



# City of Killeen

## Agenda City Council

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Tuesday, February 14, 2017

5:00 PM

Killeen City Hall  
City Council Chambers  
101 North College Street  
Killeen, Texas 76541

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### Call to Order and Roll Call

___ Jose Segarra, Mayor	___ Brockley Moore
___ Shirley Fleming	___ Jonathan Okray
___ Gregory Johnson	___ Juan Rivera
___ Jim Kilpatrick	___ Dick Young

### Invocation

### Pledge of Allegiance

### Approval of Agenda

### Citizens Petitions

*Comments should be limited to three minutes.*

[CP-17-002](#) Libuse Harris-Brown (1804 Sherman Drive) - Services for Animals

### Minutes

[MN-17-003](#) Consider Minutes of Regular City Council Meeting of January 24, 2017.

**Attachments:** [Minutes](#)

[MN-17-004](#) Consider Minutes of Special City Council Meeting of February 7, 2017.

**Attachments:** [Minutes](#)

[Statement for Record](#)

### Resolutions

[RS-17-006](#) Consider a memorandum/resolution authorizing the procurement of fleet tires.

**Attachments:** [Council Memorandum](#)

[Certificate of Interested Parties](#)

[RS-17-007](#) Consider a memorandum/resolution approving an Interlocal Agreement between City of Killeen and CTCOG for participation in Nolan Creek

Flood Protection Study.

**Attachments:** [Council Memorandum Agreement](#)

[RS-17-008](#) Consider a memorandum/resolution approving the Interlocal Cooperation Agreement between Bell County, Texas, and the City of Killeen, Texas, for the management and supervision of a portion of county hotel/motel tax proceeds.

**Attachments:** [Council Memorandum Agreement](#)

[RS-17-009](#) Consider a memorandum/resolution of support for an application to Texas Department of Housing and Community Affairs for Westwind Apartments and Payton Senior LLC, affordable housing developments.

**Attachments:** [Council Memorandum](#)  
[Payton Saigebrook Presentation](#)  
[Westwind Presentation](#)  
[Support Resolution - Payton](#)  
[Support Resolution - Westwind](#)

[RS-17-010](#) Consider a memorandum/resolution authorizing the award of a professional services agreement with Freese and Nichols to design the South Water Supply Project.

**Attachments:** [Council Memorandum Agreement](#)  
[Certificate of Interested Parties](#)

[RS-17-011](#) Consider a memorandum/resolution authorizing the City Manager to execute an Election Services Contract with Bell County for election services and computer software usage.

**Attachments:** [Council Memorandum Contract](#)

[RS-17-012](#) Consider a memorandum/resolution approving a Killeen Economic Development Corporation (KEDC) performance agreement in support of Air Service Development (ASD) initiatives and projects at the Killeen Fort Hood Regional Airport (KFHRA).

**Attachments:** [Council Memorandum Agreement](#)

[RS-17-013](#) Consider a memorandum/resolution authorizing the use of a Request for Qualifications/Proposal (RFQ/P) for improvements to the rental car ready lot at Killeen-Fort Hood Regional Airport (KFHRA).

**Attachments:** [Council Memorandum](#)

**Ordinances**

[OR-17-003](#) Consider an ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.

**Attachments:** [Council Memorandum](#)

[Ordinance](#)

[Minutes](#)

**Public Hearings**

[PH-17-002](#) HOLD a public hearing and consider an ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services of the City of Killeen to authorize expenditure of insurance proceeds at Skylark Field.

**Attachments:** [Council Memorandum](#)

[Ordinance](#)

[PH-17-003](#) HOLD a public hearing and consider an ordinance requested by Christian Fellowship Church of Killeen, Inc. (Case #Z16-24) to rezone approximately 12.82 acres out of the Moses T. Martin Survey, Abstract No. 963, from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District). The property is locally known as 8838 Trimmier Road, Killeen, Texas.

**Attachments:** [Council Memorandum](#)

[Attachment to CCMO](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[Location map](#)

[Buffer map](#)

[Considerations](#)

[PH-17-004A](#) HOLD a public hearing and consider an ordinance requested by Theresa Marie Hammond and Yeon Ok Lee to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Residential' to 'General Commercial' (FLUM# Z16-25) for Lots 6 and 8, Block 4, Sunset Addition. The properties are locally known as 307 and 309 Carter Street, Killeen, Texas.

**Attachments:** [Council Memorandum](#)

[Attachment to CCMO](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[PH-17-004B](#) HOLD a public hearing and consider an ordinance requested by Theresa Marie Hammond and Yong Ok Lee (Case #Z16-25) to rezone

Lots 6 and 8, Block 4, Sunset Addition, from "R-1" (Single-Family Residential District) to "B-5" (Business District). The properties are locally known as 307 and 309 Carter Street, Killeen, Texas.

**Attachments:** [Council Memorandum](#)

[Attachment to CCMO](#)

[Minutes](#)

[Ordinance](#)

[Application](#)

[Location map](#)

[Buffer map](#)

[Considerations](#)

## Adjournment

*I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on February 10, 2017.*

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*Dianna Barker, City Secretary*

*The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.*

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7700, City Manager's Office, or TDD 1-800-734-2989.*

## Notice of Meetings

*The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office. No official action will be taken by Council.*

**Dedicated Service -- Every Day, for Everyone!**





# City of Killeen

## Legislation Details

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**File #:** CP-17-002    **Version:** 1    **Name:** Libuse Harris-Brown (1804 Sherman Drive) - Services for Animals  
**Type:** Citizen Petition    **Status:** Citizens Petitions  
**File created:** 2/8/2017    **In control:** City Council Workshop  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Libuse Harris-Brown (1804 Sherman Drive) - Services for Animals  
**Sponsors:** City Manager Department  
**Indexes:**  
**Code sections:**  
**Attachments:**

Date	Ver.	Action By	Action	Result
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# City of Killeen

## Legislation Details

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**File #:** MN-17-003    **Version:** 1    **Name:** Minutes of Regular City Council Meeting of January 24, 2017  
**Type:** Minutes    **Status:** Minutes  
**File created:** 1/19/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider Minutes of Regular City Council Meeting of January 24, 2017.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Minutes](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
January 24, 2017 at 5:00 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Brockley Moore, Councilmembers Jim Kilpatrick, Juan Rivera, Shirley Fleming, Gregory Johnson, Jonathan Okray, and Richard Young

Also attending were Interim City Manager Dennis M. Baldwin, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Cole.

Mr. Jones gave the invocation, and Killeen Youth Advisory Committee members led everyone in the Pledge of Allegiance.

**Approval of Agenda**

*Motion was made by Mayor Pro-Tem Moore to approve the agenda as written. Motion seconded by Councilmember Rivera. The motion carried unanimously.*

**Minutes**

*Motion was made by Councilmember Kilpatrick to approve the minutes of the January 10th Regular City Council Meeting. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**Resolutions**

**RS-17-005** Consider a memorandum/resolution authorizing the procurement of pistol, rifle, and shotgun ammunition for the Police Department.

**Staff comments:** Erich Morsbach

The Killeen Police Department utilizes ammunition for duty and training purposes. Ammunition is a consumable item and is replaced as necessary. The Staff recommends the acquisition of police ammunition acquired from GT Distributors through Texas State Contract and State Buy Board of up to \$65,142, and that the City Manager or designee is expressly authorized to execute any and all change orders within the amounts set by state and local law.

*Motion was made by Councilmember Rivera to approve RS-17-005. Motion was seconded by Mayor Pro-Tem Moore. Motion carried unanimously.*

**Ordinances**

**OR-16-025** Consider an ordinance granting an electric franchise to Bartlett Electric Cooperative, Inc. (3rd of 3 Readings)

The City Secretary read the caption of the ordinance.

**AN ORDINANCE GRANTING AN ELECTRIC LIGHT, HEAT AND POWER FRANCHISE TO BARTLETT ELECTRIC COOPERATIVE, INC.; PROVIDING FOR A FEE FOR THE**

**USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES**

**Staff comments:** Traci Briggs

Bartlett Electric Cooperative, Inc. (“Bartlett”) serves areas in the southern portions of the City that became part of the City through annexation. City staff has negotiated with Bartlett representatives to prepare the proposed franchise. The fee received by the City will be four percent (4%) of the gross receipts from the sale of electricity within the City limits, with payments made annually. The City Charter requires three (3) readings of a franchise ordinance. The three readings will be December 13, 2017; January 10, 2017; and January 24, 2017. It is proposed that this ordinance be effective March 25, 2017. Staff recommends the City Council approve the proposed franchise ordinance.

*Motion was made by Councilmember Johnson to approve OR-16-025. Motion was seconded by Councilmember Young. Motion carried unanimously.*

- OR-17-004** Consider an ordinance amending Chapter 19, Article II of the Code of Ordinances as it pertains to providing for the enforcement of dog park rules at dog parks throughout the community.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE AMENDING CHAPTER 19, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN, TEXAS, BY AMENDING SECTION 19-26 DEFINITIONS; AMENDING SECTION 19-31 RECREATIONAL ACTIVITIES; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.**

**Staff comments:** Brett Williams

In consultation with the Police Department, staff was apprised of the need to amend the ordinance to allow the Police Department to have the authority to enforce rules of the park via ordinance. Legal also advised that the ordinance needed to be amended to provide for an exception for dogs to be allowed off leash within the dog park. The attached ordinance adds dog park to the list of parks as outlined by ordinance, provides an exception for dogs to be off leash within the dog park, and makes it a violation for any visitor to the dog park to disregard / violate any signage posted in a park by city officials.

Staff recommends City Council approve amending Chapter 19, Article II of the code of ordinances.

*Motion was made by Councilmember Fleming to approve OR-17-004. Motion was seconded by Councilmember Kilpatrick. Motion carried unanimously.*

**Adjournment**

With no further business, upon motion being made by Councilmember Rivera, seconded by Councilmember Kilpatrick, and unanimously approved, the meeting was adjourned at 5:12 p.m.



# City of Killeen

## Legislation Details

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**File #:** MN-17-004    **Version:** 1    **Name:** Minutes of Special City Council Meeting of February 8, 2017  
**Type:** Minutes    **Status:** Minutes  
**File created:** 2/2/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider Minutes of Special City Council Meeting of February 7, 2017.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Minutes](#)  
[Statement for Record](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

**City of Killeen**  
Special City Council Meeting  
Killeen Utilities Collection Conference Room  
February 7, 2017 at 7:12 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Brockley Moore, Councilmembers Jim Kilpatrick, Juan Rivera, Shirley Fleming, Gregory Johnson, Jonathan Okray, and Richard Young

Also attending were Interim City Manager Dennis M. Baldwin, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Cole.

**Resolutions**

**RS-17-014** Consider a memorandum/resolution approving the appointment of Ronald Olson as Killeen City Manager and approving an employment agreement.

**Staff comments:** Kate McDaniel

Former City Manager Glenn Morrison retired from the City of Killeen effective April 5, 2016. Strategic Government Resources (SGR) managed the recruitment process for the City Manager's position. Six candidates were invited to interview. Council has reached a consensus to offer the position of Killeen City Manager to Ronald Olson and to approve the attached employment agreement.

*Motion was made by Councilmember Young to approve RS-17-014. Motion was seconded by Councilmember Rivera.*

Councilmember Johnson made a statement for the record. See attached.

Councilmember Rivera stated for the record that originally he was against hiring Mr. Olson, but now he's proud to have him with the city.

*Motion carried 6 to 1 with Councilmember Johnson opposing.*

**RS-17-015** Consider a memorandum/resolution approving the appointment of an Assistant City Manager.

**Staff comments:** Kate McDaniel

Dennis Baldwin has served as the Interim City Manager since October 2016.

Mr. Baldwin will temporarily fill the position of Assistant City Manager to support a seamless transition for the new city manager. The Assistant City Manager position will be funded through July 31, 2017.

*Motion was made by Councilmember Kilpatrick to approve RS-17-015, appointing Dennis Baldwin as temporary Assistant City Manager. Motion was seconded by Mayor Pro-Tem Moore.*

*Motion carried unanimously.*

**Public Hearings**

**PH-17-005** HOLD a public hearing and consider an ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services of the City of Killeen to increase General Fund expense accounts for the Assistant City Manager in the amount of \$36,462.

The City Secretary read the caption of the ordinance.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS,  
AMENDING THE FY 2017 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES  
OF THE CITY OF KILLEEN TO INCREASE GENERAL FUND EXPENSE ACCOUNTS  
FOR THE ASSISTANT CITY MANAGER.**

**Staff comments:** Jonathan Locke

This budget amendment will fund Dennis Baldwin's employment as Assistant City Manager from February 8 through July 31. Staff recommends that the City Council approve this ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services to transfer \$36,462 from the Police Department to the Assistant City Manager's Department.

Mayor Segarra opened the public hearing. With no one appearing the public hearing was closed.

*Motion was made by Councilmember Rivera to approve PH-17-005. Motion was seconded by Councilmember Young. Motion carried unanimously.*

**Adjournment**

With no further business, upon motion being made by Councilmember Young, seconded by Councilmember Rivera, and unanimously approved, the meeting was adjourned at 7:27 p.m.

Statement for Record, February 7, 2017 Special City Council Meeting.

While I think Ron Olson was a fine candidate, I opposed his appointment as city manager. Although Ron Olson has years of documented city manager experience, I feel that at this time he was not the best fit for the City of Killeen.

I do not support paying any city employee an annual salary over the amount of \$200,000, to include the position of city manager. I also did not support many of the item amounts listed in the approved city manager contract. Government should always strive to live within its means just as hard-working Americans do everyday.

I am disappointed in the overall city manager search process and the steps that assisted the City Council in arriving at this decision.

I am a strong proponent of Planned Growth, Smart Government, Crime Prevention and a Strong Economy, and I hope that Ron Olson is equally passionate about these issues and can be instrumental in developing viable solutions for each of them.

While I did vote in opposition to Ron Olson's appointment as city manager, this will in no way hinder my ability, responsibility or obligation to the People and my colleagues to work with him in moving our city forward and making it a better place for our citizens to work, play and grow their families.

Respectfully,

Gregory Johnson,  
Killeen City Councilmember, At Large





# City of Killeen

## Legislation Details

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**File #:** RS-17-006    **Version:** 1    **Name:** Procurement of Fleet Tires  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/4/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the procurement of fleet tires.  
**Sponsors:** Fleet Services  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Certificate of Interested Parties](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

Procurement of Fleet Tires

### ORIGINATING DEPARTMENT

Fleet Services

### BACKGROUND INFORMATION

The City of Killeen Fleet Services Division is responsible for purchasing, maintaining, and repairing approximately 1,000 pieces of motorized equipment currently utilized by the City. These activities include supplying the tire needs of those pieces of equipment; the costs are then charged back to the corresponding City departments. During the preceding fiscal year, the tires purchased through our cooperative dealer totaled \$226,316.00.

### DISCUSSION/CONCLUSION

Due to the wide variety of tires required and the patterns of their use, the tires are purchased as needed throughout the year rather than on a regularly-scheduled basis. The City of Killeen is a member of several purchasing cooperatives that are in compliance with the Texas Local Government Code section 271.102. Purchases through a cooperative satisfy competitive bid requirements. Southern Tire Mart is included in these cooperatives and is our current vendor. These tires would continue to be purchased from Southern Tire Mart of Waco, TX, pursuant to BuyBoard contract #470-14.

### FISCAL IMPACT

Based upon the last year's expenditures for tires and recently-published 2017 pricing, it is anticipated that the City could again spend approximately \$226,000.00 in FY17.

### RECOMMENDATION

Staff recommends approval of the anticipated expenditure of \$226,000.00 in FY17 for tires purchased from Southern Tire Mart that are then charged back to the various City departments and divisions as authorized in the FY17 budget, and that the City Manager or designee is expressly authorized to execute any and all change orders within the amounts set by state and local law.

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

### OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2017-150407

Date Filed:  
01/04/2017

Date Acknowledged:

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Southern Tire Mart, LLC  
Columbia, MS United States

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

City of Kileen

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

470-14  
Purchase of Tires

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Southern Tire Mart, LLC	Columbia, MS United States		X

5 Check only if there is NO Interested Party.

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



*[Signature]*  
\_\_\_\_\_  
Signature of authorized agent of contracting business entity

AFFIX NOTARY SEAL/SEAL ABOVE

Sworn to and subscribed before me, by the said Richard Conwill, this the 5th day of January, 20 17, to certify which, witness my hand and seal of office.

*[Signature]*  
\_\_\_\_\_  
Signature of officer administering oath

Rusty Robertson  
\_\_\_\_\_  
Printed name of officer administering oath

Notary  
\_\_\_\_\_  
Title of officer administering oath



# City of Killeen

## Legislation Details

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**File #:** RS-17-007    **Version:** 1    **Name:** Nolan Creek Flood Protection Study  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/17/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution approving an Interlocal Agreement between City of Killeen and CTCOG for participation in Nolan Creek Flood Protection Study.  
**Sponsors:** City Attorney Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum Agreement](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Approve an Interlocal Agreement between City of Killeen and CTCOG for participation in Nolan Creek Flood Protection Study.**

### ORIGINATING DEPARTMENT

**City Attorney**

### BACKGROUND INFORMATION

The Texas Water Development Board (TWDB) Flood Protection Planning Program is a grant program designed to assist political subdivisions in evaluating regional structural and nonstructural solutions to flooding problems. Only regional projects are eligible for this grant.

On May 9, 2016, the Central Texas Council of Governments (CTCOG) discussed with the City of Killeen and other regional local governments the opportunity to apply for a TWDB grant to fund the creation of a Nolan Creek Flood Protection Master Plan. On May 24, 2016, the City Council authorized submission of the grant by CTCOG on the City's behalf, and on August 25, 2016, the TWDB awarded the grant to CTCOG. On December 13, 2016, the City Council authorized Killeen's participation in this project, and approved in-kind services of \$92,371.33 and a cash contribution of \$54,227.67.

### DISCUSSION/CONCLUSION

In order to formalize Killeen's participation with CTCOG in this program, it is necessary to enter into an Interlocal Agreement with CTCOG. CTCOG was required to sign the grant agreement with the TWDB by January 25, 2017. Therefore, the Mayor signed the attached Interlocal Agreement in reliance upon Council's earlier approval of the substantive terms of this agreement on December 13, 2016, and now asks that Council ratify that earlier signature.

### FISCAL IMPACT

There is no additional fiscal impact incurred as a result of signing this Interlocal Agreement. This agreement merely memorializes Council's agreement of December 13, 2016 to in-kind services of \$92,371.33 and a cash contribution of \$54,227.67. Funding for the cash contribution is available in the fiscal year 2016-2017 drainage utility fund's environmental services professional services account 575-3476-432.47-20 that has an available budget of \$117,734.

### RECOMMENDATION

Staff recommends that the City Council approve and ratify the attached Interlocal Agreement.



## INTERLOCAL AGREEMENT

This Interlocal Agreement is entered into by and between The Central Texas Council of Governments (CTCOG) and the City of Killeen, Texas pursuant to the authority granted and in compliance with the provisions of the Interlocal Cooperation Act, Texas Government Code, §791.025.

### I. STATEMENT OF PURPOSE:

The purpose of this Interlocal Agreement is to define the responsibilities of each party regarding their participation in the proposed Nolan Creek Flood Protection Study funded in part through the Texas Water Development Board (TWDB) to develop an early warning system/local flood response plan and/or flood protection.

### II. CONSIDERATION:

- a. Per the Interlocal Cooperation Act, Texas Government Code, §791.025, or other applicable law, the CTCOG satisfies the requirement to seek competitive bids for the purchase of goods and/or services.
- b. The TWDB published a request for applications for flood protection planning, pursuant to 31 Texas Administrative Code (TAC) §355.3, in May 2016.
- c. The TWDB offers grants to political subdivisions of the State of Texas for the evaluation of structural and non-structural solutions to flooding problems with consideration of flood protection need of the entire watershed.
- d. The CTCOG, a voluntary association of local governments formed under Texas Local Government Code §391, has the authority to apply for a grant, enter into a contract and participate in a study with the TWDB.
- e. The proposed planning study will be conducted in order to adequately evaluate the Nolan Creek watershed and portions of its tributaries located within and outside the City of Killeen.
- f. The City of Killeen's city council resolved on the 13<sup>th</sup> day of December 2016 that it was in the best interest of the citizens of Killeen to participate with CTCOG in this study and authorized the commitment of local funds and in-kind services to this purpose.



**III. PAYMENT FOR GOODS AND SERVICES:**

- a. The City of Killeen shall comply with Chapter 2251, Texas Government Code, or applicable local law, in making payments to CTCOG. Payment under a CTCOG Contract shall not foreclose the right to recover wrongful payments.
- b. Texas Government Code, §791.011(d)(3) specifies each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.
- c. Payments must be made in accordance with laws and procedures applicable to the City of Killeen.
- d. The City of Killeen agrees to pay the CTCOG:
  - \$54,227.67 in cash, and
  - \$92,371.33 of in-kind services.

**IV. TERM OF CONTRACT:**

This Interlocal Agreement shall begin when fully executed by both parties. Customers shall pay for all goods and services received through the effective date of termination.

**V. NOTIFICATION**


All notices under this Interlocal Agreement shall be sent to each party at the respective addresses indicated below:

Central Texas Council of Governments  
PO Box 729  
Belton TX 76513

City of Killeen  
101 North College Street  
Killeen TX 76541

**VI. AUTHORIZED SIGNATORIES**

\_\_\_\_\_  
Jim Reed, AICP  
Executive Director  
Central Texas Council of Governments

  
\_\_\_\_\_  
Jose Segarra  
Mayor  
City of Killeen, Texas

\_\_\_\_\_  
Date

1-13-17  
\_\_\_\_\_  
Date

**ATTACHMENT A  
SCOPE OF SERVICES**

The CTCOG through its contractor, agrees to provide the following:

- a. Collection and review of baseline information, development of a base map and assessment of environmental constraints.
- b. Identification of flood early warning system improvements, flood response implementation strategies and initial identification of flood problem areas.
- c. Perform a field survey.
- d. Develop a hydrological model and a hydraulic model.
- e. Provide a final identification of flood problem areas, establishment of flood protection criteria and evaluation of flood mitigation alternatives.
- f. Perform hydrologic/hydraulic analyses of flood mitigation alternatives.
- g. Develop a benefit/cost analysis of flood mitigation alternatives.
- h. Prepare an implementation and phasing plan and a final report.
- i. Host seven (7) stakeholder coordination meetings and four (4) public meetings throughout the process.

The City of Killeen agrees to provide the following in-kind services:

	Hours	Expenses
GIS	489	\$9,914.97
City Engineer	449	\$18,515.86
Environmental Services	59	\$3,214.02
Drainage Engineering	364	\$9,823.37
Drainage Maintenance	1559	\$29,966.74
Transportation/CIP	614	\$20,936.36
<b>TOTAL</b>	<b>3534</b>	<b>\$92,371.33</b>



## TERMS OF AGREEMENT

A. CTCOG agrees to:

1. Provide services listed in the Scope of Services.
2. Retain financial and program supporting documents, statistical records, and any other records pertinent to the services provided. The records and documents will be retained for a minimum of five (5) years after close of CTCOG's fiscal year.
3. Make available at reasonable times and for required periods all fiscal and program participant records, books, and supporting documents pertaining to services provided under this agreement, for purposes of inspection, monitoring, auditing, or evaluations by the City of Killeen, through any authorized representatives.

B. The City of Killeen agrees to submit payment of:

- \$54,227.67 upon signing of this agreement, and
- \$92,371.33 of in-kind services per the Scope of Services.

Regular 12-13-16  
Item # RS-16-154  
CCM/R 16-158R

## CITY COUNCIL MEMORANDUM FOR RESOLUTION

### AGENDA ITEM

Authorize participation in the Texas Water Development Board Grant for the Nolan Creek Regional Flood Protection Master Plan Project.

### ORIGINATING DEPARTMENT

Public Works / Environmental Services

### BACKGROUND INFORMATION

The Texas Water Development Board (TWDB) Flood Protection Planning Program, created in 1991, is a grant program designed to assist political subdivisions in evaluating regional structural and nonstructural solutions to flooding problems. Only regional projects are eligible for this grant. Grants for flood protection planning in our area are limited to 50% of the total cost of the project. In-kind services may be substituted for any part of the local share if such services are directly in support of the planning effort, are properly documented, and approved in advance by the TWDB.

On May 9, 2016, the Central Texas Council of Governments (CTCOG) hosted a Nolan Creek watershed meeting to discuss the opportunity to apply for a TWDB grant to fund the creation of a Nolan Creek Flood Protection Master Plan. Representatives from Bell County, Bell County Water Control & Improvement District (WC&ID) #6, Belton, Brazos River Authority, Central Texas Council of Governments, Harker Heights, Nolanville, Killeen and Texas Agrilife all participated in the discussion on regional flood protection. On May 24, 2017, the City Council authorized the submission of a TWDB Flood Protection Planning Grant application for the Nolan Creek Regional Flood Protection Master Plan project (CCMR #16-059). On August 25, 2016, the TWDB awarded CTCOG a grant for this project. The Nolan Creek project scored #2 out of 41 applications submitted from across the state.

### DISCUSSION/CONCLUSION

Benefits of a regional flood protection master plan include prioritization and coordination of structural and nonstructural projects throughout the watershed, improved water quality, increased public education, and increased public safety. Participation in the CTCOG's TWDB proposed planning grant project does have some direct benefit to the residents of Killeen. One benefit is the shared expense of mapping and modeling the Nolan Creek watershed. This grant would allow the City to proceed with this 2012 Drainage Master Plan planned project, without having to wait for funding in a future drainage bond. Proposed flood retarding structures identified for construction within the City of Killeen would benefit Killeen by providing an area that could also be utilized as a park and a water quality feature. These structures would support our Vision 2030 plan by contributing to a higher quality of life for our residents and by helping to reduce the regulated pollutants in Nolan Creek. Reduction of pollutants assists the City in

avoiding issuance of a regulated Total Maximum Daily Load (TMDL) by the TCEQ. Additional benefits include increased priority in other grant programs, potential revisions to the regulatory Special Flood Hazard Area (SFHA) maps, and increased public safety through the development and use of early warning systems.

CTCOG provided a preliminary project cost breakdown based on four areas: hydrology, hydraulics, field survey, and population within the watershed. The total project cost is \$462,038. The awarded project includes \$231,019 in grant funds and requires a \$231,019 match to be funded by the political subdivisions within the watershed. The City of Killeen's identified portion of the match, based on the criteria identified above, is \$146,599.00. City staff has worked with the CTCOG to identify in-kind services that will offset a portion of the city's identified match.

#### **FISCAL IMPACT**

Participation in this project will require in-kind services of \$92,371.33 and a cash contribution of \$54,227.67. Funding for the cash contribution is available in the fiscal year 2016-2017 drainage utility fund's environmental services professional services account 575-3476-432.47-20 that has an available budget of \$117,734.

#### **RECOMMENDATION**

Recommend the City Council approve participation in the TWDB Flood Protection Planning Grant for the Nolan Creek Regional Flood Protection Master Plan project and authorize the City Manager to execute all contracts, change orders, documents, and agreements associated with the grant.

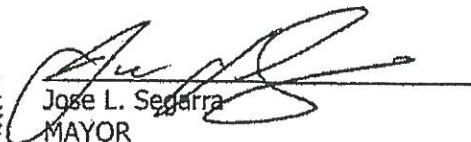
#### **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

That the above stated recommendation is hereby approved and authorized.

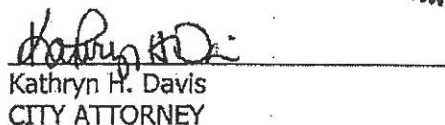
**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this the 13th day of December, 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, § 551.001 *et seq.*

#### **APPROVED**

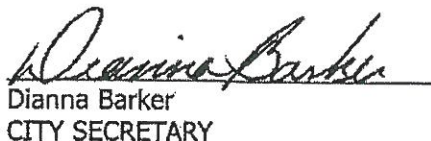


  
Jose L. Segarra  
MAYOR

#### **APPROVED AS TO FORM:**

  
Kathryn H. Davis  
CITY ATTORNEY

#### **ATTEST:**

  
Dianna Barker  
CITY SECRETARY



# City of Killeen

## Legislation Details

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**File #:** RS-17-008    **Version:** 1    **Name:** Bell County HOT Agreement  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/11/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution approving the Interlocal Cooperation Agreement between Bell County, Texas, and the City of Killeen, Texas, for the management and supervision of a portion of county hotel/motel tax proceeds.  
**Sponsors:** Community Development Department, Finance Department  
**Indexes:** Bell County HOT Agreement  
**Code sections:**  
**Attachments:** [Council Memorandum Agreement](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Approval of Interlocal Agreement Between Bell County, Texas, and City of Killeen, Texas, for Hotel/Motel County Tax Revenue**

### ORIGINATING DEPARTMENT

**Community Development**

### BACKGROUND INFORMATION

On February 24, 2015, the City Council authorized Bell County to collect and pay the City 2% of the net county tax receipts collected from hotels in the geographical boundaries of the city for management by the City in providing city programs. Net county tax receipts shall mean 2% of the eligible occupancy revenue collected from hotels within the geographical boundaries of the City.

### DISCUSSION/CONCLUSION

The County has since collected that hotel tax and is presenting the Interlocal Cooperation Agreement for consideration. The duties and obligations of the city set out in the agreement are outlined as follows:

1. Spend the money only in a manner that directly enhances and promotes tourism and the convention and hotel industry in the city;
2. Present the annual budget to the Commissioners Court, inclusive of the budgeted expenditures of the County Tax revenues for approval prior to adoption. This first year, county would need to approve the budget after the fact. The County proposes in both instances to send us the portion of the budget that "promotes tourism and the convention and hotel industry" only.
3. Maintain records of expenditures and make those records available upon request and make a report no later than 30 days after the end of each quarter of the expenditures made; and
4. Maintain the money in a separate account and not commingle with other city revenues as required by Section 352.1015, Texas Tax Code.

Further, the City may expend these proceeds for the day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures that directly enhance and promote tourism and the convention and hotel industry in the City.

The Agreement shall be effective upon signing and the term of this agreement shall be for a period ending on September 30, 2017 (the initial term). The Agreement will automatically renew for successive one (1) year terms unless either party provides notice to the other party at least thirty (30) days prior to the end of the initial term or any renewal term thereafter of the party's intention to terminate this agreement.

**FISCAL IMPACT**

The revenue or net proceeds from the hotel/motel tax collected by the County is \$82,497.68 for Fiscal Year 16-17.

**RECOMMENDATION**

According to the terms of the Interlocal Agreement, that the Killeen City Council approve this agreement acting through its City Council in accordance with the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code and authorize the City Manager to execute said agreement.

**INTERLOCAL COOPERATION AGREEMENT  
BETWEEN  
BELL COUNTY, TEXAS  
AND  
THE CITY OF KILLEEN, TEXAS**

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017, and effective October 1, 2016, (the “Effective Date”) by and between Bell County, Texas, a political subdivision of the State of Texas, acting by and through its Commissioners Court (the “County”) and the City of Killeen, Texas, a Texas municipality located entirely within the geographical boundaries of the County, acting by and through its City Council (the “City”), in accordance with the Texas Interlocal Cooperation Act, Chapter 791, Texas Government Code (the “Act”) and Chapter 352, Texas Tax Code.

WHEREAS, the County imposes a hotel occupancy tax, as permitted under Chapter 352, Texas Tax Code, (the “County Tax”) upon the cost of occupancy of any room or space furnished by any hotel within the geographical boundaries of the County; and

WHEREAS, the revenue from the County Tax must be expended in a manner that directly enhances and promotes tourism and the convention and hotel industry in the County; and

WHEREAS, the City imposes a hotel occupancy tax as permitted under Chapter 351, Texas Tax Code (the “City Tax”) upon the cost of occupancy of any room or space furnished by any hotel within the geographical boundaries of the City; and

WHEREAS, under section 352.1015, Texas Tax Code, the County may, by contract, delegate to another governmental entity, the management of the programs and activities funded with revenue from the County Tax; and

WHEREAS, the City has ongoing programs and activities to promote tourism and the hotel industry within the City (the “City Programs”) and the County desires to dedicate a portion of the County Tax revenue to the City for the further promotion of the City Programs; and

WHEREAS, both the City and the County have determined that it is in the best interests of both entities and the most efficient use of the hotel tax revenues generated by both entities within the City for the City to manage and supervise a portion of the County Tax proceeds to continue the City Programs.

NOW THEREFORE, IT IS MUTUALLY AGREED by and between the County and the City as follows:

**1.0 DUTIES AND OBLIGATIONS OF THE COUNTY**

- 1.1 The County will assess and collect the County Tax on all eligible occupancy revenues from hotels in the geographical boundaries of the City at the rate adopted by the County Commissioners Court.



- 1.2 On an annual basis, beginning at the expiration of the first four (4) calendar quarters following the Effective Date, the County will pay to the City 17% of the net County Tax receipts collected from hotels in the geographical boundaries of the City for management by the City in providing the City Programs.
- 1.3 For the purposes of this Agreement, "Net County Tax Receipts" shall mean 2% of the eligible occupancy revenue collected from hotels within the geographical boundaries of the City less any statutory exemptions and less any discounts permitted by the County for timely payments of the County Tax to the County.
- 1.4 The County will coordinate with the City to review the City's budget and will timely approve said budget in writing as required under Section 352.1015, Texas Tax Code.

## **2.0 DUTIES AND OBLIGATIONS OF THE CITY**

- 2.1 City shall expend County Tax revenue only in a manner that directly enhances and promotes tourism and the convention and hotel industry in the City. The City may expend County Tax revenue for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs only if those administrative costs are incurred directly in the promotion and servicing expenditures that directly enhance and promote tourism and the convention and hotel industry in the City.
- 2.2 The City shall present its annual budget, inclusive of the budgeted expenditures of County Tax revenue provided hereunder, to the County Commissioners Court prior to adoption by the City for approval by the County as required under Section 352.1015, Texas Tax Code. The County's approval shall not be unreasonably withheld.
- 2.3 The City shall maintain complete and accurate financial records of each expenditure of County Tax revenue dedicated to the City under this Agreement and shall make such records available upon request of the County or other interested person. No later than thirty (30) days after the end of each calendar quarter, the City shall provide a report to the County listing the expenditures made with County Tax revenue dedicated to the City under this Agreement as required under Section 352.1015, Texas Tax Code.
- 2.4 The City shall maintain the County Tax revenue dedicated to the City under this Agreement in a separate account established for that purpose and may not commingle that revenue with other City revenues as required under Section 352.1015, Texas Tax Code.



### **3.0 TERM AND TERMINATION OF THIS AGREEMENT**

- 3.1 This Agreement shall be effective upon the date specified above. The term of this agreement shall be for a period of one (1) year ending on September 30, 2017 (the “Initial Term”). This Agreement will automatically renew for successive one (1) year terms (the “Renewal Term”) unless either party provides notice to the other party at least thirty (30) days prior to the end of the Initial Term or any Renewal Term thereafter of the party’s intention to terminate this agreement.
- 3.2 Upon termination of this Agreement at the end of the Initial Term or subsequent Renewal Term, the City shall return to the County any unexpended County Tax funds within thirty (30) days after the effective date of termination.
- 3.3 If the County determines that the City has ceased using County Tax revenues for the purposes set forth in section 2.2 of this Agreement, the County shall so notify the City in writing of such determination. In the event the City is unable to demonstrate within fifteen (15) days of such notification that County Tax revenue is being used for the purposes authorized in section 2.2, the County may terminate this Agreement and the City will return all County Tax revenue remaining in the account established under section 2.5.

### **4.0 NON-WAIVER OF DEFAULT OR IMMUNITY**

- 4.1 No payment, act or omission by a party may constitute or be construed as a waiver of any breach or default of such party which then exists or which may subsequently exist. All rights of the parties under this Agreement are reserved, and any payment, act or omission shall not impair or prejudice any right or remedy of a party hereto. The pursuit of any right or remedy under this Agreement or by law shall not preclude the exercise of any other right or remedy under this Agreement or pursuant to law, nor shall any action taken in the exercise of any or remedy be deemed a waiver of any other right or remedy.
- 4.2 By entering into this Agreement neither party intends to waive nor does waive any immunity enjoyed by either party under state, federal or common law.

### **5.0 AMENDMENTS**

Any amendment to any term of this Agreement shall be effective only if it shall be in writing and signed by each of the parties hereto.

### **6.0 ASSIGNMENT**

Neither party may assign any of the rights nor obligations under this Agreement without the written consent of the other party hereto. This Agreement shall be binding upon the successors, permitted assigns and legal representatives of the parties hereto.

## **7.0 ENTIRE AGREEMENT**

This Agreement supersedes any prior agreements between the parties concerning the subject matter hereof. All oral and written agreements between the parties hereto concerning the subject matter hereof that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

## **8.0 TEXAS LAW**

This Agreement is governed by the internal laws of the State of Texas.

## **9.0 NOTICES**

All notices, requests and other communications to any party hereunder shall be in writing (including e-mail) and shall be given to each party at the following addresses:

**Bell County, Texas**  
P.O. Box 454, Belton, TX 76513  
FAX (254) 933-5918  
E-mail: Donna.Eakin@bellcounty.texas.gov  
Attn: County Auditor

**City of Killeen, Texas**  
P.O. Box 1329, Killeen, Texas 76540  
254-501-8984  
E-mail: jlocke@killeentexas.gov  
Attn: Jonathan Locke, Executive Director of Finance

## **10.0 SEVERABILITY**

If any portion of this Agreement is ruled invalid by a court of competent jurisdiction, the remainder of it shall remain valid and binding.

## **11.0 AUTHORITY**

By their respective signatures below, the designated representatives of each party warrant that this Agreement has been considered and approved at a lawfully called meeting of the party's governing board and that the individuals signing this Agreement have the authority to bind the respective party hereunder.

## **12.0 COUNTERPARTS; ELECTRONIC SIGNATURES.**

This Agreement may be executed in multiple counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docuSign.com), or other

transmission method and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

**13.0 CURRENT REVENUES.**

Pursuant to Section 791.011, Texas Government Code, each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

[Signature page follows.]

**IN WITNESS WHEREOF**, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof as of Effective Date.

**BELL COUNTY, TEXAS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: County Judge

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**CITY OF KILLEEN, TEXAS**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: Interim City Manager

**ATTEST:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_



# City of Killeen

## Legislation Details

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**File #:** RS-17-009    **Version:** 1    **Name:** 2017 Housing Tax Credit proposed developments  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/11/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution of support for an application to Texas Department of Housing and Community Affairs for Westwind Apartments and Payton Senior LLC, affordable housing developments.  
**Sponsors:** Community Development Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Payton Saigebrook Presentation](#)  
[Westwind Presentation](#)  
[Support Resolution - Payton](#)  
[Support Resolution - Westwind](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Resolution of Support for the Low Income Housing Tax Credit applications (2017) to the Texas Department of Housing & Community Affairs**

### ORIGINATING DEPARTMENT

**Community Development**

### BACKGROUND INFORMATION

The Texas Department of Housing and Community Affairs (TDHCA) administers the housing tax credit program which is a highly competitive program (9% tax credits); applications are scored using a Qualified Allocation Plan (QAP) approved by the governing board of TDHCA. The housing tax credits are sold to investors in exchange for cash equity for the development. There are two (2) proposed tax credit development applications being submitted to the TDHCA for funding cycle 2017.

### DISCUSSION/CONCLUSION

Westwind of Killeen is located on the northwest corner of Stan Schlueter Loop and Trimmier Road and proposing 120 units. Payton Senior is proposing 125 units of senior housing and they are located at the southwest quadrant of E Central Texas Expressway and Cunningham Road. In order to be competitive for the tax credits, both proposed developments must submit for a resolution of support from the City of Killeen. There is also a request of ten dollars (\$10) from the proposed developments to show a minimum level of commitment from the city.

### FISCAL IMPACT

Affordable housing provided by these developments will generate property taxes, building permits fees, and sales tax on construction materials. The proposed developments will bring construction related jobs that also brings value to the city of Killeen.

### RECOMMENDATION

Staff recommends that the City Council approve the Resolutions of Support for the application to Texas Department of Housing and Community Affairs for the Westwind Apartments and Payton Senior Apartments.



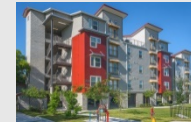
# *Saigebrook Development*



**Contact:**  
**Lisa Stephens**  
**352-213-8700**  
**[lisa@saigebrook.com](mailto:lisa@saigebrook.com)**

**Contact:**  
**Megan Lasch**  
**830-330-0762**  
**[megan@o-sda.com](mailto:megan@o-sda.com)**





# Saigebrook Development – Developer and Owner

- 15+ years experience in multi-family development
- Developer of approx. 5,000 units, more than 1,200 units in Texas
- Innovative, neighborhood appropriate development with proven track record
- Ownership 15 years +
- Art in Public Places
- Texas owned
- Green Development Practices



Tupelo Vue – Winter Haven, Florida





# Texas Portfolio

## 11 Communities in Operation:

- Amberwood Place – Longview
- Pinnacle at North Chase – Tyler
- La Ventana – Abilene
- Saige Meadows – Tyler
- The Roxton – Denton
- Tylor Grand – Abilene
- Barron's Branch I – Waco
- Summit Parque – Dallas
- Liberty Pass – Selma

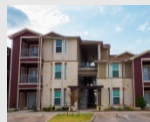
- Barron's Branch II – Waco
- Art at Bratton's Edge – Austin

## 2 Communities under Construction:

- LaMadrid Apartments– Austin
- Stillhouse Flats- Harker Heights

## 1 Community in Development

- Kaia Pointe - Georgetown



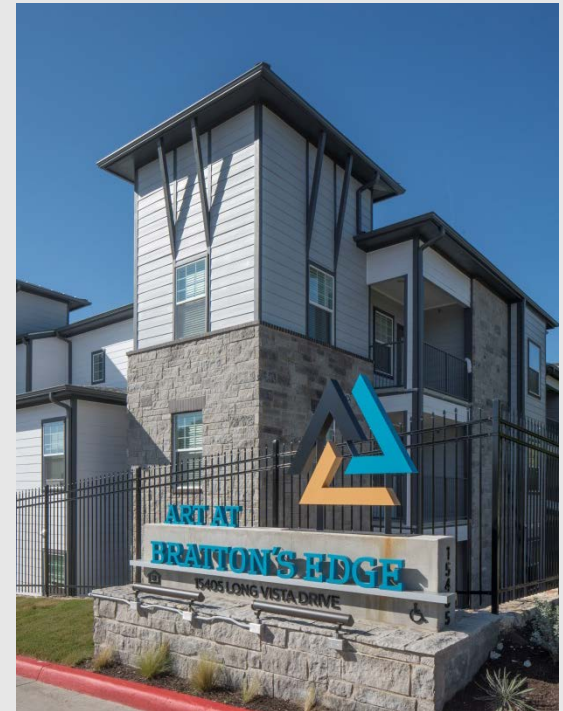
# Site Location- East of Cunningham West of OW Curry just off Hwy 190





# Key Points to the Development

- ❖ Mixed income Senior community
- ❖ 2 and 3 story elevator served buildings
- ❖ 90-100 apartment homes
- ❖ 5-10% unrestricted, market rate
- ❖ Mix of 1 and 2 bedrooms
- ❖ On site clubhouse and amenity center
- ❖ Excellent access and close proximity to many services
- ❖ Will meet or exceed City design standards
- ❖ Luxury interior finishes
- ❖ National Green Building Certified
- ❖ Killeen Market Demand – 240 Senior Units



## Proposed Unit Mix

- 50 - 1Bdr/1 Bath @ 700 SF
- 42 - 2Bdr/2 Bath @ 825 SF



# Rent Schedule

<u>TYPE</u>	<u>Number of Units</u>	<u>Rent</u>
1 BR/ 1BA 30%	4	\$334
1 BR/ 1BA 50%	8	\$556
1 BR/ 1BA 60%	29	\$668
Market	9	\$700
2 BR/ 2BA 30%	4	\$400
2 BR/ 2BA 50%	7	\$667
2 BR/ 2BA 60%	23	\$801
Market	8	\$825

\* Rents are based on AMI of \$59,300





# Selection Criteria & Safety

- Background checks completed on all adults on lease
  - No felony convictions or felony adjudicated sentences
  - No misdemeanor convictions or adjudicated sentences that were violent or sexual in nature
- Renters' monthly income must be 2.5x the monthly rent payment
- Credit check by 3rd-party vendor
- Good rental history
- Strong lease rules and regulations



# Preliminary Renderings





# Preliminary Site Layout





# Development Examples

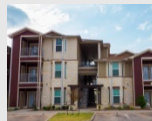






# Clubhouse Amenities

- Business center
- 24 hr. Fitness Center
- Multi-purpose room with kitchen
- Indoor/Outdoor entertainment options
- Swimming pool
- BBQ grills and picnic tables
- Connectivity to adjacent development





Business Center



Community Kitchen



Fitness Center



Entertainment Space





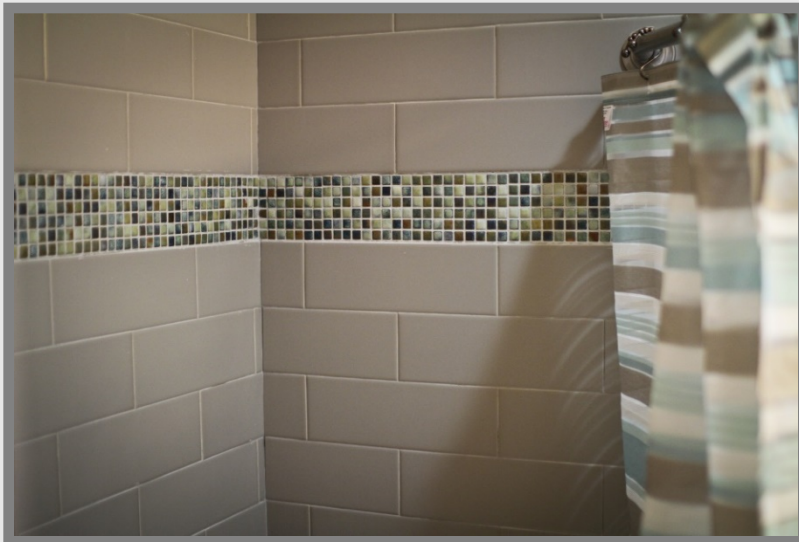
# Unit Interior Examples



- Resilient flooring (no carpet)
- Kitchen tile backsplash



- Tile tub surrounds
- Granite or Quartz kitchen countertops and bathroom vanities

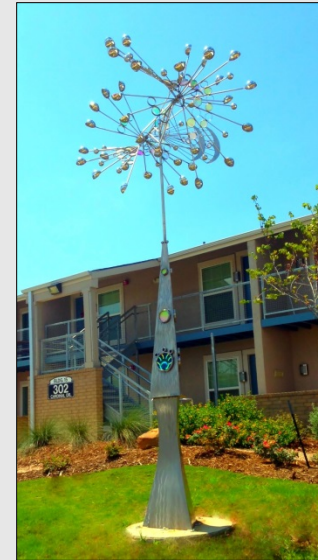




# Art in Public Places



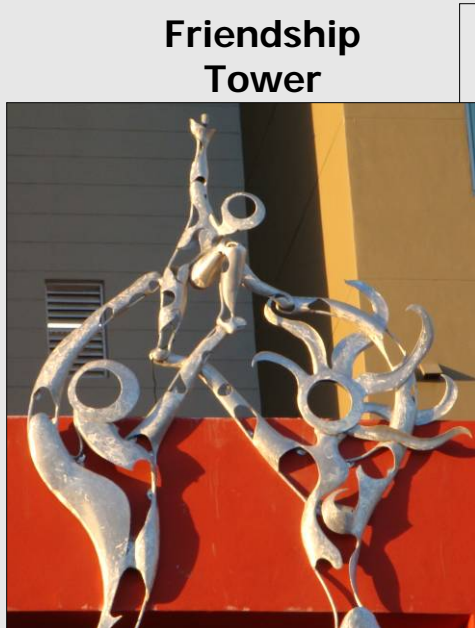
Tylor Grand



The Roxton



Goodbread Hills



Friendship Tower



Summit Parque



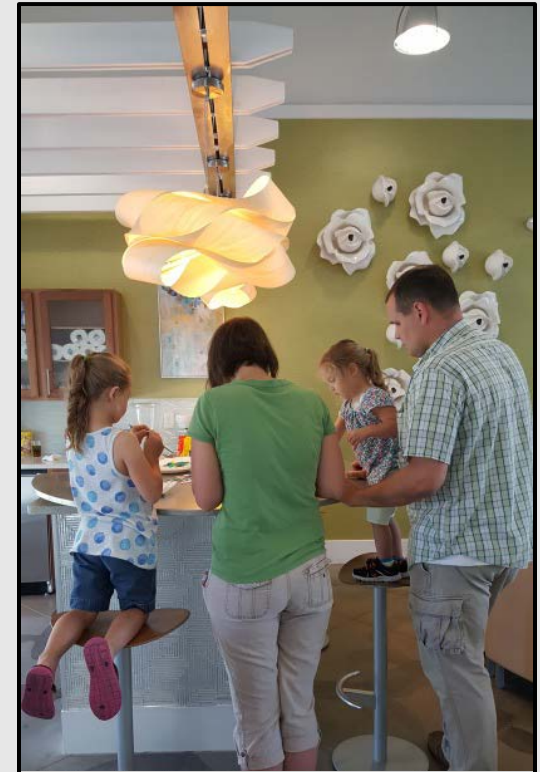
Amberwood Place



Pinnacle at Magnolia Pointe

# Resident Programs

- Partner with several community and non-profit organizations to provide services that fit the resident needs.
- Supportive services might include
  - Annual health fair & health screen services
  - Blood pressure testing/ wellness checks
  - Healthy eating on a fixed budget
  - Food pantry
  - Annual income tax preparation
  - Transportation/ shuttle services
  - Senior prom
  - Onsite rehab or aerobics classes





# New and Upcoming



LaMadrid Apartments – Austin, Texas



Stillhouse Flats – Harker Heights, Texas



Kaia Pointe- Georgetown, Texas

SC

Westwind of Killeen

SALEM | CLARK



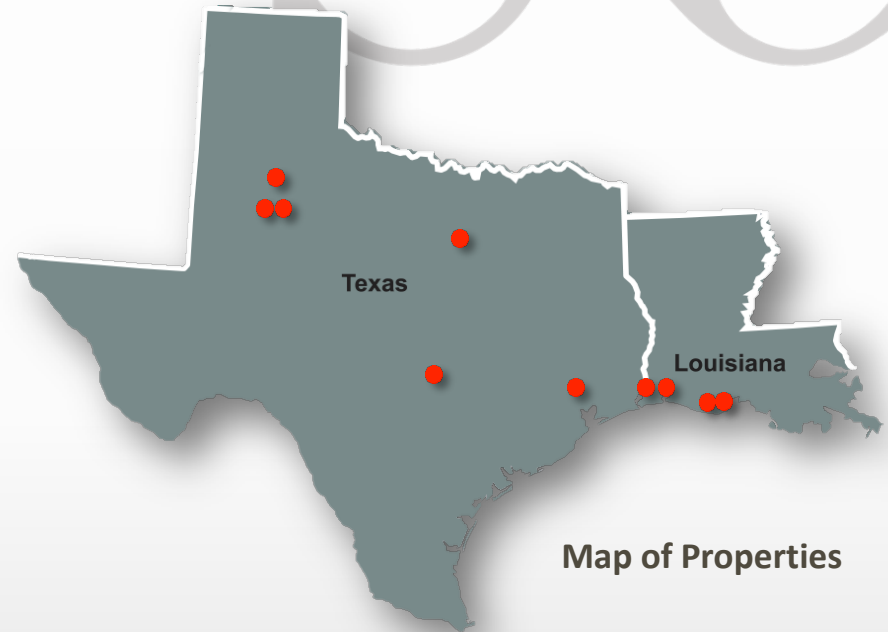
# Salem Clark Development

## Kelly Garrett- Founder

- Exclusive LIHTC Developer since 2005
- Over 1,000 units developed, owned and operated
- Limited to Class-A Communities
- Track record developing in Texas

## Current Properties

- Stonebridge of Abbeville – 250 Unit Apartments - Abbeville, Louisiana
- Hacienda Del Sol – 56 Single Family Homes - Dallas, Texas
- Vistas of Lake Charles – 72 Unit Apartments - Lake Charles, Louisiana
- Havens of Lake Charles – 72 Unit Sr. Living Complex - Lake Charles, Louisiana
- Havens of Abbeville – 72 Unit Sr. Living Complex - Abbeville, Louisiana
- Villas of Giddings – 36 Single Family Homes - Giddings, Texas
- Auburn Square – 80 Unit Apartments – Vidor, Texas
- Stonebridge at Ironton – 152 Unit Apartments - Lubbock, Texas
- Stonebridge at Kelsey Park – 152 Unit Apartments - Lubbock, Texas
- Stonebridge of Plainview – 80 Unit Apartments – Plainview, Texas



Map of Properties

# Low Income Housing Tax Credits

## LIHTC (Sec 42)

- Housing that rents to tenants who earn 60% or less of the AMI (Area Median Income)
- Administered by TDHCA (Texas Department of Housing and Community Affairs)
- Tax credits are awarded on a competitive basis
  - Based on application and scoring criteria
  - Allocated to urban and rural areas in the 13 regions of Texas



Pool Area - Stone Bridge of Abbeville

# Proposal for Killeen

SC

## Multifamily- 120 Unit Complex

- Land Use Restriction Agreement (LURA) will run for 40-years-must stay affordable housing
  - The only way for the LURA to be removed is through foreclosure (Kelly Garrett has never had a foreclosure)

## Clubhouse and Property Amenities

- Full Perimeter Fencing
- Pool
- Access Controlled Gates
- Fitness Center
- Community Room
- Business Center with Wi-Fi
- Garages and Storage Units
- Gazebos, Grills and Picnic Areas



Clubhouse-Exterior

# Proposal for Killeen

- Unit Amenities

- Crown molding
- Vinyl plank flooring
- Washer and Dryer in each unit
- Energy Star rated appliance package
- Self-cleaning ovens
- Refrigerators with ice makers
- Dishwashers
- Garbage disposals
- Walk-in closets
- Outdoor storage closets
- Large patios
- Designer pendant lighting
- Water conserving fixtures
- 14 SEER energy efficient HVAC system



Unit - Kitchen



1 Bed Floor Plan (800 SF)

# Proposal for Killeen

## Social Services

- On-site social services are available
- Food Pantry
- Financial Planning Assistance
- Annual Health Fair
- Health and Nutrition Courses
- Bi-Monthly Social Events
- Arts and Crafts

“I have been living here for one year now and simply love it. The apt is clean and very spacious for my needs. The staff is competent and very accommodating. I have great neighbors who are so very helpful and love to get together for social gatherings, some the residents have arranged and some by the staff... ...Our office manager, Nancy, is adorable and I feel like she is one of the family.

-Bonnie Green, Resident Havens of Abbeville

via [ApartmentRatings.com](http://ApartmentRatings.com)



Clubhouse-Interior

# Unit Mix-Rent Schedule



Unit Mix				
Unit \ Income Level	30%	50%	60%	Market Rate
<b>1 Bedroom</b>	5	9	38	8
<b>2 Bedroom</b>	3	8	21	10
<b>3 Bedroom</b>	2	3	7	6

Rent Schedule			
Unit \ Income Level	30%	50%	60%
<b>1 Bedroom</b>	\$334	\$556	\$668
<b>2 Bedroom</b>	\$400	\$667	\$801
<b>3 Bedroom</b>	\$462	\$771	\$925

# Site Plan/Location

## SITE DATA

TOTAL UNITS	120
TOTAL ACRES	6.42
UNITS/ACRE	18.69

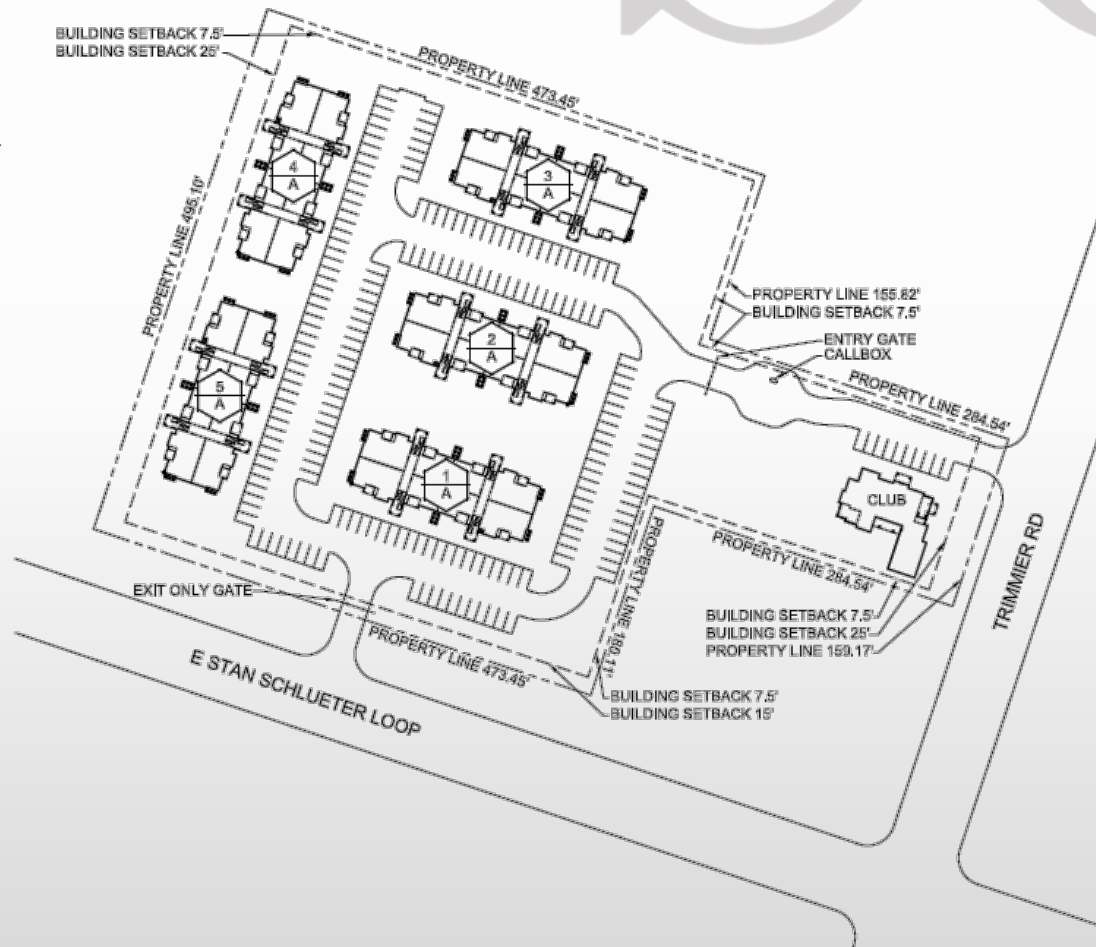
## UNIT TYPE

UNIT TYPE	#UNITS
A1 - ONE BEDROOM, ONE BATH	60
B1 - TWO BEDROOM, TWO BATH	42
C1 - THREE BEDROOM, TWO BATH	18
<b>TOTAL</b>	<b>120</b>

## PARKING TABULATION

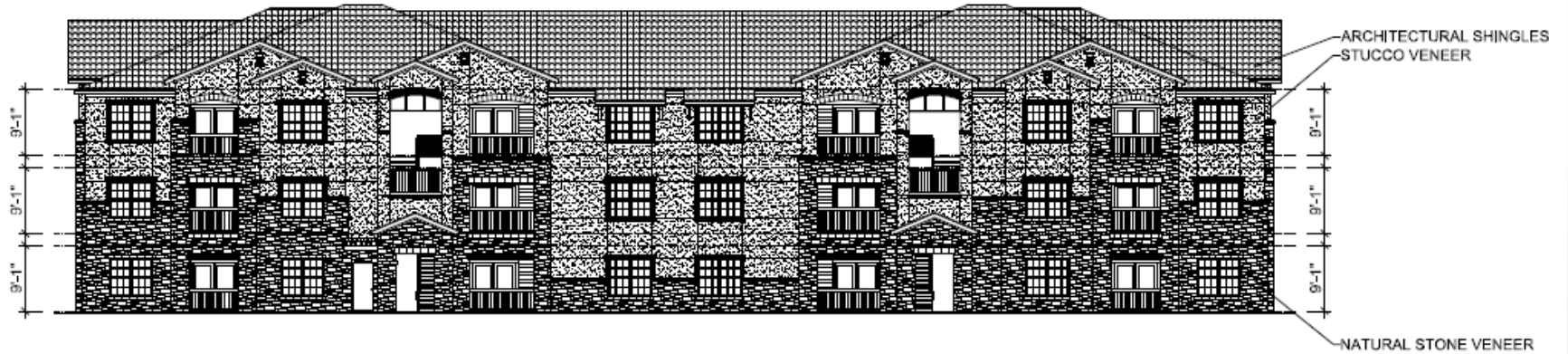
PARKING REQUIRED	
PARKING RATIO	1-2/3:1
SPACES REQUIRED	200
PARKING PROVIDED	
UNIT SPACES	200
CLUBHOUSE SPACES	10
<b>TOTAL PROVIDED</b>	<b>210</b>

## BUILDING KEY





# Typical Elevation



**TYPICAL BUILDING ELEVATION**

SCALE: 1/16"=1'-0"



# Unit Interiors

SCA



# Unit Exteriors



# Clubhouses

SCC



SC

**Zachary Krochtengel**

Development and Finance

Salem Clark Development

7801 Jack Finney Blvd

Greenville, Texas 75402

(215)806-2216



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF KILLEEN, TEXAS, SUPPORTING AN APPLICATION FOR 2017 HOUSING TAX CREDITS, NAMED PAYTON SENIOR APARTMENTS TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) TO DEVELOP AFFORDABLE RENTAL HOUSING

WHEREAS Payton Senior LLC. has proposed a development for affordable rental housing at the southwest quadrant East Central Texas Expressway and Cunningham Road named Payton Senior Apartments in the City of Killeen; and

WHEREAS Payton Senior LLC has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2017 Competitive 9% Housing Tax Credits for Payton Senior Apartments

It is hereby

RESOLVED, that the City, acting through its governing body, hereby confirms that it supports the proposed Payton Senior Apartments located at the southwest quadrant of East Central Texas Expressway and Cunningham Road and that this formal action has been taken to put on record the opinion expressed by the City on February \_\_\_\_, 2017, and

FURTHER RESOLVED that for and on behalf of the Governing Body, Jose, Segarra, Mayor for the City of Killeen is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs.

APPROVED:

\_\_\_\_\_

Jose L. Segarra, Mayor

APPROVED TO FORM;

ATTEST:

\_\_\_\_\_

Kathryn H. Davis, City Attorney

\_\_\_\_\_

Dianna Barker, City Secretary

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF KILLEEN, TEXAS, SUPPORTING AN APPLICATION FOR 2017 HOUSING TAX CREDITS, NAMED WESTWIND APARTMENTS TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS (TDHCA) TO DEVELOP AFFORDABLE RENTAL HOUSING

WHEREAS, SCF 17, LP has proposed a development for affordable rental housing at the northwest corner of Stan Schlueter Loop at Trimmier Road named Westwind Apartments in the City of Killeen; and

WHEREAS, SCF 17, LP has advised that it intends to submit an application to the Texas Department of Housing and Community Affairs for 2017 Competitive 9% Housing Tax Credits for Westwind Apartments

It is hereby

RESOLVED, that the City, acting through its governing body, hereby confirms that it supports the proposed Westwind Apartments located at the northwest corner of Stan Schlueter Loop at Trimmier Road and that this formal action has been taken to put on record the opinion expressed by the City on February \_\_\_\_, 2017, and

FURTHER RESOLVED that for and on behalf of the Governing Body, Jose, Segarra, Mayor for the City of Killeen is hereby authorized, empowered, and directed to certify this resolution to the Texas Department of Housing and Community Affairs.

APPROVED:

\_\_\_\_\_

Jose L. Segarra, Mayor

APPROVED TO FORM;

ATTEST:

\_\_\_\_\_

Kathryn H. Davis, City Attorney

\_\_\_\_\_

Dianna Barker, City Secretary



# City of Killeen

## Legislation Details

---

**File #:** RS-17-010    **Version:** 1    **Name:** Design the South Water Supply Project  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/20/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the award of a professional services agreement with Freese and Nichols to design the South Water Supply Project.  
**Sponsors:** Public Works Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum Agreement](#)  
[Certificate of Interested Parties](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Authorize the Award of a Professional Services Agreement with Freese and Nichols to Design the South Water Supply Project.**

### ORIGINATING DEPARTMENT

**Public Works - Water and Sewer**

### BACKGROUND INFORMATION

Bell County Water Control and Improvements District (WCID) No. 1 is currently building a new water treatment plant at Stillhouse Hollow Lake and a large transmission main to deliver 10 million gallons per day (MGD) of treated water to the City of Killeen (City). This project has an estimated completion date of Spring, 2019. Bell County WCID No. 1's water transmission main will end near the intersection of Trimmier and Chaparral. The City needs to provide the infrastructure to deliver this water from that location to their current water distribution system. Bell County WCID No. 1 has requested that this infrastructure include an elevated ground storage tank into which they can pump. The 2012 Water and Wastewater Master Plan includes four projects in this area to store treated water from Bell County WCID No. 1, deliver the water to the lower and upper pressure planes, and pump the water into the upper pressure plane.

### DISCUSSION/CONCLUSION

Freese and Nichols (F&N) has extensive experience with the design of water storage tanks, pump stations, and transmission mains. As the developer of the City's hydraulic computer model, they have significant knowledge of the water infrastructure needs in the southern area of the City. F&N has submitted a proposal to design the South Water Supply Project. Their proposal includes design, bid, and construction services for a 3 million gallon (MG) elevated ground storage tank, an 8 MGD pump station, approximately 32,100 linear feet of 20-inch and 30-inch pipeline, and associated appurtenances. After negotiating a fair and reasonable price for F&N's engineering service, staff recommends approval of their proposal to design the South Water Supply Project for a total amount of \$1,863,179.00.

### FISCAL IMPACT

Funding for this project is available in the amount of \$1,863,179.00 through Account Number 386-3495-800.58-47 of the 2012 Water and Sewer Fund. After encumbering these funds, the remaining balance in this account will be zero.

### RECOMMENDATION

Staff recommends that City Council authorize the City Manager to enter into an agreement with Freese and Nichols for a professional services agreement for the design and contract administration of the South Water Supply Project in the amount of \$1,863,179.00 and that the City Manager is expressly authorized to execute any and all changes within the amounts set by state and local law.



This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

*Prepared by*

**ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
*a practice division of the*  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

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AMERICAN CONSULTING ENGINEERS COUNCIL

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AMERICAN SOCIETY OF CIVIL ENGINEERS

This Agreement has been prepared for use with the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 Edition) of the Engineers Joint Contract Documents Committee. Their provisions are interrelated, and a change in one may necessitate a change in the other. For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition). For guidance on the completion and use of this Agreement, see EJCDC Users Guide, No. 1910-50.

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1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council  
1015 15th Street N.W., Washington, DC 20005

American Society of Civil Engineers  
345 East 47th Street, New York, NY 10017

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**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ (“Effective Date”) between the CITY OF KILLEEN (“OWNER”) and FREESE AND NICHOLS, INC. (“ENGINEER”).

OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows.

The South Water Supply project will distribute water delivered by Bell County WCID No. 1 from the Stillhouse Hollow Lake Water Treatment Plant to the Killeen water distribution system. It includes an 8 MGD pump station, a 3 MG ground storage tank, piping and associated appurtenances and access. Project phases include:

Phase A – Project Management

Phase B – Preliminary Design

Phase C – Final Design

Phase D – Bid Phase

Phase E – Construction Phase

## **ARTICLE 1 - SERVICES OF ENGINEER**

---

### **1.01 Scope**

A. ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.

B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.

C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

## **ARTICLE 2 - OWNER'S RESPONSIBILITIES**

---

### **2.01 General**

A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

## **ARTICLE 3 - TIMES FOR RENDERING SERVICES**

---

### **3.01 General**

A. ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.

B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.

C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

### **3.02 Suspension**

A. If OWNER fails to give prompt written authorization to proceed with any phase of services after

completion of the immediately preceding phase, or if ENGINEER's services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.

B. If ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

## **ARTICLE 4 - PAYMENTS TO ENGINEER**

---

### **4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER**

A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.

B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth in Exhibit C.

### **4.02 Other Provisions Concerning Payments**

A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.

B. *Payment of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related



charges. Payments will be credited first to interest and then to principal.

C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.

D. *Payments Upon Termination.*

1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.

2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C. Engineer shall not incur additional expenses after receipt of notice of termination, and shall make reasonable efforts to minimize costs.

E. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.

F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

## ARTICLE 5 - OPINIONS OF COST

---

### 5.01 Opinions of Probable Construction Cost

A. ENGINEER's opinions of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

### 5.02 Designing to Construction Cost Limit

A. If a Construction Cost limit is established between OWNER and ENGINEER, such Construction Cost limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to this Agreement.

### 5.03 Opinions of Total Project Costs

A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

## ARTICLE 6 - GENERAL CONSIDERATIONS

---

### 6.01 Standards of Performance

A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under this Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services.

B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER-furnished information.

C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the

performance or furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.

D. ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.

E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.

F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.

G. Prior to the commencement of the Construction Phase, OWNER shall notify ENGINEER of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.

H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations

applicable to Contractor's furnishing and performing the Work.

J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

K. ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.

L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit H.

## **6.02 Authorized Project Representatives**

A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

## **6.03 Design without Construction Phase Services**

A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.

B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

#### **6.04 Use of Documents**

A. All Documents are instruments of service in respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.

B. Copies of OWNER-furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.

E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.

F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and

ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.

G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

#### **6.05 Insurance**

A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."

B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project

D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.

E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

## **6.06 Termination**

A. The obligation to provide further services under this Agreement may be terminated:

1. *For cause,*

a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

b. By ENGINEER:

1) upon seven days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or

2) upon seven days written notice if the ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ENGINEER's control.

3) ENGINEER shall have no liability to OWNER on account of such termination.

c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven days of receipt of such notice, to correct its failure to perform and proceeds diligently to cure such failure within no more than 30 days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such 30 day period, and if such party has diligently attempted to cure the same and thereafter continues diligently to cure the same, then the cure period provided for herein shall extend up to, but in no case more than, 60 days after the date of receipt of the notice.

2. *For convenience,*

a. By OWNER effective upon the receipt of notice by ENGINEER.

B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and

uncompleted tasks, and to assemble Project materials in orderly files.

## **6.07 Controlling Law**

A. This Agreement is to be governed by the law of the State of Texas and venue shall be in Bell County.

## **6.08 Successors, Assigns, and Beneficiaries**

A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

C. Unless expressly provided otherwise in this Agreement:

1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

## **6.09 Hazardous Environmental Condition**

A. OWNER represents to Engineer that to the best of its knowledge a Hazardous Environmental Condition does not exist.

B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive

Material located at or near the Site, including type, quantity and location.

C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.

D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.

F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

## **6.10 Allocation of Risks**

### **A. Indemnification**

1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.

2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. In addition to the indemnity provided under paragraph 6.10.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that (i) any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and (ii) nothing in this paragraph 6.10.A.4. shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.

4. The indemnification provision of paragraph 6.10.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

## **6.11 Notices**

A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## **6.12 Survival**

A. All express representations, indemnifications, or limitations of liability included in this Agreement will survive its completion or termination for any reason.

## **6.13 Severability**



A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### **6.14 Waiver**

A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

#### **6.15 Headings**

A. The headings used in this Agreement are for general reference only and do not have special significance.

### **ARTICLE 7 - DEFINITIONS**

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#### **7.01 Defined Terms**

A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.

2. *Additional Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.

3. *Agreement*--This "Standard Form of Agreement between OWNER and ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.

4. *Application for Payment*--The form acceptable to ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

5. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels

established by the United States Occupational Safety and Health Administration.

6. *Basic Services*--The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.

7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

9. *Change Order*--A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.

10. *Construction Agreement*--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.

11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.

12. *Construction Cost*--The cost to OWNER of those portions of the entire Project designed or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents*--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the

Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.

14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

15. *Contract Times*--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.

17. *Correction Period*--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.

18. *Defective*--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.

19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.

20. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.

21. *Effective Date of the Construction Agreement*--The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.

22. *Effective Date of the Agreement*--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants*--Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.

24. *Field Order*--A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

25. *General Conditions*--That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.

26. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

27. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

28. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

29. *PCB's*--Polychlorinated biphenyls.

30. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

31. *Radioactive Materials*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

32. *Record Drawings*--The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.

33. *Reimbursable Expenses*--The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.

34. *Resident Project Representative*--The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee and under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.

35. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

36. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.

38. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

39. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

40. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements the General Conditions.

41. *Total Project Costs*--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.

42. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.

43. *Work Change Directive*--A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

44. *Written Amendment*--A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly

construction-related aspects of the Contract Documents.

**ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS**

**8.01 Exhibits Included**

A. Exhibit A, "ENGINEER's Services," consisting of 10 pages.

B. Exhibit B, "OWNER's Responsibilities," consisting of 2 pages.

C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 1 page.

D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 1 page.

E. Exhibit E, "Notice of Acceptability of Work," consisting of 2 pages.

F. Exhibit F, "Construction Cost Limit," consisting of 1 page.

G. Exhibit G, "Insurance," consisting of 1 page.

H. Exhibit H, "Special Provisions," consisting of 1 page.

**8.02 Total Agreement**

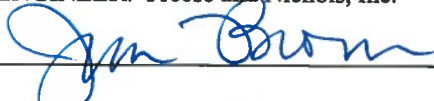
A. This Agreement (consisting of pages 1 to 12 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: City of Killeen

ENGINEER: Freese and Nichols, Inc.

By: Dennis M. Baldwin

  
By: Jessica Brown, P.E.

Title: Interim City Manager

Title: Principal

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

Date Signed: 1/18/17

Address for giving notices:

Address for giving notices:

P.O. Box 1329

Freese and Nichols, Inc.

Killeen, TX 76540-1329

4055 International Plaza, Ste. 200

Fort Worth, TX 76109-4895

Designated Representative (paragraph 6.02.A):

Designated Representative (paragraph 6.02.A):

Steve Kana

Jessica Brown, P.E.

Title: Director of Water and Sewer Utilities

Title: Principal

Phone Number: 254-501-7623

Phone Number: 817-735-7406

Facsimile Number: 254-501-6321

Facsimile Number: 817-735-7492

E-Mail Address: skana@killeentexas.gov

E-Mail Address: JLB@freese.com

This is **EXHIBIT A**, consisting of 10 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:  
OWNER \_\_\_\_\_  
ENGINEER JB

## **ENGINEER's Services**

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth below.

### **PART 1 -- BASIC SERVICES**

#### **Background and Scope of Work**

The Killeen South Water Supply Project will distribute water delivered by Bell County WCID No. 1 from the Stillhouse Hollow Lake Water Treatment Plant to the Killeen water distribution system. The scope includes design, bid and construction services for the transport of water from a planned delivery point in South Killeen to both the upper and lower pressure planes. Required infrastructure for delivery to the lower pressure plane includes a 3.0 million gallon (MG) ground storage tank (acting as elevated storage), approximately 4,600 LF of 30-inch pipeline, and approximately 3,500 LF of 20-inch pipeline. Required infrastructure for delivery to the upper pressure plane includes an 8 million gallon per day (MGD) firm capacity pump station and approximately 24,000 LF of 20-inch pipeline.

#### **Project Assumptions**

- A. The 3.0 MG storage tank will be a ground storage tank, with an overflow elevation of 1000 ft, and 30-40 feet of storage. *Other tank options will be evaluated as part of the preliminary design phase of the project, and if another option is chosen, the scope/fee for final design will be updated accordingly.*
- B. The alignment of pipeline to the upper pressure plane is currently unknown. Piping to the upper pressure plane will be limited to a maximum 30,000 LF.
- C. A maximum of 10 easements will be required for the project. More easements will result in additional scope/fee.
- D. The City of Killeen will be responsible for all right of entry, easement acquisition & landowner coordination.
- E. The City of Killeen will be responsible for clearing for geotechnical borings. This is not included in this scope of work.
- F. Upper and lower pressure plane projects will be designed concurrently then bid and constructed as one construction package. If they are split into two packages, additional bid and construction phase effort will be an additional service.
- G. When the project is constructed, there will already be access by pipeline easement from Chaparral Rd. The project will include design and construction of only an access road from the proposed pipeline easement to the proposed pump station and ground storage tank location. The road will be no more than 3,000 linear feet.
- H. Video surveillance and access security system for the pump station and tank are not included in this scope of work.
- I. SCADA fiber optic design is not included in this scope of work.
- J. Production of O&M manuals (aside from compilation of manufacturer provided O&M manuals) is not included in this scope of work.
- K. Construction of the project will be design-bid-build and will not be performed through an alternate delivery package.

#### **Contract Services**

Freese and Nichols, Inc. (CONSULTANT) has been selected to provide professional services for the Killeen South Water Supply project. The City of Killeen (City) desires to proceed with the Design, Bid and Construction Phase Services for this project, the subject of this Agreement for Professional Services.



## **ARTICLE I**

**BASIC SERVICES:** After authorization from the City, CONSULTANT shall proceed with the Basic Services as described below. CONSULTANT will provide monthly progress reports and schedule updates to the City. CONSULTANT shall render the following professional services in connection with the development of the Project:

- A. **PHASE A – PROJECT MANAGEMENT:** CONSULTANT shall coordinate internally and also with the City for successful project initiation, planning, execution, monitoring/controlling and closeout. CONSULTANT shall manage project integration, scope, time, cost, quality, staff resources, communications, risk and procurements as necessary throughout the duration of the project. This includes but is not limited to:
1. Consult with the City: (1) to review the scope of services, (2) to verify the City's requirements for the Project, and (3) to review available data.
  2. Advise the City as to the necessity of the City's providing or obtaining data or services from others, and assist the City in connection with any such services.
  3. Develop and implement a project Quality Assurance/ Quality Control (QA/ QC) Program for all deliverables.
  4. Develop a baseline project design schedule and prepare updated project design schedules on a monthly basis.
  5. Provide monthly progress reports and invoices to the City.
  6. Track all action items and decisions made by the City and the Project Team.
- B. **PHASE B – PRELIMINARY DESIGN:** Upon execution of this AGREEMENT and upon receiving a Notice to Proceed from the City, CONSULTANT shall provide professional services in this phase as follows:
1. **MEETINGS:** CONSULTANT will prepare meeting agendas and minutes for all meetings and workshops listed below:
    - a) Attend one (1) kickoff meeting for the Preliminary Design Phase of the project.
    - b) Attend one (1) Project Progress meeting prior to submittal of the Draft Preliminary Design Report.
    - c) Attend one (1) review workshop to review the City's comments on the Preliminary Design Report.
  2. **ENVIRONMENTAL STUDY:** The following scope includes the environmental topics expected to be involved in the permitting, design, and construction phases of the Project:
    - a) **Initial Site Visit** – A site visit will be conducted by CONSULTANT environmental staff to survey the proposed pump station, tank, and pipeline alignments in order to identify potential environmental issues discussed in the following sections. Prior to the site visit, CONSULTANT will gather information about the site vicinity such as soils maps, National Wetland Inventory maps, topographic maps, and U.S. Fish and Wildlife Services threatened or endangered species data.
    - b) **Threatened and Endangered Species** – The proposed project site will be surveyed by CONSULTANT staff to identify and document any threatened or endangered (T&E) species and any potential habitat for T&E species. Federally listed species of concern will be reviewed using the most current listings found in the U.S. Fish and Wildlife Services (USFWS) database. Reporting of the T&E species review will be documented in a site visit memorandum. Consultation with the USFWS would be necessary if the project activities affect T&E species or their critical habitat.
    - c) **Section 404 Permitting** – A U.S. Army Corps of Engineers (USACE) Section 404 permit is required for activities conducted within jurisdictional boundaries of waters of the U.S. The need for a permit will be determined based on the design and its potential to affect wetlands or other waters of the U.S. present. If any of the Nationwide Permit (NWP) conditions could not be met, then an Individual Permit (IP) may be required. Permitting recommendations will be provided by the CONSULTANT staff. Mitigation to compensate for unavoidable impacts to waters of the U.S. is generally required for any of the permit options, except for a NWP that does not require notification to the USACE. Wetlands in the project site will be determined by a person trained in the use of the USACE methodology. Effort associated with an IP is not included in this contract and will be an additional service.
    - d) **Archaeological and Cultural Resources** – The Antiquities Code of Texas was passed in 1969. It requires that the Texas Historical Commission (THC) staff review any action that has the potential to disturb historic and archeological sites on public land. CONSULTANT will coordinate by letter with the THC to determine if an archeological survey would be required. Additional actions that need review under the Antiquities Code of Texas include any construction program that takes

place on land owned or controlled by a state agency or a state political subdivision, such as a city or a county.

Projects that require review include:

- Reservoirs constructed by river authorities and water districts;
- Construction of recreational parks or the expansion of existing facilities by city governments;
- Energy exploration by private companies on public land; and
- Construction by a city or county government that exceeds 5 acres or 5,000 cubic yards, whichever comes first. If the activity occurs inside a designated historic district or affects a recorded archeological site, it needs to be reviewed, regardless of project size.

If there is a requirement for a Section 404 permit, compliance with the conditions of the National Historic Preservation Act is required. No activity which may affect historic properties listed or eligible for listing in the National Register of Historic Places can be authorized until the USACE District Engineer has complied with the provisions of 33 CFR part 325, Appendix C. If required by the THC, a pedestrian archeological survey will be performed by a qualified archaeologist as an additional service.

3. **DRAFT PRELIMINARY DESIGN REPORT:** Prepare a Draft Preliminary Design Report (PDR) to outline preliminary design considerations and anticipated project components. Basic approaches for the hydraulic, utility, site civil, mechanical, structural, electrical, and architectural components of the project will be incorporated in the Draft PDR. Permitting and regulatory considerations will also be included. Specific components of this task include:
  - a) Pump Station & Tank Site Evaluation
  - b) Site Civil Design
  - c) Roadway and Access Point Design (up to 3,000 LF of Roadway)
  - d) Hydraulic Modeling
  - e) Pump Station Design & Alternatives, including:
    - Pump Type Options
    - Pump Station Layout Options
  - f) Ground Storage Tank Design & Alternatives, including:
    - Site Option 1 – Tank Built into Mountain
    - Site Option 2 – EST at Foot of Mountain
    - Site Option 3 – Standpipe at Foot of Mountain
  - g) Pipeline Route Study & Alternatives, including:
    - Lower Pressure Plane – Single straight line route.
    - Upper Pressure Plane – Up to 3 route alternatives.
  - h) Electrical, Instrumentation, SCADA including design of diesel driven emergency generator (with diesel tank onsite)
  - i) Mechanical Design
  - j) Structural Design
  - k) Architectural Design
  - l) Environmental and Permitting Summary
  - m) Engineer's Opinion of Probable Cost (EOPC) for each alternative.
  - n) Preliminary Design Report Preparation
  - o) Preliminary Engineering Report QC & Incorporation of Comments
4. **SURVEY (By Sub-consultant Survey And Mapping, LLC [SAM])**
  - a) **Survey Control** – SAM will establish horizontal and vertical control including a minimum of 15 points within the survey limits. The survey control points (5/8" iron rods with SAM Control" plastic caps) will be set in locations that will likely be undisturbed by construction or maintenance. The project control will be placed on horizontal and vertical datums [NAD83/93/NAVD88 values (Texas State Plane, Central Zone)] with a scale factor to be provided by the City of Killeen. Elevations will be derived from GPS observations using Geoid 2012A model. Leveling through the control to establish elevations is outside of this scope of services.
  - b) **Records Research** – Upon notice to proceed, SAM will conduct research in the Bell County Appraisal District offices to confirm property ownership for the 10 affected properties (subject properties).
  - c) **Right-of-Entry** – For purposes of surveying and field investigations, City of Killeen will obtain written right of entry (ROE) from respective property owners or their authorized representatives

and any tenants. SAM will contact affected land owners from which ROE has been obtained prior to commencing any work on private property. SAM anticipates that the City of Killeen will handle problems regarding any and all refusal to grant ROE or communication with land owners who are hostile with respect to the completion of this scope of services. SAM will document any interactions with land owners while performing the work. Gaining ROE from all land owners in a timely manner will be critical to the success and efficiency in meeting deadlines for this project.

- d) Deed Study – SAM will perform courthouse research for the 10 affected landowners within the project limits. Courthouse research will consist of obtaining current subdivision plats and vesting deeds only. SAM will enlist the services of a Title Company to obtain Title Reports for each of the 10 subject tracts. Based upon the records obtained by SAM, and in conjunction with the field surveys described below, SAM will prepare a working drawing of the deed information to be used for a preliminary base map. This base map will be utilized in the preparation of the easement surveys.
- e) Field Survey – SAM will recover monuments marking the existing ROW lines (if any) and the front corners of the properties from which an easement is to be obtained and will tie to the project control. SAM will recover the corner or angle point monuments nearest to the proposed easement on the side line of each of the subject properties and these corners will be tied to the project control. SAM will locate any visible improvements including buildings, propane tanks, sheds, fences, barns, cattle catch pens and stalls, and wells. SAM will detail bisected improvements with distances to the proposed easement alignment. Structures encroaching into the proposed easement will be located and detailed on the base file.
- f) Design Survey – Limits of Design Survey will be 100 feet wide centered on the proposed waterline alignment, as well as the approximately 3 acre proposed tank/pump station site. In such areas, SAM will collect cross-sections and break lines at approximate 50-foot intervals. Major grade-break lines necessary to produce a one-foot interval contour DTM will be collected, as well as any visible improvements including driveways (with type noted), driveway pipes, drainage structures (noting size, material and flowline elevation), edge of pavement, edge (shoulder) line, crown (physical centerline), guardrail, fences, signs (with text) and mailboxes. Visible utilities, visible evidence of underground utilities, and trees 12 inches and larger in diameter (noting species and size) along the proposed easement corridor will be located and shown.
- g) Boundary Analysis – Utilizing the deed study and the data from the field survey, SAM will analyze the results of the survey and perform computations related to the analysis. Location of the existing ROW lines and the side property lines of each of the subject properties will be determined by SAM.
- h) Preparation of Easement Documents – SAM will develop a base file showing ownership of the subject properties and any easements found during the title abstract, if any. Properties adjacent to the existing right of way and proposed easement within the project limits will be labeled with the owner's name and deed recordation information. Utilizing the boundary surveys performed by SAM and the proposed easement line location provided by CONSULTANT, SAM will compute the boundaries of the easement parcels for each of the subject properties. SAM will draft plats for the 10 easements. The plats will be prepared on 8 1/2" x 11" pages. A closure computation will be prepared for each of the plats. SAM will prepare a field note (metes and bounds) description for each of the 10 easements. A closure computation will be prepared for each of the descriptions. To assure the accuracy of the documents, SAM will read the descriptions while all details are compared to the easement plats (bearings, distances, stations and offsets, deed references, etc.). Final mark-ups will be made and corrections completed. All of the above described survey documents will be submitted to CONSULTANT for review. Upon the completion of review of all easement documents, SAM will make any necessary corrections. The final easement documents will then be delivered to CONSULTANT.
- i) Monumentation – SAM shall monument the proposed easement corners using 5/8-inch iron rods with plastic caps marked "SAM" (assume 50 total).
- j) Deliverables:
  - One legal description for each easement (signed and sealed).
  - One individual survey plat on 8 1/2"x11" for each easement (signed and sealed).
  - One set of area computation sheets for legal descriptions and plats and ROW maps for all parcels.

- Survey Control Index Sheet signed, sealed, and dated by a registered professional land surveyor on 11x17 paper.
  - Digital files on CD for the right-of-way base file and reference files in AutoCAD 2012 format.
5. **GEOTECHNICAL ANALYSIS** – CONSULTANT will select appropriate locations along the proposed pipeline route and within the vicinity of the proposed GST and pump station for exploratory borings. These locations will be based on the reviewed preliminary design report. The Engineer will coordinate with the City of Killeen and Texas 811 regarding underground utilities within the vicinity of the planned boring locations prior to commencement of the field exploration activities.
- a) **Field Exploration** – Drill bores per the following schedule:

Type	Depth	Number of Bores
Pipeline	15 feet	14
Tank Perimeter	30 feet	4
Tank Center	60 feet	1
Pump Station	40 feet	4

Subsurface samples will be collected using 3-inch diameter Shelby tubes for cohesive soils and a 2-inch diameter split- spoon sampler in conjunction with the Standard Penetration Test (SPT) for intermediate and non-cohesive soils. Rock and rock-like materials will be sampled using an NX-size core barrel and/or tested in-situ using the TxDOT Cone Penetration Test or the SPT, as appropriate for the material. Groundwater observations within the borings will be recorded at the time of drilling and at the completion of drilling and sampling. At the completion of drilling and sampling, the borings will be backfilled with auger cuttings. Provide an Engineer or Geologist experienced in logging borings to direct the drilling, log the borings, and handle and transport the samples. Visual classification of the subsurface stratigraphy shall be provided according to ASTM D2488 and the Unified Soil Classification System (USCS) during drilling and sampling.

- b) **Laboratory Testing** – Testing shall be performed on samples obtained from the borings to determine soil classification and pertinent engineering properties of the subsurface materials. The Engineer will select samples for laboratory testing, assign tests, and review the test results. Laboratory tests will be appropriately assigned for the specific subsurface materials encountered during exploration, but are expected to include:
- Classification tests (liquid and plastic limits and percent passing the no. 200 sieve or gradation)
  - Moisture content
  - Dry unit weight
  - Unconfined compressive strength
  - One-dimensional swell
  - 1-D Consolidation tests
- c) **Engineering Analysis and Reporting** – Perform the geotechnical engineering analysis and prepare a technical memorandum summarizing the field exploration, laboratory testing, and engineering analysis, which will include the following:
- Appendix with the boring locations, boring logs, laboratory test results, and a key to the symbols used;
  - Discussion of subsurface conditions and soil properties indicated by the field and laboratory work and the implications for design;
  - Foundation recommendations for support of the proposed GST and pump station, including bearing capacity of soils, suitable bearing material, lateral and overturning resistance, etc. applicable for the recommended foundation or foundation options;
  - Lateral earth pressures when appropriate;
  - General discussion of expected construction related issues; and
  - Earthwork related recommendations for use during development of plans and specifications.

Submittals will include one (1) paper copy and one (1) electronic PDF copy of the technical memorandum.

6. **FINAL PRELIMINARY DESIGN REPORT**: After receiving comments from the City and geotechnical data, the Preliminary Design Report will be revised, updated and finalized. A comment

response form will be provided to the City addressing all comments. This document will be used as the design basis for the Final Design Phase of the Project.

7. **DELIVERABLES:** CONSULTANT will provide copies of reports and other data to the City as required. Furnish electronic and hard copies as shown for the following deliverables for the Preliminary Design Phase:
  - a) Agendas and Meeting Minutes for all meetings – one (1) electronic copy
  - b) Draft Preliminary Design Report – one (1) electronic copy and four (4) hard copies delivered to the City
  - c) Final Preliminary Design Report – one (1) electronic copy and four (4) hard copies delivered to the City

C. **PHASE C – FINAL DESIGN:** Upon execution of this AGREEMENT and upon receiving a Notice to Proceed from the City, CONSULTANT shall provide professional services in this phase as follows:

1. **MEETINGS:** CONSULTANT will prepare meeting agendas and minutes for all meetings and workshops listed below:
  - a) One (1) kickoff meeting for the Final Design Phase of the project.
  - b) Up to six (6) Monthly Project Progress meetings/ review meetings.
2. **PERMITTING COORDINATION:** Coordinate and prepare documents for review by other local, state, and federal agencies, as required; including TCEQ, TXDOT, etc. This includes permitting for pipeline alignments, such as franchise utilities, irrigation canals, and county and state roadways. This task also includes an additional Environmental Site Visit for the pipeline design.
3. **FINAL DESIGN SUBMITTALS (60%/ 90%/ 100%):** Perform final design for the tank, booster pump station, and both upper pressure plane and lower pressure plane pipelines as follows:
  - a) **Ground Storage Tank Design:** Design of a pre-stressed concrete ground storage tank and associated appurtenances. Coordination with tank manufactures to refine construction requirements.
  - b) **Upper Pressure Plane Pipeline Design:**
    - Design of approximately 24,000 (maximum 30,000) LF of 20-inch pipeline, including evaluation of piping plan and profiles.
    - Design of all pipeline materials, isolation valves, control valves, flow meters, and other associated appurtenances.
    - Review of survey information to finalize pipeline route and alignment.
    - Design of all connections into the existing system.
    - Coordination with manufacturers, Developer, and property owners as needed.
  - c) **Lower Pressure Plane Pipeline Design:**
    - Design of approximately 4,600 LF of 30-inch pipeline, and approximately 3,500 LF of 20-inch pipeline, including evaluation of piping plan and profiles.
    - Design of all pipeline materials, isolation valves, control valves, flow meters, and other associated appurtenances.
    - Review of survey information to finalize pipeline route and alignment.
    - Design of all connections into the existing system.
    - Coordination with manufacturers, Developer, and property owners as needed.
  - d) **Booster Pump Station Design:**
    - Design of system curves and hydraulic analysis that will serve the City's Upper Pressure Plane.
    - Design of all pump control valves, isolation valves, flow meters, and associated appurtenances for the suction and discharge side of the pumps. Coordination with manufacturers.
    - Coordination with pump manufacturers to refine equipment and pump curve selection.
    - Provide structural design for pump station foundation and equipment supports.
  - e) **Power Supply, Electrical, Instrumentation, and SCADA Design:**
    - Design of power supply and coordination with Power Provider.
    - Design of all electrical, instrumentation, and SCADA requirements for all project components.
    - Design of all site lighting.
    - Design of diesel driven emergency generator with onsite diesel supply.

- f) Site Civil Design:
    - Design of all site grading, drainage, roads, parking, paving, and fencing.
    - Access road design up to 3,000 LF.
      - i. Analyze and present maximum three alignment alternatives.
      - ii. Run cross sections for alignment alternatives.
      - iii. Perform detailed design of preferred alternatives.
      - iv. Assume that drainage design for access road will be limited to ditches or swales parallel to roadway.
  - g) Pump Station & Electrical Building Design:
    - Structural, architectural and mechanical/HVAC design for a building required to house all pump station facilities, electrical switchgear, controls, instrumentation, and SCADA equipment.
  - h) QA/QC Reviews: Provide QA/QC reviews for all project deliverables.
  - i) EOPC: Prepare detailed cost estimates for each design deliverable.
4. **DELIVERABLES:** CONSULTANT will provide copies of plans, specifications, reports, and other data to the City as required. Furnish electronic and hard copies as shown for the following deliverables for the Final Design Phase, including up to two (2) separate bid packages for the project:
- d) Agendas and Meeting Minutes for all meetings – one (1) electronic copy
  - e) 60% Design Submittal, including Plans and Technical Specifications – One (1) electronic copy in PDF format and five (5) sets of standard 11”x17” “half-size” bound plans and letter size specifications.
  - f) 90% Design Submittal - comment response form for City’s comments on 60% submittal, Plans, Contract Documents, and Technical Specifications – One (1) electronic copy in PDF format and five (5) sets of standard 11”x17” “half-size” bound plans and letter size specifications.
  - g) 100% Signed and Sealed Submittal- comment response form for City’s comments on 90% submittal, One (1) electronic copy in PDF format and five (5) sets of standard 11”x17” “half-size” bound plans and letter size specifications.
- D. **PHASE D – BID PHASE:** Upon execution of this AGREEMENT and upon receiving a Notice to Proceed from the City, CONSULTANT shall provide professional services in this phase as follows:
1. **MEETINGS:** CONSULTANT will prepare meeting agendas and minutes for all meetings and workshops listed below:
    - a) One (1) pre-bid conference.
    - b) One (1) bid opening.
  2. **BID PHASE COORDINATION:** Coordinate with the City for successful bid phase initiation, planning, execution, monitoring, controlling, and closeout. This scope of services is based on one (1) bid package. The following services will be performed:
    - a) CONSULTANT will prepare one (1) bid packet/contract documents/advertisement for bids. CONSULTANT will assist the City in the bid process using CivCast to distribute plans, specifications, and addenda. CONSULTANT will provide a copy of the notice to bidders for the City to use in notifying construction news publications and publishing appropriate legal notice. The cost for publications shall be paid by the City.
    - b) CONSULTANT will assist the City by responding to questions and interpreting bid documents. CONSULTANT will prepare needed addenda to the bid documents if necessary.
    - c) CONSULTANT will assist the City in the opening and analyzing of the bids received for the project, including reviewing the bids for errors and unit price discrepancies. Review the qualification information provided by the apparent low bidder to determine if, based on the information available, they appear to be qualified to construct the project. This includes researching contractor qualifications and references.
    - d) CONSULTANT will recommend award of contract or other actions as appropriate to be taken by the City in the form of a Letter of Recommendation.
- E. **PHASE E – CONSTRUCTION PHASE:** Upon execution of this AGREEMENT and upon receiving a Notice to Proceed from the City, CONSULTANT shall provide professional services in this phase as follows:



1. MEETINGS: CONSULTANT will prepare meeting agendas and minutes for all meetings and workshops listed below:
  - a) One (1) pre-construction conference for one construction package with the Contractor and the City.
  - b) Facilitate up to ten (10) Monthly Construction Progress Meetings and Site Visits with the Contractor and the City during the Construction Phase to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents. Site Visits and Progress Meetings will be held on the same day for BOTH construction packages.
  - c) Facilitate up to six (6) additional General Representation Site visits to observe the progress and the quality of work and to attempt to determine in general if the work is proceeding in accordance with the Construction Contract Documents.
2. CONSTRUCTION COORDINATION: Upon completion of the bid phase services, CONSULTANT will proceed with the performance of construction phase services as described below. CONSULTANT will endeavor to protect the City in providing these services however, it is understood that CONSULTANT does not guarantee the Contractor's performance, nor is CONSULTANT responsible for supervision of the Contractor's operation and employees. CONSULTANT shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by the Contractor, or any safety precautions and programs relating in any way to the condition of the premises, the work of the Contractor or any Subcontractor. CONSULTANT shall not be responsible for the acts or omissions of any person (except its own employees or agents) at the Project site or otherwise performing any of the work of the project.
  - a) Prepare "Conformed" Construction Contract Documents: "Conformed" documents shall include information from the bid documents, legal documents, addenda, and other documents and/or forms required by the City, bound in the documents for execution by the City and the construction Contractor. The "Conformed" plans and specifications shall have all addenda incorporated into the original drawings and specifications. Furnish one (1) electronic copy, two (2) "full-size" sets and five (5) "half-size" sets of plans and specifications for the project for distribution to the City and the Contractor.
  - b) Document Review: Establish and maintain a project documentation system consistent with the requirements of the construction Contract Documents. Monitor the processing of contractor's submittals and provide for filing and retrieval of project documentation. Review Contractor's submittals for compliance with the design concepts as follows. Contractor submittals beyond the numbers outline below will be an additional service.
    - Review up to seventy (70) Shop Drawings.
    - Review up to forty (40) Record Data.
    - Review up to fifteen (15) Requests for Information (RFI's).
    - Review up to twelve (12) monthly progress schedules from the Contractor.
    - Review up to twelve (12) monthly construction estimates from the Contractor and make recommendations for payment.
    - Review up to ten (10) operation and maintenance (O&M) manuals.
    - Review up to ten (10) quality related documents, such as test reports, equipment installation reports, or other documentation.
    - Review up to ten (10) miscellaneous submittals.
  - c) Interpret the drawings and specifications for City and Contractor.
  - d) Prepare Field/ Change Order Documents and Requests for Proposals (RFP's): Evaluate notices of Contractor claims and make recommendations to the City on the merit and value of the claim on the basis of information submitted by the Contractor or available in project documentation. Investigations, analyses, studies or design for substitutions of equipment or materials, corrections of defective or deficient work of the Contractor or other deviations from the Construction Contract Documents requested by the Contractor and approved by the City are an additional service. Substitutions of materials or equipment or design modifications requested by the City are an additional service. Review all field alterations and prepare/make recommendations for Field/Change Orders and RFPs as follows. Documents beyond the numbers outlined below will be an additional service:
    - Prepare up to ten (10) field orders for minor alterations to the design.
    - Prepare up to five (5) change orders and/or RFP's for alterations to the design.

- e) Notify City of Contractor's non-conforming work observed on site visits and provide site visit memorandums. In this effort CONSULTANT will endeavor to protect the City against defects and deficiencies in the work of Contractors and will report any observed deficiencies to City.
- f) Performance Testing Observation and Special Inspections: Attend up to two (2) full days of site visits to observe and assist in performance tests, initial operations of the project, and special inspections (concrete pours, equipment installation, etc.). Special inspections per International Building Code (IBC) Chapter 17 are an Additional Service. Provide testing/observation report for documentation of all observed activities.
- g) Substantial Completion Inspections: Conduct, in company with the City, a Substantial Completion Inspection and Punchlist review for conformance with the design concept and general compliance with the Construction Contract Documents. Provide punch-lists of noted deficiencies to the City and Contractor.
- h) Final Inspections: At the completion of the project, in company with the City's representative(s), conduct final inspections and prepare final inspection reports for the project.
- i) Record Drawings: Prepare the Record Drawings based on the revised redline Construction Drawings and information furnished by the construction CONTRACTOR reflecting changes in the Project made during construction. One (1) set of record drawings and specifications for all project components will be prepared at the completion of the project. Furnish one (1) electronic copy of plans and specifications in PDF format and one full size set of plans and specifications. Provide a geo-referenced CAD file with features adjusted to the location of GPS points collected in the field by the Contractor.

## **PART 2 -- ADDITIONAL SERVICES AND TIME OF COMPLETION**

### *A2.01 Additional Services Requiring OWNER's Authorization in Advance*

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

- A. Advise the City of the need for any special services, which are not already included in the Basic Services. The cost of any additional special services shall be paid by the City and are not included in the services provided by CONSULTANT.
- B. Bid and construction phase services for a second bid package – this scope is limited to one bid package.
- C. Final design, bid, or construction phase services for any chlorine boosting or treatment requirements.
- D. Any design changes that deviate from the approved recommendations of the Preliminary Design Report.
- E. SWPPP design, inspection, or construction services.
- F. Field Archaeological Survey
- G. Providing shop, mill, field or laboratory inspection of materials and equipment. Observing factory tests of equipment at any site remote to the project or observing tests required as a result of equipment failing the initial test.
- H. Performing investigations, studies and analyses of Contractor's substitutions of equipment and/or materials or deviations from the drawings and specifications (does not include "approved by ENGINEER" designation as included in the Contract Documents).
- I. Performing investigations, studies, and analysis of work proposed by construction Contractor to correct defective work.
- J. Design, contract modifications, studies or analysis required to comply with local, state, federal or other regulatory agencies that become effective after the date of this agreement.
- K. Services required to resolve bid protests or to rebid the projects for any reason.
- L. Visits to the site during the construction phase in excess of the number of trips included in the Basic Services for periodic site visits, coordination meetings, or contract completion activities.
- M. Full-time construction Resident Representation services.
- N. Any services required as a result of default of the Contractor or the failure, for any reason, of the Contractor to complete the work within the contract time.

- O. Investigations, analyses, and studies requested by the Contractor and approved by the City, for substitutions of equipment and/or materials or deviations from the drawings and specifications is an additional service.
- P. Providing services after completion of construction phase not specifically listed in the scope of services.
- Q. Providing services made necessary because of unforeseen, concealed, or differing site conditions or due to the presence of hazardous substances in any form.
- R. Providing services to review or evaluate construction Contractor claim(s), provided said claims are supported by causes not within the control of the CONSULTANT.
- S. Providing value engineering studies or reviews of cost savings proposed by construction Contractor after bids have been submitted.
- T. Providing follow-up professional services during Contractor's warranty period or 1-year Warranty Inspection.
- U. Fees associated with GLO easements/leases or other permits.
- V. Additional field investigations or analysis required to respond to public or regulatory agency comments, including additional data requests, schematics or drawings for project features outside of the scope of services listed in Article I.
- W. Detailed Tree Survey beyond survey identification of trees 12" and larger.
- X. Preparation of tree mitigation plans for local entities.
- Y. Expert representation at legal proceedings or at contested hearings.
- Z. Monitoring compliance with permit conditions.
- AA. Attendance at or assisting with additional public meetings outside of those identified in Article I.
- BB. Platting services.
- CC. Special inspections during construction phase.
- DD. Field tracing of electric circuits.
- EE. Power System Study including Arc Flash Analysis.

**TIME OF COMPLETION:** CONSULTANT is authorized to commence work on the Project upon execution of this AGREEMENT and agrees to complete the services in accordance with the following schedule:

The scope of work is based upon a total project duration of twenty five (25) months. The schedule is attached as Exhibit 1 to this proposal.

The schedule assumes a review period of 10 days by the City for each submittal. If CONSULTANT's services are delayed through no fault of CONSULTANT, CONSULTANT shall be entitled to adjust contract schedule consistent with the number of days of delay. These delays may include but are not limited to delays in the City or regulatory reviews, delays on the flow of information to be provided to CONSULTANT, Developer delays, governmental approvals, etc.

This is **EXHIBIT B**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER JB

### OWNER's Responsibilities

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:

A. Provide ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.

B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.

C. Following ENGINEER's assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:

1. Property descriptions.
2. Zoning, deed, and other land use restrictions.
3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.

D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER's services, or any defect or nonconformance in ENGINEER's services or in the work of any Contractor.

E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.

F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.

G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other

advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.

H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.

I. Provide, as required for the Project:

1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
4. Placement and payment for advertisement for Bids in appropriate publications.

J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.

K. Furnish to ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER's opinion of Total Project Costs.

L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.

M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.

N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.

O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.

P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:

1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

This is **EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_

Initial:

OWNER \_\_\_\_\_  
ENGINEER                     

Payments to ENGINEER for Services and Reimbursable Expenses

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

actually rendered, but shall not exceed the total amount unless approved in writing by the OWNER.

**ARTICLE 4 -- PAYMENTS TO THE ENGINEER**

**C4.01 *For Basic Services Having A Determined Scope***

3. The amount includes compensation for ENGINEER's services and services of ENGINEER's Consultants, if any. Appropriate amounts have been incorporated to account for labor, overhead, profit, and Reimbursable Expenses.

A. OWNER shall pay ENGINEER for Basic Services set forth in Exhibit A, except for services of ENGINEER's Resident Project Representative and Post-Construction Phase, services, if any, as follows:

4. The portion of the amount billed for ENGINEER's services will be based upon ENGINEER's estimate of the proportion of the total services actually completed during the billing period.

1. Progress payments in the amount of \$1,863,179.00 based on the following assumed distribution of compensation:

5. If more prime contracts are awarded for work designed or specified by ENGINEER for this Project than identified in Exhibit A, the ENGINEER shall be compensated an additional amount to be negotiated; however, in no case shall the amount of compensation exceed eighteen percent (18%) of the Project's estimated construction costs for all Basic Services for each prime contract added.

a. Project Management	<u>\$29,944.00</u>
b. Preliminary Design	<u>\$687,799.00</u>
c. Final Design	<u>\$853,910.00</u>
d. Bidding Phase	<u>\$48,178.00</u>
e. Construction Phase	<u>\$243,348.00</u>

2. ENGINEER may alter the distribution of compensation between individual phases noted herein to be consistent with services



This is **EXHIBIT D**, consisting of 1 page referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER CP

**Duties, Responsibilities, and Limitations of Authority of Resident Project Representative**

General Representation Services will be provided for this project as outlined in the Exhibit A. Resident Project Representative Services will not be provided.

This is **EXHIBIT E**, consisting of 2 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER EB

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**NOTICE OF ACCEPTABILITY OF WORK**

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PROJECT: \_\_\_\_\_

OWNER:

OWNER's Construction Contract Identification:

EFFECTIVE DATE OF THE CONSTRUCTION AGREEMENT:

CONSTRUCTION CONTRACT DATE:

ENGINEER:

To: OWNER

And To: CONTRACTOR

The undersigned hereby gives notice to the above OWNER and CONTRACTOR that the completed Work furnished and performed by CONTRACTOR under the above Contract is acceptable, expressly subject to the provisions of the related Contract Documents and the terms and conditions set forth on the reverse side hereof.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_, \_\_\_\_\_

(Reverse side of Notice)


**CONDITIONS OF NOTICE OF ACCEPTABILITY OF WORK**

The Notice of Acceptability of Work ("Notice") on the front side of this sheet is expressly made subject to the following terms and conditions to which all persons who receive said Notice and rely thereon agree:

1. Said Notice is given with the skill and care ordinarily used by members of the engineering profession practicing under similar conditions at the same time and in the same locality.
2. Said Notice reflects and is an expression of the professional judgment of ENGINEER.
3. Said Notice is given as to the best of ENGINEER's knowledge, information, and belief as of the date hereof.
4. Said Notice is based entirely on and expressly limited by the scope of services ENGINEER has been employed by OWNER to perform or furnish during construction of the Project (including observation of the CONTRACTOR's work) under ENGINEER's Agreement with OWNER and under the Construction Contract referenced on the reverse hereof, and applies only to facts that are within ENGINEER's knowledge or could reasonably have been ascertained by ENGINEER as a result of carrying out the responsibilities specifically assigned to ENGINEER under ENGINEER's Agreement with OWNER and the Construction Contract referenced on the reverse hereof.
5. Said Notice is not a guarantee or warranty of CONTRACTOR's performance under the Construction Contract referenced on the reverse hereof nor an assumption of responsibility for any failure of CONTRACTOR to furnish and perform the Work thereunder in accordance with the Contract Documents.

This is **EXHIBIT F**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER  \_\_\_\_\_

**Construction Cost Limit**

Paragraph 5.02 of the Agreement is amended and supplemented to include the following agreement of the parties:

**F5.02 *Designing to Construction Cost Limit***

- A. A Construction Cost limit in the amount of Fifteen Million dollars (\$ 15,000,000.00 ) is hereby agreed to.
- B. A bidding or negotiating contingency of 15 percent will be added to any Construction Cost limit established.
- C. The acceptance by OWNER at any time during Basic Services of a revised opinion of probable Construction Cost in excess of the then established Construction Cost limit will constitute a corresponding increase in the Construction Cost limit.
- D. ENGINEER will be permitted to determine what types of materials, equipment and component systems, and the types and quality thereof are to be included in the Drawings and Specifications and to make reasonable adjustments in the scope, extent, and character of the Project to the extent consistent with the Project requirements and sound engineering practices to bring the Project within the Construction Cost limit.
- E. If the Bidding or Negotiating Phase has not commenced within three months after completion of the Final Design Phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost limit will not be binding on ENGINEER, and OWNER shall consent to an adjustment in such Construction Cost limit commensurate with any applicable change in the general level of prices in the construction industry between the date of completion of the Final Design Phase and the date on which proposals or Bids are sought.
- F. If the lowest bona fide proposal or Bid exceeds the established Construction Cost limit, OWNER shall (1) give written approval to increase such Construction Cost limit, or (2) authorize negotiating or rebidding the Project within a reasonable time, or (3) cooperate in revising the Project's scope, extent, or character to the extent consistent with the Project's requirements and with sound engineering practices. In the case of (3), ENGINEER shall modify the Contract Documents as necessary to bring the Construction Cost within the Construction Cost Limit. In lieu of other compensation for services in making such modifications, OWNER shall pay ENGINEER's cost of such services, including the costs of the services of ENGINEER's Consultants, all overhead expenses reasonably related thereto, and Reimbursable Expenses, but without profit to ENGINEER on account of such services. The providing of such services will be the limit of ENGINEER's responsibility in this regard and, having done so, ENGINEER shall be entitled to payment for services and expenses in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest bona fide proposal or Bid exceeding the established Construction Cost limit.

This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER           *CPB*          

**Insurance**

---

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

**G6.05 Insurance**

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

- a. Workers' Compensation: Statutory
  - b. Employer's Liability --
    - 1) Each Accident: \$ 500,000
    - 2) Disease, Policy Limit: \$ 500,000
    - 3) Disease, Each Employee: \$ 500,000
  - c. General Liability --
    - 1) Each Occurrence (Bodily Injury and Property Damage): \$ 1,000,000
    - 2) General Aggregate: \$ 2,000,000
  - d. Excess or Umbrella Liability --
    - 1) Each Occurrence: \$ 4,000,000
    - 2) General Aggregate: \$ 4,000,000
  - e. Automobile Liability --
    - 1) Bodily Injury:
      - a) Each Accident \$ \_\_\_\_\_
    - 2) Property Damage:
      - a) Each Accident \$ \_\_\_\_\_
- [or]
- 1) Combined Single Limit (Bodily Injury and Property Damage):  
Each Accident \$ 500,000

f. Other (specify): On all policies except Workers Compensation and Professional Liability - "City of Killeen is named as Additional Insured on the General Liability and Auto Liability policies."

This is **EXHIBIT H**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services** dated \_\_\_\_\_, \_\_\_\_\_.

Initial:

OWNER \_\_\_\_\_  
ENGINEER JB

**Special Provisions**

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There are no special provisions for this project.



# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
Freese and Nichols, Inc.  
Fort Worth, TX United States

Certificate Number:  
2017-156611

Date Filed:  
01/20/2017

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**  
City of Killeen

Date Acknowledged:

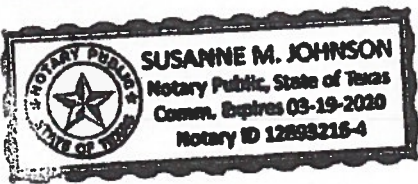
**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**  
South Water Supply  
Engineering Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Pence, Bob	Fort Worth, TX United States	X	
	Herchert, Robert	Fort Worth, TX United States	X	
	Payne, Jeff	Frisco, TX United States	X	
	New, John	San Antonio, TX United States	X	
	Hatley, Tricia	Oklahoma City, OK United States	X	
	Gooch, Tom	Fort Worth, TX United States	X	
	Nichols, Mike	Fort Worth, TX United States	X	
	Milrany, Cindy	Fort Worth, TX United States	X	
	Coltharp, Brian	Fort Worth, TX United States	X	

5 Check only if there is NO Interested Party.

**6 AFFIDAVIT**

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.



*Will Allanach*  
Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Will Allanach, this the 20th day of January, 20 17, to certify which, witness my hand and seal of office.

*Susanne M. Johnson*  
Signature of officer administering oath

Susanne M. Johnson  
Printed name of officer administering oath

Notary  
Title of officer administering oath



# City of Killeen

## Legislation Details

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**File #:** RS-17-011    **Version:** 1    **Name:** Elections Contract with Bell County  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/23/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the City Manager to execute an Election Services Contract with Bell County for election services and computer software usage.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Contract](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Authorizing the City Manager to execute an Election Services Contract with Bell County for election services and early voting computer software usage.**

### ORIGINATING DEPARTMENT

**City Attorney/City Secretary**

### BACKGROUND INFORMATION

The City of Killeen will hold a general election on May 6, 2017 to elect a district council member for each of the four districts. The Bell County elections department has in the past leased to the city election equipment necessary to run the election. Bell County has also in the past provided the city with access to the Bell County Voter Registration database through a computer software known as VoteSafe. That software worked extremely well and shortened the length of time a voter had to wait for his or her voter status to be checked.

### DISCUSSION/CONCLUSION

The Bell County elections administrator has again made available for lease to the city election equipment, VoteSafe, Election Day support, and other miscellaneous services for the May 6, 2017 general election. The equipment includes 14 of the ES&S AutoMark Voter Assist Terminal and 17 of the ES&S Model 100 Optical Scan Voting System. Estimated costs for equipment is \$6700.00. Related programming, support, and supplies is estimated at \$3000.00.

### FISCAL IMPACT

Funds are available in the City Secretary's budget, acct # 010-1010-416.50-45, to pay for the equipment and services.

### RECOMMENDATION

Staff recommends the City Manager be authorized to execute the attached Contract for election services on behalf of the City of Killeen.

**ELECTION SERVICES  
CONTRACT WITH THE COUNTY ELECTIONS OFFICER  
STATE OF TEXAS, COUNTY OF BELL**

**THIS CONTRACT** made this 14 day of February, 2017, by and between Dianna Barker representing City of Killeen, hereinafter referred to as "Political Subdivision," and Shawn Snyder, Election Officer of Bell County, Texas hereinafter referred to as "Contracting Officer," and by authority of Section 31.092(b), Texas Election Code, for the conduct and supervision of the City of Killeen election to be held on May 6, 2017. **THIS AGREEMENT** is entered into in consideration of the mutual covenants and promises hereinafter set out:

**DUTIES AND SERVICES OF CONTRACTING OFFICER**

The Contracting Officer shall be responsible for performing the following duties and shall furnish the following services and equipment:

- (a) Procure and distribute all necessary election supplies, including:
  - 1. Ballots
  - 2. Ballot boxes and voting booths
- (b) Procure all necessary voting machines and equipment, transport machines and equipment to and from the polling places, and prepare the voting machines and equipment for use at the polling places. Equipment includes the ES&S AutoMark Voter Assist Terminal version 1.1 and ES&S Model 100 Optical Scan Voting System version 5.2.1.0. Equipment that is delivered to the polling location is not to be moved from that location except by Bell County authorized personnel.
- (c) Perform any necessary maintenance or repair on the furnished machines and equipment.
- (d) Assist in the general overall supervision of the election and provide advisory services in connection with the decisions to be made and the actions to be taken by the officers of the Political Subdivision who are responsible for holding the election.

**GENERAL CONDITIONS**

- (a) Nothing contained in this contract shall authorize or permit a change in the officer with whom or the place at which any document or record relating to the election is to be filed, the place at which any function is to be carried out, the officers who conduct the official canvass of the election returns, the officer to serve as custodian of the voted ballots or other election records, or any other nontransferable functions specified by section 31.096 of the Texas Election Code.
- (b) The Contracting Officer is the agent of the Political Subdivision for the purpose of contracting with third parties with respect to the election expenses within the scope of the Contracting Officer's duties, and the Contracting Officer is not liable for the failure to pay a claim.

- (c) The Contracting Officer shall file copies of this contract with the County Treasurer and the County Auditor of Bell County, Texas.
- (d) Only the actual expenses directly attributable to the Contract may be charged. (Section 31.100(b), Texas Election Code). The Contracting Officer may collect 10% above such actual expenses as administrative fee. Upon request, the Contracting Officer shall furnish the Political Subdivision with an itemized statement of such expenses and fees, and the Political Subdivision agrees to pay the statement within thirty (30) days of receipt. A 10% administrative fee will be applied.
- (e) The Political Subdivision shall have the right to terminate this contract by written notice to the Contracting Officer, and in that event the Political Subdivision shall only be liable for expenses and fees allowable under subparagraph (d) and incurred prior to the Contracting Officer's receipt of such notice of termination.
- (f) The Contracting Officer may enter into a separate elections services contract with another political subdivision for an election conducted on the same day, provided that no such contract will materially interfere with the performance of the Contracting Officer's obligations hereunder.
- (g) This contract constitutes the entire agreement of the parties concerning election services for the election described above, and there are no oral representations, warranties, agreements or promises pertaining to such services not incorporated in writing in this contract. This contract may be amended only by an instrument in writing signed by the parties. Neither party may assign this contract or its rights or duties hereunder without the written consent of the other, and any attempted or purported assignment in the absence of such consent shall be void. If a court of competent jurisdiction finds that any provision of this contract is unenforceable, the remaining provisions with remain in effect without the unenforceable parts.
- (h) The Political Subdivision shall be responsible for all contracted equipment while not in the direct possession of Bell County employees and may be held financially liable for lost or damaged equipment, including but not limited to ES&S Model 100 Optical Scan Voting System version 5.2.1.0, ES&S AutoMark Voter Assist Terminal version 1.1 and ES&S data flash cards. The Political Subdivision shall purchase offered insurance for any equipment requiring parcel or delivery service sufficient to replace the item should it be lost, stolen, damaged or otherwise rendered unusable while in the possession of the shipping agency.

WITNESS the following signatures and seal:

City of Killeen  
(Name of political subdivision)

By: \_\_\_\_\_  
 (Signature of person representing political subdivision)

\_\_\_\_\_  
 Date

By:   
 Shawn Snyder, Bell County Elections Adminstator

1-19-17  
 \_\_\_\_\_  
 Date

550 E. 2nd Ave.  
P.O. Box 1629  
Belton, Texas 76513



(254) 933-5774  
Fax (254) 933-6754  
email:shawn.snyder@co.bell.tx.us

**Shawn Snyder**

*Bell County Elections Administrator*

January 23, 2017

Mrs. Dianna Barker  
City Secretary  
City of Killeen  
101 North College Street  
Killeen, Texas 76540

Re: Use of VoteSafe

Dear Mrs. Barker:

It is the intention on the Bell County Elections Administration to make available the VoteSafe voter qualification system for the upcoming 2017 May Uniform election. The purpose of the VoteSafe platform is to allow for the check in of voters at multiple location during early voting and prohibit voters from voting more than once at multiple locations. This platform cannot be used for Election Day.

Thank you for your assistance in this matter.

Sincerely,

Shawn Snyder  
Elections Administrator





# City of Killeen

## Legislation Details

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**File #:** RS-17-012    **Version:** 1    **Name:** Air Service Development Agreement with KEDC  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/23/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution approving a Killeen Economic Development Corporation (KEDC) performance agreement in support of Air Service Development (ASD) initiatives and projects at the Killeen Fort Hood Regional Airport (KFHRA).  
**Sponsors:** Aviation Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum Agreement](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Killeen Economic Development Corporation  
ASD Performance Agreement**

### ORIGINATING DEPARTMENT

**Aviation**

### BACKGROUND INFORMATION

The KEDC is an organization which promotes the development of various enterprises to promote and encourage employment and the public welfare for the City of Killeen. Members of KEDC work closely with the Killeen Industrial Foundation, the Greater Killeen Chamber of Commerce, and the City of Killeen.

### DISCUSSION/CONCLUSION

Staff presented information to KEDC related to funding for Air Service Development for the KFHRA to retain existing air service, pursue new aviation opportunities, and develop programs that would make the airport more competitive within the region. The KEDC and Staff have negotiated a performance agreement that will provide up to \$90,000 towards this project.

### FISCAL IMPACT

A budget amendment for this project will be brought forward for Council consideration following the approval of the performance agreement. The budget amendment will increase revenues and expenses by \$90,000, resulting in no fiscal impact to the City.

### RECOMMENDATION

City Council approve the Killeen Economic Development Corporation Performance Agreement to provide up to \$90,000 for Air Service Development and authorize the City Manager to execute the agreement and any and all amendments to the agreement within the amounts set by state and local law.



Killeen Economic Development Corporation

**LETTER OF AGREEMENT**

The KILLEEN ECONOMIC DEVELOPMENT CORPORATION (KEDC) agrees to provide the KILLEEN-FORT HOOD REGIONAL AIRPORT (KFHR-AIRPORT) with Ninety Thousand Dollars (\$90,000) for Air Service Development (ASD).

The MS-PowerPoint presentation made by Matt Van Valkenburgh to members of KEDC on January 6, 2017, will be used as Exhibit A to this Agreement. Pages 6 and 8-10 of the Exhibit outlines the deliverables of this Agreement. As noted by Van Valkenburgh, the ASD efforts will include the needs of servicing soldiers at Fort Hood.

The KFHR-Airport will contract for services with a qualified air service development consultant for certain air-service deliverables as described in Exhibit A. Following receipt of invoices for various deliverables and services, the KFHR-Airport will verify the invoices accurately reflect the work of the ASD consultant, and, within one week of receipt, will forward approved invoices to KEDC. KEDC will make payment directly to KFHR-Airport within the invoice timeframe.

**None of the funding will go toward marketing.**

Any notice sent hereunder shall be sent to the following addresses:

KILLEEN ECONOMIC DEVELOPMENT CORPORATION  
P. O. Box 548  
Killeen, TX 76540-0548  
Attention: Phyllis Gogue

The foregoing set forth the terms and conditions of the Agreement between KEDC and KFHR Airport. This Agreement shall be in effect immediately upon signing by both parties.

**KILLEEN ECONOMIC DEVELOPMENT CORPORATION**

Charlie Watts, President

\_\_\_\_\_ Date

**CITY OF KILLEEN**

\_\_\_\_\_  
Ronald L. Olson, City Manager

\_\_\_\_\_ Date





# City of Killeen

## Legislation Details

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**File #:** RS-17-013    **Version:** 1    **Name:** RFQ/P-Rental Lot Covered Parking Project  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 1/24/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing the use of a Request for Qualifications/Proposal (RFQ/P) for improvements to the rental car ready lot at Killeen-Fort Hood Regional Airport (KFHRA).  
**Sponsors:** Aviation Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**REQUEST AUTHORIZATION TO UTILIZE A REQUEST FOR QUALIFICATIONS/ PROPOSAL (RFQ/P) FOR IMPROVEMENTS TO THE RENTAL CAR READY LOT AT THE KILLEEN-FORT HOOD REGIONAL AIRPORT**

**ORIGINATING DEPARTMENT**      Aviation

### BACKGROUND INFORMATION

On August 9, 2011, the City Council approved lease agreements with the Rental Car Concessions at Killeen-Fort Hood Regional Airport which included the collection of a Customer Facility Charge (CFC) to fund improvements to the rental car areas. The CFCs are accrued in a restricted fund for the purpose and benefit of funding improvements to the car rental facilities.

### DISCUSSION/CONCLUSION

Staff consulted with the rental car companies at Killeen-Fort Hood Regional Airport (KFHRA) to generate a project priority list for rental car facility improvements. That list identified items for improvements to the rental car ready area, one of which was to provide covered parking for the rental car ready lot.

Staff recommends using an RFQ/P to select a team for a turnkey solution to design, build, and finance this improvement. It is the opinion of staff that using a quantitative, evaluative process such as the RFQ/P will provide the City with the greatest opportunity to receive the best value not only in cost, but also in the design and installation of the systems. This process will garner information from interested parties and permit an evaluation committee to review and evaluate the requested information. This evaluation will examine the content of each proposal, evaluate the proposer's level of experience with design-build-finance projects at various facilities, and provide references of the proposer, among others. A standard bid process only guarantees the lowest cost, but not necessarily the best value of a proposal. The RFQ/P process will provide the best value system for the airport and the City.

### FISCAL IMPACT

There is no fiscal impact associated with this RFQ/P process.

### RECOMMENDATION

City Council authorize staff to utilize the RFQ/P process to identify and select the best value design-build team for the upgrades to the rental car ready facility at the Killeen-Fort Hood Regional Airport.



# City of Killeen

## Legislation Details

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**File #:** OR-17-003    **Version:** 1    **Name:** Articles IV and V, Chapter 31 Amendments  
**Type:** Ordinance    **Status:** Ordinances  
**File created:** 11/9/2016    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** Consider an ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Ordinance](#)  
[Minutes](#)

Date	Ver.	Action By	Action	Result
1/3/2017	1	City Council Workshop		



## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**Ordinance Amending Sign Regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances**

### ORIGINATING DEPARTMENT

**Planning and Development Services**

### BACKGROUND INFORMATION

In a recent case *Reed v. Town of Gilbert*, the Supreme Court of the United States invalidated sign ordinances across the nation in a significant shift from previous opinions related to freedom of speech and content-neutrality of signage. The plaintiff in the case claimed that the Town of Gilbert's sign ordinance made impermissible content-based distinctions between "Temporary Directional Signs", "Ideological Signs", and "Political Signs." These categories were based on what message the sign communicated and included varying size and time limitations based on those categories. The Supreme Court stated that content based laws, those that target speech based on its communicative intent, are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests. This standard is often called strict scrutiny and regulations subject to strict scrutiny are very rarely upheld. Therefore, the Supreme Court found these distinctions to be based on content and found them unconstitutional.

### DISCUSSION/CONCLUSION

Staff completed a comprehensive review of the City's sign ordinances to identify any regulations that are not in compliance with the *Reed* decision. Like the Town of Gilbert's ordinance, the city's sign regulations include various categories of signs with different requirements that could now be considered content regulations and subject to strict scrutiny by the courts.

Due to these findings, Staff began to draft revisions necessary to comply with the new law. The Planning and Zoning Commission held three public hearings to gain public input. Additionally, at the request of the Planning and Zoning Commission, Staff met with a group of sign companies to ensure the involvement of affected parties.

The primary purpose of the proposed ordinance is to remove content based distinctions found mostly in the "Definitions" and "Signs allowed without a permit" sections. In addition, the revisions update and reorder parts of the ordinance for clarity, address citizen concerns that were voiced during the review process, and add a substitution clause allowing noncommercial speech anywhere commercial speech is allowed.

### FISCAL IMPACT

There is no fiscal impact associated with this ordinance.

## **RECOMMENDATION**

The Planning and Zoning Commission unanimously recommends that the City Council adopt the proposed ordinance amending sign regulations in Articles IV and V of Chapter 31 of the City of Killeen Code of Ordinances.

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING ARTICLE IV DISTRICT REGULATIONS AND ARTICLE V SUPPLEMENTAL REGULATIONS; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

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

**WHEREAS**, the City of Killeen regulates signs under Chapter 31 of the City of Killeen’s adopted Code of Ordinances and under the authority granted by the Texas Local Government Code; and,

**WHEREAS**, the City Council acknowledges that signs are appropriate in some locations but incompatible with the character of certain land uses or traffic corridors; and,

**WHEREAS**, the City Council has determined that it is in the best interest of the City, in protection of the public health, safety and welfare, to amend, modify and supplements the City of Killeen’s existing sign regulations; and,

**WHEREAS**, under its police powers to promote the health, safety, and welfare of the citizens of this community, the City Council has determined that amended, modified and supplemented regulations should be established for the City of Killeen;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I.** That Chapter 31 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

ARTICLE IV. – DISTRICT REGULATIONS

\*\*\*\*\*

DIVISION 2. – DISTRICT “A” AGRICULTURAL DISTRICT

\*\*\*\*\*

Sec. 31-160. - Sign regulations.

The sign regulations for a district "A" agricultural district shall be the same as for district "R-1" single-family residential district, with the exception of "~~point-of-sale~~" on-premises signs in which signs shall not exceed a total of twenty-four (24) square feet in area per premises or eight (8) feet in height ~~and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such signs are located~~. There shall be no more than three (3) "~~point-of-sale~~" on-premises signs allowed for property in excess of thirty (30) acres in size.

\*\*\*\*\*

DIVISION 4. – DISTRICT “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT

\*\*\*\*\*

Sec. 31-186. – Use Regulations.

A building or premise in a district "R-1" single-family residential district shall be used only for the following purposes:

\*\*\*\*\*

(13) Accessory buildings and uses, incident to the uses in this section and located on the same lot therewith, not involving the conduct of a retail building.

a. A sign or outside advertising display (as defined by subsection ~~2304101~~.1 of the Killeen-International Building Code) shall not be allowed as an accessory use, except that:

1. ~~An on-premises ground bulletin board~~ sign, limited to the provisions of subsection ~~31-504~~ 31-507(1A)(3) may be allowed as an accessory use to churches, places of worship, libraries, museums and public buildings.
2. Any unilluminated signs allowed in section 31-503 may be allowed as an accessory use to any primary use authorized by this chapter.
3. ~~An on-premises point-of-sale~~ sign, limited to the provisions of subsection 31-503(2), may be allowed as an accessory use to those primary uses authorized by subsection (8), provided that such signs shall be allowable only so long as these specified primary uses are allowed.

No authorized accessory use sign shall be located in a required side or rear yard which is adjacent to any other lot designated for residential use.

\*\*\*\*\*

DIVISION 17. – DISTRICT “HOD” HISTORIC OVERLAY DISTRICT

Sec. 31-391. – Definitions.

For the purposes of this division, the following definitions shall apply:

\*\*\*\*\*

~~Real estate sign shall mean any sign for which a permit is not required that is used to offer for sale, lease, or rent the property upon which the sign is placed or an off-premises real estate sign that is permitted for a temporary period as outlined in section 31-504 of the city's zoning ordinance.~~

\*\*\*\*\*

Sec. 31-398. – Sign guidelines.

All new signs shall be developed with the overall context of the building and the area in mind. Sign materials, location, illumination and size shall be compatible with the architectural features of the building and the distinct character of the district and shall be appropriate to the era in which the building was constructed or the predominant era of neighboring buildings. The HPB may develop and the city council may approve such supplemental sign guidelines as it may find necessary to implement the regulations of the historic overlay district. Unless otherwise stated, permitting requirements established in chapter 31 of the city's zoning ordinance shall be strictly enforced.

A. The following signs shall be prohibited:

1. Signs that eclipse or obstruct significant architectural detail.
2. Off-premises signs.
3. Roof signs.
4. Temporary signs except where provided in this division.
5. Ground signs and detached pole signs except for those erected by the city for traffic control and except where otherwise provided for in this division.
6. ~~Real estate s~~Signs allowed without a permit under subsection 31-503(1) larger than 18" x 24" in size. One ~~real estate~~ sign under this subsection is allowed per property, and it must be displayed inside the building's window.
7. Banners except where provided for in this division.
8. Posters.

\*\*\*\*\*

ARTICLE V. – SUPPLEMENTAL REGULATIONS

\*\*\*\*\*

DIVISION 4. - SIGNS AND OUTDOOR ~~ADVERTISING~~-DISPLAYS

Sec. 31-501. - Statement of purpose.

The purpose of this division is to permit such signs that will not by their reason, size, location, construction, or manner of display, endanger the public safety, confuse, mislead or obstruct the vision necessary for traffic safety or otherwise endanger public health, safety and morals, and to permit and regulate signs in such a way as to support and complement land use objectives set forth in this chapter.

(Code 1963, Ch. 9, art. 2, § 36-1 [Ord. No. 83-73, § 1, 12-13-83])

Sec. 31-502. - Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned sign shall mean any lawfully erected on-premises sign ~~that identifies or advertises~~ where the business or activity ~~that~~ has ceased to operate on the premises where the sign or sign structure is located for more than one (1) year on non-leased property or for more than two (2) years on leased property, or a lawfully erected temporary or portable sign where the time period allowed for display of the sign has expired.

~~Announcing sign or construction sign shall mean any sign giving the name or names of principal contractors, architects, and lending institutions responsible for construction, structural alteration or repair on the site where the sign is placed, together with other information included thereon.~~

Banner sign shall mean any non-permanent sign usually made from cloth, vinyl or similar material denoting a business related advertisement, name, message, design, emblem, symbol or color that is suspended or displayed for advertisement, or to attract attention.

Bench sign shall mean a sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

~~Bulletin board sign shall mean a sign which identifies an institution or organization on the premises of which it is located and which contains the name of the institution or organization, the names of the individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.~~

Changeable electronic variable message sign (CEVMS) shall mean an off-premises sign which permits light to be turned on or off periodically or which is operated in a way whereby light is turned on or off periodically, including any illuminated sign in which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode) or digital sign that varies in intensity or color. A CEVMS sign does not include a sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD), as amended and approved by the Federal Highway Administration as the National Standard.

Dilapidated or deteriorated shall mean any sign:



- a. Where elements of the sign surface or background have portions of the finished material missing, broken or otherwise existing in a condition that they are illegible;
- b. Where the structural support or frame members are visibly bent, broken, dented, torn or loose;
- c. Where the exterior of the support, frame members or sign have rust, corrosion or missing protective coating;
- d. Where the sign panel is visibly cracked, faded or, in the case of wood and similar products, splintered in such a way as to constitute an unsightly or harmful condition;
- e. Where the sign or its elements are twisted, leaning or are at angles other than angles that the sign was originally erected (i.e.: a sign that is out of vertical or horizontal alignment as a result of, for example, being blown over or due to the failure of a structural support); or
- f. Where the sign or its elements are not in compliance with the requirements of the adopted electrical code and/or the building code.

~~Directional and informational sign shall mean a sign that directs attention to the location of a facility or a group of facilities on the same property that the sign is located. Such signs include entrance and exit signs.~~

Electronic message display sign (EMD) shall mean an on-premises sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means.

Flag shall mean a piece of cloth material designed to wave, usually rectangular, ~~of distinctive color and design and secured by one side only, used as a symbol, standard, signal, or emblem. Flags shall include official flags of government jurisdictions, flags indicating weather conditions, official flags of a company including logo flags and special event flags, or flags of religious, charitable, public, or nonprofit organizations.~~

Ground sign shall mean any permanent sign supported by uprights, braces, or poles and attached to the ground.

~~Holiday decoration sign shall mean temporary signs, including flags, in the nature of decorations clearly incidental to, and customarily and commonly associated with, any national, local or religious holiday.~~

Illegal sign shall mean a sign that does not meet the requirements of this division or an ordinance in effect at the time the sign was erected, as applicable.

Illuminated sign shall mean any sign which has characters, letters, figures, designs, or outlines illuminated by electric lights or luminous tubes whether such sources of illumination are a part of a sign or not.

Inflatable sign shall mean an individual inflatable device ~~at least three (3') feet in height or width~~, with or without a specific message, figure or design attached to its surface, that is used or intended to be used to attract attention. For the purpose of this division, an inflatable sign shall be considered a temporary sign.

Maintenance shall mean the cleaning, painting and/or repairing of sign parts, or replacement of defective parts of a sign in a manner that does not alter the basic copy, design, or structure of the sign. Maintenance does not include changing the design of the sign's support construction, changing the type of component materials, or increasing the illumination.

~~Menu board sign shall mean a sign associated with a business with a drive-through or walk-up service. Any business names or logos placed on a menu sign cannot exceed ten percent (10%) of the menu sign face area.~~

Monument sign shall mean a permanent ground sign where the entire bottom of the sign is affixed directly to the ground, but not affixed to a building, pole, or any other structure ~~or pole~~.

Multi-tenant ground sign shall mean a permanent ground sign ~~advertising located on premises where~~ two (2) or more separate tenancies ~~that~~ share the same parcel and/or building.

Mural shall mean any visual depiction or work of art including mosaic, painting or graphic art technique applied, painted, implanted or placed directly onto the exterior of any wall of a building. Such depictions shall not contain words, logos, emblems, trademarks or other similar devices which identify or advertise any product, service or business. Provided, however, such depictions may include a signature or sponsor's identification area within the depiction so long as such area does not exceed ten (10%) percent of the total size of the depiction, or two and one-half (2½%) percent of the surface area of the wall that the mural is attached to or painted upon, whichever is less. A mural shall not be considered a sign.

~~Nameplate sign shall mean a sign, located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.~~

Nonconforming sign shall mean a lawfully erected sign that does not comply with the provisions of this division or other rule enacted at a later date, or that later fails to comply with a law or rule due to changed conditions.

Off-premises sign shall mean a sign visible from any public traveled road or street displaying advertising or other copy that pertains to any business, person, organization, activity, event, place, service or product not manufactured, sold or provided on the same premises on which the sign is located. ~~This definition for off-premises signs shall include any sign that does not qualify as an approved on-premises sign.~~

On-premises sign shall mean a sign displaying advertising or other copy that pertains only to a business, person, organization, activity, event, place, service, or product manufactured, sold or provided on the same premises on which the sign is located. On-premises signs may include information pertaining to civic and registered non-profit organizations. An existing on-premises sign cannot be converted to a nonconforming off-premises sign subsequent to the effective date of the ordinance from which this section is derived.

Outdated copy face shall mean copy mounted on an off-premise sign face that advertises any activity or event that occurred more than 60 days prior to the current date. This definition shall include, but is not limited to any advertisement of a business, a product manufactured, sold or provided, or any type of service provided by any profit or non-profit entity that is no longer available and has not been available for 60 days.

Pennants and streamers shall mean any attention attracting devices consisting of pennants, streamers, tinsel, ribbons, reflectors, fringes, or similar objects strung together on a common line, string or wire that are attached to poles, buildings, or structures.

~~Point-of-sale sign shall mean any sign which carries the name of the firm, major enterprise, services or products offered for sale on the premises, or a combination of these things.~~

~~Political sign shall mean a sign that contains primarily a political message.~~

Portable sign shall mean a sign that is designed to be portable and that may be attached to a transporting mechanism. Should a question arise if a sign is portable, the building official shall determine whether a sign is portable.

Premises ~~shall be interchangeable with the word "occupancy" as used in this division and~~ shall mean a single, legally recorded, undivided tract of real property controlled exclusively by the proprietor, as identified on a recorded certificate of occupancy, of the establishment on the undivided tract.

~~Private sale or event sign shall mean an on-premises temporary sign advertising private, not-for-profit sales of personal property such as "garage sales" in accordance with chapter 15, article III of this code or private not-for-profit events such as picnics, carnivals, bazaars, game nights, art fairs, craft shows and Christmas tree sales.~~

Projecting wall sign shall mean any sign that projects from and has one (1) end attached to a building, and that does not employ ground support in any manner.

~~Real estate sign may be any sign for which a permit is not required, that is used to offer for sale, lease or rent the property upon which the sign is placed or an off-premises real estate sign that is permitted for a temporary period as outlined in section 31-504.~~

~~Roof sign shall mean any sign erected upon, against or directly above the roof of any building or structure. For the purposes of this division, a roof sign shall be regulated and considered the same as a wall sign.~~

Sign shall mean any identification, description, illustration, object or device, whether illuminated or non-illuminated, that is visible from any public place or is located on private property and exposed to the public and that directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any logo, painting, banner, pennant, streamer, placard or temporary sign designated to advertise, identify or convey information, with the exception of window displays and flags. "Signs" shall also include the sign structure. The term "sign" does not include an official traffic-control sign, an official governmental marker, a national, state, city, or educational institution flag, or governmental signs.

Sign area shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof. On a multisided sign, only one (1) face is counted in computing the sign's area.

Sign structure shall mean anything built or constructed, whether or not permanently attached to a building, structure, the ground or other surface, which supports, or is capable of supporting a sign, and includes, without limitation, the pole, cabinet and decorative cover.

Street shall mean a public highway, road or thoroughfare which affords the principal means of access to adjacent lots. Street classifications utilized in this division shall be as ~~more definitively~~ defined in the city's adopted thoroughfare plan, as amended (i.e.; collector, minor or principal arterial, etc.).

Strobe shall mean a sign where the message or lighting flashes on and off more often than once every second.

~~Subdivision construction announcement sign shall mean any sign giving the name or names of the developers, principal builders, contractors, architects, and/or lending institutions responsible for the development and construction of a new subdivision.~~

Temporary sign shall mean any non-permanent sign or advertising device.

Visible shall mean capable of being seen, whether legible or not, without visual aid by a person with normal visual acuity.

Wall sign shall mean any permanent sign affixed to or painted on the wall or surface of any building or structure that projects no more than twelve (12") inches from the building or structure. For the purposes of this division, a roof sign erected upon, against or directly above the roof of any building or structure shall be regulated and considered the same as a wall sign.

Window display shall mean the interior display of any item, including merchandise, that can be viewed through a window or other glass surface located on a building's exterior wall, provided that such items are located no closer than twenty-four (24") inches from the inside of the window or other glass surface.

Window sign shall mean any sign painted on, affixed to, or attached to a building's exterior wall window(s) or other glass surface(s), or located twenty-four (24") inches or less from the interior side of a building's exterior wall window(s) or glass surface(s). For the purposes of this division, such a sign shall be regulated and considered the same as if it were a wall sign.

(Code 1963, Ch. 9, art. 2, § 36-2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 97-22, § I, 3-25-97; Ord. No. 05-43, § I, 6-14-05; Ord. No. 06-78, § II, 7-11-06; Ord. No. 08-051, § I, 7-8-08; Ord. No. 08-059, § I, 7-22-08; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

Sec. 31-503. - Allowed without permit.

The following signs are permitted in any zoning district without a permit:

- (1) ~~Real estate signs. Signs advertising the sale, lease, or rental of the premises upon which the sign is located. Such~~ When premises is for sale, lease or rent, any sign that shall neither exceed six (6) square feet in area on residential tracts of one (1) acre or less, nor thirty-two (32) square feet on residential tracts greater than one (1) acre or on commercial tracts and complies with Section 31-507.
- (2) ~~Nameplate signs. A maximum of two~~ Signs per lease or business space denoting the name and address of the occupants of the premises, which signs shall not exceed four (4) square feet in area.
- (3) One sign per entrance door (illuminated or non-illuminated) shall be limited to two (2) square feet in size and located within five (5) feet of the entrance door.
- (4) One sign per drive entrance limited to maximum of two (2) square feet each.
- (5) Flags as defined in section 31-502 shall be limited to three flags per lot fronting public right of wayspaced at least twenty-five (25) feet apart as measured as a radial distance from the sign's base; however, the flag, in its entirety, must be contained within the owner's property. Flags must be attached to poles of sufficient strength to safely support the flag and materials used. Flags that become tattered or faded must be removed or replaced within 10 days of notice.
- (6) Bench signs, provided the sign face does not extend beyond any bench surface.
- (37) ~~Announcing signs or construction signs. Signs denoting the lending institutions, architect, engineer, or contractor responsible for construction~~ placed on premises where construction, repair, or renovation is in progress. Such signs shall neither exceed six (6) square feet in area on residential tracts of one (1) acre or less nor thirty-two (32) square feet on residential tracts greater than one (1) acre or on commercial tracts.
- (48) ~~Subdivision construction announcement signs. Such~~ After a subdivision has been released for construction, one sign per subdivision entrance which signs shall not exceed sixty-four (64) square feet in area, twelve (12') feet in overall height or sixteen (16') feet in overall width. A subdivision construction announcement sign shall be limited to one (1) sign per subdivision entrance and must be located within the subdivision and within the subdivision phase the sign advertises. A sign shall not be placed until the subdivision has been released for construction and permitted under this subsection must be removed when development of lots and buildings have ceased. The property owner shall be responsible for the maintenance, removal and compliance requirements of such signs.
- (579) ~~Public signs. Signs~~ or commemorative plaques of a public or noncommercial nature, which shall include community service information signs, public transit service signs, public utility information signs, safety signs, danger signs, trespassing signs, memorial signs placed by historical agencies recognized by the city, county, or state, signs indicating scenic or historic points of interest, and all signs erected by a public officer in performance of a public duty.
- ~~(6) Special announcement signs. Signs denoting special announcements recognizing a business or entity as the recipient of local, state, or national award may be posted on the property for up to thirty (30) days. These signs may not exceed thirty two (32) square feet and may be placed either on the building, on a post or between posts, and must not interfere with traffic visibility, maneuvering, parking, or fire lanes.~~
- ~~(7) Memorial signs. Commemorative plaques placed by historical agencies recognized by the city, county, or state.~~
- ~~(8) Holiday decoration signs. During appropriate seasons of the year.~~

~~\_\_\_(9) Private sale or event sign. Advertising legally permitted sales and events.~~

~~(10) Bench signs. Provided the sign face does not extend beyond any bench surface.~~

~~(11) Parking and driveway directional and informational signs. Designed to offer assistance to motorists maneuvering into, out of, or within private property. Such signs are limited to maximum of two (2) square feet.~~

~~(3810) A sign Signs for a period of time no earlier than ninety (90) days before or ten (10) days after a federal, state, or local election that neither exceeds six (6) square feet in area on residential tracts of one (1) acre or less, nor thirty-twosix (3236) square feet on residential tracts greater than one (1) acre or on commercial tracts and otherwise complies with Section 31-507 .~~

~~(12) Political signs.~~

~~a. p Provided the sign:~~

- ~~i. has an effective area no greater than 36 square feet;~~
- ~~ii. is no more than 8 feet in height;~~
- ~~iii. is not illuminated;~~
- ~~iv. has no moving element(s); and~~
- ~~v. is located on private real property with the property owner's consent. For purposes of this provision, "private real property" does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose.~~

~~;~~and

~~vi. is not carrying the primarily political message on a temporary basis and is not generally available for rent or purchase to carry commercial advertising or other messages that are not primarily political.~~

~~b. Signs carrying a primarily political message but not meeting these requirements will be regulated under the appropriate section of this division, depending upon the sign's location, size, and any other relevant information.~~

~~(4311) Parking lot p Pole-mounted banner signs. Pole-mounted banner signs shall be mounted to permanent poles two-inches in diameter or larger. Such banners may contain the emblems, names, colors, products sold or services provided of business firms, religious, charitable, public or nonprofit organizations. Pole-mounted banners shall be limited to a maximum of one banner or a pair of banners per pole and each pole shall be spaced a minimum of fifty (50) linear feet apart along the street frontage. Banners shall not exceed a total of sixteen (16) square feet for each pole fronting collector, marginal access or local streets as shown on the city's thoroughfare master plan, or a total of forty-eight (48) square feet for each pole fronting principal arterial or minor arterial roadways as shown on the city's thoroughfare master plan. Banners shall be framed on at least two sides and it must be contained entirely on the property it advertises. Additional banners may be located within the interior of the lot at the same separation and size limits.~~

~~\_(14) Flags as defined in section 31-502 shall not be limited in size or number; however, the flag, in its entirety, must be contained within the owner's property. Flags must be attached to poles of sufficient strength to safely support the flag and materials used. Flags that become tattered or faded must be removed or replaced.~~

~~(91245) Sponsor advertisements. Signs located within or on the grounds of public facilities such as baseball fields, stadiums, community centers, and other public facilities that advertise local businesses and other sponsors for sporting or community activities.~~

~~(16) Open and closed signs. Signs denoting when a business is either open or closed for business. Such signs may be illuminated but shall be limited to two (2) square feet in size.~~

(Code 1963, Ch. 9, art. 2, § 36-3.1 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 08-051, § I, 7-8-08; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-504. - Signs requiring permits.

~~On premises signs, off premises signs, portable signs, temporary signs and menu board~~ All signs, require a permit prior to installation with the exception of the sign types listed in section 31-503 above. Signs containing non-commercial speech are permitted anywhere that advertising or business signs are permitted, subject to the same regulations applicable to such signs. In addition, ~~the~~ The following signs may be permitted in any zoning district:

(1) ~~Bulletin board signs. Signs or bulletin boards customarily incidental to places of worship, libraries, museums, and other publicly owned buildings located in residentially zoned districts. Bulletin board signs that front principal arterial or minor arterial roadways as shown on the city's adopted thoroughfare master plan shall comply with section 31-507(A). Bulletin board signs that front collector, marginal access or local streets as shown on the city's adopted thoroughfare master plan shall comply with the following:~~

~~(a) Shall be limited to one sign per street frontage;~~

~~(b) Sign shall not exceed a total of fifty (50) square feet in face area;~~

~~(c) Shall set back a minimum of ten (10) feet from any street frontage property line and shall be limited to twenty (20) feet overall height;~~

~~(d) May be either static display or fully EMD;~~

~~(e) If an EMD sign, sign illumination shall cease between the hours 11:00 PM and 5:00 AM; and~~

~~(f) If an EMD sign, the sign shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.~~

(2) ~~Point-of-sale signs. Any sign advertising a commercial enterprise that is allowed by its zoning regulation except that point-of-sale signs located in a district zoned residential shall not exceed a total of twenty-four (24) square feet in area per premises, or six (6) feet in height, and shall advertise only the name of the owner, trade names, products sold and/or the business or activity conducted on the premises where such sign is located. Such signs shall set back a minimum of ten (10') feet from any street frontage or property line.~~

(3) Temporary off-premises signs: When a premises is for sale and displays a sign allowed under Sec. 31-503(1), the owner may also obtain a permit for temporary off-premises real estate sales signs. ~~Any sign advertising the sale or conveyance of residential property that is not located upon the residential property that is the subject of the advertisement, to include directional signs to view an open house, a model home or a home on display incident to a parade of homes, such signs shall be permitted~~ in compliance with the following criteria:

a. Application for a permit to display temporary off-premises ~~real estate~~ signs will be submitted to the building and inspections department. Upon payment of applicable permit and sticker fees, approved permits will be granted a sticker that must be attached to the sign.

b. Signs shall be no larger than 24" x 36".

c. The height of any temporary off-premises ~~real estate sales~~ sign shall be no greater than forty-eight (48) inches.

~~d. Signs may be displayed while the subject property is available for sale and while a sign is displayed on the subject property.~~

~~e. Except as provided in subsection (1), signs shall not be located on public right-of-way or within the visibility triangle defined in section 28-241 of this code as the triangle sight area, at all intersections, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines, and a diagonal line intersecting such curb lines at points thirty-five (35) feet back~~



~~from their intersection (such curb lines being extended if necessary to determine the intersection point). Signs shall be a minimum of ten (10) feet from the edge of the street or curb.~~

~~(1) Signs may be placed in the visibility triangle only if the signs have a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets within the visibility triangle.~~

~~fd. Signs shall only be located on private property with the consent of the property owner and the distance between the temporary off-premises ~~real-estate~~ sign and the closest temporary off-premises real-estate sales sign or any small or medium off-premises sign shall be greater than thirty (30) feet measured as a radial distance from the existing sign's base.~~

~~ge. Temporary off-premises signs shall be constructed of durable waterproof materials.~~

~~f. Temporary off-premises signs shall only be displayed on the following days of the week: Friday, Saturday, Sunday, and Monday.~~

~~—Off-premises real estate signs that have not been permitted, do not display a valid sticker or display a sticker that shows signs of tampering are subject to enforcement action. Enforcement action includes but is not limited to removal and disposal of the illegal sign and possible citation of responsible individuals or realty offices.~~

~~(2)(4) — Temporary signs. Temporary on-premises signs shall be allowed ~~only~~ as follows:~~

- a. A permit is required prior to installation of temporary signs. The permit fee shall be five dollars (\$5.00) for the first five (5) day period and an additional five dollars (\$5.00) for each subsequent five (5) day increment.
- b. Except as provided below, only one (1) temporary wall sign and one (1) temporary ground sign areis allowed per street frontage for each lease or business space at any given time. Each sign must be permitted separately.
- c. A business with frontage in excess of one hundred fiftythree hundred (150300) feet may place additional temporary signs for each one-three hundred and fifty (150300) feet of street frontage or fraction thereof with a permit for each additional sign.
- d. Except for an inflatable sign, a temporary sign shall be limited to sixty-fourthirty-two (6432) square feet.
- e. Temporary sign placement is limited to the owner's premises.
- f. Temporary sign permits shall be issued in increments of five (5) days. Permits shall not be issued to a lease space or business space for more than one hundred and twenty days (120) per calendar year.
- g. Each temporary sign permit shall expire on the date shown on the permit.

~~(23) Wall and window signs meeting the requirements of Section 31-506.~~

~~(34) Ground signs meeting the requirements of Section 31-507.~~

(Code 1963, Ch. 9, art. 2, § 36-3.2 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 06-78, § III, 7-11-06; Ord. No. 06-134, § I, 12-19-06; Ord. No. 08-095, § I, 11-18-08; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-505. - Prohibited signs.

It shall be unlawful to erect, ~~or~~ maintain, or allow to remain:

~~—(1)—~~ Any sign except as allowed by this division.

(1)

~~(2) Any portable sign, except as permitted under the provisions of section 31-507(A)(5) or any temporary sign permitted under the provisions of section 31-504.~~

~~(3) Any political sign not meeting the requirements of section 31-503(12) for a period of time which is earlier than ninety (90) days before or ten (10) days after the election which is being announced.~~

(42) Signs located on public right-of-way or within the visibility triangle at all intersections, which shall include that portion of public right-of-way and any corner lot within the adjacent curb lines, and a diagonal line intersecting such curb lines at points thirty-five (35) feet back from their intersection (such curb lines being extended if necessary to determine the intersection point). Signs shall be a minimum of ten (10) feet from the edge of the street or curb. Signs shall not be within twenty (20) feet of the intersection of a street curb and the edge of a driveway. Signs permitted in Sections 31-506(1) and (2) are excepted from this restriction, provided that the sign does not encroach into the right of way or street.

Signs may be placed in the visibility triangle only if the signs have a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets within the visibility triangle.

~~Any sign face or support within ten (10) feet of a street curb line, except as permitted in sections 31-506(1), (2) and 31-507(A)(68).~~

~~(5) Any sign face or support within twenty (20) feet of the intersection of any street curb line and the edge of any driveway, unless it is an otherwise permitted sign that has a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets and except as permitted in sections 31-506(1), (2) and 31-507(A)(68).~~

~~(6) Any sign face or support within thirty-five (35) feet of the intersection of any street curb line and any other street curb line, unless it is an otherwise permitted sign that has a height of no greater than two (2) feet as measured from the top of the curb of the adjacent streets and except as permitted in sections 31-507(A)(68).~~

~~(7) Any off-premises sign, except as permitted in section 31-507(B).~~

(83) Any flashing sign, strobe, or lights unless specifically allowed in this division.

(94) Any signSigns which havees a luminance greater than any traffic signal within two hundred (200) feet of the sign as measured by any light metering device for which a National Bureau of Standards test procedure exists.

(405) A signSigns that occupyies a parking space required by the minimum standards provided under article V, division 3 of this chapter.

(446) Signs attached to any fence or property boundary wallsExcept for public signs denoted in section 31-503(537) and political signs denoted in section 31-503(428), no sign shall be attached to any fence or property boundary walls.

(427) Any banners, pennants, streamers, tinsel, staked signs, stringed signs or temporary signs, unless specifically allowed in another section of this division.

(438) Any signSigns located in the right-of-way of a public street, alley or thoroughfare; a sign located in the visibility triangle, as defined in chapter 28 of this code; or an illegal sign, unanchored sign or a sign that has been damaged in such a manner that the sign's condition constitutes a threat to the health, safety, and welfare of the public. All such signs are hereby declared to be public nuisances that endanger public health, safety and welfare, and upon discovery, may be abated in accordance with section 31-524 of this division.

(Code 1963, Ch. 9, art. 2, § 36-3.3 [Ord. No. 83-73, § 1, 12-13-83; Ord. No. 87-10, §§ 3,4, 2-24-87]; Ord. No. 97-22, § I, 3-25-97; Ord. No. 97-63, § I, 11-25-97; Ord. No. 08-095, § I, 11-18-08 Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-506. - Wall and window signs.

Wall signs shall meet the following requirements:

- (1) An allowable wall sign may not extend more than twelve (12) inches from the facade of a building except as provided in (2) below.
- (2) When the premises does not maintain the maximum ground signs allowed, one (1) projecting wall sign is allowed and may project no closer than two (2) feet to a street curb. Such alternate sign may not exceed thirty-two (32) square feet in area and no part of the sign may descend closer to grade than nine (9) feet.

(3) ~~Wall signs facing street frontage.~~The total cumulative size of wall signs shall not exceed ~~the following wall area to sign face ratios:~~

~~a. Twenty five (25%) percent wall area to sign face ratio for principal arterial frontage (maximum size 672 square feet for each sign);~~

~~b. Twenty (20%) percent wall area, which includes windows and doors, to sign face ratio ~~for minor arterials~~ (maximum size ~~400~~ 500 ~~672~~ square feet for each sign); ~~and~~~~

~~c. Fifteen (15 %) percent wall area to sign face ratio for collector, marginal access, or local street (maximum size 200 square feet for each sign).~~

~~(4) Wall signs not facing street frontage shall be allowed fifteen (15 %) percent wall area to sign face ratio with a maximum size of 200 square feet for each sign.~~

~~(5) Rear entry doors may have nameplate signs in accordance with section 31-503(2).~~

~~(6) Buildings facing multiple street frontages may have wall signs for each street frontage in accordance with 31-506(3) above.~~

~~(7) Menu board signs placed on the wall shall be limited to thirty-two (32) square feet.~~

(84) An EMD wall sign shall be allowed subject to the following restrictions:

a. Allowed only in "B-1" or less restrictive zoning districts;

b. In B-1, B-2, or NBD zoning districts, aAn EMD wall sign face shall not exceed fifty (50%) percent of the allowable sign face area and must comply with requirements of section 31-507(B)(11) subsections a. and b.;

c. In B-3 or less restrictive zoning districts, an EMD wall sign face shall not exceed fifty (50%) percent of the allowable sign face area unless it is in compliance with requirements of section 31-507(B)(11) subsections a. and b.;

ed. Permissible installation of an EMD wall sign shall be limited to property fronting Principal arterial, ~~or~~ Minor Arterial, or Collector roadway frontages. If an EMD wall sign is installed on property fronting a Collector, the sign shall not be located within three hundred (300) feet of a residential district unless the property operates as an allowable non-residential use;

de. An owner shall be able to control the illumination intensity of any EMD sign; and

ef. An EMD wall sign allowed under this section shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.

(Code 1963, Ch. 9, art. 2, § 36-4.1 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-003, § VII, 2-9-10; Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-507. - Ground signs.

~~Ground signs shall not be subject to building lines, but~~ Ground signs shall not be located in publically held easements encroach into public rights of way or easements, but shall be located entirely within the premises.

- (A) On-premises ground signs in "R-MP," "R-3," "R-3F," or "R-3A," "B-1" or less restrictive districts shall meet the following requirements:
- (1) Only one (1) permanent ~~point-of-sale~~ ground sign structure consisting of one (1) or more sign cabinets, may be erected on any premises zoned "B-1" or less restrictive, except that premises which have more than three hundred (300') feet of combined frontage along a public way or street, other than an alley, may have one (1) additional ground sign for each additional three hundred (300') feet of frontage or fraction thereof. Such signs shall not exceed the area, height, or setback as listed in Table 507(A)(1) below:

Table 507(A)(1)

Sign Type	Maximum Overall Height	Maximum Square footage	Minimum Setback <sup>(a)</sup>
Single or multi-tenant monument sign	6	50	0
Single-tenant ground or pole sign	35	300	10
Multi-tenant ground or pole sign	40	450	10

~~Ground signs shall not be subject to building lines, but shall not be located in publically held easements.~~ Ground signs fronting Central Texas Expressway (the frontage road of US Highway 190) may have an overall maximum height of forty-two and one-half (42.5) feet measured from the highest point of the sign to the grade level of Central Texas Expressway.

- (2) In connection with mobile home parks (R-MP) (mobile home park district) or apartment complexes zoned "R-3," "R-3F," or "R-3A," no sign intended to be read from any public way or street adjoining the district shall be permitted except:

~~a. No more than one for one (1) identification-ground sign, not to exceeding thirty-two (32) square feet in area, for each principal entrance.~~

~~b. No more than one (1) sign, not exceeding sixteen (16) square feet in area, advertising property for sale, lease, or rent, or indicating "vacancy" or "no vacancy" may be erected at each entrance.~~

~~c. Such signs shall set back a minimum of ten (10') feet from any street frontage and/or property line.~~

~~(3) For allowable non-residential uses located in residentially-zoned districts, bulletin board on-premises ground signs that front principal arterial or minor arterial roadways as shown on the city's adopted thoroughfare master plan shall comply with section 31-507(A). Bulletin board on-premises ground signs that front collector, marginal access or local streets as shown on the city's adopted thoroughfare master plan shall comply with the following:~~

~~(a) Shall be limited to one sign per street frontage;~~

- ~~(b) Sign shall not exceed a total of fifty (50) square feet in face area;~~
- ~~(c) Shall set back a minimum of ten (10) feet from any street frontage property line and shall be limited to twenty (20) feet overall height;~~
- ~~(d) May be either static display or fully EMD;~~
- ~~(e) If an EMD sign, sign illumination shall cease between the hours 11:00 PM and 5:00 AM; and~~
- ~~(f) If an EMD sign, the sign shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.~~

~~(34) Illuminated ground signs shall not be located within one hundred (100) feet of a residential district unless the property operates as an allowable non-residential use.~~

~~(5) In no case may Non-illuminated a ground signs shall not of any kind exceed twenty (20) feet in height if located within fifty (50) feet of a single-family or two-family zoned residential district unless the property operates as an allowable non-residential use.~~

~~(46) In addition to the number of ground signs otherwise allowed in this chapter, Menu board ground signs shall be allowed i a business with a drive-through or walk up service n addition to the number of allowed ground signs shall be allowed up to two in section 31-507(A) (1) above additional and ground signs shall be limited to fifty (50) square feet total face area for all menu board sign face areas. each.~~

~~(57) Portable signs:~~

- a. It shall be unlawful to locate a portable sign on any site until the building official has determined that it is in compliance with the provisions of this division, and was issued a permit for such sign has been obtained. All portable signs shall be secured to resist wind loads.
- b. A permit for a portable sign ~~shall not will expire at the end of the calendar year. be issued for more than a one (1) year period.~~
- c. An adequate site plan must be submitted with the application to locate the sign.
- d. The portable sign may not be located in a parking space that is required by division 3 of this article.
- e. The size of the portable sign face shall not exceed five (5) feet high and twelve (12) feet wide.
- ~~f. If the building official finds a violation of any provision of this division, the official shall notify the person responsible to cease such violation within a reasonable time to be determined by the building official.~~
- ~~g. If the violation is not remedied within the time prescribed by the building official, the official may cancel the portable sign permit, if any, and bring action against the party or parties in violation.~~
- ~~h. All existing portable signs in use as of the effective date of the ordinance from which this subsection is derived, and which do not conform to this section, must comply with the provisions of this division within ninety (90) days of the effective date of this division or be found in violation hereof.~~
- ~~if. A property may not have more than one (1) portable sign at a time. A portable ground sign may only be used in place of an allowable ground sign not used per section 507(A)(1) above.~~

- ~~(6) Ground signs may be erected within ten (10) feet of a street curb line, but not within twenty (20) feet of the intersection of a street curb and the edge of a driveway, nor within thirty-five (35) feet of the intersection of a street curb line and another street curb line, provided that:~~
- ~~a. The total of the cross-sectional diameters of the supports does not exceed eighteen (18) inches if one (1) support is used or twenty-four (24) inches if two (2) supports are used;~~
  - ~~b. A clear height of nine (9) feet is maintained between the ground and the bottom of the sign; and~~
  - ~~c. The sign face does not project over a public right-of-way or street.~~

(78) An EMD ground sign shall be allowed as an on-premises ground sign subject to the following restrictions:

- a. Allowed only in "B-1" or less restrictive zoning districts;
- b. In B-1, -or-B-2, or NBD zoning districts, an EMD ground sign face shall not exceed fifty (50%) percent of the allowable sign face area and must comply with requirements of section 31-507(B)(11) subsections a. and b.;
- c. In B-3 or less restrictive zoning districts, an EMD ground sign face shall not exceed fifty (50%) percent of the allowable sign face area unless it is in compliance with requirements of section 31-507(B)(11) subsections a. and b.;

~~An EMD sign face shall not exceed fifty (50%) percent of the allowable sign face area;~~

- ~~e. An EMD sign shall be set back a minimum of one hundred (100) linear feet from the sign's base to the property line along the same side of the road from any A-R1 or residentially zoned districts;~~
- ~~d. Permissible installation of an EMD sign shall be limited to property abutting minor or principal arterial street frontages;~~
- ~~ed. Permissible installation of an EMD wall sign shall be limited to property fronting Principal arterial, Minor Arterial, or Collector roadway frontages. If an EMD wall sign is installed on property fronting a Collector, the sign shall not be located within three hundred (300) feet of a residential district unless the property operates as an allowable non-residential use;~~
- e. An owner shall be able to control the illumination intensity of any EMD sign; and
- ffe. An on-premises EMD sign allowed under this section shall comply with the CEVMS requirements of section 31-507(B)(11), subsections c. through i.

(B) Off-premises ground signs are subject to compliance with all the regulatory provisions contained herein, as amended. These regulations apply to all off-premises signs located within the city limits of the city of Killeen and the city's extra territorial jurisdiction (ETJ) as established by state law. Should any restrictions be in conflict, the more stringent shall control.

- (1) All new or existing off-premises signs shall be registered with the city of Killeen building and inspections department.
  - a. Registration shall be required within 180 days from the effective date of this ordinance and annually each year. The registration shall identify the size of the off-premises sign to be registered and provide a detailed description of its location measured to the closest intersection. In addition, registration is required within ninety (90) days upon any subsequent annexation within the then expanded ETJ.
  - b. Registration shall expire December 31 of each calendar year. Registration shall be accompanied by a non-refundable fee of \$40.00 for each off-premises sign to be registered.
  - c. Sign registration is not transferable and in event of sale of the sign, the buyer and seller shall be jointly responsible to assure re-registration within 15 days of the sale.



- d. Any off-premises sign removed, structurally altered or repaired shall be reported to the building and inspections department within 15 days of removal or work.
  - e. It shall be an offense for any person to maintain an off-premises sign not lawfully registered as listed above or to allow a registration to lapse for more than 30 days.
  - f. New and existing registered off-premises signs shall permanently affix the sign tag or plate issued by the city visible from the closest roadway. No new off-premises sign may advertise until final approval inspection has been obtained and no new or existing off-premises sign may advertise or continue to advertise without a current sign tag properly affixed.
  - g. Off-premises signs may not be combined with on-premises advertisement.
- (2) A permit shall be obtained prior to the erection, repair, alteration or relocation of any off-premises sign except for routine maintenance or repair and/or replacement of sign face copy.
- a. No off-premises sign may be installed by anyone not registered to perform such work in the city of Killeen.
  - b. Off-premises signs requiring an electrical permit or incorporating any electrical lighting or wiring must have such work performed by a person licensed and registered with the city of Killeen building and inspections department.
  - c. Sign registration is not transferable and in the event of sale of the sign, the buyer and seller shall be jointly responsible to assure re-registration within 15 days of the sale.
  - d. Off-premises signs shall be constructed in accordance with local and state building and electrical codes. Stamped structural engineering plans shall accompany the sign permit applications and shall be subject to wind speed requirements as set forth in the International Building Code, as amended.
- (3) Off-premises signs may be illuminated except for signs that contain, include, or are illuminated by:
- a. Any flashing, intermittent or moving light or lights, including any type of screen using animated or scrolling displays other than those providing public service information such as time, date, temperature or weather;
  - b. Unshielded lights that direct beams or rays of light at any portion of the traveled way;
  - c. Lights of such intensity as to cause glare or vision impairment of the driver of a motor vehicle;
  - d. Lights that interfere with the effectiveness or obscure an official traffic sign, device or signal.
- (4) An off-premises sign shall not be erected within three hundred (300) feet of the property line of any property which is zoned agricultural or residential, used as a public park, public or private school, church, courthouse, city hall, residence, public museum or any building or premises operated by a public entity. Such measurement shall be from the sign's base to the protected property line in the most direct line.

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Sec. 31-515. - Application for permit.

- A. The application for a sign permit shall be accompanied by following plans and other information:
- (1) The name, address, and telephone number of the owner or persons entitled to possession of the sign and the sign contractor or erector.
  - (2) The location by street address of the proposed sign structure.

- (3) Complete information as required on application forms provided by the building and inspections division including a site plan and elevation drawings of the proposed sign, caption of the proposed sign, and such other data as are pertinent to the application.
- (4) Plans indicating the scope and structural detail of the work to be done, including details of all connections, guide lines, supports and footings, and materials to be used. Structural details and material specifications shall be prepared and sealed by a professional engineer licensed in the State of Texas for any sign installed 20 feet or more in height and/or having a sign area (including the sign cabinet or frame) of 200 square feet or more and as provided in 31-507(B)(2).
- (5) Application for, and required information for such application, an electrical permit for all electric signs if the person building the sign is to make the electrical connection.
- (6) A statement of valuation of each sign.

B. Each ground sign shall be permitted separately. Wall signs shall be permitted as a group per each side of the building.

Sec. 31-517. - Plans review fee.

Except for portable and temporary signs, a plan review fee shall be paid for each sign permit application submitted for review. The plan review fees shall be as follows:

Wall sign \_\_\_\_\_ ~~.....~~ \$1025.00 each \_\_\_\_\_

On-premises ground sign    ~~.....~~ \$25.00 each

Off-premises ground sign    ~~.....~~ per section 8-11(d)  
of this code  
[see Fee Schedule]

All plan review fees are to be paid at the time of application to the City and such fees are non-refundable.

(Code 1963, Ch. 9, art. 2, § 36-6.3 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-080, § I, 12-28-10)

Sec. 31-518. - Expired permit application.

Sign permit applications shall expire forty-five (45) calendar days from the date such permit has been approved and applicable fees remain unpaid, or remains disapproved for more than forty-five (45) calendar days. The building official may grant an additional thirty (30) day extension upon written evidence from the applicant justifying the delay to complete the permit issuance.

(Code 1963, Ch. 9, art. 2, § 36-6.4 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-519. - Permit fees and penalties.

Sign permit fees, related electrical permit fees and related penalties shall be in accordance with section 8-11 of this code of ordinances.

(Code 1963, Ch. 9, art. 2, § 36-6.5 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-080, § I, 12-28-10)

Sec. 31-520. - Failed inspection charges.

A failed inspection charge will be assessed upon each failed inspection. The failed inspection charge shall be in accordance with re-inspection fees located in section 8-11 of this code of ordinances.

(Code 1963, Ch. 9, art. 2, § 36-6.6 [Ord. No. 83-73, § 1, 12-13-83]; Ord. No. 10-080, § I, 12-28-10)

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Sec. 31-523. - Sign maintenance regulations.

(A) Purpose.

- (1) The purpose of this section is to establish maintenance regulations for signs so that the signs are maintained in a reasonably safe condition and continue to conform to the aesthetic standards established in this division. This section shall apply to all signs that are allowed in this division 4.
- (2) Signs which do not conform to all applicable provisions of this section shall be made to conform by means of alteration, repainting, reinforcing, repairing or any other such operation short of relocation, reconstruction or removal within one hundred eighty (180) days from the effective date of the ordinance from which this section is derived.

(B) Declaration of nuisance. An abandoned sign or a sign determined to be in a dilapidated or deteriorated condition is detrimental to the health, safety and welfare of the public, tending to reduce the value of surrounding property and contributing to urban blight, and is hereby found to be adverse to the vitality, maintenance and continuing development of the city and is hereby found and declared to be a public nuisance.

(C) Maintenance of signs.

- (1) Maintenance. All portions of a sign, including the display surface, shall be kept in good repair at all times so that the entire sign is clearly legible and free of damage, deterioration and/or defacement. Each sign shall be maintained in a safe and presentable manner, including the replacement of defective parts and other acts required for the maintenance of such sign, without altering the basic copy, design or structure of the sign.
- (2) Dilapidated, deteriorated or abandoned signs. No person shall maintain or allow to be maintained on any premises owned or controlled by him or her any sign which is in a dilapidated, deteriorated or abandoned condition as defined herein. Upon notice of violation, any such sign shall be promptly removed or repaired by the owner of the sign or the owner of the premises where the sign is located in accordance with such notice.
- (3) Sign face **required**. No person shall maintain or permit to be maintained on any premises owned or controlled by him or her any sign that has had the sign face removed. Such sign shall have a blank face installed.
- (4) Violations.
  - (a) A person, for purposes of this section, shall mean the owner, agent, or any other individual or legal entity having the beneficial use of a sign and/or the owner or lessee of the land or structure where the sign is located.
  - (b) It shall be unlawful for any person to abandon or fail to maintain, or otherwise allow the continued existence of any sign that is in violation of section 31-523 of this division.
  - (c) It shall be unlawful for any person to violate any term or provision of this division.

(Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Sec. 31-524. - Enforcement and appeals.

- (A) Authority. The building official is hereby authorized to enforce any violation of this division to include, without limitation, ordering the repair of any dilapidated or deteriorated sign or the removal of any abandoned or illegal sign from property within the corporate city limits of the city of Killeen or its ETJ, in accordance with the enforcement mechanisms set forth in this section or as otherwise provided by this code of ordinances.
- (B) Nuisance abatement. The city may, in conjunction with the enforcement remedies provided in this division or as a separate action, abate a nuisance as follows:
  - (1) Notice of violation (NOV): nuisance.
    - (a) Any owner of any lot, parcel of land, or premises within the city limits having on it a nuisance described in this division shall be required to remove, abate, or cure such nuisance within fifteen (15) calendar days from the date of receipt of a NOV declaring the same from the director. Receipt is presumed to occur five (5) calendar days following the date the NOV is mailed.
    - (b) Any owner of any lot, parcel of land, or premises who receives the NOV described in this subsection (B) who cannot remove, abate or cure the nuisance due to weather conditions or who requires additional time to arrange a contractor to remove, abate or cure the nuisance may request and, at the building official's discretion, may be granted an extension of time, not to exceed fourteen (14) calendar days.
    - (c) A NOV issued under this subsection (B) shall be given to the owner as follows:
      - (i) personally, in writing; or
      - (ii) by letter (regular mail) addressed to the owner at the owner's address as recorded in the tax appraisal district records of the appraisal district in which the property is located; or
      - (iii) if personal service cannot be obtained:
        - a. by publication at least once; or
        - b. by posting the notice on or near the front door of each building on the premises to which the violation relates; or
        - c. by posting the notice on a placard attached to a stake driven into the ground on the premises to which the violation relates, if the premises contains no buildings.
    - (d) A NOV issued under this subsection (B) may also be sent by letter (regular mail) to any operator, lessee, occupant or person in control of the property known to the director, as applicable.
    - (e) If the director mails a NOV to an owner in accordance with this subsection (B), and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered as delivered.
  - (2) City authorized to abate. If the owner fails to comply with the NOV issued under this subsection (B), within the period prescribed, the city may enter the premises and remove, abate, or cure such nuisance.
  - (3) Emergency removal of sign or removal of sign in right-of-way. The city may immediately remove a sign, without prior notice, which the building official finds to be an immediate and imminent threat to the public safety because of its location or dilapidated, deteriorated or structural condition, or a sign that is located in publicly-held right-of-way, and may dispose of the same. Such removal and disposal shall be at the owner's sole expense, in accordance with this section.

- (4) Lien on property. If the city abates a nuisance under this subsection (B), the owner of such premises shall be notified by regular mail of the expenses incurred therefrom and the administrative fee provided in paragraph (5) of this subsection (B). If such charges are not paid within thirty (30) calendar days of the date of such notice, the director shall cause to be filed with the county clerk documentation of such expenses sufficient to establish a lien against the premises on which the nuisance was abated.
- (5) Remedies, expenses, and citation. Any owner who violates this division shall be subject to abatement restitution, penal fine(s) or both, revocation of permit, or any other relief provided by law. A person who fails to abate such nuisance within the time provided shall be required to pay an administrative fee of one hundred dollars (\$100.00) in addition to the expenses incurred by the city to abate the nuisance.

(C) Enforcement remedies.

- a. Criminal penalties. Any person, firm, corporation or other entity violating any of the provisions or terms of this division shall be deemed guilty of a misdemeanor, and upon conviction thereof, be subject to a fine of not less than \$100 and not exceeding \$2,000 for each offense, and each and every day or portion thereof that such violation shall continue shall constitute a separate offense.
- b. Civil remedies. The city may file a civil action in state district court to enforce the requirements of this ordinance, seeking injunctive relief and/or civil penalties up to \$1,000 per day for each offense as authorized by subchapter B of chapter 54 of the Texas local government code, as amended, or any other applicable law.
- c. Remedies cumulative. All remedies authorized under this division are cumulative of all others unless otherwise expressly provided. Accordingly, the filing of a criminal action shall not preclude the pursuit of a civil or administrative action for violation of this section nor shall the filing of a civil action preclude the pursuit of any other action or remedy, administrative or criminal.

(D) Appeals.

- a. Decisions of the building official may be appealed in writing to city manager or his designee within ten (10) business days of the decision of the building official. The city manager shall issue a written decision within five (5) business days of receiving the appeal. If the city manager does not issue a decision within five (5) business days, the appeal shall be considered denied.
- b. Decisions of the building official or denial of an appeal to the city manager may be submitted to the board of adjustment as provided in article II, division 3 of this chapter.

(Ord. No. 10-080, § I, 12-28-10; Ord. No. 12-050, § I, 8-28-12)

Secs. 31-525—31-549. - Reserved.

**SECTION II.** That all ordinances or resolutions or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION III.** That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV.** That the Code of Ordinances of the City of Killeen, Texas, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

**SECTION V.** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2017, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Jose L. Segarra, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Dianna Barker, CITY SECRETARY

\_\_\_\_\_  
Kathryn H. Davis, CITY ATTORNEY



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
NOVEMBER 7, 2016**

**ORDINANCE AMENDMENT  
CHAPTER 31, ARTIVCLE IV, DISTRICT REGULATIONS AND ARTICLE V,  
DIVISION IV, SIGNS AND OUTDOOR ADVERTISING DISPLAYS**

**HOLD a public hearing and consider proposed amendments to sign regulations within the Killeen Code of Ordinances, Chapter 31, Article IV, District Regulations, and Article V, Division IV, Signs and Outdoor Advertising Displays. (Third Public Hearing)**

Chairman Frederick requested staff comments.

Deputy City Attorney Holli Clements briefed the Commission the amendments to the sign ordinance.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to recommend approval of the amendments to the sign regulations. Commissioner Cooper seconded the motion. The motion passed 7-0.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve



# City of Killeen

## Legislation Details

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**File #:** PH-17-002    **Version:** 1    **Name:** Budget Amendment - Skylark Field  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 1/10/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services of the City of Killeen to authorize expenditure of insurance proceeds at Skylark Field.  
**Sponsors:** Aviation Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Ordinance](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**FY 2017 Budget Amendment to authorize expenditure of insurance proceeds at Skylark Field**

### ORIGINATING DEPARTMENT

**Aviation**

### BACKGROUND INFORMATION

On September 7, 2016, an aircraft struck and destroyed an airfield lighted guidance sign near the runway. Damage to the sign was assessed at \$2,740.39; a claim was submitted to the aircraft owner. A payment was received in the amount of \$2,740.39 that was deposited into the Skylark Field Insurance Proceeds Account #527-0000-363-99-52 on December 6, 2016.

On November 6, 2016, a vehicle left the roadway on Stronetree Drive and struck the Skylark Field perimeter fence; damage to the fence was assessed at \$2,500.00. A claim was submitted to the vehicle owner's insurance company. A payment was received in the amount of \$2,500.00 that was deposited into the Skylark Field Insurance Proceeds Account #527-0000-363-99-52 on November 15, 2016.

### DISCUSSION/CONCLUSION

Repairs to the airfield guidance sign and the airport perimeter fence were completed utilizing FY 2017 maintenance account funds originally budgeted for other anticipated annual maintenance requirements. Approval of a budget amendment is required for the expenditure and transfer of the insurance proceeds to restore funding to the original expenditure accounts.

### FISCAL IMPACT

The total amount of the insurance reimbursement is \$5,240.39. The Insurance Proceeds Account #527-0000-363-99-52 was budgeted with a zero revenue anticipation, therefore the additional expenditure of \$5,240 will have no impact on the projected year end fund balance for the Skylark Field enterprise account. The budget amendment will do the following:

#### Revenues:

Account Number	Description	Original Budget	Budget Increase	Amended Budget
527-0000-363.99-52	Insurance Proc	\$0	\$5,240	\$5,240

#### Enterprise Fund:

Account Number	Description	Original Budget	Budget Increase	Amended Budget
527-0505-521.42-35	Fence Maint	\$2,500	\$2,500	\$5,000
527-0505-521.42-70	Rwy/Txy Maint	\$2,400	\$2,740	\$5,140

## **RECOMMENDATION**

Staff recommends that City Council approve the ordinance amending the FY 2017 Annual Budget and Plan of Municipal Services.

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2017 ANNUAL BUDGET AND PLAN OF MUNICIPAL SERVICES OF THE CITY OF KILLEEN BY INCREASING THE AVIATION ENTERPRISE FUND REVENUE ACCOUNT BY \$5,240; INCREASING ENTERPRISE FUND EXPENDITURE ACCOUNTS BY \$5,240; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, a budget for operating the municipal government of the City of Killeen for the Fiscal Year October 1, 2016 to September 30, 2017, has been adopted by City Council in accordance with the City Charter; and

**WHEREAS**, it is the desire of the Killeen City Council to increase the Skylark Field insurance proceeds revenue account and the maintenance expenditure accounts to allow for the expenditure of insurance proceeds; and

**WHEREAS**, the need for additional funds requires a budget amendment;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION 1.** That Ordinance 16-044, adopting a budget for operating the municipal government of the City of Killeen for the Fiscal year October 1, 2016 to September 30, 2017, be amended as to the portion of said budget as follows:

Revenues:

Account Number	Description	Original Budget	Budget Increase	Amended Budget
527-0000-363.99-52	Insurance Proc	\$0	\$5,240	\$5,240

Enterprise Fund:

Account Number	Description	Original Budget	Budget Increase	Amended Budget
527-0505-521.42-35	Fence Maint	\$2,500	\$2,500	\$5,000
527-0505-521.42-70	Rwy/Txy Maint	\$2,400	\$2,740	\$5,140

**SECTION II:** That the City Council finds that the public notice and public hearing requirements of Section 56 of the City Charter have been complied with prior to the enactment of this ordinance.

**SECTION III:** That should any section or part of any section or paragraph of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

**SECTION IV:** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION V:** That this ordinance shall be effective after its passage and publication according to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 14th day of February, 2017, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**APPROVED**

---

Jose L. Segarra  
MAYOR

**ATTEST:**

**APPROVED AS TO FORM**

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Dianna Barker  
City Secretary

---

Kathryn H. Davis  
City Attorney





# City of Killeen

## Legislation Details

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**File #:** PH-17-003    **Version:** 1    **Name:** Zoning 16-24  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 1/12/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by Christian Fellowship Church of Killeen, Inc. (Case #Z16-24) to rezone approximately 12.82 acres out of the Moses T. Martin Survey, Abstract No. 963, from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District). The property is locally known as 8838 Trimmier Road, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Attachment to CCMO](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location map](#)  
[Buffer map](#)  
[Considerations](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

### ZONING CASE #Z16-24 "A" (AGRICULTURAL DISTRICT) TO "A-R1" (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT)

### ORIGINATING DEPARTMENT

### PLANNING & DEVELOPMENT SERVICES

James Rosario of the Christian Fellowship Church of Killeen, Inc. is requesting a change of zoning from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District) for 12.82 acres out of the Moses T. Martin Survey, Abstract No. 963, Bell County, Texas. The property is locally known as 8838 Trimmier Road, Killeen, Texas.

#### **Use Regulations:**

A building or premises in a district "A-R1" Agricultural Single-Family Residential District shall be used only for the following purpose:

- (1) Single-family residential homes
- (2) Home occupations, accessory uses, and buildings as permitted in Section 31-186(13)
- (3) Parks and recreation areas
- (4) Churches, synagogues, chapels, and similar places of religious worship
- (5) Country clubs or golf courses, but not including miniature golf courses, driving ranges, or similar forms of commercial amusement
- (6) Crop and tree farming, but not including the raising of animals or fowl for commercial purposes or the sale of any products at retail on the premises.
- (7) Public and quasi-public buildings for cultural use
- (8) Utility substations

#### Permitted Accessory Uses:

- (1) One guest home per lot shall be permitted in the district subject to the following standards:
  - a. The guest house shall be a detached accessory use to a principal residence.
  - b. The maximum allowed area of the guest house shall not exceed twenty five (25) percent of the floor area of the principal residence (exclusive of garages).
  - c. One additional off-street parking space shall be required.
  - d. The rental or lease of a guest house shall be prohibited.
- (2) Non-commercial, animal holding pens of any kind, being no closer than fifty (50) feet from a street line and no closer than two hundred and fifty (250) feet from lot line.

#### **Property Specifics**

**Applicants/Property Owners:** Christian Fellowship Church of Killeen, Inc.

**Property Location:** This property is located along the east right-of-way of Trimmier Road, south of the intersection of Trimmier Road and Kelley Lane. This property is locally known as 8838 Trimmier Road, Killeen, Texas.

**Legal Description:** 12.82 acres out of the Moses T. Martin Survey, Abstract No. 963, Bell County, Texas

### **Zoning/ Plat Case History:**

- This property was zoned "A" (Agricultural District) following its May 1, 2004, annexation into the city limits. This is the first rezoning request by this property owner.
- This property is not platted.

### **Character of the Area**

**Existing Land Use(s) on the Property:** The subject property is undeveloped. There is a single-family home on the property to the north and no development on the property to the south.

**Historic Properties:** There are no historic structures on this property.

### **Figure 1. Location Map**

See attachment.

### **Infrastructure and Community Facilities**

#### **Water, Sewer and Drainage Services:**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer, and drainage utility services will be required for future development of this site. Water service is available directly to the property via a 6" and 12" water main located to the west of the tract, within the Trimmier Road right-of-way. Sanitary sewer service is currently not directly available to the property and may need an on-site septic facility for wastewater. There is a future CIP project identified in the 2012 Water and Wastewater Master Plan to extend gravity sewer to this basin, but there is no definitive time for construction of this project. Sanitary sewer availability and design requirements will need to be evaluated when more information is known.

The property owners and their agents are cautioned that unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for the subject property, shall coordinate tie-in to all publicly dedicated infrastructure with the Public Works Department.

#### **Transportation:**

Existing conditions: Trimmier Road is classified as a 90' minor arterial on the City's adopted thoroughfare plan.

Proposed Improvements: There are no planned transportation improvements as part of this zoning request.

Projected Traffic Generation: There will be a marginal increase in traffic as a result of this consideration.

## **Environmental Assessment**

**Topography/Regulated Floodplain/Floodway/Creek:** This site does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA).

## **Land Use Analysis**

**Land Use Plan:** The land is designated as 'Estate' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The Comprehensive Plan allows the following development types within the 'Estate' designation: detached residential dwellings, public/institutional uses, and parks, and public spaces.

**Consistency:** The applicant's request is consistent with the FLUM.

## **Public Notification**

The staff notified eight (8) surrounding property owners regarding this request. Staff has received no protests.

## **Recommendation**

The Planning & Zoning Commission recommended approval of the applicant's zoning request by a vote of 7 to 0.

**Figure 1. Zoning Map**



**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
JANUARY 23, 2017**

**CASE #Z16-24  
“A” TO “A-R1”**

**HOLD a public hearing and consider a request submitted by Christian Fellowship Church of Killeen, Inc. to rezone 12.82 acres out of the Moses T. Martin Survey, Abstract No. 963, Bell County, Texas from “A” (Agricultural District) to “A-R1” (Agricultural Single-Family Residential District). The property is locally known as 8838 Trimmier Road, Killeen, Texas.**

City Planner Tony McIlwain stated that this property is designated as ‘Estate’ on the Future Land Use Map (FLUM) of the Comprehensive Plan. The current agricultural zoning does not allow religious or church related institutions.

Staff notified eight (8) surrounding property owners within the 200’ notification area. No responses were received.

Staff recommends approval of “A-R1” zoning for this property. The “A-R1” zoning is the most restrictive zoning that will allow construction of the proposed church on this property.

Mr. James Rosario, 9202 Bowfield Drive, Killeen, Texas, was present to represent this request.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to approve the request. Commissioner Latham seconded the motion. The motion passed unanimously.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “A” (AGRICULTURAL DISTRICT) TO “A-R1” (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Christian Fellowship Church of Killeen, Inc. has presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of approximately 12.82 acres, being part of the Moses T. Martin Survey, Abstract No. 963, which is more specifically known as 8838 Trimmier Road, Killeen, Texas, from “A” (Agricultural District) to “A-R1” (Agricultural Single-family Residential District), said request having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 23rd day of January 2017, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 14th day of February 2017, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of a majority that the request should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**Section I.** That the zoning classification of the following described tract be changed from “A” (Agricultural District) to “A-R1” (Agricultural Single-family Residential District) for approximately 12.82 acres, being part of the Moses T. Martin Survey, Abstract No. 963, which is more specifically known as 8838 Trimmier Road, Killeen, Texas.



**Section II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**Section III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 14th day of February 2017, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

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**Jose L. Segarra, MAYOR**

**ATTEST:**

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**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

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**Kathryn H. Davis, City Attorney**

Case #16-24  
Ord. #17-



Date Paid:	_____
Amount Paid:	\$ _____
Cash/MO #/Check #:	# _____
Receipt #:	_____

CASE #: Z16-24

## City of Killeen Zoning Change Application

Prop. I.D. # 105154617550330  
 GEO - 0617550330

[ ] General Zoning Change \$300.00 [ ] Conditional Use Permit \$500.00

Name(s) of Property Owner: CHRISTIAN FELLOWSHIP CHURCH OF KILLEEN, INC.

Current Address: P.O. BOX 4434

City: KILLEEN State: TX Zip: 76540

Home Phone: ( ) \_\_\_\_\_ Business Phone: (254) 554-4222 Cell Phone: (254) 290-4458

Email: Killeencfm@yahoo.com

Name of Applicant: JAMES ROSARIO

(If different than Property Owner)

Address: 9202 BOWFIELD DR

City: KILLEEN State: TX Zip: 76542

Home Phone: ( ) \_\_\_\_\_ Business Phone: ( ) \_\_\_\_\_ Cell Phone (254) 290-4458

Email: \_\_\_\_\_

Address/Location of property to be rezoned: 5833 TRIMMER ROAD

Legal Description: A0963BC M T MARTIN, ~~100~~ ACRES - 12.8266

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan?  YES  NO  
 If NO, a FLUM amendment application must be submitted.

Type of Ownership: \_\_\_\_\_ Sole Ownership \_\_\_\_\_ Partnership  Corporation \_\_\_\_\_ Other

Present Zoning: A6R Present Use: NONE

Proposed Zoning: RES A-R1 Proposed Use: CHURCH FACILITY

Conditional Use Permit for: \_\_\_\_\_

This property was conveyed to owner by deed dated JULY 28, 2016 and recorded in Volume \_\_\_\_\_, Page \_\_\_\_\_, Instrument Number 2016-30497 of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
 Yes  (Fee not required) No \_\_\_\_\_ (Submit required fee)

**APPOINTMENT OF AGENT**

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: JAMES ROSARIO

Mailing Address: P.O. BOX 4434

City: KILLEEN State: TX Zip: 76540

Home Phone: ( ) \_\_\_\_\_ Business Phone: (254) 290-4458 Email: Killeenofm@yahoo.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City: make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.**

**I understand that the City will deal only with a fully authorized agent.** At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, **I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter.** If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent [Signature] Title PRESIDENT

Printed/Typed Name of Agent JAMES M. ROSARIO Date 12-1-16

Signature of Agent \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Agent \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z16-24

**ZONING FROM:**

A To A-R1

**APPLICANT:**

JAMES ROSARIO

**PROPERTY OWNER:**

CHRISTIAN FELLOWSHIP  
CHURCH OF KILLEEN, INC.

**LEGAL DESCRIPTION:**

A0963BC M T MARTIN, 3,  
ACRES 12.82

**Legend**

-  Zoning Case
-  Parcel
-  City Limits



Date: 12/28/2016





**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z16-24

**ZONING FROM:**

A To A-R1

**APPLICANT:**

JAMES ROSARIO







**PROPERTY OWNER:**

CHRISTIAN FELLOWSHIP  
CHURCH OF KILLEEN, INC.

**LEGAL DESCRIPTION:**

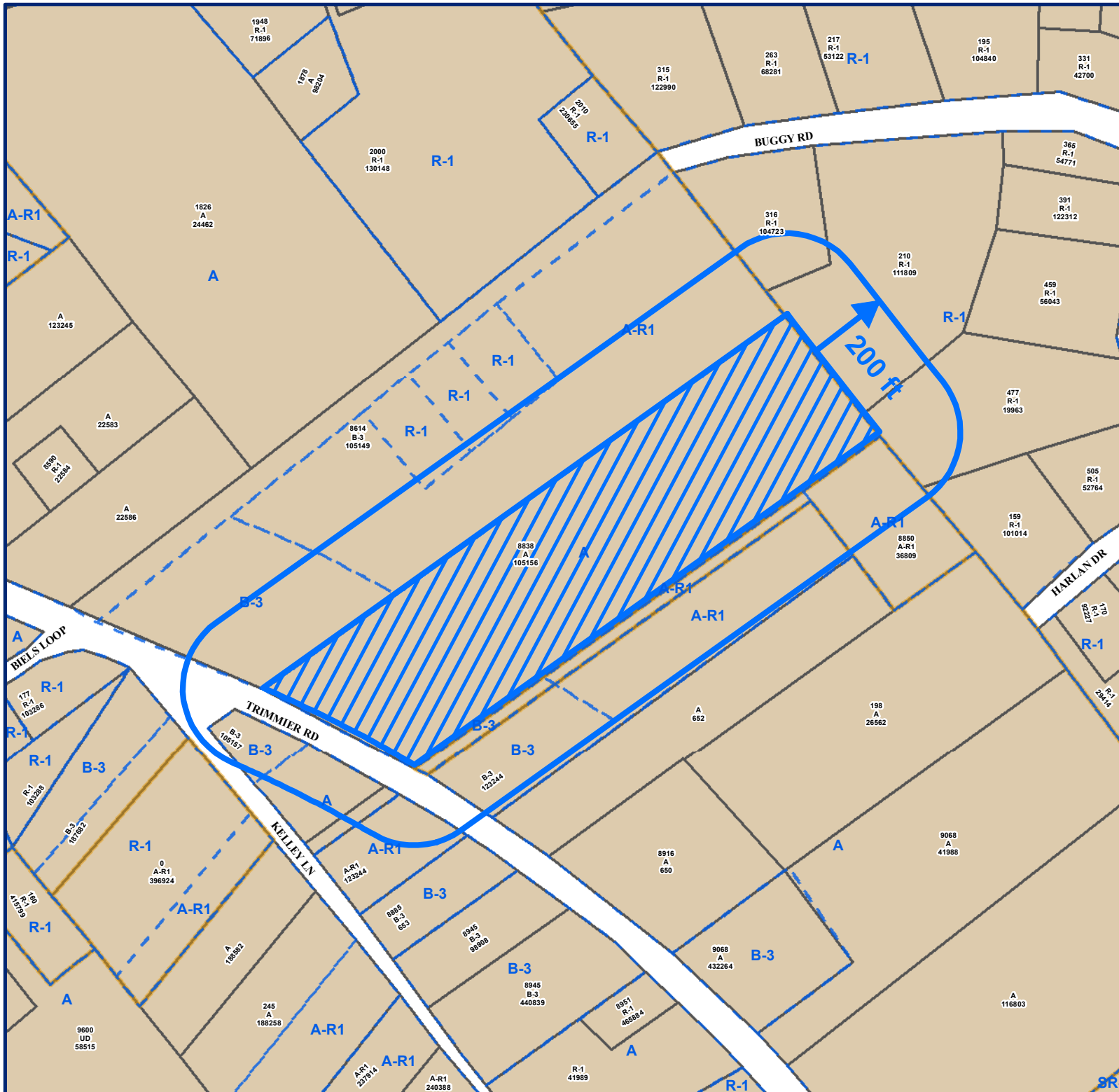
A0963BC M T MARTIN, 3,  
ACRES 12.82

**LEGEND**

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 12/28/2016



# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

## A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

Any other factors which will substantially affect the health, safety, morals or general welfare.

## B. Conditional Use Permit (if applicable)

Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## C. Conditions to Consider

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.



# City of Killeen

## Legislation Details

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**File #:** PH-17-004A    **Version:** 1    **Name:** FLUM#Z16-25  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 1/12/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by Theresa Marie Hammond and Yeon Ok Lee to amend the Comprehensive Plan's Future Land Use Map (FLUM) from 'General Residential' to 'General Commercial' (FLUM# Z16-25) for Lots 6 and 8, Block 4, Sunset Addition. The properties are locally known as 307 and 309 Carter Street, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Attachment to CCMO](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		



## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

### COMPREHENSIVE PLAN FUTURE LAND USE MAP (FLUM) AMENDMENT: 'GENERAL RESIDENTIAL' TO 'GENERAL COMMERCIAL'

### ORIGINATING DEPARTMENT

### PLANNING & DEVELOPMENT SERVICES

#### Nature of the Request

Theresa Marie Hammond and Yeon Ok Lee submit this request to revise the Comprehensive Plan's Future Land Use Map (FLUM) to change a 'General Residential' designated area to a 'General Commercial' designated area for Lots 6 and 8, Block 4, Sunset Addition. The properties are locally known as 307 and 309 Carter Street, Killeen, Texas. The applicant has submitted a concurrent request to rezone the subject properties from "R-1" (Single-Family residential District) to "B-5" (Business District).

**Land Use Plan:** The property is designated as 'General Residential' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

The 'General Residential' designation encourages the following land uses and has the following characteristics:

- Detached residential dwellings
- Attached housing types subject to compatibility and open space standards (e.g., duplexes, townhomes, patio homes)
- Planned developments, potentially with a mix of housing types and varying densities, subject to compatibility and open space standards; public/institutional; and parks and public spaces
- Predominantly "R-1" zoning district with less openness and separation between dwellings compared to suburban residential areas
- Auto-oriented character that can be offset with architectural standards, landscaping, and limited uniform subdivision designs
- Neighborhood-scale commercial emerging over time for well-suited areas

If approved, the proposed revision to the property would result in a 'General Commercial' designation on the Future Land Use Map (FLUM) of the Comprehensive Plan. This designation calls for a wide range of commercial, retail, and service uses, at varying scales and intensities depending on the site.

#### **Figure 1. Future Land Use Map (FLUM)**

See attachment.

**The items below should be reviewed and addressed when a Future Land Use Map adjustment is proposed:**

- **Scope of Amendment:** Is the proposed map change limited to one or a few parcels, or would it affect a much larger area? *The amendment is limited to a few parcels; specifically, Lots 6 and 8, Block 4, Sunset Addition.*
- **Change in Circumstances:** What specific conditions (e.g., population size and/or characteristics, area character and building form, property/structure conditions, infrastructure or public services, market factors including need for more land in a particular designation, etc.) have changed sufficiently to render the current map designation(s) inappropriate or out-of-date? *With the exception of 301 Carter Street, which is a corner lot, none of the residential properties along this block have been transitioned to commercial uses. The neighborhood has maintained its character as a residential community and the imposition of additional 'General Commercial' FLUM designations will result in a character much different than what is contemplated in the Comprehensive Plan. Staff's determination is this tract of land is not appropriate as a commercial designation.*
- **Consistency with Other Plans:** In addition to the Comprehensive Plan, is the proposed map change consistent with the intent and policy direction of any applicable small area plans, utility or drainage plans, or other City plans? *There are no other City plans that materially affect this property. The proposed FLUM amendment is not incompatible with any public works planning efforts.*
- **Adequate Information:** Do City staff, the Planning and Zoning Commission, and/or City Council have enough and appropriate information to move ahead with a decision (e.g., utility capacity, potential traffic impacts, other public service implications, resident/stakeholder concerns and input)? *The proposed FLUM amendment request will not negatively affect public utility capacity; however it will allow zoning that will introduce commercial traffic flow into a residential area.*
- **Stakeholder Input:** What points, concerns, and insights have been raised by area residents, property owners, business owners, or others? *With the exception of listing this action as a public hearing item on the Planning and Zoning Commission's agenda, there is no public notice requirement for this amendment action; staff did not received any stakeholder input during the Planning and Zoning Commission meeting.*

## **Recommendation**

The Planning and Zoning Commission recommended approval of 'Residential-Commercial Mix' (RC-MIX) for the subject property by a vote of 5 to 2, with Commissioners Harkin and McLaurin in opposition. The RC-MIX designation allows a mix of residential types and densities, as well as a variety of commercial and light industrial activities.

Figure 1. Future Land Use Map (FLUM)



Note: Subject area has been identified as 'General Residential'

**PLANNING AND ZONING COMMISSION MEETING  
JANUARY 23, 2017**

**CASE FLUM #Z16-25  
'GENERAL RESIDENTIAL' TO 'GENERAL COMMERCIAL'**

**HOLD a public hearing and consider a request submitted by Theresa Marie Hammond, Yeon Ok Park and Yeon Ok Choi Lee (FLUM#Z16-25) to amend the Comprehensive Plan's Future Land Use Map (FLUM) to change a 'General Residential' designated area to 'General Commercial' designated area for Lots 6 and 8, Block 4, Sunset Addition. The properties are locally known as 307 and 309 Carter Street, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated this request is to change a 'General Residential' designated area to a 'General Commercial' designated area for Lots 6 and 8, Block 4, Sunset Addition. The properties are locally known as 307 and 309 Carter Street, Killeen, Texas. The applicant has submitted a concurrent request to rezone the subject properties from "R-1" (Single-Family Residential District) to "B-5" (Business District) for a proposed barbershop and cafe. During the review of the application staff did not support the applicant's request for an amendment of the Future Land Use Map from 'General Residential' to 'General Commercial' for this area. This designation is not consistent with the existing, abutting residential community.

City Planner McIlwain also stated that during the workshop this evening there was some discussion that the zoning request or recommendation could change from B-5 to a more restrictive zoning such as "B-2". A recommendation for "B-2" zoning would not require a FLUM amendment.

Mr. Dan Corbin, 603 N. 6<sup>th</sup> Street, Killeen, Texas, was present to represent this request. Commissioner Harkin stated that she did not support "B-5".

After discussion by Commissioners related to the transition of residential to commercial land uses in the area, City Planner stated that the Commission could consider a 'Residential Commercial Mix' designation.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to recommend approval of the designation of the properties from 'General Residential' to 'Residential Commercial Mix'. Commissioner Peters seconded the motion. The motion passed 5-2 with Commissioners Harkin and McLaurin in opposition.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve.

ORDINANCE \_\_\_\_\_

**AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN'S FUTURE LAND USE MAP FROM 'GENERAL RESIDENTIAL' TO 'RESIDENTIAL -COMMERCIAL MIX' FOR LOTS 6 AND 8, BLOCK 4, SUNSET ADDITION, BEING LOCALLY KNOWN AS 307 AND 309 CARTER STREET, KILLEEN, TEXAS; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

**WHEREAS**, the City of Killeen finds that Chapter 213.003 of the Local Government Code enables municipalities to adopt and amend comprehensive plans in the interest of coordinating long-range development of the municipality.

**WHEREAS**, the Planning and Zoning Commission has received a request from Theresa Marie Hammond and Yeon Ok Lee for a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan, to change Lots 6 and 8, Block 4, Sunset Addition from 'General Residential' to 'General Commercial'; said revision having been duly presented and recommended for approval of 'Residential-Commercial Mix' by the Planning and Zoning Commission of the City of Killeen on the 23rd day of January 2017, and due notice of the filing of said revision and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 14th day of February 2017, at the City Hall, City of Killeen;

**WHEREAS**, the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of the opinion that the amendment should be approved;

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS:**

**SECTION I:** That the land use designation of Lots 6 and 8, Block 4, Sunset Addition be amended from ‘General Residential’ to ‘Residential-Commercial Mix’, for the lots being locally known as 307 and 309 Carter Street, Killeen, Texas.

**SECTION II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**SECTION III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**SECTION IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 14th day of February 2017, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**APPROVED:**

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**Jose L. Segarra**  
**MAYOR**

**ATTEST:**

---

**Dianna Barker**  
**CITY SECRETARY**

**APPROVED AS TO FORM**

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**Kathryn H. Davis**  
**CITY ATTORNEY**

Case #: FLUM #Z16-25  
Ord#:17-\_\_\_





Date Paid: 12/21/16  
 Amount Paid: \$ 100.00  
 Cash/MO #/Check #: # 2577  
 Receipt #: 0481

CASE #: FLUM 16-25

**City of Killeen**  
**Future Land Use Map (FLUM) Amendment Application**  
 **FLUM Amendment Request \$100.00**

**Name(s) of Property Owner:** Theresa Marie Hammond, Yeon Ok Choi Lee, Kun Y. Park, & Yeon Ok Park

Current Address: 310 N. Fort Hood Street

City: Killeen State: Texas Zip: 76541

Home Phone: (254) 628-8884 Business Phone: ( ) Cell Phone: ( )

Email: yeonokchoi3@gmail.com

**Name of Applicant:** Yeon Lee  
 (If different than Property Owner)

Address: same

City: State: Zip:

Home Phone: ( ) Business Phone: ( ) Cell Phone ( )

Email:

Address/Location of property proposed for FLUM amendment: 307 & 309 Carter Street Killeen, Texas 76541

Legal Description: Lots 6 & 8, Block 4, Sunset Addition

Metes & Bounds or Lot(s) Block Subdivision

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present FLUM Designation: General Residential - (GR) Present Use: SUP/R-1 & R-1 Barber Shop

Proposed FLUM Designation: B-5 Proposed Use: Barber Shop

This property was conveyed to owner by deed dated Aug. 7, 2001 & Dec. 31, 2013 and recorded in Volume 4456, Page 593, Instrument Number 2013-54735 of the Bell County Deed Records. (Attached)

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Killeen Engineering & Surveying, Ltd.

Mailing Address: 2901 E. Stan Schlueter Loop

City: Killeen State: Texas Zip: 76542 -

Home Phone: (     )            Business Phone: (     ) 526-3981 Email: mlee@kesltd.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific FLUM amendment request.**

**I understand that the City will deal only with a fully authorized agent.** At any time it should appear that my agent has less than full authority to act, then the application may be suspended and I will have to personally participate in the disposition of the application. I understand that all communications related to this application are part of an official proceeding of City government and, that the City will rely upon statements made by my agent. Therefore, **I agree to hold harmless and indemnify the City of Killeen, its officers, agents, employees, and third parties who act in reliance upon my agent's words and actions from all damages, attorney fees, interest and costs arising from this matter.** If my property is owned by a corporation, partnership, venture, or other legal entity, then I certify that I have legal authority to make this binding appointment on behalf of the entity, and every reference herein to 'I', 'my', or 'me' is a reference to the entity.

Signature of Agent _____	Title <u>Project Manager</u>
Printed/Typed Name of Agent <u>Michelle Lee</u>	Date _____
Signature of Agent <u><i>Ben Pursif</i></u>	Title <u>" "</u>
Printed/Typed Name of Agent <u>Ben Pursif</u>	Date <u>12-21-16</u>
Signature of Applicant <input checked="" type="checkbox"/> <u><i>Yeon Lee</i></u>	Title <u>Owner/Rep.</u>
Printed/Typed Name of Applicant <u>Yeon Lee</u>	Date <u>12-21-16</u>
Signature of Property Owner <input checked="" type="checkbox"/> <u><i>Yeon Lee</i></u>	Title <u>Owner/Rep.</u>
Printed/Typed Name of Property Owner <u>Yeon Lee</u>	Date <u>12-21-16</u>
Signature of Property Owner <u><i>Theresa M. Hammond</i></u>	Title _____
Printed/Typed Name of Property Owner <u>Theresa M. Hammond</u>	Date <u>12-28-16</u>
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



# City of Killeen

## Legislation Details

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**File #:** PH-17-004B    **Version:** 1    **Name:** Zoning 16-25  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 1/12/2017    **In control:** City Council  
**On agenda:** 2/14/2017    **Final action:**  
**Title:** HOLD a public hearing and consider an ordinance requested by Theresa Marie Hammond and Yong Ok Lee (Case #Z16-25) to rezone Lots 6 and 8, Block 4, Sunset Addition, from "R-1" (Single-Family Residential District) to "B-5" (Business District). The properties are locally known as 307 and 309 Carter Street, Killeen, Texas.  
**Sponsors:** Planning & Development Dept  
**Indexes:**  
**Code sections:**  
**Attachments:** [Council Memorandum](#)  
[Attachment to CCMO](#)  
[Minutes](#)  
[Ordinance](#)  
[Application](#)  
[Location map](#)  
[Buffer map](#)  
[Considerations](#)

Date	Ver.	Action By	Action	Result
2/7/2017	1	City Council Workshop		

## CITY COUNCIL MEMORANDUM

### AGENDA ITEM

**ZONING CASE #Z16-25 "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "B-5" (COMMERCIAL DISTRICT)**

### ORIGINATING DEPARTMENT

**PLANNING & DEVELOPMENT SERVICES**

This request is submitted by Theresa Marie Hammond and Yong Ok Lee to rezone Lots 6 and 8, Block 4, Sunset Addition, from "R-1" (Single-Family Residential District) to "B-5" (Business District) for a proposed barbershop and cafe. The properties are located at 307 and 309 Carter Street, Killeen, Texas. The applicant has also submitted a request for a Future Land Use Map (FLUM) amendment from 'General Residential' to 'General Commercial' to accompany this request.

### **District Descriptions:**

A building or premises in a district "B-5" Business District shall be used only for the following purposes:

- (1) Any use permitted in the "B-4" district
- (2) Building material and lumber sales (outside storage permitted)
- (3) Storage warehouse, greater than twenty-five thousand (25,000) square feet
- (4) Veterinarian clinic or pet kennel with outside pens
- (5) Railroad or bus passenger terminal
- (6) Tire recapping or retreading
- (7) Impound yards provided no salvaging or dismantling is allowed on the property , and site is properly screened
- (8) Any commercial use not included in any other district, provided such use does not involve salvaging, manufacturing, or industrial type storage or dismantling, and is not noxious or offensive because of odors, dust, noise, fumes, or vibrations
- (9) Mobile home sales
- (10) Tattooing (as licensed per V.T.C.A., Health and Safety Code ch. 146, as amended)

### **Property Specifics**

**Applicants/Property Owners:** Theresa Marie Hammond and Yong Ok Lee

**Property Location:** The subject properties are addressed as 307 and 309 Carter Street, Killeen, Texas.

**Legal Description:** Lots 6 and 8, Block 4, Sunset Addition

**Zoning/ Plat Case History:**

- The last zoning activity for this property was approval of a Specific Use Permit (SUP) per Ordinance #00-80 to allow for commercial parking at the rear of the house located at 309 Carter Street. That SUP was for a period of five (5) years.
- The subject lots are platted as part of Sunset Addition, which was filed for record in Cabinet A, Slide 152-B, Plat Records of Bell County, Texas.

### **Character of the Area**

**Existing Land Use(s) on the Property:** This is a residential neighborhood with existing single-family structures.

**Historic Properties:** There are no historic structures on this property.

### **Figure 1. Zoning Map**

See attachment.

### **Infrastructure and Community Facilities**

#### **Water, Sewer and Drainage Services:**

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water and sewer infrastructure is immediately available to the property. The property owners and their agents are cautioned that unknown or unforeseen site conditions may require remedial action to provide safe and adequate water, sewer, or drainage service to the property. Further, City of Killeen development regulations require that capacity analyses related to development of the property are the sole responsibility of the owner. The owner or his agents, acting as the permit applicant for the subject property, shall coordinate tie-in to all publicly dedicated infrastructure with the Public Works Department.

#### **Transportation:**

Existing conditions: Carter Street is classified as a 60' local street on the City's adopted thoroughfare P\plan.

Proposed Improvements: There are no proposed improvements.

Projected Traffic Generation: Undetermined.

### **Environmental Assessment**

**Topography/Regulated Floodplain/Floodway/Creek:** This site does not lie within a FEMA regulatory Special Flood Hazard Area (SFHA).

### **Land Use Analysis**

**Land Use Plan:** This area is designated as 'General Residential' on the Future Land Use Map (FLUM) of the Comprehensive Plan.

**Plan Recommendation:** The Comprehensive Plan's 'General Residential' designation encompasses detached, residential dwelling units, attached housing types, planned

developments, and parks and public/ institutional places. The Comprehensive Plan considers 'General Residential' to be of a medium intensity category/character and states that "neighborhood-scale commercial uses are expected to emerge over time and should be encouraged on sites and in locations within (or near the edge of) 'General Residential' areas that are best suited to accommodate such uses while ensuring compatibility with nearby residential uses."

**Consistency:** This request is not consistent with the Comprehensive Plan; the Planning and Zoning Commission recommended approval of 'Residential-Commercial Mix' (RC-MIX), which allows a mix of residential types and a variety of commercial and light industrial activities at their meeting of January 23, 2017.

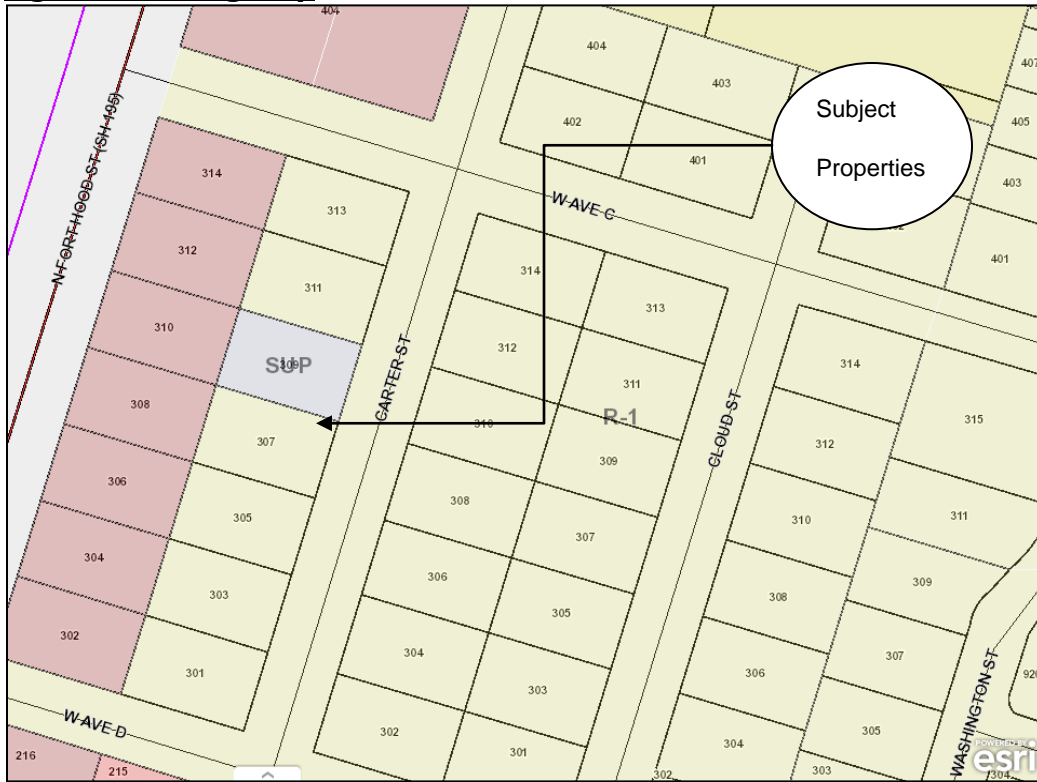
### **Public Notification**

The staff notified twenty-four (24) surrounding property owners regarding this request. Staff has received no protests.

### **Recommendation**

The Planning & Zoning Commission recommended approval of "B-2" (Local Retail District) by a vote of 7 to 0. The "B-2" zoning district will allow a barbershop and café and is the most restrictive district in which the proposed uses are allowed.

**Figure 1. Zoning Map**





**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
JANUARY 23, 2017**

**CASE #Z16-25  
“R-1” to “B-5”**

**HOLD a public hearing and consider a request submitted by Theresa Marie Hammond, Yeon Ok Park and Yeon Ok Choi Lee, to rezone Lots 6 and 8, Block 4, Sunset Addition, from “R-1” (Single-Family Residential District) to “B-5” (Business District) for a proposed barbershop and cafe. The properties are locally known as 307 and 309 Carter Street, Killeen, Texas.**

Chairman Frederick requested staff comments.

City Planner, Tony McIlwain, stated this request is the second component of the public hearing, and that the property owners request to rezone from “R-1” to “B-5” and the intent of the property owner is to redevelop the site. Staff does not support “B-5” (Business District) zoning for the two properties. The request is not consistent with the Comprehensive Plan’s Future Land Use Map (FLUM). The full range of the “B-5” zoning district allows land uses that are incompatible with the adjacent residential homes. Staff is in support of “B-2” (Local Retail District). This zoning would be more compatible with the surrounding properties.

The staff notified twenty-four (24) surrounding property owners regarding this request. No responses were received.

Mr. Dan Corbin, 603 N. 6<sup>th</sup> Street, Killeen, Texas, was present to represent this request.

Chairman Frederick opened the public hearing. With no one requesting to speak, the public hearing was closed.

Vice Chair Dorroh motioned to recommend approval of “B-2” (Local Retail District). Commissioner Cooper seconded the motion. The motion passed unanimously.

Chairman Frederick stated that this request will be forwarded to City Council with a recommendation to approve.

**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF CERTAIN PROPERTY OUT OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, FROM “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO “B-2” (LOCAL RETAIL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS,** Theresa Marie Hammond and Yong Ok Lee have presented to the City of Killeen a request for amendment of the zoning ordinance of the City of Killeen by changing the classification of Lots 6 and 8, Block 4, Sunset Addition, which are more specifically known as 307 and 309 Carter Street, Killeen, Texas, from “R-1” (Single-family Residential District) to “B-5” (Business District), said request having been duly presented and recommended for approval of “B-2” (Local Retail District) by the Planning and Zoning Commission of the City of Killeen on the 23rd day of January 2017, and due notice of the filing of said request and the date of hearing thereon was given as required by law, and hearing on said request was set for 5:00 P.M., on the 14th day of February 2017, at the City Hall, City of Killeen;

**WHEREAS,** the City Council at said hearing duly considered said request, the action of the Planning and Zoning Commission and the evidence in support thereof, and the City Council being of a majority that the recommendation of “B-2” should be approved;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**Section I.** That the zoning classification of the following described tract be changed from “R-1” (Single-family Residential District) to “B-2” (Local Retail District) for Lots 6 and 8, Block 4, Sunset Addition, which are more specifically known as 307 and 309 Carter Street, Killeen, Texas.

**Section II.** That should any section or part of this ordinance be declared unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or effect of any other section or parts of this ordinance.

**Section III.** That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

**Section IV.** That this ordinance shall take effect immediately upon passage of the ordinance.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 14th day of February 2017, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED:**

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**Jose L. Segarra, MAYOR**

**ATTEST:**

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**Dianna Barker, CITY SECRETARY**

**APPROVED AS TO FORM**

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**Kathryn H. Davis, City Attorney**

Case #16-25  
Ord. # 17-



Date Paid: 12/21/16  
 Amount Paid: \$ 300.00  
 Cash/MO #/Check #: # 2577  
 Receipt #: 0481

CASE #: Z16-25

## City of Killeen Zoning Change Application

General Zoning Change \$300.00 [ ] Conditional Use Permit \$500.00

Name(s) of Property Owner: Theresa Marie Hammond, Yeon Ok Choi Lee, Kun Y. Park, & Yeon Ok Park

Current Address: 310 N. Fort Hood Street

City: Killeen State: Texas Zip: 76541 -

Home Phone: (254) 628-8884 Business Phone: (254)  Cell Phone: (254)

Email: yeonokchoi3@gmail.com

Name of Applicant: Yeon Lee

(If different than Property Owner)

Address: same

City:  State:  Zip:

Home Phone: (  )  Business Phone: (  )  Cell Phone (  )

Email:

Address/Location of property to be rezoned: 307 & 309 Carter Street Killeen, Texas 76541

Legal Description: Lots 6 & 8, Block 4, Sunset Addition

Metes & Bounds or Lot(s) Block Subdivision

Is the rezone request consistent with the Comprehensive Plan? YES  NO

If NO, a FLUM amendment application must be submitted.

Type of Ownership:  Sole Ownership  Partnership  Corporation  Other

Present Zoning: SUP/R-1 & R-1 Present Use: Barber Shop Residential

Proposed Zoning: B-5 Proposed Use: Barber Shop & Cafe

Conditional Use Permit for:

This property was conveyed to owner by deed dated Aug. 7, 2001 & Dec. 31, 2013 and recorded in Volume 4456, Page 593, Instrument Number 2013-54735 of the Bell County Deed Records. (Attached)

Is this the first rezoning application on a unilaterally annexed tract?  
 Yes  (Fee not required) No  (Submit required fee)

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Killeen Engineering & Surveying, Ltd.

Mailing Address: 2901 E. Stan Schlueter Loop

City: Killeen State: Texas Zip: 76542 - \_\_\_\_\_

Home Phone: (\_\_\_\_) \_\_\_\_\_ Business Phone: (\_\_\_\_) 526-3981 Email: mlee@kesltd.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City; make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific zoning request.**

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Signature of Agent _____	Title <u>Project Manager</u>
Printed/Typed Name of Agent <u>Michelle Lee</u>	Date _____
Signature of Agent <u>Ben Purser</u>	Title <u>"</u>
Printed/Typed Name of Agent <u>Ben Purser</u>	Date <u>12-21-16</u>
Signature of Applicant <u>[Signature]</u>	Title <u>Owner/Rep.</u>
Printed/Typed Name of Applicant <u>Yeon Lee</u>	Date <u>12-21-16</u>
Signature of Property Owner <u>[Signature]</u>	Title <u>Owner/Rep.</u>
Printed/Typed Name of Property Owner <u>Yeon Lee</u>	Date <u>12-21-16</u>
Signature of Property Owner <u>Theresa M. Hammond</u>	Title _____
Printed/Typed Name of Property Owner <u>Theresa M. Hammond</u>	Date <u>12-28-16</u>
Signature of Property Owner _____	Title _____
Printed/Typed Name of Property Owner _____	Date _____

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.

## APPOINTMENT OF AGENT

As owner of the subject property, I hereby appoint the person designated below to act for me, as my agent in this request.

Name of Agent: Dan Corbin

Mailing Address: 603 W 8th St


City: Killeen State: TX Zip: 76541

Home Phone: (254) 526-4523 Business Phone: ( ) Email: legal@corbinlegaleam.com

I acknowledge and affirm that I will be legally bound by the words and acts of my agent, and by my signature below, I fully authorize my agent to:

**be the point of contact between myself and the City: make legally binding representations of fact and commitments of every kind on my behalf; grant legally binding waivers of rights and releases of liabilities of every kind on my behalf; to consent to legally binding modifications, conditions, and exceptions on my behalf; and, to execute documents on my behalf which are legally binding on me. This authorization only applies to this specific FLUM amendment request.**

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Signature of Agent  Title attorney

Printed/Typed Name of Agent Daniel A. Corbin Date 12/28/14

Signature of Agent \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Agent \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

Signature of Property Owner \_\_\_\_\_ Title \_\_\_\_\_

Printed/Typed Name of Property Owner \_\_\_\_\_ Date \_\_\_\_\_

\*Application must be signed by the individual applicant, by each partner of a partnership, or by an officer of a corporation or association.



**PLANNING AND  
DEVELOPMENT SERVICES**

**ZONING CASE:**

Z16-25

**ZONING FROM:**

R-1 & R-1 w/SUP To B-5

**APPLICANT:**

KILLEEN ENGINEERING &  
SURVEYING, LTD.

**PROPERTY OWNER:**

THERESA MARIE HAMMOND,  
YEON OK CHOI LEE

**LEGAL DESCRIPTION:**

SUNSET ADDITION,  
BLOCK 4, LOT 6 & 8

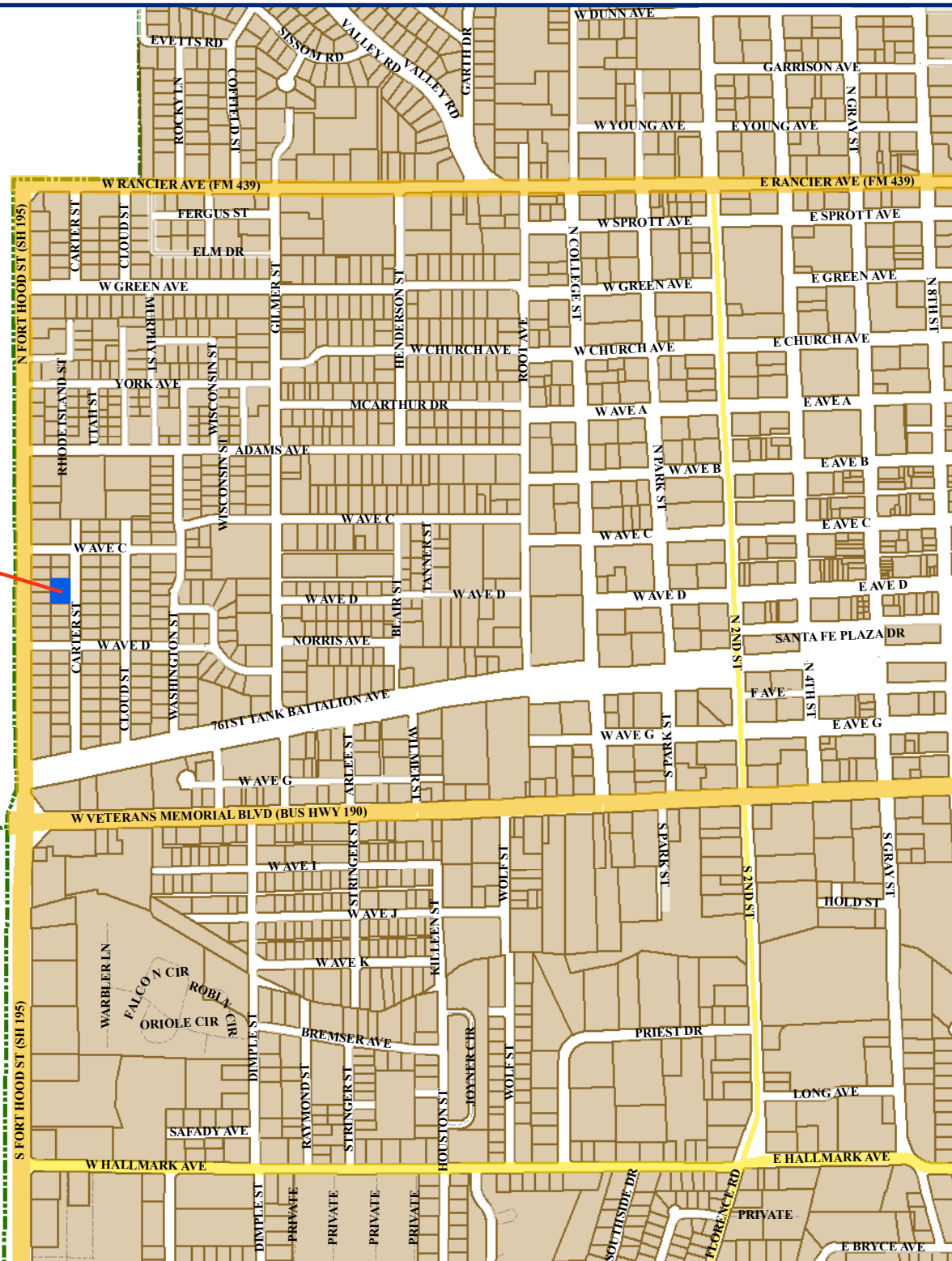
**Legend**

-  Zoning Case
-  Parcel
-  City Limits



Date: 12/28/2016

**PROJECT  
LOCATION**







# PLANNING AND DEVELOPMENT SERVICES

## ZONING CASE:

Z16-25

## ZONING FROM:

R-1 & R-1 w/SUP To B-5

## APPLICANT:

KILLEEN ENGINEERING & SURVEYING, LTD.







## PROPERTY OWNER:

THERESA MARIE HAMMOND,  
YEON OK CHOI LEE

## LEGAL DESCRIPTION:

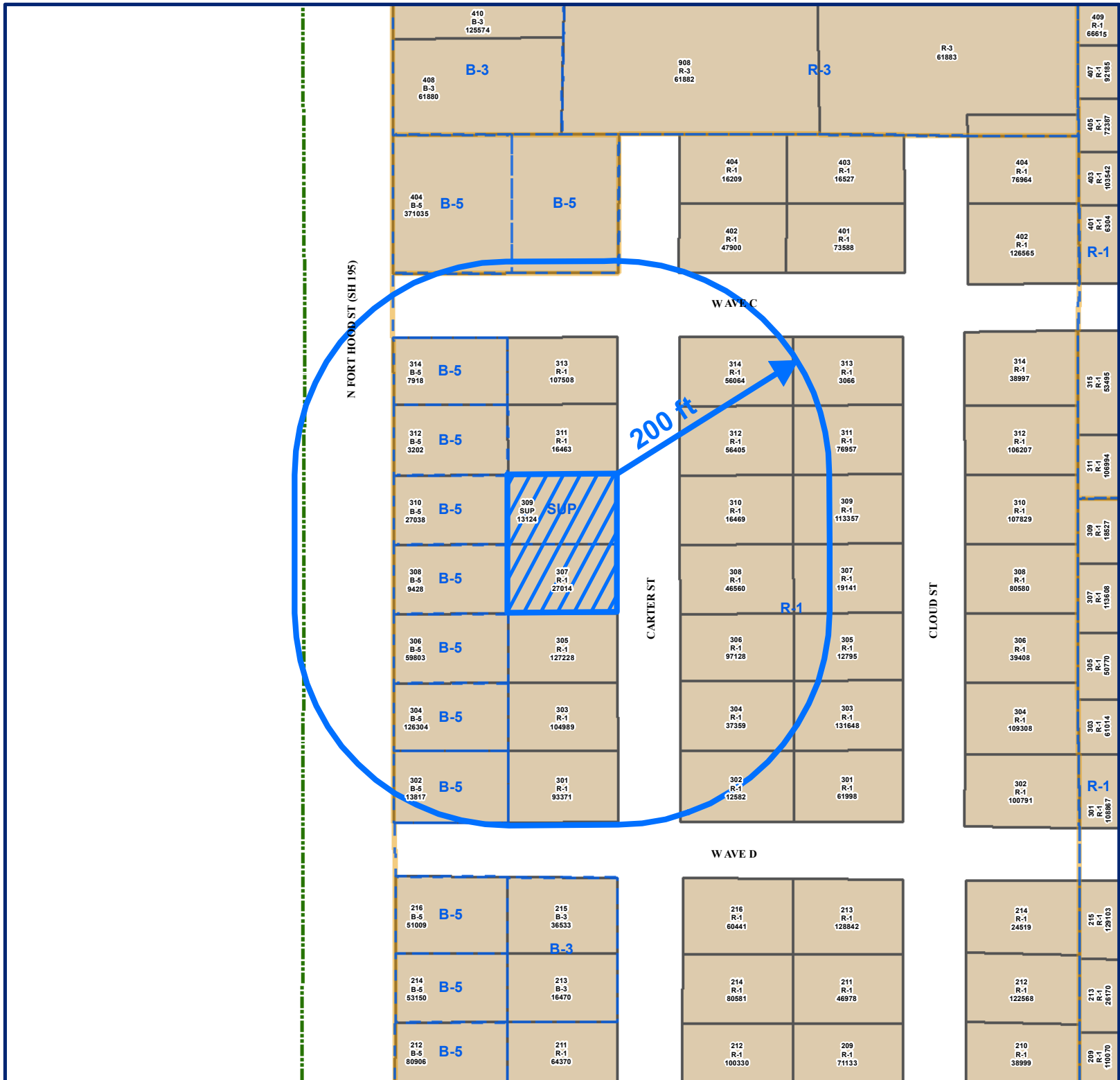
SUNSET ADDITION,  
BLOCK 4, LOT 6 & 8

## LEGEND

-  200' Buffer
-  Zoning Case
-  Current Zoning
-  Subdivision
-  Parcel
-  City Limits



Date: 12/28/2016



# CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

## **A. General Factors to Consider:**

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

Any other factors which will substantially affect the health, safety, morals or general welfare.

## **B. Conditional Use Permit (if applicable)**

Whether the use is in harmonious with and adaptable to buildings, structures and use of abutting property and other property in the vicinity of the premises under construction.

## **C. Conditions to Consider**

1. Occupation shall be conducted only by members of family living in home.
2. No outside storage or display
3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
4. Cannot allow the performance of the business activity to be visible from the street.
5. Cannot use any window display to advertise or call attention to the business.
6. Cannot have any signs
7. No off-street parking or on-street parking of more than two (2) vehicles at any one time for business related customer parking.
8. No retail sales.
9. Length of Permit.