



City of Killeen

Agenda

City Council Workshop

Tuesday, April 20, 2021

5:00 PM

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

Citizens Petitions

Comments should be limited to three minutes.

1. [CP-21-004](#) Gerald Jason Carr - Riverwalk Along Little Nolan Creek

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 three (3) minutes. The Presiding Officer may allow a one (1) minute extension, if requested at the end of the original three (3) minute period. No other extensions will be allowed.

Discuss Items for Regular City Council Meeting of April 27, 2021

Minutes

2. [MN-21-010](#) Consider Minutes of Regular City Council Meeting of April 13, 2021.

Attachments: [Minutes](#)

Resolutions

3. [RS-21-052](#) Consider a memorandum/resolution amending Resolution 21-017, authorizing a lease for three (3) mowers to maintain parks and city facilities.

Attachments: [Staff Report](#)

[Quote](#)

[Agreement](#)

[Certificate of Interested Parties](#)

[Presentation](#)

4. [RS-21-053](#) Consider a memorandum/resolution authorizing the procurement of Cohesity Backup and Recovery in the amount of \$128,369.60.

Attachments: [Staff Report](#)

[Quote](#)

[Certificate of Interested Parties](#)[Presentation](#)

5. [RS-21-054](#) Consider a memorandum/resolution authorizing the purchase of duty pistols, police equipment and ammunition from GT Distributors, Inc. in an amount not to exceed \$158,542.53.

Attachments: [Staff Report](#)

[Quote](#)

[Certificate of Interested Parties](#)

[Presentation](#)

6. [RS-21-055](#) Consider a memorandum/resolution approving amendments to the Economic Development Policy.

Attachments: [Staff Report](#)

[Revised Policy](#)

[Presentation](#)

Ordinances

7. [OR-21-004](#) Consider an ordinance amending Chapter 8 of the Code of Ordinances adopting donation container standards.

Attachments: [Staff Report](#)

[Minutes](#)

[Ordinance](#)

[Presentation](#)

8. [OR-21-005](#) Consider an ordinance repealing Chapter 16, Article VI, Possession of Tobacco.

Attachments: [Staff Report](#)

[Ordinance](#)

[Presentation](#)

Public Hearings

9. [PH-21-019](#) HOLD a public hearing and consider an ordinance amending the FY 2021 Annual Budget of the City of Killeen to increase revenues and expenditures in multiple operating, special revenue, and capital improvement project funds.

Attachments: [Staff Report](#)

[Ordinance](#)

[Presentation](#)

Items for Discussion at Workshop

10. [DS-21-054](#) Indigo Golf Course Update
Attachments: [Presentation](#)
11. [DS-21-055](#) Discuss No Knock Warrants
Attachments: [Draft Ordinance](#)
[Presentation](#)
12. [DS-21-056](#) Discuss TNR Program Rules and Regulations Governing Cat Colonies, Animal Rescue and Foster Standards, and Volunteers
Attachments: [Presentation](#)
13. [DS-21-057](#) Discuss Joint Meeting w/KISD
14. [DS-21-058](#) FY22 Budget Update
Attachments: [Presentation](#)
15. [DS-21-059](#) City Manager Updates
· COVID 19 Update

Councilmember Requests for Future Agenda Items

16. [RQ-21-021](#) Update on Downtown Vacant Buildings and Demolish Condemned Buildings
Attachments: [Request](#)
17. [RQ-21-022](#) Identify Land and Structural Properties Owned by City of Killeen
Attachments: [Request](#)
18. [RQ-21-023](#) Assess Financial Planning Feasibility and Strategies for Implementing Land and Structural Properties Owned by City of Killeen
Attachments: [Request](#)

Adjournment

I certify that the above notice of meeting was posted on the Internet and on the bulletin boards at Killeen City Hall and at the Killeen Police Department on or before 5:00 p.m. on April 16, 2021.

Lucy C. Aldrich, City Secretary

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

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

Notice of Meetings

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

Dedicated Service -- Every Day, for Everyone!



City of Killeen

Legislation Details

File #: CP-21-004 **Version:** 1 **Name:** Citizens Petition
Type: Citizens Petition **Status:** Citizens Petitions
File created: 4/14/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Gerald Jason Carr - Riverwalk Along Little Nolan Creek
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



City of Killeen

Legislation Details

File #:	MN-21-010	Version:	1	Name:	Minutes of Regular City Council Meeting of April 13, 2021
Type:	Minutes	Status:		Status:	Minutes
File created:	4/5/2021	In control:		In control:	City Council Workshop
On agenda:	4/20/2021	Final action:		Final action:	
Title:	Consider Minutes of Regular City Council Meeting of April 13, 2021.				
Sponsors:	City Secretary				
Indexes:					
Code sections:					
Attachments:	Minutes				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

City of Killeen
Regular City Council Meeting
Killeen City Hall
April 13, 2021 at 5:00 p.m.

Presiding: Mayor Jose Segarra

Attending: Mayor Pro Tem Shirley Fleming, Councilmembers Debbie Nash-King, Terry Clark, Steve Harris, Ken Wilkerson, Rick Williams, and Mellisa Brown.

Also attending were City Manager Kent Cagle, City Attorney Traci Briggs, City Secretary Lucy Aldrich, and Sergeant-at-Arms Cole.

Councilmember Nash-King gave the invocation. Councilmember Williams led everyone in the Pledge of Allegiance.

Approval of Agenda

Motion was made by Mayor Pro Tem Fleming to approve the agenda as written. Motion was seconded by Councilmember Nash-King. The motion carried unanimously.

Citizen Comments

Ms. TaNeika Driver-Moultrie spoke on Agenda Item RS-21-050.
Mr. Leo Gukeisen spoke on Agenda Item RS-21-050.

Consent Agenda

MN-21-009 Consider Minutes of Regular City Council Meeting of March 23, 2021.

RS-21-043 Consider a memorandum/resolution amending Resolution 21-027R, authorizing a grant agreement with the US Department of Justice, Office of Justice Programs for the purpose of a Project Safe Neighborhood grant in the amount of \$93,000.

RS-21-044 Consider a memorandum/resolution declaring a vacancy on the Civil Service Commission and appointing a new member to fill the unexpired term.

RS-21-045 Consider a memorandum/resolution approving an operating authority for Cove Taxi.

RS-21-046 Consider a memorandum/resolution awarding Bid No. 21-14, Construction of Two Traffic Signals, to Road Solutions, LLC., in the amount of \$546,358.71.

RS-21-049 Consider a memorandum/resolution accepting a Coronavirus Response and Relief Supplemental Appropriation (CRRSA) Act Airport Grant and Concession Relief Addendum.

Motion was made by Councilmember Nash-King to approve the consent agenda. Motion was seconded by Mayor Pro Tem Fleming. Motion carried unanimously.

Resolutions

- RS-21-047** Consider a memorandum/resolution authorizing a City/Owner Agreement in the amount of \$100,000 for the installation of a traffic signal and associated improvements located at the intersection of SH 201/Clear Creek Road and Golden Gate Drive.

Staff Comments: Danielle Singh, Executive Director of Public Works.
The city initially performed a traffic study which determined the current need for a signal at the referenced intersection. JOF Developers, Inc, developer of McGregor Estates has proposed cost sharing for installation of the signal. The developer received permits through TxDOT and constructed the signal. Total project cost is \$420,125; the requested city contribution amount is \$100,000. The signal would be covered under Traffic Signal Maintenance Agreement with TxDOT. City staff recommends approval of the city/owner agreement and authorizing the city manager or his designee to execute the agreement for the city's cost contribution in the amount of \$100,000 for the traffic signal and associated improvements project at the SH-201 and Golden Gate Drive intersection.

Motion was made by Councilmember Wilkerson to approve RS-21-047. Motion was seconded by Councilmember Clark. Motion carried 5 to 2 with Mayor Pro Tem Fleming and Councilmember Brown in opposition.

- RS-21-048** Consider a memorandum/resolution recommending to the Employee Benefits Trust the selection of MetLife for employee dental insurance and approving contracts for an online benefit system, life and disability insurance, vision insurance, and worksite benefits.

Staff Comments: Eva Bark, Executive Director of Human Resources.
On January 17, 2021, the City initiated a Request for Proposal 21-017 (RFP) to solicit bids for an online benefit enrollment system that also administers COBRA (Consolidated Omnibus Budget Reconciliation Act) and ACA (Affordable Care Act) reporting. The RFP also included the review of dental insurance and life insurance (basic life and basic accidental death and dismemberment) paid by the City, as well as voluntary term life and voluntary accidental death and dismemberment, disability insurance (voluntary short-term and long-term disability), vision insurance, and worksite benefits paid by the employee. Staff received and reviewed proposals from five (5) vendors that provide an online benefit enrollment system, five (5) dental vendors, eight (8) vision vendors, four (4) life and disability vendors, and nine (9) worksite benefits vendors. Staff recommends the City Council authorize the City Manager or his designee to enter into a contract with Web Benefits Design for online benefit enrollment and administration, effective August 1, 2021; an agreement with MetLife for voluntary life and disability insurance; an agreement with Avesis for vision; an agreement with Allstate for the worksite products, effective October 1, 2021 and recommending to the Employee Benefits Trust that the City enter into an agreement with MetLife for dental insurance with an estimated \$95,262 annual savings for the City and employees.

The City Manager or his designee are further authorized to execute any and all change orders authorized by law or policy

Motion was made by Councilmember Brown to approve RS-21-048. Motion was seconded by Councilmember Nash-King. Motion carried unanimously.

RS-21-050 Consider a memorandum/resolution approving the appointment of an Assistant City Manager.

Staff Comments: Kent Cagle, City Manager.

On November 30, 2020, the Assistant City Manager position became vacant. On December 31, 2020, the City signed an agreement with Strategic Government Resources (SGR) to conduct an executive search for Assistant Manager candidates. SGR distributed a recruiting brochure nationwide resulting in fifty-nine (59) candidates, and questionnaires were sent to thirteen (13) of those candidates. Mr. Cagle and Human Resources reviewed six (6) video interviews and on March 24, 2021, Mr. Cagle extended a conditional offer of employment to Danielle Singh. Staff recommends that the City Council approve the City Manager's appointment of Danielle Singh as the City of Killeen's Assistant City Manager.

Motion was made by Councilmember Nash-King to approve RS-21-050. Motion was seconded by Councilmember Clark. Motion carried 4 to 3 with Mayor Pro Tem Fleming, Councilmember Williams and Councilmember Brown in opposition.

RS-21-051 Consider a memorandum/resolution approving the appointment of an Executive Director of Public Works.

Staff Comments: Kent Cagle, City Manager.

Based on the promotion of Danielle Singh to Assistant City Manager, the position of the Executive Director of Public Works becomes vacant. Mr. Cagle extended a conditional offer of employment to Jeffery Reynolds for the Executive Director of Public Works to oversee Solid Waste, Water & Sewer, Transportation, and Mowing and Drainage operations. With this transition, the Engineering Division will be moved from Public Works to the Planning and Development Department, under the supervision of Tony McIlwain, Executive Director of Planning and Development. Staff recommends that the City Council approve the City Manager's appointment of Jeff Reynolds as the Executive Director of Public Works.

Motion was made by Councilmember Nash-King to approve RS-21-051. Motion was seconded by Councilmember Clark. An amendment motion was made by Councilmember Brown to accept the appointment of Mr. Reynolds as the Executive Director of Public works with a salary of \$136,877. Without a second the amended motion died. Motion carried 5 to 2 with Councilmember Williams and Councilmember Brown in opposition.

Public Hearings

PH-21-012 **HOLD** a public hearing and consider an ordinance amending the FY 2021 Annual Budget of the City of Killeen to increase revenue in the Aviation fund.

The City Secretary read the caption of the ordinance.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2021 ANNUAL BUDGET OF THE CITY OF KILLEEN TO INCREASE REVENUE IN THE AVIATION FUND; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SAVING CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

Staff Comments: Jon Locke, Executive Director of Finance.

The Federal Aviation Administration (FAA) offered the City a CRRSA Act Airport Grant in the amount of \$1,758,480 for the Killeen-Fort Hood Regional Airport. This grant can only be used for costs related to operations, personnel, cleaning, sanitization, janitorial services, combating the spread of pathogens, and debt service payments. The City has also been offered a CRRSA Concessions Relief Addendum to this grant, in the amount of \$37,830, which provides relief from rent and minimum annual guarantees for eligible airport concessions. This budget amendment will recognize revenues for two grants offered by the FAA. The CRRSA Act Airport Grant, in the amount of \$1,758,480, will cover costs related to operations and personnel for the Killeen-Fort Hood Regional Airport. The CRRSA Concessions Relief Addendum grant, in the amount of \$37,830, will provide relief from rent and minimum annual guarantees for airport concessions. City staff recommends city council approve the ordinance amending the FY 2012 annual budget.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Wilkerson to approve PH-21-012. Motion was seconded by Councilmember Nash-King. Motion carried unanimously.

PH-21-013 HOLD a public hearing and consider an ordinance adopting water and wastewater impact fees.

The City Secretary read the caption of the ordinance.

AN ORDINANCE ADDING CHAPTER 33, IMPACT FEES; PROVIDING FOR COLLECTION OF WATER AND WASTEWATER IMPACT FEES; PROVIDING FOR OFFSETS AND CREDITS AGAINST IMPACT FEE CHARGES; PROVIDING A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff Comments: Danielle Singh, Executive Director of Public Works.

On March 9, 2021, City Council held the first public hearing on water and wastewater impact fees, approved the water and wastewater capital improvement plan and land use assumptions, and set the date for the final public hearing on the imposition of impact fees for April 13, 2021. In accordance with the Texas Local Government Code, notice for the final public hearing has been published in a

newspaper and the impact fee draft report has been made available to the public on our website. An impact fee shall be approved or disapproved within 30 days of the final public hearing on the imposition of an impact fee. The maximum assessable impact fee per service unit for wastewater is equal to \$418. The maximum assessable impact fee per service unit for water is equal to \$1,161. The City Council may establish impact fees at a rate equal to or less than the maximum assessable impact fee per service unit. On March 10, 2021 the Capital Improvement Advisory Committee voted to recommend that the City Council adopt the maximum assessable water and wastewater impact fees per service unit. Committee Chairman Louie Minor presented the committee's findings and recommendation to the City Council. City staff recommends that the City Council adopt the ordinance establishing water and wastewater impact fees.

Mayor Segarra opened the public hearing.

Mr. Leo Gukeisen spoke in favor of the agenda item.
Ms. Holly Teel spoke in opposition of the agenda item.
Mr. Jim Wright spoke in opposition of the agenda item.
Mr. Gary Purser spoke in opposition of the agenda item.

With no one else appearing, the public hearing was closed.

Motion was made by Councilmember Brown to approve PH-21-013. Motion was seconded by Councilmember Williams. Motion carried 6 to 1 with Councilmember Nash-King in opposition.

PH-21-014 HOLD a public hearing and consider an ordinance amending Chapter 31 of the Code of Ordinances, fence standards.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S FENCING STANDARDS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

Staff Comments: Tony McIlwain, Executive Director of Planning.

The purpose of this proposed ordinance is to amend the City's existing standards regarding fence materials. The primary intent of the proposed standards is to limit the use of makeshift and salvaged materials from being used to construct fences and to ensure that new fences within the City of Killeen are aesthetically pleasing. Staff finds that the proposed ordinance is necessary to improve the visual appearance of fences within the City of Killeen. The Planning & Zoning Commission recommended approval of the proposed ordinance by a vote of 6 to 0.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Nash-King to approve PH-21-014. Motion was seconded by Councilmember Williams. Motion carried unanimously.

PH-21-015 HOLD a public hearing and consider an ordinance requested by Michael E. Linnemann, on behalf of Rivadel Rivera Ortego (**Case #Z21-02**), to rezone part of Lot 2, Block 1, Rivera Addition from "B-3" (Local Business District) to "R-2" (Two-Family Residential District). The property is addressed as 5105 Westcliff Road, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF PART OF LOT 2, BLOCK 1, RIVERA ADDITION, FROM "B-3" (LOCAL BUSINESS DISTRICT) TO "R-2" (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Tony McIlwain, Executive Director of Planning.

The property consists of an existing two-family residential dwelling. The purpose of this request is to rezone the property to "R-2" in order to bring the existing use into conformance with the zoning ordinance. Prospective buyers have had difficulty securing financing for the property due to the nonconforming nature of the existing two-family dwelling. The subject property is designated as 'Suburban Commercial' (SC) on the Future Land Use Map (FLUM) of the Comprehensive Plan. Although the applicant's request is not consistent with the Future Land Use Map (FLUM), staff is of the determination that an amendment to the FLUM is not warranted at this time. Staff notified forty-four (44) surrounding property owners within 400 feet of the subject property regarding this request. Staff has received one (1) response in support of the request. Planning & Zoning Commission recommended approval of the applicant's request by a vote of 6 to 0.

Mayor Segarra invited the applicant to speak.

The applicant, Mr. Michael Linnemann, appeared before city council to provide additional information and answer questions.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Clark to approve PH-21-015. Motion was seconded by Mayor Pro Tem Fleming. Motion carried unanimously.

PH-21-016 HOLD a public hearing and consider an ordinance requested by Eddie Bogard, P.E. on behalf of Florence HH MHP, L.L.C. (**Case #Z21-01**) to rezone approximately 6.589 acres from "R-MH" (Mobile Home District), "R-1" (Single-Family Residential District), and "R-MH" with a Conditional Use Permit (CUP) for a Communication Tower to "R-MP" (Mobile Home and Trailer Park District) and "R-MP" (Mobile Home and Trailer Park District) with a Conditional Use Permit (CUP) for a Communication

Tower. The properties are addressed as 3109 and 3205 Florence Road, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY 6.589 ACRES OUT OF THE JOHN ESSARY SURVEY, ABSTRACT NO. 296, FROM "R-MH" (MOBILE HOME DISTRICT), "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT), AND "R-MH" WITH A CONDITIONAL USE PERMIT (CUP) FOR A COMMUNICATION TOWER TO "R-MP" (MOBILE HOME AND TRAILER PARK DISTRICT) AND "R-MP" (MOBILE HOME AND TRAILER PARK DISTRICT) WITH A CONDITIONAL USE PERMIT (CUP) FOR A COMMUNICATION TOWER; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Tony McIlwain, Executive Director of Planning.

The subject property currently consists of an abandoned mobile home park and two existing single-family homes. There is an existing Communications Tower in the northeast corner of the property with a CUP (Conditional Use Permit) zoning overlay. This Conditional Use Permit was approved by the Council on October 17, 2017 via Ordinance 17-53. If approved, this rezoning would not affect the existing Conditional Use Permit for the communications tower. Only the underlying zoning would be affected. The purpose of this request is to rezone the property to "R-MP" (Mobile Home and Trailer Park District) to allow for redevelopment of the site as a commercial RV Park. The current "R-MH" (Mobile Home District) zoning district is inactive and permits only manufactured homes; it does not permit RV Parks. If approved, the applicant would be required to redevelop this site in conformance with all current City standards for travel trailer parks. This property is designated as 'General Commercial' (GC) on the Future Land Use Map (FLUM) of the Comprehensive Plan. Staff is of the determination that, because the proposed RV park will be run as a commercial business, the request is consistent with the Future Land Use Map. Staff notified eighty (80) surrounding property owners within 400 feet of the subject property regarding this request. To date, staff has received one (1) written response in opposition to the request. The Planning & Zoning Commission recommended approval of the applicant's request by a vote of 6 to 0.

Mayor Segarra invited the applicant to speak.

The applicant, Mr. Eddie Bogard, appeared before city council to provide additional information and answer questions.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Wilkerson to approve PH-21-016. Motion was seconded by Councilmember Williams. Motion carried unanimously.

PH-21-017 HOLD a public hearing and consider an ordinance requested by Dolores Lorta (**Case #Z21-03**) to rezone Lots 10 and 11, Block 4, Hillview Addition from "B-4" (Business District) to "R-1" (Single-Family Residential District). The property is addressed as 209 N. Gilmer Street, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF LOTS 10 AND 11, BLOCK 4, HILLVIEW ADDITION, FROM "B-4" (BUSINESS DISTRICT) TO "R-1" (SINGLE-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Tony McIlwain, Executive Director of Planning.

This subject property consists of an existing single-family residence. The purpose of this request is to rezone the property to "R-1" in order to bring the existing single-family residence into conformance with the zoning ordinance. Prospective buyers have had difficulty securing financing for the property due to the nonconforming nature of the existing single-family home. This area is designated as 'General Residential' (GR) on the Future Land Use Map (FLUM) of the Comprehensive Plan. The applicant's request is consistent with the FLUM. Staff notified fifty-eight (58) surrounding property owners within 400 feet of the subject property regarding this request. Staff has received one (1) response in support of the request. Staff finds that, if approved, the requested "R-1" zoning will bring the property into conformance with the City's current zoning regulations. The Planning & Zoning Commission recommended approval of the request by a vote of 5 to 1 with Commissioner Boyd in opposition.

Mayor Segarra invited the applicant to speak.

The applicant, Ms. Delores Lorta, did not appear before city council but was in the audience to answer questions if city council had any which they did not.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Nash-King to approve PH-21-017. Motion was seconded by Councilmember Wilkerson. Motion carried unanimously.

PH-21-018 HOLD a public hearing and consider an ordinance requested by Mitchell & Associates, Inc. on behalf of Yong Su and Sun Hung Ko (**Case #Z21-04**) to rezone approximately .447 acres, being out of the H. O'Neal Survey, Abstract No. 645, from "B-5" (Business District) to "R-2" (Two-Family Residential District). The property is addressed as 1600 N. 8th Street, Killeen, Texas.

The City Secretary read the caption of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF APPROXIMATELY .447 ACRES, BEING OUT OF

THE H. O'NEAL SURVEY, ABSTRACT NO. 645, FROM "B-5" (BUSINESS DISTRICT) TO "R-2" (TWO-FAMILY RESIDENTIAL DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Tony McIlwain, Executive Director of Planning.

The subject property is currently undeveloped. If approved, the applicant intends to construct at least one two-family dwelling on the property. Should the property owner wish to subdivide it into two lots, the site could accommodate up to two (2) two-family dwellings. The subject property is identified as 'Residential-Commercial Mix' (RC-MX) on the Future Land Use Map (FLUM) of the Comprehensive Plan. Staff finds that the applicant's request is consistent with the FLUM. Staff notified seventy-four (74) surrounding property owners within 400 feet of the subject property regarding this request. No responses in support or opposition of the request have been submitted. Staff recommends approval of the request as presented. The Planning & Zoning Commission recommended approval of the request by a vote of 5 to 1.

Mayor Segarra invited the applicant to speak.

The applicant, Mr. Mitchell, did not appear before city council but was in the audience to answer questions if city council had any which they did not.

Mayor Segarra opened the public hearing.

With no one appearing, the public hearing was closed.

Motion was made by Councilmember Brown to approve PH-21-018. Motion was seconded by Mayor Pro Tem Fleming. Motion carried unanimously.

Adjournment

With no further business, upon motion being made by Councilmember Nash-King, seconded by Councilmember Williams, and unanimously approved, the meeting was adjourned at 7:25 p.m.



City of Killeen

Legislation Details

File #: RS-21-052 **Version:** 1 **Name:** Lease for Mowers
Type: Resolution **Status:** Resolutions
File created: 3/26/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Consider a memorandum/resolution amending Resolution 21-017, authorizing a lease for three (3) mowers to maintain parks and city facilities.
Sponsors: Recreation Services Department
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Quote](#)
[Agreement](#)
[Certificate of Interested Parties](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



STAFF REPORT

DATE: April 20, 2021

TO: Kent Cagle, City Manager

FROM: Traci Briggs, City Attorney

SUBJECT: Amending resolution 21-017, authorizing a lease agreement for Parks and Public Grounds mowing equipment

BACKGROUND AND FINDINGS:

On February 9, 2021, the City Council approved Resolution 21-017 approving the lease of three (3) mowers to maintain parks and city facilities. The resolution authorized a lease with Professional Turf Products, L.P., which was not accurate. Turf Products, L.P. will be the vendor of for the equipment, but the lease will be with TCF Captial Solutions, the company financing the lease. All other information contained in the staff report for Resolution 21-017 was accurate and remains unchanged. The purpose of this amendment only to is to correct the actual leasing party.

Previously approved was a forty-four (44) month lease for one (1) Reelmaster 3100-D mower with 27-inch blade with lift arm and two (2) (20) Toro Z Master 26.5 HP Kohler CP EFI with 72" TURBO FORCE RD Deck. This equipment is utilized to maintain parks, trails, sports fields, multi-purpose fields and city facilities for a total cost of \$50,131.84, with forty-four (44) payments of \$1,139.36.

Recreation Services (RS) has determined that leasing mowing equipment is more beneficial than outright purchasing mowing equipment. Staff will have access to modern, up-to-date equipment that is covered under warranty for the duration of the lease. Depending on repairs needed a tech will repair mower on-site, deliver part(s), or mower will be picked up and repaired off-site. In addition, the lease option allows the financial burden to be distributed over forty-four (44) months. The FY 21 budget reflects funding for a mowing lease of \$7,975.52.

THE ALTERNATIVES CONSIDERED:

Option 1 - Not approve amending Resolution 21-017, so that RS may not lease the equipment

Option 2 - Approve amending Resolution 21-017 and allow RS to proceed with leasing the equipment

Which alternative is recommended? Why?

Option 2, approving an amendment to Resolution 21-017, which will allow the lease documents to be executed and RS staff to obtain the necessary equipment.

CONFORMITY TO CITY POLICY:

Professional Turf Products, L.P. is a member of the Texas BuyBoard Purchasing Cooperative (Contract # 611-20). Purchases made through a cooperative contract satisfies the state competitive bidding requirements 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 see 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?**

Fiscal year 2020-2021 financial impact would be \$7,975.52. Fiscal impact of future years will depend on maintenance of the mowers, which is covered through warranty for the 44 months.

The fiscal impact is as follows:

- ☐ FY21 \$7,975.52 (7 months)
- ☐ FY22 \$13,672.32 (12 months)
- ☐ FY23 \$13,672.32 (12 months)
- ☐ FY24 \$13,672.32 (12 months)
- ☐ FY25 \$1,139.36 (1 month)

Is this a one-time or recurring expenditure?

RS will have forty-four (44) monthly payments of \$1,139.36.

Is this expenditure budgeted?

Yes, funds are available in account 010-9030-489.71-12

If not, where will the money come from?

N/A

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

Yes

RECOMMENDATION:

Recreation Services staff recommends City Council approve amending Resolution 21-017 and authorize the City Manager or designee to execute the forty-four (44) month lease with TCF Capital Solutions as submitted in the amount of \$50,131.84 over the course of the lease. The City Manager or designee is further authorized to execute any change orders as permitted by state and local law.

DEPARTMENTAL CLEARANCES:

Legal
Purchasing
Finance

ATTACHED SUPPORTING DOCUMENTS:

Quote
Agreement
Certificate of Interested Parties



Professional Turf Products, L.P.
 9468 Selma Parkway
 Selma, Texas 78154
 Larry Snody
 (682) 330-3676
 snodyl@proturf.com



Ship To	City Of Killeen - Parks & Rec	Date:	1/27/2021
Bill To	BUYBOARD (CONTRACT # 611-20) - Credit Cards Not Accepted	Tax Rate	
Contact	Pete Vento	Destination	
Address	22714 Hegar Rd., Killeen, TX 76543	Trade-In	
		Finance	TCF Equipment Finance
Phone	76543	Account Type	Contract
Email	pvento@killeentexas.gov	QMS: ID	Q61970
Comments:			

Finance Proposal (Includes Destination)

Qty	Model #	Description	44 Month	Selling Price
1	03170	Reelmaster 3100-D		
3	03189	27 Inch 8 Blade (RR) Radial Reel EdgeSeries		
1	03172	27 Inch Lift Arm Kit		
1	119-0635	DPA CU Tipper Kit (For Reelmaster 3100 Series)		
1	03244	RM 3100 End Weight Kit (3)		
1	CM436-03170	TPP 48 Months 3600 Hours Comprehensive		
		Toro Reelmaster 3100-D		\$ 34,751.08
2	72945	Toro Z Master 26.5 HP Kohler CP EFI w/ 72" TURBO FORCE RD Deck LCE		\$ 23,557.92

FMV_600

FMV_600

Estimated Monthly Payments (44mo. FMV)	\$1,139.36 mo.
Tax (Estimated)	Not Included
TOTAL	\$ -

Comments:

For all New Equipment, Demo units may be available for up to 20% savings.
 For all New Equipment, Refurbished units may be available for up to 40% savings.

Terms & Conditions:

- Orders are considered contractual. Order cancellations are subject to fees up to 10% of the original order value.
- New equipment delivery time is estimated at six weeks from the time credit is approved & documents are executed.
- Pricing, including finance options, valid for 30 days from time of quotation.
- Payments by Credit Card are subject to convenience fee.
- After 30 days all prices are subject to change without notice.
- Used and Demo equipment is in high demand and availability is subject to change.
 - Upon firm customer commitment to purchase, said equipment availability will be determined and "locked".
 - In the event equipment is unavailable at time of order, PTP will employ every resource to secure an acceptable substitute.
 - PTP strongly advises the customer to issue a firm PO as quickly as possible after acceptance of quotation.
- "Trade In Allowances" will be treated as a credit for future parts purchases on PTP account unless other arrangements have been made.

Returns Policy:

- All returns are subject to restocking, refurbishing, usage, and shipping fees.
- All returns must be able to be sold as new.
- Items missing parts are non returnable.
- Professional Turf Products will have sole discretion as to the resalable condition of the product.
- This policy does not apply to items that are defective, or shipped incorrectly by PTP or one of its vendors.

Payment:

- Terms are net 10 unless prior arrangements have been made.
- Quoted prices are subject to credit approval.
 - PTP will work with third party financial institutions to secure leases when requested to do so.
 - When using third party financiers, documentation fees & advance payments may be required.
 - For convenience, monthly payments are estimated based on third party rate factors in effect at time of the
 - PTP assumes no liability in the event credit becomes unavailable or rates change during the approval process.
- There will be a service charge equal to 1.5% per month (18% per annum) on all past due invoices.
- By Law we are required to file a "Notice to Owner" of our intent to file lien in the event of payment default.
 This notice must be sent within 60 days of the date the original invoice and will happen automatically regardless of any special payment arrangements that may have been made.

Authorized Signature: _____ Date: _____



No Israel Boycott Certification

Texas Government Code, Chapter 2270, provides that a governmental entity – including a city – may not enter into certain contracts with a company for goods or services unless the contract contains a written verification that the company does not boycott Israel and will not boycott Israel during the term of the contract. The verification is specifically required when a governmental entity 1) enters into a contract with a company with ten (10) or more full-time employees, and 2) the contract is valued at \$100,000 or more to be paid wholly or partly from public funds.

“Boycott Israel” is defined in Texas Government Code 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.

By signing below, I verify that the company listed below does not boycott Israel and will not boycott Israel during the term of the contracted entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.

DL
Signature

DAVID LAU
Printed Name

1-14-2021
Date

PROFESSIONAL TURF PRODUCTS, LP
Company Name

CFO
Title

The "Master Lease": Master Lease Number 185329L Dated December 29, 2020	
"Lessee"	
City of Killeen, Texas, 1700 E. Stan Schlueter Loop, Killeen, TX 76542	
Fax:	E-mail:
"Lessor"	
TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926	
Fax: 319-833-4577	E-mail: customerservice@financediv.com

Master Lease Terms and Conditions

1. **LEASE.** Lessee hereby agrees to lease from Lessor and, subject to satisfaction of all Lessor's requirements and no material adverse change in Lessee's condition or business, Lessor agrees to lease to Lessee the personal property, services and/or software described in one or more Schedules (each a "Schedule") to this Master Lease signed by Lessor and Lessee from time to time on the terms and conditions set forth herein and in the related Schedule (such property and services, together with all replacements, repairs, and additions thereto, collectively the "Equipment"; and each item, an "Item"). Lessee authorizes Lessor to add to the Schedule, or make necessary corrections to, serial numbers or other identification of the Equipment when known. Each Schedule incorporates the terms of this Master Lease, is considered a separate lease and shall be referred to herein as "this Lease". Capitalized terms have the meanings given to them in the Schedule or herein. If the terms of a Schedule conflict with the terms of this Master Lease, the terms of the Schedule shall control.

2. **TERM.** The term of this Lease with respect to each Item begins on the date Lessee accepts such Item and continues for the number of consecutive months from the Commencement Date shown in the applicable Schedule (the "Initial Term") unless earlier canceled, terminated or extended as provided herein or in the Schedule. Lessee shall promptly inspect the Equipment upon delivery and, if acceptable in all respects, execute and deliver a certificate of acceptance, in form acceptable to Lessor. Lessee authorizes Lessor to fill in the Commencement Date in the Schedule, which will be a date designated by Lessor based on the date that the final Item thereunder is delivered to and accepted by Lessee. The term of this Lease may be extended as provided in the applicable Schedule.

3. **PAYMENTS.** Lessee shall pay to Lessor: (a) any Advance Rent Payment(s) and Security Deposit set forth in the Schedule, on the date Lessee signs the Schedule; (b) the periodic Rent Payment set forth in the Schedule payable as set forth in the Schedule for the Initial Term and any renewal term; (c) interim rent for each Item from the date accepted to the Commencement Date, at the daily rate equal to the Interim Rent Daily Factor set forth in the Schedule multiplied by the portion of the total cost of the Equipment paid by Lessor (including all amounts Lessor pays in connection with the purchase, delivery and installation of the Equipment, including any trade-up and buy out amounts, and any other amounts financed, before application of any subsidies or like amounts, the "Final Cost") applicable to such Item payable with respect to each calendar month by the 10th day of the following month and in any event on the Commencement Date. If, for any reason, the Final Cost is more or less than the estimated cost of the Equipment, each Rent Payment and the mandatory or optional fixed purchase price, if any, will be adjusted to provide Lessor the same yield it would have obtained if such Final Cost had been equal to such estimated cost of the Equipment. Lessee agrees that the Schedule will be amended to reflect the adjusted Rent Payment and purchase price, if applicable, by (i) written notice from Lessor to Lessee for adjustments of 10% or less; or (ii) signed Amendment. The Rent Payment for each Schedule has been indexed to the Swap Rate. "Swap Rate" means, as of the applicable date, the "ICE Swap Rate - USD Rates 1100" as published by Intercontinental Exchange, Inc. on its website, www.theice.com, for a similar term to the Initial Term (or, if no rate is quoted for a particular maturity, a rate will be interpolated by Lessor based on similar maturities), for the date that is three (3) business days prior to the applicable date (or, if no rate is quoted for such date, the next business day for which such rate is quoted); or, if such index is no longer available or so published, the rate determined by Lessor under a similar successor index chosen by Lessor in its sole discretion. If such Swap Rate as of the date that the final item of Equipment under a Schedule is accepted is more than the Swap Rate as of the date of the applicable Schedule, Lessor may increase the Rent Payment accordingly, and Lessee hereby agrees to sign an amendment reflecting such increase by no later than the Commencement Date of Schedule. Lessee also shall pay all governmental fees, assessments and taxes, however designated, and any penalties or interest thereon, assessed on or related to the rent, this Lease or the Equipment, when due or invoiced; and all costs and charges of every kind regarding importation, shipment, delivery, installation, insurance, possession, use, lease, tax treatment, return, repossession, storage and transfer of any Item, when incurred; and if Lessor, in its discretion, pays any such amount, Lessee shall reimburse Lessor therefore, with interest, on demand, plus Lessor's administrative and other costs of paying and invoicing such amounts. Lessor may charge a late fee of 10% of any amount not paid by Lessee within 10 days of its due date hereunder, and all interest provided for under this Lease shall accrue at 18% per annum; provided that in no event shall such late fee or such interest exceed the maximum rate or amount permitted by applicable law. Lessee may from time to time make telephonic requests for, and Lessee hereby authorizes, Lessor or its agents to make and draw checks or drafts on a checking account to be designated by Lessee, payable to Lessor or order, to pay rent and other amounts due hereunder, plus Lessor's standard per item fee for making and drawing such check or draft not to exceed the maximum amount permitted by law. Lessor may rely on such request made by any

person it believes has authority to make such request on behalf of Lessee. Lessee will pay Lessor on demand a fee, in an amount determined by Lessor, not to exceed the maximum amount from time to time permitted by applicable law, for any check or automatic payment request returned due to insufficient funds or stop payment. Lessor may apply payments and any security deposit to Lessee's obligations hereunder in such order as it deems appropriate, and will return any unapplied balance to Lessee without interest when all such obligations are satisfied.

4. **USE; REPAIRS.** Lessee shall use the Equipment within recommended capacities, only for its designed purposes, in compliance with all laws, regulations and ordinances. At Lessee's expense, Lessee will maintain the Equipment in good repair and working order, furnish all needed parts and services and make all modifications and improvements required by law. Lessee will not modify or improve the Equipment without Lessor's prior written consent. All parts, modifications and improvements will become Lessor's property and part of the Equipment for all purposes. Lessee shall prepare and file all tax returns that it may file under the applicable taxing jurisdiction's laws for taxes that are Lessee's responsibility hereunder, including but not limited to personal property taxes if the End of Lease Provision under the applicable Schedule is (i) "Mandatory Purchase" or (ii) "Purchase Option" and the price for such option is a dollar amount stated in such Schedule.

5. **RETURN.** Subject only to strict compliance with the terms of any purchase or renewal provisions which are set forth herein or in any Schedule, upon expiration or earlier cancellation or termination hereof, Lessee shall, at its sole cost and expense, return all, (not part) of such Equipment to Lessor's designee immediately upon expiration of the Initial Term and with respect to each item of Equipment, as applicable, the following must be true: All safety equipment must be in place and meet applicable federal, state and other governmental standards; All covers and guards must be in place with no sheet metal, plastic or cowl damage; All parts, pieces, components and optional equipment must be present, installed and operational; All accessories shall be returned in proper order; All motors shall operate smoothly without overheating and shall have good bearings and bushings; All electronic controls shall operate per manufacturers' specifications; Controls which bypass normal operations shall be repaired at Lessee's expense; All electrical systems shall be able to provide electrical output as specified by the manufacturer; All batteries shall be in good, safe operating condition with no dead cells or cracked cases; Batteries shall hold a charge and provide adequate power to operate the Equipment; All Equipment shall have serviceable tires, with 50% remaining tread, retaining proper air pressure, and without repair patches; All oil and grease seals must contain lubrication in the manufacturer's designed reservoir; All Equipment must have a relatively clean appearance; All Equipment must be free from excessive wear necessitating major component repair or replacement caused by lack of recommended maintenance detailed in Equipment operation/maintenance manuals; All Equipment shall be free from structural damage or bent frames; Any usage or metering devices must not have been altered in any way; All Equipment attachments, if any, must be in good operating condition; All hydraulic cylinders must not be bent, nicked, gouged or leaking. Any Equipment with reel cutting units shall be returned within standard service life specifications, defined as the factory reel diameter, less 0.5 inches (5 inch reels) and 0.4 inches for any larger diameter reels. If the Equipment is an electric golf car, then in addition to the above return provisions: (i) the golf car must be able to transport two (2) people and their golf clubs; (ii) all batteries and battery terminals must be clean, free of corrosion and have proper battery water levels; and (iii) each golf car must include operable battery chargers. Additionally, all Equipment must be able to complete the following tests: operate normally in forward and reverse directions through all its speed ranges or gears, steer normally right and left in both forward and reverse, have all functions and controls work in a normal manner, be able to stop with its service brakes in a safe distance in both forward and reverse, operate without leaking any fluids, perform its designed functions in a satisfactory manner, and all cutting units (if applicable) must be able to lower, turn on, run, raise and shut off as they are designed to do. If any Equipment is damaged or does not meet the standards set forth above for the return condition of such Equipment or if Lessee fails to discharge Lessee's obligations set forth under this Master Lease and/or a Lease with regard to any Equipment, Lessee shall remit to Lessor, immediately upon demand, the Stipulated Loss Value of such Equipment. The "Stipulated Loss Value" for a particular Item shall be an amount equal to: (i) the total of all monthly payments and other amounts, if any, due under the Lease with respect to such Item as of the date of payment of the Stipulated Loss Value, plus (ii) all rent not yet due for the Item for the remaining term of this Lease, discounted from their respective due dates at the rate of 3% per annum, plus (iii) the greater of (a) the Mandatory Purchase Price related to the Item; (b) the Item's "Anticipated Residual Value" as determined by Lessor's books at the Commencement Date; or (c) 10% of the original Final Cost related to the Item. Until properly returned,

all Lease terms shall apply, including without limitation all Lessee's rent, insurance and maintenance obligations.

6. **DISCLAIMERS.** LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, AS TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF, THE ABSENCE OF ANY CLAIM OF INFRINGEMENT OR THE LIKE WITH RESPECT TO, OR ANY OTHER MATTER CONCERNING, THE EQUIPMENT, AND EXPRESSLY DISCLAIMS ANY SUCH WARRANTIES AND ANY OTHER WARRANTIES IMPLIED BY LAW. LESSEE HEREBY WAIVES ALL CLAIMS AGAINST LESSOR FOR ANY LOSS, DAMAGE OR EXPENSE CAUSED BY THE EQUIPMENT OR ANY DEFECT THEREIN, OR BY THE DELIVERY, INSTALLATION, USE, MAINTENANCE OR SERVICING OF OR ADJUSTMENT TO THE EQUIPMENT. AS TO LESSOR, LESSEE LEASES THE EQUIPMENT AS-IS, WITH ALL FAULTS, WITHOUT WARRANTY OF ANY KIND. Lessee acknowledges that: Lessor is not a dealer or manufacturer of equipment of any kind; is not the seller of the Equipment; each Item is of a type, size, design and capacity selected solely by Lessee; and this Lease is a "finance lease" under UCC Article 2A in all respects. To the extent permitted by law, Lessee unconditionally and irrevocably waives any and all rights and remedies against Lessor at law or in equity (including, without limitation, any rights and remedies granted Lessee under Article 2A of the Uniform Commercial Code and/or the right to reject any Equipment or repudiate this Lease).

7. **INDEMNITY.** To the extent permitted by law, Lessee shall indemnify and hold Lessor harmless from any and all claims, actions, damages, legal expenses (including reasonable attorneys' fees), obligations, liabilities, liens, fines, penalties or other amounts arising out of the manufacture, purchase, lease, use, condition, possession, ownership, operation or return of any Equipment, or in connection with latent or other defects, or any claim for patent, trademark or copyright infringement, including any strict liability claims, whether arising by operation of law, or with or without Lessee's fault or negligence or failure to comply with the terms hereof, and as a result of any lien, encumbrance or claim made on the Equipment by anyone, including Lessee's employees and agents, imposed or incurred by or asserted against Lessor, its successors or assigns. At Lessor's option, Lessee shall assume full responsibility for the defense of any indemnified claim.

8. **LOSS.** Lessee shall bear the entire risk of loss, theft, damage or destruction of any or all Items from any cause whatsoever ("Loss"); and no Loss shall relieve Lessee of any rent payment or other obligation hereunder. If Lessor determines that any Item has suffered an irreparable Loss, Lessee will either (i) replace the Item with like equipment (of the same year, make, model and accessories) in good repair, condition and working order; or (ii) pay Lessor the Stipulated Loss Value for such Item.

9. **INSURANCE.** With respect to the Equipment, Lessee shall pay for and maintain, and furnish Lessor a certificate evidencing, insurance insuring against: (a) liability for bodily injury and property damage with a minimum combined single limit of \$1,000,000.00 or such greater amount as may be prescribed by any applicable state law specifying minimum insurance requirements, with Lessor as additional insured, and (b) loss or damage to the Equipment in an amount no less than the Equipment's full replacement value, with Lessor as loss payee. Each insurance policy shall be in such form, including a maximum deductible, and with such insurers as Lessor may accept, shall require the insurer to give Lessor at least 30 days' prior written notice of any cancellation or change in terms, and shall specify that no action or misrepresentation by Lessee will affect Lessor's coverage. Lessor has no duty to verify or notify Lessee that any such policy exists or is free of defects. Lessee hereby appoints Lessor as Lessee's attorney-in-fact to make claims, receive payments and execute and endorse all documents, checks or drafts under any such physical damage policy. If Lessee fails to maintain, pay for or provide Lessor with evidence of the required insurance, Lessor may, but is not obligated to, obtain insurance covering Lessor's interest in the Equipment from an insurer of Lessor's choice. Lessor may charge Lessee the costs of acquiring and maintaining such insurance, and a fee for Lessor's services (collectively, "Insurance Charge"). At its discretion, Lessor may allocate the Insurance Charge to the remaining Rent Payments, which Lessee will pay with interest on such allocation. Nothing in this Lease will create an insurance relationship of any type between Lessor and any other person.

10. **DEFAULT.** Each of the following is an "Event of Default" hereunder: (a) Lessee fails to pay any rent or other payment required hereunder when due; (b) Lessee fails to comply with any other covenant or agreement hereunder and such failure continues for 10 days after notice by Lessor; (c) Lessee defaults under any other obligation to Lessor; (d) Lessee or any guarantor of this Lease ("Guarantor"), or any partner of Lessee ("Partner") if Lessee is a partnership, ceases doing business as a going concern or makes an assignment for the benefit of creditors; (e) Lessee or any Guarantor or Partner admits in writing an inability to pay debts as they come due, voluntarily files or has filed against it involuntarily a petition under the federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator is appointed for it or for all or a substantial part of its assets; (f) any individual Lessee, Guarantor or Partner dies; (g) any material indebtedness of Lessee or any Guarantor is accelerated or payment in full thereof is demanded; (h) Lessee or any Guarantor shall divide or shall consolidate with, merge into or transfer all or substantially all its assets to another entity or individual; or (i) Lessee fails to occupy the premises where any Item is located, or the mortgagee or owner of such premises asserts the right to take possession thereof or exercise eviction or other remedies under the mortgage or lease of such premises.

11. **REMEDIES.** At any time on or after an Event of Default, Lessor may in its sole discretion, with or without canceling or terminating this Lease, exercise one or more of the following remedies: (a) on written notice to Lessee, cancel or terminate this Lease; (b) declare immediately due and payable and recover from Lessee the sum of all rent

and other amounts then due in the current fiscal year; (c) enforce performance of, and/or recover damages for the breach of, Lessee's covenants; (d) repossess the Equipment wherever located, without notice or legal process; (e) exercise any other right or remedy available by law or agreement. Upon repossession, Lessor may retain the Equipment in full satisfaction of Lessee's obligations or may use reasonable efforts to sell or lease the Equipment in a manner and on terms as deemed appropriate by Lessor. Lessor will be entitled to any surplus and Lessee will be liable for any deficiency. Lessor may recover legal fees and other expenses incurred due to an Event of Default or the exercise of any remedy hereunder, including costs of repossession, repair, storage, transportation and disposition of the Equipment. No remedy shall be exclusive, and each shall be cumulative to the extent necessary for Lessor to recover amounts for which Lessee is liable hereunder.

12. **ASSIGNMENT.** Without Lessor's prior written consent, Lessee will not sell, assign, transfer (via merger, division, or otherwise), sublet, pledge or otherwise encumber or permit a lien arising through Lessee to exist against any interest in this Lease or the Equipment. Lessor may assign its interest in this Lease and sell or grant a security interest in all or any part of the Equipment without notice to or consent of Lessee. Lessee agrees not to assert against any assignee of Lessor any claim or defense Lessee may have against Lessor.

13. **NON-CANCELABLE, UNCONDITIONAL OBLIGATION.** This Lease cannot be canceled or terminated except as expressly provided herein. This Lease is a net lease; Lessee agrees that its obligation to pay rent and other amounts payable hereunder is absolute and unconditional and shall not be subject to any abatement, reduction, setoff or defense of any kind. If this Lease is deemed to be a lease intended as security, (i) Lessee grants Lessor a security interest in the Equipment to secure its obligations under this Lease and all present and future indebtedness to Lessor; and (ii) this Lease shall be construed so that interest, the applicable interest rate or other charges shall not exceed the maximum time price differential, rate, interest or amount allowed by applicable law, and any excess payment will be applied first to prepay principal hereunder and then as a refund to Lessee. The Equipment shall at all times remain Lessor's property, and Lessee's only right, title or interest therein shall be as set forth herein. At its expense, Lessee shall protect and defend Lessor's title and interest and keep the Equipment free of all claims and liens except those created by or arising through Lessor. Lessee authorizes Lessor to file such financing statements, title certificates and instruments as Lessor deems necessary to protect Lessor's interests in the Equipment, without Lessee's signature, and, if such signature is needed, Lessee appoints Lessor as Lessee's attorney-in-fact to sign such items in Lessee's name. Lessee will reimburse Lessor's costs with respect thereto on demand. Lessee's exact legal name is as shown above and Lessee represents and warrants to Lessor that as of the date hereof, and throughout the term of the Lease: (a) Lessee is a political subdivision of the state or commonwealth in which it is located and is organized and existing under the constitution and laws of such state or commonwealth; (b) Lessee has complied, and will comply, fully with all applicable laws, rules, ordinances, and regulations governing open meetings, public bidding and appropriations required in connection with the Lease, the performance of its obligations under the Lease and the acquisition and use of the Equipment; (c) the person(s) signing the Lease and any other documents required to be delivered in connection with the Lease (collectively, the "Documents") have the authority to do so, are acting with the full authorization of Lessee's governing body, and hold the offices indicated below their signatures, each of which are genuine; (d) the Documents are and will remain valid, legal and binding Leases, and are and will remain enforceable against Lessee in accordance with their terms; and (e) the Equipment is essential to the immediate performance of a governmental or proprietary function by Lessee within the scope of its authority and will be used during the term of the Lease only by Lessee and only to perform such function. Lessee further represents and warrants to Lessor that, as of the date each item of Equipment becomes subject to the Lease and any applicable Schedule, it has funds available to pay all Lease payments payable thereunder until the end of Lessee's then current fiscal year, and, in this regard and upon Lessor's request, Lessee shall deliver in a form acceptable to Lessor a resolution enacted by Lessee's governing body, authorizing the appropriation of funds for the payment of Lessee's obligations under the Lease during Lessee's then current fiscal year. Lessor may inspect the Equipment and Lessee's records related thereto at any time during business hours. All representations, warranties and indemnities of Lessee made or agreed to in or in connection with this Lease shall survive expiration, cancellation or termination of this Lease.

14. **TERMINATION FOR GOVERNMENTAL NON-APPROPRIATIONS.** To the extent permitted by applicable law, Lessee agrees to take all necessary and timely action during the Lease term to obtain and maintain funds appropriations sufficient to satisfy its payment obligations under the Lease (the "Obligations"), including, without limitation, providing for the Obligations in each budget submitted to obtain applicable appropriations, causing approval of such budget, and exhausting all available reviews and appeals if an appropriation sufficient to satisfy the Obligations is not made. Notwithstanding anything to the contrary provided in the Lease, if Lessee does not appropriate funds sufficient to make all payments due during any fiscal year under the Lease and Lessee does not otherwise have funds available to lawfully pay the Lease payments (a "Non-Appropriation Event"), and provided Lessee is not in default of any of Lessee's obligations under such Lease as of the effective date of such termination, Lessee may terminate such Lease effective as of the end of Lessee's last funded fiscal year ("Termination Date") without liability for future payments or the early termination charge under such Lease, if any, by giving at least 60 days' prior written notice of termination ("Termination Notice") to Lessor. If Lessee terminates the Lease prior to the expiration of the end of such Lease's Initial Term, or any extension or renewal thereof, as permitted under the terms of the Lease or as set forth herein or in any Schedule, Lessee shall (i) on or before the Termination Date, return the Equipment subject to the

terminated Lease in accordance with the return requirements set forth in such Lease, (ii) provide in the Termination Notice a certification of a responsible official that a Non-Appropriation Event has occurred, (iii) deliver to Lessor, upon request by Lessor, an opinion of Lessee's counsel (addressed to Lessor) verifying that the Non-Appropriation Event as set forth in the Termination Notice has occurred, and (iv) pay Lessor all sums payable to Lessor under such Lease up to and including the Termination Date. Lessee acknowledges and agrees that, in the event of the termination of a Lease and the return of the Equipment as provided for herein, Lessee shall have no interest whatsoever in the Equipment or proceeds thereof and Lessor shall be entitled to retain for its own account the proceeds resulting from any disposition or re-leasing of the Equipment along with any advance rentals, security deposits or other sums previously paid by Lessee pursuant to the terms of the Lease. The termination of a Lease under this Section shall not terminate this Master Lease or any other Leases made pursuant hereto, and shall not terminate Lessee's obligation to make the required monthly payments for such Leases.

15. **DELIVERY OF CERTAIN DOCUMENTS AND RELATED REQUIREMENTS.** Lessee will execute or provide, as requested by Lessor, annual budget and financial information and such other documents and information, including an opinion of Lessee's counsel as to the validity and enforceability of this Master Lease and any Schedules, as are reasonably necessary with respect to the transaction contemplated by this Lease. If Lessee is a "Registered Organization" (as such term is defined in the UCC), then Lessee will: (i) upon request of Lessor, provide copies of its applicable registered organization documents; and (ii) not change its legal name or its chief executive office or state of organization, without, in each case, giving Lessor at least 30 days' prior written notice of any such event.

16. **EXCESS USAGE AND SUPPLEMENTAL RENTALS (APPLICABLE TO TURF CARE AND MAINTENANCE EQUIPMENT ONLY).** At the end of the Initial Term, Lessee shall remit to Lessor \$5.00 per hour on each Item that has hourly use in excess of the maximum hours as indicated on the applicable Schedule. Lessee shall remit such amounts within ten (10) days of Lessor's written demand. The hours of use of an Item shall be determined by the hour meter attached to said Item, provided that such meter remains operable and accurate. If any such hour meter becomes inoperable or inaccurate, Lessee shall immediately repair or replace same, and shall immediately notify Lessor in writing of such event and of the correct hours of usage of the Item during the period of time the hour meter was inoperable or inaccurate. Lessee shall promptly furnish Lessor such information as Lessor may reasonably request from time to time in order to document the hours of usage of the Equipment.

17. **GOVERNING LAW; JURY TRIAL WAIVER. THIS LEASE, AND ALL MATTERS OF THIS LEASE, INCLUDING ALL INTEREST AND FINANCE CHARGES HEREUNDER, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, FEDERAL LAW AND, TO THE EXTENT NOT PREEMPTED BY FEDERAL LAW, BY THE LAWS OF THE STATE OF LESSEE'S ORGANIZATION (EXCLUDING CONFLICTS LAWS). TO THE EXTENT PERMITTED BY LAW, THE PARTIES HERETO, AFTER CONSULTING (OR HAVING HAD AN OPPORTUNITY TO CONSULT) WITH COUNSEL OF THEIR CHOICE, KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS LEASE, INCLUDING ANY ACTION TO ENFORCE THIS LEASE OR ANY RELATED AGREEMENTS.**

18. **MISCELLANEOUS.** This Lease constitutes the entire agreement between Lessee and Lessor with respect to the subject matter hereof; there is no other oral or written agreement or understanding. The Lessee hereby consents to the use of electronic

signatures and represents and warrants that its electronic signature on any document or agreement shall be unconditionally valid and legally enforceable, and therefore, agrees to not contest, call into question or otherwise challenge the validity or enforceability of any electronic signature (or the authority of the electronic signer to sign) or raise any of the foregoing as a defense or counterclaim. This Lease and related documents may be electronically copied and/or delivered by electronic means of transmission ("e-copy") and the e-copy of any document shall be deemed an original, and admissible as such in any court or other proceeding; provided that there shall be only one original counterpart of each Schedule, and it shall bear the original ink or electronic signature of Lessor and be marked "Original." To the extent a Schedule is "chattel paper", a security or ownership interest may only be created therein by transferring the "Original" bearing Lessor's original ink or electronic signature; provided that if the "Paper Out" process shall have occurred, then the "Paper Out" printed version of the Schedule bearing the legend "Original" shall constitute the sole chattel paper original. If Lessor permits Lessee to deliver this lease or any related document to Lessor via facsimile or other electronic means, Lessee shall deliver to Lessor, promptly on request, such document bearing Lessee's original "wet ink" signature; provided that neither delivery nor failure to deliver the document bearing Lessee's original "wet ink" signature shall limit or modify the representations and agreements set forth above. The Lessee hereby consents to the use of electronic signatures and represents and warrants that its electronic signature on any Document shall be unconditionally valid and legally enforceable, and therefore, agrees not to contest, call into question or otherwise challenge the validity or enforceability of any electronic signature (or the authority of the electronic signer to sign) or raise any of the foregoing as a defense or counterclaim. Except as expressly set forth herein, this Lease may not be amended or modified except by a writing manually signed by the parties. Lessee shall pay Lessor's costs, fees and expenses incurred in connection with any amendment, waiver, release, cancellation or termination of this Lease or any related document, financing statement, title certificate or instrument, including but not limited to filing and recording fees. This Lease is binding on and inures to the benefit of the parties hereto, their permitted successors and assigns. Any written notice hereunder shall be deemed given when delivered personally, deposited with a nationally recognized overnight courier (with all fees pre-paid), delivered via facsimile or e-mail (with confirmation of transmission), or deposited in the United States mails, certified or registered mail, addressed to recipient at its address set forth above or such other address as may be substituted therefor by notice given pursuant to the terms hereof. Lessee hereby agrees that Lessor, including its vendors, service providers, partners, affiliates, successors and assigns, may contact Lessee at any telephone number provided to Lessor, by placing voice telephone calls (including use of automatic telephone dialing systems or prerecorded voice messaging) or, in the case of wireless telephones or other wireless devices, by sending e-mail or automated (SMS) text messages. If more than one Lessee is named herein, the obligations of each shall be joint and several. Lessee authorizes, and represents that all Lessee's principals have authorized, Lessor to obtain such credit bureau reports and make such other credit inquiries with respect to Lessee and such principals as Lessor deems appropriate throughout the term of this Lease; on written request, Lessor will identify any reporting agency used for such a reports. Lessee warrants and agrees that the Equipment is leased and will be used for business purposes only, and not for personal, family or household purposes. Lessee shall execute and deliver to Lessor such other documents and provide such information, including information identifying the owners of Lessee and its affiliates and their respective ownership interests, as Lessor may reasonably deem necessary to comply with laws or regulations applicable to Lessor or Lessee, including laws and regulations requiring Lessor to obtain Lessee's certification of its beneficial owner(s) prior to making payment(s) to Lessee during or after the term of this Lease. Our institution complies with Section 326 of the USA PATRIOT Act. This law mandates that we verify certain information about you while processing your account application.

Lessor: TCF National Bank
Lessee: City of Killeen, Texas

By: _____
By: _____

Title: _____
Kent Cagle, City Manager



**TEXAS ADDENDUM
TO MASTER LEASE NO. 185329L DATED AS OF December 29, 2020**

LESSOR: **TCF National Bank**

LESSEE: **City of Killeen, Texas**

This Addendum is hereby incorporated in and is hereby made a part of the above-referenced Master Lease No. 185329L (together with all Exhibits and Attachments and this Addendum, the "Master Lease"). Lessor and Lessee hereby agree that capitalized terms used herein and not otherwise defined herein shall have the terms assigned to such terms in the Master Lease and that the following changes and additions shall be made to the Master Lease:

- 1. Section 1** of the Master Lease is hereby amended by adding the following sentence at the end of that Section:

The initial Lease term as specified in the applicable Schedule does not exceed 25 years.

- 2. Section 18** of the Master Lease is hereby amended by adding the following sentence at the end of that Section:

Notwithstanding the foregoing, this Lease may be assigned by Lessor only in whole, not in part.

Except as specifically set forth in this Addendum, all terms and conditions contained in the Master Lease will remain in full force and effect and are hereby ratified and confirmed.

Lessor: TCF National Bank

By: _____

Title: _____

Lessee: City of Killeen, Texas

By: _____

Kent Cagle, City Manager



Turf Equipment Schedule (Fair Market Value Purchase Option)

The "Lease": Equipment Schedule Number 008-0185329-100 Dated December 29, 2020 to Master Lease Number 185329L Dated December 29, 2020

"Lessee": City of Killeen, Texas, 1700 E. Stan Schlueter Loop, Killeen, TX 76542

Contact: Kent Cagle

Phone:

"Lessor": TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926

This Equipment Schedule (this "Schedule") is entered into pursuant to and incorporates the terms of the Master Lease (except as expressly modified by this Schedule) identified above between Lessor and Lessee (the "Master Lease" and, together with this Schedule, this "Lease"). All capitalized terms not otherwise defined in this Schedule have the meanings assigned in the Master Lease. Upon execution and delivery of this Schedule by Lessor and Lessee, and Lessee's acceptance of the Equipment described below, Lessor leases to Lessee and Lessee leases from Lessor the Equipment on the terms and conditions of this Lease.

SUMMARY OF TERM AND RENTAL PAYMENTS:

Commencement Date	Initial Term	Rent Payment Period	Each Rent Payment	Advance Rent Payment(s)	Interim Rent Daily Factor	Security Deposit
	43 Months	Monthly	\$1,139.36 plus applicable taxes except financed sales tax included in the Final Cost	\$1,139.36 For Installments(s): First	N/A	N/A

EQUIPMENT, PERSONAL PROPERTY, SERVICES AND/OR SOFTWARE (the "Equipment"):

MAXIMUM HOURS:

Parks & Rec Dept, 810 Conder St, Killeen, TX 76541:

(1) Toro Reelmaster 3100 & (2) Toro Z Master 26.5 HP Hohler CP EFI w/72" Turbo Force RD Deck together with all attachments and accessories thereto

600

Each Rent Payment shall be payable in advance on the Commencement Date and on the same day of each subsequent Rent Payment Period for the Initial Term and any renewal term.

The following additional provisions apply to the Equipment and this Lease only:

- So long as this Lease has not been canceled or terminated early and no Event of Default exists, upon expiration of the Initial Term ("Lease End"), Lessee may purchase all, but not less than all, of the Equipment for the fair market value of the Equipment, as mutually determined by Lessor and Lessee, plus all sales and use taxes arising on the sale of the Equipment. To exercise the foregoing purchase option, Lessee must give written notice thereof to Lessor at least 90 days and no more than 120 days prior to Lease End. If Lessee fails to give such notice, or if the parties cannot agree on the Fair Market Value of the Equipment by 60 days before Lease End, then the purchase option shall lapse. If the purchase option lapses, then at least 30 days before Lease End or the end of any renewal term, Lessee must give Lessor notice of its intent to return the Equipment and request return location instructions. If Lessee fails to give such notice, or gives notice but fails to return the Equipment in accordance with Section 5 of the Master Lease, this Lease will automatically renew, at the same rental and other terms set forth in this Lease, for additional successive non-cancelable 1-month terms after the Initial Term until timely written notice of return and proper return of the Equipment is made.
- If Lessee gives timely notice of election to purchase the Equipment as provided in paragraph 1 and fails to timely pay the purchase price, then Lessor may, in its sole discretion, by written notice to Lessee (a) treat the Equipment as purchased and enforce payment of the purchase price, or (b) declare a failure to meet the purchase conditions whereupon Lessee's interest in the Lease and Equipment shall automatically be canceled and Lessee shall return the Equipment in accordance with Section 5 of the Master Lease.
- Upon Lessee's exercise of the purchase option and Lessor's receipt of the purchase price plus applicable sales and use tax and any rent or other amount owing under this Lease, the Equipment will be deemed transferred to Lessee at its then location and, on Lessee's request at such time, Lessor will deliver to Lessee a bill of sale for the Equipment, "WHERE IS, AS IS" WITHOUT ANY WARRANTY AS TO TITLE OR WITH RESPECT TO THE EQUIPMENT, EXPRESS OR IMPLIED.
- If Lessor suffers a Tax Loss because, for federal or state income tax purposes, for any reason, this Lease is not a true lease or Lessor otherwise is not entitled to depreciate the Equipment in the manner Lessor anticipated when entering into this Lease, then Lessee shall pay Lessor, as additional rent hereunder, a lump-sum amount which, after payment of all federal, state, and local income taxes on the receipt of such amount, and using the same assumptions as to tax benefits and other matters Lessor used in originally evaluating and pricing this Lease, will in Lessor's reasonable opinion maintain Lessor's net after-tax rate of return with respect to this Lease at the same level it would have been had such Tax Loss not occurred. Lessor will notify Lessee of any claim that may give rise to indemnity hereunder and will make a reasonable effort to contest any such claim at the administrative level of the applicable taxing authority. Lessor shall control all aspects of any settlement and contest, and Lessee agrees to pay the legal fees and other out-of-pocket expenses thereof even if Lessor's defense is successful. Notwithstanding the foregoing, Lessee will not be obligated to indemnify Lessor for any Tax Loss caused solely by (a) a casualty Loss to the Equipment if Lessee pays the amount required under Section 8 of the Master Lease, (b) Lessor's sale of the Equipment other than on account of an Event of Default, (c) failure of Lessor to have sufficient income to utilize its anticipated tax benefits or to timely claim such tax benefits, and (d) tax law changes, including rates, effective after the Lease begins. Lessee's indemnity obligations hereunder shall survive cancellation and termination of this Lease. For purposes of this paragraph, the term "Tax Loss", means Lessor's loss of, or loss of the right to claim, or recapture of, all or any part of the federal or state income tax benefits Lessor anticipated as a result of entering into this Lease and owning the Equipment; and the term "Lessor" shall include any member of an affiliated group of which Lessor is (or may become) a member if consolidated tax returns are filed for such affiliated group for federal income tax purposes.
- If this Lease terminates or is cancelled prior to the end of the Initial Term, then the Maximum Hours specified above shall be reduced pro rata based on the number of months remaining in the current year or Initial Term, as applicable. If the Lease is renewed or extended, the Maximum Hours allowed during such renewal or extension shall be calculated pro rata based on the number of Maximum Hours specified above and the number of months of such extension or renewal.
- This Schedule may, in Lessor's sole discretion, be delivered and/or reproduced by facsimile, optical scanning or other electronic means ("e-copy") and such e-copy or a printed version thereof shall be enforceable as an original and admissible as such in any court or other proceeding, provided that there shall be only one original of this Schedule and it shall bear the original ink or electronic signature of Lessor and be marked "Original." Each party's electronic signature on this Schedule shall be unconditionally valid and legally enforceable, and each party agrees not to contest the validity or enforceability of any electronic signature (or the authority of the electronic signer to sign). To the extent that this Schedule constitutes chattel paper (as that term is defined by the Uniform Commercial Code), a security or ownership interest intended to be created through the transfer and possession of this Schedule can be done only by the transfer of the "Original" bearing the original ink or electronic signature of Lessor; provided that, if the "Paper Out" process shall have occurred, or if there shall simultaneously exist both the "Paper Out" printed version and an electronic version of this lease, then the "Paper Out" printed version of such document bearing the legend "Original" applied by Lessor shall constitute the sole chattel paper original and authoritative version. Lessee agrees to deliver to Lessor, on request, this Schedule bearing Lessee's original signature.

Lessor: TCF National Bank

By: _____

Title: _____

Lessee: City of Killeen, Texas

By: _____

Kent Cagle, City Manager

OPINION OF COUNSEL

(To be on Attorney's Letterhead)

Date:

Lessee: City of Killeen, Texas
1700 E. Stan Schlueter Loop,
Killeen, TX 76542

Lessor: TCF National Bank
1111 West San Marnan Dr, Suite A2 West
Waterloo, IA 50701-8926

Re: Contract 008-0185329-100, dated as of December 29, 2020, by and between City of Killeen, Texas and Lessor

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the contract described above (the "Lease") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and exhibit thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a public corporation and political subdivision of the State of Texas (the "State") duly organized, existing and operating under the Constitution and laws of the State. The full, true and correct legal name of Lessee is _____.
2. The Uniform Commercial Code, as adopted in the State (the "UCC"), and no other statute of the State, governs the creation, perfection, priority or enforcement of a security interest created by Lessee.
3. Lessee is authorized and has power under State law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.
4. The Lease and the other documents described above have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and the Lease is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
5. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable State and Federal laws.
6. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.
7. There is no litigation, action, suit, or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of the organization or existence of Lessee; the authority of its officers; the proper authorization, approval and execution of the Lease and the other documents described above; the appropriation of monies to make Rental Payments under the Lease for the current fiscal year, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

This opinion of counsel may be relied upon by Lessor and its successors and assigns.

Very truly yours,

RESOLUTION
LEASE NO. 008-0185329-100
DATED AS OF DECEMBER 29, 2020

A resolution authorizing the negotiation, execution, and delivery of Lease No. **008-0185329-100** dated **December 29, 2020** (the "Lease"), between **City of Killeen, Texas, 1700 E. Stan Schlueter Loop, Killeen, TX 76542** and **TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926**; and prescribing other details in connection therewith.

WHEREAS, City of Killeen, Texas, (the "Lessee") is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of Texas; and

WHEREAS, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and

WHEREAS, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in the Lease is appropriate and necessary to the function and operations of the Lessee; and

WHEREAS, TCF National Bank, (the "Lessor") shall act as Lessor under said Lease; and

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF City of Killeen, Texas:

Section 1. The Lease, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the _____ of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee, with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. The Lessee's obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of Texas.

Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified and approved.

Section 5. This resolution shall take effect immediately upon its adoption and approval.

CERTIFIED AS TRUE AND CORRECT this ____ day of _____, 20 ____.

Signature of Clerk, Secretary or Assistant Secretary

Printed Name of Clerk, Secretary or Assistant Secretary



CERTIFICATE OF INCUMBENCY
LEASE NO. 008-0185329-100
DATED AS OF December 29, 2020

I, _____, do hereby certify that I am the duly elected or appointed and acting Clerk/Secretary of City of Killeen, Texas (the "Lessee"), a political subdivision duly organized and existing under the laws of the State of Texas, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

NAME	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____

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

Signed: _____

Title: _____

NOTE: The Clerk or Secretary of the Lessee should sign unless that person is also the signor of the documents in which case the President or some other Officer of the Lessee should execute this document.



Insurance Certificate Request

11100 Wayzata Blvd, Suite 801 Minnetonka, MN 55305

To	To Whom It May Concern	From	Marisa Meyers
Company		Fax	(866) 465-3149
Fax		Phone	(800) 215-4738 x
Phone		Email	mmeyers@financediv.com
Subject	INSURANCE CERTIFICATE REQUEST	Date	January 5, 2021

Message:

Our mutual customer, City of Killeen, Texas, is leasing equipment through TCF National Bank. We are in need of an INSURANCE CERTIFICATE for the equipment leased prior to us closing out their transaction. Please see below for specifics. Thanks!

Please include the following items on the certificate:

1. INSURED: City of Killeen, Texas, 1700 E. Stan Schlueter Loop, Killeen, TX 76542
2. COVERAGES: <ul style="list-style-type: none">Liability Insurance – Minimum \$1,000,000.00 per occurrence in Combined Single Limit or such greater minimum as may be prescribed by any applicable state law specifying minimum insurance requirements.<ul style="list-style-type: none">➤ Policy Number➤ Policy Effective Date & Policy Expiration DateProperty Damage – Cost: \$58,309.00 or ACV<ul style="list-style-type: none">➤ Comprehensive & Collision Deductibles (if applicable) or Physical Damage Deductible (Shall not exceed \$10,000 or 10% of Total Cost)➤ Policy Number➤ Policy Effective Date & Policy Expiration Date
3. DESCRIPTION OF EQUIPMENT: <p>(1) Toro Reelmaster 3100 & (2) Toro Z Master 26.5 HP Hohler CP EFI w/72" Turbo Force RD Deck together with all attachments and accessories thereto</p> <p>Or reference: "Leased Equipment on TCF Contract Number 008-0185329-100", if the description is too long</p>
4. TCF National Bank, its successors and assigns needs to be listed as Loss Payee & Additional Insured on the Insurance Certificate.

If you have any questions, please feel free to contact me. Please send the certificate to my attention as soon as possible to mmeyers@financediv.com or fax to (866) 465-3149. Thank you!

Marisa Meyers

Sr. Sales Support Specialist

TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF THE READER OF THIS INFORMATION IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND YOU ARE DIRECTED TO DESTROY IT. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CONTACT US IMMEDIATELY BY TELEPHONE AT 800-442-7811.

Texas Sales and Use Tax Exemption Certification

This certificate does not require a number to be valid.

Name of purchaser, firm or agency	
Address (Street & number, P. O. Box or Route number)	Phone (Area code and number)
City, State, ZIP code	

I, the purchaser named above, claim an exemption from payment of sales and use taxes (for the purchase of taxable items described below or on the attached order or invoice) from:

Seller: TCF National Bank


Street address: 1111 W. San Marnan Dr, Suite A2 West City, State, ZIP code: Waterloo, IA 50701

Description of items to be purchased or on the attached order or invoice:

Purchaser claims this exemption for the following reason:

I understand that I will be liable for payment of all state and local sales or use taxes which may become due for failure to comply with the provisions of the Tax Code and/or all applicable law.

I understand that it is a criminal offense to give an exemption certificate to the seller for taxable items that I know, at the time of purchase, will be used in a manner other than that expressed in this certificate, and depending on the amount of tax evaded, the offense may range from a Class C misdemeanor to a felony of the second degree.

 Purchaser	Title	Date
--	-------	------

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.

THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.

Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

**This certificate should be furnished to the supplier.
Do not send the completed certificate to the Comptroller of Public Accounts.**

**Invoice**

Date of Invoice: 01/05/2021
Application Number: 432514
Contract Number: 008-0185329-100

To: City of Killeen, Texas
1700 E. Stan Schlueter Loop
Killeen, TX 76542

Advance Payments/Security Deposit

Description	Contract Payment	Sales/Use Tax	Other	Amount
First Payment in Advance	\$1,139.36	\$0.00		\$1,139.36
Last Payment in Advance	\$0.00	\$0.00		\$0.00
			\$0.00	\$0.00
Sub Total				\$1,139.36

Other Fees/Charges

Fee Description	Amount
Documentation Fee	\$250.00
Other Fees/Charges Sub Total	\$250.00

Invoice Total Due

Invoice Total Due	\$1,389.36
--------------------------	-------------------

Remit Payment with 866-465-3149
Completed Documents to: OR
TCF National Bank
1111 West San Marnan Dr, Suite A2 West
Waterloo, IA 50701-8926



"Lessee"
City of Killeen, Texas, 1700 E. Stan Schlueter Loop, Killeen, TX 76542
"Lessor"
TCF National Bank, 1111 West San Marnan Dr, Suite A2 West, Waterloo, IA 50701-8926

Delivery and Acceptance agreement attached to and made a part of Lease **008-0185329-100** dated **December 29, 2020** (the "Lease").

This Certificate relates to the Equipment (the "Equipment") that is described in the Lease.

Pursuant to the Lease, Lessee acknowledges that Lessor has acquired the Equipment in connection with the Lease and Lessee has either received a copy of the purchase agreement with the vendor of the Equipment on or before signing the Lease or has approved such purchase. Lessee hereby represents, warrants and certifies that (i) all of the Equipment has been delivered to Lessee at the Equipment Location set forth in the Lease and has been installed, tested and inspected by Lessee or duly authorized representatives of Lessee, (ii) the Equipment Description set forth in the Lease is complete and correct, (iii) the Equipment, together with any supporting documentation, is exactly what Lessee ordered, is in good working order, is satisfactory in all respects and has been accepted by Lessee under the Lease as of the Acceptance Date set forth below, and (iv) there has been no adverse change in the business or financial condition of Lessee or any guarantor of the Lease since the day the most recent financial statement of Lessee or any guarantor was submitted to Lessor. If Lessee has made a deposit to the Equipment vendor(s), by signing this Certificate, Lessee hereby transfers all of Lessee's right, title and interest in and to the Equipment to Lessor, except to the extent set forth in the Lease, whether or not Lessee has been reimbursed for the deposit(s).

IMPORTANT: LESSEE SHOULD SIGN THIS CERTIFICATE ONLY AFTER LESSEE HAS RECEIVED AND IS COMPLETELY SATISFIED WITH THE EQUIPMENT. BY SIGNING THIS CERTIFICATE, LESSEE (1) IS IRREVOCABLY ACCEPTING THE EQUIPMENT, (2) BECOMES ABSOLUTELY AND IRREVOCABLY OBLIGATED TO LESSOR UNDER THE LEASE, AND (3) MAY NOT THEREAFTER REJECT THE EQUIPMENT, CANCEL OR TERMINATE THE LEASE OR DENY ANY STATEMENT MADE IN THIS CERTIFICATE, FOR ANY REASON WHATSOEVER

Acceptance Date: _____

Lessee: City of Killeen, Texas

By: _____ Title: _____

Printed Name: _____

Please Complete and return this document by Fax to 800-741-8079 upon delivery and acceptance of the financed Equipment.



No Israel Boycott Certification

Texas Government Code, Chapter 2270, provides that a governmental entity – including a city – may not enter into certain contracts with a company for goods or services unless the contract contains a written verification that the company does not boycott Israel and will not boycott Israel during the term of the contract. The verification is specifically required when a governmental entity 1) enters into a contract with a company with ten (10) or more full-time employees, and 2) the contract is valued at \$100,000 or more to be paid wholly or partly from public funds.

“Boycott Israel” is defined in Texas Government Code 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.

By signing below, I verify that the company listed below does not boycott Israel and will not boycott Israel during the term of the contracted entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.

Signature

Melanie Rudiger

Printed Name

01/15/2021

Date

TCF National Bank

Company Name

AVP

Title

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2021-706445

Date Filed:
01/14/2021

Date Acknowledged:

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

Professional Turf Products, LP
Euless, TX United States

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

City of Killeen

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

008-0185329-100

Toro commercial mowing and related ground maintenance equipment, large turf irrigation, pump station equipment and all related parts and services.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is DAVID LAU, and my date of birth is 5-31-67.

My address is 1010 N. INDUSTRIAL BLVD., EULESS, TX, 76039, USA.
(street) (city) (state) (zip code) (country)

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

Executed in TARRANT County, State of TX, on the 14 day of 01, 20 21.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



AMENDING RESOLUTION OF MOWER LEASE FOR CITY OF KILLEEN PARKS

RS-21-052

April 20, 2021

Background

3

- ❑ Council approved a 44-month lease agreement with Professional Turf Products on February 9, 2021 for:
 - ▣ One (1) Reelmaster 3100-D mower with 27 inch blade with lift arm
 - ▣ Two (2) Toro Z Master 26.5 HP Kohler CP EFI with 72" TURBO FORCE RD Deck

Amendment

4

- The resolution approved a lease with Turf Products, L.P.
- The lease is with and financed by TCF Capital Solutions, while Turf Products, L.P. is the vendor
- All other terms of the lease remain as approved

Recommendation

5

- ❑ Staff recommends City Council approve amending resolution 21-017 and authorize the City Manager to execute the forty-four (44) month lease with TCF Capital Solutions in the amount of \$50,131.84 over the course of the lease and that the City Manager or designee be authorized to execute any change orders as permitted by state and local law



City of Killeen

Legislation Details

File #:	RS-21-053	Version:	1	Name:	Cohesity Backup and Recovery
Type:	Resolution	Status:		Status:	Resolutions
File created:	4/5/2021	In control:		In control:	City Council Workshop
On agenda:	4/20/2021	Final action:		Final action:	
Title:	Consider a memorandum/resolution authorizing the procurement of Cohesity Backup and Recovery in the amount of \$128,369.60.				
Sponsors:	Information Technology Department				
Indexes:					
Code sections:					
Attachments:	Staff Report				
	Quote				
	Certificate of Interested Parties				
	Presentation				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



STAFF REPORT

DATE: April 20, 2021

TO: Kent Cagle, City Manager

FROM: Willie Resto, Executive Director of Information Technology

SUBJECT: Authorize the Procurement of Cohesity Backup and Recovery

BACKGROUND AND FINDINGS:

The City of Killeen's network is comprised of a set of hardware appliances and disk drives used to provide reliable and secure backups of the applications and critical data. This system creates copies of data that can be restored and recovered to an operating state in the event of disaster, security breach or missing and deleted files. The current backup and recovery solution contains 32 terabytes of storage and is 80% utilized. The lack of ample unused backup storage raises the risk of not being able to recover from application and data corruption in a timely manner. This is caused by shortened data retention and the inability to grow and backup newly added applications and data.

Information Technology solicited quotes for a solution that would address the backup and recovery and allow for 3 - 5 years of growth. Netsync Network Solutions provided a quote that addressed the issues. The cost of hardware equipment, control support and maintenance is a one -time payment of \$128,369.60.

THE ALTERNATIVES CONSIDERED:

1. Purchase Cohesity Backup and Recovery.
2. Do not purchase Cohesity Backup and Recovery.

Which alternative is recommended? Why?

Cohesity Backup and Recovery is designed to maintain the most effective and reliable recovery from disaster, corruption or cybersecurity. Without Cohesity Backup and Recovery, the City would be at risk for loss of critical data and applications. The City would also incur additional costs to recover, if at that point recovery is possible. Option one is the recommended option.

CONFORMITY TO CITY POLICY:

This purchase is made pursuant to the Directory of Information Resources (DIR) cooperative contract #CPO-4430. Purchases made through a cooperative contract satisfy the state competitive bidding requirements as stated in the Texas Local Government Code (TLGC) section 271.102, subchapter F; a local government that purchases goods or services under this

subchapter satisfies state law requiring the local government to seek competitive bids for the purchase of goods or services.

FINANCIAL IMPACT:

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

The Cohesity Backup and Recovery will cost \$128,369.60 in FY 2021.

Is this a one-time or recurring expenditure?

This is a one-time expenditure.

Is this expenditure budgeted?

Yes, funding is available in the Computer Equipment/Software account, 627-2705-419.61-40.

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:

Staff recommends that the City Council authorize the purchase of Cohesity Backup and Recovery from Netsync Network Solutions in the amount of \$128,369.60 and that the City Manager or designee be expressly authorized to execute any and all change orders within the amounts set by state and local law.

DEPARTMENTAL CLEARANCES:

Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Quote
Certificate of Interested Parties

Quote #:	AAAQ330955-02
Date:	03/30/2021
Valid for:	30 Days

Customer	Inside Sales	Account Manager
City of Killeen Vance Willis / (254) 702-0984 VWillis@killeentexas.gov	Kim Ramirez KRamirez2@netsync.com 469-858-9351	Thomas McClanahan tmccланahan@netsync.com 512.656.9424

Please send purchase order to: **PO@netsync.com**

Line #	Part	Description	Qty	Unit Price	Ext Price
1.0	SVC-DATAPROTECT	COHESITY DATAPROTECT SERVICE SUBSCRIPTION (1 TB). BACKUP AND RECOVERY ACROSS ON-PREM AND CLOUD WORKLOADS. SUBSCRIPTION PER TB OF USABLE STORAGE CAPACITY.	47	1,327.50	62,392.50
2.0	PS-INSTALL-SM-CLUS	INSTALL ONE CLUSTER (3-8 NODES) OR UP TO THREE SINGLE NODE VE INSTANCES OR THREE NODES OF CLOUD EDITION. COHESITY SOFTWARE INSTALLATION ONLY. ENSURE READINESS TO CONFIGURE JOBS. INSTALLS MUST BE SAME SITE. EXPIRES 180 DAYS FROM PO.	1	3,600.00	3,600.00
3.0	PS-QCKSTART-SM	CREATION OF BACKUP JOBS FOR UP TO 4 SUPPORTED WORKLOADS (SMALL TIER). SEE TERMS & CONDITIONS FOR ADDITIONAL DETAILS. PRICED PER SITE. REQUIRES PURCHASE OF INSTALLATION SKU. SERVICE DAYS MUST BE CONSECUTIVE BUSINESS DAYS. EXPIRES 180 DAYS FROM PO.	1	8,640.00	8,640.00
4.0	SW-CRISTIE-BMR	CRISTIE BMR (BARE METAL RECOVERY) FOR COHESITY DATAPROTECT PROVIDES THE ABILITY TO RECOVER THE SYSTEM STATE OF A SERVER (PHYSICAL / VIRTUAL) FROM BMR ENABLED BACKUPS ARE PERFORMED USING COHESITY AGENT.	1	495.00	495.00
5.0	CS-P-SW-CRISTIE	PREMIUM (24x7) SUPPORT FOR SW-CRISTIE-BMR Premium (24x7) Support for SW-CRISTIE-BMR - Term - 36 Months Duration: 3.00 Years	1	360.00	360.00
6.0	SVC-ARCHIVE	COHESITY ARCHIVE SERVICE SUBSCRIPTION (1TB). S3 TARGET FOR COLD DATA STORAGE. SUBSCRIPTION PER TB OF USABLE STORAGE CAPACITY. Cohesity Archive Service Subscription (1TB). S3 target for cold data storage. Subscription per TB of usable storage capacity. - Term - 36 Months	76	121.50	9,234.00
7.0	C4700-25G-10G-RJ45-4	C4700-25G-10G-RJ45 FOUR (4) NODE BLOCK WITH 192 TB SECURE ERASE HDD, 12.8 TB PCI-E FLASH, 512 GB RAM, 8X 25G SFP28 OCP AND 16X 10GBE RJ45 PCIE, 4X IPMI; HARDWARE ONLY	1	24,907.50	24,907.50
8.0	CS-4H-C4700-25G-10G-RJ45-4	PREMIUM (24x7) SUPPORT FOR C4700 Premium (24x7) Support for C4700 - Term - 36 Months Duration: 3.00 Years	1	18,680.60	18,680.60
9.0	CBL-10G-RJ45-007	CABLE, 10G, RJ45, CAT6 ETHERNET, 7FT	8	7.50	60.00

Notes

Cohesity C4700-25G-10G Four (4) Node Block 192 TB

Netsync DIR-CPO-4430|DIR-CPO-4430

Total	128,369.60
Tax/Vat	0.00
Shipping	0.00
Grand Total USD	128,369.60



No Israel Boycott Certification

Texas Government Code, Chapter 2270, provides that a governmental entity – including a city – may not enter into certain contracts with a company for goods or services unless the contract contains a written verification that the company does not boycott Israel and will not boycott Israel during the term of the contract. The verification is specifically required when a governmental entity 1) enters into a contract with a company with ten (10) or more full-time employees, and 2) the contract is valued at \$100,000 or more to be paid wholly or partly from public funds.

“Boycott Israel” is defined in Texas Government Code 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.

By signing below, I verify that the company listed below does not boycott Israel and will not boycott Israel during the term of the contracted entered into with the City of Killeen. I further certify that I am authorized by the company listed below to make this verification.

Signature

Angela Melone

Printed Name

3/25/2021

Date

Netsync Network Solutions

Company Name

Corporate Editor

Title

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.**

Netsync Network Solutions
Houston, TX United States

Certificate Number:
2021-730614

Date Filed:
03/25/2021

Date Acknowledged:

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

City of Killeen

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

AAAQ330955
Cohesity C4700-25G-10G Four (4) Node Block 192 TB

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

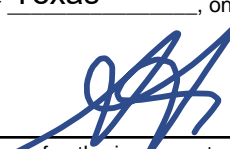
5 Check only if there is NO Interested Party.**6 UNSWORN DECLARATION**

My name is Angela Melone, and my date of birth is 6/1/1969.

My address is 2500 West Loop South, Ste. 410, Houston, TX, 77027, USA.
(street) (city) (state) (zip code) (country)

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

Executed in Harris County, State of Texas, on the 25 day of March, 2021.
(month) (year)



Signature of authorized agent of contracting business entity
(Declarant)



COHESITY BACKUP AND RECOVERY

RS-21-053

April 20, 2021

Background

2

- ❑ The current backup system Barracuda 895 provides redundancy and encryption for approximately 32 Terabytes (TB) of data to support the City's files, emails and database servers
- ❑ The Barracuda backup system currently utilizes 25 Terabytes limiting backup capabilities
- ❑ Without the ability to backup all critical data the City increases the risk of losing data if a disaster or cybersecurity breach occurs

Background

3

- ❑ Netsync is a certified Cisco partner and pricing is through the Texas Department of Information Resources CPO-4430
- ❑ The Cohesity Backup and Recovery Solution has a capacity of 196 Terabytes and is designed to maintain the most effective and reliable recovery from disaster, corruption or ransomware
- ❑ The Cohesity device will allow for data growth over the next five years
- ❑ The cost of Cohesity Solution is not to exceed \$128,369.60

Alternatives

4

- Do not authorize the purchase of Cohesity Backup and Recovery
- Authorize the purchase of Cohesity Backup and Recovery from Netsync Network Solutions in an amount not to exceed \$128,369.60 using the Texas DIR contract CPO-4430

Recommendation

5

- Staff recommends that the City Council authorize the purchase of Cohesity Backup and Recovery from Netsync Network Solutions not to exceed \$128,369.60 and that the City Manager or designee be expressly authorized to execute any and all change orders within the amounts set by state and local law



City of Killeen

Legislation Details

File #: RS-21-054 **Version:** 1 **Name:** Police Duty Weapons
Type: Resolution **Status:** Resolutions
File created: 4/5/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Consider a memorandum/resolution authorizing the purchase of duty pistols, police equipment and ammunition from GT Distributors, Inc. in an amount not to exceed \$158,542.53.
Sponsors: Police Department
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Quote](#)
[Certificate of Interested Parties](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



STAFF REPORT

DATE: April 20, 2021

TO: Kent Cagle, City Manager

FROM: Charles F. Kimble, Chief of Police

SUBJECT: Purchase of Duty Weapons, Gear and Ammunition

BACKGROUND AND FINDINGS:

The Killeen Police Department has owned and issued the Sig Sauer P320 pistol as its standard duty sidearm for approximately five years. There is an unresolved potential safety issue with that particular pistol that may cause it to discharge unintentionally. In order to ensure the safety of our citizens and officers, the department is seeking to replace the pistol with a proven design. The pistols we have selected are manufactured by Glock, Inc. Glock pistols are in use by approximately 65% of U.S. police departments. In addition to the duty weapons, the department will also purchase specialized training models that are inert and others that fire Simunition training ammunition. The pistols will be purchased from GT Distributors, Inc. under TASB Buyboard Contract #603-20.

The change in pistols will necessitate new holsters and magazine pouches which are fitted specifically to the particular pistol model. Each officer requires a duty holster and, depending upon assignment, an additional specialized holster. The holsters and mag pouches will be purchased from GT Distributors, Inc. under TASB Buyboard Contract #603-20.

Finally, all officers will undergo transition training and proficiency testing with the new pistols. The department is planning to use 500 rounds of ammunition for each officer. GT Distributors is the exclusive Law Enforcement Distributor for Vista Outdoors, the parent company of Federal Ammunition. Training ammunition will be purchased from GT Distributors, Inc. under TASB Buyboard Contract #603-20.

A portion of the cost of this purchase will be offset by trade-in credit for our existing duty pistols and other department-owned weapons.

THE ALTERNATIVES CONSIDERED:

Continue to field existing duty weapons with potential safety issue.

Authorize the purchase of pistols, duty gear and ammunition as proposed.

Which alternative is recommended? Why?

Staff recommends authorizing the purchase of the new equipment as proposed. Failure to do so could expose officers and others to a potential safety issue and the city to potential liability.

CONFORMITY TO CITY POLICY:

This purchase conforms to City Policy and applicable laws. Purchases made through a cooperative contract satisfies the state competitive bidding requirements as stated in Texas Local Government Code section 271.102, subchapter F; a local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

FINANCIAL IMPACT:**What is the amount of the expenditure in the current fiscal year? For future years?**

Weapons, including training models and additional magazines:	\$173,572.25
Duty gear including holsters and mag pouches:	\$68,019.00
Training Ammunition:	\$32,312.28
Credit for Trade-in weapons:	(\$115,361.00)

Total cost of this program for the current fiscal year will be: **\$158,542.53**

For future years: Police training is perpetual. The department budgets annually for training ammunition and wear-and-tear replacement of duty gear.

Is this a one-time or recurring expenditure?

One-time

Is this expenditure budgeted?

Yes, funds are available in the following accounts:

010-6055-441-41.20 Uniform and Clothing
010-6055-441-41.63 Ammunition
010-6055-441-46.35 Equipment and Machinery

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 Manager or his designee be authorized to execute the described purchase of police duty weapons, duty gear and ammunition from GT Distributors, Inc. through

the TASB BuyBoard and TXMAS Buyboard purchasing cooperatives, in an amount not to exceed \$158,542.53 in the current fiscal year.

DEPARTMENTAL CLEARANCES:

Purchasing
Finance
Legal

ATTACHED SUPPORTING DOCUMENTS:

Quote
Certificate of Interested Parties



GT Distributors - Austin
P.O. Box 16080
Austin TX 78761
(512) 451-8298 Ext. 0000

Quote	QTE0131148
Date	4/6/2021
Page:	1

Bill To:

Killeen City of (TX)
P O Box 1329
Attn: Accounts Payable
Killeen TX 76540-1329

Ship To:

Killeen, City of
3304 Community Blvd
Killeen TX 76542

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
GLOCK 040621	000131	BF	FACTORY DIRECT	NET 15	0/0/0000	2,284,487
Quantity	Item Number	Description	UOM	Unit Price	Ext. Price	
270	GLOCK-PA455S302MO	Glock Model 45 9mm MOS Ameriglo Bold Sigh	EA	\$500.50	\$135,135.00	
25	GLOCK-PA4850302FRM	GLOCK 48 Black AMGLO BOLD 5.5lb LE MOS	EA	\$425.49	\$10,637.25	
25	GLOCK-UA195ST202	Glock 19T GEN 5 Fixed Sights	EA	\$455.00	\$11,375.00	
25	GLOCK-PD2394002*	Glock 23P (Red training pistol)	Each	\$455.00	\$11,375.00	
150	GLOCK-39328	Glock G17 Gen 5 17rd Magazine	EA	\$21.00	\$3,150.00	
25	GLOCK-47575	Glock Mag G43X/G48 10rd	EA	\$21.00	\$525.00	
25	RINGS-FSG45-X300*	Rings-Glock 45-Blue Gun w/ X300	EA	\$55.00	\$1,375.00	
325	SAF-7360RDS-28325-4	Safariland 7360RDS Holster w/Light G19 MOS	EA	\$125.00	\$40,625.00	
25	SAF-6360-283-91*	Safariland ALS/SLS STX HiGloss G19	EA	\$145.28	\$3,632.00	
125	SAF-7377-896-411*	Model 7377 7TS ALS® Concealment Belt Slide	EA	\$43.75	\$5,468.75	
30	BI-26756	Bianchi MODEL 145 SUBDUE™ IWB HOLSTE	Each	\$48.75	\$1,462.50	
325	SAF-775-83-13	Safariland Slimline Open Top Triple Mag Pouch	Each	\$35.31	\$11,475.75	
25	SAF-775-83-9	Safariland 775 Slimline Open Top 3 Mag Pouch G17, 22, 34, 35 HG	EA	\$39.50	\$987.50	
40	SAF-TMA-1-2*	Safariland Tactical MOLLE Adapter, Black	EA	\$12.50	\$500.00	
125	SAF-079-83-6	Safariland Mag Pouch Snap On Double Glock 17, 19, 22, 23	EA	\$30.94	\$3,867.50	
132.00	FC-AE9FP*	Federal Cartridge-9MM-147 Gr. FMJ	M	\$244.79	\$32,312.28	
300	UG-SIGP320-9MM	Used Gun Sig P320 9mm Pistol	EA	(\$320.00)	(\$96,000.00)	



GT Distributors - Austin
P.O. Box 16080
Austin TX 78761
(512) 451-8298 Ext. 0000

Quote	QTE0131148
Date	4/6/2021
Page:	2

Bill To:

Killeen City of (TX)
P O Box 1329
Attn: Accounts Payable
Killeen TX 76540-1329

Ship To:

Killeen, City of
3304 Community Blvd
Killeen TX 76542

Purchase Order No.	Customer ID	Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
GLOCK 040621	000131	BF	FACTORY DIRECT	NET 15	0/0/0000	2,284,487
Quantity	Item Number	Description	UOM	Unit Price	Ext. Price	
1	LOT OF GUNS*	Lot Of Guns - 114 trade in guns	EA	(\$19,361.00)	(\$19,361.00)	
1	BUYBOARD	Quotation reflects BuyBoard Contract 603-20 Contract period 4/1/21 - 3/31/22. Email BuyBoard PO's to info@buyboard.com	Each	\$0.00	\$0.00	

All returns must be authorized by GT Distributors. Interest charges on past due invoices at the maximum rate allowed by law.

Your salesman was Brad.
Thank-you for your business.

Subtotal	\$158,542.53
Misc	\$0.00
Tax	\$0.00
Freight	\$0.00
Total	\$158,542.53



December 16, 2019

TO: Whom It May Concern,

This letter is to serve as a notice that GT Distributors is the only authorized Law Enforcement Ammunition distributor for the State of Texas for Vista Outdoor. This includes all LE lines of ammunition for Federal Premium, SPEER and Force on Force branded products.

If you have any questions, please feel to reach out to me directly.

Respectfully,

A handwritten signature in black ink, appearing to read "R. Watkins", with a long horizontal flourish extending to the right.

Randall D. Watkins
LE Ammunition Sales – (TX, OK, KS)
Manager - Force on Force Sales
USMC Ret.
Mobile: 512-549-9646
Randall.Watkins@VistaOutdoor.com



CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:
2021-733608

Date Filed:
04/01/2021

Date Acknowledged:

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

G T Distributors, Inc
Austin, TX United States

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

Killeen Police Department

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

QTE0131148
Glock Purchase

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.



6 UNSWORN DECLARATION

My name is DAVID CURTIS and my date of birth is 3/11/83

My address is 2545 BROCKTON DRIVE SUITE 100 AUSTIN TX AUSTIN USA
(street) (city) (state) (zip code) (country)

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

Executed in TRAVIS County, State of AUSTIN, on the 2ND day of APRIL, 20 21
(month) (year)


Signature of authorized agent of contracting business entity
(Declarant)



POLICE DUTY WEAPONS

RS-21-054

April 20, 2021

Police Duty Weapons

2

- ❑ The Killeen Police Department has identified a potential safety issue with its current duty pistol which could cause an unintentional discharge. The issue remains unresolved by the manufacturer.
- ❑ The department seeks to replace its current inventory of Sig Sauer P320 pistols with Glock 45 and 48 pistols.
- ❑ The Glock is a proven design and is in use by approximately 65% of U.S. police departments.
- ❑ The package will include dedicated training weapons, new holsters and magazine pouches, and transition training ammunition.

Police Duty Weapons

3

- A portion of the cost of this purchase will be offset by trade-in credit for our existing duty pistols and other department-owned weapons.
- All items will be purchased under TASB Buyboard contract.
- GT Distributors, Inc. is the only authorized LE distributor in Texas for Vista Outdoor, the parent company of Federal Premium and Speer Ammunition.

Funding

4

- Glock transition expenses:
 - Weapons and Accessories: \$173,572.25
 - Holsters and Pouches: \$68,019.00
 - Training Ammunition: \$32,312.28
 - Trade-in credit: (\$115,361)
 - TOTAL \$158,542.53
- The department has identified funds for this purchase.

Alternatives

5

- ❑ Continue to field existing duty weapons with potential safety issue.
- ❑ Authorize the purchase of pistols, duty gear and ammunition as proposed.

Recommendation

6

- Staff recommends that the City Manager or his designee be authorized to execute the described purchase of police duty weapons, duty gear and ammunition from GT Distributors, Inc. through the TASB BuyBoard purchasing cooperative, in an amount not to exceed \$158,542.53 in the current fiscal year.



City of Killeen

Legislation Details

File #: RS-21-055 **Version:** 1 **Name:** Amendments-Economic Development Policy
Type: Resolution **Status:** Resolutions
File created: 4/6/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Consider a memorandum/resolution approving amendments to the Economic Development Policy.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Revised Policy](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



STAFF REPORT

DATE: April 20, 2021

TO: Kent Cagle, City Manager

FROM: Tony D. McIlwain, AICP, Executive Director of Planning and Development Services

SUBJECT: Approve amendments to the Economic Development Policy

BACKGROUND AND FINDINGS:

The City Council approved the current Economic Development Policy (i.e. 'Policy') on January 15, 2019 per Resolution No. 19-007. The economic development incentives listed in the Policy are clearly established, while allowing flexibility, without being overly restrictive. The City delegates primary responsibility for economic development to the Killeen Economic Development Corporation (KEDC) with the intent of stimulating local economic activity and creating competitive wage jobs while broadening the tax base.

The Policy provides that City Council shall review the Policy annually to ensure its ongoing relevance. The attached Policy contains updated text in the sections detailing Enterprise Zones in Division 5 and Funding options under Appendix 1. These text changes are minor in scope.

THE ALTERNATIVES CONSIDERED:

The City Council has the following alternatives:

1. Do not approve the Policy;
2. Approve the Policy with additional amendments; or
3. Approve the Policy as presented.

Which alternative is recommended? Why?

Staff recommends alternative number three. The submitted document satisfies the economic policy directive listed in the City's adopted Governing Standards and Expectations.

CONFORMITY TO CITY POLICY:

This action conforms with City policy.

FINANCIAL IMPACT:

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

Approval of this action carries no expenditures.

Is this a one-time or recurring expenditure?

There are no expenditures associated with this item.

Is this expenditure budgeted?

There are no expenditures associated with this item.

If not, where will the money come from?

There are no expenditures associated with this item.

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

There are no expenditures associated with this item.

RECOMMENDATION:

Staff recommends that the City Council approve the amendments to the Economic Development Policy as presented.

DEPARTMENTAL CLEARANCES:

Legal
Finance

ATTACHED SUPPORTING DOCUMENTS:

Revised Policy



City of Killeen

Economic Development Policy

ADOPTED VIA RESOLUTION - ____

ECONOMIC DEVELOPMENT POLICY:

DIVISION 1. INTRODUCTION.....	2
DIVISION 2. ECONOMIC DEVELOPMENT PROGRAM.....	2
Sec. 2-10. Purpose.....	2
Sec. 2-20. Goals.....	2
DIVISION 3. COMPONENTS OF ECONOMIC DEVELOPMENT.....	3
Sec. 3-10. Workforce Development.....	3
Sec. 3-20. Provision of Infrastructure.....	4
Sec. 3-30. Availability of Utilities.....	5
Sec. 3-40. Access to Capital.....	5
Sec. 3-50. Government Regulations.....	5
Sec. 3-60. Economic Development Partners' Roles and Expectations.....	5
Sec. 3-70. Confidentiality Statement.....	7
DIVISION 4. ECONOMIC DEVELOPMENT PROCESS.....	7
DIVISION 5. ECONOMIC DEVELOPMENT INCENTIVES TOOLBOX.....	8
DIVISION 6. TARGETED BUSINESSES & INDUSTRIES.....	12
DIVISION 7. ANNUAL REVIEW OF POLICY.....	14
APPENDIX 1. FUNDING OPTIONS.....	15
APPENDIX 2. APPLICATION AND PERFORMANCE AGREEMENT.....	17

ECONOMIC DEVELOPMENT POLICY

DIVISION 1. INTRODUCTION

The City of Killeen desires to create a policy for economic development incentives that are specific enough to establish clear boundaries, but not overly restrictive, so as to allow for flexibility and discretion and ensure that the best interests of the community are served. The City delegates primary responsibility for economic development to the Killeen Economic Development Corporation (KEDC).

The Economic Development Policy will guide economic development activities by directing the growth of Killeen to maximize economic potential, secure and enhance quality of life, and create a bright future. The City of Killeen desires to stimulate economic activity and create competitive wage jobs, thereby broadening its collective tax base and attracting investments that would improve the quality of life for its citizens.

DIVISION 2. ECONOMIC DEVELOPMENT PROGRAM

Sec. 2-10. Purpose

The purpose of this policy is to grant, and vest authority to offer incentives, when appropriate, to eligible applicants or projects that support:

1. Growth of private sector employment that provides competitive wage jobs and talent development, within the City of Killeen;
2. Increased tax revenue and other revenues;
3. Diversifying the economic base; and/or
4. Public infrastructure development.

This policy is intended to attract new businesses and encourage expansion of existing businesses. The City Council, at its sole discretion, may offer assistance to retain existing businesses when they deem it appropriate to do so.

Sec. 2-20. Goals

The City of Killeen has the following goals:

- A. **Employment** – Stimulate the creation and retention of permanent competitive wage jobs that reduce unemployment and underemployment rates;
- B. **Fiscal** - Promote and encourage private sector capital investment that generates stable long-term revenue streams to support the City's services and infrastructure;
- C. **Economic Diversification** - Encourage and foster the development of targeted industries;

- D. **Workforce Development** - Close the “Capabilities Gap” by supporting new and existing businesses and industries that adopt new technology and processes;
- E. **Business Retention & Expansion** - Support existing business and industry by providing services and programs that facilitate expansion and long-term stability;
- F. **Targeted Investment Areas** - Facilitate development of key commerce and industrial areas including existing and future business/industrial parks that will result in incremental infrastructure development;
- G. **Public Infrastructure Development** – Promote the construction of public infrastructure to ensure that key sites are ready for development; and
- H. **Place design**- Place design to shape developments. Incentives can be used to add quality, or up-scale features to a project. This is particularly the case with non-industrial developments where unique architecture, landscaping or other features would enhance the quality of development to attract customers and other businesses.

DIVISION 3. COMPONENTS OF ECONOMIC DEVELOPMENT

Sec. 3-10. Workforce Development

Workforce Development Policy Statement- The City, through KEDC, shall coordinate with the Workforce Solutions of Central Texas to provide employment assistance and training to eligible businesses and industries. The City shall coordinate with other partners, local or otherwise, to provide necessary training to close the “Capabilities Gap” by supporting new and existing business and industry that adopt new technology and processes that require special training.

It is important for economic development activities to closely align with workforce development efforts. Successful workforce development efforts include supplying the needed workforce, taking stock of business needs, connecting employees with job training and education programs, and developing initiatives to attract and retain the right kind of talent in the community. Educational institutions can develop workforce training programs to entice prospective industries and businesses to locate in Killeen.

The following resources are available:

- A. **The Texas Self-Sufficiency Fund** is a job-training program that is specifically designed for individuals who receive Temporary Assistance for Needy Families (TANF). The program links the business community with local educational institutions and is administered by the Texas Workforce Commission. The goal of the Fund is to assist TANF recipients in becoming independent from government financial assistance.
- B. **The Killeen Economic Development Corporation (KEDC)** offers cash incentives for businesses that create competitive wage jobs in Killeen. These funds may be utilized by companies to train and develop their workforce in ways that suit them best.

- C. **The Workforce Solutions of Central Texas** provides programs and services to meet the employment needs of business, industry, and workers in the Central Texas area. These services are designed to place Texans in jobs and to equip those workers with the skills needed to foster economic development.
- D. **The Business Resources Center**, which is a collaboration of GKCC, CTC, and Workforce Solutions of Central Texas. Their activities are limited to small business development.
- E. **The Veterans Business Outreach Center (VBOC)** is a program designed to provide entrepreneurial development services such as business training, counseling, mentoring and resource partner referrals to transitioning service members, veterans, National Guard and Reserve members, and military spouses interested in starting or growing a small business.
- F. **The Skills Development Fund** is a program created to assist in financing public, community, and technical colleges to customize job training for their local businesses. The Fund was established by the Legislature in 1995 and is administered by the Texas Workforce Commission. Grants are provided to help companies and labor unions form partnerships with local community colleges and technical schools to provide custom job training.
- G. **The Economic Development and Diversification In-State Tuition** incentive allows employees and family members of a qualified business considering a relocation or expansion of its operations to pay in-state tuition rates at public institutions of higher education in the state without first establishing residency. A city, county or economic development group covering the Texas region in which the qualified business is considering locating may apply on behalf of the business, so long as the business is still in the decision-making process to relocate or expand its operations at the applicable site. The incentive lasts for a period of five (5) years after the qualified business becomes established as part of the state's Economic Development and Diversification Program (i.e., a qualifying student's enrollment date may not be more than five (5) years after the dates of the qualified business' establishment in the program).
- H. **Educational Institutions** such as Central Texas College (CTC), Killeen Independent School District (KISD), Texas A&M Central University Central Texas (TAMU-CT).

Sec. 3-20. Provision of Infrastructure

Provision of Infrastructure Policy Statement- The City, through KEDC, may on a case by case basis, consider paying or reimbursing businesses/developers for all or a portion of the cost of public infrastructure required for targeted economic development to occur. Tax Increment Reinvestment Zone (TIRZ) #2 was established for that purpose. The City may also offer incentives to promote economic development throughout the city.

Public infrastructure is an integral part of economic development. The City must promote the construction of infrastructure to ensure that adequate sites are available for targeted industry and business development, or be ready to participate with the private sector with development incentives.

Sec. 3-30. Availability of Utilities

Availability of Utilities Policy Statement - Local utility providers are always ready to accommodate new development and work with developers to provide needed utilities. The City and/or KEDC will assist utility providers as possible to provide such utilities, subject to all applicable laws, rules and requirements.

Sec. 3-40. Access to Capital

Access to Capital Policy Statement - The City, through KEDC, shall assist businesses by providing them with information regarding available funding alternatives to obtain loans, grants, or other resources.

Potential funding options for businesses include banks and credit unions, the U.S. Small Business Administration loans, and alternative online lenders. See Appendix 1 for a list of funding options.

Sec. 3-50. Government Regulations

Compatible Government Regulations Policy Statement- The City shall streamline the economic development process so that it is efficient and not unnecessarily burdensome, while remaining in compliance with all applicable state, federal and local laws.

Sec. 3-60. Economic Development Partners' Roles and Expectations

- A. **City Council** - The City Council shall develop and adopt clear and understandable policy to promote the creation and retention of competitive wage jobs and attract targeted businesses and industries. The City Council shall also annually audit Development Agreements and review and evaluate incentivized projects and the economic development policy and incentives to determine if adjustments are required to improve the economic development tools.
- B. **City of Killeen Staff** –City staff develops website information regarding this policy and the development process in Killeen. The Planning and Development Services Director, or designee, shall act as liaison to facilitate the development process.
- C. **Killeen Economic Development Corporation (KEDC)** - KEDC is the primary economic development arm of the City. KEDC encourages the economic development of Killeen and recommends to the City Council projects and programs to encourage and further the economic development of Killeen.

KEDC shall provide the City with an annual budget detailing the anticipated use of the City's allocated funds. KEDC is authorized to commit and spend allocated funds contributing to the creation of new jobs or retention of jobs without securing prior approval from the City Council for the following types of projects: improvement of infrastructure, extension of existing roads, water and sewer treatment and improvement; business, industrial or commercial expansion grants, state and federal matching grants, construction of building and structures to attract business, purchase of land for present/future business expansion, professional services associated with creation/retention of military/civilian jobs, insurance to secure KEDC's interest in any such projects, and posting of required bonds.

KEDC, shall obtain City Council consent prior to entering into any agreement requiring an expenditure of public funds or for any agreement expending allocated funds in a manner not specifically authorized above to be spent without Council approval. For purposes of this document, "public funds" are City budgeted funds that do not include funds that have been allocated to KEDC pursuant to an agreement with KEDC for economic development services.

When incentives that require City action are contemplated, including but not limited to tax abatement, 380 agreements, and public improvement districts, KEDC shall make recommendations to the City Council.

When an incentives application is submitted to the City the Killeen or KEDC, KEDC will review, process, and evaluate the application pursuant to the City's Economic Development Application and Performance Agreement Instructions attached hereto as Appendix 2.

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 its progress and plans in promoting the economic development of the City. If the need arises for additional communication on a sensitive matter, KEDC shall communicate to City Council members within the bounds of the law. KEDC shall work with the City's liaison to keep the City informed of its activities and to schedule required meetings with City Council.

- D. **The Greater Killeen Chamber of Commerce (GKCC)** - The Chamber of Commerce focuses on programs that will lead to the creation and recruitment of jobs with competitive wages in the service, manufacturing and retail sectors. They organize and host prospect visits to the community, analyze data, and prepare recommendations. They work with a negotiating team to evaluate and create incentive proposals, prepare offer letters, and collaborate with attorneys to prepare Development/Performance Agreements. They then present projects to the City Council, as needed, for the Council's approval. The GKCC funds the Business Resource Center, which offers counseling and training to entrepreneurs and small businesses. They conduct a business recruitment program to attract new retail business and commercial/industrial business to the community. They

market and keep the Killeen Business Park competitive. They also provide staff support for KEDC and the Killeen Industrial Foundation (KIF) and contribute to economic development by keeping the KEDC website up to date. The GKCC develops policy, keeps current, and acts on public policy agendas to address key issues at the federal, state, and local levels.

In promoting economic development, they maintain a meaningful, user-friendly chamber website and continually add content to the websites to meet the information needs of investors and the general public.

- E. **Other Partners** - Educational institutions can develop workforce training programs to entice prospective industries and businesses to locate in Killeen. Also, Bell County has economic development programs and incentives that Killeen could benefit from.

Sec. 3-70. Confidentiality Statement

It is specifically agreed and understood between all parties that confidentiality must be maintained in economic development negotiations and discussions with potential. Subject to the Texas Open Meetings Act, Texas Public Information Act (V.T.C.A., Government Code, Chapters 551 and 552, respectively), Texas Attorney General opinions interpreting the same, and any other applicable statute or regulation, it must be agreed and understood that involved parties may freely conduct confidential discussions or negotiations, unless and until some public action by the City is required, or unless and until the release of such information is approved by the potential employer.

DIVISION 4. ECONOMIC DEVELOPMENT PROCESS

The economic development process includes:

- 1) Identifying business opportunities, supporting entrepreneurial initiatives, facilitating market access and creating a climate conducive to investment and business activity;
- 2) Seizing opportunities and effectively utilizing labor, capital and other resources to achieve local priorities;
- 3) Identifying sites that are already zoned appropriately and served by utilities and streets, or sites that can be zoned and developed to accommodate new companies;
- 4) Identifying available services that could be needed and how to obtain them;
- 5) Identifying potential incentives that could be offered to a new or growing business;
- 6) Identifying companies that will locate in Killeen. This includes meeting with and providing interested companies with all relevant information on development requirements, permits, certificates of occupancy, and community resources that could play a part in providing employee training or other services;
- 7) Guiding potential developers in completing required applications, including those for economic development incentives;

- 8) Submission and evaluation of all required applications by the City and others;
- 9) Obtaining necessary permits and construction of facilities; and
- 10) Obtaining a Certificate of Occupancy in order to use the facilities.

DIVISION 5. ECONOMIC DEVELOPMENT INCENTIVES TOOLBOX

This policy is intended to ensure that the use of economic development incentives is standardized, contributes to the community's vitality, and targets prospects with a high return on investment. The City has many incentives in its tool box, including tax abatement, fee waivers, grants, etc. No incentives will be distributed on a retroactive funding basis. City incentives will only be granted pursuant to this policy. Neither the applicant/business, nor the City, shall be obligated to the other until such time an approved Performance Agreement is fully executed and all conditions are met.

The following are potential incentives that could be utilized independently or in combination with others:

- A. 380 and 381 Development Agreement** - Through a 380/381 Agreement, the City/County can provide grants, loans, and services for the promotion and encouragement of economic development by stimulating business and commercial activity within the City. These are governed by Chapters 380 and 381 of the Texas Local Government Code.
- B. Job Creation Incentive** - The City shall offer job creation incentive through KEDC and other sources when possible. The KEDC offers cash incentives based on competitive wage jobs that are created in Killeen. Generally, if the prospect's business is in a targeted industry cluster, an amount of \$2,500 or more could be offered for each full time equivalent job created. The amount is based on the return on investment back to the City of Killeen.
- C. Killeen Tax Abatement** - The City of Killeen offers tax abatements up to 100 percent (100%) of property taxes (excluding school district taxes, per state law) and can be approved for up to ten (10) years.
- D. KEDC Incentives** - Potential incentives are listed below:
 - a. Build-to-Suit Option: KEDC will consider a build-to-suit agreement in exchange for a five- to ten-year lease agreement, with a five year option to renew.
 - b. Job Creation Payments: KEDC offers cash incentives based on premier paying jobs that are created in Killeen. Generally, if the prospect's business is in a Targeted Industry Cluster, an amount of \$2,500 or more could be offered for each job created. The amount is based on the Return on Investment back to the City of Killeen.

- c. Tax Abatements: Up to 100 percent of property taxes (excluding school district taxes, per state law) can be abated up to five (5) years.
- d. Fast Track Permitting: The City of Killeen offers Fast Track Permitting for companies meeting at least one of the following criteria:
 - 1. Create a minimum of 50 permanent, full-time jobs within the first 12 months after its expansion or relocation to the City of Killeen; or
 - 2. Create a minimum increase in property value of 300% for construction of a new facility; or
 - 3. Expansion of an existing facility with an investment of at least \$250,000 in taxable assets; or
 - 4. Be a targeted industrial, commercial or service project eligible for incentives; or
 - 5. Produce \$2 million in gross annual payroll.
- e. Reduced price or free land: KEDC and the Killeen Industrial Foundation own land in the Killeen Business Park. Land can be discounted or provided without charge.
- f. Employment assistance utilizing the Workforce Solutions of Central Texas.
- g. Property tax reimbursement: Property taxes can be reimbursed by KEDC in lieu of a Tax Abatement.

E. North Killeen and Downtown Incentives:

- 1) **Façade Improvement Grant Program** - The City of Killeen offers a grant for eligible rehab projects located in the downtown Historic Overlay District (HOD). The grant is structured on a 4:1 basis, in which the City contributes 80% of the eligible costs, and the property owner contributes 20% of funds toward façade, roof, and/or sign improvements. The goal of this program is to encourage reinvestment in, and revitalization of, downtown Killeen. These grants are available for up to \$10,000 per façade with a maximum subsidy of \$20,000 per property owner in any given calendar year.
- 2) **Historic District Sign Grant Program** - Any commercial property within the Historic Overlay District (HOD) is eligible for sign grant funds. The Historic District Sign Grant Program is designed to encourage unique, quality signs in Killeen's historic business district. The grant is a single payment reimbursement to property owners and tenants per building on a 50/50 matching basis with a cap of \$800 per grant.
- 3) **North Killeen Revitalization Program** – The North Killeen Revitalization Program exists to promote redevelopment in North Killeen, including downtown, by offering financial incentives for property owners who wish to construct new buildings or rehabilitate or expand existing ones. New construction and rehabilitation projects that spend at least \$2,000 are eligible to have all permit fees waived.

Also, Tax Abatement Guidelines and Criteria for this area offer tax abatement opportunities to commercial and multi-family property owners who increase their property value 150% for new construction or 25% for the expansion of an existing facility and an overall new investment of at least \$25,000 in taxable assets.

- 4) **Texas Historic Preservation Tax Credit Program** - The state historic tax credit is worth 25 percent of eligible rehabilitation costs and is available for buildings listed in the National Register of Historic Places. The program is administered jointly by the Texas Historical Commission (THC) in cooperation with the Texas Comptroller of Public Accounts.
 - 5) **Federal Historic Preservation Tax Incentives** - The Federal Historic Preservation Tax Incentives program encourages private sector investment in the rehabilitation and reuse of historic buildings by offering a twenty percent (20%) tax credit for the rehabilitation of historic buildings. Established in 1976, the federal historic tax credit program is a significant financial incentive for the reuse of historic buildings and revitalization of historic downtowns.
- F. **Tax Increment Reinvestment Zone No. 2** - In 2008, the City created TIRZ No. 2, comprised of a large area including the City's downtown. TIRZ funds can be used to construct needed public infrastructure, thereby encouraging development and increasing property values and long term property tax revenue. The TIRZ can reduce the developer's costs by providing reimbursement for eligible public improvements. This reduction in the cost of development may ensure the viability of certain types of development.
- G. **Industrial District Agreement** - An Industrial District Agreement contractually protects companies located in the designated district from annexation and exempts them from City requirements, such as permitting and platting, in exchange for a Payment in Lieu of Taxes (PILOT).
- H. **State & Federal Incentives** - Texas offers competitive incentives to companies that are creating jobs and driving innovation in Texas. The incentives are administered by the Department of Economic Development Finance. Local incentives and tax abatements are not included here.
- I. **Texas Enterprise Zone** - The State Economic and Tourism department identifies portions of Killeen, as designated State Enterprise Zones. The Enterprise Zone Program is an economic development tool, which allows local communities to partner with Bell County to promote job creation and significant private investment that will assist economically distressed areas of the state. Approved projects are eligible to apply for state sales and use tax refunds on qualified expenditures. The Texas Enterprise Fund

Deleted: 's downtown area

Deleted: a

(TEF) is used as a final incentive tool for projects that offer significant projected job creation and capital investment and where a single Texas site is competing with another viable out-of-state option.

J. **Product Development and Small Business Incubator Fund** - The Product Development and Small Business Incubator Fund (PDSBI) is a revolving loan program financed through original bond issuances. The primary objective of the program is to aid in the development, production and commercialization of new or improved products, and to foster and stimulate small business.

K. **Development Agreements** - Chapter 212 of the Texas Local Government Code provides a mechanism for a city to ~~enter into a written contract with an owner of land in the city's extraterritorial jurisdiction (ETJ) to:~~

- 1) Guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the municipality;
- 2) Extend the municipality's planning authority over the land by providing for a development plan to be prepared by the landowner and approved by the municipality under which certain general uses and development of the land are authorized;
- 3) Authorize enforcement by the municipality of certain municipal land use and development regulations in the same manner the regulations are enforced within the municipality's boundaries;
- 4) Authorize enforcement by the municipality of land use and development regulations other than those that apply within the municipality's boundaries, as may be agreed to by the landowner and the municipality;
- 5) Provide for infrastructure for the land, including streets, drainage, water, wastewater, and other utility systems;
- 6) Authorize enforcement of environmental regulations;
- 7) Provide for the annexation of the land as a whole or in parts and to provide for the terms of annexation, if annexation is agreed to by the parties;
- 8) Specify the uses and development of the land before and after annexation, if annexation is agreed to by the parties; or
- 9) Include other lawful terms and considerations the parties consider appropriate.

Public Improvement Districts (PID) - A public improvement district (PID) is a defined geographical area established to provide improvements financed by assessments against the property owners within the district. Allowable projects include construction or improvement of pedestrian malls; acquisition, construction or improvement of libraries; and the establishment or improvement of parks.

Deleted: can

Chapter 372 of the Texas Local Government requires that the petition to create a PID be signed by owners of more than 50% of the appraised value of the taxable real property subject to assessment, as well as owners of real property liable for assessment who constitute more than 50% of all owners liable for assessment, or own taxable real property that constitutes more than 50% of the area liable for the assessment.

Deleted:

- L. **Up-sizing Agreements** - Section 212.071 of the Local Government Code regulates how cities can enter into Developer Participation Contracts without having to comply with the sealed bid requirements of Texas Local Government Code Chapter 252. Subject to certain limitations, Section 212.071 allows the city to “make a contract with a developer of a subdivision or land in the municipality to construct public improvements, not including a building, related to the development.” Under a contract pursuant to Section 212.071, the developer is required to construct the improvements, and the city is required to participate in the costs. The City may participate in up to thirty percent (30%) of the total contract price, and additionally may participate in up to 100 percent (100%) of the cost for the over-sizing of improvements that are required by the City to meet existing or future needs.
- M. **Opportunity Zones** - Opportunity Zones are a new community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into Opportunity Zones designated by the chief executives of every U.S. state and territory.
- N. **Development Fee Waivers** - The City may consider waiving a portion, or the entire amount, of all City fees charged in the regulation of land development, as approved by ordinance.
- O. **Fast-Track Development Process** - At times, the standard development process may not meet the special needs and time constraints of an economic development prospect. A customized approach to the development review process may be necessary to complete the project in an expedited manner.

DIVISION 6. TARGETED BUSINESSES & INDUSTRIES

The City of Killeen and its economic development arm, KEDC, want to attract clean industrial development, regional retail development, defense-related businesses, business retention, regional health and medical services, technology and cyber-security, and alternative energy businesses /industries. They strive to upgrade local infrastructure in order to improve access to

current and emerging technology for businesses and residents/ families and to strengthen the region's competitive advantage in the new information-based economy.

- A. The City intends to be selective regarding the kinds of industrial businesses that are recruited and incentivized. To that end, non-retail businesses will take precedence over retail businesses, unless the retail establishment has regional draw and serves residents from Central Texas and beyond. In general, the primary objective of the City's economic development efforts is to target new and expanding businesses that offer living wage jobs with benefits that equal or exceed the median wages for similar positions in the State of Texas or that make significant capital investment in the City. The creation and retention of competitive wage jobs shall be a key determinant in granting any incentive.
- B. The City encourages the development of regional retail opportunities within its jurisdiction in order to provide services to its constituency and the visiting public from Central Texas and beyond. The City will consider incentives for retail businesses and developers that precipitate the expansion of the sales tax base and other revenues, further the effort to develop Killeen as a regional hub for retail goods and services, and expand the property tax base. The City wants such developers who add quality, or up-scale features, to the architectural designs and landscaping. This is particularly the case with non-industrial developments where unique architecture, landscaping or other features would enhance the quality of development to attract customers and other businesses.
- C. The City desires to retain existing businesses/industries that are contemplating relocating to another city, or state. The City may consider offering financial incentives that would offset the cost differentials that make other locations viable. To be eligible under this premise, the applicant or business must provide a declaration that states it is actively pursuing relocation and, absent City incentives, would carry out its intent. Furthermore, the applicant or business must make a minimum incremental capital investment, which can be for plant modernization, new equipment, technology, or other long-lived depreciable assets that increase the assessed valuation.
- D. Generally, incentives will not be considered if an applicant, whether a new or existing business, has been issued a building permit for new construction, has executed a binding purchase contract on an existing building or site, or has executed a lease of land or a building, unless there are enforceable written contingencies in such contracts that make closing and/or occupancy subject to the award of City incentives or as otherwise provided herein for expansion or retention of certain businesses. Before granting any incentive, the City shall determine that without the incentive, the applicant would not locate or expand within the City's jurisdictional boundaries.

DIVISION 7. ANNUAL REVIEW OF POLICY

To ensure the ongoing relevance of the Economic Development Policy, the City Council shall evaluate it annually. By May 1 of each year, an annual report listing all financial incentives that remain in effect will be presented to the City Council. The annual report shall include information regarding when the incentive was granted, when the incentive expires, current property taxes paid for the property, in-lieu-of tax payments if any, the amount of any industrial revenue bonds issued, the assessed value of the property, number of employees, salary and payroll of all employees, and any additional information concerning the operation of the business receiving the incentive, and other information as requested by the City Council.

APPENDIX 1: FUNDING OPTIONS

- A. **SBA Grants** - The U.S. Small Business Administration's (SBA) provides grants to cities for projects that involve job creation, and that are dependent on infrastructure improvements and/or other business development programs that should be investigated by the City.
- B. **SBA Loan Programs** - The SBA loan guarantee programs cover a variety of purposes, including start-ups, working capital, real estate, equipment and inventory. The SBA does not make the loans itself, nor does it set rates. Rather, the agency guarantees a portion of the loans (up to 85%) made by lenders including banks and microfinance organizations. By guaranteeing a portion of the loan, the SBA allows lenders to make loans to small businesses that might not otherwise meet their criteria or may be deemed risky. These businesses may not be in a strong enough financial position to obtain traditional small business loans from a bank, and therefore rely on the SBA guarantee.

SBA loans cover a wide range of business uses, including start-ups, working capital, inventory, debt refinancing, equipment purchases, and more. Here's an overview of the SBA's most commonly offered loan programs:

- 1) **The SBA Advantage Loan** - (formerly known as the 7(a) loan) is the SBA's most popular guarantee program. An SBA Advantage loan allows funds to be used for starting, acquiring or expanding a small business (up to \$5 million). It provides creditworthy small firms that cannot obtain credit elsewhere the opportunity to access capital from private lenders. SBA does not offer direct lending to small businesses; rather, SBA guarantees the repayment of loans issued by lenders for general business purposes.
 - 2) **CDC/504 Loan Program** - Another SBA loan program is the CDC/504 Loan Program, which provides long-term and fixed-rate financing (up to \$5 million) provided by a combination of private and government guarantee support to assist with the acquisition of major fixed assets, such as real estate or machinery or equipment purchases that expand or update small businesses. To be eligible for the loan program, the project must meet a job creation or job retention requirement or meet specific community development or public policy goals.
 - 3) **SBA Microloan** - The SBA Microloan offers short-term loans of up to \$50,000.00 for working capital or the purchase of inventory, supplies, furniture, fixtures, machinery and/or equipment.
- C. **Venture Capital** - Venture capital (VC) is a type of equity financing for early-stage, high-growth startups with funds pooled from institutional investors. Venture capital

Deleted: -

Deleted: 's second largest

Deleted: <#>**SBA Grow Loan** - The SBA Grow Loan provides long-term, fixed-rate financing for real estate or other fixed assets. It provides up to \$12 million with a 10% down payment (15% for startups), and requires 51% occupancy of an existing building or 60% occupancy for new construction.¶

involves giving up a portion of the ownership of business in exchange for money from investors. Venture capital firms are usually organized as partnerships that raise money from institutional investors, such as pension funds and endowments, which the VC partners then invest in promising startups. Only a tiny fraction—less than 1%—of all startups receive venture capital funding.

- D. **Texas Capital Access Program** - The Capital Access Program (CAP) is a partnership between the State of Texas and selected non-profit lenders to increase access to financing for small and medium-sized businesses and non-profits which face barriers to accessing capital or fall outside the guidelines for conventional lending. The Program facilitates loans which are underwritten by the participating non-profit lenders and supported by the state contributions to a loan loss reserve fund.

This program is for small and medium-sized businesses and non-profit organizations seeking financing for projects, activities or enterprises in the state that foster economic development. Recipients must be domiciled in Bell County, or have at least 51% of their employees located in the state. The incentive is for loans whose proceeds may be used for working capital or the purchase, construction or lease of capital assets, to include buildings and equipment. The state supports program loans made by each participating lender through contributions to a loan loss reserve account.

- E. **Community Banks and Credit Unions** - Smaller banks are key allies to small businesses, offering similar services to big banks, but with higher loan approval rates. Small businesses have better luck with small banks (under \$10 billion in assets). Community banks and credit unions have traditionally been key allies for small business, making a disproportionate share of small business loans. In general, working with small businesses is a main focus of community banks. They have a deep understanding of the local community and take that into account when considering loan applications from local businesses. The same goes for credit unions. Credit unions are nonprofit financial cooperatives owned by their members/depositors. They offer similar services as banks, including small business loans, but often have a “community” focus or mission.

APPENDIX 2: APPLICATION AND PERFORMANCE AGREEMENT INSTRUCTIONS

Application Process

The KEDC will accept and evaluate applications based on anticipated economic impact of the projects and cost vs. benefit analysis. Incentives are created and offered on a case-by-case basis. The first step in the process is that the prospect must complete a MS-Excel Data Sheet. When completed, the file created provides information regarding the company's operations and investment. It is important that the data within the file be accurate. An economic impact analysis (EIA) is completed based on the data provided in the file. The analysis is prepared by a software program developed by Impact DataSource.

Subject to the Public Information Act and Texas Attorney General opinions interpreting the same, applications submitted to the City are considered confidential until some public action by the City is required, or unless and until the release of such information is approved by the applicant.

Application Information

The application requires at least the following:

- Name of the company, street address and website
- Name of person applying, title, phone number, and email address
- Name of and proposed location of the Project
- Will the Project be located within the city limits?
- Description of the Project
- Identify the Project's primary North American Industry Classification System (NAICS) Code or describe the activity that will occur at the local facility.
- The Project's capital investment each year
- Are the building and improvements costs entered above for construction?
- Building permits and fees to be paid to the City during construction, if applicable
- Estimated taxable inventories at the end of each year
- Numbers of new full-time jobs to be added in the community each year
- Average annual salaries of new employees each year
- The Project's estimated taxable purchases of materials, supplies, and services in the community as well as the estimated sales that will be subject to sales taxes in the community
- The Project's annual utilities
- Number of telephone lines at the Project
- Percent of the Project's utility usage for manufacturing or processing operations
- Number of out-of-town visitors expected in the first year
- Percent of annual increase in the number of visitors
- Average number of days each visitor will stay in Killeen.
- Average daily taxable visitor spending in the City, excluding lodging
- Average number of nights that a typical visitor will stay in a hotel in Killeen

Performance Agreements

Once a completed application is determined to be eligible for consideration for incentives, KEDC will develop a draft Performance Agreement. The Performance Agreement shall generally be between KEDC and the business and/or property owner, unless the use of certain incentives legally requires that the City be a party to the agreement. At a minimum, any Performance Agreement shall clearly include:

- A. The parties to the Performance Agreement;
- B. The term of the Performance Agreement, or the duration that incentives will be payable to a complying business/applicant;
- C. The City's/KEDC's responsibilities, as applicable;
- D. The Business/Property Owner's responsibilities, including to secure and maintain all applicable licenses and permits;
- E. The terms and conditions under which the City/KEDC, as applicable, can access the prospect's records;
- F. A statement that compliance with all applicable local, state, and federal codes, laws, and regulations is required;
- G. Default definitions;
- H. Circumstances that would trigger repayment or clawback of any incentives by the developer, and penalties for non-compliance;
- I. Indemnity and hold-harmless provisions that are germane to incentive agreements;
- J. Penalties for failure to remedy a default; and
- K. A binding agreement between the business (including the business owner(s), real property owner(s), and their successors and assigns) and the City/KEDC, as applicable.

Performance agreements will stipulate the requirements for reporting of hiring practices and a census of jobs and classifications. If an applicant is a lessee, the lease must reference the Performance Agreement and acknowledge that any incentives are for the benefit of the lessee, not the lessor. In addition, the lease must be equal to or longer than the duration of the Performance Agreement. The City/KEDC shall not be obligated in any way to the lessor should the lessee breach its lease or take other actions that result in the termination of the Performance Agreement.

Each business receiving an incentive from the City/KEDC shall be required to complete an annual report in a KEDC-provided format by March 1. The information in the report will cover the time period of January 1 through December 31 of the previous year. The annual report will be reviewed by May 1. Any material omission or misrepresentation in the information provided to the City may be deemed grounds for repeal of any Performance Agreement approved, renewed or extended in reliance thereon. The failure of a business to provide accurate and timely information to the City in the preparation of the annual report or to comply with the performance

standards set forth in the Performance Agreement shall be grounds for the modification or revocation of the incentives.

The Performance Agreement will grant the City/KEDC, as applicable, the right to levy appropriate recourse for non-compliance. These may include: 1) rescission, or a complete cancellation of the Performance Agreement, 2) monetary penalties, which shall be assessed if the business does not meet a certain level of performance or relocates, and finally, 3) recalibration, which is a provision for changing the Performance Agreement in some manner in order to accommodate an evolving economic climate. The City's/KEDC's use of these options is intended to motivate compliance and ensure that the community realizes the promised economic and public benefits that were the basis for the original Performance Agreement.

Additionally, if the City/KEDC determines that a national or state-declared disaster, force majeure, or economic downturn has substantially contributed to the non-compliance, the City/KEDC may amend the Performance Agreement to reconcile the recipient's obligations with the expected benefits to the City. An updated, limited-scope EIA may be required to frame the new Performance Agreement terms and obligations.

The Agreement shall not be reassigned, transferred, or sold without the prior written consent of the City/KEDC, as applicable. Incentives granted by the City/KEDC may be transferred as a result of a change in the majority ownership of the business. The transferee shall file a new application for the City's/KEDC's consideration of modifying the Performance Agreement. The City/KEDC shall be immediately notified by the business of any change in ownership, or of and any substantive change in operations upon which the original incentive award was based. The City/KEDC shall not be obligated to transfer the Performance Agreement should the new ownership or use not satisfy eligibility requirements of these policies.

The Draft Performance Agreement as prepared by KEDC will be presented to the City Liaison for further processing and consideration by the City Council if Council approval is required. The City Council has final authority to approve or disapprove the application and/or performance agreement if Council approval is required.

Following approval, the applicant and the City/KEDC shall execute the Performance Agreement when applicable. If applicable, the land owner (if applicant leases land or building) shall either co-sign the Performance Agreement or provide a Landowner Consent and Stand Still Agreement enabling the City/KEDC to recapture any incentive funds prior to the Landlord exercising its rights and remedies under a lease, should a breach of the Performance Agreement occur. To ensure compliance with clawback remedies, the City/KEDC may, in its sole and absolute discretion, record liens against real and/or personal property belonging to the applicant or business. Under no circumstances is the approval and execution of a Performance Agreement to be interpreted as approval of any required development permits, ministerial or discretionary. The decision of the City Council is final and no appeal process is available.

Each Performance Agreement shall be reviewed annually by KEDC and the City. The City shall receive the annual review report, and if it is determined that a business or project is not in compliance with the provisions of the Performance Agreement, the incentive may be modified pursuant to the Performance Agreement as deemed appropriate by the City/KEDC. Modifications to the incentive may include, but are not limited to, termination of the incentive, reduction of any incentive and clawback or repayment of any existing incentive. The review shall also include a comprehensive review of the entire incentive period for the business (if applicable), including milestones and project phases for the business.



ANNUAL REVIEW OF ECONOMIC DEVELOPMENT POLICY

RS-21-055

April 20, 2021

Economic Development Policy

2

- ❑ The City's adopted Governing Standards and Expectations instruct the City Manager to develop an Economic Development Policy (i.e. Policy) for the City.
- ❑ The existing Policy was initially introduced to the City Council on November 13, 2018 and approved on January 15, 2019, per resolution # 19-007.

Economic Development Policy

3

- The purpose of this policy is basically to grant, and vest authority to offer incentives, when appropriate, to eligible applicant or projects that support:
- Growth of private sector employment that provides competitive wage jobs and talent development, within the City of Killeen;
- Increased tax revenue and other forms of revenue;
- Diversifying the economic base; and/ or
- Public infrastructure development.

Economic Development Policy

4

- The Policy delegates primary responsibility for economic development to the Killeen Economic Development Corporation (KEDC) with the intent of stimulating economic activity through attracting investments and creating competitive wage jobs, thereby broadening the tax base and improving the quality of Life.

Economic Development Policy

5

- Staff is proposing minor text amendments to the existing Policy. These amendments are illustrated as strike-through and underlined text under the sections relating to Enterprise Zones and the loan information under Appendix 1: Funding Options.
- The amendments are non-substantive in nature and staff is recommending that the text amendments are incorporated in an update to the Policy per official Council action.

Alternatives

6

- ❑ The Council has the following three alternatives:
- ❑ Do not approve the amended Policy;
- ❑ Approve the Policy with additional amendments; or
- ❑ Approve the Policy as presented.

Recommendation

7

- Staff recommends the City Council approve the Policy as presented.



City of Killeen

Legislation Details

File #: OR-21-004 **Version:** 1 **Name:** Donation Container Standards
Type: Ordinance **Status:** Ordinances
File created: 3/22/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Consider an ordinance amending Chapter 8 of the Code of Ordinances adopting donation container standards.
Sponsors: Planning & Development Dept
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Minutes](#)
[Ordinance](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
4/6/2021	1	City Council Workshop		



STAFF REPORT

DATE: April 20, 2021

TO: Kent Cagle, City Manager

FROM: Tony McIlwain, Exec. Dir. Of Planning and Development Services

SUBJECT: Donation Container Standards

BACKGROUND AND FINDINGS:

The purpose of the proposed ordinance is to establish standards and regulations for new and existing donation containers within the City limits with the goal of preventing the unsightly accumulation of debris surrounding donation container boxes. If approved, the proposed ordinance will require the owner or operator of a donation container box to obtain a permit prior to location of a donation container within city limits. In order to obtain a permit for a donation container box, the owner or operator must be a nonprofit 501(c)(3) organization located within the City of Killeen. In addition to requiring a permit, the proposed ordinance places limitations on the placement, construction, and maintenance of donation container boxes.

Per the Council's motion of direction on April 6th, staff has made the following changes to the ordinance:

- The language regarding the area around the donation container has been changed to permit the donation of "large bulky donation items that do not fit inside the container."
- The language regarding emptying the containers has been changed to require them to be emptied at least once every 2 weeks, and large items to be picked up within 24 hours.
- The language about the City billing property owners for the cost of removing donation containers has been removed.

THE ALTERNATIVES CONSIDERED:

The City Council has three (3) alternatives: The Council may:

- Do not adopt the ordinance;
- Adopt the ordinance with amendments; or
- Adopt the ordinance as presented.

Which alternative is recommended? Staff recommends adoption of the ordinance as it was presented to the Council on April 6th.

Why? Staff finds that removing the language about keeping the area around the containers free of junk and debris is counter to the intent of the proposed ordinance.

CONFORMITY TO CITY POLICY:

The proposed ordinance conforms to all City policy.

FINANCIAL IMPACT:

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

None.

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:

The Planning & Zoning Commission recommended approval of the proposed ordinance by a vote of 4 to 2 with Commissioners Gukeisen and Sabree in opposition.

DEPARTMENTAL CLEARANCES:

This item has been reviewed by the Planning and Legal staff.

ATTACHED SUPPORTING DOCUMENTS:

Minutes

Ordinance

MINUTES
PLANNING AND ZONING COMMISSION MEETING
March 15, 2021

HOLD a public hearing and consider an ordinance amending Chapter 8 of the Code of Ordinances of the City of Killeen; adopting donation container standards.

Mr. Byrum briefed the Commission on the proposed ordinance.

Vice Chairman Minor opened the public hearing. With no one wishing to speak, the public hearing was closed.

Commissioner Gukeisen stated that he did not feel that it would be appropriate to hold the property owner responsible for any violations. He stated that the party responsible for the donation container should be responsible for correcting any violations, not the property owner.

Commissioner Gukeisen made a motion to disapprove PH-5. The motion died for lack of a second.

Commissioner Ploeckelmann made a motion to approve PH-5. Commissioner Hodges seconded, and the motion passed by a vote of 4 to 2, with Commissioners Gukeisen and Sabree in opposition.

AN ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S BUILDING AND CONSTRUCTION REGULATIONS; ADOPTING DONATION CONTAINER STANDARDS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

WHEREAS, the City of Killeen has declared the application and enforcement of the City's building and construction regulations to be necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare of the City; and,

WHEREAS, the City Council desires to establish regulations that will help ensure that future development is safe, orderly, and visually appealing; and,

WHEREAS, the City Council desires to amend the building and construction regulations to promote the health, safety, morals, or general welfare of the municipality and the safe, orderly, and healthful development of the municipality;

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

SECTION I. That Chapter 8 of the City of Killeen Code of Ordinances is hereby amended to add the following:

ARTICLE VII. - DONATION CONTAINER REGULATIONS

Sec. 8-531. – Short title.

The following regulations are hereby adopted and shall be known and may be cited as "City of Killeen Donation Container Regulations."

Sec. 8-532. – Purpose.

The purpose of this article is to establish standards and regulations for new and existing donation containers within the city limits. In the event of a conflict, the more stringent regulations shall apply.

Sec. 8-533. – Definitions.

Building shall mean any commercial building lawfully occupied by a business or charitable organization pursuant to a valid certificate of occupancy.

Donation container shall mean any box, structure, container, trailer or other receptacle, whether permanently or temporarily affixed or placed on real property, that is intended for use as a collection point for clothing, other household materials or other new and/or used personal property to be donated to a charitable organization; the term does not include recycle bins or any donation container located within a building.

Person shall mean an individual, sole proprietorship, corporation, association, nonprofit corporation, partnership, joint venture, limited liability company, estate, trust, public or private organization that is not a state agency, business trust, public corporation, or any other legal or commercial entity.

Recycle bin shall mean a receptacle used for the collection of recycle materials governed or regulated by the City's zoning code and/or building code.

Sec. 8-534. – Permit required.

- (a) It shall be unlawful to locate a donation container within the City without first obtaining a permit from the City.
- (b) To obtain a permit, a person must:
 - 1. Provide a site plan indicating the location where the donation container will be placed and the dimensions of the container;
 - 2. Provide proof that the property owner, property manager, or person who has a right to possess the property consents to the placement of the donation container on the property and acknowledges that they will be held responsible for maintenance of the area around the donation container; and
 - 3. Affirm that the donation container will comply with all requirements of this article.
- (c) Only nonprofit charitable organizations that serve the local community and have obtained a determination letter pursuant to 26 USC 501(c)(3) may obtain a permit to locate donation containers within the City.

Sec. 8-535. – Placement.

- (a) Donation containers shall not be located within any residential zoning district except on the premises of allowed non-residential uses such as churches and schools.
- (b) No more than two (2) donation containers may be located on a single platted lot or unplatted tract of land.
- (c) When located on different tracts of land or lots, a donation container shall not be located closer than three hundred (300) feet from another container.

- (d) A donation container shall not be located within ten (10) feet of the travelled portion of any street, road or highway or placed in a manner that blocks driveways, interferes with traffic flow or visibility.
- (e) A donation container shall not be located within any right-of-way or easement dedicated to and/or owned by any governmental entity.
- (f) A donation container shall not be located at any location the City determines:
 - 1. May pose a safety hazard to public;
 - 2. Constitutes an obstruction to traffic entering, existing or circulation within the property on which the donation container is located;
 - 3. Constitutes an obstruction to pedestrian traffic using any public sidewalk; or
 - 4. Constitutes an obstruction to the flow of surface water on the property such that surface water will be diverted to other properties or otherwise inhibits or prevents surface water from draining to an existing drainage facility.

Sec. 8-536. – Construction.

- (a) Donation containers must:
 - 1. Be constructed of metal, fiberglass, or wood;
 - 2. Be labeled “no dumping” and also indicate the name, address and telephone number of organization and party responsible for collection;
 - 3. Be secured at all times, except when they are being emptied;
 - 4. Have a lid or a top to protect the contents from the weather;
 - 5. Be no larger than one hundred and fifty (150) cubic feet.

Sec. 8-537. – Maintenance.

- (a) The area around the donation container shall be kept free of any junk, debris or other materials with the exception of large bulky donation items that do not fit inside the container.
- (b) Donation containers shall be emptied at least once every two (2) weeks, and often enough that donations do not overflow. Donations of large bulky items that do not fit inside the donation container shall be picked up within twenty-four (24) hours.
- (c) Donation containers shall be maintained in good condition and appearance with no structural damage, holes, or visible rust. Containers shall be kept free of graffiti.
- (d) The City shall give the permit holder seventy-two (72) hours written notice to clear any debris or other materials. If the debris or materials are not cleared, the City may clear it and bill the property owner for the cost to abate any violation.

Sec. 8-538. – Existing donation containers.

- (a) Operators of existing containers or the owner of the property on which the container is located shall be given written notice that they have thirty (30) days to obtain a permit. If the operators or owners do not apply for a permit, the operators or owners have thirty (30) days to remove the donation containers or the property owners may give the City permission to remove the donation containers.
- (b) Existing donation containers of any size may be permitted, provided they are maintained in accordance with Sec. 8-537.
- (c) If an operator or property owner cannot be reached, a letter will be mailed to either the address of the property owner listed on the appraisal district records or the address on the donation container; if available, or both. Notice shall also be posted on the donation container itself. The operator or property owner shall have thirty (30) days from the day a letter is mailed or posted on the container to obtain a permit.
- (d) Donation containers located closer than three hundred (300) feet prior to the effective date of this ordinance shall not be required to be removed to comply with Section 8-535(c).
- (e) Notwithstanding Sec. 8-538(e), a donation container that was located less than three hundred (300) feet from another donation container that is removed from such location for more three (3) days must be relocated to a location that complies with Section 8-535(c).

Sec. 8-539. – Permit revocation.

- (a) The City may revoke a permit for failure of the operator or property owner to comply with the requirements in this article. The operator or owner may appeal the revocation to the City Manager or their designee within seventy-two (72) hours of the revocation notice. The City Manager's or their designee's decision shall be final.
- (b) The donation container must be removed within seven (7) days of the permit revocation or appeal hearing, as applicable.

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 27th day of April, 2021, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

Lucy C. Aldrich, CITY SECRETARY

APPROVED AS TO FORM:

Traci S. Briggs, CITY ATTORNEY



ORDINANCE AMENDING CHAPTER 8: DONATION CONTAINER STANDARDS

OR-21-004

April 20, 2021

Donation Container Standards

2

- ❑ If approved, the proposed ordinance will establish standards and regulations for new and existing donation containers within the City limits.
- ❑ The purpose of the proposed ordinance is to prevent the unsightly accumulation of debris surrounding donation container boxes.
- ❑ If approved, the proposed ordinance will require the owner or operator of a donation container box to obtain a permit prior to location of a donation container within city limits.

Donation Container Standards

3



Donation Container Standards

4



Donation Container Standards

5

- ❑ To obtain a permit for a donation container box, the owner or operator must be a nonprofit 501(c)(3) organization located within the City of Killeen.
- ❑ The proposed ordinance also places limitations on the placement, construction, and maintenance of donation container boxes.

Donation Container Standards

6

- ❑ If approved, the proposed ordinance would limit the construction of donation containers to metal, fiberglass, or wood with a maximum size of 150 cubic feet, and no more than two (2) donation containers would be permitted on a single property.
- ❑ As proposed, the owners of all existing donation containers would have thirty (30) days within which to obtain a permit. Existing donation containers of any size may be permitted, provided they are maintained in accordance with the proposed ordinance.

Donation Container Standards

7

- ❑ Per the Council's motion of direction on April 6th, staff has made the following changes to the ordinance:
 - ❑ The language regarding the area around the donation container has been changed to permit the donation of "large bulky donation items that do not fit inside the container."
 - ❑ The language regarding emptying the containers has been changed to require them to be emptied at least once every 2 weeks, and large items to be picked up within 24 hours.
 - ❑ The language about the City billing property owners for the cost of removing donation containers has been removed.

Alternatives

8

- ❑ The City Council has three (3) alternatives:
 - ▣ Do not adopt the ordinance;
 - ▣ Adopt the ordinance with amendments; or
 - ▣ Adopt the ordinance as presented.

Commission Recommendation

9

- At their meeting on March 15, 2021, the Planning and Zoning Commission recommended approval of the proposed ordinance by a vote of 4 to 2 with Commissioners Gukeisen and Sabree in opposition.

Staff Recommendation

10

- Staff recommends approval of the ordinance as it was presented to the Council on March 6th.



City of Killeen

Legislation Details

File #: OR-21-005 **Version:** 1 **Name:** Repeal tobacco possession ordinance
Type: Ordinance **Status:** Ordinances
File created: 4/13/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Consider an ordinance repealing Chapter 16, Article VI, Possession of Tobacco.
Sponsors: City Attorney Department
Indexes:
Code sections:
Attachments: [Staff Report](#)
[Ordinance](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



STAFF REPORT

DATE: April 20, 2021
TO: Kent Cagle, City Manager
FROM: Traci Briggs, City Attorney
SUBJECT: Repealing Possession of Tobacco Ordinance

BACKGROUND AND FINDINGS:

Chapter 16, Article VI of the Code of Ordinances provides an offense for possession or purchase of tobacco by a minor, defined as a person under 18 years of age. It also has an offense for falsely claiming to be 18 or over in order to purchase tobacco or presenting false or misleading information regarding age. There have been no amendments to this ordinance since 1996.

Federal and state law have established the age of violations as younger than 21 years of age, meaning it is more restrictive than the city's ordinance. Also, these laws address a more expansive list of items that create an offense, including such things as e-cigarettes.

Attached is a draft ordinance to repeal Chapter 16, Article VI in its entirety since it is preempted by federal and state law. There will be no enforcement impact on the Killeen Police Department as officers have for some time been writing any violations under state law.

THE ALTERNATIVES CONSIDERED:

The City Council may leave the current possession of tobacco ordinance as currently codified, make amendments, or repeal the ordinance.

Which alternative is recommended? Why?

Staff recommends repealing the possession of tobacco ordinance. The federal and state law are more restrictive and preempt the city's ordinance making it unnecessary.

CONFORMITY TO CITY POLICY:

This item conforms to law and city policy.

FINANCIAL IMPACT:

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

There is no fiscal impact related to 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:

Staff recommends the City Council approve the attached ordinance to repeal Chapter 16, Article VI, possession of tobacco.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF KILLEEN BY REPEALING CHAPTER 16, ARTICLE VI, POSSESSION OF TOBACCO; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

WHEREAS, since the City's possession of tobacco ordinance was passed, state and federal law have changed to be more restrictive than the City's ordinance; and

WHEREAS, the City Council desires to repeal the City's ordinance as it relates to possession of tobacco;

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

SECTION I. That Article VI of Chapter 16 of the City of Killeen of Code of Ordinances is hereby amended to repeal Article VI as follows:

~~ARTICLE VI. -- POSSESSION OF TOBACCO~~

~~Sec. 16-115. -- Definitions.~~

~~(a) *Minor:* A person less than eighteen (18) years of age.~~

~~(b) *Tobacco product:*~~

~~(1) A cigar;~~

~~(2) Smoking tobacco, including granulated, plug cut, crimp cut, ready rubbed, and any form of tobacco suitable for smoking in a pipe or as a cigarette;~~

~~(3) Chewing tobacco, including Cavendish, Twist, plug scrap, and any kind of tobacco suitable for chewing;~~

~~(4) Snuff or other preparations of pulverized tobacco; or~~

~~(5) An article or product that is made of tobacco or a tobacco derivative.~~

~~Sec. 16-116. -- Offenses.~~

~~It is unlawful for a minor to:~~

~~(1) Possess a tobacco product;~~

- ~~(2) Purchase a tobacco product;~~
- ~~(3) State that he or she is eighteen (18) years of age or older in order to facilitate their purchase of tobacco products;~~
- ~~(4) Present false or misleading documentation that he or she is eighteen (18) years of age or older in order to facilitate their purchase of tobacco products.~~

~~Sec. 16-117. -- Defense.~~

~~It is a defense to prosecution under sec. 16-115 that at the time of possession of a tobacco product, the minor was a legal employee of a business holding proper permits to serve as a distributor, wholesaler, bonded agent, or retailer of tobacco products, such possession being for the purpose of carrying out the business of the permittee.~~

~~Sec. 16-118. -- Enforcement.~~

- ~~(a) — A police officer may stop and detain a person whom the officer has reasonable suspicion to believe is in violation of this ordinance. If, after investigating the circumstances, the police officer reasonably believes that an offense has occurred, the defense of sec. 16-116 does not apply, and the detained person is unable to produce convincing evidence that he or she is eighteen (18) years of age or older, the police officer may issue a citation or make an arrest for the violation of this ordinance.~~
- ~~(b) — In assessing punishment, a municipal court judge may consider community service, a tobacco education program or a teen court program. If the municipal court judge assesses participation in a tobacco education program or community service in lieu of a fine upon conviction for a violation of this ordinance he shall require the completion of the community service or tobacco education program within thirty (30) days of conviction.~~

~~Sec. 16-119. -- Penalty.~~

- ~~(a) — Any person who violates any provision of this chapter is guilty of a misdemeanor and, upon conviction, shall be fined not less than ten dollars (\$10.00) or more than five hundred dollars (\$500.00) for each offense.~~
- ~~(b) — Each day a violation is permitted to exist shall constitute a separate offense, and shall be punishable as such.~~

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

SECTION III. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or impair

the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 27 day of April, 2021, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY



REPEAL POSSESSION OF TOBACCO ORDINANCE

OR-21-005

April 20, 2021

Background

2

- ❑ Chapter 16, Article VI provides offenses for:
 - ❑ Possession of a tobacco by a minor;
 - ❑ Purchase of tobacco by a minor;
 - ❑ Falsely claiming to be 18 or over to purchase tobacco; and
 - ❑ Presenting false/misleading documentation regarding age to purchase tobacco.
- ❑ A minor for purposes of this ordinance is a person less than 18 years of age.
- ❑ Ordinance has not been amended since 1996.

Federal and State Law

3

- ❑ Federal and state law establish the age of violations regarding tobacco as younger than 21 years of age.
- ❑ Regulations are also more expansive, including items such as e-cigarettes.

Repeal City Ordinance

4

- Because of the conflict between the city ordinance and the federal and state laws, and because city ordinance is preempted, staff suggests repealing Chapter 16, Article VI in its entirety.
- No impact on police enforcement as officers cite violations using state law.

Alternatives

5

- The City Council may:
 - ▣ Leave the current ordinance in place
 - ▣ Make amendments to the current ordinance
 - ▣ Repeal the ordinance

Recommendation

6

- Staff recommends repealing Chapter 16, Article VI possession of tobacco.



City of Killeen

Legislation Details

File #:	PH-21-019	Version:	1	Name:	Mid-Year Budget Amendment
Type:	Ordinance/Public Hearing	Status:		Status:	Public Hearings
File created:	4/4/2021	In control:		In control:	City Council Workshop
On agenda:	4/20/2021	Final action:		Final action:	
Title:	HOLD a public hearing and consider an ordinance amending the FY 2021 Annual Budget of the City of Killeen to increase revenues and expenditures in multiple operating, special revenue, and capital improvement project funds.				
Sponsors:	Finance Department				
Indexes:	Budget Amendments				
Code sections:					
Attachments:	Staff Report Ordinance Presentation				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



STAFF REPORT

DATE: April 20, 2021

TO: Kent Cagle, City Manager

FROM: Jonathan Locke, Executive Director of Finance

VIA: Miranda Drake, Director of Budget

SUBJECT: Budget Amendment

BACKGROUND AND FINDINGS:

City staff monitors financial activity and forecasts yearend results to ensure compliance with the budget approved by City Council. This process assists in identifying accounts that may require a budget amendment during the fiscal year. The City Charter authorizes the City Manager to approve budget transfers between accounts of the same department. City Council must approve transfers between departments and to increase the overall fund appropriations. The purpose of this budget amendment is described below and grouped by fund type.

Operational Funds -

There are three operational fund items addressed in this budget amendment:

1. As a result of the Governmental Accounting Standards Board (GASB) statement no. 87, the rules regarding the accounting of leases have changed. In the year in which a lease is made, the fund must appropriate the revenue and expense of the total cost of the asset. In addition, the lease payments must be broken down and reported as principal and interest payments. This budget amendment includes three leases in the General Fund totaling \$171,220 and one lease in the Solid Waste Fund in the amount of \$192,726.
2. Appropriation of the remaining funds from the Coronavirus Aid, Relief and Economic Security Act (CARES Act) grant received by Aviation in FY 2020. The City of Killeen was awarded \$2,217,498 in CARES Act funding in FY 2020 and Aviation planned to use the grant funding over fiscal year 2020 and 2021. During the FY 2021 budget process, \$28,242 was appropriated for FY 2021 as staff estimated the majority of the grant would be used through the end of FY 2020. Only \$1,302,195 was used during FY 2020, so the budget amendment appropriates the remaining \$887,061.
3. Solid Waste finished FY 2020 with fund balance over the 22% threshold established in the Financial Governance Policy. The governance policy requires the amount over 22% to be transferred to the appropriate capital project fund. The amount of fund balance over 22% is estimated to be \$217,853. The budget amendment transfers \$198,122 of this amount for a project discussed further in the Capital Improvement Project section below.

FY 2021 Operational Funds	Revenue Budget
General Fund	\$171,220
Aviation Fund	887,061
Solid Waste Fund	192,726
TOTAL	\$1,251,007

FY 2021 Operational Funds	Expenditure Budget
General Fund	\$171,220
Solid Waste Fund	390,848
TOTAL	\$562,068

Special Revenue Funds -

There are two programs and grants addressed in this budget amendment:

1. The Library Memorial Fund received a donation of \$39,626. The Library is requesting to appropriate the donation to purchase a custom-designed circulation/reference counter.
2. Community Development received notification from the Department of Housing and Urban Development (HUD) of a calculation error in the FY 2021 fund allotment to be received. This budget amendment reduces the amount budgeted in revenues and expenditures by \$250 to balance with the revised grant amount.

FY 2021 Programs and Grants	Revenue Budget
Special Revenue Funds	\$39,376
TOTAL	\$39,376

FY3 2021 Programs and Grants	Expenditure Budget
Special Revenue Funds	\$39,376
TOTAL	\$39,376

Capital Improvement Projects -

There are three capital improvement project changes in this budget amendment:

1. Currently, there is \$66,721 available in the Golf Capital Projects Fund. Indigo Golf Partners requested to use the capital project funds to pay for the conversion of the fairway grass and provide lighting at the driving range. Conversion of the fairway grass is \$24,049 of the amendment and will reduce the use of pesticides and fertilizers versus maintaining the older variety of grass that currently is in place. The addition of lighting at the driving range is \$42,672 and will enable the Golf Course to increase its hours of operation throughout the year and generate additional revenue.
2. As stated earlier, the Solid Waste Fund currently has a fund balance in excess of 22%. The budget amendment will transfer \$198,122 to the Solid Waste capital project fund to purchase a multi-material baler for recycling. Recyclable material buyers prefer to receive baled materials as it allows for more material to be transported per load and increases the revenues associated with the sale of the materials. The purchase of the baler will allow for estimated annual savings of \$6,800 being paid to the City of Temple to process plastics, as well as \$86,000 in annual transportation and labor expenses. In addition, revenues

are anticipated to increase by 15% or \$10,000 per year. Combining the cost savings and increased revenue, the bailer will have an estimated positive impact on the Solid Waste operating fund of \$102,800 per year. This is a return on investment of less than two years.

3. The Drainage Bond Fund has \$22,207 of unobligated funds that are being appropriated to the Greenforest Circle project.

FY 2021 Capital Improvement Projects	Revenue Budget
Solid Waste CIP Fund	\$198,122
TOTAL	\$198,122

FY 2021 Capital Improvement Projects	Expenditure Budget
Golf Capital Project Fund	\$66,721
Solid Waste CIP Fund	198,122
Drainage Bond Fund	22,207
TOTAL	\$287,050

THE ALTERNATIVES CONSIDERED:

- 1) Do not approve the ordinance amending the FY 2021 Annual Budget.
- 2) Approve the ordinance amending the FY 2021 Annual Budget.

Which alternative is recommended? Why?

Option 2 is recommended to approve the ordinance amending the FY 2021 Annual Budget to address the items outlined above.

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:

Upon approval, expenditure accounts will be amended in the FY 2021 Budget as follows:

- ☐ General Fund - increase of \$171,220 in revenues and \$171,220 in expenditures.
- ☐ Solid Waste Fund - increase of \$192,726 in revenues and \$390,848 increase in expenses. Net result is a decrease of \$198,122 in fund balance.
- ☐ Aviation Fund - increase of \$887,061 in revenues.
- ☐ Special Revenue funds - increase of \$39,376 in revenues and \$39,376 in expenditures.
- ☐ Capital Improvement Project funds - increase of \$198,122 in revenues and \$287,050 in expenditures. Net result is a decrease of \$88,928 in fund balance.

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

N/A

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

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

N/A

RECOMMENDATION:

City Council approve the ordinance amending the FY 2021 Annual Budget.

DEPARTMENTAL CLEARANCES:

Finance

Legal

ATTACHED SUPPORTING DOCUMENTS:

Ordinance

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KILLEEN, TEXAS, AMENDING THE FY 2021 ANNUAL BUDGET OF THE CITY OF KILLEEN TO INCREASE REVENUES AND EXPENDITURES IN MULTIPLE OPERATING, SPECIAL REVENUE, AND CAPITAL IMPROVEMENT PROJECT 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, 2020 to September 30, 2021, 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 2021 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 20-043, adopting a budget for operating the municipal government of the City of Killeen for the Fiscal year October 1, 2020 to September 30, 2021, be amended as to the portion of said budget as follows:

Revenues:

Account Number	Description	Budget Change	Budget
010-0000-393.07-01	LEASE PROCEEDS		\$ -
	Lease Assets	171,220	
	Budget Change Sub-total	171,220	
	Account Sub-total		171,220
540-0000-393.07-01	LEASE PROCEEDS		-
	Lease Assets	192,726	
	Budget Change Sub-total	192,726	
	Account Sub-total		192,726
224-0000-381.08-01	CULTURE / LIBRARY DONATIONS		-
	Donation for circulation/reference counter	39,626	
	Budget Change Sub-total	39,626	
	Account Sub-total		39,626

Revenues (continued):

Account Number	Description	Budget Change	Budget
228-0000-331.09-20	COMMUNITY DEVELOPMENT / 2020-2021		1,043,192
	Correction to HUD calculation	(159)	
	Budget Change Sub-total	(159)	
	Account Sub-total		1,043,033
233-0000-331.09-20	COMMUNITY DEVELOPMENT / 2020-2021		469,707
	Correction to HUD calculation	(91)	
	Budget Change Sub-total	(91)	
	Account Sub-total		469,616
388-0000-391.05-40	TRANSFER FROM FUND 540 (SOLID WASTE)		750,776
	Transfer excess of 22% fund balance from Fund 540 to Fund 388	198,122	
	Budget Change Sub-total	198,122	
	Account Sub-total		948,898
525-0000-332.15-02	USDOT-FAA		28,242
	CARES Act funding	887,061	
	Budget Change Sub-total	887,061	
	Account Sub-total		915,303
	REVENUE TOTAL	\$ 1,488,505	\$ 3,780,422

Expenditures:

Account Number	Description	Budget Change	Budget
010-0406-414.61-35	EQUIPMENT AND MACHINERY		\$ -
	Lease Asset	106,969	
	Emergency purchase of perforator	8,350	
	Budget Change Sub-total	115,319	
	Account Sub-total		115,319
010-2305-418.61-05	OFFICE MACH & EQUIP		-
	Lease Asset	5,942	
	Budget Change Sub-total	5,942	
	Account Sub-total		5,942
010-3025-425.61-35	EQUIPMENT AND MACHINERY		-
	Lease Asset	58,309	
	Budget Change Sub-total	58,309	
	Account Sub-total		58,309

Expenditures (continued):

Account Number	Description	Budget Change	Budget
540-3475-439.61-35	EQUIPMENT AND MACHINERY		-
	Lease Asset	192,726	
	Budget Change Sub-total	192,726	
	Account Sub-total		192,726
010-9004-489.71-12	PRINCIPAL		46,039
	Lease savings used for purchase of perforator	(8,350)	
	Budget Change Sub-total	(8,350)	
	Account Sub-total		37,689
224-3215-423.61-50	FURNITURE & FIXTURES		-
	Circulation/reference counter purchased w/donation	39,626	
	Budget Change Sub-total	39,626	
	Account Sub-total		39,626
228-3250-426.47-99	PROFESSIONAL SERVICES		2,947
	Correction to HUD calculation	(135)	
	Budget Change Sub-total	(135)	
	Account Sub-total		2,812
228-3250-426.50-86	PROGRAMS-COK TRANSPORTATION		2,786,649
	Correction to HUD calculation	(24)	
	Budget Change Sub-total	(24)	
	Account Sub-total		2,786,625
233-3250-426.50-86	PROGRAMS-ADMINISTRATION		1,397,703
	Correction to HUD calculation	(91)	
	Budget Change Sub-total	(91)	
	Account Sub-total		1,397,612
350-3490-800.41-90	AGRICULTURAL SUPPLIES		-
	Conversion of fairway grass at the Golf Course	24,049	
	Budget Change Sub-total	24,049	
	Account Sub-total		24,049
350-3490-800.61-03	CAPITAL OUTLAY / INFRASTRUCTURE		-
	Lighting at driving range at the Golf Course	42,672	
	Budget Change Sub-total	42,672	
	Account Sub-total		42,672

Expenditures (continued):

Account Number	Description	Budget Change	Budget
388-8934-439.41-65	SUPPLIES		-
	Supplies for multi-material baler	7,107	
	Budget Change Sub-total	7,107	
	Account Sub-total		7,107
388-8934-439.61-02	BUILDINGS		-
	Building for multi-material baler	20,125	
	Budget Change Sub-total	20,125	
	Account Sub-total		20,125
388-8934-439.61-35	EQUIPMENT & MACHINERY		287,600
	Multi-Material Baler	170,890	
	Budget Change Sub-total	170,890	
	Account Sub-total		458,490
540-9501-491.93-88	TRANSFER TO FUND 388 (SOLID WASTE CIP)		750,776
	Transfer excess of 22% fund balance from Fund 540 to Fund 388	198,122	
	Budget Change Sub-total	198,122	
	Account Sub-total		948,898
576-9591-495.63-26	PROJECTS EXPENSE / GREENFOREST CIRCLE		257,656
		22,207	
	Budget Change Sub-total	22,207	
	Account Sub-total		279,863
	EXPENDITURES TOTAL	\$ 888,494	\$ 6,417,864

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

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

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this 27th day of April, 2021, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 et seq.

APPROVED

Jose L. Segarra
MAYOR

ATTEST:

APPROVED AS TO FORM

Lucy C. Aldrich
City Secretary

Traci S. Briggs
City Attorney



MID-YEAR BUDGET AMENDMENT

PH-21-009

April 20, 2021

Budget Amendment Purpose

2

- ❑ Estimated revenues and expenses
- ❑ Compared budget to forecasted results
- ❑ Identified required budget amendments
 - ▣ Lease assets, inception and payments
 - ▣ Donations and grants
 - ▣ Capital projects

Mid-Year Budget Amendment

Operational Funds

3

Fund	Revenues	Plus (+) Expenditures	Minus (-) Expenditures
General	\$171,220	\$179,570	\$8,350
Aviation	887,061	-	-
Solid Waste	<u>192,726</u>	<u>390,848</u>	=
Total	\$1,251,007	\$570,418	\$8,350

Mid-Year Budget Amendment

Special Revenue Funds

4

Fund	Revenues	Plus (+) Expenditures	Minus (-) Expenditures
Library Memorial	\$39,626	\$39,626	\$-
CDBG	(159)	-	159
HOME	<u>(91)</u>	=	<u>91</u>
Total	\$39,376	\$39,626	\$250

Mid-Year Budget Amendment

Capital Improvement Program

5

Fund	Revenues	Plus (+) Expenditures	Minus (-) Expenditures
Golf Capital Projects	\$-	\$66,721	\$-
Solid Waste CIP	198,122	198,122	-
Drainage Bonds	=	<u>22,207</u>	=
Total	\$198,122	\$287,050	\$-

Mid-Year Budget Amendment Summary

6

Fund	Revenues	Plus (+) Expenditures	Minus (-) Expenditures
Operational Funds	\$1,251,007	\$570,418	\$8,350
Special Revenue Funds	39,376	39,626	250
Capital Improvement Program	<u>198,122</u>	<u>287,050</u>	=
Total	\$1,488,505	\$897,094	\$8,600
Net Change	\$1,488,505	\$888,494	

Recommendation

7

City Council approve the ordinance amending the FY 2021 Annual Budget.



City of Killeen

Legislation Details

File #: DS-21-054 **Version:** 1 **Name:** Indigo Golf Course Update
Type: Discussion Items **Status:** Discussion Items
File created: 4/5/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Indigo Golf Course Update
Sponsors: Recreation Services Department
Indexes:
Code sections:
Attachments: [Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



CITY MANAGER UPDATE: INDIGO GOLF FY21 MID-YEAR REVIEW

DS-21-054

April 20, 2021

Partnership with City of Killeen

2

- ❑ Valued relationship
- ❑ Weekly meetings with COK representatives
- ❑ COK Employee Wellness Program
- ❑ Collaborative marketing
- ❑ Effective communication



Partnership/Developments with Killeen

3

- Community Partnership
 - ▣ UMHB
 - ▣ KISD and BISD High Schools – Belton, Lake Belton, Ellison, Shoemaker, Harker Heights, Killeen
 - ▣ Harker Heights Chamber of Commerce
 - ▣ ASYMCA
 - ▣ Boys and Girls Club
 - ▣ Killeen/Harker Heights Rotary Club
- Monthly/weekly themed events for increased public participation
 - ▣ Super Sunday Scramble
 - ▣ Red, White, and Blue Tournament
 - ▣ Thirsty Thursday
 - ▣ Member-Guest Events
 - ▣ WLGO – Supporting Fisher House Foundation
 - ▣ Glow Night Golf
 - ▣ Non-Golf Community Events for City of Killeen and Harker Heights



Junior Golf & Instruction

4

- ❑ **LPGA and Jim McLean Certified Instructor on staff**
 - ▣ 75% of golf instruction students are junior golfers
- ❑ **Two New Instructors in 2021**
- ❑ **Junior Golf Programs**
 - ▣ Individual Instruction: 25 hours per week
 - ▣ Junior Camps: Spring Break, Summer Break, and Fall Break
 - ▣ Weekly Junior Clinic



Agronomic Plan FY21

5

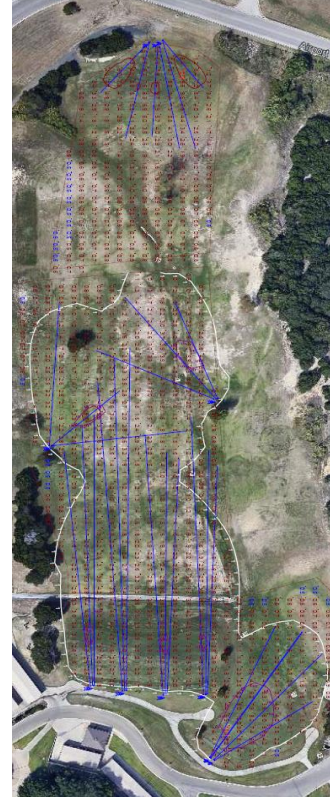
- ❑ Summer of 2021 renovate 10 acres of original fairways with bermudagrass to match the holes renovated in 2005
- ❑ Monthly plant growth enhancers based off soil and tissue tests
- ❑ Organic soil amendments to enrich the soil
- ❑ Periodic aerification of all maintained areas to relieve compaction and aid water infiltration
- ❑ Plant protectant applications to prevent new weeds and remove existing weeds
- ❑ Expansion of Monarch butterfly habitat using wildflower and native grass
- ❑ Involvement in the Audubon Sanctuary Program
- ❑ Add additional teeing areas to increase accessibility for new golfers and youth
- ❑ Plant 17 trees behind 4 green and along Knights Way and Roy Reynolds



Capital Improvement Plan

6

- ❑ Practice facility lighting
 - ▣ 6 pole lighted range
- ❑ Fairway grass conversion
 - ▣ Converting original fairways to a new variety that matches the 2005 renovated fairways



Financials FY21

7

Forecasted Financials for FY21 (Oct. '20 through March '21)

	YTD Actuals	YE Projections	Budget	Variance
Total Revenue	\$662,856	\$1,415,609	\$1,297,866	\$117,743
Cost of Sales	\$61,164	\$107,414	\$84,549	\$22,865
Total Expenses	\$540,331	\$1,166,078	\$1,212,687	\$46,609
Net Income	\$61,361	\$142,117	\$630	\$141,487

	FY16	FY17	FY18	FY19	FY20	FY21 Proj.
Net Income	(\$373,967)	(\$407,776)	(\$329,201)	(\$254,228)	(\$117,660)	\$142,117

Conclusion

8





City of Killeen

Legislation Details

File #: DS-21-055 **Version:** 1 **Name:** Discuss No Knock Warrants
Type: Discussion Items **Status:** Discussion Items
File created: 4/6/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Discuss No Knock Warrants
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments: [Draft Ordinance](#)
[Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

AN ORDINANCE AMENDING CHAPTER 22 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S POLICING STANDARDS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.

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

WHEREAS, the City of Killeen has declared that the limitations on certain search warrant executions to be necessary for the promotion of the public safety and the general welfare of the City; and,

WHEREAS, the City Council desires to establish regulations that will help ensure that future search warrant executions are safe and orderly; and

WHEREAS, the City Council desires to amend the police regulations to promote the health, safety, morals, and the general welfare of the municipality and the safe, orderly, and healthful development of the municipality;

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

SECTION I. That Article II of Chapter 22 of the City of Killeen of Code of Ordinance is hereby amended as follows:

Sec. 22-26. Duties of chief generally.

The chief of police of the city shall appoint one (1) or more police officers, and shall either in person or by appointed police officers attend upon the municipal court while such court is in session, and shall promptly and faithfully execute and return any process issued from such court. He shall have like power with the sheriff of the county to execute the writ of search warrants, except as provided in Article IV of this chapter. He shall be active in quelling riots, disorder and disturbances of the peace within the city, and shall have authority to take suitable and sufficient bail for the appearances before the municipal court of any person charged with an offense against the ordinances or laws of the city. It shall be his duty to arrest, without warrant, all violators of the public peace, and all who contract or interfere with him in the execution of the duties of his office, or who shall be guilty of any disorderly conduct or disturbances whatever. To prevent a breach of the peace, or to preserve quiet and good order, he shall have authority to close any theater, ballroom, barroom or any other place or building of public resort, and in the prevention and suppression of crime and in the arrest of offenders he shall have possession and execute like power, authority and jurisdiction as the sheriff of the county, under the laws of the state. He shall

receive a salary or fees of office, or both, to be fixed by the city council. The chief of police shall give bond for faithful performance of his duties as the city council may require, and he shall perform such duties and possess such other powers, rights and duties as the city council may by ordinance require and confer not inconsistent with the constitution and laws of the state.

(Code 1963, Ch. 1, art. 6, § 1)

That Article IV of Chapter 22 of the City of Killeen of Code of Ordinance is hereby amended as follows:

ARTICLE IV. SEARCH WARRANT LIMITATIONS

Sec. 22-60. Purpose.

The purpose of this article is to limit the type of search warrants that can be executed by peace officers employed by the City of Killeen within the Killeen city limits.

Sec. 22-61. Search Warrant Exception.

No peace officer employed by the City of Killeen, including the Chief of Police as provided in section 22-26, may request, execute or participate in the execution of any search warrant that does not require the officer to knock and announce his or her presence prior to execution.

Sec. 22-62. Violations

Unless stated otherwise, any violation of this article may subject a peace officer to discipline as provided by the Texas Local Government Code, Chapter 143, or as provided in City policy.

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

SECTION III. That should any section or part of any section, paragraph or clause of this ordinance be declared invalid or unconstitutional for any reason, it shall not invalidate or

impair the validity, force or effect of any other section or sections or part of a section or paragraph of this ordinance.

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

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

PASSED AND APPROVED at a regular meeting of the City Council of the City of Killeen, Texas, this ____ day of ____, 2021, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

APPROVED

Jose L. Segarra, MAYOR

ATTEST:

APPROVED AS TO FORM:

Lucy C. Aldrich, CITY SECRETARY

Traci S. Briggs, CITY ATTORNEY



NO KNOCK WARRANTS

DS-21-055

April 20, 2021

No Knock Warrants

- A request was made by Killeen City Council to prepare an ordinance to eliminate no knock warrants in the City of Killeen, and;
- Present the internal policies regarding no knock warrants in the Police Department

No Knock Warrants

- June 16, 2020, the Chief of Police submitted a document to the city manager regarding Police Reform, consisting of:
 - ▣ Use of Force
 - ▣ Choke Holds
 - ▣ Requesting Medical treatment
 - ▣ Accountability
 - ▣ Transparency
 - ▣ No Knock Warrants
- Document on KPD webpage for public access

No Knock Warrants

- A City ordinance has been prepared that does not allow any City of Killeen Peace Officer to request or participate in No-Knock warrants in the City of Killeen
- The ordinance states in part, *No Peace officer employed by the City of Killeen, including the Chief of Police as provided in section 22-26, may request, execute or participate in the execution of any search warrant that does not require the officer to knock and announce his or her presence prior to execution.*



City of Killeen

Legislation Details

File #: DS-21-056 **Version:** 1 **Name:** Discuss Animal Services
Type: Discussion Items **Status:** Discussion Items
File created: 4/7/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Discuss TNR Program Rules and Regulations Governing Cat Colonies, Animal Rescue and Foster Standards, and Volunteers
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



CAT COLONIES, RESCUES FOSTERS & VOLUNTEERS

DS-21-056

April 20, 2021

Chapter 6 Ordinance Revisions

2

- Ch. 6 ordinance revision was discussed at 12 meetings from July 19, 2018 – September 3, 2020
- Animal Advisory Board approved Ch. 6 revisions on September 17, 2020
 - ▣ During these (12) meetings staff/board discussed in detail various changes to the Ordinance to include sending the entire Ordinance with track changes to the entire body several times. No feedback received.
- Revisions were adopted by City Council on October 27, 2020

Cat Colony Revisions

3

- ❑ Ch. 6 Article V – Feral and Free-Roaming Cats
 - ▣ Cat Colony permit requirements were consolidated from several sections/divisions in the previous ordinance into one.
 - No new requirements were added.
- ❑ Killeen Animal Services (KAS) developed an internal policy and created a permit in November 2020 on how to manage Cat Colony Permits.

Cat Colony Managers

4

- ❑ KAS identified 12 known cat colonies in the city and mailed certified notice letters to colony managers on December 11, 2020
- ❑ January 22, 2021 mailed certified reminder letter
- ❑ March 23, 2021 mailed certified final notice letter
 - ▣ These letters outlined the requirements and due dates to become compliant
- ❑ Enforcement began March 2021

Cat Colony Permit

5

- Cat Colony Permit Requirements Per the Ordinance:
 - ▣ Complete application
 - ▣ Provide reasonable estimation of the number of cats in each colony
 - ▣ Provide medical records for each animal that has been sterilized and vaccinated against the rabies virus.

Cat Colony Permit (Continued)

6

- Provide the location by address and closest cross streets of each colony
- Provide written permission of all landowners within one block of the location where the cat colony is fed
- Participate in Trap, Neuter, Vaccinate, and Return program (TNVR)
- No site will be authorized for use in the TNVR program if the site is located within one half mile of a school, church, or public playground

Approved Cat Colony Permit Holders

7

- ❑ Must submit annual report to KAS
 - ▣ Estimated number of cats per colony that the cat colony caretaker has obtained a permit for
 - ▣ Number of cats vaccinated for rabies
 - ▣ Number of cats sterilized,
 - ▣ The name and location of the veterinary clinic used by the caretaker

Denied Cat Colony Permits

8

- ❑ KAS received two separate applications from managers that managed one cat colony:
- ❑ Permit was denied
 - ❑ Outdated/Missing medical records for each animal that has been sterilized and vaccinated against the rabies virus
 - ❑ Unable to verify all submitted written permission of landowners within one block of the location where the cat colony is fed
- ❑ KAS staff met with denied permit managers on April 6, 2021 and communicated missing items to managers.
- ❑ KAS staff mailed a 30-day extension letter on April 14, 2021 and followed up via phone.

Cat Colony Best Practices

9

- Round Rock, TX – Annual permit, landowner written permission, vaccination to include rabies, ear-tipped
- Marble Falls, TX – TNVR educational course, sterilization
- *People should follow State laws and local ordinances to ensure animals in their custody receive adequate care and are vaccinated against rabies.* - David W. Smonko, DVM, Department of State Health Services
- *Rabies laws: Texas Health and Safety Code 826.021-826.024 and Texas Administrative Code 169.29*

Feral Cats & Wildlife Connection Resources

10

- ▣ Kelly Simon, Wildlife Biologist Urban Wildlife Technical Guidance Program, Wildlife Division, Texas Parks and Wildlife Dept

- ▣ American Bird Conservancy's "Cats Indoors" program
<https://abcbirds.org/program/cats-indoors/>

- Cat Wars: The Devastating Consequences of a Cuddly Killer
[Cat Wars | Princeton University Press](#)

Rescue Standards

11

- ❑ Comply with Chapter 6, Article VII, Division 6 – Animal Rescues
 - ▣ Apply
 - ▣ Pass facility inspection for rescues located in city limits
 - KAS will work with rescues outside of city limits, local Animal Services Department to perform facility inspection
- ❑ KAS began steps to better manage rescues through the creation of a policy, application and inspection checklist November 2020

Rescues

12

- KAS leverages rescues for the following reasons:

- ▣ High-cost injury
- ▣ Sick
- ▣ Aggressive
- ▣ Pregnant
- ▣ Space/Length of stay
- ▣ Case animal (cruelty)



- From October 1, 2020 – April 13, 2021 KAS has transferred 264 dogs and 151 cats to non-profit rescue partners
- If a rescue requests to pull a vetted animal, they will be charged adoption rate \$62.50
 - ▣ In many cases KAS waives fees for rescues

Rescues currently being used

13

QUANTITY	LOCATION
2	KILLEEN, TX
4	AUSTIN, TX
1	AUSTIN/SAN ANTONIO, TX
1	CONROE, TX
1	HOUSTON, TX
1	GRAND PRARIE, TX
1	CINCINNATI, OH

QUANTITY	LOCATION
1	DALLAS/FORT WORTH, TX
1	GARLAND, TX
1	AMHERST, OH
1	PFLUGERVILLE, TX
1	FREEPORT, NY
1	RHODE ISLAND
17	TOTAL

Rescues Not Considered

14

- ❑ Rescues within Killeen with:
 - ▣ Pending cruelty charges
 - ▣ Cruelty convictions
 - ▣ No application on file
 - ▣ Failed inspection



Fosters

15

- ❑ All fosters must:
 - ▣ Fill out a Team Member Packet and become a vetted volunteer
 - ▣ Fill out a KAS Foster Care Agreement
 - ▣ Pass home visit inspection
- ❑ No data as this process is new and now linked to the rescue application/process

Volunteer Process

16

- ❑ Recreation Services identified a need for a volunteer process and developed an application
- ❑ Ages 18 and up
- ❑ Human Resources conducts a background check at no cost to the citizen and has a 2–7-day turnaround
 - ▣ This process does NOT require fingerprinting
- ❑ Complete volunteer orientation and tour the facility
- ❑ Volunteer activities: laundry, dishes, walking dogs, socializing cats and assisting at adoption events

KAS Policy Improvement

17

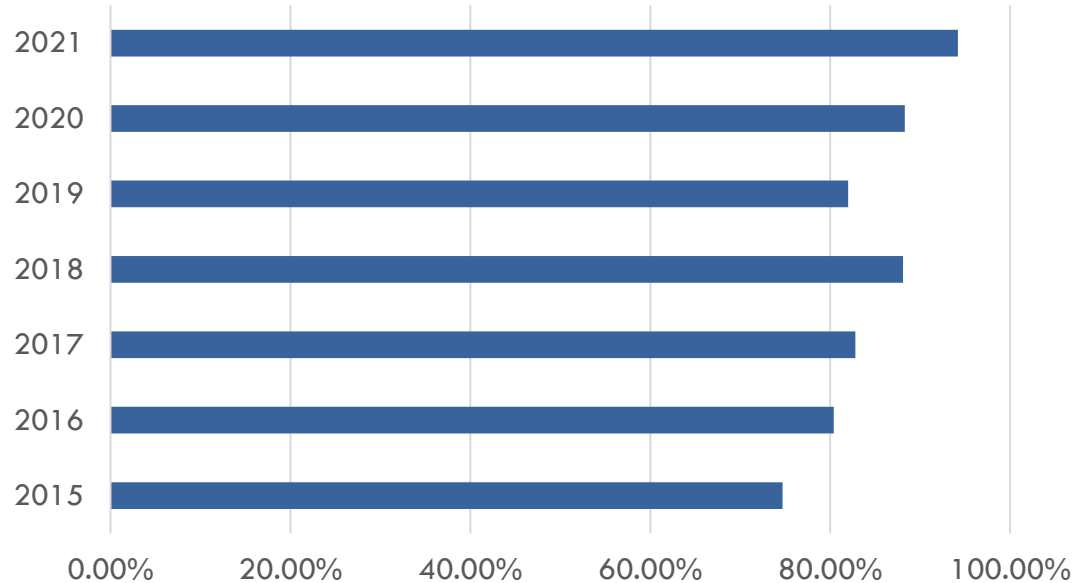
- Since 2019, KAS has created 35 policies
 - ▣ Cat Colony Permit Process
 - ▣ Rescue Vetting Process
 - ▣ Standard Operating Procedures: Volunteers, Fees, Cash Handling, Vaccination Protocols, Animal Seizures

Live Release Rate

18

YEAR	RATE
2015	74.7%
2016	80.4%
2017	82.8%
2018	88.10%
2019*	82%
2020	88.3%
2021	94.20%

LIVE RELEASE RATE BY YEAR



* Recreation Services assumed responsibility June 2019
No Kill Shelter designation 90% and above



City of Killeen

Legislation Details

File #: DS-21-057 **Version:** 1 **Name:** Discuss Joint Meeting w/KISD
Type: Discussion Items **Status:** Discussion Items
File created: 4/13/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Discuss Joint Meeting w/KISD
Sponsors:
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



City of Killeen

Legislation Details

File #: DS-21-058 **Version:** 1 **Name:** FY22 Budget Update
Type: Discussion Items **Status:** Discussion Items
File created: 4/14/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: FY22 Budget Update
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments: [Presentation](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



PLANNING AND BUDGET – FY 2022

DS-21-058

April 20, 2021

City Council Budget Calendar

2

Original Date	Proposed Date	Event	Requirement/Action
April 6	April 6	City Council Workshop	Receive input and priorities for FY 2022 Budget
July 6	July 6	City Council Workshop & Special City Council Meeting	Present Proposed Budget to City Council Budget Workshop
July 27	July 27	City Council Meeting	Budget Public Hearing
August 3	August 3	Special City Council Meeting	Provide Council with no-new-revenue rate and voter-approval rate Set proposed tax rate
August 3	September 7	Special City Council Meeting Budget Public Hearing 2 of 2 (2, if City Council requests changes)	Budget Public Hearing

City Council Budget Calendar (cont'd)

3

Original Date	Proposed Date	Event	Requirement/Action
August 17	September 14	City Council Meeting Tax Rate Hearing	Public Hearing on Tax Increase Conduct the budget public hearing (if needed) Adoption of: <ul style="list-style-type: none">• Budget• Ratify tax increase• Set tax rate (including M&O and I&S rates)
September 20		Last Day per City Charter to Adopt Budget	

City Charter Budget

4

- ▣ Specific requirements in Article V. – The Budget:
 - Section 50 – Not less than 45 days prior to the beginning of each fiscal year, the city manager shall submit to the council a proposed budget...
 - Section 53 – The budget and all supporting schedules shall be filed with the City Clerk when submitted to the Council and shall be public record for inspection by anyone.
 - Section 54 – At the meeting of the Council at which the budget is submitted, the Council shall fix the time and place of a public hearing on the budget and shall cause to be published notice of the hearing setting forth the time and place thereof at least five days before the date of hearing.

Budget Review Options

5

- ❑ City Council or Sub-Committee
- ❑ When to start the review
 - ▣ Staff recommends after City Manager's budget is delivered on July 6th
- ❑ Budget Workshops
 - ▣ During business hours
 - Monday – Friday from 8:00 am to 5:00 pm
 - ▣ Non-council meeting day outside of business hours
 - Example: Every Thursday in July at 5:00 pm

City Council Budget Priorities

6

- ❑ Street replacement / repair options
- ❑ Other City Council priorities



City of Killeen

Legislation Details

File #: DS-21-059 **Version:** 1 **Name:** City Manager Updates
Type: Discussion Items **Status:** Discussion Items
File created: 4/6/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: City Manager Updates
· COVID 19 Update
Sponsors: City Manager Department
Indexes:
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



City of Killeen

Legislation Details

File #: RQ-21-021 **Version:** 1 **Name:** Future Agenda Item Request
Type: Future Agenda Requests **Status:** Future Agenda Items
File created: 4/6/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Update on Downtown Vacant Buildings and Demolish Condemned Buildings
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Request](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------



ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA

(Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): Councilwoman Debbie Nash-King

Date: 4/6/2021

Problem/Issue/Idea Name for Agenda:

I would like an update on the downtown vacant buildings and demolish condemned buildings.

Description of Problem/Issue/Idea:

Update on the progress.

Requested Action:

I would like the item to be placed on the 20 April 2021 workshop agenda.



City of Killeen

Legislation Details

File #: RQ-21-022 **Version:** 1 **Name:** Future Agenda Item Request
Type: Future Agenda Requests **Status:** Future Agenda Items
File created: 4/12/2021 **In control:** City Council Workshop
On agenda: 4/20/2021 **Final action:**
Title: Identify Land and Structural Properties Owned by City of Killeen
Sponsors: City Council
Indexes:
Code sections:
Attachments: [Request](#)

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA (Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): Councilman Steve Harris

Date: 11 April 2021

Problem/Issue/Idea Name for Agenda:

Identifying Land and Structural Properties Owned By the City of Killeen

Description of Problem/Issue/Idea:

The purpose of this request is to identify lands and, or structural properties that can be used in creative ways to promote quality of life and entrepreneurial incubations opportunities for the City of Killeen.

***Note: This is just an identification process.**

Requested Action:

Provide a motion of direction for staff to identify city owned land and structures that have the potential to be utilized for quality of life and ,or “Business Incubator” possibilities.



City of Killeen

Legislation Details

File #:	RQ-21-023	Version:	1	Name:	Future Agenda Item Request
Type:	Future Agenda Requests	Status:		Status:	Future Agenda Items
File created:	4/12/2021	In control:		In control:	City Council Workshop
On agenda:	4/20/2021	Final action:		Final action:	
Title:	Assess Financial Planning Feasibility and Strategies for Implementing Land and Structural Properties Owned by City of Killeen				
Sponsors:	City Council				
Indexes:					
Code sections:					
Attachments:	Request				

Date	Ver.	Action By	Action	Result
------	------	-----------	--------	--------

ATTACHMENT A

REQUEST TO PLACE ITEM ON THE AGENDA (Per Section 1-20 of Governing Standards and Expectations)

Requestor(s): Councilman Steve Harris

Date: 11 April 2021

Problem/Issue/Idea Name for Agenda:

Assess financial planning feasibility and strategies for implementing Land and Structural Properties owned By the City of Killeen for use as quality of life and “business incubators” to promote small entrepreneurship business start ups and public space for play and, or entertainment.

Description of Problem/Issue/Idea:

The purpose of this request is to, with the identifying of lands and, or structural properties that can be used in creative ways to promote quality of life and entrepreneurial incubations opportunities for the City of Killeen, assess what steps the city can take to make the land and, or structural facilities could be utilized for such previously stated purposes.

***Note: This process is to assess to the possibilities of making this idea happen**

Requested Action:

Provide a motion of direction for staff to assess the economic feasibility and potential planning of initiating a plan to utilize city owned land and structures for quality of life and “business Incubator” facilities.