



Notice of Meeting
Regular Meeting of the Keene City Council

Thursday, May 5, 2022

Gary Heinrich
Mayor

Lisa Parrish
Place I

Thomas Gutwa
Place II

Phillip Jackson
Place III

Rob Foster
Ward I

Gwen Beeson
Ward II

Robert G. Cooper
Ward III

Notice is hereby given that a Regular Meeting of the City Council of the City of Keene will be held on Thursday, May 5, 2022, at 6:00 PM at the Keene City Hall, located at 1000 N Old Betsy Rd (FM 2280), Keene, Texas, in the City Council Chambers.

City Hall is wheelchair accessible. The entry ramp is at the front with entry at the front entrance to City Hall. Reasonable accommodations to furnish auxiliary aids or assistance to assist persons with special needs will be provided when seventy-two (72) hours advance notice is given. Please contact the City Secretary at 817-641-3336 ext. 105.

The City Council of the City of Keene, Texas, reserves the right to meet in a closed, executive session on any of the items listed below should the need arise and if authorized by Title 5, Chapter 551, of the Texas Government Code.

Call to order and certification of quorum

Invocation & Pledge of Allegiance

1. Public Comments:

(Citizens are invited to speak on any topic; however, unless the item is specifically noted on this agenda, the City Council is required under the Texas Open Meetings Act to limit its response to one of the following: Responding with a statement of specific factual information or reciting the City's existing policy on that issue or Directing the person inquiring to visit with City Staff about the issue. (No council deliberation is permitted))

*Citizens are required to stand when speaking, state their name and address, and the comment time is limited to three (3) minutes. **The amount of time given to the public to speak may be changed at any time at the mayor's discretion.***

2. Mayor Comments:

- Proclamation – Peace Officer's Memorial Day and National Police Week.
- Proclamation – Public Works Week.

3. Consideration of City Council Minutes dated April 21, 2022.

4. Discuss and take possible action on a planning services agreement with John R. McAdams Company, Inc.

5. Discussion and adoption of the 2022 - 2023 Budget Calendar.

6. City Manager Comments:

7. Executive Session: Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, the City Council may convene into a closed, Executive Session in accordance with the following authority:

| | | |
|--|----------------------------|--------------------------------|
| 551.071 (consultation with the attorney) | 551.072 (real property) | 551.073 (prospective gifts) |
| 551.074 (personnel matters) | 551.076 (security matters) | 551.087 (economic development) |

Executive Session may be held, under these exceptions, at the end of the Regular Session, Workshop, and/or Special Session, or at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council Meeting.

551.074 Personnel Matters – City Secretary Interview

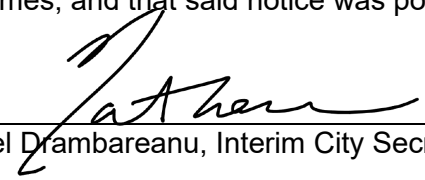
8. Reconvene into Open Session for possible action resulting from any item posted discussed in Executive Session.

- Take action by appointing a City Secretary.

9. Discussion and requests for future items on the agenda.

10. Adjourn

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of Keene, Texas is a true and correct copy of said Notice and that I posted a true and correct copy of the said notice on the official bulletin board of City Hall, a place convenient and readily accessible to the general public at all times, and that said notice was posted on or before 5:00 P.M., Friday, April 29, 2022.

By: 
Natanael Drambareanu, Interim City Secretary

Confirmation of Agenda removed by _____ at _____ a.m./p.m. on _____, 2022

Proclamation

Whereas, the Congress and President of the United States have designated May 15th as Peace Officers' Memorial Day, and the week in which it falls as National Police Week; and

Whereas, the members of the Keene Police Department play an essential role in safeguarding the right and freedoms of the citizens of Keene; and

Whereas, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression or intimidation; and

Whereas, the men and women of the law enforcement agency of Keene unceasingly provide a vital public service; and

Whereas, May 15th is designated as Peace Officers Memorial Day, in honor of all fallen officers and their families and U.S. flags should be flown at half-staff;

Now, therefore, I, Gary Heinrich, Mayor of the City of Keene, Texas, do formally designate May 11 - 17, 2022, as Police Week in Keene, TX, and publicly salute the service of law enforcement officers in our community and in communities across the nation.

In recognition whereof, I affix my hand and seal this 5th day of May, 2022

Gary Heinrich, Mayor

Proclamation

Whereas, public works professionals focus on infrastructure, facilities, emergency management, and services that are of vital importance to sustainable and resilient communities and the public health, high quality of life, and well-being of the people of the City of Keene; and,

Whereas, these infrastructures, facilities, and services could not be provided without the dedicated efforts of public works professionals, who are engineers, managers, and employees at all levels of government and the private sector, who are responsible for rebuilding, improving, and protecting our nation's transportation, water supply, water treatment and solid waste systems, public buildings, and other structures and facilities essential for our citizens; and,

Whereas, it is in the public interest for the citizens, civic leaders, and children in the City of Keene to gain knowledge and maintain ongoing interest and understanding of the importance of public works and public works programs in their respective communities; and,

Whereas, the year 2022 marks the 62nd annual National Public Works Week,

Now, therefore, I, Gary Heinrich, Mayor of the City of Keene, Texas, do formally designate May 15-21, 2022, as Public Works Week in Keene, TX, and publicly pay tribute to our public works professionals in our community and in communities across the nation.

In recognition whereof, I affix my hand and seal this 5th day of May, 2022.

Gary Heinrich, Mayor

**MINUTES
of the
KEENE CITY COUNCIL**

THURSDAY, April 21, 2022

PRESENT: Mayor Gary Heinrich, Mayor Pro-Tem Gwen Beeson, Robert Cooper, Thomas Gutwa, and Phillip Jackson.

ABSENT: Lisa Parris, Rob Foster

CALL TO ORDER: The meeting was called to order at 6:00 p.m.

Invocation – Mayor Heinrich

Pledge of Allegiance & Pledge to the Texas Flag – Council and Public

1. Public Comments:

- Sheila Drapiza spoke regarding hydrant flushing on her property.

2. Mayor Comments: None.

3. Consideration of City Council Minutes dated April 7, 2022.

- Councilmember Beeson made a motion to approve the City Council Minutes dated April 7, 2022. Councilmember Cooper seconded the motion.
- Motion Carried (4-0-0)

4. The City Council may consider, discuss, and authorize a resolution adopting policies in connection with the TxCDBG program.

- City Manager Bernie Parker provided a summary and update.
- Councilmember Cooper made a motion to approve authorizing Resolution No. 2022-401 adopting policies in connection with the TxCDBG program. Councilmember Gutwa seconded the motion.
- Motion Carried (4-0-0)

5. Review and discuss Section 3 Policy Updates & Information for the City's TxCDBG Contract #CDV21-0089.

- City Manager Bernie Parker provided the presentation
- The City Council reviewed and discussed the Section 3 presentation for Contracts CDV21-0089, including employment opportunities for Section 3 workers, contractor outreach, and tracking work hours for all CDBG grants and contracts.

6. Discuss and take action on approving the preliminary plat for the Canyons Addition.

- City Manager Bernie Parker provided a summary and update.
- Councilmember Jackson made a motion to approve the preliminary plat for the Canyons Addition. Councilmember Beeson seconded the motion.
- Motion Carried (4-0-0)

7. **Presentation and discussion of the 2022 – 2023 Budget Calendar.**
 - Finance Director Charles Williams presented the budget calendar item.
 - City Manager Bernie Parker spoke briefly on the item and workshops for the budget.
8. **Discuss and take action authorizing the City Manager to issue a request for qualifications for engineering services for the water well project utilizing Cares Act funds.**
 - City Manager Bernie Parker provided a summary and update on the cost and process of the repair of Well #7.
 - Councilmember Cooper made a motion to approve authorizing the City Manager to issue a request for qualifications for engineering services for the water well project utilizing Cares Act funds. Councilmember Gutwa seconded the motion.
 - Motion Carried (4-0-0)
9. **Discuss and take action on approving the creation of an Assistant City Manager position.**
 - City Manager Bernie Parker provided an update on the positions that are open.
 - Parker advised the council that this position will be funded by combining the Director of Economic Development and Director of Development Services positions.
 - Councilmember Beeson made a motion to approve the creation of an Assistant City Manager position. Councilmember Cooper seconded the motion.
 - Motion Carried (4-0-0)
10. **Department Reports:**
 - Public Works Department – Don Martin provided the report.
 - Police Department – Chief Hunt provided the report.
 - Fire Department – Chief Warner provided the report.
 - Finance Department – Charles Williams provided the report.
11. **City Manager Comments:**
 - Mr. Parker presented a summary of current activities.
 - Siren Update and the local Weather
 - Fundview Update – Utility Billing software
12. **Executive Session: Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, the City Council may convene into a closed, Executive Session in accordance with the following authority:**

Council adjourned into Executive Session at 7:08 p.m.

| | | |
|--|----------------------------|--------------------------------|
| 551.071 (consultation with the attorney) | 551.072 (real property) | 551.073 (prospective gifts) |
| 551.074 (personnel matters) | 551.076 (security matters) | 551.087 (economic development) |

Executive Session may be held, under these exceptions, at the end of the Regular Session, Workshop and/or Special Session, or at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council Meeting.

551.074 (personnel matters) – City Manager Annual Evaluation

13. Reconvene into Open Session for possible action resulting from any item posted and discussed in Executive Session.

- **Council reconvened into Open Session at 7:37 p.m.**
- **No action taken**

14. Discussion and requests for future items on the agenda.

- **No further items requested.**
- **An update on the sidewalk project was requested from the City Manager.**

15. Meeting adjourned at 7:39 p.m.

By: _____

Gary Heinrich, Mayor

Attest: _____

Natanael Drambareanu, Interim City Secretary



City Council Agenda Item Report May 5, 2022

Contact - citymanager@keenetx.com

Subject:

Discussion and take possible action on planning services agreement with John R. McAdams Company, Inc.

1. BACKGROUND/HISTORY

December 30th City Council approved a planning service agreement with Pacheco Koch (PK) Consulting Engineers for the 2021 Fiscal Year.

2. FINDINGS/CURRENT ACTIVITY

Over the past year PK had assisted with development projects: The Canyons, Ashton Home Place, and Stonehurst. The consultant has attended several Development Meetings along with staff to help both staff and the developers to understand the regulations of both city and state.

Currently PK is in a transition period, which has resulted in city staff exploring other alternatives to meet the current planning and development needs within the City.

3. FINANCIAL IMPACT:

Contract not to exceed \$30,000 per 2021-2022 approved budget.

4. ACTION OPTIONS / RECOMMENDATION

Staff recommends approval of the 2021-2022 consulting agreement with John R. McAdams Company, Inc.

5. ENCLOSURES

- 2021-2022 consulting agreement with John R. McAdams Company, Inc.

AGREEMENT FOR SERVICES

CITY OF KEENE

THIS AGREEMENT FOR SERVICES (this "Agreement"), made and entered into this ___ day of May by and between City of Keene, a body politic and corporate of the State of Texas, (hereinafter referred to as the "City"), and John R. McAdams Company, Inc (hereinafter referred to as "Contractor").

WHEREAS, Contractor, has agreed to provide services in a professional manner in accordance with the standards of Contractor's industry and as hereinafter set forth; and

WHEREAS, the City wishes to enter into an Agreement with Contractor to provide the services specified in Appendix 1, Scope of Work, attached hereto and incorporated herein by reference.

NOW THEREFORE, in consideration of the mutual agreements described below, the parties agree as follows:

1. Term of Agreement: The initial term of this Agreement shall commence on May 6, 2022 and continue until terminated.
2. Scope of Service: The Contractor shall provide to the City the Services (the "Services") set forth in the "Scope of Work" attached hereto as Appendix 1, which is incorporated herein and made an integral part of the Agreement.
3. Independent Contractor: City of Keene and the Contractor agree that Contractor is an independent contractor and shall not represent itself as an agent or employee of City of Keene for any purpose. The Contractor shall be responsible for payment of all federal, state and local taxes as well as business license fees. For purposes of this Contract taxes shall include, but not be limited to, Federal and State income, Social Security, and Unemployment Insurance taxes. The Contractor shall perform the Services required hereunder in a professional manner and in accordance with the standards of applicable professional organizations and licensing agencies.
4. Compensation: As compensation for the services to be provided by Contractor, the City shall pay the Contractor the amount as set forth in Appendix 1 within 30 days of invoice receipt.
5. Insurance: Contractor shall maintain insurance policies at all times with minimum limits as follows:

Coverage

Worker's Compensation

Statutory Limits

General/Professional Liability

\$100,000 bodily injury per person (BI)

\$500,000 bodily injury per occurrence (BI) \$100,000 property damage (PD)

Automobile Liability

\$250,000 bodily injury per person (BI)

\$100,000 properly damage (PD)

All insurance policies shall be issued by companies authorized to do business under the laws of the State Texas and shall be rated not less than "A" by AM. Best and Company. Contractor shall furnish Certificates of Insurance to the City, naming the City as an additional insured, prior to the commencement of operations.

The certificates shall clearly indicate that Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this paragraph and that no material change, or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the City. Compliance with the foregoing requirements shall not relieve Contractor from any liability or obligations under this Agreement.

6. Confidentiality: All proprietary data and information, if any, furnished to Contractor by the City shall be regarded as confidential, shall remain the sole property of the City and shall be held in confidence and safekeeping by Contractor for the sole use of the City and Contractor under the terms of this Agreement. Contractor agrees that its officers, employees, and agents will not disclose to any person, firm, or entity other than the City or its designated legal counsel, Accountants, Engineers, or practice management consultants any information about the City. Contractor agrees to carry out its obligations to the City in compliance with all privacy and security regulations required by law.
7. Status of Parties: Nothing contained in this Agreement shall be construed as establishing a partnership or joint venture relationship between Contractor and the City. Contractor and its employees and representatives are independent contractors, solely responsible for its or their performance under this Agreement and shall have no legal authority to bind the City.
8. Assignment and Subcontracting: Neither this Agreement nor any rights or obligations hereunder shall be subcontracted, assigned, or delegated by Contractor without prior written consent of the City, which consent may be withheld in the City sole discretion.
9. Binding Effect: This Agreement shall be binding upon the parties hereto, their heirs, administrators, executors, Successors, and assigns, if such assignment has been approved by the City.
10. Notices: Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been given on the date delivered personally or deposited in the United States Postal Service, certified mail, return receipt requested, with adequate postage affixed, addressed as follows:

City of Keene
 Attn: Bernie Parker | City Manager
 1000 N. Old Betsy Rd.
 Cleburne, TX 76031

The John R. McAdams Company, Inc.
 Attn.: Eric P. Wilhite | Director, Civic Spaces
 201 Country View Drive
 Roanoke, TX 76262

Either party may change its address for notices under this Agreement by giving written notice of such change to the other party in accordance with the terms of this paragraph.

11. Governing Law: This Agreement and the rights and obligations to the parties hereunder is performable in Johnson County, Texas and shall be construed and governed by the laws of the State of Texas. Mandatory venue for any proceedings arising hereunder shall be in the state court of appropriate jurisdiction located in Johnson County, Texas.
12. Modifications: This Agreement may be amended or modified by the mutual written consent of the parties. A modification is not enforceable against the City unless it is signed by the City Manager or other duly authorized official.
13. Entire Agreement: This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Agreement.
14. Waiver: A waiver of any provision of this Agreement must be in writing, designated as such, and signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach thereof.
15. Termination: This Agreement may be terminated as follows:
 - (i) Cause: If the services provided by the Contractor under this Agreement are determined to be unsatisfactory or unacceptable, as determined by the City Manager, this Agreement may be terminated by the City for default. Grounds for termination for default shall include, but not be limited to:
 - (a) Failure to respond to all reasonable requests from the City to provide services covered by this Agreement.
 - (b) Failure to maintain equipment in accordance with the requirements of this Agreement and with all laws.
 - (c) Lack of proper insurance as required under this Agreement.
 - (d) Charging rates or fees in excess of those provided in this Agreement.
 - (e) Inefficient, or unsafe practices in providing services.
 - (f) Other actions which impact unfavorably on the faithful performance of this Agreement.
 - (ii) Convenience: The City reserves the right to terminate this Agreement upon thirty (30) days written notice to Contractor for any reason deemed by the City to serve the public interest. This termination for convenience will not be made when termination is authorized under any other provisions of this Agreement. In the event of such termination for convenience, the City shall pay the Contractor those costs directly attributable to services received by the City in compliance with the Agreement prior to termination. Provided, however, that no costs will be paid to the Contractor which are recoverable in the Contractor's normal course of doing business. The City is not liable for loss of any

profit anticipated to be made hereunder, nor for any special, consequential, or similar damage.


16. Annual Appropriations and Funding. This Agreement is subject to the annual appropriation of funds by the City of Lake Dallas, City Council. Notwithstanding any provision herein to the contrary, in the event that funds are not appropriated for this Agreement, the City shall be entitled to immediately terminate this Agreement, without penalty or liability, except the payment for all service satisfactorily provided under this Agreement up to and through the Contractor's receipt of notice of termination.

17. City Policy: The City opposes discrimination on the basis of race and sex and requires all of its contractors to provide a fair opportunity for minorities and women to participate in their work force and as subcontractors and vendors under City contracts.

IN WITNESS WHEREOF, the parties have executed this Agreement in their official capacities with legal authority to do so.

By: _____

Bernie Parker, City Manager

By:  _____

Eric P. Wilhite, AICP Director, Civic Spaces

Date: _____

City of Keene
1000 N. Old Betsy Rd.
Cleburne, TX 76031
Phone: 817.641.3336
Email: citymanager@keenetx.com

Date: 04/13/2022

The John R. McAdams Company Inc.
201 Country View Drive
Roanoke, TX 76262
Phone: 817.773.3499
Email: ewilhite@mcadamsco.com

APPENDIX 1

SCOPE OF WORK

PROJECT NAME / Location:

On-Call City Planning / City of Keene, Texas

SCOPE OF SERVICE: (List specific work / tasks to be done)

- McAdams will review and comment on development applications pursuant to City of Keene Code of Ordinances.
- McAdams will draft staff reports for development applications.
- McAdams will assist with the drafting of legal notices required for development applications.
- McAdams will provide expertise, technical assistance, regarding inquiries for proposed development projects.
- Update or draft new, zoning codes or subdivision regulations as needed.
- McAdams will attend meetings with City staff with developers and/or applicants if requested.
- McAdams will attend DRC meetings as requested.
- McAdams will provide, attend, and make presentations on development applications to the Planning & Zoning Commission and City Council if requested.

TOTAL COSTS: HOURLY Fees, and Reimbursables Not to Exceed **\$30,000.00.**

Hourly, see attached rate schedule. This rate schedule may be revisited annually, and rates amended if agreed upon by McAdams and the City.

1. Specifications for contract by hourly charge, the following rates apply

| ROLE | RATE | ROLE | RATE |
|----------------------------|--------------|------------------------------------|--------------|
| Principal-in-Charge | \$210 / hour | Designer II | \$120 / hour |
| Senior Project Manager | \$190 / hour | Designer I | \$105 / hour |
| Project Manager | \$150 / hour | Senior CAD Technician | \$110 / hour |
| Senior Project Engineer | \$150 / hour | CAD Technician | \$90 / hour |
| Project Engineer | \$140 / hour | Survey Director | \$190 / hour |
| Intern | \$80 / hour | Survey Project Manager | \$150 / hour |
| Senior Landscape Architect | \$150 / hour | Survey Technician | \$105 / hour |
| Landscape Architect | \$140 / hour | Survey Crew (2 Man) | \$145 / hour |
| Landscape Designer | \$120 / hour | SUE Project Manager | \$150 / hour |
| Senior Planner | \$185 / hour | SUE Technician | \$85 / hour |
| Planner | \$130 / hour | UAS Crew | \$225 / hour |
| GIS Manager | \$180 / hour | Senior Project Coordinator | \$95 / hour |
| GIS Technician | \$110 / hour | Construction Services Manager | \$210 / hour |
| Graphics / Media Design | \$100 / hour | Construction Services Professional | \$150 / hour |
| Technical / Grant Writer | \$100 / hour | Construction Observation | \$140 / hour |
| Technical Manager | \$150 / hour | | |

Hourly services are recorded and rounded to the nearest 1/4 hour.

2. The following charges apply on all contracts, for copies of plans and specifications sent out of the Engineer's office (to Owner, City regulatory agencies, bidders, contractor, other consultants, etc.):

| ITEM | FEE | ITEM | FEE |
|-----------------------|---------------|----------------------|----------------|
| Oversize + Color Rep. | \$3.00 / each | Oversize Mylar Sepia | \$20.00 / each |
| Paper Reproductions | \$2.00 / each | Mylar Sepia | \$15.00 / each |
| Specifications | \$0.10 / each | Paper Sepia | \$5.00 / each |

3. The following rates are charged in addition to the above fees:

| ITEM | FEE |
|---|-----------------|
| Fees Paid for Permits and Applications | Cost Plus 10% |
| Outside Photocopying, Travel, Overnight Delivery, Postage for Mass Mailings | Cost Plus 5% |
| Subcontractor Invoices | Cost Plus 12.5% |

4. Fees are subject to adjustment at the beginning of each calendar year.

5. Projects are billed on a monthly basis and invoices are due upon receipt. Invoices which have been not been paid within 30 days are past due and subject to finance charges of 1.5% per month.

The proposal submitted by THE JOHN R. McADAMS COMPANY (“CONSULTANT”) is subject to the following terms and conditions (collectively referred to as the “Agreement”) and, by accepting the proposal or any part thereof, the CLIENT agrees and accepts the terms and conditions outlined below:

1. Payment

The CLIENT will pay CONSULTANT for services and expenses in accordance with periodic invoices to CLIENT and a final invoice upon completion of the services. Each invoice is due and payable in full upon presentation to CLIENT. Invoices are past due after 30 days. Past due amounts are subject to interest at a rate of one and one-half percent per month (18% per annum) on the outstanding balance from the date of the invoice.

In light of the obvious advantage of resolving questions and disputes regarding CONSULTANT’s services and invoices quickly, CLIENT will notify CONSULTANT, in writing, of any questions or dissatisfaction which it may have regarding the cost, quality or appropriateness of services provided related to an invoice within ten (10) days of the invoice date. If CLIENT fails to provide such notice to CONSULTANT, CLIENT agrees that it waives its right to dispute the accuracy and appropriateness of all or part of the invoice. In no way shall Client’s failure to dispute the accuracy or appropriateness of an invoice limit the Consultant’s obligations to meet the Standard of Care.

If the CLIENT fails to make payment to the CONSULTANT within 30 days after the transmittal of an invoice, the CONSULTANT may, after giving 7 days written notice to the CLIENT, suspend services under this Agreement until all amounts due hereunder are paid in full. If an invoice remains unpaid after 60 days from invoice date, the CONSULTANT may terminate the Agreement and/or initiate legal proceedings to collect the fees owed, plus other reasonable expenses of collection including attorney’s fees.

2. Notification of Breach or Default:

The CLIENT shall provide prompt written notice to the CONSULTANT if CLIENT becomes aware of any breach, error, omission or inconsistency arising out of CONSULTANT’s work or any other alleged breach of contract by the CONSULTANT. The failure of CLIENT to provide such written notice within ten (10) days from the time CLIENT became aware of or should have become aware of the fault, defect, error, omission, inconsistency or breach, shall constitute a waiver by CLIENT of any and all claims against the CONSULTANT for damages arising out of such fault, defect, error, omission, inconsistency or breach to the extent that such damages could have been avoided or mitigated by CLIENT’s having provided timely notice to CONSULTANT.

3. Representations of CLIENT:

CLIENT warrants and covenants that sufficient funds are available or will be available upon receipt of CONSULTANT’s invoice to make payment in full for the services rendered by CONSULTANT.

4. Ownership of Instruments of Service:

All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by the CONSULTANT as instrument of service, shall remain the property of the CONSULTANT. The CONSULTANT shall retain all common law, statutory and other rights, including the copyright thereto. In the event of termination of this Agreement and upon full payment of fees owed to CONSULTANT, CONSULTANT shall make available to CLIENT copies of all plans and specifications.

5. Change Orders:

CONSULTANT will treat as a change order any written or oral order (including directions, instructions, interpretations or determinations) from CLIENT which request changes in the Agreement or CONSULTANT's scope of work. CONSULTANT will give CLIENT written notice within ten (10) days of a Change Order of any resulting increase in CONSULTANT's fees. CLIENT acknowledges and agrees that CONSULTANT shall have no obligation to take any action or perform any services in regards to a change order until CLIENT has provided written authorization to proceed (including CLIENT's agreement to pay CONSULTANT for the fees and costs associated therewith), and that CONSULTANT shall have no responsibility or liability for any damages or delays incurred by CLIENT as a result of CONSULTANT's not taking any action or performing any services until such written authorization is received.

6. Site Operations:

CLIENT will arrange for right-of-entry to the property for the purpose of performing studies, tests and evaluations pursuant to the agreed services. CLIENT represents that it possesses or will possess the necessary permits and licenses required for all ongoing activities at the site. If CONSULTANT is advised or given data in writing that shows the presence of underground or overground obstructions, such as utilities, CONSULTANT will give special instructions to our field personnel. However, CONSULTANT is not responsible for any damage or losses due to undisclosed or unknown surface or subsurface conditions, owned by CLIENT or third parties. CONSULTANT will take reasonable precautions to minimize damage to the property caused by our operations. CONSULTANT's fee does not include any cost of restoration due to any damage which may result and CONSULTANT is not responsible for any such repairs unless CONSULTANT fails to take reasonable precautions. If CLIENT desires CONSULTANT to repair such damage, CONSULTANT will comply and add the cost to our fee. Field tests or boring locations described in CLIENT's reports or shown on sketches prepared by CONSULTANT are based on specific information furnished by others or estimates made in the field by CONSULTANT's personnel. Such dimensions, depths or elevations should be considered as approximations unless otherwise stated in CONSULTANT's proposal or report. In no way does this section limit CONSULTANT'S obligation to meet the Standard of Care.

7. Hazardous Substances:

The CLIENT agrees to advise the CONSULTANT upon execution of this Agreement of any hazardous substances or any condition existing in, on or near the Project Site presenting a potential danger to human health, the environment or equipment. By virtue of entering into this Agreement or of providing Services hereunder, the CONSULTANT does not assume control of, or responsibility for, the Project Site or the person in charge of the Project Site or undertake responsibility for reporting to any federal, state or local public agencies, any conditions at the project site that may present a potential danger to the public, health, safety or environment except where required of the CONSULTANT by law. In the event CONSULTANT encounters hazardous or toxic substances or contamination significantly beyond that originally represented by CLIENT, CONSULTANT may suspend or terminate the Agreement. CLIENT acknowledges that CONSULTANT has no responsibility as a generator, treater, storer, or disposer of hazardous or toxic substances found or identified at a site and CLIENT agrees to defend, indemnify, and hold harmless CONSULTANT, from any claim or liability, arising out of CONSULTANT's performance of work under this Agreement and made or brought against CONSULTANT for any actual or threatened environmental pollution or contamination except to the extent that CONSULTANT has negligently caused such pollution or contamination.

8. Assignment and Third Parties:

Except as otherwise noted within this section, nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than the CLIENT and CONSULTANT, and all duties and responsibilities

undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the CLIENT and the CONSULTANT and not for the benefit of any other party. Neither the CLIENT nor the CONSULTANT shall assign, sublet, or transfer any rights under or interests in this Agreement without the written consent of the other which shall not be unreasonably withheld; provided, however, that CLIENT may assign this Agreement without prior written consent of CONSULTANT to a single-purpose entity (SPE) formed by CLIENT for the purpose of undertaking the development of the project contemplated herein, with CLIENT remaining jointly responsible with the SPE for the payment of all sums due and owing to CONSULTANT under this Agreement (and any change order or additional work authorization issued in connection therewith), whether accruing before or after such assignment by CLIENT. However, nothing contained herein shall prevent or restrict the CONSULTANT from employing independent subconsultants as the CONSULTANT may deem appropriate to assist in the performance of services hereunder.

9. Project Site:

Should CLIENT not be owner of the project site, then CLIENT agrees to notify the OWNER(s) of the aforementioned possibility of unavoidable alteration and damage to the site. CLIENT further agrees to indemnify, defend and hold CONSULTANT harmless against any claims by the CLIENT or persons having possession of the site through the Owner which are related to such alteration or damage.

10. Survival:

All of CLIENT's obligations and liabilities, including but not limited to, its indemnification obligations and limitations, and CONSULTANT's rights and remedies with respect thereto, shall survive completion of the expiration or termination of this Agreement.

11. Unforeseen Occurrences:

If, during the performance of services hereunder, any unforeseen hazardous substance, material, element of constituent or other unforeseen conditions or occurrences are encountered which, affects or may affect the services, the risk involved in providing the service, or the recommended scope of services, CONSULTANT will promptly notify CLIENT thereof. Subsequent to that notification, CONSULTANT may: (a) if practicable, in CONSULTANT's sole judgment and with approval of CLIENT, complete the original scope of services in accordance with the procedures originally intended in the Proposal; (b) Agree with CLIENT to modify the scope of services and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or (c) Terminate the services effective on the date of notification pursuant to the terms of the Agreement.

12. Force Majeure:

Should completion of any portion of the Agreement be delayed for causes beyond the control of or without the fault or negligence of CONSULTANT, including force majeure, the reasonable time for performance shall be extended for a period at least equal to the delay and the parties shall mutually agree on the terms and conditions upon which Agreement may be continued. Force majeure includes but is not restricted to acts of God, acts or failures of governmental authorities, acts of CLIENT's contractors or agents, fire, floods, epidemics, riots, quarantine restrictions, strikes, civil insurrections, freight embargoes, and unusually severe weather.

13. Standard of Care:

CONSULTANT shall perform Agreement for CLIENT in a professional manner, using that degree of care and skill ordinarily exercised by and consistent with the standards of professionals providing the same services in the same or a similar

locality as the project. There are no other warranties, expressed or implied, including warranties of merchantability or fitness for a particular purpose that will or can arise out of the services provided by CONSULTANT or this Agreement. CONSULTANT represents and warrants that it is duly licensed and/or legally authorized to perform the services contemplated by this Agreement. CONSULTANT agrees that any services performed hereunder failing to satisfy the Standard of will be promptly corrected or reperfomed at no cost to CLIENT such that all services, once corrected or reperfomed, satisfy the Standard of Care. If CONSULTANT is unable to carry out any such reperformance or correction, Client shall have the right to hire another professional to carry out such reperformance or correction and CONSULTANT shall reimburse CLIENT for the consultants fees specifically for the reperformance or correction by others.

14. Waiver of Consequential Damages/Limitation of Liability:

CLIENT agrees that CONSULTANT's aggregate liability for any and all claims that may be asserted by CLIENT is limited to the extent of the CONSULTANT'S insurance coverage. Both CLIENT and CONSULTANT hereby waive any right to pursue claims for consequential damages against one another, including any claims for lost profits.

15. Safety:

CONSULTANT is not responsible for site safety or compliance with the Occupational Safety and Health Act of 1970 ("OSHA"). Job site safety remains the sole exclusive responsibility of CLIENT or CLIENT's contractors, except with respect to CONSULTANT'S own employees. Likewise, CONSULTANT shall have no right to direct or stop the work of CLIENT's contractors, agents or employees.

16. Arbitration:

Any claim or other dispute arising out of or related to this Agreement shall be subject to Arbitration. Such claims and disputes shall first be subject to non-binding mediation, and if mediation is unsuccessful, shall be subject to Arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. Any demand for Arbitration shall be filed in writing with the other party and with the American Arbitration Association.

17. Independent Contractor:

In carrying out its obligations, CONSULTANT shall be acting at all times as an independent contractor and not an employee, agent, partner or joint venturer of CLIENT. CONSULTANT's work does not include any supervision or direction of the work of other contractors, their employees or agents, and CONSULTANT's presence shall in no way create any liability on behalf of CONSULTANT for failure of other contractors, their employees or agents to properly or correctly perform their work.

18. Termination:

CLIENT may terminate the Agreement with or without cause and the CONSULTANT may terminate the Agreement with cause upon ten (10) days advance written notice, if the other party has not cured or taken reasonable steps to cure the breach giving rise to termination within the ten (10) day notice period. If CONSULTANT terminates for cause, CLIENT will pay CONSULTANT for all costs incurred, non-cancelable commitments, and fees earned to the date of termination and through demobilization, including any cancellation charges of vendors and subcontractors, as well as demobilization costs.

19. Severability:

If any provision of this Agreement, or application thereof to any person or circumstance, is found to be invalid then such provision shall be modified if possible, to fulfill the intent of the parties as reflected in the original provision, the

remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and each provision of this Agreement shall be valid and enforced to the fullest extent permitted by the law.

20. No Waiver:

No waiver by either party of any default by the other party in the performance of any provision of this Agreement shall operate as or be construed as a waiver of any future default, whether like or difference in character.

21. Merger, Amendment:

This Agreement constitutes the entire Agreement between the CONSULTANT and the CLIENT and negotiations, written and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the CONSULTANT and the CLIENT.

22. Choice of Law:

The validity, interpretation, and performance of this Agreement shall be governed by and construed in accordance with the law of the State of Texas, excluding only its conflicts of laws principles.

23. Indemnity:

To the fullest extent permitted by law, CLIENT shall indemnify and hold harmless CONSULTANT from all claims for bodily injury and property damage (other than to the Project itself and other property insured by CLIENT or CONSULTANT), including reasonable attorneys' fees, costs, and expenses, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of CLIENT or anyone employed directly or indirectly by CLIENT.

To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless CLIENT from all claims for bodily injury and property damage (other than to the Project itself and other property insured by CLIENT or CONSULTANT), including reasonable attorneys' fees, costs, and expenses, but only to the extent caused by the negligent or intentionally wrongful acts or omissions of CONSULTANT or anyone employed directly or indirectly by CONSULTANT.

24. Insurance:

Professional Liability Insurance with limits of no less than One Million Dollars (\$1,000,000), issued by an insurance carrier licensed to provide such coverage in the state where the Project is located for all negligent acts, errors, and omissions by CONSULTANT and its employees, that arise out of this Agreement.

Commercial General Liability covering bodily injury and property damage (including the property of the CLIENT and Indemnitees) with minimum limits of One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) aggregate. This policy shall be primary to any policy or policies carried by or available to the CLIENT and/or any Indemnitee(s).

Workers' Compensation/Employer's Liability Insurance in full accordance with the statutory requirements of the state or states where the services are to be performed and shall include bodily injury, occupational illness or disease coverage.

Automobile Liability Insurance covering all operations of CONSULTANT pursuant to this Agreement involving the use of motor vehicles, including all owned, non-owned and hired vehicles with minimum limits of not less than One Million Dollars (\$1,000,000) combined single limit for bodily injury, death and property damage liability.

Excess Liability Insurance. CONSULTANT shall maintain excess liability insurance with a limit of not less than Two Million Dollars (\$2,000,000). Such insurance shall be excess of the Commercial General Liability insurance, Business Auto Liability

insurance and Employers Liability insurance. This insurance will apply as primary insurance with respect to any other insurance or self-insurance programs maintained by CLIENT and shall be provided on a "following form basis". Continuing commercial excess coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

Upon execution of this Agreement and at every date of renewal of that policy, CONSULTANT shall cause a Certificate of Insurance to be issued. Provision of a valid Certificate of Insurance that meets the requirements of this Agreement is a condition precedent to the payment of any amounts due to CONSULTANT by the CLIENT.



City Council Agenda Item Report

May 5, 2022

Charles Williams – Director of Finance
cwilliams@keenetx.com

SUBJECT: Discussion and adoption of the 2022 – 2023 BUDGET CALENDAR.

1. BACKGROUND/HISTORY

N/A

2. FINDINGS/CURRENT ACTIVITY

N/A

3. FINANCIAL IMPACT

N/A

4. ACTION OPTIONS/RECOMMENDATIONS

N/A

5. ENCLOSURES

- 2022 – 2023 BUDGET CALENDAR



Budget Calendar 2022-2023

| Monday | Tuesday | Wednesday | Thursday | Friday | Comments |
|--|---|---------------------------------|--|---------------------------------|---|
| APR 2022 | | | | | |
| | | | 7 CC Meeting | | 8 CM/Fin Dir to present to CC for workshops & Budget Priorities to be on either Wedn. or Thurs. |
| 11 Prelim Budget Prep Week for Depts; Budget forms, Rev & Exp estimates | 12 TBD ---CM / FD review updated 2022 Budget; for revision/ update with Directors. | 13 Prep work for 2023 Budget | 14 Prep work for 2023 Budget | 15 Prep work for 2023 Budget | 15 Continue field work with BKD Audit (2019-20 FYE) Preliminary Budget Projections for FY 2022-23 |
| 18 Budget Kick-off Meeting with Dept Heads | 19 EDC-B Meeting | 20 EDC-A Meeting | 21 Budget Calendar Presentation to City Council | | 22 Continue field work with BKD Audit (2019-20 FYE) |
| 25 Prep work for 2023 Budget | 26 Prep work for 2023 Budget | 27 Prep work for 2023 Budget | 28 Prep work for 2023 Budget | 29 | 29 Continue field work with BKD Audit (2019-20 FYE) |

| Monday | Tuesday | Wednesday | Thursday | Friday | Comments |
|-----------------|--|---------------------------------|------------------------------------|--|---|
| MAY 2022 | | | | | |
| 2 | 3 Prep work for 2023 Budget | 4 Prep work for 2023 Budget | 5 Prep work for 2023 Budget | 6 Finalize 2020 FYE Audit – BKD Receive 2023 Preliminary Tax Estimates | 6 th - The Finance Dept will receive the Prelim Values from JCTO and perform preliminary 2023 prop tax revenue calculations. |
| 23 | 24 TBD --- CM/Fin Dir meet w/ Dept Heads for 2023 Goals & Priorities | 25 Prep work for 2023 Budget | 19/26 Prep work for 2023 Budget | 20/27 | Discuss Council Budget Workshop topic to be determined later |

| Monday | Tuesday | Wednesday | Thursday | Friday | Comments |
|---|---|-----------|--|---|--|
| JUNE 2022 | | | | | |
| 30 | 31 | 1 | 2 | 3 | Council Budget Workshop (if necessary) Jun 10 th —Prelim 2023 Tax Rate Calculations Data to Johnson County |
| | | | * TBD - Council Budget Workshop | | |
| 13 | 14 | 15 | 16 | 17 | Council Budget Workshop –As Needed and Not date specific; CM/Fin Dir to discuss Budget Priorities with Council Members |
| | | | * TBD - Council Budget Workshop | TBA ---CM / FD review updated 2023 Budget; for revision/ update with Directors. | |
| 20 | 21 | 22 | 23 | 24 | Dept Reviews with CM & Finance Team |
| | TBA ---CM / FD review updated 2022 Budget; for revision/ update with Directors. | | TBD ---CM/Fin Dir meet w/ Dept Heads for 2023 Goals & Priorities | | |
| 27 | 28 | 29 | 30 | | |
| Prep work for 2023 Budget. Dept Reviews | | | Prep work for 2023 Budget. ALL Dept Reviews | | |

| Monday | Tuesday | Wednesday | Thursday | Friday | Comments |
|--|---|----------------------------------|---|--------|---|
| July 2022 | | | | | |
| 4 | 5 | 6 | 7 | 8 | Council Budget Workshop –As Needed and Not date specific; CM/FD to discuss Budget Priorities with Council |
| HOLIDAY OFFICE CLOSED 4 th of JULY | | | Submit Final 2023 Tax Rate Calculation Data to Johnson Cnty | | |
| 11 | 12 | 13 | 14/21 | 15/22 | |
| | Review of updated 2023 Budget; for revision/ update with Directors. | | Prepare the 2023 Proposed Budget | | |
| 25 | 26 | 27 | 28 | 29 | 28 th – Resolution for acceptance of tax roll, discuss tax rate. 31 st – The CM/Fin Dir submits the Proposed FY 2022 Budget to the City Secretary's Office |
| Fin Dir receives Certified Values and performs Final calculation for Proposed Tax Revenues | | Prepare the 2023 Proposed Budget | Council Budget Workshop Resolution accept Tax Roll, Discuss Tax Rate, Take a Record Vote | | |

| Monday | Tuesday | Wednesday | Thursday | Friday | Comments |
|--------------------|---------|-----------|--|--|--|
| August 2022 | | | | | |
| 1 | 2 | 3 | 4 | 5 | Council Budget Workshop topic to be determined later |
| 15 | 16 | 17 | 18/25 | 19/26 | <p>18th - 1st Public Hearing on Tax rates (TBA)</p> <p>25th – Council Budget Workshop -- TBD</p> |
| | | | TBD -- Council Budget Workshop | 19 th -- Johnson Cty Tax Assessor to Publish "Notice of Vote on Tax Rate" | |
| | | | 18 th - *Public Hearing: Tax Rate 1 st Reading | | |
| 22 | 23 | 24 | 25 | 26 | |

| Monday | Tuesday | Wednesday | Thursday | Friday | Comments |
|------------------|---------|-----------|--------------------------------|--|---|
| Sept 2022 | | | | | |
| | | | 1 | 2 | 15 th - Public Hearing on the Budget as required by City Charter and Public Hearing on the Tax Rate as required by Texas Local Government Code |
| 12 | 13 | 14 | 15/22 | 16/23 | Budget & Tax Rate Adoption |
| | | | TBD -- Council Budget Workshop | | |
| | | | *Adopt Budget & Tax Rate | | |
| 19 | 20 | 21 | 22 | 23 | Submit Keene Tax Rate to Johnson County Tax Office for 2022-2023 FY |
| 26 | 27 | 28 | 29 | 30 | |
| | | | 2023 APPROVED Budget | Last Day/Deadline for Budget Approval & Submission | |

*****This Budget Calendar is subject to change from the direct order of the Mayor and City Council, as well as from the order of the City Manager. *****

Staff & City Secretary will prepare 2022 Tax Rate Information the 2022 Adopted Budget for publishing and on the City's website prior to October 1st.

The City must adopt the Tax Rate by September 30th or 60 days after receiving the Certified Appraisal Roll, whichever date is later.

Calendar Dates subject to be changed based on the Direction of the City Council. However, certain schedules are mandated by Truth in Taxation.

***Mandated by Truth in Taxation**