



City of Killeen

Agenda City Council

Tuesday, April 26, 2022

5:00 PM

City Hall
Council Chambers
101 N. College Street
Killeen, Texas 76541

Call to Order and Roll Call

- | | |
|--|---|
| <input type="checkbox"/> Debbie Nash-King, Mayor | <input type="checkbox"/> Mellisa Brown |
| <input type="checkbox"/> Rick Williams | <input type="checkbox"/> Nina Cobb |
| <input type="checkbox"/> Riakos Adams | <input type="checkbox"/> Jessica Gonzalez |
| <input type="checkbox"/> Michael Boyd | <input type="checkbox"/> Ken Wilkerson |

Invocation

Pledge of Allegiance

Approval of Agenda

Citizen Comments

This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one time, and such address shall be limited to four (4) minutes. The Presiding Officer may allow a one (1) minute extension, if requested at the end of the original three (3) minute period. A majority vote of the City Council is required for any other time extensions.

Discussion Items

1. [DS-22-053](#) Receive Update from Appraisal District of Bell County

Consent Agenda

2. [MN-22-010](#) Consider Minutes of Special City Council Meeting of March 29, 2022.
3. [RS-22-051](#) Consider a memorandum/resolution accepting the annual audit report for the fiscal year ended September 30, 2021.
4. [RS-22-052](#) Consider a memorandum/resolution authorizing the purchase of solar LED lighting for the Conder Park Parking Lot and Long Branch Park from JEC Energy Solutions in the amount of \$122,370.19.

Attachments: [Quotes](#)
[ARPA Appendix A](#)
[Certificate of Interested Parties](#)

[Presentation](#)

5. [RS-22-053](#) Consider a memorandum/resolution authorizing a fireworks display at the Killeen Athletic Complex on July 2, 2022.
Attachments: [Application](#)
[Presentation](#)
6. [RS-22-054](#) Consider a memorandum/resolution updating the Interlocal Automatic Aid Agreement for Fire and EMS Services with the City of Harker Heights.
Attachments: [Interlocal Agreement](#)
[Auto Aid Map](#)
[Presentation](#)
7. [RS-22-055](#) Consider a memorandum/resolution approving an Interlocal Automatic Aid Agreement for Fire and EMS Services with the City of Belton.
Attachments: [Interlocal Agreement](#)
[Presentation](#)
8. [RS-22-056](#) Consider a memorandum/resolution approving a professional services agreement with Garver, LLC, for the Apron Rehabilitation Phase II project at the Killeen Fort Hood Regional Airport, in the amount of \$63,600.
Attachments: [Agreement](#)
[Certificate of Interested Parties](#)
[Presentation](#)
9. [RS-22-057](#) Consider a memorandum/resolution accepting the FY 2021 Edward Byrne Memorial Justice Assistance Grant (JAG) Award and approving an Interlocal Agreement with the City of Temple and Bell County.
Attachments: [Interlocal Agreement](#)
[Presentation](#)

Public Hearings

10. [PH-22-028](#) HOLD a public hearing and consider an ordinance amending the FY 2022 Annual Budget of the City of Killeen to adjust revenue and expenditure accounts in multiple funds.
Attachments: [Ordinance](#)
[Presentation](#)
11. [PH-22-029](#) HOLD a public hearing and consider an ordinance amending the Code of Ordinances Chapter 31 Zoning, adopting architectural and site design standards.
Attachments: [Ordinance](#)
[Presentation](#)

12. [PH-22-030](#) HOLD a public hearing and consider an ordinance requested by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (Case #FLUM 22-12) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Suburban Residential' (SR) designation to a 'Suburban Commercial' (SC) designation for approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1. The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.

Attachments: [Maps](#)

[Minutes](#)

[Ordinance](#)

[Presentation](#)

13. [PH-22-031](#) HOLD a public hearing and consider an ordinance requested by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (Case #Z22-17) to rezone approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District). The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.

Attachments: [Maps](#)

[Site Photos](#)

[Minutes](#)

[Ordinance](#)

[Considerations](#)

[Presentation](#)

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 April 22, 2022.

Lucy C. Aldrich, 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.

- NAACP Freedom Fund Banquet, April 22, 2022, 6:00 p.m., Killeen Civic and Conference Center*
- Tailwinds Concession Ribbon Cutting, April 28, 2022, 4:00 p.m., Killeen Fort Hood Regional Airport*
- Bunny Trail Reconstruction Project Open House, May 4, 2022, 6:00 p.m., Haynes Elementary School*
- National Day of Prayer, May 5, 2022, 12:00 p.m., Killeen City Hall*
- Military Relations Luncheon, May 6, 2022, 11:30 a.m., National Mounted Warrior Museum*
- Bell County Police Memorial Ceremony, May 10, 2022, 10:00 a.m., Killeen Police Headquarters*
- 75th Killeen Rodeo, May 19-21, 2022, 7:30 p.m., Killeen Rodeo Grounds*

Dedicated Service -- Every Day, for Everyone!



City of Killeen

Staff Report

File Number: DS-22-053

Receive Update from Appraisal District of Bell County



City of Killeen

Staff Report

File Number: MN-22-010

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider Minutes of Special City Council Meeting of March 29, 2022.

City of Killeen
Special City Council Meeting
Killeen City Hall
March 29, 2022 at 5:00 p.m.

Presiding: Mayor Debbie Nash-King

Attending: Councilmembers Jessica Gonzalez, Nina Cobb (arrived at 5:04 p.m.), Michael Boyd, Ken Wilkerson, Rick Williams, and Mellisa Brown

Vacant: District 2 Seat

Also attending were Assistant City Manager Danielle Singh, City Attorney Traci Briggs, City Secretary Lucy Aldrich, and Sergeant-at-Arms Papp

Approval of Agenda

Motion was made by Councilmember Boyd to approve the agenda as written. Motion was seconded by Councilmember Gonzalez. The motion carried unanimously.

Citizen Comments

Mr. Ronnie Russell spoke on agenda item RS-22-037.
Ms. Amani Mitchell spoke on agenda item RS-22-037.
Ms. Khandiese Cooper spoke on agenda item RS-22-037.
Ms. Cassandra Owens spoke on agenda item RS-22-037.
Ms. Jessica Webster spoke on agenda item RS-22-037.
Mr. Eric Franklin spoke on agenda item RS-22-037.
Ms. Toni Ringgold spoke on agenda item RS-22-037.
Ms. Carla Medina spoke on agenda item RS-22-037.
Mr. Sean Price spoke on agenda item RS-22-037.
Mr. Roland Stewart spoke on agenda item RS-22-037.
Mr. Victor Vinziant spoke on agenda item RS-22-037.
Ms. Maraa Johns spoke on agenda item RS-22-037.
Mr. Zion Ringgold spoke on agenda item RS-22-037.

Discussion Items

DS-22-037 Discuss Small Business Applications for American Rescue Plan Act Funding.

Staff Comments: Danielle Singh, Assistant City Manager

Ms. Singh gave a brief update in the application process. While reviewing applications, it was brought to her attention that two businesses have requested for the city to consider providing a letter of intent of funding in order for them to move forward with the initial phases of purchasing buildings downtown for their businesses. Ms. Singh

further requested for City Council to provide a direction for staff to follow as review of the applications is conducted. Suggestions from Ms. Singh included: is the business currently operating; have they identified/secured a downtown location; and is the application complete.

Motion of direction was made by Councilmember Wilkerson for staff to draft a letter of intent as requested. Councilmember Cobb seconded the motion of direction. During discussions, Councilmember Cobb withdrew her second. Without a second, the motion of direction died. Motion of direction was made by Councilmember Gonzalez to close the application submission on April 12, 2022. Councilmember Wilkerson seconded the motion of direction. Motion of direction carried unanimously. Motion of direction was made by Councilmember Wilkerson for staff to draft a letter of intent to both business owners without a specific fiscal amount noted. Councilmember Williams seconded the motion of direction. Councilmember Brown made an amendment to the motion of direction to include in the letters of intent that the City would provide funding in the amount of \$90,000 to Ms. Ringgold and \$40,000 to Ms. Cooper. Without a second, the motion to amend the motion of direction died. Motion of direction carried unanimously. Motion of direction was made by Councilmember Brown to approve Ms. Singh's recommended application criteria and bring back applicable applications for City Council consideration at the May 3, 2022 City Council Workshop Meeting. Councilmember Gonzalez seconded the motion of direction. Motion of direction carried 5 to 1 with Councilmember Williams in opposition.

DS-22-038 Conduct and Discuss Interviews for District 2 Applicants.

Mayor Nash-King asked City Council if they would like to conduct the interviews in open or closed session. A consensus of the City Council requested closed session as has been done historically.

At 7:00 p.m. Mayor Nash-King called for City Council to recess the meeting to Executive Session.

Per V.T.C.A, Government Code Section 551.074, the City Council will conduct and discuss interviews for the District 2 applicants.

At 8:59 p.m., Mayor Nash-King reconvened the City Council meeting.

Resolutions

RS-22-045 Consider a memorandum/resolution appointing a Councilmember to fill the unexpired term for District 2.

Following the resignation of Mayor Segarra, Mayor Protem Nash-King (District 2) was sworn in as Mayor leaving the District 2 seat vacant. City Council solicited applications for the vacancy and conducted interviews.

Motion was made by Councilmember Gonzalez to approve RS-22-045, the appointment of Mr. Riakos Adams to serve the remaining term of District 2. Motion was seconded by Councilmember Cobb. Motion carried 5 to 0, Councilmember Brown was not at the dais when the vote was taken.

Oath of Office & Standards of Conduct

City of Killeen City Secretary Lucy Aldrich administered the Oath of Office to Riakos Adams. Mr. Adams signed the Standards of Conduct form and joined City Council on the dais.

Adjournment

With no further business, upon motion being made by Councilmember Wilkerson, seconded by Councilmember Williams, and unanimously approved, the meeting was adjourned at 9:04 p.m.



City of Killeen

Staff Report

File Number: RS-22-051

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution accepting the annual audit report for the fiscal year ended September 30, 2021.

DATE: April 19, 2022
TO: Kent Cagle, City Manager
FROM: Jonathan Locke, Executive Director of Finance
SUBJECT: FY 2021 Annual Audit

BACKGROUND AND FINDINGS:

The City Council previously approved the engagement of Belt Harris Pechacek, LLLP to perform the independent audit of the City’s financial records for the fiscal year ended September 30, 2021.

Belt Harris Pechacek, LLLP has completed its audit of the City of Killeen, as well as a Federal Single Audit, and Passenger Facility Charge Audit. Representatives of the firm will present the results of the audit to the City Council.

The City’s audits are required to be performed in accordance with generally accepted auditing standards set forth in the General Accounting Office’s (GAO) Government Auditing Standards, the provision of the Single Audit Act Amendments of 1996, the U.S. Office of Management and Budget (OMB) Uniform Guidance, and Audits of State and Local Governments.

The audit provides reasonable assurance that the financial statements of the City of Killeen for the fiscal year ended September 30, 2021, are free from material misstatement. The audit report has been compiled to meet all required provisions of the Government Accounting Standards Board.

THE ALTERNATIVES CONSIDERED:

1. Reject the annual audit report for the fiscal year ended September 30, 2021.
2. Accept the annual audit report for the fiscal year ended September 30, 2021.

Which alternative is recommended? Why?

Option number 2 is recommended.

CONFORMITY TO CITY POLICY:

Conforms to City Charter, Article III, Section 40 and the Financial Governance Policy VII.C External Audit

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

N/A

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

N/A

RECOMMENDATION:

City Council accept the annual audit report for the fiscal year ended September 30, 2021.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

N/A



City of Killeen

Staff Report

File Number: RS-22-052

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution authorizing the purchase of solar LED lighting for the Conder Park Parking Lot and Long Branch Park from JEC Energy Solutions in the amount of \$122,370.19.

DATE: April 19, 2022

TO: Kent Cagle, City Manager

FROM: Joe Brown, Executive Director of Recreation Services

SUBJECT: Solar LED Lighting for Conder Park Parking Lot and Long Branch Park

BACKGROUND AND FINDINGS:

Recreation Services (RS) is seeking to install solar LED lights at the Conder Park Parking Lot and Long Branch Park by the splash pad. There are currently no parking lot lights at Conder Park and no lights at Long Branch Park by the splash pad. With solar LED lighting, the City of Killeen will save on this expense, while eliminating the cost of repairs due to vandalism. This park amenity will address a concern from the community over the years which was included in our recently approved Parks Master Plan, that our parks are dark and feel unsafe once the sun goes down.

Conder Park has limited lighting within the park and no existing parking lot lights. RS is currently working on a project to renovate both parks using ARPA and CDBG funds. RS staff will install eighteen (18) new twenty (20) foot light poles and eighteen (18) sixty-watt AiO Solar LED lights. The purchase will include an anchor base, base cover, light poles and the solar LED light panel. RS staff will install the new light poles on a poured concrete pedestal.

RS is also seeking to add four (4) new light fixtures within Long Branch Park by the splash pad. Long Branch Park has no lighting in that area. The four (4) twenty-four (24 foot) poles include sixteen (16), four (4) per pole, sixty-watt solar LED lights, 12,000 lumens, anchor base, base cover, and the smart solar LED light panel. RS staff will install the new light poles in a ground mount at two (2) feet deep.

At Conder Park and Long Branch Park, the All-in-One Smart Solar LED light panel will include a 5-year warranty. The all-in-one system includes the integrated solar panel, sixty-watt solar LED lights with 12,000 lumens, battery, battery charger, and motion sensor controls. There is no power or wiring required, limiting vandals from stealing or damaging wires. The bright LED light includes motion sensors, with instant on/off capabilities. The lights have a nine (9) hour charge time and operate for three to four days on intelligent mode. There is no flickering or buzzing, and the lights will create a brighter, safer environment for citizens utilizing Conder and Long Branch Parks.

THE ALTERNATIVES CONSIDERED:

Option 1 - Do not approve the purchase of the solar LED lights

Option 2 - Approve the purchase of the solar LED lights

Which alternative is recommended? Why?

Recreation Services staff recommends City Council approve the purchase of the solar LED lights for Conder and Long Branch parks from JEC Energy Solutions through Texas Buyboard contract #628-20. The new light system is energy efficient, vandal resistant, and safer for the citizens who utilize the parks. Funds were approved and are available this fiscal year, from the approved FY22 ARPA funds. From the date of ordering the lights, the process of having these new lights installed is approximately eight-ten (8-10) weeks (4-6 weeks for delivery, and 2-4 weeks for installation). The purchase will include the cost of the solar LED light systems, for both parks. The lights will be installed by City staff. This park amenity will address a concern from the community which was included in our recently adopted Parks Master Plan, that our parks are dark and feel unsafe once the sun goes down.

CONFORMITY TO CITY POLICY:

JEC Energy Solutions is a member of the Texas BuyBoard Purchasing Cooperative. Purchases made through a cooperative contract satisfies the state competitive bidding requirements as stated in Texas Local Government Code section 271.102, subchapter F; a local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

Expenditure in FY 2022 would be \$122,370.19, which includes the purchase, installation of trail lights and a 5-year warranty. Maintenance of lights will be incorporated into the maintenance budget.

Is this a one-time or recurring expenditure?

One-time expenditure of \$122,370.19. Recurring maintenance expenditures over the life of the lights will be built into the maintenance budget.

Is this expenditure budgeted?

Yes, funds are available in Governmental CIP accounts 349-8930-493.6903. Conder Park is \$73,791.10 and Long Branch Park is \$48,579.09 for a total cost of \$122,370.19.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes

RECOMMENDATION:

Recreation Services staff recommends City Council approve the purchase of the solar LED lights for both parks from JEC Energy Solutions in the amount of \$122,370.19 in FY22 and that the City Manager or designee be authorized to execute any change orders as permitted by state and local law.

DEPARTMENTAL CLEARANCES:

Legal
Purchasing
Finance

ATTACHED SUPPORTING DOCUMENTS:

Quotes
ARPA Appendix A
Certificate of Interested Parties

Date: 3/16/2022



Project: 18 SOLAR LIGHTS - CONDER PARK - PARKING LOT
SOLAR AiO LED PROPOSAL
PHOTOMETRIC PROVIDED

Company: CITY OF KILLEEN
Contact Name: LUKE BEHRENS
Street: 810 CONDER ST
City, State, Zip: KILLEEN, TX 76541
Email: lbehrens@killeentexas.gov
Phone: 254-200-7948

PROPOSAL PREPARED BY:
Contact: MARSHALL BURTON
Email: marshall@jeces1.com
Phone: 214.708.1448

Plan Type	Qty	JEC Model No.	Location/Description	Unit Price	Ext Price
1	18	JEC-XA1-LED-AiO-60W-MS	60W AiO SOLAR LED WITH MOTION SENSOR 12,000LM	\$2,048.44	\$ 36,871.92
2	18	JEC-APO-SSP-20X4 BOLT DOWN POLE	20 FOOT ROUND 4" POLE BOLT DOWN - STANDARD BLACK COLOR	\$1,580.64	\$ 28,451.52
	0	AIRFREIGHT SOLAR LIGHTS		\$ 15,000.00	\$ 15,000.00
	0	10% DISCOUNT PER CONTRACT 592-19 (ON SOLAR LIGHTS AND POLES ONLY)		\$ (6,532.34)	\$ (6,532.34)
				Total Quote	\$ 73,791.10
				SALES TAX	\$ -
				TOTAL INVESTMENT	\$ 73,791.10

Payment Schedule

Downpayment: 50% of Lump Sum at Signing	\$ 36,895.55
50% Due upon Delivery of Materials	\$ 36,895.55
Total Out of Pocket	\$ 73,791.10

Terms and Conditions:

PAYMENTS: Per Payment Schedule above.

WARRANTIES: New LED Fixtures 60 months, LED Light Bulbs same as Manufacturer's Warranty.

SCHEDULE: After downpayment is received 90 days for delivery.

After downpayment is received, the complete order is manufactured and this contract is not cancellable.

If all proposed items/quantities are not ordered, proposed prices are subject to change.

Your order will be subject to acceptance by JECES.

This quote is valid for 90 days. JEC may increase the price of Airfreight due to supply chain rates.

 LUKE BEHRENS

 JECES

Date: 3/16/2022



Project: LONG BRANCH PARK
SOLAR AiO LED PROPOSAL

Company: CITY OF KILLEEN
Contact Name: LUKE BEHRENS
Street: 810 CONDER ST
City, State, Zip: KILLEEN, TX 76541
Email: lbehrens@killeentexas.gov
Phone: 254-200-7948

PROPOSAL PREPARED BY:
Contact: Marshall Burton
Email: marshall@jeces1.com
Phone: 214.708.1448

Plan Type	Qty	JEC Model No.	Location/Description	Unit Price	Ext Price
1	16	JEC-XA1-LED-AiO-60W-MS-5K	LED SOLAR LIGHT 60W 5000K 12000LM WITH MOTION SENORS (BLACK)	\$2,048.44	\$ 32,775.04
2	4	JEC-DBP-24X4	24FT 4INCH BLACK ROUND BLACK POLE DIRECT BURIAL	\$1,456.32	\$ 5,825.28
3	4	JEC-4LIGHT POLE MOUNT	4 LIGHT BLACK POLE MOUNT WITH POLE MOUNT ADAPTOR	\$233.00	\$ 932.00
4	1	AIRFREIGHT SOLAR LIGHTS		\$13,000.00	\$ 13,000.00
	0	10% DISCOUNT PER CONTRACT 592-19 (ON MATERIALS ONLY)		\$ (3,953.23)	\$ (3,953.23)
				Total Quote	\$ 48,579.09
				SALES TAX	\$ -
				TOTAL INVESTMENT	\$ 48,579.09

Payment Schedule

Downpayment: 50% of Lump Sum at Signing	\$ 24,289.55
50% Due upon Delivery of Materials	\$ 24,289.55
Total Out of Pocket	\$ 48,579.10

Terms and Conditions:

PAYMENTS: Per Payment Schedule above.

WARRANTIES: New LED Fixtures 60 months, LED Light Bulbs same as Manufacturer's Warranty.

SCHEDULE: After downpayment is received 90 days for delivery.

After downpayment is received, the complete order is manufactured and this contract is not cancellable.

If all proposed items/quantities are not ordered, proposed prices are subject to change.

Your order will be subject to acceptance by JECES.

This quote is valid for 90 days. JEC may increase the price of Airfreight due to supply chain rates.

LUKE BEHRENS

JECES



Contract Verification

Texas law provides that a governmental entity may not enter into certain contracts for goods and services with a company unless the company provides written verification regarding aspects of the company's business dealings.

- o Texas Government Code, Chapter 2271 – the company must verify that it does not boycott Israel and will not boycott Israel during the term of the contract. *Boycott Israel is defined in Government Code Chapter 808.*
- o Texas Government Code, Chapter 2274 – the company must verify that it does not boycott energy companies and will not boycott energy companies during the term of the contract. *Boycott energy company is defined in Government Code Chapter 809.*
- o Texas Government Code, Chapter 2274 – the company must verify that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Verification is not required from a sole source provider. *Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.*

Affected by the above statutes are contracts 1) with a company with ten (10) or more full-time employees, and 2) valued at \$100,000 or more to be paid wholly or partly from public funds. A contract with a sole proprietorship is not included.

By signing below, I verify that the company listed below does not boycott Israel, does not boycott energy companies and does not discriminate against firearms entities or firearm trade associations and will not do so during the term of the contract entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.

Joseph Ehler

Signature

JOSEPH EHRLER

Printed Name

1/27/2022

Date

JEC ENERGY SOLUTIONS

Company Name

CFO

Title

Appendix A
Required Contract Clauses
2 C.F.R. § 200.326 and 2 C.F.R. Part 200

1. Remedies.

- a. Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A. All remedies are stipulated in the Purchase Order Terms and Conditions.
- b. Applicability: This requirement applies to all FEMA grant, cooperative agreement programs, and City contracts that are funded through federal awards and grants.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant, cooperative agreement programs, and City contracts that are funded through federal awards and grants. The Termination for Cause and Convenience is in the City's Purchase Order Terms and Conditions.

3. Equal Employment Opportunity.

- a. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60- 1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶C.
- b. Key Definitions.
 - (1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

- (2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines "construction work" as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Applicability. This requirement applies and the clauses incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

c. .During the performance of this Contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (3) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or

workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. As amended (40 U.S.C. 3141-3148). When required by Federal Program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.
- b. In accordance with the statute, Contractors are required to pay wages to laborers

and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors are required to pay ‘wages not less than once a week.

- c. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding- agency.
- d. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or sub recipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to federal awarding agency.

e. Compliance with the Davis-Bacon Act

All transactions regarding this Purchase Order hereby incorporates the requirements of compliance with the Davis-Bacon Act (40U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). Contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractors are required to pay ‘wages not less than once a week.

f. Compliance with the Copeland "Anti-Kickback" Act.

All transactions regarding this Purchase Order hereby incorporates the requirements of compliance with the Copeland “Anti-Kickback” Act:

(1) Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract

clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

5. Contract Work Hours and Safety Standards Act.

Applicability: This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. All Contractors awarded by the City of Killeen entity in excess of \$100,000 that involve the employment of mechanics or laborers must comply with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶E.
- b. Under 40 U.S.C. § 3702, each Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- c. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- d. In accordance with 29 C.F.R. § 5.5(b) the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act are hereby incorporated:

Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any pay of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and

subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

6. Rights to Inventions Made Under a Contract or Agreement.

This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. If the Federal award and grants meet the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the City of Killeen or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the City hereby incorporates the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by the federal awarding agency into the contract. See 2 C.F.R. Part 200, Appendix II, ¶ F.
- b. The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the

performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. Clean Air Act

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

- (2) The Contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government} will, in tum, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- (3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by the federal awarding agency.

- b. Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

- (2) The contractor agrees to report each violation to the City of Killeen and understands and agrees that the City of Killeen will, in tum, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- (3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal

assistance provided by the awarding agency.

8. Debarment and Suspension.

Applicability: This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants.

- a. (H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9. Byrd Anti-Lobbying Amendment.

Applicability: This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶J; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4.
- b. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal Award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by

31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form• LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*,

10. Procurement of Recovered Materials.

Applicability: This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ K; 2 C.F.R. § 200.322; Chapter V, ¶7.
- b. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- c. (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired-
 - (i) Competitively within a timeframe providing for compliance with the contract performance schedule;
 - (ii) Meeting contract performance requirements; or
 - (iii) At a reasonable price.(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.

11. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment.

Applicability: This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential

component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115–232, section 889 for additional information.

(d) See also § 200.471.

12. Domestic Preferences for Procurements.

Applicability: This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

(a) As appropriate and to the extent consistent with law, the non–Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

13. Access to Records.

This requirement applies and the clauses are incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- (1) The Contractor agrees to provide the City of Killeen (insert name of state agency or local or Indian tribal government), (insert name of recipient), the federal awarding agency, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The Contractor agrees to provide the federal awarding agency or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

14. DRS Seal, Logo, and Flags.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. The Contractor shall not use the DRS seal(s), logos, crests, or reproductions of flags or likenesses of DRS agency officials without specific federal awarding agency pre• approval.

15. Compliance with Federal Law, Regulations, and Executive Orders.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. This is an acknowledgement that FEMA financial assistance, CARES Funds, or other federal funds will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, federal awarding agency policies, procedures, and directives.

16. No Obligation by Federal Government.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

17. Program Fraud and False or Fraudulent Statements or Related Acts.

This requirement applies and the clause is incorporated to all FEMA grant, cooperative agreement programs, and City contracts and Purchase Orders that are funded through federal awards and grants:

- a. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

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.

JEC Energy Solutions
RICHARDSON, TX United States

Certificate Number:
2022-871921

Date Filed:
04/11/2022

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

JEC Energy Solutions

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.

805344
Lighting package and any necessary delivery and/or installation

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Verde, Ed	Richardson, TX United States	X	
	Ehrler, Joseph	Richardson, TX United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is JOSEPH EHRLER, and my date of birth is 7/21/1944
 My address is 17215 DAWENPORT DALLAS TX 75248 DALLAS
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in DALLAS County, State of TEXAS, on the 12 day of APRIL, 2022.
(month) (year)


 Signature of authorized agent of contracting business entity
(Declarant)



SOLAR LED LIGHTING FOR CONDER PARK PARKING LOT AND LONG BRANCH PARK

RS-22-052

April 19, 2022

Background

2

- ❑ Recreation Services (RS) is seeking to install twenty-two (22) solar LED light fixtures at the Conder Park parking lot and Long Branch Park by the splash pad as part of our ARPA park improvements. Project aligns with our Parks Master plan
- ❑ Eighteen (18) at Conder Park
- ❑ Four (4) Solar LED lights within Long Branch Park
- ❑ The new lights at both parks will be All-in-One Smart Slide

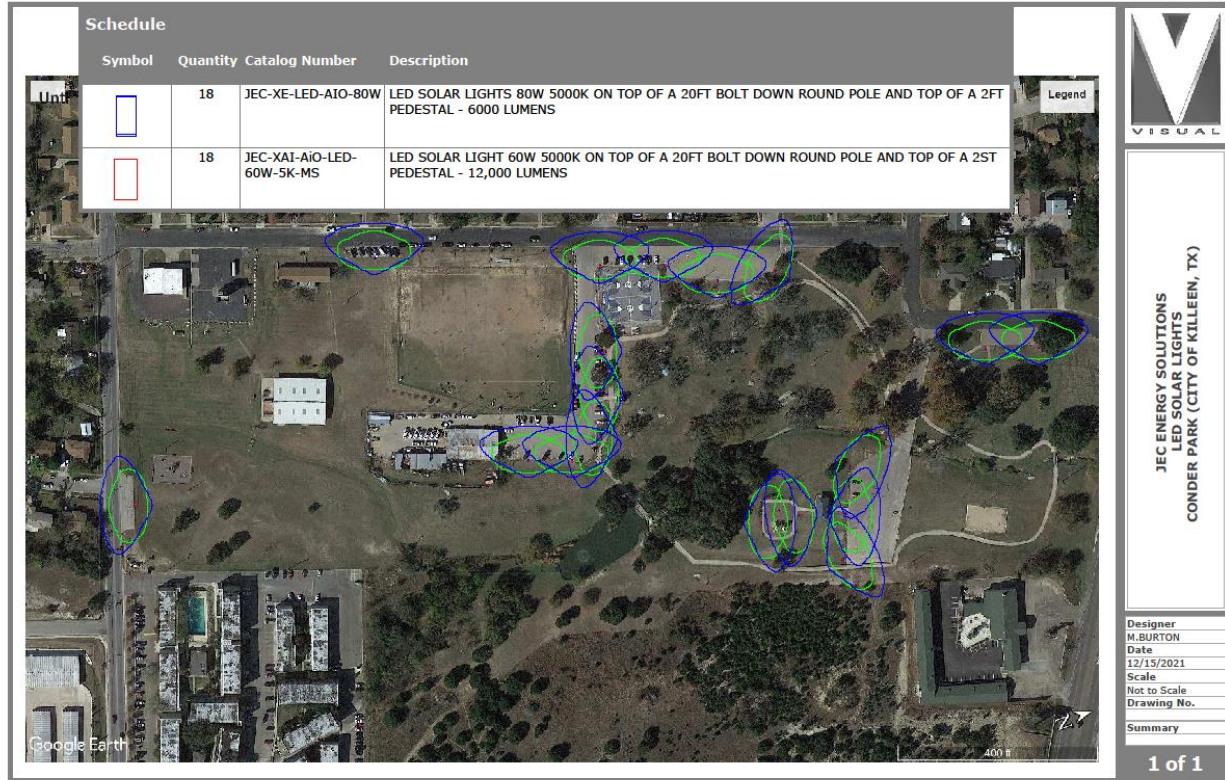


Conder Park Parking Lot

3

- ❑ Conder Park has been part of the City of Killeen parks system for almost 60 years
- ❑ Conder Park has very limited lighting within the park
- ❑ RS will install new light poles, anchor base, base cover, and the smart solar LED light panel
- ❑ Poles will be installed on a poured concrete pedestal

Light Placement

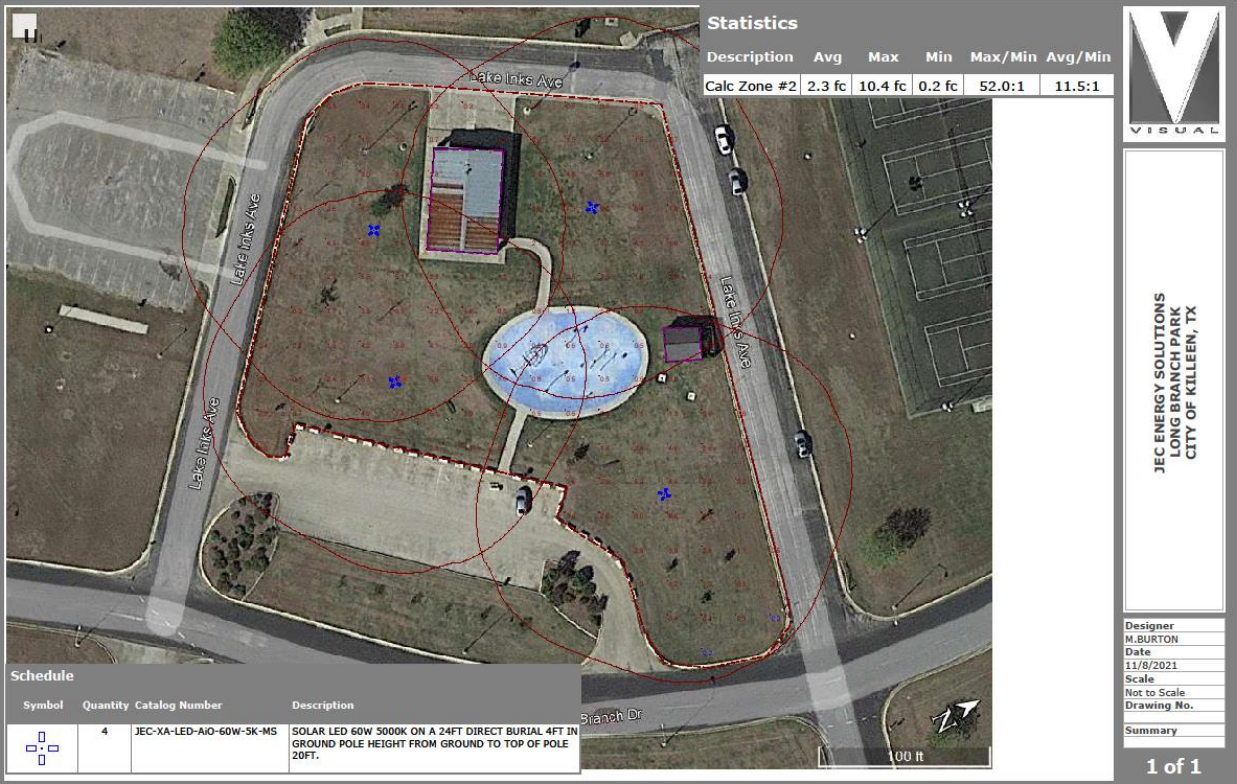


Long Branch Park

5

- ❑ Long Branch currently has no lighting at the splash pad
- ❑ Adding this LED Solar light system within Long Branch Park will allow park users to utilize this space well into the hours of darkness safely, adding a large safety element within the park
- ❑ 4 poles added with (16) lights (4 lights per pole)
- ❑ RS will install new light poles, anchor base, base cover, and the smart solar LED light panel poles will be ground mount at two feet deep

Light Placement



Smart Solar LED Light Panel

7

- ❑ All-In-One panel includes the solar panel, LED light, battery, battery charger, and motion sensor
- ❑ Bright LED lights include infrared motion sensors to detect people as they walk by
- ❑ Instant on/off capabilities
- ❑ No flickering or buzzing
- ❑ JEC Energy Solutions is a member of the Texas BuyBoard Purchasing Cooperative



Benefits

8

- Solar LED lighting is energy efficient, largely reducing the financial impact on the City
- The absence of wiring will limit vandalism and reduce the cost of maintenance and repairs
- LED lighting is brighter, creating a safer environment for citizens utilizing the parks
- Includes a 5-year warranty

Financial Impact

Park	Cost
Conder Park Parking Lot	\$73,791.10
Long Branch Park	\$48,579.09
Total	\$122,370.19

Alternatives

10

- The City Council has two (2) alternatives:
 - ▣ Option 1 – Do not approve the purchase and installation of solar LED lights;
 - ▣ Option 2 – Approve the purchase and installation of solar LED lights

Recommendation

11

- Staff recommends City Council approve the purchase of the solar LED lights for both parks through JEC Energy Solutions, not to exceed \$122,370.19 in FY22 and that the City Manager or designee be authorized to execute any change orders as permitted by state and local law



City of Killeen

Staff Report

File Number: RS-22-053

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution authorizing a fireworks display at the Killeen Athletic Complex on July 2, 2022.

DATE: April 5, 2022
TO: Kent Cagle, City Manager
FROM: Traci Briggs, City Attorney
SUBJECT: Fireworks display at Killeen Athletic Complex

BACKGROUND AND FINDINGS:

Section 11-6 of the Killeen Code of Ordinances provides that the City Council may permit the use of fireworks for public display. The ordinance requires an applicant to provide the following information: name of person/group sponsoring the display; evidence of financial responsibility naming the City as an additional insured; date and time of the display; confirmation of a permit from the State of Texas; the approximate number and kinds of fireworks to be discharged; the manner and place of storage; and a detailed diagram of the area of this display.

On March 4, 2022, the City Secretary received an application via the Assistant City Manager’s office from Magic Display Pyrotechnics FX for a public fireworks display on July 2, 2022 at 9:20 pm. The proposed location for firework setup is at the Killeen Athletic Complex. The public fireworks display will be held in conjunction with a downtown event hosted by the City of Killeen celebrating Independence Day.

Magic Display Pyrotechnics FX has provided the required information outlined in the ordinance except for a State of Texas permit for the display. The application for the state requires the approval of the local fire authority before issuance. The applicant indicated the number and size of fireworks to be discharged and that they will be stored at the operator’s location in Copperas Cove until the day of the display at which time they will be stored in a trailer at the site during setup. A diagram was also provided.

The Killeen Fire Marshal and other staff have reviewed the application for compliance with fire codes.

THE ALTERNATIVES CONSIDERED:

The City Council may grant the application, grant the application with specific requirements, or deny the application.

Which alternative is recommended? Why?

Staff recommends granting the application as the proposed fireworks display will be a part of the scheduled downtown event celebrating Independence Day.

CONFORMITY TO CITY POLICY:

This action conforms to city ordinances and policies.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

There is no expenditure associated with the approval or denial of a public display of fireworks application.

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

N/A

RECOMMENDATION:

Staff recommends that the City Council approve the application of Magic Display Pyrotechnics FX for a fireworks display on July 2, 2022.

DEPARTMENTAL CLEARANCES:

Fire Department
Police Department

ATTACHED SUPPORTING DOCUMENTS:

Application



**CITY OF KILLEEN
APPLICATION FOR FIREWORKS PUBLIC DISPLAY PERMIT**

Name of Applicant: Magic Display Pyrotechnics

Address: 593 CR 4808

Telephone: 254-289-4791 Secondary #: _____

Applicant doing business as: () Individual, (✓) Partnership, () Corporation

DATE OF DISPLAY: 02 JUL 2022, Time: 9:20 PM to 9:45 PM

Location of Display (attach site plan): Community Center Park, Killeen, TX

Pyrotechnic operator licensed in Texas who will supervise the display:

Name: Mr. Joseph Strunz, License #: Texas FPO #2006642

Size and Number of Fireworks to be discharged: 12" (x2), 10" (x12), 8" (x20), 6" (x40), 5" (x60),
4" (x80), 3" (x300), 1" to 2" Multi-Shot (25s to 600s) Display Cakes (x12).

Manner and place of storage of fireworks prior to and during the display: Enclosed security trailer at
Community Center Park, Killeen, Texas.

Manufacturer of distributor licensed in Texas who is to supply the fireworks:

Name: Flying Phoenix Fireworks Corp, License #: 5-WY-013-51-1B-00321

Texas public Display permit number: Comes later by TDI State Fire Marshal Office

In applying for a fireworks public display permit, I certify that I am familiar with and will comply with Section 11-6 of the Killeen Code of Ordinances, Article 5.43-4 of the Texas Insurance Code, Chapter 591, of Title 27 of the Texas Administrative Code and NFPA 1123. I hereby authorize the Fire Marshal to enter, examine, and inspect any premises, building, room or establishment used in connection with the permit for which I am applying to determine compliance with the above provisions.

I understand that I must complete this application and return it to the City Manager's Office at least twenty-one (21) days in advance along with a diagram of the grounds on which the outdoor fireworks display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained, and the location of other possible overhead obstructions.

STRUNZ.JOSEPH.ANDREW. Digitally signed by
1088963411 STRUNZ.JOSEPH.ANDREW.1088963411
Date: 2022.03.04 15:17:30 -06'00'

Applicant's Signature

4 MAR 2022
Date

Joseph Strunz, MDFX
Printed Name



TEXAS DEPARTMENT OF INSURANCE

State Fire Marshal's Office (112-FM)

333 Guadalupe, Austin, Texas 78701 ★ PO Box 149221, Austin, Texas 78714-9221
(512) 676-6800 | F: (512) 490-1063 | (800) 578-4677 | TDI.texas.gov | @TXSFMO

APPLICATION FOR CLASS B FIREWORKS (FIREWORKS 1.3G) SINGULAR OR MULTIPLE DISPLAY PERMIT

This application must be accompanied by the appropriate fee and all documents and information required by Chapter 2154 of the Texas Occupations Code and the Fireworks Rules. Complete answers must be given to all questions.

Please print or type.

A public fireworks display permit may not be issued to any person who is under 21 years of age. Any fraudulent representation on this application shall be cause for denial, suspension, or revocation of a permit. All fees are non-refundable, except for overpayments resulting from mistakes of law or fact.

PERMIT			
CHECK ONE	TYPE OF PERMIT	PERMIT FEE	CODE
<input checked="" type="checkbox"/>	Singular Display Permit	\$50.00	570-07
<input type="checkbox"/>	Multiple Display Permit	\$400.00	570-08

APPLICANT			
NAME OF APPLICANT Magic Display Pyrotechnics FX		Telephone No. <u>254-289-4791</u>	
		Fax No. _____	
ADDRESS 593, CR 4808	CITY Copperas Cove	STATE TX	ZIP 76522
E-MAIL ADDRESS FOR NOTIFICATION PURPOSES (optional) joe@magicdisplayfireworks.com		WEB SITE ADDRESS (optional) http://www.magicdisplayfireworks.com	
Applicant doing business as (Check One)			
<input type="checkbox"/> Individual. Is the individual 21 years of age or older?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	<input type="checkbox"/> Corporation	
<input type="checkbox"/> Partnership. Is each partner 21 years of age or older?	Yes <input type="checkbox"/> No <input type="checkbox"/>	<input checked="" type="checkbox"/> Other – describe: DBA	
Federal employer's identification (FEI) number: <u>81-4046821</u>			

DISPLAY INFORMATION			
Date of display	<u>Saturday, 02 July 2022</u>	Time	<u>9:20 PM</u>
Alternate date of display	<u>Sunday, 03 July 2022</u>	Time	<u>9:20 PM</u>
Exact location description or address of display and/or alternate location for the display City of Killeen "Community Center Park" 2201 E Veterans Memorial Blvd, Killeen, TX 76543 *Shoot Site GPS Grid Coordinates: 31.11062 N, -97.70933 W			
Pyrotechnic operator licensed in Texas who will be at the display site to supervise the display:			
Name Joseph Strunz	License number FPO-2006642		
Name	License number		
Name	License number		

QUESTIONS	
Size and estimated number of 1.3G fireworks to be discharged: 12" (x2), 10" (x8), 8" (x10), 6" (x40), 5" (x60), 4" (x80), 3" (x300), 1" to 2" Multi-Shot (25s to 600s) Display Cakes (x12).	
Other items (1.4G fireworks, flame effects, set pieces, etc.) Special Effects (FX) 2" Roman Candles (x6), mix of Comets, Mines, Meteors (x40).	
Manner and address of storage of fireworks prior to and during the display Storage magazine at 593, CR 4808, Coppers Cove, TX. Fireworks day of display is stored in double locked, covered trailer at display site and guarded at all times.	
Manufacturer or distributor licensed in Texas who is to supply the fireworks: Name Flying Phoenix Fireworks Corp. License number 5-WY-013-51-1B-00321	
SIGNATURES	
In applying for a fireworks permit, I certify that I am familiar with and will comply with Chapter 2154 of the Texas Occupations Code and the Fireworks Rules. I hereby authorize the state fire marshal or any of his duly authorized deputies, upon notice, to enter, examine, and inspect any premises, building, room, or establishment used in connection with the permit for which I am applying to determine compliance with the provisions of Chapter 2154 and the Fireworks Rules. By my signature, I verify that the information on this application and its attachments are true. I understand that knowingly providing a false answer to any question or submitting false information or documents with this application may be tampering with a governmental record which is punishable under the Texas Penal Code Chapter 37, §37.10.	
Printed name Mr. Joseph Strunz	Title Magic Display Pyrotechnics FX Show Director
Signature	Date 23 FEB 2022
Printed name	Title
Signature	Date

APPLICATIONS MUST BE SIGNED BY AN INDIVIDUAL APPLICANT, BY AN OFFICER OF A CORPORATION, BY THE SOLE PROPRIETOR, BY EACH PARTNER OF A GENERAL PARTNERSHIP, BY THE GENERAL PARTNER OF A LIMITED LIABILITY PARTNERSHIP OR BY AN OFFICER OR MEMBER OF A LIMITED LIABILITY COMPANY.

APPLICATIONS SUBMITTED BY A GOVERNMENTAL ENTITY MUST BE SIGNED BY THE APPROPRIATE OFFICER. FOR EXAMPLE, A CITY'S APPLICATION SHOULD BE SIGNED BY THE MAYOR, CITY MANAGER, CITY ADMINISTRATOR, CITY SECRETARY, ETC.

Check or money order should be made payable to the TEXAS DEPARTMENT OF INSURANCE.

Mail this completed application along with the appropriate fee and additional documents to:

Mail Address:	State Fire Marshal's Office Mail Code 9999 P. O. Box 149221 Austin, TX 78714-9221 (512) 676-6808	Physical Address:	State Fire Marshal's Office 333 Guadalupe Austin, TX 78701 (512) 490-1056 www.tdi.texas.gov/fire
		Fax No.	
		Web Site Address:	

NOTICE ABOUT CERTAIN INFORMATION LAWS AND PRACTICES

With few exceptions, you are entitled to be informed about the information that the Texas Department of Insurance (TDI) collects about you. Under sections 552.021 and 552.023 of the Texas Government Code, you have a right to review or receive copies of information about yourself, including private information. However, TDI may withhold information for reasons other than to protect your right to privacy. Under section 559.004 of the Texas Government Code, you are entitled to request that TDI correct information that TDI has about you that is incorrect. For more information about the procedure and costs for obtaining information from TDI or about the procedure for correcting information kept by TDI, please contact the Agency Counsel Section of TDI's General Counsel Division at (512) 676-6551 or visit the Corrections Procedure section of TDI's website at www.tdi.texas.gov

SINGULAR OR MULTIPLE DISPLAY PERMIT SITE DIAGRAM/PLAN

Please make sure the below listed items are included on the site diagram

Address of display location

Show location of firing site

Show location of spectators

Show minimum secured area on all sides of firing site

Show method of restraint/security on all sides of firing site

Show location of health care, detention and correctional facilities. If there are no such facilities within the distance required by NFPA 1123, 1995 ed., please indicate such in a statement on the diagram.

Show location of school buildings and/or churches. If there are no buildings within 600 feet of the firing site, please indicate such in a statement on the diagram.

Show location of hazardous materials. If there are no hazardous materials within the distance required by NFPA 1123, 1995 ed., please indicate such in a statement on the diagram.

Texas Department of Insurance State Fire Marshal's Office

Application for Class B Fireworks (Fireworks 1.3G) Singular or Multiple Display Permit Site Inspection Certification

1. Name of applicant Magic Display Pyrotechnics SFX

Address 593, CR 4808 Telephone 254-289-4791

City Copperas Cove State TX Zip Code 76522

2. Date of display Saturday, 02 July 2021 Time 9:20 PM

Alternate date of display Sunday, 03 July 2021 Time 9:20 PM

3. Location and/or alternate location for the display _____

City of Killeen, "Community Center Park"
2201 E Veterans Memorial Blvd, Killeen, TX 76543
***Shoot Site GPS Grid Coordinates: 31.11062 N, -97.70933 W**

4. As the fire prevention officer, I approve of the display site and have reviewed the site diagram. Yes No

5. I approve of the location and manner for storage of display fireworks before and during the display. Yes No

6. I approve of the potential landing area for fireworks debris. Yes No

7. The display is to be conducted in compliance with TX Occupations Code, Regulation of Fireworks & Fireworks Displays and the Fireworks Rules. Yes No

8. My approval is subject to the following conditions.

List conditions, if applicable, or indicate "None" _____

9. As the appropriate fire prevention officer, I have inspected the display site(s) to determine whether this proposed display is of a nature or in a location that may be hazardous to property or dangerous to any person. This form is my notice to the state fire marshal of the results of the inspection as required in Sec. 2154.206, Chapter 2154, Texas Occupations Code.

Signature of fire prevention officer _____ Date _____

Printed name of fire prevention officer James Kubinski Title Fire Chief

Department Fire Department, City of Killeen TX Telephone No. 254-501-7671

Email address: jkubinski@killeentexas.gov Mobile Phone No. _____

Telephone No. (512) 676-6808
 Fax No. (512) 490-1056
 Web Site Address www.tdi.texas.gov/fire

APPLICATION FOR CLASS B FIREWORKS (FIREWORKS 1.3G) SINGULAR OR MULTIPLE DISPLAY PERMIT

APPLICANTS FOR A SINGULAR OR MULTIPLE DISPLAY PERMIT MUST SUBMIT THE FOLLOWING:

1. An application for a singular or multiple display permit.
2. A certificate of general liability insurance.

ITEMS TO BE INCLUDED ON INSURANCE CERTIFICATES:

1. The name of the insurer and the policy number.
2. The name of the insured, which must be the same name as on the display application.
3. Effective dates (or days) of the policy.
4. The amount of coverage must not be less than \$500,000. The policy shall be conditioned to pay those sums the insured becomes obligated to pay as damages because of bodily injury and property damage caused by an occurrence involving the insured or the insured's servant, officer, agent, or employee in the conduct of a public fireworks display.
5. The words "fireworks display" and the dates(s) of the display should appear under description of operations on the certificate. Any alternate date(s) should also be included.
6. The State Fire Marshal's Office should be listed as the certificate holder.
7. Must be issued by an insurer authorized to do business in Texas and countersigned by an insurance agent licensed in Texas.

ADDITIONAL DOCUMENTS			
If you are a Texas or Foreign Corporation submit the following	If you are a Sole Proprietorship or General Partnership submit the following:	If you are a Texas or Foreign Limited Partnership submit the following	If you are a Texas or Foreign Limited Liability Company submit the following
Certificate of general liability insurance	Certificate of general liability insurance	Certificate of general liability insurance	Certificate of general liability insurance
Corporate Charter, Certificate of Existence, or Certificate of Authority issued by the Texas Secretary of State		Certificate of Limited Partnership, Registration Application for Foreign Limited Partnership	Certificate of Organization, or Certificate of Authority issued by the Texas Secretary of State
Franchise Tax Account Status must be ACTIVE with the TX Comptroller of Public Accounts		Franchise Tax Account Status must be ACTIVE with the TX Comptroller of Public Accounts	Franchise Tax Account Status must be ACTIVE with the TX Comptroller of Public Accounts
Assumed Name Certificate from Texas Secretary of State (if using a d/b/a)	Assumed Name Certificate from your County Clerk (if using a d/b/a)	Assumed Name Certificate from Texas Secretary of State (if using a d/b/a)	Assumed Name Certificate from Texas Secretary of State (if using a d/b/a)

Texas Secretary of State: (512) 463-5578

Texas Comptroller of Public Accounts (800) 252-1386



Launch DTG: 9:20 PM, Saturday, 02 JUL 2021

Sunrise: 6:33 AM

Sunset: 8:40 PM

Grid Coordinates: 31.11062 N, -97.70933 W

City Leadership Intent: Majority of spectators are mainly 1.3 miles away downtown Killeen attending the festival. City of Killeen is trying to promote downtown growth for businesses and festivals. That's the reason for larger shells so viewers can spectate display from any location in the city. *Community Park is closed to accomplish leadership strategy.

Authority Having Jurisdiction (AHJ)

Name: James Kubinski
Title: Fire Chief, City of Killeen, TX
Telephone: 254-501-7671

Signature: _____

Approved _____ Disapproved, Date: _____



Expected Wind Direction

Anticipated Smoke & Debris North, Northwest

IAW NFPA 1123 Regulations

- No health care facility within 600' ft.
- No schools within 600' ft.
- No hazmat within 800' ft.

Shell Performance Table
(NFPA 1123 - 70' x Diameter)

Shell	Safety	Altitude	Burst
1"	70'	50'	25'
2"	140'	164'	43'
3"	210'	263'	66'
4"	280'	328'	98'
5"	350'	410'	148'
6"	420'	492'	197'
8"	560'	656'	361'
10"	700'	820'	426'
12"	840'	984'	492'
16"	1,120'	1,050'	984'

Legend

- Road Block
- Display Site
- Pyro (enclosed trailer)
- FD
- PD





FIREWORKS DISPLAY NOTIFICATION

Company Name: Magic Display Pyrotechnics FX

Email Address of Person Submitting Notification: joe@magicdisplayfireworks.com

Event Name: City of Killeen Texas 4th of July Celebration

On-site Contact: Mr. Joseph Strunz, Magic Display FX

Display Date: Saturday, 02 JUL 2022 **Rain Date:** Sunday, 03 JUL 2022

Display Start Time: 9:20 PM

Duration of Fireworks Display: 9:40 PM

Max Height of Fireworks: 1,000' feet

Address City and State: Community Center Park, City of Killeen, Texas
 2201 E Veterans Memorial Blvd, Killeen, TX 76543

Latitude: 31.11062 N **(North)** **Longitude:** -97.70933 W **(West)**

List the closest public use airport within 5 Nautical Miles of the display if the fireworks will reach or exceed 500 ft. _____

#1. Killeen Skylark Airfield private airport (2 mi),

#2. Fort Hood Army Airfield (1.3 mi)

#3. Killeen-Fort Hood Regional Airport, Robert Gray (7.3 mi)

Special Notes: Commercial Pyrotechnics Public Display.

Email to: 9-ASW-Operations-Support-Fireworks@faa.gov

FAA NOTAM



Shell Performance Table
(NFPA 1123 - 70' x Diameter)

Shell	Safety	Altitude	Burst
1"	70'	50'	25'
2"	140'	164'	43'
3"	210'	263'	66'
4"	280'	328'	98'
5"	350'	410'	148'
6"	420'	492'	197'
8"	560'	656'	361'
10"	700'	820'	426'
12"	840'	984'	492'
16"	1,120'	1,050'	984'

Killeen - Fort Hood
Regional Airport



7 Miles

4th July Display
Community Park
City of Killeen
Time: 9:20 PM
Date: 2 JUL 2022

1,476' ft



FIREWORKS LAUNCH SITE
(Community Park) Killeen
31.11062 N, -97.70933 W

1,3 Miles

Hood Army Airfield



Skylark Field Airport



2 Miles

Lampasas

Kempner

Copperas Cove

Fort Hood

Killeen



HEALTH, SAFETY AND ENVIRONMENT STATEMENT

MDFX (Magic Display FX) is a small all veteran company with service members that have experience when it comes to safety, health and environment. Solving customer challenges is second only to keeping everyone safe and healthy. We won't compromise our focus on health, safety and environment for better business results. Our commitment to safety will minimize the impact on the environment, control risks to our employees, and maintain safe work practices. Our dedication will match our commitment so that each MDFX employee takes personal ownership of their own safety and the safety of others.

Turning our commitments into practice is at the heart of our journey to ZERO. Simply stated, it's a concerted effort to achieve ZERO health, safety and environmental incidents every day, all the time. Our ZERO goal is to make it happen around the clock, everywhere.

MDFX will continue to keep its strategic focus on these key Health, Safety and Environment areas:

- Effective leadership and commitment
- Continuous improvement of our MDFX Management System
- Training and competency of our employee workforce
- Providing mechanisms for employees to communicate and address risk
- Continuous improvement of technology and processes to mitigate HSE impact
- Verification of performance through robust audits and communication of key findings



CERTIFICATIONS & LICENSES

MDFX (Magic Display FX) is proud to be federal and state trained, certified, licensed and insured in several explosive categories and have memberships with leading industry organizations qualified to conduct indoor, outdoor land or water pyrotechnic operations for public displays, special effects and flame productions.



Texas State Certifications & Licenses						
Permit Type	Pyrotechnic Type			Operations		
	Fireworks 1.3G	Fireworks 1.4G, 1.4S	Flame Effects	Assembles Displays	Conducts Displays	Supervises Displays
FPO - Pyrotechnics	✓	✓	✓	✓	✓	✓
SEO - Special Effects	✓✓	✓✓	✓✓	✓	✓	✓
FEO - Flame Effects	✓	✓	✓	✓	✓	✓

✓✓ Using Fireworks 1.3G or Fireworks 1.4G where audiences are closer to pyrotechnic devices than permitted by NFPA 1123 Code of Fireworks Display.

Federal Certifications & Licenses		
Permit Type	U.S. DOJ BATFE Federal Explosives License (FEL)	U.S. DOJ BATFE Federal Security Clearance (FSC)
Explosives	✓	✓



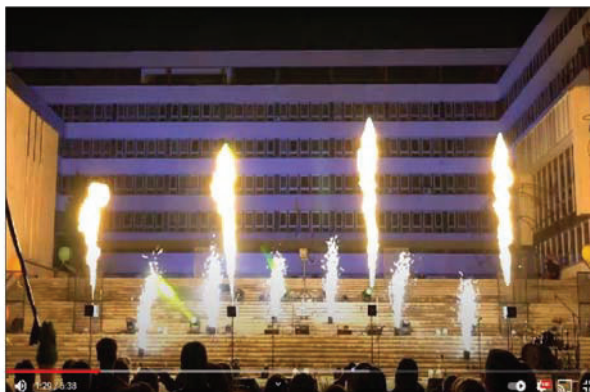
Firework Displays – Theme Parks, 4th July, Festivals, Special Events





**Special Effects – Stage Production for Close Proximity Audiences
(Indoor/Outdoor Concerts, Theaters, Television Studios, Movies)**



**Flame Effects – Stage Production for Close Proximity Audiences
(Indoor/Outdoor Concerts, Theaters, Television Studios, Movies)**





<p>Issued To: Strunz, Joseph 593 COUNTY ROAD 4808 COPPERAS COVE TX 76522-6300</p>	<p>License Number FPO-2006642 Expiration Date: 06-03-2022 EFFECTIVE DATE: 06-03-2015</p>
<p>FIREWORKS PYROTECHNIC OPERATOR'S LICENSE TEXAS DEPARTMENT OF INSURANCE STATE FIRE MARSHAL'S OFFICE</p>	
<p>DATE ISSUED: April 26, 2021</p>	 <p>Orlando P. Hernandez, State Fire Marshal</p>
<p>SF081 1119</p>	
<p>Issued To: Strunz, Joseph Andrew 593 COUNTY ROAD 4808 COPPERAS COVE TX 76522-6300</p>	<p>License Number SEO-2661479 Expiration Date: 04-26-2022 EFFECTIVE DATE: 04-26-2021</p>
<p>FIREWORKS SPECIAL EFFECTS OPERATOR'S LICENSE TEXAS DEPARTMENT OF INSURANCE STATE FIRE MARSHAL'S OFFICE</p>	
<p>DATE ISSUED: April 26, 2021</p>	 <p>Orlando P. Hernandez, State Fire Marshal</p>
<p>SF081 1119</p>	
<p>Issued To: Strunz, Joseph Andrew 593 COUNTY ROAD 4808 COPPERAS COVE TX 76522-6300</p>	<p>License Number FEO-2661474 Expiration Date: 04-26-2022 EFFECTIVE DATE: 04-26-2021</p>
<p>FIREWORKS FLAME EFFECTS OPERATOR'S LICENSE TEXAS DEPARTMENT OF INSURANCE STATE FIRE MARSHAL'S OFFICE</p>	
<p>DATE ISSUED: April 26, 2021</p>	 <p>Orlando P. Hernandez, State Fire Marshal</p>
<p>SF081 1119</p>	



U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Federal Explosives Licensing Center
244 Needy Road
Martinsburg, West Virginia 25405

901090: CRR/FLS
5400
File Number: **5TX01779**

06/04/2020

SUBJECT: RESPONSIBLE PERSON LETTER OF CLEARANCE for:

JOSEPH ANDREW STRUNZ

OWNER USER
(254)289-4791

593 CR 4808
COPPERAS COVE, TX 76522

and is ONLY valid under the following Federal explosives license/permit:

5-TX-099-54-3H-01779

STRUNZ, JOSEPH
593 COUNTY ROAD 4808
COPPERAS COVE, TX 76522

Dear JOSEPH STRUNZ:

You have been approved as a responsible person under the above-listed Federal explosive license or permit. You may lawfully direct the management or policies of the business or operations as they pertain to explosives. You may also lawfully transport, ship, receive or possess explosive materials incident to your duties as a responsible person. **This clearance is only valid under the license or permit referenced above.**

Sincerely,

Christopher R. Reeves
Chief, Federal Explosives Licensing Center (FELC)

FELC Customer Service. If you believe that information on your "Letter of Clearance" is incorrect, please return a COPY of the letter to the Chief, Federal Explosives Licensing Center (FELC), with a statement showing the nature of the error. The Chief, FELC, shall correct the error, and return an amended letter to you.

Mail: ATF
Chief, FELC
Attn.: LOC Correction
244 Needy Road
Martinsburg, West Virginia 25405

Fax: 1-304-616-4401
Chief, FELC
Attn.: LOC Correction

Call toll-free: 1-877-283-3352

JOSEPH ANDREW STRUNZ

Responsible Person Letter of Clearance for:

5TX01779-R-06/04/2020-STRUNZ,JOSEPH-ANDREW-OWNER USER

WWW.ATF.GOV



U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Federal Explosives License/Permit
(18 U.S.C. Chapter 40)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF	ATF - Chief, FELC	License/Permit Number	5-TX-099-54-3H-01779
Correspondence To	244 Needy Road Martinsburg, WV 25405-9431	Expiration Date	August 1, 2023
Chief, Federal Explosives Licensing Center (FELC)	<i>Christopher R. Reers</i>		

Name
STRUNZ, JOSEPH

Premises Address (Changes? Notify the FELC at least 10 days before the move.)

**593 COUNTY ROAD 4808
COPPERAS COVE, TX 76522-**

Type of License or Permit

54-USER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

STRUNZ, JOSEPH
593 COUNTY ROAD 4808
COPPERAS COVE, TX 76522-

Licensee/Permittee Responsible Person Signature

Joseph A Strunz

Printed Name

OWNER

Position Title

11 June 2020

Date

Previous Edition is Obsolete STRUNZ, JOSEPH 593 COUNTY ROAD 4808 76522-5 TX 099-54-3H-01779 August 1, 2023 54-USER OF EXPLOSIVES

ATF Form 5400.14/5400.15 Part I
Revised October 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address (27 CFR 555.54(a)(1)). Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **(The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

Right of Succession (27 CFR 555.59). (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ><

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: **STRUNZ, JOSEPH**

Business Name: **MAGIC DISPLAY FX**

License/Permit Number: **5-TX-099-54-3H-01779**

License/Permit Type: **54-USER OF EXPLOSIVES**

Expiration: **August 1, 2023**

Please Note: Not Valid for the Sale or Other Disposition of Explosives.



U.S. Department of Justice
 Bureau of Alcohol, Tobacco, Firearms and Explosives
 Federal Explosives Licensing Center (FELC)
 www.atf.gov

Federal Explosives Licensing Center
 244 Needy Road 06/04/2020
 Martinsburg, West Virginia 25405
 telephone: (877)283-3352 fax: (304)616-4401

NOTICE OF CLEARANCE

for individuals transporting, shipping, receiving, or possessing explosive materials.

ISSUED TO: STRUNZ, JOSEPH

Federal Explosives license/permit no.: 5-TX-099-54-3H-01779

NOTICE DATE: 06/04/2020

Expiration Date: **August 1, 2023**

Explosives License/Permit Type: 54-USER OF EXPLOSIVES

EXPIRATION DATE: This Notice expires when superseded by a newer Notice which will list all current responsible persons and employee possessors, or when the license or permit expires - whichever comes first.

- 1 **WARNING.** Only those individuals listed below as **RESPONSIBLE PERSONS** and **EMPLOYEE POSSESSORS** with a background clearance status of "CLEARED" or "PENDING" are authorized to transport, ship, receive, or possess explosive materials in the course of employment with you.
- 2 **"DENIED" STATUS.** If an employee possessor has a background clearance status of "DENIED", you **MUST** take immediate steps to remove the employee from a position requiring the transporting, shipping, receiving, or possessing of explosive materials. Also, if the employee has been listed as a person authorized to accept delivery of explosive materials, you **MUST** remove the employee from such list and immediately, and in no event later than the second business day after such change, notify distributors of such change, as stated in 27 CFR 555.33(a).
- 3 **CHANGE IN RESPONSIBLE PERSONS.** You **MUST** report any change in responsible persons to the Chief, Federal Explosives Licensing Center, within 30 days of the change and new responsible persons **MUST** include "appropriate identifying information" as defined in 27 CFR 555.11. Fingerprints and photos are **NOT** required, however they will be required upon renewal of the license or permit.
- 4 **CHANGE OF EMPLOYEES.** You **MUST** report any change of employee/possessors to the Chief, FELC, within 30 days. Reports relating to newly hired employees must be submitted on ATF Form 5400.28 for EACH employee.

Premises Address: 593 COUNTY ROAD 4808
 COPPERAS COVE, TX 76522

Mailing Address:
 STRUNZ, JOSEPH
 593 COUNTY ROAD 4808
 COPPERAS COVE, TX 76522

This 'Notice of Clearance' is provided to you as required by 18 U.S.C. 843(h) and **MUST** be retained as part of your permanent records and be made available for examination or inspection by ATF officers as required by 27 CFR 555.121. If you receive a Notice subsequent to this Notice, this Notice will no longer be valid.

In accordance with 27 CFR 555.33, Background Checks and Clearances, and 27 CFR 555.57, Change of Control, Change in Responsible Persons, and Change of Employees, ATF's Federal Explosives Licensing Center (FELC) has conducted background checks on the individual(s) you identified as a responsible person(s) and an employee/possessor(s) on your application, or reported after the issuance of your license/permit.

The following is a SUMMARY of the results of the background checks conducted on the individuals you reported as responsible persons and employee/possessors. ATF will be notifying ALL individuals listed on this document of their respective status by separate letter mailed to their residence address.

PLEASE BE ADVISED THAT IT IS UNLAWFUL FOR ANY PERSON REFLECTING A STATUS OF "DENIED" TO TRANSPORT, SHIP, RECEIVE, OR POSSESS EXPLOSIVE MATERIALS.

Please carefully review this Notice to ensure that all the information is accurate. If this Notice is incorrect, please return the Notice to the Chief, FELC, with a statement showing the nature of the error(s). The Chief, FELC, shall correct the error, and return a corrected Notice.

Number of RESPONSIBLE PERSON(S) : 1
 Number of EMPLOYEE POSSESSOR(S): 0

continued

LAST NAME, First Name, Middle Name	Clearance Status	LAST NAME, First Name, Middle Name	Clearance Status
RESPONSIBLE PERSONS:			
0001 STRUNZ, JOSEPH ANDREW	1 Cleared		
EMPLOYEE POSSESSORS:			
	0		



SEVERE WEATHER OPERATIONAL PROCEDURES

(Severe weather includes blizzards, thunderstorms, high winds, large hail or tornados)

MDFX (Magic Display FX) will maintain operational control of all display sites during severe weather through the following procedures. These procedures are compatible with Magic Display BATFE (Bureau of Alcohol, Tobacco, Fire Arms and Explosives) and DHS (Department of Homeland Security) Hazardous Materials Security Plan and are designed to prevent unauthorized access to 1.3G and 1.4G explosives materials.

Severe Wind Conditions (Tornado Category F1+; Hurricane C1+)

Reference NFPA 2010 8.1.4.2; 8.1.7

- When there is emanate threat of severe wind conditions, operator will as practical, secure all firing equipment and remove all explosive material from the site for storage in an BATFE approved Type IV magazine.
- If energetic material has been loaded for firing, operator will:
 - If safely possible, remove all explosive material from the site for storage in an approved Type IV magazine
 - If time does not allow for safe removal, operator will coordinate with the AHJ to fire all product before the onset of severe winds to prevent explosive materials from being uncontrollable blown from the display site.

Rain Conditions

- Operator will ensure that loading continues in a safe manner (Reference NFPA 2010 8.1.7)
 - Product shall not be loaded into wet mortars
 - All product shall be weather wrapped as loaded
 - Proximate devices including one shot comets, gerbs, fountains, SPD's and other effects that by their design, are not able to be wrapped shall not be loaded.
 - Crew shall work in teams with one member loading devices while the other member covers and protects from rain.

Electrical Events

- When lightning is detected within 7 miles of the display site all loading shall halt until conditions improve
 - Operator shall disconnect the firing system from all electrical connections
 - All Modules shall be turned off and antenna receivers folded down
 - All electrical matches shall be stored in wooden case/ready box at least 50 feet from all explosive materials
 - Operator shall keep crew at least 50 feet from all loaded explosives and maintain NFPA spectator distances of at least 70 feet per inch until the material is:
 - Safely removed from the site for storage in an approved Type IV magazine
 - Fired in coordination with the AHJ
 - In the event of uncontrolled electrical ignition
 - Operator will maintain operational control of site
 - Increase the safety distances as warranted
 - Immediately notify MDFX Director of Operations for implementation of **Occurrence Mitigation Plan**

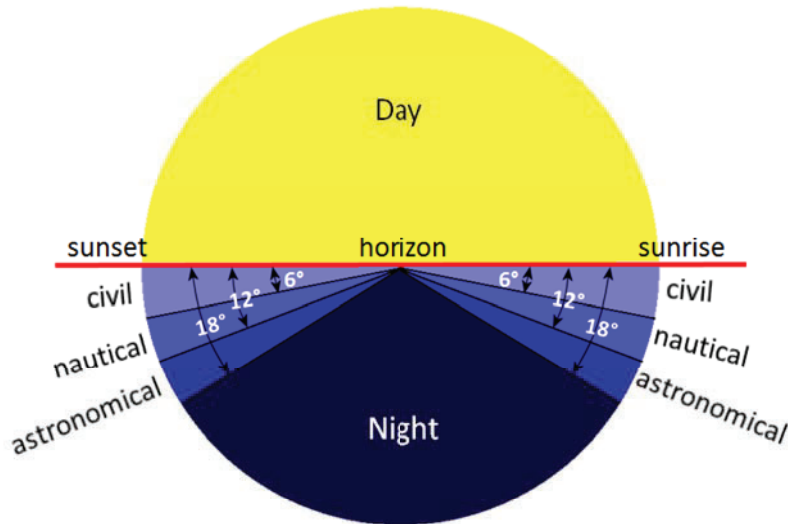
Extreme Temperature

- When temperatures exceed 110° F or are below 28° F loading of the show will be discontinued until conditions return to safe loading temperature range.

High Wind Speeds During Show (15+ MPH Sustained) Reference NFPA 2010 A.8.1.4.2

- In considering when wind speed is excessive for the reasonably safe performance of a fireworks display, operator will judge:
 - The potential for an increased risk of hazardous debris from the display falling into the spectator areas
 - The potential for an increased probability of fire that is made excessively difficult to control
- An increased fallout hazard occurs when the wind is traveling in a direction toward one or more spectator areas. Under these circumstances mitigation strategies that should be considered are as follows:
 - To move the spectators out of the path of the fallout
 - To redirect the fallout by moving the fireworks or re-angling the mortars
 - To increase the separation distance between the fireworks and the spectators
 - To modify the content of the display to eliminate the fireworks of greatest concern
 - To delay the display until the weather conditions have improved

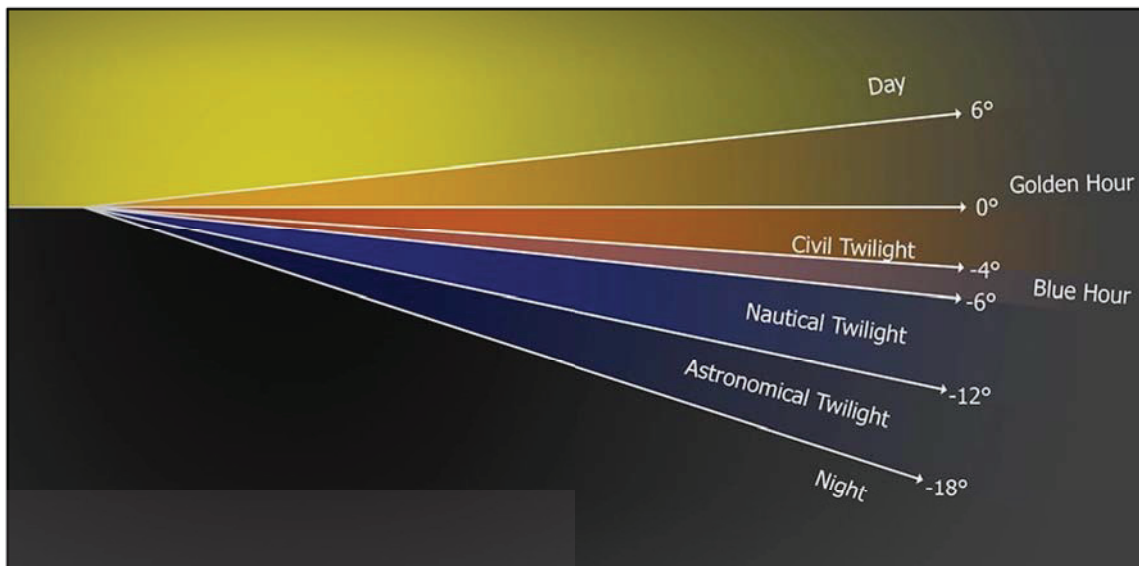
- To implement a combination of these strategies
- Some possible mitigation strategies to be considered regarding fire risks are as follows:
 - To water down the areas and items of concern immediately before the display
 - To redirect the fallout by moving the fireworks or re-angling the mortars
 - To increase the separation distance between the fireworks and the areas containing the fire hazards
 - To modify the content of the display to eliminate the fireworks of greatest concern
 - To increase the amount of suppression equipment and personnel in the immediate area
 - To delay the display until weather conditions have improved
 - Show will be discontinued or cancelled if winds exceed 20 MPH sustained or during gusts above 25 MPH
 - NFPA safety distance will assume to be double at 20 MPH causing the operator to cut the permissible shell diameter in half until winds stabilize below 20 MPH



DISPLAY TIME ZONE TABLE

EARLIEST TIME: for public displays is at the end of *Nautical Twilight* and start of *Astronomical Twilight* usually 9:15 or 9:20 PM during Spring/Summer months.

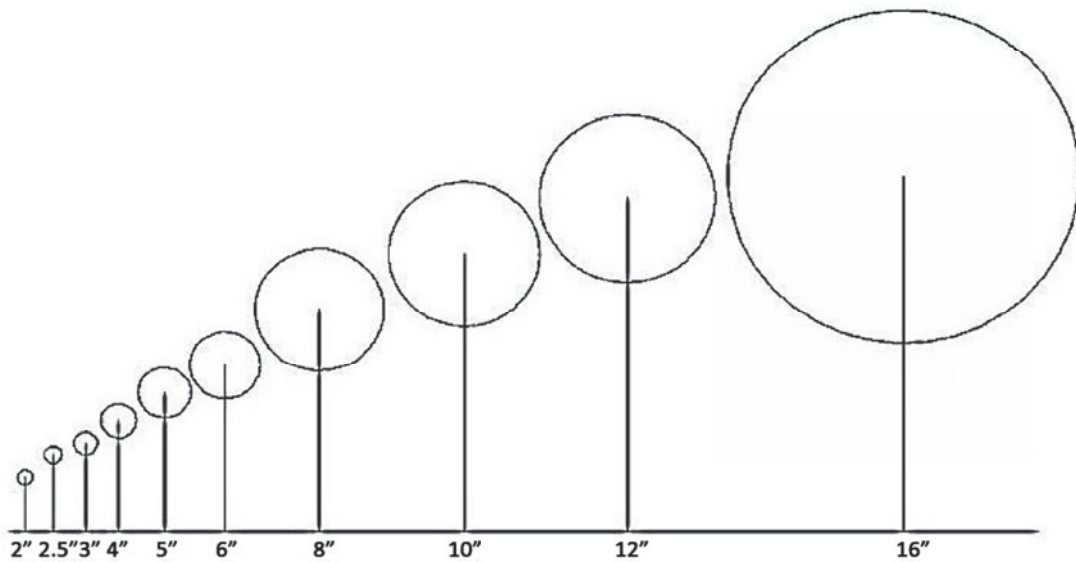
BEST TIME: for maximum visual effects, best time to start display is the “sweet spot”, which is end of *Astronomical Twilight* and start of *Night*, usually 9:30 PM.





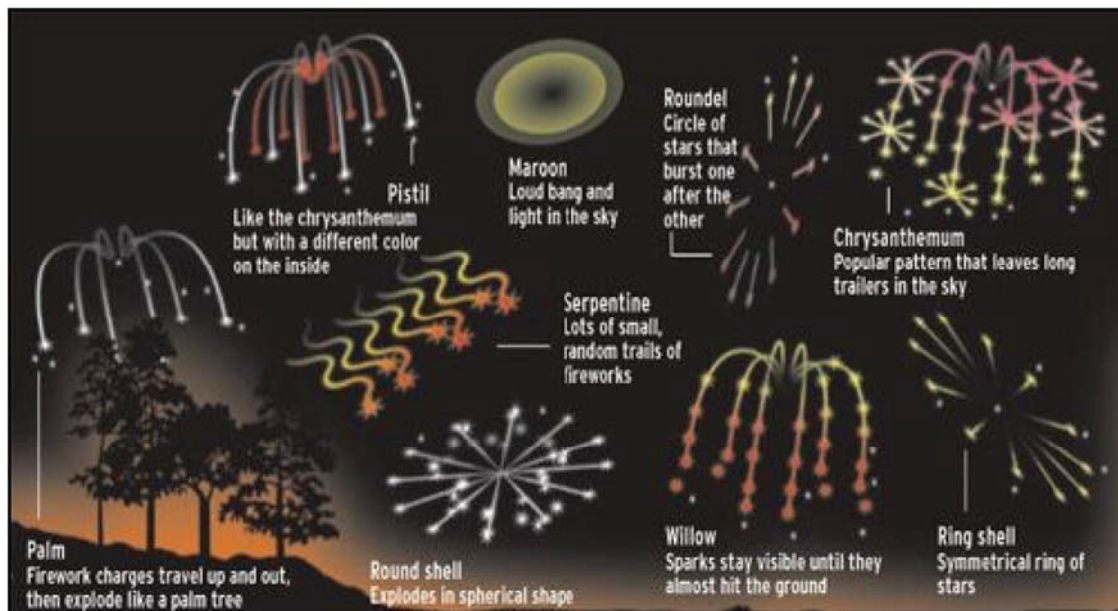
TYPICAL 1.3G AERIAL SHELL PERFORMANCE TABLE


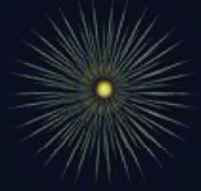








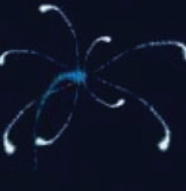





BURST DIAMETER	43' 49' 66' 98' 148' 197'	361'	426'	492'	984'
RISING HEIGHT	164' 230' 263' 328' 410' 492'	656'	820'	984'	1,050'

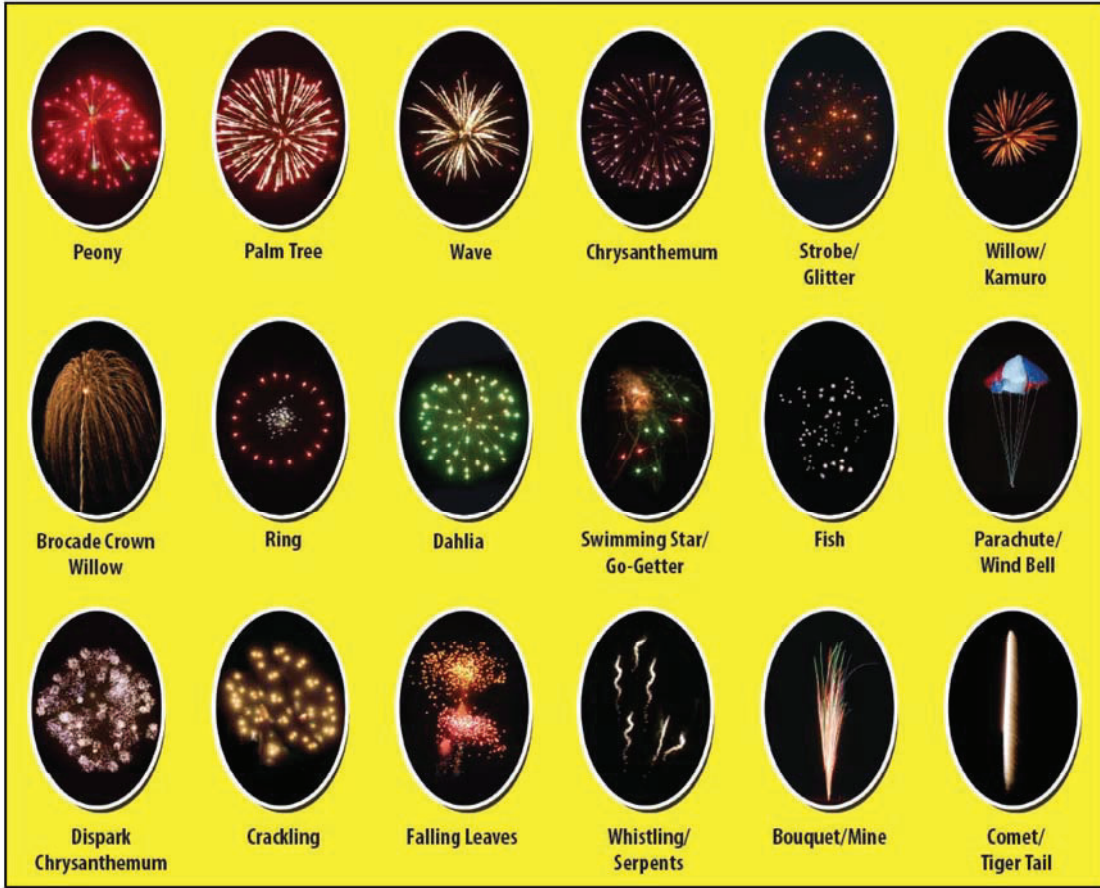




SHELL & SPECIALTY EFFECTS GUIDE



<p>Brocade</p>  <p>Common term that describes an effect of woven gold clusters usually bound together within a star burst.</p>	<p>Chrysanthemum</p>  <p>A perfectly spherical burst of tailed stars, very much like the flower it represents.</p>	<p>Comet</p>  <p>A star or other projectile which leaves a glittering, persistent trail behind it.</p>	<p>Crossette</p>  <p>A set of stars that each split into four or five stars and leave a trail as they map the skies.</p>
<p>Green Bees</p>  <p>A swarm or cluster of points of light that move and dissipate under their own power. Similar to Fish but less vigorous and generally less persistent.</p>	<p>Glitter</p>  <p>A constant spray of strobing glitter effect usually referring to cones and fountains</p>	<p>Palm</p>  <p>Bright arms of cascading, long lasting stars, shaped to permeate outward like the branches of a palm tree, usually made up of gold or silver stars.</p>	<p>Pearls</p>  <p>A set of bright glowing stars that do not leave a trail but silently rise and dissolve into the heavens.</p>
<p>Peony</p>  <p>Well used term to describe a perfect expanding sphere to stars that usually change colour as they burst outwards.</p>	<p>Pistil</p>  <p>A central effect sometimes palm like that can be added to a Peony or Chrysanthemum for bigger impact.</p>	<p>Silver Fish</p>  <p>Invariably silver and preceded by a beautiful blue tracer star, they wriggle and swim away from the centre in a silently mesmeric dance.</p>	<p>Spinner</p>  <p>An aerial effect that is usually accompanied by a whirling sound as the stars spin and whirl individually and synchronised to others.</p>
<p>Stars</p>  <p>A glowing, flaming ball of coloured light or colourless crackle that can rise on their own or burst into variegated mini star-shells.</p>	<p>Strobe</p>  <p>An effect that flickers and flashes in the sky like a gallery of flash bulbs.</p>	<p>Tail</p>  <p>The comet like trail that is left behind the star.</p>	<p>Willow or Falling Leaves</p>  <p>A star burst where all the stars "fall" out of the rocket or star-shell and gently drift down to earth to give a delightful effect, best in gold.</p>



Certificate of Insurance

31522

Issue Date: 3/29/2022

PRODUCER
Professional Program Insurance Brokerage
1304 Southpoint Blvd., Suite 101
Petaluma, CA 94954

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED
Joseph Strunz
DBA: Magic Display Pyrotechnics FX
593 CR 4808
Copperas Cove, TX 76522

INSURER A: Underwriter's at Lloyd's, London

INSURER B:

INSURER C:

INSURER D:

COVERAGES:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE NAMED INSURED ABOVE FOR THE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (DD/MM/YY)	POLICY EXPIRATION DATE (DD/MM/YY)	LIMITS	
A	GENERAL LIABILITY CLAIMS MADE	PY/22-0042	4/9/2022	4/9/2023	EACH ACCIDENT	\$1,000,000
					MEDICAL EXP (any one person)	
					FIRE LEGAL LIABILITY	\$50,000
					GENERAL AGGREGATE	\$2,000,000
					PRODUCTS-COMP/ OPS AGG	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

Certificate holder is additional insured as respects the following:

Date(s) of Display:	7/2/2022
Location:	City Of Killeen Community Park 436-284 W S Young Drive Killeen, TX 76541
Additional Insured:	City Of Killeen 101 N College Street Killeen, TX 76541 This policy includes a 90 day extension for filing claims after the expiration of the policy
Rain Date(s):	7/3/2022
Type of Display:	Aerial/SPFX Fireworks Display

CERTIFICATE HOLDER

City Of Killeen
101 N College Street
Killeen, TX 76541

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

Susan Etter
AUTHORIZED REPRESENTATIVE



FIREWORKS DISPLAY APPLICATION

RS-22-053

April 19, 2022

City Event

2

- City is working on a downtown event to celebrate Independence Day on July 2, 2022
- A public fireworks display is being planned for the event at the Killeen Athletic Complex and will be viewable from downtown

City Ordinance

3

- Section 11-6 of the Killeen Code of Ordinances provides that the City Council may permit the use of fireworks for public display.

- Application requirements:
 - name of person/group sponsoring the display
 - evidence of financial responsibility naming the City as an additional insured
 - date and time of the display
 - confirmation of a permit from the State of Texas
 - the approximate number and kinds of fireworks to be discharged
 - the manner and place of storage
 - a detailed diagram of the area of this display

Application Received

4

- Application received on March 4, 2022
- Magic Display Pyrotechnics FX
 - ▣ July 2 at 9:20 pm
 - ▣ Killeen Athletic Complex
 - ▣ Licensing, insurance site plan, storage and types of fireworks provided
- Fire Marshal has reviewed the application with no significant findings

Alternatives

5

- The City Council may:
 - ▣ Grant the application
 - ▣ Grant the application with specific requirements
 - ▣ Deny the application

Recommendation

6

- Staff recommends that the City Council approve the application of Magic Display Pyrotechnics FX for a fireworks display on July 2, 2022



City of Killeen

Staff Report

File Number: RS-22-054

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution updating the Interlocal Automatic Aid Agreement for Fire and EMS Services with the City of Harker Heights.

DATE: April 19, 2022
TO: Kent Cagle, City Manager
FROM: James Kubinski, Fire Chief
SUBJECT: Harker Heights FD Automatic Aid Agreement Update

BACKGROUND AND FINDINGS:

With the annexation of areas in Southwest Bell County into the City of Killeen, the Killeen Fire Department needs additional stations and resources to provide timely fire and EMS response to the newly annexed areas. During the time between the annexations and the build out of the annexed areas, the Killeen Fire Department recommends that the City of Killeen enter into an Automatic Aid agreement with the Harker Heights Fire Department. This agreement will allow the fire department to continue to provide needed services while the planning and building process for the placement of future fire stations is completed.

The Harker Heights Fire Department has been providing fire, emergency medical, and hazardous material response services to areas annexed by the City of Killeen through an existing aid agreement that was last updated in 2008. The City of Harker Heights Fire Department and City of Killeen Fire Department have established a long standing, mutually beneficial relationship through this agreement to provide the citizens of both cities with full fire, emergency medical, and hazardous material response capabilities. The areas outlined in this agreement have been modified to match areas that have been annexed by both cities over the last fourteen years.

Harker Heights Fire Station 2 is strategically located to assist with providing fire and EMS response to the southeast areas of the City of Killeen. Additionally, the Harker Heights Fire Department maintains equipment at other stations that can be requested by the Killeen Fire Department in the event of a large-scale incident or whenever the need arises. It is the desire of the Killeen Fire Department to continue working with the Harker Heights Fire Department to provide timely fire and EMS response to citizens of both cities when the need arises. The agreement also outlines joint training, communications, initial dispatch to responses, and guidelines for borrowing/lending equipment by either entity.

THE ALTERNATIVES CONSIDERED:

Approve the Updated Automatic Aid Agreement with Harker Heights Fire Department

Not Approve the Updated Automatic Aid Agreement with Harker Heights Fire Department

Which alternative is recommended? Why?

Approve the Updated Automatic Aid Agreement with Harker Heights Fire Department. Automatic Aid Agreements allow both fire departments to provide critical fire and EMS service to respective residents of each entity in a manner that is mutually beneficial.

CONFORMITY TO CITY POLICY:

The agreement conforms to all current city policies.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

The fiscal impact of this agreement will be minimal but is not able to be precisely measured. It will provide fire and EMS response to areas of both cities that will be mutually beneficial to residents in both cities.

Is this a one-time or recurring expenditure?

Recurring

Is this expenditure budgeted?

Yes. Fire and EMS units are staffed 24 hours per day, 7 days per week. Already staffed units will be utilized for this agreement which are provided for in the annual budget.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes.

RECOMMENDATION:

Staff recommends that the City Council approve the updated Automatic Aid Agreement and allow the City Manager to sign all necessary documentation to execute the agreement.

DEPARTMENTAL CLEARANCES:

Fire Department
Legal
City Manager

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement
Auto Aid Map

INTERLOCAL AUTOMATIC AID AGREEMENT FOR FIRE AND EMS SERVICES

STATE OF TEXAS

COUNTY OF BELL

THIS AGREEMENT, entered into on this _____ day of _____ by and between the City of HARKER HEIGHTS, TEXAS and the City of KILLEEN, TEXAS, both municipal corporations of Bell County, by and through their respective duly authorized City Managers, such government acting herein under the authority and pursuant to the terms of the Texas Government Code, Section 791.001 et seq., known as the "Interlocal Cooperation Act," Texas Government Code, Chapter 791 and as it may be amended in the future. The purpose of this Interlocal Automatic Aid Agreement, herein referred to as the "Agreement," is to outline the procedures for implementing an Automatic Assistance response between the City of Killeen Fire Department, hereinafter referred to as "Killeen" and the City of Harker Heights Fire Department, hereinafter referred to as "Harker Heights". This Agreement is a guide for routine operations and is not intended to replace or adjust the Agreement for Mutual Aid and Disaster Assistance currently in effect.

DEFINITIONS

Automatic Aid – assistance that is dispatched automatically by a contractual agreement between two agencies.

Emergency Condition – a situation that poses an immediate risk to health, life, property or environment. For purposes of this Agreement, "emergency condition" shall include any first alarm structure fire or Advanced Life Support Medic Unit (EMS) incident requiring fire or EMS response.

Jurisdictional Units – The governmental entity having overall land and resource management responsibility for a specific geographical area as provided by law.

Paying Party – the party liable to pay costs to another party.

Requesting Party – a party that requests assistance pursuant to this Agreement during an emergency or disaster.

Responder - someone who acts quickly in response to some event.

Responding – acting in response to a call for service.

Responding Party - a Party providing or requested to provide Mutual Aid within the jurisdictional boundaries of the Requesting Party.

PART 1 SERVICES AND CONDITIONS

- 1.1 In consideration of one Party's automatic assistance to the other Party in an emergency condition, located in any portion of the designated area where this Agreement for Automatic Aid is in effect, firefighting or EMS equipment, in the amount established in Part 4 of this Agreement, shall be dispatched to such points where the emergency condition exists in order to assist in the protection of life and property subject to the conditions hereinafter stated.
- 1.2 At times, there arises the need to borrow or lease apparatus for a duration until such time the lessors unit (s) have returned to full service within their department or unless and until the lessor is need of the apparatus to be returned for their own department needs. For the purpose of this Agreement, Apparatus is defined as a "Reserve Pumper or Reserve Ambulance/Medic Unit." Upon the request and upon availability, the lessee agrees to the terms set forth in **Appendix A** which is incorporated and attached in this Agreement.
- 1.3 Any dispatch of equipment and personnel pursuant to this Agreement is subject to the following conditions:
 - 1.41 The predetermined amount of automatic aid listed in this Agreement shall be sent, unless such amount of assistance is unavailable due to emergency conditions confronting either Party's staffing at the time of need for assistance under this Agreement.
 - 1.42 The Responding Party's personnel and/or equipment shall be and remain under the control of the Responding Party's commanding officer but will fall into the Requesting Party's command structure. The Responding Party's commanding officer will receive assignments and tasks from the Requesting Party's Incident Commander.

PART 2 RESPONSIBILITY

- 2.1 Any civil liability related to the aid rendered under this Agreement is the responsibility of the Requesting Party which would be responsible for furnishing the fire protection services absent this Agreement, except to the extent liability results from the gross negligence or willful misconduct of the responding party's personnel.
- 2.2 All claims for workers compensation benefits arising out of this Agreement shall be the sole responsibility of the employer of the employee filing such claim.

- 2.3 At no time shall the employees of a responding party be considered to be borrowed servants or on loan to the requesting party under this Agreement.
- 2.4 To the extent authorized by law, each Party to this Agreement waives all claims against the other Party for compensation for any loss, damage, personal injury, or death occurring as a consequence of the performance of their duties under this Agreement. However, this waiver shall not apply to those cases in which the claim results from the failure of either Party to accept responsibility for any civil liability for which a requesting party is responsible as determined and required by the Interlocal Cooperation Act. (Texas Government Code, Chapter 791, current version and as amended in the future.).
- 2.5 All personnel providing assistance under this Agreement shall, during the time response services are being performed, be paid or volunteer firefighters, or certified EMS personnel of the fire department where they are regularly employed or regularly volunteer.
- 2.6 At all times while equipment and personnel of either Party's fire department are traveling to, from, or within the geographical limits of the other party in accordance with the terms of this Agreement, such personnel and equipment shall be deemed to be employed or used, as the case may be, in the full line and cause of duty of the Party which regularly employs such personnel and equipment or volunteer members of the fire department. Further, such equipment and personnel shall be deemed to be engaged in a governmental function of its governmental entity.

PART 3 PAYMENT

- 3.1 The requesting party agrees to reimburse the responding party for any chemical agent or supplies used by the responding party. The responding party shall submit an itemized bill for any such agent or supplies used and the requesting party shall pay the amount billed within thirty (30) days of receipt of the bill. Each party must make said payments from current revenues available to the paying party.
- 3.2 No other payment or reimbursement will be billable except those provided in paragraph 3.1.
- 3.3 Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

PART4 AMOUNT AND TYPE OF ASSISTANCE

- 4.0 This Agreement is for the exchange of fire and EMS service in specified response areas. Fire or EMS units will respond on first alarm structural fires or EMS incidents, as designated, in the stipulated response areas. Fire or EMS units required in addition to first alarm assignment shall be requested in accordance with procedures established in the Bell County Agreement for Mutual Aid and Disaster Assistance. Map included.

RESPONSE AREAS

Fire and EMS Response

4.1 KILLEEN FD will provide the following equipment to HARKER HEIGHTS FD:

- 4.1.1 One Fire Engine or one Ladder Truck on structure fires into Harker Heights fire response area generally located:

Area 1

Bounded on the north by FM 439, bounded on the west by the Killeen/Harker Heights city limits, bounded on the east where Harker Heights fire department response area stops on the west side of Pleasant Hill Cemetery Road, bounded on the south by the south to the Burlington Northern Santa Fe Railroad, extending west to the Killeen/Harker Heights city limits.

Area 2

Bounded on the north by Burlington Northern Santa Fe Railroad, bounded on the west by the Killeen/Harker Heights city limits, bounded on the east by the Harker Heights city limits, extending south to Interstate 14 (I-14) / US Hwy 190, bounded on the south by I-14/US Hwy 190, extending west along I-14/US Hwy 190 to the Killeen/Harker Heights city limits.

Area 3

Bounded on the north by I-14/ S Hwy 190, bounded on the west by the Killeen/Harker Heights city limits, bounded on the east by Verna Lee Blvd, continuing south on Verna Lee Blvd to where it transitions into FM 3481 extending south to Chaparral Rd, bounded on the south by Chaparral Rd, bounded on the west by the Killeen/Harker Heights city limits, extending North to I-14/US Hwy 190.

Area 4

Bounded on the north by FM 2410, extending east to Granite Trail, extending south southeast, and bounded to Stillhouse Hollow Lakes north shoreline, bound on the west by FM 3481, extending north to FM 2410.

4.2 HARKER HEIGHTS FD will provide the following equipment to KILLEEN FD:

- 4.2.1 One Fire Engine or one Ladder Truck on structure fires into Killeen's

fire response area generally located in the following areas.

Area 5

Bounded on the north by FM 439 (Rancier Ave.), bounded on the west by Twin Creek Dr, bounded on the south by Bus Hwy 190 (Veterans Memorial Blvd), bounded on the east to Killeen/Harker Heights city limits, extending north to FM 439 (Rancier Ave.).

Area 6

Bounded on the north by Ft Hood's property line, bounded on the west by 439 Loop, bounded on the east by 439 Loop, bounded on the south by FM 439. This area includes Oak Grove LN, Spur 3219, 439 Loop and Cartwright Loop

Area 7

Bounded on the north by Bus Hwy 190 (Veterans Memorial Blvd), bounded on the east by the Killeen/Harker Heights city limits, bounded on the west by FM 2410 (MLK Blvd), extending southward to FM 3470 (Stan Schlueter Loop), extending southward to I-14/US Hwy 190, bounded on the south by I-14/US Hwy 190, extending east to the Killeen/Harker Heights city limits.

Area 8

Bounded on the north by I-14/US Hwy 190, bounded on the east by the Killeen/Harker Heights city limits, on the west by FM 3470 (Stan Schlueter Loop), extending southward to Cunningham Rd, extending southward on Cunningham Rd to Stagecoach Rd, bounded on the south by Stagecoach Rd, extending east to the Killeen/Harker Heights city limits.

Area 9

Bounded on the north by Stagecoach Rd, bounded on the east by the Killeen/Harker Heights city limits, bounded on the west by East Trimmier Rd, bounded on the south by Chaparral Rd extending east to the Killeen/Harker Heights city limits.

4.3 HARKER HEIGHTS FD will provide the following equipment to KILLEEN FD:

- 4.3.1 A Fire Engine, Ladder Truck or **Booster truck** on Structure fires and **Still Alarm responses** or **an EMS unit on EMS Calls** into the area within the city limits and extra territorial jurisdiction (ETJ) of Killeen generally located in the following areas.

Area 10

Bounded on the north by Chaparral Rd, bounded on the east by the Killeen/Harker Heights city limits, bounded on the west by East Trimmier Rd, extending south on Lakeview Dr to Terrace Dr, extending south to Circle Dr, Extending south to Stillhouse Hollow Lakes north shoreline, bounded on the east by Killeen's east city limits, extending north to Killeen city limits.

Area 11 (EMS Response Only)

Bounded on the north by Stillhouse Hollow Lakes south shoreline, bounded on the east by Killeen's east city limits, bounded on the south by FM 2484, bounded on the west by Killeen's west city limits. Additionally, the area south of FM 2484, bounded on the north by FM 2484, bounded on the east by Eagles Nest Rd, bounded on the south by Crows Ranch Rd, bounded on the west by Killeen's west city limits.

**PART 5
TRAINING**

- 5.0 Joint training exercises may be conducted, at a minimum four times per year, to comply with the Insurance Service Organization (ISO). The training exercises will be coordinated by the respective department training officers or designee, for the purpose of maintaining coordination in firefighting procedures, dispatching and communications. The following topics may be utilized for the establishment of training parameters when applicable:

- 5.1 Apparatus Familiarization
- 5.2 Coordination of Engine Companies
- 5.3 Equipment/Minor Tools Carried
- 5.4 Incident Command System /NIMS
- 5.5 Hose evolutions
- 5.6 Communications Procedures
- 5.7 Hazardous Materials Team Response Operations Familiarization
- 5.8 Water Tender/Tanker Operations

**PART 6
COMMUNICATIONS**

- 6.0 Dispatch of an Automatic Aid request will be toned out on the responder's primary radio channel. Communications from the Dispatch Center to mobile units and fire ground communications utilizing portable radios will be on the radio frequencies utilized by the Department in whose jurisdiction the emergency incident occurs. Communications procedures and documents will be provided at the initial training session and updated as needed thereafter.

**PART 7
DISPATCH TO EMERGENCIES**

- 7.0 Upon receipt of an alarm in any of the designated response areas, the dispatch center receiving the alarm will dispatch the proper assignment. Should the agreed upon assistance

not be available, the requesting department will be so notified immediately by the department that would have been the Responding Party.

PART 8 INCIDENT COMMAND

- 8.0 The officer on the first arriving company will take command of the incident until relieved by the appropriate authority. National Incident Management System (NIMS) shall be the system used for Incident Command.

PART 9 FIRE INCIDENT REPORTING

- 9.0 Each department will be responsible for obtaining needed information to complete fire reports for incidents within their respective jurisdictions. Requested units shall cooperate with jurisdictional units to provide necessary information.

PART 10 TERM

- 10.0 This Agreement is effective on _____ and shall terminate on the _____ day of _____ provided that it shall automatically renew annually for one-year terms.

PART 11 NOTICE OF TERMINATION

- 11.0 The Parties hereto may terminate this Agreement without recourse or liability for breach or damages, upon ninety (90) days' written notice of their intent to terminate to the other Party. Termination of this Agreement, for any reason, shall not relieve either Party of any obligation under this Agreement prior to such termination.

PART 12 ENTIRE AGREEMENT

- 12.0 This Agreement shall take the place of and supersede any previous Agreements. It shall only be amended in writing and signed by all parties.

ATTEST:

CITY OF KILLEEN

LUCY ALDRICH
CITY SECRETARY

KENT CAGLE
CITY MANAGER

ATTEST:

CITY OF HARKER HEIGHTS

JULIETTE HELSHMAN
CITY OF HARKER HEIGHTS SECRETARY

DAVID MITCHELL
CITY MANAGER

APPENDIX A
MOTOR VEHICLE LEASE

The undersigned Lessor and Lessee agree:

1. Lessor hereby leases to Lessee, on terms herein contained, the motor vehicle and provided equipment described as:

Fleet Vehicle Number:
Description of Vehicle:
Vehicle Identification No:
Texas Exempt License Plate#:
Additional Equipment:
2. Lessee shall maintain insurance on the vehicle covering loss by collision, bodily injury and property damage in the amounts in which its own fire trucks are normally insured. In the event the Lessee shall fail to pay for or provide any insurance specified as the responsibility of Lessee, Lessor at its option may pay for such insurance and Lessee shall promptly reimburse Lessor for the cost thereof. Lessee will promptly notify Lessor of any accident or incident that may result in an insurance claim. Lessee and its employees and agents must cooperate fully with Lessor and all insurers providing insurance under this Lease in the investigation and defense of all claims or suits. Lessee must promptly deliver to Lessor all papers, notices, and documents served on, or delivered to Lessee or its employees and agents in connection with any claim, suit, action, or proceeding at law or in equity commenced or threatened against Lessee or Lessor concerning the vehicle.
3. The vehicle subject to this Lease shall bear license plates and the titles thereto shall be registered in the name of Lessor.
4. The Parties agree that Lessee will pay the amount of one dollar (\$1.00) for rent for the vehicle and equipment provided on the vehicle during the term hereof. However, should Lessee fail to surrender possession of the leased vehicle and equipment upon the expiration of the term hereof, Lessee shall pay to Lessor rent in the amount of \$250.00 per day. All rentals shall be paid by Lessee to the Lessor at its address hereinafter set forth or to such other person or organization as the Lessor shall designate in writing.

5. Lessee agrees that it will not use or permit the use of the vehicle leased hereunder in a negligent or improper manner or in violation of any law, or so as to void any insurance covering the same, or permit any vehicle to become subject to any lien, charge, or encumbrance. Lessee agrees that all personnel riding in the cab of the unit shall at all times wear their seat belts in accordance with Texas state law and the driver of the leased vehicle shall drive in a safe manner at all times, considering the road conditions and traffic congestion, shall not exceed the posted speed limit by more than 15 miles per hour when responding to an emergency call, and shall not exceed the posted speed limit when driving non-emergency traffic.
6. Unless otherwise agreed in writing by the parties, all routine service, materials, and minor repairs in connection with the use and operation of the vehicle during the lease term hereof, including but not limited to gasoline, diesel, oil, and tire pressure are at Lessee's expense. Lessee agrees that the oil in the crankcase shall at all-time be kept at proper level. Lessee shall immediately notify Lessor of the need for major repairs or non-routine service issues. Lessor shall have the right to inspect the vehicle at reasonable times during the term hereof.
7. Lessee assumes all risk and liability for the loss of or damage to the vehicle, for the death of or injury to any person or property of another, and for all other risks and liabilities arising from the use, operation, condition, possession, or storage of the vehicle. Lessee agrees further to indemnify Lessor to the extent allowed by law from any damages or claims arising from Lessee's possession and/or use of the vehicle covered by this lease. Nothing in this Lease authorizes Lessee or any other person to operate any part of the vehicle so as to impose any liability or other obligation on Lessor.
8. This Lease terminates at the expiration of 30 days from the date herein.
9. On expiration of the lease term, Lessee shall surrender the motor vehicle and all equipment provided with the vehicle, leased to the Lessor in the same condition as when received, less reasonable wear and tear, and free from collision or upset damage.
10. **THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, BY THE LESSOR TO THE LESSEE, EXCEPT AS CONTAINED HEREIN, AND LESSOR SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO LESSEE, NOR TO ANYONE ELSE, OR ANY KIND AND HOWSOEVER CAUSED, WHETHER BY ANY VEHICLE, OR THE REPAIR, MAINTENANCE, OR EQUIPMENT THEREOF, OR BY ANY FAILURE THEREOF, OR INTERRUPTION OF SERVICE OR USE OF ANY VEHICLE LEASE HEREUNDER.**

11. Lessee agrees not to assign, transfer, sublet, pledge, or encumber any of its rights under this Lease, or the Lease itself.
12. Time is of the essence of this Lease.
13. On declaration by Lessor that the Lease is in default, the vehicle and equipment than subject hereto shall be surrendered and delivered to Lessor, and Lessor may take possession of said leased property wherever it may be found, with or without process of law, and for that purpose may enter on the premises of Lessee. On default, Lessee and Lessee's successor in interest, whether by operation of law or otherwise, shall have no right, title, or interest in the vehicle leased hereunder, or the possession or use thereof, and Lessor shall retain all rents and other sums paid by Lessee hereunder with respect to all such vehicle. The rights and remedies of Lessor hereunder are not exclusive, but cumulative and in addition to all other rights and remedies provided by law.
14. Failure of Lessor in any one or more instances to insist on the performance of any of the terms of this Lease, or to exercise any right or privilege conferred herein, or the waiver of any breach of any terms of this Lease shall not thereafter be construed as a waiver of such terms, which shall continue in force as if no such waiver had occurred.
15. This agreement is one of leasing only and Lessee shall not acquire hereby any right, title, or interest to vehicle or equipment provided with the vehicle, leased hereunder other than that of a Lessee.
16. All notices required to be given under this Lease must be in writing. Notices provided for hereunder shall be deemed given when mailed to the addresses of the Lessee and Lessor, as contained in this Lease.
17. This Lease may not be amended, modified, or altered in any manner except in a writing signed by all parties.
18. This Lease constitutes the entire agreement between the parties regarding its subject matter. No agreements, representations, or warranties other than those specifically set forth in this Lease are binding on any of the parties.

Dated of Loan: _____

City of Killeen. Lessor

City of Harker Heights, Lessee

By: _____

Name: _____

Title: _____

Address: _____

By: _____

Name: _____

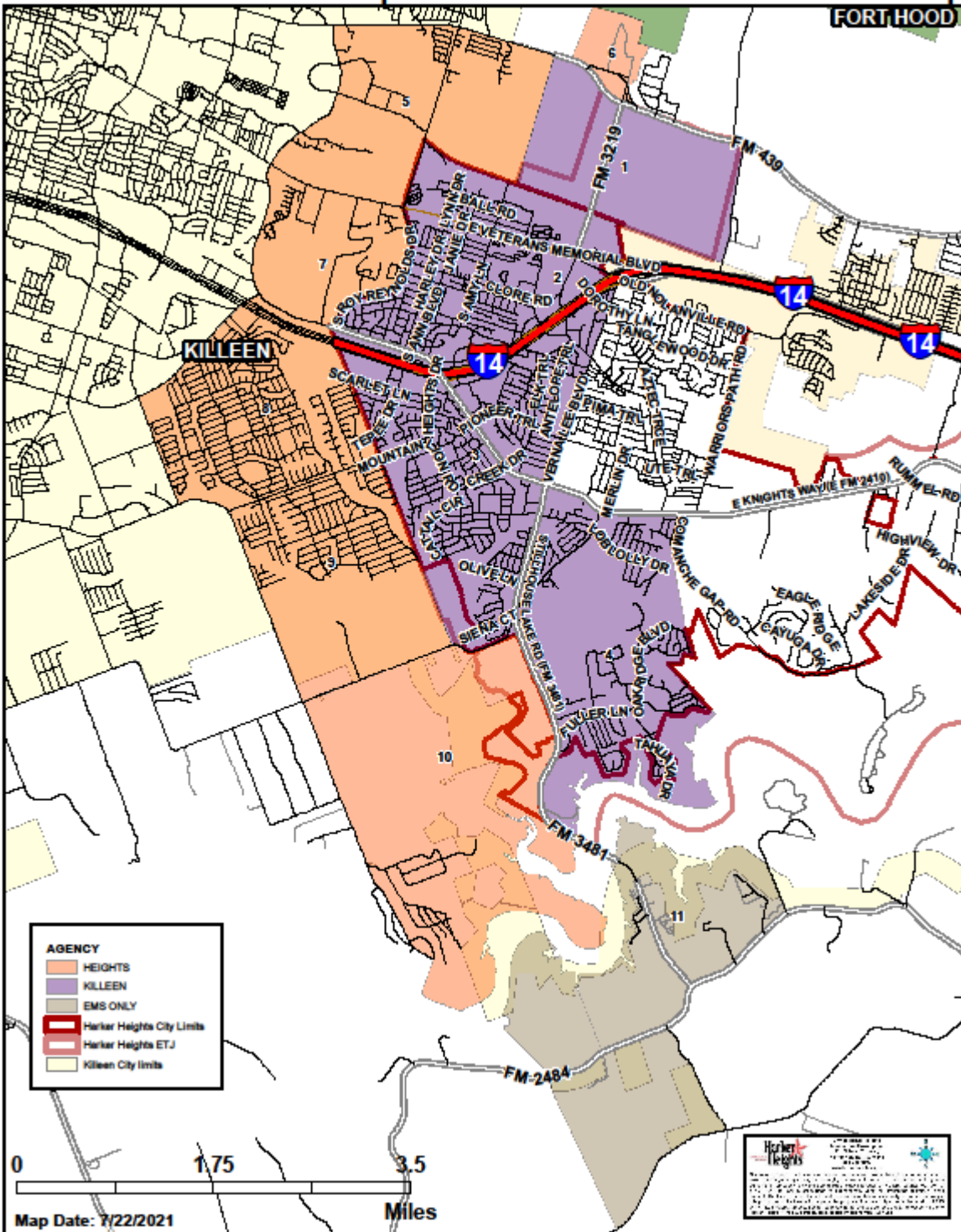
Title: _____

Address: _____

Fire and EMS Auto Aid Map

Location Map

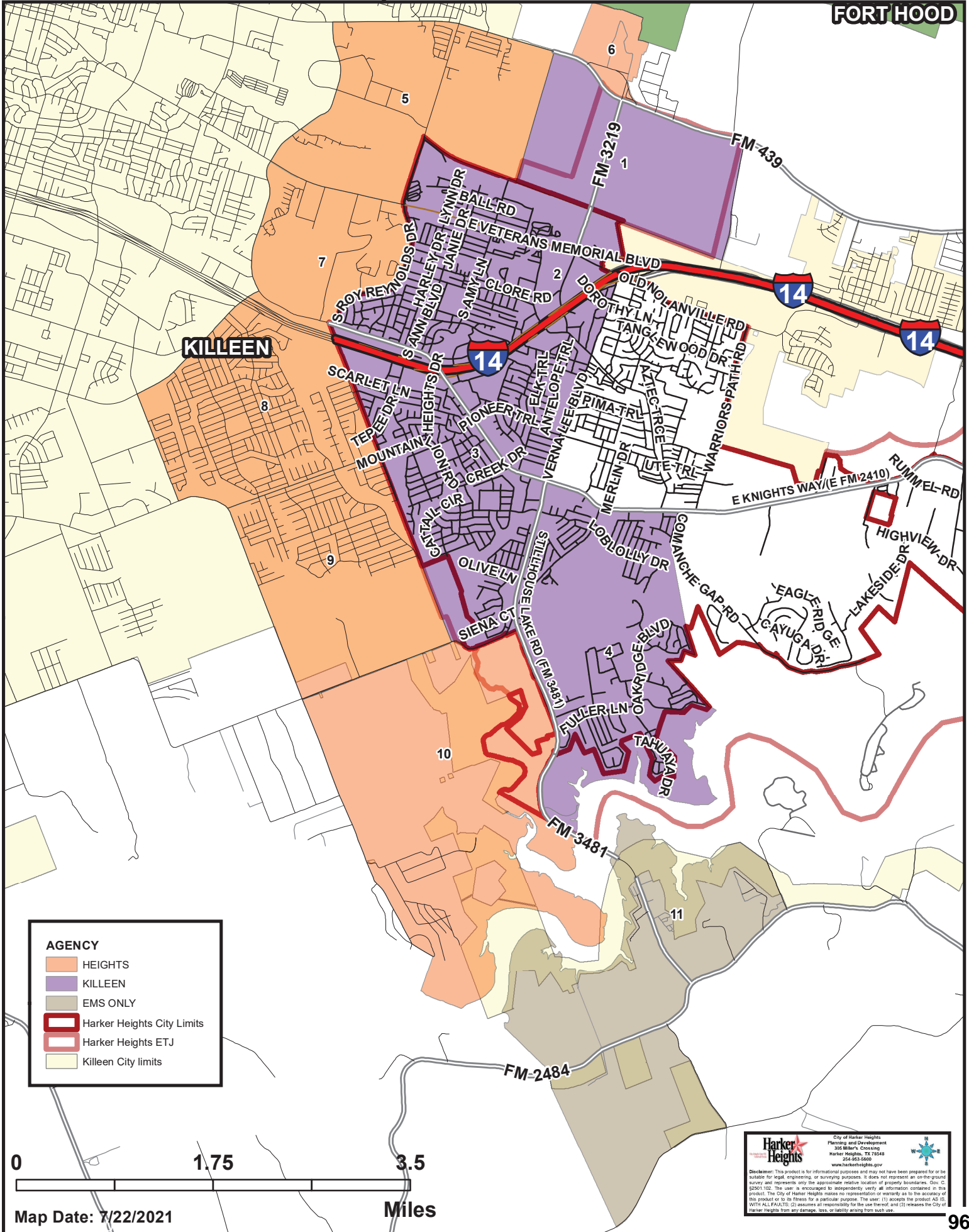
FORT HOOD



Fire and EMS Auto Aid Map

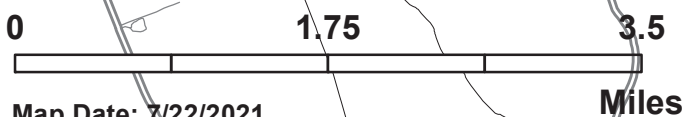
Location Map

FORT HOOD



AGENCY

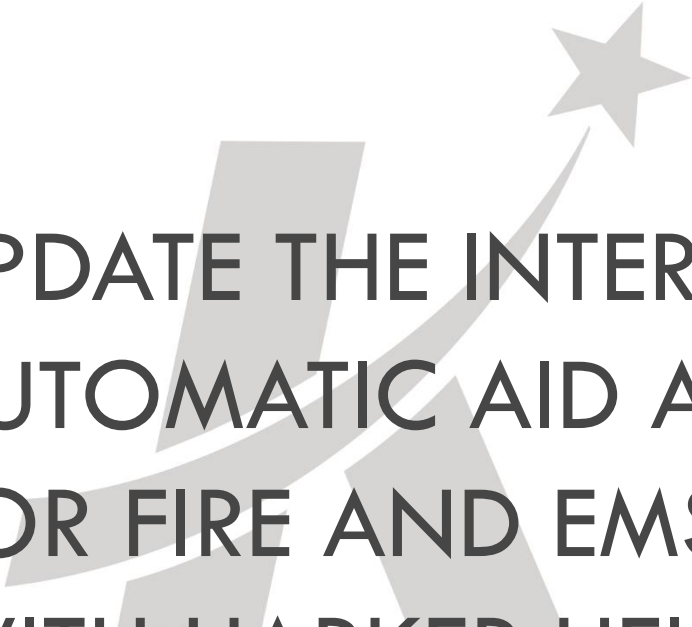
- HEIGHTS
- KILLEEN
- EMS ONLY
- Harker Heights City Limits
- Harker Heights ETJ
- Killeen City limits



Map Date: 7/22/2021

Harker Heights
 Planning and Development
 305 Main Crossing
 Harker Heights, TX 78048
 254-963-8800
 www.harkerheights.gov

Disclaimer: This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries. Gov. C. 32501.022. The user is encouraged to independently verify all information contained in this product. The City of Harker Heights makes no representation or warranty as to the accuracy of the product or to its fitness for a particular purpose. The user: (1) accepts the product AS IS; WITH ALL FAULTS; (2) assumes all responsibility for the use thereof; and (3) releases the City of Harker Heights from any damage, loss, or liability arising from such use.



UPDATE THE INTERLOCAL
AUTOMATIC AID AGREEMENT
FOR FIRE AND EMS SERVICES
WITH HARKER HEIGHTS FIRE
DEPARTMENT

Background

- The Harker Heights Fire Department has been providing fire, emergency medical, and hazardous material response services to areas annexed by the City of Killeen through an existing agreement from 2008.
- With the annexation of areas in Southwest Bell county into the City of Killeen, the Killeen Fire Department need assistance with fire and EMS response to these locations.
- In addition to amending the response areas to account for the annexation of land over the last fourteen years, the agreement also outlines joint training, communications, initial dispatch responses, and guidelines for borrowing/lending equipment by either entity.

Impact

3

- The fiscal impact will be minimal but is not measurable.
- This expenditure is recurring and budgeted in the utilization of the 24 hour / 7 day staffed Fire and EMS units which are provided for in the annual budget.

Alternatives

4

- Not approve the updated agreement and continue working from the 2008 agreement.
- Approve the updated agreement.

Recommendation

5

- Staff recommends that the City Council approve the Updated Interlocal Automatic Aid Agreement for Fire and EMS Services Between the Killeen Fire Department and the Harker Heights Fire Department and allow the City Manager to sign all necessary documentation to execute the agreement.



City of Killeen

Staff Report

File Number: RS-22-055

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution approving an Interlocal Automatic Aid Agreement for Fire and EMS Services with the City of Belton.

DATE: April 19, 2022
TO: Kent Cagle, City Manager
FROM: James Kubinski, Fire Chief
SUBJECT: Aid Agreement with the City of Belton

BACKGROUND AND FINDINGS:

Mutual Aid and Interlocal Agreements supply fire department services with additional resources when an incident, or multiple incidents, deplete resources from any one entity. Aid agreements are the legal documents which set, in writing, the conditions under which all involved entities agree to operate. City Council item RS-18-014 is a countywide Interlocal Mutual Aid Agreement approved in 2018 that allows for multiple fire departments in Bell County to request equipment responses from each other on an as needed basis, whenever a significant incident occurs.

This agreement with the City of Belton outlines terms, specific equipment that will be deployed by each agency, dispatching procedures, and training requirements for both agencies. The primary benefit is that delays in dispatching will be reduced due to the "automatic" aid portion that will not require the communications agency to check with an on-duty chief officer before dispatching a unit that is requested by either agency.

THE ALTERNATIVES CONSIDERED:

Enter into this agreement and allow the two cities to work together to respond to large scale incidents.

Not enter into the agreement and continue to have each entity serve their own community individually.

Which alternative is recommended? Why?

Entering into this agreement creates cooperation between the Belton Fire Department and the Killeen Fire Department to help mitigate large scale events whenever they occur.

CONFORMITY TO CITY POLICY:

The agreement conforms to all current city policies.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

The fiscal impact of this agreement will be minimal but is not able to be precisely measured. It will provide fire and EMS response to areas of both cities that will be mutually beneficial to residents in both cities.

Is this a one-time or recurring expenditure?

Recurring

Is this expenditure budgeted?

Yes. Fire and EMS units are staffed 24 hours per day, 7 days per week. Already staffed units will be utilized for this agreement which are provided for in the annual budget.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes.

RECOMMENDATION:

Staff recommends that the City Council approve the Interlocal Agreement for Automatic Aid and allow the City Manager to sign all necessary documentation to execute the agreement.

DEPARTMENTAL CLEARANCES:

Fire Department
Legal
City Manager Office

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement

INTERLOCAL AGREEMENT FOR AUTOMATIC AID FIRE SERVICES BETWEEN THE KILLEEN FIRE DEPARTMENT AND THE BELTON FIRE DEPARTMENT

This Interlocal Agreement for Automatic Aid Fire Services (“Agreement”) is entered into by and between the City of Killeen, a home rule municipality in the State of Texas (“Killeen”) and the City of Belton, also a home rule municipality in the State of Texas (“Belton”) for the mutual automatic aid assistance between the Killeen Fire Department and the Belton Fire Department. Killeen and Belton may hereinafter be referred to individually as the “Party” and/or collectively as the “Parties.”

WHEREAS, the governmental entities which are Parties to this Agreement desire to enter into an agreement concerning automatic aid fire services;

WHEREAS, the Texas Government Code, Chapter 791, the “Interlocal Cooperation Act,” authorizes local government entities to enter into interlocal contracts for governmental purposes; and

WHEREAS, the Texas Government Code §791.006 specifically authorizes interlocal agreements for fire services;

THEREFORE, the Parties mutually agree to provide automatic aid assistance as set forth below:

TERMS.

- 1) Each Party agrees to provide automatic assistance to the other upon the occurrence of an emergency condition in any portion of the designated service area as set forth in Attachment ‘A,’ attached hereto and incorporated herein for all purposes, with the predetermined amount of firefighting equipment, emergency medical equipment and/or personnel in order to assist in the protection of life and property. For the purposes of this Agreement, “emergency conditions” shall include any condition requiring fire protection or emergency medical services, or both.
- 2) The amounts and types of assistance to be dispatched shall be agreed to by the Chief of the Belton Fire Department and the Chief of the Killeen Fire Department and may be amended or revised at any time by mutual agreement of the Fire Chiefs as conditions may warrant. The current scope of this mutual aid agreement is outlined in Attachment ‘A.’
- 3) The predetermined amount of aid, type of equipment, and number of personnel shall be sent, unless such amount of assistance is unavailable due to emergency conditions confronting either Party’s forces at the time of need for assistance under this Agreement.
- 4) In fulfilling their obligations provided for in this Agreement, both Parties shall comply with the procedures set forth in Attachment ‘A.’
- 5) Each Party shall at all times be and remain legally responsible for the conduct of their respective fire department employees regardless of whether such employees were performing duties under this Agreement at the request of the requesting City and regardless of whether such employees were acting under the authority, direction,

suggestion, or orders of an officer of the requesting City. This assignment of civil liability is specifically permitted by section 791.006 (a-1) of the Texas Government Code and is intended to be different than the liability otherwise assigned under section 791.006(a) of the Texas Government Code.

- 6) All personnel acting on behalf of the Party's fire department under this agreement during the time services are required, shall be paid firefighters of the Party's fire department at the time of performance, or members of an organized volunteer fire department which renders firefighting services.
- 7) All claims for workers compensation benefits arising out of this agreement shall be the sole responsibility of the party who is the general employer of the employee filing such claim. At no time shall the employees of a responding party be considered to be borrowed servants or on loan to the requesting party under this agreement.
- 8) Nothing in this Agreement shall be construed as making either Party responsible for the payment of compensation and/or any benefits, including health, property, motor vehicle, or workers' compensation, disability, death, and dismemberment insurance for the other Party's employees and/or equipment. Nothing contained in this Agreement shall be construed as making the Requesting Party responsible for wages, materials, logistical support, equipment, or related travel expenses incurred by the Responding Party.
- 9) Each Party shall own, lease, or rent all equipment used by that Party in the execution of this Agreement, and each Party shall be solely responsible for its equipment and property, including any losses or damages, in the performance of this Agreement.
- 10) Each Party shall bear their own costs in the execution of this Agreement. Neither Party shall be reimbursed by the other for costs incurred pursuant to this agreement.
- 11) The mutual obligations herein shall constitute full compensation for all services, and neither Party shall be entitled to any reimbursement for assistance hereunder. Neither Party shall have any liability for failure to expend funds to provide aid hereunder. Each Party understands and agrees that both Parties have certified funds under this Agreement, and neither Party shall have a cause of action for money against the other Party under this Agreement irrespective of the nature thereof. The sole remedy for failure to provide aid in accordance with this Agreement or for breach of any provision of this Agreement is termination.
- 12) The Parties agree that at all times while equipment and/or personnel are traveling to, from, or within the geographical limits of the other Party in performance of this Agreement, such equipment and/or personnel shall be deemed to be employed or used, as the case may be, in the full line and cause of duty of the Party which regularly utilizes or employs such equipment or personnel. Further, such personnel shall be deemed to be engaged in a governmental function of their respective City.
- 13) Each party paying for the performance of governmental functions or services must make those payments from current revenues available to the paying party.

TERM.

This Agreement shall be in full force and effect until rescinded in writing by either party. This agreement shall be reviewed annually and may be amended or revised from time to time as required and upon the mutual agreement of the Parties' Fire Chiefs.

NOTICE.

Unless otherwise provided herein, all notices required or permitted by this Agreement shall be made to the following:

CITY OF KILLEEN

Killeen Fire Department
Chief James Kubinski
201 N. 28th Street
Killeen, Texas 76541

CITY OF BELTON

Belton Fire Department
Chief Jon Fontenot
420 Sparta Road
Belton, Texas 76513

COMPLIANCE.

Both Parties shall comply with all Federal, State and City statutes, ordinances, and regulations applicable to the performance of the services under this Agreement.

ENTIRE AGREEMENT.

This document embodies the entire agreement and understanding between the Parties hereto, and there are no other agreements, understandings, oral or written, with reference to the subject matter contained herein that are not merged here or superseded by this Agreement.

AMENDMENTS.

No alteration, change, modification, or amendment of the terms of this Agreement shall be valid or effective unless made in writing and signed by both Parties hereto and approved by appropriate action of the governing body of each Party.

WAIVER.

No waiver of performance by either Party shall be construed as or operate as a waiver for any subsequent default of any terms, covenants, and conditions of this Agreement.

GOVERNING LAW AND VENUE.

In the event of any action arising under this Agreement, venue shall be in Bell County, Texas or in the United States District Court for the Western District of Texas. This Agreement shall be construed in accordance with the laws of the State of Texas.

SEVERABILITY.

If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

TERMINATION/FORCE MAJEURE.

This Agreement may be terminated by either Party for any reason with 30 days advance written notice to the other Party. Neither Party shall be responsible for damages nor expected to fulfill its obligations under this Agreement should an act of God or other unforeseen catastrophe, or other event reasonably beyond the control of the Party, occur and cause such damage or prevent the performance of any obligation contained within this Agreement.

EXECUTION.

This Agreement shall be executed by the duly authorized official(s) of each party as expressed in the approving resolution or order of the governing body of such party.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written.

THE CITY OF Killeen, TEXAS

THE CITY OF BELTON, TEXAS

By: _____
Kent Cagle, City Manager

By: _____
Sam Listi, City Manager

ATTEST:

ATTEST:

Lucy Aldrich, City Secretary

Amy Casey, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney's Office

City Attorney's Office

ATTACHMENT 'A'

Fire Apparatus will respond on first alarm structural fire incidents and non-structural fire incidents, if designated, in the stipulated response areas.

Advanced life support units/rescue will respond to medical emergencies, if designated, in the stipulated response areas.

Fire/EMS units required in addition to first alarm assignment must be requested in accordance with procedures established in the most recently executed Interlocal Mutual Aid Agreement for Fire Services executed between the Parties, as may be amended from time to time.

Response Areas

Fire Response

- A. Belton will provide the following to KFD:
 - 1. Ladder Truck, Brush Truck, Rescue Boat, or Engine with a minimum of 3 personnel per apparatus to any response area when requested or assigned.

- B. KFD will provide the following to Belton:
 - 1. Ladder Truck with personnel to 4th Alarm structure fires within Belton City Limits.

Training

Training exercises are to be conducted, at a minimum four times per year to comply with the Insurance Service Organization (ISO). The training exercises will be coordinated and observed by the respective department training officer or designee, for the purpose of maintaining coordination in firefighting procedures, dispatching and communications. The following topics may be utilized for the establishment of training parameters, when applicable:

- 1. Apparatus Familiarization
- 2. Boat operation procedures
- 3. Coordination of Engine Companies and EMS units
- 4. EMS procedures
- 5. Equipment/Minor Tools Carried
- 6. 5-Inch Hose Program Procedures
- 7. Incident Command System
- 8. Communication Procedures

Communications

- Dispatch of an Automatic Aid request will be toned out on the responder's primary radio channel.
- Communications from the Dispatch Center to mobile units and fire ground communications utilizing portable radios will be on the radio Talk group utilized by the Department in whose jurisdiction the emergency incident occurs.
- Communications procedures and documents will be provided at the initial training session and updated as needed thereafter.
- Upon receipt of an alarm in any of the designated response areas, the dispatch center receiving the alarm will dispatch the proper assignment. Should the agreed upon assistance not be available, the requesting department will be so notified.

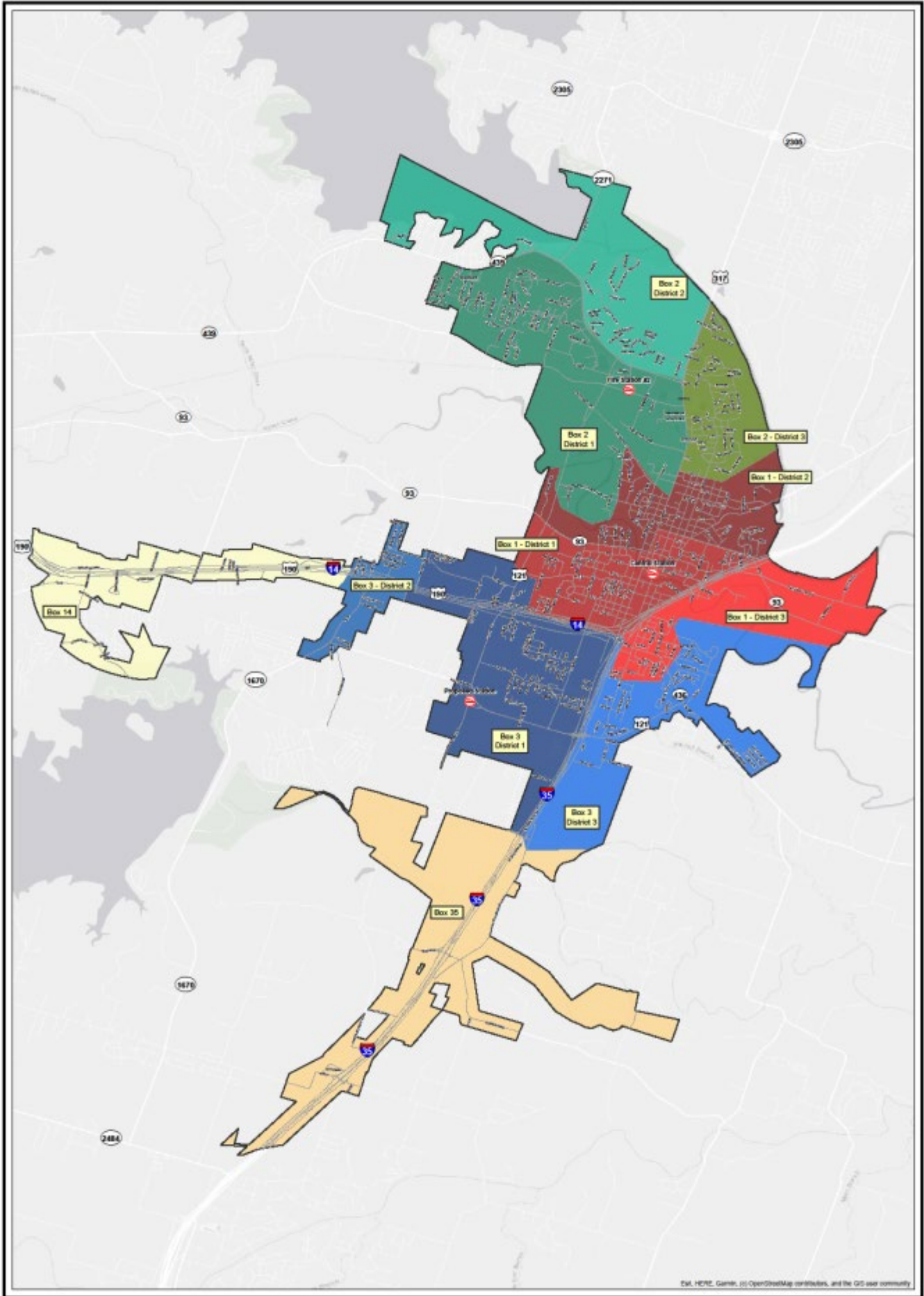
Incident Command

The officer on the first arriving company will take command of the incident until relieved by the appropriate authority. Overall command of the incident will be assumed by the jurisdictional department upon arrival at the scene.

Fire Incident Reporting

Each department will be responsible for obtaining needed information to complete fire and emergency medical service reports for incidents within their respective jurisdictions. Assisting units shall cooperate with jurisdictional units to provide necessary information.

See Belton Fire Boxes and Districts Below:





INTERLOCAL AGREEMENT FOR
AUTOMATIC AID FIRE
SERVICES WITH BELTON FIRE
DEPARTMENT

Background

2

- Mutual Aid and Interlocal Agreements supply fire department services with additional resources when an incident, or multiple incidents, deplete resources from any one entity.
- City Council item RS-18-014 is a current countywide Interlocal Mutual Aid Agreement approved in 2018 allowing multiple fire departments in Bell County to request equipment responses on an as needed basis during significant incidents.
- The proposed agreement with Belton Fire Department specifically will reduce delays in dispatching due to the “automatic” aid portion that outlines the dispatching procedure for the communications agency.

Impact

3

- The fiscal impact will be minimal but is not measurable.
- This expenditure is recurring and budgeted in the utilization of the 24 hour / 7 day staffed Fire and EMS units which are provided for in the annual budget.

Alternatives

4

- Not enter into this agreement and continue to have each entity serve their own community individually and requiring the communications agency to act as an intermediary between Belton FD and Killeen FD prior to dispatching aid.
- Enter into this agreement providing the communications agency with a standard procedure for dispatching aid from either agency to help mitigate large scale events.

Recommendation

5

- Staff recommends that the City Council approve the Interlocal Agreement for Automatic Aid Fire Services Between the Killeen Fire Department and the Belton Fire Department and allow the City Manager to sign all necessary documentation to execute the agreement.



City of Killeen

Staff Report

File Number: RS-22-056

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution approving a professional services agreement with Garver, LLC, for the Apron Rehabilitation Phase II project at the Killeen Fort Hood Regional Airport, in the amount of \$63,600.

DATE: April 19, 2022

TO: Kent Cagle, City Manager

FROM: Mike Wilson, Executive Director of Aviation

SUBJECT: Professional Services Agreement with Garver, LLC

BACKGROUND AND FINDINGS:

On July 13, 2021, the FAA approved a Passenger Facility Charge (PFC) Application that included a Terminal Apron Rehabilitation, Phase II project at the Killeen-Fort Hood Regional Airport (KFHRA) in the amount of \$500,000. This phase of the project will design the repair/replacement of deficient concrete panels in various locations on the apron, replace joint seals, rehab the concrete along the trench drain, and correct various spalling issues, thus ensuring a safe, fully functional aircraft apron, extending the useful life of the apron, and preventing future concrete panel failures.

Staff has negotiated a professional services agreement with Garver, LLC, in the amount of \$63,600 for design services to include preliminary and final design, geotechnical services, drainage study, bid services, project administration, and construction support services for this project at KFHRA.

THE ALTERNATIVES CONSIDERED:

Alternatives considered: (1) do not approve the agreement, or (2) approve the agreement

Which alternative is recommended? Why?

Staff recommends alternative 2. The Garver team is the Airport engineer of record and was selected via a competitive process. This choice offers the most experienced team fully cognizant of all FAA requirements for projects at KFHRA.

CONFORMITY TO CITY POLICY:

Yes

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

The amount of the expenditure for professional services is \$63,600.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Yes, funds are available in the Aviation Passenger Facility Charge Fund in account 529-0510-521.69-07.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Yes

RECOMMENDATION:

Approve a professional services agreement with Garver, LLC in the amount of \$63,600 and authorize the City Manager or designee to execute same as well as any and all amendments as allowed per federal, state, or local law.

DEPARTMENTAL CLEARANCES:

Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Agreement
Certificate of Interested Parties



285 SE Inner Loop
Suite 110
Georgetown, TX 78626

TEL 512.485.0020
FAX 512.485.0021

www.GarverUSA.com

March 3, 2022

Mike Wilson
Killeen-Fort Hood Regional Airport (KFHRA)
8101 S Clear Creek Road
Killeen, TX 76549

Re: Professional Services Proposal and Contract for
KFHRA Apron Rehabilitation Phase II

Dear Mr. Wilson,

We appreciate the opportunity to serve the Killeen-Fort Hood Regional Airport with the Apron Rehabilitation Phase II project. We have assessed the project scope and coordinated with subconsultants to develop a proposed contract including the scope of services, design schedule, and fee.

Please call me if you have any questions.

Sincerely,

GARVER

A handwritten signature in blue ink that reads 'Derek Mayo'.

Derek Mayo, P.E., PMP
Senior Project Manager

Attachments: KFHRA Apron Rehabilitation Phase II Contract



THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made as of the Effective Date by and between the **City of Killeen** (hereinafter referred to as "**Owner**"), and **Garver, LLC** (hereinafter referred to as "**Garver**" or "**Engineer**"). Owner and Garver may individually be referred to herein after as a "**Party**" and/or "**Parties**" respectively.

RECITALS

WHEREAS, Owner intends to **rehabilitate the Terminal Apron (Phase II) at the Killeen-Fort Hood Regional Airport, KFHRA** (the "**Project**").

WHEREAS, Garver will provide professional Services related to the Project as further described herein.

NOW THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS GARVER

In addition to other defined terms used throughout this Agreement, when used herein, the following capitalized terms have the meaning specified in this Section

"Effective Date" means the date last set forth in the signature lines below.

"Damages" means any and all damages, liabilities, or costs (including reasonable attorneys' fees recoverable under applicable law).

"Hazardous Materials" means any substance that, under applicable law, is considered to be hazardous or toxic or is or may be required to be remediated, including: (i) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, (ii) any chemicals, materials or substances which are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," or any words of similar import pursuant to applicable law; or (iii) any other chemical, material, substance or waste, exposure to which is now or hereafter prohibited, limited or regulated by any governmental instrumentality, or which may be the subject of liability for damages, costs or remediation.

"Personnel" means affiliates, directors, officers, partners, members, employees, and agents.

2. SCOPE OF SERVICES

2.1. **Services.** Owner hereby engages Garver to perform the scope of service described in Exhibit A attached hereto ("**Services**"). Execution of this Agreement by Owner constitutes Owner's written authorization to proceed with the Services. In consideration for such Services, Owner agrees to pay Garver in accordance with Section 3 below.



3. PAYMENT

3.1. Fee.

For the Services described under Section 2.1, Owner will pay Garver in accordance with this Section 3 and Exhibit B a lump sum of **\$63,600**. Owner represents that funding sources are in place with the available funds necessary to pay Garver in accordance with the terms of this Agreement.

3.2. Invoicing Statements. Garver shall invoice Owner on a monthly basis. Such invoice shall include supporting documentation reasonably necessary for Owner to know with reasonable certainty the proportion of Services accomplished.

3.3. Payment.

3.3.1. Due Date. Owner shall pay Garver all undisputed amounts within thirty (30) days after receipt of an invoice. Owner shall provide notice in writing of any portion of an invoice that is disputed in good faith within fifteen (15) days of receipt of an invoice. Garver shall promptly work to resolve any and all items identified by Owner relating to the disputed invoice. All disputed portions shall be paid promptly upon resolution of the underlying dispute.

3.3.2. If any undisputed payment due Garver under this Agreement is not received within forty-five (45) days from the date of an invoice, Garver may elect to suspend Services under this Agreement without penalty.

3.3.3. Payments due and owing that are not received within thirty (30) days of an invoice date will be subject to interest at the lesser of a one percent (1%) monthly interest charge (compounded) or the highest interest rate permitted by applicable law.

4. AMENDMENTS

4.1. Amendments. Garver shall be entitled to an equitable adjustment in the cost and/or schedule for circumstances outside the reasonable control of Garver, including modifications in the scope of Services, applicable law, codes, or standards after the Effective Date ("Amendment"). As soon as reasonably possible, Garver shall forward a formal Amendment to Owner with backup supporting the Amendment. All Amendments should include, to the extent know and available under the circumstances, documentation sufficient to enable Owner to determine: (i) the factors necessitating the possibility of a change; (ii) the impact which the change is likely to have on the cost to perform the Services; and (iii) the impact which the change is likely to have on the schedule. All Amendments shall be effective only after being signed by the designated representatives of both Parties. Garver shall have no obligation to perform any additional services created by such Amendment until a mutually agreeable Amendment is executed by both Parties.

5. OWNER'S RESPONSIBILITIES

5.1. In connection with the Project, Owner's responsibilities shall include the following:

5.1.1. Those responsibilities set forth in Exhibit A.

5.1.2. Owner shall be responsible for all requirements and instructions that it furnishes to Garver pursuant to this Agreement, and for the accuracy and completeness of all programs,



reports, data, and other information furnished by Owner to Garver pursuant to this Agreement. Garver may use and rely upon such requirements, programs, instructions, reports, data, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations applicable to the furnished items as further set forth in Exhibit A.

5.1.3. Owner shall give prompt written notice to Garver whenever Owner observes or otherwise becomes aware of the presence at the Project site of any Hazardous Materials or any relevant, material defect, or nonconformance in: (i) the Services; (ii) the performance by any contractor providing or otherwise performing construction services related to the Project; or (iii) Owner's performance of its responsibilities under this Agreement.

5.1.4. Owner agrees to allow the contractor to include "Garver, LLC" as an additional insured under the contractor's indemnity obligations included in the construction contract documents.

5.1.5. Owner will not directly solicit any of Garver's Personnel during performance of this Agreement.

6. GENERAL REQUIREMENTS

6.1. Standards of Performance.

6.1.1. Industry Practice. Garver shall perform any and all Services required herein in accordance with generally accepted practices and standards employed by the applicable United States professional services industries as of the Effective Date practicing under similar conditions and locale. Such generally accepted practices and standards are not intended to be limited to the optimum practices, methods, techniques, or standards to the exclusion of all others, but rather to a spectrum of reasonable and prudent practices employed by the United States professional services industry.

6.1.2. Owner shall not be responsible for discovering deficiencies in the technical accuracy of Garver's services. Garver shall promptly correct deficiencies in technical accuracy without the need for an Amendment unless such corrective action is directly attributable to deficiencies in Owner-furnished information.

6.1.3. On-site Services. Garver and its representatives shall comply with Owner's and its separate contractor's Project-specific safety programs, which have been provided to Garver in writing in advance of any site visits.

6.1.4. Relied Upon Information: Garver may use or rely upon design elements and information ordinarily or customarily furnished by others including, but not limited to, specialty contractors, manufacturers, suppliers, and the publishers of technical standards.

6.1.5. Aside from Garver's direct subconsultants, Garver shall not at any time supervise, direct, control, or have authority over any contractor's work, nor shall Garver have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any such contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's services. Garver shall not be responsible for the acts or omissions of any contractor for whom it does not have a direct contract. Garver neither guarantees the performance of any



contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

6.1.6. In no event is Garver acting as a "municipal advisor" as set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission. Consequently, Garver's Services expressly do not include providing advice pertaining to insurance, legal, finance, surety-bonding, or similar services.

6.2. Instruments of Service.

6.2.1. Deliverables. All reports, specifications, record drawings, models, data, and all other information provided by Garver or its subconsultants, which is required to be delivered to Owner under Exhibit A (the "**Deliverables**"), shall become the property of Owner subject to the terms and conditions stated herein.

6.2.2. Electronic Media. Owner hereby agrees that all electronic media, including CADD files ("**Electronic Media**"), are tools used solely for the preparation of the Deliverables. Upon Owner's written request, Garver will furnish to Owner copies of Electronic Media to the extent included as part of the Services. In the event of an inconsistency or conflict in the content between the Deliverables and the Electronic Media, however, the Deliverables shall take precedence in all respects. Electronic Media is furnished without guarantee of compatibility with the Owner's software or hardware. Because Electronic Media can be altered, either intentionally or unintentionally, by transcription, machine error, environmental factors, or by operators, it is agreed that, to the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including, but not limited to, costs of defense arising out of changes or modifications to the Electronic Media form in Owner's possession or released to others by Owner. Garver's sole responsibility and liability for Electronic Media is to furnish a replacement for any non-functioning Electronic Media for reasons solely attributable to Garver within thirty (30) days after delivery to Owner.

6.2.3. Property Rights. All intellectual property rights of a Party, including copyright, patent, and reuse ("**Intellectual Property**"), shall remain the Intellectual Property of that Party. Garver shall obtain all necessary Intellectual Property from any necessary third parties in order to execute the Services. Any Intellectual Property of Garver or any third party embedded in the Deliverables shall remain so imbedded and may not be separated therefrom.

6.2.4. License. Upon Owner fulfilling its payment obligations under this Agreement, Garver hereby grants Owner a license to use the Intellectual Property, but only in the operation and maintenance of the Project for which it was provided. Use of such Intellectual Property for modification, extension, or expansion of this Project or on any other project, unless under the direction of Garver, shall be without liability to Garver and Garver's subconsultants. To the extent permitted by applicable law, Owner shall indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from and against any and all claims, liabilities, damages, losses, and costs, including but not limited to costs of defense arising out of Owner's use of the Intellectual Property contrary to the rights permitted herein.



6.3. Opinions of Cost.

6.3.1. Since Garver has no control over: (i) the cost of labor, materials, equipment, or services furnished by others; (ii) the contractor or its subcontractor(s)' methods of determining prices; (iii) competitive bidding; (iv) market conditions; or (v) similar material factors, Garver's opinions of Project costs or construction costs provided pursuant to Exhibit A, if any, are to be made on the basis of Garver's experience and qualifications and represent Garver's reasonable judgment as an experienced and qualified professional engineering firm, familiar with the construction industry; but Garver cannot and does not guarantee that proposals, bids, or actual Project or construction costs will not vary from estimates prepared by Garver.

6.3.2. Owner understands that the construction cost estimates developed by Garver do not establish a limit for the construction contract amount. If the actual amount of the low construction bid or resulting construction contract exceeds the construction budget established by Owner, Garver will not be required to re-design the Services without additional compensation. In the event Owner requires greater assurances as to probable construction cost, then Owner agrees to obtain an independent cost estimate.

6.4. Underground Utilities. Except to the extent expressly included as part of the Services, Garver will not provide research regarding utilities or survey utilities located and marked by their owners. Furthermore, since many utility companies typically will not locate and mark their underground facilities prior to notice of excavation, Garver is not responsible for knowing whether underground utilities are present or knowing the exact location of such utilities for design and cost estimating purposes. In no event is Garver responsible for damage to underground utilities, unmarked or improperly marked, caused by geotechnical conditions, potholing, construction, or other contractors or subcontractors working under a subcontract to this Agreement.

6.5. Design without Construction Phase Services.

6.5.1. If the Owner requests in writing that Garver provide any specific construction phase services or assistance with resolving disputes or other subcontractor related issues, and if Garver agrees to provide such services, then Garver shall be compensated for the services as an Amendment in accordance with Sections 4 and 10.2.

6.5.2. Garver shall be responsible only for those construction phase Services expressly set forth in Exhibit A, if any. With the exception of such expressly required Services, Garver shall have no responsibility or liability for any additional construction phase services, including review and approval of payment applications, design, shop drawing review, or other obligations during construction. Owner assumes all responsibility for interpretation of the construction contract documents and for construction observation and supervision and waives any claims against Garver that may be in any way connected thereto.

6.5.3. Owner agrees, to the fullest extent permitted by law, to indemnify and hold Garver, Garver's subconsultants, and their Personnel harmless from any loss, claim, or cost, including reasonable attorneys' fees and costs of defense, arising or resulting from the performance of such construction phase services by other persons or entities and from any and all claims arising from modifications, clarifications, interpretations, adjustments, or changes made to the construction contract documents to reflect changed field or other



conditions, except to the extent such claims arise from the negligence of Garver in performance of the Services.

6.6. Hazardous Materials. Nothing in this Agreement shall be construed or interpreted as requiring Garver to assume any role in the identification, evaluation, treatment, storage, disposal, or transportation of any Hazardous Materials. Notwithstanding any other provision to the contrary in this Agreement and to the fullest extent permitted by law, Owner shall indemnify and hold Garver and Garver's subconsultants, and their Personnel harmless from and against any and all losses which arise out of the performance of the Services and relating to the regulation and/or protection of the environment including without limitation, losses incurred in connection with characterization, handling, transportation, storage, removal, remediation, disturbance, or disposal of Hazardous Material, whether above or below ground.

6.7. Confidentiality. Owner and Garver shall consider: all information provided by the other Party that is marked as "Confidential Information" or "Proprietary Information" or identified as confidential pursuant to this Section 6.7 in writing promptly after being disclosed verbally to be Confidential Information. Except as legally required, Confidential Information shall not be discussed with or transmitted to any third parties, except on a "need to know basis" with equal or greater confidentiality protection or written consent of the disclosing Party. Confidential Information shall not include and nothing herein shall limit either Party's right to disclose any information provided hereunder which: (i) was or becomes generally available to the public, other than as a result of a disclosure by the receiving Party or its Personnel; (ii) was or becomes available to the receiving Party or its representatives on a non-confidential basis, provided that the source of the information is not bound by a confidentiality agreement or otherwise prohibited from transmitting such information by a contractual, legal, or fiduciary duty; (iii) was independently developed by the receiving Party without the use of any Confidential Information of the disclosing Party; or (iv) is required to be disclosed by applicable law or a court order. All confidentiality obligations hereunder shall expire three (3) years after completion of the Services. Nothing herein shall be interpreted as prohibiting Garver from disclosing general information regarding the Project for future marketing purposes. Notwithstanding anything to the contrary, City is a governmental entity subject to Texas Public Information Act and shall abide by said Act and opinions of the Attorney General interpreting the same.

7. INSURANCE

7.1. Insurance.

7.1.1. Garver shall procure and maintain insurance as set forth in Exhibit C until completion of the Service. Garver shall name Owner as an additional insured on Garver's General Liability policy to the extent of Garver's indemnity obligations provided in Section 9 of this Agreement.

7.1.2. Garver shall furnish Owner a certificate of insurance evidencing the insurance coverages required in Exhibit C.

8. DOCUMENTS

8.1. Audit. Garver shall maintain all required records for the later of three (3) years after completion of the Services or Owner makes final payment and all other pending matters are closed. FAA, Owner, Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, papers and records of Garver



which are directly pertinent to a specific grant program for the purpose of audit, examination, excerpts, and transcription. In no event shall Owner be entitled to audit the makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

- 8.2. Delivery. After completion of the Project, and prior to final payment, Garver shall deliver to the Owner all original documentation prepared under this Agreement, and one (1) set of the record drawing construction plans updated to reflect changes. One (1) set of the record drawing construction plans will also be delivered to the FAA airport region office. In the event the Owner does not have proper storage facilities for the protection of the original drawings, the Owner may request Garver to retain the drawings with the provision that they will be made available upon written request.

9. INDEMNIFICATION / WAIVERS

9.1. Indemnification.

9.1.1. Garver Indemnity. Subject to the limitations of liability set forth in Section 9.2, Garver agrees to indemnify and hold Owner, and Owner's Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent such Damages are caused by the negligent acts, errors, or omissions of Garver or any other party for whom Garver is legally liable, in the performance of the Services under this Agreement.

9.1.2. Owner Indemnity. Subject to the limitations of liability set forth in Section 9.2, to the extent allowed by law, Owner agrees to indemnify and hold Garver and Garver's subconsultants and their Personnel harmless from Damages due to bodily injury (including death) or third-party tangible property damage to the extent caused by the negligent acts, errors, or omissions of Owner or any other party for whom Owner is legally liable, in the performance of Owner's obligations under this Agreement.

9.1.3. In the event claims or Damages are found to be caused by the joint or concurrent negligence of Garver and the Owner, they shall be borne by each Party in proportion to its own negligence.

9.2. Waivers. Notwithstanding any other provision to the contrary, the Parties agree as follows:

9.2.1. THE PARTIES AGREE THAT ANY CLAIM OR SUIT FOR DAMAGES MADE OR FILED AGAINST THE OTHER PARTY WILL BE MADE OR FILED SOLELY AGAINST GARVER OR OWNER RESPECTIVELY, OR THEIR SUCCESSORS OR ASSIGNS, AND THAT NO PERSONNEL SHALL BE PERSONALLY LIABLE FOR DAMAGES UNLESS THE INDIVIDUAL IS DETERMINED TO BE ACTING OUTSIDE THE SCOPE OF EMPLOYMENT.

9.2.2. MUTUAL WAIVER. TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER OWNER, GARVER, NOR THEIR RESPECTIVE PERSONNEL SHALL BE LIABLE FOR ANY CONSEQUENTIAL, SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR EXEMPLARY DAMAGES, OR DAMAGES ARISING FROM OR IN CONNECTION WITH LOSS OF USE, LOSS OF REVENUE OR PROFIT (ACTUAL OR ANTICIPATED), LOSS BY REASON OF SHUTDOWN OR NON-OPERATION, INCREASED COST OF CONSTRUCTION, COST OF CAPITAL, COST OF REPLACEMENT POWER OR CUSTOMER CLAIMS, AND OWNER HEREBY RELEASES GARVER, AND GARVER RELEASES OWNER, FROM ANY SUCH LIABILITY.



9.2.3. LIMITATION. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE OWNER AND GARVER, OWNER HEREBY AGREES THAT GARVER'S AND ITS PERSONNEL'S TOTAL LIABILITY UNDER THE AGREEMENT SHALL BE LIMITED TO PROCEEDS RECEIVED FROM INSURANCE PROVIDED UNDER EXHIBIT C OF THIS AGREEMENT.

9.2.4. NO OTHER WARRANTIES. NO OTHER WARRANTIES OR CAUSES OF ACTION OF ANY KIND, WHETHER STATUTORY, EXPRESS OR IMPLIED (INCLUDING ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE) SHALL APPLY. OWNER'S EXCLUSIVE REMEDIES AND GARVER'S ONLY OBLIGATIONS ARISING OUT OF OR IN CONNECTION WITH DEFECTIVE SERVICES (PATENT, LATENT OR OTHERWISE), WHETHER BASED IN CONTRACT, IN TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL BE THOSE STATED IN THE AGREEMENT.

9.2.5. THE LIMITATIONS SET FORTH IN SECTION 9.2 APPLY REGARDLESS OF WHETHER THE CLAIM IS BASED IN CONTRACT, TORT, OR NEGLIGENCE INCLUDING GROSS NEGLIGENCE, STRICT LIABILITY, WARRANTY, INDEMNITY, ERROR AND OMISSION, OR ANY OTHER CAUSE WHATSOEVER.

10. DISPUTE RESOLUTION

10.1. Any controversy or claim ("**Dispute**") arising out of or relating to this Agreement or the breach thereof shall be resolved in accordance with the following:

10.1.1. Any Dispute that cannot be resolved by the project managers of Owner and Garver may, at the request of either Party, be referred to the senior management of each Party. If the senior management of the Parties cannot resolve the Dispute within thirty (30) days after such request for referral, then either Party may request mediation. If both Parties agree to mediation, it shall be scheduled at a mutually agreeable time and place with a mediator agreed to by the Parties. Should mediation fail, should either Party refuse to participate in mediation, or should the scheduling of mediation be impractical, either Party may file for arbitration in lieu of litigation.

10.1.2. If both Parties agree to arbitration, said arbitration of the Dispute shall be administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules. EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY AND ALL RIGHT TO TRIAL BY JURY. The arbitration shall be conducted by a single arbitrator, agreed to by the Parties. In no event may a demand for arbitration be made if the institution of legal or equitable proceedings based on such dispute is barred by the applicable statute of limitations.

10.1.3. The site of the arbitration shall be Bell County, Texas. Each Party hereby consents to the jurisdiction of the federal and state courts within whose district the site of arbitration is located for purposes of enforcement of this arbitration provision, for provisional relief in aid of arbitration, and for enforcement of any award issued by the arbitrator.

10.1.4. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome of the arbitration or to consolidate arbitration under this Agreement with another arbitration. Within thirty (30)



days of receiving written notice of such a joinder or consolidation, the other Party may object. In the event of such an objection, the arbitrator shall decide whether the third party may be joined and/or whether the arbitrations may be consolidated. The arbitrator shall consider whether any entity will suffer prejudice as a result of or denial of the proposed joinder or consolidation, whether the Parties may achieve complete relief in the absence of the proposed joinder or consolidation, and any other factors which the arbitrators conclude should factor on the decision.

10.1.5. The arbitrator shall have no authority to award punitive damages. Any award, order or judgment pursuant to the arbitration is final and may be entered and enforced in any court of competent jurisdiction.

10.1.6. The prevailing Party shall be entitled to recover its attorneys' fees, costs, and expenses, including arbitrator fees and costs and AAA fees and costs.

10.1.7. The foregoing arbitration provisions shall be final and binding, construed and enforced in accordance with the Federal Arbitration Act, notwithstanding the provisions of this Agreement specifying the application of other law. Pending resolution of any Dispute, unless the Agreement is otherwise terminated, Garver shall continue to perform the Services under this Agreement that are not the subject of the Dispute, and Owner shall continue to make all payments required under this Agreement that are not the subject of the Dispute.

10.2. Litigation Assistance. This Agreement does not include costs of Garver for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by Owner, unless litigation assistance has been expressly included as part of Services. In the event Owner requests such services of Garver, this Agreement shall be amended in writing by both Owner and Garver to account for the additional services and resulting cost in accordance with Section 4.

11. TERMINATION

11.1. Termination for Convenience. Owner shall have the right at its sole discretion to terminate this Agreement for convenience at any time upon giving Garver ten (10) days' written notice. In the event of a termination for convenience, Garver shall bring any ongoing Services to an orderly cessation. Owner shall compensate Garver in accordance with Exhibit B for: (i) all Services performed and reasonable costs incurred by Garver on or before Garver's receipt of the termination notice, including all outstanding and unpaid invoices, (ii) all costs reasonably incurred to bring such Services to an orderly cessation.

11.2. Termination for Cause. This Agreement may be terminated by either Party in the event of failure by the other Party to perform any material obligation in accordance with the terms hereof. Prior to termination of this Agreement for cause, the terminating Party shall provide at least seven (7) business days written notice and a reasonable opportunity to cure to the non-performing Party. In all events of termination for cause due to an event of default by the Owner, Owner shall pay Garver for all Services properly performed prior to such termination in accordance with the terms, conditions and rates set forth in this Agreement.

11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the



benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.

12. MISCELLANEOUS

- 12.1. Governing Law. This Agreement is governed by the laws of the State of Texas, without regard to its choice of law provisions.
- 12.2. Successors and Assigns. Owner and Garver each bind themselves and their successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement; neither Owner nor Garver shall assign, sublet, or transfer their interest in this Agreement without the written consent of the other, which shall not be unreasonably withheld or delayed.
- 12.3. Independent Contractor. Garver is and at all times shall be deemed an independent contractor in the performance of the Services under this Agreement.
- 12.4. No Third-Party Beneficiaries. Nothing herein shall be construed to give any rights or benefits hereunder to anyone other than Owner and Garver. This Agreement does not contemplate any third-party beneficiaries.
- 12.5. Entire Agreement. This Agreement constitutes the entire agreement between Owner and Garver and supersedes all prior written or oral understandings and shall be interpreted as having been drafted by both Parties. This Agreement may be amended, supplemented, or modified only in writing by and executed by both Parties.
- 12.6. Severance. The illegality, unenforceability, or occurrence of any other event rendering a portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of the Agreement. Any void provision of this Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.
- 12.7. Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together constitute one Agreement. Delivery of an executed counterpart of this Agreement by fax or transmitted electronically in legible form, shall be equally effective as delivery of a manually executed counterpart of this Agreement.

13. EXHIBITS

- 13.1. The following Exhibits are attached to and made a part of this Agreement:

- Exhibit A – Scope of Services
- Exhibit B – Compensation Schedule
- Exhibit C – Insurance
- Exhibit D – Mandatory Federal Contract Provisions for Professional Services Contracts
- Exhibit E – State of Texas Requirements
- Exhibit F – Certification of Engineer
- Exhibit G – Project Layout Plan

Owner and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the



aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.

Acceptance of this proposed Agreement is indicated by an authorized agent of the Owner signing in the space provided below. Please return one signed original of this Agreement to Garver for our records.

IN WITNESS WHEREOF, Owner and Garver have executed this Agreement effective as of the date last written below.

City of Killeen, TX

Garver, LLC

By: _____
Signature *mcw*

By: _____
Signature *JSC*

Name: Kent Cagle
Printed Name

Name: Josh Crawford
Printed Name

Title: City Manager

Title: Texas Aviation Director

Date: _____

Date: 03/07/2022

Attest: _____

Attest: _____
Kendall Smith



EXHIBIT A (SCOPE OF SERVICES)

Generally, the Scope of Services includes the following professional services for improvements to the Civilian Terminal Apron at the Killeen-Fort Hood Regional Airport. Improvements will consist primarily of concrete pavement rehabilitation as shown in Exhibit G.

- Project Administration
- Geotechnical Services
- Drainage Study
- Design Services
 - Preliminary Design
 - Final Design
- Bidding Services
- Construction Support Services

A.1 Project Administration

Garver will serve as the Owner's representative for the project and furnish consultation and advice to the Owner during the performance of this service. Garver will attend conferences alone or with Owner's representatives, local officials, state and federal agencies, and others regarding the scope of the proposed project, its general design, functions, and impacts.

Garver will assist in development of grant reimbursement packets for review, execution, and submittal to the FAA by the Owner.

A.2 Geotechnical Services

Terracon, as a subconsultant to Garver, will be responsible for obtaining, interpreting, and evaluating geotechnical data necessary for the design of this project. The following is a summary of the geotechnical services provided under this Scope of Services.

Terracon's scope includes the assessment of the joint faulting that is occurring including potential cause and recommended solutions.

A.3 Design Services

A.3.1 General

Garver will prepare detailed construction drawings, specifications, instructions to bidders, and general provisions and special provisions, all based on guides furnished to Garver by the Owner and FAA, or internally developed by Garver. Contract Documents (Plans, Specifications, and Estimates) will be prepared for award of one (1) construction contract. These designs shall conform to the standards of practice ordinarily used by members of Garver's profession practicing under similar conditions and shall be submitted to the FAA office from which approval must be obtained.

A.3.2 Owner / Agency Coordination

Garver's project manager and/or design team will coordinate with the Owner as necessary to coordinate design decisions, site visits, document procurement, or other design needs.



A.3.3 Quality Control

Garver will develop a project specific quality control plan. The quality control plan will include the project background and scope, stakeholder contact information, project team and roles, design criteria, project schedule, and quality control procedures.

Garver will complete a quality control review prior to any design submission to Owner and/or FAA. QC reviews will be completed by a senior project manager.

A.3.4 Airspace Analysis

Garver will prepare and submit the project to the FAA for permanent airspace clearance on the Obstruction Evaluation and Airport Airspace Analysis (OE/AAA) website and coordinate with FAA representatives.

A.3.5 Construction Safety and Phasing Plan

Garver will develop a construction safety and phasing plan (CSPP) for the project. During development of the CSPP, Garver will hold a meeting with Airport staff and other stakeholders at the Airport's request to obtain feedback regarding operations during each proposed phase of construction.

After receiving comments from the meeting, Garver will develop a preliminary CSPP for the Owner's review prior to submission to the FAA. After incorporating Owner comments, the CSPP will be submitted to FAA for review through the OE/AAA website.

A.3.6 Existing Conditions Review

A.3.6.1 *Record Document Review*

Garver will review record document data, provided by the Owner, from the vicinity of the construction site to evaluate existing conditions. Record document data may include record drawings, record surveys, utility maps, GIS data, and previous design reports. All record drawing data provided to Garver is assumed to be correct.

A.3.6.2 *Site Visits*

Garver's civil engineers will perform up to one (1) site visit to the project site to review existing conditions and evaluate survey and record document data.



A.3.7 Plan Set Development

The following matrix indicates the plan drawings anticipated to be included in each design submittal. These are subject to change.

Plan Set	60% Preliminary	100% Final (IFB)
Cover Sheet	X	X
Sheet Index	X	X
General Notes	X	X
Project Layout Plan	X	X
Construction Safety and Phasing Plans	X	X
Construction Safety and Phasing Details	X	X
Existing Conditions Plans	X	X
Pavement Rehabilitation Plan Views	X	X
Pavement Rehabilitation Details	X	X
Pavement Marking Details	X	X

A.3.8 Specifications and Contract Documents

A.3.8.1 *Technical Specifications*

Detailed specifications shall be developed using FAA "Standards for Specifying Construction for Airports" AC 150/5370-10 (latest edition) or other appropriate standards approved for use by the FAA. Additional supplementary specifications will be developed for project requirements not covered by FAA AC150/5370-10 or when state or local standards are approved by the FAA.

A.3.8.2 *Construction Contract Documents*

Garver will develop construction contract documents based on EJCDC standards along with Owner provided general conditions. A specimen copy of the General Provisions and applicable prevailing wage rates will be obtained by Garver from the FAA and/or Department of Labor as appropriate for incorporation into the specifications for the proposed project. Final construction contract documents will be submitted to the Owner for final review and approval.

A.3.9 Quantities and Engineer's Opinion of Probable Cost.

Garver will develop detailed quantities in PDF format for use in construction cost estimating for each design phase. Quantities will be completed by pay item. Upon the completion of quantity development, Garver will review previous cost data and market conditions and complete an Engineer's Opinion of Probable Cost.

A.3.10 Design Services Submission and Meeting Summary

The following design submittal phases shall be included in the fee summary. A summary of each design phase and the associated review meetings is included below.



A.3.10.1 Preliminary Design

Garver will develop 60% preliminary design plans and specifications and submit these to the Owner for review. It is anticipated that the Owner will review the design submission within two weeks.

At the completion of the Owner review period, Garver will meet with the Owner to review the 60% preliminary design plans and specifications and to receive Owner comments and direction.

A.3.10.2 Final Design (100% Issue for Bid)

Garver will develop final design plans and specifications and submit these to the Owner for review. It is anticipated that the Owner will review the design submission within two weeks.

At the completion of the Owner review period, Garver will meet with the Owner to review the 90% final design plans and specifications and to receive Owner comments and direction.

A.4 Bidding Services

Garver will assist the Owner in advertising for and obtaining bids or negotiating proposals for one prime contract for construction, materials, equipment, and services; and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, attend a pre-bid conference and receive and process deposits for Bidding Documents. The Owner will pay advertising costs outside of this contract.

Garver will issue addenda as appropriate to interpret, clarify or expand the Bidding Documents. Garver will consult with and advise the Owner as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the prime contractor(s) (herein called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Bidding Documents. Garver will consult with the Owner concerning the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the Bidding Documents.

Garver will attend the bid opening, prepare a bid tabulation, and assist the Owner in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services. Garver will assist the Owner in the execution of all contract documents and furnish a sufficient number of executed documents for the Owner, Contractor and FAA.

A.5 Construction Administration Services

During the construction phase of work, Garver will accomplish the tasks below.

A.5.1 Issued for Construction (IFC) Documents

Garver will compile bid addendums and any other necessary plan changes due solely to post-bid project updates into a final Issued for Construction (IFC) set of plans and specifications.

A.5.2 Submittals

Garver will evaluate and respond to construction material submittals and shop drawings. Corrections or comments made by Garver on the shop drawings during this review will not relieve Contractor from compliance with requirements of the drawings and specifications. The check will be for review of general conformance with the design concept of the project and general compliance with the information given in the contract documents. The Contractor will be responsible for confirming and



correlating all quantities and dimensions, selecting fabrication processes and techniques of construction, coordinating his work with that of all other trades, and performing his work in a safe and satisfactory manner. Garver's review shall not constitute approval of safety precautions or constitute approval of construction means, methods, techniques, sequences, procedures, or assembly of various components. When certification of performance characteristics of materials, systems or equipment is required by the Contract Documents, either directly or implied for a complete and workable system, Garver shall be entitled to rely upon such submittal or implied certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.

A.6 Project Deliverables

The following deliverables will be submitted to the parties identified below. Unless otherwise noted below, all deliverables shall be electronic.

1. 60% Preliminary Design Plans and Specifications to the Owner and FAA.
 - a. 3 Hard Copies to the Owner, half size drawings (11x17)
2. 100% Issued for Bid Plans and Specifications to the Owner and FAA.
 - a. 3 Hard Copies to the Owner, half size drawings (11x17)
3. Issued for Construction Plans and Specifications to the Owner and FAA.
 - a. 3 Hard Copies to the Owner, half size drawings (11x17)
4. Submittal comments to the Contractor, electronically
5. Other electronic files as requested.

A.7 Additional Services

The following items are not included under this agreement but will be considered as additional services to be added under Amendment if requested by the Owner.

1. Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
2. Engineer's Letter Report
3. Deliverables beyond those listed herein.
4. Pavement Design beyond that furnished in the Geotechnical Report for fixing the joint faulting issue
5. Design of any utility relocation.
6. Engineering, architectural, or other professional services beyond those listed herein.
7. Construction Administration Services other than those included in the scope
8. On-Site Construction Observation, and/or Construction Materials Testing.
9. Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
10. Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
11. Pavement design other than required for fixing joint faulting issue
12. Closeout services
13. Services after construction, such as warranty follow-up, operations support, and Part 139 inspection support.

A.8 Schedule

Garver shall begin work under this Agreement within ten (10) days of execution of this Agreement and shall complete the work in accordance with the schedule below:

Design Phase	Calendar Days
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60% Preliminary Design	30 Days After Receiving Geotechnical Report
100% Issued for Bid	30 Days from Receipt of 60% Preliminary Design Comments from the owner and FAA



**EXHIBIT B
(COMPENSATION SCHEDULE)**

The table below presents a summary of the fee amounts and fee types for this Agreement.

WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Geotechnical Investigations	\$15,900.00	LUMP SUM
60% Preliminary Design	\$17,700.00	LUMP SUM
100% Issue for Bid	\$11,600.00	LUMP SUM
Bidding Services	\$10,800.00	LUMP SUM
Construction Phase Services	\$7,600.00	LUMP SUM
TOTAL FEE	\$63,600.00	LUMP SUM

The lump sum amount to be paid under this Agreement is **\$63,600.00**. For informational purposes, a breakdown of Garver's estimated costs is included in this Exhibit B with approximate current hourly rates for each employee classification.

As directed by the Owner, some billable Services may have been performed by Garver prior to execution of this Agreement. Payment for these Services will be made in accordance with the fee arrangement established herein, as approved by the Owner.

Additional Services (Extra Work). For services not described or included in Exhibit A, but requested by the Owner in writing or otherwise permitted in this Agreement, the Owner will pay Garver as expressly set forth in the applicable Amendment, or in the event the Amendment is silent, for the additional time spent on the Project, at the agreed upon rates for each classification of Garver's personnel (may include contract staff classified at Garver's discretion) plus reimbursable expenses including but not limited to printing, courier service, reproduction, and travel.

Exhibit B

City of Killeen KFHRA Apron Rehabilitation Phase II

FEE SUMMARY

Title I Service	Estimated Fees
<i>Geotechnical (Terracon)</i>	\$ 15,900.00
60% Preliminary Design	\$ 17,700.00
100% Issue For Bid Documents	\$ 11,600.00
Bidding Services	\$ 10,800.00
Subtotal for Title I Service	\$ 56,000.00
Title II Service	Estimated Fees
Construction Support Services	\$ 7,600.00
Subtotal for Title II Service	\$ 7,600.00
Total All Services	\$ 63,600.00



**EXHIBIT C
(INSURANCE)**

Pursuant to Section 7.1 of the Agreement, Garver shall maintain the following schedule of insurance until completion of the Services:

	Statutory Limit
Worker's Compensation	
Automobile Liability	
Combined Single Limit (Bodily Injury and Property Damage)	\$500,000
General Liability	
Each Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	
Each Claim Made	\$1,000,000
Annual Aggregate	\$2,000,000
Excess of Umbrella Liability	
Per Occurrence	\$1,000,000
General Aggregate	\$1,000,000



EXHIBIT D

MANDATORY FEDERAL CONTRACT PROVISIONS FOR PROFESSIONAL SERVICES CONTRACTS

1. ACCESS TO RECORDS AND REPORTS

The Engineer must maintain an acceptable cost accounting system. The Engineer agrees to provide the sponsor, the Federal Aviation Administration, and the Comptroller General of the United States or any of their duly authorized representatives, access to any books, documents, papers, and records of the Engineer which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Engineer agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

2. BREACH OF CONTRACT TERMS

Any violation or breach of terms of this contract on the part of the Engineer or its subconsultants may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide Engineer written notice that describes the nature of the breach and corrective actions the Engineer must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Engineer until such time the Engineer corrects the breach or the Owner elects to terminate the contract. The Owner's notice will identify a specific date by which the Engineer must correct the breach. Owner may proceed with termination of the contract if the Engineer fails to correct the breach by deadline indicated in the Owner's notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

3. CIVIL RIGHTS - GENERAL

The Engineer agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the Engineer and subconsultants from the solicitation period through the completion of the contract. This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

4. CIVIL RIGHTS – TITLE VI ASSURANCE

During the performance of this contract, the Engineer, for itself, its assignees, and successors in interest (hereinafter referred to as the "Engineer") agrees as follows:

- I. Compliance with Regulations: The Engineer (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended



from time to time, which are herein incorporated by reference and made a part of this contract.

- II. Non-discrimination: The Engineer, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Engineer will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- III. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subconsultant or supplier will be notified by the Engineer of the Engineer's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.
- IV. Information and Reports: The Engineer will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a Engineer is in the exclusive possession of another who fails or refuses to furnish the information, the Engineer will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- V. Sanctions for Noncompliance: In the event of a Engineer's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the Engineer under the contract until the Engineer complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- VI. Incorporation of Provisions: The Engineer will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Engineer will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Engineer becomes involved in, or is threatened with litigation by a subconsultant, or supplier because of such direction, the Engineer may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Engineer may request the United States to enter into the litigation to protect the interests of the United States.

5. CLEAN AIR AND WATER POLLUTION CONTROL

Engineer agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33



U.S.C. § 1251-1387). The Engineer agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

6. CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS

- I. Overtime Requirements. No Engineer or subconsultant contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic, including watchmen and guards, in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- II. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (1) of this clause, the Engineer and any subconsultant responsible therefor shall be liable for the unpaid wages. In addition, such Engineer and subconsultant shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this clause, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this clause.
- III. 3. Withholding for Unpaid Wages and Liquidated Damages. The Federal Aviation Administration (FAA) or the Owner shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Engineer or subconsultant under any such contract or any other Federal contract with the same prime Engineer, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Engineer, such sums as may be determined to be necessary to satisfy any liabilities of such Engineer or subconsultant for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this clause.
- IV. 4. Subconsultants. The Engineer or subconsultant shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subconsultant to include these clauses in any lower tier subcontracts. The prime Engineer shall be responsible for compliance by any subconsultant or lower tier subconsultant with the clauses set forth in paragraphs (1) through (4) of this clause.

7. DEBARMENT AND SUSPENSION

By submitting a bid/proposal under this solicitation, the Engineer certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

8. DISADVANTAGED BUSINESS ENTERPRISE

The Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR



part 26 in the award and administration of Department of Transportation-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Owner deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contractor receives from the Owner. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Owner. This clause applies to both DBE and non-DBE subcontractors.

9. DISTRACTED DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Engineer to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Engineer must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

10. ENERGY CONSERVATION REQUIREMENTS

Engineer and subconsultant agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq).

11. EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.)

I. During the performance of this contract, the Engineer agrees as follows:

- (1) The Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identify or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions



of this nondiscrimination clause.

- (2) The Engineer will, in all solicitations or advertisements for employees placed by or on behalf of the Engineer, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- (3) The Engineer will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Engineer's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the Engineer's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Engineer may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The Engineer will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractant or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event an Engineer becomes involved in, or is threatened with, litigation with a subcontractant or vendor as a result of such direction by the administering agency the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

II. Standard Federal Equal Employment Opportunity Contract Specifications

- (1) As used in these specifications:
 - a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;



- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
 - d. "Minority" includes:
 - i. Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race);
 - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - iv. American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- (2) Whenever the Engineer, or any subconsultant at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- (3) If the Engineer is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Engineers shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Engineer or subconsultant participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Engineers or subconsultants toward a goal in an approved Plan does not excuse any covered Engineer's or subconsultant's failure to take good faith efforts to achieve the Plan goals and timetables.
- (4) The Engineer shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Engineer should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Engineers performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed.



Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Engineer is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

- (5) Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Engineer has a collective bargaining agreement to refer either minorities or women shall excuse the Engineer's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.
- (6) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Engineer during the training period and the Engineer shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.
- (7) The Engineer shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Engineer's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Engineer shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
 - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Engineer's employees are assigned to work. The Engineer, where possible, will assign two or more women to each construction project. The Engineer shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Engineer's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Engineer or its unions have employment opportunities available, and maintain a record of the organizations' responses.
 - c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Engineer by the union or, if referred, not employed by the Engineer, this shall be documented in the file with the reason therefore along with whatever additional actions the Engineer may have taken.
 - d. Provide immediate written notification to the Director when the union or unions with which the Engineer has a collective bargaining agreement has not referred to the Engineer a minority person or female sent by the Engineer, or when the Engineer has other information that the union referral process has impeded the Engineer's efforts to meet its obligations.
 - e. Develop on-the-job training opportunities and/or participate in training programs for



the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Engineer's employment needs, especially those programs funded or approved by the Department of Labor. The Engineer shall provide notice of these programs to the sources compiled under 7b above.

- f. Disseminate the Engineer's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Engineer in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Engineer's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Engineer's EEO policy with other Engineers and subconsultants with whom the Engineer does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Engineer's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Engineer shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.
- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Engineer's workforce.
- k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.



- m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Engineer's obligations under these specifications are being carried out.
 - n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Engineers and suppliers, including circulation of solicitations to minority and female Engineer associations and other business associations.
 - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Engineer's EEO policies and affirmative action obligations.
- (8) Engineers are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of a Engineer association, joint Engineer union, Engineer community, or other similar groups of which the Engineer is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Engineer actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Engineer's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Engineer. The obligation to comply, however, is the Engineer's and failure of such a group to fulfill an obligation shall not be a defense for the Engineer's noncompliance.
- (9) A single goal for minorities and a separate single goal for women have been established. The Engineer, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Engineer has achieved its goals for women generally,) the Engineer may be in violation of the Executive Order if a specific minority group of women is underutilized.
- (10) The Engineer shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (11) The Engineer shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (12) The Engineer shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Engineer who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.



- (13) The Engineer, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Engineer fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (14) The Engineer shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Engineers shall not be required to maintain separate records.
- (15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

12. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The Engineer has full responsibility to monitor compliance to the referenced statute or regulation. The Engineer must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

13. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES

The Engineer certifies by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- I. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Engineer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- II. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of



Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- III. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

14. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Engineer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Engineer retains full responsibility to monitor its compliance and their subconsultant's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Engineer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

15. SEISMIC SAFETY

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard which provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a "certification of compliance" that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

16. TERMINATION OF CONTRACT

- I. Termination for Convenience. The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Engineer must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.



Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

- II. Termination for Default. Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Consultant to:
1. Perform the services within the time specified in this contract or by Owner approved extension;
 2. Make adequate progress so as to endanger satisfactory performance of the Project;
 3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

- b) Termination by Consultant: The Consultant may terminate this Agreement in whole or in part, if the Owner:



1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the Project for more than 180 days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Engineer is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

17. TRADE RESTRICTION CERTIFICATION

By submission of an offer, the Engineer certifies that with respect to this solicitation and any resultant contract, the Engineer –

- (1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- (2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and
- (3) has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

The Engineer must provide immediate written notice to the Owner if the Engineer learns that its certification or that of a subconsultant was erroneous when submitted or has become erroneous by reason of changed circumstances. The Engineer must require subconsultants provide immediate written notice to the Engineer if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance



with 49 CFR 30.17, no contract shall be awarded to an Engineer or subconsultant:

- (1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- (2) whose subconsultants are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- (3) who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Engineer is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Engineer agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Engineer may rely on the certification of a prospective subconsultant that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless the Engineer has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Engineer or subconsultant knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

18. VETERAN'S PREFERENCE

In the employment of labor (excluding executive, administrative, and supervisory positions), the Engineer and all sub-tier Engineers must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

19. TAX DELINQUENCY AND FELONY CONVICTIONS

The Engineer agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

- 1) The Engineer represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The Engineer represents that it is not a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.



Felony conviction: Felony conviction means a conviction within the preceding twenty-four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 U.S.C. § 3559.

Tax Delinquency: A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.



EXHIBIT E

STATE OF TEXAS REQUIREMENTS

I. PROHIBITION ON CONTRACTS WITH FOREIGN TERRORIST ORGANIZATIONS

Consultant's Acknowledgement of Prohibition on Contracts with Foreign Terrorist Organizations Effective September 1, 2017, Consultant acknowledges, in accordance with Chapter 2252 of the Texas Government Code, that (a) Consultant does not engage in business with Iran, Sudan, or any foreign terrorist organizations and (b) Consultant is not listed by the Texas Comptroller as a terrorist organization as defined by Chapter 2252 of the Texas Government Code. Consultant further acknowledges that this provision is hereby incorporated by reference, as if written word for word, into any subsequent contract entered into between the City and Consultant for (1) professional or consulting services subject to the Professional Services Act – Chapter 2254 of the Texas Government Code, (2) general construction, (3) an improvement, (4) a service, (5) a public works project, or (6) for a purchase of supplies, materials or equipment.

II. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL

Consultant's Acknowledgement of Prohibition on Contracts with Companies Boycotting Israel Effective September 1, 2017 and as amended May 7, 2019, Consultant acknowledges, in accordance with Chapter 2271 of the Texas Government Code, that Consultant does not boycott Israel and will not boycott Israel during the term of any contract with the City of Killeen to provide goods and services to the City. Consultant further acknowledges that this provision is hereby incorporated by reference, as if written word for word, into any subsequent contract entered into between the City and Consultant for goods and services.

III. PROHIBITION ON CONTRACTS WITH CERTAIN FOREIGN-OWNED COMPANIES IN CONNECTION WITH CRITICAL INFRASTRUCTURE

Consultant's Acknowledgement of Prohibition on Contracts with Certain Foreign-Owned Companies in Connection with Critical Infrastructure Effective June 18, 2021, Consultant acknowledges, in accordance with Chapter 2274 of the Texas Government Code, that Consultant does not and will not engage in contracts with certain foreign-owned companies in connection with critical infrastructure during the term of any contract with the City of Killeen to provide goods and services to the City. Consultant further acknowledges that this provision is hereby incorporated by reference, as if written word for word, into any subsequent contract entered into between the City and Consultant for goods and services.

IV. PROHIBITION ON CONTRACTS WITH COMPANIES THAT DISCRIMINATE AGAINST FIREARM AND AMMUNITION INDUSTRIES

The Consultant must verify that it does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. Verification is not required



EXHIBIT F

**AIRPORT IMPROVEMENT AID PROJECT: TBD
STATE: TEXAS**

CERTIFICATION OF ENGINEER

I hereby certify that I am Josh Crawford, PE and duly authorized representative of the firm of GARVER, LLC, whose address is 285 SE Inner Loop, Georgetown, TX 78626, and that neither I nor the above firm I here represent has:

(a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me of the above consultant) to solicit or secure this contract;

(b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract; or

(c) Paid or agreed to pay to any firm, organization, or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind, for, or in connection with, procuring or carrying out the contract; except as here expressly stated (if any).

I acknowledge that this certificate is to be furnished to the Federal Aviation Administration of the United States Department of Transportation, in connection with this contract involving participation of Airport Improvement Program (AIP) funds and is subject to applicable State and Federal laws, both criminal and civil.

GARVER, LLC

By  _____

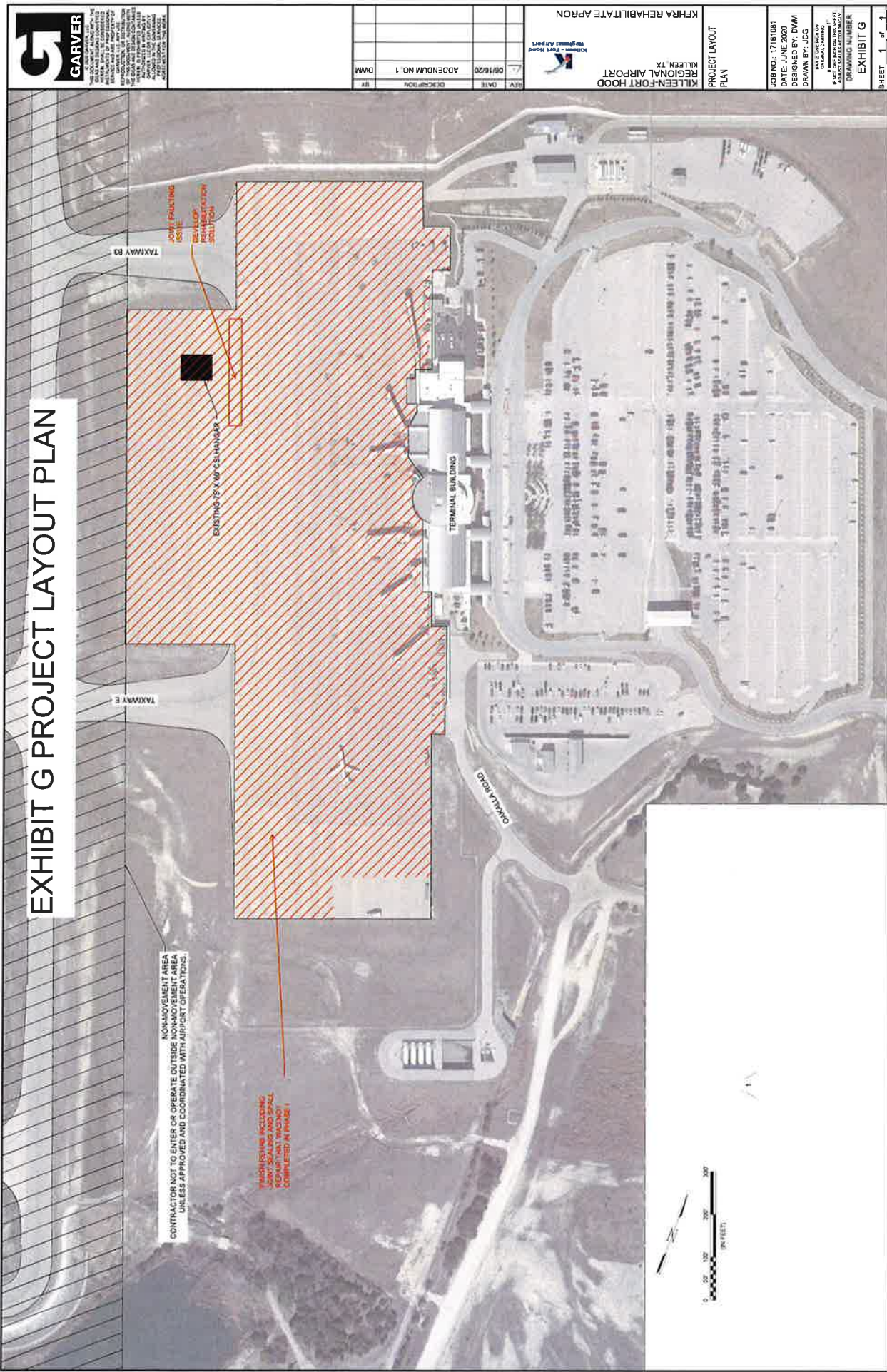
DATE:

03/07/2022



from a sole source provider or when the city does not receive any bids from a company able to provide the required verification. Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274

EXHIBIT G PROJECT LAYOUT PLAN



REV	DATE	DESCRIPTION	BY
1	06/16/20	ADDENDUM NO. 1	DWM

Killeen-Fort Hood Regional Airport

KFHRA REHABILITATE APRON

PROJECT LAYOUT PLAN

KILLEEN-FORT HOOD REGIONAL AIRPORT
 KILLEEN, TX

JOB NO.: 17161081
DATE: JUNE 2020
DESIGNED BY: DWM
DRAWN BY: JCS

PROJECT LOCATION:
 10000 WEST 10TH AVENUE, SUITE 1000, DENVER, CO 80202-3175

EXHIBIT G

SHEET 1 of 1

FILE: I:\201717161081 - Killeen-Fort Hood Airport Apron Rehabilitation\GIS\CDR\APRON 2021 Apron Project Layout.dwg 1:81,290x 12/20/2021 3:28 PM (Last saved by: DWM) LHM printed by: Majo Davis on: 05/19/2021 12:54:59 PM. Scale: 1:25489. Plot Date: 12/20/2021 3:28 PM. Plot Size: 17.00x22.00. Plot Scale: 1:25489. Plot Date: 12/20/2021 3:28 PM. Plot Size: 17.00x22.00. Plot Scale: 1:25489.

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:
2022-860907

Date Filed:
03/14/2022

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Garver, LLC
GEORGETOWN, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
Killeen-Fort Hood Regional Airport

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.
ARP2
APRON REHABILITATION PHASE II

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	MCILLWAIN, FRANK	GEORGETOWN, TX United States	X	
	GRIFFIN, MICHAEL	GEORGETOWN, TX United States	X	
	SOBER, JEFFREY	GEORGETOWN, TX United States	X	
	HOLDER, JR, JERRY	GEORGETOWN, TX United States	X	
	SCHNIERS, BRENT	GEORGETOWN, TX United States	X	
	GRAVES, MICHAEL	GEORGETOWN, TX United States	X	
	HOSKINS, BROCK	GEORGETOWN, TX United States	X	

5 Check only if there is NO Interested Party.

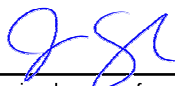
6 UNSWORN DECLARATION

My name is Josh Crawford, and my date of birth is 1/22/1980.

My address is 285 SE Inner Loop, Suite 110, Georgetown, TX, 78626, USA.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Williamson County, State of Texas, on the 14th day of March, 2022.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



PROFESSIONAL SERVICES AGREEMENT WITH GARVER LLC-APRON REHABILITATION PHASE II PROJECT

RS-22-056

April 19, 2022

165

Background

2

- On July 13, 2021, the Federal Aviation Administration (FAA) approved a Passenger Facility Charge (PFC) Application that included a Terminal Apron Rehabilitation Phase II project at Killeen-Fort Hood Regional Airport (KFHRA)

Discussion

3

- This phase of the project will design the repair/replacement of deficient concrete panels in various locations on the apron, replace joint seals, rehab concrete along the trench drain, and correct various spalling issues, thus ensuring a safe, fully functional aircraft apron, extending the useful life of the apron, and preventing future concrete panel failures

Discussion

4

- Staff has negotiated a professional services agreement with Garver, LLC, in the amount of \$63,600 for design services to include preliminary and final design, geotechnical services, drainage study, bid services, project administration, and construction support services

Discussion

5

- Project is funded 100% by PFC funds
- No impact to the Aviation Operational budget

Alternatives

6

- Do not approve the agreement
- Approve the agreement

Recommendation

7

- Approve the professional services agreement with the Garver, LLC in the amount not to exceed \$63,600 and authorize the City Manager or designee to execute all agreement documents and any and all amendments or actions within the amounts set by federal, state and local law



City of Killeen

Staff Report

File Number: RS-22-057

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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Consider a memorandum/resolution accepting the FY 2021 Edward Byrne Memorial Justice Assistance Grant (JAG) Award and approving an Interlocal Agreement with the City of Temple and Bell County.

DATE: April 19, 2022
TO: Kent Cagle, City Manager
FROM: Charles F. Kimble, Chief of Police
SUBJECT: 2021 JAG Grant Acceptance and Interlocal Agreement

BACKGROUND AND FINDINGS:

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program continues to provide agencies with the flexibility to prioritize and place justice funds where they are needed most.

The program award is allocated through an Interlocal agreement between Bell County, City of Killeen, and the City of Temple. The program provides single funding to grantees with no requirement for matching or local funds. Funds granted under the JAG have a four-year window for expenditure. All entities must agree to the reallocated amounts of the funds to receive the grant award.

The 2021 JAG grant funding is \$77,053. An agreement has been made to distribute the program award as follows: City of Killeen \$38,912, City of Temple \$17,337 and Bell County \$20,804.

As in previous years, the City of Killeen has been chosen to apply for the JAG award and submit the application for all parties involved. The City of Killeen is responsible for the administration of the funds, including distributing the funds, monitoring the award, submitting performance reports and assessment data, and providing ongoing assistance to any sub recipients of the funds.

The Killeen Police Department anticipates utilizing these funds toward the purchase of equipment for a Real Time Crime Center. The department will move forward with the expenditure of these funds at a later date.

THE ALTERNATIVES CONSIDERED:

1. Decline the grant award.
2. Accept the grant funds and enter into an interlocal agreement with Bell County and the City of Temple.

Which alternative is recommended? Why?

Staff recommends accepting the grant in entering into the interlocal agreement

CONFORMITY TO CITY POLICY:

Acceptance of this grant conforms to city policy.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

The City of Killeen’s revenue will be recorded in account 207-0000-332.01-01 JAG Grant. The city will administer the other entities’ funds through account 207-6000-441.55-62. The funds must be expended by September 30, 2024. There are no matching funds required from the recipients.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Upon approval of the mid-year budget amendment.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Upon approval of the mid-year budget amendment.

RECOMMENDATION:

Staff recommends that City Council approve the acceptance of the 2021 Edward Byrne Memorial Justice Assistant Grant through the Killeen Police Department on behalf of all parties involved; the City Manager or his designee to sign the Interlocal agreement; and permit the Killeen Police Department to allocate and administer the duties required by the grant, under the oversight of the City’s Grant Administrator.

DEPARTMENTAL CLEARANCES:

Legal
Finance

ATTACHED SUPPORTING DOCUMENTS:

Interlocal Agreement

THE STATE OF TEXAS

INTERLOCAL AGREEMENT

**BETWEEN COUNTY OF BELL, CITY OF KILLEEN, AND CITY OF TEMPLE
2021 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**

This Agreement is made and entered into this ___ day of _____ 2022, by and between **The County of Bell**, State of Texas, acting by and through its governing body, hereinafter referred to as **COUNTY**, and the **City of Killeen**, Texas, a municipal corporation, acting by and through its governing body, hereinafter referred to as **KILLEEN**, and the **City of Temple**, Texas, as municipal corporation, acting by and through its governing body, hereinafter referred to as **TEMPLE**.

WHEREAS, this Agreement is made under the authority of Chapter 791 of the Texas Government Code; and

WHEREAS, COUNTY, KILLEEN, and TEMPLE previously received grant funds from the Edward Byrne Memorial Justice Assistance Grant (JAG) to provide parties with the flexibility to prioritize and place justice funds where they are needed most; and

WHEREAS, the Department of Justice no longer grants funds to individual entities, but rather requires jurisdictions certified as disparate to submit a joint application and agree in what proportions funds will be shared; and

WHEREAS, the Department of Justice has made a grant award of \$77,053 to be allocated by COUNTY, KILLEEN and TEMPLE; and

WHEREAS, each governing body finds that the performance of this Agreement is in the best interests of all parties, that the undertaking will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this agreement; and

WHEREAS, COUNTY, KILLEEN, and TEMPLE believe it to be in their best interests to reallocate the JAG funds;

NOW THEREFORE, COUNTY, KILLEEN, and TEMPLE agree as follows:

Section 1.

The purpose of this agreement is to establish the rights and duties of each party participating in this agreement, and to establish the administration and division of any JAG award received.

Section 2.

Unless otherwise terminated, the term of this agreement shall begin on the date JAG funds are issued and shall continue in effect until all funds are expended, but in no event shall this agreement continue beyond forty eight (48) months after the project start date of October 1, 2020.

Section 3.

KILLEEN shall submit the application for JAG funds on behalf of COUNTY, KILLEEN and TEMPLE, and further agree that KILLEEN will administer any grant award received. Copies of any and all documentation submitted to the Department of Justice or compiled in the administration of the grant by KILLEEN shall be provided to or made available for COUNTY and TEMPLE. KILLEEN will accept the administration fee of 10% from each disburse for this grant.

Section 4.

JAG has allocated \$77,053 to COUNTY, KILLEEN, and TEMPLE. JAG has distributed the funds as follows:

- a. COUNTY will receive \$0
- b. KILLEEN will receive \$58,961 and
- c. TEMPLE will receive \$18,092.

In order to provide COUNTY with a portion of the funding, KILLEEN agrees to reduce their original allocation. The adjusted anticipated \$69,347.70 award (reduced by administration fee of \$7,705.30 to Killeen) will be allocated per agreement to COUNTY, KILLEEN and TEMPLE as follows:

- a. COUNTY will receive \$23,116 or 30% (less 2,312) = \$20,804
- b. KILLEEN will receive \$34,673.85 or 45% (plus \$2,312 and \$1,926) = \$38,912 and
- c. TEMPLE will receive \$19,263 or 25% (less \$1,926) = \$17,337.

All amounts have been rounded in accordance with accounting principles. Should the amount of the award change in any way, the parties agree that division of the award will be by the percentages listed above and not the dollar amounts listed.

Section 5.

Pursuant to the terms of the grant, the parties agree to expend \$77,053 from the 2021 Byrne Justice Assistance Grant Program by a date not than later forty-eight (48) months after the project start date of October 1, 2020.

Section 6.

The grant award will be used by each to fund state and local initiatives, technical assistance, training, personnel, equipment, supplies, contractual support, and information systems for criminal justice for any one or more of the following purpose areas; law enforcement programs; prosecution and court programs; prevention and education programs; corrections and community corrections programs; drug treatment programs; and/or planning evaluation and technology improvement programs. Each party is responsible for expending the money granted to it in accordance with the rules of the award, and no other party to this agreement shall have any role in deciding how another party to this agreement expends funds allocated.

Section 7.

All notices from one party to another must be in writing and are effective when mailed, hand-delivered or transmitted by email as follows:

To COUNTY at: **Bell County Sheriff's Department**
101 E. Central Avenue
Belton, TX 76513
Email: david.blackburn@bellcounty.texas.gov

To KILLEEN at: **City of Killeen**
101 N. College
Killeen, TX 76541
Email: kcagle@killeentexas.gov

To TEMPLE at: **City of Temple**
2 North Main Street
Temple, TX 76501
Email: bmyers@templetx.gov

Section 8.

This document constitutes the entire agreement of the parties concerning the JAG award. There are no oral representations, warranties, agreements or promises pertaining to the JAG award not incorporated into this writing. This agreement may be amended only by an instrument in writing signed by all parties.

Section 9.

As required by Chapter 791 of the Texas Government Code, each party, in performing governmental functions or in paying for the performance of governmental functions hereunder, shall make that performance or those payments from current revenues legally available to that party.

Section 10.

Nothing in the performance of this Agreement shall impose any liability for claims against COUNTY, KILLEEN, or TEMPLE, other than claims for which liability may be imposed by the Texas Tort Claims Act found in Texas Civil Practice and Remedies Code, Chapter 101.

Section 11.

Each party to this agreement will be responsible for its own actions in providing services under this agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

Section 12.

The parties to this Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

Section 13.

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

This agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall together constitute one and the same instrument.

City of Killeen, Texas

City of Temple, Texas

County of Bell, Texas

City Manager
Kent Cagle

City Manager
Brynn Myers

County Judge
David Blackburn

ATTEST:

ATTEST:

City Secretary

City Secretary

City Attorney

City Attorney



2021 JAG GRANT ACCEPTANCE

RS-22-057

April 19, 2022

179

2021 JAG Grant Acceptance

2

- ❑ The Killeen Police Department has applied for and been awarded the 2021 Edward Byrne Memorial Justice Assistance Grant (JAG).
- ❑ The award amount is \$77,053.
- ❑ Each year, the city of Killeen enters into an Interlocal Agreement with Bell County and the City of Temple to share the funds.
- ❑ Under the terms of the agreement, the COK is responsible for the administration of the funds including: distributing the funds, monitoring the award, submitting performance reports and assessment data, and providing ongoing assistance to sub recipients of the funds.
- ❑ KPD anticipates utilizing these funds toward the purchase of equipment for a Real Time Crime Center.

Funding

3

- Total JAG Award: \$77,053
 - ▣ City of Killeen: \$38,912
 - ▣ Bell County: \$20,804
 - ▣ City of Temple: \$17,337

- There is no matching funds requirement for this grant.

Alternatives

4

- Accept the grant funds and enter into the Interlocal Agreement as presented.
- Decline the awarded funding.

Recommendation

5

- Staff recommends that City Council approve the acceptance of the 2021 Edward Byrne Memorial Justice Assistant Grant through the Killeen Police Department on behalf of all parties involved; the City Manager or his designee to sign the Interlocal agreement; and to permit the Killeen Police Department to allocate and administer the duties required by the grant, under the oversight of the City's Finance Department.



City of Killeen

Staff Report

File Number: PH-22-028

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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HOLD a public hearing and consider an ordinance amending the FY 2022 Annual Budget of the City of Killeen to adjust revenue and expenditure accounts in multiple funds.

DATE: April 19, 2022
TO: Kent Cagle, City Manager
FROM: Jonathan Locke, Executive Director of Finance
SUBJECT: Budget Amendment

BACKGROUND AND FINDINGS:

This budget amendment addresses operational accounts in multiple funds, appropriates Public Facility Corporation (PFC) funds, provides funding for additional police interceptors, appropriates remaining funds in the old Water & Sewer bond, addresses multiple grant allocations, and recognizes funds to be received for multiple fire deployments.

Non-grant Budget Amendments -

There are eight (8) different items addressed in this budget amendment:

1. Fuel has substantially increased in the past few months causing shortages in fuel accounts. The budget was built using \$2.41 per gallon for unleaded and \$2.45 per gallon for diesel. Based on the current U.S. Energy Information Administration’s outlook, we are estimating an average of \$3.73 per gallon for unleaded and \$3.91 per gallon for diesel through the end of the fiscal year. This will result in an increase of \$549,558 to the major operating funds for fuel accounts.
2. Fuel increases have also impacted the cost of gas and propane utilities. This coupled with multiple days with below freezing temperatures create the need to increase departmental budgets for those facilities using gas and propane utilities. This will result in an increase of \$34,175 to multiple operating funds for citywide gas/propane utility accounts.
3. At closing, the NRP Group paid an \$82,000 parkland fee for Conder Park and a \$350,000 structuring fee to the Public Facility Corporation. On January 11, 2022, City Council provided a motion of direction to appropriate the \$82,000 parkland fee to Conder Park and transfer \$82,000 of American Rescue Plan Act (ARPA) funds to Downtown Events. The Public Facility Corporation voted to move the \$350,000 to the General Fund. On March 14, 2022, City Council provided a motion of direction to appropriate the \$350,000 for youth programs.
4. A recent Criminal Justice Information System (CJIS) audit identified several mobile data terminals (MDTs) running Windows 7, which are not in compliance with Department of Public

Safety security requirements and at some point will not be able to access the state system. A total of 51 police vehicles had outdated technology and 24 vehicles were ordered in October 2021. Staff is estimating a savings of at least \$1.4 million in the Police Department's budget in FY 2022. This request would move \$825,000 of the estimated savings to the Governmental CIP Fund to purchase 10 additional police interceptors in the current year, leaving 17 vehicles to be replaced in FY 2023.

5. An old Water & Sewer bond fund will be closed out this year. There is \$56,634 remaining in the unassigned fund balance. This budget amendment appropriates the remaining funds to the 18" Gravity Main project.
6. In the FY 2022 Budget, City Council approved Public, Educational, and Government (PEG) funds to be used to set up audio visual equipment at the Killeen Civic and Conference Center (KCCC) and Utility Collections Conference Room to televise City Council and other city related meetings. The KCCC was budgeted at \$220,000 and the Utility Collections Conference Room was budgeted at \$120,000. Due to equipment increases, the quotes received recently are much higher than the quotes provided during the budget process last year. The KCCC will need an additional \$51,000 and Utility Collections Conference Room will need an additional \$50,000. This budget amendment will appropriate the additional \$101,000 needed to complete the projects.
7. The Fire Department deployed multiple employees and pieces of equipment for three wildfire events between October and February that will result in a reimbursement of \$268,446. There was one deployment of Texas Task Force 1 with the Texas A&M Engineering Extension Service (TEEX) for a weather event in October that will result in a reimbursement of \$22,481.
8. Emergency Management pays for siren maintenance each year. Invoices totaling \$13,700 for FY 2021 were received too late to pay out of the FY 2021 Budget and had to be paid from the current FY 2022 Budget. Since siren maintenance is recurring, those funds will need to be replenished to pay for the current year maintenance.

Operational Items Revenue Budget

General Fund	\$975,659
Water & Sewer Fund	22,318
Solid Waste Fund	278,540
Drainage Utility Fund	29,243
Hotel Occupancy Tax Fund	1,800
Governmental CIP Fund	825,000
TOTAL	\$2,132,560

Operational ItemsExpenditure Budget

General Fund	\$975,659
Water & Sewer Fund	22,318
Solid Waste Fund	278,540

Drainage Utility Fund	29,243
Aviation Funds	8,500
Hotel Occupancy Tax Fund	1,800
Governmental CIP Fund	825,000
Water & Sewer Bond (Old)	56,634
Fleet Services Internal Service Fund	4,300
PEG Fund	101,000
TOTAL	\$2,302,994

Grant Budget Amendments -

There are four (4) grant items addressed in this budget amendment:

- 1. This budget amendment appropriates revenue and expense associated with the Edward Byrne Memorial Justice Assistance Grant (JAG) Award from 2018 for reimbursement of eligible expenses for the City of Temple and Bell County in the amount of \$18,850. In addition, this budget amendment appropriates revenue and expense associated with the award of the JAG Award for 2021 in the amount of \$77,053. This amount will be distributed as follows: City of Killeen \$38,912, City of Temple \$17,337 and Bell County \$20,804.

- 2. In the FY 2021 Budget, City Council appropriated \$202,450 in ARPA funds for grants to the arts. The ARPA funds assisted grantees whose events were cancelled due to COVID-19 and increased grant funding available due to a significant reduction in hotel taxes. Not all the funding has been used and this budget amendment appropriates the remaining \$174,843.

- 3. On March 8, 2022, the City Council authorized the City Manager to enter into an advanced funding agreement with TxDOT for the WS Young Drive and Little Nolan Road Traffic Signal Highway Safety Improvement Program grant. TXDOT will fund 100 percent of construction costs up to the approved amount of \$322,700. This budget amendment appropriates the grant revenue, the project expense budget is already appropriated.

- 4. In July, 2021, the Aviation Department was informed that the City will receive a \$200,000 TxDOT grant for engineering/design work on a project that will rehabilitate a parallel taxiway, connector taxiways, taxi lanes and an apron at Skylark Field. TxDOT is the acting agent for the grant and is responsible for applying for, receiving, and disbursing all funds for the grant. The City is responsible for a 10% match that totals \$20,000. This budget amendment appropriates the 10% grant match using fund balance.

Aviation will receive the construction grant for this project in FY 2023 in the amount of \$2,980,000, and the City will be responsible for a 10% match. This project will be included in the FY 2023 Capital Improvement Plan.

Operational Items	Revenue Budget
Law Enforcement Grant Fund	\$95,903
Hotel Occupancy Tax Fund	174,843

Governmental CIP Fund 322,700
TOTAL \$593,446

Operational Items Expenditure Budget

Law Enforcement Grant Fund \$95,903
Hotel Occupancy Tax Fund 174,843
Aviation Funds 20,000
TOTAL \$290,746

THE ALTERNATIVES CONSIDERED:

Option 1 - Do not approve the ordinance amending the FY 2022 Annual Budget.
Option 2 - Approve the ordinance amending the FY 2022 Annual Budget.

Which alternative is recommended? Why?

Option 2 is recommended to approve the ordinance amending the FY 2022 Annual Budget.

CONFORMITY TO CITY POLICY:

The City's Financial Governance Policies, Section V. Budget Administration (B)(1) states that City Council may amend or change the budget by ordinance.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

This budget amendment is for FY 2022, and includes:

- General Fund - increase of \$975,659 in revenues and \$975,659 in expenditures.
- Water and Sewer Fund - increase of \$22,318 in revenues and \$22,318 in expenses.
- Solid Waste Fund - increase of \$278,540 in revenues and \$278,540 increase in expenses.
- Drainage Fund - increase of \$29,243 in revenues and \$29,243 increase in expenses.
- Aviation Funds - increase of \$0 in revenues and \$28,500 in expenses.
- Special Revenue Funds - increase of \$272,546 in revenues and \$373,546 in expenditures.
- Internal Service Funds - increase of \$0 in revenues and \$4,300 in expenses.
- Capital Improvement Project Funds - increase of \$1,147,700 in revenues and \$881,634 in expenses.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Upon approval of the attached ordinance amending the FY 2022 Annual Budget.

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

Upon approval of the attached ordinance amending the FY 2022 Annual Budget.

RECOMMENDATION:

City Council approve the ordinance amending the FY 2022 Annual Budget.

DEPARTMENTAL CLEARANCES:

Finance

Legal

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2022 ANNUAL BUDGET OF THE CITY OF KILLEEN TO ADJUST REVENUE AND EXPENDITURE ACCOUNTS IN MULTIPLE FUNDS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVINGS 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, 2021 to September 30, 2022, has been adopted by City Council in accordance with the City Charter; and

WHEREAS, it is the desire of the Killeen City Council to amend the FY 2022 Annual Budget; and

WHEREAS, the budget amendment requires City Council approval;

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

SECTION 1. That Ordinance 21-051, adopting a budget for operating the municipal government of the City of Killeen for the Fiscal year October 1, 2021 to September 30, 2022, be amended as to the portion of said budget as follows:

Revenues:

Account Number	Description	Budget Change	Budget
010-0000-312.01-01	Sales Tax		\$ 30,583,664
	Adjust revenue forecast to recognize increased operating costs	252,732	
	Budget Change Sub-total	252,732	
	Account Sub-total		30,836,396
010-0000-331.02-04	Fire / Other Grants		-
	Reimbursement for deployments for wildland fire events	268,446	
	Budget Change Sub-total	268,446	
	Account Sub-total		268,446
010-0000-333.10-04	Dpt of Treasury		3,700,000
	Increase ARPA approved project for Downtown Events	82,000	
	Budget Change Sub-total	82,000	
	Account Sub-total		3,782,000
010-0000-334.02-05	Fire / TEEEX Task Force		-
	Reimbursement for deployments for weather event in October	22,481	
	Budget Change Sub-total	22,481	
	Account Sub-total		22,481

Revenues (continued):

Account Number	Description	Budget Change	Budget
010-0000-379.99-99	Other Income		9,273
	Appropriate NRP Group Structuring Fee for Youth Programs	350,000	
	Budget Change Sub-total	350,000	
	Account Sub-total		359,273
207-0000-332.01-01	USDOJ		83,510
	Appropriate reimbursable grant funds from JAG 2018	18,850	
	Appropriate reimbursable grant funds from JAG 2021	77,053	
	Budget Change Sub-total	95,903	
	Account Sub-total		179,413
214-0000-313.01-03	Occupancy Tax Revenue		1,530,814
	Adjust revenue forecast to recognize increased operating costs	1,800	
	Budget Change Sub-total	1,800	
	Account Sub-total		1,532,614
214-0000-333.10-04	Dpt of Treasury		543,237
	Appropriate unspent Grants to the Arts ARPA funding from FY 2020 for cancelled events	72,676	
	Appropriate unspent Grants to the Arts ARPA funding from FY 2021 for cancelled events	102,167	
	Budget Change Sub-total	174,843	
	Account Sub-total		718,080
349-0000-332.04-01	USDOT-TXDOT		-
	Appropriate revenue from the WS Young and Little Nolan Road Traffic Signal Highway Safety Improvement Program (HSIP) Grant Project	322,700	
	Budget Change Sub-total	322,700	
	Account Sub-total		322,700
349-0000-333.10-04	Dpt of Treasury		18,294,680
	Unappropriate ARPA funding offset by Parkland fee for Conder Park from NRP Group	(82,000)	
	Budget Change Sub-total	(82,000)	
	Account Sub-total		18,212,680
349-0000-379.99-99	Other Income		-
	Appropriate parkland fee for Conder Park from NRP Group	82,000	
	Budget Change Sub-total	82,000	
	Account Sub-total		82,000
349-0000-391.01-10	Transfer from Fund 010		2,428,802
	Appropriate funding for PD fleet utilizing PD salary savings	825,000	
	Budget Change Sub-total	825,000	
	Account Sub-total		3,253,802

Revenues (continued):

Account Number	Description	Budget Change	Budget
540-0000-343.03-01	Residential Services Revenue		12,781,913
	Adjust revenue forecast to recognize increased operating costs	171,963	
	Budget Change Sub-total	171,963	
	Account Sub-total		12,953,876
540-0000-343.03-02	Commercial Services Revenue		6,789,756
	Adjust revenue forecast to recognize increased operating costs	106,577	
	Budget Change Sub-total	106,577	
	Account Sub-total		6,896,333
550-0000-343.01-02	Sewer Revenue		19,044,665
	Adjust revenue forecast to recognize increased operating costs	22,318	
	Budget Change Sub-total	22,318	
	Account Sub-total		19,066,983
575-0000-343.06-02	Commercial Services Revenue		1,626,482
	Adjust revenue forecast to recognize increased operating costs	29,243	
	Budget Change Sub-total	29,243	
	Account Sub-total		1,655,725
	REVENUE TOTAL	\$ 2,726,006	\$ 98,779,799

Expenditures:

Account Number	Description	Budget Change	Budget
010-3025-425.41-30	Supplies / Fuel (Parks)		45,000
	Increased fuel costs	9,299	
	Budget Change Sub-total	9,299	
	Account Sub-total		54,299
010-3030-428.41-30	Supplies / Fuel (Recreation)		500
	Increased fuel costs	201	
	Budget Change Sub-total	201	
	Account Sub-total		701
010-3070-428.41-30	Supplies / Fuel (Animal Services)		14,000
	Increased fuel costs	4,912	
	Budget Change Sub-total	4,912	
	Account Sub-total		18,912
010-3070-428.44-06	Gas Services (Animal Services)		13,300
	Increased gas costs	5,825	
	Budget Change Sub-total	5,825	
	Account Sub-total		19,125
010-3215-423.41-30	Supplies / Fuel (Library)		614
	Increased fuel costs	211	
	Budget Change Sub-total	211	
	Account Sub-total		825

Expenditures (continued):

Account Number	Description	Budget Change	Budget
010-3258-426.41-30	Supplies / Fuel (Building Services)		4,811
	Increased fuel costs	488	
	Budget Change Sub-total	488	
	Account Sub-total		5,299
010-3258-426.44-06	Gas Services (Building Services)		750
	Increased gas costs	450	
	Budget Change Sub-total	450	
	Account Sub-total		1,200
010-3259-426.41-30	Supplies / Fuel (Custodial Services)		5,900
	Increased fuel costs	2,304	
	Budget Change Sub-total	2,304	
	Account Sub-total		8,204
010-3259-426.44-06	Gas Services (Custodial Services)		580
	Increased gas costs	200	
	Budget Change Sub-total	200	
	Account Sub-total		780
010-3445-434.41-30	Supplies / Fuel (Transportation)		100,850
	Increased fuel costs	31,600	
	Budget Change Sub-total	31,600	
	Account Sub-total		132,450
010-3445-434.44-06	Gas Services (Transportation)		1,550
	Increased gas costs	900	
	Budget Change Sub-total	900	
	Account Sub-total		2,450
010-4052-450.41-30	Supplies / Fuel (Building/Inspections)		11,000
	Increased fuel costs	2,875	
	Budget Change Sub-total	2,875	
	Account Sub-total		13,875
010-4053-450.41-30	Supplies / Fuel (Code Enforcement)		13,000
	Increased fuel costs	1,355	
	Budget Change Sub-total	1,355	
	Account Sub-total		14,355
010-5015-417.44-06	Gas Services (Municipal Court)		1,360
	Increased gas costs	600	
	Budget Change Sub-total	600	
	Account Sub-total		1,960
010-6030-441.40-05	Personnel / Full-time Salaries		4,843,468
	Appropriate funding for PD fleet utilizing PD salary savings	(625,000)	
	Budget Change Sub-total	(625,000)	
	Account Sub-total		4,218,468

Expenditures (continued):

Account Number	Description	Budget Change	Budget
010-6035-441.40-05	Personnel / Full-time Salaries		14,138,852
	Appropriate funding for PD fleet utilizing PD salary savings	(200,000)	
	Budget Change Sub-total	(200,000)	
	Account Sub-total		13,938,852
010-6050-441.41-30	Supplies / Fuel (Police)		615,727
	Increased fuel costs	76,680	
	Budget Change Sub-total	76,680	
	Account Sub-total		692,407
010-7070-442.40-15	Fire / Overtime		214,890
	Wildland deployments	268,446	
	Deployments for wildland fire events	22,481	
	Budget Change Sub-total	290,927	
	Account Sub-total		505,817
010-7070-442.41-30	Supplies / Fuel (Fire Operations)		250,750
	Increased fuel costs	84,932	
	Budget Change Sub-total	84,932	
	Account Sub-total		335,682
	Account Sub-total		250,750
010-7070-442.44-06	Gas Services (Fire Operations)		17,000
	Increased gas costs	10,000	
	Budget Change Sub-total	10,000	
	Account Sub-total		27,000
010-7071-442.41-30	Supplies / Fuel (Fire Support)		2,500
	Increased fuel costs	5,500	
	Budget Change Sub-total	5,500	
	Account Sub-total		8,000
010-7075-442.42-06	Infrastructure		15,000
	Pay for siren maintenance	13,700	
	Budget Change Sub-total	13,700	
	Account Sub-total		28,700
010-9501-491.44-06	Gas Services (Non-Departmental - City Hall)		5,000
	Increased gas costs	700	
	Budget Change Sub-total	700	
	Account Sub-total		5,700
010-9501-491.50-86	Programs		2,640,000
	Increase ARPA approved project for Downtown Events	82,000	
	Appropriate Public Facility Corporation closing cost revenue for Youth Programs	350,000	
	Budget Change Sub-total	432,000	
	Account Sub-total		3,072,000

Expenditures (continued):

Account Number	Description	Budget Change	Budget
010-9501-491.93-49	Transfer To Fund 349		2,428,802
	Appropriate funding for PD fleet utilizing PD salary savings	825,000	
	Budget Change Sub-total	825,000	
	Account Sub-total		3,253,802
207-6000-441.50-20	Reserve Appropriation		54,913
	Appropriate reimbursable grant funds from JAG 2021	38,912	
	Budget Change Sub-total	38,912	
	Account Sub-total		93,825
207-6000-441.55-62	Pass Thru Grants		20,150
	Appropriate reimbursable grant funds from JAG 2018	18,850	
	Appropriate reimbursable grant funds from JAG 2021	38,141	
	Budget Change Sub-total	56,991	
	Account Sub-total		77,141
214-0705-457.44-06	Gas Services (KCCC)		3,000
	Increased gas costs	1,800	
	Budget Change Sub-total	1,800	
	Account Sub-total		4,800
214-2020-415.55-43	Grants to the Arts		282,101
	Appropriate unspent Grants to the Arts ARPA funding from FY 2020 for cancelled events	72,676	
	Appropriate unspent Grants to the Arts ARPA funding from FY 2021 for cancelled events	102,167	
	Budget Change Sub-total	174,843	
	Account Sub-total		456,944
220-0405-414.61-50	Furniture & Fixtures		340,000
	Covers additional costs for AV projects at KCCC and Utility Collections based on updated quotes	101,000	
	Budget Change Sub-total	101,000	
	Account Sub-total		441,000
349-8860-493.61-10	Motor Vehicles		1,668,045
	Appropriate funding for PD fleet utilizing PD salary savings	825,000	
	Budget Change Sub-total	825,000	
	Account Sub-total		2,493,045
349-8930-493.69-01	Design/Engineering		1,168,923
	Appropriate Parkland fee for Conder Park from NRP Group	82,000	
	Unappropriate ARPA funding offset by Parkland fee for Conder Park from NRP Group	(82,000)	
	Budget Change Sub-total	-	
	Account Sub-total		1,168,923

Expenditures (continued):

Account Number	Description	Budget Change	Budget
386-3495-800.54-99	18" Gravity Main (11S)		52,103
	Appropriate remaining unassigned fund balance to project so the bond fund can be closed out this fiscal year	56,634	
	Budget Change Sub-total	56,634	
	Account Sub-total		108,737
525-0505-521.44-06	Gas Services (KFHRA)		16,520
	Increased gas costs	8,000	
	Budget Change Sub-total	8,000	
	Account Sub-total		24,520
527-0505-521.44-06	Gas Services (Skylark Field)		1,000
	Increased gas costs	500	
	Budget Change Sub-total	500	
	Account Sub-total		1,500
527-0505-521.69-01	Engineering/Design		-
	Appropriate 10% grant match to rehabilitate a parallel taxiway, connector taxiways, taxi lanes and an apron at Skylark Field	20,000	
	Budget Change Sub-total	20,000	
	Account Sub-total		20,000
540-3460-439.41-30	Supplies / Fuel (Residential Services)		358,000
	Increased fuel costs	170,954	
	Budget Change Sub-total	170,954	
	Account Sub-total		528,954
540-3465-439.41-30	Supplies / Fuel (Commercial Services)		205,500
	Increased fuel costs	82,608	
	Budget Change Sub-total	82,608	
	Account Sub-total		288,108
540-3465-439.44-06	Gas Services (Solid Waste)		1,339
	Increased gas costs	900	
	Budget Change Sub-total	900	
	Account Sub-total		2,239
540-3470-439.41-30	Supplies / Fuel (Recycling)		8,600
	Increased fuel costs	109	
	Budget Change Sub-total	109	
	Account Sub-total		8,709
540-3475-439.41-30	Supplies / Fuel (Transfer Station)		37,820
	Increased fuel costs	13,640	
	Budget Change Sub-total	13,640	
	Account Sub-total		51,460
540-3478-439.41-30	Supplies / Fuel (Mowing)		27,724
	Increased fuel costs	10,329	
	Budget Change Sub-total	10,329	
	Account Sub-total		38,053

Expenditures (continued):

Account Number	Description	Budget Change	Budget
550-2050-411.41-30	Supplies / Fuel (Utility Collections)		36,105
	Increased fuel costs	9,170	
	Budget Change Sub-total	9,170	
	Account Sub-total		45,275
550-3410-436.41-30	Supplies / Fuel (Water Distribution)		42,890
	Increased fuel costs	2,892	
	Budget Change Sub-total	2,892	
	Account Sub-total		45,782
550-3415-437.41-30	Supplies / Fuel (Sanitary Sewers)		44,872
	Increased fuel costs	8,990	
	Budget Change Sub-total	8,990	
	Account Sub-total		53,862
550-3420-438.41-30	Supplies / Fuel (W&S Operations)		34,316
	Increased fuel costs	1,266	
	Budget Change Sub-total	1,266	
	Account Sub-total		35,582
550-4035-452.41-30	Supplies / Fuel (Engineering)		19,500
	Increased fuel costs	-	
	Budget Change Sub-total	-	
	Account Sub-total		19,500
575-3445-434.41-30	Supplies / Fuel (Transportation)		10,500
	Increased fuel costs	9,334	
	Budget Change Sub-total	9,334	
	Account Sub-total		19,834
575-3448-434.41-30	Supplies / Fuel (Drainage)		49,258
	Increased fuel costs	16,909	
	Budget Change Sub-total	16,909	
	Account Sub-total		66,167
575-4035-452.41-30	Supplies / Fuel (Engineering)		4,000
	Increased fuel costs	3,000	
	Budget Change Sub-total	3,000	
	Account Sub-total		7,000
601-2033-415.44-06	Gas Services (Fleet Services)		12,000
	Increased gas costs	4,300	
	Budget Change Sub-total	4,300	
	Account Sub-total		16,300
	EXPENDITURES TOTAL	\$ 2,593,740	\$ 31,306,628

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 26th day of April, 2022, 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

Debbie Nash-King
Mayor

ATTEST:

APPROVED AS TO FORM

Lucy C. Aldrich
City Secretary

Traci S. Briggs
City Attorney



MID-YEAR BUDGET AMENDMENT

PH-22-028

April 19, 2022

Budget Amendment

□ Cover additional cost of fuel citywide:	
▣ General Fund	\$220,357
▣ Solid Waste Fund	277,640
▣ Water & Sewer Fund	22,318
▣ Drainage Utility Fund	<u>29,243</u>
	<u><u>\$549,558</u></u>
	Total

Budget Amendment (cont'd)

□ Cover additional cost of gas & propane utilities citywide:

□ General Fund	\$18,675
□ Aviation Funds	8,500
□ Fleet Services Internal Service Fund	4,300
□ Hotel Occupancy Tax Fund	1,800
□ Solid Waste Fund	<u>900</u>
Total	<u><u>\$34,175</u></u>

Budget Amendment (cont'd)

4

- Public Facility Corporation (PFC) funds
 - Conder Park contribution \$82,000
 - Move ARPA funds from Conder Park to Downtown Events
 - Structuring fee for Youth Programs \$350,000
- Purchase additional police interceptors \$825,000
- Appropriate remaining fund balance in old Water & Sewer bond to close out \$56,634

Budget Amendment (cont'd)

5

- JAG 2018 reimbursable grant funds \$18,850
- JAG 2021 reimbursable grant funds \$77,053
- ARPA grants to the arts \$174,843
- Highway Safety Improvement Program grant \$322,700
 - ▣ WS Young & Little Nolan Road Traffic Signal
- Skylark grant match \$20,000
 - ▣ Grant match for engineering/design to rehabilitate parallel taxiway, connector taxiway, taxi lanes and apron at Skylark Field

Budget Amendment (cont'd)

6

- Public, Educational, & Government (PEG) Fund
 - ▣ Audio/visual projects at KCCC & UC \$101,000
- Fire Deployments
 - ▣ Wildland deployments \$268,446
 - ▣ Texas Task Force-1 events \$22,481
- Emergency Management
 - ▣ Siren maintenance \$13,700

Recommendation

7

City Council approve the ordinance amending the FY 2022 Annual Budget



City of Killeen

Staff Report

File Number: PH-22-029

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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HOLD a public hearing and consider an ordinance amending the Code of Ordinances Chapter 31 Zoning, adopting architectural and site design standards.

DATE: 04/19/2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: Architectural And Site Design Standards

BACKGROUND AND FINDINGS:

In May of 2020, the Killeen City Council directed staff to draft urban design and architectural standards for residential and commercial development. This direction was primarily in response to the State Legislature’s adoption of House Bill 2439, which restricts the City’s ability to enforce standards requiring masonry for new development.

Since that time, staff has held fourteen (14) meetings with stakeholders, the Planning and Zoning Commission (P&Z), and City Council as follows:

- August 3, 2020: Public Hearing at P&Z
- August 17, 2020: Discussion during P&Z Workshop
- August 18, 2020: Staff met with Central Texas Homebuilders Association (CTHBA)
- September 17, 2020: Staff met with CTHBA
- May 17, 2021: Discussion during P&Z Workshop
- June 7, 2021: Public Hearing at P&Z
- June 21, 2021: Public Hearing at P&Z
- November 10, 2021: Discussion during City Council Workshop
- December 6, 2021: Public Hearing at P&Z
- January 4, 2022: Discussion during City Council Workshop
- January 24, 2022: Joint P&Z/City Council Workshop
- February 14, 2022: Stakeholder meeting
- March 14, 2022: Stakeholder meeting
- April 19, 2022: City Council Workshop

In drafting the proposed standards, staff researched the architectural standards in several Central Texas cities, including Georgetown, Pflugerville, Leander, Hutto, Frisco, Flower Mound, and Buda. The proposed standards are generally comparable or less restrictive than the architectural standards in the cities listed above.

The proposed standards address all development types, including single-family, two-family, multifamily, and non-residential development. The attached ordinance with changes reflects the original draft that was presented to the Planning and Zoning Commission on August 3, 2020 with all changes since that time shown in red. The attached ordinance for signature shows all changes to the current ordinance in red.

THE ALTERNATIVES CONSIDERED:

The City Council has four (4) alternatives. The Council may:

- Disapprove the ordinance;
- Approve the ordinance as recommended by staff;
- Approve the ordinance with additional/amended conditions; or
- Approve the ordinance as presented.

Which alternative is recommended? Why?

Staff recommends approval of the ordinance with the following amendments:

- That Section 31-903 be changed to require both subsection (a) and (b) instead of either/or; and
- That Sections 31-907(a) and 31-911(a) be changed to require side and rear elevations "visible from" a public roadway to incorporate architectural features consistent with the front façade.

CONFORMITY TO CITY POLICY:

The proposed ordinance conforms to the City's policy and procedures as detailed in Chapter 31 of the Killeen Code of Ordinances.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

This proposed ordinance does not involve the expenditure of City funds.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable.

RECOMMENDATION:

At their regular meeting on December 6, 2021, the Planning and Zoning Commission recommended approval of an earlier version of the proposed ordinance. Following the Commission's recommendation, two additional stakeholder meetings were held, which resulted in minor amendments to the proposed ordinance.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by Planning and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY’S ZONING REGULATIONS ADOPTING ARCHITECTURAL AND SITE DESIGN STANDARDS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR 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;

WHEREAS, the City of Killeen has declared the application and enforcement of the City’s zoning regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the City Council desires to amend district regulations to preserve and enhance surrounding property values; and,

WHEREAS, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants;

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 add:

Article VI. – Architectural and Site Design Standards.

Division 1. – Single-Family and Two-Family Residential Design Standards.

Sec. 31-900. – Purpose.

The purpose of this Division is to establish design standards for new single-family and two-family residential development within the City limits. The standards in this Division are intended to be in addition to any other design standard in this Code. In the event of a conflict, the more stringent regulation shall apply.

Sec. 31-901. – Applicability.

- a) The requirements in this Division shall apply to all new residential single-family and two-family developments, including single family homes, patio homes, garden homes, townhomes, manufactured homes, and duplexes.
- b) Unique commercial buildings or custom homes having a modern or contemporary architectural aesthetic, which do not conform to the provisions in this article, may be approved at the discretion of the Executive Director of Development Services or his/her designee.

Sec. 31-902. – Repetition.

No elevation shall be repeated within four (4) residential lots on the same side of the street, or within two (2) residential lots on the opposite side of the street. For purposes of this section, elevations shall be substantially different in terms of shape, massing, and form. The same elevation with different materials, different architectural features, or different fenestration shall not be considered a different elevation for purposes of this section.

Sec. 31-903. – Garages.

If a garage is provided, one of the following standards shall be met:

- a) A garage door facing the street shall not comprise more than fifty (50) percent of the horizontal length of the front elevation; or
- b) The exterior wall on either side of the garage door shall not protrude further than any other horizontal building plane on the front elevation.

This standard is applicable only to the width of the garage door, not the entirety of the garage.

Sec. 31-904. – Architectural Standards.

- a) All new single-family and two-family structures shall include ~~at least three (3) of the~~ following:
 - i. *Enhanced windows.* Windows on the front elevation shall incorporate use of transoms, bay windows, shutters, dormers, or other similar window enhancements.
 - ii. *Architectural details.* The front elevation shall incorporate enhanced architectural details including corbels, quoining, louvered vents, keystones, decorative railings, coach lights, or other architectural features as approved by the Executive Director of Development Services or his/her designee.
 - iii. *Variable roof design.* At least two (2) different roof types (e.g. hip and gable) or two (2) different roof planes of varying height, direction, or pitch shall be provided.
- b) All new single-family and two-family structures shall also include at least three (3) of the following:
 - i. *Side or rear entry garage.* No garage doors shall face the street on the primary elevation. This provision includes homes with side-entry, J-swing, detached, or rear-entry garages.
 - ii. *Recessed garage.* The exterior wall on either side of the garage door facing the street shall be recessed at least five (5) feet behind any other horizontal building plane on the front elevation.
 - iii. *Vertical articulation.* A minimum of three (3) wall planes shall be provided on the front elevation, with offsets being at least twelve (12) inches deep.
 - iv. *Covered front porch.* A covered front porch at least sixty (60) square feet in area shall be provided on a single-family home; or at least forty (40) square feet in area per unit on a two-family dwelling. Such porch shall measure not less than five (5) feet in any direction.

- v. *Enclosed patio.* A patio or outdoor seating area enclosed on at least three (3) sides by a fence or wall at least thirty-six (36) inches in height.
- vi. *Enhanced garage doors.* Garage doors shall have accent windows and decorative hardware.

Division 2. – Multi-Family Design Standards.

Sec. 31-905. – Purpose.

The purpose of this Division is to establish design standards for new multi-family development within the City limits. The standards in this Division are intended to be in addition to any other design standard in this Code. In the event of a conflict, the more stringent regulation shall apply.

Sec. 31-906. – Applicability.

The requirements in this Division shall apply to all new multi-family residential developments, including but not limited to three-family, four-family, and apartment developments.

Sec. 31-907. – Site Design Standards.

All new multi-family developments shall meet the following standards:

- a) Side and rear elevations ~~visible from~~ facing a public roadway shall incorporate architectural features consistent with the front façade.
- b) Flat roofs, or roofs having a slope less than three (3) over twelve (12), shall require a parapet wall at least thirty-six (36) inches in height.
- c) All buildings and structures on a site, including accessory structures, dumpster enclosures, garages, and car ports, must share a common, identifiable, complementary design or style.
- d) Dumpsters shall be screened from view on all sides by a concrete or masonry wall, or metal screening fence at least six (6) feet in height. Metal screening fences shall be R-Panel or U-Panel and shall be coated and capped at the top.
- e) Mechanical equipment shall be screened from view on all sides by a parapet wall, screening wall, or continuous landscape hedge.
- f) All stairs (except entry stairs and stoops to individual units and shared hallways) and elevated walkways shall be fully integrated into the architectural design of the building.

Sec. 31-908. – Architectural Standards.

- a) All new multi-family structures shall include ~~at least three (3) of~~ the following:
 - i. *Vertical articulation.* Exterior walls shall not have an uninterrupted length greater than thirty (30) feet in length, with offsets being at least thirty-six (36) inches deep.
 - ii. *Balconies.* At least fifty (50) percent of units shall have a balcony at least fifty (50) square feet in size.
 - iii. *Enhanced windows.* Windows shall incorporate use of awnings, canopies, bay windows, shutters, dormers, or other similar window enhancements.

- ~~a) *Variable roof design.* At least two (2) different roof types (e.g. hip and gable) or two (2) different roof planes of varying height, direction, or pitch shall be provided.~~

Division 3. – Non-Residential Design Standards.

Sec. 31-909. – Purpose.

The purpose of this Division is to establish design standards for new non-residential development within the City limits. The standards in this Division are intended to be in addition to any other design standard in this Code. In the event of a conflict, the more stringent regulations shall apply.

Sec. 31-910. – Applicability.

The requirements in this Division shall apply to all new commercial, industrial, and institutional developments, including but not limited to retail buildings, office buildings, schools, churches, civic buildings, warehouses, and other non-residential uses.

Sec. 31-911. – Site Design Standards.

All new non-residential developments shall meet the following standards:

- a) Side and rear elevations ~~visible from~~ facing a public roadway shall incorporate architectural features consistent with the front façade.
- b) Flat roofs, or roofs having a slope less than three (3) over twelve (12), shall require a parapet wall at least thirty-six (36) inches in height.
- c) Dumpsters shall be screened from view on all sides by a concrete or masonry wall, or metal screening fence at least six (6) feet in height. Metal screening fences shall be R-Panel or U-Panel and shall be coated and capped at the top.
- d) Mechanical equipment shall be screened from view on all sides by a parapet wall, screening wall, or continuous landscape hedge.
- e) All buildings and structures on a site, including accessory structures, dumpster enclosures, and gas station canopies, must share a common, identifiable, complementary design or style.

Sec. 31-912. – Architectural Standards.

- a) All new non-residential developments shall include at least one (1) ~~three (3)~~ of the following:
 - i. *Vertical articulation.* Exterior walls shall not have an uninterrupted length greater than thirty (30) feet in length, with offsets being at least eighteen (18) inches deep.
 - ii. *Tripartite design.* Buildings shall have an identifiable base, middle, and top.
 - iii. *Articulated parapet.* A parapet wall shall not have an uninterrupted length greater than fifty (50) feet, with articulations being at least thirty-six (36) inches in height. Parapet walls shall require cornice detailing.
- b) All new non-residential developments shall also include at least two (2) of the following:
 - i. *Sheltered entry.* Primary entrances shall be covered with a portico, canopy, awning,

arcade, porte cochère, architectural recess, or other similar feature that provides shelter from the elements.

- ii. *Transparency.* A minimum of seventy-five (75) percent of the first floor of the primary elevation and twenty-five (25) percent of all other street-facing elevations shall be comprised of transparent, non-reflective windows that provide views into occupied spaces.
- iii. *Pitched roof.* The primary roof shall have a pitch of not less than six (6) over twelve (12).

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 26th day of April, 2022, 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

Debbie Nash-King, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY



ARCHITECTURAL & SITE DESIGN STANDARDS

PH-22-029

April 26, 2022

215

Sec. 31-901. – Applicability.

2

- b) Unique commercial buildings or custom homes having a modern or contemporary architectural aesthetic, which do not conform to the provisions in this article, may be approved at the discretion of the Executive Director of Development Services or his/her designee.

Possible appeals processes:

3

1. Staff:

- Executive Director of Development Services; or
- City Manager.

2. Appeals Board:

Establish a “special exception” process to be reviewed by:

- The Planning & Zoning Commission; or
- Zoning Board of Adjustment.

Sec. 31-903. – Garages.

4

If a garage is provided, one of the following standards shall be met:

1. A garage door facing the street shall not comprise more than fifty (50) percent of the horizontal length of the front elevation ~~;~~ or
 2. The exterior wall on either side of the garage door shall not protrude further than any other horizontal building plane on the front elevation.
- ❖ Staff recommends approval of the proposed standard without the changes shown in red.

Permitted Elevations



Permitted Elevations

6



Permitted Elevation

7



Permitted Elevation



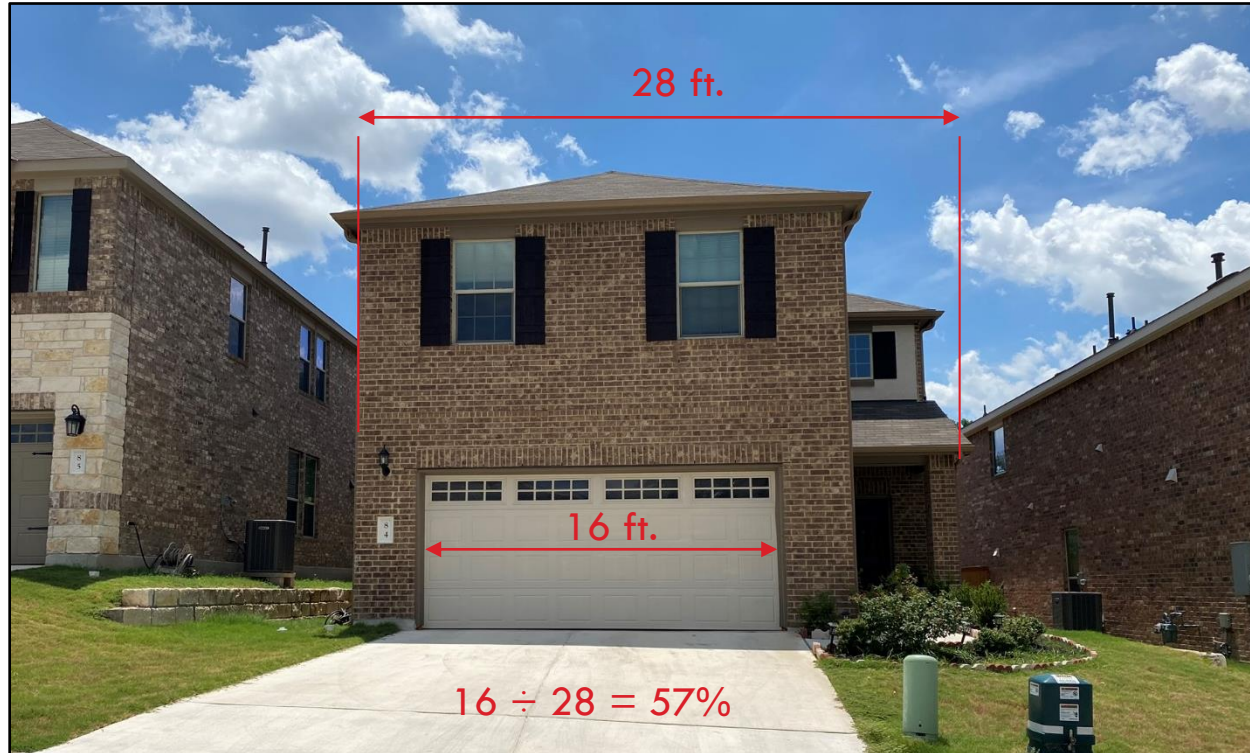
Permitted Elevation

9



Prohibited Elevation

10

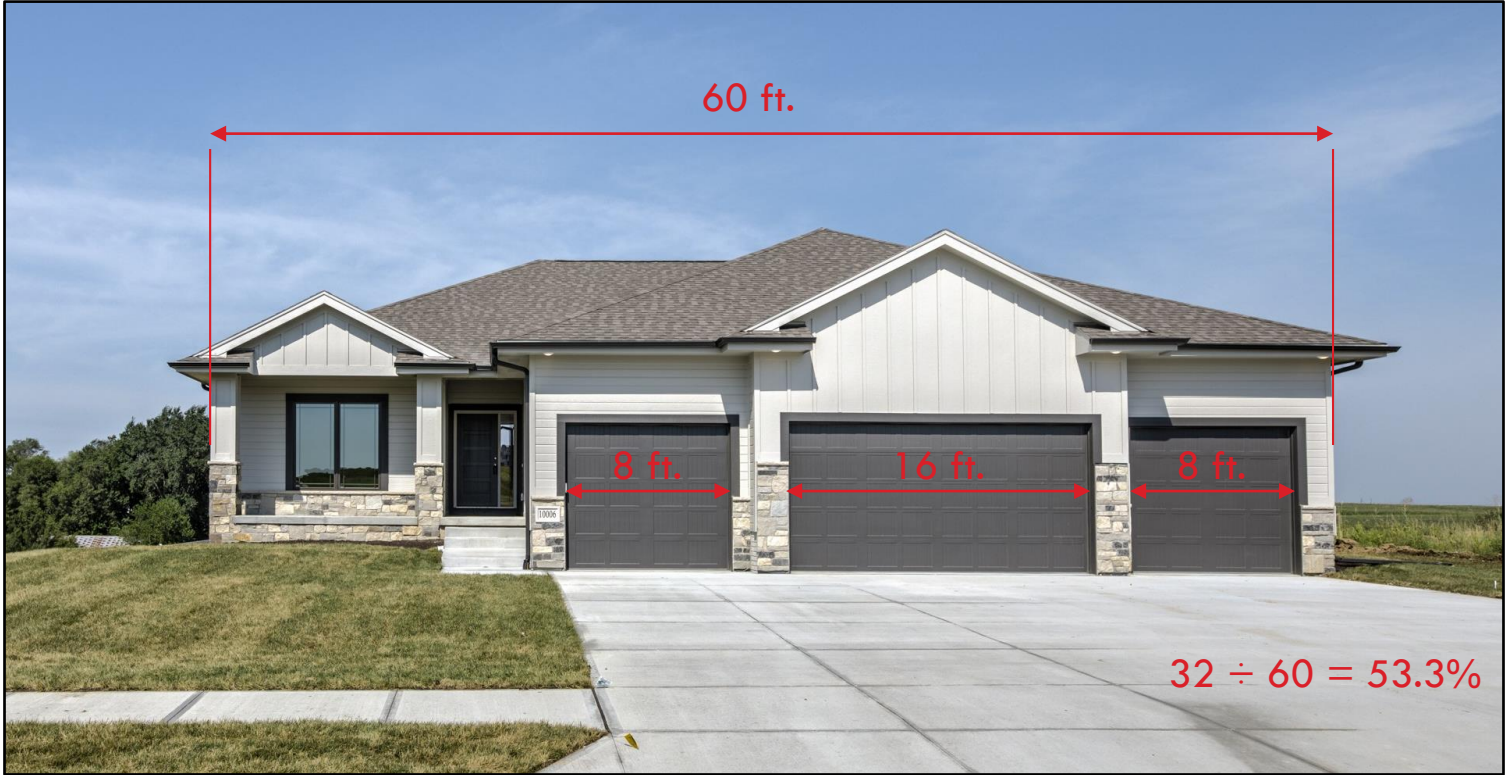


Prohibited Elevations

11



Prohibited Elevation



Sec. 31-904. – Architectural Standards.

All new single-family and two-family structures shall include the following:

- a) *Enhanced windows* – Windows on the front elevation shall incorporate use of transoms, bay windows, shutters, dormers, or other similar window enhancements.
- h) *Architectural details* – The front elevation shall incorporate enhanced architectural details including corbels, quoining, louvered vents, keystones, decorative railings, coach lights, or other architectural features as approved by the Executive Director of Development Services or his/her designee.
- i) *Variable roof design* – At least two (2) different roof types (e.g. hip and gable) or two (2) different roof planes of varying height, direction, or pitch shall be provided.

Sec. 31-904. – Architectural Standards.

All new single-family and two-family structures shall also include at least three (3) of the following:

- a) *Side or rear entry garage* – No garage doors shall face the street on the primary elevation. This provision includes homes with side-entry, J-swing, detached, or rear-entry garages.
- b) *Recessed garage* – The exterior wall on either side of the garage door facing the street shall be recessed at least five (5) feet behind any other horizontal building plane on the front elevation.
- c) *Vertical articulation* – A minimum of three (3) wall planes shall be provided on the front elevation, with offsets being at least twelve (12) inches deep.

Sec. 31-904. – Architectural Standards.

15

- d) *Covered front porch* – A covered front porch at least sixty (60) square feet shall be provided on a single-family home; or at least forty (40) square feet per unit on a two-family dwelling. Such porch shall measure not less than five (5) feet in any direction.
- e) *Enclosed patio* – A patio or outdoor seating area enclosed on at least three (3) sides by a fence or wall at least thirty-six (36) inches in height.
- f) *Enhanced garage doors* – Garage doors shall have accent windows and decorative hardware.

Sec. 31-907. – Site Design Standards.

16

- a) Side and rear elevations ~~visible from facing~~ a public roadway shall incorporate architectural features consistent with the front façade.
- ❖ Staff recommends approval of the proposed standard without the changes shown in red.

Sec. 31-908. – Architectural Standards.

All new multi-family structures shall include the following:

- a) *Vertical articulation* – Exterior walls shall not have an uninterrupted length greater than thirty (30) feet in length, with offsets being at least thirty-six (36) inches deep.
- b) *Balconies* – At least fifty (50) percent of units shall have a balcony at least fifty (50) square feet in size.
- c) *Enhanced windows* – Windows shall incorporate use of awnings, canopies, bay windows, shutters, dormers, or other similar window enhancements.

Sec. 31-911. – Site Design Standards.

18

- a) Side and rear elevations ~~visible from facing~~ a public roadway shall incorporate architectural features consistent with the front façade.
- ❖ Staff recommends approval of the proposed standard without the changes shown in red.

Sec. 31-912. – Architectural Standards.

All new non-residential developments shall include one (1) of the following:

- a) *Vertical articulation.* Exterior walls shall not have an uninterrupted length greater than thirty (30) feet in length, with offsets being at least eighteen (18) inches deep.
- d) *Tripartite design.* Buildings shall have an identifiable base, middle, and top.
- e) *Articulated parapet.* A parapet wall shall not have an uninterrupted length greater than fifty (50) feet, with articulations being at least thirty-six (36) inches in height. Parapet walls shall require cornice detailing.

Sec. 31-912. – Architectural Standards.

All new non-residential developments shall also include at least two (2) of the following:

- a) *Sheltered entry.* Primary entrances shall be covered with a portico, canopy, awning, arcade, porte-cochère, architectural recess, or other similar feature that provides shelter from the elements.
- b) *Transparency.* A minimum of seventy-five (75) percent of the first floor of the primary elevation and twenty-five (25) percent of all other street-facing elevations shall be comprised of, transparent, non-reflective windows that provide views into occupied spaces.
- c) *Pitched roof.* The primary roof shall have a pitch of not less than six (6) over twelve (12).

Alternatives

21

- ❑ The City Council has three (3) alternatives. The Council may:
 - ❑ Disapprove the ordinance;
 - ❑ Approve the ordinance with additional/amended conditions;
or
 - ❑ Approve the ordinance as presented.

Staff Recommendation

22

- Staff recommends approval of the ordinance as presented.



City of Killeen

Staff Report

File Number: PH-22-030

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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HOLD a public hearing and consider an ordinance requested by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (Case #FLUM 22-12) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Suburban Residential' (SR) designation to a 'Suburban Commercial' (SC) designation for approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1. The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.

DATE: April 19, 2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: FLUM CASE #22-12: 'SUBURBAN RESIDENTIAL' (SR) TO 'SUBURBAN COMMERCIAL' (SC)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Passion for Christ Ministries, LLC
Agent: Raye Mayhorn
Current FLUM Designation: 'Suburban Residential' (SR)
Requested FLUM Designation: 'Suburban Commercial' (SC)
Current Zoning: "R-1" (Single-Family Residential District)
Proposed Zoning: "B-1" (Professional Business District)

Summary of Request:

Raye Mayhorn, on behalf of Passion for Christ Ministries, LLC, has submitted a request to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Suburban Residential' (SR) designation to a 'Suburban Commercial' (SC) designation for approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1. If approved, the applicant intends to sell the property to a prospective buyer for use as a real estate office.

Zoning/Plat Case History:

The parcel is currently zoned "R-1" (Single-Family Residential District). Staff is unable to determine the exact date of the zoning. The property was platted as Passion for Christ Ministries Addition, Block 1, Lot 1 on September 19, 2018.

Character of the Area:

North: Undeveloped property on the opposite side of Little Nolan Rd. zoned "R-1" (Single-Family Residential District)
East: Undeveloped property and First United Methodist Church Killeen, zoned "R-1" (Single-Family Residential District)

South: Undeveloped property and Immanuel Lutheran Church of Killeen, zoned "R-1" (Single-Family Residential District)

West: Agape Church of God in Christ, zoned "R-1" (Single-Family Residential District)

Future Land Use Map Analysis:

This property is designated as 'Suburban Residential (SR) on the Future Land Use Map (FLUM) of the Comprehensive Plan. The 'Suburban Residential' (SR) designation encourages the following development types:

- Detached residential dwellings;
- Planned developments to provide for other housing types (e.g., townhouse, patio) in a Suburban character setting;
- Public/ institutional; and
- Parks and public spaces.

If approved, the 'Suburban Commercial' (SC) designation encourages the following development types:

- A range of commercial retail and service uses, at varying scales and intensities depending on the site;
- Office (both large and/or multi-story buildings and small-scale office uses depending on the site);
- Planned development to accommodate custom site designs or mixing of uses in a Suburban character setting;
- Public/institutional; and
- Parks and public spaces.

The applicant has submitted a concurrent request to rezone the property from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District).

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: YES

Feasibility Study or Service Commitment: Water, sanitary sewer and drainage utility service is located within the City of Killeen municipal utility service area and is available to the subject tract.

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Little Nolan Road, which is classified as a 70' wide Collector Street on the City of Killeen Thoroughfare Plan.

Environmental Assessment:

The property is within a FEMA regulatory Special Flood Hazard Area (SFHA). The property is crossed by Riverine habitat and Freshwater Forested/shrub Wetland associated with the Old Florence Ditch as identified on the National Wetlands Inventory.

Public Notification:

Staff mailed courtesy notices to eight (8) surrounding property owners regarding this request, none of whom reside outside Killeen.

Staff Findings:

The subject property and its surrounding area are identified on the Future Land Use Map (FLUM) as being intended for 'Suburban Residential' (SR) development. The suburban residential character incorporates larger baseline minimum lot size allowing for larger front yards and building setbacks and greater side separation between homes.

The current zoning of the subject property is "R-1" (Single-Family Residential District). The surrounding area includes primarily vacant properties and religious institutions. The areas to the north and east are undeveloped, and there are three large religious institutions in the immediate vicinity.

THE ALTERNATIVES CONSIDERED:

The City Council has four (4) alternatives. The Council may:

- Disapprove the applicant's FLUM amendment request;
- Approve a more restrictive FLUM designation;
- Approve the request as recommended by staff; or
- Approve the applicant's FLUM amendment request as presented.

Which alternative is recommended? Why?

Staff recommends that the Commission recommend approval of the request to change the Future Land Use Map (FLUM) designation from 'Suburban Residential' (SR) to 'Suburban Commercial' (SC) for two-hundred and fifty feet (250) of depth along the frontage of Little Nolan Road, but that the rear portion of the property remain 'SR' (Suburban Residential).

Given the property's location at the intersection of two Collector Streets (Little Nolan Road and Cunningham Road), staff finds that the frontage along Little Nolan Road is suitable for use as 'Suburban Commercial' (SC). However, staff finds that the rear portion of the property is better suited for residential development and should remain designated as such.

CONFORMITY TO CITY POLICY:

This FLUM amendment request conforms to the City's policy as detailed in the Comprehensive Plan.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

This is not applicable.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable.

RECOMMENDATION:

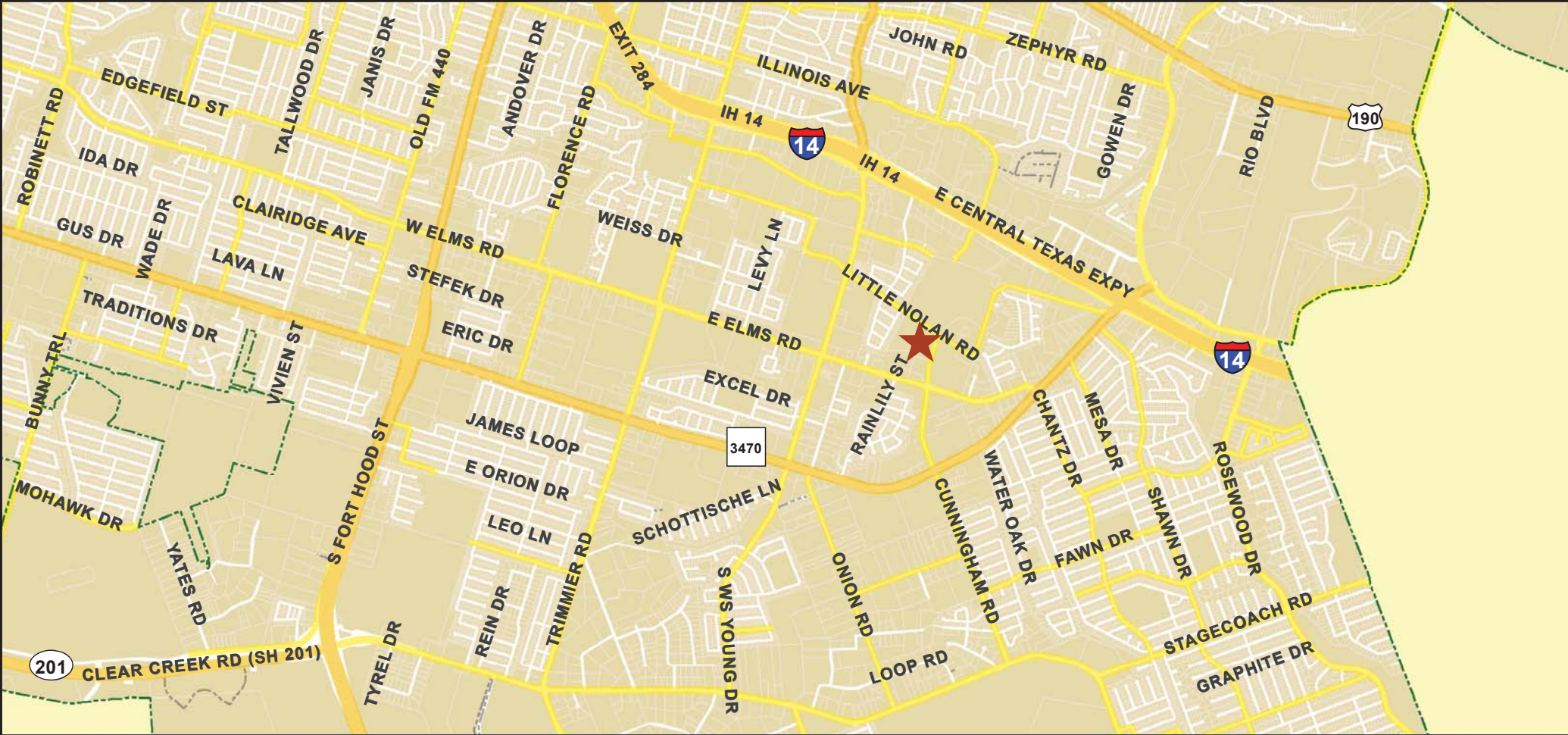
At their regular meeting on March 21, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 7 to 0.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

Maps
Minutes
Ordinance



LOCATION MAP

Case: FLUM AMENDMENT 2022-12

Council District: 2

FROM SR TO SC

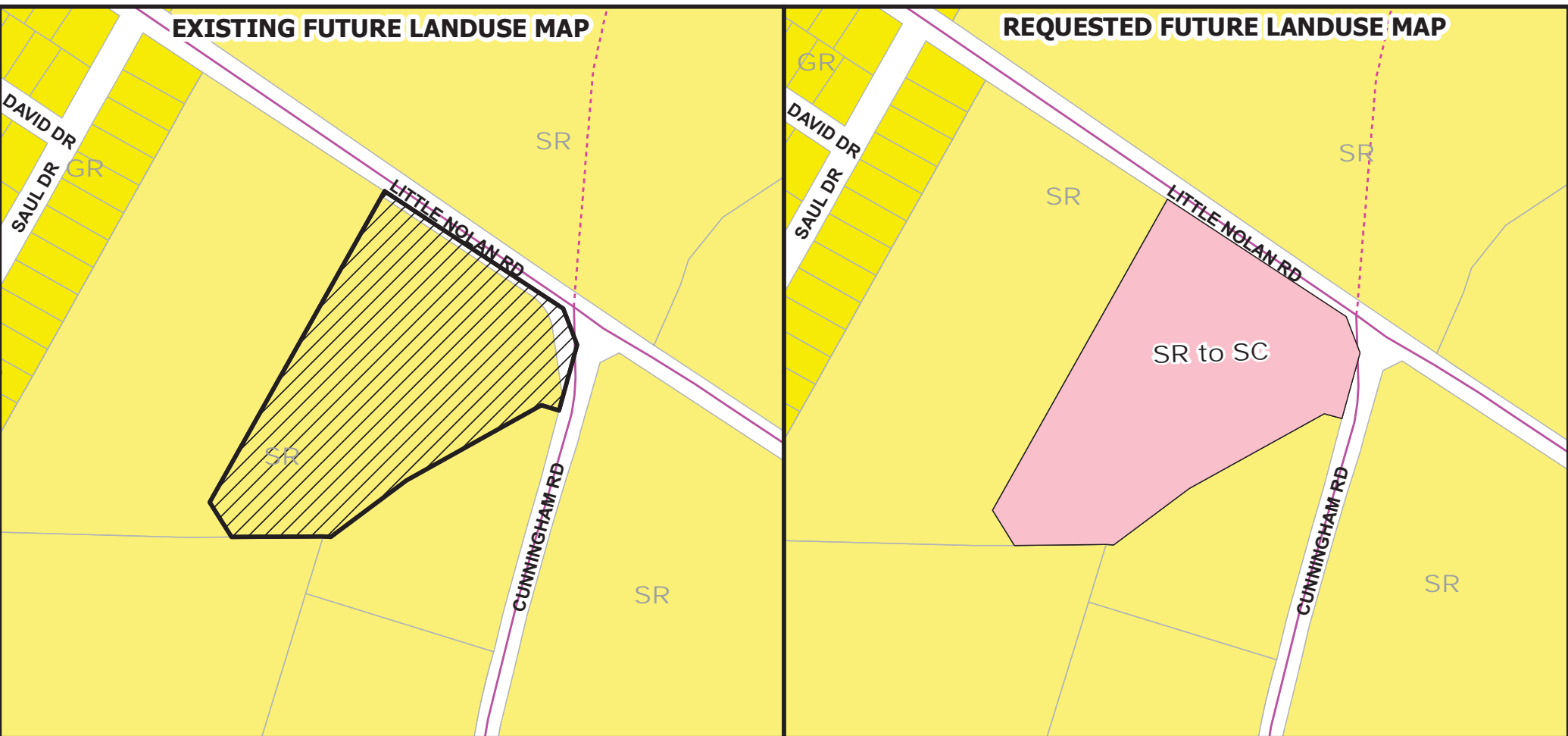
Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43



1 inch = 4,167 feet
Date: 3/11/2022

EXISTING FUTURE LANDUSE MAP

REQUESTED FUTURE LANDUSE MAP



FUTURE LAND USE MAP




Case: FLUM AMENDMENT 2022-12

Council District: 2

FROM SR TO SC

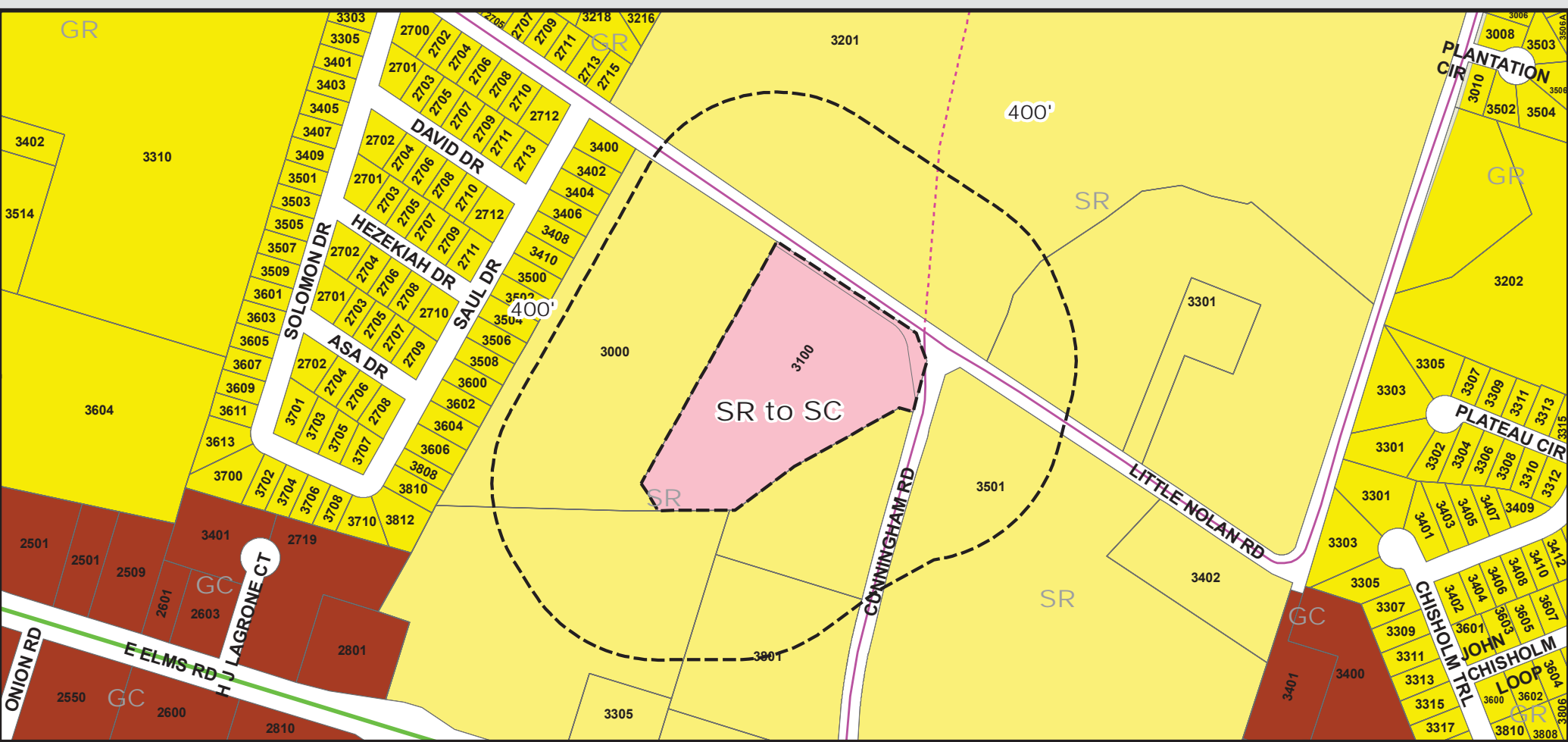
Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Future Land Use Legend

-  FLUM Case Location
-  General Residential (GR)
-  Suburban Residential (SR)



1 inch = 333 feet
Date: 3/11/2022



NOTIFICATION MAP

Case: FLUM AMENDMENT 2022-12

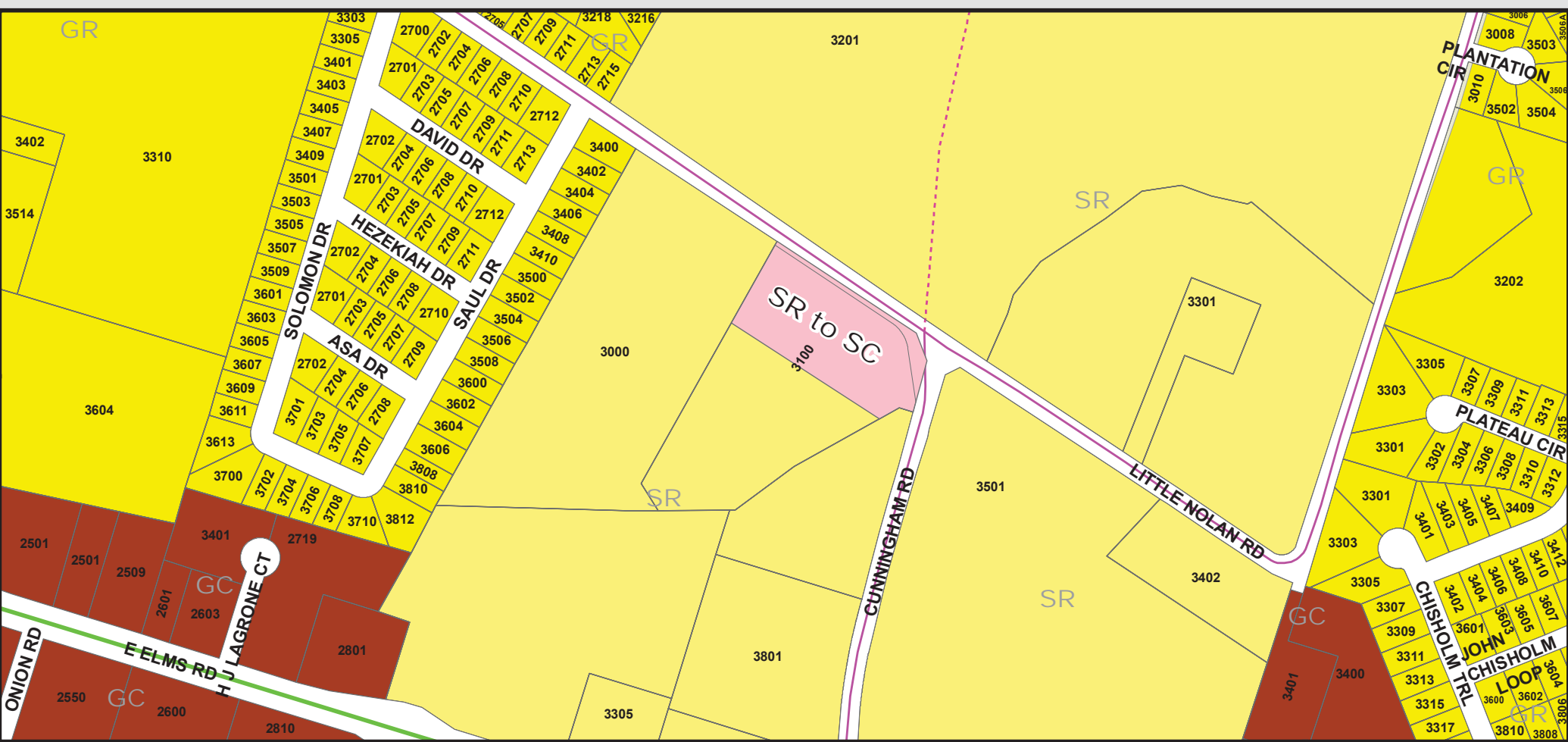
Council District: 2
 FROM SR TO SC
 Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Legend

Killeen City Limits	Collector, Proposed	General Commercial (GC)
Bell County Area	Minor Arterial, Existing	Suburban Residential (SR)
Collector, Existing	General Residential (GR)	



Date: 3/11/2022



STAFF RECOMMENDATION MAP
Case: FLUM AMENDMENT 2022-12

Council District: 2
 FROM SR TO SC
 Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

- Legend**
- Killeen City Limits
 - Collector, Proposed
 - General Commercial (GC)
 - Bell County Area
 - Minor Arterial, Existing
 - Suburban Residential (SR)
 - Collector, Existing
 - General Residential (GR)



Date: 3/16/2022

MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 21, 2022

CASE # FLUM 22-12
'SR' to 'SC'

HOLD a public hearing and consider a request submitted by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (Case #FLUM 22-12) to amend the Comprehensive Plan's Future Land Use Map (FLUM) from a 'Suburban Residential' (SR) designation to a 'Suburban Commercial' (SC) designation for approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1. The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant's request. She stated that staff recommends approval of 'Suburban Commercial' (SC) for two-hundred and fifty (250) feet of depth along the frontage of Little Nolan Road, but that the rear portion of the property remain 'SR' (Suburban Residential).

The agent, Mrs. Raye Mayhorn, was present to represent the case. She noted concerns regarding staff's recommendation, stating that if the rear portion of the property were to remain residential, it may affect the bank's ability to provide financing for the property. She further stated that she would be amenable to a Conditional Use Permit (CUP) for the property, which could limit the height and/or density of the site.

Chairman Latham opened the public hearing.

With no one wishing to speak, the public hearing was closed.

Commissioner Minor made a motion to approve the applicant's request as presented. Commissioner Adams seconded, and the motion passed by a vote of 7 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN’S FUTURE LAND USE MAP TO CHANGE APPROXIMATELY 6.43 ACRES OUT OF THE PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 1, LOT 1, FROM A ‘SUBURBAN RESIDENTIAL’ (SR) DESIGNATION TO A ‘SUBURBAN COMMERCIAL’ (SC) DESIGNATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; 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 Raye Mayhorn, on behalf of Passion for Christ Ministries, LLC, for a revision to the Future Land Use Map (FLUM) of the Comprehensive Plan to change the ‘Suburban Residential’ (SR) designation to a ‘Suburban Commercial’ (SC) designation, said property being legally described as being approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1; said revision having been duly presented and recommended for approval by the Planning and Zoning Commission of the City of Killeen on the 21st day of March 2022, 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 26th day of April, 2022, 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 future land use designation of approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, be amended from a ‘Suburban Residential’ (SR) designation to a ‘Suburban Commercial’ (SC) designation, for the property locally addressed as 3100 Little Nolan 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 26th day of April 2022, 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:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney

Case #: FLUM 22-12

Ord#: 2__ - ____



CASE #FLUM22-12: 'SR' TO 'SC'

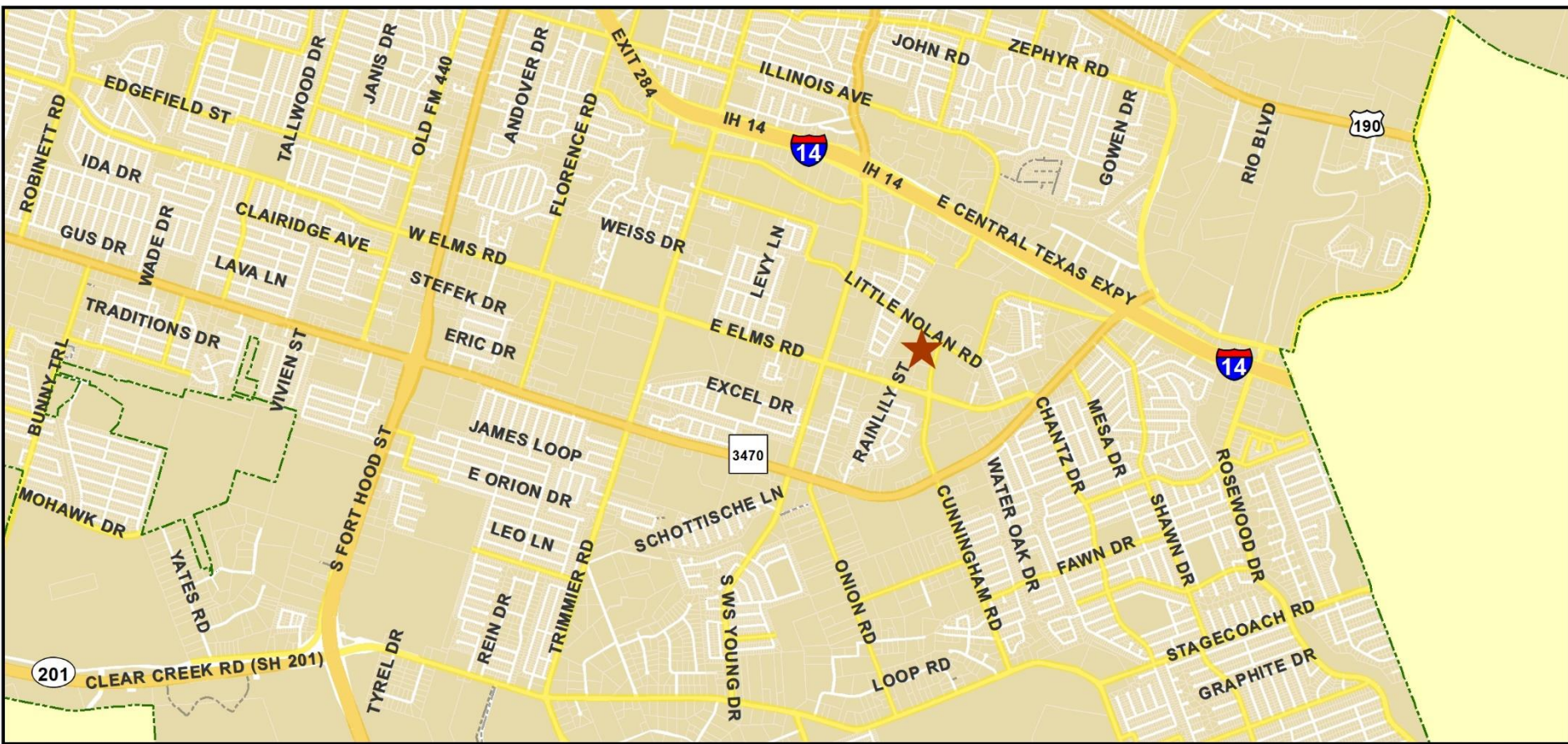
PH-22-030

April 19, 2022

249

Case #FLUM 22-12 – ‘SR’ to ‘SC’

- ❑ **HOLD** a public hearing and consider an ordinance requested by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (**Case #FLUM 22-12**) to amend the Comprehensive Plan’s Future Land Use Map (FLUM) from a ‘Suburban Residential’ (SR) designation to a ‘Suburban Commercial’ (SC) designation for approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1.
- ❑ The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.



LOCATION MAP

Case: FLUM AMENDMENT 2022-12

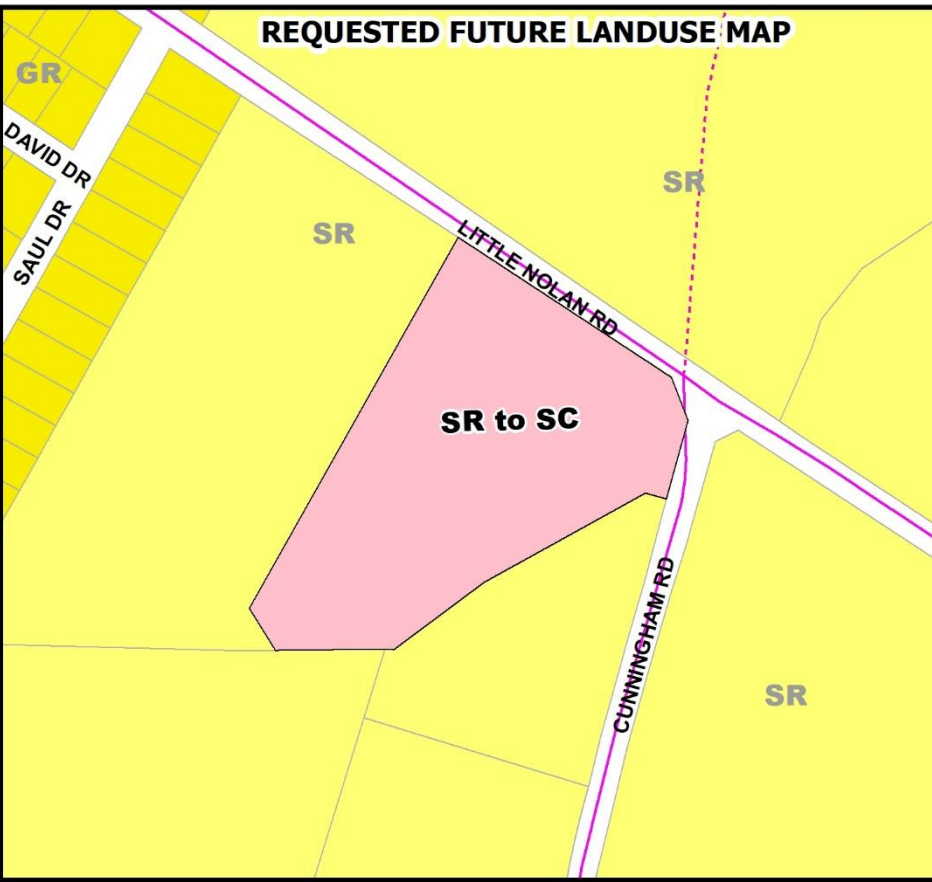
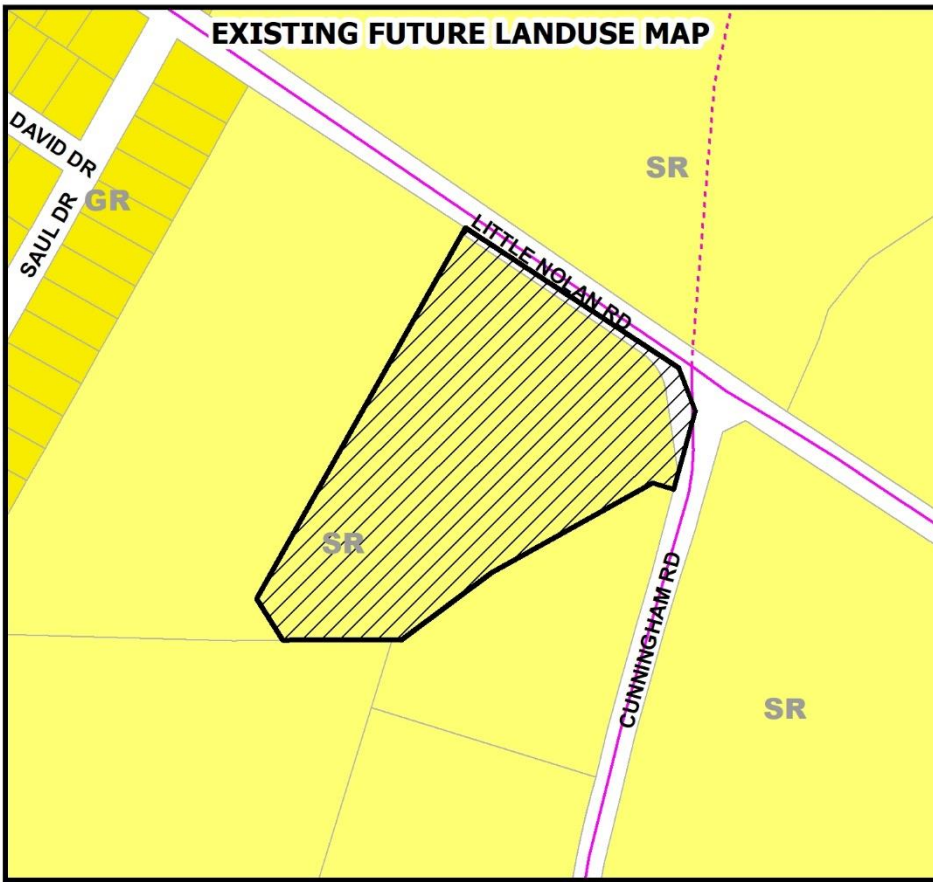
Council District: 2
 FROM SR TO SC
 Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43



1 inch = 4,167
 Date: 3/11/2022

EXISTING FUTURE LANDUSE MAP

REQUESTED FUTURE LANDUSE MAP



FUTURE LAND USE MAP

Case: FLUM AMENDMENT 2022-12

Council District: 2

FROM SR TO SC

Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Future Land Use Legend

-  FLUM Case Location
-  General Residential (GR)
-  Suburban Residential (SR)


 1 inch = **252**
 Date: 3/11/2022

Case #FLUM 22-12 – ‘SR’ to ‘SC’

5

- If approved, the applicant intends to sell the property to a prospective buyer for use as a real estate office.
- The applicant has submitted a concurrent request to rezone the property from “R-1” (Single-Family Residential District) to “B-1” (Professional Business District).

Case #FLUM 22-12 – ‘SR’ to ‘SC’

6

- This property is designated as ‘Suburban Residential (SR) on the Future Land Use Map (FLUM) of the Comprehensive Plan.
- The ‘Suburban Residential’ (SR) designation encourages:
 - ▣ Detached residential dwellings;
 - ▣ Planned developments to provide for other housing types (e.g., townhouse, patio) in a Suburban character setting;
 - ▣ Public/ institutional; and
 - ▣ Parks and public spaces.

Case #FLUM 22-12 – ‘SR’ to ‘SC’

7

- If approved, the ‘Suburban Commercial’ (SC) designation encourages:
 - ▣ A range of commercial retail and service uses, at varying scales and intensities depending on the site;
 - ▣ Office (both large and/or multi-story buildings and small-scale office uses depending on the site);
 - ▣ Planned development to accommodate custom site designs or mixing of uses in a Suburban character setting;
 - ▣ Public/institutional; and
 - ▣ Parks and public spaces.

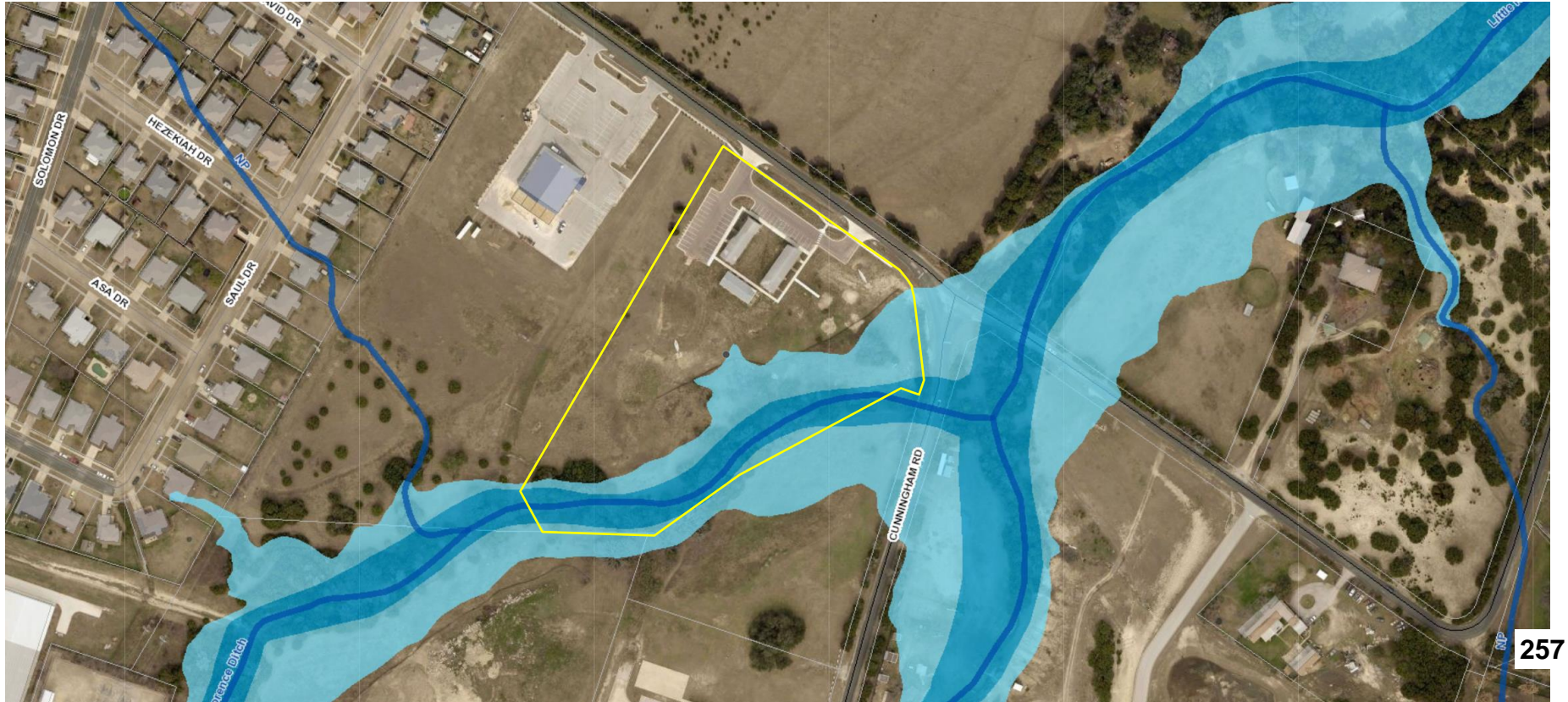
Case #FLUM 22-12 – ‘SR’ to ‘SC’

8

- A portion of the property is located within a FEMA regulatory Special Flood Hazard Area (SFHA).
- The property is crossed by Riverine habitat and Freshwater Forested/shrub Wetland associated with the Old Florence Ditch as identified on the National Wetlands Inventory.

Case #FLUM 22-12 – ‘SR’ to ‘SC’

9



Case #FLUM 22-12 – ‘SR’ to ‘SC’

10

View of the subject property looking south (from Little Nolan Rd.):



Case #FLUM 22-12 – ‘SR’ to ‘SC’

11

Adjacent property to the west, Agape Church of God in Christ, zoned “R-1”:



Case #FLUM 22-12 – ‘SR’ to ‘SC’

12

Adjacent property to the east (across Cunningham Rd.) zoned “R-1”:



Case #FLUM 22-12 – ‘SR’ to ‘SC’

13

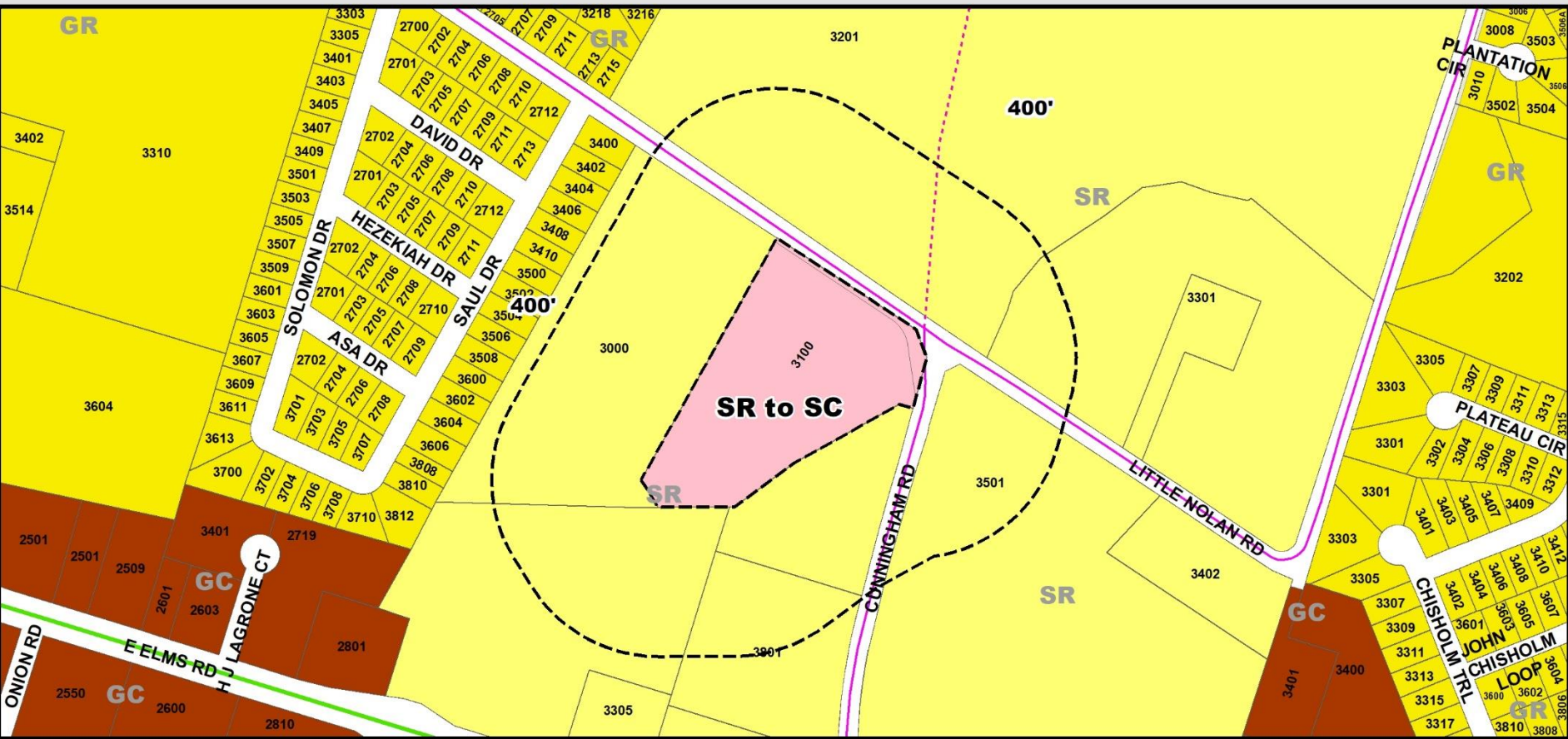
Adjacent property to the north (across Little Nolan Rd.) zoned “R-1”:



Public Notification

14

- Staff mailed courtesy notices to eight (8) surrounding property owners regarding this request.
- All property owners notified reside within the City of Killeen.



NOTIFICATION MAP

Case: FLUM AMENDMENT 2022-12

Council District: 2

FROM SR TO SC

Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

- Legend**
- Killéen City Limits
 - Collector, Proposed
 - General Commercial (GC)
 - Bell County Area
 - Minor Arterial, Existing
 - Suburban Residential (SR)
 - Collector, Existing
 - General Residential (GR)



Alternatives

16

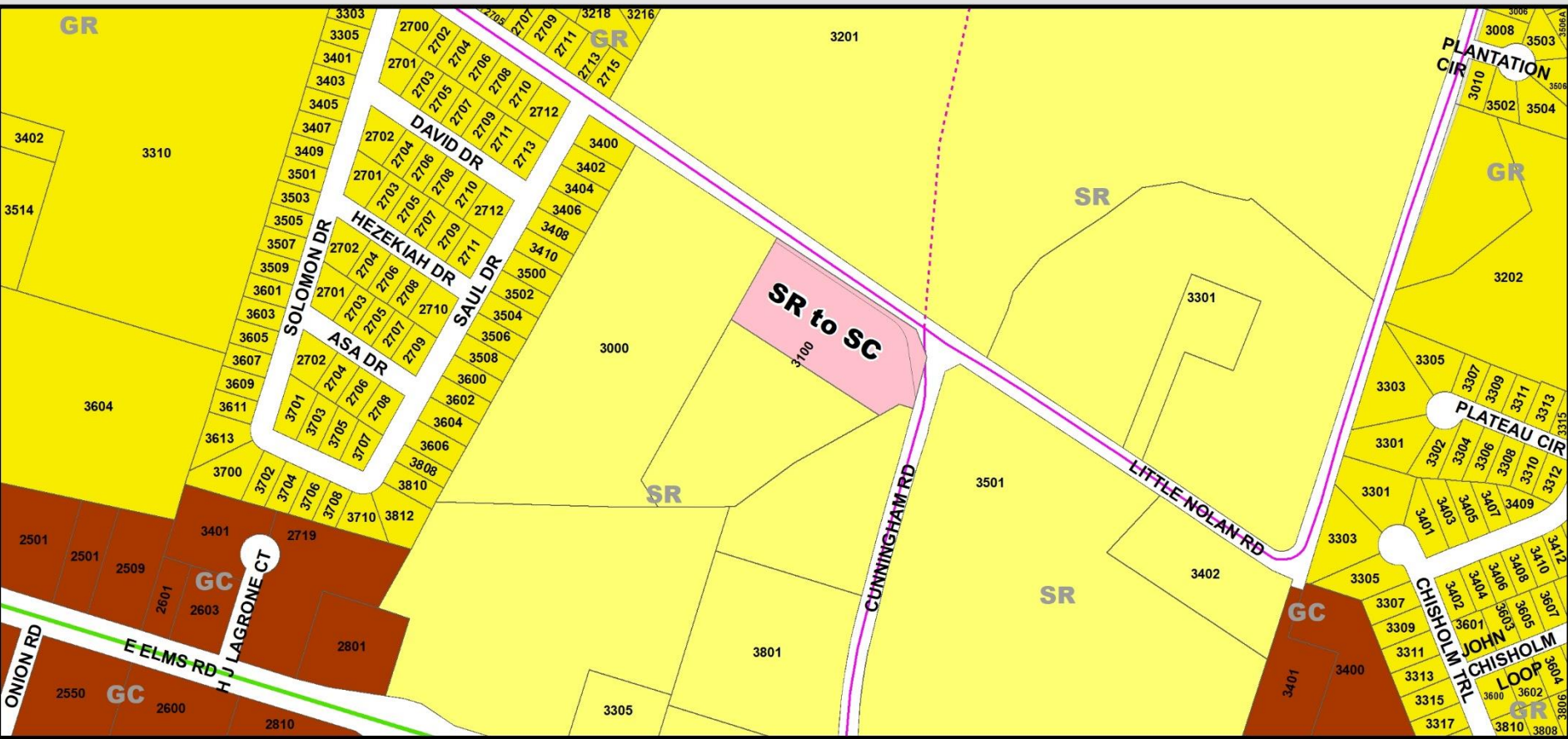
- ❑ The City Council has four (4) alternatives. The Council may:
 - ❑ Disapprove the applicant's request;
 - ❑ Approve a more restrictive FLUM designation than requested;
 - ❑ Approve the request as recommended by staff; or
 - ❑ Approve the applicant's request as presented.

Staff Recommendation

- Staff recommends that the Commission recommend approval of the request to change the Future Land Use Map (FLUM) designation from ‘Suburban Residential’ (SR) to ‘Suburban Commercial’ (SC) for two-hundred and fifty feet (250) of depth along the frontage of Little Nolan Road, but that the rear portion of the property remain ‘SR’ (Suburban Residential).

Staff Recommendation

- Given the property's location at the intersection of two Collector Streets (Little Nolan Road and Cunningham Road), staff finds that the frontage along Little Nolan Road is suitable for use as 'Suburban Commercial' (SC).
- However, staff finds that the rear portion of the property is better suited for residential development and should remain designated as such.



STAFF RECOMMENDATION MAP
Case: FLUM AMENDMENT 2022-12

Council District: 2
 FROM SR TO SC
 Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

- Legend**
- Killeen City Limits
 - Collector, Proposed
 - General Commercial (GC)
 - Bell County Area
 - Minor Arterial, Existing
 - Suburban Residential (SR)
 - Collector, Existing
 - General Residential (GR)



Date: 3/16/2022

Commission Recommendation

- ❑ At their regular meeting on March 21, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 7 to 0.



City of Killeen

Staff Report

File Number: PH-22-031

1	City Council Workshop	04/19/2022	Reviewed and Referred	City Council	04/26/2022
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HOLD a public hearing and consider an ordinance requested by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (Case #Z22-17) to rezone approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District). The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.

DATE: April 19, 2022

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #22-17: "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "B-1" (PROFESSIONAL BUSINESS DISTRICT)

BACKGROUND AND FINDINGS:

Property Information:

Property Owner: Passion for Christ Ministries, LLC
Agent: Raye Mayhorn
Current Zoning: "R-1" (Single-Family Residential District)
Requested Zoning: "B-1" (Professional Business District)
Future Land Use Designation: 'Suburban Residential' (SR)
Requested FLUM Designation: 'Suburban Commercial' (SC)

Summary of Request:

Raye Mayhorn, on behalf of Passion for Christ Ministries, LLC, has submitted a request to rezone approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District). If approved, the applicant intends to sell the property to a prospective buyer for use as a real estate office.

Zoning/Plat Case History:

The parcel is currently zoned "R-1" (Single-Family Residential District). Staff is unable to determine the exact date of the zoning. The property was platted as Passion for Christ Ministries Addition, Block 1, Lot 1 on September 19, 2018.

Character of the Area:

	Current Land Use	Zoning District	Future Land Use
North	Undeveloped	R-1 (Single-Family Residential)	Suburban Residential (SR)
East	Religious institution and vacant	R-1 (Single-Family Residential)	Suburban Residential (SR)
South	Undeveloped	R-1 (Single-Family Residential)	Suburban Residential (SR)

West Religious institution R-1 (Single-Family Residential) Suburban Residential (SR)

Future Land Use Map Analysis:

This property is designated as 'Suburban Residential (SR) on the Future Land Use Map (FLUM) of the Comprehensive Plan.

The 'Suburban Residential' (SR) designation encourages the following development types:

- Detached residential dwellings;
- Planned developments to provide for other housing types (e.g., townhouse, patio) in a Suburban character setting;
- Public/ institutional; and
- Parks and public spaces.

If approved, the 'Suburban Commercial' (SC) designation encourages the following development types:

- A range of commercial retail and service uses, at varying scales and intensities depending on the site;
- Office (both large and/or multi-story buildings and small-scale office uses depending on the site);
- Planned development to accommodate custom site designs or mixing of uses in a Suburban character setting;
- Public/institutional; and
- Parks and public spaces.

The request to rezone the property from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District) is not consistent with the Future Land Use Map (FLUM) of the Comprehensive Plan. However, the applicant submitted a concurrent request to amend the Future Land Use Map (FLUM) from 'Suburban Residential' (SR) to 'Suburban Commercial' (SC).

Water, Sewer and Drainage Services:

Provider: City of Killeen

Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer and drainage utility service is located within the City of Killeen municipal utility service area and available to the subject tract.

Transportation and Thoroughfare Plan:

Ingress and egress to the property is from Little Nolan Road, which is classified as a 70' wide Collector Street on the City of Killeen Thoroughfare Plan.

Environmental Assessment:

The property is within a FEMA regulatory Special Flood Hazard Area (SFHA). The property is crossed by Riverine habitat and Freshwater Forested/shrub Wetland associated with the Old Florence Ditch as identified on the National Wetlands Inventory.

Public Notification:

Staff notified eight (8) surrounding property owners regarding this request. Of those property owners notified, all reside within both the 200-foot and 400-foot notification boundaries, and none reside outside the City limits of Killeen. As of the date of this staff report, staff has received no written responses regarding this request.

Staff Findings:

The subject property and its surrounding area are identified on the Future Land Use Map (FLUM) as being intended for 'Suburban Residential' (SR) development. The Suburban Residential character incorporates larger baseline minimum lot size allowing for larger front yards and building setbacks and greater side separation between homes.

The current zoning of the subject property is "R-1" (Single-Family Residential District). The surrounding area includes vacant properties and religious institutions. The areas to the north and east are undeveloped properties. There are three large religious institutions within the immediate vicinity.

THE ALTERNATIVES CONSIDERED:

The Council has four (4) alternatives. The Council may:

- Disapprove the applicant's request;
- Approve a more restrictive zoning district than requested by the applicant;
- Approve the request as recommended by staff; or
- Approve the applicant's request as presented.

If the Council disapproves the request, the applicant may submit a new request for a Conditional Use Permit (CUP) for this site.

Which alternative is recommended? Why?

Staff recommends approval of "B-1" (Professional Business District) for a depth of two-hundred and fifty feet (250') along the frontage of Little Nolan Road, but that zoning designation for the rear portion of the property remain "R-1" (Single-Family Residential District).

Given the property's location at the intersection of two Collector Streets (Little Nolan Road and Cunningham Road), staff finds that the frontage along Little Nolan Road is suitable for professional business and office uses.

Additionally, staff finds that rezoning the frontage to "B-1" (Professional Business District), while allowing the rear portion of the property to remain residential, would be in keeping with the character of the area. The character of the area includes undeveloped residentially zoned properties and religious institutions.

CONFORMITY TO CITY POLICY:

This zoning request conforms to the City's policy and procedures as detailed in Chapter 31 of the Killeen Code of Ordinances.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

This zoning request does not involve the expenditure of city funds.

Is this a one-time or recurring expenditure?

This is not applicable.

Is this expenditure budgeted?

This is not applicable.

If not, where will the money come from?

This is not applicable.

Is there a sufficient amount in the budgeted line-item for this expenditure?

This is not applicable.

RECOMMENDATION:

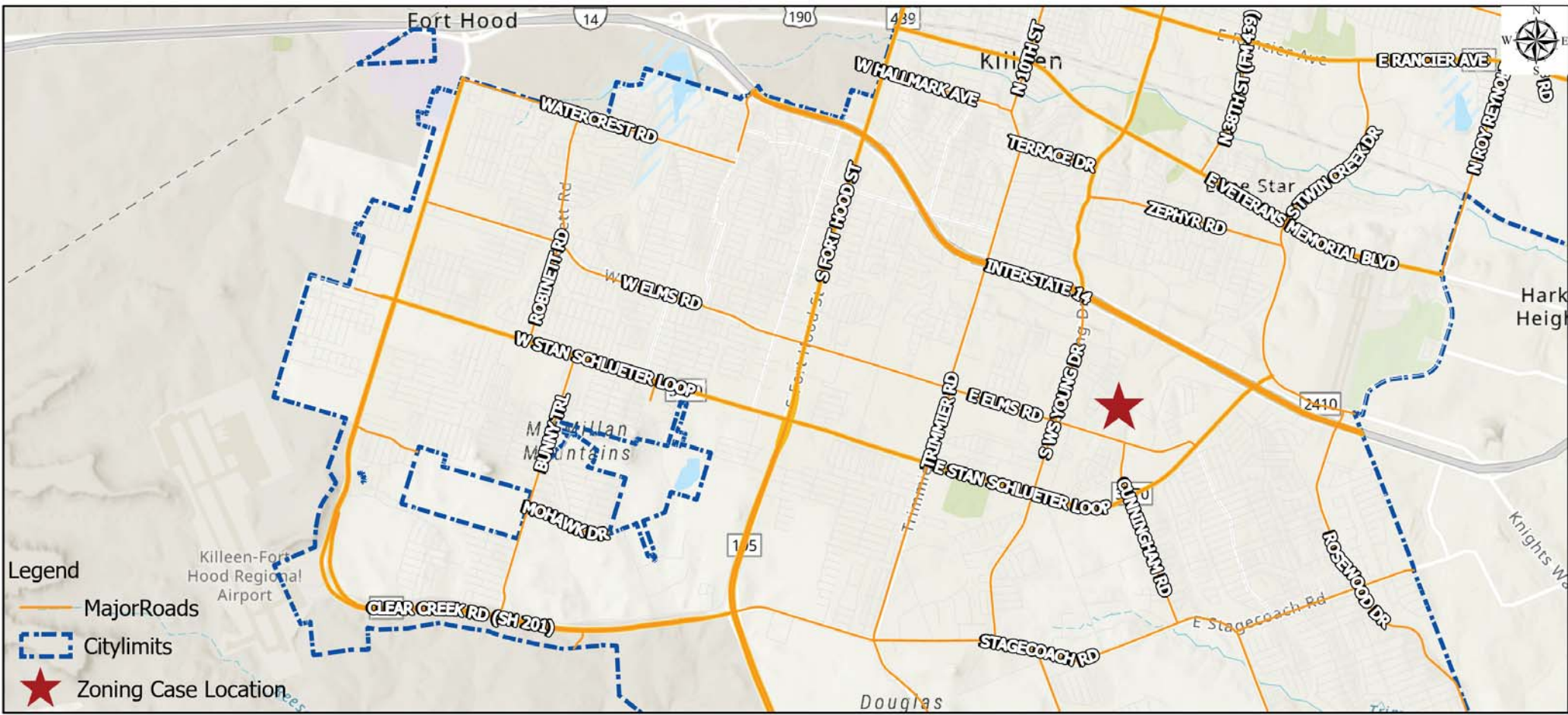
At their regular meeting on March 21, 2022, the Planning and Zoning Commission recommended approval of the applicant's request by a vote of 7 to 0.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal Staff.

ATTACHED SUPPORTING DOCUMENTS:

Maps
Site Photos
Minutes
Ordinance
Considerations



Attachment #2

Location Map

Council District: 2

Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Zoning Case 2022-17

R-1 TO B-1





Attachment #3

Council District: 2



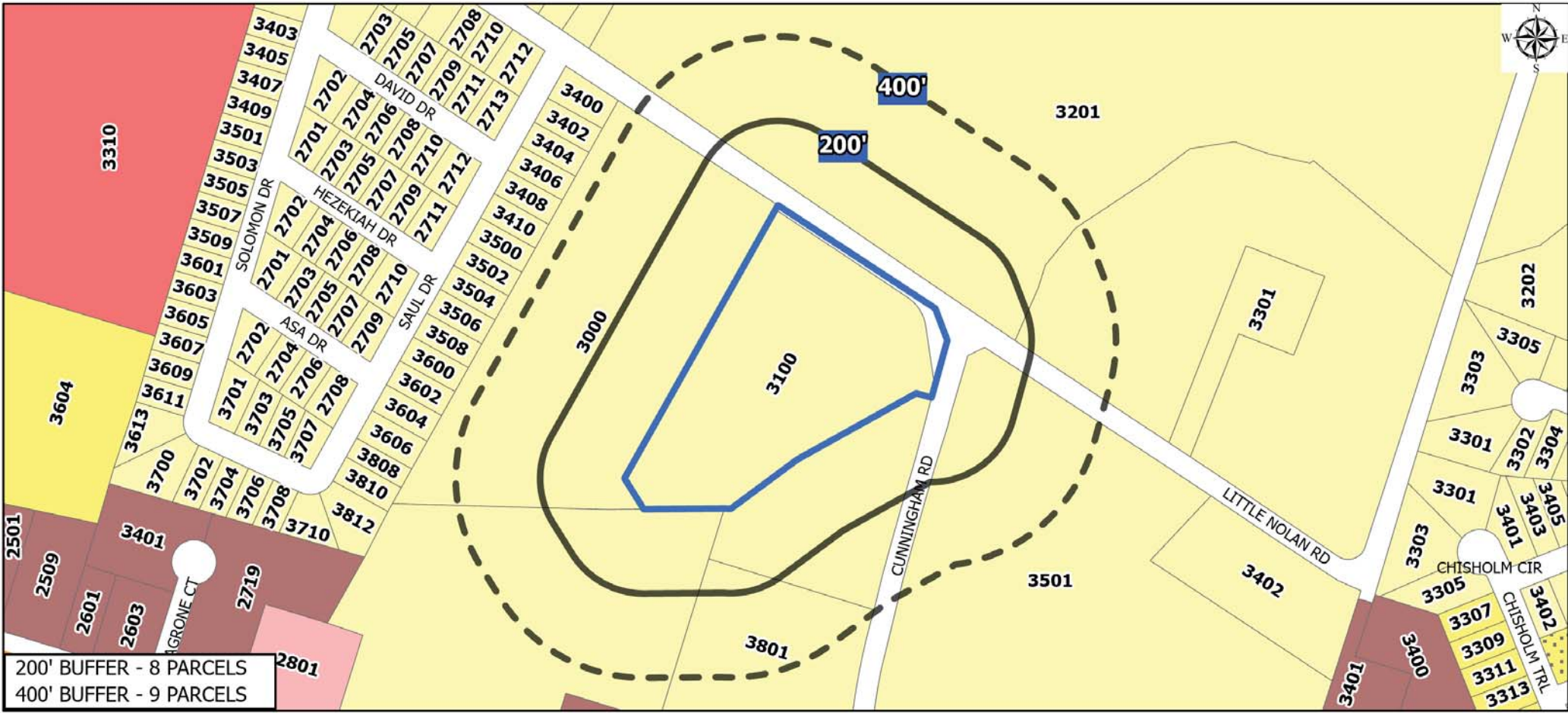
Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Zoning Case 2022-17

R-1 TO B-1

Legend

- Citylimits
- Zoning Case 2022



200' BUFFER - 8 PARCELS
 400' BUFFER - 9 PARCELS

Attachment #1
 Council District: 2
 0 200 400
 Feet
 Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Zoning Case 2022-17

R-1 TO B-1

Legend		Current Zoning	
	B-2		R-1
	B-3		R-2
	B-5		R-3

SITE PHOTOS

Case #Z22-17: "R-1" to "B-1"



View of the subject property looking south (from Little Nolan Rd):



View of the surrounding property to the west:



SITE PHOTOS

Case #Z22-17: "R-1" to "B-1"



View of the surrounding property to the east (across Cunningham Rd):



View of the surrounding property to the north (across Little Nolan Rd):



MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 21, 2022

CASE # Z22-17
“R-1” to “B-1”

HOLD a public hearing and consider a request submitted by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (Case #Z22-17) to rezone approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, from “R-1” (Single-Family Residential District) to “B-1” (Professional Business District). The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.

Ms. Larsen briefed the Commission regarding the applicant’s request. She stated that staff recommends approval of “B-3” (Local Business District) for two-hundred and fifty (250) feet of depth along the frontage of Little Nolan Road, but that the rear portion of the property remain “R-1” (Single-Family Residential District).

The agent, Mrs. Raye Mayhorn, was present to represent the case.

Chairman Latham opened the public hearing.

With no one wishing to speak, the public hearing was closed.

Commissioner Adams made a motion to approve the applicant’s request as presented. Commissioner Minor seconded, and the motion passed by a vote of 7 to 0.

ORDINANCE _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 6.43 ACRES OUT OF THE PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 1, LOT 1, FROM “R-1” (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO “B-1” (PROFESSIONAL BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Raye Mayhorn, on behalf of Passion for Christ Ministries, LLC, 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 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, from “R-1” (Single-Family Residential District) to “B-1” (Professional Business District), said request having been duly recommended for approval of “B-1” (Professional Business District) by the Planning and Zoning Commission of the City of Killeen on the 21st day of March 2022, 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 26th day of April 2022, 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 majority opinion that the applicant’s zoning request should be approved as recommended by the Planning and Zoning Commission;

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

SECTION I. That the zoning classification of approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, be changed from “R-1” (Single-Family Residential District) to “B-1” (Professional Business District), said request having been duly

recommended for approval of “B-1” (Professional Business District), for the property locally addressed as 3100 Little Nolan 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 26th day of April 2022, 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:

Debbie Nash-King, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM

Traci S. Briggs, City Attorney
Case #22-17
Ord. #22-____

CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2nd 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.



CASE #Z22-17: “R-1” TO “B-1”

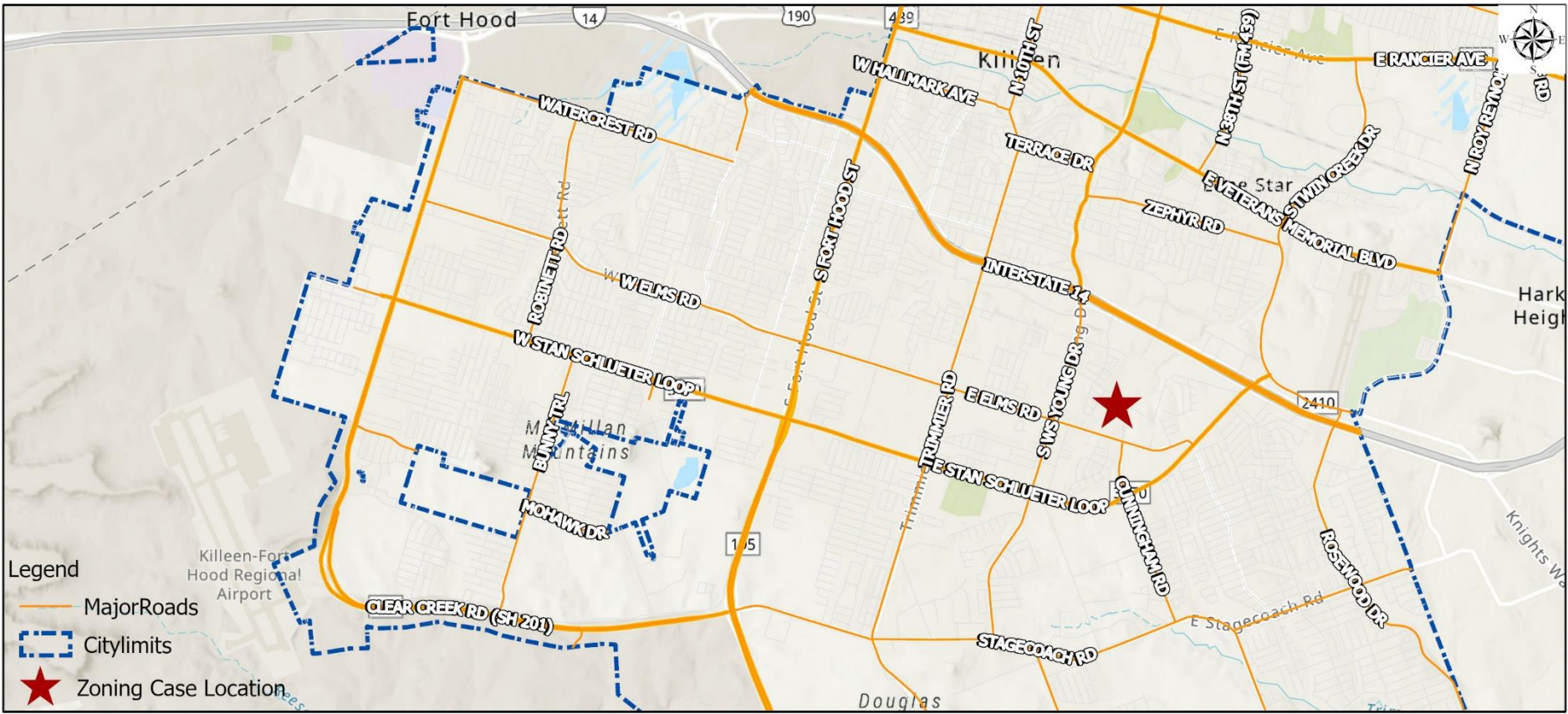
PH-22-031

April 19, 2022

283

Case #Z22-17 – “R-1” to “B-1”

- ❑ **HOLD** a public hearing and consider an ordinance requested by Raye Mayhorn on behalf of Passion for Christ Ministries, LLC (**Case #Z22-17**) to rezone approximately 6.43 acres out of the Passion for Christ Ministries Addition, Block 1, Lot 1, from “R-1” (Single-Family Residential District) to “B-1” (Professional Business District).
- ❑ The property is locally addressed as 3100 Little Nolan Road, Killeen, Texas.



Attachment #2

Location Map

Council District: 2

Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Zoning Case 2022-17

R-1 TO B-1





Attachment #3

Council District: 2




Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

Zoning Case 2022-17

R-1 TO B-1

Legend

 Citylimits

 Zoning Case 2022

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- If approved, the applicant intends to sell the property to a prospective buyer for use as a real estate office.
- The request to rezone the property is inconsistent with the Future Land Use Map (FLUM) of the Comprehensive Plan.
- However, the applicant has submitted a concurrent request to amend the Future Land Use Map (FLUM) from a ‘Suburban Residential’ designation to a ‘Suburban Commercial’ (SC) designation.

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- This property is designated as ‘Suburban Residential (SR) on the Future Land Use Map (FLUM) of the Comprehensive Plan.
- The ‘Suburban Residential’ (SR) designation encourages the following development types:
 - ▣ Detached residential dwellings;
 - ▣ Planned developments to provide for other housing types (e.g., townhouse, patio) in a Suburban character setting;
 - ▣ Public/ institutional; and
 - ▣ Parks and public spaces.

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- If approved, the ‘Suburban Commercial’ (SC) designation encourages the following development types:
 - ▣ A range of commercial retail and service uses, at varying scales and intensities depending on the site;
 - ▣ Office (both large and/or multi-story buildings and small-scale office uses depending on the site);
 - ▣ Planned development to accommodate custom site designs or mixing of uses in a Suburban character setting;
 - ▣ Public/institutional; and
 - ▣ Parks and public spaces.

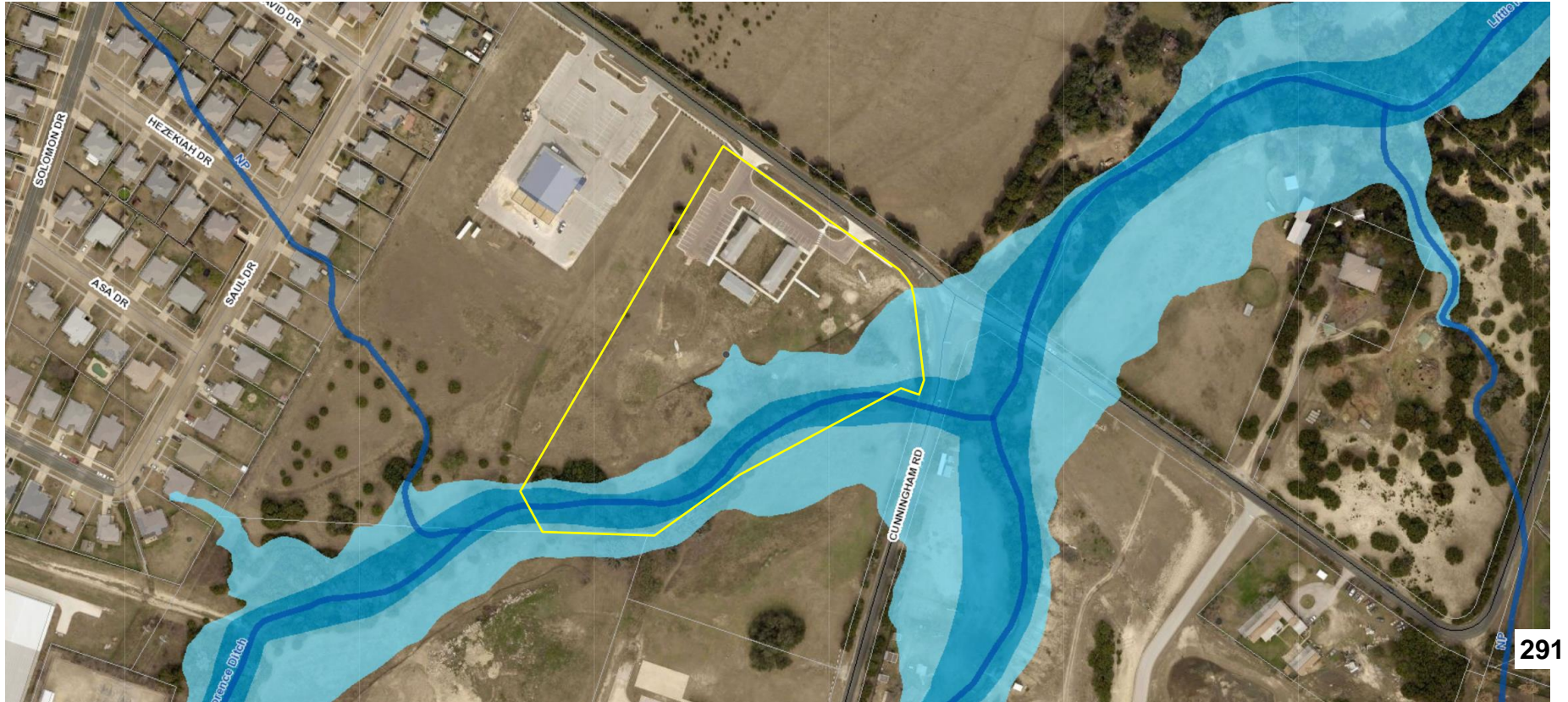
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- A portion of the property is located within a FEMA regulatory Special Flood Hazard Area (SFHA).
- The property is crossed by Riverine habitat and Freshwater Forested/shrub Wetland associated with the Old Florence Ditch as identified on the National Wetlands Inventory.

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View of the subject property looking south (from Little Nolan Rd.):



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Adjacent property to the west, Agape Church of God in Christ, zoned “R-1”:



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Adjacent property to the east (across Cunningham Rd.) zoned “R-1”:



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Adjacent property to the north (across Little Nolan Rd.) zoned “R-1”:



Public Notification

- Staff notified eight (8) surrounding property owners regarding this request.
- All eight (8) property owners notified are within both the 200-foot notification boundary required by the State and 400-foot notification boundary required by Council. No property owners reside outside of Killeen.
- To date, staff has received no written responses regarding this request.

Alternatives

- ❑ The City Council has four (4) alternatives. The Council may:
 - ❑ Disapprove the applicant's request;
 - ❑ Approve a more restrictive zoning district than requested;
 - ❑ Approve the request as recommended by staff; or
 - ❑ Approve the applicant's request as presented.

- ❑ If the Council disapproves the request, the applicant may submit a new request for a Conditional Use Permit (CUP) for this site.

Staff Findings

- Given the property's location at the intersection of two Collector Streets (Little Nolan Road and Cunningham Road), staff finds that the frontage along Little Nolan Road is suitable for professional business and office uses.
- The character of the area includes residentially zoned vacant properties and religious institutions. Staff finds that rezoning the frontage to "B-1" (Professional Business District), while allowing the rear portion of the property to remain residential, would be in keeping with the character of the area.

Staff Recommendation

- Staff recommends approval of “B-1” (Professional Business District) for a depth of two-hundred and fifty feet (250) along the frontage of Little Nolan Road, but that zoning designation for the rear portion of the property remain “R-1” (Single-Family Residential District).



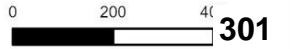
STAFF RECOMMENDATION

Council District: 2

Subject Property Legal Description: PASSION FOR CHRIST MINISTRIES ADDITION, BLOCK 001, LOT 0001, ACRES 6.43

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R-1 to B-1



Commission Recommendation

- ❑ At their regular meeting on March 21, 2022, the Planning and Zoning Commission recommended approval of the applicant's request to rezone the entire property from "R-1" (Single-Family Residential District) to "B-1" (Professional Business District) by a vote of 7 to 0.