



**ECONOMIC IMPROVEMENT CORPORATION AGENDA**  
**DECEMBER 20, 2021, 4:00 PM**  
**Kerrville City Hall Council Chambers**  
**701 Main Street, Kerrville, Texas**

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

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**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 regular Economic Improvement Corporation (EIC) meeting held November 15, 2021.  
Attachment:  
[\*EIC Minutes 11-15-2021.pdf\*](#)

**5 MONTHLY REPORTS:**

5.A. Kerr Economic Development Corporation (KEDC) Update.  
5.B. Kerrville Economic Improvement Corporation (EIC) Project Status Update.  
5.C. Monthly Financial Report.  
Attachment:  
[\*November 2021 financial presentation.pdf\*](#)

**6 PUBLIC HEARING AND POSSIBLE ACTION:**

KERRVILLE 6.A. Economic Development Grant Agreement between Sid Peterson Memorial Hospital, Inc. and the City of Kerrville, Texas Economic Improvement Corporation for infrastructure necessary to promote or develop new or expanded business enterprises that create primary jobs.  
Attachment:  
[\*Economic Development Grant Agreement – Sid Peterson Memorial Hospital.pdf\*](#)

**7 EXECUTIVE SESSION:** *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:*

KERRVILLE 7.A. Workforce Housing development projects (551.071, 551.072, 551.087)

**8 POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:**

**9 ITEMS FOR FUTURE AGENDAS:**

**10 ANNOUNCEMENTS:**

**11 ADJOURN.**



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



**SUBJECT:** Minutes from the regular Economic Improvement Corporation (EIC) meeting held November 15, 2021.

**AGENDA DATE OF:** December 20, 2021 **DATE SUBMITTED:** Nov 16, 2021

**SUBMITTED BY:** Kesha Franchina

**EXHIBITS:** [EIC Minutes 11-15-2021.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

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

**SUMMARY STATEMENT:**

Minutes from the regular Economic Improvement Corporation (EIC) meeting held on November 15, 2021.

**RECOMMENDED ACTION:**

Approve minutes from the regular Economic Improvement Corporation (EIC) meeting held on November 15, 2021.

**CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION (EIC)  
REGULAR MEETING – NOVEMBER 15, 2021**

On Monday, November 15, 2021, at 5:00 p.m., the regular 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  
Gregg Appel  
Don Barnett  
Kim Clarkson, Councilmember, Place 2  
Gary Cochrane  
Maggie Megee

**MEMBERS ABSENT:** None.

**CHIEF EXECUTIVE STAFF PRESENT:**

E.A. Hoppe, City Manager  
Mike Hayes, City Attorney  
Kesha Franchina, Deputy City Secretary  
Julie Behrens, Director of Finance  
Trina Rodriguez, Assistant Director of Finance  
Jacob Bogusch, Accounting Intern

**VISITORS PRESENT:** None.

- 1 **CALL TO ORDER:** President Richards called the meeting to order at 5:00 p.m.
- 2 **INVOCATION:** President Richards led the invocation.
- 3 **VISITORS / CITIZENS FORUM:** None.
- 4 **APPROVAL OF MINUTES:**
  - 4.A. Minutes from the regular Economic Improvement Corporation (EIC) meeting held on October 18, 2021.
  - 4.B. Minutes from the regular Economic Improvement Corporation (EIC) meeting held on October 25, 2021.

Maggie Megee motioned to approve the minutes, Gary Cochrane seconded and the motion passed 7-0.
- 5 **MONTHLY REPORTS:**
  - 5.A. Kerr Economic Development Corporation (KEDC) Update

Gil Salinas presented the KEDC updates. Gil and EA Hoppe responded to questions.

5.B. Kerrville Economic Improvement Corporation (EIC) Project Status Update

EA Hoppe presented the EIC Project Status Update handout; there were no questions or discussion.

5.C. Monthly Financial Report

Trina Rodriguez presented the Monthly Financial Report. Trina and EA Hoppe responded to questions. Gary Cochrane requested Finance to look into CD's or Bonds to invest EIC funds and report back to the board.

**6 CONSIDERTION AND POSSIBLE ACTION:**

6.A. EIC Application for Funding for Peterson Health expansion.

EA Hoppe introduced the funding application and responded to questions. Joe Piszcior presented the funding request for the expansion. Joe, Corey Edmondson, and Greg Schroeder (Peterson Health), and EA Hoppe responded to questions. No action was taken.

6.B. Lienholders Agreement between EIC and Dacotah Bank concerning monetary grants and loans issued by the parties to Prairie Gold Real Estate LLC (dba Killdeer Mountain Manufacturing).

President Richards requested to hold item 6.B. to discuss in executive session.

Don Barnett excused himself from the meeting at 5:45 p.m.

6.C. Discussion to cancel or reschedule the regular Economic Improvement Corporation (EIC) meeting on December 20, 2021.

The decision was made to leave the regular EIC meeting scheduled on December 20, 2021 in place.

6.D. Discussion to reschedule the Economic Improvement Corporation (EIC) meeting for January 17, 2022 as meeting falls on Martin Luther King Holiday.

The decision was made to reschedule the regular EIC meeting scheduled for January 17, 2022 to the following Monday, January 24, 2022.

Gregg Appel motioned to go into executive session under 551.071 (consultation with attorney), 551.073 (*deliberation regarding gifts*), and 551.087 (deliberation regarding economic development negotiations), Gary Cochrane seconded and the motioned passed 6-0. President Richards adjourned into closed executive session at 5:54 p.m.

**7 EXECUTIVE SESSION:**

7.B. Lienholders Agreement between EIC and Dacotah Bank concerning monetary grants and loans issued by the parties to Prairie Gold Real Estate LLC (dba Killdeer Mountain Manufacturing).

President Richards adjourned the closed executive session and the meeting returned to open session at 6:16 p.m.

**8 POSSIBLE ACTION FOR ITEMS DISCUSSED IN EXECUTIVE SESSION:**

EIC Application for Funding for Peterson Health expansion.

Gregg Appel instructed staff to begin drafting a funding agreement for the request from Peterson Health for their application submitted on November 11, 2021 and to set a public hearing for December 20, 2021, at 4:00 p.m. Maggie Megee seconded and the motion passed 6-0.

Lienholders Agreement between EIC and Dacotah Bank concerning monetary grants and loans issued by the parties to Prairie Gold Real Estate LLC (dba Killdeer Mountain Manufacturing).

Danny Almond motioned Mike Hayes to finalize the lienholders Agreement between EIC and Dacotah Bank concerning monetary grants and loans issued by the parties to Prairie Gold Real Estate LLC (dba Killdeer Mountain Manufacturing), Gary Cochrane seconded and the motion passed 6-0.

**9 ITEMS FOR FUTURE AGENDAS:** None.

**10 ANNOUNCEMENTS:** None.

**11 ADJOURN.** President Richards adjourned the meeting at 6:17 p.m.

Minutes Approved: \_\_\_\_\_

President Greg Richards: \_\_\_\_\_

Attest: Kesha Franchina, Deputy City Secretary: \_\_\_\_\_



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



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**SUBJECT:** Kerr Economic Development Corporation (KEDC) Update.

**AGENDA DATE OF:** December 20, 2021 **DATE SUBMITTED:** Nov 16, 2021

**SUBMITTED BY:** Gil Salinas

**EXHIBITS:**

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

**PAYMENT TO BE MADE TO:** N/A

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

**SUMMARY STATEMENT:**

**RECOMMENDED ACTION:**

No Action.



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



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**SUBJECT:** Kerrville Economic Improvement Corporation (EIC) Project Status Update.

**AGENDA DATE OF:** December 20, 2021 **DATE SUBMITTED:** Nov 16, 2021

**SUBMITTED BY:** Kesha Franchina

**EXHIBITS:**

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

**PAYMENT TO BE MADE TO:** N/A

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

**SUMMARY STATEMENT:**

Economic Improvement Project update.

**RECOMMENDED ACTION:**

No Action.



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



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**SUBJECT:** Monthly Financial Report.

**AGENDA DATE OF:** December 20, 2021 **DATE SUBMITTED:** Dec 13, 2021

**SUBMITTED BY:** Trina Rodriguez

**EXHIBITS:** [November 2021 financial presentation.pdf](#)

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

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**PAYMENT TO BE MADE TO:** N/A

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

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**SUMMARY STATEMENT:**

Monthly financial report for the month ending November 30, 2021 will be presented by staff.

**RECOMMENDED ACTION:**

Information only; no action required.



# **Financial update for the month ended November 30, 2021**

**Economic Improvement Corporation Meeting  
December 20, 2021**



**Economic Improvement Corporation**  
**Statement of Activities**  
**Month Ended November 30, 2021**

	Annual Budget	Current Period	Y-T-D Actual	% of Budget	Remaining Budget
<b>Revenues</b>					
Sales and Use Tax	\$ 4,223,000	\$ 420,172	\$ 786,022	18.6%	\$ (3,436,978)
Interest Income	9,665	159	303	3.1%	(9,362)
<b>Total Revenues</b>	<b>4,232,665</b>	<b>420,331</b>	<b>786,325</b>	<b>18.6%</b>	<b>(3,446,340)</b>
<b>Expenditures</b>					
Administrative					
Office Supplies	500	-	-	0.0%	500
Professional Services	10,000	-	-	0.0%	10,000
Administrative Services Fee	195,000	16,250	32,500	16.7%	162,500
Kerr Economic Development Corp.	312,500		78,125	25.0%	234,375
<b>Total Administrative</b>	<b>518,000</b>	<b>16,250</b>	<b>110,625</b>	<b>21.4%</b>	<b>407,375</b>
Debt Service					
Debt Service - Series 2019 Ref (River Trail)	251,019	20,918	41,836	16.7%	209,183
Debt Service - Series 2020 Ref (River Trail)	233,000	19,417	38,833	16.7%	194,167
Debt Service - Series 2015 (KSC)	605,350	50,446	100,892	16.7%	504,458
<b>Total Debt Service</b>	<b>1,089,369</b>	<b>90,781</b>	<b>181,561</b>	<b>16.7%</b>	<b>907,808</b>
Projects					
Airport Projects	338,134	-	-	0.0%	338,134
Arcadia Live	400,000	-	-	0.0%	400,000
<b>Total Projects</b>	<b>738,134</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>338,134</b>
<b>Total Expenditures</b>	<b>2,345,503</b>	<b>107,031</b>	<b>292,186</b>	<b>12.5%</b>	<b>2,053,317</b>
<b>Change in Net Position</b>	<b>\$ 1,887,162</b>	<b>\$ 313,301</b>	<b>\$ 494,139</b>		

**Economic Improvement Corporation**  
**Cash Flow Forecast**  
**As of November 30, 2021**

	<b>FY2022 Actual</b>		<b>FY2022 Projection</b>							
	Oct 2021 to Nov 2021		Jan 2022 to Dec 2021		Apr 2022 to Mar 2022		Jul 2022 to Jun 2022			
	\$	2,738,631	\$	3,233,838	\$	3,259,092	\$	3,893,982	\$	4,512,327
<b>Beginning Cash Balance</b>										
<b>Revenue</b>										
Sales Tax		786,022		332,134		1,036,157		1,019,612		1,208,104
Interest Income		303		150		450		450		450
<b>Total Revenue</b>		786,325		332,284		1,036,607		1,020,062		1,208,554
<b>Expenditures</b>										
Administrative										
Administrative Fee & Supplies		32,500		16,250		48,750		48,750		48,750
Professional Services		-		-		2,500		2,500		2,500
KEDC		78,125		-		78,125		78,125		78,125
Total Administrative		110,625		16,250		129,375		129,375		129,375
Debt Service		181,561		90,781		272,342		272,342		272,342
Projects										
Airport Projects		-		-		-		-		-
Arcadia Live		-		200,000		-		-		200,000
Total Projects		-		200,000		-		-		200,000
<b>Total Expenditures</b>		292,186		307,031		401,717		401,717		601,717
<b>Ending Cash Balance</b>		\$ 3,233,838		\$ 3,259,092		\$ 3,893,982		\$ 4,512,327		\$ 5,119,164

# Financial Analysis

Project Analysis as of November 30, 2021			
Project Description	EIC Commitment	Disbursed Funding	Remaining Funding
<b>Committed Projects:</b>			
Airport Projects	375,000	7,367	367,633
Arcadia Live	400,000	-	400,000
<b>Committed Project Total</b>	<b>\$ 775,000</b>	<b>\$ 7,367</b>	<b>\$ 767,633</b>

Sales Tax Revenue Analysis - FY2022					
Month	Actual FY2021	Budget FY2022	Actual FY2022	FY2021 vs. FY2022	Budget vs. Actual
October	\$ 311,718	\$ 296,424	\$ 365,850	17.37%	23.42%
November	376,028	357,572	420,172	11.74%	17.51%
December	320,874	305,130	332,134	3.51%	8.85%

Cash Analysis as of November 30, 2021		
by Type - Placement - Amount		
Type	Placement	Amount
Short Term Investment	EIC TexPool	\$ 3,233,838
	<b>Total Cash and Investments</b>	<b>\$ 3,233,838</b>



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



**SUBJECT:** Economic Development Grant Agreement between Sid Peterson Memorial Hospital, Inc. and the City of Kerrville, Texas Economic Improvement Corporation for infrastructure necessary to promote or develop new or expanded business enterprises that create primary jobs.

**AGENDA DATE OF:** December 20, 2021 **DATE SUBMITTED:** Nov 16, 2021

**SUBMITTED BY:** EA Hoppe

**EXHIBITS:** [Economic Development Grant Agreement - Sid Peterson Memorial Hospital.pdf](#)

<b>Expenditure Required:</b>	<b>Remaining Budget Balance in Account:</b>	<b>Amount Budgeted:</b>	<b>Account Number:</b>
1,600,000	N/A	N/A	N/A

**PAYMENT TO BE MADE TO:** Sid Peterson Memorial Hospital, Inc.

<b>Kerrville 2050 Item?</b>	Yes
<b>Key Priority Area</b>	E - Economic Development
<b>Guiding Principle</b>	E12. Nurture continued growth and quality of the medical/health care industry in Kerrville
<b>Action Item</b>	E12.4 -Work with the hospitals to address their expansion needs/requirements

**SUMMARY STATEMENT:**

The Kerrville Economic Improvement Corporation received a Funding Application (attached) from Sid Peterson Memorial Hospital (Peterson Health) in regards to the potential expansion of their campus within Kerrville's Strategic Catalyst Area #2, often referred as the "medical district." Sid Person Memorial Hospital is the largest employer within Kerr county and the city of Kerrville. The citizens of Kerrville recognized the importance of Sid Peterson Memorial Hospital to the local economy by specifically identifying two key action items within the Kerrville 2050 Comprehensive Plan (Economic Development; Nurture continued growth and quality of the medical/health care industry; E12.1 - Promote the growth and expansion of the hospital and the medical industry, E12.4

- Work with the hospital to address their expansion needs/requirements) Sid Peterson Memorial Hospital representatives will be on hand to present their request and answer questions.

Peterson Health presented their application to the EIC at their regular meeting in November. The EIC unanimously approved the drafting of an Economic Development Grant Agreement to be further discussed and considered at a Public Hearing on Dec. 20th, 2021.

**RECOMMENDED ACTION:**

Conduct a Public Hearing and consider the Economic Development Grant Agreement between Sid Peterson Memorial Hospital and the City of Kerrville, Texas Economic Improvement Corporation.

# D R A F T 12/17/21

## ECONOMIC DEVELOPMENT GRANT AGREEMENT BETWEEN SID PETERSON MEMORIAL HOSPITAL, INC. AND THE CITY OF KERRVILLE, TEXAS ECONOMIC IMPROVEMENT CORPORATION FOR INFRASTRUCTURE NECESSARY TO PROMOTE OR DEVELOP NEW OR EXPANDED BUSINESS ENTERPRISES THAT CREATE PRIMARY JOBS

This Economic Development Grant Agreement (“Agreement”) is entered into as of the Effective Date by and between **SID PETERSON MEMORIAL HOSPITAL, INC.** (dba Peterson Regional Medical Center), a Texas nonprofit corporation (“Peterson”), acting herein by and through its duly authorized President and Chief Executive Officer; and the **CITY OF KERRVILLE, TEXAS, ECONOMIC IMPROVEMENT CORPORATION** (“EIC”), a Type B Economic Development Corporation established pursuant to Chapters 501, 502, and 505 of the Texas Local Government Code, as amended (*i.e.*, the Development Corporation Act and hereafter referred to as “the Act”), acting by and through its duly authorized President. Peterson and EIC are sometimes 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 definition of “Projects”, as that word is defined by Chapters 501 and 505 of the Act; and

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

Expenditures that are found by the EIC: 1) to be required or suitable for *infrastructure necessary to promote or develop new or expanded business enterprises*, limited to, streets and roads, rail spurs, water and sewer utilities, electric utilities, or gas utilities, drainage, *site improvements, and related improvements* as provided by Section 501.103 of the Act; and 2) land, buildings, equipment, *facilities, and improvements* to promote or develop *new or expanded business enterprises that create or retain primary jobs* including a project to provide public safety facilities, streets and roads, drainage and related improvements, demolition of existing structures, general municipally owned improvements,

*and any improvements or facilities related to a project described by this subdivision; and any other project that the Board in its discretion, determines promotes or develops new or expanded business enterprises that create or retain primary jobs, as provided by Sections 501.103 and 505.155 of the Act (emphasis supplied); and*

**WHEREAS**, Peterson, whose headquarters, Peterson Regional Medical Center (“PRMC”), is in Kerrville, Texas, and is the largest employer in Kerr County, is a community-based healthcare provider, which provides comprehensive medical care to Kerr County residents as well as residents of counties in the surrounding region, to include the cities of Bandera, Comfort, and Fredericksburg; and

**WHEREAS**, the provision of a significant amount of medical services and care to persons residing beyond Kerr County means that the professionals providing such services hold “primary jobs”; and

**WHEREAS**, Peterson recently purchased approximately 157 acres of an unimproved property across Lehmann Drive from PRMC as further described and depicted in **Exhibit A** (the “Property”); and

**WHEREAS**, Peterson has applied to the City of Kerrville (“City”) for annexation of the Property; and

**WHEREAS**, Peterson is in the process of designing and developing a surgery center and making improvements to another facility located at the PRMC, such improvements currently estimated to cost over \$44 Million; and

**WHEREAS**, in undertaking such improvements, Peterson will utilize a portion of the existing PRMC that it uses as a parking area; and

**WHEREAS**, Peterson has accounted for the required funds for the PRMC improvements, and believes the improvements and the expansion of services and care that it affords are necessary to keep up with its expanding health care coverage and will allow it to recruit additional staff, including surgeons and other specialists; and

**WHEREAS**, in conjunction with such development, Peterson desires to develop the Property and to use it as an offsite parking area for employees and others that use the PRMC (the “Project”); and

**WHEREAS**, Peterson has advised the EIC that a contributing factor that would induce Peterson to add to and improve the PRMC as well as to undertake the Project would be an agreement with EIC to provide an economic development grant to Peterson to defray a portion of the Project costs; and

**WHEREAS**, the City's Comprehensive Plan provides, as one of its goals, for the City to nurture the continued growth and quality of medical and healthcare services in Kerrville and to work with Peterson to address its expansion needs as required, as the City recognizes Peterson as an economic driver, the City's largest employer, and a producer of medical tourism, with its resulting economic benefits, into the City; and

**WHEREAS**, finding that providing a grant to fund the Project is required or suitable for infrastructure necessary to promote or develop new or expanded business enterprises by promoting the expansion of the PRMC, its services, the number of people it is able to serve, and to promote or develop new and expanded business enterprises that create or retain primary jobs, EIC has determined that such a grant complies with the Act and is in keeping with the mission of EIC and City of Kerrville Economic Improvement Corporation 4B Sales Tax Funding Request Guidelines and Procedures; and

**WHEREAS**, EIC finds that it will be in the public interest to enter into this Agreement with Peterson to provide a grant of 4B Revenues, as defined below, to Peterson for a portion of its cost necessary for the construction of the offsite improvements; and

**WHEREAS**, on December 20, 2021, in a meeting that was open to the public in accordance with the Texas Open Meetings Act, EIC held a public hearing pursuant to Section 505.159 of the Act related to the proposed expenditure of 4B Revenues for the purposes provided above;

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

## **Article I** **Definitions**

For purposes of this Agreement, each of the following terms has the meaning set forth herein unless the context clearly indicates otherwise:

“*4B Sales Tax*” means the one-half of one percent (0.5%) local sales and use tax collected by City for the benefit of EIC pursuant to the Act.

“*Affiliate*” means, with respect to any Person, any other Person directly or indirectly Controlling, Controlled by, or under common Control with such Person.

“*Bankruptcy or Insolvency*” means the dissolution or termination of a Party’s existence as a going business, insolvency, appointment of receiver for any part of such Party’s property and such appointment is not terminated within ninety (90) days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or

insolvency laws by or against such Party and such proceeding is not dismissed within ninety (90) days after the filing thereof.

“*City*” means the City of Kerrville, Texas.

“*Commencement of Construction*” means that (i) the plans have been prepared and all approvals thereof required by applicable governmental authorities have been obtained for construction of the Improvements on the Property; (ii) all necessary permits for the construction of the Improvements on the Property pursuant to the plans have been issued by all applicable governmental authorities; and (iii) grading of the Property and/or construction of the Improvements have begun.

“*Control*,” or any derivation thereof, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of securities, by contract or otherwise.

“*Force Majeure*” means any contingency or cause beyond the reasonable control of a Party including, without limitation, acts of God or the public enemy, war, terrorist act, or threat thereof, riot, civil commotion, insurrection, government action or inaction (unless caused by the intentionally wrongful acts or omissions of the Party), fires, earthquake, tornado, hurricane, explosions, floods, strikes, slowdowns, or work stoppages.

“*Grant*” means the amount of One Million Six Hundred Thousand and No/100 Dollars (\$1,600,000.00) paid by EIC to Peterson in two installments, as provided in this Agreement.

“*Improvements*” means the public infrastructure constructed on the Property, including the construction of a public road, utilities, and storm sewer, as more fully described in **Exhibit B**.

“*Local Sales and Use Tax*” means (i) the one percent (1%) sales and use tax imposed by the City pursuant to Chapter 321, Texas Tax Code and (ii) the 4B Sales Tax.

“*Person*” means an individual, corporation, partnership, trust, estate, unincorporated organization, association, or other entity.

“*Project*” means the specific scope of work for the Improvements provided to the EIC by Peterson, which is attached as **Exhibit B**.

“*Property*” means the property described and depicted in **Exhibit A**.

“*Substantial Completion of Construction*” means the City has accepted and/or approved, as evidenced where appropriate by the issuance of a permit(s) or a certificate of occupancy, the Improvements or Surgery Center.

“*Surgery Center*” means the approximate 41,000 square foot, three-story building that Peterson intends to design and construct as part of its PRMC.

## **Article II** **Term**

2.1. Effective Date and Termination. The term of this Agreement (the “Term”) commences on December 20, 2021 (the “Effective Date”), and terminates on the earlier of:

- (a) December 19, 2026;
- (b) Three years after Substantial Completion of the Surgery Center;
- (c) when terminated by mutual agreement of the Parties;
- (d) if Commencement of Construction does not occur by January 1, 2023 for the Improvements and EIC elects to terminate this Agreement by providing notice to Peterson before Commencement of Construction actually occurs;
- (e) if Commencement of Construction does not occur for the Surgery Center by January 1, 2023 and EIC elects to terminate this Agreement by providing notice to Peterson before Commencement of Construction actually occurs;
- (f) when terminated pursuant to Articles VIII or IX; or
- (g) at Peterson’s sole and absolute discretion, upon Peterson’s return of the Grant or the portion of the Grant it has received to EIC.

2.2 Rights upon Termination. Upon termination of this Agreement, all rights, duties, and obligations of any kind under this Agreement will automatically expire and terminate and be of no other force and effect except to the extent such obligations expressly survive the termination of this Agreement.

## **Article III** **4B Revenue Grant**

3.1 Grant and its Conditions. Subject to Peterson’s compliance with this Agreement, EIC agrees to provide Peterson with an amount up to and not to exceed the Grant, which EIC shall pay in two equal installments of Eight Hundred Thousand and No/100 Dollars (\$800,000.00) each. EIC shall pay the installments of the Grant as follows:

- (a) EIC shall pay the first installment of the Grant to Peterson not later than thirty (30) days after Peterson’s delivery to City of a request for

payment following the date that the Project has achieved Substantial Completion of Construction.

(b) EIC shall pay the second installment of the Grant to Peterson not later than thirty (30) days after Peterson's delivery to City of a request for payment following the date that the Surgery Center has achieved Substantial Completion of Construction. Where the Surgery Center achieves Substantial Completion prior to October 1, 2022, the EIC may elect to withhold such payment until this date.

(c) Prior to any payment, EIC, through the City Manager, may require that Peterson submit written evidence of costs, such as invoices, receipts, and bills of sale for review and approval.

(d) In no instance will the EIC be responsible for paying any amount which exceeds each installment of or the Grant, whether at the time of payment or into the future.

**3.2 Grant Limitations.** Under no circumstances shall the obligations of EIC hereunder be deemed to create any debt within the meaning of any constitutional or statutory provision. Further, EIC shall not be obligated to pay any commercial bank, lender, or similar institution for any loan or credit agreement made by Peterson.

**3.3 Current Revenue.** The Grant will be paid solely from lawfully available funds that have been appropriated by EIC. EIC shall have no obligation or liability to pay any installment of the Grant except as allowed by law. EIC shall not be required to pay any installment of the Grant if prohibited under federal or state legislation or a decision of a court of competent jurisdiction.

**3.4 Grant Limited to "Costs".** Payments made by EIC to Peterson from 4B Sales Taxes will be limited to the payments of "costs" as defined by the Act and as specified above for the Project; provided, however, for purposes of this Agreement, "costs" do not include funds spent by Peterson relating to the purchase of the Property or interest or other fees paid by Peterson related to borrowing funds for the purpose of paying for the Project or the Improvement.

## **Article IV** **Conditions to the Economic Development Grant**

**4.1 Generally.** The obligation of EIC to provide the Grant and the right of Peterson to retain the Grant without an obligation to repay all or any portion of the Grant to EIC shall be conditioned upon continued compliance with, and satisfaction of, each of the terms and conditions of this Agreement by Peterson and specifically, each of the conditions set forth in this Article IV.

**4.2 Good Standing.** Peterson shall not have incurred a breach or default

of this Agreement or any Related Agreement beyond any applicable notice and cure period.

4.3 Development Regulations. Prior to and following annexation of the Property, Peterson shall comply with all applicable development regulations of the City, to include building codes, subdivision regulations, and zoning, in its development and construction of the Project and the Surgery Center. In addition, Peterson shall cause to be developed a traffic impact analysis for any proposed or future impact from vehicle use or access to or from the Property and mitigate any impact as required by the study, Texas Department of Transportation, and/or City irrespective of vesting rights. Peterson shall engage a firm or professional to conduct the study that is licensed to do so by the state. Peterson will attempt to: meet the standards found for “dark sky” lighting; and, as much as is practical, preserve the large diameter (*i.e.*, 18” or greater in diameter) healthy, non-diseased, and native, non-invasive existing trees unless removal is necessary; and, utilize landscaping to include planting materials from the list of recommended plants set forth in the most recent edition of *Recommended Plants for the Kerrville Area* by the City at the time of planting. All landscaping must be maintained in a healthy, growing condition. Peterson’s failure to comply with this provision constitutes a breach of this Agreement should Peterson, following notice from City, fail to fully comply.

4.4 Records. Peterson shall keep and maintain complete and accurate records relating to its costs of designing and constructing the Project for three (3) years following the termination of this Agreement. EIC and its representatives shall be entitled to inspect Peterson’s records related to the Project during the term of this Agreement and for three (3) years thereafter, upon reasonable notice at Peterson’s offices at the address identified in Section 10.4, below.

## **Article V** **Sale of Project, Merger or Consolidation of Peterson**

5.1 Sale of Peterson Assets. A sale of all or any of the assets of Peterson shall not release Peterson from its duties and responsibilities to EIC under the terms of this Agreement and shall not result in the assignment of this Agreement by such acquiring entity without prior written consent from EIC, which will not be unreasonably withheld; provided, that Peterson’s proposed successor shall have the financial condition to fully satisfy Peterson’s duties and responsibilities hereunder and agrees to assume Peterson’s responsibilities under this Agreement. EIC may, in its sole discretion, reasonably determine whether such proposed successor’s financial condition is satisfactory.

5.2 Merger. In the event of any proposed merger or other consolidation of Peterson with any third party not affiliated with Peterson, not later than thirty (30) days prior to any such merger or consolidation, Peterson shall provide EIC with information and assurance reasonably acceptable to EIC regarding: (i) the surviving entity’s assumption and satisfaction of the Peterson’s obligations hereunder; and (ii)

the financial condition of the surviving entity upon such merger or other consolidation to demonstrate that the surviving entity shall have the financial condition to fully satisfy Peterson's duties and responsibilities under this Agreement.

5.3 EIC Rights. Notwithstanding anything in this Agreement to the contrary, it is expressly understood and agreed that EIC shall have no rights to approve or disapprove any sale or merger transaction of any kind involving Peterson. In the event of any sale or merger involving Peterson or its affiliates, the surviving entity shall assume Peterson's obligations and rights hereunder and be entitled to any and all benefits to be received pursuant to this Agreement.

## **Article VI** **Peterson's Representations and Warranties**

Peterson represents and warrants as of the date hereof:

- (a) Peterson is a Texas nonprofit corporation existing in good standing and authorized to do business in the State of Texas;
- (b) Execution of this Agreement has been duly authorized by Peterson and this Agreement is not in contravention of Peterson's corporate charter, or any agreement or instrument to which Peterson is a party or by which it may be bound as of the date hereof;
- (c) No litigation or governmental proceeding is pending, or, to the knowledge of Peterson, threatened against or affecting Peterson, which may result in a material adverse change in Peterson's business, properties, or operations sufficient to jeopardize Peterson's legal existence; and
- (d) No written application, written statement, or correspondence submitted by Peterson to EIC in connection with this Agreement, or in connection with any transaction contemplated hereby, to the knowledge of Peterson, 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.
- (e) Except as expressly set forth in this Article VI, Peterson makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

## **Article VII** **EIC'S Representations and Warranties**

EIC represents and warrants as of the date hereof:

- (a) EIC, to the best of the knowledge of its Board of Directors, is legally authorized to enter into this Agreement by virtue of the statute under which it is

governed and by the authorities and powers vested in it as a corporation duly and properly organized under the Act;

(b) Execution of this Agreement has been duly authorized by EIC;

(c) No litigation or governmental proceeding is pending, or, to the knowledge of any of EIC's officers, threatened against or affecting EIC, which may result in EIC's inability to meet its obligations under this Agreement; and

(d) EIC has no reasonable basis for believing that it has or will have incurred debts beyond its ability to pay as such debts mature, including but not limited to the obligations set forth in this Agreement.

(e) Except as expressly set forth in this Article VII, EIC makes no other representation or warranty of any kind in connection with or related to the provisions of this Agreement.

### **Article VIII Conditions under which EIC May Suspend Performance of Its Obligations Under This Agreement**

EIC may, at its sole option and after thirty (30) days written notice to Peterson, suspend EIC's performance under this Agreement until such time as Peterson shall have cured the condition(s) and so notified EIC, in writing, that the condition(s) have been cured:

(a) Peterson becomes insolvent;

(b) The appointment of a receiver of Peterson, 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 Peterson as bankrupt; or

(d) The filing by Peterson 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.

Should any of the foregoing conditions not be cured by Peterson within ninety (90) days after the onset of the condition, Peterson will be considered to have breached this Agreement and EIC may, at its option, with written notice to Peterson, terminate this Agreement and Peterson shall be obligated to refund the Grant to EIC.

## **Article IX** **Remedies**

9.1 Notice and Opportunity to Cure. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, by any Party, or any successor to such Party, such defaulting or breaching Party (or successor) shall upon written notice from the other, proceed immediately to cure or remedy such default or breach, and, in any event, within sixty (60) days after receipt of such notice. In the event that remedial action is not taken or not diligently pursued and the default or breach shall not be cured or remedied within a reasonable time (but in no event later than ninety (90) days from the date of notification of such breach), the aggrieved Party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including but not limited to, seeking specific performance and/or injunctive relief, enforcement by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan payments and to apply the revenues from the project in accordance with this Agreement, as required by the Act. This provision and specifically the notice and time to cure shall not apply to the obligation of Peterson found within Article IV.

9.2 Termination. Upon breach of this Agreement by either Party and the failure to cure as permitted by Section 9.1, the non-breaching Party shall have the sole right and discretion to either terminate this Agreement and/or pursue any and all remedies which may be provided by law and this Agreement. Each Party acknowledges and agrees that no Party hereunder shall be entitled to recover any amounts in excess of the Grant contracted for under this Agreement.

9.3 Delay Not Waiver. Any delay by any Party in instituting or prosecuting any actions or proceedings or otherwise asserting its rights shall not, so long as the breach or default by another Party shall be continuing, operate as a waiver of such rights or to deprive it of or limit such rights in any way; nor shall any waiver in fact be made by any party with respect to any specific default by any other party except to the extent specifically waived in writing.

## **Article X** **General Provisions**

10.1 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 shall 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.

10.2 Amendment. This Agreement may be amended only by written amendment signed by both Parties.

10.3 Venue. All payments made pursuant to this Agreement and other obligations performed under this Agreement shall be made or performed in Kerrville, Kerr County, Texas. Venue shall lie in a state court of competent jurisdiction in Kerr County, Texas; and this Agreement shall be governed by and construed in accordance with the laws of the State of Texas without respect to the conflict of laws rules thereof.

10.4 Notices. All notices given with respect to this Agreement shall be in writing and shall 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 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 Peterson

Cory Edmondson, President and CEO  
Sid Peterson Memorial Hospital, Inc.  
551 Hill Country Drive  
Kerrville, Texas 78028

For EIC

*President*

City of Kerrville, Texas, Economic Improvement Corporation  
701 Main Street  
Kerrville, Texas 78028  
Facsimile: (830) 792-3850

10.5 Assignment. This Agreement is binding upon the Parties and their successors and assigns. Except as set forth in Article V, this Agreement may not be assigned by either Party without the specific prior written consent of the other, which consent will not be unreasonably withheld. In the event that a Party consents to any valid assignment of this Agreement by the other Party, the assigning Party shall be relieved of any and all obligations and liabilities on the part of such assigning Party under this Agreement. Peterson may, without written consent of EIC, assign this Agreement to any entity controlled and 100% owned by Peterson or by the parent, subsidiary, or affiliate of Peterson provided the entity assumes all of Peterson's obligations and liabilities under this Agreement; agrees to comply with all provisions of this Agreement; has the legal, managerial, technical, and financial ability to properly perform and discharge such obligations and liabilities; and such abilities are each at least as great as those of Peterson and Peterson provides a written guarantee

of such assignee's performance in a form reasonably acceptable to EIC. EIC shall be advised in writing of such assignment and of the entity's qualifications at least sixty (60) days before such assignment occurs.

10.6 Parties In Interest. Nothing in this Agreement shall entitle any party other than Peterson or EIC to any claim, cause of action, remedy, or right of any kind except as expressly provided in Article IX.

10.7 Interpretation. Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall 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.

10.8 No Joint Venture. Nothing contained in this Agreement is intended by the Parties to create a partnership or joint venture between the Parties.

10.9 Survival of Terms. All rights, duties, liabilities, and obligations accrued prior to termination shall survive termination.

10.10 Entire Agreement. This Agreement represents the entire agreement of the Parties with respect to the subject matter hereof.

10.11 Recitals. The recitals to this Agreement are incorporated herein.

10.12 Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

10.13 Employment of Undocumented Workers. During the term of this Agreement, Peterson agrees not to knowingly employ any undocumented workers and, if convicted of a violation under 8 U.S.C. Section 1324a (f), Peterson shall repay the Grants and any other funds received by Peterson from EIC as of the date of such violation within one hundred twenty (120) days after the date Peterson is notified by EIC of such violation, plus interest at the rate of four percent (4%) compounded annually from the date of violation until paid. Peterson is not liable for a violation of this section in relation to any workers employed by a subsidiary, Affiliate, contractor, subcontractor, or franchisee of Peterson or any other Person other than Peterson.

(signatures begin on following page(s))

**SIGNED AND AGREED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**Sid Peterson Memorial Hospital, Inc.**

**BY:** \_\_\_\_\_  
Cory Edmondson, President and CEO

**SIGNED AND AGREED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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

**BY:** \_\_\_\_\_  
Greg Richards, President

**ATTEST:**

**BY:** \_\_\_\_\_  
Kesha Franchina, Recording Secretary

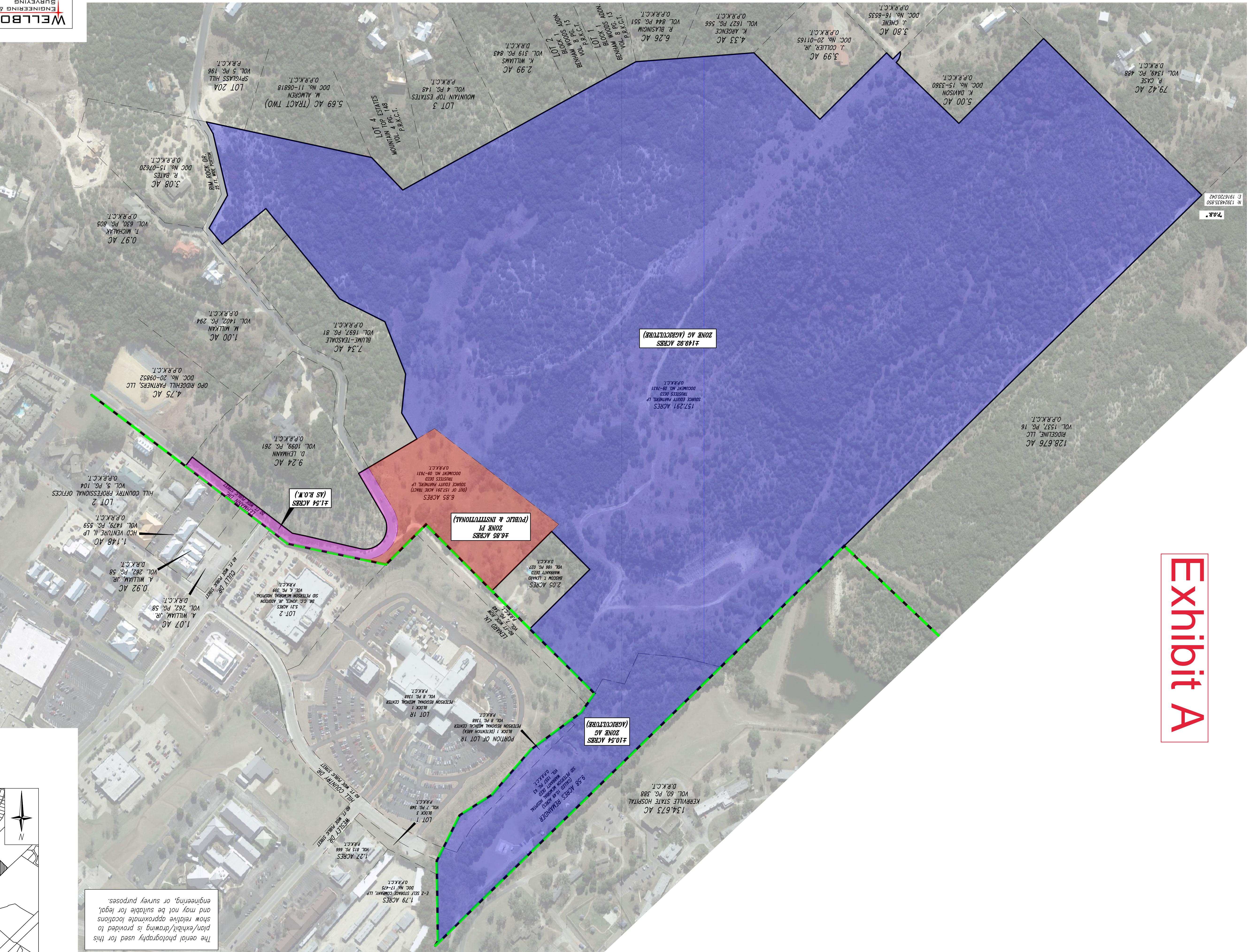
**APPROVED AS TO FORM:**

**BY:** \_\_\_\_\_  
Michael C. Hayes, Attorney for EIC

**SIGNED AND AGREED** on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**EXHIBIT A**  
**PROPERTY**

# Exhibit A



# 157-acre property development

elevating health



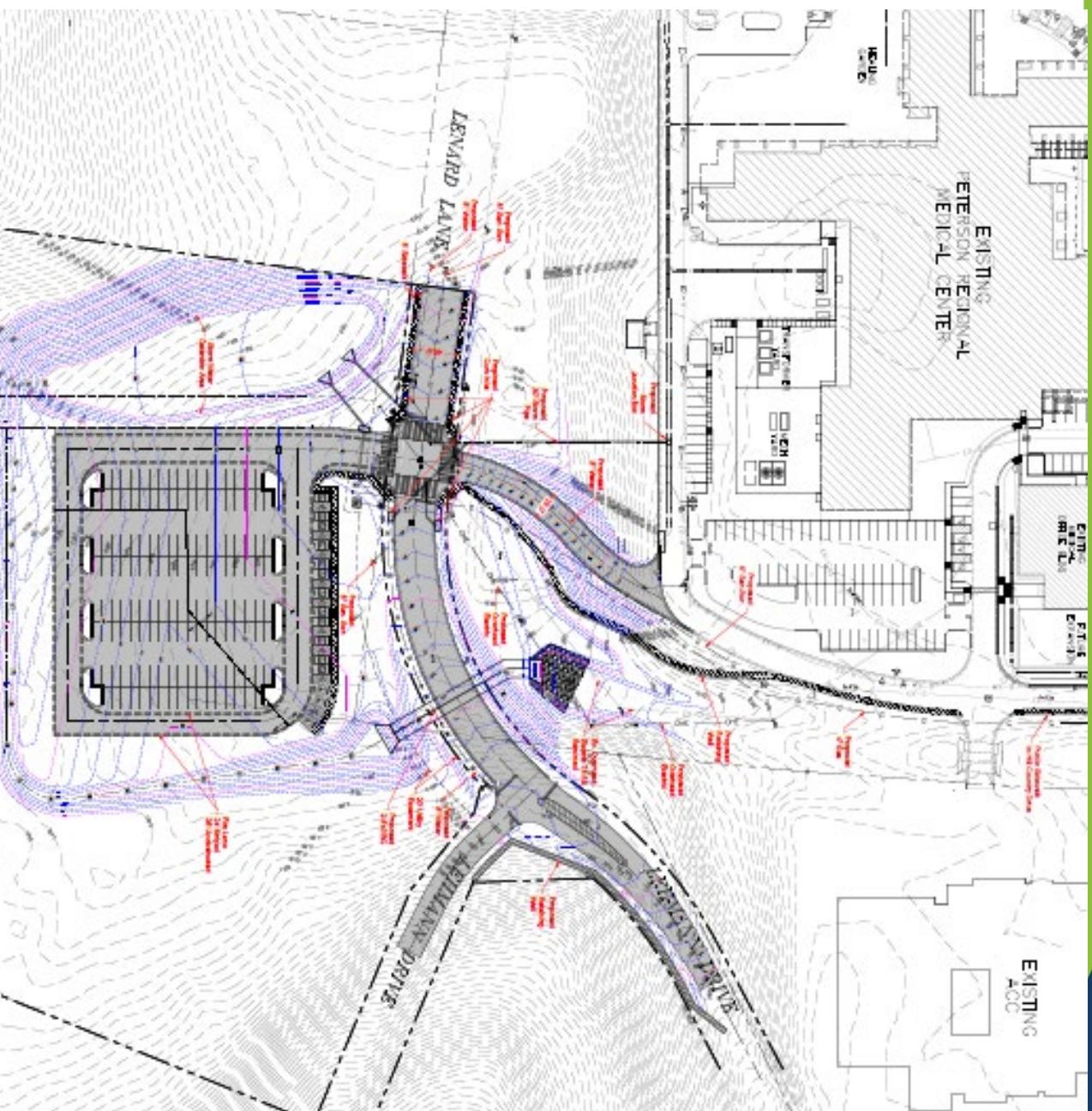
## **EXHIBIT B**

### **PROJECT**

# Surgery Center Parking Offset

elevating health

Exhibit B



# Public Improvements Estimate

elevating health

Public Improvements - PRMC Offsite Parking

Kerr County, Texas

Unit Take-Offs based upon Preliminary Site Plan prepared by WES in October 2021

**Public Improvements - Preliminary Engineer's Opinion of Probable Construction Cost (PEOPCC)**

<b>Demolition</b>	\$ 27,600.00
<b>Paving</b>	\$ 345,060.83
<b>Sanitary Sewer</b>	\$ 83,863.50
<b>Water</b>	\$ 127,034.00
<b>Gas</b>	\$ 137,700.00
<b>Storm Sewer</b>	\$ 324,895.00
<b>Dry Utilities</b>	\$ 79,665.00
<b>Grading Material</b>	\$ 90,773.52
<b>Miscellaneous</b>	\$ 410,000.00
<b>TOTAL</b>	<b>\$ 1,626,591.85</b>