# X

### City of Killeen

### **Agenda**

### **City Council**

Tuesday, January 24, 2023	5:00 PM	City Hall
		Council Chambers
		101 N. College Street
		Killeen, Texas 76541

#### **Call to Order and Roll Call**

Debbie Nash-King, Mayor	Nina Cobb
Riakos Adams	Jessica Gonzalez
Ramon Alvarez	Jose Segarra
Michael Boyd	Ken Wilkerson

#### Invocation

#### **Pledge of Allegiance**

#### **Approval of Agenda**

#### **Presentations**

1. PR-23-002 Killeen Star Award Presentation

#### Citizens Petitions

Comments should be limited to four (4) minutes. A majority vote of the City Council is required for any time extensions.

required for any time extensions.

2. <u>CP-23-001</u> Abigail McClane: Shameful Treatment of Black Journalist

3. CP-23-002 Mellisa Brown: Water

#### **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. A majority of the City Council is required for any time extensions. The Mayor and Councilmembers shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.

#### **Discussion Items**

**4.** Discuss Gilmore Center (Rosa Hereford Community Center)

**Attachments:** Presentation

#### **Consent Agenda**

**5.** RS-23-014 Consider a memorandum/resolution approving the purchase/repairs of portable radios and mobile radios in an amount not to exceed \$336,902.89.

Attachments: Quotes

**Certificate of Interested Parties** 

Presentation

6. RS-23-015 Consider a memorandum/resolution authorizing the purchase of a recycling baler for the Killeen Recycling Center in an amount not to exceed \$323,275.

**Attachments:** Agreement

**Certificate of Interested Parties** 

**Presentation** 

**7.** RS-23-016 Consider a memorandum/resolution awarding Bid No. 23-09, Recycling Baler Building, to HCS Inc. in the amount of \$68,200.

**Attachments:** Notice of Award

**Agreement** 

**Certificate of Interested Parties** 

**Presentation** 

8. RS-23-017 Consider a memorandum/resolution authorizing a Letter of Agreement with Iteris, Inc., for the Traffic Management Center Upgrade, in the amount of \$128,196.

Attachments: Sole Source

**Letter of Agreement** 

Certificate of Interested Parties

**Presentation** 

9. Consider a memorandum/resolution authorizing a Letter of Agreement in an amount not to exceed \$982,975, and a 5-year Annual Services

Agreement in an amount not to exceed \$141,089 with Aqua-Metric Sales

Company for advanced water metering infrastructure.

Attachments: Quote

**Letter of Agreement** 

**Annual Service Agreement** 

**Certificate of Interested Parties** 

**Presentation** 

**10.** RS-23-019 Consider a memorandum/resolution authorizing the procurement of a roll-off truck for the Solid Waste Division in the amount of \$234,852.

Attachments: Quote

**Certificate of Interested Parties** 

Presentation

11. RS-23-020 Consider a memorandum/resolution awarding RFP# 22-46, HVAC and Lighting Replacement at Killeen Civic & Conference Center, to Parkhill for Architectural and Engineering Services in the amount of \$157,500.

Attachments: Proposal

**Agreement** 

Certificate of Interested Parties

**Presentation** 

12. RS-23-021 Consider a memorandum/resolution to enter into an agreement with the Killeen Economic Development Corporation to provide economic development services.

**Attachments:** Agreement

**Presentation** 

**13.** RS-23-022 Consider a memorandum/resolution amending the Parks, Open Space, and Trails Master Plan, establishing eight Parks Benefits Zones.

<u>Attachments:</u> <u>Master Plan</u>

**Presentation** 

- **14.** RS-23-023 Consider a memorandum/resolution confirming the City Auditor's annual evaluation and pay increase.
- **15.** OR-23-003 Consider an ordinance amending the Code of Ordinances, Chapter 6, Animals, by reducing the number of citizens appointed to the Animal Advisory Committee.

Attachments: Ordinance

Presentation

#### **Public Hearings**

**16.** PH-23-003 HOLD a public hearing and consider an ordinance amending the Code of Ordinances, Chapter 31, Sec. 31-393, Vacant Structures in the Historic Overlay District, to amend the Vacant Structure Registration.

Attachments: Ordinance

Presentation

17. PH-23-004 HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Vanessa VanWinkle (Case #Z22-53) to rezone approximately 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, LT 62 LLEWELYN EST 3 (Unrecorded) from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District). The property is locally addressed as 3495 Love Road, Killeen,

Texas.

Attachments: Exhibit

Maps

Site Photos

Response

Minutes

Ordinance

**Considerations** 

Presentation

**18.** PH-23-005

HOLD a public hearing and consider an ordinance requested by Joel Davis on behalf of JTERRIS, LLC (Case #Z22-55), to rezone Lot PT G, H, Block 1, Simmons 1st, from "R-1" (Single-Family Residential District) to "R-3F" (Multifamily Residential District). The property is locally addressed as 519 53rd Street, Killeen, Texas.

Attachments: Exhibit

Maps

Site Photos

**Minutes** 

Ordinance

Considerations

**Presentation** 

**19**. PH-23-006

HOLD a public hearing and consider an ordinance granting a voluntary annexation petition for approximately 6.30 acres of land lying contiguous to the existing city limits, generally located south of West Stan Schlueter Loop, east of the Eagle Valley subdivision, and west of the Mesa Verde subdivision.

**Attachments:** Petition for Voluntary Annexation

Written Service Agreement

**Maps** 

**Ordinance** 

Presentation

**20.** PH-23-007

HOLD a public hearing and consider an ordinance amending the PY 2021/FY 2022 Community Development Department Annual Action Plan associated with the supplemental funding from HUD known as the HOME Investment Partnerships American Rescue Plan (HOME-ARP) program funds and adopt the Killeen HOME-ARP Allocation Plan.

Attachments: Ordinance

**Presentation** 

**21**. PH-23-008

HOLD a public hearing and consider an ordinance amending the FY 2023

Annual Budget of the City of Killeen to adjust revenue and expenditure accounts in multiple funds.

Attachments: Ordinance

**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 January 20, 2023.

Laura J. Calcote, 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 254-501-7717, City Secretary'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.

- Public Policy Luncheon, January 26, 2023, 11:30 a.m., Texas A&M University-Central Texas
- Greater Fort Hood Day of Prayer and Fellowship, January 28, 2023, 8:30 a.m., Spirit of Fort Hood Chapel
- York Rite Masons of Texas Gospel Fest, February 3-4, 2023, 7:00 p.m., Courtyard by Marriott
- Dedication Ceremony, February 17, 2023, 4:00 p.m., Killeen High School

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



### **Staff Report**

File Number: PR-23-002

Killeen Star Award Presentation



### **Staff Report**

File Number: CP-23-001

Abigail McClane: Shameful Treatment of Black Journalist



### **Staff Report**

File Number: CP-23-002

Mellisa Brown: Water



### **Staff Report**

File Number: DS-23-012

Discuss Gilmore Center (Rosa Hereford Community Center)



UPDATE: BOB GILMORE CENTER

# Background

- The Bob Gilmore Senior Center (BGSC) was scheduled to be renovated in FY2020, but after a preliminary structural assessment conducted in February 2019 revealed significant structural concerns, operations were suspended on the 13th of February 2019
- This assessment revised the project from a renovation to new construction
- BGSC operations were moved into the Rosa Hereford Community Center in March 2019. Seniors moved locations within the center until August 2019, when Room 200 became the permanent home of Bob Gilmore Senior operations
- Recreation Services briefed City Council in April of 2019, and recommended that an architectural firm conduct a needs assessment and conceptual design and program

- In November of 2019, Randall Scott Architects (RSA) was selected to provide Pre-Design services including site assessment of the Community Center campus, needs assessment, preliminary floor plan, cost estimates and conceptual design/architectural modeling
- The first meeting with RSA was held on January 17, 2020, covering:
  - Design team introductions
  - Overview of project scope
  - Disbursement of programming questionnaires
  - Discussion of the process
  - Facility tour

# **Timeline**

- Randall Scott Architects completed Needs Assessment and Conceptual Design Services proposing a new Senior Center within the existing Killeen Community Center in June of 2020
- June 18, 2020, the Senior Advisory Board voted unanimously to accept the plan as proposed, and proceed to City Council
- August 4, 2020 City Council gave direction to move forward with design/construction phase with RSA
- Project was budgeted in the 2021 Capital Improvement Program
- Professional Services Agreement for design phase was approved by City Council January 26, 2021
- Bob Gilmore Senior Center demolished March 2022

# Bid Timeline

- □ Advertised November 6 and 13, 2022
- □ Pre-Bid meeting November 14, 2022
- □ Bids due December 1, 2022
- □ No bids received

# Re-Bid Timeline

- □ Advertise February 5 & 12, 2023
- □ Mandatory Pre-Bid meeting February 23, 2023
- □ Deadline to submit bids March 9, 2023



### **Staff Report**

File Number: RS-23-014

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred City Council

01/24/2023

Consider a memorandum/resolution approving the purchase/repairs of portable radios and mobile radios in an amount not to exceed \$336,902.89.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Jim Kubinski, Fire Chief

SUBJECT: Purchase/Repairs of Portable and Mobile Radios

#### **BACKGROUND AND FINDINGS:**

The Killeen Fire Department has created a plan to replace 20% of our equipment inventory annually, to include our current inventory of portable handheld radios and mobile vehicle radios. The average expected lifespan of a radio is 5 to 7 years, with approximately 60% of our current inventory being over 5 years old. The associated quote will allow for the purchase of 23 new XL-400P portable handheld radios and 2 new XL-200M mobile vehicle radios, which are readily available through Dailey & Wells Communications Inc. state purchasing cooperative contract # H-GAC RA05-21 in the amount of \$155,028.29 for portable radios and \$18,614.44 for mobile radios. Also, based upon yearly average costs for 200 radios, KFD has budgeted for Dailey & Wells Inc. to provide parts, services, and repairs of our current inventory in the amount of \$70,000.00. In conjunction with this purchase, Killeen Police Department requests to purchase 30 new XL-95 portable radios in the amount of \$93,260.16 for a total PO of \$336,902.89.

#### **THE ALTERNATIVES CONSIDERED:**

1: Purchase 53 portable radios, 2 mobile radios, and allow repairs through Dailey & Wells Communications Inc. state purchasing cooperative contract # H-GAC RA05-21

2: Not purchase the radios and repairs and continue the use of equipment that is nearing the end of it current usable life

#### Which alternative is recommended? Why?

Purchase of the portable radios, mobile radios, parts, and repairs is recommended for the most efficient use of City resources and the best option for obtaining the quantity needed to meet departmental operational and safety guidelines.

#### **CONFORMITY TO CITY POLICY:**

The City of Killeen is a member of the H-GAC state purchasing cooperative. The purchase of the portable radios will be made through the H-GAC purchasing cooperative on contract #H-GAC RA05-21. Purchases made through a cooperative contract satisfy the state competitive bidding requirements as stated in the Texas Local Government Code section 271.102, subchapter F; a local government that purchases goods or services under this chapter 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?

The estimated expenditure for FY 2023 is as follows:

Killeen Fire Dept.

Portable Radios: \$155,028.29

Mobile Radios: \$18,614.44

Parts & Repairs: \$70,000.00

Killeen Police Dept.

Portable Radios: \$93,260.16

Total Estimate: \$336,902.89

Future purchases will be assessed annually based upon specific needs and funding availability. The department intends to follow the plan to replace 20% of the equipment inventory annually.

#### Is this a one-time or recurring expenditure?

Recurring expenditure

#### Is this expenditure budgeted?

Yes, funds are available in the General Fund Fire Department accounts 010-7070-442.46.35 and 010-7070-442.61-35 for the radio purchases and account 010-7070-442.42-33 for parts, batteries and repairs. Funds are also available in the General Fund Police Department accounts 010-6050-441.46-35 for radio purchase.

#### 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 authorize the purchase of portable radios, mobile radios, parts, and repairs in the amount not to exceed \$336,902.89 from Dailey & Wells Communications Inc. through the H-GAC Cooperative Contract #H-GAC RA05-21.

#### **DEPARTMENTAL CLEARANCES:**

Fire

Police

Purchasing

Finance

Legal

### **ATTACHED SUPPORTING DOCUMENTS:**

Quotes

Certificate of Interested Parties

### Dailey & Wells Communications Inc.

3440 E. Houston St. San Antonio, TX 78219



Bill To: SHIP TO:

**Customer PO:** City of Killeen Fire Dept City of Killeen Fire Dept 101 N. College St

201 N. 28th

Purchase Contract: H-GAC RA05-21 Killeen, TX 76541 Killeen, TX 76541 ATTN: Accts. Payable

ATTN: Shane Jones

254-501-7667 PH· EMAIL: Kbell@killeentexas.gov

(888) 311-7595 Mobile

Sales Person: **Quotation:** XL-400P- 112322 Larry Sayles Quote Number: XL-400P-112322 larry@dwcomm.com Terms: Net 30 days

Date: 11/23/2022 Valid Until: 15-Dec-22

#### XL-400P- 136-870 MHz-P25 Phase I and II- Single Key DES/AES Encryption-C1D2-Immersion

Item	Part Number	Description	Qnty.	Unit List	Disc. %	-	Unit Sale	Ext Sale
1	XF-PFM1P	PORTABLE,XL-400P,XTRMKP,PGRN	23	\$ 8,940.00	26.00%	\$	6,615.60	\$ 152,158.80
2	XF-FW2X	OPERATION,LOAD NIFOG PERSONALITY	23	\$ 0.01	0.00%	\$	0.01	\$ 0.23
3	XF-PL4F	FEATURE,P25 PHASE 2 TDMA	23	\$ 250.00	26.00%	\$	185.00	\$ 4,255.00
4	XF-PL4U	FEATURE, SINGLE-KEY DES ENCRYPTION	23	\$ 0.01	0.00%	\$	0.01	\$ 0.23
5	XF-PL9E	FEATURE, SINGLE-KEY AES ENCRYPTION	23	\$ 0.01	0.00%	\$	0.01	\$ 0.23
6	XF-PKGPT	FEATURE PACKAGE,P25 TRUNKING	23	\$ 1,600.00	26.00%	\$	1,184.00	\$ 27,232.00
7	XF-PKGF1	FEATURE PACKAGE,ALL BANDS,V+U+7/800	23	\$ 1,600.00	26.00%	\$	1,184.00	\$ 27,232.00
8	BM-PKGCL-XL	APP, BEON XL RADIO FAMILY	23	\$ 365.00	26.00%	\$	270.10	\$ 6,212.30
9	XF-PA4N	BATTERY, LI-ION, XTRM	46	\$ 260.00	26.00%	\$	192.40	\$ 8,850.40
10	XF-AN9F	ANTENNA,FLEX,HELICAL,XTRM,136-870 MHZ	23	\$ 125.00	26.00%	\$	92.50	\$ 2,127.50
11	XF-AE3H	SPKR MIC, XL XTRM, HAZ ZONE W/UDC, GRN	23	\$ 750.00	26.00%	\$	555.00	\$ 12,765.00
12	XF-HC3L	BELT CLIP,METAL	23	\$ 30.00	26.00%	\$	22.20	\$ 510.60
13	XF-CH6A	CHARGER,1-BAY, XTRM	23	\$ 200.00	26.00%	\$	148.00	\$ 3,404.00
14	XF-Y3EWP	SERVICE ASSIST, EXT WARRANTY 3YR, XL400P	23	\$ 200.00	0.00%	\$	200.00	\$ 4.600.00

Sub Total \$ 249,348.29 (94 570 00

**Special One-Time Discount** Shipping \$ 250.00

**EXTENDED TOTAL** \$ 155,028.29

#### Notes:

Purchase Orders to be issued to: Dailey & Wells Communcations Inc

3440 E. Houston St. San Antonio, TX 78219

Purchase orders must include the following references:

<sup>\*</sup>Quotation Name

<sup>\*</sup>Contract Number and/or name

<sup>\*</sup> Frequencies must be supplied (if applicable)

<sup>\*</sup>Requested delivery date

<sup>\*</sup>Shipping will default to Bestway, 5 day ground, unless other wise specified

<sup>\*</sup>Bill and Ship to address must be included

<sup>\*</sup>Special shipping/delivery instructions (ex. Delivery lift gate required) must be noted if applicable.

<sup>\*</sup>Non standard packing will be billed to customer

<sup>\*</sup>This document contains confidential, proprietary, and competitive sensitive information. All information provided shall not be disclosed nor duplicated for any purpose other than to evaluate this quote. Disclosure, reproduction, or use of any part thereof shall not be made without prior written approval from Dailey & Wells Communications.

<sup>\*</sup>These items/technical data are controlled by the United States government and shall not be exported from the United States nor shared with a Foreign National without prior approval from the United States government. Delivery is dependent upon receipt of an export license, where applicable.

<sup>\*</sup>TOTAL PRICE excludes installation, programming, taxes (if applicable), and shipping (if applicable) unless i) items are itemized herein, ii) otherwise agreed to by both parties in writing, or iii) the quote is issued under an existing contract noted on quote and purchase order.

## **Dailey & Wells Communications Inc.**

3440 E. Houston St. San Antonio, TX 78219



Bill To:

City of Killeen

P.O. Box 1329

Killeen, TX 76540-1329

ATTN: Finance Department

PH:

EMAIL:

**Customer PO:** 

**Purchase Contract: H-GAC RA05-21** 

**Shipping Charges Included** 

Sales Person:

Larry Sayles

larrv@dwcomm.com (888) 311-7595 Mobile SHIP TO:

City of Killeen Fire Dept

201 N. 28th

Killeen, TX 76541

ATTN: M Shane Jones

Quotation: XL-200M-Dual-122722

Quote Number: XL-200M-Dual-122722

Terms: Net 30 Date: 12/27/2022

Valid Until: 60 days from above date

#### XL-200M- Multiband Mobile- BeOn Full Featured - Dual Control

Item	Part Number	Description	Qnty.	Unit List	Disc. %	Unit Sale	Ext Sale
1	XZ-MPM1M	MOBILE, XL-200M, MULTIBAND	2	\$ 3,815.00	26%	\$ 2,823.10	\$ 5,646.2
2	XZ-PL4J	FEATURE, VHF BAND	2	\$ 550.00	26%	\$ 407.00	\$ 814.
3	XZ-PL4K	FEATURE, UHF BAND	2	\$ 550.00	26%	\$ 407.00	\$ 814.
4	XZ-PL4L	FEATURE, 700/800 MHZ BAND	2	\$ 550.00	26%	\$ 407.00	\$ 814.
5	XZ-AN6U	ANTENNA, BASE, STD ROOF MOUNT LOW LOSS	2	\$ 80.00	26%	\$ 59.20	\$ 118.
6	XZ-AN7G	ANTENNA, FLEX,HEAVY-DUTY	2	\$ 250.00	26%	\$ 185.00	\$ 370.
7	XZ-PKGPT	FEATURE PACKAGE, P25 TRUNKING	2	\$ 1,600.00	26%	\$ 1,184.00	\$ 2,368.
8	XZ-PL4U	FEATURE,XL200M SINGLE-KEY DES ENCRYPTION	2	\$ 0.01	0%	\$ 0.01	\$ 0.0
9	XZ-PL9E	FEATURE,XL200M SINGLE-KEY AES ENCRYPTION	2	\$ 0.01	0%	\$ 0.01	\$ 0.0
10	XZ-PL4F	FEATURE, PHASE 2 TDMA	2	\$ 250.00	26%	\$ 185.00	\$ 370.
11	BM-PKGCL-XL	APP, BEON XL RADIO FAMILY	2	\$ 365.00	26%	\$ 270.10	\$ 540.
12	XZ-CP6A	CONTROL UNIT, XL-CH	4	\$ 1,650.00	26%	\$ 1,221.00	\$ 4,884.
13	XZ-MC6A	MICROPHONE, XL, STANDARD MOBILE	4	\$ 105.00	26%	\$ 77.70	\$ 310.
14	XZ-LS6A	SPEAKER, EXTERNAL, MOBILE	4	\$ 60.00	26%	\$ 44.40	\$ 177.
15	XZ-CA6F	CABLE, XL-MOBILE, SPEAKER ACCY	4	\$ 120.00	26%	\$ 88.80	\$ 355.
16	XZ-MA4A	KIT, MOUNTING XL-MOBILE UNIVERSAL	2	\$ 495.00	26%	\$ 366.30	\$ 732.
17	XZ-MA4C	BRACKET, MOUNTING, XL CONTROL HEAD	2	\$ 68.00	26%	\$ 50.32	\$ 100.
18	XZ-CA6D	CABLE, POWER, XL-CH	2	\$ 87.00	26%	\$ 64.38	\$ 128.

19	Shipping and Handling			\$	70.00
	Tempeng and naming			Ψ	. 0.00

EXTENDED TOTAL \$

18,614.44

Purchase Orders to be issued to:

Dailey & Wells Communcations Inc

3440 E. Houston St.

San Antonio, TX 78219

Purchase orders must include the following references:

\*Quotation Name

- \*Contract Number and/or name
- \* Frequencies must be supplied (if applicable)
- \*Requested delivery date
- \*Shipping will default to Bestway, 5 day ground, unless other wise specified
- \*Bill and Ship to address must be included
- \*Special shipping/delivery instructions (ex. Delivery lift gate required) must be noted if applicable.
- \*Non standard packing will be billed to customer
- \*This document contains confidential, proprietary, and competitive sensitive information. All information provided shall not be disclosed nor duplicated for any purpose other than to evaluate this quote. Disclosure, reproduction, or use of any part thereof shall not be made without prior written approval from Dailey & Wells Communications.
- \*These items/technical data are controlled by the United States government and shall not be exported from the United States nor shared with a Foreign National without prior approval from the United States government. Delivery is dependent upon receipt of an export license, where applicable.
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## **Dailey & Wells Communications Inc.**

3440 E. Houston St. San Antonio, TX 78219



SUB TOTAL | \$93,260.16

Bill To:

City of Killeen

**Customer PO:** 

PO Box 1329

Killeen, Texas, 76540-1329

ATTN: Accounts Payable

PH: 254-501-7723

EMAIL:

SHIP TO:

City of Killeen Police Dept

3304 Community Blnd

Killeen, TX 76542

ATTN: Juan De La Cruz

Sales Person:

Larry Sayles

larry@dwcomm.com (888) 311-7595 Mobile Quotation: XL-95P-010323

Quote Number: XL-95P-010323

Terms: Net 30

**Date:** 1/3/2023

Valid Until: 45 days from above date

XL-95 Portable - 700/800 MHz -P25 Phase 1 & 2 Trunking -Single Key AES/DES Encryption

Purchase Contract: H-GAC RA05-21

Item	Part Number	Description	Qnty.	Unit List	Disc. %	Unit Sale	Ext Sale
1	XN-PF78M	PORTABLE,XL-95P,7/800MHZ,BLK	30	\$ 2,200.00	26%	\$ 1,628.00	\$ 48,840.00
2	XN-NC8F	ANTENNA,764-870 MHZ,1/4 WAVE,WHIP	30	\$ 40.00	26%	\$ 29.60	\$ 888.00
3	XN-PL4F	FEATURE,P25 PHASE 2 TDMA	30	\$ 250.00	26%	\$ 185.00	\$ 5,550.00
4	XN-PKGPT	FEATURE PACKAGE,P25 TRUNKING	30	\$ 1,100.00	26%	\$ 814.00	\$24,420.00
5	XN-PL9E	FEATURE, SINGLE-KEY AES ENCRYPTION	30	\$ 0.01	0%	\$ 0.01	\$ 0.30
6	XN-PL4U	Feature, Single-Key DES Encryption	30	\$ 0.01	0%	\$ 0.01	\$ 0.30
7	V2-R2ER1212	REVO NC2 Lapel Mic	30	\$ 169.28	10%	\$ 152.35	\$ 4,570.56
8	XN-HC2C	CASE,LEATHER,XL-95,BELT LOOP	30	\$ 130.00	26%	\$ 96.20	\$ 2,886.00
9	XN-PA3R	BATTERY,LI-ION,3100MAH	30	\$ 105.00	26%	\$ 77.70	\$ 2,331.00
10	XN-CH5X	CHARGER,1-BAY,TRI-CHEMISTRY	30	\$ 150.00	26%	\$ 111.00	\$ 3,330.00
11	XN-HC2G	Belt Clip,Metal	30	\$ 20.00	26%	\$ 14.80	\$ 444.00
		Shipping and Handling				Pre-pay and	add to invoice

Notes:

Purchase Orders to be issued to: Dailey & Wells Communications Inc.

3440 E. Houston St.

San Antonio, TX 78219

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#### **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.

- 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.
- 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.
- 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, <u>and</u> 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.

<u>Jim Sawyer</u> Signature	Dailey and Wells Communications, Inc Company Name
Jim Sawyer	Director of Sales
Printed Name	Title
1/3/2023	
Date	

### **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.		CE	OFFICE USE			
<ul> <li>Name of business entity filing form, and the city, state and country of the business entity's place of business.</li> <li>Dailey and Wells Communications, Inc.</li> <li>San Antonio, TX United States</li> </ul>				Certificate Number: 2022-966074 Date Filed:			
Name of governmental entity or state agency that is a party to the contract for which the form is being filed. City of Killeen Texas				12/20/2022  Date Acknowledged:			
3	Provide the identification number used by the governmental er description of the services, goods, or other property to be prov RA05-21 Two-Way Radio Equipment		ify the o				
4	Name of Interested Party	City, State, Country (place of bus	siness)		f interest oplicable) Intermediary		
W	ells, Richard	San Antonio, TX United States	5	Х			
W	ells, JoAnn	San Antonio, TX United States	3	Х			
5	Check only if there is NO Interested Party.	-		1			
6	UNSWORN DECLARATION						
	My name is Jim Sawyer	, and my date	of birth i	s_12/10/195	5		
	My address is 3440 E. Houston St.		TX	78219 (zip code)	USA .		
	(street)	(city)	(state)	(zip code)	(country)		
	I declare under penalty of perjury that the foregoing is true and corrected in Bexar Court	rect. Inty, State of <b>Texas</b> , on th	<sub>ne</sub> 20				
		Oim Sauran		(month)	(year)		
		Signature of authorized agent of c	ontractir	ng business entity			



- Killeen Fire Department plans to replace 20% of our equipment inventory each year, including portable handheld radios and mobile vehicle radios
- Dailey & Wells Communications has 23 new portable radios (XL-400P) and
   2 mobile radios (XL-200M) available with all accessories and programming
   for a total sales price of \$173,642.73
- Dailey & Wells also provides parts and repairs for all radios currently in our inventory. Based upon yearly averages for 200 radios, KFD has a budget for services and repairs of \$70,000.00

- □ Killeen Police Department requests to purchase 30 XL-95 portable radios with all accessories and programming.
- Dailey & Wells Communications has 30 new XL-95 portable radios with all accessories and programming for a total sales price of \$93,260.16
- Total request for this PO is \$336,902.89
- This purchase will be made through Dailey & Wells Communications HGAC
   Cooperative contract #RA05-21

- Alternatives:
  - Defer purchase
  - Approve the purchase of 23 portable radios, 2 mobile radios, and authorize parts and repairs for current radio inventory of KFD. Also approve purchase of 30 new portable radios for KPD.
- Financial Impact
  - **\$336,902.89**
  - Budgeted expenses no additional funding required
- Conforms to City Policy: Dailey & Wells Communications HGAC
   Cooperative Contract #RA05-21

5

 Staff recommends that the City Manager or his designee be authorized to execute the purchase of 53 total handheld radios, 2 mobile radios, and parts and repairs of existing radios, through Dailey & Wells Communications Cooperative Contract, and that the City Manager or designee is expressly authorized to execute any and all change orders within the amounts set by state and local law.



### **Staff Report**

File Number: RS-23-015

City Council Workshop

01/17/2023 Reviewed and Referred

City Council

01/24/2023

Consider a memorandum/resolution authorizing the purchase of a recycling baler for the Killeen Recycling Center in an amount not to exceed \$323,275.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Jeffery Reynolds, Executive Director of Public Works

**SUBJECT:** Solid Waste Recycling Baler Purchase

#### **BACKGROUND AND FINDINGS:**

The Killeen Recycling Center (KRC) was established in 1996 with grant funds received from the State of Texas. The KRC is a public recycling center that accepts more types of material than any other site within a 60-mile radius. The KRC collects and processes a variety of materials such as paper, metals, glass, and plastic products, as well as some automotive and electronic materials. The goal of the KRC is to recycle as much material as possible to keep it out of the waste stream and grow recycling efforts throughout the city.

The KRC expanded the recycling program throughout the city by means of recycling trailers in July of 2019. Since that time, the KRC has seen an approximate 33% increase of recyclable materials annually. In addition to the recycling trailers, the KRC has built a pilot program of 58 commercial cardboard customers that are serviced weekly.

Currently, the KRC utilizes an antiquated vertical baler that is only able to bale cardboard and takes up to 90 minutes for one bale, making it impossible to bale all cardboard collected. Due to the inabilities of the current baler, the KRC receives reduced rates for the sale of these materials and in some cases, pays to dispose of materials. The preferred method of many material buyers is to receive baled materials as it allows for more material to be transported per load and easier handling. At the increased number of recyclable materials collected, it has become imperative to procure a multi-material baling system at the recycling facility. The ability to bale all recyclable materials will increase material processing times, eliminate the need to pay for disposal of some materials, and increase revenue from material sales.

On September 13, 2022, the FY23 CIP plan was approved by council and included the CIP for the recycling baler. Purchase for a recycling baler is available through Sourcewell cooperative, utilizing Manufacturing contract number 040621-BXG. Box Gang Manufacturing dealer for Marathon Equipment which has manufactured on-site waste compaction and recycling systems 50 years. Marathon Equipment provides premier, innovative solutions that process, and transform the solid waste stream into sustainable resources that benefit communities.

#### **THE ALTERNATIVES CONSIDERED:**

- 1. Do not authorize the purchase of a recycling baler from Box Gang Manufacturing.
- 2. Authorize purchase of recycling baler from Box Gang Manufacturing in an amount not to exceed \$323,275.

#### Which alternative is recommended? Why?

Alternative two (2) is recommended to allow the Killeen Recycling Center to baler a variety of materials; ensuring full market value for the sale of the materials and allowing for continued growth of the City's recycling programs.

#### **CONFORMITY TO CITY POLICY:**

Purchase for the recycling baler will be completed through a purchasing cooperative. Purchases made through a cooperative contract are exempt from the competitive bidding process as stated in Texas Local Government Code (TLGC) 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?

The expenditure in FY 2023 is in an amount not to exceed \$323,275.

#### Is this a one-time or recurring expenditure?

One-time

#### Is this expenditure budgeted?

Yes, funds are available in the Solid Waste CIP Fund account 388-8934-493.61-35.

#### 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 the City Council authorize the purchase of a multi-material baler system from Box Gang Manufacturing and authorize the City Manager or designee to execute a letter of agreement in an amount not to exceed \$323,275.

#### **DEPARTMENTAL CLEARANCES:**

Public Works Finance City Attorney

### **ATTACHED SUPPORTING DOCUMENTS:**

Agreement Certificate of Interested Parties Digital Agreement

#### LETTER OF AGREEMENT

This is a Letter of Agreement ("Agreement") between the <u>City of Killeen</u> (referred to herein as "City") and <u>Box Gang Manufacturing LLC</u> (referred to herein as "Contractor"), collectively the "Parties".

In consideration of the premises and of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

<u>Scope of Agreement</u>. The purpose of this Agreement is to enlist the services of Contractor to: <u>Provide, unload, and install a new Marathon Apollo Two Ram Automatic Tie Baler Conveyor Package with Pit Style Slider Bed, hopper extension, pit plates, VFD, and upper photocell; and provide three-day onsite training (the "Project").</u>

<u>Term of Agreement</u>. This Agreement shall commence on the date that the Agreement is accepted and agreed to by the Parties and shall terminate <u>152</u> calendar days after commencement of work on the Project.

<u>Consid</u>	deration. Contractor agrees to provide the services stated above:
	at the rate of \$ per hour; or
<u>X</u>	for the lump sum payment not to exceed \$323,275.

<u>Independent Contractor</u>. Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

<u>Applicable Laws.</u> Contractor shall follow all applicable local, State, and Federal laws, regulations, and requirements for the abatement and disposal of lead, asbestos, and other routinely encountered hazardous substances. If any unusual substances or extraordinary amounts of the aforementioned substances are encountered, the Contractor will contact the City to contact the State and the relevant agency with authority for regulation of the substance.

<u>Standard of Care.</u> The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

<u>Insurance</u>. Contractor shall procure and maintain insurance in the following amounts:

Worker's Compensation
Automobile Liability
Statutory
\$500,000 Combined single Limit for each accident (Bodily injury and property damage).

General Liability
\$1,000,000 each occurrence (Bodily injury and property damage).

**Professional Liability** 

\$1,000,000 general aggregate

On all policies, except Worker's Compensation, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

<u>Subcontracts and Assignments</u>. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

<u>Indemnification</u>. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

<u>Termination</u>. This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

<u>Texas Law</u>. This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

<u>Severability</u>. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

<u>Survival</u>. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

<u>Non-waiver</u>. Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

<u>Entire Agreement</u>. This Agreement shall represent the entire agreement by and between the Parties and it may not be changed except by written amendment duly executed by all Parties.

<u>Contract Verification</u>. 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.

### **Acknowledgement – "Boycott Israel"**

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.

### Acknowledgement - "Boycott Energy Companies"

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.

# Acknowledgement – "Prohibition on contracts with companies that discriminate against firearm and ammunition industries"

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.

SIGNED, ACCEPTED AND AG	<b>REED</b> To this day of 20, by the	ne
undersigned Parties who acknowled	ge that they have read and understand this Agreement ar	ıd
that the Agreement is issued in a	ccordance with local, State, and Federal laws, and the	ne
undersigned Parties hereby execute the	is legal document voluntarily and of their own free will.	
City	Contractor	
City	Contractor	
Kent Cagle, City Manager	Printed:	
City of Killeen	Title:	

### **Box Gang Manufacturing LLC**

16736 E Hardy Houston, TX 77032 US (713) 742-5555 info@boxgangmfg.com www.boxgangmfg.com



### **Estimate**

**ADDRESS** 

ATTN Purchasing Division 802 N 2nd St Bldg E 2nd Floor #215

Sourcewell Contract 040621-MEC

Member number 86944

Kileen, TX 76541

SHIP TO

ATTN Purchasing Division 802 N 2nd St Bldg E 2nd

Floor #215

Kileen, TX 76541

**ESTIMATE** # 7368 **DATE** 09/16/2022

DESCRIPTION	QTY	RATE	AMOUNT
MARATHON BALER APOLLO TWO RAM AUTOMATIC TIE BALER CONVEYOR PACKAGE - PIT STYLE SLIDER BED INCLUDES: HOPPER EXTENSION, PIT PLATES, VFD, AND UPPER PHOTOCELL	1	294,775.00	294,775.00
FACTORY STARTUP TRAINING INCLUDED 3 DAYS ON SITE			
INSTALL Unload & Install: Customer to run & hook up electrical service Test & Train	1	21,500.00	21,500.00
Lead Time 16 Weeks after PO	SUBTOTAL		316,275.00
CUSTOMER IS REPONSIBLE FOR SITE WORK, BALING WIRE, AND ELECTRICAL WIRING / DISCONNECT	SHIPPING TOTAL	\$32	7,000.00 <b>3,275.00</b>

Accepted By Accepted Date

### **CERTIFICATE OF INTERESTED PARTIES**

FORM **1295** 

F					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	
1		usiness entituls place		RTIFICATION icate Number:	OF FILING
	of business.	usiness entity's place		-966222	
	Box Gang Manufacturing LLC Houston, TX United States		Data I	-:	
2	Name of governmental entity or state agency that is a party to the contract	for which the form is	<b>Date F</b> 12/20	-11ea: 1/2022	
	being filed.				
	City of Killeen		Date A	Acknowledged:	
3	Provide the identification number used by the governmental entity or state description of the services, goods, or other property to be provided under	agency to track or identify	the co	ntract, and pro	vide a
	Sorcewell #040621-BXG	ne contract.			
	Waste Equipment				
4			Т	Nature of	f interest
	Name of Interested Party City, Stat	e, Country (place of busine	ess)	(check ap	
H				Controlling	Intermediary
L					
H			$\dashv$		
L		······································			
Γ			7		
H					-
L					
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H			$\dashv$		
_					
5	Check only if there is NO Interested Party.				
6	UNSWORN DECLARATION				, _
	My name is Katael Marreys	, and my date of b	irth is	8-19	-65
	110736 9 110.cl. R1 1	Law land	7/	2000	4 1.00
	My address is	(city) (star	te)	(zip code)	(country)
	I declare under penalty of perjury that the foregoing is true and correct.				
	Executed inCounty, State of _	TX antha	201	y of <u>Dee</u>	20 22-
		, on the _	<u>⊸</u> voa	(month)	, 20
		1//			
		1		12-	20-22
	Signature	of authorized agent of contra (Declarant)	acting I	ousiness entity	
For	ms provided by Texas Ethics Commission www.ethics.state.b	.US		Version V2	5.1.3ac88bc0

# SOLID WASTE RECYCLING MULTI-MATERIAL BALER

# Background

- The Killeen Recycling Center (KRC) was established in 1996 and currently accepts more types of material than any other site within a 60-mile radius.
- KRC has seen an approximate 33% increase of recyclable materials since July 2019, due to the addition of recycling trailers and commercial cardboard customers.
- On September 13, 2022, City Council approved the FY23 CIP budget which included purchase of a recycling baler and building.

- Purchase of the multi-material recycling baler from Box Gang Manufacturing is available through the Sourcewell cooperative.
- □ Funds are allocated in the FY23 CIP budget for the baler in the amount of \$380,000.





## **Current Vertical Baler**

KRC currently utilizes an antiquated vertical baler that was purchased in 1996 and only presses cardboard. This baler takes approximately 90 minutes for one bale, which is then tied by hand and moved.

4



# Marathon Equipment Apollo Two-Ram Baler

The preferred method of many material buyers is to receive baled materials; it allows for more material per load and easier handling.

Ability to bale all materials will increase revenue from material sales.

5

- ۸
- Do not authorize the purchase of a recycling baler from Box
   Gang Manufacturing.
- Authorize purchase of recycling baler from Box Gang Manufacturing in an amount not to exceed \$323,275.

City Council authorize the City Manager or designee to execute an agreement for the procurement of a baler from Box Gang Manufacturing in an amount not to exceed \$323,275.



# City of Killeen

### **Staff Report**

File Number: RS-23-016

1 City Council Workshop

01/17/2023 Reviewed and

Referred

City Council

01/24/2023

Consider a memorandum/resolution awarding Bid No. 23-09, Recycling Baler Building, to HCS Inc. in the amount of \$68,200.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Jeffery Reynolds, Executive Director of Public Works

SUBJECT: Award Bid No. 23-09, Recycling Center Baler Building to HCS Inc.

### **BACKGROUND AND FINDINGS:**

In July 2019, the Killeen Recycling Center (KRC) began expanding the recycling program for citizens with the use of recycling trailers. Since the addition of the recycling trailers, the KRC has seen an approximate 33% increase of recyclable materials annually. The KRC has built a route of 58 commercial cardboard customers which has assisted in the reduction of cardboard in the waste stream.

On September 13, 2022, FY23 CIP plan approved by council included the CIP for a multi-material recycling baler and building. A building will be required to provide a safeguard against the elements and ensure the recycling baler's operations remain uninterrupted. Additionally, protecting the investment with the intention of expanding the cardboard pilot program. As a result, the cardboard would be stored in a dry location and prevent contamination from external elements.

On December 20, 2022, purchasing received two (2) bids in response to Bid No. 23-09, Recycling Baler Building; HCS Inc. and Bounds Commercial Construction. Bids were opened and read aloud. Purchasing and Solid Waste both agree that the bid from HCS Inc. represents the best value to the city. HCS Inc. has over 30 years' experience in the construction industry specializing in public and private general contracting with a large focus in educational and federal assignments. HCS Inc. has a reputation of quality performance with integrity, striving to achieve the highest quality of workmanship and delivering timely completions.

#### **THE ALTERNATIVES CONSIDERED:**

- 1. Do not award Bid 23-09, Recycling Baler Building to HCS Inc.
- 2. Award Bid 23-09, Recycling Baler Building to HCS Inc. in the amount of \$68,200.

### Which alternative is recommended? Why?

Alternative two (2) is recommended to protect the investment of the recycling baler and prevent contamination from external elements.

### **CONFORMITY TO CITY POLICY:**

Bid documents were made available through the City of Killeen Purchasing Department.

Advertisements were made in the Killeen Daily Herald on December 4 and 11, 2022, and on the City's website. At the close of the bidding process, on December 20, 2022, at 2:00 p.m., the two (2) bids that were received for this project were opened and read aloud via Zoom.

### **FINANCIAL IMPACT:**

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

This expenditure for FY 2023 is in the amount of \$68,200.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Yes, funds are available in the Solid Waste CIP Fund account 388-8934-493.61-02

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:**

City staff recommends that the City Council award Bid No. 23-09, Recycling Baler Building to HCS, Inc. and authorize the City Manager or his designee to execute an agreement for the procurement of a baler building from HCS Inc. in the amount of \$68,200 and to execute any and all change orders within the amounts set by State and Local law.

### **DEPARTMENTAL CLEARANCES:**

Public Works Purchasing Finance City Attorney

### **ATTACHED SUPPORTING DOCUMENTS:**

Notice of Award Agreement Certificate of Interested Parties

### NOTICE OF AWARD

	Dated:
TO: HCS,	Inc
	(BIDDER)
ADDRESS:	365 Wayside Dr.
	Waco, TX 76705
Project: K	illeen Recycling Center Baler Building
OWNER's Co	ntract No. Bid No. 23-09
	ed that your Bid dated <u>December 20, 2022</u> , for the above Contract has been considered. parent Successful Bidder and have been awarded a Letter of Agreement for:
Provide surfac	e preparation, labor, materials, all necessary equipment, and daily cleanup for delivery and
installation of	40' X 80' X 18' building to house multi-material recycling baler at the Killeen Recycling
Center.	
	(Indicate total Work, alternates or sections or Work awarded)
The Contract (\$68,200.00).	Price of your Contract is Sixty-Eight Thousand, Two Hundred Dollars and Zero Cents.
1 copy of each	of the proposed Contract Documents accompany this Notice of Award.
You must com	ply with the following conditions precedent:

- 1. Within fifteen (15) days of the date of this Notice of Award; that is, by: \_\_\_\_\_.
  - Deliver to the Owner, signed Letter of Agreement
  - Deliver to the Owner with the signed Letter of Agreement, a Payment Bond as specified in the Bid 23-09, Recycling Baler Building, Information and Instructions to Bidders, under Pricing (Page 9) and Letter of Agreement, under Payment Bond.
  - Deliver with the signed Letter of Agreement and Payment Bond, a Certificate of Insurance that complies with the Bid 23-09, Recycling Baler Building, Terms and Conditions, No. 21 Insurance (Page 18) and Letter of Agreement, under Insurance.

Failure to comply with these conditions within the time specified will entitle OWNER to consider your

Page 1

bid in default and to annul this Notice of Award.

Within ten days after you comply with the above conditions, OWNER will return to you one fully executed counterpart of the Contract Document.

By:

Kent Cagle, City Manager
City of Killeen

# **Payment Bond**

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):		SURETY (Name and Address of Prinof Business):	ncipal Place
OWNER (Name and Address):			
CONTRACT Date: Amount: Description (Name and Location):			
BOND Date (Not earlier than Contract Date): Amount: Modifications to this Bond Form:			
Surety and Contractor, intending to be leg Payment Bond to be duly executed on its		ject to the terms printed on the reverse side l officer, agent, or representative.	hereof, do each cause thi
CONTRACTOR AS PRINCIPAL		SURETY	
Company:	(Corp. Seal)	Company:	(Corp. Seal)
Signature:Name and Title:		Signature:  Name and Title: (Attach Power of Attorney)	
(Space is provided below for signatures of	f additional parties, if re	equired.)	
CONTRACTOR AS PRINCIPAL Company:	(Corp. Seal)	SURETY Company:	(Corp. Seal)
Signature:Name and Title:		Signature:Name and Title:	

Originally prepared through the joint efforts of the Surety Association of America, Engineers Joint Contract Documents Committee, the Associated General Contractors

of America, the American Institute of Architects, the American Subcontractors Association, and the Associated Specialty Contractors.

EJCDC No. 1910-28-B (1996 Edition)

- 1. The CONTRACTOR and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the OWNER to pay for labor, materials and equipment furnished for use in the performance of the Contract, which is incorporated herein by reference.
- 2. With respect to the OWNER, this obligation shall be null and void if the CONTRACTOR:
- 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
- 2.2. Defends, indemnifies and holds harmless the OWNER from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract, provided the OWNER has promptly notified the CONTRACTOR and the Surety (at the addresses described in paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the CONTRACTOR and the Surety, and provided there is no OWNER Default.
- 3. With respect to Claimants, this obligation shall be null and void if the CONTRACTOR promptly makes payment, directly or indirectly, for all sums due.
- 4. The Surety shall have no obligation to Claimants under this Bond until:
- 4.1. Claimants who are employed by or have a direct contract with the CONTRACTOR have given notice to the Surety (at the addresses described in paragraph 12) and sent a copy, or notice thereof, to the OWNER, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
  - 4.2. Claimants who do not have a direct contract with the CONTRACTOR:
- 1. Have furnished written notice to the CONTRACTOR and sent a copy, or notice thereof, to the OWNER, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
- 2. Have either received a rejection in whole or in part from the CONTRACTOR, or not received within 30 days of furnishing the above notice any communication from the CONTRACTOR by which the CONTRACTOR had indicated the claim will be paid directly or indirectly; and
- 3. Not having been paid within the above 30 days, have sent a written notice to the Surety and sent a copy, or notice thereof, to the OWNER, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the CONTRACTOR.
- 5. If a notice required by paragraph 4 is given by the OWNER to the CONTRACTOR or to the Surety, that is sufficient compliance.
- 6. When the Claimant has satisfied the conditions of paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
- 6.1. Send an answer to the Claimant, with a copy to the OWNER, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
  - 6.2. Pay or arrange for payment of any undisputed amounts.
- 7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
- 8. Amounts owed by the OWNER to the CONTRACTOR under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any Performance Bond. By the CONTRACTOR furnishing and the OWNER accepting this Bond, they agree that all funds earned by the CONTRACTOR in the performance of the Contract are dedicated to satisfy obligations of the CONTRACTOR and the Surety under this Bond, subject to the OWNER's priority to use the funds for the completion of the Work.

- 9. The Surety shall not be liable to the OWNER, Claimants or others for obligations of the CONTRACTOR that are unrelated to the Contract. The OWNER shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond
- 10. The Surety hereby waives notice of any change, including changes of time, to the Contract or to related Subcontracts, purchase orders and other obligations.
- 11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Work or part of the Work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by paragraph 4.1 or paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
- 12. Notice to the Surety, the OWNER or the CONTRACTOR shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, the OWNER or the CONTRACTOR, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
- 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory Bond and not as a common law bond.
- 14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, the CONTRACTOR shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### 15. DEFINITIONS

- 15.1. Claimant: An individual or entity having a direct contract with the CONTRACTOR or with a Subcontractor of the CONTRACTOR to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for performance of the Work of the CONTRACTOR and the CONTRACTOR's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
- 15.2. Contract: The agreement between the OWNER and the CONTRACTOR identified on the signature page, including all Contract Documents and changes pthereto.
- 15.3. OWNER Default: Failure of the OWNER, which has neither been remedied nor waived, to pay the CONTRACTOR as required by the Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY--Name, Address and Telephone)
AGENCY or BROKER: OWNER'S REPRESENTATIVE (Engineer or other party):

### LETTER OF AGREEMENT

This is a Letter of Agreement ("Agreement") between the <u>City of Killeen</u> (referred to herein as "City") and <u>HCS</u>, <u>Inc</u>. (referred to herein as "Contractor"), collectively the "Parties".

In consideration of the premises and of the mutual covenants and agreements contained in this Agreement, the Parties hereby agree as follows:

<u>Scope of Agreement</u>. The purpose of this Agreement is to enlist the services of Contractor to: <u>Provide surface preparation, labor, materials, all necessary equipment and daily cleanup for delivery and installation of 40' X 80' X 18' building to house multi-material recycling baler at the Killeen Recycling Center. (the "Project").</u>

<u>Term of Agreement</u>. This Agreement shall commence on the date that the Agreement is accepted and agreed to by the Parties and shall terminate <u>60</u> calendar days after commencement of work on the Project.

<u>Consi</u>	Consideration. Contractor agrees to provide the services stated above:					
	at the rate of \$ per hour; or					
X	for the lump sum payment not to exceed \$68,200.					

<u>Independent Contractor</u>. Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of Owner.

<u>Applicable Laws:</u> Contractor shall follow all applicable local, State, and Federal laws, regulations, and requirements for the abatement and disposal of lead, asbestos, and other routinely encountered hazardous substances. If any unusual substances or extraordinary amounts of the aforementioned substances are encountered, the Contractor will contact the City to contact the State and the relevant agency with authority for regulation of the substance.

<u>Standard of Care.</u> The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

<u>Insurance</u>. Contractor shall procure and maintain insurance in the following amounts:

Worker's Compensation
Automobile Liability
Statutory
Statutory
\$500,000 Combined single Limit for each accident (Bodily injury and property damage).

Statutory
\$1,000,000 Combined single Limit for each accident (Bodily injury and property damage).

\$1,000,000 each occurrence (Bodily injury and property damage).

\$1,000,000 general aggregate

On all policies, except Worker's Compensation, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

<u>Subcontracts and Assignments</u>. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

<u>Indemnification</u>. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

<u>Termination</u>. This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

<u>Texas Law.</u> This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

<u>Severability</u>. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

<u>Survival</u>. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

<u>Non-waiver</u>. Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

<u>Entire Agreement</u>. This Agreement shall represent the entire agreement by and between the Parties and it may not be changed except by written amendment duly executed by all Parties.

<u>Payment Bond</u>. A payment bond is required within 15 days of Notice of Award to secure proper compliance with the terms and provisions of the Contract to insure and guarantee the work until final completion and acceptance and to guarantee payment of all claims for labor performed and materials furnished in fulfillment of the Contract.

<u>Contract Verification</u>. 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.

### **Acknowledgement – "Boycott Israel"**

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.

### Acknowledgement - "Boycott Energy Companies"

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.

# Acknowledgement – "Prohibition on contracts with companies that discriminate against firearm and ammunition industries"

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.

SIGNED, ACCEPTED AND A	GREED To this	day of	_ 20, by
undersigned Parties who acknowled	edge that they have re	ead and understand this	Agreement
that the Agreement is issued in undersigned Parties hereby execute			•
O'A			
City	Contractor		
	_		
Kent Cagle, City Manager	Printed:		
City of Killeen	Title:		

the and the



### **QUOTE BREAKDOWN**

**Project:** City of Killeen - Recycling Baler Bldg. (23-09)

DESCRIPTION	<b>AMOUNT</b>
Submittal / Engineer Shop Drawings	\$ 3,000.00
Mobilization	\$ 3,410.00
Structure - Material	\$ 30,000.00
Structure - Labor	\$ 12,924.00
Equipment	\$ 5,000.00
Supervision	\$ 5,000.00
General Conditions / OH&P	\$ 6,820.00
Bond & Insurance	\$ 2,046.00
Total:	\$ 68,200.00

• Per Q&A Response, HCS Inc. is electing to go with an Engineered Weld-Up Structure.

### **CERTIFICATE OF INTERESTED PARTIES**

FORM **1295** 

					1 0f 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		
1	Name of business entity filing form, and the city, state and country of the business entity's place of business.			Certificate Number: 2022-967329		
	HCS Inc. Commercial General Contractor Waco, TX United States		Date F	Filed:		
2	Name of governmental entity or state agency that is a party to the being filed.	ne contract for which the form is	12/28/2022			
	City of Killeen		Date A	Acknowledged:		
3	Provide the identification number used by the governmental ent description of the services, goods, or other property to be provided: 23-09		the co	ntract, and prov	ride a	
	General Construction					
4	Name of Interested Party	City, State, Country (place of busin	ess)	Nature of (check ap		
				Controlling	Intermediary	
5	Check only if there is NO Interested Party.		•			
6	UNSWORN DECLARATION					
	My name is	, and my date of	birth is	1/2/1964		
	My address is 365 Wayside Dr.	, Waco , <u>T</u>	,	76705	, <u>US</u> .	
	(street)		ate)	(zip code)	(country)	
	I declare under penalty of perjury that the foregoing is true and correct		70+b	. Dagarah -	r 00	
	Executed in McLennan Count	ty, State of <u>Texas</u> , on the	cour d	ay of December (month)	r, 20_22 (year)	
		a Se				
		Signature of authorized agent of con	tracting	business entity		



# Background

- □ Killeen Recycling Center (KRC) has seen an approximate 33% increase of recyclable material since July 2019.
- On September 13, 2022, City Council approved the FY23
   CIP budget which included purchase of a recycling baler and building.
- A building is required to house the multi-material baler to safeguard against external elements and ensure consistent ability to utilize the equipment in any weather.

# Background Cont.

- On December 20, 2022, Purchasing received two (2) bids in response to Bid No. 23-09, Recycling Baler Building.
  - □ HCS, Inc.
  - Bounds Commercial Construction
- Funds are allocated in FY23 CIP budget in the amount of \$75,000 for purchase of the baler building.



# Recycling Baler Building

HCS Inc. has a reputation of quality performance with integrity, striving to achieve the highest quality of workmanship and delivering timely completions.

4

- Do not authorize award of Bid 23-09, Recycling Baler Building to HCS Inc.
- □ Authorize award of Bid 23-09, Recycling Baler Building to HCS Inc. in an amount not to exceed \$68,200.

,

□ City Council authorize the award of Bid 23-09, Recycling Baler Building to HCS, Inc and authorize the City Manager, or his designee, to execute an agreement for the procurement of a recycling baler building from HCS Inc. in an amount not to exceed \$68,200.



# City of Killeen

### **Staff Report**

File Number: RS-23-017

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred City Council

01/24/2023

Consider a memorandum/resolution authorizing a Letter of Agreement with Iteris, Inc., for the Traffic Management Center Upgrade, in the amount of \$128,196.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Jeffery Reynolds, Executive Director of Public Works

SUBJECT: Authorize a Letter of Agreement with Iteris, Inc. for Traffic Management Center Upgrade, in the amount of \$128,196

### **BACKGROUND AND FINDINGS:**

In 2013, Iteris, Inc. installed the software, hardware, video wall, and designed the technological system that operates the Traffic Management Center (TMC). The video wall system provided TMC with remote connection capabilities for trouble shooting, diagnostics, clock synchronization, coordination of timing for each intersection. Video wall monitors operate twenty-four hours a 365 days a year and have a usable life expectancy of 5.7 years. The current video wall has exceeded its usable life and requires an upgrade. Any failures in the antiquated monitors would cause a loss of connection capabilities; therefore, interfering with the Transportation Division's monitoring of signaled intersections within the city.

Iteris, Inc. is a sole source provider of the components within the TMC and documents have been routed and approved as a sole source provider for this project.

The Traffic Management Center Upgrade was approved in the FY2023 Capital Improvement Plan Budget and is not to exceed the amount of \$128,196.

### **THE ALTERNATIVES CONSIDERED:**

- 1. Do not authorize a letter of agreement with Iteris, Inc. for the Traffic Management Center upgrade, which could cause the inability to maintain signal functions remotely.
- 2. Authorize a letter of agreement with Iteris, Inc. for the Traffic Management Center upgrade in the amount of \$128,196.

#### Which alternative is recommended? Why?

Alternative two (2) is recommended to prevent any loss of remote connection capabilities, communication errors, and signal functionality.

### **CONFORMITY TO CITY POLICY:**

Sole/Single Source procurements are exceptions to normal purchasing procedures and are permitted only when the required item/service is available from a single supplier. This is required per State Law and the City of Killeen's Purchasing Policy.

### **FINANCIAL IMPACT:**

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

The expenditure in FY 2023 is in an amount not to exceed \$128,196.

### Is this a one-time or recurring expenditure?

One-time

### Is this expenditure budgeted?

Yes, funds are available in the Governmental CIP Fund account 349-8927-493.61-40.

### 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:**

City Council authorize the City Manager, or designee, to execute a Letter of Agreement with Iteris, Inc. in the amount of \$128,196 for the Traffic Management Center Upgrade and authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local law.

### **DEPARTMENTAL CLEARANCES:**

Public Works
Information Technology
Legal
Finance

### **ATTACHED SUPPORTING DOCUMENTS:**

Sole Source Letter of Agreement Certificate of Interested Parties



### Sole/Single Source Form

Complete one form for each sole/single source expenditure as it applies and attach a sole source letter from the vendor. All forms are valid for one (1) year from approval date unless specified by Purchasing below. Request \$50,000 and greater will be routed to all signature parties and requires City Council approval prior to the purchase.

Return completed forms to Purchasing at <a href="mailto:Purchasing@killeentexas.gov">Purchasing@killeentexas.gov</a> .

Department/Division: Public Works / Transportation Requestor Name: Paul A. Hopkins			
Vendor Name: Iteris, Inc.	Cost: \$ 128,196.00	Date: 10/31/	2022
Check each box that applies to your sole/single source purchase:			
<ul> <li>✓ Items available from only one source because of patents manuscripts, or books.</li> <li>☐ Gas, water, or other utility services (Letter from vendor</li> <li>✓ Captive replacement parts or components for equipmen</li> <li>☐ Books, papers, and other library materials for a public lib</li> </ul>	not required) nt.		-ilms,
exclusive distribution rights to the materials.	orary available offig from the pe	sons noturing	
Management services provided by a non-profit organiza	tion to a municipal museum, pa	rk, zoo, or other	
facility to which the organization has provided significan			
Annual maintenance for software and equipment the Ci Single source because of standardization, warranty, or o	•		
Other	ther factors.		
Describe in detail the product and/or service to be procured and	how they meet your needs.		
Transportation is requesting a Sole Source be approved for Iteris, Inc. In 2 installed which gave the TMC the connection capabilities for trouble shoot intersection remotely. Iteris, Inc. is the preferred distributor for Planar with the equipment needed. Video wall displays have a usable life expectancy of pgrade. Any failures in the antiquated monitors would cause a loss of contersections within the City. The Traffic Management Center Upgrade was mount of \$132,287. Funds are available in account 349-8927-493.61-40.	ting, diagnostics, clock synchroniza hin the State of Texas. This allows to of 5-7 years. The current video wall nection capabilities for the Transpo	ation, and coordination of the for integration and warrant has exceeded its usable libertation Division to the signature.	timing for each ty services for fe and requires maled
Department/Division Head Signature: Jeffery L. Reynold	Digitally signed by Jeffery Date: 2022.10.31 13:20:50	L. Reynolds 3- 05'00'	
Purchasing division justification:			
Upgrades to the current Planar video wall system can only be purchased from ponent parts and features it is the best value to upgrade the current violated provides the integrated solution of video wall matrix, central control eledicated power to the wall in the TMC that will support the video wall.	deo wall vs. purchasing a new one. software, and external power supply	The Planar video wall is the	he only system
Director of Procurement Signature: Lorianne Luciano Dia	gitally signed by Lorianne Luciano tte: 2022.11.09 10:48:26 -06'00'	<b>✓</b> Approved	] Disapproved
	Expiration	on Date: 12/13/2023	

The approvals on the following page are required for expenditures \$50,000 and greater:

Rev. 5/25/21 (1 of 2)

Executive Director of Fina	ince Signature:	Mionto Date	Digitally signed by Miranda Drake DN: cn=Miranda Drake, o=City of Killee Department, email=mdrake@killeente Date: 2022.11.09 14:07:45 -06'00'	en, ou=Finance kas.gov, c=US	pproved	] Disapproved
Comments:						
City Attorney Signature:	Andrew \		Digitally signed by Andrew Wo Date: 2022.12.12 10:17:33 -0		pproved	] Disapproved
Comments:						

City Manager Signature: Danielle Singh

Comments:

Digitally signed by Danielle Singh Date: 2022.12.14 13:15:15 -06'00'

**✓** Approved

Disapproved

Rev. 5/25/21 (2 of 2)**71** 



October 18, 2022

Natalie Waddington Principal Secretary - Transportation City of Killeen 101 N College St Killeen, Texas 76541

Dear Natalie Waddington

Iteris, Inc. is the preferred distributor of the **Planar** video wall and digital signage equipment and accessories in the State of Texas. Iteris is authorized to provide integration and warranty services for the equipment supplied. Your primary contact regarding the Killeen Video Wall is Stuart Hunter, P.E (sch@iteris.com). We look forward to working with you on this Traffic Management Center project.

Should you require any additional information, please contact either Stuart or myself.

Sincerely,

Duane E. Hartmann, P.E.

Associate Vice President

Transportation Systems - Iteris, Inc.

Quan E Hartman PE

Cell 713.806.9571

deh@iteris.com



October 18, 2022

Mr. Billy Stottler Transportation Supervisor City of Killeen 2003 Little Nolan Rd Killeen, TX 76542

Re: City of Killeen Texas - Video Wall System Upgrade, Installation, and Integration

Dear Mr. Stottler:

Iteris, Inc. (Iteris) is pleased to offer you our services to assist the City of Killeen on your proposed Traffic Management Center (TMC) Video Wall Upgrade. This proposal is provided in response to your request of Mr. Fidel Garza (Iteris) in your email dated March 02, 2022. Iteris understands this project work may be executed as a Sole Source add-on to the existing contract Iteris has with the City.

Below please find our proposed Scope of Work (SOW) for this request. This SOW is based on recent discussions between George Gener (Iteris), Dwayne Cassidy (City), and Natalie Waddington (City), along with your email requests as noted above. This SOW represents our understanding of the required project.

# ITERIS' SCOPE OF WORK (SOW) STATEMENT:

- 1. Iteris will provide a complete PLANAR G3 4Wx2H LX55M Video Wall system to be installed by Iteris staff. Data sheets attached for your reference. The system includes the following major system components:
  - a. (8) LX55M-L Clarity Matrix G3 monitors with mounts, trim, 75' cable sets
  - b. (1) Remote Power Supply module
  - c. (2) Video Wall Controller (4 HDMI inputs / 4 LCD monitor outputs)
  - d. Browser based Video Wall I/O control software PLANAR Wall Director
  - e. 3 Years PLANAR Standard Manufacturer's Warranty protection
- 2. At the request of the City, Iteris will provide additional equipment as an upgrade to existing TMC equipment.
  - a. (1) Display Wall PC (Precision 5820 Tower)
  - b. (3) Console Workstations (Precision 3650)
  - c. (2) TrippLite Smart Pro 120V 2.2KVA Uninterruptible Powe Supply (UPS)
- 3. Iteris will provide on-site installation, integration, and training support (up to 40 hours each) by Iteris staff (George Gener + Stuart Hunter). This will complete the removal of the existing G1 video wall system components and installation of the new G3 video wall systems. To include integration of the Display PC and three Console Workstations.
- 4. Iteris will provide as needed video wall design, procurement, and logistics project support (up to 8 hours).

Having designed and deployed the original City of Killeen TMC and video wall systems, Iteris is very pleased to have earned your repeat business. Thank you for the opportunity to submit this SOW and Fee Proposal. Iteris is pleased to offer these services for the **Firm Fixed Fee of \$128,196**.

This proposal is submitted subject to the successful negotiation of a mutually agreeable contract terms between Iteris and the City. Please feel free to contact me at (512) 913-8000, or <a href="mailto:naa@iteris.com">naa@iteris.com</a>, or the designated Project Manager, Mr. George Gener, at (208) 409-7109 or <a href="mailto:gleen">gle@iteris.com</a>, should you have any questions.

Sincerely, Iteris. Inc.

, ) ,

Nader Ayoub
Vice President Sales

Attachments:

1. PLANAR G3 Matrix Data Sheets

# LETTER OF AGREEMENT

	") between the <u>City of Killeen</u> (referred to herein as as "Contractor"), collectively the "Parties". This <u>,</u> 20 <u>23</u> .
In consideration of the premises and of the Agreement, the Parties hereby agree as follo	mutual covenants and agreements contained in this ws:
Iteris Inc. will provide a complete Video W power supply module, controllers, software, upgrades of Display wall, Console Workstat	reement is to enlist the services of Contractor to:  Vall System replacement to include monitors, cables, and a three (3) year warranty. Additional equipment ions, and Power Supply. Included by Iteris Inc. will ing support, and removal of existing components.  ment, and logistics support.
<i>Term of Agreement</i> . This Agreement shall c terminate <u>150</u> calendar days after commence	commence on the day of, 20 <u>23</u> , and ement of work on the Project.
<u>Consideration</u> . Contractor agrees to provide	the services stated above:
at the rate of \$ per hour; or	
X for the lump sum payment not to exc	eed \$128,196.00.
<u>Independent Contractor</u> . Contractor shall circumstances shall Contractor be deemed as	<u> </u>
regulations, and requirements for the abaroutinely encountered hazardous substances.	ow all applicable local, State, and Federal laws, attement and disposal of lead, asbestos, and other If any unusual substances or extraordinary amounts need, the Contractor will contact the City to contact rity for regulation of the substance.
performed or furnished by Contractor under	or all professional engineering and related services this Agreement will be the care and skill ordinarily ession practicing under similar circumstances at the
Insurance. Contractor shall procure and mai	ntain insurance in the following amounts:
Worker's Compensation Automobile Liability	Statutory \$500,000 Combined single Limit for each accident (Bodily injury and property damage).
General Liability	\$1,000,000 each occurrence (Bodily injury and property damage).

**Professional Liability** 

\$1,000,000 general aggregate.

On all policies, except Worker's Compensation, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

<u>Subcontracts and Assignments</u>. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

<u>Indemnification</u>. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

<u>Termination</u>. This Agreement may be terminated by either party for cause upon thirty (30) calendar days' written notice, provided such cause cannot be reasonably cured within such thirty (30) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

<u>Texas Law</u>. This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

<u>Severability</u>. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

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<u>Contract Verification</u>. 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.

# Acknowledgement - "Boycott Israel"

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.

# Acknowledgement - "Boycott Energy Companies"

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.

# Acknowledgement – "Prohibition on contracts with companies that discriminate against firearm and ammunition industries"

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.

# Acknowledgement - "ARPA Funding Source"

See Appendix A - Required Contract Clauses

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, will follow all ARPA Funding Source Clauses, 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.

indersigned Parties who acknowledge that the Agreement is issued in accorda	TO this day of, 2023, by the they have read and understand this Agreement and nce with local, State, and Federal laws, and the document voluntarily and of their own free will.
City	Contractor
Kent Cagle, City Manager	Printed:
City of Killeen	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. <u>Applicability</u>: 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. <u>Applicability</u>. 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) <u>Construction Work.</u> 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.

<u>Applicability</u>. 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. <u>. During the performance of this Contract, the Contractor agrees as follows:</u>

- (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 thissection, 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, regulation ns, 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 (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)). 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.

<u>Applicability:</u> 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-halftimes the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) <u>Violation; liability for unpaid wages; liquidated damages.</u> 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) <u>Subcontracts.</u> 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 subrecepient 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. <u>Debarment and Suspension.</u>

<u>Applicability</u>: 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.

<u>Applicability</u>: 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.

<u>Applicability:</u> 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, <a href="http://www.epa.gov/cpg/">http://www.epa.gov/cpg/</a>. The list of EPA-designate items is available at <a href="http://www.epa.gov/cpg/products.htm.">http://www.epa.gov/cpg/products.htm.</a>"

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

<u>Applicability:</u> 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 <u>Public Law 115–232</u>, 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 <u>Public Law 115–232</u>, 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. <u>Domestic Preferences for Procurements.</u>

<u>Applicability:</u> 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.



October 18, 2022

Mr. Billy Stottler Transportation Supervisor City of Killeen 2003 Little Nolan Rd Killeen, TX 76542

Re: City of Killeen Texas - Video Wall System Upgrade, Installation, and Integration

Dear Mr. Stottler:

Iteris, Inc. (Iteris) is pleased to offer you our services to assist the City of Killeen on your proposed Traffic Management Center (TMC) Video Wall Upgrade. This proposal is provided in response to your request of Mr. Fidel Garza (Iteris) in your email dated March 02, 2022. Iteris understands this project work may be executed as a Sole Source add-on to the existing contract Iteris has with the City.

Below please find our proposed Scope of Work (SOW) for this request. This SOW is based on recent discussions between George Gener (Iteris), Dwayne Cassidy (City), and Natalie Waddington (City), along with your email requests as noted above. This SOW represents our understanding of the required project.

# ITERIS' SCOPE OF WORK (SOW) STATEMENT:

- 1. Iteris will provide a complete PLANAR G3 4Wx2H LX55M Video Wall system to be installed by Iteris staff. Data sheets attached for your reference. The system includes the following major system components:
  - a. (8) LX55M-L Clarity Matrix G3 monitors with mounts, trim, 75' cable sets
  - b. (1) Remote Power Supply module
  - c. (2) Video Wall Controller (4 HDMI inputs / 4 LCD monitor outputs)
  - d. Browser based Video Wall I/O control software PLANAR Wall Director
  - e. 3 Years PLANAR Standard Manufacturer's Warranty protection
- 2. At the request of the City, Iteris will provide additional equipment as an upgrade to existing TMC equipment.
  - a. (1) Display Wall PC (Precision 5820 Tower)
  - b. (3) Console Workstations (Precision 3650)
  - c. (2) TrippLite Smart Pro 120V 2.2KVA Uninterruptible Powe Supply (UPS)
- 3. Iteris will provide on-site installation, integration, and training support (up to 40 hours each) by Iteris staff (George Gener + Stuart Hunter). This will complete the removal of the existing G1 video wall system components and installation of the new G3 video wall systems. To include integration of the Display PC and three Console Workstations.
- 4. Iteris will provide as needed video wall design, procurement, and logistics project support (up to 8 hours).

Having designed and deployed the original City of Killeen TMC and video wall systems, Iteris is very pleased to have earned your repeat business. Thank you for the opportunity to submit this SOW and Fee Proposal. Iteris is pleased to offer these services for the Firm Fixed Fee of \$128,196.

This proposal is submitted subject to the successful negotiation of a mutually agreeable contract terms between Iteris and the City. Please feel free to contact me at (512) 913-8000, or <a href="mailto:naa@iteris.com">naa@iteris.com</a>, or the designated Project Manager, Mr. George Gener, at (208) 409-7109 or <a href="mailto:gleen">gle@iteris.com</a>, should you have any questions.

Sincerely, **Iteris**, **Inc.** 

Nader Ayoub Vice President Sales

Attachments:

1. PLANAR G3 Matrix Data Sheets

# **CERTIFICATE OF INTERESTED PARTIES**

FORM **1295** 

Iteris, Inc. is a publicly traded company and is providing this information at the request of the Agency. 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		
Name of business entity filing form, and the city, state and country of the business entity's place of business.				Certificate Number: 2022-965902		
	Iteris, Inc.					
	Austin, CA United States			Filed:		
2	Name of governmental entity or state agency that is a party to th being filed.	e contract for which the form is	12/19/2022			
	City of Killeen		Date	Date Acknowledged:		
3	Provide the identification number used by the governmental enti- description of the services, goods, or other property to be provided		the co	ontract, and pro	vide a	
	00-0000 Video Wall System Replacement					
		1			•••	
4	Name of Interested Porty	City State Country (place of busin	,,,,,,		f interest	
	Name of Interested Party	City, State, Country (place of busin	1633)	ess) (check applicable)  Controlling Interme		
Th	nomas, Tom	Austin, TX United States		Х	memediary	
Be	ergera, Joe	Austin, TX United States		Х		
Mo	ooney, Gerry	Austin, TX United States		X		
Sie	egal, Laura L.	Austin, TX United States		X		
Za	ank, Dennis W.	Austin, TX United States		Х		
5	Check only if there is NO Interested Party.					
6	UNSWORN DECLARATION					
	My name is Christine Brady	, and my date of	birth is	08/26/197	<u>'5</u>	
	My address is 1700 Carnegie Avenue, Suite 100	, Santa Ana	CA .	92705	. USA	
	(street)		tate)	(zip code)	(country)	
	I declare under penalty of perjury that the foregoing is true and correct	ct.				
	Executed in Orange County	y, State of <u>California</u> , on the	<u>19</u> .	day of Deceml	oer, 20 22 (year)	
	,	06:4.2		(month)	(your)	
	(	Christine Brady				
		Signature of authorized agent of con (Declarant)	ıtractinç	g business entity		

# TRAFFIC MANAGEMENT CENTER UPGRADE

- In 2013, Iteris, Inc. installed the software, hardware, video wall, and designed the technological system that operates the Traffic Management Center (TMC).
- The video wall system allows remote connection capabilities for troubleshooting, diagnostics, clock synchronization, and coordination of timing to traffic signals.
- □ Iteris, Inc. is the approved sole source provider of the components within the TMC.
- □ Funds are allocated in the FY23 CIP budget in the amount of \$132,287.



# Traffic Management Center

Video wall displays have a usable life expectancy of 5.7 years.

3

- Do not authorize a letter of agreement with Iteris, Inc. for the Traffic Management Center upgrade, which could cause inability to maintain signal function remotely.
- Authorize execution of a letter of agreement to Iteris, Inc. for the Traffic Management Center Upgrade to Iteris, Inc. in an amount not to exceed \$128,196.

5

City Council authorize the City Manager, or designee, to execute a Letter of Agreement with Iteris, Inc. in an amount not to exceed \$128,196 for the Traffic Management Center Upgrade and authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local law



# City of Killeen

# **Staff Report**

File Number: RS-23-018

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred

City Council

01/24/2023

Consider a memorandum/resolution authorizing a Letter of Agreement in an amount not to exceed \$982,975, and a 5-year Annual Services Agreement in an amount not to exceed \$141,089 with Aqua-Metric Sales Company for advanced water metering infrastructure.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Jeffery Reynolds, Executive Director of Public Works

SUBJECT: Authorize the execution of a Letter of Agreement and 5-year Annual Services Agreement with Aqua-Metric Sales Company for the advanced water metering infrastructure.

### **BACKGROUND AND FINDINGS:**

On August 10, 2021, City Council approved the purchase of 5,000 smart water meters from Aqua-Metric Sales Company for the first phase of the water meter replacement program. During this Council meeting, City staff discussed the eventual automation of these meters to create an advanced metering infrastructure (AMI) pilot. During the installation of the 5,000 smart water meters, staff conducted extensive research to find an AMI system that will provide the best value and interface between the City's current billing system and the 5,000 Sensus iPERL water meters.

Aqua-Metric submitted a quote off the HGAC Buy purchasing cooperative contract No. WM09-20 in the amount of \$1,009,548.76 to provide and install the Sensus Flexnet AMI system (which includes 5,000 radios and one base station installed at Bundrant Elevated Storage Tank), configure the system, provide training, and host and support the required software for one year. Aqua-Metric then provided the costs associated with continued software support and hosting services for subsequent years in the amounts of \$27,371.90 for year two; \$28,193.08 for year three; \$29,038.87 for year four; and \$29,910.02 for year five.

Funding for the AMI pilot is allocated in the Fiscal Year 2023 Water and Sewer CIP fund. A Letter of Agreement and an Annual Service Agreement with Aqua-Metric for the AMI pilot have been proposed.

# **THE ALTERNATIVES CONSIDERED:**

- (1) Do not approve the Letter of Agreement and Annual Services Agreement with Aqua-Metric and select another vendor.
- (2) Approve the Letter of Agreement and Annual Services Agreement with Aqua-Metric.

# Which alternative is recommended? Why?

City staff recommends Alternative (2), approval of the proposed Letter of Agreement and Annual Services Agreement with Aqua-Metric due to their exceptional support and service in providing the Sensus iPERL water meters and the recommendations from several Texas cities who use

Aqua-Metric for their Sensus Flexnet AMI system provider.

### **CONFORMITY TO CITY POLICY:**

The purchase of smart water meters from Agua-Metric Sales Company and the software hosting support will be completed through a purchasing cooperative. **Purchases** made through cooperative contract are exempt from the competitive bidding process Texas Local as stated Government Code section 271.102, subchapter F; а local government that purchases goods services under this subchapter satisfies any state law requiring government to the local 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?

The total expenditure for FY 2023 will not exceed \$1,009,549. This cost includes purchase, installation, configuration, training, and one year of software hosting and support. Future expenses incurred by the Annual Services Agreement will not exceed \$27,372 for FY 2024; \$28,194 for FY 2025; \$29,039 for FY 2026; and \$29,911 for FY 2027.

### Is this a one-time or recurring expenditure?

The purchase and installation of AMI components pursuant to the Letter of Agreement is a single expenditure. However, the costs associated with software hosting and support in accordance with the Annual Services Agreement will be a 5-year recurring annual expenditure.

# Is this expenditure budgeted?

Yes, funds for FY 2023 expenditures are available in the Water & Sewer CIP Fund account 387-8934-493.69-03. Expenditures associated with FY 2024-2027 are subject to future appropriation by City Council.

# 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:**

City staff recommends that the City Council authorize the City Manager or designee to execute a Letter of Agreement in the amount not to exceed \$982,975, and a 5-year Annual Services Agreement in an amount not to exceed \$141,089 with Agua-Metric Sales Company.

# **DEPARTMENTAL CLEARANCES:**

Public Works Finance Legal

# **ATTACHED SUPPORTING DOCUMENTS:**

Quote Letter of Agreement Annual Services Agreement Certificate of Interested Parties

<b>HGACB</b> <i>uy</i>
This Worksheet i

# CONTRACT PRICING WORKSHEET

For Catalog & Price Sheet Type Purchases

Contract No.:

WM09-20

Date Prepared:

12/1/2022

# This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents <u>MUST</u> be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.

Buying Agency:	City of Killeen, Texas	Contractor:	Aqua-Metric Sales Company
Contact Person:	Steve Kana	Prepared By:	Kristy Segarra
Phone:	(254) 501-7623	Phone:	(210) 967-6300
Fax:		Fax:	(210) 967-6305
Email:	SKana@killeentexas.gov	Email:	Kristy.Segarra@aqua-metric.com
0.1	Delay Chard		2

Catalog / Price Sheet Name:	WM09-20 Aqua-Metric
General Description	
of Product:	

# A. Catalog / Price Sheet Items being purchased - Itemize Below - Attach Additional Sheet If Necessary

Quan	Description	Unit Pr	<b>Total</b> 32204.47	
1	M400B2 Basestation with SPM-900 - WM0925A	32204.47		
1	Communication Backhaul - WM0925A	1000	1000	
1	Juniper Archer3 Handheld - WM0925A	4661.28	4661.28	
1	Juniper Archer3 Handheld Single Ethernet Dock - WM0925A	1000.54	1000.54	
1	CommandLink II Bluetooth Device - WM0925A	654.49	654.49	
1	FieldLogic Communication Device - WM0925A	286.38	286.38	
1	3096+ Mini Reader/Touch Reader Device - WM0925A	515.38	515.38	
5000	520M Single Port SmartPoint Radio Transmitter - WM0925A	168.42	842100	
5000	iPERL Cable: 6' TR/PL 2-Wire - WM0925M	19.05	95250	
1	M400B2 Basestation Installation - WM0925C	26000	26000	
1	RNI SaaS Setup - WM0925B	7877.43	7877.43	
1	RNI Core Education - WM0925B	5445	5445	
	Total From Other	r Sheets, If Any:	385451.23	
		Subtotal A:	1402446.2	

# B. Unpublished Options, Accessory or Service items - Itemize Below - Attach Additional Sheet If Necessary

(Note: Unpublished Items are any which were not submitted and priced in contractor's bid.)

Quan	Description	Unit Pr	Total
1	M400B2 Basestation Certification	1750	1750
3	Field Deployment Management, Monthly Fee	7500	22500
5000	NovusCenter WOMS Work-Order Data Fee	1.65	8250
5000	NovusCenter WOMS Data Review Fee	3.75	18750
	T-4-1 F O4	Charte If A	

# Total From Other Sheets, If Any:

Check: Total cost of Unpublished Options (B) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).	For this transaction the percentage is:	4%

the Base Offit Frice plus Fuorished Options (A+B).	3			
C. Trade-Ins / Special Discounts / Other Allowances / Freight / Installation / Miscellaneous Charges				
Discount		-444147.44		
	Subtotal C:	-444147.44		
Delivery Date: 12/31/23	D. Total Purchase Price (A+B+C):	\$1,009,548.76		

HGA	CBuy	CONTRACT PRICING WORK For Catalog & Price Sheet Type Pur		Contract No.:	WM09-20	Date Prepared:	12/1/2022
This Wor	-	epared by Contractor and given to xed to H-GAC @ 713-993-4548. T					MUST be
Buying Agency:	City of Killeen	Texas	Contractor:	Aqua-Metric Sa	les Company		
Contact Person:	Steve Kana		Prepared By:	Kristy Segarra			
Phone:	(254) 501-7623	3	Phone:	(210) 967-6300	)		
Fax:			Fax:	(210) 967-6305			
Email:	SKana@killeen	texas.gov	Email:	Kristy.Segarra@	aqua-metric.com	1	
_	Price Sheet	WM09-20 Aqua-Metric		2			
General D	me: Description	<u> </u>					
	oduct: ice Sheet Items h	 	nal Sheet If Nece	essarv			
Quan		Description			-	Unit Pr	Total
Quan 1	Sensus Analyti	cs System Setup - WM0925B				4455	4455
1	}	cs Basic Integration - WM0925B				4950	4950
1	Sensus Analytics Training - WM0925B 3960			3960			
3	Network Implementation, Monthly Fee - WM0925B 10000			30000			
1	Annual Hosted RNI Software-as-a-Service, Water Only - WM0925B 10197			10197			
1	Annual Sensus	Analytics Enhanced, Water Only - WM0925B				6960.69	6960.69
1	Annual Sensus	Analytics Text Messaging Fee - WM0925B				742.5	742.5
1	Annual M400 I	Basestation Extended Warranty				1751.31	1751.31
1	Annual Aqua-M	Metric Support				7500	7500
1	Mobilization F	ee				12684.73	12684.73
1	NovusCenter W	OMS Setup Fee				7500	7500
5000	SmartPoint Ins	tallation and Activation Only on Existing iPERL M	/leter			58.95	294750
				T	otal From Other	Sheets, If Any:	
						Subtotal A:	385451.23
-	-	sory or Service items - Itemize Below - Attach Ado y which were not submitted and priced in contract		f Necessary			
Quan		Description				Unit Pr	Total
							0
							0
							0
							0
Total From Other Sheets, If Any:							
	m . 1		1 . 6	5		Subtotal B:	0
Check:		npublished Options (B) cannot exceed 25% of the television (B) cannot exceed 25% of the television (A+B).	total of	For this tra	insaction the per	centage is:	0%
C. Trade-Ins / S	Special Discoun	ts / Other Allowances / Freight / Installation / Mi	scellaneous Ch	arges			

**Delivery Date:** 

385451.23

Subtotal C:

D. Total Purchase Price (A+B+C):

# LETTER OF AGREEMENT

This is a Letter of Agreement ("Agreement") between the <u>City of Killeen</u> (referred to herein as "City") and <u>Thirkettle Corporation dba Aqua-Metric Sales Company</u> (referred to herein as "Contractor"), collectively the "Parties".

In consideration of the premises and of the mutual covenants and agreements contained in this Agreement and Exhibits attached hereto, the Parties hereby agree as follows:

<u>Scope of Agreement</u>. The purpose of this Agreement is to enlist the services of Contractor to: <u>Provide</u>, install, and configure 5,000 radios, one base station, AMI software, and necessary training as outlined in the attached proposal (the "Project")

<u>Term of Agreement</u>. This Agreement shall commence upon the date that the last required signature is affixed, and extend for <u>264</u> calendar days after Commencement of Work on the Project and may be reasonably extended as necessary to complete the Project unless terminated in accordance with the terms and conditions hereto.

Consi	<u>deration</u> . Contractor agrees to provide the services stated above:
	at the rate of \$ per hour; or
<u>X</u> _	for the lump sum payment not to exceed \$982,974.10

<u>Independent Contractor</u>. Contractor shall act as an Independent Contractor. Under no circumstances shall Contractor be deemed an employee or partner of the City.

<u>Applicable Laws.</u> Contractor shall follow all applicable local, State, and Federal laws, regulations, and requirements for the abatement and disposal of lead, asbestos, and other routinely encountered hazardous substances. If any unusual substances or extraordinary amounts of the aforementioned substances are encountered, the Contractor will contact the City to contact the State and the relevant agency with authority for regulation of the substance.

<u>Standard of Care.</u> The standard of care for all professional engineering and related services performed or furnished by Contractor under this Agreement will be the care and skill ordinarily used by members of the Contractor's profession practicing under similar circumstances at the same time and in the same locality.

*Insurance*. Contractor shall procure and maintain insurance in the following amounts:

Worker's Compensation

Automobile Liability

\$500,000 Combined single Limit for each accident (Bodily injury and property damage).

General Liability

\$1,000,000 each occurrence (Bodily injury and property damage).

Professional Liability

\$1,000,000 general aggregate.

On all policies, except Worker's Compensation, City shall be listed as an additional insured with a full waiver of subrogation. A certificate of coverage shall be provided to the City prior to commencing work on the Project.

<u>Subcontracts and Assignments</u>. Contractor's rights and obligations hereunder are deemed to be personal and may not be transferred or assigned. Any assignments shall be void and of no effect.

<u>Indemnification</u>. To the fullest extent permitted by law, City or Contractor, as applicable, shall indemnify and hold harmless the other party, and the other party's officers, directors, partners and employees from and against any and all costs, losses and damages (including, without limitation, all fees and charges of attorneys and other professionals, and all court or dispute resolutions costs) caused by the negligent acts or omissions of the City or Contractor, as applicable, or their respective officers, directors, partners, employees and consultants with respect to the performance under this Agreement or the Project.

<u>Termination</u>. This Agreement may be terminated by either party for cause upon sixty (60) calendar days' written notice, provided such cause cannot be reasonably cured within such sixty (60) day period. City may terminate this Agreement for convenience effective upon receipt of written notice declaring the same and Contractor shall be compensated for all work completed at that time in accordance with this Agreement.

<u>Texas Law</u>. This Agreement shall be subject to and governed by the laws of the State of Texas. The Parties agree that for venue purposes, any and all lawsuits, disputes, or causes of action shall be in Bell County, Texas.

<u>Severability</u>. If any provision of this Agreement shall, for any reason, be held to violate any applicable law, then the invalidity of such a specific provision in this Agreement shall not be held to invalidate the remaining provisions of this Agreement.

<u>Survival</u>. Any provision of this Agreement providing for indemnity, insurance or a duty that necessarily will not be completed until after the expiration or termination of this Agreement shall continue in full force and effect until such a time as all duties have been fully performed.

<u>Non-waiver</u>. Failure to enforce any provision of this Agreement by either party shall not constitute a waiver of that provision for purposes of the subsequent enforcement of that provision or the remainder of this Agreement.

<u>Entire Agreement</u>. This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the City and Contractor, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement, understandings, negotiations, and proposals, whether written or oral, formal or informal between the parties, is hereby declared null and void to the extent in conflict with any provision of this Agreement. Any additional writings shall not modify any limitations or remedies provided in the Agreement. There are no other terms or conditions, oral, written, electronic or otherwise. There are no implied obligations.

All obligations are specifically set forth in this Agreement. Further, there are no representations that induced this Agreement that are not included in it. Without limiting the generality of the foregoing, no purchase order placed by or on behalf of the City shall alter any of the terms of this Agreement. The parties agree that such documents are for administrative purposes only, even if they have terms and conditions printed on them and even if and when they are accepted and/or processed by Contractor. Any goods, software or services delivered or provided in anticipation of this Agreement under purchase orders placed prior to the execution of this Agreement are governed by this Agreement upon its execution and it replaces and supersedes any such purchase orders.

<u>Contract Verification</u>. 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.

# Acknowledgement - "Boycott Israel"

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.

# Acknowledgement - "Boycott Energy Companies"

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.

# Acknowledgement – "Prohibition on contracts with companies that discriminate against firearm and ammunition industries"

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.

[Signature Page on following page.]

**SIGNED, ACCEPTED AND AGREED** by the undersigned Parties who acknowledge that they have read and understand this Agreement and that the Agreement is issued in accordance with local, State, and Federal laws, and the undersigned Parties hereby execute this legal document voluntarily and of their own free will.

City	Contractor
Kent Cagle, City Manager	Christopher Newville
City of Killeen	Manager
	December 20, 2022
Date	Date

# EXHIBIT A – GENERAL TERMS AND CONDITIONS

1. PRICING AND PAYMENT. Subject to the provisions of this Agreement, the City shall pay Contractor for the full performance of Contractor's obligations the amount set forth in the attached Exhibit B subject to additions and deductions by authorized, written Change Order in accordance with Section 5 hereof. The City shall issue payment within thirty (30) days from the date of invoice. Notwithstanding, if the City fails to pay any invoice within thirty (30) days of the invoice date, Contractor may, at its sole discretion, withhold or suspend the services until the City has paid any past due invoiced amounts or seek termination pursuant to Section 14 of this Agreement. Contractor reserves the right to issue late fees to the City for past due amounts at a rate of 1% of the invoice amount for each additional day past due or the maximum amount permitted by law. All pricing and payments shall be in US currency.

# 2. ECONOMIC PRICE ADJUSTMENT

- 2.1. In recognition of the potential for fluctuation in Contractor's cost for the materials or services provided hereto this Agreement, a price adjustment may be submitted by Contractor on an annual basis or on Contractor's reasonable notice to the City upon Contractor's receipt of such price adjustment imposed by Contractor's manufacturers or suppliers. The percentage change between the contract price and the requested price shall not exceed twenty-five (25) percent of the original contract price or the percentage change issued by Contractor's manufacturer's or supplier's actual cost of increase; whichever is less. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.
- 2.2. Contractor's submitted price adjustment will be made in writing and submitted to the City timely. Price adjustments will be for the sole purpose of accommodating changes in Contractor's direct economic and inflationary costs of materials or services provided herein.
- 3. <u>SERVICES.</u> The Regional Network Interface (RNI) and Sensus Analytics Software (collectively the "SaaS Services") provided herein shall be limited to 5,000 endpoint connections reporting into the FlexNet system. In the event Client elects to expand the capacity of the system, Client will be responsible for additional one-time setup and integration fee(s) needed to reprovision the server environment. Annual SaaS fees thereafter will be incrementally adjusted on an annual basis to account for the actual number of endpoint connections reporting into the FlexNet system.
- 4. <u>ANNUAL FEES.</u> The City acknowledges certain annual software license, maintenance and support services will be necessary for the City's continued use and access of the AMI System. The City agrees to pay annual fees for the continued use, access, and support (the "Annual Fees") of the AMI solution as defined within the Thirkettle Corporation Annual Services Agreement.
- 5. MODIFICATIONS, AMENDMENTS AND CHANGE ORDERS. No modification or amendment to this Agreement or the Project herein shall be binding upon either Party hereto unless such amendment is set forth in writing and duly executed by an authorized representative of each Party. Contractor and the City each acknowledge additional product and services not detailed or described herein may be required to complete the Project. Either Party may initiate a request to modify, add or remove additional product or services. No

additional product or service will be inclusive unless upon written amendment to this Agreement duly executed by an authorized representative from both Parties. Unless otherwise agreed upon, all additional product or services rendered will be quoted at current market values at the time of request.

# 6. OWNERSHIP.

- 6.1. Contractor Materials. Contractor or its suppliers shall retain all right, title and interest (including but not limited to copyright, trademark, patents, and other proprietary or intellectual property rights) in the Contractor Confidential Information and Contractor Proprietary Materials (excluding City Work Product, City Data and City Confidential Information).
- 6.2. City Materials. The City shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in the City Work Product, City Confidential Information and City Data. Contractor may access City Data only to respond to AMI services or technical problems or at the City's request, and for the purposes of hosting such City Data in connection with the provision of the AMI Services to the City. Without limiting the generality of the foregoing, Contractor agrees that information and data on how the AMI Services are used by the City (such as, but not limited to, benchmarking data, usage patterns and roles) constitute City Confidential Information and may only be used by Contractor to improve the delivery of AMI Services for the City, and may not be used for other purposes, and may not be distributed, transferred in detail or summary form to any third party without the express written consent of the City.

# 7. CONFIDENTIAL INFORMATION.

7.1. To the fullest extent permitted by law, each party shall hold the other party's Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party's Confidential Information for any purpose other than the purposes set forth under this Agreement. The foregoing restrictions on disclosure shall not apply to information which is: (i) already known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party's Confidential Information, or (v) is a public record under applicable laws, which shall control, subject to the terms of this Section. Subject to the Texas Public Records Act, the City will maintain the confidentiality of all Contractor Confidential Information, and Contractor will maintain the confidentiality of all the City Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking those precautions used to protect its own Confidential Information from unauthorized use or disclosure. All City Data shall be deemed City Confidential Information for purposes of this Agreement and the protections and requirements set forth herein.

- 7.2. The City acknowledges that Contractor may use products, materials, or methodologies proprietary to Contractor. The City agrees that Contractor's provision of services under this Agreement shall not be grounds for the City to have or obtain any rights in such proprietary products, materials, or methodologies unless the parties have executed a separate written agreement with respect thereto. Contractor, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the City as confidential and shall not disclose any such information to a third party without the prior written approval of the City. Subcontractors and affiliates of Contractor who need to know the Confidential Information to perform the Services shall not be considered third party for purposes of this Section.
- 7.3. Unauthorized Access. Contractor shall store and maintain City Information in a secure manner and shall not allow unauthorized users to access, modify, delete, or otherwise corrupt City Information in any way. Contractor shall notify the City immediately if the security or integrity of any City information has been compromised or is believed to have been compromised, in which event, Contractor shall, in good faith, use all commercially reasonable efforts to cooperate with the City in identifying what information has been accessed by unauthorized means and shall fully cooperate with the City to protect such information from further unauthorized disclosure.

## 8. REPRESENTATIONS, WARRANTIES, AND COVENANTS.

- 8.1. Contractor represents, warrants and covenants as follows:
  - i. Contractor has the right to enter into this Agreement and perform in accordance with the terms of this Agreement, and such actions do not violate any third-party agreement or other obligation by which Contractor is bound.
  - ii. Contractor is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement.
  - iii. Contractor has the full right, corporate power, and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement.
  - iv. The execution of this Agreement by Contractor's representative herein has been duly authorized by all necessary corporate action of Contractor.

## 9. COMPLIANCE WITH LAWS.

9.1. Contractor Compliance with Laws. Contractor will perform their respective obligations under this Agreement in a manner that complies with all Laws: (i) applicable to Contractor's respective business and activities, including Laws of any country or jurisdiction from which or through which Contractor provides the product or services; and (ii) applicable to the City and the City's affiliates. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and

- implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.
- 9.2. The City's Compliance with Laws. The City will perform its obligations under this Agreement in a manner that complies with all Laws applicable to the City's business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.

## 10. WARRANTIES.

- 10.1. Disclaimer. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY AQUA-METRIC ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; provided, however any such warranties received by Contractor from its suppliers shall be passed on to the City.
- 10.2. Contractor warrants that the services provided by Contractor will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables herein this Agreement will substantially conform to the deliverables specified in the applicable Exhibits and Appendices hereto through the term of the Agreement.
- 10.3. Limitations. Unless otherwise expressly provided herein, neither Contractor nor any of its service providers, licensors, employees or agents warrant that the operation of the services will be uninterrupted or error free. Further, neither Contractor nor its suppliers, licensors, employees or agents will be responsible for (i) lost revenue, including revenue lost from third parties, persons, or entities, such as bills for electricity, lighting, gas, or water consumption; (ii) any In/Out Costs, where "In/Out Costs" means any and all costs and expense incurred by the City in transporting goods between its warehouse and its end user's premises and any and all costs and expenses incurred in installing, uninstalling, and removing goods; and (iii) any manual meter reading costs and expenses.
- 10.4. Standard Manufacturer Warranty. Standard manufacturer product warranties shall apply to all product(s) furnished under this Agreement. Contractor and/or their supplier agrees to provide a repaired or replacement meter free of charge, including no charge for freight delivery back to the City for any meter returned within the warranty provisions.
- 10.5. Meter Services Warranty. Contractor warrants the quality of workmanship and services provided herein to be reasonably free from defects within twenty-four linear inches downstream (customer side) of the meter connection for a period of thirty (30) days from the date of meter exchange.

- i. Meter Services Warranty is only applicable to the services rendered during the time of meter exchange and only applicable if the failure is reasonably evident of a faulty meter exchange service provided by Contractor or its subcontractor.
- ii. Contractor does not warrant defective product(s) or materials including but not limited to the utility meter, piping, meter couplings, curb stops, shut off valves, meter risers, meter setters, meter boxes or meter box lids, conduit, wire or wire nuts, or other similar materials (the "Materials") used to complete the meter exchange service. Such products will be subject to the manufacturer(s) product warranty guidelines. All product warranty concerns will be facilitated through Contractor with the appropriate product supplier(s) or manufacturer(s).
- iii. Contractor does not warrant pre-existing conditions; service line damage(s) resulting from non-approved materials or the service line is not up to code compliance; or damage(s) due to age or instability of galvanized lines on either the distribution or consumer side.
- iv. Meter Services Warranty does not include defects as a result of tampering, vandalism, negligence, "Acts-of-God".
- v. The City shall notify Contractor of any warrantable concern(s) within five (5) business days of the City becoming aware of suspect failure.
- vi. The City acknowledges Contractor is unable to determine pre-existing plumbing conditions, including but not limited to pipe condition, debris or hard water buildup in plumbing lines, unstable or faulty plumbing connections or plumbing fixtures, or water pressure, etc. Due to the unknown condition(s), Contractor does not warrant against damage(s) or defect(s) to plumbing, household fixtures, water heaters, water softening or filtration systems, sloan valves, appliances, water pressure, or other related appurtenances which rely on the utility services provided by the City.
- vii. Contractor reserves the right to inspect the project worksite prior to performing any work to determine the best course of action to correct the warranty concern. If such inspection is not indicative of Contractor's faulty workmanship, Contractor, at its sole discretion, may invoice the City for any time and expense incurred to inspect the worksite. Contractor will not be held responsible for any unauthorized repair(s) performed by the City, the City's resident or business customer, or any third-party repair company.
- 11. <u>LIMITATIONS AND DISCLAIMERS OF LIABILITY.</u> DISCLAIMER OF CERTAIN DAMAGES. TO THE FULLEST EXTENT PERMITTED BY LAW, IN NO EVENT SHALL ANY PARTY HAVE ANY LIABILITY TO THE ANOTHER PARTY HERETO FOR ANY LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF USE, COSTS OF COVER, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT, WARRANTY OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.
- 12. <u>FORCE MAJEURE</u>. Neither party shall be held liable for delay in fulfilling or failure to fulfill its obligations under this Agreement, if such delay or failure is caused by events

beyond the reasonable control of such party, including, without limitation, natural calamity, acts of God, terrorist events, pandemic, epidemic, supply chain constraints or delays in product shipment caused by any of the preceding events, provided payment obligations for work completed by Contractor under this Agreement shall not be so excused. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this Agreement.

13. <u>SUSPENSION OF WORK.</u> Except in the event of force majeure pursuant to Section 12, and notwithstanding anything to the contrary contained herein, in the event of prolonged or indefinite delays or suspension caused by the City, Contractor may, at its discretion and upon written notice to the City, elect to remove Contractor assets including but not limited to personnel, equipment, storage and disposal facilities, product and materials from the Project worksite. The City agrees to pay for fees incurred by Contractor resulting from but not limited to loss of payroll/subcontractor compensation, contracted or broken lease fees, demobilization and remobilization fees. Should the City elect to suspend or postpone indefinitely any portion of the services requested, Contractor may demobilize all staff, subcontractors, and/or facilities until such suspension has been lifted or Agreement termination.

## 14. TERMINATION.

- 14.1. Breach. Subject to the terms herein, either party may terminate this Agreement for breach of duty, obligation or warranty upon exhaustion of all remedies set forth herein.
- 14.2. In the event of such termination, all Work shall be suspended as provided in the termination instruction. The City shall pay Contractor pursuant to the terms herein for all product and services rendered prior to and through the effective date set forth in the notice of termination.
- 14.3. Upon termination of this Agreement for any reason, Contractor shall provide the City with copies of all completed or partially completed documents prepared under this Agreement contemporaneously with the City making a final payment to Contractor in the amount (a) consistent with services rendered as of the date of termination, including such subscription services the Contractor has contracted for in fulfillment of the terms of this Agreement, *plus* (b) amounts incurred by Contractor to demobilize and orderly conclude open matters/invoices. In the event Contractor has received access to City information or data as a requirement to perform services hereunder, Contractor shall return all City provided data to the City in a machine-readable format or other format deemed acceptable to the City, in the City's reasonable discretion.
- 15. <u>INFORMAL DISPUTE RESOLUTION</u>. Except in the event of termination pursuant to Section 14, if either Contractor or the City has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the Parties shall first attempt to resolve the matter through this dispute resolution process. The disputing Party shall notify the other Party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the Party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both Parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in

connection with this Agreement. If the Parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the Parties shall submit the matter to non-binding mediation within Bell County, Texas. The mediator shall be agreed to by the Parties. If the Parties cannot agree on a mediator, each Party shall select a mediator and the mediators selected by the Parties shall select a mediator to mediate the dispute. Each Party shall be liable for its own expenses, including attorney's fees; however, the Parties shall share equally in the costs of the mediation. If the Parties cannot resolve the dispute through mediation, then either Party shall have the right to exercise any and all remedies available under law regarding the dispute. Notwithstanding the fact that the Parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the Parties agree to continue without delay all of their respective duties and obligations under this Agreement not affected by the dispute. Either Party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.

16. <u>NOTICES</u>. All notices permitted or required to be given by either Party under this Agreement to the other shall be in writing through each Party's authorized representative(s) as follows:

#### If to Contractor:

Thirkettle Corporation
DBA Aqua-Metric Sales Company
Attn: Christopher Newville
16914 Alamo Parkway, Building 2
Selma, TX 78154

Email: chris.newville@aqua-metric.com

## If to the City:

City of Killeen Attn: Steve Kana 101 N College Street Killeen, TX 76541

Email: skana@killeentexas.gov

Any such notice shall be deemed to have been properly served if delivered in person or by mail, fax or email to the address of the representative designated above. The date of such notice shall be the date on which it is actually received by the Party to whom it is addressed.

17. <u>AGREEMENT AUTHORIZED</u>. Each party represents to the other party that: (i) it has the power and authority to execute and deliver this Agreement and perform its obligations hereunder; (ii) the execution, delivery, and performance of this Agreement has been duly approved and authorized by it; and (iii) the execution and delivery of, and performance by, such party of this Agreement does not and will not, directly or indirectly, (iv) require the consent, approval, or action of, or any filing or notice to (collectively, "Consents"), any corporation, firm, person or other entity or any public, governmental or judicial authority, which Consents have not already been obtained, (v) violate the terms of any instrument,

- document or agreement to which it is a party, or by which it is bound, or be in conflict with, result in a breach of or constitute (upon the giving of notice or lapse of time or both) a default under any such instrument, document or agreement, or (vi) violate any order, writ, injunction, decree, judgment, ruling, law rule or regulation of any federal, state, county, municipal, or foreign court or governmental authority applicable to it.
- 18. <u>CONFLICTS OF INTEREST.</u> Contractor hereby warrants to the City that Contractor has made full disclosure in writing of any existing or potential conflicts of interest related to Contractor's services under this Agreement. In the event that any conflicts of interest arise after the Effective Date of this Agreement, Contractor hereby agrees immediately to make full disclosure to the City in writing.
- 19. <u>REMEDIES</u>. Except for remedies specifically designated as exclusive, no remedy conferred by the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.
- 20. <u>SUCCESSORS</u>. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns (if such assignment was properly made pursuant to this Agreement).
- 21. <u>FORUM SELECTION</u>. The Parties agree that any action to interpret or enforce this Agreement shall be brought and maintained only in the county courts located within Bell County, Texas. The Parties consent to the exclusive jurisdiction of such courts and waives any objection either Party might otherwise have to jurisdiction and venue in such courts and Parties consent to service of process out of said State of Texas by regular U.S. mail to each Party or any other method of service permitted by such courts.

## 22. DEFINITIONS.

- 22.1. "Advanced Metering Infrastructure System" is an integrated system of smart meters, communications networks, and data management systems that enables two-way communication between utilities and customers.
- 22.2. "Sensus Software-as-a-Service and Spectrum Lease Agreement" is an agreement between the City and Sensus USA, Inc. ("Sensus" including but not limited to the use of the Sensus FlexNet System, Sensus Analytics Software-as-a-Service ("SaaS"), Spectrum License Lease, and Support Standards.
- 22.3. Sensus "Software-as-a-Service ("SaaS") means a software distribution model in which Sensus USA, Inc. hosts the Sensus Analytics software in a secure cloud environment and makes available to customers over the Internet.
- 22.4. "Thirkettle Corporation Annual Services Agreement" refers to the separate annual agreement between Contractor and the City for the continued use, access, license, and support of the City's AMI System.
- 22.5. "Software" means the computer software described as such in the Sensus Agreement, in machine-readable form only, as well as any updates which may be provided pursuant to the terms of this Agreement.

- 22.6. "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing by the City or Contractor, as applicable, and any other information that a party should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- 22.7. "Contractor Confidential Information" means the Contractor Proprietary Materials and any other Contractor owned or licensed information or material that Contractor designates in writing as confidential.
- 22.8. "Contractor Proprietary Materials" mean (i) Software and all computer programs, Documentation, products, forms, tools, methodologies, processes and procedures which were developed and owned by Contractor or its subcontractors prior to the Effective Date or which are developed during the term of the Agreement by Contractor staff (including employees and subcontractors), expressly excluding any City Work Product; and (ii) any modifications thereof and derivative works based thereon.
- 22.9. "City Confidential Information" means the City Data, City Proprietary Materials, and any other City owned or licensed information or material that is designated in writing by City as proprietary and confidential, or that Contractor should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- 22.10. "City Data" means any or all of the following, and all copies thereof, regardless of the form or media in which such items are held: (i) Confidential Information of the City, including, but not limited to, Personally Identifiable Information; (ii) data and/or information provided or submitted by or on behalf of the City or any City Affiliate to Contractor regardless of whether considered Confidential Information; and (iii) data and/or information stored, recorded, processed, created, derived or generated by Contractor as a result of and/or as part of the Services, regardless of whether considered Confidential Information.

# **EXHIBIT B – AGREEMENT PRICING**





### Aqua-Metric Sales Company

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154 Phone: (210) 967-6300 | Facsimile: (210) 967-6305

Client: City of Killeen, Texas
Attention: Steve Kana
Phone: (254) 501-7623
Email: SKana@killeentexas.gov

Line No.	ltem	Quantity	Unit	Extended
	AMI System: Phase One			
Product				
	M400B2 Basestation at Bundrant Tower (RE: Prop Study 12682)	1	\$30,768.61	\$30,768.61
	M400B2 Basestation Magnetic Mount for OMNI Antenna, if Required		\$6,000.00	
	M400B2 Basestation Magnetic Mount for Panel Antenna, if Required		\$18,750.00	
	Communication Backhaul	1	\$1,000.00	\$1,000.00
	Juniper Archer3 Handheld	1	\$4,661.28	\$4,661.28
	Juniper Archer3 Handheld Single Ethernet Dock	1	\$1,000.54	\$1,000.54
	CommandLink II Bluetooth Device	1	\$654.49	\$654.49
	FieldLogic Communication Device	1	\$286.38	\$286.3
	3096+ Mini Reader/Touch Reader Device	1	\$515.37	\$515.37
	520M Single Port SmartPoint Radio Transmitter	5,000	\$116.23	\$581,150.00
	iPERL Cable: 6'TR/PL 2-Wire	5,000	\$9.80	\$49,000.00
Network Infra	astructure Setup and Configuration	3,000	75.00	\$49,000.00
THE COUNTY IN THE	M400B2 Basestation Installation	1	\$26,000.00	\$26,000.00
	M400B2 Basestation Certification	1	\$1,750.00	\$1,750.00
FlexNet AMI	Software Setup and Configuration, Based on up to 5,000 Water Services	1	71,750.00	71,750.00
T ICKITCE PAINT	RNI SaaS Setup	1	\$7,877.43	\$7,877.43
	RNI Core Education, Performed by Aqua-Metric	1	\$5,445.00	\$5,445.00
	Sensus Analytics System Setup	1	\$4,455.00	\$4,455.00
	Sensus Analytics Basic Integration	1	\$4,950.00	\$4,950.00
	Sensus Analytics Training, Performed by Aqua-Metric	1	\$3,960.00	\$3,960.0
	Network Implementation, Monthly Fee	3	\$10,000.00	\$30,000.00
Meter Exchar		3	\$10,000.00	\$30,000.00
meter Extra	Mobilization Fee	1	\$3,750.00	\$3,750.00
	Field Deployment Management, Monthly Fee	3	\$7,500.00	\$22,500.00
	NovusCenter WOMS Setup Fee	1	\$7,500.00	\$7,500.00
	NovusCenter WOMS Work-Order Data Fee	5,000	\$1.65	\$8,250.00
	NovusCenter WOMS Data Review Fee	5,000	\$3.75	\$18,750.00
	SmartPoint Installation and Activation Only on Existing iPERL Meter	5,000	\$33.75	\$168,750.00
	Installation Incidental: In-Field Lid Modification, Drill Hole in Plastic Meter Box Lid		\$5.00	
	Installation Incidental: In-Field Lid Modification, Drill Hole in Metal Meter Box Lid		\$12.50	
	Installation Incidental: Water Meter Register Reprogramming Only		\$12.30	
	Installation Incidental: Water Meter Register Replacement, Labor Only		\$43.75	
	Installation Incidental: Water Neter Register Replacement, Labor Only		\$6.25	
	Installation Incidental: Nieter Box Eta Replacement, Labor Only		\$31.25	
	Installation Incidental: Special Job Hour Rate, Price per Technician Per Hour		\$125.00	
	mistanation includinal. Special Job Hour Nate, Price per recinician Per Hour		\$125.00	

This quote for the product and services named above is subject to the following terms:

- 1. All quotes are subject to the Aqua-Metric Terms of Sale.
- ${\it 2.\,Quote\,is\,valid\,for\,thirty\,days.}\\$
- 3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.
- ${\it 4. Freight allowed on single Sensus \ Product \ orders \ exceeding \$20,\!000.00.}$
- 5. Net Thirty Days to Pay
- $6.\,Returned$  product may be subject to a 25% restocking fee.
- 7. Sales Tax and/or Freight charges are not included.
- 8. Minimum 5 year term for SaaS Model with Annual 3% price increase
- 9. Pricing based on 5,000 Services

Total \$982,974.10

### EXHIBIT C – AMI IMPLEMENTATION SCOPE OF SERVICES

This AMI Implementation Scope of Work ("SOW") describes the general services that will be rendered by Contractor, Sensus USA, Inc. ("Sensus") and the City during the implementation of the Sensus AMI FlexNet communications system.

Contractor and the City acknowledge and agree the SOW may adjust as necessary and without formal Change Order to accommodate changes in the project which do not impact the overall project cost. Any significant change(s) to the SOW that would otherwise cause a change in the project cost shall be executed upon written Change Order pursuant to Section 5 of the Agreement hereto.

# 1. General Responsibilities

## 1.1. Contractor Responsibilities

- A. Designate a primary point of contact throughout project deployment who will coordinate responsibilities and tasks between the City, Contractor's project team and Sensus' project team.
- B. Coordinate delivery of materials and supplies detailed in Exhibit B with suppliers to ensure project is executed timely.
- C. Coordinate and oversee the installation, setup and configuration of the Sensus Basestations, Regional Network Interface ("RNI"), and Sensus Analytics software.
- D. Advise the City of any tasks and requirements necessary to successfully integrate the AMI system with the City's CIS software (the "CIS").
- E. Conduct System Integration Testing ("SIT") between the Sensus RNI, Sensus Analytics, and the City's CIS.
- F. Train and educate City personnel on system use and troubleshooting; meter installation and programing; and SmartPoint installation and activation. Training to be conducted both in remote and onsite formats.

## 1.2. City Responsibilities

- A. Appoint a primary point of contact to coordinate with Contractor throughout the project deployment described herein.
- B. Designate appropriate personnel to support and participate throughout the project.
- C. Provide secure locations suitable to accommodate network Basestations as identified within the Sensus Propagation Analysis.
- D. Engage and contract with the City's CIS Vendor to ensure all relevant contracts, fees, tasks, and responsibilities to integrate the CIS and AMI system are executed timely. The City shall provide Contractor with CIS Vendor's key contact(s) who will be responsible during the project deployment.
- E. Develop and Conduct System Acceptance Testing ("SAT") plan for formal acceptance of the AMI network within twenty (20) business days SIT completion.

# 2. Network Deployment

## 2.1. Network Basestations

- A. Contractor will furnish the Sensus M400B Basestations ("Basestation"), Basestation antenna, and cellular backhaul modems and install one each at the approved sites as demonstrated in the Sensus Propagation Analysis.
- B. The City will provide Contractor with access to each location and affirm each location is suitable for Basestation hardware.
- C. Contractor will coordinate and conduct a site visit with the City at each proposed location prior to installation. Concluding the site survey, Contractor and the City will coordinate target dates for Basestation installation.
- D. The City will be responsible for providing the following at each Basestation site:
  - I. 120V single phase service with 20-amp breaker;
  - II. 3-wire flex conduit pigtail from the breaker to the Basestation;
  - III. Cellular data plan and static IPs for the backhaul device;
  - IV. RJ-45 ethernet connection (if applicable).
- E. Contractor shall install and commission the Basestation, antenna, and communications backhaul at each proposed site.

## 2.2. Regional Network Interface

# A. Setup and Integration

- I. Contractor and Sensus will provide the technical resources and identify detailed steps of the standard integrations to support the implementation, configuration, and integration of the RNI, Sensus Analytics, and the City's CIS.
- II. Sensus will setup and configure the RNI server environment within Sensus' data centers. Contractor and Sensus will be responsible for proper configuration of the various Sensus systems and providing guidance to the City on various application configurations when different options are available.
- III. Contractor and Sensus will integrate the RNI, Sensus Analytics, and the CIS (Sensus side). Contractor will provide the City (or CIS Vendor) with data integration specifications to integrate the CIS (CIS side) with the RNI and Sensus Analytics.

## B. City Responsibilities

- I. Contract with the City's CIS Vendor to create a sync file that will be sent to Sensus Analytics nightly as well as interface to receive readings from Sensus Analytics. There will also be a meter swap process to get the meter change out data into the billing system.
- II. The City agrees to conduct and System Acceptance Testing (SAT) of the RNI, Sensus Analytics, and the City's CIS in a timely manner. The City will provide

formal written acceptance of the RNI and Sensus Analytics upon completion of SAT.

# 2.3. Sensus Analytics

# A. Setup and Integration with RNI

- I. Contractor/Sensus Responsibilities
  - a. Sensus will setup, install, and configure Sensus Analytics instance for the City.
  - b. Integrate the RNI with Sensus Analytics and ensure that data is successfully exchanged between the RNI, and Sensus Analytics.

# II. City Responsibilities

a. Coordinate with Contractor, the City's internal departments and/or third-party vendors to support the setup and integration between the RNI and Sensus Analytics.

# B. Configuration of Sensus Analytics with the City CIS

- I. Contractor/Sensus Responsibilities
  - a. Work with the City (or CIS Vendor) to configure the RNI and/or Sensus Analytics, as appropriate, with CIS according to CIS requirements.
  - b. Configure Sensus Analytics so that it can receive data daily from the CIS. This is to ensure the City updates to meter information are received in Sensus Analytics from the CIS.
  - c. Configure the RNI and/or Sensus Analytics, as appropriate, to accept incoming data files from the CIS.
  - d. Configure the RNI and/or Sensus Analytics, as appropriate, to accept the read request file from the CIS and export reads to the CIS.

## II. City Responsibilities

- a. Coordinate with internal departments and/or third-party vendors to facilitate the setup and integration of the RNI and Sensus Analytics.
- b. Collaboration may include, but is not limited to, the creation and delivery of data synchronization files from the CIS.
- c. Provide the communication path between Sensus Analytics and CIS for the purpose of the data exchange. The City will be responsible for any fees for modification and testing of the billing interface for CIS charged by the CIS Vendor.
- d. Sensus Analytics will provide file exports for billing. The City (or CIS Vendor) will configure CIS synchronization with the following:
  - 1. Delivery Frequency: Daily
  - 2. Delivery Method: files will be posted to Sensus Secure File Transfer Protocol ("FTP") site by the City

- 3. Delivery Format: CIS will send a file of comma separated values (CSV) format. Values may be in any order but static once an order is determined. Contractor will provide the City (or CIS Vendor) with a list of fields required for Sensus Analytics.
- 4. Additional synchronization fields as needed and may be requested by the City for reporting, search, and other functionality of Sensus Analytics. Contractor will provide the City (or CIS Vendor) with a list of additional synchronization fields as needed for Sensus Analytics.

## 2.4. Training

A. Contractor will educate and train relevant City personnel on network components, including Basestations, RNI, and Sensus Analytics operation and use; network troubleshooting; field handheld devices, and meter and SmartPoint installation, activation, and field troubleshooting.

# 2.5. Validation and Testing Services

## A. AMI Read Validation Testing

- I. Contractor and the City will review the configuration for each meter type and SmartPoint. Once configurations have been defined, Contractor will train the City's field personnel on proper SmartPoint installation and activation.
- II. The City will install and activate SmartPoints on various meters throughout its distribution service area to be used for testing network data transmissions. Contractor will assist and advise the City on optimal locations.
- III. Contractor and the City, when necessary, will work to resolve any issues identified during AMI Read Validation Testing.

## B. System Integration Testing (SIT)

- I. Contractor and the City will validate and test all functionality of the system prior to cut-over production of the RNI environment. Validation and testing include the connectivity to/from the Basestations and the integration between Sensus Analytics and CIS.
- II. Contractor will confirm the Basestation(s) are at the appropriate hardware and firmware build for RNI, the radio frequency cards are at the required revision and Global Positioning System ("GPS") is configured and functional.
- III. Contractor will test Basestation configurations and communication between the Basestation and RNI. If necessary, Contractor will update the firmware and/or hardware as required to communicate with the RNI.
- IV. Contractor will test backhaul communications and ensure data is being routed properly to the RNI. When necessary, the City shall assist in troubleshooting any errors or issues cause by the City's data service provider.
- V. Contractor will validate test meter data information and verify data is properly transferred between the Basestation and RNI. Contractor will issue certain two-

- way commands to test meters and ensure two-way communication with the meter is functional.
- VI. Contractor, with the City assistance, will verify test meter data is properly transmitted to/from the CIS.
- VII. Upon successful SIT, Contractor will provide the City with verification all integrations specified herein this SOW as necessary to establish communications between the Basestations, RNI, Sensus Analytics, and CIS are functional and working as specified.

# C. System Acceptance Testing (SAT)

- I. Develop and Conduct System Acceptance Testing ("SAT") plan for formal acceptance of the AMI network within twenty (20) business days SIT completion.
- II. The City, with Contractor assistance, will perform SAT and verify all integrations have been satisfactorily completed and ready for "go-live".
- III. Contractor will work with the City to resolve issues identified during SAT.
- IV. The City will verify all integrations and data communications described herein this SOW have been successfully tested, proven functional and working as specified in design documents. Upon SAT completion, the City will provide Contractor with a written acceptance and notice to proceed with "go-live".

# 3. Project Close-Out

- 3.1. Contractor and the City to identify any outstanding action items or issues needed to resolve by either party prior to Project Acceptance.
- 3.2. Once all outstanding items or issues have been resolved or deferred as approved by the parties, Contractor issue a final Project Acceptance document for City sign-off.
- 3.3. Upon execution of the Project Acceptance, the project will be considered complete and transitioned to Contractor's support staff for ongoing maintenance and support through the term of the Annual Services Agreement.

## 4. Assumptions & Clarifications

- 4.1. This SOW is limited to the planned AMI infrastructure proposed as of contract execution. The number of Basestations planned is demonstrated in the Sensus Propagation Analysis. Any additional expansion of infrastructure and/or Basestations to cover areas beyond the service territory considered at the time of this Agreement, as well as any request for additional systems integration, are not in this project scope and will be quoted accordingly at the then current market value at time of request.
- 4.2. The City will be responsible for any associated fees, including but not limited to integration fees, training, licensing, hosting, ongoing maintenance and support fees, or any other fees imposed by the CIS Vendor for the continued use the CIS software.
- 4.3. Pricing does not include Sensus Professional Services or travel and expenses ("T&E") for any on-site work performed by Sensus. Professional Services will be quoted at the then current market value as needed and upon occurrence. In the event on-site travel is

required, the City will be responsible for reasonable T&E and consulting time at a rate of \$250.00 per hour.

## EXHIBIT D – METER SERVICES SCOPE OF WORK

## 1. OBJECTIVE

1.1. This Meter Services Scope of Work outlines the general understanding of the project requirements. The exact workflow and processes detailed may be subject to revisions pending additional requirements and/or processes identified during the Project planning or throughout the course of the Project.

## 2. PROJECT PLANNING

- 2.1. Review standard meter exchange expectations.
- 2.2. Review the City's customer resolution process.
- 2.3. Review incidental labor/materials and contingency fund allocation process.
- 2.4. Identify any special equipment anticipated during the project.
- 2.5. Review and finalize proper Return to Utility ("RTU") handling and resolution.
- 2.6. Identify operating hours, holiday schedules, and black-out dates.
  - A. Identify route order in relation to meter reading schedules.
  - B. Coordinate with supplier(s) to determine product delivery schedules.

## 3. PROJECT PREPARATION AND MOBILIZATION

# 3.1. Staffing

- A. Contractor will ensure all staff and subcontractors are adequately equipped with reliable transportation, standard meter installation tools, activation and programming equipment, and personal protective equipment (PPE).
- B. All field personnel working on the project will be clearly identifiable as an authorized employee conducting business on behalf of Contractor. At minimum, each field technician will be equipped with vehicle magnets, identification badges, and highly visible safety vests.

## 3.2. Operations and Warehousing

- A. The City will provide Contractor's field staff with access to the City's local facilities to conduct daily operations. Contractor assumes the City will provide the following items, at minimum, and no additional services will be procured by Contractor during the course of the Project.
  - I. Product warehousing.
  - II. Specialty equipment (i.e., forklift, pallet jack, etc.)
  - III. Adequate parking spaces for field technicians during loading/unloading of field materials.
  - IV. Trash, recycling, and scrap disposal containers.
  - V. Office space for field management personnel (as needed)
  - VI. Access to secure wireless internet connection.

# 3.3. Project Oversight

- A. Contractor will designate a field supervisor who will be responsible for coordinating all work and communications with the City, suppliers, or subcontractors during the meter exchange phase. Contractor will:
  - I. Oversee field staff and continually monitor the production, quality of service, and professionalism.
  - II. Coordinate material acquisition with product supplier(s).
  - III. Coordinate resolution regarding field issues or concerns with the City's designated personnel.
  - IV. Conduct routine meetings with the City to ensure project is executed smoothly.

# 3.4. Work Order Management Software

- A. Contractor will use Work Order Management Software ("WOMS") to manage the field service work throughout the course of the project. Contractor shall grant the City read-only access to the WOMS through the duration of the meter exchange phase. Unless expressly stated otherwise, the City acknowledges and agrees nothing in this Meter Services Scope of Work grants, constitutes, or provisions the City with any licensed use during or after the project. The City, at its discretion, may request to license WOMS from Contractor for the City's continued use concluding the project.
- B. Contractor and the City will coordinate with the City's billing software vendor ("CIS Vendor") to integrate the WOMS with the City's billing software ("CIS"). Contractor will coordinate with CIS Vendor to ensure the electronic meter swap files are formatted correctly for the CIS.
- C. Contractor has included pricing for the initial integration of the WOMS with the CIS.
  - I. Pricing does not include re-integration with the City's current CIS or new CIS in the event the City changes the CIS at any point after the initial integration.
  - II. The City's CIS Vendor may impose separate fees for extract and meter swap integration with WOMS. Contractor is unable to ascertain or approximate any additional fee(s) (i.e. one-time or recurring fees) as such fees would be facilitated between the City's CIS Vendor and the City independently. Contractor will not be responsible for any new or revised fee(s) imposed from the City's CIS Vendor.
- D. To facilitate field work orders in a meter exchange project, Contractor will work with the City and the City's CIS Vendor to use their existing meter swap interface. Most billing vendors have an existing interface that will define the formats required.
  - I. The City will supply Contractor with a current export of the City's billing database.
  - II. Contractor will coordinate with the City to reconcile/clean-up database. Any issues or concerns with the data file will need to be resolved prior to meter

exchange. Insufficient or inaccurate data may result in delay(s) to the Project Schedule and subject to subsequent fees for additional time spent in the field to locate field assets and/or perform the Services herein. In the event the City requires assistance with data clean-up, Contractor may supply a Data Analyst at an hourly rate of Two-Hundred Dollars (\$200.00) per hour.

III. When all issues have been resolved, import final billing database into WOMS and coordinate with the City to partition the service area into routes.

## 3.5. Material Acquisition (ongoing)

- A. Contractor will coordinate and furnish all material(s) identified within Exhibit B throughout the term of this Agreement. Contractor will coordinate with product supplier(s) to ensure adequate inventory is onsite and available to maintain meter exchange production schedules.
- B. The City shall inspect and/or test all materials within three (3) days from the date of delivery and immediately notify Contractor of any discrepancies. If no notice is provided within the 3-day period, Contractor will assume the materials have passed inspection and will issue invoice for the materials delivered.
- C. The City acknowledges Contractor is unable to circumvent manufacturing product delays and Contractor and the City agree to reasonably extend the project timeline for such delay(s) beyond Contractor's control.
- D. Unless expressly stated otherwise, supplemental materials (i.e., parts, fittings, pipe, valves, boxes, box lids, etc.) are not included within the project scope.

### 4. FIELD DEPLOYMENT

### 4.1. SmartPoint Installation & Activation

- A. Create and assign work orders for each service account in WOMS.
- B. Arrive at service address and park curbside. Place traffic rated safety cones to the front and rear corners of vehicle.
- C. Verify the correct location by validating address and meter number in WOMS.
- D. Inspect the worksite to verify the SmartPoint can be installed. If the meter box is inaccessible or a SmartPoint installation is not possible, the account will be flagged as In-Process or RTU (defined below) as applicable.
- E. Clear light debris from meter box, if necessary.
- F. Affix SmartPoint transmitter securely to pre-drilled meter box lid. If applicable, technician shall remove preexisting radio transmitters and return to the City for disposal.
- G. Connect meter to SmartPoint utilizing a new iPERL touch coupled connector.
- H. Activate the SmartPoint and verify communications have been established using the activation screen in the programming application.
- I. Replace the meter box lid, clean up and remove any trash from the jobsite.
- J. Work Order Data Documentation

- I. Record meter and/or radio transmitter serial number (barcode scan).
- II. Capture clear images detailing:
  - a. Relative meter box location in relation to dwelling
  - b. Worksite condition and before and after performing the services.
  - c. New SmartPoint once installed.
  - d. SmartPoint activation screen.
- III. Document any comments or notes relating to the worksite conditions or exceptions with images; including, but not limited to recommended services, special worksite notes, unstable conditions, etc.

# 4.2. In-Process or Return to Utility ("RTU")

- A. In-Process may include, but not be limited to, any of the scenarios listed hereunder. Contractor will make a reasonable effort to exchange water meters at all locations identified within the project scope. When applicable, Contractor shall flag accounts as "In Process" (skipped/on-hold) which may require additional assistance from the City. Contractor shall notify the City of any account flagged In-Process for review. If Contractor and the City are unable to determine an appropriate resolution and timeline for the In-Process workorder within three (3) days, the account will be flagged Return to Utility ("RTU").
  - I. Service accounts which require a meter exchange.
  - II. Service accounts which the meter box lid has not been pre-drilled or replaced by the City with a pre-drilled hole to accommodate the SmartPoint.
  - III. Service accounts that cannot be located or have been found to substantially deviate from the expected scope or require additional assistance from the City personnel.
  - IV. Service accounts where the meter box is obstructed by vehicles.
  - V. Accounts which require advance scheduling will be identified as In-Process. The City will schedule Contractor for appointment to perform the meter exchange.
  - VI. Service accounts that have visible service line leaks at or near the meter.
- B. Return to Utility ("RTU")

Return to Utility ("RTU") may include, but not be limited to, any of the scenarios listed hereunder. Service accounts flagged as RTU will be returned to the City for further action and Contractor may, in its sole discretion, invoice the City for a trip charge for the initial site visit or each additional visit in addition the service price thereafter. Unless otherwise specified hereunder, the City will be responsible for completing meter exchange service or performing the actions necessary to complete the meter exchange service prior to returning the account to Contractor.

- I. Any service account which the meter box is inaccessible, requires special equipment, additional materials (parts, fittings, pipe, etc.) or labor which has not been approved by the City to successfully complete.
- II. Service accounts where the meter box is obstructed by permanent or large structures, landscaping, or excessive tree/plant roots inside meter box.
- III. Service accounts where the technician reasonably believes potential damage may occur to customer's property.
- IV. Service accounts which require alterations or restorations to concrete or asphalt beyond twenty-four (24) inches around the meter box, or landscaping including but not limited to permanent trees, bushes, shrubs, flowers, gardens, and pathways.

#### 4.3. Non-Standard Services

A. Non-Standard Services are defined as any service(s) in excess to or supplemental to those expressly stated within the aforementioned Field Deployment. Non-Standard Services may be required to facilitate a successful meter exchange. At the City's option, Non-Standard Services may be invoiced on occurrence or the account will be flagged RTU. Any labor or materials necessary to complete the services and not previously agreed upon will be submitted as a Change Order pursuant to Section 5 of the Agreement.

## 5. QUALITY ASSURANCE AND QUALTIY CONTROL

- 5.1. Field Services Quality Assurance
  - A. Contractor will perform weekly quality assurance evaluations on a portion of completed work orders. Service addresses will be selected at random and reviewed for proper installation and data collection. At minimum, the field supervisor will evaluate:
    - I. SmartPoint installed correctly
    - II. Work order accuracy
    - III. Digital phots are uploaded and match work order data
      - a. Meter identification number
      - b. Radio identification number
  - B. The field supervisor will coordinate with the City and/or Contractor's technical staff to identify service locations not communicating to the AMI infrastructure. In the event an installed product is suspect for non-communication, a technician will make one on-site attempt to interrogate the product at no expense and within the Warranty period.
    - I. The work order will be reopened and assigned to a field technician to troubleshoot the concern. If the malfunction is a direct result of the technician's error or negligence, the technician will install a replacement at no charge.

II. If it is determined that non-communication is due to a defect or damage to the product caused by the City or third-party (including the homeowner), Contractor shall invoice for the site visit.

## 5.2. Data Quality

A. Contractor will review a portion of all work orders captured within the WOMS to confirm proper data collection and integrity while tracking and recording any anomalies. The field supervisor will reopen any work orders as necessary and reassign to the technician for review and/or data correction.

## 6. ROUTE MANAGEMENT AND SUBSTANTIAL COMPLETION

- 6.1. Contractor will coordinate with the City to partition the service area into routes. Field technicians will advance through each route in a contiguous form until a majority of service locations have been completed or flagged as RTU. Contractor's goal is to complete as much of the active route prior to advancing to the next. Specific timing goals for route completion will be proposed by Contractor after thorough review of routes for approval by the City.
- 6.2. An active route will be considered substantially complete when ninety percent (90%) of meters have been installed and verified as communicating or Returned to Utility (RTU). Subsequent routes shall be available for meter exchange services prior to route acceptance of the active route.
- 6.3. Meter Services will be considered substantially complete when ninety percent (90%) of the meter quantity allocated for the entire Project have been successfully exchanged or Returned to Utility (RTU).

## 7. PROJECT CLOSE-OUT

## 7.1. Demobilization

A. Clean up and return any facilities provided by the City, return any City provided equipment to appropriate personnel, transfer overstock inventory back to the City, and demobilize field crews.

## 8. ASSUMPTIONS AND CLARIFICATIONS

- 8.1. All SmartPoints will be installed contiguously and sequentially through cycles and routes during normal business hours of Monday Friday, 7:00 AM to 5:00 PM.
- 8.2. No additional Direct Job Costs (city licenses, permits, etc.) are included and will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
- 8.3. All meter boxes are assumed to be located in a conspicuous and easily accessible locations. All hard-to-find meter boxes will have location descriptions and/or assistance from the City as necessary to locate.
- 8.4. Traffic Control cost(s) (including but not limited to planning, engineering, permitting, implementation, labor, Traffic Control device setup and removal, etc.) will be invoiced as necessary and on occurrence at cost plus fifteen percent (15%).
- 8.5. If required, Contractor assumes the City will provide any necessary scheduling services.

- 8.6. Contractor assumes no print media such as postcards or door hangers will be used during the Project. Should the City choose, the City may provide Contractor with door hangers or information handouts to be distributed at each location upon completion of the Work. The City acknowledges and agrees Contractor will not be expected to distribute printed material at any time other than while onsite during the SmartPoint installation.
- 8.7. All materials removed from the field (e.g., retired meters, debris, trash) will be returned and/or disposed of at the City facility.
- 8.8. Contractor is not expected to exchange meters as part of this Project. In the event the City elects to engage Contractor for meter exchange services, additional scope and pricing will apply.
- 8.9. Contractor assumes the City will pre-drill or replace all meter box lids prior to the SmartPoint installation.

### ANNUAL SERVICES AGREEMENT

This Annual Services Agreement (the "Agreement") is made by and between Thirkettle Corporation dba Aqua-Metric Sales Company, a California corporation, having its principal location at 4050 Flat Rock Drive, Riverside, CA 92505 ("Aqua-Metric") and City of Killeen, having its principal location at 101 N College Street, Killeen, TX 76541 (the "Client"). Aqua-Metric and Client are each referred to individually as "Party" or collectively as the "Parties". The Parties agree as follows:

#### RECITALS

- A. Aqua-Metric has been engaged by Client to provide (a) Sensus Regional Network Interface ("RNI") and Sensus Analytics Software-as-a-Service (collectively the "SaaS Services") hosted services required for the daily operation of the FlexNet System; and (b) Aqua-Metric Value Added Reseller Support services (the "Support Services") for the infrastructure and software.
- B. Aqua-Metric agrees to, in accordance with the terms of this Agreement, perform the services and supply the goods as described in the attached Exhibits and Appendices (the "Work"), which is attached hereto and made a part hereof for all purposes. This Agreement shall include the following:
  - i. This Annual Services Agreement
  - ii. Exhibit A: Annual Pricing
  - iii. Exhibit B: Support Standards

In consideration of the mutual agreements, covenants, representations, and warranties contained herein, and in reliance thereon, intending to be legally bound, Aqua-Metric and Client agree as follows:

- 1. TERM. This Agreement shall commence on upon the date that the last required signature is affixed (the "Effective Date") and shall extend for five (5) years unless terminated earlier in accordance within the provisions of this Agreement. This Agreement may automatically renew for successive five (5) year terms unless terminated pursuant to the terms hereunder.
- 2. SERVICES.
- 2.1. This Agreement sets forth the annual SaaS Services, terms, and/or conditions billed by Aqua-Metric to Client on an annual recurring basis beginning on the date the first year SaaS Services fees have been invoiced by Aqua-Metric to Client. For clarity, Aqua-Metric will invoice first year SaaS Services fees concluding the RNI commissioning and Client shall pay subsequent SaaS Services fees on the anniversary date of the first year SaaS Service fee invoice.
- 2.2. The SaaS Services provided herein shall be limited to 5,000 endpoint connections reporting into the FlexNet system. In the event Client elects to expand the capacity of the system, Client will be responsible for additional one-time setup and integration fee(s) needed to reprovision the server environment. Annual SaaS fees thereafter will be incrementally adjusted on an annual basis to account for the actual number of endpoint connections reporting into the FlexNet system.
- 3. <u>PRICING AND PAYMENT.</u> Subject to the provisions of this Agreement, Client shall pay Aqua-Metric for the annual SaaS Services and Support Services fees (the "Annual Services") in the amount set forth herein Exhibit A.
  - 3.1. Aqua-Metric shall automatically invoice Client for payment within sixty (60) days prior to the anniversary date of implementation. Client shall issue payment within thirty (30) days of receipt of invoice. Aqua-Metric reserves the right to issue late fees to Client for past due amounts at a maximum rate of 1% of the invoice total for each additional day past due up to the maximum amount permitted by law.
  - 3.2. Annual Services shall automatically renew each year on the anniversary of the implementation date and will continue through the duration of Client's continued use of the Annual Services. Annual Services will incur an automatic three percent (3%) annual increase to the antecedent fee for service.

- 3.3. In the event Client wishes to discontinue the Annual Services, Client shall provide Aqua-Metric written notification pursuant to Section 13 prior to the subsequent annual invoice; at which time Aqua-Metric's Annual Services shall cease pursuant to Section 5. Client's failure to give Aqua-Metric notice prior to renewal will result in automatic renewal and Client agrees to pay for subsequent Annual Services.
- 3.4. All pricing and payments shall be in US currency.
- 3.5. Non-Appropriation Clause. Client shall use best efforts to obtain an appropriation in the full amount of each subsequent annual payment required under this Agreement, including the submission of budget requests each year that are sufficient to cover Client's payment obligations for each subsequent fiscal year. In the event no funds are appropriated for subsequent years under this Agreement, Client may terminate this Agreement pursuant to Section 13.1.
- 4. MODIFICATIONS, AMENDMENTS AND CHANGE ORDERS. No modification or amendment to this Agreement or the Work herein shall be binding upon either Party hereto unless such amendment is set forth in writing and duly executed by an authorized representative of each Party. Aqua-Metric and Client each acknowledge additional product and services not detailed or described herein may be required to complete the Work. Either Party may initiate a request to modify, add or remove additional product or services. No additional product or service will be inclusive unless upon written amendment to this Agreement duly executed by an authorized representative from both Parties. Unless otherwise agreed upon, all additional product or services rendered will be quoted at current market values at the time of request.

## 5. SUSPENSION OF SERVICE.

5.1. In the event Client fails to pay Aqua-Metric for any invoices within forty-five (45) days from the date of invoice, Aqua-Metric may, in its sole discretion, withhold or suspend the services until Client has paid any past due invoiced amounts or seek termination pursuant to Section 13.2 of this Agreement. Client shall be responsible for applicable service fees, including late fees and early termination fees incurred for early termination. In the event of suspension or termination, Client acknowledges and agrees Aqua-Metric and/or Sensus will not be held responsible to diagnose, troubleshoot, update, repair, or replace any software previously purchased by Client. Client will be responsible for the purchase of hardware, software Updates or Upgrades, or hourly support and maintenance fees described in Exhibit B.

# 6. OWNERSHIP.

- 6.1. Aqua-Metric Materials. Aqua-Metric or its suppliers shall retain all right, title and interest (including but not limited to copyright and other proprietary or intellectual property rights) in the Aqua-Metric Confidential Information, the Aqua-Metric Proprietary Materials (excluding Client Work Product, Client Data and Client Confidential Information).
- 6.2. Client Materials. The Client shall retain all right, title and interest (including copyright and other proprietary or intellectual property rights) in the Client Work Product, Client Confidential Information and Client Data. Aqua-Metric may access Client Data only to respond to AMI services or technical problems or at the Client's request, and for the purposes of hosting such Client Data in connection with the provision of the AMI Services to the Client. Without limiting the generality of the foregoing, Aqua-Metric agrees that information and data on how the AMI Services are used by Client (such as, but not limited to, benchmarking data, usage patterns and roles) constitute Client Confidential Information and may only be used by Aqua-Metric to improve the delivery of AMI Services for Client, and may not be used for other purposes, and may not be distributed, transferred in detail or summary form to any third party without the express written consent of Client.

## 7. CONFIDENTIAL INFORMATION.

7.1. Each party shall hold the other party's Confidential Information in confidence and shall not disclose such Confidential Information to third parties other than to consultants or contractors, subject to similar terms of confidentiality, when disclosure is necessary for the purposes set forth herein, nor use the other party's Confidential Information for any purpose other than the purposes set forth under this Agreement. The foregoing restrictions on disclosure shall not apply to information which is: (i) already

known by the recipient, (ii) becomes, through no act or fault of the recipient, publicly known, (iii) received by recipient from a third party without a restriction on disclosure or use, (iv) independently developed by recipient without reference to the other party's Confidential Information, or (v) is a public record under applicable laws, which shall control, subject to the terms of this Section. Subject to the Texas Public Records Act, the Client will maintain the confidentiality of all Aqua-Metric Confidential Information, and Aqua-Metric will maintain the confidentiality of all Client Confidential Information, with each party taking all reasonable precautions to protect the same, at a minimum taking those precautions used to protect its own Confidential Information from unauthorized use or disclosure. All Client Data shall be deemed Client Confidential Information for purposes of this Agreement and the protections and requirements set forth herein.

- 7.2. The Client acknowledges that Aqua-Metric may use products, materials, or methodologies proprietary to Aqua-Metric. The Client agrees that Aqua-Metric's provision of services under this Agreement shall not be grounds for the Client to have or obtain any rights in such proprietary products, materials, or methodologies unless the parties have executed a separate written agreement with respect thereto. Aqua-Metric, for itself and its officers, agents and employees, agrees that it shall treat all information provided to it by the Client as confidential and shall not disclose any such information to a third party without the prior written approval of the Client. Subcontractors and affiliates of Aqua-Metric who need to know the Confidential Information to perform the Services shall not be considered third party for purposes of this Section.
- 7.3. Unauthorized Access. Aqua-Metric shall store and maintain Client Information in a secure manner and shall not allow unauthorized users to access, modify, delete or otherwise corrupt Client Information in any way. Aqua-Metric shall notify the Client immediately if the security or integrity of any Client information has been compromised or is believed to have been compromised, in which event, Aqua-Metric shall, in good faith, use all commercially reasonable efforts to cooperate with the Client in identifying what information has been accessed by unauthorized means and shall fully cooperate with the Client to protect such information from further unauthorized disclosure.

### 8. COMPLIANCE WITH LAWS

- 8.1. Aqua-Metric Compliance with Laws. Aqua-Metric will perform its obligations under this Agreement in a manner that complies with all Laws: (i) applicable to Aqua-Metric and Aqua-Metric's business, activities, Aqua-Metric's facilities and the provision of Services hereunder, including Laws of any country or jurisdiction from which or through which Aqua-Metric provides the Services or obtains resources or personnel to do so; and (ii) applicable to Client and Client's affiliates. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound, including the Laws of each and every jurisdiction applicable to Client, Aqua-Metric, this Agreement and the performance of the Services.
- 8.2. Client Compliance with Laws. Client will perform its obligations under this Agreement in a manner that complies with all Laws applicable to Client's business, activities, and facilities. "Laws" shall include and refer to any and all federal (national), state, provincial, municipal or local laws, regulations, rules, judicial decrees, decisions and judgments, executive and government orders and ordinances, and any and all directives of regional legislative and regulatory bodies and implementing legislation, as well as rules and regulations of any self-regulatory organization by which any party may be bound.

## 9. LIMITED WARRANTIES, REPRESENTATIONS AND COVENANTS

- 9.1. Aqua-Metric represents, warrants and covenants as follows:
  - a. Aqua-Metric has the right to enter into this Agreement and perform in accordance with the terms of this Agreement, and such actions do not violate any third-party agreement or other obligation by which Aqua-Metric is bound.

- b. Aqua-Metric is duly qualified to do business and is in good standing in every jurisdiction in which such qualification is required for purposes of this Agreement, except where the failure to be so qualified, in the aggregate, would not reasonably be expected to adversely affect its ability to perform its obligations under this Agreement:
- c. Aqua-Metric has the full right, corporate power and authority to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement;
- d. The execution of this Agreement by Aqua-Metric's representative herein has been duly authorized by all necessary corporate action of Aqua-Metric.

### 10. DISCLAIMER OF WARRANTIES.

- 10.1. DISCLAIMER. EXCEPT AS SPECIFICALLY SET FORTH IN THIS AGREEMENT, THE SERVICES AND SOFTWARE ARE PROVIDED BY AQUA-METRIC ON AN "AS IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE; provided; however any such warranties received by Aqua-Metric from its supplies shall be passed on to Client.
- 10.2. Aqua-Metric warrants that the services provided by Aqua-Metric will be performed in a professional and workmanlike manner with a degree of care, skill and competence that is consistent with the then generally accepted industry standards reasonably expected of similar types of engagements and the deliverables herein this Agreement will substantially conform to the deliverables specified in the applicable Exhibits and Appendices hereto through the term of the Agreement.
- 10.3. Limitations. Unless otherwise expressly provided herein, neither Aqua-Metric nor any of its service providers, licensors, employees or agents warrant that the operation of the Services will be uninterrupted or error free. Aqua-Metric will not be responsible for any damages that Client may suffer arising out of use, or inability to use, the Services.

## 11. LIMITATIONS AND DISCLAIMERS OF LIABILITY.

11.1. DISCLAIMER OF CERTAIN DAMAGES. IN NO EVENT SHALL ANY PARTY HAVE ANY LIABILITY TO THE ANOTHER PARTY HERETO FOR ANY LOST PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF USE, COSTS OF COVER, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT, WARRANTY OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

## 12. INDEMNIFICATION.

- 12.1. Aqua-Metric's Obligation. Aqua-Metric shall defend, indemnify and hold each Client Indemnitee (as defined below) harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on a Client Indemnitee arising from or in connection with any and all third party suits, claims, actions or demands (a "Claim"): (i) alleging any Product, Software or any Service infringes any valid and issued patent, copyright, or trademark or similar property right of a third party, (ii) for personal injuries, death or damage to tangible personal and real property caused by the gross negligence or willful misconduct of Aqua-Metric, its employees, or agents; (iii) relating to or arising out of Aqua-Metric's failure to comply with applicable law; and (iv) relating to or arising out of Aqua-Metric's breach of its confidentiality obligations hereunder. "Client Indemnitee" shall mean Client, and its respective officers, directors, employees, agents, successors and assigns.
- 12.2. Client Obligation. To the extent allowed by the laws of the State of Texas, Client shall defend, indemnify and hold Aqua-Metric harmless from any and all losses, costs, fines, penalties, damages and other amounts (including reasonable attorney fees) incurred by, assessed against or imposed on Aqua-

Metric arising from or in connection with any and all third party suits, claims, actions or demands (a "Claim"): (i) for personal injuries, death or damage to tangible personal and real property caused by the negligence or willful misconduct of Client, its employees, contractors or agents other than Aqua-Metric; (ii) relating to or arising out of Client's failure to comply with applicable law; and (iii) relating to or arising out of Client's breach of its confidentiality obligations hereunder.

### 13. TERMINATION.

- 13.1. Non-Appropriation of Funds. In the event no funds are appropriated by Client in any given fiscal year, Client may terminate this Agreement upon one-hundred twenty (120) days' written notice to Aqua-Metric. Should Client elect to terminate this Agreement, Client acknowledges that; (a) Client shall pay all applicable fees, including any unpaid SaaS Services and Support Services fees due in the current calendar year plus a ten percent (10%) early termination fee, where such fee is calculated based on the annual fees due in the current calendar year; and (b) access to the SaaS Services and Support Services shall immediately cease. If Client elects to terminate the RNI hosted environment but does not terminate the Agreement generally, then upon delivery of the notice to Aqua-Metric, Client shall purchase the necessary (a) RNI hardware from a third party and (b) RNI software license at Aqua-Metric's thencurrent pricing. No portion of the annual fees shall be applied to the purchase of the RNI hardware or software license.
- 13.2. Breach. Subject to the terms herein, either party may terminate this Agreement for breach of duty, obligation or warranty; provided, 1) breach is not a result of one of the events defined in Section 23, 2) breach is not cured within the Cure Period hereunder Section 13.4 with such period being extended as necessary for the breaching Party to have a reasonable amount of time to cure, provided the breaching Party begins to cure such breach or violation within the Cure Period and diligently pursues completion of the same, and 3) the breaching Party shall have reasonable time in addition to such Cure Period to cure such breach within the Cure Period and diligently pursues such cure.
- 13.3. Duties and Obligations of the Parties. In the event that this Agreement is terminated prior to the Expiration Date, the Client shall pay Aqua-Metric for services actually rendered up to the effective date of termination and Aqua-Metric shall continue to provide the Client with services requested by the Client and in accordance with this Agreement up to the effective date of termination. Upon termination of this Agreement for any reason, Aqua-Metric shall provide the Client with copies of all completed or partially completed documents prepared under this Agreement contemporaneously with the Client making a final payment to Aqua-Metric in the amount consistent with services rendered as of the date of termination, including such subscription services the Aqua-Metric has contracted for in fulfillment of the terms of this Agreement. In the event Aqua-Metric has received access to Client information or data as a requirement to perform services hereunder, Aqua-Metric shall return all Client provided data to the Client in a machine-readable format or other format deemed acceptable to the Client, in the Client's reasonable discretion.
- 13.4. Cure Period. As used in this Agreement, "Cure Period" means a period a of forty-five (45) days after receipt by a breaching Party of written notice from the non-breaching Party that this Agreement has been breached; provided, however, no Cure Period shall be permitted if a Party to this Agreement is found to have already breached this Agreement three (3) times.
- 14. INFORMAL DISPUTE RESOLUTION. Except in the event of termination pursuant to Section 13, if either Aqua-Metric or Client has a claim, dispute, or other matter in question for breach of duty, obligations, services rendered or any warranty that arises under this Agreement, the Parties shall first attempt to resolve the matter through this dispute resolution process. The disputing Party shall notify the other Party in writing as soon as practicable after discovering the claim, dispute, or breach. The notice shall state the nature of the dispute and list the Party's specific reasons for such dispute. Within ten (10) business days of receipt of the notice, both Parties shall commence the resolution process and make a good faith effort, either through email, mail, phone conference, in person meetings, or other reasonable means to resolve any claim, dispute, breach or other matter in question that may arise out of, or in connection with this Agreement. If the Parties fail to resolve the dispute within sixty (60) days of the date of receipt of the notice of the dispute, then the Parties shall submit the matter to non-binding mediation in within the county seat of Bell County, Texas. The mediator shall be agreed to by

the Parties. If the Parties cannot agree on a mediator, each Party shall select a mediator and the mediators selected by the Parties shall select a mediator to mediate the dispute. Each Party shall be liable for its own expenses, including attorney's fees; however, the Parties shall share equally in the costs of the mediation. If the Parties cannot resolve the dispute through mediation, then either Party shall have the right to exercise any and all remedies available under law regarding the dispute. Notwithstanding the fact that the Parties may be attempting to resolve a dispute in accordance with this informal dispute resolution process, the Parties agree to continue without delay all of their respective duties and obligations under this Agreement not affected by the dispute. Either Party may, before or during the exercise of the informal dispute resolution process set forth herein, apply to a court having jurisdiction for a temporary restraining order or preliminary injunction where such relief is necessary to protect its interests.

- 15. JURISDICTION AND VENUE. This Agreement has been executed and delivered in the State of Texas and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of Texas. Both parties further agree that Bell County, Texas, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.
- 16. MODIFICATIONS, AMENDMENTS OR WAIVERS. No modifications or amendments to the Agreement, and no waiver of any provisions hereof shall be valid unless in writing signed by duly authorized representatives of the parties.
- 17. NONWAIVER. Any failure or delay by either party to exercise or partially exercise any right, power or privilege hereunder shall not be deemed a waiver of any of the rights, powers or privileges under this Agreement. The waiver by either party of a breach of any term, condition or provision of this Agreement shall not operate as, or be construed as, a waiver of any subsequent breach thereof.
- 18. NOTICES. Except as otherwise provided in the Agreement, all notices or other communications hereunder shall be deemed to have been duly given when made in writing and delivered in person or mailed, postage prepaid, by first class, certified or registered mail, by messenger or courier, and addressed as provided below. The address to which the notice(s) or communications may be given by either party may be changed by notice given by such party to the other pursuant to this Section or by other form of notice agreed to by the parties. All notices permitted or required to be given by either party under this Agreement to the other shall be in writing through each party's authorized representative(s) as follows:

### If to Aqua-Metric:

Thirkettle Corporation DBA Aqua-Metric Sales Company Attn: Christopher Newville 16914 Alamo Parkway, Building 2 Selma, TX 78154

Email: chris.newville@aqua-metric.com

### If to Client:

City of Killeen Attn: Steve Kana 101 N College Street Killeen, TX, 76541

Email: skana@killeentexas.gov

19. REMEDIES. Except for remedies specifically designated as exclusive, no remedy conferred by the Agreement is intended to be exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law, in equity, by statute or otherwise. The election of any one or more remedies shall not constitute a waiver of the right to pursue other available remedies.

- 20. SEVERABILITY. If any term, provision or part of the Agreement is to any extent held invalid, void or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be impaired or affected thereby, and each term, provision, and part shall continue in full force and effect, and shall be valid and enforceable to the fullest extent permitted by law.
- 21. SUCCESSORS. This Agreement shall inure to the benefit of and be binding on the parties hereto and their respective successors and assigns (if such assignment was properly made pursuant to this Agreement).
- 22. AUTHORIZED REPRESENTATIVE. Each party represents to the other party that: (i) it has the power and authority to execute and deliver this Agreement and perform its obligations hereunder; (ii) the execution, delivery, and performance of this Agreement has been duly approved and authorized by it; and (iii) the execution and delivery of, and performance by, such party of this Agreement does not and will not, directly or indirectly, (iv) require the consent, approval, or action of, or any filing or notice to (collectively, "Consents"), any corporation, firm, person or other entity or any public, governmental or judicial authority, which Consents have not already been obtained, (v) violate the terms of any instrument, document or agreement to which it is a party, or by which it is bound, or be in conflict with, result in a breach of or constitute (upon the giving of notice or lapse of time or both) a default under any such instrument, document or agreement, or (vi) violate any order, writ, injunction, decree, judgment, ruling, law rule or regulation of any federal, state, county, municipal, or foreign court or governmental authority applicable to it.
- 23. FORCE MAJEURE. Neither party shall be held liable for delay in fulfilling or failure to fulfill its obligations under this Agreement, if such delay or failure is caused by events beyond the reasonable control of such party, including, without limitation, natural calamity, acts of God, terrorist events, pandemic, epidemic or delays in product shipment caused by any of the preceding events, provided payment obligations shall not be so excused. Each party shall notify the other in writing of any situation that may prevent performance under the terms and conditions of this Agreement.
- 24. ENTIRETY OF AGREEMENT. This Agreement, including any exhibits attached hereto and any documents incorporated herein by reference, contains the entire understanding and agreement between the Client and Aqua-Metric, their assigns and successors in interest, as to the matters contained herein. Any prior or contemporaneous oral or written agreement is hereby declared null and void to the extent in conflict with any provision of this Agreement.
- 25. ASSIGNMENT. Aqua-Metric may not assign any of their respective rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party, including any assignment or transfer in connection with a merger, reorganization, or sale of all or substantially all of the assets or equity of such party. Any attempted assignment in breach of this Section shall be void and Client shall have the right to terminate this Agreement as set forth herein. This Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

### 26. DEFINITIONS.

- a. "Confidential Information" means documents, data, work product and any other sources of information designated as confidential in writing by Client or Aqua-Metric, as applicable, and any other information that a party should reasonably know is confidential in light of the circumstances surrounding its disclosure.
- b. "Client Data" means any or all of the following, and all copies thereof, regardless of the form or media in which such items are held: (i) Confidential Information of Client, including, but not limited to, Personally Identifiable Information; (ii) data and/or information provided or submitted by or on behalf of Client or any Client Affiliate to Aqua-Metric regardless of whether considered Confidential Information; and (iii) data and/or information stored, recorded, processed, created, derived or generated by Aqua-Metric as a result of and/or as part of the Services, regardless of whether considered Confidential Information.
- c. "Documentation" means all publications and documentation relating to the use or operation of the Products, Software and Services provided hereunder, such as reference, user, installation, systems administration and technical guides.

- d. "Fees" mean the Product Costs, Service fees and the SaaS Services fees.
- e. "Software" means the computer software described as such in the Sensus Inc. Agreement, in machine-readable form only, as well as any Updates which may be provided pursuant to the terms of this Agreement.
- f. "Subscription Services" mean the hosting and software services performed by Sensus Inc. and Aqua-Metric.
- g. "Subscription Services Fees" means the fees for Client's continued use of the RNI or Sensus Analytics.
- h. "Support Services" means the annual maintenance and support services provided by Aqua-Metric and Sensus.
- i. "Support Services Fees" means the fees for Client's use of the Support Services.
- j. "Training" means the instructional training provided by Aqua-Metric to Client regarding access to and proper use and operation of the software and services.
- k. "Updates" means minor enhancements, improvements, patches or modifications released to improve performance or fix errors in previous versions of software applications developed by Sensus or third-party developers.
- 1. "Upgrade" means a release of the software or a change to the existing software and/or hardware containing major new features, functionality and/or performance improvements that would enable the existing software and/or hardware configuration to perform to the level of the next version of the software and/or hardware configuration and is designed to replace the older software and/or hardware version of the same product and/or extend the useful life of that product.

[Signature page on following page]

27. COUNTERPARTS AND ELECTRONIC SIGNATURE. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original agreement and both of which shall constitute one and the same agreement. The counterparts of this Agreement may be executed and delivered by facsimile or other electronic signature (including portable document format) by either of the parties and the receiving party may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received.

Client signatory represents and warrants that the signatory has all necessary authorization to purchase and pay for the Services indicated herein.

THE TERMS AND CONDITIONS SET FORTH HEREIN SHALL NOT BE BINDING UNTIL FULLY EXECUTED BY AN AUTHORIZED SIGNATORY FOR BOTH CLIENT AND AQUA-METRIC (OR ITS APPLICABLE AFFILIATE).

IN WITNESS WHEREOF, this Agreement is hereby executed on behalf of each of the parties hereto as of the date signed by both parties below.

THIRKETTLE CORPORATION DBA AQUA-METRIC SALES COMPANY	City of Killeen 101 N College Street	
4050 Flat Rock Drive	Killeen, TX 76541	
Riverside, CA 92505		
Signature	Signature	
Christopher Newville		
Name (Printed or Typed)	Name (Printed or Typed)	
Manager		
Title	Title	
December 20, 2022		
Date	Date	

# EXHIBIT A ANNUAL PRICING



### Aqua-Metric Sales Company

16914 Alamo Parkway, Bldg. 2 | Selma, TX 78154 Phone: (210) 967-6300 | Facsimile: (210) 967-6305

Client: City of Killeen, Texas
Attention: Steve Kana
Phone: (254) 501-7623
Email: SKana@killeentexas.gov

Line No.	ltem	Quantity	Unit	Extended
Recurring Annual	Fees: SaaS Software Hosting and Support, Based on up to 5,000 Water Services			
Year One				
	Annual Hosted RNI Software-as-a-Service, Water Only	1	\$9,868.26	\$9,868.26
	Annual Sensus Analytics Enhanced, Water Only	1	\$6,736.53	\$6,736.53
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$718.56	\$718.56
	Annual M400 Basestation Extended Warranty	1	\$1,751.31	\$1,751.31
	Annual Aqua-Metric Support	1	\$7,500.00	\$7,500.00
			Total:	\$26,574.66
Year Two				
	Annual Hosted RNI Software-as-a-Service, Water Only	1	\$10,164.31	\$10,164.3
	Annual Sensus Analytics Enhanced, Water Only	1	\$6,938.62	\$6,938.62
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$740.12	\$740.1
	Annual M400 Basestation Extended Warranty	1	\$1,803.85	\$1,803.8
	Annual Aqua-Metric Support	1	\$7,725.00	\$7,725.0
			Total:	\$27,371.9
Year Three				
	Annual Hosted RNI Software-as-a-Service, Water Only	1	\$10,469.24	\$10,469.2
	Annual Sensus Analytics Enhanced, Water Only	1	\$7,146.79	\$7,146.7
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$762.32	\$762.3
	Annual M400 Basestation Extended Warranty	1	\$1,857.97	\$1,857.9
	Annual Aqua-Metric Support	1	\$7,956.76	\$7,956.7
			Total:	\$28,193.0
Year Four				
real Foul	Annual Hosted RNI Software-as-a-Service, Water Only	1	\$10,783.31	\$10,783.3
	Annual Sensus Analytics Enhanced, Water Only	1	\$7,361.19	\$7,361.1
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$785.20	\$7,301.1
	Annual M400 Basestation Extended Warranty	1	\$1,913.71	\$1,913.7
	Annual Aqua-Metric Support	1	\$8,195.46	\$8,195.4
	Alman Aqua Mctife Support	1	78,193.40 Total:	\$29,038.8
			TOLAI.	\$29,056.6
Year Five				
	Annual Hosted RNI Software-as-a-Service, Water Only	1	\$11,106.82	\$11,106.8
	Annual Sensus Analytics Enhanced, Water Only	1	\$7,582.03	\$7,582.03
	Annual Sensus Analytics Text Messaging Fee (Optional)	1	\$808.75	\$808.7
	Annual M400 Basestation Extended Warranty	1	\$1,971.11	\$1,971.1
	Annual Aqua-Metric Support	1	\$8,441.31	\$8,441.33
			Total:	\$29,910.02

This quote for the product and services named above is subject to the following terms:

- 1. All quotes are subject to the Aqua-Metric Terms of Sale.
- 2. Quote is valid for thirty days.
- 3. If modifications in materials, labor, or processing are required to meet new regulations, the pricing submitted herein is subject to immediate change.
- ${\it 4. Freight allowed on single Sensus Product orders exceeding $20,000.00.}\\$
- 5. Net Thirty Days to Pay
- 6. Returned product may be subject to a 25% restocking fee.
- 7. Sales Tax and/or Freight charges are not included.
- 8. Minimum 5 year term for SaaS Model with Annual 3% price increase
- 9. Pricing based on 5,000 Services

## EXHIBIT B SUPPORT STANDARDS

### 1. Overview

1.1. As a Sensus certified Value Added Reseller, Aqua-Metric's technical services team will provide Client with remote or on-site (when applicable) technical assistance to maximize Client's operational success. The Aqua-Metric Support Standards (the "Support Standards") outlined herein shall serve as a general guideline and minimum expectations of the services provided by Aqua-Metric or Client through the term of this Agreement.

### 2. Business Hours and Contact Information

- 2.1. Standard business hours are Monday through Friday, 7:30 AM to 4:30 PM, excluding statutory holidays.
- 2.2. For technical assistance, Client may contact Aqua-Metric's designated support representative directly or Aqua-Metric's support resources at (866) 719-1422 or via email at <a href="https://helpdesk@aqua-metric.com">helpdesk@aqua-metric.com</a>.
- 2.3. Although it is unlikely technical issues would be identified outside the standard business hours, Aqua-Metric will provide technical assistance to Client for critical issues after hours or on holidays when applicable. In such event and if Aqua-Metric is unavailable, Client shall leave a voicemail detailing Client name, best contact information and a description of the issue(s). If Client initiates an afterhours email, Client shall mark any email correspondence as "high priority" and note "Urgent" in the subject line.

# 3. Support Categories

3.1. General questions or recommendations regarding functionality and use of products or software.

### 3.2. Network Infrastructure

- A. Aqua-Metric will perform periodic remote infrastructure health and network connectivity checks.
  - I. Aqua-Metric will perform periodic health checks for each Basestation in Client's network.
  - II. Aqua-Metric will monitor for network outages and attempt to notify Client for review. In the unlikely event of prolonged network outages, Aqua-Metric may create a service ticket and coordinate with Client to assess any repair(s) needed to restore communications; provided, however, Client will be responsible for backhaul communication devices, including restoring lost communication at the backhaul or WAN device(s) with Client's service provider, and ensuring the Basestation(s) is connected to power.
  - III. Aqua-Metric will investigate a drop in performance in the network as needed using an Antenna Analyzer and other radio frequency tools to assist Client with necessary repairs or generating a RMA if needed.

## B. Network infrastructure hardware repairs.

- I. Client may purchase the Sensus Extended Warranty at any time within the first year from the Sensus Basestation(s) shipment date and may be renewed for up to five (5) consecutive years after the standard one (1) year warranty period. The warranty period begins on the date of Sensus shipment. Sensus Extended Warranty includes:
  - a. Repair or replacement of defective parts or units.
  - b. Firmware Updates.
  - c. Remote diagnostics of operation issues.
  - d. Sensus Extended Warranty excludes 1) defects as a result of tampering, vandalism, negligence, "Acts-of-God"; 2) antenna coaxial cabling or connectors; 3) external antennas; 4) communications backhaul equipment, including network data usage or data provider coverage; 5) electrical power supply, external grounding, or power related issues; 6) backup battery (consumable item), or 7) costs associated with site lease or site maintenance.

- II. Aqua-Metric will provide labor to repair or replace defective Basestation(s).
  - a. Due to regulations which require certified personnel to climb elevated structures, Aqua-Metric does not include labor cost(s) to repair or replace Basestation antenna, coaxial cable or coaxial connections above ground level. Labor cost(s), if any, to repair or replace defective or damaged antennas, coaxial cable or connections will be determined at time of replacement.
- III. Aqua-Metric will work with Sensus to update Network Basestation infrastructure firmware.
- IV. Aqua-Metric will provide best effort communications backhaul troubleshooting and diagnostics.
- 3.3. Regional Network Interface (the "RNI"), Sensus Analytics and appliable modules, and Sensus Analytics Customer Portal (if applicable); collectively the "AMI Software"
  - A. Aqua-Metric will review data captured within the RNI, Sensus Analytics quarterly and promptly notify Client of major anomalies or discrepancies.
  - B. Aqua-Metric will troubleshoot and diagnose integration issues between the AMI Software and Client's CIS. Aqua-Metric will attempt to resolve integration issues in the AMI Software and escalate to Sensus Technical Services if necessary. If integration issues are due to an issue with the CIS provider, Aqua-Metric will advise Client on what is needed to resolve the issue and Client will be responsible for engaging Client's CIS provider.
  - C. Aqua-Metric will assist Client with issues relating to the route file between the AMI Software and Client's CIS, updating AMI Software when a CIS import/export has changed, and creating new routes within the AMI Software.
  - D. Aqua-Metric will assist Client with updating existing user reports and alerts upon Client request.
  - E. Aqua-Metric will assist in troubleshooting Client's access to AMI Software and password issues.
  - F. Aqua-Metric will schedule and coordinate software patches and updates to the AMI Software with Client. Aqua-Metric will train Client on the completed updates and furnish updated documentation to Client when applicable and available.
  - G. Aqua-Metric Support excludes upgrades, integration or re-integration with new or third-party software. In such event, Aqua-Metric will work with Client to prepare a scope of work and quote for the work to be performed.

## 3.4. Field Equipment and Software

- A. Aqua-Metric will coordinate periodic on-site inspections as needed and upon Client request to check field equipment (e.g. handheld devices, Vehicle Transceiver Unit (VXU), or Vehicle Gateway Basestation (VGB)) operation.
- B. Aqua-Metric will setup and configure FieldLogic profiles and provide Client with meter configuration profile files. If necessary and upon Client's request, Aqua-Metric will update or modify FieldLogic profiles and provide Client with new data files upon completion.
- C. Aqua-Metric will schedule and coordinate software patches and updates to AutoRead, AutoVu, AutoVu Mapping Software, FieldLogic with Client. Aqua-Metric will train Client on the completed updates and furnish updated documentation to Client when applicable and available.
- D. Aqua-Metric will provide remote support for software and hardware failure troubleshooting on field equipment when feasible. In the event remote troubleshooting is unsuccessful, Aqua-Metric may coordinate an on-site inspection or escalate the service ticket to Sensus Technical Services for further diagnostics.
- E. Aqua-Metric will assist Client with issues relating to loading or unloading routes from reading devices, updating AutoVu and AutoRead when a CIS import/export has changed, and creating new routes within the reading software.

## 3.5. Meters and SmartPoints

A. Aqua-Metric will assist Client with troubleshooting meter and SmartPoint device issues, provided Client has pre-inspected and confirmed 1) the meter is registering consumption, 2) the meter is installed and connected to the SmartPoint properly, 3) the SmartPoint is properly installed through the meter box lid, and 4) the SmartPoint is not obstructed or covered.

## 3.6. Training

- A. Aqua-Metric will provide training documentation outlining general operating, troubleshooting, and maintenance procedures as ongoing as updates to software are published, or upon Client request.
- B. Upon Client request, Aqua-Metric will provide one 4 hours training session a year, if requested, on operation, maintenance, and troubleshooting of fixed network infrastructure (e.g. NetMetrics); mobile network infrastructure (e.g. VGB); RNI, Sensus Analytics and applicable modules; Sensus Analytics Customer Portal; field equipment (e.g. handheld devices); AutoVu, AutoVu Mapping Module, and AutoRead; Field Logic Software, including meter profile and configurations; meter installation; and SmartPoint installation and activation.

### 4. Support Procedures

- 4.1. Client shall self-diagnose minor issues with easiest and lowest time-consuming activities (e.g. equipment is powered, no internet/cellular network outages, verifying meter is connected to SmartPoint and SmartPoint is properly mounted, etc.).
- 4.2. If Client is unable to resolve minor issues or the issue is reasonably more severe, Client may contact Aqua-Metric as outlined in Section 2. Client shall provide any details and product serial numbers (if applicable) related to the service request. Service requests are placed in queue and assigned on a first-come first-served basis.
- 4.3. Aqua-Metric will generate and track the support request through Salesforce service ticket.
- 4.4. Aqua-Metric and Client will determine the appropriate severity level and captured within the service ticket. Client will be notified anytime the severity level is changed or escalated.
- 4.5. Aqua-Metric will assign the service ticket to a technical support specialist for review and follow up with Client. Aqua-Metric's technical support specialist will coordinate remote or on-site troubleshooting to determine cause and resolution with Client.
- 4.6. When necessary, Aqua-Metric will escalate the service ticket to Sensus Technical Services for additional troubleshooting and assistance resolving.

## 5. Severity Levels

- 5.1. Aqua-Metric will assign a severity level (SL) as applicable to each service ticket.
  - A. **SL1 (Critical):** Critical issues such as major communications issues, software component failures or software interaction failures, or failures of the Client's non-individual customer hardware which interfere with communications, post-processing or significant transfers of data thus rendering the system or software inoperable or preventing data transfer into Client's billing system and requires immediate attention and/or escalation to Sensus Technical Services.
  - B. **SL2** (**Moderate**): Moderate issues such as system feature or functionality failure resulting in restricted or impacted operations causing a disruption in work or delay of data transfer into Client's billing software and requires immediate attention and/or escalation to Sensus Technical Services.
  - C. **SL3 (Low):** Minor or routine issues such as equipment or software malfunction but non-impactful to the overall operation or functionality of the system (e.g. modifications or updates to device software are needed) which may be resolved without significant impact to Client resources.
  - D. SL4 (General): General requests or inquiries regarding normal operation, functionality, or training.
- 5.2. Aqua-Metric will make reasonable efforts to resolve issues within the target timelines identified in the chart below. Some cases which require Sensus Technical Services or third-party software provider's (e.g. Client's CIS provider) involvement may require additional time to resolve Critical or Moderate cases.

		Call Back	Troubleshooting	Resolution Goal
SL1 (Critical)	Business Hours	30 Minutes	2 Hours	3 Business Days
SLI (Critical)	After Hours	2 Hours	8 Hours	3 Business Days
CL 2 (Madayata)	Business Hours	1 Hour	4 Hours	4 Business Days
SL2 (Moderate)	After Hours	1 Business Day	1 Business Day	4 Business Days
CI 2 (I arry)	Business Hours	2 Hours	1 Business Day	5 Business Days
SL3 (Low)	After Hours	1 Business Day	1 Business Day	5 Business Days
SI 4 (Conoral)	Business Hours	1 Hour	N/A	1 Business Day
SL4 (General)	After Hours	1 Business Day	N/A	1 Business Day

#### 6. Escalation Process

6.1. In the event the normal support procedure does not produce the intended or timely results or if the severity has changed, the issue may be escalated to a higher level of support as necessary to complete the service request. Client may request to escalate Critical or Moderate service tickets if the service ticket has not been resolved in the allotted timeframe by contacting Aqua-Metric as outlined in Section 2.

#### 7. General Provisions and Exclusions

- 7.1. Sensus offers an online database containing operation, configuration and technical manuals and documentation for Sensus products and software. Upon request, Aqua-Metric will coordinate the setup of Client personnel provided Client has provided a list of personnel and email addresses for each user.
- 7.2. Product Return Material Authorization ("RMA")
  - A. Aqua-Metric will coordinate warranty product returns, including RMA documentation, for network infrastructure, mobile infrastructure, field equipment (e.g. handheld devices, VGB), meters, and SmartPoints. Client may email warranty claims including a description of product failure(s) and serial number(s) to:
    - I. Southern California & Nevada: rma-socal@aqua-metric.com
    - II. Northern California: rma-norcal@aqua-metric.com
    - III. Texas: rma-texas@aqua-metric.com
    - IV. Louisiana: rma-louisiana@aqua-metric.com
  - B. If the service request involves RMA product(s) which have failed for no known reason, Aqua-Metric will open a Special Investigation RMA with Sensus. If such investigation requires a service ticket to be opened by Aqua-Metric, Aqua-Metric will proceed with creating a service ticket and promptly notify Client of any further action(s) necessary to resolve the issue.
  - C. Warranty repair or replacement does not include labor to remove and replace field devices (e.g. meters, SmartPoints, Smart Gateway, Act-Pak, etc.) from service. Client will be responsible for removing such field devices from service and returning to Sensus manufacturing facilities.
  - D. Aqua-Metric does not provide advanced replacement product during the interim product warranty inspection/repair period.
- 7.3. Service tickets which require specialized support from Aqua-Metric or Sensus and outside the scope of the Support Standards (e.g. specialized systems integration services or out of warranty network equipment repair) will be quoted prior to beginning work.
- 7.4. In the event Aqua-Metric or Client terminate the Annual Support, Aqua-Metric Support Standards shall cease immediately and Aqua-Metric may invoice Client for future service requests at the following rates as applicable:

#### A. Aqua-Metric Technical Support

- I. Remote Support: \$200.00 per hour with a one (1) hour minimum.
- II. On-site Support: \$200.00 per hour with a four (4) hour minimum.
- III. Daily On-site Support: \$1,500 per day
- IV. Parts, Materials, and Software Updates not included
- B. Sensus Technical Services
  - I. Remote Support: \$250.00 per hour / per call (Call Sensus for current pricing)
  - II. Parts, Materials, and Software Updates not included

#### **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.	CE	OFFICE USE ONLY CERTIFICATION OF FILING			
1	Name of business entity filing form, and the city, state and cou of business.		Certificate Number: 2022-960978			
	Aqua-Metric Sales Company					
	Selma, TX United States		Dat	e Filed:		
2	Name of governmental entity or state agency that is a party to being filed.	is 12/	12/05/2022  Date Acknowledged:			
	City of Killeen, Texas	Dat				
3	Provide the identification number used by the governmental endescription of the services, goods, or other property to be proved 210011		identify the	contract, and prov	ride a	
	AMI Pilot					
4				Nature of interest		
	Name of Interested Party	City, State, Country (place of	of business)	<del> ` _ i</del>		
				Controlling	Intermediary	
Se	egarra, Kristy	Selma, TX United States			X	
Ko	ohan, Scott	Selma, TX United States			X	
Ar	nold, Clint	Selma, TX United States	Selma, TX United States			
Ηι	utchinson, Dustin	Selma, TX United States			X	
W	ood, Mike	Selma, TX United States			Χ	
Ne	ewville, Christopher	Selma, TX United States	United States			
Ca	artwright, Mike	Selma, TX United States			Х	
Ac	qua-Metric Sales Company	Selma, TX United States		Х		
5	Check only if there is NO Interested Party.					
6	UNSWORN DECLARATION					
	My name is Kristy Segarra	, and my	date of birth	is <u>August 27, 1987</u>		
	My address is16914 Alamo Parkway, Building 2	, Selma	,TX	_,78154	,USA	
	(street)	(city)	(state)	(zip code)	(country)	
	I declare under penalty of perjury that the foregoing is true and corre	rect.				
	Executed in Guadalupe Cour	unty, State of	, on the <u>5th</u>	_day of <u>December</u> (month)	, 20 <u>22</u> (year)	
	<b>∨</b> n.	ictu Connun		(monut)	(yeai <i>)</i>	
		isty Segarra Signature of authorized ager	nt of contracti	na business entity		
		(Declara		5		



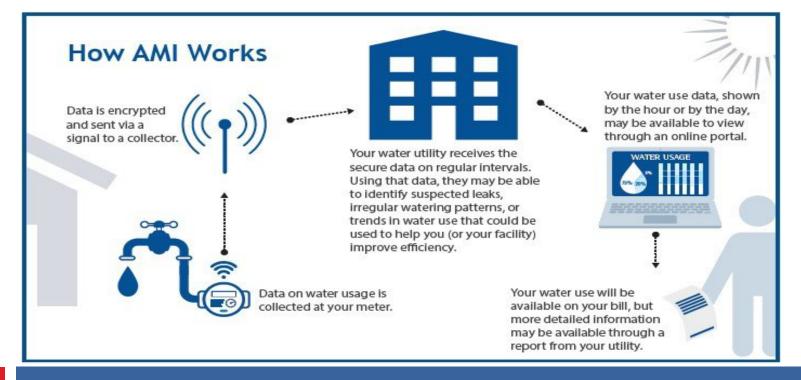
# LETTER OF AGREEMENT FOR AMI PILOT

## Background and Findings

- On August 10, 2021, City Council approved the purchase of 5,000 "smart" water meters from Aqua-Metric Sales Company as part of the water meter replacement program with the understanding that an advanced metering infrastructure (AMI) pilot would follow installation of the meters.
- Currently, 5,000 "smart" water meters have been installed and are ready for the AMI component to be added as a pilot program for the automation of the system.
- AMI improves a utility's ability to collect frequent and accurate water usage data to improve billing, leak detection, and water resource management.

# Background and Findings Cont.

- City staff's extensive research found that Sensus Flexnet AMI system would provide the best value and interface between the City's current billing system and the 5,000 Sensus iPERL water meters.
- Aqua-Metric provided a HGAC Buy quote in an amount of \$1,009,549 to provide and install the Sensus Flexnet AMI system for the 5,000-meter AMI pilot.



## Advanced Metering Infrastructure (AMI)

The AMI pilot will allow city staff to fully evaluate all the benefits associated with an AMI system.

- Do not authorize the letter of agreement with Aqua-Metric for the AMI pilot; this will delay the AMI pilot and future phases of the water meter replacement program.
- Authorize the execution of a letter of agreement with Aqua-Metric to provide and install the Sensus Flexnet system for the 5,000-meter AMI pilot in an amount not to exceed \$1,009,549.

## Recommendation

□ City Council authorize the City Manager, or designee, to execute a Letter of Agreement with Aqua-Metric Sales Company for FY 2023 AMI pilot, in the amount not to exceed \$1,009,549 and authorize the City Manager, or designee, to execute any and all change orders within the amounts set by State and Local law.



## City of Killeen

#### **Staff Report**

File Number: RS-23-019

City Council Workshop

01/17/2023 Reviewed and Referred

City Council

01/24/2023

Consider a memorandum/resolution authorizing the procurement of a roll-off truck for the Solid Waste Division in the amount of \$234,852.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Judith Tangalin, Executive Director of Finance

SUBJECT: Procurement of Roll-Off Truck for the Solid Waste Division

#### **BACKGROUND AND FINDINGS:**

Fleet Services is seeking approval to purchase a replacement roll-off truck for the Solid Waste Division. On November 1, 2022, one of the existing units was involved in a one vehicle accident that damaged the unit beyond economic repair and deemed a total loss by TML insurance. The damaged unit is a 2016 Autocar/Heil Roll-Off Truck with 166,000 miles. The insurance settlement amount is \$100,426. The net cost to the City to replace the unit is \$134,426.

The Solid Waste Commercial Division requires five roll-off trucks to meet customer demands and is currently operating in a reduced resource capacity.

#### **THE ALTERNATIVES CONSIDERED:**

- 1) Defer purchase of the roll-off truck, which would cause the division to continue to operate in a reduced resource capacity and possibly fail to meet long-term customer demands.
- 2) Purchase the roll-off truck to continue to provide effective services.

#### Which alternative is recommended? Why?

The second alternative is recommended to meet the divisions' mission in providing effective commercial roll-off dumpster service.

#### **CONFORMITY TO CITY POLICY:**

Purchases made through a cooperative contract are exempt from the competitive bidding process as stated in Texas Local Government Code (TLGC) section 271.102, subchapter F.

#### **FINANCIAL IMPACT:**

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

**Department FY 2023** Public Works \$234,852.00

**Total** \$234,852.00

The purchase pricing from Chastang Enterprises, Inc. utilizing the Texas Association of School Boards (TASB) BuyBoard Cooperative is as follows:

#### Division Make/Model Units Cost Total Cost

SW Comm. Autocar DC64/BTE Roll-Off 1 \$234,452.00 \$234,852.00\*

\*Includes \$400.00 BuyBoard Cooperative fee

#### Is this a one-time or recurring expenditure?

This is a one-time expenditure.

#### Is this expenditure budgeted?

Yes, upon approval of the budget amendment, funds will be included in the following accounts:

#### Department/Division Account Cost Available Funds

Public Works - Solid Waste 388-8834-493.61-35 \$234,852.00 \$234,852.00

Total \$234,852.00 \$234,852.00

#### 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:**

City Council approve the procurement of the roll-off truck for the Solid Waste Division in the amount of \$234,852, and that the City Manager or designee be authorized to execute any change orders as permitted by state and local law.

#### **DEPARTMENTAL CLEARANCES:**

Public Works Purchasing Finance Legal

#### **ATTACHED SUPPORTING DOCUMENTS:**

Quote

Certificate of Interested Parties



Submit Approved Quote to BuyBoard:

Email: info@buyboard.com

March/April with body

Fax: 800-211-5454

ESTIMATED DELIVERY



Chastang Autocar 6200 N. Loop East Houston, TX 77026 713.678.5000

Board Camparder Proclaims	Т	EXAS LOCAI	. GOVE	RNMEN	ΙT	PUCHA	SING C	OOPE	RATIVE	Buy Board Canada Personal
CUSTOMER:		City of	Killeen			OLIOTI	DATE:		12/10/2	2022
CONTACT			Tydlacka				ED BY:		John Cha	
PHONE:			254-501-7789				ONE:		713-678-5042	
EMAIL:		ftydlacka@kil		ZOV			AIL:		jnchastang@chas	
LIVIPAIL.				,		LIV	AIL.		<u>,</u>	
ITEM DESCRIPTION:			2023 A	Autocar DC6	64 c	onvention	al cab with	a 60,000	# Rolloff hoist body	
CONTRACT:	BuyBoar	PROPOSAL	. NO.	601-19		ITEM NO.		4A	ITEM PRICE:	89312
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Integrated Air Condit							olutions 24		upport	
5 Min Idle Shutdown						Tilt/Teleso	oping Colu	ımn		
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Cummins X12 430Hp	12L 1650 # ft.	torque diesel eng				4 Wheel locking differential				
Allison 4500 Series 6	-Speed Transm	ission					er Seperato			
160,000 PSI Heavy di						Heated Ai	r Dryer			
46,000 Rear Axle wit	h 4.89 ratio					AM/FM Weather band & USB stereo				
Heated remote mirro	ors					25 cfm air compressor				
Cummins C-Brake en	gine brake					46,000 Rear Suspension				
20,000 # Front Axle						85 Gallon aluminum fuel tank				
Integral air conditioning with Dual evaporators				160 amp Delco Remi 36SI alternator						
Backup alarm				5 Year Cummins Engine Warranty						
Dual Shepherd power steering gears rated at 23,000 #				5 Year Cummins Aftertreatment Warranty						
Power windows & po						315/80R22.5 20 ply front & 11R22.5 16ply rear tires				
High capacity 1300 s	q in aluminum	radiator				6 Additional switches 3 wired to power 3 to accessory				
20,000 # Front suspe						Aluminum wheels				
Central air drain mar	nifold									
High back air ride dri	ver's seat					See attachments for detailed specs on chassis & body				
Air ride passenger se										
5 Year transmission v										
	,					CHASSIS C	PTIONS			87892
						CHASSIS T	OTAL			177204
				BODY E	QU	IPMENT				
BODY VENDOR:	BTE	PROPOSAL				ITEM NO.			ITEM PRICE:	57248
BODY MFG:	Roll Offs U	SA MODEL:	H	06022K		TYPE:	Rollof	f Hoist	CAPACITY:	60,000 #
OPTIO	NAL EQUIPME	NT	C	OST		OPTIONAL EQUIPMENT		COST		
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						BODY TO	'ΔΙ			0
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UNIT PRICE

QUANTITY

CONTRACT FEE (per PO)

TOTAL PURCHASE

234452

1

400

234852



#### **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.

- 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.

## **CERTIFICATE OF INTERESTED PARTIES** FORM 1295 1 of 1 **OFFICE USE ONLY** 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. **CERTIFICATION OF FILING** Name of business entity filing form, and the city, state and country of the business entity's place Certificate Number: of business. 2022-967125 **Chastang Autocar** Houston, TX United States Date Filed: 12/27/2022 Name of governmental entity or state agency that is a party to the contract for which the form is being filed. City of Killeen Date Acknowledged: 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. 601-19 Refuse trucks Nature of Interest Name of Interested Party City, State, Country (place of business) (check applicable) Controlling Intermediary 5 Check only if there is NO interested Party. **6 UNSWORN DECLARATION** My name is John ChasTANG, and my date of birth is 7-24-52. 9506 SANCTUARY PLACE DR SPRING TX 77388 I declare under penalty of perjury that the foregoing is true and correct. Executed in HARRIS County, State of TEXAS, on the 27 day of DEC.

signature of authorized agent of contracting business entity (Declarant)



- Solid Waste currently requires 5 roll-off trucks to meet customer demand
- November 1, 2022, one of the existing units was involved in a one vehicle accident, unit was damaged beyond economic repair and deemed total loss by TML
- Damaged unit is a 2016 Autocar/Heil Roll-Off Truck with 166,000 miles

- 3
- □ Total cost of replacement is \$234,852
- □ TML insurance settlement amount is \$100,426
- □ Net cost to City to replace is \$134,426
- Funding is included in budget amendment
- Fleet purchases are in compliance with the Local
   Government Code, and the City's Purchasing Policy

## Alternatives

- Defer purchase of roll-off truck replacement
- Purchase roll-off truck replacement

-

## Recommendation

City Council approve the procurement of the roll-off truck for the Solid Waste Division in the amount of \$234,852, 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-23-020

City Council Workshop

01/17/2023 Reviewed and Referred

City Council

01/24/2023

Consider a memorandum/resolution awarding RFP# 22-46, HVAC and Lighting Replacement at Killeen Civic & Conference Center, to Parkhill for Architectural and Engineering Services in the amount of \$157,500.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Leslie Hinkle, Executive Director of Community Development

SUBJECT: Award RFP# 22-46 for Architectural and Engineering Services for the HVAC and Lighting Replacement at the Killeen Civic & Conference Center (KCCC)

#### **BACKGROUND AND FINDINGS:**

The current Heating, Ventilation, Air Conditioning (HVAC) and lighting systems at the Killeen Civic & Conference Center are twenty years old and original to the building. Through ARPA funding, the HVAC system, interior, and exterior lighting is due to be replaced. This improvement will greatly increase energy efficiency and assist in reducing energy costs.

On August 28 and September 4, 2022, a request for proposals was advertised for architectural and engineering services for the HVAC and lighting replacement at the Killeen Civic and Conference Center. Nine firms responded to the RFP. A panel comprised of Purchasing, Engineering, and the Community Development Department staff evaluated each proposal on the following criteria:

- Previous successful planning and design experience for similar type projects
- Staff experience and team qualifications
- Appropriateness of proposed timeline
- Bonding/insurance capacity/history
- · Availability and location of firm.

The proposed project will consist of:

- Discovery phase and assessment report
- Photometric study
- Schematic design
- Design development
- Construction documents
- Bidding assistance
- Construction observations
- Warranty closeout

The review panel interviewed the top three scoring firms. After the interviews were complete, the consensus of the review panel was to move forward into negotiations with Parkhill for professional services. The proposed timeframe for the architectural and engineering services to be complete and ready for competitive bidding process is four months.

#### **THE ALTERNATIVES CONSIDERED:**

- 1. Do not award RFP#22-46 to Parkhill for A&E services related to the HVAC and Lighting Replacement at the Killeen Civic and Conference Center.
- 2. Award RFP#22-46 to Parkhill for A&E services related to the HVAC and Lighting Replacement project at the Killeen Civic and Conference Center.

#### Which alternative is recommended? Why?

Alternative 2 is recommended based on the professional qualifications of Parkhill to perform these professional services for the project.

#### **CONFORMITY TO CITY POLICY:**

This conforms to the City of Killeen purchasing policy

#### **FINANCIAL IMPACT:**

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

The expenditure for FY 2023 is \$157,500.

Is this a one-time or recurring expenditure?

One time

#### Is this expenditure budgeted?

Yes, funds are available in the Governmental CIP Fund account 349-8932-493.42-10.

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 award RFP#22-46 to Parkhill for architectural and engineering services for HVAC and lighting replacement at Killeen Civic & Conference Center and that the City Manager or designee be authorized to execute the professional services agreement in the amount of \$157,500 and any change orders as permitted by state and local law.

#### **DEPARTMENTAL CLEARANCES:**

Legal

Purchasing

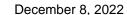
Finance

#### **ATTACHED SUPPORTING DOCUMENTS:**

Proposal

Agreement

Certificate of Interested Parties





Ms. Lorianne Luciano
Director of Procurement and Contract Management
City of Killeen
101 North College Street
Killeen, Texas 76541

Re: HVAC and Lighting Replacement at the Killeen Civic and Convention Center.

Project Address: 3601 SW S. Young Drive; Killeen, Texas 76542

40021.22 Proposal for Professional Services

Dear Ms. Luciano:

Parkhill (A/E) is pleased to have the opportunity to provide Professional Architectural and Engineering Services to the City of Killeen (CLIENT) for HVAC and Lighting Replacement at the Killeen Civic and Convention Center (Project).

We understand the Basic Services (Scope of Work) you require to be:

- 1. A/E will review the program and budget furnished by CLIENT to ascertain the requirements of the Project and will arrive at mutual understanding of such requirements with CLIENT.
- 2. A/E will perform a 'Discovery Phase" assessment of the Heating, Ventilating, and Air Conditioning (HVAC) system, exterior lighting system, interior lighting system, and building envelope to evaluate each system. A "Scope to Budget" Report will be presented based on the assessment with recommendations to be considered by the City.
- 3. A/E will perform a photometric study of the parking lot lighting for the front and rear parking of the Civic and Convention Center. This will include developing an ortho-rectified, aerial map from drone imagery.
- 4. Based on the mutually agreed upon Scope, schedule and construction budget requirements, A/E will prepare for approval by CLIENT, Schematic Design Documents consisting of Drawings and other documents illustrating the scale and relationship of Project components.
- 5. A/E will submit to CLIENT a preliminary Opinion of Probable Construction Cost based on current Scope.
- 6. Based on the approved Schematic Design Documents and any further adjustments in the Scope or quality of the Project or in the construction budget authorized by CLIENT, A/E will prepare, for approval by CLIENT, Design Development Documents setting forth the final design solution of the products to be used for the construction of the Project.
- 7. Based on the approved Design Development Documents and any further adjustments in the Scope or quality of the Project or in the construction budget authorized by CLIENT, A/E will prepare, for approval by CLIENT, Construction Documents consisting of Drawings and Specifications setting forth the requirements for the construction of the Project.
- 8. A/E will assist CLIENT in the preparation of necessary bidding information, bidding forms, the Conditions of the Contract, and the Form of Agreement between the CLIENT and the Contractor.
- 9. A/E will advise CLIENT of any adjustments to previous Opinion of Probable Construction Cost required by changes to the Scope or market conditions.
- 10. A/E will inform CLIENT to the best of their knowledge and will assist CLIENT in connection with the CLIENT's responsibility for filing documents required for approval of governmental authorities having jurisdiction over the Project.
- 11. A/E, following CLIENT's approval of the Construction Documents and the latest Opinion of Probable Cost, will assist CLIENT in obtaining bids or negotiating proposal, and assist in awarding and preparing contracts for construction of the Project.
- 12. A/E will be the representative of and will advise and consult with CLIENT during construction until the final payment to the Contractor is due. A/E will have authority to act on behalf of CLIENT only to the extent provided in this Agreement unless otherwise modified by written instrument.

- 13. A/E will visit the site at intervals appropriate to the stage of construction or as otherwise agreed by CLIENT and A/E in writing to become familiar with the progress and quality of the Work completed, and to determine, in general, if the Work is being performed in a manner indicating the Work, if completed, will be in accordance with Contract Documents. However, A/E will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of Work. On the basis of on-site observation as an Architect or Engineer, A/E will keep CLIENT informed of the progress and quality of the Work.
- 14. Based on A/E's observations and evaluations of the Contractor's Applications for Payment, A/E will review and certify amounts due the Contractor.
- 15. A/E will be the representative of and will advise and consult with CLIENT during construction until 30 days after the Date of Substantial Completion or occupancy by CLIENT, whichever occurs first. Time and expenses spent beyond 30 days after the Date of Substantial Completion are Supplemental Services and will be billed using A/E's Standard Hourly Rate Schedule.
- 16. As a supplemental service, A/E will develop a Boundary Survey of the property. This survey will be geo-referenced and tied to ground control points set by Parkhiill field crews. A Boundary Survey of the existing site and an updated metes and bounds description of the property will be prepared.
- 17. As a supplemental service, A/E will provide a new easement description for a new natural gas utility (if required).

Services specifically excluded from our Scope of Services include, but are not limited to, the following:

- Formal Surveys and Geotechnical Reports.
- Asbestos and Hazardous Materials Studies.
- Third-party Independent Construction Inspection Services.
- Construction Material Testing.
- Texas Department of Health Demolition Notification.
- Preparation of Construction Documents for more than one Bid Package.

A tentative schedule for submitting our Work for review is as follows:

- Notice to Proceed (NTP) issued by Client.
- Perform on-site Discovery Phase Assessment: NTP + 14 days.
- Scope to Budget Report: Assessment + 28 days.
- Schematic Design: Final Scope Approval + 28 days.
- Design Development: Schematic Design Approval + 28 days.
- Construction Documents: Design Development Approval + 42 days.

Changes to the above schedule may become necessary due to changes in Scope or other circumstances beyond A/E's control.

Our fees for the Basic Services described above will be based on a lump sum amount of \$154,000 as shown in the summary below and will be billed on a percentage complete method.

•	Discovery Phase Assessment/Report	\$35,000
•	Photometric Study/Aerial Drone Map	\$14,500
•	Schematic Design	\$15,675
•	Design Development	\$20,900
•	Construction Documents	\$36,575
•	Bidding Assistance	\$5,225
•	Construction Observation	\$20,900
•	Warranty Closeout	\$5,22 <u>5</u>
		\$154,000

Our fees for the Supplementary Services described above will be based on a lump sum amount of \$20,000 as shown in the summary below. If selected, service will be billed on a percentage complete method.

Boundary Survey and Report \$15,000
 New Easement Description and Exhibit \$5,000
 \$20,000

Should the Scope of Services described above change during the Project, the lump sum amount will be adjusted either up or down by a mutually agreed upon amount or based on an hourly rate method using A/E's Standard Hourly Rate Schedule.

Reimbursable expenses will be billed at invoice cost plus a 15% markup for handling costs. Reimbursable expenses include, but are not limited to, travel, postage/shipping, reproductions/copies, color plots/prints, accessibility review and inspection fees, reproduction of Contract Documents and reports. We estimate these expenses to be approximately \$3,500.

Optional Supplemental Services may include "fly-through" animations, video presentations, exterior and interior renderings (photo-realistic), printed brochures, and fundraising collateral. These costs will be determined based on the desired level of presentation materials required and billed as reimbursable expenses.

Invoices will be sent to City of Killeen, 101 North College Street, Killeen, Texas 76541. A/E will also send invoices via the email address to City of Killeen Purchasing Department.

Many issues such as the Americans with Disabilities Act (ADA), Texas Accessibility Standards (TAS) and hazardous materials are of great concern to both building owners and to Architects and Engineers. The enclosed Standard Conditions gives a brief explanation of several of those issues and defines the roles and responsibilities for each party involved in this Proposal. We will be glad to discuss these issues with you at your convenience.

You may indicate your acceptance of this Proposal. Unless another date is specified, we will consider receipt of the Letter as authorization to proceed.

We appreciate the opportunity to provide Professional Services to you and look forward to the successful completion of your Project. If you have any questions, please do not hesitate to call us at 512.676.2100.

IN DUPLICATE

JAH/clw Enclosures

Sincerely,

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

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

Prepared by

#### **ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE**

and

Issued and Published Jointly By

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

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

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

EJCDC No. 1910-1 (1996 Edition) Revised by City of Killeen 3/03/04

Copyright ©1996 National Society of Professional Engineers 1420 King Street, Alexandria, VA 22314

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

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

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# STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ARCHITECT/ENGINEER FOR PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of \_\_\_\_\_\_("Effective Date") between

the CITY OF KILLEEN ("OWNER") and PARKHILL.("ARCHITECT/ENGINEER").
OWNER LARGHER CT/TN/CRIED :
OWNER and ARCHITECT/ENGINEER in consideration of their mutual covenants as set forth herein agree as follows: To
provide Architectural and Engineering Services as described in Exhibit A of this contract that the Basic Services is for a total lump
sum amount of \$154,000 and Reimbursable expenses for a total of \$3,500; for a total lump sum amount of \$157,500.

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

#### **1.01** Scope

- A. ARCHITECT/ENGINEER shall provide the Basic and Additional Services set forth herein and in Exhibit A.
- B. Upon this Agreement becoming effective, ARCHITECT/ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.
- C. If authorized by OWNER, ARCHITECT/ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitations of authority as set forth in Exhibit D.

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

#### 2.01 General

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

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

#### 3.01 General

- A. ARCHITECT/ENGINEER's services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ARCHITECT/ENGINEER's obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.
- B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or dates are changed through no fault of ARCHITECT/ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ARCHITECT/ENGINEER's services shall be adjusted equitably.
- C. For purposes of this Agreement the term "day" means a calendar day of 24 hours.

#### 3.02 Suspension

- A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ARCHITECT/ENGINEER's services are delayed through no fault of ARCHITECT/ENGINEER, ARCHITECT/ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.
- B. If ARCHITECT/ENGINEER's services are delayed or suspended in whole or in part by OWNER, or if ARCHITECT/ENGINEER's services are extended by Contractor's actions or inactions for more than 90 days through no fault of ARCHITECT/ENGINEER, ARCHITECT/ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect, reasonable costs incurred by ARCHITECT/ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time for performance under this Agreement has been revised.

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

## 4.01 Methods of Payment for Services and Reimbursable Expenses of ARCHITECT/ENGINEER

- A. For Basic Services. OWNER shall pay ARCHITECT/ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.
- B. For Additional Services. OWNER shall pay ARCHITECT/ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.
- C. For Reimbursable Expenses. In addition to payments provided for in paragraphs 4.01.A and 4.01.B, OWNER shall pay ARCHITECT/ENGINEER for Reimbursable Expenses incurred by ARCHITECT/ENGINEER and ARCHITECT/ENGINEER's Consultants as set forth in Exhibit C.

#### 4.02 Other Provisions Concerning Payments

- A. *Preparation of Invoices*. Invoices will be prepared in accordance with ARCHITECT/ENGINEER's standard invoicing practices and will be submitted to OWNER by ARCHITECT/ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.
- B. *Payment of Invoices*. Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payment due ARCHITECT/ENGINEER for services and expenses within 30 days after receipt of

ARCHITECT/ENGINEER's invoice therefore, the amounts due ARCHITECT/ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ARCHITECT/ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ARCHITECT/ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

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

#### D. Payments Upon Termination.

- 1. In the event of any termination under paragraph 6.06, ARCHITECT/ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.
- 2. In the event of termination by OWNER for convenience or by ARCHITECT/ENGINEER for cause, ARCHITECT/ENGINEER, in addition to invoicing for those items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ARCHITECT/ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C. Architect/Engineer shall not incur additional expenses after receipt of notice of termination, and shall make reasonable efforts to minimize costs.
- E. Records of ARCHITECT/ENGINEER's Costs. Records of ARCHITECT/ENGINEER's costs pertinent to ARCHITECT/ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ARCHITECT/ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.
- F. Legislative Actions. In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ARCHITECT/ENGINEER's services or other costs in connection with this Project or compensation therefor, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expense to which a Factor of

1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ARCHITECT/ENGINEER's estimated total compensation.

#### **ARTICLE 5 - OPINIONS OF COST**

#### 5.01 Opinions of Probable Construction Cost

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

#### 5.02 Designing to Construction Cost Limit

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

#### 5.03 Opinions of Total Project Costs

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

#### **ARTICLE 6 - GENERAL CONSIDERATIONS**

#### 6.01 Standards of Performance

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

- B. ARCHITECT/ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ARCHITECT/ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER-furnished information.
- C. ARCHITECT/ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ARCHITECT/ENGINEER shall serve as OWNER's prime professional for the Project. ARCHITECT/ENGINEER may employ such ARCHITECT/ENGINEER's Consultants as ARCHITECT/ENGINEER deems necessary to assist in the performance or furnishing of the services. ARCHITECT/ENGINEER shall not be required to employ any ARCHITECT/ENGINEER's Consultant unacceptable to ARCHITECT/ENGINEER.
- D. ARCHITECT/ENGINEER and OWNER shall comply with applicable Laws or Regulations and OWNER-mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ARCHITECT/ENGINEER's scope of services, times of performance, or compensation.
- E. OWNER shall be responsible for, and ARCHITECT/ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ARCHITECT/ENGINEER pursuant to this Agreement. ARCHITECT/ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
- F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ARCHITECT/ENGINEER.
- G. Prior to the commencement of the Construction Phase, OWNER shall notify ARCHITECT/ENGINEER of any variations from the language indicated in Exhibit E, "Notice of Acceptability of Work," or of any other notice or certification that ARCHITECT/ENGINEER will be requested to provide to OWNER or third parties in Project. **OWNER** connection with the ARCHITECT/ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ARCHITECT/ENGINEER to provide the notices or certifications requested.

- H. ARCHITECT/ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ARCHITECT/ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ARCHITECT/ENGINEER cannot ascertain. OWNER agrees not to make resolution of any dispute with the ARCHITECT/ENGINEER or payment of any amount due to the ARCHITECT/ENGINEER in any way contingent upon the v's signing any such certification.
- I. During the Construction Phase, ARCHITECT/ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ARCHITECT/ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.
- J. ARCHITECT/ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- K. ARCHITECT/ENGINEER shall not be responsible for the acts or omissions of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or any other persons or ARCHITECT/ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER consultation advice without and of ARCHITECT/ENGINEER.
- L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the ARCHITECT/ENGINEER Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit H.

#### 6.02 Authorized Project Representatives

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

#### 6.03 Design without Construction Phase Services

- A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ARCHITECT/ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.
- is understood and agreed that if B. It ARCHITECT/ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ARCHITECT/ENGINEER that may be in any way connected thereto.

#### 6.04 Use of Documents

- A. All Documents are instruments of service in respect to this Project, and ARCHITECT/ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ARCHITECT/ENGINEER) whether or not the Project is completed.
- B. Copies of OWNER-furnished data that may be relied upon by ARCHITECT/ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ARCHITECT/ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or of other types that are furnished by OWNER to ARCHITECT/ENGINEER are only for convenience of ARCHITECT/ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
- C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ARCHITECT/ENGINEER. Files in electronic media format of text, data, graphics, or of other types that are furnished by ARCHITECT/ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.
- D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data

- thus transferred. Any errors detected within the 60-day acceptance period will be corrected by the party delivering the electronic files. ARCHITECT/ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.
- E. When transferring documents in electronic media format, ARCHITECT/ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ARCHITECT/ENGINEER at the beginning of this Project.
- F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ARCHITECT/ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ARCHITECT/ENGINEER or to ARCHITECT/ENGINEER's Consultants. OWNER shall indemnify and hold harmless ARCHITECT/ENGINEER and ARCHITECT/ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.
- G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- H. Any verification or adaptation of the Documents for extensions of the Project or for any other project will entitle ARCHITECT/ENGINEER to further compensation at rates to be agreed upon by OWNER and ARCHITECT/ENGINEER.

#### 6.05 Insurance

- A. ARCHITECT/ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."
- B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ARCHITECT/ENGINEER and ARCHITECT/ENGINEER's Consultants to be listed as additional insureds on any general liability or property insurance policies carried by OWNER which are applicable to the Project.
- C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ARCHITECT/ENGINEER and ARCHITECT/ENGINEER's Consultants to be listed as

additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project

- D. OWNER and ARCHITECT/ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ARCHITECT/ENGINEER's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance shall contain provisions to the effect that ARCHITECT/ENGINEER's and ARCHITECT/ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.
- F. At any time, OWNER may request that ARCHITECT/ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ARCHITECT/ENGINEER, and if commercially available, ARCHITECT/ENGINEER shall obtain and shall require ARCHITECT/ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

#### 6.06 Termination

- A. The obligation to provide further services under this Agreement may be terminated:
  - 1. For cause,
  - a. By either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.

#### b. By ENGINEER:

- 1) upon seven days written notice if ARCHITECT/ENGINEER believes that ARCHITECT/ENGINEER is being requested by OWNER to furnish or perform services contrary to ARCHITECT/ENGINEER's responsibilities as a licensed professional; or
- upon seven days written notice if the ARCHITECT/ENGINEER's services for the Project are delayed or suspended for more than 90 days for reasons beyond ARCHITECT/ENGINEER's control.

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

#### 2. For convenience,

- a. By OWNER effective upon the receipt of notice by ARCHITECT/ENGINEER.
- B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to 30 days later than otherwise provided to allow ARCHITECT/ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

#### 6.07 Controlling Law

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

#### 6.08 Successors, Assigns, and Beneficiaries

- A. OWNER and ARCHITECT/ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ARCHITECT/ENGINEER (and to the extent permitted by paragraph 6.08.B the assigns of OWNER and ARCHITECT/ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.
- B. Neither OWNER nor ARCHITECT/ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any

assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

- C. Unless expressly provided otherwise in this Agreement:
  - 1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ARCHITECT/ENGINEER to any Contractor, Contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
  - 2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ARCHITECT/ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

### 6.09 Hazardous Environmental Condition

- A. OWNER represents to ARCHITECT/ENGINEER that to the best of its knowledge a Hazardous Environmental Condition does not exist.
- B. OWNER has disclosed to the best of its knowledge to ARCHITECT/ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.
- C. If a Hazardous Environmental Condition is encountered or alleged, ARCHITECT/ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.
- D. It is acknowledged by both parties that ARCHITECT/ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ARCHITECT/ENGINEER or any other party encounters a Hazardous Environmental Condition, ARCHITECT/ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER: (i) retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

- E. OWNER acknowledges that ARCHITECT/ENGINEER is performing professional services for OWNER and that ARCHITECT/ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ARCHITECT/ENGINEER's activities under this Agreement.
- F. If ARCHITECT/ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ARCHITECT/ENGINEER's terminating this Agreement for cause on 30 days notice.

#### 6.10 Allocation of Risks

### A. Indemnification

- 1. To the fullest extent permitted by law, ARCHITECT/ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ARCHITECT/ENGINEER or ARCHITECT/ENGINEER's officers, directors, partners, employees, and ARCHITECT/ENGINEER's Consultants in the performance and furnishing of ARCHITECT/ENGINEER's services under this Agreement.
- 2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ARCHITECT/ENGINEER, ARCHITECT/ENGINEER's officers. directors. partners, employees, and ARCHITECT/ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.
- 3. In addition to the indemnity provided under paragraph 6.10.A.2 of this Agreement, and to the fullest extent permitted by law, OWNER shall indemnify and hold harmless ARCHITECT/ENGINEER and its officers, directors,

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

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

### 6.11 Notices

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

### 6.12 Survival

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

### 6.13 Severability

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

### 6.14 Waiver

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

### 6.15 Headings

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

### **ARTICLE 7 - DEFINITIONS**

### 7.01 Defined Terms

- A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:
  - 1. Addenda--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Documents.
  - 2. Additional Services--The services to be performed for or furnished to OWNER by ARCHITECT/ENGINEER in accordance with Exhibit A, Part 2 of this Agreement.
  - 3. Agreement—This "Standard Form of Agreement between OWNER and ARCHITECT/ENGINEER for Professional Services," including those Exhibits listed in Article 8 hereof.
  - 4. Application for Payment--The form acceptable to ARCHITECT/ENGINEER which is to be used by Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  - 5. Asbestos--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
  - 6. Basic Services—The services to be performed for or furnished to OWNER by ARCHITECT/ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.
  - 7. *Bid*--The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  - 8. *Bidding Documents*--The advertisement or invitation to Bid, instructions to bidders, the Bid form and attachments, the Bid bond, if any, the proposed Contract Documents, and all Addenda, if any.

- 9. Change Order--A document recommended by ARCHITECT/ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.
- 10. Construction Agreement--The written instrument which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.
- 11. *Construction Contract*--The entire and integrated written agreement between the OWNER and Contractor concerning the Work.
- 12. Construction Cost--The cost to OWNER of those portions of the entire Project designed or specified by ARCHITECT/ENGINEER. Construction Cost does of not include costs services ARCHITECT/ENGINEER or other design professionals and consultants, cost of land, rights-ofway, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement. Construction Cost is one of the items comprising Total Project Costs.
- 13. Contract Documents--Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ARCHITECT/ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.
- 14. *Contract Price*--The moneys payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.

- 15. Contract Times--The numbers of days or the dates stated in the Construction Agreement to: (i) achieve Substantial Completion, and (ii) complete the Work so that it is ready for final payment as evidenced by ARCHITECT/ENGINEER's written recommendation of final payment.
- 16. *Contractor*--An individual or entity with whom OWNER enters into a Construction Agreement.
- 17. Correction Period--The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any Defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.
- 18. Defective--An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ARCHITECT/ENGINEER's recommendation of final payment.
- 19. *Documents*--Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ARCHITECT/ENGINEER to OWNER pursuant to this Agreement.
- 20. *Drawings*--That part of the Contract Documents prepared or approved by ARCHITECT/ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
- 21. Effective Date of the Construction Agreement-The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.
- 22. Effective Date of the Agreement--The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

- 23. ARCHITECT/ENGINEER's Consultants-Individuals or entities having a contract with ARCHITECT/ENGINEER to furnish services with respect to this Project as ARCHITECT/ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ARCHITECT/ENGINEER includes ARCHITECT/ENGINEER's Consultants.
- 24. Field Order--A written order issued by ARCHITECT/ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
- 25. General Conditions-That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.
- 26. Hazardous Environmental Condition--The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.
- 27. Hazardous Waste--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
- 28. Laws and Regulations; Laws or Regulations-Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
  - 29. PCB's--Polychlorinated biphenyls.
- 30. Petroleum--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
- 31. Radioactive Materials--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
- 32. Record Drawings--The Drawings as issued for construction on which the ARCHITECT/ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ARCHITECT/ENGINEER considers significant

- based on record documents furnished by Contractor to ARCHITECT/ENGINEER and which were annotated by Contractor to show changes made during construction.
- 33. Reimbursable Expenses--The expenses incurred directly by ARCHITECT/ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ARCHITECT/ENGINEER as indicated in Exhibit C.
- 34. Resident Project Representative--The authorized representative ARCHITECT/ENGINEER, if any, assigned to assist ARCHITECT/ENGINEER at the Site during the The Resident Project Construction Phase. Representative will be ARCHITECT/ENGINEER's employee agent or and under ARCHITECT/ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.
- 35. Samples--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
- 36. Shop Drawings--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Contractor and submitted by Contractor to ARCHITECT/ENGINEER to illustrate some portion of the Work.
- 37. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.
- 38. Specifications--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
- 39. Substantial Completion--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ARCHITECT/ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance

with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

- 40. Supplementary Conditions--That part of the Contract Documents which amends or supplements the General Conditions.
- 41. Total Project Costs--The sum of the Construction Cost, allowances for contingencies, the total costs of services of ARCHITECT/ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER's costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.
- 42. Work--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.
  - 43. Work Change Directive--A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ARCHITECT/ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

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

## ARTICLE 8 - EXHIBITS AND SPECIAL PROVISIONS

### 8.01 Exhibits Included

- A. Exhibit A, "ARCHITECT/ENGINEER's Services," consisting of 5 pages.
- B. Exhibit B, "OWNER's Responsibilities," consisting of 3 pages.
- C. Exhibit C, "Payments to Engineer for Services and Reimbursable Expenses," consisting of 1 page.
- D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 1 pages.
- E. Exhibit E, "Notice of Acceptability of Work," consisting of 1 pages.
- F. Exhibit F, "Construction Cost Limit," consisting of 1 page.
  - G. Exhibit G, "Insurance," consisting of 1 page.
- H. Exhibit H, "Special Provisions," consisting of 1 page.

### 8.02 Total Agreement

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

By signing this contract, ARCHITECT/ENGINEER hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

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

OWNER: City of Killeen	ARCHITECT/ENGINEER: Parkhill
	Jared Higgins Ocider, Inc., Out-Parkhill, Smith, & Cooper, Inc.*; CN-Jared Higgins On Ge-US, E-phiggins@ligem.gos.com, Ot-Parkhill, Smith, & Cooper, Inc.*; CN-Jared Higgin Readon, I and approving his bid document Date: 2022.12:27 99-202246507
By: Kent Cagle	By: Jared A. Higgins, PE, CEM, GGP
Title: City Manager	Title: Principal Senior Practice Leader
Date Signed:	12/27/2022 Date Signed:
Address for giving notices:	Address for giving notices:
P.O. Box 1329	11902 Burnet Road, Suite 100
Killeen, TX 76540-1329	Austin, TX 78758
Designated Representative (paragraph 6.02.A):  Edwin Revell	Designated Representative (paragraph 6.02.A): Jared A. Higgins, PE, CEM, GGP
Title: Executive Director of Development Services	Title: Principal
Phone Number: 254-501-7628	Phone Number: 512-676-2100
Facsimile Number: 254-501-7633	806-473-3799 Facsimile Number:
E-Mail Address: erevell@killeentexas.gov	jhiggins@parkhill.com
· · · · · · · · · · · · · · · · · · ·	

	This is <b>EXHIBIT</b> part of the <b>ARCHITECT</b> / dated;	Agreement	between for Profes	OWNER	and
	ARCHI	ΓECT/ENGIN	OWNER_ IEER	JAH	Initial:
ENGINEER's Services			-		
Article 1 of the Agreement is amended and supplement ARCHITECT/ENGINEER shall provide Basic and Addition			agreement	t of the p	arties.

PART 1 – PARKHILL (A/E)-BASIC SERVICES

(SEE NEXT PAGE)

## **Parkhill**

December 8, 2022

Ms. Lorianne Luciano
Director of Procurement and Contract Management
City of Killeen
101 North College Street
Killeen, Texas 76541

Re: HVAC and Lighting Replacement at the Killeen Civic and Convention Center. Project Address: 3601 SW S. Young Drive; Killeen, Texas 76542 40021.22 Proposal for Professional Services

Dear Ms. Luciano:

Parkhill (A/E) is pleased to have the opportunity to provide Professional Architectural and Engineering Services to the City of Killeen (CLIENT) for HVAC and Lighting Replacement at the Killeen Civic and Convention Center (Project).

We understand the Basic Services (Scope of Work) you require to be:

- 1. A/E will review the program and budget furnished by CLIENT to ascertain the requirements of the Project and will arrive at mutual understanding of such requirements with CLIENT.
- 2. A/E will perform a 'Discovery Phase' assessment of the Heating, Ventilating, and Air Conditioning (HVAC) system, exterior lighting system, interior lighting system, and building envelope to evaluate each system. A "Scope to Budget" Report will be presented based on the assessment with recommendations to be considered by the City.
- 3. A/E will perform a photometric study of the parking lot lighting for the front and rear parking of the Civic and Convention Center. This will include developing an ortho-rectified, aerial map from drone imagery.
- 4. Based on the mutually agreed upon Scope, schedule and construction budget requirements, A/E will prepare for approval by CLIENT, Schematic Design Documents consisting of Drawings and other documents illustrating the scale and relationship of Project components.
- 5. A/E will submit to CLIENT a preliminary Opinion of Probable Construction Cost based on current Scope.
- 6. Based on the approved Schematic Design Documents and any further adjustments in the Scope or quality of the Project or in the construction budget authorized by CLIENT, A/E will prepare, for approval by CLIENT, Design Development Documents setting forth the final design solution of the products to be used for the construction of the Project.
- 7. Based on the approved Design Development Documents and any further adjustments in the Scope or quality of the Project or in the construction budget authorized by CLIENT, A/E will prepare, for approval by CLIENT, Construction Documents consisting of Drawings and Specifications setting forth the requirements for the construction of the Project.
- 8. A/E will assist CLIENT in the preparation of necessary bidding information, bidding forms, the Conditions of the Contract, and the Form of Agreement between the CLIENT and the Contractor.
- 9. A/E will advise CLIENT of any adjustments to previous Opinion of Probable Construction Cost required by changes to the Scope or market conditions.
- 10. A/E will inform CLIENT to the best of their knowledge and will assist CLIENT in connection with the CLIENT's responsibility for filing documents required for approval of governmental authorities having jurisdiction over the Project.

- 11. A/E, following CLIENT's approval of the Construction Documents and the latest Opinion of Probable Cost, will assist CLIENT in obtaining bids or negotiating proposal, and assist in awarding and preparing contracts for construction of the Project.
- 12. A/E will be the representative of and will advise and consult with CLIENT during construction until the final payment to the Contractor is due. A/E will have authority to act on behalf of CLIENT only to the extent provided in this Agreement unless otherwise modified by written instrument.

A:\2022\40021.22\00\_ADMIN\00\_CONTR\00\_FEE\City of Killeen Proposal Letter.docx

11902 Burnet Road | Suite 100 | Austin, Texas 78758 | 512.676.2100 | Parkhill.com

Ms. Lorianne Luciano City of Killeen Page 2 December 8, 2022

- 13. A/E will visit the site at intervals appropriate to the stage of construction or as otherwise agreed by CLIENT and A/E in writing to become familiar with the progress and quality of the Work completed, and to determine, in general, if the Work is being performed in a manner indicating the Work, if completed, will be in accordance with Contract Documents. However, A/E will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of Work. On the basis of on-site observation as an Architect or Engineer, A/E will keep CLIENT informed of the progress and quality of the Work.
- 14. Based on A/E's observations and evaluations of the Contractor's Applications for Payment, A/E will review and certify amounts due the Contractor.
- 15. A/E will be the representative of and will advise and consult with CLIENT during construction until 30 days after the Date of Substantial Completion or occupancy by CLIENT, whichever occurs first. Time and expenses spent beyond 30 days after the Date of Substantial Completion are Supplemental Services and will be billed using A/E's Standard Hourly Rate Schedule.
- 16. As a supplemental service, A/E will develop a Boundary Survey of the property. This survey will be georeferenced and tied to ground control points set by Parkhiill field crews. A Boundary Survey of the existing site and an updated metes and bounds description of the property will be prepared.
- 17. As a supplemental service, A/E will provide a new easement description for a new natural gas utility (if required).

Services specifically excluded from our Scope of Services include, but are not limited to, the following:

- → Formal Surveys and Geotechnical Reports. → Asbestos and Hazardous Materials Studies.
- → Third-party Independent Construction Inspection Services.
- ★ Construction Material Testing.
- ★ Texas Department of Health Demolition Notification.
- → Preparation of Construction Documents for more than one Bid Package.

A tentative schedule for submitting our Work for review is as follows:

- → Notice to Proceed (NTP) issued by Client.
- → Perform on-site Discovery Phase Assessment: NTP + 14 days.
- → Scope to Budget Report: Assessment + 28 days.
- → Schematic Design: Final Scope Approval + 28 days.
- → Design Development: Schematic Design Approval + 28 days.
- → Construction Documents: Design Development Approval + 42 days.

Changes to the above schedule may become necessary due to changes in Scope or other circumstances beyond A/E's control.

Our fees for the Basic Services described above will be based on a lump sum amount of \$154,000 as shown in the summary below and will be billed on a percentage complete method.

+	Discovery Phase Assessment/Report	\$35,000
+	Photometric Study/Aerial Drone Map	\$14,500
+	Schematic Design	\$15,675
+	Design Development	\$20,900
+	Construction Documents	\$36,575
+	Bidding Assistance	\$5,225
+	Construction Observation	\$20,900
+	Warranty Closeout	<u>\$5,225</u>
	<b>***</b>	

\$154,000

Ms. Lorianne Luciano City of Killeen Page 3 December 8, 2022

Our fees for the Supplementary Services described above will be based on a lump sum amount of \$20,000 as shown in the summary below. If selected, service will be billed on a percentage complete method.

+	Boundary Survey and Report	\$15,000
+	New Easement Description and Exhibit	<u>\$5,000</u>
		\$20,000

Should the Scope of Services described above change during the Project, the lump sum amount will be adjusted either up or down by a mutually agreed upon amount or based on an hourly rate method using A/E's Standard Hourly Rate Schedule.

Reimbursable expenses will be billed at invoice cost plus a 15% markup for handling costs. Reimbursable expenses include, but are not limited to, travel, postage/shipping, reproductions/copies, color plots/prints, accessibility review and inspection fees, reproduction of Contract Documents and reports. We estimate these expenses to be approximately \$3,500.

Optional Supplemental Services may include "fly-through" animations, video presentations, exterior and interior renderings (photo-realistic), printed brochures, and fundraising collateral. These costs will be determined based on the desired level of presentation materials required and billed as reimbursable expenses.

Invoices will be sent to City of Killeen, 101 North College Street, Killeen, Texas 76541. A/E will also send invoices via the email address to City of Killeen Purchasing Department.

Many issues such as the Americans with Disabilities Act (ADA), Texas Accessibility Standards (TAS) and hazardous materials are of great concern to both building owners and to Architects and Engineers. The enclosed Standard Conditions gives a brief explanation of several of those issues and defines the roles and responsibilities for each party involved in this Proposal. We will be glad to discuss these issues with you at your convenience.

You may indicate your acceptance of this Proposal. Unless another date is specified, we will consider receipt of the Letter as authorization to proceed.

We appreciate the opportunity to provide Professional Services to you and look forward to the successful completion of your Project. If you have any questions, please do not hesitate to call us at 512.676.2100.

Sincerely,

PARKHILL CITY OF KILLEEN

By Jared A. Higgins	
Jared A. Higgins, PE,CEM, GGP	<u> </u>
Principal   Senior Practice Leader	

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

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

IN DUPLICATE

JAH/clw Enclosures

<b>ARCHI</b>	TECT/ I	ENGINEE	R for	Profe	ssional	Service
dated;		,20	<u>)23</u> .			
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	<b>ARCHI</b>	ECT/ENG	INEE	₹	JAF	I

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between OWNER and** 

### **OWNER's Responsibilities**

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

- B2.01 In addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:
- A. Provide ARCHITECT/ENGINEER with all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Drawings and Specifications; and furnish copies of OWNER's standard forms, conditions, and related documents for ARCHITECT/ENGINEER to include in the Bidding Documents, when applicable.
- B. Furnish to ARCHITECT/ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following ARCHITECT/ENGINEER'S assessment of initially-available Project information and data and upon ENGINEER's request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ARCHITECT/ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.
  - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
  - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretation thereof.
  - 5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
  - 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to ARCHITECT/ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ARCHITECT/ENGINEER'S services, or any defect or nonconformance in ARCHITECT/ENGINEER services or in the work of any Contractor.
- E. Authorize ARCHITECT/ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for ARCHITECT/ENGINEER to enter upon public and private property as required for ARCHITECT/ENGINEER to perform services under the Agreement.

- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ARCHITECT/ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as OWNER deems appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ARCHITECT/ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
  - I. Provide, as required for the Project:
    - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
  - 2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ARCHITECT/ENGINEER reasonably requests.
  - 3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the moneys paid.
    - 4. Placement and payment for advertisement for Bids in appropriate publications.
- J. Advise ARCHITECT/ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructibility review.
- K. Furnish to ARCHITECT/ENGINEER data as to OWNER's anticipated costs for services to be provided by others for OWNER so that ARCHITECT/ENGINEER may make the necessary calculations to develop and periodically adjust ARCHITECT/ENGINEER'S opinion of Total Project Costs.
- L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ARCHITECT/ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ARCHITECT/ENGINEER.
- M. If more than one prime contract is to be awarded for the Work designed or specified by ARCHITECT/ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ARCHITECT/ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
- N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.
- O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.
- P. Provide inspection or monitoring services by an individual or entity other than ARCHITECT/ENGINEER (and disclose the identity of such individual or entity to ARCHITECT/ENGINEER) as OWNER determines necessary to verify:
  - 1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
  - 2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.

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

This i	s EX	(HIBI	T C, consisting	of 1	pages	, referred	l to ii	n and
part	of	the	Agreement	betv	veen	OWNI	ER	and
ARC	HIT	ECT/	<b>ENGINEER</b>	for	Profe	essional	Ser	vices
dated	;		,202	<u>3</u> .				

			Initial:
	OWNER		
ARCHITECT/ENGIN	NEER	JAH	
ARCHITECT/ENGIN	0 1111211	JAH	

### Payments to ARCHITECT/ENGINEER for Services and Reimbursable Expenses

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

ARTICLE 4 -- PAYMENTS TO THE ARCHITECT/ENGINEER

C4.01 For Basic Services Having A Determined Scope

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

1. Progress payments in the amount of \$157,500 based on the following assumed distribution of compensation:

a. Basic Services \$154,000b. Reimbursable Expenses \$3,500

Total \$157,500

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

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

- 3. The amount includes compensation for ARCHITECT/ENGINEER services and services of ARCHITECT/ENGINEER Consultants, if any. Appropriate amounts have been incorporated to account for labor, overhead, profit, and Reimbursable Expenses.
- 4. The portion of the amount billed for ARCHITECT/ENGINEER's services will be based upon ARCHITECT/ENGINEER's estimate of the proportion of the total services actually completed during the billing period.
- 5. If more prime contracts are awarded for work designed or specified by ARCHITECT/ENGINEER for this Project than identified in Exhibit A, the ARCHITECT/ENGINEER shall be compensated an additional amount to be negotiated; however, in no case shall the amount of compensation exceed eighteen percent (18%) of the Project's estimated construction costs for all Basic Services for each prime contract added.

	part of the <b>Agreement between ARCHITECT/ ENGINEER for Pro</b> dated;	OWNER and
	OVENIE	Initial:
	OWNE ARCHITECT/ENGINEER_	R
	ARCHITECT/ENGINEER	JAII
uties Responsibilities and Limitations of Authority		TECT/ENGINEER

	This is <b>EXHIBIT</b> E, consisting of 1 pages, referred to in and part of the <b>Agreement between OWNER and ARCHITECT/ ENGINEER for Professional Services</b> dated;
	OWNER
NOTICE OF ACCEP	TABILITY OF WORK

	This is <b>EXHIBIT F</b> , consisting of 1 pages, referred to in and part of the <b>Agreement between OWNER and ARCHITECT/ ENGINEER for Professional Services</b> dated;
	Initial: OWNER
	ARCHITECT/ENGINEERJAH
<b>Construction Cost Limit</b>	

This is <b>EXHIBI</b>	I'G, consisting of	of I pages	, reterrec	l to in and
part of the	Agreement b	etween	OWNE	ER and
ARCHITECT/	<b>ENGINEER</b>	for Profe	essional	Services
dated;	,2023.			

	-	Initial:
OW	NER	
ARCHITECT/ENGINEER	<u>JAH</u>	
Insurance		

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

### G6.05 Insurance

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

### 1. By ARCHITECT/ENGINEER:

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

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

	This is <b>EXHIBIT H</b> , consisting of 1 pages, referred to in and part of the <b>Agreement between OWNER and ARCHITECT/ ENGINEER for Professional Services</b> dated;
	Initial: OWNER
	ARCHITECT/ENGINEERJAH
Special Provisions	

This is <b>EXHIBIT I</b> , consisting of 1 pages, refer part of the <b>Agreement between OW</b>	
dated; ,2023.	
OWNER	Initial:
	 H
	part of the <b>Agreement between OW ARCHITECT/ ENGINEER for Profession</b>



### **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.

- 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.
- 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.
- 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, <u>and</u> 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.

Jared A. Higgins	Parkhill, Inc.	
Signature	Company Name	
Jared A. Higgins, PE	Principal	
Printed Name	Title	
December 27, 2022		
Date	_	

### **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.  Parkhill			2022-	Certificate Number: 2022-966566  Date Filed: 12/21/2022  Date Acknowledged:		
2	Name of governmental entity or state agency that is a party to the contract for which the form is being filed.						
3	Provide the identification number used by the governmental edescription of the services, goods, or other property to be proper				the co	ntract, and pro	vide a
4	Name of Interested Party	Ci	ity, State, Country	(place of busin			
W	/est, Eric	L	_ubbock, TX Unit	ed States		X	
E	dwards, Jay	N	Midland, TX Unite	ed States		Х	
Н	art, Dan	<i>A</i>	Austin, TX United	States		Х	
Н	aberer, Mark	L	_ubbock, TX Unit	ed States		Х	
Н	amilton, John	ı	_ubbock, TX Unit	ed States		Х	
E	dwards, Zane	L	_ubbock, TX Unit	ed States		Х	
Fi	inley, David	F	Frisco, TX United	States		Х	
N	elson, Scott	F	Frisco, TX United	States		Х	
R	amirez, Mike	E	El Paso, TX Unite	ed States		Х	
5	Check only if there is NO Interested Party.	,			•		
6	UNSWORN DECLARATION						
	My name is Daniel (Dan) S. Hart			and my date of	birth is <sub>-</sub>	11/12/1967	<b>7</b>
	My address is 11902 Burnet Road, Suite 100 (street)		, Austin (city)	, <u></u>	tate)	78758 (zip code)	, USA (country)
	I declare under penalty of perjury that the foregoing is true and con	orrect.					
	Executed inCo	ounty, S	tate of Texas	, on the	21st_da	ay of <u>Decemb</u>	
			Duni Gra			(month)	(year)
Signature of authorized agent of contracting business entity (Declarant)							



# Background

- The Killeen Civic & Conference Center was allocated ARPA funding to replace the HVAC systems and upgrade the lighting to LED fixtures and components (interior and exterior)
- The current HVAC system is the original system to the facility
   (20+ years old) and is unreliable and not operating efficiently
- The current lighting in the facility is also original to the facility and needs to be upgraded to a more energy efficient LED system

- In August and September 2022 an RFP was developed to solicit for professional services (architectural and engineering) for this project.
- Nine firms responded to the RFP
- A staff review panel evaluated each proposal on the following criteria:
  - Previous successful planning and design experience for similar type projects
  - Staff experience and team qualifications
  - Appropriateness of proposed timeline
  - Bonding/insurance capacity/history
  - Availability and location of firm

# Background

- The panel interviewed the top three scoring firms and selected Parkhill as the Architectural and Engineering firm to provide the design services for the project
- ☐ The proposed project consists of:
  - Discovery phase an assessment report
  - Photometric study
  - Schematic design
  - Design development
  - Construction documents
  - Bidding assistance
  - Construction observations
  - Warranty closeout
- The design phase is expected to take approximately four months
- Competitive bidding will commence once design is accepted by City

- Funding is available out of the ARPA funding
- □ The proposed fee for the professional design services from Parkhill is \$157,500

- Do not approve the professional services agreement for A&E services with Parkhill for the HVAC & Lighting Replacement project at Killeen Civic & Conference Center
- Approve the professional services agreement for A&E services with Parkhill for the HVAC & Lighting Replacement project at Killeen Civic & Conference Center

7

Staff recommends that the City Council approve the professional services agreement with Parkhill in the amount of \$157,500 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-23-021

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred City Council

01/24/2023

Consider a memorandum/resolution to enter into an agreement with the Killeen Economic Development Corporation to provide economic development services.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

**SUBJECT:** Killeen Economic Development Corporation Agreement

### **BACKGROUND AND FINDINGS:**

On November 30, 1990, the City of Killeen entered into an agreement with the Killeen Economic Development Corporation (KEDC) to provide economic development services. Since 1990, the City of Killeen has continued this collaboration, including an annual appropriation to the KEDC. The proposed agreement is for a two-year term and provides funding for day-to-day operations, supplies, salaries, office rental, travel expenses, and other administrative costs. Funding for this agreement has been included in the adopted FY 2023 budget in the amount of \$725,054. The city determines each year's allocation in consultation with the KEDC. It sets out the responsibilities of the city and the KEDC, including provisions for the use of funds and financial reporting.

### **THE ALTERNATIVES CONSIDERED:**

- Do not enter into an agreement with the KEDC;
- 2. Enter into an agreement with different terms or contribution amount with the KEDC; or
- Enter into the submitted agreement with KEDC.

### Which alternative is recommended? Why?

Staff recommends that City Council enter into the submitted agreement with Killeen Economic Development Corporation. Economic development remains a high priority for the City of Killeen and this agreement demonstrates the City's continued commitment to that effort.

### **CONFORMITY TO CITY POLICY:**

This action conforms to Section 3-60, *Economic Development Partners' Roles and Expectation*, of the City's approved Economic Development Policy (Res. 19-007R).

### **FINANCIAL IMPACT:**

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

The expenditure is \$725,054 for FY 2023. The city will determine each future year's allocation in consultation with the KEDC.

### Is this a one-time or recurring expenditure?

Recurring expenditure

### Is this expenditure budgeted?

Yes, funds are available in the General Fund Non-Departmental account 010-9501-491.50-82 (\$362,527) and in the Water & Sewer Fund Non-Departmental account 550-9501-491.50-82 (\$362,527).

### 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 two-year agreement with the KEDC set the FY 2023 budget allocation in the amount of \$725,054.

### **DEPARTMENTAL CLEARANCES:**

Finance

Legal

### **ATTACHED SUPPORTING DOCUMENTS:**

Agreement

THE STATE OF TEXAS §
COUNTY OF BELL §

### **Letter of Agreement**

This Agreement is between the City of Killeen, Texas, a home-rule municipal corporation ("City"), acting herein by and through its duly authorized City Manager, Kent Cagle, and the Killeen Economic Development Corporation ("KEDC"), a non-profit corporation, acting herein by and through its duly authorized President of the Board of Directors, Randy Sutton, collectively the "Parties".

**WHEREAS**, the City of Killeen wishes to promote the economic development of the City of Killeen by attracting new businesses and expanding existing businesses within the City; and

**WHEREAS**, the existence, development, and expansion of business, commerce, and industry are essential to the economic growth of the City and to the full employment, welfare, and prosperity of its citizens; and

**WHEREAS**, by Resolution No. 90-65, passed and approved on August 14, 1990, the City of Killeen City Council, hereinafter "City Council", authorized and approved the creation of KEDC; and

WHEREAS, KEDC has expressed its specific intent to use all funds which come into its control to promote and encourage the economic development of the City; and

**WHEREAS**, the actions authorized in this agreement will further that objective and ensure aggressive and positive economic development activity in the City;

NOW THEREFORE, in consideration of the promises and covenants herein contained, the City and KEDC agree as follows:

- 1. <u>Formation.</u> City does hereby employ, engage, and hire KEDC to promote the economic development of the City and to render the services herein contained, and KEDC does hereby agree to accept such hiring, engagement, and employment and to discharge such duties in accordance with the terms and conditions herein set forth.
- 2. <u>Independent Contractor</u>. KEDC is hired and engaged as an independent contractor and is not an officer, agent or employee of the City regarding the operations and actions of KEDC. KEDC shall select and employ such persons as it may deem necessary to fulfill its obligations and responsibilities under this agreement. Said persons shall be at all times employees of KEDC and shall not be officers, agents or employees of the City. The power to hire, manage, supervise, direct and discharge such employees shall be vested solely and exclusively with the KEDC. The City shall not manage, direct, supervise or discharge said persons or direct them in the performance of their duties for KEDC under this agreement.

3. <u>Indemnification</u>. KEDC agrees to indemnify, save harmless and defend the City of Killeen from any and all claims, causes of action and damages of every kind arising from the operations of KEDC, its officers, agents and employees, carried out in furtherance of this agreement. KEDC shall carry or cause to be carried public liability, bodily injury insurance on all automobiles used in the operations embraced by this agreement in the amount of two hundred fifty thousand dollars (\$250,000) for each person and five hundred thousand dollars (\$500,000) for each occurrence, and property damage liability insurance in the amount of one hundred thousand dollars (\$100,000) for each occurrence, or a combined single limit of six hundred thousand dollars (\$600,000), the cost of said insurance policies to be an expense of KEDC for which funding shall be provided by the City pursuant to paragraph 5 below.

Said policies of insurance must be approved by the City and must be written by companies acceptable to the City. Said insurance policies shall name the City of Killeen as an additional insured. Said policies, or duplicate originals thereof, must be filed with the City Secretary or her designated representative before any operations contemplated by this agreement are begun.

- 4. **Operation**. KEDC shall encourage and further the economic development of the City of Killeen. KEDC shall perform, among others, the following functions:
  - a. Encourage and promote the economic development of the City of Killeen;
  - b. Recommend to the City projects and programs to encourage and further the economic development of the City of Killeen; and
  - c. Appoint annually a Board of Directors whose members and composition shall be determined by KEDC.
- 5. Permitted Use of Funds. It is expressly understood and agreed to by the Parties that all funds received from the City that are paid to KEDC shall be used solely for the purposes of encouraging and promoting the economic development of the City of Killeen, by way of performing those acts and conducting those activities authorized by Chapter 501 of the Texas Local Government Code as that statute provides at the time of execution of this agreement and as said statute or any amendment or successor statute thereto shall hereafter provide.

The funds may be spent for day-to-day operations, supplies, salaries, office rental, travel expenses and other administrative costs of KEDC, only if said administrative costs are incurred directly in the promotion of economic development for the City. However, funds may not be spent for travel for a person to attend an event or conduct an activity the primary purpose of which is not directly related to the promotion of economic development or to the performance of the person's job in an efficient and professional manner.

Within thirty (30) days of the effective date of this agreement, KEDC will provide a budget detailing the anticipated use of the City's contribution.

Notwithstanding the provision above, it is specifically understood between the Parties hereto that KEDC shall have the authority to commit and spend funds received from the City for

the following types of projects without the necessity of securing the prior approval of the City Council, provided that expenditures contribute directly to the creation of new jobs or retention of existing jobs in the City of Killeen:

- a. Improvement of infrastructure, such as streets, roads, drainage structures, utility and sewer lines and connections, bridges, and other construction projects.
- b. Extensions of existing roads.
- c. Water and sewer treatment and improvement projects.
- d. Business, industrial or commercial expansion grants.
- e. Any amounts of money required to be committed for securing State or Federal matching grant funds for economic development.
- f. Construction of buildings and structures to attract business, commerce and industry.
- g. Purchase or acquisition of other interests in land for present or future business, commercial or industrial expansion.
- h. Professional services, such as architectural, engineering, economic or other studies, whether contracted for by KEDC itself or on behalf of businesses or industries which are potential employers in the City of Killeen, and legal services necessitated by any of the items or activities listed in this Paragraph 5.
- i. Professional services and/or expenses associated with the creation and/or retention of military and/or civilian jobs.
- j. Insurance to secure KEDC's interest in any such projects, as well as liability insurance for the officers, directors, and executive director of KEDC against claims of damage based on the actions of said persons in furtherance of their positions and duties regarding KEDC as authorized under Section 8.01(K) of the KEDC Bylaws.
- k. Any and all requirements, whether by law or contract, for the posting of any bond.
- 6. **Prohibited Use of Funds.** In accordance with state law, no funds received from the City may be used for any political activity or political advertising, including, but not limited to, activities or advertising to further the election, for the support or defeat of any candidate for public office, or any activity undertaken to advocate passage or defeat of a measure.
- 7. <u>City Council Approval Required</u>. As to acts or activities not specifically listed in Paragraph 5 above, prior to any such expenditure or commitment, KEDC must obtain approval by the City Council for any such acts or activities that KEDC may undertake that are consistent with its Articles of Incorporation, its Bylaws, and applicable statutes that call or require the expenditure or commitment of funds transferred by the City to KEDC.

- 8. **Standards of Performance**. The standards for measuring KEDC's fulfillment of its obligations and responsibilities under this agreement based on the following criteria:
  - a. Location of new business enterprises, commerce, and industries in the City of Killeen;
  - b. Accurate and timely flow of information to the City Council;
  - c. Operating within the City of Killeen's Economic Development Policy;
  - d. Operating the economic, business, commercial and industrial development function within the scope of the budget, work program and standards of performance;
  - e. Coordination of various community groups involved with economic, business, commercial and industrial development effort;
  - f. Citizen satisfaction with the economic, business, commercial and industrial development effort;
  - g. Stable relations with the City Council, citizen groups, economic development allies and business, commercial and industrial prospects; and
  - h. Such other standards as may from time to time be established by mutual agreement of the Parties to this agreement.
- 9. <u>Financial Records</u>. KEDC shall maintain complete and accurate financial records of each expenditure made by KEDC and on request of the City Council, the City Manager, or other person, shall make the records available for inspection and review by the City Council or other person. The City Council may, upon reasonable notice, audit all books and records of KEDC pertaining to the funding.
- 10. **Reporting**. KEDC shall report quarterly to the City Council on the amount and nature of expenditures or commitments made of funds received from the City and KEDC's progress and plans in promoting the economic development of the City of Killeen.
- 11. <u>Confidentiality</u>. It is specifically agreed and understood between the parties that in KEDC's negotiations and discussions with potential employers in the City of Killeen that require confidentiality in the identity of the potential employer and the nature of the matters under negotiation. It is agreed and understood between the Parties that, to the extent consistent with the Texas Open Meetings Act and the Texas Open Records Act (V.T.C.A., Government Code, Chapters 551 and 552, respectively), and any other applicable statute or regulation, KEDC may freely conduct such confidential discussions or negotiations without prior or subsequent notice to the City Council, unless and until some public action by KEDC or the City is required, or unless and until the release of such information to the City Council is approved by the potential employer.
- 12. <u>Term.</u> The term of this contract shall be for two (2) years effective October 1, 2022, and shall automatically terminate on September 30, 2024, unless terminated sooner

pursuant to Paragraph 14 or extended in writing by City on an annual basis during the City's budget process.

- Funding. It is expressly understood between the Parties that the City Council has committed itself to funding the activities of KEDC for fiscal year 2023 in an amount not to exceed a total of seven hundred twenty-five thousand fifty-four Dollars (\$725,054). The determination to continue City funding beyond that time will depend directly on the effectiveness of KEDC's management of City-transferred funds during fiscal year 2023, within the guidelines expressed in this agreement. Unless the Agreement is terminated in accordance with Paragraph 14, the City agrees to pay KEDC payments not to exceed a total of seven hundred twenty-five thousand fifty-four dollars (\$725,054.00) for fiscal year 2024. Payments to KEDC shall be made quarterly.
- 14. <u>Termination</u>. It is understood and agreed that either party may terminate this Agreement by giving to the other party notice in writing at least thirty (30) days in advance of the first day of a calendar quarterly period, and such termination shall become effective at the end of the calendar quarterly period following such notice.

Upon termination of this agreement, KEDC shall deliver to the City any and all remaining City funds appropriated for KEDC that it may have and all removable property that may have been purchased with said funds.

DATED this day of	, 2023.
CITY OF KILLEEN	KILLEEN ECONOMIC DEVELOPMENT CORE
Kent Cagle City Manager ATTEST:	Scott Connell President
ATTEST.	
Laura J. Calcote City Secretary	
APPROVED AS TO FORM:	
Holli C. Clements City Attorney	



KILLEEN ECONOMIC DEVELOPMENT CORPORATION (KEDC) AGREEMENT

# Background

□ Agreement to provide economic development services since November 30, 1990.

□ The agreements have been for two-year terms. The current agreement expired September 30, 2022.

□ FY 2023 proposed budget funding - \$725,054

# Agreement Overview

- The following functions are explicitly required:
  - Encourage and promote economic development in Killeen;
  - Recommend projects and programs to encourage and further economic development in Killeen; and
  - Annually appoint a Board of Directors.

# Agreement Overview

- Summary of permitted use of funds:
  - Infrastructure improvements, including construction to attract businesses;
  - Business expansion grants;
  - State or Federal grant matching; and
  - Professional services related to the creation and retention of jobs.
  - Operating and administrative expenses such as salaries, supplies, insurance
- City Council approval not required if above expenditures directly contribute to creating or retaining jobs in Killeen.
- Detailed Budget/Quarterly reports to City Council
  - Detailed project budget within 30 days of effective date of agreement.
  - Provide amount and nature of expenditures quarterly.
  - Provide quarterly economic development progress updates.

- □ Do not enter into an agreement.
- □ Enter into an agreement with different terms or different contribution amount.
- □ Enter into the agreement as submitted.

# Recommendation

Staff recommends that City Council authorize the City Manager or designee to execute an agreement with the Killeen Economic Development Corporation and set the FY 2023 contribution amount of \$725,054.



# City of Killeen

# **Staff Report**

File Number: RS-23-022

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred

City Council

01/24/2023

Consider a memorandum/resolution amending the Parks, Open Space, and Trails Master Plan, establishing eight Parks Benefits Zones.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

**SUBJECT:** Parks, Open Space, and Trails Master Plan Amendment

### **BACKGROUND AND FINDINGS:**

The City's Parks & Open Space Master Plan was adopted in February 2022. The plan establishes Park Benefit Zones for the acquisition and development of parks. Park development fees and fees-in-lieu of parkland dedication collected during the development process must be spent within the same zone.

The current Master Plan includes three (3) Parks Benefit Zones. The purpose of the proposed amendment is to increase the number of Parks Benefit Zones to eight (8). The proposed Parks Benefit Zones are consistent with the Development Zones identified in the Comprehensive Plan.

This proposed change was in response to feedback received during the stakeholder input process for the proposed Parkland Dedication and Development Ordinance. If approved, this amendment will reduce the area in which park development fees and fees-in-lieu of parkland dedication can be spent. This ensures that parks fees are spent closer to where the developments that generated the fees are located.

### **THE ALTERNATIVES CONSIDERED:**

The City Council has three (3) alternatives:

- Do not approve the amended Parks, Open Space, and Trails Master Plan;
- Approve the Master Plan with modifications; or
- Approve the amended Master Plan as presented.

### Which alternative is recommended? Why?

Staff recommends approval of the amended Parks and Open Space Master Plan as presented. If approved, the proposed amendment will increase the number of Parks Benefit Zones from three (3) to eight (8).

### **CONFORMITY TO CITY POLICY:**

The proposed amendment conforms to all City of Killeen policies and procedures.

### **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:**

Staff recommends approval of the amended Parks and Open Space Master Plan as presented.

### **DEPARTMENTAL CLEARANCES:**

Development Services Recreation Services Legal

### **ATTACHED SUPPORTING DOCUMENTS:**

Master Plan



# THE KILLEEN PARKS AND OPEN SPACE MASTER PLAN

CITY OF KILLEEN, TEXAS

# **WELCOME STATEMENT**

On behalf of the City of Killeen and the Recreation Services
Department, it's with great excitement that we bring you a parks
and open space master plan which prioritizes smaller, incremental
improvements which result in transformational change over time. As
many of you know our parks system is well behind in park acreage
and many of our parks are outdated and in need of re-activation
through well planned, strategic efforts to replace, and in many parks,
build new amenities that invite park users of all types. The core of
this plan is to develop and activate a "Complete Parks" system—one
which serves all users.

We are adhering to the principles set out in this plan as we implement improvements in our existing park system and plan and prepare for longer-term sustainable growth. We are constantly asking ourselves: are our parks adequately maintained, are they accessible (i.e., open and enticing to all), are they safe and comfortable, do they provide for social interaction, and lastly, are they activated?

Your Recreation Services staff will continue to work in step with City Council, area partners, and residents to implement the vision, goals, and actions set out in this plan so that our community truly achieves one "Complete Parks" system.

We look forward to creating and developing the very best parks system possible and hope that this summary plan accurately captures and reflects your aspirations for the future of the Killeen parks and open space system.

Respectfully,

Joe Brown, CPRP

**Executive Director of Recreation Services** 

City of Killeen





The Parks and Open Space Master Plan embodies a new vision for Killeen's future—one which aspires to maximize the number of people in the park system and on the wealth creation parks, trails, and open spaces bring to the community. It explores an innovative approach to parks system planning—one founded on Strong Towns and Complete Park principles—developed with the community during the planning process.

These principles were developed out of necessity, in that there is a lot of opportunity to improve upon the provision of parks-related services moving forward. This includes improving access to unserved and underserved parts of the community and providing for a more diversified set of facilities, amenities, and activation which serve a broader cross-section of the Killeen community. To accomplish this, this plan sets a vision for first improving on the quality of conditions and incremental improvement of existing parks. It then focuses on a smarter, more prudent approach to long-term park growth and development through parkland dedication, donations, further development of other existing City non-park property, and strategic partnerships with area partners.

This Summary Plan is organized as set out below.

History	3
Demographics	5
Existing Parks System	
Plan Methodology	
Plan Recommendations	
Plan Implementation	45
Acknowledgments	
5	

# **HISTORY**

In 1881, the Gulf, Colorado, and Santa Fe Railway platted a 70-block town on its land near the adjacent community known as Palo Alto. The town was named after the assistant general manager of the railroad, Frank P. Killeen. At this time the population was approximately 40 people.

By 1884, the population had reached 350 people. As Killeen became an important shipping location for cotton, wool, and grain from the surrounding farms, the town continued to grow.

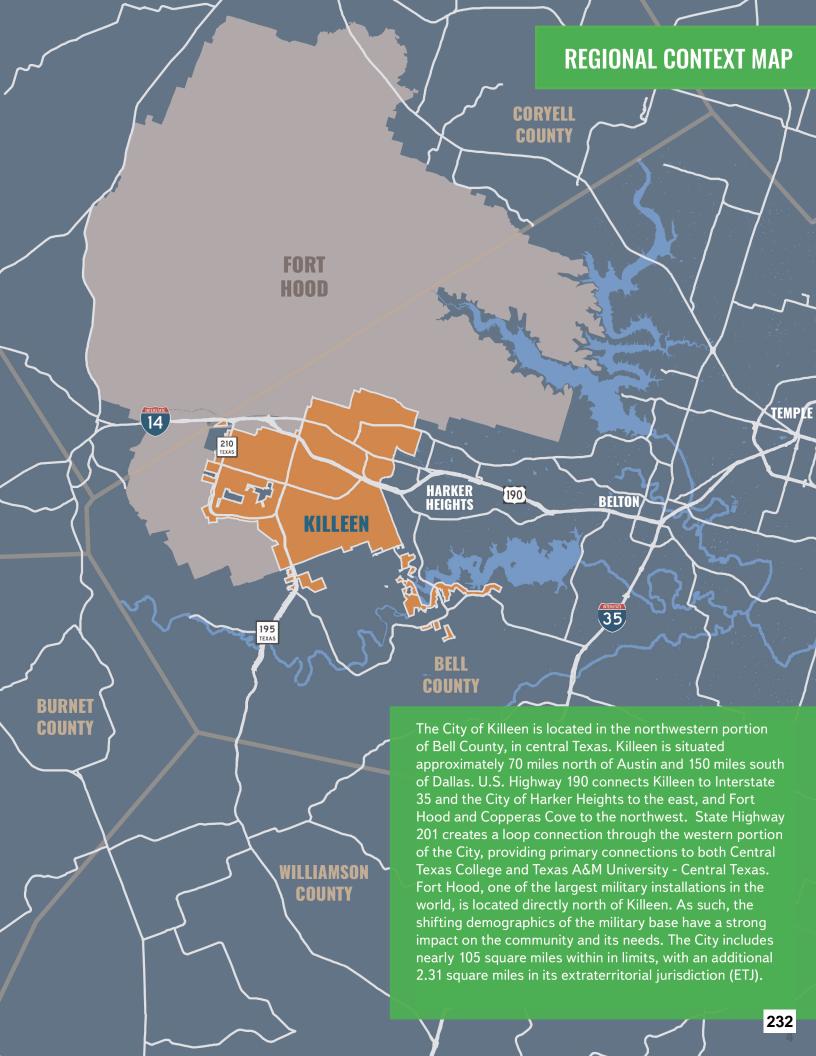
In 1942, the Camp Hood military training base was established to meet the demands of World War II. Thousands of people moved to the area including construction workers, soldiers, and their families. The opening of Camp Hood changed the local economy. In 1949, the adoption of the City Charter established the council-manager form of government for the City.

In 1970, the City developed one of its first larger community parks—Long Branch Park. Over the next 20-30 years, Killeen experienced some of its greatest growth in the park system. Many of the City's original neighborhood parks (e.g., Fowler, Stewart, etc.) and some of the community parks (e.g., Conder) were developed concurrent with growth with good proximity to area residents.

Since 2000, however, public policy disfavored growing the park system concurrent with overall city growth. As such, many of the newer parts of the city are devoid of public park properties. During this same time, limited available resources were focused more on bigger and newer capital investments (e.g., Lions Club Park) and less on keeping up with accessible park growth and deferred maintenance. This resulted in a fragile park system.

Today, Killeen is thriving city of over 150,000 people and this plan identifies a new shift in public policy—one which refocuses efforts on maximizing community benefit and wealth creation of the parks system as an essential part of the City's overall "civic" infrastructure.

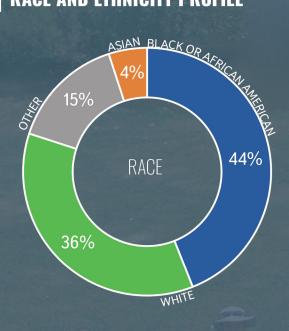


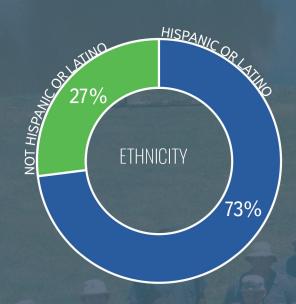


# KILLEEN DEMOGRAPHIC SNAPSHOT

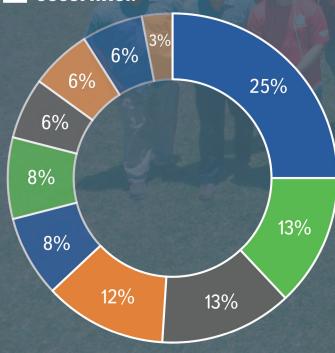
This planning process analyzed the latest demographic trends of the City of Killeen. These demographics were used to set a baseline for the existing conditions, as well as inform the various parks assessments that are outlined on page 17. Population projections were extrapolated directly from the City's concurrently-developed comprehensive plan.

# RACE AND ETHNICITY PROFILE



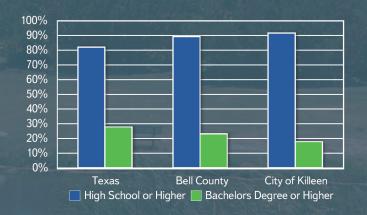


# OCCUPATION

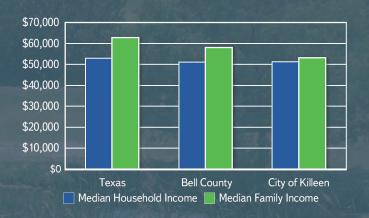


- Educational, health care, social services
- Construction
- Public administration
- Professional, scientific, management services
- Retail trade
- Other services, except public administration
- ■Transportation and warehousing, and utilities
- Finance and insurance, real estate
- □ Arts, entertainment, recreation, food services
- Manufacturing

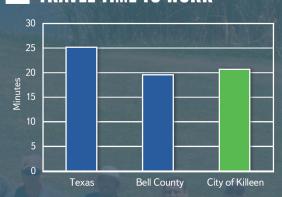
# **EDUCATIONAL ATTAINMENT**



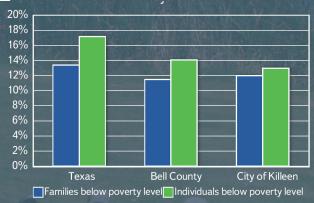
# MEDIAN HOUSEHOLD INCOME



# **TRAVEL TIME TO WORK**



# **POVERTY LEVEL**



# HISTORICAL AND PROJECTED POPULATION

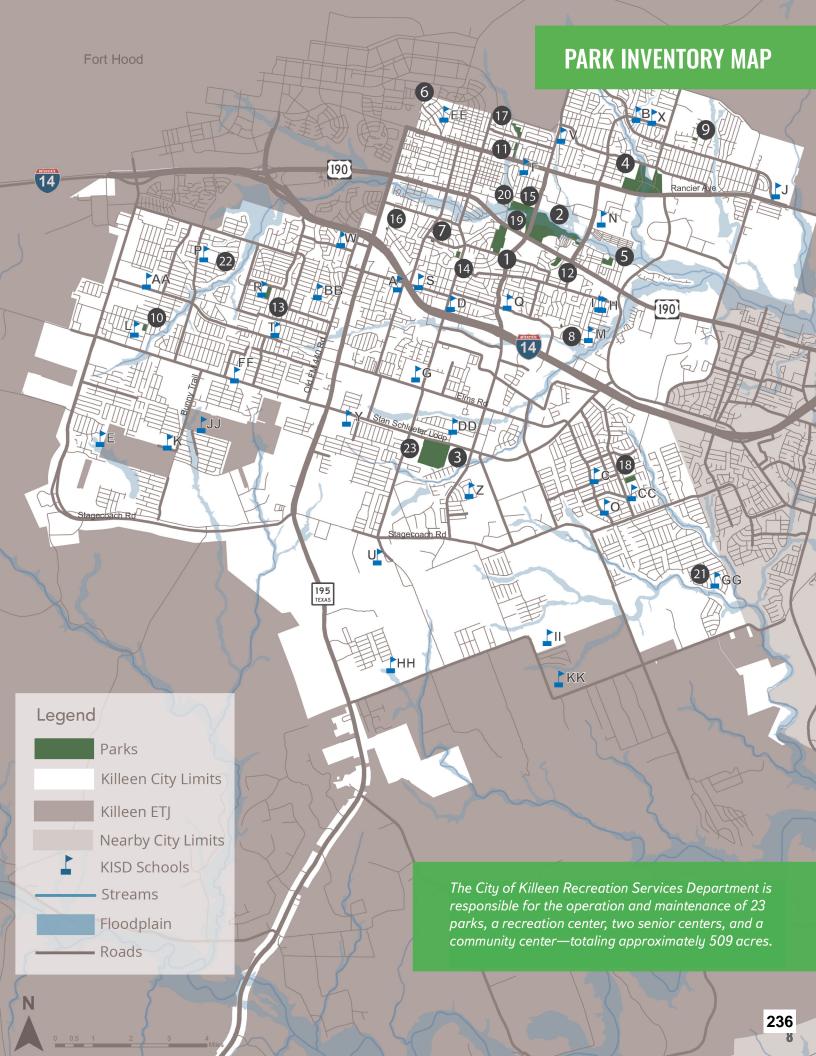


# CITY OF KILLEEN EXISTING PARKS SYSTEM

Killeen Parks and Amenities Inventory Table

Park #	Park Name	Athletic Fields <sup>1</sup>	Playscapes	Sport Courts <sup>2</sup>	Aquatics <sup>3</sup>	Walking Paths (Miles)	Open Play Areas	# of Parking Spots	Pavillions	BBQ Grills	Picnic Units	Benches	<b>Drinking Fountains</b>	Dog Park	Disc Golf Course	Gazebo	ADA Parking	Skatepark	Address	Acreage
	Community Pa	arks																		
1	Conder Park	1	1	2	0	1.5	1	120	2	4	11	13	2	0	1	0	18	1	810 Conder Street	31.4
2	Killeen Community Center	9	0	1	0	1.1	1	492	0	0	5	2	2	0	0	1	25	0	2201 E. Veterans Memorial Blvd.	29.1
3	Lions Club Park	14	2	2	1	1.3	1	166	3	0	0	24	5	0	0	0	39	0	1600 E. Stan Schlueter Lp.	67.8
4	Long Branch Park	0	3	6	2	.25	6	229	2	5	0	22	0	0	0	0	16	1	1101 Branch Dr.	78.7
	Total Community Parks	24	6	11	3	4.2	9	1007	7	9	16	61	9	0	1	1	98	2		207.0
	Neighborhood	l Pa	rks																	
5	AA Lane Park	1	1	2	0	0	1	50	1	0	4	2	0	0	0	0	7	0	400 48th Street	7.0
6	Camacho Park	0	2	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1706 Walton Walker Dr.	0.2
7	Fowler Park	0	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	100 W. Fowler Street	0.9
8	Fox Creek Park	0	1	.5	0	0	1	0	0	3	3	0	0	0	0	0	0	0	1909 Grey Fox Trail	0.9
9	Hunt Park	0	1	1	0	0	1	0	0	0	1	4	0	0	0	0	0	0	2301 Hunt Drive	1.1
10	Iduma Park	0	2	1	0	0	1	0	1	0	4	3	0	0	0	0	0	0	4400 Foster Lane	2.4
11	Lions Neighborhood Park	0	1	2	0	.25	1	11	1	0	8	7	0	0	0	0	4	0	1307 Culp Ave.	4.3
12	Marlboro Park	0	2	1	0	0	2	7	1	0	8	3	0	0	0	0	2	0	2902 E. Veterans Memorial Blvd.	6.5
13	Maxdale Park	0	1	1	0	0	1	0	1	0	4	5	0	0	0	0	0	0	2500 Westwood Dr.	4.6
14	Phyllis Park	0	1	1	0	0	1	0	0	0	3	5	0	0	0	0	0	0	405 Phyllis Dr.	2.4
15	Rotary Club Children's Park	0	2	0	0	0	2	54	3	0	9	5	1	0	0	0	8	0	2201 E. Veterans Memorial Blvd.	5.6
16	Santa Rosa Park	0	1	0	0	0	1	0	0	0	1	1	0	0	0	0	0	0	901 Eva St.	0.4
17	Stewart Park	0	2	0	0	0	3	0	0	0	4	2	0	0	0	0	0	0	1702 24th St.	6.4
18	Timber Ridge Park	0	1	3	0	0	1	58	1	0	4	0	0	0	0	0	0	0	5402 White Rock Dr.	4.6
	Total Neighborhood Parks	1	19	12.5	0	.25	17	180	9	3	55	37		0	0		19			47.3
	Special Use Pa	arks				s 0														
19	Mickey's Dog Park	0	0	0	0	0	0	39	0	4	0	4	2	1	0	0	2	0	2201 E. Veterans Memorial Blvd.	4.7
	Linear Parks																			
20	Andy K. Wells Trail	0	0	0	0	2.5	0	456	0	0	0	0	0	0	0	0	30	0	2201 E Veterans Memorial Blvd.	28.3
21	Heritage Oaks Trail	0	0	0	0	3.8	0	50	0	0	0	4	0	0	0	0	3	0	8001 Pyrite	123.0
22	Fort Hood Regional Trail	0	0	0	0	1.2	0	0	0	0	0	2	0	0	0	0	0	0	3450 Robinett Road	88.8
23	Lions Club Park Hike and Bike Trail	0	0	0	0	1.4	0	166	0	0	0	14	0	0	0	0	39	0	1600 E. Stan Schlueter Loop	9.5
	Total Linear Parks	0	0	0	0	8.9	0	672	0	0	0	20	0	0	0	0	72	0		249.6
	Total Park System																			508.5

<sup>1.</sup> Baseball, softball, football, and soccer, 2. Basketball, tennis, volleyball, and pickleball, 3. Swimming pools or splash pads. Source: National Recreation and Parks Association



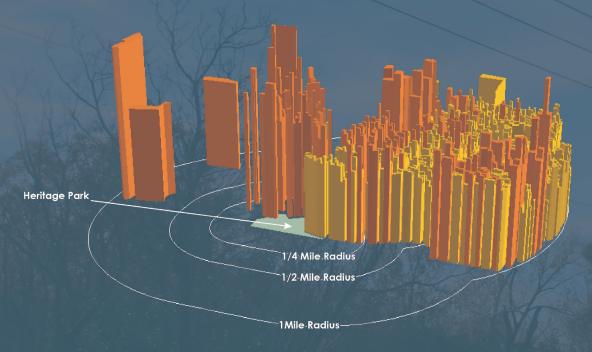




# STRONG TOWNS PRINCIPLES

While there is no actual Strong Towns approach to park growth and development, there are a few philosophical considerations which are important to parks and open space. A Strong Towns approach to overall community development requires a fundamental paradigm shift in how we approach the growth and redevelopment of our cities—and by association, our provision of parks, trails, and recreation resources.

One of the primary considerations is that parks should be an essential part of the civic infrastructure and create community wealth for the surrounding areas. As part of this plan, a fiscal assessment on a few key parks was undertaken and determined that the existing parks system did not significantly add to the overall community wealth (see example below).



Moving forward, this plan identifies a future which adheres to Strong Towns principles by focusing on both smaller, incremental improvements and a more prudent growth strategy which, when implemented, can result in substantial changes over time. The recommendations explored later in this plan were all developed using the Strong Towns paradigm shift as a foundational principle. These include:

- Understanding that parks and other civic infrastructure should create community wealth
- Acknowledging that all cities (and parks) go through life cycles of investment, disinvestment, and rejuvenation
- Prioritizing purposeful maintenance and reallocating staff time for park improvements
- Prioritizing incremental improvement and redevelopment, not just new growth
- Being strategic about new growth targets and future commitments
- Targeting fiscal sustainability in design and operations to minimize long-term liabilities
- Improving communication about how parks contribute towards the City's overall economic prosperity
- Maximizing usage through adherence to Complete Parks principles (see pg. 13)

To learn more about Strong Towns, please visit www.strongtowns.org.



# **COMPLETE PARKS PRINCIPLES**

The true measurement of success for a parks and open space system should be about maximizing the number of people who use the system. For too long parks planning has primarily focused just numbers and metrics, which are important, but do not tell the whole story. This plan proposes a new vision for Killeen—one that aspires to develop a Complete Parks system which better serves existing and future residents and visitors alike.

This Complete Parks model, developed by Halff, is comprised of five attributes which cover all aspects of a park (and park system) through its full life cycle of development, use, maintenance, and redevelopment. The five attributes include a detailed focus on accessibility, safety and comfort, social interaction, activation, and maintenance. These attributes are further delineated by 10 essential building blocks which comprise the Complete Parks model (below). The recommendations explored later in this plan were all developed using the Complete Parks model as it foundational principle.

# Complete Parks Model



# **TYPES OF IMPROVEMENTS FOR COMPLETE PARKS**



# **ACCESSIBILITY &** CONNECTIVITY

- Crosswalks. Painted crosswalks at all intersections which abut the parks
- Bike Racks. Bike racks which let park users secure their bicycles so that they can actively engage park amenities
- Parking. On-street parking (preferably) for neighborhood parks; off-street parking for regional, community, and linear (at trailheads) parks
- Sidewalks & Off-site Connectivity. Connected sidewalks and/or trail linkages to surrounding areas



**USER COMFORT &** SAFETY

- Lighting. If parks are open to users during dark hours, lighting is recommended to keep users safe
- Sight Visibility. Good site visibility from the public rights-of-way; abutting properties should be designed/encouraged to have their front doors face the park to keep eyes on the park



**INTERACTION** 

- Drinking Fountains/Bottle Refill Stations. Because of the hot temperatures much of the year in Texas, the addition of water stations in a park is important to keep trail users and pets hydrated; these should include bottle filling stations
- **Restrooms.** Regional, community, and linear parks should include restrooms; neighborhood parks generally do not need restrooms as they typically serve immediate neighborhoods
- Shade. Shade should be a central focus in Texas parks including the provision of shade canopies over target amenities like playgrounds, social seating, and some sport courts like basketball; should also include a large focus on protecting existing trees or adding new shade trees throughout the park and near amenities
- Trash/Recycling/Dog Waste Stations. Good access to trash/recycling/dog waste



- Socially-Oriented Amenities. Purposeful design which orients the location and configuration of amenities to promote social interaction (e.g., shade playscape, mini splash pad, and centralized social group seating all oriented together so that parents can interact and socialize while watching over multiple children who are active at multiple play elements)
- Seating and Socialization Areas. Shaded places for seating near park amenities.



**MAINTAINED** 

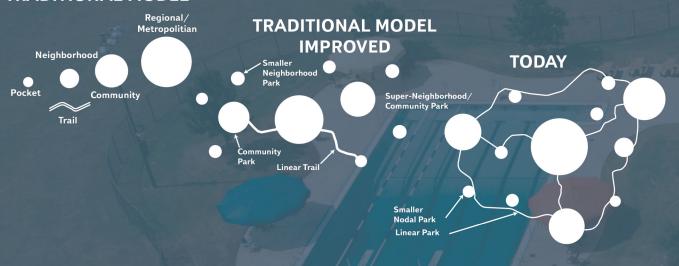
- Multi-generation/Multi-user Design. Design and programming considerations which maximize the largest number of users (of all age groups) at all times of the day or night
- Loop Trails. In-the-park ADA loop trails around the exterior of the park (with off-shoot connections to key destinations and amenities) and off-site trail and sidewalk connectivity
- Fitness Stations. Fitness stations along loop trails or in fitness courts; could include passive
- Programming. Proactive consideration as to on-going City-sponsored events and programming to bring community members into the parks (e.g., in-the-park classes, food trucks, special events, etc.)

# **GROWTH MODEL**

In the U.S., park system growth has undergone a continuous evolution for hundreds of years. From the Boston Common in (1634) to Frederick Law Olmstead/Calvert Vaux's Central Park in New York City (1859) to Olmstead's "Emerald Necklace" in Boston (1878), parks were viewed as center pieces of city growth and development. Following World War II, however, the nation turned its attention towards suburban, auto-centric growth and development and interest in public parks and civic spaces waned. Focus turned to the private spaces and places in people's back yards and in semi-public spaces of individual subdivisions. During this time, as downtowns and inner cities declined, so did many of the great existing city park systems.

Today, cities are undergoing a renaissance in growth and redevelopment, including renewed interest in public parks and civic spaces (i.e., where parks, trails, and other outdoor civic spaces became top priorities during the Covid-19 pandemic). City's are in a position to advance a new growth model—one where parks and trails systems are viewed as an interconnected system, and a critical component, of the overall city "civic" infrastructure.

### TRADITIONAL MODEL







# ASSESSMENT METHODS

After gaining an understanding of the parks and recreation system as it is today, and the historical and projected populations, a growth needs analysis was used to begin to identify the current and future needs of the community. The intent of the analysis was to develop a clearer picture of the overall system (i.e., understanding the gaps, overlaps and deficiencies) and to make targeted recommendations for the future. This plan used a five-part growth needs analysis (developed using accepted methodologies identified by the TPWD) to help determine recommendations for the future.

### Types of Assessments



### Demand Based Assessment

Uses citizen input to determine actual and/or anticipated park usage that reflect the desires of the local community. This assessment type provides a qualitative analysis of the park system from the user perspective.



### Standards Based Assessment

Uses locally developed level of service ratios to compare existing park land and recreation facilities to the projected need based upon the current and future projected population, park land and facility benchmarks.



# Resources Based Assessment

Recognizes the opportunities offered by the built environment, the natural environment, or other relationships. The City can pursue obtaining land, developing facilities, or partnering with local organizations to address recreation demands.



### Fiscal Based Assessment

Evaluates the existing community wealth that parks have on surrounding neighborhoods. This assessment evaluates a few select parks to identify the potential impacts that parks have on abutting property market values.



### Condition Assessment

Analyzes the physical condition of facilities and amenities to reach conclusions regarding the performance of the system as a whole and of individual elements within the system.





# **COMMUNITY ASPIRATIONS**

To ensure that this Plan embodies the vision of the citizens, an extensive public engagement process was undertaken to identify the needs and desires of where the community wants to go, and equally as important, what they are willing to support during implementation. The information collected during this process created the foundation from which the goals and actions were built. This summary contains the City's public engagement process and key takeaways.

5

PARK MASTER PLAN
WORK GROUP MEETINGS
(FROM 8 LOCAL ORGANIZATIONS)

2 500

YOUTH ADVISORY COMMISSION MEETINGS

5 COUS GROUPS

3 7

575 000

**COMMUNITY MEETINGS** 

SURVEY RESPONDENTS FROM 13 ONLINE SURVEYS

ATTENDEES
LOVE YOUR PARK DAY
COMMUNITY EVENT

200 ATTENDEES



MOVIES IN THE PARK COMMUNITY EVENT



# KEY TAKEAWAYS

- Concern that there is not enough lighting within the parks and trails during early morning and evening hours
- Concern that majority (86%) of residents are not involved in City athletic leagues
- Concern that restrooms within the park system are not kept clean enough
- Concern that there is not enough shade at most parks
- Need for more joint-use facilities
- Need for smaller neighborhood parks located near HOA's and schools
- Need for parks to be located within safe walking or biking distances
- Need for more gathering places like benches, picnic areas, and pavilions
- Need for additional restrooms
- Desire for additional diversified facilities & amenities
- Desire for additional skateparks, sport courts & fields, and aquatic centers
- Desire for more youth programming, like arts & crafts and special events
- Desire for more free public WiFi access within the park system
- Desire for an equitable quality of park conditions similar to some of the City's greatest park system assets—Lions Club Community Park, Andy K. Wells Hike & Bike Trail, and Killeen Community Center & Ballfields

Cities have the capability of providing something for everybody, only because, and only when, they are created by everybody.

- Jane Jacobs

# **GROWTH TARGETS**

Level of Service (LOS) is an assessment method to determine the quantity of park facilities needed to adequately serve a given ratio of population, oftentimes expressed as a per capita ratio of acres to 1,000 residents. Analyzing the current level of service (CLOS) and identifying future target levels of service (TLOS) helps a community understand how responsive they are in meeting the needs of their existing and future citizens as the community grows over time.

As part of this plan, TLOS was reduced compared to previous plans. This reduction was purposeful as a continued means to advance Strong Towns and Complete Park principles as it relates to future park growth and development. It acknowledges that the City is significantly behind in the provision of parks and recreation resources (compared to comparison Texas communities and national systemwide averages analyzed through NRPA's Park Metrics database). It also acknowledges that the City will not be able to retroactively reach the acreage level of service targets set out in the previous plans while still adhering to the fiscal priorities set out in this plan. As a summary, the changed level of service targets are as follows:

### Parkland Level of Service

PARK CLASSIFICATION	LEVEL OF SERVICE (AC. PER 1,000 PERSONS)							
TARK CLASSITICATION	2005 PLAN	2017 PLAN (UNADOPTED)	2021 PLAN					
Neighborhood Parks	1.0 to 2.0	1.0 to 1.5	1.0					
Community Parks	5.0 to 8.0	5.0	4.0					
Special Use Parks	No Standard	No Standard	No Standard					
Regional Parks	N/A	5.0 to 10.0	4.0					
Linear Parks/Open Spaces	No Standard	10.0 to 20.0	4.0					
Greenway Trails	1 mile / 5,000 persons	No Standard	1 mile / 5,000 persons					

As seen below, the City's current inventory of parkland does not adequately serve the existing or future needs of the population. It shows that the City's 2020 current overall acreage inventory is woefully deficient—over 500 acres or 33% deficient even factoring in the reduced targets. Once the City catches up to current TLOS benchmarks through strategic and purposeful growth expansions and partnerships, the incremental addition of needed parkland moving forward is much less.

### Parkland Needs as Growth Occurs

TARGET YEAR	EXISTING ACREAGE	CURRENT LEVEL OF SERVICE (AC. PER 1,000 RESIDENTS <sup>1</sup> )	TARGET LEVEL OF SERVICE (AC. PER 1,000 RESIDENTS <sup>1</sup> )	TARGET ACREAGE	SURPLUS / DEFICIT ACREAGE	PERCENT OF NEED MET (2020)
2020	254.3	1.7	5.0 ac.	764.1	509.8 ac. deficit	33%
2025	254.3	1.6	5.0 ac.	813.1	558.8 ac. deficit	31%
2030	254.3	1.5	5.0 ac.	862.1	607.8 ac. deficit	29%



# **CLASSIFICATION AND STANDARDS**

Equally important to setting target levels of service (TLOS) is establishing classifications and standards for what new park and trail growth, development, and improvement looks like. This requires establishing thresholds for different types of facilities which serve different purposes and areas of the community.

Set out below are standards for four trail classifications utilized as part of this plan, but will need to be further explored in separate planning efforts (e.g., a future trails plan).

### **Trail Classifications**

TRAIL INTENT	TRAIL WIDTH	PREFERRED SURFACE MATERIAL	MINIMUM CORRIDOR WIDTH	POTENTIAL AMENITIES	CROSS-SECTION				
			Greenw	ay Trails					
Multipurpose off- street pathways which provide escape from noise, traffic, and urban conflicts. Preferred location is along creeks and other natural spaces.	10' – 12' (12' preferred)	Concrete	25'	Parking, signage, lighting, water foundations, benches, trees and consideration of Complete Parks amenities.	12'				
		Th	oroughfare C	Connector Trails	•				
Multipurpose near- street shared-use sidepaths located within the rights-of- way of thoroughfare roadways to serve to create a citywide, connected recreational trails system.	8' – 10' (10' preferred)	Concrete	15'	Trees, benches, and lighting (if not provided by thoroughfare)	10' 7'				
		Nei	ghborhood (	Connector Trails	s				
Neighborhood Connector Trails are located in residential areas (e.g., in drainage areas and along collector streets) providing internal linkages and connecting to other external trail types. They may also serve as neighborhood greenways.	6' – 10' (8' preferred)	Concrete	N/A	Wayfinding signage, crosswalks, lighting, etc.	10'				
	In-Park Trails								
In-park trails provide opportunities for walking and exercising inside of a park.	Varies	Concrete	N/A	Trees, benches, and lighting	Varies				

Similarly, five park classifications have been established to identify types of park facilities to serve the Killeen community. Although the City does not currently have a regional park, one is being explored in the northwest area of the City in partnership with Ft. Hood.

## **Parkland Classifications**

PARK CLASSIFICATION / INTENT	SIZE	LOCATION / ACCESSIBILITY	FACILITIES/AMENITIES (COMPLETE PARKS CONSIDERATIONS)	TARGET LEVEL OF SERVICE (PER CAPITA)	TARGET SERVICE RADIUS
Neighborhood Parks serve a single neighborhood or are central to several smaller neighborhoods	3 acres	Centrally located within the neighborhood(s) prioritizing maximum walkable connectivity	<ul> <li>Loop trail</li> <li>Playscape/splash pad/social group seating</li> <li>Sport court(s)/sports field</li> <li>Multipurpose open space</li> <li>Picnic tables or a pavilion</li> <li>Trees and shaded amenities</li> <li>General use lighting for targeted amenities</li> <li>On-street parking or no parking</li> <li>Natural areas/no grow zones</li> </ul>	1.0 acre per 1,000 residents	1/4 to 1/2 mile (or a distance that takes a typical pedestrian roughly five to 10 minutes to walk); 1/2 mile is generally accepted as standard
Community Parks  provide multiple amenities and sized enough to host community/ athletic events, tournaments, and other large-scale activities	From 10 acres to over 50 acres	Good access to citywide thoroughfare network; prioritizing good bike/pedestrian connectivity; buffering against abutting residential uses (to offset lighting and noise)	Same as neighborhood parks, plus:  Restrooms  Off-street parking  Multiple sports fields with lighting (including competitive)  Pavilions and grills  Off-street parking	4.0 acres per 1,000 residents	1 to 2 miles (or a reasonable one-mile walking distance and a two- mile biking distance
Regional Parks  are very large parks which mimic community or special use parks, but with regionally- serving destination amenities	From less than 10 acres to several thousand acres	N/A	Depends on property characteristics and intended use (e.g., large regional nature park or destination sports complex), but should mimic the facilities and amenities set out for the other classification it matches	4.0 acres per 1,000 residents.	5 to 10 miles
Linear Parks and Open Spaces	N/A (based on use)	Good connectivity to thoroughfare connector and in- park trails; maximized access to abutting neighborhoods, schools, and other destinations	Depends on property characteristics, but generally: Linear greenway trails Informal hiking and mountain biking trails Trailhead parking, restrooms, and wayfinding Trail lighting Trees, benches, and shade Natural areas/no grow zones Integrated neighborhood park amenities (as applicable)	4.0 acres per 1,000 residents	1/4 to 1/2 mile (or a distance that takes a typical pedestrian roughly five to 10 minutes to walk); 1/2 mile is generally accepted as standard
Special Use Parks include specialized or single use amenities	N/A (based on use)	Good access to citywide thoroughfare network	Depends on property characteristics, but could include:  Athletic fields or complexes  Swimming pool centers  Tennis complexes  Golf courses  Dog parks	Varies with the special use(s) of the park	Varies with the special use(s) of the park.





# PARK CONDITIONS

Ensuring quality park conditions is a fundamental component of a Complete Parks system. Low quality or poor maintenance in and of itself can lead to a declining park system and continuing cycle of poor park usage. Park research has clearly shown that good maintenance is crucial to maintain public perceptions that park properties are low risk. Broken equipment, run down conditions, and vandalism all contribute to perceptions of fear because such things as litter, graffiti, and broken furniture all suggest a place is uncared for and possibly unsafe. This is inline with the community input survey, where almost 44 percent of survey respondents indicated that they do not feel save while in City of Killeen parks.

As such, a systemwide park condition assessment was undertaken to measure the state of parkland grounds and facility repair. The conditions-based assessment measures whether a park space and the facilities located on the site are maintained in a condition suitable to be used safely, or to otherwise entice continued visitation and usage by surrounding residents and other potential users.

#### **KEY TAKEAWAYS**

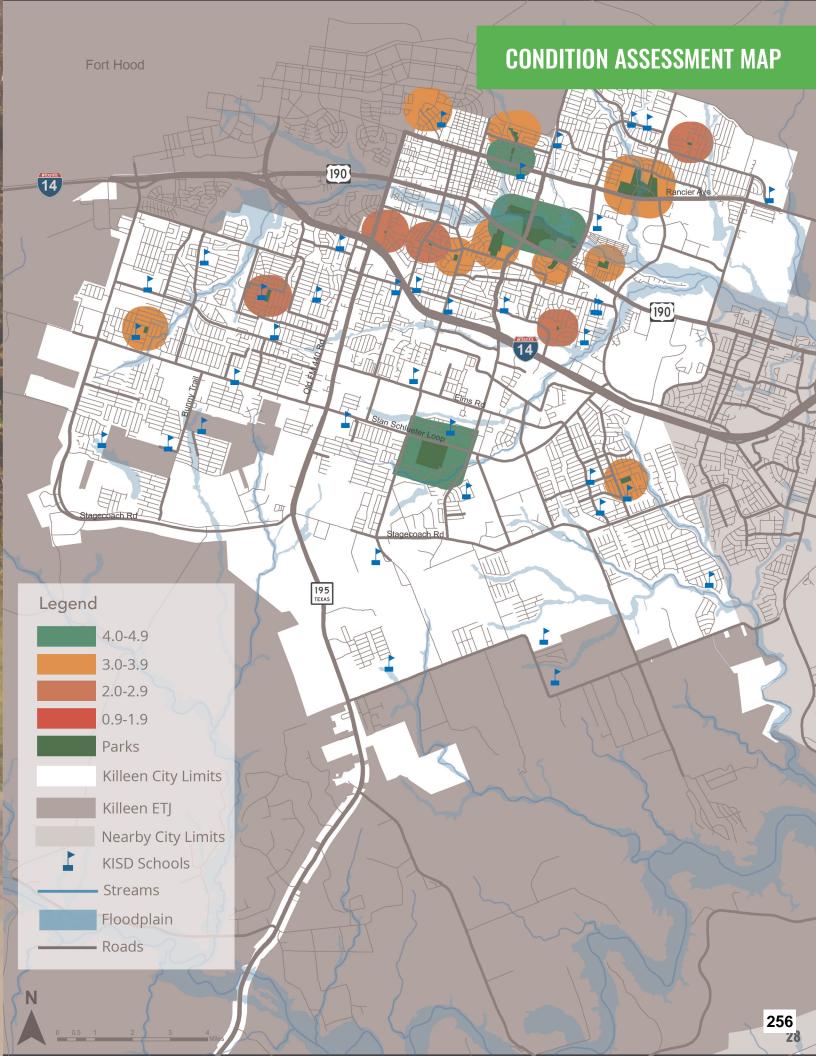
Overall, the Killeen parks system scored 3.3 out of 5 on a weighted scale. This means that the system scored on the lower end of the moderate condition category. As illustrated on the map on the next page, no parks scored high enough to be considered in great condition (5.0), which is not too uncommon. Only four parks scored high enough to be considered maintained in good condition (4.0-4.9). Most of the parks scored in the moderate condition category (3.0-3.9), although many of them ranked at the lower end of the range. Five parks scored low enough to be considered in poor condition (2.0-2.9). No parks scored low enough to be considered failing.

#### **COMMUNITY GOAL**

Strive to establish and maintain a parks and trails system where all facilities and amenities are maintained in a good condition (i.e., 4.0 or better on a park condition reassessment).

- Achieve full adopt-a-park participation for every park and trail by 2024.
- Improve and maintain the condition of all parks and trails to achieve a moderate condition by 2024.
- Improve the condition of at least 50% of the overall parks and trails system to achieve good condition by 2025.
- Improve the condition of at least 75% of the overall parks and trails system to achieve good condition by 2026.
- Improve the condition of all parks to good condition by 2031.





# PARK IMPROVEMENTS

Park improvement is a critical component of a Complete Parks system, particularly once there is an acknowledgment that parks go through lifecycles just like cities. Today, there is a policy shift which recognizes the need for smaller incremental investments which can transform the usability of a community park property over time.

This plan identifies a series of investment opportunities per each park which can be implemented through of combination of smaller scale, incremental improvements (many of which can be implemented by volunteer and staff efforts) and more longer-term intensive capital investments (e.g., installation of a bridge, splash pad, and pavilion).

The LoveMyPark! project workday is a perfect example of how these incremental investments can be undertaken by resident and neighborhood volunteers, and staff, to build community cohesion and create a lasting difference in their specific park property (see the Stewart Park vision on the next page where community volunteers planted trees and other park improvements).

#### **KEY TAKEAWAYS**

Moving forward, adherence to the Complete Parks principles can provide for significant improvements within the City's parks and trails and added community wealth. As it relates to parks improvements, key considerations should include:

- Being purposeful about reducing maintenance obligations to repurpose time towards park improvements
- Balancing incremental redevelopment with larger capital investments
- Adherence to Complete Parks principles

#### **COMMUNITY GOAL**

Strive to develop a fiscally sustainable Complete Parks system through a balance of smaller scale, incremental improvements and purposeful longer-term intensive capital investments.

- Reduce and reallocate the percentage of staff hours spent on reoccurring maintenance activities to park improvement activities by 15-20% by 2024 over base year 2021.
- Increase the amount of in-the-park improvement projects undertaken by staff and volunteers year over year.
- Schedule and facilitate a minimum of four volunteer in-the-park community park improvement days annually.





# PARK GROWTH

Park growth should be concurrent with city growth. In Killeen, there was a lot of park development in the 1980s and 90s in the original parts of the City. Although the City continued to grow exponentially over the next two decades, park development did not keep up. This resulted in large parts of the City with no convenient access to public park property and an overall fragile parks system.

Moving forward, the City must think strategically about how it can improve the provision of parks and recreation in the areas of the City which are unserved, or underserved. A priority focus will be on continual investment in existing park properties. Without continual investment, and eventually redevelopment, the embodied wealth of the property or area will decrease over time, further increasing the fragility of the overall system. It also requires a priority focus on being more strategic about new park growth.

This plan identifies a series of prudent park growth strategies which maximize equitable access through a new vision of growth focused on thinking more strategically and maximizing partnerships with area partners.

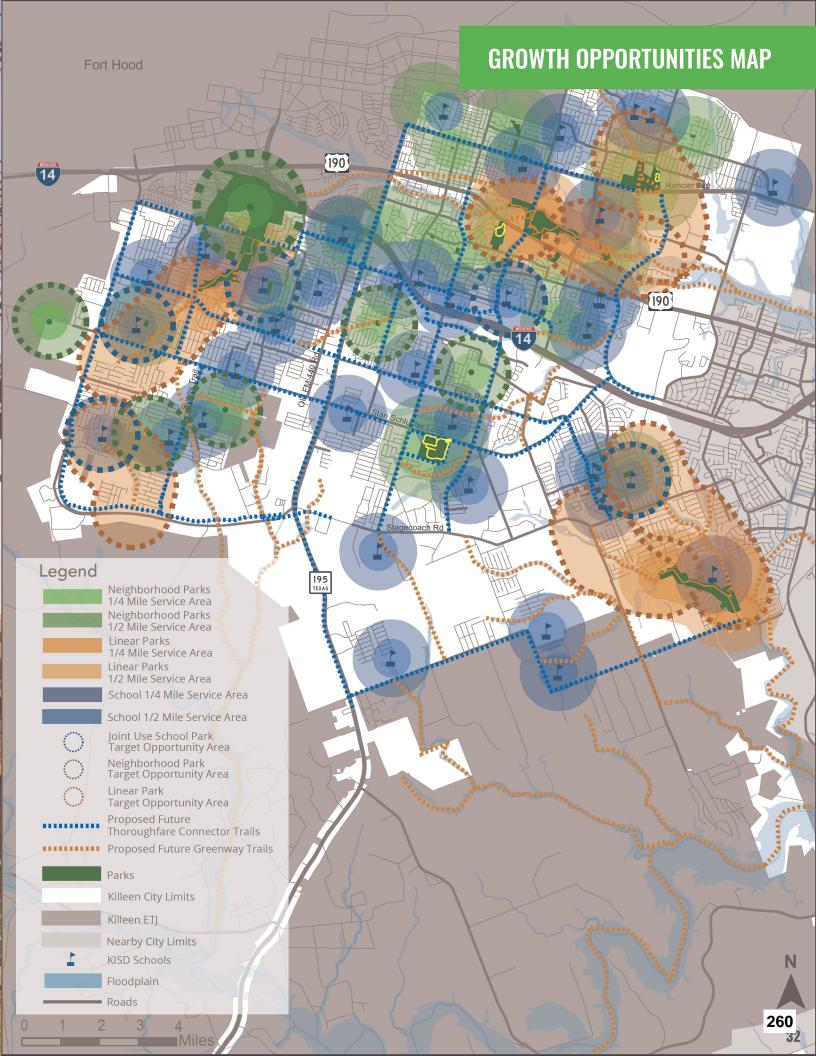
#### **KEY TAKEAWAYS**

The key takeaways regarding park growth are further detailed on the following pages (orange tabs) related to:

- New Parks
- Joint-Use School Parks
- Greenway Trails
- Parkland Dedication and Development

Each of these contain their own goals and benchmarks for moving forward.





## **NEW PARKS**

Although a priority focus of this parks planning process was on improving the quality and usability of existing parks, it also identified several key new park properties which could be more quickly developed by maximizing relationships with area partners. Some of these partners include the Fort Hood and the Killeen Independent School District (KISD). During the last planning process, preliminary discussions were held and opportunities identified, but no action was followed up on as part of post-plan implementation. During this process, discussions with both organizations focused on solidifying the action items needed to take the existing partnership to a new level.

As part of the discussions with Fort Hood, a revised conceptual master plan was prepared identifying a new regional park in the northwest part of the City. This new park would serve as a destination amenity for Fort Hood personnel, Killeen residents, and visitors alike. It would include a passive recreation oriented program of activities including an extension and northern terminus of the Fort Hood Regional Trail, and other facilities and amenities such as a kiosk kayak rental station, picnicking, fishing piers, miscellaneous hiking and biking trails, etc. (see the concept on the next page). The transfer of the Fort Hood portion of the property to the City of Killeen was initiated during the planning process.

As part of the discussions with KISD, a conceptual re-envisioning of a joint use school park was developed identifying how a single set of facilities and amenities could better serve both students during school and the community outside of school hours (see the concept on page 34). A new Master Lease Agreement was drafted as part of the planning process, five school parks were identified as target opportunities (see the areas denoted with blue dashed lines on the map on page 32), and Maxwell Park was identified to serve as a prototype new joint use school park demonstration project.

The plan also identified several properties already owned by the City, and targeted parcels in private ownership, as potential targets for new neighborhood and community park development in areas of need. These six properties (see the areas denoted with green dashed lines on the map on page 32) help improve access in areas of the City which are already largely developed. Similarly, seven targeted areas were identified as low hanging fruit for expanding community connectivity and access to a growing greenway trail system (see the areas denoted in orange dashed lines on the map on page 32 and page 38). Finally, parkland dedication and development regulations were developed as part of the planning process to ensure the parks system grows concurrent with new City growth (see page 32).

#### **COMMUNITY GOAL**

Strive to grow the park system using a fiscally prudent toolbox of park growth solutions including parkland dedication, donations, further development of other existing City non-park property, and strategic partnerships with area partners.

- Identify appropriate property and develop access to a regional park by 2026.
- Increase the amount of designated linear park acreage by 140 acres by 2026.
- Increase the amount of designated neighborhood park acreage by 75 acres by 2026
- Increase the amount of designated community park acreage by 50 acres by 2026.





#### **LEGEND**

- 1 Main Entrance
- 2 Animal Shelter
- 3 Dog Park at Animal Shelter
- 4 Controlled Entry Gate
- 5 Outer Loop Trail (5k Trail)
- 6 Boardwalk System
- 7 Fishing Piers
- 8 Nature/Interpretive Trail

- 9 Interpretive Stations/Outdoor Classrooms
- 10 Wildflower Meadow
- 11 Event Lawn
- 12 Water Turbine Pond and Dam
- 13 Amphitheater
- 14 Inner Loop Trail (1 Mile)
- 15 Artistic Wind/Solar Farm
- 16 Iconic Lookout Tower

- 17 Large Lakeside Pavilion
- 18 Family Pavilions
- 19 Kayak Launch Facility
- 20 Archery Zone
- 21 Agility Course
- 22 BMX Course
- 23 Visitor Center
- 24 Artistic Solar Panels



## **JOINT-USE SCHOOL PARKS**

Historically, the City and KISD executed joint use lease agreements for three school properties for the purposes of allowing the City to erect and maintain the premises for public park purposes. The three leases were at Maxdale Elementary School (2000), Iduma Elementary School (2005), and Timber Ridge Elementary School (2006). Besides the development the large Lions Club Community Park, off E. Stan Schlueter Loop, in 1997, there were no other new park properties outside of the original core areas of the city. The leases were for a 20-year period and renewable. Currently, the lease for the Maxdale property has expired. The other two lease agreements expire in 2026 (Iduma) and 2027 (Timber Ridge).

During this planning process, several good conversations between City and KISD staff have led to an interest in taking next steps in the partnership. This involved an acknowledgment that the City had not historically prioritized good maintenance on the existing properties. Moving forward, the City and KISD staff agreed to expand upon the partnership to be better stewards of limited available resources.

The Maxdale Park Concept Plan illustrates a development of a true Complete Park. It includes areas immediately south of the school building designed to meet the basic needs of school children during the school day, including a covered sports court, covered playscapes and social seating. It also includes a mini-splash pad/water feature which would not be turned on during school hours but could be activated by push button outside of school hours. It also includes a raised seating berm (#14) providing separation and enclosure of the primary area serving school kids during school hours. An additional in-the-park-fence could be considered to further provide separation/enclosure (with signage) of the typical school play areas. Improving Maxdale Park would add a quality neighborhood park to Council District 3.

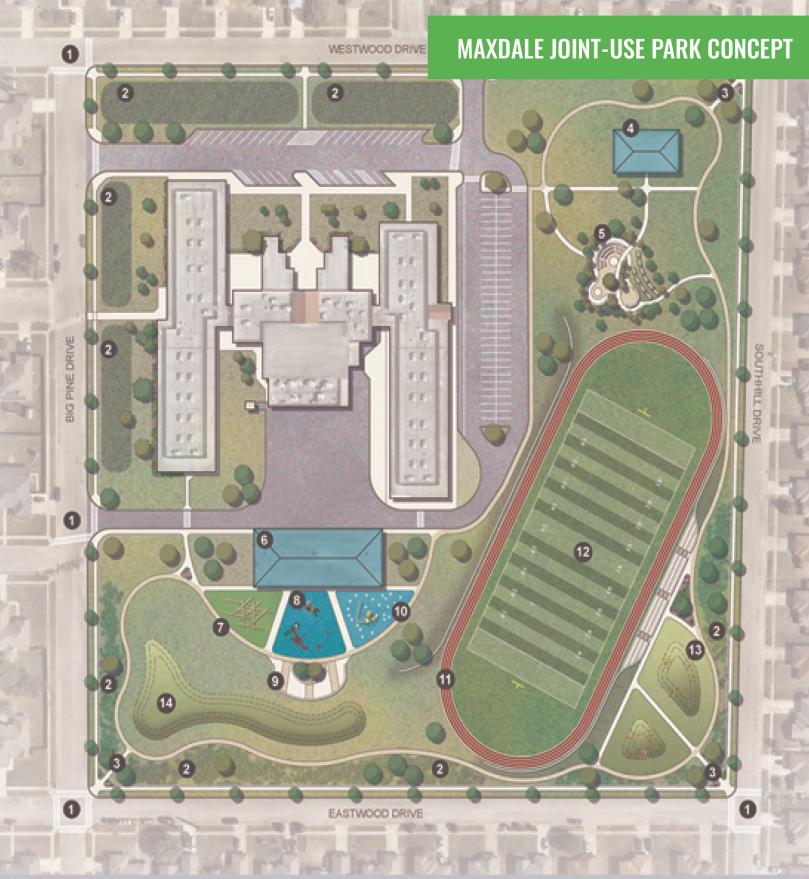
The benefits of joint use for both entities include: (1) Gives kids and communities a safe, accessible places to exercise and socialize after school and/or on weekends; (2) Maximizes use of limited community resources; (3) Reduces the cost burden on both entities (all paid by the taxpayer) in that one entity does not have to buy land and other does not have to buy and maintain equipment; (4) Increases physical and social activity levels of both children and adults; and (5) Increases "eyes on the street" for both the school and the park.

#### **COMMUNITY GOAL**

Maximize opportunities to partner with KISD and other area partners to develop Complete Parks in areas of need in a fiscally responsible manner.

- Execute a new master joint use agreement by 2023.
- Fund a pilot joint use Complete Park at Maxwell Park by 2023.
- Master plan and budget for Complete Park retrofits at Iduma and Timber Ridge Parks by 2024.
- Master plan and budget for two additional joint use parks in areas of need by 2025.





- Painted Crosswalks
- 2 No-Mow Areas
- Entrance Areas and Signage
- Pavilion
- Outdoor Education Classrooms
- Covered Basketball Court
- Climbing Structure

- 8 Playscape (2 age ranges)
- Social Group Seating
- (1) Splash Pad / Water Feature
- 11 4 Lane Track
- Pootball / Multi-Purpose Field
- (B) Climbing Skills Course
- Seating Berm

## **TRAILS**

Trails are seeing continued growth in popularity throughout the country and are increasingly an implementation goal for community planning efforts. Trails improve the quality of life of users and provide alternative commuting options. Additionally, trails improve marketability of public and private property, which benefit from proximity and access to the trails.

Trails also create multi-generational recreation opportunities, promote health, improve the overall quality of life, and provide non-vehicular transportation alternatives. Having close access to trails has become important for communities all over the country as people are gaining more interest in pursuing a healthier lifestyle—even more so since the start of the Covid-19 pandemic. As facilities intended for pedestrian and bicycle access, trails have a service area of one-quarter-mile to one-half-mile. As desired by the residents of Killeen, trails should be planned and constructed for the benefits of today's and tomorrow's population.

Although the City has only a few existing trail segments, this plan identified future trail system opportunity areas for both near-street (i.e., thoroughfare connector trails) and off-street (i.e., greenway linear trails) trail linkages. Together, these two trail types help create an interconnected trail system maximizing access to all parts of the community.

Since the City is significantly behind in its provision of public park property, a priority focus on expanding the greenway trail system serves as a great opportunity to quickly improve level of serve and resident access to the City's parks system.

This plan identified seven priority low hanging fruit trail segments—on property already owned by the City, or on property owned by potential area partners who would also benefit from improved connectivity—which improve community access to key destinations such as parks, schools, etc. The plan also identifies the importance of cross-purposing floodplains and drainage corridors throughout the City for future greenway trail opportunities.

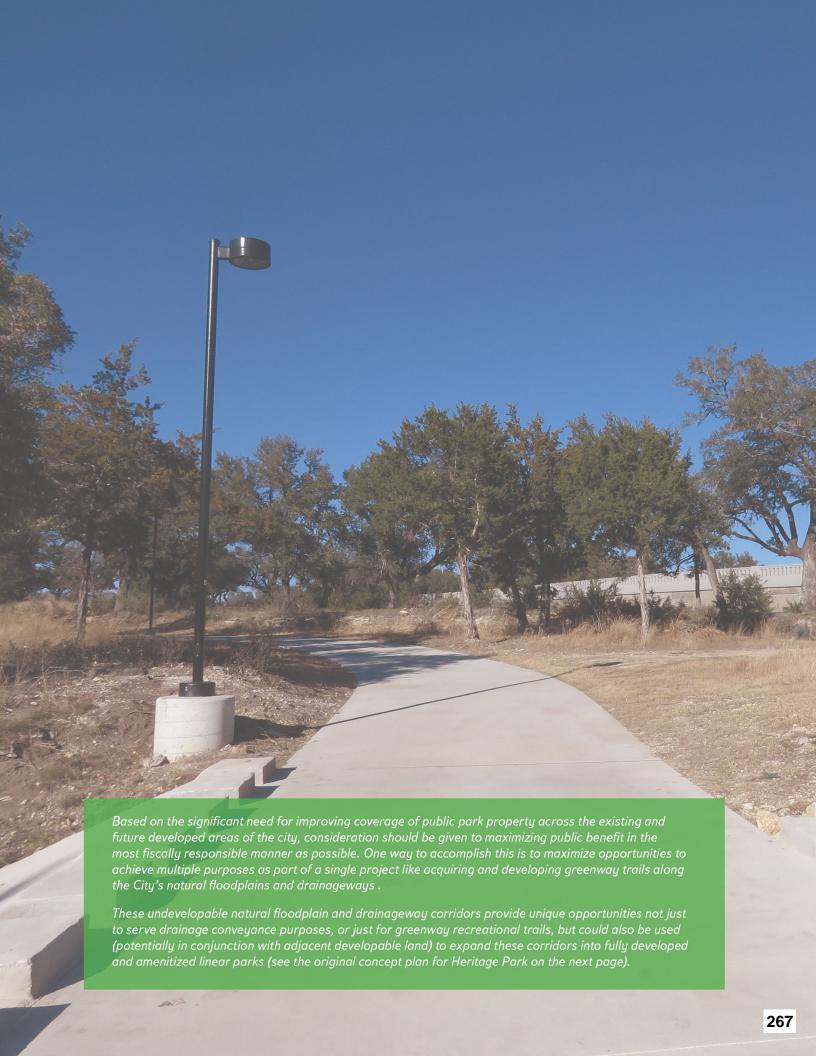
#### **COMMUNITY GOAL**

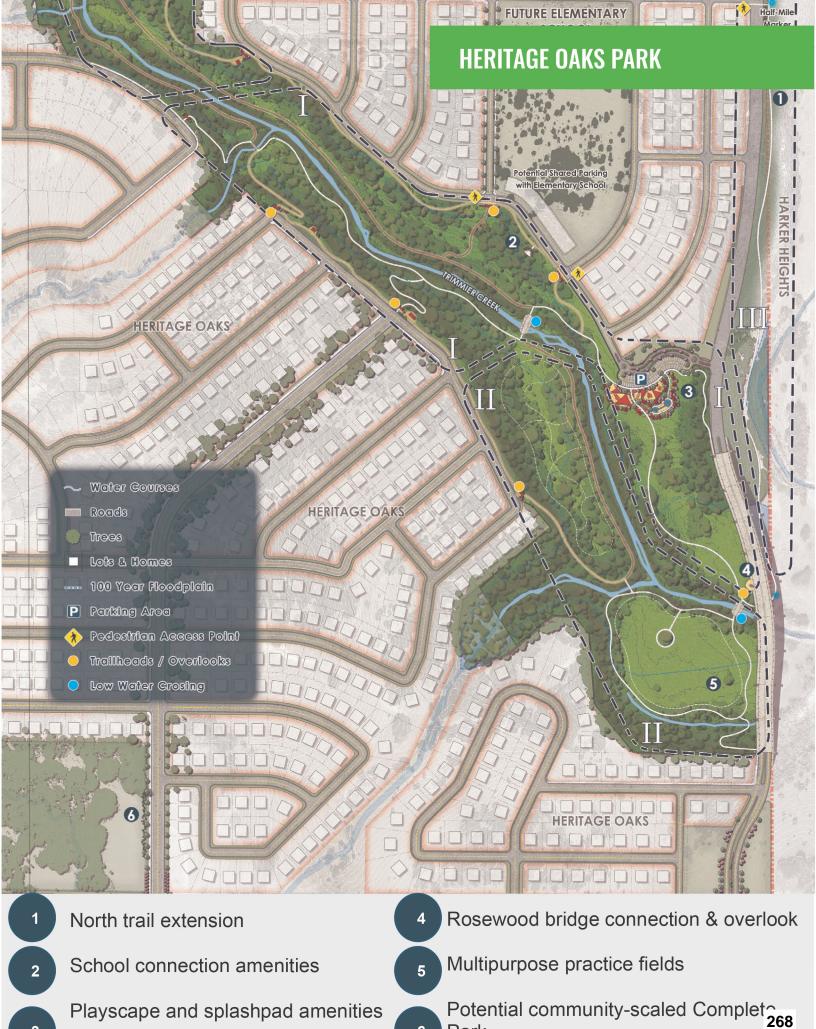
Strive to develop a connected, enhanced citywide trail system though the purposeful acquisition and development of properties and partnerships.

- Achieve improved trail connectivity and development standards by 2023.
- Target a doubling of the citywide greenway trails system (i.e., adding 8.7 more miles) by 2026.









Park

# PARKLAND DEDICATION AND DEVELOPMENT

As is evident in the City's recent growth and development, the public expansion of the parks and recreation system has not kept up with private sector development. Indeed, much of the existing park system acreage was acquired and developed decades ago and most of it is located in the original core area of the City. There has been relatively little new park development in any of the growth areas going as far back as the mid-1990s. Without further assistance as part of new private sector development, there is a strong likelihood that this trend will continue. This is particularly true considering post-recession nationwide trends where increasing demand for new or expanded services is being met with stronger calls for fiscal conservatism.

As set out on page 21, the City is over 500 acres or 33% deficient in the provision of public parkland even factoring in the reduced targets set out in this plan. Overcoming this projected deficit will require the City to pursue future park development in concert with private sector development. One way many jurisdictions accomplish this is through the enactment of parkland dedication and development regulations.

The purpose of the regulations are to ensure that there is sufficient land dedicated or otherwise set aside, and resources for development, to meet the public demand for parks, trails, and open space that arises from population growth. In this way, when new growth and development occurs, a proportionate and reasonable contribution of land dedication, park development, fees in lieu of land conveyance or park development, or combination thereof, allows the parks, trails, and open space system to grow concurrently. All dedication of parkland and improvements, or fees-in-lieu thereof, must be applied within the same park benefit zone (see the map on page 42). This is to ensure that property dedicated and money collected directly benefits the residents of those same geographic areas.

As part of this planning process, new parkland dedication and development regulations were developed. While not the result of a regulatory requirement, the Heritage Oaks subdivision shows how the design of a new residential neighborhood can set aside new park and trail property to serve the Killeen community (see page 40).

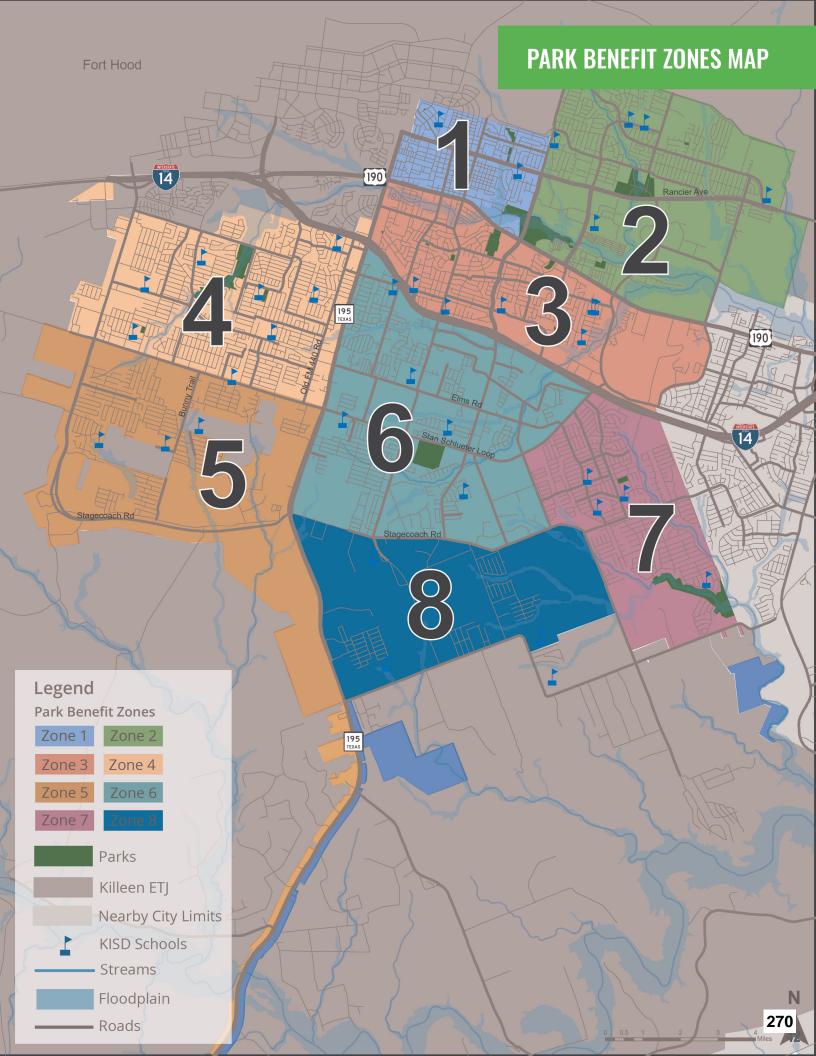
#### **COMMUNITY GOAL**

Draft, develop, and implement a parkland dedication development ordinance to have new parks concurrent with growth.

#### **BENCHMARK TARGETS**

Adopt a parkland dedication and development ordinance within 2022.





# OPERATIONS & MAINTENANCE

The Recreation Services Department had a total operating budget for FY2021 of a little under \$7.5M. It is estimated that approximately 40% of that or \$2.9M is dedicated to maintenance of the City's parks and facilities. They currently employs about 95 full-time employees (FTE's). Approximately 39 of those are dedicated to park operations and maintenance by focusing on litter control, mowing, maintenance of sports fields, playscape inspection and maintenance, tree maintenance, trail maintenance, pool maintenance and miscellaneous cleaning and repair of parks and associated facilities.

As part of this planning process, an operations and maintenance assessment was undertaken for the City's four community-scaled parks to establish appropriate levels of service and best management practices based on existing conditions/analysis, City staff input, community expectations and availability of resources. A new O&M framework was developed as template so that City staff could self-expand the assessment to their neighborhood-scaled parks in the future.

#### **KEY TAKEAWAYS**

Approximately 34% of the acreage (171 acres of the approximate total of 509 acres) that is maintained by Recreation Services is not related to a park, recreation facility, trail or greenbelt. Parks are unnecessarily mowed curb-to-curb increasing reoccuring maintenance costs. Establishing "grow zones" throughout the park system provides an opportunity to repurpose limited staff availability for other important purposes like park improvement and incremental investment.

#### **COMMUNITY GOAL**

Strive to establish and maintain a parks and trails system where all facilities and amenities are maintained in a good condition (i.e., 4.0 or better on a park condition reassessment).

- Execute a contract to outsource building maintenance by 2022.
- Establish a grow zone pilot program in each community park by 2022.
- Target 25 acres of grow zones in community parks by 2024.
- Reduce the cost of mowing by 5% by 2023.
- Target CAPRA certification by 2026.



## NRPA FTE'S PER NUMBER OF ACRES MAINTAINED

250 acres or less

3,500 acres or more





17 FTE's

266.7 FTE's

## **COST PER MAINTAINED ACRE**







Killeen \$5.811.62

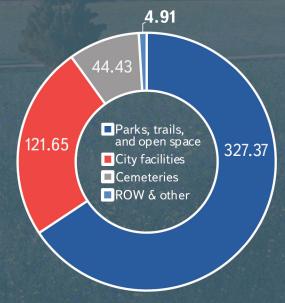
Georgetown \$3,000.00

Waco \$1,600.00

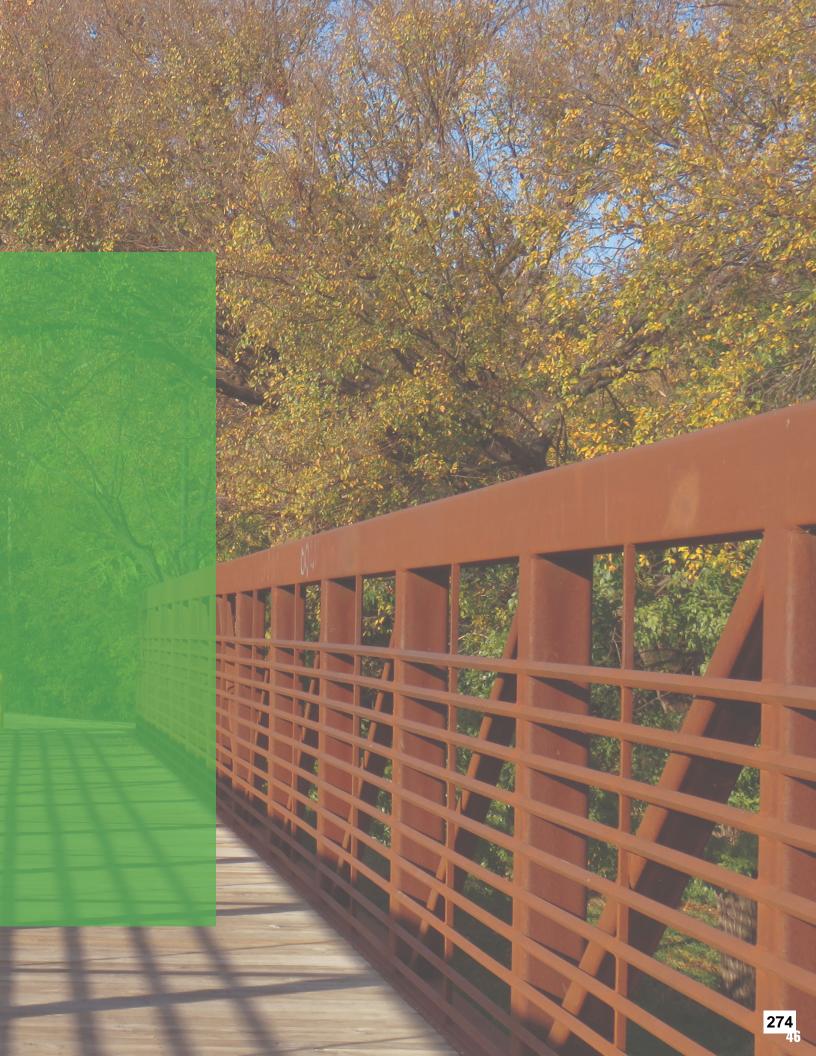


~34% OF TOTAL ACRES MAINTAINED ARE NOT RELATED TO PARKS, TRAILS, AND OPEN SPACE

# CITY OF KILLEEN MAINTAINED ACRES = 498.46







## SHORT-TERM WORK PROGRAM

#### **SHORT TERM (0-3 YEARS) PRIORITIES FOR RECREATION SERVICES**

- Finalize and adopt the parkland dedication and development ordinance
- Apply the operation and maintenance framework to all neighborhood parks in the park system
- Execute a Master Lease Agreement with KISD to expand park acreage within park system (on-going)
- Establish grow zones within the park system at several parks (on-going)
- Utilize the parks condition assessment to build on replacement cycles through FY O/M and capital budgets
- Launch the YAC Park Ambassador program
- Establish new park properties so that park deficiencies start to be addressed
- Continue City staff led incremental park improvements
- Expand the "Love My Park" workday into a quarterly park investment program
- Work towards benchmark targets identified in the various plan memos
- Focus on maximizing the number of people in the parks

#### **SCALE OF IMPROVEMENT** STAFF / VOLUNTEER INITIATIVE TO CAPITAL PROJECT increasing skillset and expertise **VOLUNTEER**/ **CAPITAL** STAFF VOLUNTEER **STAFF** SUPPORTED PROJECT - PARK CLEAN UP - PROPERTY - TURF - SHADE CANOPIES **CLEAN UP** MAINTENANCE - TREE PLANTINGS - CONSTRUCTION - PROPERTY PREP - EQUIPMENT - PAINTING **OF PAVILIONS** (E.G. TREE **INSTALLATION** - CONCRETE TRAIL PLANTING PREP) - EQUIPMENT CONSTRUCTION - NO MOW AREA **REPLACEMENT** - LIGHTING **PREP & SIGNAGE**

Park improvements can occur through a variety of different mechanisms, from small-scale quick enhancements to large-scale capital projects. The involved effort can come from staff as part of their normal work program or through paid contractors. It can also occur through volunteer park improvement workdays which oftentimes require staff support. In general, the scale and extent of potential improvements grow as the work effort increases in skillset and expertise.



## **IMPLEMENTATION ACTION PLAN**

-		Initiation Time Frame			me				
Action #	Action Recommendation	Short term (1-2 yrs.)	Mid term (3-10 yrs.)	Long term (10+ Yrs.)	On- going	Involved entities	Action Type(s)		
Park (	Park Growth Focused Recommendations								
dedic	Strive to grow the park system using a fiscally pruden ation, donations, further development of other existingea partners.								
PS1	Adhere to Complete Parks principles regarding the future design and development of new parks as it relates to general park features and amenities.				•	City	Operational		
PS2	Develop the new Westside Regional Park in the northwest portion of the city.					City	Capital		
PS3	Identify a property to develop a new community park in an area of need in the western side of the city.					City	Study		
PS4	Identify properties and develop two additional community parks in areas of need in the southern portion of the City as growth continues to the south.		•			City	Study, Capital		
PS5	Identify properties and develop additional neighborhood-scaled parkland in areas of need.					City	Study, Capital		
PR6	Evaluate opportunities to develop a new 4.57-acre neighborhood park on City-owned property to serve the Bellaire Heights and Loma Vista subdivisions.		•			City	Study		
PR7	Evaluation of acquisition opportunities for three new neighborhood parks in need areas.			•		City	Study		
PR8	Explore opportunities to improve existing and future indoor recreation centers to better serve multi-generational users.		•			City	Operational, Study		
PR9	Explore opportunities to serve multigenerational users across the entire outdoor park system.				•	City	Study		
PR10	Continue to explore opportunities to develop additional unprogrammed athletic space for open community use.				•	City	Study		
PR11	Develop a second gym at the Killeen Community Center.					City	Capital		
PR12	Identify opportunities to add Complete Park amenities to linear park properties.				•	City	Study, Capital		
PR 13	Identify opportunities to fund and construct the additional neighborhood-scaled park amenities originally conceptualized for the Heritage Oaks Linear Park.	•				City	Study, Capital		
Joint	Use Focused Recommendations								
	Maximize opportunities to partner with KISD and other in a fiscally responsible manner.	er area	partneı	s to de	velop C	omplete Par	ks in areas of		
JU1	Coordinate with Killeen Independent School District (KISD) to execute a new master city-school joint use agreement for the sharing of resources related to school parks.	•				City, KISD	Coordination, Study		
JU2	Utilize Maxdale Park as a pilot project to design and develop a joint-use Complete Park.					City, KISD	Capital		

		lni	tiation 1	ime Fra	me		Action Type(s)
Action #	Action Recommendation	Short term (1-2 yrs.)	Mid term (3-10 yrs.)	Long term (10+ Yrs.)	On- going	Involved entities	
JU3	Maxdale Park Joint Use Concept Plan.		•			City, Consultant	Study, Capital
JU4	Coordinate between the City and KISD to master plan Complete Park opportunities for Iduma and Timber Ridge Parks.		•			City, KISD	Coordination
JU5	Coordinate between the City and KISD to determine opportunities to develop two additional joint-use Complete Parks on existing KISD properties in areas of need.				•	City, School Districts	Coordination, Study
JU6	Continue to coordinate between the City and KISD to determine opportunities to proactively identify and develop joint use Complete Parks as part of new future school design and development.				•	City, KISD	Coordination., Study
JU7	Continue to coordinate between the City and KISD to determine opportunities to proactively identify and develop additional joint recreational facilities which mutually serve both entities.					City, KISD	Coordination, Study
Linear	Park / Trail Growth Focused Recommendations						
	Strive to develop a connected, enhanced citywide trai opment of properties and partnerships.	l system	n thoug	h the p	urposef	ul acquisitio	on and
TR1	Prepare a Citywide Trails Plan to increase connectivity and accessibility to parks and key destinations.	•				City, Consultant	Capital
TR2	Add sidewalks along City streets to complete missing segments on all park properties.	•				City	Capital
TR3	Support the establishment of the regional bicycle and pedestrian system.		•			City	Policy
TR4	Update the City's subdivision regulations to improve trail connectivity and development standards.	•				City, Consultant	Capital, Regulation
TR5	Develop an Active Transportation Plan identifying on-street bike lane connectivity between parks and other citywide key destinations.		•			City, Consultant	Capital
TR6	Preserve drainage corridors and key connections to the existing and future Citywide trail network.					City	Policy
TR7	Coordinate with local public transportation providers to ensure that routes are available to City parks.				•	City	Coordination
TR8	Adhere to trail development standards as part of new trail development and redevelopment.				•	City	Regulation
TR9	Adhere to Complete Parks principles for expanding the usability of City greenways and other trails as it relates to for general trail features and amenities.				•	City	Policy
TR 10	Coordinate directly with the cities of Nolanville and Harker Heights to explore regional partnerships in connecting the Killeen greenways system to their systems along Nolan and Trimmier Creeks.				•	City	Coordination
TR 11	Identify funding and develop a southwest greenway extension of the Ft. Hood Regional Trail.					City	Study
TR 12	Identify funding and develop a greenway extension between Conder Park and the Andy K. Wells Trail.		•			City	Study
TR13	Identify funding and develop a greenway trail connection along South Nolan Creek between the eastern terminus of the Andy K. Wells Trail and AA Lane Park.		•			City	Study

	×	l <u>n</u>	itiation '	Time <u>Fra</u>	me	Involved entities	Action Type(s)
Action #	Action Recommendation	Short term (1-2 yrs.)	Mid term (3-10 yrs.)	Long term (10+ Yrs.)	On- going		
TR14	Identify funding and develop a greenway trail connection along South Nolan Creek and Long Branch to connect AA Lane Park to Long Branch Park.			•		City	Study, Capital
TR15	Identify funding and develop a greenway extension of the Heritage Oaks Trail north along Acorn Creek/Rosewood Drive.					City	Study, Capital
TR16	Identify funding and develop a greenway extension of the Heritage Oaks Trail along Trimmier Creek.			•		City	Study, Capital
TR17	Identify funding and develop a southwest greenway extension of the Ft. Hood Regional Trail.					City, Fort Hood	Study, Capital
Parkla	nd Dedication and Development Focused Recommend	dations					
dedica	Strive to grow the park system using a fiscally prudention, donations, further development of other existing rea partners.  Adhere to Complete Parks principles regarding the future design and development of new parks as it relates to general park				rty, and	strategic part	nerships
	features and amenities.					City	Policy
	mprovements Focused Recommendations						
	Strive to develop a fiscally sustainable Complete Park vements and purposeful longer-term intensive capital			gh a bal	ance of s	smaller scale,	incremental
PI1	Establish a Park Amenities Foundation and Donation Program.	•				City	Operational
PI2	Improve connectivity and ADA access to all facilities and amenities.				•	City	Policy, Capital
PI3	Improve and strengthen park identity by incorporating new signage throughout park system.				•	City	Capital
PI4	Apply environmental design principles as a key component of crime prevention to provide patrons a greater sense of safety and comfort.				•	City	Policy
PI5	Identify funding and resources to improve the provision of additional site amenities throughout the park system.		•			City	Study
PI6	Identify funding and resources to improve the provision of social gathering spaces in the park system.	•					
PI7	Identify funding and resources to diversify uses and improve the activation throughout the park system.	•				City	Study
PI8	Identify funding and resources to incorporate shade features throughout the park system.				-	City	Study
PI9	Evaluate opportunities to install splash pads in areas of need.				•	City	Study
PI10	Consider development of new dog parks in areas of need.					City	Capital
PI11	Identify funding and opportunities to enhance site lighting throughout the parks system for security, light-sensitive amenities, and after hour uses.				•	City	Study, Capital
PI12	Evaluate hours of operation for certain parks and facilities to determine if adjustments could be made for flexibility and usability.				•	City	Operational
PI13	Identify opportunities to add "no grow" areas to reduce maintenance and increase the amount of areas of natural landscapes within each of the parks.				•	City	Study, Operational
PI14	Build upon the LoveMyPark! park improvement day to fund and schedule reoccurring community improvement volunteer days.				-	City	Operational

44		In	itiation '	Time Fra	me		Action Type(s)
Action #	Action Recommendation	Short term (1-2 yrs.)	Mid term (3-10 yrs.)	Long term (10+ Yrs.)	On- going	Involved entities	
PI15	Evaluate opportunities to increase food access and safety in parks and during special events.				•	City	Study, Operational
PI16	Improve communications to the public regarding parks, events, and for other park promotions.				-	City	Operational
PI17	During facility improvements and building upgrades, identify more holistic opportunities to create more efficient and sustainable sites and buildings.				-	City	Policy
PI18	Implement overall park design guidelines to steer proper design and construction of new and improved facilities and amenities.				•	City	Regulation
PI19	Allocate funding to begin incremental investment to improve Camacho Park.	•				City	Incremental Investment
PI20	Continue the incremental investment to improve AA Lane Park.				-	City	Incremental Investment
PI21	Continue the incremental investment to improve Phyllis Park.				•	City	Incremental Investment
PI22	Allocate funding to begin incremental investment to improve Fox Creek Park.	•				City	Incremental Investment
PI23	Continue the incremental investment to improve Iduma Park.				-	City	Incremental Investment
PI24	Continue the incremental investment to improve Stewart Park.				•	City	Incremental Investment
PI25	Allocate funding to begin incremental investment to improve Lions Neighborhood Park.	•				City	Incremental Investment
PI26	Continue the incremental investment to improve Hunt Park.				-	City	Incremental Investment
PI27	Allocate funding to begin incremental investment to improve Fowler Park.	•				City	Incremental Investment
PI28	Continue the incremental investment to improve Maxdale Park.				•	City	Incremental Investment
Park (	Conditions Assessment Focused Recommendations						
	Strive to establish and maintain a parks and trails syst condition (i.e., 4.0 or better on a park condition reasse			cilities	and ame	enities are ma	intained in a
PC1	Develop an official Parks to Standards Program to ensure all parks and trails are all consistently maintained across the system.				-	City	Policy
PC2	Conduct a park condition assessment every five years or with each plan update.				-	City	Study
PC3	Continue to pursue sponsors and community volunteers for the Killeen Adopt-a-Park program.				-	City	Coordination
PC4	Develop a formalized playground risk management inspection schedule and replacement plan.				•	City	Operational, Policy
PC5	Identify best practices and target necessary funding to improve trash management within the parks and trails system.					City	Study
PC6	Identify and prioritize funding to proactively and comprehensively improve the general site conditions of parks categorized as poor condition by 2024.					City	Study, Capital
PC7	Identify and prioritize funding to proactively improve the general site conditions to good by 2025 for at least 50% of parks currently categorized as moderate condition.		•			City	Study, Capital

++		In	itiation <sup>*</sup>	Гime Fra	me		Action Type(s)
Action #	Action Recommendation	Short term (1-2 yrs.)	Mid term (3-10 yrs.)	Long term (10+ Yrs.)	On- going	Involved entities	
PC8	Evaluate opportunities to improve the conditions of Fox Creek Park.	•				City	Incremental Investment
PC9	Evaluate opportunities to improve the conditions of Timber Ridge Park.					City	Incremental Investment
PC10	Evaluate opportunities to improve the conditions of Lions Club Park.					City	Incremental Investment
PC11	Evaluate opportunities to improve the conditions of Iduma Park.					City	Incremental Investment
PC12	Evaluate opportunities to improve the conditions of Fort Hood Regional Trail.	•				City	Incremental Investment
PC13	Evaluate opportunities to improve the conditions of Maxdale Park.					City	Incremental Investment
PC 14	Evaluate opportunities to improve the conditions of Santa Rosa Park.	•				City	Incremental Investment
PC15	Evaluate opportunities to improve the conditions of Flower Park.	•				City	Incremental Investment
PC 16	Evaluate opportunities to improve the conditions of Phyllis Park.					City	Incremental Investment
PC 17	Evaluate opportunities to improve the conditions of Green Avenue Park.	•				City	Incremental Investment
PC 17	Evaluate opportunities to improve the conditions of Camacho Park.	•				City	Incremental Investment
PC 19	Evaluate opportunities to improve the conditions of Stewart Park.					City	Incremental Investment
PC20	Evaluate opportunities to improve the conditions of Lions Neighborhood Park.	•				City	Incremental Investment
PC21	Evaluate opportunities to improve the conditions of Rotary Club Children's Park.					City	Incremental Investment
PC22	Evaluate opportunities to improve the conditions of Killeen Community Center Athletic Complex.				•	City	Incremental Investment
PC23	Evaluate opportunities to improve the conditions of Condor Park.				•	City	Incremental Investment
PC24	Evaluate opportunities to improve the conditions of Marlboro Park.					City	Incremental Investment
PC25	Evaluate opportunities to improve the conditions of AA Lane Park.				•	City	Incremental Investment
PC26	Evaluate opportunities to improve the conditions of Long Branch Park.					City	Incremental Investment
PC27	Evaluate opportunities to improve the conditions of Hunt Park.	•				City	Incremental Investment
_	tions and Maintenance Focused Recommendations				_		
	Strive to establish and maintain a parks and trails syst condition (i.e., 4.0 or better on a park condition reasse			cilities	and ame	nities are ma	intained in a
OM1	Continue to identify opportunities to add No Mow Zones across the parks system.					City	Incremental Investment
OM2	Continue to identify opportunities to continue outsourcing non- park or trail related efforts to protect park's staff resources.				•	City	Study

44		In	itiation '	Time Fra	me		Action Type(s)
Action #	Action Recommendation	Short term (1-2 yrs.)	Mid term (3-10 yrs.)	Long term (10+ Yrs.)	On- going	Involved entities	
ОМЗ	Develop an official Parks to Standards Program to ensure all parks and trails are all consistently maintained across the system.		•			City	Capital
OM4	Develop a formalized playground risk management inspection schedule and replacement plan.	•				City	Capital
OM5	Identify best practices and target necessary funding to improve trash management within the parks and trails system.					City	Study
OM6	Identify and prioritize funding to proactively and comprehensively improve the general site conditions of parks categorized as poor condition by 2024.				-	City	Study
OM7	Identify and prioritize funding to proactively improve the general site conditions to good by 2025 for at least 50% of parks currently categorized as moderate condition.					City	Study
OM8	Pursue CAPRA Certification.					City	Capital
ОМ9	Prioritize budget and resources to continue to develop and digitize park infrastructure and assets into the Cityworks AMS asset management system.				-	City	Capital
OM10	Continue to enter parks system and operations data into NRPA's Park Metrics system.					City	Coordination
OM11	Replace or renovate the Conder Park maintenance facility.					City	Capital
OM12	Evaluate the need to add satellite park maintenance facilities concurrent with growth to maximize staff resource proximity to different parks and trails in the City.	•				City	Study
OM13	Consider the establishment of a tree nursey on City park property so there is a cost-effective resource for near- and longer-term tree saplings.					City	Capital
OM14	Evaluate strategies to improve the safety of users while visiting City parks.				•	City	Incremental Investment

## **ACKNOWLEDGEMENTS**

The Killeen Parks and Open Space Master Plan was developed by the City of Killeen with the technical assistance from Halff. Special thanks goes to the many residents and community leaders for their insight and support throughout the duration of this study. The following individuals are recognized for their significant contributions to the preparation of the 2022 Master Plan.

#### MAYOR AND CITY COUNCIL

Jose L. Segarra, Mayor

Debbie Nash-King, Mayor Pro Tem,

Councilmember District 2

Ken Wilkerson, Councilmember at Large

Mellisa Brown, Councilmember at Large

Rick Wlliams, Councilmember at Large

Jessica Gonzalez, Councilmember District 1

Nina Cobb, Councilmember District 3

Michael Boyd, Councilmember District 4\*

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Holly Teel, District 1\*

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Joe Davis, District 3\*

Paul Passamonti, District 4\*

David Fleming, At-Large\*

Emilio Fenderson, At-Large\*

Anthony Kendrick, At-Large\*

#### PARKS MASTER PLAN WORKGROUP

Rodolfo Alvarez - Youth Advisory Commission

Patsy Bracey - Former RSAB

R. David Cole - Former RSAB

Kelly Flading - Former RSAB

Jason Johnson - KISD

Michael Love - Fort Hood

Tanida Mullen - Visitor Bureau

Dr. Marc Nigliazzo - TAMU Central

Brian O'Connor - Chamber of Commerce

Kama Rangel - Youth Advisory Commission

Note: members of the PMPW who are also members of another board or commission are denoted with an \* on this page

#### KILLEEN PARKS AND RECREATION DEPARTMENT

Joe Brown, Executive Director of Recreation Services Heather Buller, Assistant Director of Recreation Services Joseph Dyer, Parks & Recreation Manager

#### UNITE ACCORDATES INC

Matt Bucchin, AICP, LEED Green Associate

Luke Behrens, Grounds Superintendent

Chelsea Irby, AICP

James Hemenes, PLA, ASLA, CPRE

Kyle Hohmann

Jim Carrillo, FAICP, ASLA

Julian Salas-Porras

Jill Amezcua, PLA, ASLA

Brandon Hay, PLA, ASLA, CLARB



Effective implementation of this plan necessitates ongoing community engagement. New programs established as part of this planning process (e.g., the Youth Advisory Commission Park Ambassador Program and the Love Your Park Day!) are a mechanism to continually engage the citizens of Killeen in capacity building and the incremental investment in their park system—one which leads to a Complete Parks system founded in Strong Towns principles and increased community wealth building over time.



IN ASSOCIATION WITH





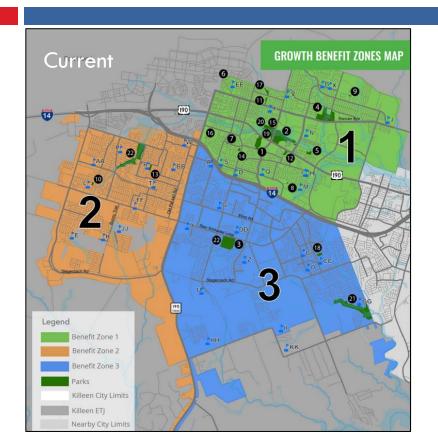
PARKS & OPEN SPACE
MASTER PLAN AMENDMENT

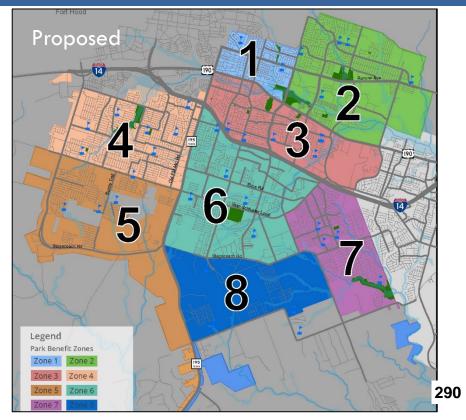
- The City's Parks & Open Space Master Plan was adopted in February 2022.
- The plan establishes Park Benefit Zones for the acquisition and development of parks.
- Park development fees and fees-in-lieu of parkland dedication collected during the development process must be spent within the same zone.

- □ The current Master Plan includes three (3) Parks Benefit Zones.
- □ The purpose of the proposed amendment is to increase the number of Parks Benefit Zones to eight (8).
- The proposed Parks Benefit Zones are consistent with the Development Zones identified in the Comprehensive Plan.

- This proposed change was in response to feedback received during the stakeholder input process for the proposed Parkland Dedication and Development Ordinance.
- If approved, this amendment will reduce the overall size of each area in which park development fees and fees-in-lieu of parkland dedication can be spent.
- □ This ensures that parks fees are spent closer to where the developments that generated the fees are located.

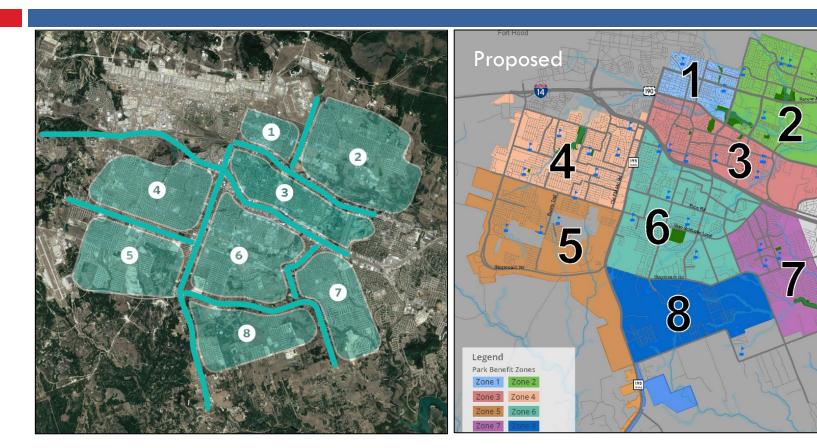
## Park Benefit Zones





5

# Comprehensive Plan Development Zones



291

- The City Council has three (3) alternatives:
  - Do not approve the amended Parks and Open Space Master Plan;
  - Approve the Master Plan with modifications; or
  - Approve the amended Master Plan as presented.

## Recommendation

Staff recommends approval of the amended Parks and Open
 Space Master Plan as presented.



#### City of Killeen

#### Staff Report

File Number: RS-23-023

Consider a memorandum/resolution confirming the City Auditor's annual evaluation and pay increase.

**DATE:** January 24, 2023

TO: Kent Cagle, City Manager

FROM: Eva Bark, Executive Director of Human Resources

SUBJECT: Annual Evaluation and Pay Increase of City Auditor

#### **BACKGROUND AND FINDINGS:**

The position of City Auditor is currently filled by Matthew Grady. Matthew Grady has served in this capacity since January 17, 2017. Per City Charter Section 40, the City Council may appoint a city auditor to carry out the internal audit functions as the City Council shall assign to him and the city auditor shall be a Certified Public Accountant.

On January 17, 2023, Council met with Mr. Grady for his annual performance evaluation, and the majority consensus was to increase Mr. Grady's annual salary to \$100,000.

#### **THE ALTERNATIVES CONSIDERED:**

- 1) Council can choose not to approve an increase in annual salary to \$100,000 effective January 17, 2023.
- 2) Council can choose to approve an increase in annual salary to \$100,000 effective January 17, 2023.

#### Which alternative is recommended? Why?

Staff recommends that the Council approve an increase in annual salary to \$100,000 for the City Auditor, Matthew Grady, based on the majority consensus reached at the Council workshop held on January 17, 2023.

#### **CONFORMITY TO CITY POLICY:**

Texas Government Code sec. 40 provides that the governing body may appoint a city auditor. The city auditor shall carry out the internal audit functions, shall perform such other duties as the city council shall assign to him, and shall be a Certified Public Accountant.

#### **FINANCIAL IMPACT:**

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

The City Auditor's current annual salary is \$96,111 and will increase by \$3,889, totaling \$100,000, in addition to reoccurring annual benefits

#### Is this a one-time or recurring expenditure?

This is a recurring expenditure.

#### Is this expenditure budgeted?

Yes, funds are available in the General Fund City Auditor accounts 010-0308-413.40-05 through 010-0308-413.40-89.

#### 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 Council approves an annual salary increase to \$100,000, effective January 17, 2023, for City Auditor, Matthew Grady based on the majority consensus reached at the council workshop held January 17, 2023.

#### **DEPARTMENTAL CLEARANCES:**

Finance

Legal

#### **ATTACHED SUPPORTING DOCUMENTS:**

N/A



## City of Killeen

#### **Staff Report**

File Number: OR-23-003

City Council Workshop

01/17/2023 Reviewed and Referred

City Council

01/24/2023

Consider an ordinance amending the Code of Ordinances, Chapter 6, Animals, by reducing the number of citizens appointed to the Animal Advisory Committee.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Danielle Singh, Assistant City Manager

SUBJECT: Amending the number of citizens appointed to the Animal Advisory

**Committee** 

#### **BACKGROUND AND FINDINGS:**

Section 6-36 of the Code of Ordinances provides for the creation of an Animal Advisory Committee. In compliance with Health and Safety Code 823.005, the committee is comprised of at least one (1) licensed veterinarian, one (1) city official, one (1) person whose duties include the daily operation of the city's animal shelter, and one (1) representative from an animal welfare organization. Although not required by the Health and Safety Code, the ordinance includes appointment of seven(7) citizen members.

On December 6, 2022, staff brough an item to the City Council regarding appointments to various citizen boards, commissions, and committees. The City Council approved a motion of direction for staff to bring an ordinance amendment forward to reduce the number of citizen appointments to the Animal Advisory Committee from seven (7) to four (4).

#### **THE ALTERNATIVES CONSIDERED:**

- 1. Disapprove reducing the number of citizen members.
- 2. Change the number of citizen members to something other than seven(7) or four (4).
- 3. Approve the attached ordinance reducing the number of citizen appointments to four (4).

#### Which alternative is recommended? Why?

Based on the motion of direction approve by the City Council on December 6, 2022, staff recommends reducing the number of citizen appointments on the Animal Advisory committee to four (4).

#### **CONFORMITY TO CITY POLICY:**

This item complies with city policy.

#### **FINANCIAL IMPACT:**

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

There is no fiscal impact associated with this item.

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:**

Based on the December 6, 2022, motion of direction, staff recommends that the City Council approve the attached ordinance reducing the number of citizen members on the Animal Advisory Committee to four (4).

#### **DEPARTMENTAL CLEARANCES:**

Legal

#### **ATTACHED SUPPORTING DOCUMENTS:**

Ordinance

<b>ORDINANCE</b>	
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AN ORDINANCE AMENDING CHAPTER 6, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN, TEXAS, BY AMENDING SECTION 6-36, ANIMAL ADVISORY COMMITTEE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

**WHEREAS,** on December 6, 2022, the City Council reviewed applications to various boards, commissions and committees in order to make annual appointments; and

WHEREAS, in discussing the Animal Advisory Committee, it was proposed that the number of citizen appointments would be reduced; and

**WHEREAS**, the City Council approved a motion of direction for staff to bring forward an ordinance to reduce the number of citizen appointments to the Animal Advisory Committee;

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

**SECTION I**. That Chapter 6, ANIMALS, Article II is hereby amended as follows:

## ARTICLE II. ANIMAL SERVICES DIVISION 1. GENERALLY

\* \* \* \*

#### Sec. 6-36. Animal Advisory Committee.

(a) An animal advisory committee shall be appointed by the city council and shall be composed of at least one (1) licensed veterinarian, one (1) city official, one (1) person whose duties include the daily operation of the city's animal shelter, and one (1) representative from an animal welfare organization, and seven (7) four (4) citizens.

\* \* \* \*

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

**SECTION III:** That should any section or part of any section or paragraph of the 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 immediately upon passage.

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this <u>24</u>17<sup>th</sup> day of January, 2023, 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
ATTEST:	Debbie Nash-King, MAYOR
Laura L.Calcote, CITY SECRETARY	_
APPROVED AS TO FORM	

Holli C. Clements, CITY ATTORNEY



## ANIMAL ADVISORY COMMITTEE

- □ Section 6-36 provides the composition of the Animal Advisory Committee
  - Required by state law: At least one licensed veterinarian, one city official, one person whose duties include the daily operation of the city's animal shelter and one representative from an animal welfare organization
  - Added by the city: seven (7) citizens

2

On December 6, 2022, during a discussion of citizen appointments, City Council issued a motion of direction to reduce the number of citizen members from seven (7) to four (4)

# Ordinance Changes

□ Sec. 6-36 Animal Advisory Committee.

(a) An animal advisory committee shall be appointed by the city council and shall be composed of at least one (1) licensed veterinarian, one (1) city official, one (1) person whose duties include the daily operation of the city's animal shelter, and one (1) representative from an animal welfare organization, and seven (7) four (4) citizens.

- Disapprove reducing the number of citizen members
- Make additional amendments
- □ Approve the ordinance reducing the number of citizen members to four (4)

4

 Based on the previous City Council motion of direction, staff recommends reducing the number of citizen appointments on the Animal Advisory Committee to four (4)



## City of Killeen

#### **Staff Report**

File Number: PH-23-003

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred City Council

01/24/2023

HOLD a public hearing and consider an ordinance amending the Code of Ordinances, Chapter 31, Sec. 31-393, Vacant Structures in the Historic Overlay District, to amend the Vacant Structure Registration.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: Amendment to Chapter 31, Vacant Structure Registration

#### **BACKGROUND AND FINDINGS:**

At the November 8, 2022, Council Meeting, City Council issued a motion of direction for staff to amend the Vacant Structure Registration ordinance. Killeen Code of Ordinances Section 31-392 states that the Historic Overlay District (HOD) "is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; foster civic pride and past accomplishments; to protect and enhance city attractions for tourist and residents; to strengthen the economy, and to promote the use of historical and cultural landmarks for the general welfare of the community."

In congruence with this purpose of the HOD, staff has recently observed and evaluated the existing inventory of buildings within the Historic Overlay District and have noted the following:

- -There are currently 34 vacant buildings out of 110 structures
- -19 of those buildings were also identified as vacant in 2020
- -Since the adoption of the ordinance in 2020, only 8 vacant structures have been registered

At the direction of the City Council, these proposed ordinance amendments include the following updates:

- Expedites the timeline from when the initial notice is sent to register to the time penalties are imposed for failure to register from 90 to 30 days.
- Provides for increased penalties for failure to register within the notice period of 30 days which include both a misdemeanor and upon conviction in municipal court, shall be subject to fines for each offense, with every day constituting a separate offense.
- Provides for increased structure inspections to include external and internal inspections to ensure the structure complies with minimum standards of care.
- Allows for the reinspection of structures in a more timely manner if the initial inspection deems the structure as non-compliant with minimum standards of care requirements.
- Provides for increased penalties for failure to bring the building into compliance with the
  minimum standards of care in a timely manner that include both a misdemeanor and upon
  conviction in a municipal court shall be subject to fines for each offense, with every day
  constituting a separate offense.

#### **THE ALTERNATIVES CONSIDERED:**

- 1. Do not approve amendments to the Vacant Structure Registration Ordinance
- 2. Approve amendments to the Vacant Structure Registration with changes
- 3. Approve amendments to the Vacant Structure Registration as stated

#### Which alternative is recommended? Why?

Based on City Council's motion of direction, it is recommended to approve the changes to the Vacant Structure Registration. Approval of the proposed amendments will address health, safety, and viability concerns in the Historic Overlay District.

#### **CONFORMITY TO CITY POLICY:**

The amendments to the Vacant Structure Registration conform with to Governing Standards and Expectations.

#### **FINANCIAL IMPACT:**

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

There is no financial impact associated with this action.

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 approve the amendments to the Vacant Structure Registry.

#### **DEPARTMENTAL CLEARANCES:**

This item has been reviewed by Development Services and Legal Staff.

#### **ATTACHED SUPPORTING DOCUMENTS:**

Ordinance

<b>ORDINANCE</b>	
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AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE VACANT STRUCTURE REGISTRATION AND INSPECTION FEES; 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 has designated an area within the City of Killeen as a Historic Overlay District (HOD); and

**WHEREAS,** the City Council passed and adopted an ordinance establishing a Vacant Building Registration and Inspection Fee on August 14, 2020;

WHEREAS, the City Council finds that such amendments are necessary and will provide consistent and even application of regulations to all applicants;

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

**SECTION I.** That the City of Killeen hereby amends the Vacant Building Registry as follows:

#### Sec. 31-391. Definitions.

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

Awning shall mean a shelter projecting from and supported by the exterior wall of a building constructed of rigid and non-rigid materials on a supporting framework.

Auxiliary sign shall mean a sign indicating general information such as credit cards, pricing official notices required by law, directions, shop hours, community services, occupant and profession, and realty information.

*Banner* shall mean a sign made of cloth, plastic, or light fabric with no enclosing framework. Pennants are considered banners.

*Department* shall mean the development services department for the City of Killeen, Bell County, Texas.

Director shall mean the executive director of development services.

Downtown action agenda shall mean the document adopted by city council per resolution 07-023R.

Façade shall mean the entire building front including the parapet.

*Ground sign* shall mean a billboard or similar type of sign which is supported by one or more uprights, poles or braces in or upon the ground.

Hanging sign shall mean any sign affixed to either an awning or the building.

Historic shall mean properties older than fifty years.

*Historic overlay district* shall mean all property located within the historic district as described as:

Point of beginning intersection of Santa Fe Plaza Drive and 8th Street; thence north 14 deg 15' 40" east 528.256 feet; thence south 76 deg. 23' 47" east 186.989 feet; thence north 14 deg. 38' 17" east 515.418 feet; thence north 75 deg. 34' 30" west 630.255 feet; thence south 14 deg. 14' 35" west 129.342 feet; thence north 75 deg. 34' 56" west 168.658 feet; thence south 14 deg. 28' 14" west 195.764 feet; thence north 75 deg. 19' 50" west 186.635 feet thence south 13 deg. 55' 59" west 757.510 feet; thence south 75 deg. 32' 57" east 414.775 feet; thence north 11 deg. 22' 27" east 38.420 feet; thence south 75 deg. 09' 51" east 378.691 feet to the point of the beginning.

A map of the area described is available in the city planning office.

*Internally lit sign* shall mean a sign with an artificial light source incorporated internally for the purpose of illuminating the sign.

Live work unit shall mean a building or space within a building used jointly for commercial and residential purposes where the residential use of the space is secondary or accessory to the primary use as a place of business.

*Mixed-use* shall mean a building or structure that contains a mixture of commercial and residential uses.

Occupied shall mean that one or more persons conduct business in at least 50 percent of the total area of the building (excluding stairwells, elevator shafts, and mechanical rooms) as the legal or equitable owner, operator, lessee, or invitee on a permanent, non-transient basis pursuant to and within the scope of a valid certificate of occupancy.

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

Owner shall mean any person, firm, partnership or corporation having a legal interest in the property.

Parapet shall mean a low protective wall along the edge of the roof.

*Poster* shall be a sign made of paper or any non-rigid material with no enclosing framework.

*Projecting sign* shall mean a sign other than a wall sign, which projects from and is supported by a wall of a building or structure.

*Reflective tinting* shall mean any window tinting which demonstrates a reflective quality and impedes clear visibility into a building.

*Roof sign* shall mean a sign erected upon or above a roof or parapet of a building or structure.

Secured shall mean that all accessible means of ingress and egress to the vacant structure, including, but not limited to, all exterior doorways and windows, are locked so as to prevent unauthorized entry by vagrants and criminals.

Sign shall mean any letter, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated service, which shall be constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever, so that the same shall be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine or merchandise, whatsoever, which is displayed in any manner outdoors.

Sign area shall mean that area being the total square footage of the combined message or display surface. This area does not include structural supports for a sign, whether they be columns, pylons, or a building, or part thereof.

Sign structure shall mean any structure which supports or is capable of supporting a sign.

Temporarily secured shall mean that all accessible means of ingress and egress to the vacant structure, including, but not limited to, all exterior doorways and windows, are covered with plywood which has been nailed or bolted in place so as to prevent unauthorized entry by vagrants and criminals.

*Temporary sign* shall mean any sign constructed of cloth, canvas, light fabric, cardboard, wallboard, metal, or other light materials, not intended for long term use. Banners and posters are temporary signs.

Vacant structure shall mean a structure, regardless of its structural condition, that is not occupied.

Wall sign shall mean any sign attached to or erected against the wall of a building or structure, with the exposed face in a plane parallel to the plane of the wall as defined in appendix H of the city's adopted building code.

Window covering shall mean any material including, but not limited to, curtains, wood, fabric, cardboard, or paper which impedes visibility and is not intended to be used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever, which is affixed in any manner to the window or area surrounding the window.

(Ord. No. 09-024, § II, 3-17-09; Ord. No. 17-010, § I, 2-14-17; Ord. No. 20-032, § I, 8-4-20; Ord. No. 22-046, § I, 6-28-22)

#### Sec. 31-392. Statement of purpose.

The historic overlay district (HOD) is intended to establish and provide for the protection, preservation, and enhancement of buildings, structures, sites and areas of architectural, historical, archaeological, or cultural importance or value. The HOD is envisioned as a tool to help stabilize and improve property values; to encourage neighborhood conservation; to foster civic pride and past accomplishments; to protect and enhance city attractions for tourists and residents; to strengthen the economy; and to promote the use of historical and cultural landmarks for the general welfare of the community. Additionally, the historic overlay district is intended to help

promote the development of a downtown consistent with the community objectives identified in the City of Killeen Comprehensive Plan.

The following standards or requirements shall apply to the historic overlay district:

- A. Any regulations for the HOD shall apply to all properties or structures wholly contained within that district, and to those portions of any property within the district.
- B. Because the HOD is an overlay district, the regulations for the underlying zoning district shall remain in effect, except as otherwise provided in the zoning ordinance.
- C. In case of any conflict between the regulations applicable in the underlying zoning district, and the regulations of the HOD, the regulations of the HOD will take precedence, even where the applicable regulation may not be a higher standard.
- D. The findings adopted by the city council for a historic overlay district shall define the scope of the city's interest in protecting the historic resources in the district and shall provide the guidelines to be used by the heritage preservation officer or heritage preservation board, along with any applicable design guidelines in considering whether to grant or deny an order of design compliance.

(Ord. No. 09-024, § II, 3-17-09)

#### Sec. 31-393. Vacant structures in the historic overlay district.

- (a) Applicability and administration.
  - (1) This section shall apply to all vacant structures, as defined in this division, which are now in existence or which may hereafter be constructed or converted from other uses and which are located within the boundary of the historic overlay district (HOD).
  - (2) The director or designee is authorized to administer and enforce the provisions of this section.
  - (3) The director or designee shall have the authority to render interpretations of this division and to adopt policies and procedures in order to clarify the application of its provisions.
- (b) Registration required.
  - (1) Within 30 days of any structure becoming a vacant structure, the owner shall register that building by completing and filing with the Department a registration form and remitting to the city the required registration fee as set forth in Subsection (c).
  - (2) The registration form shall include the following information:
    - a. The address and legal description of the property.
    - The name, physical address, mailing address, telephone number, and email information for any property owner(s) with an interest in the property.
       Corporations or corporate entities shall submit the same information pertaining to their registered agent.
    - c. The contact information for a designated local property manager for the property.

- d. Proof of property insurance in an amount not less than the appraised value of the structure, as determined by the Bell County Appraisal District, or a surety bond for the value of structure if insurance cannot be obtained. This subsection is not applicable to single family residential structures.
- e. A completed Letter of Intent, provided by the Department, detailing a timeline for correcting code enforcement violations, conducting rehabilitation and maintenance of the structure, and a plan for future use of the structure. The Letter of Intent must be updated every twelve (12) months.
- f. A complete floor plan of the property for use by first responders in the event of a fire or other catastrophic event.
- g. Confirmation of criminal trespass affidavit, which shall be filed by the property owner with the Killeen Police Department. Said property owner shall post "No Trespass" placards on the premises. Additional employment of security services for the property for a specified number of hours every day may be required by the director on the basis of the property's history of code and/or criminal violations.
- h. Confirmation that the owner has scheduled an inspection by the city and that the inspection will occur within sixty (60) calendar days of registration.
- (3) Within thirty (30) days, the owner of a vacant structure shall provide written notice to the director, including a copy of the deed, of a change in:
  - a. Ownership of the property; or
  - b. Contact information for either the owner or the property manager.
- (4) Continued annual registration of the property by the owner of a vacant structure is required until said structure is deemed occupied and in compliance with all relevant code requirements by the director.
- (5) A registration of a vacant building issued pursuant to this section is not transferrable. New owners shall submit a new registration and remit the applicable fee within thirty days (30) of transfer of ownership.
- (6) Failure to timely register a vacant building and provide the information required in Subsection (b)(2) is a violation of this section.

#### (c) Fees.

- (1) At the time of registration, the owner shall tender an annual registration fee and annual inspection fee. The registration fee shall be \$500.00 for the first year and shall increase by \$50.00 for each subsequent year (e.g., the fee in year 1 shall be \$500.00; year 2 shall be \$550.00; year 3 shall be \$600.00; etc...). The annual inspection fee shall be \$75.00, plus \$0.01 per square feet of building area (excluding stairwells, elevator shafts, and mechanical rooms).
- (2) Subsequent annual registration and inspection fees are due no later than January 31st of each year. Annual registrations not completed by January 31st are subject to a \$150 late fee.
- (d) Property manager.

- (1) The owner of a vacant structure must designate a local property manager for said properties and include the relevant contact information for the designated property manager upon registering the property with the Department. Designated property managers shall act as agents for the property owner for purposes of accepting legal service, however the vacant property owner remains personally liable in criminal prosecutions for code violations.
- (2) The property manager must be available at the number listed at all times in the event of an emergency or catastrophe. For all vacant properties except for single-family residential structures, the name and telephone number of the property manager must be posted at the front of the building in large, legible print.
- (e) Standard of care for vacant property.
  - (1) The standard of care, subject to approval by the director, shall include, but is not limited to:
    - a. Protective treatment. All exterior surfaces, including, but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition, weather tight, and in such condition so as to prevent the entry of rodents and other pests. All exposed wood or metal surfaces subject to rust or corrosion, other than decay resistant woods or surfaces designed for stabilization by oxidation, shall be protected from the elements and against decay or rust by periodic application of weather coating materials such as paint or similar surface treatment. All surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. All siding, cladding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight.
    - b. Premises identification. The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four (4) inches high with a minimum stroke width of one-half (½) inch. All buildings shall display a vacant building identification placard as required by the director.
    - c. Structure. All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.
    - d. Exterior walls. All exterior walls shall be kept in good condition and shall be free from holes, breaks, and loose or rotting materials. Exterior walls shall be maintained weatherproof and properly surface coated where necessary to prevent deterioration.
    - e. Roof and drainage. The roof and flashing shall be sound, tight, and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions and operational.

- f. Decorative features. All cornices, belt courses, corbels, applications, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
- g. Overhang extensions and awnings. All overhang extensions including, but not limited to, canopies, marquees, signs, awnings, and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.
- h. Stairways, decks, porches and balconies. All exterior stairways, decks, porches, and balconies, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
- i. Chimneys and towers. All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound, and in good repair.
- j. Handrails and guards. All exterior handrails and guards shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
- k. Window, skylight and door. All windows, storefronts, skylights, and exterior door parts, including, but not limited to, the frame, the trim, window screens and hardware shall be kept in sound condition and good repair. All broken or missing windows shall be replaced with glass and secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be replaced with new doors which shall be secured to prevent unauthorized entry. All glass shall be maintained in sound condition and good repair. All exterior doors, door assemblies and hardware shall be maintained in good condition and secured. Locks at all exterior doors, exterior attic access, windows, or exterior hatchways shall tightly secure the opening. Windows and doors shall not be secured by plywood or other similar means mounted on the exterior except as a temporary securing measure, and the same shall be removed within a period of time designated by the director.
- l. Basement hatchways and windows. All basement hatchways shall be maintained to prevent the entrance of rodents, rain and surface drainage water. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against entry of rodents.
- (2) All repairs shall be subject to approval by the director, or his designee. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and rules. Historic properties and properties within the designated historic overlay district are additionally subject to all applicable rules and regulations as codified in this chapter.
- (3) Failure to maintain a vacant structure to the standard of care specified by the director is a violation of this section.
- (f) Property Inspections

- (1) For the purpose of ascertaining whether the vacant building is being maintained in compliance with this section and any other applicable law, the director, or his designee, is authorized at a reasonable time to inspect:
  - a. The exterior of a vacant structure;
  - b. The interior of a vacant structure, if the permission of the owner, operator, or other person in control of the building is given or a warrant is obtained; and
  - c. The property upon which a vacant structure is located.
- (2) At the time of registration, the owner shall schedule an inspection of the vacant structure by the city, to be completed within sixty (60) calendar days of registration. The director, or his designee, shall inspect the vacant structure and surrounding property where it is located to determine if it is maintained in compliance with this article and any other applicable law.
- (3) After the initial inspection, the director, or his designee, shall inspect the vacant structure and surrounding property where it is located at least once during each twelve (12) month period that the building remains vacant.
- (4) An owner of a vacant structure shall permit the director, or his designee, to perform an inspection of the interior and exterior of the vacant structure and surrounding property where it is located, for the purpose of ensuring compliance with this section and any other applicable laws, at reasonable times upon request. It shall constitute a violation if the owner, either personally or through an agent or employee, refuses to permit a lawful inspection of the vacant structure as required by this section.
- (5) If the vacant building or property where the vacant building is located is not maintained in compliance with this section or any other applicable law, the director, or his designee, shall issue a written notice of non-compliance to the owner. The notice shall grant the owner a specific amount of time to resolve the identified violations and direct the owner to schedule a reinspection. If the owner fails or refuses to schedule a reinspection by the resolution date given in the notice of non-compliance, the director, or his designee, may perform an inspection of the property and vacant structure at any time following the resolution date, during regular business hours. If entry to the interior of the building for reinspection is refused, the director, or his designee, shall obtain a warrant to perform an interior inspection. A separate inspection fee, as described in Subsection (c)(1), shall be charged for each reinspection. If violations are not resolved by the time of reinspection, the city may seek any remedy provided by law.
- (6) Nothing herein shall limit the city's authority to request additional inspections, pursue other enforcement measures, or take immediate abatement measures as otherwise allowed pursuant to city ordinances and state law.
- (g) *Jurisdiction*, enforcement, and penalties.
  - (1) Pursuant to Section 31-7, in addition to any other enforcement remedies that the city may have under other city ordinances or other applicable law, any person violating any of the provisions of this section is subject to a fine as provided in Section 1-8. Each day any violation of this article shall continue shall constitute a separate offense.

- (2) Written notice of a violation of this section will precede the issuance of a citation, in which the vacant structure owner will be given a reasonable length of time, as determined by the director, to remedy the violation.
  - a. Written notice for violations of Subsection (b) shall only precede a citation for failure to comply with the initial registration requirement as required by Subsection (b)(1).
  - b. Written notice shall not be required to precede a citation for subsequent annual registration violations as required by Subsection (b)(4).
- (3) Written notice shall be issued to the owner of a vacant structure by means of personal service, or by first class mail to their last known address according to Bell County Appraisal District records, and by posting on the property.
- (4) Any minimum fine for a violation of this section will be doubled for the second conviction of the same offense within any 24-month period and trebled for the third and subsequent convictions of the same offense within any 24-month period. At no time may the fine exceed the maximum fine established in Section 1-8.
- (5) This is a strict liability offense in which no mental state is required. (Ord. No. 20-032, § I, 8-4-20)

**SECTION III.** 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 IV.** 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 V.** 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 VI.** 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 10<sup>th</sup> day of January 2023, 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:		
Laura Calcote, CITY SECRETARY		
APPROVED AS TO FORM:		
Holli C. Clements, CITY ATTORNEY		

# VACANT STRUCTURE REGISTRATION AMENDMENTS

- □ The Vacant Structure Registration Ordinance was adopted in August 2020 via Ordinance No. 20-032.
- The intent of the ordinance is to reduce blight, preserve the historic character, and improve property values in Downtown Killeen Historic Overlay District (HOD).

- □ There are currently 34 vacant structures, with 29 unregistered and 5 registered
- 19 of those 29 vacant, unregistered structures have failed to comply with registration since the ordinance was adopted in 2020
- 9 structures were registered in 2021; of those, 8 are occupied or under new ownership

# **Update Continued**



324

5

At the direction of the City Council, proposed ordinance amendments include the following:

- □ Expedites the timeline to register from 90 to 30 days.
- Expands structure inspections to include external and internal inspections to ensure the structure complies with minimum standards of care.
- Adds the ability to reinspect the structure in a timely manner if the initial inspection deems the structure as non-compliant with minimum standards of care

- Defines penalties for violating any of the provisions of the Vacant Structure Registration Ordinance as a misdemeanor with a fine not to exceed \$2,000 per day for each offense, with each day constituting a separate offense.
  - This would include failure to register a structure and failure to bring the structure into compliance with the basic standards of care within the 6-month reinspection period.

- Do not approve amendments to the Vacant Structure Registration Ordinance
- Approve amendments to the Vacant Structure Registration with changes
- Approve amendments to the Vacant Structure Registration as stated

# Recommendation

 Staff recommends that City Council approve amendments to the Vacant Structure Registration as stated.



## City of Killeen

### **Staff Report**

File Number: PH-23-004

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred City Council

01/24/2023

**HOLD** a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Vanessa VanWinkle **(Case #Z22-53)** to rezone approximately 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, LT 62 LLEWELYN EST 3 (Unrecorded) from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District). The property is locally addressed as 3495 Love Road, Killeen, Texas.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #22-53: "A" (AGRICULTURAL DISTRICT) TO "A-R1"

(AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT)

### **BACKGROUND AND FINDINGS:**

### **Property Information:**

**Property Owner:** Vanessa VanWinkle **Agent:** Mitchell & Associates, Inc.

**Current Zoning:** "A" (Agricultural District)

**Proposed Zoning:** "A-R1" (Agricultural Single-Family Residential District)

Current FLUM Designation: 'Residential Mix'

### **Summary of Request:**

Mitchell & Associates, Inc., on behalf of Vanessa VanWinkle, has submitted a request to rezone approximately 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, LT 62 LLEWELYN EST 3 (Unrecorded) from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District). If approved, the applicant intends to subdivide the original 5-acre property into two lots. The rezoning is necessary due to the size of lot requirement of the current zoning district (i.e., no less than three (3) acres in an "A" Agricultural District). If approved, the proposed "A-R1" (Agricultural Single-Family Residential) zoning district has a minimum lot size of one (1) acre, which will allow the five-acre subject property to be subdivided into two lots.

### **Killeen Code of Ordinances Chapter 31 Compliance:**

Killeen Code of Ordinances Sec. 31-172 allows single-family residential homes, home occupations, accessory uses such as one guest home per lot, etc.

In accordance with Killeen Code of Ordinances Sec. 31-158(b), no structure shall be erected on any lot in the "A" (Agricultural) district that is less than three (3) acres.

In accordance with Killeen Code of Ordinances Sec. 31-174(b)(1), no building or structure shall be erected on any lot having less than one (1) acre in the "A-R1" (Agricultural Single-Family Residential)

district.

### **Zoning/Plat Case History:**

The subject property was annexed into the city limits on January 22, 2008 via Ordinance No. 08-006. The property was subsequently zoned "A" (Agricultural District) on December 16, 2008 via Ordinance No. 08-103. The subject property is currently unplatted.

### **Character of the Area:**

**North:** Vacant agricultural property zoned "A" (Agricultural District)

**South:** Vacant residential property zoned "R-1" (Single-Family Residential District)

**East:** Existing single-family home zoned "A" (Agricultural District) **West:** Existing single-family home zoned "A" (Agricultural District)

### **Future Land Use Map Analysis:**

This property is located within the 'Controlled Growth' area on the Growth Sector Map and designated as 'Residential Mix' on the Future Land Use Map (FLUM) of the 2022 Comprehensive Plan.

This 'Residential Mix' place type creates neighborhoods built with a traditional walkable block/street grid network that allows a flexible mix of residential building typologies. Aside from large multiplex garden apartments, most housing types should be allowed here. This place type encourages most residential uses such as single-family detached, townhouses, small-plex (2-4 units), etc.

This 'Controlled Growth' sector includes areas in the city limits and approved Municipal Utility Districts (MUDs) that have access to city infrastructure in close proximity. Development proposed in this sector will be evaluated for adherence to the Big Ideas and Recommendations of the plan, particularly those related to housing and neighborhood options and improve the fiscal health and sustainability of Killeen.

Staff finds that the proposed use would negatively affect surrounding The not the area. surrounding currently consists of of undeveloped and existina residential area а mix land mixture of "A" (Agricultural District), "A-R1" developments mostly on large acreage. There is a (Agricultural Single-Family Residential District), and "R-1" (Single-Family Residential District) within the Since there is an existing single-family home on large acreage, this property and immediate vicinity. the proposed use can be considered as preserving existing homesteads and high-end rural estate style neighborhoods for those seeking rural style living and large lots.

### **Neighborhood Analysis:**

This property is located within Killeen Development Zone #6 (Exhibit A). The current land use mix (Exhibit B) within this area comprises approximately 7% non-residential uses and 93% residential uses. The zoning districts within the area includes approximately 10% agricultural uses, 33% non-residential zoning districts and 57% residential zoning districts; this number excludes special districts such as conditional or special use permits and planned unit developments. 'Residential Mix' promotes a use mix of up to 25% non-residential and 95% residential uses.

### **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 Love Rd., which is classified as a 70-foot wide Collector street on the City of Killeen Thoroughfare Plan. Staff estimates that there will be 9 trips generated on a daily basis with 1 peak hour trip and has determined that a Traffic Impact Analysis is not required for the proposed land use.

### **Environmental Assessment:**

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There is no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

### **Public Notification:**

Staff notified four (4) surrounding property owners regarding this request. Of those surrounding properties notified, all are located inside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and one (1) reside outside of Killeen.

As of the date of this staff report, staff has received one (1) written response in support of this request.

### **Staff Findings:**

Staff finds that the request is compatible with the existing land uses and prevailing community character. Further, staff finds that approval of this request would not negatively affect the surrounding community.

### **THE ALTERNATIVES CONSIDERED:**

The City Council may:

- Disapprove the applicant's request; or
- Approve the applicant's request as presented.

### Which alternative is recommended? Why?

Staff recommends approval of the applicant's zoning change request for "A-R1" (Agricultural Single-Family Residential District).

### **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 December 5, 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:**

Exhibit

Maps

Site Photos

Response

Minutes

Ordinance

Considerations





Exhibit A. Killeen Development Zone #6 boundary map.

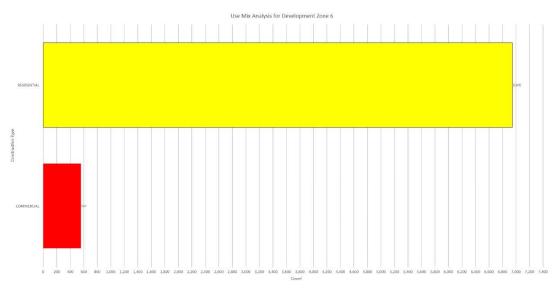
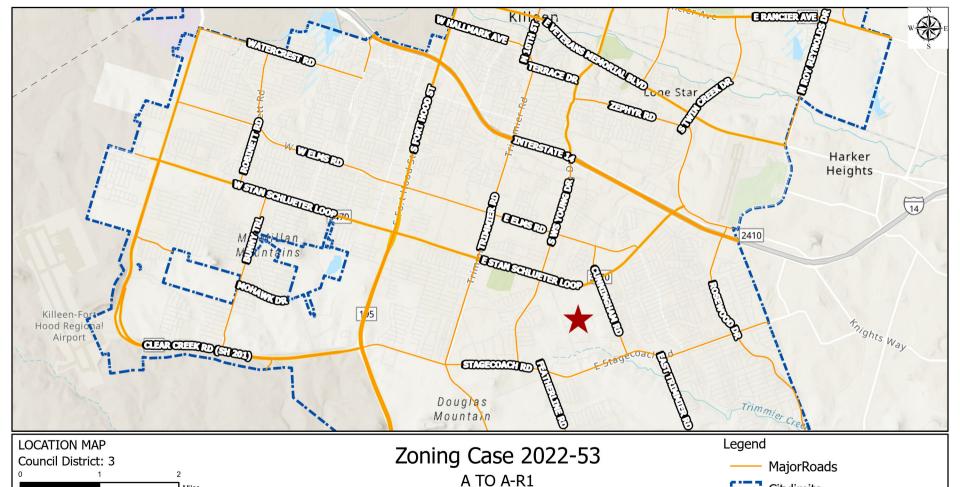


Exhibit B. Use Mix for Killeen Development Zone #6.



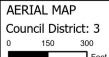
Subject Property Legal Description: 1.965 ACRES BEING PART OF A0199BC R CUNNINGHAM, LT 62 LLEWELYN EST #3, ACRES 5.0

Citylimits

Zoning Case Location

335

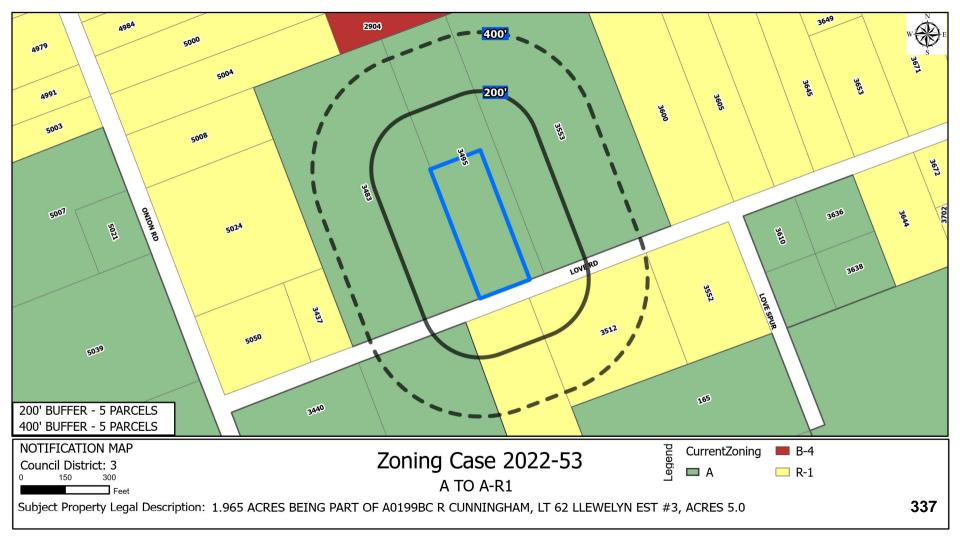




Zoning Case 2022-53 A TO A-R1

Subject Property Legal Description: 1.965 ACRES BEING PART OF A0199BC R CUNNINGHAM, LT 62 LLEWELYN EST #3, ACRES 5.0

Citylimits
Zoning Case



# SITE PHOTOS

Case #Z22-53: "A" to "A-R1"



View of the subject property looking north:



View of the surrounding property to the east:



# SITE PHOTOS

Case #Z22-53: "A" to "A-R1"



View of the surrounding property to the south:



View of the surrounding property to the west:



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YOUR NAME:	RAYMOND	EH	ARRI	PHONE N	<sup>UMBER:</sup> 25 4-289-603
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P.O. BOX 1329, KILLEEN, TEXAS 76540-1329, 254-501-7631, FAX 254-501-7628 WWW.KILLEENTEXAS.GOV

# MINUTES PLANNING AND ZONING COMMISSION MEETING DECEMBER 5, 2022

# CASE #Z22-53 "A" to "A-R1"

**HOLD** a public hearing and consider a request submitted by Mitchell & Associates, Inc. on behalf of Vanessa VanWinkle (**Case** #**Z22-53**) to rezone approximately 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District). The property is locally addressed as 3495 Love Road, Killeen, Texas.

Mr. Hermosillo stated that, if approved, the applicant intends to subdivide the original 5-acre property into two lots. The rezoning is necessary due to the size of lot requirement of the current zoning district (i.e., no less than three (3) acres in an "A" Agricultural District).

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Staff notified four (5) surrounding property owners regarding this request. Of those surrounding properties notified, all are located inside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and one (1) resides outside of Killeen. To date, staff has received no written responses regarding this request.

Mr. Hermosillo also stated that staff finds that the request is consistent with the policies and principles of the 2022 Comprehensive Plan, as indicated in the Comprehensive Plan Analysis. Staff recommends approval of the applicant's zoning change request for "A-R1" (Agricultural Single-Family Residential District).

Commissioner O'Brien joined the meeting at 5:05 p.m.

Mr. Ace Reneau, Mitchell & Associated, Inc., was present to represent the request.

Chairman Minor opened the public hearing.

With no one wishing to speak, the public hearing was closed.

Commissioner Wilson moved to recommend approval of the applicant's request for "A-R1" (Agricultural Single-Family Residential District). Vice Chair Gukeisen seconded, and the motion passed by a vote of 7 to 0.

<b>ORDINANCE</b>	
ORDINANCE	
0112111	

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 1.965 ACRES OUT OF THE ROBERT CUNNINGHAM SURVEY, ABSTRACT NO. 199, BEING LT 62 LLEWLYN EST 3 (UNRECORDED), FROM "A" (AGRICULTURAL DISTRICT) TO "A-R1" (AGRICULTURAL SINGLE-FAMILY RESIDENTIAL DISTRICT), PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Mitchell & Associates, Inc, on behalf of Vanessa VanWinkle, 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 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, LT 62 LLEWELYN EST 3 (Unrecorded) from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District), said request having been duly recommended for approval of the "A-R1" (Agricultural Single-Family Residential District) by the Planning and Zoning Commission of the City of Killeen on the 5<sup>th</sup> day of December 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 24<sup>th</sup> day of January 2023, 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 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, LT 62 LLEWELYN EST 3 (Unrecorded) from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District), said

request having been duly recommended for approval of the "A-R1" (Agricultural Single-

Family Residential District), for the property locally addressed as 3495 Love 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 24th day of January 2023, 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:

Laura J. Calcote, CITY SECRETARY

APPROVED AS TO FORM

**Holli C. Clements, CITY ATTORNEY** 

Case #22-53

Ord. #23-\_\_\_

### CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

#### A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

Any other factors which will substantially affect the health, safety, morals or general welfare.

### B. Conditional Use Permit (if applicable)

Whether the use 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

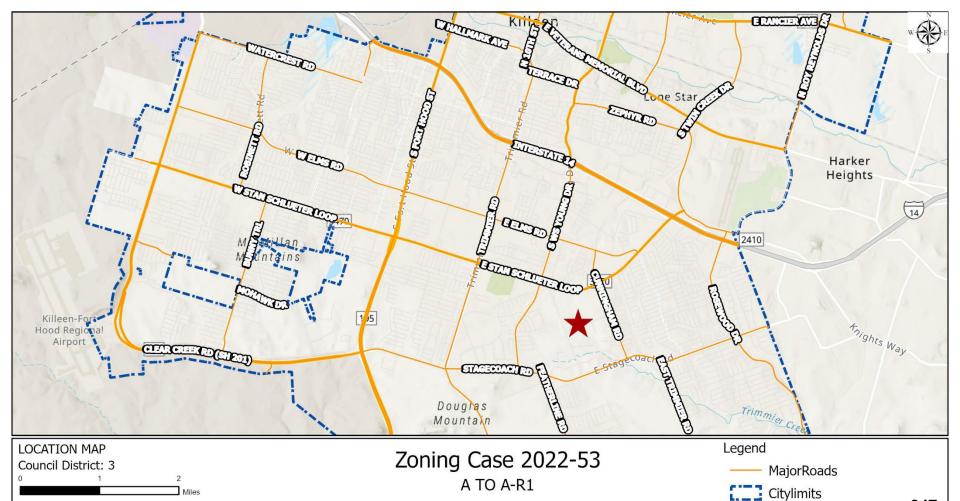
- 1. Occupation shall be conducted only by members of family living in home.
- 2. No outside storage or display
- 3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character.
- 4. Cannot allow the performance of the business activity to be visible from 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 #Z22-53: "A" TO "A-R1"

# Case #Z22-53 - "A" to "A-R1"

HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Vanessa VanWinkle (Case #Z22-53) to rezone approximately 1.965 acres out of the Robert Cunningham Survey, Abstract No. 199, from "A" (Agricultural District) to "A-R1" (Agricultural Single-Family Residential District).

The property is locally addressed as 3495 Love Road, Killeen, Texas.



Subject Property Legal Description: 1.965 ACRES BEING PART OF A0199BC R CUNNINGHAM, LT 62 LLEWELYN EST #3, ACRES 5.0

Zoning Case Location 347



Council District: 3

Zoning Case 2022-53 A TO A-R1

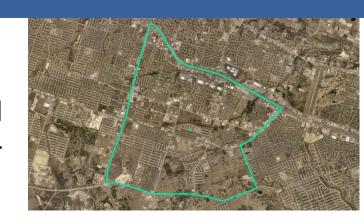
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Zoning Ca

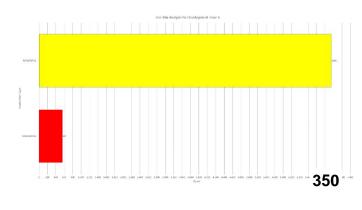
Zoning Case **348** 

5

If approved, the applicant intends to subdivide the original 5-acre property into two lots. The rezoning is necessary due to the size of lot requirement of the current zoning district (i.e., no less than three (3) acres in an "A" Agricultural District).

- 'Controlled Growth' Growth Sector
- □ Killeen Development Zone #6
- Approximately 8% non-residential and 92% residential uses of current land use mix.
- Approximately 10% agricultural, 33% non-residential zoning districts and 57% residential zoning districts
- □ 'Residential Mix' promotes a use mix of up to 25% non-residential and 95% residential uses.





## **Environmental Assessment**

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

# Case #Z22-53 — "A" to "A-R1"

View of the subject property looking north:



# Case #Z22-53 - "A" to "A-R1"

# View from the property looking east:



# **Public Notification**

- Staff notified four (4) surrounding property owners regarding this request.
- Of those surrounding properties notified, all are located inside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and one (1) resides outside of Killeen.
- To date, staff has received one written response in support of this request.



Subject Property Legal Description: 1.965 ACRES BEING PART OF A0199BC R CUNNINGHAM, LT 62 LLEWELYN EST #3, ACRES 5.0

355

# **Alternatives**

- □ The City Council has two (2) alternatives. The Council may:
  - Disapprove the applicant's request; or
  - Approve the applicant's request as presented.

# Staff Recommendation

Staff finds that the request is compatible with the existing land uses and prevailing community character. Further, staff finds that approval of this request would not negatively affect the surrounding community.

 Staff recommends approval of the applicant's zoning change request for "A-R1" (Agricultural Single-Family Residential District).

# Commission Recommendation

□ At their regular meeting on December 5, 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-23-005

1 City Council Workshop

01/17/2023 Reviewed and

Reviewed and Referred City Council

01/24/2023

**HOLD** a public hearing and consider an ordinance requested by Joel Davis on behalf of JTERRIS, LLC **(Case #Z22-55)**, to rezone Lot PT G, H, Block 1, Simmons 1st, from "R-1" (Single-Family Residential District) to "R-3F" (Multifamily Residential District). The property is locally addressed as 519 53rd Street, Killeen, Texas.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: ZONING CASE #22-55: "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT)

TO "R-3F" (MULTIFAMILY RESIDENTIAL DISTRICT)

### **BACKGROUND AND FINDINGS:**

### **Property Information:**

Property Owner: JTERRIS, LLC

**Agent:** Joel Davis

**Current Zoning:** "R-1" (Single-Family Residential District) **Proposed Zoning:** "R-3F" (Multifamily Residential District)

Current FLUM Designation: 'Residential Mix'

### **Summary of Request:**

Joel Davis, on behalf of JTERRIS, LLC, has submitted a request to rezone Lot PT G, H, Block 1, Simmons 1st from "R-1" (Single-Family Residential District) to "R-3F" (Multifamily Residential District). If approved, the applicant intends to retain the existing 4-plex on the property. The purpose of this request is to obtain financing and insurance for the property, and to ensure that the existing structure may be rebuilt in the event of a disaster.

### **Killeen Code of Ordinances Chapter 31 Compliance:**

In accordance with Killeen Code of Ordinances Sec. 31-255.1(a), multifamily structures containing three (3) or four (4) separate dwelling units are allowed by right in the "R-3F" (Multi-Family Residential) zoning district. The current structure is currently considered a legal non-conforming use, which is subject to Killeen Code of Ordinances Sec. 31-51. The intent of this request is to bring the existing structure into conformance with the zoning ordinance.

### **Zoning/Plat Case History:**

Staff was unable to determine the date of rezoning. The property was platted as part of the JR Simmons Subdivision on August 1, 1946.

### **Character of the Area:**

**North:** Existing two-family home zoned "R-3" (Multifamily Residential District) **South:** Existing commercial business zoned "M-1" (Manufacturing District)

West: Existing single-family homes zoned "R-1" (Single-Family Residential District)

East: Existing single-family and two-family homes zoned "R-1" (Single-Family Residential District) and

"R-2" (Two-Family Residential District)

#### **Future Land Use Map Analysis:**

This property is located within the 'Neighborhood Infill' area on the Growth Sector Map and is designated as 'Residential Mix' on the Future Land Use Map (FLUM) of the 2022 Comprehensive Plan.

This 'Residential Mix' place type creates neighborhoods built with a traditional walkable block/street grid network that allows a flexible mix of residential building typologies. Aside from large multiplex garden apartments, most housing types should be allowed here. This place type encourages most residential uses such as single-family detached, townhouses, small-plex (2-4 units), etc.

The 'Neighborhood Infill' area include areas already developed and have access to city services and infrastructure, but have vacant, underutilized, or poorly developed properties.

The request is consistent with the following recommendations of the 2022 Comprehensive Plan:

- LU1 Use place types and complete neighborhoods as building blocks
- LU3 Encourage incremental evolution of neighborhoods
- NH7 Shift the market to include existing housing

LU3.2 recommends rezoning properties in areas which need revitalization to more flexible zoning districts. The Comprehensive Plan promotes incremental redevelopment of properties in Killeen that can add to a widespread improvement. Additionally, staff finds the proposed rezoning is consistent with the surrounding area, which consists of a mix of housing types.

#### **Neighborhood Analysis:**

This property is located within Killeen Development Zone #2 (Exhibit A). The current land use mix (Exhibit B) within this area comprises approximately 5% non-residential uses and 95% residential uses. The zoning districts within the area includes approximately 33% non-residential zoning districts and 67% residential zoning districts; this number excludes special districts such as conditional or special use permits and planned unit developments. 'Residential Mix' promotes a use mix of up to 25% non-residential and 95% residential uses.

### **Water, Sewer and Drainage Services:**

Provider: City of Killeen Within Service Area: Yes

Feasibility Study or Service Commitment: Water, sanitary sewer and utility services are 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 53rd Street which is classified as a 60-foot wide local street on the City of Killeen adopted Thoroughfare Plan. Staff estimates that there will be 29 trips generated on a daily basis with 2 peak hour trip and has determined that a Traffic Impact Analysis is not required for the proposed land use.

#### **Environmental Assessment:**

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

### **Public Notification:**

Staff notified sixty-six (66) surrounding property owners regarding this request. Of those property owners notified, thirty-one (31) reside outside of the 200-foot notification boundary required by the State, but within the 400-foot notification boundary required by Council; and twenty-five (25) reside outside of Killeen.

As of the date of this staff report, staff has received no written responses regarding this request.

### **Staff Findings:**

Please see the Future Land Use and Neighborhood Analysis section.

### **THE ALTERNATIVES CONSIDERED:**

The City Council may:

- Disapprove the applicant's request;
- Approve a more restrictive zoning district; or
- Approve the applicant's request as presented.

### Which alternative is recommended? Why?

Staff recommends approval of the applicant's request for "R-3F" (Multifamily Residential District).

Staff finds the request consistent with the policies and principles of the 2022 Comprehensive Plan as indicated in the Comprehensive Plan Analysis.

### **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 December 5, 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:**

Exhibit

Maps

Site Photos

Minutes

Ordinances

Considerations





Exhibit A. Killeen Development Zone #2 boundary map.

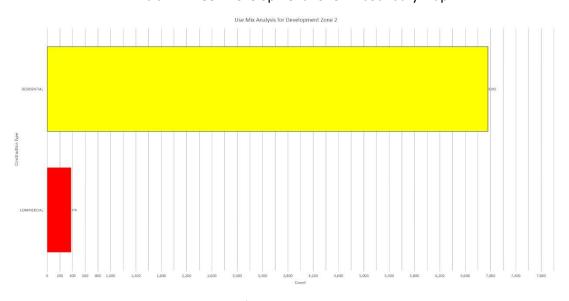
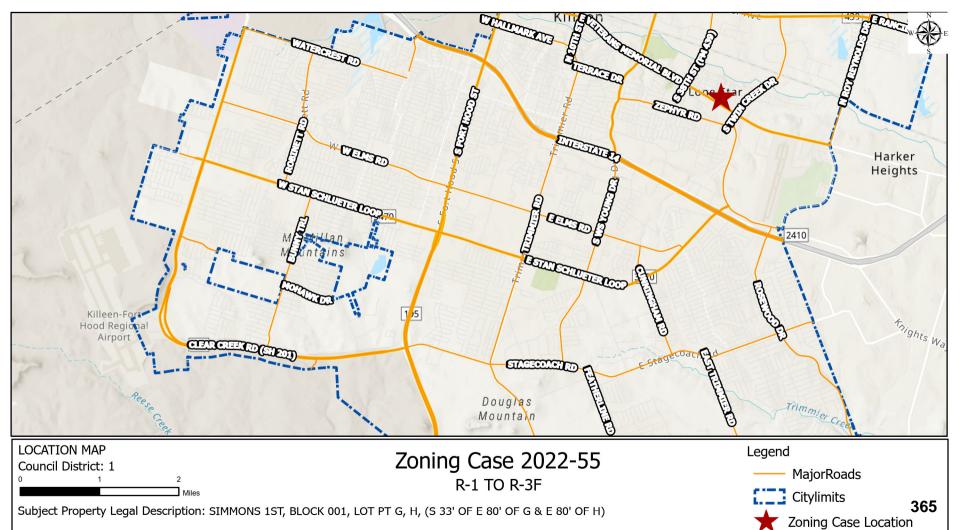


Exhibit B. Use Mix for Killeen Development Zone #2.





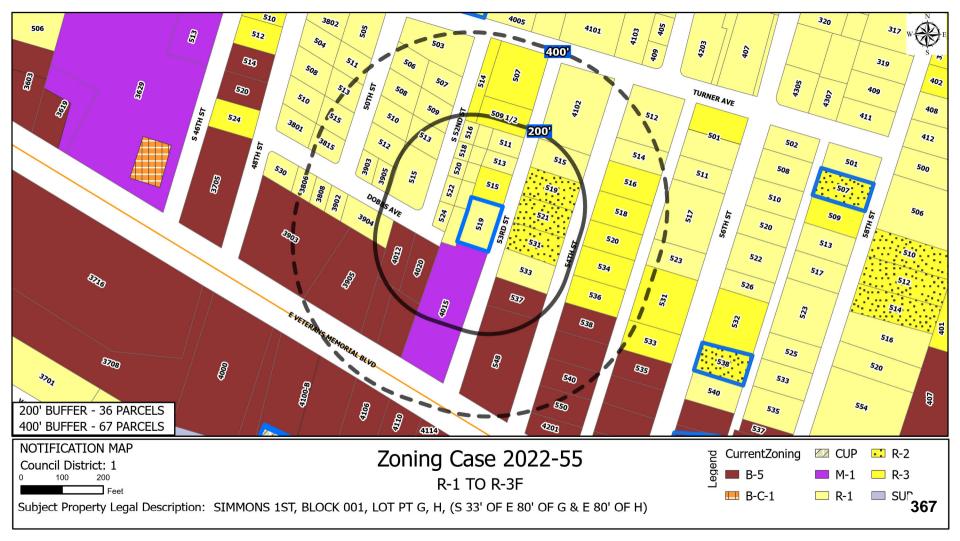
**AERIAL MAP** Council District: 1 200

Zoning Case 2022-55

R-1 TO R-3F

Citylimits

Zoning Case 366



# SITE PHOTOS

Case #Z22-55: "R-1" to "R-3F"



View of the subject property looking west:



View of the surrounding property to the north:



# SITE PHOTOS

Case #Z22-55: "R-1" to "R-3F"



View of the surrounding property to the south:



View of the surrounding property to the east:



# MINUTES PLANNING AND ZONING COMMISSION MEETING DECEMBER 5, 2022

### CASE #Z22-55 "R-1" to "R-3F"

**HOLD** a public hearing and consider a request submitted by Joel Davis on behalf of JTERRIS, LLC (**Case #Z22-55**) to rezone Lot PT G, H, Block 1, Simmons 1st, from "R-1" (Single-Family Residential District) to "R-3F" (Multifamily Residential District). The property is locally addressed as 519 53<sup>rd</sup> Street, Killeen, Texas.

Mr. Hermosillo stated that, if approved, the applicant intends to retain the existing 4-plex on the property. The purpose of this request is to obtain financing and insurance for the property, and to ensure that the existing structure may be rebuilt in the event of a disaster. He also stated that, in accordance with Killeen Code of Ordinances Sec. 31-255.1(a), multifamily structures containing three (3) or four (4) separate dwelling units are allowed by right in the "R-3F" (Multi-Family Residential) zoning district. The current structure is currently considered a legal non-conforming use, which is subject to Killeen Code of Ordinances Sec. 31-51. The intent of this request is to bring the existing structure into conformance with the zoning ordinance.

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

Staff notified sixty-six (66) surrounding property owners regarding this request. Of those notified, thirty-two (32) reside outside of the 200-foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and twenty-five (25) property owners reside outside of Killeen. To date, staff has received no written responses regarding this request.

The agent was not present to represent the request.

Chairman Minor opened the public hearing.

With no one wishing to speak, the public hearing was closed.

Commissioner Ploeckelmann moved to recommend approval of the applicant's request. Commissioner Jones seconded, and the motion passed by a vote of 7 to 0.

ANCE
ANCE

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 0.18 ACRES BEING LOT PT G, H, BLOCK 1, SIMMONS 1ST, FROM "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT) TO "R-3F" (MULTIFAMILY RESIDENTIAL DISTRICT), PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Joel Davis, on behalf of JTERRIS, 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 0.18 acres being Lot PT G, H, Block 1, Simmons 1st, from "R-1" (Single-Family Residential District), said request having been duly recommended for approval of the "R-3F" (Multifamily Residential District) by the Planning and Zoning Commission of the City of Killeen on the 5<sup>th</sup> day of December 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 24<sup>th</sup> day of January 2023, 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 0.18 acres being Lot PT G, H, Block 1, Simmons 1st, from "R-1" (Single-Family Residential District), said request having been duly recommended for approval of the "R-3F" (Multifamily Residential District), for the property locally addressed as 519 53rd Street, Killeen, Texas.

SECTION II. That should any section or part of this ordinance be declared

unconstitutional or invalid for any reason, it shall not invalidate or impair the validity, force, or

effect of any other section or parts of this ordinance.

SECTION III. That all ordinances and resolutions, or parts thereof, in conflict with the

provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION IV. That this ordinance shall take effect immediately upon passage of the

ordinance.

PASSED AND APPROVED at a regular meeting of the City Council of the City of

Killeen, Texas, this 24th day of January 2023, at which meeting a quorum was present, held in

accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

**ATTEST:** 

**Laura J. Calcote, CITY SECRETARY** 

APPROVED AS TO FORM

**Holli C. Clements, CITY ATTORNEY** 

Case #22-55

Ord. #23-\_\_\_

### CONSIDERATIONS

Texas Supreme Court in Pharr v. Tippitt, 616 S. W 2<sup>nd</sup> 173 (Tex 1981) established general guidelines which the Planning and Zoning Commission and City Council should take into consideration when making their respective recommendation and decision on a zoning request.

#### A. General Factors to Consider:

Is the request in accordance with the comprehensive plan?

Is the request designed to lessen congestion in the streets; secure safety from fire, panic or other dangers; promote health and the general welfare; provide adequate light and air; prevent the overcrowding of land; avoid undue concentration of population; or facilitate the adequate provision of transportation, water, sewers, schools, parks and other public requirements?

What if any, is the nature and degree of an adverse impact upon neighboring lands?

The suitability or unsuitability of the tract for use as presently zoned.

Whether the amendment bears a substantial relationship to the public health, safety, morals or general welfare or protects and preserves historical and cultural places and areas.

Whether there is a substantial public need or purpose for the new zoning.

Whether there have been substantially changed conditions in the neighborhood.

Is the new zoning substantially inconsistent with the zoning of neighboring lands? (Whether the new zoning is more or less restrictive.)

The size of the tract in relation to the affected neighboring lands – is the tract a small tract or isolated tract asking for preferential treatment that differs from that accorded similar surrounding land without first proving changes in conditions?

Any other factors which will substantially affect the health, safety, morals or general welfare.

### B. Conditional Use Permit (if applicable)

Whether the use 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

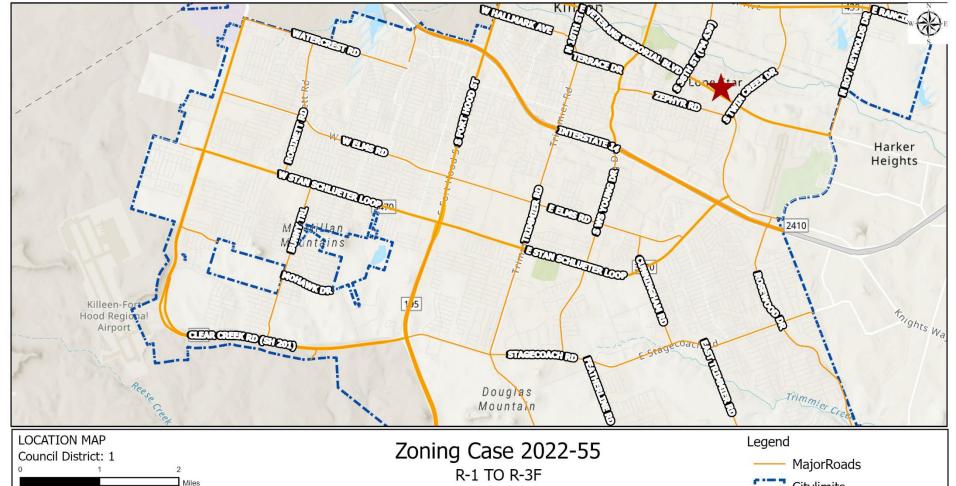
- Occupation shall be conducted only by members of family living in home.
- 2. No outside storage or display
- 3. Cannot change the outside appearance of the dwelling so that it is altered from its residential character
- 4. Cannot allow the performance of the business activity to be visible from the 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 #Z22-55 - "R-1" to "R-3F"

■ **HOLD** a public hearing and consider an ordinance requested by Joel Davis on behalf of JTERRIS, LLC (**Case #Z22-55**) to rezone Lot PT G, H, Block 1, Simmons 1st, from "R-1" (Single-Family Residential District) to "R-3F" (Multifamily Residential District).

The property is locally addressed as 519 53rd Street, Killeen, Texas.



Citylimits 376 Subject Property Legal Description: SIMMONS 1ST, BLOCK 001, LOT PT G, H, (S 33' OF E 80' OF G & E 80' OF H) Zoning Case Location



AERIAL MAP
Council District: 1
0 100 200

Zoning Case 2022-55 R-1 TO R-3F

Citylimits
Zoning Ca

Zoning Case **377** 

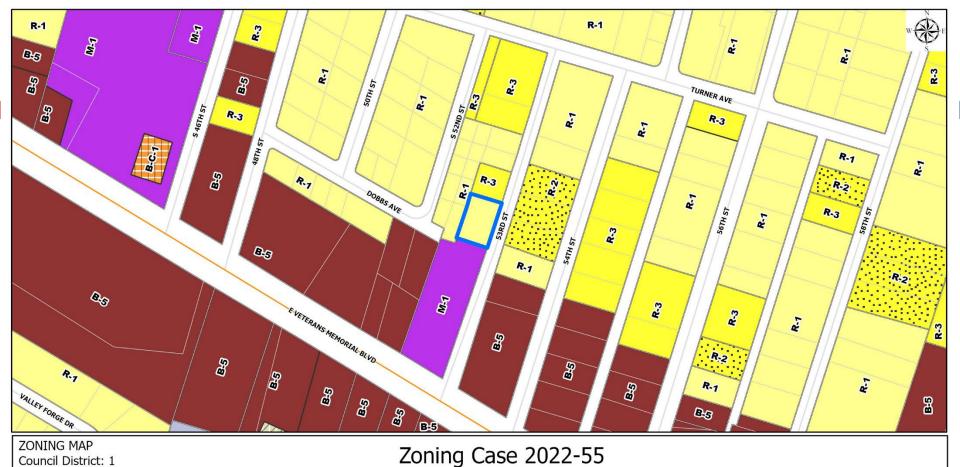
-5

If approved, the applicant intends to retain the existing 4-plex on the property. The purpose of this request is to obtain financing and insurance for the property, and to ensure that the existing structure may be rebuilt in the event of a disaster.

6

□ In accordance with Killeen Code of Ordinances Sec. 31-255.1(a), multifamily structures containing three (3) or four (4) separate dwelling units are allowed by right in the "R-3F" (Multi-Family Residential) zoning district. The current structure is currently considered a legal non-conforming use, which is subject to Killeen Code of Ordinances Sec. 31-51. The intent of this request is to bring the existing structure into conformance with the zoning ordinance.

379



0 100 200 R-1 TO R-3F

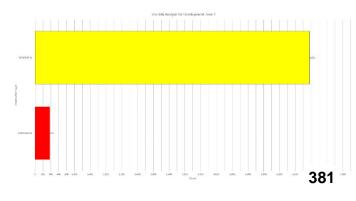
Subject Property Legal Description: SIMMONS 1ST, BLOCK 001, LOT PT G, H, (S 33' OF E 80' OF G & E 80' OF H)

380

### Comprehensive Plan Analysis – Neighborhood Analysis

- Growth Sector 'Neighborhood Infill'
- □ Killeen Development Zone #2
- □ Approximately 5% non-residential and 95% residential uses of current land use mix.
- Approximately 33% non-residential zoning districts and 67% residential zoning districts
- □ 'Residential Mix' promotes a use mix of up to 25% non-residential and 95% residential uses.





# Comprehensive Plan Analysis

- □ The request is consistent with the 'Residential Mix' designation of the Future Land Use Map (FLUM).
- □ The request supports or furthers the implementation of the following Comprehensive Plan recommendations:
  - LU1 Use place types and complete neighborhoods
  - □ **LU3** Encourage incremental evolution of neighborhoods
  - □ **NH7** Shift the market to include existing housing
  - LU3.2 recommends rezoning properties in areas which need revitalization to more flexible zoning districts.

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### **Environmental Assessment**

The property is not within any FEMA regulatory Special Flood Hazard Area (SFHA). There are no other known wetland areas on or adjacent to the property as identified on the National Wetlands Inventory.

## Case #Z22-55 - "R-1" to "R-3F"

### View of the subject property looking west:



### Case #Z22-55 - "R-1" to "R-3F"

### View of the surrounding property to the east:



### **Public Notification**

- Staff notified sixty-six (66) surrounding property owners regarding this request.
- Of those notified, thirty-two (32) reside outside of the 200foot notification boundary required by the State, and within the 400-foot notification boundary required by Council; and twenty-five (25) property owners reside outside of Killeen.
- To date, staff has received no written responses regarding this request.



### Alternatives

- The Planning and Zoning Commission may:
  - Recommend disapproval of the applicant's request;
  - Recommend approval of a more restrictive zoning district; or
  - Recommend approval of the applicant's request as presented.

# Alternatives

- □ The City Council has three (3) alternatives. The Council may:
  - Disapprove the applicant's request;
  - Approve a more restrictive zoning district; or
  - Approve the applicant's request as presented.

### Staff Recommendation

Staff finds that the request is consistent with the policies and principles of the 2022 Comprehensive Plan as indicated in the Comprehensive Plan Analysis.

 Staff recommends approval of the applicant's request for "R-3F" (Multifamily Residential District).

## Commission Recommendation

□ At their regular meeting on December 5, 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-23-006

City Council Workshop

01/17/2023 Reviewed and Referred

City Council

01/24/2023

HOLD a public hearing and consider an ordinance granting a voluntary annexation petition for approximately 6.30 acres of land lying contiguous to the existing city limits, generally located south of West Stan Schlueter Loop, east of the Eagle Valley subdivision, and west of the Mesa Verde subdivision.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Edwin Revell, Executive Director of Development Services

SUBJECT: Voluntary Annexation Petition

#### **BACKGROUND AND FINDINGS:**

On October 4, 2022, the Development Services Department received a petition for voluntary annexation from Mr. Alfredo G. Guerrero, represented by Quintero Engineering, LLC. The subject tract is comprised of 6.30 acres and is located contiguous to the existing city limits south of West Stan Schlueter Loop, east of the Eagle Valley Subdivision, and west of the Mesa Verde subdivision. The owner is making the request to have the property annexed into the corporate limits of Killeen. At the December 6, 2022 City Council Workshop, the Council directed the City Manager to negotiate a written service agreement for the provisions of municipal services in the area.

#### **Annexation Process:**

**Sec. 43.0672 of the Texas Local Government Code:** The City Council must enter into a written agreement with the owners of land in the area for the provision of services in the area. The agreement must include a list of each service the municipality will provide on the effective date of the annexation, and a schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation. The City is not required to provide services that are not included in the agreement. [Note: there is no statutory time period in which to complete this action.]

**Sec. 43.0673 of the Texas Local Government Code:** Before a municipality may adopt an ordinance annexing an area under this subchapter, the City Council must conduct one public hearing. Notice of the public hearing must be published in the newspaper on or after the 20th day, but before the 10th day before the date of the public hearing and posted on the City's website on or after the 20th day but before the 10th day before the date of the hearing, and must remain posted until the date of the hearing.

Notice of the Public Hearing was published in the Killeen Daily Herald on January 8, 2023 and posted on the City's website on January 4, 2023.

**Sec. 43.905 of the Texas Local Government Code:** The City must provide written notice of the proposed annexation to the Killeen Independent School District during the notification period. The notice to the School District must contain a description of the area within the District proposed

for annexation; any financial impact on the district resulting from the annexation, including any changes in utility costs; and any proposal the City has to abate, reduce, or limit any financial impact on the district.

Written notice to the Killeen Independent School District was provided in accordance with these requirements on January 4, 2023.

**Sec. 43.9051 of the Texas Local Government Code:** The City must provide written notice of the proposed annexation to each public entity that provides services to the area proposed for annexation during the notification period. "Public entity" includes Bell County, fire protection service providers, volunteer fire departments, emergency medical services providers, or special districts.

Written notice was provided to Bell County on January 4, 2023 in accordance with this requirement.

### **THE ALTERNATIVES CONSIDERED:**

The City Council has two alternatives:

- Disapprove the written service agreement and the annexation ordinance; or
- Approve the written service agreement and the annexation ordinance.

#### Which alternative is recommended? Why?

Staff recommends that the City Council approve the written service agreement and the annexation ordinance as presented.

#### **CONFORMITY TO CITY POLICY:**

This request conforms to the City's policy as detailed in Article II, Section 6 of the City's Charter.

### **FINANCIAL IMPACT:**

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

There are no expenditures expected in the current fiscal year. Based on the size of the tract, municipal expenditures will be minimal for the 6.30 acre area.

### Is this a one-time or recurring expenditure?

Municipal expenditures would be a recurring cost.

### Is this expenditure budgeted?

It is not budgeted within the current fiscal year.

### If not, where will the money come from?

Future expenditures will come from the General Fund, Water & Sewer, Solid Waste, Drainage and Street Maintenance funding sources as necessary.

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

Yes.

### **RECOMMENDATION:**

Staff recommends that the City Council approve the written service agreement and the annexation ordinance as presented.

### **DEPARTMENTAL CLEARANCES:**

City Attorney

### **ATTACHED SUPPORTING DOCUMENTS:**

Petition for Voluntary Annexation Written Service Agreement Maps Ordinance TO THE MAYOR AND GOVERNING BODY OF THE CITY OF KILLEEN, TEXAS, A HOME RULE MUNICIPALITY:

The undersigned owners of the hereinafter described tract of land, which is vacant and without residents, hereby petitions your Honorable Body to extend the present city limits so as to include as part of the City of Killeen, Texas (Local Government Code §43.028) the following described territory, to wit:

### See attached FLUM Exhibit

The undersigned certifies that the above described land is contiguous and adjacent to the City of Killeen, is not more than one-half (1/2) mile in width, is vacant and without residents and on which fewer than three qualified voters reside.

FOR: A&T Construction, LLC

Alfredo Guerrero

President

THE STATE OF TEXAS

§ §

COUNTY OF BELL §

Before me, the undersigned authority, on this day personally appeared Alfredo G. Guerrero, on behalf of A&T Construction, LLC, known to me to be the persons whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed.

GORGE J MEZA
Notary ID #130547274
My Commission Expires
February 19, 2024

otary Public in and for the

State of Texas

Printed Name: [.oe(; E ]. MEZIX-Commission Expires: 2/19/24

# MUNICIPAL SERVICES AGREEMENT BETWEEN THE CITY OF KILLEN, TEXAS AND A&T CONSTRUCTION, LLC

This	Municipal	Services	Agreement	("Agreen	nent") is	entered	into	on the _		_ day of
		, 20_	, by an	d between	en the C	City of l	Killee	n, Texa	s, a h	ome-rule
muni	icipality of	f the State	e of Texas, (	"City") a	nd A&T	Constr	uction	n, LLC (	"Own	er").

# **RECITALS**

The parties agree that the following recitals are true and correct and form the basis upon which the parties have entered into this Agreement.

**WHEREAS**, Section 43.0671 of the Local Government Code permits the City to annex an area if each owner of land in an area requests the annexation;

**WHEREAS**, where the City elects to annex such an area, the City is required to enter into a written agreement with the property owner(s) that sets forth the City services to be provided for the Property on or after the effective date of annexation;

WHEREAS, Owner owns certain parcels of land situated in Bell County, Texas, which consists of approximately 6.30 acres of land in the City's extraterritorial jurisdiction, such property being more particularly described and set forth in Exhibit A attached and incorporated herein by reference ("Property");

**WHEREAS,** Owner has filed a written request with the City for full-purpose annexation of the Property, identified as Annexation Case No. VA-21-01 ("Annexation Case");

**WHEREAS**, City and Owner desire to set out the City services to be provided for the Property on or after the effective date of annexation;

**WHEREAS**, the Annexation Case and execution of this Agreement are subject to approval by the Killeen City Council; and

**NOW THEREFORE**, in exchange for the mutual covenants, conditions and promises contained herein, City and Owner agree as follows:

- 1. **PROPERTY.** This Agreement is only applicable to the Property, which is the subject of the Annexation Case. The property is proposed to consist of approximately 60-80 residential lots.
- **2. INTENT.** It is the intent of the City that this Agreement provide for the delivery of full, available municipal services to the Property in accordance with state law, which may be accomplished through any means permitted by law.
- **3. MUNICIPAL SERVICES.** Commencing on the effective date of annexation, the City will provide the municipal services set forth below. As used in this Agreement, "providing services" includes having services provided by any method or means by which the City may extend municipal services to any other area of the City, including the City's infrastructure

extension policies and developer or property owner participation in accordance with applicable city ordinances, rules, regulations, and policies.

<u>Fire Protection</u> – The City's Fire Department will provide emergency and fire protection services in the annexation area, commencing on the effective date of the annexation. These services include:

- fire suppression and rescue;
- emergency medical services;
- hazardous materials mitigation and regulation;
- emergency prevention and public education services;
- construction plan review;
- inspections; and
- emergency management planning.

These services are provided on a citywide basis and the Killeen Fire Department will provide fire protection and prevention services to the annexation area with the same level of service being provided to other comparable areas of the City. The National Fire Protection Association creates and maintains private, copyrighted standards and codes for usage and adoption by local governments. Standards pertinent to the referenced annexations are as follows:

### Standard 1710

# 5.2.4.1: Initial Arriving Company:

"The fire department's fire suppression resources shall be deployed to provide for the arrival of an engine company within a 240-second travel time to 90 percent of the incidents as established in Chapter 4."

# 5.2.4.2: Initial Full Alarm Assignment Capability:

"The fire department shall have the capability to deploy an initial full alarm assignment within a 480-second travel time to 90 percent of the incidents as established in Chapter 4."

The annexation area will fall within the response area of Station 8 which is located at 7252 East Trimmier Road and houses one EMS unit, one paramedic equipped fire pumper, and Battalion 2 Command unit. With response from a Station 8 unit, the estimated response time to the entry of the annexed property would be 4 minutes. Should an in-house unit be on another call, a secondary unit will be dispatched from another fire station with an average estimated arrival time of 2 minutes after dispatch from Harker Heights Station 2 in accordance with the signed Automatic Aid Agreement.

<u>Police Protection</u> – The City's Police Department will provide protection and law enforcement services in the annexation area, commencing on the effective date of annexation. These services include:

- normal patrols and responses;
- handling of complaints and incident reports; and

 special units, such as traffic enforcement, criminal investigations, narcotics and gang suppression, and special weapons tactics team.

The City's Police Department will provide service to the annexation area with the same level of service now being provided to other comparable areas of the City. The Department anticipates that there would be very minimal impact on patrol calls for service, criminal investigations, etc. During the building process, there would be a minor increase in patrols, a minimal increased use of fuel, and possibly calls for property crime investigations.

<u>Development Services</u> – The City's Development Services Department will provide comprehensive planning, land use and development, building permit review and inspection services, and code enforcement services in accordance with all applicable laws, rules, and regulations.

<u>Publicly Owned Parks, Facilities, and Buildings</u> – Residents of the Property will be permitted to utilize all existing publicly-owned and available parks, facilities (including, community service facilities, libraries, swimming pools, etc.), and buildings throughout the City. Any private parks, facilities, and buildings will be unaffected by the annexation; provided, however, that the City will provide for maintenance and operation of the same upon acceptance of legal title thereto by the City and appropriations therefor. In the event the City acquires any other parks, facilities, or buildings necessary for City services within the Property, the appropriate City department will provide maintenance and operations of the same.

<u>Drainage Utility Services</u> – Drainage utility services provided by the City of Killeen's Public Works Department will begin immediately upon annexation for developed parcels and after platting for undeveloped parcels. The drainage utility services provided to the annexation area will be equal to the service being provided to other areas of the City. The annexation area will be provided maintenance service for public rights of ways, public drainage easements and public drainage tracts at the same frequency of service as other areas of the City.

Drainage Utility services shall be provided in accordance with the City of Killeen Code of Ordinances, Chapter 32, for drainage utility customers:

- drainage maintenance in accordance with City of Killeen's Drainage Master Plan and Chapters 8 and 32 of the Killeen Code of Ordinances;
- inspection and permit previews in accordance with City of Killeen's Drainage Design Manual (DDM), Infrastructure Design and Development Standards Manual (IDDSM) and Chapters 26, 31, and 32 of the Killeen Code of Ordinances;
- public education and outreach in accordance with the City of Killeen's Municipal Separate Storm Sewer (MS4) Permit;
- emergency response in accordance with City of Killeen's Drainage Master Plan and Chapter 32 of the Killeen Code of Ordinances; and
- right-of-way (R-O-W) Maintenance to include street sweeping within public rights-of-way in accordance with Chapter 8 of the Killeen Code of Ordinances and the City of Killeen's MS4.

<u>Street Services</u> – The Street Operations Division of the Public Works Department will maintain public streets over which the City has jurisdiction. These services include:

- emergency pavement repair;
- ice and snow monitoring of major thoroughfares;
- repair maintenance of public streets on an as-needed basis;
- traffic control signals; and
- right-of-way maintenance.

Public roads and streets in the annexation area will be included in the City's preventive maintenance program. Preventive maintenance projects are prioritized on a citywide basis and scheduled based on a variety of factors, including surface condition, age, traffic volume, functional classification, and available funding. The Streets Operations Division will also provide regulatory traffic signage. Engineering studies to determine if traffic control devices are warranted will be conducted as needed, in conjunction with growth and increased traffic volumes. Anticipated future development within the annexation area will generate the requirement to construct streets in compliance with the City of Killeen development standards and requirements published in the Killeen Code of Ordinances and Public Works Department practices, as may be amended. Street lighting will be installed by property developers as development in the area warrants. Upon development of the annexation area, street maintenance fees will be charged in accordance with City of Killeen Code of Ordinances Chapter 25.

<u>Water and Wastewater Services</u> – The City of Killeen strives to provide comparable levels of service in all areas of the City, allowing for differences in population density, land use, and topography. The annexed area is vacant; however, depending on future zoning requests for the property, the development of the property may include approximately 60-80 residential lots. As the population density increases and land use patterns change, the City will provide comparable water and sewer services as in other comparable areas of the City.

Water and wastewater utility availability addresses the accessibility to a sufficient supply of water and the capacity of the wastewater system to accept and treat wastewater. The extension of utilities to any area of the City, to include the annexation area, is based on the Water and Wastewater Master Plan and the utility extension policy contained in Chapter 26, Article IV, Division 3, Section 26-111, of the Killeen Code of Ordinances as amended. Developers of property in the annexation area will be required to extend necessary utilities to support their development in accordance with the Killeen Code of Ordinances and Public Works Department practices, as may be amended.

The following is a summary of the City of Killeen Water and Wastewater Utility Service Extension Policy.

- 1. The intent and purpose of the water and wastewater extension policy is to provide equitable charges for water and sewer connections as a proportionate distribution of the cost of the water and sewer main extensions to serve property within the city.
- 2. If the existing city utility facilities are not within or adjacent to the development, the developer shall construct the necessary extension of water and sewer mains, force

mains, and lift stations, including all valves, manholes, and piping necessary to serve any future development of abutting property.

- 3. The developer's engineer shall prepare a proposed plan of service for the subdivision and property along the extension, which shall be reviewed by the plat review committee. These facilities shall be constructed in accordance with the Water and Wastewater Master Plan (as amended).
- 4. It is the general policy of the city that water and sewer mains should be large enough to serve all the lots platted and, should the city determine oversizing is necessary, the city may participate in those lines greater than 8" for water and greater than 10" for sewer.
- 5. All utilities shall be required to extend across the full width of the last lot platted on each street proposed within the development, in such an alignment that it can be extended to the next property in accordance with the master sewer and water plans for the city, provided such plan(s) exist.
- 6. Properties already served by water and sewer shall not be required to install additional facilities unless, the current lines are not of adequate capacity to serve the proposed development; in which case the applicant will be required to install adequate facilities.
- 7. Every lot of a plat shall have direct access to the water and sewer system. Utility service shall be from a water/sewer main located in an abutting right-of-way or through easements from the lot to a water/sewer main.
- 8. The City provides a "pro rata" program that in some instances allows a person to recover some costs of extending a line from the point of availability to the person's property, thereby reducing the economic impact on the person constructing the line.

Under limited circumstances, the City of Killeen Executive Director of Public Works may allow the continued use of or the establishment of an on-site sewage facility in locations where sanitary sewer service is not readily available. Such on-site sewage facilities must be permitted by the Bell County Health Department. Generally, sewer service shall be considered available when City owned infrastructure is located at a distance not to exceed 1,000 feet that can accept gravity flow.

Water Utilities – It is the intent of the City of Killeen to provide water utility services to the annexation area in an expedient and orderly manner. This plan provides continued quality service—while minimizing the utility rate impact to both the newly acquired citizens as well as the existing customers of the City's utility system.

There is a 6-inch water line that ties into the property via Lyla Drive and an 8-inch water line located in the south right-of-way of Mesa Drive. The annexed area is located in the Upper Pressure Plane, which has an overflow elevation of 1,123 feet.

Sewer Utilities – It is the intent of the City of Killeen to provide sewer utility services to the annexation area in an expedient and orderly manner. This plan provides continued quality

service while minimizing the utility rate impact to both the newly acquired citizens as well as the existing customers of the City's utility system.

There is a 6-inch sewer line that ties into the property via Lyla Drive.

<u>Solid Waste Services</u> – Solid Waste services provided by the City of Killeen's Solid Waste Services Department will begin immediately upon annexation. The solid waste collection and disposal services provided to the annexation area will be equal to the service being provided to other areas of the City. The annexation area will be provided collection service at the same frequency of service as other areas of the City.

Services shall be provided in accordance with the City of Killeen Code of Ordinances, Chapter 24, for residential and commercial customers:

- garbage collection in accordance with City of Killeen "pay-as-you-throw" guidelines and Chapter 24 of the Killeen Code of Ordinances;
- recycling access to City of Killeen Recycling Center;
- vard waste and brush collection;
- special collection services;
- commercial service is provided on subscription basis from the City.

Other Services – The City of Killeen will provide other City Services to the annexation area, such as animal services, library, municipal court and general administration services at the same level of service now being provided to other areas of the City with similar population density and land use. It is understood and agreed that the City is not required to provide a service that is not included in this Agreement. Owner understands and acknowledges that the City departments listed above may change names or be re-organized by the City Manager. Any reference to a specific department also includes any subsequent City department that will provide the same or similar services.

- **4. AUTHORITY.** City and Owner represent that they have full power, authority and legal right to execute, deliver and perform their obligations pursuant to this Agreement. Owner acknowledges that approval of the Annexation Case is within the sole jurisdiction of the City Council. Nothing in this Agreement guarantees favorable decisions by the City Council.
- **5. SEVERABILITY.** If any part, term, or provision of this Agreement is held by the courts to be illegal, invalid, or otherwise unenforceable, such illegality, invalidity, or unenforceability will not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term, or provision was never part of the Agreement.
- **6. INTERPRETATION.** The parties to this Agreement covenant and agree that in any litigation relating to this Agreement, the terms and conditions of the Agreement will be interpreted according to the laws of the State of Texas. The parties acknowledge that they are of equal bargaining power and that each of them was represented by legal counsel in the negotiation and drafting of this Agreement.
- 7. GOVERNING LAW AND VENUE. Venue shall be in the state courts located in Bell County, Texas or the United States District Court for the Western District of Texas, Waco

Division and construed in conformity with the provisions of Texas Local Government Code Chapter 43.

- **8. NO WAIVER.** The failure of either party to insist upon the performance of any term or provision of this Agreement or to exercise any right granted hereunder shall not constitute a waiver of that party's right to insist upon appropriate performance or to assert any such right on any future occasion.
- **9. GOVERNMENTAL POWERS.** It is understood that by execution of this Agreement, the City does not waive or surrender any of its governmental powers or immunities.
- **10. COUNTERPARTS**. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.
- 11. CAPTIONS. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.
- **12. AGREEMENT BINDS SUCCESSORS AND RUNS WITH THE LAND.** This Agreement is binding on and inures to the benefit of the parties, their successors, and assigns. The term of this Agreement constitutes covenants running with the land comprising the Property and is binding on the Owner.
- **13. ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the parties and supersedes all prior oral and written agreements between said parties. This Agreement shall not be amended unless executed in writing by both parties.

Executed as of the day and year first above written to be effective on the effective date of annexation of the Property.

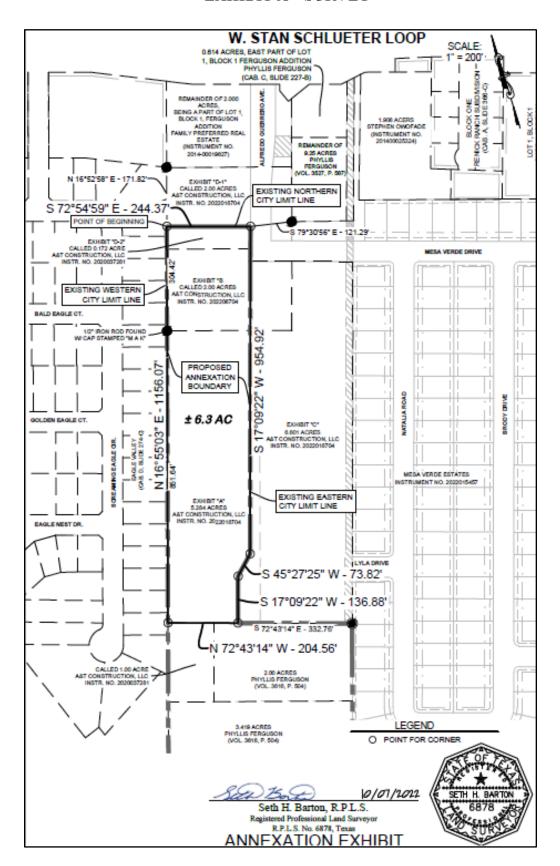
# CITY OF KILLEEN

# **A&T CONSTRUCTION, LLC**

By: Kent Cagle City Manager	By: Alfredo G. Guerrero President
Approved as to Form and Legality:	
Holli C. Clements City Attorney	
Ordinance No	

State of Texas	§	
<b>County of Bell</b>	§ § §	
This instrument was	acknowledged before me on the	day of,2023,
by Kent Cagle, City Manage	er of the City of Killeen, a Texas mu	nicipal corporation, on behalf of
said corporation.		
By:		
Notary Public, State of Texa		
State of Texas	§	
County of Bell	§ § §	
This instrument was	acknowledged before me on the	day of, 2023,
by	on behalf	of said
By:		
Notary Public, State of Texa	s	
After Recording Return to:		
City Secretary		
City of Killeen P.O. Box 1329		
Killeen, Texas 76540		

# **EXHIBIT A – SURVEY**



# **EXHIBIT B - FIELD NOTES**

# FIELD NOTES 6.3 ACRES BELL COUNTY, TEXAS

BEING all that certain 6.3 acre tract of land situated in the W.L. Harris Survey, Abstract No. 1155, Bell County, Texas, being all of the called 5.284 acre tract of land described as "Exhibit A" in a deed to A&T Construction, LLC, recorded in Instrument No. 2022018704, Deed Records of Bell County, Texas, and part of the called 2.00 acre tract of land described as "Exhibit B" in a deed to A&T Construction, LLC, recorded in Instrument No. 2022018704, Deed Records of Bell County, Texas, and all of the called 0.172 acre tract of land described as "Exhibit D-2" in a deed to A&T Construction, LLC, recorded in Instrument No. 2022018704, Deed Records of Bell County, Texas, being more particularly described as follows:

BEGINNING at a point at the Northwest corner of the said 0.172 acre tract, being the Southwest corner of a called 2.00 acre tract of land described as "Exhibit D-1" in a deed to A&T Construction, LLC, recorded in Instrument No. 2022018704, Deed Records of Bell County, Texas, and in the East line of Lot 5, Block 1, Eagle Valley, a subdivision In the City of Killeen according to the Plat of Record in Cabinet D, Slide 274-C, Plat Records of Bell County, Texas, for the Northwest corner of the herein described tract, from which a 1/2" iron rod with a cap stamped "QUINTERO 10194110" found at the Northwest corner of the said 2.00 acre "Exhibit D-1" tract of land bears N 16° 52' 58" E, 171.82 feet, for reference;

THENCE, S 72° 54' 59" E, 244.37 feet, along the North line of the said 0.172 acre tract, to a point in the West line of Alfredo Guerrero Avenue, for the Northeast corner of the herein described tract, and being a corner of the current City of Killeen Limits line as recorded in Ordinance No. 19-053, from which a 1/2" iron rod with cap stamped "Harmon" found at the Southwest corner of the remainder of a called 9.25 acre tract of land described in a deed to Phyllis Ferguson, recorded in Volume 3527, Page 567, Deed Records of Bell County, Texas, bears S 79° 30' 56" E, 121.29 feet, for reference;

THENCE, S 17° 09' 22" W, 954.92 feet, along the East line of the said 0.172 acre tract, crossing the said 2.00 acre "Exhibit B" tract, and along the East line of the said 5.284 acre tract, to a point, being a corner in the East line of the said 5.284 acre tract.

THENCE, along East and South lines of the said 5.284 acre tract the following three courses and distances;

- 1. S 45° 27' 25" W, 73.82 feet, to a point;
- S 17° 09' 22" W, 136.88 feet, to a point, in the North line of a called 2.00 acre tract of land described in a deed to Phyllis Ferguson, recorded in Volume 3616, Page 504, Deed Records of Bell County, Texas, for the Southeast corner of the herein described tract, from which a 1/2" iron pipe found at the Northeast corner of the said 2.00 acre Ferguson tract bears S 72° 43' 14" E, 332.76 feet, for reference;
- 3. N 72° 43' 14" W, 204.56 feet, to a point, at the Northwest corner of a called 1.00 acre tract of land described in a deed to A&T Construction, LLC, recorded in Instrument No. 2020037281, Deed Records of Bell County, Texas, being in the East line of Lot 22, Block 2, Eagle Valley Phase II, recorded in Plat Year 2013, Plat No. 3A & 3B, Plat Records of Bell County, Texas, for the Southwest corner of the herein described tract;

THENCE, N 16° 55' 03" E, along the East line of the said Eagle Valley and the said Eagle Valley Phase II, passing at 851.64 feet, a 1/2" iron rod with a cap stamped "M A K" found, in the said East line of the said Eagle Valley, being the Southwest corner of the said 2.00 acre "Exhibit B" tract, and continuing in all a total distance of 1156.07 feet, to the POINT OF BEGINNING, containing 6.3 acres of land, more or less.

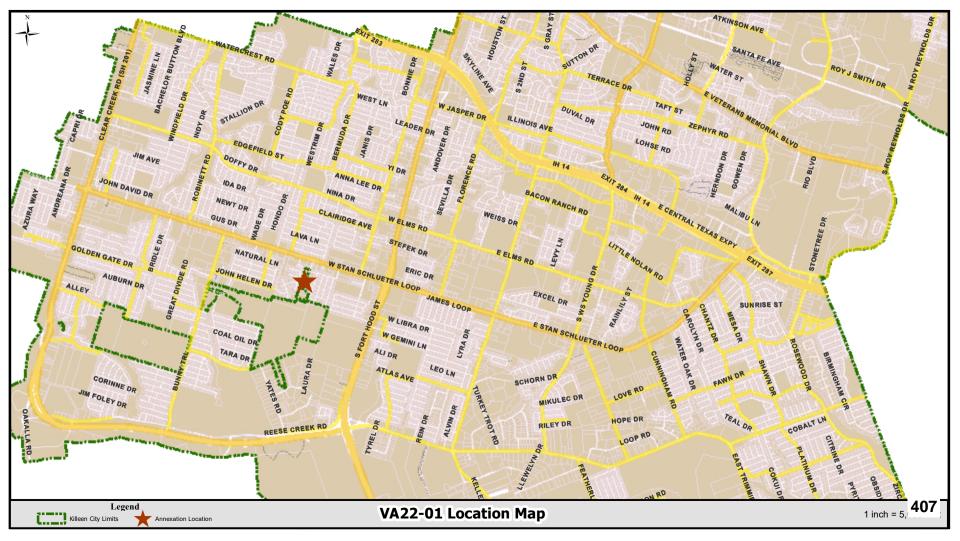
The bearings for this description are based upon the Texas State Plane Coordinate System, Central Zone, NAD 83, per Leica Texas Smart Net GPS observations, as surveyed on the ground in October 2022 by Quintero Engineering, LLC.

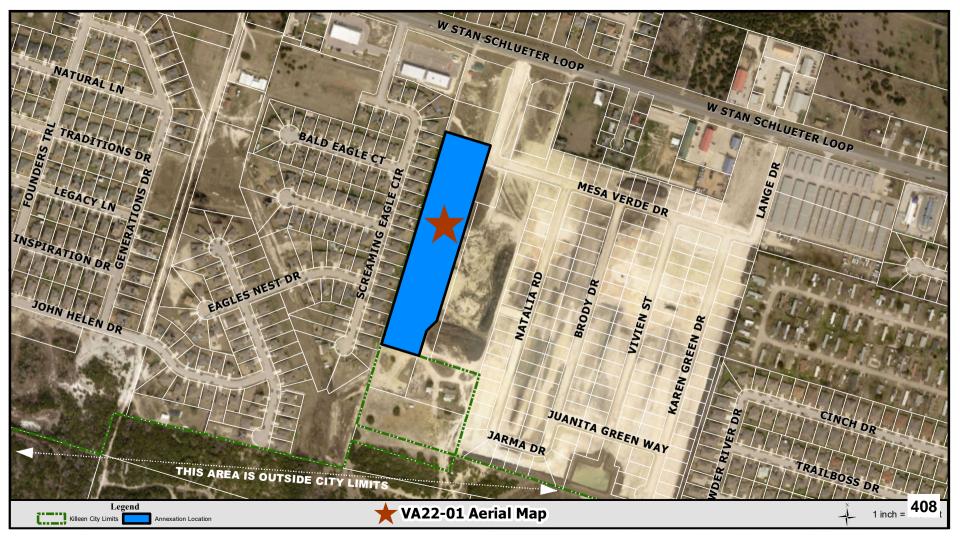
10/07/2022

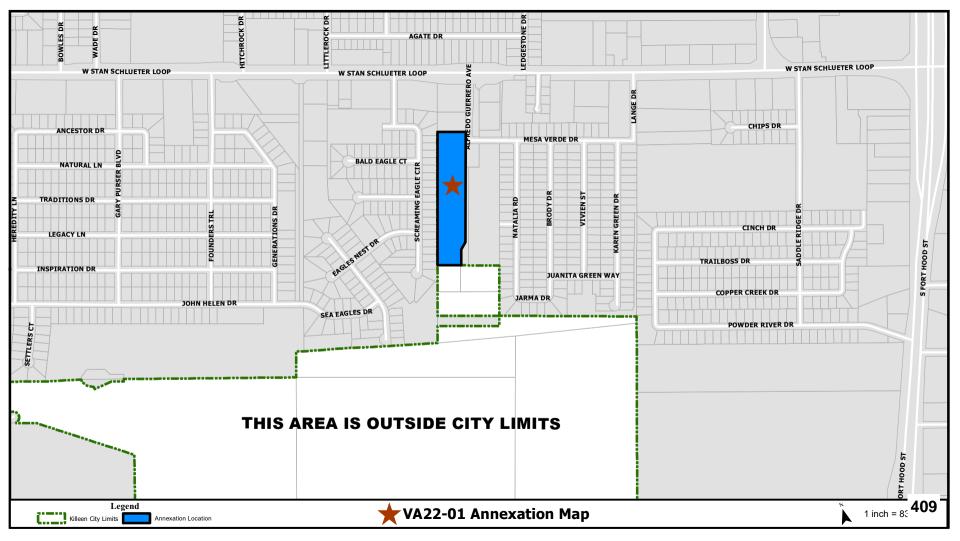
Seth H. Barton, R.P.L.S.

Registered Professional Land Surveyor

No. 6878, Texas







AN ORDINANCE OF THE CITY OF KILLEEN EXTENDING THE CORPORATE LIMITS OF THE CITY OF KILLEEN, BELL COUNTY, TEXAS, TO INCLUDE LAND LYING ADJACENT TO THE PRESENT CITY LIMITS, BEING APPROXIMATELY 6.30 ACRES OF LAND OUT OF THE W.L. HARRIS SURVEY, ABSTRACT NO. 1155; DECLARING SAID LAND TO BE A PART OF SAID CITY; DECLARING SAID LAND AND ITS INHABITANTS AND ANY FUTURE INHABITANTS OF SAID LAND TO BE ENTITLED TO ALL THE RIGHTS AND PRIVILEGES OF OTHER LANDS AND CITIZENS OF THE CITY AND TO BE BOUND BY THE ACTS AND ORDINANCES OF THE CITY; EXTENDING DISTRICT BOUNDARIES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.

**WHEREAS,** Texas Local Government Code section 43.0671 authorizes the City to annex an area if each owner of land in the area requests the annexation;

**WHEREAS,** the City Council of the City of Killeen, pursuant to Article II, Section 6 of the Charter, is authorized to extend the boundary lines of the City and annex additional territory adjacent to the City of Killeen upon petition;

WHEREAS, the City has received a petition for voluntary annexation for an area being approximately 6.30 acres in size lying contiguous to the existing city limits, located south of West Stan Schlueter Loop, east of the Eagle Valley subdivision, and west of the Mesa Verde subdivision, Killeen, Texas;

**WHEREAS**, the area to be annexed, as described in this ordinance, is within the extraterritorial jurisdiction of the City of Killeen, is adjacent to the existing boundary limits, and the petitioner for annexation is the sole owner of the land within the area;

WHEREAS, in compliance with Texas Local Government Code section 43.0672, a written service agreement has been negotiated with the landowner prior to the publication of the notice for the hearing;

**WHEREAS,** in compliance with Texas Local Government Code section 43.0673, the City published the required notice in the newspaper, posted the notice on the City's website, and conducted a public hearing; and

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

SECTION I: That on and after the effective date of this ordinance, the city limits of the City of Killeen, Texas, shall be and they are hereby extended to include certain lands lying adjacent and contiguous to the city limits of said City of Killeen as they existed prior to the effective date of this ordinance; such land being more particularly described as approximately 6.30 acres out of the W.L. Harris Survey, Abstract, No. 1155, lying contiguous to the existing city limits, and generally located south of West Stan Schlueter Loop, east of the Eagle Valley subdivision, and west of the Mesa Verde subdivision, Killeen, Texas.

**SECTION II:** It is declared that the lands thereby annexed and described in Section I hereof are and shall hereafter be a part of the City of Killeen, Bell County, Texas and it is hereby further declared that said lands and the present and future inhabitants thereof are hereafter entitled to all the rights and privileges as other lands and other citizens of the City of Killeen which are similarly situated and shall be bound by the acts and ordinances of the City of Killen, Texas.

**SECTION III:** It is further declared that the above-described properties shall be zoned "A" Agriculture on the effective date of this ordinance, pursuant to Section 31-124(a) of the Code of Ordinances of the City.

**SECTION IV:** That the written service plan for the annexed area is hereby adopted as a part of this ordinance.

**SECTION V:** It is further declared that the boundary of the City of Killeen City Council District 2 be extended by the land contained within the annexation tract.

SECTION VI: That all ordinances or resolutions or parts thereof in conflict with the

provisions of this ordinance are hereby repealed to the extent of such conflict or amended as

specified herein to the extent of any conflict.

**SECTION VII:** That should any section or part of any 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 section or part of a section or paragraph of this ordinance.

**SECTION VIII:** That the ordinances and resolutions of the City of Killeen, Texas, and

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 IX:** That this ordinance shall be effective on January 24, 2023, after its passage

and publication according to the Killeen City Charter and State Law.

PASSED AND APPROVED at a regular meeting of the City Council of the City of

Killeen, Texas, this 24th day of January 2023, at which meeting a quorum was present, held in

accordance with the provisions of the Texas Open Meetings Act, Texas Government Code Chapter

551, as amended.

APPROVED:

**Debbie Nash-King, MAYOR** 

ATTEST:

Laura J. Calcote, CITY SECRETARY

APPROVED AS TO FORM

**Holli C. Clements, CITY ATTORNEY** 

412



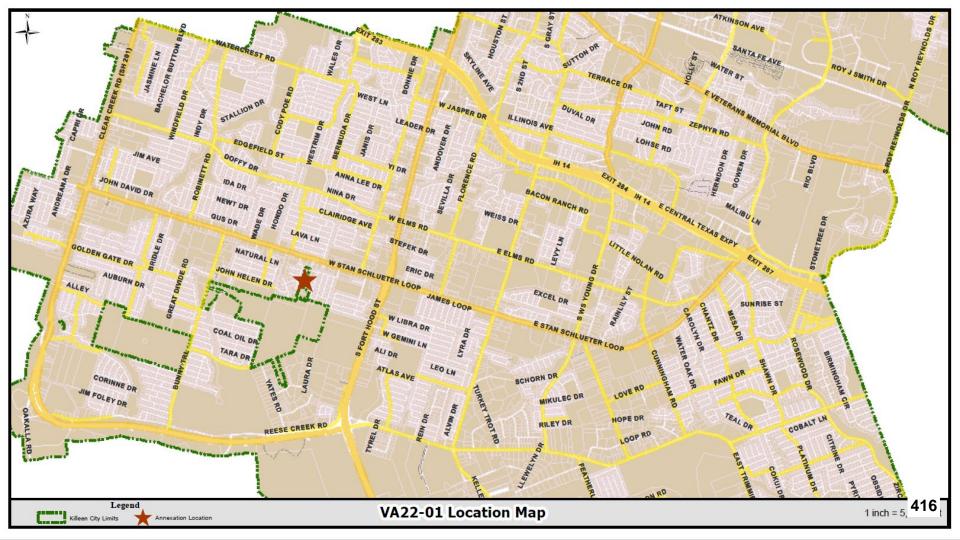
# PETITION FOR VOLUNTARY ANNEXATION

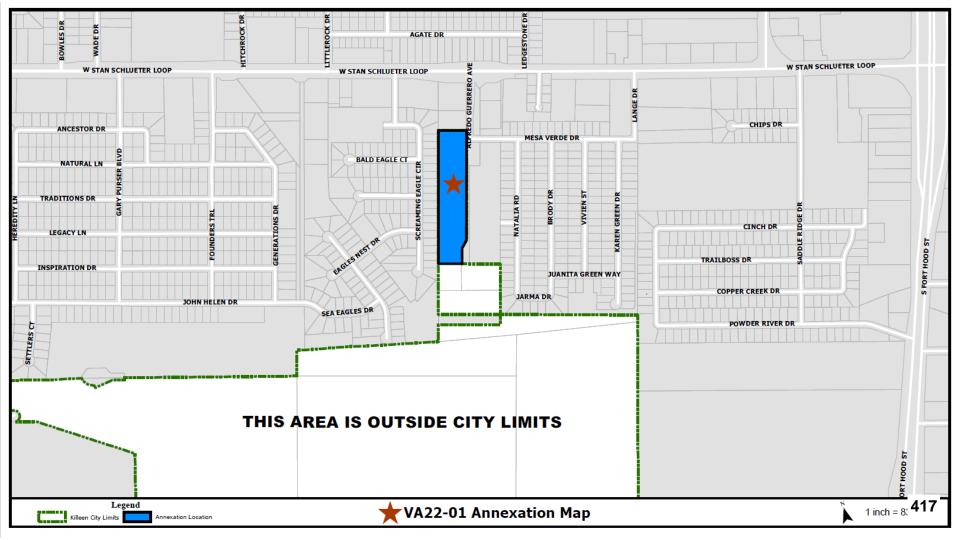
# **Voluntary Annexation Petition**

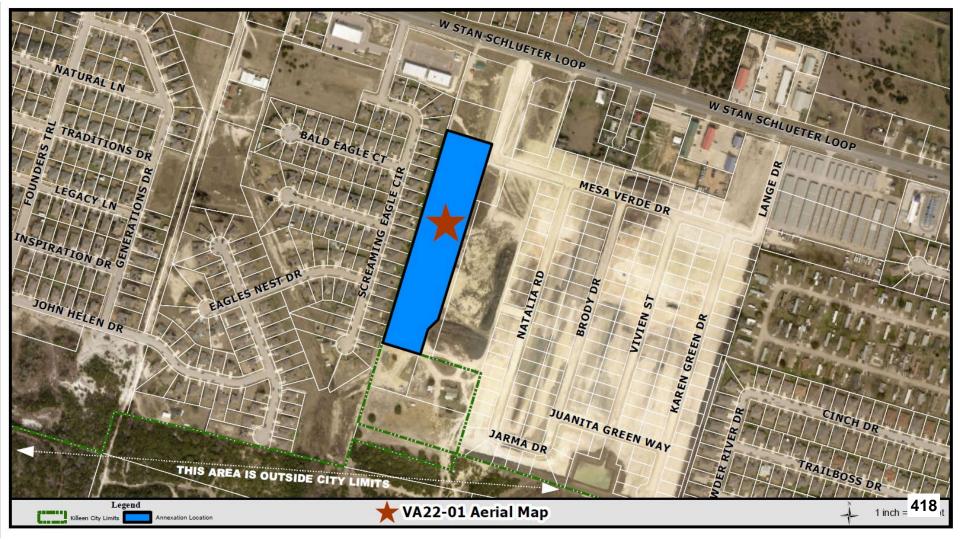
■ **HOLD** a public hearing and consider an ordinance approving a written service agreement and the annexation of approximately 6.30 acres of land lying contiguous to the existing city limits, generally located south of West Stan Schlueter Loop, east of the Eagle Valley subdivision, and west of the Mesa Verde subdivision.

2

On October 4, 2022, staff received a petition for voluntary annexation from Quintero Engineering, LLC on behalf of A & T Construction, LLC for 6.30 acres of land lying contiguous to the existing city limits, generally located south of West Stan Schlueter Loop, east of the Eagle Valley subdivision, and west of the Mesa Verde subdivision.







- 7
- □ In accordance with LGC 43.0672, the written service agreement must include:
  - 1) A list of each service the municipality will provide on the effective date of the annexation; and
  - 2) A schedule that includes the period within which the municipality will provide each service that is not provided on the effective date of the annexation.

# Voluntary Annexation Process

- In accordance with Chapter 43 of the LGC, before the Council adopts an ordinance annexing an area, the Council must conduct one public hearing.
- At least 10 days and no more than 20 days in advance of the public hearing, the City must publish notice in the newspaper, post on the City's website, and send notice to the school district and each public entity that provides service to the area.
- All public notification requirements have been met.
- □ LGC 43.0673: Council may adopt an annexation ordinance at the conclusion of the public hearing.

# Alternatives

- □ The City Council has two alternatives:
  - Disapprove the written service agreement and the annexation ordinance; or
  - Approve the written service agreement and the annexation ordinance.

# Recommendation

Staff recommends that the City Council approve the written service agreement and the annexation ordinance as presented.



# City of Killeen

# **Staff Report**

File Number: PH-23-007

1 City Council Workshop

01/17/2023 Reviewed and Referred

City Council

01/24/2023

HOLD a public hearing and consider an ordinance amending the PY 2021/FY 2022 Community Development Department Annual Action Plan associated with the supplemental funding from HUD known as the HOME Investment Partnerships American Rescue Plan (HOME-ARP) program funds and adopt the Killeen HOME-ARP Allocation Plan.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Leslie Hinkle, Executive Director of Community Development

SUBJECT: Amendment to the Community Development PY 2021/FY 2022 Annual Action Plan associated with the supplemental HOME-ARP funding from HUD and adopting the HOME-ARP Allocation Plan

#### **BACKGROUND AND FINDINGS:**

On March 11, 2021, President Biden signed the American Rescue Plan (ARP) into law where Congress appropriated \$5 billion in ARP funds to address the need for homelessness assistance supportive services, to be administered through HOME to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or in other populations. Killeen allocated \$1,778,641 of funds from the The City of was Department of Housing and Urban Development (HUD) with council acceptance of the funding January 25, 2022, via resolution.

CD Staff was required to follow the special funding regulatory and statutory requirements associated with the special funding to develop the HOME-ARP Allocation Plan. Consultations with local entities defined providers helped identify the HOME-ARP qualifying populations (Qualifying Populations/QPs) who meet one the following: (1) persons or families who are homeless, as defined section 103(a) of the McKinney-Vento Homeless Assistance Act, amended (42 U.S.C. as ("McKinney-Vento"); (2) homelessness, defined 401 of 11302(a)) at risk of as in section McKinney-Vento; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meets the criteria in one of (1)-(4) above.

Additionally, the City was to identify funding available to the eligible four categories for activities which include: (1) development and support of affordable housing, (2) tenant-based rental assistance supportive acquisition and (TBRA), (3) provision of services; and (4) development non-congregate shelter units; proposed process for accepting applications for funding considerations and the terms associated with the acceptance of the funding.

The following chart outlines the proposed eligible activities based on consultations with community entities, members and interested persons:

Eligible Activity Funding Amount\* Percent of Grant Statutory Max. Limit

Supportive Services\* \$ 700,000.00 Acquisition and Development of Non-Congregate Shelters\* \$ 500,000.00 Tenant Based Rental Assistance (TBRA)\* \$ 111.844.85 Development of Affordable Rental Housing\* 0.00 0% 5% Non-Profit Operating \$ Non-Profit Capacity Building \$ 0.00 0% 5% 15% 15% Administration and Planning \$ 266,796.15 Total HOME-ARP Allocation \$ 1,778,641.00

Community Development has completed the HOME-ARP requirements advertising the HOME-ARP Plan and Public Hearing in the Killeen Daily Herald on January 8, 2023 for a 16-day comment period to accept relevant public comment on the HOME-ARP Plan; the 16-day comment period concludes after the Public Hearing at the council meeting on January 24, 2023 with adoption, by ordinance, of the Killeen HOME-ARP Plan.

#### **THE ALTERNATIVES CONSIDERED:**

- In accordance with the waivers created by 1. HUD for HOME-ARP funding, accept relevant comments under the minimum 15-day comment period, hold the required public hearing on January 24, 2023, and adopt the HOME-ARP Plan amending the City's PY 2021 / FY 2022 Annual Action Plan, as amended.
- 2. Do not accept the HOME-ARP Plan amendment to the PY 2021 / FY 2022 Annual Action Plan

### Which alternative is recommended? Why?

Recommend approval of the PY 2021 / FY 2022 Annual Action Plan, as amended following citizen comment and participation regarding the HOME-ARP Plan and amendment to the Annual Action Plan; hold the public hearing on January 24, 2023, include revisions, as appropriate, based on citizen comments received during the previously held 16-day comment period and public hearing. By adopting the HOME-ARP Plan amendment with will expand funding for homelessness and supportive services assistance to Killeen's most vulnerable populations by reducing homelessness of at-risk low-income persons and families.

# **CONFORMITY TO CITY POLICY:**

Yes, as described in the Citizen Participation Plan, approved by city council.

### **FINANCIAL IMPACT:**

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

HOME-ARP funding is not allocated to specific projects but to categories of eligible activities in current fiscal year; however total funding available is \$1,778,641.

# Is this a one-time or recurring expenditure?

N/A

### Is this expenditure budgeted?

Yes, funds are available in the Community Development HOME-ARP Fund.

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:**

Following the public hearing on January 24, 2023 and incorporating appropriate citizen comments received during the 16-day comment period, recommend approval of the proposed amendment to the PY 2021/FY 2022 Annual Action Plan with the supplemental HOME-ARP funding from HUD and adopting the HOME-ARP Allocation Plan to be submitted to HUD for consideration.

### **DEPARTMENTAL CLEARANCES:**

Legal

Finance

# **ATTACHED SUPPORTING DOCUMENTS:**

Ordinance

ORDINANCE	

AN ORDINANCE ADOPTING AN AMENDMENT TO THE COMMUNITY DEVELOPMENT PY 2021/FY 2022 ANNUAL ACTION PLAN FOR SUPPLEMENTAL FUNDING FROM HUD KNOWN AS THE HOME INVESTMENT PARTNERSHIPS AMERICAN RESCUE PLAN (HOME-ARP) PROGRAM FUNDS AND ADOPT THE KILLEEN HOME-ARP ALLOCATION PLAN; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the Community Development Division is proposing an amendment to the Program Year 2021/Fiscal Year 2022 Annual Action Plan of community and affordable housing needs by incorporating additional supplemental funds appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("ARP") for the HOME Investment Partnerships Program (HOME) to provide homelessness assistance and supportive services; and

**WHEREAS** the proposed amendment to the PY 2021/FY2022 Annual Action Plan will add ARP funds to be administered through the HOME-ARP program, to perform four activities that must primarily benefit qualifying individuals and families who are homeless, at risk of homelessness, or are in other vulnerable populations; and

WHEREAS Staff followed the special funding regulatory and statutory requirements associated to develop the HOME-ARP Allocation Plan through consultations with local entities and providers who helped identify ARP defined (individuals or families) Qualified Populations/QPs of persons who meet definitions of: 1) homeless, as defined in section 103(a) of the McKinney-Vento Homeless Assistance Act, as amended (42 U.S.C. 11302(a)) ("McKinney-Vento"); (2) at risk of homelessness, as defined in section 401 of McKinney-Vento; (3) fleeing, or attempting to flee domestic violence, dating violence, sexual assault, stalking, or human trafficking; (4) part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability; or (5) veterans and families that include a veteran family member that meets the criteria in one of (1)-(4) above; and

**WHEREAS** the regulatory and statutory American Rescue Plan rules require one public hearing and a minimum fifteen-day comment period to seek citizen comment on the amendment and the Killeen HOME-ARP Allocation Plan; and

**WHEREAS**, the City Council of the City of Killeen has invited and received citizen comment on the amendment to the Community Development Division program year 2021/fiscal year 2022 Annual Action Plan and HOME-ARP Allocation Plan; and

**WHEREAS**, after due consideration of community needs within the City as provided by the Citizen Participation Plan associated with supplemental funding from the U.S.

Department of Housing and Urban Development, the City Council of the City of Killeen has agreed on the amendment to the 2021-2022 Annual Action Plan and the HOME-ARP Allocation Plan as follows;

Eligible Activity	Funding Amount*	Percent of Grant	Statutory Max. Limit
Supportive Services*	\$ 700,000.00		
Acquisition and Development of Non-Congregate Shelters*	\$ 500,000.00		
Tenant Based Rental Assistance (TBRA)*	\$ 111,844.85		
Development of Affordable Rental Housing*	\$ 200,000.00		
Non-Profit Operating	\$ 0.00	0%	5%
Non-Profit Capacity Building	\$ 0.00	0%	5%
Administration and Planning	\$ 266,796.15	15%	15%
Total HOME-ARP Allocation	\$ 1,778,641.00		

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

**SECTION I.** That the City Council of the City of Killeen held a public hearing in accordance with special funding regulations from the HUD regarding the HOME-ARP Allocation Plan to hear and accept citizen comments on the Amendment to the Community Development Division's PY 2021/FY 2022 Annual Action Plan, for a 16-day comment period beginning January 9, ending January 24, 2023, describing the proposed amendments.

**SECTION II.** That the City Council of the City of Killeen hereby authorizes the City Manager to submit the amendment to the PY 2021/FY 2022 Annual Action Plan relative to future activities to be undertaken with HOME-ARP program funds and approves the Amendment.

**SECTION III.** That if any section or part of any section or paragraph of this ordinance is 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 this ordinance shall be effective after its passage and approval to law.

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 24th day of January 2023 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		
ATTEST:	Debbie Nash-King, MAYOR		
Laura J. Colcate, CITY SECRETARY			
APPROVED AS TO FORM AND LEGALITY:			
Holli C. Clements, CITY ATTORNEY			
DISTRIBUTION: Community Development, Finance			

AMENDMENT – PY2021/FY 2022 COMMUNITY DEVELOPMENT ANNUAL ACTION PLAN; ADOPTING HOME-ARP ALLOCATION PLAN

January 24, 2023

# Background & Information

- The Community Development FY2022 Annual Action Plan requires an amendment to incorporate supplemental funding appropriated under section 3205 of the American Rescue Plan Act of 2021 (P.L. 117-2) ("ARP") for the HOME Investment Partnerships Program (HOME), purpose:
  - to provide homelessness assistance and supportive services
- The amendment adds ARP funds, administered through HOME program, to perform 4 activities to benefit qualifying individuals/families who are homeless, at risk of homelessness, or are in other vulnerable populations

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- Staff followed the special funding regulatory and statutory requirements to develop the HOME-ARP Allocation Plan;
- Held consultations in March/April 2022 with local entities and providers who helped identify (individuals or families)
   Qualified Populations (QPs)
- HOME-ARP definition of homeless persons or families at-risk of homelessness, domestic violence, are who are part of other populations where providing supportive services or assistance would prevent a family's homelessness or would serve those with the greatest risk of housing instability;
  - veterans and families that include a veteran family member that meet the listed criteria above are also eligible

- 4
- Additionally, HOME-ARP requires the City to identify funding amounts available to the four eligible categories for activities:
  - (1) development and support of affordable housing,
  - (2) tenant-based rental assistance (TBRA),
  - □ (3) provision of supportive services; and
  - (4) acquisition and development of non-congregate shelter units; and
    - Based on future applications received and approved, the amounts may fluctuate
- Proposed funding to categories; RFP process for accepting applications for funding considerations and the terms associated with the acceptance of the HOME-ARP funding.

### HOME-ARP CATEGORY ALLOCATIONS

Proposed Use of HOME-ARP Funding

	Amount of Funding*	Percent of Grant	Statutory Max. Limit
Supportive Services*	\$ 700,000.00		
Acquisition and Development of Non- Congregate Shelters*	\$ 500,000.00		
Tenant Based Rental Assistance (TBRA)*	\$ 111,844.85		
Development of Affordable Rental Housing*	\$ 200,000.00		
Non-Profit Operating	\$ 0.00	%	5%
Non-Profit Capacity Building	\$ 0.00	%	5%
Administration and Planning	\$ 266,796.15	15%	15%
Total HOME-ARP Allocation	\$ 1,778,641.00		

<sup>\*</sup>Based on the applications received, these amounts may fluctuate.

- Community Development has completed ARP requirements:
  - Developed HOME-ARP Plan in accordance with program rules;
  - Posted notice of the proposed HOME-ARP Plan;
    - Killeen Daily Herald and City CD web page
  - Provided a 16-day written public comment period with additional option to comment verbally via telephone message/recording;

## Public Hearing and Comment

- City Council of the City of Killeen will hold a public hearing in accordance with the special funding regulations from HUD regarding HOME-ARP Plan Hear and accept citizen comments on the Amendment to the Community Development Division's PY 2021/FY 2022 Annual Action Plan
- Adopt the Annual Action Plan Amendment with the HOME-ARP Plan

## Summary

- FY22 Annual Action Plan Amendment with HOME ARP Plan 16-day comment period
  - January 9 24, 2023
- Approval by Ordinance at public hearing January 24, 2023
- Submittal of the Amendment and HOME-ARP Plan to HUD for consideration (maximum 45 days to review)
- Approval by HUD with anticipated release of Applications for Funding – March 2023



### City of Killeen

#### **Staff Report**

File Number: PH-23-008

City Council Workshop

01/17/2023 Reviewed and

Referred

City Council

01/24/2023

HOLD a public hearing and consider an ordinance amending the FY 2023 Annual Budget of the City of Killeen to adjust revenue and expenditure accounts in multiple funds.

**DATE:** January 17, 2023

TO: Kent Cagle, City Manager

FROM: Miranda Drake, Assistant Director of Finance

**SUBJECT:** Budget Amendment

#### **BACKGROUND AND FINDINGS:**

The budget amendment predominantly addresses three major initiatives that include carrying forward funds from FY 2022 to FY 2023 for contracts and commitments that were not completed in FY 2022; appropriating funds for specific grants; and amending operational funds.

#### Carry Forward -

City Charter (Article VII, Section 71) states that all appropriations shall lapse at the end of the fiscal year to the extent that they shall not have been expended or lawfully encumbered. During the course of a fiscal year, there are contracts and commitments that are entered into by the City that being in the current fiscal year and are completed in the next fiscal year.

A number of outstanding contracts and commitments for projects and/or services were not completed nor received by the City prior to the close of the fiscal year ending September 30, 2022. In order to complete contracted projects and/or services, FY 2022 appropriations need to be carried forward to the FY 2023 Annual Budget.

#### FY 2022 Carry Forwards Expenditure Budget

General Fund \$925,858

Special Revenue Funds 392,168 Internal Service Funds 159,707 Water & Sewer Fund 30,400

Aviation Fund 4,150 TOTAL \$1,512,283

#### **Grant Budget Amendments -**

There are six (6) different grant items addressed in this budget amendment:

In FY 2022, the City Council appropriated the Coronavirus State and Local Fiscal Recovery
Funds (ARPA) of \$29,117,907 to fund items to include restoring positions for the Killeen Civic
and Conference Center (KCCC), deferred maintenance for KCCC, Grants to the Arts, Public
Safety Premium Pay, Boys and Girls Club, Business Assistance, Downtown Events, Mental
Health Program for Police and Fire, additional route for Hill Country Transit (HOP), Non-Profit
Organization Assistance and multiple capital improvement program (CIP) projects to include
Emergency Operations Center and parks. The City Charter allows the CIP projects to roll

forward to the next budget year. The other non-CIP items are included in this budget amendment.

- 2. The American Rescue Plan Act of 2021 appropriated funding to provide housing, services and shelter to individuals experiencing homelessness and other vulnerable populations. The federal award was \$1,778,641. The FY 2023 Budget included \$1,745,243. This was estimated based on the proposed amount to be spent in FY 2022. The actual amount spent in FY 2022 came in less than anticipated. This budget amendment appropriates the remaining grant balance of \$12,645 for the revenues and expenditures.
- 3. The City of Killeen received a \$100,000 grant from PETCO in FY 2021 and FY 2022 that was not fully expended. This budget amendment appropriates the fund balance for eligible uses.
- 4. Appropriate the remaining balance of the Federal Aviation Administration (FAA) grant for the Airport Aircraft Hangar #1.
- Appropriate the remaining balances of the FAA grants for the Coronavirus Response & Relief Supplemental Appropriations Act (CRRSA) - Concessions Relief, American Rescue Plan Act (ARPA) and ARPA - Concession Relief.
- 6. In FY 2020, the City was awarded a Covid Emergency Supplemental Funding grant to be used to expand Public Safety social distancing system. This budget amendment appropriates the remaining grant funds.

#### **Grants Revenue Budget**

General Fund\$2,277,893

Aviation AIP Grant Fund 478,340

Hotel Occupancy Tax Fund 308,214

Aviation Fund 214,038

Information Technology Fund 102,918

HOME-ARP Fund 12,645

TOTAL \$3,394,048

#### **Grants Expenditure Budget**

General Fund\$2,277,893

Aviation AIP Grant Fund 249,500

Hotel Occupancy Tax Fund 308,214

Information Technology Fund 102,918

Animal Donations Fund 64,072

HOME-ARP Fund 12,645

TOTAL \$3,015,242

#### Operational Items Budget Amendments -

There are five (5) items addressed in this budget amendment:

1. \$9,904 was remaining in FY 2022 for the elderly transportation program. This budget amendment appropriates the remaining balance to the current FY 2023 Budget of \$40,000

for this program. With the unexpected announcement of Cove Taxi closing at the end of last fiscal year, the additional funding will assist with continuation of the vital program utilizing the new services available through Hill Country Transit.

- 2. The City Council provided a motion of direction on January 11, 2022 to appropriate the Killeen Public Facility Corporation (KPFC) closing cost for youth programs. This budget amendment appropriates the remaining balance of those funds (\$150,000).
- During FY 2023, the City has received three (3) TxDOT reimbursement checks for Rosewood construction project. This budget amendment recognizes the revenue received and appropriates \$45,000 to pay for the Letter of Map Revision as required by FEMA.
- 4. In November, a Solid Waste roll off truck was involved in a one-vehicle accident. The unit was damaged beyond economic repair and deemed a total loss by our insurance carrier, TML. This budget amendment appropriates the insurance proceeds of \$100,426 and the expenditure of \$236,652 needed to purchase a replacement roll off truck.
- 5. This budget amendment cleans up four (4) interfund transfers to match the offsetting transfer.

#### Operational Items Revenue Budget

Solid Waste CIP Fund \$166,243 Governmental CIP Fund 107,545

Information Technology ISF Fund (1,243)

Risk Management ISF Fund 27 Water & Sewer CIP Fund (175,741)

TOTAL \$96,831

#### 

Solid Waste CIP Fund \$236,652 Governmental CIP Fund 45,000 General Fund 159,904

TOTAL \$441,556

#### **THE ALTERNATIVES CONSIDERED:**

Option 1 - Do not approve the ordinance amending the FY 2023 Annual Budget.

Option 2 - Approve the ordinance amending the FY 2023 Annual Budget.

#### Which alternative is recommended? Why?

Option 2 is recommended to approve the ordinance amending the FY 2023 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 2023, and includes:

- General Fund increase of \$2,277,893 in revenues and \$3,363,655 in expenditures.
- Water and Sewer Fund increase of \$0 in revenues and \$30,400 in expenses.
- Aviation Funds increase of \$214,038 in revenues and \$4,150 in expenses.
- Special Revenue Funds increase of \$320,859 in revenues and \$777,099 in expenditures.
- Internal Service Funds increase of \$101,702 in revenues and \$262,625 in expenses.
- Capital Improvement Project Funds increase of \$576,387 in revenues and \$531,152 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 2023 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 2023 Annual Budget.

#### **RECOMMENDATION:**

City Council approve the ordinance amending the FY 2023 Annual Budget.

#### **DEPARTMENTAL CLEARANCES:**

Legal

#### **ATTACHED SUPPORTING DOCUMENTS:**

Ordinance

ORDIN	ANCE NO.	

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2023 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, 2022 to September 30, 2023, 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 2023 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 22-067, adopting a budget for operating the municipal government of the City of Killeen for the Fiscal year October 1, 2022 to September 30, 2023, be amended as to the portion of said budget as follows:

Revenues:

Account Number	Description	Budget Change	Budget
010-0000-333.10-04	Dpt of Treasury		\$ 502,402
	ARPA Funded Project: Boys & Girls Club	500,000	
	Budget Change Sub-total	500,000	
	Account Sub-total		1,002,402
010-0000-333.10-04	Dpt of Treasury		1,002,402
	ARPA Funded Project: Business Assistance	447,297	
	Budget Change Sub-total	447,297	
	Account Sub-total		1,449,699
010-0000-333.10-04	Dpt of Treasury		1,449,699
	ARPA Funded Project: Downtown Events	134,501	
	Budget Change Sub-total	134,501	
	Account Sub-total		1,584,200
010-0000-333.10-04	Dpt of Treasury		1,584,200
	ARPA Funded Project: PD Mental Health Program	250,000	
	Budget Change Sub-total	250,000	
	Account Sub-total		1,834,200
010-0000-333.10-04	Dpt of Treasury		1,834,200
	ARPA Funded Project: FD Mental Health Program	229,590	
	Budget Change Sub-total	229,590	
	Account Sub-total		2,063,790
010-0000-333.10-04	Dpt of Treasury		2,063,790
	ARPA Funded Project: HOP - Addt'L Bus Route	626,505	
	Budget Change Sub-total	626,505	
	Account Sub-total		2,690,295

Account Number	Description	Budget Change	Budget
010-0000-333.10-04	Dpt of Treasury		2,690,2
	ARPA Funded Project: Non-Profit Business Asst	90,000	
	Budget Change Sub-total Account Sub-total	90,000	2,780,2
	Account Sub-total		2,780,2
214-0000-333.10-04	Dpt of Treasury		186,
	ARPA Funded Project: Grants To Arts - FY 2020	72,676	
	Budget Change Sub-total	72,676	
	Account Sub-total		258,
214-0000-333.10-04	Dpt of Treasury		258,
211 0000 000110 01		44 110	200,
	ARPA Funded Project: Grants To Arts - FY 2021  Budget Change Sub-total	44,110 44,110	
	Account Sub-total	,	302,9
214-0000-333.10-04	Dpt of Treasury		302,9
	ARPA Funded Project: Grants To Arts - FY 2022	130,838	
	Budget Change Sub-total	130,838	100
	Account Sub-total		433,
214-0000-333.10-04	Dpt of Treasury		433,
	ARPA Funded Project: Hot Fund Employees	38,167	,
	Budget Change Sub-total	38,167	
	Account Sub-total		471,
214-0000-333.10-04	Dpt of Treasury		471,
	ARPA Funded Project: KCCC Interior Doors	200	
	Budget Change Sub-total Account Sub-total	200	472,
	Account Sub-total		472,
214-0000-333.10-04	Dpt of Treasury		472,
	ARPA Funded Project: KCCC Camera Upgrade	11,459	
	Budget Change Sub-total	11,459	
	Account Sub-total		483,
214-0000-333.10-04	Dpt of Treasury		483,
	=		,
	ARPA Funded Project: Special Events Center Commercial Fans	4,657	
	Budget Change Sub-total Account Sub-total	4,657	488,2
	Account Sub-total		400,2
214-0000-333.10-04	Dpt of Treasury		488,2
	ARPA Funded Project: KCCC Restripe Parking Lot	1,302	
	Budget Change Sub-total	1,302	
	Account Sub-total		489,
214-0000-333.10-04	Dpt of Treasury		489,
214 0000 000.10 04	ARPA Funded Project: KCCC Landscaping	4,805	400,0
	Budget Change Sub-total	4,805	
	Account Sub-total	,,,,,,	494,3
232-0000-331.09-21	2021-2022		1,745,
	Appropriate difference of HOME-ARP grant – balance in amount	40.045	
	estimated for FY 2022 and amount actually used  Budget Change Sub-total	12,645 12,645	
	Duudet Change Sub-totali	12.040	

venues (continued): Account Number	Description	Budget Change	Budget
349-0000-379.99-99	Other Income	Budget Change	- Buuget
349-0000-379.99-99	Appropriate refund memos from TXDOT related to the Rosewood		<u>-</u>
	project. Also, fund new Rosewood project costs related to the		
	Letter of Map Revision as required by FEMA.	107,545	
	Budget Change Sub-total	107,545	
	Account Sub-total	107,343	107 545
	Account Sub-total		107,545
387-0000-391.05-50	Transfer from fund 550		2,132,387
	Interfund transfer clean up. Decrease revenue to match offsetting		<i>'</i>
	transfer from applicable enterprise fund.	(175,741)	
	Budget Change Sub-total	(175,741)	
	Account Sub-total	(1.0,1.1)	1,956,646
	Account oub-total		1,000,040
388-0000-391.05-40	Transfer from fund 540		1,795,500
	Interfund transfer clean up. Increase revenue to match offsetting		
	transfer from applicable enterprise fund	65,817	
	Budget Change Sub-total	65,817	
	Account Sub-total	ĺ	1,861,317
388-0000-392.02-01	Transfer from Comp Loss/Insurance Proceeds		-
	Appropriate insurance proceeds from TML and appropriate the		
	difference in fund balance to cover the cost to replace Roll off		
	truck unit #4033 that was totaled in accident.	100,426	
	Budget Change Sub-total	100,426	
	Account Sub-total		100,426
E04 0000 222 4E 02	USDOT-FAA		16,422,496
524-0000-332.15-02	USDUT-FAA		10,422,490
	200022: Updated grant reimbursements as provided by Aviation		
	for Construct Hangar #1-Grant 2; 190005: Appropriate remaining		
		470.040	
	funds from FAA grant to fund replacement airport vestibule doors.  Budget Change Sub-total	478,340	
	Account Sub-total	478,340	16,900,83
	Account oub-total		10,500,05
525-0000-332.15-02	USDOT-FAA		723,04
	Appropriate updated grant reimbursements as provided by		
	Aviation-		
	210039: Coronavirus Response & Relief Supplemental		
	Appropriations Act (CRRSA)-Concessions Relief		
	220029: American Rescue Plan Act (ARPA)		
	220033: American Rescue Plan Act (ARPA) Concession Relief	214,038	
	Budget Change Sub-total	214,038	
	Account Sub-total		937,08
623-0000-349.05-25	Transfer from Fund 525		83,84
	Increase revenue to match offsetting transfer from 525-9501	27	
	Budget Change Sub-total	27	
	Account Sub-total		83,87

Revenues (continued):			
Account Number	Description	Budget Change	Budget
627-0000-349.05-25	Transfer from Fund 525		162,081
	Decrease revenue to match offsetting transfer from 525-9501	(1,243)	
	Budget Change Sub-total	(1,243)	
	Account Sub-total		160,838
627-0000-331.01-01	USDOJ		-
	Covid Emergency Supplemental Funding Grant. Grant closes		
	12/31/22.	102,918	
	Budget Change Sub-total	102,918	
	Account Sub-total		102,918
	REVENUE TOTAL	3,490,879	41,269,397

Expenditures:

Account Number	Description	Budget Change	Budget
010-0406-414.61-35	Equipment and Machinery		-
	Plate maker and oversized poster printer delivered after		
	December 2022	26,199	
	Budget Change Sub-total	26,199	
	Account Sub-total		26,19
010-1005-416.47-11	Legal Services		51,15
	Services rendered in FY 2022, invoiced October 10, 2022	3,501	
	Budget Change Sub-total	3,501	
	Account Sub-total		54,65
			·
010-1010-416.50-32	Contract Labor		-
	Strategic Gov't Resources PO	7,941	
	Budget Change Sub-total	7,941	
	Account Sub-total	, i	7,94
			,-
010-2010-415.46-50	Furniture & Fixtures		2,00
	Delayed payment due to damages during installation;		,
	replacement occurred after 10/1/2022	7,509	
	Budget Change Sub-total	7,509	
	Account Sub-total	1,000	9.50
			-,
010-2020-415.50-32	Contact Labor		_
	Contract for temp services began in FY 2022 and was fully		
	budgeted In FY 2022, invoices rec'd in Oct.	12,081	
	Budget Change Sub-total	12,081	
	Account Sub-total	.2,00	12,08
	7.000.00.00.00.00.00.00.00.00.00.00.00.0		, 0 0
010-2305-418.46-50	Furniture & Fixtures		-
0.0 2000 1.00 00	Furniture received wasn't correct. Will be replaced after the new		
	FY.	5,720	
	Budget Change Sub-total	5,720	
	Account Sub-total	0,1.20	5,72
	Account our total		0,12
010-3001-425.47-99	Professional Services		5,97
010 0001 720.71 00	City Council has given direction to hold another stakeholder		3,31
	meeting for Parkland Dedication Ordinance. As a result the		
	consultant will be attending city council after the stakeholder		
	meeting in November to discuss the ordinance.	1,966	
	Budget Change Sub-total	1,966	
	Account Sub-total	1,900	7,93
	Account Sub-total		1,93

Account Number	Description	Budget Change	Budget
010-3025-425.61-35	Equipment and Machinery		
	Item ordered in FY 2022, received November 2022	35,341	
	Budget Change Sub-total	35,341	
	Account Sub-total		35,3
	7.000 01.0		00,0
010-3027-429.42-33	Equipment and Machinery		27,5
0.000220200	Parts ordered in FY 2022, shipped November 2022	15,106	
	Budget Change Sub-total	15,106	
	Account Sub-total	10,100	42,6
	Account our total		72,0
010-3027-429.61-35	Equipment and Machinery		
010-3027-423.01-33	Family Aquatic Center play structure/splash pad - will not ne		
	complete until October 2022	43,608	
	Budget Change Sub-total	43,608	
	Account Sub-total	43,000	43.6
	Account Sub-total		43,0
040 0040 400 40 50	F.,		
010-3040-429.46-50	Furniture & Fixtures	44.700	<u> </u>
	Perry's order in FY 2022, won't be delivered until after new FY	14,789	
	Budget Change Sub-total	14,789	
	Account Sub-total		14,7
010-3215-423.61-50	Furniture & Fixtures		-
	Desk ordered but not yet rec'd	17,524	
	Budget Change Sub-total	17,524	
	Account Sub-total		17,5
010-3445-434.42-36	Traffic Signals		121,6
	All Transportation carry-forwards are due to supply and demand		
	on traffic signals	7,125	
	Budget Change Sub-total	7,125	
	Account Sub-total		128,8
010-4051-450.41-65	Supplies		3,1
	Arnett Marketing Downtown Revitalization approved near end of		
	FY	3,954	
	Budget Change Sub-total	3,954	
	Account Sub-total		7,1
010-4051-450.42-06	Infrastructure		
	Parking lot stripping at Santa Fe Plaza. Downtown Revitalization		
	approved near end of FY	11,247	
	Budget Change Sub-total	11,247	
	Account Sub-total	11,271	11,2
	Account Sub-total		11,2
010-4051-450.44-26	Promotion & Advertising		1,1
010-4001-400.44-20	Eat Downtown Cards. Downtown Revitalization approved near		1,1
	end of FY	19,950	
		19,950	
	Budget Change Sub-total	19,950	04.4
	Account Sub-total		21,1
040 4054 450 40 00			
010-4051-450.46-06	Infrastructure		
	Childs Play Inc. Downtown Revitalization approved near end of		
	FY	12,016	
	+		
	Budget Change Sub-total Account Sub-total	12,016	12,0

Account Number	Description	Budget Change	Budget
010-4051-450.46-62	Signs		4,80
	Arnett Marketing Downtown Revitalization approved near end of		
	FY	4,853	
	Budget Change Sub-total	4,853	
	Account Sub-total		9,6
040 4054 450 47 04	Compulsing		25.0
010-4051-450.47-01	Consulting		35,0
	Verdunity Inc. Downtown Revitalization approved near end of FY	36,000	
	Budget Change Sub-total	36,000	
	Account Sub-total	·	71,0
010-4051-450.50-75	Façade Grants		50,0
	Austin Finance Company Downtown Revitalization approved near	0.000	
	end of FY	6,800	
	Budget Change Sub-total Account Sub-total	6,800	56,8
	Account Sub-total		30,0
010-4051-450.61-03	Infrastructure		-
	Viking Construction, Crawford Electric Supply, & Childs Play Inc.		
	Downtown Revitalization approved near end of FY	108,636	
	Budget Change Sub-total	108,636	
	Account Sub-total		108,6
040 4054 450 04 40	0 1 5 : 10 %		
010-4051-450.61-40	Computer Equip/Software	24 500	
	Verdunity Downtown Revitalization approved near end of FY  Budget Change Sub-total	24,500 24,500	
	Account Sub-total	24,500	24,5
			,-
010-4052-450.46-50	Furniture & Fixtures		1,5
	Perry's order in FY 2022, won't be delivered until after new FY	7,406	
	Budget Change Sub-total	7,406	
	Account Sub-total		8,9
010-6035-441.41-65	Supplies		150.4
010-0033-441.41-03	Ammunition orders are outstanding.	24,863	159,4
	Budget Change Sub-total	24,863	
	Account Sub-total	24,000	184,2
			,_
010-6050-441.42-10	Building		229,6
	HVAC filter replacement	4,792	
	Budget Change Sub-total	4,792	
	Account Sub-total		234,4
010-6050-441.42-51	Vehicle		350,0
010-0030-441.42-31	PO opened by Fleet For Vehicle Maintenance. Unit 932		330,0
	suspension replacement. PD Swat Vehicle. Invoice states 50%		
	up front and 50% once work completed.	34,727	
	Budget Change Sub-total	34,727	
	Account Sub-total		384,7
010-6050-441.46-40	Computer Equip/Software	4.504	5,0
	Computer (Optiplex 5090 With Dell 22 Monitor)	1,594	
	Budget Change Sub-total Account Sub-total	1,594	6,5

xpenditures (continued): Account Number	Description	Budget Change	Budget
010-6055-441.41-20	Uniforms & Clothing	Dauget Onlinge	366,781
010 0000 441.41 20	Final invoice requested; Uniform orders outstanding, invoiced		000,70
	after September 30Th.	141,193	
	Budget Change Sub-total	141,193	
	Account Sub-total	141,100	507,974
	Account oub-total		301,31-
010-6055-441.41-65	Supplies		114,524
010 0000 441.41 00	Ammunition orders are outstanding.	86,650	114,02
	Budget Change Sub-total	86,650	
	Account Sub-total	00,000	201,174
	Account oub-total		201,17
010-6055-441.46-35	Equipment and Machinery		292,200
010-0033-441:40-33	Weapons orders are outstanding.	34,324	292,200
	Budget Change Sub-total	34,324	
	Account Sub-total	34,324	326,524
	Account Sub-total		320,32
010-7070-442.42-51	Vehicle		338,65
010-7070-442.42-31	Fleet PO. FD truck is back in service. Invoice paid 12/2/2022.	100,000	330,03
	Budget Change Sub-total	100,000	
	Account Sub-total	100,000	438,653
	Account Sub-total		430,030
010-9501-491.44-85	Claims and Damages		154,500
010-3301-431.44-03	Insurance Claim. Light Sign at Stan Schlueter/Reese Creek.		104,00
	Back order status.	4,374	
	Budget Change Sub-total	4,374	
	Account Sub-total	4,574	158,874
	Account dub-total		100,07-
010-9501-491.44-86	Claims and Damages		_
010 0001 401.44 00	Insurance Claim. Cemetery roof repair.	39,994	
	Budget Change Sub-total	39,994	
	Account Sub-total	00,004	39,99
	Account oub-total		33,33
010-9501-491.47-30	Accounting Services		81,03
010 0001 401.47 00	Audit costs. PO encumbered.	9,575	01,00
	Budget Change Sub-total	9,575	
	Account Sub-total	0,010	90,60
	Account dub-total		30,000
010-9501-491.50-64	Community Partners		939
010 0001 101.00 01	ARPA Funded Project: HOP - addt'l bus route	626,505	
	Budget Change Sub-total	626,505	
	Account Sub-total	020,300	627,44
	Account oub-total		021,44
010-9501-491.50-86	Programs		325,83
3 10 000 1- <del>1</del> 3 1.00-00	PFC NRP Group Project: Non Profit Youth Grant Recipient	10,000	020,000
	Budget Change Sub-total	10,000	
	Account Sub-total	10,000	335,83
	Account Sub-total		333,03
010-9501-491.50-86	Programs		335,83
010-0001-401.00-00	ARPA Funded Project: Boys & Girls Club	500,000	555,650
	Budget Change Sub-total	500,000	
	Account Sub-total	500,000	925 92
	Account Sub-total		835,83

Expenditures (continue	ed):		
Account Number	Description	Budget Change	Budget
010-9501-491.50-86	Programs		835,835
	ARPA Funded Project: Business Assistance	447,297	
	Budget Change Sub-total	447,297	
	Account Sub-total		1,283,132
010-9501-491.50-86	Programs		1,283,132
	ARPA Funded Project: Downtown Events	134,501	
	Budget Change Sub-total	134,501	
	Account Sub-total		1,417,633
010-9501-491.50-86	Programs		1,417,633
	ARPA Funded Project: PD Mental Health Program	250,000	
	Budget Change Sub-total	250,000	
	Account Sub-total		1,667,633
010-9501-491.50-86	Programs		1,667,633
	ARPA Funded Project: FD Mental Health Program	229,590	
	Budget Change Sub-total	229,590	
	Account Sub-total		1,897,223
010-9501-491.50-86	Programs		1,897,223
	ARPA Funded Project: Non-Profit Business Asst	90,000	
	Budget Change Sub-total	90,000	
	Account Sub-total		1,987,223
010-9501-491.50-86	Programs		1,987,223
	Move remaining balance in Project Code ETPROG		,,
	Elderly Transportion Program due to previous vendor		
	(Cove Taxi) going out of business.	9,904	
	Budget Change Sub-total	9,904	
	Account Sub-total	·	1,997,127
010-9501-491.50-86	Programs		1,997,127
			,,
	Remaining amount NRP Group (Original amt \$350K)	150,000	
	Budget Change Sub-total	150,000	
	Account Sub-total		2,147,127
			· · · · · ·
214-0705-457.40-05	Full-Time Salaries		507,066
1122 133	ARPA Funded Project: Hot Fund Employees	21,198	22.,000
	Budget Change Sub-total	21,198	
	Account Sub-total	,	528,264
214-0705-457.40-30	Incentive Pay		1,200
	ARPA Funded Project: Hot Fund Employees	86	1,200
	Budget Change Sub-total	86	
	Account Sub-total		1,286
	, 5004.11 040 10141		.,200
214-0705-457.40-82	Medical Insurance	<del> </del>	60,614
	ARPA Funded Project: Hot Fund Employees	8,665	00,014
	Budget Change Sub-total		
	Account Sub-total	3,000	69,279
	Federal Sub-total	<del> </del>	00,210
214-0705-457.40-83	Dental Insurance		2,325
		437	2,020
214-0700-407.40-00	TARPA FUNDED PROJECT: HOT FUND EMPLOYEES		
214 0700 407.40 00	ARPA Funded Project: Hot Fund Employees  Budget Change Sub-total		
214 0100 401.40 00	Budget Change Sub-total  Account Sub-total		2,762

Account Number	Description	Budget Change	Budget
214-0705-457.40-84	Life Insurance		
	ARPA Funded Project: Hot Fund Employees	8	
	Budget Change Sub-total	8	
	Account Sub-total		
214-0705-457.40-85	Retirement - TMRS		85,
	ARPA Funded Project: Hot Fund Employees	3,021	
	Budget Change Sub-total	3,021	
	Account Sub-total		88,
214 0705 457 40 97	Social Security		26
214-0705-457.40-87	Social Security  ARPA Funded Project: Hot Fund Employees	1,548	36,
	Budget Change Sub-total	1,548	
	Account Sub-total	1,540	37,
	Account Sub-total		37,
214-0705-457.40-88	Medicare		8,
	ARPA Funded Project: Hot Fund Employees	362	<u> </u>
	Budget Change Sub-total	362	
	Account Sub-total		8,
			,
214-0705-457.40-89	Workers Compensation		7,
	ARPA Funded Project: Hot Fund Employees	412	
	Budget Change Sub-total	412	
	Account Sub-total		7,
214-0705-457.41-20	Uniforms & Clothing		6,
	ARPA Funded Project: Hot Fund Employees	2,430	
	Budget Change Sub-total	2,430	
	Account Sub-total		9,
244 0705 457 42 40	Duilding		126
214-0705-457.42-10	Building		136,
	Services completed in FY 2022 but not invoiced until mid-October	15,000	
	Budget Change Sub-total	15,000	
	Account Sub-total	10,000	151,
	Account out-total		101,
214-0705-457.42-10	Building		151,
	- V		
	ARPA Funded Project: Special Events Center Commercial Fans	4,657	
	Budget Change Sub-total	4,657	
	Account Sub-total		156,
214-0705-457.42-10	Building	1 000	156,
	ARPA Funded Project: KCCC Restripe Parking Lot	1,302	
	Budget Change Sub-total	1,302	157
	Account Sub-total		157,
214-0705-457.42-10	Building		157,
217-0100-701.42-10	ARPA Funded Project: KCCC Landscaping	4,805	137,
	Budget Change Sub-total	4,805	
	Account Sub-total	4,000	162,
	Account oub-total		102,
			4,
214-0705-457.46-35	Equipment And Machinery		4.
214-0705-457.46-35	Equipment And Machinery  ARPA Funded Project: KCCC Camera Upgrade	11,459	4,
214-0705-457.46-35	Equipment And Machinery  ARPA Funded Project: KCCC Camera Upgrade  Budget Change Sub-total	11,459 11,459	4,

Expenditures (continued):			
Account Number	Description	Budget Change	Budget
214-0705-457.61-02	Buildings		-
	ARPA Funded Project: KCCC Interior Doors	200	
	Budget Change Sub-total	200	
	Account Sub-total		200
011 0000 115 55 10			222.222
214-2020-415.55-43	Grants To The Arts		230,000
	Grant To The Arts. Not ARPA, But Is Encumbered. (All Other	0.075	
	ARPA Funded Grants Are Included On The ARPA Analysis)	9,975 9,975	
	Budget Change Sub-total Account Sub-total	9,975	239,975
	Account Sub-total		239,913
214-2020-415.55-43	Grants To The Arts		239,975
214-2020-413.33-43	ARPA Funded Project: Grants To Arts - FY 2020	72,676	200,010
	Budget Change Sub-total	72,676	
	Account Sub-total	72,070	312,651
	71000unt dub totul		012,001
214-2020-415.55-43	Grants To The Arts		312,651
	ARPA Funded Project: Grants To Arts - FY 2021	44,110	- ,
	Budget Change Sub-total	44,110	
	Account Sub-total	·	356,761
214-2020-415.55-43	Grants To The Arts		356,761
	ARPA Funded Project: Grants To Arts - FY 2022	130,838	
	Budget Change Sub-total	130,838	
	Account Sub-total		487,599
220-0405-414.61-40	Computer Equip/Software		-
	Equipment ordered in FY 2022, received in FY 2023	277,136	
	Budget Change Sub-total	277,136	
	Account Sub-total		277,136
228-3250-426.50-86	Programs		2,616,200
	City of Temple for The Homelessness Strategic Plan	22,268	
	Budget Change Sub-total	22,268	0.000.400
	Account Sub-total		2,638,468
222 2250 426 50 20	Decemie Appropriation		1 640 252
232-3250-426.50-20	Reserve Appropriation Appropriate difference of HOME-ARP grant – balance in amount		1,648,353
	estimated for FY 2022 and amount actually used	12,645	
	Budget Change Sub-total	12,645	
	Account Sub-total	12,043	1,660,998
	Account dub-totul		1,000,000
247-5570-429.41-70	Cleaning Supplies		15,000
	Petco Grants for Fund 247. FY 2021 funds need to be moved to		,
	FY 2023.	1,240	
	Budget Change Sub-total	1,240	
	Account Sub-total		16,240
247-5570-429.47-04	Veterinary Services		85,000
	Petco Grants for Fund 247. FY 2022 funds need to be moved to	T	
	FY 2023.	8,317	
	Budget Change Sub-total	8,317	
	Account Sub-total		93,317
	1	i	

Account Number	Description	Budget Change	Budget
247-5570-429.50-20	Reserve Appropriation		10,00
	Unspent PETCO grant funding from FY 2021 and FY 2022.	64,072	
	Budget Change Sub-total	64,072	
	Account Sub-total		74,0
247-5570-429.61-03	Infrastructure		-
	Petco grant funds partially encumbered.	13,450	
	Budget Change Sub-total	13,450	
	Account Sub-total		13,4
248-3445-434.42-37	Signs		62,4
	School flasher KISD. All Transportation Carry-Forwards are due		
	to supply and demand issues on traffic signals	34,224	
	Budget Change Sub-total	34,224	
	Account Sub-total		96,6
248-3445-434.61-35	Equipment and Machinery		-
	Thermoplastic Die. All Transportation Carry-Forwards are due to		
	supply and demand issues on traffic signals	10,558	
	Budget Change Sub-total	10,558	
	Account Sub-total		10,5
349-8934-493.69-01	Design/Engineering		3,095,4
	Appropriate refund memos from TXDOT related to the Rosewood		
	project. Also, fund new Rosewood project costs related to the		
	Letter of Map Revision as required by FEMA.	45,000	
	Budget Change Sub-total	45,000	
	Account Sub-total		3,140,4
388-8834-493.61-35	Equipment and Machinery		4,490,9
	Appropriate insurance proceeds from TML and appropriate the		
	difference in fund balance to cover the cost to replace Roll off		
	truck unit #4033 that was totaled in accident.	236,652	
	Budget Change Sub-total	236,652	
	Account Sub-total		4,727,5
504.0545.504.00.04			4 400 5
524-0515-521.69-01	Design/Engineering		1,422,5
	200020. Undeted asset scientisms assets as asset ded by Asiation		
	200022: Updated grant reimbursements as provided by Aviation for Construct Hangar #1-Grant 2; 190005: Appropriate remaining		
		20.500	
	funds from FAA grant to fund replacement airport vestibule doors.	39,500	
	Budget Change Sub-total	39,500	1 460 0
	Account Sub-total		1,462,0
524-0515-521.69-03	Construction		14,293,7
02.0010 021.00 00			17,200,1
	200022: Updated grant reimbursements as provided by Aviation		
	for Construct Hangar #1-Grant 2; 190005: Appropriate remaining		
	funds from FAA grant to fund replacement airport vestibule doors.	210,000	
	Budget Change Sub-total	210,000	
	Account Sub-total	210,000	14,503,7
	7.550unt oub total	+	1 1,000,1

Account Number	Description	Budget Change	Budget
525-0505-521.41-10	Office		13,74
	Proximity Cards For Airport Order Outstanding	4,150	
	Budget Change Sub-total	4,150	
	Account Sub-total		17,898
550-3410-436.42-51	Vehicle		26,000
	PO opened by Fleet for Vehicle Maintenance.	1,650	
	Budget Change Sub-total	1,650	
	Account Sub-total		27,650
550-4035-452.47-20	Engineering Services		85,000
	Pavement Design Manual to be passed by Council. Traffic Study		
	Consultant Started work in September 2022	28,750	
	Budget Change Sub-total	28,750	
	Account Sub-total		113,750
601-2033-415.44-85	Claims and Damages		-
	Insurance Claim. Fleet Roof Repairs will not be complete until FY 2023	159,707	
	Budget Change Sub-total	159,707	
	Account Sub-total	, -	159,707
627-2705-419.46-40	Computer Equip/Software		381,555
	Covid Emergency Supplemental Funding Grant. Grant closes 12/31/22.	102,918	
	Budget Change Sub-total	102,918	
	Account Sub-total	102,310	484,473
	EVENDENCE	4.000.001	<b>A</b> 40.040.000
	EXPENDITURES TOTAL	\$ 4,969,081	\$ 49,819,63

**SECTION II:** That the City Council finds that the public notice and public hearing requirements of Section 38 and 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 <u>24th day of January</u>, <u>2023</u>, 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:
Laura J. Calcote City Secretary	Holli C. Clements City Attorney



### **BUDGET AMENDMENT**

- Carry forward unspent budget for projects, services, and purchases that began in FY 2022 and not completed by the end of the fiscal year
- Budget amendments that have been identified for:
  - Grants
  - Operational funds

# Carry Forward Requests

	Adopted		
Fund Description	FY 2023 Budget	Budget Change	Amended Budget
General Fund	\$ 112,895,420	\$ 925,858	\$ 113,821,278
Hotel Occupancy Tax Fund	2,901,592	24,975	2,926,567
Cablesystem (PEG) Fund	526,400	277,136	803,536
Community Dev (CDBG) Fund	3,401,667	22,268	3,423,935
Animal Svcs Donation Fund	110,000	23,007	133,007
Child Safety Fee Fund	195,660	44,782	240,442
KFHRA Fund	4,635,831	4,150	4,639,981
Water & Sewer Fund	45,135,250	30,400	45,165,650
Fleet Services Fund	1,942,317	159,707	2,102,024
Total Project Expense	\$ 171,744,137	\$ 1,512,283	\$ 173,256,420

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# **ARPA Funding**

		FY 2023				Amended	
Account Description		Budget		dget Change	Budget		
Department of Treasury	\$	502,402	\$	2,586,107	\$	3,088,509	
<b>Total Project Revenue</b>	\$	502,402	\$	2,586,107	\$	3,088,509	
		FY 2023				Amended	
Account Description		Budget	Bυ	dget Change		Budget	
HOP - Addt'l Bus Route	\$	325,835	\$	626,505	\$	952,340	
Boys & Girls Club		952,340		500,000		1,452,340	
Business Assistance		1,452,340		447,297		1,899,637	
Downtown Events		1,899,637		134,501		2,034,138	
PD Mental Health Program		2,034,138		250,000		2,284,138	
FD Mental Health Program		2,284,138		229,590		2,513,728	
Non-Profit Business Assistance		2,513,728		90,000		2,603,728	
Grants to the Arts		230,000		247,624		477,624	
Hotel Occupancy Tax Fund		2,901,592		60,590		2,962,182	
Total Project Expense	\$	14,593,748	\$	2,586,107	\$	17,179,855	

# Other Budget Amendments (cont'd)

	Account Description	FY 2023 Budget	Budge	et Change	Amended Budget
<b>Aviation AIP Fund</b>	FAA Grant ReimbHangar #1	\$ 16,422,496	\$	478,340	\$ 16,900,836
KFHRA Fund	ARPA - Concession Relief	785,762		151,319	937,081
Gov't CIP Fund	TxDOT Reimbursement	-		107,545	107,545
Information Tech	Covid Emergency Suppl. Grant	-		102,918	102,918
SW CIP Fund	Insurance Proceeds	-		100,426	100,426
KFHRA Fund	CRRSA-Concessions Relief	723,043		37,830	760,873
KFHRA Fund	ARPA	760,873		24,889	<i>7</i> 85 <b>,</b> 762
HOME-ARP Fund	HOME-ARP Grant	1,745,243		12,645	1 <i>,757</i> ,888
Risk Management	Transfer Cleanup	83,848		27	83 <b>,</b> 87 <i>5</i>
Information Tech	Transfer Cleanup	162,081		(1,243)	160,838
Capital Project Funds	Transfer Cleanup	3,927,887		(109,924)	3,81 <i>7</i> ,963
	Total Project Revenue	\$ 24,611,233	\$	904,772	\$ 25,516,005

## Other Budget Amendments (cont'd)

		FY 2023				Amended		
Fund Description	Account Description	Budget	Bud	get Change		Budget		
Aviation AIP Fund	Replace Airport Vestibule Doors (FAA Grant)	\$ 1 <i>5,</i> 716,300	\$	249,500	\$	15,965,800		
SW CIP Fund	Roll Off Truck Replacement	4,490,906		236,652		4,727,558		
General Fund	KPFC - NRP	-		150,000		150,000		
Information Tech	Covid Emergency Suppl. Grant	-		102,918		102,918		
<b>Animal Svcs Donation</b>	PETCO Grant	10,000		64,072		74,072		
Gov't CIP Fund	Rosewood	-		45,000		45,000		
HOME-ARP Fund	HOME-ARP Grant	1,648,353		12,645		1,660,998		
General Fund	Elderly Transportation Program	40,000		9,904		49,904		
	Total Project Expense	\$ 21,905,559	\$	870,691	\$	22,776,250		

### Recommendation

City Council approve the ordinance amending the FY 2023 Annual Budget