



ALTERNATIVE CITIZEN/PUBLIC PARTICIPATION GUIDELINES (Due to COVID-10 Pandemic Disaster Declaration)

Despite the necessity to restrict public access to Economic Improvement Corporation meetings in the interest of public health during the COVID-19 pandemic, citizens and visitor are welcome to participate in EIC meetings in several alternative ways as outlined below.

Instructions for callers:

Dial one of the following numbers:
800-832-5611 (Toll Free) or
346-248-7799 or 253-215-8782

If you cannot get through on one of the numbers due to network congestion, please try the other number.)

When your call is answered you will hear "Welcome to Zoom, enter your Meeting ID followed by pound." Enter in the Meeting ID below followed by the pound sign (#).

The Meeting ID is **995 7736 8122#**

If the moderator has not started the meeting yet, you will hear "The meeting has not started yet, please hold or call back later." If you decide to call back later, please do so before 3:45 p.m.

Once you have called into the meeting, your microphone will be placed on mute and your call will be placed in the call queue. At this point, you will hear silence on the phone. Please do not hang up. The moderator will unmute your microphone as he/she is going down the list. Once the meeting has started, you will be able to listen to proceedings even if your microphone is muted.

The moderator will be accepting calls starting at 3:00 p.m. Please place your call before the 3:45 p.m. deadline to participate in order to allow time for calls to be loaded and queued. Calls made after this time will not be answered.

Instructions for written comments:

Written comments will be read into record, and can be provided in two different ways:

OPTION 1 by hard copy – Comments may be dropped off at the City Hall Utility Payments Drop-Box on the north side of City Hall by 3:45 p.m. the afternoon of the EIC Meeting. You are required to provide your first and last name, address, and identify the item you wish to comment on.

OPTION 2 by email - Comments can be emailed to **kesha.franchina@kerrvilletx.gov** and must be received by 3:45 p.m. the afternoon of the EIC Meeting. You are required to provide your first and last name, address, and identify the item you wish to comments on.

For either option, please provide **all required information** in order for your comments to be accepted. Thank you for your participation!



ECONOMIC IMPROVEMENT CORPORATION AGENDA
MARCH 15, 2021, 4:00 PM
Kerrville City Hall Council Chambers
701 Main Street, Kerrville, Texas

The purpose of the Economic Improvement Corporation is to improve economic prosperity in the City of Kerrville.

1 CALL TO ORDER

2 INVOCATION

3 VISITORS / CITIZENS FORUM:

Any citizen with business not scheduled on the agenda may speak to the Economic Improvement Corporation. No deliberation or action can be taken on these items because the Open Meetings Act requires an item be posted on an agenda 72 hours before the meeting. Visitors are asked to limit their presentation to three minutes.

4 APPROVAL OF MINUTES:

4.A. [Minutes from the Economic Improvement Corporation \(EIC\) meeting held on March 1, 2021](#)

Attachments:

[EIC 3-1-2021.pdf](#)

5 MONTHLY REPORTS:

5.A. [Monthly Financial Report](#)

Attachments:

[20210315_Report_Monthly Financial Report.pdf](#)

6 PUBLIC HEARING AND POSSIBLE ACTION:

6.A. [Public hearing and consideration of a funding agreement between the City of Kerrville Economic Improvement Corporation, City of Kerrville, TX, and Kerrville](#)

Christmas Lighting Corporation for electrical infrastructure on Tranquility Island in the amount of \$100,000.

Attachments:

EIC Project Funding Agreement_Tranquility Island lighting_031221 DRAFT.pdf

7 CONSIDERATION AND POSSIBLE ACTION:

- 7.A. Amendment to the Economic Development Grant Agreement between James Avery Craftsman, Inc. and the City of Kerrville Economic Improvement Corporation

Attachments:

EIC Grant Agreement_1st Amendment_031221 DRAFT.pdf

8 EXECUTIVE SECTION:

The Economic Improvement Corporation may, as permitted by law, adjourn into executive session at any time to discuss any matter listed above including if they meet the qualifications in Section 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), 551.073 (deliberation regarding gifts), 551.074 (personnel matters), 551.076 (deliberation regarding security devices), and 551.087 (deliberation regarding economic development negotiations) of Chapter 551 of the Texas Government Code, including the following matters:

9 POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:

10 ITEMS FOR FUTURE AGENDAS:

11 ANNOUNCEMENTS:

12 ADJOURN.

The facility is wheelchair accessible, and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this event. Please contact the City Secretary's Office at 830-257-8000 for further information.

I hereby certify that this agenda was posted as notice of the meeting on the bulletin board at the City Hall of the City of Kerrville, Texas, and on the City's website on the following date and time: 3/12/2021 at 3:15 p.m. and remained posted continuously for at least 72 hours preceding the scheduled time of the meeting.

Kesha Franchina

Kesha Franchina, Deputy City Secretary, City of Kerrville, Texas



**TO BE CONSIDERED BY
ECONOMIC IMPROVEMENT CORPORATION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Minutes from the Economic Improvement Corporation (EIC) meeting held on March 1, 2021

AGENDA DATE OF: March 15, 2021

DATE SUBMITTED: Mar 02, 2021

SUBMITTED BY: Kesha Franchina

EXHIBITS: [EIC 3-1-2021.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
NA	NA	NA	NA

PAYMENT TO BE MADE TO: NA

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

Approval of minutes from the Economic Improvement Corporation (EIC) meeting held on March 1, 2021

RECOMMENDED ACTION:

Approval of EIC meeting held on 3/1/2021

CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION MEETING – MARCH 1, 2021

On Monday, March 1, 2021, at 4:00 p.m. the meeting of the City of Kerrville, Texas Economic Improvement Corporation, was called to order by President Gregory Richards, in the Council Chambers at City Hall, 701 Main Street, Kerrville, Texas.

Members Present:

Gregory Richards, President
Danny Almond, Vice President
Don Barnett
Gary Cochrane
Maggie Megee

Members Absent:

Kent McKinney
Aaron Yates

City Executive Staff Present:

Mark McDaniel, City Manager
E.A. Hoppe, Deputy City Manager
Mike Hayes, City Attorney
Amy Dozier, Finance Director
Ashlea Boyle, Director of Parks and Recreation
Kesha Franchina, Deputy City Secretary

1 **CALL TO ORDER** President Richards called the meeting to order at 4:00 pm

2 **INVOCATION** Don Barnett led the invocation

3 **VISITORS / CITIZENS FORUM:** None

4 **APPROVAL OF MINUTES:**

4.A. Minutes from the regular EIC meeting held on December 14, 2020

Gary Cochrane made a motion to approve the minutes as presented. Danny Almond noted a correction to 5.A., and Gary Cochrane moved to amend the motion to approve minutes with the correction to 5.A.. Danny Almond seconded, and the motion passed with correction, 5-0.

5 **MONTHLY REPORTS:**

5.A. Kerr Economic Development Corporation (KEDC) update

Gil Salinas presented the KEDC update and responded to questions.

5.B. Kerrville Economic Improvement Corporation (EIC) project status update

EA Hoppe discussed EIC projects and responded to questions.

5.C. Monthly Financial Report

Amy Dozier presented the January Monthly Financial Report and the EIC Debt Considerations Report and responded to questions.

6 CONSIDERATION AND POSSIBLE ACTION:

6.A. Application for funding from the Kerrville Christmas Lighting Corporation to enhance electrical infrastructure on Tranquility Island.

George Eychner, President of the Board of Directors Kerrville Christmas Lighting Corporation, led the application for funding presentation and responded to questions. Ashlea Boyle and EA Hoppe responded to questions.

The following person(s) were available to respond to questions:

- Julie Davis, President and CEO of the Convention and Visitors Bureau (CVB)
- Mike Wittler, General Manager and CEO of Kerrville Public Utility Board (KPUB)

Gary Cochrane motioned to discuss in executive session.

6.B. Requested Amendment to the Economic Development Grant Agreement between the Doyle School Community Center, Inc. and the City of Kerrville, Texas Economic Improvement Corporation.

Kay Tally-Foos, Board of Directors Doyle Community Center, presented the request and justification for the amendment and responded to questions.

The following person(s) spoke:

- Gilbert Paiz
- Clifton Fifer
- Delayne Sigerman - Connection failed.

After waiting for Delayne Sigerman to re-connect into the meeting by Zoom, President Richards directed the meeting to proceed and noted if Delayne Sigerman was able to reconnect, that she would be given her opportunity to speak.

Gary Cochrane motioned to discuss in executive session.

6.C. Review Payment Terms for the Loan Agreement and Promissory Note between Kerrville Public Utility Board and City of Kerrville Texas.

Amy Dozier presented the KPUB Loan Agreement and Promissory Note, she and Mark McDaniel responded to questions.

Don Barnett motioned to pay off KPUB effective March 15, 2021 and Gary Cochrane seconded. Danny Almond called for more discussion. After further discussion, the motion passed 5-0.

Maggie Megee moved to convene into executive session under 551.071 (consultation with attorney), 551.072 (deliberation regarding real property), and 551.087 (deliberation regarding economic development negotiations) and Don Barnett seconded. President Richards convened into executive session at 5:15 pm.

7 EXECUTIVE SECTION:

- 7.A. Application for funding from the Kerrville Christmas Lighting Corporation to enhance electrical infrastructure on Tranquility Island. (551.071, 551.087)
- 7.B. Requested Amendment to the Economic Development Grant Agreement between the Doyle School Community Center, Inc. and the City of Kerrville, Texas Economic Improvement Corporation. (551.071, 551.072, 551.087)
- 7.C. Requested Amendment to the Economic Development Grant Agreement between James Avery Craftsman and the City of Kerrville, Texas Economic Improvement Corporation.

President Richards adjourned the closed executive session and the meeting returned to an open session at 5:43 pm.

President Richards returned to item 6.B. Delayne Sigerman. After her connection failed, Delayne Sigerman submitted written comment. The written comment was read into record by Kesha Franchina.

8 POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:

- 7.A. Application for funding from the Kerrville Christmas Lighting Corporation to enhance electrical infrastructure on Tranquility Island. (551.071, 551.087)

Maggie Megee motioned to consider the funding agreement at the next meeting with an appropriate Public Hearing of \$100,000 to be matched by an equal amount of money raised from private sources. Don Barnett seconded, and the motion passed 5-0.

- 7.B. Requested Amendment to the Economic Development Grant Agreement between the Doyle School Community Center, Inc. and the City of Kerrville, Texas Economic Improvement Corporation. (551.071, 551.072, 551.087)

Gary Cochrane motioned to approve the request to amend the agreement to provide an additional \$150,000 to the Doyle Community Center, and the agreement to state that with this additional funding it is understood that there will be no further modification to the funding agreement. Danny Almond seconded, and the motion passed 5-0.

7.C. Requested Amendment to the Economic Development Grant Agreement between James Avery Craftsman and the City of Kerrville, Texas Economic Improvement Corporation.

9 **ITEMS FOR FUTURE AGENDAS:** None

10 **ANNOUNCEMENTS:** None

11 **ADJOURN.** President Richards adjourned the meeting at 5:46 pm.

Minutes Approved: _____

President Greg Richards: _____

Attest:

Kesha Franchina, Deputy City Secretary: _____



**TO BE CONSIDERED BY
ECONOMIC IMPROVEMENT CORPORATION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Monthly Financial Report

AGENDA DATE OF: March 15, 2021

DATE SUBMITTED: Mar 10, 2021

SUBMITTED BY: Amy Dozier

EXHIBITS: [20210315_Report_Monthly Financial Report.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	No
Key Priority Area	N/A
Guiding Principle	N/A
Action Item	N/A

SUMMARY STATEMENT:

See the attached monthly financial report.

RECOMMENDED ACTION:

Information only; no action required



Financial update for the month ended February 28, 2021

**Economic Improvement Corporation Meeting
March 15, 2021**



Economic Improvement Corporation

Statement of Activities

Month Ended February 28, 2021

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Remaining Budget
Revenues					
Sales and Use Tax	\$ 3,511,307	\$ 433,414	\$ 1,776,694	50.6%	\$ (1,734,613)
Interest Income	9,000	214	1,599	17.8%	(7,401)
Total Revenues	3,520,307	433,628	1,778,293	50.5%	(1,742,013)
Expenditures					
Administrative					
Office Supplies	500	-	-	0.0%	500
Professional Services	10,000	-	-	0.0%	10,000
Administrative Services Fee	185,000	15,417	77,083	41.7%	107,917
Kerr Economic Development Corp.	197,500	-	98,750	50.0%	98,750
Total Administrative	393,000	15,417	175,833	44.7%	217,167
Debt Service					
Debt Service - Series 2019 Ref (River Trail)	251,344	20,945	104,727	41.7%	146,617
Debt Service - Series 2020 Ref (River Trail)	247,830	20,278	101,390	40.9%	146,440
Debt Service - Series 2015 (KSC)	603,150	50,263	251,313	41.7%	351,838
Debt Service - KPUB (KMM)	20,000	1,667	8,333	41.7%	11,667
Total Debt Service	1,122,324	93,153	465,763	41.5%	644,894
Projects					
Thompson Drive Partners (The Landing)	283,333	283,333	566,666	200.0%	(283,333)
Airport Projects	225,000	-	25,400	11.3%	199,600
Doyle School	450,000	-	38,525	8.6%	411,475
Killdeer Mountain Manufacturing	-	-	477	-	(477)
Downtown River Trail Feasibility Study	50,000	-	-	0.0%	50,000
Total Projects	1,008,333	283,333	631,068	62.6%	377,265
Total Expenditures	2,523,657	391,902	1,272,664	50.4%	1,250,992
Change in Net Position	\$ 996,650	\$ 41,725	\$ 505,629		

Economic Improvement Corporation
Cash Flow Forecast
As of February 28, 2021

	FY2021 Actual	FY2021 Projected		
	Oct 2020 to Jan 2021	March 2021	Apr 2021 to June 2021	Jul 2021 to Sep 2021
Beginning Cash Balance	\$ 2,397,892	\$ 2,903,521	\$ 2,066,343	\$ 1,946,351
Revenue				
Sales Tax	1,776,694	320,641	862,020	915,944
Interest Income	1,599	750	2,250	2,250
Total Revenue	1,778,293	321,391	864,270	918,194
Expenditures				
Administrative				
Administrative Fee & Supplies	77,083	15,417	46,500	46,250
Professional Services	-	-	10,000	-
KEDC	98,750	-	49,375	49,375
Total Administrative	175,833	15,417	105,875	95,625
Debt Service	465,763	1,093,153	280,581	280,581
Projects				
Thompson Drive Partners (The Landing)	566,666	-	-	-
Airport Projects	25,400	-	-	-
Doyle School	38,525	50,000	297,807	150,000
Downtown River Trail Feasibility Study	-	-	50,000	-
Killdeer Mountain Manufacturing	477	-	250,000	-
Total Projects	631,068	50,000	597,807	150,000
Total Expenditures	1,272,664	1,158,569	984,263	526,206
Ending Cash Balance	\$ 2,903,521	\$ 2,066,343	\$ 1,946,351	\$ 2,338,339

Financial Analysis

Project Analysis as of February 28, 2021			
Project Description	EIC Commitment	Disbursed Funding	Remaining Funding
Committed Projects:			
Thompson Drive Partners (The Landing)	\$ 849,999	\$ 849,999	\$ -
Airport Projects	375,000	32,767	342,233
Doyle School	650,000	152,193	497,807
Killdeer Mountain Manufacturing	2,095,000	1,819,422	275,578
Committed Project Total	\$ 3,120,000	\$ 2,004,383	\$ 1,115,617

Cash Analysis as of February 28, 2021		
by Type - Placement - Amount		
Type	Placement	Amount
Short Term	EIC TexPool	\$ 2,903,521
Investment	Total Cash and Investments	\$ 2,903,521

Sales Tax Revenue Analysis - FY2021					
Month	Actual FY2020	Budget FY2021	Actual FY2021	FY2020 vs. FY2021	Budget vs. Actual
October	\$ 294,752	\$ 278,543	\$ 311,718	5.76%	11.91%
November	301,001	286,414	376,028	24.93%	31.29%
December	297,620	270,746	320,874	7.81%	18.51%
January	292,966	277,472	334,661	14.23%	20.61%
February	393,938	366,686	433,414	10.02%	18.20%
March	270,955	253,482	320,641	18.34%	26.49%
April	262,275	252,162			
May	318,521	321,737			
June	326,259	288,122			
July	350,459	288,759			
August	367,921	329,872			
September	342,775	297,314			
YE Adjustment*	92,904				
YTD Total	\$ 3,912,345	\$ 3,511,307	\$ 2,097,335	13.29%	21.00%

*to convert from cash to accrual basis for financial reporting purposes



**TO BE CONSIDERED BY
ECONOMIC IMPROVEMENT CORPORATION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Public hearing and consideration of a funding agreement between the City of Kerrville Economic Improvement Corporation, City of Kerrville, TX, and Kerrville Christmas Lighting Corporation for electrical infrastructure on Tranquility Island in the amount of \$100,000.

AGENDA DATE OF: March 15, 2021 **DATE SUBMITTED:** Mar 08, 2021

SUBMITTED BY: Ashlea Boyle

EXHIBITS: [EIC Project Funding Agreement_Tranquility Island lighting_031221 DRAFT.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
\$100,000	N/A	N/A	N/A

PAYMENT TO BE MADE TO: City of Kerrville, TX

Kerrville 2050 Item?	Yes
Key Priority Area	D - Downtown Revitalization
Guiding Principle	D1. Create a “living room” for the community and a “front door” for visitors—a full-service destination that attracts anchor uses and increased residential and mixed-use development.
Action Item	D1.12 - Expand/Grow Christmas light installation to the entire Downtown area and Louise Hays Park

SUMMARY STATEMENT:

Pursuant to direction at the March 1, 2021 EIC meeting, attached is a draft funding agreement between the City of Kerrville, TX (City), the City of Kerrville Economic Improvement Corporation (EIC), and Kerrville Christmas Lighting Corporation (KCLC) for electrical infrastructure improvements on Tranquility Island in the amount of \$100,000.

The improvements will allow for additional trees to be lit with LED "up lights," in addition to ground pedestals and features. The island extending between the Tranquility Island

pedestrian bridge and Francisco Lemos bridge is the scope of this project. With enhanced electrical infrastructure, this will enhance the lighting experience in the park and provide the opportunity to grow recreation activities for our community and tourists.

As a reminder, the total project cost is expected to be approximately \$200,000. The KCLC's application is for a matching-grant of \$100,000. The remainder is intended to be raised in private donations from Kerrville citizens and businesses. Once the private funds have been raised, the EIC matching grant funds will be allocated, and the City will take ownership of the overall funds and oversee the project management of the construction project. The City has engaged an electrical engineer for design services and is funding this cost. Should the construction costs come in at a level under \$200,000, the City would ask that the design services be reimbursed, to maximize dollars that have been dedicated to making the actual lighting/decorative enhancements. The installation will follow the public bidding process pursuant to purchasing policy and state law.

The next step in this process is for the EIC to consider and provide direction for the grant agreement, and to hold a public hearing this evening. If approved, the last step in this process is consideration and final approval by the City Council, which is anticipated for March 23rd.

Staff recommends holding a public hearing and considering this agreement as presented.

Exhibit A will be provided at the meeting

RECOMMENDED ACTION:

Hold public hearing and consider funding agreement as presented.

DRAFT 3/12/21

PROJECT FUNDING AGREEMENT BETWEEN THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION; THE CITY OF KERRVILLE, TEXAS; AND KERRVILLE CHRISTMAS LIGHTING CORPORATION; FOR THE INSTALLATION OF ELECTRICAL INFRASTRUCTURE TO SERVE TRANQUILITY ISLAND WITHIN LOUISE HAYS PARK

THIS PROJECT FUNDING AGREEMENT (the “Agreement”) is entered into this ____ day of _____, 2021, by and between the **City of Kerrville, Texas Economic Improvement Corporation** (“EIC”), a Texas non-profit corporation established by City pursuant to Section 4B of Tex. Rev. Civ. Stat. Art. 5190.6 and now codified in Chapters 501, 502, and 505 of the Texas Local Government Code; otherwise known as the Development Corporation Act of 1979 (“the Act”); the **City of Kerrville, Texas** (“City”), a Texas home-rule municipality; and **Kerrville Christmas Lighting Corporation** (“KCLC”), a Texas nonprofit corporation. EIC, City, and KCLC may be collectively referred to herein as “Parties” and individually as “Party”.

WITNESSETH:

WHEREAS, pursuant to the Act, EIC is authorized to provide funding relating to the construction of projects which EIC finds to be encompassed within the definitions of “Projects”, as that word is defined by Chapters 501 and 505 of the Act; and

WHEREAS, EIC was formed to administer the sales and use tax approved by the citizens of Kerrville, Texas, in May 1995 and collected for projects defined by the Act, including:

land, buildings, *equipment, facilities, and improvements* found by the EIC to be required or suitable for use for professional and amateur sports, including children’s sports, athletic, *entertainment, tourist, convention, and public park purposes and events*, including stadiums, ball parks, auditoriums, amphitheaters, concert halls, *parks and park facilities, open space improvements*, museums, exhibition facilities, and related store, restaurant, concession, and automobile parking facilities, related area transportation facilities, and related roads, streets, and water and sewer facilities, *and other related improvements* that enhance any of the items described by Section 505.152 of the Act (emphasis supplied); and

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WHEREAS, KCLC mission is to enhance Christmas lighting within the greater Kerrville area in order to promote Christmas spirit, tourism, and the quality of life; and

WHEREAS, after a successful fundraising and lighting project in 2020, KCLC's focus has shifted toward a project to improve the electrical infrastructure and lighting on Tranquility Island within the City's Louise Hays Park by flood-proofing the electrical grid as a means of supporting additional lighting and other uses in this area (the "Project"); and

WHEREAS, following completion of the Project, the City plans to oversee the installation of programmable floodlights on approximately 105 Cypress Trees that border the river in this area, and in doing so, foster the development of a gathering spot for Kerrville residents and tourists; and

WHEREAS, City has hired and is currently overseeing an engineering consultant for design services related to the Project; and

WHEREAS, the Project is estimated to cost \$200,000.00, with KCLC fundraising and contributing \$100,000.00 toward this cost; and

WHEREAS, KCLC seeks grant funding from the EIC in the amount of \$100,000.00, for the remaining portion of the cost for the Project; and

WHEREAS, once KCLC provides its portion of the Project's costs to the City, City will then proceed with the Project, to including bidding a construction contract; and

WHEREAS, EIC finds that the Project as described generally above constitutes a "project" as defined by the Act; and

WHEREAS, more specifically, EIC finds that the Project includes facilities and improvements required or suitable for use for entertainment and tourist purposes and events and other related improvements that enhance any of the items described here; and

WHEREAS, EIC finds that it will be in the public interest to enter into this Agreement with City and KCLC to provide sales tax revenues collected pursuant to the Act ("4B Revenues") to City for costs related to the Project; and

WHEREAS, on March 15, 2021, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, the EIC held a public hearing pursuant

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to Section 501.072 of the Act related to the proposed expenditure of 4B Revenues for the Project;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, the EIC, City, and KCLC agree as follows:

1. **“Project” Defined:** When used in this Agreement, the phrase “Project” means the project summary and approximate cost itemization, to date, as specified in **Exhibit A**, attached hereto, and included herein for all purposes. City will manage the funding it receives from KCLC and EIC and the bidding, management, and construction of the Project. Other than continuing to prepare design documents, City will not proceed with the Project until it receives KCLC’s full contribution for \$100,000.00 (“KCLC’s Contribution”). City shall not substantively alter the description of the Project in any respect without the prior approval of the EIC. In addition, City shall provide periodic reports to the EIC with respect to the Project, its design, timing, and costs. Where the bidding process determines that the cost of the Project will exceed \$200,000.00, the City is under no obligation to proceed but may choose to suspend its performance until discussing this issue with the parties and/or terminate this Agreement.
2. **Agreement to Fund Project:** EIC agrees to provide City an amount up to and not to exceed \$100,000.00 in 4B Revenues for the Project. EIC will provide the funding only after City confirms that it has received KCLC’s Contribution.
3. **Payments Authorized:** City is authorized to make payments for the Project directly from the General Capital Projects Fund.
4. **Eligible Costs:** Payments made by City from 4B Revenues as authorized by Section 3, above, are limited to the payment of “costs” as defined in the Act.
5. **City’s Receipt of KCLC’s Contribution:** Prior to bidding, City must receive KCLC’s Contribution. Should City fail to receive this amount on or before September 1, 2021, City shall report this event to EIC and the EIC and/or City may terminate this Agreement.
6. **Project’s Timeline:** City has begun work toward the design of the Project. Thereafter, construction activities will begin on or before October 1, 2020. Should such activities not occur by these dates, EIC may elect to terminate this Agreement.
7. **Conditions Under which City may Suspend Performance of its Obligations under this Agreement:** Under any of the following conditions, the

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City may, at its option, after at least fifteen (15) days written notice to EIC and KCLC, suspend further performance under this Agreement until such time as KCLC shall have cured the condition(s) and so notified the City, in writing, that the condition(s) have been cured:

- a. KCLC becomes insolvent. “Insolvent” is defined to mean one either has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, or is insolvent within the meaning of the federal bankruptcy law.
- b. The appointment of a receiver of KCLC, or of all or any substantial part of the Property, and the failure of such receiver to be discharged within sixty (60) days thereafter.
- c. The adjudication of KCLC as bankrupt.
- d. The filing by KCLC of a petition to be adjudged as bankrupt, or a petition or answer seeking reorganization or admitting the material allegations of a petition filed against it in any bankruptcy or reorganization proceeding.
- e. Should any of these conditions not be cured by KCLC within ninety (90) days, KCLC will be considered to have breached this Agreement and City may, at its option, with written notice to KCLC, terminate this Agreement.

8. **KCLC’s Representations, Warranties, and Performance:**

- a. KCLC represents and warrants as of the date hereof:
 - (i) KCLC is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
 - (ii) Execution of this Agreement has been duly authorized by KCLC and this Agreement is not in contravention of KCLC’s governing authority or any agreement or instrument to which KCLC is a party or by which it may be bound as of the date hereof;
 - (iii) No litigation or governmental proceeding is pending, or, to the knowledge of KCLC, threatened against or affecting KCLC, which may result in a material adverse change in KCLC’s business; properties, to

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include KCLC's Property; or operations sufficient to jeopardize KCLC's legal existence;

(iv) No written application, written statement, or correspondence submitted by KCLC to EIC or the City in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of KCLC, contains any untrue statement of a material fact or fails to state any material fact necessary to keep the statements contained therein from being misleading;

(v) Following completion of the Project and then the subsequent lighting, KCLC shall help promote the Project to the community; and

(vi) KCLC shall pay City \$100,000.00 on or before September 1, 2021, which City shall use for Project costs. Should the overall cost of the Project end up being less than \$200,000.00, City is not obligated to refund any part of this amount to KCLC.

b. Except as expressly set forth in this section, KCLC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

9. **Severability:** The provisions of this Agreement are severable, and if for any reason a provision of this Agreement is determined to be invalid by a court having competent jurisdiction over the subject matter of the invalid provision, the invalidity shall not affect other provisions that can be given effect without the invalid provision. Further, in lieu of such illegal, invalid, or unenforceable provision, there will be added automatically as a part of this Agreement, a provision as similar in its terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.
10. **Amendment:** This Agreement may be amended only by written amendment signed by the parties.
11. **Notices:** All notices given with respect to this Agreement must be in writing and will be deemed to have been properly given for all purposes (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier unless such carrier

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confirms such notice was not delivered, then on the day such carrier actually delivers such notice, or (ii) if personally delivered, on the actual date of delivery, or (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the fifth business day following the date of mailing, or (iv) if sent by facsimile, then on the actual date of delivery (as evidenced by a facsimile confirmation) provided that a copy of the facsimile and confirmation is also sent by regular U.S. Mail, addressed as follows:

For EIC

President

City of Kerrville, Texas, Economic Improvement Corporation

City Hall, 701 Main Street

Kerrville, Texas 78028

Facsimile: (830) 792-3850

For City

City Manager, City of Kerrville

City Hall, 701 Main Street

Kerrville, Texas 78028

Facsimile: (830) 792-3850

KCLC

George Eychner, President

KCLC

2108 Sidney Baker St.

Kerrville, Texas 78028

12. **Applicable Law:** This Agreement is governed by and construed in accordance with the laws of the State of Texas. The Agreement is entered into and fully performable within Kerr County, Texas. Accordingly, venue for any cause of action arising pursuant to this Agreement is proper only in Kerr County, Texas.
13. **Interpretation:** Each party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement will therefore be deemed to have been negotiated and prepared at the joint request, direction, and construction of the parties, at arm's length, with the advice and participation of counsel, and will be interpreted in accordance with its terms without favor to any party.

DRAFT 3/12/21

14. **No Joint Venture**: Nothing contained in this Agreement is intended by the parties to create a partnership or joint venture between any or all of the parties.
15. **Parties in Interest**: Nothing in this Agreement shall entitle any party other than EIC, City, or KCLC to any claim, cause of action, remedy, or right of any term of this Agreement.
16. **Survival of Terms**: All rights, duties, liabilities, and obligations accrued prior to termination will survive termination.
17. **Entire Agreement**: This Agreement represents the entire agreement of the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in the year and as of the date indicated.

CITY OF KERRVILLE, TEXAS

**CITY OF KERRVILLE, TEXAS ECONOMIC
IMPROVEMENT CORPORATION**

By: _____
Bill Blackburn, Mayor

By: _____
Greg Richards, President

ATTEST:

ATTEST:

Shelley McElhannon, City Secretary

Keesha Franchina, Secretary for the EIC

APPROVED AS TO FORM:

KCLC

Michael C. Hayes, City Attorney

By: _____
George Eychner, President

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**TO BE CONSIDERED BY
ECONOMIC IMPROVEMENT CORPORATION
CITY OF KERRVILLE, TEXAS**



SUBJECT: Amendment to the Economic Development Grant Agreement between James Avery Craftsman, Inc. and the City of Kerrville Economic Improvement Corporation

AGENDA DATE OF: March 15, 2021

DATE SUBMITTED: Mar 12, 2021

SUBMITTED BY: EA Hoppe

EXHIBITS: [EIC Grant Agreement_1st Amendment_031221 DRAFT.pdf](#)

Expenditure Required:	Remaining Budget Balance in Account:	Amount Budgeted:	Account Number:
N/A	N/A	N/A	N/A

PAYMENT TO BE MADE TO: N/A

Kerrville 2050 Item?	Yes
Key Priority Area	E - Economic Development
Guiding Principle	E4. Balance, broaden and diversify the City's tax base, shifting the tax burden away from residential property owners
Action Item	E4.2 - Explore opportunities to capitalize on existing businesses, such as Mooney, the Airport, and James Avery

SUMMARY STATEMENT:

James Avery Craftsman, Inc. (JAC) has an existing Economic Development Agreement with the City of Kerrville Economic Improvement Corporation (EIC) that dates back to before they made a major expansion of their main manufacturing facility now located along HWY 27 near the Kerrville Airport. Along with this major building expansion, significant levels of new employment were also outlined in the five-year Agreement. Essentially, the minimum new employees for 2017 was 134, for 2018 it was 191, for 2019 it was 252, for 2020 it was 306, and for 2021 (the final year of the Agreement) it was 359. Due the pandemic and other market forces JAC missed their employment targets at the end of 2020 (246 versus 306) and approached the EIC as to a possible revision to the Agreement. JAC desires to extend the Agreement to 2024 and will commit to employing

at least 359 employees by the end of 2023 and maintaining that 359 employment level through the end of 2024. Annual employment reports will be provided on the following February after the end of each Calendar Year, with the final report on February 2025.

The EIC contemplated this Amendment at the March 2nd EIC meeting and directed staff to draft an Amendment for further review at their regular public meeting called for Monday, March 15th. Should the EIC approve the Amendment, the City Council will review the matter at their scheduled March 23rd City Council meeting.

RECOMMENDED ACTION:

Consider and take action on Amending the Agreement.

DRAFT 3/12/21

FIRST AMENDMENT TO ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN JAMES AVERY CRAFTSMAN, INC. AND THE CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION

THIS FIRST AMENDMENT TO ECONOMIC DEVELOPMENT GRANT AGREEMENT is entered into this ____ day of _____, 2021, by and between JAMES AVERY CRAFTSMAN, INC. (“Company”), and the CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION (“Corporation”)

WITNESSETH:

WHEREAS, on March 19, 2015, Company and Corporation entered into that certain agreement titled *Economic Grant Agreement between James Avery Craftsman, Inc. and the City of Kerrville, Texas, Economic Improvement Corporation* (the “Grant Agreement”) in which Corporation agreed to provide Company grant funding from Corporation’s sales tax revenues for costs relating to the design and construction of a new manufacturing facility (the “Project”); and

WHEREAS, based upon the ongoing economic conditions that continue to impact the entire country, the Corporation and Company have agreed to amend the Grant Agreement as specified below; and

WHEREAS, Corporation finds that it is in the public interest to amend the Grant Agreement as provided herein;

NOW THEREFORE, for and in consideration of the recitals set forth above and the promises made herein, Company and Corporation agree as follows:

1. Section 2.1 of the Grant Agreement is amended with deletions indicated by ~~strikeout~~ text and additions indicated by underlined text as follows:

“2.1. Effective Date and Termination. Subject to approval by City’s City Council and, if applicable, compliance with Section 505.160 of the Act, the term of this Agreement (the “Term”) commences on January 14, 2015 (the “Effective Date”), and terminates on the earlier of:

- (a) ~~January 13, 2022~~ February 1, 2025;
- (b) when terminated by mutual agreement of the Parties;
- (c) if Commencement of Construction does not occur by the date set forth in Section 4.4 and, EIC elects to terminate this Agreement by providing notice to

Company before Commencement of Construction actually occurs;

(d) if Completion of Construction does not occur by the date set forth in Section 4.4 and, EIC elects to terminate this Agreement by providing notice to Company before Completion of Construction actually occurs;

(e) when terminated pursuant to Articles VIII or IX; or

(f) at Company's sole and absolute discretion, upon Company's return of the Grant, or the portion of the Grant it has received, to EIC."

2. Section 4.6(a) of the Grant Agreement is amended with deletions indicated by ~~strikeout~~ text and additions indicated by underlined text as follows:

"4.6 New Full-Time Positions.

(a) ...

End of Calendar Year (12/31)	Minimum No. Total New Full-Time Positions by End of Subject Calendar Year	Minimum No. Newly Added Full-Time Positions for The Subject Calendar Year
2017	134	62
2018	191	57
2019	252	61
2020	306 <u>252</u>	54 <u>0</u>
2021	359 <u>252</u>	53 <u>0</u>
<u>2022</u>	<u>252</u>	<u>0</u>
<u>2023</u>	<u>359</u>	<u>107</u>
<u>2024</u>	<u>359</u>	<u>0</u>

For periodic reporting purposes, the Company shall report, on a ~~quarterly~~ annual basis, the cumulative number of New Full-Time Positions in weekly increments. For purposes of this calculation, a person employed in a New Full-Time Position who is not working within the City because the person is on any type of excused paid leave (e.g., vacation, sick leave, paid family leave, etc.), or is on an unpaid leave pursuant to the Family Medical Leave Act or other federal or state law which requires Company to retain the person as an employee while absent from work, will be included in the weekly count of Full-Time Position."

3. Except as amended herein, the provisions of the Grant Agreement remain in full force and effect. Should a conflict exist between the terms amended herein

and the Grant Agreement, the terms provided herein shall control.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in the year and as of the date indicated.

**CITY OF KERRVILLE, TEXAS
IMPROVEMENT CORPORATION**

JAMES AVERY CRAFTSMAN, INC.

Greg Richards, President

By: _____
Printed Name: _____
Its: _____

ATTEST:

Keesha Franchina, Recording Secretary

APPROVED AS TO FORM:

Michael C. Hayes, City Attorney