include the following: 1) regular patrol of the area, 2) handling of complaints and incidents, 3) traffic enforcement, and 4) special units, such as criminal investigations, narcotics, crime prevention, neighborhood services, and special weapons and tactics.	Immediately following annexation
<b>Maintenance of Existing Roads &amp; Streets</b>	<p>The City's Public Works Department will maintain existing roads and streets, drainage, and regulatory signs on the effective date of annexation. The same basis and level of services currently provided throughout the City will be adhered to as follows:</p> <ol style="list-style-type: none"> <li data-bbox="540 1685 1155 1837">1. Emergency maintenance of streets to include repair of hazardous potholes, ice and snow monitoring of major thoroughfares necessary for traffic flow.</li> </ol>	Immediately following annexation

SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
	<p>2. Routine maintenance of public streets and rights-of-way performed within the City.</p> <p>3. Street sweeping services may occur based upon need and funding.</p> <p>4. Installation and maintenance of traffic signs, street markings, and other traffic control devices as the need is established by appropriate study and traffic standards. Private streets, including ingress/egress easements, access easements, common areas, common driveways and anything else which has not been specifically dedicated and accepted as public right-of-way, will not be maintained by the City. Public streets will be included in the City's preventive maintenance program. Preventive maintenance projects are prioritized and scheduled based on a variety of factors, including surface condition, transversibility, age, traffic volume, density of dwellings per block, adjacent street conditions, and available funding. Any necessary rehabilitation or reconstruction will be considered on a citywide priority basis.</p>	
<b>Solid Waste Collection</b>	Solid Waste collection to the annexed area will be provided on the same basis and at the same level as provided throughout the City, in accordance with applicable law.	Immediately following annexation
<b>Traffic Engineering</b>	Traffic control devices and street markers shall be installed where deemed necessary by the City street department, except as provided by the Texas Department of Transportation.	Immediately following annexation

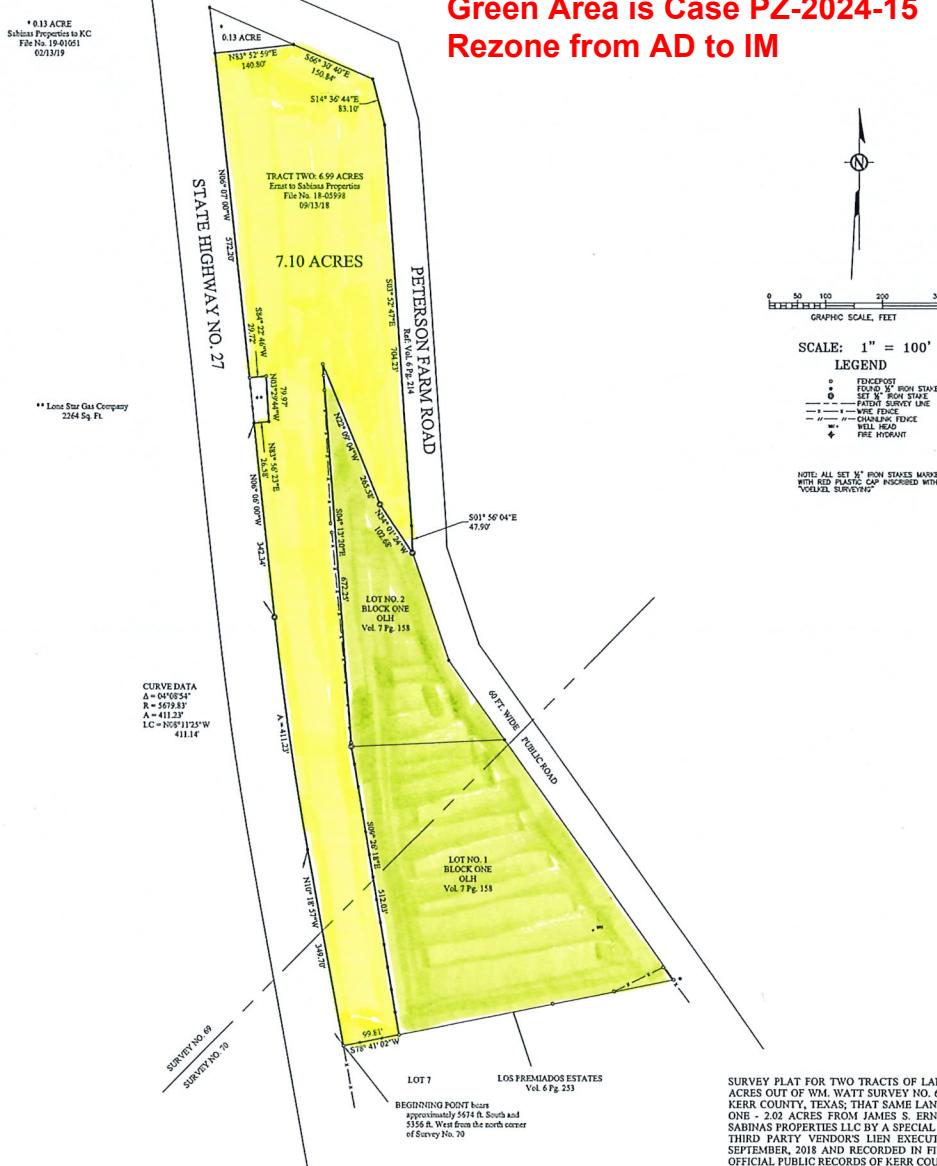
SERVICE	DETAILS OF SERVICE PROVIDED	TIMETABLE
<b>Water Service</b>	<p>The City will provide for the maintenance of City-owned public water lines within the annexed area provided that the area is within the City's Certificate of Convenience and Necessity area as determined by the Public Utility Commission (PUC) beginning on the effective date of the annexation. Water service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that water extensions are the responsibility of the developer of property will be applied in this area.</p>	As the property develops
<b>Wastewater Service</b>	<p>The City will provide for the maintenance of sanitary sewer lines within the annexed area beginning on the effective date of the annexation. Sanitary sewer service is provided at the same level as currently provided in areas of similar topography, land use, and population within the City. The City's policy that sanitary sewer extensions are the responsibility of the developer of property will be applied to this area. Maintenance of all parts of the sewer system will begin as those parts are put into service. The sewer system will be maintained with the same frequency and level of effort as comparable parts of the system in other parts of the City.</p>	As the property develops
<b>Provision for Other City Services</b>	<p>Other City services that may be provided by the City such as planning, inspection, animal control, municipal court, and general administration will be made available on the same basis and at the same level as provided throughout the City.</p>	Immediately following annexation



FILE NO.

## Yellow Area is Case PZ-2024-14 Annexation & Zoning to IM

## Green Area is Case PZ-2024-15 Rezone from AD to IM



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

Date Surveyed. March 11, 2024

Dated this 26th day of April, 2024

Done this 26th day of April, 2024  
  
Lee C. Vosfels  
Executive Professional Manager, Inc., C.P.A., No. 200



BEGINNING POINT bears  
approximately 5674 ft. South and  
5356 ft. West from the north corner  
of Survey No. 20.

SURVEY PLAT FOR TWO TRACTS OF LAND AS FOLLOWS: 1) 2.02 ACRES OUT OF WM. WATT SURVEY NO. 69, ABSTRACT NO. 367 IN KERR COUNTY, TEXAS, PART OF SATURDAY, NO. 11, TRACT ONE - 2.02 ACRES FROM JAMES S. ERNST AND JAN ERNST TO SABINAS PROPERTIES LLC BY A SPECIAL WARRANTY DEED WITH THIRD PARTY VENDOR'S LIEN EXECUTED THE 13TH DAY OF SEPTEMBER, 2018 AND RECORDED IN FILE NO. 18-05998 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; AND 2) 7.10 ACRES COMPRISING APPROXIMATELY .54 ACRES OUT OF WM. WATT SURVEY NO. 69, ABSTRACT NO. 367 IN KERR COUNTY, TEXAS, PART OF CROW GROUP, NO. 11, LOT 10, SURVEY OF CROW GROUP, NO. 11, ABSTRACT NO. 113, BOTH SURVEYS IN KERR COUNTY, TEXAS; PART OF A CERTAIN TRACT CONVEYED AS TRACT TWO - .69 ACRES FROM JAMES S. ERNST AND JAN ERNST TO SABINAS PROPERTIES LLC BY A SPECIAL WARRANTY DEED WITH THIRD PARTY VENDOR'S LIEN EXECUTED THE 13TH DAY OF SEPTEMBER, 2018 AND RECORDED IN FILE NO. 18-05998 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS

APRIL 2024

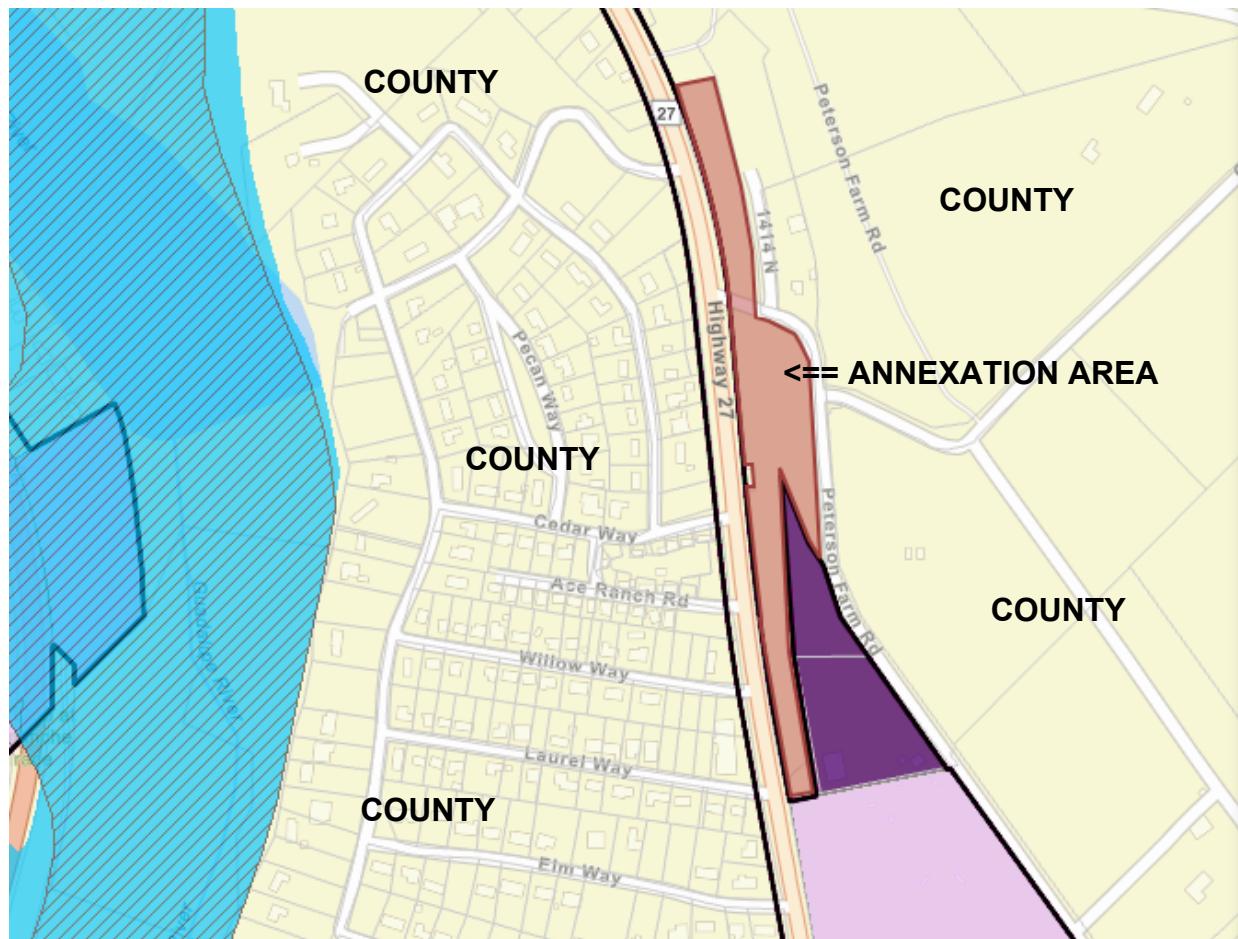


V-7123 Subclass 2-02 AETIS 7-18 Assess Peterson Farm Board April 2024 due

## Current Zoning

Case PZ-2024-14

### Annexation & Zoning to IM Industrial & Manufacturing



#### Current Zoning District

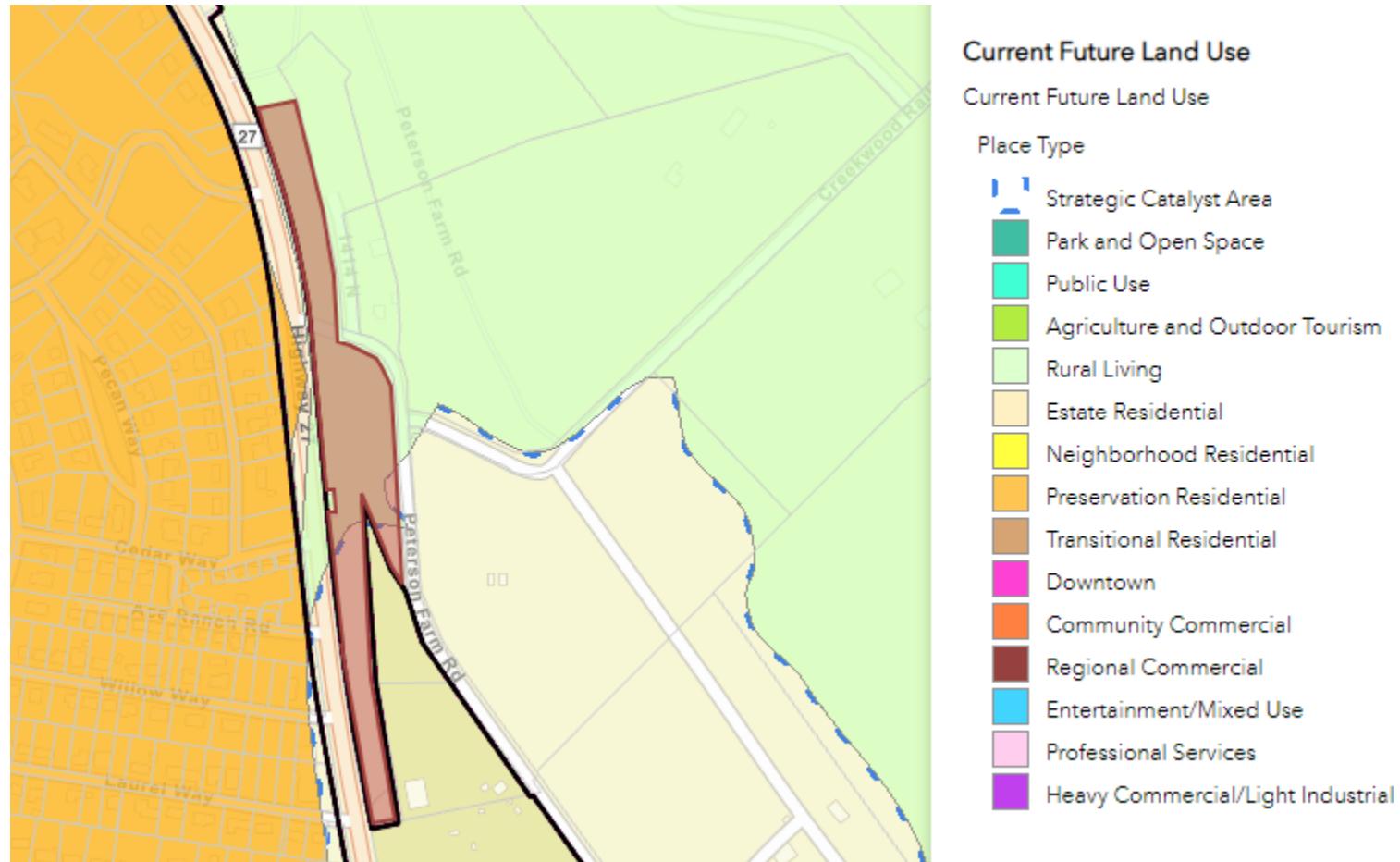
#### Current Zoning District

- RE Estate Residential
- R-1 Single-Family Residential
- R-1A Single-Family Residential with Accessory Dwelling Unit
- R-2 Medium Density Residential
- R-3 Multifamily Residential
- RM Residential Mix
- RT Residential Transition
- C-1 Neighborhood Commercial
- C-2 Light Commercial
- C-3 General Commercial
- IM Industrial and Manufacturing
- DAC Downtown Arts and Culture
- MU Mixed Use
- PD Planned Development
- PI Public and Institutional
- AD Airport
- AG Agriculture
- DC Downtown Core

## Current Future Land Use Map (K2050)

Case PZ-2024-14

Annexation & Zoning to IM Industrial & Manufacturing





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

---

**SUBJECT:** Ordinance No. 2024-18, second reading. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code, by changing the zoning of the properties known as 575 and 601 Peterson Farm Road from an Airport Zoning District to an Industrial and Manufacturing Zoning District; and providing other matters relating to the subject. (*D Paxton, Director of Planning & Development*).

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 10, 2024

**SUBMITTED BY:** Drew Paxton, Planning Director

**EXHIBITS:**

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

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

---

**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

**Proposal:** An ordinance to change the zoning from AD Airport District to IM Industrial and Manufacturing on OLH Block 1 (St Ignatius Regional Catholic High School) Lot 1, 4.24 Acres, and Lot 2, 1.89 Acres; and more commonly known as 575 and 601 Peterson Farm Road (KerrCAD Property ID 68387 and 68388), Kerrville, Texas.

(Case No. PZ-2024-15)

The applicant requests a zoning change from AD Airport District to IM Industrial and Manufacturing to allow more flexibility with future development and to be consistent with the annexation and zoning request for the adjacent property (Case PZ-2024-14). If both the annexation and zoning of adjacent property (Case PZ-2024-14) are approved along with the rezoning of this property (Case PZ-2024-15), the combined properties will be platted into developable lots for future development under the IM Industrial and Manufacturing zoning regulations.

**Procedural Requirements:** The City, in accordance with state law, mailed 8 letters on 5/23/2024 to adjacent property owners. The City published a similar notice in the Kerrville Daily Times on 5/16/2024. In addition, a public hearing notification sign was posted on the property frontage on 5/24/2024. At the time of drafting this agenda bill, no public comments had been received.

### **Staff Analysis and Recommendation**

**Consistency with the Kerrville 2050 Comprehensive Plan:** The property is located within the Strategic Catalyst Area No. 11 (SCA 11), characterized by the Kerrville Municipal Airport and Hwy 27. Future growth will capitalize on the airport and its industrial space while keeping a careful eye on the effect of these activities on nearby neighborhoods. Allowable place types in this location are Heavy Commercial and Light Industrial, both of which fall under IM Industrial and Manufacturing. SCA 11 appears to support the requested zoning change. As such, this request is consistent with the goals of the Kerrville 2050 Comprehensive Plan.

### **Adjacent Zoning and Land Uses:**

Subject Property

Current Zoning: AD Airport District

Existing Land Uses: Vacant

Direction: **North**

Current Zoning: None (County); Annexation & Zoning (Case PZ-2024-14)

Existing Land Uses: Vacant

Direction: **South**

Current Zoning: PDD (Our Lady of the Hills)

Existing Land Uses: Our Lady of the Hills

Direction: **West**

Current Zoning: None (County); Annexation & Zoning (Case PZ-2024-14)

Existing Land Uses: Vacant

Direction: **East**

Current Zoning: None (County)

## Existing Land Uses: Rural Residential

**Thoroughfare Plan:** There is no impact on the thoroughfare system.

**Traffic Impact:** There should be no traffic impact, however, a traffic study may be required as part of the final project development. Any costs associated with traffic impact mitigation will be the responsibility of the developer.

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

**Recommendation:** Based on consistency with the Kerrville 2050 Comprehensive Plan, staff recommends the case for approval.

On June 6th, the Planning and Zoning Commission recommended the case for approval with a unanimous vote.

On July 09, 2024, City Council unanimously approved Ordinance No. 2024-17 on first reading. No speakers or citizens spoke during the public hearing.

### **RECOMMENDED ACTION:**

Approve Ordinance No. 2024-18 on second reading.

### **ATTACHMENTS:**

[\*20240723\\_Ord 2024-18 Zone 575 and 601 Peterson Farm Rd 2nd read.pdf\*](#)

[\*PZ-2024-15\\_Case Location Clarification Map.pdf\*](#)

[\*PZ-2024-15\\_Current Future Land Use Map.pdf\*](#)

[\*PZ-2024-15\\_Current Zoning Map.pdf\*](#)

[\*20240709\\_Letter opposed Featherstone.pdf\*](#)

**CITY OF KERRVILLE, TEXAS**  
**ORDINANCE NO. 2024-18**

**AN ORDINANCE AMENDING CHAPTER 60 OF THE CODE OF ORDINANCES, CITY OF KERRVILLE, TEXAS, OTHERWISE KNOWN AS THE CITY'S ZONING CODE, BY CHANGING THE ZONING OF THE PROPERTIES KNOWN AS 575 AND 601 PETERSON FARM ROAD FROM AN AIRPORT ZONING DISTRICT TO AN INDUSTRIAL AND MANUFACTURING ZONING DISTRICT; AND PROVIDING OTHER MATTERS RELATING TO THE SUBJECT**

**WHEREAS**, pursuant to Texas Local Government Code Sections 211.006 and 211.007, notice has been given to all parties in interest and citizens by publication in the official newspaper for the City of Kerrville, Texas ("City"), and otherwise, of a hearing held before the City Council on July 9, 2024, which considered a report of the City's Planning and Zoning Commission regarding its recommendations on this Ordinance, the adoption of which will result in the change of a zoning district for the properties known as 575 and 601 Peterson Farm Road; such change to result in the removal of the properties from an Airport Zoning District (AD) to placement within an Industrial and Manufacturing Zoning District (IM); and

**WHEREAS**, on July 9, 2024, City Council held a public hearing on the zoning change referenced above pursuant to the published notice and has considered the application, comments, reports, and recommendations of the Planning and Zoning Commission and staff, public testimony, and other relevant support materials;

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

**SECTION ONE.** The Zoning Code, as found within Chapter 60 of the Code of Ordinances of the City of Kerrville, Texas, and the *Official Zoning Map* are hereby amended to designate the following described property zoned as within an Industrial and Manufacturing Zoning District (R-3):

**Legal Description:** Lot Nos. 1 and 2, OLH addition, a subdivision within Kerrville, Texas; and filed at Vol. 7, Pg. 158 of the real property records of Kerr County.

**Address:** 575 and 601 Peterson Farm Road, Kerrville, Texas 78028; said properties depicted on the location map found at **Exhibit A**, attached hereto and made a part hereof for all purposes.

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

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

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

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

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

**PASSED AND APPROVED ON FIRST READING, this the 09 day of July, A.D., 2024.**

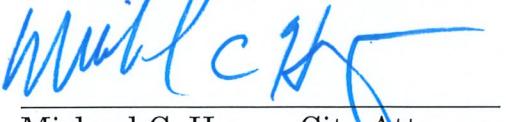
**PASSED AND APPROVED ON SECOND AND FINAL READING, this the \_\_\_\_\_ of \_\_\_\_\_, A.D., 2024.**

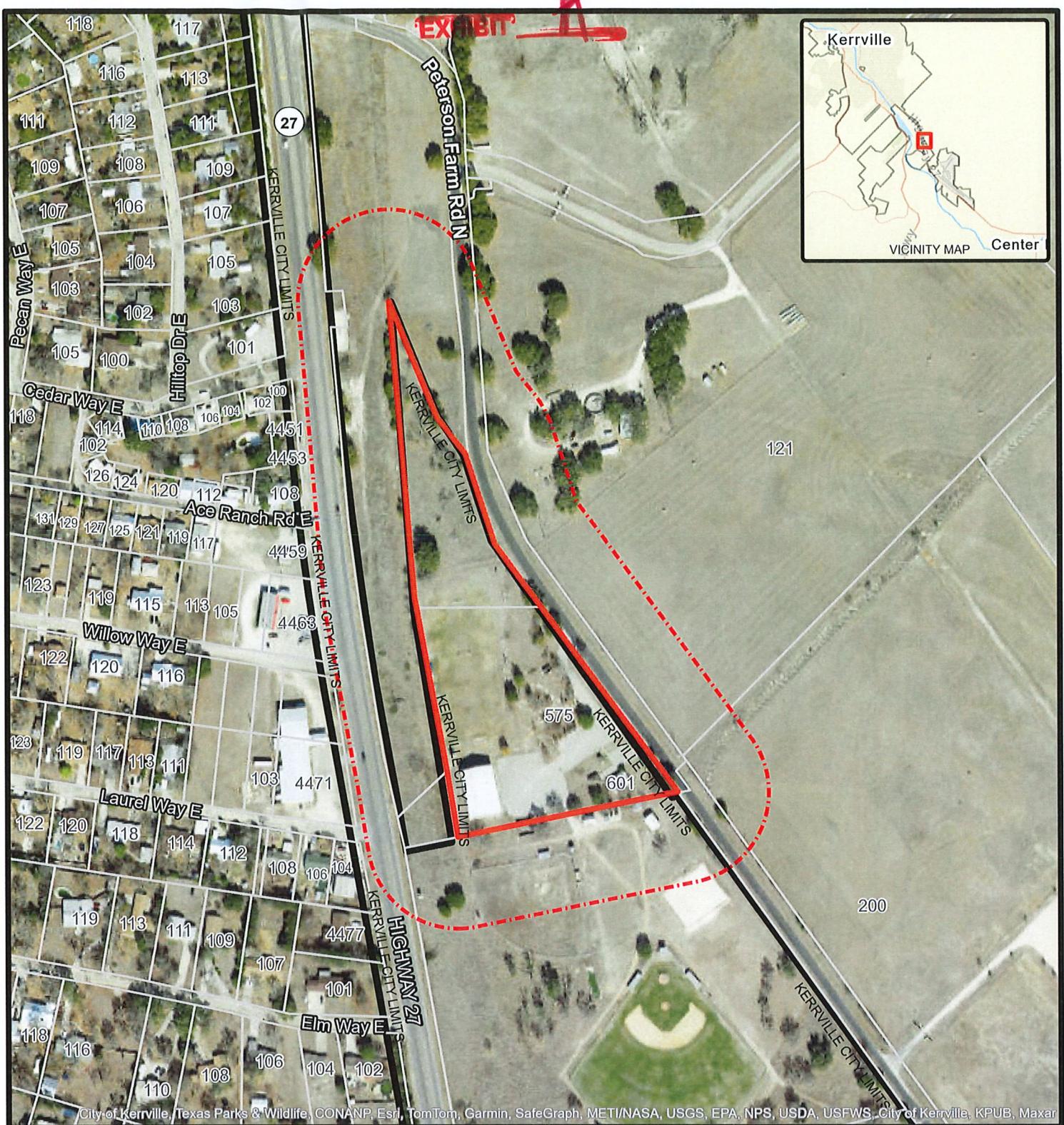
ATTEST:

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

\_\_\_\_\_  
Joe Herring Jr., Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Michael C. Hayes, City Attorney



## Location Map

Case # PZ-2024-15

Location:

AD to IM Notification Area

### Legend

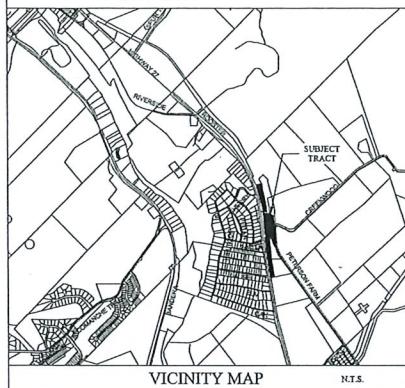
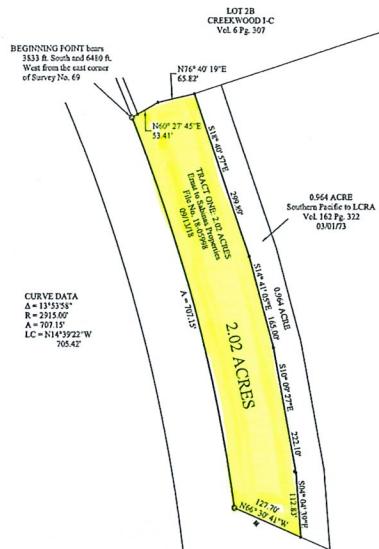
- Subject Properties
- 200 Feet Notification Area



0 100 200 400

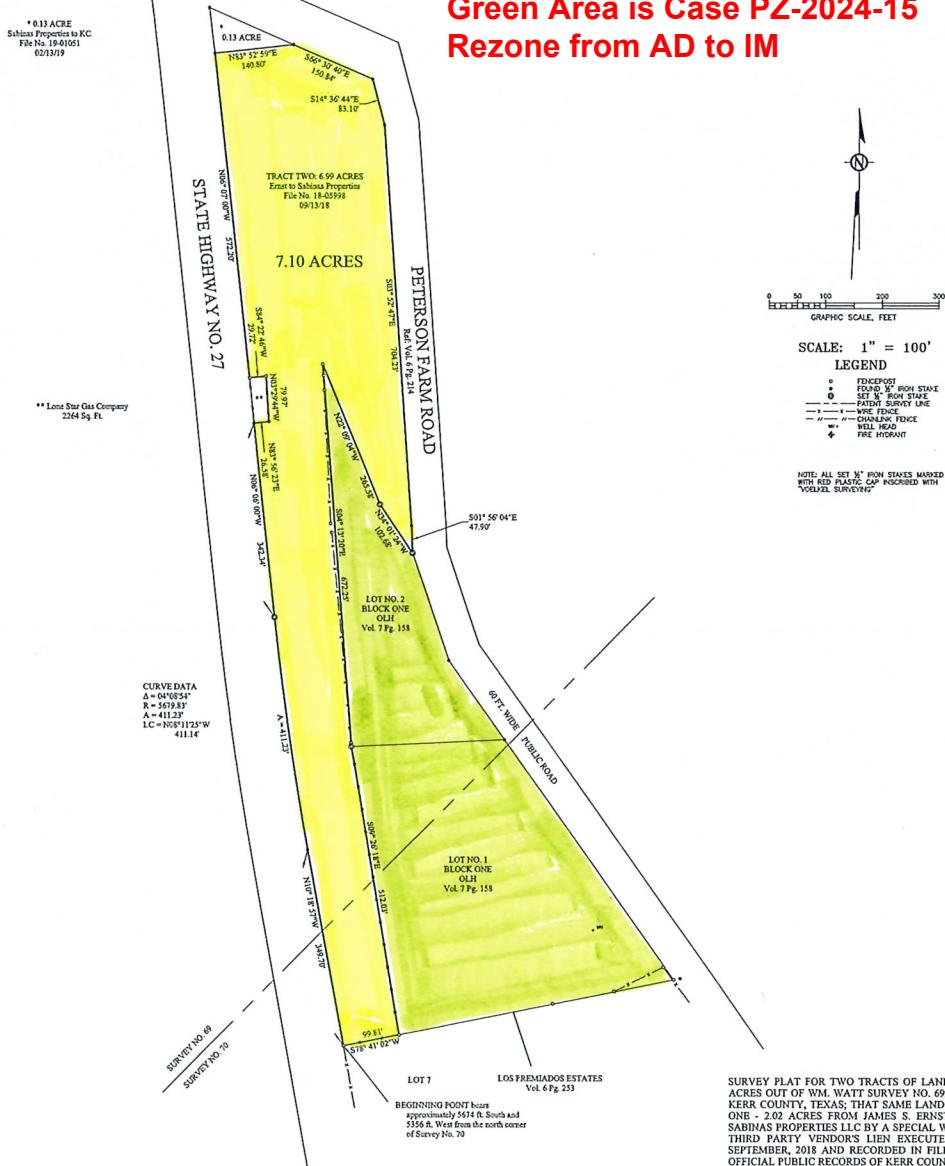
Scale In Feet

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



## Yellow Area is Case PZ-2024-14 Annexation & Zoning to IM

## Green Area is Case PZ-2024-15 Rezone from AD to IM



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

Date Surveyed. March 11, 2024

Dated this 26th day of April, 2024

Done this 26th day of April, 2024  
  
Lee C. Vosfels  
Executive Professional Manager, Inc., C.P.A., No. 200



V-7123 Sabina 2.02 Acres, 7.10 Acres Peterson Farm Road April 2024.dwg

SURVEY PLAT FOR TWO TRACTS OF LAND AS FOLLOWS: 1) 2.02 ACRES OUT OF WM. WATSON SURVEY NO. 69, ABSTRACT NO. 367 IN KERR COUNTY, TEXAS, PART OF A CERTAIN TRACT CONVEYED AS ONE - 2.02 ACRES FROM JAMES S. ERNST AND JAN ERNST TO SABINAS PROPERTIES LLC BY A SPECIAL WARRANTY DEED WITH THIRD PARTY VENDOR'S LIEN EXECUTED THE 13TH DAY OF SEPTEMBER, 2018 AND RECORDED IN FILE NO. 18-05998 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS; AND 2) 7.10 ACRES COMPRISING APPROXIMATELY .654 ACRES OUT OF WM. WATSON SURVEY NO. 69, ABSTRACT NO. 367 AND .565 ACRES OUT OF THE CROOK SURVEY NO. 10, ABSTRACT NO. 107, BOTH SURVEYED IN KERR COUNTY, TEXAS; PART OF A CERTAIN TRACT CONVEYED AS TRACT TWO - .659 ACRES FROM JAMES S. ERNST AND JAN ERNST TO SABINAS PROPERTIES LLC BY A SPECIAL WARRANTY DEED WITH THIRD PARTY VENDOR'S LIEN EXECUTED THE 13TH DAY OF SEPTEMBER, 2018 AND RECORDED IN FILE NO. 18-05998 OF THE OFFICIAL PUBLIC RECORDS OF KERR COUNTY, TEXAS

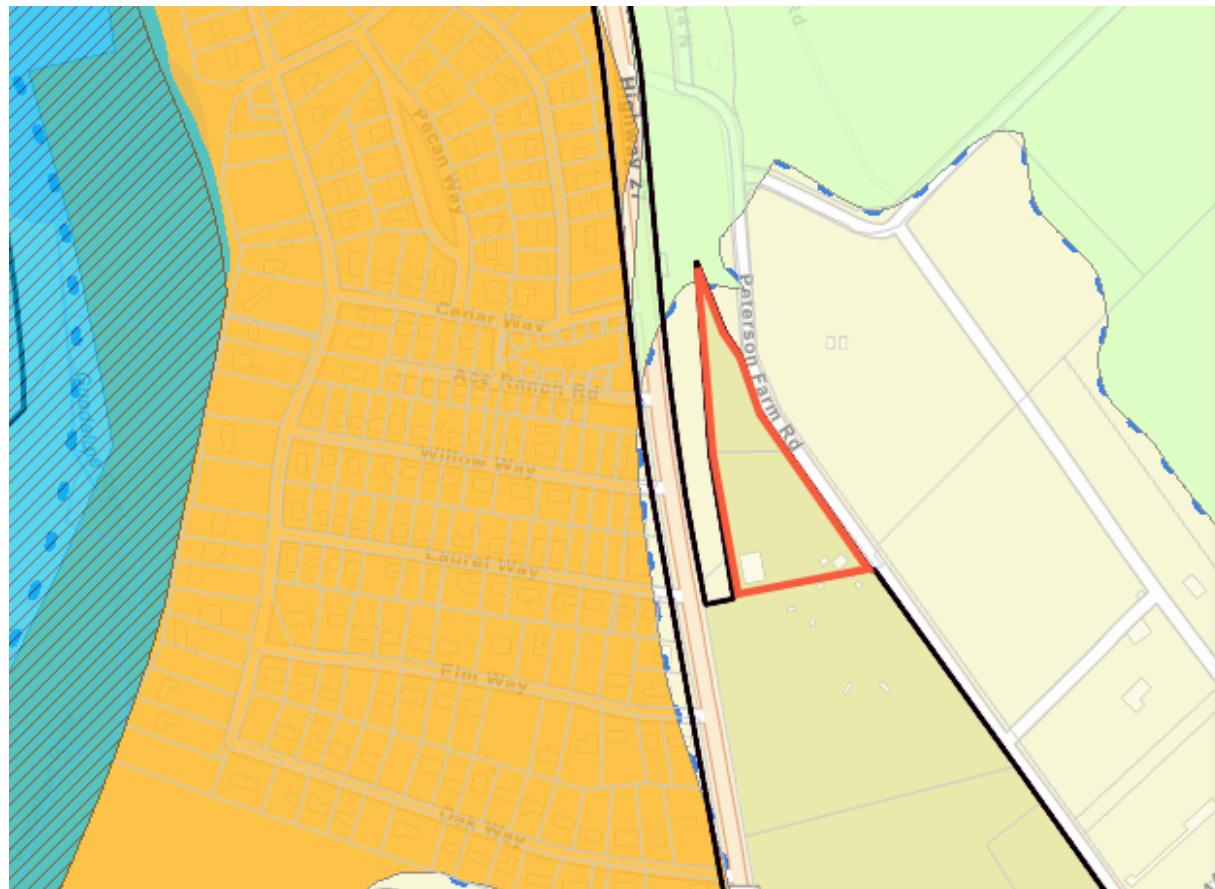
APRIL 2024



## Current Future Land Use (K2050)

PZ-2024-15

### Zone Change Request from AD Airport District to IM Industrial & Manufacturing



#### Current Future Land Use

#### Current Future Land Use

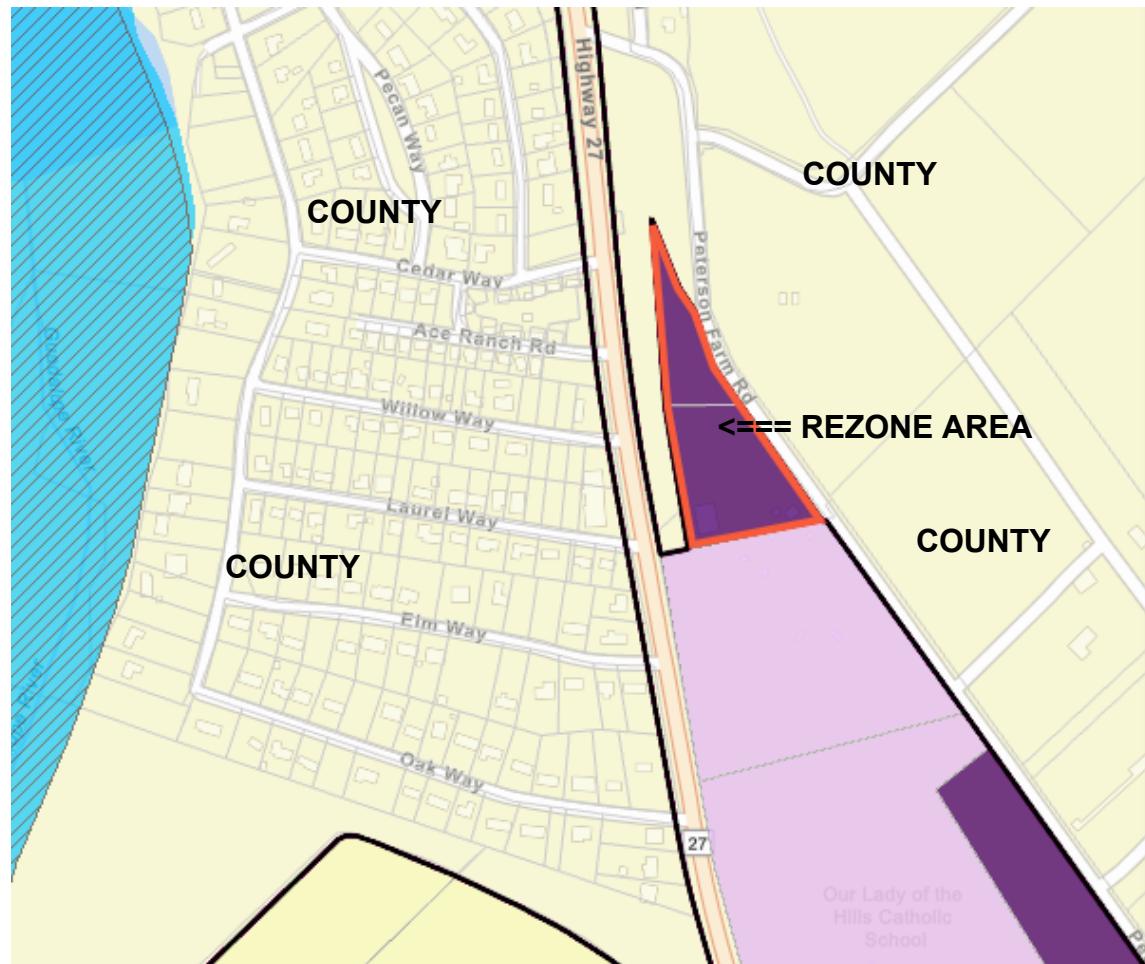
#### Place Type

- Strategic Catalyst Area
- Park and Open Space
- Public Use
- Agriculture and Outdoor Tourism
- Rural Living
- Estate Residential
- Neighborhood Residential
- Preservation Residential
- Transitional Residential
- Downtown
- Community Commercial
- Regional Commercial
- Entertainment/Mixed Use
- Professional Services
- Heavy Commercial/Light Industrial

## Current Zoning Map

PZ-2024-15

### Zone Change Request from AD Airport District to IM Industrial & Manufacturing



#### Current Zoning District

#### Current Zoning District

- RE Estate Residential
- R-1 Single-Family Residential
- R-1A Single-Family Residential with Accessory Dwelling Unit
- R-2 Medium Density Residential
- R-3 Multifamily Residential
- RM Residential Mix
- RT Residential Transition
- C-1 Neighborhood Commercial
- C-2 Light Commercial
- C-3 General Commercial
- IM Industrial and Manufacturing
- DAC Downtown Arts and Culture
- MU Mixed Use
- PD Planned Development
- PI Public and Institutional
- AD Airport
- AG Agriculture
- DC Downtown Core

**From:** [Featherstone, Thomas](#)  
**To:** [Planning Division](#)  
**Subject:** [EXTERNAL] Case PZ-2024-15  
**Date:** Tuesday, May 28, 2024 5:24:39 PM

---

In regards to case PZ-2024-15 what can I possibly say that will cause any of you to vote against this. You are appointed by the city, the city wants the revenue. You will do as you are told. This has already been decided by you and a joke to think it will play out any differently. Just as it was with Megaacrete. I spoke on what a poor decision it was, and the whole board just stared at me. It's a Damn shame that this city does just as it pleases with no public input. I can guess the outcome of the vote.

Tom Featherstone  
Territory Representative  
Ecolab South Texas

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

---

**SUBJECT:** Resolution No. 30-2024. A Resolution authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefit Trust to pay for employee related group benefits for Fiscal Year 2025. (K Meismer, Assistant City Manager)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** June 27, 2024

**SUBMITTED BY:** Kim Meismer, Assistant City Manager

**EXHIBITS:**

---

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

---

**SUMMARY STATEMENT:**

Due to the action taken by the Trustees of the City of Kerrville Employee Benefit Trust to approve the Fiscal Year 2025 employee benefit plans, rates, and funding, Council will consider authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefit Trust to pay for employee related group benefits for Fiscal Year 2025.

**RECOMMENDED ACTION:**

Due to the action taken by the Trustees of the City of Kerrville Employee Benefit Trust to approve the Fiscal Year 2025 employee benefit plans, rates, and funding, staff recommends Council adopt Resolution No. 30-2024, authorizing the transfer of the ownership of funds from the City of Kerrville to the City of Kerrville Employee Benefit Trust to pay for employee related group benefits for Fiscal Year 2025.

**ATTACHMENTS:**

[20240723\\_Reso 30-2024 EBT transfer funds FY25 Benefits.pdf](#)

[20240723\\_Presentation FY25 Employee Benefits Final.pdf](#)

**CITY OF KERRVILLE, TEXAS  
RESOLUTION NO. 30-2024**

**A RESOLUTION AUTHORIZING THE TRANSFER OF THE OWNERSHIP OF FUNDS FROM THE CITY OF KERRVILLE TO THE CITY OF KERRVILLE EMPLOYEE BENEFIT TRUST TO PAY FOR EMPLOYEE RELATED GROUP BENEFITS FOR FISCAL YEAR 2025**

**WHEREAS**, in 2008, pursuant to Resolution 61-2008, City Council created an Employee Benefit Trust (the “Trust”) for the administration of employee benefits pursuant to Chapter 222, Texas Insurance Code (“Chapter 222”); and

**WHEREAS**, Chapter 222, as amended, provides for the creation of a single purpose, nonprofit trust established for the payment of premiums or revenues on group health, accident, injury, or life insurance benefits of employees of a municipality; and

**WHEREAS**, the creation of the Trust allows the City to provide the best possible insurance benefits to its employees at the most reasonable prices; and

**WHEREAS**, City Council finds it in the public interest to transfer the ownership of the City’s fund where gross premiums and revenue are maintained for the various City-offered employee group benefits, including health and dental insurance, life insurance, and disability benefits, to the Trust;

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

City Council authorizes the transfer of the ownership of the City of Kerrville Internal Service Fund to the City of Kerrville Employee Benefits Trust for fiscal year 2025.

**PASSED AND APPROVED ON this the \_\_\_ day of July, A.D., 2024.**

---

Joe Herring, Jr., Mayor

APPROVED AS TO FORM:



Michael C. Hayes, City Attorney

ATTEST:

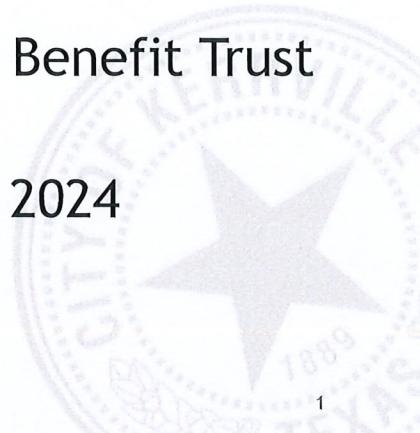
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Shelley McElhannon, City Secretary



# FY2025 Employee Benefits

Trustees of the Employee Benefit Trust  
Workshop  
Tuesday, July 23, 2024



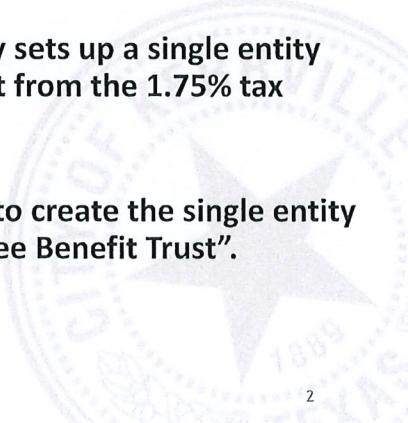
## Employee Benefit Trust

Chapter 222.002 of the Texas Insurance Code states that insurance companies have to pay a tax of 1.75% on the total premiums they collect from their policyholders each year.

Chapter 222.002 also states that if a municipality sets up a single entity benefit trust, the premiums they pay are exempt from the 1.75% tax collected by their insurer.

In July 2008, City Council approved a resolution to create the single entity benefit trust called the “City of Kerrville Employee Benefit Trust”.

The City Council serves as the Trustees.



## Employee Benefit Trust Savings to Date

Savings to Date:	
1.75% Savings Per Year	
FY2009	\$49,815
FY2010	\$49,823
FY2011	\$41,986
FY2012	\$48,300
FY2013	\$45,687
FY2014	\$43,544
FY2015	\$41,376
FY2016	\$43,350
FY2017	\$42,900
FY2018	\$43,884
FY2019	\$48,418
FY2020	\$49,539
FY2021	\$52,868
FY2022	\$55,784
FY2023	\$59,678
FY2024	\$67,942
<b>TOTAL</b>	<b>\$784,894</b>



3

## Request for Proposals

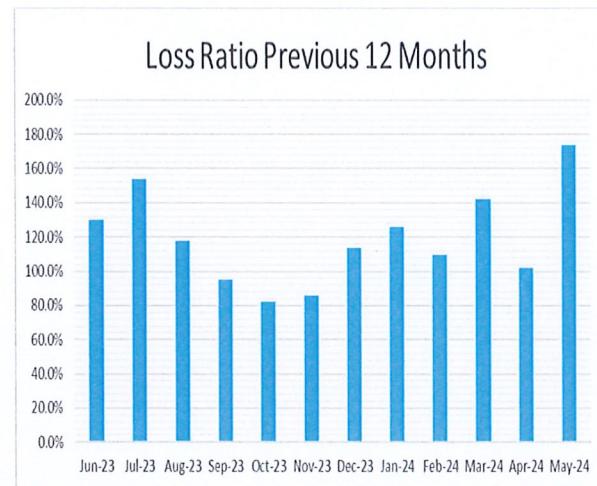
- We issued a Request for Proposals for medical and dental benefits only
  - Advertised in the KDT on 06/01/2024 and 06/08/2024
- Received two bids for medical & three bids for dental benefits
- Medical Initial Bids
  - BCBSTX = 24.4% increase - same plan as current
  - United Healthcare (UHC) = 4% increase (slightly higher deductible than current)
- Loss ratio with BCBSTX at 119.1% (May 2024)
  - Loss ratio is based on claims paid vs. premiums paid
  - Includes medical and pharmacy claims
- Very challenging negotiating position with a tight budget

4

## Loss Ratio Previous 12 Months

**Key finding noted by BCBSTX:** The medical & pharmacy loss ratio for the most recent reported month was 54.8% higher than the average of the most recent reported twelve months, which was 119.1%.

Loss Ratio Previous 12 Months	
Jun-23	130.0%
Jul-23	153.9%
Aug-23	117.6%
Sep-23	95.3%
Oct-23	82.2%
Nov-23	86.0%
Dec-23	113.5%
Jan-24	125.8%
Feb-24	109.7%
Mar-24	142.1%
Apr-24	102.3%
May-24	173.9%
<b>TOTAL</b>	<b>119.1%</b>



## Negotiations

With a 4% increase from current, UHC provided an affordable bid but there were some concerns:

- Kerrville provider network disruption – Loss of 29 local providers with UHC
- Higher deductible for HSA plan from \$3,000/\$6,000 to \$3,500/\$7,000

Began negotiations with BCBSTX due to the stronger provider network in Kerrville and stability of our 11 year relationship

- Best & final offer = **3.7%** increase (includes a \$125,000 Premium Credit)
  - PPO Specialist Copay from \$55 to \$60 per visit
  - PPO RX Deductible Removed – Only copays apply for prescriptions on PPO plan
  - HSA RX Plan – All RX claims are subject to HSA medical deductible & coinsurance
  - Deductible change to \$4,500/\$9,000 on PPO and \$3,200/\$6,400 on HSA
    - Deductible (both plans) has been \$3,000/\$6,000 since FY2020 (five fiscal years)
    - Only 10% or 70 of the 708 members (employees plus dependents) have met their deductible so far this year

# Staff Recommendation

**For the following reasons, staff recommends staying with BCBSTX**

- Well received by the area medical community
- Stronger provider network in Kerrville
- Stability of our eleven year relationship with BCBSTX
- High satisfaction rate among our plan members
- Employees and their families know the BCBSTX plan and how it works

**NOTE: BCBSTX deductible increase not a real negative as 90% of covered members (employees plus dependents) have not met their deductible and when seeking healthcare are only responsible for copays.**

7

## BCBSTX Medical

- **BCBSTX Medical (12<sup>th</sup> year)**
  - **FY2025 = 3.7% increase with \$125,000 Premium Credit**
  - **Rate History**
    - **FY2024 = 13.2% increase with \$150,000 Premium Credit**
    - **FY2023 = 5% increase**
    - **FY2022 = 5% increase**
    - **FY2021 = 8% increase**
    - **FY2020 = .69% increase with \$100,000 Premium Credit**
    - **FY2019 = 1% increase**
    - **FY2018 = 1.5% increase**
    - **FY2017 = Flat**
    - **FY2016 = 5% decrease**
    - **FY2015 = 3.7% decrease**
    - **FY2014 = 7% increase**

8

# BCBSTX Medical

- **PPO**

- \$4,500 deductible, \$9,000 family deductible
- Office visit copay \$40 Physician/\$60 Specialist
- TeleHealth (MDLIVE) copay \$40
- Preventive care, routine lab & imaging – Paid at 100%
- RX copays \$15/\$40/\$70

- **HSA**

- \$3,200 deductible, \$6,400 family deductible
- Medical coverage – Paid at 80% after deductible
- RX – Paid at 80% after deductible
- Employees with a Health Savings Account (HSA) from an external provider can use those funds for eligible health expenses under the BCBSTX HSA plan

9

# Dental Bids & Recommendation

## Dental Bid Details:

- **BCBSTX (current provider)** = 12% increase same plan as current
- **UHC** = 9.27% increase same plan as current
- **MetLife** = flat (no increase) same plan as current

## Dental Recommendation:

- **Change to MetLife**
  - 7% rate cap on 2<sup>nd</sup> and 3<sup>rd</sup> year renewals
  - Kerrville provider network is better than current

10

# MetLife Dental

## City Contribution – Core Benefit

- 100% of the Employee Cost
- 17-18% of the Dependent Cost

## Details

- \$50/\$150 Deductible, Waived for Preventive
- \$1,500 Annual Max Benefit
- \$1,500 Ortho Lifetime Max (Children Only – up to age 19)
- Preventive Services – (cleanings, exam, x-rays, etc.)
  - Covered at 100%
- Basic Services – (fillings, extractions, etc.)
  - Covered at 80% After Deductible
- Major Services – (oral surgery, inlays, onlays, crowns, etc.)
  - Covered at 50% After Deductible

City and employee contribution remains same as current year

11

# City Paid Life and AD&D

## Benefit

- Life
  - Employee Only Coverage
  - 1x Base Annual Salary, Max. \$50,000
- Accidental Death & Dismemberment (AD&D)
  - Payment based on severity of disability or dismemberment

## Cost

- Per \$1,000 of covered monthly payroll
  - Basic Life Rate = \$0.05
  - AD&D Rate = \$0.02
  - Total Life/AD&D Rate = \$0.07
- Estimated per employee per year (PEPY) = \$36
- Two year rate guarantee expires 09/30/2025

12

# Long Term Disability (LTD)

## Benefit

- Max Monthly Benefit = \$10,000 (or 60% Base Monthly Salary)
  - Reduced by Social Security Disability, worker's compensation, employer-sponsored sick leave, or retirement benefits
- Elimination/Waiting Period = 90 Days
- Max Benefit Period = Age 65 or Social Security Normal Retirement Age whichever is later

## Cost

- \$0.30 per \$100 of covered monthly payroll
- Estimated per employee per year (PEPY) = \$180
- Same plan design, same rate as current
- Two year rate guarantee expires 09/30/2025

13

# Core & Voluntary Benefits

## – Core Benefits

- City Contributes to the cost of these benefits:
  - Medical
    - Employee – 100% paid by City, Dependent – 75% paid by City
  - Dental
    - Employee – 100% paid by City, Dependent – 17-18% paid by City
  - Life and AD&D
    - Employee – 100% paid by City
  - Long Term Disability
    - Employee – 100% paid by City

## – Voluntary Benefits

- No City contribution for these benefits:
  - Vision
  - Supplemental Life and AD&D
  - Short Term Disability
  - AFLAC
  - MASA Emergency Medical Transport

14

# FY2025 Cost of Benefits

We calculate the cost of benefits by:

- Per employee per month (PEPM)
- Per employee per year (PEPY)

## City Contribution to Cost of Benefits

- BCBSTX Medical - \$10,665 PEPY
- MetLife Dental - \$386 PEPY
- BCBSTX Group Life and AD&D - \$36 PEPY
- Lincoln Long Term Disability - \$180 PEPY
- Total - \$11,267 PEPY



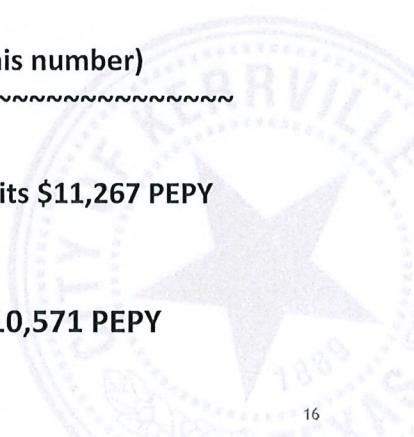
15

# FY2025 Estimated Budget

- Budget benefits for all full time positions approved by Council
  - 340 positions (vacancies occur during the year, monthly billing varies)
- Current employees covered by benefits
  - 319 employees (benefit bids are based on this number)

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- Budget Calculation
  - 319 covered employees x total cost of benefits \$11,267 PEPY
    - (medical, dental, group life, AD&D, and LTD)
  - Total City expense = \$3,594,173
  - Divided by 340 budgeted employees = \$10,571 PEPY



16

# Benefit Reserve

Benefit Reserve balance as of 06/30/2024 = \$313,642

- Benefit Reserve changes due to:
  - Constant changes in number of employees due to hires and terminations
  - Employees changing benefit plans at open enrollment
  - Employees changing coverage and plans due to life status changes i.e. marriage, divorce, babies, etc.

17

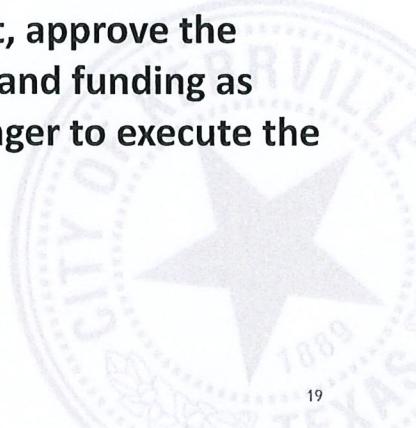
# FY2025 Benefit Budget

- Budget calculation = \$10,571 PEPY
- FY2025 budget for benefits = \$11,000 PEPY
- Authorize use of the Employee Benefit Reserve, if needed, to pay for any overages

18

# Action To Be Taken

**Staff recommends Council, acting as the Trustees of the City of Kerrville Employee Benefit Trust, approve the FY2025 employee benefit plans, rates, and funding as presented and authorize the City Manager to execute the contracts with the providers.**



19

# Questions?



20



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

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**SUBJECT:** Resolution No. 32-2024. A Resolution designating certain officials as being responsible for and authorized to act on behalf of the City in dealing with the Texas Parks & Wildlife Department for the purpose of participating in the local Park Grant Program. (A Boyle, Director of Parks & Recreation)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 16, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** Yes

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

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

The Parks and Recreation Department plans to submit a grant application to the Texas Parks and Wildlife Department for the Olympic Pool Improvement Project at Singing Wind Park. The grant application requires a resolution approved by the City Council.

**RECOMMENDED ACTION:**

Approve Resolution No. 32-2024.

**ATTACHMENTS:**

[20240723\\_Reso 32-2024 TPW Local Park Grant Program.pdf](#)  
[20240723\\_Application TXPW Grant Program.pdf](#)

**CITY OF KERRVILLE, TEXAS**  
**RESOLUTION NO. 32-2024**

**A RESOLUTION DESIGNATING CERTAIN OFFICIALS AS  
BEING RESPONSIBLE FOR AND AUTHORIZED TO ACT ON  
BEHALF OF THE CITY IN DEALING WITH THE TEXAS PARKS  
& WILDLIFE DEPARTMENT FOR THE PURPOSE OF  
PARTICIPATING IN THE LOCAL PARK GRANT PROGRAM**

**WHEREAS**, the City of Kerrville, Texas (“City”), is fully eligible to act as an applicant and to receive assistance under the Local Park Grant Program (“Program”) of the Texas Parks & Wildlife Department (“Department”); and

**WHEREAS**, as an applicant, the City is desirous of authorizing an official to represent and act for the City in dealing with the Department concerning the Program;

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

**SECTION ONE.** The City hereby certifies that it is eligible to receive assistance under the Program and that notice of the application has been posted according to local public hearing requirements.

**SECTION TWO.** The City hereby certifies that the matching share for this application is readily available at this time.

**SECTION THREE.** The City hereby authorizes and directs the City’s Assistant City Manager to act for it in dealing with the Department of the purposes of the Program and that this person is hereby officially designated as the City’s representative in this regard.

**SECTION FOUR.** The City hereby specifically authorizes the Assistant City Manager to make application to the Department concerning the site known as Singing Wind Park Olympic Pool in the City of Kerrville or used as a park site and is hereby dedicated (or will be dedicated upon completion of the proposed acquisition) for public park and recreation purposes in perpetuity (or for the lease term, if legal control is through a lease). Projects with federal monies may have differing requirements.

**PASSED AND APPROVED** this the \_\_\_\_\_ day of \_\_\_\_\_, A.D.,  
2024.

ATTEST:

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Joe Herring, Jr., Mayor

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Shelley McElhannon, City Secretary

APPROVED AS TO FORM:



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Michael C. Hayes, City Attorney



## Local Park Grant Program Resolution Authorizing Application

A resolution of the City of Kerrville as hereinafter referred to as "Applicant," designating certain officials as being responsible for, acting for, and on behalf of the Applicant in dealing with the Texas Parks & Wildlife Department, hereinafter referred to as "Department," for the purpose of participating in the Local Park Grant Program, hereinafter referred to as the "Program"; certifying that the Applicant is eligible to receive program assistance; certifying that the Applicant matching share is readily available; and dedicating the proposed site for permanent (or for the term of the lease for leased property) public park and recreational uses.

**WHEREAS**, the Applicant is fully eligible to receive assistance under the Program; and

**WHEREAS**, the Applicant is desirous of authorizing an official to represent and act for the Applicant in dealing with the Department concerning the Program;

**BE IT RESOLVED BY THE APPLICANT:**

**SECTION 1:** That the Applicant hereby certifies that they are eligible to receive assistance under the Program, and that notice of the application has been posted according to local public hearing requirements.

**SECTION 2:** That the Applicant hereby certifies that the matching share for this application is readily available at this time.

**SECTION 3:** That the Applicant hereby authorizes and directs the Assistant City Manager to act for the Applicant in dealing with the Department for the purposes of the Program, and that Michael Hornes is hereby officially designated as the representative in this regard.

**SECTION 4:** The Applicant hereby specifically authorizes the official to make application to the Department concerning the site to be known as Singing Wind Park in the City of Kerrville or use as a park site and is hereby dedicated (or will be dedicated upon completion of the proposed acquisition) for public park and recreation purposes in perpetuity (or for the lease term, if legal control is through a lease). Projects with federal monies may have differing requirements.

Introduced, read and passed by an affirmative vote of the "Applicant" on this 23 day of July, 2024.

---

Signature of Local Government Official

Joe Herring, Mayor

---

Typed Name and Title

ATTEST:

---

Signature

Shelley McElhannon, City Secretary

---

Typed Name and Title



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

**SUBJECT:** Funding agreement between the City of Kerrville, Texas Economic Improvement Corporation and the City of Kerrville, Texas; for improvements made to the Heart of the Hills Heritage Center, in an amount not to exceed \$2,000,000. (*M Hornes, Assistant City Manager*)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 15, 2024

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

### **EXHIBITS:**

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

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

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**Kerrville 2050 Item?** Yes

**Key Priority Area** D - Downtown Revitalization

**Guiding Principle** N/A

**Action Item** D2.7 - Consider funding a Downtown heritage center

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### **SUMMARY STATEMENT:**

The original budget for the A.C. Schreiner house renovations was \$3,600,000, with \$3,250,000 put into the budget for construction with \$350,000 held back for contingency. After 30% design was complete with by the Marksmen team it was discovered that this budget had severe limitations to the full use of the building. After extensive discussion with the Heart of the Hills Heritage Center (tenant) the option to utilize the entire building was recommended and City Council approved, the construction budget increased to \$5,304,000. EIC approved bond funding for \$20,000,000 with the intention of using \$2,000,000 of those funds to cover this funding gap. Marksmen is progressing along with the 60% construction documents and it is now time to finalize the agreement with EIC and the City Council. EIC held the public hearing at the June 17th meeting and approved the agreement between the City and EIC at the July 15th meeting. The last piece is for the City Council to consider the approval of the agreement.

### **RECOMMENDED ACTION:**

Approve the funding agreement between the City of Kerrville and the City of Kerrville, Texas Economic Improvement Corporation for Heart of the Hills Heritage Center for \$2,000,000.

### **ATTACHMENTS:**

[20240723\\_EIC Project Funding Agmt - HHHC.pdf](#)

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS; FOR IMPROVEMENTS MADE TO THE HEART OF THE HILLS

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

WITNESSETH:

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

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

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

WHEREAS, the City owns the A.C. Schreiner House (the "House"), which is located adjacent to the Butt-Holdsworth Memorial Library; and

WHEREAS, the City has a *Development and Management Agreement* with the Heart of the Hills Heritage Center, Inc. ("HHHC"), where the City and HHHC desire to develop, renovate, and improve the House, which the HHHC will occupy, use, and manage as a museum and public venue that reflects and displays the culture and heritage of Kerr County and the surrounding Texas Hill Country; and

WHEREAS, the City and HHHC have spent time over the last year, along with

the City's design-build consultant, developing both a scope of work and estimated costs for the various work and additions that must be made to the House to transform it into a public facility; and

**WHEREAS**, based upon presentations from City staff and the HHHC regarding their shared ideas for the public museum, the EIC included an estimated cost of the proposed work for the House as part of its bond issuance, which the EIC and City Council both approved in 2023; and

**WHEREAS**, the City currently estimates the total cost of the work to be \$5,304,000.00, such work referred to herein as "Project"; and

**WHEREAS**, the City, following approval from its City Council, seeks grant funding from the EIC in the amount of \$2,000,000.00, for a portion of the estimated costs stemming from the Project; and

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

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

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

**WHEREAS**, the EIC published notice for the Project on June 6, 2024, and held a hearing regarding same on June 17, 2024; and

**WHEREAS**, on July 15, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **"Project" Defined:** When used in this Agreement, the phrase "Project" means design work and then construction based upon the proposed phasing plan, estimated costs, and facility layout, as specified in **Exhibit A** ("A.C. Schreiner House & Grounds SD Budget & Phase II Pre-Construction"), attached hereto, and

included herein for all purposes. City will manage the funding it receives and the design, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its design, timing, and costs. Where bidding and/or other procurement processes determine that the cost of the Project will exceed the City's estimated cost of the Project (\$5,304,000.00), the City is under no obligation to proceed but may choose to suspend its performance until discussing this issue with the EIC and/or may terminate this Agreement.

2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$2,000,000.00 in 4B Revenues for the Project.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the EIC's General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project's Timeline:** The City anticipates that construction activities will begin on or before October 1, 2025 and that substantial completion of the House will occur on or before January 1, 2026. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the Parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation)

provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

**For EIC**

President

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

**For City**

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

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

all Grant Funding to EIC that it has received under this Agreement. Upon termination of this Agreement as specified herein, all rights, duties, and obligations of any kind under this Agreement shall automatically expire and terminate and be of no other force and effect.

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

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

**CITY OF KERRVILLE, TEXAS**

Joe Herring Jr., Mayor

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

Kim Clarkson, President

ATTEST:

Shelley McElhannon, City Secretary

ATTEST:

Kesha Franchina, Secretary for the EIC

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney



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

**SUBJECT:** Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas; for improvements made to various City parks, in an amount not to exceed \$800,000. (A Boyle, Director of Parks & Recreation)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 11, 2024

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

### EXHIBITS:

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$800,000	\$800,000	\$800,000	N/A

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

**Kerrville 2050 Item?** Yes

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

**Guiding Principle** N/A

**Action Item** N/A

### **SUMMARY STATEMENT:**

On November 13, 2023, the Economic Improvement Corporation (EIC) held a public hearing and passed a resolution authorizing the issuance of \$20M of sales tax revenue bonds for several quality-of-life projects, including \$800,000 for general park improvements. The Kerrville City Council subsequently passed a resolution and approved the bond issuance on November 14, 2023. This bond issuance is a culmination of several months of planning with the EIC and City Council. The Parks and Recreation Advisory Board also participated in the planning process and approved a list of priority projects. As a reminder, payments on this bond package are supported by sales tax and not property taxes.

The projects included under this funding agreement include playground improvements and improvements to Singing Wind Park. The original scope included the addition of a UV disinfection system for Louise Hays Park and Carver Park interactive water features; however, final costs came in, and it is over budget. Should fundraising efforts such as grants be successful, the UV projects will be added back in.

### **Projects**

#### • **Playground Improvements:**

- This scope includes replacing the playground at Kerrville-Schreiner Park and Guadalupe Park, including the installation of shade structures with each. Artificial

turf will be installed for the fall zone. These playgrounds are approximately 30 years old and in need of replacement. The playground for Guadalupe Park will be wheelchair accessible.

- **Singing Wind Park:**

- The remaining funds to be used for improvements to Singing Wind Park such as the addition of a disc golf course, contingent on budget. As a reminder, Singing Wind Park was the number one priority park identified for improvements in the Parks and Recreation Master Plan Update in 2022. Thus, Singing Wind Park Improvements, separate from the Olympic Pool Improvements, were recommended by the Parks and Recreation Advisory Board and staff for the bond package. It was not a selected project. Staff recommends utilizing the remaining bond funds for this allocation for Singing Wind Park. The majority of the improvements identified in the master plan require more significant funding. A smaller project such as disc golf, with the preliminary estimates, could be manageable and an accomplishment of a master plan action item.

On April 23, 2024, staff received authorization from the City Council to submit a funding application to the EIC for this purpose. On June 17, 2024, the EIC approved the funding request and directed staff to prepare a funding agreement and hold a public hearing. On July 15, 2024, the EIC held a public hearing and approved the agreement. The final step in the approval process is City Council approval. Staff recommends approval of the funding agreement.

**RECOMMENDED ACTION:**

Approval of the agreement.

**ATTACHMENTS:**

[\*20240723\\_EIC Project Funding Agmt - various park improve.pdf\*](#)

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS; FOR IMPROVEMENTS MADE TO VARIOUS CITY PARKS

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

**WITNESSETH:**

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

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

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

**WHEREAS**, over the past several years, City staff, along with recommendations from the City's Parks and Recreation Advisory Board, and then pursuant to an application to the EIC from City Council, all recognized the need for improvements for various City parks; and

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

2023; and

**WHEREAS**, City proposes to undertake multiple improvements within several City parks, all of which are collectively referred to as the “Project”; and

**WHEREAS**, the City currently estimates the total cost of the Project will not exceed \$800,000.00; and

**WHEREAS**, the City, following approval from City Council, seeks grant funding from the EIC in the amount of \$800,000.00, for estimated costs stemming from the Project; and

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

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

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

**WHEREAS**, the EIC published notice for the Project on July 9, 2024; and

**WHEREAS**, on July 15, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means the *Scope of Work*, which is a project scope, costs, and total project estimate, to date, as specified in **Exhibit A**. City will manage the funding it receives and the design, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its design, timing, and costs. Where the bidding and/or procurement processes determines that the cost of the Project will exceed the City’s estimated cost of the Project (\$800,000.00), the City is under no

obligation to proceed but may choose to suspend its performance until discussing this issue with the EIC and/or may terminate this Agreement.

2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$800,000.00 in 4B Revenues for the Project.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the EIC's General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project's Timeline:** The City estimates that design work will begin immediately following approval by City Council of this Agreement and the application of Section 505.160, Texas Government Code. Thereafter, the City anticipates that construction activities will begin on or before January 15, 2025. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the Parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

**For EIC**

President

City of Kerrville, Texas, Economic Improvement Corporation

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

**For City**

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

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

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

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

CITY OF KERRVILLE, TEXAS

Joe Herring Jr., Mayor

ATTEST:

Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

CITY OF KERRVILLE, TEXAS ECONOMIC  
IMPROVEMENT CORPORATION



Kim Clarkson, President

ATTEST:



Kesha Franchina, Secretary for the EIC



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

**SUBJECT:** Project Funding Agreement between the City of Kerrville, Texas, Economic Improvement Corporation, and the City of Kerrville, Texas, for improvements made to Granger MacDonald Park, in an amount not to exceed \$2.2 million. (A Boyle, Director of Parks & Recreation)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 11, 2024

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

### **EXHIBITS:**

<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$2.2M	\$2.2M	\$2.2M	N/A

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

**Kerrville 2050 Item?** Yes

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

**Guiding Principle** N/A

**Action Item** P5.6 - Improve access to Lake Nimitz as a recreational amenity

### **SUMMARY STATEMENT:**

On November 13, 2023, the Economic Improvement Corporation (EIC) held a public hearing and passed a resolution authorizing the issuance of \$20M of sales tax revenue bonds for several quality-of-life projects, including \$2,200,000 for the development of Granger MacDonald Park. The Kerrville City Council subsequently passed a resolution and approved the bond issuance on November 14, 2023. This bond issuance is a culmination of several months of planning with the EIC and City Council. As a reminder, payments on this bond package are supported by sales tax and not property taxes.

The expected projects to be included under this funding agreement include a parking lot, a boat ramp, a boardwalk along the water, and xeriscape landscaping in line with the best practices of the Upper Guadalupe River Authority. The first step in this process is to fund the engineering of the park space. Attached with the agreement is the proposal from Hewitt Engineering in the amount of \$219,800.

The initial scope of work includes the following:

- **Civil Site Engineering**, including preliminary review of grading and drainage, parking layout, evaluation of permeable paver options, irrigation water line extension, and preliminary cost determination.
- **Geotechnical Engineering**, including on-site boreholes and foundation

recommendations for the boardwalk system and boat ramp

- **Structural Engineering**, including review of boardwalk alternatives, pier design, and bulkhead alternatives
- **Topographic Field Survey** including establishment of datum and benchmarks, location of hardwood trees survey, and preparation of site topography map at one-foot contour intervals
- **Landscape Architect Services**, including schematic drawings and conceptual irrigation study
- **Environmental Due Diligence Services**, including wetlands/jurisdictional waters determination and Threatened/Endangered Species habitat evaluation
- **Cultural Resources Services**, including archaeological literature and records research and archeological field survey

The Final Design Phase will include the following:

- **Civil Site Engineering** including final paving, grading and drainage plans, dimensional control layout, permeable paver design, storm sewer design, miscellaneous details, and stormwater pollution prevention plan.
- **Structural Engineering** including final structural drawings of boardwalk substructure, decking, connections, and railing attachments and specifications as notes on the drawings for structural items of work.
- **Landscape Architect Services**, including coordination of the grading with the civil plans at the bioretention areas, layout and detailing of LID features to include bioswales/bioretention, overflow drains, and connections to the storm sewer drainage system. The landscape plan will also provide the location and identification of all plant materials to be used and specify mainline routing, extent, and type of irrigation to be utilized.
- **Floodplain Development Permit** includes submittal of plans and a No Rise Analysis to the City of Kerrville Floodplain Administrator documenting no impact to the Guadalupe River 100-year base flood elevation as a result of the proposed improvements
- **Environmental Services**, including Freshwater Mussel Survey and Relocation and USACE Pre-construction Notification and Biological Assessment

The Bidding/Construction Administration Phase will include the following:

**The Bidding/Construction Phase Services** will include a Prebid meeting with contractors, plans posted to CivCast for bidding purposes, review of the bids, and a recommendation of the Contractor based on the received bids. Construction Phase Services will include coordination meetings, site visits, and review of Requests for Information (RFIs), submittals, and pay applications by the Contractor. This task will include a final walk-through, preparation of a punch list, acceptance of the work, and preparation of as-built drawings.

On April 23, 2024, staff received authorization from the City Council to submit a funding application to the EIC for this purpose. On June 17, 2024, the EIC approved the funding request and directed staff to prepare a funding agreement and hold a public hearing. On July 15, 2024, the EIC held a public hearing and approved the agreement. The final step in the approval process is City Council approval.

Staff recommends approval of this agreement as presented.

#### **RECOMMENDED ACTION:**

Approval of the agreement.

**ATTACHMENTS:** [20240723\\_EIC Project Funding Agmt - GrangerMacDonaldPark.pdf](20240723_EIC Project Funding Agmt - GrangerMacDonaldPark.pdf)

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION AND THE CITY OF KERRVILLE, TEXAS; FOR IMPROVEMENTS MADE TO GRANGER MACDONALD PARK

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

**WITNESSETH:**

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

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

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

**WHEREAS**, over the past several years, the City has considered the development of a public park adjacent to and on the south side of the Guadalupe River, such park to be named the "Granger MacDonald Park" (the "Park"); and

**WHEREAS**, as part of its planning efforts, City Council and the EIC included funding for the Park as part of its 2023 bond issuance; and

**WHEREAS**, the City is ready to proceed with its development of the Park, which is referred to herein as the “Project”; and

**WHEREAS**, the City currently estimates the total cost of the Project not to exceed \$2,200,000.00; and

**WHEREAS**, the City, following approval from its City Council, seeks grant funding from the EIC in the amount of \$2,200,000.00, for estimated costs stemming from the Project; and

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

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

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

**WHEREAS**, the EIC published notice for the Project on July 9, 2024; and

**WHEREAS**, on July 15, 2024, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

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

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means the *Scope of Work*, which is a project scope, fees, costs, and total cost estimate, to date, as specified in **Exhibit A**, attached hereto, and included herein for all purposes. City will manage the funding it receives and the design, bidding, management, and construction of the Project. City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its design, timing, and costs. Where the bidding and/or procurement processes determines that the cost of the Project will exceed the City’s estimated cost of the Project (\$2,200,000.00), the City is under no obligation to proceed but may choose to suspend its performance until discussing this issue with the EIC and/or may terminate this Agreement.

2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$2,200,000.00 in 4B Revenues for the Project.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the EIC's General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of "costs" as defined in the Act.
5. **Project's Timeline:** The City estimates that design work will begin immediately following approval by City Council of this Agreement and the application of Section 505.160, Texas Government Code. Thereafter, the City anticipates that construction activities will begin on or before January 15, 2025. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
6. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
7. **Amendment:** This Agreement may be amended only by written amendment signed by the Parties.
8. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

**For EIC**

President

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

**For City**

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

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

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

CITY OF KERRVILLE, TEXAS

Joe Herring Jr., Mayor

CITY OF KERRVILLE, TEXAS ECONOMIC  
IMPROVEMENT CORPORATION

Kim Clarkson  
Kim Clarkson, President

ATTEST:

Shelley McElhannon, City Secretary

ATTEST:

Kesha Franchina  
Kesha Franchina, Secretary for the EIC

APPROVED AS TO FORM:

Michael C. Hayes  
Michael C. Hayes, City Attorney



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

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**SUBJECT:** Professional Services Agreement between the City of Kerrville and Hewitt Engineering Inc. for design services for Granger MacDonald Park for \$219,800.00. (A Boyle, Director of Parks & Recreation)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 12, 2024

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

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$219,800.00	\$2,200,00.000	\$2,200,00.000	N/A

**PAYMENT TO BE MADE TO:** Hewitt Engineering, 716 Barnett Street, Kerrville, TX 78028

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**Kerrville 2050 Item?** Yes

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

**Guiding Principle** N/A

**Action Item** P5.6 - Improve access to Lake Nimitz as a recreational amenity

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**SUMMARY STATEMENT:**

On November 13, 2023, the Economic Improvement Corporation (EIC) held a public hearing and passed a resolution authorizing the issuance of \$20M of sales tax revenue bonds for several quality-of-life projects, including \$2,200,000 for the development of Granger MacDonald Park. The Kerrville City Council subsequently passed a resolution and approved the bond issuance on November 14, 2023. This bond issuance is a culmination of several months of planning with the EIC and City Council. The Parks and Recreation Advisory Board also participated in the planning process and approved a list of priority projects; this was not one of the recommended projects. As a reminder, payments on this bond package are supported by sales tax and not property taxes.

The EIC approved the \$2.2M funding agreement on July 15, 2024, and it is also on this agenda for City Council action. Should the funding agreement be approved, staff recommends considering and approving the Professional Services Agreement for the design, the first step in the design process. Attached is the Professional Services Agreement with Hewitt Engineering for \$219,800.

This improvement project expects to include a parking lot, a boat ramp, a boardwalk along the water, and xeriscape landscaping in accordance with the Upper Guadalupe River Authority's best practices.

The initial scope of work includes the following:

- **Civil Site Engineering**, including preliminary review of grading and drainage, parking layout, evaluation of permeable paver options, irrigation water line extension, and preliminary cost determination.
- **Geotechnical Engineering**, including on-site boreholes and foundation recommendations for the boardwalk system and boat ramp
- **Structural Engineering**, including review of boardwalk alternatives, pier design, and bulkhead alternatives
- **Topographic Field Survey** including establishment of datum and benchmarks, location of hardwood trees survey, and preparation of site topography map at one-foot contour intervals
- **Landscape Architect Services**, including schematic drawings and conceptual irrigation study
- **Environmental Due Diligence Services**, including wetlands/jurisdictional waters determination and Threatened/Endangered Species habitat evaluation
- **Cultural Resources Services**, including archaeological literature and records research and archeological field survey

The Final Design Phase will include the following:

- **Civil Site Engineering** including final paving, grading and drainage plans, dimensional control layout, permeable paver design, storm sewer design, miscellaneous details, and stormwater pollution prevention plan.
- **Structural Engineering** including final structural drawings of boardwalk substructure, decking, connections, and railing attachments and specifications as noted on the drawings for structural items of work.
- **Landscape Architect Services**, including coordination of the grading with the civil plans at the bioretention areas, layout and detailing of LID features to include bioswales/bioretention, overflow drains, and connections to the storm sewer drainage system. The landscape plan will also provide the location and identification of all plant materials to be used and specify mainline routing, extent, and type of irrigation to be utilized.
- **Floodplain Development Permit** includes submittal of plans and a No Rise Analysis to the City of Kerrville Floodplain Administrator documenting no impact to the Guadalupe River 100-year base flood elevation as a result of the proposed improvements
- **Environmental Services**, including Freshwater Mussel Survey and Relocation and USACE Pre-construction Notification and Biological Assessment

The Bidding/Construction Administration Phase will include the following:

**The Bidding/Construction Phase Services** will include a Prebid meeting with contractors, plans posted to CivCast for bidding purposes, review of the bids, and a recommendation of the Contractor based on the received bids. Construction Phase Services will include coordination meetings, site visits, and review of Requests for Information (RFIs), submittals, and pay applications by the Contractor. This task will include a final walk-through, preparation of a punch list, acceptance of the work, and preparation of as-built drawings.

**RECOMMENDED ACTION:**

Approval of the agreement.

**ATTACHMENTS:** [20240723\\_PSA\\_Hewitt\\_Granger MacDonald Park Design.pdf](20240723_PSA_Hewitt_Granger MacDonald Park Design.pdf)

**PROFESSIONAL SERVICES AGREEMENT**  
[FIRM: Hewitt Engineering, Inc. | PROJECT-SERVICES: Granger  
MacDonald Park Design]

THIS AGREEMENT is entered into the \_\_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”), by and between the **CITY OF KERRVILLE, TEXAS** (“CITY”) and **Hewitt Engineering, Inc.** (“CONSULTANT”), and at times, collectively referred to herein as “parties.”

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

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

**NOW, THEREFORE**, the parties agree as follows:

**I. CONSULTANT'S SERVICES**

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

**II. CONSULTANT'S RESPONSIBILITIES**

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

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

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

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

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

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

### **III. CITY'S RESPONSIBILITIES**

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

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

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

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

E. CITY designates Kyle Burow, Director of Engineering, (830) 258-1410, as its primary representative authorized to act on its behalf with respect to this Agreement.

If CONSULTANT is unable to reach Kyle Burow, the City designates Ashlea Boyle, Director of Parks and Recreation, (830) 258-1153 as a secondary representative authorized to act on its behalf with respect to this Agreement.

#### IV. PAYMENT

CITY shall compensate CONSULTANT for the Services in the amount and manner described and set forth in the Payment Schedule, attached hereto and incorporated herein as **Exhibit A**. The amount will not exceed **\$219,800.00**.

#### V. TIME FOR PERFORMANCE

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

#### VI. DOCUMENTS

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

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

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

## VII. TERMINATION

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

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

## VIII. INSURANCE

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

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

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

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

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

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

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

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

## **IX. INDEMNIFICATION FOR INJURY AND PERFORMANCE**

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

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

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

#### **X. INDEMNIFICATION FOR UNEMPLOYMENT COMPENSATION**

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

#### **XI. INDEMNIFICATION FOR PERFORMANCE**

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

#### **XII. DEFAULT OF CONSULTANT**

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

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

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

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

### XIII. MISCELLANEOUS PROVISIONS

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

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

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

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

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

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

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

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

### **Exhibit A Scope of Services**

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

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

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

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

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

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

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

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

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

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

**O. Prohibition on Contracts with Companies Related to Certain Countries.** Where this Agreement pertains to “critical infrastructure”, as defined by Section 2275.0101, Texas Government Code, CONSULTANT verifies (1) that it is not owned by or the majority of stock or other ownership interest of the company is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

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

**N. Consequential Damages Waiver.** NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, NEITHER CONSULTANT NOR CITY NOR EITHER PARTY'S SUPPLIERS, AGENTS, OFFICERS, AND DIRECTORS SHALL HAVE ANY LIABILITY REGARDLESS OF THE THEORY OF RECOVERY, INCLUDING BREACH OF CONTRACT OR NEGLIGENCE, TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES, COST OR EXPENSE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR PROFIT, WHETHER ACTUAL OR ANTICIPATED, LOSS OF USE, FAILURE TO REALIZE ANTICIPATED SAVINGS, LOSS OF OR DAMAGE TO DATA OR OTHER COMMERCIAL OR ECONOMIC LOSS. THIS WAIVER OF CONSEQUENTIAL DAMAGES IS MADE REGARDLESS OF WHETHER (I) EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR (II) SUCH DAMAGES MAY BE FORESEEABLE.

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

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

**OWNER**  
THE CITY OF KERRVILLE

BY: \_\_\_\_\_  
NAME: Dalton Rice  
TITLE: City Manager

ATTEST:

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

APPROVED AS TO FUNDING:

\_\_\_\_\_  
Julie Behrens, Director of Finance

**CONSULTANT**  
Hewitt Engineering, Inc.

BY: \_\_\_\_\_  
NAME: John Hewitt, P.E.  
TITLE: President

APPROVED AS TO INSURANCE:

\_\_\_\_\_  
Kimberly Meismer, Asst. City Mgr.

APPROVED AS TO FORM:



William L. Tatsch, Asst. City Attorney

T:\Legal\PARKS & RECREATION\Contract\PSAs\PSA\_Hewitt\_Granger MacDonald Park Design\_071624.docx

APPROVED AS TO CONTENT:

Ashlea Boyle, Director of Parks and Recreation



May 20, 2024

Mr. Michael Hornes  
Assistant City Manager  
City of Kerrville  
701 Main Street  
Kerrville, TX 78028

**Re: Granger McDonald Park  
Engineering Professional Services Design Fee Proposal**

Dear Michael,

Per your request, I have prepared a scope and fee schedule for the preparation of final design plans and specifications associated with the Granger McDonald Park Improvements. The park will be located along Nimitz Lake adjacent to the future Upper Guadalupe River Center near The Landing development. The park will incorporate environmentally sustainable features and include a concrete boardwalk system along the bank, floating piers, permeable pavers in the parking area, terraced landscaping to absorb, filter and slow water runoff to the lake, and an oversized river access ramp that restricts cars and uses dollies to transport watercraft into the lake.

The scope of the project will include a Preliminary Engineering Phase, Final Design Phase and Bidding/Construction Administration Phase. The Preliminary Engineering Phase will include the following:

- **Civil Site Engineering** including preliminary review of grading and drainage, parking layout, evaluation of permeable paver options, irrigation water line extension and preliminary cost determination.
- **Geotechnical Engineering** including on site bore holes and foundation recommendations for the boardwalk system and boat ramp
- **Structural Engineering** including review of boardwalk alternatives, pier design and bulkhead alternatives
- **Topographic Field Survey** including establishment of datum and benchmarks, location of hardwood trees survey and preparation of site topography map at one foot contour intervals
- **Landscape Architect Services** including schematic drawings and conceptual irrigation study
- **Environmental Due Diligence Services** including wetlands/jurisdictional waters determination and Threatened/Endangered Species habitat evaluation
- **Cultural Resources Services** including archaeological literature and records research and archeological field survey

The Final Design Phase will include the following:

- **Civil Site Engineering** including final paving, grading and drainage plans, dimensional control layout, permeable paver design, storm sewer design, miscellaneous details and stormwater pollution prevention plan.
- **Structural Engineering** including final structural drawings of boardwalk substructure, decking, connections, and railing attachments and specifications as notes on the drawings for structural items of work.
- **Landscape Architect Services** including coordination of the grading with the civil plans at the bioretention areas, layout and detailing of LID features to include bioswales/bioretention, overflow drains and connections to the storm sewer drainage system. The landscape plan will also provide the location and identification of all plant materials to be used and specify mainline routing, extent, and type of irrigation to be utilized.
- **Floodplain Development Permit** includes submittal of plans and a No Rise Analysis to the City of Kerrville Floodplain Administrator documenting no impact to the Guadalupe River 100-year base flood elevation as a result of the proposed improvements
- **Environmental Services** including Freshwater Mussel Survey and Relocation and USACE Pre-construction Notification and Biological Assessment

The Bidding/Construction Administration Phase will include the following:

- **The Bidding/Construction Phase Services** will include a PreBid meeting with contractors, plans posted to CivCast for bidding purposes and review of the bids and recommendation of the Contractor based on the received bids. Construction Phase Services will include coordination meetings, site visits and review of Requests for Information (RFIs), submittals and pay applications by the Contractor. This task will include a final walk through, preparation of a punch list, acceptance of the work and preparation of as-built drawings.

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

**BASIC SERVICES FEE SCHEDULE:**

1. Preliminary Engineering Phase.....	\$12,500.00
2. Final Engineering Phase .....	\$48,214.00
3. Floodplain Development Permit .....	\$5,000.00
4. Bidding and Construction Administration Phase.....	\$12,600.00
5. Reimbursable Expenses .....	\$4,800.00
<b>TOTAL BASIC SERVICES FEE.....</b>	<b>\$83,114.00</b>

**ADDITIONAL SERVICES FEE SCHEDULE:**

1. SWCA Environmental Services .....	\$83,636.00
2. Searchers LLC (Surveying) .....	\$4,950.00
3. Rialto Studio Inc. (Landscape Architect) .....	\$23,900.00
4. Sparks Engineering Inc. (Structural Engineering).....	\$18,920.00
5. UES Rock Engineering (Geotech) .....	\$5,280.00
<b>TOTAL ADDITIONAL SERVICES FEE .....</b>	<b>\$136,686.00</b>

**TOTAL BASIC AND ADDITIONAL SERVICES FEE PROPOSAL.....\$219,800.00**

The final result of this project will be one set of signed and sealed original drawings, five sets of full size and five sets of half size drawings, and technical specifications in order to solicit contractor bids.

The total lump sum fee to perform these tasks including Basic and Additional Services including all expenses is \$219,800. This fee consists of Basic Design Services of \$83,114 and Additional Design Services of \$136,686 which includes \$83,636 for SWCA Environmental Consultant for environmental studies and cultural resources studies, \$23,900 for Landscape Architect services by Rialto Studio Inc., \$18,920 for Sparks Engineering Inc. for structural engineering, \$5,280 for Geotech Services by UES (previously Rock Engineering), and \$4,950 for topographic surveying by Searchers LLC. The subconsultant proposals are attached. Reimbursables will be charged at a multiple of 1.10 times the expenses incurred by the Engineer. All out-of-pocket expenses such as printing & delivery costs, sub-consultant fees, special review, filing, and/or permit fees will be billed as a reimbursable expense. The scope of work does not include any work associated with the Upper Guadalupe River Center site and building.

Please feel free to contact me at 830-315-8800 or by email at [jmhewitt@hewitt-inc.com](mailto:jmhewitt@hewitt-inc.com) if you have any questions.

Sincerely,

**HEWITT ENGINEERING INC.**  
Texas Registered Engineering Firm F-10739

  
John M. Hewitt, P.E., CFM

Attachments



ENVIRONMENTAL CONSULTANTS  
Sound Science. Creative Solutions.®

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San Antonio, Texas 78249  
Tel 210.877.2847 Fax 210.877.2848  
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May 3, 2024

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

**Re: Grainger McDonald Park, Kerr County, Texas (SWCA Proposal No. P89508)**

Dear Mr. Hewitt:

**SWCA Environmental Consultants** (SWCA) appreciates the opportunity to provide this proposal to perform cultural and natural resources investigations in support of the Grainger McDonald Park projects, Kerrville, Kerr County, Texas.

If you find the scope of services, terms, and costs of this proposal to be acceptable, we are prepared to begin work upon receipt of a signed contract. If you have any questions or require any additional information, please do not hesitate to contact me at [cwesterman@swca.com](mailto:cwesterman@swca.com) or 210.361.0297.

Sincerely,

A handwritten signature in blue ink that reads "Christine Westerman".

Christine Westerman  
Ecologist/Principal Project Manager  
San Antonio

## SCOPE OF SERVICES

### CULTURAL RESOURCES SERVICES

Projects in Texas can come under the purview of two primary cultural resources regulations, the National Historic Preservation Act of 1966 (NHPA) and the Antiquities Code of Texas (ACT). Both are administered by lead federal agencies and the State Historic Preservation Officer of Texas at the Texas Historical Commission (THC) in Austin, Texas.

If an undertaking is federally permitted, licensed, funded, or partially funded, the project must comply with Section 106 of the NHPA, as amended. Section 106 requires that every federal agency consider the undertaking's effects on historic properties, defined as any property listed on, or eligible for listing on, the National Register of Historic Places (NRHP). The NRHP is a cultural resources inventory maintained by the Secretary of the Interior. This list includes buildings, structures, objects, sites, districts, and archaeological resources, which are stipulated in Section 106 implementing regulations as defined in "Protection of Historic Properties," (36 Code of Federal Regulations 800), this includes the identification and evaluation of historic properties.

Based on the information provided to SWCA, the project may require federal permitting from the U.S. Army Corps of Engineers (USACE) under Section 404 of the Clean Water Act. Therefore, it qualifies as a federal undertaking and requires compliance with Section 106 of the National Historic Preservation Act (NHPA).

The ACT requires state agencies and political subdivisions of the state, including cities, counties, river authorities, municipal utility districts, and school districts, to notify the THC of any action on public land involving 5 or more acres of ground disturbance; 5,000 or more cubic yards of earth moving; or those that have the potential to disturb recorded archaeological sites. It is SWCA's understanding that the project area may exceed 5,000 or more cubic yards and would therefore require an ACT permit.

In addition, all human burials in the state of Texas are protected by law, as per the Texas Health and Safety Code Section 711 General Provisions Relating to Cemeteries (herein referred to as Section 711) and the Texas Administrative Code (TAC) Title 13, THC, Chapter 22 Cemeteries (13 TAC 22.1–22.6). If human burials are encountered during project activities and the remains are determined to be Native American, they will be handled in accordance with procedures established through coordination with the THC, and work in the affected area could only resume per THC authorization.

### TASK 1A: CULTURAL RESOURCES ANTIQUITIES PERMIT APPLICATION AND AGENCY COORDINATION

SWCA will begin with a background cultural resources literature and records search. SWCA will review the Texas Archeological Sites Atlas (Atlas) online database for any previously recorded surveys and historic or prehistoric archaeological sites located in, or immediately adjacent to, the project area. If needed, an SWCA archaeologist will physically examine site files, records, and maps files housed at the Texas Archeological Research Laboratory and the THC Library. In addition to identifying previously recorded archaeological sites, the Atlas review will include the following types of information: National Register of Historic Places properties, State Antiquities Landmarks, Official Texas Historical Markers, Recorded Texas Historic Landmarks, cemeteries, and local neighborhood surveys. SWCA will also review available area-specific data sources (historic maps and historic aerial photography) to determine historical land usage within the project area. Other critical factors that SWCA will examine include the level of previous disturbances from residential and commercial development, types of soils present, and any obvious standing structures greater than 45 years in age that appear on U.S. Geological Survey (USGS) topographic maps. Together this

information task will allow SWCA to identify any areas within the property that have the potential to contain significant, undocumented cultural resources and evaluate archaeological potential prior to performing fieldwork.

This background information will be used in creating a research design for review and approval by the THC to obtain an Antiquities Permit. The Antiquities Permit application would also include a form, which requires signatures from the landowner and project sponsor, as well as a topographic map and aerial imagery with the proposed project boundaries superimposed. The Antiquities Permit and associated scope of work would be submitted to the THC, and USACE Fort Worth District concurrently for review; this review can take up to 30 calendar days.

## TASK 1B: INTENSIVE CULTURAL RESOURCES SURVEY

Once the THC issues the Antiquities Permit and all agencies have approved the scope of work, SWCA will complete a field investigation of the project area that will be of sufficient intensity to determine the nature, extent, and, if possible, potential significance of cultural resources located within the proposed project area. The survey will meet Section 106, THC, and Council of Texas Archeologists (CTA) archaeological resources survey standards. The field survey will consist of one team of two SWCA archaeologists conducting systematic pedestrian survey across the project area. Subsurface investigations will involve deep mechanical trenching in settings with the potential to contain buried archaeological materials and be dependent upon variables such as previous land disturbances and the presence of soils.

Area projects of this size (approximately 1.5 acres) and nature require a minimum of 2 to 4 shovel tests to adequately explore subsurface deposits according to state minimum survey standards. The THC/CTA standards allow trenches to be deployed at a ratio of 1:2 relative to the shovel test requirements. As the project area is adjacent to the Guadalupe River and based on the constraints analysis for the Guadalupe River Trail West Project recently conducted for Hewitt Engineering, Inc., the project area is adjacent to existing deeply stratified archaeological sites, SWCA recommends trenching in place of shovel tests. Additionally, SWCA geoarchaeologist, Mr. Ken Lawrence (MA, RPA), reviewed the project area and identified a high potential to contain deeply buried archaeological resources. Depending on the location and type of any proposed deep construction impacts (e.g., any location of ground disturbing activities that will extend beyond 31 inches [80 cm] in depth below ground surface), SWCA would propose to assess the presence/absence of these potential deeply buried cultural resources through the excavation of no more than **4 mechanical backhoe trenches**. Depending upon land access, this deep testing would require approximately one (1) day to complete.

Trench placement will be determined by the level of previous disturbance, results of background research, the extent of deep impacts associated with the property development (i.e., piers, boat ramp), and preservation potential for archaeological sites as determined by an SWCA archaeologist. Backhoe trenches will be excavated to a depth sufficient to determine the presence/absence of buried cultural materials and allow the complete recording of features and geomorphic information to depths of project impacts or sediment incapable of containing intact cultural resources. Generally, trenches will be 4 to 5 feet (1.2 to 1.5 m) deep or more, 16 feet (5 m) in length, and 3 feet (1.0 m) wide. All trenching will be monitored by an experienced archaeologist while excavations are underway. A second archaeologist will screen or trowel through sediment samples at a rate of one five-gallon bucket from every third backhoe bucket. Once the trench is excavated, SWCA archaeologists will scrape down both walls of the trench, examining the profiles for artifacts, features, or other cultural manifestations. Each trench will be documented by field notes, stratigraphic descriptions, photographs, and GPS unit. Features encountered during trenching will be mapped and photographed.

Work will be performed in accordance with the U.S. Occupational Safety and Health Administration (OSHA; 29 CFR Part 1926). Once the trenches are excavated, SWCA archaeologists will scrape down trench profile exposures and examine the profiles for artifacts, features, or other cultural manifestations. Each trench will be documented by field notes, stratigraphic descriptions, photographs, and GPS unit. Features encountered during trenching will be mapped

and photographed. Upon completion of excavation, trenches will be backfilled, leveled, and returned, as much as possible, to their original state.

If archaeological sites are encountered in the project area during the fieldwork, they will be explored as much as possible with consideration to the property boundaries. All discovered sites will be assessed regarding their potential NRHP and SAL eligibility and significance so that recommendations can be made for proper management (i.e., avoidance, non-avoidance, or further work) and eligibility. Based on a review of the THC Atlas, SWCA anticipates that no more than one (1) newly recorded archaeological sites is anticipated as a part of this survey effort.

Photographs for sites found within the project area will minimally include: the site setting documented from a minimum of two angles, all cultural features present within the site, a representative sample of non-diagnostic artifacts, all sides of diagnostic artifacts, and other representative natural features and/or disturbances within the site. SWCA archaeologists will use a sub-meter accurate hand-held GPS receiver to map all recorded sites in detail and plot sites on USGS 7.5-minute topographic maps and on appropriate project maps for planning purposes. If intact archaeological materials associated with historic-age resources or a deeply buried prehistoric archaeological site are revealed during the pedestrian survey, the archaeologist will assess the potential significance of the resource. If preliminarily assessed as significant, additional work may be required to mitigate the resource prior to any construction.

## **TASK 1C: REPORTING AND CURATION**

Once the fieldwork has been completed, SWCA will prepare a report for review by Hewitt Engineering, the THC, and the USACE. The report of the fieldwork will conform to the CTA and THC standards and guidelines. The report will include the results of the background review and the archaeological fieldwork. Specifically, it will provide the methodology used in the fieldwork, the presence and condition of previously recorded sites located in and around the project area, the history of the property, photographs illustrating the environment and setting, a description of cultural resources encountered during the fieldwork, architectural descriptions of all historic-age aboveground resources, recommendations for management of those cultural resources, and recommendations for additional fieldwork, if warranted. SWCA will submit a draft digital copy of the report to Hewitt Engineering for review and comment. SWCA will address one round of comments and concerns, and at Hewitt Engineering's request, SWCA will submit the revised draft to the THC and USACE for review.

Once Hewitt Engineering, THC, and USACE-Fort Worth District have reviewed the document and provided comments/concurrence to SWCA, any revisions will be incorporated into the final report. SWCA will then submit a final report to the client, THC, and USACE-Fort Worth District. SWCA will also complete all document curation requirements per the ACT; field records will be curated at the Center for Archaeological Research at the University of Texas at San Antonio.

## **TASK 1 ASSUMPTIONS**

- The cost estimate is based upon complete and unfettered access to the survey area. All land acquisition or right-of-entry to the property will be obtained prior to field investigations commencing. Factors beyond SWCA's control, such as access restrictions, inclement weather, or unsafe project conditions that result in delays to the project schedule or require additional mobilizations, may require a Change Order.
- The scope of work may be subject to change following consultation with the THC, USACE-Fort Worth District, and fieldwork. Any additional costs resulting from a change in the scope of work may require a change order.
- Task 1B assumes fieldwork would require a total of one (1), 10-hour day for a team of two (2) SWCA archaeologists to complete the pedestrian survey and deep testing. This includes the use of a backhoe operator to complete deep testing investigations.

- Based on the known site densities in the area, SWCA assumes that the survey will result in the assessment of no more than one (1) archaeological site encountered during shovel testing, which would be more than 1.0-acre (0.4-hectares) in extent. If SWCA identifies more than one site, or it is greater than 1 acre in area, SWCA will negotiate a Change Order to complete site documentation and processing.
- Rights-of-entry and unfettered access to the entire property at the time of field investigations will be coordinated by Hewitt Engineering. Factors beyond SWCA's control, such as access restrictions, inclement weather, or unsafe project conditions that result in delays to the project schedule or require additional mobilizations, may require a Change Order.
- Detailed archival research and review of county records to determine the age and significance of historic-age resources in the APE are not included in this cost or proposal.
- SWCA proposes a non-collection survey.
- This scope of work does not include eligibility testing or data recovery levels of effort.
- These costs do not include project-related safety training or expenses (e.g., OSHA, HAZWOPER, company or site-specific safety training).
- Task 1B is based on calculations of 0.31-acre project area (area of anticipated affects).

## TASK 2: JURISDICTIONAL WATERS DELINEATION

SWCA will review published information and perform a field survey to identify wetlands, ponds, stream channels and other aquatic features that may be considered jurisdictional waters by the USACE under the Clean Water Act. Data collection will be considered in accordance with current federal delineation methodology including the *1987 Corps of Engineers Wetland Delineation Manual* and the *2010 Regional Supplement for the Great Plains Region*. Data will be collected on vegetation, soils, and hydrology (described below) to determine if the areas on the property meet criteria for wetlands established by the USACE:

1. Vegetation identification and analysis will be performed for each vegetation stratum (herbs, sapling/shrub, trees and vines) at each sample plot. Hydrophytic vegetation will be considered present if greater than 50 percent of the dominant vegetation is composed of obligate wetland (OBL), facultative wetland (FACW) or facultative (FAC) species.
2. Soil analysis for each sample plot will be determined using the guidelines set forth by the National Technical Committee for Hydric Soils (USDA Soil Conservation Service, 1987). A soil pit will be excavated and the soil will be inspected for positive indications of hydric soils. The sample pit will be left open for a sufficient time to allow for the stabilization of the apparent high-water table, if present.
3. SWCA biologist will determine if positive indications of wetland hydrology, as defined in the 1987 Wetland Manual, are present. Typical hydrological indicators include inundation, saturation, an ordinary high-water mark, drainage patterns, oxidized root channels, drift lines and sediment deposits.

SWCA will collect a minimum of one sample point for each area surveyed (additional points may be required along wetland/non-wetland boundaries) and complete the USACE Wetland Determination Data Forms for each sample point. All potential jurisdictional waters of the United States, including wetlands, will be mapped using a Trimble XT or similar global positioning system (GPS) equipment with submeter accuracy.

Following field data collection, SWCA will prepare a jurisdictional waters report including the following information:

- A narrative description of the methods utilized in conducting the field investigations.
- A results section that describes (1) the vegetation communities observed, (2) the soils observed, (3) the types of wetlands encountered and (4) the water bodies observed.

- A conclusion section where SWCA provides our professional opinion on which waters and/or wetlands we anticipate to be considered jurisdictional by the USACE.
- Maps illustrating locations of all jurisdictional waters in the project area. The maps would be aerial photo-based and prepared using ArcGIS.
- U.S. Army Corps of Engineers Wetland Determination Data Forms for each sample point.
- A photographic log displaying representative photographs for each vegetative stratum and representative photographs of each aquatic feature observed.

The draft report will be provided for review and comments. SWCA will address one round of comments and incorporate responses to client comments and prepare a final report.

## **TASK 3: AQUATIC RESOURCES AND PROTECTED SPECIES HABITAT EVALUATION AND SITE RECONNAISSANCE**

According to the U.S. Fish and Wildlife Service, the following federally protected threatened or endangered species occur in Kerr County and may be affected by the proposed project: tricolored bat (*Perimyotis subflavus*), golden-cheeked warbler (*Setophaga chrysoparia*), piping plover (*Charadrius melanotos*), rufa red knot (*Calidris canutus rufa*), Texas blind salamander (*Eurycea rathbuni*), Guadalupe fatmucket mussel (*Lampsilis bergmanni*), Guadalupe orb mussel (*Cyclonaias necki*), Comal Springs dryopid beetle (*Stygoparnus comalensis*), Comal Springs riffle beetle (*Heterelmis comalensis*), monarch butterfly (*Danaus plexippus*), Peck's cave amphipod (*Stygobromus pecki*), bracted twistflower (*Streptanthus bracteatus*), and Texas wild-rice (*Zizania texana*). SWCA biologists will perform a site visit to evaluate terrestrial and aquatic (Guadalupe River) habitats in the project area to determine the likelihood of occurrence of the above-listed species. Based on available USFWS information, the Guadalupe River in this area is classified as a Group 1 stream for mussels, meaning that it is anticipated to be suitable habitat for freshwater mussels. During the site reconnaissance visit, biologists will examine the mussel habitat in the Guadalupe River. This information will be used to refine the scope for freshwater mussel surveys.

Following the site visit, SWCA will prepare a habitat evaluation report. The report will include the results of the aquatic mussel habitat site reconnaissance. The draft report will be submitted to the client for review and comments. Responses to client comments will be incorporated into the final version of the document. The final habitat report will be delivered within 21 business days after completion of field surveys.

### **TASK 3 ASSUMPTIONS**

- This task assumes boat/kayak access to the Guadalupe River for the aquatic habitat site reconnaissance.
- Field work for Tasks 2 and 3 will be performed concurrently.

## **TASK 4: FRESHWATER MUSSEL SURVEY AND RELOCATIONS**

As required by Texas Parks and Wildlife Department (TPWD), SWCA will develop a written Aquatic Resource Relocation Plan (ARRP) for relocation of native freshwater mussel species and submit it to the appropriate TPWD and USFWS reviewers. The plan should be submitted no less than four weeks before the proposed mussel survey. As the second step of the planning process, SWCA must also complete an "Application for Permit to Introduce Fish, Shellfish, or Aquatic Plants into Public Waters." Because the application is to be received 30 days prior to the activity, TPWD suggests that both the ARRP and this permit application be submitted at the same time.

Following approval of the ARRP and Permit to Introduce, SWCA will conduct freshwater mussel surveys/relocations within the approved survey area in accordance with the ARRP and 2024 TPWD-USFWS Freshwater Mussel Survey Protocols. Three state-listed threatened freshwater mussel species have the potential to occur in the Guadalupe River

basin: Guadalupe orb (*Cyclonaias necki*), false spike (*Fusconaia mitchelli*), and Guadalupe fatmucket (*Lampsilis bergmanni*). All three mussel species are proposed to be listed as federally endangered under the Endangered Species Act (ESA). Table 1 provides a list of all native mussel species with the potential to occur in the Guadalupe River basin.

**Table 1. Freshwater Mussel Species with the Potential to Occur within the Guadalupe River Basin.**

Species		Status	
Common Name	Scientific Name	Federal	State
Threeridge	<i>Amblema plicata</i>	-	-
Rock pocketbook	<i>Arcidens confragosus</i>	-	-
Guadalupe orb	<i>Cyclonaias necki</i>	PE	T
Pimpleback	<i>Cyclonaias pustulosa</i>	-	-
Tampico pearlymussel	<i>Cyrtonaias tampicoensis</i>	-	-
False spike	<i>Fusconaia mitchelli</i>	PE	T
Round pearlshell	<i>Glebula rotundata</i>	-	-
Guadalupe fatmucket	<i>Lampsilis bergmanni</i>	PE	T
Louisiana fatmucket	<i>Lampsilis hydiana</i>	-	-
Yellow sandshell	<i>Lampsilis teres</i>	-	-
Washboard	<i>Megalonaiaas nervosa</i>	-	-
Bleufer	<i>Potamilus purpuratus</i>	-	-
Giant floater	<i>Pyganodon grandis</i>	-	-
Mapleleaf	<i>Quadrula quadrula</i>	-	-
Pondmussel	<i>Sagittunio subrostrata</i>	-	-
Lilliput	<i>Toxolasma parvum</i>	-	-
Texas lilliput	<i>Toxolasma texasiense</i>	-	-
Pistolgrip	<i>Tritogonia verrucosa</i>	-	-
Pondhorn	<i>Uniomerus tetralasmus</i>	-	-
Paper pondshell	<i>Utterbackia imbecillis</i>	-	-

Note: T = threatened; PE = proposed endangered; PT = proposed threatened; --- = no status

The surveys will follow TPWD Guidelines for Aquatic Resources Relocation Plans for Fish and Shellfish, Including Freshwater Mussels (Guidelines) within wadable areas (less than 3 feet deep) waterways. Guideline protocol indicates that Qualitative Surveys should include the entire project footprint, as well as buffers for areas of potential impact that include a minimum of 50 meters upstream and 100 meters downstream of the construction impact footprint, as well as a 10-meter-wide lateral buffer. The survey will potentially entail two survey phases: Phase 1 Qualitative Survey and, depending on the results of the Phase 1 survey, a Phase 2 Quantitative Survey. The Phase 1 survey will require a minimum search time of 52 hours of search time within the survey area. Phase 2 surveys will focus on areas of the survey area where mussels were found during the Phase 1 survey. If state or federally listed species (including federal candidate and proposed species) are found during the survey, the survey will cease and TPWD and USFWS will be notified.

SWCA will provide a memo report of species observed, if any, including exhibits illustrating the survey locations and any mussels observed. Results from the mussel survey will be valid for three years following the survey. SWCA will prepare a brief progress report for submittal (by e-mail) to TPWD at the conclusion of the initial relocation effort. The results of the mussel survey will be used to prepare the Biological Assessment (described in Task 5).

#### ASSUMPTIONS FOR TASK 4

- The scope and cost for this task are based on a one-time relocation effort. Scope does not include construction phase services that may be required, such as for dewatering (if needed).
- The survey scope assumes SWCA will have access to the Guadalupe River in the project impact area and 50 meters upstream and 100 meters downstream.
- A change order may be required if TPWD and/or USFWS request a change in survey methods should a listed species be found during initial surveys.
- A change order may be required if the species becomes federally listed before the survey is initiated, as this may result in additional permitting requirements.
- The mussel survey scope may need to be adjusted based on site conditions, e.g., requiring SCUBA equipment or other additional safety gear.
- Please note: current TPWD-USFWS typically requires mussel surveys/relocations to be conducted during the months of April through November or when water temperatures are greater than or equal to 50°F.

#### TASK 5: U.S. ARMY CORPS OF ENGINEERS PRE-CONSTRUCTION NOTIFICATION AND BIOLOGICAL ASSESSMENT REPORT

Assuming that the proposed project would be covered under a USACE Nationwide Permit (NWP), such as NWP 39 for institutional and commercial developments or other applicable NWP(s). SWCA will prepare a USACE NWP application form and applicable attachments as required for proposed activities affecting streams and/or wetlands. Permit application components include the following:

- NWP application form;
- List of property owners;
- Delineation of waters of the U.S., including wetlands (Task 2);
- Color photographs of the project site;
- Summary table of waters of the U.S. impacted by the proposed project;
- Required drawings/figures;
- Threatened and endangered species impacts assessment/Biological Assessment;
- Cultural resources survey report (Task 1).

It is anticipated that the USACE will require a Biological Assessment report as part of the Section 404 Clean Water Act permitting process. The report will cover all species listed for the county but will primarily focus on the freshwater mussel species that are proposed to be federally listed as endangered.

The draft application form and attachments will be provided to the client for review. Upon incorporation of revisions or other changes resulting from the review comments, SWCA will provide the final permitting package to the client. If requested by the client, SWCA will submit the package directly to the USACE.

If the USACE requests clarifications and/or alterations, SWCA will accommodate the requests and provide revised copies suitable for the USACE, excepting those requests that are beyond SWCA's authorized scope of services. The proposed cost is based on responding to two rounds of USACE comments.

## ASSUMPTIONS FOR TASK 5

- Cost estimate is based on NWP permit support. An Individual Permit, if required, may result in the need for additional services not included in this scope.
- The scope and cost do not include travel for a USACE meeting. The cost includes a pre-permitting phone conference.
- The scope and cost do not include a site visit with the USACE.
- The Guadalupe River is not included on the USACE Fort Worth District Section 10 Navigable Waters list, therefore, no navigable waters permitting is included in this scope.
- Scope and cost do not include stream/wetlands mitigation plans.

## COST ESTIMATE AND TIMELINE

*Project Cost by Task (not to exceed). Cost estimate is based on assumptions listed in the scope and is valid for 180 days.*

Task	Schedule	Cost
Task 1A: Antiquities Permit Application and Agency Coordination	An antiquities permit application will be provided to client for review within 10 business days.	\$3,475
Task 1B: Mechanical Deep Testing (includes \$3,000 / day for backhoe rental and operator)	Fieldwork would commence within 10 business days of the issued antiquities permit dependent on property access.	\$7,628
Task 1C: Reporting and Curation	A draft report would be issued to client within 15 business days of completing fieldwork. Curation	\$7,855
Task 2: Jurisdictional Waters Delineation	Field visit within 8 business days of NTP (weather depending) and issued draft delineation report 10 business days after field work.	\$6,400
Task 3: Aquatic Resources and Protected Species Habitat Evaluation and Site Reconnaissance	Draft memo issued 10 business days after field work.	\$5,600
Task 4: Freshwater Mussel Survey and Relocations	Draft memo issued 10 business days after field work.	\$25,100
Task 5: USACE Pre-Construction Notification and Biological Assessment	Dependent on USACE schedule.	\$19,975
<b>Total</b>		<b>\$76,033</b>



30 April 2024

John Hewitt  
Hewitt Engineering, Inc.  
716 Barnett Street  
Kerrville, Texas 78028  
(Sent via email: jmhewitt@hewitt-inc.com)

**Landscape Architectural Fee Proposal for:**

Granger MacDonald Park  
Kerrville, Texas

Dear Mr. Hewitt,

Thank you for the opportunity to present this proposal/letter of agreement for professional landscape architectural services. When executed, this agreement serves as a contractual agreement between Rialto Studio and Hewitt Engineering. If this agreement is not executed by the Owner/Client or returned to Rialto Studio, but work identified in the agreement is requested, then this proposal shall serve as the contract in which Rialto Studio will provide our services.

**PROJECT DESCRIPTION, ASSUMPTIONS, AND UNDERSTANDINGS**

We understand that you wish to contract landscape architectural services for the landscape design of a new parking lot and lawn on an approximately 1.5-acre site located adjacent to Nimitz Lake and surrounded by Kerrview Drive, James Road, Mallard Way, and Knapp Road in Kerrville, Texas. Site development for which we will be responsible includes bioretention and a large open lawn. We understand there will be three rows of parking running parallel to the lake edge with water surface draining downhill to vegetated bioretention areas to capture, clean, and slowly release water to the storm sewer system. A large lawn is then downstream of the parking and will sheet drain toward the lake.

We understand the project is within Kerrville Texas and there are no existing Tree preservation, Landscape, or Irrigation ordinances applicable to the site.

We understand that the site will be developed at one time, and not phased. Also, there will only be one City of Kerrville permit submittal.

**SCOPE OF SERVICES**

Unless otherwise specifically identified in this proposal, we understand the civil engineer will provide the layout, grading, and details for all vehicular paving, fire lane access, subsurface drainage, stormwater detention and filtration areas (if applicable), pedestrian paving, site lighting, other hardscapes, signage, and utility connections (including those required for the irrigation system).

Limited collaboration with the civil engineer to refine the site plan is anticipated. Rialto Studio assumes the site plan is final and only minor adjustments are to be made. Substantial revisions to the site plan will be made and invoiced as an additional service as identified below.

## DESIGN AND CONSTRUCTION DOCUMENTS

Rialto Studio will prepare and develop the site design and documentation to include the following scope items:

- Site Grading- Review the grading plans as prepared by the civil engineer. We will coordinate the grading with the civil engineer at the bioretention areas.
- Low Impact Development (LID)- Layout and detailing of LID features to include bioswales/bioretention. All overflow drains and connections to the storm sewer drainage system are to be designed and sized by the civil engineer. Rialto Studio assumes we will be designing to the San Antonio River Authority (SARA) design standards.
- Planting Plan- Provide the location and identification of all plant materials to be used. A plant list, including quantities, sizes, botanical and common names, and any special installation requirements will be provided, as necessary.
- Irrigation Plan- Provide the necessary schedules and information required to obtain a quantifiable bid suitable for construction including mainline routing, extent, and type of irrigation to be utilized (such as turf sprays, shrub drip emitters, and/or tree bubblers). We will coordinate the type of irrigation and limits of the system prior to starting the design of the system and let you know the size of the irrigation meter or water service required. It is understood that the static water pressure available will be provided to us (Fire Flow Test Report). The civil engineer will locate, identify, and detail the water meter for the irrigation system if required by a governing authority.

We anticipate delivering (2) milestone drawing submittals: Schematic Design and Construction Documents. Should other submittals be required, we will evaluate the time necessary to complete the task and advise you if this proposal requires amendment.

### Schematic Design

We understand that we will be coordinating with the design team for the site development items listed above. Rialto Studio will prepare a Schematic Design package to identify and document our scope of work. Initial documents will include design concepts for the scope of work identified above. Our instruments of service may include rendered/scaled plans and/or precedent imagery communicating materials and design aesthetics. We will also provide an irrigation study to determine the extent of the irrigation system and to assist in the selection of an appropriate irrigation meter size. These drawings will be conceptual with enough detail to gain approval and confirm the scope for the next phase submittal drawings. These can also be used to solicit order-of-magnitude pricing by a cost estimator or contractor.

### Construction Documents

The next phase of work will be Construction Documents. Preparation of Construction Drawings, technical specifications, and supplemental bidding documents for the proposed project will be produced during this phase. These drawings, details, and specifications will include information required for construction.

## CONSTRUCTION ADMINISTRATION

The following services will be provided on an as-needed basis at your request and invoiced at our hourly rates for personnel as detailed below, plus reimbursable expenses.

- Attend a pre-bid conference
- Assist the design team in the preparation of Addendum items as they relate to items within our scope of work
- Assist in evaluating Base Bids and Alternates



- Construction Observation:
  - Monitor construction of the site development portions of the project and advise you of the progress of the work
  - Review of submittals
  - Respond to RFIs
  - Periodic site visits to observe the construction of our scope of work, advise you of the progress of the work and prepare a field report documenting our observations
  - Punch list inspection and documentation
  - Final inspection and documentation

#### **DESIGN COORDINATION MEETINGS**

Rialto Studio understands the importance of coordination with you and the other consultants on the team. We anticipate participation in (3) design and coordination meetings as required/requested for the benefit of the project. Meetings can be either virtual or in-person (travel and travel time for in-person meetings are to be invoiced as a reimbursable expense.) Additional meetings may be attended as an additional service as described below.

#### **COMPENSATION**

Progress billings will be made monthly based on the amount of time/effort completed. Payments are due Thirty (30) days from the date of our invoice.

#### **FEE ALLOCATION BY TASK/PHASE**

##### Basic Services (Lump Sum)

Schematic Design	\$ 5,000.00
Construction Documents	\$10,000.00
<b>Total</b>	<b>\$15,000.00</b>

##### Supplemental / Optional Services (Hourly; Not to Exceed)

Construction Administration	\$ 5,000.00
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<b>GRAND TOTAL (Basic and Supplemental / Optional Services)</b>	<b>\$20,000.00</b>
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The proposed fees assume no substantial change in scope, target budget, or phasing of various parts of the project or services. In the event of major changes, or changes in the design schedule more than 90 days, Rialto Studio reserves the right to revise the scope of work and associated fee allocations to align with the scope modifications. We will track time spent on scope changes and invoiced according to the Additional Services as outlined below.

Reimbursable expenses incurred by Rialto Studio employees and consultants are not included in the fee above and are estimated to be **\$1,500.00**. Mileage will be reimbursed at the current Federal Government allowable rates. The following costs shall be reimbursed at cost plus 10%:

- Cost of printing and/or reproduction of drawings, specifications, reports, and other project-related documents
- Postage, delivery, and handling services
- Parking
- Travel (mileage and parking)
- Building permit application and review fees
- Fees associated with using the Owner's/Client's payment portal.



- Cost of additional professional liability insurance dedicated for this project or insurance coverage, or limits requested by the Owner / Client that are normally carried by Rialto Studio and its consultant.
- Consultants not specifically identified elsewhere in the proposal.
- Other similar project-related expenses

#### **ADDITIONAL SERVICES**

Should Additional Services be required on work not covered by our proposal, that work will be priced and invoiced separately on an hourly or negotiated lump sum basis, plus reimbursable expenses. Hourly rates for personnel are as detailed below. Reimbursable expenses for Additional Services items will be billed at cost plus 10%. We will not proceed with Additional Services work without written approval from the client representative.

#### **RIALTO STUDIO HOURLY RATES**

Principal	\$ 175.00
Sr. Associate	\$ 140.00
Associate	\$ 125.00
Project Manager	\$ 115.00
Landscape Architect / Irrigator	\$ 105.00
Designer	\$ 95.00
Clerical	\$ 65.00
Landscape Architect Intern	\$ 60.00

#### **EXCLUSIONS**

Services not covered by this proposal might include but are not limited to the following:

- Demolition plans
- Pedestrian paving
- Vehicular Paving
- Fencing and gates
- Landscape walls- freestanding or retaining
- Structural walls- freestanding or retaining
- Shade canopies, trellises, or other overhead structures
- Playground (including equipment selection, surfacing, and fencing)
- Splash pad or water features
- Signage- project signage, regulatory signage, wayfinding signage, trail maps, and/or trail markers
- Signage graphics
- Site amenities/furnishings including, but not limited to seating, benches, bollards, trash/recycling receptacles, bike racks, bike repair stations drinking fountains, etc.
- Site lighting
- Site grading
- Stormwater engineering
- Rainwater harvesting, condensate collection, or other methods of collection or pumping requirements for the irrigation system (will provide separate proposal upon request)
- Cost estimating
- Additional scope items
- Major changes- Any changes requiring more than 25 percent of the original time spent on a drawing, document or task item
- Re-designed/relocated scope items
- Drawing submittals beyond those listed above
- Multiple additive/alternate pricing options



- Multiple value engineering and related drawing revisions
- Value engineering after completion of the construction documents
- Weekly owner/consultant coordination meetings
- Additional meetings not identified above
- Low Impact Development (LID) features and coordination other than those listed elsewhere in this proposal
- Presentation renderings/exhibits, 3D photorealistic renderings
- Preparation or submittal of Variance Requests
- Permitting or jurisdictional reviews
- Compliance or review by any community or neighborhood design review board or committee
- Fees for special consultants retained by Rialto Studio
- Pursuit of indemnification agreements with any utility company
- LEED compliance or other green or energy-efficient accreditation
- As-Built or record drawings

#### **TERMS AND CONDITIONS**

- The above fees and reimbursable expense estimates do not include the cost of any consultants (unless otherwise identified elsewhere in this proposal) or any future taxes that might be levied by a government entity.
- All documents prepared for you by Rialto Studio, Inc. are our instruments of service. Ownership of those documents shall remain the property of Rialto Studio, Inc.
- Any documents or products developed by Rialto Studio under this agreement shall only be utilized by the Client or their successors for the project or for services, which have been contracted. The Client or their successors shall not utilize these documents or products on other projects or provide these documents or products to others for use on other projects.
- Rialto Studio reserves the right to utilize any documents or products developed under this agreement for marketing and promotional purposes. The Client may restrict the use of these documents or products upon written notice to Rialto Studio prior to the development of these documents or products.
- Either party may terminate this agreement upon 30 days written notice to the other. In the event of termination or suspension, Rialto Studio shall be paid its compensation up to and including the date of abandonment, suspension, or termination for all incomplete phases, plus other fees that may have been authorized by the Client for Additional Services, reimbursements, and payments provided herein.
- Rialto Studio may stop work on the project if fees are not paid and reserves the right to file liens or utilize other legal methods to secure payment.
- In recognition of the relative risks and benefits of the project to both the Owner and Rialto Studio, the risks have been allocated such that the Owner agrees, to the fullest extent permitted by law, to limit the liability of Rialto Studio and his or her sub-consultants on the project for any and all claims, losses, costs, damages of any nature whatsoever or expenses from any cause or causes, so that the total aggregate liability of Rialto Studio and their sub-consultants to those named shall not exceed Rialto Studio's total fee for services rendered on this project. Such claims and causes include, but are not limited to negligence, professional errors or omissions, strict liability, breach of contract or warranty.

#### **ACCEPTANCE AND AGREEMENT**

If the conditions of this contract meet your approval, please indicate by signing below and returning a copy for our files. Please call me with any questions. Thank you for selecting Rialto Studio to assist you with your project.

Cordially,



Danny Watson, ASLA

Principal

Approved by: \_\_\_\_\_  
(Signature)

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

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

*The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practice of registered individuals licensed under the Landscape Architects Registration Law, Article 259C, VCTS., Landscape Architects, P.O. Box 12337, Austin, Texas 78701-3942 Telephone 512.350.9000*



# SPARKS ENGINEERING, INC.

## Consulting Services Agreement

Sent via email to [jmhewitt@hewitt-inc.com](mailto:jmhewitt@hewitt-inc.com)

### Subject: Proposal for Grainger McDonald Boardwalk Design

Sparks Engineering, Inc. (*Consultant*) is an independent consultant and agrees to perform the Scope of Services as described below:

#### Scope of Services

- 1 Preliminary Engineering Study of the planned boardwalk structure
  - a. Site Visit to observe the site conditions and discuss project objectives
  - b. Review of available documents
  - c. Alternatives analysis to compare performance and costs of up to three decking options
- 2 Construction Documents
  - a. Structural drawings of boardwalk substructure, decking, connections, and railing attachments.
  - b. Specifications as notes on the drawings for structural items of work.
- 3 Construction Phase
  - a. Review of RFIs and submittals for structural items of work
  - b. Minor revisions to the structural drawings
  - c. One site visit during construction

#### Schedule

We propose to meet the Client's schedule.

#### Fee

Based on our understanding of the project requirements, we propose the following Lump Sum Fee<sup>1</sup>:

Preliminary Engineering Study	\$	4,000
Construction Documents	\$	8,500
Construction Phase Services		
Response to RFIs, submittals and shop drawings	\$	1,500
Minor design revisions	\$	1,800
Site visits (1 x \$900/visit)	\$	900
Close out letter	\$	500
<b>Total Fee</b>	<b>\$</b>	<b>17,200</b>

<sup>1</sup> Our proposed fee includes normal office and travel expenses associated with our proposed scope.

## **Exclusions**

1. Geotechnical studies
2. Surveys
3. Hydrologic calculations

## **Additional Services**

Services not included in the proposed scope are additional services. A proposal for additional services will be provided at your request.

## **Client Responsibilities**

We understand that the *Client* will provide the following to facilitate our services on the project:

1. Entry and access to the site
2. Copies of available prior studies, topographic surveys, soil reports, hydrologic data, etc., as available
3. Topographic and site survey in AutoCAD 2D format
4. Civil and architectural CAD backgrounds

## **Terms and Conditions**

*Sparks Engineering, Inc. considers the following Terms & Conditions to be material elements of our proposal. Changes to these Terms & Conditions may necessitate an increase in our fee.*

**Standard of Care:** Consultant's services will be performed using that degree of care and skill ordinarily exercised under similar conditions by reputable members of the engineering profession practicing in the same or similar locality at the time of service. No warranty, express or implied, is made or intended by this proposal or by oral or written reports or designs.

**Site Responsibility:** Consultant's services do not include supervision or direction of the means, methods or actual work of contractor(s) not retained by Consultant. The presence of Consultant's representatives will not relieve the contractor(s) of its responsibility to perform the work in accordance with the contract documents. Consultant will not be responsible for job or site safety or security, other than for Consultant's employees.

**Opinions of Cost:** Opinions of Cost for construction prepared by Consultant are intended to provide information on the magnitude of such costs and are not a quotation or guarantee of actual costs. Client understands that the actual cost of construction is beyond Consultant's control and may vary significantly from Consultant's opinion of cost.

**Ownership of Documents:** The Client acknowledges that all reports, drawings, specifications, computer files, field data, notes and other original documents prepared by Consultant, including electronic files, are instruments of professional service. Nevertheless, the final documents prepared under this Agreement shall become the property of the Client upon completion of the services and payment in full of all monies due to the Consultant. The Client shall not reuse or make any modification to these final documents without the prior written authorization of the Consultant.

The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way connected with the unauthorized reuse or modification of the final documents by the Client or any person or entity that acquires or obtains the final documents from or through the Client without the written authorization of the Consultant.

**Priority over Form Agreements:** These terms and conditions shall govern over any Form Agreements such as Purchase Orders or Work Orders or other form writings issued by the Client, without altering the terms hereof, regardless of any contrary language appearing in the Form Agreement.

**Payment:** Invoice terms are monthly based on percent complete for fee based projects and time spent for hourly projects. Invoices are due upon receipt and will accrue interest in the amount of 0.75% per month for every month they are not paid. If payment is not received within 60 days of invoice date, Consultant reserves the right to suspend work efforts until all outstanding invoices are paid in full.

**Disputes:** If a dispute arises with regard to this agreement, it shall be enforceable in Bexar County, Texas, and the prevailing party shall recover from the non-prevailing party all reasonable attorney's fees and expenses incurred.

SPARKS ENGINEERING, INC.  
Texas Registered Engineering Firm F-00515



S. Patrick Sparks, P.E.  
President

Insert date

**Attachments**

2019 Fee Schedule

**Authorization**

To authorize these services, please sign below and return one signed original.

Client Name \_\_\_\_\_

Attention \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_

State / Zip \_\_\_\_\_

Email \_\_\_\_\_

Telephone \_\_\_\_\_

\_\_\_\_\_  
Signature and Printed Name

\_\_\_\_\_  
Title \_\_\_\_\_ Date \_\_\_\_\_

# SEI 2024 Rate Schedule

## Personnel

The following hourly rates (plus expenses<sup>2</sup>) apply for all time spent in evaluation, field investigation, analysis, design, project management, coordination, consultation or meetings, site visits, travel time, sampling, review and analysis of field and laboratory data, report preparation and review, etc.

A.	Professional	
	Principal Engineer	\$ 285.00/hr
	Expert Witness <sup>3</sup>	\$ 427.00/hr
	Senior Engineer	\$ 225.00/hr
	Project Manager	\$ 185.00/hr
	Project Engineer	\$ 160.00/hr
B.	Support Personnel	
	Administrative Assistant	\$ 80.00/hr
	CAD Designer	\$ 100.00/hr
	Technician	\$ 90.00/hr

Minimum labor charge for site visits and in-person meetings is 2 hours per each of SEI's personnel present.

## Expenses

A.	Travel Expenses <sup>4</sup>	
1.	Company or personal vehicle:	per mile at the Current Federal Rate
2.	Airfare or other travel:	at cost
3.	Meals & Incidental (M&I) <sup>5</sup> :	\$46 per day (\$7, \$11, \$23, \$5) lump sum
4.	Lodging <sup>6</sup> :	at cost
B.	Special equipment or supplies, permits, shipping charges, printing or other items not customarily provided	will be charged at cost.

## Subcontracts

Subcontract services (if required) will be invoiced at cost. Administrative and professional fees for coordination and administration of the subcontract will be included in our proposed fee.

*Our hourly billing rates are subject to change on an annual basis. When this occurs, our invoices for hourly projects will reflect our latest billing rates. However, previously established lump-sum fees and not-to-exceed fee amounts will be unaffected by rate changes.*

<sup>2</sup> All fees and expenses are portal to portal.

<sup>3</sup> Expert witness fees apply to testimony in trial, arbitration, or deposition.

<sup>4</sup> Rates apply only to travel within the continental United States. When possible, we will pro-rate travel expenses among active projects involving travel to the same general area. There is no charge for vehicular travel within the metropolitan area of the home office.

<sup>5</sup> M&I costs apply to project assignments outside the metropolitan area of the home office and of 6 hours duration or more. Partial-day M&I allowance will be adjusted for meals furnished or not taken by deducting the appropriate amount shown in parenthesis (breakfast, lunch, dinner, incidentals). Receipts for M&I will not be provided unless agreed to in writing prior to deployment.

<sup>6</sup> Applies when required to remain overnight, or on full-time projects outside metropolitan area of the home office.



## Surveying Services Agreement

**1. This agreement is between:**

**Client.** Hewitt Engineering, Inc. (Hereinafter "Client")  
**Surveyor.** Searchers LLC dba Searchers (Hereinafter "Searchers")

**2. Property to be Surveyed.** Granger MacDonald Park, City of Kerrville, Kerr County, Texas.

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

- a. Collect on-the-ground topographic data in the area shown in Exhibit "A".
- b. Locate drainage features
- c. Locate visible utilities
- d. Locate edge of asphalt
- e. Establish two benchmarks on or near the project
- f. Locate hardwood trees 6 inches and larger
- g. Prepare topographic survey plat showing improvements and topographic data

**4. Fee.** The fee for this survey will be **\$4500**.

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

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

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

**8. Ownership of Documents.** All documents, including original drawings, field notes, and data provided or furnished by Searchers pursuant to this Agreement are instruments of service in respect to the Project and Searchers shall retain ownership and property interest therein whether or not the project is completed. The Client may make copies for use on the Project, however, such documents are not intended or suitable for reuse by the Client or others on extensions of the Project or any other Project.

Surveying Services Agreement – Granger MacDonald Park

9. **Standard of Care.** Searchers will endeavor to perform surveying services with the same standard of care and skill as a reasonable Texas surveyor would under the same or similar circumstances.
10. **Limitation of Liability.** Searchers will endeavor to perform surveying services with the same standard of care and skill as a reasonable Texas surveyor would under similar circumstances. In order for Client to obtain the benefit of a fee which includes a lesser allowance for risk funding, Client agrees to limit the liability of Searchers and the Surveyor such that the total aggregate liability shall not exceed double the compensation for services rendered on this project.
11. **Entire Agreement.** This proposal contains the entire and integrated agreement. No modification of this agreement will be binding unless it is in writing and signed by both the Client named above and a representative of Searchers.
12. **Cancel Agreement.** Either party may at any time cancel this contract. Client will pay for any time or expenses that were expended prior to cancelation of this agreement.
13. **Assignment.** This agreement shall not be assigned without the written consent of the other party.
14. **Severability.** Any provision or part of the Agreement held to be void or unenforceable shall be deemed stricken and all remaining provisions shall be valid and binding.
15. **Governing Law and Venue.** This agreement shall be governed by the laws of the State of Texas, and the parties agree that venue shall be proper in Gillespie County, Texas.
16. **Offer Expiration.** This agreement offer expires if not accepted within 30 days. No work will be scheduled until this agreement is signed and returned.

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

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



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Josh W. Leamons, for  
Searchers

May 7, 2024

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John Hewitt, for  
Hewitt Engineering Inc.

Surveying Services Agreement – Granger MacDonald Park

EXHIBIT "A"





May 13, 2024

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

Re: UES Proposal No. P24-0966  
Geotechnical Study  
Guadalupe River Center  
James Road and Kerrview Drive  
Kerrville, Texas

Dear Mr. Hewitt:

UES Professional Solutions 45, LLC (UES), is pleased to offer this proposal to perform geotechnical services for the referenced project. We prepared this proposal based on information provided and presented below.

## PROJECT INFORMATION

The site is located at the intersection of James Road and Kerrview Drive in Kerrville, Texas.

The project consists of the following proposed improvements:

- Boat ramp
- A new boardwalk along the river
- Boat docks in the river
- Parking and drive areas

Our proposal is based upon the following:

- The site is readily accessible and the boring locations can be accessed by a truck-mounted drilling rig
- The site does not require clearing for boring access
- **UES will contact 811 call to locate public underground utilities prior to drilling work**
- **If requested, a 3<sup>rd</sup> Party Private Utility Locator may be called in by UES to clear the boring locations prior to drilling work at an additional fee**
- The boring locations are not covered by concrete

Items to be provided by the client include the right-of-entry to conduct the exploration and information regarding the location of any utilities on the subject site. Any restrictions or special project requirements should be brought to our attention before we commence fieldwork. Should weather or other factors result in unforeseen changes in site accessibility, UES will contact the client to discuss accessibility options and associated fees.

## FIELD INVESTIGATION

The proposed field investigation includes:

General Location	No. of Borings	Boring Depth (ft)
Proposed boardwalk	1	30
Proposed boat ramp	1	30
Proposed paving	2	10
<b>Total</b>	<b>4</b>	<b>80</b>

UES will stake the borings prior to mobilization of drilling equipment. Locations will be shown on the Boring Location Plan. Field personnel will drill the borings using the equipment stated in our assumptions. Soil samples will be obtained using a three-inch diameter Shelby tube sampler (ASTM D1587) and a two-inch diameter standard split-spoon sampler (ASTM D1586), as appropriate based on the type and strength of the materials encountered. If rock like materials are encountered, grab samples of the cuttings will be collected.

A qualified engineering geologist or soils technician will log the samples in the field and package them for transport to the laboratory for testing. A log of each boring will be prepared to document drilling activities and subsurface conditions. Precise surveying of boring locations and elevations is not included in the scope of services; these services may be provided upon request, at an additional fee. At the completion of drilling operations, bore holes will be backfilled with soil cuttings.

## LABORATORY TESTING

Laboratory tests will be required for classification purposes and to determine engineering characteristics of the materials encountered. The following test methods may be performed on selected samples, depending on the actual subsurface conditions encountered:

- Supplementary visual classification (ASTM D2487)
- Moisture content (ASTM D2216)
- Atterberg limits (ASTM D4318)
- Percent material finer than the #200 sieve (ASTM D1140)
- Unconfined compressive strength (ASTM D2166)
- One-dimensional swell (ASTM D4546)

All phases of the laboratory-testing program will be performed in general accordance with applicable ASTM Specifications. All field and laboratory tests results will be included on the boring logs or in the completed report

## ENGINEERING SERVICES

The geotechnical report will be signed and sealed by a registered Professional Engineer in the state of Texas and the report will include results of the field and laboratory testing together with our analyses of the results and applicable recommendations. We will provide a digital report in electronic PDF format. The report will include the following:

- soil and groundwater conditions encountered at the boring locations
- earthwork recommendations, including material type and compaction requirements
- construction considerations related to soil and groundwater conditions at the borings
- geotechnical recommendations including:
  - foundation design recommendations for the boardwalk
  - recommendations for horizontal and lateral earth pressures related to buried and retaining structures
  - paving recommendations
- If additional recommendations are needed, please notify us so we can adjust our scope of work accordingly
- Any additional geotechnical engineering/consulting requested after submittal of the report will be billed at a rate of \$185/hour

## FEE FOR PROPOSED SERVICES

Our fee for performance of the geotechnical study at the site described will be as noted in the table below.

Geotechnical Study Lump Sum Fee <sup>1</sup>	<b>\$4,800.00</b>
Optional Private Utility Locator <sup>2</sup>	<b>\$1,500.00</b>
<sup>1</sup> <i>This pricing assumes the boring locations can be accessed using standard, truck-mounted drilling equipment and drilling will occur during daylight hours Mon – Sat. Sunday or night drilling will incur additional charges. If difficult site conditions are encountered, an All-Terrain Drilling Unit could be provided for an additional fee.</i>	
<sup>2</sup> <i>Ground penetrating radar (GPR) services along with other methods will be performed by a third-party contractor to aid in locating below-grade utilities. This service is an increased level of due diligence in conjunction with Texas One-Call clearance; however, it does not guarantee the absence of below-grade utility conflicts. UES is not responsible for damage to below grade utilities.</i>	

This fee will not be exceeded without prior authorization. Items other than those specified above, or changes in drilling requirements, which are revealed by these studies or are necessitated by a change in project scope, may require revised field, laboratory, and engineering services. These services will be discussed and negotiated on an individual basis. The final invoice will be sent to you with our report.

## PROJECT SCHEDULE

The geotechnical report will be delivered approximately 3 to 4 weeks after completion of field work. If a delivery time frame other than that presented above is desired, please advise us prior to completing the agreement so that we may make the appropriate adjustments to the proposal fee and our schedule to accommodate the project needs.

Please sign and return a copy of the Geotechnical Proposal Acceptance Form on the next page as authorization to proceed. By execution of this proposal, the undersigned Client acknowledges and agrees that the document entitled "Terms and Conditions" has been provided or made available to Client and Client agrees that such Terms and Conditions shall be applied to the present Proposal and any supplemental services and shall be fully binding upon Client. The Terms and Conditions are fully incorporated into this Proposal by reference as if set forth at length.

Thank you for the opportunity to present this proposal. Please call if there are any questions or suggestions regarding changes to the agreement or the proposed work scope. We look forward to working with you on the project.

Respectfully submitted,

**UES Professional Solutions 45, LLC**



Kyle D. Hammock, P.E.  
Vice President - San Antonio



Garrett R. Ward, Graduate Geologist  
Geotechnical Project Manager

**Attachments: UES Terms and Conditions**

Mr. John Hewitt  
UES Proposal No. P24-0966  
May 13, 2024  
Page 5 of 5

GEOTECHNICAL  
PROPOSAL ACCEPTANCE FORM

CLIENT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

ATTENTION: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

EMAIL: \_\_\_\_\_ FAX: \_\_\_\_\_

**\*\*\*\*\*REQUIRED INFORMATION\*\*\*\*\*(Must be completed in order to process)**

ACCOUNTS PAYABLE CONTACT: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

EMAIL: \_\_\_\_\_ TELEPHONE: \_\_\_\_\_

Land Owner's Name (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

City, St. Zip: \_\_\_\_\_

The undersigned hereby accepts all the Terms and Conditions set forth in this Proposal and warrants that they have full authority to bind the Client.

PROPOSAL ACCEPTED BY: \_\_\_\_\_

Signature

Title

Date

PRINTED NAME: \_\_\_\_\_

**UES**  
**GENERAL CONDITIONS – TEXAS**

**SECTION 1: SCOPE OF SERVICES**

1.1 UES will provide to Client the professional services described under the Scope of Services ("Services") in the Professional Services Agreement ("Agreement") between UES and Client to which these General Conditions form a part.

1.2 UES shall provide revised or additional services, including changes to the Services necessary due to changed or unforeseen conditions, only in accordance with a written Addendum or Change Order (collectively, "Addendum") to the Agreement agreed to by UES and Client, and only to the extent set forth in that Addendum. Either UES or Client may communicate in writing any requested changes in the nature and scope of the Project; in either case, the changes shall only be executed upon written approval of the Addendum by UES and Client.

1.3 Unless otherwise provided for in the Agreement, the Services will be provided on a standard work schedule of Monday through Friday 8:00 AM to 5:00 PM (excluding holidays), and samples will be analyzed on a standard five (5) to seven (7) business day laboratory turnaround time.

1.4 UES shall not be responsible for any delays, fees or costs associated with adverse or unusual weather conditions that prevent the Services from being safely conducted.

1.5 UES shall provide the personnel, equipment, Level D personal protective equipment (as defined by the Occupational Safety and Health Administration ("OSHA"), and other materials necessary to provide the Services. UES, at its sole discretion, may retain subcontractors or other third-parties to assist it in the provision of the Services.

1.6 Client will provide UES with written authorization to proceed with the Services and any associated fee (e.g., retainer) prior to UES initiating work on the Services.

1.7 The terms "Project" and "Site" are used interchangeably in these General Conditions refer to the land and/or construction project on which or to which UES is to provide Services under this Agreement.

1.8 UES shall perform all Services hereunder as an independent contractor, and nothing contained herein shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or master and servant, or employer and employee between the parties hereto or any affiliates or subsidiaries thereof, or to provide either party with the right, power or authority, whether express or implied, to create any such duty or obligation on behalf of the other party. UES also agrees not to be treated, or seek to be treated, as an employee of Client for any purpose, including for the purposes of fringe benefits provided by Client, or for disability income, social security taxes and benefits, Federal unemployment compensation taxes, State unemployment insurance benefits and Federal income tax withholding at sources. UES hereby represents that UES has and at all times will maintain timely payments of all taxes due to the Internal Revenue Service and all other government agencies, including withholding and all other taxes.

**SECTION 2: PROFESSIONAL STANDARD OF CARE**

2.1 UES will provide its services under this Agreement in a manner consistent with the level of professional care and skill ordinarily exercised by similar professionals practicing contemporaneously under similar conditions in the locality of the Project. NO OTHER WARRANTY CONCERNING THE SERVICES UES PROVIDES UNDER THE AGREEMENT OR ANY ADDENDUM, EXPRESS OR IMPLIED, IS MADE, AND ALL OTHER WARRANTIES, INCLUDING THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW.

2.2 Client understands that subsurface investigations may involve drilling, boring, excavating or sampling through varied subsurface soil and water strata which, consistent with the prevailing standard of professional care, may result in the unavoidable or inadvertent cross-mingling of soil and water and any Hazardous Substances or constituents contained in them, and that this risk cannot be eliminated despite the exercise of professional care. IF SUCH SUBSURFACE INVESTIGATIONS ARE PART OF THE SERVICES, CLIENT WAIVES ANY CLAIM AGAINST UES, AND SHALL INDEMNIFY, DEFEND, AND HOLD UES HARMLESS FROM ANY CLAIM OR LIABILITY FOR INJURY OR LOSS ARISING FROM CROSS-CONTAMINATION RELATED TO SUCH SUBSURFACE EXPLORATIONS INCLUDING, WITHOUT LIMITATION, ANY CLAIM OR LIABILITY ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

2.3 UES will take reasonable precautions to minimize damage to the Site, but it is understood by Client that, in the normal course of the provision of the Services, including sampling or drilling, some damage to or alteration of the Site is possible. The repair of such damage shall not be part of the Services unless explicitly specified in writing in the Agreement.

2.4 The Services provided by UES are not intended to be and shall not be construed as providing legal advice, and UES shall not be responsible for Client's compliance with any applicable laws.

2.5 Client and Client's personnel and contractors shall promptly inform UES of any actual or suspected defects in UES's services, to help UES take those prompt and effective measures that in UES's opinion will help minimize the consequences of any such defect. Client's payment in full of the amount owed for services rendered shall be taken to mean that Client is satisfied with and has accepted UES's services.

**SECTION 3: SITE ACCESS, SITE CONDITIONS AND CLIENT RESPONSIBILITIES**

3.1 Client will grant or obtain at its expense lawful and safe access to the Site as needed for UES to perform the Services and will notify all affected persons and entities in writing of UES's presence. The access shall be adequate to allow UES to conduct the Services, including bringing and storing equipment and tools on the Site and any necessary access to exterior and interior areas. UES shall not be responsible for any delays, fees or costs caused by delayed or restricted access that prevents or slows the delivery of the Services by UES.

3.2 If the Site is not owned or operated by Client or the Client does not otherwise have the authority to grant UES lawful access, Client shall be responsible for obtaining, at its own expense, an access agreement for the Site and shall provide UES a copy of such access agreement at least three business days in advance of the date contemplated for the first Site access related to the Project. UES reserves the right to delay, without penalty, any Site visit and the provision of Services under the Agreement if a site access agreement, in UES' reasonable judgment and discretion, would impose conditions, liabilities or risks on UES in excess of those set forth in these General Conditions or the Agreement. IF THE SITE IS NOT OWNED BY CLIENT, CLIENT AGREES TO DEFEND, INDEMNIFY, RELEASE, AND HOLD UES, INCLUDING ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, AFFILIATES AND SUCCESSORS ("UES INDEMNITEES") HARMLESS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES OR LIABILITIES (INCLUDING ATTORNEY'S FEES) ALLEGED BY THE SITE OWNER OR THE SITE OWNER'S EMPLOYEES, AGENTS, CONTRACTORS OR OTHER PERSONS OR ENTITIES ARISING FROM UES'S PERFORMANCE OF SERVICES UNDER THE AGREEMENT AT SUCH SITE INCLUDING, WITHOUT LIMITATION, ANY CLAIM, LOSS, DAMAGE OR LIABILITY ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

3.3 Unless otherwise expressly provided for in the Agreement, Client will be responsible for communicating and coordinating with the Site owner(s) with respect to access necessary to the provision of the Services, including security procedures, opening gates, providing access to buildings, avoiding conflicts between provision of the Services and any commercial or manufacturing activities on the Site, and moving vehicles or other equipment that may interfere with the agreed upon Site activities and the Site access necessary to conduct such activities, including opening gates to allow equipment to gain access to proposed work areas, areas to store necessary equipment, as well as access to the interiors of any onsite buildings.

3.4 Client shall be responsible for the safety of the Site where the Project is conducted and for providing a safe environment for UES to provide the Services. UES shall be responsible for the safe and compliant conduct of its personnel at the Site and shall also comply with the reasonable and

lawful work rules for the Site. As required by applicable laws, UES will prepare a site-specific Health and Safety Plan (HASP) applicable to its personnel for the Services provided at the Site. UES shall not be responsible for the safety of other personnel at the Site, nor shall it be responsible for ensuring that the Site complies with environmental, health and safety laws, or reporting any unsafe conduct or non-compliance that it may observe. If UES encounters conditions at the Site that are unsafe for its personnel, it reserves the right at its sole discretion to suspend or halt work until such conditions are cured. UES shall not be responsible for any fees, costs or damages associated with any safety-related delays. Unless otherwise provided for in the Agreement, UES shall not work in conditions that require personal protective equipment beyond that classified as Level D by OSHA.

3.5 Client shall inform UES of any reporting or other requirements imposed by any third parties, such as federal, state, or local entities with respect to environmental matters relevant to the Services, Client shall assume responsibility to provide any required notice to any third party, and it shall secure the necessary permits or permissions from any third parties (including governmental authorities) required for UES's provision of the Services. If included in the Agreement, Client may authorize UES to obtain certain permits on Client's behalf, in which case Client shall be responsible for any fees or expenses incurred by UES with respect to obtaining such permits.

3.6 Client shall provide UES with all necessary information to perform its services, including, but not limited to, maps, site plans, reports, surveys, plans and specifications, environmental and hydrogeological investigations and studies, other designs, documents, and any other existing environmental information about the Site. Client assumes all liability for information not provided to UES that could affect the quality or sufficiency of the Services UES provides. If UES encounters undisclosed or unforeseen conditions that may cause material delays or an increase in fees or costs, UES shall inform Client and any changes in schedule, fees or costs shall be addressed in an Addendum. UES shall not be responsible for any delays, fees or costs caused by undisclosed or unforeseen conditions.

3.7 Client is responsible for accurately identifying to UES in writing the existence and location of all subterranean structures and utilities on or affecting the Site (including the type and location of utility lines) and the services to be provided by UES. UES will take reasonable precautions to avoid affecting subterranean structures and utilities disclosed to it in writing by Client. If included in the Agreement, Client may authorize UES to conduct applicable public utility identification and clearance requirements on behalf of Client. **CLIENT AGREES TO DEFEND, INDEMNIFY, RELEASE, AND HOLD UES INDEMNITEES HARMLESS FOR ANY CLAIMS, LOSSES, DAMAGES (INCLUDING ATTORNEY'S FEES) OR LIABILITIES ARISING FROM DAMAGE DONE TO ANY SUBTERRANEAN STRUCTURES OR UTILITIES, OR FOR THE RELEASE OF ANY HAZARDOUS SUBSTANCES FROM ANY SUCH STRUCTURES OR UTILITIES, THAT ARE NOT ACCURATELY IDENTIFIED AND LOCATED IN WRITING AND DISCLOSED TO UES BY CLIENT BEFORE UES COMMENCES ITS WORK INCLUDING, WITHOUT LIMITATION, ANY CLAIM, LOSS, DAMAGE OR LIABILITY ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.**

3.8 Unless otherwise stated in the Agreement, any soil or groundwater monitoring activities that are included in the Services are based on the assumption that soil borings and monitoring wells can be installed using standard truck-mounted drilling equipment, the locations are accessible to such equipment, and that surface conditions at each location consists of non-reinforced asphalt or concrete not exceeding six (6) inches in thickness and no concrete or asphalt cutting will be required. If UES encounters materially different conditions at the Site, UES shall inform Client and an Addendum shall be agreed to that addresses any changes in schedule, fees or costs associated with the changed conditions.

#### **SECTION 4: HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CONDITIONS**

4.1 Client represents it has informed UES of all known or suspected Hazardous Substances on, under or near the Site of which it is aware, and that it has provided UES with all studies, reports, investigations, or similar documents in its possession about the environmental conditions at the Site, including any documents and correspondence involving Federal, State or local environmental, health or safety regulatory notifications.

4.2 For purposes of the Agreement and these General Conditions, the term "Hazardous Substances" includes materials defined or regulated as hazardous substances, hazardous materials, hazardous wastes, hazardous constituents, solid wastes, pollutants, or toxic substances under any Federal, State or local environmental, health, safety or natural resources law, statute, regulation or ordinance, including but not limited to petroleum products, polychlorinated biphenyls, per- and polyfluoroalkyl substances, asbestos, and any other material or substance listed or identified by the United States Environmental Protection Agency or any similar State or local agency as presenting a potential danger to health, safety or the environment.

4.3 Except to the extent required by law, UES shall not be responsible for making any disclosures to governmental agencies or the Site owner regarding the presence or release of Hazardous Substances on, under, from or around a Site.

4.4 [FOR INVESTIGATION / REMEDIATION PROJECTS] The discovery of Hazardous Substances or other environmental conditions on, under or near the Site not contemplated within the Services may constitute a changed condition, necessitating an Addendum or Change Order. In the event of the discovery of Hazardous Substances or other environmental conditions not contemplated within the Services, Client agrees to compensate UES for all expenses incurred or caused by the discovery, including but not limited to those related to worker protection and exposure, emergency response actions and equipment decontamination.

[FOR GEOTECH PROJECTS ONLY] Client agrees that the discovery of Hazardous Substances or other environmental conditions on, under or near the Site not contemplated within the Services may constitute a changed condition, necessitating an Addendum or Change Order. Although unlikely, Client acknowledges that such a discovery may make it necessary for UES to take immediate measures to protect the health and safety of its employees and other persons, or to arrange for others to do so, including and up to delaying or terminating work. Client agrees to compensate UES for all expenses incurred or caused by the discovery of unanticipated Hazardous Substances or environmental conditions encountered at the Site, including but not limited to those related to worker protection and exposure, emergency response actions and equipment decontamination.

4.5 [FOR INVESTIGATION / REMEDIATION PROJECTS] All substances on, in, or under Client's site, or obtained from Client's site as samples or as byproducts of the sampling process, shall be Client's property. UES shall not be required to sign or certify a waste manifest, disposal ticket, or similar document relating to the transportation or disposal of wastes or Hazardous Substances. UES may serve as Agent for Client if requested under a separate agreement and authorization. Client shall be considered the "generator" of any hazardous or other wastes, as that term is defined in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. and agrees that it shall assume all duties as "generator" of any waste material associated with the Services. Further, Client agrees that UES is not a generator, storer, treater, transporter, arranger, or disposer of wastes or Hazardous Substances and shall not be so identified on any document.

[FOR GEOTECH PROJECTS] All substances on, in, or under Client's site, or obtained from Client's site as samples or as byproducts of the sampling process, shall be Client's property. Unless otherwise expressly specified in the Agreement or the Services, the characterization, management and disposition of substances, including Hazardous Substances, generated during the Services (including, but not limited to, wastes, samples, produced soils or fluids, cuttings, or protective gear or equipment, etc.) is the sole responsibility of Client. Client shall be considered the "generator" of any hazardous or other wastes, as that term is defined in the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq. and agrees that it shall assume all duties as "generator" of any waste material associated with the Services. Further, Client agrees that UES is not and shall not be identified as a generator, storer, treater, transporter, arranger, or disposer of wastes or Hazardous Substances on any document. Unless specifically provided for in the Agreement, UES shall not have any responsibilities with respect to the storage or preservation of samples, and Client agrees that UES is not responsible or liable to Client for any loss of samples that are shipped to a testing facility or retained in storage.

4.6 UES shall not have custody of any monitoring wells or permanent sampling locations installed as part of the Project, and shall not be responsible for proper maintenance, repair, or closure of such wells, unless otherwise provided for in the Agreement.

4.7 CLIENT AGREES TO DEFEND, INDEMNIFY, RELEASE, AND HOLD UES INDEMNITEES HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES OR LIABILITIES (INCLUDING ATTORNEY'S FEES AND CONSULTANTS' FEES, COSTS OF DELAY OF THE SERVICES, AND ANY COSTS ASSOCIATED WITH POSSIBLE REDUCTION TO THE VALUE OF THE PROJECT OR THE SITE IN WHICH IT IS SITUATED) ARISING FROM (I) UES' DISCOVERY OF OR ITS EMPLOYEES' OR SUBCONTRACTORS' EXPOSURE TO HAZARDOUS SUBSTANCES OR SUSPECTED SUBSTANCES RELATED TO THE SERVICES, TO THE EXTENT CAUSED BY CLIENT'S NEGLIGENCE OR WILLFUL MISCONDUCT; (II) ANY DISCLOSURES UES IS REQUIRED TO MAKE BY LAW REGARDING HAZARDOUS SUBSTANCES OR ENVIRONMENTAL CONDITIONS AT A SITE; (III) ANY CLAIMS MADE ALLEGING THAT (A) UES IS AN OWNER OR OPERATOR OF THE SITE AT WHICH THE SERVICES ARE RENDERED; (B) UES IS THE GENERATOR, STORER OR TREATER OF HAZARDOUS SUBSTANCES AT SUCH SITE; OR (C) THAT UES ARRANGED FOR THE TRANSPORTATION OR DISPOSAL OF ANY HAZARDOUS SUBSTANCES FROM THE SITE; (IV) ANY VIOLATION BY CLIENT OF ANY FEDERAL, STATE OR LOCAL LAW, REGULATION, ORDER, DECREE OR ORDINANCE RELATED TO HAZARDOUS SUBSTANCES; OR (V) ANY CLAIMS MADE BY THIRD-PARTIES WITH RESPECT TO ALLEGED EXPOSURES TO OR DAMAGES CAUSED BY HAZARDOUS SUBSTANCES AT OR FROM THE SITE OR DURING OR RELATED TO ANY PROJECT OR THE PROVISION OF SERVICES, TO THE EXTENT CAUSED BY CLIENT'S NEGLIGENCE OR WILLFUL MISCONDUCT.

#### **SECTION 5: BILLING AND PAYMENT**

5.1 UES will submit invoices to Client in accordance with the Agreement for the specific Project. If the Agreement includes a retainer, the retainer must be received by UES before it will initiate work on the Project.

5.2 Payment will be due 30 days after presentation of invoice. Client will pay a finance charge of one and one-half percent (1 1/2 %) per month, or the maximum rate allowed by law, on all past due invoices. If UES incurs any expenses to collect overdue invoices, Client will also be liable for all sums incurred for reasonable attorneys' fees, expert witness fees, time of UES's employees, expenses and court costs, and interest.

5.3 Client agrees that UES may refuse to release to Client any reports, findings, data and other work product until it has been paid in full for services rendered. UES reserves, and does not waive, any lien rights it may have for unpaid professional services. Client agrees that all reports and other work furnished to Client or its agents that Client has not timely paid for will be returned upon demand and will not be used by the Client for any purpose.

5.4 UES shall have no obligation under this Agreement or any Addendum to provide expert consultant or expert witness services in litigation, arbitration, or any other dispute resolution proceeding, to produce its work product in discovery, to undertake any further investigation or analysis or prepare a report in connection with any such proceeding, or to make available for testimony its current or former employees or consultants. The Parties will execute a new agreement for any such services. In the absence of a new executed agreement for such services, Client will pay UES 150% of its prevailing rates and expenses for the time spent by UES employees and costs incurred on any such additional tasks.

5.5 Services provided at the Client's request outside normal business hours will be performed for an additional fee to be negotiated and reflected in the Agreement or an executed Addendum, or, if no such fee is negotiated, at 150% of UES standard rates.

5.6 Reimbursable expenses, those outside of the scope of the proposed services, are charged to the Client at cost plus fifteen (15) percent and include the following items:

(i) Out of scope reproduction of plans, specifications and other documents, including plans and documents necessary for submission to regulatory agencies, but excluding documents reproduced for use by UES and any of its consultants.  
(ii) Out of scope permit application and filing fees advanced by UES. Such fees will be invoiced to Client at cost.  
(iii) The cost of equipment rental including, where applicable, equipment operators and subcontracted services, such as authorized photogrammetry, testing services, laboratory services, archeological services, and other specialized services, excluding those services which are explicitly included in the UES proposal. If the services covered by this Agreement are subject to local or state taxes or fees, such additional costs will be charged to the project and are subject to reimbursement as provided herein.

5.7 Fees and schedule commitments are subject to renegotiations for unreasonable delay caused by Client's failure to provide specified facilities or information, or for delays caused by unpredictable occurrences, or force majeure events such as fires, floods, strikes, riots, unavailability of labor or materials or services, acts of God or of public enemy, or acts or regulations of any governmental agency. Temporary work stoppage caused by any of the above may result in additional costs (reflecting a change in scope) beyond that outlined in the proposed Agreement. UES shall have the right to increase its compensation payable by the Client to UES in the event that UES must modify services, facilities or equipment to comply with laws or regulations that become effective after execution of this Agreement, provided UES gives the Client fifteen (15) days prior notice as to the cause for escalation and the additional amounts involved.

5.8 The fees and charges reflected in UES's proposal for services are exclusive of any sales, use, personal property, value added and goods/services taxes. Where applicable, such taxes shall appear as a separate item on UES's invoice and Client shall be liable for the payment of such taxes to UES. Notwithstanding the foregoing, Client shall not be responsible for any foreign, federal, state or local taxes based on UES's net income or receipts, or such other taxes based on UES doing business in any particular jurisdiction.

#### **SECTION 6: INTELLECTUAL PROPERTY AND CONFIDENTIALITY**

6.1 All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES during the provision of the Services, are instruments of service, and shall remain the property of UES. Neither Client nor any other entity shall change or modify UES's instruments of service. UES shall retain sole and exclusive ownership of all ideas, concepts, theories, improvements, designs, original works of authorship, formulas, processes, models, software, algorithms, inventions, know-how, techniques, compositions of matter and any other information owned by UES prior to the date of this Agreement or created or modified by UES during the provision of the Services.

6.2 UES will retain final reports generated as part of the Services for a period of at least five years following submission of such reports or completion of the Services, whichever is later. UES will make those records available to the Client in a reasonable time and manner, subject to payment of a reasonable fee for the time of UES employees to assemble and transmit those documents.

6.3 The Services and all deliverables provided as part of the Services (including but not limited to reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES), are prepared for the sole and exclusive use of Client, and Client is the only entity to which UES owes any duty, in contract or tort, pursuant to any law or under this Agreement. Any information or deliverables generated by UES during the provision of the Services may not be given or disclosed to any other entity, or used or relied upon by any other entity, without the express written consent of UES. Such written consent may take the form of a "reliance letter" which must be agreed to by such other person or entity to whom the Services and Deliverables may be disclosed, and for which a separate fee will be charged. UES shall be entitled to injunctive relief preventing/prohibiting any disclosure, reliance or attribution prohibited hereunder, and Client shall release, indemnify, defend, and hold harmless UES from any losses (including attorney's fees) arising from or related to such unauthorized disclosure, attribution or reliance.

6.4 Each party may disclose to the other party certain information that it considers to be confidential ("Confidential Information") provided such information is disclosed in writing and clearly marked or, if orally disclosed, promptly thereafter reduced to writing and clearly marked "Confidential." In no event shall Confidential Information include information that: (a) is or becomes publicly available other than through a breach of the Agreement; (b) is

known to the party receiving such information prior to disclosure or is independently developed by such party subsequent to such disclosure without reference to Confidential Information provided hereunder; or (c) is subsequently lawfully obtained by the party receiving such information from a third party without obligations of confidentiality. Each party agrees that it (a) will not disclose or divulge the other party's Confidential Information to any person, (b) will not use the other party's Confidential Information for its own benefit or the benefit of others, (c) will employ at least the same degree of care in protecting Confidential Information as it employs in protecting its own confidential information, and (d) will, upon termination of the Agreement, or at any time at the request of the other party, return to the other party or destroy all copies of the other party's Confidential Information. Notwithstanding the foregoing, each party may disclose the other party's Confidential Information to its employees, subcontractors and authorized agents who have a need to know such confidential information to fulfill its obligations under this Agreement. In the event a party receives a subpoena or other validly issued administrative or judicial process requesting the disclosure of the other party's Confidential Information, such party will promptly notify the other party and tender to it the defense of such demand and will cooperate (at the other party's expense) with the defense of such demand. Unless the demand shall have been timely quashed or extended, the party receiving the demand shall thereafter be entitled to comply with such demand when and to the extent required by law.

#### **SECTION 7: RISK ALLOCATION**

7.1 CLIENT AGREES WITH RESPECT TO THE SERVICES PROVIDED UNDER THIS AGREEMENT AND ANY ADDENDUM THAT THE AGGREGATE LIABILITY OF UES FOR ANY AND ALL CLAIMS, LOSSES, COSTS, AND DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES AND EXPERT WITNESS FEES AND EXPENSES, SHALL NOT EXCEED THE GREATER OF \$50,000.00 OR THE FEE ACTUALLY PAID BY CLIENT TO UES FOR THE SERVICES. IN CONSIDERATION FOR PAYMENT BY THE CLIENT OF AN ADDITIONAL SUM OF \$1,000, UES AGREES THAT ITS AGGREGATE LIABILITY WITH RESPECT TO ANY AND ALL CLAIMS, LOSSES, COSTS, AND DAMAGES OF ANY KIND OR NATURE WHATSOEVER, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND EXPENSES AND EXPERT WITNESS FEES AND EXPENSES, ARISING FROM SERVICES PROVIDED UNDER THIS AGREEMENT AND ANY ADDENDUM THERETO SHALL BE THE GREATER OF \$50,000 OR UP TO \$1,000,000 IN COVERAGE BY ITS PROFESSIONAL LIABILITY POLICY (INCLUDING ANY DEDUCTIBLE OR SELF INSURED RETENTION). The terms "claim" or "claims" mean any claim in contract, tort, or statute alleging errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligence, negligent misrepresentation, and any other basis giving rise to liability in law or equity.

7.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY PROVIDED FOR IN THE AGREEMENT OR ANY ADDENDUM, UES SHALL NOT BE LIABLE TO CLIENT FOR ANY INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO REDUCTION IN VALUE OF REAL PROPERTY, PENALTIES ASSOCIATED WITH NON-COMPLIANCE WITH LAW, LOST PROFITS, LOSS OF USE, FINANCING COSTS AND LOST SAVINGS) INCURRED BY CLIENT. ITS EMPLOYEES, CONSULTANTS, AGENTS, CONTRACTORS OR SUBCONTRACTORS.

7.3 Client agrees that it will not seek damages in excess of this contractually agreed-upon limitation against any other person or entity who may in turn join UES as a third-party defendant for such damages, or where such person or entity may seek recovery from UES in a separate proceeding. CLIENT SHALL INDEMNIFY, DEFEND AND HOLD UES INDEMNITEES HARMLESS FOR ANY SUCH DAMAGES (INCLUDING ATTORNEY'S FEES) AWARDED TO ANY OTHER PERSON OR ENTITY AS A RESULT OF ANY LITIGATION, ARBITRATION OR OTHER DISPUTE RESOLUTION PROCEEDING COMMENCED BY CLIENT AGAINST ANY SUCH PERSON OR ENTITY FOR DAMAGES FOR WHICH UES MAY BE IN WHOLE OR PART BE HELD LIABLE INCLUDING, WITHOUT LIMITATION, ANY DAMAGES ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

#### **SECTION 8: INSURANCE**

8.1 UES represents it has Worker's Compensation insurance in force, that is has commercial general liability coverage in the amount of \$1,000,000.00 and has professional liability insurance in the amount of \$1,000,000.00.

8.2 Client shall maintain such insurance as is necessary to fully underwrite Client's defense and indemnity obligations set forth herein, and shall, upon request by UES, provide proof to UES to verify such insurance.

#### **SECTION 9: INDEMNITY**

9.1 IN ADDITION TO AND NOTWITHSTANDING ANY OTHER PROVISION IN THESE GENERAL CONDITIONS, CLIENT AGREES, TO THE FULLEST EXTENT PROVIDED BY LAW, TO RELEASE, DEFEND (WITH COUNSEL REASONABLY ACCEPTABLE TO UES), INDEMNIFY, AND HOLD UES, INCLUDING ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, AFFILIATES AND SUCCESSORS ("UES INDEMNITEES") HARMLESS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES (INCLUDING ATTORNEY'S FEES) OR LIABILITIES FROM OR BY ANY PERSON OR ENTITY ARISING FROM (1) ACTS OR OMISSIONS BY CLIENT, CLIENT'S AGENTS, STAFF, AND OTHERS EMPLOYED BY OR CONTRACTED TO CLIENT, INCLUDING ARCHITECTS, ENGINEERS, CONTRACTORS, SUBCONTRACTORS, AND CONSULTANTS, WHETHER OR NOT UES IS RESPONSIBLE IN WHOLE OR IN PART FOR THE ACTS OR OMISSIONS FOR WHICH CLIENT IS INDEMNIFYING UES AND (2) THE PROVISION OF THE SERVICES BY UES EXCEPT TO THE EXTENT CAUSED BY UES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, SUCH EXCEPTION SUBJECT TO THE LIMITS SET FORTH IN SECTION 7. FOR THE AVOIDANCE OF DOUBT, CLIENT'S INDEMNIFICATION OBLIGATIONS SET FORTH IN THIS SECTION 9.1 INCLUDE, WITHOUT LIMITATION, INDEMNIFICATION FOR ANY CLAIMS, LOSSES, DAMAGES OR LIABILITIES ARISING IN WHOLE OR IN PART FROM THE ACTIONS OR INACTIONS OF UES.

9.2 UES AGREES TO INDEMNIFY, AND HOLD CLIENT HARMLESS FOR ANY AND ALL CLAIMS, LOSSES, DAMAGES OR LIABILITIES ARISING TO THE EXTENT SOLELY FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY UES IN THE PROVISION OF THE SERVICES, SUBJECT TO THE LIMITS SET FORTH IN SECTION 7.

9.3 To the extent either party's damages are covered by available insurance, Client and UES waive all rights of subrogation against each other and against the contractors, subcontractors, consultants, agents, and employees of the other, except such rights as they may have to the proceeds of such insurance.

#### **SECTION 10: DISPUTE RESOLUTION**

10.1 All claims, disputes, and other matters in controversy between UES and Client arising out of or in any way related to this Agreement or any Addendum shall be decided by binding arbitration in accordance with the Construction Industry Rules of the American Arbitration Association then obtaining, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, UES shall not be required to arbitrate any legal and/or equitable claims (including statutory and equitable liens) for collection of monies due. The successful party in any such action will be entitled to recover its reasonable attorneys' fees, expert witness fees, and other claim-related expenses and court costs incurred, and also the time value at prevailing rates of its employees reasonably incurred in prosecuting or defending the claims, with any claims against UES subject to the limitations in Section 7.

10.2 Notwithstanding the foregoing, all claims, including for negligence or any other cause whatsoever that the Client has or claims to have against UES, shall be deemed waived unless (i) Client notifies UES of the claim or claims within thirty (30) days of discovery thereof, and (ii) if the Client contends that a claim exists against UES for negligence or another violation of a standard of care owed by UES, Client has first provided UES with a written certification executed by an independent design professional currently practicing in the same discipline as UES. The certification shall: a) identify the name of the professional; b) specify each and every act or omission that the certifier contends is a violation of the standard of care identified in the Proposal

Agreement; and c) state in complete detail the basis for the certifier's opinion that each such act or omission constitutes such a violation. This certificate shall be provided to UES not less than thirty (30) calendar days prior to the institution of any arbitration or judicial proceeding.

10.3 NOTWITHSTANDING THE FOREGOING, UES SHALL HAVE NO LIABILITY FOR ANY CLAIM DISCOVERED BY CLIENT MORE THAN ONE YEAR AFTER DELIVERY OF THE LAST ISSUED REPORT BY UES FOR THE SERVICES DESCRIBED IN THE PROPOSAL AGREEMENT.

#### **SECTION 11: TERMINATION**

11.1 This Agreement may be terminated by either party for cause upon seven (7) days written notice and opportunity to cure in the event of a material breach by the other party, or in the case of a force majeure event such as terrorism, act of war, riot, insurrection, strike, declared public health emergency, flood, unusual weather condition, or act of God that continues or affects the Site for more than seven (7) calendar days. Such termination shall not be effective if such material breach or force majeure event has been remedied before expiration of the period specified in the written notice. In the event of any termination, UES shall be paid for Services (including any related costs and expenses) performed up to the termination notice date plus reasonable termination expenses.

11.2 UES and Client may terminate this Agreement at any time by mutual written consent.

11.3 In the event of termination or a suspension for more than three months of the Project for which these Services are to be provided, UES may in its sole discretion complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expenses of termination or suspension shall include all direct costs incurred by UES in completing such analyses, records, and reports.

#### **SECTION 12: REVIEWS, INSPECTIONS, TESTING, AND OBSERVATIONS**

12.1 If the Services include oversight, monitoring or observation of work being conducted by third parties (other than UES subcontractors), such services shall be conducted solely to determine that the work being overseen, monitored, or observed is in general conformity to the contractual requirements between Client and such third parties. Client shall have sole responsibility and authority to reject, suspend or stop the work of such third parties, or modify or terminate any agreement between Client and such third parties.

12.2. UES shall not have the responsibility or authority to stop, suspend, or modify the work of such third parties, and does not guarantee that work it inspects conforms in all respects to the design, or to applicable laws, statutes, regulations, rules or codes, and it shall have no liability for design or construction defects, or the failure of Client's designers or contractors to comply with their contractual obligations.

12.3 Neither the activities of UES pursuant to this Agreement, nor the presence of UES or its employees, representatives, or subcontractors on the Project Site, shall be construed to impose upon UES any responsibility for means or methods of work performance, superintendence, sequencing of construction, or safety or environmental conditions or compliance at the Project Site. Client acknowledges that Client or its contractor is solely responsible for Project jobsite safety and compliance with environmental, health and safety laws.

12.4 Client is responsible for scheduling all inspections and construction materials testing ("CMT") activities of UES. UES will not be responsible for tests and inspections that it does not perform due to Client's failure to timely schedule work.

12.5 Client shall at the time of execution of the Agreement provide UES with a proposed schedule for tests and inspections UES shall perform. Client will give reasonable notice of all changes to that schedule. UES shall not be required to conduct any tests or inspections on less than 72 hours written notice, nor after normal business hours or on weekends or holidays.

#### **SECTION 13: SOLICITATION OF EMPLOYEES**

Client agrees that during the term of the Agreement, and for a period of one (1) year after the last date on which UES has provided services hereunder, Client shall not, directly or indirectly, solicit or attempt to solicit for employment, or contract directly or indirectly with, any employee of UES except as authorized in writing by UES. Client agrees that its breach of this Section shall cause UES irreparable harm, and that UES may, in addition to recovering any provable damages, enforce this obligation by injunction.

#### **SECTION 14: NO ASSIGNMENT**

Neither Client nor UES may delegate, assign or transfer its rights or obligations under the Agreement for any reason without the written consent of the other party. For avoidance of doubt, this provision does not affect UES' right, at its sole discretion, to use contractors or subcontractors in the performance and delivery of the Services.

#### **SECTION 15: GOVERNING LAW**

15.1 This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to the conflict of laws provisions of the State of Texas to the extent such principles or rules would require or permit the application of the laws of any other jurisdiction.

15.2 If any of the provisions of this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired and will survive. Limitations of liability and indemnities provided for will survive termination of this Agreement for the period of all applicable statutes of limitations to which they relate.

15.3 **WITH RESPECT TO CLIENT'S INDEMNIFICATION OBLIGATIONS HEREUNDER, THESE TERMS AND CONDITIONS COMPLY WITH THE REQUIREMENT, KNOWN AS THE EXPRESS NEGLIGENCE RULE, TO EXPRESSLY STATE IN A CONSPICUOUS MANNER TO AFFORD FAIR AND ADEQUATE NOTICE THAT THESE TERMS AND CONDITIONS CONTAIN PROVISIONS REQUIRING ONE PARTY TO BE RESPONSIBLE FOR THE NEGLIGENCE, STRICT LIABILITY, OR OTHER FAULT OF ANOTHER PARTY.**

#### **SECTION 16: INTEGRATED AGREEMENT**

16.1 This Agreement, and any Addendum represent and contain the entire and only agreement and understanding among the parties with respect to the subject matter of their subject matter, and they supersede all prior or contemporaneous oral and written agreements, understandings, representations, inducements, promises, communications, and conditions between the parties. No agreement, understanding, representation, inducement, promise, or condition with respect to the subject matter of this Agreement shall be relied upon by the parties unless expressly incorporated herein.

16.2 In the event any provision of the Agreement or these General Conditions shall be invalid, illegal or unenforceable in any respect, such a provision shall be considered separate and severable from the remaining provisions of this Agreement, and the validity, legality or enforceability of any of the remaining provisions of this Agreement shall not be affected or impaired by such provision in any way.

#### **SECTION 17: NO AMENDMENT**

17.1 The Agreement, including these General Conditions, may not be amended, or modified except by a writing signed by both parties.

17.2 Failure by either party at any time to enforce any obligation by the other party, to claim a breach of any term of the Agreement or to exercise any power agreed to hereunder will not be construed as a waiver of any right, power or obligation under the Agreement, will not affect any subsequent breach, and will not prejudice either party as regards any subsequent action.

#### **SECTION 18: WAIVER OF JURY TRIAL**

Both Client and UES waive trial by jury in any action arising out of or related to the Agreement, and any Addendum to the Agreement.

#### **SECTION 19: CONTRACTUAL STATUTE OF LIMITATIONS**

To the extent that a statute of limitations for any cause of action against UES arising from this Agreement or any Addendum can be modified contractually in accordance with law, and the relevant statute of limitations for any claim arising of or relating to any this Agreement or any Addendum, or the services provided by UES thereunder, is greater than two (2) years, the relevant statute of limitations shall be two (2) years from the date UES last provided services thereunder. The parties agree that this provision is material to the decision of UES to enter into this agreement, that it is a reasonable measure to allocate and insure against risk, and that it does not violate public policy. This section shall not be construed as an agreement to increase the statute of limitations for any causes of action that are otherwise barred by law.

**SECTION 20: HEADINGS**

The headings in these General Conditions are for reference only and are not intended to form part of the contract between the Parties.

REVISED: 3/7/24

# INSURANCE



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
04/04/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERs NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Garrell Insurance Agency LLC 212 Sidney Baker Street South  Kerrville TX 78028	CONTACT NAME: Ruth Busby PHONE: (830) 896-6800 FAX: (830) 896-6800 (A/C No. Ext): (A/C No): E-MAIL ADDRESS: ruth@frantzen-insurance.com	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Utica National Insurance Company of Texas 43478 INSURER B: Utica National Insurance Company of Texas 43478 INSURER C: INSURER D: INSURER E: INSURER F:	

<b>COVERAGEs</b>	<b>CERTIFICATE NUMBER:</b> 2023-2024	<b>REVISION NUMBER:</b>
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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.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WWD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS		
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	4689431	10/17/2023	10/17/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ex occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP/AGG \$ 2,000,000 \$ COMBINED SINGLE LIMIT (Ex accident) \$ 1,000,000				
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:								
	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY								
A	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE	4689431	10/17/2023	10/17/2024	EACH OCCURRENCE \$ AGGREGATE \$ \$ <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000				
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> (Mandatory In NH) If yes, describe under DESCRIPTION OF OPERATIONS below								
	B								

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b> City of Kerrville 701 Main Street  Kerrville TX 78028	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b> 
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# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
4/4/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> The Risk Specialty Group, LLC 675 Bering Dr, Ste. #175 Houston TX 77057	<b>CONTACT NAME:</b> Deanna Dyer <b>PHONE (A/C, No, Ext):</b> 713-552-1900 <b>FAX (A/C, No):</b> 713-513-5411 <b>E-MAIL ADDRESS:</b> ddyer@riskspecialtygroup.com
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Hudson Insurance Company <b>NAIC #:</b> 25054
<b>INSURED</b> Hewlett Engineering, Inc. 716 Barnett Street Kerrville TX 78028	<b>HEWMENG-01</b> <b>INSURER B:</b> <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>

<b>COVERAGE</b>		<b>CERTIFICATE NUMBER:</b> 1208932782		<b>REVISION NUMBER:</b>										
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.														
<b>INSR LTR</b>	<b>TYPE OF INSURANCE</b>	<b>ADDL INSD</b>	<b>SUBR WVO</b>	<b>POLICY NUMBER</b>	<b>POLICY EFF (MM/DD/YYYY)</b>	<b>POLICY EXP (MM/DD/YYYY)</b>	<b>LIMITS</b>							
<b>COMMERCIAL GENERAL LIABILITY</b>  <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR	<b>GEN'L AGGREGATE LIMIT APPLIES PER:</b>  <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC	<b>OTHER:</b>	<b>AUTOMOBILE LIABILITY</b>  <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	<b>UMBRELLA LIAB</b>  <input type="checkbox"/> EXCESS LIAB	<b>DED</b> <b>RETENTION \$</b>	<b>PER STATUTE</b> <b>OTH-ER</b> <b>E.L. EACH ACCIDENT</b> <b>E.L. DISEASE - EA EMPLOYEE</b> <b>E.L. DISEASE - POLICY LIMIT</b>	<b>EACH OCCURRENCE</b> <b>DAMAGE TO RENTED PREMISES (Ea occurrence)</b> <b>MED EXP (Any one person)</b> <b>PERSONAL &amp; ADV INJURY</b> <b>GENERAL AGGREGATE</b> <b>PRODUCTS - COMP/OP AGG</b> <b>\$</b>							
							<b>DAMAGED PROPERTY (Per occurrence)</b> <b>PERSONAL PROPERTY (Per occurrence)</b> <b>EXTRA EXPENSE (Per occurrence)</b> <b>EXTRA EXPENSE (Per occurrence)</b> <b>EXTRA EXPENSE (Per occurrence)</b> <b>EXTRA EXPENSE (Per occurrence)</b>							
							<b>COMBINED SINGLE LIMIT (Ea accident)</b> <b>BODILY INJURY (Per person)</b> <b>BODILY INJURY (Per accident)</b> <b>PROPERTY DAMAGE (Per accident)</b> <b>\$</b>							
							<b>AGGREGATE</b> <b>\$</b>							
							<b>EACH OCCURRENCE</b> <b>\$</b>							
							<b>AGGREGATE</b> <b>\$</b>							
							<b>\$</b>							
							<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> <b>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?</b> <b>(Mandatory In NH)</b> <b>If yes, describe under DESCRIPTION OF OPERATIONS below</b>		<b>Y / N</b>	<b>N / A</b>	<b>PER STATUTE</b> <b>OTH-ER</b> <b>E.L. EACH ACCIDENT</b> <b>E.L. DISEASE - EA EMPLOYEE</b> <b>E.L. DISEASE - POLICY LIMIT</b>			
							<b>A</b>	<b>Professional Liability</b> <b>"claims made"</b>		<b>PRB 06 19 117376</b>	<b>10/1/2023</b>	<b>10/1/2024</b>	<b>Per Claim Limit</b> <b>Aggregate Limit</b> <b>\$1,000,000</b> <b>\$1,000,000</b>	
							<b>DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)</b>							

<b>CERTIFICATE HOLDER</b>  City of Kerrville 701 Main Street Kerrville TX 78028	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
<b>AUTHORIZED REPRESENTATIVE</b> 	



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

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**SUBJECT:** General Contract-Vendor with CDW-G, LLC for the purchase of networking equipment for use in the Public Safety Facility, in an amount not to exceed \$530,247.00. (C Tork, Director of Information Technology)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 12, 2024

**SUBMITTED BY:** Charvy Tork

**EXHIBITS:**

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<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
\$530,247.00	\$35,531,447.35	\$45,000,000.00	Project #70-22005

**PAYMENT TO BE MADE TO:** CDW-G

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**Kerrville 2050 Item?** Yes

**Key Priority Area** F - Public Facilities and Services

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

The City seeks approval to purchase networking equipment for the new Public Safety Facility. The cost for the networking equipment, if purchased now, is \$530,247.00. This price includes aggressive discounts and promotions from CDW-G. If the purchase is delayed beyond July, the cost will increase to \$662,000.00. Making the purchase now will provide a savings of \$131,753.00. Purchasing compliance has been met as the equipment will be acquired through a Texas DIR (Department of Information Resources) contract, ensuring adherence to our purchasing policy. The vendor is willing to provide delayed billing and shipping, which will assist with our project timeline.

Resilient and robust networking equipment is critical for the Public Safety Facility due to the following reasons:

**Enhanced Security:** The new facility will handle sensitive and critical data. High-quality networking equipment ensures that data is transmitted securely and is protected from potential cyber threats.

**Reliability and Uptime:** In a public safety environment, reliable network connectivity is crucial. Any downtime can hinder emergency response operations. Investing in resilient networking equipment guarantees high availability and minimizes the risk of network failures.

**Performance:** The new equipment will support high-speed data transfer and efficient network performance, essential for real-time communication and data exchange between public

safety personnel and departments.

Scalability: As the demands on the network grow, the equipment can scale to accommodate increased data traffic and additional users without compromising performance.

Maintenance and Support: The quote includes 5 years of maintenance, ensuring long-term support and reliability. This maintenance coverage is vital for addressing any issues promptly and maintaining optimal network performance.

Wireless Network: The purchase also includes the staff wireless network infrastructure for the entire building, ensuring comprehensive coverage and connectivity for all areas within the facility.

This equipment is the owner-furnished part of the Public Safety Facility project, essential for the completion and functionality of the building's data center. The quote includes the cost of hardware and 7 years of maintenance, ensuring long-term support and reliability for the network infrastructure.

**RECOMMENDED ACTION:**

Authorize the City Manager to finalize and execute an agreement for the purchase of networking equipment for the new Public Safety Facility at \$530,247.00, leveraging discounts and promotions.

**ATTACHMENTS:**

[\*20240723\\_Contract CDWG for PSF network equipt Draft.pdf\*](#)

**GENERAL CONTRACT - VENDOR**  
**CDW•G LLC/Public Safety Facility Network Equipment**

THIS CONTRACT, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2024, by and between the **City of Kerrville, Texas**, hereinafter referred to as the "Owner," and **CDW•G LLC.**, an Illinois Limited Liability Company with its mailing address being 200 North Milwaukee Avenue, Vernon Hill, Illinois 60061, hereinafter referred to as the "Vendor," is made for the following considerations:

1. The Vendor shall provide the products described in the quote attached hereto as **Exhibit A**, and incorporated herein by reference **in the amount of \$530,247.00**.
2. Whenever the words "Owner's Representative" or "representative" are used in this contract, it shall be understood as referring to Charvy Tork, Director of Information Technologies, or to such other representative as may be authorized by the Owner to act in any particular capacity under this agreement.
3. The Vendor shall comply with all laws, ordinances, rules and regulations governing the Vendor's performance of the contract.
4. **VENDOR UNDERSTANDS AND AGREES THAT THE CITY IS PROHIBITED BY ARTICLE XI, SECTION 7 OF THE TEXAS CONSTITUTION FROM INDEMNIFYING VENDOR. THEREFORE, CITY SHALL NOT INDEMNIFY, HOLD HARMLESS, OR GUARANTEE TO MAKE WHOLE VENDOR RELATING TO ANY CLAIMS OF ANY NATURE THAT COULD BE RAISED AGAINST VENDOR ARISING OUT OF THE USE OR CONDITION OF THE GOODS OR PRODUCTS SUBJECT TO THIS AGREEMENT.**
5. **Prohibition Against Boycotting Israel.** Contractor hereby verifies the following per Section 2271.02, Texas Government Code:
  1. Contractor does not boycott Israel; and
  2. Contractor will not boycott Israel during the term of the Agreement.
6. **Prohibition Against Business with Iran, Sudan, or Foreign Terrorist Organization.** Contractor warrants, covenants, and represents that Contractor is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.
7. **Prohibition on Contracts with Companies Boycotting Energy Companies.** Contractor hereby verifies the following per Section 2276.002, Texas Government Code:

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

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

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

9. Prohibition on Contracts with Companies Related to Certain Countries. Where this Agreement pertains to “critical infrastructure,” as defined by Section 2275.0101, Texas Government Code, Vendor verifies (1) that it is not owned by or the majority of stock or other ownership interest of the company is not held or controlled by: (a) individuals who are citizens of China, Iran, North Korea, Russia, or other designated countries; or (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or other designated countries; or (2) headquartered in China, Iran, North Korea, Russia, or other designated countries.

10. In the event of conflict between the provisions of any attachments or exhibits to this Contract and the provisions of this Contract, the provisions of this Contract shall prevail.

11. Each person signing below represents that he or she is duly authorized to execute this Agreement on behalf of the party indicated below by his or her name and agrees on behalf of such party that such party will be bound by the terms of this Agreement.

**OWNER: City of Kerrville, Texas**

By: \_\_\_\_\_  
Dalton Rice, City Manager

ATTEST:

Shelley McElhannon, City Secretary

**CONTRACTOR: CDW•G LLC**

By: \_\_\_\_\_  
Name, Role

APPROVED AS TO FUNDING

Julie Behrens, Director of Finance

APPROVED AS TO FORM:

---

William L. Tatsch  
Assistant City Attorney

APPROVED AS TO CONTENT:

---

Charvy Tork  
Director of Information Technology

T:\Legal\IT\Contracts\Vendor Contract\_CDWG LLC\_071824 (Draft).docx

## TERMS AND CONDITIONS

## SALES AND SERVICE PROJECTS

## PLEASE READ THESE TERMS AND CONDITIONS VERY CAREFULLY

THE TERMS AND CONDITIONS OF PRODUCT SALES AND SERVICE PROJECTS ARE LIMITED TO THOSE CONTAINED HEREIN. ANY ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS IN ANY FORM DELIVERED BY YOU ("CUSTOMER") ARE HEREBY DEEMED TO BE MATERIAL. ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN.

BY ACCEPTING DELIVERY OF THE PRODUCTS OR BY ENGAGING THE CDW AFFILIATE IDENTIFIED ON THE INVOICE, STATEMENT OF WORK OR OTHER CDW DOCUMENTATION ("SELLER") TO PROVIDE PRODUCT OR PERFORM OR PROCURE ANY SERVICES, CUSTOMER AGREES TO BE BOUND BY AND ACCEPTS THESE TERMS AND CONDITIONS, UNLESS CUSTOMER AND SELLER HAVE SIGNED A SEPARATE AGREEMENT, IN WHICH CASE THE SEPARATE AGREEMENT WILL GOVERN.

ANY GENERAL DESCRIPTION OF THE TYPES OF PRODUCTS OR SERVICES AND RESULTS THEREOF POSTED ON ANY SELLER WEBSITE OR MOBILE APPLICATION DO NOT CONSTITUTE PART OF THE AGREEMENT BETWEEN SELLER AND CUSTOMER.

## Important Information About These Terms and Conditions

These Terms and Conditions constitute a binding contract between Customer and Seller and are referred to herein as either "Terms and Conditions" or this "Agreement". Customer accepts these Terms and Conditions by making a purchase from or placing an order with Seller or shopping on any Seller Website or Mobile Application (each, a "Site") or otherwise requesting products (the "Products") or engaging Seller to perform or procure any Services (as this and all capitalized terms are defined herein). These Terms and Conditions are subject to change without prior notice, except that the Terms and Conditions posted on a Site at the time Customer places an order or signs a Statement of Work will govern the order in question unless otherwise agreed in writing by Seller and Customer.

Customer consents to receiving electronic records, which may be provided via a Web browser or e-mail application connected to the Internet; individual consumers may withdraw consent to receiving electronic records or have the record provided in non-electronic form by contacting Seller. In addition, Internet connectivity requires access services from an Internet access provider. Contact your local access provider for details. Electronic signatures (or copies of signatures sent via electronic means) are the equivalent of written and signed documents.

Customer may issue a purchase order for administrative purposes only. Additional or different terms and conditions contained in any such purchase order will be null and void. No course of prior dealings between the parties and no usage of trade will be relevant to determine the meaning of these Terms and Conditions or any purchase order or invoice, or any document in electronic or written form that is signed and delivered by each of the parties for the performance of Services other than Third Party Services (each, a "Statement of Work"). This Agreement contains the entire understanding of the parties with respect to the matters contained herein and supersedes and replaces in its entirety any and all prior communications and contemporaneous agreements and understandings, whether oral, written, electronic or implied, if any, between the parties with respect to the subject matter hereof.

Governing Law

Rubi 

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Track orders, manage IT assets and get personalized pricing all in one place

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Learn more about Rubi

FEEDBACK

THESE TERMS AND CONDITIONS, ANY STATEMENTS OF WORK, THE SERVICES HEREUNDER AND ANY SALE OF PRODUCTS HEREUNDER WILL BE GOVERNED BY THE LAWS OF THE STATE OF ILLINOIS, WITHOUT REGARD TO CONFLICTS OF LAWS RULES. ANY ARBITRATION, ENFORCEMENT OF AN ARBITRATION OR LITIGATION WILL BE BROUGHT EXCLUSIVELY IN COOK COUNTY, ILLINOIS, AND CUSTOMER CONSENTS TO THE JURISDICTION OF THE FEDERAL AND STATE COURTS LOCATED THEREIN, SUBMITS TO THE JURISDICTION THEREOF AND WAIVES THE RIGHT TO CHANGE VENUE. CUSTOMER FURTHER CONSENTS TO THE EXERCISE OF PERSONAL JURISDICTION BY ANY SUCH COURT WITH RESPECT TO ANY SUCH PROCEEDING. Except in the case of nonpayment, neither party may institute any action in any form arising out of these Terms and Conditions more than one (1) year after the cause of action has arisen. The rights and remedies provided Seller under these Terms and Conditions are cumulative, are in addition to, and do not limit or prejudice any other right or remedy available at law or in equity.

## Title; Risk of Loss

If Customer provides Seller with Customer's carrier account number or selects a carrier other than a carrier that regularly ships for Seller, title to Products and risk of loss or damage during shipment pass from Seller to Customer upon delivery to the carrier (F.O.B. Origin, freight collect). For all other shipments, title to Products and risk of loss or damage during shipment pass from Seller to Customer upon delivery to the specified destination (F.O.B. Destination, freight prepaid and added). Notwithstanding the foregoing, title to software will remain with the applicable licensor(s), and Customer's rights therein are contained in the license agreement between such licensor(s) and Customer.

## Services

Customers may order services (collectively, "Services") from or through Seller from time to time. Certain Services may be provided by third parties, including, but not limited to, extended warranty service by manufacturers, and are sold by Seller as distributor or sales agent ("Third Party Services").

In the case of Third Party Services, Customer shall consider the third party to be the contracting party and the third party shall be the party responsible for providing the services to the Customer and Customer will look solely to the third party for any loss, claims or damages arising from or related to the provision of such Third Party Services. Customer and Customer's Affiliates (defined below) hereby release Seller and Seller's Affiliates (defined below) from any and all claims arising from or relating to the purchase or provision of any such Third Party Services. Any amounts, including, but not limited to, taxes, associated with Third Party Services which may be collected by Seller will be collected solely in the capacity as an independent sales agent. For purposes of this Agreement (a) "Affiliate" means, with respect to Seller, entities that Control, are Controlled by, or are under common Control with Seller; and, with respect to Customer, entities both that Control are Controlled by, or are under common Control with Customer, and (b) "Control" or "Controlled" means the possession, directly or indirectly, of the power to direct or cause the direction of the affairs of another whether by ownership of shares, ability to appoint officers, contract or otherwise.

Where Services are ordered in a Statement of Work, each Statement of Work hereby incorporates these Terms and Conditions and constitutes a separate agreement with respect to the Services performed. Seller, or any of its Affiliates on behalf of Seller, may execute a Statement of Work. In the event of an addition to or a conflict between any term or condition of the Statement of Work and these Terms and Conditions, these Terms and Conditions will control, except as expressly amended in the applicable Statement of Work by specific reference to this Agreement. Each such amendment will be applicable only with respect to such Statement of Work and not to future Statements of Work. Changes to the scope of the Services described in a Statement of Work will be made only in a writing executed by authorized representatives of both parties. Seller will have no obligation to commence work in connection with any such change, unless and until the change is agreed upon in that writing executed by both parties. All such changes to the scope of the Services will be governed by these Terms and Conditions and the applicable Statement of Work. Each Statement of Work may be signed in separate counterparts each of which shall be deemed an original and all of which together will be deemed to be one original.

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## Cooperation

In addition to any specific Customer duties set forth in any applicable Statement of Work, Customer agrees to cooperate with Seller in connection with performance of the Services by providing: (i) timely responses to Seller's inquiries and requests for approvals and authorizations, (ii) access to any information or materials reasonably requested by Seller which are necessary or useful as determined by Seller in connection with providing the Services, including, but not limited to, physical and computer access to Customer's computer systems, and (iii) all Required Consents necessary for Seller to provide the Services. "Required Consents" means consents or approvals required to give Seller, its Affiliates, and its and their subcontractors the right or license to access, use and modify all data and third-party products. Customer acknowledges and agrees that the Services are dependent upon the completeness and accuracy of information provided by Customer and the knowledge and cooperation of the agents, employees or subcontractors ("Personnel") engaged or appointed by Customer who are selected by Customer to work with Seller.

Seller will follow all reasonable Customer security rules and procedures, as communicated in writing by Customer to Seller from time to time.

## Access

Seller may perform the Services at Customer's place of business, at Seller's own facilities or such other locations as Seller and Customer deem appropriate. When the Services are performed at Customer's premises, Seller will attempt to perform such Services within Customer's normal business hours unless otherwise jointly agreed to by the parties. Customer will also provide Seller access to Customer's staff and any other Customer resources (and when the Services are provided at another location designated by Customer, the staff and resources at such location) that Seller determines are useful or necessary for Seller to provide the Services. When the Services are provided on Customer's premises or at another location designated by Customer, Customer agrees to maintain adequate insurance coverage to protect Seller and Customer's premises and to indemnify and hold Seller and its Affiliates, and its and their agents and employees harmless from any loss, cost, damage or expense (including, but not limited to, attorneys' fees and expenses) arising out of any product liability, death, personal injury or property damage or destruction occurring at such location in connection with the performance of the Services, other than solely as a result of Seller's gross negligence or willful misconduct.

## Payment

Orders are not binding upon Seller until accepted by Seller. Customer agrees to pay the total purchase price for the Products plus shipping (to the extent shipping is not prepaid by Customer), including shipping charges that are billed to Seller as a result of using Customer's carrier account number. Terms of payment are within Seller's sole discretion. In connection with Services being performed pursuant to a Statement of Work, Customer will pay for the Services in the amounts and in accordance with any payment schedule set forth in the applicable Statement of Work. If no payment schedule is provided, Customer will pay for the Services as invoiced by Seller. Invoices are due and payable within the time period specified on the invoice, measured from the date of invoice, subject to continuing credit approval by Seller. Seller, or any of its Affiliates on behalf of Seller may issue an invoice to Customer. Seller may invoice Customer separately for partial shipments, and Seller may invoice Customer for all of the Services described in a Statement of Work or any portion thereof. Customer agrees to pay interest on all past-due sums at the lower of one and one-half percent (1.5%) per month or the highest rate allowed by law. Customer will pay for, and will indemnify and hold Seller and its Affiliates harmless from, any applicable sales, use, transaction, excise or similar taxes and any federal, state or local fees or charges (including, but not limited to, environmental or similar fees), imposed on, in respect of or otherwise associated with any Statement of Work, the Products or the Services. Customer must claim any exemption from such taxes, fees or charges at the time of purchase and provide Seller with the necessary supporting documentation. In the event of a payment default, Customer will be responsible for all of Seller's costs of collection, including, but not limited to, court costs, filing fees and attorneys' fees. In addition, if payments are not received as described above, Seller reserves the right to suspend Services until payment is received. Customer hereby grants to Seller a security interest in the Products to secure payment in full. Customer authorizes Seller to file a financing statement reflecting such security interest. Except as otherwise specified on an applicable Statement of



Work, Customer will reimburse Seller for all reasonable out-of-pocket expenses incurred by Seller in connection with the performance of the Services, including, but not limited to, travel and living expenses.

## Export Sales

If this transaction involves an export of items (including, but not limited to, commodities, software or technology) subject to the Export Administration Regulations, such items were exported from the United States by Seller in accordance with the Export Administration Regulations. Customer agrees that it will not divert, use, export or re-export such items contrary to United States law. Customer expressly acknowledges and agrees that it will not export, re-export, or provide such items to any entity or person within any country that is subject to United States economic sanctions imposing comprehensive embargoes without obtaining prior authorization from the United States Government. The list of such countries subject to United States economic sanctions or embargoes may change from time to time but currently includes Cuba, Iran, Sudan, and Syria. Customer also expressly acknowledges and agrees that it will not export, re-export, or provide such items to entities and persons that are ineligible under United States law to receive such items, including but not limited to, any person or entity on the United States Treasury Department's list of Specially Designated Nationals or on the United States Commerce Department's Denied Persons List, Entity List, or Unverified List. In addition, manufacturers' warranties for exported Products may vary or may be null and void for Products exported outside the United States.

## Warranties

Customer understands that Seller is not the manufacturer of the Products purchased by Customer hereunder and the only warranties offered are those of the manufacturer, not Seller or its Affiliates. In purchasing the Products, Customer is relying on the manufacturer's specifications only and is not relying on any statements, specifications, photographs or other illustrations representing the Products that may be provided by Seller or its Affiliates. SELLER AND ITS AFFILIATES HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES EITHER EXPRESS OR IMPLIED, RELATED TO PRODUCTS, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF TITLE, ACCURACY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY MANUFACTURER'S WARRANTY. Customer expressly waives any claim that it may have against Seller or its Affiliates based on any product liability or infringement or alleged infringement of any patent, copyright, trade secret or other intellectual property rights (each a "Claim") with respect to any Product and also waives any right to indemnification from Seller or its Affiliates against any such Claim made against Customer by a third party. Customer acknowledges that no employee of Seller or its Affiliates is authorized to make any representation or warranty on behalf of Seller or any of its Affiliates that is not in this Agreement.

Seller makes no warranties to the Customer and the Customer hereby acknowledges that Seller makes no warranties in regard to the applicability of all laws and regulations affecting, without limitation the manufacture, performance, sale, packaging and labelling of the Products which are in force within the Customer's territory.

Customer further acknowledges and agrees that Seller makes no representations, warranties or assurances that the Products are designed for or suitable for use in any high risk environment, including but not limited to aircraft or automobile safety devices or navigation, life support systems or medical devices, nuclear facilities, or weapon systems, and Customer agrees to indemnify Seller in connection with any such use of the Products. Customer further agrees to review and comply with the manufacturer's disclaimers and restrictions regarding the use of the Products in high risk environments.

Seller warrants that the Services will be performed in a good and workmanlike manner. Customer's sole and exclusive remedy and Seller's entire liability with respect to this warranty will be, at the sole option of Seller, to either (a) use its reasonable commercial efforts to reperform or cause to be reperformed any Services not in substantial compliance with this warranty or (b) refund amounts paid by Customer related to the portion of the Services not in substantial compliance; provided, in each case, Customer notifies Seller in writing within five (5) business days after performance of the applicable Services. EXCEPT AS SET FORTH HEREIN OR IN ANY

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STATEMENT OF WORK THAT EXPRESSLY AMENDS SELLER'S WARRANTY, AND SUBJECT TO APPLICABLE LAW, SELLER MAKES NO OTHER, AND EXPRESSLY DISCLAIMS ALL OTHER, REPRESENTATIONS, WARRANTIES, CONDITIONS OR COVENANTS, EITHER EXPRESS OR IMPLIED (INCLUDING WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, DURABILITY, TITLE, ACCURACY OR NON-INFRINGEMENT) ARISING OUT OF OR RELATED TO THE PERFORMANCE OR NON-PERFORMANCE OF THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY RELATING TO THIRD PARTY SERVICES, ANY WARRANTY WITH RESPECT TO THE PERFORMANCE OF ANY HARDWARE OR SOFTWARE USED IN PERFORMING SERVICES AND ANY WARRANTY CONCERNING THE RESULTS TO BE OBTAINED FROM THE SERVICES. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE. CUSTOMER ACKNOWLEDGES THAT NO REPRESENTATIVE OF SELLER OR OF ITS AFFILIATES IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY ON BEHALF OF SELLER OR ANY OF ITS AFFILIATES THAT IS NOT IN THIS AGREEMENT OR IN A STATEMENT OF WORK EXPRESSLY AMENDING SELLER'S WARRANTY.

Customer shall be solely responsible for daily back-up and other protection of its data and software against loss, damage or corruption. Customer shall be solely responsible for reconstructing data (including but not limited to data located on disk files and memories) and software that may be lost, damaged or corrupted during the performance of Services. SELLER, ITS AFFILIATES, AND ITS AND THEIR SUPPLIERS, SUBCONTRACTORS AND AGENTS ARE HEREBY RELEASED AND SHALL CONTINUE TO BE RELEASED FROM ALL LIABILITY IN CONNECTION WITH THE LOSS, DAMAGE OR CORRUPTION OF DATA AND SOFTWARE, AND CUSTOMER ASSUMES ALL RISK OF LOSS, DAMAGE OR CORRUPTION OF DATA AND SOFTWARE IN ANY WAY RELATED TO OR RESULTING FROM THE SERVICES.

Seller will not be responsible for and no liability shall result to Seller or any of its Affiliates for any delays in delivery or in performance which result from any circumstances beyond Seller's reasonable control, including, but not limited to, Product unavailability, carrier delays, delays due to fire, severe weather conditions, failure of power, labor problems, acts of war, terrorism, embargo, acts of God or acts or laws of any government or agency. Any shipping dates or completion dates provided by Seller or any purported deadlines contained in a Statement of Work or any other document are estimates only.

## Pricing Information; Availability Disclaimer

Seller reserves the right to make adjustments to pricing, Products and Service offerings for reasons including, but not limited to, changing market conditions, Product discontinuation, Product unavailability, manufacturer price changes, supplier price changes and errors in advertisements. All orders are subject to Product availability and the availability of Personnel to perform the Services. Therefore, Seller cannot guarantee that it will be able to fulfill Customer's orders. If Services are being performed on a time and materials basis, any estimates provided by Seller are for planning purposes only.

## Credits

Any credit issued by Seller to Customer for any reason must be used within two (2) years from the date that the credit was issued and may only be used for future purchases of Products and/or Services. Any credit or portion thereof not used within the two (2) year period will automatically expire.

## Limitation of Liability

UNDER NO CIRCUMSTANCES AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY SET FORTH HEREIN, WILL SELLER, ITS AFFILIATES OR ITS OR THEIR SUPPLIERS, SUBCONTRACTORS OR AGENTS BE LIABLE FOR: (A) ANY INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, LOSS OF PROFITS, BUSINESS, REVENUES OR SAVINGS, EVEN IF SELLER HAS BEEN ADVISED OF THE POSSIBILITIES OF SUCH DAMAGES OR IF SUCH DAMAGES ARE OTHERWISE FORESEEABLE, IN EACH CASE, WHETHER A CLAIM FOR ANY SUCH LIABILITY IS PREMISED UPON BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY OF LIABILITY; (B) ANY CLAIMS, DEMANDS OR ACTIONS AGAINST CUSTOMER BY ANY THIRD PARTY; (C) ANY LOSS

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OR CLAIM ARISING OUT OF OR IN CONNECTION WITH CUSTOMER'S IMPLEMENTATION OF ANY CONCLUSIONS OR RECOMMENDATIONS BY SELLER OR ITS AFFILIATES BASED ON, RESULTING FROM, ARISING OUT OF OR OTHERWISE RELATED TO THE PRODUCTS OR SERVICES; OR (D) ANY UNAVAILABILITY OF THE PRODUCT FOR USE OR ANY LOST, DAMAGED OR CORRUPTED DATA OR SOFTWARE. IN THE EVENT OF ANY LIABILITY INCURRED BY SELLER OR ANY OF ITS AFFILIATES, THE ENTIRE LIABILITY OF SELLER AND ITS AFFILIATES FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED THE LESSER OF: (A) THE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PRODUCT(S) GIVING RISE TO THE CLAIM OR THE SPECIFIC SERVICES GIVING RISE TO THE CLAIM; OR (B) \$50,000.00.

## Limited License

Customer's sole rights to the work product, materials and other deliverables to be provided or created (individually or jointly) in connection with the Services, including but not limited to, all inventions, discoveries, methods, processes, formulae, ideas, concepts, techniques, know-how, data, designs, models, prototypes, works of authorship, computer programs, proprietary tools, methods of analysis and other information (whether or not capable of protection by patent, copyright, trade secret, confidentiality, or other proprietary rights) or discovered in the course of performance of this Agreement that are embodied in such work or materials ("Work Product") will be, upon payment in full, a non-transferable, non-exclusive, royalty-free license to use such Work Products solely for Customer's internal use. Customer will have no ownership or other property rights thereto and Customer shall have no right to use any such Work Product for any other purpose whatsoever. Customer acknowledges that Sellers may incorporate intellectual property created by third parties into the Work Product ("Third Party Intellectual Property"). Customer agrees that its right to use the Work Product containing Third Party Intellectual Property may be subject to the rights of third parties and limited by agreements with such third parties.

## Confidential Information

Each party anticipates that it may be necessary to provide access to information of a confidential nature of such party, the Affiliates or a third party (hereinafter referred to as "Confidential Information") to the other party in the performance of this Agreement and any Statement of Work. "Confidential Information" means any information or data in oral, electronic or written form which the receiving party knows or has reason to know is proprietary or confidential and which is disclosed by a party in connection with this Agreement or which the receiving party may have access to in connection with this Agreement, including but not limited to the terms and conditions of each Statement of Work. Confidential Information will not include information which: (a) becomes known to the public through no act of the receiving party; (b) was known to the receiving party, or becomes known to the receiving party from a third party having the right to disclose it and having no obligation of confidentiality to the disclosing party with respect to the applicable information; or (c) is independently developed by agents, employees or subcontractors of the receiving party who have not had access to such information. To the extent practicable, Confidential Information should be clearly identified or labeled as such by the disclosing party at the time of disclosure or as promptly thereafter as possible; however, failure to so identify or label such Confidential Information will not be evidence that such information is not confidential or protectable.

Each party agrees to hold the other party's Confidential Information confidential for a period of three (3) years following the date of disclosure and to do so in a manner at least as protective as it holds its own Confidential Information of like kind but to use no less than a reasonable degree of care. Disclosures of the other party's Confidential Information will be restricted (i) to those individuals who are participating in the performance of this Agreement or the applicable Statement of Work and need to know such Confidential Information for purposes of providing or receiving the Products or Services or otherwise in connection with this Agreement or the applicable Statement of Work, or (ii) to its business, legal and financial advisors, each on a confidential basis. Each party agrees not to use any Confidential Information of the other party for any purpose other than the business purposes contemplated by this Agreement and the applicable Statement of Work. Upon the written request of a party, the other party will either return or certify the destruction of the Confidential Information of the other party.

If a receiving party is required by law, rule or regulation, or requested in any judicial or administrative proceeding or by any governmental or regulatory authority, to disclose Confidential Information of the other party, the receiving party will give the disclosing party

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prompt notice of such request so that the disclosing party may seek an appropriate protective order or similar protective measure and will use reasonable efforts to obtain confidential treatment of the Confidential Information so disclosed.

## Return Privileges

CDW allows Customer returns based on the policies of the original product manufacturer. Software is not returnable if the packaging has been opened. If software was distributed electronically, it is not returnable if the licenses were downloaded. For additional information see CDW's full Product Return Policy at the following link: [Return Policy](#). Customers should contact CDW Customer Relations at 866.SVC.4CDW or e-mail at [Customer Relations](#) to initiate a return or for additional information. Customers must notify CDW Customer Relations of any damaged Products within fifteen (15) days of receipt.

## Termination

Either party may terminate performance of a Service or a Statement of Work for cause if the other party fails to cure a material default in the time period specified herein. Any material default must be specifically identified in a written notice of termination. After written notice, the notified party will, subject to the provision of warranties herein, have thirty (30) days to remedy its performance except that it will only have ten (10) days to remedy any monetary default. Failure to remedy any material default within the applicable time period provided for herein will give cause for immediate termination, unless such default is incapable of being cured within the time period in which case the defaulting party will not be in breach (except for Customer's payment obligations) if it used its reasonable efforts to cure the default. In the event of any termination of the Services or a Statement of Work, Customer will pay Seller for all Services performed and expenses incurred up to and including the date of termination plus any termination fee if one is set forth in the applicable Statement of Work. In such event Customer will also pay Seller for any out-of-pocket demobilization or other direct costs resulting from termination. Upon termination, all rights and obligations of the parties under the Service or Statement of Work (as applicable) will automatically terminate except for any right of action occurring prior to termination, payment obligations and obligations that expressly or by implication are intended to survive termination (including, but not limited to, limitation of liability, indemnity, confidentiality, or licensing of Work Product and this survival provision).

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## Provisions Related to Custom Imaging

If in connection with the provision of Products or Services, Customer desires to have Seller provide installation of custom software images, Customer will be required to execute an Installation Indemnity Agreement, a form of which is provided at <http://www.cdw.com/forms/indemnity/app.asp>.

## Arbitration

Any claim, dispute, or controversy (whether in contract, tort or otherwise, whether preexisting, present or future, and including, but not limited to, statutory, common law, intentional tort and equitable claims) arising from or relating to the Products, the Services, the interpretation or application of these Terms and Conditions or any Statement of Work or the breach, termination or validity thereof, the relationships which result from these Terms and Conditions or any Statement of Work (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories hereto), or Seller's or any of its Affiliates' advertising or marketing (collectively, a "Claim") WILL BE RESOLVED, UPON THE ELECTION OF ANY OF SELLER, CUSTOMER OR THE THIRD PARTIES INVOLVED, EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION. If arbitration is chosen, it will be conducted pursuant to the Rules of the American Arbitration Association. If arbitration is chosen by any party with respect to a Claim, neither Seller nor Customer will have the right to litigate that Claim in court or to have a jury trial on that Claim or to engage in pre-arbitration discovery, except as provided for in the applicable arbitration rules or by agreement of the parties involved. Further, Customer will not have the right to participate as a representative or member of any class of claimants pertaining to any Claim. Notwithstanding any choice of law provision included in these Terms and Conditions, this arbitration agreement is subject to the Federal Arbitration Act (9 U.S.C. §§ 1-16). The arbitration will take place exclusively

in Chicago, Illinois. Any court having jurisdiction may enter judgment on the award rendered by the arbitrator(s). Each party involved will bear its own cost of any legal representation, discovery or research required to complete arbitration. The existence or results of any arbitration will be treated as confidential. Notwithstanding anything to the contrary contained herein, all matters pertaining to the collection of amounts due to Seller arising out of the Products or Services will be exclusively litigated in court rather than through arbitration.

## Personal Data

If and to the extent that Seller will process Personal Data on behalf of Customer in the provision of Services under this Agreement, the Data Processing Agreement provided at <https://www.cdw.com/content/cdw/en/terms-conditions/cdw-data-processing-agreement.html> shall apply to such processing and is incorporated by reference. As used herein, "Personal Data" means any information that identifies relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular individual or household in connection with the Services performed for Customer, including without limitation any information that qualifies as "personal information" or "personal data" under data protection laws applicable to Seller.

## Miscellaneous

Seller may assign or subcontract all or any portion of its rights or obligations with respect to the sale of Products or the performance of Services or assign the right to receive payments, without Customer's consent. Customer may not assign these Terms and Conditions, or any of its rights or obligations herein without the prior written consent of Seller. Subject to the restrictions in assignment contained herein, these Terms and Conditions will be binding on and inure to the benefit of the parties hereto and their successors and assigns. No provision of this Agreement or any Statement of Work will be deemed waived, amended or modified by either party unless such waiver, amendment or modification is in writing and signed by both parties. The relationship between Seller and Customer is that of independent contractors and not that of employer/employee, partnership or joint venture. If any term or condition of this Agreement or a Statement of Work is found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same shall not affect the other terms or conditions hereof or thereof or the whole of this Agreement or the applicable Statement of Work. Notices provided under this Agreement will be given in writing and deemed received upon the earlier of actual receipt or three (3) days after mailing if mailed postage prepaid by regular mail or airmail or one (1) day after such notice is sent by courier or facsimile transmission. Any delay or failure by either party to exercise any right or remedy will not constitute a waiver of that party to thereafter enforce such rights.

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## International Services

If and to the extent that any Statement of Work involves the provision of Services remotely by Seller to a Customer location outside of the United States, the following additional terms shall apply with respect to those Services only.

Customer will pay for, and will indemnify, defend and hold Seller and its Affiliates and each of their respective directors, officers, employees and agents harmless from loss (of any kind), cost, damage or expense (including, but not limited to, attorney's fees and expenses) arising out of any Taxes. Customer must claim any exemption from such taxes, fees or charges at the time of purchase and provide Seller with the necessary supporting documentation. Any taxes, charges, fees, penalties and interests in respect thereof that are the responsibility of Customer hereunder may be invoiced by Seller in the Product or Services invoices or separately. For purposes of this Section, "Taxes" means any applicable sales, use, transaction, value added, goods and services tax, harmonized sales tax, withholding tax, excise or similar taxes, and any foreign, provincial, federal, state or local fees or charges (including but not limited to, environmental or similar fees) and any income or business tax liability, including any penalties and interest in respect thereof, imposed on, in respect of or otherwise associated with any transaction hereunder, or the Purchased Items (except taxes on or measured by the net income of Seller).

If the Laws or a governmental authority imposes or adopts regulation, or there is a change in the Laws, which requires Seller or any of its Affiliates to register and/or obtain a governmental license, permit, or consent to make the Services available within a jurisdiction, Seller has the right not to

make available or terminate the Service to the Customer's Affiliate(s) in such jurisdiction without any liability whatsoever to the Customer or its Affiliates. For purposes of this Agreement, "Laws" means any applicable federal, state, provincial, local, municipal, regional, foreign, international, multinational or other constitution, law, statute, treaty, rule, regulation, regulatory or legislative requirement, ordinance, license, restriction, judicial or administrative order, code, common law or other pronouncement having the effect of law.

Customer and Seller are solely obligated to address and resolve all claims, controversies or disputes associated with provision of Services (including any damages or injuries to a party's foreign Affiliates) in the United States as provided in the Arbitration clause above. In the event a party's foreign Affiliate brings suit or makes a claim or demand against the other party or an Affiliate of the other party located outside of the United States, such party will work with its foreign Affiliate to dismiss the suit, claim, or demand, and such party will bring such suit, claim or demand against the other party directly in the United States instead. In addition, such party will reimburse the other party or the other party's Affiliates for any of the costs or expenses that the other party or the other party's Affiliates reasonably incurred while responding to the suit, claim or demand brought by such party's foreign Affiliate.

Version Date: June 23, 2023

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

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**SUBJECT:** City Council workshop minutes July 09, 2024. (S McElhannon, City Secretary)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** July 3, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

City Council workshop minutes July 09, 2024 at 4:00 p.m.

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**RECOMMENDED ACTION:**

Approve minutes as presented.

**ATTACHMENTS:**

[20240723\\_Minutes CC workshop 7-09-24 4pm.pdf](#)

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

**JULY 09, 2024 4:00 PM  
701 MAIN STREET, KERRVILLE, TEXAS**

**CALL TO ORDER:** On July 09, 2024 at 4:00 p.m., the City Council workshop was called to order by Mayor Joe Herring, Jr. at City Hall Council Chambers, 701 Main Street.

**COUNCILMEMBERS PRESENT:**

Joe Herring, Jr., Mayor  
Delayne Sigerman, Council Place 1  
Jeff Harris, Council Place 2  
Kent McKinney, Council Place 3  
Brenda Hughes, Council Place 4/Mayor Pro Tem

**COUNCILMEMBERS ABSENT:**

None

**CITY STAFF PRESENT:**

Dalton Rice, City Manager  
Mike Hayes, City Attorney  
Michael Hornes, Asst City Manager  
Kim Meismer, Asst City Manager  
Shelley McElhannon, City Secretary  
Julie Behrens, Director Finance  
Kyle Burow, Director Engineering  
Janelle Chapman, Procurement Coord

Stuart Cunyus, Public Information Officer  
Kelly Hagemeier, Exec Office Coordinator  
Eric Maloney, Fire Chief  
Chris McCall, Police Chief  
Trina Sanchez, Asst Director Building Services  
Charvy Tork, Director Information Technology  
Anello Zanoni, Management Intern

**VISITOR(S) PRESENT:**

Katie Milton-Jordan, Kerrville Economic Development Corporation Deputy Director  
Angela Kennedy, Executive Director Heart of the Hills Heritage Center  
Linda Stone, Secretary Heart of the Hills Heritage Center  
Cameron Bowsky, Matrix

**1. PUBLIC COMMENT: None**

**2. INFORMATION AND DISCUSSION:**

2A. Kerr Economic Development Corporation (KEDC) update.

Katie Milton-Jordan provided information and responded to questions.

2B. Heart of the Hills Heritage Center update.

Michael Hornes and Angela Kennedy provided information and responded to questions.

2C. Public Safety Facility update.

Michael Hornes provided information and responded to questions.

2D. City Facilities Condition Assessment report.

Kyle Burow and Cameron Bowsky provided information and responded to questions.

**3. EXECUTIVE SESSION: Executive session was not called nor convened.**

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

**ADJOURN.** The workshop adjourned at 5:09 p.m.

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

Joe Herring, Jr., Mayor

Shelley McElhannon, City Secretary



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

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**SUBJECT:** City Council meeting minutes July 09, 2024. (S *McElhannon, City Secretary*)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** July 3, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

City Council meeting minutes July 09, 2024 at 6:00 p.m.

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**RECOMMENDED ACTION:**

Approve minutes as presented.

**ATTACHMENTS:**

[\*20240723\\_Minutes CC meeting 7-09-24 6pm.pdf\*](#)

**CITY COUNCIL MINUTES  
REGULAR MEETING**

**KERRVILLE, TEXAS  
JULY 09, 2024 6:00 PM**

On July 09, 2024 at 6:00 p.m., Mayor Joe Herring, Jr. called the Kerrville City Council meeting to order in City Hall Council Chambers, 701 Main Street. Councilmember Delayne Sigerman provided the invocation, and led the Pledge of Allegiance.

**COUNCILMEMBERS PRESENT:**

Joe Herring, Jr., Mayor  
Delayne Sigerman, Councilmember Place 1  
Jeff Harris, Councilmember Place 2  
Kent McKinney, Councilmember Place 3  
Brenda Hughes, Councilmember Place 4/Mayor Pro Tem

**COUNCILMEMBER ABSENT:**

None

**CITY EXECUTIVE STAFF:**

Dalton Rice, City Manager  
Mike Hayes, City Attorney  
Michael Hornes, Asst City Manager  
Kim Meismer, Asst City Manager  
Shelley McElhannon, City Secretary  
Julie Behrens, Director of Finance  
Ashlea Boyle, Director of Parks & Rec

Stuart Cunyus, Public Information Officer  
Rosa Ledesma, Interim Asst Dir Parks & Rec  
Eric Maloney, Fire Chief  
Chris McCall, Police Chief  
Drew Paxton, Director of Planning  
Charvy Tork, Director of IT  
Anello Zanoni, Management Intern

**VISITORS PRESENT:** A list of the citizen speakers present during the meeting is on file in the City Secretary's Office for the required retention period.

Joe Martin, Heart of Hills Farmers Market     Daniel Wheeler, J Street Company  
Bruce Stracke, Brinkman Properties     Shae Beyers, J Street Company

**1. ANNOUNCEMENTS OF COMMUNITY INTEREST:**

Community announcements provided by Stuart Cunyus and Councilmember Brenda Hughes.

**2. PRESENTATION(S):**

2A. Recognition of organizations and execution of a multi-agency public safety emergency drill.

Mayor Herring presented proclamations to Lt. James Machetta with the Kerrville Police Department, the Kerrville Fire Department, Schreiner University, Darin Smith with Peterson Health, and Kerr County Sheriff's Department for the organization and execution of a multi-agency public safety emergency drill conducted June 20, 2024 at Schreiner University.

2B. Kerrville Kindness award: Recognition of City of Kerrville employees saving a man's life at City Hall Lobby.

Mayor Herring presented the Kerrville Kindness award to City employees Koy Coffer, Stuart Cunyus, Martin Greenwell, and KPD Lt. James Machetta for assisting a citizen in an emergency situation.

**3. VISITORS FORUM:**

The following person(s) spoke:

- Bruce Kryzer
- Daniel Lowery
- Peggy McKay

**4. CONSENT AGENDA:**

Councilmember Sigerman requested to pull item 4B, and made a motion to approve items 4A, 4C, and 4D, seconded by Councilmember Hughes. The motion passed 5-0.

4A. Subscription with CivicPlus for CivicClerk, an agenda and meeting management solution to replace Granicus, in the amount of \$65,928.55 for two years.

4C. City Council workshop minutes June 28, 2024.

4D. City Council meeting minutes June 28, 2024.

**END OF CONSENT AGENDA.**

4B. Non-exclusive license agreement between the City of Kerrville and Heart of the Hills Farmers Market, Inc. for use of the Dallas Daughtry Boardwalk Pavilion.

Joe Martin provided information and responded to questions.

Councilmember Hughes made a motion to authorize the City Manager to finalize and execute that agreement, seconded by Councilmember Sigerman. The motion passed 5-0.

**5. ORDINANCE(S), SECOND READING:**

5A. Ordinance No. 2024-15, second reading. An Ordinance amending Chapter 70 "Offenses and Miscellaneous Provisions", Article III "Electioneering at polling locations", of the City's Code of Ordinances to revise this article as to regulations applicable to electioneering and other conduct on city-owned or city-controlled property being used as a polling place; containing a savings and severability clause; providing for penalties not to exceed \$500.00; ordering publication; providing an effective date; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2024-15 caption into record.

Mike Hayes provided information.

Councilmember Hughes made a motion to approve Ordinance No. 2024-15 on second reading, seconded by Councilmember Jeff Harris. The motion passed 5-0.

5B. Ordinance No. 2024-16, second reading. An Ordinance amending Chapter 30 "Business", Article VI "Solicitations" of the City's Code of Ordinances to revise regulations applicable to peddlers, solicitors, and canvassers; containing a savings and severability clause; providing for penalties not to exceed \$500.00; ordering publication; providing an effective date; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2024-16 caption into record.

Mike Hayes provided information.

The following person(s) spoke:

- Nikki Caines
- Jane Rucker

Mike Hayes and Dalton Rice provided clarification.

Councilmember Harris made a motion to approve Ordinance No. 2024-16 on second reading, seconded by Councilmember Kent McKinney. The motion passed 5-0.

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

6A. Ordinance No. 2024-17. An Ordinance annexing two tracts of land into the corporate limits of the City of Kerrville, Texas; one property consisting of approximately 2.02 acres generally located adjacent to and along State Highway 27 as it intersects with Peterson Farm Road; and the other property consisting of approximately 7.10 acres located adjacent to and along State Highway 27 and between the roadway and Peterson Farm Road; such properties more specifically described in this Ordinance; adopting a Service Agreement; establishing the zoning for the annexed properties as an Industrial and Manufacturing (IM) Zoning District; and providing other matters relating to this subject.

Shelley McElhannon read Ordinance No. 2024-17 caption into record.

Anello Zanoni provided information.

Mayor Herring opened the public hearing at 6:46 p.m.

No person(s) spoke.

Mayor Herring closed the public hearing at 6:46 p.m.

Councilmember Harris made a motion to approve Ordinance No. 2024-17 on first reading, seconded by Councilmember Sigerman. The motion passed 5-0.

6B. Ordinance No. 2024-18. An Ordinance amending Chapter 60 of the Code of Ordinances, City of Kerrville, Texas, otherwise known as the City's Zoning Code, by changing the zoning of properties known as 575 and 601 Peterson Farm Road from an Airport Zoning District to an Industrial and Manufacturing Zoning District; and providing other matters related to the subject.

Shelley McElhannon read Ordinance No. 2024-18 caption into record.

Anello Zanoni provided information.

Mayor Herring opened the public hearing at 6:48 p.m.

No person(s) spoke.

Mayor Herring closed the public hearing at 6:49 p.m.

Bruce Stracke was in attendance for any questions.

Councilmember Hughes made a motion to approve Ordinance No. 2024-18 on first reading, seconded by Councilmember Sigerman. The motion passed 5-0.

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

7A. Resolution No. 24-2024. A Resolution designating the Hill Country Community Journal (HCCJ) as the official newspaper for the City of Kerrville, Texas; providing authority for the City Manager to act as may be appropriate; providing for an effective date; repealing Resolution No. 31-2018 and any other resolutions in conflict herewith.

Shelley McElhannon read Resolution No. 24-2024 caption into record.

Julie Behrens provided information and responded to questions.

The following person(s) spoke:

- Neice Bell

Councilmember McKinney made a motion to approve Resolution No. 24-2024, seconded by Councilmember Harris. The motion passed 5-0.

7B. Resolution No. 25-2024. A Resolution supporting the Bluewood Multifamily Development, to include the future waiver of the City's parkland dedication fees, building permit fees, and an agreement for tax abatement.

Shelley McElhannon read Resolution No. 25-2024 caption into record.

Michael Hornes, Daniel Wheeler, and Dalton Rice provided information and responded to questions.

The following person(s) spoke:

- Bill Blackburn
- Nikki Caines
- George Baroody
- Peggy McKay

Mayor Herring requested to add an amendment to Resolution No. 25-2024 for “*a cap on the permit waiver fees at \$480,000, and a cap on the tax abatement amount at \$520,000*”. Councilmember McKinney made a motion to adopt Resolution No. 25-2024 with the amendment requested by the Mayor, seconded by Councilmember Harris. The motion passed 5-0.

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

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

- Councilmember Harris – requested a Resolution where the City waives Veterans’ Day Parade fees, application, and permits, cosponsored by Councilmember Hughes. Consensus by Council for staff to bring back a resolution.
- Mayor Herring – requested a Resolution supporting or opposing a statue of Johnny Manziel being erected at Peterson Plaza, cosponsored by Councilmember Hughes. Consensus by Council for staff to bring back a resolution.

**ADJOURN.** The meeting adjourned at 7:39 p.m.

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

APPROVED:

ATTEST:

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Joe Herring Jr., Mayor

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Shelley McElhannon, City Secretary



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

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**SUBJECT:** City Council workshop minutes July 11, 2024. (S McElhannon, City Secretary)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** July 3, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

City Council budget workshop minutes July 11, 2024 at 10:00 a.m.

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**RECOMMENDED ACTION:**

Approve minutes as presented.

**ATTACHMENTS:**

[\*20240723\\_Minutes CC budget workshop 7-11-24.pdf\*](#)

**CITY COUNCIL MINUTES  
WORKSHOP, COUNCIL CHAMBERS**

**KERRVILLE, TEXAS  
JULY 11, 2024 10:00 AM**

**CALL TO ORDER:** July 11, 2024 at 10:00 a.m., the Kerrville City Council workshop was called to order by Mayor Joe Herring, Jr. in the City Hall Council Chambers, 701 Main Street.

**COUNCILMEMBERS PRESENT:**

Joe Herring, Jr. Mayor  
Delayne Sigerman Place 1  
Kent McKinney Place 3  
Brenda Hughes Mayor Pro Tem, Place 4

**COUNCILMEMBER ABSENT:**

Jeff Harris, Place 2

**CITY STAFF PRESENT:**

Dalton Rice, City Manager  
Michael Hornes, Asst City Manager  
Kim Meismer, Asst City Manager  
Shelley McElhannon, City Secretary  
Stuart Barron, Executive Director  
Julie Behrens, Director Finance  
Jacob Bogusch, Finance Compliance  
Ashlea Boyle, Director Parks & Recreation  
Janelle Chapman, Procurement Coordinator

Eric Maloney, Fire Chief  
Chris McCall, Police Chief  
Diane Miller, Interim Library Director  
Drew Paxton, Dir Planning & Development  
Trina Rodriguez, Asst Director Finance  
Trina Sanchez, Asst Director Development  
Charvy Tork, Director IT  
Anello Zanoni, Management Intern

**VISITORS PRESENT:** N/A

**1. PUBLIC COMMENTS:** None

**2. CONSIDERATION AND POSSIBLE ACTION:**

2.A. Fiscal Year 2025 Budget presentation (Water Fund, Water Asset Replacement Funds, Water Debt Service Fund, Water Capital Projects, General Capital Projects, Hotel Occupancy Tax Fund, Library Memorial Fund, Grant Fund, Other).

Dalton Rice and Julie Behrens introduced the item. Julie Behrens, Dalton Rice, Trina Rodriguez, Stuart Barron, Jacob Bogusch, and Michael Hornes presented information and responded to questions by City Council.

General consensus of City Council is to schedule an additional budget workshop August 5 through August 9, 2024, and review 'Scenario 1" proposals.

**ADJOURN:** The workshop adjourned at 12:05 p.m.

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

**APPROVED:**

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Joe Herring, Jr., Mayor

**ATTEST:**

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Shelley McElhannon, City Secretary



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

---

**SUBJECT:** Kerrville Economic Development Corporation (KEDC) Proposed Budget for Fiscal Year 2025. (*Gil Salinas, KEDC*)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** June 23, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** Yes

**Key Priority Area** E - Economic Development

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Contract 223-118 between the City of Kerrville and Kerrville Economic Development Corporation (KEDC), to expire September 30, 2025, outlines the responsibilities of the KEDC to the community in exchange for funding from the City of Kerrville. KEDC receives funding from EIC, City of Kerrville's General Fund, KPUB, and Kerr County. The FY2025 Proposed Budget requires approval by both EIC and Council. EIC approved the budget on 7/15/2024. KPUB board has approved an expenditure of \$68,750 for FY2025 and Kerr County is considering funding as part of the annual budget process.

**RECOMMENDED ACTION:**

Consider approval of proposed budget.

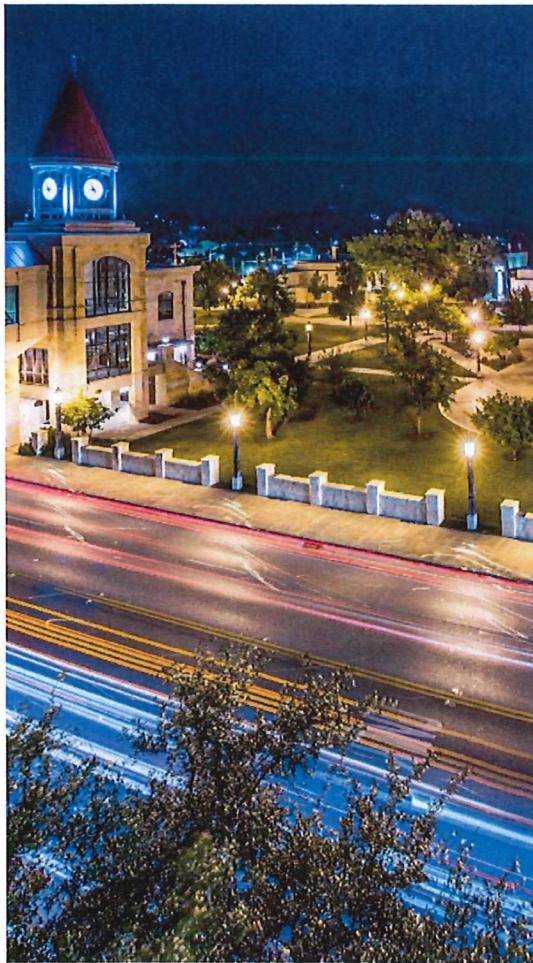
**ATTACHMENTS:**

[\*20240723\\_Presentation KEDC FY2025 proposed budget.pdf\*](#)

[\*Funding Request.pdf\*](#)

[\*KEDC Performance Metrics.pdf\*](#)

[\*20240723\\_Annual Report\\_KEDC 2024.pdf\*](#)



# KEDC Proposed FY25 Budget Metrics, Deliverables & ROI

**Gilberto Salinas**, Executive Director

**Katie Milton Jordan**, Deputy Director

*Prepared for EIC, July 17, 2023*



## Core of Economic Development

---

### Primary Employers

Business that provides or manufactures goods, services, supplies and/or inventory sold to customers which permanently reside outside of the region, state or country.

### Primary Jobs

Job employed by a primary employee.

### Manufacturing's Impact

Economic development's relationship with the manufacturing sector creates best economic impact.



## Board Approved Metrics (FY23/24)

Business Retention, Expansion	Metric	YTD
Visits to local industry	30	58
Place Branding, Marketing		
Social media engagements	52	54
Economic development articles	12	30
Speaking engagements, podcasts	4	11
Human Capital		
Industry roundtables	4	2
Encouraging Entrepreneurs		
Seminars, workshops, events	6	5
Corporate Recruitment		
Qualified leads (3 active projects)	24	21
Prospects Hosted in Kerrville	4	5
Stakeholder Communication		
Reporting & Annual Forum	5	4



## Five-Year ROI of the KEDC

‘Rubber Meets the Pavement’

**ROI of the KEDC**





## Five-Year ROI of the KEDC

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**6** New Companies  
**3,700** Leads Generated



## Five-Year ROI of the KEDC

---

**6** New Companies  
**3,700** Leads Generated  
**1,300** New Direct Jobs  
**2,100** New Indirect Jobs





## Five-Year ROI of the KEDC

---

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment



## Five-Year ROI of the KEDC

---

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives





## Five-Year ROI of the KEDC

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6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives
\$2.23 million	5-Year KEDC Bdgt.

---



## Five-Year ROI of the KEDC

---

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives
\$2.23 million	5-Year KEDC Bdgt.

---

**\$371,600** Per **New Project** Recruited to Kerrville area

**\$600** Per **New Lead** Generated by KEDC

**\$1,700** Per **New Direct Job** Created





## Five-Year ROI of the KEDC

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives
\$2.23 million	5-Year KEDC Bdgt.

**Killdeer Mountain**  
Mfg-Texas HQ

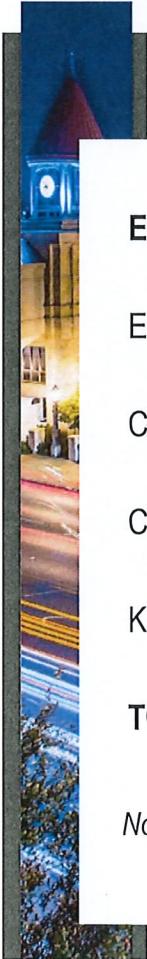
**Megaacrete**  
North America HQ

**New Int. Prospect,**  
Potential U.S. HQ

**\$371,600** Per **New Project** Recruited to Kerrville area

**\$600** Per **New Lead** Generated by KEDC

**\$1,700** Per **New Direct Job** Created



## AT A GLANCE: 5-Year Budget Approvals, Requests

Entity	*FY20/21	FY21/22	FY22/23	FY 23/24	FY24/25
EIC	\$197,000	\$312,500	\$312,500	\$343,750	\$343,750
City	\$ 39,500	\$ 62,500	\$ 62,500	\$ 68,750	\$ 68,750
County	\$ 39,500	\$ 62,500	\$ 62,500	\$ 68,750	\$ 68,750
KPUB	\$ 39,500	\$ 62,500	\$ 62,500	\$ 68,750	\$ 68,750
<b>TOTAL</b>	<b>\$316,000</b>	<b>\$500,000</b>	<b>\$500,000</b>	<b>\$550,000</b>	<b>\$550,000</b>

*Note – Volunteered a 21% budget cut in FY20/21 due Covid-19 and it's economic uncertainty.*

Proposed FY24/25 KEDC Budget

	FY2023 Actual	FY2024 Budget	FY2024 Amended Budget*May		\$ Change Compared to FY2024		% Change Compared to FY2024 Original	
			2024	FY2025 Budget	Original Budget	FY2024	Original	
<b>Revenues</b>								
EIC	312,500	343,750	343,750	343,750		-		0%
City of Kerrville	62,500	68,750	68,750	68,750		-		0%
KPUB	62,500	68,750	68,750	68,750				0%
Kerr County	62,500	68,750	68,750	68,750		-		0%
Sponsored Event Revenue	3,060	-	-	-		-		0%
<b>Total Revenues</b>	<b>503,060</b>	<b>550,000</b>	<b>550,000</b>	<b>550,000</b>		-		0%
<b>Expenditures</b>								
Business Recruitment	10,357	16,000	12,000	20,000	4,000		25.0%	
Website	9,757	12,000	1,800	1,800	(10,200)		-85.0%	
Marketing	31,760	10,000	22,600	34,000	24,000		240.0%	
Travel, Meetings & Conferences	57,447	58,200	55,900	60,900	2,700		4.6%	
<b>Total Business Expenses</b>	<b>109,320</b>	<b>96,200</b>	<b>92,300</b>	<b>116,700</b>	<b>20,500</b>		<b>21.3%</b>	
Accounting Fees	1,510	1,000	1,000	1,000	-		0.0%	
Outside Contract Services	37,050	20,000	61,000	41,000	21,000		105.0%	
KEDC Service Agreement	9,000	8,900	8,900	8,900	-		0.0%	
<b>Total Contract Services</b>	<b>47,560</b>	<b>29,900</b>	<b>70,900</b>	<b>50,900</b>	<b>21,000</b>		<b>70.2%</b>	
Office Supplies	404	2,000	1,100	1,100	(900)		-45.0%	
Dues & Subscriptions	10,016	8,000	9,500	9,500	1,500		18.8%	
Telephone & Internet	740	500	750	750	250		50.0%	
Office Lease	9,702	9,600	9,600	9,600	-		0.0%	
Other Operations	5,152	2,700	-	-	(2,700)		-100.0%	
D&O Liability Insurance	2,557	1,000	1,050	1,050	50		5.0%	
<b>Total Operations</b>	<b>28,571</b>	<b>23,800</b>	<b>22,000</b>	<b>22,000</b>	<b>(1,800)</b>		<b>-7.6%</b>	
Salaries	245,822	283,500	278,500	290,000	6,500		2.3%	
Benefits	38,788	28,000	46,200	46,200	18,200		65.0%	
Training	-	1,500	-	-	(1,500)		-100.0%	
Payroll Taxes	20,756	18,700	18,700	24,200	5,500		29.4%	
<b>Total Personnel Services</b>	<b>305,366</b>	<b>331,700</b>	<b>343,400</b>	<b>360,400</b>	<b>28,700</b>		<b>8.7%</b>	
Sponsored Events	40,669	47,000	-	-	(47,000)		-100.0%	
<b>Total Sponsored Events</b>	<b>40,669</b>	<b>47,000</b>	<b>-</b>	<b>-</b>	<b>(47,000)</b>		<b>-100.0%</b>	
<b>Total Expenditures</b>	<b>\$ 531,487</b>	<b>\$ 528,600</b>	<b>\$ 528,600</b>	<b>\$ 550,000</b>	<b>\$ 21,400</b>		<b>4.0%</b>	
<b>Net Revenues / Expenditures</b>	<b>\$ (28,427)</b>	<b>\$ 21,400</b>	<b>\$ 21,400</b>	<b>\$ -</b>				



July 15, 2024

Chair Kim Clarkson and Board Members of  
Kerrville Economic Improvement Corp.  
701 Main Street, Kerrville, TX 78028

**RE: Funding Request for FY 24/25**

Dear Mrs. Clarkson:

Please consider this letter as our formal request for annual funding of the Kerr Economic Development Corporation in the amount of \$343,750 for Fiscal Year 2024-2025.

At the KEDC we continue on our mission of fostering the economic growth of the greater Kerrville area. A perfect example of such growth is the recruitment and announcement of the multi-million dollar and state-of-the-art Megaacrete Inc. advanced manufacturing operation in the Airport industrial area.

Our economic development efforts are done through the support of our local industry, recruitment of companies such as Megaacrete and Killdeer Mountain Manufacturing, the creation and retention of quality jobs, expansion of capital investment and infusion of new tax dollars into our community.

Attached to this letter are the KEDC's Performance Metrics and 2024 Annual Report, which covers:

- Texas Resiliency Hub recognition
- Quarterly Roundtables
- Childcare Initiatives
- Awards from the International Economic Development Council
- Business Retention & Expansion Program
- Megaacrete Announcement
- Texas Venture Crawl
- Partnership between Killdeer Mountain Manufacturing and Schreiner University
- Testimonials of the KEDC
- And a Letter from the KEDC President Todd Bock

We appreciate your continued support in helping with the overall mission of growing and diversifying the economic base of the greater Kerrville area.

Sincerely,

A handwritten signature in black ink, appearing to read "Gilberto Salinas".

Gilberto Salinas  
Executive Director  
Kerr Economic Development Corp.  
1700 Sidney Baker, Ste. 100, Kerrville, Texas 78028



## DELIVERABLES & METRICS FY24/25

July 15, 2024

**EXECUTIVE SUMMARY:** The following are the deliverables and metrics the KEDC staff must either meet or exceed as part of the organization's annual performance evaluation. The four stakeholders of the KEDC and its board convened in 2022 for a three-hour retreat to create alignment around recommendations for future economic development activities, of which the following key performance deliverables were approved:

<b>Business Retention &amp; Expansion:</b>	<b>Deliverable</b>	<b>YTD</b>
Visits to Local Industry	30	58
<b>Place Branding, Marketing:</b>		
Social Media Engagements	52	54
Economic Development Articles	12	30
Speaking Engagements, Podcasts	4	11
<b>Human Capital:</b>		
Industry Roundtables	4	2
<b>Encouraging Entrepreneurs:</b>		
Seminars, Workshops, Events	6	5
<b>Corporation Recruitment:</b>		
Lead Generation	24	21
Prospect/Site Selectors Hosted	4	5
<b>Stakeholder Communication:</b>		
Annual Economic Development Event	1	1
Quarterly Reporting	4	3

**STAKEHOLDER GROUPS: of the KEDC:** Kerrville Economic Improvements Corporation, City of Kerrville, Kerr County and Kerrville Public Utility.

**NOTE –** The Key Performance Deliverables are in alignment with the 2050 Your Vision Comprehensive Plan and are integrated into the KEDC 3-Year Strategic Plan.

## A WORD FROM THE KEDC Board President

Dear Stakeholders,



As the Board President of the Kerr Economic Development Corporation, it is my privilege to introduce the 2024 Annual Impact Report, which showcases a year of remarkable achievements and steadfast progress towards our economic goals for Kerr County. The historic accomplishment we achieved this year and our future goals would not have been possible without our staff, Gil Salinas (Executive Director), Katie Milton-Jordan (Deputy Director), the KEDC Board of Directors, and our stakeholders' funding commitment.

This past year, KEDC has been at the forefront of transforming challenges into opportunities and highlighting our community's resilience and innovative spirit. Our efforts have centered on enhancing the economic landscape of Kerrville and surrounding areas, ensuring that the foundation we build today will support sustainable growth and prosperity for generations.

One of the highlights of this year, which we are particularly proud of, was the successful attraction of significant investments to our region. These include Megaacrete, progress in sustainable Childcare, our Quarterly Roundtables and updated BRE Program. These ventures not only promise to bring jobs and boost our local economy but also reinforce Kerrville's position as a leading destination for business and innovation in Texas.

As we reflect on the past year's successes, it is time to look forward. The coming year holds great potential, and with our strategic initiatives in place, we are poised to continue our trajectory towards substantial economic development. Our commitment remains strong to fostering an environment where businesses thrive and our community members enjoy a high quality of life.

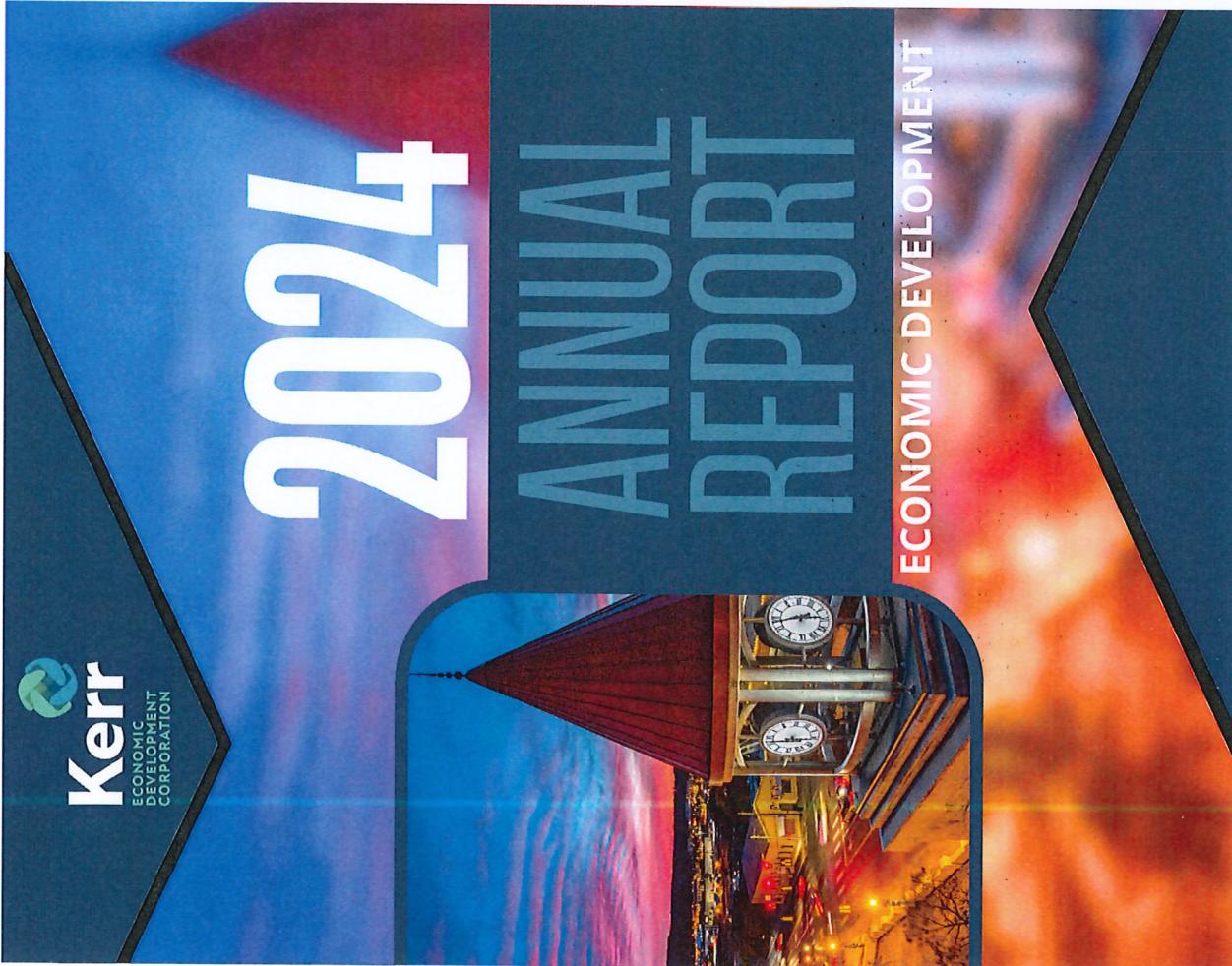
Thank you for your continued support and partnership. Together, we are setting the stage for a future that all of Kerr County can be proud of.

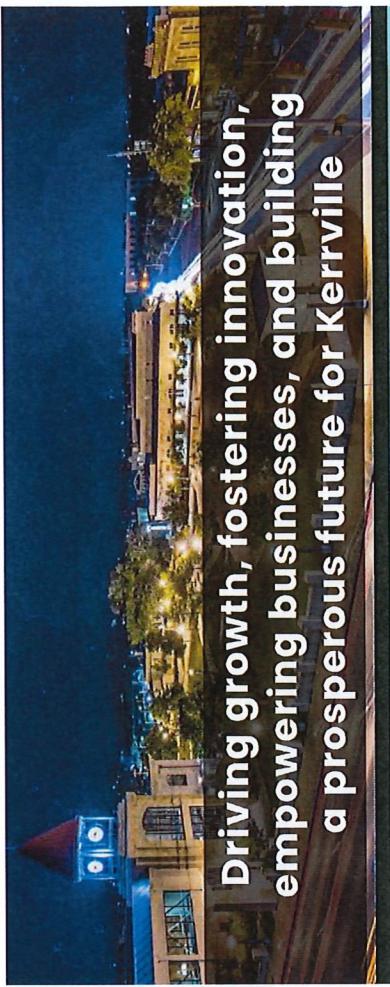
Gratefully,  
Todd Bock

Board President  
Kerrville Economic Development Corporation



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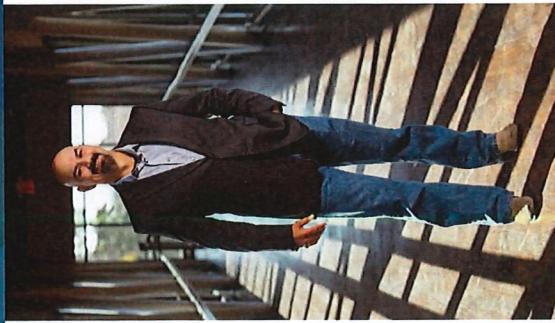




## Driving growth, fostering innovation, empowering businesses, and building a prosperous future for Kerrville

— Gilberto Salinas

**Gilberto Salinas** is the Executive Director of the Kerr Economic Development Corporation in Kerrville, Texas, which is in Hill Country and part of the San Antonio-Austin business corridor. As the economic development executive in Kerrville, Texas, he is implementing strategies for business and corporate growth in an array of sectors which are tied to the recently launched 2050 Your Voice-Your City comprehensive plan. Gil has created 21,000 jobs and more than \$30 billion in capital investments in his 20 years in Economic Development, of which he has been named on the coveted list of Top 50 Economic Developers in North America. Salinas earned a Bachelor of Journalism from the University of Texas at Austin and a Master of Arts in Communication from the University of Texas-Pan American.



"The KEDC is tasked with fostering the growth of the community through the recruitment of industry, expansion of local business and up-skilling of our talent, all while making sure we retain the fabric of the Texas Hill Country."

We conducted a survey in which participants were asked to rate their likelihood of recommending KEDC to a friend on a scale of 1-10. Remarkably, all respondents gave it a perfect score of 10.



3



**Katie Milton Jordan**, MBA, serves the Kerr EDC as Deputy Director. She is an entrepreneur who helps small business owners maximize productivity, profitability, and peace. She believes the world would be a better place with even more small businesses. Katie has lived abroad in three countries and traveled to over eighteen. She holds certifications in the Neuroscience of Leadership, Certified Exit Planning Advisor, Certified Business Intermediary, and an MBA in Ethical Leadership from Schreiner University.

4



## Quarterly Roundtables

KerrEDC established a four-way partnership between economic development, workforce, industry, and education organizations to form their quarterly roundtables. While this program was originally created in response to the challenges COVID-19 presented in 2020, they have since

evolved into proactive and action-oriented discussions that address a wide range of regional challenges.

"The KEDC board is doing some of the most important work for the future of Kerr County. The mix of local leaders is refreshing and extremely competent. If you want to work with a group who are truly committed to making a difference, KEDC is the place to be."

- Judge Rob Kelly, Kerr County

"This was my first time attending a round table with KEDC. The event exceeded my expectations. It was well organized and the attendees were welcoming. I walked away with a better understanding of what some of my peers do within the community and perhaps ways my team and I can contribute."

- Samantha Munoz, HCTC



## Texas Resiliency Hub

When the COVID-19 pandemic hit the region, the Kerr Economic Development Corporation (KerrEDC) knew that without action, their small businesses and residents would be hit the hardest. What they needed to learn was how best to serve their community.

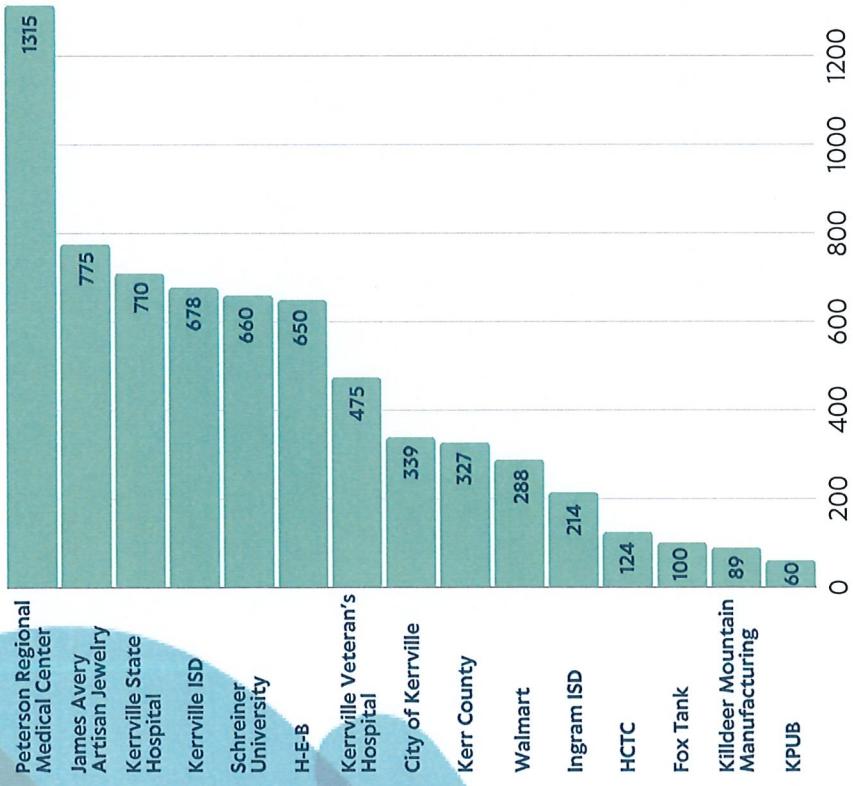
To do so, they brought together partners from local industries, workforce organizations, and educators to talk through the challenges they were facing and how best to address them.

The initial success of these conversations developed into a long-standing quarterly roundtable, where KerrEDC facilitates conversations on how best to proactively address new challenges that arise in their community.

Read the white paper and watch the video here:  
<https://texaresiliencyhub.org/kernville>

# BUSINESS RETENTION & EXPANSION IMPACT

■ Employee count



\*Data is approximate at the date of printing

5

6



## Childcare Wins

### Increased Workforce Participation

**Direct Impact:** Parents with childcare can work, boosting productivity. **Economic Benefit:** Higher employment rates increase local spending and economic growth. Reliable childcare allows more parents, especially women, to work or study, raising household incomes and stability.

### Job Creation

**Direct Impact:** More childcare facilities require staff, creating community jobs. **Economic Benefit:** These jobs provide income and stimulate the economy through increased consumption of goods and services.

### Economic Multiplier Effect

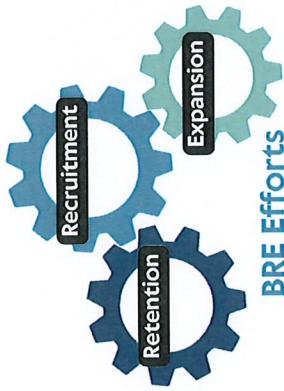
**Direct Impact:** Money spent on childcare services circulates through the local economy as providers buy supplies and services locally. **Economic Benefit:** This circulation multiplies, potentially creating more jobs and business growth in related sectors.

### Long-Term Educational Benefits

**Direct Impact:** Quality childcare programs improve education outcomes, preparing children for academic success. **Economic Benefit:** A more educated workforce attracts higher-paying employers, enhancing overall economic prosperity.

### Reduction in Childcare Deserts

**Direct Impact:** More childcare seats reduce shortages, especially in underserved areas. **Economic Benefit:** This makes the region more attractive to businesses and residents who consider childcare availability when relocating or starting a business.



## Megacrete

Executives from Project Mount Saddle's headquarters conducted numerous site visits to Kerrville in 2023, where they met with different community stakeholders and toured proposed sites for their operation. The company selected Kerrville for its proposed future operation at a site adjacent to the Kerrville Municipal Airport and within the area zoned for industry and manufacturing. In economic development terms, this is a 'game changing' project not only for the city but for the region as its economic impact will be of significance for years to come.

### At a Glance (YTD)

Visits:	58
Received Resources:	25
Jobs Retained:	1,922

## Texas Venture Crawl

The Texas Venture Crawl is a simultaneous statewide startup and investor networking experience founded in 2022 and is a partnership between Texas Venture Alliance and leading cohorts all across Texas.

- Keynote speakers
- Inspiring talks and panel discussions with industry leaders
- Networking opportunities to connect with fellow innovators, entrepreneurs, and investors

Attend our next event for a chance to dive into the Texas startup scene and get inspired by the best in the business.

Whether you're a seasoned pro or just getting started, the Texas Venture Crawl has something for everyone.

**Register Soon at Kerrredc.com**

**October 3rd, 2024**

**Kerrville, TX**

8

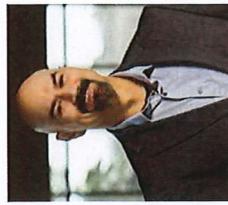
7



## KEDC STAFF



**Katie Milton Jordan, MBA**  
Deputy Director



**Gilberto Salinas,**  
Executive Director

## KEDC BOARD

**Todd Bock**, KEDC Chair  
**Rob Kelly**, County Judge  
**Jonathan Letz**, County Commissioner  
**Joe Herring, Jr.**, Mayor  
**Gregg Appel**, EIC  
**Dalton Rice**, City Manager  
**Mike Wittler**, KPUB  
**Julie Davis**, KCVB  
**Dr. Brett Ringo**, KISD  
**Charlie McIlvain**, Kerrville COC  
**Dr. Mindy Curran**, IISD



## Testimonials

"KEDC has been a great partner to USA as we strive to help the community with workforce and developmental needs. They are the driving force for helping bring employers and jobs to the Kerrville area and we look forward to our continued and future partnership."

-Daisey Vega, Workforce Solutions Alamo  
"KEDC has focused on development conducive to the landscape of our community. Two significant companies will contribute to our positive economic trend in the future. Kudos to them for helping Kerrville grow responsibly towards tomorrow."

- Brenda Hughes, Kerrville City Council Member

"KEDC is very attentive to the needs of local businesses and able to think on a global scale."

-Kristin Heeger, Killdeer Mountain Manufacturing, Inc.



## KMM & Schreiner University's Partnership

The Engineering and Technology Lab at Killdeer Mountain Manufacturing, Inc (KMM) Kerrville is the newest of Schreiner University's laboratories. It was made possible through a unique partnership with KMM and funded through a Department of Education grant. The space sits just five miles from the main campus and provides an array of new equipment for students on both the mechanical and civil engineering tracks while supporting the school's Engineering-focussed student organizations.

## At a Glance

KMM is expected to generate more than \$80 million in economic activity and more than \$32 million in value-add to the community in the next 20 years. In addition to the 400 direct jobs, KMM will generate 68 indirect and 92 induced jobs. They're also expected to generate approximately \$3.76 million in total sales tax revenue and \$1.5 million in city and county tax revenues.





Working together for  
business recovery & resilience.

**KerrEDC**

**Our Mission:**

To retain existing jobs and create new job opportunities in Kerrville and Kerr County, which helps benefit the Hill Country quality of life we all enjoy.

**Our Vision:**

To nurture Kerrville and Kerr County into a dynamic hub of economic growth and employment opportunities, enriching the Hill Country lifestyles that we cherish.



- Group photo of people at an event.
- Group photo of people at an event.
- Group photo of people at an event.
- People at an outdoor event.
- People at an outdoor event.



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

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**SUBJECT:** Kerrville Convention and Visitor's Bureau (KCVB) Proposed Budget for Fiscal Year 2025, which includes the budget for the Community Arts Program. (*Julie Davis, President/CEO KCVB*)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** June 23, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

The Kerrville Convention & Visitors Bureau (KCVB) budget is funded with Hotel Occupancy Funds and the Community Arts Program Budget is funded by a combination of HOT and grant funds from the Community Foundation of the Texas Hill Country.

**RECOMMENDED ACTION:**

Consider approval of proposed budget.

**ATTACHMENTS:**

[20240723\\_Draft Budget KCVB FY25.pdf](#)

[20240723\\_Draft Budget\\_CAP FY25.pdf](#)

[20240723\\_Contract 2024-79 KCVB convention-tourism services.pdf](#)

[20240723\\_Agreement 2023-65 KCVB oversight of Community Arts Program.pdf](#)

[20240723\\_Presentation KEDC FY2025 proposed budget.pdf](#)

## Kerrville CVB Budget FY 24/25- DRAFT

### Income/Funding FY 24/25

City of Kerrville HOT Contract Funding Request	\$	1,107,250
CAP CVB Funds	\$	15,000
<b>Total Income</b>	<b>\$</b>	<b>1,122,250</b>

### ADMINISTRATIVE EXPENSES

ADMINISTRATIVE POSTAGE	\$	300
AUDIT & IRS Filing	\$	9,300
BUILDING OFFICE SUPPLIES & EQUIPMENT	\$	3,450
INSURANCE (OTHER)	\$	3,550
OFFICE	\$	23,040
PAYROLL	\$	199,875
PAYROLL TAXES/ BENEFITS	\$	50,195
TELEPHONE SERVICE/ EQUIPMENT/ REPAIR/SYSTEM	\$	1,920
<b>TOTAL ADMINISTRATIVE</b>	<b>\$</b>	<b>291,630</b>

25.99%

### VISITOR CENTER

#### *STATE OF TEXAS CONTRACTED\**

CAPITAL IMPROVEMENTS	\$	2,000
VISITOR CENTER	\$	23,140
VISITOR CENTER PAYROLL	\$	61,130
VISITOR CENTER PAYROLL TAXES/ BENEFITS	\$	19,985
VISITOR CENTER SUPPLIES EQUIPMENT & EXPENSES	\$	10,500
VOLUNTEER APPRECIATION	\$	2,500
<b>TOTAL VISITOR CENTER</b>	<b>\$</b>	<b>119,255</b>

10.63%

### ADVERTISING, PROMOTIONS & SALES

ADVERTISING	\$	200,000
ADVERTISING PRODUCTION COST	\$	75,000
ADVERTISING RESPONSE EXPENSE	\$	22,750
BROCHURE PRINTING, PUBLICATIONS & REPRO	\$	50,300
CONVENTION REGISTRATION/SUPPLIES/ HOSPITALITY	\$	20,200
INDUSTRY DUES & SUBSCRIPTIONS	\$	9,790
INTERNET MARKETING	\$	39,240
PUBLICITY, PUBLIC RELATIONS & AUDIO VISUAL	\$	28,200
PR & SALES/SERVICES PAYROLL	\$	130,815
PR & SALES/SERVICES TAXES/BENEFITS	\$	39,370
RESEARCH & STRATEGIC PLANNING	\$	14,500
SALES- CONSUMER & LOCAL	\$	38,750
SALES - CONVENTION/ GROUP	\$	32,650
SALES-TOUR BUS	\$	1,500
SPECIAL EVENTS PROMOTIONS	\$	7,400
WATS LINE VISITOR INFORMATION	\$	900
<b>TOTAL ADVERTISING/ PROMOTIONS/ SALES</b>	<b>\$</b>	<b>711,365</b>

63.39%

**TOTAL BUDGET** **\$** **1,122,250**

\*The state contract provides the following literature free of charge including freight: Texas Highway Signs IH10 & Hwy 16, Texas Highway Maps, Texas Travel Guides (Big Book), Texas Accommodations Guides, Texas Calendar of Events and Texas Wildflower Guide.

# Community Arts Program Budget

## FY 24/25 DRAFT

Income/Funding		
City of Kerrville Contract YR 2	\$	225,000
Matching Grant Opportunities	\$	20,000
<b>Total Funding</b>	<b>\$</b>	<b>245,000</b>
ADMINISTRATIVE EXPENSES		
<b>ADMIN OFFICE &amp; LEGAL EXPENSE</b>	<b>\$</b>	<b>15,000</b>
<i>Includes shared utilities, building, insurance, taxes, account management, and other services provided by KCVB</i>		
<b>ADMIN. SUPPLIES &amp; EQUIPMENT</b>	<b>\$</b>	<b>500</b>
<b>PAYROLL</b>	<b>\$</b>	<b>71,200</b>
<b>PAYROLL TAXES/ BENEFITS</b>	<b>\$</b>	<b>25,350</b>
<b>TOTAL ADMINISTRATIVE</b>	<b>\$</b>	<b>112,050</b>
ADVERTISING & MARKETING		
<b>ARTS CO-OP ADVERTISING</b>	<b>\$</b>	<b>60,000</b>
<b>CAP PROJECT ADVERTISING</b>	<b>\$</b>	<b>1,500</b>
<b>BROCHURE PRINTING &amp; REPRODUCTION</b>	<b>\$</b>	<b>2,400</b>
<b>TEXAS FILM FRIENDLY</b>	<b>\$</b>	<b>500</b>
<b>TMO- MUSIC FRIENDLY COMMUNITY</b>	<b>\$</b>	<b>1,000</b>
<b>TOTAL ADVERTISING &amp; MARKETING</b>	<b>\$</b>	<b>65,400</b>
PUBLIC ARTS PROJECTS & PROGRAMMING		
<b>ARTIST CAPACITY BUILDING</b>	<b>\$</b>	<b>2,250</b>
<b>LOCAL MEETINGS EXPENSE</b>	<b>\$</b>	<b>650</b>
<b>MILEAGE REIMBURSEMENT</b>	<b>\$</b>	<b>650</b>
<b>PUBLIC ARTS PROJECTS</b>	<b>\$</b>	<b>64,000</b>
<b>TOTAL PUBLIC ARTS PROJECTS &amp; PROGRAMMING</b>	<b>\$</b>	<b>67,550</b>
<b>TOTAL BUDGET</b>	<b>\$</b>	<b>245,000</b>

**CONTRACT BETWEEN CITY OF KERRVILLE, TEXAS AND  
KERRVILLE CONVENTION & VISITORS BUREAU, INC.  
FOR CONVENTION AND TOURISM PROMOTION SERVICES**

This agreement ("Contract") is made and entered into by the City of Kerrville, Texas, a municipal corporation, hereinafter referred to as "City," and the Kerrville Convention & Visitors Bureau, Inc., a Texas non-profit corporation, hereinafter referred to as "CVB," each acting by and through its authorized officials.

For and in consideration of the agreements hereto contained, the City and CVB hereby covenant and agree as follows:

**ARTICLE 1  
CVB COVENANTS**

In consideration of City's agreement to pay monies to CVB from its hotel occupancy tax revenues collected by City in accordance with Chapter 352 of the Texas Tax Code, as hereinafter provided, CVB agrees to undertake activities for the promotion of tourism and the convention and hotel industry through advertising and conducting promotional programs to attract tourists and convention delegates to Kerrville, in accordance with this Contract.

Specifically, but without limitation, CVB covenants and agrees as follows:

1.1 To promote the lease and use of the Kathleen C. Cailloux City Center for the Performing Arts and other public facilities on dates available in such facilities.

1.2 To conduct coordinated state, regional and national advertising, publicity and promotion campaigns emphasizing the attractions offered in the City to meetings, groups, and visitors.

1.3 To participate in market places such as convention and travel industry tradeshows, conventions and marketing events where destination marketers meet with meeting planners, tour operators, group leaders, niche travel planners, event planners, travel counselors and consumers or attract visitors, conventions, meetings, exhibits, selected trade, sports, and consumer shows, and other events to City and/or areas in the vicinity of the City.

1.4 To cause to be printed and distributed in adequate quantities visitor literature of substantive quality and material to all Texas Department of Transportation Tourist Information Centers, as well as Visitor Information Centers located in places of public accommodation, and any other locations considered desirable, including the Convention & Visitors Bureau Information Center and other

visitors information centers located within City's incorporated limits that are owned and/or operated by City or CVB.

1.5 To maintain a website, social media platforms, and other digital resources to promote the City as a tourist destination.

1.6 To participate in appropriate tourism agencies and convention associations such as the Texas Economic Development and Tourism Office of the State of Texas, and the Texas Society of Association Executives as well as other agencies in order to assure that favorable publicity about the City may be continued and expanded.

1.7 To provide staffing and facilities for registration assistance and serves, including information relative to central housing, publicity material, and attendance mailings to associations, organizations, or groups convening or holding meetings in the City; and to coordinate with the appropriate City departments and facilities, local hotels, restaurants, and entertainment facilities, and to strive to provide an environment in which a visiting group or organization enjoys a coordinated and productive visit to the City.

1.8 To prepare, publish, and update during the term of this Contract and any renewals thereof, collateral materials providing specific information on hotels and motels located in the City, and to distribute said collateral materials to association executives and planners of meetings.

1.9 To expend funds in each fiscal year in accordance with the fiscal year budget approved, in writing, by the City Council.

1.10 To continue its separate bank account for deposit and expenditure of all funds paid by the City hereunder so as to avoid any commingling with other CVB funds.

1.11 To continue operating and maintaining an accounting system that will allow for the City to be able to trace funds and review the financial status of CVB.

1.12 To have its financial records related to the receipt and expenditure of Hotel Occupancy Tax revenues paid to CVB pursuant to this Contract reviewed at the end of each fiscal year by an independent certified public accountant who will furnish an audited financial report to the City.

1.13 To permit officials or representatives as authorized by the City Council to review CVB's financial records at any time.

1.14 To retain with the City Secretary current, up-to-date bylaws of the CVB.

1.15 To prepare and submit a report at least quarterly of the previous quarter's expenditures and a narrative report to the City, within thirty (30) days of the end of each quarter, which report shall include adequate information to indicate the degree to which performance metrics for the current fiscal year as established by mutual agreement of the City Council and the CVB Board have been achieved.

1.16 To cause the Executive Director of CVB to appear from time to time at the request of the City Council to discuss the CVB program.

1.17 To perform all other covenants provided elsewhere in this Contract.

## **ARTICLE 2** **ANNUAL PERFORMANCE**

2.1 The City Council and the CVB Board shall meet at least once annually on or before July 31. The meeting will be open to the public in accordance with state law.

At this annual meeting, the CVB Board shall provide a report to the City Council that will include, but not be limited to, the following information:

- a) Review of information that indicates the achievement of established benchmarks for the prior fiscal year and for year to date for the current fiscal year;
- b) Identification of key trends and issues; and
- c) Priorities and objectives for the next fiscal year.

2.2 At the annual meeting, the CVB Board will provide a strategic plan to the City Council for the coming fiscal year. The strategic plan shall include, but not be limited to, the following information:

- a) Priorities for the next fiscal year;
- b) Goals and objectives for the next fiscal year;
- c) A media plan for the next fiscal year; and
- d) Performance metrics to be used to evaluate the effectiveness of the CVB projects and programs proposed for the next fiscal year.

2.3 No later than June 15<sup>th</sup>, the CVB will also submit a proposed budget to the City for the upcoming fiscal year for City Council consideration. It is recognized that the budget is a financial plan for the CVB and that the CVB Board may amend the budget from time to time. In no event shall a budget amendment obligate the City Council to allocate additional funds than those Counceil has already approved.

2.4 In no event will any hotel occupancy tax funds be used in a manner inconsistent with Texas Tax Code §351.101.

### ARTICLE 3 PAYMENT AND USE OF FUNDS

3.1 In consideration of the professional services to be performed by CVB under the terms of this Contract for any particular, applicable fiscal year covered hereby, the City shall pay to CVB the annual sum budgeted for this purpose for that fiscal year, with payments to be made in four equal installments on or before the following dates within that specific fiscal year:

- a) November 10
- b) February 10
- c) May 10
- d) August 10

3.2 The City shall make payments under this Contract solely from current or accumulated hotel occupancy tax revenues collected by City in accordance with Chapter 351 of the Texas Tax Code. If the hotel occupancy tax revenues actually collected by the City during any City fiscal year are actually below the estimated revenues to be collected during such fiscal year, then City shall have the right to reduce the above-described payments to CVB by the same percentage that such tax revenues actually collected were less than the estimate of tax revenues to be received.

3.3 If any of the agreements herein made by the CVB are violated, the City is authorized to refuse to make any further payments until the condition on which the complaint is based is corrected to the satisfaction of the City Council.

3.4 CVB agrees to utilize the funds for the benefit of the City solely for the purposes permitted in Texas Tax Code §351.101, as amended. CVB shall provide all materials, personnel, facilities, and supervision with such funds.

3.5 All expenditures from funds provided hereunder shall be made in accordance with the budget submitted and approved by the City Council each year. It is understood and agreed that, upon the acceptance of funds hereunder, a fiduciary duty is created on CVB with respect to the expenditures of such funds.

3.6 City shall have the right to perform an audit and inspection of CVB's business records related to the expenditures of monies hereunder, at such reasonable times and intervals as City may request. The cost of the audit shall be paid by City unless such audit discloses a discrepancy of three percent (3%) or more in any report or information furnished City or any failure to follow the budget adopted pursuant to Article 2 of this Contract, in which case CVB will pay the cost of such audit. Such

audit will be performed by auditors selected by City. CVB shall make its books and records available for inspection by City or any representatives of City who may make copies thereof.

#### **ARTICLE 4** **TERMS AND APPROPRIATIONS**

4.1 The term of this Contract shall be for a period of five (5) years, commencing October 1, 2024, and ending September 30, 2029, unless this Contract shall have been sooner terminated or extended in accordance with other provisions contained herein.

4.2 This Contract may be extended for two additional three (3)-year terms as follows. Should either party fail to notify the other in writing by September 30 of the year immediately preceding the last year of the existing Contract term of the desire to terminate the Contract at the end of the term, the Contract shall automatically renew.

4.3 This Contract is subject to annual funding by the City Council. In the event no funds or insufficient funds are appropriated and budgeted in any fiscal year for payments to CVB pursuant to this Contract, City shall notify CVB of such occurrence, and this Contract may be terminated by City of CVB effective as of the last day of the year for which appropriations were available, without penalty or expense to City of any kind whatsoever, except as specifically set forth in this Contract.

4.4 City may terminate this Contract at any time, with or without cause, upon twelve months' prior written notice as provided herein.

4.5 In the event of termination of this Contract by City prior to the end of the term described in Section 4.1, above, City shall pay CVB for services rendered prior to such termination date and for contractual obligations entered into by CVB prior to receipt of notification of early termination from City. Furthermore, CVB agrees to use its best efforts to terminate contracts signed by CVB prior to receiving notice of early termination from City; provided, however, in the event CVB cannot terminate such contracts, City shall have no obligation to pay for or take assignment of contracts signed by CVB after receiving notification of early termination from City.

4.6 CVB shall not sign any contract that is funded by monies paid by City to CVB pursuant to this Contract that has a term exceeding one year or which has a termination date subsequent to the last day of the final year in which the contract is in effect unless:

- a) The contract contains a non-appropriations clause substantially similar to the provisions of Section 4.3, above, and that is approved by the City Attorney; or
- b) All payments for said contract are required to be made by CVB during the fiscal year in which the contract was entered, notwithstanding performance of all other obligations under the contract may occur in a subsequent fiscal year; or
- c) The contract has been reviewed and approved by the City Council or its designee.

4.7 Notwithstanding Section 4.6, above, in no case shall CVB execute contracts to be paid with funds provided by City pursuant to this Contract:

- a) After receiving notice of early termination of this Contract; or
- b) Which require the performance of any obligations by any party after Section 30 of the final year of the Contract.

## ARTICLE 5 INDEPENDENT CONTACTOR

5.1 The relationship of CVB to City shall be that of independent contractor as to all services performed hereunder and not as an officer, agent, servant or employee of City. CVB shall have exclusive control of its operations hereunder, and the persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, and subcontractors. The doctrine of *respondent superior* shall not apply as between City and CVB, its officers, agents, servants, employees, contractors and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and CVB.

5.2 CVB agrees to assume and does hereby assume all responsibility and liability for damages sustained by persons or property, whether real or asserted, by or from the carrying on of work or in the performance of services performed and to be performed hereunder. **CVB CONVENANTS AND AGREES TO, AND DOES HEREBY INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES FROM AND AGAINST ALL SUITS, ACTIONS, CLAIMS, AND EXPENSES OF ANY CHARACTER, INCLUDING ATTORNEY'S FEES, BROUGHT FOR OR INCURRED ON ACCOUNT OF ANY INJURIES OR DAMAGES, WHETHER REAL OR ASSERTED, SUSTAINED BY ANY PERSON OR PROPERTY BY OR IN**

**CONSEQUENCE OF ANY NEGLIGENT ACT, OMISSION OR CONDUCT OF  
CVB, ITS AGENTS, SERVANTS, EMPLOYEES, OR CONTRACTORS.**

**ARTICLE 6  
MISCELLANEOUS**

6.1 This written instrument constitutes the entire agreement of the parties hereto concerning the subject matter hereof, and any prior or contemporaneous oral or written agreement that purports to vary from the terms hereof shall be void.

6.2 This Contract shall be subject to all valid rules, regulations and laws applicable thereto, as promulgated by the United States of America, the State of Texas or any other governmental body or agency having lawful jurisdiction and supersedes all contracts that may be in existence.

6.3 CVB shall not assign this Contract or any interest therein without the prior written approval or the City Council.

6.4 This Contract may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Contract.

6.5 Neither City nor CVB shall be required to perform any term, condition, or covenant in this Contract so long as such performance is delayed or prevented by force majeure, which shall mean acts of God, civil riots, floods and any other cause not reasonably within the control of City or CVB, except as herein provided, and which by the exercise of the diligence City or CVB is unable, wholly or in part, to prevent or overcome.

6.6 The waiver by City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

6.7 Notices to City and CVB shall be hand delivered, mailed by first class mail, postage pre-paid, or delivered electronically to the following:

If to City: City Manager  
701 Main Street  
Kerrville, Texas 78028  
Email Address: dalton.rice@kerrvilletx.gov  
Email Address: julie.behrens@kerrvilletx.gov

If to CVB: President/Chief Executive Officer  
2108 Sidney Baker Street  
Kerrville, Texas 78028  
Email Address: [julie@kerrvilletexascvb.com](mailto:julie@kerrvilletexascvb.com)

The parties hereto may change the address to which notice may be sent by sending written notice of such change of address to the other party. A notice mailed in accordance with this section shall be deemed to have been delivered five calendar days after delivery of the notice to an office or receptacle of the United States Postal Service.

6.8 The obligations of the parties to this Contract are performable in Kerr County, Texas, and if legal action is necessary to enforce same, exclusive venue shall lie in Kerr County, Texas.

6.9 This Contract shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

6.10 This Contract may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

IN WITNESS THEREOF, the parties hereto, acting under authority of their governing body and board of directors, have caused this Contract to be duly executed as of the 06 day of June 2024, A.D.

CITY OF KERRVILLE, TEXAS



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Dalton Rice, City Manager

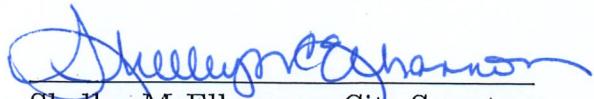
## KERRVILLE CONVENTION & VISITORS BUREAU, INC.

— DocuSigned by:

Julie Davis

—**Jane Davis, President/Chief Executive Officer**

ATTEST:



Shelley McElhannon, City Secretary

APPROVED AS TO FORM



William L. Tatsch, Asst. City Attorney

T:\Legal\FINANCE\Hotel Occupancy Tax (HOT)\Contracts\CVB\CVB 2024-2029\_051624.doc

APPROVED AS TO CONTENT



Julie Behrens, Director of Finance

AGREEMENT BETWEEN THE CITY OF  
KERRVILLE, TEXAS AND THE KERRVILLE  
CONVENTION & VISITORS BUREAU, INC. FOR  
OVERSIGHT OF A COMMUNITY ARTS PROGRAM

THIS AGREEMENT ("Agreement") made and entered into this 10 day of MAY, 2023 (the "Effective Date"), between the City of Kerrville, Texas, a home rule municipal corporation ("City"), and the Kerrville Convention & Visitors Bureau, Inc. ("CVB").

WITNESSETH:

WHEREAS, City levies a tax within the City and its extraterritorial jurisdiction upon the occupancy of any room or space furnished by any hotel, motel, or other lodging facility as defined by Chapter 351 of the Texas Tax Code ("Chapter 351"), and disperses the proceeds of said tax to various organizations for their use in accordance with Chapter 351; and

WHEREAS, City and CVB are parties to an existing agreement whereby CVB agreed to undertake activities for the promotion of tourism and the convention and hotel industry through advertising and conducting promotional programs to attract tourists and convention delegates to Kerrville, all in accordance with the CVB marketing plan presented to the City Council for each fiscal year; and

WHEREAS, the parties now wish to enter into this Agreement, which though similar to another existing agreement between the parties entered into on or about December 13, 2016, as amended ("Arts Agreement"), will replace and expand upon such agreement; and

WHEREAS, the parties, under this Agreement, will continue to encourage the promotion of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms, pursuant to Subsection 351.101(a)(4) of Chapter 351; and

WHEREAS, toward that purpose, City will use monies from its receipt of hotel occupancy tax revenues ("HOT revenues") as well as other funds that it receives for the purposes contemplated by this Agreement; and

WHEREAS, with such funding, the CVB will develop a new Community Arts Program ("CAP"), with the goal of promoting Kerr County arts and cultural events throughout Texas to include public art installation, education, and other arts-related events or promotions; and

**WHEREAS**, it is the desire of the parties hereto to continue to combine their efforts for the purpose of attracting tourists to the City so as to promote tourism and the hotel industry in the City; and

**WHEREAS**, City Council finds and believes that this Agreement and the scope of services to be provided by CVB supports a public benefit by promoting tourism and the convention and hotel industry within the area;

**NOW, THEREFORE**, in consideration of the covenants and conditions stated herein, and in consideration of the mutual benefits that will accrue to each of the parties hereof, as well as to the citizens of the City of Kerrville, Texas, the parties have agreed and do hereby agree as follows:

## **ARTICLE I**

A. Subject to the continued satisfaction of all the terms and conditions of this Agreement by CVB, and as authorized by and in compliance with Subsection 351.101(a)(4) of Chapter 351 with respect to the City's use of HOT revenues, City agrees to pay CVB the following amounts, with such funds to come from the City's receipt of HOT revenues and other potential funding sources:

**1) Initial Payment:** \$40,000, as derived from the remaining \$15,000 City is obligated to pay CVB pursuant to the Arts Agreement; plus \$25,000.00 from HOT revenues that the City appropriated within its Fiscal Year 2023 budget for public art. The City will make this payment to CVB within 30 days of the execution of this Agreement to assist with initial start-up efforts for the services CVB is required to perform per this Agreement;

**2) Community Arts Program, Year One:** \$225,000.00, which the City will pay on or before October 31, 2023;

**3) Community Arts Program, Year Two:** \$225,000.00, which the City will pay in two equal payments, with the first payment being made on or before October 31, 2024; and the second payment being paid on or before April 1, 2025;

**4) Community Arts Program, Year Three:** \$225,000.00, which the City will pay in two equal payments, with the first payment being made on or before October 31, 2025; and the second payment being paid on or before April 1, 2026.

B. CVB may use the funding amounts specified above for administrative costs, which following the City initial payment, will be subject to annual review and approval by City.

C. Under no circumstances shall the obligations of City hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. As such, all payments made by City will be paid solely from lawfully available funds that have been previously appropriated by City Council. City shall have no obligation or liability to pay any funds to CVB except as allowed by law. Further, City shall not be required to pay any amount if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

## ARTICLE II

CVB understands that a portion of the funds paid to CVB by the City are derived from HOT revenues collected under the City's hotel occupancy tax ordinance and that the City estimates such revenues to be collected during its process of adopting an annual budget. CVB further understands, acknowledges, and agrees that the City may reduce any and all payments to CVB if HOT revenues are less than the estimated amount budgeted. Further, City will be under no obligation to pay CVB for the full amount set forth in Article I, above, and may reduce any one or all of the payments based upon the City's good faith estimate of present and future HOT revenue.

## ARTICLE III

A. CVB shall use the funding that it receives from City under this Agreement to develop and implement a new Community Arts Program ("CAP"). The goal of CAP is to promote Kerr County arts and cultural events throughout Texas in accordance with CVB's marketing plan, which has been previously provided to the City Council for its consideration and approval.

B. As part of CAP, CVB may seek input from persons representing local arts groups, such as the Kerr Arts & Cultural Center (KACC), Playhouse 2000, Kerrville Folk Festival, Hill Country Arts Foundation, Riverside Nature Center, Symphony of the Hills, Kerrville Chalk Festival, Arcadia Live, the Coming King Sculpture Prayer Garden, and the Museum of Western Art.

C. Under CAP, the CVB is tasked with commissioning public art within the City and its extraterritorial jurisdiction. More specifically, the CVB shall:

1. Commission major iconic works of public art such as mural installations, sculptures like Mothers Love, and Lupe the Bass.

2. Facilitate two public art installations each year during the duration of the Agreement, such artwork which is accessible by the general public;
3. Develop selection guidelines, collection management, and art conservation plans;
4. Create a complementary education plan and public relations and marketing plan for each new public art project, with each plan woven into its development and installation; and
5. Adopt a sustainable and varied funding policy, which will guide its efforts toward seeking funding from additional sources, to include other governmental agencies and private philanthropic organizations; and

E. CVB shall provide a written annual report to the City's Finance Department and the City Manager, no later than January 31st of each year, to include the following:

1. Financial statements for the most recent year-ended to include an income statement and balance sheet;
2. Most recently adopted annual budget;
3. A list of programs, services, campaigns, and/or installations of art completed or in progress for the most recent completed calendar year;
4. Samples of advertising, photos of art installation, and any other examples of the CVB's efforts as to the CAP;
5. Any other information which the City may reasonably request.

F. City is under no obligation to make any payment to CVB if the report required by this Article III has not been delivered to City or are in any way deficient with the requirements specified above.

G. CVB shall maintain financial records accounting for all of its revenues and expenditures for each year of this Agreement. Any and all financial records of CVB must be available for inspection by City's authorized agents.

## ARTICLE IV

This Agreement is effective beginning June 1, 2023 and expires October 1, 2026, unless this Agreement shall have been sooner terminated or extended in accordance with other provisions contained herein.

## ARTICLE V

This Agreement does not create any joint venture, partnership, or agency relationship between City and CVB, it being the intent of the parties that CVB must at all times be and operate hereunder as an independent contractor. CVB will have exclusive control of and the exclusive right to control the details of the work to be performed hereunder and all personnel performing same and will be solely responsible for the acts and omissions of its officers, members, agents, servants, employees, subcontractors, program participants, volunteers, licensees, and invitees. In no event shall any person participating in or performing any of CVB's duties or responsibilities hereunder be considered an officer, agent, servant, or employee of the City.

## ARTICLE VI

In the event of any default by CVB hereunder, including the use of the funds provided herein for purposes other than those stated herein, City may cease all future payments hereunder and terminate this Agreement. In addition, CVB must, at City's request, refund to City funds that are not spent in accordance with this Agreement and any unspent and unobligated funds previously paid to CVB.

## ARTICLE VII

CVB agrees to assume and does hereby assume all responsibility and liability for the services it performs under this Agreement. **CVB COVENANTS AND AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY AND ALL ITS OFFICERS, AGENTS, AND EMPLOYEES** from all suits, actions, claims, and expenses of any character, including attorney's fees, brought for or incurred on account of any injuries or damages, whether real or asserted, sustained by any person or property by or in consequence of any intentional or negligent act, omission, or conduct of CVB, its officers, employees, agents, or servants.

## ARTICLE VIII

This Agreement may be amended by the mutual agreement of the parties hereto in writing to be attached to and incorporated into this Agreement.

## **ARTICLE IX**

CVB must adhere to all local, state, and federal laws and regulations that may affect its actions made pursuant to this Agreement, and must maintain in effect during the term of this Agreement any and all federal, state and local licenses and permits, which may be required of CVB generally.

## **ARTICLE X**

CVB may not assign this Agreement without the prior written consent of the City Manager.

## **ARTICLE XI**

The waiver by City of any breach of any term, condition, or covenant herein contained will not be deemed a waiver of any subsequent breach of the same, or any other term, condition, or covenant.

## **ARTICLE XII**

The obligations of the parties to this Agreement are performable in Kerr County, Texas, and exclusive venue will lie in Kerr County, Texas.

## **ARTICLE XIII**

This Agreement will be governed by and construed in accordance with the laws and court decisions of the State of Texas.

## **ARTICLE XIV**

This Agreement may be executed in any number of counterparts, each of which will be deemed an original and constitute the same instrument.

## **ARTICLE XV**

Neither City nor CVB will be required to perform any term, condition, or covenant in this Agreement so long as such performance is delayed or prevented by force majeure, which will mean acts of God, civil riots, floods, and any other cause not reasonably within the control of City or CVB except as herein provided, and which by the exercise of due diligence City or CVB is unable, wholly or in part, to prevent or overcome.

## ARTICLE XVI

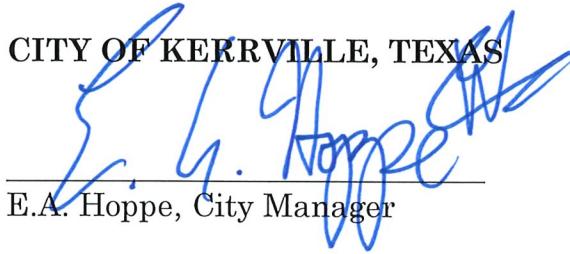
This Agreement may be terminated by either party at any time upon ninety (90) days written notice of termination to the other party. Such notice may be delivered personally or by forwarding notice to the other party by certified mail, return receipt requested. If CVB terminates the Agreement prior to providing all the services required herein for the year of service, as specified in Article I, the CVB shall refund that portion of funding it received for that year on a pro rata basis.

## ARTICLE XVII

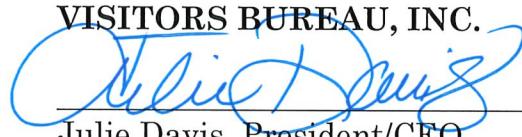
This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties, which relate to matters in this Agreement. In addition, with the execution of this Agreement, the parties terminate the *Agreement between the City of Kerrville, Texas and the Kerrville Convention and Visitors Bureau, Inc. for the use of Hotel Occupancy Tax Funds for Promoting the Arts Advertising Committee*, such agreement entered into between the parties on or about December 13, 2016, and which was amended on or about October 11, 2017.

**IN WITNESS THEREOF**, the parties hereto, acting under authority of their governing body and board of directors, have caused this Agreement to be duly executed in two counterparts, each of which will constitute an original.

CITY OF KERRVILLE, TEXAS

  
E.A. Hoppe, City Manager

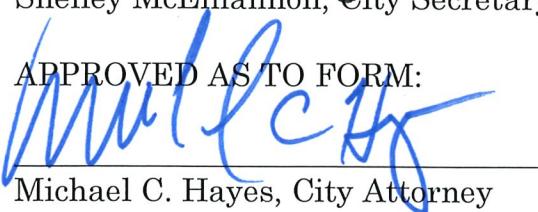
KERRVILLE CONVENTION & VISITORS BUREAU, INC.

  
Julie Davis, President/CEO

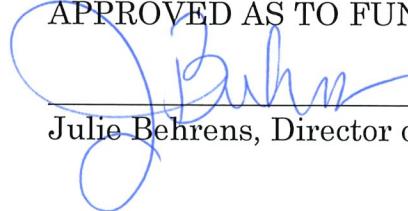
ATTEST:

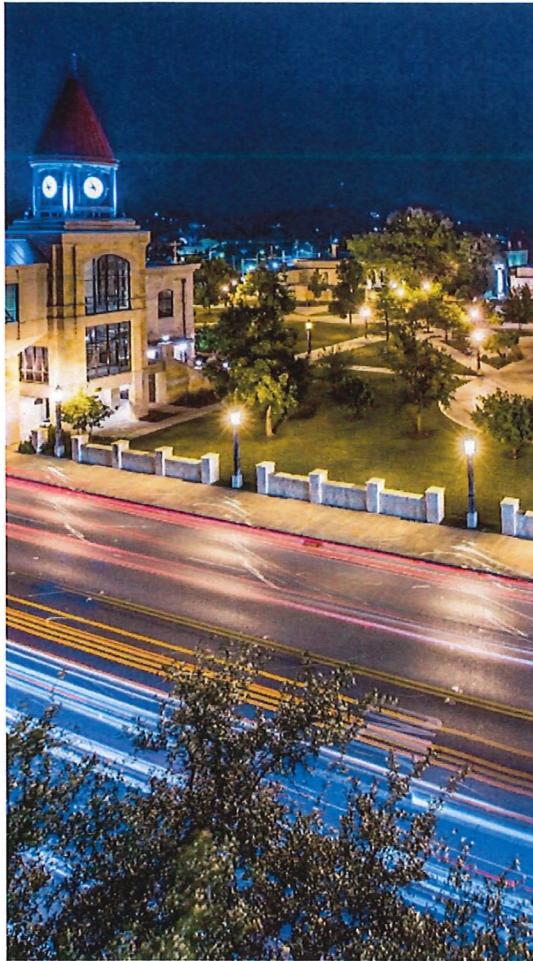
  
Shelley McElhannon, City Secretary

APPROVED AS TO FORM:

  
Michael C. Hayes, City Attorney

APPROVED AS TO FUNDING:

  
Julie Behrens, Director of Finance



# KEDC Proposed FY25 Budget Metrics, Deliverables & ROI

**Gilberto Salinas**, Executive Director

**Katie Milton Jordan**, Deputy Director

*Prepared for EIC, July 17, 2023*



## Core of Economic Development

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### Primary Employers

Business that provides or manufactures goods, services, supplies and/or inventory sold to customers which permanently reside outside of the region, state or country.

### Primary Jobs

Job employed by a primary employee.

### Manufacturing's Impact

Economic development's relationship with the manufacturing sector creates best economic impact.



## Board Approved Metrics (FY23/24)

Business Retention, Expansion	Metric	YTD
Visits to local industry	30	58
Place Branding, Marketing		
Social media engagements	52	54
Economic development articles	12	30
Speaking engagements, podcasts	4	11
Human Capital		
Industry roundtables	4	2
Encouraging Entrepreneurs		
Seminars, workshops, events	6	5
Corporate Recruitment		
Qualified leads (3 active projects)	24	21
Prospects Hosted in Kerrville	4	5
Stakeholder Communication		
Reporting & Annual Forum	5	4



## Five-Year ROI of the KEDC

‘Rubber Meets the Pavement’

**ROI of the KEDC**





## Five-Year ROI of the KEDC

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**6** New Companies  
**3,700** Leads Generated



## Five-Year ROI of the KEDC

---

**6** New Companies  
**3,700** Leads Generated  
**1,300** New Direct Jobs  
**2,100** New Indirect Jobs





## Five-Year ROI of the KEDC

---

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment



## Five-Year ROI of the KEDC

---

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives



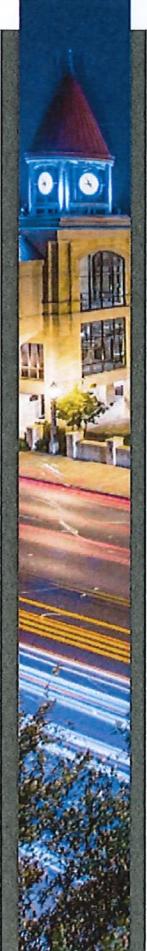


## Five-Year ROI of the KEDC

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6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives
\$2.23 million	5-Year KEDC Bdgt.

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## Five-Year ROI of the KEDC

---

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives
\$2.23 million	5-Year KEDC Bdgt.

---

**\$371,600** Per **New Project** Recruited to Kerrville area

**\$600** Per **New Lead** Generated by KEDC

**\$1,700** Per **New Direct Job** Created





## Five-Year ROI of the KEDC

6	New Companies
3,700	Leads Generated
1,300	New Direct Jobs
2,100	New Indirect Jobs
\$74 million	Capital Investment
\$3.4 million	Local Incentives
\$3.2 million	State Incentives
\$2.23 million	5-Year KEDC Bdgt.

**Killdeer Mountain**  
Mfg-Texas HQ

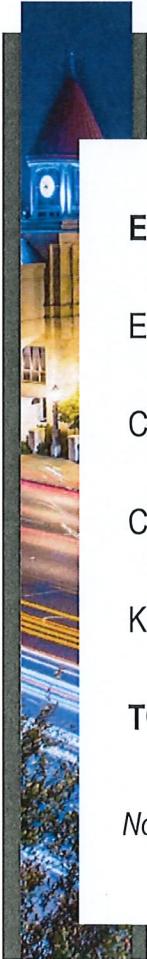
**Megaacrete**  
North America HQ

**New Int. Prospect,**  
Potential U.S. HQ

**\$371,600** Per **New Project** Recruited to Kerrville area

**\$600** Per **New Lead** Generated by KEDC

**\$1,700** Per **New Direct Job** Created



## AT A GLANCE: 5-Year Budget Approvals, Requests

Entity	*FY20/21	FY21/22	FY22/23	FY 23/24	FY24/25
EIC	\$197,000	\$312,500	\$312,500	\$343,750	\$343,750
City	\$ 39,500	\$ 62,500	\$ 62,500	\$ 68,750	\$ 68,750
County	\$ 39,500	\$ 62,500	\$ 62,500	\$ 68,750	\$ 68,750
KPUB	\$ 39,500	\$ 62,500	\$ 62,500	\$ 68,750	\$ 68,750
<b>TOTAL</b>	<b>\$316,000</b>	<b>\$500,000</b>	<b>\$500,000</b>	<b>\$550,000</b>	<b>\$550,000</b>

*Note – Volunteered a 21% budget cut in FY20/21 due Covid-19 and it's economic uncertainty.*

Proposed FY24/25 KEDC Budget

	FY2023 Actual	FY2024 Budget	FY2024 Amended Budget*May		\$ Change Compared to FY2024		% Change Compared to FY2024 Original	
			2024	FY2025 Budget	Original Budget	FY2024	Original	
<b>Revenues</b>								
EIC	312,500	343,750	343,750	343,750		-		0%
City of Kerrville	62,500	68,750	68,750	68,750		-		0%
KPUB	62,500	68,750	68,750	68,750				0%
Kerr County	62,500	68,750	68,750	68,750		-		0%
Sponsored Event Revenue	3,060	-	-	-		-		0%
<b>Total Revenues</b>	<b>503,060</b>	<b>550,000</b>	<b>550,000</b>	<b>550,000</b>		-		0%
<b>Expenditures</b>								
Business Recruitment	10,357	16,000	12,000	20,000	4,000		25.0%	
Website	9,757	12,000	1,800	1,800	(10,200)		-85.0%	
Marketing	31,760	10,000	22,600	34,000	24,000		240.0%	
Travel, Meetings & Conferences	57,447	58,200	55,900	60,900	2,700		4.6%	
<b>Total Business Expenses</b>	<b>109,320</b>	<b>96,200</b>	<b>92,300</b>	<b>116,700</b>	<b>20,500</b>		<b>21.3%</b>	
Accounting Fees	1,510	1,000	1,000	1,000	-		0.0%	
Outside Contract Services	37,050	20,000	61,000	41,000	21,000		105.0%	
KEDC Service Agreement	9,000	8,900	8,900	8,900	-		0.0%	
<b>Total Contract Services</b>	<b>47,560</b>	<b>29,900</b>	<b>70,900</b>	<b>50,900</b>	<b>21,000</b>		<b>70.2%</b>	
Office Supplies	404	2,000	1,100	1,100	(900)		-45.0%	
Dues & Subscriptions	10,016	8,000	9,500	9,500	1,500		18.8%	
Telephone & Internet	740	500	750	750	250		50.0%	
Office Lease	9,702	9,600	9,600	9,600	-		0.0%	
Other Operations	5,152	2,700	-	-	(2,700)		-100.0%	
D&O Liability Insurance	2,557	1,000	1,050	1,050	50		5.0%	
<b>Total Operations</b>	<b>28,571</b>	<b>23,800</b>	<b>22,000</b>	<b>22,000</b>	<b>(1,800)</b>		<b>-7.6%</b>	
Salaries	245,822	283,500	278,500	290,000	6,500		2.3%	
Benefits	38,788	28,000	46,200	46,200	18,200		65.0%	
Training	-	1,500	-	-	(1,500)		-100.0%	
Payroll Taxes	20,756	18,700	18,700	24,200	5,500		29.4%	
<b>Total Personnel Services</b>	<b>305,366</b>	<b>331,700</b>	<b>343,400</b>	<b>360,400</b>	<b>28,700</b>		<b>8.7%</b>	
Sponsored Events	40,669	47,000	-	-	(47,000)		-100.0%	
<b>Total Sponsored Events</b>	<b>40,669</b>	<b>47,000</b>	<b>-</b>	<b>-</b>	<b>(47,000)</b>		<b>-100.0%</b>	
<b>Total Expenditures</b>	<b>\$ 531,487</b>	<b>\$ 528,600</b>	<b>\$ 528,600</b>	<b>\$ 550,000</b>	<b>\$ 21,400</b>		<b>4.0%</b>	
<b>Net Revenues / Expenditures</b>	<b>\$ (28,427)</b>	<b>\$ 21,400</b>	<b>\$ 21,400</b>	<b>\$ -</b>				



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

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**SUBJECT:**

Kerrville Kerr-County Joint Airport Board Proposed Budget for Fiscal Year 2025. (*M Hornes, Assistant City Manager*)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** July 16, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

The Kerrville-Kerr County Joint Airport Board (KKCJAB), pursuant to Interlocal Agreement #2022-48, is required to present and receive approval for the operational and capital budget of the KKCJAB. Both budgets have been submitted to and discussed with City staff. Staff recommends approval of the KKCJAB Operational Budget, which requires no funding from either the City or the County. The capital budget includes a request for \$20,555.

**RECOMMENDED ACTION:**

Approve budget as presented.

**ATTACHMENTS:**

[\*20240723\\_Proposed Budget Airport FY2025.pdf\*](#)



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May 31, 2024

Kerrville-Kerr County Airport  
Mary Rohrer, Airport Manager  
1877 Airport Loop  
Kerrville, TX 78028

County of Kerr  
Attention: Judge Rob Kelly  
700 Main Street  
Kerrville, TX 78028

City of Kerrville  
Attention: Dalton Rice  
701 Main Street  
Kerrville, TX 78028

RE: Kerrville-Kerr County Airport Board Budget, FY 2025

Judge Kelly and Mr. Rice,

For your approvals, attached is the Joint Airport Board Budget consisting of revenues and expenses related to maintenance and operations for fiscal year 2025. Also included, as an addendum to the budget, is a description of proposed capital improvements for fiscal year 2025, proposed capital improvements looking forward five years, and an update of previously approved projects.

The Airport Annual Meeting is being held Wednesday, June 12, 2024 at 1:30 PM to further discuss the operations of the airport and its finances. Please join us at the Dietert Center, 451 Guadalupe St. #203, in Kerrville for this meeting.

Sincerely,

Mary Rohrer  
Airport Manager  
Kerrville-Kerr County Airport

xc. Joint Airport Board Presidents, Stephen Schmerbeck  
Airport Board Members  
Michael Hornes, Assistant City Manager  
Kim Meismer, Assistant City Manager  
City and County Financial Offices Staff

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KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD						
BUDGET FOR FY 2020-2024 (PROPOSED)						
Version D-1-F-25		APPROVED FOR COUNTY/CITY CONSIDERATION				
1 5/22/2024						
47-AIRPORT		2021	2022	2023	2024	2025
	Actual	Actual	Actual	Current	PROPOSED BUDGET	Notes on Proposed Budget
<u>INTERGOVERNMENTAL REVENUE</u>						
47-300-604 GRANTS	69,000	0	0	0	0	
47-300-605 CRRSA Grant	23,000	59,000	0	0	0	
<b>TOTAL INTERGOVERNMENTAL REVENUE</b>	<b>92,000</b>	<b>59,000</b>	<b>0</b>	<b>0</b>	<b>0</b>	
<u>LEASE/RENTAL INCOME</u>						
47-325-350 AIRPORT LAND LEASES	40,589	43,470	63,401	65,000	63,700	Building revert to Land/Structure -
47-325-360 TERMINAL LEASES	17,652	18,452	19,490	20,000	20,600	Building revert to Land/Structure +
47-325-402 AIRPORT LAND AND STRUCTURES	142,014	149,883	133,571	137,000	152,500	
47-325-404 1674 HANGARS		7,425	32,000	33,000		
47-325-601 1815 AIRPORT LOOP HANGAR and OFFICES	101,270	95,686	119,624	126,000	148,800	Lease Renewal/Tenant Negotiate
47-325-603 T-HANGAR LEASES	128,000	125,484	142,940	152,000	159,450	CPI + Market Adjust
47-325-604 VEHICLE RENTAL SURCHARGE	3,625	4,296	7,158	3,600	4,500	Trend Analysis
47-325-605 T-HANGAR STORAGE LEASES	1,870	1,865	1,500	1,500	1,000	
47-325-625 PARKING LOT LEASES	3,074	2,094	1,469	1,500	1,500	
<b>TOTAL LEASERENTAL INCOME</b>	<b>438,094</b>	<b>441,229</b>	<b>496,578</b>	<b>538,600</b>	<b>585,050</b>	
<u>FUEL SALES - AVIATION</u>						
47-350-601 FUEL FLOWAGE FEES	46,509	46,644	57,240	45,000	50,000	Trend Analysis
47-350-602 OTHER						
<b>TOTAL FUEL SALES</b>	<b>46,509</b>	<b>46,644</b>	<b>57,240</b>	<b>45,000</b>	<b>50,000</b>	
Rental income and fees						
<u>PROCEEDS</u>						
47-370-260 SURPLUS PROPERTY SALE	167,707	68,130	4,865	0	0	
47-370-975 INSURANCE PROCEEDS						
47-370-980 APPROPRIATED FUND BALANCE						
47-375-601 MISCELLANEOUS		2,500	175	2,000	0	
<b>*** TOTAL REVENUES ***</b>	<b>744,310</b>	<b>617,503</b>	<b>558,683</b>	<b>585,600</b>	<b>635,050</b>	

## KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD

## BUDGET FOR FY 2020-2024 (PROPOSED)

2 Version D-1-F25

5/22/2024 APPROVED FOR COUNTY/CITY CONSIDERATION

## Expenses

## 47-AIRPORT

## SALARIES &amp; BENEFITS (WITH COLA)

		10/20-09/21	10/21-09/22	10/22-09/23	10/23-09/24	2025	Notes
		2021	2022	2023	2024	PROPOSED BUDGET	
		Actual	Actual	Actual	Current		
47-700-101	AIRPORT MANAGER	88,733	93,531	94,863	99,300	95,000	
47-700-102	OFFICE PERSONNEL	31,288	23,779	45,032	47,350	-	
47-700-101 <b>BLU</b>	AIRPORT ASSISTANT MANAGER						
47-700-104	AIRPORT MAINTENANCE STAFF	38,764	31,846	45,511	48,500	50,450	
47-700-205	OVERTIME		0	0	0	0	
47-700-201	FICA	12,110	11,501	13,808	14,500	15,100	
47-700-202	GROUP INSURANCE	23,208	13,016	31,156	66,630	70,550	
47-700-203	RETIREMENT	21,537	17,529	27,553	27,900	30,100	
47-700-204	WORKMANS COMP	2,005	1,162	1,175	2,350	2,500	
47-700-206	BASIC INSURANCE	177	106	188	440	450	
47-700-207	UNEMPLOYMENT INSURANCE		0	330	350		
<b>SUBTOTAL SALARIES &amp; BENEFITS</b>		<b>217,821</b>	<b>192,470</b>	<b>259,286</b>	<b>307,300</b>	<b>321,900</b>	
<b>EXPENSES</b>							
47-800-008	PROFESSIONAL DEVELOPMENT	2,665	3,248	3,990	7,500	4,000	
SUPPLIES							
47-800-101	OFFICE SUPPLIES and EQUIPMENT	2,152	2,161	1,539	2,750	1,250	
47-800-102	SMALL TOOLS AND EQUIPMENT	2,174	1,992	1,893	2,000	1,750	
47-800-104	FUEL	1,657	2,620	2,142	4,500	2,250	
47-800-106	JANITORIAL SERVICES	5,967	6,756	3,672	13,000	8,000	
47-800-110	LANDSCAPING	7,374	5,563	3,523	9,000	6,000	
47-800-112	WEARING APPAREL	696	594	494	900	600	
Maintenance							
47-800-200	MOWING	37,500	30,000	30,000	40,500	40,500	
47-800-201	BUILDINGS AND STRUCTURES REPAIRS	89,402	64,535	23,269	24,000	15,000	
47-800-202	BUILDINGS AND STRUCTURES MAINTENANCE	8,773	10,277	7,129	9,500	9,500	
47-800-203	VEHICLE MAINTENANCE	1,779	2,922	117	2,750	1,500	
47-800-205	AIRSIDE MAINTENANCE	4,445	15,000	19,540	23,000	15,000	
47-800-215	STORM/WIND DAMAGE REPAIRS	0	68,130	0	0	0	
47-800-220	1815 HANGAR DOOR REPAIR	0	311,988	0	0	0	
<b>SUBTOTAL- Prof Dev, Supplies, Repairs and Maint, Other</b>		<b>164,585</b>	<b>525,786</b>	<b>97,308</b>	<b>139,400</b>	<b>105,350</b>	

**TRUE UP IN SEPT 2024**

Waiting on Rollups from County HR

KERRVILLE-KERR COUNTY JOINT AIRPORT BOARD  
BUDGET FOR FY 2022-2023

3 **Version D-1-F25**  
5/22/2024 **APPROVED FOR COUNTY/CITY CONSIDERATION**  
Expenses (continued)

		2021			2023			2024			2025		Notes
		Actual	Actual	2022	2023	Actual	Current	PROPOSED BUDGET					
OTHER													
47-800-302	PROPERTY INSURANCE (County & Airport Liability)	12,659	14,724	26,504	29,061	69,000							TAC Re-eval of Airport Prop.
47-800-303	LIABILITY INSURANCE (County & Airport D&O)	634	1,000	4,081	4,500	5,000							Auto Liability and D&O
47-800-304	OFFICE EQUIPMENT RENTAL	0	436	1,565	1,900	1,750							
47-800-305	OFFICE EQUIPMENT RENTAL GASB RTU	2,416	1,395	0	600	0							
47-800-306	GASB 87 RTU COPIER LEASE INTEREST	0	30	0	5	0							Leases & Litigation
47-800-307	MARKETING	2,670	683	0	2,000	0							Engineering (5K), Audit (18K)
47-800-311	LEGAL SERVICES	1,685	1,083	12,112	14,000	22,000							Single Audit (10K), Min. Strndrs (17K)
47-800-312	PROFESSIONAL SERVICES	11,418	13,540	32,316	23,600	50,000							
UTILITIES													
47-800-401	CELL PHONES	1,237	1,288	1,141	1,400	1,400							
47-800-404	WATER & SEWER	3,400	1,527	2,068	7,000	4,500							
47-800-406	LIGHT AND POWER	19,616	18,010	17,968	14,700	18,500							
47-800-503	DUES AND SUBSCRIPTIONS	685	449	261	750	200							
RESERVE AND CONTINGENCY													
47-800-508	RESERVE	24,776	0	0	9,439	9,300							
47-800-512	CONTINGENCY	0	0	4,775	11,945	10,150							
47-800-515	TRANSFER OUT - FUND 48	0	300,000	0	49,729								
TERMINAL EXPENSES													
47-801-300	FIRE ALARM MONITORING/INSPECTIONS	3,758	4,117	1,432	3,500	1,750							
47-801-301	LIGHT & POWER	6,770	7,092	6,870	8,000	7,750							
47-801-302	PROPANE GAS	2,316	2,734	2,856	3,000	3,000							
47-801-303	WATER & SEWER	1,835	3,193	2,497	3,500	3,500							
SUBTOTAL- Other, Utilities, Reserve and Contingency, Terminal		95,875	371,301	116,446	188,629	207,800							
*** TOTAL EXPENSES ***		478,281	1,089,556	473,039	585,600	635,050	8.44%						
+ Transfer Out Of Fund Balance to Capital (October):								49,729					
Final Budget:								635,329	635,050				
REVENUE OVER/(UNDER) EXPENDITURES								0	0				

## Kerrville-Kerr County Airport Budget - Capital Improvements FY25 Budget

*Approved for City/County Consideration at May 22, 2024 - Joint Airport Board Meeting*

*Approved for City/County Consideration at May 22, 2024 - Joint Airport Board Meeting*

**Kerrville-Kerr County Airport Budget - Capital Improvements FY25 Budget**  
**FY2026 - 2030 FUNDING AND PROJECT OUTLOOK**

05/22/2024						
GL	Description	Total Budget	TxDot	City	County	Airport
FAA INFRASTRUCTURE GRANTS 90/10		\$ 1,591,181	\$ 1,467,000	\$ 45,560	\$ 45,560	
GL Pending	BIL FAA Grant - 5 Years (FY 2022 - FY 2027)	\$ 1,591,181	\$ 1,432,063	\$ 53,040	\$ 53,040	\$ 53,040
		% Total Funding:	90.00%	3.33%	3.33%	3.33%
GL	Description	TxDOT / Sponsor Grant Share	Total Budget	TxDot	City	County
FY2026 GL PENDING	1815 Hangar Roof Replacement	0/100	\$ 176,000	\$ 88,000	\$ 88,000	
FY2026 GL PENDING	Hardwire Taxiway Lighting	90/10	\$ 500,000	\$ 450,000	\$ 25,000	\$ 25,000
FY2026 GL PENDING	Pilot Restrooms, T-Hangar	0/100	\$ 45,000	\$ 15,000	\$ 15,000	\$ 15,000
FY2027 GL PENDING	Paint Hangar New Hangar Doors	0/100	\$ 225,000	\$ 75,000	\$ 75,000	\$ 75,000
FY2027 GL PENDING	Renovate Facilities for Non-Aeronautical Use	0/100	\$ 105,000	\$ 35,000	\$ 35,000	\$ 35,000
FY2028 GL PENDING	RPZ Land Securement/Fencing	0/100	\$ 150,000	\$ 50,000	\$ 50,000	\$ 50,000
FY2029 GL PENDING	Relocate Airport Loop	50/50	\$ 2,200,000	\$ 1,100,000	\$ 550,000	\$ 550,000
FY2030 GL PENDING	Runway Extension	50/50	\$ 18,600,000	\$ 9,300,000	\$ 4,650,000	\$ 4,650,000
			\$ 22,001,000	\$ 10,850,000	\$ 5,488,000	\$ 5,488,000



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

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**SUBJECT:** Financial Report for month-ended June 30, 2024. (*J Behrens, Director of Finance*)

**AGENDA DATE OF:** July 23, 2024      **DATE SUBMITTED:** June 23, 2024

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

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area**      N/A

**Guiding Principle**      N/A

**Action Item**      N/A

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**SUMMARY STATEMENT:**

**RECOMMENDED ACTION:**

NA



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

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**SUBJECT:** Reappointment to the Kerr 9-1-1 Emergency Board of Directors. (C McCall, Chief of Police)

**AGENDA DATE OF:** July 23, 2024

**DATE SUBMITTED:** July 15, 2024

**SUBMITTED BY:** Chris McCall, Police Chief

**EXHIBITS:**

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

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

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**Kerrville 2050 Item?** No

**Key Priority Area** N/A

**Guiding Principle** N/A

**Action Item** N/A

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**SUMMARY STATEMENT:**

Public Safety Communications Manager Frank Galvan currently serves as Chairperson on the Kerr 9-1-1 Board of Managers, and his term is expiring. He is eligible for an additional two-year reappointment term on the Board. In accordance with the State of Texas Health & Safety Code Chapter 772 Subchapter D, board members appointed by the governing bodies are appointed for terms of two years.

**RECOMMENDED ACTION:**

Approve Communications Manager Frank Galvan be reappointed as the City of Kerrville representative to the Kerr 9-1-1 Emergency Board of Directors.