



# City of Killeen

## Agenda City Council

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Tuesday, August 22, 2017

5:00 PM

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

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### Call to Order and Roll Call

___ Jose Segarra, Mayor	___ Jim Kilpatrick
___ Shirley Fleming	___ Debbie Nash-King
___ Steve Harris	___ Jonathan Okray
___ Gregory Johnson	___ Juan Rivera

### Invocation

### Pledge of Allegiance

### Approval of Agenda

### Minutes

1. [MN-17-019](#) Consider Minutes of Regular City Council Meeting of August 8, 2017.

Attachments: [Minutes](#)

### Resolutions

2. [RS-17-080](#) Consider a memorandum/resolution to renew the annual maintenance agreement with Superior formerly Sungard Public Sector.

Attachments: [Staff Report](#)

[Invoice](#)

[Sole Source Packet](#)

[Certificate of Interested Parties](#)

[Presentation](#)

3. [RS-17-081](#) Consider a memorandum/resolution awarding a one (1)-year service agreement for Cisco SmartNET to Technology for Education LLC.

Attachments: [Staff Report](#)

[Presidio Quote](#)

[Century Link Quote](#)

[Certificate of Interested Parties](#)

[Presentation](#)

4. [RS-17-082](#) Consider a memorandum/resolution authorizing an increase in tire service expenditures for Fiscal Year 2017.  
**Attachments:** [Staff Report](#)  
[Bid Tabulation Sheet](#)  
[Presentation](#)
5. [RS-17-083](#) Consider a memorandum/resolution authorizing a lease agreement with Nugen Recycling for the old City of Killeen Transfer Station.  
**Attachments:** [Staff Report](#)  
[Map](#)  
[Lease](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)
6. [RS-17-084](#) Consider a memorandum/resolution approving updates to Audit Committee Charter.  
**Attachments:** [Staff Report](#)  
[Audit Committee Charter](#)  
[Presentation](#)
7. [RS-17-085](#) Consider a memorandum/resolution setting the preliminary tax rate for the FY 2018 Annual Budget and Plan of Municipal Services and setting the dates to hold public hearings.  
**Attachments:** [Staff Report](#)  
[Presentation](#)

## Ordinances

8. [OR-17-010](#) Consider an ordinance amending Chapter 25 of the Code of Ordinances regulating the use of the Public Right-of-Way.  
**Attachments:** [Staff Report](#)  
[Ordinance](#)  
[Presentation](#)

## Public Hearings

9. [PH-17-037](#) HOLD a public hearing August 22, 2017 on the FY 2018 Proposed Annual Budget and Plan of Municipal Services for the Fiscal Year October 1, 2017, through September 30, 2018.  
**Attachments:** [Staff Report](#)

## 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 August 18, 2017.

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Dianna Barker, City Secretary

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

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

## **Notice of Meetings**

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

- MGC Pure Chemicals Ground Breaking, August 30, 2017, 9:00 a.m., 4500 Roy J. Smith Drive, Killeen
- ARAC Ribbon Cutting, August 31, 2017, 9:00 a.m., Fort Hood

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



# City of Killeen

## Legislation Details

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**File #:** MN-17-019    **Version:** 1    **Name:** Minutes of Special Meeting of August 8, 2017  
**Type:** Minutes    **Status:** Minutes  
**File created:** 7/31/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** Consider Minutes of Regular City Council Meeting of August 8, 2017.  
**Sponsors:** City Secretary  
**Indexes:**  
**Code sections:**  
**Attachments:** [Minutes](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		

**City of Killeen**  
Regular City Council Meeting  
Killeen City Hall  
August 8, 2017 at 5:00 p.m.

Presiding: Mayor Jose L. Segarra

Attending: Mayor Pro-Tem Jim Kilpatrick, Councilmembers Debbie Nash-King, Juan Rivera, Shirley Fleming, Gregory Johnson, Jonathan Okray, and Steve Harris

Also attending were City Manager Ronald L. Olson, City Attorney Kathryn Davis, City Secretary Dianna Barker, and Sergeant-at-Arms Gilman.

Councilmember Harris gave the invocation, and James Ralston led everyone in the Pledge of Allegiance.

**Approval of Agenda**

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

**Minutes**

*Motion was made by Councilmember Rivera to approve the minutes of the July 25th Regular City Council Meeting. Motion was seconded by Councilmember Nash-King. Motion carried unanimously.*

*Motion was made by Councilmember Johnson to approve the minutes of the August 1st Special City Council Meeting. Motion was seconded by Mayor Pro-Tem Kilpatrick. Motion carried unanimously.*

**Resolutions**

**RS-17-074** Consider a memorandum/resolution to authorize the award of a professional services agreement with Belt Harris Pechacek, LLLP to perform independent auditing services.

**Staff comments:** Jonathan Locke

The City's audits are required to be performed in accordance with generally accepted auditing standards set forth in the General Accounting Office's (GAO) Government Auditing Standards. The City received responses from five firms. Belt Harris Pechacek, LLLP was chosen and recommended as the most qualified responder by a committee of staff members. The Audit Committee supported the recommendation. Staff recommends that the City Council authorize the award of a professional services agreement with Belt Harris Pechacek, LLLP to provide independent auditing services for fiscal years ending September 30, 2017 and 2018 to the City of Killeen.

*Motion was made by Councilmember Fleming to approve RS-17-074. Motion was seconded by Councilmember Nash-King. Motion carried unanimously.*

**RS-17-075** Consider a memorandum/resolution for the acquisition of Axon Taser X26P conducted electrical weapons and related accessories for the Killeen Police Department.

**Staff comments:** Margaret Young

The Police Department needs to replace 132 TASERs that have reached the end of their service life and are out of warranty. The Department recommends the acquisition of 132 TASER CEW packages from Axon at a total cost of \$162,650 over five years, utilizing the TASER 60 extended purchase plan and taking advantage of the current trade-in rebate.

*Motion was made by Councilmember Rivera to approve RS-17-075. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**RS-17-076** Consider a memorandum/resolution accepting a grant from Texas Department of Transportation-Aviation Division to fund a T-Hangar Design and Construction Project on Skylark Field.

**Staff comments:** Matt Van Valkenburgh

The City received a Federally and State Assisted Airport Development Grant offer in the form of a Texas Department of Transportation Airport Project Participation Agreement in the amount of \$1,285,800 to fund 90% of the approved design and construction of a T-Hangar building project at Skylark Field. The City will be required to provide a match of \$142,866 (10% of estimated total project cost) to receive this grant funding and allow the project to proceed. Staff recommends City Council approve the attached Texas Department of Transportation Airport Project Participation Agreement CSJ No. 1709KILEN accepting the state and federal grant offer in the amount of \$1,285,800 for design and construction of a T-hangar on Skylark Field, ratify and adopt all assurances, statements, representations, warranties, covenants and agreements incorporated into this Airport Project Participation Agreement and expressly authorize the City Manager to execute all amendments within the amounts set by state and local law.

*Motion was made by Councilmember Okray to approve RS-17-076. Motion was seconded by Councilmember Harris. Motion carried unanimously.*

**RS-17-077** Consider a memorandum/resolution approving use of a Request for Proposal (RFP) for the common-use system / flight information display system (FIDs) at Killeen Fort Hood Regional Airport.

**Staff comments:** Matt Van Valkenburgh

The existing common-use system and infrastructure is six years old and runs on a non-supportable Window XP platform, using equipment that is outdated and not compatible with current Windows operating systems. This upgrade will enable the airport and airlines to better utilize and manage resources; enhance the passenger experience; provide for safety and emergency messaging for the public, passengers, and tenants; and reduce maintenance and operational costs incurred by the airport. The existing flight information display system (FIDS) infrastructure is approaching six years old and is becoming more difficult and more expensive to maintain in operational condition. Staff recommends using a Request for Proposal (RFP) for the evaluation, selection, procurement, and installation of a system. Staff recommends City Council find that competitive sealed proposal (RFP) method will provide the best value for the City and authorize the City Manager and staff to utilize the RFP evaluation process to identify and select the best value common-use and FID system for the Killeen-Fort Hood Regional Airport.

*Motion was made by Councilmember Okray to approve RS-17-077. Motion was seconded by Councilmember Fleming. Motion carried unanimously.*

**RS-17-078** Consider a memorandum/resolution approving the appointment of the Police Chief.

**Staff comments:** Eva Bark

Dennis Baldwin was appointed Assistant City Manager, creating a vacancy in the position of Police Chief. Six finalists for the Police Chief position were interviewed with three different panels: city management, city employees and community members. After considering the feedback from the panel members, and conducting an extensive background check, the City Manager extended a conditional offer of employment to Mr. Charles “Chuck” Kimble. Staff recommends that the City Council authorize the City Manager to execute the appointment of Charles “Chuck” Kimble as the City of Killeen’s Police Chief.

*Motion was made by Councilmember Rivera to approve RS-17-078. Motion was seconded by Councilmember Nash-King. Motion carried unanimously.*

### **Public Hearings**

**PH-17-036** HOLD a public hearing and consider an ordinance adopting the 2017-2018 Annual Action Plan describing use of funds and authorizing application for and allocation of Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) program funds. (2nd of 2 Public Hearings)

The City Secretary read the caption of the ordinance.

**AN ORDINANCE AUTHORIZING SUBMITTAL OF THE 2017-18 ANNUAL ACTION PLAN DESCRIBING THE USE OF FUNDS AND AUTHORIZING THE APPLICATION FOR AND ALLOCATION OF \$868,553.00 IN FY 2017-18 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS AND THE USE OF PRIOR YEAR PROGRAM INCOME AND PRIOR YEARS PROGRAM INCOME FUNDS FOR A TOTAL EXPENDITURE OF \$889,739.10 OF CDBG FUNDS; AND THE APPLICATION FOR AND ALLOCATION OF \$297,536.00 IN HOME INVESTMENT PARTNERSHIP (HOME) PROGRAM FUNDS AND THE USE OF PRIOR YEAR PROGRAM INCOME AND PRIOR YEAR RECAPTURED FUNDS FOR A TOTAL EXPENDITURE OF \$381,657.06 OF HOME FUNDS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**Staff comments:** Leslie Hinkle

The City of Killeen will receive funding from the U.S. Department of Housing and Urban Development (HUD) for FY2017-2018. Ralph Cossey presented recommendations from the CDAC committee awarding funding to various organizations. Following this second public hearing, Staff recommends approval of the proposed 2017-2018 Annual Action Plan to a final plan with revisions as appropriate based on citizen comments received during the 14-day comment period ending August 8, 2017.

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

*Motion was made by Councilmember Okray to approve PH-17-036. Motion was seconded by Councilmember Rivera. Motion carried unanimously.*

### **Adjournment**

With no further business, upon motion being made by Councilmember Okray, seconded by Councilmember Rivera, and unanimously approved, the meeting was adjourned at 5:35 p.m.





# City of Killeen

## Legislation Details

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**File #:** RS-17-080    **Version:** 1    **Name:** Superion Renewal  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 7/10/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** Consider a memorandum/resolution to renew the annual maintenance agreement with Superion formerly Sungard Public Sector.  
**Sponsors:** Information Technology Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Invoice](#)  
[Sole Source Packet](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Thomas A. Moore, Director of Information Technology Services

**SUBJECT:** Superion Annual Maintenance Renewal

### **BACKGROUND AND FINDINGS:**

Superion (formally SunGard Public Sector) was purchased in 1998 for \$1.2 million, and, over the past 19 years, the City has added additional modules at a cost over \$400,000, bringing the total enterprise software investment to \$1.6 million. Superion provides the City with an integrated suite of software products including support for Financial, Human Resources, Utility Billing, Building Permits, and Code Enforcement. The maintenance renewal cost covers technical support calls, ongoing education, improvements to infrastructure, and product enhancements.

### **THE ALTERNATIVES CONSIDERED:**

#### **Which alternative is recommended? Why?**

Superion Public Sector is the product of choice for enterprise applications, and alternatives were not considered because of the cost to change software providers. The city is satisfied with the current software vendor and does not feel a switch to another vendor is fiscally responsible at this time. Changing to another software vendor would cost the city significant capital, both in direct costs to purchase new software and indirect costs for project implementation and data conversion of existing files.

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

According to the City of Killeen's Purchasing Manual, Appendix G, a sole source procurement is authorized for an item or service that is available from only one vendor. Superion Public Sector software, maintenance, and support are available only from the manufacturer, Superion Public Sector. Supporting documentation is included for review.

### **FINANCIAL IMPACT:**

#### **What is the amount of the expenditure in the current fiscal year?**

The FY17 cost for Superion Public Sector software licensing, maintenance, and customer support totals \$121,842.71. The cost is allocated across the following funds:

<b>Fund</b>	<b>Account</b>	<b>Cost Share</b>
General Fund	010-2705-419-42-43	\$49,955.51
Hotel & Motel Fund	214-2705-419-42-43	\$4,873.71
Aviation Fund	525-2705-419-42-43	\$7,310.56
Solid Waste Fund	540-2705-419-42-43	\$9,747.42
Water and Sewer Fund	550-2705-419-42-43	\$40,208.09
Drainage Utility Fund	575-2705-419-42-43	\$9,747.42
	<b>TOTAL</b>	<b>\$121,842.71</b>

**For future years?**

Each year there is an internal review of the applications, modules, and support necessary for the City of Killeen to maintain services, both internal for employees and external for citizens. When underutilized modules are identified, they are removed and the annual maintenance cost decreases accordingly. When the need for additional support services is identified, new modules are added; if so, the annual maintenance cost increases accordingly. If the modules and level of support remain unchanged for FY 18, the cost is projected to increase by 5%, the industry standard for software support agreements. The FY18 cost is estimated to be \$127,934.85.

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

The Superion Public Sector software maintenance and support agreement is a recurring expense on an annual renewal.

**Is this expenditure budgeted?**

The Superion Public Sector software maintenance and support agreement is budgeted in the IT Services budgets each fiscal year, including with the industry standard 5% cost increases.

**If not, where will the money come from?**

N/A

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

Yes

**RECOMMENDATION:**

City staff recommends the City Council approve this request and allow the City Manager to execute the renewal of the FY17 annual maintenance agreement with Superion Public Sector in the amount of \$121,842.71.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Invoice  
Sole Source Packet  
Certificate of Interested Parties



1000 Business Center Drive  
Lake Mary, FL 32746  
800-727-8088  
www.superion.com

## Invoice

Company	Document No	Date	Page
LG	137530	15/May/2017	1 of 3

Bill To: City of Killeen  
101 North College Street  
P.O. Box 1329  
KILLEEN, TX 76540  
United States  
Attn: IT Department

Ship To: City of Killeen  
101 North College Street  
P.O. Box 1329  
KILLEEN, TX 76540  
United States  
Attn: IT Department

Customer Grp/No.	Customer Name	Customer PO Number	Currency	Terms	Due Date
1	1710LG	City of Killeen	USD	NET30	14/Jun/2017

No	SKU Code/Description/Comment	Units	Rate	Extended
Contract No. 00008700				
22	NaviLine Click2Gov3 - Building Permits Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	4,320.79	4,320.79
23	NaviLine Click2Gov3 - Employee Self Service Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	4,493.99	4,493.99
24	NaviLine Click2Gov3 - Customer Information System Module Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	3,724.39	3,724.39
25	NaviLine Click2Gov3 - Core Module Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,716.14	1,716.14
Contract No. 00009548				
26	Cognos NaviLine BI: Promo Q4-2014 Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,903.44	1,903.44
Contract No. 070414				
19	Human Resources Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	3,675.71	3,675.71
Contract No. 070674				
20	CIS Voice Response Interface Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,703.97	1,703.97
21	CIX IVR Credit Card Interface Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	724.20	724.20
Contract No. 20030447				
2	NAVI-Building Permits Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	11,763.50	11,763.50
3	NAVI-Code Enforcement Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	3,712.22	3,712.22
4	NAVI - Cash Receipts Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	3,700.05	3,700.05
5	NAVI - Customer Information Systems Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	16,419.00	16,419.00

Page Total 57,857.40



1000 Business Center Drive  
Lake Mary, FL 32746  
800-727-8088  
www.superion.com

## Invoice

<b>Company</b>	<b>Document No</b>	<b>Date</b>	<b>Page</b>
LG	137530	15/May/2017	2 of 3

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101 North College Street  
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United States  
Attn: IT Department

Ship To: City of Killeen  
101 North College Street  
P.O. Box 1329  
KILLEEN, TX 76540  
United States  
Attn: IT Department

Customer Grp/No.	Customer Name	Customer PO Number	Currency	Terms	Due Date
1 1710LG	City of Killeen		USD	NET30	14/Jun/2017

No	SKU Code/Description/Comment	Units	Rate	Extended
6	Naviline - Asset Management I Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	3,505.30	3,505.30
7	NAVI-GMBA Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	14,562.87	14,562.87
8	Naviline-Land/Parcel Management Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	5,483.14	5,483.14
9	NAVI-Accounts Receivable Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	5,148.42	5,148.42
10	NAVI-PURCHASING INVENTORY Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	8,002.59	8,002.59
11	NAVI-Payroll/Personnel Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	8,544.21	8,544.21
12	NAVI - WorkOrders/Fac Mgmt. Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	8,738.94	8,738.94
13	NAVI-DMS - Document Management Services Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,235.38	1,235.38
Contract No. 20060187				
14	Cash Receipts Lock Box Interface Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	742.46	742.46
Contract No. 20061667				
15	Imaging Interface - Community Development Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,454.47	1,454.47
16	IVR - Imaging Interface - Utilities Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,454.47	1,454.47
17	IVR - Imaging I/F - Financials Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	1,454.47	1,454.47
18	Procurement Card Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	1.00	2,458.59	2,458.59
Contract No. 9801013				



1000 Business Center Drive  
Lake Mary, FL 32746  
800-727-8088  
www.superion.com

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<b>Company</b>	<b>Document No</b>	<b>Date</b>	<b>Page</b>
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Customer Grp/No.	Customer Name	Customer PO Number	Currency	Terms	Due Date
1	1710LG	City of Killeen	USD	NET30	14/Jun/2017

No	SKU Code/Description/Comment	Units	Rate	Extended
1	Retrofit Modification Option Maintenance Start: 01/Jul/2017, End: 30/Jun/2018	12.00	100.00	1,200.00

Page Total 1,200.00

Remittance: Superior, LLC  
Bank of America  
12709 Collection Center Drive  
Chicago, IL 60693

Inquiries: Accounts.ReceivableLG@superion.com

Subtotal	121,842.71
Sales Tax	0.00
Invoice Total	121,842.71
Payment Received	0.00
Balance Due	121,842.71

**City of Killeen**  
**Sole/Single Source Purchase Form**

Vendor Name: Superion (SunGard Public Sector)

Vendor Contact: Tony Jakusovas

Phone: 407-304-3193 FAX: 407-304-4227

Check one: ☒ This is a recurring procurement from 07/17 to 06/18 (cannot exceed 1 yr )  
(mm/yy) (mm/yy)

OR

☐ This is a one-time procurement for this product or service. (Cost \$\_\_\_\_\_)

**Purpose:** You will complete this form for procurements where the basis for the vendor selection is:

- 1) Only one *specific* supply or service that can reasonably meet your need
- 2) Only one vendor who can reasonably provide that supply or service

**You MUST meet BOTH criteria to have a sole-source procurement.**

**You MUST meet criteria #1 to have a brand name sole source procurement.**

Date of Request 06/21/17 Requisition or PO Number: 127236

Requesting Department: Information Technology Services

Contact Name: Mandy Cline

Phone: 501-7707 Fax: \_\_\_\_\_

E-Mail: mcline@killeentexas.gov

Before a decision can be made to approve a request for Sole Source procurement, the following information is needed. Please provide all of the requested information on this form and submit it to the Purchasing Manager.

**Note:** A sole source justification cannot be based on price alone. If sole source is approved, your department will be required to make a determination that the price is fair and reasonable. Please submit applicable information on this form.

Note: If additional space is required, use additional sheets of paper and submit with this completed form.



1) NEEDS STATEMENT –

Describe in detail the product and/or service to be procured and how they meet your needs.

*SunGard Public Sector* is the software of choice by the City of Killeen Finance, Human Resources, Purchasing, and Public Works for municipal operations to execute business processes and services to citizens and employees.

2) FEATURES REQUIREMENTS –

What unique design/performance features does this product/service have that are essential to your requirements? Please provide a brief yet technical explanation as to why these features are essential. Provide the manufacturer and model of your existing equipment. List the major features/capabilities of the product/service that are required:

The maintenance for this software is essential to ensure that the software continues to function properly and efficiently. The maintenance can only be provided by the software company that owns the software – SunGard Public Sector.

3) COMPETING BRANDS INVESTIGATED –

What other suppliers did you contact? Did you consider other products or services with similar capabilities? Indicate the specific brands/models of competitors' products that were investigated and describe why, specifically, they do not meet some, or all, of the FEATURES REQUIREMENTS listed in Item #2. Requestor needs to state that to the best of his/her knowledge, these are the only companies that make this type of equipment. Please list sales representatives and telephone numbers so we may contact these vendors to verify that other products do not meet your needs.

*SunGard Public Sector* software was purchased by the City in 1998 in a competitive bid process. This software was deemed best value for fully satisfying the municipal requirements for business processing across city departments.



4) BRAND NAME SOLE SOURCE –

Is the specific brand/model of product being recommended for procurement available from more than one source (i.e., dealers, distributors)? ( ) Yes ( X ) No

If “Yes”, this will be processed as a brand name sole source. Please provide the company names of known sources:

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5) CONFLICT OF INTEREST STATEMENT -

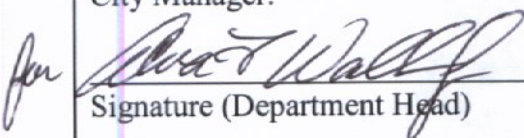
The Department must have the vendor verify that there is no real or potential Conflict of Interest (CIQ) in recommending this product and/or service as a Sole Source procurement. If there is any potential for Conflict of Interest, the vendor is responsible for filling out a CIQ questionnaire.

6) SOLE SOURCE PURCHASE JUSTIFICATION MEMO-

Attach the memorandum from the vendor which addresses the five (5) criteria for justification of a sole source purchase, mentioned above.

Department Approval:

By signing below, the Department is certifying that the information submitted on this form is accurate. The final determination of sole source or brand name sole source will be made by the City Manager.

 Signature (Department Head)

6-21-17  
Date

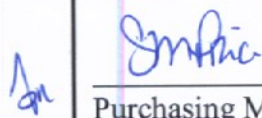
FOR PURCHASING DIVISION USE ONLY

RECOMMENDATION:

☒ Sole source approved – purchase as requested.

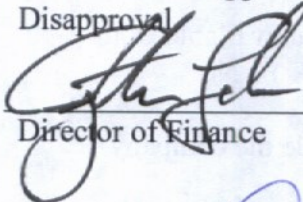
☐ Brand name approved – issue bid on a “no substitutes” basis.

☐ Sole Source not approved – issue bid using performance specifications.

 Purchasing Manager

6/29/17  
Date

Recommend: Approval or  
Disapproval

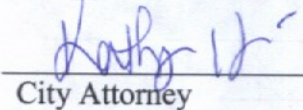


Director of Finance

6/28/17  
Date

Comments

Recommend: Approval or  
Disapproval

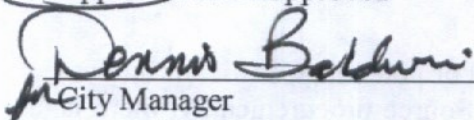


City Attorney

6/30/17  
Date

Comments

Approved or Disapproved



City Manager

6/30/17  
Date

Comments



## **Sole/Single Source Justification request**

*Purpose* – The City of Killeen's Purchasing Policy requires that goods or services be procured with the maximum practicable competition. This policy enforces the requirement for competitive sealed bidding for goods and services costing more than \$50,000.00. Sole/single source procurements are exceptions to normal purchasing procedures and are permitted only when the required item or service is available from a single supplier. A requirement for a particular proprietary item does not justify sole source procurement if there is more than one potential supplier for that item. The purpose of this document is to outline responsibilities and procedures under circumstances when there is only one known source of supply capable of providing the goods or services required by the City.

*Definitions* – Sole source and single source purchases may be segregated in definition and use. The common thread is that a justification to procure from a sole or single source cannot be solely based on quality or price; "quality" can be a subjective evaluation and "pricing" subject to the level of competition. "Sole Source" applies where it can be substantiated that a requirement involves a commodity or service provided by only one vendor or contractor which has exclusive rights (patents, copyrights, proprietary interest or secret processes) to the manufacturing of the product or service. Sole Source requirements will withstand the questions of (1) is the commodity or service is the only of its kind which can fully satisfy the requirement, and (2) the commodity is available from one, and only one, source. In this context, "sole" means "the only one." "Single Source" applies where it can be substantiated that a commodity or service can be obtained only from one vendor or contractor which often is the "single" representative of the manufacturer or principle company. "Single Source" purchases frequently involve a vendor or contractor whose product or service is discernibly distinguishable from all others in the market and singularly meets all significant elements of the City's requirement. In this context, "single" means, "the one among others." "Brand Name" specifically does not necessarily equate to a "Sole Source" nor a "Single Source" purchase. "Brand Name" requirements may not satisfy the criteria of either "Sole Source" or "Single Source" practices as several vendors or contractors may be able to provide the product or service and, therefore, the requirement can be competitively awarded. Purchasing specifications, in this instance, will provide for "Brand Name or Equal" specification, which identify the salient features of the requirement in a non-restrictive manner.

*Request for Exception* – Both "Sole Source" and "Single Source" purchases will be able to withstand the scrutiny of the test of 'no alternatives' by the City Manager. As such, the submittal of such a request and its documentation represents a good faith certification on behalf of the requesting department that the requirements have been met.

The determination as to whether to accept and act upon a "Sole Source" or "Single Source" request relies on the reasonableness of the request and the clear demonstration that the department has completed a comprehensive market survey where the investigation, evaluation and documentation of alternative sources and products or services leaves no doubt as to the course which the department has elected in the purchase. Key to this research is the use of specifications which only state the salient aspects of the requirement and can provide for the purchase of the minimally acceptable quality necessary to perform a given task.

*Documentation of Sole Source Purchase Requests* – When sole/single source purchases are requested, the fact that a sole source situation exists will need to be documented. The Sole Source



Purchasing packet will be submitted by the Dept/Div head along with a memorandum from the vendor to Purchasing. The written memorandum accompanying the Sole Source Purchasing form will include the following:

1. A statement of fact they are the sole proprietary manufacturer of said equipment.
2. A description of the technical performance characteristics of the goods or services including a description of the unique properties of the goods or services specified. Explain why this is the only product or service that can meet the needs of the City.
3. A brief description of the intended use of the goods or services specified, establishing a requirement for the unique properties identified.
4. Explain why they are the sole practicable available source from which to obtain this product or service.
5. Explain why their price is considered reasonable.

*Responsibilities and Review Procedures* - When the Sole Source Purchasing form and Justification memo are received, they will be reviewed by the Purchasing Manager, Exec Dir. Of Support Services, Assistant City Manager, Internal/External services, Finance Director, and City Attorney before going to the City Manager for final approval. The Purchasing Division will notify the requesting Department of the City Manager's decision. If the sole source justification is approved, Purchasing will return the original document to the Department and a requisition can be entered in SunGard.

### **Sole/Single Source Justifications**

There are several reasons why a purchase may be possible or more practical from only one vendor.

- A. There is no competitive product. The item/service is a one-of-a-kind or patented product, such as computer hardware/software purchases/upgrades, which are available from only one-source.
- B. The product is only available from a regulated or natural monopoly. For example: utilities, gravel from the only pit in the area, etc.
- C. The product is a component of an existing system that is only available from one supplier.
- D. The vendor has already exercised a sale with the City and is the only one allowed to perform maintenance upgrades.



June 21, 2017

IT Department  
City of Killeen  
P.O. Box 1329  
Killeen, TX 76540

To whom it may concern,

This letter is intended to reflect that the NaviLine brand Software applications are proprietary software and services solely provided by Superion, LLC. Further, Superion, LLC is the sole provider in training, modification, and miscellaneous support of these applications. Superion, LLC is the sole owner, provider, developer and supporter of the NaviLine brand software and has full power and authority to grant the rights to license it without the consent of any other person or entity.

If you have any questions or need additional information, please do not hesitate to call me.

Sincerely,

DocuSigned by:  
*Darian Sweat*  
99593B14A449425...

Darian Sweat  
Contracts Specialist



# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

## OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2017-245895

Date Filed:  
08/07/2017

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.  
Superion, LLC  
Lake Mary, FL 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

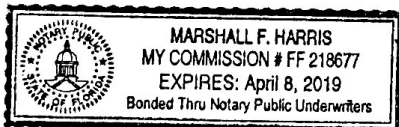
3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.  
1710LG-1211037  
2017 Maintenance Agreement

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Ramundsen Holdings, LLC	Lake Mary, FL United States	X	
	Lafeber, Kevin	Lake Mary, FL United States		X
	Amburgey, Tom	Lake Mary, FL United States		X
	Valvano, Bob	Lake Mary, FL United States		X

5 Check only if there is NO Interested Party. ☐

## 6 AFFIDAVIT

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



*Lisa Neumann*

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said LISA NEUMANN, this the 7th day of AUGUST, 2017, to certify which, witness my hand and seal of office.

*Marshall F. Harris*

Signature of officer administering oath

Marshall Harris

Printed name of officer administering oath

CONTRACTS SPECIALIST

Title of officer administering oath



# SUPERION

RS-17-080

August 15, 2017

# Background

2

- ❑ Enterprise Resource Planning (ERP) system
- ❑ SunGard bought out by Superior
- ❑ City purchased original software (HTE) in 1998
- ❑ Provides city staff an integrated software
  - ▣ Human Resources (Payroll, Employee Self Service)
  - ▣ Finance (AR/AP, Asset Mgmt, Cash Receipts, Purchasing)
  - ▣ Code Enforcement/Building Inspections
  - ▣ Land Management
  - ▣ Work Orders
  - ▣ Cognos Reporting
  - ▣ Click2Gov3 (Citizen payments)
  - ▣ Training



# Alternatives

3

- Replace Superion
  - ▣ Time and personnel resource intensive
  - ▣ Data transfer costs
- Continue support with Superion
  - ▣ Annual cost (included in FY18 budget)
  - ▣ New updates to base system

# Recommendation

4

- Staff recommends authorizing the City Manager to renew the FY17 annual maintenance agreement with Superior Public Sector in the amount of \$121,842.71.



# City of Killeen

## Legislation Details

<b>File #:</b>	RS-17-081	<b>Version:</b>	1	<b>Name:</b>	SmartNet Annual Renewal
<b>Type:</b>	Resolution	<b>Status:</b>		<b>Status:</b>	Resolutions
<b>File created:</b>	7/25/2017	<b>In control:</b>		<b>In control:</b>	City Council
<b>On agenda:</b>	8/22/2017	<b>Final action:</b>		<b>Final action:</b>	
<b>Title:</b>	Consider a memorandum/resolution awarding a one (1)-year service agreement for Cisco SmartNET to Technology for Education LLC.				
<b>Sponsors:</b>	Information Technology Department				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>	<a href="#">Staff Report</a> <a href="#">Presidio Quote</a> <a href="#">Century Link Quote</a> <a href="#">Certificate of Interested Parties</a> <a href="#">Presentation</a>				

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Thomas A. Moore, Executive Director of Information Technology Services

**SUBJECT:** Authorize the Award of a Cisco SmartNET Services Agreement

### **BACKGROUND AND FINDINGS:**

The City of Killeen's network is comprised of switches, routers, and firewalls for network connectivity. The city also has a Call Manager VoIP system for telephone service. In March of 2015, a plan was approved to purchase all Cisco equipment to replace the city-owned network equipment and create an infrastructure that would meet current and future city needs. The purchase allowed for an initial 12-month period of SmartNET support; this request is for a continuation of the support for the next 12 months. SmartNET service provides escalated assistance, emergency support, and software installs/updates for all Cisco systems and devices. Information Technology requested 12-month pricing plans from multiple Cisco resellers to attain the best pricing available. This purchase is through the Texas DIR purchase program. We received three quotations from reliable vendors and choose Technology for Education LLC (TFE) as the providing the best value.

### **THE ALTERNATIVES CONSIDERED:**

1. Purchase Cisco SmartNET.
2. Do not purchase SmartNET and forgo this support.

### **Which alternative is recommended? Why?**

Cisco SmartNET's service is designed to maintain the most effective and reliable network. Without the SmartNET support, the city would pay 100% of replacement costs for any of the Cisco devices that fail. Additionally, costs for any upgrades or changes in software or firmware would also be the responsibility of the city. Option one is the recommended option.

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

This purchase request is within the parameters set forth in the state and city purchasing policies.

**FINANCIAL IMPACT:**

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

Funding for this project is available in the amount of \$61,805.13 within the IT Services software maintenance budget. We have included this cost for FY18 with a projected 5% increase in costs.

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

This is an annual recurring expenditure.

**Is this expenditure budgeted?**

Yes

**If not, where will the money come from?**

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

Yes

**RECOMMENDATION:**

Staff recommends that the City Council authorize the City Manager to award to TFE the support agreement for Cisco SmartNET.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

TFE Quote  
Presidio Quote  
Century Link Quote  
Certificate of Interested Parties

**TO:** City of Killeen  
Robert Sharp  
PO Box 1329  
KILLEEN, TX 76540  
  
rsharp@killeentexas.gov  
(p) 254.501.6333

**FROM:** Presidio Networked Solutions Group, LLC  
  
10415 Morado Circle  
The Campus Building 1  
Suite 320  
Austin, TX 78759

**BILL TO:** City of Killeen  
Robert Sharp  
101 East Ave D  
Killeen, TX 76541  
  
rsharp@killeentexas.gov  
(p) 254.501.6333

**SHIP TO:** City of Killeen  
Robert Sharp  
101 E Ave D  
Killeen, TX 76541  
  
rsharp@killeentexas.gov  
(p) 254.501.6333

**Customer#:** CITY0595

**Contract Vehicle:** Texas DIR-TSO-2542 CISCO Branded Product and Related Services

**Account Manager:** Bill Short

**Inside Sales Rep:** Saraia Martin

**Title:** City of Killeen Smartnet 2017

**Comments:** \* If purchasing off of the Texas State Contract, please ensure the PO has the following information stated:

Texas State DIR-TSO-2542\*

#	Part #	Description	List Price	Unit Price	Qty	Ext List Price	Ext Price
1	CON-SMARTNET RENEWAL	CON-SMARTNET RENEWAL	\$77,521.00	\$65,117.64	1 for 12 mo(s)	\$77,521.00	\$65,117.64
<b>Comments:</b> ***Please see excel spreadsheet for itemized list***							

						<b>Total List Price:</b>	<b>\$77,521.00</b>
						<b>Sub Total:</b>	<b>\$65,117.64</b>
						<b>Grand Total:</b>	<b>\$65,117.64</b>

**QUOTE:****2003116613525-03**

DATE:

07/14/2017

PAGE:

2 of 2

This quote is governed by Terms and Conditions of Texas DIR-TSO-2542 Contract.

State of Texas Vendor ID 17605152499

Standard-Terms-for-Purchase-of-Services or Goods

Quote valid for 30 days from date shown above.

Prices may NOT include all applicable taxes and shipping charges

All prices subject to change without notice. Supply subject to availability.

Purchase Order should be issued to:

Presidio Networked Solutions Group, LLC

1955 Lakeway Drive, Suite 220

Lewisville, TX 75057

Pursuant to this contract your PO must reflect the following contract:

Texas DIR-TSO-2542

Tax ID# 58-1667655; Size Business: Large; CAGE Code: OKDO5; DUNS#15-405-0959; CEC 15-506005G

Credit: Net 30 days (all credit terms subject to prior Presidio credit department approval)

Delivery: FOB Terms Dictated by individual PO details

Customer hereby authorizes and agrees to make timely payment for products delivered and services rendered, including payments for partial shipments

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date



## CenturyLink

Customer Legal Name: CITY OF KILLEEN

Customer Billing Name: CITY OF KILLEEN

FINANCE-IT PO BOX 1329

KILLEEN

TX , 76540-1329

Quote-Build #: 17-007100-NIBS

Valid Until August 26, 2017

Description of Work  
to be Performed:

QUOTED PER STATE OF TEXAS DIR-TSO-2542 CONTRACT FOR CISCO SERVICES.

Equipment pricing shown is based upon direct sale accompanied by new Centurion Maintenance contract on same.

See Vendor Support Tab for  
Additional Pricing

Part Number	Description	Quantity	Unit Price	Extended Price
Vsupport	Cisco Smartnet Quote 18042221	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	*** Equipment List / Coverage Start & End dates provided	-	\$ -	\$ -
-	*** in separate xls Summary of Cisco Q 18042221	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	-	-	\$ -	\$ -
-	-	-	\$ -	\$ -
Parts .....				\$ -
Miscellaneous .....				\$ -
Shipping .....				\$ -
Parts Subtotal .....				\$ -
Labor .....				\$ -
Vendor Support (See Vsupport Tab for Details) .....				\$ 67,636.18
TOTAL PRICE .....				\$ 67,636.18

All Products listed on this Quote are governed by the Standard Terms and Conditions for Communications Services and the Equipment Sales Product Annex, both posted to [http://about.centurylink.com/legal/rates\\_conditions.html](http://about.centurylink.com/legal/rates_conditions.html)



# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

## OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2017-243891

Date Filed:  
08/01/2017

Date Acknowledged:

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

Technology for Education LLC  
Hewitt, 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.**

2017 SmartNet Renewal  
SmartNet Renewal

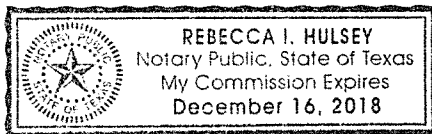
4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

**5 Check only if there is NO Interested Party.**



### 6 AFFIDAVIT

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



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

AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Joanna Herrera, this the 1<sup>st</sup> day of August, 2017, to certify which, witness my hand and seal of office.

*[Signature]*  
Signature of officer administering oath

Rebecca I. Hulsey  
Printed name of officer administering oath

TEXAS Notary  
Title of officer administering oath



# SMARTNET

RS-17-081

August 15, 2017

# Background

2

- ❑ SmartNet provides post warranty support
- ❑ Hardware support and replacement
- ❑ Tiered support from Cisco Engineers
- ❑ Software upgrades and tools
- ❑ Security alerts and patch management

# Alternatives

3

- ❑ Allow SmartNet initial warranty to lapse
  - ▣ Replace individually as equipment fails
  - ▣ No security updates or software tools
- ❑ Contract with Technology for Education (TFE)
  - ▣ Annual cost (included in FY18 budget)
  - ▣ Extends lifecycle
  - ▣ Up to date security

# Recommendation

4

- Staff recommends authorizing the City Manager to execute the SmartNet contract with TFE for \$61,805.13.



# City of Killeen

## Legislation Details

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**File #:** RS-17-082    **Version:** 1    **Name:** Increase Tire Service Expenditures FY 2017  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 7/31/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** Consider a memorandum/resolution authorizing an increase in tire service expenditures for Fiscal Year 2017.  
**Sponsors:** Fleet Services, Public Works Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Bid Tabulation Sheet](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		





## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**VIA:** Jonathan Locke, Executive Director of Finance

**FROM:** Frank Tydlacka, Director of Fleet Services

**SUBJECT:** Authorize an increase in tire service expenditures for fiscal year 2017

### **BACKGROUND AND FINDINGS:**

On March 11, 2014, the City Council approved entering into an agreement with Colliver Tire Services to provide the City with tire services for heavy trucks and off-road equipment on an as-needed basis. The contract awarded was for one year with the option to renew for three additional one-year periods. Due to the irregularity of services required each year, the bid pricing was based upon each individual type of service and not a total amount. However, there was an annual estimated cost stated by staff during the bid approval process that was based upon the previous year's usage in 2013. That estimated cost in 2013 is what the annual purchase order was issued for this current fiscal year and that amount is no longer adequate. To complete the remainder of this fiscal year, the existing purchase order of \$221,983.50 is estimated to require an increase of \$67,000.

Over the past two years, the annual amount expensed for tire repairs has risen. The primary contributing factor appears to be degradation of the concrete floor at the Transfer Station. The spalling and pitting of the floor make it extremely difficult to completely clean it of foreign debris which then causes damage to the incoming truck tires.

### **THE ALTERNATIVES CONSIDERED:**

At this time, there does not appear to be a viable alternative. Transfer Station personnel are working diligently to sweep the floors as often and as well as possible. Pricing to repair the floor is also in the process of being obtained. Future repairs to the facility floor will undoubtedly result in reduced tire damage.

### **Which alternative is recommended? Why?**

N/A

**CONFORMITY TO CITY POLICY:**

This requested funding increase is not considered a Change Order to the existing contract since the Colliver Tire Service agreement pricing has not changed. Therefore, there are no state codes or purchasing policies that apply. This is a procedural action to request approval of a purchase order increase over \$50,000.00.

**FINANCIAL IMPACT:**

The existing purchase order for Colliver Tire Services of \$221,983.50 is requested to be increased by \$67,000.00 to provide the estimated funding to complete this fiscal year.

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

The anticipated amount to be spent this current fiscal year is \$288,984.00. Future year expenditures are anticipated to be reduced as a result of repairs to the facility floor. The current tire services agreement expires in April 2018 at which time it will be rebid. How this new agreement will actually affect overall costs in the future is unknown at this time.

**Is this expenditure budgeted? If not, where will the money come from?**

This expenditure is budgeted, primarily within the Solid Waste Division which utilizes the vast majority of the services.

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

Yes. The Solid Waste repair and maintenance accounts as well as the repair and maintenance accounts of several other divisions that also utilize tire services have sufficient funding. There is not a separate account for tire services within each division; tire services are just one expense within each division's overall repair and maintenance account.

**RECOMMENDATION:**

Staff recommends increasing the original purchase order amount by \$67,000.00 to provide the estimated funding to complete this fiscal year.

**DEPARTMENTAL CLEARANCES:**

Public Works  
Purchasing  
Finance  
City Attorney

**ATTACHED SUPPORTING DOCUMENTS:**

Bid Tabulation Sheet

Bid 14-05, Tire Services							
Bids Due: February 6, 2014 @ 2:00PM    Bid Opening: February 6, 2014 @ 2:15PM							
BID TABULATION SHEET							
Services	Vendor Name/Price:		No. per Typ. Mo.		Extended		
	Colliver Tire Services	Southern Tire Mart, LLC	Hot August	Cold December	Colliver Tire	Southern Tire	
12.1 Service Call							
Normal Hours 0700-1700	\$ 75.00	\$ 90.00	40	56	\$ 7,200.00	\$ 8,640.00	
After Hours: 1700-0700	\$ 75.00	\$ 150.00	6	11	\$ 1,275.00	\$ 2,550.00	
Holidays: Those observed by the City of Killeen	\$ 75.00	\$ 150.00		1	\$ 75.00	\$ 150.00	
outside of Killeen City limits	\$ 0.75 + \$1 per mile	\$ 0.90 + \$.75 per mile					
12.2 Fleet Tire Evaluations (per 3.3 & 3.4)							
Weekly Fleet Evaluation	\$ 50.00	\$ 90.00	4	4	\$ 400.00	\$ 720.00	
Monthly Fleet Evaluation	\$ 50.00	\$ 90.00	1	1	\$ 100.00	\$ 180.00	
12.3 Tire Installation Service							
15"-19.5"	\$ 20.00	\$ 15.00	3	4	\$ 140.00	\$ 105.00	
22.5"-24.5"	\$ 25.00	\$ 20.00	79	69	\$ 3,700.00	\$ 2,960.00	
Ag/Off-Road	\$ per cross sec 3.00	\$ 30.00	1	4	\$ 150.00	\$ 150.00	
24/25 O Ring	\$ 15.00	\$ 65.00					
Valve Stems	\$ 7.50	\$ 3.00					
12.4 Tire Repair Service							
15"-19.5"	\$ 20.00	\$ 20.00	1		\$ 20.00	\$ 20.00	
22.5"-24.5"	\$ 25.00	\$ 25.00	16	12	\$ 700.00	\$ 700.00	
Ag/Off-Road	\$ per cross sec. 3.00	\$ 40.00					
24/25 O Ring	\$ 15.00	\$ 75.00					
Valve Stems	\$ 7.50	\$ 3.00	5	4	\$ 67.50	\$ 27.00	
12.5 Wheel services during installation of tires, or repair of tires							
	NC	\$25 Referb					
12.6 Scrap tire analysis and consultation							
	NC	NC					
12.7 Tire Retread Services							
26/32" drive tire - (OPTION. HAVE NOT PURCHASED IN THE PAST.)							
11R22.5	\$ 182.00	\$ 174.00					
12R22.5	\$ 187.00	\$ 180.00					
315/80R22.5	\$ 223.00	\$ 245.00					
22/32" drive tire - (CURRENTLY PURCHASED)							
11R22.5	\$ 154.00	\$ 168.00	61	55	\$ 17,864.00	\$ 19,488.00	
12R22.5	\$ 162.00	\$ 180.00	0	0			
315/80R22.5	\$ 188.00	\$ 235.00	2	2	\$ 752.00	\$ 940.00	
12.8 Tire casings when required							
11R22.5	80-100	\$ 60.00	24	26	\$ 4,000.00	\$ 3,000.00	
12R22.5	80.00	\$ 30.00					
315/80R22.5	80-100	\$ 40.00					
12.9 Solid rubber tire filling Service Price per pund							
	\$ 1.75	\$ 1.59 solid rubber 0.96 for granular					
12.10 Tire Disposal Service Price by size:							
11R22.5	\$ 10.00	\$ 5.00	6	6	\$ 120.00	\$ 60.00	
12R22.5	\$ 10.00	\$ 5.00	4	2	\$ 60.00	\$ 30.00	
315/80R22.5	\$ 15.00	\$ 6.00	5	10	\$ 225.00	\$ 90.00	
385/65R22.5	\$ 15.00	\$ 6.00	3	2	\$ 75.00	\$ 30.00	
425/65R22.5	\$ 15.00	\$ 6.00	1	0	\$ 15.00	\$ 6.00	
445/65R22.5	\$ 20.00	\$ 6.00	0	0	\$ -	\$ -	
Off Road/AG: Price by Cross Section	\$ 3.00	\$ 8.00	4	11	\$ 45.00	\$ 120.00	
Two Month Cost					\$ 36,983.50	\$ 39,966.00	
Annual Estimated Cost					\$ 221,901.00	\$ 239,796.00	



# TIRE SERVICES AGREEMENT

RS-17-082

August 15, 2017

# Tire Services Agreement

## Background

- March 11, 2014 - Colliver Tire Service awarded contract to provide tire services for heavy trucks and off-road equipment.
  - ▣ One-year contract with option to renew three additional years.
  - ▣ Bid pricing was based on each individual type of service.
  - ▣ City Council requested staff bring the agreement back for cost increases.
- Current approved amount of the agreement is \$221,984
  - ▣ Estimated to need an additional \$67,000
  - ▣ Funds are available in the FY 2017 Budget
- Increase primarily due to the condition of the concrete floor at the Transfer Station.

# Tire Services Agreement Recommendation



Staff recommends that City Council approve increasing the purchase threshold for Colliver Tire Services by \$67,000 to provide the estimated funding needed for the remainder of the fiscal year. The new threshold will be \$288,984.





# City of Killeen

## Legislation Details

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**File #:** RS-17-083      **Version:** 1      **Name:** Lease of Old Transfer Station Building  
**Type:** Resolution      **Status:** Resolutions  
**File created:** 7/31/2017      **In control:** City Council  
**On agenda:** 8/22/2017      **Final action:**  
**Title:** Consider a memorandum/resolution authorizing a lease agreement with Nugen Recycling for the old City of Killeen Transfer Station.  
**Sponsors:** Public Works Department, Solid Waste  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Map](#)  
[Lease](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** David A. Olson, Executive Director of Public Works

**SUBJECT:** Approval of Lease Agreement for Old Transfer Station Building

### **BACKGROUND AND FINDINGS:**

City staff was approached by a representative of Nugen Recycling, seeking to lease the old transfer station building for the operation of a metal recycling facility. The old transfer station building is not currently being used by the City. The lease terms will be \$4,000 per month for one year, beginning on September 1, 2017, and shall be automatically extended for up to five successive one-year terms. Both parties can terminate the lease with two months' notice prior to the last day of initial term or any subsequent extended term. Exhibit A provides the area to be leased.

### **THE ALTERNATIVES CONSIDERED:**

The alternatives are: (1) do not lease the old transfer station building which will leave it vacant and idle or (2) approve the lease with Nugen Recycling which will provide rental revenue of \$4,000 per month.

### **Which alternative is recommended? Why?**

Staff recommends alternative two. Allowing Nugen Recycling to lease this vacant building will increase rental revenue which is in the best interest of the City.

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

Yes

### **FINANCIAL IMPACT:**

The City will receive \$4,000 rental income from Nugen Recycling each month for annual revenue of \$48,000 for the initial term of the lease.

### **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 staff recommends that City Council approve the lease and authorize the City Manager or his designee to execute the agreement.

**DEPARTMENTAL CLEARANCES:**

Public Works

Finance

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Map

Lease Agreement





S FORT HOOD ST (SH 195)

S FORT HOOD ST (SH 195)

PRIVATE DR.

EXHIBIT A  
(PREMISES)

S FORT HOOD ST (SH 195)

N



## **GROUND LEASE AGREEMENT BETWEEN THE CITY OF KILLEEN, TEXAS AND NUGEN RECYCLING, LLC**

This Ground Lease Agreement ("**Lease**") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2017, (the "**Effective Date**") between the City of Killeen, Texas, a municipal corporation and home-rule city located in Bell County, Texas, organized and operating under the provisions of its charter and the Constitution and laws of the State of Texas ("**City**"), and NuGen Recycling, LLC, a Texas limited liability company ("**Tenant**").

### **ARTICLE 1 LEASE OF PROPERTY**

**Section 1.1** **Premises Leased.** City, in consideration of the covenants, agreements, and conditions herein set forth which Tenant hereby agrees shall be kept, and performed, does hereby lease unto Tenant, and Tenant does hereby lease from City, the real property described on Exhibit A (the "**Premises**"), together with all of City's rights, interests, estates, and appurtenances thereto, all improvements thereon, all other rights, titles, interests, and estates, if any, of City in other portions of the Premises and together with free, uninterrupted and continuous access to and from the Premises, subject to the terms of this Lease, over and across such other portions of property owned or controlled by City as may be necessary for ingress and egress by Tenant, its employees, agents and contractors to and from the Premises.

**Section 1.2** **Habendum.** TO HAVE AND TO HOLD the Premises, together with all and singular the rights, privileges, and appurtenances thereunto attaching or in anywise belonging, exclusively unto Tenant, its successors and assigns, for the term set forth in Article 2, subject to termination as herein provided, and subject to and upon the covenants, agreements, terms, provisions, and limitations herein set forth.

### **ARTICLE 2 TERM OF LEASE**

**Section 2.1** **Term.** The initial term of this Lease (the "**Initial Term**") shall be for One (1) year commencing on the 1st day of September, 2017 (the "**Commencement Date**"). The Initial Term of this Lease shall automatically be extended for up to five (5) successive one (1) year terms (together, the "**Extended Terms**" or separately an "**Extended Term**") up to a maximum of five (5) years from the end of the Initial Term unless, not less than two (2) months prior to the last day of the Initial Term or the last day of any subsequent Extended Term, as applicable, written notice of termination is given by one party to the other party or if this Lease has otherwise been terminated as provided herein.

**Section 2.2** **Definitions.** "**Term**" shall mean the Initial Term, plus all Extended Terms. "**Lease Year**" shall mean any twelve (12) month period during the Term commencing on the anniversary date of the Commencement Date.

**Section 2.3** **Possession.** Tenant shall be entitled to take possession of the Premises on the Commencement Date. Tenant shall hold the Premises during any Extended Term upon the same terms, covenants and conditions as the Initial Term except as provided for in this Lease and any subsequent amendments hereto.

**Section 2.4 Environmental Review and Permits.** As required by Texas statutory and administrative law, Tenant will be required to obtain permits from the TCEQ to utilize the Premises as indicated in Section 6.1 below. Tenant will also perform environmental due diligence on the Premises. Such due diligence will include, but not be limited to, obtaining and reviewing the results of a Phase I environmental assessment. If Tenant is unable to obtain TCEQ permits or if the results of Tenant's environmental due diligence are unsatisfactory to City in its sole discretion, after all reasonable efforts to do the same have been expended, this Lease shall be voidable upon receipt of thirty (30) days written notice sent by the party voiding this Lease.

### **ARTICLE 3**

#### **CONSIDERATION/DEPOSIT**

**Section 3.1 Consideration.** The consideration for this Lease shall be the: (a) payment and performance of all obligations by City and Tenant pursuant to the terms of the Lease; and (b) payment by Tenant to City of \$4,000.00 per month.

Payments shall commence within ten (10) days of the Commencement Date and thereafter on or before the first day of each successive month, as applicable, throughout the Term of this Lease. If this Lease shall continue into the Extended Term, the Lease payment shall be increased by three percent (3%) per year.

Tenant shall maintain a security bond or deposit in the amount of \$4,000.00 for the term of this Lease. Tenant shall forfeit said bond or deposit if it is determined to be in default as described herein, provided that City shall provide a written report to Tenant of the events giving rise to such default and the costs incurred or to be incurred by City to remedy such default.

### **ARTICLE 4**

#### **IMPOSITIONS AND UTILITIES**

**Section 4.1 Impositions Defined.** The term "**Impositions**" means, to the extent applicable, all taxes, assessments, use and occupancy taxes, charges for public utilities, excises, levies, license and permit fees, and other charges by any public authority, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever, which shall or may during the Term be assessed, levied, charged, confirmed or imposed by any public authority upon or accrued or become a lien on (a) the Premises or any part thereof; (b) the buildings or improvements now or hereafter comprising a part thereof; (c) the appurtenances thereto or the sidewalks or streets adjacent thereto; (d) such franchises, licenses, and permits as may be pertinent to the use of the Premises; or (e) any documents to which Tenant is a party creating or transferring an interest or estate in the Premises by any municipality, county, state, the United States of America, or any other governmental body, subdivision, agency, or authority (hereinafter all of the foregoing governmental bodies are collectively referred to as "**Governmental Authorities**").

**Section 4.2**      **Tenant's Obligation.** Tenant will pay as and when the same shall become due all Impositions. Impositions that are payable by Tenant for the fiscal year in which this Lease commences as well as during the year in which the Term ends shall be apportioned so that Tenant shall pay its proportionate share of the Impositions payable by Tenant for such periods of time. Where any Imposition that Tenant is obligated to pay may be paid pursuant to law in installments, Tenant may pay such Imposition in installments as and when such installments become due.

**Section 4.3**      **Contest of Imposition.** Tenant may, at its expense, contest the validity or amount of any Imposition for which it is responsible, in which event the payment thereof may be deferred, as permitted by law, during the pendency of such contest, if diligently prosecuted. Nothing herein contained, however, shall be construed to allow any Imposition to remain unpaid for such length of time as would permit the Premises, or any part thereof, to be sold or seized by any Governmental Authority for the nonpayment of the same.

**Section 4.4**      **Evidence Concerning Impositions.** Proof of payment by Tenant of any Imposition or the receipt, certificate, bill, statement issued or given by the appropriate officials authorized by law to issue the same or to receive payment of any Imposition of the existence, payment, nonpayment, or amount of such Imposition shall be prima facie evidence for all purposes of the existence, payment, nonpayment, or amount of such Imposition.

**Section 4.5**      **Rendition and Exemptions.** Tenant shall render the Premises for each Governmental Authority imposing Impositions thereon and may, if Tenant shall so desire, endeavor at any time or times to obtain an exemption from Impositions or a reduction in Impositions thereon and, in such event, City will, at the request of Tenant, cooperate in effecting such a reduction or exemption, provided City shall not be required to incur any expense in connection therewith without its prior consent.

**Section 4.6**      **Utilities.** Tenant shall be wholly responsible for obtaining, constructing, extending and/or providing for necessary utilities and services to the Premises, including without limitation, water, sanitary septic, electricity and waste removal services. Tenant shall pay all charges for gas, electricity, light, heat, air conditioning, power, telephone and other communication services, and all other utilities and similar services rendered or supplied to the Premises, and all water service charges, sewer service charges, or other similar charges levied or charged against, or in connection with, the Premises.

## **ARTICLE 5**

### **IMPROVEMENTS**

**Section 5.1**      **Existing Conditions.** Tenant acknowledges that it is leasing the Premises and improvements, if any, currently constituting a part of the Premises "AS IS, WHERE IS, WITH ALL FAULTS" and that City is making no representations or warranties as to the condition of such improvements; provided however, no provision of this Lease shall be construed as an assumption by Tenant of responsibility of (a) any environmental condition or hazard existing as of the Commencement Date with respect to the Premises and any improvements thereon, or (b) any condition or hazard existing as of the Commencement Date or later arising as a result of any portion of the Premises being utilized as a landfill prior to the



Commencement Date. Tenant further acknowledges and agrees that no provision of this Lease shall be construed as an assumption by City of responsibility of any environmental condition or hazard directly or indirectly related to Tenant's use or non-use of the Premises following possession of the Premises as provided in Section 2.3 of this Lease or later arising as a result of any use or non-use by Tenant of the Premises. This provision shall survive the Term of the Lease.

## **ARTICLE 6**

### **USE, MAINTENANCE, REPAIRS AND LIABILITY**

#### **Section 6.1      Use.**

(a) Subject to the terms and provisions hereof, Tenant may use and enjoy the Premises in a lawful manner for receiving, sorting, and preparing metals for transport that originate from Fort Hood, including all uses of the Premises directly related thereto, (the "**Project**"), but for no other purpose without obtaining the prior written consent of the City. Such consent shall not be unreasonably withheld.

(b) Tenant shall not use or occupy, permit the Premises to be used or occupied, nor do or permit anything to be done in or on the Premises in a manner which would violate any applicable laws, regulations, ordinances, or requirements of any Governmental Authority having jurisdiction. Tenant shall not use the property for outside storage of metals or other material of any kind unless the material is wholly contained within a roll off container, enclosed tractor trailer, enclosed vehicle or other container approved by the City Manager or designee for temporary loading and unloading purposes. Temporary shall mean the time that it reasonably takes to load the container or trailer and have it hauled it from the premises, but in no event shall it mean longer than five (5) business days.

(c) City hereby reserves the right to establish reasonable rules to which Tenant, its employees, agents and contractors shall comply in relation to the potential use of City-owned access points and infrastructure located outside of the Premises. These rules may include, without limitation, establishing and maintaining security measures, speed limits and/or traffic guidance plans to ensure both the safe and efficient operation of all activities in the area and the City's continued compliance with its TCEQ landfill site permit.

#### **Section 6.2      Maintenance, Repairs and Liability.**

(a) Tenant shall make all repairs to the Premises, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, and shall maintain and keep the Premises and the sidewalks and curbs, if any, around the Premises in good order, repair, and condition at all times.

(b) Tenant will not do, permit, or suffer any damages, disfigurement, or injury to or upon the Premises or any part thereof.

(c) City shall have no obligation to maintain or repair the Premises, but shall be responsible for hazards and conditions arising from environmental matters, if any, directly or indirectly relating to the use of the Premises as a landfill or other environmental matters existing

or caused prior to the date of possession of the Premises by Tenant as further described in Section 5.1. However, Tenant acknowledges and agrees that no provision of this Lease shall be construed as an assumption by City of liability or responsibility of any environmental condition or hazard directly or indirectly related to Tenant's use or non-use of the Premises following possession of the Premises as provided in Section 2.3 of this Lease or later arising as a result of any use or non-use by Tenant of the Premises.

## **ARTICLE 7**

### **INSURANCE/INDEMNITY**

**Section 7.1 Insurance.** During the Term, Tenant, at its sole expense, shall obtain and maintain in full force and effect appropriate insurance from an insurer authorized to operate in Texas. Said insurance shall provide, at a minimum, the following coverages in the amounts indicated: (1) worker's compensation (statutory); (2) general liability and property damage (\$1,000,000, occurrence basis); and (3) comprehensive automobile liability (\$1,000,000, occurrence basis). Throughout construction and upon completion of any Improvements, Tenant shall also obtain and maintain coverage against loss or damage to the same resulting from fire or other risks comparable to the insurance Tenant maintains on other similar facilities of Tenant's business. The City of Killeen shall be listed as an additional insured on all required policies, except worker's compensation coverage, with a full waiver of subrogation. All required policies shall note on the certificates of coverage that the insurance policies shall not be cancelled except upon thirty (30) days' advance notice of such cancellation to be provided to the City. Tenant shall provide certificates of the above noted coverages, as applicable, prior to the Commencement Date and annually upon written request from the City.

**Section 7.2 Indemnity.** To the extent allowed by law, Tenant agrees to indemnify, save harmless, and defend the City from and against any and all demands, liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorneys' fees), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment including, but not being limited to, liability under the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code § 103, as amended, the Resource Conservation and Recovery Act, 42 United States Code § 6901, as amended, and other applicable Federal or State of Texas acts or laws arising from the use of the Premises, or any violation of governmental laws, regulations, or orders to the extent caused, in whole or in part, by the negligent or willful acts or omissions of Tenant, its officers, employees, agents or contractors in the performance of this Lease or operation of the Project.

To the extent allowed by law, the City agrees to indemnify, save harmless, and defend Tenant from and against any and all demands, liabilities, claims, penalties, forfeitures, suits, and the costs and expenses incident thereto (including costs of defense, settlement, and reasonable attorneys' fees), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations, or orders to the extent caused, in whole or in part, by the negligent or willful act or omission of the City, its officers, employees, agents or contractors in the performance of this Lease. The City

further agrees to indemnify, save harmless, and defend Tenant from and against any and all liabilities, claims, cost, expenses, and remediation obligations to the extent caused, in whole or in part, as a result of the Premises being used as a landfill or recycling center, any property adjacent to or in the vicinity of the Premises being used as a landfill or recycling center, or resulting from storm water drainage currently, or in the future, draining to the Premises from City-owned property adjacent to and/or abutting the Premises.

## **ARTICLE 8**

### **CASUALTY LOSS**

Tenant shall immediately notify City of any casualty loss, destruction or damage to the Premises.

## **ARTICLE 9**

### **TRANSFERS**

Tenant shall not assign its interest in this Lease or enter into any subleases without the prior written consent of the City. If City sells or transfers all or part of the Premises and as part of said sale assigns its interest in this Lease, then as of the effective date of the sale, assignment or transfer, City shall have no further liability to Tenant, except as provided herein.

## **ARTICLE 10**

### **WARRANTY OF PEACEFUL POSSESSION**

City warrants that it is the owner of the Premises in fee simple absolute. City further covenants that Tenant, on performing and observing the covenants and agreements herein contained and provided to be performed by Tenant, shall and may peaceably and quietly have, hold, occupy, use, and enjoy the Premises during the Term, and may exercise all of its rights hereunder, subject only to the provisions of this Lease and applicable governmental laws, rules, and regulations; and City agrees to warrant and forever defend Tenant's right to such occupancy, use, and enjoyment and the title to the Premises against the claims of any and all persons whomsoever lawfully claiming the same, or any part thereof, by, through or under City, but not otherwise, subject only to provisions of this Lease and all applicable governmental laws, rules, and regulations.

## **ARTICLE 11**

### **DEFAULT AND REMEDIES**

**Section 11.1**     **Default.** In the event of an alleged default hereunder the following provisions shall apply:

(a) In the event of an alleged default by Tenant including, without limitation, failing to pay rent due hereunder, City shall first give Tenant written notice of the alleged default. Upon receipt of notice, Tenant shall have fifteen (15) days to cure and correct any alleged monetary default. If the alleged default is a non-monetary default, Tenant shall have thirty (30) days in which to cure and correct such non-monetary default. If such non-monetary

default is not corrected within said thirty (30) days, but such correction reasonably requires more than thirty (30) days to cure, Tenant will not be in breach of this Lease if the cure is commenced within the thirty (30) day period and the cure is diligently pursued until completion by Tenant.

(b) In the event of an alleged default by City, Tenant shall first give City written notice of the alleged default. Upon receipt of such notice, City shall have thirty (30) days to cure and correct any alleged default. If such default is not corrected within said thirty (30) days, but such correction reasonably requires more than thirty (30) days to cure, City will not be in breach of this Lease if the cure is commenced within the thirty (30) day period and is diligently pursued to completion by City.

**Section 11.2 Remedies.** If a Default occurs, then City or Tenant, as applicable, may pursue their respective rights and remedies as follows:

(a) City's remedies upon Tenant's default are to: (1) enter and take possession of the Premises, after which City may relet the Premises on behalf of Tenant and receive rent directly by reason of the reletting, and Tenant agrees to reimburse City for all reasonable expenditures made in order to relet; (2) enter the Premises and perform Tenant's obligations under this Lease; and/or (3) terminate this Lease by written notice and pursue any remedies available under applicable law. Upon default, City may enter and take possession of the Premises by self-help methods and may lock out Tenant or any other person who may be occupying the Premises, until the default is cured, without being liable for any damages.

(b) Tenant's remedies upon City's default are to pursue any remedies available under applicable law.

## **ARTICLE 12**

### **MISCELLANEOUS PROVISIONS**

**Section 12.1 Notices.** Any written notice provided for or permitted to be given hereunder may be given by (a) depositing same in the United States Mail, postage prepaid, registered or certified, with return receipt requested, addressed as set forth in this Section 12.1; (b) delivering the same to the party to be notified; or (c) sending a prepaid courier delivery of any notice, so addressed. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee, as evidenced by the executed postal receipt or other receipt for delivery. For purposes of notice the addresses of the parties hereto shall, until changed, be as follows:

City:	City of Killeen, Texas Attn: Ronald L. Olson, City Manager P.O. Box 1329 Killeen, Texas 76540-1329
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Tenant:	Tenant Attn.: Gene W. Ray NuGen Recycling, LLC 19000 FM 2484
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The parties hereto may from time to time change their respective addresses for purposes of notice hereunder to any other location within the United States by giving a notice to such effect in accordance with the provisions of this Section 12.1.

**Section 12.2**      **Performance of Other Party's Obligations**    If either party hereto fails to perform or observe any of its covenants, agreements, or obligations hereunder, then the other party may, at its sole election (but not as its exclusive remedy), perform or observe the covenants, agreements, or obligations which are asserted to have not been performed or observed by the other party. Notwithstanding the foregoing, if either party determines, in its or his reasonable good faith judgment that an emergency, involving imminent danger of injury or death to persons or damage to property, exists due to the other party's failure to observe or perform its or his covenants, agreements, and obligations hereunder, then such party may immediately perform or observe the covenants, agreements and obligations which give rise to such emergency. Any performance or observance by a party pursuant to this Section 12.2 shall not constitute a waiver of the other party's failure to perform or observe.

**Section 12.3**      **Modification and Non-Waiver**.    No variations, modifications, or changes herein or hereof shall be binding upon any party hereto unless set forth in a writing executed by it or by a duly authorized officer or agent. No waiver by either party of any breach or default of any term, condition, or provision hereof shall be deemed a waiver of any other or subsequent breaches or defaults of any kind, character, or description under any circumstance. No waiver of any breach or default of any term, condition, or provision hereof shall be implied from any action of any party, and any such waiver, to be effective, shall be set out in a written instrument signed by the waiving party.

**Section 12.4**      **Governing Law**.    This Lease shall be construed and enforced in accordance with the laws of the State of Texas and venue for any claim or controversy arising hereunder shall be in Bell County, Texas.

**Section 12.5**      **Number and Gender; Captions; References**.    Pronouns, wherever used herein, and of whatever gender, shall include natural persons and corporations and associations of every kind and character, and the singular shall include the plural wherever and as often as may be appropriate. Article and Section headings in this Lease are for convenience of reference and shall not affect the construction or interpretation of this Lease. Whenever the terms "hereof," "hereby," "herein," or words of similar import are used in this Lease they shall be construed as referring to this Lease in its entirety rather than to a particular Section or provision, unless the context specifically indicates to the contrary. Any reference to a particular "Article" or "Section" shall be construed as referring to the indicated Article or Section of this Lease.

**Section 12.6**      **Severability**.    If any provision of this Lease or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, and the basis of the bargain between the parties hereto is not destroyed or rendered ineffective thereby, the remainder of this Lease, or the application of such provision to persons or

circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

**Section 12.7**      **Attorney Fees.** If litigation is ever instituted by either party hereto to enforce, or to seek damages for the breach of, any provision hereof, the prevailing party therein shall be promptly reimbursed by the other party for all attorneys' fees reasonably incurred by the prevailing party in connection with such litigation.

**Section 12.8**      **Surrender of Premises; Holding Over** Upon termination or the expiration of this Lease, Tenant shall peaceably quit, deliver up, and surrender the Premises to City free of equipment owned by Tenant and rubbish and debris generated by Tenant. Upon such termination or expiration, City may, without further notice, enter upon, reenter, possess, and repossess itself of the Premises by force, summary proceedings, ejectment, or otherwise, and may dispossess and remove Tenant from the Premises and may have, hold, and enjoy the Premises free of any claim by Tenant with respect thereto. If Tenant does not surrender possession of the Premises at the end of the Term, such action shall not extend the Term, Tenant shall be a tenant at sufferance. City shall not be deemed to have accepted a surrender of the Premises by Tenant, or to have extended the Term, other than by execution of a written agreement specifically so stating.

**Section 12.9**      **Relation of Parties.** It is the intention of City and Tenant to hereby create the relationship of lessor (City) and lessee (Tenant), and no other relationship whatsoever is hereby created. Nothing in this Lease shall be construed to infer that City and Tenant are partners or joint venturers or to render either party hereto liable for any obligation of the other. It is expressly agreed that nothing in this Lease shall be construed in any manner to abridge the right of the City to pass or enforce necessary police and health regulations for the protection of its inhabitants. It is further agreed and understood that, if the City calls the attention of Tenant to any such violation on the part of Tenant, its officers, employees, contractors, or subcontractors, Tenant shall immediately desist from such activity and correct such violation.

**Section 12.10**      **Force Majeure.** As used herein "**Force Majeure**" means the occurrence of any event which prevents or delays the performance by City or Tenant of any obligation imposed upon it hereunder and the prevention or cessation of which event is beyond the actual control of the obligor. If Tenant or City shall be delayed, hindered, or prevented from performance of any of their respective obligations by reason of Force Majeure (and Tenant or City shall not otherwise be in default hereunder) the time for performance of such obligation shall be extended for the period of such delay, provided that the following requirements are complied with by Tenant or City:

- (a) Tenant or City shall give prompt written notice of such occurrence, and
- (b) Tenant or City shall diligently attempt to remove, resolve, or otherwise eliminate such event, keep City or Tenant advised with respect thereto, and shall commence performance of its obligations hereunder immediately upon such removal, resolution, or elimination.



**Section 12.11     Non-Merger.** Notwithstanding the fact that fee title to the Premises and to the leasehold estate hereby created may, at any time, be held by the same party, there shall be no merger of the leasehold estate hereby created unless the owner thereof executes and files for record in the Office of the County Clerk of Bell County, Texas a document expressly providing for the merger of such estates.

**Section 12.12     Entire Agreement.** This Lease constitutes the entire agreement of the parties hereto with respect to its subject matter, and all prior agreements with respect thereto are merged herein.

**Section 12.13     Recordation.** Simultaneously with the execution of this Lease, City and Tenant may execute an instrument in recordable form constituting a short form or memorandum of this Lease, which shall be filed for record in the Office of the County Clerk of Bell County, Texas.

**Section 12.14     Successors and Assigns.** This Lease shall constitute a real right and covenant running with the Premises, and, subject to the provisions hereof pertaining to Tenant's right to encumber and assign, this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Whenever a reference is made herein to either party, such reference shall include the party's successors and assigns.

**Section 12.15     Entry and Inspection.** City may enter upon the Premises at all reasonable times to inspect the same, or for any other reasonable purpose.

**Section 12.16     City's Joinder.** City agrees to join with Tenant, subject to the terms of the Agreements, in the execution of such applications for permits and licenses from any Governmental Authority as may be reasonably necessary or appropriate to effectuate the intents and purposes of this Lease, provided that no such application shall constitute an encumbrance of or with respect to the Premises, and City shall not incur or become liable for any obligation as a result thereof.

**Section 12.17     No Third Parties Benefited.** Except as herein specifically and expressly otherwise provided with regard to notices, opportunities to cure defaults, and certain other enumerated rights granted to Permitted Mortgagees, the terms and provisions of this Lease are for the sole benefit of City and Tenant, and no third party whatsoever, is intended to benefit herefrom.

**Section 12.18     Survival.** Any provision contained in this Lease providing for indemnity or a duty that necessarily will not be completed until after the expiration or termination of this Lease shall continue in full force and effect until such a time as all duties have been fully performed.

**Section 12.19     Use of City's Name.** Tenant shall not use the City's name, logo, or any other related symbol or information in any advertising or promotional material relating to the Premises without City's prior written consent, but Tenant may make reference to the Lease and to City in legally operative documents, as Tenant shall deem reasonably necessary.



**Section 13.21    Bankruptcy.**    Abandonment of the Premises or the filing of a bankruptcy petition without reaffirming this Lease are, in addition to other potential breaches of this Lease, considered to be breaches of this Lease.

**Section 13.22    Time.**    Time is of the essence in this Lease. Whenever referred to herein, “days” shall mean calendar days unless specifically indicated otherwise.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2017.

**CITY:**

**CITY OF KILLEEN**

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

Name: Ronald L. Olson

Title: City Manager, City of Killeen, Texas

Attest:

\_\_\_\_\_  
City Secretary, City of Killeen, Texas

**TENANT:**

**TENANT**

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

Name: \_\_\_\_\_

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

Attest:

\_\_\_\_\_  
Secretary

## **EXHIBIT A**

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

## OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2017-247434

Date Filed:  
08/09/2017

Date Acknowledged:

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

NuGen Recycling LLC  
Killeen, 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.

Ft Hood Recycle agreement 8318  
scrap metal recycling

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 AFFIDAVIT

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



AFFIX NOTARY STAMP / SEAL ABOVE

Sworn to and subscribed before me, by the said Gene W Ray, this the 10<sup>th</sup> day of aug, 20 17, to certify which, witness my hand and seal of office.

Signature of authorized agent of contracting business entity

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath



# NUGEN RECYCLING LEASE

RS-17-083

August 15, 2017

# Background

- ❑ Staff was contacted by Nugen Recycling regarding lease of the old transfer station.
- ❑ Building is currently used for storage.
- ❑ Plans for future home of the solid waste container shop.
- ❑ Lease is \$4,000 per month beginning 9/1/2017.
- ❑ 1-year term with option for five successive renewals.
- ❑ May be terminated with 2-months notice.



Subject Property

# Alternatives/Recommendation

## □ Alternatives:

- Lease old transfer station to Nugen Recycling.
- Do not lease space.

## □ Recommendation:

- Authorize the lease in the amount of \$4,000 per month.
- FY 17 fiscal impact \$4,000 revenue
- FY 18 fiscal impact \$44,000 or more depending upon lease renewal.





# City of Killeen

## Legislation Details

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**File #:** RS-17-084    **Version:** 1    **Name:** Audit Committee Charter  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 7/31/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** Consider a memorandum/resoluton approving updates to Audit Committee Charter.  
**Sponsors:** City Attorney Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Audit Committee Charter](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017  
**TO:** Ronald L. Olson, City Manager  
**FROM:** Matt Grady, City Auditor  
**SUBJECT:** Update to Audit Committee Charter

### **BACKGROUND AND FINDINGS:**

The Audit Committee Charter was first created in 2013, in conjunction with Article III, Section 40 of the City Charter, as Amended May 11, 2013, which established the city auditor position as a function of the City Council. Under the original Audit Committee Charter, membership consisted of a minimum of three members selected by City Council. Committee meetings required a quorum of at least two members.

In October 2016, City Council approved the addition of two citizen members to the Audit Committee. However, in the absence of a sitting City Auditor, the Audit Committee Charter was never updated to reflect this change in the Audit Committee, or to define the level of participation allowed by the citizen members.

The new City Auditor first proposed a revision to the Audit Committee Charter, which was silent on the issue of citizen member voting rights. The Audit Committee discussed the revisions and decided that citizen members should be accorded voting rights, and should count towards establishing a quorum. The Committee further qualified the language of the Charter in subsequent discussions to ensure that a quorum consisted of at least two elected officials.

### **THE ALTERNATIVES CONSIDERED:**

None.

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

The Audit Committee Charter requires that the Committee "ensure that the Audit Committee Charter accurately reflects the activities of the Committee and obtain approval from the City Council at least biennially."

### **FINANCIAL IMPACT:**

None.

**RECOMMENDATION:**

Staff recommends that City Council approve the revised Audit Committee Charter.

**DEPARTMENTAL CLEARANCES:**

City Auditor

**ATTACHED SUPPORTING DOCUMENTS:**

Audit Committee Charter



## **AUDIT COMMITTEE CHARTER**

### **Audit Committee**

Jonathan Okray

Juan Rivera

Jose Segarra

### **Internal Audit Department**

Matthew Grady, CPA, Cr.FA

City Auditor

August 15, 2017



## **CITY OF KILLEEN AUDIT COMMITTEE CHARTER**

### **Audit Committee Purpose:**

The City of Killeen, City Council has established an Audit Committee to assist the City Council in fulfilling its governance and oversight responsibility for audit-related matters in order to:

- Promote the effectiveness and integrity of the internal audit function;
- Maintain the suitability of internal controls;
- Ensure compliance with regulatory requirements; and
- Ensure the timely and effective implementation of internal and external audit recommendations.

### **Membership:**

The Audit Committee will consist of the Mayor and two (2) City Councilmembers. In addition, City Council may approve up to two (2) City of Killeen citizen members. The Mayor, Councilmembers, and City of Killeen citizen members shall all be voting members of the Audit Committee.

The City Council will appoint the members annually and may remove committee members at any time. The Audit Committee will elect a member to act as Chairperson of the Committee.

### **Duties and Responsibilities:**

The duties and responsibilities of the Audit Committee include the following:

- Ensure that the internal audit function is independent, in accordance with Government Accountability Office (GAO) *Generally Accepted Government Auditing Standards*.
- Provide oversight of the City Auditor's annual audit plan and audit reports.
- Review and concur in the appointment, salary, replacement, or dismissal of the City Auditor.
- Recommend to the City Council the selection of the external audit firm and approve any discharge of auditors when circumstances warrant.
- Review audit findings reported by any external audit and make recommendations to the appropriate committee concerning corrective action plans proposed by city departments.

- Delegate the authority to a designee to administratively oversee the City Auditor for timekeeping purposes and leave requests.
- On a regular basis, meet with the City Auditor to discuss any matters that the Audit Committee or City Auditor believe should be discussed privately, including but not limited to the Charter, plans activities, staffing, and the organization structure of the internal audit function.
- Provide updates to the Council, as needed on the Audit Committees' activities.
- Ensure that the Audit Committee Charter accurately reflects the activities of the Committee and obtain approval from the City Council at least biennially.

#### **Authorities:**

In order to undertake its activities, the Audit Committee is authorized to study and investigate any activity within the City's departments, and shall require all employees to cooperate fully with investigations. The Committee is also authorized to appoint any additional experts that it considers necessary in the completion of its duties.

#### **Audit Committee Meetings:**

The Audit Committee will schedule meetings quarterly and as needed. A quorum will be a minimum of three voting members, provided that at least two (2) of those voting members are elected officials.

The minutes of the meetings are to be recorded and approved by the Audit Committee as a true record of decisions made and actions taken. The secretary, which will be the City Auditor, or his/her designee, will prepare agendas, take minutes, and prepare any necessary information for members.

The Audit Committee is authorized to invite senior management, line management or other specialists to the meeting in order to provide expert opinion or information with respect to issues being discussed.

#### **Reporting:**

The Audit Committee shall provide timely and accurate reports to the City Council, and if appropriate to the other governing boards and authorities, on matters included in "Duties and Responsibilities" above.



# AUDIT COMMITTEE CHARTER

RS-17-084

August 15, 2017



# Audit Committee Charter: History

- ❑ Original Audit Committee Charter: Created in 2013 with formation of an Audit Committee, in conjunction with the establishment of the City Auditor position under Article III, Section 40 of the City Charter, as Amended May 11, 2013. The Audit Committee consisted of the Mayor and two Councilmembers, all voting members. Committee meetings required a quorum of at least two members.
- ❑ In October 2016, City Council approved the addition of two citizen members to the Audit Committee, bringing the Audit Committee to a total of 5 members. City Council appointed citizens Jack Ralston and Bob Blair to the Committee.
- ❑ The new City Auditor worked with the Audit Committee and City Attorney to draft a revised Audit Committee Charter to include the citizen members as members of the 5-member Committee. Committee meetings now require a quorum of at least three voting members. The citizen members have full voting rights, and count towards establishing a quorum. However, a quorum must consist of at least two elected officials.

# Recommendation:



- Staff recommends that City Council approve the revised Audit Committee Charter



# City of Killeen

## Legislation Details

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**File #:** RS-17-085    **Version:** 1    **Name:** Preliminary Tax Rate FY 18 Annual Budget  
**Type:** Resolution    **Status:** Resolutions  
**File created:** 7/31/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** Consider a memorandum/resolution setting the preliminary tax rate for the FY 2018 Annual Budget and Plan of Municipal Services and setting the dates to hold public hearings.  
**Sponsors:** Finance Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Jonathan Locke, Executive Director of Finance

**SUBJECT:** Setting the preliminary tax rate for the FY 2018 Annual Budget and Plan of Municipal Services and setting the dates to hold public hearings on the proposed tax increase, if a proposed tax increase is approved

### **BACKGROUND AND FINDINGS:**

Truth-in-taxation laws require that a governing body publish notices and hold public hearings if a proposed tax rate exceeds the lower of either the effective tax rate or the rollback rate. The following tax rates per \$100 valuation are relevant to the proposed FY 2018 Budget:

Effective Tax Rate	0.7027
Current Tax Rate	0.7498
Notice and Hearing Tax Rate	>0.7027
Preliminary Budget Tax Rate	0.7498
Rollback Tax Rate, Adjusted for Sales Tax	0.7223

The City Council must set a preliminary tax rate for the proposed FY 2018 Budget. The preliminary tax rate is the maximum tax rate that may be adopted for the FY 2018 Budget. The preliminary tax rate can be lowered when the final tax rate is set.

If the preliminary tax rate is equal to or less than 0.7027, no additional meetings will be required, and the tax rate will be adopted on September 19, 2017.

If the preliminary tax rate exceeds 0.7027, the City Council must take a record vote and schedule two (2) public hearings on the preliminary tax rate. The first publication must run at least seven (7) days prior to the public hearing on the tax rate. The first public hearing will be held on September 5, 2017. The second public hearing may not be held any earlier than the third day after the first hearing. The second public hearing will be held on September 12, 2017. The tax rate is scheduled to be adopted on September 19, 2017. State law requires that the tax rate be adopted no sooner than three (3) days (September 15, 2017), and no later than fourteen (14) days (September 26, 2017) after the second public hearing.

### **THE ALTERNATIVES CONSIDERED:**

**Which alternative is recommended? Why?**

The preliminary tax rate needs to be set. The tax rate reflected in the City Manager's proposed FY 2018 Budget is 0.7498.

**CONFORMITY TO CITY POLICY:**

This recommendation meets Truth-in-Taxation laws as set forth in the Texas Property Tax Code.

**FINANCIAL IMPACT:**

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

This is a revenue source.

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

This is a revenue source.

**Is this expenditure budgeted?**

This is a revenue source.

**If not, where will the money come from?**

This is a revenue source.

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

This is a revenue source.

**RECOMMENDATION:**

The City Council set a preliminary tax rate of 0.7498 per \$100 valuation. This rate represents the preliminary tax rate set for the FY 2018 Annual Budget and Plan of Municipal Services. Once set, this preliminary tax rate will be the maximum tax rate allowed by law for the FY 2018 Budget. The City Council may elect to lower the preliminary tax rate at a later date; however, it may not be raised.

**DEPARTMENTAL CLEARANCES:**

Finance  
City Attorney

**ATTACHED SUPPORTING DOCUMENTS:**

None



# SETTING THE PRELIMINARY TAX RATE

RS-17-085

August 15, 2017

**DRAFT**

# Property Tax History

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<b>Fiscal Year</b>	<b>Tax Rate</b>	<b>Freeze Adjusted Taxable Value</b>	<b>Exemption Value</b>	<b>Tax Levy</b>
2007	0.6950	\$ 3,504,499,234	\$ 350,942,363	\$ 24,356,270
2008	0.6950	3,972,782,440	370,590,698	27,610,838
2009	0.6950	4,400,933,543	389,272,462	30,586,488
2010	0.6950	4,393,080,749	481,935,337	31,931,424
2011	0.7428	4,395,993,060	535,751,159	34,075,719
2012	0.7428	4,520,459,969	553,300,701	35,040,072
2013	0.7428	4,599,097,718	606,059,551	35,663,378
2014	0.7428	4,795,024,710	662,109,123	37,110,950
2015	0.7498	4,811,164,418	755,476,941	37,579,399
2016	0.7498	4,943,248,641	840,029,405	38,659,704
2017	0.7498	5,105,756,819	943,288,983	39,950,656
2018 <sup>1</sup>	0.7498	5,495,220,469	1,110,668,560	42,948,763

<sup>1</sup> - Proposed tax rate for FY 2018

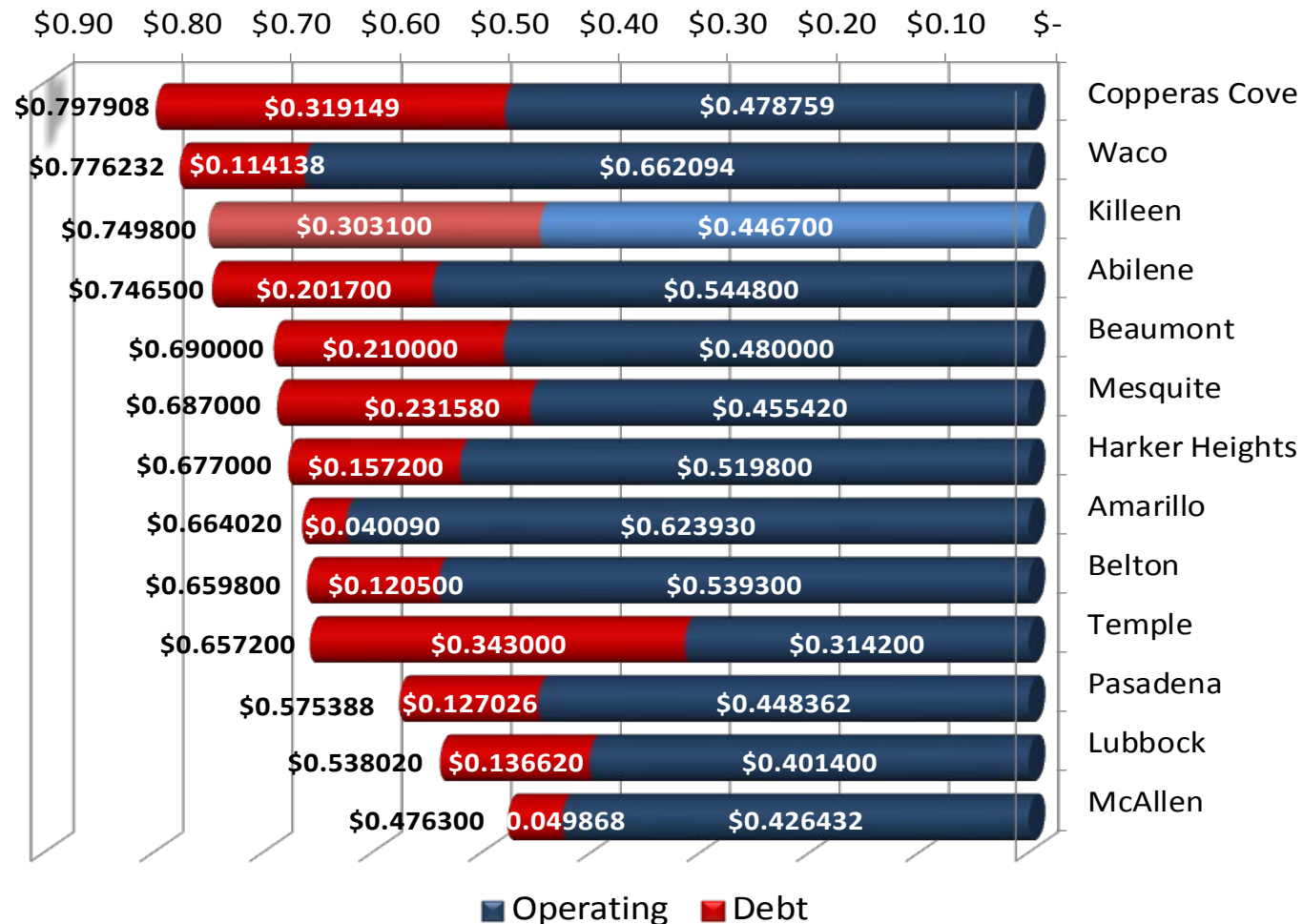


# Property Tax Comparison to Other Cities

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## FY 2017 Tax Rate Comparison



# Property Tax

## Rate Description

4

- Current Rate – the tax rate levied for the current fiscal year.
  - ▣ FY 2017 - \$0.7498
- Proposed Rate – the tax rate used to prepare the FY 2018 Proposed Budget.
  - ▣ FY 2018 - \$0.7498
- Effective Rate – the tax rate that will generate the same amount of tax revenue as the previous fiscal year on properties taxed in both fiscal years.
  - ▣ FY 2018 - \$0.7027
- Rollback Rate – the tax rate that is calculated by increasing the maintenance and operation component of the Effective Rate by 8%.
  - ▣ FY 2018 - \$0.7223
  - ▣ Citizens can petition to hold an election if exceeded

# Property Tax Levy Comparison

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	Tax Rate	Total Levy	Difference from Current Rate
Current Rate	\$0.7498	\$ 42,948,763	\$ -
Proposed Rate	0.7498	42,948,763	-
Effective Rate	0.7027	40,368,523	(2,580,240)
Rollback Rate	0.7223	41,442,253	(1,506,509)

# Property Tax

## Tax Rate Components

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	<u>FY 2017 Amount</u>	<u>FY 2017 Tax Levy</u>	<u>FY 2018 Amount</u>	<u>FY 2018 Tax Levy</u>
Operations	\$ 0.4467	\$ 24,502,101	\$0.4658	\$ 26,753,776
Debt	0.3031	15,448,555	0.2565	14,688,478
Capital	-	-	0.0275	1,506,509
Total	<u>\$ 0.7498</u>	<u>\$ 39,950,656</u>	<u>\$0.7498</u>	<u>\$ 42,948,763</u>





# Property Tax

## Average Taxable Homestead Value Comparison

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	Proposed FY 2018	Current FY 2017	Difference
Taxable Value	\$ 124,462	\$ 116,656	\$ 7,806
Tax Rate	0.7498	0.7498	-
Annual Tax Levy*	\$ 933.22	\$ 874.69	\$ 58.53
Monthly Cost	\$ 77.77	\$ 72.89	\$ 4.88

\*Taxable Value/100 x Tax Rate (\$0.7498) = City Taxes Paid



# Property Tax

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## Tax Equivalent of Exemptions

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<b>Fiscal Year</b>	<b>Total Tax Rate</b>	<b>Freeze Adjusted Taxable Value</b>	<b>Exemption Value</b>	<b>Exemptions % of Value</b>	<b>Value of Exemption</b>
2007	\$0.69500	\$ 3,504,499,234	\$ 350,942,363	10%	\$ 2,439,049
2008	0.69500	3,972,782,440	370,590,698	9%	2,575,605
2009	0.69500	4,400,933,543	389,272,462	9%	2,705,444
2010	0.69500	4,393,080,749	481,935,337	11%	3,349,451
2011	0.74280	4,395,993,060	535,751,159	12%	3,979,560
2012	0.74280	4,520,459,969	553,300,701	12%	4,109,918
2013	0.74280	4,599,097,718	606,059,551	13%	4,501,810
2014	0.74280	4,795,024,710	662,109,123	14%	4,918,147
2015	0.74980	4,811,164,418	755,476,941	16%	5,664,566
2016	0.74980	4,943,248,641	840,029,405	17%	6,298,540
2017	0.74980	5,105,756,819	943,288,983	18%	7,072,781
2018	0.74980	5,495,220,469	1,110,668,560	20%	8,327,793

In FY 2018, exemption value lost equates to 15¢ per \$100 valuation

\$ 0.15

[Note: 1¢ = \$572,803 in revenue]

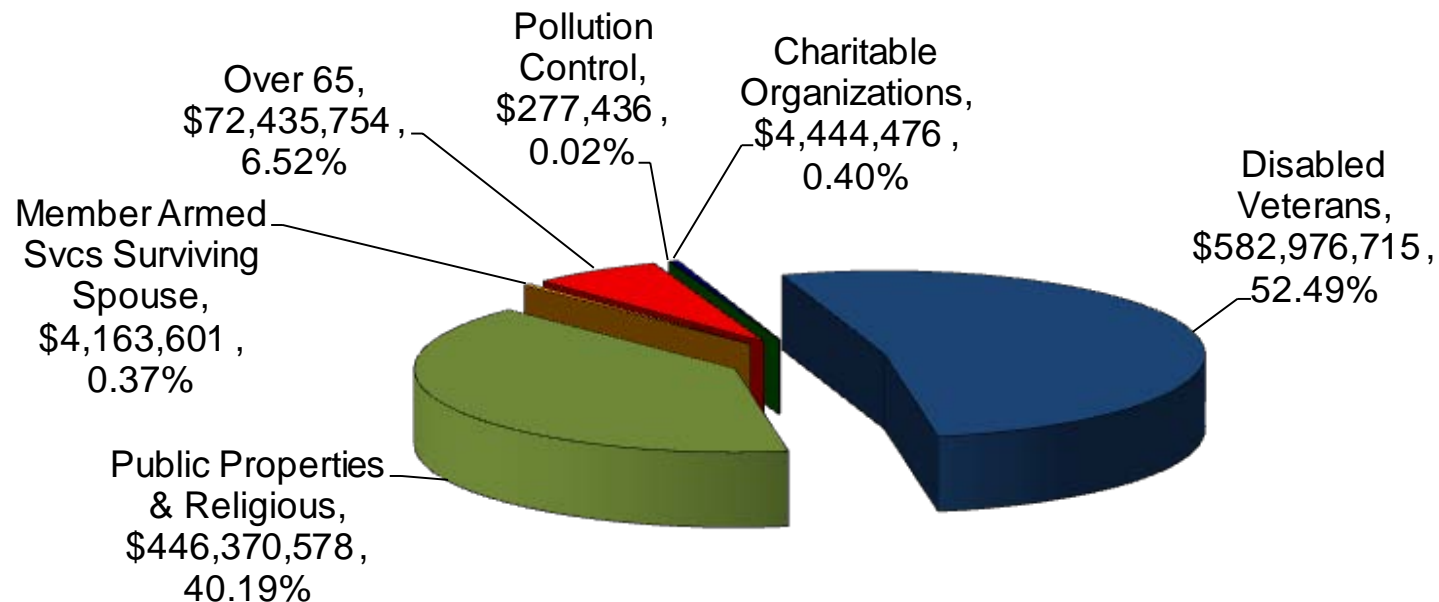


# Property Tax Killeen Exemptions

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## City of Killeen 2017 Exemptions <sup>(1)</sup>



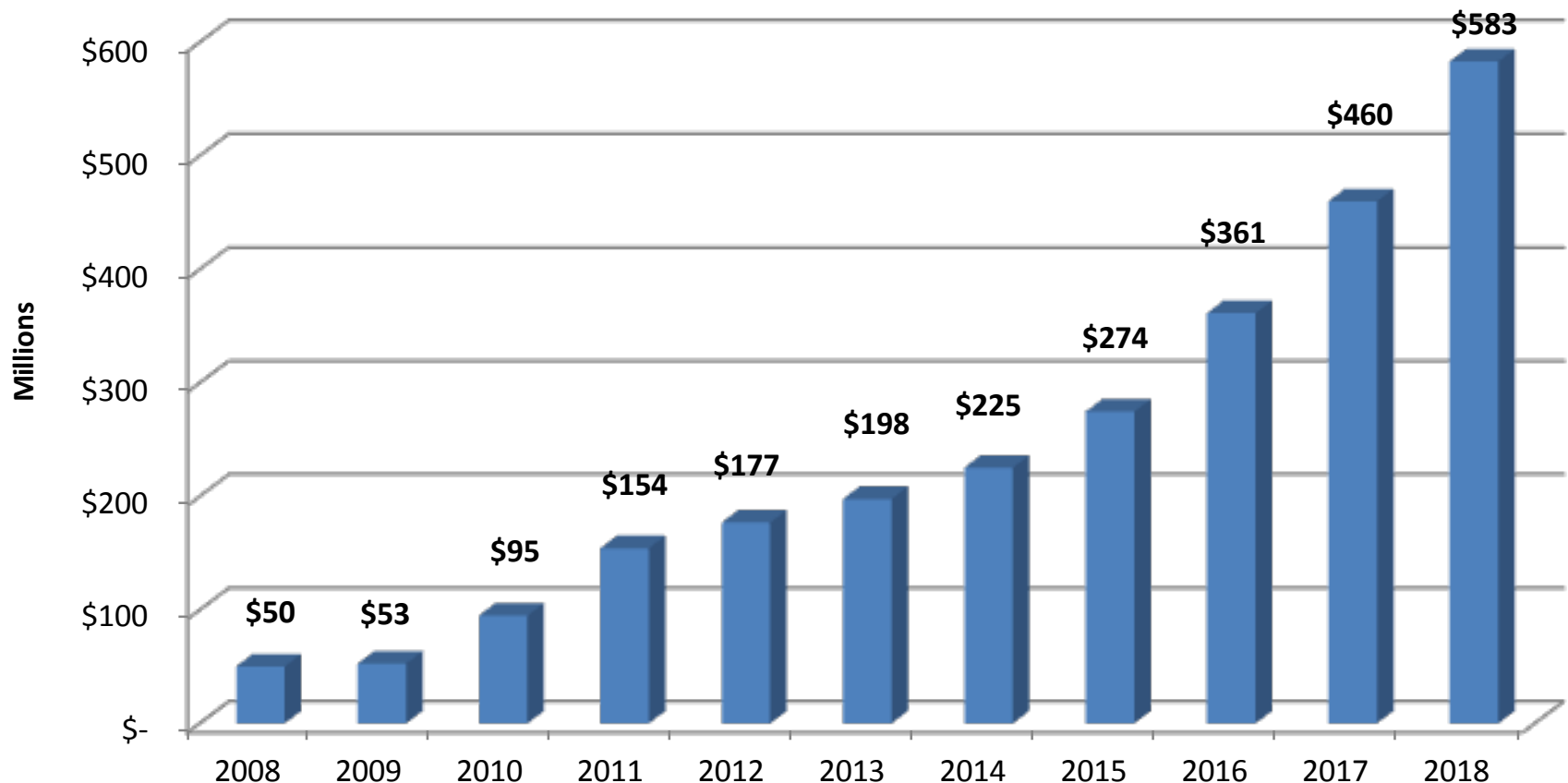
<sup>(1)</sup> Source Document: Tax Appraisal District of Bell County - July 17, 2017 Certified Tax Roll

**Total Exemptions: \$1,110,668,560**

## Disabled Veteran's Exemptions

11

### Disabled Veteran's Exemptions



# Property Tax

## Next Steps

12

- ❑ Set the preliminary tax rate
  - ▣ Proposed rate - \$0.7498
- ❑ Required to take a record vote
- ❑ Announce the dates of the tax rate public hearings
  - ▣ First hearing on September 5, 2017
  - ▣ Second hearing on September 12, 2017



# City of Killeen

## Legislation Details

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**File #:** OR-17-010    **Version:** 1    **Name:** Right-of-Way Management  
**Type:** Ordinance    **Status:** Ordinances  
**File created:** 7/28/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** Consider an ordinance amending Chapter 25 of the Code of Ordinances regulating the use of the Public Right-of-Way.  
**Sponsors:** Public Works Department, Planning & Development Dept, City Attorney Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)  
[Ordinance](#)  
[Presentation](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Kathryn H. Davis, City Attorney

**SUBJECT:** Chapter 25 Revisions: Right-of-Way Management

### **BACKGROUND AND FINDINGS:**

Senate Bill 1004 relating to the deployment of network nodes in public right-of-way was passed by the Texas Legislature and will be effective September 1, 2017. The bill provides access to the city's right-of-way for network providers to install network nodes and poles without a franchise agreement but subject to a right-of-way management ordinance, regulates how cities regulate applications and permits, and limits what cities can charge for permit fees, annual access rates, and fees for collocating on city-owned poles.

The City's Charter requires a franchise agreement to use the City's right-of-way for the purpose of furnishing the public any general public service, but telecommunications and network providers will not be subject to this requirement per state law. Chapter 25 of the Code of Ordinances currently includes limited regulation of excavation within the right-of-way, but has not been updated since 1981 and contains outdated references and procedures. To effectively provide for safety within the right-of-way, staff recommends updating this chapter to require compliance with the City's adopted Infrastructure Design and Development Standards Manual, prohibit interference with the right-of-way, provide for removal or relocation of facilities within the right-of-way as necessary for the construction of city improvements, require additional documentation in the permit application including proof of insurance and engineering drawings necessary to confirm compliance with design requirements, add permit fees for network nodes and excavation, add right-of-way rates for network nodes and transport facilities, require execution of a standard Service Pole Attachment Agreement prior to collocation of network nodes on city poles, and provide design requirements for network nodes and support poles.

### **THE ALTERNATIVES CONSIDERED:**

- 1) The City could do nothing and allow network providers to access the right-of-way pursuant to the state regulations.
- 2) The City could adopt the proposed right-of-way management ordinance.

**Which alternative is recommended? Why?**

Staff recommends the second option. If the City did not adopt the ordinance, network providers would be allowed by statute to occupy the right-of-way without complying with additional right-of-way management regulations and without paying the City any fees for using the right-of-way. Additionally, the current ordinance needs to be updated regardless of SB 1004 to conform to adopted design standards and to more effectively control construction activities within city right-of-way.

**CONFORMITY TO CITY POLICY:**

This state law will trump the City's charter provision that requires a franchise agreement for the use of city right-of-way with regard to telecommunications and network providers; otherwise, adoption of the ordinance by City Council would comply with city policy and state law.

**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?**

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 adoption of the proposed right-of-way management ordinance which better provides for the safety of the public within the right-of-way and for compensation authorized by state law for the use of the right-of-way.

**DEPARTMENTAL CLEARANCES:**

Legal  
Public Works  
Planning and Development

**ATTACHED SUPPORTING DOCUMENTS:**

Ordinance

**AN ORDINANCE AMENDING CHAPTER 25 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; AMENDING VARIOUS SECTIONS OF CHAPTER 25 TO REGULATE USE OF THE PUBLIC RIGHT-OF-WAY; ADDING SECTIONS OF CHAPTER 25 TO ADDRESS TELECOMMUNICATIONS AND NETWORK NODES IN THE PUBLIC RIGHT-OF-WAY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A PENALTY; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

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

**WHEREAS**, the City Council finds that revisions to Chapter 25 are necessary to protect the public health, safety and welfare within the public right-of-way; and,

**WHEREAS**, the Texas Legislature passed Senate Bill 1004 which will become effective September 1, 2017, which provides access to the city's right-of-way for network providers to install network nodes and poles without a franchise agreement but subject to a right-of-way management ordinance and regulates applications and fees associated with the same; and,

**WHEREAS**, the City Council finds that establishing regulations within the public right-of-way is in the best interest of the City and its current and future Citizens and is further permitted in accordance with the Texas Local Government Code, Chapter 283 and Chapter 284 et seq.

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

**SECTION I.** That Chapter 25 of the City of Killeen Code of Ordinances is hereby amended to read as follows:

\*\*\*\*\*

ARTICLE II. ~~— PUBLIC RIGHT-OF-WAY MANAGEMENT:~~ EXCAVATION, CONDUITS, ETC.

DIVISION 1. - GENERALLY



Sec. 25-11. – Purpose.

The purpose of this Article is to provide for safe and appropriate use of the public right-of-way by regulating placement and maintenance of facilities and equipment within the public right-of-way.

Sec. 25-12. – Definitions.

“Certificated telecommunications provider” means a person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority by the Public Utility Commission of Texas to offer local exchange telephone service or a person who provides voice service.

“Collocate” and “collocation” mean the installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

“Decorative pole” means a streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory municipal codes.

“Emergency” means an unexpected event that could not have reasonably been anticipated requiring immediate action to protect the health, safety, or welfare of the public.

“Local exchange telephone service” has the meaning assigned by Section 51.002 of the Texas Utilities Code.

“Network node” means equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

(A) includes:

(i) equipment associated with wireless communications;

(ii) a radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and

(iii) coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

(B) does not include:

(i) an electric generator;

(ii) a pole; or

(iii) a macro tower.

"Network provider" means:

(A) a wireless service provider; or

(B) a person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider;

(i) network nodes; or

(ii) node support poles or any other structure that supports or is capable of supporting a network node.

"Node support pole" means a pole installed by a network provider for the primary purpose of supporting a network node.

"Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest. The term does not include:

(A) a private easement; or

(B) the airwaves above a public right-of-way with regard to wireless telecommunications.

"Public right-of-way rate" means an annual rental charge paid by a network provider to a municipality related to the construction, maintenance, or operation of network nodes within a public right-of-way in the municipality.

"Public utility, utility or user" includes but is not limited to any electric utility, gas utility, telecommunications utility, cable company, water utility, or sewer utility, but does not include a network provider.

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"Service pole" means a pole, other than a municipally owned utility pole, owned or operated by a municipality and located in a public right-of-way, including:

(A) a pole that supports traffic control functions;

(B) a structure for signage;

(C) a pole that supports lighting, other than a decorative pole; and

(D) a pole or similar structure owned or operated by a municipality and supporting only network nodes.

"Telecommunications utility pole" means a pole that provides:

(A) electric distribution with a voltage rating of not more than 34.5 kilovolts; or

(B) services of a telecommunications provider, as defined by Section 51.002, Utilities Code.

"Transport facility" means each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

"Wireless service" means any service, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using a network node.

"Wireless service provider" means a person that provides wireless service to the public.

"Voice service" means voice communications services through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology. The term does not include voice service provided by a commercial mobile service provider as defined by 47 USC Section 332(d).

Sec. 25-~~31~~13. - Penalty.

Unless stated otherwise, violations of this article shall be punished as provided in section 1-8.

Secs. 25-14 – 25-31. Reserved.

Sec. 25-32. - Supervision of work.

Work coming under this article must be performed strictly in accordance with the requirements of the ~~city manager or his designee~~Public Works and Planning and Development Services Departments and not otherwise; and shall be performed ~~under his supervision and~~ in such manner and at such times and within such time as the ~~city manager~~Building Official or his designee shall prescribe and approve. The excavations and the depth, grade and location of any pipes, mains, laterals, sewer or wiring shall be as prescribed by ~~the city manager or his designee~~an approved permit in each case.

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-33. - Barricades.

The permittee under this article shall erect barricades around the area being excavated in accordance with the requirements of the Manual of Uniform Traffic-Control Devices.

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-34. - Compliance.

- (a) All excavations made within the ~~right-of-way~~public right-of-way of any street or alley or across any square or public grounds within the city shall be made in accordance with the provisions of this article.
- (b) All excavations, backfills and repair in streets and alleys shall be in accordance with ~~the drawings, respectively, appearing on exhibit "A."~~applicable City of Killeen standard details.
- (c) The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Permittee, upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) days of the receipt of the notice from the City, not including days which work cannot be done because of circumstances constituting force majeure. If permittee fails to restore the public right-of-way in the

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manner and to the condition required by the City, the City at its option may do the work and bill the Permittee for the cost of restoring the public right-of-way.

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

~~Sec. 25-35. Classification of streets.~~

~~Streets and alleys shall be classified into three (3) categories:~~

~~(1) Class One — Asphalt-paved streets and alleys.~~

~~(2) Class Two — Concrete-paved streets and alleys.~~

~~(3) Class Three — Unpaved streets and alleys.~~

~~Such classifications are further described by a drawing shown as exhibit "A," which is hereby incorporated in this article for all intents and purposes.~~

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~~(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])~~

~~Sec. 25-36.35. - Backfilling.~~

~~(a) If any excavation is made in any street or alley that is paved or unpaved, material from the excavation may be used for earth backfill, providing that such material is free from vegetation, mud and other debris. It shall be placed in the trench in six-inch to eight-inch layers. This material shall be thoroughly tamped or compacted by a suitable mechanically operated tamp to ensure compaction to a proctor of ninety (90) percent or better. All backfilling of trenches shall be done as described and shown on exhibit "A" and to the satisfaction of the city manager or his designee.~~

~~(b) Where excavation is made in an asphalt or concrete-paved area, all edges shall be cut to a straight line before concrete slab is poured or asphalt surface is applied. Backfilling where curb and gutter exists shall be backfilled and compacted from back of curb to back of curb. In streets without curb and gutter, backfilling and compaction shall be from center of ditch to center of ditch.~~

~~(c) When excavation is made in an area between curbline and sidewalk line, excavation material may be used for backfill, material shall be thoroughly compacted and area finished in a manner equal to that as originally existed. Backfilling shall be completed pursuant to applicable City of Killeen standard details and the INFRASTRUCTURE DESIGN AND DEVELOPMENT STANDARDS MANUAL (IDDSM).~~

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

~~Sec. 25-37.36. - Resurfacing.~~

~~Resurfacing shall be completed pursuant to applicable City of Killeen standard details and the INFRASTRUCTURE DESIGN AND DEVELOPMENT STANDARDS MANUAL (IDDSM).~~

~~Where excavation is in an improved area, all edges shall be cut to a straight line before concrete slab is poured, or asphalt surface is applied. After backfill has reached maximum compaction, material shall be removed to a depth as specified below and an area extending six (6) inches beyond area of excavation shall be excavated to the same depth and concrete shall be placed over area so excavated:~~

~~(1) If area is now improved as in Class One, with any type of asphalt surfacing, excavation shall be made to a depth of six and one-half (6½) inches and concrete slab shall be five (5) inches in thickness, with one and one-half inch asphalt surfacing.~~

- ~~(2) If area is now improved as in Class Two with concrete pavement, the concrete slab shall be the same thickness and reinforced as the original pavement.~~
- ~~(3) In all other streets, where unpaved or surfaced with gravel, backfill shall be made in the same manner as provided for other areas under their classification, but no concrete slab shall be required.~~
- ~~(4) When excavation is made in paved or unpaved streets or alleys, all unused excavated material shall be removed within twenty-four (24) hours after backfill is completed.~~

(Code 1963, Ch. 11, art. 2, § 4 [Ord. No. 81-24, § 1, 6-23-81])

Sec. 25-~~38~~37. - Work at expense of applicant.

All such work shall be performed at the sole expense of the person making such application, and without expense to the city. If the work is not completed within the time limit set by the ~~city manager~~ Building Official or his designee, the city may have the work done by an independent contractor. All such work shall be chargeable to the permittee and no permit for such cuts shall be issued until such time as the city is reimbursed such expense by the permittee.

~~(Code 1963, Ch. 11, art. 2, § 5 [Ord. No. 81-24, § 2, 6-23-81])~~ Sec. 25-38. – Interference with Public right-of-way.

A permittee shall not so obstruct a public right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the public right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Sec. 25-39. – Poles, towers, and other structures.

Poles, towers, and other structures shall be so erected as not to unreasonably interfere with traffic over streets, alleys and highways. Any attachment to a pole, tower, or other structure overhanging a street, alley, or highway must have a minimum clearance height of fourteen (14) feet from top of the pavement unless approved in writing by the Director of Public Works.

Sec. 25-40. – Construction and Removal of Facilities.

(A) This City may lay, and permit to be laid, storm, sewer, gas, water, wastewater and other pipe lines, cables, and conduits, or other improvements and to do and permit to be done any underground or overhead work that may be necessary or proper in, across, along, over, or under public right-of-way occupied by a Permittee. The City may also change in any manner any curb, sidewalk, highway, alley, public way, street, utility line, storm sewer, drainage basin, drainage ditch, and the like.

(B) A Permittee shall remove or relocate its facilities in the public right-of-way when it is determined by the director of the Public Works Department that removal, relocation, change, or alteration of the facilities in the public right-of-way is reasonably necessary for the construction,

operation, repair, maintenance, or installation of a City or other governmental entity's public improvements.

(C) A Permittee shall remove, relocate, change, or alter the position of its facilities that are in the public right-of-way no later than the 120th day after receiving written notice from the director of the Public Works Department. All relocation expenses shall be paid by the permittee except as otherwise required by law.

(C) This section does not prevent a permittee from recovering the cost of relocating or removing facilities in the public right-of-way from a non-governmental third party that initiates a request for relocation or removal, or from a governmental entity that has authorized payment for relocation or removal costs.

Secs. 25-~~4139~~—25-50. - Reserved.

#### DIVISION 2. - PERMIT

Sec. 25-51. ~~— Public Right-of-Way Permit~~ Required.

No person shall dig any holes or trenches over 18 inches deep upon, through, or beneath ~~anythe public right-of-waystreets, avenues, alleys, squares, and public grounds of the city, nor~~ lay any pipes, mains, laterals, or any connecting or service pipes, nor any underground sewer or underground wiring along, across or beneath ~~the streets, avenues, alleys, squares and public grounds of the city~~any public right-of-way, or install any new equipment or facility within the public right-of-way, without first having filed with the ~~city manager~~ Building Official or his designee an application and ~~plan documents as required by Sec. 25-54 in writing~~ to do so and without having first obtained a formal written approval of such application and map and a permit to perform such work.

(Code 1963, Ch. 11, art. 2, § 1(a) [Ord. No. 71-17, § 1, 4-26-71])

Sec. 25-52. ~~— Public Utility companies~~poles.

A permit from the ~~city manager~~Building Official or his designee shall be required of all public utility companies to set utility poles in any street or alley, and each public utility company shall ~~once each calendar month~~ make a report in writing to the ~~city manager~~Building Official or his designee ~~by the 1<sup>st</sup> day of each calendar year~~, giving the location of each public utility pole which it has set in the ~~right-of-way~~public right-of-way of any and all streets and alleys in the city during the preceding ~~calendar month~~calendar year.

(Code 1963, Ch. 11, art. 2, § 1(b) [Ord. No. 71-17, § 1, 4-26-71])

Sec. 25-53. - Emergency work.

In cases of emergency that may arise on holidays or outside of prescribed working hours of city hall offices, utility companies may cut or puncture the ~~right-of-way~~public right-of-way of streets and alleys without first getting a permit to do such work, provided that where such cuttings or punctures are made by

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any such utility company in the ~~right-of-way~~public right-of-way of a street or alley, such company shall apply for and obtain a permit for such work on the first working day after the work is done.

(Code 1963, Ch. 11, art. 2, § 1(c) [Ord. No. 71-17, § 1, 4-26-71])

Sec. 25-54. - Application.

Application for a permit required by this division shall be submitted in such form as the ~~city manager~~Building Official or his designee may prescribe from time to time, and, insofar as applicable, shall follow generally the requirements prescribed by the city for applications for building permits, in addition to any other information prescribed by the ~~city manager~~Building Official or his designee. ~~Such application shall be accompanied by a map or plan of such proposed work. The application shall include, but not be limited to:~~

- (1) Permittee's name, address, and email if applicable, and telephone number
- (2) A certificate of insurance (The city may require a copy of the actual insurance policies):
  - (i) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Texas, or a form of self insurance acceptable to the city;
  - (ii) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the public right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the public right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;
  - (iii) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
  - (iv) Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;
  - (v) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.
- (3) map or plan of such proposed work, including any construction any engineering drawings necessary to confirm compliance with any applicable statutory and/or city design requirements
- (4) Payment of applicable permit fees and applicable public right-of-way rate fees.
- (5) A copy of the person's order granting a certificate of authority from the Public Utilities Commission or other applicable state or federal agency where the person is lawfully required to have such certificate from said commission or other state or federal agency.

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(Code 1963, Ch. 11, art. 2, § 2)

Sec. 25-55. - Bond.

No permit to puncture, open, dig, or excavate with the public right-of-way shall be issued under this division to any person until such person shall have filed a bond in the sum of two thousand dollars (\$2,000.00) with a good and sufficient surety with the city secretary. Such bond shall be effective as to any permit for a period of one (1) year after such permit is issued and shall cover all permits issued to the principal of such bond as long as such bond is on file. The form of the bond shall be as follows:

STATE OF TEXAS

KNOW ALL MEN BY THESE PRESENTS:

COUNTY OF BELL

That we, \_\_\_\_\_ as principal and \_\_\_\_\_ as surety, are held and firmly bound unto the City of Killeen, Texas in the penal sum of \$2,000.00 to the payment of which well and truly to be made, we hereby bind ourselves, our heirs, executors, administrators, successors and assigns by these presents:

The condition of the above obligation is such that, whereas the above principal has obtained a permit and/or permits to puncture, open, dig or excavate ~~a street, alley, highway, park or public ground~~within the public right-of-way within the City of Killeen, Texas, in accordance with an application and/or applications heretofore filed by him with said City of Killeen:

Now, if the above bound principal, his heirs, executors, administrators, successors, and/or assigns, shall well and truly keep, do and perform all laws and ordinances of the City of Killeen, regulating excavations ~~or punctures in and puncturing of streets, alleys, highways, and/or public grounds within~~the public right-of-way of the City of Killeen and will refill said excavations or punctures according to the ordinances and specifications prescribed by the City of Killeen, and will replace all pavement as required by said specifications and will hold the City of Killeen harmless from all damages that may occur by reason of said punctures, holes or excavations made by said principal, for a period of one year from the date each said permit is issued, then this obligation shall be null and void; otherwise, to be and remain in full force and effect. Successive recoveries may be made on this bond and one or more recoveries thereon shall not exhaust or terminate this bond.

Witness the execution hereof, on this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Surety Principal

Approved this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

/s/

City Secretary

~~(Code 1963, Ch. 11, art. 2, § 3) Sec. 25-56. – Permit Fees.~~

(A) Network Node permit fee: \$500 per application covering up to five network nodes; \$250 for each additional network node per application up to 30 network nodes

(B) Excavation over 18" deep/setting pole: \$1000 per application/pole (including a node support pole, but not including a telecommunications utility pole)

(C) If applicant is covered by a current franchise agreement, fees are paid pursuant to the franchise agreement and exempt from fees in this section.

(D) A network provider shall not be required to submit an application, obtain a permit, or pay a rate for routine maintenance or replacement of substantially similar existing equipment.

### DIVISION 3. – USE OF PUBLIC RIGHT-OF-WAY BY TELECOMMUNICATIONS PROVIDERS.

Secs. 25-5657—25-75. —Reserved. —AUTHORITY; SCOPE.

(A) This division shall be read in accordance with Article XI ( *Franchises and Public Utilities* ) of the City Charter and Chapter 283 ( *Management of Public Right-of-Way Used by Telecommunications Providers in Municipality* ) of the Texas Local Government Code.

(B) This division does not give a telecommunications provider the right to use utility infrastructure or to excavate in the public right-of-way. All excavation in the public right-of-way must be done in accordance with Chapter 25, Article II, Division 2, of the Code.

(C) This chapter does not apply to a private line telecommunication network.

### Sec. 25-58. - CONSTRUCTION AND REMOVAL OF FACILITIES.

(A) A certificated telecommunications provider is subject to the construction rules and standards set forth in Chapter 25, Article II, Division 2, of the Code.

(B) A certificated telecommunications provider shall remove or relocate its facilities in the public right-of-way when it is determined by the director of the Public Works Department that removal, relocation, change, or alteration of the facilities in the public right-of-way is reasonably necessary for the construction, operation, repair, maintenance, or installation of a City or other governmental entity's public improvements.

(C) A certificated telecommunications provider shall remove, relocate, change, or alter the position of its facilities that are in the public right-of-way no later than the 120th day after receiving written notice from the director of the Public Works Department. All relocation expenses shall be paid by the telecommunications provider.

(D) This section does not prevent a certificated telecommunications provider from recovering the cost of relocating or removing facilities in the public right-of-way from a non-governmental third party that initiates a request for relocation or removal, or from a governmental entity that has authorized payment for relocation or removal costs.

### Sec. 25-59. - COMPENSATION TO THE CITY.

A certificated telecommunications provider shall pay a public right-of-way use fee as prescribed by Chapter 283 ( *Management of Public Right-of-Way Used by Telecommunications Providers in Municipality* ) of the Texas Local Government Code.

Sec. 25-60. - INDEMNITY.

A certificated telecommunications provider is liable for the acts and omissions of any entity involved in the construction or installation of facilities used by the provider. Acts and omissions of the entity shall be considered the acts and omissions of the provider.

The City shall submit prompt, written notice to a provider of any claim for which the City is seeking indemnification.

Sec. 25-61. Reserved.

-DIVISION 4. – USE OF PUBLIC RIGHT-OF-WAY FOR DEPLOYMENT OF NETWORK NODES.

25-62. – General.

(A) A network provider is subject to the construction rules and standards set forth in Chapter 25, Article II, Division 2, of the Code.

(B) A network provider shall remove or relocate its facilities in the public right-of-way when it is determined by the director of the Public Works Department that removal, relocation, change, or alteration of the facilities in the public right-of-way is reasonably necessary for the construction, operation, repair, maintenance, or installation of a City or other governmental entity's public improvements.

(C) A network provider shall remove, relocate, change, or alter the position of its facilities that are in the public right-of-way no later than the 120th day after receiving written notice from the director of the Public Works Department. All relocation expenses shall be paid by the telecommunications provider.

(D) This section does not prevent a network provider from recovering the cost of relocating or removing facilities in the public right-of-way from a non-governmental third party that initiates a request for relocation or removal, or from a governmental entity that has authorized payment for relocation or removal costs.

Sec. 25-63. - COMPENSATION TO THE CITY.

(A) A network provider shall pay fees as prescribed by Chapter 284 ( *Deployment of Network Nodes in Public Right-of-Way* ) of the Texas Local Government Code as amended in the following amounts:

(1) Public Right-of-Way Rate: \$250 per network node located in the public right-of-way to be paid at the time of application and annually thereafter by the first day of the calendar year

(2) Transport Facility Public Right-of-Way Rate: \$28/month per network node located in the public right-of-way for which the installed transport facilities provide backhaul unless network provider has obtained transport service from a person that is paying municipal fees to occupy the public right-of-way that are the equivalent of not less than \$28/month per network node

(B) A network provider shall be required to execute a standard Service Pole Attachment Agreement to be able authorized to collocate network nodes on service poles at a rate not greater than \$20 per year per service pole.

Sec. 25-64. - INDEMNITY.

A network provider is liable for the acts and omissions of any entity involved in the construction or installation of facilities used by the provider. Acts and omissions of the entity shall be considered the acts and omissions of the provider.

The City shall submit prompt, written notice to a provider of any claim for which the City is seeking indemnification.

Sec. 25-65. – COLLOCATION OF NETWORK NODES AND NEW NODE SUPPORT POLES WITHIN HISTORIC DISTRICT OR DESIGN DISTRICT.

A network provider shall obtain advance approval from the City before collocating new network nodes or installing new node support poles in an area zoned or otherwise designated as a historic district or as a design district if the district already has decorative poles. Certain types of equipment shall be required as prescribed by the Director of Public Works.

Sec. 25-66. – DESIGN REQUIREMENTS.

A network provider shall comply with requirements included in the design manual for the installation and construction of network nodes and new node support poles in the public right-of-way.

For each permit application relating to a network node, an industry standard pole load analysis shall be completed and submitted to the City with the application indicating that the service pole to which the network node is to be attached will safely support the load.

All network node equipment placed on new and existing poles shall be placed more than eight feet above ground level.

Secs. 25-67 – 25-75. Reserved.

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

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

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

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

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

**APPROVED**

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

**ATTEST:**

**APPROVED AS TO FORM:**

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

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



# CH. 25 REVISIONS: RIGHT- OF-WAY MANAGEMENT

OR-17-010

August 15, 2017

# SB 1004

2

- ❑ Authorizes a Wireless Network Provider (“WNP”) to construct and operate network nodes and poles within the right-of-way
- ❑ City may not require a franchise agreement or other land use approval
- ❑ WNP is subject to right-of-way management ordinance
- ❑ City may adopt design criteria for the installation and construction of network nodes that does not conflict with the bill
- ❑ WNP must obtain city consent to locate:
  - ▣ in a municipal park or in certain residential areas; and
  - ▣ within historic district or design district with decorative poles
- ❑ WNP is entitled to file a consolidated permit application for not more than 30 network nodes
- ❑ City may require the WNP to provide engineering drawings to confirm that the applicant will comply with design specs and codes

# SB 1004 (continued)

3

- Maximum Allowable Fees:
  - ▣ \$500 per application covering up to five network nodes, \$250 per additional node up to 30; \$1000 per pole;
  - ▣ Annual payment \$250 per node located in the right-of-way;
  - ▣ WNP may obtain permit to install its own transport facilities in the right-of-way, for \$28/month times the number of nodes in the right-of-way that the transport facility serves;
  - ▣ WNP may enter into agreement with the city to collocate on a city pole, including a traffic light pole, at no more than \$20/year, per pole
- Prohibits the city from requiring any payment not authorized by the bill
- Size and Height Limitations:
  - ▣ Network nodes in the right-of-way may not exceed a height of three feet above the pole or protrude more than two feet beyond pole/structure;
  - ▣ Poles may not exceed 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole



# Ch. 25 Revisions: General Requirements

- ❑ Update Backfilling, Excavation, and Resurfacing requirements to refer to City standard details and Infrastructure Design and Development Standards Manual (“IDDSM”)
- ❑ Require permittee to correct defects in restoration, upon notice
- ❑ Prohibit obstruction of the right-of-way and provide parking/loading requirements for vehicles during right-of-way work
- ❑ Require that poles not unreasonably interfere with traffic, and provide a minimum clearance height of 14 feet from the ground
- ❑ Provide for the removal/relocation of facilities upon notice as deemed necessary for operation/maintenance of the right-of-way
- ❑ Update application requirements to include proof of insurance and engineering documentation necessary to show compliance with design stds
- ❑ Provide for permit fees, annual fees, collocation fees, and telecommunications fees

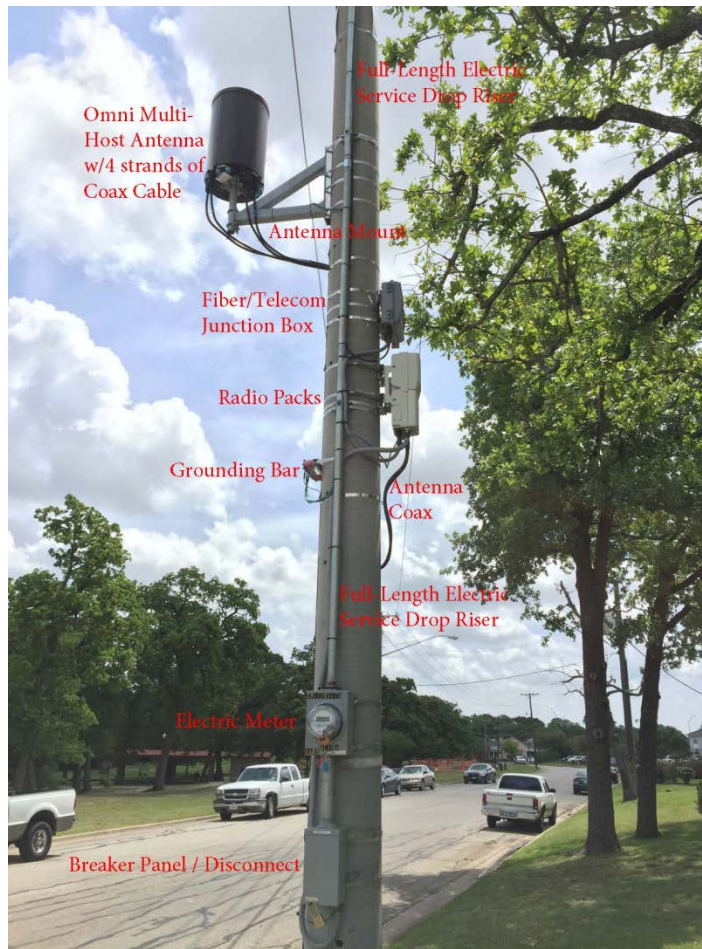
# Ch. 25 Revisions: Requirements Specific to SB 1004

5

- ❑ Collocation agreement to attach nodes to city poles
- ❑ Advance approval from the City prior to installing nodes or poles within historic district or any future designated design district
- ❑ Compliance with forthcoming city design manual requirements for installation and construction
- ❑ Industry standard pole load analysis to be completed and submitted with the application indicating that the service pole to which the network node is to be attached will safely support the load
- ❑ Network node equipment placed on new and existing poles shall be placed more than 8 feet above ground level

# Equipment that may be installed in ROW

6



# Recommendation

7

- Staff recommends that City Council adopt the proposed ordinance by September 1<sup>st</sup>, which will:
  - ▣ provide for the safety of the public within the right-of-way; and
  - ▣ Provide for compensation for the use of the City's right-of-way and poles



# City of Killeen

## Legislation Details

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**File #:** PH-17-037    **Version:** 1    **Name:** Public Hearing FY 18 Proposed Annual Budget  
**Type:** Public Hearing    **Status:** Public Hearings  
**File created:** 7/31/2017    **In control:** City Council  
**On agenda:** 8/22/2017    **Final action:**  
**Title:** HOLD a public hearing August 22, 2017 on the FY 2018 Proposed Annual Budget and Plan of Municipal Services for the Fiscal Year October 1, 2017, through September 30, 2018.  
**Sponsors:** Finance Department  
**Indexes:**  
**Code sections:**  
**Attachments:** [Staff Report](#)

Date	Ver.	Action By	Action	Result
8/15/2017	1	City Council Workshop		



## STAFF REPORT

**DATE:** August 15, 2017

**TO:** Ronald L. Olson, City Manager

**FROM:** Jonathan Locke, Executive Director of Finance

**SUBJECT:** Public hearing on the FY 2018 Proposed Annual Budget and Plan of Municipal Services for the Fiscal Year October 1, 2017, through September 30, 2018.

### **BACKGROUND AND FINDINGS:**

The City of Killeen provides opportunities for public input throughout the budget process. Local Government Code requires that one public hearing be held prior to the adoption of the final budget. The public is encouraged to be present and participate in the public hearing.

### **THE ALTERNATIVES CONSIDERED:**

**Which alternative is recommended? Why?**

N/A

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

This conforms to Local Government Code and City of Killeen Charter, Section 55.

### **FINANCIAL IMPACT:**

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

N/A

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

N/A

**Is this expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

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

N/A

**RECOMMENDATION:**

The public hearing on the budget is required prior to budget adoption and is scheduled for August 22, 2017.

**DEPARTMENTAL CLEARANCES:**

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

N/A