



**City of Killeen**  
**Agenda - Final-Revised**  
**City Council**

Tuesday, December 12, 2023

5:00 PM

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

**Call to Order and Roll Call**

- |  |   |
|--|---|
| <p>___ <i>Debbie Nash-King, Mayor</i></p> <p>___ <i>Ramon Alvarez</i></p> <p>___ <i>Michael Boyd</i></p> <p>___ <i>Nina Cobb</i></p> | <p>___ <i>Jessica Gonzalez</i></p> <p>___ <i>Jose Segarra</i></p> <p>___ <i>Joseph Solomon</i></p> <p>___ <i>Riakos Adams</i></p> |
|--|---|

**Invocation**

**Pledge of Allegiance**

**Approval of Agenda**

**Citizen Comments on Agenda Items**

*This section allows members of the public to address the Council regarding any item(s), other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up in advance, may speak only one (1) time, and such address shall be limited to four (4) minutes. A majority of the City Council is required for any time extensions. The Mayor and Councilmembers shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.*

**Consent Agenda**

1.     [MN-23-028](#)     Consider Minutes of Regular City Council Meeting of November 14, 2023.
  
2.     [RS-23-194](#)     Consider a memorandum/resolution to purchase a JLG Model T500J Towable Boom Lift through Central Texas Equipment's Buyboard purchasing cooperative contract #685-22 in an amount not to exceed \$71,226.  
        *Attachments:* [Quote](#)  
                       [Buyboard Contract](#)  
                       [Contract Verification Form](#)  
                       [Certificate of Interested Parties](#)  
                       [Presentation](#)
  
3.     [RS-23-195](#)     Consider a memorandum/resolution to authorize a Water CCN Transfer Agreement with West Bell County Water Supply Corporation.

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

[Presentation](#)

4. [RS-23-196](#) Consider a memorandum/resolution approving a Professional Services Agreement with Garver, LLC, for the General Aviation Terminal Building Design at Skylark Field, in the amount of \$461,800.
- Attachments:** [Agreement](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)
5. [RS-23-197](#) Consider a memorandum/resolution authorizing a Professional Services Agreement with Central Texas Alcohol Rehabilitation Center for substance use disorder counseling and treatment services in an amount of \$143,130.
- Attachments:** [Agreement](#)  
[Presentation](#)
6. [RS-23-198](#) Consider a memorandum/resolution authorizing the purchase of replacement carpet at the Killeen Civic and Conference Center from McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC, in an amount not to exceed \$263,392.05.
- Attachments:** [Quotes](#)  
[Contract Verification Form](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)
7. [RS-23-199](#) Consider a memorandum/resolution accepting the FY 2023 BJA Edward Byrne Memorial Justice Assistance Grant (Jag Grant) and approving an Interlocal Agreement with the City of Temple and Bell County.
- Attachments:** [Grant](#)  
[Interlocal Agreement](#)  
[Presentation](#)
8. [RS-23-200](#) Consider a memorandum/resolution authorizing the expenditure of JAG Grant Funds to purchase Fusus Enterprise Package software from Fusus, Inc. in an amount of \$125,000 per year for five years.
- Attachments:** [Agreement](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)
9. [RS-23-201](#) Consider a memorandum/resolution confirming the City Manager's annual evaluation and pay increase.
- Attachments:** [Annual Review](#)

## Resolutions

10. [RS-23-211](#) Consider a memorandum/resolution repealing Resolutions 16-075R and 16-076R and directing staff to post notice to prohibit the carrying of firearms at city open meetings.

**Attachments:** [16-075R](#)

[16-076R](#)

## Public Hearings

11. [PH-23-061](#) HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to the City's Architectural and Site Design Standards, and amending the building setbacks in single-family residential zoning districts. (Requires ¾ majority vote)

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

[Ordinance](#)

[Presentation](#)

## Adjournment

*I certify that the above notice of meeting was posted on the Internet and on the bulletin board at Killeen City Hall on or before 6:00 p.m. on December 8, 2023.*

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Laura J. Calcote, City Secretary

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

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7717, City Secretary's Office, or TDD 1-800-734-2989.*

## Notice of Meetings

*The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted*

*to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office. No official action will be taken by Council.*

- *Festival of Holidays, December 9, 2023, 4:00 p.m., Avenue D and North 8th St*
- *City of Killeen's 60th Annual Christmas Parade, December 9, 2023, 5:00 p.m., Downtown Killeen*
- *KPD Graduation and Swearing-In Ceremony for Class #38, December 15, 2023, 10:00 a.m., Killeen Civic & Conference Center*
- *2023 Phantom Corps Holiday Reception, December 15, 2023, 6:00 p.m., III Corps Building, Ft. Cavazos*
- *4th Annual Forge University Research Park and Innovation District Summit, January 9, 2024, 9:00 a.m., Texas A&M University Central Texas*
- *State of the Region featuring Judge David Blackburn and Mayor Nash-King, January 31, 2024, 11:30 a.m., Location TBD*
- *Military Relations Council featuring Major General Kevin D. Admiral, February 8, 2024, 11:30 a.m., Texas A&M University Central Texas*

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



# City of Killeen

## Staff Report

**File Number: MN-23-028**

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider Minutes of Regular City Council Meeting of November 14, 2023.

**City of Killeen**  
City Council Meeting  
Killeen City Hall  
November 14, 2023 at 5:00 p.m.

Presiding: Mayor Debbie Nash-King

Attending: Mayor Protem Nina Cobb (arrived at 5:09 p.m.), Councilmembers Michael Boyd (via Zoom), Jessica Gonzalez, Jose Segarra, Joseph Solomon, Ramon Alvarez (arrived at 5:03 p.m.), and Riakos Adams

Also attending were City Manager Kent Cagle, City Attorney Holli Clements, City Secretary Laura Calcote, and Sergeant-at-Arms Reed

Don Smith gave the invocation. Mayor Nash-King and the Webelos Cub Scout Pack 221 led everyone in the Pledge of Allegiance.

### Approval of Agenda

*Motion was made by Councilmember Segarra to approve the agenda. Motion was seconded by Councilmember Solomon. The motion carried unanimously (5-0).*

### Citizen Comments

Sean Price spoke regarding RS-23-184 and RS-23-186.

### Consent Agenda

**MN-23-026** Consider Minutes of Regular City Council Meeting of October 17, 2023.

**MN-23-027** Consider Minutes of Regular City Council Meeting of October 24, 2023.

**RS-23-181** Consider a memorandum/resolution awarding Bid No. 24 03, Gilmer Street Road and Pedestrian Improvements to TTG Utilities, Inc., in the amount of \$4,004,004.00.

- RS-23-182** Consider a memorandum/resolution to enter into an agreement with BNSF for the Gilmer Street railroad crossing reconstruction, in the amount of \$724,151.00.
  
- RS-23-183** Consider a memorandum/resolution authorizing the City Manager to enter into a Local On System Agreement with the Texas Department of Transportation for the Bunny Trail Roadway Reconstruction Project.
  
- RS-23-184** Consider a memorandum/resolution to purchase ProCare Preventive Maintenance and Parts from Stryker Sales, LLC, in an amount not to exceed \$125,000.
  
- RS-23-185** Consider a memorandum/resolution to authorize a Letter of Agreement with Rice Inspection, Inc. for Construction Inspection on the Chaparral Road Wastewater Improvements Project, in an amount of \$50,516.
  
- RS-23-186** Consider a memorandum/resolution authorizing the procurement of fleet parts through Advance, Chastang, Heil, Lonestar Freightliner, NAPA, and O'Reilly, in an amount not to exceed \$525,000, and tires through Southern Tire Mart, in an amount not to exceed \$210,000.
  
- RS-23-187** Consider a memorandum/resolution to enter into an Interlocal Agreement (ILA) with the Hill Country Transit District (HCTD) to provide for a public transportation system.

*Motion was made by Councilmember Segarra to approve the Consent Agenda, as presented.  
Motion was seconded by Councilmember Gonzalez. The motion carried unanimously (6-0).*

### **Public Hearings**

- PH-23-056** HOLD a public hearing and consider an ordinance submitted by Mark Huonder, on behalf of 1314 Stan Schlueter Loop, LLC (Benito J. Hidalgo), (Case #Z23-22) to rezone Lot 2, Block 1 out of the Plentl Addition Phase Two First Amendment Replat No. 1 from "B-3" (Local Business District), "B-5" (Business District), and "RC-1" (Restaurant and Alcohol Sales District) to "B-5" (Business District). This property is locally addressed as 1314 West Stan Schlueter Loop, Killeen, Texas.

The City Secretary read the caption of the ordinance:  
AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF KILLEEN BY CHANGING THE ZONING OF LOT 2, BLOCK 1 OUT OF THE PLENTL ADDITION PHASE TWO FIRST AMENDMENT REPLAT NO. 1 FROM "B-3" (LOCAL BUSINESS DISTRICT), "B-5" (BUSINESS DISTRICT), AND "RC-1" (RESTAURANT AND ALCOHOL SALES DISTRICT) TO "B-5" (BUSINESS DISTRICT); PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR AN EFFECTIVE DATE.

Staff Comments: Edwin Revell, Executive Director of Development Services  
This item was presented to City Council during their November 7, 2023 Workshop meeting. Mr. Revell was available to provide additional information and to answer questions.

Mayor Nash-King opened the public hearing.

With no one appearing, the public hearing was closed.

*Motion was made by Councilmember Adams to approve PH-23-056. Motion was seconded by Councilmember Alvarez. The motion carried unanimously (7-0).*

**Adjournment**

*With no further business, upon motion being made by Councilmember Segarra, seconded by Councilmember Adams, and unanimously approved, the meeting was adjourned at 5:10 p.m.*



# City of Killeen

## Staff Report

File Number: RS-23-194

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution to purchase a JLG Model T500J Towable Boom Lift through Central Texas Equipment’s Buyboard purchasing cooperative contract #685-22 in an amount not to exceed \$71,226.

**DATE:** November 08, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Kelly Snook, Executive Director of Parks & Recreation

**SUBJECT:** Purchase Towable Boom Lift through Central Texas Equipment

**BACKGROUND AND FINDINGS:**

Parks and Recreation provides several services related to parking lot lighting, trail lighting, sports complex lighting, tree trimming, building maintenance, and aquatic facility maintenance that requires the use of a boom lift. Without having this equipment within the department, a lot of these repairs would remain unsafe and unfinished until Parks and Recreation could find one available to be used. As such, Parks and Recreation department is seeking City Council approval for the purchase of a JLG Model T500J Towable Boom Lift powered by 24 V DC in an amount not to exceed \$71,226 through Central Texas Equipment Buyboard purchasing cooperative contract #685-22.

**THE ALTERNATIVES CONSIDERED:**

Option 1 - Deny the request as written; or

Option 2 - Approve the purchase of the JLG Model T500J Towable boom lift through Central Texas Equipment’s Buyboard purchasing cooperative contract #685-22.

**Which alternative is recommended? Why?**

Parks & Recreation recommends City Council approve the purchase of the T500J Towable Boom Lift, so that we can continue to create safe, effective & beautiful Park environments for the Killeen community in a timely manner.

**CONFORMITY TO CITY POLICY:**

This purchase of JLG Model T500J will be made through Central Texas Equipment’s Buyboard

purchasing cooperative contract #685-22. Purchases made through a cooperative contract are exempt from the competitive bidding process as stated in Texas Local Government Code Section 271.102, subchapter F; a local government that purchases goods or services under this subchapter satisfies any state law requiring the local government to seek competitive bids for the purchases of the goods or services.

**FINANCIAL IMPACT:**

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

The FY 2024 expenditure for the Towable Boom Lift is an amount not to exceed \$71,226. Future expenditures for maintenance of the lift will be included in the budget for equipment and machinery repair and maintenance.

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

One-time

**Is this expenditure budgeted?**

Yes, funding is available in the General Fund Parks and Recreation Department, Parks Division account 010-3025-425.61-35.

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

N/A

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

Yes

**RECOMMENDATION:**

City Council approve the purchase of the JLG Model T500J Towable Boom Lift through Central Texas Equipment’s Buyboard purchasing cooperative contract #685-22 in an amount not to exceed \$71,226.

**DEPARTMENTAL CLEARANCES:**

Purchasing  
Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Quote  
Buyboard Contract  
Contract Verification

Certificate of Interested Parties  
Presentation



# Central Texas Equipment

Construction Equipment \* Sales \* Rental \* Parts \* Service

# Quotation

Date	QUOTE #
10/11/2023	14315

Customer		
CITY OF KILLEEN		
Web Site www.ctegroup.net	Phone # 512-442-2371	Fax # 512-442-3051

<b>P.O. No.</b>	<b>Terms</b>	Rep	FOB
	<b>NET 30</b>	JL	DELIVERED

Qty	Item	Description	Cost	Total
1	T500J	NEW JLG MODEL T500J TOWABLE BOOM LIFT POWERED BY 24 V DC, 56' WORKING HEIGHT, 4' ARTICULATING JIB, SELF LEVELING PLATFORM, OUTRIGGERS, TILT ALARM SENSOR, PARKING BRAKE, COMBINATION HITCH, SAFETY CHAINS, AND ALL OTHER STANDARD EQUIPMENT.	68,176.00	68,176.00
	Freight	FREIGHT FROM FACTORY	1,950.00	1,950.00
	Misc. Charges	MAKE READY AND DELIVERY TO CITY OF KILLEEN	1,100.00	1,100.00
		LEAD TIME IS CURRENTLY 1-2 WEEKS		
		BUYBOARD CONTRACT 685-22		

QUOTE IS VALID FOR 30 DAYS	<b>Subtotal</b>	\$71,226.00
<p>By purchasing the equipment through a Cash Purchase, or Purchase by Security Agreement, or Charge to Open Account, the Customer hereby agrees that said purchase is being made by Customer according to the payment terms noted above.</p> <p>This sales order when accepted in writing by Customer shall become a binding contract, and all payments due hereunder shall be payable to Company by Customer at Company's principal place of business in Pflugerville, Travis County, Texas. All payments due hereunder shall bear interest from the date of maturity until paid at the highest legal contract rate of interest (per annum) permissible in the State of Texas.</p>	<b>Sales Tax (0.0%)</b>	\$0.00
	<b>Total</b>	\$71,226.00

**Accepted By Signature & Date:**



## Vendor Contract Information Summary

Vendor Central Texas Heavy Equipment Co  
Contact Bob Henry  
Phone 512-442-2371  
Email bob@ctegroup.net  
Vendor Website www.ctegroup.net  
TIN 26-1657066  
Address Line 1 1401 Central Commerce Cir.  
Vendor City Pflugerville  
Vendor Zip 78660  
Vendor State TX  
Vendor Country USA  
Delivery Days 10  
Freight Terms FOB Destination  
Payment Terms NET 30 DAYS  
Shipping Terms Freight prepaid by vendor and added to invoice  
Ship Via Best Way  
Designated Dealer No  
EDGAR Received Yes  
Service-disabled Veteran Owned No  
Minority Owned No  
Women Owned No  
National Yes  
No Foreign Terrorist Orgs Yes  
No Israel Boycott Yes  
MWBE No  
ESCs All Texas Regions  
States Arkansas, Louisiana, New Mexico, Oklahoma, Texas  
Contract Name Construction, Road and Bridge, and Other Related Equipment  
Contract No. 685-22  
Effective 12/01/2022  
Expiration 11/30/2025  
Accepts RFQs Yes  
Quote Reference Number 685-22



### Contract Verification

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

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

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

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

 Signature	<u>CENTRAL TEXAS EQUIPMENT</u> Company Name
<u>Bob Henry</u> Printed Name	<u>Vice President</u> Title
<u>11/15/23.</u> Date	

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

## OFFICE USE ONLY CERTIFICATION OF FILING

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

Central Texas Heavy Equipment Co  
Pflugerville, TX United States

Certificate Number:  
2023-1094896

Date Filed:  
11/15/2023

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

CITY OF KILLEEN

Date Acknowledged:

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

TOWABLE BOOM LIFT  
JLG MODEL T500J 50' TOWABLE BOOM LIFT

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
TEWELL, CHRIS	AUSTIN, TX United States	X	
KUROWSKI, WALTER	ROUND ROCK, TX United States	X	
HENRY, ROBERT	SPICEWOOD, TX United States	X	

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

**6 UNSWORN DECLARATION**

My name is Robert Henry, and my date of birth is 12/08/1966.

My address is 3501 VERDE KNOLL DR. Spicewood, Tx 78669 USA  
(street) (city) (state) (zip code) (country)

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

Executed in TRAVIS County, State of TEXAS, on the 15<sup>th</sup> day of Nov., 2023.  
(month) (year)

  
Signature of authorized agent of contracting business entity  
(Declarant)



# PARKS- TOWABLE BOOM LIFT

RS-23-194

December 5, 2023

# Parks

2

- Towable boom lift
  - ▣ Capital Outlay Equipment and Machinery
- 010-3025-425.61-35

# Trailer-Mounted Boom Lift Cost

3

<b>Description</b>	<b>Account</b>	<b>Expense</b>	<b>Revenue</b>	<b>Net Cost</b>
Towable Boom Lift	010-3025-425.61-35	\$71,226		\$71,226
Total		\$71,226		\$71,226

# Purpose

4

- To fund the purchase of a towable boom lift to provide services related to parking lot lighting, trail lighting, sports complex lighting, tree trimming, building maintenance, and aquatic facility maintenance.



# Benefits

5

- The boom lift will be able to reach heights for servicing of light fixtures and facilities that our current scissor lift is unable to perform in a safe manner.
- The boom lift is a towable unit. Parks staff will be able to use this equipment for the maintenance of lights that require considerable heights, uneven grounds, tree maintenance service, and maintenance/repair of buildings and facilities.
- Currently, the Parks Division relies on other departments to assist with projects of considerable heights. This would alleviate the strain on other departments with scheduling and streamlining these services.

# Alternatives

6

The City Council has two (2) alternatives. The Council may:

- Not approve the purchase of the Boom Lift.
- Approve the purchase of the JLG Model T500J Towable Boom Lift through the Central Texas Equipment Buyboard Purchasing cooperative contract #685-22 for \$71,226.00.

# Recommendation

7

- Parks and Recreation staff recommends City Council to approve the purchase of the T500J Towable Boom Lift, so that we can continue to create a safe, effective and beautiful Park environments for the Killeen community in a timely manner

# Revenue Enhancements

8

- This purchase will reduce the strain on resources for the Parks Division. Multiple city departments will be able to reallocate staff and labor hours to the departments that they maintain.
- Currently, the Parks Division must rent a boom lift for \$1,200 per use or wait on another department.

# Backup

9

- See attached quotes - Buyboard



# City of Killeen

## Staff Report

File Number: RS-23-195

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1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution to authorize a Water CCN Transfer Agreement with West Bell County Water Supply Corporation.

**DATE:** December 5, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Jeffery Reynolds, Executive Director of Public Works

**SUBJECT:** Authorize the execution of a Water CCN Transfer Agreement with West Bell County Water Supply Corporation

**BACKGROUND AND FINDINGS:**

Killeen Independent School District (KISD) is building Middle School No. 15 on Chaparral Road; south of Chaparral High School. The 32.8-acre site for the middle school is currently in the Water Certificate of Convenience and Necessity (CCN) of West Bell County Water Supply Corporation (West Bell County WSC). West Bell County WSC does not have the necessary water infrastructure to meet the water demands of the new middle school. The City of Killeen has a 16-inch water main adjacent to the middle school which can easily meet the school’s water demands. KISD has requested that the City of Killeen acquire the CCN for the property from West Bell County WSC in order to provide water to the school. KISD is providing all the necessary funding for this CCN transfer, but the City of Killeen is required to submit a CCN transfer application to the Public Utility Commission of Texas.

**THE ALTERNATIVES CONSIDERED:**

- (1) Do not approve a water CCN transfer agreement with West Bell County WSC; this could delay the August 2024 opening of Middle School No. 15.
- (2) Approve a water CCN transfer agreement with West Bell County WSC.

**Which alternative is recommended? Why?**

Staff recommends Alternative 2, approval of a water CCN transfer agreement with West Bell County WSC, due to the City of Killeen’s ability to meet the water demands of KISD’s Middle School No. 15 Project and West Bell County WSC’s inability to meet these same water demands.

**CONFORMITY TO CITY POLICY:**

This item conforms to state and local policies.

**FINANCIAL IMPACT:**

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

In accordance with the agreement, Killeen Independent School District agrees to pay all expenses of City of Killeen and West Bell County WSC in connection with this transfer. West Bell County WSC and City of Killeen agree that no compensation shall be due and owing between West Bell County WSC and City of Killeen in conjunction with such transfer. Once the transfer is approved by the PUC and the middle school is built, the City of Killeen will recognize revenue and expense associated with providing water to this facility.

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

N/A

**Is this expenditure budgeted?**

N/A

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

N/A

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

N/A

**RECOMMENDATION:**

City Council authorize the City Manager or designee to execute a Water CCN Transfer Agreement with West Bell County Water Supply Corporation for the 32.8-acre site which will house KISD's Middle School No. 15.

**DEPARTMENTAL CLEARANCES:**

Public Works  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Agreement  
Presentation

## WATER CCN TRANSFER AGREEMENT

This **WATER CCN TRANSFER AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 (this “Agreement”), by and among **CITY OF KILLEEN, TEXAS**, a municipality (“Killeen”) **West Bell County Water Supply Corporation**, a Texas member-owned, non-profit corporation (“West Bell County WSC”) and Killeen Independent School District, a Texas public school district (the “District” and, together with Killeen and West Bell County WSC, the “Parties”) in connection with the boundary lines of the Certificates of Convenience and Necessity (“CCNs”) held by Killeen and West Bell County WSC for the provision of water services to users pursuant to the Texas Water Code (“TWC”).

### RECITALS:

WHEREAS, Killeen provides retail water service under water CCN No. 10041, issued by the Public Utility Commission of Texas (“PUC”) to the City of Killeen for the provision of retail water services to certain areas in and about City of Killeen City Limits in Bell County, as generally depicted in **Exhibit A**;

WHEREAS, West Bell County WSC provides retail water service under water CCN No. 10045, issued by the PUC, for the provision of retail water to certain areas in and about south of Killeen from Maxdale to Rock Creek in Bell County, as generally depicted in **Exhibit B**;

WHEREAS, the boundaries of the Killeen water CCN and the West Bell County water CCN are adjacent to one another in various areas:

WHEREAS, District has requested that West Bell County WSC transfer approximately 32.856 acres of its water CCN located within Bell County, south of city of Killeen and north of Chaparral Road, east of Trimmier Road as shown in **Exhibit C** (the Property) to Killeen, so that Killeen might provide retail water services to the Property.

WHEREAS, the Property, which is a 32.856-acre tract owned by District that is identified as PID#459830, Bell County Appraisal District records, and depicted in **Exhibit D**, is currently under the construction, and West Bell County WSC does not currently have any water connections within the Property or near the Property;

WHEREAS, Killeen currently has a 16” water main adjacent to subject site, or near the Property; and

WHEREAS, Killeen and West Bell County WSC are amenable to altering the boundaries of their respective CCNs by transferring the Property contained within the boundaries of the CCN to Killeen so that the Property is removed from the West Bell County WSC water CCN and added to the Killeen water CCN.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

**AGREEMENT:**

**Water CCN**

1. The Parties hereby incorporate by this reference the recitals set forth above in this Agreement.
2. In accordance with Section 13.248 of the Texas Water Code, but at all times subject to the approval of the PUC, West Bell County WSC hereby agrees to the modification of the boundaries of its CCN No. 10045 to exclude the approximately 32.856-acre area contained within the Property, such area to be transferred from West Bell County WSC's CCN No. 10045 to the area to be encompassed within Killeen's CCN No. 10041.
3. In accordance with Section 13.248 of the Texas Water Code, but at all times subject to the approval of the PUC, Killeen hereby agrees to the expansion and modification of the boundaries of its CCN No. 10041 to include the area contained within the Property, such area to be transferred from West Bell County WSC's CCN No. 10045 to the area to be encompassed within Killeen's CCN No. 10041.
4. District shall be responsible for preparing and filing the application to obtain the PUC's approval of the CCN transfer of the Property between West Bell County WSC and Killeen. District shall also be responsible for hiring a third party-vendor to prepare hard copy maps with supporting electronic metadata for the Property that satisfies the PUC rules. The Parties hereto agree to cooperate and coordinate in seeking PUC approvals contemplated under this Agreement.
5. The District agrees to pay all the expenses of City of Killeen and West Bell County WSC in connection with this transfer, including, but not limited to, the following as may be applicable:
  - a. PUC administrative fees, if any; and
  - b. fees associated with preparing hard copy maps and electronic maps with supporting electronic metadata for the Property filed in connection with the PUC application.
6. West Bell County WSC and City of Killeen agree that no compensation shall be due and owing between West Bell County WSC and City of Killeen in conjunction with such transfer as no real or personal property of either party is being affected by such transfer.
7. Killeen shall not commence providing retail water services for compensation to the District or any retail customer on the Property until the PUC has authorized the CCN transfer of the Property between West Bell County WSC and Killeen.
8. Killeen shall not approve any documents indicating that Killeen is the retail water services provider prior to the PUC authorizing the CCN transfer of the Property between West Bell County WSC and City of Killeen.

9. Killeen agrees that, upon approval of the revision to its CCN boundaries by the PUC to remove the Property presently within the boundaries of West Bell County WSC's CCN No.10045, West Bell County WSC shall have no further obligation to provide retail water service to the Property, and that, upon PUC inclusion of the Property within the boundaries of Killeen's CCN No. 10041, Killeen shall be solely responsible for the provision of retail water service to any owner or occupant of, or customers on, the Property under such terms and condition as are allowed under its CCN and any applicable governmental statutes and regulations.

### **General Provisions**

1. **GOVERNING LAW.** THIS AGREEMENT SHALL BE GOVERNED, CONSTRUED, AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. ALL ACTS REQUIRED OR PERMITTED TO BE PERFORMED HEREUNDER ARE PERFORMABLE IN BELL COUNTY, TEXAS, AND IT IS AGREED THAT ANY CIVIL ACTION BROUGHT TO ENFORCE OR CONSTRUE THE TERMS OR PROVISIONS HEREOF OR TO ENJOIN OR REQUIRE THE PERFORMANCE OF ANY ACT IN CONNECTION HEREWITH, SHALL BE BROUGHT IN A COURT OF COMPETENT JURISDICTION SITTING IN BELL COUNTY, TEXAS. IT IS AGREED THAT ANY ADMINISTRATIVE LAW ACTION BROUGHT TO ENFORCE OR CONSTRUE THE TERMS OR PROVISIONS HEREOF OR TO ENJOIN OR REQUIRE THE PERFORMANCE OF ANY ACT IN CONNECTION HEREWITH, SHALL BE BROUGHT AT THE PUC OR ITS SUCCESSOR AGENCY.
2. **Severability.** In the event one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
3. **Unintended Omission.** If any punctuation, word, clause, sentence, or provision necessary to give meaning, validity or effect to any other word, clause, sentence, or provision appearing in this Agreement shall be omitted here from, then it is hereby declared that such omission was unintentional and that the omitted punctuation, word, clause, sentence, or provision shall be supplied by inference.
4. **Amendment.** This Agreement shall not be amended or terminate except by an instrument signed by all parties to this Agreement.
5. **Entire Agreement.** This Agreement reflects the entire agreement among the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties in connection herewith.
6. **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall be construed as one and the same instrument.

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

**CITY OF KILLEEN,**  
a Texas municipality

Signature: \_\_\_\_\_

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

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

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

**West Bell County WSC**  
A Texas member owned, non-profit corporation

Signature: \_\_\_\_\_

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

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

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

**Killeen Independent School District,**  
A Texas Independent School District

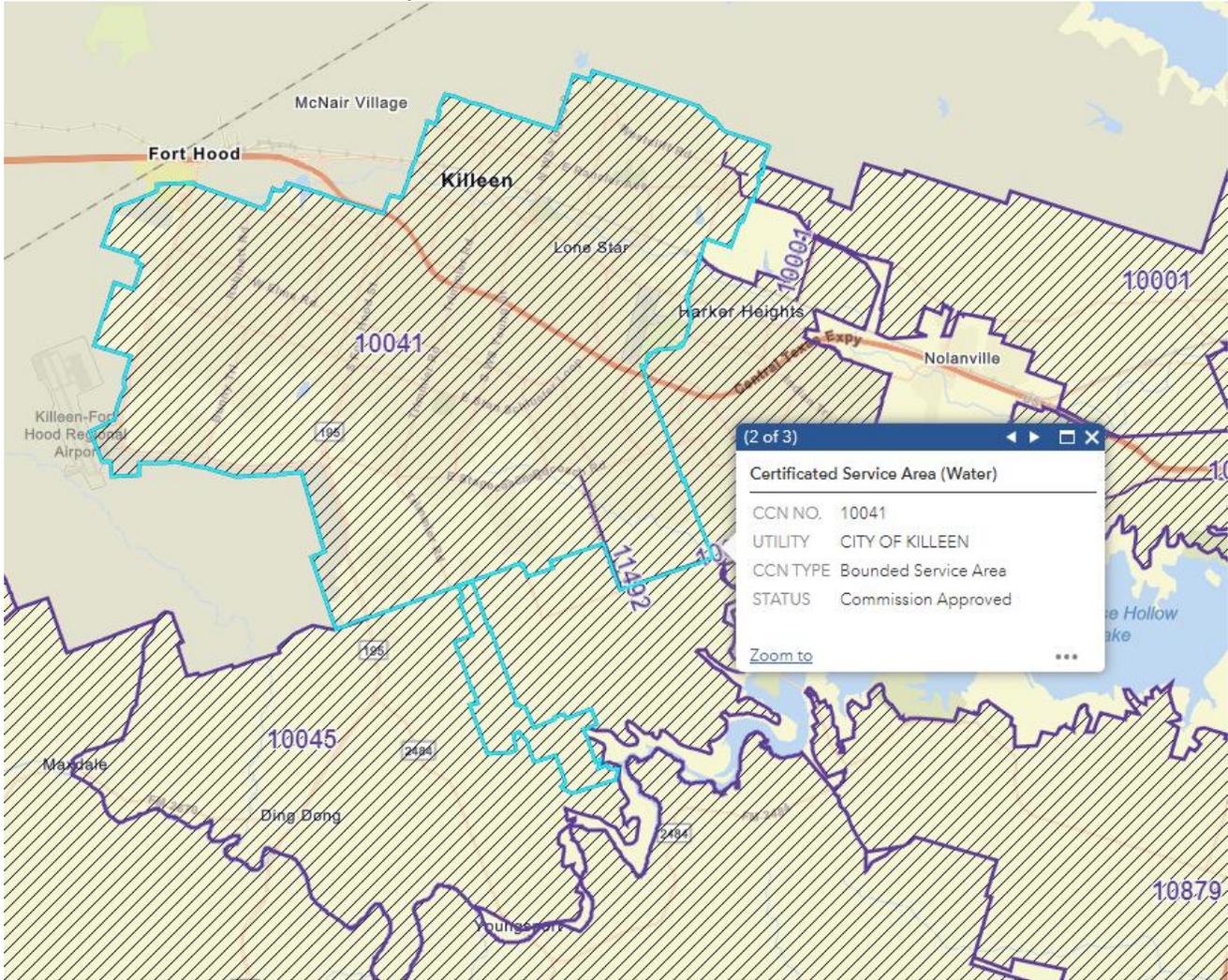
Signature: \_\_\_\_\_

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

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

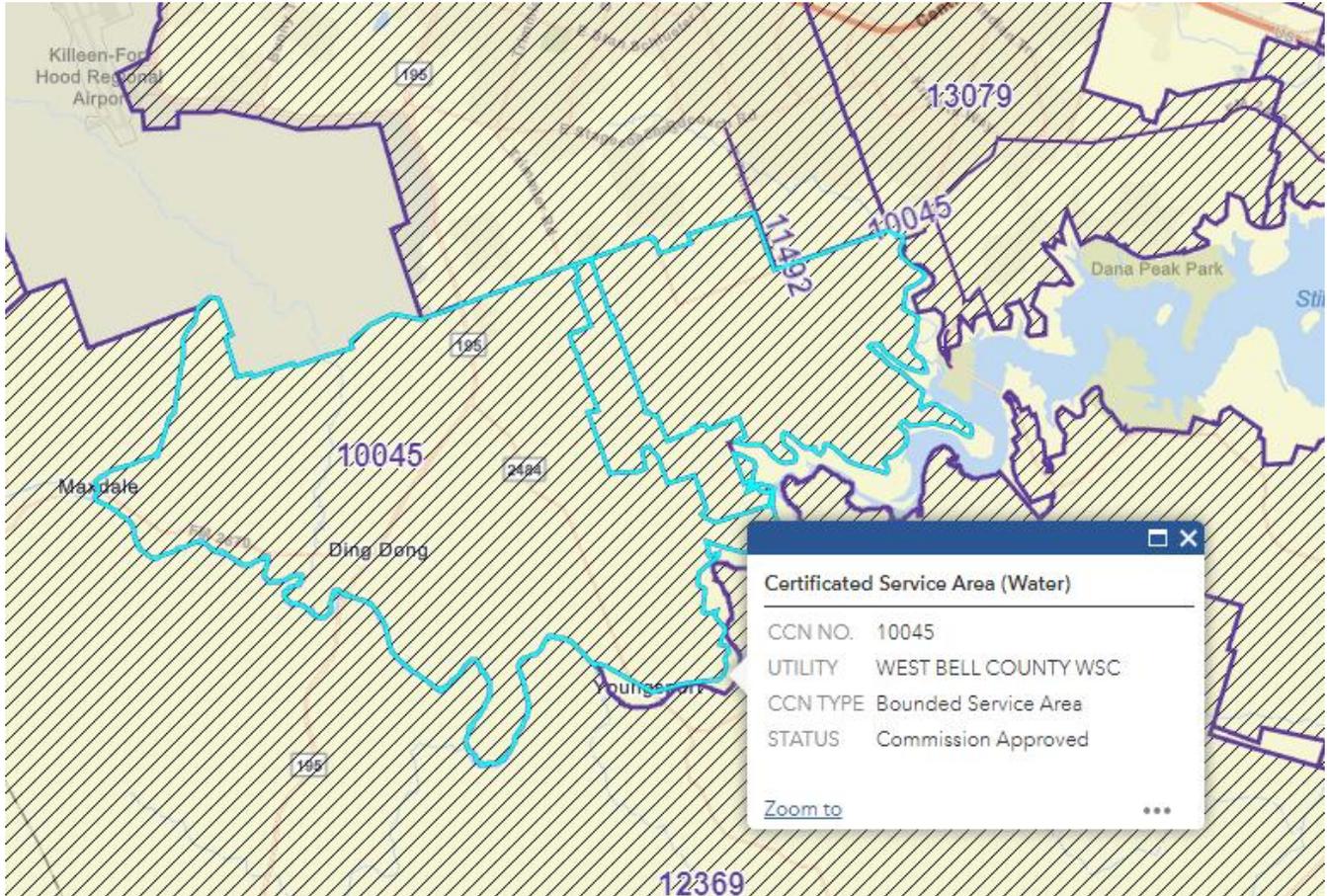
Date: \_\_\_\_\_

**Exhibit A**  
City of Killeen Water CCN No. 10041



Source: PUC CCN Viewer, <https://www.puc.texas.gov/industry/water/utilities/map.aspx>

**Exhibit B**  
West Bell County WSC Water CCN No. 10045



Source: PUC CCN Viewer,  
<https://www.puc.texas.gov/industry/water/utilities/map.aspx>

CHAPARRAL RD

KILLEEN CCN  
#10041

SUBJECT TRACT  
APPROX. 32.856  
AC

WEST BELL  
COUNTY WSC  
CCN #10045

CHAPARRAL RD

**LEGEND**

-  SUBJECT TRACT
-  KILLEEN CITY LIMITS
-  WATER CNN BOUNDARIES

NOTE: THIS PLAN IS CONCEPTUAL IN NATURE AND HAS BEEN PRODUCED WITHOUT THE BENEFIT OF A SURVEY, TOPOGRAPHY, UTILITIES, CONTACT WITH THE CITY, ETC.

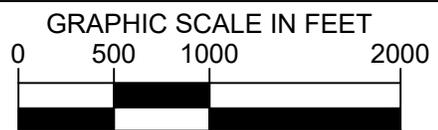
HARRIS, SYDNEY 4/11/2023 1:35 PM  
C:\S\704-HRSD\MS 10\DESIGN\REPORTS\CCN\_AMENDMENT\CAD\SITE\_BOUNDARY\_MAP.DWG  
4/11/2023 10:17 AM

**Kimley»Horn**

5301 Southwest Parkway  
Building 2, Suite 100  
Austin, Texas 78735  
State of Texas Registration No. F-928

**Killeen MS  
SITE LOCATION EXHIBIT**

City of Killeen, Bell County, Texas  
April 23



**Exhibit D**  
 32.856 acres of Killeen Independent School District.  
 (PID# 459830)



Property Details	
<b>Account</b>	
Property ID:	459830
Geographic ID:	0468830300
Type:	Real
Zoning:	
Property Use:	COMM Commercial Property
Condo:	
<b>Location</b>	
Situs Address:	CHAPARRAL RD KILLEEN, TX 78642
Map ID:	42D01
Mapsco:	
Legal Description:	A0025BC J D ALLCORN, 4-2, ACRES 32.856
Abstract/Subdivision:	A0025BC - J D ALLCORN
Neighborhood:	CKIL01OCV KIL Government buliding school church
<b>Owner</b>	
Owner ID:	40680
Name:	KILLEEN IND SCHOOL DISTRICT
Agent:	
Mailing Address:	PO BOX 967 KILLEEN, TX 78540-0967
% Ownership:	100.0%
Exemptions:	EX-XV - Other Exemptions (including public property, religious organizations, charitable organizations, and other property not reported elsewhere) <i>For privacy reasons not all exemptions are shown online.</i>

Property Values	
Improvement Homesite Value:	\$0 (+)
Improvement Non-Homesite Value:	\$0 (+)
Land Homesite Value:	\$0 (+)
Land Non-Homesite Value:	\$254,583 (+)
Agricultural Market Valuation:	\$0 (+)
Market Value:	\$254,583 (=)
Ag Use Value:	\$0 (-)
Appraised Value:	\$254,583 (=)
Homestead Cap Loss:	\$0 (-)
Assessed Value:	\$254,583

Information provided for research purposes only. Legal descriptions and acreage amounts are for appraisal district use only and should be verified prior to using for legal purpose and or documents. Please contact the Appraisal District to verify all information for accuracy.



# WATER CCN TRANSFER AGREEMENT WITH WEST BELL COUNTY WSC

RS-23-195

December 5, 2023

# Background and Findings

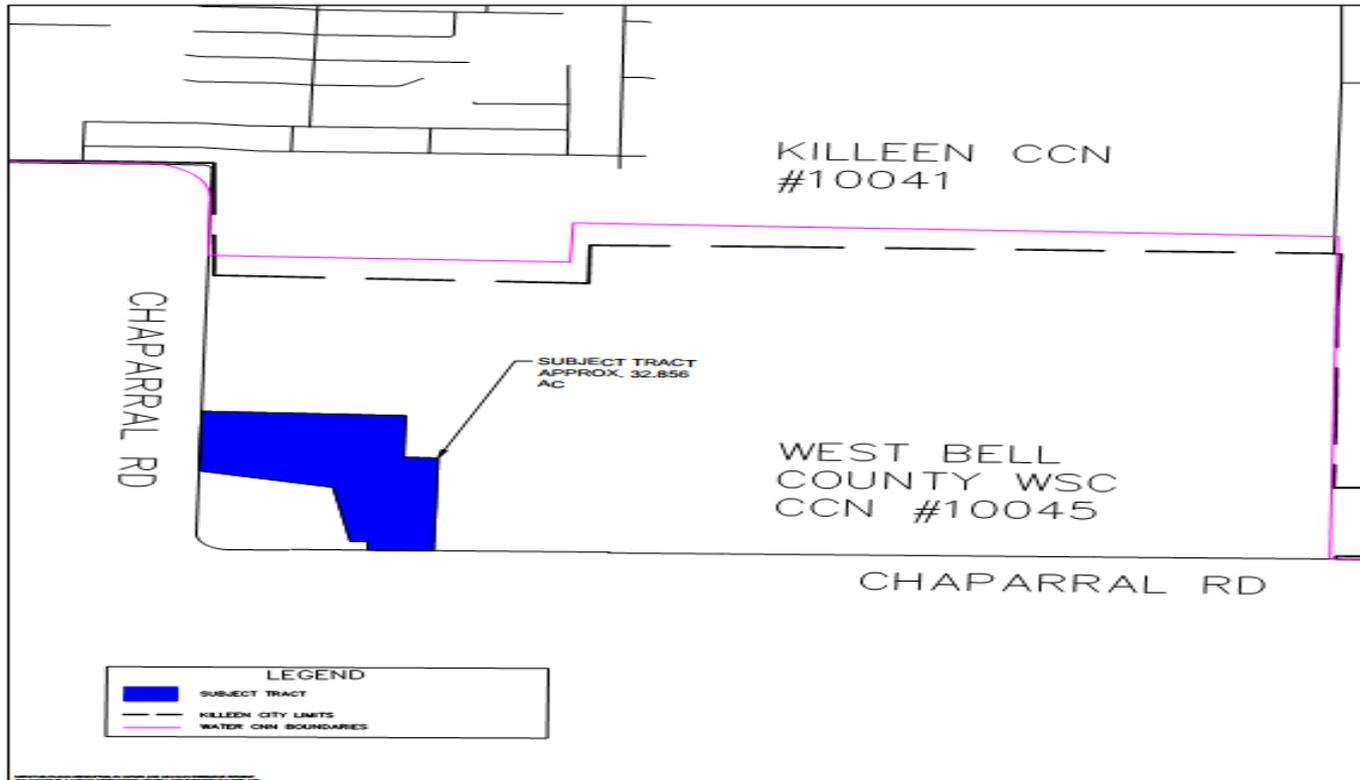
2

- The 32.8-acre site for KISD's future Middle School No. 15 on Chaparral Road is currently located in West Bell County Water Supply Corporation's (WSC) Water Certificate of Convenience and Necessity (CCN) .
- West Bell County WSC does not have the necessary water infrastructure to meet the water demands of the middle school.
- The City of Killeen has a 16-inch water main adjacent to the middle school which can easily meet the school's water demands.

# Background and Findings

3

- KISD has requested that the City of Killeen acquire the CCN for the middle school property from West Bell County WSC in order to provide water to the school.
- KISD is providing the necessary funding for this CCN transfer, but the City of Killeen is required to submit a CCN transfer application to the Public Utility Commission of Texas.

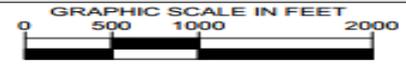


THIS MAP WAS PREPARED BY KIMLEY-HORN AND PARTNERS, INC. FOR THE CITY OF KILLEEN, TEXAS. THE INFORMATION CONTAINED HEREIN IS FOR GENERAL INFORMATION ONLY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE OF ANY KIND. THE USER OF THIS MAP ASSUMES ALL LIABILITY FOR ANY AND ALL DAMAGES, INCLUDING REASONABLE ATTORNEY'S FEES, ARISING FROM THE USE OF THIS MAP.

KIMLEY-HORN AND PARTNERS, INC.

**Kimley-Horn**  
 5001 South Loop West  
 Suite 200  
 Houston, Texas 77051  
 Phone: 713.865.1234  
 Email: info@kimley-horn.com

**Killeen MS**  
**SITE LOCATION EXHIBIT**  
 City of Killeen, Bell County, Texas  
 April 23



# Alternatives

5

- Do not authorize the execution of a water CCN transfer agreement with West Bell County WSC; this could delay the August 2024 opening of Middle School No. 15.
- Authorize the execution of a water CCN transfer agreement with West Bell County WSC.

# Recommendation

6

- City Council authorize the City Manager or his designee to execute a Water CCN Transfer Agreement with West Bell County WSC for the 32.8-acre site which will house KISD's Middle School No. 15.



# City of Killeen

## Staff Report

File Number: RS-23-196

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution approving a Professional Services Agreement with Garver, LLC, for the General Aviation Terminal Building Design at Skylark Field, in the amount of \$461,800.

**DATE: December 5, 2023**

**TO: Kent Cagle, City Manager**

**FROM: Mike Wilson, Executive Director of Aviation**

**SUBJECT: Professional Service Agreement with Garver LLC-General Aviation Terminal Building Design**

**BACKGROUND AND FINDINGS:**

One of the most important elements of a successful General Aviation (GA) airport is a fully functional GA terminal building, also referred to as a Fixed Base Operator (FBO) building, that provides for all the needs of the modern pilot and their passengers. Business and industry leaders looking to do business or relocate their business to a community typically fly into the City's GA airport. Thus, the GA terminal building can be the first impression someone gets of our community. A fully functional GA airport with a nice terminal building that provides for the needs of pilots and their passengers, plays an important role in a community's economic development.

On July 11, 2023, the City Council approved a City Ordinance authorizing the issuance of Certificate of Obligation bonds for certain projects. One of the authorized projects was the Construction of a new FBO building at Skylark Field.

This project will replace and relocate the existing 60-year-old terminal that is beyond its useful life and is non-conforming with design standards. A newly constructed terminal will include solar integration and energy efficient windows, doors, and overall modern infrastructure that better fits the needs of Skylark Field Airport and its users. It will also reduce utility and maintenance costs, plus greatly improve the efficiency and safety of passenger movement.

Staff has negotiated a professional services agreement with Garver, LLC, in the amount of \$461,800, for design services, surveying, geotechnical services, and bidding services for the general aviation terminal building at Skylark Field.

**THE ALTERNATIVES CONSIDERED:**

1. Disapprove the Agreement with Garver LLC.
2. Approve the Agreement with Garver LLC.

**Which alternative is recommended? Why?**

Staff recommends Alternative 2 because:

1. The Garver team is the Airport engineer of record and was selected via a competitive process.
2. This choice offers the most experienced team fully cognizant of FAA requirements for projects at Skylark Field.
3. The project is funded through a Certificate of Obligation (CO) bond with no impact to the Aviation Department operating fund or fund balance.

**CONFORMITY TO CITY POLICY:**

This item conforms to local and state policies.

**FINANCIAL IMPACT:**

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

The expenditure for Alternative 2 in the current fiscal year is \$461,800.

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

One-time

**Is this expenditure budgeted?**

Yes, funding is available in the 2023 Certificates of Obligation Bond Fund account 327-8905-493.69-01.

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

N/A

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

Yes

**RECOMMENDATION:**

Staff recommends City Council approve a professional service agreement with Garver, LLC in the amount of \$461,800 and recommends that the City Council authorize the City Manager, or designee, to execute all contract documents and any and all change orders or actions within the amounts set by state and local law.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal  
Purchasing

**ATTACHED SUPPORTING DOCUMENTS:**

Agreement  
Certificate of Interested Parties  
Presentation



285 SE Inner Loop  
Suite 110  
Georgetown, TX 78626  
TEL 512.485.0020  
FAX 512.485.0021  
[www.GarverUSA.com](http://www.GarverUSA.com)

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November 8, 2023

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

Re: Professional Services Proposal and Contract for the  
Skylark Field Airport (ILE) General Aviation Terminal Building – Design Services Proposal

Dear Mr. Wilson,

We appreciate the opportunity to serve the Skylark Field Airport with the GA Terminal Building design services. We have developed a proposed contract including the scope of services and fee.

Please call me if you have any questions.

Sincerely,

GARVER

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

Attachments: Full Contract



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

## RECITALS

**WHEREAS**, Owner intends to construct a new Skylark Field Airport (ILE) General Aviation Terminal Building (the **“Project”**).

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

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

### 1. DEFINITIONS GARVER

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

**“Effective Date”** means the date last set forth in the signature lines below.

**“Damages”** means any and all damages, liabilities, or costs (including reasonable attorneys’ fees recoverable under applicable law).

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

**“Personnel”** means affiliates, directors, officers, partners, members, employees, and agents.

### 2. SCOPE OF SERVICES

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



### 3. PAYMENT

#### 3.1. Fee.

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

#### 3.2. Invoicing Statements.

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

#### 3.3. Payment.

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

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

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

### 4. AMENDMENTS

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

### 5. OWNER'S RESPONSIBILITIES

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

5.1.1. Those responsibilities set forth in Exhibit A.

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



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

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

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

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

## **6. GENERAL REQUIREMENTS**

### **6.1. Standards of Performance.**

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

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

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

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

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



its work in accordance with the construction contract documents applicable to the contractor's work, even when Garver is performing construction phase services.

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

## 6.2. Instruments of Service.

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

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

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

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



### 6.3. Opinions of Cost.

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

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

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

### 6.5. Design without Construction Phase Services.

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

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

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



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

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

## 7. INSURANCE

### 7.1. Insurance.

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

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

## 8. DOCUMENTS

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



excerpts, and transcription. In no event shall Owner be entitled to audit the makeup of lump sum or other fixed prices (e.g., agreed upon unit or hour rates).

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

## 9. INDEMNIFICATION / WAIVERS

### 9.1. Indemnification.

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

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

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

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

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

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



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

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

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

## 10. DISPUTE RESOLUTION

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

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

10.1.2. If both Parties agree to arbitration, said arbitration of the Dispute shall be administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules. The arbitration shall be conducted by a single arbitrator, agreed to by the Parties. In no event may a demand for arbitration be made if the institution of legal or equitable proceedings based on such dispute is barred by the applicable statute of limitations.

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

10.1.4. To avoid multiple proceedings and the possibility of inconsistent results, either Party may seek to join third parties with an interest in the outcome of the arbitration or to consolidate arbitration under this Agreement with another arbitration. Within thirty (30) days of receiving written notice of such a joinder or consolidation, the other Party may object. In the event of such an objection, the arbitrator shall decide whether the third



party may be joined and/or whether the arbitrations may be consolidated. The arbitrator shall consider whether any entity will suffer prejudice as a result of or denial of the proposed joinder or consolidation, whether the Parties may achieve complete relief in the absence of the proposed joinder or consolidation, and any other factors which the arbitrators conclude should factor on the decision.

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

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

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

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

## 11. TERMINATION

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

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

11.3. Termination in the Event of Bankruptcy. Either Party may terminate this Agreement immediately upon notice to the other Party, and without incurring any liability, if the non-terminating Party has: (i) been adjudicated bankrupt; (ii) filed a voluntary petition in bankruptcy or had an involuntary petition filed against it in bankruptcy; (iii) made an assignment for the benefit of creditors; (iv) had a trustee or receiver appointed for it; (v) becomes insolvent; or (vi) any part of its property is put under receivership.



## 12. MISCELLANEOUS

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

## 13. EXHIBITS

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

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

Owner and Garver, by signing this Agreement, acknowledges that they have independently assured themselves and confirms that they individually have examined all Exhibits, and agrees that all of the aforesaid Exhibits shall be considered a part of this Agreement and agrees to be bound to the terms, provisions, and other requirements thereof, unless specifically excluded.



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

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

**City of Killeen, TX**

**Garver, LLC**

By: \_\_\_\_\_  
*Signature*

By: Mitchell McAnally  
*Signature*

Name: Kent Cagle  
*Printed Name*

Name: Mitchell McAnally  
*Printed Name*

Title: City Manager

Title: Senior Project Manager

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

Date: 11/08/2023

Attest: Laura Calcote, City Secretary

Attest: Cindy Greer



## EXHIBIT A (SCOPE OF SERVICES)

Generally, the Scope of Services includes the following professional services for improvements for a new General Aviation (GA) Terminal Building at Skylark Field Airport. Improvements will consist primarily of construction of a new GA Terminal Building up to 3,000 square feet (sf) and associated improvements as shown in Exhibit G.

- Project Administration
- Surveying Services
- Geotechnical Services
- Design Services (Terminal Building and Site Development)
  - 60% Preliminary Design
  - 90% Final Design
  - 100% Issued for Bid
- Design Services (Terminal Apron Reconstruction If Awarded)
  - 60% Preliminary Design
  - 90% Final Design
  - 100% Issued for Bid
- Bidding Services

### 1. PROJECT ADMINISTRATION

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

### 2. SURVEYING SERVICES

- 2.1. Design Surveys. Garver's subconsultant will provide field survey data from field work for designing the project, and this survey will be tied to the Owner's control network.

### 3. GEOTECHNICAL SERVICES

- 3.1. Garver's subconsultant will be responsible for obtaining, interpreting, and evaluating geotechnical data necessary for the design of this project. The following is a summary of the geotechnical services provided under this Scope of Services.
- 3.2. Geotechnical investigations and report will be in support of the structural design of the building foundation and slab on grade along with developing recommendations for pavement sections for landside parking lot pavement.

### 4. DESIGN SERVICES

- 4.1. General: Garver will prepare detailed construction drawings, specifications, instructions to bidders, and general provisions and special provisions, all based on guides furnished to Garver by the Owner and FAA, or internally developed by Garver. Contract Documents (Plans, Specifications, and Estimates) will be prepared for award of one (1) construction contract.



These designs shall conform to the standards of practice ordinarily used by members of Garver's profession practicing under similar conditions and shall be submitted to the owner office from which approval must be obtained.

#### 4.2. Project Management Plan / Quality Control Procedures

5.3.1 Garver will develop a project specific project management plan, which will include general project information, project team organization and roles, design criteria, project schedule, deliverables, and quality control procedures.

5.3.2 Garver will complete quality control reviews for each deliverable prior to any design submission to Owner and/or FAA. Quality control reviews will be completed by qualified project managers, project engineers, and/or senior construction observers who are experienced in the relevant discipline and design elements under review.

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

#### 4.4. Construction Safety and Phasing Plan

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

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

#### 4.5. Existing Conditions Review

4.5.1. Record Document Review: Garver will review record document data from the vicinity of the construction site to evaluate existing conditions that are provided by the owner. Record document data may include record drawings, record surveys, utility maps, GIS data, and previous design reports as available from the owner.

4.5.2. Site Visits: Garver's civil and electrical engineers will perform up to two (2) site visits to the project site to review existing conditions and evaluate survey and record document data.

4.6. Terminal Building Design: Garver's *Buildings* team will perform architectural, structural design, and Mechanical, Electrical, and Plumbing (MEP) in support of the new terminal building.

4.6.1. Architectural Design: Garver will develop conceptual options after an initial kickoff meeting with the owner where the owner will indicate the space requirements for the building. After a conceptual floor plan is finalized and selected by the owner, design will commence to include full development of elevation views, cross sections, MEP design, and building detailing.



- 4.7. Pavement Design: Garver will develop a fleet mix for the proposed project based on aircraft fleet data from the airport and previous projects. Garver will use FAARFIELD and life cycle cost analysis methods to develop a recommendation for the most economical pavement design. Based on this analysis and discussions with the Owner, a pavement design for the project will be chosen. For concrete pavement design, Garver will design joint patterns and jointing details.
- 4.8. Geometric Design: Garver will provide geometric design in accordance with FAA AC 150/5300-13 (latest edition) and other local standards.
- 4.9. Civil 3D Modeling: Garver will develop horizontal and vertical alignments as required by FAA and local standards along with designing elevation points across the site as necessary to develop a 3 dimensional (3D) model of the finish grade to aid the contractor in constructing the site to meet FAA, ADA, and local requirements for slopes and grades.
- 4.10. Grading and Drainage: Grading and drainage design shall be completed in accordance with FAA AC 150/5300-13 (Airport Design), FAA AC 150-5320-5 (Airport Drainage Design), and applicable local drainage codes.
- 4.11. Airfield Electrical
- 4.11.1. Airfield Lighting and Signage: Garver will provide electrical engineering services to design the new lighting improvements on the project including but not limited to the following: apron edge lighting and signage as required
- 4.12. Utility Design and Coordination: It is expected that utilities will require service connections, relocations, and/or modification as part of the project. Garver will coordinate with the Owner and applicable utility owners for utility relocation design. In addition to the utilities listed below, Garver will also design infrastructure for future utility extensions.
- Atmos Energy
  - City of Killeen Public Utilities Division
  - Oncor Electric

Garver will furnish plans to all known utility owners potentially affected by the project at each stage of development. Garver shall conduct coordination meetings among all known affected utility owners to enable them to coordinate efforts for any necessary utility relocations. Garver will include the surveyed locations of the observable and marked utilities in the construction plans. Garver will also include proposed and/or relocated utility information in the construction plans as provided by the utility companies.



4.13. Plan Set Development

The following matrix details the plan drawings that may be included in each design submittal.

Plan Set	Design Phase			
	30% Conceptual	60% Preliminary	90% Final	100% Issued for Bid
Cover Sheet		X	X	X
Sheet Index		X	X	X
General Notes		X	X	X
Project Layout Plan	X	X	X	X
Survey Control Plan		X	X	X
Airport Property Map		X	X	X
Construction Safety Plans		X	X	X
Construction Safety Details		X	X	X
Existing Conditions Plans		X	X	X
Erosion Control Plans		X	X	X
Erosion Control Details		X	X	X
Demolition Plans		X	X	X
Demolition Details		X	X	X
Drainage Plans		X	X	X
Drainage Details		X	X	X
Utility Plans		X	X	X
Utility Profiles			X	X
Utility Details			X	X
Typical Sections		X	X	X
Paving Plans		X	X	X
Paving Details			X	X
Grading Plans		X	X	X
Grading Details			X	X
Joint Layout Plans		X	X	X
Joint Details		X	X	X
Elevation Plans			X	X
Elevation Details			X	X
Pavement Marking Plans		X	X	X
Pavement Marking Details			X	X
Fencing Plans		X	X	X
Fencing Details			X	X
Electrical Notes		X	X	X
Lighting Removal Plans		X	X	X



Lighting Installation Plans		X	X	X
Lighting Details			X	X
Power Installation Plans		X	X	X
Power and Control Diagrams			X	X
Structural Notes		X	X	X
Structural Foundation Plan		X	X	X
Framing Plan and Sections		X	X	X
Foundation Sections and Details			X	X
Typical Steel Details			X	X
Architectural Notes		X	X	X
ADA Details		X	X	X
First Floor Plan	X	X	X	X
Roof Plan		X	X	X
Ceiling Plan		X	X	X
Building Exterior Elevations		X	X	X
Building Sections			X	X
Wall Sections			X	X
Enlarged Floor Plans and Elevations		X	X	X
Millwork Sections			X	X
Enlarged Plan, Section, and Roof Details			X	X
Partition, Door Schedules			X	X
Door, Window Details			X	X
Roof Finish Schedule			X	X
Signage Plan and Details			X	X
Life Safety Code analysis and Plan		X	X	X
Fire Alarm Notes and Details			X	X
Fire Suppression Plan and Details			X	X
Plumbing Legend and Notes		X	X	X
Plumbing Installation Plan		X	X	X
Plumbing Schedules, Riser Diagrams			X	X
Mechanical Legend and Notes		X	X	X
Mechanical Installation Plan		X	X	X
Mechanical Details			X	X
Mechanical Schedule and Sequence of Operations		X	X	X
Electrical Legend and Notes		X	X	X
Electrical Demolition		X	X	X
Electrical Plans, Details, Schedules			X	X



4.14. Specifications and Contract Documents

4.14.1. Technical Specifications: Detailed specifications shall be developed using FAA "Standards for Specifying Construction for Airports" AC 150/5370-10 (latest edition), and local City or State standard specifications. Additional supplementary specifications will be developed for project requirements not covered by FAA AC150/5370-10 and other local standard specifications.

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

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

4.16. Design Services Submission and Meeting Summary: The following design submittal phases shall be included in the fee summary. A summary of each design phase and the associated review meetings is included below.

4.16.1. Conceptual Floor Plan and Site Layout

4.16.1.1. Garver will develop Conceptual Plans and submit to the Owner for review. It is anticipated that the Owner will review the design submission within two weeks.

4.16.1.2. At the completion of the Owner review period, Garver will meet with the Owner to review Conceptual Plan options and to determine the final floor plan and site layout.

4.16.2. 60% Preliminary Design

4.16.2.1. Garver will develop 60% preliminary design plans, specifications, and engineer's report and submit these to the Owner for review. It is anticipated that the Owner will review the design submission within two (2) weeks.

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



#### 4.16.3. 90% Final Design

4.16.3.1. Garver will develop 90% final design plans, specifications, and engineer's report and submit these to the Owner for review. It is anticipated that the Owner will review the design submission within 2 weeks.

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

4.16.4. 100% Issued for Bid (IFB): Garver will develop 100% IFB plans and specifications and submit these to the Owner for review. It is anticipated that the Owner will review the IFB submission within 2 weeks.

### 5. BIDDING SERVICES

5.1. Bidding. Garver will assist the Owner during the bidding period for one prime contract for construction and attend a pre-bid conference.

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

5.3. Garver will attend the bid opening, prepare a bid tabulation, and assist the Owner in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment, and services.

### 6. PROJECT DELIVERABLES

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

- Conceptual Plan Options Exhibits
- 60% Preliminary Design Plans, Specifications, and EOPC to Owner.
  - 2 Hardcopies and electronic (pdf)
- 90% Final Design Plans, Specifications, and EOPC to Owner.
  - 2 Hardcopies and electronic (pdf)
- 100% Issued for Bid Plans, 2 Hardcopies and electronic (pdf)
  - 2 Hardcopies and electronic (pdf)
- Issued for Construction Plans and Specifications to the Owner and Contractor.
  - 2 Hardcopies and electronic (pdf)
- Construction Management Plan to the Owner and FAA



**7. ADDITIONAL SERVICES**

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

- Redesign for the Owner's convenience or due to changed conditions after previous alternate direction and/or approval.
- Revised Floor plan and site layout due to owner request after 60% Design has started based on prior approval of the owner
- Deliverables beyond those listed herein.
- Pavement Design beyond that furnished in the Geotechnical Report.
- Design of any utility relocation not required by the proposed construction
- Engineering, architectural, or other professional services beyond those listed herein.
- Retaining walls or other significant structural design.
- Preparation of a Storm Water Pollution Prevention Plan (SWPPP). The construction contract documents will require the Contractor to prepare, maintain, and submit a SWPPP to TCEQ
- Construction Administration Services, On-Site Construction Observation, and/or Construction Materials Testing.
- Environmental Handling and Documentation, including wetlands identification or mitigation plans or other work related to environmentally or historically (culturally) significant items.
- Coordination with FEMA and preparation/submittal of a CLOMR and/or LOMR.
- Services after construction, such as warranty follow-up, operations support, and Part 139 inspection support.

**8. SCHEDULE**

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

<b>Design Phase</b>	<b>Calendar Days</b>
Conceptual Floor Plan and Site Layout	45 Days from Agreement Execution or Kickoff Meeting, whichever is later
60% Preliminary Design	75 Days from Receipt of approval of conceptual floor plan and site layout
90% Final Design	60 Days from Receipt of 60% Preliminary Design Comments
100% Issued for Bid	21 Days from Receipt of 90% Final Design Comments

\*Note, any federal holidays and holiday adjacent days (includes Friday after Thanksgiving, Christmas Eve, and New Years Eve) that occur within a design phase will extend the phase by the number of holidays and holiday adjacent days that occur during the proposed phase.





**EXHIBIT B  
(COMPENSATION SCHEDULE)**

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

Base Design Services (Terminal Building and Associated Site Development)		
WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
Survey	\$18,000	LUMP SUM
Geotechnical Investigation	\$22,000	LUMP SUM
60% Preliminary Design	\$160,900	LUMP SUM
90% Final Design	\$102,700	LUMP SUM
100% Issued For Bid	\$35,700	LUMP SUM
Bidding Services	\$16,200	LUMP SUM
<b>TOTAL FEE</b>	<b>\$355,500.00</b>	

<i>Additional Design Services for Additional Terminal Apron Reconstruction (If Awarded under separate NTP)</i>		
WORK DESCRIPTION	FEE AMOUNT	FEE TYPE
60% Preliminary Design	\$50,400	LUMP SUM
90% Final Design	\$36,300	LUMP SUM
100% Issued For Bid	\$19,600	LUMP SUM
<b>TOTAL FEE</b>	<b>\$106,300.00</b>	

<b>TOTAL CONTRACT FEE</b>	<b>\$461,800</b>	
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The lump sum amount to be paid under this Agreement is **\$355,500** for the Base Design Services (Terminal Building and Associated Site Development) and an additional **\$106,300** for the additional design of the terminal apron reconstruction, if awarded, for a total contract of **\$461,800**. For informational purposes, a breakdown of Garver's estimated costs is included in this [Exhibit B](#).

## Exhibit B

### City of Killeen, Aviation Department Skylark Field New Terminal Building

#### FEE SUMMARY

<b>Design Services (Terminal Building and Site Development)</b>	<b>Fee</b>	<b>Estimated Fees</b>
<i>Survey (Sub)</i>	<i>Lump Sum</i>	\$ 18,000.00
<i>Geotechnical Engineering (Sub)</i>	<i>Lump Sum</i>	\$ 22,000.00
60% Design (Includes Conceptual Phase)	Lump Sum	\$ 160,900.00
100% Design	Lump Sum	\$ 102,700.00
Signed And Sealed Issue For Bid (Ifb)	Lump Sum	\$ 35,700.00
Bidding Services	Lump Sum	\$ 16,200.00
<b>Subtotal for Design Services (Terminal Building and Site Development)</b>		<b>\$ 355,500.00</b>
<b>Design Services (Additional Apron Reconstruction If Awarded)</b>		<b>Estimated Fees</b>
60% Design	Lump Sum (If Awarded)	\$ 50,400.00
100% Design	Lump Sum (If Awarded)	\$ 36,300.00
Signed and Sealed Issue for Bid (IFB)	Lump Sum (If Awarded)	\$ 19,600.00
<b>Subtotal for Design Services (Additional Apron Reconstruction If Awarded)</b>		<b>\$ 106,300.00</b>
<b>Total All Services</b>		<b>\$ 461,800.00</b>

**Exhibit B**

**City of Killeen, Aviation Department  
Skylark Field New Terminal Building**

**60% Design (Includes Conceptual Phase)**

WORK TASK DESCRIPTION	E-4	E-4	E-3	E-2	E-1	AM-1
	hr	hr	hr	hr	hr	hr
<b>1. Project Management and Civil Engineering</b>						
Project Administration	1		2			2
Coordination with Airport/City	1		2	2		1
Coordination with FAA	1		2	2		
Prepare for and Conduct predesign conference, site visit			6		6	
Conceptual Exhibits						
Coordinate with Airport for Programming Space Requirements	1		2			
Develop Conceptual Exhibits and Rough Order of Magnitude (ROM) Cost for Up to 2 Options			8	4	18	
Conceptual Review Meeting			6			
Preliminary Design						
General Base CAD Geometric Design				4	8	
Civil 3D Modeling				8	40	
Drawings	8					
Cover Sheet					1	
Sheet Index					1	
Quantity Sheet					1	
Summary of Materials Testing					2	
General Notes			1		1	
Project Layout Plan			1		4	
Survey Layout Plan			1		2	
CSPP Sheets			1		4	
CSPP Notes			1		1	
CSPP Details				1	1	
TCEQ Notes				1	1	
Erosion Control Notes				1	2	
SWPPP Layouts				1	4	
SWPPP Details				2	1	
Existing Conditions Sheets			1		2	
Demolition and Surface Preparation Plans			2		4	
Civil Site Plan			4		4	
Grading and Drainage Plan			2		12	
Utility Plans			1	4	6	
Pavement Marking Plan			1		4	
Pavement Details			2		4	
Pavement Marking Details			1		2	
Miscellaneous Details			1		6	
Drainage Design			1	4	6	
Civil Specifications			2	8		
Contractor Outreach for Constructability			4			
Internal QC	1	2	2		4	
Reproduction of preliminary design submittal and delivery			1		2	8
Submit CSPP to OE/AAA			1		2	
Revised Engineer's Opinion of Probable Cost (EOPC)						
Quantity Takeoff			1	2	6	
Develop Engineers Estimate for Unit Prices			2	6		
Stakeholder Review Meeting, Prep and Conduct			8			
<b>Subtotal - Project Management and Civil Engineering</b>	<b>13</b>	<b>2</b>	<b>70</b>	<b>50</b>	<b>162</b>	<b>11</b>



**Exhibit B**

**City of Killeen, Aviation Department  
Skylark Field New Terminal Building**

**60% Design (Includes Conceptual Phase)**

WORK TASK DESCRIPTION	E-4	E-4	E-3	E-2	E-1	AM-1
	hr	hr	hr	hr	hr	hr

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$913.00
Postage/Freight/Courier	\$50.00
Office Supplies/Equipment	\$50.00
Computer Modeling/Software Use	\$50.00
Travel Costs	\$500.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$1,563.00**

**SUBTOTAL: \$160,900.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$160,900.00**

**Exhibit B**

**City of Killeen, Aviation Department  
Skylark Field New Terminal Building**

**100% Design**

WORK TASK DESCRIPTION	E-5	E-4	E-3	E-2	E-1	AM-1
	hr	hr	hr	hr	hr	hr
<b>1. Project Management and Civil Engineering</b>						
Project Administration	1		4			2
Coordination with Airport/City	1		2	2		1
Coordination with FAA	1		2	2		
Final Design						
General Base CAD Geometric Design				2	4	
Civil 3D Modeling				4	24	
Drawings	8	2				
Cover Sheet				1	1	
Sheet Index				1	1	
Quantity Sheet				1	2	
Summary of Materials Testing				1	2	
General Notes			1		1	
Project Layout Plan			1		2	
Survey Layout Plan			1		1	
CSPP Sheets			1		2	
CSPP Notes			1		1	
CSPP Details			1		2	
TCEQ Notes				1	1	
Erosion Control Notes				1	2	
SWPPP Layouts				1	2	
SWPPP Details				1	1	
Existing Conditions Sheets			1		1	
Demolition and Surface Preparation Plans			1		2	
Civil Site Plan			1		4	
Grading and Drainage Plan			1		4	
Utility Plans			1	2	4	
Pavement Marking Plan			1		2	
Typical Sections			1		2	
Pavement Marking Details			1		2	
Miscellaneous Details			1		6	
Civil Specifications		2	1	6		
Contractor Outreach for Constructability			2			
Internal Quality Control	1	2	4	6	4	
Reproduction of preliminary design submittal and delivery			1		4	8
Revised Engineer's Opinion of Probable Cost (EOPC)						
Quantity Takeoff			2	4	8	
Develop Engineers Estimate for Unit Prices			4			
Stakeholder Review Meeting, Prep and Conduct			8			
<b>Subtotal - Project Management and Civil Engineering</b>	<b>12</b>	<b>6</b>	<b>45</b>	<b>36</b>	<b>92</b>	<b>11</b>
<b>2. Architectural</b>						
Project Meetings			6			
Architectural Design and detailing			18		50	
Architectural Specifications			6			8
Develop Engineer's Opinion of Probable Cost			8			
Coordination with Other Disciplines					8	
Internal QC	2	2				
<b>Subtotal - Architectural</b>	<b>2</b>	<b>2</b>	<b>38</b>	<b>0</b>	<b>58</b>	<b>8</b>





**Exhibit B**

**City of Killeen, Aviation Department  
Skylark Field New Terminal Building**

**Signed and Sealed Issue for Bid (IFB)**

WORK TASK DESCRIPTION	E-5	E-4	E-3	E-2	E-1	AM-1
	hr	hr	hr	hr	hr	hr

**DIRECT NON-LABOR EXPENSES**

Document Printing/Reproduction/Assembly	\$949.00
Postage/Freight/Courier	\$50.00
Office Supplies/Equipment	\$50.00
Computer Modeling/Software Use	\$50.00
Travel Costs	\$500.00

**SUBTOTAL - DIRECT NON-LABOR EXPENSES: \$1,599.00**

**SUBTOTAL: \$35,700.00**

**SUBCONSULTANTS FEE: \$0.00**

**TOTAL FEE: \$35,700.00**



**Exhibit B**

**City of Killeen, Aviation Department  
Skylark Field New Terminal Building: Terminal Apron Reconstruction**

**60% Design**

WORK TASK DESCRIPTION	E-4	E-4	E-3	E-2	E-1	AM-1
	hr	hr	hr	hr	hr	hr
<b>1. Project Management and Civil Engineering</b>						
Project Administration	1		2			2
Coordination with Airport/City	1		2	2		1
Coordination with FAA	1		2	2		
Prepare for and Conduct predesign conference, site visit			6		6	
Preliminary Exhibits						
Coordinate with Airport for Potential Fleet Mix	1		2			
Develop Conceptual Exhibits and Rough Order of Magnitude (ROM) To Determine Terminal Apron Limits			8	4	18	
Conceptual Review Meeting			6			
Preliminary Design						
Pavement Evaluation and Design	1		2	2	4	
Preliminary Engineering Letter Report	1		2	4	8	
General Base CAD Geometric Design				2	4	
Civil 3D Modeling				4	24	
Drawings	8					
Cover Sheet					1	
Sheet Index (Update Terminal Set to Include)					1	
Quantity Sheet (Update Terminal Set to Include)					1	
Project Layout Plan			1		4	
CSPP Sheets			1		2	
TCEQ Notes				1	1	
Erosion Control Notes					1	
SWPPP Layouts					2	
Demolition and Surface Preparation Plans			2		4	
Grading and Drainage Plan			1		6	
Pavement Marking Plan			1		4	
Pavement Details			2		4	
Pavement Marking Details			1		2	
Drainage Design			1	4	6	
Internal QC	1	2	2		4	
Reproduction of preliminary design submittal and delivery			1		2	8
Submit CSPP to OE/AAA			1		2	
Revised Engineer's Opinion of Probable Cost (EOPC)						
Quantity Takeoff			1	2	6	
Develop Engineers Estimate for Unit Prices			2	6		
Stakeholder Review Meeting, Prep and Conduct			8			
<b>Subtotal - Project Management and Civil Engineering</b>	<b>15</b>	<b>2</b>	<b>57</b>	<b>33</b>	<b>117</b>	<b>11</b>



**Exhibit B**

**City of Killeen, Aviation Department  
Skylark Field New Terminal Building: Terminal Apron Reconstruction**

**100% Design**

WORK TASK DESCRIPTION	E-5	E-4	E-3	E-2	E-1	AM-1
	hr	hr	hr	hr	hr	hr
<b>1. Project Management and Civil Engineering</b>						
Project Administration	1		4			2
Coordination with Airport/City	1		2	2		1
Coordination with FAA	1		2	2		
Final Design						
General Base CAD Geometric Design				1	2	
Civil 3D Modeling				4	16	
Drawings	8	2				
Cover Sheet					1	
Sheet Index (Update Terminal Set to Include)					1	
Quantity Sheet (Update Terminal Set to Include)					1	
Project Layout Plan			1		4	
CSPP Sheets			1		2	
TCEQ Notes				1	1	
Erosion Control Notes					1	
SWPPP Layouts					2	
Demolition and Surface Preparation Plans			2		4	
Grading and Drainage Plan			1		6	
Pavement Marking Plan			1		4	
Pavement Details			2		4	
Pavement Marking Details			1		2	
Contractor Outreach for Constructability			2			
Internal Quality Control	1	2	4	6	4	
Reproduction of preliminary design submittal and delivery			1		4	8
Revised Engineer's Opinion of Probable Cost (EOPC)						
Quantity Takeoff			2	4	8	
Develop Engineers Estimate for Unit Prices			4			
Stakeholder Review Meeting, Prep and Conduct			8			
<b>Subtotal - Project Management and Civil Engineering</b>	<b>12</b>	<b>4</b>	<b>38</b>	<b>20</b>	<b>67</b>	<b>11</b>







**EXHIBIT C  
(INSURANCE)**

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

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



## APPENDIX D

### MANDATORY FEDERAL CONTRACT PROVISIONS FOR PROFESSIONAL SERVICES CONTRACTS

#### 1. ACCESS TO RECORDS AND REPORTS

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

#### 2. CIVIL RIGHTS - GENERAL

In all its activities within the scope of its airport program, the Engineer agrees to comply with pertinent statutes, Executive Orders and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, creed, color, national origin (including limited English proficiency), sex (including sexual orientation and gender identity), age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

This provision binds the Engineer and subconsultants from the solicitation period through the completion of the contract.

#### 3. CIVIL RIGHTS – TITLE VI ASSURANCE

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

- I. Compliance with Regulations: The Engineer (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- II. Non-discrimination: The Engineer, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Engineer will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
- III. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subconsultant or supplier will be notified by the Engineer of the Engineer’s



obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

- IV. Information and Reports: The Engineer will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a Engineer is in the exclusive possession of another who fails or refuses to furnish the information, the Engineer will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
- V. Sanctions for Noncompliance: In the event of an Engineer's noncompliance with the non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
- a. Withholding payments to the Engineer under the contract until the Engineer complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
- VI. Incorporation of Provisions: The Engineer will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The Engineer will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Engineer becomes involved in, or is threatened with litigation by a subconsultant, or supplier because of such direction, the Engineer may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the Engineer may request the United States to enter into the litigation to protect the interests of the United States.

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 USC § 794 et seq.), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);



- The Age Discrimination Act of 1975, as amended (42 USC § 6101 et seq.) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 USC § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (PL 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990 (42 USC § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Nondiscrimination statute (49 USC § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations);
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs [70 Fed. Reg. 74087 (2005)];
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC § 1681, et seq).

#### 4. DEBARMENT AND SUSPENSION

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

#### 5. EQUAL EMPLOYMENT OPPORTUNITY (E.E.O.)

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

- (1) The Engineer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Engineer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex,



sexual orientation, gender identify or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Engineer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- (2) The Engineer will, in all solicitations or advertisements for employees placed by or on behalf of the Engineer, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The Engineer will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Engineer's legal duty to furnish information.
- (4) The Engineer will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the said labor union or workers' representatives of the Engineer's commitments under this section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The Engineer will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The Engineer will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the Engineer's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Engineer may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The Engineer will include the portion of the sentence immediately preceding paragraph (1)



and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subconsultant or vendor. The Engineer will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event an Engineer becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the administering agency the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

## II. Standard Federal Equal Employment Opportunity Contract Specifications

### (1) As used in these specifications:

- a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;
- b. "Director" means Director, Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, or any person to whom the Director delegates authority;
- c. "Employer identification number" means the Federal social security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
- d. "Minority" includes:
  - i. Black (all) persons having origins in any of the Black African racial groups not of Hispanic origin);
  - ii. Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);
  - iii. Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
  - iv. American Indian or Alaskan native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(2) Whenever the Engineer, or any subconsultant at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

(3) If the Engineer is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an



association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Engineers shall be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Engineer or subconsultant participating in an approved plan is individually required to comply with its obligations under the EEO clause and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Engineers or subconsultants toward a goal in an approved Plan does not excuse any covered Engineer's or subconsultant's failure to take good faith efforts to achieve the Plan goals and timetables.

- (4) The Engineer shall implement the specific affirmative action standards provided in paragraphs 7a through 7p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Engineer should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Engineers performing construction work in a geographical area where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Engineer is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- (5) Neither the provisions of any collective bargaining agreement nor the failure by a union with whom the Engineer has a collective bargaining agreement to refer either minorities or women shall excuse the Engineer's obligations under these specifications, Executive Order 11246 or the regulations promulgated pursuant thereto.
- (6) In order for the non-working training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees shall be employed by the Engineer during the training period, and the Engineer shall have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees shall be trained pursuant to training programs approved by the U.S. Department of Labor.
- (7) The Engineer shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Engineer's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Engineer shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:
  - a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Engineer's employees are assigned to work. The Engineer, where possible, will assign two or more women to each construction project. The Engineer shall specifically ensure that all foremen, superintendents, and other onsite supervisory personnel are aware of and carry out the Engineer's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
  - b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to



community organizations when the Engineer or its unions have employment opportunities available, and maintain a record of the organizations' responses.

- c. Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Engineer by the union or, if referred, not employed by the Engineer, this shall be documented in the file with the reason therefore along with whatever additional actions the Engineer may have taken.
- d. Provide immediate written notification to the Director when the union or unions with which the Engineer has a collective bargaining agreement has not referred to the Engineer a minority person or female sent by the Engineer, or when the Engineer has other information that the union referral process has impeded the Engineer's efforts to meet its obligations.
- e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Engineer's employment needs, especially those programs funded or approved by the Department of Labor. The Engineer shall provide notice of these programs to the sources compiled under 7b above.
- f. Disseminate the Engineer's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Engineer in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination, or other employment decisions including specific review of these items with onsite supervisory personnel such as superintendents, general foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- h. Disseminate the Engineer's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Engineer's EEO policy with other Engineers and subconsultants with whom the Engineer does or anticipates doing business.
- i. Direct its recruitment efforts, both oral and written, to minority, female, and community organizations, to schools with minority and female students; and to minority and female recruitment and training organizations serving the Engineer's



recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Engineer shall send written notification to organizations, such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer, and vacation employment to minority and female youth both on the site and in other areas of a Engineer's workforce.
  - k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
  - l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel, for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
  - m. Ensure that seniority practices, job classifications, work assignments, and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Engineer's obligations under these specifications are being carried out.
  - n. Ensure that all facilities and company activities are non-segregated except that separate or single user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
  - o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Engineers and suppliers, including circulation of solicitations to minority and female Engineer associations and other business associations.
  - p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Engineer's EEO policies and affirmative action obligations.
- (8) Engineers are encouraged to participate in voluntary associations, which assist in fulfilling one or more of their affirmative action obligations (7a through 7p). The efforts of an Engineer association, joint Engineer union, Engineer community, or other similar groups of which the Engineer is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through 7p of these specifications provided that the Engineer actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Engineer's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Engineer. The obligation to comply, however, is the Engineer's and failure of such a group to fulfill an obligation shall not be a defense for the Engineer's noncompliance.
- (9) A single goal for minorities and a separate single goal for women have been established. The Engineer, however, is required to provide equal employment opportunity and to take



affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, if the particular group is employed in a substantially disparate manner (for example, even though the Engineer has achieved its goals for women generally, the Engineer may be in violation of the Executive Order if a specific minority group of women is underutilized.)

- (10) The Engineer shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (11) The Engineer shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (12) The Engineer shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination, and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Engineer who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- (13) The Engineer, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Engineer fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (14) The Engineer shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government, and to keep records. Records shall at least include for each employee, the name, address, telephone number, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Engineers shall not be required to maintain separate records.
- (15) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

#### 6. FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)

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



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

## 7. OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

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

## 8. TERMINATION OF CONTRACT

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

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

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

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

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

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

- a) Termination by Owner: The Owner may terminate this Agreement in whole or in part, for the failure of the Engineer to:



1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project;
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

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

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

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

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

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

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

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

## 9. TRADE RESTRICTION CERTIFICATION

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



contract, the Engineer –

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

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

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

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Engineer or subconsultant:

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

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

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

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Engineer or subconsultant knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of



the contract or subcontract for default at no cost to the Owner or the FAA.

#### 10. VETERAN'S PREFERENCE

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

#### 11. TAX DELINQUENCY AND FELONY CONVICTIONS

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

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

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

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

#### 12. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Engineer and Subconsultants agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)].

#### 13. DOMESTIC PREFERENCES FOR PROCUREMENTS

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.



## EXHIBIT E

### STATE OF TEXAS REQUIREMENTS

#### **I. PROHIBITION ON CONTRACTS WITH FOREIGN TERRORIST ORGANIZATIONS**

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

#### **II. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL**

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

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

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

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

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



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

**V. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN ENERGY COMPANIES**

The Consultant verifies that it does not have a practice, policy, guidance or directive that discriminates against certain energy companies as defined in Chapter 809 of the Texas Government Code. The Consultant verifies that it:

- a) Does not boycott energy companies; and
- b) Will not boycott energy companies during the term of the contract



**EXHIBIT C**

AIRPORT IMPROVEMENT AID PROJECT: TBD  
STATE: TEXAS

**CERTIFICATION OF ENGINEER**

I hereby certify that I am Derek W Mayo and duly authorized representative of the firm of GARVER, LLC, whose address is 285 SE Inner Loop Suite 110, Georgetown, TX 78628 and that neither I nor the above firm I here represent has:

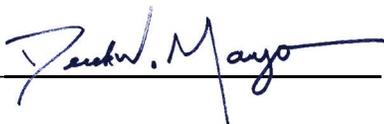
(a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me of the above consultant) to solicit or secure this contract.

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

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

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

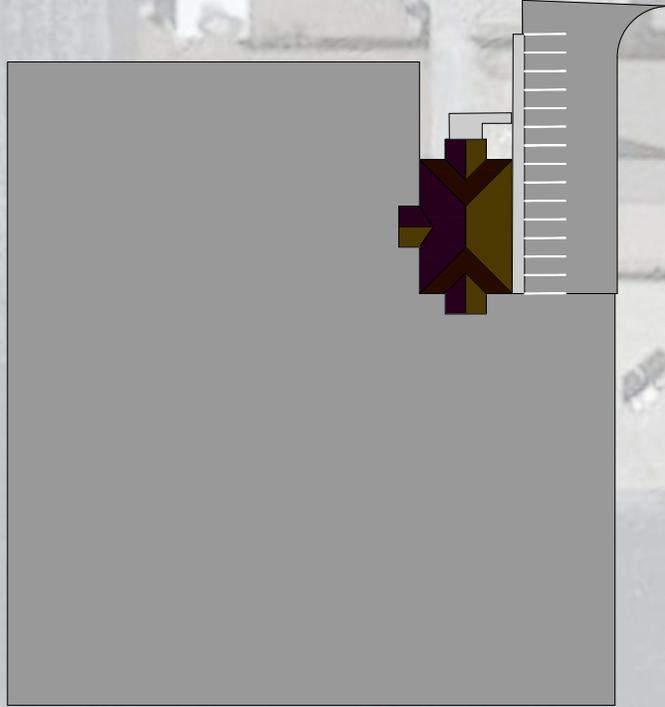
GARVER, LLC

By 

DATE:

Derek W Mayo

# EXHIBIT G



FILE: L:\2022\22A08181 - LE - TL - TW and Apcon Rehabilitation\Drawings\EXHIBIT G - New Terminal Exhibit.dwg LAST SAVE: 10/4/2023 5:19 PM LAST PLOTTED BY: DMAYO  
 LAST PLOTTED BY: MAYO, DWEEK W. [Job Style: A3Common.dwg PLOT Scale: 1:1] [Plot Date: 10/4/2023 6:20 PM] [Plot User: DMAYO] [DWF To PDF: 0]

**GARVER**  
CONSULTANTS

WE ARE AN EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION EMPLOYER. THE FIRM DOES NOT DISCRIMINATE IN EMPLOYMENT ON THE BASIS OF RACE, ETHNICITY, GENDER, RELIGION, NATIONAL ORIGIN, AGE, SEXUAL ORIENTATION, OR DISABILITY. GARVER IS AN EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION EMPLOYER. WE ARE AN EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION EMPLOYER. WE ARE AN EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION EMPLOYER.

REV.	DATE	DESCRIPTION	BY

**CITY OF KILLEEN**  
SKYLARK FIELD

SKYLARK FIELD  
NEW GENERAL AVIATION  
TERMINAL BUILDING  
KILLEEN, TX

PROJECT LAYOUT  
PLAN

JOB NO. 22A08181  
DATE: OCT. 2023  
DESIGNED BY: SAM  
DRAWN BY: TED

SKYLARK FIELD  
10000 W. STATE ST. SUITE 100  
KILLEEN, TX 76789-4400  
PH: 254.241.1100  
WWW.GARVERCONSULTANTS.COM

**GI-101**  
DRAWING NUMBER

**2**  
SHEET NUMBER

# 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:  
2023-1092378

Date Filed:  
11/08/2023

Date Acknowledged:

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

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

**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.**  
230165  
Professional Services for the New ILE General Aviation Terminal Building

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

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

**6 UNSWORN DECLARATION**

My name is Mitchell McAnally, and my date of birth is 07/02/1986.

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

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

Executed in Williamson County, State of Texas, on the 8th day of November, 2023.  
(month) (year)

  
\_\_\_\_\_  
Signature of authorized agent of contracting business entity  
(Declarant)



PROFESSIONAL SERVICES AGREEMENT WITH  
GARVER, LLC FOR THE DESIGN OF THE SKYLARK  
FIELD GENERAL AVIATION TERMINAL BUILDING

RS-23-196

December 5, 2023

# Background

2

- One of the most important elements of a successful General Aviation (GA) airport is a fully functional GA terminal building, also referred to as a Fixed Base Operator (FBO) building, that provides for all the needs of the modern pilot and their passengers.

# Background

3

- Business and industry leaders looking to do business or relocate their business to a community typically fly into a City's GA airport. Thus, the terminal building can be the first impression someone gets of our community.

# Background

4

- On July 11, 2023, the City Council approved a City Ordinance authorizing the issuance of Certificate of Obligation for certain projects. One of the authorized projects was the Construction of a new FBO building at Skylark Field.

# Discussion

5

- This project will replace and relocate the existing 60-year-old terminal that is beyond its useful life.
- A newly constructed terminal will include solar integration and energy efficient windows, doors, and overall modern infrastructure that better fits the needs of Skylark Field Airport and its users.

# Discussion

6

- Staff has negotiated a professional services agreement with Garver, LLC, in the amount of \$461,800, for design services, surveying, geotechnical services, and bidding services for the general aviation terminal building at Skylark Field.

# Discussion

7

- Garver, LLC is the Airport's engineer of record and was selected via a competitive process.
- This choice offers the most experienced team fully cognizant of FAA requirements for projects at Skylark Field.
- Project is funded through a Certificate of Obligation (CO) bond with no impact to the Aviation Department operating fund or fund balance.

# Alternatives

8

- Do not approve the agreement
- Approve the agreement

# Recommendation

9

- Approve the professional services agreement with Garver, LLC in the amount of \$461,800 and authorize the City Manager or designee to execute all agreement documents and any and all amendments or actions within the amounts set by federal, state and local law



# City of Killeen

## Staff Report

File Number: RS-23-197

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution authorizing a Professional Services Agreement with Central Texas Alcohol Rehabilitation Center for substance use disorder counseling and treatment services in an amount of \$143,130.

**DATE:** December 5, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Tiffanie McNair, Executive Director of Community Development

**SUBJECT:** Central Texas Alcohol Rehabilitation Center Agreement

**BACKGROUND AND FINDINGS:**

In February 2023 Killeen city council adopted the Homelessness and Mental Health Strategic Plan (HMHSP) (Killeen Resolution 23-034R, 2/14/23). The Plan was developed to reduce and address the duration and frequency of homelessness within the county. A key take-away from the data in preparing for the plan is approximately 70% of the homeless population is suffering from mental illness and/or substance use disorder. A major emphasis and Countywide recommendations from the Plan are to develop and operate nine clinical tracks group in three focus areas. In the focus area of reducing existing homelessness, intensive mental health and substance use disorder treatment is needed. In December 2022 Council allocated ARPA funding for a pilot program for substance use disorder treatment at Central Texas Alcohol Rehabilitation Center.

Some Council members and the Mayor has expressed interest in continuing this program instrumental in assisting individuals to exit homelessness in Killeen. The existing agreement will be complete with the expiration of ARPA funds.

The City of Killeen was allocated funds from the State of Texas Opioid abatement settlement distributed by the Texas Opioid Abatement Fund Council (OAFC) and may utilize the funds to address substance use disorder (SUDS). The agreement will provide substance use counseling, treatment, and comprehensive wrap-around services to prepare individuals for long-term sufficiency and independence affording for two beds. The total fee for the services in fiscal year 2024 is **ONE HUNDRED FORTY-THREE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$143,130.00)**.

**THE ALTERNATIVES CONSIDERED:**

1. Do not authorize the Professional Service Agreement with Central Texas Alcohol Rehabilitation Center using opioid settlement funds.
2. Authorize the professional services agreement with Central Texas Alcohol Rehabilitation Center utilizing opioid settlement funds.

**Which alternative is recommended? Why?**

Staff recommends alternative 2, which is to authorize the City Manager to execute a Professional Services Agreement with Central Texas Alcohol Rehabilitation Center in the amount of \$143,130.00 for substance counseling and treatment

**CONFORMITY TO CITY POLICY:**

Yes, as recommended in Homeless and Mental Health Strategic Plan approved by City Council

**FINANCIAL IMPACT:**

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

The expenditure for FY 2024 \$143,130.00

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

One-time

**Is this expenditure budgeted?**

Yes, funds are available in the Opioid Settlement Fund account 254-3250-426.50-86

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

N/A

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

Yes

**RECOMMENDATION:**

Staff recommends that the City Council authorize the City Manager or his designee to enter into a Professional Services Agreement with Central Texas Alcohol Rehabilitation Center in the amount of \$143,130.00 for substance use counseling and treatment, and that the City Manager, or his designee, is expressly authorized to execute any and all change orders within the amounts set by State and Local law.

**DEPARTMENTAL CLEARANCES:**

Purchasing  
Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Agreement  
Presentation

**PROFESSIONAL SERVICES AGREEMENT**  
**BY AND BETWEEN THE CITY OF KILLEEN, TEXAS**  
**AND CEN-TEX ALCOHOL REHABILITATION CENTER INC. (“CEN-TEX ARC”)**

**THIS AGREEMENT** is made and entered by and between the CITY of Killeen, Texas, a home rule municipal corporation located in Bell County, Texas (hereinafter called **CITY**) and **CEN-TEX ALCOHOL REHABILITATION CENTER INC. (“CEN-TEX ARC”)** a nonprofit organization hereinafter referred to as "**Services Provider**" or "**CEN-TEX ARC**", to be effective from and after the date as provided herein.

**WHEREAS** the **CITY** desires to have the services performed as set forth below requiring specialized skills, licenses and other supportive capabilities.

**WHEREAS** the **CITY** has determined that the **CEN-TEX ARC** is qualified and possesses sufficient skills, licenses and the necessary capabilities, including technical and professional expertise, where required, to perform the services and/or tasks set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, and performance contained herein, the Parties hereto agree as follows:

**I. SCOPE OF SERVICES**

**CEN-TEX ARC** shall perform such services and accomplish such tasks, including the furnishing of all materials and equipment necessary for full performance thereof, as are identified and designated as Service Provider responsibilities throughout this Agreement.

**CEN-TEX ARC** will:

1. Develop a system of triage and enrollment that enables clients being referred to have quick and easy access to services offered under their program.
2. Use the Homeless Management Information System (HMIS) as a tool to securely share, refer, and track client progress that is compliant with HIPPA and Personal Identifiable Information (“PII”) federal standards.
3. Provide services that includes, but not limited to:
  - a. Up to a maximum of One-Hundred Eighty (180) days of combined substance use counseling and treatment, and comprehensive wrap-around services that address social needs to prepare individuals for long-term self-sufficiency and independence;
  - b. Nutritious meals including three (3) meals daily, seven (7) days weekly, using USDA-approved meal plans;

- c. 24-hour Resident Monitoring for safety and security on property;
  - d. Semi-private living accommodations that include up to three clients per room, and a shared bathroom;
  - e. Transportation resources on an as needed basis;
  - f. Additional life skills coaching by trained staff;
  - g. Comprehensive Case Management services that help address other life struggles provided by licensed substance use counselors;
  - h. Other services as identified by the client and their counselor;
  - i. Additional services will be determined by needs requested and defined by **CITY** and agreed upon by **CEN-TEX ARC**.
  - j. Respond promptly in writing to requests by the **CITY** for authorization to proceed with specific additional services outside the agreed upon services.
4. Provide written reports to the **CITY** as requested or required by any agreement or contract to provide services to the applicable client (s) as directed.
5. The total fee for the services shall not exceed **ONE HUNDRED FORTY-THREE THOUSAND ONE HUNDRED THIRTY DOLLARS (\$143,130.00)**. The **CITY** has designated Officer Evan Crouse from the Killeen Police Department Homeless Outreach (HOT) Team, or other assigned designee as the **CITY's** Representative, who shall have authority to coordinate required services of each bed on the **CITY's** behalf with respect to this Agreement consistent with the budget policy.

**II. CLIENT ACCEPTANCE CRITERIA:**

- 6. Client must be homeless and have a substance use disorder; and
- 7. Client must conduct a pre-interview by a Committee, members to represent both **CEN-TEX ARC** and the **CITY**, to determine suitability for the program.
- 8. Client must consent to a background check so that **CEN-TEX ARC** is aware of criminal history but does not necessarily exclude enrollment. No individuals with convictions for arson or any sex-related offenses including registered and un-registered sex offenders will allowed in the program.
- 9. Client must agree to conduct a medical evaluation with a licensed physician and registered nurse and be determined healthy enough to be in a residential treatment and housing program.
- 10. Client must consent to Central Counties Services (former MHMR) involvement to determine co-occurring mental health issues needing treatment there.

### **III. RIGHTS, RESPONSIBILITIES AND DUTIES**

The Parties agree that their responsibilities to work together will include the following:

1. Parties agree to adhere to the guidelines stipulated in the Health Insurance Portability and Accountability Act of 1996 (HIPPA); 42 CFR Section 2; and other federal and state laws and regulations as related to the client confidentiality and privacy requirements, including those specific to minor children when providing services. All necessary Releases of Information (ROI) will be obtained when legally required and kept on file in HMIS by each Party under the client's unique identifier. Each Party will be responsible for ensuring their staff are properly trained and that they adhere to the HIPPA & PII confidentiality requirements as directed.
2. Parties agree to maintain proper and accurate records of services in both HMIS database and individual client records, as applicable, by the respective organization for the purpose of service documentation.
3. Parties agree that no part of this Agreement shall limit an individual from their right to choose or refuse services from either Party.
4. Parties agree that clients will have the right to a grievance process with the respective Party, if requested, and will be the said Parties responsibility to establish a process or procedure if not already in place.
5. Parties agree that clients will not be charged or pay for any services or fees directly under the stipulations of this Agreement and/or other subcontractor agreements.

### **IV. CITY OBLIGATIONS**

**CITY** will:

1. Refer clients identified as having a significant need and could benefit from the services offered by **CEN-TEX ARC** using an agreed upon evaluation system of eligibility for the referral.
2. Share information via use of the Homeless Management Information System (HMIS) as a tool to document and track clients referred and services provided as part of the larger component of addressing homelessness and mental health.
3. Provide payment for services as agreed upon in this Agreement as applicable.

### **V. TERM**

No coordination of services/assignment for bed(s) shall occur prior to execution of this Agreement, and the term shall terminate and the expenditure of allocated funds for services or extended by mutual written agreement of the Parties.

### **VI. ASSIGNMENT**

The Parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither Party will assign, sublet nor transfer any interest in this Agreement without the written authorization of the other.

#### **VII. AMENDMENTS**

No provisions of this Agreement may be amended or modified except by a further written document approved and signed by the **CITY** and **CEN-TEX ARC**.

#### **VIII. TERMINATION**

In connection with the work outlined in this Agreement, it is agreed and fully understood by **CEN-TEX ARC** that the **CITY** may cancel or indefinitely suspend further work hereunder or terminate this Agreement for convenience or cause upon thirty (30) days written notice to the **CEN-TEX ARC** with the understanding that immediately upon receipt of said notice all Services being performed under this Agreement will cease. Before the end of such thirty (30) day period **CEN-TEX ARC** will invoice **CITY** for all work satisfactorily completed and will be compensated in accordance with the terms of this Agreement.

**CEN-TEX ARC** will have the right to terminate this Agreement for cause, on thirty (30) days written notice to the **CITY** should the **CITY** fail to satisfactorily perform its obligations herein. In the event of termination, **CEN-TEX ARC** will be paid for all services rendered to date of termination. In the event of termination hereunder, **CEN-TEX ARC** will invoice **CITY** for all work satisfactorily completed up to the date of this notice of termination and will be compensated in accordance with the terms of Agreement.

#### **III. CHOICE OF LAW; VENUE**

Venue and jurisdiction of any suit or right or cause of action arising under or in connection with this Agreement will be exclusively in Bell County, Texas, and any court of competent jurisdiction will interpret this Agreement in accordance with the laws of the State of Texas. The prevailing party in an action brought under or concerning this Agreement may recover costs of court, reasonable attorney's fees, and reasonable expert witnesses' and Service Providers' fees.

#### **IV. PAYMENT**

Payment will be made by **CITY** under this Agreement per the following:

1. A fee of **\$195.00. per person. per day**, for services rendered. Payment is limited to up to One Hundred Eighty (180) days of treatment per client.
2. Payment will be made within 30-days of **CITY** receiving invoice.
3. **CEN-TEX ARC** will bill **CITY** within 10-business days of each proceeding thirty days of treatment, up to the maximum 90 days of treatment per client.

#### **V. HOLD HARMLESS**

**TO THE EXTENT ALLOWED BY LAW, EACH PARTY TO THIS AGREEMENT AGREES TO INDEMNIFY AND HOLD HARMLESS THE OTHER FOR AND FROM ANY CLAIMS, CAUSES OF ACTION, OR ANY OTHER PROCEEDING OF ANY TYPE OR KIND THAT IS MADE AGAINST THE OTHER WHERE SUCH CLAIM, CAUSE OF ACTION OR OTHER PROCEEDING ARISES FROM THE CONDUCT, ACT, OMISSION, OR COMMISSION BY THE OTHER PARTY.**

**VI. STANDARD OF CARE**

Services performed under this Agreement shall be by a licensed **SERVICE PROVIDER** if a license is required by the **SERVICE PROVIDER'S** profession and shall be executed with the professional skill and care ordinarily provided by a competent **SERVICE PROVIDER** in the same or similar locality under the same or similar circumstances and professional license and shall be performed as expeditiously as is prudent considering the ordinary professional skill and care of a competent **SERVICE PROVIDER**.

**VII. INDEMNIFICATION**

***THE SERVICE PROVIDER WILL INDEMNIFY, DEFEND, AND HOLD THE CITY AND ALL OF ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES HARMLESS FROM ANY LOSS, DAMAGE, LIABILITY OR EXPENSE, INCLUDING COSTS OF COURT, REASONABLE ATTORNEYS' FEES, EXPERT WITNESSES' AND SERVICE PROVIDERS' FEES, ON ACCOUNT OF DAMAGE TO PROPERTY AND/OR INJURIES, INCLUDING DEATH, TO ALL PERSONS, DUE TO ANY ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, BREACH OF ANY OBLIGATION UNDER THIS AGREEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER UNDER THIS AGREEMENT, CAUSED BY SERVICE PROVIDER OR ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, LICENSEES, INVITEES, OR OTHER PERSONS ACTIONS FOR WHOM SERVICE PROVIDER IS LIABLE, AND SHALL PAY ALL EXPENSES AND SATISFY ALL JUDGMENTS WHICH MAY BE INCURRED BY OR RENDERED AGAINST THEM, OR ANY OF THEM IN CONNECTION WITH THIS AGREEMENT.***

***THE INDEMNITY OBLIGATIONS HEREIN SHALL SURVIVE THE TERMINATION OF THE AGREEMENT FOR ANY REASON AND SHALL SURVIVE THE COMPLETION OF THE WORK.***

**VIII. CONFIDENTIALITY**

All information obtained during the execution of this Agreement by **SERVICE PROVIDER** is deemed confidential. Disclosure of information by **SERVICE PROVIDER** not authorized by **CITY** in writing will constitute a material breach of this Agreement. Notwithstanding anything herein to the contrary, the **CITY** is a governmental entity and shall abide by the laws governing Open Government and the opinions of the Attorney General now current and as amended.

## IX. INSURANCE

The **SERVICE PROVIDER** will maintain at all times professional liability or errors and omissions insurance covering any claim hereunder occasioned by **SERVICE PROVIDER's** negligent act, or error or omission in an amount of not less than \$1,000,000 general aggregate. **SERVICE PROVIDER** agrees to maintain professional liability insurance during the term of this agreement and, if the policy is on a claims made basis, for a period of not less than five (5) years after the Project is complete and provide proof of such continuing coverage. **SERVICE PROVIDER** further agrees to provide proof of coverage as needed for prior acts back to the date of execution of this agreement if **SERVICE PROVIDER** changes insurance carriers during this extended indemnity period.

**SERVICE PROVIDER** will further maintain general commercial liability coverage \$1,000,000 per occurrence (Bodily injury and property damage). **SERVICE PROVIDER** will maintain Automobile Liability coverage in an amount of \$500,000 Combined single limit for each accident (Bodily injury and property damage). **SERVICE PROVIDER** will maintain Professional Liability Insurance \$1,000,000 general aggregate.

### COMPLIANCE WITH LAWS

The **SERVICE PROVIDER**, his **SERVICE PROVIDER's**, agents and employees and subcontractors, will comply with all applicable Federal and State laws, the Charter and Code or Ordinances of the City of Killeen, and all other applicable rules and regulations promoted by all local, State and National boards, bureaus and agencies.

## X. SERVICE PROVIDER'S CERTIFICATION

**SERVICE PROVIDER** certifies that neither it, nor any of its agents or employees, have or will offer or accept gifts or anything of value, or enter into any business arrangement, with any employee, official, or agent of the **CITY**.

**SERVICE PROVIDER** certifies, pursuant to Texas Government Code Chapter 2270, that it does not boycott Israel and will not boycott Israel during the term of this Agreement. **SERVICE PROVIDER** further certifies, pursuant to Texas Government Code Chapter 2252, Subchapter F, that it does not engage in business with Iran, Sudan, or a foreign terrorist organization as may be designated by the United States Secretary of State pursuant to his authorization in 8 U.S.C. Section 1189. Texas Government Code, Chapter 2274 – the **SERVICE PROVIDER** verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract. *Boycott energy company is defined in Government Code Chapter 809.* Texas Government Code, Chapter 2274 – the **SERVICE PROVIDER** verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association. *Discriminate, firearm entity and firearm trade association are defined in Government Code Chapter 2274.*

**XI. EXECUTION OF AGREEMENT**

**SIGNED, ACCEPTED AND AGREED TO** this        day of        2023, by the undersigned Parties who acknowledge that they have read and understand this Agreement and that the Agreement is issued in accordance with local, State, and Federal laws, and the undersigned Parties hereby execute this legal document voluntarily and of their own free will.

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

Kent Cagle, City Manager

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

Principal Place of Business/Address: 101 North College Street, Killeen, Texas 76541

By: Mark Baker

Mark Baker, Executive Director

11/21/2023  
Date: \_\_\_\_\_

Principal Place of Business/Address:

Cen-Tex ARC, 2410 E. Adams Avenue, Temple, TX 76503



# CEN-TEX ALCOHOL AND REHABILITATION CENTER

RS-23-197

December 5, 2023

117

# Background

2

- ❑ On December 13, 2022, the City Council appropriated \$70,000 of American Rescue Plan Act (ARPA) funding for substance use counseling and treatment in support of the Homelessness and Mental Health Strategic Plan.
- ❑ The Homeless and Mental Health Strategic Plan was developed to reduce and address the duration and frequency of homeless within Bell County. It was adopted by Council in February 2023.
- ❑ A major plan recommendation within the clinical tracks is intensive mental health and substance use disorder treatment.

# Background Cont.

3

- On March 27, 2023, an initial agreement was executed with Cen-Tex ARC, in the amount of \$20,000. An amendment to the agreement was approved in May 2023 for a total of \$70,000.
- The funding supported two (2) scholarship beds for up to 90 days of substance use counseling and treatment.
- The current agreement will expire with final expenditure of ARPA funding of approximately \$3,300.

# Background Cont.

4

- ❑ The initial agreement helped three (3) clients, including one (1) veteran exit homelessness.
- ❑ Time spent in homelessness was 3, 5, and 16+ years.
- ❑ One (1) received a special housing voucher, one (1) is awaiting a housing choice voucher, and one (1) is awaiting an assisted-living arrangement to be secured.
- ❑ SSDI benefits, Medicare coverage, and at least one (1) bank account has been established.

# Background Cont.

5

- The City of Killeen is a recipient of funds from the State of Texas Opioid Abatement Settlement and may utilize the funds to address substance use disorder (SUD).
- The total settlement amount for the City of Killeen is \$535,650.
- An initial disbursement of \$168,151.84 has been received by the City.
- The remaining balance of \$367,498 will be disbursed in varying payments annually over a period of 18 years.

# New Agreement with Cen-Tex ARC

6

- A new agreement for \$143,130.00 with Cen-Tex ARC will allow for the continuation of treatment for individuals who do not have insurance coverage for substance use counseling, treatment and comprehensive wrap-around services preparing individuals for long-term sufficiency and independence.

# New Contract Terms

7

- \$143,130.00 funded with State of Texas Opioid Abatement Settlement.
- Increased treatment term for up to 180 days.

# Alternatives

8

- Do not approve the agreement with Cen-Tex ARC in the amount of \$143,130.00 for substance use counseling, treatment and comprehensive wrap-around services.
- Approve the Agreement with Cen-Tex ARC.

# Recommendation

9

- Authorize the City Manager or his designee to execute the professional services agreement with Cen-Tex Alcohol Rehabilitation Center Inc.



# City of Killeen

## Staff Report

File Number: RS-23-198

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution authorizing the purchase of replacement carpet at the Killeen Civic and Conference Center from McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC, in an amount not to exceed \$263,392.05.

**DATE:** December 5, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Tiffanie McNair, Executive Director of Community Development

**SUBJECT:** KCCC Carpet Replacement

**BACKGROUND AND FINDINGS:**

The type of carpet installed at the Killeen Civic and Conference Center is not rated for high traffic impact. The carpeting is showing excessive stains, wear, and tear across the entire facility. Stains are embedded and do not come out, even with professional steaming. Flooring needs to be replaced to bring the building up to the standards required by the type of customers we currently attract and those we anticipate attracting. Staff received two quotes and selected McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC via the TIPS USA Contract #20110201. There are sufficient funds in the HOT balance to cover this project.

**THE ALTERNATIVES CONSIDERED:**

1. Do not approve the purchase of replacement carpet.
2. Approve the purchase of replacement carpet from another vendor.
3. Approve the purchase of replacement carpet from McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC, in the amount of \$263,392.05.

**Which alternative is recommended? Why?**

Staff recommends alternative 3, acceptance of the quote from McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC, in the amount of \$263,392.05. Staff found J & J Flooring to be responsive and below the estimated cost for carpet replacement budgeted in FY 2024.

**CONFORMITY TO CITY POLICY:**

Yes, McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC, is a part of the TIPS purchasing cooperative contract, #20110201. Purchases made through a cooperative contract are exempt from the competitive bidding process as stated in the Texas Local Government Code (TLGC) section 271.102, subchapter F; local government that purchases goods or services under subchapter satisfies any state law requiring the local government to seek competitive bids for the purchase of the goods or services.

**FINANCIAL IMPACT:**

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

The amount of the expenditure is \$263,392.05 is in FY 2024. No expenses are expected for this project in future fiscal years.

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

This is a one-time expenditure.

**Is this expenditure budgeted?**

Yes , funds are available in the Hotel Occupancy Fund Conference Center account 214-0705-457.42-10.

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

N/A

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

Yes

**RECOMMENDATION:**

Staff recommends the City Council authorize the purchase of the replacement carpet at the Killeen Civic and Conference Center from McCoy Rockford a reseller of J & J Flooring and EF Contract Engineered Floors LLC, in an amount not to exceed \$263,392.05.

**DEPARTMENTAL CLEARANCES:**

Purchasing  
Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Quotes  
Contact Verification Form  
Certificate of Interested Parties  
Presentation



211 East Riverside Drive  
Austin, TX 78704  
512.416.4348 - office  
512.431.1116 - mobile

Christi Wade  
[cwade@mccoyrockford.com](mailto:cwade@mccoyrockford.com)

# Proposal

**Date:**  
17-Oct-23  
**Plan Date:**  
  
**Time:**  
  
**Length:**  
Page 1 of 1

Customer	Project
COMPANY: CITY OF KILLEEN	KILLEEN CONVENTION CENTER
ATTN: AMANDA WILKINSON	CORRIDORS & MEETING ROOMS
FAX #:	

Quantity	U.O.M	Description	Amount
<b>FURNISH &amp; INSTALL ON TIPS USA #20110201 ENGINEERED FLOORS:</b>			
22680.00	SF	KINETEX TILE ANALOG COLOR ASSIMILATE @ \$3.25	\$73,710.00
17208.00	SF	KINETEX TILE ANALOG MONO COLOR EQUIVALENT @ \$3.25	\$55,926.00
5544.00	SF	KINETEX TILE ANALOG MONO COLOR CORRELATE @ \$3.25	\$18,018.00
71.00	EA	KINETEX PREMIUM ADHESIVE, 4 GAL @ \$110.05	\$7,813.55
5048.00	SY	KINETEX INSTALLATION @ \$8.44, PATTERNING INCLUDED	\$42,605.12
5048.00	SY	DEMO CARPET TILE @ \$3.63	\$18,324.24
5048.00	SY	CARPET TILE DISPOSAL @ \$2.13	\$10,752.24
43150.00	SF	MINOR FLOOR PREP @ \$.63	\$27,184.50
1680.00	LF	SUPPLY & INSTALL 4" COVE BASE @ \$3.13	\$5,258.40
1.00	EA	FREIGHT	\$3,800.00

- \* TAX EXEMPT
- \* WORK WILL BE PERFORMED ON STANDARD HOURS
- \* FURNITURE MOVING IS NOT INCLUDED
- \* DUMPSTER IS NOT INCLUDED
- \* FLOORING MATERIAL WILL BE SHIPPED DIRECTLY TO PROJECT SITE
- \* MOISTURE TESTING IS INCLUDED
- \* ATTIC STOCK IS NOT INCLUDED

\$263,392.05  
Sales Tax \$0.00  
**\$263,392.05**

ALTERNATE - FURNISH DUMPSTER FOR THE DURATION OF THE PROJECT, ADD \$5,135.00

**NOTES**

ALL WORK TO BE PERFORMED ON STANDARD HOURS  
WORK INCLUDES MINOR FLOOR PREP

- Rockford will furnish and install the above material for the listed price. Subject to credit approval.
- Price DOES NOT include tax.
- Unless specifically included in this proposal : price excludes all demolition, repair or take-up of existing flooring; excludes vaccuming, damp mopping, buffing, waxing and floor protection; excludes floor leveling or repair; excludes sealing of floor; cleaning or removal of oil, grease, solvents, paint, plaster or other foreign substances; excludes absestos abatement/control; excludes any furniture movement, excludes installation of moisture and alkaline barriers.
- Price includes no attic stock of material beyond installation coverage.
- Excludes grinding and sanding due to use of concrete curing compounds.
- Rockford requires moisture and bond testing prior to all material installations. Testing requires conditioned space 48 hours prior to test and min. 24 hours to complete testing. Moisture and concrete testing to meet ASTM 2170 and 710 standards must be performed by a third party source. Slabs on/below grade require vapor retarder meeting ASTM F1745 standards. Rockford will not install on substrates with moisture/alkalinity test failure.
- Minor floor prep in price includes 1 bag per 125 syds - carpet; 1 bag per 600 sf - hard surfaces. Additional floor prep will be billed on a time and material basis.
- Client is subject to payment for stored materials.
- Rockford will not accept chargeback for cleaning or damage without the option to inspect the claim(s) or without the option to make arrangements for acceptable repairs at their expense.
- Rockford is not responsible for any claims that might result from product delivery date changes beyond their control.
- If a manufacturer requires a deposit to manufacture/ship certain items, client shall pay that amount.
- This proposal is valid for (30) days. Use of this pricing implies acceptance of above conditions.
- Full payment is due (30) days from receipt of invoice unless specified otherwise.
- Processing fees of 3.5% will be imposed on any payments by credit card.

Signed: \_\_\_\_\_ Accepted By: \_\_\_\_\_ Date: \_\_\_\_\_  
Christi Wade

Anticipated Installation Start Date: \_\_\_\_\_

# Engineered FLOORS

COMMERCIAL DIVISION



FLOORING GROUP

EF Contract

ENGINEERED FLOORS  
COMMERCIAL DIVISION

PO Box 2207  
Dalton, GA 30722

P 800 241 4586

jjflooring.com  
efcontractflooring.com

## QUOTE

Sales Rep: ELIZABETH CLARKE

**Submittal Date:** 7/26/23

**Proposal Valid Thru:** 8/25/23

**Information in the box below must be on PO**

**Contract:** TIPS USA

**Contract#:** 20110201

**Quote#:**

**Sold To:** KILLEEN CONVENTION CENTER

**Address:** 3601 S WS Young DR

**City:** Killeen

**State:** TX 76542

**Agreement Total:** \$263,392.05

**Contact:** Matt Irvine

**Phone:** 254-501-3888

**Email:** mirvine@killeentexas.gov

**Fax:**

**Ship To:** 211 East Riverside Drive

**City:** Austin

**State:** TX 78704

**Installer:** McCoy/Rockford Commercial Inte

**Contact:** Christi Wade

**Phone:** 512-416-4348

**Email:** cwade@mccoyrockford.com

**Fax:**

**Project:** 1176 Killeen Convention Center Corr

**Project Scope:** \*\*\*\*\*Install date needed before materials can ship\*\*\*\*\*

ALL WORK TO BE PERFORMED ON STANDARD HOURS

WORK INCLUDES MINOR FLOOR PREP

### Mill Supplied Products

Style	Color	Size	Back	Qty	Price	UOM	Amount
1821 ANALOG KIN	1547 ASSIMILA	24X24	KX	22680.00	\$3.25	SF	\$73,710.00
A3734 KINETEX PR	PREM PREMIUM	GAL4	II	71.00	\$110.05	EA	\$7,813.55
1822 ANALOG MON	1555 EQUIVALE	24X24	KX	17208.00	\$3.25	SF	\$55,926.00
1822 ANALOG MON	1552 CORRELAT	24X24	KX	5544.00	\$3.25	SF	\$18,018.00
**TOTAL MATERIAL							\$155,467.55

INSTALLER PROVIDED GOODS AND SERVICES				
	Qty	UOM	Price	Amount
Install Carpet Tile & Kinetex - Direct Glue Down	5048.00	SY	\$8.44	\$42,605.12
Demo/Remove Existing Carpet Tile	5048.00	SY	\$3.63	\$18,324.24
Carpet Disposal - Does not include recycling fees	5048.00	SY	\$2.13	\$10,752.24
Minor Floor Prep (Materials & Labor)	43150.00	SF	\$.63	\$27,184.50
Supply & Install 4" Cove Base - Full Boxes (120 LF)	1680.00	LF	\$3.13	\$5,258.40
<b>**TOTAL INSTALLER PROVIDED PRODUCTS &amp; SERVICES</b>				<b>\$104,124.50</b>
Southern Reins				\$3,800.00
Total Miscellaneous Charges				\$3,800.00
<b>**TOTAL AGREEMENT AMOUNT</b>				<b>\$263,392.05</b>

For quotes that include installation services, the industry standard minimum floor prep is included.  
 All other prep will be quoted on a per job basis.  
 Unless otherwise specified in the estimate, recycling and disposal are not included.

**THIS AGREEMENT IS SUBJECT TO THE TERMS AND PROVISIONS AS NEGOTIATED WITH THE END USER AND ON FILE WITH ENGINEERED FLOORS.**

Please sign and return quote along with your PO to [contract.team@engineeredfloors.com](mailto:contract.team@engineeredfloors.com)

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

TITLE \_\_\_\_\_



**Contract Verification**

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

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

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

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

	McCoy Rockford Commercial Interiors
Signature	Company Name
Elizabeth L Greenman	Executive VP Floor Covering
Printed Name	Title
10.20.23	
Date	

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

### OFFICE USE ONLY CERTIFICATION OF FILING

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

McCoy Rockford  
Austin, TX United States

Certificate Number:  
2023-1085738

Date Filed:  
10/20/2023

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

City of Killeen

Date Acknowledged:

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

TMP-23-491  
Floor covering for convention center

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	City of Killeen	Killeen, TX United States	X	

5 Check only if there is NO Interested Party.

### 6 UNSWORN DECLARATION

My name is Elizabeth L Greenman, and my date of birth is 07-05-1966.

My address is 211 E Riverside Dr, Austin, Tx, 78704, US.  
(street) (city) (state) (zip code) (country)

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

Executed in Travis County, State of Texas, on the 20 day of Oct, 2023.  
(month) (year)

Elizabeth Greenman  
Signature of authorized agent of contracting business entity  
(Declarant)



# KCCC CARPET REPLACEMENT

RS-23-198

December 5 , 2023

# Background

2

- The carpet currently installed at the Killeen Civic and Conference Center (KCCC) is not rated for high traffic impact. After only 8 years, the carpet is showing excessive stains, wear and tear across the entire facility. Stains are embedded and do not come out, even with professional steaming.
- Flooring needs to be replaced to bring the building up to the standards required by the type of customers we currently attract, and we anticipate attracting.
- The current carpeting is becoming a safety issue with several pulls and tears occurring.

# Background (cont'd)

3

- On July 3, 2023, KCCC received one quote from a vendor on TIPS in the amount of \$263,392.05 and another quote in the amount of \$361,994.69.
- The higher quote was from a vendor not affiliated with TIPS-USA. Additionally, the price difference between the quotes was \$98,602.64.
- Due to the significant price difference, KCCC staff decided to move forward with McCoy Rockford and reseller of J&J and EF Contract Engineered Floor LLC.

# TIPS Contract

4

- ❑ McCoy Rockford and reseller of J&J and EF Contract Engineered Floor LLC conforms to city policy based on their TIPS Contract. The purchase will utilize TIPS cooperative contract #20110201.
- ❑ Purchases made through a cooperative contract are exempt from the competitive bidding process as stated in the Texas Local Government Code (TLGC) section 271.102.

# Kinetex Advanced Flooring

5

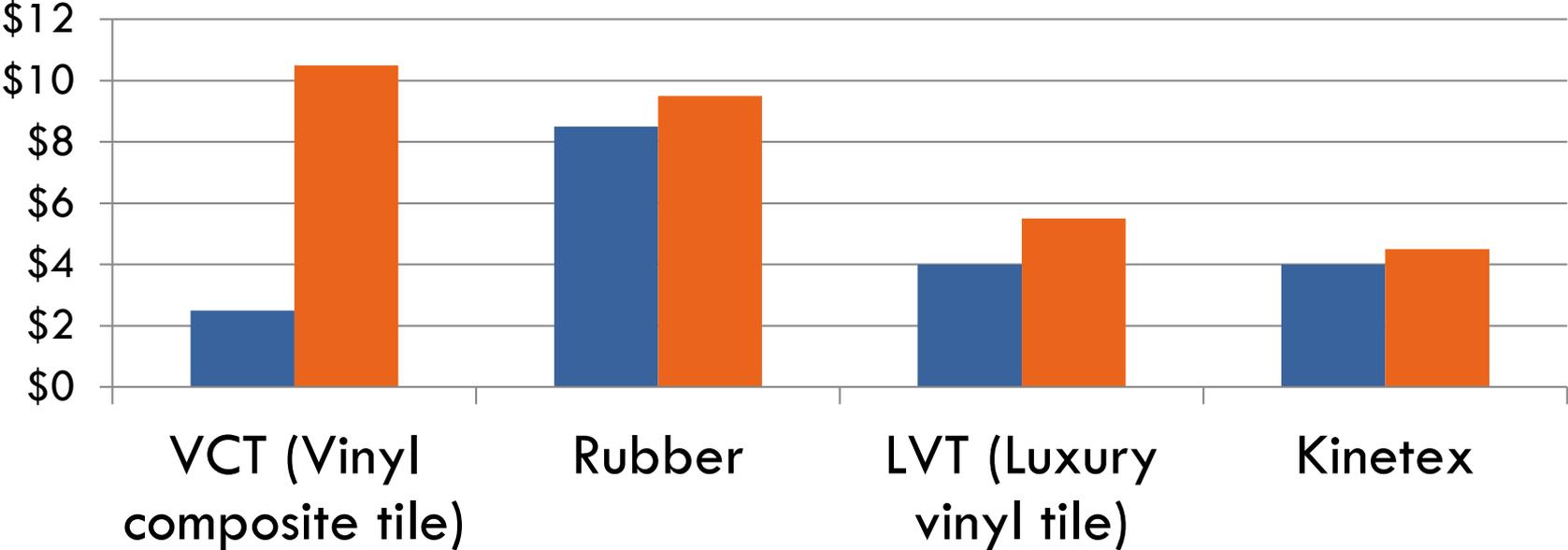
- Kinetex is an advanced textile composite flooring that combines key attributes of soft-surface floor covering with the long-wearing performance.
- Durability: The reference service life (RSL) of Kinetex carpet tile is assumed to be 15 years. Given the RSL of the products under consideration, 4 replacements of the product are required to cover the Estimated service life (ESL) of the KCCC which is 75 years.
- Health: Kinetex minimizes air particulates that trigger allergies and cause infection.

# Kinetex Advanced Flooring (cont'd)

6

- ❑ Maintenance: Stain resistant and easily sanitized, so cleaning is fast and affordable.
- ❑ Safety: Kinetex is the only wall-to-wall textile floor covering certified as High-Traction by the National Floor Safety Institute. It creates one of the most slip-resistant flooring surfaces ever tested— wet or dry—to prevent falls before they happen.
- ❑ Sustainability: Contains 45% post consumer content. Each tile contains about 27 plastic water bottles.

# Life Cycle Cost



■ Installation & Materials cost/ sq.ft ■ 10 Years maintenance cost/sq.ft.



Plaque including  
Customer and installation in this image may not be actual  
product. Please refer to product literature for details.

Analog 1821 Assimilate 1547  
Analog Mono 1857 Correlate 1557  
Analog Mono 1822 Equivalent 1555

**J+J** FLOORING  
A DIVISION OF BAKERSFIELD BATH

8

## Style, Color, Installation

2 different styles: Analog & Analog Mono

3 different colors each tile are quarter turns

# Killeen Civic Center Phasing Plan (cont'd)

9

- ❑ Phase 1 A&B – January 29-February 2
  - Ballroom A&B, Yellow Rose (1 & 2), & hallway.
- ❑ Phase 2 – February 17-23
  - Ballroom C
- ❑ Phase 3 – March 4-8
  - Chisholm Trail (3,4), Longhorn (5,6), & hallway.
- ❑ Phase 4 – March 11-15
  - Lone Star Room (Special Events Room)

# Killeen Civic Center Phasing Plan

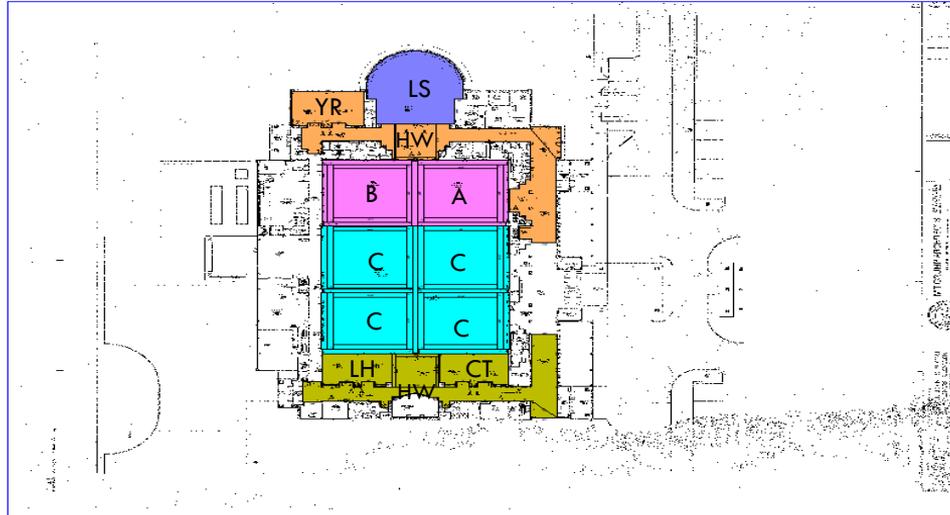
## KILLEEN CONVENTION CENTER - PHASING

20 November 2023 : Killeen Convention Center-PHASING

Summary Report

- PHASE 1 A - JANUARY 29-FEBRUARY 2
- PHASE 1 B - JANUARY 29-FEBRUARY 2
- PHASE 2 - FEBRUARY 17-23
- PHASE 3 - MARCH 4-8
- PHASE 4 - MARCH 11-15

Scale 1:1110 (original drawing scale 1:192)



# Alternatives

11

- ❑ Do not approve the purchase of new carpeting.
- ❑ Approve the purchase of replacement carpet from another vendor.
- ❑ Approve the purchase of new carpet from McCoy Rockford and reseller of J&J and EF Contract Engineered Floor LLC, in the amount of \$263,392.05.

# Recommendation

12

Staff recommends awarding the purchase of new carpeting to McCoy Rockford and reseller of J&J and EF Contract Engineered Floor LLC in the amount of \$263,392.05.



# City of Killeen

## Staff Report

File Number: RS-23-199

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution accepting the FY 2023 BJA Edward Byrne Memorial Justice Assistance Grant (Jag Grant) and approving an Interlocal Agreement with the City of Temple and Bell County.

**DATE:** December 5, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Pedro Lopez, Chief of Police

**SUBJECT:** 2023 JAG Grant Acceptance and Interlocal Agreement

**BACKGROUND AND FINDINGS:**

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program continues to provide agencies with the flexibility to prioritize and place justice funds where they are needed most. The program award is allocated through an Interlocal agreement between Bell County, City of Killeen, and the City of Temple. The program provides single funding to grantees with no requirement for matching or local funds. Funds granted under the JAG have a four-year window for expenditure. All entities must agree to the reallocated amounts of the funds to receive the grant award.

The 2023 JAG grant funding is \$92,057. An agreement has been made to distribute the program award as follows: City of Killeen \$46,489, City of Temple \$20,713, and Bell County \$24,855.

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

**THE ALTERNATIVES CONSIDERED:**

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

**Which alternative is recommended? Why?**

Staff recommends accepting the grant and entering into the interlocal agreement.

**CONFORMITY TO CITY POLICY:**

Conforms to City Policy

**FINANCIAL IMPACT:**

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

The City of Killeen's revenue will be recorded in account 207-0000-332.01-01 JAG Grant. The city will administer the other entities' funds through account 207-6000-441.55-62. The funds must be expended by September 30, 2026. There are no matching funds required from the recipients.

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

This is a one-time expenditure.

**Is this expenditure budgeted?**

Yes, funds are available in the Law Enforcement Grant Fund in accounts 207-6000-441.50-20 and 207-6000-441.55-62.

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

N/A

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

Yes

**RECOMMENDATION:**

Staff recommends that City Council approve the acceptance of the 2023 Edward Byrne Memorial Justice Assistant Grant through the Killeen Police Department on behalf of all parties involved; the City Manager or his designee to sign the Interlocal agreement; and permit the Killeen Police Department to allocate and administer the duties required by the grant, under the oversight of the City's Grant Administrator.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Grant  
Interlocal Agreement  
Presentation





# Department of Justice (DOJ)

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

<b>Name and Address of Recipient:</b>		CITY OF KILLEEN PO BOX 1329	
<b>City, State and Zip:</b>		KILLEEN, TX 76541	
<b>Recipient UEI:</b>		LKV2KLTN9M48	
<b>Project Title:</b> The City of Killeen is setting up a Real Time Crime Center. The City of Temple will purchase Automated External Defibrillators. Bell County will purchase toughbooks.		<b>Award Number:</b> 15PBJA-23-GG-03837-JAGX	
<b>Solicitation Title:</b> BJA FY 23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation			
<b>Federal Award Amount:</b> \$92,057.00		<b>Federal Award Date:</b> 9/22/23	
<b>Awarding Agency:</b>		Office of Justice Programs Bureau of Justice Assistance	
<b>Funding Instrument Type:</b>		Grant	
<b>Opportunity Category:</b> D			
<b>Assistance Listing:</b> 16.738 - Edward Byrne Memorial Justice Assistance Grant Program			
<b>Project Period Start Date:</b> 10/1/22		<b>Project Period End Date:</b> 9/30/26	
<b>Budget Period Start Date:</b> 10/1/22		<b>Budget Period End Date:</b> 9/30/26	
<b>Project Description:</b> The City of Killeen will use JAG funds for technological advancements and facility upgrades to establish a state-of-the-art Real Time Crime Center (RTCC) The technology allocation will encompass the acquisition and implementation of software and hardware systems, including surveillance enhancements, AI-driven analytics tools, communication platforms, and cybersecurity measures. The City of Temple will use JAG funds to purchase Automated External Defibrillators (AEDs). The Bell County Sheriff's Department will use JAG funds to purchase equipment that will benefit the agency's ability to effectively manage CAD and other software from the interior of in patrol vehicles.			

## Award Letter

September 22, 2023

Dear Kent Cagle,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by CITY OF KILLEEN for an award under the funding opportunity entitled 2023 BJA FY 23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation. The approved award amount is \$92,057.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

Maureen Henneberg  
Deputy Assistant Attorney General  
**Office for Civil Rights Notice for All Recipients**

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria.

These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEO requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at [askOCR@ojp.usdoj.gov](mailto:askOCR@ojp.usdoj.gov).

## **Memorandum Regarding NEPA**

### **NEPA Letter Type**

OJP - Ongoing NEPA Compliance Incorporated into Further Developmental Stages

### **NEPA Letter**

The Edward Byrne Memorial Justice Assistance Grant Program (JAG) allows states and local governments to support a broad range of activities to prevent and control crime and to improve the criminal justice system, some of which could have environmental impacts. All recipients of JAG funding must assist BJA in complying with NEPA and other related federal environmental impact analyses requirements in the use of grant funds, whether the funds are used directly by the grantee or by a subgrantee or third party. Accordingly, prior to obligating funds for any of the specified activities, the grantee must first determine if any of the specified activities will be funded by the grant.

?

The specified activities requiring environmental analysis are:

- a. New construction;
- b. Any renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

Complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. Further, for programs relating to methamphetamine laboratory operations, the preparation of a detailed Mitigation Plan will be required. For more information about Mitigation Plan requirements, please see <https://www.bja.gov/Funding/nepa.html>.

### **NEPA Coordinator**

**First Name**

Orbin

**Middle Name****Last Name**

Terry

**Award Information**

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

**Recipient Information****Recipient Name**

CITY OF KILLEEN

**UEI**

LKV2KLTN9M48

**Street 1**

PO BOX 1329

**Street 2****City**

KILLEEN

**State/U.S. Territory**

Texas

**Zip/Postal Code**

76541

**Country**

United States

**County/Parish****Province****Award Details****Federal Award Date**

9/22/23

**Award Type**

Initial

**Award Number**

15PBJA-23-GG-03837-JAGX

**Supplement Number**

00

**Federal Award Amount**

\$92,057.00

**Funding Instrument Type**

Grant

**Assistance Listing  
Number****Assistance Listings Program Title**

16.738

Edward Byrne Memorial Justice Assistance Grant Program

**Statutory Authority**

Title I of Public Law 90-351 (generally codified at 34 U.S.C. 10101-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151-10158); see also 28 U.S.C. 530C(a)

[X]

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

### Solicitation Title

2023 BJA FY 23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program - Local Solicitation

### Awarding Agency

OJP

### Program Office

BJA

### Application Number

GRANT13963252

### Grant Manager Name

Meredith Healey

### Phone Number

[202-445-9753](tel:202-445-9753)

### E-mail Address

Meredith.Healey@usdoj.gov

### Project Title

The City of Killeen is setting up a Real Time Crime Center. The City of Temple will purchase Automated External Defibrillators. Bell County will purchase toughbooks.

### Performance Period Start

#### Date

10/01/2022

### Performance Period End Date

09/30/2026

### Budget Period Start Date

10/01/2022

### Budget Period End Date

09/30/2026

### Project Description

The City of Killeen will use JAG funds for technological advancements and facility upgrades to establish a state-of-the-art Real Time Crime Center (RTCC) The technology allocation will encompass the acquisition and implementation of software and hardware systems, including surveillance enhancements, AI-driven analytics tools, communication platforms, and cybersecurity measures. The City of Temple will use JAG funds to purchase Automated External Defibrillators (AEDs). The Bell County Sheriff's Department will use JAG funds to purchase equipment that will benefit the agency's ability to effectively manage CAD and other software from the interior of in patrol vehicles.

[X]

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

[X]

*I have read and understand the information presented in this section of the Federal Award Instrument.*

## Award Conditions

**This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.**

1

Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards

Consistent with Executive Order 14074, "Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety," OJP has prohibited the use of federal funds under this award for purchases or transfers of specified equipment by law enforcement agencies. In addition, OJP requires the recipient, and any subrecipient ("subgrantee") at any tier, to put in place specified controls prior to using federal funds under this award to acquire or transfer any property identified on the "controlled equipment" list. The details of the requirement are posted on the OJP web site at <https://www.ojp.gov/funding/explore/prohibited-and-controlled-equipment> (Award condition: Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards), and are incorporated by reference here.

2

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

3

Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

4

Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2022 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2022 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2022 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee")) at

any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

## 5

Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

## 6

Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

## 7

Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

## 8

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2022)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2022, are set out at <https://www.ojp.gov/funding/Explore/FY22AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

## 9

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

## 10

### Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

## 11

### Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" ([ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm](http://ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm)), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

## 12

### Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

## 13

### Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

## 14

### Employment eligibility verification for hiring under the award

#### 1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

#### 2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

#### 3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

#### 4. Rules of construction

##### A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

##### B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify ([www.e-verify.gov](http://www.e-verify.gov)), provided an appropriate

person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at [E-Verify@dhs.gov](mailto:E-Verify@dhs.gov). E-Verify employer agents can email E-Verify at [E-VerifyEmployerAgent@dhs.gov](mailto:E-VerifyEmployerAgent@dhs.gov).

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

## 15

### OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://www.ojp.gov/funding/implement/training-guiding-principles-grantees-and-subgrantees>.

## 16

### Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

## 17

### Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

## 18

### Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after October 15, 2020, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period

of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after October 15, 2020, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://onlinegfmt.training.ojp.gov/>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

## 19

### Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

## 20

### Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

## 21

### Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

## 22

### Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at [OJP.ComplianceReporting@ojp.usdoj.gov](mailto:OJP.ComplianceReporting@ojp.usdoj.gov). For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

## 23

### Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

## 24

### All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/funding/Explore/SubawardAuthorization.htm> (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

## 25

Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.

## 26

Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

## 27

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

## 28

Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

## 29

### Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

## 30

### Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

## 31

### Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

## 32

### Avoidance of duplication of networks

To avoid duplicating existing networks or IT systems in any initiatives funded by BJA for law enforcement information sharing systems which involve interstate connectivity between jurisdictions, such systems shall employ, to the extent possible, existing networks as the communication backbone to achieve interstate connectivity, unless the recipient can demonstrate to the satisfaction of BJA that this requirement would not be cost effective or would impair the functionality of an existing or proposed IT system.

### 33

#### Law enforcement task forces - required training

Within 120 days of award acceptance, each current member of a law enforcement task force funded with award funds who is a task force commander, agency executive, task force officer, or other task force member of equivalent rank, must complete required online (internet-based) task force training. Additionally, all future task force members must complete this training once during the period of performance for this award, or once every four years if multiple OJP awards include this requirement.

The required training is available free of charge online through the BJA-funded Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)). The training addresses task force effectiveness, as well as other key issues including privacy and civil liberties/rights, task force performance measurement, personnel selection, and task force oversight and accountability. If award funds are used to support a task force, the recipient must compile and maintain a task force personnel roster, along with course completion certificates.

Additional information regarding the training is available through BJA's web site and the Center for Task Force Integrity and Leadership ([www.ctfli.org](http://www.ctfli.org)).

### 34

#### Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

### 35

Any written, visual, or audio publications funded in whole or in part under this award, with the exception of press releases, shall contain the following statements: "This project was supported by Grant No. <AWARD\_NUMBER> awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities.

### 36

Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

### 37

#### Verification and updating of recipient contact information

The recipient must verify its Grant Award Administrator, Financial Manager, and Authorized Representative contact information in JustGrants, including telephone number and e-mail address. If any information is incorrect or has changed, the award recipient's Entity Administrator must make changes to contact information through DIAMD. Instructions on how to update contact information in JustGrants can be found at <https://justicegrants.usdoj.gov/training/training-entity-management>.

## 38

### Compliance with National Environmental Policy Act and related statutes

Upon request, the recipient (and any subrecipient at any tier) must assist BJA in complying with the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements in the use of these award funds, either directly by the recipient or by a subrecipient. Accordingly, the recipient agrees to first determine if any of the following activities will be funded by the grant, prior to obligating funds for any of these purposes. If it is determined that any of the following activities will be funded by the award, the recipient agrees to contact BJA.

The recipient understands that this condition applies to new activities as set out below, whether or not they are being specifically funded with these award funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party, and the activity needs to be undertaken in order to use these award funds, this condition must first be met. The activities covered by this condition are:

- a. New construction;
- b. Minor renovation or remodeling of a property located in an environmentally or historically sensitive area, including properties located within a 100-year flood plain, a wetland, or habitat for endangered species, or a property listed on or eligible for listing on the National Register of Historic Places;
- c. A renovation, lease, or any proposed use of a building or facility that will either (a) result in a change in its basic prior use or (b) significantly change its size;
- d. Implementation of a new program involving the use of chemicals other than chemicals that are (a) purchased as an incidental component of a funded activity and (b) traditionally used, for example, in office, household, recreational, or education environments; and
- e. Implementation of a program relating to clandestine methamphetamine laboratory operations, including the identification, seizure, or closure of clandestine methamphetamine laboratories.

The recipient understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or an Environmental Impact Statement, as directed by BJA. The recipient further understands and agrees to the requirements for implementation of a Mitigation Plan, as detailed at <https://bja.gov/Funding/nepa.html>, for programs relating to methamphetamine laboratory operations.

Application of This Condition to Recipient's Existing Programs or Activities: For any of the recipient's or its subrecipients' existing programs or activities that will be funded by these award funds, the recipient, upon specific request from BJA, agrees to cooperate with BJA in any preparation by BJA of a national or program environmental assessment of that funded program or activity.

## 39

Recipients utilizing award funds for forensic genealogy testing must adhere to the United States Department of Justice Interim Policy Forensic Genealogical DNA Analysis and Searching (<https://www.justice.gov/olp/page/file/1204386/download>), and must collect and report the metrics identified in Section IX of that document to BJA.

## 40

### Establishment of trust fund

If award funds are being drawn down in advance, the recipient (or a subrecipient, with respect to a subaward) is required to establish a trust fund account. Recipients (and subrecipients) must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 C.F.R. 200.305(b)(8)). The trust fund, including any interest, may not be used to pay debts or expenses incurred by other activities beyond the scope of the Edward Byrne Memorial Justice Assistance Grant Program (JAG). The recipient also agrees to obligate the award funds in the trust fund (including any interest earned) during the period of performance for the award and expend within 90 days thereafter. Any unobligated or unexpended funds, including interest earned, must be returned to OJP at the

time of closeout.

## 41

All State and Local JAG recipients must submit quarterly Federal Financial Reports (SF-425). Additionally, State JAG and Local JAG Category Two (\$25K or more) must submit semi-annual performance reports through JustGrants and Local JAG Category One (Less than \$25K) must submit annual performance reports through JustGrants. Consistent with the Department's responsibilities under the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, the recipient must provide data that measure the results of its work. The recipient must submit quarterly performance metrics reports through BJA's Performance Measurement Tool (PMT) website: <https://bjapmt.ojp.gov/>. For more detailed information on reporting and other JAG requirements, refer to the JAG reporting requirements webpage (<https://bjapmt.ojp.gov/help/jagdocs.html>). Failure to submit required JAG reports by established deadlines may result in the freezing of grant funds and future High Risk designation.

## 42

Required data on law enforcement agency training

Any law enforcement agency receiving direct or sub-awarded funding from this JAG award must submit quarterly accountability metrics data related to training that officers have received on the use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.

## 43

Authorization to obligate (federal) award funds to reimburse certain project costs incurred on or after October 1, 2022

The recipient may obligate (federal) award funds only after the recipient makes a valid acceptance of the award. As of the first day of the period of performance for the award (October 1, 2022), however, the recipient may choose to incur project costs using non-federal funds, but any such project costs are incurred at the recipient's risk until, at a minimum - (1) the recipient makes a valid acceptance of the award, and (2) all applicable withholding conditions are removed by OJP (via an Award Condition Modification (ACM)). (A withholding condition is a condition in the award document that precludes the recipient from obligating, expending, or drawing down all or a portion of the award funds until the condition is removed.)

Except to the extent (if any) that an award condition expressly precludes reimbursement of project costs incurred "at-risk," if and when the recipient makes a valid acceptance of this award and OJP removes each applicable withholding condition through an Award Condition Modification (ACM), the recipient is authorized to obligate (federal) award funds to reimburse itself for project costs incurred "at-risk" earlier during the period of performance (such as project costs incurred prior to award acceptance or prior to removal of an applicable withholding condition), provided that those project costs otherwise are allowable costs under the award.

## 44

If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. With the exception of Forensic Genetic Genealogy, no profiles generated under this award may be entered or uploaded into any non-governmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

## 45

Submission of eligible records relevant to the National Instant Background Check System

Consonant with federal statutes that pertain to firearms and background checks -- including 18 U.S.C. 922 and 34 U.S.C. ch. 409 -- if the recipient (or any subrecipient at any tier) uses this award to fund (in whole or in part) a specific project or program (such as a law enforcement, prosecution, or court program) that results in any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the National Instant Background Check System (NICS), or that has as one of its purposes the establishment or improvement of records

systems that contain any court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS, the recipient (or subrecipient, if applicable) must ensure that all such court dispositions, information, or other records that are "eligible records" (under federal or State law) relevant to the NICS are promptly made available to the NICS or to the "State" repository/database that is electronically available to (and accessed by) the NICS, and -- when appropriate -- promptly must update, correct, modify, or remove such NICS-relevant "eligible records".

In the event of minor and transitory non-compliance, the recipient may submit evidence to demonstrate diligent monitoring of compliance with this condition (including subrecipient compliance). DOJ will give great weight to any such evidence in any express written determination regarding this condition.

## 46

Prohibition on use of award funds for match under BVP program

JAG funds may not be used as the 50% match for purposes of the DOJ Bulletproof Vest Partnership (BVP) program.

## 47

Certification of body armor "mandatory wear" policies, and compliance with NIJ standards

If recipient uses funds under this award to purchase body armor, the recipient must submit a signed certification that each law enforcement agency receiving body armor purchased with funds from this award has a written "mandatory wear" policy in effect. The recipient must keep signed certifications on file for any subrecipients planning to utilize funds from this award for ballistic-resistant and stab-resistant body armor purchases. This policy must be in place for at least all uniformed officers before any funds from this award may be used by an agency for body armor. There are no requirements regarding the nature of the policy other than it be a mandatory wear policy for all uniformed officers while on duty.

Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards, and is listed on the NIJ Compliant Body Armor Model List. In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information and the NIJ Compliant Body Armor List may be found by following the links located on the NIJ Body Armor page: <https://nij.ojp.gov/topics/equipment-and-technology/body-armor>

## 48

Extreme risk protection programs funded by JAG must include, at a minimum: pre-deprivation and post-deprivation due process rights that prevent any violation or infringement of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive or procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). Such programs must include, at the appropriate phase to prevent any violation of constitutional rights, at minimum, notice, the right to an in-person hearing, an unbiased adjudicator, the right to know opposing evidence, the right to present evidence, and the right to confront adverse witnesses; the right to be represented by counsel at no expense to the government; pre-deprivation and post-deprivation heightened evidentiary standards and proof which mean not less than the protections afforded to a similarly situated litigant in Federal court or promulgated by the State's evidentiary body, and sufficient to ensure the full protections of the Constitution of the United States, including but not limited to the Bill of Rights, and the substantive and procedural due process rights guaranteed under the Fifth and Fourteenth Amendments to the Constitution of the United States, as applied to the States, and as interpreted by State courts and United States courts (including the Supreme Court of the United States). The heightened evidentiary standards and proof under such programs must, at all appropriate phases to prevent any violation of any constitutional right, at minimum, prevent reliance upon evidence that is unsworn or unaffirmed, irrelevant, based on inadmissible hearsay, unreliable, vague, speculative, and lacking a foundation; and penalties for abuse of the program.

## 49

Expenditures prohibited without waiver

No funds under this award may be expended on the purchase of items prohibited by the JAG program statute, unless, as set forth at 34 U.S.C. 10152, the BJA Director certifies that extraordinary and exigent circumstances exist, making such expenditures essential to the maintenance of public safety and good order.

## 50

FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

## 51

Exceptions regarding Prohibited and Controlled Equipment under OJP awards

Notwithstanding any provision to the contrary in the other terms and conditions of this award, including in the condition regarding "Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards," the requirements for the "Transfer/Sale of Award-Funded Controlled Equipment to Other LEAs" and the requirements for the "Transfer/Sale of Award-Funded Controlled Equipment to NON-LEAs" do not apply to this award.

## 52

The recipient agrees that no funds under this grant award (including via subcontract or subaward, at any tier) may be used for unmanned aircraft systems (UAS), which includes unmanned aircraft vehicles (UAV), or for any accompanying accessories to support UAS.

## 53

Initial period of performance; requests for extension.

The recipient understands that for award amounts of less than \$25,000 under JAG (Category 1), the initial period of performance of the award is two years. The recipient further understands that any requests for an extension of the period of performance for an award of less than \$25,000 will be approved automatically for up to a total of two additional years, pursuant to 34 U.S.C. 10152(f) and in accordance with the program solicitation associated with this award.

Any request for an extension of the period of performance beyond a four-year award period will require approval, and the approval (if any) will be at the discretion of the Director of BJA.

## 54

Applicants must ensure that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at [www.lep.gov](http://www.lep.gov).

## 55

Cooperating with OJP Monitoring

The recipient agrees to cooperate with OJP monitoring of this award pursuant to OJP's guidelines, protocols, and procedures, and to cooperate with OJP (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to OJP all documentation necessary for OJP to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by OJP for providing the requested documents. Failure to cooperate with OJP's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

## 56

### Use of program income

Program income (as defined in the Part 200 Uniform Requirements) must be used in accordance with the provisions of the Part 200 Uniform Requirements. Program income earnings and expenditures both must be reported on the quarterly Federal Financial Report, SF 425.

## 57

### Compliance with 28 C.F.R. Part 23

With respect to any information technology system funded or supported by funds under this award, the recipient (and any subrecipient at any tier) must comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if OJP determines this regulation to be applicable. Should OJP determine 28 C.F.R. Part 23 to be applicable, OJP may, at its discretion, perform audits of the system, as per the regulation. Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 34 U.S.C. 10231(c)-(d). The recipient may not satisfy such a fine with federal funds.

## 58

### Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

## 59

### Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

## 60

The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

## 61

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

## 62

In accepting this award, the recipient agrees that grant funds cannot be used for Facial Recognition Technology (FRT) unless the recipient has policies and procedures in place to ensure that the FRT will be utilized in an appropriate and responsible manner that promotes public safety, and protects privacy, civil rights, and civil liberties and complies with all applicable provisions of the U.S. Constitution, including the Fourth Amendment's protection against unreasonable searches and seizures and the First Amendment's freedom of association and speech, as well as other laws and regulations. Recipients utilizing funds for FRT must make such policies and procedures available to DOJ upon request.

## 63

Withholding of funds for Required certification from the chief executive of the applicant government

The recipient may not expend or draw down any award funds until the recipient submits the required "Certifications and Assurances by the Chief Executive of the Applicant Government," properly-executed (as determined by OJP), and an Award Condition Modification has been issued to remove this condition.

## 64

Withholding of funds for Memorandum of Understanding

The recipient may not expend or draw down any award funds until OJP has reviewed and approved the Memorandum of Understanding (MOU), and an Award Condition Modification has been issued to remove this condition.

## 65

Withholding of funds for Budget narrative or information

The recipient may not expend or draw down any award funds until the recipient submits, and OJP reviews and accepts, the required budget information or narrative for the award, and an Award Condition Modification has been issued to remove this condition.

[X]

*I have read and understand the information presented in this section of the Federal Award Instrument.*

---

## Award Acceptance

### Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

- A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.
- B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.
- C. Accept this award on behalf of the applicant.
- D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either) may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§

10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

**Agency Approval**

<b>Title of Approving Official</b>	<b>Name of Approving Official</b>	<b>Signed Date And Time</b>
Deputy Assistant Attorney General	Maureen Henneberg	9/18/23 10:05 PM

**Authorized Representative**

Declaration and Certification

**Entity Acceptance**

**Title of Authorized Entity Official**  
City Manager

**Name of Authorized Entity Official**  
Kent Cagle

**Signed Date And Time**  
11/2/2023 2:48 PM



**THE STATE OF TEXAS**

**INTERLOCAL AGREEMENT**

**BETWEEN COUNTY OF BELL, CITY OF KILLEEN, AND CITY OF TEMPLE  
2023 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**

This Agreement is made and entered into this the day of July 2023, by and between **The County of Bell**, State of Texas, acting by and through its governing body, hereinafter referred to as **COUNTY**, and the **City of Killeen**, Texas, a municipal corporation, acting by and through its governing body, hereinafter referred to as **KILLEEN**, and the **City of Temple**, Texas, as municipal corporation, acting by and through its governing body, hereinafter referred to as **TEMPLE**.

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

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

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

**WHEREAS**, the Department of Justice has made a grant award of \$92,057 to be allocated by COUNTY, KILLEEN and TEMPLE; and

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

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

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

**Section 1.**

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

**Section 2.**

Unless otherwise terminated, the term of this agreement shall begin on the date JAG funds are issued, and shall continue in effect until all funds are expended, but in no event shall this agreement continue beyond forty eight (48) months after the project start date of October 1, 2022.

**Section 3.**

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

**Section 4.**

JAG has allocated \$92,057 to COUNTY, KILLEEN and TEMPLE. JAG has distributed the funds as follows:

- a. COUNTY will receive \$0
- b. KILLEEN will receive \$70,872
- c. TEMPLE will receive \$21,185

In order to provide COUNTY with a portion of the funding, KILLEEN agrees to reduce their original allocation. The adjusted anticipated \$82,851 award (reduced by administration fee of \$9,206 to Killeen) will be allocated per agreement to COUNTY, KILLEEN and TEMPLE as follows:

- a. COUNTY will receive \$27,617 or 30% (less 2,762) = \$24,855
- b. KILLEEN will receive \$41,426 or 45% (plus \$2,762 and \$2,301) = \$46,489 and
- c. TEMPLE will receive \$23,014 or 25% (less \$2,301) = \$20,713.

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

**Section 5.**

Pursuant to the terms of the grant, the parties agree to expend \$92,057 from the 2023 Byrne Justice Assistance Grant Program by a date not than later forty eight (48) months after the project start date of October 1, 2022.

**Section 6.**

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

### **Section 7.**

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

**To COUNTY at:**                    **Bell County Sheriff's Department**  
   **101 E. Central Avenue**  
   **Belton, TX 76513**  
   **Email: [David.blackburn@bellcounty.texas.gov](mailto:David.blackburn@bellcounty.texas.gov)**

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

**To TEMPLE at:**                    **City of Temple**  
   **2 North Main Street**  
   **Temple, TX 76501**  
   **Email: [bmvers@templetx.gov](mailto:bmvers@templetx.gov)**

### **Section 8.**

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

### **Section 9.**

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

### **Section 10.**

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

**Section 11.**

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

**Section 12.**

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

**Section 13.**

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

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

City of Killeen, Texas

City of Temple, Texas

County of Bell, Texas

\_\_\_\_\_  
City Manager  
Kent Cagle

\_\_\_\_\_  
City Manager  
Brynn Myers

\_\_\_\_\_  
County Judge  
David Blackburn

ATTEST:

ATTEST:

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
City Secretary

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Attorney

A stylized graphic consisting of a grey star at the top right, with a curved grey path leading from the bottom left towards the star. The path is composed of several overlapping, slightly offset grey bands, creating a sense of movement and direction.

# 2023 JAG GRANT ACCEPTANCE

RS-23-199

December 5, 2023

# 2023 JAG Grant Acceptance

2

- The Killeen Police Department has applied for and been awarded the 2023 Edward Byrne Memorial Justice Assistance Grant (JAG).
- Each year, the City of Killeen enters into an Interlocal Agreement with Bell County and the City of Temple to share the funds.
- There are no matching funds requirements for this grant.

# Funding

3

- ❑ Total Jag Award: \$92,057
  - ❑ City of Killeen: \$46,489
  - ❑ City of Temple: \$20,713
  - ❑ County of Bell: \$24,855
  
- ❑ Under the terms of the agreement, the COK is responsible for the administration of the funds including distributing the funds, monitoring the award, submitting performance reports and assessment data, and providing ongoing assistance to sub recipients of the funds.
  
- ❑ KPD will utilize these funds toward the purchase of software for a Real Time Crime Center.

# Alternatives

4

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

# Recommendation

5

- Staff recommends that City Council approve the acceptance of the 2023 Edward Byrne Memorial Justice Assistant Grant through the Killeen Police Department on behalf of all parties involved; the City Manager or his designee to sign the Interlocal agreement; and to permit the Killeen Police Department to allocate and administer the duties required by the grant, under the oversight of the City's Finance Department.



# City of Killeen

## Staff Report

File Number: RS-23-200

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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Consider a memorandum/resolution authorizing the expenditure of JAG Grant Funds to purchase Fusus Enterprise Package software from Fusus, Inc. in an amount of \$125,000 per year for five years.

**DATE:** December 5, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Pedro Lopez, Chief of Police

**SUBJECT:** Purchase of Fusus Enterprise Software

**BACKGROUND AND FINDINGS:**

The Killeen Police Department seeks to implement a Real Time Crime Center (RTCC). The mission of a RTCC is to provide a law enforcement agency with the ability to capitalize on a wide and expanding range of technologies for efficient and effective policing. The technologies available allow law enforcement agencies and officers to respond to crime events more efficiently, more deliberately, with improved operational intelligence, and with a proactive emphasis on officer, citizen, and community safety.

The RTCC requires a software backbone to combine multiple intelligence sources into a usable interface. The Police Department has selected the Fusus Enterprise Package offered by Fusus, Inc. as the most comprehensive platform that provides usability, scalability and value. It will provide a video and data collaboration platform to expedite intelligence gathering and efficiency of response to situations as they unfold and will provide connectivity between multiple intelligence sources.

The department seeks to enter into a contract with Fusus, Inc. for the Fusus Enterprise Package. Cost of the Fusus Enterprise Package is \$125,000 per year for five years. Total contract price is \$625,000, which includes discounts of \$25,000 per year and \$44,000 for the hardware appliances. The department will utilize Edward Byrne Memorial JAG funds from 2021 (\$38,912), 2022 (\$38,932) and 2023 (\$46,489) plus \$667.00 in budgeted funds for year one. The department will budget for years two through five. Fusus software is proprietary and covered by multiple patents. As such, it is available as a sole-source expenditure.

**THE ALTERNATIVES CONSIDERED:**

1. Disapprove and abandon the RTCC project.

2. Continue to research alternative solutions.
3. Enter into the software contract as presented.

**Which alternative is recommended? Why?**

Option 3 to enter into the contract with Fusus, Inc. as recommended. The Fusus software provides the most comprehensive set of features and value sought by the department.

**CONFORMITY TO CITY POLICY:**

Conforms to city policy.

**FINANCIAL IMPACT:**

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

The FY 2024 expenditure is \$125,000. The contract includes an additional four years at a cost of \$125,000 per year. Future years funding would be included in future budgets.

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

Recurring

**Is this expenditure budgeted?**

Yes, funds are available for year one of the contract in the Law Enforcement Grant Fund for \$124,333 in JAG grant funds in account 207-6000-441.61-40 and \$667 is available in the General Fund Police Department account 010-6050-441.61-40.

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

N/A

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

Yes

**RECOMMENDATION:**

City staff recommends that the City Manager or his designee be authorized to execute the contract with Fusus, Inc. as presented utilizing JAG grant and budgeted funds in the amount of \$125,000 and authorize the department to budget for the following four years in the amount of \$125,000 each year.

**DEPARTMENTAL CLEARANCES:**

Information Technology  
Purchasing

Finance

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Agreement

Certificate of Interested Parties

Presentation



September 29, 2023

Chief Pedro Lopez  
Killeen Police Department  
3304 Community Blvd  
Killeen, TX 76542

Subject: Service Agreement Proposal

Dear Chief Lopez,

Fusus is honored that the Killeen Police Department is considering our organization to support its community safety initiatives by providing a platform to view public and community video sources for incident situational awareness and investigations.

Fusus will provide a video and data collaboration platform to expedite intelligence gathering and efficiency of response to situations as they unfold throughout the community. Further, the platform is tied to a community-facing website portal for video camera registry, providing a tool for identifying the location of cameras in proximity to incidents, as well as a means for efficient outreach to collect recorded video and image files from camera owners both public and private.

This Service Agreement Proposal and related software subscription will become effective upon signing and continue for sixty (60) months.

1. Initial Scope of Work: The following fusus Enterprise Package software and associated hardware will be delivered and installed as part of this agreement.
  - a. fususONE<sup>™</sup>: Initial setup, access and training of users to include up to 1,500 data points and 1,500 public/private video feeds
  - b. fususCORE<sup>™</sup>: Installation and setup of:
    - i. Twenty (20) fususCORE Pro<sup>™</sup> Appliances
    - ii. Four (4) fususCORE Elite AI<sup>™</sup> Appliances
    - iii. Two (2) fususCORE Pro AI<sup>™</sup> Appliances
    - iv. Two (2) fususCORE Elite<sup>™</sup> Appliances
  - c. fususREGISTRY<sup>™</sup>: Creation of a custom website portal for community members to register privately owned cameras
  - d. fususVAULT<sup>™</sup>: Implementation of a CJIS compliant evidence vault for the storage of up to 10TB of videos and still images captured via the fususONE<sup>™</sup> platform
  - e. fususOPS<sup>™</sup>: Implementation of the Fusus smart-phone app which provides viewing of live camera feeds and setting up and transmitting the location of teams for special events and critical incident management
  - f. fususTIPS<sup>™</sup>: Implementation of the Fusus SMS service that provides text communications of pictures, audio and video directly into fususVault<sup>™</sup>
  - g. fususNOTIFY<sup>™</sup>: Implementation of the Fusus SMS text service that provides text notifications to community members
  - h. fususAlert<sup>™</sup>: Implementation of the Fusus iOS/Android application which provides panic alerting to fususONE<sup>™</sup> along with geolocation of persons in distress and automatic docking of nearby camera assets in the fususONE<sup>™</sup> platform
  - i. fususANALYTICS<sup>™</sup>: Implementation of the Fusus crime and incident heat mapping and analysis platform

- j. **fūsusCONNECT Call-Out:** Three (3) months fūsus call-out to businesses within the jurisdiction to assist with camera registration and integration
- k. **fūsusCONNECT Microsite:** Development of an agency specific website landing page to assist with building camera registration and integration of community video assets
- l. **fūsusINCIDENT™:** Implementation of the Fūsus Situational Awareness system for bi-directional telestration, icon marking, floorplan room clearing, planning, and resource staging from Emergency Operation Center workstations and mobile field-based users on laptops and iOS/Android mobile devices
- m. **fūsusLIVELINK™:** Provision of Fūsus live link system which allows 911 callers to initiate a camera stream in the event of an emergency to the Department, along with a one-to-many methodology for secure and encrypted responder-group sharing during an emergency
- n. **fūsusOVERWATCH:** Allows users the ability to track vehicles and people from one camera to another
- o. Remote Configuration of fūsus Core(s)
- p. Integration of all current and future video feeds
- q. Integration of Computer Aided Dispatch, AVL, drone feeds, covert cameras, and license plate readers as required

Note: fūsus™ will provide continuing data and IoT integrations at no additional charge for the life of the agreement

## 2. Payment and Subscription Terms:

a. <b>Payment 1:</b> Due Upon Contract Signing	<b>\$125,000</b>
b. <b>Payment 2:</b> Due Upon 1 <sup>st</sup> Anniversary of Contract Signing	<b>\$125,000</b>
c. <b>Payment 3:</b> Due Upon 2 <sup>nd</sup> Anniversary of Contract Signing	<b>\$125,000</b>
d. <b>Payment 4:</b> Due Upon 3 <sup>rd</sup> Anniversary of Contract Signing	<b>\$125,000</b>
e. <b>Payment 5:</b> Due Upon 4 <sup>th</sup> Anniversary of Contract Signing	<b>\$125,000</b>

Note: As an incentive, the Killeen Police Department is being offered the Enterprise Package at \$125K annually (5 years), a discount of \$25,000 annually provided this agreement is executed and returned to Fūsus by the close of business December 15, 2023.

Invoices for payments 2 through 5 will be sent 60 days prior to their respective due dates.

Note: Additional fūsusCORE™ appliances and camera streams may be purchased for the following per unit price schedule.

a. CORE Lite:	\$200/each
b. CORE Lite Extended:	\$300/each
c. CORE Pro:	\$600/each
d. CORE Pro Extended:	\$1,000/each
e. CORE Elite:	\$4,000/each
f. CORE Elite AI:	\$5,000/each
g. Additional 500 Streams:	\$25,000 per year

3. Bill of Materials Included with the Service: As part of the annual subscription price, each system will include the following:
- a. fūsusONE™ SaaS
  - b. Unlimited video alerts, access, and video download
  - c. fūsusCORE™ warranty and technical support for the life of the agreement
  - d. Unlimited fūsusOPS Application for Android and iOS Devices

Subscription to fūsusONE™ includes all the following:

- a. Unlimited Users for Your Agency to fūsusONE™ – Real-Time Crime Center in the Cloud
- b. Unlimited Access for Your Agency to the fūsusONE™ Dashboard
- c. Floorplan Integration for designated locations in fūsusONE™
- d. Ongoing Integration Services with the CAD System
- e. Installation and Technical Phone Support
- f. Provide a Full Solution Warranty for the Life of the Agreement
- g. Live U.S.-Based Phone Technical Support for the Life of the Agreement

4. Technical Requirements:

- a. Camera live-sharing compatibility will be assessed for each location before CORE delivery.
- b. The customer will designate a primary POC for the deployment of the fūsus™ solution.
- c. Minimum network speed of .5 mb/s per viewed camera for live video sharing through the system.

5. Terms and Conditions:

The use of and access to fūsus™ products and services is subject to the fūsus™ Terms of Service found at <https://www.fusus.com/fusus-terms-of-service>.

The Termination for Convenience Clause Asserts that the customer may, at its sole discretion, terminate the agreement with 30 days of written notice to Fūsus. Services will be reimbursed on a pro-rated basis from the last day of the term through the agreement's remainder. The cost of any unreturned or unserviceable fūsusCORE(s), as listed above in Section 2, will be deducted from the refund.

We are privileged to work with you on this project. Should you have any questions at any time, please feel free to call (765) 237-1769 or email me at [jdw@fusus.com](mailto:jdw@fusus.com).

Respectfully,



John Watson  
Vice President of Sales

Approved (Signature): \_\_\_\_\_

By (Print Name/Title): \_\_\_\_\_ Date \_\_\_\_\_



# Killeen Police Department

**Killeen Police Department**

3304 Community Blvd  
 Killeen, TX 76542  
 United States

**Pedro Lopez**  
 plopez@killeentexas.gov  
 254-501-8800

Reference: 20230929-160859388  
 Quote created: September 29, 2023  
 Quote expires: December 15, 2023  
 Quote created by: Troy Gay  
 Public Safety Advisor  
 tgg@fusus.com

**Comments from Troy Gay**

**Products & Services**

Item & Description	Quantity	Unit Price	Total
Enterprise Package SaaS SaaS Subscription to Include 1,500 Data Points/Video Streams and 10 TBs of Cloud Storage	1	\$150,000.00 / year	\$125,000.00 / year after \$25,000.00 discount for 5 years
Core Pro Appliance	20	\$600.00	\$0.00 after \$12,000.00 discount
Core Pro AI Appliance	2	\$2,000.00	\$0.00 after \$4,000.00 discount
Core Elite Appliance	2	\$4,000.00	\$0.00 after \$8,000.00 discount
Core Elite AI Appliance	4	\$5,000.00	\$0.00 after \$20,000.00 discount

Annual subtotal	\$125,000.00
	after \$25,000.00 discount
<hr/>	
One-time subtotal	\$0.00
	after \$44,000.00 discount
<hr/>	
<b>Total</b>	<b>\$125,000.00</b>

### Purchase terms

### Questions? Contact me



Troy Gay  
Public Safety Advisor  
tgg@fusus.com

Fusus, Inc.  
5550 Triangle Parkway  
Peachtree Corners, Georgia 30092  
United States of America

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

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

**OFFICE USE ONLY  
 CERTIFICATION OF FILING**

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**  
 Fusus, Inc.  
 Peachtree Corners, GA United States

**Certificate Number:**  
 2023-1093794

**Date Filed:**  
 11/13/2023

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

**Date Acknowledged:**

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**  
 2023-0929-160859388  
 RTC SaaS

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

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

**6 UNSWORN DECLARATION**

My name is Justin Kenney, and my date of birth is 02/27/1982.

My address is 5550 Triangle Pkwy, Suite 100, Peachtree Corners GA 30092 US  
(street) (city) (state) (zip code) (country)

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

Executed in Gwinnett County, State of GA, on the 13 day of November, 2023.  
(month) (year)

DocuSigned by:

*Justin Kenney*

Signature of authorized agent of contracting business entity (Declarant)



# REAL TIME CRIME CENTER SOFTWARE PACKAGE

RS-23-200

December 5, 2023

190

# Real Time Crime Center Justification

2

- In 2021, the Killeen Police Department began exploring the idea of establishing a Real Time Crime Center in Killeen.
  
- A Real-Time Crime Center (RTCC) in Killeen can offer numerous benefits and be a valuable tool for law enforcement and public safety. Here are some justifications for establishing a Real Time Crime Center in Killeen:
  - Enhanced Situational Awareness
  - Faster Emergency Response
  - Data Integration and Analysis
  - Crime Prediction and Analysis
  - Incident Documentation & Reporting
  - Collaboration & Information Sharing
  - Resource Optimization
  - Technology Integration
  - Community Engagement
  - Adaptability to Changing Threats

# Real Time Crime Center Physical Structure

- ❑ The RTCC will be housed at KPD Headquarters.
- ❑ The approximate building cost is estimated at \$ 200K - \$500K. The software subscription will cost \$125K per year.
- ❑ The City of Killeen Information Technology Department is aware of the project and technological requirements.
- ❑ RTCC will be staffed around the clock with two call-takers and one classified supervisor.



# Community Outreach

4

- ❑ KPD hosted several town hall meetings to educate the public and address privacy concerns.
- ❑ KPD also employed the use of a survey to solicit feedback on the creation and use of a Real Time Crime Center.
- ❑ Townhalls were held on 10/26/23, 11/9/23, 11/16/23.
- ❑ KPD also unveiled the concept of the Real Time Crime Center during the City Council Townhall on 10/20/23.

# Survey Results

5

- ❑ Sixteen citizens responded to the survey.
- ❑ When asked, “Do you think the implementation of Fusus technology could improve community safety?” 87.5% stated it would.
- ❑ 56% indicated they were not worried about potential privacy implications.
- ❑ Overall, positive comments about establishing a Real Time Crime Center were received.

# Respecting Privacy & Increasing Safety

- This program ensures that camera owners will always retain complete control over who can access their cameras and when.
- Building a collaborative security network will enable officers to understand unfolding situations better and only intervene when necessary and with appropriate use of force.
- Remote security monitoring and the ability to digitally send incident footage to the police department will reduce unnecessary contact between police officers and members of the public and help result in better public safety outcomes.
- The Community Connect program will increase physical safety for residents and businesses, reduce expenditures on property damage, aid in insurance claims, and increase the efficiency of the city's security services.

# Fusus Sole Source Compliance

7

- ❑ Fusus was approved as a “Sole Source” vendor by the COK and many governmental agencies throughout the United States.
- ❑ Fusus has agreed to reduce the price of the annual subscription rate of \$150K to \$125K. The agreed terms cover a five-year period.
- ❑ JAG grant funding will be used to purchase the year one subscription of \$125K.
- ❑ KPD will budget for the remaining four years of the contract upon receiving approval.

# Alternatives

8

- Approve the use of JAG funds to pay the cost of the Fusus Software subscription for the Real Time Crime Center.
- Disapprove the use of JAG funds to pay the cost of the Fusus Software subscription for the Real Time Crime Center.

# Recommendation

9

- Staff recommends that the City Council approve the City Manager or his designee to enter into a contract with Fusus as part of the Real Time Crime Center software component.



# City of Killeen

## Staff Report

File Number: RS-23-201

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Consider a memorandum/resolution confirming the City Manager's annual evaluation and pay increase.

**DATE:** December 5, 2023

**TO:** Debbie Nash-King, Mayor

**FROM:** Eva Bark, Executive Director of Human Resources

**SUBJECT:** Annual Evaluation and Pay Increase of City Manager

### **BACKGROUND AND FINDINGS:**

James "Kent" Cagle, City Manager was hired for this position on December 3, 2019. Pursuant to the City Manager's contract, the Council shall review the City Manager's job performance at least once annually and any pay increase shall be approved by resolution. The Mayor and the City Council conducted the City Manager's annual evaluation on December 5, 2023.

After the evaluation, City Council reached a consensus to increase Mr. Cagle's base salary to \$270,000 effective December 3, 2023, Mr. Cagle's anniversary date. A six percent (6%) COLA increase and a two percent (2%) merit base increase of \$5,000, will bring the total annual base salary to \$270,000. All other items in the City Manager's contract remain the same.

### **THE ALTERNATIVES CONSIDERED:**

City Council can choose to approve a six percent (6%) COLA increase and a two percent (2%) merit base increase, effective December 3, 2023, or can choose not to approve a six percent (6%) COLA increase and a two percent (2%) merit base increase, effective December 3, 2023.

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

Staff recommends that the City Council approve a six percent (6%) COLA increase and a two percent (2%) merit base increase, effective December 3, 2023, for the City Manager, Kent Cagle, based on the majority consensus reached at the City Council workshop held on December 5, 2023.

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

Article III. - The Council, Section 28 of the City Charter authorizes the City Council to set the salary for the City Manager.

**FINANCIAL IMPACT:**

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

The City Manager’s current annual salary is \$250,000. A six percent (6%) COLA increase will bring salary to \$265,000 and an additional two percent (2%) merit base increase (\$5,000) will bring the total annual salary to \$270,000. The additional annual cost of salary and benefits associated with the six percent (6%) COLA and a two percent (2%) merit base increase is \$24,476.

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

This is a recurring expenditure.

**Is this expenditure budgeted?**

Yes, funds are available in the General Fund City Manager accounts 010-0200-413.40-05 through 010-0200-413.40-89.

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

N/A

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

Yes

**RECOMMENDATION:**

Staff recommends that the City Council approve a six percent (6%) COLA increase and a two percent (2%) merit base increase, effective December 3, 2023 for City Manager, James “Kent” Cagle based on the majority consensus reached at the City Council workshop held on December 5, 2023.

**DEPARTMENTAL CLEARANCES:**

Finance  
City Attorney

**ATTACHED SUPPORTING DOCUMENTS:**

Annual Review



**CITY OF KILLEEN**  
*Office of the Mayor*

**TO:** KENT CAGLE, CITY MANAGER  
**VIA:** EVA BARK, EXECUTIVE DIRECTOR OF HUMAN RESOURCES  
**FROM:** KILLEEN CITY COUNCIL  
**DATE:** DECEMBER 12, 2023  
**SUBJECT: CITY MANAGER ANNUAL REVIEW**

Mr. Kent Cagle, Killeen City Manager, received his annual performance evaluation on Tuesday, December 5, 2023, by the Killeen City Council and was given the following rating: Exceeds Expectation.

The Council reached a consensus to give Mr. Cagle a 2% merit-based increase for his performance, in addition to a 6% Cost of Living Adjustment (COLA) approved in the FY2024 budget for all classified City employees. Mr. Cagle's annual salary will be \$270,000.

Sincerely,

Debbie Nash-King

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Debbie Nash-King  
Mayor, City of Killeen



# City of Killeen

## Staff Report

File Number: RS-23-211

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Consider a memorandum/resolution repealing Resolutions 16-075R and 16-076R and directing staff to post notice to prohibit the carrying of firearms at city open meetings.

**DATE:** December 12, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Holli Clements, City Attorney

**SUBJECT:** Repealing Resolutions 16-075R and 16-076R and directing staff to post notice to prohibit the carrying of firearms at city open meetings

### **BACKGROUND AND FINDINGS:**

In July 2016, City Council passed two resolutions regarding license holders carrying handguns at city meetings: 16-075R allowed the carrying of concealed handguns and 16-076 allowed the open carrying of handguns.

Section 46.03(a)(14) of the Texas Penal Code prohibits firearms in the room where a meeting of a governmental entity is held if the meeting is an open meeting and notice was provided as required by the Texas Open Meetings Act. Sec. 46.15(b)(6) of the Penal Code states that the prohibition above does not apply to a person who is carrying a license to carry a handgun and the handgun is concealed or in a holster. Therefore, license holders may carry a handgun into an open meeting unless signs are posted prohibiting entry pursuant to Penal Code Sec. 30.06 for concealed carry of a handgun or Penal Code Sec. 30.07 for open carry of a handgun.

If this item is approved, staff will place the signs near the entrances to the City Council Chambers before any City Council meeting. The signs can also be posted for other meetings covered by the Texas Open Meeting Act, including Civil Service Commission and Planning and Zoning Commission.

### **THE ALTERNATIVES CONSIDERED:**

The City Council may leave the resolutions in place to continue to allow handguns at city meetings, or the City Council may repeal the resolutions and direct staff to post notice that handguns and other firearms are prohibited at city meetings.

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

It is recommended that City Council determine whether to leave resolutions in place or repeal the resolutions and direct staff to post notice that handguns and other firearms are prohibited at city

meetings.

**CONFORMITY TO CITY POLICY:**

This item conforms to state law.

**FINANCIAL IMPACT:**

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

There is no financial impact associated with this item.

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

N/A

**Is this expenditure budgeted?**

N/A

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

N/A

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

N/A

**RECOMMENDATION:**

It is recommended that City Council determine whether to leave resolutions in place or repeal the resolutions and direct staff to post notice that handguns and other firearms are prohibited at city meetings.

**DEPARTMENTAL CLEARANCES:**

Click or tap here to enter text.

**ATTACHED SUPPORTING DOCUMENTS:**

Click or tap here to enter text.

**CITY COUNCIL MEMORANDUM FOR RESOLUTION**

**AGENDA ITEM**

**Allowing the carrying of concealed handguns at the City's open meetings by no longer posting notice**

**ORIGINATING DEPARTMENT**

**City Council**

**BACKGROUND INFORMATION**

Effective January 1, 2016, Texas Penal Code section 46.035(c) provides:

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

Section 46.035(i) provides that effective notice must be given. One method of providing notice is a sign in English and Spanish with specific required language that entry with a concealed handgun is prohibited.

**DISCUSSION/CONCLUSION**

In January 2016, the City Council discussed the recent change to the law regarding the open carrying of handguns. A consensus was reached that the concealed and open carrying of handguns would not be allowed at meetings required to be posted by the Texas Open Meetings Act (Government Code 551), to include City Council, Planning and Zoning Commission, and Civil Service Commission. Following the meeting, staff ordered and began placing signs at the entrance to the rooms where such meetings were scheduled.

At its meeting of July 5, 2016, the City Council directed staff to bring forward a resolution to consider no longer posting notice, thereby allowing concealed handguns to be carried at its meetings.

**FISCAL IMPACT**

There is no anticipated fiscal impact.

**RECOMMENDATION**

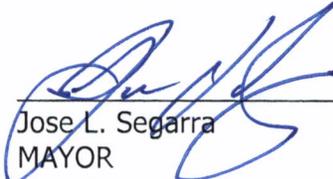
It is recommended that signs no longer be posted prohibiting the concealed carrying of handguns at open meetings of the city.

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

That the above stated recommendation is hereby approved and authorized.

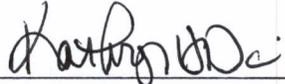
**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this the 12th day of July, 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, § 551.001 *et seq.*

**APPROVED**

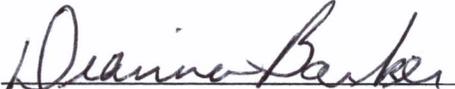
  
\_\_\_\_\_  
Jose L. Segarra  
MAYOR



**APPROVED AS TO FORM:**

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

**ATTEST:**

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

**CITY COUNCIL MEMORANDUM FOR RESOLUTION**

**AGENDA ITEM**

**Allowing the open carrying of handguns at the City's open meetings by no longer posting notice**

**ORIGINATING DEPARTMENT**

**City Council**

**BACKGROUND INFORMATION**

Effective January 1, 2016, Texas Penal Code section 46.035(c) provides:

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.

Section 46.035(i) provides that effective notice must be given. One method of providing notice is a sign in English and Spanish with specific required language that entry while openly carrying a handgun is prohibited.

**DISCUSSION/CONCLUSION**

In January 2016, the City Council discussed the recent change to the law regarding the open carrying of handguns. A consensus was reached that the concealed and open carrying of handguns would not be allowed at meetings required to be posted by the Texas Open Meetings Act (Government Code 551), to include City Council, Planning and Zoning Commission, and Civil Service Commission. Following the meeting, staff ordered and began placing signs at the entrance to the rooms where such meetings were scheduled.

At its meeting of July 5, 2016, the City Council directed staff to bring forward a resolution to consider no longer posting notice, thereby allowing open carry of handguns at its meetings.

**FISCAL IMPACT**

There is no anticipated fiscal impact.

**RECOMMENDATION**

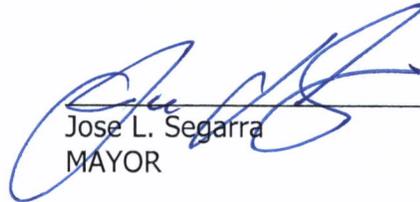
It is recommended that signs no longer be posted prohibiting the open carry of handguns at open meetings of the city.

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

That the above stated recommendation is hereby approved and authorized.

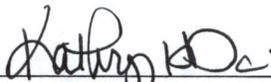
**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this the 12th day of July, 2016, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, § 551.001 *et seq.*

**APPROVED**

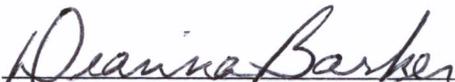
  
\_\_\_\_\_  
Jose L. Segarra  
MAYOR



**APPROVED AS TO FORM:**

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

**ATTEST:**

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



# City of Killeen

## Staff Report

File Number: PH-23-061

1	City Council Workshop	12/05/2023	Reviewed and Referred	City Council	12/12/2023
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**HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to the City’s Architectural and Site Design Standards, and amending the building setbacks in single-family residential zoning districts. (Requires ¾ majority vote)**

**DATE:** December 5, 2023

**TO:** Kent Cagle, City Manager

**FROM:** Edwin Revell, Executive Director of Development Services

**SUBJECT:** Architectural and Site Design Standards

**BACKGROUND AND FINDINGS:**

On August 15, 2023, staff presented Council with proposed changes to the Architectural and Site Design Standards. During that meeting, Council directed staff to hold stakeholder meetings and reach a consensus regarding the proposed amendments. Stakeholder meetings were held on September 11th, September 19th, and October 5th. During the October 17th Council Workshop, staff was directed to bring the proposed ordinance forward for approval.

As a result of the stakeholder meetings, the following changes have been made to the ordinance:

- **Appeal process** - Based on input from the stakeholders, the appeal process has been revised to allow staff to approve special exceptions administratively, only if a proposed building meets the intent, if not the letter, of the standards. The applicant may appeal staff’s determination to the Zoning Board of Adjustment through the Special Exception process.

**Residential:**

- **Repetition Standard** - The proposed repetition standard now provides separated standards single-family and two-family homes, as follows:
  - Single-family homes of the same elevation shall not be placed within two (2) lots on the same side of the street, or directly across the street from one another.
  - Two-family homes of the same elevation shall not be placed within two (2) lots on the same side of the street, or directly across the street from one another.

Staff recommends adding the following clarifying language to the repetition standard in Sec. 31-902:

- Homes of the same floorplan may be repeated, but only if the rooflines and elevations are noticeably different.
  - Mirrored elevations are not considered different elevations for purposes of this section.
  - A developer or homebuilder may seek pre-approval of proposed elevations prior to submitting permit applications.
- 
- **Garages** - Language was added allowing three-car garages to comprise up to 60% of the front elevation if the third-car garage is setback at least twelve (12) inches.
  - **Architectural Elements** - Multiple changes were made to Sec. 31-904 to make the standard easier to meet:
    - Made requirements for duplexes and single-family structures different - single-family must provide five (5) and duplexes must provide four (4) architectural elements.
    - Language was added to allow duplicate credit if multiple architectural features are provided.
    - Separate options were created for "covered front entry" and "covered front porch". The minimum size for a covered front entry was reduced to forty (40) sq. ft.
    - Language was added to the "covered front porch" allowing it to count as two (2) options (double credit).
    - Incorporation of an eyebrow roof over a window or garage door was added to the menu of options.
    - Separate options were created for garage doors with windows, and garage doors with decorative hardware.
  - **Setbacks:**
    - Front Setbacks - Staff recommends that the front building setback in "R-1" and "SF-2" (Single-Family Residential) be reduced from twenty-five (25) feet to twenty (20) feet.
    - Side Setbacks - Staff recommends that the side yard setback in "R-1" (Single-Family Residential) be reduced from seven (7) feet to five (5) feet.

**Nonresidential:**

- **Roof Pitch** - The minimum slope for a flat roof to require a parapet wall was reduced from 3:12 to 2:12 on the front and side elevations, only.
- **Mechanical Equipment** - Language was added requiring only mechanical equipment located on a street-facing elevation to be screened.
- **Architectural Elements** - The number of required architectural elements for non-residential buildings was reduced from four (4) to three (3).
- **Horizontal Articulation** - The maximum uninterrupted length was reduced from thirty

(30) to twenty (20) feet, and the minimum depth of offsets was reduced from eighteen (18) inches to six (6) inches. Language was added allowing canopies to count as articulation.

- **Articulated parapet** - Language was added requiring a parapet wall on the front and side elevations, only.
- **Transparency** - Language was added clarifying that the percentage of transparency is based on the horizontal length of the building, not on the area.

**THE ALTERNATIVES CONSIDERED:**

The City Council has three (3) alternatives:

- Do not approve the ordinance;
- Approve the ordinance with modifications; or
- Approve the ordinance as presented.

**Which alternative is recommended? Why?**

Staff recommends adoption of the ordinance as presented. Staff finds that the proposed changes will make it easier for applicants and developers to comply with the standards by making the requirements less stringent and by providing additional options.

**CONFORMITY TO CITY POLICY:**

The proposed ordinance conforms to all City of Killeen policies.

**FINANCIAL IMPACT:**

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

This is not applicable.

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

This is not applicable.

**Is this expenditure budgeted?**

This is not applicable.

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

This is not applicable.

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

This is not applicable.

**RECOMMENDATION:**

At their Regular Meeting on November 6, 2023, the Planning and Zoning Commission recommended disapproval of the proposed ordinance by a vote of 4 to 2, with Commissioners Rowe and Marquez voting in opposition to the motion to recommend disapproval.

Therefore, in accordance with Killeen Code of Ordinances Sec. 31-39(e), approval of the proposed ordinance will require the favorable vote of three-fourths (3/4) of all the members of the City Council (6 affirmative votes).

**DEPARTMENTAL CLEARANCES:**

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

**ATTACHED SUPPORTING DOCUMENTS:**

Minutes  
Ordinance  
Presentation

**MINUTES  
PLANNING AND ZONING COMMISSION MEETING  
NOVEMBER 6, 2023**

**Architectural Site & Design Standards Ordinance**

**HOLD** a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances, providing for amendments to the City’s Architectural and Site Design Standards, and amending the building setbacks in single-family residential zoning districts.

Ms. Meshier presented staff report for this item. She stated that on August 15th, 2023, staff presented changes to the Architectural Site & Design Standards to City Council and was directed to have a meeting with stakeholders in attempt to reach a consensus to the amendments. Meetings with stakeholders were held on September 11th, September 19th, and October 5th. Staff believes a consensus has been reached that is amenable to the stakeholders and City staff.

Ms. Meshier stated that staff presented the proposed ordinance to City Council on October 17th and was directed to bring the amended ordinance forward for adoption.

Ms. Meshier provided an overview of the proposed changes to the ordinance.

Commissioner Sabree asked for clarification regarding the repetition standards for residential homes. Ms. Meshier stated that two houses with the same elevation cannot be directly across the street from one another, but they can be positioned diagonally. Ms. Meshier further explained that the current repetition standard does not allow for homes with the same elevation to be diagonally from each other, but the amended ordinance does.

Chairman Minor opened the hearing at 5:21 p.m.

With no one wishing to speak, the public hearing was closed at 5:21 p.m.

Chairman Minor stated that the Planning and Zoning Commission has already approved the Architectural and Site Design Standards ordinance previously. Chairman Minor mentioned that the initial ordinance was approved in April of 2022 and that his recommendation would be for the Commission to give the ordinance more time before making any amendments to it.

Commissioner Ploeckelmann moved to recommend disapproval of item PH-1. Commissioner Gukeisen seconded, and the motion passed by a vote of 4 to 2 with Commissioners Rowe and Marquez voting in opposition to the motion to recommend disapproval.

Commissioner Rowe stated that she supports staff’s recommendation. Commissioner Marquez stated that he would like more time to look into it.

**AN ORDINANCE AMENDING CHAPTER 31 OF THE CODE OF ORDINANCES OF THE CITY OF KILLEEN; PROVIDING FOR AMENDMENTS TO THE CITY'S ARCHITECTURAL AND SITE DESIGN STANDARDS; PROVIDING FOR AMENDMENTS TO THE BUILDING SETBACKS IN SINGLE-FAMILY RESIDENTIAL ZONING DISTRICTS; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE.**

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

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

**WHEREAS**, the City Council desires to amend district regulations to preserve and enhance surrounding property values; and,

**WHEREAS**, the City Council finds that such amendments are necessary and will provide consistent and even application of zoning regulations to all applicants;

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

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

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**Sec. 31-77. Special exceptions.**

- (a) The board shall have the power to hear and decide special exceptions to the terms of this chapter upon which the board is required to pass as follows or elsewhere in this chapter, to:
- (1) Permit the erection and use of a building or the use of premises for railroads.
  - (2) Permit a public utility or public service use or structure in any district, or a public utility or public service building of a ground area and of a height at variance with those provided for in the district in which such public utility or public service building is permitted to be located, when found reasonably necessary for the public health, convenience, safety or general welfare.

- (3) Permit a transitional use between a business or industrial and a residential district where the side of a lot in district "R-1," "SF-2," or "R-2" abuts upon a lot zoned for business or industrial purposes as follows:
  - a. On a lot in district "R-1" or "SF-2," which sides upon a lot zoned for business or industrial purposes, the board may permit a two-family dwelling on a lot with an area of not less than six thousand (6,000) square feet.
  - b. On a lot in district "R-2," which sides upon a lot zoned for business or industrial purposes, the board may permit a four-family dwelling on a lot with an area of not less than six thousand (6,000) square feet.
  - c. Provided, however, that in no case shall any transitional use have a width of more than one hundred (100) feet.
- (4) Grant a permit for the extension of a use, height or area regulation into an adjoining district, where the boundary line of the district divides a lot in a single ownership on the effective date of the ordinance from which this article is derived.
- (5) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or the public enemy, to the extent of more than fifty (50) percent of its fair market value, where the board finds some compelling necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the nonconforming use is not to continue a monopoly.
- (6) Waive or reduce the parking and loading requirements in any of the districts whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
- (7) Permit land within three hundred (300) feet of a multifamily dwelling to be improved for the parking spaces required in connection with a multifamily dwelling, but only when there is positive assurance that such land will be used for such purpose during the existence of the multifamily dwelling.
- (8) Determine whether an industry should be permitted within district "M-1," light industrial, and district "M-2," heavy industrial, because of the methods by which it would be operated and because of its effect upon uses within surrounding zoning districts.
- (9) Determine in cases of uncertainty the classification of any use not specifically named in this chapter.

(b) The Board shall have the power to hear and decide appeals to staff determinations regarding the construction of unique commercial buildings or custom homes having a modern or contemporary architectural aesthetic, which that do not conform to the standards in Article VI of this chapter. In considering such request, the board shall consider whether the proposed design meets the intent, if not the letter, of the architectural and site design standards set forth in this chapter.

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**Sec. 31-188. Area regulations.**

- (a) *Size of yards.* The yards in the district "R-1" single-family residential district shall conform to the following:
- (1) *Front yard.* There shall be a front yard having a depth of not less than ~~twenty-five (25)~~twenty (20) feet. Where lots have double frontage running through from one (1) street to another, the required front yard shall be provided on both streets. No parking shall be allowed within the required front yard.
  - (2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than ~~seven (7)~~five(5) feet. A side yard adjacent to a side street shall not be less than fifteen (15) feet. No side yard for allowable nonresidential uses shall be less than twenty-five (25) feet.
  - (3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty-five (25) feet measured from the centerline of the easement as in the subdivision ordinance.
- (b) *Size of lot.* The lot requirements for the district "R-1" single-family district shall be as follows:
- (1) *Lot area.* No building shall be constructed on any lot less than six thousand (6,000) square feet.
  - (2) *Lot width.* The width of the lot shall not be less than sixty (60) feet at the front street building line, nor shall its average width be less than sixty (60) feet.
  - (3) *Lot depth.* The average depth of the lot shall not be less than one hundred (100) feet, except that a corner lot, having a minimum width of not less than eighty (80) feet, may have an average depth of less than one hundred (100) feet provided that the minimum depth is not less than ninety (90) feet.
  - (4) *Existing lots.* Where a lot having less area, width and/or depth than herein required existed in separate ownership upon the effective date of the ordinance from which this chapter is derived, the above regulations shall not prohibit the erection of a one-family dwelling thereon.

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**Sec. 31-195. Area regulations.**

- (a) *Project size.* All development projects in this district must contain a minimum of one (1) acre of property. A planned unit development (PUD), as defined in chapter 31, article V, division 8, Killeen code of ordinances, shall be required for any request for a "SF-2" district when the total acreage of the request consists of twenty-five (25) acres or more. The purpose of requiring a PUD is to give the city council the ability to determine the proposed development's impact on existing infrastructure and open/recreational space and whether additional public improvements to serve denser development are necessary to promote the health, safety and welfare of the development's residents.
- (b) *Size of yards.* The yards in the "SF-2" single-family residential district shall conform to the following:

- (1) *Front yard.* There shall be a front yard having a depth of not less than ~~twenty-five (25)~~twenty (20) feet. Where lots have double frontage running through from one street to another, the required front yard shall be provided on both streets.
  - (2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than five (5) feet. A side yard adjacent to a side street shall not be less than fifteen (15) feet.
  - (3) *Rear yard.* There shall be a rear yard having a depth of not less than twenty (20) feet.
- (c) *Size of lot.* The lot requirements for the "SF-2" single-family residential district shall be as follows:
- (1) *Lot area.* No building shall be constructed on any lot less than five thousand (5,000) square feet of area.
  - (2) *Lot width.* The width of the lot shall not be less than fifty (50) feet at the front street building line. On corner lots, with two (2) street frontages, the minimum width shall be not less than sixty (60) feet.
  - (3) *Lot depth.* The average depth of the lot shall be not less than one hundred (100) feet, except that a corner lot having a minimum width of not less than forty-five (45) feet may have an average depth of less than one hundred (100) feet, provided that the minimum depth is not less than ninety (90) feet.

~~(d) *Architectural design.* The same exterior architectural elevation may not be used within any grouping of five homes.~~

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## **Article VI. – Architectural and Site Design Standards.**

### **Sec. 31-900. - Purpose.**

The purpose of this division is to establish design standards for new single-family and two-family residential development within the city limits. The standards in this division are intended to be in addition to any other design standard in this Code. In the event of a conflict, the more stringent regulation shall apply. The Executive Director of Development Services or designee shall have the authority to render interpretations of this Article and to adopt policies and procedures to clarify the application of its provisions.

### **Sec. 31-901. - Applicability and exemptions.**

- (a) The requirements in this division shall apply to all new residential single-family and two-family developments, including single family homes, patio homes, garden homes, townhomes, ~~manufactured homes,~~ and duplexes.
- (b) Unique ~~commercial buildings or custom homes having a modern or contemporary architectural aesthetic, which do not conform to the provisions in this article, that meet the intent, if not the letter, of the architectural and site design standards set forth in~~

~~this chapter may be approved by special exception granted by the zoning board of adjustment pursuant to Killeen Code of Ordinances section 31-77(10)the Executive Director of Development Services or designee. An applicant aggrieved by a determination under this section may appeal a staff determination to the Zoning Board of Adjustment in accordance with Sec. 31-77(b).~~

- ~~(c) Accessory buildings smaller than two hundred (200) square feet shall be exempt from the provisions of this division.~~
- ~~(d) Manufactured homes within an established manufactured home park zoned "R-MP" (Mobile Home and Travel Trailer Park) shall be exempt from the provisions of this division.~~
- ~~(e) Additions to existing homes shall be exempt from the provisions of this division.~~

**Sec. 31-902. Repetition.**

~~No elevation shall be repeated within four (4) residential lots on the same side of the street, or within two (2) residential lots on the opposite side of the street.~~

~~(a) The following repetition standards shall apply to residential lots:~~

~~(1) Single-family homes of the same elevation shall not be placed within two (2) lots on the same side of the street, or directly across the street from one another.~~

~~(2) Two-family homes of the same elevation shall not be placed within two (2) lots on the same side of the street, or directly across the street from one another.~~

~~(b) For purposes of this section, elevations shall be substantially different in terms of shape, massing, and form. The same elevation with different materials, different architectural features, or different fenestration shall not be considered a different elevation for purposes of this section.~~

~~(c) Homes of the same or similar floorplan may be repeated within two (2) lots on the same side of the street or directly across the street from one another, provided the rooflines and elevations are noticeably different from one another.~~

~~(d) Mirrored elevations shall not be considered different elevations for purposes of this section.~~

~~(a)(e) A developer or homebuilder may seek pre-approval of proposed elevations from the Planning Division prior to submitting permit applications.~~

**Sec. 31-903. Garages.**

If a garage is provided, the following standards shall be met:

- (a) A garage door facing the street shall not comprise more than fifty (50) percent of the horizontal length of the front elevation; or
- (b) The exterior wall on either side of the garage door shall not protrude further than any other horizontal building plane on the front elevation.
- (c) For homes having a third car garage, the total width of the garage doors may comprise up to sixty (60) percent of the horizontal length of the front elevation if the exterior wall of the third car garage is set back from the exterior walls of the other garage doors by at twelve (12) inches and the third car garage has a different roofline than the primary garage.

This standard is applicable only to the width of the garage door, not the entirety of the garage.

**Sec. 31-904. Architectural ~~standard~~elements.**

- (a) All new single-family ~~and two-family~~ structures shall include at least five (5) of the following, and all new two-family structures shall include at least four (4) of the following architectural elements:
  - (1) *Enhanced windows.* Windows on the front elevation shall incorporate at least one (1) window enhancement, including: use of transoms, bay windows, shutters, dormers, eyebrow windows, headers, or other similar window enhancements.
  - (2) *Architectural ~~details~~features.* The front elevation shall incorporate no fewer than two (2) different enhanced architectural detailsfeatures, including: corbels, quoining, louvered vents, keystones, decorative railings, columns, cupola, turret, coach lights, decorative half-timbering, or other architectural features as approved by the executive director of development services or his/her designee. Incorporation of at least four (4) different architectural features from this list counts as two (2) architectural elements.
  - (3) *Variable roof design.* At least two (2) different roof types (e.g. hip and gable), heights, pitches, plate heights, or two (2) different roof or planes of varying height, direction, or pitch shall be provided.
- ~~(b) All new single-family and two-family structures shall also include at least three (3) of the following:~~
  - ~~(14)~~ *Side or rear entry garage.* No garage doors shall face the street on the primary elevation. This provision includes homes with side-entry, J-swing, detached, or rear-entry garages.
  - ~~(25)~~ *Recessed garage.* The exterior wall on either side of the garage door facing the street shall be recessed at least five (5) feet behind any other horizontal building plane on the front elevation.

- (36) ~~Vertical-Horizontal~~ articulation. A minimum of three (3) wall planes shall be provided on the front elevation, with offsets being at least twelve (12) inches deep.
  - (47) ~~Covered front porch entry~~. A covered front porch entry at least ~~sixty-fourty~~ (640) square feet in area shall be provided on a single-family home; or at least ~~forty twenty~~(420) square feet in area per unit on a two-family dwelling. ~~Such porch shall measure not less than five (5) feet in any direction.~~
  - (8) Covered front porch. A covered front porch at least eighty (80) square feet in area shall be provided on a single-family home; or at least sixty (60) square feet in area per unit on a two-family dwelling. Such porch shall measure not less than eight (8) feet in width and not less than six (6) feet in depth. Incorporation of this architectural element counts as two (2) architectural elements but does not count as a covered front entry.
  - (59) ~~Enclosed patio~~. A patio or outdoor seating area on the front of the house, which is enclosed on at least three (3) sides by a fence or wall at least thirty-six (36) inches in height.
  - (10) Enhanced front doors. Front doors shall incorporate sidelights, double doors, a single front door with decorative glass, or other similar front door enhancements.
  - (11) Eyebrow roof. A decorative eyebrow or shed roof shall be provided over at least one window or garage door.
  - ~~(612) Enhanced garage doors~~Accent windows on garage doors. Garage doors shall have accent windows ~~and decorative hardware with transparent glass that are permanently affixed to the garage door.~~
  - (13) Decorative hardware on garage doors. Garage doors shall have decorative hardware that is permanently affixed to the garage door.
  - (14) Separate garage doors. For a two-car garage, the front elevation shall include two eight-foot garage doors separated by a column instead of one standard 16-foot garage door.
  - (15) Ribbon driveway. For residential structures that do not have a garage, a concrete ribbon driveway shall be provided.
- (b) An architectural elements checklist indicating the options selected from this list shall be submitted with each permit.

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### **Sec. 31-910. Applicability and exemptions.**

- (a) The requirements in this division shall apply to all new commercial, ~~industrial~~, and institutional developments, including but not limited to retail buildings, office buildings, schools, churches, civic buildings, warehouses, and other non-residential uses in all zoning districts other than "M-1" (Manufacturing District) and "M-2" (Heavy Manufacturing District). Properties zoned "M-1" (Manufacturing

District) or "M-2" (Heavy Manufacturing District) shall be exempt from the provisions of this division.

(b) Accessory buildings smaller than eight hundred (800) square feet shall be exempt from the provisions of this Division.

(c) Unique non-residential buildings that meet the intent, if not the letter, of the architectural and site design standards set forth in this chapter may be approved by the Executive Director of Development Services or designee. An applicant aggrieved by a determination under this section may appeal a staff determination to the Zoning Board of Adjustment in accordance with Sec. 31-77(b).

(d) Temporary or portable buildings erected by or for a governmental agency or school district, such as portable school buildings and transitional or temporary housing shall be exempt from the provisions of this division.

(e) Temporary construction trailers erected as part of a permitted construction project shall be exempt from the provisions of this division.

### **Sec. 31-911. Site design standards.**

All new non-residential developments shall meet the following standards:

(a) If a ~~S~~side and rear elevations of any building on a site is visible from a public roadway, that side elevation shall incorporate architectural features, elements, and materials consistent with the front façade elevation.

(b) If a rear elevation of any building on a site is visible from a public roadway, that rear elevation shall incorporate architectural features consistent with the front elevation.

(bc) Flat roofs, or roofs having a slope less than ~~three (3)~~ two (2) over twelve (12), shall require a parapet wall at least ~~twenty-four~~ ~~thirty-six~~ (36) inches in height on the front and side elevations.

(ed) Dumpsters shall be screened from view on all sides by a concrete or masonry wall, or metal screening fence at least six (6) feet in height. Metal screening fences shall be R-panel or U-panel and shall be coated and capped at the top.

(de) Mechanical equipment located on a street-facing elevation shall be screened from view on all sides by a parapet wall, screening wall, or continuous landscape hedge.

(ef) All buildings and structures on a site, including accessory structures, dumpster enclosures, and gas station canopies, must share a common, identifiable, complementary design or style.

### **Sec. 31-912. Architectural ~~standard~~ elements.**

(a) All new non-residential developments shall include at least ~~one (1)~~ three (3) of the following architectural elements:

- (1) ~~*Vertical-Horizontal articulation.*~~ Exterior walls shall not have an uninterrupted length greater than ~~thirty (30)~~ twenty (20) feet in length, with offsets being at least ~~eighteen (18)~~ six (6) inches deep and twenty-four (24) inches wide. Horizontal articulation may include engaged pilasters, engaged columns, permanently affixed canopies, or other protrusion away from the primary plane of the building, as determined by the Executive Director of Development Services.
- ~~(2)~~ *Vertical articulation.* Buildings shall include at least two (2) different roof or parapet heights.
- ~~(23)~~ *Tripartite design.* Buildings shall have an identifiable base, middle, and top.
- ~~(34)~~ *Articulated parapet.* A parapet wall shall not have an uninterrupted length greater than fifty (50) feet, with articulations being at least ~~thirty-six~~twenty-four (24) inches in height. Parapet walls shall require cornice detailing. If a parapet wall is provided, it shall be required only on the front and side elevations, but not on the rear elevation.
- ~~(b)~~ All new non-residential developments shall also include at least two (2) of the following:
  - ~~(45)~~ *Sheltered entry.* Primary entrances shall be covered with a portico, canopy, awning, arcade, porte cochère, architectural recess, or other similar feature that provides shelter from the elements.
  - ~~(6)~~ *Arched entries or windows.* Primary entrances or windows shall include arches.
  - ~~(27)~~ *Transparency.* A minimum of ~~seventy-five~~fifty (50) percent of the horizontal length of the first floor of the primary elevation, and ~~twenty-five~~ (25) percent the horizontal length of all other street-facing elevations shall be comprised of transparent, non-reflective windows that provide views into occupied spaces. Where the internal arrangement of a building makes it impractical to provide transparency in accordance with this subsection, sculptural, mosaic, or bas-relief artwork, or false windows consisting of opaque or spandrel glass, may substitute for up to fifteen (15) percent of required transparent areas, except when fronting pedestrian-oriented spaces in accordance with subsection 10, below.
  - ~~(38)~~ *Pitched roof.* The primary roof or sheltered entry shall have a pitch of not less than ~~six (6)~~four (4) over twelve (12).
  - ~~(9)~~ *Building location.* Building or structure shall be located as close as possible to the front yard setback to create a more urban form. Parking areas shall be screened from public roadways and placed behind the building and a secondary entrance must be provided.
  - ~~(10)~~ *Pedestrian-oriented space.* A pedestrian-oriented space in front of the building at least eight (8) feet deep and running the full width of the building. This area shall include awnings covering at least twenty-four (24) square feet of the space. This space shall include amenities such as bike parking, bench

seating, planters, fountains, artwork, decorative railing, decorative light fixtures, hanging baskets or other features that are pedestrian oriented.

(b) An architectural elements checklist indicating the options selected from this list shall be submitted with each permit.

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**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 12<sup>th</sup> day of December, 2023, at which meeting a quorum was present, held in accordance with the provisions of V.T.C.A., Government Code, §551.001 *et seq.*

**APPROVED**

\_\_\_\_\_  
Debbie Nash-King, MAYOR

**ATTEST:**

**APPROVED AS TO FORM:**

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Laura J. Calcote, CITY SECRETARY

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Holli C. Clements, CITY ATTORNEY



# ARCHITECTURAL & SITE DESIGN STANDARDS ORDINANCE

PH-23-061

December 5, 2023

223

# Background

- On August 15, 2023, staff presented Council with proposed changes to the Architectural and Site Design Standards.
- During that meeting, Council directed staff to hold stakeholder meetings and reach a consensus regarding the proposed amendments.
- Stakeholder meetings were held on September 11<sup>th</sup>, September 19<sup>th</sup>, and October 5<sup>th</sup>.
- During the October 17<sup>th</sup> Council Workshop, staff was directed to bring the proposed ordinance forward for approval.

# Recommended Changes – Appeals

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- As a result of the stakeholder meetings, the following changes have been made to the ordinance:
- **Appeal process** – Based on input from the stakeholders, the appeal process has been revised to allow staff to approve special exceptions administratively – but only if a proposed building “meets the intent, if not the letter” of the standards. The applicant may appeal staff’s determination to the Zoning Board of Adjustment through the Special Exception process. (Sec. 31-77(b), 31-901(b), & 31-910(c))

# Recommended Changes – Setbacks

- **Front Setbacks** – Staff recommends that the front building setback in “R-1” and “SF-2” (Single-Family Residential) be reduced from twenty-five (25) feet to twenty (20) feet. (Sec. 31-188(a)(1) & Sec. 31-195(b)(1))
- **Side Setbacks in “R-1”** – Staff recommends that the side yard setback in “R-1” (Single-Family Residential) be reduced from seven (7) feet to five (5) feet. (Sec. 31-188(a)(2))

# Recommended Changes – Exemptions

5

- ▣ **Applicability and exemptions** – the following exemptions to the standards have been provided for residential development:
  - Accessory buildings smaller than two hundred (200) square feet;
  - Manufactured homes within an established manufactured home park zoned “R-MP” (Mobile Home and Travel Trailer Park); and
  - Additions to existing homes. (Sec. 31-901)

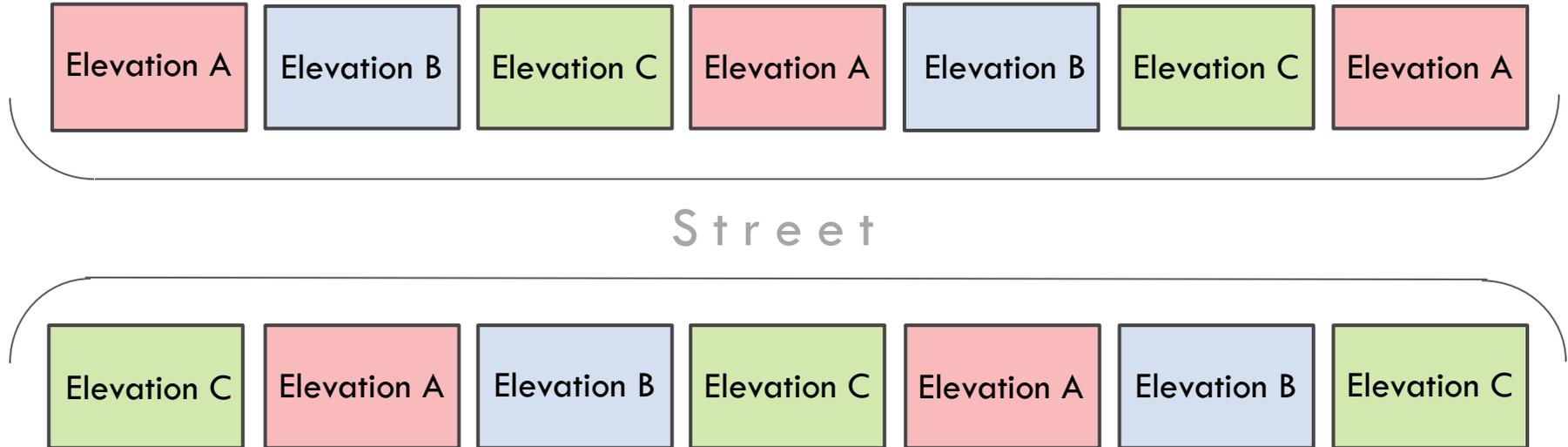
# Recommended Changes – Repetition

6

- **Repetition Standard** – The proposed repetition standard now provides separated standards single-family and two-family homes, as follows:
  - a) Single-family homes of the same elevation shall not be placed within two (2) lots on the same side of the street, or directly across the street from one another.
  - b) Two-family homes of the same elevation shall not be placed within two (2) lots on the same side of the street, or directly across the street from one another. (Sec. 31-902)

# Repetition Standard

7



\* Three (3) unique elevations are needed **229**

# Repetition Standard

- ▣ Sec. 31-902 currently states the following:

For purposes of this section, elevations shall be substantially different in terms of shape, massing, and form. The same elevation with different materials, different architectural features, or different fenestration shall not be considered a different elevation for purposes of this section.

- ▣ This language is not proposed to change.

# Repetition Standard

9

Significantly Different Elevations:



# Repetition Standard

10

NOT Significantly Different Elevations:



# Repetition Standard

11

NOT Significantly Different Elevations:



# Repetition Standard

12

Significantly Different Elevations:



# Repetition Standard

13

NOT Significantly Different Elevations:



# Repetition Standard

14

Significantly Different Elevations:



# Repetition Standard

15

NOT Significantly Different Elevations:



# Recommended Changes – Repetition

- ▣ **Repetition Standard** – Staff recommends adding the following clarifying language to the repetition standard in Sec. 31-902:
  - Homes of the same floorplan may be repeated, but only if the rooflines and elevations are noticeably different.
  - Mirrored elevations are not considered different elevations for purposes of this section.
  - A developer or homebuilder may seek pre-approval of proposed elevations prior to submitting permit applications. This will help speed up the approval process for larger developments.

# Recommended Changes – Residential

17

- ▣ **Garages** – Language was added allowing three-car garages to comprise up to 60% of the front elevation if the third-car garage is setback at least twelve (12) inches. (Sec. 31-903)
- ▣ **Architectural Elements** – Multiple changes were made to Sec. 31-904 to make the standard easier to meet:
  - Made requirements for duplexes and single-family structures different – single-family must provide five (5) and duplexes must provide four (4) architectural elements.
  - Language was added to allow duplicate credit if multiple architectural features are provided.

# Recommended Changes – Residential

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- Separate options were created for “covered front entry” and “covered front porch”. The minimum size for a covered front entry was reduced to forty (40) sq. ft.
- Language was added to the “covered front porch” allowing it to count as two (2) options (double credit).
- Incorporation of an eyebrow roof over a window or garage door was added to the menu of options.
- Separate options were created for garage doors with windows, and garage doors with decorative hardware.

# Recommended Changes – Exemptions

- **Applicability and exemptions** – the following exemptions to the standards have been provided for non-residential development:
  - Properties zoned “M-1” (Manufacturing District) or “M-2” (Heavy Manufacturing District);
  - Accessory buildings smaller than eight hundred (800) square feet;
  - Temporary or portable buildings erected by or for a governmental agency or school district, such as portable school buildings and transitional or temporary housing; and
  - Temporary construction trailers. (Sec. 31-910)

# Recommended Changes – Non-Residential

- ▣ **Site design standards** – Multiple changes were made to the non-residential site design standards to make them easier to meet. (Sec. 31-911)
- ▣ **Architectural elements** – The number of required architectural elements for non-residential buildings was reduced from four (4) to three (3); and additional options were added to the list of choices. (Sec. 31-912)

# Recommended Changes – Non-Residential

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- ▣ **Horizontal Articulation** – The maximum uninterrupted length was reduced from thirty (30) to twenty (20) feet, and the minimum depth of offsets was reduced from eighteen (18) inches to six (6) inches. *(Sec. 31-912(a)(1))*
- ▣ **Vertical Articulation** – An additional option was added for buildings with two (2) different roof or parapet heights. *(Sec. 31-912(a)(2))*

# Recommended Changes – Non-Residential

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- ▣ **Articulated parapet** – Language was added requiring a parapet wall on the front and side elevations, only. (Sec. 31-912(a)(4))
- ▣ **Arched entries or windows** – An additional option was added for arched entrances or windows. (Sec. 31-912(a)(6))
- ▣ **Transparency** – The minimum percentage of transparency was reduced from 75% to 50%. Language was added clarifying that the percentage of transparency is based on the horizontal length of the building, not on the area. (Sec. 31-912(a)(7))

# Recommended Changes – Non-Residential

- ▣ **Pitched Roof** – The minimum slope for a pitched roof was reduced from 6:12 to 4:12. (Sec. 31-912(a)(8))
- ▣ **Building Location** – Language was added to provide credit for placing the building near the front property line to create a more urban form. (Sec. 31-912(a)(9))
- ▣ **Pedestrian-oriented space** – Language was added to provide credit for inclusion of a pedestrian-oriented space in front of a building. (Sec. 31-912(a)(10))

# Staff Recommendation

- Staff finds that the proposed changes will make it easier for applicants and developers to comply with the standards by making the requirements less stringent and by providing additional options.
- Therefore, staff recommends approval of the ordinance as presented.

# Commission Recommendation

- At their Regular Meeting on November 6, 2023, the Planning and Zoning Commission voted to recommend disapproval of the proposed ordinance by a vote of 4 to 2.
- Therefore, in accordance with Killeen Code of Ordinances Sec. 31-39(e), approval of the proposed ordinance will require the favorable vote of three-fourths (3/4) of all the members of the City Council (6 affirmative votes).